C-570-911
Sunset Review
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DATE: March 19, 2019

MEMORANDUM TO: James Maeder
Associate Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations
performing the duties of Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

FROM: Melissa Skinner
Director, Office II
Antidumping and Countervailing Duty Operations

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

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Summary

We have analyzed the substantive response of the domestic interested parties in the second sunset review of the countervailing duty order covering circular welded carbon quality steel pipe from the People's Republic of China (China).[1] We did not receive a response from the Government of China (GOC) or from any other interested party. Accordingly, we conducted an expedited (120-day) sunset review pursuant to section 751(c)(3)(B) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.218(e)(1)(ii)(C)(2). 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 a substantive response:

1. Likelihood of continuation or recurrence of a countervailable subsidy

2. Net countervailable subsidy likely to prevail

3. Nature of the subsidy

[1] *See Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Notice of Amended Final Affirmative Countervailing Duty Determination and Notice of Countervailing Duty Order*, 73 FR 42545 (July 22, 2008) (*Order*).

Background

On November 1, 2018, Commerce published the notice of initiation of the second sunset review of the countervailing duty order on circular welded carbon quality steel pipes from China pursuant to section 751(c) of the Act.[2] On November 15, 2018, within the deadline specified in 19 CFR 351.218(d)(1)(i), Commerce received a notice of intent to participate from Zekelman Industries,[3] and from Bull Moose Tube Company, EXLTUBE, TMK IPSCO and Wheatland Tube,[4] and on November 16, 2018, also within the deadline, Commerce received a notice of intent to participate from Independence Tube Corporation (Independence), a Nucor company, and Southland Tube, Incorporated (Southland), a Nucor company.[5] Each of the companies claimed to be a domestic interested party pursuant to section 771(9)(C) of the Act as producers of a domestic like product (circular welded carbon quality steel pipe) in the United States.

On November 29, 2018, Commerce received a complete substantive response to the notice of initiation from the domestic interested parties within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).[6] We received no substantive responses from respondent interested parties or from the GOC with respect to the order covered by this sunset review.

On December 18, 2018, Commerce notified the U.S. International Trade Commission (ITC) that it did not receive an adequate substantive response from respondent interested parties.[7] As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce conducted an expedited (120-day) sunset review of the countervailing duty order on circular welded carbon quality steel pipe from China.

Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018, through the resumption of operations on January 29, 2019.[8] If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day. The revised deadline for the expedited final results of this sunset review is now April 10, 2019.

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[2] *See Initiation of Five-Year (Sunset) Reviews*, 83 FR 9279 (March 5, 2018).
[3] *See* Zekelman's Letter, "Circular Welded Carbon Quality Steel Pipe from The People's Republic of China: Domestic Industry Notice of Intent to Participate in Sunset Reviews," dated November 24, 2018.
[4] *See* Bull Moose Tube Company, EXLTUBE, TMK IPSCO and Wheatland Tube's Letter, "Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Notice of Intent to Participate in Sunset Reviews," dated November 15, 2016).
[5] *See* Independence and Southland's Letter, "Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Notice of Intent to Participate in Sunset Review," dated November 16, 2018.
[6] *See* Bull Moose Tube Company, EXLTUBE, TMK IPSCO, Wheatland Tube, Zekelman Industries, Independence Tube Corporation and Southland Tube Incorporated's (collectively, domestic interested parties') Letter, "Circular Welded Carbon Quality Steel Pipe from The People's Republic of China: Domestic Industry Substantive Response," dated November 29, 2018 (Domestic Industry Substantive Response).
[7] *See* Commerce Letter re: "Sunset Reviews Initiated on November 1, 2018," dated December 18, 2018.
[8] *See* Memorandum to the Record from 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, "Deadlines Affected by the Pai1ial Shutdown of the Federal Government," dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

History of the Order

On June 5, 2008, Commerce published its final determination that countervailable subsidies are being provided to producers and exporters of circular welded carbon quality steel pipe from China.[9] We calculated amended estimated net countervailable subsidy rates of: 29.62 percent *ad valorem* for Weifang East Steel Pipe Co., Ltd. (East Pipe); 44.93 percent *ad valorem* for Zhejiang Kingland Pipeline and Technologies Co., Ltd., Kingland Group Co., Ltd, Beijing Kingland Century Technologies Co., Zhejiang Kingland Pipeline Industry Co., Ltd., and Shanxi Kingland Pipeline Co., Ltd. (collectively, Kingland Companies); 616.83 percent *ad valorem* for Tianjin Shuangjie Steel Pipe Co., Ltd.; Tianjin Shuangjie Steel Pipe Group Co., Ltd.; Tianjin Wa Song Imp. & Exp. Co., Ltd.; and Tianjin Shuanglian Galvanizing Products Co., Ltd. (collectively, Shuangjie); and 37.28 percent *ad valorem* for all other producers and exporters.[10]

The following programs were found to confer countervailable subsidies during the period of investigation:

1. Hot-rolled Steel for Less Than Adequate Remuneration (LTAR);
2. Export Assistant Grant - “Super Star Enterprise” grant award from Huzhou City;
3. Policy Lending Under the Shandong Provincial Steel Plan; and
4. East Pipe Debt Forgiveness.

In addition, Commerce relied on adverse facts available to find that the following 19 programs provided countervailable benefits to Shuangjie:[11]

1. Provision of Hot-rolled Steel for LTAR
2. Provision of Water for LTAR
3. Provision of Natural Gas for LTAR
4. Provision of Land for LTAR
5. The State Key Technologies Renovation Project Fund
6. Grants to Loss-making State-owned Enterprises
7. Foreign Currency Retention Program
8. VAT and Tariff Exemptions on Imported Equipment
9. VAT Rebates on Domestically Produced Equipment
10. The “Two Free, Three Half” Program
11. Income Tax Exemption Program for Export-oriented Foreign Invested Enterprises (“FIEs”)
12. Local Income Tax Exemption and Reduction Program for “Productive” FIEs
13. Reduced Income Tax Rates for FIEs Based on Location
14. Reduced Income Tax Rate for Technology and Knowledge Intensive FIEs

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[9] *See Circular Welded Carbon Quality Steel Pipe from the People’s Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination of Critical Circumstances*, 73 FR 31966 (June 5, 2008) (*Final Determination*), and accompanying Issues and Decision Memorandum (IDM), as amended, *Order*.
[10] *See Order*.
[11] *See Final Determination*, 73 FR at 31968.

15. Reduced Income Tax Rate for High or New Technology FIEs
16. Corporate Income Tax Refund Program for Reinvestment of FIE Profits in Export-oriented Enterprises
17. Preferential Tax Policies for Research and Development at FIEs
18. Income Tax Credits on Purchases of Domestically Produced Equipment by Domestically Owned Companies
19. Income Tax Credits on Purchases of Domestically Produced Equipment by FIEs

Commerce published the countervailing duty order on circular welded carbon quality steel pipes on July 22, 2008.[12]

On July 31, 2012, Commerce issued its final determination memorandum in the section 129 proceeding on the investigation pursuant to the Uruguay Round Agreements Act (URAA).[13] As part of this section 129 proceeding, Commerce revised the subsidy rates in the circular welded carbon quality steel pipe from China investigation as follows: 29.83 percent *ad valorem* for Weifang East Steel Pipe Co., Ltd. (East Pipe); 48.18 percent *ad valorem* for Zhejiang Kingland Pipeline and Technologies Co., Ltd., Kingland Group Co., Ltd, Beijing Kingland Century Technologies Co., Zhejiang Kingland Pipeline Industry Co., Ltd., and Shanxi Kingland Pipeline Co., Ltd. (collectively, Kingland Companies); 620.08 percent *ad valorem* for Tianjin Shuangjie Steel Pipe Co., Ltd.; Tianjin Shuangjie Steel Pipe Group Co., Ltd.; Tianjin Wa Song Imp. & Exp. Co., Ltd.; and Tianjin Shuanglian Galvanizing Products Co., Ltd. (collectively, Shuangjie); and 39.01 percent *ad valorem* for all other producers and exporters.[14] On August 21, 2012, Commerce implemented these revised subsidy rates.[15]

Since the issuance of the *Order*, Commerce has rescinded nine administrative reviews based on the timely withdrawal of the requests for review.[16] Commerce initiated an administrative review

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[12] *See Order*.
[13] *See* Memorandum, "Final Determination: Section 129 Proceeding Pursuant to the WTO Appellate Body's Findings in WTO DS379 Regarding the Antidumping and Countervailing Duty Investigations of Circular Welded Carbon Quality Steel Pipe from the People's Republic of China," dated July 31, 2012 (Section 129 WTO Proceeding Memorandum).
[14] *Id.* at 34.
[15] *See Implementation of Determinations Under Section 129 of the Uruguay Round Agreements Act: Certain New Pneumatic Off-the-Road Tires; Circular Welded Carbon Quality Steel Pipe; Laminated Woven Sacks; and Light-Walled Rectangular Pipe and Tube from the People's Republic of China*, 77 FR 52683 (August 30, 2012) (*Section 129 Implementation*); *see also United States—Definitive Anti-Dumping and Countervailing Duties on Certain Products from China*, WT/DS379/AB/R (March 11, 2011).
[16] *See Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Rescission of Countervailing Duty Administrative Review*, 74 FR 55541 (October 28, 2009); *Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Rescission of Countervailing Duty Administrative Review*, 75 FR 71672 (November 24, 2010); *Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Rescission of Countervailing Duty Administrative Review*, 76 FR 78887 (December 20, 2011); *Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Rescission of Countervailing Duty Administrative Review; 2011*, 78 FR 9676 (February 11, 2013); *Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Rescission of Countervailing Duty Administrative Review; 2012*, 79 FR 5377 (January 31, 2014); *Circular Welded Carbon-Quality Steel Pipe from the People's Republic of China: Rescission of Countervailing Duty Administrative Review; 2013*, 80 FR 14091 (March 18, 2015); *Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Rescission of Countervailing Duty Administrative Review; 2014*, 81 FR 5989

covering the period January 1, 2017 to December 31, 2017 on September 10, 2018.[17] While Commerce has not issued any anti-circumvention or changed circumstances determinations related to this *Order*, Commerce has issued several scope rulings.[18] On December 7, 2018, Commerce initiated a scope inquiry to determine whether ceiling fan and ceiling light steel downrods are outside the scope of the *Order.*[19]

Scope of the Order

The scope of this order covers certain welded carbon quality steel pipes and tubes, of circular cross-section, and with an outside diameter of 0.372 inches (9.45 mm) or more, but not more than 16 inches (406.4 mm), whether or not stenciled, regardless of wall thickness, surface finish (*e.g*., black, galvanized, or painted), end finish (*e.g*., plain end, beveled end, grooved, threaded,

(February 4, 2016); *Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Rescission of Countervailing Duty Administrative Review; 2015*, 81 FR 93666 (December 21, 2016); *Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Rescission of Countervailing Duty Administrative Review; 2016*, 82 FR 48682 (October 19, 2017).

[17] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 83 FR 45596 (September 10, 2018). Although Zekelman timely withdrew its request for review (*see* Zekelman's Letter "Circular Welded Carbon Quality Steel Pipe from The People's Republic of China: Withdrawal of Request For Administrative Review," dated October 17, 2018), Independence and Southland have not withdrawn their request for review, and thus the review continues with respect to 134 companies.

[18] *See Notice of Scope Rulings*, 75 FR 14138 (March 24, 2010) (announcing our finding in response to Constantine N. Polites and Company that unfinished scaffolding pipe is within the scope of the order (August 12, 2009), and announcing our finding in response Tubos California that steel pipes used in water delivery systems, water and sewer purification systems and/or water filtration systems are within the scope of the order (July 21, 2009)). *See also Notice of Scope Rulings*, 77 FR 52313 (August 29, 2012) (announcing our finding in response to All Tools Inc. that electrical rigid metal conduit steel and electrical metallic tubing are not within the scope of the order (May 21, 2012)); *Notice of Scope Rulings*, 78 FR 9370 (February 8, 2013) (announcing our finding in response to LDA Incopordo; electrical rigid metal steel conduits are not within the scope of the order (July 2, 2012)); *Notice of Scope Rulings*, 79 FR 30821 (May 29, 2014) (announcing our finding in response to Cintube Ltd. (Cintube) that Cintube's 45° and 90° bend pipes, which are Chinese-origin pipes further processed and heat treated in Canada to create bends at various angles, are not covered by the scope of the order because they are pipe fittings, which consist of additional distinguishing physical characteristics not contemplated by the scope of the order (February 20, 2014)); *Notice of Scope Rulings*, 80 FR 57339 (September 23, 2015) (announcing our finding in response to Unique Fire Stop Products, Inc. (UFS) that Smooth Fire Stop Sleeve System products are not within the scope, which states that covered products are "generally known as standard and structural pipe" and noting that UFS' product could not be used for the purposes for which standard or structural pipe are used (June 10, 2015)); *Notice of Scope Rulings*, 82 FR 48799 (October 20, 2017) (announcing our finding in response to Westlake Vinyls Company (Westlake) that the component parts of Westlake's engineered and manufactured Pipe Spools that are produced in the PRC and imported by Westlake are within the scope of the orders on Carbon Steel Butt-Weld Pipe Fittings; Circular Welded Carbon-Quality Steel Pipe; Circular Welded Austenitic Stainless Steel Pressure Pipe; and Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the PRC because Commerce determined that the component parts are subject to the orders when examined individually in their own right because the components meet the language of their respective antidumping and countervailing duty orders and the 19 CFR 351.225(k)(1) sources do not exclude them from their respective orders by virtue of their inclusion into a larger product (August 15, 2016)); *Notice of Scope Rulings*, 83 FR 31733 (July 9, 2018) (announcing our finding in response to Acme Manufacturing Company finding that Acme's short round tubes are within the scope of the order because the scope language is not limited to pipes of a certain length, to pipes made to an industry specification, or to pipes with a specific end-use (April 4, 2017)).

[19] *See* Commerce Letter re: Circular Welded Carbon-Quality Steel Pipe from the People's Republic of China: Initiation of Scope Inquiry on Kichler Lighting LLC's (Kichler's) Fan and Light Downrods, dated December 7, 2018.

or threaded and coupled), or industry specification (*e.g.*, ASTM, proprietary, or other), generally known as standard pipe and structural pipe (they may also be referred to as circular, structural, or mechanical tubing).

Specifically, the term "carbon quality" includes products in which (a) iron predominates, by weight, over each of the other contained elements; (b) the carbon content is 2 percent or less, by weight; and (c) none of the elements listed below exceeds the quantity, by weight, as indicated:

(i) 1.80 percent of manganese;
(ii) 2.25 percent of silicon;
(iii) 1.00 percent of copper;
(iv) 0.50 percent of aluminum;
(v) 1.25 percent of chromium;
(vi) 0.30 percent of cobalt;
(vii) 0.40 percent of lead;
(viii) 1.25 percent of nickel;
(ix) 0.30 percent of tungsten;
(x) 0.15 percent of molybdenum;
(xi) 0.10 percent of niobium;
(xii) 0.41 percent of titanium;
(xiii) 0.15 percent of vanadium; or
(xiv) 0.15 percent of zirconium.

Standard pipe is made primarily to American Society for Testing and Materials (ASTM) specifications, but can be made to other specifications. Standard pipe is made primarily to ASTM specifications A-53, A-135, and A-795. Structural pipe is made primarily to ASTM specifications A-252 and A-500. Standard and structural pipe may also be produced to proprietary specifications rather than to industry specifications. This is often the case, for example, with fence tubing. Pipe multiple-stenciled to a standard and/or structural specification and to any other specification, such as the American Petroleum Institute (API) API-5L specification, is also covered by the scope of this order when it meets the physical description set forth above and also has one or more of the following characteristics: is 32 feet in length or less; is less than 2.0 inches (50 mm) in outside diameter; has a galvanized and/or painted surface finish; or has a threaded and/or coupled end finish. (The term "painted" does not include coatings to inhibit rust in transit, such as varnish, but includes coatings such as polyester.)

The scope of this order does not include: (a) pipe suitable for use in boilers, superheaters, heat exchangers, condensers, refining furnaces and feedwater heaters, whether or not cold drawn; (b) mechanical tubing, whether or not cold-drawn; (c) finished electrical conduit; (d) finished scaffolding; (e) tube and pipe hollows for redrawing; (f) oil country tubular goods produced to API specifications; and (g) line pipe produced to only API specifications.

The pipe products that are the subject of this order are currently classifiable in HTSUS statistical reporting numbers 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, 7306.30.50.90, 7306.50.10.00, 7306.50.50.50, 7306.50.50.70, 7306.19.10.10, 7306.19.10.50, 7306.19.51.10, and 7306.19.51.50. However, the product description, and not the Harmonized Tariff Schedule of the United States (HTSUS) classification, is dispositive of whether merchandise imported into the United States falls within the scope of the order.

Legal Framework

In accordance with section 751(c)(1) of the Act, Commerce is conducting this sunset review to determine whether revocation of the order would likely lead to continuation or recurrence of a countervailable subsidy. Section 752(b) of the Act provides that, in making this determination, Commerce shall consider: (1) the net countervailable subsidy, as determined in the investigation and any subsequent reviews, and (2) whether any changes in the programs which gave rise to the net countervailable subsidy have occurred that are likely to affect the net countervailable subsidy. Pursuant to section 752(b)(3) of the Act, Commerce shall provide the ITC with the net countervailable subsidy likely to prevail if the order were revoked. In addition, consistent with section 752(a)(6) of the Act, Commerce shall provide the ITC with information concerning the nature of the subsidy and whether it is a subsidy described in Article 3 or Article 6.1 of the 1994 World Trade Organization Agreement on Subsidies and Countervailing Measures (SCM Agreement).

Discussion of the Issues

Below we address the comments of the domestic interested parties.

1. Likelihood of Continuation or Recurrence of a Countervailable Subsidy

Interested Party Comments[20]

Citing to section 752(b)(1) of the Act and the *Policy Bulletin*, the domestic interested parties assert that an affirmative determination of continuation or recurrence is warranted because the subsidies at issue in the original investigation remain in existence and have not been terminated or suspended. Further, they note that the investigation rates remain in place for all exporters, because no administrative reviews or new shipper reviews of the *Order* have been completed. The domestic interested parties argue that this fact was determinative in the first sunset review and there is no basis to reach a different conclusion here.

Commerce's Position:

As stated above, in determining the likelihood of continuation or recurrence of a countervailable subsidy, section 752(b)(1) of the Act directs Commerce to consider the net countervailable subsidy determined in the investigation and subsequent reviews and whether there has been any change in a program found to be countervailable that is likely to affect that net countervailable subsidy. According to the Statement of Administrative Action accompanying the URAA (*SAA*), Commerce will consider the net countervailable subsidies in effect after the issuance of an order and whether the relevant subsidy programs have been continued, modified, or eliminated.[21] The

[20] *See* Domestic Industry Substantive Response, at 4-7.
[21] *See SAA*, H.R. Doc. 103-316, vol. 1 (1994), at 888.

SAA further states that continuation of a program will be highly probative of the likelihood of continuation or recurrence of countervailable subsidies.[22] The presence of programs that have not been used, but have not been terminated without residual benefits or replacement programs, is also probative of the likelihood of continuation or recurrence of a countervailable subsidy.[23] Where a subsidy program is found to exist, Commerce will normally determine that revocation of the relevant order would likely to lead to continuation or recurrence of a countervailable subsidy, regardless of the level of subsidization.[24]

Consistent with prior determinations, two conditions must be met for a subsidy program not to be included in determining the likelihood of continued or recurring subsidization: (1) the program must be terminated, and (2) any benefit stream must be fully allocated.[25] Commerce has also stated that, in order to determine whether a program has been terminated, we will consider the legal method by which the government eliminated the program and whether the government is likely to reinstate the program.[26] Commerce normally expects a program to be terminated by means of the same legal mechanism used to institute it.[27] Where a subsidy is not bestowed pursuant to a statute, regulation, or decree, Commerce may find no likelihood of continued or recurring subsidization if the subsidy in question was a one-time, company-specific occurrence that was not part of a broader government program.[28]

In the investigation, Commerce found that countervailable subsidies were being provided to Chinese exporters and producers of circular welded carbon quality steel pipe under the programs listed above. No party submitted evidence to demonstrate that these countervailable programs have expired or been terminated, and there is no information on the record of this proceeding indicating any changes to the programs found countervailable during the investigation. Absent argument or evidence to the contrary, we find that these countervailable programs continue to exist and be used. Therefore, Commerce determines that there is a likelihood of continuation or recurrence of countervailable subsidies.

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[22] *Id*.
[23] *See*, *e.g.*, *Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Brazil: Final Results of Full Sunset Review of Countervailing Duty Order*, 75 FR 75455 (December 3, 2010), and accompanying IDM at Comment 1.
[24] *Id*.
[25] *See*, *e.g.*, *Preliminary Results of Full Sunset Review: Certain Corrosion-Resistant Carbon Steel Flat Products from France*, 71 FR 30875 (May 31, 2006), and accompanying Preliminary Decision Memorandum at 5-7, unchanged in *Corrosion-Resistant Carbon Steel Flat Products from France; Final Results of Full Sunset Review*, 71 FR 58584 (October 4, 2006).
[26] *See*, *e.g.*, *Fresh and Chilled Atlantic Salmon from Norway: Final Results of Full Third Sunset Review of Countervailing Duty Order*, 76 FR 70411 (November 14, 2011), and accompanying IDM at Comment 1.
[27] *See*, *e.g.*, *Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products from India*, 66 FR 49635 (September 28, 2001), and accompanying IDM at Comment 7.
[28] *See*, *e.g.*, *Stainless Steel Plate in Coils from Belgium: Final Results of Full Sunset Review and Revocation of the Countervailing Duty Order*, 76 FR 25666 (May 5, 2011), and accompanying IDM at Comment 1.

2. Net Countervailable Subsidy Likely to Prevail

Interested Party Comments[29]

The domestic interested parties assert that, consistent with the *SAA*, Commerce will normally select the rate determined in the original investigation, as that is the only calculated rate that reflects the behavior of exporters and foreign governments without the discipline of an order in place. Further, the domestic interested parties claim that although the rates from the original investigation were revised pursuant to a section 129 proceeding, after appeal the adjustment was found to be unwarranted, and that the original subsidy rates were reinstated, citing to a 2015 *Notice of Court Decision*.[30] Accordingly, the domestic interested parties argue that pursuant to the principles set forth in the *SAA*, Commerce should report the following countervailing duty rates to the ITC: (1) 29.62 percent for East Pipe; (2) 44.93 percent for Kingland; (3) 616.93 percent for Shuangjie; and (4) 37.29 percent for all other respondents.

Commerce's Position:

Consistent with the *SAA* and legislative history, Commerce will normally provide the ITC with the net countervailable subsidy that was determined in the investigation as the subsidy rate likely to prevail if the order is revoked because, as noted by the petitioner, it is the only calculated rate that reflects the behavior of exporters and foreign governments without the discipline of an order in place.[31] As noted in the "History of the Order" section above, Commerce revised the subsidy rates determined in the original investigation pursuant to the findings in the section 129 proceeding.[32] Although the domestic interested parties assert that the original subsidy rates were reinstated, we disagree. The *Notice of Court Decision* cited by the domestic interested parties pertained to an adjustment to the companion *antidumping* duty rates following the section 129 proceeding on the countervailing duty investigation, which the Court of International Trade remanded to Commerce for reconsideration.[33] Pursuant to the remand, Commerce determined that that there was no basis for an adjustment to the antidumping margin.[34] The countervailing duty rates as revised under the section 129 proceeding remain in place. Accordingly, the countervailing duty rates Commerce should report to the ITC are the revised rates as follows: (1) 29.83 percent for East Pipe; (2) 48.18 percent for Kingland; (3) 620.08 percent for Shuangjie; and (4) 39.01 percent for all other respondents.[35] While section 752(b)(l)(B) of the Act provides that Commerce will consider whether any change in the programs which gave rise to the net countervailable subsidy determination in the investigation or subsequent reviews has occurred that is likely to affect the net countervailable subsidy, Commerce has not completed an

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[29] *See* Domestic Interested Party Substantive Response at 7.
[30] *See Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Notice of Court Decision Not in Harmony With the Implemented Final Determination Under Section 129 of the Uruguay Round Agreements Act*, 80 FR 30210 (May 27, 2015) (*Notice of Court Decision*).
[31] *See SAA* at 890; *see also SAA* at 64.
[32] *See* Section 129 WTO Proceeding Memorandum at 34; *Section 129 Implementation*, 77 FR at 52685.
[33] *See Wheatland Tube Company v. United States*, Slip Op. 14-137, Consol. Court No. 12-00298 (CIT November 26, 2014).
[34] *See Notice of Court Decision*, 80 FR at 30211.
[35] *See* Section 129 WTO Proceeding Memorandum at 34; *Section 129 Implementation*, 77 FR at 52685.

administrative review of this *Order*. Therefore, in this sunset review, we determine the company-specific countervailable subsidy rates likely to prevail are the revised rates assigned in the final determination of the section 129 proceeding.[36] The countervailable subsidy rates, which Commerce determines are likely to prevail upon revocation of the order, are provided in the "Final Results of Review" section of this memorandum.

3. Nature of the Subsidies

In accordance with section 752(a)(6) of the Act, Commerce is providing the following information to the ITC concerning the nature of these subsidy programs and whether these programs constitute subsidies that fall within Article 3 or Article 6.1 of the SCM Agreement. We note that Article 6.1 of the SCM Agreement expired, effective January 1, 2000.

The following is an export subsidy as described in Article 3 of the SCM Agreement:

- *Export Assistance Grant* – "Super Star Enterprise" grant award from Huzhou City – eligibility for receipt of grants under this program are based on actual export performance or export marketing activities of an applicant or recipient.

The programs listed below do not fall within the meaning of Article 3.1 of the SCM Agreement, but they may be subsidies described in Article 6.1 of the SCM Agreement, if the amount of the subsidy exceeds five percent, as measured in accordance with Annex IV of the SCM Agreement. The subsidies may also fall within the meaning of Article 6.1 if they constitute debt forgiveness, grants to cover debt repayment, or subsidies to cover operating losses sustained by an industry or enterprise. However, there is insufficient information on the record of this review for Commerce to make such a determination. Nevertheless, we are providing the ITC with the following program descriptions.

- *Provision of Hot-rolled Steel for Less Than Adequate Remuneration (LTAR*) – the government of China provides hot-rolled steel for less than adequate remuneration.

- *Policy Lending Under the Shandong Provincial Steel Plan* – preferential loans provided by policy banks and state-owned commercial banks in Shandong Province.

- *East Pipe Debt Forgiveness* – the government of China provided a financial contribution to East Pipe in the form of a direct transfer of funds in the amount of the debt forgiven.

In addition, the following programs were found countervailable on the basis of adverse facts available:

Provision of Hot-rolled Steel for LTAR -- LTAR
Provision of Water for LTAR -- LTAR
Provision of Natural Gas for LTAR -- LTAR
Provision of Land for LTAR -- LTAR

[36] *See Section 129 Implementation,* 77 FR at 52685.

The State Key Technologies Renovation Project Fund -- grant
Grants to Loss-making State-owned Enterprises -- grant
Foreign Currency Retention Program -- grant
VAT and Tariff Exemptions on Imported Equipment -- VAT
VAT Rebates on Domestically Produced Equipment -- VAT
The "Two Free, Three Half" Program -- tax
Income Tax Exemption Program for Export-oriented Foreign Invested Enterprises ("FIEs") -- tax
Local Income Tax Exemption and Reduction Program for "Productive" FIEs -- tax
Reduced Income Tax Rates for FIEs Based on Location -- tax
Reduced Income Tax Rate for Technology and Knowledge Intensive FIEs -- tax
Reduced Income Tax Rate for High or New Technology FIEs -- tax
Corporate Income Tax Refund Program for Reinvestment of FIE Profits in Export-oriented Enterprises -- tax
Preferential Tax Policies for Research and Development at FIEs -- tax
Income Tax Credits on Purchases of Domestically Produced Equipment by Domestically Owned Companies -- tax
Income Tax Credits on Purchases of Domestically Produced Equipment by FIEs -- tax

Final Results of Review

Commerce determines that revocation of the countervailing duty order on circular welded carbon quality steel pipe from China would be likely to lead to the continuation or recurrence of countervailable subsidies at the rates listed below:[37]

Producer/Exporter	*Ad Valorem* Subsidy Rate
Weifang East Steel Pipe Co., Ltd. (East Pipe)	29.83 percent
Zhejiang Kingland Pipeline and Technologies Co., Ltd., Kingland Group Co., Ltd, Beijing Kingland Century Technologies Co., Zhejiang Kingland Pipeline Industry Co., Ltd., and Shanxi Kingland Pipeline Co., Ltd. (collectively, Kingland Companies)	48.18 percent
Tianjin Shuangjie Steel Pipe Co., Ltd.; Tianjin Shuangjie Steel Pipe Group Co., Ltd.; Tianjin Wa Song Imp. & Exp. Co., Ltd.; and Tianjin Shuanglian Galvanizing Products Co., Ltd. (collectively, Shuangjie)	620.08 percent
All other producers and exporters	39.01 percent

[37] *See Section 129 Implementation,* 77 FR at 52685

Recommendation

Based on our analysis of the substantive response 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

3/19/2019

X James Maeder

Signed by: JAMES MAEDER

James Maeder
Associate Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations
performing the duties of Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations