

April 26, 2011

MEMORANDUM TO: Paul Piquado
Acting Deputy Assistant Secretary
for Import Administration

FROM: Gary Taverman
Acting Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Final Results of the Expedited Sunset Review of the Antidumping Duty Order on Paper Clips from the People's Republic of China

Summary

In the third sunset review of the antidumping duty order covering paper clips from the People's Republic of China ("PRC"), ACCO Brands USA LLP ("ACCO"), a domestic manufacturer of a like product, submitted an adequate substantive response. No respondent interested party submitted a substantive response. In accordance with our analysis of ACCO's substantive response, we recommend adopting the positions described in the Discussion of the Issues section of this memorandum. Below is the complete list of issues in this sunset review for which we received a substantive response:

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

History of the Order

On November 25, 1994, the Department of Commerce ("the Department") published the antidumping duty order on paper clips from the PRC.¹ The Department found the following antidumping duty margins:

Exporters	Weighted-Average Margin (percent)
Shanghai Lansheng Corporation.....	57.64
Zhejiang Light Industrial Products Import & Export Corporation.....	46.01
Zhejiang Machinery and Equipment Import & Export Corporation....	60.70
PRC-wide Rate.....	126.94

¹ See *Antidumping Duty Order: Paper Clips from the People's Republic of China*, 59 FR 60606 (November 25, 1994).

Previous Sunset Reviews

Since the issuance of the antidumping duty order, the Department has conducted two sunset reviews with respect to paper clips from the PRC. As a result of both sunset reviews, the Department found that revocation of the antidumping duty order would be likely to lead to a continuation or recurrence of dumping with the above rates.²

Scope Inquiries, Changed Circumstances Reviews, and Duty Absorption

The Department has not conducted administrative reviews, changed circumstances reviews, or duty absorption reviews since the issuance of the order. The order remains in effect for all manufacturers and exporters of the subject merchandise from the PRC.

On May 1, 2007, the Department issued a final scope ruling that Pendaflex Pile Smart Label Clips are not within the scope of the antidumping duty order covering paper clips from the PRC.³

Background

On January 3, 2011, the Department published the notice of initiation of the third sunset review of the antidumping duty order on paper clips from the PRC, pursuant to section 751(c) of the Tariff Act of 1930, as amended (“Act”).⁴ On January 10, 2011, pursuant to 19 CFR 351.218(d)(1), the Department received a timely notice of intent to participate in the sunset review from ACCO. On February 2, 2011, pursuant to 19 CFR 351.218(d)(3), ACCO filed a timely and adequate substantive response within 30 days after the date of publication of the *Sunset Initiation*. The Department did not receive substantive responses from any respondent interested party. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted an expedited (120-day) sunset review of the antidumping duty order on paper clips 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 antidumping duty order would be likely to lead to a continuation or recurrence of dumping. Sections 752(c)(1)(A) and (B) of the Act provide that, in making this determination, the Department shall consider the weighted-average dumping margins determined in the investigation, and the volume of imports of the subject merchandise for the periods before, and the periods after, the issuance of the antidumping duty order.

² See *Paper Clips From the People's Republic of China; Final Results of Expedited Sunset Review of Antidumping Duty Order*, 65 FR 41434 (July 5, 2000) (“*First Sunset Review*”) and *Paper Clips from the People's Republic of China; Notice of Final Results of Expedited Sunset Review of Antidumping Duty Order*, 70 FR 67433 (November 7, 2005) (“*Second Sunset Review*”).

³ See *Notice of Scope Rulings*, 72 FR 43245 (August 3, 2007).

⁴ See *Initiation of Five-Year (“Sunset”) Review*, 76 FR 89 (January 3, 2011) (“*Sunset Initiation*”).

As explained in the Statement of Administrative Action (“SAA”) accompanying the Uruguay Round Agreements Act (“URAA”), the Department normally determines that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping when: (a) dumping continued at any level above *de minimis* after issuance of the order; (b) imports of the subject merchandise ceased after issuance of the order; or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly.⁵ Alternatively, the Department normally will determine that revocation of an antidumping duty order is not likely to lead to continuation or recurrence of dumping where dumping was eliminated after issuance of the order and import volumes remained steady or increased.⁶ 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.⁷

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 is revoked. Generally, the Department selects the margin(s) from the final determination in the original investigation, as this is the only calculated rate that reflects the behavior of exporters without the discipline of an order in place.⁸ However, the Department may use a rate from a more recent review where the dumping margin increased, as this rate may be more representative of a company’s behavior in the absence of an order (*e.g.*, where a company increases dumping to maintain or increase market share with an order in place).⁹ Finally, pursuant to section 752(c)(4)(A) of the Act, a dumping margin of “zero or *de minimis* shall not by itself require” the Department to determine that revocation of an antidumping duty order would not be likely to lead to a continuation or recurrence of sales at less than fair value. Our analysis of the comments submitted by the domestic interested party follows.

Analysis

1. Likelihood of Continuation or Recurrence of Dumping

Interested Party Comments

ACCO argues that revocation of this order would likely result in a recurrence of sales at less than fair value by margins equivalent to or greater than those found in the original investigation.¹⁰ Specifically, ACCO argues that margins calculated in the investigation ranging from 46.01 to

⁵ See SAA, H.R. Rep. No. 103-316, Vol. 1 (1994), at 889-90; see also *Folding Gift Boxes from the People’s Republic of China: Final Results of the Expedited Sunset Review of the Antidumping Duty Order*, 72 FR 16765 (April 5, 2007), and accompanying Issues and Decision Memorandum at Comment 1.

⁶ See *Policies Regarding the Conduct of Five-year (“Sunset”) Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871 (April 16, 1998) (“*Sunset Policy Bulletin*”).

⁷ 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.

⁸ See SAA at 890 and *Sunset Policy Bulletin* at section II.B.1. See, *e.g.*, *Persulfates From the People’s Republic of China: Notice of Final Results of Expedited Second Sunset Review of Antidumping Duty Order*, 73 FR 11868 (March 5, 2008), and accompanying Issues and Decision Memorandum at Comment 2.

⁹ See SAA at 890-91; *Sunset Policy Bulletin* at section II.B.2.

¹⁰ See “Paper Clips from the People’s Republic of China, ACCO Brands USA LLC’s Substantive Response to Notice of Initiation of Five-Year (Sunset) Review” (“ACCO Response”) (February 2, 2011) at 4.

126.94 percent have continued to exist. In addition, ACCO asserts that since the imposition of the order, the import quantities of paper clips into the United States from PRC exporters have substantially decreased.¹¹ If the order is revoked, ACCO argues that imports of paper clips will quickly reach and surpass past levels. ACCO states the dumping margins have continued to exist since the Department issued the order, and the Department has not conducted any administrative reviews. ACCO contends that if the Chinese exporters had reduced or eliminated their dumping, they would have sought administrative reviews to reduce the duties imposed on them since the issuance of the order in 1994.

ACCO provides U.S. Census Bureau statistics for item 8305.90.3010, paper clips wholly of wire, in its assertion that import quantities of paper clips have substantially decreased since the issuance of the order in 1994 and as a result of the previous two sunset reviews. Since the continuation of the order from the last sunset review on February 7, 2006, import quantities have hovered between 300,000-415,000 kg and remain approximately 88-91 percent below pre-dumping duty order levels (3,538,043 kg in 1993). ACCO maintains that the order has had the intended effect as import quantities from the PRC have substantially decreased, and argues that Chinese manufacturers are unable to sell paper clips in the United States without dumping.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 guidance provided by the legislative history accompanying the URAA (*i.e.*, the SAA; House Report, H. Rep. No. 103-826, pt. 1 (1994) ("House Report"); and Senate Report, S. Rep. No. 103-412 (1994) ("Senate Report")). Consistent with the SAA, the Department will make its likelihood determination on an order-wide basis.¹³

Further, when determining whether revocation of the order would be likely to lead to continuation of dumping, sections 752(c)(1)(A) and (B) of the Act instruct the Department to consider: (1) the weighted-average dumping margins determined in the investigation and subsequent reviews; and (2) the volume of imports of the subject merchandise for the period before and after the issuance of the antidumping duty order. Thus, one consideration is whether the Department has continued to find dumping above *de minimis* levels in administrative reviews subsequent to imposition of the antidumping duty order.¹⁴ 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."¹⁵ In the instant review, for the reasons stated below, we find that revocation of the antidumping duty order on paper clips from the PRC would likely result in the continuation of dumping in the United States.

We find that PRC exporters of paper clips have continued to sell into the United States at prices below normal value following the issuance of the order in 1994. Since issuance of the order,

¹¹ *See id.* at 5.

¹² *Id.*

¹³ *See SAA* at 879.

¹⁴ *See id.* at 890.

¹⁵ *Id.*; *see also* House Report at 63-64.

dumping has continued at rates exceeding *de minimis* levels for both previous sunset reviews, which suggests that dumping is likely to continue if the order is revoked.

Pursuant to section 752(c)(1)(B) of the Act, the Department considered the volume of imports of the subject merchandise for the period before and after the issuance of the antidumping duty order. The Department collected HTSUS import data from the Global Trade Atlas for paper clip imports from the PRC under the HTSUS number listed in the scope of the order. Based on this HTSUS import data, import quantities have fluctuated between 2005 and 2010, but have increased overall. *See* attachment. In 2005, import quantities were 603,835 kg, whereas in 2010, the quantities increased to 872,282 kg, a 44.46 percent increase. The sharpest increase occurred from 2009 to 2010, where quantities increased from 333,074 kg to 872,282 kg, a 161.89 percent increase.

Regarding market share, when comparing U.S. imports from the PRC to total U.S. imports from the world, percentages have fluctuated between 2005 and 2010, but have increased overall. *See* attachment. From 2005 to 2010, the PRC share increased from 51.93 percent to 75.09 percent. The sharpest increase occurred from 2009 to 2010, with an increase from 50.45 percent to 75.09 percent.

As the Department stated in the first sunset review, the import volume declined 74 percent to 1,047 metric tons the year after the imposition of the antidumping duty order.¹⁶ However, during the period of the second sunset review, imports of paper clips from the PRC increased from 90,268 kg in 2000 to 828,491 kg in 2004.¹⁷ Likewise, with this third sunset review, imports of paper clips increased from 603,835 kg in 2005 to 872,282 kg in 2010.

The Department normally will determine that revocation of an order is not likely to lead to continuation of dumping where dumping has declined accompanied by steady or increasing imports. *See* SAA at 889-90. However, if companies continue to dump with the discipline of an order in place, it is reasonable to assume that dumping would continue if the order were removed. *See* SAA at 890. In this case, the Department found dumping above *de minimis* levels in both previous sunset reviews. The Department has also determined that although paper clips imports from the PRC have been increasing in volume during the period of this sunset review, the imports are lower in volume than before the order was issued.¹⁸ Absent argument and evidence to the contrary, the Department has determined that dumping would likely continue or recur if the order were revoked based on dumping margins above *de minimis* levels, import volumes below pre-order levels, and no administrative reviews during the period of this sunset review.

Finally, no respondent interested party filed a substantive response, pursuant to 19 CFR 351.218(d)(3). Thus, as no respondent interested party submitted any evidence to the contrary, we find that dumping is likely to continue or recur if the order is revoked.

¹⁶ *See First Sunset Review* and accompanying Issues and Decision Memorandum at 4.

¹⁷ *See Second Sunset Review* and accompanying Issues and Decision Memorandum at 4.

¹⁸ *See* ACCO Response at 5 and *See* Attachment to this memorandum.

2. Magnitude of the Dumping Margin Likely to Prevail

Interested Party Comments

ACCO states that dumping would continue if the antidumping duty order on paper clips from the PRC is revoked. ACCO argues that, as the Department has not conducted any administrative reviews to generate more recent margins, the order should remain and should not be revoked. ACCO asserts that the respondents began but then terminated administrative reviews, most likely due to increased margins.¹⁹ Additionally, ACCO contends that these margins are well above *de minimis* levels, therefore dumping would most likely prevail if the order is revoked.

Department's Position

The Department has determined that the dumping margins established in the investigation of paper clips from the PRC are most likely to prevail if the order is revoked. Normally, the Department will provide to the ITC the company-specific margin from the investigation for each company.²⁰ The Department's preference for selecting a margin from the investigation is based on the fact that it is the only calculated rate that reflects the behavior of manufacturers, producers, and exporters without the discipline of an order or suspension agreement in place.²¹ 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 margin based on the "All-Others" rate from the investigation.²² However, regarding 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 PRC cases, instead of an "All-Others" rate, the Department uses an established PRC-wide rate, which it applies to all imports from an exporter that has not established its eligibility for a separate rate.

In this case, because no respondent interested party has submitted evidence to the contrary, we find it appropriate to provide the ITC with the final determination rates from the less than fair value investigation of paper clips from the PRC.

Exporters	Weighted-Average Margin (percent)
Shanghai Lansheng Corporation.....	57.64
Zhejiang Light Industrial Products Import & Export Corporation.....	46.01
Zhejiang Machinery and Equipment Import & Export Corporation....	60.70
PRC-wide Rate.....	126.94

In the instant case, the Department determines that it is appropriate to report to the ITC the margins from the antidumping duty order (and as reported in the first and second sunset reviews). These rates are probative of the behavior of Chinese producers and exporters if the

¹⁹ See ACCO Response at 6.

²⁰ See *Eveready Battery Co., Inc. v. United States*, 77 F. Supp. 2d 1327, 1333 (CIT 1999).

²¹ *Id.*; see also SAA at 890 and *Sunset Policy Bulletin* at section II.B.1.

²² 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.

order is revoked as they are the only margins that reflect their actions absent the discipline of the order.

Final Results of Review

We determine that revocation of the antidumping duty order on paper clips from the PRC would likely lead to continuation or recurrence of dumping at the following weighted-average percentage margins:

Exporters	Weighted-Average Margin (percent)
Shanghai Lansheng Corporation.....	57.64
Zhejiang Light Industrial Products Import & Export Corporation.....	46.01
Zhejiang Machinery and Equipment Import & Export Corporation....	60.70
PRC-wide Rate.....	126.94

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 result of this sunset review in the *Federal Register* and notify the ITC of our determination.

Agree

Disagree

Paul Piquado
Acting Deputy Assistant Secretary
for Import Administration

(Date)

Attachment

United States (Consumption/Domestic) Import Statistics from PRC							
Commodity: 8305903010, Paper Clips And Parts Thereof, Wholly Of Wire, Base Metal							
Year Ending December: 2005 - 2010							
Commodity	Unit	Quantity					
		2005	2006	2007	2008	2009	2010
8305903010	KG	603835	396051	308700	414681	333074	872282
	Combined % Change From Prior Year		-34.41	-22.06	34.33	-19.68	161.89

Share	Unit	Chinese Import Volume Trends: Paper Clips					
		2005	2006	2007	2008	2009	2010
Total US Imports from World	KG	1162712	1063091	943464	862432	660234	1161661
Total US Imports from PRC	KG	603835	396051	308700	414681	333074	872282
China Share of US Imports	%	51.93%	37.25%	32.72%	48.08%	50.45%	75.09%

