

A-427-602, A-428-602
A-475-601, A-588-704
Sunset Reviews
Public Document
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December 22, 2022

MEMORANDUM TO: Lisa W. Wang
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 Final Results of the Expedited Fifth Sunset Reviews of the Antidumping Duty Orders on Brass Sheet and Strip from France, Germany, Italy, and Japan

I. SUMMARY

We have analyzed the substantive responses of the domestic interested parties¹ in the fifth sunset reviews of the antidumping duty (AD) orders covering brass sheet and strip from France, Germany, Italy, and Japan.² No respondent interested party submitted a substantive response. Accordingly, we conducted expedited (120-day) sunset reviews 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

¹ The domestic interested parties are Aurubis Buffalo, Inc., Heyco Metals, Inc., PMX Industries Inc., and Wieland Holdings Inc. *See* Domestic Interested Parties' Letters, "Brass Sheet and Strip From France – Domestic Interested Parties' Substantive Response to Notice of Initiation," dated October 3, 2022 (France Substantive Response); "Brass Sheet and Strip From Germany – Domestic Interested Parties' Substantive Response to Notice of Initiation," dated October 3, 2022 (Germany Substantive Response); "Brass Sheet and Strip From Italy– Domestic Interested Parties' Substantive Response to Notice of Initiation," dated October 3, 2022 (Italy Substantive Response); and "Brass Sheet and Strip From Japan– Domestic Interested Parties' Substantive Response to Notice of Initiation," dated October 3, 2022 (Japan Substantive Response).

² *See Antidumping Duty Order; Brass Sheet and Strip from France*, 52 FR 6995 (March 6, 1987) (*France Order*); *Antidumping Duty Order; Brass Sheet and Strip from the Federal Republic of Germany*, 52 FR 6997 (March 6, 1987) (*Germany Order*), amended in *Final Determination of Sales at Less Than Fair Value and Amendment to Antidumping Duty Order: Brass Sheet and Strip from the Federal Republic of Germany*, 52 FR 35750 (September 23, 1987) (*Germany Amended Order*); *Antidumping Duty Order; Brass Sheet and Strip from Italy*, 52 FR 6997 (March 6, 1987) (*Italy Order*), amended in *Amendment to Final Determination of Sales at Less Than Fair Value and Amendment of Antidumping Duty Order in Accordance with Decision Upon Remand: Brass Sheet and Strip from Italy*, 56 FR 23272 (May 21, 1991) (*Italy Amended Order*); and *Antidumping Duty Order of Sales at Less Than Fair Value; Brass Sheet and Strip from Japan*, 53 FR 30454 (August 12, 1988) (*Japan Order*) (collectively, *Orders*).



recommend that you approve the positions described in the “Discussion of the Issues” section of this memorandum.

Below is a complete list of the issues in these sunset reviews for which we received substantive response:

1. Likelihood of Continuation or Recurrence of Dumping
2. Magnitude of the Margins of Dumping Likely to Prevail

II. BACKGROUND

On September 1, 2022, the U.S. Department of Commerce (Commerce) published the notice of initiation of the fifth sunset reviews of the *Orders* pursuant to section 751(c) of the Act.³ On September 16, 2022, Commerce received notices of intent to participate from the domestic interested parties within the deadline specified in 19 CFR 351.218(d)(1)(i).⁴ The domestic interested parties claimed interested party status under section 771(9)(C) of the Act, as a manufacturer in the United States of a domestic like product.⁵ On September 23, 2022, Commerce notified the U.S. International Trade Commission (ITC) that it received notices of intent to participate from the domestic interested parties.⁶

On October 3, 2022, Commerce received substantive responses from the domestic interested parties within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).⁷ We received no substantive responses from any respondent interested parties nor was a hearing requested. 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 expedited 120-day sunset reviews of these *Orders*.

³ See *Initiation of Five-Year (“Sunset”) Review*, 87 FR 53727 (September 1, 2022).

⁴ See Domestic Interested Parties’ Letters, “Five-Year (“Sunset”) Review of Antidumping Duty Order on Brass Sheet and Strip from France – Notice of Intent to Participate,” dated September 16, 2022; “Five-Year (“Sunset”) Review of Antidumping Duty Order on Brass Sheet and Strip from France – Amendment to Notice of Intent to Participate,” dated September 29, 2022; “Five-Year (“Sunset”) Review of Antidumping Duty Order on Brass Sheet and Strip from Germany – Notice of Intent to Participate,” dated September 16, 2022; “Five-Year (“Sunset”) Review of Antidumping Duty Order on Brass Sheet and Strip from Germany – Amendment to Notice of Intent to Participate,” dated September 29, 2022; “Five-Year (“Sunset”) Review of Antidumping Duty Order on Brass Sheet and Strip From Italy – Notice of Intent to Participate,” dated September 16, 2022; “Five-Year (“Sunset”) Review of Antidumping Duty Order on Brass Sheet and Strip from Italy – Amendment to Notice of Intent to Participate,” dated September 29, 2022; “Five-Year (“Sunset”) Review of Antidumping Duty Order on Brass Sheet and Strip from Japan – Notice of Intent to Participate,” dated September 16, 2022; and “Five-Year (“Sunset”) Review of Antidumping Duty Order on Brass Sheet and Strip from Japan – Amendment to Notice of Intent to Participate,” dated September 29, 2022 (collectively, Notices of Intent to Participate).

⁵ *Id.*

⁶ See Commerce’s Letter, “Sunset Reviews Initiated on September 1, 2022,” dated September 23, 2022.

⁷ See France Substantive Response; Germany Substantive Response; Italy Substantive Response; and Japan Substantive Response.

III. HISTORY OF THE *ORDERS*

France

On January 9, 1987, Commerce published its final determination in the less-than-fair value (LTFV) investigation of brass sheet and strip from France.⁸ Commerce determined the following dumping margins:

Trefimetaux S.A	42.24 percent
All Others	42.24 percent

Following an affirmative injury determination by the ITC, Commerce published the *France Order*. Since the continuation of the *France Order* as a result of final affirmative determination in the fourth sunset review,⁹ there have been no additional requests for an administrative review. There have also been no completed scope inquiries, circumvention determinations, or duty absorption reviews for the *France Order* since it was published.

Germany

On January 9, 1987, Commerce published its final determination in the LTFV investigation of brass sheet and strip from Germany.¹⁰ Following an affirmative injury determination by the ITC, Commerce published the *Germany Order*, which was amended upon remand.¹¹ Commerce determined the following dumping margins in the *Germany Amended Order*:

Wieland-Werke AG	3.81 percent
Langenberg Kupfer-und Messingwerke GmbH AG	16.18 percent
All Others	7.30 percent

Since the continuation of the *Germany Order* as a result of final affirmative determination in the fourth sunset review,¹² there have been no additional requests for an administrative review. There have also been no completed scope inquiries, circumvention determinations, or duty absorption reviews for the *Germany Order* since the *Fourth Sunset Final Results* was published.

⁸ See *Notice of Final Determination of Sales at Less Than Fair Value Brass Sheet and Strip from France*, 52 FR 812 (January 9, 1987).

⁹ See *Brass Sheet and Strip from France, Germany, Italy, and Japan: Final Results of the Expedited Fourth Sunset Reviews of the Antidumping Duty Orders*, 82 FR 31046 (July 5, 2017) (*Fourth Sunset Final Results*), and accompanying Issues and Decision Memorandum (IDM); see also *Brass Sheet and Strip from France, Germany, Italy, and Japan: Continuation of Antidumping Duty Orders*, 82 FR 50396 (October 31, 2017) (*Continuation Notice*).

¹⁰ See *Notice of Final Determination of Sales at Less Than Fair Value Brass Sheet and Strip from the Federal Republic of Germany*, 52 FR 822 (January 9, 1987).

¹¹ See *Germany Amended Order*.

¹² See *Fourth Sunset Final Results*; see also *Continuation Notice*.

Italy

On January 9, 1987, Commerce published its final determination in the LTFV investigation of brass sheet and strip from Italy.¹³ Following an affirmative injury determination by the ITC, Commerce published the *Italy Order*, which was amended upon remand.¹⁴ Commerce determined the following dumping margins in the *Italy Amended Order*:

LMI- La Metalli Industriale SpA	5.44 percent
All Others	5.44 percent

Since the continuation of the *Italy Order* as a result of final affirmative determination in the fourth sunset review,¹⁵ there have been no additional requests for an administrative review. There have also been no completed scope inquiries, circumvention determinations, or duty absorption reviews for the *Italy Order* since it was published.

Japan

On June 21, 1988, Commerce published its final determination in the LTFV investigation of brass sheet and strip from Japan.¹⁶ Commerce found the following dumping margins:

Nippon Mining Co., Ltd.	57.98 percent
Sambo Copper Alloy Co., Ltd.	13.30 percent
Mitsubishi Shindoh Co., Ltd.	57.98 percent
Kobe Steel, Ltd.	57.98 percent
All Others	45.72 percent

Following an affirmative injury determination by the ITC, Commerce published the *Japan Order*. Since the continuation of the *Japan Order* as a result of final affirmative determination in the fourth sunset review,¹⁷ there have been no additional requests for an administrative review. There have also been no completed scope inquiries, circumvention determinations, or duty absorption reviews for the *Japan Order* since it was published.

The *Orders* remains in effect for all manufacturers, producers, and exporters of the subject merchandise from France, Germany, Italy and Japan.

IV. LEGAL FRAMEWORK

In accordance with section 751(c)(1) of the Act, Commerce is conducting these sunset reviews to determine whether revocation of the *Orders* 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

¹³ See *Notice of Final Determination of Sales at Less Than Fair Value Brass Sheet and Strip from Italy*, 52 FR 816 (January 9, 1987).

¹⁴ See *Italy Amended Order*.

¹⁵ See *Fourth Sunset Final Results*; see also *Continuation Notice*.

¹⁶ See *Notice of Final Determination of Sales at Less Than Fair Value Brass Sheet and Strip from Japan*, 53 FR 23296 (June 21, 1988).

¹⁷ See *Fourth Sunset Final Results*; see also *Continuation Notice*.

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 *Orders*. In addition, section 752(c)(3) of the Act provides that Commerce shall provide to the ITC the magnitude of the margins of dumping likely to prevail if the orders were revoked.

In accordance with the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (URAA), specifically the SAA,¹⁸ the House Report,¹⁹ and the Senate Report,²⁰ Commerce's determinations of likelihood will be made on an order-wide, rather than company-specific, basis.²¹ In addition, Commerce normally determines that revocation of an AD order is likely to lead to continuation or recurrence of dumping when, among other scenarios: (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.²² Alternatively, Commerce normally will determine that revocation of an AD 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.²³

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 comparison.²⁴ When analyzing import volumes for 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.²⁵

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 a margin from the final determination in the original investigation, as these are the only calculated rates that reflect the behavior of exporters without the discipline of an order in place.²⁶ In certain circumstances, however, a more recently calculated rate may be more

¹⁸ See Statement of Administrative Action Accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, Vol. 1 (1994) (SAA).

¹⁹ See H. Rep. No. 103-826, pt. 1 (1994) (House Report).

²⁰ See S. Rep. No. 103-412 (1994) (Senate Report).

²¹ See SAA at 879; and House Report at 56.

²² See SAA at 889-90; see also 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) (*Sunset Policy Bulletin*).

²³ See SAA at 889-90; see also House Report at 63.

²⁴ 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.

²⁵ See *Ferrovaniadium 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) (*Ferrovaniadium from China and South Africa Sunset*) and accompanying IDM at Comment 2.

²⁶ 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.

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”).²⁷ 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 AD order would not be likely to lead to a continuation or recurrence of sales at LTFV.²⁸

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 methodology determined to be inconsistent with World Trade Organization (WTO) obligations.²⁹ In the *Final Modification for Reviews*, Commerce stated that “only in the most extraordinary circumstances” would it rely on margins other than those calculated and published in prior determinations.³⁰ Commerce further stated 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 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.”³¹

V. DISCUSSION OF THE ISSUES

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

1. Likelihood of Continuation or Recurrence of Dumping

Comments from Domestic Interested Parties

The domestic interested parties argue that revocation of these *Orders* would likely lead to a continuation or recurrence of dumping by the producers and exporters of the subject merchandise.³² The domestic interested parties cite section 752(c)(1) of the Act, which instructs Commerce to determine whether revocation of an AD order would likely lead to a continuation or recurrence of dumping by considering the weighted-average dumping margins determined in the investigation and administrative reviews, and by considering the volume of imports of subject merchandise prior to and following issuance of the order.³³

²⁷ See SAA at 890-91.

²⁸ See *Folding Gift Boxes from the People’s Republic of China: Final Results of the Expedited Sunset Review of the Antidumping Duty Order*, 72 FR 16765 (April 5, 2007), and accompanying IDM at Comment 1.

²⁹ 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*).

³⁰ *Id.*

³¹ *Id.*, 77 FR at 8109.

³² See France Substantive Response at 18; see also Germany Substantive Response at 27; Italy Substantive Response at 19; and Japan Substantive Response at 18.

³³ See France Substantive Response at 12-13; see also Germany Substantive Response at 21-23; Italy Substantive Response at 14-16; and Japan Substantive Response at 12-15.

Citing the respective final results of administrative reviews of the *Orders*, the domestic interested parties argue that brass steel and strip imports from France, Germany, Italy, and Japan continue to be dumped into the United States.³⁴ Relying on import statistics from the ITC DataWeb, the domestic interested parties assert that the volume of subject merchandise imported from France has decreased substantially since the imposition of the *France Order*.³⁵ In addition, domestic interested parties assert that while imports from Germany have fluctuated, imports remain well below pre-*Germany Order* volumes.³⁶ The domestic interested parties also argue that the volume of subject merchandise imported into the United States from Italy and Japan remain well below the pre-*Orders* volumes.³⁷ Nonetheless, the domestic interested parties claim that the respective administrative reviews conducted by Commerce reveal that the foreign producers and exporters have continued to sell subject merchandise in the United States at less than normal value.³⁸

Citing Commerce's *Sunset Policy Bulletin*, the domestic interested parties conclude that Commerce should determine that revocation of the *Orders* is inappropriate where dumping continued at any level above *de minimis* after the issuance of the *Orders*.³⁹ In sum, the domestic interested parties argue that record evidence strongly supports the conclusion that dumping of brass sheet and strip by producers, manufacturers, and exporters from France, Germany, Italy and Japan would be likely to continue or recur if the *Orders* were to be revoked.

Commerce's Position: As explained in the "Legal Framework" section above, Commerce's determinations of likelihood will be made on an order-wide basis.⁴⁰ In addition, Commerce normally will determine that revocation of an AD 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.⁴¹

In addition, pursuant to section 752(c)(1)(B) of the Act, Commerce considers the volume of imports of the subject merchandise for the period before and after the issuance of the AD order. As noted above, when analyzing import volumes for 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.⁴² Furthermore, Commerce examined the weighted-average dumping margins in effect to determine whether dumping continued at above *de minimis* levels during the sunset review

³⁴ See France Substantive Response; *see also* Germany Substantive Response; Italy Substantive Response; and Japan Substantive Response.

³⁵ See France Substantive Response at 17-18.

³⁶ See Germany Substantive Response at 24-27.

³⁷ See Italy Substantive Response at 17-19; *see also* Japan Substantive Response at 16-18.

³⁸ See France Substantive Response at 7-8; *see also* Germany Substantive Response at 15-16; and Italy Substantive Response at 8-10

³⁹ See France Substantive Response at 12-15; *see also* Germany Substantive Response at 21-23; Italy Substantive Response at 14-16; Japan Substantive Response at 12-15; and *Sunset Policy Bulletin*.

⁴⁰ See SAA at 879; *see also* House Report at 56.

⁴¹ See SAA at 889-90; *see also* House Report at 63-64; and Senate Report at 52.

⁴² See, e.g., *Ferrovaniadium from China and South Africa Sunset IDM* at Comment 2.

period. 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.⁴³

France: Commerce examined the ITC DataWeb data provided by the domestic interested parties for the relevant periods, which show that imports of brass sheet and strip from France decreased after the imposition of the *France Order* and have remained below pre-*France Order* volumes in recent years.⁴⁴ Dumping margins have persisted at rates above *de minimis* since the *France Order* was established. There has been only one administrative review in this proceeding (completed prior to the *Fourth Sunset Final Results*) and existing margins above *de minimis* levels have remained in place.⁴⁵ Therefore, Commerce determines that dumping is likely to continue if the *France Order* were revoked.

Germany: Commerce examined the ITC DataWeb data provided by the domestic interested parties for the relevant periods, which show that imports of brass sheet and strip from Germany decreased after the imposition of the *Germany Order* and have remained below pre-*Germany Order* volumes in recent years.⁴⁶ Dumping margins have persisted at rates above *de minimis* since the *Germany Order* was established. There have been numerous administrative reviews in this proceeding (completed prior to the *Fourth Sunset Final Results*) and existing margins above *de minimis* levels have remained in place.⁴⁷ Therefore, Commerce determines that dumping is likely to continue if the *Germany Order* were revoked.

Italy: Commerce examined the ITC DataWeb data provided by the domestic interested parties for the relevant periods, which show that imports of brass sheet and strip from Italy decreased after the imposition of the *Italy Order* and have remained below pre-*Italy Order* volumes in recent years.⁴⁸ Dumping margins have persisted at rates above *de minimis* since the *Italy Order* was established. As noted above, there have been several administrative reviews in this proceeding (completed prior to the *Fourth Sunset Final Results*) and existing margins above *de minimis* levels have remained in place.⁴⁹ Therefore, Commerce determines that dumping is likely to continue if the *Italy Order* were revoked.

Japan: Commerce examined the ITC DataWeb data provided by the domestic interested parties for the relevant periods, which show that imports of brass sheet and strip from Japan decreased after the imposition of the *Japan Order* and have remained below pre-*Japan Order* volumes and have declined even further in recent years.⁵⁰ Dumping margins have persisted at rates above *de minimis* since the *Japan Order* was established. As noted above, there have been no completed administrative reviews in these proceeding and existing margins above *de minimis* levels have

⁴³ See *Final Modification for Reviews*, 77 FR at 8101, 8103.

⁴⁴ See France Substantive Response at 17-18.

⁴⁵ See *France Order*.

⁴⁶ See Germany Substantive Response at 24-27.

⁴⁷ See *Germany Order*.

⁴⁸ See Italy Substantive Response at 17-19.

⁴⁹ See *Italy Order*.

⁵⁰ See Japan Substantive Response at 16-18.

remained in place.⁵¹ Therefore, Commerce determines that dumping is likely to continue if the order were revoked.

Given that: (1) dumping has continued following the issuance of the *Orders*; (2) imports have declined significantly during this sunset review period; (3) respondent parties have not participated in this sunset review; and (4) we have no argument or evidence to the contrary, pursuant to section 752©(1) of the Act, we determine that revocation of the *Orders* would likely result in the continuation of dumping in the United States.

2. Magnitude of the Margins of Dumping Likely to Prevail

Comments from Domestic Interested Parties

The domestic interested parties explain that Commerce normally will report to the ITC the company-specific weighted-average dumping margins that were determined in the original investigation, because those rates best represent the behavior of these producers and exporters in the absence of the discipline of an AD order. Additionally, the domestic interested parties cited the *Final Modification of Reviews*, where Commerce modified its practice for sunset reviews such that it no longer relies on dumping margins that were calculated using the zeroing methodology.

France: The domestic interested parties argue that Commerce should report to the ITC dumping margins up to 42.24 percent established in the original investigation as the margin likely to prevail in the event of revocation of the *France Order*, which is consistent with prior sunset review determinations completed by Commerce.⁵²

Germany: The domestic interested parties contend that Commerce should rely on a dumping margin of 7.30 percent established in the original investigation as the margin likely to prevail if the *Germany Order* were revoked. However, if Commerce declines to rely on the 7.30 percent rate because of the use of zeroing in determining this rate, Commerce should then rely on the 55.60 percent rate determined based on adverse facts available (AFA) in the 2013-2014 and 2014-2015 administrative reviews as the margin up to which dumping is likely to prevail if the *Germany Order* were revoked.⁵³

Italy: The domestic interested parties state that Commerce should rely on the 5.44 percent margin established in the original investigation. If Commerce declines to rely on this margin because of the use of zeroing in determining this rate, Commerce should rely on the 22.00 percent rate based on AFA in the 2013-2014 and 2014-2015 administrative reviews as the margin up to which dumping is likely to prevail if the *Italy Order* were revoked.⁵⁴

⁵¹ See *Japan Order*.

⁵² See France Substantive Response at 18 to 20 (citing *Fourth Sunset Final Results*, 82 FR at 31047).

⁵³ See Germany Substantive Response at 27-29.

⁵⁴ See Italy Substantive Response at 20-22.

Japan: The domestic interested parties argue that consistent with Commerce's practice, the margin of 57.98 percent from the original investigation,⁵⁵ which was based on the best information available,⁵⁶ should be reported as the margin up to which is likely to occur if the *Japan Order* were revoked.⁵⁷

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.⁵⁸ Under certain circumstances, however, we may select a more recently calculated rate to report to the ITC.⁵⁹

Finally, as indicated in the "Legal Framework" section above, Commerce's current practice is to not rely on weighted-average dumping margins calculated using the zeroing methodology found to be WTO-inconsistent, in accordance with the *Final Modification for Reviews*. Instead, we may rely on other available rates, or we may recalculate weighted-average dumping margins using our current offsetting methodology in extraordinary circumstances.⁶⁰

France: Commerce assigned a best information available (the precursor to AFA)⁶¹ weighted-average dumping margin of 42.24 percent to the mandatory respondent and all other French producers and exporters in the original investigation.⁶² Commerce confirmed that the LTFV best information available rate assigned to respondent was the highest petition rate and was not calculated using the zeroing methodology. Accordingly, Commerce has determined that this rate does not need to be recalculated and is the rate up to which dumping is likely to continue or recur if the *France Order* were revoked.

Germany: Commerce assigned a weighted-average dumping margin of 55.60 percent based on AFA in the most recently completed administrative review.⁶³ The margin was derived from the petition.⁶⁴ Commerce confirmed the margin was not calculated using zeroing and remains in place for the respondent. Thus, Commerce finds it appropriate to report to the ITC that the

⁵⁵ See Japan Substantive Response at 17-20.

⁵⁶ The best information available under the pre-URAA statute is equivalent to the current post-URAA application of AFA.

⁵⁷ See Japan Substantive Response at 18-20.

⁵⁸ See SAA at 890; see also *Sunset Policy Bulletin* at section II.B.1; and, 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.

⁵⁹ See section 752(c)(3) of the Act; see also, e.g., *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.

⁶⁰ See *Final Modification for Reviews*, 77 FR at 8103 and 8109.

⁶¹ See SAA at 868-69.

⁶² See *France Order*.

⁶³ See *Brass Sheet and Strip from Germany: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2013-2014*, 80 FR 61369 (October 13, 2015), and accompanying IDM.

⁶⁴ *Id.*

magnitude of the margin of dumping that is likely to prevail if the *Germany Order* were revoked is up to 55.60 percent.

Italy: Commerce assigned a weighted-average dumping margin of 22.00 percent based on AFA in the most recent completed administrative review.⁶⁵ The margin was derived from the petition.⁶⁶ Commerce confirmed the margin was not calculated using zeroing and remains in place for the respondent. Thus, Commerce finds it appropriate to report to the ITC that the magnitude of the margin of dumping that is likely to prevail if the *Italy Order* were revoked is up to 22.00 percent.

Japan: Commerce assigned a weighted-average dumping margin of 57.98 percent based on the best information available for three of the mandatory respondents in the original investigation.⁶⁷ There have been no administrative reviews completed by Commerce since the issuance of the *Japan Order*, and the margins remain in place for all respondents. Because the dumping margin is the highest rate published from the original investigation and calculated without using zeroing, Commerce finds it appropriate to report to the ITC that the magnitude of the margin of dumping that is likely to prevail if the *Japan Order* is revoked is up to 57.98 percent.

VI. FINAL RESULTS OF SUNSET REVIEWS

We determine that revocation of the *Orders* would be likely to lead to continuation or recurrence of dumping and that the magnitude of the dumping margins likely to prevail would be weighted-average margins up to 42.24 percent for France, 55.60 percent for Germany, 22.00 percent for Italy, and 57.98 percent for Japan.

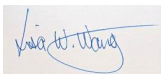
VII. RECOMMENDATION

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

Agree

Disagree

X



Signed by: LISA WANG

Lisa W. Wang
Assistant Secretary
for Enforcement and Compliance

⁶⁵ See *Sheet and Strip from Italy; Preliminary Results of Antidumping Duty Administrative Review; 2014-2015*, 80 FR 74759 (November 30, 2015).

⁶⁶ See *Brass Sheet and Strip from Italy; Initiation of Antidumping Duty Investigation*, 51 FR 11774 (April 7, 1986).

⁶⁷ See *Italy Order*.