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Sunset Review
2019

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October 2, 2019

MEMORANDUM TO: P. Lee Smith
Deputy Assistant Secretary
for Policy and Negotiations
Enforcement and Compliance

FROM: Scot T. Fullerton
Director, Office VI
Antidumping and Countervailing Duty Operations

RE: Issues and Decision Memorandum for the Expedited Third Sunset
Reviews of the Antidumping Duty Orders on Carbon and Certain
Alloy Steel Wire Rod from Brazil, Indonesia, Mexico, Moldova,
and Trinidad and Tobago

I. Summary

We have analyzed the responses of the interested parties in the sunset reviews of the antidumping duty (AD) orders covering carbon and certain alloy steel wire rod (wire rod) from Brazil, Indonesia, Mexico, Moldova, and Trinidad and Tobago. We recommend that you approve the positions described in the “Discussion of the Issues” section of this memorandum. Below is the complete list of the issues for which we received substantive responses in these sunset reviews:

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

II. Background

On June 4, 2019, the Department of Commerce (Commerce) published the notice of initiation of the sunset reviews of the AD orders on wire rod from Brazil, Indonesia, Mexico, Moldova, and Trinidad and Tobago, pursuant to section 751(c)(2) of the Tariff Act of 1930 (the Act).¹ On June 19, 2019, Commerce received notices of intent to participate in the reviews from Nucor Corporation (Nucor), Commercial Metals Company (CMC), Charter Steel, EVRAZ Rocky Mountain Steel, Liberty Steel USA, and Optimus Steel LLC (hereinafter referred to collectively

¹ See *Initiation of Five-Year (Sunset) Reviews*, 84 FR 25741 (June 4, 2019) (*Third Sunset Review Initiation Notice*).



as Domestic Producers) within the deadline specified under 19 CFR 351.218(d)(1)(i).² In the Intent to Participate submissions, the Domestic Producers claimed interested party status under section 771(9)(C) of the Act, as manufacturers of a domestic like product in the United States.³ On July 3, 2019, Commerce received complete substantive responses from the Domestic Producers, within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).⁴

We received no substantive responses from respondent interested parties with respect to any of the orders covered by these sunset reviews, nor was a hearing requested. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce is conducting expedited (120-day) sunset reviews of the AD orders on wire rod from Brazil, Indonesia, Mexico, Moldova, and Trinidad and Tobago.⁵

III. Scope of the Orders

The merchandise subject to these orders is certain hot-rolled products of carbon steel and alloy steel, in coils, of approximately round cross section, 5.00 mm or more, but less than 19.00 mm, in solid cross-sectional diameter.

Specifically excluded are steel products possessing the above-noted physical characteristics and meeting the Harmonized Tariff Schedule of the United States (“HTSUS”) definitions for (a) stainless steel; (b) tool steel; (c) high nickel steel; (d) ball bearing steel; and (e) concrete reinforcing bars and rods. Also excluded are (f) free machining steel products (*i.e.*, products that contain by weight one or more of the following elements: 0.03 percent or more of lead, 0.05 percent or more of bismuth, 0.08 percent or more of sulfur, more than 0.04 percent of phosphorus, more than 0.05 percent of selenium, or more than 0.01 percent of tellurium).

Also excluded from the scope are 1080 grade tire cord quality wire rod and 1080 grade tire bead quality wire rod. This grade 1080 tire cord quality rod is defined as: (i) grade 1080 tire cord quality wire rod measuring 5.0 mm or more but not more than 6.0 mm in cross-sectional

² See Domestic Producers’ Letter, “Carbon and Certain Alloy Steel Wire Rod from Brazil: Notice of Intent to Participate in Review,” dated June 19, 2019 (Intent to Participate for Brazil Sunset Review); *see also* Domestic Producers’ Letters, “Carbon and Certain Alloy Steel Wire Rod from Indonesia: Notice of Intent to Participate in Review,” dated June 19, 2019 (Intent to Participate for Indonesia Sunset Review); “Carbon and Certain Alloy Steel Wire Rod from Mexico: Notice of Intent to Participate in Review,” (Intent to Participate for Mexico Sunset Review); “Carbon and Certain Alloy Steel Wire Rod from Moldova: Notice of Intent to Participate in Review,” dated June 19, 2019 (Intent to Participate for Moldova Sunset Review); and “Carbon and Certain Alloy Steel Wire Rod from Trinidad and Tobago: Notice of Intent to Participate in Review,” dated June 19, 2019 (Intent to Participate for Trinidad and Tobago Sunset Review).

³ See, *e.g.*, Intent to Participate for Brazil Sunset Review at 1.

⁴ See Domestic Producers’ Letter, “Carbon and Certain Alloy Steel Wire Rod from Brazil: Substantive Response to the Notice of Initiation,” dated July 3, 2019 (Substantive Response for Brazil Sunset Review); *see also* Domestic Producers’ Letters, “Carbon and Certain Alloy Steel Wire Rod from Indonesia: Substantive Response to the Notice of Initiation,” dated July 3, 2019 (Substantive Response for Indonesia Sunset Review); “Carbon and Certain Alloy Steel Wire Rod from Mexico: Substantive Response to the Notice of Initiation,” dated July 3, 2019 (Substantive Response for Mexico Sunset Review); “Carbon and Certain Alloy Steel Wire Rod from Moldova: Substantive Response to the Notice of Initiation,” dated July 3, 2019 (Substantive Response for Moldova Sunset Review); and “Carbon and Certain Alloy Steel Wire Rod from Trinidad and Tobago: Substantive Response to the Notice of Initiation,” dated July 3, 2019 (Substantive Response for Trinidad and Tobago Sunset Review).

⁵ See Commerce’s Letter, “Sunset Reviews Initiated on June 1, 2019,” dated June 24, 2019.

diameter; (ii) with an average partial decarburization of no more than 70 microns in depth (maximum individual 200 microns); (iii) having no non-deformable inclusions greater than 20 microns and no deformable inclusions greater than 35 microns; (iv) having a carbon segregation per heat average of 3.0 or better using European Method NFA 04-114; (v) having a surface quality with no surface defects of a length greater than 0.15 mm; (vi) capable of being drawn to a diameter of 0.30 mm or less with 3 or fewer breaks per ton, and (vii) containing by weight the following elements in the proportions shown: (1) 0.78 percent or more of carbon, (2) less than 0.01 percent of aluminum, (3) 0.040 percent or less, in the aggregate, of phosphorus and sulfur, (4) 0.006 percent or less of nitrogen, and (5) not more than 0.15 percent, in the aggregate, of copper, nickel and chromium.

This grade 1080 tire bead quality rod is defined as: (i) grade 1080 tire bead quality wire rod measuring 5.5 mm or more but not more than 7.0 mm in cross-sectional diameter; (ii) with an average partial decarburization of no more than 70 microns in depth (maximum individual 200 microns); (iii) having no non-deformable inclusions greater than 20 microns and no deformable inclusions greater than 35 microns; (iv) having a carbon segregation per heat average of 3.0 or better using European Method NFA 04-114; (v) having a surface quality with no surface defects of a length greater than 0.2 mm; (vi) capable of being drawn to a diameter of 0.78 mm or larger with 0.5 or fewer breaks per ton; and (vii) containing by weight the following elements in the proportions shown: (1) 0.78 percent or more of carbon, (2) less than 0.01 percent of soluble aluminum, (3) 0.040 percent or less, in the aggregate, of phosphorus and sulfur, (4) 0.008 percent or less of nitrogen, and (5) either not more than 0.15 percent, in the aggregate, of copper, nickel and chromium (if chromium is not specified), or not more than 0.10 percent in the aggregate of copper and nickel and a chromium content of 0.24 to 0.30 percent (if chromium is specified). For purposes of the grade 1080 tire cord quality wire rod and the grade 1080 tire bead quality wire rod, an inclusion will be considered to be deformable if its ratio of length (measured along the axis - that is, the direction of rolling - of the rod) over thickness (measured on the same inclusion in a direction perpendicular to the axis of the rod) is equal to or greater than three. The size of an inclusion for purposes of the 20 microns and 35 microns limitations is the measurement of the largest dimension observed on a longitudinal section measured in a direction perpendicular to the axis of the rod. This measurement methodology applies only to inclusions on certain grade 1080 tire cord quality wire rod and certain grade 1080 tire bead quality wire rod that are entered, or withdrawn from warehouse, for consumption on or after July 24, 2003.⁶

The designation of the products as “tire cord quality” or “tire bead quality” indicates the acceptability of the product for use in the production of tire cord, tire bead, or wire for use in other rubber reinforcement applications such as hose wire. These quality designations are presumed to indicate that these products are being used in tire cord, tire bead, and other rubber reinforcement applications, and such merchandise intended for the tire cord, tire bead, or other rubber reinforcement applications is not included in the scope. However, should the petitioners or other interested parties provide a reasonable basis to believe or suspect that there exists a pattern of importation of such products for other than those applications, end-use certification for the importation of such products may be required. Under such circumstances, only the importers of record would normally be required to certify the end use of the imported merchandise.

⁶ See *Final Results of Antidumping Duty Changed Circumstances Review: Carbon and Certain Alloy Steel Wire Rod from Mexico*, 76 FR 45509 (July 29, 2011) (*Wire Rod CCR on Tire Cord Products*).

All products meeting the physical description of subject merchandise that are not specifically excluded are included in this scope.

The products subject to the order are currently classifiable under subheadings 7213.91.3000, 7213.91.3010, 7213.91.3011, 7213.91.3015, 7213.91.3020, 7213.91.3090, 7213.91.3091, 7213.91.3092, 7213.91.3093, 7213.91.4500, 7213.91.4510, 7213.91.4590, 7213.91.6000, 7213.91.6010, 7213.91.6090, 7213.99.0030, 7213.99.0031, 7213.99.0038, 7213.99.0090, 7227.20.0000, 7227.20.0010, 7227.20.0020, 7227.20.0030, 7227.20.0080, 7227.20.0090, 7227.20.0095, 7227.90.6010, 7227.90.6020, 7227.90.6050, 7227.90.6051, 7227.90.6053, 7227.90.6058, 7227.90.6059, 7227.90.6080, and 7227.90.6085 of the HTSUS.

Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

On October 1, 2012, Commerce determined that wire rod with an actual diameter of 4.75 mm to 5.00 mm produced in Mexico and exported to the United States by Deacero S.A.P.I. de C.V. and Deacero USA, Inc. (collectively, Deacero) was circumventing the AD order on wire rod from Mexico.⁷ Specifically, Commerce determined that Deacero's shipments to the United States of such wire rod constitute merchandise altered in form or appearance in such minor respects that it should be included within the scope of the AD order on wire rod from Mexico, effective as of December 20, 2011.⁸ Commerce's affirmative finding in the *Final Circumvention Determination I* applied solely to Deacero. The U.S. Court of Appeals for the Federal Circuit (Federal Circuit) upheld Commerce's finding in the *Final Circumvention Determination I* that wire rod with an actual diameter of 4.75 mm to 5.00 mm produced in Mexico and exported to the United States by Deacero was circumventing the AD order on wire rod from Mexico.⁹

On March 13, 2019, Commerce determined that wire rod with an actual diameter less than 4.75 mm produced in Mexico and exported to the United States by Deacero was circumventing the AD order on wire rod from Mexico.¹⁰ Specifically, Commerce determined that Deacero's shipments to the United States of such wire rod constitute merchandise altered in form or appearance in such minor respects that it should be included within the scope of the AD order on wire rod from Mexico, effective as of February 7, 2018.¹¹ Commerce's affirmative finding in the *Final Circumvention Determination II* applied solely to Deacero.

⁷ See *Carbon and Certain Alloy Steel Wire Rod from Mexico: Affirmative Final Determination of Circumvention of the Antidumping Order*, 77 FR 59892 (October 1, 2012) (*Final Circumvention Determination I*) and accompanying Issues and Decision Memorandum (IDM).

⁸ *Id.*, 77 FR at 59893.

⁹ See *Deacero S.A. de C.V. v. United States*, 817 F. 3d 1332, 1339 (Fed. Cir. 2016).

¹⁰ See *Carbon and Certain Alloy Steel Wire Rod from Mexico: Final Affirmative Determination of Circumvention of the Antidumping Duty Order*, 84 FR 9089 (March 13, 2019) (*Final Circumvention Determination II*) and accompanying IDM.

¹¹ *Id.*, 84 FR at 9090.

IV. History of the Orders¹²

1. Less Than Fair Value (LTFV) Investigations

A. Brazil

On August 30, 2002, Commerce published its final determination in the investigation of wire rod from Brazil.¹³ For Brazil, Commerce found the following AD margins:

Companhia Siderurgica Belgo Mineira and Belgo-Mineira Participacao Industria e Comercio S.A. (Belgo Mineira)	94.73 percent
All-Others Rate	74.45 percent

B. Indonesia

On August 30, 2002, Commerce published its final determination in the investigation of wire rod from Indonesia.¹⁴ For Indonesia, Commerce found the following AD margins:

P.T. Ispat Indo	4.06 percent
All-Others Rate	4.06 percent

C. Mexico

On August 30, 2002, Commerce published its final determination in the investigation of wire rod from Mexico.¹⁵ For Mexico, Commerce found the following AD margins:

Siderurgica Lazaro Cardenas Las Truchas, S.A. de C.V. (SICARTSA)	20.11 percent
All-Others Rate	20.11 percent

D. Moldova

On August 30, 2002, Commerce published its final determination in the investigation of wire rod from Moldova.¹⁶ For Moldova, Commerce found the following AD margin:

¹² As discussed below, while the AD orders on wire rod originally included Ukraine, in 2004, Commerce revoked the Ukraine wire rod order. Therefore, the instant sunset review does not include the Ukraine wire rod order.

¹³ See *Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil*, 67 FR 55792 (August 30, 2002) (*Brazil LTFV Investigation*).

¹⁴ See *Notice of Final Determination of Sales at Less Than Fair Value: Carbon and Certain Alloy Steel Wire Rod from Indonesia*, 67 FR 55798 (August 30, 2002) (*Indonesia LTFV Investigation*).

¹⁵ See *Notice of Final Determination of Sales at Less Than Fair Value: Carbon and Certain Alloy Steel Wire Rod from Mexico*, 67 FR 55800 (August 30, 2002) (*Mexico LTFV Investigation*).

¹⁶ See *Notice of Final Determination of Sales at Less Than Fair Value: Carbon and Certain Alloy Steel Wire Rod from Moldova*, 67 FR 55790 (August 30, 2002) (*Moldova LTFV Investigation*).

Moldova-wide Rate

369.10 percent

E. Trinidad and Tobago

On August 30, 2002, Commerce published its final determination in the investigation of wire rod from Trinidad and Tobago.¹⁷ For Trinidad and Tobago, Commerce found the following AD margins:

Caribbean Ispat Ltd.

11.40 percent

All-Others Rate

11.40 percent

Caribbean Ispat Ltd. (CIL) challenged the International Trade Commission's (ITC's) affirmative material injury determination in the Court of International Trade (CIT), but the CIT upheld the ITC's affirmative determination.¹⁸ CIL then appealed to the Court of Appeals for the Federal Circuit (CAFC). The CAFC remanded the case back to the CIT with instructions to further remand the case to the ITC so that the ITC could reconsider its injury analysis.¹⁹ On remand, the ITC made a negative material injury determination with respect to Trinidad and Tobago, which was affirmed by the CIT.²⁰ Domestic Producers appealed that determination to the CAFC. The CAFC vacated the CIT's judgment and remanded the case back to the CIT with instructions to remand the case to the ITC for further consideration of the material injury issue.²¹ On remand, the ITC made an affirmative material injury determination with respect to wire rod from Trinidad and Tobago, which was affirmed by the CIT.²²

2. Publication of Orders and Previous Sunset Reviews

On October 29, 2002, Commerce published AD orders on wire rod from Brazil, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine.²³

On January 8, 2008, Commerce completed the first expedited sunset reviews of the *Wire Rod Orders*.²⁴ Based on affirmative findings by Commerce and the ITC, on July 30, 2008, Commerce continued each of these orders.²⁵

¹⁷ See *Notice of Final Determination of Sales at Less Than Fair Value: Carbon and Certain Alloy Steel Wire Rod from Trinidad and Tobago*, 67 FR 55788 (August 30, 2002) (*Trinidad and Tobago LTFV Investigation*).

¹⁸ See *Caribbean Ispat Limited v. United States*, 366 F. Supp. 2d 1300 (CIT 2005).

¹⁹ See *Caribbean Ispat Limited v. United States*, 450 F. 3d 1336 (CAFC 2006).

²⁰ See *Mittal Steel Point Lisas Ltd v. United States*, 495 F. Supp. 2d 1374 (CIT 2007).

²¹ See *Mittal Steel Point Lisas Ltd. v. United States*, 542 F. 3d 867 (CAFC 2008).

²² See *Mittal Steel Point Lisas Ltd. v. United States*, No. 02-00756, Slip Op. 10-97 (CIT August 30, 2010).

²³ See *Notice of Antidumping Duty Orders: Carbon and Certain Alloy Steel Wire Rod from Brazil, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine*, 67 FR 65945 (October 29, 2002) (*Wire Rod Orders*).

²⁴ See *Carbon and Certain Alloy Steel Wire Rod from Brazil, Canada, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine: Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders*, 73 FR 1321 (January 8, 2008) (*Final Results of the First Expedited Sunset Review*) and accompanying IDM.

²⁵ See *Carbon and Certain Alloy Steel Wire Rod from Brazil, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine: Continuation of Antidumping and Countervailing Duty Orders*, 73 FR 44218 (July 20, 2008) (*First Continuation Wire Rod Orders Notice*).

On October 24, 2013, Commerce completed the second expedited sunset reviews of the *Wire Rod Orders*.²⁶ Based on an affirmative finding by the ITC covering all countries, except Ukraine,²⁷ on July 3, 2014, Commerce continued the AD orders on wire rod from Brazil, Indonesia, Mexico, Moldova, and Trinidad and Tobago.²⁸ Thus, the orders remain in effect for all manufacturers, producers, and exporters of the subject merchandise from Brazil, Indonesia, Mexico, Moldova, and Trinidad and Tobago.

3. Administrative Reviews Subsequent to the Initiation of the Second Sunset Review

A. Brazil

Since the *Final Results of the Second Expedited Sunset Review*, Commerce has not conducted any administrative reviews.

B. Indonesia

Since the *Final Results of the Second Expedited Sunset Review*, Commerce has not conducted any administrative reviews.

C. Mexico

Since the *Final Results of the Second Expedited Sunset Review*, Commerce has conducted five administrative reviews with respect to wire rod from Mexico covering the periods October 1, 2012, through September 30, 2013, in which Deacero received a *de minimis* margin of 0.37 percent,²⁹ October 1, 2013, through September 30, 2014, in which Deacero received a 1.13 percent margin,³⁰ October 1, 2014, through September 30, 2015, in which Deacero received a 40.52 percent margin,³¹ October 1, 2015, through September 30, 2016, in which Deacero

²⁶ See *Carbon and Certain Alloy Steel Wire Rod from Brazil, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine: Final Results of the Expedited Second Sunset Reviews of the Antidumping Duty Orders*, 78 FR 63450 (October 24, 2013) (*Final Results of the Second Expedited Sunset Review*) and accompanying IDM.

²⁷ See *Carbon and Certain Alloy Steel Wire Rod from Brazil, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine*, 79 FR 35381 (June 20, 2014) (*ITC Second Sunset Review*); see also USITC Publication 4472, *Carbon and Certain Alloy Steel Wire Rod from Brazil, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine* (Inv. Nos. 701–TA–417 and 731–TA–953, 957–959, and 961–962, dated June 20, 2014. In its decision, the ITC determined that revocation of the AD order on wire rod from Ukraine would not be likely to lead to the continuation or recurrence of material injury to an industry in the United States. Accordingly, Commerce revoked the AD order on wire rod from Ukraine. See *Carbon and Certain Alloy Steel Wire Rod from Ukraine: Revocation of Antidumping Duty Order*, 79 FR 38009 (July 3, 2004).

²⁸ See *Carbon and Certain Alloy Steel Wire Rod from Brazil, Indonesia, Mexico, Moldova, and Trinidad and Tobago: Continuation of Antidumping and Countervailing Duty Orders*, 79 FR 38008 (July 3, 2014) (*Second Sunset Review Continuation Orders*).

²⁹ See *Carbon and Certain Alloy Steel Wire Rod from Mexico: Amended Final Results of Antidumping Duty Administrative Review; 2012–2013*, 80 FR 35626 (June 22, 2015).

³⁰ See *Carbon and Certain Alloy Steel Wire Rod from Mexico: Amended Final Results of Antidumping Duty Administrative Review; 2013–2014*, 81 FR 41521 (June 27, 2016).

³¹ See *Carbon and Certain Alloy Steel Wire Rod from Mexico: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2014–2015*, 82 FR 23190 (May 22, 2017).

received a 12.56 percent margin,³² and October 1, 2016, through September 30, 2017, in which Deacero received a 3.94 percent margin and Ternium Mexico S.A. de C.V. (Ternium) received a 40.52 percent margin.³³

D. Moldova

Since the *Final Results of the Second Expedited Sunset Review*, Commerce has not conducted any administrative reviews.

E. Trinidad and Tobago

Since the *Final Results of the Second Expedited Sunset Review*, Commerce has not conducted any administrative reviews.

4. Duty Absorption, Changed Circumstances Reviews, and Scope Inquiries/Anticircumvention Inquiries

A. Duty Absorption

There have been no duty absorption findings concerning the wire rod AD orders.

B. Changed Circumstances Review (CCR)

On October 4, 2017, at the request of ArcelorMittal Mexico, S.A. de C.V. (AMM), Commerce initiated a CCR to determine whether AMM is the successor-in-interest to ArcelorMittal Las Truchas, S.A. de C.V. (AMLT).³⁴ On November 16, 2017, Commerce published the final results and determined that AMM is the successor-in-interest to AMLT, and as a result, should be accorded the same treatment previously accorded to AMLT under the AD order on wire rod from Mexico, effective as of November 16, 2017.³⁵

Since the *Final Results of the Second Expedited Sunset Review*, Commerce conducted no CCRs for the wire rod orders on Brazil, Indonesia, Moldova, and Trinidad and Tobago.

³² See *Carbon and Certain Alloy Steel Wire Rod from Mexico: Notice of Correction to Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2015–2016*, 83 FR 19223 (May 2, 2018) (*Wire Rod from Mexico Correction to Final Results 2015-2016*); see also *Carbon and Certain Alloy Steel Wire Rod from Mexico: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2015-2016*, 83 FR 16832 (April 17, 2018).

³³ See *Carbon and Certain Alloy Steel Wire Rod from Mexico: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2016–2017*, 84 FR 31028 (June 28, 2019).

³⁴ See *Initiation and Preliminary Results of Changed Circumstances Review: Antidumping Duty Order on Carbon and Certain Alloy Steel Wire Rod from Mexico*, 82 FR 46222 (October 4, 2017).

³⁵ See *Final Results of Changed Circumstances Review: Antidumping Duty Order on Carbon and Certain Alloy Steel Wire Rod from Mexico*, 82 FR 53456 (November 16, 2017).

C. Scope Inquiries/Anticircumvention Inquiries

On February 7, 2018, at the request of Nucor, Commerce initiated an anticircumvention inquiry into whether wire rod with an actual diameter less than 4.75 mm produced and/or exported to the United States by Deacero constitutes merchandise altered in minor respects that it should be included in the scope of the Mexican AD order on wire rod.³⁶ On March 13, 2019, Commerce determined that wire rod with an actual diameter less than 4.75 mm produced in Mexico and exported to the United States by Deacero was circumventing the AD order on wire rod from Mexico.³⁷ Specifically, Commerce determined that Deacero's shipments to the United States of such wire rod constitute merchandise altered in form or appearance in such minor respects that it should be included within the scope of the AD order on wire rod from Mexico, effective as of February 7, 2018.³⁸ Commerce's affirmative finding in the *Final Circumvention Determination II* applied solely to Deacero.

Commerce conducted no scope or anticircumvention inquiries for the wire rod orders on Brazil, Indonesia, Moldova, and Trinidad and Tobago.

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 on wire rod from Brazil, Indonesia, Mexico, Moldova, and Trinidad and Tobago 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 these determinations, Commerce shall consider both 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 orders.

In accordance with the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act, specifically the SAA,³⁹ Commerce's determinations of likelihood will be made on an order-wide, rather than company-specific, basis.⁴⁰ In addition, Commerce normally determines that revocation of an order is likely to lead to continuation or recurrence of dumping when, among other scenarios: (a) dumping continued at any level above *de minimis* after 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.⁴¹ 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

³⁶ See *Carbon and Certain Alloy Steel Wire Rod from Mexico: Initiation of Anti-Circumvention Inquiry of Antidumping Duty Order*, 83 FR 5405 (February 7, 2018).

³⁷ See *Final Circumvention Determination II*, 84 FR at 9089, and accompanying IDM.

³⁸ *Id.*, 84 FR at 9090.

³⁹ See H.R. Doc. 103-316, vol. 1 (1994), see also Statement of Administrative Action (SAA), H.R. Rep. No. 103-826, pt. 1 (1994) (House Report), and S. Rep. No. 103-412 (1994) (Senate Report).

⁴⁰ See SAA at 879; see also House Report at 56.

⁴¹ See SAA at 889-90; see also House Report at 63-64; Senate Report at 52; and *Policies Regarding the Conduct of Five-Year (Sunset) Reviews of Antidumping and Countervailing Duty Orders*; Policy Bulletin 98.3, 63 FR 18871, 18872 (April 16, 1998).

revocation of an order would not be likely to lead to a continuation or recurrence of sales made at less than fair value.⁴²

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 the comparison.⁴³ Also, when analyzing import volumes for the 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.⁴⁴

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 margins from the final determination in the original investigation, as these rates are the only calculated rates that reflect the behavior of exporters without the discipline of an order in place.⁴⁵ 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").⁴⁶

In February 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 (*i.e.*, zeroing/the denial of offsets).⁴⁷ 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.⁴⁸ 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."⁴⁹ Commerce "may also rely on past dumping margins that were not affected by the WTO-inconsistent methodology, such as dumping margins recalculated pursuant

⁴² 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), and accompanying IDM at Comment 1.

⁴³ 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 IDM at Comment 1.

⁴⁴ See, *e.g.*, *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 IDM at "Discussion of the Issues: Legal Framework.

⁴⁵ See SAA at 890; see also *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 IDM at Comment 2.

⁴⁶ See SAA at 890-91.

⁴⁷ 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*).

⁴⁸ *Id.*

⁴⁹ *Id.*

to Section 129 proceedings, dumping margins determined based on the use of adverse facts available (AFA) under section 776(b) of the Act, and dumping margins where no offsets were denied because all comparison results were positive.”⁵⁰

VI. Discussion of the Issues

1. Likelihood of Continuation or Recurrence of Dumping

Comments from Domestic Producers

Domestic Producers note that Commerce will normally determine that the revocation of an AD order is likely to lead to continuation or recurrence of dumping where: (a) dumping continued at any level above *de 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. They also note that, in the *Final Modification for Reviews*, Commerce noted it would rely on dumping margins where no offsets were denied because all comparison results were positive and reiterated that decreased volumes, by themselves, may provide another basis to determine that dumping is likely to continue or recur if the discipline of the order is removed. Relying on these principles, Domestic Producers contend that revocation of these AD orders would likely lead to a continuation or recurrence of dumping by the manufacturers, producers, and exporters of the subject merchandise.⁵¹

Domestic Producers make the following claims regarding each of the orders:

A. Brazil

Domestic Producers state that, in the original investigation, Commerce assigned a dumping margin of 94.73 percent to Belgo Meniera (the highest petition margin) based on total AFA under section 776(b) of the Act and a dumping margin of 74.35 percent to all others (the average of the petition margins). They note that in the only administrative review conducted, the margin for Belgo Meniera increased to 98.69 percent, and the all-others margin remained the same.⁵² Therefore, Domestic Producers assert that Commerce can rely on the investigation margins to determine that dumping is likely to continue were the order revoked.⁵³ In addition, Domestic Producers state that the volume of imports subject to this order declined significantly after the imposition of the order and that import volumes have not recovered to pre-order levels.⁵⁴ They argue that, as a result of the very high margins on all other wire rod from Brazil, all or virtually all of post-order wire rod imports from Brazil are grade 1080 tire cord quality and grade 1080 tire bead quality wire rod that are excluded from the *Wire Rod Orders*. Thus, they assert that immediately after the *Wire Rod CCR on Tire Cord Products* was completed in 2003, which

⁵⁰ *Id.*

⁵¹ See Substantive Response for Brazil Sunset Review at 13-15.

⁵² *Id.* at 15-16.

⁵³ *Id.*

⁵⁴ *Id.* at 16-18.

excluded 1080 tire cord and tire bead quality wire rod from the order, Brazilian producers and exporters of subject merchandise exited the U.S. market.⁵⁵ Given the continued existence of dumping margins and the significant decline in import volumes since the issuance of the order, Commerce should determine that dumping would be likely to continue or recur if the Brazilian order were revoked.⁵⁶

B. Indonesia

Domestic Producers argue that the all-others rate has remained above *de minimis* since the investigation and is, in itself, a sufficient basis for Commerce to conclude that wire rod producers in Indonesia are likely to continue to engage in dumping if the AD wire rod order on Indonesia were revoked.⁵⁷ Further, Commerce may continue to rely on dumping margins that were calculated without the use of zeroing to determine whether dumping continued at above-*de minimis* levels. Because the margin applied to all producers and exporters from Indonesia in the original investigation was recalculated in the second sunset review without zeroing to be compliant with the WTO,⁵⁸ Commerce may rely on that margin in finding that dumping is likely to continue if the Indonesian order is revoked.⁵⁹ Domestic Producers argue that the volume of imports subject to this order declined significantly after the imposition of the order. They note that imports from Indonesia were nonexistent in 2003, the first full year after the imposition of the order, and although there were minimal imports in 2004 and 2005, there have been no subject merchandise imports since 2006.⁶⁰ Thus, Domestic Producers argue that these facts demonstrate that Indonesian producers/exporters are not able to sell subject merchandise under the discipline of the order. Therefore, they argue, revocation of the order will certainly lead to a continuation of dumping.⁶¹

C. Mexico

Domestic Producers state that dumping has continued at above *de minimis* levels since the imposition of the order. They note that in the 2015-2016 review Deacero received a dumping margin of 12.56 percent, and they assert that the margin for Deacero was not calculated using zeroing.⁶² As a result, there is evidence of above-*de minimis* margins during the sunset review period that were calculated in a WTO-consistent manner. The continued existence of these above *de minimis* margins are, itself, a sufficient basis for Commerce to conclude that subject producers in Mexico are likely to continue to engage in dumping if the Mexican order is revoked.⁶³ Domestic Producers also claim that the volume of imports subject to this order declined significantly after the imposition of the order with the exception of 2010, during which

⁵⁵ *Id.* at 16-17 (citing *Wire Rod CCR on Tire Cord Products*, 76 FR at 45509).

⁵⁶ See Substantive Response for Brazil Sunset Review at 18.

⁵⁷ See Substantive Response for Indonesia Sunset Review at 16-18.

⁵⁸ *Id.* at 16-17 (citing *Second Sunset Review Expedited Final Results* IDM at 18).

⁵⁹ *Id.* at 16-17 (citing *Final Modification for Reviews*, 77 FR at 8103).

⁶⁰ *Id.* at 17-18.

⁶¹ *Id.* at 17.

⁶² See Substantive Response for Mexico Sunset Review at 22-23 (citing *Wire Rod from Mexico Correction to Final Results 2015-2016*, 83 FR at 19223).

⁶³ *Id.* at 22-23 (citing *Policy Bulletin*, 63 FR at 18872).

they claim circumvention was occurring.⁶⁴ They note that after Commerce's *Final Circumvention Determination I*, imports again plummeted.⁶⁵ Domestic Producers claim that the significant decrease in the volumes of imports from Mexico after the order was imposed, the significant increase in Mexican import volumes as the result of circumvention of the order in 2010 and 2011, and the subsequent decline as a result of the *Final Circumvention Determination I* and *Final Circumvention Determination II*, demonstrate that Mexican producers/exporters are not able to sell in the United States under the discipline of the order.⁶⁶ Thus, they argue that Commerce should find that Mexican producers/exporters would likely continue dumping if the order were revoked.⁶⁷

D. Moldova

Domestic Producers state that Commerce assigned a dumping margin of 369.10 percent to all exporters based on total AFA and that, in the absence of an administrative review, this rate remains in effect. Because it was based on AFA, Domestic Producers assert that Commerce can rely on this rate to determine that dumping is likely to continue were the order revoked.⁶⁸ In addition, Domestic Producers state that imports of subject merchandise stopped completely after the imposition of the Moldovan order.⁶⁹ They claim that the complete withdrawal of imports from Moldova immediately after the order was imposed demonstrates that Moldovan producers/exporters are not able to sell subject merchandise in the United States under the discipline of the AD order. Thus, Domestic Producers argue that the substantial AD margin and the cessation of imports following the issuance of the AD order demonstrate that revocation of the order will certainly lead to a continuation of dumping.⁷⁰

E. Trinidad and Tobago

Domestic Producers state that imports of subject merchandise from Trinidad and Tobago decreased significantly after the imposition of the order. Moreover, they note that there have been no imports since 2009.⁷¹ Thus, the Domestic Producers argue that the cessation of imports of the subject merchandise from Trinidad and Tobago into the United States is indicative of a strong likelihood of a recurrence of dumping should the order be revoked.⁷²

Commerce's Position: As explained in the "Legal Framework" section above, Commerce's determinations of likelihood of continuation or recurrence of dumping will be made on an order-wide basis.⁷³ When determining whether revocation of an AD order would be likely to lead to continuation or recurrence of dumping, sections 752(c)(1)(A) and (B) of the Act instruct Commerce to consider: (1) the weighted-average dumping margins determined in the

⁶⁴ See Substantive Response for Mexico Sunset Review at 23-25.

⁶⁵ *Id.* at 25.

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ See Substantive Response for Moldova Sunset Review at 16-17.

⁶⁹ *Id.* at 16-17.

⁷⁰ *Id.*

⁷¹ See Substantive Response for Trinidad and Tobago Sunset Review at 11-12.

⁷² *Id.* at 12.

⁷³ See SAA at 879; see also House Report at 56.

investigation and subsequent reviews; and (2) the volume of imports of the subject merchandise for the period before and after the issuance of the order. According to the SAA, existence of dumping margins after the order:

is highly probative of the likelihood of continuation or recurrence of dumping. 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. If imports cease after the order is issued, it is reasonable to assume that the exporters could not sell in the United States without dumping and that, to reenter the U.S. market, they would have to resume dumping.⁷⁴

In addition, “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 order volumes.”⁷⁵

As noted above, when analyzing import volumes for the 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. The last continuation notice for this sunset review was issued on July 3, 2014.⁷⁶ Therefore, for this sunset review, we examined import volumes for the full year preceding initiation of the underlying investigation (2000) as compared to import volumes during the current sunset review period (*i.e.*, 2014-2018).

Commerce’s determination with respect to each order is explained below.

Brazil

Commerce determines that the margins assigned to Belgo Mineira and all others during the underlying investigation, which were based on total AFA and the average petition margins, respectively, serve as a basis for finding that dumping would likely continue if the order were revoked. As discussed above, in the first and only administrative review, Belgo Mineira’s margin increased. There have been no reviews since the previous sunset review. As stated in the *Final Modification for Reviews*, “{i}f the dumping margins determined in a manner not found to be WTO-inconsistent in these disputes indicate that dumping continued with the discipline of the order in place, those dumping margins alone can form the basis for a determination that dumping will continue or recur if the order were to be revoked.”⁷⁷ Also, as noted in the SAA, “{i}f 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.”⁷⁸

⁷⁴ See SAA at 890.

⁷⁵ See SAA at 889; *see also* House Report at 63; and Senate Report at 52.

⁷⁶ See *Second Sunset Review Continuation Orders*, 79 FR at 38008.

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

⁷⁸ See SAA at 890.

Moreover, our review of the import statistics provided by Domestic Producers confirms that imports of wire rod from Brazil declined after issuance of the order and have not returned to pre-order levels. In 2000, the import statistics indicate 278,046 short tons of wire rod from Brazil.⁷⁹ Import statistics indicate imports of wire rod from Brazil during the 2014-2018 period were 103,438, 128,799, 143,861, 174,961, and 105,848 short tons, respectively.⁸⁰ Regardless of whether Domestic Producers are correct that virtually all imports of wire rod from Brazil are of excluded grade 1080 tire cord quality and grade 1080 tire bead quality wire rod, there has been a significant decrease in the volume of imports, which is even greater if the continuing imports are of excluded merchandise.

Given the continued existence of dumping margins and the significant decline in import volumes since the issuance of the order, Commerce determines that dumping would be likely to continue or recur if the Brazilian order were revoked.

Indonesia

Our review of the import statistics provided by Domestic Producers confirms that imports of wire rod from Indonesia declined after issuance of the order and have not returned to pre-order levels. In 2000, imports of wire rod from Indonesia were 86,941 short tons.⁸¹ Since 2006, imports have ceased.⁸² In the *Final Modification for Reviews*, Commerce noted that “if there are no dumping margins during the five-year sunset period, decreased volumes may provide another basis to determine that dumping is likely to continue or recur if the discipline of the order is removed.”⁸³ The lack of import volumes during the sunset review period support a conclusion that exporters and importers of subject merchandise are declining to enter into some transactions at dumped prices that would have been made prior to the possible application of antidumping duties, and likely would be made again if the possibility of antidumping duties were removed. Therefore, Commerce determines that dumping is likely to continue or recur if the Indonesian order were revoked.

Mexico

Commerce determines that the margin assigned to SICARTSA in the underlying investigation, the margins determined for Deacero in the 2013-2014, 2014-2015, 2015-2016, and 2016-2017 administrative reviews, as well as the margin determined for Ternium in the 2016-2017 administrative review, all of which did not involve the denial of offsets, serve as a basis for finding that dumping would likely continue or recur if the order were revoked. As stated in the *Final Modification for Reviews*, “{i}f the dumping margins determined in a manner not found to be WTO-inconsistent in these disputes indicate that dumping continued with the discipline of the order in place, those dumping margins alone can form the basis for a determination that dumping will continue or recur if the order were to be revoked.”⁸⁴ Also, as noted in the SAA, “{i}f

⁷⁹ See Substantive Response for Brazil Sunset Review at 17.

⁸⁰ *Id.*

⁸¹ See Substantive Response for Indonesia Sunset Review at 17-18.

⁸² *Id.*

⁸³ See *Final Modification for Reviews*, 77 FR at 8103.

⁸⁴ *Id.*

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.”⁸⁵ Moreover, our review of the import statistics provided by Domestic Producers confirms that imports of wire rod from Mexico declined after issuance of the order and have not returned to pre-order levels. In 2000, imports of wire rod from Mexico were 159,819 short tons.⁸⁶ During the period 2014 through 2018, imports of wire rod from Mexico were 29,050, 42,750, 59,306, 46,933, and 9,508 short tons, respectively.⁸⁷

Moldova

Commerce determines that the Moldovan-wide rate assigned in the underlying investigation, which was based on total AFA, may serve as a basis for finding that dumping would likely continue if the order were revoked. As discussed above, there have been no reviews since the issuance of the order. As stated in the *Final Modification for Reviews*, “{i}f the dumping margins determined in a manner not found to be WTO-inconsistent in these disputes indicate that dumping continued with the discipline of the order in place, those dumping margins alone can form the basis for a determination that dumping will continue or recur if the order were to be revoked.”⁸⁸ Also, as noted in the SAA, “{i}f 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.”⁸⁹ Moreover, our review of import statistics provided by the Domestic Producers show that imports of wire rod from Moldova declined from a pre-order high of 191,076 short tons in 2000 to 18,826 short tons in 2002 and ceased completely 2003.⁹⁰ Given the continued existence of dumping margins and the significant decline in import volumes since the issuance of the order, Commerce determines that dumping would be likely to continue or recur if the Moldovan order were revoked.

Trinidad and Tobago

As noted above, Commerce did not conduct an administrative review on wire rod from Trinidad and Tobago during the sunset period at issue. The *Final Modification for Reviews*, Commerce noted that “if there are no dumping margins during the five-year sunset period, decreased volumes may provide another basis to determine that dumping is likely to continue or recur if the discipline of the order is removed.”⁹¹ Our review of the import statistics provided by the Domestic Producers confirms that imports of wire rod from Trinidad and Tobago declined after issuance of the order and have not returned to pre-order levels. In 2001, imports of subject merchandise were 355,093 short tons, but by 2007, imports had declined to 95,326 short tons.⁹² By 2008, imports of wire rod from Trinidad and Tobago had declined to 21,794 short tons and subsequently ceased altogether.⁹³ The decreased volumes support a conclusion that exporters

⁸⁵ See SAA at 890.

⁸⁶ See Substantive Response for Mexico Sunset Review at 24.

⁸⁷ *Id.*

⁸⁸ See *Final Modification for Reviews*, 77 FR at 8103.

⁸⁹ See SAA at 890.

⁹⁰ See Substantive Response for Moldova Sunset Review at 17-18.

⁹¹ See *Final Modification for Reviews*, 77 FR at 8103.

⁹² See Substantive Response for Trinidad and Tobago Sunset Review at 11-12.

⁹³ *Id.*

and importers of subject merchandise are declining to enter into some transactions at dumped prices that would have been made prior to the possible application of antidumping duties, and likely would be made again if the possibility of antidumping duties were removed. Therefore, consistent with the *Final Modification for Reviews*, Commerce determines that dumping is likely to continue or recur if the order on wire rod from Trinidad and Tobago were revoked.

2. Magnitude of Margins Likely to Prevail

Comments from Domestic Producers

Domestic Producers assert that Commerce's general practice in sunset reviews is to report the margins from the investigation to the ITC as the magnitude of margins likely to prevail in the absence of the order. Further, they note that in the *Final Modification for Reviews*, Commerce stated that it would continue to rely on dumping margins that were not WTO inconsistent, including margins that were based on the use of AFA and margins where no offsets were denied.⁹⁴

Domestic Producers make the following arguments regarding the magnitude of margins likely to prevail for each order.

A. Brazil

Domestic Producers request that Commerce report to the ITC the AD margins for Belgo Minería and all others that were determined in the investigation as both were based on margins in the petition. They note that the investigation margin for Belgo Minería was based on total AFA (highest margin from the petition) and thus is consistent with the *Final Modification for Reviews*. Specifically, the Domestic Producers recommend the following AD margins: for Belgo Mineira, 94.73 percent and for all others, 74.45 percent.⁹⁵

B. Indonesia

Domestic Producers request that Commerce report to the ITC the AD margins that were determined in the investigation as they are the only margins that reflect the behavior of the Indonesia producers/exporters without the discipline of the order and, there is no evidence available to them that zeroing was used in the calculation of the margin from the investigation. As such, they recommend reporting to the ITC the following AD margins: for P.T. Ispat Indo, 4.05 percent and for all others, 4.05 percent.⁹⁶

⁹⁴ See Substantive Response for Brazil Sunset Review at 18-20; *see also* Substantive Response for Indonesia Sunset Review at 18-20; Substantive Response for Mexico Sunset Review at 25-27; Substantive Response for Moldova Sunset Review at 18-20; and Substantive Response for Trinidad and Tobago Sunset Review at 12-16.

⁹⁵ See Substantive Response for Brazil Sunset Review at 18-20 (citing *Brazil LTFV Investigation*, 67 FR at 55792).

⁹⁶ See Substantive Response for Indonesia Sunset Review at 18-20 (citing *Indonesia LTFV Investigation*, 67 FR at 55798).

C. Mexico

Domestic Producers request that Commerce report to the ITC the AD margins that were determined in the investigation as there is no record evidence available to them that zeroing was used in the calculation of the investigation margin, and this is the only rate that reflects the behavior of the Mexican producers/exporters without the discipline of an order.⁹⁷ In the alternative, stating that Commerce did not use zeroing to calculate the rate, Domestic Producers claim that Commerce could report the 12.56 percent dumping margin reported for Deacero in the 2015-2016 review.⁹⁸ They argue that although this margin does not reflect the behavior of Mexican producers without the discipline of an order, Commerce did not use zeroing to calculate this margin.⁹⁹

D. Moldova

Domestic Producers note that the dumping margin from the original investigation was based on AFA, and, as a result, is consistent with the *Final Modification for Reviews*. Therefore, they request that Commerce report to the ITC the AD margin of 369.10 percent that Commerce determined for all Moldovan producers and exporters in the underlying investigation.¹⁰⁰

E. Trinidad and Tobago

Domestic Producers explain that the *Policy Bulletin* provides that the agency “may . . . provide to the Commission . . . a more recently calculated margin for a particular company where, for that particular company, dumping margins increased after the issuance of the order, even if the increase was as a result of the application of best information available or facts available,”¹⁰¹ Domestic Producers further explain that, per the *Final Modification for Reviews*, Commerce may rely on past dumping margins that were not affected by WTO inconsistent methodology, such as dumping margins recalculated pursuant to Section 129 proceedings, dumping margins determined based on the use of adverse facts available, and dumping margins where no offsets were denied because all comparison results were positive.¹⁰² Accordingly, for purposes of determining the likelihood of the recurrence of dumping, Commerce should rely on the most recently calculated dumping margin of 23.95 percent margin that Commerce calculated for ArcelorMittal Point Lisas Limited, and its affiliate ArcelorMittal International America LLC (collectively, AMPL) as part of the 2007-2008 administrative review.¹⁰³ Domestic Producers contend that there is no record evidence available to them indicating that Commerce used the

⁹⁷ See Substantive Response for Mexico Sunset Review at 26 (citing *Mexico LTFV Investigation*, 67 FR at 55800).

⁹⁸ *Id.* at 27 (citing *Wire Rod from Mexico Correction to Final Results 2015-2016*, 83 FR at 19223).

⁹⁹ *Id.*

¹⁰⁰ See Substantive Response for Moldova Sunset Review at 20 (citing *Moldova LTFV Investigation*, 67 FR at 55790).

¹⁰¹ See Substantive Response for Trinidad and Tobago Sunset Review at 16-17 (citing *Policies Regarding the Conduct of Five-Year (Sunset) Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 18871 (April 16, 1998) (*Policy Bulletin*)).

¹⁰² See Substantive Response for Trinidad and Tobago at 13-14 (citing *Final Modification for Reviews*, 77 FR at 8101).

¹⁰³ *Id.* at 14 (citing *Wire Rod from Trinidad and Tobago 2007-2008*, 75 FR at 8651).

zeroing methodology to derive the 23.95 percent margin from the 2007-2008 review.¹⁰⁴ Moreover, Domestic Producers contend the 23.95 percent margin from the 2007-2008 administrative review was calculated in an administrative review that is more recent than that calculated in the original investigation, which demonstrates that subject producers are selling at margins of dumping even greater than those existing prior to the discipline of the order.¹⁰⁵ Otherwise, Domestic Producers contend Commerce should rely on the 11.40 percent dumping margin calculated for AMPL's predecessor in the underlying investigation.¹⁰⁶

Commerce's Position: Pursuant to section 752(c)(3) of the Act, Commerce shall provide to the ITC the magnitude of the margins of dumping that are likely to prevail if Commerce revokes the wire rod orders for Brazil, Indonesia, Mexico, Moldova, and Trinidad and Tobago. Generally, for each order, Commerce will select a weighted-average dumping margin from the investigation to report to the ITC.¹⁰⁷ Commerce normally selects a weighted-average dumping margin from the LTFV investigation, because it is the only calculated rate that reflects the behavior of the producers or exporters without the discipline of an order or suspension agreement in place.¹⁰⁸ Under certain circumstances, however, Commerce may select a more recent rate to report to the ITC. Finally, as explained above, in accordance with the *Final Modification for Reviews*, Commerce will not rely on weighted-average dumping margins that it calculated using the zeroing methodology.¹⁰⁹

In these sunset reviews, Commerce has relied upon weighted-average AD margins that were not affected by the WTO-inconsistent methodology, *i.e.*, zeroing, addressed in the *Final Modification for Reviews*.

Below, for each of the orders, we explain Commerce's determinations regarding the margins to report to the ITC.

Brazil

In the *Brazil LTFV Investigation*, Commerce based the final dumping margin for Belgo Minería upon the use of total AFA and did not involve the denial of offsets.¹¹⁰ For the all-others rate, Commerce applied the average of the dumping margins calculated in the AD petition and this rate also did not involve the denial of offsets.¹¹¹ As such, Commerce finds it appropriate to report to the ITC the rates from the *Brazil LTFV Investigation* as the margins likely to prevail since these are the only rates that reflect the behavior of Brazilian manufacturers, producers, and exporters without the discipline of an order in place.

¹⁰⁴ *Id.* at 14.

¹⁰⁵ *Id.*

¹⁰⁶ *Id.* (citing *Trinidad and Tobago LTFV Investigation*, 67 FR at 55788).

¹⁰⁷ See, e.g., *Eveready Battery Co., Inc. v. United States*, 77 F. Supp. 2d 1327, 1333 (CIT 1999).

¹⁰⁸ See, e.g., *Certain Circular Welded Carbon Steel Pipes and Tubes from India, Thailand, and Turkey: Final Results of Expedited Five-Year (Sunset) Reviews of Antidumping Duty Orders*, 76 FR 66893 (October 28, 2011), and accompanying IDM at Comment 1.

¹⁰⁹ See SAA at 890.

¹¹⁰ See *Brazil LTFV Investigation*, 67 FR at 55794-55797.

¹¹¹ *Id.*, 67 FR at 55797.

Indonesia

In the *Indonesia LTFV Investigation*, Commerce calculated a final dumping margin for P.T. Ispat Indo of 4.06 percent and applied that margin as the all-others rate.¹¹² In the *Second Sunset Review Expedited Final Results*, Commerce determined that margins calculated in the *Indonesia LTFV Investigation* were the only calculated rates that reflect the behavior of manufacturers, producers, and exporters without the discipline of an order in place. Commerce found it appropriate to provide to the ITC the rates from the original investigation, but revised to eliminate the denial of offsets.¹¹³ Commerce calculated a revised margin of 4.05 percent.¹¹⁴ For purposes of the instant sunset review, we have adopted the same approach, *i.e.*, relying on the investigation margins, as revised in the *Second Sunset Review Expedited Final Results*. Accordingly, consistent with the *Second Sunset Review Expedited Final Results*, we hereby report a margin of 4.05 percent for P.T. Ispat Indo, to the ITC as the dumping margin likely to prevail in the absence of the order.

Mexico

In the *Mexico LTFV Investigation*, the final dumping margin calculated for SICARTSA of 20.11 percent, which was applied to all others in the original investigation. In the *Second Sunset Review Expedited Final Results*, we determined that the 20.11 percent margin was not affected by the denial of offsets because all of the comparison results were positive and hence did not involve the denial of offsets.¹¹⁵ Commerce finds that it is appropriate to provide the ITC with the rates from the investigation because these are the only calculated rates that reflect the behavior of manufacturers, producers, and exporters without the discipline of an order in place.

Moldova

In the *Moldova LTFV Investigation*, Commerce determined the final dumping margin of 369.10 percent for all Moldovan producers and exporters using total AFA, and, as such, this margin did not involve the denial of offsets.¹¹⁶ Commerce therefore finds it appropriate to report to the ITC the rates from the *Moldova LTFV Investigation* as the margins likely to prevail since these are the only rates that reflect the behavior of Moldovan manufacturers, producers, and exporters without the discipline of an order in place.

Trinidad and Tobago

In the *Trinidad and Tobago LTFV Investigation*, Commerce calculated a final dumping margin for CIL of 11.40 percent and applied that margin as the all-others rate.¹¹⁷ Over the life of the

¹¹² See *Indonesia LTFV Investigation*, 67 FR at 55799.

¹¹³ See *Second Sunset Review Expedited Final Results* IDM at 18.

¹¹⁴ *Id.* at 20.

¹¹⁵ See *Mexico LTFV Investigation*, 67 FR at 55801; see also *Second Sunset Review Expedited Final Results* IDM at 18-19.

¹¹⁶ See *Moldova LTFV Investigation*, 67 FR at 55792.

¹¹⁷ See *Trinidad and Tobago LTFV Investigation*, 67 FR at 55790.

order, Commerce has conducted numerous reviews of CIL and its successor companies (e.g., AMPL),¹¹⁸ finding margins ranging 0.06 percent to 23.95 percent.¹¹⁹ In the *Second Sunset Review Expedited Final Results*, Commerce determined that margins calculated in the *Trinidad and Tobago LTFV Investigation* were the only calculated rates that reflect the behavior of manufacturers, producers, and exporters without the discipline of an order in place. Thus, Commerce found it appropriate to provide to the ITC the rates from the *Trinidad and Tobago LTFV Investigation*, but revised to eliminate the denial of offsets.¹²⁰ Commerce calculated a revised margin of 11.35 percent.¹²¹ For purposes of the instant sunset review, we have adopted the same approach, i.e., relying on the investigation margins, as revised in the *Second Sunset Review Expedited Final Results*. Accordingly, we hereby report a margin of 11.35 for CIL, to the ITC as the dumping margin likely to prevail in the absence of the order.

VII. Final Results of Reviews

We determine that revocation of the AD orders on wire rod from Brazil, Indonesia, Mexico, Moldova, and Trinidad and Tobago would be likely to lead to continuation or recurrence of dumping at the following weighted-average percentage margins:

Manufacturers/Exporters (Percent)	Weighted-Average Margin
<u>Brazil</u>	
Belgo Mineira	94.73
All-Others Rate	74.45
<u>Indonesia</u>	
P.T. Ispat Indo	4.05
All-Others Rate	4.05
<u>Mexico</u>	
SICARTSA	20.11
All Others Rate	20.11

¹¹⁸ See *Carbon and Certain Alloy Steel Wire Rod from Trinidad and Tobago: Notice of Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review*, 73 FR 17952 (April 2, 2008), unchanged in *Carbon and Certain Alloy Steel Wire Rod from Trinidad and Tobago: Notice of Final Results of Antidumping Duty Changed Circumstances Review*, 73 FR 30052 (May 23, 2008).

¹¹⁹ See, e.g., *Carbon and Certain Alloy Steel Wire Rod from Trinidad and Tobago: Final Results of Antidumping Duty Administrative Review*, 75 FR 8650 (February 25, 2010) (*Wire Rod from Trinidad and Tobago 2007-2008*) and accompanying IDM.

¹²⁰ See *Second Sunset Review Expedited Final Results* IDM at 19.

¹²¹ *Id.* at 20. We note that in the *Second Sunset Review Expedited Final Results*, Commerce indicated that the margin likely to prevail for the AD order on wire from Trinidad and Tobago, as revised to eliminate the denial of offsets, was 11.40 percent. However, the calculation memorandum issued for Trinidad and Tobago in the second sunset review indicates that the margin likely to prevail, as revised to eliminate the denial of offsets, is 11.35 percent. See Memorandum, “Dumping Margin Likely to Prevail for Trinidad and Tobago,” dated concurrently with this memorandum, at 274, which contains the calculation memorandum for Trinidad and Tobago from the expedited final results of the second sunset review.

<u>Moldova</u>	
Moldova-Wide Rate	369.10
<u>Trinidad and Tobago</u>	
CIL ¹²²	11.35
All-Others Rate	11.35

VIII. 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 expedited sunset reviews in the *Federal Register* and notify the ITC of our determinations.



Agree

Disagree

10/2/2019

X  _____

Signed by: PRENTISS SMITH