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Sunset Reviews
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September 25, 2019

MEMORANDUM TO: Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

FROM: James Maeder
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 Welded Stainless
Steel Pressure Pipe from Malaysia, Thailand, and the Socialist
Republic of Vietnam

I. SUMMARY

We analyzed the substantive responses of the domestic interested parties¹ in these first sunset reviews of the antidumping duty (AD) orders² covering welded stainless steel pressure pipe (WSSPP) from Malaysia, Thailand, and the Socialist Republic of Vietnam (Vietnam)³ and recommend that you approve the positions described in the “Discussion of the Issues” section of this memorandum. No respondent interested party submitted a substantive response.

¹ The domestic interested parties are Bristol Metals, LLC (Bristol), Felker Brothers Corporation (Felker), Webco Industries, Inc. (Webco).

² See *Welded Stainless Pressure Pipe from Malaysia, Thailand, and the Socialist Republic of Vietnam: Antidumping Duty Orders*, 79 FR 42289 (July 21, 2014) (*Orders*).

³ See Domestic Interested Parties’ Letter, “Welded Stainless Steel Pressure Pipe from Malaysia: Substantive Response to Notice of Initiation,” dated July 1, 2019 (Malaysia Substantive Response); see also Domestic Interested Parties’ Letters, “Welded Stainless Steel Pressure Pipe from Thailand: Substantive Response to Notice of Initiation,” dated July 1, 2019 (Thailand Substantive Response); and “Welded Stainless Steel Pressure Pipe from Vietnam: Substantive Response to Notice of Initiation,” dated July 1, 2019 (Vietnam Substantive Response). Also, domestic interested party Primus Pipe & Tube, Inc. (Primus), submitted a response, in which it agreed with the substantive responses of the other domestic interested parties. See Primus’ Letter, “Welded Stainless Steel Pipe Sunset Review: 2nd Review for China AD/CVD; 1st Review for Vietnam, Thailand and Malaysia; Substantive Response to Notice of Initiation,” dated July 5, 2019 (Primus’ Substantive Response).



Accordingly, we conducted expedited (120-day) sunset reviews of the *Orders*.⁴ The following is a complete list of the issues that we address in this expedited sunset review:

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

II. BACKGROUND

On July 21, 2014, the Department of Commerce (Commerce) published the *Orders* in the *Federal Register*.⁵ On June 4, 2019, Commerce published the initiation of the first sunset reviews of the *Orders*, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).⁶ Between June 13, 2019 and June 18, 2019, Commerce received timely and complete notices of intent to participate in the sunset reviews from domestic interested parties within the deadline specified in 19 CFR 351.218(d)(1)(i).⁷ Domestic interested parties claimed interested party status pursuant to section 771(9)(C) of the Act as manufacturers in the United States of a domestic like product.⁸ Between July 1, 2019 and July 5, 2019, pursuant to 19 CFR 351.218(d)(3)(i), domestic interested parties filed timely and adequate substantive responses.⁹ Commerce did not receive a substantive response from any respondent interested party. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), we deem that the respondent interested parties did not provide an adequate response to the notice of initiation and, therefore, Commerce conducted expedited (120-day) sunset reviews of the *Orders*.

III. SCOPE OF THE ORDERS

The products covered by these orders are circular welded austenitic stainless pressure pipe not greater than 14 inches in outside diameter. For purposes of these orders, references to size are in nominal inches and include all products within tolerances allowed by pipe specifications. This merchandise includes, but is not limited to, the American Society for Testing and Materials (ASTM) A-312 or ASTM A-778 specifications, or comparable domestic or foreign specifications. ASTM A-358 products are only included when they are produced to meet ASTM A-312 or ASTM A-778 specifications, or comparable domestic or foreign specifications.

⁴ 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).

⁵ See *Orders*.

⁶ See *Initiation of Five-Year (Sunset) Reviews*, 84 FR 25741 (June 4, 2019).

⁷ See Domestic Interested Parties' Letter, "Welded Stainless Steel Pressure Pipe from Malaysia: Notice of Intent to Participate," dated June 13, 2019 (Malaysia Intent to Participate); see also Domestic Interested Parties' Letters, "Welded Stainless Steel Pressure Pipe from Thailand: Notice of Intent to Participate," dated June 13, 2019 (Thailand Intent to Participate); "Welded Stainless Steel Pressure Pipe from Vietnam: Notice of Intent to Participate," dated June 13, 2019 (Vietnam Intent to Participate); and Primus' Letter, "Welded Stainless Steel Pressure Pipe from Malaysia, Thailand, and the Socialist Republic of Vietnam: Notice of Intent to Participate," dated June 18, 2019 (Primus Intent to Participate).

⁸ See Malaysia Intent to Participate at 2; see also Thailand Intent to Participate at 2; Vietnam Intent to Participate at 2; Primus Intent to Participate at 2.

⁹ See Malaysia Substantive Response; see also Thailand Substantive Response; Vietnam Substantive Response; Primus' Substantive Response.

Excluded from the scope are: (1) Welded stainless mechanical tubing, meeting ASTM A-554 or comparable domestic or foreign specifications; (2) boiler, heat exchanger, superheater, refining furnace, feedwater heater, and condenser tubing, meeting ASTM A-249, ASTM A-688 or comparable domestic or foreign specifications; and (3) specialized tubing, meeting ASTM A269, ASTM A-270 or comparable domestic or foreign specifications.

The subject imports are normally classified in subheadings 7306.40.5005, 7306.40.5040, 7306.40.5062, 7306.40.5064, and 7306.40.5085 of the Harmonized Tariff Schedule of the United States (HTSUS). They may also enter under HTSUS subheadings 7306.40.1010, 7306.40.1015, 7306.40.5042, 7306.40.5044, 7306.40.5080, and 7306.40.5090. The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope of these investigations is dispositive.

IV. HISTORY OF THE *ORDERS*

On May 30, 2014, Commerce published its affirmative final determinations of sales at less than fair value (LTFV) in the AD investigations of WSSPP from Malaysia, Thailand, and Vietnam.¹⁰ On July 21, 2014, following an affirmative injury determination by the U.S. International Trade Commission (ITC), Commerce published in the *Federal Register* the *Orders*.¹¹ The following is Commerce's finding for each country:

Malaysia: Commerce found a weighted-average dumping margin of 167.11 percent for exporters Superinox Pipe Industry Sdn. Bhd./Superinox International Sdn. Bhd, Kanzen Tetsu Sdn. Bhd, and Pantech Stainless & Alloy Industries Sdn. Bhd, and 22.70 percent for "all others."

Thailand: Commerce found a weighted-average dumping margin of 24.01 percent for exporters Ametai Co., Ltd./Thareus Co., Ltd and Thai-German Products Public Company Limited, and 23.89 percent for "all others."

Vietnam: Commerce found a weighted-average dumping margin of 16.25 percent for exporters/producers Sonha International Corporation/Sonha International Corporation and Mejonson Industrial Vietnam Co., Ltd./Mejonson Industrial Vietnam Co., Ltd, and 16.25 percent for the Vietnam-wide entity.

Since the issuance of the aforementioned *Orders*, there have been no administrative reviews, scope clarifications, new shipper reviews, or duty absorption findings in connection with the *Orders*.

Accordingly, the *Orders* remain in effect for all manufacturers, producers, and exporters of WSSPP from Malaysia, Thailand, and Vietnam.

¹⁰ See *Welded Stainless Pressure Pipe from Malaysia: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part; 2012–2013*, 79 FR 31090 (May 30, 2014) (*Malaysia Final Determination*); see also *Welded Stainless Pressure Pipe from Thailand: Final Determination of Sales at Less Than Fair Value*, 79 FR 31093 (May 30, 2014) (*Thailand Final Determination*); and *Welded Stainless Pressure Pipe from the Socialist Republic of Vietnam: Final Determination of Sales at Less Than Fair Value*, 79 FR 31092 (May 30, 2014) (*Vietnam Final Determination*).

¹¹ See *Orders*.

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 *Orders* would be likely to lead to a continuation or recurrence of dumping. 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 investigation and subsequent reviews, and the volume of imports of the subject merchandise for the periods before and after the issuance of the AD orders.

In accordance with the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (URAA), specifically the Statement of Administrative Action, H.R. Doc. 103-316, vol. 1 (1994) (SAA), the House Report, H. Rep. No. 103-826, pt. 1 (1994) (House Report), and the Senate Report, S. Rep. No. 103-412 (1994) (Senate Report), Commerce's likelihood determinations will be made on an order-wide, rather than company-specific, basis.¹² In addition, Commerce normally will determine that revocation of an AD 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 issuance of the order; or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly.¹³ 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.¹⁴ 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 investigation to import volumes since the issuance of the last continuation notice.¹⁵

Further, section 752(c)(3) of the Act states that Commerce shall provide to the ITC the magnitude of the margin of dumping likely to prevail if the order were revoked. Generally, Commerce selects the dumping margin from the final determination in the investigation, as this is the only calculated rate that reflects the behavior of exporters without the discipline of an order in place.¹⁶ 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.").¹⁷

¹² See SAA at 879; see also House Report at 56.

¹³ See SAA at 889-90, House Report at 63-64, and Senate Report at 52 for a description of our practice; see also *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*).

¹⁴ 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 (IDM) at Comment 1.

¹⁵ See *Ferrovaniadium 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.

¹⁶ See SAA at 890; and *Sunset Policy Bulletin* at section II.B.1. 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) (*Persulfates from China*) and accompanying IDM at Comment 2.

¹⁷ See SAA at 890-91; see also *Sunset Policy Bulletin* at section II.B.2.

Finally, pursuant to section 752(c)(4)(A) of the Act, a dumping margin of zero or *de minimis* shall not by itself require Commerce to determine that revocation of an AD order would not be likely to lead to a continuation or recurrence of sales at LTFV.¹⁸

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

VI. DISCUSSION OF THE ISSUES

A. Likelihood of Continuation or Recurrence of Dumping

Domestic Interested Parties' Comments:¹⁹

- Revocation of the *Orders* would lead to the continuation or recurrence of sales at LTFV by margins equivalent to, or greater than, those found in the investigations. The record demonstrates that, since the issuance of the *Orders*: (1) dumping has continued; and (2) shipments of the subject merchandise have decreased significantly.²⁰
- In determining whether revocation of an AD order would be likely to lead to continuation or recurrence of dumping, Commerce considers: (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 periods before and after the issuance of the AD order or issuance of a suspension agreement.²¹
- Given that import volumes have declined since issuance of the *Orders*, Commerce must find that if the *Orders* were revoked, dumping by Malaysian, Vietnamese, and Thai producers and exporters would likely continue or recur.²²

Commerce's Position:

Consistent with the legal framework laid out above and in section 752(c)(1)(A) of the Act, we first considered the weighted-average dumping margins determined in the investigations in these proceedings. As stated above, in the investigations, Commerce found dumping margins from 22.70 percent to 167.11 percent for Malaysia,²³ from 23.89 percent to 24.01 percent for Thailand,²⁴ and 16.25 percent for Vietnam.²⁵ There have been no administrative or new shipper reviews conducted in any of these proceedings. Accordingly, based on the dumping margins in

¹⁸ 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 IDM at Comment 1.

¹⁹ Although domestic interested parties provided case-specific data regarding imports of WSSPP from Malaysia, Thailand and Vietnam, the arguments they filed in each case are virtually identical regarding whether the revocation of the *Orders* would lead to the continuation or recurrence of dumping. Primus only supported the collective comments filed on behalf of the domestic producers, Bristol, Felker, and Webco.

²⁰ See Malaysia Substantive Response at 5; see also Thailand Substantive Response at 5; and Vietnam Substantive Response at 5.

²¹ See Malaysia Substantive Response at 6; see also Thailand Substantive Response at 6; and Vietnam Substantive Response at 6.

²² See Malaysia Substantive Response at 8-9; see also Thailand Substantive Response at 9; and Vietnam Substantive Response at 9.

²³ See *Malaysia Final Determination*.

²⁴ See *Thailand Final Determination*.

²⁵ See *Vietnam Final Determination*.

the investigations, any entries of subject merchandise after issuance of the *Orders* were assessed at above *de minimis* rates.

Pursuant to section 752(c)(1)(B) of the Act, we also considered the volume of imports of subject merchandise in determining whether revocation of the *Orders* is likely to lead to continuation or recurrence of dumping. As noted above, when analyzing import levels for the first sunset review, Commerce's practice is to compare the volume of U.S. imports during the one-year period immediately preceding the initiation of the investigation (*i.e.*, the underlying investigation was initiated in June 2013)²⁶ to the volume of U.S. imports since the issuance of the *Orders* (*i.e.*, the *Orders* were issued in July 2014). Specifically, Commerce compared import volumes from the ITC's Trade Dataweb for the period 2014 through 2018 to the import volume in the year immediately preceding the initiation period, *i.e.* 2012, as follows:

Malaysia: In this case, the volume of imports has decreased steadily since the issuance of the *Orders*. The import volumes for WSSPP from Malaysia for the years 2014, 2015, and 2018 reached 123,704 kilograms (kg), 83,404 kg, and 29,217 kg, respectively.²⁷ There were no imports in 2016 and 2017.²⁸ By contrast, the import volume for 2012, the year immediately preceding the initiation of the investigation, was 5,064,823 kg.²⁹ Although import volumes between 2014 and 2018 did not decrease consistently, import volumes remained below pre-*Order* import levels each year.³⁰ Given the decrease in import volumes, it is unlikely that Malaysian producers and exporters of WSSPP would be able to sell at pre-*Order* volumes without dumping. Accordingly, Commerce determines that dumping is likely to continue if the *Orders* were revoked.

Thailand: In this case, the volume of imports has mostly decreased since the issuance of the *Orders*. The import volumes for WSSPP from Thailand for the years 2014 through 2018 ranged from 159,383 kg in 2014 to 287,592 kg in 2018.³¹ By contrast, the import volume for 2012, the year immediately preceding the initiation of the investigation, was 6,043,754 kg.³² Although import volumes between 2014 and 2018 did not decrease consistently, import volumes remained below pre-*Order* import levels each year.³³ Given the decrease in import volumes, it is unlikely that Thai producers and exporters of WSSPP would be able to sell at pre-*Order* volumes without dumping. Accordingly, Commerce determines that dumping is likely to continue if the *Orders* were revoked.

Vietnam: In this case, the volume of imports has mostly decreased since the issuance of the *Orders*. The import volumes for WSSPP from Vietnam for the years 2014 through 2018 ranged

²⁶ See *Welded Stainless Pressure Pipe from Malaysia, Thailand, and the Socialist Republic of Vietnam: Initiation of Antidumping Duty Investigations*, 78 FR 35253 (June 12, 2013).

²⁷ See Malaysia Substantive Response at 8, citing import data from the ITC's Trade Dataweb. These import volumes are based on the following HTSUS numbers: 7306.40.5005, 7306.40.5062, 7306.40.5064, and 7306.40.5040.

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ See Thailand Substantive Response at 8 citing import data from the ITC's Trade Dataweb. These import volumes are based on the following HTS numbers: 7306.40.5005, 7306.40.5062, 7306.40.5064, and 7306.40.5040.

³² *Id.*

³³ *Id.*

from 553,382 kg in 2014 to 1,527,124 kg in 2018.³⁴ By contrast, the import volume for 2012, the year immediately preceding the initiation of the investigation, was 3,210,933 kg.³⁵ Although import volumes between 2014 and 2018 did not decrease consistently, import volumes remained below pre-*Order* import levels each year.³⁶ Given the decrease in import volumes, it is unlikely that Vietnamese producers and exporters of WSSPP would be able to sell at pre-*Order* volumes without dumping. Accordingly, Commerce determines that dumping is likely to continue if the *Orders* were revoked.

B. Magnitude of the Dumping Margins Likely to Prevail

Domestic Interested Parties' Comments:

- In determining the magnitude of the dumping margin likely to prevail in the event of revocation and that should be reported to the ITC, the SAA and Commerce's *Sunset Policy Bulletin* state that the agency will normally select the dumping margins established in the investigation, because they are the only calculated rates that reflect the behavior of exporters without the discipline of an order or suspension agreement in place.³⁷
- Accordingly, the dumping margins that should be reported to the ITC are the margins from the investigations, specifically: (1) for Malaysia, 167.11 percent for all producers or exporters;³⁸ (2) for Thailand, 24.01 percent for Thai-German Products Public Company Limited and Ametai Co., Ltd./Thareus Co., Ltd, and 23.89 percent for all others;³⁹ and (3) for Vietnam, 16.25 percent for Sonha International Corporation, Mejonson Industrial Vietnam Co., Ltd., and the Vietnam-wide entity.⁴⁰
- This conclusion is consistent with the SAA, Commerce's *Sunset Policy Bulletin*, and the *Final Modification for Reviews*.⁴¹

Commerce's Position:

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 an AD order were revoked. Normally, Commerce will select a weighted-average dumping margin from the investigation to report to the ITC.⁴² Commerce's preference is to select a weighted-average dumping margin from the LTFV investigation because it is the only calculated rate that reflects the behavior of the producers and

³⁴ See Vietnam Substantive Response at 8 citing import data from the ITC's Trade Dataweb. These import volumes are based on the following HTS numbers: 7306.40.5005, 7306.40.5062, 7306.40.5064, and 7306.40.5040.

³⁵ *Id.*

³⁶ *Id.*

³⁷ See Malaysia Substantive Response at 10; see also Thailand Substantive Response at 9-10 (citing the SAA at 890; and *Sunset Policy Bulletin*, 63 FR at 18873); and Vietnam Substantive Response at 9-10 (citing the SAA at 890; and *Sunset Policy Bulletin*, 63 FR at 18873).

³⁸ See Malaysia Substantive Response at 10.

³⁹ See Thailand Substantive Response at 10.

⁴⁰ See Vietnam Substantive Response at 10.

⁴¹ See Malaysia Substantive Response at 10; see also Thailand Substantive Response at 10; Vietnam Substantive Response at 10; and *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*).

⁴² See SAA at 890.

exporters without the discipline of an order or suspension agreement in place.⁴³ Under certain circumstances, however, Commerce may select a more recent rate to report to the ITC.

No administrative reviews of the *Orders* have been conducted. Consistent with Commerce's practice, we considered the dumping margins from the LTFV investigations to be the best evidence of the exporters' behavior in the absence of an order. Additionally, as the *Orders* were issued in 2014, we find that the guidance in the *Final Modification for Reviews*, cited by the petitioner, does not apply.

VII. FINAL RESULTS OF SUNSET REVIEWS

For the reasons stated above, we determine that revocation of the *Orders* on WSSPP from Malaysia, Thailand, 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 167.11 percent for Malaysia, 24.01 percent for Thailand, and 16.25 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 these sunset reviews in the *Federal Register* and notify the ITC of our determination.

☒

Agree

☐

Disagree

9/25/2019

X 

Signed by: JEFFREY KESSLER
Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

⁴³ *Id.*