



A-570-008  
Sunset Review  
**Public Document**  
E&C/OV: RG

March 31, 2020

**MEMORANDUM TO:** Jeffrey I. Kessler  
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 Final Results of the Expedited First Sunset Review of the Antidumping Duty Order on Calcium Hypochlorite from the People's Republic of China

---

## I. SUMMARY

We have analyzed the response of a domestic producer of calcium hypochlorite in the expedited first sunset review of the antidumping duty (AD) order on calcium hypochlorite 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 that you approve 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 Likely to Prevail

## II. BACKGROUND

On January 30, 2015, the Department of Commerce (Commerce) published the AD order on calcium hypochlorite from China.<sup>1</sup> On December 2, 2019, Commerce initiated a sunset review of the AD order on calcium hypochlorite from China pursuant to section 751(c) of the Act.<sup>2</sup> Commerce received a notice of intent to participate from a domestic interested party, Innovative

---

<sup>1</sup> See *Calcium Hypochlorite from the People's Republic of China: Antidumping Duty Order*, 80 FR 5085 (January 30, 2015) (*Order*).

<sup>2</sup> See *Initiation of Five-Year (Sunset) Reviews*, 84 FR 65968 (December 2, 2019).



Water Care, LLC dba Sigura (IWC), within the deadline specified in 19 CFR 351.218(d)(1)(i).<sup>3</sup> IWC claimed interested party status under section 771(9)(C) of the Act as a producer of the domestic like product. On January 2, 2020, Commerce received an adequate substantive response from IWC within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).<sup>4</sup> Commerce received no responses from respondent interested parties with respect to the *Order* covered by this sunset review.

On December 23, 2019, Commerce notified the U.S. International Trade Commission (ITC) that it did not receive an adequate substantive response from respondent interested parties.<sup>5</sup> As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce conducted an expedited (120-day) sunset review of the AD order on calcium hypochlorite from China.

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

The product covered by the *Order* is calcium hypochlorite, regardless of form (*e.g.*, powder, tablet (compressed), crystalline (granular), or in liquid solution), whether or not blended with other materials, containing at least 10 percent available chlorine measured by actual weight. The scope also includes bleaching powder and hemibasic calcium hypochlorite.

Calcium hypochlorite has the general chemical formulation  $\text{Ca}(\text{OCl})_2$ , but may also be sold in a more dilute form as bleaching powder with the chemical formulation,  $\text{Ca}(\text{OCl})_2 \cdot \text{CaCl}_2 \cdot \text{Ca}(\text{OH})_2 \cdot 2\text{H}_2\text{O}$  or hemibasic calcium hypochlorite with the chemical formula of  $2\text{Ca}(\text{OCl})_2 \cdot \text{Ca}(\text{OH})_2$  or  $\text{Ca}(\text{OCl})_2 \cdot 0.5\text{Ca}(\text{OH})_2$ . Calcium hypochlorite has a Chemical Abstract Service (CAS) registry number of 7778-54-3, and a U.S. Environmental Protection Agency (EPA) Pesticide Code (PC) Number of 014701. The subject calcium hypochlorite has an International Maritime Dangerous Goods (IMDG) code of Class 5.1 UN 1748, 2880, or 2208 or Class 5.1/8 UN 3485, 3486, or 3487.

Calcium hypochlorite is currently classifiable under the subheading 2828.10.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). The subheading covers commercial calcium hypochlorite and other calcium hypochlorite. When tableted or blended with other materials, calcium hypochlorite may be entered under other tariff classifications, such as 3808.94.5000 and 3808.99.9500, which cover disinfectants and similar products. While the HTSUS subheadings, the CAS registry number, the U.S. EPA PC number, and the IMDG codes are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

---

<sup>3</sup> See IWC's Letter, "Antidumping Duty Order on Calcium Hypochlorite from the People's Republic of China: Notice of Intent to Participate," dated December 17, 2019.

<sup>4</sup> See IWC's Letter, "Antidumping Duty Order on Calcium Hypochlorite from the People's Republic of China: Substantive Response to Notice of Initiation," dated January 2, 2020 (Substantive Response).

<sup>5</sup> See Commerce's Letter, "Sunset Reviews Initiated on December 2, 2019," dated December 23, 2019.

#### IV. HISTORY OF THE ORDER

On December 15, 2014, Commerce published its *Final Determination* in the less-than-fair-value (LTFV) investigation with respect to imports of calcium hypochlorite from China.<sup>6</sup> Commerce found the following *ad valorem* dumping margins:<sup>7</sup>

Exporter	Weighted-Average Margin (%)
China-wide Entity	210.52

Following the issuance of Commerce's *Final Determination*, the ITC found that the U.S. industry was materially injured by reason of imports from China pursuant to section 735(b)(1)(A)(i) of the Act.<sup>8</sup> Subsequently, Commerce published the *Order*.

Since the issuance of the *Order*, no parties have requested an administrative review of the *Order*. On August 26, 2015, Commerce initiated a new shipper review of the *Order*, to determine whether sales made by Haixing Jingmei Chemical Products Sales Co., Ltd. (Jingmei) were *bona fide*.<sup>9</sup> On November 22, 2016, Commerce rescinded the new shipper review.<sup>10</sup> On December 5, 2017, the U.S. Court of International Trade remanded the *Final Rescission* to Commerce, for Commerce to conduct a *bona fides* analysis.<sup>11</sup> On remand, Commerce conducted a *bona fides* analysis and determined that Jingmei had no *bona fide* sales and that the rescission was, therefore, appropriate.<sup>12</sup> There have been no subsequent requests for new shipper reviews. The *Order* remains in effect for all manufacturers, producers, and exporters of calcium hypochlorite from China.

#### 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 this determination, Commerce shall consider both the weighted-average dumping margins determined in the investigation and subsequent reviews, and the volume of imports of the subject

---

<sup>6</sup> See *Calcium Hypochlorite from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 79 FR 74065 (December 15, 2014) (*Final Determination*).

<sup>7</sup> *Id.*, 79 FR at 74066.

<sup>8</sup> See *Calcium Hypochlorite from China*, USITC Investigation Nos. 701-TA-510 and 731-TA-1245 (Final), USITC Publication 4515 (January 2015).

<sup>9</sup> See *Calcium Hypochlorite from the People's Republic of China: Initiation of Antidumping Duty New Shipper Review; 2014-2015*, 80 FR 51774 (August 26, 2015).

<sup>10</sup> See *Calcium Hypochlorite from the People's Republic of China: Final Decision to Rescind the New Shipper Review of Haixing Jingmei Chemical Products Sales Co., Ltd.*, 81 FR 83804 (November 22, 2016) (*Final Rescission*).

<sup>11</sup> See *Haixing Jingmei Chemical Products Sales Co., Ltd v. United States*, Court No. 16-00259, Slip Op. 17-159, (December 5, 2017).

<sup>12</sup> See *Redetermination on Remand, Haixing Jingmei Chemical Products Sales Co., Ltd. v. United States*, Court No. 16-00259, Slip Op. 17-159 (March 5, 2018).

merchandise for the periods before and the periods after the issuance of the AD order. In addition, section 752(c)(3) of the Act provides that Commerce shall provide to the ITC the magnitude of the margin of dumping likely to prevail if the order were revoked.

In accordance with the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act, specifically the SAA,<sup>13</sup> the House Report,<sup>14</sup> and the Senate Report,<sup>15</sup> Commerce's determinations of likelihood will be made on an order-wide, rather than a company-specific, basis.<sup>16</sup> In addition, Commerce normally determines that revocation of an AD 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>17</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>18</sup>

Furthermore, 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 the investigation may dampen import volumes and, thus, skew the comparison.<sup>19</sup> Also, when analyzing import volumes for second and subsequent sunset reviews, Commerce'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>20</sup>

In addition, section 752(c)(3) of the Act states that the magnitude of the margin of dumping that is likely to prevail if the order were revoked shall be provided by Commerce to the ITC. Generally, Commerce selects the weighted-average dumping margins from the final determination in the original investigation, as these rates are the only calculated rates that reflect the behavior of exporters without the discipline of an order in place.<sup>21</sup> In certain circumstances,

---

<sup>13</sup> See Statement of Administrative Action accompanying the Uruguay Round Agreements Act (SAA), H.R. Doc. 103-316, vol. 1 (1994).

<sup>14</sup> See H. Rep. No. 103-826, pt. 1 (1994) (House Report).

<sup>15</sup> See S. Rep. No. 103-412 (1994) (Senate Report).

<sup>16</sup> See SAA at 879; see also House Report at 56.

<sup>17</sup> See SAA at 889-890; House Report at 63-64; Senate Report at 52; and *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 Bulletin*).

<sup>18</sup> See SAA at 889-890; see also House Report at 63.

<sup>19</sup> See *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>20</sup> See, e.g., *Certain Welded Carbon Steel Pipes and Tubes from India, Thailand, and Turkey: Final Results of the Expedited Fourth Sunset Reviews of the Antidumping Duty Orders*, 82 FR 46485 (October 5, 2017), and accompanying IDM; and *Ferrovandium from the People's Republic of China and the Republic of South Africa: Final Results of the Expedited Second Sunset Review of the Antidumping Duty Orders*, 79 FR 14216 (March 13, 2014), and accompanying IDM.

<sup>21</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.

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, {Commerce} may conclude that exporters are likely to continue dumping at the lower rates found in a more recent review”).<sup>22</sup> Finally, pursuant to section 752(c)(4)(A) of the Act, a margin of dumping likely to prevail of “zero or *de minimis* shall not by itself require” Commerce to determine that revocation of an AD order would not be likely to lead to a continuation or recurrence of sales at less than fair value.<sup>23</sup>

Regarding the margin of dumping likely to prevail, in the *Final Modification for Reviews*, Commerce announced that in five-year (*i.e.*, sunset) reviews, it will not rely on weighted-average dumping margins that were calculated using the zeroing methodology that was found to be World Trade Organization (WTO)-inconsistent.<sup>24</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>25</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>26</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>27</sup>

## VI. DISCUSSION OF THE ISSUES

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

#### Interested Party Comments<sup>28</sup>

IWC argues that revocation of the *Order* would lead to a continuation or recurrence of dumping by producers and exporters of calcium hypochlorite from China due to the cessation of exports of subject merchandise after the issuance of the *Order*. IWC asserts that, since the issuance of the *Order*, exports from China of calcium hypochlorite ceased, outside of the imports analyzed during the new shipper review, and that the SAA provides that “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.” IWC

---

<sup>22</sup> See SAA at 890-91.

<sup>23</sup> See *Folding Gift Boxes from the People’s Republic of China: Final Results of the Expedited Sunset Review of the Antidumping Duty Order*, 72 FR 16765 (April 5, 2007), and accompanying IDM at Comment 1.

<sup>24</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>25</sup> *Id.*, 77 FR at 8102, 8105, 8109.

<sup>26</sup> *Id.*

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

<sup>28</sup> See Substantive Response at 4-8.

further asserts that it is Commerce’s practice to determine that revocation of an AD order is likely to lead to dumping where imports have ceased after the issuance of the order.

### Commerce’s Position

As explained in the “Legal Framework” section above, when determining whether revocation of the order would be likely to lead to continuation of dumping, sections 752(c)(1)(A) and (B) of the Act instruct Commerce to consider: (1) the weighted-average dumping margins determined in the investigation and subsequent reviews; and (2) the volume of imports of the subject merchandise for the period before and after the issuance of the AD order. According to the SAA, existence of dumping margins after the order “is highly probative of the likelihood of continuation or recurrence of dumping. If companies continue to dump with the discipline of an order in place, it is reasonable to assume that dumping would continue if the discipline were removed. If imports cease after the order is issued, it is reasonable to assume that the exporters could not sell in the United States without dumping and that, to reenter the U.S. market, they would have to resume dumping.”<sup>29</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>30</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>31</sup>

Since the LTFV investigation, Commerce initiated only one new shipper review, which we rescinded when we determined that there were no *bona fide* sales. As such, for all exporters of calcium hypochlorite from China, the 210.52 percent dumping margin established in the LTFV investigation remains in effect, and entries of subject merchandise into the United States after the issuance of the *Order* were assessed at above *de minimis* rates. Given the continued existence of above *de minimis* margins, which were not calculated with zeroing and, therefore, compliant with the *Final Modification for Reviews*,<sup>32</sup> we determine that it is unlikely that Chinese producers of subject merchandise would be able to sell subject merchandise without dumping.<sup>33</sup> Additionally, we considered IWC’s statement, which contends that imports of calcium hypochlorite have been minimal since the imposition of the *Order*. Accordingly, pursuant to section 752(c)(1) of the Act, we determine that revocation of the *Order* would likely result in the continuation of dumping in the United States.

---

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

<sup>30</sup> *Id.* at 889; see also House Report at 63; and Senate Report at 52.

<sup>31</sup> See SAA at 889-90; see also House Report at 63; and Senate Report at 52.

<sup>32</sup> See *Final Modification for Reviews*, 77 FR at 8103.

<sup>33</sup> See *Calcium Hypochlorite from the People’s Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 79 FR 43393, 43394 (July 25, 2014) (*Preliminary Determination*) (explaining that the 210.52 percent rate was based on the highest calculated rate from the petition), unchanged in the *Final Determination*, 79 FR at 74066; see also SAA at 890 (explaining that “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”).

## 2. Magnitude of the Margins Likely to Prevail

### Interested Party Comments<sup>34</sup>

IWC cites to the SAA and the *Sunset Policy Bulletin* and notes that Commerce normally will select the rate from the original investigation because that is the only calculated rate that reflects the behavior of exporters without the discipline of an order in place. Therefore, IWC argues that, consistent with the SAA and the *Sunset Policy Bulletin*, Commerce should rely upon the dumping margin from the original investigation. As such, IWC contends that Commerce should report to the ITC that the magnitude of the dumping margin that is likely to prevail is identical to the dumping margin determined in the original investigation (*i.e.*, 210.52 percent for the China-wide entity).<sup>35</sup>

### Commerce's Position

Pursuant to section 752(c)(3) of the Act, 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. Normally, Commerce will select a weighted-average dumping margin from the investigation to report to the ITC.<sup>36</sup> Commerce's preference for selecting a margin from the investigation is based on the fact that it is the only calculated rate that reflects the behavior of the manufacturers, producers, and exporters without the discipline of an order in place.<sup>37</sup> Because dumping continued following the issuance of the *Order* and, given the absence of argument and evidence to the contrary, Commerce finds that the margins calculated in the original investigation are probative of the behavior of producers and exporters of subject merchandise from China if the *Order* were revoked. As indicated in the "Legal Framework" section above, consistent with *Final Modification for Reviews*, Commerce's current practice is to not rely on weighted-average dumping margins calculated using the zeroing methodology. The 210.52 percent rate applied in the *Final Determination* was based on a rate from the petition and was calculated without zeroing.<sup>38</sup> Accordingly, consistent with section 752(c) of the Act, Commerce will report to the ITC the rate as indicated in the Final Results of Sunset Review section below.

## VII. FINAL RESULTS OF SUNSET REVIEW

Commerce determines that revocation of the *Order* would be likely to lead to continuation or recurrence of dumping. Commerce also determines that the magnitude of the dumping margins likely to prevail would be weighted-average margins up to 210.52 percent.

---

<sup>34</sup> See Substantive Response at 8.

<sup>35</sup> *Id.* at 12-13.

<sup>36</sup> See SAA at 890; see also, *e.g.*, *Persulfates Second Sunset Review* IDM at Comment 2.

<sup>37</sup> See SAA at 890; and *Sunset Policy Bulletin* at 18872 (April 16, 1998) at section II.B.1; see also *Persulfates Second Sunset Review* IDM at Comment 2.

<sup>38</sup> See *Preliminary Determination*, 79 FR at 43394, unchanged in *Final Determination*, 79 FR at 74066.

**VIII. RECOMMENDATION**

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

\_\_\_\_\_  
Agree

\_\_\_\_\_  
Disagree

3/31/2020

X



\_\_\_\_\_  
Jeffrey I. Kessler  
Assistant Secretary  
for Enforcement and Compliance