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Sunset Review 2017
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MEMORANDUM TO: Carole Showers
Executive Director, Office of Policy
performing the duties of Deputy Assistant Secretary for
Enforcement and Compliance

FROM: James Maeder
Senior Director
performing the duties of Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Final Results of the
Expedited Fourth Sunset Reviews of the Antidumping Duty Orders
on Certain Circular Welded Carbon Steel Pipes and Tubes from
India, Thailand, and Turkey

SUMMARY

We have analyzed the substantive responses of Bull Moose Tube, TMK IPSCO Tubulars, Zekelman Industries, and EXLTUBE (collectively, the domestic interested parties) in the fourth sunset review of the antidumping duty (AD) order on certain welded carbon steel pipes and tubes (pipes and tubes) from India, Thailand, and Turkey. No respondent interested party submitted a substantive response. Accordingly, we have conducted an expedited (120-day) sunset review.¹ We recommend that you approve the positions developed in the “Discussion of the Issues” section of this memorandum. Below is a complete list of the issues in this sunset review for which we received substantive responses:

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

¹ See section 751(c)(3)(B) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.218(e)(1)(ii)(C)(2).



BACKGROUND

On June 2, 2017, the Department of Commerce (the Department) published the notice of initiation of the fourth sunset review of the AD *Orders* on pipes and tubes from India, Thailand, and Turkey, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).² On June 8, 2017, the Department received notices of intent to participate from the domestic interested parties.³ Submissions of the notices of intent to participate were timely filed by the domestic interested parties within the 15-day deadline, as specified in 19 CFR 351.218(d)(1)(i). The domestic interested parties claimed interested party status under section 771(9)(C) of the Act, as producers in the United States of the domestic like product. On June 30, 2017, the Department received the domestic interested parties' substantive response within the deadline specified in 19 CFR 351.218(d)(3)(i).⁴ We received no substantive responses from respondent interested parties. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department is conducting expedited sunset reviews of these AD *Orders*.

HISTORY OF THE ORDERS

Final Determinations of Sales at Less than Fair Value and Orders

India

On March 17, 1986, the Department published its final affirmative determination of sales at less than fair value (LTFV) in the *Federal Register* with respect to imports of certain welded carbon steel standard pipe and tube from India.⁵ In the *India Final Determination*, the Department established AD margins of 7.08 percent for Tata Iron & Steel Co., Ltd. (TISCO), zero percent for

² See *Initiation of Five-Year ("Sunset") Reviews*, 82 FR 25599 (June 2, 2017) (*Initiation*). See also *Antidumping Duty Order; Certain Welded Carbon Steel Standard Pipes and Tubes from India*, 51 FR 17384 (May 12, 1986) (*India Order*); *Antidumping Duty Order; Circular Welded Carbon Steel Pipes and Tubes from Thailand*, 51 FR 8341 (March 11, 1986) (*Thailand Order*); and *Antidumping Duty Order; Welded Carbon Steel Standard Pipe and Tube Products from Turkey*, 51 FR 17784 (May 15, 1986) (*Turkey Order*) (collectively, *Orders*).

³ See Letters from domestic interested parties regarding "Welded Carbon Steel Pipe and Tube from India, Fourth Sunset Review" dated June 8, 2017; "Certain Circular Welded Carbon Steel Pipes and Tubes from Thailand, Fourth Sunset Review" dated June 8, 2017; and "Certain Circular Welded Carbon Steel Pipes and Tubes from Turkey, Fourth Sunset Review" dated June 8, 2017.

⁴ See Letters from domestic interested parties regarding "Fourth Five-Year ("Sunset") Review Of Antidumping Duty Order On Welded Carbon Steel Pipe And Tube from India: Domestic Industry's Substantive Response" dated June 30, 2017 (India Substantive Response); "Fourth Five-Year ("Sunset") Review Of Antidumping Duty Order On Certain Circular Welded Carbon Steel Pipes and Tubes from Thailand: Domestic Industry's Substantive Response" dated June 30, 2017 (Thailand Substantive Response); and "Fourth Five-Year ("Sunset") Review Of Antidumping Duty Order On Certain Circular Welded Carbon Steel Pipes and Tubes from Turkey: Domestic Industry's Substantive Response" dated June 30, 2017 (Turkey Substantive Response). (Collectively, Domestic Interested Parties' Substantive Responses).

⁵ *Certain Welded Carbon Steel Standard Pipe and Tube from India; Final Determination of Sales at Less Than Fair Value*, 51 FR 9089 (March 17, 1986) (*India Final Determination*).

Zenith Steel Pipes and Industries Ltd. and Gujarat Steel Tubes Ltd., and 7.08 percent for “all-other” producers and exporters.⁶

Following the publication of the Department’s final determination, the International Trade Commission (ITC) found that the U.S. industry was materially injured by reason of the imports of subject merchandise from India.⁷ On May 12, 1986, the Department published the AD order on pipes and tubes from India.⁸

Thailand

On January 27, 1986, the Department published its final affirmative determination of sales at less than fair value (LTFV) in the *Federal Register* with respect to imports of certain welded carbon steel standard pipe and tube from Thailand.⁹ In the *Thailand Final Determination*, the Department established AD margins of 15.69 percent for Saha Thai Steel Pipe Co. (Saha), 15.60 percent for Thai Steel Pipe Industry Co., (Thai Steel), and 15.67 percent for “all-other” producers and exporters.¹⁰

Following the publication of the Department’s final determination, the ITC found that the U.S. industry was materially injured by reason of the imports of subject merchandise from Thailand.¹¹ On March 11, 1986, the Department published the AD order on pipes and tubes from Thailand.¹²

Turkey

On April 17, 1986, the Department published its final affirmative determination of sales at less than fair value (LTFV) in the *Federal Register* with respect to imports of certain welded carbon steel pipe and tube from Turkey.¹³ In the *Turkey Final Determination*, the Department established AD margins of 1.26 percent for Borusan Ithicat ve Dagitim (Borusan), 23.12 percent for Erkboru Profil Sanayi ve Ticaret (Ekboru), 23.12 percent for Mannesmann-Sumerbank Boru Industrisi (Mannesmann), and 14.74 percent for “all-other” producers and exporters.¹⁴

Following the publication of the Department’s final determination, the ITC found that the U.S. industry was materially injured by reason of the imports of subject merchandise from Turkey.¹⁵ On May 15, 1986, the Department published the AD order on pipes and tubes from Turkey.¹⁶

⁶ *Id.* at 9093.

⁷ See *Certain Welded Carbon Steel Pipes and Tubes from India, Taiwan, and Turkey*, Inv. No. 731-TA-271 to 273 (Final), USITC Pub. 1839 (April 1986) (*USITC India and Thailand*).

⁸ See *India Order*.

⁹ See *Antidumping: Circular Welded Carbon Steel Pipe and Tubes from Thailand; Final Determination of Sales at Less Than Fair Value*, 51 FR 3384, (January 27, 1986) (*Thailand Final Determination*).

¹⁰ *Id.* at 3387.

¹¹ See *USITC India and Thailand*.

¹² See *Thailand Order*.

¹³ See *Certain Welded Carbon Steel Pipe and Tube from Turkey; Final Determination of Sales at Less Than Fair Value*, 51 FR 13044, (April 17, 1986) (*Turkey Final Determination*).

¹⁴ *Id.* at 13050.

¹⁵ See *Certain Welded Carbon Steel Pipes and Tubes from Turkey and Thailand*, Invs. Nos. 701-TA-253 and 731-TA-252 (Final), USITC Pub. 1810 (Feb. 1986) (*USITC Turkey*).

¹⁶ See *Turkey Order*.

Administrative Reviews

India

Since the publication of the *India Order*, the Department has completed six administrative reviews and one new shipper review of the *India Order*.¹⁷ In each administrative review and the new shipper review, the Department found that producers/exporters continued to dump subject merchandise at levels above *de minimis* with the order in place.

There have been no completed administrative reviews since the publication of the *Third Sunset*.¹⁸

Deposit rates remain in effect for imports of subject merchandise from India.

Thailand

Since the publication of the *Thailand Order*, we have completed several administrative reviews and the Department found that producers/exporters continued to dump subject merchandise at levels above *de minimis* with the order in place.¹⁹

¹⁷ See *Certain Welded Carbon Steel Standard Pipes and Tubes from India, Final Results of Antidumping Duty Administrative Reviews*, 56 FR 64753 (December 12, 1991) (*India Administrative Reviews* 87-89); *Certain Welded Carbon Steel Standard Pipes and Tubes from India, Final Results of Antidumping Duty Administrative Reviews*, 57 FR 54360 (November 18, 1992) (*India Administrative Review* 90-91); *Certain Welded Carbon Steel Standard Pipes and Tubes from India; Amendment of Final Results of New Shippers Antidumping Duty Administrative Review*, 62 FR 63070 (November 26, 1997) (*India NSR* 95-96); *Certain Welded Carbon Steel Standard Pipes and Tubes from India; Amendment of Final Results of Antidumping Duty Administrative Review*, 63 FR 66120 (December 1, 1998) (*India AR* 96-97); *Certain Welded Carbon Steel Pipes and Tubes from India: Notice of Final Results of the Antidumping Duty Administrative Review*, 64 FR 23821 (May 4, 1999) (*India AR* 97-98) and *Certain Welded Carbon Steel Standard Pipes and Tubes from India: Final Results of Antidumping Duty Administrative Review*, 75 FR 69626 (November 15, 2010) (*India Administrative Review* 08-09).

¹⁸ See *Certain Circular Welded Carbon Steel Pipes and Tubes from India, Thailand, and Turkey; Final Results of Expedited Five-Year ("Sunset") Reviews of Antidumping Duty Orders*, 76 FR 66893 (October 28, 2011) (*Third Sunset*).

¹⁹ See Issues and Decision Memorandum for the Final Results of Expedited Five-Year (Sunset) Reviews of the Antidumping Duty Orders on Certain Circular Welded Carbon Steel Pipes and Tubes from India, Thailand, and Turkey, dated October 28, 2011, (*Third Sunset* IDM), at 3.

Since the publication of the *Third Sunset*, we have completed four administrative reviews of the Thailand Order.²⁰ In one of the administrative reviews we found that producers/exporters continued to dump subject merchandise at levels above *de minimis* with the order in place.²¹

Turkey

Since the publication of the *Turkey Order*, we have completed several administrative reviews and the Department found that producers/exporters continued to dump subject merchandise at levels above *de minimis* with the order in place.²²

Since the publication of the *Third Sunset*, we have completed four administrative reviews of the *Turkey Order* and in each of these administrative reviews we found that producers/exporters continued to dump subject merchandise at levels above *de minimis* with the order in place.²³

Duty-Absorption Findings, Changed-Circumstances Reviews, Scope Inquiries

There have been no duty-absorption findings or changed-circumstance reviews with respect to the *Orders*²⁴ since the publication of the *Third Sunset*.

With respect to the *Thailand Order* and *Turkey Order*, there have been no scope inquiries since the publication of the *Third Sunset*.

With respect to the *India Order*, since the publication of the *Third Sunset*, the Department has made two scope rulings: The Department found that certain electric resistance welded (ERW)

²⁰ See *Circular Welded Carbon Steel Pipes and Tubes from Thailand: Final Results of Antidumping Duty Administrative Review*, 77 FR 61738 (October 11, 2012) (*Thailand Administrative Review 10-11*); *Circular Welded Carbon Steel Pipes and Tubes from Thailand: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 65272 (October 31, 2013) (*Thailand Administrative Review 11-12*); *Circular Welded Carbon Steel Pipes and Tubes from Thailand: Final Results of Antidumping Duty Administrative Review; 2012-2013*, 79 FR 64170 (October 28, 2014) (*Thailand Administrative Review 12-13*); *Circular Welded Carbon Steel Pipes and Tubes from Thailand: Final Results of Antidumping Duty Administrative Review; 2013-2014*, 80 FR 59732 (October 2, 2015) (*Thailand Administrative Review 13-14*).

²¹ See *Thailand Administrative Review 10-11*.

²² See *Third Sunset* IDM at 3.

²³ See *Circular Welded Carbon Steel Pipes and Tubes from Turkey: Final Results of Antidumping Duty Administrative Review; 2010 to 2011*, 77 FR 72818 (December 6, 2012) (*Turkey Administrative Review 10-11*) as amended by *Circular Welded Carbon Steel Pipes and Tubes from Turkey: Amended Final Results of Antidumping Duty Administrative Review; 2010 to 2011*, 78 FR 286 (January 3, 2013) (*Turkey Amended Administrative Review 10-11*); *Welded Carbon Steel Pipes and Tubes from Turkey: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 79665 (December 31, 2013) (*Turkey Administrative Review 11-12*); *Welded Carbon Steel Pipes and Tubes from Turkey: Final Results of Antidumping Duty Administrative Review; 2012-2013*, 79 FR 71087 (December 1, 2014) (*Turkey Administrative Review 12-13*); *Welded Carbon Steel Standard Pipes and Tubes from Turkey: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2013-2014*, 80 FR 76674 (December 10, 2015) (*Turkey Administrative Review 13-14*); *Welded Carbon Steel Standard Pipe and Tube Products from Turkey: Amended Final Results of Antidumping Duty Administrative Reviews; 2014-2015*, 82 FR 11002 (February 17, 2017) (*Turkey Amended Administrative Review 13-14*);

²⁴ See *Orders*.

mechanical tubing and ERW hydraulic tubing, cold drawn and/or drawn over mandrel (CD/DOM), regardless of size, are not within the scope of the antidumping duty order.²⁵

Sunset Reviews

The Department has conducted three sunset reviews of the *Orders*, pursuant to section 751(c) of the Act, and found in each of the reviews that revocation of the *Orders* would likely lead to continuation or recurrence of dumping at the same rates as found in the original investigation.²⁶ In each of these sunset reviews, the ITC likewise determined, pursuant to section 751(c) of the Act, that revocation of the *Orders* would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.²⁷ Following the publication of the ITC's determinations, the Department published continuation notices of the *Orders*.²⁸

LEGAL FRAMEWORK

In accordance with section 751(c)(1) of the Act, the Department is conducting these sunset reviews to determine whether revocation of the *Orders* would be likely to lead to the continuation or occurrence of dumping. Sections 752(c)(1)(A) and (B) of the Act provide that in making this determination, the Department shall consider both 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 order.

²⁵ See *Notice of Scope Rulings*, 78 FR 59653 (September 27, 2013).

²⁶ See *Final Results of Expedited Sunset Review: Certain Welded Carbon Steel Pipes and Tubes from Turkey*, 64 FR 67876 (December 3, 1999); *Final Results of Expedited Sunset Review: Certain Welded Carbon Steel Pipes and Tubes From India*, 64 FR 67879 (December 3, 1999); *Final Results of Expedited Sunset Review: Circular Welded Carbon Steel Pipes and Tubes from Thailand*, 64 FR 67852 (December 3, 1999); *Certain Circular Welded Carbon Steel Pipes and Tubes from India, Taiwan, Thailand, and Turkey, and Circular Welded Non-Alloy Steel Pipe from Brazil, Republic of Korea, Mexico, and Taiwan; Notice of Final Results of Expedited Five-Year ("Sunset") Reviews of Antidumping Duty Orders*, 70 FR 67662 (November 8, 2005); and *Third Sunset*.

²⁷ *Certain Pipe and Tube from Argentina, Brazil, Canada, India, Korea, Mexico, Singapore, Taiwan, Thailand, Turkey, and Venezuela*, 65 FR 48733 (August 9, 2000) and USITC Publication 3316, Investigation Nos. 701-TA-253 (Review) and 731-TA-132, 252, 271, 273, 276, 277, 296, 409, 410, 532-534, 536, and 537 (Review) (July 2000); and *Certain Pipe and Tube from Argentina, Brazil, India, Korea, Mexico, Taiwan, Thailand, and Turkey*, 71 FR 42118 (July 25, 2006) and USITC Publication 3867, Investigation Nos. 701-TA-253 and 731-TA-132, 252, 271, 273, 409, 410, 532-534 and 536 (Second Review) (July 2006). See *Certain Circular Welded Pipe and Tube from Brazil, India, Korea, Mexico, Taiwan, Thailand, and Turkey*, 77 FR 39736 (July 5, 2012) and USITC Publication titled *Certain Circular Welded Pipe and Tube from Brazil, India, Korea, Mexico, Taiwan, Thailand, and Turkey* (Inv. Nos. 701-TA-253 and 731-TA-132, 252, 271, 273, 532-534, and 536 (Third Review), USITC Publication 4333 (June 2012).

²⁸ See *Continuation of Antidumping Duty Orders; Light-Walled Rectangular Welded Carbon Steel Pipe and Tube from Argentina and Taiwan; Circular Welded Non-Alloy Steel Pipe and Tube from Brazil, Korea, Mexico, and Taiwan; Welded Carbon Steel Pipe and Tube from India, Thailand, and Turkey; and Small Diameter Standard and Rectangular Steel Pipe and Tube from Taiwan*, 65 FR 50955 (August 22, 2000) *Continuation of Antidumping Duty Orders on Circular Welded Non-Alloy Pipes and Tubes from Brazil, Mexico, Republic of Korea, Antidumping Duty Orders on Welded Carbon Steel Pipe from India, Thailand and Turkey, and Countervailing Duty Order on Welded Carbon Steel Standard Pipe from Turkey*, 71 FR 44996 (August 8, 2006), and *Certain Circular Welded Carbon Steel Pipes and Tubes from India, Thailand, and Turkey; Certain Circular Welded Non-Alloy Steel Pipe from Brazil, Mexico, the Republic of Korea, and Taiwan; and Certain Circular Welded Carbon Steel Pipes and Tubes from Taiwan: Continuation of Antidumping and Countervailing Duty Orders*, 77 FR 41967 (July 17, 2012).

In accordance with the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act, specifically the Statement of Administrative Action, H.R. Doc. 103-316, vol. 1 (1994) (SAA),²⁹ the House Report, H. Rep. No. 103-826, pt. 1 (1994) (House Report),³⁰ and the Senate Report, S. Rep. No. 103-412 (1994) (Senate Report), the Department's determinations of likelihood will be made on an order-wide, rather than company-specific, basis.³¹ In addition, the Department normally determines that revocation of an AD order is likely to lead to continuation or recurrence of dumping when, among other scenarios: (a) dumping continued at any level above *de minimis* after issuance of the order; (b) imports of the subject merchandise ceased after issuance of the order; or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly.³² Alternatively, the Department normally will determine that revocation of an AD order is not likely to lead to continuation or recurrence of dumping where dumping was eliminated after issuance of the order and import volumes remained steady or increased.³³

In addition, as a base period for import volume comparison, it is the Department's practice to use the one-year period immediately preceding the initiation of the investigation, rather than the level of pre-order import volumes, as the initiation of an investigation may dampen import volumes and, thus, skew comparison.³⁴ Also, when analyzing import volumes for second and subsequent sunset reviews, the Department's practice is to compare import volumes during the year preceding initiation of the underlying investigation to import volumes since the issuance of the last continuation notice.³⁵

Further, section 752(c)(3) of the Act states that the Department shall provide to the ITC the magnitude of the margin of dumping likely to prevail if the order were revoked. Generally, the Department selects a margin from the final determination in the original investigation, as these are the only calculated rates that reflect the behavior of exporters without the discipline of an order in place.³⁶ However, the Department may use a rate from a more recent review where the dumping margin increased, as this rate may be more representative of a company's behavior in the absence of an order (*e.g.*, where a company increases dumping to maintain or increase market share with an order in place).³⁷ Finally, pursuant to section 752(c)(4)(A) of the Act, a dumping margin of "zero or *de minimis* shall not by itself require" the Department to determine that

²⁹ Reprinted in 1994 U.S.C.C.A.N. 4040 (1994).

³⁰ Reprinted in 1994 U.S.C.C.A.N. 3773 (1994).

³¹ See SAA at 879, and House Report at 56.

³² See SAA at 889-90, House Report at 63-64, and Senate Report at 52. See also *Policies Regarding the Conduct of Five-Year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*; Policy Bulletin 98.3, 63 FR 18871, 18872 (April 16, 1998) (*Sunset Policy Bulletin*).

³³ See SAA at 889-90.

³⁴ See, *e.g.*, *Stainless Steel Bar from Germany*; *Final Results of the Sunset Review of the Antidumping Duty Order*, 72 FR 56985 (October 5, 2007), and accompanying Issues and Decision Memorandum at Comment 1.

³⁵ See *Ferrovanadium from the People's Republic of China and the Republic of South Africa*: *Final Results of the Expedited Second Sunset Reviews of the Antidumping Duty Orders*, 79 FR 14216 (March 13, 2014), and accompanying Issues and Decision Memorandum.

³⁶ See SAA at 890. See also, *e.g.*, *Persulfates from the People's Republic of China*: *Notice of Final Results of Expedited Second Sunset Review of Antidumping Duty Order*, 73 FR 11868 (March 5, 2008), and accompanying Issues and Decision Memorandum at Comment 2.

³⁷ See SAA at 890-91.

revocation of an AD order would not be likely to lead to a continuation or recurrence of sales at LTFV.³⁸

In the *Final Modification for Reviews*, the Department announced that it was modifying its practice in sunset reviews such that it will not rely on weighted-average dumping margins that were calculated using the methodology determined to be inconsistent with World Trade Organization (WTO) obligations, *i.e.*, zeroing.³⁹ The Department also noted that “*only in the most extraordinary circumstances* will the Department rely on margins other than those calculated and published in prior determinations.”⁴⁰ The Department further stated that, apart from the “most extraordinary circumstances,” it would “limit its reliance to margins determined or applied during the five-year sunset period that were not determined in a manner found to be WTO-inconsistent” and that it “may also rely on past dumping margins that were not affected by the WTO-inconsistent methodology, such as dumping margins recalculated pursuant to Section 129 proceedings, dumping margins determined based on the use of total adverse facts available, and dumping margins where no offsets were denied because all comparison results were positive.”⁴¹

DISCUSSION OF THE ISSUES

Below we address the comments submitted by the domestic interested parties.

1. Likelihood of Continuation or Recurrence of Dumping

Comments from Domestic Interested Parties:

India

The domestic interested parties argue that revocation of the *India Order* on Pipes and Tubes would likely lead to a continuation or recurrence of dumping by the manufacturers/producers and exporters of the subject merchandise.⁴²

The domestic interested parties, citing the *Sunset Policy Bulletin*, argue that the Department will normally determine that revocation of an order is likely to lead to a continuation or recurrence of dumping where:

- (a) dumping continued at any level above *de minimis* after issuance of an order;
- (b) imports of subject merchandise ceased following issuance of an order; or

³⁸ See *Folding Gift Boxes from the People's Republic of China: Final Results of the Expedited Sunset Review of the Antidumping Duty Order*, 72 FR 16765 (April 5, 2007), and accompanying Issues and Decision Memorandum at Comment 1.

³⁹ See *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification*, 77 FR 8101, 8103 (February 14, 2012) (*Final Modification for Reviews*).

⁴⁰ *Id.* (emphasis added).

⁴¹ *Id.*

⁴² See India Substantive Response at pages 4-7.

- (c) dumping was eliminated following issuance of an order but import volumes declined.

The domestic interested parties state that an affirmative determination of continuation or recurrence of dumping is warranted under either (a) or (b) because Indian exporters remain subject to antidumping rates above *de minimis*, and no party has challenged the rates by requesting an administrative review since the *Third Sunset* was published. The domestic interested parties argue that under these circumstances the Department finds continued dumping.⁴³

The domestic interested parties argue that, alternatively, the continuation of the order is appropriate because imports declined precipitously following issuance of the order in 1986. In the second sunset review, the Department found a pre-order (1985) level of 20,236 metric tons of imports of pipes and tubes from India and imports of subject merchandise from India have remained far below those pre-order levels during each of the last five calendar years that *India Order* has been in place (2012 – 2016), averaging only 8,588 metric tons *per annum*.⁴⁴ According to the SAA, declining import volumes accompanied by the continued existence of dumping margins after the issuance of the order may provide a strong indication that, absent an order, dumping would be likely to continue, because the evidence would indicate that the exporter needs to dump to sell at pre-order volumes.⁴⁵

⁴³ See *Lightweight Thermal Paper from the People's Republic of China: Final Results of Expedited First Sunset Review of the Antidumping Duty Order*, 79 Fed. Reg. 9879 (Feb. 21, 2014), Issues & Decision Memorandum ("IDM") at Comment 1 ("the Department determined rates above *de minimis* for all PRC producers and exporters during the investigation. Because the Department has not conducted any administrative reviews since the issuance of the AD Order, the margins from the LTFV investigation remain in place. Therefore, we find that dumping has continued at levels above *de minimis* during the period of this sunset review"). See also *Certain Large Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Japan; Certain Small Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Japan and Romania: Final Results of the Expedited Second Five-Year Sunset Reviews of the Antidumping Duty Orders*, 76 Fed. Reg. 47555 (Aug. 5, 2011), IDM at Comment 1 ("We infer from the fact that respondents have not requested an administrative review, that dumping continues – because if dumping had ceased, it is likely they would have requested an administrative review"); *Sulfanilic Acid from India and the People's Republic of China: Final Results of Third Expedited Sunset Reviews of Antidumping Duty Orders*, 76 FR 45510 (July 29, 2011), IDM at Comment 1 ("In this case, the Department found dumping at above *de minimis* levels in the original antidumping duty investigations against Chinese and Indian manufacturers and exporters. The cash deposit rates established in the original investigations remain in effect for Indian and Chinese imports, and there have been no administrative reviews of the antidumping duty order on Indian imports. Therefore, given the existence of dumping margins above *de minimis* levels, the Department determines that dumping would likely continue or recur if the antidumping duty orders were revoked."); *Certain Cut-to-Length Carbon-Quality Steel Plate from India, Indonesia, Italy, Japan, and the Republic of Korea: Final Results of the Expedited Second Sunset Reviews of the Antidumping Duty Orders*, 76 FR 12322 (March 7, 2011), IDM at Comment 1 ("Given that there have been no reviews since the LTFV investigation, dumping continues at above *de minimis* levels").

⁴⁴ See India Substantive Response at 5-6 (citing SAA at 890) and at Attachment 4.

⁴⁵ See SAA at 889. See also *Circular Welded Carbon-Quality Steel Pipe from the People's Republic of China*, 78 FR 61335 (Oct. 3, 2013), IDM at 9 ("while imports have not ceased, record evidence shows negligible imports over the last five years when compared to pre-initiation import volumes. This indicates that PRC exporters may not be able to maintain pre-investigation import levels without selling merchandise at dumped prices").

The domestic interested parties conclude that, the continued existence of dumping margins for Indian exporters and the significant decline in import quantities after issuance of the order show that dumping would be likely to continue or recur were the order revoked.

Thailand

The domestic interested parties argue that revocation of the *Thailand Order* on pipes and tubes would likely lead to a continuation or recurrence of dumping by the manufacturers/producers and exporters of the subject merchandise.⁴⁶

The domestic interested parties, citing the *Sunset Policy Bulletin*, argue that the Department will normally determine that revocation of an order is likely to lead to a continuation or recurrence of dumping where:

- (a) dumping continued at any level above *de minimis* after issuance of an order;
- (b) imports of subject merchandise ceased following issuance of an order; or
- (c) dumping was eliminated following issuance of an order but import volumes declined.

The domestic interested parties claim that an affirmative determination of the continuation or recurrence is warranted under subparagraph (a) because the Department has found above *de minimis* margins in two administrative reviews conducted since the *Third Sunset*.⁴⁷ Moreover, there remain other Thai exporters subject to high cash deposit rates, including Thai Steel (15.60 percent), Siam Steel (29.89 percent), and Thai Union (37.55 percent), none of which has been administratively reviewed since the *Third Sunset*.⁴⁸ These Thai exporters have not eliminated their margins or shown that they can export significant volumes without dumping, and under these circumstances the Department, in sunset reviews, finds continued dumping.⁴⁹

The domestic interested parties conclude that, the continued existence of above *de minimis* dumping margins in reviews conducted since the *Third Sunset*, and above *de minimis* cash deposit instructions that remain in place show that dumping would be likely to continue or recur were the order revoked.

⁴⁶ See Thailand Substantive Response at pages 4-6.

⁴⁷ See *Thailand Administrative Review 10-11; Circular Welded Carbon Steel Pipes and Tubes from Thailand: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Finding of No Shipments; 2015-2016*, 82 FR 16793 (April 6, 2017).

⁴⁸ See *Thailand Order; Circular Welded Carbon Steel Pipes and Tubes from Thailand*, 59 FR 65753 (Dec. 21, 1994); *Circular Welded Carbon Steel Pipes and Tubes from Thailand*, 62 FR 53808 (Oct. 16, 1997).

⁴⁹ See *Certain Large Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Japan; Certain Small Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Japan and Romania: Final Results of the Expedited Second Five-Year Sunset Reviews of the Antidumping Duty Orders*, 76 FR 47555 (Aug. 5, 2011), IDM at Comment 1 (“We infer from the fact that respondents have not requested an administrative review, that dumping continues – because if dumping had ceased, it is likely they would have requested an administrative review”).

Turkey

The domestic interested parties argue that revocation of the *Turkey Order* on pipes and tubes would likely lead to a continuation or recurrence of dumping by the manufacturers/producers and exporters of the subject merchandise.⁵⁰

The domestic interested parties, citing the *Sunset Policy Bulletin*, argue that the Department will normally determine that revocation of an order is likely to lead to a continuation or recurrence of dumping where:

- (a) dumping continued at any level above *de minimis* after issuance of an order;
- (b) imports of subject merchandise ceased following issuance of an order; or
- (c) dumping was eliminated following issuance of an order but import volumes declined.

The domestic interested parties claim that an affirmative determination of the continuation or recurrence is warranted under subparagraph (a) because the Department has found above *de minimis* margins in two administrative reviews conducted since the *Third Sunset*.⁵¹ The domestic interested parties conclude that, the continued existence of above *de minimis* dumping margins in reviews conducted since the *Third Sunset* demonstrates that dumping would be likely to continue or recur were the order revoked.

Department's Position:

As explained in the Legal Framework section above, when determining whether revocation of an order would be likely to lead to continuation or recurrence of dumping, sections 752(c)(1)(A) and (B) of the Act instruct the Department to consider: (1) the weighted-average dumping margins determined in the investigation and subsequent reviews; and (2) the volume of imports of the subject merchandise for the period before and after the issuance of the antidumping duty order. Furthermore, the Department's determination of likelihood of continuation or recurrence of dumping will be made on an order-wide basis for each proceeding.⁵² In addition, the Department will normally determine that the revocation of an AD order is likely to lead to continuation or recurrence of dumping where: (a) dumping continued at any level above *de*

⁵⁰ See Turkey Substantive Response at pages 4-6.

⁵¹ See *Certain Welded Carbon Steel Pipe and Tube from Turkey: Notice of Final Results of Antidumping Duty Administrative Review*, 76 FR 76939 (December 9, 2011) (finding dumping margins of 4.46 percent for Borusan and 0.95 percent for Toscelik during the 2009/2010 review period); *Turkey Amended Administrative Review 10-11* (finding a dumping margin of 3.55 percent for Borusan during the 2010/2011 review period); *Turkey Administrative Review 11-12* (finding a dumping margin of 1.79 percent for Borusan during the 2011/2012 review period); *Turkey Administrative Review 12-13* (finding a dumping margin of 1.28 percent for Borusan during the 2012/2013 review period); *Turkey Administrative Review 13-14* (finding a dumping margin of 3.16 percent for Borusan during the 2013/2014 review period); *Turkey Administrative Review 14-15* (finding dumping margins of 0.5 percent for Borusan, 3.40 percent for Toscelik, and 1.95 percent for all other shippers subject to the 2014/2015 review); and *Welded Carbon Steel Standard Pipe and Tube Products from Turkey: Preliminary Results of Antidumping Duty Administrative Review, and Preliminary Determination of No Shipments; 2015-2016*, 82 FR 26053 (June 6, 2017) (preliminarily finding dumping margins of 1.35 percent for Borusan, Yucel Boru, Yucelboru Ihracat, and Cayirova Boru during the 2015/2016 review period).

⁵² See SAA at 879 and House Report at 56.

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 an order and import volumes for the subject merchandise declined significantly.⁵³

Pursuant to section 752(c)(1)(A) of the Act, the Department considered the weighted-average dumping margins determined in the investigations and the subsequent administrative reviews for each of the *Orders*. As discussed above and in the *Final Modification for Reviews*, the Department has modified its practice in sunset reviews, such that it does not rely on weighted-average dumping margins that are calculated using the “zeroing” methodology found to be WTO-inconsistent. The three previous sunset reviews for each of the *Orders* occurred prior to the effective date of the *Final Modification for Reviews*, and therefore did not address the issue of zeroing. Accordingly, for these proceedings the Department reviewed its official records to establish whether the weighted-average dumping margins determined in the LTFV investigations were calculated using zeroing.

Pursuant to section 752(c)(1)(B) of the Act, the Department also considered the import volumes of subject merchandise both prior to and following implementation of each *Order*. As discussed above, it is the Department’s practice to compare the volume of imports for the one-year period preceding the initiation of the LTFV investigation to the volume of imports during the period of this sunset review.

India

In the *India Final Determination*, the Department calculated a 7.08 percent margin for TISCO which was the only above *de minimis* margin in the investigation. In each administrative review and the new shipper review since the *India Order* was established the Department found that producers/exporters continued to dump subject merchandise at levels above *de minimis* with the order in place. Margins that were established in administrative reviews remain in effect for Indian producers/exporters. Due to the age of this proceeding, the record relating to the Department’s original margin calculations and methodology is limited and either currently provide no information on the calculation of certain margins, indicate that we used zeroing, or indicate that a recalculation without zeroing of a prior margin to allow for offsets would not result in a revised margin above *de minimis*. Nevertheless, the Department finds that the decline in volume over the history of the *India Order* is attributed to parties refraining from above-*de minimis* dumping and is sufficient evidence to conclude that dumping would likely continue or recur if the order is revoked, pursuant to section 752(c)(1) of the Act.

According to data gathered by the ITC, U.S. imports of the subject merchandise from India have remained at consistent levels in the last five years since the *Third Sunset* and at levels significantly lower than the import volume in the calendar year immediately preceding the

⁵³ See SAA at 889-890, House Report at 63-64, and Senate Report at 52. See also *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Notice of Final Results of Expedited Sunset Review of Antidumping Duty Order*, 74 FR 5819 (February 2, 2009), and accompanying Issues & Decision Memorandum at 3, *Crawfish Tail Meat – PRC, and Folding Gift Boxes from the People’s Republic of China: Final Results of the Expedited Sunset Review of the Antidumping Duty Order*, 72 FR 16765 (April 5, 2007), and accompanying Issues & Decision Memorandum at 5.

initiation of the LTFV investigation.⁵⁴ Thus, because dumping of the subject merchandise continues at dumping margins above *de minimis*, because import volumes remain at significantly lower levels than the pre-initiation volumes, and because no party argued or submitted evidence to the contrary, the Department determines that dumping is likely to continue or reoccur if the *Order* is revoked.

Thailand

In the *Thailand Final Determination*, the Department calculated a dumping margin of 15.60 percent for Thai Steel. This margin remains in effect for Thai Steel and is reflective of the level of dumping without the discipline of an order in place. In addition, the record of the investigation indicates that Thai Steel's weighted-average dumping margin was not calculated using the zeroing methodology and is therefore WTO-consistent.⁵⁵

Since the establishment of the *Thailand Order* we have conducted multiple reviews in which we have found above-*de minimis* margins for several Thai producers/exporters and several of these margins remain in effect. Since the *Third Sunset* we have completed four reviews and found an above-*de minimis* margin in one of the reviews for both of the companies examined, Pacific Thai and Saha, which no longer remain in effect. Due to the age of this proceeding, the record relating to the Department's original margin calculations and methodology in the administrative reviews completed since the establishment of the *Thailand Order* and in which we calculated above-*de minimis* margins is limited and either currently provide no information on the calculation of certain margins, indicate that we used zeroing, or indicate that a recalculation without zeroing of a prior margin to allow for offsets would not result in a revised margin above *de minimis*. Therefore, we are not relying on these weighted-average dumping margins, or on the all-others rate derived from these margins for our analysis. However, as stated above the Department was able to confirm that the LTFV calculated final margin of 15.60 percent for Thai Steel was not calculated using zeroing. This rate remains in place for this respondent. Thus, the Department considers this to be indicative that dumping has continued at rates exceeding *de minimis* since the most recently-completed sunset review of the *Thailand Order*.

Thus, because dumping of the subject merchandise continues at dumping margins above *de minimis* and because no party argued or submitted evidence to the contrary, the Department determines that dumping is likely to continue or reoccur if the *Thailand Order* is revoked.

Turkey

The record of the proceeding demonstrates that dumping has persisted since the issuance of the *Turkey Order*. Since the publication of the *Turkey Order*, we have completed several administrative reviews and the Department found that producers/exporters continued to dump subject merchandise at levels above *de minimis* with the order in place. Since the publication of the *Third Sunset*, we have completed four administrative reviews of the *Turkey Order* and in each of these administrative reviews we found that producers/exporters continued to dump

⁵⁴ See India Substantive Response at pages 6-7, Attachment 3.

⁵⁵ See Memo to the File dated September 22, 2017, titled "Thai Steel Final LTFV Margin Calculation Output."

subject merchandise at levels above *de minimis* with the order in place.⁵⁶ Because the Department conducted the last two of these administrative reviews (*i.e.*, *Turkey Administrative Review 12-13*, *Turkey Administrative Review 13-14* as amended by *Turkey Amended Administrative Review 13-14*) after the *Final Modification for Reviews* went into effect,⁵⁷ the above-*de minimis* margins in these reviews did not employ the zeroing methodology and therefore are WTO-consistent.

Thus, because dumping of the subject merchandise continues at dumping margins above *de minimis* and because no party argued or submitted evidence to the contrary, the Department determines that dumping is likely to continue or reoccur if the *Turkey Order* is revoked.

2. Magnitude of the Margin of Dumping Likely to Prevail

Comments from Domestic Interested Parties:

India

Citing the SAA, the domestic interested parties explain that the Department normally will report to the ITC the company-specific weighted-average dumping margins that were determined in the original investigation because, the domestic interested parties maintain, those rates best represent the behavior of these producers and exporters in the absence of the discipline of an AD order. Thus, the domestic interested parties request that the Department report the weighted-average dumping margin from the *India Final Determination* of 7.08 percent for TISCO and “all-other” producers and exporters.⁵⁸

Thailand

Citing the SAA, the domestic interested parties explain that the Department normally will report to the ITC the company-specific weighted-average dumping margins that were determined in the original investigation because, the domestic interested parties maintain, those rates best represent the behavior of these producers and exporters in the absence of the discipline of an AD order. Thus, the domestic interested parties request that the Department report the weighted-average dumping margins from the *Thailand Final Determination* of 15.69 percent for Saha, 15.60 percent for Thai Steel, and 15.67 percent for “all-other” producers and exporters.⁵⁹

Turkey

Citing the SAA, the domestic interested parties explain that the Department normally will report to the ITC the company-specific weighted-average dumping margins that were determined in the original investigation because, the domestic interested parties maintain, those rates best represent

⁵⁶ See *Turkey Administrative Review 10-11*) as amended by *Turkey Amended Administrative Review 10-11*; *Turkey Administrative Review 11-12*; *Turkey Administrative Review 12-13*; *Turkey Administrative Review 13-14*; *Turkey Amended Administrative Review 13-14*;

⁵⁷ See *Final Modification for Reviews* at 8111.

⁵⁸ See India Substantive Response at 8.

⁵⁹ See Thailand Substantive Response at 6-7.

the behavior of these producers and exporters in the absence of the discipline of an AD order. Thus, the domestic interested parties request that the Department report the weighted-average dumping margins from the *Turkey Final Determination* of 1.26 percent Borusan, 23.12 percent for Ekboru, 23.12 percent for Mannesmann, and 14.74 percent for “all-other” producers and exporters.⁶⁰

Department’s Position:

Section 752(c)(3) of the Act provides that the Department will report to the ITC the magnitude of the margin of dumping that is likely to prevail if an order were revoked. The Department will normally select a rate from the final determination of the investigation because that is the only calculated rate that reflects the behavior of exporters without the discipline of an order.⁶¹ As explained above, in accordance with the *Final Modification for Reviews*, the Department will not rely on weighted-average dumping margins that were calculated using the zeroing methodology found to be WTO-inconsistent.⁶²

The Department’s preference for selecting a rate from the investigation is based on the fact that it is the only calculated rate that reflects the behavior of manufacturers, producers, and exporters without the discipline of an order.⁶³ Under certain circumstances, the Department may select a more recently calculated margin to report to the ITC.⁶⁴

India

In prior sunset reviews of the *India Order*, we determined that it was appropriate to provide the ITC with margins from the *India Final Determination* for the magnitude of the margin likely to prevail because these margins best reflected the behavior of manufacturers, producers, and exporters without the discipline of an order in place. However, as discussed above and in the *Final Modification for Reviews*, the Department has modified its practice in sunset reviews such that it now limits its reliance to margins that are not calculated using the zeroing methodology found to be WTO-inconsistent, apart from the most extraordinary circumstances.

The Department reviewed its official records to establish whether the dumping margins determined in the LTFV investigation and all subsequent reviews and administrative proceedings of the *India Order* were calculated using zeroing. Due to the length of these proceedings, the record relating to the Department’s original margin calculations and methodology is limited. The 30-year-old official file for the underlying LTFV proceeding is unavailable and therefore the Department cannot examine whether the margins calculated in the LTFV employed the zeroing methodology denying offsets and therefore the Department cannot verify that they are WTO-consistent. In addition, the record of certain subsequent administrative proceedings does not

⁶⁰ See Turkey Substantive Response at 6-7.

⁶¹ See SAA at 890 and *Eveready Battery Co., Inc. v. United States*, 77 F. Supp. 2d 1327, 1333 n.9 (CIT 1999).

⁶² See *Final Modification for Reviews*, 77 FR at 8103.

⁶³ See SAA at 890 and House Report at 64.

⁶⁴ See section 752(c)(3) of the Act and *Final Results of Full Sunset Review: Aramid Fiber Formed of Poly Para-Phenylene Terephthalamide from the Netherlands*, 65 FR 65294 (November 1, 2000), and accompanying Issues and Decision Memorandum at “Magnitude of the Margin Likely to Prevail,” Comment 3 (citing SAA at 890-91 and House Report at 64).

provide a full record of the methodology for all margins calculated. Because of the age of this proceeding, the information related to margin calculations that is available is somewhat limited. However, the Department has been able to examine the calculations for Lloyd's Metals and Engineering, Ltd.'s (Lloyd's) 6.33 percent margin in the 2008-2009 administrative review, and the information for the margin calculations shows that this margin reflects the denial of offsets.⁶⁵ Based on our analysis of the available information, we find that, to the extent that the record allows for a recalculation without zeroing of Lloyd's margin, allowing offsets for the negative margins would result in a *de minimis* margin. The current administrative records do not allow for an examination of any other margin calculated on the record of the *India Order*.

Accordingly, the Department finds that it is not appropriate to rely on the margin calculated in the LTFV investigation or the 2008-2009 administrative review as the margin likely to prevail because the LTFV margin may have been calculated using zeroing and the 2008-2009 administrative review margin was calculated using zeroing, and would be *de minimis* if recalculated without the denial of offsets. As discussed above, the Department finds that the decline in volume over the history of the *India Order* is a sufficient basis to conclude that dumping would likely continue or recur if the order is revoked, pursuant to section 752(c)(1) of the Act, as this decline in volume can reasonably be attributed to producers/exporters refraining from above-*de minimis* dumping and, thus, dumping persisted since the imposition of the order. However, the record of the *India Order* does not have margins demonstrated to be calculated without zeroing that could serve as information probative of the behavior of producers and exporters of subject merchandise if the order was revoked and, thus, indicate the magnitude of above-*de minimis* margins likely to prevail is of unknown. Therefore, consistent with section 752(c) of the Act, the Department will report to the ITC that revocation of the *India Order* would be likely lead to continuation or recurrence of dumping and that the magnitude of the margin of dumping likely to prevail would be above *de minimis*.

Thailand

The Department does not find any indication that the weighted-average dumping margins calculated in subsequent reviews of the *Thailand Order* better reflect the margin of dumping that is likely to prevail if the *Thailand Order* is revoked than the rates assigned in the *Thailand Final Determination*. This rate reflects the behavior of exporters without the discipline of an order. Given the absence of argument and evidence to the contrary, the Department finds that it is appropriate to report to the ITC that the magnitude of the margin of dumping that is likely to prevail if the order is revoked to be up to 15.60 percent. This rate was the only rate from the LTFV not calculated using zeroing and reflects the behavior of producers and exporters of subject merchandise from Thailand without the discipline of an order in place.

Turkey

The Department does not find any indication that the weighted-average dumping margins calculated in subsequent reviews of the *Turkey Order* better reflect the margin of dumping that is likely to prevail if the *Turkey Order* is revoked than the rates assigned in the *Turkey Final Determination*. Given the absence of argument and evidence to the contrary, the Department

⁶⁵ See *India Administrative Review 08-09*.

finds that it is appropriate to report to the ITC that the magnitude of the margin of dumping that is likely to prevail if the order is revoked to be up to 23.12 percent. This rate was the highest rate established in the LTFV investigation, was not calculated using zeroing because it was based on best information available (BIA), and reflects the behavior of producers and exporters of subject merchandise from Turkey without the discipline of an order in place.

FINAL RESULTS OF SUNSET REVIEW

We determine that revocation of the *India Order* would likely lead to continuation or recurrence of dumping and that the magnitude of the margin of dumping likely to prevail would be at a rate above *de-minimis*. We also determine that revocation of the *Thailand Order* would likely lead to continuation or recurrence of dumping and that the magnitude of the margin of dumping likely to prevail would be at a rate up to 15.60 percent. We also determine that revocation of the *Turkey Order* would likely lead to continuation or recurrence of dumping and that the magnitude of the margin of dumping likely to prevail would be at a rate up to 23.12 percent.

RECOMMENDATION

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

☒

Agree

☐

Disagree

9/29/2017

X 

Signed by: CAROLE SHOWERS

Carole Showers
Executive Director, Office of Policy
performing the duties of the Deputy Assistant Secretary
for Enforcement and Compliance