



A-570-895  
Sunset Review  
**Public Document**  
E&C/V: JB

DATE: July 24, 2015

MEMORANDUM TO: Paul Piquado  
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 Sunset  
Review of the Antidumping Duty Order on Certain Crepe Paper  
Products from the People's Republic of China

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### **Summary**

In the second sunset review of the antidumping duty (“AD”) order covering Certain Crepe Paper Products (“crepe paper”) from the People’s Republic of China (“PRC”), Seaman Paper Company of Massachusetts, Inc. (“Seaman Paper”), a domestic interested party 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.<sup>1</sup> No respondent interested party submitted a substantive response. Accordingly, we conducted an expedited (120-day) sunset review. In accordance with our analysis of Seaman Paper’s 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 April 1, 2015, the Department of Commerce (the “Department”) published a notice of initiation of the sunset review of the AD order on crepe paper from the PRC.<sup>2</sup> On April 9, 2015, Seaman Paper filed a letter of intent to participate in this sunset review.<sup>3</sup> On April 30, 2015, Seaman Paper filed a substantive response in the sunset review within the 30-day deadline, as

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<sup>1</sup> See Letter to the Secretary from Seaman Paper, Five-Year Sunset Review of Antidumping Duty Order on Certain Crepe Paper Products from the People’s Republic of China - Substantive Response to Notice of Initiation (April 30, 2015) (“Substantive Response”).

<sup>2</sup> See Initiation of Five-Year (“Sunset”) Review, 80 FR 17388 (April 1, 2015).

<sup>3</sup> See Letter to the Secretary from Seaman Paper, Five-Year Sunset Review of the Antidumping Duty Order on Certain Crepe Paper Products From the People’s Republic of China - Notice of Intent to Participate in Review (April 9, 2015).



specified in 19 CFR 351.218(d)(3)(i).<sup>4</sup> 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 CFR 351.218(e)(1)(ii)(C)(2). Our analysis of Seaman Paper's comments submitted in its Substantive Response is set forth in the "Discussion of the Issues" section, below.

### **Scope of the Order**

For purposes of the order, the term "certain crepe paper" includes crepe paper products that have a basis weight not exceeding 29 grams per square meter prior to being creped and, if appropriate, flame-proofed. Crepe paper has a finely wrinkled surface texture and typically but not exclusively is treated to be flame-retardant. Crepe paper is typically but not exclusively produced as streamers in roll form and packaged in plastic bags. Crepe paper may or may not be bleached, dye colored, surface-colored, surface decorated or printed, glazed, sequined, embossed, die-cut, and/or flame retardant. Subject crepe paper may be rolled, flat or folded, and may be packaged by banding or wrapping with paper, by placing in plastic bags, and/or by placing in boxes for distribution and use by the ultimate consumer. Packages of crepe paper subject to the order may consist solely of crepe paper of one color and/or style, or may contain multiple colors and/or styles. The merchandise subject to the order does not have specific classification numbers assigned to them under the Harmonized Tariff Schedule of the United States ("HTSUS"). Subject merchandise may be under one or more of several different HTSUS subheadings, including: 4802.30; 4802.54; 4802.61; 4802.62; 4802.69; 4804.39; 4806.40; 4808.30; 4808.90; 4811.90; 4818.90; 4823.90; 9505.90.40. The tariff classifications are provided for convenience and customs purposes; however, the written description of the scope of the order is dispositive.

### **History of the Order**

On March 15, 2004, the Department initiated an antidumping duty investigation on crepe paper products from the PRC.<sup>5</sup> On September 21, 2004, the Department preliminarily determined that crepe paper products were being sold in the United States at less than fair value ("LTFV").<sup>6</sup> The Department completed the investigation and published its final determination of sales at LTFV in the Federal Register on December 3, 2004.<sup>7</sup> In the final determination, the Department applied company-specific dumping margins of 266.83 percent for the mandatory respondents and separate rate respondents, and a PRC-wide rate of 266.83 percent. See Final Determination at 70234. On January 25, 2005, the Department published the antidumping duty order on certain

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<sup>4</sup> See Substantive Response.

<sup>5</sup> See Notice of Initiation of Antidumping Duty Investigations: Certain Tissue Paper Products and Certain Crepe Paper Products from the People's Republic of China, 69 FR 12128 (March 15, 2004).

<sup>6</sup> See Certain Tissue Paper Products and Certain Crepe Paper Products From the People's Republic of China: Notice of Preliminary Determinations of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances and Postponement of Final Determination for Certain Tissue Paper Products, 69 FR 56407 (September 21, 2004).

<sup>7</sup> See Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Certain Crepe Paper Products From the People's Republic of China, 69 FR 70233 (December 3, 2004) ("Final Determination").

crepe paper products from the PRC.<sup>8</sup> Since the issuance of the antidumping duty order, the Department has not conducted any administrative or new shipper reviews.

The Department completed one sunset review of the Order of certain crepe paper from the PRC.<sup>9</sup> In addition, there have been no related findings or rulings (e.g., changed circumstances review, scope ruling, duty absorption review) since issuance of the Order. The Order remains in effect for all manufacturers, producers, and exporters of certain crepe paper from the PRC.

## **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”),<sup>10</sup> the House Report, H. Rep. No. 103-826, pt. 1 (1994) (“House Report”),<sup>11</sup> 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.<sup>12</sup> 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.<sup>13</sup> 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.<sup>14</sup> 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,

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<sup>8</sup> See Antidumping Duty Order: Certain Crepe Paper From the People’s Republic of China, 70 FR 3509 (January 25, 2005) (“Order”).

<sup>9</sup> See Certain Crepe Paper Products from the People’s Republic of China: Final Results of Expedited Sunset Review of Antidumping Duty Order, 75 FR 15415 (March 29, 2010).

<sup>10</sup> Reprinted in 1994 U.S.C.C.A.N. 4040 (1994).

<sup>11</sup> Reprinted in 1994 U.S.C.C.A.N. 3773 (1994).

<sup>12</sup> See SAA at 879, and House Report at 56.

<sup>13</sup> See SAA at 889-90, House Report at 63-64, and Senate Report at 52.

<sup>14</sup> See SAA at 889-90, and House Report at 63.

rather than the level of pre-order import volumes, as the initiation of an investigation may dampen import volumes and, thus, skew comparison.<sup>15</sup>

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 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.<sup>16</sup>

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.<sup>17</sup> 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.<sup>18</sup> 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.”<sup>19</sup>

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.<sup>20</sup> Our analysis of Seaman Paper’s comments follows.

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<sup>15</sup> 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.

<sup>16</sup> 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.

<sup>17</sup> See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification, 77 FR 8101, 8103 (February 14, 2012) (“Final Modification for Reviews”).

<sup>18</sup> Id.

<sup>19</sup> Id.

<sup>20</sup> See Folding Gift Boxes from the People’s Republic of China: Final Results of the Expedited Sunset Review of the Antidumping Duty Order, 72 FR 16765 (April 5, 2007) and accompanying Issues and Decision Memorandum at Comment 1.

## *Analysis*

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

#### *Seaman Paper's Arguments*<sup>21</sup>

U.S. imports of subject crepe paper products from China have effectively ceased and subject imports have remained at very low levels. In addition, the Order has allowed the domestic industry to regain much of the market share it had lost to Chinese imports. Without the Order, subject imports would almost certainly resume at the high levels observed during the period of investigation. Dumping would continue or resume at significant levels, enabling subject imports to reestablish themselves in the market and to take a significant share of the U.S. market from the domestic industry.

#### **Department's Position**

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. 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 Order.<sup>22</sup> According to the SAA and the House Report, "if companies continue to dump with the discipline of an order in place, it is reasonable to assume that dumping would continue if the discipline were removed."<sup>23</sup> 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."<sup>24</sup> 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 the original investigation, the Department applied a weighted-average dumping margin of 266.83 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 Order would likely lead to continuation or recurrence of dumping. Seaman Paper states that the

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<sup>21</sup> See Substantive Response, at 5.

<sup>22</sup> See SAA at 890.

<sup>23</sup> Id.; see also House Report, at 63-64.

<sup>24</sup> See SAA at 889.

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.<sup>25</sup>

The import statistics on the record, of subject imports between 2006 and 2014, demonstrate that following the issuance of the Order, imports of crepe paper from the PRC fell significantly over a period of time.<sup>26</sup> Import data continue to show a low level of imports during the sunset period compared to pre-order quantities. Based on the data on the record, the Department finds that imports decreased after the issuance of the Order and that dumping continued at levels above de minimis. This indicates that PRC exporters have not been able to maintain pre-investigation import levels without selling merchandise at dumped prices.<sup>27</sup> Moreover, respondent interested parties have not participated in this sunset review. Therefore, given that: (1) dumping has continued following the issuance of the Order, (2) import volumes declined after the issuance of the Order, (3) respondent interested parties have not participated 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 Order were revoked.

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*

### *Seaman Paper's Arguments*<sup>28</sup>

The Department should rely upon the weighted-average dumping margins from the original investigation, as these margins represent the best evidence of Chinese producers' and exporters' behavior in the absence of the Order. The margins assigned as adverse facts available in the original investigation arguably understate the true level of dumping that was taking place. Knowing what margin would be assigned, an exporter would not rationally stop cooperating and participating during the investigation unless the consequences of failing to cooperate (a 266.83 percent margin) were less severe than the consequences of remaining in the investigation and receiving a calculated rate, presumably at an even higher margin. The same conclusion can be drawn with respect to the separate rate respondents, none of whom has ever sought to have its dumping rate reviewed in an annual review. Further, as shown in the import data after the antidumping duty order took effect in 2005, the Order has been highly effective at curbing such dumped imports. Consequently, the Department should report to the ITC that the magnitude of the dumping margin that is likely to prevail is identical to the margins determined in the original investigation, i.e., 266.83 percent for all parties, including the PRC-wide entity.

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<sup>25</sup> See Substantive Response, at 8.

<sup>26</sup> Id., at Attachment I (attached herein).

<sup>27</sup> See, e.g., Barium Chloride From the People's Republic of China: Final Results of Expedited Fourth Sunset Review of the Antidumping Duty Order, 80 FR 36973 (June 29, 2015); Non-Malleable Cast Iron Pipe Fittings From the People's Republic of China: Final Results of the Expedited Second Sunset Review of the Antidumping Duty Order, 78 FR 72639 (December 3, 2013).

<sup>28</sup> See Substantive Response, at 16-17.

## Department's Position

Section 752(c)(3) of the Act provides that the Department will report to the ITC the magnitude of the margin 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.

The Department has determined that the weighted-average dumping margins established in the investigation of crepe paper 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.<sup>29</sup> Specifically, in the LTFV Investigation, the Department calculated weighted-average dumping margins based on total adverse facts available.<sup>30</sup> 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 crepe paper from the PRC would likely lead to continuation or recurrence of dumping and that the magnitude of the margin of dumping likely to prevail would be weighted-average margins up to 266.83 percent.<sup>31</sup>

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

Agree                       Disagree

  
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Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

24 July 2015  
(Date)

<sup>29</sup> See Final Modification for Reviews, 77 FR at 8103.

<sup>30</sup> See LTFV Investigation, 69 FR 70233-4.

<sup>31</sup> See LTFV Investigation, 75 FR 28560.

## Attachment I

Country	HTS Number	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
<i>First Unit of Quantity where quantities are collected in kilograms</i>															
China	4808400000	0	0	0	0	0	0	0	0	0	0	0	11,847	42,413	166,096
.	4808902000	88,393	296,728	289,864	76,263	28,178	34,966	48,214	35,393	19,575	18,017	45,021	33,500	9,920	6,765
.	4808300000	8,103	22,475	34,101	26,458	9,594	2,566	6,542	1,740	4,430	3,828	2,234	0	0	0
.	4808200000	11,821	35,462	9,518	0	0	0	0	0	0	0	234	0	0	0
	Total	108,317	354,665	333,483	102,721	37,772	37,532	54,756	37,133	24,005	21,845	47,489	45,347	52,333	172,861
<i>Landed Duty-Paid Value where quantities are collected in kilograms</i>															
China	4808400000	0	0	0	0	0	0	0	0	0	0	0	16,885	176,178	286,532
.	4808902000	373,349	1,037,659	907,550	299,500	62,275	124,839	128,556	131,204	48,740	49,145	155,104	134,942	59,668	48,081
.	4808300000	28,468	65,306	55,689	51,687	71,459	16,611	26,420	3,851	12,869	11,732	16,634	0	0	0
.	4808200000	11,649	200,617	65,267	0	0	0	0	0	0	0	5,066	0	0	0
	Total	413,466	1,303,582	1,028,506	351,187	133,734	141,450	154,976	135,055	61,609	60,877	176,804	151,827	235,846	334,613

- 4808.20 Sack Kraft Paper, Creped or Crinkled, Whether or not embossed or perforated, NESOI, in rolls or sheets
- 4808.30 Kraft Paper, Other Than Sack Kraft Paper, Creped or Crinkled, Whether or not embossed or perforated, NESOI, in rolls or sheets
- 4808.40 Kraft Paper In Rolls Or Sheets, Creped Or Crinkled, Whether Or Not Embossed Or Perforated, Nesoi
- 4808.90.20 Paper & Paperboard, Corrugated, Creped, Etc, In Rolls Or Sheets, Nes, Other, Creped and Crinkled