

MEMORANDUM TO: Joseph A. Spetrini  
Acting Assistant Secretary  
for Import Administration

FROM: Ronald K. Lorentzen  
Acting Director  
Office of Policy

SUBJECT: Issues and Decision Memorandum for the Expedited Sunset  
Review of the Antidumping Duty Order on Barbed Wire and  
Barbless Fencing Wire from Argentina; Final Results

SUMMARY:

We have analyzed the substantive response of the interested parties participating in the sunset review of the antidumping duty order on barbed wire and barbless fencing wire (“barbed wire”) from Argentina. We recommend that you approve the positions we have developed in the *Discussion of the Issues* section of this memorandum. Below is the complete list of the issues in this expedited sunset review for which we received comments by the domestic interested parties. Respondent interested parties did not comment.

1. Likelihood of continuation or recurrence of dumping
  - A. Weighted-average dumping margin
  - B. Volume of imports
2. Magnitude of the margin likely to prevail
  - A. Margin from the investigation

## History of the Order

On September 23, 1985, the Department of Commerce (“the Department”) determined that barbed wire from Argentina was being sold in the United States at less than fair value.<sup>1</sup> As a result, on November 13, 1985, the Department published in the *Federal Register* the antidumping duty order on barbed wire from Argentina.<sup>2</sup> In the order, the Department published a weighted-average dumping margin of 69.02 percent for Acindar, and an “All Others” dumping margin of 69.02 percent. There have been no administrative reviews of this order since that time.

On December 2, 1998, the Department initiated the first five-year sunset review of the antidumping duty order on barbed wire from Argentina pursuant to section 751(c) of the Tariff Act of 1930, as amended (“the Act”). As a result, the Department determined that revocation of the order would be likely to lead to continuation or recurrence of dumping and the International Trade Commission (“Commission”) determined that revocation of the order would be likely to lead to material injury within a reasonable foreseeable time.<sup>3</sup> On August 5, 1999, the Department published in the *Federal Register* notice of continuation of the order. The antidumping duty order remains in effect for all manufacturers, producers, and exporters of barbed wire from Argentina.<sup>4</sup>

## Background

On April 16, 2004, the Department received a Notice of Intent to Participate from Davis Wire Corporation, Keystone Steel & Wire Company, Inc., and Oklahoma Steel & Wire Company, Inc. collectively, (“domestic interested parties”) within the deadline specified in section 315.218(d)(1)(i) of the Department’s regulations.<sup>5</sup> The domestic interested parties claimed interested party status as domestic producers of the subject merchandise as defined in section 771(9)(C) of the Act. On May 3, 2004, the Department received a complete substantive

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<sup>1</sup> See *Barbed Wire and Barbless Fencing Wire From Argentina; Final Determination of Sales at Less Than Fair Value*, 50 FR 38563 (September 23, 1985)(“*Department Investigation*”)

<sup>2</sup> See *Antidumping Duty Order; Barbed Wire and Barbless Fencing Wire From Argentina* (“*AD Order*”).

<sup>3</sup> See *Final Results of Expedited Sunset Review; Barbed Wire and Barbless Fencing Wire from Argentina*, 64 FR 16899 (April 7, 1999)(“*Department’s First Sunset Review*”), and *Barbed Wire & Barbless Wire Strand From Argentina, Investigation No. 731-TA-208 (Review) Publication 3187*, p.1. (May 1999).

<sup>4</sup> See *Continuation of Antidumping Duty Order; Barbed Wire and Barbless Fencing Wire From Argentina*, 64 FR 42653 (August 5, 1999)(“*Continuation Notice*”)

<sup>5</sup> Davis Wire is the successor-in-interest to one of the companies that supported the original petition of the antidumping duty order, CF&I Steel Corporation. Davis Wire participated in the first sunset review before the Department in 1998, which resulted in the Department continuing the order. Keystone Steel & Wire Company is the successor-in-interest to the original petitioner in 1984, Forbes Steel & Wire. Keystone Steel & Wire has a long history of participation with respect to this antidumping duty order. Oklahoma Steel & Wire Company, Inc. has a long history of active participation since the petition in 1984, including the Department’s five-year sunset review, conducted in 1998.

response from the domestic interested parties within the deadline specified in section 351.218(d)(3)(i) of the Department's regulations. The Department determined that the respondent interested party response was inadequate because no response was received from respondents. As a result, pursuant to section 751(c)(3)(B) of the Act and section 351.218(e)(1)(ii)(C)(2) of the Department's regulations, the Department conducted an expedited, 120-day sunset review of this antidumping duty order.

### Discussion of the Issues

In accordance with section 751(c)(1) of the Act, the Department conducted this sunset 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 these determinations, the Department shall consider the weighted-average dumping margins determined in the investigations 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. In addition, section 752(c)(3) of the Act provides that the Department shall provide to the Commission the magnitude of the margin of dumping likely to prevail if the order were revoked. Below we address the comments of the interested parties.

#### 1. Likelihood of Continuation or Recurrence of Dumping

### Interested Party Comments

The domestic interested parties assert that revocation of the antidumping duty order on barbed wire from Argentina would result in a return of dumping. *See Domestic Interested Parties Substantive Response ("Domestic Response")*, May 3, 2004, p 2. In support of its assertion, the domestic interested parties argue that (1) during the course of the original investigation, barbed wire from Argentina disappeared from the U.S. market and there have been no imports since 1986, (2) there have been no requests for administrative reviews, and dumping margins have remained at 69.02 percent, and (3) there are no other significant barriers for a new or former supplier to enter the U.S. market for barbed wire, which would enable the Argentine manufacturers to resume shipments at dumped prices if the order were revoked.

### Department's Position

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act ("URAA"), specifically the Statement of Administrative Action ("SAA"), H.R. Doc. No. 103-316, vol. 1 (1994) at 826, the House Report, H. 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. *See Policies Regarding the Conduct of the Five-Year ("Sunset") Reviews of Antidumping & Countervailing Duty Orders*, Policy Bulletin, No. 98.3 (April 16, 1998) ("*Sunset Policy Bulletin*"). The Department clarified that determinations of likelihood will be made on an order-wide basis. *See Sunset Policy Bulletin* at 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 *Sunset Policy Bulletin* at section II.A.3.

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 the order would be likely to lead to continuation or recurrence of dumping where a respondent interested party does not participate in the sunset review. In this sunset review, the Department did not receive a response from any respondent interested party. Pursuant to section 351.218(d)(2)(iii) of the Department's regulations, this constitutes a waiver of participation.

The Department considered the weighted-average dumping margins determined in the investigation as well as the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping duty order, pursuant to section 752(c)(i)(A) of the Act.

As noted, in the investigation, the Department calculated a weighted average dumping margin of 69.02 percent. No administrative reviews have been requested and the 69.02 percent margin has remained on record for Acindar and "All Others" since the issuance of the order. With respect to import volumes, we agree with the domestic interested parties that imports of barbed wire from Argentina ceased following the issuance of the order. U.S. import statistics show no record of shipments of barbed wire from Argentina at all since 1986.

Section II.A.3 of the *Sunset Policy Bulletin*, the SAA at 890, and the House Report at 63-64, state, "[if] imports cease after the order is issued, it is reasonable to assume that exporters could not sell in the United States without dumping and that, to reenter the U.S. market, they would have to resume dumping." Imports of barbed wire from Argentina ceased soon after the issuance of the order. The Department finds that the cessation of imports after the issuance of the order is highly probative of the likelihood of continuation or recurrence of dumping. In addition, we note that deposit rates above *de minimis* levels continue in effect for all shipments of barbed wire from Argentina. Therefore, given that shipments have ceased and dumping margins continue to exist, and that respondent interested parties have waived their right to participate in this review before the Department, we determine that dumping is likely to continue or recur if the order were to be revoked.

## 2. Magnitude of the Margin

In their substantive response, the domestic interested parties stated that the dumping margin likely to prevail if the antidumping duty order on barbed wire were to be revoked is 69.02 percent, the weighted-average dumping margin calculated by the Department for Acindar in the original investigation. See *Domestic Response*, at 3. This margin is the last calculated margin and the Department has not conducted any administrative reviews of this order.

Department's Position:

In the *Sunset Policy Bulletin*, the Department stated that it normally will provide to the Commission the margin that was determined in the final determination in the original investigation. For companies not specifically investigated or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the "All Others" rate from the investigation because these rates are the best calculated rates available to reflect the behavior of exporters without the discipline of the order in place. See *Sunset Policy Bulletin* at section II.B.1. Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. See *Sunset Policy Bulletin* at section II.B.2 and 3.

The Department agrees with the domestic interested parties' argument concerning the choice of margins to report to the Commission. In the original investigation, we reported to the Commission a weighted-average dumping margin of 69.02 percent for Acindar, and an "All Others" rate of 69.02 percent. Based on the domestic interested parties' comments and facts available in this review, including the Department's continuation notice of the order following the first sunset review, we find that the dumping margins calculated in the original investigation are probative of the likely behavior of Argentine producers and exporters of barbed wire if the order were to be revoked. Therefore, we will report to the Commission the company-specific and "All Others" 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 duty order would likely lead to continuation or recurrence of dumping at the margin listed below.

Manufacturers/Producers/Exporters	Weighted-average Margin (percent)
Acindar	69.02
All Others	69.02

Recommendation

Based on our analysis of the substantive responses received, we recommend adopting all of the above positions. If these recommendations are accepted, we will publish the final results of review in the *Federal Register*.

Agree \_\_\_\_\_

Disagree \_\_\_\_\_

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Joseph A. Spetrini  
Acting Assistant Secretary  
for Import Administration

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Date