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Sunset Review
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September 26, 2013

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Import Administration

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 Circular Welded
Carbon-Quality Steel Pipe from the People's Republic of China

Summary

In the sunset review of the antidumping duty order covering circular welded carbon-quality steel pipe ("CWP") from the People's Republic of China ("PRC"), Allied Tube and Conduit, EXLTUBE, JMC Steel Group, Maruichi American Corporation, TMK IPSCO, United States Steel Corporation, and Western Tube & Conduit (collectively, "Domestic Producers"), domestic producers of CWP, submitted a substantive response. No respondent interested party submitted a substantive response. Accordingly, we conducted an expedited (120-day) sunset review. We recommend adopting the positions described below. The following is a complete list of issues in this sunset review for which we received substantive responses:

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

Background

On June 3, 2013, the Department of Commerce ("Department") published the notice of initiation of the sunset review of the antidumping duty order on CWP from the PRC, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the "Act").¹ Between June 12 and June 18, 2013, pursuant to 19 CFR 351.218(d)(1), the Department received a timely and complete notice of

¹ See *Initiation of Five-Year ("Sunset") Review*, 78 FR 33063 (June 3, 2013) ("*Sunset Initiation*").



intent to participate in the sunset review from each of the Domestic Producers.² On July 2, 2013, 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*.³ The Department received no 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 CWP from the PRC.

History of the Order

On June 5, 2008, the Department published its final determination in the less than fair value (“LTFV”) investigation of CWP from the PRC.⁴ On July 22, 2008, the Department published an antidumping duty order on imports of CWP from the PRC.⁵ The Department found the following weighted-average percentage dumping margins in the LTFV investigation:

Exporter	Producer	Weighted-Average Percentage Margin
Beijing Sai Lin Ke Hardware Co., Ltd.	Xuzhou Guang Huan Steel Tube Products Co., Ltd.	69.20
Wuxi Fastube Industry Co., Ltd.	Wuxi Fastube Industry Co., Ltd.	69.20
Jiangsu Guoqiang Zinc-Plating Industrial Co., Ltd.	Jiangsu Guoqiang Zinc-Plating Industrial Co., Ltd.	69.20
Wuxi Eric Steel Pipe Co., Ltd.	Wuxi Eric Steel Pipe Co., Ltd.	69.20
Qingdao Xiangxing Steel Pipe Co., Ltd.	Qingdao Xiangxing Steel Pipe Co., Ltd.	69.20
Wah Cit Enterprises	Guangdong Walsall Steel Pipe Industrial Co., Ltd.	69.20
Guangdong Walsall Steel Pipe Industrial Co., Ltd.	Guangdong Walsall Steel Pipe Industrial Co., Ltd.	69.20
Hengshui Jinghua Steel Pipe Co., Ltd.	Hengshui Jinghua Steel Pipe Co., Ltd.	69.20
Zhangjiagang Zhongyuan Pipe-Making Co., Ltd.	Zhangjiagang Zhongyuan Pipe-Making Co., Ltd.	69.20

² See Letter from Allied Tube and Conduit, EXL TUBE, Maruichi American Corporation, TMK IPSCO, and Western Tube & Conduit, “Circular Welded Carbon-Quality Steel Pipe from China, First Sunset Review,” dated June 12, 2013; see also Letter from United States Steel Corporation, “Notice of Intent to Participate in First Five-Year Review of the Antidumping Duty Order on Circular Welded Carbon-Quality Steel Pipe from the People’s Republic of China,” dated June 17, 2013; Letter from JMC Steel Group, “Five-Year (“Sunset”) Review Of Antidumping Duty Order On Circular Welded Carbon-Quality Steel Pipe From The People’s Republic Of China: JMC Steel Group’s Notice Of Intent To Participate,” dated June 18, 2013.

³ See Letter from Allied Tube and Conduit, EXLTUBE, JMC Steel Group, Maruichi American Corporation, TMK IPSCO, United States Steel Corporation, and Western Tube & Conduit Corporation, “Five-Year (“Sunset”) Review Of Antidumping Duty Order On Circular Welded Carbon-Quality Steel Pipe From The People’s Republic Of China: Domestic Industry Substantive Response,” dated July 2, 2013.

⁴ See *Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Circular Welded Carbon Quality Steel Pipe from the People’s Republic of China*, 73 FR 31970 (June 5, 2008) (“*Final Determination*”).

⁵ See *Notice of Antidumping Duty Order: Circular Welded Carbon Quality Steel Pipe from the People’s Republic of China*, 73 FR 42547 (July 22, 2008) (“*Antidumping Duty Order*”).

Weifang East Steel Pipe Co., Ltd.	Weifang East Steel Pipe Co., Ltd.	69.20
Shijiazhuang Zhongqing Imp & Exp Co., Ltd.	Bazhou Zhuofa Steel Pipe Co., Ltd.	69.20
Tianjin Baolai Int'l Trade Co., Ltd.	Tianjin Jinghai County Baolai Business and Industry Co., Ltd.	69.20
Wai Ming (Tianjin) Int'l Trading Co., Ltd.	Bazhou Dong Sheng Hot-dipped Galvanized Steel Pipes Co., Ltd.	69.20
Kunshan Lets Win Steel Machinery Co., Ltd.	Kunshan Lets Win Steel Machinery Co., Ltd.	69.20
Shenyang Boyu M/E Co., Ltd.	Bazhou Dong Sheng Hot-dipped Galvanized Steel Pipes Co., Ltd.	69.20
Dalian Brollo Steel Tubes Ltd.	Dalian Brollo Steel Tubes Ltd.	69.20
Benxi Northern Pipes Co., Ltd.	Benxi Northern Pipes Co., Ltd.	69.20
Shanghai Metals & Minerals Import & Export Corp.	Huludao Steel Pipe Industrial Co.	69.20
Shanghai Metals & Minerals Import & Export Corp.	Benxi Northern Pipes Co., Ltd.	69.20
Huludao Steel Pipe Industrial Co.	Huludao Steel Pipe Industrial Co.	69.20
Tianjin Xingyuda Import & Export Co., Ltd.	Tianjin Lifengyuanda Steel Group	69.20
Tianjin Xingyuda Import & Export Co., Ltd.	Tianjin Xingyunda Steel Pipe Co.	69.20
Tianjin Xingyuda Import & Export Co., Ltd.	Tianjin Lituo Steel Products Co.	69.20
Tianjin Xingyuda Import & Export Co., Ltd.	Tangshan Fengnan District Xinlida Steel Pipe Co., Ltd.	69.20
Jiangyin Jianye Metal Products Co., Ltd.	Jiangyin Jianye Metal Products Co., Ltd.	69.20
Rizhao Xingye Import & Export Co., Ltd.	Shandong Xinyuan Group Co., Ltd.	69.20
Tianjin No. 1 Steel Rolled Co., Ltd.	Tianjin Hexing Steel Co., Ltd.	69.20
Tianjin No. 1 Steel Rolled Co., Ltd.	Tianjin Ruitong Steel Co., Ltd.	69.20
Tianjin No. 1 Steel Rolled Co., Ltd.	Tianjin Yayi Industrial Co.	69.20
Kunshan Hongyuan Machinery Manufacture Co., Ltd.	Kunshan Hongyuan Machinery Manufacture Co., Ltd.	69.20
Qingdao Yongjie Import & Export Co., Ltd.	Shandong Xinyuan Group Co., Ltd.	69.20
PRC-Wide Entity		85.55

Determination Under Section 129 of the Uruguay Round Agreements Act

Since the issuance of the antidumping duty order, the Department published a determination in proceedings under section 129 of the Uruguay Round Agreements Act.⁶ The Department found the following amended antidumping duty cash deposit rates in the section 129 proceedings:

⁶ See *Implementation of Determinations Under Section 129 of the Uruguay Round Agreements Act: Certain New Pneumatic Off-the-Road Tires; Circular Welded Carbon Quality Steel Pipe; Laminated Woven Sacks; and Light-Walled Rectangular Pipe and Tube From the People's Republic of China*, 77 FR 52683 (August 30, 2012); as corrected by *Correction to Notice of Implementation of Determinations Under Section 129 of the Uruguay Round Agreements Act: Circular Welded Carbon Quality Steel Pipe From the People's Republic of China*, FR 77 FR 65672 (October 30 2012) ("Section 129 Determination").

Exporter	Producer	Revised AD Cash Deposit Rate
Beijing Sai Lin Ke Hardware Co., Ltd.	Xuzhou Guang Huan Steel Tube Products Co., Ltd.	45.35
Wuxi Fastube Industry Co., Ltd.	Wuxi Fastube Industry Co., Ltd.	45.35
Jiangsu Guoqiang Zinc-Plating Industrial Co., Ltd.	Jiangsu Guoqiang Zinc-Plating Industrial Co., Ltd.	45.35
Wuxi Eric Steel Pipe Co., Ltd.	Wuxi Eric Steel Pipe Co., Ltd.	45.35
Qingdao Xiangxing Steel Pipe Co., Ltd.	Qingdao Xiangxing Steel Pipe Co., Ltd.	45.35
Wah Cit Enterprises	Guangdong Walsall Steel Pipe Industrial Co., Ltd.	45.35
Guangdong Walsall Steel Pipe Industrial Co., Ltd.	Guangdong Walsall Steel Pipe Industrial Co., Ltd.	45.35
Hengshui Jinghua Steel Pipe Co., Ltd.	Hengshui Jinghua Steel Pipe Co., Ltd.	45.35
Zhangjiagang Zhongyuan Pipe-Making Co., Ltd.	Zhangjiagang Zhongyuan Pipe-Making Co., Ltd.	45.35
Weifang East Steel Pipe Co., Ltd.	Weifang East Steel Pipe Co., Ltd.	45.35
Shijiazhuang Zhongqing Imp & Exp Co., Ltd.	Bazhou Zhuofa Steel Pipe Co., Ltd.	45.35
Tianjin Baolai Int'l Trade Co., Ltd.	Tianjin Jinghai County Baolai Business and Industry Co., Ltd.	45.35
Wai Ming (Tianjin) Int'l Trading Co., Ltd.	Bazhou Dong Sheng Hot-dipped Galvanized Steel Pipes Co., Ltd.	45.35
Kunshan Lets Win Steel Machinery Co., Ltd.	Kunshan Lets Win Steel Machinery Co., Ltd.	45.35
Shenyang Boyu M/E Co., Ltd.	Bazhou Dong Sheng Hot-dipped Galvanized Steel Pipes Co., Ltd.	45.35
Dalian Brollo Steel Tubes Ltd.	Dalian Brollo Steel Tubes Ltd.	45.35
Benxi Northern Pipes Co., Ltd.	Benxi Northern Pipes Co., Ltd.	45.35
Shanghai Metals & Minerals Import & Export Corp.	Huludao Steel Pipe Industrial Co.	45.35
Shanghai Metals & Minerals Import & Export Corp.	Benxi Northern Pipes Co., Ltd.	45.35
Huludao Steel Pipe Industrial Co.	Huludao Steel Pipe Industrial Co.	45.35
Tianjin Xingyuda Import & Export Co., Ltd.	Tianjin Lifengyuanda Steel Group	45.35
Tianjin Xingyuda Import & Export Co., Ltd.	Tianjin Xingyunda Steel Pipe Co.	45.35
Tianjin Xingyuda Import & Export Co., Ltd.	Tianjin Lituo Steel Products Co.	45.35
Tianjin Xingyuda Import & Export Co., Ltd.	Tangshan Fengnan District Xinlida Steel Pipe Co., Ltd.	45.35
Jiangyin Jianye Metal Products Co., Ltd.	Jiangyin Jianye Metal Products Co., Ltd.	45.35
Rizhao Xingye Import & Export Co., Ltd.	Shandong Xinyuan Group Co., Ltd.	45.35
Tianjin No. 1 Steel Rolled Co., Ltd.	Tianjin Hexing Steel Co., Ltd.	45.35
Tianjin No. 1 Steel Rolled Co., Ltd.	Tianjin Ruitong Steel Co., Ltd.	45.35
Tianjin No. 1 Steel Rolled Co., Ltd.	Tianjin Yayi Industrial Co.	45.35

Kunshan Hongyuan Machinery Manufacture Co., Ltd.	Kunshan Hongyuan Machinery Manufacture Co., Ltd.	45.35
Qingdao Yongjie Import & Export Co., Ltd.	Shandong Xinyuan Group Co., Ltd.	45.35
PRC–Wide Entity		68.24

Administrative Reviews and New Shipper Reviews

Since the issuance of the antidumping duty order, the Department has not completed any administrative or new shipper reviews. The Department has rescinded four administrative reviews.⁷

Scope Inquiries, Changed Circumstances Reviews, and Duty Absorption

There have been no changed circumstances reviews or duty absorption findings in connection with the antidumping duty order. The Department has issued four scope rulings on CWP from the PRC.⁸

Scope of the Order

The merchandise subject to the order is certain welded carbon quality steel pipes and tubes, of circular cross-section, and with an outside diameter of 0.372 inches (9.45 mm) or more, but not more than 16 inches (406.4 mm), whether or not stenciled, regardless of wall thickness, surface finish (e.g., black, galvanized, or painted), end finish (e.g., plain end, beveled end, grooved, threaded, or threaded and coupled), or industry specification (e.g., ASTM, proprietary, or other), generally known as standard pipe and structural pipe (they may also be referred to as circular, structural, or mechanical tubing).

Specifically, the term “carbon quality” includes products in which (a) iron predominates, by weight, over each of the other contained elements; (b) the carbon content is 2 percent or less, by weight; and (c) none of the elements listed below exceeds the quantity, by weight, as indicated:

- (i) 1.80 percent of manganese;
- (ii) 2.25 percent of silicon;
- (iii) 1.00 percent of copper;
- (iv) 0.50 percent of aluminum;
- (v) 1.25 percent of chromium;
- (vi) 0.30 percent of cobalt;

⁷ See *Circular Welded Carbon Quality Steel Pipe From the People’s Republic of China: Notice of Rescission of Antidumping Duty Administrative Review*, 74 FR 57149 (November 4, 2009) (“CWP AR 1”); see also *Circular Welded Carbon Quality Steel Pipe From the People’s Republic of China: Rescission of Antidumping Duty Administrative Review*, 75 FR 81968 (December 29, 2010) (“CWP AR 2”); *Circular Welded Carbon Quality Steel Pipe From the People’s Republic of China: Rescission of the 2010–2011 Antidumping Duty Administrative Review*, 76 FR 76944 (December 9, 2011) (“CWP AR 3”); *Circular Welded Carbon Quality Steel Pipe From the People’s Republic of China: Rescission of Antidumping Duty Administrative Review; 2011–2012*, 78 FR 5170 (January 24, 2013) (“CWP AR 4”).

⁸ See *Notice of Scope Rulings*, 75 FR 14138 (March 24, 2010); see also *Notice of Scope Rulings*, 77 FR 52313 (August 29, 2012); *Notice of Scope Rulings*, 78 FR 9370 (February 8, 2013).

- (vii) 0.40 percent of lead;
- (viii) 1.25 percent of nickel;
- (ix) 0.30 percent of tungsten;
- (x) 0.15 percent of molybdenum;
- (xi) 0.10 percent of niobium;
- (xii) 0.41 percent of titanium;
- (xiii) 0.15 percent of vanadium; or
- (xiv) 0.15 percent of zirconium.

Standard pipe is made primarily to American Society for Testing and Materials (“ASTM”) specifications, but can be made to other specifications. Standard pipe is made primarily to ASTM specifications A-53, A-135, and A-795. Structural pipe is made primarily to ASTM specifications A-252 and A-500. Standard and structural pipe may also be produced to proprietary specifications rather than to industry specifications. This is often the case, for example, with fence tubing. Pipe multiple-stenciled to a standard and/or structural specification and to any other specification, such as the American Petroleum Institute (“API”) API-5L specification, is also covered by the scope of the order when it meets the physical description set forth above and also has one or more of the following characteristics: is 32 feet in length or less; is less than 2.0 inches (50 mm) in outside diameter; has a galvanized and/or painted surface finish; or has a threaded and/or coupled end finish. (The term “painted” does not include coatings to inhibit rust in transit, such as varnish, but includes coatings such as polyester.) The scope of the order does not include: (a) pipe suitable for use in boilers, superheaters, heat exchangers, condensers, refining furnaces and feedwater heaters, whether or not cold drawn; (b) mechanical tubing, whether or not cold-drawn; (c) finished electrical conduit; (d) finished scaffolding; (e) tube and pipe hollows for redrawing; (f) oil country tubular goods produced to API specifications; and (g) line pipe produced to only API specifications.

The pipe products that are the subject of the order are currently classifiable in HTSUS statistical reporting numbers 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, 7306.30.50.90, 7306.50.10.00, 7306.50.50.50, 7306.50.50.70, 7306.19.10.10, 7306.19.10.50, 7306.19.51.10, and 7306.19.51.50. However, the product description, and not the Harmonized Tariff Schedule of the United States (“HTSUS”) classification, is dispositive of whether merchandise imported into the United States falls within the scope of the 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 antidumping duty 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 these determinations, 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 antidumping duty order.

As explained in the Statement of Administrative Action (“SAA”) accompanying the Uruguay Round Agreements Act, 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.

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.⁹ 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 comparison.¹⁰

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 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.¹¹ 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).¹² 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.

In the *Final Modification for Reviews*, the Department announced that in five-year (“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.¹³ 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.”¹⁴

Below we address the comments submitted by the Domestic Producers.

⁹ See SAA, H.R. Rep. No. 103-316, Vol. 1 (1994), at 889-90.

¹⁰ 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.

¹¹ 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.

¹² See SAA, at 890-91.

¹³ See *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification*, 77 FR 8101 (February 14, 2012) (“*Final Modification for Reviews*”).

¹⁴ See *id.* (emphasis added).

1. Likelihood of continuation or recurrence of dumping

Domestic Producers' Comments

- A determination of continuation or recurrence of dumping is warranted based on either (a) continuation of dumping at any level above *de minimis* after the issuance of the order, or (b) cessation of imports of the subject merchandise after issuance of the order.
- All PRC exporters of subject merchandise have either ceased shipping CWP or have continued to dump at the rates assigned in the investigation (*i.e.*, a separate rate margin of 69.20 percent and a PRC-wide margin of 85.55 percent. The investigation margins are in place for all exporters because no administrative reviews or new shipper reviews of the *Antidumping Duty Order* have been conducted). The separate rate margin and PRC-wide margin were later amended to 45.35 percent and 68.24 percent, respectively, due to the Section 129 proceeding described above.
- The “continued dumping” factor is also satisfied to the extent that the entries of subject merchandise declined significantly since the imposition of the *Antidumping Duty Order*. Because of the order dumping had ceased and no administrative reviews or new shipper reviews have been conducted.
- Continuation of the order is further warranted because imports declined significantly (or ceased altogether) following issuance of the *Antidumping Duty Order*. Monthly import quantities of CWP from the PRC began dropping sharply at the end of 2007, just after the affirmative preliminary determination, and have remained at approximately one-half of one percent of the 2007 pre-*Antidumping Duty Order* quantities in the four most recent calendar years. Also, the Department has repeatedly found that there have been no entries of subject merchandise from the parties for which administrative reviews were requested, and has rescinded each review as a result.

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 Uruguay Round Agreements Act (*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)). Consistent with the SAA, the Department will make its likelihood determination on an order-wide basis.¹⁵ 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.¹⁶ 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.”¹⁷ For the reasons discussed below, we find that revocation of the antidumping

¹⁵ See SAA, at 879.

¹⁶ See *id.*, at 890.

¹⁷ *Id.*; see also House Report, at 63-64.

duty order on CWP from the PRC would likely result in the continuation or recurrence of dumping in the United States.

Pursuant to section 752(c)(1)(A) of the Act, the Department first considered the weighted-average dumping margins determined in the investigation and subsequent proceedings. As stated above, in the investigation, the Department found dumping margins of 69.20 percent and 85.55 percent for the separate rate respondents and the PRC-wide entity, respectively.¹⁸ No mandatory respondents participated in the investigation, so the separate rate respondent margin was calculated as the average of rates alleged in the petition, and the PRC-wide rate was the highest rate alleged in the petition.¹⁹ These rates were amended to 45.35 percent for the separate rate respondents and 68.24 percent for the PRC-wide entity as a result of the Section 129 proceeding, where the Department made certain determinations, *e.g.*, adverse facts available, regarding double remedies.²⁰ The Department has rescinded all administrative reviews subsequent to the issuance of the *Antidumping Duty Order*, having found no entries of subject merchandise from the parties for which a review was requested.²¹ However, based on the investigation margins as amended by the Section 129 proceeding, any entries of subject merchandise after issuance of the order were assessed at above *de minimis* rates.

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 antidumping duty order is likely to lead to continuation or recurrence of dumping. As discussed above, it is the Department's practice to compare the volume of imports for the one-year period preceding the initiation of the LTFV investigation to the volume of imports after the issuance of the order. Since the issuance of the *Antidumping Duty Order*, import volumes of CWP into the United States from the PRC have declined dramatically and remain below pre-investigation levels.²² In analyzing import volumes for the five years following the issuance of the order, based on U.S. Bureau of Census HTSUS import data, as reported by Global Trade Atlas, the Department has determined that imports from the PRC under HTSUS numbers listed in the scope of the *Antidumping Duty Order* have been at levels significantly lower than the year immediately preceding the initiation of the LTFV investigation (*i.e.*, 2006).²³ Specifically, total 2008 calendar year import volumes for the HTSUS categories listed in the scope of the order were approximately 22 percent of total 2006 import volumes for these categories.²⁴ Further, the total calendar year import volumes for these categories for 2009 through 2012 have ranged from 0.7 percent to 1.9 percent of total 2006 import volumes for these categories.²⁵ Thus, while imports have not ceased, record evidence shows negligible imports over the last five years when compared to pre-initiation import volumes.²⁶ This indicates that PRC exporters may not be able to maintain pre-investigation import levels without selling merchandise at dumped prices.²⁷

¹⁸ See *Final Determination*, 73 FR at 31973; see also *Antidumping Duty Order*, 73 FR at 42548-9.

¹⁹ See *Final Determination*, 73 FR at 31971-2.

²⁰ See *Section 129 Determination*.

²¹ See *CWP AR 1, CWP AR 2, CWP AR 3, CWP AR 4*.

²² See attachment to this memorandum.

²³ See *id.*

²⁴ See *id.*

²⁵ See *id.*

²⁶ The Domestic Producers also submitted evidence of import volumes for years 2005 through 2012 in their substantive response, dated July 2, 2013. While the Domestic Producers' data was presented in short tons, rather

Therefore, pursuant to section 752(c)(1) of the Act, because above *de minimis* dumping margins applied to post-order entries of subject merchandise, and the Department has found dramatically lower import volumes in the years covered by this sunset review in comparison to import volumes prior to issuance of the *Antidumping Duty Order*, we find that dumping is likely to continue or recur if the *Antidumping Duty Order* is revoked.

2. Magnitude of the Dumping Margin Likely to Prevail

Domestic Producers' Comments

- The SAA, at 890, provides that the Department will normally select a margin determined in the investigation “because that is the only calculated rate that reflects the behavior of exporters... without the discipline of an order.” It is also the Department’s policy to normally provide to the ITC the margin that was determined in the investigation “regardless of whether the margin was calculated using a company’s own information or based on best information available or the facts available,” citing *Sunset Policy Bulletin*, 63 FR at 18873.
- Because no antidumping administrative reviews of CWP from the PRC have been conducted, the investigation dumping margins, as amended by the Section 129 proceeding, are the best evidence of the PRC exporters’ behavior in the absence of an order. Additionally, while the Department will not rely on dumping margins calculated using the “zeroing” methodology found to be WTO-inconsistent, “zeroing” was not employed in the calculation of margins in the investigation.
- The Department should find that the likely dumping margins in the event of a revocation of the *Antidumping Duty Order* are 45.35 percent for separate rate exporters and 68.24 percent for the PRC-wide entity. The separate rate was calculated as a simple average of the margins alleged in the petition, while the PRC-wide entity rate was based on the highest margin alleged in the petition.

Department’s Position: Section 752(c)(3) of the Act provides that the administering authority shall provide to the ITC the magnitude of the margin of dumping that is likely to prevail if the order were revoked. Normally, the Department will provide to the ITC the company-specific weighted-average dumping margin from the investigation for each company.²⁸ 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 manufacturers, producers, and exporters without the discipline of an order or suspension agreement in place.²⁹ Under certain circumstances, however, we may select a more recently calculated rate to report to the ITC. For

than metric tons, and did not represent all HTSUS numbers listed in the scope of the order, the trends in import volume noted by Domestic Producers are consistent with the import volumes shown in the attachment to this memorandum.

²⁷ 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 Memo at comment 1.

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

²⁹ See SAA at 890 and *Policies Regarding the Conduct of five-year (“Sunset”) Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, at section II.B.1.

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. However, the Department considers the PRC to be a nonmarket economy (“NME”) under section 771(18) of the Act, and thus the Department does not have an “All-Others” rate. Thus, in PRC cases, instead of an “All-Others” rate, the Department uses a rate established for the PRC-wide entity, which it applies to all imports from an exporter that has not established its eligibility for a separate rate.³⁰

As indicated in the “Legal Framework” section above, the Department’s current practice is to not rely on weighted-average dumping margins calculated using the zeroing methodology modified in the *Final Modification for Reviews*. Instead, we may rely on other rates that may be available, or we may recalculate weighted-average dumping margins using our current offsetting methodology if necessary.³¹

Neither of the mandatory respondents from the original investigation participated in the investigation, and both are now considered to be part of the PRC-wide entity.³² Because no administrative reviews of CWP from the PRC have been conducted, the investigation dumping margins, as amended by the *Section 129 Determination*, are the best evidence of the PRC exporters’ behavior in the absence of an order, (*i.e.*, 45.35 percent for the separate rate respondents and 68.24 percent for the PRC-wide entity). The dumping margins for the separate rate companies and the PRC-wide entity in the antidumping investigation were based on the dumping margins from the petition and, therefore, do not include zeroing and are consistent with the *Final Modification for Reviews*.

Final Results of Review

We determine that revocation of the antidumping duty order on CWP 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 45.35 percent for separate rate exporters and 68.24 percent for all other exporters within the PRC-wide entity.

³⁰ See *Paper Clips from the People’s Republic of China: Final Results of Expedited Sunset Review of Antidumping Duty Order*, 76 FR 26242 (May 6, 2011), and accompanying Issues and Decision Memorandum at Comment 2; see also 19 CFR 351.107(d).

³¹ See *Final Modification for Reviews*.

³² See *Final Determination*, 73 FR at 31973.

Recommendation

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

✓
Agree

Disagree

Paul Piquado
Paul Piquado
Assistant Secretary
for Import Administration

26 SEPTEMBER 2013
(Date)

Attachment

United States Import Statistics From China									
Commodity: CWP Sunset, 7306301000, 7306305025, 7306305032, 7306305040, 7306305055, 7306305085, 7306305090, 7306501000, 7306505050, 7306505070, 7306191010, 7306191050, 7306195110, 7306195150									
Annual Series: 2006 - 2012									
Commodity	Unit	Description	Quantity						
			2006	2007	2008	2009	2010	2011	2012
7306191050	T	Linepipe,Gas,Iron/Nonalloy,Ov 114.3Mm, Nesol	0	213,738	100,535	2,027	3,273	6,362	7,654
7306301000	T	Oth Tubes Etc Nes Circ Wld Nas Wis Lsth 1.65Mm Thk	9,773	6,635	1,642	303	315	965	996
7306305090	T	Pipes Etc Ir/St Ngl WI Thkns 1.65Mm Ao Od 114-406	103,730	156,751	1,511	239	151	187	964
7306305055	T	Oth Tubes Etc los Nonal Wld No 114.3 Od Ccs Ngl Ns	149,372	159,599	2,566	326	369	890	838
7306305032	T	Oth Pipes Etc Wld Cir Glv Wo Cplg O Lng Etc	251,708	204,187	3,585	608	1,191	501	416
7306305085	T	Pipes Etc los Circ Gv WI 1.65Mm Ao Th Od 114-406Mm	19,032	19,910	887	404	260	249	197
7306505050	T	Oth Tubes Etc Nes Wld Cir Aly St Ns Od Nov 114.3Mm	106	2,751	12	2	3	2	75
7306305040	T	Oth Tubes Etc Nes Od No 114.3Mm Ngal Imp W Coupling	35,760	40,462	0	0	0	0	16
7306191010	T	Linepipe,Iron/Nalloy,Oil/Gas Pipes,Diam Lt 114.3Mm	0	43,513	20,167	71	0	51	11
7306501000	T	Oth Tubes Etc Nes Wld Cir Aly Stl Nt St Wls Lt1.65	25	579	76	13	3	73	5
7306505070	T	Oth Tubes Etc Nes Wld Cir Aly St Od 114.3-406.4 Mm	129	0	0	0	17	1	3
7306305025	T	Oth Tubes Etc Nes Wld Circ Od No 114.3, Gal W Cplg	19,952	29,776	286	19	597	151	0
7306195110	T	Linepipe Gas/Oil, Oth Alloy Nt Stn, Diam < 114.3Mm	0	140	0	29	38	0	0
7306195150	T	Linepipe,Oil/Gas,Oth Alloy Nt Stains,Diam>114.3Mm	0	1,158	0	0	0	0	0
Total Scope HTS Numbers	T		589,586	879,199	131,268	4,042	6,217	9,433	11,175

Source: Global Trade Atlas
 Downloaded August 20, 2013