

MEMORANDUM TO: Ronald K. Lorentzen  
Deputy Assistant Secretary  
for Import Administration

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

SUBJECT: Issues and Decision Memorandum for the Final Results of the Expedited Sunset Review of the Antidumping Duty Order on Certain Tissue Paper Products from the People's Republic of China

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### Summary

We have analyzed the substantive response of the domestic interested parties in the sunset review of the antidumping duty order covering certain tissue paper products (tissue paper) from the People's Republic of China (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 Margin Likely to Prevail

### Background

On March 30, 2005, the Department of Commerce (Department) published in the Federal Register the notice of an antidumping duty order with respect to imports of tissue paper from the PRC. See Notice of Amended Final Determination of Sales at Less than Fair Value and Antidumping Duty Order: Certain Tissue Paper Products from the People's Republic of China, 70 FR 16223 (March 30, 2005). Since the issuance of the antidumping duty order, the Department has completed three administrative reviews, two anti-circumvention inquiries and a scope inquiry involving this antidumping duty order.<sup>1</sup> The Department is currently conducting a

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<sup>1</sup> See Certain Tissue Paper Products from the People's Republic of China: Final Results and Final Rescission, In Part, of Antidumping Duty Administrative Review, 72 FR 58642 (October 16, 2007); Certain Tissue Paper Products from the People's Republic of China: Final Results and Final Rescission, in Part, of Antidumping Duty Administrative Review, 73 FR 58113 (October 6, 2008); Certain Tissue Paper Products From the People's Republic of China: Final Results and Partial Rescission of the 2007-2008 Antidumping Duty Administrative Review and

fourth administrative review and recently initiated a fifth administrative review and a third anti-circumvention inquiry.<sup>2</sup> There have been no changed circumstances reviews or duty absorption findings regarding this antidumping duty order.

On February 1, 2010, the Department initiated the instant sunset review of the antidumping duty order on imports of tissue paper from the PRC pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). See Initiation of Five-year (“Sunset”) Review, 75 FR 5042 (February 1, 2010).

On February 16, 2010, the Department received a notice of intent to participate in the sunset review from the following domestic interested parties: Seaman Paper Company of Massachusetts, Inc., Eagle Tissue LLC, Flower City Tissue Mills Co., Garlock Printing & Converting, Inc., and Putney Paper Co., Ltd. (collectively, the domestic producers), in accordance with 19 CFR 351.218(d)(1)(i). The domestic producers claimed interested party status under section 771(9)(C) of the Act, as producers of a domestic like product. On March 3, 2010, we received an adequate substantive response from the domestic producers within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i) (March 3 Response). The Department received no substantive response from any respondent interested parties. As a result, 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 is conducting this sunset review to determine whether revocation of the antidumping duty order would likely lead to the continuation or recurrence of dumping. Sections 752(c)(1)(A) and (B) of the Act provide that, in making this determination, 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 period before and the period after the issuance of the antidumping duty order. In addition, section 752(c)(3) of the Act provides that the Department

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Determination Not To Revoke In Part, 74 FR 52176 (October 9, 2009); Certain Tissue Paper Products From the People’s Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty Order, 73 FR 57591 (October 3, 2008) (1<sup>st</sup> PRC Tissue Paper Anti-Circumvention Finding); Certain Tissue Paper Products from the People’s Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty Order, 74 FR 29172 (June 19, 2009) (2<sup>nd</sup> PRC Tissue Paper Anti-Circumvention Finding); and September 19, 2008, Memorandum from James C. Doyle, Director, Office 9, Import Administration to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration re: Final Scope Ruling: Antidumping Duty Order on Certain Tissue Paper Products from the People’s Republic of China; see also Notice of Scope Rulings, 73 FR 72771 (December 1, 2008).

<sup>2</sup> See Certain Tissue Paper Products From the People’s Republic of China: Preliminary Results of the 2008-2009 Administrative Review, 75 FR 18812 (April 13, 2010); Certain Tissue Paper Products from the People’s Republic of China: Notice of Initiation of Anti-circumvention Inquiry, 75 FR 17127 (April 5, 2010); and Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part, 75 FR 22107 (April 27, 2010).

shall provide to the International Trade Commission (ITC) the magnitude of the margin of dumping likely to prevail if the order were revoked. Below we address the comments of the interested parties.

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

##### Interested Party Comments

The domestic producers maintain that revocation of this antidumping duty order would likely lead to the continuation or recurrence of dumping. According to the domestic producers, the magnitude of the margins and the subsequent decrease in subject import volumes demonstrate that Chinese tissue paper producers and exporters are unable to sell tissue paper products in the U.S. market without dumping. Specifically, the domestic producers argue that after increasing rapidly each year from 2001 to 2004, subject import volumes decreased dramatically immediately after the antidumping duty order was imposed in 2005. Specifically, during the first year after the order was imposed, the domestic producers claim that subject imports dropped by more than 69 percent. During the 2005-2006 period, the domestic producers contend that subject imports decreased by an additional 44 percent. Therefore, the domestic producers maintain that since the imposition of the order, subject import volumes have remained well below pre-order levels throughout the period of review. The domestic producers conclude that the significant decrease in the volume of imports of subject merchandise from the PRC after issuance of the antidumping order reflects the desired disciplinary effect of the order. If the order were revoked, the domestic producers contend, it is likely if not certain, that Chinese exporters would resume dumping at levels observed in the original investigation in order to regain share in the U.S. market. Moreover, the domestic producers maintain such dumping would materially injure the domestic industry. See March 3 Response at pages 11-13.

##### Department's Position

Consistent with guidance provided in the legislative history accompanying the Uruguay Round Agreements Act, specifically the Statement of Administrative Action (SAA), H. 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 determinations of likelihood will be made on an order-wide basis.<sup>3</sup> Furthermore, the Department normally will 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 the order and import volumes for the subject merchandise declined significantly.<sup>4</sup> In addition, pursuant to section 752(c)(1)(B) of the Act, the Department considers the volume of imports of the subject merchandise for the period before and after the issuance of the antidumping duty order.

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<sup>3</sup> See SAA at 879 and House Report at 56.

<sup>4</sup> See SAA at 889 and 890, House Report at 63-64, and Senate Report at 52.

In this case, USITC Dataweb statistics for the relevant periods indicate that tissue paper import volumes overall increased steadily prior to the issuance of the order, and overall decreased significantly after the imposition of the order (see Attachment 1). Moreover, the Department has completed three administrative reviews since the issuance of the order, and found that PRC exporters have continued to engage in significant levels of dumping when selling their products in the U.S. market during the post-order period. Furthermore, the Department has found that certain companies located in third countries have circumvented the order<sup>5</sup> and these findings provide additional support that these companies cannot sell in the United States without dumping. Given that dumping at levels above de minimis has continued over the life of the order, and that the level of imports has declined since the imposition of the order, 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

The domestic producers argue that the 112.64 percent ad valorem dumping margins established in the investigation represent the best evidence of Chinese tissue paper producers/exporters' behavior in the absence of an order. Since the order took effect in 2005, the domestic producers argue that the import data show that the order has been effective at curbing dumped imports. Consequently, the domestic producers argue that the Department should report to the ITC the 112.64 percent ad valorem margin (which is the rate determined for all individually identified Chinese exporters and the non-market-economy (NME) entity in the investigation) as the magnitude of the dumping margin likely to prevail if the order was revoked. See March 3 Response at pages 18-19.

### Department's Position

Pursuant to section 752(c)(3) of the Act and guided by the SAA at 890, the Department normally will provide to the ITC 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 facts available. See Eveready Battery Co., Inc. v. United States, 77 F. Supp. 2d 1327, 1333 (CIT 1999). 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 a market-economy investigation, or the NME-wide entity rate from an NME investigation. 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

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<sup>5</sup> Specifically, the Department completed two anti-circumvention inquiries involving companies located in third countries in which it found these companies to be circumventing the order by converting imported jumbo rolls and/or cut sheets of tissue paper from the PRC into finished tissue paper products in the third country prior to exporting them to the United States. See 1<sup>st</sup> PRC Tissue Paper Anti-Circumvention Finding (involving Vietnam Quijiang Paper Co., Ltd.) and 2<sup>nd</sup> PRC Tissue Paper Anti-Circumvention Finding (involving Sunlake Décor Co., Ltd.).

Ukraine; Final Results of Expedited Sunset Reviews of the Antidumping Duty Orders, 71 FR 70506 (December 5, 2006) (Hot-Rolled), and accompanying Issues and Decision Memorandum at Comment 2. The Department's preference is to select a margin from the investigation because it is the only calculated rate that reflects the behavior of manufacturers, producers, and exporters without the discipline of an order or suspension agreement in place. See Hot-Rolled, at Comment 2. Under certain circumstances, however, the Department may select a more recently calculated margin to report to the ITC. 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 accompanying Issues and Decision Memorandum at Comment 3.

In this case, the Department finds it appropriate to report to the ITC the company-specific margins and the PRC-wide rate from the investigation. Although administrative reviews have been conducted, exports from the PRC are significantly below pre-order levels and dumping margins have continued to exist. These results indicate that the order has imposed a discipline on exports. Therefore, the margins from the investigation are the best indication of the margins likely to prevail if the order were revoked because they are the only rates that reflect the behavior of exporters without the discipline of an order in place. Therefore, consistent with section 752(c)(3) of the Act, the Department will report to the ITC the margins listed in the "Final Results of Review" section, below.

#### Final Results of Review

The Department determines that revocation of the antidumping duty order on tissue paper from the PRC would likely lead to continuation or recurrence of dumping at the following weighted-average percentage margins:

----- - Manufacturers/Exporters/Producers	Weighted-Average Margin (percent) -----
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Qingdao Wenlong Co. Ltd.....	112.64
Fujian Nanping Investment & Enterprise Co.....	112.64
Fuzhou Light Industry Import & Export Co., Ltd.....	112.64
Guilin Qifeng Paper Co. Ltd.....	112.64
Ningbo Spring Stationary Limited Company.....	112.64
Everlasting Business & Industry Corporation Ltd.....	112.64
BA Marketing & Industrial Co., Ltd.....	112.64
Samsam Production Limited & Guangzhou Baxi Printing Products Limited....	112.64
Max Fortune Industrial Limited.....	112.64
PRC-wide rate.....	112.64

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#### Recommendation

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

AGREE \_\_\_\_\_

DISAGREE \_\_\_\_\_

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Ronald K. Lorentzen  
Deputy Assistant Secretary  
for Import Administration

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(Date)

**ATTACHMENT 1**