

MEMORANDUM TO: John M. Andersen,  
Acting Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

FROM: Richard Weible  
Director Office 7

SUBJECT: Issues and Decision Memorandum for the Final Results of the Expedited Five-Year (“Sunset”) Review of the Antidumping Duty Order on Floor-Standing Metal-Top Ironing Tables and Parts Thereof (Ironing Tables) from the People’s Republic of China (PRC)

### Summary

We have analyzed the substantive response of the domestic interested party in the sunset review of the antidumping duty order covering ironing tables from the PRC. We recommend 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

### Background

On August 6, 2004, the Department of Commerce (Department) published in the Federal Register the notice of an antidumping duty order with respect to imports of ironing tables from the PRC. See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Floor-Standing, Metal-Top Ironing Tables and Certain Parts Thereof From the People's Republic of China, 69 FR 47868, (August 6, 2004). Since the issuance of the antidumping duty order, the Department has conducted three administrative reviews, while currently undertaking the fourth administrative review.<sup>1</sup> There have been no changed

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<sup>1</sup> Floor-Standing, Metal-Top Ironing Tables and Certain Parts Thereof from the People's Republic of China: Final Results and Final Rescission, In Part, of Antidumping Duty Administrative Review, 72 FR 13239, 13241 (March 21, 2007); Floor-Standing, Metal-Top Ironing Tables and Certain Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 73 FR 14437, 14438, (March 18, 2008), Floor-Standing, Metal-Top Ironing Tables and Certain Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 74 FR 11085, 11086 (March 16, 2009).

circumstances reviews, duty absorption findings or scope inquiries regarding this antidumping duty order.

On July 1, 2009, the Department initiated the instant sunset review of the antidumping duty order on imports of ironing tables from the PRC pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). See Initiation of Five-Year (Sunset) Reviews, 74 FR 31412 (July 1, 2009).

On July 15, 2009, the Department received a notice of intent to participate in the sunset review from one domestic interested party, Home Products International (HPI), in accordance with 19 CFR 351.218(d)(1)(i). HPI claimed interested party status under section 771(9)(C) of the Act, as a domestic producer of the domestic like product. On July 31, 2009, we received a complete substantive response from HPI within the 30-day deadline specified in CFR 351.218(d)(3)(i). Also, on July 31, 2009, we received a substantive response from one respondent party, Since Hardware (Guangzhou) Co., Ltd. (Since Hardware) within the 30-day deadline specified above. On August 5, 2009 HPI submitted rebuttal comments to Since Hardware's substantive response. On August 19, 2009 the Department determined Since Hardware's substantive response was inadequate because it failed to meet the requirements specified in the Department's regulations at 19 CFR 351.218(d) and (e). For a more detailed discussion regarding the adequacy of Since Hardware's substantive response, please see the memorandum to the File, "Adequacy Determination of Respondent's Substantive Comments: Sunset Review of the Antidumping Duty Order on Floor-Standing Metal-Top Ironing Tables and Parts Thereof from the People's Republic of China (PRC)" dated August 19, 2009. As a result of this determination, pursuant to section 751(c)(3)(B) and 19 CFR 351.218(e)(1)(ii)(c)(2), the Department conducted an expedited (120-day) sunset review of this order.

### Discussion of the Issues

In accordance with section 751(c)(1) of the Act, the Department conducted this sunset review to determine whether revocation of this antidumping duty order would be likely to lead to continuation or recurrence of dumping. Sections 752(c)(1)(A) and (B) of the Act provide that in making these determinations, the Department 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 after the issuance of the antidumping duty order. In addition, section 752(c)(3) of the Act provides that the Department shall provide to the International Trade Commission (the Commission) the magnitude of the margin of dumping likely to prevail if the order were revoked. Below we address the comments of the domestic interested party.

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

##### Interested Party Comments

HPI asserts that revocation of the antidumping duty order covering ironing tables from the PRC would result in the continuation or recurrence of dumping. HPI notes the two major shippers have continued to dump since the order has been in place. HPI claims numerous other shippers have ceased or otherwise declined to ship following the order. According to HPI, it is reasonable to assume such exporters could not sell in the United States without dumping and that to re-enter (or enter) the U.S. market, they would have to resume (or engage in) dumping. See Substantive Response of HPI at 4 (July 31, 2009).

HPI recites the procedural history of the case, noting the margin determinations of each administrative review. HPI cites to the continued (and widespread) existence of dumping margins after the issuance of the order to show that revocation of the antidumping duty order would likely lead to the continuation or recurrence of dumping, stressing that dumping has continued since the issuance of the order. Although HPI acknowledges the issuance of certain deminimis findings, HPI argues the Department's adverse facts available finding on Since Hardware in the third administrative review calls into question that company's de minimis margins in the first and second reviews. HPI also claims that since the order has been in place, there has been an apparent cessation of shipments of ironing tables to the United States by numerous Chinese exporters. Citing to Census data, HPI claims "the existence of the antidumping order has substantially restrained legions of would-be exporters of ironing tables from China, and that to reenter or enter the U.S. market, they would have to resume or engage in dumping." Id. at 12.

#### Department's Position

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (URAA), specifically the Statement of Administrative Action (SAA), H.R. Doc. No. 103-316, vol. 1 (1994), the House Report, H. Rep. No. 103-826, pt.1 (1994) (House Report), and the Senate Report, S. Rep. No. 103-412 (1994) (Senate Report), the Department's determination of likelihood of continuation or recurrence of dumping is made on an order-wide basis. See SAA at 879 and House Report at 56. In addition, the Department normally determines 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. See SAA at 889-890, House Report at 63-64, and Senate Report at 52; see also the Department's Policy Bulletin 98.3, "Policies Regarding the Conduct of Five-Year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders;" Policy Bulletin, 63 FR 18871 (April 16, 1998) Sunset Policy Bulletin at section II. A. 3.

In accordance with the Sunset Policy Bulletin, the Department normally will determine that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping where, inter alia, dumping continued at any level above de minimis after the issuance of the order. The Department has conducted a number of reviews since issuance of the order in

which it found that dumping continued. Therefore, we continue to collect and assess dumping duties on entries of subject merchandise. Given that dumping at levels above de minimis has continued over the life of the order, and that the levels of imports have declined since the initiation of the order,<sup>2</sup> the Department determines that dumping would likely continue or recur if the order were revoked.

## 2. Magnitude of the Margin Likely to Prevail

### Interested Party Comments

HPI provides a list of the dumping margins determined in the original investigation. Although Since Hardware received a rate of 9.47 percent in the investigation, and zero or de minimis margins in the first two administrative reviews, HPI notes the Department determined in the third administrative review that Since Hardware's margin should be 157.68 percent, the same calculated rate applied to the other mandatory respondent in the investigation. Arguing that Since Hardware has not been providing reliable information throughout the history of the order, HPI claims the 157.68 percent is the margin likely to prevail in the absence of the order.

With respect to the other respondents, HPI argues the Department should find the 157.68 percent rate would be likely to prevail in the absence of the order. The only reason the other voluntary respondents received a margin of 72.29 percent in the investigation, HPI avers, was because they were entitled to an average of the margins found for the two mandatory respondents, Shunde Yongjian Housewares & Hardware Co., Ltd. (Shunde Yongjian) and Since Hardware. HPI believes the 157.68 percent would apply to both Shunde Yongjian and Since Hardware in the absence of the order and HPI maintains the Department should reach the same conclusion for all Chinese manufacturers and exporters. With respect to the only new company that has undergone a review after the order was put in place, namely Foshan Shunde Yongjian Housewares & Hardware Co., Ltd. (Foshan Shunde), the Department normally will provide a margin based on the all others rate from the investigation. Citing to Foshan Shunde's affiliation to Shunde Yongjian, and the fact that it only had one sale in the 2004-2005 administrative review, HPI argues the rate provided to the Commission for all parties should be a margin of 157.68 percent.

### Department's Position

Section 752(c)(3) of the Act provides that the Department will report to the Commission the magnitude of the margin of dumping likely to prevail if the order were revoked. Both the SAA at 890 and the House Report at 64 provide that the Department will normally select a margin "from

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<sup>2</sup> See Memorandum to the File dated October 27, 2009, entitled "Import Volumes for the Final Results of the Expedited Five-Year ("Sunset") Review of the Antidumping Duty Order on Floor-Standing Metal-Top Ironing Tables and Parts Thereof (Ironing Tables) from the People's Republic of China (PRC).

the investigation, because that is the only calculated rate that reflects the behavior of exporters . . . without the discipline of an order or suspension agreement in place.” Therefore, the Department normally will provide to the Commission the margin that was determined in the final determination in the original investigation. Exceptions to this policy, where appropriate, include the use of more recently calculated dumping margins and consideration of duty absorption determinations (see the SAA at 890-91 and the House Report at 63-64, and the Senate Report at 52), or in situations where the Department did not issue a final determination (e.g., because the investigation was suspended and continuation was not requested). Specifically, the Department will normally provide the company-specific margin from the investigation for each company regardless of whether the margin was calculated using a company’s own information or based on best information available, or facts available. Furthermore, in light of the legislative history discussed above, for companies not specifically investigated, or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the all others rate from the investigation. In addition, the Department normally will provide to the Commission a list of companies excluded from the order based on zero or de minimis margins, if any, or subsequently revoked from the order, if any.

The Department believes in this case it is appropriate to report the margins received by each company in the original investigation to the Commission as the magnitude of the margin likely to prevail if the order were revoked because it is the only calculated rate that reflects the behavior of exporters without the discipline of an order in place. Id.; see also House Report at 64. Under certain circumstances, however, the Department may select a more recently calculated margin to report to the Commission. See section 752(c)(3) of the Act and Final Results of Full Sunset Review: Aramid Fiber Formed of Poly Para-Phenylene Terephthalamide From the Netherlands, 65 FR 65294 (November 1, 2000), and the accompanying Issues & Decision Memorandum at “Magnitude of the Margin Likely to Prevail,” Comment 3; but see Pressure Sensitive Plastic Tape From Italy: Final Results of Expedited Sunset Review 74 FR 40811 (August 13, 2009), Decision Memorandum at Comment 2. The Department believes that in this sunset review, it would not be appropriate to report Since Hardware’s zero or de minimis margins obtained in the first and second review as the likely margin to occur if the order were to be revoked. As HPI has noted, in the third review, Since Hardware was assigned a rate of 157.68 percent due to the unreliability of the information provided by Since Hardware in the third review. Therefore, it would be inappropriate to use the zero or de minimis margins as the margin likely to occur if the order were to be revoked. However, it is also not the Department’s normal practice to assign a non-calculated rate when determining the likely margin to occur. In the third administrative review, the Department based Since Hardware’s margin on the application of facts available with an adverse inference due to Since Hardware’s failure to cooperate to the best of its ability. As a result, the Department does not agree with HPI that the rate to be reported to Commission for Since Hardware should be 157.68 percent and will report the 9.47 percent rate received in the original investigation.

With respect to Foshan Shunde, the Department concurs with HPI’s comments that the Department’s normal practice is to provide a margin based on the all other’s rate in the investigation “because that is the only calculated rate that reflects the behavior of exporters...

without the discipline of an order or suspension agreement in place.” See Policy Bulletin at 18873 and Cut-to-Length Carbon Steel Plate From Belgium, Brazil, Finland, Germany, Mexico, Poland, Romania, Spain, Sweden, and the United Kingdom and Carbon Steel Plate From Taiwan; Second Five-year (Sunset) Reviews of Antidumping Duty Orders and Antidumping Finding; Final Results 71 FR 11577 (March 8, 2006). The Department notes that it preliminarily determined in the recently published preliminary results that Foshan Shunde's responses were incomplete and therefore the Department calculated Foshan Shunde's margin based upon application of adverse facts available. See Floor-Standing, Metal-Top Ironing Tables and Certain Parts Thereof from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, 74 FR 46083 (September 8, 2009). However, this recent determination is only a preliminary determination. Therefore, in light of Foshan Shunde's affiliation to Shunde Yongjian, which received a 157.68% margin in the investigation, there is nothing on the record of this proceeding that persuades the Department to alter its usual practice of reporting to the Commission the “all others” margin for those companies which were not investigated.

In light of the foregoing, the Department determines that it will follow its normal practice in sunset reviews and report to the Commission the company-specific margins, and the “PRC-Wide’ rate published in the original order.

### Final Results of Sunset Reviews

We determine that revocation of the antidumping duty order on ironing tables from the PRC would be likely to lead to continuation or recurrence of dumping at the following percentage weighted-average margins:

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- Manufacturers/Exporters/Producers                      Weighted-Average Margin (Percent)

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Since Hardware	9.47 percent
Shunde Yongjian	157.68 percent
Forever Holdings	72.29 percent
Gaoming	72.29 percent
Harvest	72.29 percent
Foshan Shunde	157.68 percent
PRC-Wide Rate	157.68 percent

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Recommendation

Based on our analysis of the substantive responses received, we recommend adopting all of the positions discussed above. If these recommendations are accepted, we will publish the final results of this sunset review in the Federal Register.

AGREE \_\_\_\_\_

DISAGREE \_\_\_\_\_

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John M. Andersen,  
Acting Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

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Date