



A-570-945
Sunset Review
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DATE: July 14, 2015

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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

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

Summary

In the first sunset review of the antidumping duty ("AD") order covering prestressed concrete steel wire strand ("PC strand") from the People's Republic of China ("PRC"), Insteel Wire Products Company, Sumiden Wire Products Corporation, and WMC Steel, LLC (collectively, "Domestic Interested Parties"), U.S. producers of PC strand, and interested parties under section 771(9)(C) of the Tariff Act of 1930, as amended ("the Act"), submitted a timely notice of intent to participate and an adequate substantive response.¹ No respondent interested party submitted a substantive response. Accordingly, we conducted an expedited (120-day) sunset review. In accordance with our analysis of Domestic Interested Parties' Substantive Response, we recommend adopting the positions described below.

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

Background

On May 1, 2015, the Department of Commerce (the "Department") published a notice of initiation of the sunset review of the AD order on PC strand from the PRC.² On May 15, 2015, Domestic Interested Parties filed a letter of intent to participate in this sunset review.³ On June

¹ See Letter to the Secretary from Domestic Interested Parties, "Five-Year ("Sunset") Review of Antidumping Duty Order on Prestressed Concrete Steel Wire Strand from the People's Republic of China - Domestic Industry's Substantive Response" (June 1, 2015) ("Substantive Response").

² See Initiation of Five-Year ("Sunset") Review, 80 FR 24900 (May 1, 2015).

³ See Letter to the Secretary from Domestic Interested Parties, "Five-Year ("Sunset") Review of the Antidumping Duty Order on Prestressed Concrete Steel Wire Strand From the People's Republic of China - Notice of Intent to Participate" (May 15, 2015).



1, 2015, Domestic Interested Parties filed a substantive response in the sunset review within the 30-day deadline, as specified in 19 C.F.R. 351.218(d)(3)(i).⁴ The Department did not receive a response from any respondent interested party in the sunset review. Consequently, the Department is conducting an expedited (120-day) sunset review consistent with section 751(c)(3)(B) of the Act and 19 C.F.R. 351.218(e)(1)(ii)(C)(2). Our analysis of Domestic Interested Parties’ comments submitted in its Substantive Response is set forth in the “Discussion of the Issues” section, below.

Scope of the Order

The merchandise subject to the antidumping duty order is PC strand, produced from wire of non-stainless, non-galvanized steel, which is suitable for use in prestressed concrete (both pretensioned and post-tensioned) applications. The product definition encompasses covered and uncovered strand and all types, grades, and diameters of PC strand. PC strand is normally sold in the United States in sizes ranging from 0.25 inches to 0.70 inches in diameter. PC strand made from galvanized wire is only excluded from the scope if the zinc and/or zinc oxide coating meets or exceeds the 0.40 oz./ft² standard set forth in ASTM-A-475. Imports of the subject merchandise are currently classifiable under subheadings 7312.10.3010 and 7312.10.3012 of the Harmonized Tariff Schedule of the United States (“HTSUS”). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

History of the Order

On May 21, 2010, the Department published the final determination in the antidumping duty investigation of PC strand from the PRC.⁵ On June 29, 2010, the Department issued an antidumping duty order on imports of PC strand from the PRC.⁶ In so doing, the Department found the following weighted-average dumping margins:

Exporter	Weighted-Average Margin (percent)
Wuxi Jinyang Metal Products Co., Ltd.	42.97
Xinhua Metal Products Co., Ltd.	175.94
Fasten Group Import & Export Co. Ltd.	175.94
PRC-Wide Entity	193.55

Since issuance of the antidumping duty order, the Department has not conducted administrative reviews, changed circumstance reviews, duty absorption inquiries, new shipper reviews, or scope

⁴ See Substantive Response.

⁵ See Final Determination of Sales at Less Than Fair Value; Prestressed Concrete Steel Wire Strand From the People’s Republic of China, 75 FR 28560 (May 21, 2010) (“LTFV Investigation”).

⁶ See Notice of Antidumping Duty Order; Prestressed Concrete Steel Wire Strand From the People’s Republic of China, 75 FR 37382 (June 29, 2010) (“Order”).

inquiries related to the Order.⁷ This sunset review is the first sunset review conducted for this order.

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 likely 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 periods before, and the periods 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”),⁸ the House Report, H. Rep. No. 103-826, pt. 1 (1994) (“House Report”),⁹ 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.¹⁰ In addition, the Department normally determines that revocation of an AD order is likely to lead to continuation or recurrence of dumping when, among other scenarios: (a) dumping continued at any level above *de minimis* after the issuance of the order; (b) imports of the subject merchandise ceased after issuance of the order; or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly.¹¹ Alternatively, the Department normally will determine that revocation of an AD order is not 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.¹² 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.¹³

Further, section 752(c)(3) of the Act states that the Department shall provide to the U.S. International Trade Commission (“ITC”) the magnitude of the margin of dumping likely to prevail if the order were revoked. Generally, the Department selects the dumping margins from

⁷ A segment initiated pursuant to section 129 of the Uruguay Round Agreements Act is currently ongoing. See Letter from the Department to Interested Parties, Re: Initiation of a Proceeding Pursuant to Section 129 of the Uruguay Round Agreements Act (January 28, 2015).

⁸ Reprinted in 1994 U.S.C.C.A.N. 4040 (1994).

⁹ Reprinted in 1994 U.S.C.C.A.N. 3773 (1994).

¹⁰ See SAA at 879, and House Report at 56.

¹¹ See SAA at 889-90, House Report at 63-64, and Senate Report at 52.

¹² See SAA at 889-90, and House Report at 63.

¹³ See, e.g., Small Diameter Graphite Electrodes From the People’s Republic of China: Final Results of the Expedited Sunset Review of the Antidumping Duty Order, 79 FR 26208 (May 7, 2014) and accompanying IDM at 8; 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.

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.¹⁴

In 2012, 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.¹⁵ 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.¹⁶ 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.”¹⁷

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 AD order would not be likely to lead to a continuation or recurrence of sales at less than fair value.¹⁸ Our analysis of Domestic Interested Parties’ comments follows.

Analysis

1. *Likelihood of Continuation or Recurrence of Dumping*

Domestic Interested Parties state that revocation of the Order would likely result in “the continuation or recurrence of dumping by the Chinese producers/exporters of PC strand.”¹⁹ Specifically, Domestic Interested Parties argue that since the imposition of the Order in 2010, PRC producers have reduced their sales to the United States dramatically and points to a sharp drop in import volume during the year that the Order was imposed.²⁰ Additionally, Domestic Interested Parties contend that dumping has continued at rates exceeding de minimis levels since the order was imposed in 2010.²¹

¹⁴ 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.

¹⁵ 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”).

¹⁶ Id.

¹⁷ Id.

¹⁸ 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 Issues and Decision Memorandum at Comment 1.

¹⁹ See Substantive Response, at 8.

²⁰ Id. at 10.

²¹ Id. at 11-12.

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 the guidance provided in the SAA. One consideration is whether the Department has continued to find dumping above de minimis levels in administrative reviews subsequent to imposition of the AD Order.²² 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."²³ 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.

Although no respondent interested party filed a statement of waiver pursuant to 19 CFR 351.218(d)(2) in these sunset reviews, the Department did not receive any substantive response from any respondent interested party pursuant to 19 CFR 351.218(d)(3). Accordingly, the Department finds that respondent interested parties have decided not to participate in the Department's sunset reviews. Section 751(c)(4)(B) of the Act provides that, in a sunset review in which an interested party declines to participate, the Department shall conclude that revocation of the AD Order would be likely to lead to continuation or recurrence of dumping with respect to that interested party.

As discussed above, 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 when determining whether revocation of the order would be likely to lead to continuation or recurrence of dumping. In the original investigation, the Department calculated a weighted-average dumping margin of 175.94 percent. The Department has not calculated any other weighted-average dumping margins since the investigation.

In addition, pursuant to section 752(c)(1)(B) of the Act, the Department also considered the volume of imports of the subject merchandise in determining whether revocation of the AD order would likely lead to continuation or recurrence of dumping. Domestic Interested Parties state that the "{t}he Chinese exporters' substantial reduction in shipments to the United States following the imposition of the antidumping duty order indicates an inability to sell without dumping."²⁵

²² See SAA at 890.

²³ Id.; see also House Report, at 63-64.

²⁴ See SAA at 889.

²⁵ See Substantive Response, at 10-12.

The import statistics on the record, of subject imports between 2006 and 2014, demonstrate that following the issuance of the Order, imports of PC strand from the PRC fell significantly over a period of time.²⁶ Import data continue to show a low level of imports compared to pre-order quantities. Based on the data on the record, the Department finds that imports decreased after the issuance of the AD Order and that dumping continued at levels above de minimis. Moreover, as discussed above, respondent interested parties waived their right to participate in this sunset review. Therefore, given that: (1) dumping has continued following the issuance of the AD Order, (2) import volumes declined after the issuance of the AD Order, (3) respondent interested parties waived their right to participate in this review, and (4) the absence of argument and evidence to the contrary, we find that dumping is likely to continue or recur if the AD Order were revoked.

As noted above, the SAA explained that the Department normally determines that revocation of an AD order would likely lead to continuation or recurrence of dumping when, among other things, imports of the subject merchandise ceased after issuance of the order. Thus, while imports have not ceased, record evidence shows that the imports are significantly lower in the last five years when compared to pre-initiation import volumes. This indicates that PRC exporters have not been able to maintain pre-investigation import levels without selling merchandise at dumped prices.²⁷

In sum, and pursuant to section 752(c)(1) of the Act, because evidence on the record indicates that dumping has continued at levels above de minimis during the period of the sunset review, and the Department has found dramatically lower import volumes in the four years examined in comparison to pre-initiation import volumes, we determine that revocation of the Order is likely to lead to continuation or recurrence of dumping.

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

Domestic Interested Parties state that, given no other dumping margins have been calculated in this proceeding, the weighted-average dumping margins from the investigation, as discussed above, are the appropriate rates to report to the ITC. Further, Domestic Interested Parties contend that the dumping margins from the investigation are the best evidence of the behavior of the PRC producers and exporters without the discipline of the Order. Domestic Interested Parties note that the Department's final determination occurred after the Department ceased zeroing in investigations and that the dumping margins from the investigation were based on either partial or total adverse facts available.

Department's Position

Normally, the Department will provide to the ITC the company-specific, weighted-average

²⁶ See Attachment I.

²⁷ See, e.g., 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); Certain Activated Carbon From the People's Republic of China: Final Results of Expedited Sunset Review of the Antidumping Duty Order, 77 FR 33420 (June 6, 2012) and accompanying Issues and Decision Memorandum at Comment 1.

dumping margin from the investigation for each company.²⁸ 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.²⁹ However, for the PRC, which the Department considers to be a non-market economy under section 771(18)(A) 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, which it applies to all imports from exporters that have not established their eligibility for a separate rate.³⁰

The Department has determined that the weighted-average dumping margins established in the investigation of PC strand from the PRC are the most likely to prevail if the order were revoked. In this sunset proceeding, the Department has relied on weighted-average dumping margins that were not affected by the methodology addressed in the Final Modification for Reviews.³¹ Specifically, in the LTFV Investigation, the Department calculated weighted-average dumping margins based on partial or total adverse facts available.³² Accordingly, we find it appropriate to provide the ITC with the final determination rates from the LTFV Investigation of PC strand from the PRC for the following reasons: (1) import volumes initially declined after issuance of the Order; and (2) the final determination rates from the LTFV Investigation properly reflect the behavior of manufacturers, and exporters of PC strand without the discipline of an order in place.³³ Moreover, respondent interested parties have failed to submit any evidence to the contrary. As a result, we will report to the ITC the weighted-average dumping margins listed in the “Final Results of Reviews” section below.

Final Results of Review

We determine that revocation of the AD Order on PC strand from the PRC would likely lead to continuation or recurrence of dumping and that the magnitudes of the margins of dumping likely to prevail would be weighted-average margins up to 193.55 percent.³⁴

²⁸ See Eveready Battery Co., Inc. v. United States, 77 F. Supp. 2d 1327, 1333 (CIT 1999).

²⁹ See 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.

³⁰ See 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).

³¹ See Final Modification for Reviews, 77 FR at 8103.

³² See LTFV Investigation, 75 FR 28560, 25863 and accompanying Issues and Decision Memorandum at Comments 2A and 3A.

³³ See Substantive Response, at 10-12; see also SAA at 890; 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.

³⁴ See LTFV Investigation 75 FR 28560.

Attachment I

PC Strand U.S. Imports³⁵

Year	Total Import Volume (1,000 Pounds)
2006	391,367
2007	353,937
2008	381,652
2009 (Petition filed May 2009)	36,591
2010 (AD Order imposed June 2010)	1,086
2011	548
2012	495
2013	541
2014	533
Jan.-Mar. 2014	122
Jan.-Mar. 2015	293

³⁵ Source ITC DataWeb. See Substantive Response at 10-11.