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Sunset Review
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June 23, 2020

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

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

SUBJECT: Issues and Decision Memorandum for the Final Results of the Expedited Second Sunset Review of the Countervailing Duty Order on Oil Country Tubular Goods from the People's Republic of China

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I. SUMMARY

We received a substantive response from Maverick Tube Corporation, Tenaris Bay City, Inc., and IPSCO Tubulars Inc. (collectively, Tenaris USA), United States Steel Corporation (U.S. Steel), Vallourec Star, L.P. and Welded Tube USA, Inc. (collectively, Vallourec USA), and BENTELER Steel/Tube Manufacturing Corp. (BENTELER), the domestic interested parties, in the second sunset review of the countervailing duty (CVD) order on certain oil country tubular goods (OCTG) from the People's Republic of China (China).[1] We did not receive a substantive response from the Government of China (GOC) or from exporters of the subject merchandise from China. As a result, pursuant to section 751(c)(3)(B) of Tariff Act of 1930, as amended (the Act), and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department of Commerce (Commerce) is conducting an expedited (120-day) sunset review of the *CVD Order* covering OCTG from China.[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 that we address in this expedited sunset review:

1. Likelihood of Continuation or Recurrence of a Countervailable Subsidy
2. Net Countervailable Subsidy Likely to Prevail
3. Nature of the Subsidy

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[1] *See* Domestic Interested Parties' Letter, "Oil Country Tubular Goods from the People's Republic of China: Substantive Response of the Domestic Industry to Commerce's Notice of Initiation of Five-Year ("Sunset") Review," dated May 1, 2020 (Substantive Response).
[2] *See Certain Oil Country Tubular Goods from the People's Republic of China: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order*, 75 FR 3203 (January 20, 2010) (*CVD Order*).

II. HISTORY OF THE ORDER

On December 7, 2009, Commerce published its final determination in the CVD investigation of certain oil country tubular goods from China.[3] On January 20, 2010, Commerce published its amended final determination and the *CVD Order*.[4] Commerce determined that benefits that constitute subsidies within the meaning of section 701 of the Act were provided by the GOC to Chinese manufacturers, producers, and exporters of this merchandise. In the investigation, the following 11 programs were found to confer countervailable subsidies to the cooperating mandatory respondent companies:

1. Policy Loans
2. Export Loans from the Export-Import Bank of China
3. Provision of Steel Rounds for Less than Adequate Remuneration (LTAR)
4. The State Key Technology Project Fund
5. "Two Free, Three Half" Program
6. Preferential Tax Program for Foreign-Invested Enterprises Recognized as High or New Technology Enterprises
7. Local Income Tax Exemption and Reduction Programs for "Productive" Foreign-Invested Enterprises
8. Income Tax Credits for Domestically Owned Companies Purchasing Domestically Produced Equipment
9. Subsidies Provided in the Tianjin Binhai New Area and the Tianjin Economic and Technological Development Area
10. Loan and Interest Forgiveness for State-Owned Enterprises (SOEs)
11. Provision of Electricity For LTAR

Commerce found the following net countervailable subsidies in the original investigation:[5]

Exporter/Manufacturer	Net Subsidy Rate (percent)
Jiangsu Changbao Steel Tube Co. and Jiangsu Changbao Precision Steel Tube Co., Ltd. (Jiangsu Changbao)	12.46
Tianjin Pipe (Group) Co., Tianjin Pipe Iron Manufacturing Co., Ltd., Tianguan Yuantong Pipe Product Co., Ltd., Tianjin Pipe International Economic and Trading Co., Ltd., and TPCO Charging Development Co., Ltd. (Tianjin Pipe Group)	10.49

[3] *See Certain Oil Country Tubular Goods from the People's Republic of China: Final Affirmative Countervailing Duty Determination, Final Negative Critical Circumstances Determination*, 74 FR 64045 (December 7, 2009) (*Investigation Final*).
[4] *See CVD Order*.
[5] These rates are from the amended final, published concurrently with the *CVD Order*. *See CVD Order*.

Wuxi Seamless Pipe Co, Ltd., Jiangsu Fanli Steel Pipe Co, Ltd., and Tuoketuo County Mengfeng Special Steel Co., Ltd. (Wuxi)	14.95
Zhejiang Jianli Enterprise Co., Ltd., Zhejiang Jianli Steel Tube Co., Ltd., Zhuji Jiansheng Machinery Co., Ltd., and Zhejiang Jianli Industry Group Co., Ltd. (Jianli)	15.78
All Others	13.41

Following notification of an affirmative injury determination by the U.S. International Trade Commission (ITC), Commerce published the *CVD Order* on January 20, 2010.[6]

Since the issuance of the order, Commerce has issued three scope rulings regarding OCTG. On February 7, 2014, Commerce issued a scope ruling regarding unfinished OCTG (green tubes), in which Commerce found that green tubes manufactured in China and finished in third countries are within the scope of the *CVD Order* and the companion antidumping duty order where the finishing consists of heat treatment by quenching and tempering, upsetting and threading (with integral joint), or threading and coupling; and the products are made to the following specifications and grades: API specification 5CT, grades P-110, T-95 and Q-125.[7] On February 12, 2016, Commerce issued a scope ruling that certain tubing for perforating gun carriers is within the scope of the orders.[8] On June 30, 2017, Commerce issued a scope ruling that unfinished packoff support bushings, unfinished mandrel casing hangers, and unfinished casing head housings intended for use in an above-ground multibowl wellhead systems are not within the scope of the orders.[9] Following subsequent litigation, remand, and affirmation by the U.S. Court of International Trade, in 2019, Commerce issued a remand redetermination concerning its 2014 final scope ruling, confirming that green tubes that are finished in third countries prior to importation are included in the scope of the orders.[10]

Commerce has not issued any anti-circumvention or changed circumstance determinations.

Commerce completed two administrative reviews of the *CVD Order* and has rescinded three reviews, pursuant to section 751(a) of the Act. Commerce rescinded the first administrative review of the *CVD Order* for the period of review (POR) January 20, 2010 through December 31, 2010.[11]

In the second administrative review, which covered the 2011 calendar year POR, Commerce found net countervailable subsidy rates of 13.54 percent *ad valorem* for Wuxi and 1.95 percent

[6] *See CVD Order*.
[7] *See Notice of Scope Rulings*, 79 FR 30821 (May 29, 2014).
[8] *See Notice of Scope Rulings*, 82 FR 13794 (March 15, 2017).
[9] *See Notice of Scope Rulings*, 83 FR 31733 (July 9, 2018).
[10] *See Notice of Scope Rulings*, 85 FR 12515 (March 3, 2020).
[11] *See Certain Oil Country Tubular Goods from the People's Republic of China: Rescission of Countervailing Duty Administrative Review*, 76 FR 39071 (July 5, 2011).

ad valorem for Jiangsu Chengde Steel Tube Share Co., Ltd. (Jiangsu Chengde).[12] Commerce based the rates for Wuxi and Jiangsu Chengde on the following programs:[13]

1. Policy Loans
2. Provision of Electricity for LTAR
3. Provision of Steel Rounds for LTAR
4. Export Restraints on Coke
5. Energy Savings Award
6. Technology Project Award

In the third administrative review, which covered the 2012 calendar year POR, Commerce found net countervailable subsidy rates of 59.29 percent *ad valorem* for Wuxi and 1.49 percent *ad valorem* for Jiangsu Chengde.[14] Commerce based the rates for Wuxi and Jiangsu Chengde on the following programs:[15]

1. Policy Loans
2. Provision of Electricity for LTAR
3. Provision of Steel Rounds for LTAR
4. Export Credit Insurance Reimbursements from the Wuxi New District Administration Committee
5. Refunds of Real Estate Tax and Land-Use Tax for Companies Located in the Yadahong Industrial Concentration District of Songyuan City
6. Wuxi Technology Grants

In addition, Commerce determined that three programs, listed below under the "Nature of Subsidies" section, were countervailable on the basis of adverse facts available (AFA) with respect to Wuxi's responses.[16]

No interested party requested an administrative review for the PORs covering calendar years of 2013, 2014, 2015, and 2016. Commerce rescinded the fourth administrative review of the *CVD Order* for the 2017 calendar year POR.[17] No interested party requested an administrative review for the 2018 calendar year POR. Commerce rescinded the fifth administrative review of the

[12] *See Certain Oil Country Tubular Goods from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2011*, 78 FR 49475 (August 14, 2013) (*2011 Review Final*), and accompanying Issues and Decision Memorandum (IDM).
[13] *See 2011 Review Final* IDM at 17-23.
[14] *See Certain Oil Country Tubular Goods from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2012*, 79 FR 52301 (September 3, 2014) (*2012 Review Final*), and accompanying IDM.
[15] *See 2012 Review Final* IDM at 27-32.
[16] *Id.* at 16-19. These three programs were new subsidy allegations that U.S. Steel alleged in the 2012 administrative review.
[17] *See Oil Country Tubular Goods from the People's Republic of China: Rescission of Countervailing Duty Administrative Review; 2017*, 83 FR 49547 (October 2, 2018).

CVD Order for the 2019 calendar year POR.[18] There is currently no on-going administrative review of the *CVD Order*.

Moreover, since the publication of the *CVD Order*, Commerce completed one sunset review of the *CVD Order*.[19] In the completed expedited sunset review, Commerce determined that the revocation of the *Order* would likely lead to a continuation or recurrence of a countervailable subsidy. Commerce published a notice of the continuation of the CVD order on certain OCTG from China following the completion of the one sunset review.[20]

III. BACKGROUND

Pursuant to section 751(c) of the Act, on April 1, 2020, Commerce published the notice of initiation of the second sunset review of the *CVD Order*.[21] Subsequently, by April 16, 2020, within the deadline specified in 19 CFR 351.218(d)(1)(i), the domestic interested parties submitted their notices of intent to participate to Commerce.[22] In accordance with 19 CFR 351.218(d)(1)(ii)(A), U.S. Steel, Tenaris USA, Vallourec USA, and BENTELER claimed status as interested parties under section 771(9)(C) of the Act as producers of the domestic like product.[23] On May 1, 2020 the domestic interested parties filed a collective substantive response in the sunset review within the 30-day deadline, as specified in 19 CFR 351.218(d)(3)(i).[24] We did not receive any substantive responses from respondent interested parties or the GOC.

According to 19 CFR 351.218(e)(1)(ii)(B)-(C), when there are inadequate responses from respondent interested parties, Commerce normally will conduct an expedited sunset review and, no later than 120 days after the date of publication in the *Federal Register* of the notice of initiation, issue final results of review based on the facts available, in accordance with 19 CFR 351.308(f).[25] Therefore, we are conducting an expedited (120-day) sunset review of the *CVD Order*.

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[18] *See Oil Country Tubular Goods from the People's Republic of China: Rescission of Countervailing Duty Administrative Review; 2019*, 85 FR 20676 (April 14, 2020).
[19] *See Certain Oil Country Tubular Goods from the People's Republic of China: Final Results of the Expedited First Sunset Review of the Countervailing Duty Order*, 80 FR 19282 (April 10, 2015).
[20] *See Certain Oil Country Tubular Goods from the People's Republic of China: Continuation of the Antidumping Duty Order and Countervailing Duty Order*, 80 FR 28224 (May 18, 2015).
[21] *See Initiation of Five-Year* ("*Sunset*") *Review*, 85 FR 18189 (April 1, 2020).
[22] *See* Tenaris USA's Letter, "Notice of Intent to Participate in Second Sunset Reviews of the Antidumping and Countervailing Duty Orders on Oil Country Tubular Goods from the People's Republic of China," dated April 14, 2020; *see also* U.S. Steel's Letter, "Five-Year ("Sunset") Review of Antidumping and Countervailing Duty Orders on Oil Country Tubular Goods from China: Notice of Intent to Participate;" Vallourec USA's Letter, "Oil Country Tubular Goods from the People's Republic of China, Second Sunset Review: Notice of Intent to Participate;" and BENTELER's Letter, "Notice of Intent to Participate in Second Sunset Reviews of the Antidumping and Countervailing Duty Orders on Oil Country Tubular Goods from the People's Republic of China;" each dated April 16, 2020 (collectively, Domestic Parties' Notices of Intent to Participate).
[23] *See* Domestic Parties' Notices of Intent to Participate at 2.
[24] *See* Domestic Parties' Substantive Response.
[25] *See* section 751(c)(3)(B) of the Act; and 19 CFR 351.221(c)(5)(ii).

IV. SCOPE OF THE ORDER

The merchandise covered by this order includes certain oil country tubular goods, which are hollow steel products of circular cross-section, including oil well casing and tubing, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, regardless of end finish (*e.g.*, whether or not plain end, threaded, or threaded and coupled) whether or not conforming to American Petroleum Institute (API) or non-API specifications, whether finished (including limited service OCTG products) or unfinished (including green tubes and limited service OCTG products), whether or not thread protectors are attached. The scope of the order also covers OCTG coupling stock. Excluded from the scope of the order are casing or tubing containing 10.5 percent or more by weight of chromium; drill pipe; unattached couplings; and unattached thread protectors.

The merchandise subject to this order may be classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 7304.29.10.10, 7304.29.10.20, 7304.29.10.30, 7304.29.10.40, 7304.29.10.50, 7304.29.10.60, 7304.29.10.80, 7304.29.20.10, 7304.29.20.20, 7304.29.20.30, 7304.29.20.40, 7304.29.20.50, 7304.29.20.60, 7304.29.20.80, 7304.29.31.10, 7304.29.31.20, 7304.29.31.30, 7304.29.31.40, 7304.29.31.50, 7304.29.31.60, 7304.29.31.80, 7304.29.41.10, 7304.29.41.20, 7304.29.41.30, 7304.29.41.40, 7304.29.41.50, 7304.29.41.60, 7304.29.41.80, 7304.29.50.15, 7304.29.50.30, 7304.29.50.45, 7304.29.50.60, 7304.29.50.75, 7304.29.61.15, 7304.29.61.30, 7304.29.61.45, 7304.29.61.60, 7304.29.61.75, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.29.10.30, 7306.29.10.90, 7306.29.20.00, 7306.29.31.00, 7306.29.41.00, 7306.29.60.10, 7306.29.60.50, 7306.29.81.10, and 7306.29.81.50.

The OCTG coupling stock covered by the order may also enter under the following HTSUS item numbers: 7304.39.00.24, 7304.39.00.28, 7304.39.00.32, 7304.39.00.36, 7304.39.00.40, 7304.39.00.44, 7304.39.00.48, 7304.39.00.52, 7304.39.00.56, 7304.39.00.62, 7304.39.00.68, 7304.39.00.72, 7304.39.00.76, 7304.39.00.80, 7304.59.60.00, 7304.59.80.15, 7304.59.80.20, 7304.59.80.25, 7304.59.80.30, 7304.59.80.35, 7304.59.80.40, 7304.59.80.45, 7304.59.80.50, 7304.59.80.55, 7304.59.80.60, 7304.59.80.65, 7304.59.80.70, and 7304.59.80.80.

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

V. DISCUSSION OF THE ISSUES

Legal Framework

In accordance with section 751(c)(1) of the Act, Commerce is conducting this review to determine whether revocation of the *Order* would be likely lead to continuation or recurrence of a countervailable subsidy. Section 752(b)(1) of the Act provides that, in making this determination, Commerce shall consider (1) the net countervailable subsidy determined in the investigation and 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 to the ITC 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 to the ITC 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).

Below we address the comments of the interested parties.

1. Likelihood of Continuation or Recurrence of a Countervailable Subsidy

Domestic Interested Party Comments

The domestic interested parties argue that Commerce should determine that subsidy programs found to be countervailable in the original investigation have continued and would be likely to continue or recur if the *CVD Order* were revoked because of the following:

1) No party has presented evidence that the GOC has terminated the subsidy programs giving rise to the net countervailable subsidy rates determined in the investigation.
2) Imports of subject merchandise declined dramatically following the imposition of the *CVD Order*.
3) In the original investigation and subsequent administrative reviews, Commerce found that Chinese OCTG producers and exporters benefitted from subsidies prohibited by Article 3.1 of the SCM Agreement.
4) Given Commerce's findings in recent countervailing duty investigations of various steel products from China, including steel pipe and tube products, Chinese producers and exporters of OCTG also are likely to benefit from new, substantial countervailable subsidies in addition to those already countervailed in this proceeding.[26]

The domestic interested parties further argue that Commerce should assume that the countervailable programs found in the investigation have not been terminated and continue to exist. As a result, Commerce should determine that revocation of the *CVD Order* is likely to lead to a continuation or recurrence of countervailable subsidization.

Commerce's Position: Section 752(b)(1) of the Act directs Commerce in determining the likelihood of continuation or recurrence of a countervailable subsidy 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. The SAA further advises that the continuation of a program is "highly probative of the likelihood of continuation or recurrence of countervailable subsidies."[27] The continued existence of programs that have not been used, and have not been terminated without residual benefits or replaced, is also probative of the likelihood of continuation or

[26] *See* Substantive Response at 10-11.
[27] *See* Statement of Administrative Action Accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, vol I (1994) (SAA) at 888.

recurrence of a countervailable subsidy.[28] Where a subsidy program is found to exist, Commerce normally will determine that revocation of the CVD order is likely to lead to continuation or recurrence of a countervailable subsidy regardless of the level of subsidization.[29]

Consistent with prior determinations, two conditions must be met in order 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.[30] 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.[31] Commerce normally expects a program to be terminated by means of the same legal mechanism used to institute it.[32] 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 and was not granted as part of a broader, government program.[33]

As explained above, Commerce completed two administrative reviews of the *CVD Order* since it went into effect. In these reviews, Commerce found that Chinese producers of OCTG continued to receive countervailable subsidies from programs identified in the investigation, and in addition, Commerce identified additional countervailable subsidy programs providing benefits to Chinese producers of OCTG. Finally, no party submitted evidence to demonstrate that the countervailable programs have expired or terminated. Therefore, consistent with our practice, Commerce finds that all of the countervailable programs referenced in Section II above continue to exist and be used by Chinese producers and exporters of certain OCTG.[34] Consequently, given the continued existence of programs found to provide countervailable benefits, Commerce

[28] *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.
[29] *Id.*
[30] *See, e.g.*, *Non-Oriented Electrical Steel from the People's Republic of China: Final Results of the Expedited First Sunset Review of the Countervailing Duty Order*, 85 FR 11339 (February 27, 2020), and accompanying IDM at 6; *see also Certain Pasta from Italy: Final Results of the Expedited Fourth Sunset Review of the Countervailing Duty Order*, 83 FR 62839 (December 6, 2019), and accompanying IDM at 11; *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).
[31] *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.
[32] *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.
[33] *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.
[34] *See, e.g.*, *Sulfanilic Acid from India; Final Results of Expedited Sunset Review of Countervailing Duty Order*, 76 FR 33243 (June 8, 2011); *see also Carbazole Violet Pigment 23 from India: Final Results of the Expedited Five-year (Sunset) Review of the Countervailing Duty Order*, 75 FR 13257 (March 19, 2010).

finds that a countervailable subsidy would be likely to continue or recur if the *CVD Order* were revoked.[35]

2. Net Countervailable Subsidy Likely to Prevail

Domestic Interested Party Comments

In determining the net countervailable subsidy likely to prevail in the event of revocation, the domestic interested parties argue that subsidization is likely to continue at rates established in the original investigation, adjusted to include programs that Commerce subsequently found to be countervailable in administrative reviews.[36] Furthermore, the domestic interested parties claim that the SAA and *Sunset Policy Bulletin* support this contention, as both state that:

> "{Commerce} normally will provide the company-specific countervailing duty rate from the investigation for each company, where available, regardless of whether the rate was calculated using a company's own information or was based on best information available or facts available. If no company-specific countervailing duty rate was determined for a particular company in the original investigation, ... {Commerce} normally will provide to the {ITC} the country-wide rate or all others rate determined in the original investigation as the net countervailable subsidy that is likely to prevail for that particular company if the order is revoked… Where {Commerce} has conducted an administrative review of the order …, and found a new countervailable program, or found a program previously not used but subsequently found countervailable that was included in the new subsidy rate for the administrative review, {Commerce} normally will adjust the net countervailable subsidy rate determined in the original investigation to reflect the change."[37]

Thus, with respect to Wuxi, the domestic interested parties argue that Commerce should also include in its calculation the highest rate for each of the new subsidies that Commerce countervailed in the administrative reviews of Wuxi. Further, for Jiangsu Changbao, Tianjin pipe Group, Jianli, and for the all-others rate, the domestic interested parties argue that Commerce should apply adjustments made in the first sunset review to reflect the additional countervailable subsidies that Commerce found in the administrative reviews. Based on these arguments, the domestic interested parties argue that the subsidy rates that are likely to prevail in the event of revocation of the *CVD Order* are as follows:

- Jiangsu Changbao: 22.87 percent *ad valorem*;
- Tianjin Pipe Group: 20.90 percent *ad valorem*;
- Wuxi: 59.29 percent *ad valorem*;

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[35] S*ee Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871, 18874-75 (April 16, 1998) (*Sunset Policy Bulletin*); *see also Investigation Final*; *Section 129 Determination*, 81 FR at 37181-82.
[36] *See* Substantive Response at 12-13.
[37] *Id.* (citing *Sunset Policy Bulletin*, 63 FR at 18875-18876; and SAA at 890).

- Jianli: 25.36 percent *ad valorem*; and
- All Others: 23.82 percent *ad valorem*.[38]

Commerce's Position: As the domestic interested parties noted, consistent with the SAA and the legislative history, Commerce normally will provide the ITC with the net countervailable subsidy determined in the investigation as the subsidy rate likely to prevail if the order is revoked, because it is the only calculated rate that reflects the behavior of exporters and foreign governments without the discipline of an order in place.[39] Section 752(b)(l)(B) of the Act provides, however, that Commerce will consider whether any change in the program 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. Therefore, although Commerce normally will select a rate from the investigation, this rate may not be the most appropriate if, for example, Commerce derived this rate (in whole or part) from subsidy programs found in subsequent reviews to be terminated, there has been a program-wide change, or the rate ignores a program found to be countervailable in a subsequent administrative review.[40]

In determining company-specific, net countervailable subsidy rates likely to prevail, Commerce first considers the rates found in the original investigation. However, in this instance, Commerce has completed two administrative reviews in which, as discussed above, it found several additional subsidy programs to be countervailable. As a result, in the first sunset review, Commerce adjusted the rates determined for each of the companies and "all others" in the investigation to reflect the programs that Commerce subsequently found to be countervailable.[41] Therefore, in providing to the ITC the subsidy rates likely to prevail if the *CVD Order* were revoked, Commerce added to the net countervailable subsidy rates determined in the original investigation the countervailable subsidy rates from the additional subsidy programs found to be countervailable during the first and second administrative reviews. These additional programs are:

1. Export Restraints on Coke
2. Energy Savings Award
3. Technology Project Award
4. Export Credit Insurance Reimbursements from the Wuxi New District Administration
5. Committee Refunds of Real Estate Tax and Land-Use Tax for Companies Located in the Yadahong Industrial Concentration District of Songyuan City
6. Wuxi Technology Grants[42]

[38] *Id.* at 13.
[39] *See* SAA at 890; and H.R. Rep. No. 103-826 (1994) (House Report) at 64.
[40] *See Stainless Steel Sheet and Strip in Coils from the Republic of Korea: Final Results of Expedited Second Sunset Review*, 75 FR 62101 (October 7, 2010), and accompanying IDM at 4.
[41] *See, e.g.*, *Citric Acid and Certain Citrate Salts From the People's Republic of China: Final Results of Expedited Sunset Review of the Countervailing Duty Order*, 79 FR 45671 (August 6, 2014), and accompanying IDM at Comment 2.
[42] *See Oil Country Tubular Goods From the People's Republic of China: Rescission of Countervailing Duty Administrative Review; 2019*, 85 FR 20676 (April 14, 2020), and accompanying IDM at 8.

No administrative review has been completed since the completion of the first sunset review. As a result, Commerce will provide to the ITC the net countervailable subsidy rates found in the first sunset review. Consistent with section 752(b)(3) of the Act, Commerce will provide to the ITC the net countervailable subsidy rates shown in the section entitled "Final Results of Sunset Review."

3. Nature of the Subsidies

Consistent with section 752(a)(6) of the Act, Commerce is providing the following information to the ITC concerning the nature of the subsidies, and whether any of the subsidies are as described in Article 3 or Article 6.1 of the SCM Agreement. We note that Article 6.1 of the SCM Agreement expired on January 1, 2000.

Article 3

In this sunset review, there are two programs that fall under Article 3.1 of the SCM Agreement, which states that the following subsidies shall be prohibited: (a) subsidies contingent, in law or in fact, whether solely or as one of several other conditions, upon export performance, and (b) subsidies contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods.

1. Export Loans from the Export-Import Bank of China (EIBC)

   Tianjin Pipe Group received an export loan which was deemed specific due to it being contingent on export performance.[43]

2. Export Credit Insurance Reimbursements from the Wuxi New District Administration Committee

   Wuxi received export credit insurance reimbursements deemed specific due to it being contingent upon export performance.[44]

Article 6.1

The following programs do not fall within the meaning of Article 3.1 of the SCM Agreement, but these programs could be a subsidy as 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 subsidy could also fall within the meaning of Article 6.1 if it constitutes debt forgiveness, a grant to cover debt repayment, or is a subsidy to cover operating losses sustained by an industry or enterprise. However, there is insufficient information on the record of this review in order for Commerce to make such a determination. We are providing the ITC with the following program descriptions:

[43] *See Investigation Final* IDM at 12-13.
[44] *See 2012 Review Final* IDM at 30.

1. Policy Loans

   China used policy banks and state-owned commercial banks to provide respondents with preferential loans that were specific to the OCTG industry.[45]

2. Provision of Steel Rounds for LTAR

   Producers of steel rounds in China were government authorities that provided steel rounds to respondents for LTAR. The subsidy was specific because the recipients were limited in number.[46]

3. The State Key Technology Project Fund

   China provided Tianjin Pipe Group with a grant under this program, which was specific by law to certain enterprises; *i.e.*, large-sized state-owned enterprises and large-sized state holding enterprises among 512 key enterprises.[47]

4. "Two Free, Three Half" Program

   China provided Jianli with a tax exemption or reduction under this program, which was specific by law to certain enterprises; *i.e.*, "Productive" foreign-invested enterprises (FIEs).[48]

5. Preferential Tax Program for Foreign-Invested Enterprises Recognized as High or New Technology Enterprises

   China provided Wuxi with a tax reduction under this program, which was specific by law to certain enterprises; *i.e.*, high and new technology FIEs.[49]

6. Local Income Tax Exemption and Reduction Programs for "Productive" Foreign-Invested Enterprises

   China provided Wuxi and Jianli with exemptions or reductions in local income taxes under this program, which was specific by law to certain enterprises; *i.e.*, "Productive" FIEs.[50]

7. Income Tax Credits for Domestically owned Companies Purchasing Domestically Produced Equipment

   China provided Wuxi with a tax reduction under this program, which was specific by law to certain enterprises; *i.e.*, "Productive" FIEs.[51]

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[45] *See Investigation Final* IDM at 12; *see also 2011 Review Final* IDM at 18; and *2012 Review Final* IDM at 27.
[46] *See Investigation Final* IDM at 13-15; *see also 2011 Review Final* IDM at 19-20; and *2012 Review Final* IDM at 28-30.
[47] *See Investigation Final* IDM at 15-16.
[48] *Id.* at 16.
[49] *Id.* at 16-17.
[50] *Id.* at 17-18.
[51] *Id.* at 18.

8. Subsidies Provided in the Tianjin Binhai New Area and the Tianjin Economic and Technological Development Area

Science and Technology Fund

China provided Tianjin Pipe Group with a grant under this program, which was found to be limited to enterprises located in a designated geographic region.[52]

Accelerated Depreciation Program

China provided Tianjin Pipe Group with a tax reduction under this program, which was found to be limited to enterprises located in a designated geographic region.[53]

Land

China provided Tianjin Pipe Group with land-use rights and a lease of land for LTAR, which was found to be regionally specific.[54]

9. Loan and Interest Forgiveness for SOEs

China forgave loans and interest that Tianjin Pipe Group owed, which was found to be specific because China limited the forgiveness to Tianjin Pipe Group.[55]

10. Provision of Electricity for LTAR

Based on AFA with respect to China's responses, China provided respondents with electricity for LTAR.[56] In the administrative reviews, no party submitted information to change this finding.[57]

11. Export Restraints on Coke

Based on AFA with respect to China's responses, China's restraints on the exports of coke constituted entrustment or direction of coke producers, and these producers provided coke for LTAR to Wuxi. The provision of coke was determined to be specific to the steel industry.[58]

12. Energy Savings Award

[52] *Id.* at 19.
[53] *Id.* at 19-20.
[54] *Id.* at 20-22.
[55] *Id.* at 22.
[56] *See Investigation Final* IDM at 22-23.
[57] *See 2011 Review Final* IDM at 19; *see also 2012 Review Final* IDM at 27-28.
[58] *See 2011 Review Final* IDM at 20-22.

China provided Wuxi with a grant under this program, which was found to be specific based on AFA.[59]

13. Technology Project Reward

    China provided Wuxi with a grant under this program, which was found to be specific based on AFA.[60]

14. Refunds of Real Estate Tax and Land-Use Tax for Companies Located in the Yadahong Industrial Concentration District of Songyuan City

    China provided Wuxi with a tax refund under this program, which was found to be limited to enterprises located within a designated geographical region (the Yadahong Industrial Concentration District) within the jurisdiction of the authority providing the refunds.[61]

15. Wuxi Technology Grants

    China provided WSP with a grant under this program, which was found to be specific based on AFA.[62]

In addition, for the 2012 administrative review, Commerce determined that the following programs were countervailable on the basis of AFA with respect to Wuxi's responses.[63]

- Tax Waivers and Reductions in Korla City
- Special Preferential Policies in Korla Zone
- Preferential Financial Support to Bazhou Seamless

VI. FINAL RESULTS OF SUNSET REVIEW

Based on the analysis above, Commerce finds that revocation of the *CVD Order* would be likely to lead to continuation or recurrence of countervailable subsidies at the rates listed below:[64]

Manufacturers/Producers/Exporters	**Net Subsidy Rate (percent)**
Jiangsu Changbao	22.87
Tianjin Pipe Group	20.90
Wuxi	25.36
Jianli	26.19
All Others	23.82

[59] *See 2011 Review Final* IDM at 22-23.
[60] *Id*. at 23.
[61] *See 2012 Review Final* IDM at 30-31.
[62] *Id.* at 31-32.
[63] *Id.* at 16-19.
[64] *See* Sunset Calculation Memorandum.

VII. RECOMMENDATION

Based on our analysis of the substantive response received and the record evidence, we recommend adopting all of the above positions. If these recommendations are accepted, we will publish the final results of review in the *Federal Register* and notify the ITC of our findings.

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Agree Disagree

6/23/2020

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Signed by: JEFFREY KESSLER

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Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance