



A-570-947  
Sunset Review  
**Public Document**  
E&C: EK

DATE: September 28, 2015

MEMORANDUM TO: Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

FROM: Christian Marsh *cm*  
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 Steel Grating  
from the People's Republic of China

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### Summary

The Metal Grating Coalition and its individual members, Alabama Metal Industries Corporation, Fisher & Ludlow, Inc., Harsco Industrial IKG, Interstate Gratings, LLC, and Ohio Gratings, Inc. (collectively, Domestic Producers), U.S. producers of steel grating, submitted an adequate and timely notice of intent to participate in the above-referenced sunset review, as well as a substantive response. No respondent interested party submitted a substantive response. Accordingly, we conducted an expedited (120-day) sunset review of the antidumping duty (AD) order covering certain steel grating (steel grating) from the People's Republic of China (PRC).

Based on the analysis described in detail below, we recommend determining that revocation of the AD order on steel grating from the PRC would likely lead to continuation or recurrence of dumping. The magnitude of the margins of dumping likely to prevail is identified below. We recommend that you approve these positions described in the "Discussion of the Issues" section of this memorandum. The following is a list of the issues in this sunset review for which we received a substantive response:

1. Likelihood of Continuation or Recurrence of Dumping
2. Magnitude of the Dumping Margin Likely to Prevail



## Background

On July 23, 2010, the Department of Commerce (the Department) published the AD order on steel grating from the PRC.<sup>1</sup> On June 1, 2015, the Department published a notice of the initiation of the sunset review of the AD order on steel grating from the PRC, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).<sup>2</sup> On June 15, 2015, pursuant to 19 CFR 351.218(d)(1), the Department received a timely and complete notice of intent to participate in the sunset review from the Domestic Producers.<sup>3</sup> On July 1, 2015, pursuant to 19 CFR 351.218(d)(3), the Domestic Producers filed a timely and adequate substantive response within 30 days after the date of publication of the *Sunset Initiation*.<sup>4</sup> The Department received no substantive responses from respondent interested parties. 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 conducted an expedited (120-day) sunset review of the AD order on steel grating from the PRC.

## Scope of the Order

The products covered by the order are certain steel grating, consisting of two or more pieces of steel, including load-bearing pieces and cross pieces, joined by any assembly process, regardless of: (1) size or shape; (2) method of manufacture; (3) metallurgy (carbon, alloy, or stainless); (4) the profile of the bars; and (5) whether or not they are galvanized, painted, coated, clad or plated. Steel grating is also commonly referred to as “bar grating,” although the components may consist of steel other than bars, such as hot-rolled sheet, plate, or wire rod.

The scope of the order excludes expanded metal grating, which is comprised of a single piece or coil of sheet or thin plate steel that has been slit and expanded, and does not involve welding or joining of multiple pieces of steel. The scope of the order also excludes plank type safety grating which is comprised of a single piece or coil of sheet or thin plate steel, typically in thickness of 10 to 18 gauge, that has been pierced and cold formed, and does not involve welding or joining of multiple pieces of steel.

Certain steel grating that is the subject of the order is currently classifiable in the Harmonized Tariff Schedule of the United States (“HTSUS”) under subheading 7308.90.7000. While the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

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<sup>1</sup> See *Certain Steel Grating from the People’s Republic of China: Antidumping Duty Order*, 75 FR 43143 (July 23, 2010) (*Order*).

<sup>2</sup> See *Initiation of Five-Year (“Sunset”) Review*, 80 FR 31012 (June 1, 2015) (*Sunset Initiation*).

<sup>3</sup> See Letter from Domestic Producers, “Certain Steel Grating from the People’s Republic of China: Notice of Intent to Participate in Sunset Review, Entry of Appearance, and APO Application,” dated June 15, 2015.

<sup>4</sup> See Letter from Domestic Producers, “Certain Steel Grating from the People’s Republic of China: Substantive Response to Notice Initiating Sunset Review,” dated July 1, 2015 (Domestic Producers’ Response).

## History of the Order

### *Investigation and Order*

On June 8, 2010, the Department published its final determination in the less-than-fair-value (LTFV) investigation of steel grating from the PRC.<sup>5</sup> On July 23, 2010, the Department published an AD order on imports of steel grating from the PRC.<sup>6</sup> On November 15, 2010, the Department published a correction to its final determination and *Order*.<sup>7</sup> The Department determined the following weighted-average dumping margins in the LTFV investigation:

<b>Manufacturer</b>	<b>Exporter</b>	<b>Weighted-Average Dumping Margin</b>
Ningbo Lihong Steel Grating Co., Ltd.	Ningbo Haitian International Co., Ltd.	136.76%
PRC-Wide Entity (which includes Ningbo Jiulong Machinery Manufacturing Co., Ltd., Ningbo Zhenhai Jiulong Electronic Equipment Factory, and Shanghai DAHE Grating Co., Ltd.)		145.18%
Sinosteel Yantai Steel Grating Co., Ltd.	Sinosteel Yantai Steel Grating Co., Ltd.	136.76%
Yantai Xinke Steel Structure Co., Ltd.	Yantai Xinke Steel Structure Co., Ltd.	136.76%

On July 25, 2014, the Department published notice of a court decision not in harmony with the LTFV final determination covering steel grating from the PRC and amended the final determination pursuant to this court decision.<sup>8</sup> The Department published a correction to this notice of court decision/amended final determination on August 14, 2014.<sup>9</sup> The Department determined the following weighted-average dumping margins in the amended final determination pursuant to the court decision:

<b>Manufacturer</b>	<b>Exporter</b>	<b>Weighted-Average Dumping Margin</b>
Ningbo Jiulong Machinery Manufacturing Co., Ltd.	Ningbo Jiulong Machinery Manufacturing Co., Ltd.	145.18%
Ningbo Lihong Steel Grating Co., Ltd.	Ningbo Haitian International Co., Ltd.	38.16%
PRC-Wide Entity		145.18%
Yantai Xinke Steel Structure Co., Ltd.	Yantai Xinke Steel Structure Co., Ltd.	38.16%

<sup>5</sup> See *Certain Steel Grating From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 75 FR 32366 (June 8, 2010) (*Final Determination*).

<sup>6</sup> See *Order*.

<sup>7</sup> See *Certain Steel Grating From the People's Republic of China: Notice of Correction to the Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order*, 75 FR 69626 (November 15, 2010) (*Amended Final Determination and Order*).

<sup>8</sup> See *Steel Grating From the People's Republic of China: Notice of Court Decision Not in Harmony With the Final Determination in the Less-Than-Fair-Value Investigation and Notice of Amended Final Determination Pursuant to Court Decision*, 79 FR 43396 (July 25, 2014) (*Second Amended Final Determination*).

<sup>9</sup> See *Steel Grating From the People's Republic of China: Notice of Correction to the Notice of a Court Decision Not in Harmony With the Final Determination in the Less-Than-Fair-Value Investigation and Notice of Amended Final Determination Pursuant to Court Decision*, 79 FR 47617 (August 14, 2014) (*Corrected Second Amended Final Determination*).

On July 29, 2015, the Department published notice of the implementation of determinations under section 129 of the Uruguay Round Agreements Act with respect to a number of AD orders, including the AD order on steel grating from the PRC.<sup>10</sup> The weighted-average dumping margins determined by the Department in the section 129 determination covering steel grating from the PRC, which are identified below, did not change from those determined in the investigation, the most recent proceeding covering the company.

<b>Manufacturer</b>	<b>Exporter</b>	<b>Weighted-Average Dumping Margin</b>
Ningbo Jiulong Machinery Manufacturing Co., Ltd.	Ningbo Jiulong Machinery Manufacturing Co., Ltd.	145.18%
Ningbo Lihong Steel Grating Co., Ltd.	Ningbo Haitian International Co., Ltd.	38.16%
PRC-Wide Entity		145.18%
Sinosteel Yantai Steel Grating Co., Ltd.	Sinosteel Yantai Steel Grating Co., Ltd.	136.76%
Yantai Xinke Steel Structure Co., Ltd.	Yantai Xinke Steel Structure Co., Ltd.	38.16%

### *Administrative Reviews and New Shipper Reviews*

The Department has not conducted any administrative reviews or new shipper reviews in connection with this AD order.<sup>11</sup>

### *Scope Inquiries, Changed Circumstances Reviews, and Duty Absorption Findings*

There have been no scope inquiries, changed circumstances reviews or duty absorption findings in connection with this AD order.

### **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 AD order would likely lead to continuation or recurrence

<sup>10</sup> See *Implementation of Determinations Under Section 129 of the Uruguay Round Agreements Act: Aluminum Extrusions From the People's Republic of China; Certain Circular Welded Carbon Quality Steel Line Pipe From the People's Republic of China; Certain Kitchen Appliance Shelving and Racks From the People's Republic of China; Certain Magnesia Carbon Bricks From the People's Republic of China; Certain New Pneumatic Off-the-Road Tires From the People's Republic of China; Certain Oil Country Tubular Goods From the People's Republic of China; Certain Potassium Phosphate Salts from the People's Republic of China; Certain Steel Grating From the People's Republic of China; Certain Tow Behind Lawn Groomers and Certain Parts Thereof From the People's Republic of China; Circular Welded Austenitic Stainless Pressure Pipe From the People's Republic of China; Citric Acid and Certain Citrate Salts From the People's Republic of China; Lightweight Thermal Paper From the People's Republic of China; Narrow Woven Ribbons With Woven Selvedge From the People's Republic of China; Prestressed Concrete Steel Wire Strand From the People's Republic of China; Raw Flexible Magnets From the People's Republic of China; Sodium Nitrite From the People's Republic of China*, 80 FR 45184 (July 29, 2015) (Section 129 Determination).

<sup>11</sup> Two administrative reviews were initiated, but were subsequently rescinded. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 76 FR 53404 (August 26, 2011); *Certain Steel Grating From the People's Republic of China: Notice of Rescission of the 2010-2011 Antidumping Duty Administrative Review*, 76 FR 76368 (December 7, 2011); *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 78 FR 53128 (August 28, 2013); *Certain Steel Grating From the People's Republic of China: Rescission of Antidumping Duty Administrative Review; 2012-2013*, 79 FR 18276 (April 1, 2014).

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 AD order.

Consistent with guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (*i.e.*, the Statement of Administrative Action, SAA, H.R. Rep. No. 103-316, Vol. 1 (1994) (SAA));<sup>12</sup> House Report, H. Rep. No. 103-826, pt. 1 (1994) (House Report);<sup>13</sup> and Senate Report, S. Rep. No. 103-412 (1994) (Senate Report)), the Department will make its likelihood determination on an order-wide, rather than company-specific, basis.<sup>14</sup> 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 issuance of the order;<sup>15</sup> (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>16</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 was eliminated after issuance of the order and import volumes remained steady or increased.<sup>17</sup> In addition, as a base period for 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 the comparison.<sup>18</sup>

Furthermore, 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 provides the ITC with the dumping margin(s) from the final determination in the investigation, as this is the only calculated rate that reflects the behavior of exporters without the discipline of an order.<sup>19</sup> However, in certain circumstances, a more recently calculated rate may be more appropriate (*e.g.*, "if dumping margins have declined over the life of an order and imports have remained steady or increased, {the Department} may conclude that exporters are likely to continue dumping at the lower rates found in a more recent review").<sup>20</sup>

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<sup>12</sup> Reprinted at 1994 U.S.C.C.A.N. 4040.

<sup>13</sup> Reprinted at 1994 U.S.C.C.A.N. 3773.

<sup>14</sup> See SAA at 879, and House Report at 56.

<sup>15</sup> However, 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. 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) (*Folding Gift Boxes*) and accompanying Issues and Decision Memorandum at Comment 1.

<sup>16</sup> See SAA at 889-90, House Report at 63-64, and Senate Report at 52.

<sup>17</sup> See SAA at 889-90, and House Report at 63.

<sup>18</sup> 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.

<sup>19</sup> See SAA at 890; 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.

<sup>20</sup> See SAA at 890-91.

The Department will normally provide the ITC with a rate based on the “All-Others” rate from the investigation for companies not individually investigated or for companies that did not begin shipping until after the order was issued. 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.<sup>21</sup>

With respect to the dumping margins relied upon in sunset reviews, the Department announced in the *Final Modification for Reviews* that in five-year (*i.e.*, sunset) reviews, it will not rely on weighted-average dumping margins that were calculated using the methodology determined by the Appellate Body to be World Trade Organization (WTO)-inconsistent, *i.e.* zeroing/the denial of offsets.<sup>22</sup> 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.”<sup>23</sup> The Department further noted that it does not anticipate that it will need to recalculate the dumping margins in sunset determinations to avoid WTO inconsistency, apart from the “most extraordinary circumstances” provided for in its regulations.<sup>24</sup>

## Discussion of the Issues

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

#### Domestic Producers’ Comments

- Revocation of the *Order* would lead to the continuation or recurrence of dumping of steel grating from the PRC in the United States at margins equivalent to or greater than 145.18 percent *ad valorem*.
- U.S. import levels of steel grating from the PRC have remained significantly diminished since the imposition of the *Order*.
- Following the imposition of the *Order*, imports of subject merchandise decreased from approximately 59,600,000 kilograms in 2008 (pre-*Order* import levels) to 385,130 kilograms in 2011. Imports of subject merchandise continued at diminished levels through 2014, with only 1,590,524 kilograms of subject merchandise imported in that year.
- However, in the first three months of 2015, PRC producers shipped 3,145,782 kilograms of subject merchandise to the United States. This increase in imports demonstrates that PRC producers have a continued interest in the U.S. market, and that there is a strong likelihood that revocation of the *Order* would lead to the continuation or recurrence of dumping.

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<sup>21</sup> 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).

<sup>22</sup> See *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification*, 77 FR 8101, 8109 (February 14, 2012) (*Final Modification for Reviews*).

<sup>23</sup> *Id.* (emphasis added); see also 19 CFR 351.218(e)(2).

<sup>24</sup> *Id.*

## Department Position

As noted above, when determining whether revocation of the order would likely lead to the 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 during the periods before and after issuance of the AD order. Here, we considered whether dumping continued at above *de minimis* levels subsequent to imposition of the AD order<sup>25</sup> given that the SAA and the House Report noted 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 discipline were removed.”<sup>26</sup> In the *Corrected Second Amended Final Determination* and the *Section 129 Determination*, the Department determined dumping margins ranging from 38.16 to 145.18 percent. There have been no administrative reviews of the *Order*. Thus, all dumping margins determined in this proceeding have been above *de minimis* levels.<sup>27</sup>

In addition, we 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. We compare the volume of imports for the calendar year immediately preceding the year in which the Department initiated the LTFV investigation (*i.e.*, 2008 (the investigation was initiated on June 25, 2009)) to the volume of imports after the issuance of the order (*i.e.*, 2011 (the order was issued in July 2010)). We analyzed import volumes for four years following the issuance of the order using U.S. Bureau of Census import statistics which the Domestic Producers obtained from the U.S. ITC Dataweb.<sup>28</sup> The data show that the volume of U.S. imports of steel grating from the PRC during calendar years 2011 through 2014 range from 0.41 percent to 2.67 percent of the total import volume during calendar year 2008.<sup>29</sup> As noted above, the SAA explains 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. While imports from the PRC have not ceased, and import volumes appear to have increased in the first three months of calendar year 2015 (amounting to 5.27 percent of the total import volume during calendar year 2008) overall the record evidence shows significantly lower imports over the period examined when compared to pre-initiation import volumes. This indicates that PRC exporters may not be able to maintain pre-investigation import levels without selling subject merchandise at dumped prices.<sup>30</sup>

Therefore, pursuant to section 752(c)(1) of the Act, because above-*de minimis* dumping margins applied to all post-order entries of subject merchandise, and there were dramatically lower import volumes in the years examined in comparison to the import volumes prior to the initiation

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<sup>25</sup> *Id.* at 890.

<sup>26</sup> *Id.*; see also House Report at 63-64.

<sup>27</sup> See *Order, Amended Final Determination and Order, Second Amended Final Determination, Corrected Second Amended Final Redetermination*.

<sup>28</sup> See Domestic Parties' Response at Exhibit 2.

<sup>29</sup> *Id.*

<sup>30</sup> See, e.g., *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 & Decision Memorandum at Comment 1.

of the underlying investigation, we recommend determining that dumping would likely continue or recur if the *Order* were revoked.

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

### Domestic Producers' Comments

- If the *Order* was revoked the dumping margin likely to prevail would be no less than 145.18 percent, the margin assigned to the PRC-wide entity in the investigation.
- The dumping margin of 145.18 percent was based on adverse facts available. The Department stated in its *Final Modification for Reviews* that it may rely on past dumping margins determined on the basis of adverse facts available for sunset reviews.<sup>31</sup>
- The dumping margin of 145.18 percent is the only dumping margin on the record in this proceeding which was calculated for a mandatory respondent and, thus, is the only evidence of the likely level of dumping that would occur should the *Order* be revoked.
- If either company selected as a mandatory respondent in the investigation of this proceeding was actually dumping at rates lower than 145.18 percent, it is reasonable to assume that either company would have requested an administrative review of the *Order*. However, no administrative reviews have been conducted.

### Department Position

We determine that the weighted-average AD margins from the investigation, as revised pursuant to a court decision, and further used in the *Section 129 Determination*, represent the margins of dumping most likely to prevail if the *Order* were revoked because these are the dumping margins calculated without the discipline of an order. We further determine that these dumping margins were not affected by the denial of offsets in accordance with the *Final Modification for Reviews*<sup>32</sup> because these dumping margins were based on the petition rates or based on revised petition rates.<sup>33</sup> Accordingly, we find it appropriate to provide the ITC with the dumping margins from the *Section 129 Determination* because these dumping margins best reflect the behavior of exporters without the discipline of an order.

### Final Results of Review

We determine that revocation of the *Order* on steel grating from the PRC would likely lead to continuation or recurrence of dumping, and the magnitude of the margins of dumping likely to prevail would be weighted-average dumping margins up to 145.18 percent. Accordingly, the Department will report this range of margins of dumping to the ITC.

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<sup>31</sup> See *Final Modification for Reviews*, 77 FR at 8103.

<sup>32</sup> *Id.*

<sup>33</sup> See *Final Determination and Amended Final Determination and Order*.

Recommendation

Based on our analysis of the substantive response received, we recommend adopting the above positions. If this recommendation is accepted, we will publish the final results of this expedited sunset review in the *Federal Register* and notify the ITC of the Department's determination.

Agree ✓

Disagree \_\_\_\_\_

  
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Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

28 SEPTEMBER 2015  
(Date)