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Sunset Review

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October 2, 2017

MEMORANDUM TO: Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
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 Expedited Sunset
Review of the Antidumping Duty Orders on Certain Stainless Steel
Butt-Weld Pipe Fittings from Italy, Malaysia, and the Philippines

Summary

In the third sunset reviews of the antidumping duty orders covering certain stainless steel butt-weld pipe fittings (butt-weld fittings) from Italy, Malaysia, and the Philippines,¹ Core Pipe Products, Inc.; Shaw Alloy Piping Products, Inc.; and Taylor Forge Stainless, Inc. (collectively, the Domestic Interested Parties) submitted an adequate substantive response.² No respondent interested party submitted a timely substantive response. Accordingly, pursuant to 19 CFR 351.218(e)(1)(ii)(C)(2) we have conducted an expedited (120-day review).³ In accordance with our analysis of the Domestic Interested Parties' substantive responses, we recommend that you approve the positions described in the "Discussion of the Issues" section of this memorandum. The following is a complete list of issues in the sunset reviews:

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

¹ See *Antidumping Duty Orders: Stainless Steel Butt-Weld Pipe Fittings from Italy, Malaysia, and the Philippines*, 66 FR 11257 (February 23, 2001) (*Orders*).

² See Letter, "Stainless Steel Butt-Weld Pipe Fittings from Italy, Malaysia, and the Philippines: Five-Year (Sunset) Reviews of Antidumping Duty Orders - Domestic Interested Parties' Substantive Response to Notice of Initiation," dated June 30, 2017 (Substantive Response).

³ See section 751(c)(3)(B) of the Tariff Act of 1930, as amended (the Act).



Background

On June 2, 2017, the Department of Commerce (the Department) published the notice of initiation of the sunset reviews of the antidumping duty orders on butt-weld fittings, pursuant to section 751(c) of the Act.⁴ On June 16, 2017, the Department received timely and complete notices of intent to participate in the sunset reviews from Domestic Interested Parties.⁵ On June 30, 2017, pursuant to 19 CFR 351.218(d)(3), Domestic Interested Parties filed timely and adequate substantive responses within 30 days after the date of publication of the *Sunset Initiation*.⁶ The Department did not receive timely substantive responses from any respondent interested party with respect to the orders on butt-weld fittings from Italy, Malaysia, and the Philippines. 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 conducted expedited (120-day) sunset reviews of the antidumping duty orders on butt-weld fittings from Italy, Malaysia, and the Philippines.

Scope of the Orders

For purposes of the orders, the product covered is butt-weld fittings. Butt-weld fittings are under 14 inches in outside diameter (based on nominal pipe size), whether finished or unfinished. The product encompasses all grades of stainless steel and “commodity” and “specialty” fittings. Specifically excluded from the definition are threaded, grooved, and bolted fittings, and fittings made from any material other than stainless steel.

The butt-weld fittings subject to the orders are generally designated under specification ASTM A403/A403M, the standard specification for Wrought Austenitic Stainless Steel Piping Fittings, or its foreign equivalents (e.g., DIN or JIS specifications). This specification covers two general classes of fittings, WP and CR, of wrought austenitic stainless steel fittings of seamless and welded construction covered by the latest revision of ANSI B16.9, ANSI B16.11, and ANSI B16.28. Butt-weld fittings manufactured to specification ASTM A774, or its foreign equivalents, are also covered by the orders.

The orders do not apply to cast fittings. Cast austenitic stainless steel pipe fittings are covered by specifications A351/A351M, A743/743M, and A744/A744M.

The butt-weld fittings subject to the orders are currently classifiable under subheading 7307.23.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the orders is dispositive.

⁴ See *Initiation of Five-Year (Sunset) Reviews*, 82 FR 25599 (June 2, 2017) (*Sunset Initiation*).

⁵ See Letter, “Stainless Steel Butt-Weld Pipe Fittings from Italy, Malaysia, and the Philippines - Petitioner’s Notice of Intent to Participate,” dated June 16, 2017.

⁶ See Substantive Response.

History of the Orders

On January 18, 2000, the Department of Commerce (the Department) initiated antidumping investigations of butt-weld fittings from Italy, Malaysia, and the Philippines.⁷ On December 27, 2000, the Department published in the *Federal Register* its final affirmative determinations of sales at less than fair value with respect to butt-weld fittings from Italy, Malaysia, and the Philippines.⁸ Following the issuance of the Department's final determinations, the U.S. International Trade Commission (the Commission) found that the U.S. industry was materially injured by reason of the subject imports.⁹

On February 23, 2001, the Department published its antidumping duty orders in the *Federal Register* with respect to imports of butt-weld fittings from Italy, Malaysia, and the Philippines at the following rates:¹⁰

Italy

Coprosider S.p.A.	26.59 percent
All Others	26.59 percent

Malaysia

Kanzen Tetsu Sdn. Bhd.	7.51 percent
All Others	7.51 percent

The Philippines

Enlin Steel Corporation	33.81 percent
Tung Fong Industrial Co., Ltd.	7.59 percent
All Others	7.59 percent

With regard to the antidumping order on butt-weld fittings from the Philippines, Tung Fong Industrial Co., Inc. (Tung Fong) challenged parts of the Department's margin calculation before the Court of International Trade (the Court).¹¹ As a result of a remand by the Court, the Department found a weighted-average dumping margin of 7.59 percent for Tung Fong and for

⁷ See *Initiation of Antidumping Duty Investigations: Stainless Steel Butt-Weld Pipe Fittings from Germany, Italy, Malaysia and the Philippines*, 65 FR 4595 (January 31, 2000).

⁸ See *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Butt-Weld Pipe Fittings from Italy*, 65 FR 81830 (December 27, 2000) (*Italy LTFV Determination*); see also *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Butt-Weld Pipe Fittings from Malaysia*, 65 FR 81825 (December 27, 2000) (*Malaysia LTFV Determination*); see also *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Butt-Weld Pipe Fittings from the Philippines*, 65 FR 81823 (December 27, 2000) (*Philippines LTFV Determination*).

⁹ See *Certain Stainless Steel Butt-Weld Pipe Fittings from Italy, Malaysia, and the Philippines*, Inv. Nos. 731-TA-865-867 (Final), USITC Pub. 3387 (January 2001); see also *Certain Stainless Steel Butt-Weld Pipe Fittings from Italy, Malaysia, and the Philippines*, 66 FR 8981 (February 5, 2001).

¹⁰ See *Orders*.

¹¹ See *Tung Fong Industrial Co., Inc. v. United States*, 318 F. Supp. 2d 1321 (CIT April 7, 2004).

“all other” Philippine producers and exporters. Enlin Steel Corporation’s (Enlin) margin remained at 33.81 percent.¹²

On January 3, 2006, the Department initiated and the Commission instituted sunset reviews of the antidumping duty orders on butt-weld fittings from Italy, Malaysia, and the Philippines pursuant to section 751(c) of the Act.¹³ As a result of these sunset reviews, the Department found that revocation of the antidumping duty orders would likely lead to continuation or recurrence of dumping and notified the Commission of the magnitude of the margins likely to prevail if the orders were revoked.¹⁴

On October 31, 2006, pursuant to section 751(c) of the Act, the Commission determined that revocation of the antidumping duty orders on butt-weld fittings from Italy, Malaysia, and the Philippines would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.¹⁵ Accordingly, the Department published a notice of continuation of the antidumping duty orders on butt-weld fittings from Italy, Malaysia, and the Philippines, pursuant to 19 CFR 351.218(f)(4).¹⁶

On November 1, 2011, the Department initiated, and the Commission instituted, sunset reviews of the antidumping duty orders on butt-weld fittings from Italy, Malaysia, and the Philippines, pursuant to section 751(c) of the Act.¹⁷ As a result of these sunset reviews, the Department found that revocation of the antidumping duty orders would likely lead to continuation or recurrence of dumping and notified the Commission of the magnitude of the margins likely to prevail if the orders were revoked.¹⁸

On July 5, 2012, pursuant to section 751(c) of the Act, the Commission determined that revocation of the antidumping duty orders on butt-weld fittings from Italy, Malaysia, and the Philippines would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.¹⁹ Accordingly, the Department published a notice of continuation of the antidumping duty orders on butt-weld fittings from Italy,

¹² See *Stainless Steel Butt-Weld Pipe Fittings from the Philippines: Amended Final Determination of Sales at Less Than Fair Value Pursuant to Court Remand*, 70 FR 30086 (May 25, 2005) (*Philippines Amended Final Determination*).

¹³ See *Initiation of Five-Year (“Sunset”) Reviews*, 71 FR 91 (January 3, 2006); see also *Stainless Steel Butt-Weld Pipe Fittings from Italy, Malaysia, and the Philippines*, 71 FR 140 (January 3, 2006).

¹⁴ See *Stainless Steel Butt-Weld Pipe Fittings from Italy, Malaysia, and the Philippines: Final Results of the Expedited Five-year (“Sunset”) Reviews of Antidumping Duty Orders*, 71 FR 26748 (May 8, 2006) (*First Sunset Review*).

¹⁵ See *Certain Stainless Steel Butt-Weld Pipe Fittings from Italy, Malaysia, and the Philippines*, 71 FR 67904 (November 24, 2006), and USITC Publication 3889 (November 2006) (Inv. Nos. 731-TA-865-867 (Review)).

¹⁶ See *Continuation of Antidumping Duty Orders: Stainless Steel Butt-Weld Pipe Fittings from Italy, Malaysia, and the Philippines*, 71 FR 71530 (December 11, 2006).

¹⁷ See *Initiation of Five-Year (“Sunset”) Review*, 76 FR 67412 (November 1, 2011).

¹⁸ See *Stainless Steel Butt-Weld Pipe Fittings from Italy, Malaysia, and the Philippines: Final Results of the Expedited Second Five-Year (“Sunset”) Reviews of Antidumping Duty Orders*, 77 FR 14002 (March 8, 2012), and accompanying Issues and Decision Memorandum (Second Sunset Review).

¹⁹ See *Stainless Steel Butt-Weld Pipe Fittings from Italy, Malaysia, and the Philippines*, 77 FR 39735 (July 5, 2012), and USITC Publication 4225 (June 2012), titled *Stainless Steel Butt-Weld Pipe Fittings from Italy, Malaysia, and the Philippines (Investigation Nos. 731-TA-865-867 (Second Review))*.

Malaysia, and the Philippines, pursuant to 19 CFR 351.218(f)(4).²⁰

Italy

Since the final results of the second sunset review, the Department has conducted two administrative reviews with respect to butt-weld fittings from Italy.²¹ In addition, an administrative review of the order on butt-weld fittings from Italy was requested by a respondent, Filmag Italia S.p.A, but was subsequently rescinded.²²

The Department has not conducted any new shipper reviews or issued any changed circumstances or scope determinations. Additionally, there have been no duty absorption findings concerning the butt-weld fittings from Italy antidumping duty order in this time period. The order remains in effect for all manufacturers, producers, and exporters of the subject merchandise from Italy.

Malaysia

Since the final results of the second sunset review, the Department has completed no administrative reviews or new shipper reviews, and has issued no changed circumstances or scope determinations of butt-weld fittings from Malaysia. Additionally, there have been no duty absorption findings concerning the butt-weld fittings from Malaysia antidumping duty order in this time period. The order remains in effect for all manufacturers, producers, and exporters of the subject merchandise from Malaysia.

The Philippines

Since the final results of the second sunset review, the Department has completed no administrative reviews or new shipper reviews, and has issued no changed circumstances or scope determinations of butt-weld fittings from the Philippines. Additionally, there have been no duty absorption findings concerning the butt-weld fittings from Malaysia antidumping duty order in this time period. The order remains in effect for all manufacturers, producers, and exporters of the subject merchandise from the Philippines.

²⁰ See *Stainless Steel Butt-Weld Pipe Fittings from Italy, Malaysia, and the Philippines: Continuation of Antidumping Duty Orders*, 77 FR 42697 (July 20, 2012).

²¹ See *Stainless Steel Butt-Weld Pipe Fittings from Italy: Final Results of Antidumping Duty Administrative Review; 2014-2015*, 81 FR 43587 (July 5, 2016), where the weighted-average margin was 17.29 percent for Filmag Italia S.p.A.; see also *Stainless Steel Butt-Weld Pipe Fittings from Italy: Final Results of Antidumping Duty Administrative Review and Final No Shipment Determination*, 77 FR 24459 (April 24, 2012), where the final results were published shortly after the Second Sunset Review the Department found a 0.00 percent weighted-average margin for Tectubi Raccordi S.p.A./Raccordi Forgiati S.r.l./Allied International S.r.l.

²² See *Stainless Steel Butt-Weld Pipe Fittings from Italy: Rescission of Antidumping Duty Administrative Review; 2015-2016*, 81 FR 43587 (July 5, 2016)

Initiation of Sunset Reviews

On June 2, 2017, the Department initiated sunset reviews of the antidumping duty orders on butt-weld fittings from Italy, Malaysia, and the Philippines, pursuant to section 751(c) of the Act.²³

On June 16, 2017, the Department received notices of intent to participate in these sunset reviews from the Domestic Interested Parties within the deadline specified in section 351.218(d)(1)(i) of the Department's regulations. The Domestic Interested Parties claimed interested party status under section 771(9)(C) of the Act as U.S. producers of a domestic like product.

On June 30, 2017, the Department received a substantive response from Domestic Interested Parties within the deadline specified in section 351.218(d)(3)(i) of the Department's regulations.²⁴ The Department did not receive any timely filed responses from the respondent interested parties, *i.e.*, butt-weld fitting producers and exporters from Italy, Malaysia, and the Philippines. As a result, pursuant to section 751(c)(3)(B) of the Act and section 351.218(e)(1)(ii)(C)(2) of the Department's regulations, the Department conducted expedited sunset reviews of these orders.

Discussion of the Issues

In accordance with section 751(c)(1) of the Act, the Department conducted these sunset reviews to determine whether revocation of these antidumping duty orders would be likely to lead to continuation or recurrence of dumping. Sections 752(c)(1)(A) and (B) of the Act provide that, in making these determinations, 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 periods before and after the issuance of the antidumping duty order. In addition, section 752(c)(3) of the Act provides that the Department shall provide to the Commission the magnitude of the margin of dumping likely to prevail if the order were revoked. Below we address the comments of Domestic Interested Parties.

1. Likelihood of Continuation or Recurrence of Dumping

Interested Party Comments:

Domestic Interested Parties contend that since the issuance of the antidumping duty orders on butt-weld fittings from Italy, Malaysia, and the Philippines, the respondents have continued to dump the subject merchandise, despite having reduced the overall volume of their imports to the United States.²⁵ According to Domestic Interested Parties, the historical record supports the conclusion that dumping would be likely to continue or recur upon revocation of these orders.²⁶

²³ See *Sunset Initiation*.

²⁴ See Letter, "Stainless Steel Butt-Weld Pipe Fittings from Italy, Malaysia, and the Philippines: Five-Year ("Sunset") Reviews of Antidumping Duty Orders – Domestic Interested Parties' Substantive Response to Notice of Initiation," dated June 30, 2017.

²⁵ See Domestic Interested Parties' Substantive Response, December 1, 2011 (Substantive Response), at 23.

²⁶ *Id.*

Domestic Interested Parties' comments specific to the individual countries are summarized below.

Italy: Domestic Interested Parties assert U.S. imports of butt-weld fittings from Italy fell sharply after the imposition of the order in February 2001, and during the current sunset review period (2011-2016), have fluctuated annually from 91,346 to 780,471 pounds, before declining to 606,418 pounds in 2015 and 210,559 pounds in 2016.²⁷ Domestic Interested Parties argue this marked decline in imports from Italy contrasts dramatically with the volume of imports in the years preceding the imposition of the antidumping order in 2001.²⁸ They state the volume of imports from Italy during the three-year period prior to the imposition of the order (1998-2000) averaged 1.2 million pounds per year, whereas imports averaged just 441,555 pounds per year in the current sunset review period, a reduction of 64.3 percent.²⁹ Based on this decline and the continued restraining effect of dumping margins, Domestic Interested Parties claim it is evident that Italian manufacturers cannot ship subject merchandise to the United States without dumping, even in decreased quantities.³⁰

Malaysia: Domestic Interested Parties argue that imports of subject merchandise from Malaysia also declined dramatically following imposition of the antidumping duty order in February 2001.³¹ They state the volume of imports in 2000, the year prior to the imposition of the order, was 1.5 million pounds. They further state that in the most recent sunset review period, subject imports from Malaysia increased from 1.4 million pounds in 2011, to 4 million pounds in 2014, before declining to 3.3 million pounds in 2015 to 3.6 million pounds in 2016.³² They state the volume of imports from Malaysia during the three-year period prior to the imposition of the order (1998-2000) averaged 1.6 million pounds per year, whereas imports averaged just 2.7 million pounds per year in the current sunset review period, an increase of 68.8 percent.³³

Domestic Interested Parties state that the fact that Malaysian manufacturers/exporters have continued to dump the subject merchandise in the United States, despite the 7.51 percent dumping margin that remains in effect for all Malaysian producers, indicates that Malaysian producers/exporters cannot sell in the United States without dumping.³⁴ Furthermore, revocation of the order would likely lead to continued dumping at even higher volumes than those imposed during the current review period.³⁵

The Philippines: Domestic Interested Parties claim the imposition of the antidumping duty order had a highly significant impact on subject import volumes from the Philippines.³⁶ Domestic Interested Parties state that in the two years prior to the imposition of the order (1999-2000),

²⁷ *Id.* at 24 and Attachment 2.

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.* at 25.

³¹ *Id.*

³² *Id.*

³³ *Id.*

³⁴ *Id.* at 26.

³⁵ *Id.*

³⁶ *Id.*

imports of subject merchandise from the Philippines averaged 1.0 million pounds annually.³⁷ However, Domestic Interested Parties note that subject imports from the Philippines declined steadily from 3 million pounds in 2011 to 1.4 million pounds in 2016, although imports remained significantly above pre-order levels.³⁸ Domestic Interested Parties contend that this increase occurred because Tung Fong succeeded in reducing the dumping margin to 7.59 percent for itself and for all other Philippine producers and exporters as to entries of subject merchandise from April 2005, which is a considerable drop from the original investigation rate of 33.81 percent that was previously in place for all subject imports from the Philippines.³⁹

Domestic Interested Parties argue that the sharp increase in subject imports from the Philippines beginning in 2006 after the dumping margin declined in 2005 demonstrates that the import volumes would have been much greater had there been no antidumping duties in place.⁴⁰ According to Domestic Interested Parties, given that subject merchandise from the Philippines has been subject to antidumping duties through the life of the order, it is evident that continued dumping likely would occur if the discipline of the order were removed.⁴¹

Department's Position

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 recurrence 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 an order.

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act, specifically the Statement of Administrative Action (SAA), H.R. Doc. No. 103-316, vol. 1 at 879 (1994) the House Report H. Rep. No. 103-826, pt. 1 at 56 (1994) (House Report), and the Senate Report, S. Rep. No. 103-412 (1994) (Senate Report), the Department's determination of likelihood of continuation or recurrence will be made on an order-wide basis for each case.⁴² In addition, the Department will normally determine that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping where: (a) dumping continued at any level above *de minimis* after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of an order and import volumes for the subject merchandise declined significantly.⁴³

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*; see also, *Amended Final Determination*.

⁴⁰ See Substantive Response, at 27.

⁴¹ *Id.*

⁴² See SAA at 879 and House Report at 56. See also *Refined Brown Aluminum Oxide from the People's Republic of China: Final Results of Expedited Sunset Review*, 74 FR 4138 (January 23, 2009), and the accompanying Issues and Decision Memorandum at Comment 1, and *Freshwater Crawfish Tail Meat from the People's Republic of China: Final Results of the Expedited Second Sunset Review of the Antidumping Duty Order*, 73 FR 65832 (November 5, 2008), and the accompanying Issues and Decision Memorandum at Comment 1 (*China Crawfish Tail Meat*).

⁴³ See SAA at 889-890, House Report at 63-64, and Senate Report at 52. See also *Certain Frozen Fish Fillets from*

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.⁴⁴ 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.⁴⁵

In 2012, the Department announced 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 found to be World Trade Organization (WTO)-inconsistent, *i.e.*, zeroing/the denial of offsets.⁴⁶ In the *Final Modification for Reviews*, the Department stated that "only in the most extraordinary circumstances" would it rely on margins other than those calculated and published in prior determinations.⁴⁷ 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."⁴⁸

The Department has not completed any administrative reviews of the antidumping duty orders on butt-weld fittings from Malaysia or the Philippines since the issuance of the final results of the second sunset reviews. However, as noted above, the Department completed two administrative reviews of the antidumping duty order on butt-weld fittings from Italy during the current five-year review period. In the first review, for the period of February 1, 2010 – January 31, 2011, the Department found a 0.00 percent weight-average margin for Tectubi Raccordi, Raccordi Forgianti, and Allied International, and found Filmag had no sales of subject merchandise. In the second review, for the period of February 1, 2014 – January 31, 2015, the Department found Filmag was exporting subject merchandise at less than fair value and assessed a 17.29 percent margin. Thus, other than the review of Tectubi Raccordi, Raccordi Forgianti, and Allied

the Socialist Republic of Vietnam: Notice of Final Results of Expedited Sunset Review of Antidumping Duty Order, 74 FR 5819 (February 2, 2009), and the accompanying Issues and Decision Memorandum at 3, *China Crawfish Tail Meat*, 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 the accompanying Issues and Decision Memorandum at 5.

⁴⁴ 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.

⁴⁵ 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.

⁴⁶ 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).

⁴⁷ *Id.*

⁴⁸ *Id.*

International, deposit rates above *de minimis* remain in effect for U.S. imports of butt-weld fittings from Italy, Malaysia, and the Philippines.

Using import trade statistics from the Commission's Interactive Tariff and Trade DataWeb (DataWeb), the Department also analyzed and considered the volume of imports of the subject merchandise for the period prior to the issuance of the orders (*i.e.*, 2000), and import volumes over the past five years (*i.e.*, 2011-2017). Additionally, as we have done in prior reviews, we reviewed imports of the full year prior to the initiation of the investigation (*i.e.*, 1999).⁴⁹ We compared the public DataWeb import data to Domestic Interested Parties' reported data⁵⁰ and found that these data are comparable, once the DataWeb data were converted from kilograms into pounds.

Italy: In reviewing import trade statistics from the DataWeb, the Department finds imports of butt-weld fittings from Italy fluctuated between 91,346 pounds and 785,690 pounds per year during the period 2011-2016. This contrasts with pre-initiation volumes of 1,018,972 pounds and 726,769 pounds in 1999 and 1998, respectively.⁵¹ Thus, imports of butt-weld fittings from Italy during 2011-2016 remained significantly below pre-initiation volumes.

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. The margin determined in the underlying investigation remains in effect for the investigated company because the margin calculated for the sole respondent was based on adverse facts available; *i.e.*, the calculation was not affected by zeroing and is WTO-consistent. Accordingly, based on the continued existence of dumping margins and the significant decline in subject imports from Italy as a result of the order, the Department determines that dumping is likely to recur if the order is revoked.

Malaysia: The DataWeb also indicates imports of butt-weld fittings from Malaysia ranged from 1,434,147 pounds to 4,051,188 pounds per year during the period 2011-2016. In 1999 and 1998, imports of butt-weld fittings from Malaysia totaled 1,703,675 pounds and 1,618,125 pounds, respectively.⁵² As such, imports of butt-weld fittings from Malaysia during the 2011-2016 period remained above pre-initiation volumes.

Although imports were at or above pre-initiation volumes during the sunset review period, if companies continue to dump at above *de minimis* levels with the discipline of an order in place, it is reasonable to assume that dumping would continue if the order were revoked.⁵³ 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. For this proceeding, the only rate determined for a producer or exporter is the estimated weighted-average dumping margin calculated for

⁴⁹ See Attachment.

⁵⁰ See Substantive Response, at Attachment 2.

⁵¹ See Attachment.

⁵² *Id.*

⁵³ See, e.g., *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).

Kanzen Tetsu Sdn. Bhd. in the less-than-fair-value (LTFV) investigation. Information from that investigation is not available on the record of this sunset review. Additionally, there have been no subsequent administrative reviews of this order. Therefore, the only available calculated weighted-average dumping margin is the 7.51 percent rate from the investigation that remains in effect for all Malaysian producers.

In the absence of the necessary information to determine either the existence or impact of zeroing on the margin calculated in the LTFV investigation, the Department must reach a determination on the basis of the facts available pursuant to section 776(a)(1) of the Act. The available facts indicate (1) that the margins assigned in the investigation were greater than *de minimis* for all respondents; (2) these margins have remained in effect as the basis for cash deposits and automatic liquidation of entries for which no reviews have been completed; and (3) no respondent interested parties have participated in this sunset review or otherwise provided factual information with respect to this question. Based on the foregoing, the Department finds that it is reasonable to assume that the dumping margins in the investigation remain above this calculated and imposed amount of dumping, because otherwise, Malaysian producers or exporters would have sought a review, and consequently recalculation, of their margin, or would have participated in this or a previous sunset review and sought revocation of the order. Absent any further information, we also consider, as facts otherwise available, this to be indicative of the continued existence of dumping at a level above *de minimis* after issuance of the order. Accordingly, the Department determines that dumping is likely to recur if the order is revoked.

The Philippines: The DataWeb reveals that imports of butt-weld fittings from the Philippines fluctuated between 1,392,598 pounds and 3,017,648 pounds per year during the period 2011-2016. The import volumes in 1999 and 1998 were 917,692 pounds and 490,749 pounds, respectively.⁵⁴ As such, imports of butt-weld fittings from the Philippines during 2011-2016 remained above pre-initiation volumes. Nevertheless, based on the continued existence of dumping margins for Philippine producers even after reducing such dumping margins, it is unlikely that these respondents would be able to sell without dumping.

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. We determine that the margins calculated for the respondents in the investigation and subsequent remand remain in effect because the highest calculated margin in the investigation was not affected by zeroing. The margin calculated in the investigation was based on adverse facts available. Therefore, we find that the highest calculated margin in the investigation is WTO-consistent. Accordingly, the Department determines that dumping is likely to recur if the order is revoked.

The SAA provides that declining import volumes accompanied by the continued existence of dumping margins after the issuance of an 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-initiation volumes.⁵⁵ If companies continue to dump with the discipline of an order in place, it is reasonable to assume that dumping would continue if the

⁵⁴ See Attachment.

⁵⁵ See SAA at 890.

order were removed. With respect to butt-weld fittings from Italy, because cash deposit rates remain at above *de minimis* levels and import volumes have decreased significantly since the time preceding the investigation, and no factual information has been put on the record to show that revocation would not lead to a recurrence of dumping, we find that dumping would be likely to continue or recur if the order were revoked.

In the case of butt-weld fittings from Malaysia and the Philippines, although import volumes rose after the issuance of the orders, we note that dumping has continued at levels above *de minimis*. If companies continue to dump with the discipline of an order in place, it is reasonable to assume that dumping would continue if the order were removed.⁵⁶ Additionally, no factual information has been put on the record to show that revocation would not lead to a recurrence of dumping. Thus, on the basis of above *de minimis* cash deposit rates, the Department finds dumping is likely to continue or recur if the orders on butt-weld fittings from Malaysia and the Philippines were revoked.

2. Magnitude of the Margin Likely to Prevail

Interested Party Comments

According to Domestic Interested Parties, the Department normally is to select a dumping margin from the original investigation, as that margin is most reflective of respondents' behavior in the absence of an antidumping duty order.⁵⁷ Furthermore, there is no evidence that the margins established in the original investigation were calculated using the Department's zeroing methodology with regard to Italy, Malaysia, and the Philippines. In fact, with regard to Italy, the 26.59 percent rate established in the original investigation was based on adverse facts available.⁵⁸ Similarly, the 33.81 percent rate assigned to Philippine producer Enlin was based on the application of total adverse facts available.⁵⁹ Because the dumping margins are not WTO-inconsistent, and because they were based on the use of adverse facts available or no offsets were denied, the Department should continue to rely on the margins from the original investigation in these sunset reviews. Thus, the Department should report to the ITC the 26.59 percent margin for Italy, 7.51 percent margin for Malaysia, and 33.81 percent margin for the Philippines as the margins likely to prevail.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

⁵⁶ See SAA at 890.

⁵⁷ See Substantive Response at 27-28 citing the SAA and *Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871, 18873 (April 16, 1998)

⁵⁸ See *Italy LTFV Determination*, and accompanying decision memorandum.

⁵⁹ See *Philippines LTFV Determination*, and accompanying decision memorandum.

⁶⁰ See Substantive Response, at 29-30. Domestic Interested Parties note the margins for Tung Fong and "all other" Philippine manufacturers and exporters should reflect those published in the Department's amended final determination pursuant to court remand. See *Philippines Amended Final Determination*.

calculated rate that reflects the behavior of exporters without the discipline of an order.⁶¹ Under certain circumstances, however, the Department may select a more recent rate to report to the ITC.⁶² 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.⁶³ Instead, we may rely on other rates that may be available, or we may recalculate weighted-average dumping margins using our current offsetting methodology in extraordinary circumstances.⁶⁴

Italy: After considering the dumping margins determined in the LTFV investigation and the subsequent administrative reviews, we find that it is appropriate to provide the ITC with the margins determined in the LTFV investigation for the magnitude of the margin likely to prevail because these margins best reflect the behavior of manufacturers, producers, and exporters without the discipline of an order in place. As noted above, the margin calculation in the investigation for Italy was not affected by zeroing, because it was based on total adverse facts available and did not involve the denial of offsets. Thus, the Department finds it appropriate to report to the ITC that the magnitude of the margin of dumping that is likely to prevail if the order is revoked is 26.59 percent.

Malaysia: In prior sunset reviews of the Malaysian butt-welded fittings order, we determined that it was appropriate to provide the ITC with the margins from the LTFV investigation as 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.⁶⁵ As discussed above, the record of this review does not include the information necessary to eliminate zeroing, to the extent present, in the estimated weighted-average dumping margin calculated in the LTFV investigation. However, the record does reflect that the margins calculated for all Malaysian producers and exporters, and which have remained in effect since the investigation, is 7.51 percent. Thus, as facts available, pursuant to section 776(a)(1) of the Act, the Department finds it appropriate to continue to report to the ITC that the magnitude of the margin of dumping that is likely to prevail if the order is revoked is 7.51 percent.

Philippines: After considering the dumping margins determined in the LTFV investigation and the subsequent administrative reviews, we find that it is appropriate to provide the ITC with the margins determined in the LTFV investigation for the magnitude of the margin likely to prevail because these margins best reflect the behavior of manufacturers, producers, and exporters without the discipline of an order in place. As noted above, the highest calculated margin in the investigation for the Philippines was not affected by zeroing, because it was based on total

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

⁶² 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).

⁶³ See *Final Modification for Reviews*, 77 FR at 8103.

⁶⁴ *Id.*

⁶⁵ See *First Sunset Review*; see also *Second Sunset Review*.

adverse facts available and did not involve the denial of offsets. Thus, the Department finds it appropriate to report to the ITC that the magnitude of the margin of dumping that is likely to prevail if the order is revoked is up to 33.81 percent.

Final Results of Sunset Reviews

The Department determines that revocation of the antidumping duty orders on butt-weld fittings from Italy, Malaysia, and the Philippines would be likely to lead to a continuation or recurrence of dumping and that the magnitude of the dumping margins likely to prevail would be weighted-average margins of 26.59 percent for Italy, of 7.51 percent for Malaysia, and up to 33.81 percent for the Philippines.

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 sunset reviews in the *Federal Register*, and notify the Commission of our determinations.

☒

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Agree

Disagree

10/2/2017

X



Signed by: GARY TAVERMAN

Gary Taverman

Deputy Assistant Secretary

for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

ATTACHMENT

HTS - 7307230000: STAINLESS STEEL TUBE OR PIPE BUTT WELDING FITTINGS
General First Unit of Quantity by Country Name and General First Unit of Quantity
for Italy, Malaysia and Philippines

U.S. General Imports

Annual + Year-To-Date Data from Jan - Jun

Country		Italy	Malaysia	Philippines		Italy	Malaysia	Philippines
Quantity Description		kilograms	kilograms	kilograms		Pounds *	Pounds *	Pounds *
1996	In Actual Units of Quantity	142,377	561,721	171,585		313,888	1,238,383	378,280
1997		378,066	566,071	268,084		833,493	1,247,973	591,024
1998		329,657	733,969	222,600		726,769	1,618,125	490,749
1999		462,198	772,774	416,258		1,018,972	1,703,675	917,692
2000		889,913	689,457	491,046		1,961,922	1,519,992	1,082,571
2001		373,027	354,059	89,555		822,384	780,566	197,435
2002		260,956	340,745	84,637		575,310	751,214	186,593
2003		80,475	298,031	26,741		177,417	657,046	58,954
2004		62,638	463,757	11,241		138,093	1,022,409	24,782
2005		87,057	662,317	162,108		191,928	1,460,159	357,387
2006		57,115	475,747	471,040		125,917	1,048,843	1,038,465
2007		180,584	698,692	799,254		398,120	1,540,352	1,762,053
2008		51,361	696,955	1,060,634		113,232	1,536,523	2,338,298
2009		71,808	372,736	988,107		158,310	821,742	2,178,403
2010		59,785	480,547	993,624		131,803	1,059,425	2,190,566
2011		41,434	650,518	1,368,782		91,346	1,434,147	3,017,648
2012		79,310	821,790	1,332,071		174,849	1,811,737	2,936,714
2013		354,016	959,877	1,267,489		780,472	2,116,167	2,794,335
2014		356,383	1,837,588	1,131,822		785,690	4,051,188	2,495,240
2015		275,067	1,480,695	910,201		606,419	3,264,374	2,006,650
2016		67,638	1,611,732	631,672		149,116	3,553,261	1,392,598
2016 YTD		32,795	629,529	379,425		72,301	1,387,874	836,489
2017 YTD		212,117	901,955	233,697		467,638	1,988,470	515,214

Sources: Data on this site have been compiled from tariff and trade data from the U.S. Department of Commerce and the U.S. International Trade Commission.

* Quanties in kilograms were multiplied by 2.2046226218 to calculate the quantity in pounds.