

August 9, 2010

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

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

SUBJECT: Issues and Decision Memorandum for the Expedited Sunset
Reviews of the Antidumping Duty Orders on Chlorinated
Isocyanurates from Spain and the People's Republic of China

Summary

In the sunset reviews of the antidumping duty orders covering chlorinated isocyanurates (“chlorinated isos”) from Spain and the People’s Republic of China (“PRC”), Clearon Corporation and Occidental Chemical Corporation, domestic producers of chlorinated isos (collectively “domestic interested parties”), submitted adequate substantive responses. No respondent interested party submitted a substantive response. In accordance with our analysis of the domestic interested parties’ substantive responses, we recommend adopting the positions described in the instant memorandum. The following is a complete list of issues in these sunset reviews for which we received substantive responses:

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

Background

On May 3, 2010, the Department of Commerce (“Department”) published the notice of initiation of the sunset reviews of the antidumping duty orders on chlorinated isos from Spain and the PRC, pursuant to section 751(c) of the Tariff Act of 1930, as amended (“Act”).¹ On May 18, 2010, pursuant to 19 CFR 351.218(d)(1), the Department received timely and complete notices of intent to participate in the sunset reviews from domestic interested parties. On June 2, 2010, pursuant to 19 CFR 351.218(d)(3), domestic interested parties filed timely and adequate substantive responses within 30 days after the date of publication of the *Sunset Initiation*. The Department did not receive substantive responses from any respondent interested party with

¹ See *Initiation of Five-Year (“Sunset”) Review*, 75 FR 23240 (May 3, 2010) (“*Sunset Initiation*”).

respect to the orders on chlorinated isos from Spain or the PRC. 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 conducted expedited (120-day) sunset reviews of the antidumping duty orders on chlorinated isos from Spain and the PRC.

History of the Orders

Spain

On May 10, 2005, the Department published its final determination in the less-than-fair-value (“LTFV”) investigation of chlorinated isos from Spain.² On June 24, 2005, the Department published the antidumping duty order on chlorinated isos from Spain.³ The Department found the following antidumping duty margins:

Manufacturers/Exporters/Producers	Weighted-Average Margin (percent)
Argonesas Delsa S.A.	24.83
All-Others Rate	24.83

PRC

On May 10, 2005, the Department published its final determination in the LTFV investigation of chlorinated isos from the PRC.⁴ On June 24, 2005, the Department published the antidumping duty order on chlorinated isos from the PRC.⁵ The Department found the following antidumping duty margins:

Manufacturers/Exporters/Producers	Weighted-Average Margin (percent)
Hebei Jiheng Chemical Co., Ltd.	75.78
Nanning Chemical Industry Co., Ltd.	285.63
Changzhou Clean Chemical Co., Ltd.	137.69
Liaocheng Huao Chemical Industry Co., Ltd.	137.69
Sinochem Hebei Import & Export Corporation	137.69
Sompeje, Shanghai Import & Export Corp.	137.69
PRC-Wide Rate	285.63

² See *Chlorinated Isocyanurates From Spain: Notice of Final Determination of Sales at Less Than Fair Value*, 70 FR 24506 (May 10, 2005).

³ See *Chlorinated Isocyanurates from Spain: Notice of Antidumping Duty Order*, 70 FR 36562 (June 24, 2005) (“Spain Order”).

⁴ See *Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates From the People’s Republic of China*, 70 FR 24502 (May 10, 2005).

⁵ See *Notice of Antidumping Duty Order: Chlorinated Isocyanurates from the People’s Republic of China*, 70 FR 36561 (June 24, 2005) (“PRC Order”).

Administrative Reviews and New Shipper Reviews

Since the issuance of the antidumping duty orders, the Department has completed three administrative reviews each with respect to chlorinated isos from Spain and the PRC.⁶ However, the first and second administrative reviews of chlorinated isos from the PRC are currently the subject of litigation before the U.S. Court of International Trade (“CIT”). Regarding chlorinated isos from the PRC, the Department completed a new shipper review of Juancheng Kangtai Chemical Co., Ltd., and Juancheng Ouya Chemical Co., Ltd.⁷ Regarding chlorinated isos from Spain, the Department initiated, and subsequently rescinded, a new shipper review of Inquide Flix, S.A.⁸ Finally, the fourth administrative review with respect to chlorinated isos from the PRC is ongoing, and the fourth administrative review with respect to chlorinated isos from the Spain was rescinded.⁹

Scope Inquiries, Changed Circumstances Reviews, and Duty Absorption

There have been no scope inquiries regarding chlorinated isos from Spain. However, regarding chlorinated isos from the PRC, on April 9, 2008, the Department issued a final scope ruling stating that Chinese-origin chlorinated isos imported into Canada from the PRC by Capo Industries, Ltd., which are then processed and exported by Capo to the United States, are within the scope of the *PRC Order*. The Department found that Capo’s processing in Canada is essentially a repackaging operation with respect to Chinese-origin product and does not substantially transform the chlorinated isos imported from the PRC by Capo.¹⁰

Additionally, regarding chlorinated isos from the PRC, on March 23, 2009, the Department issued a final scope ruling stating that chlorinated isos produced and exported from Vietnam by Tian Hua (Vietnam) SPC Industries Ltd. (“Tian Hua”) are not within the scope of the *PRC Order* because Tian Hua demonstrated on the record of the scope inquiry that it produces chlorinated isos in its production facilities in Vietnam.¹¹

⁶ See *Chlorinated Isocyanurates From Spain: Final Results of Antidumping Duty Administrative Review*, 72 FR 64194 (November 15, 2007); *Chlorinated Isocyanurates from Spain: Final Results of Antidumping Duty Administrative Review*, 73 FR 79789 (December 30, 2008); *Chlorinated Isocyanurates from Spain: Final Results of Antidumping Duty Administrative Review*, 74 FR 50774 (October 1, 2009); *Chlorinated Isocyanurates from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review*, 73 FR 159 (January 2, 2008), as amended in *Amended Final Results of Antidumping Duty Administrative Review: Chlorinated Isocyanurates from the People’s Republic of China*, 73 FR 9091 (February 19, 2008); *Chlorinated Isocyanurates from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review*, 73 FR 52645 (September 10, 2008), as amended in *Amended Final Results of Antidumping Duty Administrative Review: Chlorinated Isocyanurates from the People’s Republic of China*, 73 FR 62249 (October 20, 2008); *Chlorinated Isocyanurates from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review*, 74 FR 66087 (December 14, 2009).

⁷ See *Chlorinated Isocyanurates From the People’s Republic of China: Final Results of June 2008 Through November 2008 Semi-Annual New Shipper Review*, 74 FR 68575 (December 28, 2009).

⁸ See *Chlorinated Isocyanurates from Spain: Notice of Rescission of Antidumping Duty New Shipper Review*, 73 FR 45215 (August 4, 2008).

⁹ See *Chlorinated Isocyanurates from Spain: Rescission of Antidumping Duty Administrative Review*, 74 FR 61114 (November 23, 2009).

¹⁰ See *Notice of Scope Rulings*, 73 FR 49418 (August 21, 2008).

¹¹ See *Notice of Scope Rulings*, 74 FR 43680 (August 27, 2009).

There have been no circumvention or changed circumstances determinations in connection with the antidumping duty orders on chlorinated isos from Spain or the PRC. Further, there have been no duty absorption findings concerning chlorinated isos from Spain or the PRC.

Discussion of the Issues

Legal Framework

In accordance with section 751(c)(1) of the Act, the Department is conducting these sunset reviews to determine whether revocation of the antidumping duty orders 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 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 periods before, and the periods after, the issuance of the antidumping duty orders.

As explained in the Statement of Administrative Action (“SAA”) accompanying the Uruguay Round Agreements Act, 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 issuance of the order; (b) imports of the subject merchandise ceased after issuance of the order; or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly.¹² 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.¹³ In addition, 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 an investigation may dampen import volumes and, thus, skew comparison.¹⁴

Further, 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. Generally, the Department selects the margin(s) from the final determination in the original investigation, as this is the only calculated rate that reflects the behavior of exporters without the discipline of an order in place.¹⁵ However, the Department may use a rate from a more recent review where the dumping margin increased, as this rate may be more representative of a company’s behavior in the absence of an order (*e.g.*, where a company increases dumping to

¹² See SAA, H.R. Rep. No. 103-316, Vol. 1 (1994), at 889-90; see also, *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.

¹³ See *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*”).

¹⁴ 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.

¹⁵ See SAA at 890 and *Sunset Policy Bulletin* at section II.B.1. See, *e.g.*, *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.

maintain or increase market share with an order in place).¹⁶ 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 antidumping duty order would not be likely to lead to a continuation or recurrence of sales at LTFV. Our analysis of the comments submitted by domestic interested parties’ follows.

Analysis

1. Likelihood of Continuation or Recurrence of Dumping

Domestic interested parties argue that revocation of the antidumping duty orders on chlorinated isos from Spain and the PRC would likely result in the continuation of dumping in the United States. Specifically, domestic interested parties contend that dumping has continued at rates exceeding *de minimis* levels since the orders were imposed in 2005. In addition, domestic interested parties assert that since the imposition of the orders, the import volumes of chlorinated isos into the United States from Spanish and PRC producers and exporters have generally declined.

Regarding chlorinated isos from the PRC, domestic interested parties argue that Harmonized Tariff Schedule of the United States (“HTSUS”) import trends are not necessarily reliable for calculating likelihood of continuation of dumping because chlorinated isos may be classified under a range of different import tariff provisions, several of which are basket categories that domestic interested parties believe include substantial quantities of non-subject imports. Thus, with respect to the PRC, domestic interested parties suggest that the Department rely on the the Port Import Export Reporting Service (“PIERS”) to collect import data for analyzing the volume of imports of chlorinated isos into the United States for the periods before, and the periods after, the issuance of the *PRC Order*.

Department’s Position: As explained in the Legal Framework section above, the Department’s determination concerning whether revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping is based, in part, upon guidance provided by the legislative history accompanying the Uruguay Round Agreements Act (*i.e.*, the *SAA*; House Report, H. Rep. No. 103-826, pt. 1 (1994) (“House Report”); and Senate Report, S. Rep. No. 103-412 (1994) (“Senate Report”). Consistent with the *SAA*, the Department will make its likelihood determination on an order-wide basis.¹⁷ Further, 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 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 antidumping duty order. Thus, one consideration is whether the Department has continued to find dumping above *de minimis* levels in administrative reviews subsequent to imposition of the antidumping duty order.¹⁸ According to the *SAA* and the House Report, “if companies continue to dump with the discipline of an order in place, it is reasonable to assume that dumping would continue if the

¹⁶ See *SAA* at 890-91; *Sunset Policy Bulletin* at section II.B.2.

¹⁷ See *SAA* at 879.

¹⁸ See *id.* at 890.

discipline were removed.”¹⁹ In the instant review, for the reasons stated below, we find that revocation of the antidumping duty orders on chlorinated isos from Spain and the PRC would likely result in the continuation of dumping in the United States.

Spain: We find that Spanish exporters of chlorinated isos have continued to sell into the United States at prices below normal value following the issuance of the *Spain Order* in 2005. Since issuance of the order, dumping has continued at rates exceeding *de minimis* levels in every completed administrative review. Specifically, for the only investigated company (*i.e.*, Aragonesas Delsa S.A.), the weighted-average dumping margin increased from the first administrative review (*i.e.*, 2.35 percent) through the third (most recently completed) administrative review (*i.e.*, 28.04 percent). In addition, since the issuance of the *Spain Order*, import volumes of chlorinated isos into the United States from Spain have generally declined and remained below pre-investigation import levels, with the exception of a single year (*i.e.*, 2008).²⁰ In 2009, Spanish import volumes were at their lowest level since the *Spain Order* was entered. As a result, average import volumes from Spain for the years 2005 through 2009 (*i.e.*, 4,692,273 kg per year) are 26.4 percent lower than average import volumes for the years 2003 and 2004 (*i.e.*, 6,374,960 kg per year), which are the two years immediately preceding issuance of the *Spain Order*.²¹ Therefore, pursuant to section 752(c)(1) of the Act, because the Department has found declining import volumes accompanied by the continued existence of dumping margins after the issuance of the *Spain Order*, and because no party submitted any evidence to the contrary, we find that dumping is likely to continue or recur if the *Spain Order* is revoked.

PRC: We find that PRC exporters of chlorinated isos have continued to sell into the United States at prices below normal value following the issuance of the *PRC Order* in 2005. Since issuance of the order, dumping has continued at rates exceeding *de minimis* levels for all respondents in every completed review (*i.e.*, three administrative reviews and one new shipper review), which suggests that dumping is likely to continue if the *PRC Order* is revoked.

Domestic interested parties provided import volume data from PIERS from 2004 to 2009 showing imports of chlorinated isos from the PRC fluctuated for the period following imposition of the order. Based on HTSUS import data collected by Global Trade Atlas (“GTA”), the Department confirmed that imports from the PRC under the HTSUS numbers listed in the scope of the *PRC Order* have fluctuated over the period of this sunset review. Specifically, according to the GTA data for U.S. imports of chlorinated isos from the PRC, the import volume in the year following issuance of the *PRC Order* (*i.e.*, 2006) was lower than import volumes in both years preceding issuance of the *PRC Order* (*i.e.*, 2004 and 2005).²² For the years 2007 through 2009, import volumes fluctuated, but in all three years import volumes remained above pre-order levels. However, as noted by domestic interested parties, import trends are not necessarily reliable because chlorinated isos may be classified under a range of different import tariff provisions, several of which are basket categories that may include substantial quantities of non-subject imports. Nevertheless, because imports have continued to enter the U.S. market at the current rates of 20.16 to 285.63 percent, we find that dumping is likely to continue or recur if the *PRC Order* is revoked.

¹⁹ *Id.*; see also House Report at 63-64.

²⁰ See Attachment I to this memorandum.

²¹ *Id.*

²² See Attachment II to this memorandum.

Finally, no respondent interested party filed a substantive response, pursuant to 19 CFR 351.218(d)(3). Thus, we find that respondent interested parties have filed an inadequate response in this sunset review. Additionally, as no respondent interested party submitted any evidence to the contrary, we find that dumping is likely to continue or recur if the *PRC Order* is revoked.

2. Magnitude of the Dumping Margin Likely to Prevail

Domestic interested parties suggest that the Department should report to the ITC the antidumping duty margins calculated in the respective investigations of chlorinated isos from Spain and the PRC, which is in accordance with the *Sunset Policy Bulletin*. These rates are set forth in the “History of the Orders” section, *supra*.

Department’s Position: The Department has determined that the dumping margins established in the investigations of chlorinated isos from Spain and the PRC are the most likely to prevail if the orders were revoked. Normally, the Department will provide to the ITC the company-specific margin from the investigation for each company.²³ The Department’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 manufacturers, producers, and exporters without the discipline of an order or suspension agreement in place.²⁴ For companies not investigated individually, or for companies that did not begin shipping until after the order was issued, the Department will normally provide a margin based on the “All-Others” rate from the investigation.²⁵ However, regarding the PRC, which the Department considers to be a non-market economy under section 771(18) of the Act, the Department does not have an “All-Others” rate. Thus, in PRC cases, instead of an “All-Others” rate, the Department uses an established PRC-wide rate, which it applies to all imports from an exporter that has not established its eligibility for a separate rate.

In the instant review, because no respondent interested party has submitted evidence to the contrary, we find it appropriate to provide the ITC with the final determination rates from the LTFV investigations of chlorinated isos from Spain and the PRC. With respect to Spain, since the LTFV investigation, chlorinated isos imports have generally declined, and dumping margins have remained above *de minimis* levels throughout the life of the *Spain Order*; thus, if the order is revoked, it is likely that Spanish producers would continue dumping. With respect to the PRC, import volumes initially declined after issuance of the *PRC Order*, and PRC dumping margins have remained above *de minimis* levels throughout the life of the order; thus, if the order is revoked, it is likely that the PRC exporters would continue dumping and selling in significant volumes. Consequently, the final determination rates from the LTFV investigations properly reflect the behavior of manufacturers, producers, and exporters of chlorinated isos without the discipline of an order in place. As a result, we will report to the ITC the margins listed in the “Final Results of Reviews” section below.

²³ See *Eveready Battery Co., Inc. v. United States*, 77 F. Supp. 2d 1327, 1333 (CIT 1999).

²⁴ *Id.*; see also SAA at 890 and *Sunset Policy Bulletin* at section II.B.1.

²⁵ See *Certain Hot-Rolled Carbon Steel Flat Products from Argentina, the People’s Republic of China, India, 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.

Final Results of Reviews

We determine that revocation of the antidumping duty orders on chlorinated isos from Spain and the PRC would likely lead to continuation or recurrence of dumping at the following weighted-average percentage margins:

Manufacturers/Exporters/Producers	Weighted-Average Margin (percent)
<i>Spain</i>	
Argonesas Delsa S.A.	24.83
All-Others Rate	24.83
<i>PRC</i>	
Hebei Jiheng Chemical Co., Ltd.	75.78
Nanning Chemical Industry Co., Ltd.	285.63
Changzhou Clean Chemical Co., Ltd.	137.69
Liaocheng Huaao Chemical Industry Co., Ltd.	137.69
Sinochem Hebei Import & Export Corporation	137.69
Sompje, Shanghai Import & Export Corp.	137.69
PRC-Wide Rate	285.63

Recommendation

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

Agree

Disagree

Ronald K. Lorentzen
Deputy Assistant Secretary
for Import Administration

(Date)

Attachment 1

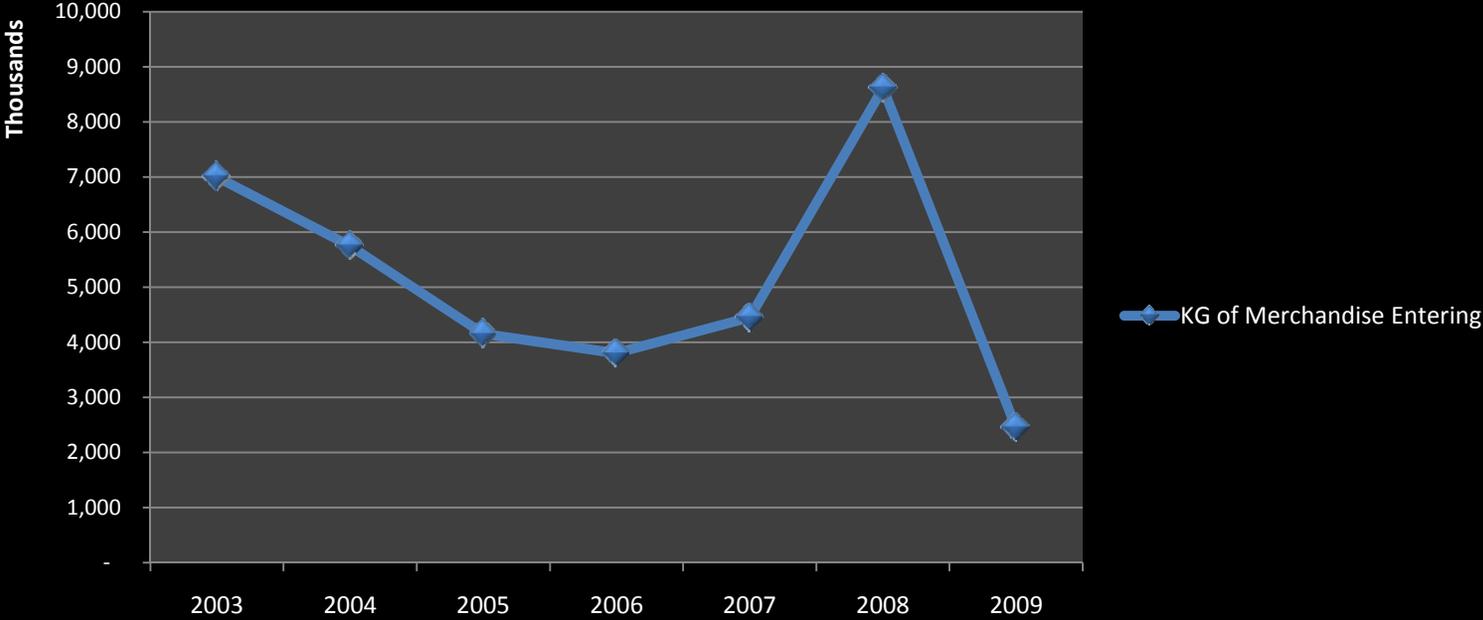
United States (Consumption/Domestic) Import Statistics From Spain

Commodity: 293369, Heterocyclic Compds Cntg An Unfused Triazine Ring In The Structure, Nes

Commodity	Unit	Description	Quantity (KG)						
			2003	2004	2005	2006	2007	2008	2009
Combined Total	KG	Cmpds (Exc Melamine) Cont An Unfused Triazine Ring	6999903	5750017	4151705	3801436	4446287	8613664	2448274
		Combined % Change From Prior Year		-17.86%	-27.80%	-8.44%	16.96%	93.73%	-71.58%
2933696015	KG	Sodium Dichloroisocyanurate & Trichloroisocyanuric	0	0	1044915	1860036	1039893	4198000	1950000
2933696050	KG	Other Cmpds Cont An Unfused Triazine Ring Etc	6999903	5750017	3106790	1941400	3406394	4415664	498274

Years	Combined Average Import Volumes (KG)
2003-2004	6374960
2005-2009	4692273
Average % Change	-26.40%

Review of Import Data Entering Under HTS Category for Chlorinated Isocyanurates from the Spain



Attachment 2

United States (Consumption/Domestic) Import Statistics From China
Commodity: 293369, Heterocyclic Compds Cntg An Unfused Triazine Ring In The Structure, Nes

Commodity	Unit	Description	Quantity (KG)						
			2003	2004	2005	2006	2007	2008	2009
Combined Total	KG	Cmpds (Exc Melamine) Cont An Unfused Triazine Ring	22938199	28130047	33956829	26228836	35557293	46140006	38276008
		Combined % Change From Prior Year		22.63%	20.71%	-22.76%	35.57%	29.76%	-17.04%
2933696050	KG	Other Cmpds Cont An Unfused Triazine Ring Etc	22938199	28130047	27517439	20808402	18437621	18987356	16489271
2933696015	KG	Sodium Dichloroisocyanurate & Trichloroisocyanuric	0	0	0	0	5829000	4874455	9795027
2933696021	KG	Pesticides W/ Unfused Triazine Ring Etc, Nesoi	0	0	6439390	5420434	5263147	16760761	7423523
3808504000	KG	Disinfectants Specified In Subhead Note 1 To Ch 38	0	0	0	0	979	725	0
3808945000	KG	Disinfectants, Nesoi	0	0	0	0	6026546	5516709	4568187

Review of Import Data Entering the US for Chlorinated Isocyanurates from the PRC

