



A-570-941
Sunset Review
Public Document
E&C/OV: RS

June 1, 2020

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 Final Results of the Expedited Second Sunset Review of the Antidumping Duty Order on Certain Kitchen Appliance Shelving and Racks from the People's Republic of China

I. SUMMARY

We have analyzed the response of domestic producers of certain kitchen appliance shelving and racks (kitchen racks) in the expedited second sunset review of the antidumping duty (AD) order on kitchen racks from the People's Republic of China (China). No other interested party submitted a substantive response. Accordingly, we conducted an expedited (120-day) sunset review pursuant to section 751(c)(3)(B) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.218(e)(1)(ii)(C)(2). We recommend that you approve the positions described in the "Discussion of the Issues" section of this memorandum. Below is the complete list of the issues in this sunset review for which we received a substantive response:

1. Likelihood of Continuation or Recurrence of Dumping
2. Magnitude of the Margins Likely to Prevail

II. BACKGROUND

On September 14, 2009, the Department of Commerce (Commerce) published the AD order on kitchen racks from China.¹ On February 3, 2020, Commerce initiated the second sunset review of the AD order on kitchen racks from China pursuant to section 751(c) of the Act.² Commerce received a notice of intent to participate from domestic interested parties, Nashville Wire

¹ See *Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Notice of Antidumping Duty Order*, 74 FR 46971 (September 14, 2009) (*Order*).

² See *Initiation of Five-Year (Sunset) Reviews*, 85 FR 5940 (February 3, 2020).

Products, Inc. (Nashville Wire) and SSW Holding Company, LLC (SSW), within the deadline specified in 19 CFR 351.218(d)(1)(i).³ Both Nashville Wire and SSW claimed interested party status under section 771(9)(C) of the Act as producers of the domestic like product. On March 4, 2020, Commerce received an adequate substantive response from Nashville Wire and SSW within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).⁴ Commerce received no responses from respondent interested parties with respect to the *Order* covered by this sunset review.

On March 24, 2020, Commerce notified the U.S. International Trade Commission (ITC) that it did not receive an adequate substantive response from respondent interested parties.⁵ 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 product covered by the *Order* consists of shelving and racks for refrigerators, freezers, combined refrigerator-freezers, other refrigerating or freezing equipment, cooking stoves, ranges, and ovens (“certain kitchen appliance shelving and racks” or “the merchandise under order”). Certain kitchen appliance shelving and racks are defined as shelving, baskets, racks (with or without extension slides, which are carbon or stainless steel hardware devices that are connected to shelving, baskets, or racks to enable sliding), side racks (which are welded wire support structures for oven racks that attach to the interior walls of an oven cavity that does not include support ribs as a design feature), and subframes (which are welded wire support structures that interface with formed support ribs inside an oven cavity to support oven rack assemblies utilizing extension slides) with the following dimensions:

- shelving and racks with dimensions: ranging from 3 inches by 5 inches by 0.10 inch to 28 inches by 34 inches by 6 inches; or
- baskets with dimensions ranging from 2 inches by 4 inches by 3 inches to 28 inches by 34 inches by 16 inches; or
- side racks from 6 inches by 8 inches by 0.1 inch to 16 inches by 30 inches by 4 inches; or
- subframes from 6 inches by 10 inches by 0.1 inch to 28 inches by 34 inches by 6 inches.

The merchandise under order is comprised of carbon or stainless steel wire ranging in thickness from 0.050 inch to 0.500 inch and may include sheet metal of either carbon or stainless steel ranging in thickness from 0.020 inch to 0.2 inch. The merchandise under order may be coated or uncoated and may be formed and/or welded. Excluded from the scope of this order is shelving in which the support surface is glass.

³ See Nashville Wire’s and SSW’s Letter, “Kitchen Appliance Shelving and Racks from the People’s Republic of China – Domestic Interested Parties’ Notice of Intent to Participate,” dated February 14, 2020.

⁴ See Nashville Wire’s and SSW’s Letter, “Certain Kitchen Appliance Shelving and Racks from the People’s Republic of China – Domestic Interested Parties’ Substantive Response,” dated March 4, 2020 (Substantive Response).

⁵ See Commerce’s Letter, “Sunset Reviews Initiated on February 3, 2020,” dated March 24, 2020.

The merchandise subject to this order is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) statistical reporting numbers 8418.99.8050, 8418.99.8060, 7321.90.5000, 7321.90.6090, 8516.90.8000, 8516.90.8010, 7321.90.6040, 8514.90.4000 and 8419.90.9520. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

IV. HISTORY OF THE ORDER

On July 24, 2009, Commerce published its *Final Determination* in the less-than-fair-value (LTFV) investigation of kitchen racks from China.⁶ Following the issuance of Commerce's *Final Determination*, the ITC found that the U.S. industry was threatened with material injury by reason of imports from China pursuant to section 735(b) of the Act.⁷ On September 14, 2009, Commerce published the amended final determination and the *Order*. Commerce found the following *ad valorem* dumping margins:⁸

Exporter	Producer	Weighted-Average Margin (%)
Guangdong Wireking Housewares & Hardware Co., Ltd. (a/k/a Foshan Shunde Wireking Housewares & Hardware Co., Ltd.)	Guangdong Wireking Housewares & Hardware Co., Ltd.	95.99
New King Shan (Zhu Hai) Co., Ltd.	New King Shan (Zhu Hai) Co., Ltd.	43.09
Marmon Retail Services Asia	Leader Metal Industry Co., Ltd. (a/k/a Marmon Retail Services Asia)	43.09
Hangzhou Dunli Import & Export Co., Ltd.	Hangzhou Dunli Industry Co., Ltd.	43.09
Jiangsu Weixi Group Co.	Jiangsu Weixi Group Co.	43.09
China-Wide Entity (including Asber Enterprises Co., Ltd. (China))		95.99

⁶ See *Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 74 FR 36656 (July 24, 2009) (*Final Determination*).

⁷ See *Certain Kitchen Appliance Shelving and Racks from China*, USITC Investigation Nos. 701-TA-458 and 731-TA-1154 (Final), USITC Publication 4098 (August 2009).

⁸ See *Order*, 74 FR at 46973.

Since the issuance of the *Order*, Commerce has completed three administrative reviews,⁹ and has issued five scope rulings.¹⁰ In the first sunset review, we found that revocation of the *Order* would be likely to lead to continuation or recurrence of dumping.¹¹ In addition, the ITC determined, pursuant to section 751(c) of the Act, that revocation of the *Order* would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.¹² Thus, Commerce published the notice of continuation of the *Order*.¹³

On July 29, 2015, Commerce implemented the *Section 129 Determination*, making slight adjustments to the cash deposit rates in the LTFV investigation for export subsidies found in the companion countervailing duty proceeding.¹⁴ The revised margins pursuant to the *Section 129 Determination* were as follows:

⁹ See *Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Final Results and Partial Recession of First Antidumping Duty Administrative Review*, 77 FR 21734 (April 11, 2012); see also *Certain Kitchen Appliance Shelving and Racks from the People's Republic of China; 2010-2011; Final Results and of Antidumping Duty Administrative Review*, 78 FR 5414 (January 25, 2013); and *Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Final Results and Partial Recession of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 3176 (January 17, 2014).

¹⁰ See Memorandum, "Final Scope Ruling: Antidumping and Countervailing Duty Orders on Certain Kitchen Appliance Shelving and Racks from the People's Republic of China," dated April 1, 2010; see also Memorandum, "Final Scope Ruling: Antidumping and Countervailing Duty Orders on Certain Kitchen Appliance Shelving and Racks from the People's Republic of China," dated June 8, 2011; Memorandum, "Final Scope Ruling: Antidumping and Countervailing Duty Orders on Certain Kitchen Appliance Shelving and Racks from the People's Republic of China," dated April 22, 2013; Memorandum, "Final Scope Ruling: Antidumping and Countervailing Duty Orders on Certain Kitchen Appliance Shelving and Racks from the People's Republic of China," dated December 19, 2013; and Memorandum, "Antidumping and Countervailing Duty Orders on Kitchen Appliance Shelving and Racks from the People's Republic of China: Final Scope Ruling for the Scope Request from Thermo Fisher Scientific LLC," dated February 8, 2018.

¹¹ See *Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Final Results of Expedited First Sunset Review of the Antidumping Duty Order*, 79 FR 67423 (November 13, 2014) (*First Sunset*), and accompanying Issues and Decision Memorandum (IDM).

¹² See *Certain Kitchen Appliance Shelving and Racks from China: Determination*, USITC Investigation Nos. 701-TA-458 and 731-TA-1154 (Review), USITC Publication 4520 (February 2015).

¹³ See *Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Continuation of Antidumping Duty Order and Countervailing Duty Order*, 80 FR 12983 (March 12, 2015).

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*).

Exporter	Producer	Weighted-Average Margin (%)
Guangdong Wireking Housewares & Hardware Co., Ltd. (a/k/a Foshan Shunde Wireking Housewares & Hardware Co., Ltd.)	Guangdong Wireking Housewares & Hardware Co., Ltd.	95.99
New King Shan (Zhu Hai) Co., Ltd.	New King Shan (Zhu Hai) Co., Ltd.	41.92
Marmon Retail Services Asia)	Leader Metal Industry Co., Ltd. (a/k/a Marmon Retail Services Asia)	41.92
Hangzhou Dunli Import & Export Co., Ltd.	Hangzhou Dunli Industry Co., Ltd.	41.92
Jiangsu Weixi Group Co.	Jiangsu Weixi Group Co.	41.92
China-Wide Entity (including Asber Enterprises Co., Ltd. (China))		95.99

The *Order* remains in effect for all Chinese producers and exporters of kitchen racks.

V. LEGAL FRAMEWORK

In accordance with section 751(c)(1) of the Act, Commerce is conducting 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 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 AD order. In addition, section 752(c)(3) of the Act provides that Commerce shall provide to the ITC the magnitude of the margin of dumping likely to prevail if the order were revoked.

In accordance with the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act, specifically the SAA,¹⁵ the House Report,¹⁶ and the Senate Report,¹⁷ Commerce's determinations of likelihood will be made on an order-wide, rather than a company-specific, basis.¹⁸ In addition, Commerce 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

¹⁵See Statement of Administrative Action accompanying the Uruguay Round Agreements Act (SAA), H.R. Doc. 103-316, vol. 1 (1994).

¹⁶ See H. Rep. No. 103-826, pt. 1 (1994) (House Report).

¹⁷ See S. Rep. No. 103-412 (1994) (Senate Report).

¹⁸ See SAA at 879; *see also* House Report at 56.

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.¹⁹ Alternatively, Commerce normally will determine that revocation of an AD 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.²⁰ 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 order would not be likely to lead to a continuation or recurrence of sales at LTFV.²¹

Furthermore, 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 the investigation may dampen import volumes and, thus, skew the comparison.²² 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.²³

In addition, section 752(c)(3) of the Act states that the magnitude of the margin of dumping that is likely to prevail if the order were revoked shall be provided by Commerce to the ITC. Generally, Commerce selects the weighted-average dumping margins from the final determination in the original investigation, as these rates are the only calculated rates that reflect the behavior of exporters without the discipline of an order in place.²⁴ In certain circumstances, however, 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").²⁵

Regarding the margin of dumping likely to prevail, in the *Final Modification for Reviews*, Commerce announced that in five-year (*i.e.*, sunset) reviews, it will not rely on weighted-average dumping margins that were calculated using the zeroing methodology that was found to be World Trade Organization (WTO)-inconsistent and was subject to the *Final Modification for*

¹⁹ See SAA at 889-890; House Report at 63-64; Senate Report at 52; and *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*).

²⁰ See SAA at 889-890; *see also* House Report at 63.

²¹ 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.

²² See *Stainless Steel Bar from Germany; Final Results of the Sunset Review of the Antidumping Duty Order*, 72 FR 56985 (October 5, 2007), and accompanying IDM at Comment 1.

²³ See, *e.g.*, *Certain Welded Carbon Steel Pipes and Tubes from India, Thailand, and Turkey: Final Results of the Expedited Fourth Sunset Reviews of the Antidumping Duty Orders*, 82 FR 46485 (October 5, 2017), and accompanying IDM; *see also* *Ferrovandium from the People's Republic of China and the Republic of South Africa: Final Results of the Expedited Second Sunset Review of the Antidumping Duty Orders*, 79 FR 14216 (March 13, 2014), and accompanying IDM.

²⁴ 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) (*Persulfates Second Sunset Review*), and accompanying IDM at Comment 2.

²⁵ See SAA at 890-91.

Reviews.²⁶ However, Commerce explained in the *Final Modification for Reviews* that it “retain{s} the discretion, on a case-by-case basis, to apply an alternative methodology, when appropriate” in both investigations and administrative reviews pursuant to section 777A(d)(1)(B) of the Act.²⁷ In the *Final Modification for Reviews*, Commerce stated that “only in the most extraordinary circumstances” would it rely on margins other than those calculated and published in prior determinations.²⁸ Commerce 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 recalculated pursuant to Section 129 proceedings, dumping margins determined based on the use of total adverse facts available (AFA), and dumping margins where no offsets were denied because all comparison results were positive.”²⁹

VI. DISCUSSION OF THE ISSUES

1. Likelihood of Continuation or Recurrence of Dumping

Interested Party Comments³⁰

Nashville Wire and SSW argue that revocation of the *Order* would lead to a continuation or recurrence of dumping by producers and exporters of kitchen racks from China because dumping margins have remained at above *de minimis* levels and subject imports have significantly declined following the imposition of the *Order*. Nashville Wire and SSW further state that these conditions are addressed in Commerce’s *Policy Bulletin*, and, thus, Commerce should find that dumping would be likely to continue absent the *Order*.³¹

Commerce’s Position

As explained in the “Legal Framework” section 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 Commerce 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. According to the SAA, the existence of dumping margins after the order “is highly probative of the likelihood of continuation or recurrence of dumping. 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. If imports cease after the order is issued, it is reasonable to assume that the exporters

²⁶ 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*).

²⁷ *Id.*, 77 FR at 8102, 8105, and 8109.

²⁸ *Id.*

²⁹ *Id.*

³⁰ See Substantive Response at 14-20.

³¹ *Id.* at 15 (stating “declining import volumes accompanied by continued existence of dumping margins after the issuance of the order 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”).

could not sell in the United States without dumping and that, to reenter the U.S. market, they would have to resume dumping.”³² In addition, “declining import volumes accompanied by the continued existence of dumping margins after the issuance of the 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 Alternatively, the legislative history provides that declining (or no) dumping margins accompanied by steady or increasing imports may indicate that foreign companies do not have to dump to maintain market share in the United States and that dumping is less likely to continue or recur if the order were revoked.³⁴

Since the LTFV investigation, Commerce has completed three administrative reviews. As discussed in the *First Sunset*, in each of these administrative reviews, Commerce calculated a zero percent dumping margin for one respondent. Further, in the first administrative review Commerce calculated a weighted-average dumping margin of 7.89 percent for Guangdong Wireking Housewares & Hardware Co., Ltd., which Commerce also assigned, as a separate rate, to Hangzhou Dunli Import & Export Co., Ltd. In that same review, Commerce assigned the China-wide entity a rate of 95.99 percent to Chinese exporters that did not qualify for a separate rate. Accordingly, we concluded that dumping continued at an above *de minimis* level after the issuance of the *Order*.³⁵

We also noted in the *First Sunset* that, while one of the company-specific margins in the first administrative review relied upon zeroing in the margin calculation,³⁶ consistent with our practice articulated in the *Final Modification for Reviews*, we were not relying upon margins affected by zeroing. The dumping margin of 95.99 percent, determined in the LTFV investigation was obtained from the petition,³⁷ which did not rely upon the zeroing methodology. Subsequently, Commerce assigned a 95.99 percent rate to the China-wide entity in the first administrative review, and it remains in place for nearly all the producers and exporters of the subject merchandise.³⁸

Since the *First Sunset*, Commerce has not conducted any other reviews of the *Order*, other than the *Section 129 Determination* that covered the original investigation and the first administrative review. Given the continued existence of above *de minimis* margins during the second sunset review period, and because the China-wide entity rate of 95.99 percent remains in place for nearly all the producers and exporters of the subject merchandise, we determine that dumping has continued during the second sunset review period.³⁹

³² See SAA at 890.

³³ *Id.* at 889; see also House Report at 63; and Senate Report at 52.

³⁴ See SAA at 889-90; see also House Report at 63; and Senate Report at 52.

³⁵ See *First Sunset* IDM at 6.

³⁶ *Id.*

³⁷ See *Final Determination* IDM at Comment 16A (where Commerce stated that 95.99 percent was “the highest petition margin that can be corroborated” within the meaning of section 776(c) of the Act).

³⁸ See *First Sunset* IDM at 6.

³⁹ The 95.99 percent rate for the China-wide entity as determined in the LTFV investigation and as referenced in the first administrative review, was unchanged by the *Section 129 Determination*. See *Section 129 Determination*, 80 FR at 45187, and accompanying IDM (Investigation) at 7, and accompanying IDM (First Administrative Review) at 7.

We also considered Nashville Wire’s and SSW’s statement on the decline of imports of subject merchandise into the United States year over year since the imposition of the *Order*. Nashville Wire and SSW provided proprietary import estimates from their own records.⁴⁰ These statistics list year-on-year import levels from before the imposition of the *Order* through 2019. Nashville Wire and SSW stated that through their market knowledge they have seen a decline in the level of imports each year since the publication of the *Order*.⁴¹ However, they did not provide any substantiated documentation to support their import statistics. We, therefore, decline to rely upon these data for purposes of this sunset review. Commerce has also found that we cannot rely upon CBP data for import volume because the import data for volume contain “anomalies in the data.”⁴²

While we are unable to compare the import levels of subject merchandise for the periods before and after the issuance of the *Order*, consistent with the guidance of the SAA, the existence of margins above *de minimis* during this sunset review period is a sufficient basis to conclude that dumping would likely continue were the *Order* revoked.⁴³ We determine that dumping has continued after the issuance of the *Order* based on the above-*de minimis* margins either assigned in administrative reviews subsequent to the issuance of the *Order*. Accordingly, pursuant to section 752(c)(1) of the Act, we determine that revocation of the *Order* would likely result in the continuation of dumping in the United States.

2. Magnitude of the Margins Likely to Prevail

Interested Party Comments⁴⁴

Nashville Wire and SSW cite to the SAA and the *Sunset Policy Bulletin* and note that Commerce normally will select the rate from the original investigation because that is the only calculated rate that reflects the behavior of exporters without the discipline of the order in place. Therefore, they argue that, consistent with the SAA and the *Sunset Policy Bulletin*, Commerce should rely upon the dumping margin from the original investigation, as adjusted in the *Section 129 Determination*. Additionally, Nashville Wire and SSW argue that, despite Commerce’s decision in the *Final Modification for Reviews* to no longer rely on dumping margins calculated using zeroing, the margins in the original investigation, adjusted under the *Section 129 Determination*, are consistent with the *Final Modification for Reviews*.

Commerce’s Position

Pursuant to section 752(c)(3) of the Act, Commerce shall provide the ITC with the magnitude of the margin of dumping that is likely to prevail if an order were revoked. Normally, Commerce

⁴⁰ See Substantive Response at 19.

⁴¹ *Id.* at 19-20.

⁴² See *First Sunset IDM* at 7.

⁴³ See SAA at 890 (“existence of dumping margins after the order . . . is highly probative of the likelihood of continuation or recurrence of dumping. 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”).

⁴⁴ See Substantive Response at 21-23.

will base the magnitude of the margin that is likely to prevail if an AD order were revoked on the weighted-average dumping margin from the LTFV investigation.⁴⁵ Commerce's preference is to select a weighted-average dumping margin from the LTFV investigation for this purpose because it is the only calculated dumping margin that reflects the behavior of the manufacturers, producers, and exporters without the discipline of an order in place.⁴⁶ The margins calculated in the original investigation, as adjusted in the *Section 129 Determination*, are probative of the behavior of producers and exporters of subject merchandise from China if the *Order* were revoked. As indicated in the "Legal Framework" section above, consistent with *Final Modification for Reviews*, Commerce's current practice is to not rely on weighted-average dumping margins calculated using the zeroing methodology found to be WTO-inconsistent that was subject to the *Final Modification for Reviews*. The 95.99 percent rate determined in the amended final determination and *Order* was based on a rate from the petition and was calculated without the zeroing methodology that was subject to the *Final Modification for Reviews* because the rate was determined after Commerce ceased zeroing in investigations.⁴⁷ Accordingly, consistent with section 752(c) of the Act, Commerce will report to the ITC the rate as indicated in the Final Results of Sunset Review section below.

VII. FINAL RESULTS OF SUNSET REVIEW

Commerce determines that revocation of the *Order* would be likely to lead to continuation or recurrence of dumping. Commerce also determines that the magnitude of the dumping margins likely to prevail are up to 95.99 percent.

⁴⁵ See SAA at 890; see also *Persulfates Second Sunset Review* IDM at Comment 2.

⁴⁶ See SAA at 890; see also *Sunset Policy Bulletin* at 18872 (April 16, 1998) at section II.B.1; and *Persulfates Second Sunset Review* IDM at Comment 2.

⁴⁷ Commerce announced it would cease zeroing in investigations on December 26, 2006. See *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin During an Antidumping Investigation; Final Modification*, 71 FR 77722 (December 27, 2006). Furthermore, as discussed above, the 95.99 percent rate was unchanged by the *Section 129 Determination*.

VIII. RECOMMENDATION

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

Agree

Disagree

6/1/2020



Signed by: JEFFREY KESSLER
Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance