



A-570-898
Administrative Review
POR: 06/01/2019-05/31/2020
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March 2, 2021

MEMORANDUM TO: Christian Marsh
Acting Assistant Secretary
for Enforcement and Compliance

FROM: James Maeder
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Results of the
2019-2020 Antidumping Duty Administrative Review:
Chlorinated Isocyanurates from the People's Republic of China

I. SUMMARY

The Department of Commerce (Commerce) preliminarily determines that Heze Huayi Chemical Co. Ltd. (Heze Huayi) and Juancheng Kangtai Chemical Co. Ltd. (Kangtai), the only two companies under review, made no shipments of subject merchandise during the period of review (POR). The details of this finding are explained in the “Discussion of the Methodology” section, below.

Interested parties are invited to comment on these preliminary results. We intend to issue final results no later than 180 days from the date of publication of this notice, unless extended, pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act).

II. BACKGROUND

On August 6, 2020, Commerce initiated the administrative review of the AD order on chlorinated isocyanurates (chlorinated isos) from China covering the period June 1, 2019, through May 31, 2020.¹ This review covers two producers/exporters: Heze Huayi and Kangtai. On September 8, 2020, Heze Huayi and Kangtai filed certification letters to Commerce stating that each company did not sell or export subject merchandise to the United States for consumption, during the POR.² On October 29, 2020, Commerce requested CBP data for Heze

¹ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 85 FR 47731 (August 6, 2020) (*Initiation Notice*).

² See Heze Huayi's Letter, “Chlorinated Isocyanurates from the People's Republic of China: No Sales Certification,” dated September 8, 2020 (Heze Huayi Certification); see also Kangtai's Letter, “Chlorinated

Huayi's and Kangtai's entries of chlorinated isos from China that were subject to antidumping duties during the POR.³

On October 29, 2020, Commerce placed the Surrogate Country List on the record and solicited interested party comments regarding the selection of the surrogate country and the opportunity to provide surrogate value (SV) data.⁴ None of the interested parties, which include Bio-Lab, Inc., Clearon Corporation, and Occidental Chemical Corporation (collectively, the petitioners), and the two respondents, Heze Huayi and Kangtai, placed information on the record regarding the selection of the surrogate country and SVs.

III. SCOPE OF THE ORDER

The products covered by the order are chlorinated isocyanurates (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 (dihydrate) ($\text{NaCl}_2(\text{NCO})_3(2\text{H}_2\text{O})$), and (3) sodium dichloroisocyanurate (anhydrous) ($\text{NaCl}_2(\text{NCO})_3$). Chlorinated isos are available in powder, granular, and tableted forms. The order covers all chlorinated isos. Chlorinated isos are currently classifiable under subheadings 2933.69.6015, 2933.69.6021, 2933.69.6050, 3808.40.50, 3808.50.40 and 3808.94.50.00 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 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 the order is dispositive.

IV. DISCUSSION OF THE METHODOLOGY

Preliminary Determination of No Shipments

On September 8, 2020, Heze Huayi and Kangtai submitted certification letters to Commerce stating that each company did not sell or export subject merchandise to the United States for consumption, during the POR.⁵ On November 17, 2020, we placed CBP entry data for the POR on the record of this review showing no entries of subject merchandise by Heze Huayi and Kangtai, and provided interested parties an opportunity to comment.⁶ We did not receive

Isocyanurates from the People's Republic of China: No Sales Certification," dated September 8, 2020 (Kangtai Certification).

³ See Memorandum, "U.S. Customs and Border Protection (CBP) Data for Heze Huayi Chemical Co., Ltd. and Juancheng Kangtai Chemical Co., Ltd.," dated November 17, 2020 (CBP Data).

⁴ See 2018-2019 Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China: Request for Economic Development, Surrogate Country and Surrogate Value Comments and Information, dated September 30, 2019 (Request for Surrogate Country and Value Comments), and Attachment I, Memorandum from the Office of Policy: List of Surrogate Countries for the 2018-2019 Administrative Review of Chlorinated Isocyanurates from the PRC (Surrogate Country List).

⁵ See Heze Huayi Certification; see also Kangtai Certification.

⁶ See CBP Data.

comments on the CBP data from any party. Based on the record evidence, we preliminarily determine that Heze Huayi and Kangtai had no shipments during the POR.

We find that it is not appropriate to rescind the review with respect to Heze Huayi and Kangtai at this time, consistent with our practice in non-market economy (NME) cases. We will complete the review of these two mandatory respondents and issue appropriate instructions to CBP based on the final results of the review.⁷ Should evidence contrary to Heze Huayi's and Kangtai's no shipment claims arise, we will revisit this issue in the final results.

Non-Market Economy Country Status

Commerce considers China to be an NME country.⁸ In accordance with section 771(18)(C)(i) of the Act, any determination that a country is an NME country shall remain in effect until revoked by the administering authority. No party has argued to change, or submitted evidence on the record calling into question, this determination. Therefore, Commerce continues to treat China as an NME country for purposes of these preliminary results.

Separate Rates

Pursuant to section 771(18)(C) of the Act, in proceedings involving NME countries, Commerce maintains a rebuttable presumption that all companies within China are subject to government control and, thus, should be assessed a single AD rate.⁹ It is Commerce's policy to assign all exporters of the merchandise subject to review in NME countries a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to its exports. To establish whether a company is sufficiently independent to be eligible for a separate, company-specific rate, Commerce analyzes each exporting entity in an NME country under the test established in *Sparklers*¹⁰ as amplified in *Silicon Carbide*,¹¹ and further refined by *Diamond Sawblades*.¹² However, if Commerce

⁷ See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694, 65694-65695 (October 24, 2011).

⁸ See *Antidumping Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less-Than-Fair Value and Postponement of Final Determination*, 82 FR 50858, 50861 (November 2, 2017), and accompanying Preliminary Decision Memorandum (PDM) (citing Memorandum, "China's Status as a Non-Market Economy," dated October 26, 2017), unchanged in *Certain Aluminum Foil from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 83 FR 9282 (March 5, 2018)).

⁹ See, e.g., *Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from the People's Republic of China: Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 75 FR 24892, 24899 (May 6, 2010), unchanged in *Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 75 FR 59217 (September 27, 2010).

¹⁰ See *Final Determination of Sales at Less than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) (*Sparklers*).

¹¹ See *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (*Silicon Carbide*).

¹² See Final Results of Redetermination Pursuant to Remand Order for Diamond Sawblades and Parts Thereof from the People's Republic of China (May 6, 2013) in *Advanced Technology & Materials Co., Ltd. v. United States*, 885 F. Supp. 2d 1343 (CIT 2012), sustained, *Advanced Technology & Materials Co. v. United States*, 938 [*33] F. Supp.

determines that a company is wholly foreign-owned or located in a market economy (ME) country, then a separate-rate analysis is not necessary to determine whether it is independent from government control.

In order to demonstrate separate rate status eligibility, Commerce normally requires entities, for whom a review was requested, and who were assigned a separate rate in a previous segment of this proceeding, to submit a separate-rate certification stating that they continue to meet the criteria for obtaining a separate rate.¹³ For entities that were not assigned a separate rate in the previous segment of a proceeding, to demonstrate eligibility, Commerce requires a separate-rate application or separate-rate certification.¹⁴ Companies that submit a separate-rate application or separate-rate certification which are subsequently selected as mandatory respondents must respond to all parts of Commerce's questionnaire in order to be eligible for separate rate status.¹⁵ In this review, no company submitted a separate-rate application or separate-rate certification as both companies reported no shipments during the POR.

V. RECOMMENDATION

We recommend applying the above methodology for these preliminary results.



Agree



Disagree

3/2/2021

X



Signed by: CHRISTIAN MARSH

Christian Marsh
Acting Assistant Secretary
for Enforcement and Compliance

2d 1342 (CIT 2013), aff'd, Case No. 2014-1154 (Fed. Cir. 2014) (*Diamond Sawblades*). This remand redetermination is on the Enforcement and Compliance website at <http://enforcement.trade.gov/remands/12-147.pdf>; see also *Diamond Sawblades and Parts Thereof from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 77098 (December 20, 2013) and accompanying PDM at 7, unchanged in *Diamond Sawblades and Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 35723 (June 24, 2014), and accompanying Issues and Decision Memorandum at Comment 1.

¹³ See *Initiation Notice*, 80 FR at 45948.

¹⁴ *Id.*

¹⁵ *Id.*