UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration
Washington, D.C. 20230

A-570-935
Sunset Review
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MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

FROM: Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Expedited First Sunset Review of the Antidumping Duty Order on Circular Welded Carbon-Quality Steel Line Pipe from the People's Republic of China

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Summary

In the sunset review of the antidumping duty ("AD") order covering circular welded carbon-quality steel line pipe ("welded line pipe") from the People's Republic of China ("PRC"), American Cast Iron Pipe Company ("ACIPCO"), JMC Steel Group ("JMC"), Maverick Tube Corporation ("Maverick"), Stupp Corporation ("Stupp"), Tex-Tube Company ("Tex-Tube"), TMK IPSCO, United States Steel Corporation ("U.S. Steel"), and Welspun Tubular LLC USA ("Welspun") (collectively "Domestic Producers"), submitted timely and complete notices of intent to participate as well as a substantive response. No respondent interested party submitted a substantive response. Accordingly, we conducted an expedited (120-day) sunset review. We recommend adopting the positions described below. The following is a complete list of issues in this sunset review for which we received substantive responses:

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

Background

On December 2, 2013, the Department of Commerce ("Department") published the notice of initiation of the sunset review of the AD order on welded line pipe from the PRC, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the "Act").[1] On December 11, 2013 and December 17, 2013, pursuant to 19 CFR 351.218(d)(1), the Department received timely and complete notices of intent to participate in the sunset review from the Domestic Producers.[2] On January 2, 2014, pursuant to 19 CFR 351.218(d)(3), the Domestic Producers filed a timely and adequate substantive response within 30 days after the date of publication of the *Sunset Initiation*.[3] The Department received no substantive responses from any respondent interested party. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted an expedited (120-day) sunset review of the AD order on welded line pipe from the PRC.

History of the Order

On March 31, 2009, the Department published its final determination in the less than fair value ("LTFV") investigation of welded line pipe from the PRC.[4] On May 13, 2009, the Department published the AD order on imports of welded line pipe from the PRC.[5] The Department found the following weighted-average dumping margins in the LTFV investigation:

Exporter/Producer	**Weighted-Average Percentage Margin**
Huludao Steel Pipe Industrial Co., Ltd./Huludao City Steel Pipe Industrial Co., Ltd. ("Huludao") Produced by: Huludao Steel Pipe Industrial Co., Ltd./Huludao City Steel Pipe Industrial Co., Ltd.	73.87
Pangang Group Beihai Steel Pipe Corporation ("Pangang Beihai") Produced by: Pangang Group Beihai Steel Pipe Corporation	73.87
Jiangsu Yulong Steel Pipe Co., Ltd. ("Jiangsu Yulong") Produced by: Jiangsu Yulong Steel Pipe Co., Ltd.	73.87
Tianjin Xingyuda Import and Export Co., Ltd. ("Tianjin Xingyuda") Produced by: Tianjin Lifengyuanda Steel Pipe Group Co., Ltd.	73.87
PRC-Wide Rate	101.10

Administrative Reviews and New Shipper Reviews

Since the issuance of the AD order, there have been no administrative reviews or new shipper reviews of the order.

[1] *See Initiation of Five-Year ("Sunset") Review*, 78 FR 72061 (December 2, 2013) ("*Sunset Initiation*").
[2] *See* Letter regarding "Circular Welded Carbon Quality Steel Line Pipe from the People's Republic of China: Notice of Intent to Participate in Review, Entry of Appearance, and APO Application," dated December 11, 2013; Letter regarding "Notice of Intent to Participate in First Five-Year Review of the Antidumping Duty Order on Circular Welded Carbon Quality Steel Line Pipe from China," dated December 17, 2013; and Letter regarding "Circular Welded Carbon Quality Steel Line Pipe from China, First Sunset Review," dated December 17, 2013.
[3] *See* Letter regarding, "Circular Welded Carbon-Quality Steel Line Pipe from China, First Sunset Review: Substantive Response to Notice of Initiation," dated January 2, 2014.
[4] *See Certain Circular Welded Carbon Quality Steel Line Pipe from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 74 FR 14514 (March 31, 2009) ("*Final Determination*").
[5] *See Certain Circular Welded Carbon Quality Steel Line Pipe from the People's Republic of China: Antidumping Duty Order*, 74 FR 22515 (May 13, 2009) ("*Antidumping Duty Order*").

Scope Inquiries, Changed Circumstances Reviews, and Duty Absorption

There have been no scope inquiries, changed circumstances reviews or duty absorption findings in connection with this AD order.

Discussion of the Issues

Legal Framework

In accordance with section 751(c)(1) of the Act, the Department is conducting this sunset review to determine whether revocation of the AD order would likely 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 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 AD order.

As explained in the Statement of Administrative Action ("SAA") accompanying the Uruguay Round Agreements Act, the Department 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 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. Alternatively, the Department 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.[6] In addition, as a base period for import volume comparison, it is the Department's practice to use the one-year period immediately preceding the initiation of the investigation, rather than the level of pre-order import volumes, as the initiation of an investigation may dampen import volumes and, thus, skew comparison.[7]

Further, section 752(c)(3) of the Act states that the Department shall provide to the International Trade Commission ("ITC") the magnitude of the margin of dumping likely to prevail if the order were revoked. Generally, the Department selects the margin(s) from the final determination in the original investigation, as this is the only calculated rate that reflects the behavior of exporters without the discipline of an order in place.[8] 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, {the Department} may conclude that exporters are likely to continue dumping at the lower rates found in a more recent review.").[9] Finally, pursuant to section 752(c)(4)(A) of the Act, a dumping margin of "zero or *de minimis*

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[6] *See* SAA, H.R. Rep. No. 103-316, Vol. 1 (1994), at 889-90, reprinted at 1994 U.S.C.C.A.N. 4040, 4213-14.
[7] *See, e.g., Stainless Steel Bar from Germany; Final Results of the Sunset Review of the Antidumping Duty Order*, 72 FR 56985 (October 5, 2007), and accompanying Issues and Decision Memorandum at Comment 1.
[8] *See* SAA at 890; *see, e.g., Persulfates from the People's Republic of China: Notice of Final Results of Expedited Second Sunset Review of Antidumping Duty Order*, 73 FR 11868 (March 5, 2008), and accompanying Issues and Decision Memorandum at Comment 2.
[9] *See* SAA, at 890-91.

shall not by itself require" the Department to determine that revocation of an AD order would not be likely to lead to a continuation or recurrence of sales at less than fair value.[10]

In the *Final Modification for Reviews*, the Department announced that in five-year ("sunset") reviews, it will not rely on weighted-average dumping margins that were calculated using the methodology determined by the Appellate Body to be World Trade Organization (WTO)-inconsistent.[11] The Department also noted that "*only in the most extraordinary circumstances* will the Department rely on margins other than those calculated and published in prior determinations."[12] The Department further noted that it does not anticipate that it will need to recalculate the dumping margins in sunset determinations to avoid WTO inconsistency, apart from the "most extraordinary circumstances" provided for in its regulations.[13]

Below we address the comments submitted by the Domestic Producers.

1. Likelihood of continuation or recurrence of dumping

<u>Domestic Producers' Comments</u>

- Revocation of the *Antidumping Duty Order* would likely lead to the continuation or recurrence of sales at less than fair value at margins equivalent to or greater than those found in the original investigation. The record demonstrates that, since the issuance of the order, (i) dumping has continued, and (ii) shipments of the subject merchandise have decreased significantly; thus indicating that PRC exporters could not ship the subject merchandise under the discipline of the order.

Department's Position: As explained in the "Legal Framework" section above, the Department's determination concerning whether revocation of an AD order would be likely to lead to continuation or recurrence of dumping is based, in part, upon guidance provided by the legislative history accompanying the Uruguay Round Agreements Act (*i.e.*, the SAA; House Report, H. Rep. No. 103-826, pt. 1 (1994) ("House Report");[14] and Senate Report, S. Rep. No. 103-412 (1994)). Consistent with the SAA, the Department will make its likelihood determination on an order-wide basis.[15] Further, when determining whether revocation of the order would be likely to lead to continuation of dumping, sections 752(c)(1)(A) and (B) of the Act instruct the Department to consider: (1) the weighted-average dumping margins determined in the investigation and subsequent reviews; and (2) the volume of imports of the subject merchandise for the period before and after the issuance of the AD order. Thus, one consideration is whether the Department continued to find dumping above *de minimis* levels in

[10] *See Folding Gift Boxes from the People's Republic of China: Final Results of the Expedited Sunset Review of the Antidumping Duty Order*, 72 FR 16765 (April 5, 2007) and accompanying Issues and Decision Memorandum at Comment 1.
[11] *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*").
[12] *See id.* (emphasis added); *see also* 19 CFR 351.218(e)(2)
[13] *See id.*
[14] *Reprinted at* 1994 U.S.C.C.A.N. 3773.
[15] *See* SAA, at 879.

administrative reviews subsequent to imposition of the AD order.[16] According to the SAA and the House Report, "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."[17] For the reasons discussed below, we find that revocation of the AD order on welded line pipe from the PRC would be likely to result in the continuation or recurrence of dumping in the United States.

Pursuant to section 752(c)(1)(A) of the Act, the Department first considered the weighted-average dumping margins determined in the investigation and any subsequent reviews. In the final determination, the Department calculated a weighted-average dumping margin for one mandatory respondent, Huludao, and assigned the calculated rate to three separate rate respondents. The Department found that the PRC-wide entity failed to cooperate to the best of its ability and, as adverse facts available ("AFA"), assigned it the highest CONNUM-specific dumping margin, *i.e.*, 101.10 percent, which was calculated in the preliminary determination for a respondent which subsequently withdrew from the investigation.[18] There have been no reviews of the *Antidumping Duty Order*. Thus, any entries of subject merchandise into the United States after issuance of the *Antidumping Duty Order* were assessed at above *de minimis* AD rates. As noted above, the Department normally determines that revocation of an AD order would be likely to lead to continuation or recurrence of dumping when dumping continued at any level above *de minimis* after issuance of the order.

In addition, pursuant to section 752(c)(1)(B) of the Act, the Department also considered the volume of imports of the subject merchandise in determining whether revocation of the AD order would be likely to lead to continuation or recurrence of dumping. As discussed above, it is the Department's practice to compare the volume of imports for the one-year period preceding the initiation of the LTFV investigation (*i.e.*, 2007) to the volume of imports after the issuance of the order (the order was issued in early 2009). We analyzed import volumes for four years following the issuance of the order using U.S. Bureau of Census import statistics which the Domestic Producers obtained from the USITC Dataweb. The data show that the volume of U.S. imports of line pipe from the PRC during calendar years 2009 through 2012 ranged from 0.8 percent to three percent of the total import volume during calendar year 2007. [19] As noted above, the SAA explained that the Department normally determines that revocation of an AD order would be likely to lead to continuation or recurrence of dumping when, among other things, imports of the subject merchandise ceased after issuance of the order. While imports from the PRC have not ceased, record evidence shows significantly lower imports over the four year period examined when compared to pre-initiation import volumes. This indicates that PRC exporters may not be able to maintain pre-investigation import levels without selling merchandise at dumped prices.[20]

Therefore, pursuant to section 752(c)(1) of the Act, because above *de minimis* dumping margins applied to post-order entries of subject merchandise, and the Department found dramatically

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[16] *See id.* at 890.
[17] *Id.*; *see also* House Report, at 63-64.
[18] *See Final Determination*, 74 FR at 14516.
[19] *See* Attachment 1 to this memorandum.
[20] *See, e.g., Certain Activated Carbon From the People's Republic of China: Final Results of Expedited Sunset Review of the Antidumping Duty Order,* 77 FR 33420 (June 6, 2012), and accompanying Issues & Decision Memorandum at Comment 1.

lower import volumes in the four years examined in comparison to the import volumes prior to the initiation, we find that dumping would be likely to continue or recur if the *Antidumping Duty Order* were revoked.

2. Magnitude of the dumping margins likely to prevail

<u>Domestic Producers' Comments</u>

- The Department should rely on the dumping margins from the original investigation as the dumping margins likely to prevail in the event of a revocation of the *Antidumping Duty Order*.
- Because none of these dumping margins were calculated using zeroing, the *Final Modification for Reviews* has no effect on this conclusion.

Department's 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 that is likely to prevail if the order is revoked or the suspended investigation is terminated." Normally, the Department will provide to the ITC the weighted-average dumping margin from the investigation for each company.[21] The Department's preference for selecting a rate from the investigation is based on the fact that it is the only calculated rate that reflects the behavior of manufacturers, producers, and exporters without the discipline of an order or suspension agreement in place.[22] Under certain circumstances, however, we may select a more recently calculated rate to report to the ITC. For companies not investigated individually, or for companies that did not begin shipping until after the order was issued, the Department will normally provide a rate based on the "All-Others" rate from the investigation. However, the Department considers the PRC to be a nonmarket economy country under section 771(18) of the Act, and thus the Department does not have an "All-Others" rate in PRC cases. Rather, in PRC cases, instead of an "All-Others" rate, the Department uses a rate established for the PRC-wide entity, which it applies to all imports from an exporter that has not established its eligibility for a separate rate.[23]

As indicated in the "Legal Framework" portion of this memorandum, the Department's current practice is to not rely on weighted-average dumping margins calculated using the zeroing methodology that was modified in the *Final Modification for Reviews*.

No administrative reviews of welded line pipe from the PRC have been conducted. Consistent with the Department's practice, we considered the dumping margins from the LTFV investigation to be the best evidence of the exporters' behavior in the absence of an order. The dumping margin calculated for the one participating mandatory respondent in the investigation does not include zeroing and thus this margin is consistent with the *Final Modification for Reviews*.[24] Furthermore, the highest calculated CONNUM-specific margin that was assigned to

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[21] *See Eveready Battery Co., Inc. v. United States*, 77 F. Supp. 2d 1327, 1333 (CIT 1999).
[22] *See SAA* at 890.
[23] *See Paper Clips from the People's Republic of China: Final Results of Expedited Sunset Review of Antidumping Duty Order*, 76 FR 26242 (May 6, 2011), and accompanying Issues and Decision Memorandum at Comment 2; *see also* 19 CFR 351.107(d).
[24] *See* Memorandum to the File regarding, "Circular Welded Carbon-Quality Steel Line Pipe from the People's Republic of China Sunset Review," dated April 1, 2014.

the PRC-wide entity does not include zeroing and, thus, this dumping margin is also consistent with the *Final Modification for Reviews*.

Final Results of Review

We determine that revocation of the AD order on welded line pipe from the PRC would be likely to lead to continuation or recurrence of dumping. The magnitude of the margin of dumping likely to prevail with respect to Huludao, Pangang Beihai, Jiangsu Yulong, and Tianjin Xingyuda is 73.87 percent. The magnitude of the margin of dumping likely to prevail with respect to all other exporters of welded line pipe from the PRC is 101.1 percent.

Recommendation

Based on our analysis of the substantive response received, we recommend adopting the above positions. If these recommendations are accepted, we will publish these final results of this expedited sunset review in the *Federal Register* and notify the ITC of our determination.

✓ ____________   ____________
Agree   Disagree

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Paul Piquado
Assistant Secretary
for Enforcement and Compliance

28 MARCH 2014
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Date

Attachment 1

Year	Qty (net tons)	(% of total 2007 import volume)
2006	225,453	
2007	282,272	
2008	n/a	
2009	2,345	0.831%
2010	3,649	1.293%
2011	7,068	2.504%
2012	8,450	2.994%

Source: U.S. Bureau of Census import statistics, obtained from USITC Dataweb