A-570-846
Sunset Review
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IAOP

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

FROM: Jeffrey A. May
Director, Office of Policy
Import Administration

SUBJECT: Issues and Decision Memorandum for the Expedited Sunset Review of the Antidumping Duty Order on Brake Rotors from the People's Republic of China; Final Results

Summary

We have analyzed the substantive response of the domestic interested parties, which are the only parties participating in the expedited sunset review of the antidumping duty order on brake rotors from the People's Republic of China ("PRC"). 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 sunset review for which we received substantive comments from the domestic interested parties:

1. Likelihood of continuation or recurrence of dumping
2. Magnitude of margin likely to prevail

History of the Order

On April 17, 1997, the Department of Commerce ("the Department") published the

antidumping duty order on brake rotors from the PRC.[1] In the order, the Department published separate individual weighted-average dumping margins for certain Chinese manufacturers, producers, and exporters of brake rotors, and a PRC-wide rate of 43.32 percent. Since the issuance of the order, the Department has completed three administrative reviews, one changed-circumstance review, and five new shipper reviews.[2] The Department is currently conducting the fourth administrative review in conjunction with the sixth new shipper review. The final results of these reviews are scheduled to be completed by October 31, 2002. The Department has not conducted any duty-absorption investigation in this proceeding.

Excluded from the antidumping duty order are (1) China National Automotive Industry Import & Export Corporation ("CAIEC ")/Shandong Laizhou CAPCO Industry ("Laizhou CAPCO") for products produced by CAIEC or Laizhou CAPCO; (2) Shenyang Honbase Machinery Co., Ltd. ("Shenyang Honbase")/Lai Zhou Luyan Automobile Fittings Co., Ltd. ("Laizhou Luyuan") for products produced by Shenyang Honbase or Laizhou Luyuan; and (3) China National Machinery and Equipment Import & Export ("Xinjiang") Corporation, Ltd. ("Xinjiang") for products produced by Zibo Botai Manufacturing Co., Ltd. ("Zibo").

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[1] Notice of Antidumping Duty Order: Brake Rotors from the People's Republic of China, 62 FR 18740 (April 17, 1997)

[2] Brake Rotors From the People's Republic of China: Rescission of Second New Shipper Review and Final Results and Partial Rescission of First Antidumping Duty Administrative Review, November 12, 1999 (64 FR 6158), Brake Rotors From the People's Republic of China: Final Results of Third New Shipper Review and Final Results and Partial Rescission of Second Antidumping Duty Administrative Review, October 30, 2000 (65 FR 64664), Brake Rotors From the People's Republic of China: Final Results of Changed-Circumstances Antidumping Duty Administrative Review, July 17, 2001 (66 FR 37211). Brake Rotors From the People's Republic of China: Final Results of Antidumping Duty New Shipper Administrative Review, March 1, 1999 (64 FR 9972). Brake Rotors From the People's Republic of China: Final Results and Partial Rescission of Fourth New Shipper Review and Rescission of Third Antidumping Duty Administrative Review, May 16, 2001 (66 FR 27063), Brake Rotors From the People's Republic of China: Final Results and Partial Rescission of Fifth New Shipper Review, August 23, 2001 (66 FR 44331).

The order remains in effect or all manufacturers, producers, and exporters of brake rotors from the PRC.

Background:

On March 1, 2002, the Department published the notice of initiation of the five-year sunset review of the antidumping duty order on brake rotors from the PRC, in accordance with section 751 (c) of the Tariff Act of 1930, as amended ("the Act").[3] On March 15, 2002, the Department received a Notice of Intent to Participate on behalf of the Coalition for the Preservation of American Brake Drum and Rotor Aftermarket Manufacturers (collectively, "the domestic interested parties") as specified in 19 CFR 351.218(d)(1)(i).[4] The domestic interested parties claimed interested party status as domestic producers of the like product under section 771(9)(C) of the Act.

On April 1, 2002, we received a complete substantive response from the domestic interested parties, as specified in 19 CFR 351.218(d)(3)(1). Consequently, pursuant to section 751(c)(3)(B) of the Act, and 19 CFR 351.218(e)(1)(ii)(C), the Department is conducting an expedited (120-day) sunset review of this order.

Discussion of the Issues

In accordance with section 751(c)(1) of the Act, the Department is conducting this review to determine whether revocation of the antidumping duty order would be likely to lead to

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[3] Antidumping and Countervailing Duties: Five Year Reviews, (67 FR 9439) March 1, 2002.

[4] Although the Coalition's membership has changed, current members include: Dana Corporation, Brake and Chassis Division (formerly known as Brake Parts, Inc) and Federal Mogul Corporation (successor to Wagner Brake Corporation/Moog and Waupaca Foundry, Inc.). The Coalition asserts that Federal Mogul and Waupaca are not related to foreign producers/exporters of the subject merchandise; however, Dana Corporation is affiliated with three foreign producers and exporters of rotors. Dana notes that it is the importer of record when it imports from its affiliate companies. In addition, it purchases rotors from U.S. importers from other foreign sources.

continuation or recurrence of dumping. Section 751(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. In addition, section 751(c) of the Act provides that the Department should consider whether respondent interested parties have waived participation in the review. Section 751(c)(3) of the Act provides that the Department shall provide to the International Trade Commission ("the Commission") the magnitude of the margin of dumping likely to prevail if the order is revoked.

Below we address the domestic interested parties' comments with respect to continuation or recurrence of dumping and the magnitude of the margin.

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

Interested Party Comments

The domestic interested parties assert that the likely effects of revocation of the order would be the recurrence and continuation of dumping.

With regard to weighted-average dumping margins, the domestic interested parties argue that (1) in the original investigation of this order the Department established dumping margins above a level of *de minimis* for individual Chinese companies and a PRC-wide rate of 43.32 percent, (2) six exporters that received margins in the original investigation never applied for a revision of their margins, and (3) several new shippers have received margins that are above zero or *de minimis.*

With regard to the level of imports of the subject merchandise, the domestic interested

parties concede that, imports of brake rotors and brake drums[5] classified under HTS 8708.3050 increased from 9 million pieces in 1996 to 25 million pieces in 2001. However, it is important to note that following the Department's preliminary determination in the investigation, import volumes drastically diminished from 1.4 million pieces in September 1996 to 660,000 pieces in October and 105, 026 in November 1996.

To further support their assertion that revocation of the order would lead to continued dumping, the domestic interested parties note that a sample analysis of an Automated Manifest System report filed with the Customs Service during the months of March through May 2000 and 2001, demonstrates that three of the seven largest exporters of brake rotors during the original investigation did not file a single AMS report for exportation. According to the domestic interested parties, this indicates that the three largest exporters of brake rotors are not exporting brake rotors because of the imposition of the order.

For these reasons, the domestic interested parties believe that revocation of the antidumping order would mean that these producers, and all of the other Chinese producers, would continue to dump brake rotors in the United States.

Department's Position

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act ("URRA"), specifically the Statement of Administrative Action ("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 basis

[5] The domestic interested parties note that brake drum is not covered in this review.

for likelihood determinations. The Department clarified that determinations of likelihood will be made on order-wide basis (*see* section II.A.2 of the *Sunset Policy Bulletin*). In addition, the Department indicated that it will normally 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).

In addition to 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 waives its participation in the sunset review. In this review, the Department did not receive a substantive response from any respondent interested party.

As noted above, in conducting its sunset review, the Department considers the weighted-average dumping margins and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping duty order when determining whether revocation of the order would lead to the continuation or recurrence of dumping.

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 the order in place, the Department may reasonably infer that dumping would continue if the discipline were removed.

In the original investigation the Department established dumping margins above levels of*de minimis* for several Chinese companies and a PRC-wide rate of 42.32 percent. Although

several companies have, at various times over the life of the order, received zero or *de minimis* margins, none has consistently eliminated dumping. Therefore, we agree with the domestic interested parties that dumping margins above *de minimis* continued to exist over the life of this order.

With respect to import volumes, we agree with the domestic interested parties that import volumes declined immediately following the preliminary determination of the investigation. Import statistics provided by the domestic interested parties and confirmed by the Bureau of Census trade statistic reports, demonstrate that imports of subject merchandise significantly decreased in 1996, the year of the preliminary determination. *See* Memorandum to File, July 1, 2002, Import Volumes in the Sunset Review of the Antidumping Duty Order on Brake Rotors from the PRC.

Given that dumping margins continued to exist after the issuance of the order, respondent interested parties waived participation in the sunset review, and absent argument and evidence to the contrary, we find that revocation of the antidumping order on brake rotors from the PRC would be likely to lead to the continuation or recurrence of dumping.

2. Magnitude of the Margin Likely to Prevail

Interested Party Comments:

The domestic interested parties assert that the margin likely to prevail, should the antidumping duty order be revoked, is 43.32 percent, the PRC-wide rate from the original investigation. Citing to the Department's *Sunset Policy Bulletin*, the SAA, and the House Report, the domestic interested parties maintains that it is the Department's policy to select a margin from the investigation because that is the only rate that reflects the behavior of exporters

without the discipline of the order.

Department's Position

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 of the original 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*. In this review, the use of a more recently calculated margin and consideration of duty absorption do not apply.

In the original investigation, the Department calculated dumping margins for Chinese brake rotor producers and exporters. No interested party has argued that the Department should report to the Commission rates other than those calculated for purposes of the original investigation, nor is there any information on the record of this proceeding that would compel the Department to do so. Consequently, consistent with section II.B.1 of the *Sunset Policy Bulletin*, the Department will report to the Commission the company-specific and PRC-wide rates from the investigation as contained in the Final Results of Review section of this decision memorandum.

Final Results of Review

We determine that revocation of the antidumping duty order on brake rotors from the PRC would be likely lead to the continuation or recurrence of dumping at the following percentage weighted-average margins:

Manufacturer/Producer(s)/Exporter(s)	Weighted-Average Margin (percentage)
China National Automotive Industry Import & Export Corporation (“CAIEC”) and Shandong Laizhou CAPCO Industry (“Laizhou CAPCO”)/ CAIEC and Laizhou CAPCO	Excluded
Shenyang Honbase Machinery Co., Ltd. (“Shenyang Honbase”) and Lai Zhou Luyuan Automobile Fittings Co., Ltd. (“Laizhou Luyuan”) / Shenyang and Laizhou	Excluded
China National Machinery and Equipment Import & Export (“Xinjiang”) Corporation, Ltd. (“Xinjiang”) / Zibo Botai Manufacturing Co., Ltd. (“ZIBO”)	Excluded
Yantai Import & Export Corporation (“Yantai”)	3.56
Southwest Technical Import & Export Corporation (“Southwest”), Yangtze Machinery Corporation, and MMB International, Inc.	16.07
Hebei Metals and Minerals Import & Export Corporation (“Hebei”)	8.51
Jilin Provincial Machinery & Equipment Import & Export Corporation (“Jilin”)	8.51
Shandong Jiuyang Enterprise Corporation (“Jiuyang”)	8.51
Longjing Walking Tractor Works Foreign Trade Import & Export Corporation (“Longjing”)	8.51
Qingdao Metals, Minerals & Machinery Import & Export Corporation (“Qingdao”)	8.51
Shanxi Machinery and Equipment Import & Export Corporation (“Shanxi”)	8.51
Xianghe Zichen Casting Corporation, Ltd. (“Xianghe”)	8.51
Yenhere Corporation (“Yenhere”)	8.51
PRC-wide rate	43.32

Recommendation

Based on our analysis of the comments 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)