

891), TUNA notes that in certain instances, it may be more appropriate to provide the Commission a more recently calculated margin. TUNA argues that it is not appropriate to report the margins from the original investigation where, as in this case, dumping margins decreased and import volume remained steady or increased. TUNA argues that the weighted-average dumping margins for Hylsa (the only respondent in the investigation), declined to single digit levels, from 32.62 percent in the investigation to 2.99 percent in 1994–1995, and to 7.39 percent in 1995–1996. Further, TUNA notes that it was subject to the all others rate until the 1994–1995 administrative review, when the Department assigned TUNA a 1.77 percent dumping margin (its only individual margin) (*see* 62 FR 37014, July 10, 1997)).

In addition, TUNA argues that dumping margins assigned in the original investigation are inappropriate as indicators of the rates that would be found upon revocation in light of changes in the methodology used to calculate antidumping duty margins introduced by the Uruguay Round. TUNA asserts that the use of margins that would not be obtained under current law would be unfair and contrary to the Antidumping Agreement.

With respect to duty absorption, TUNA notes although the Department has not made any duty absorption findings, in the 1997–1998 administrative review, the petitioners requested a duty absorption investigation.

As discussed above, we disagree with TUNA's assertion that a dumping margin of 1.77 percent is *de minimis*. Further, we note that the current deposit rates for Hylsa (7.39 percent) and all others Mexican producers/exporters (32.63 percent) are not *de minimis*.

With respect to TUNA's argument concerning the magnitude of the margin likely to prevail, we disagree. 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. Further, we noted that, in determining whether a more recently calculated margin is probative of an exporters's 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 to be revoked, the Department considers company-specific exports and company-specific margins. In its substantive response, TUNA provided the volume and value of its exports to the United States for 1990 (the year prior to the issuance of the order) and for years 1994 through 1998. Additionally, for the years 1994 through 1998, TUNA reported its exports as a percentage of total consumption imports of subject merchandise from Mexico. This information shows the post-order exports from TUNA continue to be significantly below TUNA's pre-order exports. Additionally, although as TUNA argues, its exports in 1998 are greater than its exports in 1994, TUNA's exports over this five-year period have greatly fluctuated. Therefore, we are not persuaded that the use of a more recently calculated rate is appropriate in this case. Additionally, we find there is no basis to reject margins calculated in an investigation because of subsequent changes in methodology. Such changes do not invalidate margins calculated under prior methodology.

The Department agrees with the domestic interested parties concerning the margins likely to prevail if these orders were revoked. Absent argument and evidence to the contrary, and consistent with the Sunset Policy Bulletin, we determine that the margins calculated in the Department's original investigation are probative of the behavior of Brazilian, Korean, Taiwanese, and Venezuelan producers and exporters of circular welded non-alloy steel pipe without the discipline of the orders in place. Further, based on the above analysis, we find that the margins calculated in the original investigation covering Mexico are probative of the behavior of Mexican producers and exporters of circular welded non-ally steel pipe without the discipline of the order. Therefore, we will report to the Commission the margins indicated in the Final Results of the Reviews section of this notice.

#### Final Results of Reviews

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

Manufacturers/exporters	Margin (percent)
<b>Brazil</b>	
Persico Pizzamiglio S.A .....	103.38
All Others .....	103.38
<b>Korea</b>	
Hyundai Steel Pipe Co., Ltd .....	4.62
Korea Steel Pipe Co., Ltd .....	4.08
Masan Steel Tube Works Co., Ltd .....	11.63
Pusan Steel Pipe Co., Ltd .....	5.35
All Others .....	4.80
<b>Mexico</b>	
Hylsa, S.A. de C.V .....	32.62
All Others .....	32.62
<b>Taiwan</b>	
Kao Hsing Chang Iron & Steel Corporation .....	19.46
Yieh Hsing Enterprise Co., Ltd .....	27.65
All Others .....	23.56
<b>Venezuela</b>	
C.A. Conduven .....	52.51
All Others .....	52.51

These notices 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 regulation. 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 sanctionable violation.

These five-year ("sunset") reviews and notice are published 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. 99–31428 Filed 12–2–99; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A–588–806]

#### Final Results of Expedited Sunset Review: Electrolytic Manganese Dioxide From Japan

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

**ACTION:** Notice of final results of expedited sunset review: Electrolytic manganese dioxide from Japan.

**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 Japan (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 (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 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, DC 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*, 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 (MnO<sub>2</sub>) 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.

There has been one scope clarification with regard to EMD from Japan. On January 6, 1992, the Department ruled that high-grade chemical manganese dioxide (CMD-U) is within the scope of the order.<sup>1</sup>

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 two company-specific weighted-average dumping margins as well as an "all others" rate (54 FR 8778, March 2, 1989). The antidumping duty order on EMD from Japan was published in the **Federal Register** on April 17, 1989 (54 FR 15244). Since that time, the Department has conducted three administrative reviews.<sup>2</sup> This sunset review covers imports from all known Japanese 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 Japan (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") (collectively, "domestic interested parties") on May 18, 1999, within the deadline specified in section 351.218(d)(1)(i) of the *Sunset Regulations*. We received a complete substantive response from Chemetals and KMC on June 2, 1999, within the 30-day deadline specified in the *Sunset Regulations* in section 351.218(d)(3)(i). Both Chemetals and Kerr-McGee claimed interested-party status pursuant to section 771(9)(C) of the Act as U.S. producers of a like product. In addition, both Chemetals and KMC stated that they participated in the original investigation and every segment of the proceeding since the original

investigation. We did not receive any response from respondent interested parties to this proceeding. 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 Japan 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.<sup>3</sup>

### 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 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*

<sup>1</sup> See *Electrolytic Manganese Dioxide from Japan; Final Scope Ruling*, 57 FR 395 (January 6, 1992).

<sup>2</sup> See *Final Results of Antidumping Duty Administrative Review: Electrolytic Manganese Dioxide From Japan*, 58 FR 28551 (May 14, 1993), and *Final Results of Antidumping Duty Administrative Reviews: Electrolytic Manganese Dioxide From Japan*, 59 FR 53136 (October 21, 1994).

<sup>3</sup> See *Extension of Time Limit for Final Results of Five-Year Reviews*, 64 FR 48579 (September 7, 1999).

*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 response from any respondent interested party. Pursuant to section 351.218(d)(2)(iii) of the *Sunset Regulations*, this constitutes a waiver of participation.

In their substantive response, the domestic interested parties argue that revocation of the order on EMD from Japan would be likely to lead to continuation or recurrence of dumping due to the fact that dumping margins above *de minimis* have been calculated after the issuance of the order and import volumes declined sharply following the imposition of the order.

The domestic interested parties assert that, in administrative reviews conducted after the imposition of the order, the Department calculated margins well above *de minimis* for Tosoh Corporation (see June 2, 1999, substantive response of the domestic interested parties at 7). They also argue that imports of EMD from Japan fell from approximately 19,000 short tons in 1988, the year before the order was imposed, to approximately 143 short tons in 1989, the year in which the order was imposed. Moreover, the domestic interested parties assert that, since the order was imposed, imports of Japanese EMD have remained at relatively negligible levels (less than one percent of their pre-order volume (see *id.* at 8)). Therefore, they conclude that the sharp decline in import volumes accompanied by the continued existence of dumping margins above *de*

*minimis* after the imposition of the order provides a strong indication that dumping would continue or recur if the order is revoked.

The Department agrees, based on an examination of the final results of administrative reviews, that dumping margins above *de minimis* levels have continued throughout the life of the order. As discussed in section II.A.3 of the *Sunset Policy Bulletin*, the SAA at 890, and the House Report at 63–64, if companies continue dumping with the discipline of an order in place, the Department may reasonably infer that dumping would continue if the discipline were removed.

With respect to import levels, the Department agrees that imports of the subject merchandise decreased in 1990, the year following the imposition of the order. However, since that time, imports of EMD from Japan have fluctuated greatly, showing no overall trend.<sup>4</sup>

As explained above, the Department finds that the existence of dumping margins after the issuance of the order is highly probative of the likelihood of continuation or recurrence of dumping. A deposit rate above a *de minimis* level remains in effect for exports of the subject merchandise for at least one known Japanese producer/exporter. Given that dumping has continued over the life of the order and respondent interested parties waived their right to participate in this review before the Department, and absent argument and evidence to the contrary, the Department determines that dumping is likely to continue or recur if the order is revoked.

#### Magnitude of the Margin

In the *Sunset Policy Bulletin*, the Department stated that normally it will 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, normally the Department 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,

<sup>4</sup>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.

the Department has not made any duty-absorption findings in this case.

In their substantive response, the domestic interested parties suggest that the Department adhere to its normal policy and select the margins from the original investigation for Mitsui Mining and Smelting (“Mitsui”) and the “all others” rate. However, they recommend that the Department forward to the Commission the more recently calculated margin from the second administrative review of 77.43 percent for Tosoh Corporation (“Tosoh”). The domestic interested parties point out that Tosoh participated in the first administrative review (1990–91) and received a rate of 20.43 percent, lower than the 71.91 percent margin determined for Tosoh in the original LTFV investigation and antidumping duty order. They argue that Tosoh seemed content with its margin of 20.43 percent and, thus, sought to “lock in” that rate and thereby avoid a possibly higher margin by refusing to participate in the second (1991–92) and third (1992–93) administrative reviews (see June 2, 1999, substantive response of the domestic interested parties at 10). Therefore, the domestic interested parties argue that the Department should conclude that the dumping margin of 77.43 percent determined in the 1991–92 and 1992–93 reviews most accurately reflects Tosoh’s likely dumping margin should revocation occur.

We agree with the domestic interested parties that we should forward to the Commission the rates from the original investigation for Mitsui and “all others.” As for the margin for Tosoh, the Department disagrees with the domestic interested parties. As noted in the *Sunset Regulations* and *Sunset Policy Bulletin*, the Department may provide to the Commission a more recently calculated margin for a particular company where dumping margins increased after the issuance of the order or if that particular company increased dumping to maintain or increase market share. Such circumstances are not present in this case. As noted above, domestic interested parties argued that import volumes actually declined over the life of the order and the domestic interested parties did not provide any argument or evidence that Tosoh was attempting to increase or maintain market share.

Therefore, consistent with the *Sunset Policy Bulletin*, the Department determines that the margins calculated in the original investigation are probative of the behavior of Japanese producers/exporters of EMD if the order were revoked as they are the only rates

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]

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## 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 (MnO<sub>2</sub>) 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