



A-570-932
Sunset Review
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June 18, 2014

MEMORANDUM TO: Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

FROM: Christian Marsh 
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Expedited First Sunset
Review of the Antidumping Duty Order on Certain Steel Threaded
Rod from the People's Republic of China

Summary

In the sunset review of the antidumping duty order covering certain steel threaded rod from the People's Republic of China ("PRC"), All America Threaded Products, Inc.; Bay Standard Manufacturing, Inc.; and Vulcan Threaded Products, Inc. (collectively, "domestic interested parties"), submitted an adequate substantive response on April 1, 2014.¹ No respondent submitted a substantive response. In accordance with our analysis of the administrative record, we recommend adopting the positions described in this memorandum.

Background

On March 3, 2014, the Department of Commerce ("Department") published a notice of initiation of the sunset review of the antidumping duty order on certain steel threaded rod from the PRC.² On March 12, 2014, the domestic interested parties submitted their notice of intent to participate in this sunset review.³ As noted above, on April 1, 2014, the domestic interested parties submitted their Substantive Response within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i). Also as noted above, the Department did not receive a substantive response from any respondent interested party. As a result, pursuant to section 751(c)(3)(B) of the Tariff Act of 1930, as amended ("Act") and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted an expedited (120-day) sunset review of the antidumping duty order on certain steel threaded rod from the PRC.

¹ See Substantive Response of the domestic interested parties, dated April 1, 2014 ("Substantive Response").

² See *Initiation of Five-Year ("Sunset") Review*, 79 FR 11762 (March 3, 2014).

³ See Letter from the domestic interested parties, dated March 12, 2014.



History of the Order

On February 27, 2009, the Department published its final determination in the less than fair value (“LTFV”) investigation of certain steel threaded rod from the PRC.⁴ On April 14, 2009, the Department published the antidumping duty order on certain steel threaded rod from the PRC.⁵ In so doing, the Department found the following weighted-average dumping margins:

Certain Steel Threaded Rod from the PRC		
Exporter	Producer	Weighted-Average Margin
RMB Fasteners Ltd., and IFI & Morgan Ltd. (“RMB/IFI Group”)	Jiaxing Brother Fastener Co., Ltd. (aka Jiaxing Brother Standard Parts Co., Ltd.)	55.16
Ningbo Yinzhou Foreign Trade Co. Ltd.	Zhejiang Guorui Industry Co., Ltd.; or Ningbo Daxie Chuofeng Industrial Development Co. Ltd.	206.00%
Separate Rates Entities: Exporter	Producer	Margin
Shanghai Recky International Trading Co., Ltd.	Shanghai Xiangrong International Trading Co., Ltd.; Shanghai Xianglong International Trading Co., Ltd.; Pighu City Zhapu Screw Cap Factory; or Jiaxing Xinyue Standard Part Co., Ltd.	55.16
Suntec Industries Co., Ltd.	Jiaxing Xinyue Standard Part Co., Ltd.; or Haiyan County No. 1 Fasteners Factory	55.16
Hangzhou Grand Imp. & Exp. Co., Ltd.	Zhapu Creative Standard Parts Material Co., Ltd.	55.16
Shanghai Prime Machinery Co. Ltd.	Haiyan Yida Fasteners Co., Ltd.; or Jiaxing Xinyue Standard Part Co., Ltd.	55.16
Jiaxing Xinyue Standard Part Co., Ltd.	Jiaxing Xinyue Standard Part Co., Ltd.	55.16
Certified Products International Inc.	Jiashan Zhongsheng Metal Products Co., Ltd.; or Jiaxing Xinyue Standard Part Co., Ltd.	55.16
Zhejiang New Oriental Fastener Co., Ltd.	Zhejiang New Oriental Fastener Co., Ltd.	55.16

⁴ See *Certain Steel Threaded Rod from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 74 FR 8907 (February 27, 2009) (“*Final Determination*”).

⁵ See *Notice of Antidumping Duty Order: Certain Steel Threaded Rod from the People’s Republic of China*, 74 FR 17154 (April 14, 2009) (“*Order*”).

Jiashan Zhongsheng Metal Products Co., Ltd.	Jiashan Zhongsheng Metal Products Co., Ltd.	55.16
Haiyan Dayu Fasteners Co., Ltd.	Haiyan Dayu Fasteners Co., Ltd.	55.16
PRC-wide Entity		206.00%

As a result of litigation before the U.S. Court of International Trade (“CIT”), the Department recalculated the weighted-average dumping margin for exporter RMB Fasteners Ltd., and IFI & Morgan Ltd. (“RMB/IFI Group”) in the LTFV investigation of certain steel threaded rod from the PRC to 47.37 percent, and, on May 11, 2011, published an amended final determination and amended antidumping duty order reflecting that change.⁶

1. Administrative Reviews and New Shipper Reviews

Since the issuance of the *Order*, the Department completed three administrative reviews with respect to certain steel threaded rod from the PRC. In *AR1*, we calculated a *de minimis* rate for the RMB/IFI Group.⁷ Because this rate was *de minimis*, we used the separate rate margin from the *Final Determination* as the rate for the separate rate companies in *AR1*.⁸ In *AR2*, we calculated a rate of 21.15 percent for the only company receiving a calculated rate, RMB/IFI Group.⁹ In the *AR3*, we calculated a rate of 19.54 percent for the only mandatory respondent, RMB/IFI Group, which was also the margin for the single separate rate company.¹⁰ The fourth and fifth administrative reviews are ongoing.

2. Scope Inquires, Changed Circumstances Reviews, and Duty Absorption

On February 25, 2013, the Department issued an affirmative final determination in a circumvention inquiry with respect to imports from the PRC of steel threaded rod containing greater than 1.25 percent chromium, by weight, produced by Gem-Year Industrial Co. Ltd., and

⁶ See *Certain Steel Threaded Rod From the People’s Republic of China: Notice of Court Decision Not in Harmony With the Final Determination of Sales at Less-Than-Fair-Value and Notice of Amended Final Determination of Sales at Less-Than-Fair-Value and Amended Antidumping Duty Order Pursuant to Court Decision*, 76 FR 27304 (May 11, 2011) (“Amended Final Determination”).

⁷ See *Certain Steel Threaded Rod from the People’s Republic of China: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review*, 76 FR 68400 (November 4, 2011) (“AR1”).

⁸ *Id.*; see also *Certain Steel Threaded Rod From the People’s Republic of China: Notice of Court Decision Not in Harmony With Final Results of Administrative Review and Notice of Amended Final Results of Administrative Review*, 78 FR 14075 (March 4, 2013) (assigning separate rate status to Gem-Year Industrial Co., Ltd. in amended final results following CIT litigation).

⁹ See *Certain Steel Threaded Rod from the People’s Republic of China: Amended Final Results of Antidumping Duty Administrative Review; 2010-2011*, 78 FR 4389 (January 22, 2013) (“AR2”). As part of that administrative review, the Department modified the scope language to reflect the fact that HTSUS subheading 7318.15.5050 was deleted and replaced with subheadings 7318.15.5051 and 7318.15.5056. See *Certain Steel Threaded Rod From the People’s Republic of China: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review; 2010-2011*, 77 FR 67332 (November 9, 2012) and accompanying Issues and Decision Memorandum at Comment 2.

¹⁰ See *Certain Steel Threaded Rod from the People’s Republic of China: Final Results of Third Antidumping Duty Administrative Review; 2011-2012*, 78 FR 66330 (November 5, 2013) (“AR3”).

otherwise meeting the description of in-scope merchandise. The Department determined that such products are subject to the antidumping duty order on steel threaded rod from the PRC.¹¹ Additionally, the Department completed six scope inquiries with respect to certain steel threaded rod¹² and also is currently considering one additional scope ruling application. There have been no duty absorption findings.

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 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 both the weighted-average dumping margins determined in the investigation and subsequent reviews, and the volume of imports of the subject merchandise for the period before, and the period after, the issuance of the *Order*.

In accordance with the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act, specifically the Statement of Administrative Action, H.R. Doc. 103-316, vol. 1 (1994) (“SAA”), the House Report, H. Rep. No. 103-826, pt. 1 (1994) (“House Report”), and the Senate Report, S. Rep. No. 103-412 (1994) (“Senate Report”), the Department’s determinations of likelihood will be made on an order-wide, rather than company-specific, basis.¹³ In addition, the Department normally determines that revocation of an antidumping duty order would be 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.¹⁴ Alternatively, the Department normally will determine that revocation of an antidumping duty order would not be likely to lead to continuation or recurrence of dumping where dumping margins declined or were eliminated and import volumes remained steady or increased after issuance of the order.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 International Trade Commission (“ITC”) the magnitude of the margin of dumping likely to prevail if the order were revoked. Generally, the Department selects the antidumping duty margins from the final

¹¹ See *Certain Steel Threaded Rod from the People’s Republic of China: Affirmative Final*

Determination of Circumvention of the Antidumping Duty Order, 78 FR 12728 (February 25, 2013).

¹² See *Notice of Scope Rulings*, 79 FR 19057 (April 7, 2014); *Notice of Scope Rulings*, 78 FR 32372 (May 30, 2013); *Notice of Scope Rulings*, 77 FR 9893 (February 21, 2012); and *Notice of Scope Rulings*, 76 FR 10558 (February 25, 2011).

¹³ See SAA at 879 and House Report at 56.

¹⁴ See SAA at 889-90, House Report at 63-64, and Senate Report at 52.

¹⁵ See SAA at 889-90, and House Report at 63.

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.

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

In the *Final Modification for Reviews*, the Department 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, *i.e.*, zeroing/the denial of offsets.¹⁸ In the *Final Modification for Reviews*, the Department stated that “only in the most extraordinary circumstances” would it rely on margins other than those calculated and published in prior determinations.¹⁹ The Department 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.”²⁰

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 continuation or recurrence of sales at LTFV.²¹ Our analysis of the comments submitted by domestic interested parties follows.

Analysis

1. *Likelihood of Continuation or Recurrence of Dumping*

The domestic interested parties argue that revocation of the *Order* would likely result in the continuation of dumping in the United States. Specifically, domestic interested parties contend that, since the imposition of the *Order* in 2009, with the exception of one company in AR1, respondents have continued dumping subject merchandise, and the volume of subject merchandise exported to the U.S. has declined.²² The continued existence of dumping margins through three completed ARs and the significant decline in subject imports following the imposition of the antidumping order demonstrate that Chinese producers and exporters are not able to sell threaded rod in the United States at fairly-traded prices without the discipline of the *Order*.²³

¹⁷ 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) and accompanying Issues and Decision Memorandum at Comment 2.

¹⁸ 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*”).

¹⁹ *Id.*

²⁰ *Id.*

²¹ See, e.g., *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.

²² See Substantive Response at 10-13.

²³ *Id.* at 13.

Department's Position: As explained in the "Legal Framework" section above, when determining whether revocation of the order would be likely to lead to continuation or recurrence 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. According to the SAA, "{d}eclining import volumes accompanied by the continued existence of dumping margins after the issuance of an 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."²⁴ We find that revocation of the *Order* would likely result in the continuation of dumping in the United States due to the continued existence of dumping margins and a significant decline in import volume since the issuance of the *Order*.

In analyzing whether dumping would be likely to continue or recur if the *Order* were revoked, we examined the extent of dumping during the five-year sunset period of 2009-2014. In the *Final Determination* and *Amended Final Determination*, the Department calculated dumping margins indicated above.²⁵

Further, as noted above, dumping margins above *de minimis* remain in effect for exports of certain steel threaded rod from the PRC.²⁶ According to the SAA, "{i}f 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."²⁷ In addition, the Department normally will determine that revocation of an 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 the issuance of the order, or (c) dumping was eliminated after the issuance of an order and import volumes for the subject merchandise declined significantly.²⁸

Moreover, the domestic interested parties provided import volume data from the ITC from 2005 to 2013 showing imports of certain steel threaded rod from the PRC declined for the period following imposition of the *Order*.²⁹ Specifically, according to the import data, U.S. imports of certain steel threaded rod for the year the *Order* was issued (*i.e.*, 2009) and the years after the issuance of the *Order* (*i.e.*, 2010, 2011, and 2012) were significantly lower than the 86,436

²⁴ See SAA at 889.

²⁵ We note that the above calculated dumping margins were not affected by a WTO-inconsistent methodology. The Department announced that its modification to the calculation of weighted-average dumping margins in antidumping duty investigations applied in investigations as of February 22, 2007. See *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin During an Antidumping Investigation; Final Modification*, 71 FR 77722 (December 27, 2006); *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margins in Antidumping Investigations; Change in Effective Date of Final Modification*, 72 FR 3783 (January 26, 2007).

²⁶ See *ARI*, *AR2*, and *AR3*.

²⁷ See SAA at 890.

²⁸ See, *e.g.*, *Certain Small Diameter Carbon and Alloy Seamless Standard, Line, and Pressure Pipe from Argentina, Brazil and Germany: Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders*, 71 FR 59079 (October 6, 2006) and accompanying Issues and Decision Memorandum at Issue 1.

²⁹ See Substantive Response at 12.

1000s of lbs. import volume in the year preceding the initiation of the LTFV investigation (*i.e.*, 2007).³⁰

After dramatic declines in the two years following the *Order*, the volume of certain steel threaded rod imports from the PRC has increased somewhat in 2012 and 2013. However, the volume remains less than a third of the level of the year preceding the *Order*.³¹ Accordingly, we find that import volumes for the subject merchandise declined after imposition of the *Order* and, thus, it “is reasonable to assume that exporters could not sell in the United States without dumping and that, to reenter the U.S. market, they would have to resume dumping.”³²

Because above *de minimis* dumping margins applied to post-*Order* entries of subject merchandise, and record evidence indicates that import volumes of subject merchandise declined after imposition of the *Order*, we find that dumping would be likely to continue or recur if the antidumping duty orders were revoked.

2. *Magnitude of the Margin of Dumping Likely to Prevail*

Domestic interested parties contend that the Department should consider selecting the rates from the original investigation for each of the subject producers as the dumping margin likely to prevail upon revocation. For companies not individually investigated in the original investigation and for companies that did not begin shipping until after the order was issued, the Department should select a margin based on the “all others” rate from the original investigation.³³

Department’s Position: Normally, the Department will provide to the ITC the company-specific, weighted-average antidumping duty margin from the investigation for each company.³⁴ The Department’s preference for selecting a rate from the investigation is based on the fact that it is the only calculated rate that reflects the behavior of exporters without the discipline of an order or suspension agreement in place.³⁵ For companies not investigated individually, or for companies that did not begin shipping until after the *Order* was issued, the Department will normally provide a rate based on the “All-Others” rate from the investigation.³⁶ However, for the PRC, which the Department considers to be a non-market economy under section 771(18) of the Act, the Department does not have an “All-Others” rate. Thus, in non-market economy cases, instead of an “All-Others” rate, the Department uses an established country-wide rate,

³⁰ *Id.*; see also Attachment.

³¹ See Attachment.

³² See, e.g., SAA at 889-90.

³³ See Substantive Response at 13-15.

³⁴ See, e.g., *Eveready Battery Co., Inc. v. United States*, 77 F. Supp. 2d 1327, 1333 (CIT 1999).

³⁵ *Id.*; see also SAA at 890.

³⁶ See, e.g., *Certain Hot-Rolled Carbon Steel Flat Products from Argentina, the People’s Republic of China, India, Indonesia, Kazakhstan, Romania, South Africa, Taiwan, Thailand, and Ukraine; Final Results of Expedited Sunset Reviews of the Antidumping Duty Orders*, 71 FR 70506 (December 5, 2006) and accompanying Issues and Decision Memorandum at Comment 2.

which it applies to all imports from exporters that have not established their eligibility for a separate rate.³⁷

The Department has determined that the weighted-average antidumping duty margins established in the *Final Determination*, as revised in the *Amended Final Determination*, represent the magnitude of the margins of dumping most likely to prevail if the *Order* were revoked. Furthermore, these margins, as noted above, were not affected by a WTO-inconsistent methodology.³⁸ Accordingly, we find it appropriate to provide the ITC with the rates from the *Final Determination*, as revised in the *Amended Final Determination*, because these rates best reflect the behavior of exporters without the discipline of an order in place. As a result, we will report to the ITC the margins of dumping likely to prevail listed in the “Final Results of Review” section below.

Final Results of Review

We determine that revocation of the *Order* would likely lead to continuation or recurrence of dumping and that the magnitudes of the margins of dumping likely to prevail are as follows:

Exporter	Weighted-Average Margin
RMB Fasteners Ltd., and IFI & Morgan Ltd. (“RMB/IFI Group”)	47.37%
Ningbo Yinzhou Foreign Trade Co. Ltd.	206.00%
Non-examined exporters with a separate rate	55.16%
PRC-wide Entity	206.00%

³⁷ See, e.g., *Bristol Metals L.P. v. United States*, 703 F. Supp. 2d 1370, 1378 (CIT 2010) (citation omitted); see also *Amanda Foods (Vietnam) Ltd. v. United States*, 647 F. Supp. 2d 1368, 1379 (CIT 2009) (citation omitted).

³⁸ See *Final Modification for Reviews*, 77 FR at 8103. Specifically, the Department calculated the rates in the LTFV investigation *after* it had modified the manner in which it calculated weighted-average dumping margins in antidumping duty investigations. See footnote 24 *supra*.

Recommendation

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

✓

Agree

Disagree

Ronald K. Lorentzen

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

June 18, 2014

(Date)

Attachment

Imports of Certain Steel Threaded Rod from the PRC

Year	Quantity (1000s of lbs.)
2005	59,045
2006	70,683
2007	86,436
2008	65,780
2009	42,273
2010	13,440
2011	13,819
2012	19,510
2013	20,081

Source: ITC. *See* Substantive Response at 12.