

March 29, 2007

TO: David M. Spooner
Assistant Secretary
for Import Administration

FROM: Stephen J. Claeys
Deputy Assistant Secretary
for Import Administration

RE: Issues and Decision Memorandum for the Final Results in the Expedited Sunset Review of the Antidumping Duty Order on Folding Gift Boxes from the People's Republic of China

SUMMARY

We have analyzed the substantive response of the domestic interested party in the sunset review of the antidumping duty order on folding gift boxes from the People's Republic of China ("PRC").¹ We recommend that you approve the positions we describe in this memorandum. Below is a complete list of issues in this sunset review for which we received a substantive response:

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

HISTORY OF THE ORDER

On November 20, 2001, the Department of Commerce ("Department") published the final determination in the investigation of folding gift boxes from the PRC. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Folding Gift Boxes from the People's Republic of China*, 66 FR 50408 (November 20, 2001) ("Final Determination"). Thereafter, on December 5, 2001, the Department published the amended final determination in the investigation. *See Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Folding Gift Boxes From the People's Republic of China*, 66 FR 63216 (December 5, 2001) ("Amended Final"). Following the International Trade Commission's ("ITC") December 26, 2001, notification of its affirmative injury determination, the Department issued an

¹ The domestic party in this sunset review is Harvard Folding Box Company, Inc. ("Harvard Box" or "Petitioner"), a petitioning party in the original investigation.

antidumping duty order on folding gift boxes from the PRC. *See Notice of Antidumping Duty Order: Certain Folding Gift Boxes From The People's Republic of China*, 67 FR 864 (January 8, 2002) (“Order”). The calculated margins set forth in the Order were: 8.90 percent for Red Point Paper Products Co., Ltd. (“Red Point”); 1.67 percent for Max Fortune Industrial Ltd. (“Max Fortune”); and a PRC-wide rate of 164.75 percent. The Department noted that because Max Fortune received a *de minimis* margin, it is excluded from the Order.

There has been one administrative review since issuance of the Order, for which Red Point received a margin of 0.00 percent and Yun Choy Ltd., as part of the PRC-wide entity, received the PRC-wide rate. *See Certain Folding Gift Boxes From the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 68 FR 74207 (December 23, 2003); *see also Certain Folding Gift Boxes From the People's Republic of China*, 68 FR 58653 (October 10, 2003) (notice of preliminary results).² There have been no other related findings or rulings since issuance of the Order. The Order remains in effect for all manufacturers, producers and exporters of subject merchandise.

BACKGROUND

On December 1, 2006, the Department initiated a sunset review of the Order on folding gift boxes from the PRC, pursuant to section 751(c) of the Tariff Act of 1930, as amended (“Act”). *See Initiation of Five-year (“Sunset”) Reviews*, 71 FR 69545 (December 1, 2006) (“Sunset Initiation”). On December 15, 2006, domestic producer Simkins Industries, Inc. (“Simkins”) notified the Department of its intent to participate in the sunset review. On January 3, 2007, domestic producer Harvard Folding Box Company, Inc. (“Harvard Box”) filed a request that the Department allow Harvard Box to be substituted for Simkins as the domestic interested party in the sunset review. Harvard Box stated that “Harvard and Simkins are members of a group of companies with common ownership. Harvard, however, is the entity that produces folding gift boxes in the United States. Therefore, the information submitted in the letter filed on December 15, 2006 relates to Harvard.” *See Harvard Box “Correction of Interested Party Information”* filing, at 1 (January 3, 2007). Both Simkins and Harvard Box are represented by the same counsel. Harvard Box also filed a substantive response on January 3, 2007. *See Harvard Box “Response to Notice of Initiation”* filing (January 3, 2007) (“Harvard Box Comments”). The Department did not receive any objections to Harvard Box’s request to be substituted for Simkins. In addition, the Department did not receive a substantive response from any respondent interested party. On January 19, 2007, the Department issued its adequacy determination in this review, finding that the Department did not receive a substantive response

² The Department rescinded the second administrative review after Red Point withdrew its request for review. *See Notice of Rescission of Antidumping Duty Administrative Review: Certain Folding Gift Boxes from the People's Republic of China*, 69 FR 20857 (April 19, 2004). The Department received no requests for a third administrative review in response to the notice of opportunity to request review. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 70 FR 74 (January 3, 2005). The Department recently initiated the fourth administrative review on Red Point and Silver Team Trading Ltd. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 72 FR 8969 (February 28, 2007).

from any respondent interested party. See “Sunset Review of the Antidumping Duty Order on Folding Gift Boxes from the People’s Republic of China: Adequacy Determination” Memorandum from Juanita H. Chen, Acting Special Assistant to the Senior Enforcement Director, to Wendy J. Frankel, Director, Office 8, dated January 19, 2007.

Based on the lack of an adequate response from any respondent party, the Department is conducting an expedited (120-day) sunset review consistent with section 751(c)(3)(B) of the Act and 19 C.F.R. 351.218(e)(1)(ii)(C)(2). See, e.g., *Procedures for Conducting Five-year (“Sunset”) Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516, 13523 (March 20, 1998). Our analysis of Harvard Box’s comments submitted in its substantive response is set forth in the “Discussion of the Issues” section, *infra*.

DISCUSSION OF THE ISSUES

In accordance with section 751(c)(1) of the Act, the Department conducted this sunset review to determine 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 provide that, in making this determination, the Department shall consider both the weighted-average dumping margins determined in the investigation and subsequent reviews, and the volume of imports of the subject merchandise for the period before and the period after the issuance of the Order. In addition, section 752(c)(3) of the Act states that the Department shall provide to the ITC the magnitude of the margin of dumping that is likely to prevail if the Order were revoked.

1. Likelihood of Continuation or Recurrence of Dumping

Interested Party Comments

Harvard Box argues that because the 164.75 percent PRC-wide rate remains in effect for all manufacturers, producers and exporters (other than Max Fortune and Red Point) of subject merchandise, the Department should conclude that dumping has continued and will likely continue if the Order were revoked.

Harvard Box argues that the imposition of the Order halted the steady increase of imports of folding gift boxes from the PRC, and claims that imports have since remained at approximately the same levels as those prior to the Order. However, Harvard Box provides no statistics in support of this claim. Harvard Box notes the Statement of Administrative Action of the Uruguay Round Agreements Act (“URAA”) states that “{i}f companies continue to dump with the discipline of an order in place, it is reasonable to assume that dumping would continue if the discipline were removed.” See Statement of Administrative Action, accompanying the URAA, H.R. Rep. No. 103-316, Vol. 1, at 889-890 (“SAA”). Harvard Box also notes that the Department’s sunset policy states that the Department will normally determine that continuation or recurrence of dumping is likely, where dumping continued at any level above *de minimis* after the issuance of an order. See *Policies Regarding the Conduct of Five-Year (“Sunset”) Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 18871, 18872 (April 16, 1998). As

imports of folding gift boxes from the PRC remained steady since the imposition of the Order, Harvard Box argues that the dumping of folding gift boxes from the PRC did not decline but, rather, continued at above *de minimis* levels. Harvard Box asserts that without the Order, imports of folding gift boxes from the PRC will likely increase and dumping continue.

Harvard Box points to many factors that indicate a likelihood of continued dumping. First, Harvard Box estimates that the import volume of folding gift boxes has not increased significantly since imposition of the Order, despite the fact that Max Fortune was excluded from the Order and Red Point obtained a zero cash deposit rate in 2003, and despite the fact that one of the original domestic producers ceased production in 2004. *See* Harvard Box Comments, at 9-10. Harvard Box provides no supporting documentation for its estimates. Second, Harvard Box argues that with the relative ease of producing folding gift boxes (the main requirements being a printing press and die cutter), along with the considerable number of package printing houses in the PRC (numbering 20,409 in 2000), there is significant PRC capacity to manufacture folding gift boxes. *See* Harvard Box Comments, at 11. Harvard Box provides web pages for thirty-five PRC printing companies that produce folding gift boxes, rigid holiday boxes, and/or product packaging boxes, as an example of companies that have the capacity to produce folding gift boxes. *See* Harvard Box Comments, at Exhibit 1-2. Harvard Box notes that among these web sites, one company states it manufactures one million boxes per month and another states it manufactures ten million boxes per month, while one company states it has over 1,000 employees and another states it has 2,500 employees. *See* Harvard Box Comments, at 11-12. Third, Harvard Box argues that along with these 35 companies that produce or have the capability to produce folding gift boxes, there is substantial printing and finishing capacity to produce folding gift boxes, which can easily be shifted from producing non-subject merchandise. *See* Harvard Box Comments, at 15. Harvard Box provides no evidentiary support for this claim.

Fourth, Harvard Box argues that PRC producers have easy access to the U.S. market, as many of the PRC companies discussed already sell to major U.S. retailers, and major Hong Kong trade shows that exhibit gift products are widely attended by both PRC producers and U.S. buyers. *See* Harvard Box Comments, at 12. Harvard Box includes the web sites of a few Hong Kong trade fairs, but does not include attendee or exhibitor lists. *See* Harvard Box Comments, at Exhibit 3. Fifth, Harvard Box refers to the original investigation, wherein the ITC determined that subject merchandise and the domestic like product are generally substitutable for each other, thus making the market sensitive to price. *See* Harvard Box Comments, at 13. Sixth, Harvard Box refers to the ITC comment in the original investigation, that imported folding gift box sales to mass merchandisers are increasing and becoming more competitive with the domestic market. *See* Harvard Box Comments, at 14. Harvard Box provides no supporting documentation as evidence that this comment is an accurate statement of the current market. Finally, Harvard Box claims that the U.S. market is important for PRC producers of folding gift boxes, as the U.S. market is the only significant market for the merchandise. *See* Harvard Box Comments, at 14. Harvard Box provides no support for this claim.

Department's Position

The Department normally determines that revocation of an antidumping order or termination of a suspended dumping investigation 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 issuance of the order, or (c) dumping was eliminated after the issuance of the order, and import volumes for the subject merchandise declined significantly. *See* SAA at 889-890.

The record shows that dumping has persisted since the issuance of the Order. Although Max Fortune is excluded from the Order and Red Point has a 0.00 percent rate, the above *de minimis* PRC-wide rate of 164.75 percent remains in effect for all other producers and exporters of folding gift boxes. Consistent with section 752(c)(1)(B) of the Act, the Department also considers the volume of imports of the subject merchandise before and after issuance of the Order. Although Harvard Box believes that imports of folding gift boxes from the PRC have remained at approximately the same levels as those prior to the Order, certain import statistics indicate otherwise. In reviewing import statistics obtained from the ITC Trade DataWeb web site, located at <http://dataweb.usitc.gov/>, the Department notes that imports of folding gift boxes from the PRC have shown a steady increase in the five years since issuance of the Order.³ *See* Attachment 1. Accordingly, it appears that imports of folding gift boxes from the PRC have continued and increased.⁴ If companies continue to dump, however, with the discipline of an order in place, it is reasonable to assume that dumping would continue if the order were removed. *See* SAA at 890. Given that dumping margins remain above *de minimis*, the Department determines that dumping is likely to continue if the Order were revoked.

2. Magnitude of the Dumping Margin Likely to Prevail

Interested Party Comments

In selecting the margin of dumping that is likely to prevail if the order were revoked, Harvard Box argues that, in accordance with the SAA and Department policy, the Department should use the final margin from the original investigation (*i.e.*, the 164.75 percent PRC-wide rate, and the 8.90 percent rate for Red Point). *See* Harvard Box Comments, at 15-16.

Department's Position

Section 752(c)(3) of the Act provides that the administering authority shall provide to the ITC

³ Imports of item 4819.20.0040 of the Harmonized Tariff Schedule of the United States (“HTSUS”) steadily increased each successive year since imposition of the Order, from the pre-Order quantity of 9,617,000 kilograms in 2001 (with the exception of a slight decrease in 2004) to 26,080,000 kilograms in 2006. Imports of HTSUS item 4819.50.4060 increased from the pre-Order quantity of 1,549,000 kilograms through 2004, with a decrease in 2005 and slight increase to 5,947,000 kilograms in 2006. *See* Attachment 1.

⁴ Harvard provided evidence of many producers and potential producers of folding gift boxes in the PRC. *See* Harvard Comments, at Exhibit 2. In addition, the Department reviewed CBP entry data and noted hundreds of manufacturers/producers for the imports of folding gift boxes from the PRC during the last five years.

the magnitude of the margin of dumping that is likely to prevail if the order were revoked. Normally, the Department will select a margin from the final determination in the investigation because that is the only calculated rate that reflects the behavior of exporters without the discipline of an order or suspension agreement in place. *See* SAA at 890. Although there has been one administrative review since the issuance of the Order, the Department does not find any indication that the margins calculated in the administrative review are more probative of the behavior of manufacturers, producers and exporters without the discipline of the Order because the margins calculated in the original investigation are the only calculated rates without the discipline of an order in place. Therefore, consistent with section 752(c) of the Act, the Department will report to the ITC the corresponding individual company rates and the PRC-wide rate from the original investigation as noted in the “Final Results of Review” section, below.

Final Results of Review

For the reasons stated above, we determine that revocation of the Order would likely lead to continuation or recurrence of dumping at the following weighted-average percentage margins:

<u>Manufacturers/Exporters/Producers</u>	<u>Margin (Percent)</u>
Max Fortune Industrial Ltd.	1.67 (<i>de minimis</i>)
Red Point Paper Products Co., Ltd.	8.90
PRC-Wide Rate	164.75

Recommendation

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

AGREE _____

DISAGREE _____

 David M. Spooner
 Assistant Secretary
 for Import Administration

 Date