

A-570-051  
Sunset Review  
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March 30, 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 Sunset  
Review of the Antidumping Duty Order on Certain Hardwood  
Plywood Products from the People's Republic of China

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## I. SUMMARY

We analyzed the response of the petitioner<sup>1</sup> in the expedited first sunset review of the antidumping duty (AD) order covering certain hardwood plywood products (hardwood plywood) from the People's Republic of China (China). We recommend adopting 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 substantive responses:

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

## II. BACKGROUND

On December 1, 2022, the U.S. Department of Commerce (Commerce) published the *Notice of Initiation* of the sunset review of the AD order on certain hardwood plywood from China<sup>2</sup> pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).<sup>3</sup> On December 13, 2022, Commerce received a notice of intent to participate from the petitioner within the deadline specified in 19 CFR 351.218(d)(1)(i).<sup>4</sup> The petitioner claimed domestic interested party status under section 771(9)(F) of the Act, as an association whose members are manufacturers of the

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<sup>1</sup> The petitioner is the Coalition for Fair Trade in Hardwood Plywood and its individual members, Columbia Forest Products, Commonwealth Plywood Co., Ltd., Manthei Wood Products, States Industries LLC, and Timber Products Company.

<sup>2</sup> See *Certain Hardwood Plywood Products from the People's Republic of China: Amended Final Determination of Sales at Less than Fair Value, and Antidumping Duty Order*, 83 FR 504 (January 4, 2018) (*Order*).

<sup>3</sup> See *Initiation of Five-Year (Sunset) Reviews*, 87 FR 73757 (December 1, 2022) (*Notice of Initiation*).

<sup>4</sup> See Petitioner's Letter, "Notice of Intent to Participate in Sunset Review," dated December 13, 2022.



domestic like product in the United States.<sup>5</sup> On January 3, 2023, the petitioner submitted a timely substantive response within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).<sup>6</sup> Commerce received no substantive responses from any other interested parties with respect to the *Order*, nor was a hearing requested. Commerce received comments on the adequacy of responses only from the domestic interested party in this sunset review.<sup>7</sup> 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 (120-day) sunset review of the *Order*. The *Order* remains in effect for all producers and exporters of the subject merchandise.<sup>8</sup>

### III. SCOPE OF THE *ORDER*

The merchandise subject to this *Order* is hardwood and decorative plywood, and certain veneered panels as described below. For purposes of this proceeding, hardwood and decorative plywood is defined as a generally flat, multilayered plywood or other veneered panel, consisting of two or more layers or plies of wood veneers and a core, with the face and/or back veneer made of non-coniferous wood (hardwood) or bamboo. The veneers, along with the core may be glued or otherwise bonded together. Hardwood and decorative plywood may include products that meet the American National Standard for Hardwood and Decorative Plywood, ANSI/HPVA HP-1-2016 (including any revisions to that standard).

For purposes of this *Order* a “veneer” is a slice of wood regardless of thickness which is cut, sliced or sawed from a log, bolt, or flitch. The face and back veneers are the outermost veneer of wood on either side of the core irrespective of additional surface coatings or covers as described below.

The core of hardwood and decorative plywood consists of the layer or layers of one or more material(s) that are situated between the face and back veneers. The core may be composed of a range of materials, including but not limited to hardwood, softwood, particleboard, or medium-density fiberboard (MDF).

All hardwood plywood is included within the scope of this *Order* regardless of whether or not the face and/or back veneers are surface coated or covered and whether or not such surface coating(s) or covers obscures the grain, textures, or markings of the wood. Examples of surface coatings and covers include but are not limited to: ultra violet light cured polyurethanes; oil or oil-modified or water based polyurethanes; wax; epoxy-ester finishes; moisture-cured urethanes; paints; stains; paper; aluminum; high pressure laminate; MDF; medium density overlay (MDO); and phenolic film. Additionally, the face veneer of hardwood plywood may be sanded; smoothed or given a “distressed” appearance through such methods as hand-scraping or wire brushing. All hardwood plywood is included within the scope even if it is trimmed; cut-to-size; notched; punched; drilled; or has underwent other forms of minor processing.

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<sup>5</sup> *Id.*

<sup>6</sup> See Petitioner’s Letter, “Substantive Response to Notice of Initiation,” dated January 3, 2023 (Petitioner’s Substantive Response).

<sup>7</sup> See Petitioner’s Letter, “Comments on Adequacy of Response,” dated January 20, 2023.

<sup>8</sup> See *Order*.

All hardwood and decorative plywood is included within the scope of this *Order*, without regard to dimension (overall thickness, thickness of face veneer, thickness of back veneer, thickness of core, thickness of inner veneers, width, or length). However, the most common panel sizes of hardwood and decorative plywood are 1219 x 1829 mm (48 x 72 inches), 1219 x 2438 mm (48 x 96 inches), and 1219 x 3048 mm (48 x 120 inches).

Subject merchandise also includes hardwood and decorative plywood that has been further processed in a third country, including but not limited to trimming, cutting, notching, punching, drilling, or any other processing that would not otherwise remove the merchandise from the scope of the *Order* if performed in the country of manufacture of the in-scope product.

The scope of the *Order* excludes the following items: (1) structural plywood (also known as “industrial plywood” or “industrial panels”) that is manufactured to meet U.S. Products Standard PS 1-09, PS 2-09, or PS 2-10 for Structural Plywood (including any revisions to that standard or any substantially equivalent international standard intended for structural plywood), and which has both a face and a back veneer of coniferous wood; (2) products which have a face and back veneer of cork; (3) multilayered wood flooring, as described in the antidumping duty and countervailing duty orders on Multilayered Wood Flooring from the People’s Republic of China, Import Administration, International Trade Administration. *See Multilayered Wood Flooring from the People’s Republic of China*, 76 FR 76690 (December 8, 2011) (amended final determination of sales at less than fair value and antidumping duty order), *and Multilayered Wood Flooring from the People’s Republic of China*, 76 FR 76693 (December 8, 2011) (countervailing duty order), as amended by *Multilayered Wood Flooring from the People’s Republic of China: Amended Antidumping and Countervailing Duty Orders*, 77 FR 5484 (February 3, 2012); (4) multilayered wood flooring with a face veneer of bamboo or composed entirely of bamboo; (5) plywood which has a shape or design other than a flat panel, with the exception of any minor processing described above; (6) products made entirely from bamboo and adhesives (also known as “solid bamboo”); and (7) Phenolic Film Faced Plyform (PFF), also known as Phenolic Surface Film Plywood (PSF), defined as a panel with an “Exterior” or “Exposure 1” bond classification as is defined by The Engineered Wood Association, having an opaque phenolic film layer with a weight equal to or greater than 90g/m<sup>3</sup> permanently bonded on both the face and back veneers and an opaque, moisture resistant coating applied to the edges.

Excluded from the scope of this *Order* are wooden furniture goods that, at the time of importation, are fully assembled and are ready for their intended uses. Also excluded from the scope of this *Order* is “ready to assemble” (RTA) furniture. RTA furniture is defined as (A) furniture packaged for sale for ultimate purchase by an end-user that, at the time of importation, includes (1) all wooden components (in finished form) required to assemble a finished unit of furniture, (2) all accessory parts (*e.g.*, screws, washers, dowels, nails, handles, knobs, adhesive glues) required to assemble a finished unit of furniture, and (3) instructions providing guidance on the assembly of a finished unit of furniture; (B) unassembled bathroom vanity cabinets, having a space for one or more sinks, that are imported with all unassembled hardwood and hardwood plywood components that have been cut-to-final dimensional component shape/size, painted or stained prior to importation, and stacked within a singled shipping package, except for furniture feet which may be packed and shipped separately; or (C) unassembled bathroom vanity

linen closets that are imported with all unassembled hardwood and hardwood plywood components that have been cut-to-final dimensional shape/size, painted or stained prior to importation, and stacked within a single shipping package, except for furniture feet which may be packed and shipped separately.

Excluded from the scope of this *Order* are kitchen cabinets that, at the time of importation, are fully assembled and are ready for their intended uses. Also excluded from the scope of this *Order* are RTA kitchen cabinets. RTA kitchen cabinets are defined as kitchen cabinets packaged for sale for ultimate purchase by an end-user that, at the time of importation, includes (1) all wooden components (in finished form) required to assemble a finished unit of cabinetry, (2) all accessory parts (e.g., screws, washers, dowels, nails, handles, knobs, hooks, adhesive glues) required to assemble a finished unit of cabinetry, and (3) instructions providing guidance on the assembly of a finished unit of cabinetry.

Excluded from the scope of this *Order* are finished table tops, which are table tops imported in finished form with pre-cut or drilled openings to attach the underframe or legs. The table tops are ready for use at the time of import and require no further finishing or processing.

Excluded from the scope of this *Order* are finished countertops that are imported in finished form and require no further finishing or manufacturing.

Excluded from the scope of this *Order* are laminated veneer lumber door and window components with (1) a maximum width of 44 millimeters, a thickness from 30 millimeters to 72 millimeters, and a length of less than 2413 millimeters (2) water boiling point exterior adhesive, (3) a modulus of elasticity of 1,500,000 pounds per square inch or higher, (4) finger-jointed or lap-jointed core veneer with all layers oriented so that the grain is running parallel or with no more than 3 dispersed layers of veneer oriented with the grain running perpendicular to the other layers; and (5) top layer machined with a curved edge and one or more profile channels throughout.

Excluded from the scope of this *Order* are certain door stiles and rails made of LVL that have a width not to exceed 50 millimeters, a thickness not to exceed 50 millimeters, and a length of less than 2,450 millimeters.

Imports of hardwood plywood are primarily entered under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 4412.10.0500;4412.31.0520; 4412.31.0540; 4412.31.0560; 4412.31.0620; 4412.31.0640; 4412.31.0660; 4412.31.2510; 4412.31.2520; 4412.31.2610; 4412.31.2620; 4412.31.4040; 4412.31.4050; 4412.31.4060; 4412.31.4075; 4412.31.4080; 4412.31.4140; 4412.31.4150; 4412.31.4155; 4412.31.4160; 4412.31.4180; 4412.31.4200; 4412.31.4500; 4412.31.4850; 4412.31.4860; 4412.31.4863; 4412.31.4865; 4412.31.4866; 4412.31.4880; 4412.31.4869; 4412.31.5125; 4412.31.5135; 4412.31.5155; 4412.31.5165; 4412.31.5175; 4412.31.5235; 4412.31.5255; 4412.31.5260; 4412.31.5262; 4412.31.5264; 4412.31.5265; 4412.31.5266; 4412.31.5268; 4412.31.5270; 4412.31.5275; 4412.31.6000; 4412.31.6100; 4412.31.9100; 4412.31.9200; 4412.32.0520; 4412.32.0540; 4412.32.0565; 4412.32.0570; 4412.32.0620; 4412.32.0640; 4412.32.0670; 4412.32.2510; 4412.32.2525; 4412.32.2530; 4412.32.2610; 4412.32.2630; 4412.32.3125;

4412.32.3135; 4412.32.3155; 4412.32.3165; 4412.32.3175; 4412.32.3185; 4412.32.3235; 4412.32.3255; 4412.32.3265; 4412.32.3275; 4412.32.3285; 4412.32.5600; 4412.32.5700; 4412.33.0620; 4412.33.0640; 4412.33.0670; 4412.33.2630; 4412.33.3235; 4412.33.3255; 4412.33.3265; 4412.33.3275; 4412.33.3285; 4412.33.5700; 4412.34.2600; 4412.34.3235; 4412.34.3255; 4412.34.3265; 4412.34.3275; 4412.34.3285; 4412.34.5700; 4412.39.1000; 4412.39.3000; 4412.39.4011; 4412.39.4012; 4412.39.4019; 4412.39.4031; 4412.39.4032; 4412.39.4039; 4412.39.4051; 4412.39.4052; 4412.39.4059; 4412.39.4061; 4412.39.4062; 4412.39.4069; 4412.39.5010; 4412.39.5030; 4412.39.5050; 4412.41.0000; 4412.42.0000; 4412.51.1030; 4412.51.1050; 4412.51.3111; 4412.51.3121; 4412.51.3141; 4412.51.3161; 4412.51.3175; 4412.51.4100; 4412.51.5100; 4412.52.1030; 4412.52.1050; 4412.52.3121; 4412.52.3161; 4412.52.3175; 4412.52.4100; 4412.52.5100; 4412.91.0600; 4412.91.1020; 4412.91.1030; 4412.91.1040; 4412.91.3110; 4412.91.3120; 4412.91.3130; 4412.91.3140; 4412.91.3150; 4412.91.3160; 4412.91.3170; 4412.91.4100; 4412.91.5115; 4412.92.0700; 4412.92.1120; 4412.92.1130; 4412.92.1140; 4412.92.3120; 4412.92.3150; 4412.92.3160; 4412.92.3170; 4412.92.4200; 4412.92.5215; 4412.94.1030; 4412.94.1050; 4412.94.3105; 4412.94.3111; 4412.94.3121; 4412.94.3141; 4412.94.3161; 4412.94.3175; 4412.94.4100; 4412.99.0600; 4412.99.1020; 4412.99.1030; 4412.99.1040; 4412.99.3110; 4412.99.3120; 4412.99.3130; 4412.99.3140; 4412.99.3150; 4412.99.3160; 4412.99.3170; 4412.99.4100; 4412.99.5115; 4412.99.5710; and 9403.91.0080.

Imports of hardwood plywood may also enter under HTSUS subheadings 4412.10.9000; 4412.94.5100; 4412.94.9500; 4412.99.6000; 4412.99.7000; 4412.99.8000; 4412.99.9000; 4412.99.9500; 9403.90.7005; 9403.90.7010; 9403.90.7080; 9403.91.0005; and 9403.91.0010. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this *Order* is dispositive.

#### IV. HISTORY OF THE *ORDER*

On November 16, 2017, Commerce published the final affirmative determination in the less-than-fair-value (LTFV) investigation on hardwood plywood from China in the *Federal Register*.<sup>9</sup> On January 4, 2018, Commerce published the amended final affirmative determination in the LTFV investigation on hardwood plywood from China, and *Order*, which established the following weighted-average dumping margins:<sup>10</sup>

<sup>9</sup> See *Certain Hardwood Plywood Products from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, and Final Affirmative Determination of Critical Circumstances, in Part*, 82 FR 53460 (November 16, 2017).

<sup>10</sup> See *Order*.

<b>Exporter</b>	<b>Producer</b>	<b>Estimated Weighted-Average Dumping Margin (percent)</b>	<b>Cash Deposit Rate (percent)</b>
Linyi Chengen Import and Export Co., Ltd.	Linyi Dongfangjuxin Wood Co., Ltd.	183.36	171.55
Non-Individually Examined/Separate Rate Companies		183.36	171.55
China-Wide Entity		183.36	

Since the LTFV investigation, three administrative reviews have been completed, and a fourth is ongoing under the *Order*.

Commerce has conducted several scope and circumvention inquiries relating to the *Order*. On September 7, 2018, we issued a scope ruling in which we found that the following types of merchandise are covered by the *Order*: (1) hardwood plywood that has been cut-to-size, painted, laminated, stained, ultra violet light finished, grooved, and/or covered in paper, regardless of where such processing took place; (2) hardwood plywood that has been edge-banded; and (3) shipments of hardwood plywood that do not qualify for the ready-to-assemble kitchen cabinet exclusion.<sup>11</sup> However, following litigation at the U.S. Court of International Trade (CIT), Commerce subsequently withdrew the scope ruling.<sup>12</sup>

On August 6, 2021, Commerce issued a final circumvention determination, as amended via litigation, finding that plywood with face and back veneers of radiata and/or agathis pine that: (1) has a Toxic Substances Control Act (TSCA) or California Air Resources Board (CARB) label certifying that it is compliant with TSCA/CARB requirements; and (2) is made with a resin, the majority of which is comprised of one or more of the following three product types—urea formaldehyde, polyvinyl acetate, and/or soy—was not circumventing the *Order*.<sup>13</sup>

On January 21, 2022, Commerce issued a final scope ruling in response to a U.S. Customs and Border Protection covered merchandise referral.<sup>14</sup> In the scope ruling, Commerce determined that hardwood plywood which was assembled in the Socialist Republic of Vietnam (Vietnam)

<sup>11</sup> See *Notice of Scope Rulings*, 84 FR 44848, 44849 (August 27, 2019).

<sup>12</sup> See *Certain Hardwood Plywood Products from the People's Republic of China: Notice of Court Decision Not in Harmony With Final Scope Ruling and Notice of Amended Final Scope Ruling Pursuant to Court Decision*, 86 FR 31277 (June 6, 2021).

<sup>13</sup> See *Certain Hardwood Plywood Products from the People's Republic of China: Notice of Court Decision Not in Harmony With Final Circumvention Determination and Notice of Amended Final Circumvention Determination Pursuant to Court Decision*, 86 FR 43187 (July 31, 2021); see also *Certain Hardwood Plywood Products from the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping and Countervailing Duty Orders*, 84 FR 65783 (November 29, 2019).

<sup>14</sup> See *Notice of Scope Rulings*, 87 FR 31859 (May 25, 2022). This ruling has been appealed to the CIT, Consol. Ct. No. 22-00049.



using two-ply panels imported from China, was Chinese country of origin because the two-ply panels were not substantially transformed by the processing occurring in Vietnam.<sup>15</sup>

On July 29, 2022, Commerce issued preliminary scope/circumvention determinations, finding that hardwood plywood products which were assembled in Vietnam using certain veneered panels sourced from China are products of China and are subject to the *Order*, and that hardwood plywood assembled in Vietnam using certain other hardwood plywood inputs sourced from China are circumventing the *Order*.<sup>16</sup> The final determinations are pending.

Commerce conducted one changed circumstances review (CCR) in this proceeding and issued the final results on June 2, 2021.<sup>17</sup> The CCR resulted in a partial revocation of the *Order* with respect to certain finished laminated veneer lumber door stiles and rails.<sup>18</sup> We have not conducted a new shipper review of the *Order*.

## 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 a continuation or recurrence of dumping. Sections 752(c)(1)(A) and (B) of the Act provide that, in making these determinations, 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 periods before and after the issuance of the *Order*.

In accordance with the guidance provided in the legislative history in the SAA,<sup>19</sup> the House Report,<sup>20</sup> and the Senate Report,<sup>21</sup> Commerce's determinations of likelihood will be made on an order-wide, rather than company-specific, basis.<sup>22</sup> 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 the 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.<sup>23</sup>

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<sup>15</sup> *Id.*

<sup>16</sup> See *Certain Hardwood Plywood Products from the People's Republic of China: Preliminary Scope Determination and Affirmative Preliminary Determination of Circumvention of the Antidumping and Countervailing Duty Orders*, 87 FR 45753 (July 29, 2022).

<sup>17</sup> See *Certain Hardwood Plywood Products from the People's Republic of China: Final Results of Changed Circumstances Reviews, and Revocation of the Antidumping and Countervailing Duty Orders in Part*, 86 FR 29562 (June 2, 2021).

<sup>18</sup> *Id.*

<sup>19</sup> See Statement of Administrative Action Accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, Vol. 1 (1994) (SAA).

<sup>20</sup> See H. Rep. No. 103-826, pt. 1 (1994) (House Report).

<sup>21</sup> See S. Rep. No. 103-412 (1994) (Senate Report).

<sup>22</sup> See SAA at 879; and House Report at 56.

<sup>23</sup> See SAA at 889-90, House Report at 63-64, and Senate Report at 52; see also *Policies Regarding the Conduct of Five-Year (Sunset) Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin 98.3*, 63 FR 18871, 18872 (April 16, 1998) (*Policy Bulletin*).

In addition, as a base period of 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.<sup>24</sup> When analyzing import volumes for first and subsequent sunset reviews, Commerce's practice is to compare import volumes during the year preceding the initiation of the underlying investigation to import volumes since the issuance of the last continuation notice.<sup>25</sup>

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.<sup>26</sup> 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 order would not be likely to lead to a continuation or recurrence of sales at LTFV.<sup>27</sup>

Further, section 752(c)(3) of the Act requires that Commerce provide the U.S. International Trade Commission (ITC) with the magnitude of the margin of dumping likely to prevail if the order were revoked. Generally, Commerce selects the dumping margins 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 in place.<sup>28</sup> However, in certain circumstances, a more recently calculated rate 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").<sup>29</sup>

## VI. DISCUSSION OF THE ISSUES

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

#### *Petitioner's Comments*

- Revocation of the *Order* would lead to the continuation or recurrence of sales at LTFV by margins of up to 183.36 percent *ad valorem*.<sup>30</sup>

<sup>24</sup> 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 Issues and Decision Memorandum (IDM) at Comment 1.

<sup>25</sup> 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), and accompanying IDM at 3.

<sup>26</sup> See SAA at 889-90; see also House Report at 63.

<sup>27</sup> 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.

<sup>28</sup> See SAA at 890; see also *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) (*Persulfates from China*), and accompanying IDM at Comment 2.

<sup>29</sup> See SAA at 890-91.

<sup>30</sup> See Petitioner's Substantive Response at 12.



- Record evidence demonstrates that, following the *Order*, subject dumping in excess of *de minimis* levels continued and imports significantly declined.<sup>31</sup>
- In 2016, the year the petition was filed, subject imports peaked at 1,574,424,281 square feet.<sup>32</sup> In 2018, the year in which the *Order* was imposed, imports of Chinese hardwood plywood fell by approximately 85 percent.<sup>33</sup> By 2021, hardwood plywood imports from China had fallen even further, totaling just three percent of the 2016 peak.<sup>34</sup>
- Subject imports fell significantly in response to the imposition of the *Order*. This indicates that Chinese hardwood plywood producers and exporters are unable to sell the subject merchandise at pre-*Order* volume levels in the U.S. market under the discipline of the *Order*.<sup>35</sup>

**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 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 AD 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.”<sup>36</sup> In addition, “declining import volumes accompanied by the continued existence of dumping margins after the issuance of the 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 pre-order volumes.”<sup>37</sup> Alternatively, the legislative history provides that declining (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.<sup>38</sup>

As noted above, in the *Order*, Commerce assigned a weighted-average dumping margin of 183.36 percent to the exporters/producers subject to the investigation.<sup>39</sup> In the first administrative review of the *Order*, Commerce calculated a margin of 14.95 percent for the mandatory respondent and assigned that rate to the cooperating respondents who received a separate rate. Accordingly, these margins remain in effect for all companies. In the instances where dumping margins continue to exist and there is a significant decline in import volumes, “it

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<sup>31</sup> *Id.*

<sup>32</sup> *Id.* at 14.

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> See SAA at 890.

<sup>37</sup> *Id.* at 889; see also House Report at 63; and Senate Report at 52.

<sup>38</sup> See SAA at 889-90; see also House Report at 63, and Senate Report at 52.

<sup>39</sup> See *Order*.

is reasonable to assume that dumping would continue if the discipline of the order were removed.”<sup>40</sup>

Additionally, we examined the import statistics for the calendar year preceding the initiation of the LTFV investigation and for the five-year period since the imposition of the *Order*, which show that imports of hardwood plywood from China declined significantly after the imposition of ADs and remain significantly lower during the sunset period of review than in the calendar year before initiation of the LTFV investigation.<sup>41</sup> Given this decrease in import volumes during the sunset review period, we determine that it is unlikely that Chinese exporters of hardwood plywood would be able to sell at pre-*Order* levels without dumping.

Therefore, pursuant to section 752(c)(1) of the Act, because non-*de minimis* dumping margins remain in place after the issuance of the *Order*, and Commerce has found dramatically lower import volumes in the period since the imposition of the *Order*, we find that dumping would be likely to continue or recur if the *Order* were revoked.

## 2. Magnitude of the Margins of Dumping Likely to Prevail

### *Petitioner’s Comments*

- Pursuant to section 752(c)(3) of the Act, in a sunset review, Commerce will report to the ITC the magnitude of the margin of dumping that is likely to prevail if the order is revoked.<sup>42</sup>
- In determining the magnitude of this margin, the SAA and Commerce’s *Policy Bulletin* provide that Commerce normally will select a margin “from the investigation, because that is the only calculated rate that reflects the behavior of exporters ... without the discipline of an order ... in place.”<sup>43</sup>
- Applying these principles set forth in the SAA and in Commerce’s *Policy Bulletin*, Commerce should report to the ITC dumping margins that are at least as high as those established in the original investigation.<sup>44</sup>

**Commerce’s Position:** Pursuant to section 752(c)(3) of the Act, Commerce shall provide to the ITC the magnitude of the margins of dumping that are likely to prevail if the *Order* were revoked. Commerce’s preference is to select a weighted-average dumping margin from the LTFV investigation because it is the only calculated rate that reflects the behavior of the producers and exporters without the discipline of an order in place.<sup>45</sup> Because above *de minimis* margins remained in place following the issuance of the *Order*, and given the absence of arguments or evidence to the contrary, Commerce finds that the margins calculated in the original investigation are probative of the behavior of producers and exporters of subject merchandise from China if the *Order* were revoked. Accordingly, consistent with section 752(c)

<sup>40</sup> See SAA at 890.

<sup>41</sup> See Petitioner’s Substantive Response at 13 at Exhibit 1.

<sup>42</sup> *Id.* at 14.

<sup>43</sup> *Id.* at 15.

<sup>44</sup> *Id.*

<sup>45</sup> See SAA at 890; see also *Persulfates from China* IDM at Comment 2.

of the Act, Commerce will report to the ITC the margins up to the highest rate from the investigation concerning subject merchandise from China as indicated in the “Final Results of Sunset Review” section of this memorandum.

**VII. FINAL RESULTS OF SUNSET REVIEW**

Commerce determines that revocation of the *Order* would likely lead to continuation or recurrence of dumping, and that the magnitude of the margins of dumping likely to prevail would be up to 183.36 percent.

**VIII. RECOMMENDATION**

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

\_\_\_\_\_   
Agree

\_\_\_\_\_   
Disagree

3/30/2023

X



Signed by: ABDELALI ELOUARADIA  
Abdelali Elouaradia  
Deputy Assistant Secretary  
for Enforcement and Compliance