

August 31, 2010

**TO:** Ronald K. Lorentzen  
Deputy Assistant Secretary  
for Import Administration

**FROM:** Edward C. Yang  
Acting Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

**RE:** Issues and Decision Memorandum for the Final Results of the Expedited Sunset Review of the Antidumping Duty Order on Potassium Permanganate from the People's Republic of China

## **SUMMARY**

We have analyzed the substantive response of the domestic interested parties in the sunset review of the antidumping duty order on potassium permanganate from the People's Republic of China ("PRC"). 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; and
2. Magnitude of the dumping margin likely to prevail.

### History of the Order

The Department of Commerce ("the Department") published in the Federal Register its determination that imports of potassium permanganate from the PRC were being sold in the United States at less than fair value.<sup>1</sup> In the investigation, the Department assigned the single producer/exporter and the "all other" producers/exporters a margin of 39.63 percent. On January 31, 1984, the Department published the antidumping duty order on potassium permanganate from the PRC.<sup>2</sup>

The Department conducted two administrative reviews following the imposition of the order. In the first administrative review, the Department assigned a margin of 128.94 to the reviewed

---

<sup>1</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).

<sup>2</sup> See Antidumping Duty Order: Potassium Permanganate From the People's Republic of China, 49 FR 3897 (January 31, 1984).

producers/exporters. Three resellers retained the original “all other” rate of 39.63 percent.<sup>3</sup> In the second administrative review, the Department determined a margin of 128.94 percent existed for all producers/exporters and resellers.<sup>4</sup>

On November 2, 1998, the Department initiated its first sunset review of the antidumping duty order on potassium permanganate from the PRC.<sup>5</sup> In the final results of the first sunset review, the Department determined that revocation of the order would be likely to lead to continuation or recurrence of dumping and reported the margin of 128.94 percent determined in the second administrative review.<sup>6</sup> As a result, on November 24, 1999, the Department published a notice of continuation of the order.<sup>7</sup> Since the first sunset review, the Department conducted two administrative reviews, in which the Department found that dumping continued at margins ranging from 107.32 percent to 128.94 percent.<sup>8</sup>

On October 1, 2004, the Department initiated its second sunset review of the antidumping duty order of potassium permanganate from the PRC.<sup>9</sup> In the final results of the second sunset review, the Department determined that revocation of the order would be likely to lead to continuation or recurrence of dumping, and again determined the rate of 128.94 percent to be the magnitude of dumping that would exist if the order were lifted.<sup>10</sup> As a result, on June 21, 2005, the Department published a notice of continuation of the order.<sup>11</sup> Since the issuance of the second sunset review, the Department has not conducted any administrative or new shipper reviews.

## Background

On May 3, 2010, the Department published the notice of initiation of the sunset review of the antidumping duty order on potassium permanganate from the PRC pursuant to section 751(c) of the Tariff Act of 1930, as amended (“the Act”). See Initiation of Five-Year (“Sunset”) Review, 75 FR 23240 (May 3, 2010). On May 6, 2010, the Department received a notice of intent to

---

<sup>3</sup> See Final Results of Antidumping Duty Administrative Review: Potassium Permanganate from the People’s Republic of China, 56 FR 19640 (April 29, 1991).

<sup>4</sup> See Potassium Permanganate From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review, 59 FR 26625 (May 23, 1994).

<sup>5</sup> See Notice of Initiation of Five-Year (“Sunset”) Reviews, 63 FR 58709 (November 2, 1998).

<sup>6</sup> See Final Results of Expedited Sunset Review: Potassium Permanganate from the People’s Republic of China, 64 FR 16907 (April 7, 1999) (“Sunset I”).

<sup>7</sup> See Continuation of Antidumping Duty Order: Potassium Permanganate From the People’s Republic of China, 64 FR 66166 (November 24, 1999).

<sup>8</sup> See Potassium Permanganate From the People’s Republic of China: Notice of Final Results of Antidumping Duty Administrative Review, 66 FR 46775 (September 7, 2001); Potassium Permanganate From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review, 68 FR 51765 (August 28, 2003).

<sup>9</sup> See Initiation of Five-Year (“Sunset”) Reviews, 69 FR 58890 (October 1, 2004).

<sup>10</sup> See Potassium Permanganate from The People’s Republic of China: Five-year (“Sunset”) Review of Antidumping Duty Order; Final Results, 70 FR 24520 (May 10, 2005) (“Sunset II”).

<sup>11</sup> See Continuation of Antidumping Duty Order: Potassium Permanganate from the People’s Republic of China, 70 FR 35630 (June 21, 2005).

participate from a domestic producer, Carus Corporation (“Carus,” “domestic interested party” or “Petitioner”). Submission of the notice of intent to participate filed by Petitioner was within the deadline specified in section 351.218(d)(1)(i) of the Department’s regulations. The domestic interested party claimed interested party status under section 771(9)(C) of the Act as Carus is a domestic manufacturer of potassium permanganate in the United States. On May 28, 2010, the Department received an adequate substantive response from the domestic interested party within the deadline specified in section 351.218(d)(3)(i) of the Department’s regulations. We did not receive substantive responses from any respondent interested parties to this proceeding. As a result, pursuant to section 751(c)(3)(B) of the Act and section 351.218(e)(1)(ii)(C)(2) of the Department’s regulations, the Department determined to conduct an expedited review of the order.

### Discussion of the Issues

In accordance with section 751(c)(1) of the Act, the Department is conducting a sunset review to determine whether revocation of the antidumping duty 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 these determinations, 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 antidumping duty order. In addition, section 752(c)(3) of the Act states that the Department shall provide to the International Trade Commission (“ITC”) the magnitude of the margin of dumping likely to prevail if the order were revoked. Below we address the comments made by the domestic interested party in this proceeding.

#### 1. Likelihood of continuation or recurrence of dumping

### Interested Party Comments

Petitioner argues that revocation of the antidumping duty order is likely to lead to continued or recurring dumping, as the order has effectively restricted Chinese imports of subject merchandise. See Carus Substantive Response at 3, dated May 28, 2010 (“Carus Substantive Response”). Carus argues that the fact that Chinese producers have made no attempt to sell potassium permanganate during the current review period, or to have their antidumping duties rates reviewed, is evidence that the Chinese producers are not able to sell potassium permanganate in the United States without dumping. See Carus Substantive Response at Appendix 1, page 17.

Petitioner argues that other factors also support the likelihood of dumping if the order were revoked including: (1) the attractiveness of the U.S. market; (2) PRC overcapacity and export orientation; (3) increased Chinese exports to the European Union (“EU”) once the EU antidumping order was removed; and (4) the growth of internet trading of potassium permanganate. Id. at 21-34.

## Department Position

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (“URAA”),<sup>12</sup> the Department normally determines that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping where: (a) dumping continued at any level above de minimis after the issuance of the order; (b) imports of the subject merchandise ceased after the issuance of the order; or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly.<sup>13</sup> In this case, the Department determines after the issuance of the order, import volumes for subject merchandise declined significantly. See Carus Substantive Response at 5-6 and Appendix 1, Attachments 12-16.

The Department finds that the decrease of imports of subject merchandise from the PRC with an order in place is highly probative of the likelihood of continuation or recurrence of dumping, if the order were to be revoked. Therefore, the Department determines that dumping would likely continue or recur if the order were revoked.

## 2. Magnitude of the Margins Likely to Prevail

### Interested Party Comments

Petitioner argues that the Department should find that the magnitude of the margin of dumping that is likely to prevail is the more recent margin of 128.94 percent. See Carus Substantive Response at 4-6.

### Department 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 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.<sup>14</sup> For companies not investigated individually, or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the all-others rate from the investigation.<sup>15</sup> However, because

---

<sup>12</sup> See, e.g., Statement of Administrative Action accompanying the URAA, H.R. Doc. No. 103-316, vol. 1, 889 (1994) (“SAA”); House Report, H. Rep. No. 103-826, pt. 1 (1994); and Senate Report, S. Rep. No. 103-412 (1994).

<sup>13</sup> See, e.g., 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; see also, Pure Magnesium in Granular Form from the People's Republic of China: Final Results of the Expedited Sunset Review of the Antidumping Duty Order, 72 FR 5417 (February 6, 2007), and accompanying Issues and Decision Memorandum at Comment 1.

<sup>14</sup> See 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>15</sup> See Certain Hot-Rolled Carbon Steel Flat Products from Argentina, the People's Republic of China, India,

this case involves the PRC, which the Department considers to be a non-market economy as defined by section 771(18) of the Act, the Department does not have an “all others” rate;<sup>16</sup> instead, there is a PRC-wide rate which applies to all imports from an exporter that has not established its eligibility for a separate rate. The Department’s preference for selecting margins from the investigation is based on the fact that they are the only dumping rates that reflect the behavior of manufacturers, producers, and exporters without the discipline of an order or suspension agreement in place. In certain instances, a more recently calculated rate may be appropriate. For example, 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>17</sup>

In the first sunset review in explaining the margin to report to the ITC, we stated “{t}he Department 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 the Department 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.”<sup>18</sup> We went on to note that the more recent rate is, therefore, more probative of the behavior Chinese producers/exporters.

In Wooden Bedroom Furniture,<sup>19</sup> we stated “{t}he Department’s practice establishes that the onus is on the party requesting more recent rates to be reported to the ITC to provide the Department with the necessary data ....” In this proceeding, where the Department has reported a more recent margin of 128.94 percent to the ITC in the first and second sunset reviews,<sup>20</sup> the onus falls on the respondent to provide the necessary data to the Department for finding a rate other than the 128.94 percent. Therefore, in this instance, where respondents are not participating in the proceeding and thus there is no such submission on the record to consider, we find it appropriate to continue to report the margin of 128.94 percent to the ITC.

Pursuant to section 752(c) of the Act, the Department will report to the ITC the margin as indicated in the “Final Results of Review” section, below.

---

Indonesia, Kazakhstan, Romania, South Africa, Taiwan, Thailand, and Ukraine; Final Results of Expedited Sunset Reviews of the Antidumping Duty Orders, 71 FR 70506 (December 5, 2006), and accompanying Issues and Decision Memorandum at Comment 2, “Magnitude of the Margins Likely to Prevail.”

<sup>16</sup> Although in the original investigation, the Department assigned an “all other” rate, in the 1991 administrative review, the Department clarified that in cases involving non-market economies, the “all other” rate is no longer appropriate because non-market economy country firms must show that they are entitled to a separate rate before a rate other than the non-market economy country-wide rate.

<sup>17</sup> See SAA at 890-891.

<sup>18</sup> See Sunset I at 13.

<sup>19</sup> See Wooden Bedroom Furniture From the People's Republic of China: Final Results of Expedited Sunset Review of Antidumping Duty Order, 75 FR 19364 (April 7, 2010) and accompanying Issues and Decision Memorandum at 8 (“Wooden Bedroom Furniture”).

<sup>20</sup> See Sunset I, Sunset II, and accompanying Issues and Decision Memoranda at Comment 2.

Final Results of Review

We determine that revocation of the antidumping duty order on potassium permanganate from the PRC would be likely to lead to continuation or recurrence of dumping at the following percentage margins:

----- Manufacturers/Producers/Exporters	Margin (percent) -----
PRC-Wide	128.94

Recommendation

Based on our analysis of the substantive response received, we recommend adopting the above positions. If this recommendation is accepted, we will publish the final results of this sunset review in the Federal Register.

\_\_\_\_\_  
Ronald K. Lorentzen  
Deputy Assistant Secretary  
for Import Administration

\_\_\_\_\_  
Date