unreasonable to compare the present import volumes of Wolverine with the pre-order import volumes of two (or more) producers/exporters who were subject to the order in 1987. If this comparison were made, the Department would almost certainly find that total imports had decreased over the life of the order because there are fewer producers/exporters who are currently subject to the order. Because of this, the Department believes that it is more appropriate to examine all available import volumes for Wolverine (Noranda) over the life of the order.

With respect to the domestic interested parties' claims concerning the surge in imports in 1998, the Department is not persuaded by its argument. The Department agrees with Wolverine and the proprietary argument that it has made concerning this purported surge. As a result of the information concerning this increase in import volumes provided by both the domestic industry and Wolverine, the Department preliminarily finds that there was no surge in imports of subject merchandise from Wolverine in calendar year 1998 (*see Memo to File, Re: 1998 Import Volume Surge*, dated August 19, 1999).

However, the Department also disagrees with Wolverine's argument concerning the dumping margin likely to prevail. 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. More importantly, a deposit rate above a *de minimis* level continues in effect for imports of the subject merchandise from Wolverine. Because a dumping margin above a *de minimis* level is currently in effect and because imports of the subject merchandise continue, we find the use of a zero dumping margin to be inappropriate to report to the Commission.

Furthermore, Wolverine's argument implies that the Department should report a more recently calculated dumping margin to the Commission. The Department disagrees with Wolverine's basis for this argument. According to the SAA at 890–91 and the House Report at 64, declining (or no) dumping margins accompanied by steady or increasing imports may indicate that companies do not have to dump in order to maintain market share. As a result, decreasing margins may be more representative of a company's behavior in the absence of the order. In the instant case, however, the zero or *de minimis* dumping margins have not been accompanied by steady or increasing imports. Instead, as noted above, they have been associated with periods where Wolverine's imports were significantly below its imports in prior periods.

Based on the above analysis, the Department finds the margin from the original investigation is the only calculated rate that reflects the behavior of producers and exporters without the discipline of the order. Therefore, consistent with the *Sunset Policy Bulletin*, we preliminarily determine that the margin calculated in the Department's original investigation is probative of the behavior of Canadian producers and exporters of brass sheet and strip if the order were revoked. We will report to the Commission the company-specific and all others rates from the original investigation contained in the Preliminary Results of Review section of this notice.

Preliminary Results of Review

As a result of this review, the Department preliminarily finds that revocation of the order is likely to lead to continuation or recurrence of dumping at the margins listed below: [5]

Manufacturer/Exporter	Margin (percent)
Wolverine (formerly Noranda) ..	11.54
All Others	8.10

Any interested party may request a hearing within 30 days of publication of this notice in accordance with 19 CFR 351.310(c). Any hearing, if requested, will be held on October 20, 1999. Interested parties may submit case briefs no later than October 11, 1999, in accordance with 19 CFR 351.309(c)(1)(i). Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than October 18, 1999. The Department will issue a notice of final results of this sunset review, which will include the results of its analysis of issues raised in any such comments, no later than December 28, 1999.

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

Dated: August 20, 1999.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

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BILLING CODE 3510–DS–P

[5] On September 28, 1990, the Department acknowledged that Arrowhead had gone out of business (*see Brass Sheet and Strip From Canada; Termination in Part of Antidumping Duty Administrative Review*, 55 FR 39682 (September 28, 1990).

DEPARTMENT OF COMMERCE

International Trade Administration

[C–201–505]

Preliminary Results of Expedited Sunset Review: Porcelain-on-Steel Cooking Ware From Mexico

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of Preliminary Results of Expedited Sunset Review: Porcelain-on-Steel Cooking Ware from Mexico.

SUMMARY: On February 1, 1999, the Department of Commerce (''the Department'') initiated a sunset review of the countervailing duty order on porcelain-on-steel cooking ware from Mexico 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 filed on behalf of domestic interested parties and adequate substantive responses filed on behalf of domestic and respondent interested parties, the Department is conducting a full sunset review. As a result of this review, the Department preliminarily determines that revocation of the countervailing duty order would not be likely to lead to continuation or recurrence of a countervailing subsidy.

FOR FURTHER INFORMATION CONTACT: Martha V. Douthit or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th St. & Constitution Ave., NW., Washington, D.C. 20230; telephone (202) 482–3207 or (202) 482–1560, respectively.

EFFECTIVE DATE: August 26, 1999.

Statute and Regulations

This review is being 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

Imports covered by this order are shipments of porcelain-on-steel (''POS'') cooking ware from Mexico, except teakettles, which do not have self-contained electric heating elements. All of the foregoing are constructed of steel, and are enameled or glazed with vitreous glasses. This merchandise is classifiable under item number 7323.94.0020 of the Harmonized Tariff Schedule (HTSUS). The HTS item number is provided for convenience and customs purposes. The written description remains dispositive.

History of the Order

On October 10, 1986, the Department issued a final affirmative countervailing duty determination on POS cooking ware from Mexico.[1] During the investigation, the Department reviewed two companies, Cinsa, S.A. (''Cinsa'') and Troqueles y Esmaltes, S.A. (''TRES'').[2] The Department calculated a country-wide estimated net subsidy of 1.97 percent *ad valorem* based on two programs found to confer subsidies—the Fund for the Promotion of Exportation of Mexican Manufactured Products (FOMEX), 1.69 percent *ad valorem*, and the Fund for Industrial Development (FONEI), 0.28 percent *ad valorem*. As a result of a program-wide change in the FOMEX program, which occurred prior to the preliminary determination, the Department adjusted the duty deposit rate to 1.90 percent ad valorem.[3] On December 12, 1986, the countervailing duty order on POS cooking ware from Mexico was published in the **Federal Register**.[4]

Since the issuance of the countervailing duty order on POS cooking ware from Mexico, the Department has conducted several administrative reviews.[5] In the administrative review covering January 1, 1990 through December 31, 1990, the Department found that the FOMEX program was eliminated by decree published in the *Diario Official* on December 30, 1989. Additionally, the Department found that effective January 1, 1990, the Mexican Treasury Department transferred the FOMEX trust to the Banco Nacional de Comercio Exterior, S.N.A. (''Bancomext'') upon the elimination of the FOMEX loan program. The Department found that the Bancomext program operates much like its predecessor, FOMEX, and provided countervailable export subsidies. In the same review, the Department found that the PITEX program (the Program for Temporary Importation of Products used in the Production of Exports) provided a countervailable export subsidy. For the first time, the Department issued company-specific subsidy rates. (*See* 57 FR 562 (January 7, 1992) and 56 FR 48163 (September 24, 1991).) In the administrative review covering the period January 1, 1993 through December 31, 1993, the Department stated that FONEI, which provided long-term loans at below-market rates, was a GOM trust administered by the Banco de Mexico until its dissolution on December 31, 1989. (*See* 60 FR 39360 (August 2, 1995) and 60 FR 53165 (October 12, 1995).)

Background

On February 1, 1999, the Department initiated a sunset review of the countervailing duty order on porcelain-on-steel cooking ware from Mexico pursuant to section 751(c) of the Act. On February 16, 1999, the Department received a Notice of Intent to Participate from Columbian Home Products, LLC (''CHP''), within the deadline specified in section 351.218(d)(1)(i) of the *Sunset Regulations*. On March 3, 1999, the Department received a complete substantive response from CHP, within the deadline specified in section 351.218(d)(3)(i). CHP claimed interested party status under section 19 U.S.C 1677(9)(C) as the sole domestic manufacturer of porcelain-on-steel cooking ware. CHP asserts that it participated in the original countervailing investigation.

The Department received substantive responses from respondent interested parties, Cinsa, Esmaltaciones de Norte America, S.A. de C.V. (ENASA), and from the Government of Mexico (''GOM'') (collectively ''Respondents''), within the 30-day deadline specified in the *Sunset Regulations* under section 351.218(d)(3)(i). Cinsa claimed interested party status as a foreign manufacturer and exporter of light-gauge POS cook ware from Mexico. ENASA claimed interested party status as a foreign manufacturer and exporter of heavy-gauge POS cooking ware from Mexico. The GOM claimed interested party status within the meaning of 19 U.S.C. 1677(9)(B). Cinsa maintains that it was a respondent in the original investigation and has participated in all of the subsequent administrative reviews. ENASA maintains that it was incorporated in 1993, and began its shipments of POS cooking ware to the United States in 1994. ENASA has been a participant in the two most recent administrative reviews.[6]

The Department received rebuttal comments from CHP and Respondents on March 12, 1999.[7] Because we received complete substantive responses from CHP, the GOM, and respondent foreign producers accounting for significantly more than 50 percent of the value of imports over the most recent five years, the Department is conducting a full sunset review of this order.

The Department determined that the sunset review of the countervailing duty order on POS cooking ware from Mexico is extraordinarily complicated. 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). (*See* section 751(c)(6)(C) of the Act.) Therefore, on May 28, 1999 the Department extended the time limit for completion of the final results of this review until not later than August 20, 1999, in accordance with section 751(c)(5)(B) of the Act (*see* 64 FR 28983).

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[1] *See Final Affirmative Countervailing Duty Determination; Porcelain-on-Steel Cooking Ware from Mexico, Mexico,* 51 FR 36447 (October 10, 1986).

[2] TRES subsequently became Acero Porcelanizada, S.A. (''APSA'').

[3] The duty deposit rate attributable to FOMEX was reduced to 1.62 percent *ad valorem*.

[4] *See Porcelain-on-Steel Cooking Ware from Mexico Countervailing Duty Order;* 51 FR 44827 (December 12, 1986).

[5] *See Porcelain-on-Steel Cooking Ware from Mexico; Final Results of Countervailing Duty Administrative Review,* 54 FR 13093 (March 30, 1989), *Porcelain-on-Steel Cooking Ware from Mexico; Final Results of Countervailing Duty Administrative Review,* 55 FR 6666 (February 26, 1990), *Porcelain-on-Steel Cooking Ware from Mexico; Final Results of Countervailing Duty Administrative Review,* 56 FR 2064 (June 6, 1991), *Porcelain-on-Steel Cooking Ware from Mexico; Final Results of Countervailing Duty Administrative Review,* 57 FR 562 (January 7, 1992), *Porcelain-on-Steel Cooking Ware from Mexico; Final Results of Countervailing Duty Administrative Review,* 60 FR 53165 (October 12. 1995), *Porcelain-on-Steel Cooking Ware from Mexico; Final Results of Countervailing Duty Administrative Review,* 60 FR 62391 (December 6, 1995), and *Porcelain-on-Steel Cooking Ware from Mexico; Final Results of Countervailing Duty Administrative Review,* 61 FR 10726 (March 15, 1996). Twenty-two programs were made available to manufacturers/producers/exporters of POS cooking ware from Mexico since the countervailing duty order was placed in effect. See the POS cooking ware from Mexico case information on the Department's web site, *http://www.ita.doc.gov/import*_admin/records/sunset/feb99.

[6] Cinsa and ENASA note that they are sister companies, each 100 percent owned subsidiaries of ISLO, S.A. de C.V., which in turn is a wholly owned subsidiary of Grupo Industrial Saltillo, S.A. de C.V. (''GIS'').

[7] On March 5, 1999, the Department received a request from CHP for an extension of deadline for filing rebuttal comments in this sunset review. As a result, the Department granted a five day extension for all participants eligible to file rebuttal comments. The deadline for filing rebuttals to the substantive comments became March 12, 1999, instead of the original deadline date of March 8, 1999.

Determination

In accordance with section 751(c)(1) of the Act, the Department is conducting this review to determine whether revocation of the countervailing duty order would be likely to lead to continuation or recurrence of a countervailable subsidy. Section 752(b) of the Act provides that, in making this determination, the Department shall consider the net countervailable subsidy determined in the investigation and subsequent reviews, and whether any change in the program which gave rise to the net countervailable subsidy has occurred that is likely to affect that net countervailable subsidy. Pursuant to section 752(b)(3) of the Act, the Department shall provide to the International Trade Commission (''the Commission'') the net countervailable subsidy likely to prevail if the order is revoked. In addition, consistent with section 752(a)(6), the Department shall provide the Commission information concerning the nature of the subsidy and whether the subsidy is a subsidy described in Article 3 or Article 6.1 of the 1994 WTO Agreement on Subsidies and Countervailing Measures (''Subsidies Agreement'').

The Department's determination concerning continuation or recurrence of a countervailable subsidy, the net countervailable subsidy likely to prevail if the order is revoked, and nature of the subsidy are discussed below. In addition, parties' comments with respect to each of these issues are addressed within the respective sections.

Continuation or Recurrence of a Countervailable Subsidy

Parties' Comments

In its substantive response, CHP argues that the history of this proceeding indicates that Mexican producers and exporters of the subject merchandise would likely continue to receive countervailable subsidies from the Mexican Government if the order were revoked. CHP argues that the FOMEX program, which was found to confer a countervailable subsidy and was found to have been terminated, was essentially replaced by the Bancomext program. Further, the Bancomext program was found to confer a countervailable subsidy. Accordingly, CHP argues that the Department should determine that the continued existence of the FOMEX program, which was essentially replaced by the Bancomext program, is a strong indication that Mexican producers would likely continue to receive countervailable subsidies were the order revoked.

With respect to the FONEI program, which CHP admits was found terminated in December, 1989, CHP argues that the fact that the program provided countervailable subsidies from the original investigation through the seventh administrative review indicates that the program could be reinstated and lead to future subsidization. Additionally, CHP argues that the Department has never made a finding that the program was not likely to be reinstated.

Finally, CHP argues that the PITEX program was found in the fourth administrative review to confer a countervailable subsidy. Because the program has not been discontinued, CHP asserts that the Department should determine that were the order revoked, this program would likely lead to continuation or recurrence of a countervailable subsidy.

In their substantive responses, Respondents argue that revocation of the order will have no impact on the U.S. market or domestic interested parties because no net countervailable subsidy has been conferred on the subject merchandise since 1993 and because the countervailing duty deposit rate has been zero since October 1995. Respondents argue that the GOM terminated one of the two programs found in the original investigation to confer countervailable benefits (FOMEX export and pre-export loans) and that the GOM now provides loans to Mexican companies (Bancomext loans and FONEI loans) consistent with commercial considerations, thereby eliminating countervailable benefits. Therefore, Respondents argue there is no likelihood that Mexican producers of POS cooking ware could be able to obtain countervailable benefits were the order revoked.

The GOM argues that because it no longer provides export loans or long-term loans that are inconsistent with commercial considerations—in compliance with its obligations pursuant to the Mexico-United States Understanding Regarding Subsidies and Countervailing Duties (the ''Understanding'')—a subsidy rate from a period before the agreement took effect does not provide a basis for a determination of likelihood of continuation or recurrence of a countervailable subsidy. Finally, the GOM argues that, had this investigation been conducted under the current statute, a final country-wide subsidy rate of 1.97 percent would be found *de minimis* and, as a result, the Department would issue a negative final countervailing duty determination.

In its rebuttal comments CHP argues that although the FOMEX and FONEI programs have changed since the time of the original investigation, these changes do not provide a sufficient basis for finding that the programs will not be used in the future to provide subsidies to Mexican POS cooking ware manufacturers and exporters. Specifically, CHP argues that, as admitted by respondents, the FOMEX program has not been permanently terminated, but instead it continues to exist in a slightly altered form as the Bancomext program. CHP asserts, therefore, that it would be simple for the GOM to use this program to provide subsidies to Mexican exporters of POS cooking ware.

CHP further argues that respondents provided no evidence to suggest that changes in the FONEI program are either binding or permanent. CHP argues that Mexico's elimination of the preferential element of FONEI loans represents an exercise of administrative discretion which could be reversed at any time. In conclusion, CHP argues, therefore, that the Department should find that FONEI is likely to be reinstated as a subsidy program in the event the order is revoked.

Finally, CHP argues that contrary to respondent's assertions, the 1985 Understanding does not reduce the likelihood of future countervailable subsidization of subject merchandise. Referring to the terms of the Understanding, CHP asserts that the terms of the Understanding do not prohibit the use of domestic subsidies. Further, CHP notes that Mexico continued to provide export subsidies (in the form of PITEX) after the Understanding came into effect. Additionally, CHP argues that the Understanding does not prohibit Mexico from providing export subsidies, rather, it entitles the United States to refuse to afford merchandise from Mexico an injury test in any pending or future countervailing duty determination. In this connection, CHP notes that as a WTO member country, Mexico is entitled to an injury test regardless of the Understanding.

In conclusion, CHP argues that any recent decline in usage of the programs found countervailable over the life of the order is not indicative of what is likely to occur if the order is revoked. Rather, as is clear from the terms of the Understanding, the Mexican Government continues to be permitted to confer subsidies upon its manufacturers and exporters. CHP argues that, accordingly, the Department should determine that revocation of the order would likely lead to continuation

or recurrence of a countervailable subsidy.

In its rebuttal comments the GOM asserts that the arguments presented by CHP do not provide sufficient evidence or reasoning to demonstrate that, given the producer-exporters commercial history and current situation, there is a ''need'' to continue imposition of the order. Referring to Article 21.1 of the Subsidies Agreement, the GOM asserts that Commerce is required to demonstrate that there is a ''need'' to continue the order and that such a determination must be demonstrable on the basis of evidence. Further, the GOM asserts that the arguments presented by CHP do not provide sufficient evidence or reasoning to demonstrate that, if the order is revoked, it is ''likely'' that exporters would continue to benefit from subsidization at significant margins.

The GOM argues that contrary to CHP's assumption that FOMEX and Bancomext are the same, FOMEX was terminated over ten years ago. Additionally, although the FOMEX funds were taken in by Bancomext, Bancomext is an entirely separate entity from FOMEX. Furthermore, the GOM asserts that the only company in this case that benefitted from any Bancomext loan, no longer exists. The GOM argues, therefore, that CHP's assertion that Mexican producers would likely continue to benefit from subsidies is a presumption unsupported by evidence or reasons.

Similarly, with respect to the FONEI domestic loan program which was terminated in 1989, the GOM argues that CHP's assertion that there is an indication that the program could be reinstated and provide future subsidization because the program continued to have a diminishing countervailable benefit (down to 0.01 percent in 1993) until the 7th review, does not provide any evidence or reason as to why the GOM would be interested in reinstating such a program. Further, the GOM argues that CHP does not provide any evidence as to how the program could be considered a prohibited or actionable subsidy as established in articles 3, 5, or 6.1 of the Subsidies Agreement.

With respect to the PITEX program, the GOM first notes that the program was not considered in the context of the investigation and therefore has never been determined to cause injury to the U.S. industry, as required by articles 15.5, 15.9, and 21.1 of the Subsidies Agreement. Additionally, the GOM asserts that PITEX was only used by a single company that no longer exists. As such, the GOM argues that there is no reason to presume that exporters will continue to benefit from a program that they have never used and, if such a presumption is made, it must be demonstrated by the Department.

The GOM also argues that the producers and exporters affected by this order have changed over the life of the order. Specifically, of the two companies investigated in the original investigation—Cinsa and TRES (later know as APSA)—APSA no longer exists. Therefore, the GOM argues that it would be inappropriate for the Department to consider the effect of the subsidy margins for APSA in the context of an order-wide review. Rather, the Department should, analogous to its practice of calculating separate subsidy margins in an original investigation or review, determine likelihood specific to each producer.

The GOM expresses its belief that CHP's assumptions relied on polices identified in the Sunset Policy Bulletin, policies which the GOM believes may be inconsistent with the WTO and the Subsidies Agreement. The GOM asserts that the policies, and general assumptions contained therein, appear to operate to effectively require the continued imposition of countervailing duties and place the burden on respondents to prove the assumptions wrong. The GOM argues that, contrary to the policies, the Department bears the burden of demonstrating, with evidence, the issues regarding ''necessity'' and ''likelihood.''

In their rebuttal comments, Cinsa and ENASA (''respondent companies'') argue that CHP's assertions are not correct and the information before the Department establishes that if the order were revoked, subsidization would not recur. Respondent companies argue that CHP's assertions ignore several facts relevant to the Department's determination. First, CHP, although acknowledging that the country-wide rate has been *de minimis* since 1993, fails to give effect to the Department's finding of zero subsidization. Further, CHP fails to give effect to the Department's determination that Cinsa (the respondent which presently accounts for the vast majority of Mexican exports of POS cooking ware to the United States) has had company-specific countervailing duty rates of *de minimis* since 1989, a period of ten years.

Similar to the GOM, respondent companies argue that TRES, later known as APSA—the company that received most of the countervailable subsidies before becoming a zero rate company in 1993—no longer exists and, as such, cannot possibly obtain future countervailable subsidies. Further, respondent companies argue that it is inappropriate to assert that subsidization would recur if the order were revoked based largely upon the historical receipt of net countervailable subsidies by a respondent that no longer exists. Rather, the Department's determination of likelihood should be based upon the experience of the companies that presently exist and have the potential to produce and export subject merchandise to the United States.

Respondent companies also argue that the Understanding (which has been fully implemented) and other multilateral agreements to which both Mexico and the United States are parties, have been responsible for the termination of export subsidies and the elimination of the preferential elements from loan programs. Therefore, the magnitude of subsidization that may have existed prior to Mexico's undertaking of its current international obligations to eliminate improper subsidization does not provide a rational basis for determining the magnitude of subsidization that would likely prevail at this point in time if the order were revoked.

Respondent parties argue that CHP is incorrect in its attempt to have the Department assign the net subsidy rate from FOMEX to Bancomext. Rather, they argue that the Department should confirm its previous findings that the FOMEX program was terminated and then should separately determine whether any subsidization under the Bancomext program would recur if the order were revoked. With respect to Bancomext, Respondent parties argue that the only time the Department imposed countervailing duties attributable to Bancomext was in the 1990 administrative review and, even there, the duties were with regard to TRES/APSA, a company that no longer exists. Further, Respondent parties argue that given that in the most recently completed administrative reviews the Department determined that the Bancomext program provided zero or *de minimis* benefits, the likely net countervailable subsidy rate that would prevail if the order were revoked would continue to be zero.

With respect to the FONEI program, Respondent parties argue that CHP's position is untenable. First, Respondent parties note that, in the 1993 review, the Department determined that the net benefit attributable to this previously revoked, long-term loan program was a *de minimis* 0.01 percent. Further, even if the ten-year loan (the maximum term under the program) which provided the

benefit in the original investigation has been taken out in 1985, the benefit stream would have terminated in 1995. Even if a 10-year loan had been taken out in the final year of the program (1989), the benefit stream would terminate in 1999. Therefore, Respondent parties argue that no possible benefit stream from a FONEI loan that could exist beyond the date of revocation.

Lastly, with respect to the PITEX program, Respondent companies argue that the information before the Department establishes that if the order were revoked there would be no likely net countervailable subsidy to existing POS cooking ware manufacturers and exporters. Again, Respondent parties argue that only TRES/APSA ever received a net countervailable subsidy from PITEX and that the Department has found PITEX not used by any other company examined by the Department. Further, Respondent companies argue that PITEX is countervailable only to the extent that import duties are refunded or not collected for imported machinery or spare parts used in the production of export merchandise and that, in the 1989 review, the Department found that PITEX benefits were not countervailable to the extent that they are attributable to products that were physically incorporated into re-exported merchandise. Additionally, Respondent parties refer to the Department's Sunset Policy Bulletin and argue that the Department recognizes that it is not appropriate to attribute future usage of a program to companies that have never been found to have used that program. In conclusion, Respondent parties argue that because the Department has never found that Cinsa or ENASA have used countervailable elements of the PITEX program, it would be contrary to stated Departmental policy to attribute a net countervailable subsidy for PITEX to existing POS cooking ware companies.

Department's Preliminary Determination

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreement Act (''URAA''), specifically the Statement of Administrative Act (''the SAA''), H.R. Doc. No. 103–316, vol. 1 (1994), the House Report, H.R. Rep. No. 103–826, pt. 1 (1994), and the Senate Report, S. Rep. No. 103–412 (1994), the Department issued its Sunset Policy Bulletin providing guidance on methodological and analytical issues, including the basis for likelihood determinations. The Department clarified that the determinations of likelihood will be made on an order-wide basis (see section III.A.2. of the Sunset Policy Bulletin). Additionally, the Department normally will determine that revocation of a countervailing duty order is likely to lead to continuation or recurrence of a countervailable subsidy where (a) a subsidy program continues, (b) a subsidy program has been only temporarily suspended, or (c) a subsidy program has been only partially terminated (*see* section III.A.3.a of the Sunset Policy Bulletin). Exceptions to this policy are provided where a company has a long record of not using a program (*see* section III.A.3.b of the Sunset Policy Bulletin).

The Sunset Policy Bulletin, at section III.A.3.a, states that, consistent with the SAA at 888, continuation of a program will be highly probative of the likelihood of continuation or recurrence of countervailable subsidies. Temporary suspension or partial termination of a subsidy program also will be probative of continuation or recurrence of countervailable subsidies absent significant evidence to the contrary. However, the Sunset Policy Bulletin also provides that, where a program has been officially terminated by the foreign government, this will be probative of the fact that the program will not continue or recur if the order is revoked. (*See* Sunset Policy Bulletin at section III.A.5.)

As noted above, in the final affirmative countervailing duty determination the Department determined that Mexican producers/exporters of the subject merchandise were benefitting from countervailable subsidies under the FOMEX and FONEI programs. In subsequent administrative reviews, the Department found that the FOMEX and FONEI programs were terminated in 1989. CHP argues that the FOMEX program continues to exist by virtue of the fact that remaining funds were transferred to the still existent Bancomext program. However, as the Department determined in the 1990 administrative review, the FOMEX program was officially eliminated by decree in December, 1989. Additionally, the Department confirmed this determination in the final results of the 1993 administrative review when it explained that the FOMEX program was terminated on December 31, 1989 and effective January 1, 1990, the FOMEX trust was transferred to Bancomext. The Department has, in numerous reviews, investigated Bancomext as a separate program. Therefore, given that the FOMEX program was terminated by official decree, we preliminarily determine that the FOMEX program has been eliminated.

With respect to the FONEI program, we preliminarily determine that the program has been eliminated without residual benefit. In the 1993 administrative review, the Department stated that FONEI was a GOM trust administered by the Banco de Mexico until its dissolution on December 31, 1989. CHP does not argue that the program still exists. Rather, they argue that the program could be easily reinstated. We are not persuaded by mere assertions, however. Rather, based on the Department's prior findings with respect to FONEI and absent evidence to the contrary, we preliminarily determine that the FONEI program has been eliminated and is not likely to be reinstated. Further, we agree with respondents that any potential remaining countervailable benefit from 10-year, long-term loans granted prior to the 1989 termination of the FONEI program would not continue beyond 1999.

With respect to the PITEX program, we note that none of the parties argued that the program has been terminated. Rather, CHP argues that we should find that countervailable subsidies are likely to continue or recur were the order revoked based on a finding in the 1990 administrative review that one company, APSA, used the program for temporary imports of machinery and spare parts that were not physically incorporated into exported products. The Respondents argue that APSA is the only company in this proceeding ever found to have received a countervailable subsidy under this program, APSA no longer exists, and other companies have a long track record of not using this program. Therefore, PITEX should not be found likely to provide a countervailable subsidy.

We preliminarily determine that there is a long track record of non-use of the PITEX program by companies that are currently, and are likely to be, producing and exporting POS cooking ware to the United States. In the administrative review of the antidumping duty order on POS cooking ware from Mexico covering the period December 1, 1996 through November 31, 1997, the Department found that APSA had been sold in 1997 and that Cinsa had incorporated some of APSA's production equipment into its facility (*see* Porcelain-on-Steel Cookware from Mexico: Final Results of Antidumping Duty Administrative Review, 64 FR 26934 (May 18, 1999)). Therefore, we agree that APSA no longer exists. As to whether companies other than APSA are likely to receive a countervailable subsidy from the PITEX program, we agree with respondents that, where a

company has a long track record of not using a program, the Department normally will determine that the mere availability of the program does not, by itself, indicate likelihood of continuation or recurrence of a countervailable subsidy. (*See* section III.A.3.b of the Sunset Policy Bulletin.) We preliminarily determine, therefore, that there is no likelihood of a countervailable subsidy from the PITEX program were the order revoked.

With respect to the Bancomext program, CHP argues that Bancomext should be considered a replacement for FOMEX and, therefore, CHP does not independently address Bancomext. As noted above, the Department determined that the Bancomext program was separate from the FOMEX program. Further, Bancomext has been found to provide countervailable subsidies to the extent that loans are provided at preferential rates. None of the parties have argued that the Bancomext program has been terminated. Rather, respondents argue that, as a result of the 1985 Understanding, the GOM altered its practice and no longer provides loans on terms inconsistent with commercial considerations. The Department has reviewed the Bancomext program during reviews covering 1990, 1993, and 1994. In each of these reviews, the Department found countervailable subsidies were provided by the Bancomext program, albeit at *de minimis* rates. Therefore, we do not agree with respondents that the Bancomext no longer provides countervailable subsidies. However, we do agree, based on a history of *de minimis* findings, that there is no evidence to suggest that the Bancomext program is likely to provide above *de minimis* countervailable subsidies, if any, were the order revoked. Therefore, we preliminarily determine that the Bancomext program is not likely to confer a countervailable subsidy were the order revoked.

On the basis of the above analysis regarding the termination, non-use, and *de minimis* subsidies, we preliminarily determine that revocation of the countervailing duty order on POS cooking ware from Mexico is not likely to result in continuation or recurrence of a countervailable subsidy.

Net Countervailable Subsidy

Parties' Comments

In its substantive and rebuttal comments, CHP argues that in accordance with the Department's policy, the Department should report to the Commission a net countervailable subsidy of 3.84 percent as the subsidy likely to prevail if the order were revoked. CHP argues that the Department should add to the 1.97 percent subsidy from the original investigation (attributable to FOMEX and FONEI) the 1.87 percent subsidy rate found in the 1990 administrative review attributable to PITEX.

In their substantive and rebuttal comments, the respondents argue that the zero or *de minimis* rates from the most recent administrative reviews are the rates likely to prevail if the order were revoked.

Department's Preliminary Determination

Because we preliminarily determine that a countervailable subsidy is not likely to continue or recur were the order revoked, there is no net countervailable subsidy to report to the Commission.

Nature of the Subsidy

Parties' Comments

Neither party specifically addressed this issue. As noted above, however, the GOM did argue that the Department must be able to demonstrate, with evidence, that any subsidy found likely to continue or recur if the order were revoked is a subsidy inconsistent with articles 3, 5, or 6 or the Subsidies Agreement.

Department's Position

Because we preliminarily determine that a countervailable subsidy is not likely to continue or recur were the order revoked, there is no nature of the subsidy to report to the Commission.

Preliminary Results of Review

As a result of this review, the Department preliminarily finds that revocation of the countervailing duty order would not be likely lead to continuation or recurrence of a countervailable subsidy. As a result of this determination, the Department, pursuant to section 751(d)(2) of the Act, preliminarily intends to revoke the order on POS cooking ware from Mexico. Pursuant to section 751(c)(6)(A)(iv) of the Act, this revocation would be effective January 1, 2000.

Any interested party may request a hearing within 30 days of publication of this notice in accordance with 19 CFR 351.310(c). Any hearing, if requested, will be held on October 20, 1999. Interested parties may submit case briefs no later than October 11, 1999, in accordance with 19 CFR 351.309(c)(1)(i). Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than October 18, 1999. The Department will issue a notice of final results of this sunset review, which will include the results of its analysis of issues raised in any such comments, no later than December 28, 1999.

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

Dated: August 20, 1999.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–504]

Preliminary Results of Sunset Review: Porcelain-on-Steel Cooking Ware From Mexico

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of preliminary results of Sunset Review: porcelain-on-steel cooking ware from Mexico.

SUMMARY: On February 1, 1999, the Department of Commerce (''the Department'') initiated a sunset review of the antidumping order on porcelain-on-steel cooking ware from Mexico 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 filed on behalf of domestic interested parties and adequate substantive comments filed on behalf of domestic and respondent interested parties, the Department is conducting a full sunset review. As a result of this review, the Department preliminarily finds that revocation of the antidumping order would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Preliminary Results of Review section of this notice.

FOR FURTHER INFORMATION CONTACT: Martha V. Douthit or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th St. & Constitution Ave., NW, Washington, D.C. 20230; telephone (202) 482–3207 or (202) 482–1560, respectively.

EFFECTIVE DATE: August 26, 1999.

Statute and Regulations

This review is being conducted pursuant to sections 751(c) and 752 of