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Sunset Review
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July 7, 2014

MEMORANDUM TO: Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

FROM: Christian Marsh *CM*
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Final Results of
Expedited First Sunset Review of the Antidumping Duty Order on
Diamond Sawblades and Parts Thereof from the People's Republic
of China

Summary

In the first sunset review of the antidumping duty order covering diamond sawblades and parts thereof (diamond sawblades) from the People's Republic of China (PRC), Diamond Sawblades Manufacturers Coalition (DSMC) and Husqvarna Construction Products North America (HCPNA) (collectively the domestic interested parties) submitted substantive responses. DSMC is the petitioner and opposes revocation of the order; HCPNA is a domestic producer and an importer of diamond sawblades from China and supports revocation of the order. Both parties submitted their notices of intent to participate as domestic interested parties, pursuant to 19 CFR 351.218(d)(1)(i). No respondent interested party submitted a substantive response. Accordingly, we conducted an expedited (120-day) sunset review. In accordance with our analysis of the substantive responses, we recommend adopting the positions described below. The following is a complete list of issues in this sunset review for which we received substantive responses:

1. Likelihood of continuation or recurrence of dumping
2. Magnitude of the margins likely to prevail

Background

On December 2, 2013, the Department of Commerce (the Department) published the notice of initiation of the sunset review of the antidumping duty order on diamond sawblades from the PRC, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act) and 19 CFR

351.218(c)(1).¹ Pursuant to 19 CFR 351.218(d)(1), the Department received timely and complete notices of intent to participate in the sunset review from the domestic interested parties.²

The Department received no substantive responses from any respondent interested party. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted an expedited (120-day) sunset review of the antidumping duty order on diamond sawblades from the PRC.³

History of the Order

On May 22, 2006, the Department published the *LTFV Final*.⁴ On June 22, 2006, the Department published the *Amended LTFV Final*,⁵ in which the Department determined the following dumping margins in the investigation:

Exporter and Producer	Weighted-Average Margin Percent
Advanced Technology & Materials Co., Ltd.	2.82
Bosun Tools Group Co., Ltd.	35.51
Hebei Jikai Industrial Group Co., Ltd.	48.50
Non-Selected Separate Rate Respondents	21.43
PRC-Wide Rate	164.09

The International Trade Commission (ITC) made a preliminary determination that there was a reasonable likelihood that an industry in the United States was materially injured or threatened with material injury.⁶ On July 11, 2006, however, the ITC published its final determination that an industry in the United States was not materially injured or threatened with material injury by reason of imports of diamond sawblades from the Republic of Korea (Korea) and the PRC.⁷ As a result of subsequent litigation, the ITC reversed its determination and found that a U.S.

¹ See *Initiation of Five-year (“Sunset”) Review*, 78 FR 72061 (December 2, 2013) (*Initiation Notice*) and *Diamond Sawblades and Parts Thereof From the People’s Republic of China and the Republic of Korea: Antidumping Duty Orders*, 74 FR 57145 (November 4, 2009).

² See the notices of intent to participate from DSMC dated December 16, 2013, and HCPNA dated December 12, 2013.

³ As result of concurrent litigation, the U.S. Court of International Trade (CIT) temporarily enjoined the conduct of this sunset review. See *Diamond Sawblades Manufacturers Coalition v. United States*, CIT Ct. No. 13-391; see also the memorandum to Thomas Gilgunn entitled “Diamond Sawblades and Parts Thereof from the People’s Republic of China: Tolling Memorandum for Sunset Review” (March 19, 2014). Within the tolled deadline, the domestic interested parties filed adequate substantive responses. See the substantive responses from DSMC dated March 14, 2014, and HCPNA dated January 2, 2014. In the same litigation, the CIT also tolled the deadlines for completing this sunset review.

⁴ See *Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People’s Republic of China*, 71 FR 29303 (May 22, 2006) (*LTFV Final*).

⁵ See *Notice of Amended Final Determination of Sales at Less Than Fair Value: Diamond Sawblades and Parts Thereof from the People’s Republic of China*, 71 FR 35864 (June 22, 2006) (*Amended LTFV Final*).

⁶ See *Diamond Sawblades and Parts Thereof from China and Korea*, 70 FR 43903 (July 29, 2005).

⁷ See *Investigation Nos. 731-TA-1092 and 1093 (Final) Diamond Sawblades and Parts Thereof From China and Korea*, 71 FR 39128 (July 11, 2006) (*ITC Negative Determination*).

industry is threatened with material injury by reason of imports of diamond sawblades from Korea and the PRC.⁸ On January 13, 2009, the CIT upheld the ITC’s affirmative determination upon remand and thus, despite the completion of the less-than-fair-value (LTFV) investigation in 2006, the order was not imposed until 2009.⁹

For the first administrative review of the order, covering the period of review from January 23, 2009, through October 31, 2010, the Department published the *Final Results 2009-10*,¹⁰ in which the Department determined the dumping margins as follows:

Exporter	Weighted-Average Margin Percent
ATM Single Entity ¹¹	0.15
Weihai Xiangguang Mechanical Industrial Co., Ltd.	9.55
Non-Selected Separate Rate Respondents	9.55
PRC-Wide Rate	164.09

For the second administrative review of the order, covering the period of review November 1, 2010, through October 31, 2011, the Department published *Final Results 2010-11*,¹² in which the Department determined the dumping margins as follows:

⁸ See *Diamond Sawblades and Parts Thereof from China and Korea: Investigation Nos. 731-TA-1092 and 1093 (Final)(Remand)*, ITC Pub. 4007 (May 2008), which can be accessed directly at http://www.usitc.gov/publications/701_731/pub4007.pdf.

⁹ See *Diamond Sawblades Manufacturers Coalition v. United States*, 33 C.I.T. 48 (2009); *Diamond Sawblades and Parts Thereof from the People’s Republic of China and the Republic of Korea: Notice of Court Decision Not In Harmony With Final Determination of the Antidumping Duty Investigations*, 74 FR 6570 (February 10, 2009); *Diamond Sawblades Manufacturers Coalition v. United States*, 650 F. Supp. 2d 1331, 1334, 1352-57 (CIT 2009) (ordering Commerce “to issue and publish antidumping duty orders and require the collection of cash deposits on subject merchandise”), *aff’d in Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374, 1376 (Fed. Cir. 2010); *Diamond Sawblades and Parts Thereof From the People’s Republic of China and the Republic of Korea: Antidumping Duty Orders*, 74 FR 57145 (November 4, 2009) (“Therefore, effective January 23, 2009, the Department will direct the U.S. Customs and Border Protection (‘CBP’) to suspend liquidation and collect cash deposits on diamond sawblades from the PRC and Korea”).

¹⁰ See *Diamond Sawblades and Parts Thereof From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review; 2009-2010*, 78 FR 11143 (February 15, 2013) (*Final Results 2009-10*).

¹¹ See *Final Results 2009-10*, 78 FR at 11144 n. 9. Advanced Technology & Materials Co., Ltd., is one of the companies comprising ATM Single Entity.

¹² See *Diamond Sawblades and Parts Thereof From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review; 2010-2011*, 78 FR 36166 (June 17, 2013), as amended in *Diamond Sawblades and Parts Thereof From the People’s Republic of China: Amended Final Results of Antidumping Duty Administrative Review; 2010-2011*, 78 FR 42930 (July 18, 2013) (*Final Results 2010-11*).

Exporter	Weighted-Average Margin Percent
ATM Single Entity ¹³	0.00
Weihai Xiangguang Mechanical Industrial Co., Ltd.	0.00
Non-Selected Separate Rate Respondents	0.00
PRC-Wide Rate	164.09

For the third administrative review of the order, covering the period of review November 1, 2011, through October 31, 2012, the Department published *Final Results 2011–12*,¹⁴ in which the Department determined the dumping margins as follows:

Exporter	Weighted-Average Margin Percent
Bosun Tools Co., Ltd. ¹⁵	4.65
Weihai Xiangguang Mechanical Industrial Co., Ltd.	5.06
Non-Selected Separate Rate Respondents	4.83
PRC-Wide Rate	164.09

Since the publication of the order, the Department completed two changed-circumstances reviews in which the Department made the following decisions:

- Hebei Husqvarna-Jikai Diamond Tools Co., Ltd., is not the successor-in-interest to Hebei Jikai Industrial Group Co., Ltd., which was a respondent selected for individual examination in the LTFV investigation.¹⁶
- Husqvarna (Hebei) Co., Ltd. is the successor-in-interest to Hebei Husqvarna Jikai Diamond Tools Co., Ltd.¹⁷

Since the publication of the order, the Department completed one scope determination in which the Department decided that certain rescue/demolition blades are not within the scope of the order.¹⁸

¹³ See *Diamond Sawblades and Parts Thereof From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review: 2010–2011*, 77 FR 73417, 73418 (December 10, 2012), unchanged in *Final Results 2010-2011*. Advanced Technology & Materials Co., Ltd., is one of the companies comprising ATM Single Entity.

¹⁴ See *Diamond Sawblades and Parts Thereof From the People's Republic of China: Final Results of Antidumping Duty Administrative Review: 2011–2012*, 79 FR 35723 (June 24, 2014) (*Final Results 2011–12*).

¹⁵ After the *Amended LTFV Final*, Bosun Tools Group Co., Ltd., has been known as Bosun Tools Co., Ltd. See, e.g., *Diamond Sawblades and Parts Thereof From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Intent To Rescind Review in Part*, 77 FR 76135, 76137 n. 3 (December 6, 2011), unchanged in *Final Results 2009-10*.

¹⁶ See *Diamond Sawblades and Parts Thereof From the People's Republic of China: Final Results and Termination, in Part, of the Antidumping Duty Changed Circumstances Review*, 76 FR 64898 (October 19, 2011).

¹⁷ See *Diamond Sawblades and Parts Thereof From the People's Republic of China: Final Results of Antidumping Duty Changed Circumstances Review*, 78 FR 48414 (August 8, 2013).

¹⁸ See *Notice of Scope Rulings*, 77 FR 9893, 9894 (February 21, 2012).

On March 28, 2013, the Department revoked the order, in part, with respect to Advanced Technology & Materials Co., Ltd., pursuant to its determination in *Section 129 Determination*.¹⁹

Since the publication of the order, there has been no circumvention determination or duty absorption determination.

This sunset review is the first sunset review of the order.

Scope of the Order

The products covered by the order are all finished circular sawblades, whether slotted or not, with a working part that is comprised of a diamond segment or segments, and parts thereof, regardless of specification or size, except as specifically excluded below. Within the scope of the order are semifinished diamond sawblades, including diamond sawblade cores and diamond sawblade segments. Diamond sawblade cores are circular steel plates, whether or not attached to non-steel plates, with slots. Diamond sawblade cores are manufactured principally, but not exclusively, from alloy steel. A diamond sawblade segment consists of a mixture of diamonds (whether natural or synthetic, and regardless of the quantity of diamonds) and metal powders (including, but not limited to, iron, cobalt, nickel, tungsten carbide) that are formed together into a solid shape (from generally, but not limited to, a heating and pressing process).

Sawblades with diamonds directly attached to the core with a resin or electroplated bond, which thereby do not contain a diamond segment, are not included within the scope of the order. Diamond sawblades and/or sawblade cores with a thickness of less than 0.025 inches, or with a thickness greater than 1.1 inches, are excluded from the scope of the order. Circular steel plates that have a cutting edge of non-diamond material, such as external teeth that protrude from the outer diameter of the plate, whether or not finished, are excluded from the scope of the order. Diamond sawblade cores with a Rockwell C hardness of less than 25 are excluded from the scope of the order. Diamond sawblades and/or diamond segment(s) with diamonds that predominantly have a mesh size number greater than 240 (such as 250 or 260) are excluded from the scope of the order. Merchandise subject to the order is typically imported under heading 8202.39.00.00 of the Harmonized Tariff Schedule of the United States (HTSUS). When packaged together as a set for retail sale with an item that is separately classified under headings 8202 to 8205 of the HTSUS, diamond sawblades or parts thereof may be imported under heading 8206.00.00.00 of the HTSUS. On October 11, 2011, the Department included the 6804.21.00.00 HTSUS classification number to the customs case reference file, pursuant to a request by CBP.²⁰ The tariff classifications are provided for convenience and customs purposes; however, the written description of the scope of the order is dispositive.

¹⁹ See *Certain Frozen Warmwater Shrimp From the People's Republic of China and Diamond Sawblades and Parts Thereof From the People's Republic of China: Notice of Implementation of Determinations Under Section 129 of the Uruguay Round Agreements Act and Partial Revocation of the Antidumping Duty Orders*, 78 FR 18958 (March 28, 2013) (*Section 129 Determination*).

²⁰ See *Diamond Sawblades and Parts Thereof From the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review*, 76 FR 76128 (December 6, 2011).

Discussion of the Issues

Legal Framework

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 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 period before, and the period after, the issuance of the antidumping duty order.

Consistent with the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act, 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 normally determines that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping when: (a) dumping continued at any level above *de minimis* after 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.²¹ Alternatively, the Department normally will determine that revocation of an antidumping duty 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.²² In addition, as a base period for import volume comparison, it is the Department'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 an investigation may dampen import volumes and, thus, skew comparison.²³

Further, section 752(c)(3) of the Act states that the Department shall provide to the ITC the magnitude of the margin of dumping likely to prevail if the order were revoked. Generally, the Department selects the margin(s) from the final determination in the original investigation, as this is the only calculated rate that reflects the behavior of exporters without the discipline of an order in place.²⁴ However, the Department may use a rate from a more recent review where the dumping margin increased, as this rate may be more representative of a company's behavior in the absence of an order (*e.g.*, where a company increases dumping to maintain or increase market share with an order in place).²⁵ Finally, pursuant to section 752(c)(4)(A) of the Act, a dumping margin of "zero or *de minimis* shall not by itself require" the Department to determine that revocation of an antidumping duty order would not be likely to lead to a continuation or recurrence of sales at less than fair value.

²¹ See SAA at 889 and 890, House Report at 63-64, and Senate Report at 52.

²² See SAA, H.R. Rep. No. 103-316, Vol. 1 (1994), at 889-90.

²³ 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 the accompanying Issues and Decision Memorandum at Comment 1.

²⁴ See SAA at 890; see, *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 the accompanying Issues and Decision Memorandum at Comment 2.

²⁵ See SAA at 890-91.

In the *Final Modification for Reviews*, the Department 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 methodology determined by the Appellate Body to be World Trade Organization (WTO)-inconsistent.²⁶ The Department also noted that “*only in the most extraordinary circumstances* will the Department rely on margins other than those calculated and published in prior determinations.”²⁷ The Department also explained that it does not anticipate that it will need to recalculate the dumping margins in sunset determinations to avoid WTO inconsistency, apart from the “most extraordinary circumstances” provided for in its regulations.²⁸

Below we address the comments submitted by the domestic interested parties.

1. Likelihood of Continuation or Recurrence of Dumping

Comment 1: DSMC contends that, in accordance with sections 751(c)(1) and 752(c)(1)(A) and (B) of the Act, the Department should find that revoking the order on imports of diamond sawblades from the PRC would likely lead to the continuation or recurrence of dumping in the United States. According to DSMC, evidence of continuous dumping is illustrated by the dumping margins found in the three administrative reviews conducted by the Department.²⁹ Specifically, DSMC states that the PRC-wide rate found in each of the administrative reviews completed by the Department is 164.09 percent and the Department repeatedly found dumping above *de minimis* levels after the issuance of the order. According to DSMC, several of the respondents in this proceeding, including companies that the Department determined to be part of the PRC-wide entity, export large quantities of diamond sawblades to the United States.

DSMC contends that the continued dumping of the imports of the subject merchandise after the issuance of the order supports the likelihood that dumping will continue or recur if the order is lifted. According to DSMC, the subject merchandise entered the United States under HTSUS heading 8202.39 until 2011, when, upon its request, HTSUS subheading 8202.39.00.10 was added for the subject merchandise. Based on its own analysis of both HTSUS codes, DSMC asserts that the value of imports dropped since the imposition of the order in 2009 to October 2013. DSMC explains that, because HTSUS heading 8202.39 covers subject merchandise as well as non-subject merchandise, it did not analyze the volume of imports under these two HTS codes. DSMC asserts that the Department is not required to evaluate the volume of imports before and after the issuance of the order.

HCPNA explains that the Department stated in *Policies Regarding Sunset Reviews*:³⁰

²⁶ See *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification*, 77 FR 8101, 8103 (February 14, 2012) (*Final Modification for Reviews*).

²⁷ *Id.* (emphasis added).

²⁸ *Id.*

²⁹ See DSMC’s substantive response at 14-17.

³⁰ *Policies Regarding the Conduct of Five-year (“Sunset”) Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871, 18772 (April 16, 1998) (*Policies Regarding Sunset Reviews*).

{D}eclining (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.

HCPNA asserts that the dumping margins consistently declined after the publication of the order and the second administrative review established that no dumping occurred. At the same time, HCPNA claims, the imports of diamond sawblades from the PRC increased. According to HCPNA, since 2011, most diamond sawblades entered the United States under HTSUS subheading 8202.39.00.10 and the 2011-12 import data demonstrate a rise in the value of imports of diamond sawblades from the PRC. HCPNA explains that, because diamond sawblades entered the United States under a basket category before 2011, the import data do not permit a comparison of import statistics for the past two years with import statistics during the investigation. HCPNA argues that the declining margins to zero percent in the second administrative review and the increased imports indicate that foreign exporters are not unfairly pricing diamond sawblades to take market shares in the United States away from domestic producers like HCPNA.

Department's Position: Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (URAA), specifically the SAA, 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 will be made on an order-wide basis for each case.³¹ In addition, the Department 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.³² Further, 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 the Department 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 antidumping duty order. Thus, one consideration is whether the Department continued to find dumping above *de minimis* levels in administrative reviews subsequent to imposition of the antidumping duty order.³³ According to the SAA and the House Report, "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."³⁴ For the reasons discussed below, we find that revocation of the antidumping duty order on diamond sawblades from the PRC would be likely to lead to the continuation or recurrence of dumping in the United States.

Pursuant to section 752(c)(1)(A) of the Act, the Department first considered the weighted-average dumping margins determined in the investigation and subsequent proceedings. As stated

³¹ See SAA at 879 and House Report at 56.

³² See SAA at 889-890, House Report at 63-64, and Senate Report at 52.

³³ See SAA at 890.

³⁴ *Id.*; see also House Report, at 63-64.

above, in the investigation, the Department found the dumping margin of 164.09 percent for the PRC-wide entity and dumping margins of 2.82 percent, 35.51 percent, 48.50 percent, and 21.43 percent for separate-rate companies. The rates for the separate-rate companies were calculated using the zeroing methodology but the rate for the PRC-wide entity was taken from the petition and was not based on zeroing.³⁵ Similarly, in the first administrative review, the Department found dumping margins of 0.15 percent and 9.55 percent for companies that we determined were eligible for a separate rate. In the first administrative review, apart from the PRC-wide entity, the rates for these companies were calculated using the zeroing methodology. In the second administrative review, the Department found zero or *de minimis* rates for all companies apart from the PRC-wide entity. In the third administrative review, the Department found dumping margins of 4.65 percent, 5.06 percent, and 4.83 percent for companies that demonstrated eligibility for a separate-rate without using the zeroing methodology.

In the *Final Modification for Reviews*, the Department announced that in sunset reviews, it will not rely on weighted-average dumping margins that were calculated using the methodology determined by the Appellate Body to be WTO-inconsistent.³⁶ Accordingly, the Department is not relying on weighted-average dumping margins that were calculated using the methodology determined by the Appellate Body to be WTO-inconsistent. The PRC-wide rate of 164.09 percent for the PRC-wide entity in the investigation was based on the dumping margin from the petition³⁷ and, therefore, does not include zeroing and is consistent with the *Final Modification for Reviews*. This dumping margin remains in effect. Also, the final margins for Bosun Tools Co., Ltd. (Bosun), and Weihai Xiangguang Mechanical Industrial Co., Ltd. (Weihai) in the third administrative review are above *de minimis* and consistent with the *Final Modification for Reviews*. Thus, dumping continued at an above *de minimis* level after the issuance of the order.

Pursuant to section 752(c)(1)(B) of the Act, the Department also considered the volume of imports of the subject merchandise in determining whether revocation of the order is likely to lead to continuation or recurrence of dumping. As discussed above, it is the Department's practice to compare the volume of imports for the one-year period preceding the initiation of the investigation to the volume of imports during the period of a sunset review.

For the analysis of import volume, we used HTSUS heading 8202.39. HTSUS subheading 8202.39.00.10 does not cover the period prior to 2011 so we cannot use it to examine the change in volume of imports since the year before the initiation of investigation. Moreover, both DSMC and HCPNA based their analyses on import value, not import volume. We are relying on import volume to make a determination on the likelihood of continuation or recurrence of dumping in

³⁵ See *LTFV Final*, 71 FR at 29308.

³⁶ See *Final Modification for Reviews*.

³⁷ See *Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People's Republic of China*, 71 FR 29303, 29308 (May 22, 2006).

sunset reviews.³⁸ Finally, using HTSUS heading 8202.39, not HTSUS subheading 8202.39.00.10, is consistent with the scope of the order. Therefore, we did not use HTSUS subheading 8202.39.00.10 to examine the import volumes prior to 2011.³⁹

Based on GTA data for the HTSUS heading containing diamond sawblades (HTSUS heading 8202.39), pre-initiation (*i.e.*, base year) volumes were 10.9 million units in 2004. In the years after the investigation, 2006-2013, volumes were 13.2, 16.7, 15.3, 9.9, 15.0, 14.5, 15.4, and 13.8 million units. Although imports dipped below base-year volumes when the order was finally imposed in 2009 (9.9 million units), imports from 2010-2013 have been 34.12 percent higher than pre-initiation volumes (average of 14.7 million units compared to 10.9 in the base year). Since the publication of the order, the import volume of diamond sawblades from the PRC increased from the pre-investigation level.⁴⁰ However, in the absence of respondent participation, we are not able to attribute the increased imports to any particular party.⁴¹

In addition, because of the *ITC Negative Determination* and the subsequent litigation that ended with *DSMC 2009*, there is a period between the publication of the *Amended LTFV Final* in 2006 and the imposition of the order that took effect in January 2009. Because of the litigation history unique to this order, we also compared the average volume of imports for the period between the base year (*i.e.*, 2004) and 2008 (*i.e.*, a period when there was no order in place) to the volume of the imports during the period of this sunset review. Since the publication of the order, the import volume of diamond sawblades from the PRC remained virtually the same from the 2004-2008 period to the period of this sunset review.⁴²

While the volume of imports under HTSUS heading 8202.39 contains a basket category of merchandise (*i.e.*, subject and non-subject merchandise), for the reasons explained above, the imports under this HTSUS heading are the only products that we can use to compare the volumes for purposes of this sunset review. Based on our analysis of import volumes under this HTSUS heading, not import values as considered by DSMC and HCPNA, we find that the volume of imports remained steady or increased.⁴³

³⁸ See, e.g., *Folding Gift Boxes From the People's Republic of China: Preliminary Results of the Second Sunset Review of the Antidumping Duty Order*, 77 FR 65361 (October 26, 2012), and the accompanying Preliminary Decision Memorandum at 6, unchanged in *Folding Gift Boxes From the People's Republic of China: Final Results of the Second Sunset Review and Continuation of the Antidumping Duty Order*, 78 FR 14269 (March 5, 2013) (collectively *Folding Gift Boxes*), and *Circular Welded Austenitic Stainless Pressure Pipe From the People's Republic of China: Final Results of the Expedited First Sunset Review of the Antidumping Duty Order*, 79 FR 32913 (June 9, 2014).

³⁹ For HTSUS subheading 8202.39.00.10, the import value data HCPNA provided is limited to 2011 and 2012 and do not provide the import value data for January – October 2013, whereas the import value data DSMC provided cover 2011, 2012, January – October 2012, and January – October 2013. See HCPNA's substantive response at 8 and DSMC's substantive response at Exhibit 3. Therefore, we do not find that the import value data HCPNA submitted indicate an increase of import of the subject merchandise during the period of this sunset review.

⁴⁰ See Attachment.

⁴¹ See *Folding Gift Boxes*.

⁴² See Attachment.

⁴³ *Id.*

The continued dumping at above *de minimis* levels with the discipline of the order in place supports a determination that dumping will continue or recur if the order were to be revoked.⁴⁴

2. Magnitude of the Margins Likely to Prevail

Comment 2: DSMC requests that the Department report to the ITC the company-specific margins and the PRC-wide rate determined in the investigation. DSMC explains that, although the *Final Modification for Reviews* states that the Department will no longer rely on dumping margins calculated using the zeroing methodology “when determining whether dumping is likely to continue in the absence of an antidumping order,”⁴⁵ the *Final Modification for Reviews* does not state that the Department changed its practice with respect to the margins that it will report to the ITC as the margins most likely to prevail if the order is revoked. According to DSMC, the WTO dispute settlement reports that led to the publication of the *Final Modification for Review* make findings with respect to the Department’s reliance on margins affected by zeroing when it determines whether dumping is likely to continue or recur if an order is revoked, not with respect to the WTO-consistency of the margins that the Department reports to the ITC. DSMC asserts that, even if the *Final Modification for Reviews* is applied to the reporting of margins to the ITC, because the only margin challenged for the use of zeroing in the investigation was the margin for ATM Single Entity, there is no reason to believe that any other margins in the investigation were calculated using zeroing. DSMC asserts further that ATM Single Entity is now a part of the PRC-wide entity in the investigation, as a result of a remand.

HCPNA requests that, as the margin likely to prevail if the order were revoked, the Department report to the ITC the zero margin that it calculated for all separate rate respondents in the second administrative review. HCPNA argues that the Department should not report the investigation margins to the ITC because those margins are WTO-inconsistent. Citing *PET Film Prelim*,⁴⁶ HCPNA explains that the Department used weighted-average margins from recently completed administrative reviews if the calculated margins in other segments of the proceeding were WTO-inconsistent.

Department’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, the Department will provide to the ITC the company-specific weighted-average dumping margin from the investigation for each company.⁴⁷ For companies not individually examined, or for companies that did not begin shipping until after the order was issued, the Department will normally provide a rate based on the all-others rate from the investigation. However, for the PRC, which the Department considers to be a nonmarket economy (NME) under section 771(18) of the Act, the Department does not have an all-others rate. Thus, in NME cases, instead of an all-others rate, the Department uses separate rates for

⁴⁴ See SAA at 890 (explaining that “[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”).

⁴⁵ See *Final Modification for Reviews*, 77 FR at 8103.

⁴⁶ See *Polyethylene Terephthalate Film, Sheet and Strip From India and Taiwan: Preliminary Results of the Second Sunset Review of the Antidumping Duty Orders*, 78 FR 67113 (November 8, 2013) (*PET Film Prelim*).

⁴⁷ See *Eveready Battery Co., Inc. v. United States*, 77 F. Supp. 2d 1327, 1333 (CIT 1999).

non-examined respondents as well as an established rate which it applies to all exporters that have not established their eligibility for a separate rate.⁴⁸

The Department prefers to select a margin from the investigation because it is the only calculated rate that reflects the behavior of producers or exporters without the discipline of an order or suspension agreement in place.⁴⁹ Under certain circumstances, however, the Department may select a more recent rate to report to the ITC. The SAA states that, in certain instances, “a more recently calculated rate may be more appropriate. For example, 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.”⁵⁰ Finally, as explained above, in accordance with the *Final Modification for Reviews*, the Department will not rely on weighted-average dumping margins that were calculated using the WTO-inconsistent methodology.⁵¹

In the investigation, we calculated weighted-average dumping margins for the three selected respondents using the zeroing methodology. The Department calculated dumping margins for Bosun and Weihai of 4.65 percent and 5.06 percent, respectively, in the third administrative review. These two margins were above *de minimis* and calculated in a manner consistent with the *Final Modification for Reviews*. The dumping margin for the eligible non-selected separate rate companies in the third administrative review, 4.83 percent, is based on the dumping margins for Bosun and Weihai and thus above *de minimis* and consistent with the *Final Modification for Reviews*. Also, the PRC-wide rate of 164.09 percent in the LTFV investigation was based on the dumping margin from the petition and does not include zeroing and is consistent with the *Final Modification for Reviews*.

Final Results of the Review

We determine that revocation of the antidumping duty order on diamond sawblades from the PRC would be likely to lead to continuation or recurrence of dumping at weighted-average margins up to 164.09 percent.

⁴⁸ See *Paper Clips from the People’s Republic of China: Final Results of Expedited Sunset Review of Antidumping Duty Order*, 76 FR 26242 (May 6, 2011), and the accompanying Issues and Decision Memorandum at Comment 2.

⁴⁹ See *Eveready Battery*, 77 F. Supp. 2d at 1333; see also SAA at 890.

⁵⁰ See SAA at 890-891.

⁵¹ See *Final Modification for Reviews*, 77 FR at 8103.

Recommendation

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

Agree Disagree



Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

July 7, 2014
Date

Attachment

ATTACHMENT

HTS - 820239: CIRCULAR SAW BLADES OF BASE METAL WITH WORKING PART OF MATERIAL OTHER THAN STEEL, AND PARTS
First Unit of Quantity by Country Name, Country Group and First Unit of Quantity
for USITC CTRY GRP: ASIA

U.S. Imports for Consumption

Annual Data



Country	HTS Number	Quantity Description	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	
			<i>In Actual Units of Quantity</i>										
China	820239	number	10,940,273	12,567,387	13,247,385	16,660,676	15,269,429	9,894,404	14,981,941	14,494,663	15,449,292	13,768,351	
2004-2008 Average							13,737,030					2009-2013 Average	13,717,730
											2010-2013 Average	14,673,562	

Sources: Data on this site have been compiled from tariff and trade data from the U.S. Department of Commerce and the U.S. International Trade Commission.