A-570-918
Sunset Review
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June 5, 2019

MEMORANDUM TO: Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

FROM: Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Expedited Second Sunset Review of the Antidumping Duty Order on Steel Wire Garment Hangers from the People's Republic of China

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I. Summary

We have analyzed the substantive response of M&B Metal Products Company, Inc. (the domestic interested party) in the second sunset review of the antidumping duty (AD) order covering steel wire garment hangers (hangers) from the People's Republic of China (China). We recommend that you approve the positions described in the *Discussion of the Issues* section of this memorandum. Below is the complete list of issues in this sunset review for which we received substantive responses:

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

II. Background

On February 5, 2019, the Department of Commerce (Commerce) published the notice of initiation of the second sunset review of the AD order on hangers from China, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).[1] Commerce received a notice of intent to participate from the domestic interested party within the deadline specified in 19 CFR 351.218(d)(1)(i).[2] The domestic interested party claimed interested party status under section 771(9)(C) of the Act, as a manufacturer of a domestic like product in the United States.

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[1] *See Initiation of Five-Year (Sunset) Reviews*, 84 FR 1704 (February 5, 2019) (*Notice of Initiation*).
[2] *See* Petitioner's Letter, "Notice of Intent to Participate," dated February 12, 2019.

Commerce received a complete substantive response to the *Notice of Initiation* from the domestic interested party within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).[3] Commerce received no comments on the adequacy of the domestic interested party's substantive response in this sunset review. We received no substantive responses from respondent interested parties, nor was a hearing requested. On March 20, 2019, Commerce notified the International Trade Commission of the lack of substantive responses from respondent interested parties.[4] As a result, pursuant to 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce is conducting an expedited (120-day) sunset review of the AD order on hangers from China.

The *Order* on hangers from China remains in effect for all producers and exporters of the subject merchandise.[5]

III. Scope of the Order

The merchandise that is subject to the *Order* is steel wire garment hangers, fabricated from carbon steel wire, whether or not galvanized or painted, whether or not coated with latex or epoxy or similar gripping materials, and/or whether or not fashioned with paper covers or capes (with or without printing) and/or nonslip features such as saddles or tubes. These products may also be referred to by a commercial designation, such as shirt, suit, strut, caped, or latex (industrial) hangers. Specifically excluded from the scope of the *Order* are wooden, plastic, and other garment hangers that are not made of steel wire. Also excluded from the scope of the *Order* are chrome-plated steel wire garment hangers with a diameter of 3.4 mm or greater. The products subject to the *Order* are currently classified under HTSUS subheadings 7326.20.0020, 7323.99.9060, and 7323.99.9080.

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

IV. History of the *Order*

On August 14, 2008, Commerce published the affirmative final determination in the less-than-fair-value (LTFV) investigation of hangers from China in the *Federal Register*.[6] On October 6,

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[3] *See* Petitioner's Letter, "Substantive Response to Notice of Initiation," dated February 28, 2019 (Petitioner's Substantive Response).

[4] *See* Commerce's Letter, "Sunset Review Initiated on February 5, 2019 Applicable February 1, 2019," dated March 20, 2019.

[5] *See Notice of Antidumping Duty Order: Steel Wire Garment Hangers from the People's Republic of China*, 73 FR 58111 (October 6, 2008) (*Order*); *see also Steel Wire Garment Hangers from the People's Republic of China: Final Results of Changed Circumstances Review, and Revocation in Part of Antidumping Duty Order*, 74 FR 50956 (October 2, 2009) (*CCR*).

[6] *See Steel Wire Garment Hangers from the People's Republic of China: Final Determination of Sales at Less than Fair Value*, 73 FR 47587 (August 14, 2008), as amended by *Steel Wire Garment Hangers from the People's Republic of China: Amended Final Determination of Sales at Less than Fair Value*, 73 FR 53188 (September 15, 2008).

2008, Commerce published the *Order* in the *Federal Register*, which established the following estimated weighted-average dumping margins:[7]

Exporter	Weighted-Average Dumping Margin (Percent)
Shanghai Wells Hanger Co., Ltd.	15.83
Shaoxing Metal Companies: Shaoxing Gangyuan Metal Manufactured Co., Ltd. Shaoxing Andrew Metal Manufactured Co., Ltd. Shaoxing Tongzhou Metal Manufactured Co., Ltd.	94.78
Jiangyin Hongji Metal Products Co., Ltd	55.31
Shaoxing Meideli Metal Hanger Co., Ltd.	55.31
Shaoxing Dingli Metal Clotheshorse Co., Ltd.	55.31
Shaoxing Liangbao Metal Manufactured Co. Ltd.	55.31
Shaoxing Zhongbao Metal Manufactured Co. Ltd.	55.31
Shangyu Baoxiang Metal Manufactured Co. Ltd.	55.31
Zhejiang Lucky Cloud Hanger Co., Ltd.	55.31
Pu Jiang County Command Metal Products Co., Ltd.	55.31
Shaoxing Shunji Metal Clotheshorse Co., Ltd.	55.31
Ningbo Dasheng Hanger Ind. Co., Ltd.	55.31
Jiaxing Boyi Medical Device Co., Ltd.	55.31
Yiwu Ao-Si Metal Products Co., Ltd.	55.31
Shaoxing Guochao Metallic Products Co., Ltd.	55.31
China-Wide Entity	187.25

Administrative Reviews, New Shipper Review, and First Sunset Review

Since the publication of the *Order*, Commerce has conducted nine administrative reviews (ARs), with the tenth review currently in progress. In the completed ARs, Commerce has found that producers or exporters have continued to dump subject merchandise at above *de minimis* rates despite the *Order*.[8] Commerce completed one new shipper review in conjunction with the 4th

[7] *See Order* at 58112.

[8] *See First Administrative Review of Steel Wire Garment Hangers from the People's Republic of China: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review*, 76 FR 27994 (May 13, 2011); *Steel Wire Garment Hangers from the People's Republic of China: Final Results and Final Partial Rescission of Second Antidumping Duty Administrative Review*, 77 FR 12553 (March 1, 2012), as amended by *Steel Wire Garment Hangers from the People's Republic of China: Amended Final Results of the Second Antidumping Duty Administrative Review*, 77 FR 19191 (March 30, 2012); *Steel Wire Garment Hangers from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 2010-2011*, 78 FR 28803 (May 16, 2013); *Steel Wire Garment Hangers from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and New Shipper Review, 2011-2012*, 79 FR 31298 (June 2, 2014) (*AR4*); *Steel Wire Garment Hangers from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 2012-2013*, 80 FR 13332 (March 13, 2015); *Steel Wire Garment Hangers from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 2013-2014*, 80 FR 69942 (November 12, 2015); *Steel Wire Garment Hangers from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 2014-*

AR.[9] Commerce has also completed one sunset review, finding that the revocation of the *Order* would likely lead to a continuation or recurrence of dumping at the same rates established in the *Order*.[10] The *Order* remains in effect for all producers and exporters of hangers from China.[11]

Changed Circumstances Reviews, Scope Inquiries, and Duty Absorption

Commerce completed one changed circumstance review in 2009, which modified the *Order* to exclude chrome-plated steel wire garment hangers with a diameter of 3.4 millimeters or greater.[12]

Commerce conducted an anti-circumvention inquiry in 2010-2011, investigating hangers from China that were assembled with paper accessories in the Socialist Republic of Vietnam (Vietnam) and subsequently exported to the United States. Two companies were found to have circumvented the *Order* via Vietnam.[13]

There have been seven scope inquiries with respect to hangers.[14] There have been no duty-absorption findings since the issuance of the *Order*.

V. 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 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, Commerce 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 after the issuance of the *Order*.

2015, 82 FR 18115 (April 17, 2017); *Steel Wire Garment Hangers from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2015-2016*, 82 FR 54324 (November 17, 2017); and *Steel Wire Garment Hangers from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2016-2017*, 83 FR 53449 (October 23, 2018)

[9] *See AR4*.

[10] *See Steel Wire Garment Hangers from the People's Republic of China: Final Results of Expedited Sunset Review of the Antidumping Duty Order*, 79 FR 1829 (January 10, 2014) (*First Sunset Review*).

[11] *See Steel Wire Garment Hangers from the People's Republic of China: Continuation of Antidumping Duty Order*, 79 FR 13613 (March 11, 2014).

[12] *See CCR*.

[13] *See Steel Wire Garment Hangers from the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty Order*, 76 FR 66895 (October 28, 2011).

[14] *See* Memoranda: "Final Scope Ruling on Target's Accessory Hanger," dated May 12, 2010; "Final Scope Ruling on Display Hangers," dated December 1, 2011; "Final Scope Ruling on Great American Hangers," dated February 16, 2012; "Scope Ruling on Casual Canine Pet Fashion Hangers," dated August 2, 2012; "Final Scope Ruling on Space-Saving Lingerie and Accessory Hangers Imported by Whitmor, Inc.," dated August 19, 2013; "Dollar General Scope Ruling," dated January 16, 2014; and "Final Scope Ruling on Hang It Jewelry Organizers Imported by Trendsformers, LLC.," dated June 19, 2014.

In accordance with the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act, specifically the Statement of Administrative Action (SAA),[15] the House Report,[16] and the Senate Report,[17] Commerce's determinations of likelihood will be made on an order-wide, rather than company-specific, basis.[18] In addition, Commerce normally determines that revocation of an AD order is likely to lead to continuation or recurrence of dumping when, among other scenarios: (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.[19]

In addition, as a base period of import volume comparison, it is Commerce'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 distort import volumes and, thus, skew the comparison.[20] When analyzing import volumes for second and subsequent sunset reviews, Commerce's practice is to compare import volumes during the year preceding the initiation of the underlying investigation to import volumes since the issuance of the last continuation notice.[21]

Further, section 752(c)(3) of the Act states that Commerce shall provide to the International Trade Commission (ITC) the magnitude of the margins of dumping likely to prevail if the order were revoked. Generally, Commerce selects the 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.[22] 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, {Commerce} may conclude that exporters are likely to continue dumping at the lower rates found in a more recent review").[23]

In February 2012, Commerce 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

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[15] *See* H.R. Doc. 103-316, vol. 1 (1994), reprinted in 1994 U.S.C.C.A.N. 4040, 4178 (SAA).
[16] *See* H. Rep. No. 103-826, pt. 1 (1994) (House Report), reprinted in 1994 U.S.C.C.A.N. 3773 (1994).
[17] *See* S. Rep. No. 103-412 (1994) (Senate Report).
[18] *See* SAA at 879; and House Report at 56.
[19] *See* SAA at 889-90; House Report at 63-64; and Senate Report at 52; *see also Policies Regarding the Conduct of Five-Year (Sunset) Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin 98.3*, 63 FR 18871, 18872 (April 16, 1998) (*Sunset Policy Bulletin*).
[20] *See*, *e.g.*, *Stainless Steel Bar from Germany; Final Results of the Sunset Review of the Antidumping Duty Order*, 72 FR 56985 (October 5, 2007), and accompanying Issues and Decision Memorandum (IDM) at Comment 1.
[21] *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 at 3.
[22] *See* SAA at 890; *see also 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 Second Sunset Review*), and accompanying IDM at Comment 2.
[23] *See* SAA at 890-91.

methodology found to be WTO-inconsistent (*i.e.*, zeroing/the denial of offsets).[24] However, Commerce explained that it "retain{s} the discretion, on a case-by-case basis, to apply an alternative methodology, when appropriate" in both investigations and administrative reviews pursuant to section 777A(d)(1)(B) of the Act.[25] In the *Final Modification for Reviews*, Commerce stated that "only in the most extraordinary circumstances" would it rely on margins other than those calculated and published in prior determinations.[26] Commerce 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 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."[27]

Pursuant to section 752(c)(4)(A) of the Act, a dumping margin of zero or *de minimis* shall not by itself require Commerce to determine that revocation of an AD order would not be likely to lead to a continuation or recurrence of sales at LTFV.[28]

VI. Discussion of the Issues

1. Likelihood of Continuation or Recurrence of Dumping

The Domestic Interested Party's Comments

- Revocation of the *Order* would likely lead to a continuation or recurrence of sales at LTFV by the producers and exporters of the subject merchandise.[29]
- AD margins above *de minimis* have continued to occur throughout all ARs since the last sunset review, indicating that dumping is likely to continue if the *Order* were revoked.[30]
- Imposition of the *Order* has had a dramatic and sustained impact on the import volume of hangers from Chinese producers and exporters. There was an immediate 65-percent decrease in import volumes between 2008 and 2009 following the implementation of the *Order*, and a sustained lower volume of sales to the United States from 2009 through 2018.[31]
- Transshipment of subject merchandise *via* Malaysia and Thailand for purposes of duty evasion has been investigated by U.S. Customs and Border Protection (CBP) since the prior

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[24] *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*).
[25] *Id.* at 8102, 8105, 8109.
[26] *Id*. at 8103.
[27] *Id*.
[28] *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.
[29] *See* Petitioner's Substantive Response at 7.
[30] *Id.* at 10-11.
[31] *Id.* at 11-12.

sunset review in 2013.[32] CBP's investigations, completed in 2016 and 2018, concluded there was substantial evidence of transshipment in both investigations.[33] Additionally, Commerce conducted an anti-circumvention inquiry in 2010-2011 and determined multiple companies were circumventing the *Order* by transshipping subject merchandise *via* Vietnam.[34]

- Commerce should determine that revocation of an order is inappropriate where dumping continued at any level above *de minimis* after the issuance of the *Order*.[35] Record evidence strongly supports the conclusion that dumping of hangers by producers and exporters from China would be likely to continue or recur if the *Order* were revoked.

No comments from other interested parties were received.

Commerce Position: As explained in the Legal Framework section above, when determining whether revocation of the *Order* would be likely to lead to the recurrence or continuation of dumping, sections 752(c)(1)(A) and (B) of the Act require Commerce to consider: (1) the weighted-average dumping margins determined in the investigation and subsequent reviews; and (2) the volume of imports of the subject merchandise for the period before and after the issuance of the AD order. According to the SAA, the existence of dumping margins after the order "is highly probative of the likelihood of continuation or recurrence of dumping. If companies continue to dump with the discipline of an order in place, it is reasonable to assume that dumping would continue if the discipline were removed. If imports cease after the order is issued, it is reasonable to assume that the exporters could not sell in the United States without dumping and that, to reenter the U.S. market, they would have to resume dumping."[36] In addition, "declining import volumes accompanied by the continued existence of dumping margins after the issuance of the 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."[37]

Alternatively, the legislative history provides that declining (or no) dumping margins accompanied by steady or increasing imports may indicate that foreign companies do not have to dump to maintain market share in the United States and that dumping is less likely to continue or recur if the *Order* were revoked.[38]

Weighted-average dumping margins that are above *de minimis* have remained in effect for all companies for the period since the last sunset review. Individual company rates have ranged from 2.52 percent to 55.31 percent, and the rate for the China-wide entity has remained steady at 187.25 percent.[39] Further, these weighted-average dumping margins did not rely on a WTO-

[32] *Id.* at 15.
[33] *Id.* at Attachments 2-4.
[34] *Id.* at 18-19.
[35] *See Sunset Policy Bulletin*.
[36] *See SAA* at 890.
[37] *Id.* at 889; House Report at 63, and Senate Report at 52.
[38] *See SAA* at 889-90; House Report at 63; and Senate Report at 52.
[39] *See* Petitioner's Substantive Response at Attachment 1.

inconsistent methodology pursuant to the *Final Modification for Reviews*. We further find that these rates are reflective of the level of dumping without the discipline of an order in place.

Additionally, we examined the import statistics overall and for the period since the last sunset review, which show that imports of hangers from China remain well below pre-initiation levels.[40] Specifically, imports of hangers declined dramatically from 2,069,184,543 hangers in 2008 to 733,870,626 hangers in 2009, after the *Order* was issued in late 2008.[41] Hanger imports from China continued to decline from pre-*Order* levels, with a volume of 335,433,320 imported during 2017.[42] Accordingly, pursuant to section 752(c)(1) of the Act, Commerce determines that dumping is likely to continue or recur if the *Order* were revoked.

2. Magnitude of the Margins of Dumping Likely to Prevail

The Domestic Interested Party's Comments

- The dumping margins determined in the investigation are the margins of dumping likely to prevail if the *Order* were revoked.[43]

Commerce Position: Pursuant to section 752(c)(3) of the Act, Commerce shall provide to the ITC the magnitude of the margins of dumping that are likely to prevail if the *Order* were revoked. Commerce's preference is to select estimated weighted-average dumping margins from the LTFV investigation because these are the only calculated rates that reflect the behavior of the producers and exporters without the discipline of an order or suspension agreement in place.[44] These rates were not affected by the denial of offsets in accordance with the *Final Modification for Reviews*,[45] because the *Final Determination* occurred after Commerce ended the practice of zeroing in investigations.[46]

Because dumping continued and circumvention occurred following the issuance of the *Order*, and given the absence of arguments or evidence to the contrary, Commerce finds that the estimated weighted-average dumping margins calculated in the original investigation are probative of the behavior of producers and exporters of subject merchandise from China if the *Order* were revoked. Consistent with section 752(c) of the Act, Commerce will report to the ITC the margins up to the highest rate from the investigation concerning subject merchandise from China as indicated in the "History of the *Order*" section of this memorandum. As described above, these margins did not involve zeroing.

[40] *Id.* at 11-12.
[41] *Id.*
[42] *Id.*
[43] *Id.* at 23.
[44] *See* SAA at 890; *see also Persulfates Second Sunset Review*, and accompanying IDM at Comment 2.
[45] *See Final Modification for Reviews* at 8103, stating "{i}f the dumping margins determined in a manner not found to be WTO-inconsistent in these disputes indicate that dumping continued with the discipline of the order in place, those dumping margins alone can form the basis for a determination that dumping will continue or recur if the order were to be revoked."
[46] *See First Sunset Review*, and accompanying IDM at 8-9.

VII. Final Results of Sunset Review

We determine that revocation of the *Order* on hangers from China would likely lead to continuation or recurrence of dumping, and that the magnitude of the margins of dumping likely to prevail would be up to 187.25 percent.

VIII. Recommendation

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

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Agree Disagree

6/5/2019

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Signed by: JEFFREY KESSLER

Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance