A-570-601
Sunset Review
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DATE: October 31, 2017

MEMORANDUM TO: Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

FROM: James P. Maeder
Senior Director
performing the duties of Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Final Results of Expedited Fourth Sunset Review of the Antidumping Duty Order on Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China

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Summary

We analyzed the responses of the interested parties in the fourth sunset review of the antidumping duty (AD) order[1] covering tapered roller bearings and parts thereof, finished and unfinished (TRBs) from the People's Republic of China (PRC). We recommend that you approve the positions described in the "Discussion of the Issues" section of this memorandum. Below is the complete list of the issues in this sunset review for which we received substantive responses:

1. Likelihood of continuation or recurrence of dumping

2. Magnitude of the margin of dumping that is likely to prevail

Background

On July 3, 2017, the Department initiated the fourth sunset review of the AD order on TRBs from the PRC pursuant to section 751(c) of the Tariff Act of 1930, as amended (Act).[2] On July

[1] *See Antidumping Duty Order; Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from the People's Republic of China*, 52 FR 22667 (June 15, 1987), as amended, *Tapered Roller Bearings from the People's Republic of China; Amendment to Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order in Accordance With Decision Upon Remand*, 55 FR 6669 (February 26, 1990) (*Order*).
[2] *See Initiation of Five-Year (Sunset) Reviews*, 82 FR 80844 (July 3, 2017).

10, 2017, the Department received a timely notice of intent to participate in the sunset review from the Timken Company (Timken), a domestic producer and the petitioner in the TRBs less-than-fair-value investigation, within the 15-day period specified in 19 CFR 351.218(d)(1)(i).[3] Timken claimed interested party status under section 771(9)(C) of the Act stating that it is a producer in the United States of a domestic like product.

On August 2, 2017, Timken filed a timely substantive response with the Department pursuant to 19 CFR 351.218(d)(3)(i).[4] The Department did not receive a substantive 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 *Order*.

History of the Order

On June 15, 1987, the Department published the antidumping duty order on TRBs from the PRC.[5] The Department found the following dumping margins: 0.97 percent for Premier Bearing & Equipment, Ltd. (Premier), 4.69 percent for China National Machinery & Equipment Import & Export Corporation (CMEC), and a PRC-wide rate of 2.96 percent.

Since the August 30, 2012, continuation of the order at the conclusion of the third sunset review,[6] the Department completed administrative and new shipper reviews of the *Order* covering the periods June 1, 2009 – May 31,2010, 2010 – 2011, 2011 – 2012, 2012 – 2013, 2013 – 2014, and 2014 – 2015.[7] In addition, the Department completed changed circumstances

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[3] *See* Timken's Letter, "Fourth Sunset Review of the Antidumping Order on Tapered Roller Bearings from China (A-570-601): Notice of Intent to Participate of the Timken Company," dated July 10, 2017.
[4] See Timken's Letter, "Sunset Review (4th Review) pursuant to Section 751(c) of the Tariff Act of 1930 of the antidumping duty order on Tapered Roller Bearings from China (Case No. A-570-601) Substantive Response to the Notice of Initiation," dated August 2, 2017 (Timken substantive response).
[5] *See Order*.
[6] *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Continuation of the Antidumping Duty Order*, 77 FR 52682 (August 20, 2012) (*Third Continuation*).
[7] *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished from the People's Republic of China: Final Results of Antidumping Duty New Shipper Review*, 77 FR 65668 (October 30, 2012) (finding a margin of 12.64 percent for GGB Bearing Technology (Suzhou) Co., Ltd./GGB Bearing Technology (Suzhou) Co., Ltd). *See also, Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2010–2011*, 78 FR 3396 (January 16, 2013), as amended, *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished from the People's Republic of China: Amended Final Results of Antidumping Duty Administrative Review; 2010–2011*, 78 FR 12035 (February 21, 2013) (finding margins ranging from 14.91 to 92.84 percent), and *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished from the People's Republic of China: Notice of Court Decision Not in Harmony With the Final Results of Antidumping Duty Administrative Review and Notice of Amended Final Results Pursuant to Court Decision; 2010–2011*, 79 FR 56773 (September 23, 2014) (reducing Changshan Peer Bearing Co., Ltd.'s margin to zero). *See also, Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of the 2011–2012 Antidumping Duty Administrative Review and New Shipper Reviews*, 79 FR 4327 (January 27, 2014) (finding margins ranging from 0.74 to 92.84 percent). *See also, Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of the Antidumping Duty Administrative Review and Final Results of the New Shipper Review; 2012–2013*, 80 FR 4244 (January 27, 2015) (finding margins ranging from zero to 0.65 percent). *See also, Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of the Antidumping*

reviews of the *Order*.[8] Finally, as a result of litigation, the Department issued amended results for administrative reviews completed prior to the 2012 continuation of the order.[9]

The Department is currently conducting two administrative reviews covering the periods June 1, 2015, through May 31, 2016, and June 1, 2016, through May 31, 2017, and a new shipper review covering the period June 1, 2015, through May 31, 2016.[10]

Scope of the Order

Imports covered by the order are shipments of tapered roller bearings and parts thereof, finished and unfinished, from the PRC; flange, take up cartridge, and hanger units incorporating tapered roller bearings; and tapered roller housings (except pillow blocks) incorporating tapered rollers, with or without spindles, whether or not for automotive use. These products are currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) item numbers 8482.20.00, 8482.91.00.50, 8482.99.15, 8482.99.45, 8483.20.40, 8483.20.80, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.80, 8708.70.6060, 8708.99.2300, 8708.99.4850, 8708.99.6890, 8708.99.8115, and 8708.99.8180. Although the HTSUS item numbers are provided for

Duty Administrative Review; 2013–2014, 81 FR 1396 (January 12, 2016) (finding margins of 0.91 percent), as corrected by *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Notice of Correction to the Final Results of the 2013–2014 Antidumping Duty Administrative Review*, 81 FR 4251 (January 26, 2016) (corrected for company name). *See also, Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, and Rescission of New Shipper Review; 2014–2015*, 82 FR 4844 (January 17, 2017) (finding margins of zero for three of the four exporters covered by the review and finding the fourth exporter was not entitled to a separate rate).

[8] *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Notice of Final Results of Changed Circumstances Review*, 80 FR 19070 (April 9, 2015) (finding Shanghai General Bearing Co., Ltd. (SGBC/SKF) was the successor-in-interest to a company of the same name that was excluded from the order and, thus, merchandise from SGBC/SKF is not subject to the TRBs order). *See also, Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of Changed Circumstances Review and Reinstatement of Shanghai General Bearing Co., Ltd. in the Antidumping Duty Order*, 82 FR 4853 (January 17, 2017) (reinstating SGBC/SKF in TRBs order and finding a margin of 5.82 percent).

[9] *See Tapered Roller Bearings from the People's Republic of China: Notice of Court Decision Not in Harmony With Final Results of Administrative Review and Notice of Amended Final Results of Administrative Review*, 78 FR 58997 (September 24, 2013), as amended by *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Notice of Court Decision Not in Harmony With Final Results of Administrative Review and Notice of Second Amended Final Results of Administrative Review Pursuant to Court Decision*, 80 FR 42086 (July 16, 2015) (amending the final results of the 2006–2007 administrative review and finding a margin of 60.95 percent). *See also, Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Notice of Court Decision Not in Harmony with Final Results of Antidumping Duty Administrative Review and Notice of Amended Final Results of Antidumping Duty Administrative Review; 2007-2008*, 81 FR 4253 (January 26, 2016) (amending the margin for the sole respondent during the period of review to 6.24 percent). *See also, Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Notice of Court Decision Not in Harmony with Final Results of Antidumping Duty Administrative Review and Notice of Amended Final Results of Antidumping Duty Administrative; 2008–2009*, 81 FR 4256 (January 26, 2016) (amending the margins for two respondents to 19.45 and 21.65 percent).

[10] *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Preliminary Results and Preliminary Rescission of New Shipper Review; 2015–2016*, 82 FR 31301 (July 6, 2017) (preliminarily finding margins of 76.93 percent). *See also, Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 82 FR 35749 (August 1, 2017).

convenience and customs purposes, the written description of the scope of the order is dispositive.

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 antidumping duty 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 both 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 the periods after the issuance of the antidumping duty order. In addition, section 752(c)(3) of the Act provides that the Department shall provide to the International Trade Commission (ITC) the magnitude of the margin of dumping that is likely to prevail if the order were revoked.

In accordance with the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act, specifically the Statement of Administrative Action (*SAA*),[11] the House Report,[12] and the Senate Report,[13] the Department's determinations of likelihood will be made on an order-wide, rather than a company-specific, basis.[14] In addition, the Department normally determines that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping when: (a) dumping continued at any level above *de minimis* after the issuance of the orders; (b) imports of the subject merchandise ceased after the issuance of the orders; or (c) dumping was eliminated after the issuance of the orders and import volumes for the subject merchandise declined significantly.[15] Alternatively, the Department normally will determine that revocation of an antidumping duty 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]

Furthermore, 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 the investigation may dampen import volumes and, thus, skew the comparison.[17] When analyzing import volumes for second and subsequent sunset reviews, the Department's practice is to compare import volumes during the

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[11] *See* H.R. Doc. 103-316, vol. 1 (1994) (*SAA*).
[12] *See* H. Rep. No. 103-826, pt. 1 (1994) (House Report).
[13] *See* S. Rep. No. 103-412 (1994) (Senate Report).
[14] *See SAA* at 879; *see also* House Report at 56.
[15] *See SAA* at 889-890; House Report at 63-64; Senate Report at 52; and *Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871, 18872 (April 16, 1998) (*Sunset Policy Bulletin*).
[16] *See SAA* at 889-890; *see also* House Report at 63.
[17] *See Stainless Steel Bar from Germany; Final Results of the Sunset Review of the Antidumping Duty Order*, 72 FR 56985 (October 5, 2007), and accompanying Issues and Decision Memorandum (IDM) at Comment 1.

year preceding initiation of the underlying investigation to import volumes since the issuance of the last continuation notice.[18]

In addition, section 752(c)(3) of the Act states that the magnitude of the margin of dumping that is likely to prevail if the order were revoked shall be provided by the Department to the ITC. Generally, the Department selects the weighted-average dumping margins from the final determination in the original investigation, as these rates are the only calculated rates that reflect the behavior of exporters without the discipline of an order in place.[19] In certain circumstances, however, a more recently calculated rate may be more appropriate (*e.g.*, "if dumping margins have declined over the life of an order and imports have remained steady or increased, {the Department} may conclude that exporters are likely to continue dumping at the lower rates found in a more recent review").[20] Finally, pursuant to section 752(c)(4)(A) of the Act, a margin of dumping likely to prevail of "zero or *de minimis* shall not by itself require" the Department to determine that revocation of an AD order would not be likely to lead to a continuation or recurrence of sales at LTFV.[21]

On February 14, 2012, the Department announced it was modifying its practice in sunset reviews, such that it would not rely on weighted-average dumping margins calculated using the "zeroing" methodology found to be inconsistent with World Trade Organization (WTO) obligations.[22] 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.[23] The Department further stated that, apart from the "most extraordinary circumstances," it would "limit its reliance to margins determined or applied during the five-year sunset period that were not determined in a manner found to be WTO-inconsistent" and that it "may also rely on past dumping margins recalculated pursuant to Section 129 proceedings, dumping margins determined based on the use of total adverse facts available (AFA), and dumping margins where no offsets were denied because all comparison results were positive."[24]

<u>Discussion of the Issues</u>

Below we address the comments of the interested parties.

1. Likelihood of Continuation or Recurrence of Dumping

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[18] *See Ferrovanadium from the People's Republic of China and the Republic of South Africa: Final Results of the Expedited Second Sunset Reviews of the Antidumping Duty Orders*, 79 FR 14216 (March 13, 2014), and accompanying IDM.
[19] *See SAA* at 890 and *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.
[20] *See SAA* at 890-91.
[21] *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.
[22] *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*).
[23] *Id*.
[24] *Id*. at 8109.

Interested Parties' Comments

Timken asserts that revocation of the *Order* would result in the continuation of dumping at margins greater than those found in the original investigation and at increased volumes by the producers and exporters of the subject merchandise. Citing to the weighted-average dumping margins determined in the investigation and subsequent 28 administrative reviews, Timken argues that, per the SAA and the *Sunset Policy Bulletin*, this uninterrupted history of continued and increased dumping constitutes highly probative evidence that dumping would continue at the same or greater levels if the *Order* were revoked.[25] In addition, citing to quantity and value data from the USITC Dataweb, Timken argues that import levels, both in terms of volume and value, have increased significantly while the *Order* has been in place.[26] Timken notes that although the *Sunset Policy Bulletin* provides that the Department may consider factors other than past dumping and import volumes, in light of the continued and increased dumping, consideration of other factors is not warranted.[27]

Department's Position

As explained in the Legal Framework section above, the Department's determination of likelihood will be made on an order-wide basis.[28] 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.[29] In addition, pursuant to section 752(c)(1)(B) of the Act, the Department considers the volume of imports of the subject merchandise for the period before and after the issuance of the antidumping duty order.

As discussed above in the "History of the Order" section, and as argued by Timken, the Department has completed 28 administrative reviews over the life of the *Order*, six since the *Third Continuation*, finding above *de minimis* weighted-average dumping margins. In addition, the Department has completed new shipper reviews finding above *de minimis* margins as well as a changed circumstances review that resulted in the reinstatement of the *Order* with respect to a previously excluded producer. Therefore, we determine that dumping has continued. Further, the Department examined the import statistics provided by Timken for the relevant periods, which show that the import volumes and values of TRBs from the PRC remain significantly above pre-order levels. Given the continued existence of dumping by Chinese producers after issuance of the order and the increase in import volume and value, the Department determines that dumping is likely to continue if the order were revoked.

2. Magnitude of the Margin of Dumping That Is Likely to Prevail

[25] *See* Timken substantive response, at 6–8, and Exhibit 1.
[26] *Id.*, at 9, and Exhibit 2.
[27] *Id.*, at 10.
[28] *See SAA* at 879 and House Report at 56.
[29] *See SAA* at 889 and 890, House Report at 63-64, and Senate Report at 52.

Interested Parties' Comments

Citing to the *Sunset Policy Bulletin*, Timken asserts that while the Department normally reports to the ITC the weighted-average dumping margins calculated in the original investigation to determine the magnitude of the margin of dumping that is likely to prevail, in appropriate circumstances, such as where companies increase dumping in order to increase market share, the Department may choose a more recently calculated rate.[30] Timken asserts that, in light of the increased volume of imports and increased margins of dumping over the life of the *Order*, the Department should rely on more recently calculated margins as those likely to prevail should the order be revoked.[31]

Specifically, Timken argues that the Department should report the margins it has most recently determined for both individual respondents and for the PRC. Timken asserts that the number of companies identified as state-controlled has increased and the PRC-wide rate has increased to 92.84 percent.[32] Timken also notes that the *Order* has been reinstated for Shanghai General Bearing Company (SGBC) on the basis of a determination that the company has resumed dumping and argues that it is appropriate for the Department to report a margin for SGBC.[33]

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. The Department's preference is to select a weighted-average dumping margin from the LTFV investigation because it is the only calculated rate that reflects the behavior of the producers and exporters without the discipline of an order in place.[34] Under certain circumstances, however, the Department may select a more recent rate.[35] Further, as indicated in the "Legal Framework" section above, in accordance 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 found to be WTO inconsistent.[36]

After considering the weighted-average dumping margins determined in the LTFV investigation and subsequent administrative reviews and the volume of imports over the life of the *Order*, we find it appropriate to report to the ITC a more recently calculated rate. However, we do not agree with Timken that we should report to the ITC the recently applied PRC-wide rate of 92.84

[30] *See* Timken substantive response at 10–12.
[31] *Id.*, at 12–16.
[32] *Id.*, at 14.
[33] *Id.*, at 14–16.
[34] *See SAA*, at 890 and *Sunset Policy Bulletin*, at section II.B.1; *see also, e.g., Prestressed Concrete Steel Wire Strand from the People's Republic of China: Notice of Final Results of Expedited Sunset Review of Antidumping Duty Order*, 80 FR 43063 (July 21, 2015), and accompanying IDM, at Issue 2.
[35] *See* section 752(c)(3) of the Act and, *e.g., Final Results of Full Sunset Review: Aramid Fiber Formed of Poly Para-Phenylene Terephthlamide from the Netherlands*, 65 FR 65294 (November 1, 2000), and accompanying IDM, at Comment 3 (citing *SAA* at 890-91 and *House Report* at 64).
[36] *See Final Modification for Reviews*, 77 FR at 8103.

percent. That rate was determined based on a rate that involved the use of zeroing.[37] In the alternative, we have determined it appropriate to provide the ITC the PRC-wide rate of 60.25 percent as determined in the 2011-2012 administrative and new shipper reviews.[38] This margin was calculated for Haining Automann Parts Co., Ltd. without the use of zeroing, and thus, no offsets were denied.

Final Results of Sunset Review

The Department determines that revocation of the antidumping duty order on TRBs from the PRC would likely lead to continuation or recurrence of dumping, and that the magnitude of the margins of dumping that are likely to prevail would be at a rate up to 60.25 percent.

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[37] *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 74 FR 3987 (January 22, 2009), and accompanying IDM at Comment 11 (stating that "[a]ccordingly, and consistent with the Department's interpretation of the Act as described above, the Department has continued to deny offsets to dumping based on any export transactions that may exceed the normal value in this review.").

[38] *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of the 2011–2012 Antidumping Duty Administrative Review and New Shipper Reviews*, 79 FR 4327 (January 27, 2014).

Recommendation

Based on our analysis of the responses received, we recommend adopting all of the above positions. If these recommendations are accepted, we will publish these final results of this expedited sunset review in the *Federal Register*.

☒ ☐

Agree Disagree

10/31/2017

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Signed by: GARY TAVERMAN

Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance