

rates are based on the daily rates identified by the Dow Jones Business Information Services. Section 773(A)(a) of the Act directs the Department to use a daily exchange rate to convert foreign currencies into U.S. dollars unless the daily rate involves a "fluctuation." It is our practice to find that a fluctuation exists when the daily exchange rate differs from a benchmark rate by 2.25 percent. *See Preliminary Results of Antidumping Duty Administrative Review: Certain Welded Carbon Steel Pipe and Tube from Turkey* (61 FR 35188, 35192) (July 5, 1996). The benchmark rate is defined as the moving average of the rates for the past 40 business days. Where we determined that the daily rates applicable to this review fluctuated, as defined above, we converted foreign currencies into U.S. dollars using the benchmark exchange rate.

#### Preliminary Results of The Review

As a result of this review, we preliminarily determine that the following weighted-average dumping margins exist:

Manufacturer/exporter	Weighted-average margin (percent)
Companhia Ferroligas Minas Gerais-Minasligas (Minasligas) .....	10.16
Companhia de Ferro Ligas da Bahia (Ferbasa) .....	0.00

Pursuant to 19 CFR 351.224(b), the Department will disclose to parties to the proceeding any calculations performed in connection with these preliminary results within 5 days of the date of publication of this notice. Any interested party may request a hearing within 30 days of the date of publication of this notice. Parties who submit arguments in this proceeding are requested to submit with each argument: (1) a statement of the issue and (2) a brief summary of the argument. All case briefs must be submitted within 30 days of the date of publication of this notice. Rebuttal briefs, which are limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication of this notice. A hearing, if requested, will be held 44 days after the publication of this notice or the first business day thereafter. The Department will publish a notice of the final results of this administrative review, which will include the results of its analysis of issues raised in any written comments or at the hearing, within 120 days from

the publication of these preliminary results.

The Department shall determine, and the U.S. Customs Service (Customs) shall assess, antidumping duties on all appropriate entries. Upon completion of this review, the Department will issue appraisal instructions directly to Customs. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the determination and for future deposits of estimated duties. For duty assessment purposes, for each importer we will divide the total applicable dumping margin (calculated as the difference between NV and EP) by the total number of metric tons sold. We will direct Customs to assess the resulting per-metric ton dollar amount against each metric ton of subject merchandise entered by the importer during the POR. Furthermore, the following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of ferrosilicon from Brazil entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed companies (Ferbasa and Minasligas) will be the rate established in the final results of this administrative review, except if the rate is less than 0.5 percent, *ad valorem* and, therefore, *de minimis*, the cash deposit rate will be zero; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in the original less than fair value (LTFV) investigation or a previous review, the cash deposit rate will continue to be the company-specific rate published in the most recent period; (3) if the exporter is not a firm covered in this review, a previous review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise and; (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous reviews or the original LTFV investigation, the cash deposit rate will be 35.95 percent, the "All Others" rate established in the original LTFV investigation (59 FR 11769, March 14, 1994). These requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) of the Department's regulations to file a

certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) and 777(i)(1) of the Act.

Dated: December 1, 1998.

**Robert S. LaRussa,**

*Assistant Secretary for Import Administration.*

[FR Doc. 98-32542 Filed 12-7-98; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-588-056]

#### Final Results of Expedited Sunset Review: Melamine, in Crystal Form, From Japan

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

**ACTION:** Notice of Final Results of Expedited Sunset Review: Melamine, in Crystal Form, from Japan.

**SUMMARY:** On August 3, 1998, the Department of Commerce ("the Department") initiated a sunset review of the antidumping finding on melamine, in crystal form, from Japan (63 FR 41227) 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, and inadequate response (in this case no 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 finding would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Magnitude of the Margin 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:** December 8, 1998.

## Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) ("*Sunset Regulations*"). Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871 (April 16, 1998) ("*Sunset Policy Bulletin*").

## Scope

The merchandise subject to this antidumping finding is melamine, in crystal form, from Japan. Melamine, in crystal form, is a fine white crystalline powder used to manufacture melamine formaldehyde resins, currently classifiable under 2933.61.00 of the Harmonized Tariff Schedule of the United States (HTSUS).

On February 28, 1997 (62 FR 9176), melamine, in crystal form, with special physical characteristics (100% of the particles are smaller than 10 microns) was determined to be within the scope of the order. Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description remains dispositive.

This review covers all manufacturers and exporters of melamine, in crystal form, from Japan.

## Background

On August 3, 1998, the Department initiated a sunset review of the antidumping finding on melamine, in crystal form, from Japan (63 FR 41227), pursuant to section 751(c) of the Act. The Department received a Notice of Intent to Participate from Melamine Chemicals Inc. ("MCI") on August 14, 1998, within the deadline specified in section 351.218(d)(1)(i) of the *Sunset Regulations*. MCI claimed interested party status under section 771(9)(C) of the Act, as a United States manufacturer of melamine. We received a complete substantive response from MCI on September 1, 1998, within the 30-day deadline specified in the *Sunset Regulations* under section 351.218(d)(3)(i). We did not receive a substantive response from any respondent interested party to this proceeding. As a result, pursuant to section 751(c)(3)(B) of the Act and our

regulations (19 CFR 351.218(e)(1)(ii)(C)(2)), the Department determined to conduct an expedited review.

## Determination

In accordance with section 751(c)(1) of the Act, the Department conducted this review to determine whether revocation of the antidumping finding 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 finding, and shall provide to the International Trade Commission ("the Commission") the magnitude of the margin of dumping likely to prevail if the finding is revoked.

The Department's determinations concerning continuation or recurrence of dumping and the magnitude of the margin are discussed below. In addition, 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.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).

The antidumping finding on melamine, in crystal form, from Japan was published in the **Federal Register** as Treasury Decision 73-54 (42 FR 6366, February 2, 1977). Since that time, the Department has conducted several administrative reviews. The finding remains in effect for all imports from all manufacturers of melamine, in crystal form, from Japan.

In its substantive response, MCI argues that "there is a strong likelihood that dumping by Japanese producers (of melamine) would resume" if the antidumping finding were revoked (See Substantive Response, September 1, 1998). With respect to whether dumping continued at any level above *de minimis* after the issuance of the finding, MCI asserts that, as documented in the final results of reviews reached by Treasury and the Department, when Japanese shipments to the United States market were examined, dumping margins of 60 and 70.22% were found. MCI states that the conclusion to be drawn from these dumping margins is that respondents in this case have been unable or unwilling to restructure their operations so as to sell melamine in the United States at fair value. Furthermore, MCI asserts that competitive pricing pressures and global market conditions for melamine, in crystal form, are such that any future sales of the subject merchandise to the United States would likely be at less than fair value. It argues in its substantive response, as well as in previous submissions to the Department, that there is, and has been, excess production capacity in both the U.S. and Japanese melamine industries. According to MCI, this excess capacity has prompted Japanese melamine producers to sell their products in Southeast Asian, Australian, and Iranian markets at less than fair value. MCI asserts that revocation of the finding would allow the Japanese producers to take similar actions in the United States.

With respect to import volumes, MCI had indicated that there has been a cessation of exports of the subject merchandise to the United States. The final results from the three most recent administrative reviews indicate that there were no shipments of melamine, in crystal form, from Japan.<sup>1</sup>

In the administrative reviews conducted by the Department over the life of this finding, only one firm ever reported shipments.<sup>2</sup> In each of the subsequent reviews, the Department

<sup>1</sup> As indicated in 47 FR 23507, May, 28, 1983; 47 FR 44597, October 8, 1982; and 48 FR 38527, August 24, 1983.

<sup>2</sup> See *Melamine in Crystal Form From Japan; Final Results of Administrative Review of Antidumping Finding*; 46 FR 15305 (March 5, 1981).

determined that there were no shipments from any of the known exporters of melamine from Japan.<sup>3</sup> We find, therefore, that the cessation of imports after the issuance of the finding and the existence of dumping margins after the issuance of the finding are highly probative of the likelihood of continuation of dumping. Deposit rates above *de minimis* levels continue in effect for exports by all known Japanese exporters of melamine, in crystal form. As discussed in Section II.A.3 of the *Sunset Policy Bulletin*, the SAA at 890, and the House Report at 63-64, if imports cease after the order is issued, we may reasonably assume that the exporters could not sell in the United States without dumping and that, to reenter the U.S. market, they would have to resume dumping. Furthermore, if companies continue to dump with the discipline of an order in place, we may reasonably assume that dumping would continue if the discipline were removed. Therefore, absent argument and evidence to the contrary and, given that exports of the subject merchandise have ceased and dumping margins above *de minimis* continue in effect, the Department determines that dumping is likely to continue or recur if the finding were revoked.

Because the Department based this determination on the cessation of dumping and the continued existence of margins above *de minimis*, it is not necessary to address MCI's arguments concerning competitive pricing pressures, global market conditions, or excess U.S. production capacity in this notice.

#### Magnitude of the Margin

In the *Sunset Policy Bulletin*, the Department stated that, in a sunset review of an antidumping finding for which no company-specific margin or all others rate is included in the Treasury finding published in the **Federal Register**, the Department normally will provide to the Commission the company-specific margin from the first final results of administrative review published in the **Federal Register** by the Department. Additionally, if the first final results do not contain a margin for a particular

company, the Department normally will provide the Commission, as the margin for that company, the first "new shipper" rate established by the Department for that finding. (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*.)

Treasury did publish a weighted-average dumping margin in this finding for Nissan Chemical Industries, Ltd. of 60 percent (41 FR 41727, September 23, 1976). However, Treasury did not publish a "new shipper" rate or a rate for any other company exporting subject merchandise in this or any subsequent determination. Under these circumstances, the Department normally will provide the Commission, as the margin for any new company not reviewed by Treasury, the first "new shipper" rate established by the Department for that finding. The first "new shipper" rate established by the Department was 70.22 percent (47 FR 23507, May 28, 1982).

In its substantive response, MCI suggests that the Department choose the 60% dumping margin originally imposed by Treasury for Nissan Chemical Industries, Ltd. In addition, according to MCI, the Department should select the 70.22% dumping margin for other companies applied by the Department in subsequent administrative reviews.

We agree with MCI and, consistent with the policy, we determine that the original margins calculated by the Department and Treasury are probative of the behavior of the Japanese manufacturers and exporters of melamine, in crystal form. We will report to the Commission the company-specific and "all other's" margins contained in the Final Results section of this notice.

#### Final Results of Review

As a result of this review, the Department finds that revocation of the antidumping finding would be likely to lead to continuation or recurrence of dumping at the levels indicated below.

Manufacturer/exporter	Margin (percent)
Nissan Chemicals, Ltd. ....	60
All Others .....	70.22

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: December 1, 1998.

**Robert S. LaRussa,**

*Assistant Secretary for Import Administration.*

[FR Doc. 98-32537 Filed 12-7-98; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-588-046]

#### Final Results of Expedited Sunset Review: Polychloroprene Rubber From Japan

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

**ACTION:** Notice of final results of expedited sunset review: Polychloroprene rubber from Japan.

**SUMMARY:** On August 3, 1998, the Department of Commerce ("the Department") initiated a sunset review of the antidumping finding on polychloroprene rubber from Japan (63 FR 41227) 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, and inadequate response (in this case no 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 finding would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Magnitude of the Margin 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, Washington, D.C. 20230; telephone: (202) 482-6397 or (202) 482-1560, respectively.

**EFFECTIVE DATE:** December 8, 1998.

<sup>3</sup> See *Melamine in Crystal Form From Japan; Final Results of Administrative Review of Antidumping Finding*; 47 FR 23507 (May 28, 1982), *Melamine in Crystal Form From Japan; Final Results of Administrative Review of Antidumping Finding*; 47 FR 44597 (October 8, 1982), *Melamine in Crystal Form From Japan; Final Results of Administrative Review of Antidumping Finding*; 48 FR 38527 (August 24, 1983), and *Melamine in Crystal Form From Japan; Final Results of Administrative Review of Antidumping Finding and Determination Not To Revoke*; 49 FR 32634 (August 14, 1984).