



A-570-943  
Sunset Review  
**Public Document**  
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March 31, 2015

MEMORANDUM TO: Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

FROM: Gary Taverman *GT*  
Associate Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

SUBJECT: Expedited First Sunset Review of the Antidumping Duty Order on  
Certain Oil Country Tubular Goods from the People's Republic of  
China: Issues and Decision Memorandum

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### Summary

In the first sunset review of the antidumping duty ("AD") order covering certain oil country tubular goods ("OCTG") from the People's Republic of China ("PRC"), domestic interested parties Boomerang Tube ("Boomerang"), Energex Tube, a division of JMC Steel Group ("Energex Tube"), EVRAZ Rocky Mountain Steel ("EVRAZ"), IPSCO Tubulars, Inc. ("IPSCO"), Maverick Tube Corporation ("Maverick"), Tejas Tubular Products, Inc. (Tejas Tubular), United States Steel Corporation ("U.S. Steel"), Vallourec Star, L.P. ("Vallourec"), and Welded Tube USA Inc. ("Welded Tube") (collectively, "Domestic Interested Parties"), submitted an adequate substantive response on December 31, 2014.<sup>1</sup> No respondent interested party submitted a substantive response. In accordance with our analysis of Domestic Interested Parties' Substantive Response, 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 December 1, 2014, the Department of Commerce ("the Department") published a notice of initiation of the first sunset review of the AD order on OCTG from the PRC.<sup>2</sup> On December 3, 10, and 15, 2014, Domestic Interested Parties timely notified the Department of

<sup>1</sup> See Domestic Interested Parties' December 31, 2014, submission ("Substantive Response").

<sup>2</sup> See *Initiation of Five-Year ("Sunset") Review*, 79 FR 71091 (December 1, 2014).

their intent to participate within the deadline specified in 19 CFR 351.218(d)(1)(ii), claiming domestic interested party status under section 771(9)(C) of the Act.<sup>3</sup>

On December 31, 2014, Domestic Interested Parties timely submitted their Substantive Response.<sup>4</sup> The Department did not receive a substantive response from any respondent interested party. 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).

### **Scope of the Order**

The scope of this order consists of certain OCTG, which are hollow steel products of circular cross-section, including oil well casing and tubing, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, regardless of end finish (e.g., whether or not plain end, threaded, or threaded and coupled) whether or not conforming to American Petroleum Institute (“API”) or non-API specifications, whether finished (including limited service OCTG products) or unfinished (including green tubes and limited service OCTG products), whether or not thread protectors are attached. The scope of the order also covers OCTG coupling stock. Excluded from the scope of the order are casing or tubing containing 10.5 percent or more by weight of chromium; drill pipe; unattached couplings; and unattached thread protectors.

The merchandise covered by the order is currently classified in the Harmonized Tariff Schedule of the United States (“HTSUS”) under item numbers: 7304.29.10.10, 7304.29.10.20, 7304.29.10.30, 7304.29.10.40, 7304.29.10.50, 7304.29.10.60, 7304.29.10.80, 7304.29.20.10, 7304.29.20.20, 7304.29.20.30, 7304.29.20.40, 7304.29.20.50, 7304.29.20.60, 7304.29.20.80, 7304.29.31.10, 7304.29.31.20, 7304.29.31.30, 7304.29.31.40, 7304.29.31.50, 7304.29.31.60, 7304.29.31.80, 7304.29.41.10, 7304.29.41.20, 7304.29.41.30, 7304.29.41.40, 7304.29.41.50, 7304.29.41.60, 7304.29.41.80, 7304.29.50.15, 7304.29.50.30, 7304.29.50.45, 7304.29.50.60, 7304.29.50.75, 7304.29.61.15, 7304.29.61.30, 7304.29.61.45, 7304.29.61.60, 7304.29.61.75, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.29.10.30, 7306.29.10.90, 7306.29.20.00, 7306.29.31.00, 7306.29.41.00, 7306.29.60.10, 7306.29.60.50, 7306.29.81.10, and 7306.29.81.50.

The OCTG coupling stock covered by the order may also enter under the following HTSUS item numbers: 7304.39.00.24, 7304.39.00.28, 7304.39.00.32, 7304.39.00.36, 7304.39.00.40, 7304.39.00.44, 7304.39.00.48, 7304.39.00.52, 7304.39.00.56, 7304.39.00.62, 7304.39.00.68, 7304.39.00.72, 7304.39.00.76, 7304.39.00.80, 7304.59.60.00, 7304.59.80.15, 7304.59.80.20, 7304.59.80.25, 7304.59.80.30, 7304.59.80.35, 7304.59.80.40, 7304.59.80.45, 7304.59.80.50, 7304.59.80.55, 7304.59.80.60, 7304.59.80.65, 7304.59.80.70, and 7304.59.80.80

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<sup>3</sup> See Letter to the Department from Maverick, dated December 3, 2014; Letter to the Department from Boomerang, Energex Tube, EVRAZ, IPSCO, Tejas Tubular, Vallourec, and Welded Tube, dated December 10, 2014; and Letter to the Department from U.S. Steel, dated December 15, 2014.

<sup>4</sup> See Letter from Domestic Interested Parties to the Department, entitled “Oil Country Tubular Goods from China, First Sunset Review: Substantive Response to Notice of Initiation,” dated December 31, 2014.

Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

### **History of the Order**

On April 19, 2010, the Department published the *Final Determination* in the investigation of OCTG from the PRC.<sup>5</sup> On May 21, 2010, the Department amended the *Final Determination* and calculated a company-specific weighted-average dumping margin of 32.07 percent, as well as a PRC-wide rate of 99.14 percent. On May 21, 2010, in the same notice as the *Amended Final Determination*, the Department issued the *Order* on OCTG from the PRC.<sup>6</sup>

Between the *Order* and this first sunset review, the Department completed one administrative review<sup>7</sup> and one scope inquiry.<sup>8</sup> The Department issued one scope ruling regarding OCTG, in which the Department found that seamless unfinished OCTG finished in third countries is covered under the scope of the *Order*, pursuant to certain stipulations.<sup>9</sup> The Department has not issued any anti-circumvention or changed circumstance determinations.

### **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

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<sup>5</sup> See *Certain Oil Country Tubular Goods from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value, Affirmative Final Determination of Critical Circumstances and Final Determination of Targeted Dumping*, 75 FR 20335 (April 19, 2010) (“*Final Determination*”).

<sup>6</sup> See *Certain Oil Country Tubular Goods From the People’s Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order*, 75 FR 28551 (May 21, 2010) (“*Amended Final Determination*” and “*Order*”).

<sup>7</sup> See *Certain Oil Country Tubular Goods From the People’s Republic of China: Amended Final Results of Antidumping Duty Administrative Review; 2010–2011*, 78 FR 9033 (May 21, 2010) (“*First Review*”).

<sup>8</sup> See Final Scope Ruling on Green Tubes Manufactured in the People’s Republic of China and Finished in Countries Other than the United States and the People’s Republic of China, dated February 7, 2014, available in ACCESS. ACCESS is available to registered users at <http://access.trade.gov> and to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building.

<sup>9</sup> See *Notice of Scope Rulings*, 79 FR 30821 (May 29, 2014); see also Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Final Scope Ruling on Green Tubes Manufactured in the People’s Republic of China and Finished in Countries Other than the United States and the People’s Republic of China,” (February 7, 2014), at 1-2.

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

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: (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, 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 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 February 2012, the Department announced that 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,

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<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; see also *Policies Regarding the Conduct of Five-year (“Sunset”) Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871, 18872 (April 16, 1998) (“*Sunset Policy*”).

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

<sup>15</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>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.*

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 (“LTFV”).<sup>20</sup> Our analysis of the comments submitted by Domestic Interested Parties follows.

### *Analysis*

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

Domestic Interested Parties state that revocation of the *Order* would likely result in the continuation of dumping of subject merchandise into the United States, and that the continued existence of higher than *de minimis* margins after the issuance of the order compels the finding that dumping will continue or recur if the Department revokes the *Order*.<sup>21</sup>

**Department’s Position:** As explained above, 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 AD order. 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>22</sup> Thus, one consideration is whether the Department continued to find dumping at above *de minimis* levels in administrative reviews subsequent to the imposition of the AD order.<sup>23</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>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 since the issuance of the *Order*.

Domestic Interested Parties note that in the lone administrative review conducted since the issuance of the *Order*, the Department found the Chengde Group was dumping at a margin of 162.69 percent. The remaining exporters are currently subject to margins that are well above *de minimis*, and the PRC-wide entity continues to have a substantial margin.<sup>25</sup> Moreover, Domestic

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<sup>19</sup> *Id.* at 8109.

<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.

<sup>21</sup> *See* Substantive Response at 8.

<sup>22</sup> *See* SAA at 889-90, House Report at 63-64, and Senate Report at 52.

<sup>23</sup> *See* SAA at 890.

<sup>24</sup> *Id.*; *see also* House Report, at 63-64.

<sup>25</sup> *See* Substantive Response at 8 and 9.

Interested Parties observe that all of the applicable dumping margins were calculated in a manner that is not inconsistent with the United States' WTO obligations, and as such the Department has found above *de minimis* margins.<sup>26</sup> Domestic Interested Parties state that in the investigation “the Department calculated the margin for the PRC-wide entity, including {Jiangsu} Changbao {Steel Tube Co., Ltd. (“Changbao”)}, based on adverse facts available and calculated the margins for TPCO and the separate rate applicants based on the targeted dumping methodology.”<sup>27</sup> Moreover, in the only completed administrative review, the Department calculated the margin for the Chengde Group without the use of zeroing.<sup>28</sup>

Pursuant to section 752(c)(1)(A) of the Act, the Department first considered the weighted-average dumping margins determined in the investigation and any subsequent reviews. In the *Order* and *Amended Final Determination*, the Department calculated weighted-average dumping margins of 32.07 percent for one of the mandatory respondents, Tianjin Pipe (Group) Corporation (“TPCO”), and the 37 separate rate respondents.<sup>29</sup> Further, the Department found that the PRC-wide entity failed to cooperate to the best of its ability and, as adverse facts available, assigned it, including one mandatory respondent Changbao, the highest rate in the petition, *i.e.*, 99.14 percent.<sup>30</sup> The Department notes that the rate for TPCO in the investigation was based on the targeted dumping methodology; the dumping margin for the PRC-wide entity in the *Final Determination* and the *Amended Final Determination* was based on the dumping margin from the petition and, therefore, did not include zeroing. Moreover, as Domestic Interested Parties note, since the investigation, we have continued to calculate above *de minimis* margins that were calculated without using the zeroing methodology, such as in the *First Review*.<sup>31</sup> Thus, the Department determines that it calculated above *de minimis* dumping margins for PRC manufacturers and exporters during the original investigation and that it has continued to calculate above *de minimis* margins that in subsequent reviews.

In addition, pursuant to section 752(c)(1)(B) of the Act, the Department also considered the volume of imports of the subject merchandise in determining whether revocation of the AD order would likely lead to continuation or recurrence of dumping. 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>32</sup>

We noted the import data referenced in the Substantive Response, which reflects the quantity of imports of OCTG from the PRC for the period from 2008 through 2013, which is based on data collected by the U.S. Census Bureau and available through the ITC website (“ITC Dataweb”).<sup>33</sup>

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<sup>26</sup> *Id.* at 7.

<sup>27</sup> *Id.* at footnote 2.

<sup>28</sup> *Id.*

<sup>29</sup> *See Order*, 75 FR at 28551.

<sup>30</sup> *Id.* at 28552.

<sup>31</sup> *See Substantive Response* at 4 and 5; *see also First Review*.

<sup>32</sup> *See SAA* at 889.

<sup>33</sup> *See Substantive Response* at 9.

We note that this data is acceptable for our analysis, as it was obtained from the ITC Dataweb, a source the Department has relied on in the past.<sup>34</sup>

It is the Department's practice to compare the volume of imports for the one-year period preceding the initiation of the investigation to the volume of imports during the period of this sunset review. Since the issuance of the *Order*, import volumes of OCTG from the PRC into the United States have decreased and remain below pre-investigation levels. In analyzing import volumes for the period of this sunset review, based on U.S. Census Bureau import statistics, the Department has determined that imports of OCTG under the HTSUS numbers listed in the scope of the *Order*, applicable to OCTG, have been at levels significantly lower than the year immediately preceding the filing of the petition and the initiation of the LTFV investigation (*i.e.*, 2008).<sup>35</sup> Specifically, according to Domestic Interested Parties, volumes of imports of OCTG from China in the two years prior to the filing of the petition and the initiation of the investigation *i.e.*, 2007 and 2008 were 860,719 short tons and 2,197,576 short tons, respectively. Following the imposition of the anti-dumping order, the volume of imports of OCTG from China dropped significantly below pre-petition levels to 31,268 short tons in 2010, 12,892 short tons in 2011, 16,730 short tons in 2012, and 4,137 short tons in 2013.<sup>36</sup> Thus, record evidence shows that the imports are significantly lower in the last five years when compared to pre-initiation import volumes. Hence, the combination of above *de minimis* margins and decreasing import volumes reasonably indicates that dumping is likely to continue or recur as the exporters likely need to dump to sell at pre-order volumes.

Therefore, pursuant to section 752(c)(1) of the Act, the Department determines that revocation of the *Order* is likely to lead to continuation or recurrence of dumping because the record indicates that dumping has continued at levels above *de minimis* during the period of investigation and in subsequent reviews, along with decreasing import volumes.

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

Domestic Interested Parties note that because none of the rates calculated for PRC exporters in the investigation "were calculated in a manner that is inconsistent with the United States' WTO obligations, the *Final Modification* has no effect on this conclusion."<sup>37</sup>

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<sup>34</sup> See, e.g., *Circular Welded Carbon-Quality Steel Line Pipe from the People's Republic of China: Final Results of the Expedited First Sunset Review of the Antidumping Duty Order*, 79 FR 19052 (April 7, 2014) and accompanying Issues and Decision Memorandum at 5.

<sup>35</sup> The petition was filed on April 8, 2009 and the case was initiated on April 28, 2009.

<sup>36</sup> See Substantive Response at 9.

<sup>37</sup> See Substantive Response at 10.

**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.<sup>38</sup> The Department is selecting rates from the investigation because these rates reflect the behavior of exporters without the discipline of an order or suspension agreement in place.<sup>39</sup> For companies not investigated individually, or for companies that did not begin shipping until after the order was issued, the Department will normally provide a rate based on the “All-Others” rate from the investigation.<sup>40</sup> 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>41</sup>

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, consistent with 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 in extraordinary circumstances.<sup>42</sup>

The Department determines that the weighted-average dumping margins established in the *Amended Final Determination and Order*, represent the magnitude of the margins of dumping most likely to prevail if the order were revoked. We further determine that these margins were not affected by the denial of offsets in accordance with the *Final Modification for Reviews* because the *Amended Final* and *Order* occurred after the Department ceased zeroing in investigations. The Department determines that the rate assigned to the PRC-wide entity, which was based on the margin from the petition, is another available rate that we may report to the ITC, consistent with the *Final Modification for Reviews*. As a result, we will report to the ITC the margins of dumping likely to prevail listed in the “Final Results of Sunset Review” section below.

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<sup>38</sup> See *Eveready Battery Co., Inc. v. United States*, 77 F. Supp. 2d 1327, 1333 (CIT 1999).

<sup>39</sup> *Id.*; see also SAA at 890.

<sup>40</sup> 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.

<sup>41</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>42</sup> See *Final Modification for Reviews*, 77 FR at 8103.

**Final Results of Sunset Review**

We determine that revocation of the *Order* on OCTG from the PRC would likely lead to continuation or recurrence of dumping and that the magnitude of the dumping margins likely to prevail would be weighted-average margins up to 99.14 percent.<sup>43</sup>

**Recommendation**

Based on our analysis of Domestic Interested Parties' Substantive Response and the record evidence, we recommend adopting the above positions. If these recommendations are accepted, we will publish the final results of this first sunset review in the *Federal Register* and notify the ITC of our determination.

✓  
Agree                      Disagree

Paul Piquado  
Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

31 MARCH 2015  
Date

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<sup>43</sup> See Amended Final Determination and Order, 75 FR at 28552.