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Sunset Reviews  
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**DATE:** April 26, 2018

**MEMORANDUM TO:** Christian Marsh  
Deputy Assistant Secretary  
for Enforcement and Compliance

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

**SUBJECT:** Issues and Decision Memorandum for the Expedited First Sunset  
Reviews of the Antidumping Duty Orders on Utility Scale Wind  
Towers from the People's Republic of China and the Socialist  
Republic of Vietnam

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## I. Summary

In the first sunset reviews of the antidumping duty (AD) orders on wind towers from the People's Republic of China (China) and the Socialist Republic of Vietnam (Vietnam), the Wind Tower Trade Coalition (WTTC), a coalition of domestic producers of utility scale wind towers (wind towers), submitted an adequate and timely notice of intent to participate as well as a substantive response. No respondent interested party submitted a substantive response. Accordingly, we conducted expedited (120-day) sunset reviews for these AD orders, pursuant to 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).<sup>1</sup> In accordance with our analysis of WTTC's adequate substantive response, we recommend that you approve the positions in the "Discussion of the Issues" section of this memorandum. The following is a complete list of the issues in these sunset reviews for which we received a substantive response:

1. Likelihood of continuation or recurrence of dumping; and
2. Magnitude of the dumping margins likely to prevail.

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<sup>1</sup> See *Procedures for Conducting Five-year (Sunset) Reviews of Antidumping and Countervailing Duty Orders*, 70 FR 62061 (October 28, 2005) (Commerce normally will conduct an expedited sunset review where respondent interested parties provide an inadequate response).



## II. Background

On February 15, 2013, the Department of Commerce (Commerce) published the notices of the antidumping duty orders on wind towers from China and Vietnam.<sup>2</sup> On January 2, 2018, Commerce published the notice of initiation of the first sunset review of the *Orders*, pursuant to section 751(c) of the Act.<sup>3</sup> On January 17, 2018, Commerce received notices of intent to participate in these reviews from WTTC, within the deadline specified in 19 CFR 351.218(d)(1)(i).<sup>4</sup> WTTC claimed interested party status under section 771(9)(C) and (F) of the Act as an association of U.S. producers in the United States of a domestic like product. On February 5, 2018, Commerce received complete and adequate substantive responses from WTTC within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).<sup>5</sup> Commerce received no substantive responses from respondent interested parties with respect to the *Orders*. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce conducted expedited (120-day) sunset reviews of the *Orders*. Commerce exercised its discretion to toll all deadlines affected by the closure of the Federal Government from January 20 through 22, 2018. If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day. The revised deadline for the final results is now May 7, 2018.<sup>6</sup>

## III. Scope of the Orders

The merchandise covered by these orders are certain wind towers, whether or not tapered, and sections thereof. Certain wind towers are designed to support the nacelle and rotor blades in a wind turbine with a minimum rated electrical power generation capacity in excess of 100 kilowatts and with a minimum height of 50 meters measured from the base of the tower to the bottom of the nacelle (*i.e.*, where the top of the tower and nacelle are joined) when fully assembled.

A wind tower section consists of, at a minimum, multiple steel plates rolled into cylindrical or conical shapes and welded together (or otherwise attached) to form a steel shell, regardless of

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<sup>2</sup> See *Utility Scale Wind Towers from the People's Republic of China: Antidumping Duty Order*, 78 FR 11146 (February 15, 2013) (*China AD Order*); and *Utility Scale Wind Towers from the Socialist Republic of Vietnam: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order*, 78 FR 11150 (February 15, 2013) (*Vietnam AD Order*) (collectively, *Orders*).

<sup>3</sup> See *Initiation of Five-Year (Sunset) Reviews*, 83 FR 100 (January 2, 2018).

<sup>4</sup> See WTTC's Letter, "Utility Scale Wind Towers from the People's Republic of China: Notice of Intent to Participate in Sunset Review" (January 17, 2018); see also WTTC's Letter, "Utility Scale Wind Towers from the Socialist Republic of Vietnam: Notice of Intent to Participate in Sunset Review," (January 17, 2018).

<sup>5</sup> See WTTC's Letter, "Utility Scale Wind Towers from the People's Republic of China: Substantive Response to Notice of Initiation of Sunset Review" (February 5, 2018) (WTTC China Substantive Response); see also WTTC's Letter, "Utility Scale Wind Towers from the Socialist Republic of Vietnam: Substantive Response to Notice of Initiation of Sunset Review" (February 5, 2018) (WTTC Vietnam Substantive Response).

<sup>6</sup> See Memorandum for The Record from Christian Marsh, Deputy Assistant Secretary for Enforcement and Compliance, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Shutdown of the Federal Government" (Tolling Memorandum), dated January 23, 2018. All deadlines in this segment of the proceeding have been extended by 3 days. In addition, because the deadline falls on a non-business day (*i.e.*, the weekend), pursuant to Commerce's practice, the deadline will become the next business day. The revised deadline is May 7, 2018.

coating, end-finish, painting, treatment, or method of manufacture, and with or without flanges, doors, or internal or external components (e.g., flooring/decking, ladders, lifts, electrical buss boxes, electrical cabling, conduit, cable harness for nacelle generator, interior lighting, tool and storage lockers) attached to the wind tower section. Several wind tower sections are normally required to form a completed wind tower.

Wind towers and sections thereof are included within the scope whether or not they are joined with nonsubject merchandise, such as nacelles or rotor blades, and whether or not they have internal or external components attached to the subject merchandise.

Specifically excluded from the scope are nacelles and rotor blades, regardless of whether they are attached to the wind tower. Also excluded are any internal or external components which are not attached to the wind towers or sections thereof.

Merchandise covered by the orders is currently classified in the Harmonized Tariff System of the United States (HTSUS) under subheadings 7308.20.0020<sup>7</sup> or 8502.31.0000.<sup>8</sup> Prior to 2011, merchandise covered by the order was classified in the HTSUS under subheading 7308.20.0000 and may continue to be to some degree. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the subject merchandise is dispositive.

#### IV. History of the Orders

China: On January 24, 2012, Commerce initiated an AD investigation on wind towers from China.<sup>9</sup> On August 2, 2012, Commerce preliminarily determined that wind towers from China were being sold in the United States at less-than-fair-value (LTFV).<sup>10</sup> On December 26, 2012, Commerce published the final determination of sales at LTFV in the *Federal Register*.<sup>11</sup> On February 15, 2013, Commerce published in the *Federal Register* the AD order on wind towers from China at the following rates:<sup>12</sup>

Exporter/producer: Chengxi Shipyard Co., Ltd.	47.59
Exporter: Titan Wind Energy (Suzhou) Co., Ltd.	44.99
Producer: Titan (Lianyungang) Metal Product Co., Lt.	
Producer: Titan Wind Energy (Suzhou) Co., Ltd.	
Exporter: CS Wind Corporation	46.38
Producer: CS Wind China Co., Ltd.	
Exporter: Guodian United Power Technology Baoding Co., Ltd	46.38

<sup>7</sup> Wind towers are classified under HTSUS 7308.20.0020 when imported as a tower or tower section(s) alone.

<sup>8</sup> Wind towers may also be classified under HTSUS 8502.31.0000 when imported as part of a wind turbine (i.e., Accompanying nacelles and/or rotor blades).

<sup>9</sup> See *Utility Scale Wind Towers from the People's Republic of China and the Socialist Republic of Vietnam: Initiation of Antidumping Duty Investigations*, 77 FR 3440 (January 24, 2012) (Initiation Notice).

<sup>10</sup> See *Utility Scale Wind Towers from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 77 FR 46058 (August 2, 2012).

<sup>11</sup> See *Utility Scale Wind Towers from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 77 FR 75992 (December 26, 2012).

<sup>12</sup> See *China AD Order*.

Producer: Guodian United Power Technology Baoding Co., Ltd.	
Exporter: Sinovent Wind Group Co., Ltd.	46.38
Producer: Qiangsheng Wind Equipment Co. Ltd.	
China-wide entity	70.63

In a proceeding under section 129 of the Uruguay Round Agreements Act (URAA) regarding the AD investigation on wind towers from China, the above weighted-average dumping margins were adjusted as follows:<sup>13</sup>

Exporter/producer: Chengxi Shipyard Co., Ltd.	36.98
Exporter: Titan Wind Energy (Suzhou) Co., Ltd.	34.33
Producer: Titan (Lianyungang) Metal Product Co., Ltd.	
Producer: Titan Wind Energy (Suzhou) Co., Ltd.	
Exporter: CS Wind Corporation	35.81
Producer: CS Wind China Co., Ltd.	
Exporter: Guodian United Power Technology Baoding Co., Ltd.	35.77
Producer: Guodian United Power Technology Baoding Co., Ltd.	
Exporter: Sinovent Wind Group Co., Ltd.	35.77
Producer: Qiangsheng Wind Equipment Co. Ltd.	
China-wide entity	60.02

Commerce has not conducted any administrative reviews,<sup>14</sup> changed circumstances reviews, or duty absorption reviews since the publication of the *China AD Order*. Commerce is conducting the first sunset review of the *China AD Order*. Accordingly, the *China AD Order* remains in effect for all manufacturers, producers, and exporters of wind towers from China.

Vietnam: On January 24, 2012, Commerce initiated an antidumping duty investigation on wind towers from Vietnam.<sup>15</sup> On August 2, 2012, Commerce preliminarily determined that wind towers from Vietnam were being sold in the United States at LTFV.<sup>16</sup> On December 26, 2012,

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<sup>13</sup> See *Implementation of Determinations Under Section 129 of the Uruguay Round Agreements Act: Citric Acid and Citrate Salts From the People's Republic of China; Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From the People's Republic of China; Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe From the People's Republic of China; High Pressure Steel Cylinders From the People's Republic of China; Multilayered Wood Flooring From the People's Republic of China; Certain Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China; Utility Scale Wind Towers From the People's Republic of China*, 80 FR 48812 (August 14, 2015).

<sup>14</sup> The first, second, third and fourth administrative reviews were properly rescinded. See *Utility Scale Wind Towers from the People's Republic of China: Notice of Rescission of Antidumping Duty Administrative Review; 2013-2014*, 79 FR 61852 (October 15, 2014). See also *Utility Scale Wind Towers from the People's Republic of China: Notice of Rescission of Antidumping Duty Administrative Review; 2014-2015*, 80 FR 60882 (October 8, 2015); *Utility Scale Wind Towers from the People's Republic of China: Notice of Rescission of Antidumping Duty Administrative Review; 2015-2016*, 81 FR 72775 (October 21, 2016); and *Utility Scale Wind Towers from the People's Republic of China: Notice of Rescission of Antidumping Duty Administrative Review; 2016-2017*, 82 FR 48942 (October 23, 2017).

<sup>15</sup> See *Initiation Notice*.

<sup>16</sup> See *Utility Scale Wind Towers from the Socialist Republic of Vietnam: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 77 FR 46058 (August 2, 2012).

Commerce published the final determination of sales at LTFV in the *Federal Register*.<sup>17</sup> On February 15, 2013, Commerce published in the *Federal Register* the amended final determination and order on wind towers from Vietnam at the following rates:<sup>18</sup>

The CS Wind Group	51.54
Vietnam-wide entity	58.54

In the course of litigation, Commerce published a Notice of Court Decision Not in Harmony with the Final Determination amending the *Vietnam AD Order*, and revised CS Wind Group's dumping margin, finding it to be 17.02 percent.<sup>19</sup> Commerce subsequently concluded its first administrative review of the *Vietnam AD Order* and revised CS Wind Group's margin a second time, finding it to be *de minimis*.<sup>20</sup> Following further litigation at the Court of Appeals for the Federal Circuit (CAFC), Commerce published a second Notice of Court Decision Not in Harmony with the Final Determination, this time excluding merchandise that is produced *and* exported by CS Wind Group. The exclusion does not apply to merchandise produced by CS Wind Group and exported by any other party or to merchandise that is exported by CS Wind group and produced by any other party.<sup>21</sup> This determination is currently on appeal.

Commerce has completed two administrative reviews since the publication of the *Vietnam AD Order*.<sup>22</sup> Commerce has not conducted any changed circumstances reviews or duty absorption reviews in the history of the *Vietnam AD Order*.

Commerce is conducting the first sunset review of the *Vietnam AD Order*. The *Vietnam AD Order* remains in effect for all producers and exporters of wind towers from Vietnam except for wind towers that are produced *and* exported by the CS Wind Group.<sup>23</sup> In addition, the *Vietnam AD Order* remains in effect for all merchandise that is exported but *not* produced by CS Wind Group.<sup>24</sup>

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<sup>17</sup> See *Utility Scale Wind Towers from the Socialist Republic of Vietnam: Final Determination of Sales at Less Than Fair Value*, 77 FR 75984 (December 26, 2012).

<sup>18</sup> See *Vietnam AD Order*.

<sup>19</sup> See *Utility Scale Wind Towers from the Socialist Republic of Vietnam: Notice of Court Decision Not in Harmony with the Final Determination of Less Than Fair Value Investigation and Notice of Amended Final Determination of Investigation*, 80 FR 30211 (May 27, 2015).

<sup>20</sup> See *Utility Scale Wind Towers from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review; 2013-2014*, 80 FR 55333 (September 15, 2015).

<sup>21</sup> See *Utility Scale Wind Towers from the Socialist Republic of Vietnam: Notice of Court Decision Not in Harmony with the Final Determination of Less Than Fair Value Investigation and Notice of Amended Final Determination of Investigation*, 82 FR 15493 (March 29, 2017) (Second Timken Notice).

<sup>22</sup> See *Utility Scale Wind Towers from the Socialist Republic Vietnam: Final Results of Antidumping Duty Administrative Review; 2013-2014*, 80 FR 55333 (September 15, 2015). See also *Utility Scale Wind Towers from the Socialist Republic of Vietnam: Final Determination of No Shipments; Antidumping Duty Administrative Review; 2016-2017*, 83 FR 11172 (March 14, 2018); *Utility Scale Wind Towers from the Socialist Republic of Vietnam: Notice of Rescission of Antidumping Duty Administrative Review; 2015-2016*, 81 FR 72776 (October 21, 2016); and *Utility Scale Wind Towers from the Socialist Republic of Vietnam: Notice of Rescission of Antidumping Duty Administrative Review; 2014-2015*, 80 FR 60880 (October 8, 2015).

<sup>23</sup> See Second Timken Notice.

<sup>24</sup> *Id.*

## V. Legal Framework

In accordance with section 751(c)(1) of the Act, Commerce is conducting these sunset reviews to determine whether revocation of the AD Orders would be likely to lead to a continuation or recurrence of dumping. If Commerce determines that revocation of the *Orders* would be likely to lead to a continuation or recurrence of dumping, pursuant to section 752(c)(3) of the Act, Commerce shall provide to the International Trade Commission (ITC) with the magnitude of the dumping likely to prevail if the *Orders* were revoked.

As explained in the Statement of Administrative Action Accompanying the Uruguay Round Agreements Act (SAA),<sup>25</sup> Commerce normally will determine that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping where: (a) dumping continued at any level above *de minimis* after the issuance of the orders; (b) imports of the subject merchandise ceased after issuance of the orders; or (c) dumping was eliminated after the issuance of the orders and import volumes for the subject merchandise declined significantly.<sup>26</sup> Pursuant to section 752(c)(4)(A) of the Act, a dumping margin of zero or *de minimis* does not require Commerce to determine that revoking an antidumping duty order would not be likely to lead to a continuation or recurrence of sales at LTFV.<sup>27</sup>

Alternatively, Commerce normally will determine that revocation of an antidumping duty 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. Consistent with guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (*i.e.*, SAA; House Report, H. Rep. No. 103-826, pt. 1 (1994) (House Report); and Senate Report, S. Rep. No. 103-412 (1994) (Senate Report)), Commerce will make its likelihood determination on an order-wide, rather than company- specific, basis.<sup>28</sup>

Sections 752(c)(1)(A) and (B) of the Act provide that, in making this determination, Commerce shall consider the weighted-average dumping margins determined in the investigations and subsequent reviews, and the volume of imports of the subject merchandise for the periods before and the periods after, the issuance of the antidumping duty orders. In addition, as a base period of import volume comparison, it is Commerce'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.<sup>29</sup> Also, when analyzing import volumes for second and subsequent sunset reviews, Commerce's practice is to compare import volumes during the year preceding initiation of the underlying

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<sup>25</sup> H.R. Rep. No. 103-316, Vol. 1 (1994).

<sup>26</sup> See SAA at 889-90; *Policies Regarding the Conduct of Five-year (Sunset) Reviews of Antidumping and Countervailing Duty Orders*; *Policy Bulletin*, 63 FR 18871, 18872 (April 16, 1998) (*Sunset Policy Bulletin*).

<sup>27</sup> 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.

<sup>28</sup> See SAA at 879.

<sup>29</sup> 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.

investigation to import volumes since the issuance of the last continuation notice.<sup>30</sup>

If Commerce determines that revocation of the *Orders* would be likely to lead to a continuation or recurrence of dumping, generally Commerce provides to the ITC the magnitude of the margin of dumping likely to prevail if the orders were revoked. Generally, Commerce selects the margins from the final determinations in the original investigations, as those are the only calculated rates that reflect the behavior of exporters without the discipline of an order in place. However, in certain circumstances, a more recently calculated rate may be more appropriate (e.g., “if dumping margins have declined over the life of an order and imports have remained steady or increased, {Commerce} may conclude that exporters are likely to continue dumping at the lower rates found in a more recent review”).<sup>31</sup>

On February 14, 2012, Commerce 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.<sup>32</sup> In the *Final Modification for Reviews*, Commerce stated that “only in the most extraordinary circumstances” would it rely on margins other than those calculated and published in prior determinations.<sup>33</sup> Commerce further stated that apart from the “most extraordinary circumstances,” it did not anticipate needing to recalculate dumping margins in the vast majority of future sunset determinations and, instead 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.”<sup>34</sup>

## VI. Discussion of the Issues

Consistent with the legal framework, we address the following issues: (1) the likelihood of continuation or recurrence of dumping; and (2) the magnitude of the dumping margins likely to prevail.

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

#### Domestic Interested Party Comments

WTTC argues that dumping of wind towers from China and Vietnam would continue or recur if the *Orders* on the subject merchandise are revoked because: (1) the significant decline in imports

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<sup>30</sup> 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 at 3.

<sup>31</sup> See SAA at 890-91; and *Sunset Policy Bulletin* at section II.B.2.

<sup>32</sup> 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*).

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

of subject merchandise since the *Orders* were imposed indicates that Chinese and Vietnamese producers are unable to sell in the U.S. market at fair prices; and (2) in the original investigations, the ITC found that underselling by Chinese and Vietnamese imports had suppressed U.S. prices, indicating that if the duties were removed, Chinese and Vietnamese producers and exporters will immediately seek to regain market share in the United States by lowering prices, to the detriment of the domestic wind towers industry.<sup>35</sup>

### Commerce's Position

Pursuant to section 752(c)(1)(A) of the Act, Commerce first considered the weighted-average dumping margins determined in the investigations and any subsequent reviews. In the original investigations, Commerce found that dumping occurred at levels above *de minimis*. In subsequent reviews conducted with respect to the *Vietnam AD Order*, Commerce continued to find either dumping margins above *de minimis*, or no entries of subject merchandise during an administrative review period. All of the dumping margins under the *Orders* are post *Final Modification for Review*, such that none of the rates calculated in this proceeding involved zeroing/the denial of offsets. According to the SAA and the House Report, "if companies continue to dump with the discipline of an order in place, it is reasonable to assume that dumping would continue if the discipline were removed."<sup>36</sup>

China: As discussed above, Commerce has conducted no administrative reviews since the issuance of the *China AD Order*. Furthermore, pursuant to section 752(c)(1)(B) of the Act, Commerce considered the volume of imports of the subject merchandise for the period before and after the issuance of the *China AD Order*. Commerce examined import volumes from the Global Trade Atlas' Global Import/Export Commodity Trade data for 2013 through 2017, which is the current sunset review period. This is the five-year period that follows the LTFV investigation and we compared this to the import volumes in the pre-initiation period.

In this case, the volume of imports has generally decreased steadily since the issuance of the *China AD Order*. The import volumes for wind towers from China for the years 2013 through 2017 ranged from 7,074,512 kg in 2013 to 218,258 kg in 2017.<sup>37</sup> By contrast, the import volume for 2012, the year immediately preceding the initiation of the investigation, was 198,118,659 kg. With the exception of an increase from 2016 and 2017, import volumes between 2013 and 2017 decreased consistently, and remained below pre-order levels each year. Given the decrease in import volume, it is unlikely that Chinese producers and exporters of wind towers would be able to sell at pre-order volumes without dumping. Accordingly, Commerce determines that dumping is likely to continue if the order were revoked.

Vietnam: As discussed above, Commerce has conducted two administrative reviews for wind towers from Vietnam since the issuance of the *Vietnam AD Order*. While the separate rate for merchandise produced *and* exported by CS Wind Group has been revoked, and the rate for merchandise exported but not produced by the CS Wind Group is currently *de minimis*, the Vietnam-wide entity rate remains 58.54 percent. Because dumping margins above *de minimis* have prevailed throughout prior segments for the Vietnam-wide rate, companies have continued

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<sup>35</sup> See WTTC China Substantive Response at 7-8; see also WTTC Vietnam Substantive Response at 8-9.

<sup>36</sup> See SAA at 889; see also House Report at 63-64.

<sup>37</sup> These import volumes are based on the following HTS number: 7308.20.0020.



to dump with the discipline of an order in place and based on this past pricing behavior, it is reasonable to conclude that dumping would continue if the *Vietnam AD Order* were revoked.

Separately, pursuant to section 752(c)(1)(B) of the Act, Commerce considered the volume of imports of the subject merchandise for the period before and after the issuance of the *Vietnam AD Order*. Commerce examined import volumes from the ITC's Trade Dataweb for 2013 through 2017, which is the current sunset review period.<sup>38</sup> This is the five-year period that follows the LTFV investigation and we compared this to the import volumes in the pre-initiation period.

In this case, the volume of imports since the issuance of the *Vietnam AD Order* has decreased overall. The import volumes for wind towers from Vietnam for the years 2014 through 2016 ranged from 397,728 kg in 2014 to 8,522,290 kg in 2016.<sup>39</sup> By contrast, the import volumes for 2012, the year immediately preceding the initiation of the investigation, was 28,688,295 kg. With the exception of an increase from 2015 to 2016, import volumes have decreased overall since the issuance of the *Vietnam AD Order* and have remained below pre-order levels each year.

## 2. Magnitude of the Dumping Margin Likely to Prevail

### Domestic Interested Party Comments

WTTC argues that Commerce recognizes that normally the dumping margin likely to prevail if the order were revoked is the dumping margin determined in the final determination in the original investigation, as an investigation margin is “the only calculated rate that reflects the behavior of exporters ... without the discipline of an order or suspension agreement in place.”<sup>40</sup>

Citing the *SAA* and *Sunset Policy Bulletin*, WTTC asserts that, Commerce should report to the ITC that the following margins would be likely to prevail if Commerce revokes the *Orders*:

China: Should the *China AD Order* be revoked, WTTC argues that Commerce should rely upon the dumping margins established in the investigation for the mandatory respondents and the China-wide rate and, accordingly, determine that AD margins of up to 60.02 percent are likely to prevail.<sup>41</sup>

Vietnam: Should the *Vietnam AD Order* be revoked, WTTC argues that Commerce should rely upon the dumping margins established in the investigation for the mandatory respondents and the Vietnam-wide entity rate and, accordingly, determine that AD margins of up to 58.54 percent are likely to prevail.<sup>42</sup>

### Commerce's Position

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<sup>38</sup> For the current sunset review period, the ITC only reported import volumes from Vietnam for every other year, therefore data from 2013, 2015, and 2017 is not available for review.

<sup>39</sup> These import volumes are based on the following HTS number: 7308.20.0020.

<sup>40</sup> See WTTC China Substantive Response at 9 (citing *Sunset Policy Bulletin*, 63 FR at 18873).

<sup>41</sup> See WTTC China Substantive Response at 9-10.

<sup>42</sup> See WTTC Vietnam Substantive Response at 10-11.

Pursuant to section 752(c)(3) of the Act, Commerce shall provide to the ITC the magnitude of the margin of dumping that is likely to prevail if the order were revoked. Normally, Commerce will provide to the ITC the magnitude of the margin of dumping from the LTFV investigation.<sup>43</sup> Commerce normally selects a rate from the LTFV investigation because it is the only calculated rate that reflects the behavior of manufacturers, producers, and exporters without the discipline of an order or suspension agreement in place.<sup>44</sup>

As indicated in the “Legal Framework” section above, consistent with the *Final Modification for Reviews*, Commerce’s current practice is not to rely on weighted-average dumping margins calculated using the zeroing methodology. As noted above, the rates applied in the LTFV investigations did not involve the denial of offsets. The China-wide entity rate was based on adverse facts available and the separate rate was based on Commerce’s calculations of the dumping margins for two of the mandatory respondents that were above *de minimis*.<sup>45</sup> The Vietnam-wide entity rate was based on adverse facts available and the separate rate was based on Commerce’s calculations of the dumping margins for the mandatory respondents that were above *de minimis*.<sup>46</sup>

China: Commerce determines that it is appropriate to report to the ITC the investigation rate of up to 60.02 percent as the margin likely to prevail if the *China AD Order* were revoked. WTTC has argued that “Revocation of the antidumping order on wind towers from China would lead to the continuation or recurrence of sales at less than fair value by margins of up to 60.02 percent *ad valorem*.”<sup>47</sup> Commerce determined a China-wide entity rate of 70.63 percent in the original investigation. However, this rate was adjusted to 60.02 percent, the weighted-average dumping margin pursuant to an implementation under section 129 of the URAA. As such, it remains the only rate that reflects the behavior of exporters without the discipline of an order in place, and we have received no argument that information from subsequent reviews of the *China AD Order* warrants the use of a more recently calculated dumping margin. Furthermore, as explained above, this rate was not calculated using zeroing. Therefore, pursuant to section 752(c)(3) of the Act, we will report to the ITC the 60.02 percent investigation rate for all Chinese manufacturers and exporters as the margin likely to prevail, as indicated in the “Final Results of Reviews” section of this memorandum.

Vietnam: Commerce determines that it is appropriate to report to the ITC the investigation rate of up to 58.54 percent as the margin likely to prevail if the *Vietnam AD Order* were revoked. WTTC has argued that “Revocation of the antidumping order on wind towers from Vietnam would lead to the continuation or recurrence of sales at less than fair value by margins of up to 58.54 percent *ad valorem*.”<sup>48</sup> Commerce determined the Vietnam-wide entity rate of 58.54 percent in the original investigation and, as such, it remains the only rate that reflects the behavior of exporters without the discipline of an order in place. Further, we have received no argument that information from subsequent reviews of the *Vietnam AD Order* warrants the use of a more recently calculated dumping margin. Furthermore, as explained above, this rate was not

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<sup>43</sup> See SAA at 890; see also, e.g., *Persulfates from China*, and Accompanying Issues and Decision Memorandum at Comment 2.

<sup>44</sup> See SAA at 890.

<sup>45</sup> See 77 FR at 75995.

<sup>46</sup> See 77 FR at 75987.

<sup>47</sup> See WTTC China Substantive Response at 4-5.

<sup>48</sup> See WTTC Vietnam Substantive Response at 5.

calculated using zeroing. Therefore, pursuant to section 752(c)(3) of the Act, we will report to the ITC the 58.54 percent investigation rate for all Vietnamese manufacturers and exporters, except for excluded wind towers that are produced *and* exported by the CS Wind Group, as the margin likely to prevail, as indicated in the “Final Results of Reviews” section of this memorandum.

## VII. Final Results of Reviews

For the reasons stated above, we determine that revocation of the *Orders* on wind towers from China and Vietnam would likely lead to continuation or recurrence of dumping. We also determine that the magnitude of the dumping margins likely to prevail would be weighted-average dumping margins up to 60.02 percent for China and 58.54 percent for Vietnam.

## VIII. Recommendation

Based on our analysis of the substantive response received, we recommend adopting all of the above positions. If these recommendations are accepted, we will publish the final result of this sunset review in the *Federal Register* and notify the ITC of our determination.



\_\_\_\_\_  
Agree

\_\_\_\_\_  
Disagree

4/26/2018

X



Signed by: CHRISTIAN MARSH

\_\_\_\_\_  
Christian Marsh  
Deputy Assistant Secretary  
for Enforcement and Compliance