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DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-991]

Chlorinated Isocyanurates from the People's Republic of China: Initiation of Countervailing Duty Investigation

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

EFFECTIVE DATE: [Insert date of publication in the *Federal Register*.]

FOR FURTHER INFORMATION CONTACT: Matthew Renkey or Paul Walker, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: 202.482.2312 or 202.482.0413, respectively.

SUPPLEMENTARY INFORMATION:

The Petition

On August 29, 2013, the Department of Commerce (the “Department”) received a countervailing duty (“CVD”) petition concerning imports of chlorinated isocyanurates (“chlorinated isos”) from the People’s Republic of China (“PRC”), filed in proper form by Clearon Corp. and Occidental Chemical Corporation (“Petitioners”), domestic producers of chlorinated isos. The CVD petition was accompanied by an antidumping duty (“AD”) petition concerning imports of chlorinated isos from Japan.¹ On September 4 and 5, 2013, the Department issued additional requests for information and clarification of certain areas of the

¹ See “Petition for the Imposition of Antidumping Duties on Chlorinated Isocyanurates from Japan and Countervailing Duties on Chlorinated Isocyanurates from the People’s Republic of China, dated August 29, 2013 (hereafter referred to as the “Petition”).

Petition. Based on the Department's requests, Petitioners timely filed additional information pertaining to the Petition on September 9, 2013.²

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the "Act"), Petitioners allege that producers/exporters of chlorinated isos in the PRC received countervailable subsidies within the meaning of sections 701 and 771(5) of the Act, and that imports from these producers/exporters materially injure, or threaten material injury to, an industry in the United States.

The Department finds that Petitioners filed this Petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act, and Petitioners have demonstrated sufficient industry support with respect to the CVD investigation that it is requesting the Department to initiate (*see* "Determination of Industry Support for the Petition" below).

Period of Investigation

The period of investigation ("POI") is 1/1/12 - 12/31/12, in accordance with 19 CFR 351.204(b)(2).

Scope of the Investigation

The products covered by this investigation are chlorinated isos from the PRC. For a full description of the scope of the investigation, please see the "Scope of Investigation" in the appendix to this notice.

Comments on the Scope of the Investigation

During our review of the Petition, we solicited information from Petitioners to ensure that the proposed scope language is an accurate reflection of the products for which the domestic

² See Petitioners' September 9, 2013 response.

industry is seeking relief. Moreover, as discussed in the preamble to the Department's regulations³, we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages all interested parties to submit such comments by October 8, 2013, which is 20 calendar days from the signature date of this notice. All comments must be filed on the record of the PRC CVD investigation, as well as the concurrent Japan AD investigation.

Filing Requirements

All submissions to the Department must be filed electronically using Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System ("IA ACCESS"). An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by the time and date set by the Department. Documents excepted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with the Import Administration's APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230, and stamped with the date and time of receipt by the deadline established by the Department.⁴

Consultations

Pursuant to section 702(b)(4)(A)(ii) of the Act, the Department held consultations with the government of the PRC (hereinafter, the "GOC") with respect to the Petition on September 12, 2013.⁵

³ See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

⁴ Information on help using IA ACCESS can be found at <https://iaaccess.trade.gov/help.aspx> and a handbook can be found at <https://iaaccess.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

⁵ See "Countervailing Duty Petition on Chlorinated Isocyanurates from the People's Republic of China: Consultations with the Government of the People's Republic of China," dated September 12, 2013.

Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the industry.

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The U.S. International Trade Commission (“ITC”), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product,⁶ they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department’s determination is subject to limitations of time and information. Although this may

⁶ See section 771(10) of the Act

result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.⁷

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, Petitioners do not offer a definition of domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted on the record, we have determined that chlorinated isos, as defined in the scope of the investigation, constitute a single domestic like product and we have analyzed industry support in terms of that domestic like product.⁸

In determining whether Petitioners have standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the “Scope of Investigation” section above. To establish industry support, Petitioners provided their production of the domestic like product in 2012, and compared this to the estimated total production of the domestic like product for the entire domestic industry.⁹ Petitioners estimated total 2012 production of the domestic like product

⁷ See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989)).

⁸ See Countervailing Duty Investigation Initiation Checklist: Chlorinated Isocyanurates from the People’s Republic of China (“Initiation Checklist”), at Attachment II, Analysis of Industry Support for the Petitions Covering Chlorinated Isocyanurates from Japan and the People’s Republic of China (“Attachment II”). This checklist is dated concurrently with this notice and on file electronically via IA ACCESS. Access to documents filed via IA ACCESS is also available in the Central Records Unit, Room 7046 of the main Department of Commerce building.

⁹ See Volume I of the Petition, at 3-4, and Volume II of the Petition, at Exhibits GEN-9 and GEN-12.

using their own production data and knowledge of the industry.¹⁰ We have relied upon data Petitioners provided for purposes of measuring industry support.¹¹

Based on information provided in the Petition, supplemental submission, and other information readily available to the Department, we determine that Petitioners have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.¹² Based on information provided in the Petition, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition. Accordingly, the Department determines that the Petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.¹³

The Department finds that Petitioners filed the Petition on behalf of the domestic industry because they are interested parties as defined in section 771(9)(C) of the Act and they have demonstrated sufficient industry support with respect to the CVD investigation that they are requesting the Department initiate.¹⁴

Injury Test

Because the PRC is a “Subsidies Agreement Country” within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the

¹⁰ *Id.*

¹¹ *See* Initiation Checklist, at Attachment II.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

ITC must determine whether imports of the subject merchandise from the PRC materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

Petitioners allege that imports of the subject merchandise are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S. industry producing the domestic like product. In addition, Petitioners allege that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.¹⁵

Petitioners contend that the industry's injured condition is illustrated by reduced market share; underselling and price depression or suppression; lost sales and revenues; decline in production, shipments, and capacity utilization; reduced employment-related variables; and decline in financial performance.¹⁶ We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation.¹⁷

¹⁵ See Volume I of the Petition, at 112-113 and Volume IV of the Petition, at Exhibit CVD-86.

¹⁶ See Volume I of the Petition, at 96-132, Volume II of the Petition, at Exhibits GEN-2 and GEN-9 through GEN-17, and Volume IV of the Petition, at Exhibit CVD-86.

¹⁷ See Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Petitions Covering Chlorinated Isocyanurates from Japan and the People's Republic of China.

Initiation of Countervailing Duty Investigation

Section 702(b)(1) of the Act requires the Department to initiate a CVD proceeding whenever an interested party files a CVD petition on behalf of an industry that: (1) alleges the elements necessary for an imposition of a duty under section 701(a) of the Act; and (2) is accompanied by information reasonably available to the petitioners supporting the allegations.

The Department has examined the Petition on chlorinated isos from the PRC and finds that it complies with the requirements of section 702(b)(1) of the Act. Therefore, in accordance with section 702(b)(1) of the Act, we are initiating a CVD investigation to determine whether producers/exporters of chlorinated isos in the PRC receive countervailable subsidies. For a discussion of evidence supporting our initiation determination, *see* the CVD Initiation Checklist which accompanies this notice.

Based on our review of the Petition, we find that there is sufficient information to initiate a CVD investigation of 29 alleged programs. For the other nine programs alleged by Petitioners, we have determined that the requirements for initiation have not been met. For a full discussion of the basis for our decision to initiate or not initiate on each program, *see* the CVD Initiation Checklist.

Respondent Selection

For this investigation, the Department intends to select respondents based on U.S. Customs and Border Protection (“CBP”) data for U.S. imports during the POI (*i.e.*, calendar year 2012) under the following Harmonized Tariff Schedule of the United States numbers: 2933.69.6015, 2933.69.6021, 2933.69.6050, 3808.50.4000, 3808.94.5000, and 3808.99.9500. We intend to release the CBP data under Administrative Protective Order (“APO”) to all parties with access to information protected by APO within five days of the announcement of the

initiation of this investigation. Interested parties may submit comments regarding the CBP data and respondent selection within seven calendar days of release of this data. Comments must be filed electronically using IA ACCESS. An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by 5 PM Eastern time by the date noted above. Documents excepted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with the Import Administration's APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230, and stamped with the date and time of receipt by the deadline noted above. We intend to make our decision regarding respondent selection within 20 days of publication of this *Federal Register* notice. Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on the Department's Web site at <http://ia.ita.doc.gov/apo>.

Distribution of Copies of the CVD Petition

In accordance with section 702(b)(4)(A)(i) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the representatives of the GOC. Because of the particularly large number of producers/exporters identified in the Petition, the Department considers the service of the public version of the petition to the foreign producers/exporters satisfied by the delivery of the public version to the GOC, consistent with 19 CFR 351.203(c)(2).

ITC Notification

We have notified the ITC of our initiation, as required by section 702(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of subsidized chlorinated isos

from the PRC materially injure, or threaten material injury to, a U.S. industry.¹⁸ A negative ITC determination will result in the investigation being terminated.¹⁹ Otherwise, the investigation will proceed according to statutory and regulatory time limits.

Submission of Factual Information

On April 10, 2013, the Department published *Definition of Factual Information and Time Limits for Submission of Factual Information: Final Rule*, 78 FR 21246 (April 10, 2013), which modified two regulations related to AD and CVD proceedings: the definition of factual information (19 CFR 351.102(b)(21)), and the time limits for the submission of factual information (19 CFR 351.301). The final rule identifies five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)-(iv). The final rule requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. The final rule also modified 19 CFR 351.301 so that, rather than providing general time limits, there are specific time limits based on the type of factual information being submitted. These modifications are effective for all proceeding segments initiated on or after May 10, 2013, and thus are applicable to this investigation. Please review the final rule,

¹⁸ See section 703(a)(2) of the Act.

¹⁹ See section 703(a)(1) of the Act.

available at <http://ia.ita.doc.gov/frn/2013/1304frn/2013-08227.txt>, prior to submitting factual information in these investigations.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.²⁰ Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives in all AD or CVD investigations or proceedings initiated on or after August 16, 2013, including this investigation.²¹ The formats for the revised certifications are provided at the end of the *Final Rule*. The Department intends to reject factual submissions if the submitting party does not comply with the revised certification requirements.

This notice is issued and published pursuant to section 777(i) of the Act.

Paul Piquado
Assistant Secretary
for Import Administration

September 18, 2013_
Date

²⁰ See section 782(b) of the Act

²¹ See *Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (“*Final Rule*”).

Appendix

Scope of the Investigation

The products covered by this investigation are chlorinated isocyanurates. Chlorinated isocyanurates are derivatives of cyanuric acid, described as chlorinated s-triazine triones. There are three primary chemical compositions of chlorinated isocyanurates: (1) trichloroisocyanuric acid (“TCCA”) ($\text{Cl}_3(\text{NCO})_3$), (2) sodium dichloroisocyanurate (dihydrate) ($\text{NaCl}_2(\text{NCO})_3 \cdot 2\text{H}_2\text{O}$), and (3) sodium dichloroisocyanurate (anhydrous) ($\text{NaCl}_2(\text{NCO})_3$). Chlorinated isocyanurates are available in powder, granular and solid (*e.g.*, tablet or stick) forms.

Chlorinated isocyanurates are currently classifiable under subheadings 2933.69.6015, 2933.69.6021, 2933.69.6050, 3808.50.4000, 3808.94.5000, and 3808.99.9500 of the Harmonized Tariff Schedule of the United States (“HTSUS”). The tariff classification 2933.69.6015 covers sodium dichloroisocyanurates (anhydrous and dihydrate forms) and trichloroisocyanuric acid. The tariff classifications 2933.69.6021 and 2933.69.6050 represent basket categories that include chlorinated isocyanurates and other compounds including an unfused triazine ring. The tariff classifications 3808.50.4000, 3808.94.5000 and 3808.99.9500 cover disinfectants that include chlorinated isocyanurates. The HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of the investigation is dispositive.