



A-570-001  
Sunset Review  
**Public Document**  
E&C/OV: MPM

June 1, 2021

**MEMORANDUM TO:** Christian Marsh  
Acting 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 Potassium  
Permanganate from the People's Republic of China

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## I. SUMMARY

We have analyzed the response of the domestic interested party, Carus LLC (the petitioner), in the fifth sunset review of the antidumping duty (AD) order covering potassium permanganate from the People's Republic of China (China). 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 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 a substantive response:

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

## II. BACKGROUND

On January 31, 1984, the Department of Commerce (Commerce) published the AD order on potassium permanganate from China.<sup>1</sup> On February 1, 2021, Commerce published the *Notice of Initiation* of the fifth sunset review of the *Order*, pursuant to section 751(c) of the Act.<sup>2</sup> On February 12, 2021, Commerce received a notice of intent to participate from the petitioner within the deadline specified in 19 CFR 351.218(d)(1)(i).<sup>3</sup> The petitioner claimed domestic interested party status under section 771(9)(C) of the Act, as a manufacturer of a domestic like product in

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<sup>1</sup> See *Antidumping Duty Order; Potassium Permanganate from the People's Republic of China*, 49 FR 3897 (January 31, 1984) (*Order*).

<sup>2</sup> See *Initiation of Five-Year (Sunset) Reviews*, 86 FR 7709 (February 1, 2021).

<sup>3</sup> See Petitioner's Letter, "Petitioner's Notice of Intent to Participate," dated February 12, 2021.



the United States.<sup>4</sup> On March 3, 2021, the petitioner submitted a timely substantive response within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).<sup>5</sup> Commerce received no substantive responses from any other interested parties with respect to the AD order covered by this sunset review, nor was a hearing requested. Commerce received no comments on the adequacy of responses in this sunset review. 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 the AD order on potassium permanganate from China.

The *Order* remains in effect for all producers and exporters of the subject merchandise.<sup>6</sup>

### III. SCOPE OF THE *ORDER*

The scope of this *Order* covers potassium permanganate, an inorganic chemical produced in free-flowing, technical, and pharmaceutical grades. Potassium permanganate is currently classifiable under subheading 2841.61.00 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS item number is provided for convenience and customs purposes, the written description of the merchandise remains dispositive.

### IV. HISTORY OF THE *ORDER*

On December 29, 1983, Commerce published the affirmative final determination in the original less-than-fair value (LTFV) investigation of potassium permanganate from China.<sup>7</sup> On January 31, 1984, Commerce published the *Order*.<sup>8</sup> In the *Order*, Commerce published a weighted-average dumping margin of 39.63 percent for China National Chemicals Import and Export Corporation (SINOCHEM), and an all-others rate of 39.63 percent. Furthermore, Commerce “found that the foreign market value of potassium permanganate from China exceeded the United States price on 100 percent of sales,”<sup>9</sup> and, thus, all sales by SINOCHEM during the period of investigation were at less than fair value.

Prior to the first sunset review, Commerce conducted two administrative reviews following the imposition of the *Order*.<sup>10</sup> In the first administrative review, Commerce assigned a margin of 128.94 to certain of the reviewed producers or exporters.<sup>11</sup> Three resellers retained the all-others rate of 39.63 percent from the original investigation.<sup>12</sup> In the second administrative review,

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<sup>4</sup> *Id.*

<sup>5</sup> See Petitioner’s Letter, “Substantive Response to Notice Initiation of Carus LLC,” dated March 3, 2021 at 1, (Substantive Response).

<sup>6</sup> See *Order*.

<sup>7</sup> See *Final Determination of Sales at Less Than Fair Value; Potassium Permanganate from the People’s Republic of China*, 48 FR 57347 (December 29, 1983) (*LTFV Final Determination*).

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

<sup>9</sup> See *LTFV Final Determination*.

<sup>10</sup> See *Final Results of Antidumping Duty Administrative Review; Potassium Permanganate from the People’s Republic of China*, 56 FR 19640 (April 29, 1991) (*Potassium Permanganate from China ARI*), and *Potassium Permanganate from the People’s Republic of China; Final Results of Antidumping Duty Administrative Review*, 59 FR 26625 (May 23, 1994) (*Potassium Permanganate from China AR2*).

<sup>11</sup> See *Potassium Permanganate from China ARI*, 56 FR at 19640.

<sup>12</sup> *Id.*

Commerce determined a margin of 128.94 for all producers, exporters, and resellers.<sup>13</sup>

On November 2, 1998, Commerce initiated its first sunset review of the *Order*, pursuant to section 751(c) of the Act.<sup>14</sup> In the final results of the *First Sunset Review*, Commerce determined that revocation of the order would be likely to lead to continuation or recurrence of dumping.<sup>15</sup> As a result of Commerce's and the International Trade Commission (ITC)'s affirmative determinations,<sup>16</sup> on November 24, 1999, Commerce published a notice of continuation of the *Order*.<sup>17</sup>

After the *First Sunset Review*, Commerce conducted two administrative reviews, in which Commerce found that dumping continued and assigned margins to the reviewed companies of 107.32 percent<sup>18</sup> and 128.94 percent.<sup>19</sup> In addition, Commerce initiated a new shipper review that was ultimately rescinded.<sup>20</sup>

On October 1, 2004, Commerce initiated the second sunset review of the *Order*, pursuant to section 751(c) of the Act.<sup>21</sup> In the final results of the *Second Sunset Review*, Commerce found that revocation of the *Order* would likely lead to continuation or recurrence of dumping.<sup>22</sup> As a result of Commerce's and the ITC's affirmative determinations,<sup>23</sup> on June 21, 2005, Commerce published a notice of continuation of the *Order*.<sup>24</sup> Commerce conducted no administrative or new shipper reviews in the five-year period following the issuance of the final results of the *Second Sunset Review*.

On May 3, 2010, Commerce published the notice of initiation of the third sunset review of the *Order*, pursuant to section 751(c) of the Act.<sup>25</sup> In the final results of the *Third Sunset Review*, Commerce determined that revocation of *Order* would likely lead to a continuation or recurrence of dumping.<sup>26</sup> As a result of Commerce's and the ITC's<sup>27</sup> affirmative determinations, on October 25, 2010, Commerce published a notice of continuation of the *Order*.<sup>28</sup> Commerce

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<sup>13</sup> See *Potassium Permanganate from China* AR2, 59 FR at 26625.

<sup>14</sup> See *Initiation of Five-Year (Sunset) Review*, 63 FR 58709 (November 2, 1998).

<sup>15</sup> See *Final Results of Expedited Sunset Review*, 64 FR 16907 (April 7, 1999) (*First Sunset Review*).

<sup>16</sup> See *Potassium Permanganate from China and Spain Determinations*, 64 FR 60225 (November 4, 1999).

<sup>17</sup> See *Continuation of Antidumping Duty Order; Potassium Permanganate from the People's Republic of China*, 64 FR 66166 (November 24, 1999).

<sup>18</sup> See *Potassium Permanganate from the People's Republic of China, Final Results of Antidumping Duty Administrative Review*, 66 FR 46775 (September 7, 2001).

<sup>19</sup> See *Potassium Permanganate from the People's Republic of China, Final Results of Antidumping Duty Administrative Review*, 68 FR 51765 (August 28, 2003).

<sup>20</sup> See *Potassium Permanganate from the People's Republic of China: Rescission of Antidumping Duty New Shipper Review*, 67 FR 38254 (June 3, 2002).

<sup>21</sup> See *Initiation of Five-Year Sunset Review*, 69 FR 58890 (October 1, 2004).

<sup>22</sup> See *Final Results of Expedited Sunset Review*, 70 FR 24520 (May 10, 2005) (*Second Sunset Review*).

<sup>23</sup> See *Potassium Permanganate from China Determination*, 70 FR 32372 (June 2, 2005).

<sup>24</sup> See *Continuation of Antidumping Duty Order; Potassium Permanganate from the People's Republic of China*, 70 FR 35630 (June 21, 2005).

<sup>25</sup> See *Initiation of Five-Year (Sunset) Review*, 75 FR 23240 (May 3, 2010).

<sup>26</sup> See *Final Results of Expedited Sunset Review*, 75 FR 52509 (August 26, 2010) (*Third Sunset Review*).

<sup>27</sup> See *Potassium Permanganate from China Determination*, 75 FR 63865 (October 18, 2010).

<sup>28</sup> See *Continuation of Antidumping Duty Order; Potassium Permanganate from the People's Republic of China*, 75 FR 65448 (October 25, 2010).

completed an administrative review in the five-year period following the issuance of the final results of the *Third Sunset Review*, in which Commerce determined that Pacific Accelerator (PAL) had no entries of subject merchandise during the period of review.<sup>29</sup>

On September 1, 2015, Commerce published a notice of initiation of the fourth sunset review of *Order*, pursuant to section 751(c) of the Act.<sup>30</sup> In the final results of the *Fourth Sunset Review*, Commerce determined that revocation of the *Order* would likely lead to a continuation or recurrence of dumping.<sup>31</sup> As a result of Commerce's and the ITC's<sup>32</sup> affirmative determinations, on March 18, 2016, Commerce published a notice of continuation of the *Order*.<sup>33</sup>

### *Recent Administrative Reviews*

After the *Fourth Sunset Review*, Commerce completed an administrative review for the period January 1, 2014, through December 31, 2014, in which we calculated a margin for the sole mandatory respondent, PAL of \$2.88/kg.<sup>34</sup>

On June 20, 2017, Commerce published the final results of an administrative review for the period of review of January 1, 2015, through December 31, 2015, in which we calculated a margin for PAL of \$0.00/kg.<sup>35</sup> Beginning with the 2016 administrative review, all reviews that were initiated were later rescinded.<sup>36</sup>

Commerce has not conducted any new shipper reviews, scope rulings, circumvention determinations, or changed circumstances determinations since publication of the *Fourth Continuation Notice*.

## **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

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<sup>29</sup> See *Potassium Permanganate from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2013*, 80 FR 50264 (August 19, 2015) (*Potassium Permanganate from China AR2013*).

<sup>30</sup> See *Initiation of Five-Year (Sunset) Review*, 80 FR 52743 (September 1, 2015).

<sup>31</sup> See *Potassium Permanganate from the People's Republic of China, Final Results of Expedited Fourth Sunset Review of the Antidumping Duty Order*, 81 FR 741 (January 7, 2016) (*Fourth Sunset Review*).

<sup>32</sup> See *Potassium Permanganate from China*, 81 FR 6538 (February 8, 2016).

<sup>33</sup> See *Potassium Permanganate from the People's Republic of China: Continuation of Antidumping Duty Order*, 81 FR 14835 (March 18, 2016) (*Fourth Continuation Notice*).

<sup>34</sup> See *Potassium Permanganate from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2014*, 81 FR 58476 (August 25, 2016) (*Potassium Permanganate from China AR2014*).

<sup>35</sup> See *Potassium Permanganate from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2015*, 82 FR 28044 (June 20, 2017) (*Potassium Permanganate from China AR2015*).

<sup>36</sup> See *Potassium Permanganate from the People's Republic of China: Rescission of the Antidumping Duty Administrative Review; 2016*, 82 FR 28043 (June 20, 2017); *Potassium Permanganate from the People's Republic of China: Rescission of 2017 Antidumping Duty Administrative Review*; 83 FR 19214 (May 2, 2018); *Potassium Permanganate from the People's Republic of China: Rescission of 2018 Antidumping Duty Administrative Review*, 84 FR 27245 (June 12, 2019); and *Potassium Permanganate from the People's Republic of China: Rescission of the Antidumping Duty Administrative Review; 2019*, 85 FR 39882 (July 2, 2020).

determinations, Commerce shall consider both the weighted-average dumping margins determined in the investigations 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>37</sup> the House Report,<sup>38</sup> and the Senate Report,<sup>39</sup> Commerce's determinations of likelihood will be made on an order-wide, rather than company-specific, basis.<sup>40</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>41</sup>

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>42</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>43</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>44</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>45</sup>

Furthermore, section 752(c)(3) of the Act states that the magnitude of the dumping margin likely to prevail if the orders were revoked shall be provided by Commerce to the ITC. 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

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<sup>37</sup> See Statement of Administrative Action Accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, vol 1 (1994) (SAA).

<sup>38</sup> See H. Rep. No. 103-826, pt. 1 (1994) (House Report), reprinted in 1994 U.S.C.C.A.N. 3773 (1994).

<sup>39</sup> See S. Rep. No. 103-412 (1994) (Senate Report).

<sup>40</sup> See SAA at 879 and House Report at 56.

<sup>41</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).

<sup>42</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>43</sup> See *Ferrovanadium 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>44</sup> See SAA at 889-890; see also House Report at 63.

<sup>45</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.



without the discipline of an order in place.<sup>46</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>47</sup>

Regarding the margin of dumping likely to prevail, in the *Final Modification for Reviews*, Commerce announced that, in five-year sunset reviews, it will not rely on weighted-average dumping margins that were calculated using the zeroing methodology.<sup>48</sup> However, Commerce explained in the *Final Modification for 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 section 777A(d)(1)(B) of the Act.<sup>49</sup> 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.<sup>50</sup> 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 (AFA), and dumping margins where no offsets were denied because all comparison results were positive.”<sup>51</sup>

## VI. DISCUSSION OF THE ISSUES

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

#### *Domestic Interested Parties’ Comments*

- Commerce should determine as, it did in all prior sunset reviews, that a margin of at least 128.94 percent is likely to prevail in the absence of the *Order*, and should so advise the ITC.<sup>52</sup> The facts demonstrate that Chinese producers and exporters of potassium permanganate are poised to flood the U.S market with low-priced, dumped potassium permanganate if the *Order* were to be revoked.<sup>53</sup>
- Continued dumping during the first several years that the *Order* was in place is compelling evidence that Chinese exporters would continue dumping if the order were to be removed. The substantial spike in Chinese imports during the 2001-2002 period, in which one Chinese exporter, Groupstars, was able to enter large quantities of potassium

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<sup>46</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 Second Sunset Review*), and accompanying IDM at Comment 2.

<sup>47</sup> See SAA at 890-91.

<sup>48</sup> 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*).

<sup>49</sup> *Id.*, 77 FR at 8102, 8105, and 8109.

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

<sup>52</sup> See Substantive Response at 8.

<sup>53</sup> *Id.*

permanganate by posting bonds during the pendency of its new shipper review, indicates that some China producers retained the ability to absorb duties below the 128.94 percent rate.<sup>54</sup>

- The behavior of Chinese exporters continues to demonstrate that a margin of dumping of at least 128.94 percent would prevail if the order were revoked. Specifically, the absence of China-origin imports into the U.S. market for the past five years with the exception of a single sale in 2016, and for much of the prior 15 years strongly suggests that Chinese exporters continue to be unable and unwilling to absorb this high margin.<sup>55</sup>

No other comments were received from interested parties.

### Commerce 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>56</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>57</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>58</sup>

As noted above, in the *Final Determination* of the investigation, Commerce found that imports of potassium permanganate from China were being sold in the United States at LTFV.<sup>59</sup> Since the issuance of the *Order*, Chinese exporters continued dumping at levels above *de minimis* in all reviews except the 2015 review. As noted above, over the course of subsequent administrative reviews, Commerce established higher weighted-average dumping margins compared to the rates found in the LTFV investigation.<sup>60</sup> In later administrative reviews of the *Order*, Commerce

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<sup>54</sup> *Id* at 6-7.

<sup>55</sup> *Id* at 6.

<sup>56</sup> See SAA at 890.

<sup>57</sup> *Id.* at 889; see also House Report at 63, and Senate Report at 52.

<sup>58</sup> See SAA at 889-90; see also House Report at 63, and Senate Report at 52.

<sup>59</sup> See *LTFV Final Determination*.

<sup>60</sup> See *Potassium Permanganate from China ARI*, 56 FR at 19640, and *Potassium Permanganate from China AR2*, 59 FR at 26625.

found that dumping continued at rates ranging from 107.32 percent to 128.94 percent.<sup>61</sup> Commerce did not conduct an administrative review between 2003 and 2013, and in the 2013 administrative review, there were no suspended AD entries for the exporter under review.<sup>62</sup> The 2014 administrative review concluded with a margin of \$2.88/kg for the sole mandatory respondent, PAL.<sup>63</sup> In the 2015 administrative review, PAL was assigned a margin of \$0.00/kg<sup>64</sup> and starting with the 2016 administrative review, all subsequent administrative reviews that were initiated were rescinded.

Commerce's practice is to compare the volume of imports for the one-year period preceding the initiation of the investigation to the volume of imports during the period of this sunset review. Since the issuance of the *Order*, import volumes of potassium permanganate from China into the United States have decreased and remain below pre-investigation levels. Specifically, the volume of imports in 1982, the year prior to the investigation, was 266 MT.<sup>65</sup> The total volume of imports for the entire sunset period, 2015 through 2019, was 37.04 MT.<sup>66</sup> Official import statistics show that, from 2015 through 2019, imports of subject merchandise from China remained below pre-initiation levels with periods of no shipments.<sup>67</sup> Thus, record evidence demonstrates that imports are significantly lower in the last five years, with periods of no shipments, when compared to pre-initiation import volumes. Given this decrease in import volumes during the sunset review period, we determine that it is unlikely that Chinese exporters of potassium permanganate 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 Margin of Dumping Likely to Prevail

### *Domestic Interested Parties' Comments*

- Commerce should report to the ITC a rate of 128.94 percent. The history of margins of dumping and imports under this order, in addition to Chinese exporters' behavior during the past five years continues to demonstrate that a margin of at least 128.94 would prevail if the *Order* were revoked. This margin of dumping is also the rate reported to the ITC in the final results of the *First Sunset Review*, *Second Sunset Review*, *Third Sunset Review* and *Fourth Sunset Review*.<sup>68</sup>

No other comments were received from interested parties.

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<sup>61</sup> *Id.*

<sup>62</sup> See *Potassium Permanganate from China AR2013*.

<sup>63</sup> See *Potassium Permanganate from China AR2014*.

<sup>64</sup> See *Potassium Permanganate from China AR2015*.

<sup>65</sup> See Substantive Response at Attachment 15 at 20 (588,000 pounds \* 0.000453592 = 266.712314 mt).

<sup>66</sup> *Id.* at Attachment 1 ((18,000 kilograms + 19,040 kilograms) / 1000 = 37.04 mt).

<sup>67</sup> *Id.* at Attachments 1 and 15.

<sup>68</sup> *Id.* at 8.



## Commerce 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>69</sup> However, in certain instances Commerce may report to the ITC a more recently calculated rate.

In the *First Sunset Review*, in explaining the margin of dumping to report to the ITC, we stated that:

{Commerce} believes that the increase in import volumes and market share between the imposition of the order and the Final Results in the 1989 administrative review reflect the willingness and ability of Chinese producers/exporters to dump this product despite the margin rate established by {Commerce} in the original investigation. Furthermore, the continuation of dumping and the virtual recapture of market share between the final results in the 1989 review and those in the 1990 review reflects attempts by Chinese producers/exporters to circumvent the order by transshipping the subject merchandise through third country resellers with lower deposit rates. This is evidenced by the dramatic reduction in import volumes following the 1990 administrative review (59 FR 26625, May 23, 1994) in which a single rate was established for all potassium permanganate of Chinese origin, regardless of the interim shipping location, absent a showing that either the Chinese exporter was entitled to a separate rate or the third country reseller was not merely engaged in transshipment. This more inclusive margin determination has apparently reduced the ability of Chinese producers/exporters to circumvent the order.<sup>70</sup>

We went on to note that this more recently calculated rate is, therefore, more probative of the behavior Chinese exporters.<sup>71</sup> Therefore, in this proceeding, as in the *First Sunset Review*, *Second Sunset Review*, *Third Sunset Review*, and *Fourth Sunset Review*, we find it appropriate to continue to report the rate of 128.94 percent to the ITC as the magnitude of the margins of dumping likely to prevail if the *Order* were revoked.<sup>72</sup>

As explained above, in accordance with the *Final Modification for Reviews*, Commerce will not rely on weighted-average dumping margins that were calculated using the zeroing methodology.<sup>73</sup> The 128.94 percent rate was not affected by the denial of offsets, in accordance with the *Final Modification for Reviews*,<sup>74</sup> because it was determined in the 1989 administrative review based on the "best information available" provision in the Act.<sup>75</sup> Commerce explained in

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<sup>69</sup> See SAA at 890; see also *Persulfates Second Sunset Review* IDM at Comment 2.

<sup>70</sup> See *First Sunset Review*, 64 FR at 16910.

<sup>71</sup> *Id.*

<sup>72</sup> See *First Sunset Review*, 64 FR at 16910; *Second Sunset Review*, 70 FR at 24520; *Third Sunset Review*, 75 FR at 52510; and *Fourth Sunset Review* 81 FR at 742.

<sup>73</sup> See *Final Modification for Reviews*, 77 FR at 8103.

<sup>74</sup> *Id.*

<sup>75</sup> See *Potassium Permanganate from China ARI*, 56 FR at 19640.

the preliminary results of that review that the margin was based on information provided by the petitioner and applied to a state-owned entity and five of the eight third country resellers under review.<sup>76</sup> Commerce further explained that, in light of the respondent's refusal to participate in the review, we relied on information provided by the petitioner as the best information available for U.S. price and foreign market value,<sup>77</sup> which indicates that the dumping margin calculation was not impacted by zeroing.

Therefore, we determine that the more recently calculated rate of 128.94 percent will reflect the behavior of China exporters without the discipline of the AD order. Pursuant to section 752(c) of the Act, Commerce will report to the ITC this margin of dumping as indicated in the "Final Results of Sunset Review" section of this memorandum.

## VII. FINAL RESULTS OF SUNSET REVIEW

We determine 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 128.94 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 the final results of review in the *Federal Register*.

☒

Agree

☐

Disagree

6/1/2021

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Signed by: CHRISTIAN MARSH

Christian Marsh  
Acting Assistant Secretary  
for Enforcement and Compliance

<sup>76</sup> See *Potassium Permanganate from the People's Republic of China (PRC): Preliminary Results of Antidumping Duty Administrative Review*, 55 FR 53581 (December 31, 1990); unchanged in *Potassium Permanganate from China ARI*, 56 FR at 19640.

<sup>77</sup> *Id.*