



A-570-875  
Third Sunset Review  
**Public Document**  
E&C/OIV: AG

June 5, 2019

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

**FROM:** James Maeder  
Associate Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

**SUBJECT:** Issues and Decision Memorandum for the Expedited Third Sunset Review of the Antidumping Duty Order on Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China

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## I. Summary

In the third sunset review of the antidumping duty (AD) order on non-malleable cast iron pipe fittings (NMPF) from the People's Republic of China (China),<sup>1</sup> Anvil International, LLC and Ward Manufacturing LLC (collectively, the petitioners), domestic producers of NMPF, submitted an adequate and timely notice of intent to participate as well as a substantive response. No respondent interested party submitted a substantive response. Accordingly, we conducted an expedited (120-day) sunset review for this *Order*, 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).<sup>2</sup> In accordance with our analysis of the petitioners' adequate substantive response, we recommend that you approve the positions in the "Discussion of the Issues" section of this memorandum. The following 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.

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<sup>1</sup> See *Notice of Antidumping Duty Order: Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China*, 68 FR 16765 (April 7, 2003) (*Order*).

<sup>2</sup> See *Procedures for Conducting Five-year (Sunset) Reviews of Antidumping and Countervailing Duty Order*, 70 FR 62061 (October 28, 2005) (Commerce normally will conduct an expedited sunset review where respondent interested parties provide an inadequate response).



## II. Background

On April 7, 2003, the Department of Commerce (Commerce) published the notice of the AD order on NMPF from China. On February 5, 2019, Commerce published the initiation of the third sunset review of the *Order*, pursuant to section 751(c) of the Act.<sup>3</sup> On February 20, 2019, Commerce received a notice of intent to participate in this review from the petitioners, within the deadline specified in 19 CFR 351.218(d)(1)(i).<sup>4</sup> The petitioners claimed interested party status under section 771(9)(C) of the Act as U.S. manufacturers or producers of a domestic like product. On March 7, 2019, Commerce received a complete and adequate substantive response from the petitioners within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).<sup>5</sup> Commerce received no substantive responses from respondent interested parties with respect to the *Order*. 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 expedited (120-day) sunset review of the *Order*.

## III. Scope of the Order

The products covered by the *Order* are finished and unfinished non-malleable cast iron pipe fittings with an inside diameter ranging from ¼ inch to 6 inches, whether threaded or unthreaded, regardless of industry or proprietary specifications. The subject fittings include elbows, ells, tees, crosses, and reducers as well as flanged fittings. These pipe fittings are also known as “cast iron pipe fittings” or “gray iron pipe fittings.” These cast iron pipe fittings are normally produced to ASTM A-126 and ASME B.16.4 specifications and are threaded to ASME B1.20.1 specifications. Most building codes require that these products are Underwriters Laboratories (UL) certified. The scope does not include cast iron soil pipe fittings or grooved fittings or grooved couplings.

Fittings that are made out of ductile iron that have the same physical characteristics as the gray or cast iron fittings subject to the scope above or which have the same physical characteristics and are produced to ASME B.16.3, ASME B.16.4, or ASTM A-395 specifications, threaded to ASME B1.20.1 specifications and UL certified, regardless of metallurgical differences between gray and ductile iron, are also included in the scope of the *Order*. These ductile fittings do not include grooved fittings or grooved couplings. Ductile cast iron fittings with mechanical joint ends (MJ), or push on ends (PO), or flanged ends and produced to American Water Works Association (AWWA) specifications AWWA C110 or AWWA C153 are not included.

Imports of covered merchandise are classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers 7307.11.00.30, 7307.11.00.60, 7307.19.30.60 and 7307.19.30.85. HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of the *Order* is dispositive.<sup>6</sup>

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<sup>3</sup> See *Initiation of Five-Year (Sunset) Reviews*, 84 FR 1705 (February 5, 2019).

<sup>4</sup> See Letter from the Petitioners, “Non-Malleable Cast Iron Pipe Fittings from the People’s Republic of China,” dated February 5, 2019.

<sup>5</sup> See Letter from the Petitioners, “Non-Malleable Cast Iron Pipe Fittings from the People’s Republic of China, Third Review: Substantive Response to Notice of Initiation,” dated March 7, 2019 (Petitioners’ Substantive Response).

<sup>6</sup> See *Order*.

#### IV. History of the Order

On March 20, 2002, Commerce initiated an AD investigation on NMPF from China.<sup>7</sup> On September 25, 2002, Commerce preliminarily determined that NMPF from China were being sold in the United States at less than fair value (LTFV).<sup>8</sup> On February 18, 2003, Commerce published the final determination of sales at LTFV in the *Federal Register*.<sup>9</sup> On April 7, 2003, Commerce published in the *Federal Register* the *Order* on NMPF from China at the following rates:<sup>10</sup>

Exporter/Producer	Weighted-Average Margin (percent)
Jinan Meide Casting Co., Ltd	7.08
Shanghai Foreign Trade Enterprises Co., Ltd	6.34
China-wide entity	75.50

Commerce has completed four administrative reviews,<sup>11</sup> one changed circumstances review,<sup>12</sup> and two sunset reviews<sup>13</sup> overall since the publication of the *Order*. Specifically, in the third sunset review period, Commerce completed the 2013-2014 administrative review of NMPF from China.<sup>14</sup> Commerce has not conducted any duty absorption reviews or new shipper reviews in the history of the *Order*.

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<sup>7</sup> See *Notice of Initiation of Antidumping Duty Investigation: Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China*, 67 FR 12966 (March 20, 2002).

<sup>8</sup> See *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China*, 67 FR 60214 (September 25, 2002).

<sup>9</sup> See *Notice of Final Determination of Sales at Less than Fair Value: Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China*, 68 FR 7765 (February 18, 2003).

<sup>10</sup> See *Order*.

<sup>11</sup> See *Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 71 FR 69546 (December 1, 2006); see also *Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 72 FR 38563 (July 13, 2007); *Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 76 FR 31936 (June 2, 2011); *Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 80 FR 27632 (May 14, 2015). The first, sixth, and fourteenth administrative reviews were properly rescinded, and the third administrative review was partially rescinded. See *Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China: Notice of Rescission of Antidumping Duty Administrative Review*, 69 FR 47875 (August 6, 2004); see also *Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China: Notice of Partial Rescission of Antidumping Duty Administrative Review*, 71 FR 55430 (September 22, 2006); *Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China: Rescission of Antidumping Duty Administrative Review*, 74 FR 59963 (November 19, 2009); *Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China: Notice of Rescission of Antidumping Duty Administrative Review; 2016-2017*, 82 FR 48797 (October 20, 2017).

<sup>12</sup> See *Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China: Final Results of Antidumping Duty Changed Circumstances Review, and Revocation of Order, in Part*, 77 FR 31577 (May 29, 2012).

<sup>13</sup> See *Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China: Final Results of the Expedited Sunset Review of the Antidumping Duty Order*, 73 FR 39656 (July 10, 2008); see also *Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China: Final Results of the Expedited Second Sunset Review of the Antidumping Duty Order*, 78 FR 72639 (December 3, 2013).

<sup>14</sup> See *Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 80 FR 27632 (May 14, 2015).

In the second expedited sunset review, Commerce determined that the rates assigned to Jinan Meide Casting Co., Ltd and Shanghai Foreign Trade Enterprises Co., Ltd in the AD investigation should be recalculated without using the zeroing methodology. Commerce determined that the recalculated rate for Jinan Meide Casting Co., Ltd was 3.32 percent and the recalculated rate for Shanghai Foreign Trade Enterprises Co., Ltd was *de minimis*.<sup>15</sup> The dumping margin for the China-wide entity in the AD investigation was based on the dumping margin from the petition and, therefore, does not include zeroing and is consistent with the *Final Modification for Reviews*.<sup>16</sup>

Commerce is conducting the third sunset review of the *Order*. Accordingly, the *Order* remains in effect for all manufacturers, producers, and exporters of NMPF from China.

## 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. If Commerce determines that revocation of the *Order* would be likely to lead to a continuation or recurrence of dumping, pursuant to section 752(c)(3) of the Act, Commerce shall provide to the International Trade Commission (ITC) the magnitude of the margins of dumping likely to prevail if the *Order* were revoked.

As explained in the Statement of Administrative Action Accompanying the Uruguay Round Agreements Act (SAA),<sup>17</sup> Commerce 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.<sup>18</sup> Pursuant to section 752(c)(4)(A) of the Act, a dumping margin of zero or *de minimis* does not require Commerce to determine that revoking an antidumping duty order would not be likely to lead to a continuation or recurrence of sales at LTFV.<sup>19</sup>

Alternatively, Commerce 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. Consistent with guidance provided in the legislative history accompanying the Uruguay Round Agreements Act

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<sup>15</sup> See *Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China: Final Results of the Expedited Second Sunset Review of the Antidumping Duty Order*, 78 FR 72639 (December 3, 2013) and accompanying Issues and Decision Memorandum (IDM) at 9.

<sup>16</sup> 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*).

<sup>17</sup> H.R. Rep. No. 103-316, Vol. 1 (1994).

<sup>18</sup> See SAA at 889-90; and *Policies Regarding the Conduct of Five-year (Sunset) Reviews of Antidumping and Countervailing Duty Order: Policy Bulletin*, 63 FR 18871, 18872 (April 16, 1998) (*Sunset Policy Bulletin*).

<sup>19</sup> 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.

(i.e., SAA; House Report, H. Rep. No. 103-826, pt. 1 (1994) (House Report); and Senate Report, S. Rep. No. 103-412 (1994) (Senate Report)), Commerce will make its likelihood determination on an order-wide, rather than company-specific, basis.<sup>20</sup>

Sections 752(c)(1)(A) and (B) of the Act provide that, in making this determination, Commerce shall consider the weighted-average dumping margins determined in the investigations 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, 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 dampen import volumes and, thus, skew comparison.<sup>21</sup> Also, when analyzing import volumes for second and subsequent sunset reviews, Commerce'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.<sup>22</sup>

If Commerce determines that revocation of the *Order* would be likely to lead to a continuation or recurrence of dumping, generally Commerce provides to the ITC the magnitude of the margins of dumping likely to prevail if the *Order* were revoked. Generally, Commerce selects the margins from the final determinations in the original investigations, as those are the only calculated rates that reflect the behavior of exporters without the discipline of an order in place. 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").<sup>23</sup>

On February 14, 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 methodology found to be World Trade Organization (WTO)-inconsistent.<sup>24</sup> 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.<sup>25</sup> Commerce 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."<sup>26</sup>

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<sup>20</sup> See SAA at 879.

<sup>21</sup> 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 IDM at Comment 1.

<sup>22</sup> See *Ferrovanadium from the People's Republic of China and the Republic of South Africa: Final Results of the Expedited Second Sunset review of the Antidumping Duty Order*, 79 FR 14216 (March 13, 2014) and accompanying IDM at 3.

<sup>23</sup> See SAA at 890-91; see also *Sunset Policy Bulletin* at section II.B.2.

<sup>24</sup> See *Final Modification for Reviews*.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

## 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.

### 1. Likelihood of Continuation or Recurrence of Dumping

#### Domestic Interested Party Comments

The petitioners argue that dumping of NMPF from China would continue or recur if the *Order* on the subject merchandise is revoked because: (1) Chinese producers have continued dumping at levels above *de minimis* since the *Order* was imposed; and (2) imports of subject merchandise from China have declined significantly since the *Order* was imposed.<sup>27</sup>

#### Commerce's Position

Pursuant to section 752(c)(1)(A) of the Act, Commerce first considered the weighted-average dumping margins determined in the investigation and any subsequent reviews. In the original investigation, Commerce found that dumping occurred at levels above *de minimis*. In the subsequent review conducted with respect to the *Order* in the third sunset review period, Commerce continued to find dumping margins above *de minimis* during an administrative review period. According to the SAA and the House Report, “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.”<sup>28</sup>

As discussed above, Commerce has conducted one administrative review during the third sunset review period. Furthermore, pursuant to section 752(c)(1)(B) of the Act, Commerce considered the volume of imports of the subject merchandise for the period before and after the issuance of the *Order*. Commerce examined import volumes from the ITC's Trade Dataweb for 2014 through 2018, which is the current sunset review period. This is the five-year period that follows the second sunset review and we compared this to the import volumes in the pre-initiation period.

In this case, the volume of imports has generally decreased steadily since the issuance of the *Order*. The import volumes for NMPF from China for the years 2014 through 2018 ranged from 11,990 tons in 2014 to 9,687 tons in the first eleven months of 2018.<sup>29</sup> By contrast, the import volume for 2001, the year immediately preceding the initiation of the investigation, was 19,206 tons.<sup>30</sup> With the exception of an increase from 2016 to 2017, import volumes between 2014 and 2018 decreased consistently, and remained below pre-*Order* levels each year.<sup>31</sup> Given the decrease in import volumes, it is unlikely that Chinese producers and exporters of NMPF would

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<sup>27</sup> See Petitioners' Substantive Response at 6-8.

<sup>28</sup> See SAA at 889; see also House Report at 63-64.

<sup>29</sup> See Petitioners' Substantive Response at 8 citing import data from the ITC's Trade Dataweb. These import volumes are based on the following HTS numbers: 7307.11.0030, 7307.11.0060, and 7307.19.3060.

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

be able to sell at pre-*Order* volumes without dumping. Accordingly, Commerce determines that dumping is likely to continue if the *Order* were revoked.

## 2. Magnitude of the Dumping Margins Likely to Prevail

### Domestic Interested Party Comments

The petitioners argue that Commerce recognizes that normally the dumping margin likely to prevail if the *Order* were revoked is the dumping margin determined in the final determination of the original investigation, as an investigation margin is “the only calculated rate that reflects the behavior of exporters ... without the discipline of an order or suspension agreement in place.”<sup>32</sup>

Citing the SAA and *Sunset Policy Bulletin*, the petitioners assert that Commerce should report to the ITC that the magnitude of the dumping margins that are likely to prevail is identical to the margins determined in the original investigation, *i.e.*, 7.08 percent for Jinan Meide Casting Co., Ltd., 6.34 percent for Shanghai Foreign Trade Enterprises Co., Ltd., and 75.50 percent for the China-wide entity.<sup>33</sup>

Finally, the petitioners argue that the *Final Modification for Reviews* has no effect on the dumping margins that Commerce should report to the ITC, because Commerce should follow the SAA and its own practice in the *Sunset Policy Bulletin* to report the dumping margins calculated in the original investigation as the margins likely to prevail if the *Order* were revoked.<sup>34</sup>

### Commerce’s Position

Pursuant to section 752(c)(3) of the Act, Commerce shall provide to the ITC the magnitude of the margins of dumping that is likely to prevail if the *Order* were revoked. Normally, Commerce will provide to the ITC the magnitude of the margins of dumping from the LTFV investigation.<sup>35</sup> Commerce normally selects a rate from the LTFV investigation because it is the only calculated rate that reflects the behavior of manufacturers, producers, and exporters without the discipline of an order or suspension agreement in place.<sup>36</sup>

As indicated in the “Legal Framework” section above, consistent with the *Final Modification for Reviews*, Commerce’s current practice is not to rely on weighted-average dumping margins calculated using the zeroing methodology. As noted above, the rates for the mandatory respondents were recalculated in the second expedited sunset review without using the zeroing methodology, and therefore did not involve the denial of offsets. The China-wide entity rate was based on adverse facts available and the separate rate was based on Commerce’s calculation of the dumping margin for the mandatory respondent that was above *de minimis*.<sup>37</sup>

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<sup>32</sup> See Petitioners’ Substantive Response at 8-9 (citing the SAA at 890; and *Sunset Policy Bulletin*, 63 FR at 18873).

<sup>33</sup> *Id.* at 9.

<sup>34</sup> *Id.* at 9-10.

<sup>35</sup> See SAA at 890; *see also, e.g., Persulfates from China* and accompanying IDM at Comment 2.

<sup>36</sup> See SAA at 890.

<sup>37</sup> See *Notice of Final Determination of Sales at Less than Fair Value: Non-Malleable Cast Iron Pipe Fittings from the People’s Republic of China*, 68 FR 7765 (February 18, 2003); *see also Non-Malleable Cast Iron Pipe Fittings*

Commerce determines that it is appropriate to report to the ITC the investigation rate of up to 75.50 percent as the margin likely to prevail if the *Order* were revoked. The petitioners have argued that “Revocation of the antidumping order under review would lead to the continuation or recurrence of sales at less than fair value by margins equivalent to or greater than those found in the original investigation.”<sup>38</sup> Commerce determined a China-wide entity rate of 75.50 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. We have received no argument that information from subsequent reviews of the *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 75.50 percent investigation rate for all Chinese manufacturers and exporters as the margin likely to prevail, as indicated in the “Final Results of Review” section of this memorandum.

## VII. Final Results of Review

For the reasons stated above, we determine that revocation of the *Order* on NMPF from China would likely lead to continuation or recurrence of dumping. We also determine that the magnitude of the dumping margin likely to prevail would be weighted-average dumping margin up to 75.50 percent.

## VIII. 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 the final result of this sunset review in the *Federal Register* and notify the ITC of our determination.

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Agree

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Disagree

6/5/2019

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Signed by: JEFFREY KESSLER