MEMORANDUM TO:    Gary Taverman  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations,  
performing the non-exclusive functions and duties of the  
Assistant Secretary for Enforcement and Compliance

FROM:    James Maeder  
Associate Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations  
performing the duties of Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

SUBJECT:    Issues and Decision Memorandum for the Final Results of  
Expedited First Sunset Review of Steel Wire Garment Hangers  
from the Socialist Republic of Vietnam

Summary:

We have analyzed the substantive responses of the interested parties participating in the sunset review of the countervailing duty order (CVD) on certain steel wire garment hangers from the Socialist Republic of Vietnam (Vietnam). We recommend that you approve the positions we have developed in the “Discussion of the Issues” section of this memorandum. Below is the complete list of the issues that the Department of Commerce (Commerce) is addressing in this expedited sunset review.

1. Likelihood of continuation or recurrence of a countervailable subsidy  
2. Net countervailable subsidy likely to prevail  
3. Nature of the subsidy

History of the Order

On December 26, 2012, Commerce published in the Federal Register its final determination in the CVD investigation on steel wire garment hangers from Vietnam.\(^1\) In the investigation, Commerce found that four programs conferred countervailable subsidies: (1) Land Preferences for Enterprises in Encouraged Industries or Industrial Zones; (2) Corporate Income Tax Reductions for Newly Established Investment Projects; (3) Import Duty Exemptions or Reimbursements for Raw Materials; and (4) Preferential Lending to Exporters.

In addition, Commerce found ten programs were not used, and one program was not countervailable. The total net countervailable subsidy applied to South East Asia Hamico Export Joint Stock Company (SEA Hamico), Nam A Hamico Export Joint Stock Company (Nam A), and Linh Sa Hamico Company Limited (Linh Sa) (collectively, the Hamico Companies) and Infinite Industrial Hanger Limited (Infinite) and Supreme Hanger Company Limited (Supreme) (collectively, the Infinite Companies) was 31.58 percent and 90.42 percent, respectively. On February 3, 2013, Commerce published the Order. There have been no administrative reviews since the issuance of the Order and, therefore, the net countervailable subsidy rates have remained unchanged.

**Background:**

On November 1, 2017, Commerce initiated the first sunset review of the Order pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). On November 6, 2017, Commerce received a notice of intent to participate on behalf of M&B Metal Products Company, Inc. (hereinafter referred to as the petitioner). The petitioner claimed interested party status under sections 771(9)(C) of the Act because it is a domestic producer of steel wire garment hangers. On November 30, 2017, Commerce received a substantive response from the petitioner within the 30-day deadline specified under 19 CFR 351.218(d)(3)(i). However, Commerce did not receive a substantive response from the Government of Vietnam (GOV) or Vietnamese producers or exporters of the merchandise covered by the Order. 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 review of the CVD order. This approach is consistent with Commerce’s practice.

Commerce did not conduct a hearing because a hearing was not requested.

**Discussion of the Issues:**

In accordance with section 751(c)(1) of the Act, Commerce is conducting this review to determine whether revocation of the CVD order would likely lead to continuation or recurrence of a countervailable subsidy. Section 752(b) of the Act provides that, in making this determination, Commerce shall consider the net countervailable subsidy determined in the

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2 Id.
4 Id., 78 FR at 8108.
8 See, e.g., Welded Carbon Steel Pipe and Tube from Turkey: Final Results of Expedited Sunset Review of Countervailing Duty Order, 76 FR 64900 (October 19, 2011); Certain Pasta from Turkey: Final Results of Expedited Five-Year (“Sunset”) Review of the Countervailing Duty Order, 72 FR 5269 (February 5, 2007); and Certain Carbon Steel Products from Sweden; Final Results of Expedited Sunset Review of Countervailing Duty Order, 65 FR 18304 (April 7, 2000).
investigation and subsequent reviews, and whether any change in the program which gave rise to the net countervailable subsidy has occurred and is likely to affect that net countervailable subsidy. Pursuant to section 752(b)(3) of the Act, Commerce shall provide to the International Trade Commission (ITC) the net countervailable subsidy likely to prevail if the order is revoked. In addition, consistent with section 752(a)(6) of the Act, Commerce shall provide to the ITC information concerning the nature of the subsidy and whether it is a subsidy described in Article 3 or Article 6.1 of the 1994 World Trade Organization (WTO) Agreement on Subsidies and Countervailing Measures (ASCM).

Below we address the substantive responses of the interested parties.

1. Likelihood of Continuation or Recurrence of a Countervailable Subsidy

 Interested Parties’ Comments

The petitioner asserts that revocation of the Order would likely lead to continuation or recurrence of countervailable subsidies to Vietnam producers and exporters of wire garment hangers. The petitioner maintains that neither the GOV nor any Vietnamese producer has requested an administrative review of the Order nor attempted to demonstrate the termination of any of the subsidy programs identified in the original investigation. Therefore, subsidies continue to be provided to, and available to, Vietnamese producers and exporters of garment hangers. In addition, the petitioner alleges that according to available import data, the Order has had a direct effect on imports as demonstrated by the fact that imports of garment hangers from Vietnam declined significantly immediately after the imposition of the Order.

In sum, the petitioner asserts that the record of this sunset review supports the conclusion that subsidization of steel wire garment hangers from Vietnam would be likely to continue or recur if the Order were to be revoked.

Commerce’s Position: In the original investigation, Commerce found that countervailable subsidies were being provided to steel wire garment hanger producers under the four programs discussed above. Neither the GOV nor any Vietnamese producer or exporter of subject merchandise has provided Commerce information to support finding any change in the existence or availability of these subsidy programs in this review.

Under Commerce’s practice, the continued existence of countervailable subsidy programs are sufficient to establish that revocation would be likely to lead to the continuation or recurrence of countervailable subsidies.

Therefore, based on the findings made in the original investigation, the fact that no intervening reviews have been conducted, and the lack of evidence in the instant sunset proceeding that all of these subsidy programs have been terminated without residual benefits or replacement programs or found non-countervailable, we find that the four programs found countervailable continue to

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9 See Domestic Response at 5-8.
provide countervailable subsidies to producers and exporters of steel wire garment hangers from Vietnam.

On the basis of the above facts, it is reasonable to determine that countervailable subsidy programs continue to exist and are being utilized. The continuation of programs is highly probative of the likelihood of the continuation or recurrence of countervailable subsidies. Therefore, because we find that the countervailable programs examined in this proceeding continue to exist and be used, and because the GOV and other respondent interested parties did not participate in this sunset review before Commerce, and absent argument or evidence to the contrary, Commerce determines that revocation of the Order would likely lead to a continuation or recurrence of a countervailable subsidy for all respondent interested parties.

2. Net Countervailable Subsidy:

**Interested Parties’ Comments**

The petitioner suggests that Commerce select the original subsidy rate of 90.42 percent for the Infinite Companies; 31.58 for the Hamico Companies and 31.58 percent for all other Vietnamese producers and exporters as the net countervailable subsidy rates to provide to the ITC that are likely to prevail if the order is revoked.11

**Commerce’s Position:** Commerce will normally select a rate from the investigation, because that is the only calculated rate that reflects the behavior of exporters and foreign governments without the discipline of an order.12 Pursuant to Commerce’s practice, this rate may not be the most appropriate if, for example, the rate was derived from subsidy programs which were found in subsequent reviews to be terminated, there has been a program-wide change, or the rate ignores a program found to be countervailable in a subsequent review.13 In addition, Commerce may make adjustments to the net countervailable subsidy calculated in the original investigation to take into account subsidy programs that were found in subsequent reviews to be eliminated.

There have been no administrative reviews of the Order and no respondent interested party has provided information to show that countervailable programs have been terminated. Absent evidence or argument that there have been any changes to the programs, and consistent with the Policy Bulletin, Commerce will report to the ITC the net countervailable subsidy rates as contained in the “Final Results of Review” section of this decision memorandum, i.e., the rates from the investigation.

3. Nature of the Subsidy

Domestic interested parties did not comment on this issue. Consistent with section 752(a)(6) of the Act, the Department will provide the following information to the ITC concerning the nature of the subsidy, and whether the subsidy is a prohibited subsidy as described in Article 3 of the

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11 See Domestic Response at 9.
13 See Policy Bulletin.
ASCM. We find that the following programs are prohibited subsidies as described in Article 3 of the ASCM.

1. Corporate Income Tax Reductions for Newly Established Investment Projects

The GOV provides income tax exemptions and reductions pursuant to the 1997 Law on Enterprise Income Tax, No. 57/L-CTN (Law No. 57), Law on Domestic Investment Encouragement, No. 03/1998/QH10 (Law No. 3) and the Implementing Decree of Law on Domestic Investment Encouragement of 1998, Decree No. 51/1999/ND-CP (Decree No. 51). Article 15 of Law No. 3 lists the eligibility criteria under the program. In particular, Article 15.3 of Law No. 3 provides income tax exemptions and reductions related to “the production of and trading in export goods” under which producers of subject merchandise qualified for favorable tax treatment. Therefore, Commerce found that benefits under this program are specific under section 771(5A)(B) of the Act because export performance is among the eligibility criteria under Article 15 of the relevant law.\(^{14}\)

2. Import Duty Exemptions or Reimbursements for Raw Materials

Duty exemptions on raw materials are addressed in the Law on Import Duty and Export Duty, Law No. 45/2005/QH-11 (Law No. 45) and Decree No. 87/2010/ND-CP (Decree 87). Specifically, under Law No. 45, Chapter IV, import duty exemptions are provided for “raw materials and supplies used for manufacture of equipment and machinery” (Article 16.6(d)) and “Raw materials, supplies and accessories imported for production activities of investment projects on the list of domains where investment is particularly encouraged or the list of geographical areas meeting with exceptional socio-economic difficulties” (Article 16.9). Under 16.4 of Law No. 45, raw materials may be imported duty-free while Article 19 provides for reimbursement of duties on raw materials or supplies imported for the production of export goods, for which import tax has been paid. Because the receipt of import duty exemptions on raw materials are contingent upon export performance as one or more criteria, Commerce determined that they are specific in accordance with section 771(5A)(B) of the Act.\(^{15}\)

3. Preferential Lending to Exporters

Under this program the Vietnam Joint Stock Commercial Bank for Industry and Trade (VietinBank) offers “supported” interest rates to exporters provided that they use the proceeds of the loan in the manner specified in the contract, follow the payment schedule specified in the contract, conduct payment for exporting through the lending institution, and sell the foreign exchange earned from the export sale through the lending institution. Because the lending was contingent upon export performance, Commerce found the program specific under section 771(5A)(B) of the Act.\(^{16}\)

\(^{15}\) See Hangers from Vietnam and accompanying Decision Memorandum at 15-16.  
\(^{16}\) Id. at 16-17.
The following program does not fall within the meaning of Article 3 of the *SCM*. However, it could be a subsidy described in Article 6.1 of the *SCM* if the amount of the subsidy exceeds five percent, as measured in accordance with Annex IV of the *SCM*. It also could fall within the meaning of Article 6.1 if it constitutes debt forgiveness or is a subsidy to cover operating losses sustained by an industry or enterprise. However, there is insufficient information on the record for the Department to make such a determination. We, however, are providing the ITC with the following program descriptions.

Land Preferences for Enterprises in Encouraged Industries or Industrial Zones

Decree No. 142/2005/NC-CP (Decree 142) of November 14, 2005, provides for the collection of land rents and water surface rents in connection with land leased by the GOV. Decree 142 states that land rent shall be reduced or exempted under certain circumstances enumerated under the law and also where the Prime Minister determines it is appropriate to do so, based on the recommendation of the agency heads and provincial and municipal governments. Commerce found this program countervailable.\(^{17}\)

Final Results of Review

As a result of this review, Commerce finds that revocation of the *Order* would likely lead to continuation or recurrence of subsidization at the rates listed below.

<table>
<thead>
<tr>
<th>Manufacturers/Producers/Exporters</th>
<th>Weighted-average Rate (percent)</th>
</tr>
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<tbody>
<tr>
<td>Hamico Companies</td>
<td>31.58</td>
</tr>
<tr>
<td>Infinite Companies</td>
<td>90.42</td>
</tr>
<tr>
<td>All Others</td>
<td>31.58</td>
</tr>
</tbody>
</table>

\(^{17}\) See *Hangers from Vietnam* and accompanying Decision Memorandum at 13.
**Recommendation**

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

☑ ☐

Agree Disagree

3/5/2018

Signed by: GARY TAVERMAN

Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance