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MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

FROM: Christian Marsh *CM*
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 Spain¹ and the People’s Republic of China² (“PRC”), Clearon Corporation (“Clearon”), Occidental Chemical Corporation (“OxyChem”), and Bio-Lab, Inc. (“Bio-Lab”) (collectively “Petitioners”), submitted an adequate substantive response. No respondent interested party submitted a substantive response. In accordance with our analysis of the Petitioners’ substantive response, we recommend you approve the positions described in the Discussion of the Issues section of this memorandum. The following is a complete list of issues in these sunset reviews:

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

Background

On September 1, 2015, 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”).³ On September 11, 2015 pursuant to 19 CFR 351.218(d)(1), the Department received timely and

¹ See *Chlorinated Isocyanurates from Spain: Notice of Antidumping Duty Order*, 70 FR 36562 (June 24, 2005) (“Spain Order”).

² See *Notice of Antidumping Duty Order: Chlorinated Isocyanurates from the People’s Republic of China*, 70 FR 36561 (June 24, 2005) (“PRC Order”).

³ See *Initiation of Five-Year (“Sunset”) Review*, 80 FR 52743 (September 1, 2015) (“Sunset Initiation”).



complete notices of intent to participate in the sunset reviews from Petitioners. On October 1, 2015, pursuant to 19 CFR 351.218(d)(3), Petitioners 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 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.

Scope of the Orders

The products covered by the orders are chlorinated isos, which are derivatives of cyanuric acid, described as chlorinated s-triazine triones. There are three primary chemical compositions of chlorinated isos: (1) trichloroisocyanuric acid ($\text{Cl}_3(\text{NCO})_3$), (2) sodium dichloroisocyanurate (dehydrate) ($\text{NaCl}_2(\text{NCO})_3(2\text{H}_2\text{O})$), and (3) sodium dichloroisocyanurate (anhydrous) ($\text{NaCl}_2(\text{NCO})_3$). The orders cover all chlorinated isos. Chlorinated isos are currently classifiable under subheadings 2933.69.6015, 2933.69.021, 2933.69.6050, 3808.40.5000, 3808.50.4000 and 3808.94.5000 of the Harmonized Tariff Schedule of the United States (“HTSUS”). The tariff classification 2933.69.6015 covers sodium dichloroisocyanurates (anhydrous and dehydrate forms) and trichloroisocyanuric acid. The tariff classifications 2933.69.6021 and 2933.69.6050 represent basket categories that include chlorinated isos and other compounds including an unfused triazine ring. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

History of the Orders on Chlorinated Isos

Since the publication of the previous sunset reviews of the orders on chlorinated isos from Spain and the PRC,⁴ there have been no scope inquiries in connection with the antidumping duty orders on chlorinated isos from Spain or the PRC.

Spain

On May 10, 2005, the Department published its final determination in the less-than-fair value (“LTFV”) investigation of chlorinated isos from Spain.⁵ The period of investigation (“POI”) was April 1, 2003 through March 31, 2004. On June 24, 2005, the Department published the antidumping duty order on chlorinated isos from Spain.⁶ The Department found the following antidumping duty margins:

<u>Exporter/Producer</u>	<u>Weighted-Average Margin (percent)</u>
Argonesas Delsa S.A.	24.83
All-Others Rate	24.83

⁴ See *Expedited Sunset Reviews on the Antidumping Duty Orders on Chlorinated Isocyanurates from Spain and the People’s Republic of China (PRC)*, 75 FR 49464(August 13, 2010) (“Expedited Sunset Reviews”).

⁵ See *Chlorinated Isocyanurates From Spain: Notice of Final Determination of Sales at Less Than Fair Value*, 70 FR 24506 (May 10, 2005) (“Spain LTFV”).

⁶ See *Spain Order*.

Administrative Reviews and New Shipper Reviews of the Antidumping Duty Order on Chlorinated Isos from Spain

Since the publication of the *Expedited Sunset Reviews and the Continuation of the Antidumping Order*, the Department has completed one administrative review of chlorinated isos from Spain:

On July 31, 2012, the Department initiated its seventh administrative review of chlorinated isos from Spain. The period of review (POR) was June 1, 2011, through May 31, 2012. In its final results, the Department calculated the following margin:⁷

<u>Exporter/Producer</u>	<u>Weighted-Average Margin (Percent)</u>
Ercros S.A.	0.00

On February 13, 2008, the Department initiated a new shipper review of Inquide Flix, S.A., with a POR of June 1, 2007, through November 30, 2007, from Spain. However, that review was rescinded on August 4, 2008.⁸

The PRC

On May 10, 2005, the Department published its final determination in the LTFV investigation of chlorinated isos from the PRC.⁹ The POI for the PRC was October 1, 2003 through March 31, 2004.

On June 24, 2005, the Department published the antidumping duty order on chlorinated isos from the PRC.¹⁰ The Department found the following antidumping duty margins:

⁷ See *Chlorinated Isocyanurates from Spain: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 72,633 (December 3, 2013)(See Chlorinated Isos from Spain 2011-2012 Final Results).

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

⁹ 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) ("PRC LTFV").

¹⁰ *PRC Order*.

<u>Exporter/Producer</u>	<u>Weighted-Average Margin (percent)</u>
Hebei Jiheng Chemical Co., Ltd. (Jiheng)	75.78
Nanning Chemical Industry Co., Ltd. (Nanning)	285.63
Changzhou Clean Chemical Co., Ltd. (Clean Chemical)	137.69
Liaocheng Huao Chemical Industry Co., Ltd. (Huao Chemical)	137.69
Sinochem Hebei Import & Export Corporation (Sinochem Hebei)	137.69
Sinochem Shanghai Import & Export Corp. (Sinochem Shanghai)	137.69
PRC-Wide Rate	285.63

Administrative Reviews and New Shipper Reviews of the Antidumping Duty Order on Chlorinated Isos from the PRC

Since the publication of the *Expedited Sunset Reviews*¹¹ and the *Continuation of the Antidumping Order*¹², the Department has completed five administrative reviews and two new shipper reviews of chlorinated isos from the PRC:

On July 28, 2010, the Department initiated its fifth administrative review of chlorinated isos from the PRC. The POR for this administrative review was June 1, 2009, through May 31, 2010. In its final results, the Department calculated the following margins:¹³

<u>Exporter/Producer</u>	<u>Weighted-Average Margin (Percent)</u>
Hebei Jiheng Chemical Co., Ltd	0.03
Juancheng Kangtai Chemical Co., Ltd.	2.66
Arch Chemicals (China) Co., Ltd	2.66
Zhucheng Taisheng Chemical Co., Ltd	2.66

On February 4, 2011, the Department initiated a new shipper review of Heze Huayi, with a POR of June 1, 2010, through December 31, 2010, from the PRC.¹⁴ In its final results of the new shipper review, the Department calculated the following margin:

<u>Exporter/Producer</u>	<u>Weighted-Average Margin (Percent)</u>
Heze Huayi Chemical Co., Ltd.	2.66

On July 28, 2011, the Department initiated its sixth administrative review of chlorinated isos from the PRC. The POR for this administrative review was

¹¹ See *Chlorinated Isocyanurates from Spain and the People's Republic of China: Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders*, 75 FR 49464 (August 13, 2010) (“*Expedited Sunset Reviews for Chlorinated Isos*”).

¹² See *Chlorinated Isocyanurates From Spain and the People's Republic of China: Continuation of Antidumping Duty Order*, 75 FR 62764 (October 13, 2010) (“*Continuation of AD Orders on Chlorinated Isos*”).

¹³ See *Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 76 FR 70957 (November 16, 2011).

¹⁴ See *Chlorinated Isocyanurates from the People's Republic of China: Initiation of New Shipper Review*, 76 FR 6399 (February 3, 2011).

June 1, 2010, through May 31, 2011. In its final results, the Department calculated the following margins:¹⁵

<u>Exporter/Producer</u>	<u>Weighted-Average Margin (Percent)</u>
Hebei Jiheng Chemical Co., Ltd	29.91
Juancheng Kangtai Chemical Co., Ltd.	38.25
Nanning Chemical Industry Co., Ltd	34.08
Zhucheng Taisheng Chemical Co., Ltd	34.08

On February 6, 2012, the Department initiated a new shipper review of Puyang Cleanway Chemicals Ltd, with a POR June 1, 2011 through February 29, 2012. The Department later rescinded that review.¹⁶

On July 31, 2012, the Department initiated its seventh administrative review of chlorinated isos from the PRC. The POR was June 1, 2011, through May 31, 2012. In its final results, the Department calculated the following margins:¹⁷

<u>Exporter/Producer</u>	<u>Weighted-Average Margin (Percent)</u>
PRC	
Arch Chemicals (China) Co., Ltd	53.15
Hebei Jiheng Chemical Co., Ltd	47.17
Juancheng Kangtai Chemical Co., Ltd.	59.12
Sinoarbon Insternational Trading Co., Ltd	53.15
Zhucheng Taisheng Chemical Co., Ltd	53.15

On August 1, 2013, the Department initiated its eighth administrative review of chlorinated isos from the PRC. The POR was June 1, 2012, through May 31, 2013. In its final results, the Department calculated the following margins for exporters from the PRC:¹⁸

<u>Exporter/Producer</u>	<u>Weighted-Average Margin (Percent)</u>
Arch Chemicals (China) Co., Ltd	53.15
Hebei Jiheng Chemical Co., Ltd	0.00
Juancheng Kangtai Chemical Co., Ltd.	0.00
Heze Huayi Chemical Co., Ltd.	53.15
Zhucheng Taisheng Chemical Co., Ltd	53.15

¹⁵ See *Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2010-2011*, 78 FR 4386 (January 22, 2013).

¹⁶ See *Chlorinated Isocyanurates from the People's Republic of China: Rescission of Antidumping Duty New Shipper Review*, 77 FR 19644 (April 2, 2012).

¹⁷ See *Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 4875 (January 30, 2014).

¹⁸ See *Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012-2013*, 80 FR 4539 (January 28, 2015).

On July 31, 2014, the Department initiated its ninth administrative review of chlorinated isos from the People's Republic of China. The POR was June 1, 2013, through May 31, 2014.¹⁹

Changed Circumstances Reviews and Duty Absorption for Chlorinated Isos from Spain

Since the publication of the *First Sunset Reviews*²⁰ and the *Continuation of the Antidumping Order*²¹, there have been no scope inquiries, no circumvention determinations, and no duty absorption findings. However, during the course of the 2011-2012 administrative review, the Department made a determination that Ecros S.A. was the successor-in-interest to Argenosas Delsa S.A.²²

Changed Circumstances Reviews and Duty Absorption for Chlorinated Isos from the PRC

Since the publication of the *First Sunset Reviews* and the *Continuation of the Antidumping Order*, there have been no scope inquiries, no circumvention or changed circumstances determinations in connection with the antidumping duty orders on chlorinated isos from the PRC. Further, there have been no duty absorption findings concerning chlorinated isos from 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

¹⁹ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 70 FR 44390 (July 31, 2014).

²⁰ See *Expedited Sunset Reviews for Chlorinated Isos*.

²¹ See *Continuation of AD Orders on Chlorinated Isos*.

²² See *Chlorinated Isos from Spain 2011-2012 Final Results and Preliminary Results of Antidumping Duty Administrative Review: Chlorinated Isocyanurates from Spain; 2011-2012 Administrative Review*, 78 FR 41367 (July 10, 2013) (“Prelim Results of 2011-2012 AD Admin Review”) and *Chlorinated Isocyanurates From Spain: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 72633 (December 3, 2013) (“Final Results of 2011-2012 AD Admin Review”).

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.²³

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.²⁴ 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.²⁵

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.²⁶ However, the Department may use a rate from a more recent review, if 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 maintain or increase market share with an order in place).²⁷

In February 2012, the Department announced that it was modifying its practice in sunset reviews such that it will not rely on weighted-average dumping margins that were calculated using the methodology found to be WTO-inconsistent.²⁸ In the *Final Modification for Reviews*, the Department stated that "only in the most extraordinary circumstances" would it rely on margins other than those calculated and published in prior determinations.²⁹ The Department further stated that apart from the "most extraordinary circumstances," it would "limit its reliance to margins determined or applied during the five-year sunset that were not determined in a manner found to be WTO-inconsistent" and that it "may also rely on past dumping margins that were not affected by the WTO-inconsistent methodology, such as dumping margins recalculated pursuant to Section 129 proceedings, dumping margins determined based on the use of total adverse facts available, and dumping margins where no offsets were denied because all comparison results were positive."³⁰

²³ 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.

²⁴ 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*").

²⁵ 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.

²⁶ 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.

²⁷ See SAA at 890-91; *Sunset Policy Bulletin* at section II.B.2.

²⁸ See *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Anti-dumping Duty Proceedings; Final Modification*, 77 FR 8101, 8103 (February 14, 2012) (*Final Modification for Reviews*).

²⁹ *Id.*

³⁰ *Id.*

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 Petitioners follows.

Analysis

1. Likelihood of Continuation or Recurrence of Dumping

Interested Party Comments

Petitioners argue that revocation of the antidumping duty orders on chlorinated isos from Spain and the PRC would be likely to lead to the continuation or recurrence of sales at LTFV in the United States. Revocation would also result in significant increases in the volume of dumped imports. Specifically, Petitioners contend that dumping has continued at rates exceeding *de minimis* levels since the orders were imposed in 2005. In addition, Petitioners assert that since the imposition of the orders, the import volumes of chlorinated isos into the United States from Spanish and Chinese producers and exporters have generally declined.

Petitioners noted that “it is useful to consider ships’ manifest data (reported by PIERS) with respect to imports from China and Spain,”³¹ because chlorinated isos may be classified under a range of different import tariff provisions. (The scope of the order states that 2933.69.6021 and 2933.69.6050 are basket categories. *See* “Scope of the Order” above.) Petitioners state that “the volume of chlorinated isocyanurates from China has only recently declined, and Spanish imports have resumed after a brief absence from the market.”³²

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.³³ 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.

³¹ *See* Letter from Petitioners, “Chlorinated Isocyanurates from Spain and China: Substantive Response to the Notice of Initiation of Five-Year (“Sunset”) Review,” dated October 1, 2015 at 21.

³² *Id.*

³³ *See* SAA at 879.

As part of its determination of whether revocation of an antidumping order is likely to lead to the continuation or recurrence of dumping, the Department will examine whether: a) dumping continued at any level above *de minimis* after the issuance of the order or suspension agreement; b) imports of the subject merchandise ceased after the issuance of the order or the suspension agreement; c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined.³⁴

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 or recurrence of dumping in the United States.

Spain:

Pursuant to 752(c)(1)(B) of the Act, the Department considers the volume of imports in determining whether revocation of the *Spain Order* would likely lead to continuation or recurrence of dumping. The Department's practice is to compare import volumes during the year preceding initiation of the underlying investigation to import volumes since the last continuation notice.

We examined import volumes from the United States International Trade Commission (ITC)'s Trade Dataweb (ITC Trade Dataweb) for 2010 through 2014, which is the five year period that follows the five year period examined in the *Expedited Sunset Reviews*, and we compared this to the import volumes in pre-investigation period. The import volumes from Spain for the years 2010 through 2014 ranged from zero in 2013 to 2,805,744 kilograms in 2014.³⁵ By contrast, the import volumes for 2003, the year immediately preceding the initiation of the *Spain Order*, was 6,999,903 kilograms.³⁶ In the most recent five year period, since the publication of the *Expedited Sunset Reviews* and the *Continuation of the Antidumping Order*, the import volumes have declined substantially and as noted above were sometimes zero, when compared to the pre-investigation period.

Since the imposition of the *Spain Order* and after the publication of the *Expedited Sunset Reviews*³⁷ and the *Continuation of the Antidumping Order*³⁸, we find that import volumes have declined significantly, and was even zero for one year. In addition, since the issuance of the *Spain Order*, import volumes of chlorinated isos into the United States from Spain have declined significantly and remained below pre-order volumes.³⁹

In this particular case, the record for Spain demonstrates that import volumes for the subject merchandise declined significantly. The SAA and the House Report state that “{u}nder new section 752(c)(4), the existence of zero or *de minimis* dumping margins at any time while the order was in effect shall not in itself require Commerce to determine that there is no likelihood of

³⁴ See, e.g., *Certain Small Diameter Carbon and Alloy Seamless Standard, Line, and Pressure Pipe from Argentina, Brazil, and Germany: Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders*, 71 FR 59079 (October 6, 2006) and accompanying Issues and Decision Memorandum at 1.

³⁵ These import volumes are based on the following two HTS numbers: 2933.69.6015 and 2933.69.6050.

³⁶ *Id.*

³⁷ See *Expedited Sunset Reviews for Chlorinated Isos*.

³⁸ See *Continuation of AD Orders on Chlorinated Isos*.

³⁹ See Attachment I to this memorandum.

continuation or recurrence of dumping. Exporters may have ceased dumping because of the existence of an order or suspension agreement. Therefore, the present absence of dumping is not necessarily indicative of how exporters would behave in the absence of the order or an agreement.”⁴⁰

Because import volumes have declined significantly from the pre-order levels since the publication of the *Expedited Sunset Reviews* and the *Continuation of the Antidumping Order* and no party has submitted any evidence to the contrary, pursuant to section 752(c)(1) of the Act, we find that dumping is likely to continue or recur if the *Spain Order* is revoked.

PRC:

Pursuant to 752(c)(1)(B) of the Act, the Department considers whether dumping has continued at any level above *de minimis* during the sunset review period as well as the volume of imports in determining whether revocation of the *PRC Order* would likely lead to continuation or recurrence of dumping. The Department’s practice is to compare import volumes during the year preceding initiation of the underlying investigation to import volumes since the last continuation notice.

We examined import volumes from the ITC’s Trade Dataweb for 2010 through 2014, which is the current sunset review period. This is the five year period that follows the five year period examined in the *Expedited Sunset Reviews*, and we compared this to the import volumes in pre-initiation period.

The import volumes from the PRC for the years 2010 through 2014 ranged from 41,906,137 kilograms in 2010 to 58,142,967 kilograms in 2012.⁴¹ By contrast, the import volumes for 2003, the year immediately preceding the initiation of the investigation, were 22,938,199 kilograms per year.⁴²

For the years 2010 through 2014, import volumes fluctuated, but in all five years import volumes remained above pre-order levels. Petitioners noted that “it is useful to consider ships’ manifest data (reported by PIERS) with respect to imports from China and Spain,”⁴³ because chlorinated isos may be classified under a range of different import tariff provisions. (The scope of the order states that 2933.69.6021 and 2933.69.6050 are basket categories. *See* “Scope of the Order” above.)

Since the imposition of the *PRC Order* and after the publication of the *Expedited Sunset Reviews* and the *Continuation of the Antidumping Order*, the record for the PRC demonstrates that dumping margins remained above *de minimis* for most exports of chlorinated isos from the PRC, mostly ranging from 20.16 to 285.63 percent.⁴⁴ According to the SAA, “[i]f companies

⁴⁰ *See* SAA at 890.

⁴¹ These import volumes are based on the combined total of five HTS numbers: 2933.69.6015, 2933.69.6050, 2933.69.6021, 3808.50.4000, and 3808.94.5000.

⁴² *Id.*

⁴³ *See* Letter from Petitioners, “Chlorinated Isocyanurates from Spain and China: Substantive Response to the Notice of Initiation of Five-Year (“Sunset”) Review,” dated October 1, 2015 at 21.

⁴⁴ *See* “History of the Order on Chlorinated Isos” above.

continue to dump with the discipline of an order in place, it is reasonable to assume that dumping would continue if the discipline of an order were removed.”⁴⁵

Since the imposition of the *PRC Order* and after the publication of the *Expedited Sunset Reviews* and the *Continuation of the Antidumping Order* dumping has continued at rates exceeding *de minimis* levels for all but one respondent in one review and two respondents in another completed review (*i.e.*, five administrative reviews and three new shipper reviews), which occurred during the sunset review period (2010 through 2014); which suggests that dumping is likely to continue if the *PRC Order* is revoked. Finally, no respondent interested party filed a substantive response, pursuant to 19 CFR 351.218(d)(3).

In this particular case, the record for the PRC demonstrates that there were above *de minimis* margins for most of the imports and import volumes significantly increased.

Because above *de minimis* margins have continued for most exports of chlorinated isos from the PRC and import volumes have increased, and 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.⁴⁶

2. Magnitude of the Dumping Margin Likely to Prevail

Interested Party Comments

To provide the ITC with the margin that is likely to prevail should the order be revoked, the SAA instructs the Department normally to select the rate from the original investigation, because that is the only calculated rate that reflects the behavior of exporters and foreign government without the discipline of an order or suspension agreement in place.⁴⁷ Petitioners 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*, which are set forth in the “History of the Orders” section above.

Department’s Position

Normally, the Department will provide the ITC the company-specific, weighted-average dumping margin from the LTFV for each company.⁴⁸ The Department selects a rate from the LTFV because it is the only calculated rate that reflects the behavior of exporters without the discipline of an order or suspension agreement in place.⁴⁹ 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 rate based on the “All-Others” rate from the investigation.⁵⁰

⁴⁵ See SAA at 890.

⁴⁶ See Attachment I to this memorandum.

⁴⁷ See SAA at 889-90.

⁴⁸ See *Eveready Battery Co., Inc. v. United States*, 77 F. Supp. 2d 1327, 1333 (CIT 1999).

⁴⁹ *Id.*; see also SAA at 890.

⁵⁰ See *Certain Hot-Rolled Carbon Steel Flat Products from Argentina, the People’s Republic of China, India,*

However, for the PRC, which the Department considers to be a non-market economy under section 771(18)(A) of the Act, the Department does not have an “All-Others” rate. Thus, in non-market economy cases, instead of an “All-Others” rate, the Department uses an established country-wide rate, which it applies to all imports from exporters that have not established their eligibility for a separate rate.⁵¹

Spain:

The Department has determined that the weighted-average dumping margins established in the *Spain LTFV*, represent the magnitude of the margins of dumping most likely to prevail if the *Spain Order* were revoked. We have further determined that these margins were not affected by the denial of offsets in accordance with the *Final Modification for Reviews*.⁵²

Specifically, the Department calculated a dumping margin for Argencos Delsa S.A, now its successor-in-interest (Ercros S.A.), which was determined without employing the “zeroing” methodology because all comparison results were positive.

PRC:

The Department has determined that the weighted-average dumping margins established in the *PRC LTFV*, represent the magnitude of the margins of dumping most likely to prevail if the *PRC Order* were revoked. We have further determined that these margins were not affected by the denial of offsets in accordance with the *Final Modification for Reviews*.⁵³

Specifically, the Department calculated a dumping margin for Jiheng and Nanning without employing the “zeroing” methodology because all comparison results were positive. The Department also calculated a weighted-average dumping margin for Clean Chemical, Huacao Chemical, Sinochem Hebei, and Sinochem Shanghai as part of the *China LTFV* and which were determined to be qualified for a separate rate.⁵⁴

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.

⁵¹ See *Bristol Metals L.P. v. United States*, 703 F. Supp. 2d. 1370, 1378 (CIT 2010) (citation omitted); see also *Amanda Foods (Vietnam) Ltd. v. United States*, 647 F. Supp. 2d. 1368, 1379 (CIT 2009) (citation omitted).

⁵² As stated in the *Final Modification for Reviews*, “{i}f the dumping margins determined in a manner not found to be WTO-inconsistent in these disputes indicate that dumping continued with the discipline of the order in place, those dumping margins alone can form the basis for a determination that dumping will continue or recur if the order were to be revoked.” See *Final Modification for Reviews*, 77 FR at 8103. The Department announced it would cease zeroing in investigations on December 26, 2006. See *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin During an Antidumping Investigation; Final Modification*, 71 FR 77722 (December 27, 2006).

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⁵⁴ See *PRC LTFV*.

Final Results of Reviews

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

<u>Exporter/Producer</u>	<u>Weighted-Average Margin (percent)</u>
<i>Spain</i>	
Ercros S.A. (formerly Argonesas Delsa S.A.)	24.83
All-Others Rate	24.83

PRC

<u>Exporter/Producer</u>	<u>Weighted-Average Margin (Percent)</u>
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
Sinochem Shanghai Import & Export Corp.	137.69
PRC-Wide Rate	285.63

Recommendation

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

AGREE

DISAGREE



Paul Piquado
Assistant Secretary
for Enforcement and Compliance

30 DECEMBER 2015
Date