

dumping and that to reenter the U.S. market, they would have to resume dumping. In this case we find that imports ceased after the issuance of the order and dumping margins continued to exist. Therefore, given that imports ceased, dumping margins continue to exist, respondent interested parties waived their right to participate in this review, and absent argument and evidence to the contrary, the Department determines that dumping of solid urea from Romania is likely to continue or recur if the order were revoked.

### 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 country-wide rate from the investigation. (See section II.B.1 of the *Sunset Policy Bulletin*.) Exceptions to this policy permit the use of a more recently calculated margin, when appropriate, and consideration of duty absorption determinations. (See sections II.B.2 and 3 of the *Sunset Policy Bulletin*.)

With respect to the magnitude of the margin likely to prevail if the antidumping duty orders were revoked, the domestic parties argue that the Department should provide the Commission the dumping margin from the final results of the original investigation, 90.71 percent. The domestic parties assert that this margin is the only rate that has been calculated by the Department and it is the only rate that reflects the behavior of Romanian producers and exporters of urea without the discipline of the order.

The Department agrees with the domestic parties concerning the choice of the dumping margin to report to the Commission. In our final determination of sales at less-than-fair-value, we reported a weighted-average dumping margin of 90.71 percent for I.C.E. Chimica (the only company investigated) and for all others. Therefore, consistent with the Department's *Sunset Policy Bulletin* we determine that the original margin, is probative of the behavior of the Romanian producers and exporters of solid urea if the order were revoked. We will report to the Commission the rate 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 order would be likely to lead to continuation or recurrence of dumping at the margins listed below:

Manufacturers/ Exporters	Margin (percent)
I.C.E. Chimica .....	90.71
All Others .....	90.71

This notice serves as the only reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

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

Dated: August 30, 1999.

**Robert S. LaRussa,**

*Assistant Secretary for Import Administration.*

[FR Doc. 99-23048 Filed 9-2-99; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-122-085]

### Final Results of Full Sunset Review: Sugar and Syrups From Canada

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

**ACTION:** Notice of Final Results of Full Sunset Review: Sugar and Syrups from Canada.

**SUMMARY:** On April 26, 1999, the Department of Commerce ("the Department") published a notice of preliminary results of the full sunset review of the antidumping duty order on sugar and syrups from Canada (64 FR 20253) 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. As a result of this review, the Department finds that revocation of this 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, D.C. 20230; telephone: (202) 482-6397 or (202) 482-1560, respectively.

**EFFECTIVE DATE:** September 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"). 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 the antidumping duty order is sugar and syrups from Canada produced from sugar cane and sugar beets. The sugar is refined into granulated or powdered sugar, icing, or liquid sugar.<sup>1</sup> The subject merchandise is currently classified under Harmonized Tariff Schedule of the United States ("HTSUS") item numbers 1701.99.0500, 1701.99.1000, 1701.99.5000, 1702.90.1000, and 1702.90.2000. Although the subheadings are provided for convenience and customs purposes, the written description remains dispositive.

On March 24, 1987, the Department revoked the order, in part, with respect to Redpath Sugar Ltd. ("Redpath") (52 FR 9322). On January 7, 1988, the Department revoked the order, in part, with respect to Lantic Sugar, Ltd. ("Lantic") (53 FR 434). In 1996, the Department determined that Rogers Sugar, Ltd. ("Rogers"), was the successor in interest to British Columbia Sugar Refining Company, Ltd. ("BC

<sup>1</sup> This order excludes icing sugar decorations as determined in the U.S. Customs Classification of January 31, 1983 (CLA-2 CO:R:CV:G).

Sugar").<sup>2</sup> In its November 2, 1998, substantive response, the United States Beet Sugar Association and its individual members (collectively, the "USBSA") stated that three companies in Canada constitute the Canadian domestic industry: Lantic, Redpath, and Rogers. Because the order was revoked with respect to Lantic and Redpath, only Rogers is currently subject to the order.

#### Background

On April 26, 1999, the Department issued the Preliminary Results of Full Sunset Review: Sugar and Syrups from Canada (64 FR 20253). Based on the continued absence of a dumping margin for Rogers, the sole producer/exporter subject to the order, and the continued existence of imports from Rogers in substantial quantities, in our preliminary results we found that revocation of the order is not likely to lead to continuation or recurrence of dumping.

We conducted verification in Taber, Alberta, of Rogers' response on May 12, 1999, and issued our verification report on May 19, 1999. On June 8, 1999, within the deadline specified in 19 CFR 351.309(c)(1)(i), we received comments on behalf of the USBSA and on behalf of Rogers. On June 15, 1999, within the deadline specified in 19 CFR 351.309(d), the Department received rebuttal comments from both the USBSA and Rogers. The Department held a public hearing on June 18, 1999.

As a result of the comments, we have changed our determination. We have addressed the comments received below.

#### Likelihood of Continuation or Recurrence of Dumping

*Comment 1:* The USBSA asserts that sugar produced at Rogers' Taber facility will have to be sold below constructed value ("CV") and therefore will be dumped when it enters the U.S. market. The USBSA asserts that, despite repeated requests, the Department did not conduct a CV analysis in which an accurate calculation of CV could be compared to Rogers' selling price on current U.S. sales. Relying on the 1998 cost of production ("COP") contained in the verification report, which the USBSA asserts does not include all costs, the USBSA states that it calculated a CV. The USBSA asserts that this and evidence of Rogers' pricing in 1996, which is on the record, demonstrates that Rogers sold sugar in

the United States at prices below CV. Additionally, the USBSA argues, the recent improvements made at Rogers' Taber facility will increase its COP and force Rogers to sell sugar at below cost prices. Asserting that the recent downward spiral in world prices makes dumping by Rogers more pervasive, the USBSA requests that the Department revisit the CV analysis and conclude that dumping is likely to continue or recur if the order is revoked.

In its rebuttal brief Rogers cites to the Department's Policy Bulletin 94-1 regarding COP and asserts that the Department found USBSA's allegations of below-cost sales speculative correctly, thereby falling short of the standard for providing reasonable grounds for suspecting that Rogers made sales at below cost prices. Further, Rogers argues, the Department is not required to do a COP investigation in reviews when there is no earlier determination of below-cost sales and there has been no reasonable evidence submitted which suggests that sales at prices less than COP were made.

Rogers notes that the Department looked correctly at the cost basis for sugar beet production and at the audited financial statements of Rogers during verification. Rogers asserts that the verified information confirmed its submissions showing sales in Canada and the United States at prices significantly above the COP. Additionally, Rogers asserts that the verified information shows that profits were made and distributed by Rogers in every year of the period covered by the Department's sunset review. With respect to the Taber facility expansion, Rogers argues that the consolidation and expansion of its facilities has only increased its cost efficiencies. Rogers provided information from an independent audit of the expansion in support of this assertion. Further, Rogers argues that the wholly speculative CV constructed by USBSA does not reflect actual numbers provided to, and verified by, the Department. In conclusion Rogers asserts that there is no credible evidence on the record that would lead to a decision by the Department to conduct a CV analysis.

*Department's Position:* The Department's *Sunset Policy Bulletin* notes that the Department will consider other factors (such as prices and costs) in full sunset reviews where an interested party identifies good cause through the provision of information or evidence that would warrant consideration of such factors. In our preliminary results, we determined that the USBSA did not provide evidence of

good cause to support our consideration of other factors.

Rogers, in its November 3, 1998, substantive response, provided information to the Department concerning its COP for processed beets to support its argument that prices were above cost. Although we had not requested the information and had determined for the preliminary results that there was no basis to consider such additional information, because Rogers had presented the information in its substantive and rebuttal responses, we conducted an on-site verification of this information on May 12, 1999 (see Memorandum to Jeffrey May, Re: Sunset Review: Sugar and Syrups from Canada, dated May 19, 1999). Therefore, we agree with both parties that verified information related to Rogers' 1998 COP is now on the record in this review. In addition, verified information on Rogers' Canadian and U.S. sales prices for the years 1993 through 1997 is on the record.

As noted above, the USBSA's pre-hearing brief contained an allegation of sales below cost, based on verified information already on the record. Rogers did not rebut this allegation; rather, Rogers claimed that its verified submissions show sales in Canada and the United States at prices significantly above COP. For the purpose of our final results we considered this allegation.

We have analyzed the verified information and find that it provides sufficient support for a determination that dumping is likely to continue or recur if the order were revoked. The Department normally will not, and has no reason to, conduct a cost investigation in the context of a sunset review. However, both USBSA and Rogers' arguments concerning likelihood of continuation of dumping revolve around whether or not pricing and cost data indicate that dumping has been taking place. The Department, therefore, has conducted a sort of abbreviated cost test with the limited data on the record.

Specifically, using the verified information, the Department constructed a COP and CV (per metric ton) of processed sugar (see Memorandum to File, Re: Cost of Production, dated August 20, 1999). Section 773(b)(1) of the Act provides that the Department will disregard below cost sales made within an extended period of time in substantial quantities and which were not made at prices which permit recovery of all costs within a reasonable period of time. We compared Rogers' verified weighted-average home market price to the COP and found that it was below the COP.

<sup>2</sup> See Sugar and Syrups from Canada; Final Results of Changed Circumstances Antidumping Duty Administrative Review, 61 FR 51275 (October 1, 1996).

Specifically, we compared a weighted-average home market price, based on 1997 price data supplied by Rogers, with a COP based on 1998 costs derived from Rogers' data. We found the weighted-average price to be below the COP. Based on this limited data, we determine, therefore, that Rogers made below cost sales within an extended period of time in substantial quantities at prices which did not permit recovery of all costs within a reasonable period of time. Because there are, in essence, no remaining above cost sales, we compared Rogers' verified average U.S. export selling price to the CV. We found that this average price was below CV. Based on this comparison, we conclude that at least some of Rogers sales to the United States are at prices below CV.<sup>3</sup> These calculations, using verified information, therefore, provide a sufficient basis for determining that dumping is likely to continue or recur if the order were revoked.

*Comment 2:* The USBSA disagrees with the Department's preliminary decision that revocation of the order would not be likely to lead to continuation or recurrence of dumping. The USBSA argues that the Department incorrectly and unlawfully equated the domestic industry's decision not to request an administrative review of this order over the past 16 years as a lack of interest in the order. Furthermore, the USBSA argues that its decision not to request an administrative review does not indicate an absence of dumping by Rogers.

Rogers, in its rebuttal comments, argues that the USBSA admits that it was satisfied with the status quo and the status quo, with respect to this order, was a deposit rate of zero. If the USBSA was satisfied with this zero deposit rate, according to Rogers, it must have believed that no dumping was occurring. Rogers argues further that it has been the Department's practice to revoke orders where there have been several years of zero margins. With respect to this sunset review, Rogers argues that the burden is on the domestic industry to demonstrate why the existence of a zero percent deposit rate for 16 years coupled with exports of the subject merchandise in substantial quantities is not sufficient to determine that revocation of the order would not be likely to lead to continuation or recurrence of dumping.

<sup>3</sup> Absent specific information, we did not make any adjustments to U.S. prices, as we would in an investigation or administrative review conducted for the purpose of measuring dumping. Such adjustments typically would result in a reduction of U.S. price and, therefore, an increase in the magnitude of the dumping margin.

*Department's Position:* We disagree with the USBSA's assertion that we equated the domestic industry's decision not to request an administrative review with a lack of interest in the order. Nowhere in our preliminary results did we state that the domestic industry's decision not to request an administrative review over the last 16 years was tantamount to having no interest in the continuation of this order. In our preliminary results we attempted to ascertain the likelihood of continuation or recurrence of dumping. In doing so, the Department examined the deposit rates over the life of the order for Rogers, the only producer/exporter of Canadian sugar still subject to the order. The deposit rate for Rogers has been zero percent for the past 16 years. Because there has been no request by the domestic industry for an administrative review of this order for the past 16 years, we had no reason to believe that Rogers had dumped sugar in the United States during any part of this time period.

Furthermore, the preamble to the Department's regulations concerning revocation of orders states that "it is reasonable to presume that if subject merchandise, shipped in commercial quantities, is being dumped or subsidized, domestic interested parties will react by requesting an administrative review to ensure that duties are assessed and that cash deposit rates are revised upward from zero. If domestic interested parties do not request a review, presumably it is because they acknowledge that subject merchandise continues to be fairly traded" (Antidumping Duties; Countervailing Duties; Final Rule, 62 FR 27296, 27326 (May 19, 1997)).

Therefore, this factor points to a finding of no dumping since the issuance of the zero deposit rate. This would generally be our conclusion, except where, as here, information on the record is sufficient to determine dumping is likely to continue or recur.

*Comment 3:* The USBSA argues that the Department erred by making its likelihood determination on an order-wide basis. It argues that, although the Statement of Administrative Action ("the SAA")<sup>4</sup> at 879 states expressly that the Department will make its sunset determinations on an order-wide basis, the Department improperly compared recent import data for only one respondent (Rogers) to data following the issuance of the order for one respondent (BC Sugar). If the Department had made the proper comparison of total pre-order imports to

total post-order imports, according to the USBSA, the Department would have no alternative but to conclude that import volumes have declined significantly during the life of the order.

Rogers did not address this comment.

*Department's Position:* The Department disagrees with the USBSA. Prior to the issuance of the order, Rogers was not the only exporter of subject merchandise. Other Canadian producers and exporters were subject to the original investigation and subsequent order. In its November 2, 1998, substantive response, however, the USBSA acknowledges that only Rogers is currently subject to this antidumping duty order (November 2, 1998, Substantive Response from the USBSA at 9). Therefore, comparison of Rogers' pre-and post-order import volumes was appropriate.

On October 1, 1996, the Department determined that Rogers was the successor in interest to BC Sugar. In this determination, the Department found that BC Sugar changed its name legally to Rogers Sugar, Ltd. Because the structure and organization of the company did not change and Rogers was, for all intents and purposes, BC Sugar, the Department also determined that the deposit rate assigned to BC Sugar was applicable to Rogers. Therefore, the Department determined that, for the purposes of this antidumping duty order, BC Sugar and Rogers were predecessor and successor companies, respectively, of the same entity.

Because Rogers (formerly BC Sugar) is the only producer/exporter of sugar and syrups from Canada still subject to the order, the Department finds that it would be unreasonable to compare the present import volumes of Rogers with the pre-order import volumes of the four (or more) producers/exporters which were subject to the order in 1980. If it made this comparison, the Department would almost certainly find that total imports had decreased over the life of the order not only because there are fewer producers/exporters which are currently subject to the order but also because the tariff rate quota (TRQ) currently in effect restricts imports. Generally speaking, the purpose of the Department's comparison of current and pre-order import volumes is to determine whether companies (or the company) have been able to consistently and continually sell subject merchandise in the United States without dumping. Here, we compared the volume of BC Sugar's 1979 exports to the volume of Rogers' recent exports. Current imports of subject merchandise from Rogers (formerly BC Sugar) are

<sup>4</sup> H.R. Doc. No. 103-316, vol. 1 (1994).

substantially greater than the pre-order levels of BC Sugar (now Rogers). Therefore, our examination of import levels of BC Sugar/Rogers over the life of the order was appropriate.

*Comment 4:* The USBSA argues that the Department should have confirmed whether Canadian producers and refiners of subject merchandise have imported at dumped prices since the discipline of the order went into effect. The USBSA asserts that the Department's comparison should have included imports of refined cane and beet sugar from all Canadian exporters, except Lantic and Redpath, for which the order has been revoked. Furthermore, the USBSA argues that the Department never attempted to verify whether new Canadian sugar refiners have entered the market and instead limited its review to those producers previously involved in the initial investigation.

*Department's Position:* In its November 2, 1998, substantive response, the USBSA itself stated that only Rogers was subject to this antidumping duty order (November 2, 1998, Substantive Response from the USBSA at 9). There is no evidence on the record in this case of any other Canadian producer/exporter of cane or beet sugar which is currently subject to the order. Therefore, because we had no reason to doubt the USBSA's claim that Rogers is the only producer/exporter of subject merchandise still subject to this antidumping duty order, we have not investigated whether other Canadian producers exported subject merchandise to the United States.

*Comment 5:* The USBSA argues that the Department included non-subject merchandise in its examination of imports of sugar and syrups from Canada. The USBSA states further that increases in the imports of non-subject merchandise are irrelevant to this sunset review and their inclusion in the Department's examination is misrepresentation of the true amount of imports of subject merchandise.

*Department's Position:* Increases or decreases in non-subject merchandise are irrelevant to our sunset determination. For this reason, the Department has endeavored to determine an accurate amount of import volumes of the subject merchandise.

In the instant case, however, there are limitations to the data which do not make an exact accounting of the import volumes possible. The HTS item numbers used by the U.S. Census Bureau and the U.S. Customs Service with respect to imports of sugar and syrups from Canada include some non-subject merchandise. Furthermore, the

age of this information in question and changes in the HTS system over the life of this order make estimation of imports of subject merchandise necessary. As noted above, the Department recognizes that there are data limitations. The Department has, nevertheless, attempted to compile the most accurate calculation of import volumes of subject merchandise over the life of the order.

*Comment 6:* The USBSA argues that the TRQ is no longer an effective means of preventing surges in dumped sugar from entering the U.S. market. The USBSA argues further that the U.S. Sugar Program is under assault in an attempt to expand access to the U.S. market significantly.

*Department's Position:* We agree with the USBSA that the TRQ has been effective in the past at limiting all imports of sugar. The TRQ, as part of the U.S. Sugar program, was designed to provide protection from imports of foreign sugar. However, the USBSA misunderstands the intent behind the creation and implementation of an antidumping duty order. The purpose behind this order is not to provide blanket protection from all imports of Canadian sugar; rather, its purpose is to counteract the effects of unfairly traded imports. This is evidenced by the fact that this order has been revoked with respect to Redpath and Lantic because the Department determined that these companies were not selling sugar in the United States at less than fair value. In the same vein, the TRQ was not created to be a substitute for an antidumping duty order, nor should it be viewed as such. The TRQ provides the U.S. industry protection from all imported sugar. It was not intended to act as an antidumping duty order on sugar from all of the world's sugar producers, whether their sugar was being sold at dumped prices or not.

The only issue in this sunset review is whether Canadian sugar and syrups are likely to be dumped in the United States in the foreseeable future. Whether the TRQ is no longer effective in limiting imports, dumped or not, is irrelevant to this sunset review.

*Comment 7:* The USBSA argues that the sugar market has fallen to unprecedented levels and shows no signs of recovery in the foreseeable future. The USBSA argues further that the Department, in its preliminary results, quickly dismissed the USBSA's argument as speculative when the conduct of sunset reviews is inherently speculative.

Rogers rebuts that an analysis of long-term trends in the history of the international sugar market shows that price peaks and troughs are

characteristically short-lived. It states that the most recent severe price trough was in 1985 when the annual average price for raw sugar was \$0.04/lb. Furthermore, Rogers argues that the current price trough appears to have bottomed out in April 1999 at about \$0.04/lb. for raw sugar.

Rogers continues by reiterating that the USBSA's arguments concerning the declining world price for sugar are speculative and subjective which, Rogers notes the USBSA admits, may change depending on unpredictable events and changes in circumstances in producing and importing countries.

*Department's Position:* Sunset determinations are inherently speculative and predictive and, in our preliminary results, we stated that the USBSA's arguments concerning the decreases in world sugar prices were speculative. We also believe that, since sunset reviews are inherently predictive, the best predictor of future behavior is past behavior. In examining the world sugar prices over the life of the order, we find that, although prices in early 1999 are at their lowest point in 12 years, generally prices have fluctuated over this time, with prices in fiscal year 1998 being only marginally below fiscal year 1993 prices. We also find that the current prices for refined sugar are not unprecedented, as Rogers' information concerning 1985 raw sugar prices demonstrates.

*Comment 8:* The USBSA argues that the recent downward spiral of the world refined-sugar price has a direct impact on Canadian prices and incentives to export to the United States. According to the USBSA, with a world price standing near \$0.09/lb. and a Canadian price that Rogers argues mimics the world price, it is inescapable that Rogers' home market sales in Canada are today priced at less than cost and will be so priced in the future. As the record in this proceeding shows, the USBSA contends, not even the most efficient sugar producers can produce sugar for around \$0.09/lb.

Rogers argues that it has had a zero margin through 16 years of world price fluctuations, including times of prices lower than at present, while maintaining a dumping margin of zero. It states that the Department verified its information and that the verification demonstrated that sales in Canada and the United States are at prices significantly above cost of production.

Furthermore, Rogers states that, since prices in the United States were verified as higher than prices in Canada, there is no credible way Rogers could have been selling below the COP.

*Department's Position:* The recent decreases in the world refined-sugar price undoubtedly affected the Canadian price of refined sugar because the Canadian price parallels the world price. Although the Canadian price parallels the world price, it is not the same as the world price. Therefore, it is quite reasonable to assume, given Rogers' costs of manufacturing and the transportation costs associated with the location of its sales within Canada, that the selling price of its product could be above its cost of manufacturing and still be competitive with other producers/exporters.

The world price of refined sugar obviously affects the selling price of sugar in Canada and, thus, indirectly, may affect Rogers' selling price. Nevertheless, the salient issue for this sunset review is not the world price of refined sugar but, rather, Rogers' costs and prices. Thus, we have limited our examination to Rogers' costs and prices.

*Comment 9:* The USBSA states that, as the United States slowly reduces the Canadian tier-2 tariff rate through 2008, the U.S. market will become increasingly vulnerable to imports of Canadian sugar if the world price of sugar falls below certain levels. Specifically, the USBSA argues that, given the world refined price of \$0.0913/lb., the ability of Canadian producers to export refined sugar to the United States profitably while paying the tier-2 tariff is already becoming a reality.

Rogers argues that, given the current U.S. selling price of \$0.28/lb., with the addition of the tier-2 duty of \$0.1621/lb., Rogers would be required to sell in the United States at prices significantly below the lowest price it now receives for the same product in Canada. Furthermore, Rogers asserts, its production is not in excess of market demand in Western Canada. Finally, according to Rogers, the refusal of sugar beet growers to participate and support prices low enough to take account of the tier-2 level (which would be necessary to sell any product in the United States) would make such sales prohibitive.

*Department's Position:* The Department finds no evidence to suggest that Rogers would sell sugar in the United States above the country-specific quota established for Canada (i.e., paying the tier-2 tariff rate).<sup>5</sup> In order for Rogers to sell sugar in the United States and pay the tier-2 tariff rate, Rogers

would have to sell its product (1) at prices substantially less than the lowest price it receives for a similar product sold in Canada, (2) at prices far below its costs of production, and (3) at prices far below the current world price of refined sugar. The Department finds it extremely unlikely that Canadian producers could export refined sugar to the United States profitably while paying the tier-2 tariff.

#### Magnitude of the Margin

Neither party addressed this issue in its case or rebuttal briefs. Therefore, we have relied on the arguments submitted prior to the preliminary results.

*Comment 1:* In its substantive response, the USBSA argued that the dumping margin likely to prevail is at least as large as the margin that prevailed at the time of the original investigation; the highest dumping margin established in the original investigation was US\$0.0237/lb.<sup>6</sup> Further, based on current U.S. and Canadian pricing, the USBSA estimated dumping margins ranging from 9.3 percent to 409.0 percent. As noted above, the USBSA did not comment on the margin likely to prevail in either its case or rebuttal brief.

In its substantive response, Rogers argued that, given the price spread between the U.S. supply-managed sugar market and the Canadian market based on world pricing, the dumping margin likely to prevail if the order were to be revoked is zero. Rogers argued that, because of its limited access to the U.S. market, it is motivated to sell subject merchandise at U.S. refined-sugar prices to maximize returns. Rogers provided a chart depicting sugar prices in the Canadian and U.S. markets and its price into the United States for the past eight years, as well as a calculation for producing processed beet sugar at its facility in Canada. Rogers contended that the chart indicates that Rogers' price into the United States has been above its prices in Western Canada. In its case and rebuttal briefs, Rogers also asserted that there is no likelihood of continuation or recurrence of dumping if the order were to be revoked.

*Department's Position:* The Department disagrees with Rogers. As discussed in detail above, evidence placed on the record of this sunset review by Rogers, and verified by the Department, indicates that there is a likelihood that dumping would continue or recur if the order were to be revoked.

<sup>6</sup> See *Antidumping Duty Order; Sugar and Syrups from Canada*, 45 FR 24128 (April 9, 1980).

In the *Sunset Policy Bulletin*, the Department stated that it will normally provide to the International Trade Commission (the "Commission") the margin that was determined in the final determination in the original investigation because that is the only calculated rate that reflects the behavior of exporters absent the discipline of the order. (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*.)

In our preliminary results, we determined that the use of a more recently calculated rate was appropriate and that such rate reflected an absence of dumping. However, as noted above, for our final results, we find that verified information demonstrates the likelihood of dumping. Therefore, we conclude that the more recently calculated rate from an administrative review can no longer be considered the magnitude of the margin likely to prevail if the order were revoked.

We agree with the USBSA that the dumping margin likely to prevail if the order were to be revoked is at least as high as the dumping margin determined in the original investigation for BC Sugar. We recognize that our dumping calculation for purposes of determining likelihood of future dumping is not as accurate as a determination which would reflect the adjustments typically made in an investigation or administrative review. Therefore, the Department finds that the margins calculated in the original investigation (45 FR 24126, April 9, 1980)<sup>7</sup> are probative of the behavior of Canadian producers/exporters of the subject merchandise. As such, the Department will report to the Commission the company-specific and all others rates from the original investigation as the magnitude of the margin likely to prevail if the order were revoked.

#### Final Results of 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 margins listed below:

<sup>7</sup> As the Department noted in its preliminary results (see *Preliminary Results of Full Sunset Review: Sugar and Syrups from Canada*, 64 FR 20253 (April 26, 1999)) and above, Rogers (formerly BC Sugar) is the only known producer/exporter of the subject merchandise currently subject to the order.

<sup>5</sup> The Department notes that the USBSA has examined the effects of the Canadian tier-2 tariff rate on the possibility of increased imports from Canada through the year 2008. However, the USBSA has stringently argued that the TRQ will be phased out by the year 2002.

Manufacturer/exporter	Margin
Rogers (B.C. Sugar) .....	\$0.010105/lb.
All Others .....	0.023700/lb.

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: August 27, 1999.

**Bernard T. Carreau,**  
Acting Assistant Secretary for Import Administration.

[FR Doc. 99-23039 Filed 9-2-99; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-351-604]

#### Final Results of Expedited Sunset Review: Brass Sheet and Strip From Brazil

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

**ACTION:** Notice of final results of expedited sunset review: brass sheet and strip from Brazil.

**SUMMARY:** On February 1, 1999, the Department of Commerce ("the Department") initiated a sunset review of the countervailing duty order on brass sheet and strip from Brazil (64 FR 4840) 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 the domestic interested parties, as well as inadequate response (in this case, no response) from respondent interested parties, the Department determined to conduct an expedited (120 day) review. As a result of this review, the Department finds that termination of the countervailing duty order would be likely to lead to continuation or recurrence of a countervailable subsidy.

**FOR FURTHER INFORMATION CONTACT:** Kathryn B. McCormick or Melissa G. Skinner, Office of Policy for Import

Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1698 or (202) 482-1560, respectively.

**EFFECTIVE DATE:** September 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"). 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

This order covers shipments of coiled, wound-on-reels (traverse wound), and cut-to-length brass sheet and strip (not leaded or tinned) from Brazil. The subject merchandise has, regardless of width, a solid rectangular cross section over 0.0006 inches (0.15 millimeters) through 0.1888 inches (4.8 millimeters) in finished thickness or gauge. The chemical composition of the covered products is defined in the Copper Development Association ("C.D.A.") 200 Series or the Unified Numbering System ("U.N.S.") C2000; this review does not cover products with chemical compositions that are defined by anything other than C.D.A. or U.N.S. series. The merchandise is currently classified under Harmonized Tariff Schedule ("HTS") item numbers 7409.21.00 and 7409.29.00. The HTS item numbers are provided for convenience and U.S. Customs purposes. The written description remains dispositive.

#### History of the Order

In the original investigation, the Department received information on two Brazilian producers and exporters that accounted for substantially all exports of brass sheet and strip to the United States during the period of investigation. In its final affirmative countervailing duty determination (52 FR 1218, January 12, 1987), the Department concluded that the Government of Brazil was providing countervailable subsidies to exporters of

the subject merchandise through four programs: (1) Preferential Working Capital Financing for Exports (CACEX); (2) Income Tax Exemption for Export Earnings; (3) Export Financing Under the CIC-CREGE 14-11 Circular; and (4) Import Duty Exemption Under Decree-Law 1189 of 1979.<sup>1</sup> We estimated the net subsidy to be 6.13 percent *ad valorem*, and, on the basis of a program-wide change in the Preferential Working Capital Financing for exports program which occurred prior to the preliminary determination, we established a cash deposit rate of 3.47 percent *ad valorem* for all manufacturers, producers, or exporters of brass sheet and strip from Brazil.

The Department has since conducted one administrative review (56 FR 56631 (November 6, 1991)) of this countervailing duty order, covering the period January 1, 1990, through December 31, 1990. In the Department's preliminary results of the administrative review, and supported by the Department's final results of the administrative review, the Department determined that each of the four programs found to provide countervailable benefits in the investigation had been terminated. Preferential Working Capital Financing for Exports was terminated, effective August 30, 1990, by Central Bank Resolution 1744. Loans under this program were officially suspended on February 22, 1989, until the program was terminated. The program of Income Tax Exemption for Export Earnings, which eliminated the tax exemption and established a prevailing tax rate of 30 percent for domestic and export earnings for 1991, was effectively terminated by Decree Law 8034, April 12, 1990. Export Financing Under the CIC-CREGE 14-11 Circular (which became CIC-OPCRE 6-2-6) was deemed to be terminated as it had set interest rates equal to those of market rate loans as of September 20, 1988, and there is no evidence of current or future changes. Finally, the Import Duty Exemption Under Decree Law 1189 was officially terminated by the Government of Brazil by Decree Law 7988, Article 7, on December 28, 1989. In its final results of review, the Department noted that substantial documentation, including verification reports, confirmed the termination without replacement of these four

<sup>1</sup> See *Final Affirmative Countervailing Duty Determination: Brass Sheet and Strip From Brazil*, November 10, 1986 (51 FR 40837).