



A-428-820
 Sunset Review
 2023

Public Document
 E&C/OVI: TRW

May 2, 2023

MEMORANDUM TO: Abdelali Elouaradia
 Deputy 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 Expedited Fifth Sunset
 Review of the Antidumping Duty Order on Certain Small
 Diameter Seamless Carbon and Alloy Standard, Line and Pressure
 Pipe from Germany

I. SUMMARY

We have analyzed the substantive responses¹ of Vallourec Star, L.P. (Vallourec or domestic interested party) in the fifth sunset review of the antidumping duty *Order*² covering certain small diameter seamless carbon and alloy standard, line, and pressure pipe (seamless pipe) from Germany. 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 Margin of Dumping Likely to Prevail

¹ See Vallourec’s Letter, “Certain Small Diameter Seamless Carbon and Alloy Standard, Line, and Pressure Pipe From Germany, Fifth Sunset Review: Substantive Response to Notice of Initiation,” dated February 2, 2023 (Substantive Response).

² See *Notice of Antidumping Duty Order and Amended Final Determination: Certain Small Diameter Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe from Germany*, 60 FR 39704 (August 3, 1995) (*Order*).



II. BACKGROUND

On January 3, 2023,³ the U.S. Department of Commerce (Commerce) published the notice of initiation of the fifth sunset review of the *Order*, pursuant to section 751(c) of the Act.⁴ Commerce received a notice of intent to participate from Vallourec, a U.S. producer of seamless pipe, within the deadline specified in 19 CFR 351.218(d)(1)(i).⁵ Vallourec claimed interested party status under section 771(9)(C) of the Act and 19 CFR 351.102(b)(29)(v) as a producer of seamless pipe in the United States, a domestic like product.

Commerce received a substantive response from Vallourec within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).⁶ As noted above, we did not receive a substantive response in a timely manner from any other interested party in this proceeding, and no party requested a hearing. On February 24, 2023, Commerce notified the ITC that it did not receive an adequate substantive response from respondent interested parties.⁷ As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce is conducting an expedited (120-day) sunset review of this *Order*.

III. SCOPE OF THE ORDER

The scope of this order covers certain small diameter seamless carbon and alloy standard, line and pressure pipes produced to the ASTM A-335, ASTM A-106, ASTM A-53 and API 5L specifications and meeting the physical parameters described below, regardless of application. The scope of the order also includes all products used in standard, line, or pressure pipe applications and meeting the physical parameters below, regardless of specification.

For purposes of the order, seamless pipes are seamless carbon and alloy (other than stainless) steel pipes, of circular cross-section, not more than 114.3 mm (4.5 inches) in outside diameter, regardless of wall thickness, manufacturing process (hot-finished or cold-drawn), end finish (plain end, beveled end, upset end, threaded, or threaded and coupled), or surface finish. These pipes are commonly known as standard pipe, line pipe or pressure pipe, depending upon the application. They may also be used in structural applications. Pipes produced in nonstandard wall thicknesses are commonly referred to as tubes.

³ The five-year anniversary date for the *Order* is February 20, 2023. See *Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe From Germany*, 83 FR 7217 (February 20, 2018); and U.S. International Trade Commission (ITC) Publication 4760, *Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from Germany*, Inv. No. 731-TA-709 (Fourth Review) (February 2018); see also, *Certain Small Diameter Seamless Carbon and Alloy Standard, Line and Pressure Pipe From Germany: Continuation of Antidumping Duty Order*, 83 FR 8651 (February 28, 2018).

⁴ See *Initiation of Five-Year (Sunset) Review*, 88 FR 63 (January 3, 2023).

⁵ See Vallourec's Letter, "Notice of Intent to Participate in the Fifth Five-Year Review of the Antidumping Duty Order on Seamless Line and Pressure Pipe from Germany," dated January 18, 2023.

⁶ See Substantive Response.

⁷ See Commerce's Letter, "Sunset Review for January 2023," dated February 24, 2023.

The merchandise subject to the order is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS), under HTSUS subheadings 7304.19.1020, 7304.19.5020, 7304.31.6050, 7304.3900.16, 7304.3900.20, 7304.39.0024, 7304.39.0028, 7304.39.0032, 7304.51.5005, 7304.51.5060, 7304.59.6000, 7304.59.8010, 7304.59.8015, 7304.59.8020, and 7304.59.8025.

The following information further defines the scope of the order, which covers pipes meeting the physical parameters described above:

Specifications, Characteristics, and Uses: Seamless pressure pipes are intended for the conveyance of water, steam, petrochemicals, chemicals, oil products, natural gas and other liquids and gasses in industrial piping systems. They may carry these substances at elevated pressures and temperatures and may be subject to the application of external heat. Seamless carbon steel pressure pipe meeting the American Society for Testing and Materials (ASTM) standard A-106 may be used in temperatures of up to 1000 degrees Fahrenheit, at various American Society of Mechanical Engineers (ASME) code stress levels. Alloy pipes made to ASTM standard A-335 must be used if temperatures and stress levels exceed those allowed for A-106 and the ASME codes. Seamless pressure pipes sold in the United States are commonly produced to the ASTM A-106 standard.

Seamless standard pipes are most commonly produced to the ASTM A-53 specification and generally are not intended for high temperature service. They are intended for the low temperature and pressure conveyance of water, steam, natural gas, air and other liquids and gasses in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses. Standard pipes (depending on type and code) may carry liquids at elevated temperatures but must not exceed relevant ASME code requirements.

Seamless line pipes are intended for the conveyance of oil and natural gas or other fluids in pipe lines. Seamless line pipes are produced to the API 5L specification. Seamless pipes are commonly produced and certified to meet ASTM A-106, ASTM A-53 and API 5L specifications. Such triple certification of pipes is common because all pipes meeting the stringent A-106 specification necessarily meet the API 5L and ASTM A-53 specifications. Pipes meeting the API 5L specification necessarily meet the ASTM A-53 specification. However, pipes meeting the A-53 or API 5L specifications do not necessarily meet the A-106 specification. To avoid maintaining separate production runs and separate inventories, manufacturers triple certify the pipes. Since distributors sell the vast majority of this product, they can thereby maintain a single inventory to service all customers.

The primary application of ASTM A-106 pressure pipes and triple certified pipes is in pressure piping systems by refineries, petrochemical plants and chemical plants. Other applications are in power generation plants (electrical-fossil fuel or nuclear), and in some oil field uses (on shore and off shore) such as for separator lines, gathering lines and metering runs. A minor application of this product is for use as oil and gas distribution lines for commercial applications. These applications constitute the majority of the market for the subject seamless pipes. However, A-106 pipes may be used in some boiler applications.

The scope of the order includes all seamless pipe meeting the physical parameters described above and produced to one of the specifications listed above, regardless of application, and whether or not also certified to a non-covered specification. Standard, line and pressure applications and the above-listed specifications are defining characteristics of the scope of the order. Therefore, seamless pipes meeting the physical description above, but not produced to the A-335, A-106, A-53, or API 5L standards shall be covered if used in a standard, line or pressure application.

For example, there are certain other ASTM specifications of pipe which, because of overlapping characteristics, could potentially be used in A-106 applications. These specifications generally include A-162, A-192, A-210, A-333, and A-524. When such pipes are used in a standard, line or pressure pipe application, such products are covered by the scope of the order.

Specifically excluded from the order are boiler tubing and mechanical tubing, if such products are not produced to A-335, A-106, A-53 or API 5L specifications and are not used in standard, line or pressure applications. In addition, finished and unfinished oil country tubular goods (OCTG) are excluded from the scope of the order, if covered by the scope of another antidumping duty order from the same country. If not covered by such an OCTG order, finished and unfinished OCTG are included in the scope when used in standard, line or pressure applications. Finally, also excluded from the order are redraw hollows for cold-drawing when used in the production of cold-drawn pipe or tube.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of the order is dispositive.

IV. HISTORY OF THE ORDER

On June 19, 1995, Commerce published its final determination of sales at less than fair value (LTFV) investigation of seamless pipe from Germany,⁸ and on August 3, 1995, Commerce published the *Order*. Commerce determined an estimated weighted-average dumping margin of 57.72 percent for Mannesmannrohren-Werke AG, as well as all other producers and exporters.⁹

Sunset Reviews

Commerce has completed four sunset reviews of the *Order*. Commerce published the initiation of the first sunset review on July 3, 2000, pursuant to section 751(c) of the Act.¹⁰ In this first sunset review, Commerce found that revocation of the *Order* would be likely to lead to a continuation or recurrence of dumping at a rate of 57.72 percent, the same rate as determined in the investigation.¹¹ On June 29, 2001, the ITC determined, pursuant to section 751(c) of the Act, that revocation of the *Order* would be likely to lead to a continuation or recurrence of material

⁸ See *Notice of Final Determination of Sales at Less Than Fair Value: Small Diameter Circular Seamless Carbon and Alloy Steel, Standard, Line and Pressure Pipe From Germany*, 60 FR 31974 (June 19, 1995) (*Final Determination*).

⁹ See *Order*.

¹⁰ See *Notice {sic.} of Initiation of Five-Year ("Sunset") Reviews*, 65 FR 41053 (July 3, 2000).

¹¹ See *Final Results of Expedited Sunset Reviews: Seamless Pipe From Argentina, Brazil, Germany, and Italy*, 65 FR 66708, 66711 (November 7, 2000).

injury to an industry in the United States within a reasonably foreseeable time.¹² On July 16, 2001, Commerce published the notice of continuation of the *Order*.¹³

Commerce published the notice of initiation of the second sunset review on June 1, 2006, pursuant to section 751(c) of the Act.¹⁴ In the second sunset review, Commerce found that revocation of the *Order* would be likely to lead to continuation or recurrence of dumping at a rate of 57.72 percent, the same rate as determined in the investigation.¹⁵ On May 8, 2007, the ITC determined, pursuant to section 751(c) of the Act, that revocation of the *Order* would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time,¹⁶ and on May 18, 2007, Commerce published the notice of continuation of the *Order*.¹⁷

Commerce published the initiation of the third sunset review on April 2, 2012.¹⁸ In the third sunset review, Commerce found that revocation of the *Order* would be likely to lead to continuation or recurrence of dumping at a rate of 57.72 percent, the same rate as determined in the investigation.¹⁹ On April 27, 2012, the ITC determined, pursuant to section 751(c) of the Act, that revocation of the *Order* would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.²⁰ On May 14, 2012, Commerce published the notice of continuation of the *Order*.²¹

Commerce published the initiation of the fourth sunset review on August 1, 2017.²² In the fourth sunset review, Commerce found that revocation of the *Order* would be likely to lead to continuation or recurrence of dumping up to a rate of 57.72 percent, the same rate as determined in the investigation.²³ On February 20, 2018, the ITC determined, pursuant to section 751(c) of the Act, that revocation of the *Order* would be likely to lead to continuation or recurrence of

¹² See *Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe From Argentina, Brazil, Germany, and Italy*, 66 FR 34717 (June 29, 2001).

¹³ See *Continuation of Antidumping Duty Orders: Certain Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe From Argentina, Brazil and Germany*, 66 FR 37004 (July 16, 2001).

¹⁴ See *Initiation of Five-Year ("Sunset") Reviews*, 71 FR 31153 (June 1, 2006).

¹⁵ See *Certain Small Diameter Carbon and Alloy Seamless Standard, Line, and Pressure Pipe from Argentina, Brazil and Germany: Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders*, 71 FR 59079, 59082 (October 6, 2006) (*Second Sunset Review Final Results*).

¹⁶ See *Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe From Argentina, Brazil, and Germany*, 72 FR 26153 (May 8, 2007).

¹⁷ See *Continuation of Antidumping Duty Order on Certain Small Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Germany*, 72 FR 28026 (May 18, 2007).

¹⁸ See *Initiation of Five-Year ("Sunset") Review*, 77 FR 19643 (April 2, 2012).

¹⁹ See *Certain Small Diameter Seamless Carbon and Alloy Standard, Line, and Pressure Pipe From Germany: Final Results of the Expedited Third Sunset Review of the Antidumping Duty Order*, 77 FR 46385, 46386 (August 3, 2012) (*Third Sunset Review Final Results*), and accompanying Issues and Decision Memorandum (IDM).

²⁰ See *Certain Seamless Carbon and Alloy Steel; Standard, Line, and Pressure Pipe From Germany*, 77 FR 54926 (September 6, 2012).

²¹ See *Certain Small Diameter Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe From Germany: Continuation of Antidumping Duty Order*, 77 FR 56809 (September 14, 2012).

²² See *Initiation of Five-Year ("Sunset") Review*, 82 FR 35748 (August 1, 2017).

²³ See *Final Results of the Expedited Fourth Sunset Review of the Antidumping Duty Order*, 82 FR 57577, 57578 (December 6, 2017) (*Fourth Sunset Review Final Results*) and accompanying IDM.

material injury to an industry in the United States within a reasonably foreseeable time.²⁴ On February 28, 2018, Commerce published the notice of continuation of the *Order*.²⁵

Administrative Reviews

Since the completion of the immediately preceding fourth sunset review in this proceeding, we initiated, and subsequently rescinded, one administrative review, for the period August 1, 2021, through July 31, 2022.²⁶

New Shipper Reviews, Scope Rulings, Circumvention Determinations, and Changed Circumstances Determinations

Commerce has not conducted any new shipper reviews, nor made any scope rulings, circumvention determinations, or changed circumstances determinations in this proceeding.

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 the 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 period before, and the period after, the issuance of the *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 relevant order were revoked.

Consistent with the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act, specifically the SAA,²⁷ the House Report,²⁸ and the Senate Report,²⁹ Commerce's determinations of likelihood of recurrence will be made on an order-wide, rather than a company-specific, basis.³⁰ In addition, Commerce normally determines that revocation of an 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.³¹ The *Final Modification for Reviews* further states that "if there are no dumping margins during the five-year sunset

²⁴ See *Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe From Germany*, 83 FR 7217 (February 20, 2018).

²⁵ *Certain Small Diameter Seamless Carbon and Alloy Standard, Line and Pressure Pipe From Germany: Continuation of Antidumping Duty Order*, 83 FR 8651 (February 28, 2018).

²⁶ See *Rescission of Antidumping and Countervailing Duty Administrative Reviews*, 88 FR 6233 (January 21, 2023).

²⁷ See Statement of Administrative Action Accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, vol. 1 (1994) (SAA).

²⁸ See H.R. Rep. No. 103-826, pt. 1 (1994) (House Report).

²⁹ See S. Rep. No. 103-412 (1994) (Senate Report).

³⁰ See SAA at 879.

³¹ See SAA at 889-90; 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) (*Policy Bulletin*).

period, decreased volumes may provide another basis to determine that dumping is likely to continue or recur if the discipline of the order is removed.”³²

Alternatively, Commerce normally will determine that revocation of an antidumping 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.³³ In addition, as a base period for 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 an investigation may dampen import volumes and, thus, skew the comparison.³⁴ Also, when analyzing import volumes for the second 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.³⁵

Further, section 752(c)(3) of the Act states that Commerce shall provide to the ITC the magnitude of the margin of dumping likely to prevail if the order were revoked. Generally, Commerce selects the margin(s) 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 or suspension agreement in place.³⁶ However, in certain circumstances, a rate from a more recent review 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” or where a company increases dumping to maintain or increase market share with an order in place.)³⁷ Finally, 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 determine that revocation of an antidumping duty order would not be likely to lead to a continuation or recurrence of sales at LTFV.

In the *Final Modification for Reviews*, Commerce 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 zeroing methodology found to be inconsistent with the United States’ World Trade Organization (WTO) obligations.³⁸ However, Commerce explained in the *Final*

³² 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*).

³³ See SAA at 889-90.

³⁴ 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 accompanying IDM at Comment 1.

³⁵ See *Ferrovandium from the People’s Republic of China and the Republic of South Africa: Final Results of the Expedited Second Sunset Reviews of the Antidumping Duty Orders*, 79 FR 14216 (March 13, 2014), and accompanying IDM at “Discussion of the Issues: Legal Framework”; see also *Welded Large Diameter Line Pipe from Japan: Final Results of the Expedited Third Sunset Review of the Antidumping Duty Order*, 84 FR 1059 (February 1, 2019), and accompanying IDM at 7.

³⁶ See SAA at 890; see also, *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 accompanying IDM at Comment 2.

³⁷ See SAA at 890-91.

³⁸ See *Final Modification for Reviews*, 77 FR 8101, 8102-3.

Modification of 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 777A(d)(1)(B) of the Act.³⁹ In the *Final Modification of Reviews*, Commerce also noted that “only in the most extraordinary circumstances will {Commerce} rely on margins other than those calculated and published in prior determinations.”⁴⁰ Commerce also explained 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 that were not affected by the zeroing methodology, such as dumping margins recalculated pursuant to Section 129 proceedings, dumping margins determined based on the use of total adverse facts available, and dumping margins where no offsets were denied because all comparison results were positive.”⁴¹

VI. DISCUSSION OF THE ISSUES

Below we address the comments of the domestic interested parties.

1. Likelihood of Continuation or Recurrence of Dumping

*Domestic Interested Party Comments*⁴²

- German producers are likely to continue to engage in dumping in the absence of the *Order* and Commerce should find that dumping is likely to continue or recur if the *Order* is revoked.⁴³
- The record in this sunset review indicates that since the imposition of the *Order*, only one administrative review has been conducted, the *1995-1996 Review Final Results*⁴⁴, and that in the *1995-1996 Review Final Results* Commerce found that Mannesmann, the respondent in that review, persisted in dumping the subject merchandise.⁴⁵
- The continued existence of dumping margins is, in itself, a sufficient basis for Commerce to conclude that German producers are likely to continue to engage in dumping in the absence of the *Order*.⁴⁶
- If the *Order* were revoked, it is likely that foreign producers and exporters in Germany would continue to dump the subject merchandise.⁴⁷

³⁹ *Id.*, 77 FR at 8105-6.

⁴⁰ *Id.*, 77 FR at 8102-3, 8107-10.

⁴¹ *Id.*

⁴² See Substantive Response at 5-11.

⁴³ *Id.* 10-12.

⁴⁴ See *Small Diameter Circular Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe From Germany: Final Results of Antidumping Duty Administrative Review*, 63 FR 13217 (March 18, 1998) (*1995-1996 Review Final Results*); *Small Diameter Circular Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe From Germany: Amendment of Final Results of Antidumping Duty Administrative Review*, 63 FR 20579 (April 27, 1998); and *Small Diameter Circular Seamless Carbon and Alloy Steel Standard Line and Pressure Pipes From Germany: Notice of Amended Final Results of Antidumping Duty Administrative Review in Accordance With Final Court Decision*, 66 FR 12465 (February 27, 2001).

⁴⁵ See Substantive Response at 10.

⁴⁶ *Id.* at 6.

⁴⁷ *Id.*

- There has been a significant decline in subject imports following the publication of the *Order*.⁴⁸
- In determining whether imports declined significantly, it is Commerce’s practice to compare the level of imports following the issuance of the order with the level prior to initiation of the less-than-fair-value investigation.⁴⁹
- German shipments of the subject merchandise dropped dramatically from the pre-initiation levels in 1994 of 25,074 metric tons (MT) to 3,282 MT in 2021.⁵⁰
- These data reflect imports during periods when there were dumping margins in excess of *de minimis* levels, which the SAA indicates is highly probative of the likelihood of continuation or recurrence of dumping.⁵¹
- Even assuming, *arguendo*, that dumping had ceased, Commerce will not revoke an order where “import volumes for the subject merchandise declined significantly.”⁵² Therefore, the record demonstrates that imports from Germany have declined significantly since before the initiation of the proceeding, demonstrating that German producers and exporters are not able to sell the subject merchandise at their significant pre-initiation volumes under the discipline of the *Order*.⁵³
- In light of the continued existence of dumping margins and the significant decline in subject imports from Germany, Commerce should find that dumping is likely to continue or recur if the *Order* is revoked.⁵⁴

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 or recurrence 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 order. According to the SAA, 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.”⁵⁵ In addition, “declining import volumes accompanied by the continued existence of dumping margins after the issuance of an 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 preorder volumes.”⁵⁶

⁴⁸ *Id.*, at 10-11.

⁴⁹ *Id.* at 10 (citing *Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Preliminary Results of the First Five-year “Sunset” Review of the Antidumping Duty Order*, 75 FR 47546 (August 6, 2010), unchanged in *Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Final Results of the First Five-year “Sunset” Review of the Antidumping Duty Order*, 75 FR 75965 (December 7, 2010)).

⁵⁰ See Substantive Response at 11 and Exhibit 1.

⁵¹ *Id.* at 8 and 10; see also SAA at 4214.

⁵² See Substantive Response at 10 (citing *Policy Bulletin*, 63 FR 18871, 18872).

⁵³ See Substantive Response at 11.

⁵⁴ *Id.*

⁵⁵ See SAA at 890.

⁵⁶ *Id.* at 889; see also House Report at 63; and Senate Report at 52.

As noted above, when analyzing import volumes for the second 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. The last continuation notice for this sunset review was issued in February 2018.⁵⁷ Therefore, for this sunset review we examined import volumes for the full year preceding initiation of the underlying investigation as compared to import volumes during the current sunset review period (*i.e.*, 2018-2022).⁵⁸

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act, Commerce normally determines that revocation of an 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.⁵⁹ Further, when determining whether revocation of an order would likely lead to a continuation of dumping, sections 752(c)(1)(A) and (B) of the Act instruct Commerce to consider: (1) the weighted-average dumping margin 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 order. Commerce normally will determine that revocation of an order is not likely to lead to continuation of dumping where dumping has declined accompanied by steady or increasing imports.⁶⁰ However, if companies continue to dump with the discipline of an order in place, it is reasonable to assume that dumping would continue if the order were removed.⁶¹

With respect to “the weighted average dumping margins determined in the investigation and subsequent reviews,” during the original investigation, Commerce determined rates above *de minimis* for all German manufacturers and exporters.⁶² In accordance with the *Final Modification for Reviews*, Commerce did not rely on weighted-average dumping margins that were calculated using a WTO-inconsistent methodology.⁶³ The weighted-average dumping margins determined in the underlying investigation remains in effect. Further, we note that the weighted-average dumping margin for the sole company examined in the original investigation is consistent with the *Final Modification for Reviews*, as the weighted-average dumping margin was based on adverse facts available.⁶⁴ This weighted-average dumping margin was based on the highest dumping margin alleged by the petitioners in the petition, and, as such, did not involve the denial of offsets for non-dumped sales. In addition, the all-others rate was equal to the rate for the sole respondent in the investigation, and, therefore, is consistent with the *Final Modification for Reviews*.

⁵⁷ See *Certain Small Diameter Seamless Carbon and Alloy Standard, Line and Pressure Pipe From Germany: Continuation of Antidumping Duty Order*, 83 FR 8651 (February 28, 2018).

⁵⁸ See Substantive Response at 10 and 11.

⁵⁹ See SAA at 889-90; see also House Report at 63-64; Senate Report at 52; *Policy Bulletin*, 63 FR at 18872; *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam; Notice of the Final Results of Expedited Sunset Review of the Antidumping Duty Order*, 74 FR 5819 (February 2, 2009), and accompanying IDM at 3.

⁶⁰ See SAA at 889-890.

⁶¹ *Id.*

⁶² See *Order*, 60 FR 39704, 25692.

⁶³ See *Final Modification for Reviews*.

⁶⁴ See *Order*; see also *Final Determination IDM*; *Third Sunset Review Final Results IDM* at 6; and *Fourth Sunset Review Final Results IDM* at 10.

With respect to “the volume of imports of the subject merchandise for the period before and the period after the issuance of the AD Order...,” since the issuance of the *Order*, import volumes of seamless pipe from Germany into the United States have decreased and remain below pre-investigation levels. In analyzing import volumes for the period of this sunset review, based on import volume information placed on the record by Vallourec,⁶⁵ we have determined that imports of seamless pipe have been at levels significantly lower than the calendar year immediately preceding the filing of the petition and the initiation of the LTFV investigation (*i.e.*, 1993).⁶⁶ Specifically, according to import volume data, volumes of imports of seamless pipe from Germany in the one year prior to the filing of the petition and the initiation of the investigation were 21,859 MT.⁶⁷ In the current sunset review period, imports are significantly lower than the volume of imports prior to the initiation of the LTFV investigation.⁶⁸ Specifically, following the last notice of the continuation of the *Order* (*i.e.*, 2018-2022), import volumes of seamless pipe from Germany into the United States were at levels significantly below the pre-initiation level, at 7,897 MT in 2018; 5,761 MT in 2019; 2,227 MT in 2020; 3,282 MT in 2021, and 7,416 MT in 2022.⁶⁹ As these data show, during this sunset review period, the import volumes remain significantly lower when compared to pre-initiation import volumes. Thus, record evidence shows that the imports are significantly lower in the last five years when compared to pre-initiation import volumes.

In light of the above, we find that import volumes have remained at levels well below pre-order volumes and that the combination of above *de minimis* weighted-average dumping margins and decreasing import volumes reasonably indicates that dumping is likely to continue or recur as the exporters likely need to dump to sell at pre-order volumes. Therefore, pursuant to section 752(c)(1) of the Act, Commerce determines that revocation of the *Order* is likely to lead to continuation or recurrence of dumping because the record indicates that dumping has continued at above *de minimis* levels during the sunset review period in conjunction with lower import volumes.

2. Magnitude of the Margin of Dumping Likely to Prevail

*Domestic Interested Party Comments*⁷⁰

- Commerce should report to the ITC the weighted-average dumping margins that were determined in the investigation, in accordance with Commerce’s practice and regulations, as the magnitude of the margins of dumping is likely to prevail if the findings were revoked.⁷¹

⁶⁵ See Substantive Response at Exhibit 1.

⁶⁶ The petition was filed on June 23, 1994 and the case was initiated on July 20, 1994. See *Notice of Preliminary Determination of Sales at Less Than Fair Value: Small Diameter Circular Seamless Carbon and Alloy Steel, Standard, Line and Pressure Pipe From Germany*, 60 FR 5355 (January 27, 1995), unchanged in *Final Determination*.

⁶⁷ See Substantive Response at Exhibit 1.

⁶⁸ *Id.*

⁶⁹ *Id.* We note that the Vallourec did not provide import volumes for 2022 in its Substantive Response. For 2022 import volumes, see Attachment.

⁷⁰ See Substantive Response at 5-11.

⁷¹ *Id.*

Commerce'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. Commerce's preference is to select a rate from the investigation based on the fact that 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.⁷² However, under certain circumstances, Commerce may select a more recently calculated margin to report to the ITC.⁷³

Consistent with its practice, Commerce determines that it is appropriate to report to the ITC that dumping would recur or resume up to the weighted-average dumping margin from the investigation, 57.72 percent.⁷⁴ This rate is probative of the behavior of German producers and exporters without the discipline of the *Order*, and is indicative of the margin of dumping if the *Order* were revoked.

VII. FINAL RESULTS OF REVIEW

Commerce determines that revocation of the *Order* on seamless pipe from Germany would likely lead to continuation or recurrence of dumping, and that the magnitude of the margin of dumping likely to prevail would be up to 57.72 percent.

VIII. RECOMMENDATION

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

Agree

Disagree

5/2/2023

X



Signed by: ABDELALI ELOUARADIA

Abdelali Elouaradia
Deputy Assistant Secretary
for Enforcement and Compliance

⁷² See SAA at 890; and *Policy Bulletin* at section II.B.1; see also, e.g., *Prestressed Concrete Steel Wire Strand from the People's Republic of China: Final Results of Expedited Sunset Review of the Antidumping Duty Order*, 80 FR 43063 (July 21, 2015), and accompanying IDM at Issue 2.

⁷³ See section 752(c)(3) of the Act; see also *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 IDM at Comment 3.

⁷⁴ See *Final Determination*.

Attachment

**Certain Small Diameter Seamless Carbon and Alloy Standard, Line, and Pressure Pipe
U.S. Imports for Consumption
Annual Data**

Year	Volume (MT)
<i>Pre-Order</i>	
1993	21,859
1994	25,074
<i>Post-Order</i>	
2018	7,897
2019	5,761
2020	2,227
2021	3,282
2022	7,416

Source: <https://dataweb.usitc.gov>, using HTS subheadings 7304.10.10.20, 7304.10.50.20, 7304.19.10.20, 7304.19.50.20, 7304.39.00.16, 7304.39.00.20, 7304.39.00.24, 7304.59.80.10, and 7304.59.80.15, and converted kilograms to MT.