

contained in the *Final Results of Review* section of this notice. The Department has not reported the calculated margin for Citrosuco Paulista, S.A., the only company with a calculated margin in the investigation, because the order with respect to Citrosuco Paulista has been revoked.

Final Results of Review

As a result of this review, the Department finds that revocation of the antidumping order would likely lead to continuation or recurrence of dumping at the margins listed below:

Manufacturer/exporter	Margin (percent)
All Others	1.96

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This five-year ("sunset") review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: April 1, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-469-007]

Final Results of Expedited Sunset Review: Potassium Permanganate from Spain

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Expedited Sunset Review: Potassium Permanganate from Spain.

SUMMARY: On November 2, 1998, the Department of Commerce ("the Department") initiated a sunset review of the antidumping order on potassium permanganate from Spain (63 FR 58709) pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"). On

the basis of a notice of intent to participate and substantive comments filed on behalf of the domestic industry and inadequate response (in this case, no response) from respondent interested parties, the Department determined to conduct an expedited review. As a result of this review, the Department finds that revocation of the antidumping order would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Final Results of Review section of this notice.

FOR FURTHER INFORMATION CONTACT:

Scott E. Smith or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230; telephone: (202) 482-6397 or (202) 482-1560, respectively.

EFFECTIVE DATE: April 7, 1999.

Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) ("Sunset Regulations"). Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*; Policy Bulletin, 63 FR 18871 (April 16, 1998) ("Sunset Policy Bulletin").

Scope

The merchandise subject to this antidumping order is potassium permanganate from Spain, an inorganic chemical produced in free-flowing, technical, and pharmaceutical grades. Potassium permanganate is classifiable under item 2841.61.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS item number is provided for convenience and U.S. Customs purposes. The written description remains dispositive.

This review covers imports from all manufacturers and exporters of Spanish potassium permanganate.

Background

On November 2, 1998, the Department initiated a sunset review of the antidumping order on potassium permanganate from Spain (63 FR 58709), pursuant to section 751(c) of the

Act. The Department received a Notice of Intent to Participate on behalf of Carus Chemical Company ("Carus") on November 16, 1998, within the deadline specified in section 351.218(d)(1)(i) of the *Sunset Regulations*. Carus claimed interested party status under 19 U.S.C. 1677(9)(C) as a U.S. producer of potassium permanganate. In addition, Carus indicated that it was the original petitioner in this proceeding and that it has regularly participated in all administrative reviews. We received a complete substantive response from Carus on December 2, 1998, within the 30-day deadline specified in the *Sunset Regulations* under section 351.218(d)(3)(i). We did not receive a substantive response from any respondent interested party to this proceeding. As a result, pursuant to 19 CFR 351.218(e)(1)(ii)(C), the Department determined to conduct an expedited, 120-day review of this order.

The Department determined that the sunset review of the antidumping duty order on potassium permanganate from Spain is extraordinarily complicated. In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order (*i.e.*, an order in effect on January 1, 1995). (See section 751(c)(6)(C) of the Act.) Therefore, on March 2, 1999, the Department extended the time limit for completion of the final results of this review until not later than June 1, 1999, in accordance with section 751(c)(5)(B) of the Act.¹

Determination

In accordance with section 751(c)(1) of the Act, the Department conducted this review to determine whether revocation of the antidumping order would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making this determination, the Department shall consider 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 order, and shall provide to the International Trade Commission ("the Commission") the magnitude of the margin of dumping likely to prevail if the order is revoked.

The Department's determinations concerning continuation or recurrence of dumping and the magnitude of the

¹ See *Potassium Permanganate from Spain and the People's Republic of China: Extension of Time Limit for Final Results of Five-Year Review*, 64 FR 10991 (March 8, 1999).

margin are discussed below. In addition, Carus' comments with respect to continuation or recurrence of dumping and the magnitude of the margin are addressed within the respective sections below.

Continuation or Recurrence of Dumping

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act ("URAA"), specifically the Statement of Administrative Action ("the SAA"), H.R. Doc. No. 103-316, vol. 1 (1994), the House Report, H.R. Rep. No. 103-826, pt.1 (1994), and the Senate Report, S. Rep. No. 103-412 (1994), the Department issued its *Sunset Policy Bulletin* providing guidance on methodological and analytical issues, including the bases for likelihood determinations. In its *Sunset Policy Bulletin*, the Department indicated that determinations of likelihood will be made on an order-wide basis (see section II.A.3). In addition, the Department indicated that normally it will determine that revocation of an antidumping 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 (see section II.A.3).

In addition to guidance on likelihood provided in the *Sunset Policy Bulletin* and legislative history, section 751(c)(4)(B) of the Act provides that the Department shall determine that revocation of an order is likely to lead to continuation or recurrence of dumping where a respondent interested party waives its participation in the sunset review. In the instant review, the Department did not receive a response from any respondent interested party. Pursuant to section 351.218(d)(2)(iii) of the *Sunset Regulations*, this constitutes a waiver of participation.

The antidumping duty order on potassium permanganate from Spain was published in the **Federal Register** on January 19, 1984 (49 FR 2277). Since that time, the Department has conducted three administrative reviews.² The order remains in effect for

all manufacturers and exporters of the subject merchandise.

In its substantive response, Carus argued that "it is highly likely that dumping would continue if the antidumping order in this case (the "Order") were to be revoked". With respect to whether dumping continued at any level above *de minimis* after the issuance of the order, Carus stated that the uninterrupted existence of dumping margins for the past decade—and continued failure of IQN [Industrial Quimica del Nalon] to challenge this margin through annual review—provides compelling evidence that Spanish potassium permanganate would be dumped in the U.S. market in the absence of the order (see December 2, 1998, Substantive Response of Carus at page 6).

With respect to whether imports of the subject merchandise ceased after the issuance of the order, Carus, citing its own shipment data and official U.S. Census Bureau import statistics, argued that imports of Spanish-origin potassium permanganate increased by almost 250% between 1983 and 1986 and reached an all-time high of over 2.5 million lbs. in 1986, accounting for over 14% of the U.S. market. Moreover, Carus asserts that, during the 1983-86 period, increasing levels of imports were accompanied by increasing levels of dumping, not declining or no dumping (see December 2, 1998, Substantive Response of Carus at 7). Carus further argues that the ability of Spanish producers of potassium permanganate to export large quantities of subject merchandise to the U.S. with dumping margins in place suggests that revocation of the order could prompt a massive influx of potassium permanganate into the U.S. at below fair market value. Carus notes that total imports of the subject merchandise continued in substantial volumes during all years when the order was in effect.

In addition, Carus states that there are other factors which support the likelihood of dumping if the order were revoked. Carus argues that the attractiveness of the U.S. market would promote increased imports of Spanish potassium permanganate because U.S. prices of this product are at a premium while prices elsewhere in the world are well below U.S. levels. Furthermore, Carus asserts that Spanish producers have an overcapacity of the subject merchandise and see the U.S., with its premium prices for potassium

permanganate, as a vibrant market where they can sell their product.

In conclusion, Carus argued that the Department should determine that there is a likelihood that dumping would continue were the order revoked because (1) dumping margins have existed and continue to exist, (2) shipments of subject merchandise have continued throughout the life of the life of the order, (3) premium prices for potassium permanganate in the U.S. will promote continued, if not increased, dumping by Spanish producers and (4) Spanish producers have an overcapacity of the subject merchandise and need markets, especially ones with high prices, in which to sell.

As discussed in Section II.A.3 of the *Sunset Policy Bulletin*, the SAA at 890, and the House Report at 63-64, if companies continue dumping with the discipline of an order in place, the Department may reasonably infer that dumping would continue if the discipline were removed. A dumping margin above *de minimis* has existed throughout most of the life of the order, and continues to exist, for shipments of the subject merchandise from all Spanish producers/exporters.³

Consistent with section 752(c) of the Act, the Department also considered the volume of imports before and after issuance of the order. The import statistics provided by Carus on imports of the subject merchandise between 1981 and 1998, and those examined by the Department (U.S. Census Bureau IM146 reports), demonstrate that imports of the subject merchandise continued throughout the life of the order.

Based on this analysis, the Department finds that the existence of dumping margins after the issuance of the order is highly probative of the likelihood of continuation or recurrence of dumping. Deposit rates above a *de minimis* level continue in effect for exports of the subject merchandise by all known Spanish manufacturers/exporters. Therefore, given that dumping has continued over the life of the order and respondent interested parties have waived their right to participate in this review before the Department, and absent argument and evidence to the contrary, the Department determines that dumping is

² See *Potassium Permanganate from Spain; Early Determination of Antidumping Duty*, 49 FR 18341 (April 30, 1984); *Final Results of Antidumping Duty Administrative Review; Potassium Permanganate From Spain*, 53 FR 21504 (June 8, 1988); and *Final Results of Antidumping Duty Administrative Review; Potassium Permanganate From Spain*, 56

FR 58361 (November 19, 1991). Prior to the imposition of the order, the Department published *Potassium Permanganate from Spain; Final Determination of Sales at Less Than Fair Value*, 48 FR 53589 (November 28, 1983).

³ See *Potassium Permanganate from Spain; Early Determination of Antidumping Duty*, 49 FR 18341 (April 30, 1984); *Final Results of Antidumping Duty Administrative Review; Potassium Permanganate From Spain*, 53 FR 21504 (June 8, 1988); and *Final Results of Antidumping Duty Administrative Review; Potassium Permanganate From Spain*, 56 FR 58361 (November 19, 1991).

likely to continue if the order were revoked.

Because the Department based this determination on the continued existence of margins above *de minimis* and respondent interested parties' waiver of participation, it is not necessary to address Carus' arguments concerning the attractiveness of the U.S. market and Spanish overcapacity and export orientation.

Magnitude of the Margin

In the *Sunset Policy Bulletin*, the Department stated that it will normally provide to the Commission the margin that was determined in the final determination in the original investigation. Further, for companies not specifically investigated 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. (See section II.B.1 of the *Sunset Policy Bulletin*.) Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. (See sections II.B.2 and 3 of the *Sunset Policy Bulletin*.)

The Department, in its final determination of sales at less than fair value, published a weighted-average dumping margin for Asturquimica,⁴ a Spanish producer/exporter of potassium permanganate, of 5.49 percent (48 FR 53589, November 28, 1983). The Department also published an "all others" rate of 5.49 percent in this same **Federal Register** notice. We note that, to date, the Department has not issued any duty absorption findings in this case.

In its substantive response, Carus argues that the Department, as stipulated in the *Sunset Policy Bulletin*, should provide the Commission a more recently calculated margin. Citing the *Sunset Policy Bulletin*, Carus states that "[a] company may choose to increase dumping in order to maintain or increase market share. As a result, increasing margins may be more representative of a company's behavior in the absence of an order." According to Carus, in the administrative review covering August 9, 1983 through January 10, 1984 (49 FR 18341, April 30, 1984), the Department determined that no dumping of Spanish potassium permanganate had occurred during this period justifying a cash deposit rate of

zero. After this review, Carus argues that imports of Spanish potassium permanganate soared, reaching a zenith of 2.5 million lbs. in 1986. Carus adds that when it subsequently requested an administrative review (53 FR 21504, June 8, 1988), a dumping margin of 16.16 percent was established for all imports of the subject merchandise. We note that this margin was decreased to 5.53 percent following litigation before the U.S. Court of International Trade.⁵

Carus submits that the determination of no dumping in the 1984 administrative review precipitated an enormous influx of subject merchandise, being sold at less than fair value, because it was no longer subject to the restraint imposed by a positive margin rate. Carus argues that the increase in imports of Spanish potassium permanganate to 2.5 million lbs. from 1983 to 1986 represents an increase of more than 210 percent over this three year period and 250 percent from pre-order levels just five years earlier. In addition, according to Carus, this increase in Spanish imports allowed Spanish producers/exporters to increase their percentage of the market share from just under 6 percent in 1982 (during the period of investigation) to 14.1 percent by 1986. Carus submits that the margin calculated in the administrative review for the period January 1, 1986 to December 31, 1986 (53 FR 21504, June 8, 1988) is more appropriate to report to the Commission.

Further, Carus reasserts its argument concerning the high price of potassium permanganate in the U.S. with respect to its price on the world market. Carus argues that export prices in non-U.S. markets for potassium permanganate fell by over \$0.13/lb during 1997 and 1998. Importers in the U.S. market, however, paid a price premium of \$0.25/lb in 1997 and \$0.23/lb. in 1998.

The Department agrees with Carus' argument concerning the choice of the margin rate to report to the Commission. An examination of the margin history of the order as well as an examination of import statistics of the subject merchandise, as provided in U.S. Census Bureau IM146 reports, confirms the scenario outlined by Carus. From 1983 to 1986, import volumes of the subject merchandise more than doubled.

⁵ Pursuant to an initial court remand, this margin was changed to 12.87 percent (see Final Results of Redetermination Pursuant to Court Remand, *Industrial Quimica del Nalon v. United States*, Slip Op. 89-174 (December 21, 1989)). Pursuant to a second court remand, the 12.87 percent margin was changed to 5.53 percent (see Final Results of Redetermination Pursuant to Court Remand, *Industrial Quimica del Nalon v. United States*, Slip Op. 91-43 (May 24, 1991)).

During this period, there was a cash deposit rate of zero in effect. Following the request for an administrative review by Carus, the Department established a dumping margin above *de minimis* levels (53 FR 21504, June 8, 1988). The increase in import volumes during this period of unrestricted market access resulted in an increase in the market share held by Spanish imports. According to the *Sunset Policy Bulletin*, "a company may choose to increase dumping in order to maintain or increase market share. As a result, increasing margins may be more representative of a company's behavior in the absence of an order." Therefore, given the increase in imports through 1986, accompanied by the increase in the dumping margin in 1986, the Department finds this more recent rate is the most probative of the behavior of the known Spanish producer/exporter of potassium permanganate if the order were revoked. As such, the Department will report to the Commission the company-specific and "all others" rates from the administrative review for the period January 1, 1986 through December 31, 1986 as contained in the *Final Results of Review* section of this notice.

Final Results of Review

As a result of this review, the Department finds that revocation of the antidumping duty order would likely lead to continuation or recurrence of dumping at the margins listed below:

Manufacturer/exporter	Margin (percent)
IQN	5.53
All Others	5.53

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This five-year ("sunset") review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: April 1, 1999.

Robert S. LaRussa,
Assistant Secretary for Import Administration.

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⁴ Asturquimica has since merged with IQN (see Final Results of Redetermination Pursuant to Court Remand, *Industrial Quimica del Nalon v. United States*, Slip Op. 89-174 (December 21, 1989)). Since 1989, the Department has considered IQN the successor to Asturquimica.