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

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Sunset Review
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MEMORANDUM TO: Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

FROM: James Maeder
Senior Director, Office I
for Antidumping and Countervailing Duty Operations

SUBJECT: Issue and Decision Memorandum for the Final Results of the Expedited First Sunset Review of the Antidumping Order on Multilayered Wood Flooring from the People's Republic of China

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I. Summary

We analyzed the response of the Coalition for American Hardwood Parity ("CAHP"), an *ad hoc* association of domestic manufacturers of multilayered wood flooring ("MLWF"), in the first sunset review of the antidumping duty ("AD") order on multilayered wood flooring ("MLWF") from the People's Republic of China ("PRC"). We received no response from any respondent or other interested party in the review. Accordingly, we conducted an expedited (120-day) sunset review for this *AD Order*. We recommend that you approve the positions in the "Discussion of the Issues" section of this memorandum. Below is a complete list of the 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 margins likely to prevail.

II. Background

On December 8, 2011, the Department of Commerce ("Department") published the *AD Order* on MLWF from the PRC.[1] On November 1, 2016, the Department published the notice of initiation of the first sunset review of the *AD Order*, pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act").[2] On November 16, 2016, the Department received a timely

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[1] *See Multilayered Wood Flooring from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order*, 76 FR 76690 (December 8, 2011) ("*AD Order*").
[2] *See Initiation of Five-Year ("Sunset") Review*, 81 FR 75808 (November 1, 2016).

notice of intent to participate in this review from CAHP, a domestic interested party, within the 15-day deadline specified in 19 CFR 351.218(d)(1)(i).[3] In accordance with 19 CFR 351.218(d)(1)(ii)(A), CAHP claimed interested party status under sections 771(9)(C) and (F) of the Act as a domestic manufacturer of MLWF. On December 1, 2016, the Department received a complete and substantive response from CAHP within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).[4] The Department received no response 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*.

III. Scope of the *AD Order*

Multilayered wood flooring is composed of an assembly of two or more layers or plies of wood veneer(s) in combination with a core. The several layers, along with the core, are glued or otherwise bonded together to form a final assembled product. Multilayered wood flooring is often referred to by other terms, *e.g.*, "engineered wood flooring" or "plywood flooring." Regardless of the particular terminology, all products that meet the description set forth herein are intended for inclusion within the definition of subject merchandise.

All multilayered wood flooring is included within the definition of subject merchandise, without regard to: dimension (overall thickness, thickness of face ply, thickness of back ply, thickness of core, and thickness of inner plies; width; and length); wood species used for the face, back, and inner veneers; core composition; and face grade. Multilayered wood flooring included within the definition of subject merchandise may be unfinished (*i.e.*, without a finally finished surface to protect the face veneer from wear and tear) or "prefinished" (*i.e.*, a coating applied to the face veneer, including, but not exclusively, oil or oil-modified or water-based polyurethanes, ultra-violet light cured polyurethanes, wax, epoxy-ester finishes, moisture-cured urethanes and acid-curing formaldehyde finishes). The veneers may be also soaked in an acrylic-impregnated finish. All multilayered wood flooring is included within the definition of subject merchandise regardless of whether the face (or back) of the product is smooth, wire brushed, distressed by any method or multiple methods, or hand-scraped. In addition, all multilayered wood flooring is included within the definition of subject merchandise regardless of whether or not it is manufactured with any interlocking or connecting mechanism (for example, tongue-and-groove construction or locking joints). All multilayered wood flooring is included within the definition of the subject merchandise regardless of whether the product meets a particular industry or similar standard.

The core of multilayered wood flooring may be composed of a range of materials, including but not limited to hardwood or softwood veneer, particleboard, medium-density fiberboard, high-density fiberboard ("HDF"), stone and/or plastic composite, or strips of lumber placed edge-to-edge.

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[3] *See* Letter from CAHP to the Department, "Petitioners' Notice of Intent to Participate: Five-Year ("Sunset") Review: Multilayered Wood Flooring from the People's Republic of China" (November 16, 2016).
[4] *See* Letter from CAHP to the Department, "Petitioners' Substantive Response: Five-Year ("Sunset") Review: Multilayered Wood Flooring from the People's Republic of China" (December 1, 2016) ("CAHP Substantive Response").

Multilayered wood flooring products generally, but not exclusively, may be in the form of a strip, plank, or other geometrical patterns (*e.g.*, circular, hexagonal). All multilayered wood flooring products are included within this definition regardless of the actual or nominal dimensions or form of the product. Specifically excluded from the scope are cork flooring and bamboo flooring, regardless of whether any of the sub-surface layers of either flooring are made from wood. Also excluded is laminate flooring. Laminate flooring consists of a top wear layer sheet not made of wood, a decorative paper layer, a core-layer of HDF, and a stabilizing bottom layer.

Imports of the subject merchandise are provided for under the following subheadings of the Harmonized Tariff Schedule of the United States ("HTSUS"): 4412.31.0520; 4412.31.0540; 4412.31.0560; 4412.31.2510; 4412.31.2520; 4412.31.4040; 4412.31.4050; 4412.31.4060; 4412.31.4070; 4412.31.4075; 4412.31.4080; 4412.31.5125; 4412.31.5135; 4412.31.5155; 4412.31.5165; 4412.31.6000; 4412.31.9100; 4412.32.0520; 4412.32.0540; 4412.32.0560; 4412.32.0565; 4412.32.0570; 4412.32.2510; 4412.32.2520; 4412.32.2525; 4412.32.2530; 4412.32.3125; 4412.32.3135; 4412.32.3155; 4412.32.3165; 4412.32.3175; 4412.32.3185; 4412.32.5600; 4412.39.1000; 4412.39.3000; 4412.39.4011; 4412.39.4012; 4412.39.4019; 4412.39.4031; 4412.39.4032; 4412.39.4039; 4412.39.4051; 4412.39.4052; 4412.39.4059; 4412.39.4061; 4412.39.4062; 4412.39.4069; 4412.39.5010; 4412.39.5030; 4412.39.5050; 4412.94.1030; 4412.94.1050; 4412.94.3105; 4412.94.3111; 4412.94.3121; 4412.94.3131; 4412.94.3141; 4412.94.3160; 4412.94.3171; 4412.94.4100; 4412.94.5100; 4412.94.6000; 4412.94.7000; 4412.94.8000; 4412.94.9000; 4412.94.9500; 4412.99.0600; 4412.99.1020; 4412.99.1030; 4412.99.1040; 4412.99.3110; 4412.99.3120; 4412.99.3130; 4412.99.3140; 4412.99.3150; 4412.99.3160; 4412.99.3170; 4412.99.4100; 4412.99.5100; 4412.99.5105; 4412.99.5115; 4412.99.5710; 4412.99.6000; 4412.99.7000; 4412.99.8000; 4412.99.9000; 4412.99.9500; 4418.71.2000; 4418.71.9000; 4418.72.2000; 4418.72.9500; and 9801.00.2500.[5]

While HTSUS subheadings are provided for convenience and customs purposes, the written description of the subject merchandise is dispositive.

IV. History of the *AD Order*

On November 10, 2010, the Department initiated an antidumping duty investigation on MLWF from the PRC.[6] On May 26, 2011, the Department preliminarily determined that MLWF from the PRC was being sold in the United States at less-than-fair-value ("LTFV").[7] On October 18, 2011, the Department published the final determination of sales at LTFV in the *Federal Register*.[8] On December 8, 2011, the Department published an amended final determination and

[5] *See* Letter to the File from Lilit Astvatsatrian, Case Analyst, Enforcement and Compliance, Office IV, regarding "Multilayered Wood Flooring from the PRC, Modification of the Case Reference File in ACE" (November 18, 2013).
[6] *See Multilayered Wood Flooring from the People's Republic of China: Initiation of Antidumping Duty Investigation*, 75 FR 70714 (November 18, 2010) (''Initiation Notice'').
[7] *See Multilayered Wood Flooring from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value*, 76 FR 30656 (May 26, 2011) (''Preliminary Determination'').
[8] *See Notice of Final Determination of Sales at Less Than Fair Value: Multilayered Wood Flooring from the People's Republic of China*, 76 FR 64318 (October 18, 2011) ("*Final Determination*").

notice of the *AD Order*.[9] The Department calculated final company-specific weighted-average dumping margins of 0.00 or *de minimis*, 3.97 and 2.63 percent, a separate rate of 3.30 percent, as well as a PRC wide-rate of 58.84 percent.[10] In the course of litigation, the Department amended the *Final Determination* and *AD Order* and revised the mandatory respondents' dumping margins, finding all three to be zero or *de minimis*, and revised the PRC-wide rate to 25.62 percent.[11] The Department also calculated a separate rate by averaging the three zero figures with the 25.62 percent PRC-wide rate, yielding a separate rate of 6.41 percent.[12] This separate rate determination was sustained by the Court of International Trade ("CIT");[13] however, was remanded by the Court of Appeals for the Federal Circuit for reconsideration.[14] The CIT's final judgment affirming the Department's redetermination constitutes a final decision with respect to the PRC-wide rate.

Since publication of the *AD Order*, the Department has completed five new shipper reviews, three administrative reviews, and the preliminary results of review for a fourth administrative review.[15] In addition, we have found three review periods where there have been either no shipments or no reviewable entries.[16] The Department has issued 19 scope rulings during the course of this *AD Order*.[17] Finally, the Department has conducted three changed circumstances

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[9] *See AD Order*.

[10] *Id*.

[11] *See Multilayered Wood Flooring from the People's Republic of China: Notice of Court Decision Not in Harmony With the Final Determination and Amended Final Determination of the Antidumping Duty Investigation,* 80 FR 44029 (July 24, 2015).

[12] *See Changzhou Hawd Flooring Co., Ltd. v. United States*, 77 F. Supp. 3d 1351 (CIT 2015).

[13] *Id*.

[14] *Changzhou Hawd Flooring Co., Ltd. v. United States*, 2017 WL 605305 (Fed. Cir. Feb. 15, 2017).

[15] *See Multilayered Wood Flooring from the People's Republic of China: Final Results of Antidumping Duty New Shipper Review; 2011*-2012, 78 FR 52502 (Aug. 23, 2013); *Multilayered Wood Flooring from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 26712 (May 9, 2014) (see also *Multilayered Wood Flooring from the People's Republic of China: Amended Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 35314 (June 20, 2014)); *Multilayered Wood Flooring from the People's Republic of China: Final Results of Antidumping Duty New Shipper Reviews; 2012-2013*, 79 FR 66355 (Nov. 7, 2014); *Multilayered Wood Flooring from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Results of New Shipper Review; 2012-2013*, 80 FR 41476 (July 15, 2015); *Multilayered Wood Flooring from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2013-2014*, 81 FR 46899 (July 19, 2016); and *Multilayered Wood Flooring from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, Preliminary Determination of No Shipments, and Preliminary Partial Rescission of Antidumping Duty Administrative Review; 2014-2015*, 81 FR 95114, (December 27, 2016).

[16] *See Multilayered Wood Flooring from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 26712 (May 8, 2014); *Multilayered Wood Flooring from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012-2013*, 80 FR 41476 (July 15, 2015); and *Multilayered Wood Flooring from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2013-2014*, 81 FR 46899 (July 19, 2016).

[17] Final Scope Ruling on the Antidumping and Countervailing Duty Orders on Multilayered Wood Flooring from the People Republic of China: Request by Zhejiang Lingge (July 2, 2012); Final Scope Ruling on the Antidumping and Countervailing Duty Orders on Multilayered Wood Flooring from the People Republic of China: Request by Alston (March 12, 2013); Final Scope Ruling on the Antidumping and Countervailing Duty Orders on Multilayered Wood Flooring from the People Republic of China: Request by M-Wave International, LLC; Final Scope Ruling for Real Wood Floors, LLC's Engineered Wood Flooring from the People's Republic of China (December 4, 2013); Final Scope Ruling on the Antidumping and Countervailing Duty Orders on Multilayered Wood Flooring from the People Republic of China: Request by Shenzhenshi Huanwei Woods Co., Ltd. (May 13, 2014); Final Scope Ruling

reviews during the course of this *AD Order*.[18] The Department has not conducted any duty absorption reviews in the history of this *AD Order*.

The Department is conducting the first sunset review of the *AD Order* on MLWF from the PRC. The *AD Order* remains in effect for all manufacturers, producers, and exporters of MLWF from the PRC.

V. Legal Framework

In accordance with section 751(c)(1) of the Act, the Department conducted this sunset review to determine whether revocation of the *AD 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, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews, and the volume of imports of the subject merchandise for the periods before and 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 Statement of Administrative Action, H.R. Doc. 103-316, vol. 1 (1994) (*SAA*), the House Report, H. Rep. No. 103-826, pt. 1 (1994) (House Report), and the Senate Report, S. Rep. No. 103-412 (1994) (Senate Report), the Department's determinations

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on the Antidumping and Countervailing Duty Orders on Multilayered Wood Flooring from the People Republic of China: Request by Zhejiang Dadongwu GreenHome Wood Co., Ltd. (August 7, 2015); Final Scope Ruling on the Antidumping and Countervailing Duty Orders on Multilayered Wood Flooring from the People Republic of China: Request by Zhejiang Fuma Warm Technology Co., Ltd. (October 16, 2015); Final Scope Ruling on the Antidumping and Countervailing Duty Orders on Multilayered Wood Flooring from the People Republic of China: Request by Jiangsu Keri Woods Co., Ltd. (Oct. 16, 2015); Final Scope Ruling on the Antidumping and Countervailing Duty Orders on Multilayered Wood Flooring from the People's Republic of China: Request by Old Master Products, Inc.; Final Scope Ruling on the Antidumping and Countervailing Duty Orders on Multilayered Wood Flooring from the People's Republic of China (February 4, 2016): Request by Jiashan Huijiale Decoration Material Co., Ltd.; Final Scope Ruling on Dunhua Jisen's Wood Flooring, Product Nos. JS-2L1602, JS-2L1603, JS-2L1604 (April 4, 2016); Final Scope Ruling on the Antidumping and Countervailing Duty Orders on Multilayered Wood Flooring from the People Republic of China: Request by Dunhua Shengda Wood Industry Co., Ltd. (April 25, 2016); Final Scope Ruling on the Antidumping and Countervailing Duty Orders on Multilayered Wood Flooring from the People Republic of China: Request by Zhejiang Biyork Wood Co., Ltd. (May 23, 2016); Final Scope Ruling on the Antidumping and Countervailing Duty Orders on Multilayered Wood Flooring from the People Republic of China: Request by Dunhua City Hongyuan Wood Industry Co., Ltd.(June 6, 2016); Final Scope Ruling on the Antidumping and Countervailing Duty Orders on Multilayered Wood Flooring from the People Republic of China: Request by Jiangsu Beier Decoration Material Co., Ltd. (June 21, 2016); Final Scope Ruling on Fusong Jinlong Wooden Group Co., Ltd.: Product TL1601 (October 6, 2016); Final Scope Ruling on the Antidumping and Countervailing Duty Orders on Multilayered Wood Flooring from the People Republic of China: Request by Baishan Huafeng Wooden Product Co., Ltd. (October 6, 2016); Final Scope Ruling on the Antidumping and Countervailing Duty Orders on Multilayered Wood Flooring from the People Republic of China: Request by Dunhua Shengda Wood Industry Co., Ltd. (December 14, 2016); Antidumping and Countervailing Duty Orders on Multilayered Wood Flooring from the People's Republic of China: Final Scope Ruling on Request by Jiangsu Keri Wood Co., Ltd. (January, 6, 2017).

[18] *Multilayered Wood Flooring from the People's Republic of China: Final Results of Changed Circumstances Review*, 79 Fed. Reg. 58740 (September 30, 2014); *Multilayered Wood Flooring from the People's Republic of China: Final Results of Changed Circumstances Review*, 80 Fed. Reg. 39998 (July 13, 2015); *Multilayered Wood Flooring from the People's Republic of China: Final Results of Changed Circumstances Review*, 80 Fed. Reg. 70756 (November 16, 2015).

of likelihood will be made on an order-wide, rather than company-specific, basis.[19] In addition, the Department 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 issuance of the order; or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly.[20] Alternatively, the Department may 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.[21]

In addition, as a base period of 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.[22] Also, when analyzing import volumes for second and subsequent sunset reviews, the Department's practice is to compare import volumes during the year preceding initiation of the underlying investigation to import volumes since the issuance of the last continuation notice.[23]

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 *AD Order* were revoked. Generally, the Department selects the dumping margins 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.[24] The Department selects rates up to the PRC-wide rate, which is the highest.[25] 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.").[26]

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[19] *See SAA* at 879 and House Report at 56.
[20] *See SAA* at 889-90, House Report at 63-64, and Senate Report at 52 for a description of our practice; *see also Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871, 18872 (April 16, 1998) (*Sunset Policy Bulletin*).
[21] See *SAA* at 889-890; see also House Report at 63.
[22] *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.
[23] *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 Issues and Decision Memorandum.
[24] *See SAA* at 890; and *Sunset Policy Bulletin* at section II.B.1. *See also*, *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) (*Persulfates from the PRC*), and accompanying Issues and Decision Memorandum at Comment 2.
[25] *See e.g., Stainless Steel Plate in Coils From Belgium, South Africa, and Taiwan: Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders*, 81 FR 78774 (November 9, 2016) and the accompanying Issues and Decision Memorandum; *Carbon Steel Butt-Weld Pipe Fittings From Brazil, Japan, Taiwan, Thailand, and the People's Republic of China: Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders,* 81 FR 44270 (July 7, 2016) and the accompanying Issues and Decision Memorandum.
[26] *See SAA* at 890-91; and *Sunset Policy Bulletin* at section II.B.2.

On February 14, 2012, the Department announced it was modifying its practice in sunset reviews such that it will not rely on weighted-average dumping margins that were calculated using the methodology found to be World Trade Organization ("WTO")-inconsistent.[27] In the *Final Modification for Reviews*, the Department stated that "only in the most extraordinary circumstances" would it rely on margins other than those calculated and published in prior determinations.[28] The Department further stated that apart from the "most extraordinary circumstances," it did not anticipate needing to recalculate dumping margins in the vast majority of future sunset determinations and, instead 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 determined based on the use of total adverse facts available, and dumping margins where no offsets were denied because all comparison results were positive."[29]

Finally, pursuant to section 752(c)(4)(A) of the Act, a dumping margin of zero or *de minimis* shall not by itself require the Department to determine that revocation of an antidumping duty order would not be likely to lead to a continuation or recurrence of sales at LTFV.[30]

VI. Discussion of the Issues

Consistent with the legal framework, we address the following issues: (1) the likelihood of continuation or recurrence of dumping; and (2) the magnitude of the dumping margins likely to prevail.

A. Likelihood of Continuation or Recurrence of Dumping

Domestic Interested Party Comments

The CAHP argues that dumping of MLWF from the PRC would continue or recur if the *AD Order* on the subject merchandise is revoked because: (1) the annual administrative reviews conducted by the Department have resulted in significant, and increasing dumping margins, suggesting that most of the subject imports cannot compete in the U.S. at fairly traded prices, and (2) the decline in imports of subject merchandise since the *AD Order* was imposed indicates that dumping is likely to continue or recur if the *AD Order* were revoked.[31] Although the collective pool of Chinese producers/exporters that have been chosen as mandatory respondents or that qualified for separate rate status, has varied from proceeding to proceeding, the CAHP points out that the greatest number of companies have been subject to a separate rate. Furthermore, the

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[27] *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*).
[28] *Id*.
[29] *Id*.
[30] *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.
[31] CAHP Substantive Response at 6.

CAHP notes that the Department's *Sunset Policy Bulletin* states that "a company may choose to increase dumping in order to maintain or increase market share. As a result, increasing margins may be more representative of a company's behavior in the absence of an order." Due to this reasoning and the fact that the margins assigned to separate rate applicants have steadily increased from the first to the third review, the CAHP argues that the most appropriate dumping margin to be used for purposes of this sunset review is the 17.37 percent margin assigned to separate rate applicant companies in the most recently completed administrative review. The CAHP states that the *AD Order* has had a positive impact, because it appears to be tempering the price declines for Chinese imports that the industry had been confronting at the time the petition was filed. According to the CAHP, the efficacy of the orders remains a work in progress.

Department's Position

As explained in the "Legal Framework" section above, the Department's determinations of likelihood will be made on an order-wide basis.[32] In addition, the Department 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.[33]

Additionally, 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 antidumping duty order. According to the *SAA*, "{d}eclining 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."[34]

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 original investigation, the Department found that dumping occurred at levels above *de minimis*. In subsequent reviews, the Department continued to find either dumping margins above *de minimis*, or, no entries of subject merchandise during an administrative review period. As discussed above and in the *Final Modification for Reviews*, the Department has modified its practice in sunset reviews, such that it does not rely on weighted-average dumping margins that are calculated using the "zeroing" methodology found to be WTO-inconsistent. Accordingly, the Department reviewed its official records to establish whether the dumping margins determined in the LTFV investigation of the *AD Order* were calculated using zeroing. Based upon review of the record, the Department found that zeroing was not used to calculate the dumping margins in

[32] *See SAA* at 879 and House Report at 56.
[33] *See SAA* at 889-90, House Report at 63-64, and Senate Report at 52; *see also Sunset Policy Bulletin*, 63 FR at 18872.
[34] *See SAA* at 889.

the investigation because the investigation occurred after the Department changed its practice to no longer "zero" in investigations.[35]

The weighted-average dumping margins determined in the investigation provide evidence that dumping from PRC companies would likely continue or recur if the *AD Order* were revoked, as they are above *de minimis*. The Department has conducted three administrative reviews for MLWF from the PRC since the issuance of the *AD Order* to determine dumping margins and the fourth is currently ongoing. While the PRC-wide rate is 25.62 percent, the separate rate has steadily increased from 13.74 percent in the second review to 17.37 percent in the third review.[36] These reviews demonstrate that the dumping margins have increased since the issuance of the *AD Order*. Because dumping margins above *de minimis* have prevailed through the majority of the prior segments we are examining, companies have continued to dump with the discipline of an order in place and, based on this past pricing behavior, it is reasonable to conclude that dumping would continue if the *AD Order* were revoked.

Separately, pursuant to section 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 *AD Order*. The Department examined import volumes from the ITC's Trade Dataweb for 2012 through 2016, which is the current sunset review period. This is the five-year period that follows the LTFV investigation and we compared this to the import volumes in the pre-initiation period.

In this case, the volume of imports during the period before and after the issuance of the *AD Order* has increased. The import volumes for MLWF from the PRC for the years 2012 through 2016 ranged from 2,426,128 square meters in 2012 to 5,826,265 square meters in 2016.[37] By contrast, the import volumes for 2010, the year immediately preceding the initiation of the investigation, were 2,552,201 square meters. For the years 2012 through 2016, import volumes fluctuated, however, with the exception of 2012, import volumes remained above pre-order levels each year.

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[35] *See Antidumping Proceedings: Calculation of the Weighted – Average Dumping Margin During an Antidumping Investigation; Final Determination*, 71 FR 77722 (December 27, 2006); *see also Initiation Notice*, 75 FR 70714.

[36] The Department is currently reconsidering the rate for separate rate companies in the first administrative review pursuant to a remand order from the Court of International Trade. *See Fine Furniture (Shanghai) Limited v. United States*, 182 F. Supp. 3d 1350 (CIT 2016).

[37] These import volumes are based on the following HTS numbers: 4412.31.0520; 4412.31.0540; 4412.31.0560; 4412.31.2510; 4412.31.2520; 4412.31.4040; 4412.31.4050; 4412.31.4060; 4412.31.4070; 4412.31.4075; 4412.31.4080; 4412.31.5125; 4412.31.5135; 4412.31.5155; 4412.31.5165; 4412.31.6000; 4412.31.9100; 4412.32.0520; 4412.32.0540; 4412.32.0560; 4412.32.0565; 4412.32.0570; 4412.32.2510; 4412.32.2520; 4412.32.2525; 4412.32.2530; 4412.32.3125; 4412.32.3135; 4412.32.3155; 4412.32.3165; 4412.32.3175; 4412.32.3185; 4412.32.5600; 4412.39.1000; 4412.39.3000; 4412.39.4011; 4412.39.4012; 4412.39.4019; 4412.39.4031; 4412.39.4032; 4412.39.4039; 4412.39.4051; 4412.39.4052; 4412.39.4059; 4412.39.4061; 4412.39.4062; 4412.39.4069; 4412.39.5010; 4412.39.5030; 4412.39.5050; 4412.94.1030; 4412.94.1050; 4412.94.3105; 4412.94.3111; 4412.94.3121; 4412.94.3131; 4412.94.3141; 4412.94.3160; 4412.94.3171; 4412.94.4100; 4412.94.5100; 4412.94.6000; 4412.94.7000; 4412.94.8000; 4412.94.9000; 4412.94.9500; 4412.99.0600; 4412.99.1020; 4412.99.1030; 4412.99.1040; 4412.99.3110; 4412.99.3120; 4412.99.3130; 4412.99.3140; 4412.99.3150; 4412.99.3160; 4412.99.3170; 4412.99.4100; 4412.99.5100; 4412.99.5105; 4412.99.5115; 4412.99.5710; 4412.99.6000; 4412.99.7000; 4412.99.8000; 4412.99.9000; 4412.99.9500; 4418.71.2000; 4418.71.9000; 4418.72.2000; 4418.72.9500; and 9801.00.2500.

Given the increase in import volume despite the above *de minimis* dumping margins that remain in effect, we find that revocation of the *AD Order* would be likely to lead to continuation or recurrence of dumping.

B. Magnitude of the Dumping Margins Likely to Prevail

Domestic Interested Party Comments

The CAHP notes that the annual administrative reviews have resulted in significant and increasing dumping margins. The CAHP quotes the Department's Policy Bulletin which states that, "increasing margins may be more representative of a company's behavior in the absence of an order," to support its argument that the most appropriate dumping margin to be used for purposes of this sunset review is the 17.37 percent margin assigned to separate rate applicant companies in the most recently completed administrative review.[38]

Department's Position

Pursuant to section 752(c)(3) of the Act, 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 provide to the ITC the company-specific, weighted-average dumping margin from the LTFV investigation.[39] The Department selects a rate from the LTFV investigation because it is the only calculated rate that reflects the behavior of exporters without the discipline of an order or suspension agreement in place.[40]

As indicated in the "Legal Framework" section above, consistent with the *Final Modification for Reviews*, the Department's current practice is not to rely on weighted-average dumping margins calculated using the zeroing methodology that was found to be WTO-inconsistent. As noted above, the rates applied in the LTFV investigation did not involve the denial of offsets. The PRC-wide rate was based on adverse facts available and the separate rate was based on the Department's calculations of the dumping margins for two of the mandatory respondents that were above *de minimis*.[41]

The Department determines that it is appropriate to report to the ITC the investigation rate of up to 25.62 percent as the margin likely to prevail if the *AD Order* were revoked. Petitioners have argued that "If a substantial number of Chinese producers/exporters are dumping at this margin with the pricing discipline of an order in effect, it is reasonable to project that the companies would continue dumping at a level at least equal to, if not greater than, a 17.37 percent margin in the absence of an order."[42] The Department determined the PRC-wide entity rate of 25.62 percent in the original investigation and, as such, it remains the only rate that reflects the behavior of exporters without the discipline of an order in place, and we have received no

[38] CAHP Substantive Response at 14-15.
[39] *See SAA* at 890; *see also*, *e.g.*, *Persulfates from the PRC*, and accompanying Issues and Decision Memorandum at Comment 2.
[40] *See SAA* at 890.
[41] *See* 76 FR at 64321-64322.
[42] CAHP Substantive Response at 15.

argument that information from subsequent reviews of the *AD Order* warrants the use of a more recently calculated dumping margin. Furthermore, as explained above, this rate was not calculated using zeroing. Therefore, pursuant to section 752(c)(3) of the Act, we will report to the ITC the 25.62 percent investigation rate for all PRC manufacturers and exporters as the margin likely to prevail, as indicated in the "Final Results of Reviews" section of this memorandum.

VII. Final Results of Review

For the reasons stated above, we determine that revocation of the *AD Order* on MLWF would likely lead to continuation or recurrence of dumping and that the magnitude of the dumping margins likely to prevail would be weighted-average dumping margins up to 25.62 percent.

VIII. Recommendation

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

☒ ☐

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Agree Disagree

3/1/2017

X Ronald K. Lorentzen

Signed by: RONALD LORENTZEN

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Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance