



A-570-943
Sunset Review
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July 22, 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: Expedited Second Sunset Review of the Antidumping Duty Order
on Certain Oil Country Tubular Goods from the People's Republic
of China: Issues and Decision Memorandum

I. Summary

We have analyzed the substantive response of the interested parties¹ in the second sunset review of the antidumping duty order² covering certain oil country tubular goods (OCTG) from the People's Republic of China (China).³ 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 substantive responses:

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

¹ The domestic interested parties are: Maverick Tube Corporation; Tenaris Bay City, Inc.; IPSCO Tubulars, Inc.; BENTELEER Steel/Tube Manufacturing Corp.; United States Steel Corporation; Welded Tube USA, Inc.; and Vallourec Star, L.P.

² 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 or Order*).

³ See Domestic Interested Parties' Letter, "Oil Country Tubular Goods from the People's Republic of China: Substantive Response of the Domestic Industry to Commerce's Notice of Initiation of Five-Year ("Sunset") Reviews," dated May 1, 2020 (Substantive Response).



II. Background

On April 1, 2020, the Department of Commerce (Commerce) published the notice of initiation of the second sunset review of the *Order*, pursuant to section 751(c)(2) of the Act (the Act).⁴ On April 14, 2020, and April 16, 2020, Commerce timely received notices of intent to participate from Maverick Tube Corporation (Maverick), Tenaris Bay City, Inc. (Tenaris), IPSCO Tubulars, Inc. (IPSCO), BENTELER Steel/Tube Manufacturing Corp. (BENTELER), United States Steel Corporation (U.S. Steel), Welded Tube USA Inc. (Welded Tube), and Vallourec Star, L.P. (Vallourec), respectively (collectively, domestic interested parties) within the deadline specified in 19 CFR 351.218(d)(1)(i).⁵ The domestic interested parties claimed interested party status under section 771(9)(C) of the Act, as manufacturers of a domestic like product in the United States.

Commerce received a complete substantive response from the domestic interested parties within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).⁶ We received no substantive responses from respondent interested parties, nor was a hearing requested. As a result, pursuant to 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce is conducting an expedited (120-day) sunset review of the *Order*. The deadline for the final results of this review is July 30, 2020.

III. 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,

⁴ See *Initiation of Five-Year (Sunset) Reviews*, 85 FR 18189 (April 1, 2020).

⁵ See Maverick, Tenaris, and IPSCO's Letter, "Notice of Intent to Participate in Second Sunset Reviews of the Antidumping and Countervailing Duty Orders on Oil Country Tubular Goods from the People's Republic of China," dated April 14, 2020; see also U.S. Steel's Letter, "Five-Year ("Sunset") Review of Antidumping and Countervailing Duty Orders on Oil Country Tubular Goods from China: Notice of Intent to Participate," dated April 16, 2020; Vallourec and Welded Tube's Letter, "Oil Country Tubular Goods from the People's Republic of China, Second Sunset Review: Notice of Intent to Participate," dated April 16, 2020; and BENTELER's Letter, "Notice of Intent to Participate in Second Sunset Reviews of the Antidumping and Countervailing Duty Orders on Oil Country Tubular Goods from the People's Republic of China," dated April 16, 2020. We note that Maverick, IPSCO (as TMK IPSCO), U.S. Steel, and Vallourec (as V&M Star L.P.) were among the petitioners in the original investigation.

⁶ See Substantive Response.

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

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

IV. History of the Order

On May 5, 2009, Commerce initiated a less-than-fair-value (LTFV) investigation regarding OCTG from China.⁷ On April 19, 2010, Commerce published the *Final Determination* of sales at LTFV in the *Federal Register* with respect to imports of OCTG from China.⁸ The final determination margins calculated were a company-specific weighted-average dumping margin of 29.94 percent and a China-wide rate of 99.14 percent.

On May 21, 2010, based on ministerial error allegations from the parties, Commerce amended the *Final Determination* and calculated a company-specific weighted-average dumping margin of 32.07 percent, as well as a China-wide rate of 99.14 percent.⁹ On May 21, 2010, in the same notice as the *Amended Final Determination*, Commerce issued the *Order* on OCTG from China.¹⁰

Administrative Reviews

On December 17, 2012, Commerce published its final results of the first administrative review for the period May 19, 2010 through April 30, 2011.¹¹ The weighted-average dumping margin calculated for Jiangsu Chengde Steel Tube Share Co., Ltd., Taizhou Chengde Steel Tube Co.,

⁷ See *Oil Country Tubular Goods from the People's Republic of China: Initiation of Antidumping Duty Investigation*, 74 FR 20671 (May 5, 2009).

⁸ 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*).

⁹ See *Amended Final Determination*, 75 FR at 28551-28552.

¹⁰ See *Order*, 75 FR 28551.

¹¹ See *Certain Oil Country Tubular Goods from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2010-2011*, 77 FR 74644 (December 17, 2012).

Ltd., and Yangzhou Chengde Steel Tube Co., Ltd. (collectively, Chengde) was 172.54 percent.¹² Subsequently, Commerce amended the final results. Effective February 6, 2013, the amended weighted-average dumping margin for Chengde was 162.69 percent.¹³ Chengde then appealed the amended final results of the first administrative review to the Court of International Trade (CIT). On August 28, 2015, the CIT sustained Commerce's Final Remand Results concerning *OCTG from China 2010-2011 AR Amended Final Results*.¹⁴ Thus, the CIT affirmed the following dumping margin as calculated by Commerce in the Final Remand Results: 137.62 percent for Chengde.¹⁵

Between the first sunset review and this second sunset review, Commerce completed an administrative review of the *Order* covering the period May 1, 2017 through April 30, 2018.¹⁶ The administrative review covered four producers/exporters of the subject merchandise: Baoshan Iron & Steel; Hengyang Steel Tube Group International Trading, Inc.; Hubei Xinyegang Steel Co., Ltd.; and Hubei Xin Yegang Special Tube.¹⁷ On July 5, 2019, Commerce determined that none of the four entities under review demonstrated eligibility for a separate rate, and, thus, were subject to the China-wide rate of 99.14 percent.¹⁸

Sunset Review

Commerce has conducted one prior sunset review in 2015 of the *Order*.¹⁹ On April 7, 2015, in the first sunset review, 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 up to 99.14 percent.²⁰ Commerce published the notice of continuation of the *Order* on May 18, 2015.²¹

¹² *Id.*

¹³ 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 (February 7, 2013) (*OCTG from China 2010-2011 AR Amended Final Results*).

¹⁴ See *American Tubular Products, LLC, and Jiangsu Chengde Steel Tube Share Co., Ltd., v. United States*, Court No. 13-00029, Slip Op. 15-98 (CIT August 28, 2015).

¹⁵ See Substantive Response at 13; see also Memorandum, "Oil Country Tubular Goods from the People's Republic of China; American Tubular Products, LLC v. United States Ct. No. 13-00029, Slip Op. 14-116 (CIT 2014), Final Results Of Redetermination Pursuant To Remand," dated January 28, 2015 (Final Remand Results); and *Certain Oil Country Tubular Goods from the People's Republic of China; Notice of Court Decision Not in Harmony With Final Results of Administrative Review and Notice of Amended Final Results of Administrative Review Pursuant to Court Decision*, 80 FR 57789 (September 25, 2015).

¹⁶ See *Oil Country Tubular Goods from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2017-2018*, 84 FR 32125 (July 5, 2019) (*OCTG from China 2017-2018 AR Final Results*) (We note that Commerce rescinded the administrative review for the period May 1, 2018 through April 30, 2019); see also *Oil Country Tubular Goods from the People's Republic of China: Rescission of Antidumping Duty Administrative Review; 2018-2019*, 84 FR 61020 (November 12, 2019).

¹⁷ *Id.*

¹⁸ See *OCTG from China 2017-2018 AR Final Results*.

¹⁹ See *Certain Oil Country Tubular Goods from the People's Republic of China: Final Results of Expedited First Sunset Review of the Antidumping Duty Order*, 80 FR 18604 (April 7, 2015).

²⁰ *Id.*

²¹ See *Certain Oil Country Tubular Goods from the People's Republic of China: Continuation of the Antidumping Duty Order and Countervailing Duty Order*, 80 FR 28224 (May 18, 2015) (*Continuation Notice*).

Scope Rulings and Duty Absorption

Commerce has completed three scope rulings since the issuance of the *Order*.²² Commerce has not conducted a duty-absorption finding since the *Continuation Notice* was published.

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 likely lead to 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 *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),²³ the House Report, H. Rep. No. 103-826, pt. 1 (1994) (House Report),²⁴ and the Senate Report, S. Rep. No. 103-412 (1994) (Senate Report), Commerce's determinations of likelihood will be made on an *Order*-wide, rather than company-specific, basis.²⁵ In addition, Commerce normally determines that revocation of an *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.²⁶ 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.²⁷

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

²² See *Certain Oil Country Tubular Goods From the People's Republic of China: Notice of Amended Final Scope Ruling Pursuant to Court Decision*, 84 FR 56423 (October 22, 2019); see also Memorandum, "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 at 1-2; Memorandum, "Antidumping and Countervailing Duty Orders on Certain Oil Country Tubular Goods from the People's Republic of China: Final Scope Ruling on DynaEnergetics U.S. Inc.'s Perforating Gun Carriers," dated February 12, 2016; Memorandum, "Antidumping and Countervailing Duty Orders on Certain Oil Country Tubular Goods from the People's Republic of China: Final Scope Ruling on Certain Wellhead Equipment," dated June 30, 2017; and Substantive Response at 17-20 for an explanation of how the final results of the scope rulings have clarified the scope of this order.

²³ Reprinted in 1994 U.S.C.C.A.N. 4040 (1994).

²⁴ Reprinted in 1994 U.S.C.C.A.N. 3773 (1994).

²⁵ See SAA at 879; see also House Report at 56.

²⁶ See SAA at 889-90; see also 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).

²⁷ 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 (IDM) at Comment 1.

pre-*Order* import volumes, as the initiation of an investigation may dampen import volumes and, thus, skew comparison.²⁸ Also, when analyzing import volumes for the 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.²⁹

Further, section 752(c)(3) of the Act states that Commerce shall provide to the International Trade Commission (ITC) the magnitude of the margin of dumping likely to prevail if the *Order* were revoked. Generally, Commerce selects the dumping margins from the final determination in the original investigation, as these rates are the only calculated rates that reflects the behavior of exporters without the discipline of an *Order* in place.³⁰ 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”).³¹

In February 2012, Commerce 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 zeroing methodology.³² 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.³³ Commerce 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.”³⁴ Commerce “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.”³⁵

²⁸ 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 IDM at Comment 1.

²⁹ See *Ferrovandium 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 at “Discussion of the Issues: Legal Framework.”

³⁰ 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 IDM at Comment 2.

³¹ See SAA at 890-91.

³² 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*).

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

VI. Discussion of the Issues

1. Likelihood of Continuation or Recurrence of Dumping

Domestic Interested Parties' Argument

- Commerce should determine that revocation of the *Order* would likely lead to the continuation or recurrence of dumping by the producers or exporters of the subject merchandise.³⁶
- The domestic interested parties state that dumping has continued at above *de minimis* levels since Commerce's final determination in the investigation. Further, in the first sunset review of the *Order*, Commerce determined that revocation of the *Order* would result in the continuation of or recurrence of dumping at the same rates as determined in the investigation up to 99.14 percent.³⁷
- With respect to volume of imports, the domestic interested parties note that after the imposition of the *Order*, there was a significant decline in the import volume of subject merchandise from Chinese producers and exporters.³⁸

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 *Order*. According to the SAA, 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 could not sell in the United States without dumping and that, to reenter the U.S. market, they would have to resume dumping."³⁹ In addition, "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."⁴⁰

Pursuant to section 752(c)(1)(A) of the Act, Commerce first considered the weighted-average dumping margins determined in the investigation and any subsequent reviews. In the *Order*, Commerce 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

³⁶ See Substantive Response at 13 and 14.

³⁷ *Id.* at 12-14.

³⁸ *Id.* at 15.

³⁹ See SAA at 890.

⁴⁰ *Id.* at 889; see also House Report at 63; and Senate Report at 52.

respondents.⁴¹ Further, Commerce found that the China-wide entity failed to cooperate to the best of its ability and, as adverse facts available, assigned it, including one mandatory respondent Jiangsu Changbao Steel Tube Co., Ltd. (Changbao), the highest rate in the petition, *i.e.*, 99.14 percent.⁴² Commerce notes that the rate for TPCO in the investigation was based on the targeted dumping methodology; the dumping margins for the China-wide entity in the *Final Determination* and the *Amended Final Determination* were based on the dumping margin from the petition and, therefore, did not include zeroing. Moreover, as the 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 *OCTG from China 2017-2018 AR Final Results*.⁴³

The domestic interested parties note that in the one administrative review conducted before the second sunset review, Commerce found Chengde was dumping at a margin of 137.62 percent.⁴⁴ In the administrative review conducted since the first sunset review Commerce determined that four entities (*i.e.*, Baoshan Iron & Steel, Hengyang Steel Tube Group International Trading Inc., Hubei Xinyegang Steel Co., Ltd., and Hubei Xin Yegang Special Tube) did not satisfy the requirements for eligibility for separate rates and, therefore, their respective entries would be liquidated at the China-wide rate of 99.14 percent.⁴⁵ Thus, Commerce determines that it calculated above *de minimis* dumping margins for China manufacturers and exporters during the original investigation and that it has continued to calculate above *de minimis* margins in subsequent reviews.

In addition, pursuant to section 752(c)(1)(B) of the Act, Commerce also considered the volume of imports of the subject merchandise in determining whether revocation of the *Order* would likely lead to continuation or recurrence of dumping. As noted above, when analyzing import volumes for the 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. The last continuation notice for this sunset review was issued in May 2015.⁴⁶ Therefore, for this sunset review we examined import volumes for the full year preceding initiation of the underlying investigation as compared to import volumes during the current sunset review period (*i.e.*, 2015-2019).⁴⁷

We note the import data referenced in the Substantive Response, which reflects the quantity of imports of OCTG from China for the period from 2008 through 2019 are based on data collected by the U.S. Census Bureau and available through the ITC website (ITC Dataweb).⁴⁸ This data is acceptable for our analysis, as it was obtained from the ITC Dataweb, a source Commerce has

⁴¹ See *Order*, 75 FR 28551.

⁴² *Id.* at 28552.

⁴³ See Substantive Response at 9 and 13; see also *OCTG from China 2017-2018 AR Final Results*.

⁴⁴ See Substantive Response at 13; see also *OCTG from China 2010-2011 AR Amended Final Results*.

⁴⁵ See Substantive Response at 12 and 13; see also *OCTG from China 2017-2018 AR Final Results*.

⁴⁶ See *Continuation Notice*, 80 FR 28224.

⁴⁷ See Substantive Response at 15; see also Attachment entitled "U.S. Imports for Consumption."

⁴⁸ See Substantive Response at 15.

relied on in the past.⁴⁹ We further note that import volumes after the imposition of the *Order* were significantly below the volume of imports in the year preceding the initiation of the investigation (*i.e.*, 2008).⁵⁰

Since the issuance of the *Order*, import volumes of OCTG from China into the United States have decreased and remain below pre-investigation levels.⁵¹ In analyzing import volumes for the period of this sunset review, based on ITC Dataweb data, Commerce 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).⁵² Specifically, according to the domestic interested parties, volumes of imports of OCTG from China in the year prior to the filing of the petition and the initiation of the investigation (*i.e.*, 2008) were 2,073,267 metric tons.⁵³ Following the imposition of the *Continuation Notice*, the volume of imports of OCTG from China were at levels significantly below the pre-petition level at 46,115 metric tons in 2015; 30,487 metric tons in 2016; 53,937 metric tons in 2017; 52,862 metric tons in 2018; and 33,086 metric tons in 2019.⁵⁴ 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, Commerce 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' Argument

- The domestic interested parties request that Commerce report to the ITC the weighted-average dumping margins that were determined in the investigation, as amended, in accordance with Commerce's practice and regulations, as the magnitude of the margins of dumping is likely to prevail if the findings were revoked.⁵⁵

⁴⁹ 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 IDM at 5.

⁵⁰ See Attachment entitled "U.S. Imports for Consumption."

⁵¹ *Id.*

⁵² The petition was filed on April 8, 2009 and the case was initiated on April 28, 2009.

⁵³ As ITC Dataweb used kilograms to measure import volume, we converted the data to metric tons which corresponds to what the substantive response used to report the import volume.

⁵⁴ See Attachment entitled "U.S. Imports for Consumption."

⁵⁵ See Substantive Response at 16.

Commerce'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, Commerce will select a weighted-average dumping margin from the LTFV investigation to report to the ITC.⁵⁶ Commerce's preference is to select a weighted-average dumping margin from the LTFV investigation because it is the only rate that reflects the behavior of the producers and exporters without the discipline of an order or suspension agreement in place.⁵⁷ Under certain circumstances, however, Commerce may select a more recent rate to report to the ITC. For companies not investigated individually, or for companies that did not begin shipping until after the *Order* was issued, Commerce will normally provide a rate based on the "All-Others" rate from the investigation.⁵⁸ However, for China, which Commerce considers to be a non-market economy under section 771(18)(A) of the Act, Commerce does not have an "All-Others" rate. Thus, in non-market economy cases, instead of an "All-Others" rate, Commerce uses an established country-wide rate, which it applies to all imports from exporters that have not established their eligibility for a separate rate.⁵⁹ Finally, 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.⁶⁰ 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.⁶¹

Because dumping continued following the issuance of the *Order* and given the absence of argument and evidence to the contrary, Commerce finds that the margins calculated in the original investigation are probative of the behavior of producers and exporters of subject merchandise from China if this *Order* were revoked. Consistent with section 752(c) of the Act, Commerce will report to the ITC the margins up to the highest rate from the LTFV investigation concerning subject merchandise from China, as indicated below. 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 Determination* and *Order* occurred after Commerce ceased zeroing in investigations. Commerce determines that the rate assigned to the China-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.

⁵⁶ See SAA at 890; 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.

⁵⁷ *Id.*

⁵⁸ 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 IDM at Comment 2.

⁵⁹ 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).

⁶⁰ See *Final Modification for Reviews*, 77 FR 8103.

⁶¹ *Id.*

VII. Final Results of Sunset Review

We determine that revocation of the *Order* on OCTG from China 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.⁶²

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 results of this expedited sunset review in the *Federal Register*.

Agree

Disagree

7/22/2020

X



Signed by: JEFFREY KESSLER

Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

⁶² See *Order*, 75 FR 28551.