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Sunset Reviews
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April 30, 2020

MEMORANDUM TO: Joseph Laroski
Deputy Assistant Secretary
for Policy and Negotiations

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

SUBJECT: Issues and Decision Memorandum for the Final Results of the
Second Expedited Sunset Reviews of the Antidumping Duty
Orders on Polyethylene Terephthalate Film, Sheet, and Strip from
the People's Republic of China and the United Arab Emirates

I. SUMMARY

We have analyzed the substantive responses of the interested parties in the second sunset reviews of the antidumping duty (AD) orders covering polyethylene terephthalate film, sheet, and strip (PET film) from the People's Republic of China (China) and the United Arab Emirates (UAE).¹ 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 margin of dumping likely to prevail

II. BACKGROUND

In accordance with section 751(c) of the Tariff Act of 1930, as amended (the Act), on January 2, 2020, Commerce published the notice of initiation of the second sunset reviews of the AD orders covering PET film from China and the UAE.² On January 13 and 15, 2020, the petitioners³ filed

¹ See *Polyethylene Terephthalate Film, Sheet, and Strip From Brazil, the People's Republic of China and the United Arab Emirates: Antidumping Duty Orders and Amended Final Determination of Sales at Less Than Fair Value for the United Arab Emirates*, 73 FR 66595 (November 10, 2008) (*China Order* and *UAE Order*, collectively, the *Orders*).

² See *Initiation of Five-Year (Sunset) Reviews*, 85 FR 67 (January 2, 2020).

³ The petitioners are DuPont Teijin Films; Mitsubishi Polyester Film, Inc.; SKC, Inc.; and Toray Plastics (America), Inc.



a notice of intent to participate in the China and UAE sunset reviews, respectively, within the 15-day deadline specified in 19 CFR 351.218(d)(1)(i).⁴ The petitioners claimed interested party status under section 771(9)(C) of the Act, as producers of the domestic like product in the United States.

On January 15, 2020, 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).⁵ Terphane claimed interested party status under section 771(9)(C) of the Act, as a producer of the domestic like product in the United States.

On January 31, 2020, Commerce received adequate substantive responses from the petitioners for each sunset review.⁶ Commerce also received substantive responses from Terphane covering both sunset reviews, which states its agreement with and incorporates by reference the information contained in the substantive responses from the petitioners.⁷

We received no substantive responses from respondent interested parties with respect to either of the orders covered by these sunset reviews. On February 24, 2020, Commerce notified the U.S. International Trade Commission (ITC) that it did not receive adequate substantive responses from respondent interested parties.⁸ As a result, pursuant to section 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 *China Order* and *UAE Order*.

III. SCOPE OF THE ORDERS

The products covered by the orders are all gauges of raw, pre-treated, or primed PET film, whether extruded or co-extruded. 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 more than 0.00001 inches thick. Also excluded is roller transport cleaning film which has at least one of its surfaces modified by application of 0.5 micrometers of

⁴ See Petitioners' Letter, "Polyethylene Terephthalate (PET) Film, Sheet, and Strip from the People's Republic of China: Notice of Intent to Participate in Sunset Review," dated January 13, 2020; *see also* Petitioners' Letter, "Polyethylene Terephthalate (PET) Film, Sheet, and Strip from the United Arab Emirates: Notice of Intent to Participate in Sunset Review," dated January 15, 2020.

⁵ See Terphane's Letter, "Five-Year ("Sunset") Review Of Antidumping Order On Polyethylene Terephthalate (PET) Film, Sheet, And Strip From The People's Republic of China: Notice Of Intent To Participate," dated January 15, 2020; *see also* Terphane's Letter, "Five-Year ("Sunset") Review Of Antidumping Order On Polyethylene Terephthalate (PET) Film, Sheet, And Strip From The United Arab Emirates: Notice Of Intent To Participate," dated January 15, 2020.

⁶ See Petitioners' Letter, "Polyethylene Terephthalate (PET) Film, Sheet, and Strip from the People's Republic of China: Substantive Response to the Notice of Initiation," dated January 31, 2020 (Petitioners' China Substantive Response); *see also* Petitioners' Letter, "Polyethylene Terephthalate (PET) Film, Sheet, and Strip from the United Arab Emirates: Substantive Response to the Notice of Initiation," dated January 31, 2020 (Petitioners' UAE Substantive Response).

⁷ See Terphane's Letter, "Five-Year ("Sunset") Review Of Antidumping Orders On Polyethylene Terephthalate (PET) Film, Sheet, And Strip From China And The United Arab Emirates: Terphane's Substantive Response," dated February 3, 2020.

⁸ See Commerce's Letter, "Sunset Review Initiation on January 2, 2020," dated February 24, 2020.

SBR latex. Tracing and drafting film is also excluded. PET film is classifiable under subheading 3920.62.00.90 of the Harmonized Tariff Schedule of the United States (HTSUS). While the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of the order is dispositive.

IV. HISTORY OF THE ORDERS

Commerce published the *Orders* on November 10, 2008. Commerce conducted one prior sunset review of the *Orders*.⁹ With respect to the *China Order*, we reported the following margins to the ITC: 3.49 percent for eight exporter and producer combinations; and 76.72 percent for the China-wide entity.¹⁰ Similarly, with respect to the *UAE Order*, we reported the following margins to the ITC: 4.05 percent for Flex Middle East FZE and all others.¹¹ Commerce published the notice of the *Continuation for First PET Film Sunset Reviews* on February 6, 2015.¹²

China Order

Commerce has completed two administrative reviews and rescinded three administrative reviews since the *Continuation for First PET Film Sunset Reviews* was published in February 2015.¹³

⁹ See *Polyethylene Terephthalate Film, Sheet and Strip From Brazil, the People's Republic of China, and the United Arab Emirates: Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders*, 79 FR 10095 (February 24, 2014) (*Final Results of First PET Film Sunset Reviews*), and accompanying Issues and Decision Memorandum (IDM).

¹⁰ We determined that the most appropriate margins were the investigation rates, as reflected in the *China Order*. See *Final Results of First PET Film Sunset Reviews*, and accompanying IDM; see also *China Order*. A 3.49 percent margin was selected for the following exporter/producer combinations: DuPont Teijin Films China Ltd. and DuPont Hongji Foshan Co. Ltd.; DuPont Teijin Films China Ltd. and DuPont Teijin Hongji Films Ningbo Co., Ltd.; Fuwei Films (Shandong) Co., Ltd. and Fuwei Films (Shandong) Co., Ltd.; Shaoxing Xiangyu Green Packing Co., Ltd. and Shaoxing Xiangyu Green Packing Co., Ltd.; Sichuan Dongfang Insulating Material Co., Ltd. and Sichuan Dongfang Insulating Material Co., Ltd.; Tianjin Wanhua Co., Ltd. and Tianjin Wanhua Co., Ltd.; Shanghai Uchem Co., Ltd. and Sichuan Dongfang Insulating Material Co., Ltd.; and Shanghai Uchem Co., Ltd. and Shanghai Xishu Electric Material Co., Ltd.

¹¹ We determined that the most appropriate margins were the investigation rates, as reflected in the *UAE Order*. See *Final Results of First PET Film Sunset Reviews*, and accompanying IDM; see also *UAE Order*.

¹² See *Polyethylene Terephthalate Film, Sheet, and Strip From Brazil, the People's Republic of China, and the United Arab Emirates: Continuation and Revocation of Antidumping Duty Orders*, 80 FR 6689 (February 6, 2015) (*Continuation for First PET Film Sunset Reviews*). As a result of the first sunset reviews, in the *Continuation for First PET Film Sunset Reviews* Commerce announced the continuation of the *China Order* and *UAE Order* and announced the revocation of the AD order on PET Film from Brazil.

¹³ See *Polyethylene Terephthalate Film, Sheet, and Strip From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2012-2013*, 80 FR 33241 (June 11, 2015) (*China 2012-2013 Review*); see also *Polyethylene Terephthalate Film, Sheet, and Strip From the People's Republic of China: Final Results of Administrative Review; 2013-2014*, 80 FR 70754 (November 16, 2015) (*China 2013-2014 Review*); *Polyethylene Terephthalate Film, Sheet, and Strip From the People's Republic of China: Rescission of Antidumping Administrative Review; 2014-2015*, 81 FR 46046 (July 15, 2016); *Polyethylene Terephthalate Film, Sheet, and Strip From the People's Republic of China: Rescission of Antidumping Duty Administrative Review; 2015-2016*, 82 FR 20865 (May 4, 2017); and *Polyethylene Terephthalate Film, Sheet, and Strip From the People's Republic of China: Rescission of Antidumping Duty Administrative Review; 2016-2017*, 83 FR 13947 (April 2, 2018).

Additionally, there is one ongoing administrative review which was recently initiated covering the period November 1, 2018 through October 31, 2019.¹⁴

Since the *Continuation for First PET Film Sunset Reviews* was published, Commerce has also issued three scope rulings: the first scope ruling found that certain overhead transparencies imported by ACCO Brands USA LLC (ACCO) are covered by the *China Order*;¹⁵ the second scope ruling found that glycol-modified polyethylene terephthalate shrink films imported by UPM Faflatac are outside the scope of the *China Order*;¹⁶ and the third scope ruling found that certain overhead transparencies with paper strip imported by ACCO are covered by the *China Order*.¹⁷ Commerce has not conducted a new shipper review, a duty-absorption finding, a changed circumstance review or an anti-circumvention inquiry since the *Continuation for First PET Film Sunset Reviews* was published.

UAE Order

Commerce has completed five administrative reviews and rescinded one administrative review since the *Continuation for First PET Film Sunset Reviews* was published in February 2015.¹⁸ Additionally, there is one ongoing administrative review which was recently initiated covering the period November 1, 2018 through October 31, 2019.¹⁹

Since the *Continuation for First PET Film Sunset Reviews* was published, Commerce has also issued a negative determination regarding circumvention of the *UAE Order* with respect to imports of PET film produced in the Kingdom of Bahrain by JBF Bahrain S.P.C.²⁰ Commerce

¹⁴ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 85 FR 3014 (January 17, 2020) (*Initiation of 2018-2019 Reviews*).

¹⁵ See Memorandum, “Final Scope Ruling on the Antidumping and Countervailing Duty Orders on Polyethylene Terephthalate Film, Sheet, and Strip from the People’s Republic of China: Request by ACCO Brands USA LLC,” dated January 23, 2017.

¹⁶ See Memorandum, “Final Scope Ruling on the Antidumping Duty Order on Polyethylene Terephthalate Film, Sheet, and Strip from the People’s Republic of China: PETO Shrink Film,” dated May 12, 2017; *see also Notice of Scope Rulings*, 83 FR 31733 (July 9, 2018).

¹⁷ See Memorandum, “Final Scope Ruling on the Antidumping Duty Order on Polyethylene Terephthalate Film, Sheet, and Strip from the People’s Republic of China: Request by ACCO Brands USA LLC,” dated April 26, 2019; *see also Notice of Scope Rulings*, 85 FR 2712 (January 16, 2020).

¹⁸ See *Polyethylene Terephthalate Film, Sheet, and Strip From the United Arab Emirates: Final Results of Antidumping Duty Administrative Review; 2012-2013*, 80 FR 19964 (April 14, 2015) (*UAE 2012-2013 Review*); *see also Polyethylene Terephthalate Film, Sheet, and Strip From the United Arab Emirates: Final Results of Antidumping Duty Administrative Review; 2013-2014*, 81 FR 21314 (April 11, 2016) (*UAE 2013-2014 Review*); *Polyethylene Terephthalate Film, Sheet, and Strip From the United Arab Emirates: Final Results of Antidumping Duty Administrative Review; 2014-2015*, 82 FR 17631 (April 12, 2017) (*UAE 2014-2015 Review*); *Polyethylene Terephthalate Film, Sheet, and Strip From the United Arab Emirates: Final Results of Antidumping Duty Administrative Review; 2015-2016*, 83 FR 14416 (April 4, 2018) (*UAE 2015-2016 Review*); *Polyethylene Terephthalate Film, Sheet, and Strip From the United Arab Emirates: Final Results of Antidumping Duty Administrative Review; 2016-2017*, 84 FR 20099 (May 8, 2019) (*UAE 2016-2017 Review*); and *Polyethylene Terephthalate Film, Sheet, and Strip From the United Arab Emirates: Rescission of Antidumping Duty Administrative Review; 2017– 2018*, 84 FR 46713 (September 5, 2019).

¹⁹ See *Initiation of 2018-2019 Reviews*.

²⁰ See *Polyethylene Terephthalate Film, Sheet, and Strip from the United Arab Emirates: Negative Final Determination of Circumvention of the Antidumping Duty Order*, 80 FR. 47463 (August 7, 2015).

has not conducted a scope ruling, new shipper review, duty-absorption finding, or a changed circumstance review since the *Continuation for First PET Film Sunset Reviews* was published.

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 *China Order* or *UAE 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 accordance with the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act, specifically the SAA,²¹ the House Report,²² and the Senate Report,²³ Commerce's determinations of likelihood will be made on an order-wide, rather than a company-specific, basis.²⁴ 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.²⁵ Alternatively, Commerce normally will determine that revocation of an AD 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.²⁶

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.²⁷ When analyzing import volumes for the second and subsequent sunset reviews, Commerce's practice is to compare import volumes during the year preceding

²¹ See Statement of Administrative Action Accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, vol 1 (1994) (SAA).

²² See H. Rep. No. 103-826, pt. 1 (1994) (House Report).

²³ See S. Rep. No. 103-412 (1994) (Senate Report).

²⁴ See SAA at 879.

²⁵ *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*).

²⁶ See SAA at 889-890; see also House Report at 64.

²⁷ 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 IDM at Comment 1.

initiation of the underlying investigation to import volumes since the issuance of the last continuation notice.²⁸

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.²⁹ 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”).³⁰ 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.³¹

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 found to be inconsistent with the United States’ World Trade Organization (WTO) obligations.³² 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.³³ 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 that were not affected by the WTO-inconsistent methodology, such as dumping margins recalculated pursuant to Section 129 proceedings, 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.”³⁴

²⁸ 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 3-7.

²⁹ 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.

³⁰ See SAA at 890-91.

³¹ 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.

³² 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*).

³³ *Id.*

³⁴ *Id.*

VI. DISCUSSION OF THE ISSUES

Below we address the comments of the domestic interested parties.³⁵

1. Likelihood of Continuation or Recurrence of Dumping

Domestic Interested Parties' Comments:

China

The petitioners assert that if the *China Order* was revoked, dumping as it pertains to PET film from China would continue. Specifically, this will happen because dumping has continued and import volumes have declined since the issuance of the *China Order*. According to the petitioners, over the current five-year review period and since the issuance of the *China Order*, Chinese producers have continued to dump PET film in the United States.³⁶ Additionally, based on dumping margins applied to Chinese companies since the imposition of the *China Order* and the interchangeable nature of the applications in which PET film from U.S. and Chinese producers are used, a small dumping margin can have a major effect on U.S. sales.³⁷ Terphane incorporates and supports the petitioners' arguments, claiming that revocation of the orders would likely lead to the continuation or recurrence of dumping."³⁸

UAE

The petitioners assert that if the *UAE Order* was revoked, dumping as it pertains to PET film from the UAE would continue. Specifically, this will happen because dumping has continued and import volumes have declined since the issuance of the *UAE Order*. According to the petitioners, over the current five-year review period and since the issuance of the *UAE Order*, Emirati producers have continued to dump PET film in the United States.³⁹ Additionally, based on dumping margins applied to Emirati companies since the imposition of the *UAE Order* and the interchangeable nature of the applications in which PET film from U.S. and Emirati producers are used, a small dumping margin can have a major effect on U.S. sales.⁴⁰ Terphane incorporates and supports the petitioners' arguments, claiming that revocation of the orders would likely lead to the continuation or recurrence of dumping."⁴¹

Commerce's Position:

We find that the revocation of the *China Order* or the *UAE Order* would likely result in the continuation or recurrence of dumping in the United States. As explained in the Legal

³⁵ The domestic interested parties are the petitioners (detailed in n.4, above) and Terphane LLC, a manufacturer of the domestic like product.

³⁶ See Petitioners' China Substantive Response at 4-5.

³⁷ See Petitioners' China Substantive Response at 3-7.

³⁸ See Terphane's Substantive Response at 1.

³⁹ See Petitioners' UAE Substantive Response at 4-5.

⁴⁰ See Petitioners' UAE Substantive Response at 3-7.

⁴¹ See Terphane's Substantive Response at 1.

Framework section above, Commerce's determinations of likelihood will be made on an order-wide basis.⁴² 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.⁴³ 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.

China

Since the most recent continuation of the *China Order*, we have found the following dumping margins for Shaoxing Xiangyu Green Packing Co. Ltd. (Shaoxing): 35.10 percent;⁴⁴ and 76.72 percent.⁴⁵ We also found the following dumping margin for Tianjin Wanhua Co., Ltd. (Tianjin): 72.15 percent.⁴⁶ Commerce finds that the margins determined for Shaoxing and Tianjin 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 to recur if the *China 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.”⁴⁷ 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.”⁴⁸

Commerce considered the volume of imports for the period before and after the issuance of the *China Order* in November 2008. Data retrieved from ITC Dataweb and reviewed by Commerce indicates the volume of imports was 21,492,433 kilograms in 2006 and 20,533,121 kilograms in 2007.⁴⁹ It also indicates that between 2015 and 2019, the period we are examining in this sunset review, the volume of imports ranged from 3,279,600 kilograms in 2015 to 5,689,101 kilograms in 2018.⁵⁰ These data show decreased import volumes from China when comparing the import volumes from the years prior to the initiation of the investigation 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 *China Order* and the overall decrease in the volume of imports from China, we determine that it is

⁴² See SAA, at 879.

⁴³ *Id.* at 889-890; see also House Report at 63-64; and Senate Report at 52.

⁴⁴ See *China 2012-2013 Review*.

⁴⁵ See *China 2013-2014 Review*.

⁴⁶ See *China 2012-2013 Review*.

⁴⁷ See *Final Modification for Reviews*, 77 FR at 8103.

⁴⁸ *Id.*

⁴⁹ Petitioners submitted data retrieved from ITC Dataweb for imports of HTSUS 3920.62.0090. See Petitioners' China Substantive Response at 6-7.

⁵⁰ *Id.*

unlikely that Chinese producers of subject merchandise would be able to sell at pre-*China 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 *China Order* was revoked.

UAE

Since the most recent continuation of the *UAE Order*, we have found the following dumping margins for JBF RAK LLC (JBF): 11.49 percent;⁵¹ 4.44 percent;⁵² 7.91 percent;⁵³ 18.9 percent;⁵⁴ and 70.75 percent.⁵⁵ Commerce finds that the margins determined for JBF during the sunset review period, all of which did not involve the zeroing methodology referred to in the *Final Modification for Reviews*, serve as a basis for finding that dumping would likely continue to recur if the *UAE 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.”⁵⁶ 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.”⁵⁷

Commerce considered the volume of imports for the period before and after the issuance of the *UAE Order* in November 2008. Data retrieved by ITC Dataweb and reviewed by Commerce indicates the volume of imports was 6.7 million kilograms in 2008.⁵⁸ It also indicates that between 2015 and 2019, the period we are examining in this sunset review, the volume of imports ranged from 334,065 kilograms in 2018 to 1,766,975 kilograms in 2017.⁵⁹ These data show decreased import volumes from the UAE when comparing the import volumes from the years prior to the initiation of the investigation 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 *UAE Order* and the overall decrease in the volume of imports from the UAE, we determine that it is unlikely that Emirati producers of subject merchandise would be able to sell at pre-*UAE 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 *UAE Order* was revoked.

⁵¹ See *UAE 2012-2013 Review*.

⁵² See *UAE 2013-2014 Review*.

⁵³ See *UAE 2014-2015 Review*.

⁵⁴ See *UAE 2015-2016 Review*.

⁵⁵ See *UAE 2016-2017 Review*.

⁵⁶ See *Final Modification for Reviews*, 77 FR at 8103.

⁵⁷ *Id.*

⁵⁸ Petitioners submitted data retrieved from ITC Dataweb for imports of HTSUS 3920.62.0090. See Petitioners’ UAE Substantive Response at 6-7.

⁵⁹ *Id.*; see also Petitioners’ UAE Substantive Response at 16.

2. Magnitude of the Dumping Margins Likely to Prevail

Domestic Interested Parties' Comments:

China

The petitioners assert that, pursuant to the principles set forth in the SAA and the *Policy Bulletin*, Commerce should report to the ITC the same margins that it reported in the underlying investigation and the *Final Results of First PET Film Sunset Reviews* (i.e., 3.49 percent for eight exporter/producer pairs and 76.72 percent for all others).⁶⁰

UAE

The petitioners assert that, pursuant to the principles set forth in the SAA and the *Policy Bulletin*, Commerce should report to the ITC the same margins that it reported in the underlying investigation and the *Final Results of First PET Film Sunset Reviews* (i.e., 4.05 percent for Flex Middle East FZE and all others.).⁶¹ The petitioners assert further that Commerce should also report to the ITC the 70.75 percent margin assigned to JBF in the most recently completed administrative review, i.e., *UAE 2016-2017 Review*.⁶²

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.⁶³ 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.⁶⁴ As indicated in the Legal Framework section above, Commerce's current practice is to not rely on weighted average dumping margins calculated using the zeroing methodology referred to in the *Final Modification for Reviews*.⁶⁵

⁶⁰ See Petitioners' China Substantive Response at 8-9; see also *Final Results of First PET Film Sunset Reviews*, and accompanying IDM.

⁶¹ See Petitioners' UAE Substantive Response at 8; see also *Final Results of First PET Film Sunset Reviews*, and accompanying IDM.

⁶² See Petitioners' UAE Substantive Response at 8.

⁶³ 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.

⁶⁴ 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.

⁶⁵ See *Final Modification for Reviews*, 77 FR at 8103.

As noted in the *Final Results of First PET Film Sunset Reviews*, the antidumping investigations for PET film from China and the UAE were conducted after Commerce adopted its new practice with regard to offsetting in investigations, and, a result, Commerce’s final weighted-average dumping margins calculated in the investigations were not affected by the zeroing methodology.⁶⁶ Thus, for purposes of these second sunset reviews, we find it is appropriate to rely on the weighted-average margins for both the *China Order* and the *UAE Order* as reported in the underlying investigations and the *Final Results of First PET Film Sunset Reviews*.

We disagree with the petitioners’ assertion that Commerce should also report to the ITC the 70.75 percent margin assigned to JBF in the most recently completed administrative review of the *UAE Order*. As noted above, 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 the order in place. The petitioners have not provided any explanation as to why a rate of 70.75 percent more accurately reflects the behavior of exporters without the discipline of the *UAE Order* in place. Specifically, the petitioners are requesting that Commerce report a higher dumping rate to the ITC, which would indicate that an “exporter chooses to increase dumping to increase or maintain market share.”⁶⁷ The petitioners have not provided any evidence to support this end. We will therefore continue to follow Commerce precedent of selecting a rate from the investigation as the margin of dumping that is likely to prevail if the *UAE Order* was revoked.

Accordingly, we determine that revocation of the *China Order* would likely lead to continuation or recurrence of dumping at the magnitude of weighted average margins up to 76.72 percent.⁶⁸ Similarly, we determine that revocation of the *UAE Order* would likely lead to continuation or recurrence of dumping at the magnitude of weighted average margins up to 4.05 percent.⁶⁹ 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 *China 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 76.72 percent.

In addition, Commerce determines that revocation of the *UAE 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 4.05 percent.

⁶⁶ See *Final Results of First PET Film Sunset Reviews*, and accompanying IDM.

⁶⁷ 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.

⁶⁸ *Id.*

⁶⁹ *Id.*

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

4/30/2020

X



Signed by: JOSEPH LAROSKI

Joseph Laroski
Deputy Assistant Secretary
for Policy and Negotiations