

which reflect the behavior of these producers and exporters without the discipline of the order in place. As such, the Department will report to the Commission the company-specific and "all others" rates from the original investigation as 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 margins listed below:

Manufacturer/exporter	Margin (percent)
Mitsui Mining and Smelting ("Mitsui")	77.73
Tosoh Corporation ("Tosoh") ...	71.91
All Others	73.30

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: November 29, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99-31429 Filed 12-2-99; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-484-801]

Final Results of Expedited Sunset Review: Electrolytic Manganese Dioxide From Greece

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

ACTION: Notice of final results of Expedited Sunset Review: Electrolytic manganese dioxide From Greece.

SUMMARY: On May 3, 1999, the Department of Commerce ("the Department") initiated a sunset review of the antidumping duty order on electrolytic manganese dioxide from

Greece (64 FR 23596) 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:

Darla D. Brown 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, D.C. 20230; telephone: (202) 482-3207 or (202) 482-1560, respectively.

EFFECTIVE DATE: December 3, 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 (1999) 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 antidumping duty order is electrolytic manganese dioxide ("EMD"). EMD is manganese dioxide (MnO₂) that has been refined in an electrolysis process. The subject merchandise is an intermediate product used in the production of dry-cell batteries. EMD is sold in three physical forms, powder, chip, or plate, and two grades, alkaline and zinc chloride. EMD in all three forms and both grades is included in the scope of the order.

This merchandise is currently classifiable under the Harmonized Tariff Schedule ("HTS") item number 2820.10.0000. The HTS item number is provided for convenience and customs

purposes. The written description remains dispositive.

History of the Order

The Department, in its final determination of sales at less than fair value ("LTFV"), published one company-specific weighted-average dumping margin as well as an "all others" rate (54 FR 8771, March 2, 1989). The antidumping duty order on EMD from Greece was published in the **Federal Register** on April 17, 1989 (54 FR 15243). On November 16, 1999, after the deadline for submitting comments in this sunset review, the Department published the final results of the only administrative review conducted of this order (64 FR 62169). This sunset review covers imports from all known Greek producers/exporters. To date, the Department has issued no duty absorption findings in this case.

Background

On May 3, 1999, the Department initiated a sunset review of the antidumping duty order on EMD from Greece (64 FR 23596), pursuant to section 751(c) of the Act. The Department received a notice of intent to participate on behalf of Chemetals, Inc. ("Chemetals") and Kerr-McGee Chemical LLC ("KMC") on May 18, 1999, within the deadline specified in section 351.218(d)(1)(i) of the *Sunset Regulations*. We also received a notice of intent to participate from The Eveready Battery Company ("Eveready") on May 14, 1999. We received complete substantive responses from Chemetals, KMC, and Eveready on June 2, 1999, within the 30-day deadline specified in the *Sunset Regulations* in section 351.218(d)(3)(i). Both Chemetals and KMC claimed interested-party status pursuant to section 771(9)(C) of the Act as U.S. producers of a like product. Eveready claimed interested-party status pursuant to sections 771(9)(A) and 771(9)(C) as a U.S. importer of the subject merchandise and a producer of a domestic like product. In addition, Chemetals, KMC, and Eveready each stated that they had participated in the original investigation and every segment of the proceeding since the original investigation. On June 7, 1999, we received rebuttal comments from Chemetals, KMC, and Eveready. In its rebuttal comments, Eveready asserted that the joint response of Chemetals and KMC was inadequate and incomplete and should be disregarded along with any rebuttal comments filed by Chemetals and KMC. On June 9, 1999, Eveready requested that the 500-page rebuttal comments of Chemetals and KMC, which proffered

lengthy factual and legal analysis never before seen by Eveready or the Department, be stricken from the record. On June 11, 1999, Chemetals and KMC responded that Eveready's June 9 submission should be stricken from the record but, if maintained, it nevertheless did not provide a basis for striking the rebuttal comments.

On June 22, 1999, we notified the International Trade Commission ("the Commission") that we did not receive an adequate response (in this case, no response) to our notice of initiation from any respondent interested parties to this proceeding (see Letter to Mr. Lynn Featherstone from Jeffrey A. May, June 22, 1999). As a result, pursuant to section 351.218(e)(1)(ii)(C) of the *Sunset Regulations*, the Department determined to conduct an expedited, 120-day, review of this order.

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). On September 7, 1999, the Department determined that the sunset review of the antidumping duty order on EMD from Greece is extraordinarily complicated and extended the time limit for completion of the final results of this review until not later than November 29, 1999, in accordance with section 751(c)(5)(B) of the Act.¹

Adequacy

As noted above, on June 22, 1999, we notified the Commission that we determined to conduct an expedited review of this order on the basis that we had not received an adequate response (in this case, no response) to our notice of initiation from any respondent interested party. On July 12, 1999, within the deadline provided in section 351.309(e)(ii) of the *Sunset Regulations*, Eveready argued that the Department erred when it stated that it had received "no response" from respondent interested parties because Eveready filed its substantive response not only as a producer in the United States of a domestic like product (under section 771(9)(C) of the Act) but also as a United States importer of the subject merchandise (under section 771(9)(A) of the Act). Further, Eveready argued that its response should be considered adequate despite the fact that it did not provide the additional information required by subparagraphs (A) through (E) of section 351.218(d)(3)(iii) of the

Sunset Regulations to be submitted by respondent interested parties. Eveready supports this argument by asserting that these subparagraphs are not applicable to Eveready because they are intended for foreign exporters of the subject merchandise (the second type of respondent interested party under the regulations). However, Eveready adds that it nonetheless provided information in its response identifying the dumping margin in effect, as well as the volume and value of Greek exports of EMD by quarter and year from 1983 to the present. Eveready also states that although it is not a foreign exporter of the subject merchandise, the statistics it provided in its response shows that it purchased all of the exports of EMD from Greece in 1998 and 1999. Further, Eveready asserts that it purchased 94 percent of the total imports of EMD from Greece for the past five years. On this basis, Eveready argues that the Department should reverse its erroneous decision and conduct a full sunset review.

We also received comments from Chemetals and KMC on July 12, 1999, concerning the adequacy of response to the notice of initiation and the appropriateness of an expedited review. Chemetals and KMC supported the Department's determination to conduct an expedited review and referred to their rebuttal comments for specific argument. Specifically, Chemetals and KMC asserted that the Department correctly determined to conduct an expedited review on the basis that: (1) Tosoh Hellas A.I.C. ("Tosoh Greece"), the sole manufacturer in Greece of the subject merchandise, did not respond; (2) Eveready's response did not provide the information required of a U.S. importer; (3) Eveready, despite its assertion, is not a U.S. importer of the subject merchandise; (4) the Department did not receive complete substantive responses from respondent interested parties accounting on average for more than 50 percent of the total exports of the subject merchandise; and (5) Eveready's response was non-responsive to the information requested in the Department's notice of initiation.

On September 14, 1999, Eveready again requested that the Department reconsider its determination to conduct an expedited review. On September 23, 1999, Chemetals and KMC responded, arguing that the time for filing comments had expired and, therefore, Eveready's submission should be rejected and no action taken.

We agree with Chemetals and KMC that we should conduct an expedited review in this case. Section 351.218(e)(1)(ii)(C) of the *Sunset*

Regulations provides that normally the Department will conduct an expedited review in accordance with section 751(c)(3)(B) of the Act where the Secretary determines that respondent interested parties provided inadequate response to a notice of initiation. Although Eveready argues that certain information requirements are not applicable to Eveready as an importer, the Department's regulations make no such exception. Furthermore, although it is possible that the Department may have considered Eveready's information requirement arguments in determining whether Eveready's substantive response was complete, the fact is that Eveready never attempted to explain this position in its substantive response. By failing to provide the required information in subparagraphs (A) through (E) of section 351.218(d)(3)(iii), or even to explain its rationale for not providing such information, Eveready's response cannot be considered complete and, hence, cannot be considered adequate.

In their rebuttal comments, as well as in subsequent submissions, Chemetals and KMC argue that Eveready does not qualify as an interested party under section 771(9)(A) of the Act because it is, in fact, not an importer of subject merchandise. Rather, they contend, Eveready is a U.S. purchaser of the imported material. In support of this argument, Chemetals and KMC refer to the July 7, 1998, questionnaire response of Tosoh Greece in the 1997/98 administrative review in which Tosoh Greece stated that Mitsubishi International Corporation is its importer and reseller of EMD in the U.S. market. In its comments on the Department's adequacy determination, Eveready does not dispute the comments of Chemetals and KMC regarding that Eveready is not a U.S. importer.

As we noted in *Final Results of Full Sunset Review: Sugar from the European Community*, 64 FR 49464 (September 13, 1999), adequacy determinations are made for the purpose of determining whether there is sufficient participation to warrant a full review. In this case, because we received an incomplete response from the one party claiming respondent interested-party status and we did not receive a response from any other party claiming respondent interested-party status, we continue to determine that we received inadequate respondent interested-party participation to warrant a full review.

Determination

In accordance with section 751(c)(1) of the Act, the Department conducted

¹ See *Extension of Time Limit for Final Results of Five-Year Reviews*, 64 FR 48579 (September 7, 1999).

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 shall provide to the International Trade Commission ("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.

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.2). In addition, the Department indicated that normally it will determine that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping where (a) Dumping continued at any level above *de minimis* after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import 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 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 where a respondent interested party waives its participation in the

sunset review. In the instant review, the Department did not receive a complete substantive response from respondent interested parties. Pursuant to section 351.218(d)(2)(iii) of the *Sunset Regulations*, this constitutes a waiver of participation.

In their substantive response, Chemetals and KMC argue that revocation of the order on EMD from Greece would be likely to lead to continuation or recurrence of dumping due to the fact that dumping margins above *de minimis* remain in place and import volumes declined sharply following the imposition of the order. Specifically, Chemetals and KMC assert that imports of EMD from Greece fell from approximately 97 short tons in 1988, the year before the order was imposed, to zero short tons in 1990, the first full year following the imposition of the order. Moreover, Chemetals and KMC assert that no EMD was imported from Greece from 1990 to 1996. Finally, they argue that, since 1997, imports of Greek EMD have remained at relatively negligible levels (see June 2, 1999, substantive response of Chemetals and KMC at 9). Therefore, Chemetals and KMC conclude that the sharp decline in import volumes following the imposition of the order accompanied by the continued existence of dumping margins above *de minimis* provides a strong indication that dumping would continue or recur if the order is revoked.

In its substantive response, Eveready argues that the likely effect of revocation of the order would be that dumping would not continue or recur (see June 2, 1999, substantive response of Eveready at 48). Eveready bases its argument on several factors. For one, Eveready argues that market forces have changed dramatically since the order was imposed in 1989 (see *id.* at 5). Furthermore, Eveready maintains that the technological revolution, including the growth of portable electronics, has caused the demand for batteries, and, hence, EMD, to grow quickly (see *id.* at 5-6). Eveready argues further that battery manufacturers have had to adjust to these changes and provide this rapidly evolving market with smaller portable power sources that can handle the rigorous demands of the new high-drain technologies. Eveready maintains that the batteries used to power these portable devices are the AA and AAA-size alkaline batteries which last longer and, as a result, require a higher-quality EMD, referred to as "high quality" or "high-drain" EMD, in their production (see *id.* at 6). Eveready maintains that EMD produced by Chemetals does not qualify, despite nearly two years' effort. Further, with respect to foreign

manufacturers, Eveready states that the only firms that it has either qualified or appear to be able to be qualified are those in Japan, Greece, and Ireland (see *id.* at 7).

Moreover, Eveready argues that the Greek producers of EMD need not dump their product in the U.S. market because they already have market share and already sell all the EMD they produce (see *id.* at 7-8). While Eveready agrees that imports of EMD from Greece declined after the issuance of the order and by 1990 ceased altogether, Eveready asserts that the decline in import volumes was due to the fact that Greece did not produce any EMD that was usable in the U.S. market, not due to the imposition of the order (see *id.* at 24-25).

In their rebuttal, Chemetals and KMC assert that nowhere in Eveready's submission is specific evidence or good cause shown as to why the revocation of the order would not result in continuation or recurrence of dumping. They argue that there have not been significant changed circumstances since the time of the original investigation. Chemetals and KMC maintain that the growth in AA and AAA battery use does not constitute changed circumstances because this trend has not led to a corresponding increase in the number of AA and AAA batteries produced (see June 7, 1999, rebuttal of Chemetals and KMC, Appendix B, at 13). In sum, Chemetals and KMC rebut Eveready's statement that revocation of the order would not lead to continuation or recurrence of dumping while also maintaining that changed circumstances have not been demonstrated in this case.

In its rebuttal, Eveready argues that the fact that antidumping duties were paid on shipments of the subject merchandise from Greece does not lead automatically to the conclusion that dumping continued at levels above *de minimis* following the imposition of the order (see June 7, 1999, rebuttal of Eveready at 6). Moreover, Eveready rebuts the arguments of Chemetals and KMC that the cessation of imports of EMD from Greece following the imposition of the order provides a strong indication that dumping would continue or recur were the order revoked (see *id.* at 7). Furthermore, Eveready claims that import volumes provided by Chemetals and KMC in their substantive response are misleading because they are reported in short tons, as opposed to metric tons. In addition, Eveready maintains that the claim by Chemetals and KMC that the cessation of imports was due solely to the antidumping duty order overlooks

the changing market place and the shift in battery production (*see id.* at 7).

With respect to import levels, the Department agrees that imports of the subject merchandise ceased in 1990, the year following the imposition of the order. Imports remained at zero until 1997. Since that time, imports of EMD from Greece have been negligible.²

The final results of the 1997–98 administrative review were not issued until November 16, 1999;³ however, the results were consistent with the preliminary results on which interested parties based their arguments. While the final results reflected a zero dumping margin for Tosoh Greece, the analysis was based on minimal exports, as acknowledged by all interested parties. Therefore, the cessation of dumping occurred at the expense of exports of the subject merchandise from Greece.

Based on this analysis, the Department finds that the sharp decline in imports is highly probative of the likelihood of continuation or recurrence of dumping. Given that import volumes ceased for a period of time following the imposition of the order and have since been negligible and respondent interested parties waived their right to participate in this review before the Department, the Department determines that dumping is likely to continue or recur if the order is revoked. Because we are basing our determination on the fact that import volumes sharply declined following the imposition of the order, we have not addressed Eveready's arguments regarding changed circumstances as a basis for revocation.

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*.) To date, the Department has not made any duty absorption findings in this case.

In their substantive response, Chemetals and KMC suggest that the Department adhere to its normal policy and select the margins from the original investigation. They therefore recommend that the Department forward the rates of 36.72 percent for Tosoh and 36.72 percent for all others from the original investigation (*see* June 2, 1999, substantive response of Chemetals and KMC at 11).

Eveready asserts that the dumping margin would disappear if the order were revoked (*see* June 2, 1999, substantive response of Eveready at 48). Eveready cites as support for its argument the preliminary results of the 1997–1998 administrative review conducted by the Department, in which the dumping margin was found to be zero for Tosoh.

In their rebuttal, Chemetals and KMC state that Eveready does not challenge the Department's normal practice of forwarding margins from the original investigation, but instead contends that a zero margin should apply since, in the currently pending administrative review for 1997–1998, the Department preliminarily determined that sales by Tosoh (Greece) were not made below fair value. However, citing to the sunset review of the order on frozen concentrated orange juice from Brazil, Chemetals and KMC point out that the Department has refused to base its margin recommendation on preliminary results of ongoing administrative reviews.⁴

Eveready, in its rebuttal, argues that Chemetals and KMC have not provided any factual evidence regarding why the margins from the original investigation should be forwarded to the Commission.

The Department agrees with Chemetals and KMC that we should forward to the Commission the rates from the original investigation for Tosoh and "all others." The Department notes that although in the 1997–1998 administrative review it calculated a weighted-average dumping margin of zero for Tosoh, this margin was based on minimal exports of the subject merchandise. As acknowledged by Chemetals, KMC, and Eveready, imports of the subject merchandise from Greece fell sharply following the imposition of the order and have not regained their pre-order levels.

Therefore, consistent with the *Sunset Policy Bulletin*, the Department determines that the margins calculated in the original investigation are probative of the behavior of Greek producers/exporters of EMD if the order were revoked as it is the only rate that reflects the behavior of these producers and exporters without the discipline of the order. As such, the Department will report to the Commission the company-specific and "all others" rates from the original investigation as 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 margins listed below:

Manufacturer/exporter	Margin (percent)
Tosoh Hellas ("Tosoh")	36.72
All Others	36.72

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: November 29, 1999.

Richard W. Moreland,
Acting Assistant Secretary for Import Administration.

[FR Doc. 99–31433 Filed 12–2–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–848]

Notice of Extension of Time Limit for Final Results of the Antidumping Administrative Review and New-Shipper Reviews: Freshwater Crawfish Tail Meat From the People's Republic of China

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

² The Department bases this determination on information contained in U.S. IM146 Reports, U.S. Department of Commerce statistics, U.S. Department of Treasury statistics, and information obtained from the U.S. International Trade Commission.

³ *See* *Electrolytic Manganese Dioxide from Greece; Final Results of Antidumping Duty Administrative Review*, 64 FR 62169 (November 16, 1999).

⁴ *See* *Final Results of Expedited Sunset Review; Frozen Concentrated Orange Juice from Brazil*, 64 FR 16901 (April 7, 1999).