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

A-570-881
Sunset Review
Public Document
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July 1, 2014

MEMORANDUM TO: Paul Piquado <s>
Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Issues and Decision Memorandum for the Final Results of the Expedited Second Sunset Review of the Antidumping Duty Order on Malleable Cast Iron Pipe Fittings from the People's Republic of China

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Summary

The Department of Commerce ("Department") analyzed the substantive response submitted jointly by two domestic interested parties, Anvil International, LLC[1] ("Anvil") and Ward Manufacturing ("Ward") (collectively, "Anvil/Ward" or "Domestic Producers"), the sole participating interested parties in this second sunset review of the antidumping duty ("AD") *Order*[2] covering certain malleable cast iron pipe fittings ("malleable pipe fittings") from the People's Republic of China ("PRC"). No respondent interested party submitted a substantive response. Accordingly, we conducted an expedited (120-day) sunset review. We recommend adopting the positions developed in the "Discussion of the Issues" section of this memorandum. 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
2. Magnitude of the margin likely to prevail

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[1] Anvil International Inc., the predecessor to Anvil International, LLC, was one of the petitioners in the initial less-than-fair-value investigation of this proceeding. Ward Manufacturing was also a petitioner in the initial investigation.

[2] *See Antidumping Duty Order: Certain Malleable Iron Pipe Fittings From the People's Republic of China*, 68 FR 69376 (December 12, 2003) ("*Order*").

Background

On March 3, 2014, the Department published the notice of initiation of the second sunset review of the AD *Order* on malleable pipe fittings from the PRC, pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act").[3] Both Anvil[4] and Ward[5] timely notified the Department of their intent to participate within the deadline specified in section 351.218(d)(1)(i) of the Department's regulations, with each claiming domestic interested party status under section 771(9)(C) of the Act, as a domestic producer of malleable pipe fittings. The Department then received a complete substantive response jointly filed by both Anvil and Ward within the 30-day deadline specified in section 351.218(d)(3)(i) of the Department's regulations.[6] The Department did not receive any responses from any respondent interested parties. As a result, pursuant to section 751(c)(3)(B) of the Act and section 351.218(e)(1)(ii)(C)(2) of the Department's regulations, we have conducted an expedited (120-day) sunset review of the *Order*.

Scope of the *Order*

The products covered by the *Order* are certain malleable iron pipe fittings, cast, other than grooved fittings, from the PRC. The merchandise is currently classifiable under item numbers 7307.19.90.30, 7307.19.90.60, 7307.19.90.80, and 7326.90.85.88 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Excluded from the scope of this order are metal compression couplings, which are imported under HTSUS number 7307.19.90.80. A metal compression coupling consists of a coupling body, two gaskets, and two compression nuts. These products range in diameter from ½ inch to 2 inches and are carried only in galvanized finish. Although HTSUS subheadings are provided for convenience and customs purposes, the Department's written description of the scope of this proceeding is dispositive.

History of the *Order*

On December 12, 2003, the Department published the *Order* with respect to imports of malleable pipe fittings from the PRC. In the initial *Order*, the Department established the following weighted-average dumping margins:

Exporter/Manufacturer	Margin (percent)[7]
Beijing Sai Lin Ke Hardware Co. Ltd. ("SLK")	15.92
Langfang Pannext Pipe Fitting Co., Ltd. ("Pannext")	7.35
Chengde Malleable Iron General Factory ("Chengde")	11.18

[3] *See Initiation of Five-Year ("Sunset") Review*, 79 FR 11762 (March 3, 2014).

[4] *See* letter from Anvil entitled, "Five-Year ("Sunset") Review Of Antidumping Duty Order On Malleable Cast Iron Pipe Fittings From The People's Republic Of China: Notice Of Intent To Participate Of Anvil International, LLC," dated March 13, 2014.

[5] *See* letter from Ward entitled, "Malleable Cast Iron Pipe Fittings from China, Second Sunset," dated March 17, 2014.

[6] *See* letter from Anvil/Ward entitled, "Malleable Cast Iron Pipe Fittings from China, Second Sunset: Substantive Response to the Notice of Initiation," dated April 2, 2014 ("Substantive Response").

[7] *See Order*; *see also Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Malleable Iron Pipe Fittings from the People's Republic of China*, 68 FR 65873 (November 24, 2003) ("*Final Determination*").

SCE Co., Ltd. ("SCE")	11.18
Jinan Meide Casting Co., Ltd. ("JMC")	11.31
PRC-Wide	111.36

The Department conducted one administrative review prior to the *First Sunset*.[8] The Department then rescinded the December l, 2004, through November 30, 2005, administrative review based on the timely withdrawal of a request for review submitted by LDR and SLK.[9] The Department also rescinded the December 1, 2005, through November 30, 2006, administrative review and December 1, 2006, through November 30, 2007 administrative review based on the timely withdrawals of requests for review submitted by SLK and Mueller Comercial de Mexico, D. de R.L. de C.V ("Mueller").[10]

In the *First Sunset*, the Department found that revocation of the AD *Order* would be likely to lead to continuation or recurrence of dumping.[11] In addition, the U.S. International Trade Commission ("ITC") determined, pursuant to section 751(c) of the Act, that revocation of the AD *Order* would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[12] Thus, the Department published the notice of continuation of the AD *Order*.[13]

Since the *First Sunset*, the Department initiated two administrative reviews, the 2007-2008 and 2008-2009 reviews, each of which were rescinded based on the timely withdrawal of the request for review from the requesting company (LDR/SLK and Mueller/Southland Pipe Nipples Company, Inc. ("Southland") in 2007-2008 and Mueller/Southland in 2008-2009).[14] Since the 2008-2009 review, there have been no requests for review in response to the annual publication in the *Federal Register* of notification of the opportunity to request administrative review in the anniversary month of the *Order*. As such, the Department has not conducted an administrative review of the *Order* for the 2009-2010, 2010-2011, 2011-2012, or 2012-2013 periods.

The Department has not issued any new shipper reviews, changed circumstance findings, or findings of duty absorption, and issued only a single scope ruling,[15] over the history of the

[8] *See 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) ("*First Sunset*").

[9] *See Rescission of Antidumping Duty Administrative Review: Certain Malleable Iron Pipe Fittings From the People's Republic of China*, 71 FR 14500 (March 22, 2006).

[10] *See Malleable Cast Iron Pipe Fittings From the People's Republic of China: Notice of Rescission of Antidumping Duty Administrative Review*, 72 FR 9731 (March 5, 2007) and *Malleable Cast Iron Pipe Fittings From the People's Republic of China: Notice of Rescission of Antidumping Duty Administrative Review*, 73 FR 9998 (February 25, 2008).

[11] *See First Sunset*.

[12] *See Malleable Iron Pipe Fittings from China* (Inv. No. 731-TA-1021 (Review)), USITC Publication 4069 (April 2009) and 74 FR 16233 (April 9, 2009).

[13] *See Continuation of Antidumping Duty Order on Malleable Cast Iron Pipe Fittings From the People's Republic of China*, 74 FR 18349 (April 22, 2009).

[14] *See Malleable Cast Iron Pipe Fittings from the People's Republic of China: Notice of Rescission of the 2007-2008 Administrative Review of the Antidumping Duty Order*, 74 FR 10548 (March 11, 2009) and *Malleable Cast Iron Pipe Fittings from the People's Republic of China: Notice of Rescission of the 2008-2009 Administrative Review of the Antidumping Duty Order*, 75 FR 10216 (March 5, 2010).

[15] *See Notice of Scope Rulings*, 70 FR 41374 (July 19, 2005).

Order. The *Order* remains in effect for all PRC producers and exporters of malleable pipe fittings.

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 ("URAA"), 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.[16] 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.[17]

Further, 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. 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.[18] 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").[19] Finally, pursuant to section 752(c)(4)(A) of the Act, a dumping margin of "zero or *de minimis* shall not by itself

[16] *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.

[17] *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 ("IDM") at Comment 1.

[18] *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 IDM at Comment 2.

[19] *See* SAA, at 890-91.

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.[20]

In the *Final Modification*, 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.[21] 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."[22] 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.[23]

Below we address the comments submitted by the Domestic Producers.

Discussion of the Issues

1. Likelihood of Continuation or Recurrence of Dumping

Anvil/Ward Comments

Anvil/Ward notes that all exporters of subject merchandise from the PRC have AD cash deposits, demonstrating that no respondents can export to the United States without dumping. According to Anvil/Ward, though only one administrative review has been completed since the *Order*, the dumping margins increased for Chengde and SCE, whose new dumping margins were based on partial adverse facts available ("AFA"), and the PRC-wide margin from the original investigation also was calculated using AFA. As such, Anvil/Ward argues, the Department can continue to rely on these dumping margins, and the continued existence of such AFA and above *de minimis* margins is, in itself, a sufficient basis for the Department to conclude that PRC producers are likely to continue to engage in dumping in the absence of the *Order*.[24]

Department's Position:

Drawing on the guidance provided in the legislative history accompanying the URAA, specifically the SAA, the House Report, H. Rep. No. 103-826, pt. 1 (1994), and the Senate Report, S. Rep. No. 103-412 (1994), the Department normally determines that revocation of an AD order is likely to lead to continuation or recurrence of dumping where: (a) dumping continued at any level above *de minimis* after the issuance of the order, (b) imports of the subject merchandise ceased after 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. For

[20] *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 IDM at Comment 1.
[21] *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*").
[22] *Id.* (emphasis added).
[23] *Id.*
[24] *See* Substantive Response at 6-7.

the reasons discussed below, we find that revocation of the AD *Order* on malleable pipe fittings from the PRC would likely 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. We note that the margins determined for the individual company respondents in the investigation and administrative review were based on the zeroing methodology. However, as discussed above, the Department found dumping at above *de minimis* levels with respect to the PRC-wide entity, and a 111.36 percent margin is in effect for all exporters of subject merchandise from the PRC except for those companies that have their own rate. Thus, entries of subject merchandise into the United States after issuance of the *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 considers the volume of imports of the subject merchandise for the period before and after the issuance of the AD order. In the *First Sunset*, upon review of import statistics obtained from the ITC Trade Data Web, we found that U.S. imports of malleable pipe fittings from the PRC increased from the 2001 pre-*Order* period levels in comparison to the post-*Order* period levels.[25] Additionally, we found that the level of imports of subject merchandise from the PRC fluctuated in volume during the five-year period of the first sunset review, and that imports of malleable pipe fittings from the PRC were higher in volume at the time of the *First Sunset* than before the *Order* was put in place.[26] Using statistics provided by the Global Trade Atlas® Online, the Department finds that U.S. imports of malleable pipe fittings from the PRC in the five-year period covered by current sunset have remained consistent with the levels of trade evaluated in the first sunset review and which resulted in the first continuation of the *Order*.[27] Though the quantity of imports initially dropped significantly between the last year reviewed for the *First Sunset* (*i.e.* 2008, with over 22 million kilograms imported) and the first year of annual imports reviewed in the instant sunset period (*i.e.*, 2009, with just under 15 million kilograms imported), imports then increased to exceed the average yearly level from the prior sunset period for the remaining four years of this sunset period, increasingly marginally from one year to the next. In total, the quantity of imports of subject merchandise from the PRC was nearly identical to that reviewed in the prior sunset period, with each year exceeding that of pre-*Order* import levels.[28]

If companies continue to dump with the discipline of an AD order in place, it is reasonable to assume that dumping would continue if the AD *Order* were removed.[29] Therefore, pursuant to section 752(c)(1) of the Act, because an above *de minimis* dumping margin applies to post-*Order* entries of subject merchandise, we find that companies continued to dump notwithstanding the discipline of the *Order* and, thus, dumping is likely to continue or recur if the *Order* is revoked.

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[25] *See First Sunset*, and accompanying IDM at 5 and Attachment I, *see also* Attachment.
[26] *Id.*
[27] *See* Attachment.
[28] *Id.*
[29] *See* SAA at 890.

2. Magnitude of the Margin Likely to Prevail

Anvil/Ward Comments

In determining the magnitude of the margins of dumping that would likely prevail in the event of revocation, Anvil/Ward points out that the Department will normally select the company-specific dumping margins (calculated using a company's own information or based on best information available or facts available) established in the original investigation, because that is the only calculated rate that reflects the behavior of exporters and producers without the discipline of an order or suspension agreement in place.[30] Accordingly, Anvil/Ward asserts that the dumping margins that should be reported by the Department to the ITC are the margins from the original investigation.[31]

Anvil/Ward argues that the *Final Modification*, which establishes that the Department will no longer rely on dumping margins that were calculated using the zeroing methodology, has no effect on this conclusion, since the *Final Modification* does not state that the Department is changing its practice with respect to the margins it will report to the ITC as the margins that would be likely to prevail if the order is revoked.[32] In support of this contention, Anvil/Ward notes that none of the WTO dispute settlement reports that led to the issuance of the *Final Modification* make any finding with respect to the WTO-consistency of the margins that the Department reports to the ITC but, rather, they only make findings with respect to the Department's reliance on margins that were calculated using the zeroing methodology when determining whether dumping is likely to continue or recur if an order is revoked and, furthermore, the Department stated in the *Final Modification* that it would continue to rely on dumping margins that were not WTO-inconsistent, such as margins that were based on the use of AFA.[33] Because the original dumping margin for all PRC-wide rate exporters/producers was calculated using AFA, this margin is consistent with the *Final Modification* and should be reported to the ITC as the margin likely to prevail if the order were revoked.[34]

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 were revoked. Normally, the Department will provide to the ITC the company-specific weighted-average dumping margin from the investigation for each company.[35] 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.[36] Under certain circumstances, however, we may select a more recently calculated rate to report to the ITC. For companies not investigated individually,

[30] *See* Substantive Response at 7-8.
[31] *Id.* at 8.
[32] *Id.*
[33] *Id.* at 8-9.
[34] *Id.* at 9.
[35] See *Eveready Battery Co., Inc. v. United States*, 77 F. Supp. 2d 1327, 1333 (CIT 1999).
[36] *See* SAA at 890 and Policies Regarding the Conduct of five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin, at section II.B.1.

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 under section 771(18) of the Act and, thus, 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.[37]

As indicated in the “Legal Framework” section above, the Department’s current practice is to not rely on weighted-average dumping margins calculated using the zeroing methodology, consistent with the *Final Modification*. Instead, we may rely on other rates that may be available, or we may recalculate weighted-average dumping margins using our current offsetting methodology in extraordinary circumstances.[38]

In the *Final Determination*, SLK, JMC, and Pannext were assigned individually calculated dumping margins.[39] The Department notes that these margins were calculated using the zeroing methodology. As discussed above and following our current practice, the Department determines that these rates should be recalculated without using the zeroing methodology. Upon recalculating these rates without the zeroing methodology, the Department determines that the recalculated rate for each individually examined respondent is *de minimis*. The dumping margin for the PRC-wide entity in the AD investigation was based on the dumping margin from the petition and, therefore, does not include zeroing and is consistent with the *Final Modification*. Therefore, we agree with Anvil/Ward, in part, and determine that the margin for the PRC-wide entity originally calculated in the *Final Determination* does not need to be recalculated and will be reported to the ITC without modification.[40]

<u>Final Results of Review</u>

We determine that revocation of the AD order on malleable pipe fittings from the PRC would be likely to lead to continuation or recurrence of dumping and that the magnitude of the margin of dumping likely to prevail would be weighted-average margins up to 111.36 percent.

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[37] *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 IDM at Comment 2; *see also* 19 CFR 351.107(d).

[38] *See Final Modification*, 77 FR at 8103.

[39] *See Final Determination*, 68 FR at 65874. Chengde and SCE were assigned separate rates margins based on the weighted-average of the three individually reviewed respondents’ calculated margins.

[40] *See, e.g., Non-Malleable Cast Iron Pipe Fittings From the People’s Republic of China: Final Results of the Expedited Second Sunset Review of the Antidumping Duty Order*, 78 FR 72639 (December 3, 2013).

Recommendation

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

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Paul Piquado
Assistant Secretary
for Enforcement and Compliance

27 JUNE 2014
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(Date)

Attachment

Imports of Malleable Cast Iron Pipe Fittings into the United States from the People's Republic of China

United States Import Statistics From China																
Commodity: 730719, Pipe Or Tube Fittings, Cast, Of Iron Nesoi Or Steel																
Year To Date: January - December																
Commodity	**Unit**	**Description**	**Quantity**													
			2000	**2001**	**2002**	**2003**	**2004**	**2005**	**2006**	**2007**	**2008**	**2009**	**2010**	**2011**	**2012**	**2013**
7307199060	KG	Tube/Pipe Fittings, Threaded, Iron Or Steel, Cast	8,882,586	8,754,304	14,060,073	12,633,512	14,908,490	17,532,336	20,526,635	17,934,993	17,589,424	11,505,220	17,400,212	18,256,515	20,163,325	20,183,444
7307199080	KG	Oth Tube/Pipe Fittings, Iron Or Steel, Cast, Nesoi	2,981,850	2,997,629	4,405,395	3,336,545	4,040,491	5,365,887	4,168,036	3,530,152	3,454,309	2,499,219	4,038,549	3,386,849	3,111,795	2,958,312
7307199030	KG	Unions, Pipe, Of Iron Or Steel, Cast	374,984	443,234	466,720	570,043	401,263	489,566	781,015	1,208,503	1,584,797	856,715	1,977,393	2,039,052	1,944,324	2,109,321
Total	**KG**	**All**	**12,239,420**	**12,195,167**	**18,932,188**	**16,540,100**	**19,350,244**	**23,387,789**	**25,475,686**	**22,673,648**	**22,628,530**	**14,861,154**	**23,416,154**	**23,682,416**	**25,219,444**	**25,251,077**
			Pre-Investigation period (approx.)		POI-period (approx.)		First Sunset Period					Current Sunset Period				
							Avg Yearly Imports = 22,703,179 / Total Imports = 113,515,897					Avg Yearly Imports = 22,486,049 / Total Imports = 112,430,245				

Source of Data: U.S. Department of Commerce, Bureau of Census