



A-533-824  
A-583-837  
Sunset Review  
**Public Document**  
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October 29, 2019

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

FROM: James Maeder  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum: Final Results of Expedited  
Third Sunset Reviews of the Antidumping Duty Orders on  
Polyethylene Terephthalate Film, Sheet and Strip from India and  
Taiwan

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## I. SUMMARY

We have analyzed the substantive responses of interested parties in the third sunset reviews of the antidumping duty (AD) orders covering polyethylene terephthalate film, sheet and strip (PET Film) from India<sup>1</sup> and Taiwan.<sup>2</sup> No respondent interested party submitted a substantive response. Accordingly, we conducted an expedited (120-day) sunset review 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). 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 in these sunset reviews for which the Department of Commerce (Commerce) received substantive responses:

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

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<sup>1</sup> See *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Polyethylene Terephthalate (PET) Film, Sheet, and Strip (PET Film) from India*, 67 FR 44175 (July 1, 2002); see also *Notice of Amended Final Determination in Accordance with Court Decision: Antidumping Duty Investigation of Polyethylene Terephthalate Film, Sheet, and Strip from India*, 70 FR 52075 (September 1, 2005) (*India Order*).

<sup>2</sup> See *Notice of Amended Final Antidumping Duty Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from Taiwan*, 67 FR 44174 (July 1, 2002) (*Taiwan Order*).



## II. BACKGROUND

In accordance with section 751(c) of the Act, Commerce published the notice of initiation of the third sunset reviews of the AD orders covering PET Film from India and Taiwan.<sup>3</sup> On July 11, 2019, the petitioners<sup>4</sup> filed a notice of intent to participate in each of the sunset reviews within the 15-day deadline specified in 19 CFR 351.218(d)(1)(i).<sup>5</sup> The petitioners claimed interested party status under section 771(9)(C) of the Act, as producers of PET Film in the United States.

On July 16, 2019, Terphane LLC (Terphane) filed a notice of intent to participate in each of the sunset reviews, within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).<sup>6</sup> Terphane claimed interested party status under section 771(9)(C) of the Act, as a producer of PET Film in the United States.

On July 31, 2018, Commerce received adequate substantive responses from the petitioners for each sunset review.<sup>7</sup> Commerce also received a substantive response from Terphane LLC covering both sunset reviews.<sup>8</sup>

On July 31, 2019, Polyplex USA LLC (Polyplex USA), also a domestic interested party, filed a substantive response.<sup>9</sup> However, Polyplex USA did not follow Commerce's regulations, as it did not file an intent to participate with the requisite information detailed in the Commerce's regulations.<sup>10</sup>

We received no substantive responses from respondent interested parties with respect to either of the orders covered by these sunset reviews. On September 3, 2019, Commerce notified the U.S. International Trade Commission (ITC) that it did not receive an adequate substantive response

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<sup>3</sup> See *Initiation of Five-Year (Sunset) Reviews*, 84 FR 31304 (July 1, 2019). The sunset review period is 2013-2017.

<sup>4</sup> The petitioners are DuPont Teijin Films, Mitsubishi Polyester Film, Inc., and SKC, Inc.<sup>5</sup> See Petitioners' Letters, "Polyethylene Terephthalate (PET) Film, Sheet, and Strip from India: Notice of Intent to Participate in Sunset Review," dated July 11, 2019; and "Polyethylene Terephthalate (PET) Film, Sheet, and Strip from Taiwan: Notice of Intent to Participate in Sunset Review," dated July 11, 2019.

<sup>5</sup> See Petitioners' Letters, "Polyethylene Terephthalate (PET) Film, Sheet, and Strip from India: Notice of Intent to Participate in Sunset Review," dated July 11, 2019; and "Polyethylene Terephthalate (PET) Film, Sheet, and Strip from Taiwan: Notice of Intent to Participate in Sunset Review," dated July 11, 2019.

<sup>6</sup> See Terphane's Letters, "Five-Year ("Sunset") Review of Antidumping Order on Polyethylene Terephthalate (PET) Film, Sheet, and Strip from India: Notice of Intent to Participate," dated July 16, 2019; and "Five-Year ("Sunset") Review of Antidumping Order on Polyethylene Terephthalate (PET) Film, Sheet, and Strip from Taiwan: Notice of Intent to Participate," dated July 16, 2019.

<sup>7</sup> See Petitioners' Letters, "Polyethylene Terephthalate (PET) Film, Sheet, and Strip from India: Substantive Response to the Notice of Initiation," dated July 31, 2019 (Petitioners' India Substantive Response); and "Polyethylene Terephthalate (PET) Film, Sheet, and Strip from Taiwan: Substantive Response to the Notice of Initiation," dated July 31, 2019 (Petitioners' Taiwan Substantive Response).

<sup>8</sup> See Terphane's Letter, "Five-Year ("Sunset") Review of Antidumping Orders on Polyethylene Terephthalate (PET) Film, Sheet, And Strip from India and Taiwan, and Countervailing Duty Order on PET Film, Sheet, And Strip from India: Terphane's Substantive Response," dated July 31, 2019 (Terphane's Substantive Response).

<sup>9</sup> See Polyplex USA LLC's Letter, "Polyethylene Terephthalate (PET) Film from India and Taiwan: Response to the Notice of Initiation of Five-Year (Sunset) Reviews and Support for Continuation of the Orders," dated July 31, 2019.

<sup>10</sup> See Polyplex USA LLC's notice of appearance, dated July 31, 2019; *see also* 19 CFR 351.218(d).

from respondent interested parties.<sup>11</sup> As a result, pursuant to 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce has conducted expedited sunset reviews of the *India Order*<sup>12</sup> and *Taiwan Order*.<sup>13</sup>

### III. Scope of the Orders

The products covered by the antidumping duty and countervailing duty orders are all gauges of raw, pretreated, or primed PET Film, whether extruded or coextruded. Excluded are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer of more than 0.00001 inches thick. Imports of PET Film are currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 3920.62.00.90. HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of the antidumping duty order is dispositive.

### IV. History of the Orders

The period of investigation (POI) for each order was April 1, 2000 through March 31, 2001. Commerce has conducted two prior sunset reviews of the orders.<sup>14</sup> With respect to the *India Order*, in the second sunset review, we reported the following margins to the ITC: 24.10 percent for Ester Industries Ltd; 3.02 percent for Polyplex Corporation Ltd; and 13.17 percent for the all others.<sup>15</sup> Similarly, with respect to the *Taiwan Order*, in the second sunset review, we reported the following margins to the ITC: 8.99 percent for Nan Ya Plastics Corporation Ltd.; 0.75 percent for Shinkong Synthetic Fibers Corporation(SSFC)/Shinkong Materials Technology Co., Ltd. (SMTC); and 4.37 percent for the all others.<sup>16</sup>

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<sup>11</sup> See Commerce's Letter, "Sunset Review Initiated on July 1, 2019," dated September 3, 2019.

<sup>12</sup> See *India Order*.

<sup>13</sup> See *Taiwan Order*.

<sup>14</sup> See *Polyethylene Terephthalate Film, Sheet, and Strip From India and Taiwan: Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders*, 72 FR 57297 (October 9, 2007) (*First PET Film Sunset Reviews*); see also *Continuation of Antidumping Duty Orders on Polyethylene Terephthalate Film, Sheet and Strip from India and Taiwan*, 73 FR 26079 (May 8, 2008) (*Continuation for First PET Film Sunset Reviews*); *Polyethylene Terephthalate Film, Sheet and Strip From India and Taiwan: Preliminary Results of the Second Sunset Review of the Antidumping Duty Orders*, 78 FR 67113 (November 8, 2013) (*Second PET Film Sunset Reviews Preliminary Results*); and *Polyethylene Terephthalate Film, Sheet and Strip from India and Taiwan: Final Results of the Second Sunset Review of the Antidumping Duty Orders and Correction to the Preliminary Results*, 79 FR 12153 (March 4, 2014) (*Second PET Film Sunset Reviews Final Results*).

<sup>15</sup> We determined that for each respondent in the India investigation there were sales with negative comparison results that Commerce did not offset when calculating the final weighted-average dumping margin. Because Commerce did not offset negative comparison results during the underlying investigation, we revised the weighted-average dumping margins from the original investigation to provide such offsets to be consistent with the *Final Modification for Reviews*. See *Second PET Film Sunset Reviews Preliminary Results*; *Second PET Film Sunset Reviews Final Results*.

<sup>16</sup> At the time, we noted that, with the exception of the last two most-recently completed administrative reviews of this proceeding, the results for each segment under the *Taiwan Order* were calculated in a WTO-inconsistent manner. In the absence of other information, and in order to comply with the *Final Modification for Reviews*, Commerce found that the best available information to report to the ITC as the margins of dumping likely to prevail for Nan Ya and SMTC was the weighted-average dumping margins from the 2010-2011 administrative review. See *Second PET Film Sunset Reviews Preliminary Results* and *Second PET Film Sunset Reviews Final Results* (citing

Commerce published notice of the continuation of the orders on August 6, 2014.<sup>17</sup>

### *India Order*

Commerce has completed four administrative reviews since the continuation of the *India Order* was published in August 2014.<sup>18</sup> In addition, there are two ongoing administrative reviews. We have published the preliminary results for the first ongoing administrative review which covers the period July 1, 2017 through June 30, 2018.<sup>19</sup> We recently initiated the second ongoing administrative review which covers the period July 1, 2018 through June 30, 2019.<sup>20</sup> Commerce has not conducted a new shipper review, a duty-absorption finding, a changed circumstance review, or a scope inquiry since the continuation of the *India Order* was published in August 2014.<sup>21</sup>

### *Taiwan Order*

Commerce has completed five administrative reviews since the continuation of the *Taiwan Order* was published in August 2014.<sup>22</sup> There are two ongoing administrative reviews. We

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*Polyethylene Terephthalate Film, Sheet, and Strip from Taiwan: Final Results of Administrative Review of the Antidumping Duty Order; 2010-2011*, 78 FR 9668 (February 11, 2013), corrected by *Polyethylene Terephthalate Film, Sheet, and Strip from Taiwan: Notice of Correction to the Final Results of the 2010-2011 Antidumping Duty Administrative Review*, 78 FR 14266 (March 5, 2013) (2010-2011 PET Film Taiwan)).

<sup>17</sup> See *Polyethylene Terephthalate Film, Sheet and Strip from India and Taiwan: Continuation of Antidumping and Countervailing Duty Orders*, 79 FR 45762 (August 6, 2014) (Continuation for Second PET Film Sunset Reviews).

<sup>18</sup> See *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Antidumping Duty Administrative Review; 2012–2013*, 80 FR 11160 (March 2, 2015) (PET Film India 2012-2013); see also *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Antidumping Duty Administrative Review; 2013–2014*, 81 FR 7750 (February 16, 2016) (PET Film India 2013-2014); *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Antidumping Duty Administrative Review; 2014–2015*, 81 FR 91903 (December 19, 2016) (PET Film 2014-2015); and *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Antidumping Duty Administrative Review; 2015–2016*, 83 FR 6162 (February 13, 2018) (PET Film 2015-2016).

<sup>19</sup> See *Polyethylene Terephthalate Film, Sheet, and Strip from India: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review; 2017–2018*, 84 FR 48123 (September 12, 2019). This review covers mandatory respondents Jindal Poly Films Ltd. (India) (Jindal) and SRF Limited of India (SRF) as well as Ester Industries Limited (Ester), Garware Polyester Ltd. (Garware), Polyplex Corporation Ltd. (Polyplex), and Vacmet India Limited. (Vacmet).

<sup>20</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 84 FR 47244

(September 9, 2019). This review covers Ester, Garware, Jindal, MTZ Polyesters Ltd., SRF, Uflex Ltd. and Vacmet.

<sup>21</sup> See *Continuation of India Order and Taiwan Order*.

<sup>22</sup> See *Polyethylene Terephthalate Film, Sheet, and Strip from Taiwan: Final Results of Antidumping Duty Administrative Review; 2012–2013*, 80 FR 10051 (February 25, 2015) (2012-2013 PET Film Taiwan); see also *Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from Taiwan: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2013–2014*, 80 FR 75451 (December 2, 2015) (2013-2014 PET Film Taiwan); *Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from Taiwan: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2014–2015*, 81 FR 80955 (December 9, 2016) (2014-2015 PET Film Taiwan); *Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from Taiwan: Final Results of Antidumping Duty Administrative Review; 2015–2016*, 82 FR 56947 (December 1, 2017) (2015-2016 PET Film Taiwan); and *Polyethylene Terephthalate Film, Sheet, and Strip (PET*

published the preliminary results for the first ongoing administrative review, which covers the period July 1, 2017 through June 30, 2018.<sup>23</sup> We recently initiated the second ongoing administrative review which covers the period July 1, 2018 through June 30, 2019.<sup>24</sup> Commerce has not conducted a new shipper review, a duty-absorption finding, a changed circumstance review, or a scope inquiry since the continuation notice on the *Taiwan Order* was published.<sup>25</sup>

## 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 *India Order* or *Taiwan Order* 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 both the weighted-average dumping margins determined in the investigation and subsequent reviews, and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping duty order. In addition, section 752(c)(3) of the Act provides that Commerce shall provide to the ITC the magnitude of the margin of dumping likely to prevail if the order were revoked.

In accordance with the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act, specifically the Statement of Administrative Action (SAA),<sup>26</sup> the House Report,<sup>27</sup> and the Senate Report,<sup>28</sup> Commerce's determinations of likelihood will be made on an order-wide, rather than a company-specific, basis.<sup>29</sup> In addition, Commerce normally determines that revocation of an AD order is likely to lead to continuation or recurrence of dumping when: (a) dumping continued at any level above *de minimis* after the issuance of the order; (b) imports of the subject merchandise ceased after the issuance of the order; or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly.<sup>30</sup> Alternatively, Commerce normally will determine that revocation of an AD

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*Film from Taiwan: Final Results of Antidumping Duty Administrative Review; 2016–2017*, 83 FR 63625 (December 11, 2018).

<sup>23</sup> See *Polyethylene Terephthalate Film, Sheet, and Strip from India: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review; 2017–2018*, 84 FR 48112 (September 12, 2019). The review covers Nan Ya Plastics Corporation (Nan Ya) and SMTC.

<sup>24</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 84 FR 47244 (September 9, 2019). The review covers Nan Ya and SMTC.

<sup>25</sup> See *Continuation of India Order and Taiwan Order*.

<sup>26</sup> See Statement of Administrative Action Accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, vol 1 (1994) (SAA).

<sup>27</sup> See H. Rep. No. 103-826, pt. 1 (1994) (House Report).

<sup>28</sup> See S. Rep. No. 103-412 (1994) (Senate Report).

<sup>29</sup> See SAA at 879.

<sup>30</sup> *Id.* at 889 (explaining that “declining import volumes accompanied by the continued existence of dumping margins after the issuance of an order may provide a strong indication that, absent an order, dumping would be likely to continue, because the evidence would indicate that the exporter needs to dump to sell at pre-order volumes”) and at 890 (explaining that “[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”); 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*, 63 FR 18871, 18872 (April 16, 1998) (*Policy Bulletin*).

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.<sup>31</sup>

Furthermore, 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 the investigation may dampen import volumes and, thus, skew the comparison.<sup>32</sup> 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.<sup>33</sup>

In addition, section 752(c)(3) of the Act states that Commerce shall provide to the ITC the magnitude of the margin of dumping that is likely to prevail if the order were revoked. Generally, Commerce selects the weighted-average 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.<sup>34</sup> In certain circumstances, however, 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>35</sup> Finally, pursuant to section 752(c)(4)(A) of the Act, a margin of dumping likely to prevail of "zero or *de minimis* shall not by itself require" Commerce to determine that revocation of an antidumping duty order would not be likely to lead to a continuation or recurrence of sales at less than fair value (LTFV).<sup>36</sup>

On February 14, 2012 Commerce announced it was modifying its practice in sunset reviews, such that it would not rely on weighted-average dumping margins calculated using the "zeroing" methodology.<sup>37</sup> In the *Final Modification*, Commerce stated that "only in the most extraordinary circumstances," would it rely on margins other than those calculated and published in prior determinations.<sup>38</sup> Commerce further stated that, apart from the "most extraordinary circumstances," it would "limit its reliance to margins determined or applied during the five-year sunset period that were not determined in a manner found to be WTO inconsistent" and that it "may also rely on past dumping margins recalculated pursuant to Section 129 proceedings,

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<sup>31</sup> See SAA at 889-890; see also House Report at 64.

<sup>32</sup> See *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.

<sup>33</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 IDM at 3-4 and 5-7.

<sup>34</sup> 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.

<sup>35</sup> See SAA at 890-91.

<sup>36</sup> See *Folding Gift Boxes from the People's Republic of China: Final Results of Expedited Sunset Review of the Antidumping Duty Order*, 72 FR 16765 (April 5, 2007) and accompanying IDM at Comment 1.

<sup>37</sup> See *Antidumping Proceedings: Calculation of 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>38</sup> *Id.*

dumping margins based on the use of total adverse facts available, and dumping margins where no offsets were denied because all comparison results were positive.”<sup>39</sup>

## **VI. Discussion of the Issues**

Below we address the comments of the domestic interested parties.<sup>40</sup>

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

#### Domestic Interested Parties’ Comments

##### *India*

The petitioners assert that if the *India Order* was revoked, dumping, as it pertains to PET film, from India would continue. This will happen, according to the petitioners, because dumping has continued and import volumes have declined since the issuance of the *India Order*. According to the petitioners, over the current five-year review period and since the issuance of the *India Order*, Indian producers have continued to dump PET film into the United States. Based on dumping margins applied to Indian companies since the imposition of the *India Order* and the interchangeable nature of the applications in which PET film from U.S. and Indian producers are used, a small dumping margin can have a major effect on U.S. sales.<sup>41</sup> Terphane incorporates and supports the petitioners’ arguments, claiming that “revocation of the orders would likely lead to the continuation or recurrence of dumping and countervailable subsidies.”<sup>42</sup>

##### *Taiwan*

The petitioners assert that if the *Taiwan Order* was revoked, dumping, as it pertains to PET film from Taiwan will continue. This will happen, according to the petitioners because dumping has continued and import volumes have declined since the issuance of the *Taiwan Order*. In asserting that dumping has continued, the petitioners state that there is a historical pattern of dumping by Taiwanese producers during the course of the *Taiwan Order*.<sup>43</sup> Terphane incorporates and supports the petitioners’ arguments, claiming that “revocation of the orders would likely lead to the continuation or recurrence of dumping and countervailable subsidies.”<sup>44</sup>

#### Commerce’s Position:

We find that the revocation of the *India Order* and the *Taiwan Order* would likely result in the continuation or recurrence of dumping in the United States.

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<sup>39</sup> *Id.*

<sup>40</sup> The domestic interested parties are the petitioners (detailed in n.4 *supra*) and Terphane LLC (a manufacturer of domestic like product).

<sup>41</sup> See Petitioners’ India Substantive Response at 3-8.

<sup>42</sup> See Terphane Substantive Response at 1.

<sup>43</sup> See Petitioners’ Taiwan Substantive Response at 3-8.

<sup>44</sup> See Terphane Substantive Response at 1.

As explained in the Legal Framework section *supra*, Commerce’s determinations of likelihood will be made on an order-wide basis.<sup>45</sup> In addition, 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 order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly.<sup>46</sup> In addition, pursuant to section 752(c)(1)(B) of the Act, Commerce considers the volume of imports of the subject merchandise for the period before and after the issuance of the antidumping duty order.

### *India*

Since the most recent continuation of the *India Order*, we have found the following margins for Jindal Poly Films Limited of India (Jindal): 1.89 percent;<sup>47</sup> 0.59 percent;<sup>48</sup> 0.87 percent;<sup>49</sup> and 5.95 percent.<sup>50</sup> Commerce determines that the margins determined for Jindal during the sunset review period, all of which did not involve the methodology referred to as WTO-inconsistent in the *Final Modification for Reviews*, 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.”<sup>51</sup> 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.”<sup>52</sup>

Commerce considered the volume of imports for the period before and after the issuance of the *India Order*. The volume of imports was 12,895,368 kilograms in 1999, 17,851,826 kilograms in 2000, and 18,249,599 kilograms in 2001.<sup>53</sup> The ITC Dataweb data reviewed by Commerce indicates that between 2014 and 2018, the period we are examining for this sunset review, the volume of imports ranged from 6,246,646 kilograms (in 2014) to 9,846,888 kilograms (in 2017).<sup>54</sup> These data show decreased import volumes from India when comparing the import

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<sup>45</sup> See SAA at 879.

<sup>46</sup> *Id.* at 889-890; see also House Report at 63-64; and Senate Report at 52.

<sup>47</sup> See *PET Film 2012-2013*.

<sup>48</sup> See *PET Film 2013-2014*.

<sup>49</sup> See Final Results of Redetermination Pursuant to Court Remand at 8, *Jindal Poly Films Limited of India v. United States*, No. 1: 18-cv-00038-MAB (CIT July 10, 2019).

<sup>50</sup> See *PET Film 2016-2017*; see also *Polyethylene Terephthalate Film, Sheet, and Strip from India: Notice of Correction of Final Results of Antidumping Duty Administrative Review; 2016-2017*, 84 FR 19764 (May 6, 2019). We note that Jindal has appealed the results of this administrative review. See *Jindal Poly Films limited of India v. United States*, CIT No. 19-00043.

<sup>51</sup> See *Final Modification for Reviews*, 77 FR at 8103.

<sup>52</sup> *Id.*

<sup>53</sup> See *First PET Film Sunset Reviews*, and accompanying IDM (referencing the import volumes for 1999-2001).

<sup>54</sup> Commerce retrieved this data from ITC Dataweb. See <http://www.dataweb.usitc.gov/trade> for 3920.62.0090 (last visited October 28, 2019). Note that the subheading 3920.62.0090 was not available before 2003. See also Petitioners’ India Substantive Response at 7.



volumes from the year prior to the initiation of the investigations to the five-year period since the most recent continuation notice.

Given the continued existence of above *de minimis* margins since the imposition of the *India Order* and the overall decrease in the volume of imports from India, we determine that it is unlikely that Indian producers of subject merchandise would be able to sell at pre-*India Order* levels without dumping. Accordingly, pursuant to section 752(c)(1) of the Act, we determine that dumping would likely continue or recur if the *India Order* was revoked.

#### *Taiwan*

Since the most recent continuation of the *Taiwan Order*, Nan Ya received the following margins: 1.56 percent<sup>55</sup> and 1.34 percent.<sup>56</sup> Commerce determines that the margins determined for Nan Ya during the sunset review period, all of which did not involve the methodology referred to as WTO-inconsistent in the *Final Modification for Reviews*, 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.”<sup>57</sup> 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.”<sup>58</sup>

Commerce considered the volume of imports for the period before and after the issuance of the *Taiwan Order*. In 1999, 2000, and 2001 the import volumes were over 4.5 million kilograms, 6.3 million kilograms and 4.15 million kilograms, respectively.<sup>59</sup> The ITC Dataweb data reviewed by Commerce indicates that between 2014 and 2018, import volumes ranged from a low of 7,463,032 kilograms (in 2014) to a high of 12,646,321 kilograms (in 2017).<sup>60</sup> These data collectively show that while import volumes have fluctuated following imposition of the *Taiwan Order*, in the five-year period since the most recent continuation notice they have remained higher than pre-order import volumes.

Given the continued existence of above *de minimis* margins since the imposition of the *Taiwan Order*, we determine, pursuant to section 752(c)(1) of the Act, that dumping would likely continue or recur if the *Taiwan Order* was revoked.

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<sup>55</sup> See *PET Film from Taiwan 2012-2013*.

<sup>56</sup> See *PET Film from Taiwan 2015-2016*.

<sup>57</sup> See *Final Modification for Reviews*, 77 FR at 8103.

<sup>58</sup> *Id.*

<sup>59</sup> See *First PET Film Sunset Reviews*, and accompanying IDM (referencing the import volumes for 1999-2001).

<sup>60</sup> Commerce retrieved this data from ITC Dataweb. See <http://www.dataweb.usitc.gov/trade> for 3920.62.0090 (last visited October 28, 2019). Note that the subheading 3920.62.0090 was not available before 2003. See also Petitioners’ Taiwan Substantive Response at 7.

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

### Domestic Interested Parties' Comments

#### *India*

The petitioners assert that, pursuant to the principles set forth in the *SAA* and *Policy Bulletin*, Commerce should report to the ITC the same margins that it reported in the *Second PET Film Sunset Reviews Final Results* (*i.e.*, 24.10 percent for Ester, 3.02 percent for Polyplex, and 13.17 percent as the all-others rate).<sup>61</sup>

#### *Taiwan*

The petitioners assert that, pursuant to the principles set forth in the *SAA* and *Policy Bulletin*, Commerce, if it needs to rely on margins other than those determined in the original investigation to be WTO-compliant, should report a margin completed within the past five years to the ITC. The petitioners argue that Commerce should report the highest margin from the 2011-2012 administrative review (*i.e.*, the 4.48 percent margin determined for SSFC/SMTC).<sup>62</sup>

### Commerce's Position:

Section 752(c)(3) of the Act provides that Commerce shall provide to the ITC the magnitude of the margin of dumping that is likely to prevail if the *Orders* were revoked. Commerce's preference is to select a rate from the investigation because it is the only calculated rate that reflects the behavior of manufacturers, producers, and exporters without the discipline of an order in place.<sup>63</sup> However, Commerce may provide a more recently calculated margin for a particular company, where declining (or zero or *de minimis*) dumping margins are accompanied by steady or increasing imports, which would reflect that the exporter is likely to dump at a lower rate found in a more recent review. Similarly, if an exporter chooses to increase dumping to increase or maintain market share, Commerce may provide the ITC with an increased margin that is more representative of that exporter's behavior in the absence of an order.<sup>64</sup> As indicated in the Legal Framework section *supra*, Commerce's current practice is to not rely on weighted average dumping margins calculated using the methodology referred to as WTO-inconsistent in the *Final Modification for Reviews*.<sup>65</sup>

As discussed above, in the *Second PET Film Sunset Reviews Final Results*, for both the *India Order* and the *Taiwan Order* Commerce did not rely on margins determined in the original

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<sup>61</sup> See Petitioners' India Substantive Response at 8-9

<sup>62</sup> See Petitioners' Taiwan Substantive Response at 8-10; see also *Polyethylene Terephthalate Film, Sheet, and Strip from Taiwan: Final Results of Antidumping Duty Administrative Review; 2011–2012*, 79 FR 11407 (February 28, 2014).

<sup>63</sup> See *SAA* at 890; see also *Policy Bulletin*, 63 FR at 18873 (section II.B.1); and *Prestressed Concrete Steel Wire Strand from the People's Republic of China: Final Results of Expedited Sunset Review of the Antidumping Duty Order*, 80 FR 43063 (July 21, 2015), and accompanying IDM at Comment 2.

<sup>64</sup> See section 752(c)(3) of the Act; see also *Clad Steel Plate from Japan: Final Results of the Expedited Sunset Review of the Antidumping Duty Order*, 83 FR 22008 (May 11, 2018), and accompanying IDM at Comment 2.

<sup>65</sup> See *Final Modification for Reviews*, 77 FR at 8103.

investigations, but instead relied on weighted-average margins which did not involve the methodology referred to as WTO-inconsistent in the *Final Modification for Reviews*.<sup>66</sup> Thus, for purposes of these third sunset reviews, we find it is appropriate to rely on the weighted-average margins for both the *India Order* and the *Taiwan Order* as reported in the *Second PET Film Sunset Reviews Final Results*. Accordingly, we determine that revocation of the *India Order* would likely lead to continuation or recurrence of dumping at the magnitude of weighted average margins up to 24.10 percent.<sup>67</sup> Similarly, we determine that revocation of the *Taiwan Order* would likely lead to continuation or recurrence of dumping at the magnitude of weighted average margins up to 8.99 percent.<sup>68</sup> Thus, pursuant to section 752(c)(3) of the Act, Commerce will report these margins to the ITC.

## VII. Final Results of Sunset Reviews

Commerce determines that revocation of the *India Order* would be likely to lead to the continuation or recurrence of dumping, and that the magnitude of the margin of dumping that are likely to prevail would be at a rate up to 24.10 percent.

In addition, Commerce determines that revocation of the *Taiwan Order* would be likely to lead to the continuation or recurrence of dumping, and that the magnitude of the margin of dumping that are likely to prevail would be at a rate up to 8.99 percent for Taiwan.

## VIII. Recommendation

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



\_\_\_\_\_  
Agree

\_\_\_\_\_  
Disagree

10/29/2019

X 

Signed by: CHRISTIAN MARSH

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

<sup>66</sup> See *Second PET Film Sunset Reviews Preliminary Results* and *Second PET Film Sunset Reviews Final Results*.

<sup>67</sup> See *Second PET Film Sunset Reviews Preliminary Results* and *Second PET Film Sunset Reviews Final Results*.

<sup>68</sup> See *Second PET Film Sunset Reviews Preliminary Results* and *Second PET Film Sunset Reviews Final Results* (citing *2010-2011 PET Film Taiwan*).