



A-570-935
Sunset Review
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July 30, 2019

MEMORANDUM TO: Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

FROM: James Maeder
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Expedited Second
Sunset Review of the Antidumping Duty Order on Circular
Welded Carbon Quality Steel Line Pipe from the People's
Republic of China

I. SUMMARY

We analyzed the substantive response of the domestic interested parties¹ in this second sunset review of the antidumping duty (AD) order² covering circular welded carbon quality steel line pipe (welded line pipe) from the People's Republic of China (China)³ and recommend that you approve the positions described in the "Discussion of the Issues" section of this memorandum. No respondent interested party submitted a substantive response. Accordingly, we conducted an expedited (120-day) sunset review of the *Order*.⁴ The following is a 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.

¹ The domestic interested parties are: California Steel Industries, TMK IPSCO, Welspun Tubular, and Zekelman Industries.

² See *Certain Circular Welded Carbon Quality Steel Line Pipe from the People's Republic of China: Antidumping Duty Order*, 74 FR 22515 (May 13, 2009) (*Order*).

³ See Domestic Interested Parties' Letter, "Second Five-Year Review of the Antidumping Duty Order on Circular Welded Carbon Quality Steel Line Pipe from the People's Republic of China: Substantive Response to Notice of Initiation," dated April 30, 2019 (Substantive Response).

⁴ See *Procedures for Conducting Five-year (Sunset) Reviews of Antidumping and Countervailing Duty Orders*, 70 FR 62061 (October 28, 2005) (Commerce normally will conduct an expedited sunset review where respondent interested parties provide an inadequate response).



II. BACKGROUND

On May 13, 2009 the Department of Commerce (Commerce) published the *Order* in the *Federal Register*.⁵ On April 1, 2019, Commerce published the notice of initiation of this sunset review of the *Order*, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).⁶ On April 16, 2019, Commerce received a timely and complete notice of intent to participate in the sunset review from domestic interested parties within the deadline specified in 19 CFR 351.218(d)(1)(i).⁷ Domestic interested parties claimed interested party status pursuant to section 771(9)(C) of the Act as manufacturers in the United States of the domestic like product.⁸ On April 30, 2019, pursuant to 19 CFR 351.218(d)(3)(i), domestic interested parties filed a timely and adequate substantive response.⁹ Commerce did not receive a substantive response 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), Commerce conducted an expedited (120-day) sunset review of the *Order*.

III. SCOPE OF THE ORDER

The merchandise covered by this order is circular welded carbon quality steel pipe of a kind used for oil and gas pipelines (welded line pipe) not more than 406.4 mm (16 inches) in outside diameter, regardless of wall thickness, length, surface finish, end finish or stenciling.

The term “carbon quality steel” includes both carbon steel and carbon steel mixed with small amounts of alloying elements that may exceed the individual weight limits for non alloy steels imposed in the Harmonized Tariff Schedule of the United States (“HTSUS”). Specifically, the term “carbon quality” includes products in which (1) iron predominates by weight over each of the other contained elements, (2) the carbon content is 2 percent or less by weight and (3) none of the elements listed below exceeds the quantity by weight respectively indicated:

- (i) 2.00 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,
- (vii) 0.40 percent of lead,
- (viii) 1.25 percent of nickel,
- (ix) 0.30 percent of tungsten,

⁵ See *Order*, 74 FR at 22515.

⁶ See *Initiation of Five-Year (Sunset) Reviews*, 84 FR 12227 (April 1, 2019).

⁷ See Domestic Interested Parties’ Letter, “Notice of Intent to Participate in Second Five-Year Review of the Antidumping Duty Order on Circular Welded Carbon Quality Steel Line Pipe from the People’s Republic of China,” dated April 16, 2019.

⁸ *Id.* at 2.

⁹ See Substantive Response.

- (x) 0.012 percent of boron,
- (xi) 0.50 percent of molybdenum,
- (xii) 0.15 percent of niobium,
- (xiii) 0.41 percent of titanium,
- (xiv) 0.15 percent of vanadium, or
- (xv) 0.15 percent of zirconium.

Welded line pipe is normally produced to specifications published by the American Petroleum Institute (“API”) (or comparable foreign specifications) including API A-25, 5LA, 5LB, and X grades from 42 and above, and/or any other proprietary grades or non-graded material. Nevertheless, all pipe meeting the physical description set forth above that is of a kind used in oil and gas pipelines, including all multiple-stenciled pipe with an API welded line pipe stencil is covered by the scope of the order.

Excluded from the scope are pipes of a kind used for oil and gas pipelines that are multiple-stenciled to a standard and/or structural specification and have 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 welded line pipe products that are the subject of the order are currently classifiable in the HTSUS under subheadings 7306.19.10.10, 7306.19.10.50, 7306.19.51.10, and 7306.19.51.50. While 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

On March 31, 2009, Commerce published in the *Federal Register* its final affirmative determination in the less-than-fair-value (LTFV) investigation of welded line pipe from China.¹⁰ On May 13, 2009, following an affirmative injury determination by the U.S. International Trade Commission (ITC), Commerce published the *Order*.¹¹ Commerce found a weighted-average dumping margin of 73.87 percent for separate rate exporters Huludao Steel Pipe Industrial Co., Ltd./Huludao City Steel Pipe Industrial Co., Ltd. (Huludao), Pangang Group Beihai Steel Pipe Corporation (Pangang Beihai), Jiangsu Yulong Steel Pipe Co., Ltd. (Jiangsu Yulong), and Tianjin Xingyuda Import and Export Co., Ltd. (Tianjin Xingyuda) and 101.10 percent for the China-wide entity.

Since the issuance of the *Order*, there have been no administrative reviews, scope clarifications, new shipper reviews, or duty absorption findings in connection with the *Order*.

¹⁰ See *Certain Circular Welded Carbon Quality Steel Line Pipe from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 74 FR 14514 (March 31, 2009) (*Final Determination*).

¹¹ See *Order*, 74 FR at 22515.

This is the second sunset review of the *Order*. On April 7, 2014, Commerce determined that the revocation of the *Order* would likely lead to the continuation or recurrence of dumping and that the magnitude of the margin of dumping likely to prevail would be 73.87 percent for separate rate exporters and 101.10 percent for the China-wide entity.¹² On May 20, 2014, Commerce published the notice of continuation of the *Order*.¹³

On July 10, 2015, the U.S. Trade Representative instructed Commerce to implement its determinations under section 129 of the Uruguay Round Agreements Act (URAA) regarding the LTFV investigation of welded line pipe from China.¹⁴ Accordingly, Commerce revised the antidumping cash deposit rates to account for double remedies, reflecting rates ranging from 73.44 percent to 101.10 percent.¹⁵

V. LEGAL FRAMEWORK

In accordance with section 751(c)(1) of the Act, Commerce conducted this sunset review to determine whether revocation of the *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, Commerce 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 AD order.

In accordance with the guidance provided in the legislative history accompanying the URAA, 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), Commerce's likelihood determinations will be made on an

¹² See *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) (*First Sunset Determination*).

¹³ See *Circular Welded Carbon Quality Steel Line Pipe from the People's Republic of China: Continuation of Antidumping and Countervailing Duty Orders*, 79 FR 28894 (May 20, 2014) (*Continuation Notice*).

¹⁴ See *Implementation of Determinations Under Section 129 of the Uruguay Round Agreements Act: Aluminum Extrusions From the People's Republic of China; Certain Circular Welded Carbon Quality Steel Line Pipe From the People's Republic of China; Certain Kitchen Appliance Shelving and Racks From the People's Republic of China; Certain Magnesia Carbon Bricks From the People's Republic of China; Certain New Pneumatic Off-the-Road Tires From the People's Republic of China; Certain Oil Country Tubular Goods From the People's Republic of China; Certain Potassium Phosphate Salts from the People's Republic of China; Certain Steel Grating From the People's Republic of China; Certain Tow Behind Lawn Groomers and Certain Parts Thereof From the People's Republic of China; Circular Welded Austenitic Stainless Pressure Pipe From the People's Republic of China; Citric Acid and Certain Citrate Salts From the People's Republic of China; Lightweight Thermal Paper From the People's Republic of China; Narrow Woven Ribbons With Woven Selvedge From the People's Republic of China; Prestressed Concrete Steel Wire Strand From the People's Republic of China; Raw Flexible Magnets From the People's Republic of China; Sodium Nitrite From the People's Republic of China*, 80 FR 45184 (July 29, 2015) (*Section 129 Determination*).

¹⁵ *Id.*, 80 FR at 45186.

order-wide, rather than company-specific, basis.¹⁶ In addition, Commerce normally will determine that revocation of an AD 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.¹⁷ In addition, as a base period of import volume comparison, it is Commerce'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.¹⁸ Also, when analyzing import volumes for second and subsequent sunset reviews, Commerce'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.¹⁹

Further, section 752(c)(3) of the Act states that Commerce shall provide to the ITC the magnitude of the margin of dumping likely to prevail if the order were revoked. Generally, Commerce selects the dumping margin from the final determination in the investigation, as this is the only calculated rate that reflects the behavior of exporters without the discipline of an order in place.²⁰ 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, Commerce may conclude that exporters are likely to continue dumping at the lower rates found in a more recent review.").²¹

In February 2012, Commerce 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.²² In the *Final Modification for Reviews*, Commerce stated that "only in the most extraordinary circumstances" would it rely on dumping margins other than those calculated and published in prior determinations.²³ Commerce further stated that apart from the "most extraordinary

¹⁶ See SAA at 879; and House Report at 56.

¹⁷ 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*).

¹⁸ 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 (IDM) at Comment 1.

¹⁹ 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 IDM.

²⁰ 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), and accompanying IDM at Comment 2.

²¹ See SAA at 890-91; and *Sunset Policy Bulletin* at section II.B.2.

²² 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*).

²³ *Id.*

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.”²⁴

Finally, pursuant to section 752(c)(4)(A) of the Act, a dumping margin of zero or *de minimis* shall not by itself require Commerce to determine that revocation of an AD order would not be likely to lead to a continuation or recurrence of sales at LTFV.²⁵

Below we address the comments submitted by the domestic interested parties.

VI. DISCUSSION OF THE ISSUES

1. Likelihood of Continuation or Recurrence of Dumping

Domestic Interested Parties’ Comments:

- Revocation of the *Order* would lead to the continuation or recurrence of sales at LTFV by margins equivalent to, or greater than, those found in the investigation. The record demonstrates that, since the issuance of the *Order*: (i) dumping has continued; and (ii) shipments of the subject merchandise have decreased significantly.
- In determining whether revocation of an AD order would be likely to lead to continuation or recurrence of dumping, Commerce considers: (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 periods before and after the issuance of the AD order or issuance of a suspension agreement.
- Given that import volumes have declined significantly since issuance of the *Order*, and dumping has continued at above *de minimis* levels, Commerce must find that if the *Order* were revoked, dumping by Chinese exporters would likely continue or recur.

Commerce’s Position:

Consistent with the legal framework laid out above and section 752(c)(1)(A) of the Act, we first considered the weighted-average dumping margins determined in the investigation and subsequent reviews in this proceeding. As stated above, in the investigation, Commerce found

²⁴ *Id.*

²⁵ 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 IDM at Comment 1.

dumping margins from 73.87 percent to 101.10 percent.²⁶ The 73.87 percent rate was amended to 73.44 percent for the separate rate respondents while the 101.10 percent for the China-wide entity remained unchanged as a result of the *Section 129 Determination* in which Commerce made adjustments to certain rates for double remedies.²⁷ There have been no administrative or new shipper reviews conducted in this proceeding. Thus, the amended investigation rate of 73.44 percent for the separate rate respondents and the investigation rate of 101.10 percent for the China-wide entity remain unchanged for purposes of this second sunset review period.²⁸ Accordingly, based on the investigation dumping margins, as amended, any entries of subject merchandise after issuance of the *Order* were assessed at above *de minimis* rates.

Separately, pursuant to section 752(c)(1)(B) of the Act, we considered the volume of imports of the subject merchandise in determining whether revocation of the *Order* is likely to lead to continuation or recurrence of dumping. As noted above, when analyzing import volumes for second and subsequent sunset reviews, Commerce's practice is to compare import volumes during the year preceding initiation of the underlying investigation (*i.e.*, 2007 for this sunset review) to import volumes since the issuance of the last continuation notice.²⁹ The *Continuation Notice* for this sunset review was issued in May 2014.³⁰

In analyzing import volumes for the five calendar years following issuance of the *Continuation Notice* (*i.e.*, 2014 through 2018), we have determined that the annual import volumes of subject merchandise from China for the group of harmonized tariff schedule (HTSUS) numbers included in the scope of the *Order* are significantly lower than the pre-initiation volume.³¹ During the sunset period, annual import volumes of subject merchandise ranged from approximately 0.22 percent to 1.93 percent of the import volume of the year preceding initiation of the underlying investigation (*i.e.*, 2007).³² The 1.93 percent figure is for 2014.

As noted in the *SAA*, "declining 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."³³ Furthermore, 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."³⁴ Record evidence shows significantly lower import volumes during the years covering this sunset review

²⁶ See *Final Determination*, 74 FR at 14514.

²⁷ See *Section 129 Determination*, 80 FR at 45186.

²⁸ *Id.*

²⁹ The record contains annual import data from 2006 through September 2018. See Substantive Response at Exhibit 1 and 2.

³⁰ See *Continuation Notice*.

³¹ See Substantive Response at Exhibit 1.

³² *Id.*

³³ See *SAA* at 889; the House Report at 63; and the Senate Report at 52.

³⁴ See *SAA* at 889; see also House Report at 63-64.

compared to the year preceding initiation of the underlying investigation (*i.e.*, 2007).³⁵ This indicates that Chinese exporters may not be able to maintain pre-initiation import levels without selling subject merchandise at dumped prices.³⁶ Therefore, pursuant to section 752(c)(1) of the Act, because we found lower levels of imports in each of the years covered by this sunset review compared to the year before initiation, accompanied by the continued existence of dumping after issuance of the *Order*, we recommend finding that dumping is likely to continue or recur if the *Order* were revoked.

Section 752(c)(2) of the Act provides that Commerce shall also consider “other factors” than those listed in section 752(c)(1) of the Act if “good cause is shown.” We have concluded that no such “good cause” exists in this case, because we find that the continued above *de minimis* margins and the decline in the volume of imports alone support the statutory test for determining if likelihood of dumping would continue or recur in the event of the revocation of the *Order*.

2. Magnitude of the Dumping Margin Likely to Prevail

Domestic Interested Parties’ Comments:

- In determining the magnitude of the dumping margin likely to prevail in the event of revocation and that should be reported to the ITC, the SAA and Commerce’s *Policy Bulletin* state that the agency will normally select the dumping margins established in the investigation, because they are the only calculated rates that reflect the behavior of exporters without the discipline of an order or suspension agreement in place.
- Accordingly, the dumping margins that should be reported to the ITC are the margins from the investigation, as recalculated pursuant to the final determination in the *Section 129 Determination*; specifically, 73.44 percent for Huludao, Pangang Beihai, Jiangsu Yulong, and Tianjin Xingyuda, and 101.10 percent for the China-wide entity.
- Because none of these dumping margins were calculated using zeroing, the *Final Modification for Reviews* has no effect on this conclusion.

Commerce’s Position:

Pursuant to section 752(c)(3) of the Act, Commerce shall provide to the ITC the magnitude of the margin of dumping that is likely to prevail if an AD order were revoked. Normally, Commerce will select a weighted-average dumping margin from the investigation to report to the ITC.³⁷ Commerce’s preference is to select a weighted-average dumping margin from the LTFV investigation because it is the only calculated rate that reflects the behavior of the producers and

³⁵ See Substantive Response at Exhibit 1.

³⁶ 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 IDM at Comment 1.

³⁷ See SAA at 890; see also, *e.g.*, *First Sunset Determination* IDM at Comment 2.

exporters without the discipline of an order or suspension agreement in place.³⁸ Under certain circumstances, however, Commerce may select a more recent rate to report to the ITC.

As explained above, in accordance with the *Final Modification for Reviews*, Commerce will not rely on weighted-average dumping margins that were calculated using the zeroing methodology found to be WTO-inconsistent.³⁹ No administrative reviews of the *Order* have been conducted. Consistent with Commerce's practice, we considered the dumping margins from the LTFV investigation, as amended by the section 129 proceeding to be the best evidence of the exporters' behavior in the absence of an order. The dumping margin calculated for the one participating mandatory respondent in the investigation does not include zeroing and, thus, this margin is consistent with the *Final Modification for Reviews*.⁴⁰ Furthermore, the highest calculated CONNUM-specific margin that was assigned to the China-wide entity does not include zeroing and, thus, this dumping margin is also consistent with the *Final Modification for Reviews*.

VII. FINAL RESULTS OF SUNSET REVIEW

We determine that revocation of the *Order* would likely lead to continuation or recurrence of dumping. We also determine that the magnitude of the dumping margin likely to prevail would be weighted-average dumping margins up to 101.10 percent.

VIII. 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 results of this expedited sunset review in the *Federal Register* and notify the ITC of our determination.

Agree

Disagree

7/30/2019

X 

Signed by: JEFFREY KESSLER

Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

³⁸ See SAA at 890.

³⁹ See *Final Modification for Reviews*, 77 FR at 8103.

⁴⁰ See Memorandum to the File regarding, "Circular Welded Carbon-Quality Steel Line Pipe from the People's Republic of China Sunset Review," dated April 1, 2014.