



A-570-896  
Sunset Review  
**Public Document**  
E&C AD/CVD OIII: SSL

DATE: June 1, 2016

MEMORANDUM TO: Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

FROM: Christian Marsh   
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Final Results of  
Expedited Second Sunset Review of the Antidumping Duty Order  
on Magnesium Metal from the People's Republic of China

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## **I. SUMMARY**

The Department of Commerce ("Department") has analyzed the substantive response of US Magnesium LLC ("Petitioner"), the sole participating interested party in the sunset review of the antidumping duty order on magnesium metal from the People's Republic of China ("PRC").<sup>1</sup> We did not receive a substantive response from any respondent party. Accordingly, we conducted an expedited (120-day) sunset review of the antidumping duty order. Below is a complete list of issues in this sunset review for which received substantive responses:

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

We recommend that you approve the positions described in the "Discussion of Issues" section of this memorandum.

## **II. BACKGROUND**

On February 1, 2016, the Department published a notice of initiation of the second sunset review of the *Order* pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act").<sup>2</sup> On February 16, 2016, Petitioner notified the Department of its intent to participate within the 15-day period specified in 19 CFR 351.218(d)(1)(i). In accordance with 19 CFR 351.218(d)(1)(ii)(A), Petitioner claimed interested party status under section 771(9)(C) of the Act as a manufacturer of the domestic-like product.

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<sup>1</sup> See *Notice of Antidumping Duty Order: Magnesium Metal From the People's Republic of China*, 70 FR 19928 (April 15, 2005) ("*Order*").

<sup>2</sup> See *Initiation of Five-Year ("Sunset") Review*, 81 FR 5418 (February 2, 2016) ("*Initiation Notice*").

On March 3, 2016, the Department received a complete substantive response to the *Initiation Notice* from Petitioner within the 30-day period specified in 19 CFR 351.218(d)(3)(i).<sup>3</sup> The Department received no substantive responses from respondent interested parties. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department is conducting an expedited sunset review of the antidumping duty order on magnesium metal from the PRC.

### **III. SCOPE OF THE ORDER**

The merchandise covered by the *Order* is magnesium metal from the PRC, which includes primary and secondary alloy magnesium metal, regardless of chemistry, raw material source, form, shape, or size. Magnesium is a metal or alloy containing by weight primarily the element magnesium. Primary magnesium is produced by decomposing raw materials into magnesium metal. Secondary magnesium is produced by recycling magnesium-backed scrap into magnesium metal. The magnesium covered by this investigation includes blends of primary and secondary magnesium.

The subject merchandise includes the following alloy magnesium metal products made from primary and/or secondary magnesium including, without limitation, magnesium cast into ingots, slabs, rounds, billets, and other shapes, magnesium ground, chipped, crushed, or machined into raspings, granules, turnings, chips, powder, briquettes, and other shapes; and products that contain 50 percent or greater, but less than 99.8 percent, magnesium, by weight, and that have been entered into the United States as conforming to an “ASTM Specification for Magnesium Alloy”<sup>4</sup> and are thus outside the scope of the existing antidumping orders on magnesium from the PRC (generally referred to as “alloy” magnesium).

The scope of this order excludes: (1) all forms of pure magnesium, including chemical combinations of magnesium and other material(s) in which the pure magnesium content is 50 percent or greater, but less than 99.8 percent, by weight, that do not conform to an “ASTM Specification for Magnesium Alloy”<sup>5</sup>; (2) magnesium that is in liquid or molten form; and (3) mixtures containing 90 percent or less magnesium in granular or powder form by weight and one or more of certain non-magnesium granular materials to make magnesium-based reagent mixtures, including lime, calcium metal, calcium including lime, calcium metal, calcium silicon, calcium carbide, calcium carbonate, carbon, slag coagulants, fluorspar, nepheline syenite, feldspar, alumina (Al<sub>2</sub>O<sub>3</sub>), calcium aluminate, soda ash, hydrocarbons, graphite, coke, silicon,

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<sup>3</sup> See Submission from Petitioner to the Department, “Five-Year (“Sunset”) Review Of The Antidumping Duty Order On Magnesium Metal From The People’s Republic of China: US Magnesium’s Substantive Response To The Notice Of Initiation,” (“Substantive Response”), dated March 3, 2016.

<sup>4</sup> The meaning of this term is the same as that used by the American Society for Testing and Materials in its Annual Book for ASTM Standards: Volume 01.02 Aluminum and Magnesium Alloys.

<sup>5</sup> The material is already covered by existing antidumping orders. See *Notice of Antidumping Duty Orders: Pure Magnesium from the People’s Republic of China, the Russian Federation and Ukraine; Notice of Amended Final Determination of Sales at Less Than Fair Value: Antidumping Duty Investigation of Pure Magnesium from the Russian Federation*, 60 FR 25691 (May 12, 1995); and *Antidumping Duty Order: Pure Magnesium in Granular Form from the People’s Republic of China*, 66 FR 57936 (November 19, 2001).

rare earth metals/mischmetal, cryolite, silica/fly ash, magnesium oxide, periclase, ferroalloys, dolomite lime, and colemanite.<sup>6</sup>

The merchandise subject to this order is classifiable under items 8104.19.00, and 8104.30.00 of the Harmonized Tariff Schedule of the United States (“HTSUS”). Although the HTSUS items are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

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

##### **1) Final Determination of Sales at Less-than-Fair-Value and Order**

On February 24, 2005, the Department published its final affirmative determination of sales at less than fair value (“LTFV”) in the *Federal Register* with respect to imports of magnesium metal from the PRC.<sup>7</sup> On March 29, 2005, the Department published its amended affirmative determination of sales at LTFV with respect to magnesium metal from the PRC.<sup>8</sup>

In the amended final determination, the Department calculated the following weighted-average dumping margins:

<u>Country</u>	<u>Company</u>	<u>Weighted-Average Margin (Percent)</u>
PRC	Tianjin Magnesium International Co., Ltd. (“TMI”)	49.66
	Beijing Guagling Jinghua Science & Technology Co., Ltd. (“Guangling”)	49.66
	PRC-Wide Entity	141.49

Following the publication of the Department’s amended affirmative determination, the International Trade Commission (“ITC”) found that the U.S. industry was materially injured or threatened with material injury by reason of the imports of subject merchandise.<sup>9</sup> On April 15, 2005, the Department published an antidumping duty order on magnesium metal from the PRC.<sup>10</sup>

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<sup>6</sup> This third exclusion for magnesium-based reagent mixtures is based on the exclusion for reagent mixtures in the 2000-2001 investigations of magnesium from China, Israel, and Russia. See *Final Determination of Sales at Less Than Fair Value: Pure Magnesium in Granular Form From the People’s Republic of China*, 66 FR 49345 (September 27, 2001); *Final Determination of Sales at Less Than Fair Value: Pure Magnesium From Israel*, 66 FR 49349 (September 27, 2001); *Final Determination of Sales at Not Less Than Fair Value: Pure Magnesium From the Russian Federation*, 66 FR 49347 (September 27, 2001). These mixtures are not magnesium alloys, because they are not combined in liquid form and cast into the same ingot.

<sup>7</sup> See *Final Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances: Magnesium Metal From the People’s Republic of China*, 70 FR 9037 (February 24, 2005).

<sup>8</sup> See *Notice of Amended Final Determination of Sales at Less Than Fair Value: Magnesium Metal from the People’s Republic of China*, 70 FR 15838 (March 29, 2005).

<sup>9</sup> See *Magnesium From China and Russia*, 70 FR 19969 (April 15, 2005) (“ITC Final Determination”).

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

## 2) Subsequent Administrative Reviews

As summarized below, since publication of the *Order*, the Department initiated nine administrative reviews of the antidumping duty order on magnesium metal from the PRC, completing six reviews, four of which reported no shipments, and rescinding three reviews.<sup>11</sup> TMI received zero margins in two administrative reviews, while all other producers/exporters received the PRC-wide rate of 141.49 percent.

Deposit rates remain in effect for imports of subject merchandise from the PRC.

## 3) Duty-Absorption Findings, Changed-Circumstances Reviews, Scope Inquiries

To date, the Department has not issued any duty-absorption and changed circumstances findings in this case.

There have been two scope rulings with respect to the *Order*.

- November 9, 2006 – Only magnesium extrusion billets produced in Canada by Timminco, Ltd. are not within the scope of the *Order*.<sup>12</sup>
- July 16, 2015 – Certain magnesium alloys produced by Dead Sea Magnesium are outside the scope of the *Order*, but are covered by the antidumping duty order on pure magnesium from China.<sup>13</sup>

## 4) Prior Sunset Review

The Department published the final results of the first sunset review on July 7, 2010, in which it determined that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping.<sup>14</sup> As a result and pursuant to section 751(d)(2) of the Act, the Department published a notice of continuation following the ITC's determination that revocation of the *Order* would likely lead to a continuation or recurrence of material injury to the domestic injury within a reasonably foreseeable time.<sup>15</sup>

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<sup>11</sup> See *Magnesium Metal from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 73 FR 40293 (July 14, 2008); *Magnesium Metal From the People's Republic of China: Final Results of the 2008-2009 Antidumping Duty Administrative Review of the Antidumping Duty Order*, 75 FR 65450 (October 25, 2010); *Magnesium Metal From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 27185 (May 9, 2013); *Magnesium Metal From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012-2013*, 79 FR 35310 (June 20, 2014); *Magnesium Metal From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2013-2014*, 80 FR 15555 (March 24, 2015); *Magnesium Metal From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2014-2015*, 81 FR 25386 (April 28, 2016).

<sup>12</sup> See *Final Scope Determination on Request from US Magnesium LLC*, 72 FR 5678 (February 7, 2007).

<sup>13</sup> See *Final Scope Ruling on Dead Sea Magnesium Ltd.'s Patented Magnesium Alloys*, 72 FR 5677 (November 9, 2006).

<sup>14</sup> See *Magnesium Metal From the People's Republic of China and the Russian Federation: Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders*, 75 FR 38983 (July 7, 2010) ("First Sunset").

<sup>15</sup> See *Magnesium Metal From the People's Republic of China: Continuation of Antidumping Duty Order*, 76 FR 13356 (March 11, 2011) ("First Sunset Continuation").

## V. LEGAL FRAMEWORK

In accordance with section 751(c) of the Act, the Department is conducting this sunset review to determine whether revocation of the *Order* would likely lead to continuation or recurrence of dumping. Section 752(c)(1)(A)-(B) of the Act provides that, in making these determinations, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews, as well as the volume of imports of the subject merchandise for the period before and after the issuance of the *Order*.

In accordance with the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act, specifically the Statement of Administrative Action (“SAA”),<sup>16</sup> the House Report,<sup>17</sup> and the Senate Report,<sup>18</sup> the Department’s determinations of likelihood will be made on an order-wide, rather than a company-specific, basis.<sup>19</sup> In addition, the Department normally determines that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping when: (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.<sup>20</sup> Alternatively, the Department normally will determine that revocation of an antidumping duty 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>21</sup>

Furthermore, as a base period of import volume comparison, it is the Department’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 the investigation may dampen import volumes and, thus, skew the comparison.<sup>22</sup> When analyzing import volumes for second and subsequent sunset reviews, the Department’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.<sup>23</sup>

In addition, section 752(c)(3) of the Act states that the magnitude of the dumping margin likely to prevail if the *Order* were revoked shall be provided by the Department to the ITC. Generally, the Department 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>16</sup> See HR. Doc. 103-316, vol. 1 (1994) (“SAA”), reprinted in 1994 U.S.C.C.A.N. 4040 (1994).

<sup>17</sup> See H. Rep. No. 103-826, pt. 1 (1994) (“House Report”), reprinted in 1994 U.S.C.C.A.N. 3773 (1994).

<sup>18</sup> See S. Rep. No. 103-412 (1994) (“Senate Report”).

<sup>19</sup> See SAA at 879; *see also* House Report at 56.

<sup>20</sup> See SAA at 889-890; *see also* House Report at 63-64; Senate Report at 52; *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*”).

<sup>21</sup> See SAA at 889-890; *see also* House Report at 63.

<sup>22</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 at Comment 1.

<sup>23</sup> See *Ferrovandium from the People’s Republic of China and the Republic of South Africa: Final Results of the Expedited Second Sunset Reviews of the Antidumping Duty Orders*, 79 FR 14216 (March 13, 2014), and accompanying Issues and Decision Memorandum.

without the discipline of an order in place.<sup>24</sup> In certain circumstances, however, 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, {the Department} may conclude that exporters are likely to continue dumping at the lower rates found in a more recent review”).<sup>25</sup> Finally, pursuant to section 752(c)(4)(A) of the Act, a dumping margin of “zero or *de minimis* shall not by itself require” the Department to determine that revocation of an AD order would not be likely to lead to a continuation or recurrence of sales at LTFV.<sup>26</sup>

On February 14, 2012, the Department announced it was modifying its practice in sunset reviews, such that it would not rely on weighted-average dumping margins calculated using the “zeroing” methodology found to be inconsistent with World Trade Organization (“WTO”) obligations.<sup>27</sup> In the *Final Modification for Reviews*, the Department stated that “only in the most extraordinary circumstances” would it rely on margins other than those calculated and published in prior determinations.<sup>28</sup> The Department 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.”<sup>29</sup>

## **VI. DISCUSSION OF THE ISSUES**

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

#### Petitioner’s Comments

Petitioner argues that the revocation of the *Order* would likely lead to continued dumping by the Chinese producers/exporters of the subject magnesium metal. Petitioner asserts that, since the imposition of the *Order*, dumping has continued above *de minimis* levels and import volumes have declined over the history of the *Order*. Specifically,

- One exporter, TMI, was only able to achieve a zero margin in two previous administrative reviews and preserved its zero margin by not shipping magnesium metal to the United States

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<sup>24</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), and accompanying Issues and Decision Memorandum at Comment 2.

<sup>25</sup> See SAA at 890-91.

<sup>26</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 Issues and Decision Memorandum at Comment 1.

<sup>27</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>28</sup> *Id.*

<sup>29</sup> *Id.* at 8109.

in subsequent reviews. Nevertheless, dumping margins for all other Chinese producers and exporters have remained very high since the original investigation.<sup>30</sup>

- Petitioner argues that when comparing import volumes of the subject merchandise in 2004 (*i.e.*, pre-initiation) to those in 2015, imports decreased by 99.997 percent and the value of subject imports decreased by 99.991 percent. Similarly, compared to pre-initiation levels, subject imports decreased by 97.861 percent and the value of imports fell by 98.665 percent between 2010 and 2015, the period since the first sunset review.<sup>31</sup>

Petitioner further states that the existence of dumping at above *de minimis* levels and the substantial decline of imports suggests that dumping is likely to continue or recur if the *Order* is revoked. Although one exporter achieved a zero or *de minimis* margin in two administrative reviews, subject imports did not increase to levels anywhere pre-*Order* volume and did not reach what Commerce would consider “commercial quantities”. Therefore, it is evident that Chinese producers and exporters cannot export to the United States at pre-order volumes without dumping at significant margins.<sup>32</sup>

**Department’s Position:** When determining whether revocation of the *Order* would likely lead to continuation of dumping, sections 752(c)(1)(A) and (B) of the Act instruct the Department 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. The Department generally selects the dumping margins from the original investigation as these rates are the most probative of the behavior of exporters without the discipline of an order in place. When analyzing import volumes for subsequent sunset reviews, the Department’s practice is to compare import volumes during the year preceding initiation of the underlying investigation (*i.e.*, 2003-2004, as the underlying investigation was initiated in March 2004) to import volumes since the issuance of the last continuation notice.<sup>33</sup> The last continuation notice for this sunset review was issued in March 2011. Therefore, consistent with this practice, the Department would typically compare import volumes in 2003 and 2004 to the five year sunset review period (*i.e.*, 2011-2015).

Accordingly, the Department examined the ITC Dataweb statistics provided by Petitioner for the relevant periods. Trade data for imports of magnesium metal under HTSUS 8104.19.00 from the PRC indicate that imports of Chinese magnesium metal averaged approximately 25.2 tons per year in the 2011-2015 period compared with 12,905.7 tons (2003) and 13,262 tons (2004).<sup>34</sup> However, this may not account for all subject merchandise. The scope of the *Order* identifies magnesium metal generally classifiable under HTSUS 8104.19.00 and 8104.30.00; the Department notes that Petitioner only provided import data for one of the two HTS numbers (8104.19.00) covered by the scope.

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<sup>30</sup> See Substantive Response, at 7.

<sup>31</sup> *Id.*, at 9-10 and Attachment 2.

<sup>32</sup> *Id.*, at 10 and Attachment 2.

<sup>33</sup> See, e.g., *Small Diameter Graphite Electrodes from the People’s Republic of China: Final Results of the Expedited Sunset Review of the Antidumping Duty Order*, 79 FR 26208 (May 7, 2014) and accompanying Issues and Decision Memorandum at 8; see also *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 at Comment 1.

<sup>34</sup> See Substantive Response, at Attachment 2.

Regardless of import volumes, however, we find that dumping has continued at above *de minimis* levels. Specifically, the Department examined the margin calculation information for the final 49.66 percent weighted-average margin for two respondents in the investigation, TMI and Guangling, and the PRC-wide entity, and found the calculations to be WTO-consistent (*see below* for more details).<sup>35</sup> Further, the available information on the administrative record indicates positive non-zeroed margin calculations. Although the margin for TMI changed to zero during the administrative review process, TMI has been found not to have shipments to the United States in the most recent administrative reviews,<sup>36</sup> and the margin for Guangling remains at the investigation level. The PRC-wide rate of 141.49 percent from the final investigation was also calculated based on the use of total adverse facts available, consistent with the Department's *Final Modification for Reviews*. As such, pursuant to section 752(c)(1) of the Act, the Department finds evidence that above *de minimis* dumping margins generally applied to post-order entries of subject merchandise.

Therefore, pursuant to section 752(c)(1) of the Act, because above *de minimis* dumping margins continued after issuance of the *Order*, and the Department found dramatically lower import volumes in the five years examined in comparison to the import volumes prior to the initiation with respect to the one HTSUS number for which we have information on the record, we find that dumping would be likely to continue or recur if the *Order* were revoked.

## **2. Magnitude of the Margin Likely to Prevail**

### Petitioner's Comments

Petitioner cites the SAA and the *Sunset Policy Bulletin* to explain that, in determining the magnitude of the margins of dumping that are likely to prevail in the event of a revocation of an order, the Department will normally select the company-specific rate(s) from the original investigation, as this is the only calculated rate that reflects the behavior of exporters and foreign governments without the discipline of an order in place. In addition, for those companies not specifically investigated or for companies that did not begin shipping until after the *Order* was issued, it is the Department's policy to provide a margin based on the all others rate from the investigation. Petitioner further explains that the Department may also rely on dumping margins from the investigation that were not affected by the WTO-inconsistent methodology, in other words, dumping margins that were based on the adverse facts available, and dumping margins where no offsets were denied because all comparison results were positive.

Specifically, Petitioner argues that the Department should continue to provide the 49.66 percent margin from the original investigation assigned to TMI and Guangling, as well as the 141.49

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<sup>35</sup> See the Department's memorandum to the File, "Final Results of Expedited Second Sunset Review of the Antidumping Duty Order on Magnesium Metal from the People's Republic of China: Data Supplement", dated concurrently with this memorandum ("Data Supplement").

<sup>36</sup> See, e.g., *Magnesium Metal From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012-2013*, 79 FR 35310 (June 20, 2014); *Magnesium Metal From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2013-2014*, 80 FR 15555 (March 24, 2015); *Magnesium Metal From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2014-2015*, 81 FR 25386 (April 28, 2016).

percent PRC-Wide margin applicable to Jiangsu Metals, RSM Group, and others.<sup>37</sup> Petitioner explains that the 49.66 percent margin was very high and thus that it is unlikely that zeroing was used to calculate this margin. However, in the event the Department decides to recalculate using the current methodology and finds the dataset incomplete, Petitioner suggests that the Department could still report to the ITC that the likely margin to prevail is above *de minimis*. Moreover, respondents Jiangsu Metals and RSM Group were collapsed in the original investigation and received a PRC-wide rate margin of that was based on total adverse facts available, and thus was not based on zeroing.<sup>38</sup>

**Department’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. The Department’s preference is to select a rate from the investigation because it is 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.<sup>39</sup> In prior sunset review of the *Order*, we determined that it was appropriate to provide the ITC with margins from the LTFV investigation for the magnitude of the margin likely to prevail because these margins best reflect the behavior of manufacturers, producers, and exporters without the discipline of an order in place.<sup>40</sup> Results from subsequent administrative reviews also indicate that dumping continued since the *Order* for all other Chinese producers and exporters.<sup>41</sup>

Moreover, in accordance with the Department’s *Final Modification for Reviews*, the Department’s current practice is to not rely on weighted-average dumping margins calculated using the zeroing methodology found to be WTO-inconsistent. Accordingly, the Department reviewed its official records to examine whether the dumping margins determined in the LTFV investigation and all subsequent reviews were calculated using zeroing. We note that the Department calculated the final margin for TMI, Guangling, and the PRC-wide rate using a methodology that is consistent with the Department’s *Final Modification for Reviews*. Specifically, as noted in the Data Supplement, margin calculations of the 49.66 percent final rate for TMI and Guangling (*i.e.* the highest margin on the record of the *Order* and listed as the highest margin likely to prevail in the prior sunset review) indicate that this margin reflects the denial of offsets with only positive comparison results.<sup>42</sup> Similarly, the PRC-wide rate of 141.49 percent is the highest margin on the record of the *Order* and was determined based on the use of adverse facts available.<sup>43</sup> The Department also used PRC-wide rate as the margin likely to

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<sup>37</sup> See Substantive Response, at 13.

<sup>38</sup> *Id.*, at 12.

<sup>39</sup> See SAA at 890 and Policies Regarding the Conduct of five-year (“Sunset”) Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin, at section II.B.1; see also, e.g., *Prestressed Concrete Steel Wire Strand from the People’s Republic of China: Final Results of Expedited Sunset Review of the Antidumping Duty Order*, 80 FR 43063 (July 21, 2015), and accompanying Issues and Decision Memorandum at Issue 2.

<sup>40</sup> See First Sunset.

<sup>41</sup> See e.g., *Magnesium Metal From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review*, 73 FR 40293 (July 14, 2008); see also *Magnesium Metal From the People’s Republic of China: Final Results of the 2008-2009 Antidumping Duty Administrative Review of the Antidumping Duty Order*, 75 FR 65450 (October 25, 2010); see also *Magnesium Metal From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review*, 79 FR 35310 (June 20, 2014).

<sup>42</sup> See Data Supplement.

<sup>43</sup> See Memorandum to the File, “Corroboration of the PRC-Wide Adverse Facts Available 1,” dated February 16,

Department also used PRC-wide rate as the margin likely to prevail for all other producers/exporters in the prior sunset review. After considering the previously determined dumping margins, and given the lack of argument and evidence to the contrary, the Department finds no reason to depart from our previous determination in the prior sunset review. Therefore, pursuant to section 752(c)(3) of the Act, the Department will report to the ITC the PRC-wide rate as indicated in the "Final Results of the Review" section of this memorandum.

**VII. FINAL RESULTS OF THE REVIEW**

The Department determines that revocation of the antidumping duty order on magnesium metal from the PRC would likely 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 141.49 percent.

**VIII. RECOMMENDATION**

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

Agree

Disagree

  
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Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

1 JUNE 2016  
Date