

discipline of the order, regardless of the methodology used to calculate that margin or the use of best information available (see section 752(c)(3) of the Act).

With respect to NHBB's argument concerning the dumping margin likely to prevail, the Department disagrees. First, NHBB claims that dumping margins have declined over the life of the order and imports have remained steady or increased. However, NHBB provided no evidence to support these claims and nothing submitted in the course of this sunset proceeding indicates that imports have remained steady or increased. In fact, FAG submitted information claiming that it ceased exporting subject merchandise, indicating that import volumes may have decreased. Furthermore, evidence submitted by Torrington and MPB indicate that post-order import volumes (1989–1998) are lower than pre-order volumes (1989) in each year.

In the *Sunset Policy Bulletin* we indicated that, consistent with the SAA at 889–90 and the House Report at 63, we may determine, in cases where declining (or no) dumping margins are accompanied by steady or increasing imports, that a more recently calculated rate reflects that companies do not have to dump to maintain market share in the United States and, therefore, that dumping is less likely to continue or recur if the order were revoked.

Alternatively, if a company chooses to increase dumping in order to increase or maintain market share, the Department may provide the Commission with a more recently calculated margin for that company. The *Sunset Policy Bulletin* provides that we will entertain such considerations in response to arguments from an interested party. Further, we noted that, in determining whether a more recently calculated margin is probative of an exporters behavior absent the discipline of an order, we normally will consider the company's relative market share, with such information to be provided by the parties. It is clear, therefore, that in determining whether a more recently calculated margin is probative of the behavior of exporters were the order revoked, the Department considers company-specific exports and company-specific margins. Additionally, although we expressed a clear preference for market share information, in past sunset reviews where market share information was not available, we relied on changes in import volumes between the periods before and after the issuance of the order. (See, e.g., *Final Results of Expedited Sunset Review: Stainless Steel Plate from Sweden*, 63 FR 67658

(December 8, 1998), and *Final Results of Expedited Sunset Reviews: Certain Iron Construction Castings From Brazil, Canada, and the People's Republic of China*, 64 FR 30310 (June 7, 1999).)

In sunset reviews, although we make likelihood determinations on an order-wide basis, we report company-specific margins to the Commission. Therefore, it is appropriate that our determinations regarding the magnitude of the margin likely to prevail be based on company-specific information. Generic arguments that margins decreased over the life of the orders while, at the same time, exporters' share of the U.S. market remained constant do not address the question of whether any particular company decreased its margin of dumping while at the same time maintaining or increasing market share. In fact, such generic argument may disguise company-specific behavior demonstrating increased dumping coupled with increased market share.

With respect to FAG's arguments concerning the dumping margin likely to prevail, the Department disagrees. FAG participated in and had shipments during both the 1991–1992 and 1993–1994 administrative reviews. The SAA at 890 and the House Report at 63–64 state that the cessation of imports after the order is highly probative of the likelihood of continuation or recurrence of dumping. Furthermore, if imports ceased after the order is issued, it is reasonable to assume that exporters could not sell in the United States without dumping and that, to reenter the U.S. market, they would have to resume dumping. As such, we find that the 0.00 percent dumping margin we calculated for FAG for the 1993–1994 administrative review is not probative of the dumping margin likely to prevail if the order were to be revoked. The cessation of imports by FAG following the establishment of this margin strongly suggests to the Department that FAG cannot sell subject merchandise in the United States without dumping. Consequently, we find that the dumping margins calculated in the original investigation are the only calculated rates that reflect the behavior of exporters without the discipline of the order. Consistent with the *Sunset Policy Bulletin*, we determine that the margins we calculated in the Department's original investigation is probative of the behavior of Italian producers and exporters of CRBs if the order were revoked. Therefore, we will report to the Commission the "all others" rate from the original investigation contained in

the Final Results of Review section of this notice.¹⁰

Final Results of Review

As a result of this review, the Department finds that revocation of the antidumping duty order would likely lead to continuation or recurrence of dumping at the margin listed below:

Manufacturer/ Exporter	Margin (percent)
SKF	Revoked
All Other Producers/Exporters	212.45

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 in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: October 28, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–28773 Filed 11–3–99; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–801]

Final Results of Expedited Sunset Review: Ball Bearings From Italy

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

ACTION: Notice of final results of expedited sunset review: ball bearings from Italy.

SUMMARY: On April 1, 1999, the Department of Commerce ("the Department") initiated a sunset review of the antidumping duty order on ball

¹⁰ The Department calculated only one company-specific rate in the original investigation. The order was subsequently revoked with respect to this one company, SKF (see *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Italy; Final Results of Administrative Reviews and Revocation in Part of Antidumping Duty Order*, 60 FR 10959 (February 28, 1995)). Because of this, the Department will report to the Commission only the "all others" rate from the original investigation.

bearings ("BBs") from Italy (64 FR 15727) 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 adequate substantive comments filed on behalf of domestic interested parties and inadequate response from respondent interested parties, the Department determined to conduct an expedited review. As a result of this review, the Department finds that revocation of the antidumping duty order 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: Scott E. Smith or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-6397 or (202) 482-1560, respectively.

EFFECTIVE DATE: November 4, 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 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 products covered by this order are BBs and parts thereof from Italy. For a detailed description of the products covered by this order, including a compilation of all pertinent scope determinations, refer to the notice of final results of expedited sunset reviews on antifriction bearings from Japan (A-588-804), publishing concurrently with this notice.

History of the Order

The Department published its less-than-fair-value ("LTFV") determination on BBs from Italy on May 3, 1989.¹ In

¹ See Final Determinations of Sales at Less Than Fair Value; Antifriction Bearings (Other Than Spherical Plain and Tapered Roller Bearings) and

this determination, the Department published weighted-average dumping margins of 68.29 percent for FAG Italia S.p.A. ("FAG") and 69.99 percent for SKF Industrie S.p.A. ("SKF"). The Department also published an all others rate of 155.57 percent. Since that time, the Department has conducted nine administrative reviews.² This sunset

Parts Thereof From Italy; and Final Determination of Sales at Not Less Than Fair Value; Spherical Plain Bearings and Parts Thereof, From Italy, 54 FR 19096 (May 3, 1989). This determination was subsequently amended. See *Notice of Redetermination of Final Margin of Sales at Less Than Fair Value, Pursuant to Court Remand: Ball Bearings and Parts Thereof From Italy and Sweden*, 54 FR 20910 (March 8, 1993).

² See *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Italy; Final Results of Antidumping Duty Administrative Reviews*, 56 FR 31751 (July 11, 1991); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Germany; et al.; Amended Final Results of Antidumping Duty Administrative Reviews*, 62 FR 32755 (June 17, 1997); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France; et al.; Final Results of Antidumping Duty Administrative Reviews*, 57 FR 28360 (June 24, 1992); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Sweden, Thailand, and the United Kingdom; Amendment to Final Results of Antidumping Duty Administrative Reviews*, 57 FR 32969 (July 24, 1992); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Sweden, and the United Kingdom; Amendment to Final Results of Antidumping Duty Administrative Reviews*, 57 FR 59080 (December 14, 1992); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.; Amended Final Results of Antidumping Duty Administrative Reviews*, 63 FR 8908 (February 23, 1998); *Final Results of Antidumping Duty Administrative Reviews and Revocation in Part of an Antidumping Duty Order*, 58 FR 39729 (July 26, 1993); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Italy; Amendment to Final Results of Antidumping Duty Administrative Review*, 58 FR 53914 (October 19, 1993); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France and Italy; Amendment to Final Results of Antidumping Duty Administrative Reviews*, 58 FR 65576 (December 15, 1993); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.; Amended Final Results of Antidumping Duty Administrative Reviews*, 63 FR 18877 (April 16, 1998); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Germany, Italy, and Sweden; Amended Final Results of Antidumping Duty Administrative Reviews*, 63 FR 38369 (July 16, 1998); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Italy; Amended Final Results of Antidumping Duty Administrative Reviews*, 63 FR 70100 (December 18, 1998); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Italy; Final Results of Antidumping Duty Administrative Reviews and Revocation in Part of an Antidumping Duty Order*, 60 FR 10959 (February 28, 1995); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Germany and Italy; Amended Final Results of Antidumping Duty Administrative Reviews*, 60 FR 31142 (June 13, 1995); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Italy; Amended Final Results of Antidumping Duty Administrative Review*, 60 FR 33791 (June 29, 1995); *Antifriction Bearings (Other Than Tapered*

review covers imports from all Italian producers and/or exporters of BBs. With respect to duty absorption, the Department issued duty absorption findings for two producers and/or exporters of ball bearings from Italy in the 1995-1996 and 1997-1998 administrative reviews.³

Background

On April 1, 1999, the Department initiated a sunset review of the antidumping duty order on BBs from Italy (64 FR 15727), pursuant to section 751(c) of the Act. The Department received Notices of Intent to Participate on behalf of The Torrington Company ("Torrington"), MPB Corp. ("MPB"), the Roller Bearing Company of America ("RBC"), the NSK Corp. ("NSK"), New Hampshire Ball Bearings, Inc. ("NHBB"), and Link-Belt Bearing Division ("Link-Belt") on April 16, 1999, within the deadline specified in section 351.218(d)(1)(i) of the *Sunset Regulations*. We received a complete substantive response from Torrington, MPB, RBC, and NHBB on May 3, 1999, within the 30-day deadline specified in the *Sunset Regulations* under section 351.218(d)(3)(i). The Department received the complete substantive

Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Singapore, Sweden, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews, 61 FR 66472 (December 17, 1996); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Germany, Italy, Japan, and the United Kingdom; Amended Final Results of Antidumping Duty Administrative Reviews*, 62 FR 3003 (January 21, 1997); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Singapore, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews*, 62 FR 2081 (January 15, 1997); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, and Singapore; Amended Final Results of Antidumping Duty Administrative Reviews*, (March 26, 1997); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Sweden and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews*, 62 FR 54043 (October 17, 1997); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Sweden, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews*, 63 FR 33320 (June 18, 1998); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Italy, Romania, and the United Kingdom; Amended Final Results of Antidumping Duty Administrative Reviews*, 63 FR 40878 (July 31, 1998); *Final Results of Antidumping Duty Administrative Reviews*, 64 FR 35590 (July 1, 1999).

³ The two companies were SKF and FAG. See *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Sweden and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews*, 62 FR 54043 (October 17, 1997); *Final Results of Antidumping Duty Administrative Reviews*, 64 FR 35590 (July 1, 1999).

response from NSK on April 30, 1999. The Department did not receive a complete substantive response from Link-Belt. In addition, the Department received a complete substantive response from a respondent interested party, FAG, on May 3, 1999.

Torrington, MPB, RBC, and NHBB claimed interested party status under 19 U.S.C. 1677(9)(C) as U.S. manufacturers of BBs. NSK claimed interested party status under 19 U.S.C. 1677(9). In addition, Torrington stated that it was the petitioner in the original investigation and has actively participated in all administrative reviews of this order. MPB stated that it had participated in the International Trade Commission's ("the Commission") injury investigation. RBC and NHBB stated that they have not participated in any segment of this proceeding before the Department.

The foreign interested party, FAG, claimed interested party status under 19 U.S.C. 1677(9). FAG stated that it participated in the original investigation and each subsequent administrative review of this proceeding. In addition, the Department received a waiver of participation from another respondent interested party, SKF, on May 3, 1999.

Based on the information submitted by FAG concerning the volume and value of its exports and volume of imports as reported in U.S. Census Bureau IM146 Reports, FAG's exports of subject merchandise to the United States accounted for less than 50 percent of the total volume of subject merchandise to the United States over the five calendar years preceding the initiation of this sunset review. Therefore, based on the information submitted by FAG and the waiver of participation submitted on behalf of SKF, respondent interested parties have provided an inadequate response to the notice of initiation and, pursuant to 19 CFR 351.218(e)(1)(ii)(C), the Department has determined to conduct an expedited, 120-day, review of this order.⁴

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). Therefore, on August 5, 1999, the Department determined that the sunset review of the antidumping duty order

on BBs from Italy is extraordinarily complicated and extended the time limit for completion of the final results of this review until not later than October 28, 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 revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping. Section 752(c) 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 duty order, and it shall provide to the Commission the magnitude of the margin of dumping likely to prevail if the order is revoked.

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

Adequacy

As noted above, we notified the Commission that we intended to conduct an expedited review of this order. On June 10, 1999, we received comments on behalf of MPB and Torrington supporting our determination to conduct an expedited review. NHBB and NSK also submitted comments on whether an expedited sunset review was warranted. In their submissions, both parties assert that most of the domestic interested parties that submitted substantive responses are in favor of revocation of the Department's various antidumping duty orders on antifriction bearings. These parties also offered new argument regarding the likely effect of revocation of these orders.

The magnitude of domestic support for continuation or revocation of an order, however, does not enter into the Department's determination of adequacy of participation nor, for that matter, the Department's determination of likelihood. The Department made clear in its regulations that a complete substantive response from one domestic

interested party would be considered adequate for purpose of continuing a sunset review (see section 351.218(e)(1)). Nowhere in the statute or legislative history is there reference to consideration of domestic industry support during the course of a sunset review (other than the statutory provision that, if there is *no* domestic industry interest in continuation of the order, the Department will revoke the order automatically). In fact, the Senate Report (at Rep. No. 103-412 at 46 (2nd Session 1994)) makes clear that the purpose of adequacy determinations in sunset reviews is for the Department to determine whether to issue a determination based on the facts available without further fact-gathering. Further, the statute, at section 751(c)(1), specifies that the Department is to determine whether revocation of an order would be likely to lead to continuation or recurrence of dumping. Section 752(c) specifies that the Department is to consider the weighted-average dumping margins determined in the investigation and subsequent reviews, as well as the volume of imports of the subject merchandise for the period before and the period after the issuance of the order.

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 bases 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.3). In addition, the Department indicated that normally it will determine that revocation of an antidumping 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 (see section II.A.3).

In their substantive response, Torrington and MPB argue that revocation of the antidumping duty

⁴ On May 24, 1999, we informed the Commission that, on the basis of inadequate response from respondent interested parties, we were conducting an expedited sunset review of this order consistent with 19 CFR 351.218(e)(1)(ii)(C)(2). (See Letter to Lynn Featherstone, Director, Office of Investigations from Jeffrey A. May, Director, Office of Policy.)

⁵ See *Tapered Roller Bearings, 4 Inches and Under From Japan, et al.; Extension of Time Limit for Final Results of Five-Year Reviews*, 64 FR 42672 (August 5, 1999).

order on the subject merchandise would be likely to lead to continuation of dumping. They base this conclusion on the fact that dumping continued at levels above *de minimis* after the issuance of the order. RBC also argues that given that, dumping margins continue to exist after the issuance of the order, the Department must conclude that dumping would be likely to continue or recur if the order were revoked. Torrington and MPB assert further that an examination of import volumes is not necessary because dumping continued.

Should the Department decide to consider import volumes, Torrington and MPB assert that the data will demonstrate that 1998 import volumes of the subject merchandise are significantly below the 1988 pre-order volumes. Using pre-and post-order statistics for complete unmounted BBs, which Torrington and MPB assert is the only category for which statistics are available on a consistent basis, they argue that post-order declines in import volumes provide strong additional support for a determination that dumping is likely to continue or recur were the order revoked. In conclusion, Torrington and MPB assert that no "good cause" exists to consider other factors, such as sales below the cost of production.

NHBB and NSK assert that revocation of the order is not likely to result in continuation or recurrence of dumping. NHBB bases its assertion on the fact that dumping would undercut the U.S. domestic price structure, thus causing injury to the very industry of which foreign owners are a part. NSK appears to support its assertion on the basis that the margin of dumping has fallen during the life of the order.

FAG indicates that revocation of the antidumping duty order on BBs from Italy will likely result in a statistically insignificant dumping margin for itself or a reduction in its dumping margin to a *de minimis* level. With respect to whether dumping continued at any level above *de minimis* after the issuance of the order, FAG indicates, in its Summary of Case History, that it has continued to dump subject merchandise at a level above *de minimis* throughout the life of the order (see May 3, 1999, substantive response of FAG, Appendix 2). With respect to whether imports of the subject merchandise ceased after the issuance of the order, FAG indicates that imports of the subject merchandise have continued throughout the life of the order. FAG argues that value and volume of subject merchandise has generally decreased since the inception of this case in 1987. Further, it contends

this trend has continued into the current review period with a further reduction in FAG's exports of the subject merchandise over the last two quarters.

In its rebuttal comments, FAG states that the dumping margins for producers and/or exporters of the subject merchandise have not only steadily declined in recent review periods but the levels of imports have remained steady. Specifically, FAG states that import levels of the subject merchandise remained relatively stable, decreasing by 25 percent between fiscal year 1993 and fiscal year 1997.

In their rebuttal comments, Torrington and MPB disagree with FAG. They state that FAG's admission that its imports and sales decreased strongly supports a determination that FAG cannot resume selling at pre-order volumes without resorting to dumping. Furthermore, according to Torrington and MPB, FAG disregards the Department's duty absorption findings when it suggests that the Department rely upon FAG's 0.95 percent dumping margin found in the most recent administrative review.

In addition, Torrington and MPB assert that the Department should take into account the submitter's affiliation in its consideration of comments of various parties filing as domestic producers. Citing to *Ball Bearings and Parts Thereof From Thailand; Final Results of Changed Circumstances Countervailing Duty Review and Revocation of Countervailing Duty Order*, 61 FR 20799, 20800 (May 8, 1996), they argue that the Department has recognized that domestic producers who are affiliated with subject foreign producers and exporters do not have a common "stake" with the petitioner in the maintenance of the order. Additionally, Torrington and MPB argue that other parties' comments addressing issues other than margins and import volumes should not be considered unless such parties establish "good cause" to consider such additional factors, which, in these reviews, they have not done.

As discussed in section II.A.3 of the *Sunset Policy Bulletin*, the SAA at 890, and the House Report at 63-64, existence of dumping margins after the order is highly probative of the likelihood of continuation or recurrence of dumping. If companies continue to dump with the discipline of an order in place, the Department may reasonably infer that dumping would continue if the discipline of the order were removed. Thus, as noted above, in determining whether revocation of an order is likely to lead to continuation or recurrence of dumping, the Department

considers the margins determined in the investigation and subsequent administrative reviews and the volume of imports. Whatever relevance the arguments of NHBB and NSK concerning possible disincentives for producers and/or exporters to dump in the U.S. market might have had is mooted by the evidence that dumping continues and has continued over the life of the order.

In the instant proceeding, dumping margins above *de minimis* continue to exist. Therefore, given that dumping has continued over the life of the order, the Department determines that dumping is likely to continue if the order were revoked. Because we have based this determination on the fact that dumping continued at levels above *de minimis*, we have not addressed the comments submitted by Torrington and MPB with respect to "good cause," nor have we addressed the arguments of other interested parties regarding the condition of the U.S. market.

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 include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. (See sections II.B.2 and 3 of the *Sunset Policy Bulletin*.)

The Department, in the LTFV determination of BBs from Italy, published a weighted-average dumping margin of 69.99 percent for SKF and a weighted-average dumping margin of 68.29 for FAG. In addition, the Department published a weighted-average dumping margin of 155.57 percent on all other imports of the subject merchandise from Italy.⁶ As noted above, the Department issued

⁶ See *Final Determinations of Sales at Less Than Fair Value; Antifriction Bearings (Other Than Spherical Plain and Tapered Roller Bearings) and Parts Thereof From Italy; and Final Determination of Sales at Not Less Than Fair Value; Spherical Plain Bearings and Parts Thereof, From Italy*, 54 FR 19096 (May 3, 1989). This determination was subsequently amended. See *Notice of Redetermination of Final Margin of Sales at Less Than Fair Value, Pursuant to Court Remand: Ball Bearings and Parts Thereof From Italy and Sweden*, 54 FR 20910 (March 8, 1993).

duty absorption findings in the 1995–1996 administrative review for SKF and FAG with respect to BBs from Italy.

In their substantive response, Torrington and MPB argue that the margins likely to prevail are those from the Department's original investigation. They also note that the Department issued a duty absorption finding with respect to BBs from Italy in the 1995–1996 administrative review and should consider this in determining the margin likely to prevail. Specifically, Torrington and MPB argue that the dumping margins found for each company in the original investigation (as opposed to margins calculated in succeeding annual administrative reviews) are the dumping margins likely to prevail, including margins based on best information available, except where the most current margin, increased by the Department's duty absorption determination, exceeds the original investigation margin. Furthermore, RBC states that the margins from the original investigation are most probative of the rates likely to prevail as they are the only calculated rates that reflect the behavior of exporters without the discipline of the order in place.

NHBB argues that the dumping margins likely to prevail if the order were revoked would be *de minimis*. NHBB goes on to argue that it would be illogical for companies with significant U.S. bearings investments to undercut that investment by dumping. In addition, NHBB argues that the Department should not report margins from the original investigation. In support of this argument, NHBB notes that the SAA provides that, in certain instances, it is more appropriate to rely on a more recently calculated margin. NHBB asserts that one such instance is where, as in the antifriction bearings cases, dumping margins have declined over the life of the order and imports have remained steady or increased. Finally, NHBB argues that, in light of changes in the methodology used to calculate antidumping duty margins introduced by the Uruguay Round, use of margins calculated by the Department prior to the URAA would be unfair and would be contrary to the WTO Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994.

Similarly, NSK argues that the margins likely to prevail would be *de minimis*. As support, NSK argues that, were the order not in existence, the Department would apply the average-to-average methodology used in an investigation, as opposed to the transaction-to-average methodology common to administrative reviews, to

measure the extent of any dumping. In such a case, NSK states that it believes any margin found would be below the two percent *de minimis* level applicable in investigations. NSK further argues that the Department's unorthodox approach during the original investigation, plus the liberal use of best information available, skewed the results of the original investigation seriously, rendering those results inappropriate indicators of the magnitude of the margin likely to prevail were the orders revoked. Finally, NSK also argues that dumping margins have declined over time with respect to BBs while at the same time, imports have remained at or around 20 percent of the U.S. market. As support, it cites to *The Economic Effects of Antidumping and Countervailing Duty Orders and Suspension Agreements*, USITC Pub. 2900, Inv. No. 332–334, at 14–26–14–31 (June 1995).

FAG states the dumping margin likely to prevail for itself is its current dumping margin of 0.95 percent or even a lower dumping margin, given its current importing and pricing trends. FAG claims that its dumping margin may actually be lowered in the future because it has fundamentally changed its sourcing patterns to rely more heavily on domestic (*i.e.*, U.S.) or third country purchase of certain ranges of BBs. Furthermore, FAG claims that it has implemented price monitoring programs with respect to its sales of subject merchandise. FAG also argues that it has attained a 0.95 percent dumping margin in the face of what it considers the "arbitrary, capricious and commercially absurd" methodology used by the Department in the calculation of constructed value. Finally, FAG states it is a large producer of a highly differentiated, mature industrial product and that because of this, and the Department's sampling methodology, a certain inevitable percentage of dumping does recur from year to year.

In their rebuttal comments, Torrington and MPB argue that other parties' comments ignore the Department's stated policies regarding the selection of margins likely to prevail and ignore the Department's duty absorption findings. Citing to the *Sunset Policy Bulletin*, Torrington and MPB argue that the Department's policies are clear—normal reliance on the margins from the investigation as the only margins that reflect the behavior of exporters without the discipline of the order and rejection of margins from administrative reviews in which the Department found duty absorption. Torrington and MPB argue that the two

percent *de minimis* standard is not applicable to sunset reviews. Further, they contend there is no authority which would authorize or justify the rejection of the investigation rate on the basis of the particular methodology used at the time of the investigation. Additionally, they assert that, with respect to claims that more recent margins should be used based on declining margins accompanied by steady or increasing imports, it is the responsibility of such claimants to provide information regarding companies' relative market share. Since no such information was provided, Torrington and MPB argue, the Department should not accept these assertions since imports BBs from Italy have actually declined since the imposition of the order.

We agree with Torrington, MPB, and RBC that, normally, we will provide a margin from the original investigation because that is the rate that reflects the behavior of exporters absent the discipline of the order. As noted above, exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations.

With respect to NSK's argument concerning the magnitude of the margin likely to prevail, we disagree. As discussed above, we do find that there is a likelihood of continuation or recurrence of dumping. Furthermore, we find the level of dumping likely to prevail is best reflected by the Department's dumping margins we calculated in the original investigation. Specifically, the Department finds that there is no basis to reject margins calculated in an investigation because of subsequent changes in methodology since such changes do not invalidate margins calculated under the prior methodology. Therefore, the dumping margins from the original investigation are the only rates which reflect the behavior of exporters without the discipline of the order, regardless of the methodology used to calculate that margin or the use of best information available (see section 752(c)(3) of the Act).

With respect to NHBB's argument concerning the dumping margin likely to prevail, the Department disagrees. First, NHBB claims that dumping margins have declined over the life of the order and imports have remained steady or increased. However, NHBB provided no evidence to support these claims and nothing submitted in the course of this sunset proceeding indicates that imports have remained steady or increased. In fact, evidence submitted by Torrington and MPB

indicate that post-order import volumes (1989–1998) are lower than pre-order volumes (1989) in each year. Regardless of the level of imports, dumping margins above *de minimis* levels continue as do imports of the subject merchandise; dumping continues to exist.

In the *Sunset Policy Bulletin* we indicated that, consistent with the SAA at 889–90 and the House Report at 63, we may determine, in cases where declining (or no) dumping margins are accompanied by steady or increasing imports, that a more recently calculated rate reflects that companies do not have to dump to maintain market share in the United States and, therefore, that dumping is less likely to continue or recur if the order were revoked. Alternatively, if a company chooses to increase dumping in order to increase or maintain market share, the Department may provide the Commission with a more recently calculated margin for that company. The *Sunset Policy Bulletin* provides that we will entertain such considerations in response to arguments from an interested party. Further, we noted that, in determining whether a more recently calculated margin is probative of an exporters behavior absent the discipline of an order, we will normally consider the company's relative market share, with such information to be provided by the parties. It is clear, therefore, that in determining whether a more recently calculated margin is probative of the behavior of exporters were the order revoked, the Department considers company-specific exports and company-specific margins. Additionally, although we expressed a clear preference for market share information, in past sunset reviews where market share information was not available, we relied on changes in import volumes between the periods before and after the issuance of the order. (See, e.g., *Final Results of Expedited Sunset Review: Stainless Steel Plate from Sweden*, 63 FR 67658 (December 8, 1998), and *Final Results of Expedited Sunset Reviews: Certain Iron Construction Castings From Brazil, Canada, and the People's Republic of China*, 64 FR 30310 (June 7, 1999).)

In sunset reviews, although we make likelihood determinations on an order-wide basis, we report company-specific margins to the Commission. Therefore, it is appropriate that our determinations regarding the magnitude of the margin likely to prevail be based on company-specific information. Generic arguments that margins decreased over the life of the orders while at the same time, exporters' share of the U.S. market remained constant do not address the

question of whether any particular company decreased its margin of dumping while, at the same time maintaining or increasing market share. In fact, such generic argument may disguise company-specific behavior demonstrating increased dumping coupled with increased market share.

With respect to FAG's argument concerning the margin likely to prevail, the Department disagrees. FAG argues that the margin likely to prevail is its current margin of 0.95 percent (or a lower margin). The Department finds this current margin is not reflective of the margin likely to prevail if the order were to be revoked. On the issue of import volumes, the SAA at 889, the House Report at 63, and the Senate Report at 52 state that declining import volumes accompanied by the continued existence of dumping margins after the issuance of the order may provide a strong indication that, absent an order, dumping would be likely to continue because the evidence would indicate that the exporter needs to dump to sell at pre-order volumes.

FAG states that exports of the subject merchandise have generally decreased since the inception of this case in 1987. The Department can confirm that current exports of the subject merchandise are indeed lower than pre-order exports. FAG also claims that it has shifted production to its U.S. facilities and has changed its sourcing patterns to rely more heavily on domestic (i.e., U.S.) or third-country purchases of certain ranges of BBs. FAG also states that it has sourced product from third countries that are not covered by antidumping duty orders. In addition, it states that it has shifted production to its U.S. facilities for certain product ranges and sizes. These moves, coupled with FAG's decrease in exports of the subject merchandise to the United States over the life of the order, indicate to the Department that such action was necessary because FAG was, and is, unable to sell subject merchandise in the United States without dumping. Therefore, absent such evidence, the Department finds no reason to deviate from its standard practice in this matter.

As noted above, the Department determined in the final results of the 1995–1996 and 1997–1998 administrative reviews that two Italian producers/exporters, FAG and SKF, were absorbing duties.⁷ Consistent with

⁷ See *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Sweden and the United Kingdom*; *Final Results of Antidumping Duty Administrative Reviews*, 62 FR 54043 (October 17, 1997); *Final Results of*

the statute and the *Sunset Policy Bulletin*, the Department will notify the Commission of its findings regarding duty absorption when conducting a sunset review.

Additionally, the *Sunset Policy Bulletin* refers to the SAA at 885 and the House Report at 60, and provides that where the Department has found duty absorption, the Department normally will provide to the Commission the higher of the margin that the Department otherwise would have reported or the most recent margin for that company, adjusted to account for the Department's findings on duty absorption. In this case, the margins adjusted to account for the Department's duty absorption findings are less than the margins we would otherwise report to the Commission.

Therefore, the Department agrees with the domestic interested parties concerning the margin likely to prevail if the order were to be revoked. We find that the dumping margins calculated in the original investigation are the only calculated rates that reflect the behavior of exporters without the discipline of the order. Consistent with the *Sunset Policy Bulletin*, we determine that the margins calculated in the Department's original investigation is probative of the behavior of Italian producers and exporters of BBs if the order were revoked. Therefore, we will report to the Commission the company-specific and "all others" rates from the original investigation contained in the Final Results of Review section of this notice.

Final Results of Review

As a result of this review, the Department finds that revocation of the antidumping duty order would likely lead to continuation or recurrence of dumping at the margin listed below:

Manufacturer/ Exporter	Margin (percent)
SKF	69.99
FAG	68.29
All Other Producers/Exporters ..	155.57

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

Antidumping Duty Administrative Reviews, 64 FR 35590 (July 1, 1999).

and the 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: October 28, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99-28774 Filed 11-3-99; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C-122-404]

Final Results of Full Sunset Review: Live Swine From Canada

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

ACTION: Notice of final results of full sunset review: live swine from Canada.

SUMMARY: On June 25, 1999, the Department of Commerce ("the Department") published a notice of preliminary results of the full sunset review of the countervailing duty order on live swine from Canada (64 FR 34209) pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"). We provided interested parties an opportunity to comment on our preliminary results. We received comments from both domestic and respondent interested parties and held a public hearing. As a result of this review, the Department finds that revocation of this order would not be likely to lead to continuation or recurrence of a countervailable subsidy.

FOR FURTHER INFORMATION CONTACT: Scott E. Smith or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-6397 or (202) 482-1560, respectively.

EFFECTIVE DATE: November 4, 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 is shipments of live swine, except U.S. Department of Agriculture ("USDA") certified purebred breeding swine, slaughter sows and boars, and weanlings from Canada.¹ Weanlings are swine weighing up to 27 kilograms or 59.5 pounds.² This merchandise is currently classifiable under the Harmonized Tariff Schedule ("HTS") item numbers 0103.91.00 and 0103.92.00. The HTS item numbers are provided for convenience and customs purposes. The written description remains dispositive.

Background

On June 25, 1999, the Department issued the *Preliminary Results of Full Sunset Review: Live Swine from Canada* (64 FR 34209) ("Preliminary Results"). In our preliminary results, we found that revocation of the order would likely result in the continuation or recurrence of a countervailable subsidy. In addition, we preliminarily determined that the net countervailable subsidy likely to prevail if the order were revoked would be Can\$0.01802234/lb.

On August 9, 1999, within the deadline specified in 19 CFR 351.209(c)(1)(i), we received comments on behalf of National Pork Producers Council ("NPPC").³ We also received comments from the Gouvernement du Quebec ("GOQ"), the Government of Canada ("GOC") and the Canadian Pork

¹ On August 29, 1996, the Department issued the final results of a changed circumstances review revoking the order, in part, with respect to slaughter sows and boars. The revocation became effective on April 1, 1991 (see *Live Swine from Canada; Final Results of Changed Circumstances Countervailing Duty Administrative Review, and Partial Revocation In Part of Countervailing Duty Order*, 61 FR 45402 (August 29, 1996)).

² In the *Final Affirmative Countervailing Duty Determination; Live Swine and Fresh, Chilled and Frozen Pork Products from Canada*, 50 FR 25097 (June 17, 1985), the Department also calculated a net subsidy for dressed-weight swine. However, the Department terminated its investigation with respect to fresh, chilled, and frozen pork products from Canada based on a finding by the Commission that no material injury, threat of material injury, or retardation of an infant industry existed.

³ The NPPC is a trade organization representing U.S. hog and pork producers through a federation of 44 affiliated state pork producer associations with a total membership of 85,000. NPPC's membership consists of small family farms and large hog operations.

Council and its Members ("CPC"), the Canadian respondents in this proceeding (collectively, "the Canadian respondents"). On August 16, 1999, within the deadline specified in 19 CFR 351.309(d), the Department received rebuttal comments from the NPPC and each of the Canadian respondents. On August 18, 1999, the Department held a public hearing. We have addressed the comments received below.

As a result of our reconsideration, we find that the net subsidy rate likely to prevail were the order revoked is *de minimis*. Because any subsidy rate would be *de minimis*, we find that it is not likely that revocation would result in the continuation or recurrence of a countervailable subsidy.

Comments

Comment 1: The NPPC states that it agrees with the Department's preliminary finding that revocation of the countervailing duty order would be likely to lead to continuation or recurrence of a countervailable subsidy. The NPPC argues that given the extensive federal and provincial programs available, there can be little question that the Department properly found that subsidization would be likely to continue if the order were revoked.

The Canadian respondents argue that, when corrected for errors in the *Preliminary Results*, any net countervailable subsidy likely to prevail is zero or *de minimis*. As such, the Department should find that subsidization would not be likely to continue or recur if the order were revoked.

Department Response: Based on comments received, we have recalculated the net countervailable subsidy likely to prevail were the order revoked. Because, as discussed below, we find that the subsidy likely to prevail is *de minimis*, for our final results of full sunset review we determine that revocation of this countervailing duty order would not be likely to result in the continuation or recurrence of a countervailable subsidy.

Comment 2: The NPPC argues that although, in the *Preliminary Results*, the Department identified the Newfoundland Hog Price Stabilization Program as a program that was created after the imposition of the order which still exists, the Department failed to include this program in its net subsidy calculation. The NPPC requests the Department correct this error for its final determination.

As discussed in more detail below, the CPC argues that the Newfoundland Hog Price Stabilization Program was terminated on March 31, 1994.