



A-570-866
Sunset Review
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October 19, 2012

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Import Administration

FROM: Susan Kuhbach 
Director, Office 1
Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Preliminary Results of
the Second Sunset Review of the Antidumping Duty Order on
Folding Gift Boxes from the People's Republic of China

Summary

We have analyzed the responses of the interested parties in the second sunset review of the antidumping duty order covering folding gift boxes from the People's Republic of China ("PRC").¹ The Folding Gift Boxes Fair Trade Coalition ("Domestic Parties"),² a group of producers of the domestic like product, submitted an adequate substantive response. No respondent interested party submitted a substantive response. In accordance with our analysis of the Folding Gift Boxes Fair Trade Coalition's substantive response, we recommend adopting 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 a substantive response:

1. Likelihood of continuation or recurrence of dumping; and
2. Magnitude of the dumping margin likely to prevail.

History of the Order

On January 8, 2002, the Department of Commerce ("the Department") published the *Order* on folding gift boxes from the PRC. The Department found the following weighted average dumping margins: 1.67 percent for Max Fortune Industrial Ltd. ("Max Fortune"), 8.90 percent for Red Point Paper Products Co., Ltd. ("Red Point"), and a PRC-wide rate of 164.75 percent. The Department noted that because Max Fortune received a *de minimis* margin, it was excluded from the *Order*.

¹ See *Notice of Antidumping Duty Order: Certain Folding Gift Boxes From the People's Republic of China*, 67 FR 864 (January 8, 2002) ("*Order*").

² The Folding Gift Boxes Fair Trade Coalition is comprised of Harvard Folding Gift Box Company, Inc. and Graphic Packaging International, Inc., both U.S. producers of folding gift boxes.



The Department conducted one administrative review before the period of this sunset review. In that review, the Department determined margins of 0.00 percent for Red Point and 164.75 percent for the PRC-wide entity, which included Yun Choy Inc.³

The Department did not issue any final results of administrative reviews during the period of this five-year sunset review.

Previous Sunset Reviews

The Department published its notice of initiation of the first sunset review on December 1, 2006, pursuant to section 751(c) of the Tariff Act of 1930, as amended (“the Act”).⁴ As a result of this review, the Department found that revocation of the *Order* would likely lead to continuation or recurrence of dumping with the following rates: 1.67 percent for Max Fortune, 8.90 percent for Red Point, and a PRC-wide rate of 164.75 percent.⁵

On April 19, 2007, the International Trade Commission (“ITC”) determined, pursuant to section 751(c) of the Act, that revocation of this antidumping duty order would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.⁶ On May 18, 2007, the Department published the notice of continuation of the *Order*.⁷ Since the continuation of the *Order*, the Department has not completed any other administrative reviews.

Scope Inquiries, Changed Circumstances Reviews, and Duty Absorption

On June 6, 2011, in response to a scope ruling request filed by Flexo Craft Prints, Inc. (“Flexo”), the Department determined that Flexo’s Robe, Shilt, and Giftware folding gift boxes are within the scope of the *Order*. The Department found that because these boxes, as described by Flexo, meet the physical description of merchandise covered by the *Order* and are not otherwise covered by any of the exclusionary language contained in the scope of the *Order*, they are within the scope.⁸

On March 17, 2009, the Department issued a final scope ruling requested by Hallmark Cards, Inc., regarding a “FunZip” gift box. The Department determined that this product is within the scope of the *Order* as it meets the physical description of merchandise covered by the *Order*.⁹

³ See *Certain Folding Gift Boxes From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review*, 68 FR 74207 (December 23, 2003).

⁴ See *Initiation of Five-year (“Sunset”) Reviews*, 71 FR 69545 (December 1, 2006).

⁵ 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).

⁶ See *Folding Gift Boxes From China*, 72 FR 25777 (May 7, 2007), and USITC Pub. No. 3917, Investigation No. 731-TA-921 (Review) (Apr. 2007).

⁷ See *Folding Gift Boxes from the People’s Republic of China: Continuation of Antidumping Duty Order* 72 FR 28025 (May 18, 2007).

⁸ See Memorandum titled *Folding Gift Boxes from the People’s Republic of China: Flexo Craft Prints, Inc. Final Scope Ruling*, dated July 6, 2011.

⁹ See Memorandum titled *Folding Gift Boxes from the People’s Republic of China: “FunZip” Final Scope Ruling*, dated March 16, 2009.

On February 9, 2009, the Department found that four boxes imported by Footstar are not subject to the *Order* because they meet one or more of the exclusion criteria of the scope language for the *Order* on folding gift boxes from the PRC.¹⁰

The Department has not conducted any changed circumstances or duty absorption reviews during the period of this sunset review.

Background

On April 2, 2012, the Department initiated the second sunset review of the *Order* on folding gift boxes from the PRC, pursuant to section 751(c) of the Act.¹¹ On May 2, 2012, pursuant to 19 CFR 351.218(d)(3), Domestic Parties filed a timely and adequate substantive response within 30 days after the date of publication of the initiation notice.¹² The Department did not receive substantive responses from any respondent interested party. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department initially determined to conduct an expedited (120-day) sunset review of the *Order*. On July 23, 2012, the Department reconsidered its determination to conduct an expedited sunset review of the *Order* and determined instead to conduct a full sunset review of the *Order* on folding gift boxes from the PRC.¹³

Discussion of the Issues

Legal Framework

In accordance with section 751(c)(1) of the Act, the Department is conducting this sunset review to determine whether revocation of the *Order* would be likely to lead to a continuation or recurrence of dumping. Sections 752(c)(1)(A) and (B) of the Act provide that, in making this determination, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews, and the volume of imports of the subject merchandise for the periods before, and the periods after, the issuance of the antidumping duty order.

As explained in the Statement of Administrative Action (“SAA”) accompanying the Uruguay Round Agreements Act (“URAA”), the Department normally determines that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping when: (a) dumping continued at any level above *de minimis* after 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.¹⁴ Alternatively, the Department normally will determine that revocation of an antidumping duty order is not likely to lead to continuation or recurrence of dumping where dumping was

¹⁰ See Memorandum titled Final Scope Ruling: Footstar, dated February 9, 2009.

¹¹ See *Initiation of Second (“Sunset”) Review*, 77 FR 19643 (April 2, 2012).

¹² See Substantive Response of the Domestic Parties (“Substantive Response”) (May 2, 2012).

¹³ See Memorandum titled “Sunset Review of the Antidumping Duty Order on Folding Gift Boxes from the People’s Republic of China: Adequacy Redetermination Memorandum,” (July 23, 2012).

¹⁴ See SAA, H.R. Rep. No. 103-316, Vol. 1 (1994), at 889-90; see also *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 Issues and Decision Memorandum at Comment 1.

eliminated after issuance of the order and import volumes remained steady or increased.¹⁵ In addition, as a base period of import volume comparison, it is the Department's practice to use the one-year period immediately preceding the initiation of the investigation, rather than the level of pre-order import volumes, as the initiation of an investigation may dampen import volumes and, thus, skew comparison.¹⁶

Further, section 752(c)(3) of the Act states that the Department shall provide to the ITC the magnitude of the margin of dumping likely to prevail if the order is revoked. Generally, the Department selects the margin(s) from the final determination in the original investigation, as this is the only calculated rate that reflects the behavior of exporters without the discipline of an order in place.¹⁷ However, the Department may use a rate from a more recent review where the dumping margin increased, as this rate may be more representative of a company's behavior in the absence of an order (e.g., where a company increases dumping to maintain or increase market share with an order in place).¹⁸ Finally, pursuant to section 752(c)(4)(A) of the Act, a dumping margin of "zero or *de minimis* shall not by itself require" the Department to determine that revocation of an antidumping duty order would not be likely to lead to a continuation or recurrence of sales at less than fair value.

In the *Final Modification for Reviews*,¹⁹ the Department announced that in five-year ("sunset") reviews, it will not rely on weighted-average dumping margins that were calculated using the methodology determined by the Appellate Body to be WTO-inconsistent. The Department also noted that "*only in the most extraordinary circumstances* will the Department rely on margins other than those calculated and published in prior determinations."²⁰

Below we address the comments submitted by Domestic Parties.

Analysis

1. Likelihood of Continuation or Recurrence of Dumping

Domestic Parties' Comments

Domestic Parties argue that revocation of this *Order* would likely result in an increase of sales at less than fair value by significant dumping margins.²¹ Specifically, Domestic Parties argue that relatively stable and/or declining import volumes of subject merchandise despite the high dumping margin applicable to certain subject imports indicate that dumping is likely to continue

¹⁵ See *Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871 (April 16, 1998) ("*Sunset Policy Bulletin*").

¹⁶ 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 at Comment 1.

¹⁷ See SAA at 890 and *Sunset Policy Bulletin* at section II.B.1. See, e.g., *Persulfates From the People's Republic of China: Notice of Final Results of Expedited Second Sunset Review of Antidumping Duty Order*, 73 FR 11868 (March 5, 2008), and accompanying Issues and Decision Memorandum at Comment 2.

¹⁸ See SAA at 890-91; *Sunset Policy Bulletin* at section II.B.2.

¹⁹ See *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification*, 77 FR 8101 (February 14, 2012) ("*Final Modification for Reviews*").

²⁰ See *Final Modification for Reviews*, 77 FR at 8103 (emphasis added).

²¹ See Substantive Response at 5.

if the *Order* is revoked. Further, Domestic Parties contend that PRC-based companies retain significant capacity to produce folding gift boxes as well as connections with U.S.-based importers that can facilitate sales of this production.²² Domestic Parties note other conditions present in the market which they argue demonstrate the likelihood that dumping would continue if the *Order* were revoked. Among these conditions, Domestic Parties highlight: 1) close substitutability between subject imports and domestic production; 2) the importance of purchases by large retailers; 3) the relative importance of the U.S. market to PRC-based manufactures; and 4) the number of printers and converters in the PRC with the capability to manufacture subject merchandise.²³

Department's Position

As explained in the "Legal Framework" section above, the Department's determination concerning whether revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping is based, in part, upon guidance provided by the legislative history accompanying the URAA (*i.e.*, the SAA; House Report, H. Rep. No. 103-826, pt. 1 (1994) ("House Report"); and Senate Report, S. Rep. No. 103-412 (1994) ("Senate Report")). Consistent with the SAA, the Department will make its likelihood determination on an order-wide basis.²⁴

Further, when determining whether revocation of an order would be likely to lead to continuation of dumping, sections 752(c)(1)(A) and (B) of the Act instruct the Department 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 antidumping duty order. Thus, one consideration is whether the Department has continued to find dumping above *de minimis* levels in administrative reviews subsequent to imposition of an antidumping duty order.²⁵ 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."²⁶ In the instant review, for the reasons stated below, we find that revocation of the *Order* on folding gift boxes from the PRC would likely result in the continuation or recurrence of dumping in the United States.

We find that PRC exporters of folding gift boxes have continued to sell into the United States at prices below normal value following the issuance of the *Order*. Since issuance of the *Order*, dumping has continued at rates exceeding *de minimis* levels, which suggests that dumping is likely to continue if the *Order* is revoked. Although in the sole administrative review completed since the issuance of the *Order*, Red Point was found to have a margin of 0.00 percent rate, the above *de minimis* PRC-wide rate of 164.75 percent remains in effect for all other producers and exporters of folding gift boxes, including Yun Choy Inc.

²² See Substantive Response at 11-13.

²³ See Substantive Response at 13-15.

²⁴ See SAA at 879.

²⁵ *Id.* at 890.

²⁶ *Id.*; see also House Report at 63-64.

While Domestic Parties submitted their own proprietary estimate of import volumes, it is the Department's current practice to use Global Trade Atlas ("GTA") import data.²⁷ The Department collected Harmonized Tariff Schedule of the United States ("HTSUS") import data from GTA for gift box imports from the PRC under the HTSUS numbers listed in the scope of the *Order*. The Department analyzed GTA import data for the five years following the last sunset review, 2007-2011. Based on the GTA import data, the total import volume of folding gift boxes has increased in the period between 2007 and 2011 when compared to pre-order levels of imports. *See* Attachment 1. However, in the absence of respondent participation, the Department is not able to attribute the increased imports to any particular party.

The SAA provides that if companies continue to dump with the discipline of an order in place, it is reasonable to assume that dumping would continue if the order were removed.²⁸ In this case, the Department found dumping above *de minimis* levels in the investigation segment of this proceeding. The Department has also determined that folding gift box imports from the PRC have been increasing in volume during the period of this sunset review. *See* Attachment 1. Thus, given the existence of dumping margins above *de minimis* levels accompanied by increased imports, the Department has determined that dumping would likely continue or recur if the *Order* were revoked.

2. Magnitude of the Dumping Margin Likely to Prevail

Domestic Parties' Comments

In selecting the margin of dumping that is likely to prevail if the order were revoked, Domestic Parties argue that, in accordance with the SAA and Department policy, the Department should use the final margins from the original investigation (*i.e.*, the 164.75 percent PRC-wide rate, and the 8.90 percent rate for Red Point).²⁹

Department's Position

Section 752(c)(3) of the Act provides that the administering authority shall provide to the ITC the magnitude of the margin of dumping that is likely to prevail if the order were revoked. Normally, the Department will select a margin from the final determination in the investigation because that is the only calculated rate that reflects the behavior of exporters without the discipline of an order or suspension agreement in place.³⁰ Under certain circumstances, however, the Department may select a more recently calculated rate to report to the ITC.³¹ In the absence of respondent participation in this review, however, there is no evidence on the record to support the selection of a more recently calculated rate. Moreover, the Department recently published the *Final Modification for Reviews* which makes it necessary to take into consideration the changes in its calculation to make its decision WTO-consistent. Because the company-

²⁷ *See Porcelain-On-Steel Cooking Ware from the People's Republic of China: Final Results of the Expedited Sunset Review of the Antidumping Duty Order*, 76 FR 7534 (February 10, 2011) at note 5. *See also Chlorinated Isocyanurates from Spain and the People's Republic of China: Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders*, 75 FR 49464 (August 13, 2010).

²⁸ *See* SAA at 890.

²⁹ *See* Substantive Response at 16.

³⁰ *See* SAA at 890.

³¹ *Id.* at 890-891.

specific weighted-average dumping margins calculated during the underlying investigation relied on a methodology since determined to be WTO-inconsistent, the Department preliminarily determines not to report such margin to the ITC. Rather, for the purposes of these preliminary results, we determine that there is sufficient evidence to support the conclusion that the margin likely to prevail were the order revoked would be above *de minimis*.

Preliminary Results of Review

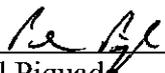
We preliminarily determine that revocation of the *Order* on folding gift boxes from the PRC would likely lead to continuation or recurrence of dumping at the following weighted-average percentage margin:

Exporters	Weighted-Average Margin (percent)
All producers and exporters ³²	Above <i>de minimis</i>

Recommendation

Based on our analysis of the substantive response received, we recommend adopting the above positions. If these recommendations are accepted, we will publish the preliminary results of this sunset review in the *Federal Register* and notify the ITC of our determination.

Agree Disagree



Paul Piquado
Assistant Secretary
for Import Administration

19 OCTOBER 2012
(Date)

³² Max Fortune Industrial Ltd. was excluded from the order. *See Order*.

Attachment 1

United States (Consumption/Domestic) Import Statistics From China									
Commodity: boxes, gift boxes									
Annual Series: 2000 - 2011									
Commodity	Unit	Description	Quantity						Percent Change (2007-2011)
			Pre-Order 2000	2007	2008	2009	2010	2011	
4819200040	KG	Fldng Crtns/Boxes/Cases Of Non-Corrugated Pr Nesoi	12,813,059	34,040,277	34,298,456	32,613,576	35,388,378	36,146,608	
4819504060	KG	Packing Containers Nesoi Of Paper, Pprbrd, Etc	1,115,141	8,028,946	8,804,788	7,298,538	7,897,982	8,307,798	
Total			13,928,200	42,069,223	43,103,244	39,912,114	43,286,360	44,454,406	5.67%

