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Sunset Review
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August 30, 2011

MEMORANDUM TO: Ronald K. Lorentzen
Deputy Assistant Secretary
for Import Administration

FROM: Susan H. Kuhbach
Acting Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

RE: Issues and Decision Memorandum for the Final Results of the Expedited First Sunset Review of the Antidumping Duty Order on Certain Artist Canvas from the People's Republic of China

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SUMMARY

We have analyzed the substantive response of the domestic interested party in the first sunset review of the antidumping duty order on artist canvas from the People's Republic of China ("PRC").[1] We recommend that you approve the positions we describe in this memorandum. Below is a complete list of issues in this sunset review for which we received a substantive response:

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

HISTORY OF THE ORDER

On March 30, 2006, the Department of Commerce ("Department") published the final determination in the investigation of artist canvas from the PRC. *See Final Determination of Sales at Less Than Fair Value: Certain Artist Canvas from the People's Republic of China*, 71 FR 16116 (March 30, 2006)*; see also Notice of Correction to Notice of Final Determination of Sales at Less Than Fair Value: Certain Artist Canvas from the People's Republic of China*, 71 FR 26735 (May 8, 2006). On May 17, 2006, the United States International Trade Commission ("ITC") issued its affirmative injury determination in the

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[1] The domestic interested party in this sunset review is Tara Materials, Inc. ("Tara Materials"), the petitioner in the antidumping duty investigation concerning imports of artist canvas from the PRC. *See Initiation of Antidumping Duty Investigation: Certain Artist Canvas From the People's Republic of China*, 70 FR 21996 (April 28, 2005).

investigation. *See Artists' Canvas from China*, 71 FR 28706 (May 17, 2006). Thereafter, the Department issued the antidumping duty order on artist canvas from the PRC. *See Notice of Antidumping Duty Order: Certain Artist Canvas from the People's Republic of China*, 71 FR 31154 (June 1, 2006) ("*Order*"). The calculated margins set forth in the *Order* range from 77.90 percent to 264.09 percent. There have been no administrative reviews since issuance of the *Order*. There have been no changed circumstances reviews, or duty absorption reviews since the issuance of the *Order*. There have been six scope rulings issued by the Department regarding this *Order*.[2] The *Order* remains in effect for all exporters and exporters/producers of subject merchandise.

BACKGROUND

On May 2, 2011, the Department initiated a sunset review of the *Order* pursuant to section 751(c) of the Tariff Act of 1930, as amended ("Act"). *See Initiation of Five-Year ("Sunset") Review*, 76 FR 24459 (May 2, 2011) ("*Sunset Initiation*"). On May 17, 2011, the Department received a timely notice of intent to participate in the sunset review from Tara Materials, pursuant to 19 CFR 351.218(d)(1)(i). In accordance with 19 CFR 351.218(d)(1)(ii)(A), Tara Materials claimed interested party status under section 771(9)(C) of the Act as a producer of the domestic like product. On June 1, 2011, Tara Materials filed an adequate substantive response in the sunset review within the 30-day deadline, as specified in 19 CFR 351.218(d)(3)(i). The Department did not receive a substantive response from any respondent interested party in the sunset review. Based on the lack of an adequate response in the sunset review from any respondent party, the Department is conducting an expedited (120-day) sunset review consistent with section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2). *See also Procedures for Conducting Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516, 13519 (March 20, 1998) (the Department normally will conduct an expedited sunset review where respondent interested parties provide an inadequate response).

DISCUSSION OF THE ISSUES

In accordance with section 751(c)(1) of the Act, the Department conducted a sunset review to determine whether revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping. Sections 752(c)(1)(A) and (B) of the Act provide that, in making this determination, the Department shall consider the weighted-average dumping margins determined in the investigation 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 states that the Department shall provide to the ITC the magnitude of the margin of dumping likely to prevail if the order were revoked. Below we address the comments made by the domestic interested parties in this proceeding.

[2] *See Notice of Scope Rulings*, 73 FR 49418 (August 21, 2008); *Notice of Scope Rulings*, 74 FR 49859 (September 29, 2009); *Notice of Scope Rulings*, 75 FR 14138 (March 24, 2010) (citing two rulings); *Notice of Scope Rulings*, 75 FR 79339 (December 20, 2010); *Notice of Scope Rulings,* 76 FR 10558 (February 25, 2011).

1. Likelihood of continuation or recurrence of dumping

Interested Party Comments

Tara Materials argues that the Department must determine that revoking the *Order* would lead to a continuation or recurrence of dumping. First, Tara Materials argues that section 752 of the Act directs the Department to consider the weighted average dumping margins determined in the original investigation and any subsequent administrative reviews, as well as the volume of imports of subject merchandise in the period before and after issuance of the order, in making its revocation determination.[3] Tara Materials argues that the facts on the record of this case indicate that there will be a recurrence or continuation of dumping if the order is revoked. Second, Tara Materials asserts that the Department's policy regarding sunset reviews sets forth three factors with which to evaluate the likelihood of resumed dumping if the order is revoked. Specifically, the Department "normally will determine that revocation of an antidumping duty order" is likely to continue or recur when any of the following three circumstances apply: (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.[4] Based on the provisions of the Act and the Department's policy, Tara Materials argues that the Department must conclude that revocation of the order on artist canvas will lead to a continuation or recurrence of dumping.

Tara Materials supplies data obtained from the U.S. Census Bureau to demonstrate the effect that the antidumping order has had on import volumes of artist canvas from the PRC since its issuance in 2006.[5] Tara Materials states that the data show a significant decrease in import volumes of merchandise classified under the Harmonized Tariff Schedule of the United States ("HTSUS") categories in question, specifically, 5901.90.20 and 5901.90.40, in the period immediately following the imposition of the *Order*. Tara Materials argues that this trend strongly implies that the *Order* was effective against subject merchandise and that Chinese manufacturers must "dump to sell at pre-*Order* volumes."[6] Although import volumes under the HTSUS categories in question have increased in recent years, Tara Materials attributes these increases to out-of-scope merchandise originating from the PRC which are classifiable under the same HTSUS categories as the artist canvas subject to the *Order*. Tara Materials notes that the Department made a series of scope rulings following the *Order*, in which it concluded that artist canvas primed in a third country and stretched in the PRC is a product of that third country and, therefore, non-subject merchandise.[7] The recent increase in import

[3] *See* Tara Materials' June 1, 2011 submission regarding, "Five-Year Sunset Review of the Antidumping Duty Order Against Artist Canvas from the People's Republic of China; Substantive Response of Domestic Interested Party," at 5.
[4] *Id.* at 5-6, citing *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 98:3*").
[5] *Id.* at 8.
[6] *Id.* at 9, citing the Statement of Administrative Action ("SAA") accompanying the Uruguay Round Agreements Act ("URAA"), H.R. Doc. No. 103-316, Vol. 1 (1994) at 890.
[7] *Id.* at 8, citing *Final Determination of Sales at Less Than Fair Value: Certain Artist Canvas from the People's Republic of China*, 71 FR 16116 (March 30, 2006) and accompanying Issues and Decision Memorandum at

volumes of the HTSUS categories in question, according to Tara Materials, is represented by out-of-scope merchandise, specifically, artist canvas that is primed in a third country, stretched in the PRC and then exported to the U.S. as a product originating from the PRC.

Tara Materials argues that the evidence on the record of this case makes clear that dumping is likely to continue or recur if the order is revoked. Tara Materials argues that the margins and cash deposit rates, which are all above *de minimis*, were calculated in the original investigation, and no Chinese exporter has sought a change in margin by requesting an administrative review. Tara Materials states that, despite high dumping margins and cash deposit rates, none of the Chinese exporters has requested an administrative review to demonstrate that their dumping has ceased. Tara Materials relies on this record evidence to argue that a lack of participation in an administrative review since the *Order* indicates that Chinese exporters of artist canvas cannot export to the United States without dumping. Tara Materials argues that under these facts, the Department must conclude that dumping will continue if the order is revoked.[8]

Tara Materials argues that the facts it has presented regarding import trends and the *Order* satisfy the criteria for an affirmative determination, as laid out in the Department's *Policy Bulletin 98:3*. Therefore, Tara Materials asserts, the Department should determine that revocation of the *Order* is likely to lead to continuation or recurrence of dumping of artist canvas from the PRC.

Department Position

Drawing on the guidance provided in the legislative history accompanying the URAA,[9] the Department normally determines 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.[10] In this case, the Department found dumping at above *de minimis* levels in the original antidumping duty investigation of artist canvas from the PRC. Since the issuance of the antidumping duty order on artist canvas from the PRC, the Department has not conducted an administrative review, because no administrative review was requested. *See* above, at History of the Order section. Thus, dumping margins and cash deposit rates at or above *de minimis* levels remain in effect

Comment 1.

[8] *Citing Certain Cased Pencil from the People's Republic of China; Notice of Final Results of Expedited Sunset Review of Antidumping Duty Order*, 70 FR 67427 (November 7, 2005) and accompanying Issues and Decision Memorandum at Comment 1.

[9] *See, e.g.*, SAA at 889; House Report, H. Rep. No. 103-826, pt. 1 (1994); and Senate Report, S. Rep. No. 103-412 (1994).

[10] *See, e.g., Malleable Cast Iron Pipe Fittings from the People's Republic of China: Final Results of Expedited Sunset Review of Antidumping Duty Order*, 74 FR 10239 (March 10, 2009), and accompanying Issues and Decision Memorandum at Comment 1; *see also Pure Magnesium in Granular Form from the People's Republic of China: Final Results of the Expedited Sunset Review of the Antidumping Duty Order*, 72 FR 5417 (February 6, 2007), and accompanying Issues and Decision Memorandum at Comment 1.

for PRC companies, ranging from 77.90 percent to 264.09 percent. *See* below, at Final Results of Review section. These margins provide the best evidence of dumping behavior of these companies and there is no evidence that indicates dumping has ceased. Accordingly, revocation of the antidumping duty order is likely to lead to continuation or recurrence of dumping.

Additionally, pursuant to 752(c)(1)(B) of the Act, the Department considered the volume of imports of the subject merchandise for the period before and after the issuance of the antidumping duty order. Import statistics on the subject merchandise cited by Tara Materials and those examined by the Department demonstrate that, in 2007, the year immediately following the issuance of the order, imports under HTSUS category 5901.90.40 declined significantly, while imports under HTSUS category 5901.90.20 increased in 2007 and declined in 2008.[11] However, imports under both HTSUS categories have increased in recent years. Even though imports under both HTSUS categories have increased, the existence of above-*de minimis* margins demonstrates that if the order was revoked, it is likely that PRC producers/exporters of artist canvas would continue dumping at significant levels.

2. Magnitude of the Margins Likely to Prevail

Interested Party Comments

Tara Materials argues that, consistent with the Department's normal practice, the Department should find that the magnitude of the margin of dumping that is likely to prevail is identical to the margins determined to exist in the original investigation.[12]

Department Position

Section 752(c)(3) of the Act provides that the administering authority shall provide to the ITC the magnitude of the margin of dumping likely to prevail if the order were revoked. Normally, the Department will select a margin from the final determination in the investigation because that is the only calculated rate that reflects the behavior of exporters without the discipline of an order or suspension agreement in place.[13] The Department finds that the margins calculated in the original investigation is the best indication of the margins likely to prevail if the order were revoked, because they are the only calculated margins without the discipline of an order in place.

Therefore, consistent with section 752(c)(3) of the Act, the Department will report to the ITC the corresponding individual company rates and the PRC-wide rate from the original investigation as noted in the "Final Results of Review" section, below.

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[11] *See* Tara Materials' June 1, 2011 submission at 7-9; *see also* GTA import volume statistics at Attachment I of this memorandum.
[12] *Id.* at 9-10, citing SAA at 890; *Policy Bulletin 98.3*.
[13] *See 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 Issues and Decision Memorandum at Comment 2.

Final Results of Review

The Department determines that revocation of the antidumping duty order on artist canvas from the PRC would be likely to lead to continuation or recurrence of dumping. The Department also determines that the dumping margins likely to prevail if the order was revoked are as follows:

Exporters/Producers	Weighted-Average Margin (Percent)
Ningbo Conda/Jinhua Universal	264.09
Ningbo Conda/Wuxi Silver Eagle Cultural Goods Co. Ltd.	264.09
Conda Painting/Wuxi Pegasus Cultural Goods Co. Ltd.	264.09
Jinhua Universal/Jinhua Universal	264.09
Phoenix Materials/Phoenix Materials	77.90
Phoenix Materials/Phoenix Stationary	77.90
Phoenix Materials/Shuyang Phoenix	77.90
Phoenix Stationary/Phoenix Materials	77.90
Phoenix Stationary/Phoenix Stationary	77.90
Phoenix Stationary/Shuyang Phoenix	77.90
Jiangsu By-products/Wuxi Yinying Stationery and Sports Products Co. Ltd. Corp.	77.90
Jiangsu By-products/Su Yang Yinying Stationery and Sports Products Co. Ltd. Corp.	77.90
PRC-Wide Entity	264.09

Recommendation

Based on our analysis of the substantive response received, we recommend adopting the above positions. If this recommendation is accepted, we will publish the final results of this sunset review in the *Federal Register*.

___Agree   ___Disagree

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Ronald K. Lorentzen
Deputy Assistant Secretary
  for Import Administration

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Date

Attachment I

United States (HS 8) Import Statistics From China Commodity: 590190, Tracing Cloth; Prepared Painting Canvas; Stiffened Textile Fab; For Hats Etc								
Commodity	Unit	Description	Quantity					
			2001	2002	2003	2004	2005	2006
59019040	M2	Tracing Cloth, Prepared Painting Canvas, Buckram A	73980	396429	622588	4554129	4170785	505787
59019020	M2	Tracing Cloth, Prepared Painting Canvas, Buckram A	0	0	12007	583	104483	1180

United States (HS 8) Import Statistics From China Commodity: 590190, Tracing Cloth; Prepared Painting Canvas; Stiffened Textile Fab; For Hats Etc						
Commodity	Unit	Description	Quantity			
			2007	2008	2009	2010
59019040	M2	Tracing Cloth, Prepared Painting Canvas, Buckram A	67221	278685	554772	1633080
59019020	M2	Tracing Cloth, Prepared Painting Canvas, Buckram A	1532	1495	22667	278691