



A-570-826  
Sunset Review  
**Public Document**  
E&C/Office IV: MK

September 29, 2016

MEMORANDUM TO: Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

FROM: Christian Marsh   
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

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

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## I. Summary

We analyzed the response of ACCO Brands USA LLC (ACCO), a domestic manufacturer of a like product, in the fourth sunset review of the antidumping duty order covering certain paper clips (paper clips) from the People's Republic of China (PRC). No respondent interested party submitted a substantive response. Accordingly, we conducted an expedited (120-day) sunset review of this order. We recommend that you approve the positions described in the "Discussion of the Issues" section of this memorandum. Below is a complete list of the 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 margin likely to prevail.

## II. Background

On November 25, 1994, the Department of Commerce (Department) published the notice of the antidumping duty order on paper clips from the PRC.<sup>1</sup> On June 1, 2016, the Department published the notice of initiation of the fourth sunset review of the *AD Order*, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).<sup>2</sup> On June 16, 2016, the Department received a notice of intent to participate in this review from ACCO, within the deadline specified in 19 CFR 351.218(d)(1)(i).<sup>3</sup> ACCO claimed interested party status under section 771(9)(C) of

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<sup>1</sup> See *Antidumping Duty Order: Certain Paper Clips From the People's Republic of China*, 59 FR 60606 (November 25, 1994) (*AD Order*).

<sup>2</sup> See *Initiation of Five-Year ("Sunset") Review*, 81 FR 34974 (June 1, 2016).

<sup>3</sup> See Letter from ACCO to the Department, "Paper Clips from the People's Republic of China: Five-Year ("Sunset")



the Act as a manufacturer in the United States of a domestic like product. On July 1, 2016, the Department received a complete and adequate substantive response from ACCO within 30-day deadline specified in 19 CFR 351.218(d)(3)(i).<sup>4</sup> The Department received no substantive responses from respondent interested parties with respect to the *AD Order*. 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*.

### III. Scope of the Order

The products covered by the order are certain paper clips, wholly of wire of base metal, whether or not galvanized, whether or not plated with nickel or other base metal (*e.g.*, copper), with a wire diameter between 0.025 inches and 0.075 inches (0.64 to 1.91 millimeters), regardless of physical configuration, except as specifically excluded. The products subject to the order may have a rectangular or ring-like shape and include, but are not limited to, clips commercially referred to as No. 1 clips, No. 3 clips, Jumbo or Giant clips, Gem clips, Frictioned clips, Perfect Gems, Marcel Gems, Universal clips, Nifty clips, Peerless clips, Ring clips, and Glide-On clips. The products subject to the order are currently classifiable under subheading 8305.90.3010 of the Harmonized Tariff Schedule of the United States (HTSUS).

Specifically excluded from the scope of the order are plastic and vinyl covered paper clips, butterfly clips, binder clips, or other paper fasteners that are not made wholly of wire of base metal and are covered under a separate subheading of the HTSUS.

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

### IV. History of the Order

This is the fourth sunset review of the *AD Order*. On October 7, 1994, the Department published its final determination in the less-than-fair-value (LTFV) investigation of paper clips from the PRC.<sup>5</sup> On November 25, 1994, the Department published the notice of the antidumping duty order on paper clips from the PRC.<sup>6</sup> The Department reported the following dumping margins:

| <u>Exporter</u>  | <u>Weighted-Average<br/>Dumping Margin (percent)</u> |
|--|--|
| Shanghai Lansheng Corporation (Langsheng).....                             | 57.64  |
| Zhejiang Light Industrial Products Import & Export Corporation (ZLIP)..... | 46.01  |
| Zhejiang Machinery and Equipment Import & Export Corporation (ZMEC).....   | 60.70  |
| PRC-wide Rate.....   | 126.94   |

Since the issuance of the *AD Order*, the Department conducted three sunset reviews with respect to paper clips from the PRC. In each, the Department found that revocation of the *AD Order*

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Review of Antidumping Duty Order (4th Review): Notice of Intent to Participate” (June 16, 2016).

<sup>4</sup> See Letter from ACCO to the Department, “Paper Clips from the People’s Republic of China: Five-Year Review of Antidumping Duty Order (4th Sunset Review), Case No. A-570-826; Substantive Response of ACCO Brands USA LLC” (July 1, 2016) (ACCO Substantive Response).

<sup>5</sup> See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Paper Clips From the People’s Republic of China*, 59 FR 51168 (October 7, 1994) (*Final Determination*).

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

would be likely to lead to a continuation or recurrence of dumping with the above rates.<sup>7</sup> Also, the U.S. International Trade Commission (ITC) instituted concurrent sunset reviews that determined revocation of the antidumping duty order on paper clips from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time, and the Department subsequently published notices of continuation.<sup>8</sup>

The Department has issued one scope ruling that Pendaflex Pile Smart Label Clips are not within the scope of the AD order covering paper clips from the PRC.<sup>9</sup> There have been no findings with respect to duty absorption. The Department has not conducted any administrative reviews or changed circumstances reviews since the issuance of the *AD Order*. The *AD Order* remains in effect for all manufacturers and exporters of the subject merchandise from the PRC.

## V. Legal Framework

In accordance with section 751(c)(1) of the Act, the Department conducted this sunset review to determine whether revocation of the *AD 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 subsequent reviews, and the volume of imports of the subject merchandise for the periods before and after, the issuance of the antidumping duty 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), the House Report, H. Rep. No. 103-826, pt. 1 (1994) (House Report), and the Senate Report, S. Rep. No. 103-412 (1994) (Senate Report), the Department's likelihood determinations will be made on an order-wide, rather than company-specific, basis.<sup>10</sup> In addition, the Department normally will determine that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping where: (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>11</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

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<sup>7</sup> 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*); *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*); and, *Paper Clips from the People's Republic of China; Notice of Final Results of Expedited Sunset Review of Antidumping Duty Order*, 76 FR 26242 (May 6, 2011) (*Third Sunset Review*).

<sup>8</sup> See *Continuation of Antidumping Duty Order: Paper Clips From the People's Republic of China*, 65 FR 49784 (August 15, 2000); *Continuation of Antidumping Duty Order: Paper Clips from the People's Republic of China*, 71 FR 6269 (February 7, 2006); *Paper Clips From the People's Republic of China: Continuation of the Antidumping Duty Order*, 76 FR 44575 (July 26, 2011).

<sup>9</sup> See *Notice of Scope Rulings*, 72 FR 43245 (August 3, 2007).

<sup>10</sup> See SAA at 879 and House Report at 56.

<sup>11</sup> See SAA at 889-90, House Report at 63-64, and Senate Report at 52 for a description of our practice; 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 Bulletin*).

comparison.<sup>12</sup> Also, when analyzing import volumes for second and subsequent sunset reviews, the Department's practice is to compare import volumes during the year preceding initiation of the underlying investigation to import volumes since the issuance of the last continuation notice.<sup>13</sup>

Further, section 752(c)(3) of the Act states that the Department shall provide to the ITC the magnitude of the margin of dumping likely to prevail if the order were revoked. Generally, the Department selects the margin 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>14</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>15</sup>

In February 2012, the Department announced it was modifying its practice in sunset reviews such that it will not rely on weighted-average dumping margins that were calculated using the methodology found to be World Trade Organization (WTO)-inconsistent.<sup>16</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>17</sup> The Department further stated that apart from the "most extraordinary circumstances," it did not anticipate needing to recalculate dumping margins in the vast majority of future sunset determinations and, instead would "limit its reliance to margins determined or applied during the five-year sunset period that were not determined in a manner found to be WTO-inconsistent" and that it "may also rely on past dumping margins that were not affected by the WTO-inconsistent methodology, such as dumping margins recalculated pursuant to Section 129 proceedings, dumping margins determined based on the use of total adverse facts available, and dumping margins where no offsets were denied because all comparison results were positive."<sup>18</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 antidumping duty order would not be likely to lead to a continuation or recurrence of sales at LTFV.<sup>19</sup>

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<sup>12</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>13</sup> See *Ferrovaniadium from the People's Republic of China and the Republic of South Africa: Final Results of the Expedited Second Sunset Reviews of the Antidumping Duty Orders*, 79 FR 14216 (March 13, 2014) and accompanying Issues and Decision Memorandum.

<sup>14</sup> See SAA at 890; and *Sunset Policy Bulletin* at section II.B.1. See also, 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) (*Persulfates from the PRC*), and accompanying Issues and Decision Memorandum at Comment 2.

<sup>15</sup> See SAA at 890-91; and *Sunset Policy Bulletin* at section II.B.2.

<sup>16</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>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</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.

## VI. Discussion of the Issues

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

ACCO argues that revocation of *Ad Order* would likely result in a recurrence of sales at LTFV by margins equivalent to or greater than those found in the original investigation.<sup>20</sup> Specifically, ACCO argues that margins calculated in the investigation ranging from 46.01 to 126.94 percent have continued to exist, and the Department has not conducted any administrative reviews. In addition, ACCO asserts that since the imposition of the *AD Order*, the import quantities of paper clips into the United States from PRC exporters have substantially decreased.<sup>21</sup> For these reasons, ACCO contends that if the *AD Order* were revoked, that imports of paper clips will quickly reach and surpass past levels. Moreover, according to ACCO, 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 *AD Order*.

ACCO provides U.S. Census Bureau statistics for HTSUS item 8305.90.3010, paper clips wholly of wire, to support its assertion that import quantities of paper clips have substantially decreased since the issuance of the *AD Order* and as a result of the three prior sunset reviews. According to ACCO, since the continuation of the *AD Order* in the third sunset review, import quantities have continued to decline, remaining significantly below the pre-*AD Order* level of 1993.<sup>22</sup> Therefore, ACCO maintains that the *AD Order* has had the intended effect, and argues that Chinese manufacturers are unable to sell paper clips in the United States without dumping.<sup>23</sup>

#### Department's Position

As explained in the “Legal Framework” section above, the Department's determinations of likelihood will be made on an order-wide basis.<sup>24</sup> In addition, the Department normally will determine that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping where: (a) dumping continued at any level above *de minimis* after the issuance of the order; (b) imports of the subject merchandise ceased after the 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>25</sup>

Additionally, 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. 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

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<sup>20</sup> See ACCO Substantive Response at 4.

<sup>21</sup> *Id.* at 4-5.

<sup>22</sup> *Id.* at 5.

<sup>23</sup> *Id.*

<sup>24</sup> See SAA at 879 and House Report at 56.

<sup>25</sup> See SAA at 889-90, House Report at 63-64, and Senate Report at 52; see also *Sunset Policy Bulletin*, 63 FR at 18872.

continue, because the evidence would indicate that the exporter needs to dump to sell at pre-order volumes.”<sup>26</sup>

In prior sunset reviews of the *AD Order*, we determined that the weighted-average dumping margins determined in the investigation provide evidence that dumping from PRC companies would likely continue or recur if the order were revoked, as they are above *de minimis*. ACCO is correct in stating that the Department has not conducted any administrative reviews since the issuance of the *AD Order* to determine more recent margins in this proceeding. However, as discussed above and in the *Final Modification for Reviews*, the Department has modified its practice in sunset reviews, such that it does not rely on weighted-average dumping margins that are calculated using the “zeroing” methodology found to be WTO-inconsistent. The Department reviewed its official records to establish whether the dumping margins determined in the LTFV investigation of the *AD Order* were calculated using zeroing. Based upon our review of the limited, 22-year-old record relating to the Department’s original margin calculations and methodology for Langsheng, ZLIP, and ZMEC, we are unable to determine that the calculation of these weighted-average margins did not involve the zeroing methodology found to be WTO-inconsistent. Therefore, we are not relying on these margins for our analysis. However, the weighted-average margin assigned as the PRC-wide rate did not involve zeroing. Specifically, the PRC-wide entity rate of 126.94 percent was based on a rate from the petition that did not involve the denial of offsets – it was based on a single comparison. Accordingly, a dumping margin and cash deposit rate above *de minimis* levels remain in effect for PRC companies. The PRC-wide entity rate of 126.94 percent provides the best evidence of dumping behavior of PRC companies and there is no evidence that indicates dumping has ceased.

Separately, 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 *AD Order*. ITC Dataweb statistics examined by the Department indicate a 64.27 percent decline in imports since the continuation notice following the *Third Sunset Review*, and that import volumes in 2015 were a small fraction (6.45 percent) of the volume of imports in the year preceding the initiation of the investigation (*i.e.*, 1992). *See* Attachment. As the Department stated in the *First Sunset Review*, the import volume declined 74 percent from 4,096 metric tons in 1992, to 1,047 metric tons (*i.e.*, 4,096,000 kg to 1,047,000 kg) the year after the imposition of the *AD Order*, 1995.<sup>27</sup> By the time of the *Second Sunset Review*, however, imports of paper clips from the PRC had increased from 90,268 kg in 2000 to 828,491 kg in 2004.<sup>28</sup> Similarly, by the time of the *Third Sunset Review*, imports of paper clips increased from 603,835 kg in 2005 to 872,282 kg in 2010.<sup>29</sup> However, for the current sunset review, imports of paper clips decreased from 738,929 kg in 2011 to 264,011 kg in 2015 – a decrease of 64.27 percent. In comparing these import volumes since the issuance of the last continuation notice with the import volumes during the year preceding the initiation of the investigation, *i.e.*, 4,096 metric tons, we find that since the imposition of the *AD Order*, import volumes have substantially decreased.

With regard to the decrease in imports since the imposition of the *AD Order*, and more recently, since the *Third Sunset Review*, it is reasonable to assume that the decrease in imports

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<sup>26</sup> *See* SAA at 889.

<sup>27</sup> *See* *First Sunset Review* and accompanying Issues and Decision Memorandum at 4.

<sup>28</sup> *See* *Second Sunset Review* and accompanying Issues and Decision Memorandum at 4.

<sup>29</sup> *See* *Third Sunset Review* and accompanying Issues and Decision Memorandum at 5.

accompanied by continued existence of dumping margins indicates that Chinese exporters must dump in order to sell subject merchandise in the U.S. market.<sup>30</sup> Given the decrease in imports and that dumping margins above a *de minimis* level remain in effect, pursuant to section 752(c)(1) of the Act, the Department determines that dumping would likely continue or recur if the *AD Order* were revoked.

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

ACCO argues that the Department recognizes that normally, the dumping margin likely to prevail if the order is revoked are the dumping margins determined in the final determination in the original investigation, as an investigation margin is “the only calculated rate that reflects the behavior of exporters without the discipline of an order or suspension agreement in place.”<sup>31</sup> The four margins calculated in the original investigation are 57.64 percent, 46.01 percent, 60.70 percent, and 126.94 percent. ACCO notes that there have been no administrative reviews generating any more recently calculated margins in this proceeding.

### Department’s Position

Pursuant to section 752(c)(3) of the Act, 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 select a weighted-average dumping margin from the investigation to report to the ITC.<sup>32</sup> The Department’s preference for selecting a margin from the LTFV 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.

In prior sunset reviews of the *AD Order*, we determined that it was appropriate to provide the ITC with all four of the margins from the LTFV investigation for the magnitude of the margin likely to prevail because these margins best reflected the behavior of manufacturers, producers, and exporters without the discipline of an order in place. However, as indicated in the “Legal Framework” section above, consistent with the *Final Modification for Reviews*, the Department’s current practice is not to rely on weighted-average dumping margins calculated using the zeroing methodology that was found to be WTO-inconsistent. As discussed above, we cannot determine, based on the limited, 22-year-old record relating to the Department’s original margin calculations and methodology for Langsheng, ZLIP, and ZMEC, that the calculation of the weighted-average margins for these companies did not involve the zeroing methodology found to be WTO-inconsistent. Accordingly, the Department finds that it is not appropriate to rely on the margins from the LTFV investigation for Langsheng, ZLIP, and ZMEC, as margins likely to prevail were the *AD Order* revoked. The PRC-wide rate of 126.94 percent was based on a rate from the petition that did not involve the denial of offsets. Accordingly, after considering the previously determined dumping margins, pursuant to section 752(c)(3) of the Act, the Department will report to the ITC the PRC-wide entity rate of 126.94 percent, as indicated in the “Final Results of Review” section below.

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<sup>30</sup> See SAA at 889.

<sup>31</sup> See *Sunset Policy Bulletin*, 63 FR at 18873.

<sup>32</sup> See SAA at 890; see also, e.g., *Persulfates from the PRC*, and accompanying Issues and Decision Memorandum at Comment 2.

**VII. Final Results of Review**

We determine that revocation of the *AD order* would likely lead to continuation or recurrence of dumping. We also determine that the magnitude of the dumping margins likely to prevail would be weighted-average dumping margins up to 126.94 percent.

**VIII. Recommendation**

Based on our analysis of the substantive response received, we recommend adopting all of 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  
Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

29 SEPTEMBER 2016  
(Date)

**Attachment**

| <b>United States (Consumption/Domestic) Import Statistics from PRC</b>                  |  |                 |             |             |             |             |             |
|---|--|-----------------|-------------|-------------|-------------|-------------|-------------|
| <b>Commodity: 8305903010, Paper Clips And Parts Thereof, Wholly Of Wire, Base Metal</b> |  |                 |             |             |             |             |             |
| <b>Year Ending December: 2010 - 2015</b>  |  |                 |             |             |             |             |             |
| <b>Commodity</b>  | <b>Unit</b>                              | <b>Quantity</b> |             |             |             |             |             |
|   |  | <b>2010</b>     | <b>2011</b> | <b>2012</b> | <b>2013</b> | <b>2014</b> | <b>2015</b> |
| 8305903010  | KG                                       | 872282          | 738929      | 572344      | 525026      | 427530      | 264011      |
|   | <b>Combined % Change From Prior Year</b> |                 | -15.29      | -22.54      | -8.27       | -18.57      | -38.25      |

| <b>Share</b>                       | <b>Unit</b> | <b>Chinese Import Volume Trends: Paper Clips</b> |             |             |             |             |             |
|------------------------------------|-------------|--|-------------|-------------|-------------|-------------|-------------|
|                                    |             | <b>2010</b>                                      | <b>2011</b> | <b>2012</b> | <b>2013</b> | <b>2014</b> | <b>2015</b> |
| <b>Total US Imports from World</b> | KG          | 1161661  | 969775      | 809719      | 680525      | 656935      | 488891      |
| <b>Total US Imports from PRC</b>   | KG          | 872282   | 738929      | 572344      | 525026      | 427530      | 264011      |
| <b>China Share of US Imports</b>   | %           | 75.09%   | 76.20%      | 70.68%      | 77.15%      | 65.08%      | 54.00%      |

