



UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration
Washington, D.C. 20230

A-570-016
Sunset Review
Public Document
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October 29, 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 First Sunset Review of the Antidumping Duty Order on Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China

I. SUMMARY

We have analyzed the substantive response of the sole participating domestic interested party¹ in the expedited first sunset review of the antidumping duty (AD) order on passenger vehicle and light truck (passenger) tires 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

¹ The interested party consists of the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial Workers Union, AFL-CIO, CLC (petitioner).



II. BACKGROUND

On August 10, 2015, the Department of Commerce (Commerce) published the AD order on passenger tires from China.² On July 1, 2020, Commerce initiated the first sunset review of the AD order on passenger tires from China pursuant to section 751(c) of the Act.³ Commerce received a notice of intent to participate from the petitioner within the deadline specified in 19 CFR 351.218(d)(1)(i).⁴ The petitioner claimed interested party status under 771(9)(D) of the Act as a certified union representative of an industry engaged in the manufacture, production, or wholesale of the domestic like product.⁵ On July 31, 2020, Commerce received an adequate substantive response from the petitioner within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).⁶ On September 9, 2020, Commerce also received adequacy comments within the deadline specified in 19 CFR 351.209(e)(ii).⁷ Commerce received no responses from respondent interested parties with respect to the *Order* covered by this sunset review.

On August 20, 2020, Commerce notified the U.S. International Trade Commission (ITC) that it did not receive an adequate substantive response from respondent interested parties.⁸ 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 scope of this *Order* is passenger vehicle and light truck tires. Passenger vehicle and light truck tires are new pneumatic tires, of rubber, with a passenger vehicle or light truck size designation. Tires covered by this *Order* may be tube-type, tubeless, radial, or non-radial, and they may be intended for sale to original equipment manufacturers or the replacement market.

Subject tires have, at the time of importation, the symbol “DOT” on the sidewall, certifying that the tire conforms to applicable motor vehicle safety standards. Subject tires may also have the following prefixes or suffix in their tire size designation, which also appears on the sidewall of the tire:

Prefix designations:

P - Identifies a tire intended primarily for service on passenger cars

LT- Identifies a tire intended primarily for service on light trucks

² See *Certain Passenger Vehicle and Light Truck Tires from the People’s Republic of China: Amended Final Affirmative Antidumping Duty Determination and Amended Order; and Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order*, 80 FR 47902 (August 10, 2015) (*Order*).

³ See *Initiation of Five-Year (Sunset) Reviews*, 85 FR 39526 (July 1, 2020).

⁴ See Petitioner’s Letter, “Certain Passenger Vehicle and Light Truck from the People’s Republic of China: Notice of Intent to Participate,” dated July 16, 2020.

⁵ *Id.* at 1.

⁶ See Petitioner’s Letter, “Passenger Vehicle and Light Truck Tires from China, AD Order, First Sunset Review: Substantive Response of the USW,” dated July 31, 2020 (Substantive Response).

⁷ See Petitioner’s Letter, “Passenger Vehicle and Light Truck Tires from China; AD/CVD orders, First Sunset Review: Adequacy Comments of the USW,” dated September 9, 2020.

⁸ See Commerce’s Letter, “Sunset Reviews Initiated on July 1, 2020,” dated August 20, 2020.

Suffix letter designations:

LT - Identifies light truck tires for service on trucks, buses, trailers, and multipurpose passenger vehicles used in nominal highway service.

All tires with a “P” or “LT” prefix, and all tires with an “LT” suffix in their sidewall markings are covered by this *Order* regardless of their intended use. In addition, all tires that lack a “P” or “LT” prefix or suffix in their sidewall markings, as well as all tires that include any other prefix or suffix in their sidewall markings, are included in the scope, regardless of their intended use, as long as the tire is of a size that is among the numerical size designations listed in the passenger car section or light truck section of the *Tire and Rim Association Yearbook*, as updated annually, unless the tire falls within one of the specific exclusions set out below.

Passenger vehicle and light truck tires, whether or not attached to wheels or rims, are included in the scope. However, if a subject tire is imported attached to a wheel or rim, only the tire is covered by the scope.

Specifically excluded from the scope of this *Order* are the following types of tires:

- (1) racing car tires; such tires do not bear the symbol “DOT” on the sidewall and may be marked with “ZR” in size designation;
- (2) new pneumatic tires, of rubber, of a size that is not listed in the passenger car section or light truck section of the *Tire and Rim Association Yearbook*;
- (3) pneumatic tires, of rubber, that are not new, including recycled and retreaded tires;
- (4) non-pneumatic tires, such as solid rubber tires;
- (5) tires designed and marketed exclusively as temporary use spare tires for passenger vehicles which, in addition, exhibit each of the following physical characteristics:
 - (a) the size designation and load index combination molded on the tire’s sidewall are listed in Table PCT-1B (“T” Type Spare Tires for Temporary Use on Passenger Vehicles) of the *Tire and Rim Association Yearbook*,
 - (b) the designation “T” is molded into the tire’s sidewall as part of the size designation, and,
 - (c) the tire’s speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by *Tire and Rim Association Yearbook*, and the rated speed is 81 MPH or a “M” rating;
- (6) tires designed and marketed exclusively for specialty tire (ST) use which, in addition, exhibit each of the following conditions:
 - (a) the size designation molded on the tire’s sidewall is listed in the ST sections of the *Tire and Rim Association Yearbook*,
 - (b) the designation “ST” is molded into the tire’s sidewall as part of the size designation,
 - (c) the tire incorporates a warning, prominently molded on the sidewall, that the tire is “For Trailer Service Only” or “For Trailer Use Only”,
 - (d) the load index molded on the tire’s sidewall meets or exceeds those load indexes listed in the *Tire and Rim Association Yearbook* for the relevant ST tire size, and
 - (e) either
 - (i) the tire’s speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by *Tire and Rim Association Yearbook*, and the rated speed does not exceed 81 MPH or an “M” rating; or

- (ii) the tire's speed rating molded on the sidewall is 87 MPH or an "N" rating, and in either case the tire's maximum pressure and maximum load limit are molded on the sidewall and either
 - (1) both exceed the maximum pressure and maximum load limit for any tire of the same size designation in either the passenger car or light truck section of the *Tire and Rim Association Yearbook*; or
 - (2) if the maximum cold inflation pressure molded on the tire is less than any cold inflation pressure listed for that size designation in either the passenger car or light truck section of the *Tire and Rim Association Yearbook*, the maximum load limit molded on the tire is higher than the maximum load limit listed at that cold inflation pressure for that size designation in either the passenger car or light truck section of the *Tire and Rim Association Yearbook*;
- (7) tires designed and marketed exclusively for off-road use and which, in addition, exhibit each of the following physical characteristics:
 - (a) the size designation and load index combination molded on the tire's sidewall are listed in the off-the-road, agricultural, industrial or ATV section of the *Tire and Rim Association Yearbook*,
 - (b) in addition to any size designation markings, the tire incorporates a warning, prominently molded on the sidewall, that the tire is "Not for Highway Service" or "Not for Highway Use",
 - (c) the tire's speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by the *Tire and Rim Association Yearbook*, and the rated speed does not exceed 55 MPH or a "G" rating, and
 - (d) the tire features a recognizable off-road tread design.

The products covered by the *Order* are currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 4011.10.10.10, 4011.10.10.20, 4011.10.10.30, 4011.10.10.40, 4011.10.10.50, 4011.10.10.60, 4011.10.10.70, 4011.10.50.00, 4011.20.10.05, and 4011.20.50.10. Tires meeting the scope description may also enter under the following HTSUS subheadings: 4011.99.45.10, 4011.99.45.50, 4011.99.85.10, 4011.99.85.50, 8708.70.45.45, 8708.70.45.60, 8708.70.60.30, 8708.70.60.45, and 8708.70.60.60. While HTSUS subheadings are provided for convenience and for customs purposes, the written description of the subject merchandise is dispositive.

IV. HISTORY OF THE *ORDER*

On June 18, 2015, Commerce published its *Final Determination* in the less-than-fair-value (LTFV) investigation of passenger tires from China.⁹ 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.¹⁰ On August 10, 2015,

⁹ See *Antidumping Duty Investigation of Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 80 FR 34803 (June 18, 2015) (*Final Determination*).

¹⁰ See *Certain Passenger Vehicle and Light Truck Tires from China*, USITC Investigation Nos. 701-TA-522 and 731-TA-1258 (Final), USITC Publication 4545 (August 2015).

Commerce published the amended final determination and the *Order*. Commerce found the following *ad valorem* dumping margins:¹¹

The weighted-average dumping margins from the *Order* (and amended LTFV) ranged from 14.35 percent for the Sailun Group Co., Ltd. to 87.99 for the PRC-wide entity.¹² The GITI companies¹³ received a weighted-average dumping margin of 30.74 percent.¹⁴ The separate rate companies received a weighted-average dumping margin of 25.84 percent.¹⁵

Since the issuance of the *Order*, Commerce has completed three administrative reviews,¹⁶ and has one administrative review in progress.¹⁷ To date Commerce has not made any findings with respect to duty absorption in this proceeding. Commerce has completed one changed circumstance review¹⁸ and has also issued four scope rulings.¹⁹

As noted in the *Changed Circumstance Review*, we found that: (1) Sailun Group is the successor-in-interest to Sailun Jinyu; (2) Sailun Dongying is the successor-in-interest to Shandong Jinyu; and (3) Sailun HK is the successor-in-interest to Sailun Jinyu HK.²⁰ As a result, these entities should be accorded the same treatment accorded previously to this company group.²¹

¹¹ See *Order*.

¹² *Id.*

¹³ These companies include Giti Tire Global Trading Pte. Ltd.; GITI Radial Tire (Anhui) Company Ltd.; GITI Tire (Fujian) Company Ltd.; GITI Tire (Hualin) Company Ltd.; and GITI Tire (USA) Ltd.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ See *Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2017-2018*, 85 FR 22396 (April 22, 2020); see also *Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2016-2017*, 84 FR 17781 (April 26, 2019); and *Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2015-2016*, 83 FR 11690 (March 16, 2018).

¹⁷ See *Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; Preliminary Determination of No Shipments; and Rescission, in Part; 2018-2019*, 85 FR 36831 (June 18, 2020). A request for a duty absorption determination was filed in the ongoing 2018-2019 AR.

¹⁸ See *Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Final Results of Changed Circumstance Reviews*, 85 FR 14638 (March 13, 2020) (*Changed Circumstance Review*).

¹⁹ See Memorandum, "Antidumping and Countervailing Duty Orders on Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China," dated May 27, 2016; see also Memorandum, "Antidumping and Countervailing Duty Orders on Passenger Vehicle and Light Truck Tires from the People's Republic of China: Scope Ruling Regarding Spare Tires Imported by Maxxis International, dated May 1, 2018; Memorandum, "Antidumping and Countervailing Duty Orders on Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Scope Request {sic} {Ruling} from Yokohama Corporation of North America, Hangzhou Yokohama Tire Company, Ltd. and Yokohama Rubber Company, Ltd.," dated May 18, 2018; and Memorandum, "Antidumping and Countervailing Duty Orders on Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Scope Request {sic} {Ruling} from Giti Tire (USA) Ltd.," July 11, 2018.

²⁰ See *Changed Circumstance Review*.

²¹ See *Order*.

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,²² the House Report,²³ and the Senate Report,²⁴ Commerce's determinations of likelihood will be made on an order-wide, rather than a company-specific, basis.²⁵ 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 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.²⁶

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.²⁷ Also, when analyzing import volumes for first 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.²⁸

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.²⁹ 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

²²See Statement of Administrative Action accompanying the Uruguay Round Agreements Act (SAA), H.R. Doc. 103-316, vol. 1 (1994).

²³ See H. Rep. No. 103-826, pt. 1 (1994) (House Report).

²⁴ See S. Rep. No. 103-412 (1994) (Senate Report).

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

²⁶ See SAA at 889-890; 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) (*Sunset Policy Bulletin*).

²⁷ 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 Issues and Decision Memorandum (IDM) at Comment 1.

²⁸ 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.

²⁹ See SAA at 889-890; see also House Report at 63.

determine that revocation of an order would not be likely to lead to a continuation or recurrence of sales at LTFV.³⁰

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.³¹ 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.”)³²

Regarding the margin of dumping likely to prevail, in the *Final Modification for Reviews*, Commerce announced that in five-year sunset reviews, it will not rely on weighted-average dumping margins that were calculated using the zeroing methodology.³³ 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.³⁴ 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.³⁵ 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.”³⁶

VI. DISCUSSION OF THE ISSUES

1. Likelihood of Continuation or Recurrence of Dumping

Interested Party Comments

The petitioner argues that revocation of the *Order* would lead to a continuation or recurrence of dumping by producers and exporters of passenger tires from China because dumping margins have remained at above *de minimis* levels and subject imports have significantly declined

³⁰ 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.

³¹ 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.

³² See SAA at 890-91.

³³ See *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification*, 77 FR 8101, 8103-2 (February 14, 2012) (*Final Modification for Reviews*).

³⁴ *Id.*, 77 FR at 8102, 8105, and 8109.

³⁵ *Id.*

³⁶ *Id.*

following the imposition of the *Order*.³⁷ The petitioner also states 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*.³⁸ The petitioner concludes by noting that Commerce stated that it would continue to rely on dumping margins that were calculated in a manner that is not inconsistent with its WTO obligations,³⁹ and points out that in this case all margins were determined in a manner consistent with WTO obligations.⁴⁰

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 could not sell in the United States without dumping and that, to reenter the U.S. market, they would have to resume dumping."⁴¹ 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."⁴² 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.⁴³

In the instant review, for the reasons stated below, we find the revocation of the antidumping duty order on passenger tires from China would likely result in the continuation of dumping in the United States. As the petitioner points out, all margins in this case are consistent with our practice articulated in the *Final Modification for Reviews*. We consider the rates from the *Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Amended Final Affirmative Antidumping Duty Determination and Countervailing Duty Order* to support a finding of a likelihood of continuation or recurrence of dumping, given that these are the only calculated rates that reflect the behavior of exporters without the discipline of an order in place and that some of these rates continue to be applicable during this sunset review period.⁴⁴

³⁷ See Substantive Response at 7-12.

³⁸ *Id.* at 8-9.

³⁹ See *Final Modification for Reviews*.

⁴⁰ See Substantive Response at 12.

⁴¹ See SAA at 890.

⁴² *Id.* at 889; see also House Report at 63; and Senate Report at 52.

⁴³ See SAA at 889-90; see also House Report at 63; and Senate Report at 52.

⁴⁴ See *Order*.

As noted above, Commerce has completed three administrative reviews, and currently has one ongoing review.⁴⁵ Commerce found above *de minimis* margins in the first two administrative reviews. In the most recently completed administrative review, Commerce found weighted-average dumping margins of zero percent for the mandatory and separate rate respondents.⁴⁶ As noted in the SAA, “{i}f 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.”⁴⁷ Additionally, Commerce will normally 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 an order and import volumes for the subject merchandise declined significantly.⁴⁸ In the instances where the dumping margins continue to exist and there is a significant decline in import volumes, “it is reasonable to assume that dumping would continue if the discipline of the order were removed.”⁴⁹ The range of import volumes during the sunset review period (2015-2019) ranges from a high of 17,498,924 tires (in 2015) to a low of 3,254,021 tires (in 2019), which is a significant decline from the pre-order level of 50,847,128 tires.⁵⁰ Given this decrease in import volumes during the sunset review period, we determine that it is unlikely that Chinese manufacturers of passenger tires would be able to sell at pre-*Order* levels without dumping. Accordingly, pursuant to section 752(c) (1) of the Act, we determine that dumping would likely continue or recur if the *Order* were revoked.

2. Magnitude of the Margins Likely to Prevail

Interested Party Comments⁵¹

The petitioner cites to the SAA and the *Sunset Policy Bulletin* and notes 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, the petitioner argues that, consistent with the SAA and the *Sunset Policy Bulletin*, Commerce should rely upon the highest dumping margin from either the original investigation or the most recently completed review of the order.⁵² Additionally, the petitioner states that the margins from LTFV 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 will base the magnitude of the margin that is likely to prevail if an AD order were revoked on the

⁴⁵ See “History of the Orders” section above.

⁴⁶ See *Certain Passenger Vehicle and Light Truck Tires from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review; 2017-2018*, 85 FR 22396 (April 22, 2020)

⁴⁷ See SAA at 890.

⁴⁸ See SAA at 889-890; House Report at 63-64; and Senate Report at 52.

⁴⁹ See SAA at 890.

⁵⁰ See Substantive Response at Exhibit 1.

⁵¹ See Substantive Response at 21-23.

⁵² See *Substantive Response at 13*.

weighted-average dumping margin from the LTFV investigation.⁵³ Commerce's preference is to select a weighted-average dumping margin from the LTFV investigation (or amended LTFV and *Order*) 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.⁵⁴ The margins calculated in the original investigation 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 not to 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 87.99 percent rate determined in the amended final determination and *Order* 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.⁵⁵ 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 87.99 percent.

⁵³ See SAA at 890; see also *Persulfates Second Sunset Review* IDM at Comment 2.

⁵⁴ 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.

⁵⁵ 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).

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

10/29/2020

X



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