Chlorinated Isocyanurates from China and Japan

Investigation Nos. 701-TA-501 and 731-TA-1226 (Preliminary)

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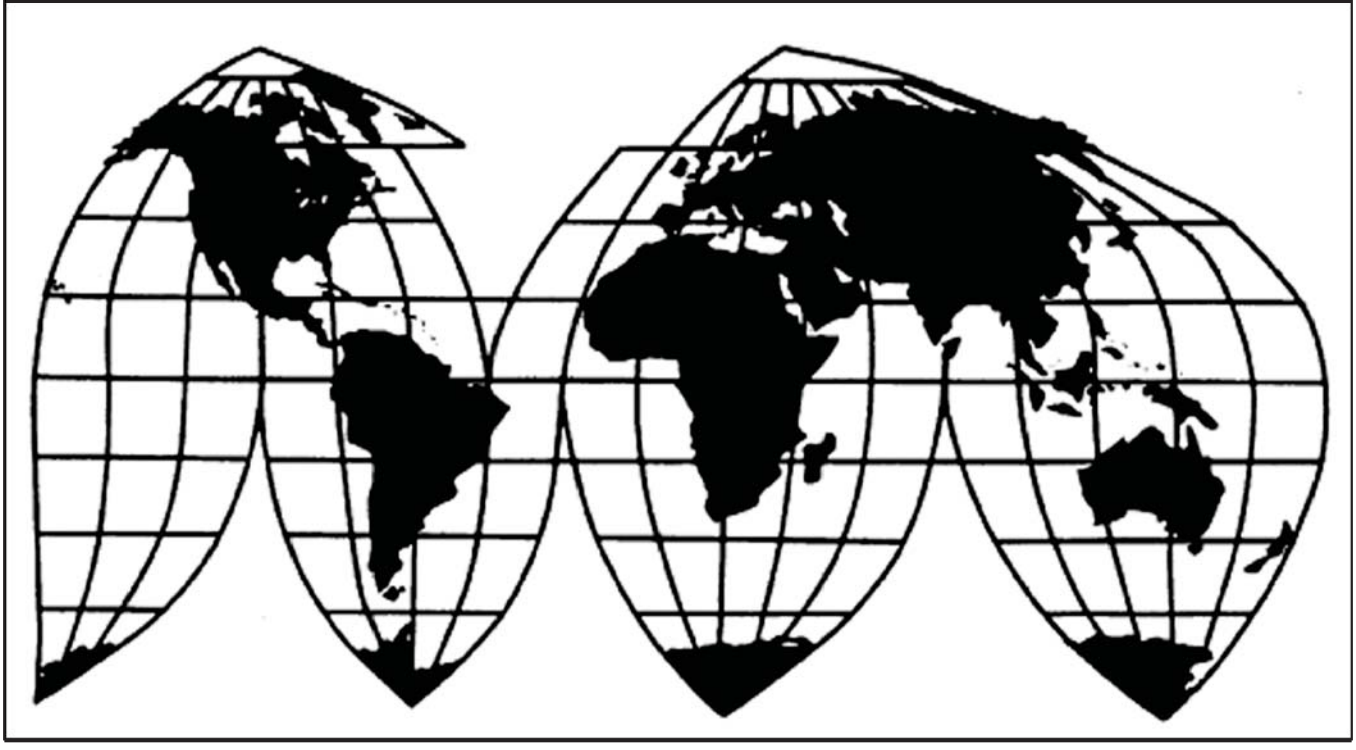
U.S. International Trade Commission



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U.S. International Trade Commission

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Address all communications to
Secretary to the Commission
United States International Trade Commission
Washington, DC 20436

U.S. International Trade Commission

Washington, DC 20436
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CONTENTS

Page

CONTENTS

CONTENTS

CONTENTS

Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been identified by the use of ***.

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation Nos. 701-TA-501 and 731-TA-1226 (Preliminary)

CHLORINATED ISOCYANURATES FROM CHINA AND JAPAN

DETERMINATIONS

On the basis of the record[1] developed in the subject investigations, the United States International Trade Commission (Commission) determines, pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. §§ 1671b(a) and 1673b(a)) (the Act), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from China and Japan of chlorinated isocyanurates, provided for in 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, that are alleged to be sold in the United States at less than fair value (LTFV) from Japan and subsidized by the Government of China.[2]

COMMENCEMENT OF FINAL PHASE INVESTIGATIONS

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling, which will be published in the *Federal Register* as provided in section 207.21 of the Commission's rules, upon notice from the Department of Commerce (Commerce) of affirmative preliminary determinations in the investigations under sections 703(b) or 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under sections 705(a) or 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

BACKGROUND

On August 29, 2013, a petition was filed with the Commission and Commerce by Clearon Corp., South Charleston, WV, and Occidental Chemical Corporation, Dallas, TX, alleging that an industry in the United States is materially injured or threatened with material injury by reason of subsidized imports of chlorinated isocyanurates from China and LTFV imports of chlorinated isocyanurates from Japan. Accordingly, effective August 29, 2013, the Commission instituted countervailing duty investigation No. 701-TA-501 and antidumping duty investigation No. 731-TA-1226 (Preliminary).

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[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

[2] Commissioners Shara L. Aranoff and F. Scott Kieff did not participate.

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of September 10, 2013 (78 FR 55293). The conference was held in Washington, DC, on September 19, 2013, and all persons who requested the opportunity were permitted to appear in person or by counsel.

Views of the Commission

Based on the record in the preliminary phase of these investigations, we find that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of chlorinated isocyanurates ("chlorinated isos") from Japan that are allegedly sold in the United States at less than fair value and imports of chlorinated isos from China that are allegedly subsidized by the Government of China.[1]

I. The Legal Standard for Preliminary Determinations

The legal standard for preliminary antidumping and countervailing duty determinations requires the Commission to determine, based upon the information available at the time of the preliminary determinations, whether there is a reasonable indication that a domestic industry is materially injured or threatened with material injury, or that the establishment of an industry is materially retarded, by reason of the allegedly unfairly traded imports.[2] In applying this standard, the Commission weighs the evidence before it and determines whether "(1) the record as a whole contains clear and convincing evidence that there is no material injury or threat of such injury; and (2) no likelihood exists that contrary evidence will arise in a final investigation."[3]

II. Background

On August 29, 2013, Clearon Corp. ("Clearon") and Occidental Chemical Company ("OxyChem") (collectively referred to as "Petitioners"), both domestic producers of chlorinated isos in granular/powder form, filed petitions with the Department of Commerce ("Commerce") and the Commission.[4] Petitioners appeared at the staff conference and filed a postconference brief.

Chinese producers and exporters of chlorinated isos Juancheng Kangtai Chemical Co. Ltd. ("Juancheng") and Heze Huyai Chemical Co. Ltd. ("Heze") (collectively referred to as "Chinese Respondents") appeared at the conference and submitted a postconference brief. Japanese producers and exporters of chlorinated isos Shikoku Chemicals Corporation ("SCC")

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[1] Commissioner Aranoff and Commissioner Kieff did not participate in these preliminary phase investigations.

[2] 19 U.S.C. §§ 1671b(a), 1673b(a) (2000); *see also American Lamb Co. v. United States*, 785 F.2d 994, 1001-04 (Fed. Cir. 1986); *Aristech Chem. Corp. v. United States, 2*0 CIT 353, 354-55 (1996).

[3] *American Lamb Co.*, 785 F.2d at 1001; *see also Texas Crushed Stone Co. v. United States*, 35 F.3d 1535, 1543 (Fed. Cir. 1994).

[4] Confidential Staff Report ("CR") at I-1; Public Staff Report ("PR") at I-1.

and Shikoku International Corporation ("SIC") (collectively referred to as "Japanese Respondents") appeared at the conference and submitted a postconference brief. At the conference, witnesses from Suncoast Chemical, Inc. ("Suncoast"), a tableter of chlorinated isos, and Del Cal, Inc. ("Del Cal"), a U.S. importer of chlorinated isos, appeared on behalf of the Japanese Respondents.

U.S. industry data are based on questionnaire responses of the only three known domestic producers of chlorinated isos in granular/powder form (Clearon, OxyChem, and BioLab), and six firms that performed only tableting operations on chlorinated isos during the January 2010-June 2013 period of investigation ("POI").[5] Data for subject imports from China and Japan are based on questionnaire responses from eight U.S. importers, which accounted for the vast majority of subject imports from China and Japan during the POI.[6] The Commission received usable responses to its foreign producer questionnaires from two subject producers in China, ***, which accounted for approximately *** percent of U.S. exports from China during the POI, and from four subject producers in Japan, Nankai Chemical Co., Ltd. ("Nankai"), Nippon Soda Co., Ltc. ("Nippon"), Nissan Chemical Industries, Ltd. ("Nissan"), and Shikoku, which accounted for all exports of subject merchandise from Japan during the POI.[7]

Since 2005, there have been antidumping duty orders on chlorinated isos from China and Spain.[8] These orders were continued after five-year reviews in 2010.[9]

III. Domestic Like Product

A. Legal Standard

In determining whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of the subject merchandise, the Commission first defines the "domestic like product" and the "industry."[10] Section 771(4)(A) of the Tariff Act of 1930, as amended ("the Tariff Act"), defines the relevant domestic industry as the "producers as a whole of a domestic like product, or

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[5] CR/PR at Tables III-1 & III-4.

[6] CR/PR at IV-1 & Table IV-1.

[7] CR at VII-6; PR at VII-4.

[8] *Notice of Antidumping Duty Order: Chlorinated Isocyanurates from the People's Republic of China*, 70 Fed. Reg. 36561 (June 25, 2005); *Chlorinated Isocyanurates from Spain: Notice of Antidumping Duty Order*, 70 Fed. Reg. 36562 (June 25, 2005); see also, *Chlorinated Isocyanurates from China and Spain*, Inv. Nos. 731-TA-1082-1083, USITC Pub. 3782 (Final) (June 2005) ("Original Determination, USITC Pub. 3782") at 3.

[9] *Chlorinated Isocyanurates from China and Spain*, Inv. Nos. 731-TA-1082-1083, USITC Pub. 4184 (Review) (Sept. 2010) ("*First Review*, USITC Pub. 4184") at 3; CR at I-6 n.9.

[10] 19 U.S.C. § 1677(4)(A).

those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."[11] In turn, the Tariff Act defines "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."[12]

The decision regarding the appropriate domestic like product(s) in an investigation is a factual determination, and the Commission has applied the statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis.[13] No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.[14] The Commission looks for clear dividing lines among possible like products and disregards minor variations.[15] Although the Commission must accept Commerce's determination as to the scope of the imported merchandise that is subsidized and/or sold at less than fair value,[16] the Commission determines what domestic product is like the imported articles Commerce has identified.[17]

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[11] 19 U.S.C. § 1677(4)(A).

[12] 19 U.S.C. § 1677(10).

[13] *See, e.g.*, *Cleo Inc. v. United States*, 501 F.3d 1291, 1299 (Fed. Cir. 2007); *NEC Corp. v. Department of Commerce*, 36 F. Supp. 2d 380, 383 (Ct. Int'l Trade 1998); *Nippon Steel Corp. v. United States*, 19 CIT 450, 455 (1995); *Torrington Co. v. United States*, 747 F. Supp. 744, 749 n.3 (Ct. Int'l Trade 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991) ("every like product determination 'must be made on the particular record at issue' and the 'unique facts of each case'"). The Commission generally considers a number of factors including the following: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) common manufacturing facilities, production processes, and production employees; and, where appropriate, (6) price. *See Nippon*, 19 CIT at 455 n.4; *Timken Co. v. United States*, 913 F. Supp. 580, 584 (Ct. Int'l Trade 1996).

[14] *See*, *e.g.*, S. Rep. No. 96-249 at 90-91 (1979).

[15] *See*, *e.g.*, *Nippon*, 19 CIT at 455; *Torrington*, 747 F. Supp. at 748-49*; see also* S. Rep. No. 96-249 at 90-91 (Congress has indicated that the like product standard should not be interpreted in "such a narrow fashion as to permit minor differences in physical characteristics or uses to lead to the conclusion that the product and article are not 'like' each other, nor should the definition of 'like product' be interpreted in such a fashion as to prevent consideration of an industry adversely affected by the imports under consideration.").

[16] *See*, *e.g.*, *USEC, Inc. v. United States*, 34 Fed. Appx. 725, 730 (Fed. Cir. 2002) ("The ITC may not modify the class or kind of imported merchandise examined by Commerce."); *Algoma Steel Corp. v. United States,* 688 F. Supp. 639, 644 (Ct. Int'l Trade 1988), *aff'd*, 865 F.3d 240 (Fed. Cir.), *cert. denied*, 492 U.S. 919 (1989).

[17] *Hosiden Corp. v. Advanced Display Mfrs.,* 85 F.3d 1561, 1568 (Fed. Cir. 1996) (the Commission may find a single like product corresponding to several different classes or kinds defined by Commerce); *Cleo*, 501 F.3d at 1298 n.1 ("Commerce's {scope} finding does not control the Commission's {like product} determination."); *Torrington*, 747 F. Supp. at 748-52 (affirming the Commission's determination defining six like products in investigations where Commerce found five classes or kinds).

B. Product Description

In its notices of institution, Commerce defined the imported merchandise within the scope of the investigations as follows:

> 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'') (Cl3(NCO)3), (2) sodium dichloroisocyanurate (dihydrate) (NaCl2(NCO)3 X 2H2O), and (3) sodium dichloroisocyanurate (anhydrous) (NaCl2(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.[18]

Chlorinated isos are chemical compounds used primarily as sanitizing agents for swimming pools, spas, and industrial water treatments, and as bleaching agents for detergents, bleaches and cleansers.[19] The active ingredient for sanitizing purposes is chlorine, which acts as a biocide, killing algae and other microbes.[20] These products are sold as a solid, usually in granular, tablet, or stick form.[21]

There are three primary chemical compositions of chlorinated isos, depending upon the amount of available chlorine, all of which are within Commerce's scope of investigation: (1) trichloroisocyanuric acid or "trichlor," which has 90 percent available chlorine; (2) sodium

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[18] CR/PR at I-1; *Chlorinated Isocyanurates From Japan: Initiation of Antidumping Duty Investigation*, 78 Fed. Reg. 58997 (Sept. 25, 2013); *Chlorinated Isocyanurates From the People's Republic of China: Initiation of Countervailing Duty Investigation*, 78 Fed. Reg. 59001 (Sept. 25, 2013).

[19] CR at I-8; PR at I-6.

[20] CR at I-8; PR at I-6.

[21] CR at I-8; PR at I-6.

dichloroisocyanurate or "dichlor" in anhydrous form, which has 63 percent available chlorine; and (3) dichlor in dihydrate form, which has 56 percent available chlorine.[22]

C. Analysis

Petitioners argue that the Commission should define a single domestic like product coextensive with the definition of the scope of the subject merchandise, as it did in the 2005 original investigations and 2010 five-year reviews.[23] For purposes of the preliminary phase of these investigations, Respondents take no position on the issue.[24]

Physical Characteristics and Uses. Trichlor and dichlor have a similar chemical structure, and high chlorine content, although trichlor has a higher level of available chlorine.[25] Trichlor dissolves more slowly in water than dichlor and is generally sold in tablet form.[26] Dichlor is sold primarily in granular form, although it can be tableted for some uses.[27] Some market participants sell a "blended" tablet that mixes trichlor with other chemicals (*e.g.*, anti-algae and water-clarifying chemicals such as aluminum sulfate and copper sulfate).[28]

Trichlor and dichlor are both primarily used in swimming pool sanitization.[29] Dichlor dissolves more quickly than trichlor and is generally used to "shock" a pool by raising the level of chlorine quickly to kill off algae or other organisms .[30] However, trichlor (in the granular

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[22] CR at I-8; PR at I-6.

[23] Petitioners' Postconf. Br. at 9. In the 2005 investigations, the Commission examined whether it should define dichlor and trichlor to be separate domestic like products. *Original Determination*, USITC Pub. 3782 at 6-7. It found that trichlor and dichlor had similar chemical compositions and similar uses, but only moderate interchangeability, due to the fact that consumers generally preferred a particular form in any given application. *Id*. at 6. It also found that trichlor and dichlor were sold in the same channels of distribution, and produced in common manufacturing facilities, by common production employees, using similar production processes. *Id*. at 6-7. It acknowledged that granular dichlor typically was higher priced than granular trichlor. *Id*. at 7. Based upon the record as a whole, it found that there was not a "clear dividing line" between trichlor and dichlor. *Id*. In the 2010 five-year reviews, the Commission found that there was no basis in the record to revisit the issue, and therefore, it again found a single domestic like product coextensive with the scope. *First Review*, USITC Pub. 4184 at 4.

[24] Japanese Respondents' Postconf. Br. at 4; Conf. Tr. at 121 (Janzen).

[25] CR at I-8 to I-9; PR at I-6 to I-7.

[26] CR/PR at II-1.

[27] CR at II-2; PR at II-1.

[28] CR at II-2; PR at II-1.

[29] CR/PR at II-1.

[30] CR at II-1 to II-2; PR at II-1.

form) can also be used to shock-treat a pool.[31] While trichlor is generally used to maintain a pool's chlorine level, dichlor is sometimes also used for this purpose.[32]

Chlorinated isos are also used in the production of industrial cleansers.[33] Due to its solubility, dichlor is more commonly used than trichlor for this purpose, although there is some use of trichlor for toilet bowl cleansers.[34] Due to its slower release into water, trichlor is commonly used in industrial wastewater treatments.[35]

Interchangeability. Trichlor and dichlor appear to be at least somewhat interchangeable. Trichlor and dichlor both are used extensively in pool sanitization applications.[36] As indicated above, trichlor often is preferred to maintain consistent levels of chlorine, while dichlor is preferred for "shock" treatments.[37] Dichlor also is predominantly used in industrial cleanser applications. However, these distinctions are not absolute. Trichlor is sometimes used for shock pool treatments and industrial cleanser applications, and dichlor is sometimes used to maintain pool chlorine levels.[38]

Channels of Distribution. Both trichlor and dichlor are generally sold to distributors and retailers.[39]

Customer and Producer Perceptions. The record on this factor is limited. Petitioners consider both trichlor and dichlor to be similar products.[40] They assert that their customers consider the two compounds related products that work on an integrated basis to provide pool sanitization.[41]

Common Manufacturing Facilities, Production Processes, and Production Employees. Both granular trichlor and granular dichlor are manufactured in the United States by ***.[42] ***.[43] Trichlor and dichlor are produced from a similar chemical reaction of caustic soda, chlorine gas, and cyanuric acid.[44] Clearon and OxyChem use similar processes on separate

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[31] CR at II-2; PR at II-1.
[32] CR at II-1 to II-2; PR at II-1.
[33] CR/PR at II-1.
[34] CR at II-2; PR at II-1.
[35] CR at II-2; PR at II-1.
[36] CR at II-1 to II-2; PR at II-1.
[37] CR at II-2; PR at II-1.
[38] CR at II-2; PR at II-1.
[39] *See e.g.*, Petitioners' Postconf. Br. at 44-45; Conf. Tr. at 18 (Kuechler).
[40] *See e.*g, Petitioners' Postconf. Br. at 45-46; Conf. Tr. at 20, 40, and 51 (Williams).
[41] *See e.g.*, Petitioners' Postconf. Br. at 45-46; Conf. Tr. at 20, 40, and 51 (Williams).
[42] CR at II-2; PR at II-1.
[43] CR at II-2; PR at II-1.
[44] CR at I-11; PR at I-8.

production lines to produce dichlor and trichlor.[45] They produce dichlor and trichlor at the same facilities using the same employees.[46]

Price. U.S. prices for granular trichlor were generally lower than granular dichlor prices during the POI.[47] U.S. prices for tableted trichlor were generally comparable to dichlor prices during the POI.[48] U.S. prices for blended trichlor were generally higher than dichlor prices during the POI.[49]

Conclusion. The record indicates that there is not a "clear dividing line" between trichlor and dichlor. Instead, these forms of chlorinated isos have more similarities than differences. They have similar chemical compositions, and similar uses for sanitizing swimming pools.[50]

They appear to be at least somewhat interchangeable, although consumers generally prefer one over the other in particular applications.[51] The available information indicates that trichlor and dichlor are sold in similar channels of distribution.[52] Trichlor and dichlor are made from a common feedstock, and OxyChem and Clearon produce both products utilizing the same employees at the same facilities, and using similar production processes, although on separate, dedicated production lines.[53] The record on price differences between trichlor and dichlor is mixed.[54]

In light of the foregoing considerations, and absent any arguments by the parties to the contrary, we find for purposes of these preliminary phase investigations that trichlor and dichlor are part of a single domestic like product. Accordingly, we define a single domestic like product, consisting of all chlorinated isos, coextensive with Commerce's scope definition.

IV. Domestic Industry

A. Legal Standard

The domestic industry is defined as the domestic "producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes

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[45] CR at I-11; CR at III-4 to III-5; PR at I-8; PR at III-3.
[46] CR at I-11; CR at III-4 to III-5; PR at I-8; PR at III-3.
[47] CR/PR at Tables V-3 to V-7 & EDIS Doc. No. 520721 (Tables ALT1V-6 & ALT1V-8).
[48] CR/PR at Tables V-3 to V-7 & EDIS Doc. No. 520721 (Tables ALT1V-6 & ALT1V-8).
[49] CR/PR at Tables V-3 to V-7 & EDIS Doc. No. 520721 (Tables ALT1V-6 & ALT1V-8).
[50] CR at I-8 to I-9; PR at I-7 to I-8.
[51] CR at II-1 to II-2; PR at II-1.
[52] *See e.g,* Petitioners' Postconf. Br. at 8-9.
[53] CR at I-11; CR at III-4 to III-5; PR at I-8; CR at III-3.
[54] CR/PR at V-3 to V-7 & EDIS Doc. No. 520721 (Tables ALT1V-6 & ALT1V-8).

a major proportion of the total domestic production of the product."[55] In defining the domestic industry, the Commission's general practice has been to include in the industry producers of all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.

B. Sufficient Production-Related Activities

None of the parties in these preliminary phase investigations dispute that Clearon, OxyChem, and BioLab are domestic producers of chlorinated isos. Petitioners argue, however, that the domestic firms that solely tablet or repackage chlorinated isos do not engage in sufficient production-related activity to qualify as domestic producers.[56] Respondents contend that tableters should be included in the domestic industry, but also take the position that we need not resolve this issue for purposes of these preliminary phase investigations.[57]

In deciding whether a firm qualifies as a domestic producer, the Commission generally has analyzed the overall nature of a firm's production-related activities in the United States, although production-related activity at minimum levels could be insufficient to constitute domestic production. The Commission generally considers six factors:

(1) source and extent of the firm's capital investment;
(2) technical expertise involved in U.S. production activities;
(3) value added to the product in the United States;
(4) employment levels;
(5) quantity and type of parts sourced in the United States; and
(6) any other costs and activities in the United States directly leading to production of the like product.[58] [59]

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[55] 19 U.S.C. § 1677(4)(A).

[56] Petitioners' Postconf. Br. at 9-15.

[57] Japanese Respondents' Postconf. Br. at 3-5.

[58] *See, e.g.*, *Drill Pipe and Drill Collars from China*, Inv. Nos. 701-TA-474 and 731-TA-1176 (Preliminary), USITC Pub. 4127 (March 2010) at 13; *Laminated Woven Sacks from China*, Inv. Nos. 701-TA-450 and 731-TA-1122 (Final), USITC Pub. 4025 at 7 n.36 (July 2008).

[59] In the 2005 antidumping investigations, the Commission was evenly divided on the issue of whether tableters were engaged in sufficient production-related activities to be included in the domestic industry. Chairman Koplan and Commissioners Hillman and Miller found that tableters should be included in the domestic industry, *Original Determination*, USITC Pub. 3782 at 11-12, while Vice Chairman Okun and Commissioners Lane and Pearson found that the tableters were not engaged in sufficient production-related activities to qualify as domestic producers. *Id*. at 13-14. In the 2010 expedited five-year reviews, the Commission found that the tableters were not engaged in sufficient production-related activities to qualify as domestic producers. *First Review*, USITC Pub. 4184 at 5-7 (Commissioners Williamson and Pinkert found they should be included in the domestic industry).

We discuss each of these factors in turn.[60]

Source and Extent of the Firm's Capital Investment: The capital investment necessary for tableting operations appears significant, although lower than the investment required to produce granular trichlor and dichlor. Total assets reported for production of tableted chlorinated isos were *** in 2010, *** in 2011, and *** in 2012; by comparison, total assets reported for production of granular chlorinated isos were *** in 2010, *** in 2011, and ***.[61] Tableters reported capital expenditures of *** in 2010, *** 2011, *** in 2012, *** in January-June ("interim") 2012, and *** in interim 2013.[62] Granular chlorinated isos producers reported capital expenditures of *** in 2010 and 2011, *** in 2012, *** in interim 2012, and *** in interim 2013.[63]

Technical Expertise Involved in U.S. Production Activities. The production of granular chlorinated isos involves a succession of chemical processes and entails the production of hazardous materials.[64] Tableting is a physical process that gives the product a new shape, but does not alter its chemistry.[65] Tableting production thus entails less extensive employee training than does granular chlorinated isos production.[66] Nevertheless, trichlor and dichlor are themselves hazardous chemicals and tableting involves operating heavy machinery and requires specific measures to prevent the release of chlorine gas.[67] Workers producing the granular product are paid approximately *** per hour; tableting workers are paid approximately *** per hour.[68]

Value Added to the Product in the United States: The record contains significant variation in the value added data that individual tableters reported in their questionnaires. The value added by U.S. tableting operations excluding selling, general, and administrative ("SG&A") expenses ranged from *** percent, whereas the value added including SG&A expenses ranged from *** percent.[69]

Employment Levels: Tableters that responded to the Commission's questionnaire reported 190 production and related workers (PRWs) in 2010, 220 in 2011, 234 in 2012, 224 in

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[60] We note that the data for the tableters is based on questionnaire responses (some incomplete) from six tableters; at least three known or likely tableters did not respond. CR at III-2 n.2; PR at III-1 n.2.

[61] CR/PR at Table VI-7.

[62] CR/PR at Table VI-7.

[63] CR/PR at Table VI-7.

[64] CR at I-11 to I-12; PR at I-8; Conf. Tr. at 118, 124 (Eisch).

[65] CR at I-12; PR at I-8.

[66] *See, e.g.*, Petitioners' Postconf. Br. at 11.

[67] CR at I-12; PR at I-8; Conf. Tr. at 118, 124 (Eisch).

[68] CR/PR at Table III-8.

[69] CR at VI-10 n.2; PR at VI-3 n.2.

interim 2012, and 206 in interim 2013.[70] Integrated producers of chlorinated isos reported 295 PRWs in 2010, 297 in 2011, 307 in 2012, 283 in interim 2012, and 261 in interim 2013.[71]

Quantity and Type of Parts Sourced in the United States: The record indicates that U.S. tableters source granular chlorinated isos from both domestic and import sources.[72]

Other Costs and Activities in the United States Leading to Production of the Like Product. Tableters reported other costs incurred in the United States, including training, marketing, machinery repair, and licensing costs.[73]

Conclusion. Based upon the record in the preliminary phase of these investigations, we find that the tableters are engaged in sufficient production-related activities to qualify as domestic producers. The capital investment of the tableters is substantial, and their work involves some technical expertise with hazardous materials.[74] The tableters employ a significant number of personnel in their U.S. operations.[75] The value added to the finished product by tableting, including SG&A expenses, ranged from *** percent (it ranged from *** excluding SG&A expenses).[76] The record indicates that U.S. tableters source granular chlorinated isos from domestic as well as import sources.[77] Tableters also reported other costs as part of their tableting operations.[78] On the whole, the current record indicates that tableters engage in sufficient production-related activities to be considered producers of the domestic like product.[79]

C. Related Parties

We next consider whether any producer of the domestic like product should be excluded from the domestic industry pursuant to Section 771(4)(B) of the Tariff Act. This provision allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry producers that are related to an exporter or importer of subject merchandise

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[70] CR/PR at Table III-8.
[71] CR/PR at Table III-8.
[72] CR at III-5 to III-7; PR at III-3.
[73] Japanese Respondents' Postconf. Br., Exh. 1A at 2 & Exh. 1D at 2.
[74] CR/PR at Table VI-7; Conf. Tr. at 118, 124 (Eisch).
[75] CR/PR at Table III-8.
[76] CR at VI-10 n.2; PR at VI-3 n.2.
[77] CR at III-5 to III-7; PR at III-3.
[78] Japanese Respondents' Postconf. Br., Exh. 1A at 2 & Exh. 1D at 2.
[79] In any final phase investigations, we will examine this issue further and will request more detailed information from tableters concerning the factors we analyze in determining the sufficiency of production-related activities.

or which are themselves importers.[80] Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each investigation.[81]

Petitioners argue that, if the Commission includes tableters in the domestic industry definition, it should find that appropriate circumstances exist to exclude two tableters (***) under the related parties provision.[82] Respondents did not address the issue of related parties.

One domestic manufacturer of chlorinated isos in granulated/powder form, ***, is a related party under the statute because it imported subject merchandise during the POI.[83] Three tableters – *** -- are also related parties because they imported subject merchandise during the POI. We discuss below whether there are appropriate circumstances to exclude any of these producers from the domestic industry under the related parties provision of the statute.

***. We find that appropriate circumstances do not exist to exclude *** from the domestic industry. ***'s *** compared to its domestic production over the POI; its ratio of subject imports to domestic production ranged from *** percent during the POI.[84] It accounted for *** percent of overall U.S. chlorinated isos production in 2012 and *** on the petition.[85] Its financial performance was generally worse than the industry average over the POI.[86] Based on these facts, we find that its interests lie primarily in domestic production.

***. As a *** chlorinated isos, *** during the POI, but ***.[87] *** imported *** pounds of subject merchandise in 2010, *** pounds of subject merchandise in 2011, *** pounds of subject merchandise in 2012, *** pounds of subject merchandise in interim 2012, and *** pounds of subject merchandise in interim 2013.[88] The ratio of ***'s imports of subject

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[80] *See Torrington Co. v. United States*, 790 F. Supp. 1161, 1168 (Ct. Int'l Trade 1992), *aff'd mem.*, 991 F.2d 809 (Fed. Cir. 1993); *Sandvik AB v. United States*, 721 F. Supp. 1322, 1331-32 (Ct. Int'l Trade 1989), *aff'd mem.,* 904 F.2d 46 (Fed. Cir. 1990); *Empire Plow Co. v. United States*, 675 F. Supp. 1348, 1352 (Ct. Int'l Trade 1987).

[81] The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude a related party include the following: (1) the percentage of domestic production attributable to the importing producer; (2) the reason the U.S. producer has decided to import the product subject to investigation, *i.e*., whether the firm benefits from the LTFV sales or subsidies or whether the firm must import in order to enable it to continue production and compete in the U.S. market; and (3) the position of the related producer vis-a-vis the rest of the industry, *i.e*., whether inclusion or exclusion of the related party will skew the data for the rest of the industry. *See, e.g*., *Torrington Co. v. United States*, 790 F. Supp. at 1168.

[82] Petitioners' Postconf. Br. at 16-17.

[83] CR/PR at Table III-11.

[84] CR/PR at Table III-11.

[85] CR/PR at Table III-1.

[86] CR/PR at Table VI-6.

[87] CR/PR at Table III-1; CR at III-5; PR at III-3.

[88] CR/PR at Tables III-1 & III-11; CR at III-5; PR at III-3.

merchandise *** ranged from *** percent to *** percent during the POI.[89] ***'s operating income *** throughout the POI.[90] [91] *** the petition.[92] Because its interest rests predominantly in importing subject merchandise rather than domestic production, we find appropriate circumstances exist to exclude *** from the definition of the domestic industry.

*****. *** is a relatively small tableter, accounting for approximately *** percent of U.S. tablet production during the POI.[93] The ratio of ***'s imports of subject merchandise to its U.S. production was *** percent in 2010 and 2011, *** percent in 2012, *** percent in interim 2012, and *** percent in interim 2013.[94] *** *** on the petition concerning subject imports from China and *** the petition concerning subject imports from Japan.[95] In light the fact that ***'s interests lie primarily in domestic production, we find that appropriate circumstances do not exist to exclude *** from the domestic industry.

*****. As a tollee of tableted chlorinated isos, *** itself did not actually produce any chlorinated isos tablets during the POI, but rather has contracts with other firms to process chlorinated isos into tablets for sale to distributors and the retail market.[96] *** imported *** pounds of subject merchandise in 2010, *** pounds of subject merchandise in 2011, *** pounds of subject merchandise in 2012, *** pounds of subject merchandise in interim 2012, and *** pounds of subject merchandise in interim 2013.[97] The ratio of ***'s imports of subject merchandise to the production that U.S. toll producers performed for *** exceeded *** percent throughout the POI.[98] ***'s operating income was below the industry average throughout the POI.[99] ***.[100] Because its interest rests heavily in importing rather than domestic production, we find that appropriate circumstances exist to exclude *** from the domestic industry.

Conclusion: We define the domestic industry to include the three producers of chlorinated isos in granular/powder form and all tableters except ***, which we have excluded from the domestic industry pursuant to the related parties provision.

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[89] CR/PR at Table III-11.

[90] CR/PR at Table VI-6.

[91] Commissioner Pinkert does not rely upon the related producer's financial performance in determining whether there are appropriate circumstances to exclude it from the domestic industry. In his view, the present record is not sufficient to link the producer's profitability on its U.S. operations to any specific benefit it derives from its related party status.

[92] CR/PR at Table III-1.

[93] CR/PR at Table III-1.

[94] CR/PR at Table III-11.

[95] CR/PR at Table III-1.

[96] CR/PR at Table III-1; CR at III-6; PR at III-3.

[97] CR/PR at Tables III-1 & III-11; CR at III-5; PR at III-3.

[98] CR/PR at Table III-11.

[99] CR/PR at Table VI-6.

[100] CR/PR at Table III-1.

V. Cumulation[101]

A. In General

For purposes of evaluating the volume and price effects for a determination of reasonable indication of material injury by reason of subject imports, section 771(7)(G)(i) of the Tariff Act requires the Commission to cumulate subject imports from all countries as to which petitions were filed and/or investigations self-initiated by Commerce on the same day, if such imports compete with each other and with the domestic like product in the U.S. market. In assessing whether subject imports compete with each other and with the domestic like product, the Commission generally has considered four factors:

(1) the degree of fungibility between subject imports from different countries and between subject imports and the domestic like product, including consideration of specific customer requirements and other quality related questions;
(2) the presence of sales or offers to sell in the same geographic markets of subject imports from different countries and the domestic like product;
(3) the existence of common or similar channels of distribution for subject imports from different countries and the domestic like product; and
(4) whether the subject imports are simultaneously present in the market.[102]

While no single factor is necessarily determinative, and the list of factors is not exclusive, these factors are intended to provide the Commission with a framework for

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[101] Pursuant to Section 771(24) of the Tariff Act, imports from a subject country of merchandise corresponding to a domestic like product that account for less than 3 percent of all such merchandise imported into the United States during the most recent 12 months for which data are available preceding the filing of the petition shall be deemed negligible. 19 U.S.C. §§ 1671b(a), 1673b(a), 1677(24)(A)(i), 1677(24)(B); *see also* 15 C.F.R. § 2013.1 (developing countries for purposes of 19 U.S.C. § 1677(36)). Negligibility is not an issue in these investigations. The questionnaire data indicate imports from each subject country exceeded the requisite 3 percent statutory negligibility threshold for the most recent 12-month period prior to the filing of the petition for which data are available. From July 2012 to June 2013, U.S. imports from China accounted for *** percent of total U.S. imports of chlorinated isos by quantity, and U.S. imports from Japan accounted for *** percent of total U.S. imports. CR at IV-4; PR at IV-3.

[102] *See Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea, and Taiwan*, Inv. Nos. 731-TA-278-80 (Final), USITC Pub. 1845 (May 1986), *aff'd*, *Fundicao Tupy, S.A. v. United States*, 678 F. Supp. 898 (Ct. Int'l Trade), *aff'd*, 859 F.2d 915 (Fed. Cir. 1988).

determining whether the subject imports compete with each other and with the domestic like product.[103] Only a "reasonable overlap" of competition is required.[104]

B. Analysis

Petitioners argue that because the relevant criteria for cumulation are satisfied, the Commission should cumulate subject imports from China and Japan.[105] Japanese Respondents argue that the Commission should not cumulate subject imports from China and Japan; Chinese Respondents did not address the issue.[106]

In these investigations, the threshold criterion for cumulation is satisfied because Petitioners filed the antidumping duty petition with respect to subject imports from Japan and the countervailing duty petition with respect to subject imports from China on the same day, August 29, 2013.[107] We thus examine whether there is a reasonable overlap of competition between subject imports from China and Japan and between subject imports from each source and the domestic like product.

Fungibility. The record indicates that domestically produced chlorinated isos and the subject imports from China and Japan are generally fungible. A majority of market participants

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[103] *See*, *e.g.*, *Wieland Werke, AG v. United States*, 718 F. Supp. 50 (Ct. Int'l Trade 1989).

[104] The Statement of Administrative Action ("SAA") to the Uruguay Round Agreements Act ("URAA"), expressly states that "the new section will not affect current Commission practice under which the statutory requirement is satisfied if there is a reasonable overlap of competition." H.R. Rep. No. 103-316, Vol. I at 848 (1994) (*citing Fundicao Tupy*, 678 F. Supp. at 902); *see Goss Graphic Sys., Inc. v. United States*, 33 F. Supp. 2d 1082, 1087 (Ct. Int'l Trade 1998) ("cumulation does not require two products to be highly fungible"); *Wieland Werke, AG*, 718 F. Supp. at 52 ("Completely overlapping markets are not required.").

[105] *See, e.g.*, Petitioners' Postconf. Br. at 17-23. Petitioners argue that the statutory prerequisites to cumulation are satisfied because the petitions on chlorinated isos from China and Japan were filed simultaneously, and there is a reasonable overlap of competition based on the factors that the Commission typically considers. *Id*. at 17-18.

[106] *See, e.g.*, Japanese Respondents' Postconf. Br. at 10-15. In particular, Japanese Respondents claim that subject imports from China and Japan are not fungible with each other. *Id*. at 12-13. They argue that a large amount of subject imports from China enter the U.S. market in tableted form, and therefore do not compete with subject imports from Japan, which enter the U.S. market only in granular/powder form. *Id*. at 12. They also assert that the quality of the subject merchandise from China and Japan differs sharply, with most tableters perceiving the Chinese product as inferior to the Japanese product, especially in terms of granularity and consistency. *Id*. at 13. They also contend that subject imports from China and Japan compete in different channels of distribution because most subject merchandise from Japan was sold to tableters/repackers while most subject merchandise from China was sold to distributors and retailers over the POI. *Id*. at 13-14.

[107] None of the statutory exceptions to cumulation applies.

reported that chlorinated isos from the United States, from China, and from Japan were always or frequently interchangeable.[108] All three responding U.S. producers of chlorinated isos in granular and powder form reported that subject imports from both subject countries are *** interchangeable with each other and with the domestic like product.[109] Half of responding tableters reported that subject imports from both subject countries are *** interchangeable with each other, and tableters were similarly mixed with respect to the interchangeability of imports from the subject countries and the domestic like product.[110] Four of six responding importers reported that subject imports from both subject countries are *** interchangeable with each other, and a majority of responding importers reported that imports from the subject countries are *** interchangeable with the domestic like product.[111] The responses of the majority of market participants on this record therefore indicate that any perceived quality differences or differences in the form (*i.e.*, granulated v. tablets) of subject imports from China and Japan do not significantly impair the interchangeability of the products.

Channels of Distribution. Domestically produced chlorinated isos and subject imports from China were sold mainly to retailers, while subject imports from Japan were sold overwhelmingly to repackers/tableters during the POI. Smaller percentages of domestic shipments went to distributors and repackers/tableters, and a very small percentage was shipped to the industrial market. Smaller percentages of subject imports from China were shipped to distributors, and a variable percentage, ranging from *** percent in full-year comparisons, was shipped to repackers.[112] Thus, there were considerable differences between the distribution patterns for subject imports from China, on the one hand, and those from Japan, on the other, in 2010 and 2011.[113] In 2012, the last full year of the POI, however, the record indicates that appreciable percentages of domestic chlorinated isos and subject imports from China and Japan were sold to repackers/tableters.[114] The record also indicates that importers that imported subject merchandise from both China and Japan accounted for a *** of subject imports from China and *** percent of subject imports from Japan during the POI.[115]

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[108] CR/PR at Table II-4.

[109] CR/PR at Table II-4.

[110] CR/PR at Table II-4.

[111] CR/PR at Table II-4.

[112] CR/PR at Table II-1.

[113] CR/PR at Table II-1.

[114] As a share of total reported shipments, U.S. producers ' U.S. shipments of chlorinated isos sold to repackers/tableters were *** percent in 2010, *** percent in 2011, *** percent in 2012, *** percent in interim 2012, and *** percent in interim 2013. U.S. importers' U.S. shipments of chlorinated isos from China sold to repackers/tableters were *** percent in 2010, *** percent in 2011, *** percent in 2012, *** percent in interim 2012, and *** percent in interim 2013. U.S. importers' U.S. shipments of chlorinated isos from Japan sold to repackers/tableters were *** percent in 2010, *** percent in 2011, *** percent in 2012, *** percent in interim 2012, and *** percent in interim 2013. CR/PR at Table II-1.

[115] CR/PR at Table IV-1.

Geographic Overlap. The record indicates the presence of sales or offers to sell the domestic like product and subject imports in the same geographic markets. Both U.S. producers and importers from each of the subject countries reported selling chlorinated isos to all regions in the contiguous United States.[116]

Simultaneous Presence in Market. The record indicates that chlorinated isos from all sources was simultaneously present in the U.S. market. Chlorinated isos produced in the United States, China, and Japan was sold in the United States in virtually every quarter between January 2010 and March 2013.[117]

Conclusion. With respect to fungibility, the questionnaire data indicate that subject imports from Japan and China are generally interchangeable with one another and with the domestic like product. The record clearly indicates chlorinated isos from all sources were simultaneously present in the U.S. market, and indicates the simultaneous presence of the domestic like product and subject imports from China and Japan in the same geographic markets.

The record indicates some disparity in channels of distribution between domestically produced chlorinated isos and subject imports from China and Japan, particularly in 2010 and 2011.[118] Nevertheless, in 2012, the last full year of the POI, substantial percentages of domestic chlorinated isos and subject imports from China and Japan were sold to repackers/tableters.[119] Given this overlap during the last full year of the POI, and the fact that multiple importers imported subject merchandise from both China and Japan, we conclude that there is a reasonable overlap in channels of distribution based upon the record in these preliminary phase investigations.[120] We emphasize that the pertinent inquiry concerns whether there is a "reasonable" overlap of competition and that completely overlapping markets are not required.[121]

Because the antidumping and countervailing duty petitions were filed on the same day and we find that there is a reasonable overlap of competition between and among the subject imports and the domestic like product, we cumulate subject imports from China and Japan for

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[116] CR at IV-6; PR at IV-4.

[117] Chlorinated isos produced in the United States and subject Imports from China were present in the U.S. market in every month during January 2010 to June 2013 and subject imports from Japan were present in every month during January 2010 to June 2013, except in September and October 2010. CR at IV-5 to IV-6; PR at IV-4.

[118] CR/PR at Table II-1.

[119] CR/PR at Table II-1.

[120] The Commission will more closely examine the issue of cumulation further in any final phase investigations, particularly with respect to the factors of fungibility and channels of distribution.

[121] *Wieland Werke*, 718 F. Supp. at 52; *Florex v. United States*, 704 F. Supp. 582, 592 (Ct. Int'l Trade 1989).

our analysis of whether there is a reasonable indication of material injury by reason of subject imports.

VI. Reasonable Indication of Material Injury by Reason of Subject Imports

A. Legal Standard

In the preliminary phase of antidumping and countervailing duty investigations, the Commission determines whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of the imports under investigation.[122] In making this determination, the Commission must consider the volume of subject imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.[123] The statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant."[124] In assessing whether there is a reasonable indication that the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.[125] No single factor is dispositive, and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[126]

Although the statute requires the Commission to determine whether there is a reasonable indication that the domestic industry is "materially injured by reason of" unfairly traded imports,[127] it does not define the phrase "by reason of," indicating that this aspect of the injury analysis is left to the Commission's reasonable exercise of its discretion.[128] In identifying a causal link, if any, between subject imports and material injury to the domestic industry, the Commission examines the facts of record that relate to the significance of the volume and price effects of the subject imports and any impact of those imports on the condition of the domestic industry. This evaluation under the "by reason of" standard must ensure that subject imports

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[122] 19 U.S.C. §§ 1671b(a), 1673b(a).

[123] 19 U.S.C. § 1677(7)(B). The Commission "may consider such other economic factors as are relevant to the determination" but shall "identify each {such} factor ... {a}nd explain in full its relevance to the determination." 19 U.S.C. § 1677(7)(B).

[124] 19 U.S.C. § 1677(7)(A).

[125] 19 U.S.C. § 1677(7)(C)(iii).

[126] 19 U.S.C. § 1677(7)(C)(iii).

[127] 19 U.S.C. §§ 1671b(a), 1673b(a).

[128] *Angus Chemical Co. v. United States*, 140 F.3d 1478, 1484-85 (Fed. Cir. 1998) ("{T}he statute does not 'compel the commissioners' to employ {a particular methodology}."), *aff'g* 944 F. Supp. 943, 951 (Ct. Int'l Trade 1996).

are more than a minimal or tangential cause of injury and that there is a sufficient causal, not merely a temporal, nexus between subject imports and material injury.[129]

In many investigations, there are other economic factors at work, some or all of which may also be having adverse effects on the domestic industry. Such economic factors might include nonsubject imports; changes in technology, demand, or consumer tastes; competition among domestic producers; or management decisions by domestic producers. The legislative history explains that the Commission must examine factors other than subject imports to ensure that it is not attributing injury from other factors to the subject imports, thereby inflating an otherwise tangential cause of injury into one that satisfies the statutory material injury threshold.[130] In performing its examination, however, the Commission need not isolate the injury caused by other factors from injury caused by unfairly traded imports.[131] Nor does

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[129] The Federal Circuit, in addressing the causation standard of the statute, has observed that "{a}s long as its effects are not merely incidental, tangential, or trivial, the foreign product sold at less than fair value meets the causation requirement." *Nippon Steel Corp. v. USITC*, 345 F.3d 1379, 1384 (Fed. Cir. 2003). This was re-affirmed in *Mittal Steel Point Lisas Ltd. v. United States*, 542 F.3d 867, 873 (Fed. Cir. 2008), in which the Federal Circuit, quoting *Gerald Metals, Inc. v. United States*, 132 F.3d 716, 722 (Fed. Cir. 1997), stated that "this court requires evidence in the record 'to show that the harm occurred "by reason of" the LTFV imports, not by reason of a minimal or tangential contribution to material harm caused by LTFV goods.'" *See also Nippon Steel Corp. v. United States*, 458 F.3d 1345, 1357 (Fed. Cir. 2006); *Taiwan Semiconductor Industry Ass'n v. USITC*, 266 F.3d 1339, 1345 (Fed. Cir. 2001).

[130] SAA, H.R. Rep. 103-316, Vol. I at 851-52 (1994) ("{T}he Commission must examine other factors to ensure that it is not attributing injury from other sources to the subject imports."); S. Rep. 96-249 at 75 (1979) (the Commission "will consider information which indicates that harm is caused by factors other than less-than-fair-value imports."); H.R. Rep. 96-317 at 47 (1979) ("in examining the overall injury being experienced by a domestic industry, the ITC will take into account evidence presented to it which demonstrates that the harm attributed by the petitioner to the subsidized or dumped imports is attributable to such other factors;" those factors include "the volume and prices of nonsubsidized imports or imports sold at fair value, contraction in demand or changes in patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and productivity of the domestic industry"); *accord Mittal Steel*, 542 F.3d at 877.

[131] SAA at 851-52 ("{T}he Commission need not isolate the injury caused by other factors from injury caused by unfair imports."); *Taiwan Semiconductor Industry Ass'n*, 266 F.3d at 1345. ("{T}he Commission need not isolate the injury caused by other factors from injury caused by unfair imports ... . Rather, the Commission must examine other factors to ensure that it is not attributing injury from other sources to the subject imports." (emphasis in original)); *Asociacion de Productores de Salmon y Trucha de Chile AG v. United States*, 180 F. Supp. 2d 1360, 1375 (Ct. Int'l Trade 2002) ("{t}he Commission is not required to isolate the effects of subject imports from other factors contributing to injury" or make "bright-line distinctions" between the effects of subject imports and other causes.); *see also Softwood Lumber from Canada*, Inv. Nos. 701-TA-414 and 731-TA-928 (Remand), USITC Pub. 3658 at 100-01 (Dec.

(Continued…)

the "by reason of" standard require that unfairly traded imports be the "principal" cause of injury or contemplate that injury from unfairly traded imports be weighed against other factors, such as nonsubject imports, which may be contributing to overall injury to an industry.[132] It is clear that the existence of injury caused by other factors does not compel a negative determination.[133]

Assessment of whether material injury to the domestic industry is "by reason of" subject imports "does not require the Commission to address the causation issue in any particular way" as long as "the injury to the domestic industry can reasonably be attributed to the subject imports" and the Commission "ensure{s} that it is not attributing injury from other sources to the subject imports."[134] [135] Indeed, the Federal Circuit has examined and affirmed various Commission methodologies and has disavowed "rigid adherence to a specific formula."[136]

(…Continued)

2003) (Commission recognized that "{i}f an alleged other factor is found not to have or threaten to have injurious effects to the domestic industry, *i.e*., it is not an 'other causal factor,' then there is nothing to further examine regarding attribution to injury"), *citing Gerald Metals,* 132 F.3d at 722 (the statute "does not suggest that an importer of LTFV goods can escape countervailing duties by finding some tangential or minor cause unrelated to the LTFV goods that contributed to the harmful effects on domestic market prices.").

[132] S. Rep. 96-249 at 74-75; H.R. Rep. 96-317 at 47.

[133] *See Nippon*, 345 F.3d at 1381 ("an affirmative material-injury determination under the statute requires no more than a substantial-factor showing. That is, the 'dumping' need not be the sole or principal cause of injury.").

[134] *Mittal Steel*, 542 F.3d at 877-78; *see also id.* at 873 ("While the Commission may not enter an affirmative determination unless it finds that a domestic industry is materially injured 'by reason of' subject imports, the Commission is not required to follow a single methodology for making that determination ... {and has} broad discretion with respect to its choice of methodology.") *citing United States Steel Group v. United States*, 96 F.3d 1352, 1362 (Fed. Cir. 1996) and S. Rep. 96-249 at 75.

[135] Commissioner Pinkert does not join this paragraph or the following three paragraphs. He points out that the Federal Circuit, in *Bratsk*, 444 F.3d 1369, and *Mittal Steel*, held that the Commission is required, in certain circumstances when considering present material injury, to undertake a particular kind of analysis of nonsubject imports, albeit without reliance upon presumptions or rigid formulas. *Mittal Steel* explains as follows:

What *Bratsk* held is that "where commodity products are at issue and fairly traded, price-competitive, non-subject imports are in the market," the Commission would not fulfill its obligation to consider an important aspect of the problem if it failed to consider whether non-subject or non-LTFV imports would have replaced LTFV subject imports during the period of investigation without a continuing benefit to the domestic industry. 444 F.3d at 1369. Under those circumstances, *Bratsk* requires the Commission to consider whether replacement of the LTFV subject imports might have occurred during the period of investigation, and it requires the Commission to provide an explanation of its conclusion with respect to that factor.

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The Federal Circuit's decisions in *Gerald Metals*, *Bratsk,* and *Mittal Steel* all involved cases in which the relevant "other factor" was the presence in the market of significant volumes of price-competitive nonsubject imports. The Commission interpreted the Federal Circuit's guidance in *Bratsk* as requiring it to apply a particular additional methodology following its finding of material injury in cases involving commodity products and a significant market presence of price-competitive nonsubject imports.[137] The additional "replacement/benefit" test looked at whether nonsubject imports might have replaced subject imports without any benefit to the U.S. industry. The Commission applied that specific additional test in subsequent cases, including the *Carbon and Certain Alloy Steel Wire Rod from Trinidad and Tobago* determination that underlies the *Mittal Steel* litigation.

Mittal Steel clarifies that the Commission's interpretation of *Bratsk* was too rigid and makes clear that the Federal Circuit does not require the Commission to apply an additional test nor any one specific methodology; instead, the court requires the Commission to have "evidence in the record 'to show that the harm occurred 'by reason of' the LTFV imports,'" and requires that the Commission not attribute injury from nonsubject imports or other factors to subject imports.[138] Accordingly, we do not consider ourselves required to apply the replacement/benefit test that was included in Commission opinions subsequent to *Bratsk*.

The progression of *Gerald Metals*, *Bratsk*, and *Mittal Steel* clarifies that, in cases involving commodity products where price-competitive nonsubject imports are a significant factor in the U.S. market, the Court will require the Commission to give full consideration, with adequate explanation, to non-attribution issues when it performs its causation analysis.[139]

(…Continued)

542 F.3d at 878.

[136] *Nucor Corp. v. United States*, 414 F.3d 1331, 1336, 1341 (Fed. Cir. 2005); *see also Mittal Steel*, 542 F.3d at 879 ("*Bratsk* did not read into the antidumping statute a Procrustean formula for determining whether a domestic injury was 'by reason' of subject imports.").

[137] *Mittal Steel*, 542 F.3d at 875-79.

[138] *Mittal Steel*, 542 F.3d at 873 (quoting from *Gerald Metals*, 132 F.3d at 722), 875-79 & n.2 (recognizing the Commission's alternative interpretation of *Bratsk* as a reminder to conduct a non-attribution analysis).

[139] To that end, after the Federal Circuit issued its decision in *Bratsk*, the Commission began to present published information or send out information requests in final phases of investigations to producers in nonsubject countries that accounted for substantial shares of U.S. imports of subject merchandise (if, in fact, there were large nonsubject import suppliers). In order to provide a more complete record for the Commission's causation analysis, these requests typically seek information on capacity, production, and shipments of the product under investigation in the major source countries that export to the United States. The Commission plans to continue utilizing published or requested information in final phases of investigations in which there are substantial levels of nonsubject imports.

The question of whether the material injury threshold for subject imports is satisfied notwithstanding any injury from other factors is factual, subject to review under the substantial evidence standard.[140] Congress has delegated this factual finding to the Commission because of the agency's institutional expertise in resolving injury issues.[141]

B. Conditions of Competition and the Business Cycle

The following conditions of competition inform our analysis of whether there is a reasonable indication of material injury by reason of subject imports.

1. Demand Conditions

Approximately 90 percent of chlorinated isos in the U.S. market are used as residential pool sanitizers. Other uses include industrial water treatment applications and as ingredients in detergents and cleansers.[142] The market is seasonal, with most retail sales made in the second and third quarters of the year.[143] Consumers tend to "shock" their pool with dichlor in May or June and then use trichlor for maintenance thereafter.[144] Shipments by chlorinated isos manufacturers and importers therefore begin to increase in the first quarter of the year and peak in the second quarter.[145] The record in the preliminary phase of these investigations also indicates that "saltwater" pool systems, which use a generator to release chlorine gas from salt and do not need application of chlorinated isos, may be considered as a substitute product (particularly in luxury hotels and on cruise ships), although they represent a small portion of the market.[146]

Apparent U.S. consumption increased steadily between 2010 and 2012, although it was lower in interim 2013 than in interim 2012.[147] Apparent U.S. consumption was *** pounds in 2010, *** pounds in 2011, *** pounds in 2012, *** pounds in interim 2012, and *** pounds in interim 2013.[148]

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[140] We provide in our respective discussions of volume, price effects, and impact a full analysis of other factors alleged to have caused any material injury experienced by the domestic industry.

[141] *Mittal Steel*, 542 F.3d at 873; *Nippon Steel Corp*., 458 F.3d at 1350, *citing U.S. Steel Group*, 96 F.3d at 1357; S. Rep. 96-249 at 75 ("The determination of the ITC with respect to causation is ... complex and difficult, and is a matter for the judgment of the ITC.").

[142] CR at II-14; PR at II-8 to I-9.

[143] CR at II-15; PR at II-8 to I-9.

[144] CR at II-15; PR at II-8 to I-9.

[145] CR at II-15; PR at II-8 to I-9.

[146] CR at II-19 to II-20; PR at II-11 to II-12.

[147] Alternate Table C-2 (EDIS Doc. No. 520728) (hereafter "Alt. Table C-2").

[148] Alt. Table C-2.

2. Supply Conditions

Sources of supply to the U.S. market during the POI included the domestic industry, subject imports, and imports from nonsubject sources.[149]

OxyChem, BioLab, and Clearon are the three manufacturers of granular chlorinated isos in the United States.[150] These three firms manufacture granular chlorinated isos, and subsequently tablet the product themselves or contract to have it tableted by tableters.[151] After tableting and packaging, the product is sold to distributors, who brand the product and sell it to pool retail stores, "big box" stores such as ***, pool service companies, and other retail outlets.[152] As discussed earlier, the Commission collected data from all three U.S. granular chlorinated isos producers and six U.S. tableters in these preliminary phase investigations.[153]

The domestic industry was the largest source of chlorinated isos during the POI, supplying the majority of the U.S. market.[154] The share of apparent U.S. consumption held by those producers and tableters we have included in the domestic industry declined from *** percent in 2010 to *** percent in 2011 and then to *** percent in 2012; it was lower in interim 2013, at *** percent, than in interim 2012, at *** percent.[155]

Cumulated subject imports held the second largest share of the U.S. market during the POI. The market share of cumulated subject imports declined from *** percent in 2010 to *** percent in 2011, and then increased to *** percent in 2012; it was *** percent in interim 2012

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[149] CR/PR at Table IV-4.

[150] CR/PR at III-1.

[151] Clearon and OxyChem produce both dichlor and trichlor; BioLab produces only trichlor (it purchases granular dichlor from ***. CR at III-4; PR at III-3. Although most dichlor is sold in granular form and most trichlor is tableted, both trichlor and dichlor are packaged into smaller containers for further distribution by tableters/packagers. CR at I-11; PR at I-8. The three domestic granular chlorinated isos manufacturers serve the market differently. OxyChem does not tablet any chlorinated isos; it has tolling arrangements for tableting and packaging with several dedicated contract packagers, including ***. CR at III-4 to III-5; PR at III-3. BioLab also does not tablet any chlorinated isos; instead it has tolling arrangements for tableting and packaging with ***. CR at III-4; PR at III-3. Clearon manufactures granular trichlor and then tablets and packages it, as appropriate, in its own dedicated tableting and packaging facility. CR at III-4; PR at III-3. A witness testified at the conference that Clearon began tableting in 2005. Conf. Tr. at 100 (Pettoruto).

[152] CR at II-4 to II-5; PR at II-2 to II-3.

[153] CR/PR at Tables III-1, III-4, III-8, VI-3, VI-6, & VI-7. In their questionnaire responses, only four out of six tableters provided useable financial data; only three out of six tableters provided useable trade and employment data. CR/PR at III-1 n.4; CR/PR at Tables III-1, III-2 & VI-6.

[154] Alt. Table C-2.

[155] CR/PR at Table IV-5.

and *** percent in interim 2013.[156] As discussed above, subject imports of chlorinated isos from China have been subject to an antidumping duty order since June 2005.[157] Moreover, the volume of subject imports from China indicated in the current record is likely understated due to the lack of a questionnaire response from a major importer of Chinese subject merchandise during the POI.[158]

Nonsubject imports had a very small presence in the U.S. market throughout the POI. Nonsubject imports' market share was *** percent in 2010, *** percent in 2011, *** percent in 2012, *** percent in interim 2012, and *** percent in interim 2013.[159]

3. Substitutability and Other Conditions

Based on the record in the preliminary phase of these investigations, we find that there is at least a moderate degree of substitutability among domestically produced chlorinated isos and chlorinated isos from both subject sources. As explained above, all domestic producers, approximately half of responding tableters, and a majority of importers reported that the domestic like product and subject imports were always or frequently interchangeable.[160] In any final phase investigations, we will examine this issue more closely, including through consideration of information gathered from purchasers.

Urea and natural gas are both inputs into cyanuric acid, which, with further processing, yields chlorinated isos.[161] Raw materials accounted for between *** and *** percent of the cost of goods sold ("COGS") for U.S. production of granulated chlorinated isos from 2010 to 2012.[162] Urea prices increased between early 2010 and early 2012, and then declined for the remainder of the POI.[163] Natural gas prices declined between early 2010 and early 2012, and then increased for the remainder of the POI.[164]

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[156] Alt. Table C-2.
[157] CR at I-5; PR at I-4.
[158] One tableter, ***. CR/PR at III-2 n.3.
[159] Alt. Table C-2.
[160] CR/PR at Table II-4.
[161] CR/PR at V-1; CR at I-11; PR at I-8.
[162] CR/PR at V-1.
[163] CR/PR at Figure V-1.
[164] CR/PR at Figure V-1.

C. Volume of Subject Imports

Section 771(7)(C)(i) of the Tariff Act provides that the "Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant."[165]

Cumulated subject imports entered the U.S. market in significant quantities throughout the POI. The volume of U.S. shipments of cumulated subject imports was *** pounds in 2010, *** pounds in 2011, and *** pounds in 2012; it was *** pounds in interim 2012 and *** pounds in interim 2013.[166]

As explained above, demand as measured by apparent U.S. consumption rose *** percent from 2010 to 2012.[167] The volume of U.S. shipments of cumulated subject imports, however, rose at a greater rate, increasing *** percent from 2010 to 2012.[168] Although apparent U.S. consumption was *** percent lower in interim 2013 than in interim 2012, the volume of U.S. shipments of cumulated subject imports was only *** percent lower in interim 2013 than in interim 2012.[169]

The share of apparent U.S. consumption held by U.S. shipments of cumulated subject imports decreased from *** percent in 2010 to *** percent in 2011, and then increased to *** percent in 2012, for an overall increase of *** percentage points; it was *** percent in interim 2012, and *** percent in interim 2013.[170] These slight gains in market share came at the expense of the domestic industry. The domestic industry's market share decreased from *** percent in 2010 to *** percent in 2011 and *** percent in 2012; it was *** percent in interim 2012 and *** percent in interim 2013.[171] While nonsubject imports also made slight gains in market share at the expense of the domestic industry, they had a minimal presence in the U.S. market throughout the POI.[172] Accordingly, based on the current record, we find that the volume of U.S. shipments of cumulated subject imports was significant relative to apparent U.S. consumption.

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[165] 19 U.S.C. § 1677(7)(C)(i).

[166] Alt. Table C-2.

[167] Apparent U.S. consumption of chlorinated isos was *** pounds in 2010, *** pounds in 2011, *** pounds in 2012, *** pounds in interim 2012, and *** pounds in interim 2013. Alt. Table C-2

[168] Alt. Table C-2.

[169] Alt. Table C-2.

[170] Alt. Table C-2.

[171] Alt. Table C-2.

[172] Nonsubject imports' share of apparent U.S. consumption, by quantity, was *** percent in 2010, *** percent in 2011, *** percent in 2011, *** percent in 2012, *** percent in interim 2012, and *** percent in interim 2013. Alt. Table C-2.

U.S. shipments of cumulated subject imports were also significant relative to domestic production. They were equivalent to *** percent of U.S. production in 2010, *** percent in 2011, *** percent in 2012, *** percent in interim 2012, and *** percent in interim 2013.[173]

We find, for purposes of the preliminary phase of these investigations, that the volume of cumulated subject imports is significant both in absolute terms and relative to consumption and production in the United States.

D. Price Effects of the Subject Imports

Section 771(7)(C)(ii) of the Tariff Act provides that, in evaluating the price effects of subject imports, the Commission shall consider whether –

> (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and
>
> (II) the effect of imports of such merchandise otherwise depresses prices prices to a significant degree or prevents price increases, which otherwise would would have occurred, to a significant degree.[174]

Based on the record in the preliminary phase of these investigations, we find that there is at least a moderate degree of substitutability between subject imports from China and Japan and the domestic like product, and that price is an important consideration in purchasing decisions. As explained above, all domestic producers of granular chlorinated isos, approximately half of the responding tableters, and a majority of importers reported that the domestic like product and subject imports were always or frequently interchangeable, and that differences other than price were typically only sometimes or never a significant factor in chlorinated isos sales.[175]

The Commission sought quarterly pricing data for five pricing products.[176] The Commission received usable pricing data from questionnaire responses by three U.S. producers

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[173] *Derived from* Alt. Table C-2.

[174] 19 U.S.C. § 1677(7)(C)(ii).

[175] CR/PR at Tables II-4 & II-5.

[176] CR/PR at Tables V-3 to V-9. The pricing products include the following:
Product 1.–Granular trichloroisocyanuric acid with approximately 90 percent available chlorine content (similar to ACL®90 PLUS Chlorinating Composition or CDB®90), sold in 2,205 lb. polypropylene bags;
Product 2.–Granular sodium dichloroisocyanurate (dihydrate) with approximately 56 percent available chlorine content (similar to ACL®56 Chlorinating Composition or CDB®56), sold in 2,205 lb.polypropylene bags, for repackaging for pool treatment use;
Product 3.–Granular sodium dichloroisocyanurate (dihydrate) with approximately 56 percent available chlorine content (similar to ACL®56 Chlorinating Composition or
(Continued…)

of granulated chlorinated isos, two U.S. tableters, and five importers.[177] Pricing data reported by these firms accounted for *** percent of the domestic industry's U.S. shipments of domestic product, *** percent of U.S. shipments of subject imports from China,[178] and *** percent of U.S. shipments of subject imports from Japan in 2012.[179]

There was a mixed pattern of overselling and underselling by subject imports during the POI. Cumulated subject imports undersold the domestic like product in *** out of 57 quarterly comparisons and oversold it in the remaining *** comparisons.[180] Moreover, there were a

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CDB®56), sold in 300 pound drums, for use in cleanser and/or sanitizer applications;
Product 4.— 3-inch trichlor tablets with 85 to 90 percent available chlorine content, in 49-51 pound containers; and
Product 5. — Blended 3-inch trichlor tablets with 85 to 90 percent available chlorine content, in 24-26 pound containers.

[177] CR at V-9; PR at V-6. The pricing data we have used exclude the data submitted by ***.

[178] Chinese Respondents have requested that we adjust reported pricing data for subject imports from China to reflect high duty deposit rates that Commerce has found in administrative reviews of the antidumping order on chlorinated isos from China that cover portions of the POI. Chinese Respondents argue that such adjustments are required so that the prices for the subject imports reflect only the effects of the alleged subsidization and not the combined effects of dumping and alleged subsidization. *See, e.g.*, Chinese Respondents' Postconf. Br. at 4-10.

We decline to make such adjustments. The underlying premise of this argument, that the Commission must find that subsidization causes material injury, is incorrect as a matter of law. The statute (19 U.S.C. § 1671b(a)(1)) addresses material injury by reason of subject imports rather than material injury by reason of alleged subsidization. In light of this, the Commission has previously stated that its task is to "consider the impact of the subject imports and not the effect of the dumping or subsidies." *Softwood Lumber from Canada*, Inv. Nos. 701-TA-414 and 731-TA-928 (Final), USITC Pub. 3509 (May 2002) at 30-31, *citing Titanium Metal Corp. v. United States*, 155 F. Supp. 2d 750, 757 (Ct. Int'l Trade 2002). Similarly, in a relatively recent remand determination affirmed by both the Court of International Trade and the Federal Circuit, the Commission stated that the statute requires that the Commission ascertain whether likely price effects be attributable to the "subject merchandise" – not to dumping or the effects of dumping. *Certain Lightweight Thermal Paper from Germany*, Inv. No. 731-TA-1127 (Final) (Remand), USITC Pub 4334 at 9 (Sept. 2011), *aff'd sub nom*, *Papierfabrik Koehler AG v. United States*, 808 F. Supp.2d 1350 (Ct. Int'l Trade 2012), *aff'd without opinion*, 493 Fed. App'x 104 (Fed. Cir. 2013). *See also Algoma Steel Corp. v. United States*, 688 F. Supp. 639, 645 (Ct. Int'l Trade 1988), aff'd, 865 F.2d 240 (Fed. Cir. 1989).

[179] CR at V-9; PR at V-6.

[180] EDIS Doc. No. 520721 (Table ALT1V-11). Japanese Respondents argue that the overselling data on this record is entitled to greater weight given that overselling by cumulated subject import shipments occurred in quarterly price comparisons that accounted for *** of the total sales of cumulated subject import shipments during the POI. *See, e.g*, Japanese Respondents' Postconf. Br. at

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number of confirmed instances in which the domestic industry lost sales and revenue due to competition from subject imports.[181]

During the POI, U.S. prices declined for four of the five domestically produced pricing products (Products 1, 2, 3, and 4).[182] Moreover, during the POI, prices of cumulated subject imports declined for three of the four pricing products (Products 1, 2, and 3) for which domestic prices declined.[183] Accordingly, based on the current record, we find that there is evidence of price depression.

We also find that the record in the preliminary phase of these investigations provides evidence of price suppression. Between 2010 and 2012, when demand increased steadily, the domestic industry's average unit values (AUVs) for net sales declined by *** percent, while the industry's unit cost-of-goods-sold ("COGS") remained relatively stable.[184] Accordingly, as the domestic industry was unable to maintain prices to cover its costs, its COGS to net sales ratio increased steadily from *** percent in 2010 to *** percent in 2011 and *** in 2012.[185]

Based upon the record in the preliminary phase of these investigations, we are unable to ascertain the extent to which the price depression and price suppression experienced by the domestic industry during the POI were attributable to subject imports, as opposed to other factors.[186] In light of the significant volume of cumulated subject imports, at least a moderate

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28-29 & Exh. 3. We note that, on a volume basis, *** percent of U.S. shipments of subject imports oversold the domestic like product during the POI, whereas only *** percent of U.S. shipments of subject imports undersold the domestic like product during the POI. *Derived from* CR/PR at Tables V-3 to V-5 & EDIS Doc. No. 520721 (Tables ALT1V-6 & V-8).

[181] CR/PR at Tables V-13 & V-14. Purchasers indicated that they agreed with *** out of 23 lost sales allegations, valued at $***, and *** out of 14 lost revenue allegations, valued at $***. *Id.*

[182] CR/PR at Tables V-3 to V-7. U.S. prices for one of the pricing products (Product 5) increased during the POI. CR/PR at Table V-9.

[183] There were very limited pricing observations of imported pricing product 4. EDIS Doc. No. 520721 (Table ALT1V-10).

[184] The domestic industry's AUVs for net sales were $*** in 2010, $*** in 2011, $*** in 2012, $*** in interim 2012, and $*** in interim 2013. The domestic industry's unit COGS were $*** in 2010, $*** in 2011, $*** in 2012, and $*** in interim 2012 and interim 2013. Alt. Table C-2. Consequently, AUVs declined at a greater rate than unit COGS between the interim periods.

[185] This ratio also was higher in interim 2013 than in interim 2012.The ratio of COGS to net sales was *** percent in interim 2012 and *** percent in interim 2013. Alt. Table C-2.

[186] Japanese Respondents contend that demand trends and U.S. granulated chlorinated isos producers' competition with tableters in the tablet part of the market led to any declines in performance for the domestic industry (including presumably the observed price declines) during the POI. *See, e.g.*, Japanese Respondents' Postconf. Br. at 36-37. We intend to seek further information

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degree of substitutability between subject imports and the domestic like product, the importance of price in purchasing decisions, and the presence of some underselling and confirmed lost sales, however, we cannot conclude that cumulated subject imports have not had significant adverse price effects. We will examine these issues further in any final phase investigations.

E. Impact of the Subject Imports[187]

Section 771(7)(C)(iii) of the Tariff Act provides that the Commission, in examining the impact of the subject imports on the domestic industry, "shall evaluate all relevant economic factors which have a bearing on the state of the industry." These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, research and development, and factors affecting domestic prices. No single factor is dispositive and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."

Many of the domestic industry's output and employment-related performance indicators remained relatively stable or improved between 2010 and 2012; however, these indicia were typically lower in interim 2013 than in interim 2012, coincident with the downturn

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concerning these considerations and how they may have affected domestic industry prices in any final phase investigations.

[187] In its notice initiating an antidumping investigation on chlorinated isos from Japan, Commerce reported estimated dumping margins ranging from 129.4 percent to 218.1 percent. CR at I-7 (*citing Chlorinated Isocyanurates from Japan: Initiation of Antidumping Duty Investigation*, 78 Fed. Reg. 58,998 (Dep't of Commerce, Sept. 25, 2013). In its notice initiating a countervailing duty investigation on chlorinated isos from China, Commerce stated it would investigate 29 alleged subsidy programs. CR at I-6 (*citing Chlorinated Isocyanurates From China: Initiation of Countervailing Duty Investigation*, 78 Fed. Reg. 59,001 (Dep't of Commerce, Sept. 25, 2013). Commerce identifies these programs in a separate initiation checklist as including three programs concerning "government provision of goods and services for less than adequate remuneration," five "programs available to foreign invested enterprises," 14 "other national programs," five "provincial programs," and three "local and municipal programs." *Countervailing Duty Investigation Checklist*, Inv. No. C-570-991 (Dep't of Commerce, Sept. 18, 2013) at 7-29. Provision of benefits under five of these 29 programs are contingent upon export activity. Those five programs are discounted loans for export-oriented enterprises, export credit insurance from China Export and Credit Insurance Corporation, export seller's credits and export buyer's credits from the Export-Import Bank of China, Foreign Trade Development Fund, and grants from Shandong Province to enterprises exporting key products. *Id*. at 17, 20-21, 22-24, 27. Commerce declined to initiate an investigation on nine other programs alleged in the petition. *Id*. at 29-37.

in apparent U.S. consumption. The domestic industry's production was *** pounds in 2010, *** pounds in 2011, *** pounds in 2012, *** pounds in interim 2012, and *** pounds in interim 2013.[188] Its production capacity was *** pounds in 2010, *** pounds in 2011, *** pounds in 2012, *** pounds in interim 2012, and *** pounds in interim 2013.[189] Its capacity utilization was *** percent in 2010, *** percent in 2011, *** percent in 2012, *** percent in interim 2012, and *** percent in interim 2013.[190] U.S. shipments, by quantity and value, increased by *** percent and *** percent respectively between 2010 and 2012, although they were both lower, by *** percent and *** percent respectively, in interim 2013 than in interim 2012.[191] Similarly, net sales, by quantity, increased by *** percent overall between 2010 and 2012, and were *** percent lower in interim 2013 than in interim 2012.[192] The number of production workers, hours worked, and wages paid increased between 2010 and 2012, and were lower in interim 2013 than in interim 2012.[193]

Despite the relative stability or improvement of several output and employment-related indicators between 2010 and 2012, when demand was increasing, there were declines in several key financial indicators, as the domestic industry experienced price declines and was unable to maintain prices sufficiently to cover rising costs. These financial indicators also were lower in interim 2013 compared to interim 2012, although we note that demand was also lower in the interim period.[194] The domestic industry's operating income declined sharply between 2010 and 2012, falling from $*** in 2010 to $*** in 2011, and the industry sustained an operating loss of $*** in 2012.[195] Its operating income also was much lower in interim in 2013,

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[188] Alt. Table C-2.

[189] Alt. Table C-2.

[190] Alt. Table C-2.

[191] U.S. producers' U.S. shipments (by quantity) were *** pounds in 2010, *** pounds in 2011, *** pounds in 2012, *** pounds in interim 2012, and *** pounds in interim 2013. Alt. Table C-2.

U.S. producers' end-of-period inventories declined irregularly during the POI, declining from *** pounds in 2010 to *** pounds in 2011, and then increased to *** pounds in 2012. Inventories were *** pounds in interim 2012, and *** pounds in interim 2013. Alt. Table C-2.

[192] Net sales, by quantity, were *** pounds in 2010, *** pounds in 2011, *** pounds in 2012, *** pounds in interim 2012, and *** pounds in interim 2013. Alt. Table C-2.

[193] The number of production workers was *** in 2010, *** in 2011 *** in 2012, *** in interim 2012, and *** in interim 2013. The total hours worked were *** in 2010 and in 2011, *** in 2012, *** in interim 2012, and *** in interim 2013. Wages paid were $*** in 2010, $*** in 2011, $*** in 2012, $*** in interim 2012, and $*** in interim 2013. Worker productivity declined steadily during the POI, declining from *** pounds per hour in 2010 to *** pounds per hour in 2011, and then to *** pounds per hour in 2012. Productivity was *** pounds per hour in interim 2012, and *** pounds per hour in interim 2013. Alt. Table C-2.

[194] Alt. Table C-2.

[195] Alt. Table C-2.

at $***, than in interim 2012, at $***.[196] Its ratio of operating income to net sales fell by *** percentage points from 2010 to 2012, with operating margins declining from *** percent in 2010 to *** percent in 2011 and then to negative *** percent in 2012.[197] Operating margins also were lower in interim 2013, at *** percent, than in interim 2012, at *** percent.[198]

In light of the domestic industry's deteriorating financial condition during the POI, the significant volume of cumulated subject imports, at least a moderate degree of substitutability between the domestic like product and subject imports, the importance of price in purchasing decisions, the presence of some underselling, and the fact that the domestic industry experienced price declines and a cost-price squeeze, we find for purpose of these preliminary determinations that cumulated subject imports have had a significant adverse impact on the domestic industry. Similar to our finding respecting significant adverse price effects, we cannot conclude on this record that subject imports did not have a significant adverse impact on the domestic industry.

We have also considered the role of other factors, such as nonsubject imports, in our assessment of the impact of the subject imports. As discussed above, nonsubject imports were not a significant presence in the U.S. market throughout the POI.[199] Accordingly, we do not find the small volume of nonsubject imports to be a cause of the difficulties experienced by the domestic industry.

In sum, the record as a whole in the preliminary phase of these investigations does not contain clear and convincing evidence that there is no reasonable indication of material injury to the domestic industry by reason of cumulated subject imports. We have therefore reached affirmative preliminary determinations.

VII. Conclusion

For the reasons stated above, we determine that there is a reasonable indication that an industry in the United States is materially injured by reason of subject imports of chlorinated isos from Japan that are allegedly sold in the United States at less than fair value and imports of the chlorinated isos from China that are allegedly subsidized by the Government of China.

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[196] Alt. Table C-2.

[197] Alt. Table C-2. The domestic industry's aggregate capital expenditures declined irregularly during the POI, increasing from $*** in 2010 to $*** in 2011, and then declining to $*** in 2012; capital expenditures were $*** in interim 2012 and $*** in interim 2013. Alt. Table C-2.

[198] Alt. Table C-2.

[199] As discussed earlier, nonsubject imports share of apparent U.S. consumption, by quantity, was *** percent in 2010, *** percent in 2011, *** percent in 2011, *** percent in 2012, *** percent in interim 2012, and *** percent in interim 2013. Alt. Table C-2.

PART I: INTRODUCTION

BACKGROUND

These investigations result from a petition filed with the U.S. Department of Commerce ("Commerce") and the U.S. International Trade Commission ("USITC" or "Commission") by Clearon Corp. ("Clearon"), South Charleston, WV, and Occidental Chemical Corporation ("Oxy"), Dallas, TX, on August 29, 2013 (the "Petitioners"), alleging that an industry in the United States is materially injured and threatened with material injury by reason of subsidized imports of chlorinated isocyanurates ("chlorinated isos")[1] from China and less-than-fair-value ("LTFV") imports of chlorinated isos from Japan. The following tabulation provides information relating to the background of these investigations.[2][3]

Effective date	Action
August 29, 2013	Petition filed with Commerce and the Commission; institution of Commission investigation (78 FR 55293, September 10, 2013)
September 19, 2013	Commission's conference
September 25, 2013	Commerce's notice of initiation on Japan (78 FR 58997); Commerce's notice of initiation on China (78 FR 59001)
October 29, 2013	Commission's vote
October 31, 2013	Commission's determination
November 7, 2013	Commission's views

[1] See the section entitled "The Subject Merchandise" in *Part I* of this report for a complete description of the merchandise subject to these investigations.

[2] Pertinent *Federal Register* notices are referenced in app. A, and may be found at the Commission's website (www.usitc.gov).

[3] A list of witnesses appearing at the conference is presented in app. B of this report.

STATUTORY CRITERIA AND ORGANIZATION OF THE REPORT

Statutory criteria

Section 771(7)(B) of the Tariff Act of 1930 (the "Act") (19 U.S.C. § 1677(7)(B)) provides that in making its determinations of injury to an industry in the United States, the Commission--

> *shall consider (I) the volume of imports of the subject merchandise, (II) the effect of imports of that merchandise on prices in the United States for domestic like products, and (III) the impact of imports of such merchandise on domestic producers of domestic like products, but only in the context of production operations within the United States; and. . . may consider such other economic factors as are relevant to the determination regarding whether there is material injury by reason of imports.*

Section 771(7)(C) of the Act (19 U.S.C. § 1677(7)(C)) further provides that--

> *In evaluating the volume of imports of merchandise, the Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States is significant.*
> *. . .*
> *In evaluating the effect of imports of such merchandise on prices, the Commission shall consider whether. . .(I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.*
> *. . .*
> *In examining the impact required to be considered under subparagraph (B)(i)(III), the Commission shall evaluate (within the context of the business cycle and conditions of competition that are distinctive to the affected industry) all relevant economic factors which have a bearing on the state of the industry in the United States, including, but not limited to . . . (I) actual and potential decline in output, sales, market share, profits, productivity, return on investments, and utilization of capacity, (II) factors affecting domestic prices, (III) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, (IV) actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the*

domestic like product, and (V) in {an antidumping investigation}, the magnitude of the margin of dumping.

Organization of report

Part I of this report presents information on the subject merchandise, alleged subsidy/dumping margins, and domestic like product. *Part II* of this report presents information on conditions of competition and other relevant economic factors. *Part III* presents information on the condition of the U.S. industry, including data on capacity, production, shipments, inventories, and employment. *Parts IV* and *V* present the volume of subject imports and pricing of domestic and imported products, respectively. *Part VI* presents information on the financial experience of U.S. producers. *Part VII* presents the statutory requirements and information obtained for use in the Commission's consideration of the question of threat of material injury as well as information regarding nonsubject countries.

MARKET SUMMARY

Chlorinated isos are chemical compounds used primarily as sanitizing agents for swimming pools, spas, and industrial water, and as disinfecting and bleaching agents for detergents, bleaches, and cleansers. The three U.S. producers of powder/granular chlorinated isos are BioLab Inc. ("BioLab"), Clearon, and Oxy. U.S. tableters of chlorinated isos include LPM Manufacturing, Inc. ("LPM"), Oreq Corp. ("Oreq"), and Stellar Manufacturing Co. ("Stellar"). The leading U.S. importer of chlorinated isos from China is ***, while the leading importer of chlorinated isos from Japan is Shikoku International Corp. ("SIC").[4] Leading importers of product from nonsubject countries (primarily Taiwan and Vietnam) include ***. Leading producers of chlorinated isos outside the United States include Hebei Jiheng Chemical Co., Ltd. ("Hebei Jiheng") of China and Shikoku Chemicals Corp. ("Shikoku") of Japan.

Apparent U.S. consumption of chlorinated isos totaled approximately *** pounds (***) in 2012. U.S. producers' U.S. shipments of powder/granular chlorinated isos totaled *** pounds (***) in 2012, and accounted for *** percent of apparent U.S. consumption by quantity and *** percent by value. Combined U.S. producers' and U.S. tableters' U.S. shipments of chlorinated isos totaled *** pounds (***) in 2012, and accounted for *** percent of apparent U.S. consumption by quantity and *** percent by value. Reported U.S. imports from subject sources totaled *** pounds ($***) in 2012 and accounted for *** percent of apparent U.S. consumption by quantity and value. Reported U.S. imports from nonsubject sources totaled *** pounds ($***) in 2012 and accounted for *** percent of apparent U.S. consumption by quantity and *** percent by value.

[4] Nine firms are known to either tablet or toll produce chlorinated isos in the United States. Two firms (***) are considered tableters due to toll arrangements, but do not operate tableting facilities.

SUMMARY DATA AND DATA SOURCES

A summary of data collected in these investigations is presented in appendix C, table C-1 through C-4. Except as noted, U.S. industry data are based on questionnaire responses of three producers of chlorinated isos and six firms[5] that performed tableting operations on chlorinated isos from January 2010 to June 2013. U.S. imports are based on questionnaire responses of U.S. firms that account for the great majority of subject imports of chlorinated isos. Data for producers in China and Japan are from questionnaire responses of two producers in China and four producers in Japan.

PREVIOUS AND RELATED INVESTIGATIONS

Chlorinated isocyanurates has been the subject of several prior antidumping duty investigations and subsequent five-year reviews in the United States. In 1984, the Commission and Commerce conducted an antidumping investigation on cyanuric acid (a raw material used in the production of chlorinated isos) and its chlorinated derivatives, including the subject products, that resulted in an antidumping duty order on such products from Japan. In the absence of any review request or objection from a domestic interested party, Commerce revoked the order in 1995 (60 FR 28576, June 1, 1995).

On May 14, 2004, a petition was filed with Commerce and the Commission alleging that an industry in the United States was materially injured by reason of less-than-fair-value ("LTFV") imports of chlorinated isocyanurates from China and Spain. On June 3, 2005, the Commission made affirmative final determinations,[6] and Commerce subsequently issued antidumping duty orders on chlorinated isos from China and Spain.[7] In 2010, the Commission made affirmative determinations in its five-year reviews regarding imports of chlorinated isos from China and

[5] Out of the six firms that submitted data on its tableting operations, two firms, ***, do not have tableting facilities, but rather produce chlorinated isos tablets through tolling arrangements. In addition, staff believes several other tableters operate in the U.S. market but failed to submit a U.S. producer questionnaire. These firms include: KIK International Inc. ("KIK"), Alden Leeds/MidContinent Packaging Inc. ("MidContinent"), and Suncoast Chemicals.

[6] *Chlorinated Isocyanurates From China and Spain: Investigation Nos. 731-TA-1082 and 1083 (Final),* USITC Publication 3782, June 2005 and *Chlorinated Isocyanurates From China and Spain: Determinations*, 70 FR 36205, June 22, 2005.

[7] Notice of Antidumping Duty Order: Chlorinated Isocyanurates from the People's Republic of China, 70 FR 36561, June 24, 2005 and Notice of Antidumping Duty Order: Chlorinated Isocyanurates from Spain, 70 FR 36562, June 24, 2005.

Spain[8] and Commerce issued continuation of antidumping orders of chlorinated isos from China and Spain.[9]

NATURE AND EXTENT OF ALLEGED SUBSIDIES AND SALES AT LTFV

Alleged subsidies

On September 25, 2013, Commerce published a notice in the *Federal Register* of the initiation of its countervailing duty investigation on chlorinated isos from China.[10] Commerce found that there is sufficient information to initiate a CVD investigation of 29 alleged programs.[11] For a full discussion on each program, see the CVD Initiation Checklist issued by Commerce in appendix D.[12]

Alleged sales at LTFV

On September 25, 2013, Commerce published a notice in the *Federal Register* of the initiation of its antidumping duty investigation on chlorinated isos from Japan.[13] Commerce has initiated an antidumping duty investigation based on estimated dumping margins of 129.4 percent to 218.1 percent for chlorinated isos from Japan.

THE SUBJECT MERCHANDISE

Commerce's scope

Commerce has defined the scope of this investigation as follows:
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'') (Cl3(NCO)3), (2) sodium dichloroisocyanurate (dihydrate) (NaCl2(NCO)3 X 2H2O), and (3) sodium dichloroisocyanurate (anhydrous) (NaCl2(NCO)3). Chlorinated isocyanurates are available in powder, granular and solid (e.g., tablet or stick) forms.

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[8] *Chlorinated Isocyanurates From China and Spain: Determinations*, 75 FR 61772, October 6, 2010.

[9] *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.

[10] *Chlorinated Isocyanurates From the People's Republic of China: Initiation of Countervailing Duty Investigation*, 78 FR 59001, September 25, 2013.

[11] Ibid.

[12] Department of Commerce, CVD Initiation Checklist, Inv. No. C-570-991, September 18, 2013.

[13] *Chlorinated Isocyanurates From Japan: Initiation of Antidumping Duty Investigation*, 78 FR 58997, September 25, 2013.

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.[14]

Tariff treatment

Based upon the scope set forth by the U.S. Department of Commerce, information available to the Commission indicates that the merchandise subject to these investigations is classified in subheadings 2933.69.60 (statistical reporting numbers 2933.69.6015, 2933.69.6021, or 2933.69.6050) or 3808.99.95 of the Harmonized Tariff Schedule of the United States (2013). These subheadings have general rates of duty of 3.5 percent ad valorem (for the separate chemically identifiable compounds) and 5 percent ad valorem (for the disinfectants containing such compounds), respectively.

THE PRODUCT

Description and applications

Chlorinated isos are chemical compounds used primarily as sanitizing agents for swimming pools, spas, and industrial water, and as disinfecting and bleaching agents for detergents, bleaches, and cleansers. For actual application, these products are sold as a solid, usually in granular, tablet, or stick form. The active ingredient for sanitizing purposes is chlorine, which acts as a biocide, killing algae and other microbes. Trichlor and dichlor differ mainly in the percentage of chlorine each has available for sanitizing and the rate of release of that chlorine in water. The rate of release of chlorine in water is also affected by the physical form of the product, with the granular form releasing chlorine more rapidly than tablet or stick forms. Trichlor, containing 90 percent available chlorine, has the highest chlorine content, but its chlorine is released relatively slowly in water and therefore it is more widely used for water treatment applications. Dihydrate and anhydrous dichlor contain less available chlorine, 56 percent and 63 percent, respectively, but the chlorine is released relatively quickly, making

[14] *Chlorinated Isocyanurates From Japan: Initiation of Antidumping Duty Investigation*, 78 FR 58997, September 25, 2013 and *Chlorinated Isocyanurates From the People's Republic of China: Initiation of Countervailing Duty Investigation*, 78 FR 59001, September 25, 2013.

them more widely used in detergents, bleaches, and cleansers and as "shock" treatments to quickly and temporarily instill chlorine in swimming pools to counteract organic debris and resistant algae.[15]

Although trichlor and dichlor generally perform the same function, one slower and one faster, one or the other is usually specified for any specific application. Trichlor's relatively slow release allows consumers to maintain a chlorine level within safety guidelines (less than four parts per million) with weekly tablet applications. Dichlor's rapid release of chlorine is appropriate for "shock" swimming pool treatments as well as uses in detergents, bleaches, and cleansers. The petitioners asserted that the powder form of trichlor, which releases more chlorine than the tablet and stick forms, can also perform "shock" pool treatments and that some pool owners use dichlor exclusively.[16] The petitioners asserted that possible quality differences between chlorinates isos produced in the United States, China, and Japan are not of sufficient scale to affect customer purchase decisions.[17] The respondents asserted there are significant differences in quality between product produced in China and that produced in Japan and the United States.[18]

Some of the trichlor tablets produced in the United States and China contain active ingredients other than chlorine that provide functions other than sanitizing, and are called "blended" tablets. The ingredients in these tablets include aluminum sulfate, which acts as an algaecide, and copper sulfate, which acts as a water clarifier.

Swimming pool and spa applications account for the bulk of the U.S. chlorinated isos market. Industrial applications, e.g., industrial water treatment and use in cleansers and detergents, account for most of the remaining 10-15 percent of the market.[19] For U.S. and foreign producers, the pool and spa segment of the market consists mostly of (1) converting and repackaging distributors, which buy not only tablets and a stick form of the product but also granular product that they convert to tablets and package for sale to commercial users, such as hotels and public pools, and to retailers, such as pool retail stores, pool service companies, mass merchants, and grocery and hardware stores; (2) non-converting and repackaging distributors that sell to the same types of commercial users and retailers; and (3) large retailers to whom they sell directly. To supplement their needs, U.S. producers and distributors may also buy product from each other. The industrial segment consists largely of manufacturers of cleansers, bleaches, and detergents, and a few distributors that serve the market independently.

In the United States, sanitizing agents such as trichlor and dichlor are statutorily controlled pesticides and must be approved by the United States Environmental Protection Agency (EPA) for public use. Accordingly, any chlorinated isos destined for use in the pool and

[15] Conference transcript, p. 14 (Kuechler).
[16] Conference transcript, p. 51 (Helmstetter) and p. 52 (Cannon).
[17] Conference transcript, pp. 21-22 (Williams), p.40 (Helmstetter) and p. 61 (Williams).
[18] Conference transcript, p 110 (Eisch).
[19] Conference transcript, p 21 (Williams).

spa market must be tested and approved prior to sale. The EPA testing and approval process, known as registration, is generally maintained by the producer, whether U.S. or foreign.[20]

Manufacturing processes

The raw materials for the production of both trichlor and dichlor are cyanuric acid, caustic soda, and chlorine gas. Cyanuric acid, which U.S. chlorinated isos producers make and derive from urea, is refined and purified and then neutralized with caustic soda to become sodium cyanurate, the basic feedstock for both trichlor and dichlor. The feedstock then goes through dedicated production lines to produce either trichlor or dichlor. To produce trichlor, chlorine gas is introduced into the feedstock and carefully controlled, resulting in a granular solid that is either packaged in 2,205-pound sacks or 300-pound drums and sold as such, or further processed into tablets or sticks and packaged in 10- to 50-pound pails. The bulk of trichlor is ultimately consumed as tablets. To produce dichlor, a smaller amount of chlorine gas is introduced into the feedstock, resulting in an acid that is neutralized with caustic soda to produce the dichlor salt. This product can be further dried at higher temperatures to produce the anhydrous forms.

Most dichlor is sold and used in granular form and is packaged in sacks or drums. For the most part production is continuous, and the equipment and production workers used in the production of chlorinated isos are specific to that purpose.

A number of byproducts result from the production process, including ammonia gas and nitrogen and chlorine-containing compounds, but virtually all are either waste products and must be subjected to further treatment prior to disposal to comply with government environmental regulation, or are used as a source of energy in the production process. The exception is a relatively small quantity of excess cyanuric acid, which is either sold or traded.

Three firms in the United States produce the subject product from raw materials. However, several other firms convert granular trichlor into tablets and package the product for sale. They acquire the granular product produced by U.S. and/or foreign producers. In contrast to production of chlorinated isos, tableting is a physical process that gives the product a new shape, but does not alter its chemistry.[21] While the production of hazardous materials that occurs in production of chlorinated isos is not inherently part of tableting process, trichlor and dichlor are themselves hazardous and tableting requires specific measures to prevent the release of chlorine gas.[22]

U.S. producers were asked in the Commission's questionnaire whether they produce other products on the same equipment and machinery and/or using the same production workers as those used in the production of chlorinated isos. *** responded ***

[20] Conference transcript, p. 18 (Kuechler) and p. 73 (Keuchler).
[21] Petitioner's postconference brief, pp. 10-11.
[22] Conference transcript, p. 106 (Eisch).

THE DOMESTIC INDUSTRY

The petitioners assert that tableters should not be considered as part of the U.S. industry, stating that producing chlorinated isos from raw materials involves different chemical materials and requires much higher levels of capital investment and technical expertise than pressing granular trichlor into tablets. Further, tableting adds less than 10 percent of the value of the finished product, and tableting involves seasonal employment and *** than producing chlorinated isos.[23] The respondents contend that firms that transform granular product into tablets and package them are part of the U.S. industry. They contend that tableters have significant capital investments in their operations; that tableting adds significant value and requires considerable expertise; and that tableters employ significant numbers of personnel.[24]

The petitioners propose that the domestic industry should include the three producers of powder/granular chlorinated isos, BioLab, Clearon, and Oxy, and exclude tableters of chlorinated isos.[25] Japanese respondent Shikoku believes that tableters should be included in the domestic industry in these preliminary investigations,[26] but submits that the Commission does not need to resolve the issue of whether tableters should be included in the domestic industry in these preliminary investigations.[27]

DOMESTIC LIKE PRODUCT ISSUES

The petitioners consider the domestic like product to be coextensive with the product scope, i.e., all products specified as "chlorinated isocyanurates."[28] Respondent Shikoku takes no position on the domestic like product in these preliminary investigations.[29] The Chinese exporters also did not raise any like product issues.

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[23] Petitioners post conference brief, pp. 9-15.

[24] Shikoku post conference brief, pp. 5-6.

[25] Petitioners contend that "the nature of the production process, the chemicals, the technical skill involved and the relative wages of workers in isos manufacturing versus tableting, are fundamentally different from the operation of mechanical tablet presses or the repackaging of bulk product into plastic pails. The investment required to establish a chemical manufacturing plant is orders of magnitude above the investment required to purchase a tablet press or set up a tableting operation. As such, the companies that repackage and tablet chlorinated isos should not be included in the domestic industry." Petitioners' postconference brief, pp. 2-3.

[26] Shikoku's postconference brief, p. 3.

[27] Shikoku's postconference brief, p. 6.

[28] Petitioners' postconference brief, p. 9.

[29] Shikoku's postconference brief, p. 4.

PART II: CONDITIONS OF COMPETITION IN THE U.S. MARKET

U.S. MARKET CHARACTERISTICS

Market segments

Chlorinated isos are used primarily by the residential swimming pool and spa market (approximately 85-90 percent of the market for isos) to maintain chlorine levels in pools and spas, although there is also demand from makers of detergents and cleansers for industrial and institutional use and for uses such as cooling tower applications for water treatment at commercial plants.[1]

As discussed in *Part I*, chlorinated isos are commonly sold in two forms, trichlor and dichlor. The cleansers and sanitizers market generally uses dichlor, although there is some use of trichlor for toilet bowl cleansers, while the pool and spa market uses both dichlor and trichlor. The industrial water treatment segment generally uses trichlor.[2]

Trichlor dissolves more slowly in water than dichlor and is generally sold in the residential pool market as a tablet or stick. Trichlor tablets are then generally used to maintain chlorine levels in a pool. Dichlor dissolves more quickly and is used in the residential pool market to "shock" a pool by raising the level of chlorine quickly to kill off algae or other organisms that may have developed at lower chlorine levels. However, dichlor also may be used to maintain a pool's chlorine level, and trichlor (in the granular form) can be used to shock a pool. Dichlor is sold primarily in granular form, as it would dissolve too quickly as a tablet, although it can be tableted for some uses.[3] In addition, some firms sell a "blended" tablet that mixes trichlor with other chemicals (e.g., anti-algae and water-clarifying chemicals such as aluminum sulfate and copper sulfate). These blended tablets are proprietary and patented products.[4]

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[1] *Chlorinated Isocyanurates from China and Spain, Inv. Nos. 731-TA-1082-1083 (Final)*, USITC Publication 3782, June 2005, p. II-1, and petition, pp. 11-13, can conference transcript, p. 20 (Williams).

[2] Ibid.

[3] *Chlorinated Isocyanurates from China and Spain, Inv. Nos. 731-TA-1082-1083 (Final)*, USITC Publication 3782, June 2005, p. II-1, and petition, pp. 11-13. However, SIC stated that "there's no reason to tablet dichlor." Conference transcript, p. 138 (Pettoruto). ***.

[4] *Chlorinated Isocyanurates from China and Spain, Inv. Nos. 731-TA-1082-1083 (Final)*, USITC Publication 3782, June 2005, p. II-1, and petition, p. 12. At the conference, petitioners described blended tablets as a marketing tool that retailers use to sell a premium-priced product. Conference transcript, pp. 69-70 (Helmstetter and Johnson).

Levels of production

Chlorinated isos are first produced in granular form, then may be sold as such or converted into tablets. Eventually, both granular and tableted chlorinated isos are sold to consumers through a variety of retail channels.

There are three manufacturers of granular chlorinated isos in the United States. Clearon and Oxy make dichlor and trichlor, while BioLab manufactures ***.[5] Oxy stated that it produces bulk bags of dichlor and/or trichlor, and then either ships these bulk bags directly to retailers or to toll processors, if the customers purchase in retail packaging.[6] ***.[7] See *Part III* for more information on U.S. producers. [8]

SIC indicated that there were approximately 11 tableters currently operating in the United States.[9] Tableters may purchase granulated chlorinated isos for production into tablets from U.S. producers or from importers, and they may also import directly. They may toll produce as well as produce their own tablets. For example, ***. SIC, which is not a tableter, indicated that it purchases granular chlorinated isos from Oxy and resells them to tableters ***.[10] SIC and purchaser Suncoast stated that tableters do not mix bulk product from multiple sources into one tablet, nor do they tablet other products with the same equipment with which they tablet chlorinated isos.[11]

The U.S. chlorinated isos market also consists of approximately *** distributors, with *** operating on a national or regional level, and the others small, family-owned businesses. The largest distributor is ***. The leading independent tableters/repackers are ***. Until the 1990s, most retailing of chlorinated isos was done by specialty pool shops, but currently, about 35 percent of chlorinated isos for pool sanitizers are sold by large retailers such as ***.[12] Oxy stated that the majority of it sales are to Leslie's, PoolCorp, and BioLab.[13] However, Clearon indicated that a majority of its sales were directly to large retailers.[14]

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[5] *Chlorinated Isocyanurates from China and Spain, Inv. Nos. 731-TA-1082-1083 (Final)*, USITC Publication 3782, June 2005, p. II-1, and petition, pp. 2-3.

[6] Conference transcript, p. 18 (Kuechler).

[7] Oxy also sells chlorinated isos to SIC for repackaging and further sale. Conference transcript, p. 136 (Pettoruto). Counsel for petitioners described these sales as low volume. Conference transcript, pp. 152-153 (Cannon). ***.

[8] For purposes of this part, "producer" refers to the producers of granular chlorinated isocyanurates (those who produce chlorinated isos from cyanuric acid and chlorine gas),, i.e, Clearon, Oxy, and BioLab. "Tableter" refers to firms that convert granular/powdered isocyanurates into tablets, and filled out a producers' questionnaire. Two tableter firms, *** submitted both producers' and importers' questionnaires.

[9] SIC stated that it sells to 7 of these 11. Conference transcript, p. 98 (Pettoruto). ***.

[10] Conference transcript, p. 99 (Pettoruto).

[11] Conference transcript, pp. 142-4 (Pettoruto, Eisch, and Klett).

[12] ***, in petition at exhibit GEN-9.

[13] Conference transcript, p. 20 (Williams).

[14] Conference transcript, pp. 30-31 (Johnson).

At the consumer level, chlorinated isos are sold through mass merchant retailers, through “mom and pop” pool specialty stores, through the large pool products chain Leslie’s, through pool service companies, and to a lesser degree through grocery and hardware stores. Historically, tableters have tended to supply the professional pool service companies while pool retail stores tend to buy from tableters and repackagers, and the larger mass merchandiser retailers and Leslie’s tend to buy from granular producers, tableters, and repackagers. Mass merchandiser retailers offer less expertise and a more narrow range of products to consumers than pool specialty stores but often sell chlorinated isos at a lower price.[15]

CHANNELS OF DISTRIBUTION

U.S. producers and importers of Chinese chlorinated isos sold mainly to retailers while importers of Japanese product sold mainly to repackers and tableters, as shown in table II-1. As noted in the table, though, for U.S. shipments to repackers/tableters, commercial shipments to "repackets/tableters" were subtracted from the total of tableted and granular shipments, in order to eliminate double counting. ***.

Table II-1
Chlorinated Isos: U.S. producers’ and importers’ U.S. shipments, by sources and channels of distribution, 2010-2012, January-June 2012, and January-June 2013

* * * * * * *

As a result of the varied methods of distribution in the chlorinated isos market, producers sometimes end up competing with companies that they have supplied.[16] For example, both petitioners and respondents agreed that Clearon shifted from selling mostly to tableters to selling to some downstream retailers, but disagreed as to whether this shift was an effect of pressure from subject imports or a cause of tableters seeking out subject imports to replace lost volumes of bulk chlorinated isos previously obtained from Clearon.[17]

GEOGRAPHIC DISTRIBUTION

U.S. producers, tableters, and importers reported selling chlorinated isos to all regions in the contiguous United States (table II-2). For U.S. producers and tableters, over 70 percent of

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[15] *Chlorinated Isocyanurates from China and Spain, Inv. Nos. 731-TA-1082-1083 (Final)*, USITC Publication 3782, June 2005, p. II-2-4. Additionally, ***. See staff interview with ***.

[16] *Chlorinated Isocyanurates from China and Spain, Inv. Nos. 731-TA-1082-1083 (Final)*, USITC Publication 3782, June 2005, p. II-2-4.

[17] Purchaser Suncoast stated that U.S. producers are now lowering prices in order to “squeeze” out the independent tableters. Conference transcript, pp. 39 (Helmstetter), 100 (Pettoruto), and 107-109 (Eisch). Counsel for petitioners stated that Clearon still sells to tableters. Conference transcript, p. 153 (Cannon).

sales were between 101 and 1,000 miles of their facility, with most of the rest over 1,000 miles. Importers of Japanese product sold the vast majority of their product within 100 miles of their U.S. point of shipment, while importers of Chinese product sold approximately 50 percent of their product between 101 and 1,000 miles of their U.S. point of shipment, and a majority of the rest under 100 miles.

Table II-2
Chlorinated Isos: Geographic market areas in the United States served by U.S. producers and importers, by number of responding firms

Region	U.S. producers and tableters	Importers of Chinese product	Importers of Japanese product
Northeast	7	4	5
Midwest	6	4	4
Southeast	7	4	4
Central Southwest	7	4	5
Mountain	6	4	2
Pacific Coast	5	3	4
Other[1]	4	2	2

[1] All other U.S. markets, including AK, HI, PR, and VI, among others.

Source: Compiled from data submitted in response to Commission questionnaires.

SUPPLY AND DEMAND CONSIDERATIONS

U.S. supply

Domestic production

Based on available information, U.S. producers of chlorinated isos have the ability to respond to changes in demand with moderate changes in the quantity of shipments of U.S.-produced chlorinated isos to the U.S. market. The main contributing factors to the moderate degree of responsiveness of supply are the availability of some unused capacity and the existence of some limited inventories, constrained by the lack of alternate markets and an inability to produce alternate products.

Industry capacity

Domestic capacity utilization for producers of granular chlorinated isos was relatively stable between *** percent over 2010 to 2012. (Capacity utilization is usually higher in the first six months of the year due to seasonal factors discussed below. In the first six months of 2012 and 2013, capacity utilization was higher than the annual numbers for 2010 to 2012). This moderate level of capacity utilization suggests that U.S. producers have a capacity to increase production of product in response to an increase in prices. Total overall capacity was unchanged at these producers.

Alternative markets

U.S. producers' exports were a tiny percentage of total shipments, suggesting that U.S. producers have little, if any, ability to shift shipments between the U.S. market and other markets in response to price changes.

Inventory levels

U.S. producers' inventories as a percent of total shipments fell from 2010 to 2012. Inventory levels were somewhat higher in the first six months of 2013 than in the first six months of 2012; these inventory levels suggest that U.S. producers may have some limited ability to respond to changes in demand with changes in the quantity shipped from inventories.

According to ***, producers tend to operate their plants at a fairly consistent level throughout the year, despite demand being highly seasonal. In off-season times (fall and winter), producers build inventories that are worked off during the higher demand spring and summer seasons.[18]

Production alternatives

No responding U.S. producers stated that they could switch production from chlorinated isos to other products.

Supply constraints

Petitioners described capacity increases as difficult unless the capacity is being added to an existing facility.[19] Eight producers and tableters reported that they had not been unable to supply chlorinated isos since January 1, 2010.

Subject imports from China

Based on available information, producers of chlorinated isos from China have the ability to respond to changes in demand with large changes in the quantity of shipments of chlorinated isos to the U.S. market.[20] The main contributing factors to the large degree of responsiveness of supply are the large Chinese production capacity and the existence of alternate markets.

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[18] ***, in petition at exhibit GEN-9.

[19] Conference transcript, p. 71 (Cannon and Johnson).

[20] The Commission received questionnaire responses from two Chinese producers which accounted for approximately *** percent of U.S. imports of chlorinated isos from China.

Industry capacity

*** indicated that there were *** Chinese producers of chlorinated isos with a total capacity of more than *** metric tons per year. However, it added that Chinese capacity to produce product acceptable in the United States and Western Europe is lower, at *** metric tons per year.[21] According to High Beam Research, during 2000 to 2008, Chinese capacity grew by an average of 31.5 percent per year, as Chinese consumption of cyanuric acid grew at an average of 31.9 percent per year from 2003 to 2008. High Beam Research indicated that these growth rates left Chinese capacity at 493,000 tons per year and Chinese consumption at 247,100 tons per year in 2008.[22]

With a reported capacity of *** tons (see table VII-1), Chinese producers responding to Commission questionnaire represented only a portion of the capacity estimates described above.

Alternative markets

*** indicated that "almost all" Chinese chlorinated producers are export-oriented, as Chinese consumption is not large. It added some Chinese producers also export lower-quality product to Africa and other developing nations for drinking water disinfection.[23] Among Chinese producers responding to Commission questionnaires, exports to non-U.S. markets accounted for a large majority of total shipments.

Inventory levels

Among Chinese producers responding to Commission questionnaires, inventory levels were between *** percent of total shipments over 2010 to 2012.

Production alternatives

No Chinese producer responding to the Commission questionnaire reported being able to produce other products on the same production equipment used to produce chlorinated isos.

Supply constraints

*** importers of chlorinated isos from China reported that they had not been unable to supply chlorinated isos since January 1, 2010.

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[21] ***, in petition at exhibit GEN-9.

[22] High Beam Research, "Rapid development of the cyanuric acid sector," June 16, 2009, in petition at exhibit GEN-17.

[23] ***, in petition at exhibit GEN-9.

Subject imports from Japan

Based on available information, producers of chlorinated isos from Japan have the ability to respond to changes in demand with moderate changes in the quantity of shipments of chlorinated isos to the U.S. market. The main contributing factors to the moderate degree of responsiveness of supply are the existence of alternate markets and some inventories, constrained by high capacity utilization and a lack of alternate products.

Industry capacity

*** indicated that there were four Japanese producers of chlorinated isos with an estimated capacity of ***, which is *** than the reported capacity at the Japanese producers that responded to Commission questionnaires.[24]

Capacity utilization was usually between *** percent over January 2012 to June 2013, reaching its highest point in the January to June 2013 period.

Alternative markets

*** indicated that Japanese producers exported approximately *** percent of their production to the United States and Western Europe.[25] In Japanese producers' responses to Commission questionnaires, exports to the United States were between *** percent of total shipments, with exports to all other markets between *** percent of total shipments. The balance goes to the Japanese market.

Inventory levels

Inventories at responding Japanese producers were between *** percent of total shipments over 2010 to 2012.

Production alternatives

No Japanese producer reported being able to produce other products on the same production equipment used to produce chlorinated isos.

Supply constraints

Three importers of chlorinated isos from both China and Japan reported that they had not been unable to supply chlorinated isos since January 1, 2010. However, *** stated that they had been unable to supply all their U.S. customers, with *** stating that ***.

[24] ***, in petition at exhibit GEN-9. The Commission received questionnaires from four Japanese producers which accounted for all U.S. imports of chlorinated isos from Japan.

[25] ***, in petition at exhibit GEN-9.

Nonsubject imports

After China and Japan, the amount of U.S. imports of chlorinated isos from other sources is low. There is production of chlorinated isos in Italy and Spain.[26]

In recent years, there have been some imports of chlorinated isocyanurates from Panama, Singapore, Taiwan, and Vietnam. According to ***, there is no chlorinated isos production in these countries, and imports from these countries are actually incorrectly-declared imports of product from China.[27] See part VII for more information on imports.

Registration

As with all biocidal chemicals, chlorinated isos must be registered with the U.S. Environmental Protection Agency (EPA) under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The EPA requires that manufacturers submit data on chemical and physical properties of chlorinated isos before receiving registration. Petitioners, as well as some respondents, are members of the "Ad Hoc Committee" that owns the EPA-required data for chlorinated isos. Petitioners stated that most of these data are no longer compensable, i.e., there is no fee for a manufacturer to use the data in order to obtain an EPA registration.[28] Oxy added that registration is the responsibility of the firm under which label the chlorinated isos will be sold, and not the responsibility of a producing plant. Thus, a seller may use any U.S. or foreign plant as long as the seller has registered the chemical.[29]

Factors affecting supply

All responding producers (except ***), tableters, and importers reported that there had been no changes in the product range, product mix, or marketing of chlorinated isos since January 1, 2010. *** stated that while the products have remained the same, pricing is now driven by imports from China and Japan.

U.S. demand

Based on available information, the overall demand for chlorinated isos is likely to experience small to moderate changes in response to changes in price. The main contributing factor is the somewhat limited ability to use substitute products and the relatively fixed need for isos.

[26] There are currently U.S. antidumping duties on Spanish product.
[27] Emails from ***.
[28] Conference transcript, pp. 18-19, 74 (Kuechler).
[29] Conference transcript, p. 73-74 (Kuechler and Helmstetter).

End uses

Demand for chlorinated isos consists of three major segments: residential pool sanitizers; detergents and cleansers (i.e., bleaches, toilet bowl cleansers, industrial and institutional detergents); and industrial water treatment (i.e., cooling tower applications).[30] As noted earlier, approximately 90 percent of demand comes from the residential pool segment. Chlorinated isos are generally used in residential pools rather than commercial pools, which tend to use other types of sanitizers.[31]

Business cycles

According to ***, approximately two-thirds of retail chlorinated isos sales are made in the second and third quarters of the year.[32] Consumers tend to "shock" their pool with dichlor in May or June, and then use trichlor for maintenance thereafter. Thus, chlorinated isos manufacturers and importers will usually begin shipping (to retailers) in the first quarter of the year, with shipments peaking in the second quarter.[33]

Most U.S. producers, tableters, and importers indicated that the chlorinated isos market was subject to business cycles or conditions of competition, citing the seasonal demand for chlorinated isos in the pool market, and changes in weather affecting demand at a given time. *** also described decreased housing activity and substitution of saltwater pool sanitization systems, as affecting the business cycle for chlorinated isos.

Five importers and two producers or tableters stated that there had not been changes to the business cycles or conditions of competition for chlorinated isos. However, five producers or tableters and two importers stated that there had been, citing U.S. granular chlorinated isos producers selling directly to retailers, substitution by salt systems, a move toward regional rather than centralized tolling, "terrible" weather, and slow home construction.

Apparent consumption

Apparent U.S. consumption of chlorinated isos increased during 2010 to 2012. However, apparent consumption in the first six months of 2013 was lower than in the first six months of 2012. Petitioners characterized U.S. chlorinated isos consumption as approximately half of global chlorinated isos consumption.[34]

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[30] *Chlorinated Isocyanurates from China and Spain, Inv. Nos. 731-TA-1082-1083 (Final)*, USITC Publication 3782, June 2005, p. II-7.

[31] *Chlorinated Isocyanurates from China and Spain, Inv. Nos. 731-TA-1082-1083 (Final)*, USITC Publication 3782, June 2005, p. II-1, and ***, petition, exhibit GEN-9.

[32] ***, in petition at exhibit GEN-9. See also conference transcript, p. 22 (Williams).

[33] Petition, p. 118.

[34] Petition, p. 118.

Demand trends

According to ***, U.S. consumption has increased at about 3 percent per year since 2005. *** stated that historically, chlorinated isos demand has followed the market for new houses, and thus was strong until 2005. However, construction of new pools fell *** percent from 2006 to 2009, starting to rise again only in 2011.[35]

*** further elaborated that demand from inground pool users is most connected with new home construction, as such pools are generally built with a new home, while above-ground pools are more often installed by existing homeowners. It stated that there were *** million U.S. inground pool owners and *** million above-ground pool owners in 2011.[36] For petitioners, the maintenance of this already-installed pool capacity means that a large part of chlorinated isos demand is steady, despite trends in the U.S. housing market.[37] SIC, however, reported that a slow housing market had hurt new pool installations and thus chlorinated isos demand.[38]

Petitioners added that the growing use of saltwater swimming pools (which do not use chlorinated isos) may dampen future demand. However, petitioners and SIC also stated that weather can also be an important condition affecting demand in a particular year.[39]

Most firms reported decreased or unchanged U.S. demand for chlorinated isos since 2010 (table II-3). U.S. producers, importers, and tableters cited a weak economy, slow growth in housing, weather not conducive to pool use, and competition from saltwater pools as reasons for decreasing, fluctuating, and/or unchanged demand.

Table II-3

Chlorinated Isos: Firms' responses regarding trends in U.S. demand since January 2010, by number of responding firms

Item	Increase	Decrease	Fluctuate	No change
Demand in the United States				
U.S. producers and tableters	0	5	2	1
Importers	0	2	3	3
Demand outside the United States				
U.S. producers and tableters	0	2	0	0
Importers	0	1	0	1

Source: Compiled from data submitted in response to Commission questionnaires.

[35] ***, in petition at exhibit GEN-9, and conference transcript, p. 102 (Pettoruto).

[36] ***, in petition at exhibit GEN-9.

[37] ***, in petition at exhibit GEN-9. See also Conference transcript, p. 66 (Helmstetter and Cannon), and petitioners' postconference brief, at p. 48.

[38] Conference transcript, p. 138 (Pettoruto).

[39] *Chlorinated Isocyanurates from China and Spain, Inv. Nos. 731-TA-1082-1083 (Final)*, USITC Publication 3782, June 2005, pp. II-7-8, petition, p. 119, and conference transcript, pp. 23 (Williams) and 102 (Pettoruto).

Substitute products

Overall substitutes

Oxy described chlorinated isos as the "dominant" product for adding chlorine to pools based on its ease of use, storage stability, and high chlorine content. Nonetheless, it added that elemental chlorine, sodium hypochlorite, calcium hypochlorite, and salt systems can also perform the same role.[40] [41] Petitioners stated that some large retailers and pool specialty stores will sell both chlorinated isos and substitutes, whereas other large retailers may only carry a limited range of chlorinated isos products.[42]

Three producers or tableters and two importers indicated that there were no substitutes for chlorinated isos, but six producers or tableters and five importers indicated that there were. Multiple producers, tableters, and importers named calcium hypochlorite and sodium hypochlorite as substitutes, but most reported that changes in the prices of these substitutes had not affected the price of chlorinated isos. (***). Other substitutes named included bromine and saltwater systems (discussed below).

Saltwater pool systems

A small but increasing number of pools, especially in luxury hotels and on cruise ships, are "saltwater" pools. These pools use a generator to release chlorine gas from salt in the water in order to sanitize the pool, and so do not need any additional chlorinated isos. The salinity of the water in saltwater pools is much lower than in ocean water, and the smell of chlorine is "virtually nonexistent."[43] However, maintenance on saltwater pools may present more difficulties than maintenance on standard pools sanitized with chlorinated isos, and saltwater pools may have a higher energy footprint.[44] Nonetheless, petitioners forecast that the increasing use of saltwater pools may mean that long-term demand for chlorinated isos will rise

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[40] Conference transcript, pp. 14-16 (Kuechler).

[41] *** listed calcium hypochlorite and sodium hypochlorite as the major substitutes for chlorinated isos. It described calcium hypochlorite as the predominant residential pool sanitizer used in the North while chlorinated isos are the predominant pool sanitizers used in the Midwest and South. It further described sodium hypochlorite (usually used in a liquid solution) as more difficult to use and store for many homeowners, even though it can be less expensive than chlorinated isos. It added that pool service companies, which are more cost-conscious, more comfortable with handling liquid bleach, and more accustomed to performing regular pool cleanings, often use sodium hypochlorite rather than chlorinated isos. ***, in petition at exhibit GEN-9. However, at the conference, petitioners described selling nationally and not noting any regional differences. Conference transcript, p. 63 (Helmstetter).

[42] Conference transcript, p. 64 (Johnson and Helmstetter).

[43] Petition, p. 119 and exhibit GEN-9, citing ***, and Green, Stephanie, "Saltwater pools: Is the water fine?" *Washington Times*, July 29, 2009.

[44] Petitioners also noted that even salt-system users may wish to use chlorinated isos to "shock" their pools. Conference transcript, pp. 88-90 (Helmstetter and Johnson) and p. 103 (Pettoruto).

at a lower rate, *** percent, than historically (***).[45] Moreover, SIC provided documentation that as much as 85 percent of new pool construction may come from saltwater pools.[46] Petitioners pointed out that the high percentage of new pools (they estimated *** percent) using saltwater should be viewed in the context of the small number of new pools relative to the installed base that use chlorinated isos.[47]

Among questionnaire respondents, *** named saltwater systems as potential substitutes for chlorinated isos, and indicated that salt systems had taken market share from pools sanitized with chlorinated isos. They added that lower prices for saltwater systems had affected the price of chlorinated isos.

Cost share

Chlorinated isos accounts for a large share of the cost of the end-use products in which it is used. U.S. producers, tableters, and importers reported that a large- usually 99-100 percent- of the cost of a pool or spa sanitizer was the chlorinated isos. (***). U.S. producers and importers also described chlorinated isos as 80 to 100 percent of the cost of water treatment systems. *** indicated that about 25 percent of the cost of a toilet cleaning tablet was chlorinated isos.

Oxy described demand in the pool sanitizer segment as "relatively inelastic" because pool owners will not use more (or less) chlorinated isos in response to price cuts (or increases).[48]

SUBSTITUTABILITY ISSUES

The degree of substitution between domestic and imported chlorinated isos depends upon such factors as relative prices, quality (e.g., grade standards, reliability of supply, defect rates, *et cetera*), and conditions of sale (e.g., price discounts/rebates, lead times between order and delivery dates, payment terms, product services, et cetera). Based on available data, staff believes that there is moderate-to-high degree of substitutability between domestically produced chlorinated isos and chlorinated isos imported from subject sources, depending on the importance and degree of quality differences between Chinese product compared to U.S. and Japanese product.

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[45] Petition, p. 119 and exhibit GEN-9, citing ***, and Green, Stephanie, "Saltwater pools: Is the water fine?" *Washington Times*, July 29, 2009.

[46] The documentation also noted that saltwater pool systems are not currently subject to the same EPA regulations as chlorinated isos. Postconference brief of SIC, exhibit 2.

[47] Petitioners' postconference brief, p. 48.

[48] Conference transcript, p. 23 (Williams).

Lead times

Chlorinated isos are primarily sold from inventory. U.S. producers reported that *** percent of their commercial shipments of granular chlorinated isos were from inventory, and similarly that *** percent of commercial shipments of tableted chlorinated isos were from inventory. U.S. producers' and tableters' sales of chlorinated isos from inventory had lead times of one to five days. Their sales which were produced to order had lead times of 2 to 30 days. For importers of subject product, *** percent of commercial shipments of chlorinated isos were from either U.S. or foreign inventory, with roughly half of all commercial shipments from U.S. inventory. Lead times were approximately three days for importers' sales from U.S. inventory, were 30-45 days for sales from foreign inventory, and were 60 to 90 days for product produced to order. Oxy noted that chlorinated isos importers maintain inventories in the United States, and thus, U.S. producers had no delivery time advantage over importers.[49]

Comparison of U.S.-produced and imported chlorinated isos

In order to determine whether U.S.-produced chlorinated isos can generally be used in the same applications as imports from China and Japan, U.S. producers and importers were asked whether the products can "always," "frequently," "sometimes," or "never" be used interchangeably. As shown in table II-4, producers were somewhat more likely than tableters and importers to respond that chlorinated isos from different countries are always interchangeable. A majority of all questionnaire respondents found that U.S., Chinese, and Japanese chlorinated isos were always or frequently interchangeable.

Table II-4
Chlorinated Isos: Perceived interchangeability between product produced in the United States and in other countries, by country pairs

* * * * * * *

At the conference, petitioners stated that while U.S. and Japanese product had been of higher quality than Chinese product 10-15 years ago, there are no longer any such quality distinctions.[50] However, purchaser Suncoast stated that it purchases from SIC because of SIC's product's quality as well as reliability of SIC supply.[51] It also indicated that the quality of granular chlorinated isos is defined by consistency of granule size and the moisture content, both of which affect how efficiently tableters can make tablets. It added that SIC's product was superior to Chinese and U.S. product with regard to these factors.[52]

In further comments in the questionnaires, *** stated that it had observed chlorine off-gassing issues with Chinese product, leading to issues of worker exposure as well as degrading

[49] Conference transcript, p. 21 (Williams).
[50] Conference transcript, pp.61- 62 (Williams and Helmstetter).
[51] Conference transcript, p. 108 (Eisch).
[52] Conference transcript, pp. 109-110, 124-125, 147 (Eisch). ***.

packaging. It added that Chinese product is coarser than U.S. and Japanese product, leading to changes in tableting requirements. *** also noted that Chinese product had difficulties with off-gassing damaging packaging and posing health risks to workers.[53] It added that ***. *** stated that there were "slight" variations in quality among product from different countries, and added that EPA registration is an important issue in assessing interchangeability. *** also stated that quality can vary by country of origin.

Producers and importers were also asked to assess how often differences other than price were significant in sales of chlorinated isos from the United States, subject, or nonsubject countries. As seen in table II-5, producers, tableters, and importers usually described differences other than price as sometimes or never being significant.

Table II-5

Chlorinated Isos: Significance of differences other than price between chlorinated isos produced in the United States and in other countries, by country pair

* * * * * * *

In further comments, *** stated that there could be quality differences between product from different countries. *** elaborated that coarser Chinese material can lead to a cosmetic difference in tablets called "orange peel." It added that chlorine off-gassing from Chinese material can result in more work due to degraded packaging. *** again described issues with off-gassing from Chinese product ***.

[53] See also ***.

PART III: U.S. PRODUCERS' PRODUCTION, SHIPMENTS, AND EMPLOYMENT

The Commission analyzes a number of factors in making injury determinations (see 19 U.S.C. §§ 1677(7)(B) and 1677(7)(C)). Information on the subsidies was presented in *Part I* of this report and information on the volume and pricing of imports of the subject merchandise is presented in *Part IV* and *Part V*. Information on the other factors specified is presented in this section and/or *Part VI* and (except as noted) is based on the questionnaire responses of three firms that accounted for the all of U.S. production of chlorinated isos and six firms that are involved in U.S. tableting operations of chlorinated isos during 2012.[1]

U.S. PRODUCERS

The Commission sent U.S. producer questionnaires to three firms that produce chlorinated isos from cyanuric acid and chlorine gas (referred to herein as "producers") based on information contained in the petition, and six firms that tablet chlorinated isos (referred to herein as "tableters"). Data presented herein for U.S. producers are from the questionnaire responses of three firms, Clearon, Oxy, and BioLab, that accounted for all integrated production of chlorinated isos (in granular form and tablets) in the United States during 2010-12. In addition, data are presented for six U.S. tableters (firms that purchase domestically produced and/or imported granular chlorinated isos and form these into tablets).[2] [3]

Table III-I lists U.S. production of chlorinated isocyanurates for the responding producers and tableters, their production locations, positions on the petition, total production, and shares of total production.

[1] All producers provided financial data, but not all tableters provided financial data. Six tableting firms provided partial questionnaire responses. Two firms, ***, do not have tableting facilities but toll process chlorinated isos into tablets and therefore do not have capacity, production, or PRW data. *** provided data only on its purchases of chlorinated isos, citing that it is a small firm with limited resources and was not able to fill out all the data requested by the Commission by the deadline.

[2] At least three other firms, ***, are believed to be tableters that have not responded to the Commission's questionnaires. One additional firm, ***, is believed to be a tollee of chlorinated isos and has not responded to the Commission's questionnaire.

[3] One tableter, ***.

Table III-1
Chlorinated isos: U.S. producers and U.S. tableters,[1] their positions on the petition, U.S. headquarters, production by type from January 2010 to June 2013

Firm	Position on the petition	Headquarters	U.S. production (*1,000 pounds*)			Share of U.S. production (*percent*)		
			Granular /powder	Tablets	Overall chlorinated isos[2]	Granular/ powder	Tablets	Overall chlorinated isos[2]
Arch[3]	***	Atlanta, GA	***	***	***	***	***	***
BioLab[4]	***	Lawrenceville, GA	***	***	***	***	***	***
Clearon[5]	Support Petitioner	South Charleston, WV	***	***	***	***	***	***
LPM[6]	***	Phoenix, AZ	***	***	***	***	***	***
Oxy[7]	Support Petitioner	Dallas, TX	***	***	***	***	***	***
Oreq[8]	***	Temecula, CA	***	***	***	***	***	***
Qualco[9]	***	Passaic, , NJ	***	***	***	***	***	***
SIC[10]	***	Orange, CA	***	***	***	***	***	***
Stellar[11]	***	Sauget, IL	***	***	***	***	***	***
Total			***	***	***	100.0	100.0	100.0

[1] Additional firms that may have tableting facilities in the United States, but did not submit a producer questionnaire include: ***.
[2] Overall chlorinated isos is not simply the total of granular/powder production plus tablet production as much of the granular/powder feedstock for tablet production is already reported once as U.S. production at the granular/powder production level. Overall chlorinated isos production therefore reflects granular/powder production plus any tablet production made from imported granular/powder feedstock; thus the overall chlorinated isos number does not double count U.S. production. Since *** creates tablets from all domestically manufactured chlorinated isos, none of its reported production is added to the overall chlorinated isos number.
[3] Arch is *** and is ***. Arch also ***.
[4] BioLab is ***.
[5] Clearon is ***.
[6] LPM is ***.
[7] Oxy is ***.
[8] Oreq is partially owned by ***. Oreq also ***.
[9] Qualco ***.
[10] SIC is ***. SIC also ***.
[11] Stellar is ***.

Source: Compiled from data submitted in response to Commission questionnaires.

OVERVIEW OF U.S. PRODUCERS OF CHLORINATED ISOS

BioLab produces granular/powder trichlor chlorinated isos and ***.[4] BioLab also ***. In addition, BioLab ***.[5] BioLab reported that it ***.

Clearon, a petitioner in these investigations, produces granular trichlor, granular dichlor, and tableted trichlor at its facility in South Charleston, WV. This facility is capable of producing a combined *** of granular chlorinated isos annually. In addition, Clearon reported that it *** and that its ***. It reported that ***.

Oxy, a petitioner in these investigations, produces granular trichlor and granular dichlor at its facilities in Sauget, IL and Luling, LA. Oxy ***. Oxy reported that ***.

OVERVIEW OF U.S. TABLETERS OF CHLORINATED ISOS

Arch, imports granular chlorinated isos from ***,[6] is a ***,[7] and *** the petition. It has contracts with other firms to process the granular/powder chlorinated isos into tablets for sale to distributors and the retail market.

LPM is a *** of chlorinated isos. It ***. LPM has ***.

Oreq, ***, and is a ***.[8] Oreq also ***.

Qualco, ***. It ***.[9] Qualco was ***.

Stellar, a ***.[10] It reported production constraints ***. It does not ***.

SIC imports chlorinated isos from its sister company, Shikoku, in Japan, ***, and is a tollee of tableted chlorinated isos.[11] SIC also ***.

As indicated in table III-1, two U.S. tableters, Arch and SIC are related to foreign producers of the subject merchandise. In addition, one U.S. producer, ***, directly imports the subject merchandise and three U.S. tableters, ***, directly import the subject merchandise from subject sources.

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[4] The granular/powder chlorinated isos ***.

[5] BioLab reported ***.

[6] Arch reported that it ***.

[7] Arch ***.

[8] Oreq reported that it ***.

[9] E-mail from ***.

[10] Stellar reported ***. Its ***.

[11] SIC has a toll arrangement with ***. SIC also has ***.

U.S. PRODUCTION, CAPACITY, AND CAPACITY UTILIZATION

Table III-2 presents combined U.S. producers and tableters' production, capacity, and capacity utilization and table III-3 presents data for U.S. producers only. U.S. producers' capacity to produce granular/powder chlorinated isos remained the same from January 2010 to June 2013 while U.S. tableting capacity declined slightly from 2010 to 2012. Actual production of granular/powder and tableted chlorinated isos also remained fairly constant from 2010 to 2012.

Table III-2
Chlorinated isos: U.S. producers' and U.S. tableters' capacity, production, and capacity utilization for producers and tableters, 2010-12, January to June 2012, and January to June 2013

Item	Calendar year			January - June	
	2010	2011	2012	2012	2013
	Quantity (1,000 pounds)				
Granular and powder form:[1]					
Capacity	***	***	***	***	***
Production	***	***	***	***	***
	Capacity utilization (percent)				
Capacity utilization	***	***	***	***	***
	Quantity (1,000 pounds)				
Tableting operations:[2]					
Capacity	***	***	***	***	***
Production	***	***	***	***	***
	Capacity utilization (percent)				
Capacity utilization	***	***	***	***	***
	Quantity (1,000 pounds)				
Estimated overall U.S. production activities:[3]					
Capacity	302,586	299,022	299,855	156,882	157,152
Of which associated with tableting imported feedstock	***	***	***	***	***
Production	190,512	190,411	188,961	130,421	112,231
Of which tableting from imported feedstock	***	***	***	***	***
	Capacity utilization (percent)				
Capacity utilization	63.0	63.7	63.0	83.1	71.4

[1] All responding firms' reported granular and powder form U.S. production of chlorinated isos. These firms are: (***).

[2] All responding firms' reported tableting U.S. production of chlorinated isos. These firms are: (***). ***.

[3] Estimated overall U.S. production activities of all firms (i.e., inclusive of tableting only operations). These data eliminate the double counting of tableting production of U.S.-origin granular or powdered-form chlorinated isos by adding in production of imported granular or powder-form chlorinated isos and an associated allocation of tableting capacity (i.e. tableting capacity not dedicated to conversion of U.S.-origin granular or powder-form chlorinated isos).

Source: Compiled from data submitted in response to Commission questionnaires.

Table III-3
Chlorinated isos: U.S. producers' capacity, production, and capacity utilization for U.S. producers, 2010-12, January to June 2012, and January to June 2013

Item	Calendar year			January - June	
	2010	2011	2012	2012	2013
	Quantity (1,000 pounds)				
Granular and powder form:[1]					
Capacity	***	***	***	***	***
Production	***	***	***	***	***
	Capacity utilization (percent)				
Capacity utilization	***	***	***	***	***
	Quantity (1,000 pounds)				
Tableting operations of U.S. producers with granular and powder-form production:[2]					
Capacity	***	***	***	***	***
Production	***	***	***	***	***
	Capacity utilization (percent)				
Capacity utilization	***	***	***	***	***
	Quantity (1,000 pounds)				
Estimated overall U.S. production activities of firms with granular and powder-form production:[3]					
Capacity	288,175	288,175	288,175	151,805	151,805
Of which associated with tableting imported feedstock	***	***	***	***	***
Production	184,232	185,464	183,880	127,592	109,315
Of which tableting from imported feedstock	***	***	***	***	***
	Capacity utilization (percent)				
Capacity utilization	63.9	64.4	63.8	84.0	72.0

[1] All responding firms' reported granular and powder form U.S. production of chlorinated isos. These firms are: (***).

[2] Tableting U.S. production of chlorinated isos for firms that have reported production of granular or powder-form chlorinated isos. These firms are (***).

[3] Estimated overall U.S. production activities of firms with granular or powder-form production (excludes firms that have only tableting operations). These data eliminate double counting of tableting production of U.S.-origin granular or powdered-form chlorinated isos by adding in production of imported granular or powder-form chlorinated isos and an associated allocation of tableting capacity (i.e. tableting capacity not dedicated to conversion of U.S.-origin granular or powder-form chlorinated isos).

Source: Compiled from data submitted in response to Commission questionnaires.

U.S. PRODUCERS' U.S. SHIPMENTS AND EXPORTS

Table III-4 presents data on combined U.S. producers' and U.S. tableters' U.S. shipments, export shipments, and total shipments and table III-5 presents data for U.S. producers only. For the combined data, commercial shipments and internal consumption were the majority of granular/powder chlorinated isos shipments from January 2010 to June 2013. Unit values for granular/powder isos were lower than unit values for tableted chlorinated isos throughout January 2010 to June 2013. Toll converted U.S. shipments encompassed the smaller portion of U.S. shipments during 2010-2012..

Table III-4
Chlorinated isos: U.S. shipments, export shipments, and total shipments by U.S. producers and U.S. tableters, 2010-12, January to June 2012, and January to June 2013

* * * * * * *

Table III-5
Chlorinated isos: U.S. shipments, export shipments, and total shipments by U.S. producers, 2010-12, January to June 2012, and January to June 2013

* * * * * * *

U.S. PRODUCERS' INVENTORIES

Table III-6 presents combined data for U.S. producers' and U.S. tableters' end-of-period inventories and the ratio of these inventories to U.S. producers' production, U.S. shipments, and total shipments over the period examined and table III-7 presents this data for U.S. producers only. The majority of inventories for both U.S. producers combined with U.S. tableters and for U.S. producers only were held in the granular/powder form from January 2010 to June 2013.

Table III-6
Chlorinated isos: End-of-period inventories and select ratios for U.S. producers and U.S. tableters, 2010-12, January to June 2012, and January to June 2013

* * * * * * *

Table III-7
Chlorinated isos: End-of-period inventories and select ratios for U.S. producers, 2010-12, January to June 2012, and January to June 2013

* * * * * * *

U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY

Table III-8 shows U.S. producers' and U.S. tableters' employment-related data during the period examined and table III-9 shows employment-related data for U.S. producers only. The hourly wages for PRWs engaged in producing granular/powder chlorinated isos was higher (ranged from $20.27 to $20.98) than the wages for tableters (ranged from $14.97 to $16.20). Producing granular/powder chlorinated isos involved 1.5 to two times amount of hours than producing tablets throughout the period.

Table III-8
Chlorinated isos: Employment related data for U.S. producers and U.S. tableters, 2010-12, January to June 2012, and January to June 2013

Item	Calendar year			January - June	
	2010	2011	2012	2012	2013
Employment data relating to granular or powder form chlorinated isos production:					
Production and related workers (number)	295	297	307	283	261
Hours worked by PRWs (1,000 hours)	676	671	675	375	344
Hours worked per PRW (hours per year)	2,292	2,259	2,199	1,325	1,318
Wages paid to PRWs (1,000 dollars)	13,839	14,079	13,680	7,623	7,174
Hourly wages (dollars)	$20.47	$20.98	$20.27	$20.33	$20.86
Productivity (1,000 pounds per hour)	273	276	272	340	318
Unit labor costs (dollars per pound)	$75.12	$75.91	$74.40	$59.75	$65.63
Employment data relating to tableting operations for chlorinated isos:					
Production and related workers (number)	190	220	234	224	206
Hours worked by PRWs (1,000 hours)	337	366	408	241	234
Hours worked per PRW (hours per year)	1,774	1,664	1,744	1,076	1,136
Wages paid to PRWs (1,000 dollars)	5,045	5,929	6,592	3,785	3,729
Hourly wages (dollars)	$14.97	$16.20	$16.16	$15.71	$15.94
Productivity (pounds per hour)	317	304	260	289	293
Unit labor costs (dollars per pound)	$47.23	$53.33	$62.13	$54.33	$54.40
Employment data relating to both granular or powder form chlorinated isos production and to tableting operations for chlorinated isos:					
Production and related workers (number)	485	517	541	507	467
Hours worked by PRWs (1,000 hours)	1,013	1,037	1,083	616	578
Hours worked per PRW (hours per year)	2,089	2,006	2,002	1,215	1,238
Wages paid to PRWs (1,000 dollars)	18,884	20,008	20,272	11,408	10,903
Hourly wages (dollars)	$18.64	$19.29	$18.72	$18.52	$18.86
Productivity (pounds per hour)	188	184	174	212	194
Unit labor costs (dollars per pound)	$99.12	$105.08	$107.28	$87.47	$97.15

Source: Compiled from data submitted in response to Commission questionnaires.

Table III-9
Chlorinated isos: Employment related data for U.S. producers, 2010-12, January to June 2012, and January to June 2013

Item	Calendar year			January - June	
	2010	2011	2012	2012	2013
Employment data relating to granular or powder form chlorinated isos production:					
Production and related workers (number)	295	297	307	283	261
Hours worked by PRWs (1,000 hours)	676	671	675	375	344
Hours worked per PRW (hours per year)	2,292	2,259	2,199	1,325	1,318
Wages paid to PRWs (1,000 dollars)	13,839	14,079	13,680	7,623	7,174
Hourly wages (dollars)	$20.47	$20.98	$20.27	$20.33	$20.86
Productivity (1,000 pounds per hour)	0.3	0.3	0.3	0.3	0.3
Unit labor costs (dollars per pound)	$75.12	$75.91	$74.40	$59.75	$65.63
Employment data relating to tableting operations for chlorinated isos:					
Production and related workers (number)	130	142	151	134	129
Hours worked by PRWs (1,000 hours)	276	286	317	194	193
Hours worked per PRW (hours per year)	2,123	2,014	2,099	1,448	1,496
Wages paid to PRWs (1,000 dollars)	4,091	4,643	5,087	2,998	3,057
Hourly wages (dollars)	$14.82	$16.23	$16.05	$15.45	$15.84
Productivity (pounds per hour)	0.3	0.2	0.2	0.2	0.2
Unit labor costs (dollars per pound)	$57.12	$80.76	$83.27	$66.13	$70.80
Employment data relating to both granular or powder form chlorinated isos production and to tableting operations for chlorinated isos:					
Production and related workers (number)	425	439	458	417	390
Hours worked by PRWs (1,000 hours)	952	957	992	569	537
Hours worked per PRW (hours per year)	2,240	2,180	2,166	1,365	1,377
Wages paid to PRWs (1,000 dollars)	17,930	18,722	18,767	10,621	10,231
Hourly wages (dollars)	$18.83	$19.56	$18.92	$18.67	$19.05
Productivity (pounds per hour)	0.2	0.2	0.2	0.2	0.2
Unit labor costs (dollars per pound)	$97.32	$100.95	$102.06	$83.24	$93.60

Source: Compiled from data submitted in response to Commission questionnaires.

U.S. PRODUCERS' IMPORTS AND PURCHASES

U.S. producers' and U.S. tableters' purchases of chlorinated isos are presented in table III-10 and their direct imports of chlorinated isos are presented in table III-11. As previously noted, U.S. producer BioLab is the only producer who directly imported chlorinated isos since January 2010. All U.S. tableters either directly imported subject product (***) or purchased subject imports for use in their tableting operations or tolling arrangements.

Table III-10
Chlorinated isos: U.S. producers' reported purchases of imports, 2010-12, January to June 2012, and January to June 2013

* * * * * * *

Table III-11
Chlorinated isos: U.S. producers' direct imports and ratio to domestic production, 2010-12, January to June 2012, and January to June 2013

* * * * * * *

PART IV: U.S. IMPORTS, APPARENT U.S. CONSUMPTION, AND MARKET SHARES

U.S. IMPORTERS

The Commission issued importer questionnaires to 22 firms believed to be importers of subject chlorinated isos, as well as to all U.S. producers of chlorinated isos.[1] [2] The vast majority of the chlorinated isos imported into the United States from China are imported by ***[3] from ***.[4] Similarly, the majority of chlorinated isos imported into the United States from Japan is imported by one firm, SIC, Orange, CA.[5] Usable questionnaire responses were received from eight companies, representing the vast majority of total imports from China and Japan between January 2010 to June 2013 under HTS subheading 2933.69.6015, a "basket" category.[6] Table IV-1 lists all responding U.S. importers of chlorinated isos from China, Japan, and other sources, their locations, and their shares of U.S. imports from January 2010 to June 2013.

[1] The Commission issued questionnaires to those firms identified in the petition, along with firms that, based on a review of data provided by U.S. Customs and Border Protection ("Customs"), may have accounted for a large percent of total imports under HTS subheading 2933.69.6015 in 2012.

[2] Tariff classifications 2933.69.6021 and 2933.69.6050, and 3808.99.9500 represent basket categories that include chlorinated isos and nonsubject compounds such as unfused triazine ring, disinfectants and other nonsubject products. Petition, p. 8. Petitioners contend that, for purposes of analyzing import data, HTSUS 2933.69.6015 "most accurately corresponds to the relevant imports in bulk form and includes chlorinated isos not blended with other additives or tableted and packaged for retail sale. Petition, vol. 1. The responding U.S. importers' imports for China and Japan exceed the quantities of imports reported under the primary HTS number, 2933.69.6015.

[3] ***.

[4] Petitioners contends that ***. Petitioners' postconference brief, p. 6.

[5] SIC is owned by Japanese producer Shikoku Chemicals Corp. ("Shikoku").

[6] Staff believes that the questionnaire responses account for virtually all imports from China and Japan. Reported imports from China, slightly overstated due to ***, exceed official Commerce statistics for the primary HTS number 2933.69.6015. Data for imports include reported commercial shipments of *** who was not able to sort its imports based on source country. It stated that it ***. As a result, import data includes ***'s purchases of chlorinated isos and therefore imports are slightly overstated.

Table IV-1
All chlorinated isos: Responding U.S. importers, U.S. headquarters, imports by source from January 2010 to June 2013

Firm	Headquarters	U.S. Imports (*1,000 pounds*)			Share of U.S. imports (*percent*)		
		China	Japan	AOS	China	Japan	AOS
Allchem	Gainesville, FL	***	***	***	***	***	***
Arch	Atlanta, GA	***	***	***	***	***	***
BioLab	Lawrenceville, GA	***	***	***	***	***	***
Eco-Chem Links, Inc.	Allentown , PA	***	***	***	***	***	***
Oreq Corp.	Temecula, CA	***	***	***	***	***	***
Shikoku International Corp.	Orange, CA	***	***	***	***	***	***
Toyota Tsusho America, Inc.	New York, NY	***	***	***	***	***	***
Wego Chemical & Mineral Corp.	Great Neck, NY	***	***	***	***	***	***
Total		***	***	***	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires.

U.S. IMPORTS

Table IV-2 presents data for U.S. imports of chlorinated isos from China, Japan and all other sources. Nonsubject sources of U.S. imports of chlorinated isos include Canada, India, Ireland, Italy, Mexico, Philippines, Spain, and Vietnam.[7]

Table IV-2
All Chlorinated Isos: U.S. imports by source, 2010-12, January-June 2012, and January-June 2013

* * * * * * *

[7] U.S. imports from Vietnam ceased after 2011. ***. Petitioners' postconference brief, exh. 2 and app. E.

NEGLIGIBILITY

The statute requires that an investigation be terminated without an injury determination if imports of the subject merchandise are found to be negligible.[8] Negligible imports are generally defined in the Tariff Act of 1930, as amended, as imports from a country of merchandise corresponding to a domestic like chlorinated isos where such imports account for less than 3 percent of the volume of all such merchandise imported into the United States in the most recent 12-month period for which data are available that precedes the filing of the petition or the initiation of the investigation. However, if there are imports of such merchandise from a number of countries subject to investigations initiated on the same day that individually account for less than 3 percent of the total volume of the subject merchandise, and if the imports from those countries collectively account for more than 7 percent of the volume of all such merchandise imported into the United States during the applicable 12-month period, then imports from such countries are deemed not to be negligible.[9] None of the respondents have argued negligibility. U.S. imports from China for July 2012 to June 2013 totaled 50,852 thousand pounds or 50.4 percent and U.S. imports from Japan for July 2012 to June 2013 totaled 42,446 thousand pounds or 42.0 percent for HTS 2933.69.6015.

CUMULATION CONSIDERATIONS

In assessing whether imports should be cumulated, the Commission determines whether U.S. imports from the subject countries compete with each other and with the domestic like product and has generally considered four factors: (1) fungibility, (2) presence of sales or offers to sell in the same geographical markets, (3) common or similar channels of distribution, and (4) simultaneous presence in the market. Additional information concerning fungibility, geographical markets, and simultaneous presence in the market is presented below.

[8] Sections 703(a)(1), 705(b)(1), 733(a)(1), and 735(b)(1) of the Act (19 U.S.C. §§ 1671b(a)(1), 1671d(b)(1), 1673b(a)(1), and 1673d(b)(1)).

[9] Section 771 (24) of the Act (19 U.S.C § 1677(24)).

Fungibility

All chlorinated isos, whether domestically or foreign produced, are primarily used to chlorinate residential and commercial swimming pools, with a small percentage used to sanitize and clean dishes and laundry.[10] See Part II of this report for more details.

Presence in the market

Official Commerce data for U.S. imports were used to evaluate subject import presence in the market. Imports from China were present in every month during January 2010 to June 2013 and imports from Japan were present in almost every month during January 2010 to June 2013, except in September and October 2010. China and Japan were the largest sources for imports of chlorinated isos during January 2010 to June 2013.

Geographical markets

Official Commerce statistics show that subject imports entered the United States in most geographical regions. U.S. imports from China entered through the ports of (in order of quantity in 2012) New York, NY; Los Angeles, CA; Savannah, GA; Dallas-Fort Worth, TX; Houston-Galveston, TX; Tampa, FL; San Francisco, CA; San Juan PR; Chicago, IL; and Miami, FL. U.S. imports from Japan entered through the ports of Los Angeles, CA; New York, NY; Savannah, GA; Tampa, FL; Miami, FL; Seattle, WA; Chicago, IL; Houston-Galveston, TX; and San Francisco, CA.

[10] Respondent Shikoku argues that the Japanese and Chinese imports are not completely fungible, noting that all Japanese imports enter the U.S. market in granular form while large quantities of Chinese imports are in tableted form, resulting in differing channels of distribution (Japanese imports are sent to tableters/repackagers for further processing while Chinese imports are sent to distributers and retailers. Respondent Shikoku's postconference brief, pp. 12-13.

APPARENT U.S. CONSUMPTION

Table IV-3 presents data on apparent U.S. consumption and U.S. market shares for chlorinated isos based on U.S. producers only while table IV-4 presents data based on U.S. producers and U.S. tableters combined.

Table IV-3
Chlorinated isos: apparent U.S. consumption based on firms with granular and powder-form production, 2010-12, January-June 2012, and January-June 2013

* * * * * * *

Table IV-4
Chlorinated isos: apparent U.S. consumption based on producers and tableters, 2010-12, January-June 2012, and January-June 2013

. * * * * * * *

U.S. MARKET SHARES

U.S. market share data based on producers only are presented in table IV-5 while table IV-6 presents data based on U.S. producers and U.S. tableters combined.

Table IV-5
Chlorinated isos: U.S. consumption and market shares based on firms with granular and powder-form production, 2010-12, January-June 2012, and January-June 2013

* * * * * * *

Table IV-6
Chlorinated isos: U.S. consumption and market shares based on producers and tableters, 2010-12, January-June 2012, and January-June 2013

* * * * * * *

RATIO OF IMPORTS TO U.S. PRODUCTION

Table IV-7 presents data on the ratio of U.S. imports to U.S. production based on U.S. producers only while table IV-8 presents data for both U.S. producers and U.S. tableters.

Table IV-7
Chlorinated isos: Ratio of U.S. imports to U.S. production based on firms with granular and powder-form production, by sources, 2010-2012, and January-June 2013

* * * * * * *

Table IV-8
Chlorinated isos: ratio of U.S. imports to U.S. production based on producers and tableters, by sources, 2010-2012, and January-June 2013

* * * * * * *

PART V: PRICING DATA

FACTORS AFFECTING PRICES

Raw material costs

Raw materials represented between *** and *** percent of U.S. granular chlorinated isos producers'[1] cost of goods sold over 2010-2012, making raw materials a significant part of the costs of producing granular chlorinated isos. Urea and natural gas are both inputs into cyanuric acid, which, with further processing, yields chlorinated isos.[2] Prices for urea and natural gas are presented in figure V-1.[3]

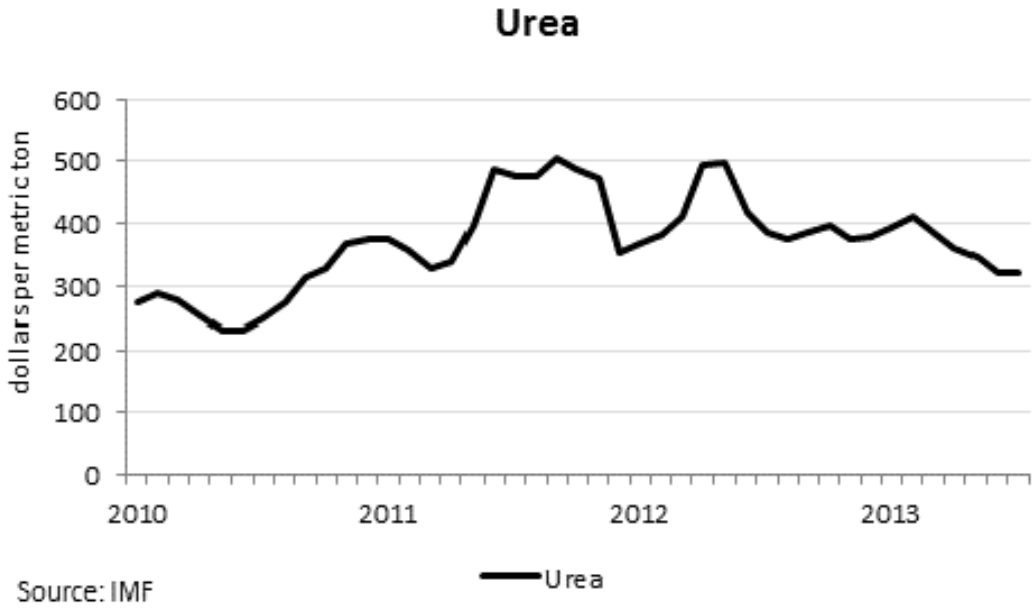
When asked to describe trends in raw materials prices, market participants responded with a wide range of answers. *** stated that it forecast raw materials prices to remain flat in 2014. *** described their raw material costs as having risen. *** anticipated that lower natural gas prices would reduce costs for U.S. producers of granular chlorinated isos. *** described prices of natural gas and urea as having fallen "dramatically" since January 2010 and September 2011, respectively, but did not forecast future trends in these products.

[1] For purposes of this part, "producer" refers to the producers of granular chlorinated isocyanurates (those who produce chlorinated isos from cyanuric acid and chlorine gas), i.e., Clearon, Oxy, and BioLab. "Tableter" refers to firms that convert granular/powdered isocyanurates into tablets, and filled out a producers' questionnaire. Two tableter firms, ***, submitted both producers' and importers' questionnaires. Additionally, for purposes of this chapter, ***.

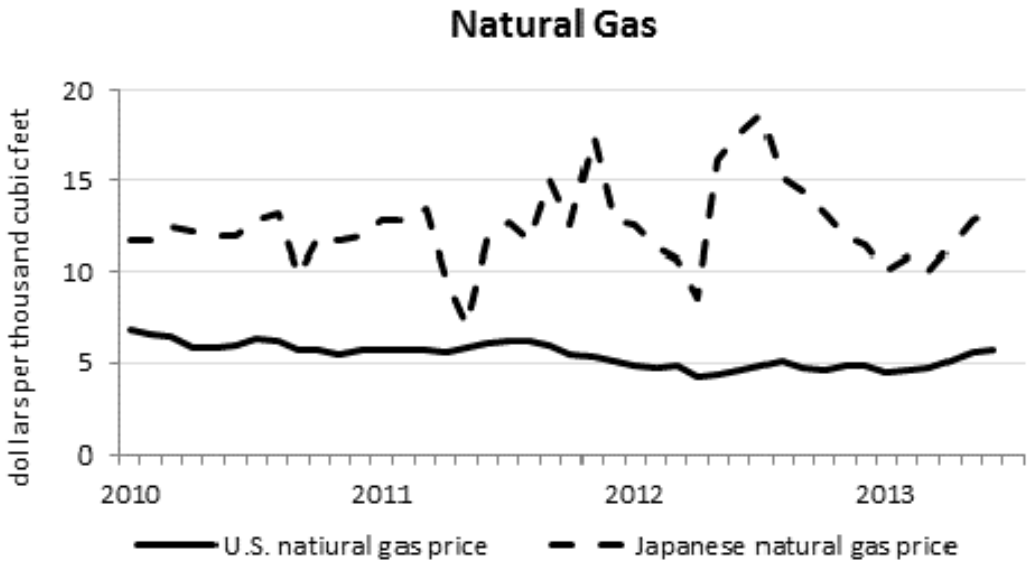
[2] There is no public source for pricing data on other inputs, including caustic soda and chlorine. *Chlorinated Isocyanurates from China and Spain, Inv. Nos. 731-TA-1082-1083 (Final)*, USITC Publication 3782, June 2005, p. II-1. Clearon noted that urea prices doubled from 2010 to 2012 before easing in 2013. Conference transcript, pp. 36-37 (Johnson).

[3] Petitioners also provided data on urea prices. These data are consistent with the data in figure V-1. Petitioners' postconference brief, p. 48 and exhibit 10.

Figure V-1
Chlorinated Isos: Prices of raw materials urea and natural gas



Source: IMF



Source: Energy Information Administration

U.S. inland transportation costs

Six responding U.S. producers and six importers reported that they typically arrange transportation to their customers. One producer and one importer reported that their purchasers arrange transportation. U.S. producers and tableters reported that their U.S. inland transportation costs ranged from 1 to 10 percent while importers reported costs of 1 to 7 percent.

PRICING PRACTICES

Pricing methods

Oxy stated that prices at large customers are typically negotiated in the fourth quarter for sales in the next year.[4] Purchaser Suncoast stated that Clearon and BioLab "effectively determine" chlorinated isos prices at the large retailers like Sam's Club (with product from Clearon) and Home Depot and Walmart (with product from BioLab). It added that tableters follow those prices.[5]

As presented in table V-1, U.S. producers and importers reported using transaction-by-transaction negotiations, contracts, price lists, and other methods, which for U.S. producers and tableters meant meeting competitors' pricing.

Table V-1
Chlorinated Isos: U.S. producers and importers reported price setting methods, by number of responding firms[1]

Method	U.S. producers	Tableters[2]	Importers
Transaction-by-transaction	***	***	***
Contract	***	***	***
Set price list	***	***	***
Other[3]	***	***	***

Note.—***.

[1] The sum of responses down will not add up to the total number of responding firms as each firm was instructed to check all applicable price setting methods employed.
[2] Tableters here includes the response in ***.
[3] Other includes meeting competitive pricing and price lists for individual purchasers (for ***).

Source: Compiled from data submitted in response to Commission questionnaires.

[4] Conference transcript, pp. 22-23 (Williams).
[5] Conference transcript, pp. 109, 127 (Eisch).

Contracts

Chlorinated isos are most often sold under short-term contracts. *** reported that at least 80 percent of their sales were under short-term contracts, while *** reported that *** percent of its sales were under long-term contracts. *** reported that *** percent of its sales were spot sales. Five importers also reported that at least 80 percent of their sales were under short-term contracts, with any remaining share under long-term contracts. *** reported that all its sales were under long-term contracts, and *** reported that its sales were almost evenly split between spot sales and short-term contracts. As shown in table V-2, U.S. producers and importers reported their 2012 U.S. commercial shipments of chlorinated isos by type of sale.

Table V-2

Chlorinated Isos: U.S. producers' and importers' shares of U.S. commercial shipments by type of sale, 2012

Type of sale	U.S. producers	Importers of Chinese product	Importers of Japanese product
Long-term contracts	***	***	***
Short-term contracts	***	***	***
Spot sales	***	***	***
Total	100.0	100.0	100.0

Note.--Because of rounding, figures may not add to the totals shown.

Source: Compiled from data submitted in response to Commission questionnaires.

For U.S. producers and tableters, the length of short-term contracts was typically *** days for *** but *** days for ***. For importers, the length of short-term contracts also ranged from 90 to 365 days. Long-term contracts could be as long as *** for ***.

Whether from not fixing quantity, from allowing renegotiation, or from including meet-or-release provisions, many contracts in the chlorinated isos market provide flexibility to purchasers, although quantities may be targeted or percentages of purchases obligated (see Lost Sales and Lost Revenue section below).

On the issue of whether contracts fix price and/or quantity, *** described contacts as fixing price, while *** described contracts as fixing price and quantity. Among importers, *** described contracts as fixing price and quantity.

Regarding price renegotiation, *** reported that contracts allowed price renegotiation during the contract period. However, *** stated that their contracts did not.

Regarding meet-or-release provisions, *** stated that *** contracts contained a meet-or-release provision, but *** stated that *** contracts did not. Among importers, *** stated that *** contracts contained a meet-or-release provision, but *** stated that *** contracts did not.

At the conference, petitioners stated that between January 2010 and June 2012, a purchaser invoked a meet-or-release clause for millions of pounds, "forcing" the U.S. producer to cede the volume to subject imports.[6] Oxy described having its large customers negotiate contracts for multiyear periods, with agreements that allow for price changes and include meet-or-release clauses, requiring price to be renegotiated each autumn. In these contracts, quantities are targeted but not fixed.[7]

Sales terms and discounts

U.S. producers, tableters, and importers typically quote prices on a delivered basis, although *** reported pricing f.o.b. for ***. Also, *** reported pricing both f.o.b. and delivered ***.

Among U.S. producers, *** reported a multitude of sales terms while *** reported using net 30 days and *** using net 60 days. *** reported using net 30 and 60 days, and added that it ***. *** reported allowing net 30 day payments and also payments in which ***.

*** U.S. producers reported offering quantity discounts and annual total volume discounts, with *** adding that it provides ***. *** reported offering quantity discounts and annual total volume discounts, as well as ***. *** also reported "early buy" discounts. *** reported no discount policy.

Among importers, four reported offering no discounts, while ***. *** reported 0.3 percent discounts for early payment.

PRICE DATA

The Commission requested U.S. producers and importers to provide quarterly data for the total quantity and f.o.b. value of the following chlorinated isos products shipped to unrelated U.S. customers during January 2012-March 2013.[8]

***Product 1.*–Granular trichloroisocyanuric acid with approximately 90 percent available chlorine content (similar to ACL®90 PLUS Chlorinating Composition or CDB®90), sold in 2,205 lb. polypropylene bags**

***Product 2.*–Granular sodium dichloroisocyanurate (dihydrate) with approximately 56 percent available chlorine content (similar to ACL®56 Chlorinating Composition or CDB®56), sold in 2,205 lb.polypropylene bags, for repackaging for pool treatment use**

[6] Conference transcript, p. 8 (Cannon).
[7] Conference transcript, p. 24 (Williams).
[8] After Commission questionnaires had been mailed, ***. See email from ***.

***Product 3.*–Granular sodium dichloroisocyanurate (dihydrate) with approximately 56 percent available chlorine content (similar to ACL®56 Chlorinating Composition or CDB®56), sold in 300 pound drums, for use in cleanser and/or sanitizer applications**

***Product 4.*— 3-inch trichlor tablets with 85 to 90 percent available chlorine content, in 49-51 pound containers**

***Product 5.* —Blended 3-inch trichlor tablets with 85 to 90 percent available chlorine content, in 24-26 pound containers.**

Products 1, 2, and 3 are granular chlorinated isos, while products 4 and 5 are tableted chlorinated isos. *** provided data for products 4 and 5 made from *** while *** provided data for products 4 and 5 made from ***. In tables V-6 and V-8, data from these firms was treated as U.S. production and thus classified as U.S. product. In tables V-7 and V-9, data from these firms was treated as U.S. imports and thus classified as product of China or Japan. When treated as importer data, data from these firms is the pricing data for the majority of Chinese and Japanese pricing data for products 4 and 5. Price data for products 1-5 are also presented in figure V-2.[9] [10]

Overall, three U.S. producers, two tableters, and five importers[11] provided usable[12] pricing data for sales of the requested products, although not all firms reported pricing for all products for all quarters.[13] Pricing data reported by these firms accounted for approximately *** percent of U.S. producers' shipments of product, *** percent of U.S. shipments of subject imports from China in 2012, and *** percent of U.S. shipments of subject imports from Japan in 2012.[14] Among U.S. producers, ***.[15] ***.

[9] ***.

[10] SIC presented data for what it referred to as"product 6," dichlor 60 in super sacks. ***.

[11] ***. ***.

[12] ***.

[13] ***.

[14] These calculations are made using the data counting tableters' pricing data as U.S. production. If tableters' data are counted as importers' data, then the 2012 pricing data accounts for *** percent of U.S. producers' shipments, *** percent of shipments of Chinese imports, and *** percent of shipment of Japanese imports.

[15] Petitioners stated that ***.

Table V-3

Chlorinated Isos: Weighted-average f.o.b. prices and quantities of domestic and imported product 1[1] and margins of underselling/(overselling), by quarters, January 2010-June 2013

* * * * * * *

Table V-4

Chlorinated Isos: Weighted-average f.o.b. prices and quantities of domestic and imported product 2[1] and margins of underselling/(overselling), by quarters, January 2010-June 2013

* * * * * * *

.

Table V-5

Chlorinated Isos: Weighted-average f.o.b. prices and quantities of domestic and imported product 3[1] and margins of underselling/(overselling), by quarters, January 2010-June 2013

* * * * * * *

Table V-6

Chlorinated Isos: Weighted-average f.o.b. prices and quantities of domestic and imported product 4,[1] with tableters of imported granular product counted as U.S. producers, and margins of underselling/(overselling), by quarters, January 2010-June 2013

* * * * * * *

Table V-7

Chlorinated Isos: Weighted-average f.o.b. prices and quantities of domestic and imported product 4,[1] with tableters of imported granular product counted as U.S. importers, and margins of underselling/(overselling), by quarters, January 2010-June 2013

* * * * * * *

Table V-8

Chlorinated Isos: Weighted-average f.o.b. prices and quantities of domestic and imported product 5,[1] with tableters of imported granular product counted as U.S. producers, and margins of underselling/(overselling), by quarters, January 2010-June 2013

* * * * * * *

Table V-9

Chlorinated Isos: Weighted-average f.o.b. prices and quantities of domestic and imported product 5,[1] with tableters of imported granular product counted as U.S. importers, and margins of underselling/(overselling), by quarters, January 2010-June 2013

* * * * * * *

Figure V-2

Chlorinated Isos: Weighted-average prices and quantities of domestic and imported product, by quarters, January 2010-June 2013

* * * * * * *

Price trends

Table V-10 summarizes price trends, by country and by product. As shown in the table, both domestic and imported prices generally fell January 2010 to June 2013, with a few exceptions, such as when there were not a full period of data for a product. Additionally, the data for *** show increases due to ***.

Table V-10

Chlorinated Isos: Summary of weighted-average f.o.b. prices for products 1-5 from the United States, China, and Japan

* * * * * * *

Price comparisons

Tables V-11 and V-12 summarize underselling from the pricing data, divided into two tables based on whether tableters of imported chlorinated isos are counted as producers or as importers. In both tables, there is more Chinese underselling than overselling, but more Japanese overselling than underselling. Considering Chinese and Japanese data together, there is somewhat more overselling than underselling.

At the conference, Clearon described 2013 U.S. chlorinated isos prices as even lower than in 2005.[16] Additionally, counsel for SIC stated that SIC's U.S. sales of chlorinated isos commanded a price premium, based on quality.[17] Similarly, purchaser Suncoast stated that it pays a price premium for Japanese product.[18]

[16] Conference transcript, p. 29 (Johnson).
[17] Conference transcript, p. 12 (Janzen).
[18] Conference transcript, p. 104 (Eisch).

Table V-11

Chlorinated isocyanurates: Instances of underselling/overselling and the range and average of margins, by country, January 2010-June 2013, with tableters of imported granular product counted as producers

Source	Underselling			Overselling		
	Number of instances	Range (percent)	Average margin (percent)	Number of instances	Range (percent)	Average margin (percent)
China	18	1.9 to 23.0	11.5	6	-0.4 to -26.4	-8.7
Japan	9	0.3 to 22.3	11.6	24	-0.3 to -17.3	-6.2
Total	27	0.3 to 23.0	11.5	30	-0.3 to -26.4	-6.7

Source: Compiled from data submitted in response to Commission questionnaires.

Table V-12

Chlorinated isocyanurates: Instances of underselling/overselling and the range and average of margins, by country, January 2010-June 2013, with tableters of imported granular product counted as importers

Source	Underselling			Overselling		
	Number of instances	Range (percent)	Average margin (percent)	Number of instances	Range (percent)	Average margin (percent)
China	28	1.3 to 28.9	10.9	21	-0.4 to-66.4	-15.4
Japan	20	0.2 to 22.8	10.9	39	-0.3 to -121.1	-13.7
Total	48	0.2 to 28.9	10.9	60	-0.3 to -121.1	-14.3

Source: Compiled from data submitted in response to Commission questionnaires.

LOST SALES AND LOST REVENUE

The Commission requested U.S. producers of chlorinated isos to report any instances of lost sales or revenue they experienced due to competition from imports of chlorinated isos from China and Japan during January 2010 to June 2013. Of the responding U.S. producers, *** reported that they had to either reduce prices or roll back announced price increases. The 23 lost sales allegations totaled an estimated[19] $*** million and involved an estimated *** million pounds of chlorinated isos. The 14 lost revenue allegations totaled an estimated $*** million and involved an estimated *** million pounds of chlorinated isos.[20] Staff contacted 16 purchasers and a summary of the information obtained follows in the descriptions below and the subsequent tables V-13 and V-14.

[19] Both the lost sales and lost revenue allegations involved some allegations with quantity ranges and/or incomplete information. Staff has made estimates based on the information available, but notes that ***.

[20] ***. See staff interview with ***.

Purchasers responding to the lost sales allegations also were asked whether they shifted their purchases of chlorinated isos from U.S. producers to suppliers from China and/or Japan since January 2010. In addition, they were asked whether U.S. producers reduced their prices in order to compete with suppliers of chlorinated isos from China and/or Japan.

*** reported that they did not shift purchases of product from U.S. producers to subject imports since January 2010. ***.

*** responding purchasers (***) reported that they had shifted; *** of these purchasers (***) reported that price was a reason for the shift. *** stated that U.S. producers ***.

However, *** stated that price was not the reason for its shift. It stated that ***.

***.

Two purchasers (***) reported that the U.S. producers had reduced their prices in order to compete with the prices of subject imports since 2010, while *** stated that U.S. producers did not.[21] ***. ***.

***.

***.

***.

Lost Sales

***.

Lost Revenue

***.[22]

***.

Table V-13
Chlorinated Isos: U.S. producers' lost sales allegations

* * * * * * *

Table V-14
Chlorinated Isos: U.S. producers' lost revenue allegations

* * * * * * *

[21] ***.

[22] See also ***.

PART VI: FINANCIAL EXPERIENCE OF U.S. PRODUCERS

INTRODUCTION

Three U.S. producers (BioLab, Clearon, and Oxy) provided financial data on their product-specific operations on chlorinated isos. In addition, two firms *** provided financial data on their tableting operations as tollees, and two firms *** provided financial data on their tableting operations as tollers. These data are believed to account for the large majority of known U.S. production of chlorinated isos in 2012. All firms reported a fiscal year end of December 31 with the exceptions of ***, which reported fiscal year ends of September 30 and March 31, respectively.

Based on the questionnaire responses of the aforementioned firms, ***.

OPERATIONS ON CHLORINATED ISOS

Results of the U.S. producers and tableters on their chlorinated isos operations (both overall and on an individual product basis) are presented in tables VI-1 through VI-3. Selected financial data, by firm, are presented in tables VI-4 through VI-6.

As shown in table VI-1 (all chlorinated isos), the reported financial condition of U.S. producers BioLab, Clearon, and Oxy declined from 2010 to 2012, and also declined between the comparable interim periods. The reported aggregate net sales quantity irregularly increased by *** percent from 2010 to 2012, while the aggregate net sales value declined by *** percent during this time. Collectively, the aggregate cost of goods sold ("COGS") and selling, general, and administrative ("SG&A") expenses increased by *** percent during this time. The decline in net sales value and the increase in operating costs and expenses resulted in a large decline in operating income from 2010 to 2011, and an operating loss in 2012. Between the comparable interim periods, net sales quantity declined by *** percent, net sales value declined by *** percent, and combined operating costs and expenses declined by *** percent. The larger decline in revenue as compared to operating costs and expenses resulted in a large decline in operating income in January-June 2013 and compared to January-June 2012.[1]

[1] Operations on granular isos (table VI-2) and tableted isos (table VI-3) generally followed similar overall trends in net sales quantity, net sales value, COGS, and profitability during the period examined.

Table VI-1
All chlorinated isos: Results of operations of U.S. producers BioLab, Clearon, and Oxy, 2010-12, January-June 2012, and January-June 2013

* * * * * * *

Table VI-2
Granular isos: Results of operations of U.S. producers BioLab, Clearon, and Oxy, 2010-12, January-June 2012, and January-June 2013

* * * * * * *

Table VI-3
Tableted isos: Results of operations of U.S. producers and tableters *, 2010-12, January-June 2012, and January-June 2013**

* * * * * * *

Table VI-4
All chlorinated isos: Selected results of operations of U.S. producers BioLab, Clearon, and Oxy, by firm, 2010-12, January-June 2012, and January-June 2013

* * * * * * *

Table VI-5
Granular isos: Selected results of operations of U.S. producers BioLab, Clearon, and Oxy, by firm, 2010-12, January-June 2012, and January-June 2013

* * * * * * *

Table VI-6
Tableted isos: Selected results of operations of U.S. producers and tableters *, by firm, 2010-12, January-June 2012, and January-June 2013**

* * * * * * *

Per-pound raw material costs for all chlorinated isos declined in 2011, increased in 2012 to the previous 2010 level, and slightly declined between the comparable interim periods. Raw materials accounted for an average *** percent of total COGS for the reporting period, while direct labor and other factory costs accounted for an average *** and *** percent, respectively.

As a ratio to net sales, raw material costs for all chlorinated isos consistently increased, direct labor costs irregularly declined, and other factory costs irregularly increased during the period examined. In combination, total COGS for all chlorinated isos consistently increased as ratio to net sales from 2010 to 2012, as well as between the comparable interim periods.[2]

Capital expenditures, research and development expenses, and total assets

The responding firms' data on capital expenditures, research and development ("R&D") expenses, and total assets are shown in table VI-7. Capital expenditures for all chlorinated isos consistently declined from 2010 to 2012, and were higher in January-June 2013 as compared to January-June 2012. Capital expenditures for granular isos and tableted isos irregularly declined from 2010 to 2012. Between the comparable interim periods, capital expenditures were lower for granular isos, but higher for tableted isos. R&D expenses for all chlorinated isos, granular isos, and tableted isos irregularly declined from 2010 to 2012. Between the comparable interim periods, R&D expenses were lower for all chlorinated isos, unchanged for granular isos, and higher for tableted isos. The total assets utilized in the production, warehousing, and sales of all chlorinated isos irregularly decreased from $*** in 2010 to $*** in 2012, while the total assets reported for granular isos and tableted isos irregularly increased and decreased, respectively, during this time.

[2] The US producers' questionnaire responses of *** provided reasonably adequate data to estimate the valued added for tableting operations based on the Commission's traditional methodology, which compares conversion costs (direct labor and other factory costs) to total COGS with and without the inclusion of SG&A expenses. Based on this methodology, the value added during the period examined excluding SG&A expenses ranged from *** percent, and the value added during the period examined including SG&A expenses ranged from *** percent.

Table VI-7
Chlorinated isos: Capital expenditures, R&D expenses, and total assets of U.S. producers and tableters, 2010-12, January-June 2012, and January-June 2013

* * * * * * *

Capital and investment

The Commission requested U.S. producers of chlorinated isos to describe any actual or potential negative effects of imports of chlorinated isos from China or Japan on their firms' growth, investment, ability to raise capital, development and production efforts, or the scale of capital investments. Responses by U.S. producers follow.

Actual Negative Effects:

***

Potential Negative Effects:

***

PART VII: THREAT CONSIDERATIONS AND INFORMATION ON NONSUBJECT COUNTRIES

Section 771(7)(F)(i) of the Act (19 U.S.C. § 1677(7)(F)(i)) provides that—

> *In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of the subject merchandise, the Commission shall consider, among other relevant economic factors*[1]*--*
>
> *(I) if a countervailable subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the countervailable subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement), and whether imports of the subject merchandise are likely to increase,*
>
> *(II) any existing unused production capacity or imminent, substantial increase in production capacity in the exporting country indicating the likelihood of substantially increased imports of the subject merchandise into the United States, taking into account the availability of other export markets to absorb any additional exports,*
>
> *(III) a significant rate of increase of the volume or market penetration of imports of the subject merchandise indicating the likelihood of substantially increased imports,*
>
> *(IV) whether imports of the subject merchandise are entering at prices that are likely to have a significant depressing or suppressing effect on domestic prices, and are likely to increase demand for further imports,*
>
> *(V) inventories of the subject merchandise,*

---

[1] Section 771(7)(F)(ii) of the Act (19 U.S.C. § 1677(7)(F)(ii)) provides that "The Commission shall consider {these factors} . . . as a whole in making a determination of whether further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted under this title. The presence or absence of any factor which the Commission is required to consider . . . shall not necessarily give decisive guidance with respect to the determination. Such a determination may not be made on the basis of mere conjecture or supposition."

(VI) the potential for product-shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products,

(VII) in any investigation under this title which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv)) and any product processed from such raw agricultural product, the likelihood that there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission under section 705(b)(1) or 735(b)(1) with respect to either the raw agricultural product or the processed agricultural product (but not both),

(VIII) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and

(IX) any other demonstrable adverse trends that indicate the probability that there is likely to be material injury by reason of imports (or sale for importation) of the subject merchandise (whether or not it is actually being imported at the time).[2]

Information on the nature of the alleged subsidies was presented earlier in this report; information on the volume and pricing of imports of the subject merchandise is presented in *Parts IV* and *V*; and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts is presented in *Part VI*. Information on inventories of the subject merchandise; foreign producers' operations, including the potential for "product-shifting;" any other threat indicators, if applicable; and any dumping in third-country markets, follows. Also presented in this section of the report is information obtained for consideration by the Commission on nonsubject countries.

[2] Section 771(7)(F)(iii) of the Act (19 U.S.C. § 1677(7)(F)(iii)) further provides that, in antidumping investigations, ". . . the Commission shall consider whether dumping in the markets of foreign countries (as evidenced by dumping findings or antidumping remedies in other WTO member markets against the same class or kind of merchandise manufactured or exported by the same party as under investigation) suggests a threat of material injury to the domestic industry."

THE INDUSTRY IN CHINA

The Commission issued foreign producers'/exporters' questionnaires to fifteen firms believed to produce and/or export chlorinated isos from China.[3] Useable responses to the Commission's questionnaire were received from two firms: Heze Huayi Chemical Co., Ltd. ("Huayi") and Juancheng Kangtai Chemical Co., Ltd. ("Kangtai").[4] These firms' exports to the United States accounted for approximately *** percent of U.S. imports of chlorinated isos from China over the period being examined. Responding Chinese producers estimate that they account for approximately *** percent of overall production of chlorinated isos in China. Table VII-1 presents information on the chlorinated isos operations of the responding producers and exporters in China.

China began exporting "sizeable quantities" of chlorinated isos to the global market in 2002.[5] ***[6] The petitioners assert that much of chlorinated isos production in China exists as a result of expansion in the upstream chlor-alkalai sector, leading to increased production of chlorine and industrial infrastructure suitable for production of chlorinated isos.[7] *** reports that "almost all" Chinese producers of chlorinated isos are export-oriented.[8] ***[9]

Table VII-1
Chlorinated isos: Data for producers in China, 2010-12, January-June 2012, and January-June 2013, and projection for 2013-14

* * * * * * *

[3] These firms were identified through a review of information submitted in the petition and contained in proprietary Customs records.

[4] Petitioners contend that without a questionnaire response from ***. Petitioners' postconference brief, p. 6. In the past three administrative reviews of the antidumping order covering chlorinated isos from China, the Commerce Department has selected Hebei Jiheng and Kangtai as "mandatory" respondents because these two producers accounted for the largest volume of U.S. imports from China.

[5] Chemical Economics Handbook *Chlorinated Isocyanurates* abstract http://www.ihs.com/products/chemical/planning/ceh/chlorinated-isocyanurates.aspx, retrieved September 27, 2013.

[6] ***.

[7] Conference transcript, p. 71 (Cannon).

[8] Chemical Economics Handbook, abstract.

[9] ***.

THE INDUSTRY IN JAPAN

The Commission issued foreign producers'/exporters' questionnaires to four firms believed to produce and/or export chlorinated isos from Japan.[10] Useable responses to the Commission's questionnaire were received from all four firms: Nankai Chemical Co., Ltd. ("Nankai"), Nippon Soda Co., Ltc. ("Nippon"), Nissan Chemical Industries, Ltd. ("Nissan"), and Shikoku. These firms' exports to the United States accounted for all U.S. imports of chlorinated isos from Japan over the period being examined. Responding Japan producers account for all known production of chlorinated isos in Japan. Table VII- 2 presents information on the chlorinated isos operations of the responding producers and exporters in Japan.

Japanese producers began supplying chlorinated isos to the U.S. market in the late 1960s.[11] ***.[12]

Table VII-2
Chlorinated isos: Data for producers in Japan, 2010-12, January-June 2012, and January-June 2013, and projection for 2013-14

* * * * * * *

FOREIGN INDUSTRY DATA FOR CHINA AND JAPAN COMBINED

Table VII-3 presents information on chlorinated isos of the reporting producers and exporters in China and Japan.

Table VII-3
Chlorinated isos: Data for producers in China and Japan combined, 2010-12, January-June 2012, and January-June 2013, and projection for 2013-14

* * * * * * *

[10] These firms were identified through a review of information submitted in the petition and contained in proprietary Customs records.

[11] Conference transcript, p. 98 (Pettoruto).

[12] ***.

U.S. INVENTORIES OF IMPORTED MERCHANDISE

Table VII-4 presents data on U.S. importers' reported inventories of chlorinated isos.

Table VII-4
Chlorinated isos: U.S. importers' end-of-period inventories of imports, by source, 2010-12, January-June 2012, and January-June 2013

* * * * * * *

U.S. IMPORTERS' OUTSTANDING ORDERS

U.S. importers responding to the Commission's questionnaires reported a combined total of *** thousand pounds of chlorinated isos from China and *** thousand pounds of chlorinated isos from Japan on order or imported after June 30, 2013. The majority of the imports from China after June 30, 2013 were reported by *** and the majority of the imports from Japan after June 30, 2013 were reported by ***.

ANTIDUMPING OR COUNTERVAILING DUTY ORDERS IN THIRD-COUNTRY MARKETS

The European Council imposed antidumping duties ranging from 7.3 percent to 42.6 percent on imports of trichloroisocyanuric acid originating in China in July 2005. The duty applied to one company, Heze Huayi, was lowered to 3.2 percent in September 2009. A December 2011 review resulted in continuation of the duties.[13] Foreign producers reported no other antidumping or countervailing duty orders in third-country markets.

[13] Official Journal of the European Union, December 30, 2011, pp. 6-15.

INFORMATION ON NONSUBJECT COUNTRIES

In assessing whether the domestic industry is materially injured or threatened with material injury "by reason of subject imports," the legislative history states "that the Commission must examine all relevant evidence, including any known factors, other than the dumped or subsidized imports, that may be injuring the domestic industry, and that the Commission must examine those other factors (including non-subject imports) 'to ensure that it is not attributing injury from other sources to the subject imports.'"[14]

Nonsubject countries account for less than 10 percent of total U.S. imports of chlorinated isos. Chlorinated isos are imported under more than one HTS subheading; however, only one subheading (2933.69.6015) is a precise (not basket) category and, therefore, allows for clear assessment of import trends. In the three year period 2010-12, the quantity of U.S. imports for consumption in this subheading increased by 122 percent. In two of these three years, the sum of U.S. imports from China and Japan accounted for more than 90 percent of total U.S. imports for consumption. In 2010, U.S. imports from China and Japan combined, accounted for 84 percent of total U.S. imports, while U.S. imports from Vietnam accounted for 8 percent of the total.[15] Data on U.S. imports from Vietnam are ***,[16] and ***. In 2012, the quantity of U.S. imports from China and Japan were 57 percent and 38 percent, respectively, of total U.S. imports for consumption. U.S. imports from Spain subject to a previous U.S. antidumping action, were 38 percent of total U.S. imports in 2008, but declined to 11 percent in 2009, then zero percent during 2010-12.

[14] Mittal Steel Point Lisas Ltd. v. United States, Slip Op. 2007-1552 at 17 (Fed. Cir., Sept. 18, 2008), quoting from Statement of Administrative Action on Uruguay Round Agreements Act, H.R. Rep. 103-316, Vol. I at 851-52; see also Bratsk Aluminum Smelter v. United States, 444 F.3d 1369 (Fed. Cir. 2006).

[15] USITC Dataweb.

[16] ***.

APPENDIX A

FEDERAL REGISTER NOTICES

The Commission makes available notices relevant to its investigations and reviews on its website, www.usitc.gov. In addition, the following tabulation presents, in chronological order, *Federal Register* notices issued by the Commission and Commerce during the current proceeding.

Citation	Title	Link
78 FR 55293, September 10, 2013	*Petition filed with Commerce and the Commission; institution of Commission investigation*	http://www.gpo.gov/fdsys/pkg/FR-2013-09-10/pdf/2013-21903.pdf
78 FR 58997, September 25, 2013	*Commerce's notice of initiation on Japan*	http://www.gpo.gov/fdsys/pkg/FR-2013-09-25/pdf/2013-23389.pdf
78 FR 59001, September 25, 2013	*Commerce's notice of initiation on China*	http://www.gpo.gov/fdsys/pkg/FR-2013-09-25/pdf/2013-23388.pdf

APPENDIX B

CALENDAR OF THE PUBLIC STAFF CONFERENCE

CALENDAR OF PUBLIC PRELIMINARY CONFERENCE

Those listed below appeared as witnesses at the United States International Trade Commission's preliminary conference:

Subject: Chlorinated Isocyanurates from China and Japan

Inv. Nos.: 701-TA-501 and 731-TA-1226 (Preliminary)

Date and Time: September 19, 2013 - 9:30 a.m.

Sessions were held in connection with these preliminary investigations in the ALJ Courtroom A (room 110), 500 E Street, S.W., Washington, D.C.

OPENING REMARKS:

Petitioner (**James R. Cannon, Jr.**, Cassidy Levy Kent (USA) LLP)
Respondents (**Bernd Janzen**, Akin Gump Strauss Hauer & Feld LLP)

In Support of the Imposition of Antidumping and Countervailing Duty Orders:

Cassidy Levy Kent (USA) LLP
Washington, DC
on behalf of

Clearon Corp
Occidental Chemical Corporation

Jeffrey L. Williams, Senior Business Manager, ACL, Silicates and Sodium Chlorites, Occidental Chemical Corporation

Thomas C. Kuechler, Ph.D., Technical Service Specialist, Occidental Chemical Corporation

Scott B. Johnson, Executive Vice President, Clearon Corp.

In Support of the Imposition of
Antidumping and Countervailing Duty Orders (continued):

Dave Helmstetter, Vice President of Sales and Marketing,
Clearon Corp.

James R. Cannon, Jr.)
Jonathan Zielinski) – OF COUNSEL
Ulrika Swason)

In Opposition to the Imposition of
Antidumping and Countervailing Duty Orders:

Akin Gump Strauss Hauer & Feld LLP
Washington, D.C.
on behalf of

Shikoku Chemicals Corporation ("SCC")
Shikoku International Corporation ("SIC")

Nicolas Pettoruto, President, Del Cal, Inc.

Jim Eisch, Chief Operating Officer, Suncoast Chemicals

Daniel Klett, Principal, Capital Trade Inc.

Bernd Janzen) – OF COUNSEL

DeKieffer & Horgan, PLLC
Washington,
D.C. on behalf of

Juancheng Kangtai Chemical Co. Ltd.
Heze Huayi Chemical Co. Ltd.

J. Kevin Horgan) – OF COUNSEL

REBUTTAL/CLOSING REMARKS:

Petitioner (**James R. Cannon, Jr.**, Cassidy Levy Kent (USA) LLP)	10 minutes
Respondents (**Bernd Janzen**, Akin Gump Strauss Hauer & Feld LLP)	10 minutes

APPENDIX C

SUMMARY DATA

Table C-1
Chlorinated Isos: Summary data concerning the U.S. market for firms reporting granular and powder-form production, 2010-12, January to June 2012, and January to June 2013
(Quantity=1,000 pounds; Value=1,000 dollars; Unit values and unit expenses=dollars per pound; Period changes=percent--exceptions noted)

	Report data					Period changes			
	Calendar year			January to June		Calendar year			Jan-June
	2010	2011	2012	2012	2013	2010-12	2010-11	2011-12	2012-13
U.S. consumption quantity:									
Amount	***	***	***	***	***	***	***	***	***
Producers' share (fn1)	***	***	***	***	***	***	***	***	***
Importers' share (fn1):									
China	***	***	***	***	***	***	***	***	***
Japan	***	***	***	***	***	***	***	***	***
Subtotal, subject	***	***	***	***	***	***	***	***	***
All others sources, nonsubject	***	***	***	***	***	***	***	***	***
Total imports	***	***	***	***	***	***	***	***	***
U.S. consumption value:									
Amount	***	***	***	***	***	***	***	***	***
Producers' share (fn1)	***	***	***	***	***	***	***	***	***
Importers' share (fn1):									
China	***	***	***	***	***	***	***	***	***
Japan	***	***	***	***	***	***	***	***	***
Subtotal, subject	***	***	***	***	***	***	***	***	***
All others sources, nonsubject	***	***	***	***	***	***	***	***	***
Total imports	***	***	***	***	***	***	***	***	***
U.S. importers' U.S. shipments of Imports from:									
China:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Japan:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Subtotal, subject sources:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
All other sources:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Total imports:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
U.S. producers':[3]									
Average capacity quantity	288,175	288,175	288,175	151,805	151,805	0.0	0.0	0.0	0.0
Production quantity	184,232	185,464	183,880	127,592	109,315	(0.2)	0.7	(0.9)	(14.3)
Capacity utilization (fn1)	63.9	64.4	63.8	84.0	72.0	(0.1)	0.4	(0.5)	(12.0)
U.S. shipments:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Export shipments:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Inventories/total shipments (fn1)	***	***	***	***	***	***	***	***	***
Production workers	425	439	458	417	390	7.8	3.3	4.3	(6.5)
Hours worked (1,000s)	952	957	992	569	537	4.2	0.5	3.7	(5.6)
Wages paid ($1,000)	17,930	18,722	18,767	10,621	10,231	4.7	4.4	0.2	(3.7)
Productivity (pounds per hour)	194	194	185	224	204	(4.2)	0.1	(4.4)	(9.2)
Unit labor costs (dollars per 1,000 pounds)	$97.32	$100.95	$102.06	$83.24	$93.60	4.9	3.7	1.1	12.4
Net Sales:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Cost of goods sold (COGS)	***	***	***	***	***	***	***	***	***
Gross profit of (loss)	***	***	***	***	***	***	***	***	***
SG&A expenses	***	***	***	***	***	***	***	***	***
Operating income or (loss)	***	***	***	***	***	***	***	***	***
Capital expenditures	***	***	***	***	***	***	***	***	***
Unit COGS	***	***	***	***	***	***	***	***	***
Unit SG&A expenses	***	***	***	***	***	***	***	***	***
Unit operating income or (loss)	***	***	***	***	***	***	***	***	***
COGS/sales (fn1)	***	***	***	***	***	***	***	***	***
Operating income or (loss)/sales (fn1)	***	***	***	***	***	***	***	***	***

Notes:

fn1.--Report data are in percent and period changes are in percentage points.
fn2.--Undefined.
fn3.--Data for U.S. producers' represents chlorinate isos regardless the form for those firms that reported actual powder and granular form production. For data on just powder/granular operations, see part III.

Table C-2
Chlorinated Isos: Summary data concerning the U.S. market for all firms, 2010-12, January to June 2012, and January to June 2013
(Quantity=1,000 pounds; Value=1,000 dollars; Unit values, unit labor costs, and unit expenses=dollars per pound; Period changes=percent--exceptions noted)

	Report data					Period changes			
	Calendar year			January to June		Calendar year			Jan-June
	2010	2011	2012	2012	2013	2010-12	2010-11	2011-12	2012-13
U.S. consumption quantity:									
Amount	***	***	***	***	***	***	***	***	***
Producers' share (fn1)									
Full domestic value-added chain	***	***	***	***	***	***	***	***	***
Partial domestic value-added chain	***	***	***	***	***	***	***	***	***
Total U.S. shipments	***	***	***	***	***	***	***	***	***
Importers' share (fn1):									
China	***	***	***	***	***	***	***	***	***
Japan	***	***	***	***	***	***	***	***	***
Subtotal, subject	***	***	***	***	***	***	***	***	***
All others sources, nonsubject	***	***	***	***	***	***	***	***	***
Total imports	***	***	***	***	***	***	***	***	***
U.S. consumption value:									
Amount	***	***	***	***	***	***	***	***	***
Producers' share (fn1)									
Full domestic value-added chain	***	***	***	***	***	***	***	***	***
Partial domestic value-added chain	***	***	***	***	***	***	***	***	***
Total U.S. shipments	***	***	***	***	***	***	***	***	***
Importers' share (fn1):									
China	***	***	***	***	***	***	***	***	***
Japan	***	***	***	***	***	***	***	***	***
Subtotal, subject	***	***	***	***	***	***	***	***	***
All others sources, nonsubject	***	***	***	***	***	***	***	***	***
Total imports	***	***	***	***	***	***	***	***	***
U.S. importers' U.S. shipments of Imports from:									
China:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Japan:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Subtotal, subject sources:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
All other sources:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Total imports:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
U.S. producers':[3]									
Average capacity quantity	302,586	299,022	299,855	156,882	157,152	(0.9)	(1.2)	0.3	0.2
Production quantity	190,512	190,411	188,961	130,421	112,231	(0.8)	(0.1)	(0.8)	(13.9)
Capacity utilization (fn1)	63.0	63.7	63.0	83.1	71.4	0.1	0.7	(0.7)	(11.7)
U.S. shipments:									
Full domestic value added-chain:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Partial domestic value added-chain:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Total U.S. shipments:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Export shipments:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Inventories/total shipments (fn1)	***	***	***	***	***	***	***	***	***
Production workers	485	517	541	507	467	11.5	6.6	4.6	(7.9)
Hours worked (1,000s)	1,013	1,037	1,083	616	578	6.9	2.4	4.4	(6.2)
Wages paid ($1,000)	18,884	20,008	20,272	11,408	10,903	7.4	6.0	1.3	(4.4)
Productivity (pounds per hour)	188.1	183.6	174.5	211.7	194.2	(7.2)	(2.4)	(5.0)	(8.3)
Unit labor costs (dollars per 1,000 pounds)	$99.12	$105.08	$107.28	$87.47	$97.15	8.2	6.0	2.1	11.1
Net Sales:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Cost of goods sold (COGS)	***	***	***	***	***	***	***	***	***
Gross profit of (loss)	***	***	***	***	***	***	***	***	***
SG&A expenses	***	***	***	***	***	***	***	***	***
Operating income or (loss)	***	***	***	***	***	***	***	***	***
Capital expenditures	***	***	***	***	***	***	***	***	***
Unit COGS	***	***	***	***	***	***	***	***	***
Unit SG&A expenses	***	***	***	***	***	***	***	***	***
Unit operating income or (loss)	***	***	***	***	***	***	***	***	***
COGS/sales (fn1)	***	***	***	***	***	***	***	***	***
Operating income or (loss)/sales (fn1)	***	***	***	***	***	***	***	***	***

Notes:

fn1.--Report data are in percent and period changes are in percentage points.
fn2.--Undefined.
fn3.--Data for U.S. producers' represents chlorinate isos regardless the form all firms (i.e., inclusive of tableter only firms). For data on just powder/granular and/or just tablets for these firms, see part III.

Table C-3
Trichlor chlorinated isos: Summary data concerning the U.S. market for firms reporting granular and powder-form production, 2010-12, January to June 2012, and January to June 2013

* * * * * * *

Table C-4
Dichlor chlorinated isos: Summary data concerning the U.S. market for firms reporting granular and powder-form production, 2010-12, January to June 2012, and January to June 2013

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APPENDIX D

COMMERCE'S CVD INITIATION CHECKLIST

C-570-991
Investigation
POI 1/1/12 – 12/31/12
Public Version
IA/NME/IX: PW

September 18, 2013

IMPORT ADMINISTRATION
OFFICE OF AD/CVD OPERATIONS
COUNTERVAILING DUTY INVESTIGATION INITIATION CHECKLIST

SUBJECT: Chlorinated Isocyanurates from the People's Republic of China

CASE NUMBER: C-570-991

PETITIONERS:

Clearon Corp.
95 MacCorkle Ave, SW
South Charleston, WV 25303
Tel: 304-746-3025

Occidental Chemical Corporation
Occidental Tower
5005 LBJ Freeway, Suite 2200
Dallas, TX 75244
Tel: 972-404-3840

COUNSEL TO PETITIONERS:

James R. Cannon, Jr.
Thomas M. Beline
Jonathan Zielinski
Ulrika Swanson
Cassidy Levy Kent (USA) LLP
2000 Pennsylvania Avenue, NW
Suite 3000
Washington, DC 20006
Tel: 202-567-2318

POTENTIAL RESPONDENTS:

A list of the producers of chlorinated isocyuranates ("chlorinated isos") in the People's Republic of China ("PRC") identified by Clearon Corp. and Occidental Chemical Corporation ("Petitioners") can be found in the "Petition for the Imposition of Countervailing Duties on Chlorinated Isocyanurates from the People's Republic of China," dated August 29, 2013 ("Petition").[1]

SCOPE: *See* Attachment I – Scope of the Investigation, to this checklist.

IMPORT STATISTICS:

CHINA	2010	2011	2012	YTD 2012 (Jan-Jun)	YTD 2013 (Jan-Jun)
Quantity (1,000 lbs)	34,573	33,393	63,120	38,131	25,862
Value ($1,000)	26,177	27,334	52,070	31,569	20,998

Source: United States International Trade Commission ("ITC") Dataweb, available at http://dataweb.usitc.gov/. Petitioners reported the volume (converted from kilograms to pounds) and landed duty-paid value of imports of chlorinated isos using Harmonized Tariff Schedule of the United States ("HTSUS") subheading 2933.69.6015.[2] Chlorinated isos may also enter under HTSUS subheadings 2933.69.6021, 2933.69.6050, 3808.50.4000, 3808.94.5000, and 3808.99.9500.[3] Petitioners contend that, for purposes of analyzing import data, HTSUS 2933.69.6015 "most accurately corresponds to the relevant imports in bulk form and includes {chlorinated isos} not blended with other additives or tableted and packaged for retail sale."[4] Petitioners further submit that the other HTSUS subheadings in the scope of the investigation are basket categories and are not limited to chlorinated isos.[5] Therefore, Petitioners did not include these other HTSUS subheadings in the above import statistics.[6]

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[1] *See* Volume IV of the Petition, at Exhibit CVD-1.
[2] *See* Volume I of the Petition, at 115 and 130, and Volume II of the Petition, at Exhibit GEN-14.
[3] *See* Supplement to the Petition, dated September 9, 2013 ("Supplement to the Petition"), at 4.
[4] *See* Volume I of the Petition, at 19.
[5] *Id.*, at 130.
[6] *Id.*, at 113.

APPROXIMATE CASE CALENDAR:

Event	No. of Days	Date of Action	Day of Week
	Countervailing Duty Investigation		
Petition Filed	0	August 29, 2013	Thursday
Initiation Date	20	September 18, 2013	Wednesday
ITC Preliminary Determination	45	October 15, 2013	Tuesday*
ITA Preliminary Determination†**	85	November 22, 2013	Friday
ITA Final Determination†	160	February 5, 2014	Wednesday
ITC Final Determination***	205	March 24, 2014	Monday*
Publication of Order****	212	March 31, 2014	Monday*

* Where the deadline falls on a weekend/holiday, the appropriate date is the next business day.
† These deadlines may be extended under the governing statute.
** This will take place only in the event of a preliminary affirmative determination from the ITC.
*** This will take place only in the event of a final affirmative determination from the International Trade Administration ("ITA").
**** This will take place only in the event of a final affirmative determination from the ITA and the ITC.
Note: The ITC final determination will take place no later than 45 days after a final affirmative ITA determination.
Note: Publication of order will take place approximately 7 days after an affirmative ITC final determination.

INDUSTRY SUPPORT:

Do Petitioners and those expressing support for the Petition account for more than 50 percent of production of the domestic like product?

☒	Yes
☐	No

If No, do those expressing support account for the majority of those expressing an opinion and at least 25 percent of domestic production?

☐	Yes
☐	No
☒	Not Applicable

Describe how industry support was established - specifically, describe the nature of any polling or other step undertaken to determine the level of domestic industry support.

See Attachment II, Analysis of Industry Support for the Petitions Covering Chlorinated Isocyanurates from Japan and the People's Republic of China, to this checklist.

Was there opposition to the Petition?

☐	Yes
☒	No

Are any of the parties who have expressed opposition to the Petition either importers or domestic producers affiliated with foreign producers?

☐	Yes
☐	No
☒	Not Applicable

INJURY TEST:

Because the PRC is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Tariff Act of 1930, as amended (the "Act"), section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from the PRC materially injure, or threaten material injury to, a U.S. industry.

INJURY ALLEGATION:

We received a copy of the action notice from the Director of the Office of Investigations at the ITC which was signed on September 4, 2013. It indicates that the ITC has instituted an investigation to determine whether there is a reasonable indication that the domestic industry producing chlorinated isos is materially injured or threatened with material injury.[7]

The relevant injury data can be found in 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.[8]

Does the Petition contain evidence of causation? Specifically, does the Petition contain information relative to:

[7] *See* Attachment IV to this checklist.
[8] *See* 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.

☒ volume and value of imports (*See* Volume I of the Petition, at 109-115 and 129-130; Volume II of the Petition, at Exhibits GEN-13 and GEN-14; and Volume IV of the Petition, at Exhibit CVD-86).

☒ U.S. market share (*i.e.*, the ratio of imports to consumption) (*See* Volume I of the Petition, at 115-116 and 127, and Volume II of the Petition, at Exhibit GEN-14).

☒ actual pricing (*i.e.*, evidence of decreased pricing) (*See* Volume I of the Petition, at 119-121 and 127-128, and Volume II of the Petition, at Exhibits GEN-12, GEN-15 and GEN-16).

☒ relative pricing (*i.e.*, evidence of imports underselling U.S. products) (*See* Volume I of the Petition, at 119-120 and 127, and Volume II of the Petition, at Exhibits GEN-12, GEN-15 and GEN-16).

PETITION REQUIREMENTS:
Does the Petition contain the following?

☒ the name, address, and telephone number of Petitioners (*See* Volume I of the Petition, at 2.)

☒ the names, addresses, and telephone numbers of all domestic producers of the domestic like product known to the petitioning companies (*See* Volume I of the Petition, at 2-3.)

☒ the volume or value of the domestic like product produced by Petitioners and each domestic producer identified for the most recently completed 12-month period for which data is available (*See* Volume I of the Petition, at 3-4, and Volume II of the Petition, at Exhibit GEN-12.)

Was the entire domestic industry identified in the Petition?

☒ Yes (*See* Volume I of the Petition, at 2-3, and Volume II of the Petition, at Exhibits GEN-9 and GEN-12.)

☐ No

☒ a clear and detailed description of the merchandise to be investigated, including the appropriate Harmonized Tariff Schedule numbers (*See* Volume I of the Petition, at 7-16; Volume II of the Petition, at Exhibits GEN-6 through GEN-8; and Supplement to the Petition, at 2-4.)

☒ the name of each country in which the merchandise originates or from which the merchandise is exported (*See* Volume I of the Petition, at 31.)

- ☒ the identity of each known exporter, foreign producer, and importer of the merchandise (*See* Volume I of the Petition, at 31-34 and 95; Volume II of the Petition, at Exhibits GEN-5, GEN-9, GEN-11 and GEN-13; and Volume IV of the Petition, at Exhibits CVD-1 and CVD-87.)

- ☒ a statement indicating that Petition was filed simultaneously with the Department of Commerce and the ITC (*See* cover letter to the Petition, at 2.)

- ☒ an adequate summary of the proprietary data (*See* public version of the Petition and public version of the Supplement to the Petition.)

- ☒ a statement regarding release under administrative protective order (*See* cover letter to the Petition, at 1-3 and Supplement to the Petition, at 1, 22 and 23.)

- ☒ a certification of the facts contained in Petition by an official of the petitioning firm(s) and its legal representative (if applicable) (*See* Petition cover letter and Supplement to the Petition attachment.)

- ☒ import volume and value information for the most recent two-year period (*See* Volume I of the Petition, at 95, 111-115, and 129-130; Volume II of the Petition, at Exhibit GEN-14; and Volume IV of the Petition, at Exhibit CVD-86.)

COUNTERVAILING DUTY ALLEGATIONS:

The proposed period of investigation ("POI") is January 1, 2012, through December 31, 2012.

The Petition was filed on August 29, 2013. On September 4 & 5, 2013, the Department of Commerce (the "Department") sought clarification on certain issues in the Petition. Petitioners filed their responses to the Department's request on September 9, 2013, in the Supplement to the Petition.

CONSULTATIONS:

In accordance with Article 13.1 of the Agreement on Subsidies and Countervailing Measures, and section 702(b)(4)(a)(ii) of the Act, on August 30, 2013, we invited the Government of the PRC ("GOC") for consultations regarding the countervailing duty ("CVD") petition. Consultations were held with the GOC's Ministry of Commerce by conference call on September 12, 2013. The points raised in the consultations are described in the September 12, 2013, memorandum entitled, "Countervailing Duty Petition on Chlorinated Isocyanurates from the People's Republic of China: Consultations with the Government of the People's Republic of China," which is available through Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System ("IA ACCESS").

COUNTERVAILING DUTY INVESTIGATION INITIATION STANDARD:

Section 702(b) of the Act states that Petitioners must allege the elements necessary for the imposition of a CVD proceeding under section 701(a) of the Act, *i.e.*, they must show the existence of countervailable subsidies and material injury, or threat of material injury, by reason of the subsidized imports. Section 702(b)(1) of the Act requires that these allegations be supported by information reasonably available to Petitioners.

Petitioners contend that producers of certain chlorinated isos in the PRC have benefited from countervailable subsidies bestowed by the GOC and by various provincial and municipal governments within the PRC.

The Department recommends initiating an investigation of the alleged programs listed in Section I below, "Programs on which the Department is Initiating an Investigation." For each program, Petitioners have properly alleged the elements of a subsidy as identified by sections 771(5) and (5A) of the Act, *i.e.*, financial contribution, benefit, and specificity. The Department finds that Petitioners' allegations are supported by adequate and accurate information that was reasonably available to them. In Section II, "Alleged Programs on which the Department is Not Initiating an Investigation," the Department lists those programs that it does not recommend for initiation, describing the Department's decision under "Recommendation."

ALLEGED SUBSIDY PROGRAMS

Note: A number of the allegations presented by Petitioners involve particular provinces, localities, or special economic development zones. Petitioners have provided information demonstrating that potential respondents are located within these provinces or localities. Petitioners provided a list of PRC producers of chlorinated isos and the provinces in which they are located.[9] Some of the allegations below, as noted, indicate that a particular corporate status is required to be eligible for benefits. Petitioners have provided information indicating that several potential respondents hold such status, such as foreign invested enterprises or state-owned enterprises."

I. PROGRAMS ON WHICH THE DEPARTMENT IS INITIATING AN INVESTIGATION

A. Government Provision of Goods and Services for Less Than Adequate Remuneration

1. Provision of Electricity for Less Than Adequate Remuneration

Description: Petitioners allege that the GOC, through the National Development and Reform Commission ("NDRC"), regulates the power rates for certain industries, including the chemical

[9] *See* Volume I of the Petition at 32, Table 8.

industry. Petitioners note that a report by the U.S. Energy Information Administration ("USEIA") indicates that the NDRC is the primary policymaking and regulatory authority in the PRC's energy sector, and is charged with approving new energy projects, setting domestic wholesale energy prices, and implementing the GOC's energy policies. Petitioners argue that electricity prices are determined and capped by the NDRC. Petitioners also note that the USEIA Report indicates that the NRDC is a department of China's State Council, the highest organ of executive power in the country.

Financial Contribution: The provision of electricity is a government financial contribution in the form of a provision of a good or service.

Specificity: The GOC has provided preferential electricity pricing for companies located within a defined geographic area. Subsidy programs limited to certain geographic areas within a government's jurisdiction are specific under section 771(5A)(D)(iv) of the Act.

Benefit: This program confers a benefit to recipients because electricity is being sold for less than adequate remuneration ("LTAR"), pursuant to section 771(5)(E)(iv) the Act.

Support: The Department has previously determined that this program confers a countervailable subsidy under U.S. law[10], and that the Department would continue to investigate the provision of electricity in future investigations.[11] In addition, Petitioners provided the following: "China to Introduce Power Rates for High Energy Consuming Sectors," *AsianPulse News*

(September 25, 2006); *China Country Report*, U.S. Energy Information Administration (revised April 22, 2013).[12]

2. Provision of Urea for Less Than Adequate Remuneration

Description: Petitioners argue that the GOC provides urea to domestic producers of chlorinated isos at LTAR. Petitioners note that in 2012, the world price for urea grew to $527 per ton, and reached nearly $800 per ton in the United States. Petitioners state that the domestic price of urea in the PRC was considerably lower, reaching only $379 per ton in 2012. According to Petitioners, given that urea is a major raw material for the production of chlorinated isos, accounting for approximately one-third of total raw material costs, the government provision of urea at LTAR confers a substantial net benefit on producers of chlorinated isos in the PRC. Petitioners note that there are several state owned enterprises ("SOEs") in the PRC that produce urea, including the China National Petroleum Corp, China Blue Chemical Ltd. and the China

[10] *See, e.g., Drawn Stainless Steel Sinks from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 78 FR 13017 (February 26, 2013), and accompanying Issues and Decision Memorandum at Section I.B; *Multilayered Wood Flooring from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 76 FR 64313 (October 18, 2011), and accompanying Issues and Decision Memorandum at Section I.4; *Utility Scale Wind Towers from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 77 FR 75978 (December 26, 2012) ("*Wind Towers*"), and accompanying Issues and Decision Memorandum at Section V.A.7.

[11] *See Circular Welded Carbon Quality Steel Line Pipe: Final Affirmative Countervailing Duty Determination*, 73 FR 70961 (November 24, 2008) ("*Line Pipe*"), and accompanying Issues and Decision Memorandum at 29.

[12] *See* Volume IV of the Petition at Exhibits CVD-3 & 5, respectively.

Petroleum and Chemical Corporation. Petitioners also provide evidence that agricultural fertilizer users, as well as artificial boards, melamine, cyanuric acid and SCD vesicant producers represent the majority of urea consumers.

Financial Contribution: The sale of urea at LTAR constitutes a financial contribution from a government authority in the form of providing goods and services pursuant to section 771(5)(D)(iii) of the Act.

Specificity: The program is specific because it is provided to a limited number of industries, pursuant to section 771(5A)(D)(iii)(I) of the Act.

Benefit: Under section 771(5)(E)(iv) of the Act, the government provision of a good provides a benefit equal to the difference between the amount paid for the goods (if any) and a market price determined.

Support: Petitioners provided the following: "China's Urea Prices Rose in H1—Expected to Dip in H2," *China Chemical Reporter* (October 6, 2012); "Overgrown," *China Economic Review* (September 1, 2010).[13]

3. Land and Land Usage for Foreign Invested Enterprises ("FIEs") in National Economic and Technological Zones at Preferential Rates

Description: Petitioners claim that Article 8 of the National Economic and Technological Zone Incentives provides that FIEs within these zones may be provided with land use rights at discounted prices of up to 6 million RMB.

Financial Contribution: The sale of land or land-use rights at LTAR constitutes a financial contribution in the form of providing goods and services pursuant to section 771(5)(D)(iii) of the Act.

Specificity: Sales of land-use rights by the national GOC are specific because the program is limited to FIEs located within a designated geographical region pursuant to section 771(5A)(D)(iv) of the Act.

Benefit: The sale of land or land-use rights at below-market prices (*i.e.*, for LTAR) constitutes a benefit pursuant to 19 CFR 351.511(a).

Support: The Department has previously determined that this program confers a countervailable subsidy under U.S. law.[14] Moreover, Petitioners provided the following: "State-owned Construction Land Use Right Transfer Price Evaluation Technical Specification," *State*

[13] *See* Volume IV of the Petition at Exhibits CVD-7 & 8, respectively; *see also* Supplement to the Petition at 14-16.
[14] *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, and Affirmative Final Determination of Critical Circumstances*, 77 FR 63788 (October 17, 2012) ("*Solar Cells*"), and accompanying Issues and Decision Memorandum at Section VI. A.4. (for land located in the province of Jiangsu).

Preferential Policies for Supporting State-Level Economic and Technology Development Zones, Ministry of Land and Resources Notice, Guo Tu Zi Fa (April 8, 2013).[15]

Recommendation: We recommend initiating an investigation with regards to the provision of land in Economic and Technological Zones by the national government. We note that the Department is not initiating the provincial components of this program. *See* Section II, below. Furthermore, based on the information developed over the course of this investigation, the Department may analyze the provision of the financial contribution as revenue forgone under section 771(5)(D)(ii) of the Act.

B. Programs Available to Foreign Invested Enterprises

1. "Two Free/Three Half" Program for FIEs

Description: Petitioners assert that under the Foreign Invested Enterprises Tax Law, an FIE that is productive and is scheduled to operate for not less than ten years may be exempted from income tax in the first two years of profitability, and pay income taxes at half the standard rate for the next three years. According to Petitioners, this tax measure is reported to have been terminated at the end of 2007; however, according to the transitional rules, unutilized tax holidays may continue until expiry. Petitioners maintain that five years of preferential tax treatment begins with the year in which the company records a profit, or in 2008, whichever is earlier, and as a result, companies may be exempt from enterprise income taxes for the years 2008 and 2009, and may benefit from a 50 percent reduction in 2010, 2011 and 2012.

Financial Contribution: This exemption/reduction in the income tax paid by productive FIEs is considered a financial contribution in the form of revenue forgone by the GOC within the meaning of section 771(5)(D)(ii) of the Act.

Specificity: This tax incentive is specific because it is limited to a group of enterprises, *i.e.*, productive FIEs, pursuant to section 771(5A)(D)(i) of the Act.

Benefit: This tax incentive confers a benefit equal to the amount of revenue foregone by the government under 19 CFR 351.509. Petitioners note that the statutory income tax rate in the PRC is 25 percent, and the benefit conferred by this program on an FIE that produces goods in the PRC will be equal to 25 percent of the company's taxable income during the first two years after the FIE begins to make a profit, and 12.5 percent during the next three years.

Support: The Department has previously determined that this program confers a countervailable subsidy under U.S. law.[16] Additionally, Petitioners provided the following: *Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign*

[15] *See* Volume IV of the Petition at Exhibits CVD-9, 10 & 11, respectively; *see also* Supplement to the Petition at 16 - 17.

[16] *See, e.g.*, *Wind Towers*, and accompanying Issues and Decision Memorandum at Section V.A.2; s*ee also Aluminum Extrusions from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 76 FR 18521 (April 4, 2011) ("*Aluminum Extrusions*"), and accompanying Issues and Decision Memorandum at Section VII.C.

Enterprises, Article 8, Lehman, Lee & Xu (1991); *Rules for the Implementation of the Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprises*, Chapter 6 ("Tax Preference"), Lehman, Lee & Xu (1991); *Notice of the State Council on the Implementation of the Transitional Preferential Policies in respect of Enterprise Income Tax*, No. 39 of the State Council (2007); *China Alert 2008*, Issue No. 1, KPMG; *China Alert 2008*, Issue No. 11, KPMG.[17]

2. Income Tax Benefits for FIEs Based on Geographic Location

Description: Petitioners state there are three location based preferential income tax rates for FIEs: (1) 15 percent for FIEs in special economic zones; (2) 24 percent for productive FIEs in coastal economic open areas, and in the old districts of the cities where the special economic zones or economic and technological development zones are located; and, (3) 15 percent for FIEs in encouraged industries located in designated areas. Petitioners note that although this program was terminated at the end of 2007, according to the Transitional Preferential Enterprise Tax Law Policies, all three provisions are subject to a transitional application. As such, companies enjoying a 15 percent tax rate in 2007 are subject to 18, 20, 22, 24 and 25 percent tax rates in 2008, 2009, 2010, 2011, and 2012, respectively. Petitioners also note that the 24 percent benefit was normalized to 25 percent in 2008 under the transitional policies.

Financial Contribution: The reduced income tax rate is a financial contribution in the form of revenue forgone by the GOC, pursuant to section 771(5)(D)(ii) of the Act.

Specificity: This subsidy is limited to enterprises located in designated geographic regions and is specific under section 771(5A)(D)(iv) of the Act.

Benefit: Enterprises located in designated geographic regions receive a benefit in the amount of the tax savings, pursuant to 19 CFR 351.509(a)(1).

Support: The Department has previously determined that this program confers a countervailable subsidy under U.S. law.[18] Furthermore, Petitioners provided the following: *Foreign Invested Enterprise and Foreign Enterprise Income Tax Law* (April 9, 2011); *Income Tax Law of the People's Republic of China on Enterprises with Foreign Investment and Foreign Enterprises, Order No. 45* (April 9, 2011).[19]

3. Value Added Tax and Tariff Exemptions for FIEs and Certain Domestic Enterprises using Imported Equipment in Encouraged Industries

Description: Petitioners claim that FIEs and certain domestic enterprises need not pay import tariffs and value added taxes ("VAT") on imported equipment provided that these goods are not for resale. Petitioners assert that the objective of the program is to encourage foreign investment

[17] *See* Volume IV of the Petition at Exhibits CVD-12 – 16, respectively.
[18] *See, e.g., Certain Tow-Behind Lawn Groomers from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 74 FR 29180, 29183 (June 19, 2009) and accompanying Issues and Decision Memorandum at Section V.A.5.
[19] *See* Volume IV of the Petition at Exhibits CVD-14 & 17, respectively.

and to introduce foreign, advanced technology equipment, and industry technology upgrades. Petitioners argue that FIEs, and certain domestic enterprises, are exempted from the VAT and tariffs on imported equipment used for development projects, which are encouraged by the GOC in their production as long as the equipment does not fall into prescribed lists of non-eligible items.

Financial Contribution: This VAT and tariff exemption provides a financial contribution in the form of government revenue foregone under section 771(5)(D)(ii) of the Act.

Specificity: This VAT and tariff exemption has been found to be specific because it is limited to a group of enterprises, *i.e.*, FIEs and certain domestic enterprises, under section 771(5A)(D)(i) of the Act.

Benefit: This VAT and tariff exemption confers a benefit equal to the amount of revenue foregone by the government under 19 CFR 351.510. The standard VAT rate in the PRC is 17 percent, and the import tariff will depend on the specific equipment imported. The benefit conferred by this program on an FIE that produces goods in the PRC, and uses imported equipment, will be equal to 17 percent of the value of the imported equipment plus the tariff on the imported equipment.

Support: The Department has previously determined that this VAT and tariff exemption confers a countervailable subsidy under U.S. law.[20] Also, Petitioners provided the following: *Circular of the State Council on Adjusting Tax Policies on Imported Equipment*, Guo Fa No. 37 (1997); *Taxation FAQs*, Lehman Brown.[21]

4. VAT refunds for FIEs on purchases of Chinese-made equipment

Description: FIEs enjoy refunds of the VAT on their purchases of Chinese-made equipment.

Financial Contribution: The VAT refund provides a financial contribution in the form of government revenue forgone under section 771(5)(D)(ii) of the Act.

Specificity: The VAT refund is specific because it is contingent upon the use of domestic goods over imported goods under section 771(5A)(C) of the Act.

Benefit: The benefit is an amount equal to the amount of revenue forgone by the government under 19 CFR 351.510. The standard VAT rate in the PRC is 17 percent. The benefit conferred by this program on an FIE that produces goods in the PRC will be equal to 17 percent of the value of the PRC-made equipment it purchases.

[20] *See Aluminum Extrusions* IDM at Section VII.D.
[21] *See* Volume IV of the Petition at Exhibits CVD-18 & 19, respectively.

Support: The Department has previously determined that this program constitutes a countervailable subsidy under U.S. law.[22] Additionally, Petitioners provided the following: Interim Administrative Measures on Purchase of Domestic Equipment Projects with Foreign Investment, Guo Shui Fa, No. 171, Articles 3 & 4 (December 29, 1999).[23]

5. Preferential direct tax treatment on purchases of domestically produced equipment for FIEs

Description: Petitioners allege that preferential tax treatment under this program applies to FIEs with investment projects listed in the encouraged category. Petitioners assert that FIEs may deduct 40 percent of their expenses on purchases of domestically produced equipment; however, the deduction shall not exceed the increase in income tax liability from the year before. Petitioners claim that excess deductible may be carried forward for five years. Petitioners note that the GOC's public notice confirms that this program came to an end at the end of 2007; however, this program appears to have been given a transitional application. According to Petitioners, this transitional application allows companies to claim the deductibility for purchases made before January 1, 2008, and any remaining carry-forward amount could have been used in 2012 (5 years from and including 2008). Additionally, equipment that was purchased at preferential tax rates, and is still in use, continues to provide a benefit to companies that utilized this program.

Financial Contribution: This program provides a financial contribution in the form of government revenue foregone under section 771(5)(D)(ii) of the Act.

Specificity: This program is specific because it is limited to FIEs with investment projects in encouraged categories.

Benefit: The tax reduction confers a benefit equal to the amount of revenue foregone by the government under 19 CFR 351.510.

Support: Petitioners provided the following: Ministry of Finance (MOF) Circular Cai Shui, No.49 (2000 expired); State Administration of Taxation (SAT) Circular Guo Shui Fa, No.90 (2000 expired); MOF Circular Cai Shui, No.1 (2008, articles 1 and 9 expired); Circular Guo Shui Fa, No.52 (2008); SAT Guo Shui Han, No. 69 (February 12, 2010); Guo Shui Fa, No. 52 (May 16, 2008); "Enterprises to Purchase Domestic Equipment Investment no Longer Enjoy the Enterprise Income Tax Policies," *Xinhua News* (February 18, 2009).[24]

[22] *See Coated Free Sheet Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 72 FR 60645 (October 25, 2007) ("*CFS Paper*"), and accompanying Issues and Decision Memorandum at Section I.E.
[23] *See* Volume IV of the Petition at Exhibit CVD-20.
[24] *See* Volume IV of the Petition at Exhibits CVD-22 - 26, respectively.

C. Other National Programs

1. Policy Loans under the Chlor-alkali Industry Second Five Year Plan

Description: Petitioners maintain that the GOC provides policy loans through its policy banks and state-owned banks. Petitioners argue that these loans were found to have been made pursuant to the GOC directives found in national and provincial five-year plans, industrial plans, catalogues of encouraged industries, and other laws and regulations. Petitioners contend that commercial banks in the PRC are government entities, and all senior bank officers for PRC banks are members of the Chinese Communist Party and are appointed by the Party. These officers are also assigned ranks in the PRC government's hierarchy. According to Petitioners, the GOC, at times, will pressure the banks to align their credit allocation along with national economic policy. Moreover, Petitioners assert that the PRC's banking regulation authority, the CBRC, issued a guideline that governs, among other things, banks' board membership and mandates that banks support national policies on industrial transformation and environmental protection, protect and save resources, and promote sustainable development of the society. Petitioners assert that in the *Chlor-alkali Industry "Second Five Year Plan,"* the government is encouraged to finance measures to vigorously promote the chlor-alkali industry and that the GOC should provide "financial, tax and other aspects of subsidies and incentives." Petitioners note that the 2011 catalogue lists "chemical products" under encouraged projects.

Financial contribution: The Department has determined that government loans provide a direct financial contribution by the GOC, pursuant to sections 771(5)(B)(i) and (D)(i) of the Act, and that state-owned commercial banks are considered government authorities.

Specificity: The PRC's state-owned banks have generally directed policy loans to industries favored by the government, such as the chlor-alkali industry. As such, Petitioner claims that the GOC's preferential loans and directed credit are granted on a specific basis, pursuant to section 771(5A)(D) of the Act.

Benefit: Government policy lending provides benefits to recipients equal to the difference between what the recipients paid on loans from government-owned banks, and the amount they would have paid on comparable commercial loans, pursuant to section 771(5)(E)(ii) of the Act.

Support: The Department has previously determined that this program confers a countervailable subsidy under U.S. law.[25] In addition, Petitioners provided the following: *China's Banking System: Issues for Congress*, Michael F. Martin, Congressional Research Service (February 20, 2012) at 28-36; *Chlor-Alkali Industry, "Second Five Year Plan"* (July 26, 2011); *China's*

[25] *See, e.g., Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Negative Determination of Critical Circumstances*, 73 FR 40480 (July 15, 2008) ("*Tires*"), and accompanying Issues and Decision Memorandum at Section IV.A.2; *Citric Acid and Certain Citrate Salts from the People's Republic of China: Final Results of Countervailing Duty Administrative Review*, 76 FR 77206 (December 12, 2011) ("*Citric Acid*") and accompanying Issues and Decision Memorandum at Section I.A (including policy loan in the Shandong province for promotion of key industries).

Chemical Industry: Flying Blind; "China to Encourage Increased Private Investment in Banking Sector," Song Shengxia, *Global Times* (June 28, 2012).[26]

2. Stamp Tax exemption on share transfers under Non-Tradable Share Reform

Description: Petitioners assert that the GOC waives stamp taxes otherwise due upon the transfer of bonus shares. Petitioners argue that the underlying criterion for participation in non-tradable share reform ("NTSR") is that listed companies must have non-tradable shares, regardless of what entity issued the non-tradable shares.

Financial contribution: The waiver of stamp taxes constitutes a financial contribution within the meaning of section 771(5)(D)(ii) of the Act in the form of revenue foregone.

Specificity: In *Tires*, the Department found that the NTSR, including the stamp tax exemption, is specific within the meaning of section 771(5A)(D)(i) of the Act, in that it is limited to only those that participated in the NTSR.[27]

Benefit: The GOC confers a benefit in the form of tax savings to the extent that the stamp tax was not paid, pursuant to section 771(5)(E) of the Act.

Support: The Department has previously determined that this program confers a countervailable subsidy under U.S. law.[28]

3. State Key Technology Renovation Project Fund

Description: Petitioners speculate that the State Key Technology Renovation Project Fund ("Key Technology Program") was created to promote technologies in targeted sectors, and operates under the regulatory guidelines provided in the circular. Petitioners assert that the purpose of this program is to promote: (1) technological renovation in key industries, key enterprises, and key products; (2) facilitation of technology upgrades; (3) improvement of product structure; (4) improvement of quality; (5) promotion of domestic production; (6) increase of supply; (7) expansion of domestic demand; and, (8) promotion of continuous and healthy development of the state economy. Petitioners maintain that under the Key Technology Program, companies can apply for funds to cover the cost of financing specific technological renovation projects. Petitioners state that the funds cover two years of interest payments on loans to fund the project, or up to three years for enterprises located in the northeast, central, or western areas of the PRC.

Petitioners note that chlorinated isos producers are located in the northeast of the PRC.[29] Petitioners also note that the chlor-alkali industry has its own five-year plan.

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[26] *See* Volume V of the Petition at Exhibits CVD-28, 29, 50 & 31, respectively; *see also* Supplement to the Petition at 18.
[27] *See Tires*, and accompanying Issues and Decision Memorandum at Section IV.A.5.
[28] *Id*. at Section IV.A.5 and Comment G.1.
[29] *See* Volume I of the Petition at 32, Table 8.

Financial contribution: In *Tires* the Department determined that this program provided countervailable subsidies within the meaning of section 771(5)(D)(i) of the Act.

Specificity: This program has been found to be specific because it is limited to a group of enterprises under section 771(5A)(D)(i) of the Act, specifically, the group of enterprises that are financing specific renovation projects under this program.

Benefit: Key Technology Program grants are a direct transfer of funds, within the meaning of section 771(5)(D)(i) of the Act, and therefore, provide a benefit equal to the amount of the funds provided under 19 CFR 351.504.

Support: The Department has previously determined that this program confers a countervailable subsidy under U.S. law.[30] Moreover, Petitioners provided the following: *Chlor-Alkali Industry "Second Five Year Plan"* (July 26, 2011); Notice Concerning the Promulgation and Circulation of "Measures for the Administration of National Key Technological Renovation Projects" at paragraphs 4 and 7, and "Measures for the Administration of Treasury Bond Special Fund for National Key Technological Renovation Projects," Guo Jing Mao Touzi, No. 886 (September 10, 1999).[31]

4. Shareholder loans (debt forgiveness)

Description: Petitioners argue that certain wholly state-owned non-bank financial institutions have provided loans to companies. Petitioners attempted to obtain names of shareholders for chlorinated isos producers, and found results for three companies. Petitioners also consulted annual reports and general research into the three companies; however, they were unable to determine who the shareholders are and whether they are state owned. Petitioners note that the second-largest shareholder of Jiheng, a producer of chlorinated isos, is Shenzhen Ping An Innovation Capital Investment Co., the private equity arm of the Ping An Insurance Group, which, though classified as private, it is believed that there is state involvement. Petitioners assert that other producers may have state-owned non-bank financial institutions as shareholders, but extensive research into the producers was not conclusive.

Financial contribution: The forgiven portion of the loan is treated as a grant bestowed at the point of the loan forgiveness, providing a financial contributions in the form of direct transfers of funds under section 771(5)(D)(i) of the Act.

Specificity: The program is specific under section 771(5A)(D)(iii)(l) because it is limited to companies which have state-owned non-bank financial institutions as shareholders .

Benefit: The benefit is equal to the amount the government has assumed or forgiven under 19 CFR 351.508(a).

[30] *See, e.g., Tires*, and accompanying Issues and Decision Memorandum at Section IV.A.7.
[31] *See* Volume V of the Petition at Exhibits CVD-29, 30, respectively.

Support: The Department has previously determined that this program confers a countervailable subsidy under U.S. law.[32]

5. Discounted Loans for Export-Oriented Enterprises

Description: Petitioners suggest that the PRC designates certain "honorable enterprises for collection of export receipts of foreign exchange" to encourage large-scale enterprises to export, if their annual export value reached $200 million, their ratio of exports to foreign exchange is above 85 percent, and their ratio of surrendered verification forms of export receipts are above 80 percent. In addition, Petitioners maintain that the lending rates of RMB loans extended by commercial banks to "honorable" companies can be lowered up to 10 percent on the basis of the lending rates fixed by the People's Bank of China but can be raised up to 30 percent for high-risk enterprises. Petitioners argue that although the PRC repealed this practice in 2007, preferential loans received in earlier years would be countervailable based on their repayment schedule.

Financial contribution: The Department has determined that these loans constitute a direct financial contribution from the government in the form of a direct transfer of funds, pursuant to section 771(5)(D)(i) of the Act.

Specificity: This program are specific under section 771(5A)(A) of the Act because receipt of the financing is contingent upon exporting.

Benefit: The benefit of this program is the amount of interest paid against the loans compared to the amount of interest that would have been paid on a comparable commercial loan.

Support: The Department has previously determined that this program confers a countervailable subsidy under U.S. law.[33] Furthermore, Petitioners provided the following: Circular of the People's Bank of China, the State Administration of Foreign Exchange, the Ministry of Foreign Trade and Economic Cooperation and the State Administration of Taxation Concerning Printing and Distributing Detailed Rules on Rewarding and Punishment Concerning Provisional Regulations over Examination of Export Collections of Foreign Exchange, YinFa, No. 58 (February 17, 2000); Request for Consultations by the United States (Addendum), *China – Certain Measures Granting Refunds, Reductions or Exemptions from Taxes and Other Payments*, WT/DS358/1/Add.1.[34]

6. Income tax credits on purchases of domestically produced equipment by domestically owned companies

Description: Petitioners argue that tax credits are available to domestic companies that purchase domestically produced equipment. Petitioners state that a domestic PRC company may claim tax credits on the purchase of PRC made equipment if the project is compatible with the industrial

[32] *See Lightweight Thermal Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 73 FR 57323 (October 2, 2008) ("*Lightweight Thermal Paper*"), and accompanying Issues and Decision Memorandum at Section I.B; *see also* Supplement to the Petition at 18.
[33] *See Line Pipe*, and accompanying Issues and Decision at Section V.A.6.
[34] *See* Volume V of the Petition at Exhibits CVD-31 & 32, respectively.

policies of the GOC. Petitioners maintain that a tax credit of up to 40 percent of the purchase price of domestic equipment may apply to the incremental increase in tax liability from the previous year. Petitioners note that this tax measure was allegedly terminated at the end of 2007; however, in *Steel Wheels* the Department found that companies were still benefiting under this provision during 2010.

Financial contribution: Under this program, the Department determined that the income tax reductions constitute a financial contribution in the form of revenue forgone, under section 771(5)(D)(i) of the Act.

Specificity: This program is specific because the receipt of the tax savings is contingent upon the use of domestic over imported goods under section 771(5A)(A) of the Act.

Benefit: The benefit is an amount equal to the tax savings under section 771(5)(E) of the Act.

Support: The Department has previously determined that this program confers a countervailable subsidy under U.S. law.[35] Also, Petitioners provided the following: New and Full Notification Pursuant to Article XVI:1 of the GATT 1994 and Article 25 of the Agreement on Subsidies and Countervailing Measures, G/SCM/N/155/CHN; G/SCM/N/186/CHN (October 21, 2011) at 94.[36]

7. VAT rebate on domestically produced equipment

Description: Petitioners contend that for both domestic and FIE projects, which are in the encouraged category, equipment purchased for self-use shall be exempted from tariff and import VAT. According to Petitioners, this program was terminated at the end of 2008; however, in *Solar Cells* the Department found this program countervailable during 2010. As such, there is a reason to believe that this program is still on-going in its original or modified form.

Financial contribution: These VAT exemptions provide a financial contribution in the form of government revenue forgone under section 771(5)(D)(ii) of the Act.

Specificity: The VAT exemptions are specific because they are limited to a group of encouraged enterprises or industries under section 771(5A)(D)(i) of the Act.

Benefit: The benefit is an amount equal to the amount of revenue forgone by the government under 19 CFR 351.510.

Support: The Department has previously determined that this program confers a countervailable subsidy under U.S. law.[37] In addition, Petitioners provided the following: MOF Circular Cai Shui, No. 290 (1999); MOF Circular Cai Shui, No.1; SAT Circular Guo Shui Fa, No.52 (2008); Circular of the Ministry of Finance, State Development and Reform Commission, General

[35] *See Certain Steel Wheels from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 77 FR 17017 (March 23, 2012) ("*Steel Wheels*"), and accompanying Issues and Decision Memorandum at Section VII.D.
[36] *See* Volume IV of the Petition at Exhibit CVD-21.
[37] *See Solar Cells*, and accompanying Issues and Decision Memorandum at Section VI.A.10.

Administration of Customs and State Administration of Taxation on Import Taxation Policies to Implement the Opinions of the State Council of Invigorating Equipment Manufacturing, Cai Guan Shui, No. 11 (2007); Circular of the State Administration of Taxation Concerning Transmitting the Interim Measure for the Administration of Tax Refund to Enterprises with Foreign Investment for Their Domestic Equipment Purchases, Guo Shui Fa, No.171 (September 20, 1999).[38]

8. VAT exemption on imports by encouraged industries

Description: Petitioners argue that both domestic and FIEs established in western regions, and those engaged in industries encouraged by the GOC, are eligible for this program. Petitioners note that for domestic enterprises, they must be those industries encouraged by the GOC as found in the "Catalogue of the Industries Products and Technologies Particularly Encouraged by the State," and these listed items must account for over 70 percent of the enterprise's total revenue in order to qualify. In addition, Petitioners also note that for FIEs, industries encouraged by the GOC are those listed in the "Catalogue for the Guidance of the Foreign Investment Industries," and listed in the "Catalogue for the Guidance of the Advantageous Industries in Central and Western Regions for Foreign Investment," and that these listed items must comprise over 70 percent of the enterprise's total revenue.

Financial contribution: These VAT exemptions provide a financial contribution in the form of government revenue forgone under section 771(5)(D)(ii) of the Act.

Specificity: These VAT exemptions, under section 771(5A)(D)(i) of the Act, are specific because they are limited to FIEs established in western regions, and those engaged in industries encouraged by the GOC[39], .

Benefit: The benefit is an amount equal to the amount of revenue forgone by the government under 19 CFR 351.510.

Support: The Department has previously determined that this program confers a countervailable subsidy under U.S. law.[40] Moreover, Petitioners provided the following: State Planning Commission, Catalogue of the Industries Products and Technologies Particularly Encouraged by the State (December 31, 1997); National Development and Reform Commission (NDRC) and Ministry of Commerce (MOC), Catalogue for the Guidance of the Foreign Investment Industries (Amended in 2011) (Decree of the NDRC and MOC No. 12); National Development and Reform Commission (NDRC) and Ministry of Commerce (MOC), Catalogue for the Guidance of the Foreign Investment Industries (Amended in 2011) (Decree of the NDRC and MOC No. 12); national Development and Reform Commission (NDRC), Midwest Industrial Catalogue for Foreign Investment.[41]

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[38] *See* Volume V of the Petition at Exhibits CVD-40 - 44, respectively.

[39] As noted above, under the *Chlor-alkali Industry "Second Five Year Plan,"* chemical products are encouraged projects.

[40] *See High Pressure Steel Cylinders from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 77 FR 26738 (May 7, 2012), and accompanying Issues and Decision Memorandum at Section V.D.

[41] *See* Volume V of the Petition at Exhibits CVD-45 - 47, respectively.

9. Preferential lending for industrial readjustment

Description: Petitioners note that in April of 2011, the NDRC released a new version of the *Directory Catalogue on Readjustment of Industrial Structure*. Petitioners state that the projects listed in the "encouraged" category qualify for preferential treatment from the government, including receiving priority in the allocation of credit by state-owned banks. Petitioners maintain that the 2011 catalogue lists "chemical products" under encouraged projects. Petitioners state that the chemical industry in the PRC receives preferential loans and financing from state-owned banks. According to Petitioners, chemical companies also have preferential access to capital, making it easier for them to deal with supply shortages, price increases, and volatility.

Financial contribution: The loans provide a financial contribution in the form of the direct transfer of funds from government-owned banks under section 771(5)(D)(i) of the Act.

Specificity: The loans are specific because they are limited by law to a group of encouraged industries under section 771(5A)(D)(i) of the Act.

Benefit: Under section 771(5)(E)(ii) of the Act, the loans confer a benefit equal to the difference between the amount the recipient paid on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could obtain on the market.

Support: The Department has previously has relied on an industry's classification as encouraged in the *Directory Catalogue on Readjustment of Industrial Structure* to support countervailing loans from state-owned banks on the grounds that such loans are preferential policy loans.[42] Also, Petitioners provided the following: "China's Chemical Industry: Flying Blind?," A.T. Kearney (2012) at 11; *Directory Catalogue on Readjustment of Industrial Structure*, NDRC; *Guidance Catalogue on Readjustment of Industrial Structure*, NDRC (2011).[43]

10. Export credit insurance from China Export and Credit Insurance Corporation

Description: Petitioners assert that the PRC provides generous export credit insurance through the China Export and Credit Insurance Corporation ("Sinosure"), a state-owned financial institution. According to Petitioners, Sinosure has grown rapidly since it was created in 2001, and in 2009 Sinosure underwrote $98.7 billion in export credit insurance for the year. Petitioners contend that due to the inadequate premiums charged by Sinosure, the company is unable to cover its costs and losses. Petitioners note that Sinosure's annual reports from 2003-2011 reveal a cumulative operating loss of RMB 3.5 billion, and in 2010, despite the fact that the rate of default and claims paid was likely to have grown during the global financial crisis, Sinosure announced it would be reducing its premium rates to even lower levels.

[42] *See Tires*, and accompanying Issues and Decision Memorandum at Comment E. l.
[43] *See* Volume VI of the Petition at Exhibits CVD-49 - 52, respectively.

Financial contribution: Export insurance provides a financial contribution in the form of the potential direct transfer of funds from a government-owned financial institution under section 771(5)(D)(i) of the Act.

Specificity: This program is specific because it is contingent on export performance under section 771(5A)(B) of the Act.

Benefit: This program confers a benefit on the recipient pursuant to 19 CFR 351.520, equal to the difference between what the recipient paid for insurance premiums and the amount received by the firm under the insurance program.

Support: Petitioners provided the following: "China Export and Credit Aims for Growth in 2010," Rebecca Ng, InsuranceNewsNet.com (April 27, 2010); Sinosure Annual Reports 2003-2011, and summary table.[44]

11. Corporate Income Tax Law Article 33: reduction of taxable income for the revenue derived from the manufacture of products that are in line with State industrial policy and involve synergistic utilization of resources

Description: Petitioners argue that when calculating its taxable income, a company may take into account 90 percent of the revenue derived from the use of raw materials of the prescribed resources included in the *Catalogue of Preferential Corporate Income Tax Treatments for Synergistic Utilization of Resources*. According to Petitioners, the prescribed resources are associated minerals and by-products, waste water or liquid, waste gas, and waste residue, and recyclable resources. Petitioners maintain that the chemical industry falls under the first of these categories, and that resources used by chlorinated isos producers that are listed in the catalogue include fertilizers (urea) and sulfuric acid.

Financial contribution: This program provides a financial contribution in the form of government revenue foregone under section 771(5)(D)(ii) of the Act.

Specificity: The program is specific for purposes of section 771(5A)(D)(iii)(I) because the recipients of the subsidy are limited in number, and under section 771(5A)(D)(iii)(II) because the chemical industry is a predominant user of the subsidy.

Benefit: The tax reduction confers a benefit equal to the amount of revenue foregone by the government under 19 CFR 351.510.

Support: Petitioners provided the following: KPMG, Corporate Income Tax Law Article 33; KPMG, The Implementation Rules for the Corporate Income Tax Law, Article 99; Notice of the Issuance of the Catalogue of Preferential Corporate Income Tax Treatments for Synergistic Utilization of Resources (2008 version), Cai Shui, No. 117, jointly issued by the Ministry of Finance, State Administration of Taxation and the State Development and Reform Committee (August 26, 2008); China Tax Alert, Issue 31, KPMG (2008).[45]

[44] *See* Volume VI of the Petition at Exhibits CVD-51 & 52, respectively.
[45] *See* Volume VI of the Petition at Exhibits CVD-62 - 65, respectively.

12. Export Seller's Credits and Export Buyer's Credits from the Export-Import Bank of China

Description: Petitioners state that China ExIm has increased its export credit activities significantly in recent years. Petitioners note that, according to its annual report, in 2003 China ExIm had RMB 102.6 billion outstanding on its balance sheet, compared to the RMB 600.8 billion it had outstanding in 2009. Petitioners contend that in 2011, the U.S. ExIm Bank estimated that China ExIm issued $48.5 billion in new medium- and long-term export credits, more than twice the value of such credits newly issued by the U.S. ExIm Bank in 2011, and that total export credit financing from the GOC likely exceeds $100 billion per year.

Petitioners maintain that the China ExIm provides support to exporters through a variety of means, including the export seller's credit and the export buyer's credit. Petitioners note that China ExIm explains that the purpose of its programs is to support the export of PRC products and improve their competitiveness in the international market, and it describes the export seller's credit as a loan with a large amount, long maturity, and preferential interest rate. Petitioners state that although China ExIm reveals little information about the rates that are charged under these programs, there are various second-hand reports indicating that the terms of this financing are highly concessional.

Additionally, Petitioners maintain that the China Development Bank also appears to extend its own export credits at volumes that may approach or even exceed the export credits reported by China ExIm.

Financial contribution: This program provides a financial contribution in the form of a direct transfer of funds from a government owned financial institution under section 771(5)(D)(iii) of the Act.

Specificity: This program is specific within the meaning of section 771(5A)(B) of the Act because it is contingent upon export activity.

Benefit: Under section 771(5)(E)(ii) of the Act, export financing confers a benefit equal to the difference between the amount the recipient pays on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market.

Support: The Department has previously determined that this program confers a countervailable subsidy under U.S. law.[46] Additionally, Petitioners provided the following: *2009 Annual Report*, Export-Import Bank of China, at 21; *Report to the U.S. Congress on Export Credit Competition and the Export Import Bank of the United State*s, Export-Import Bank of the United States at 17 (June 2012); *Export-Import Bank of China*, Ryan J. Orr and Jeremy R. Kennedy "Introduction" and "Export Seller's Credit;" "Highlights of Recent Trends in Global Infrastructure: New Players and Revised Game Rules," *Transnational Corporations*, Vol. 17, No. 1, at 108-109 (April 2008); *Export-Import Bank of the United States, Report to the U.S. Congress on Export Credit Competition and the Export Import Bank of the United States* (June 2011) at 113; *China's*

[46] *See Wind Towers*, and accompanying Issues and Decision Memorandum at 25.

African Aid: Transatlantic Challenges, Deborah Brautigam, The German Marshall Fund of the United States (April 2008) at 25-26.[47]

13. Preferential loans provided by the Export-Import Bank "Going-out" for Outbound Investments

Description: According to Petitioners, the GOC has promoted its "Going-out" strategy in the *Tenth Five-Year Plan , 2001-2005* and *Twelfth Five-Year Plan, 2011-2015*. Petitioners contend that these loans and other means of preferential financial assistance provide chlorinated isos producers with the ability to establish subsidiaries or warehouses overseas, improving their distribution channels and granting them greater access to the export market, as well as provide producers with the ability to purchase inputs from overseas.

Petitioners note that the China ExIm's 2011 Annual Report states that it seized opportunities offered by global economic readjustment to support PRC companies to invest overseas and facilitate domestic products, services, brands and standards to go global. Petitioners state that China ExIm's primary policy objective in carrying out the strategy is reported to be "the promotion of foreign trade and diplomacy by capitalizing domestic exporters and exporting credit to potentially profitable foreign projects." Petitioners claim that with this objective, China ExIm is "able to provide preferential loans with very flexible payment schedules at less than half the interest offered by any of the commercial banks." Petitioners note that it has been reported that China ExIm issued a total of USD $500 billion in loans under the "going out" projects as of the end of 2010.

Financial contribution: These programs provide a direct financial contribution by the GOC under section 771(5)(D)(i) of the Act.

Specificity: This program targets particular industries for international promotion, and is thus specific, pursuant to section 771(5A)(B) of the Act.

Benefit: Government policy lending provides benefits to the recipients equal to the difference between the amount paid on loans from government-owned banks and the amount that would have paid on comparable commercial loans, pursuant to section 771(5)(E)(ii) of the Act.

Support: Petitioners provided the following: Ting Xu, "Destination Unknown: Investment in China's 'Go Out' Policy," *China Brief*, Volume 11 Issue: 17 (September 16, 2011); Export-Import Bank of China, 2011 Annual Report at 10; China's Policy Banks (September 9, 2009); *Twelfth Five-Year Plan, 2011-2015* (July 26, 2011). [48]

14. Foreign Trade Development Fund

Description: Petitioners note that this national grant program provides firms, with an annual export value of USD $1,000,000 to $5,000,000, grants from the Ministry of Foreign Trade and Economic Cooperation. Moreover, Petitioners note that the Department also investigated similar

[47] *See* Volume V of the Petition at Exhibits CVD-33, 34, 36 - 39, respectively.
[48] *See* Volume VI of the Petition at Exhibits CVD-68 – 70, & 55, respectively.

programs administered by a number of different local authorities. According to Petitioners, there is evidence that a similar program exists in Jiangsu Province, where the provincial government created a special fund to promote foreign trade.

Financial contribution: These government programs constitute financial contributions in the form of a direct transfer of funds under section 771(5)(D)(i) of the Act.

Specificity: This program is specific within the meaning of section 771(5A)(B) of the Act because it is contingent upon export activity.

Benefit: These programs confer a benefit equal to the amount of the funds provided under 19 CFR 351.504.

Support: The Department has previously determined that this program confers a countervailable subsidy under U.S. law.[49] Moreover, Petitioners provided the *Circular on Issuance of Management Methods for Foreign Trade Development Support Fund,* Department of Finance, Jiangsu Province, Jiangsu Foreign Trade Development Fund Management Interim Measures Guide, Su Cai Qi, No. 182 (2008).[50]

D. Provincial Programs

1. "Famous Brands" program

Description: Petitioners contend that this program provides grants to an exporting company that wins the "Famous Brand" or "Top Brand" award from a local or provincial government for meeting high international standards. Petitioners argue that the PRC's "Famous Brands" program is administered at the national, provincial, and local government levels. According to Petitioners, enterprises must provide information concerning their export ratio as well as the extent to which their product quality meets international standards. Petitioners maintain that awards and criteria vary by province and by city, for example, Jiheng, located in Hebei Province, has been awarded the "Hebei Famous Brand Certificate."

Financial contribution: This government grant constitutes a financial contribution in the form of a direct transfer of funds under section 771(5)(D)(i) of the Act.

Specificity: This program is specific under section 771(5A)(B) of the Act because it is contingent upon export activity.

Benefit: The benefit is an amount equal to the amount of funds provided under 19 CFR 351.504.

[49] *See, e.g., Pre-Stressed Concrete Steel Wire Strand from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 75 FR 28557 (May 21, 2010) ("*PC Strand*"), and accompanying Issues and Decision Memorandum at Section I.F.

[50] *See* Volume VI of the Petition at Exhibit CVD-73.

Support: The Department has previously determined that this program confers a countervailable subsidy under U.S. law.[51] Furthermore, Petitioners provided the following: General Administration of Quality Supervision, Inspection and Quarantine Bureau of Works Council, Measures for the Administration of Chinese Top-Brand Products, AQSIQ Decree No. 12 (December 18, 2009); Hebei Famous Brand Certificate.[52]

2. Preferential policies to attract foreign investment in Jiangsu Province

Description: Petitioners state that FIEs and foreign enterprises are subject to the following types of taxes: corporate income tax, local income tax, VAT, consumption tax, business tax, personal income tax, urban real estate tax, plate tax for vehicle and vessel usage, and stamp duty. Petitioners contend that Jiangsu Province provides preferential rates to foreign enterprises and FIEs to attract foreign investment. Petitioners note that China Salt Changzhou Chemical Co. is located in Jiangsu Province.[53] Among the preferential tax policies offered by Jiangsu Province to FIEs and foreign enterprises are: multi-year exemptions from the corporate tax rate; a reduced local income tax rate; tax rebates on reinvested profits; no tax on the export share of profits; and no value-added tax, consumption tax, or business tax.
Financial contribution: This program provides a financial contribution in the form of government revenue foregone under section 771(5)(D)(ii) of the Act.

Specificity: This program is limited to FIEs and foreign enterprises in Jiangsu Province, and is specific within the meaning of section 771(5A)(D)(i) of the Act.[54]

Benefit: The tax reductions confer a benefit equal to the amount of revenue foregone by the government under 19 CFR 351.510.

Support: Petitioners provided the following: China Council for the Promotion of International Trade, Jiangsu Sub-Council, Preferential Policies to Attract Foreign Investment in Jiangsu Province (October 2, 2008).[55]

3. Outline of light industry restructuring and revitalization plan in Jiangsu Province

Description: Petitioners maintain that this plan proposes to accelerate the restructuring and revitalization of light industry in Jiangsu Province. Petitioners contend that specified within this plan is the promotion of the chlor-alkali industry, for which the province is promoting an "industrial clustering" to build economies of scale. Petitioners argue that key enterprises included in this plan can receive governmental support in terms of "land, capital and other elements of supply." Petitioners contend that also included in the plan are "various provincial

[51] *See, e.g., Certain Frozen Warmwater Shrimp from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 78 FR 50391 (August 19, 2013), and accompanying Issues and Decision Memorandum at Section VI.A.2.
[52] *See* Volume VI of the Petition at Exhibits CVD-74 & 75, respectively.
[53] *See* Volume I of the Petition at 32, Table 8.
[54] Though this program has many similar tax policies to the Two Free Three Half program and FIE Income Tax Law Article 7, *supra*, those programs are administered at the national level, while this one is administered at the provincial level.
[55] *See* Volume VI of the Petition at Exhibit CVD-76.

funds to support light industries" and the encouragement of expanded financing channels. Petitioners state that at least one major producer and exporter of chlorinated isos, China Salt Changzhou Chemical Co., is located in Jiangsu Province.[56]

Financial contribution: The provision of funds is a financial contribution under section 771(5)(D)(i) of the Act. To the extent land is provided, it qualifies as a financial contribution in the form of the provision of a good for LTAR under section 771(5)(D)(iii) of the Act.

Specificity: This program is limited to particular industries targeted for development and is *de jure* specific pursuant to section 771(5A)(D)(i) of the Act.

Benefit: The provision of funds confers a benefit equal to the amount of the funding provided by the government. To the extent land is provided, the sale or provision of land at below-market prices (*i.e.*, for LTAR) constitutes a benefit pursuant to 19 CFR 351.511(a).

Support: Petitioners provided the following: Jiangsu Development and Reform Commission, Jiangsu Province Light Industry Adjustment and Revitalization Plan, Su Zheng Fa, No. 87 (May 31, 2009).[57]

4. Jiangsu province grants for legal fees in foreign trade remedy proceedings

Description: Petitioners maintain that, according to *Key Points to Report on the Business Development Special Fund to Support the Transformation and Upgrading of Foreign Trade*, Jiangsu Province subsidizes PRC companies to defend various trade remedy cases abroad under the "Export-Import Fair Trade" program. Petitioners note that PRC producers and exporters of chlorinated isos have been subject to a U.S. antidumping order and have actively participated in administrative reviews (and litigation) since 2005. Further, Petitioners note that at least one major producer and exporter of chlorinated isos, China Salt Changzhou Chemical Co., is located in Jiangsu Province.[58]

Financial contribution: This government grant constitutes a financial contribution in the form of a direct transfer of funds under section 771(5)(D)(i) of the Act.

Specificity: The benefits are awarded only to a small number of enterprises or industries and therefore is specific within the meaning of sections 771(5A)(D)(iii)(I) of the Act.

Benefit: This grant program confers a benefit equal to the amount of the funds provided under 19 CFR 351.504.

Support: The Department has previously determined that this program confers a countervailable subsidy under U.S. law.[59] Moreover, Petitioners provided the following: Jiangsu Province

[56] *See* Volume I of the Petition at 32, Table 8.
[57] *See* Volume VI of the Petition at Exhibit CVD-77.
[58] *See* Volume I of the Petition at 32, Table 8.
[59] *See, e.g., Raw Flexible Magnets from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 73 FR 39667 (July 10, 2008) and accompanying Issues and Decision Memorandum at 8.

Department of Finance, Special Funds to Support Foreign Trade Transformation and Upgrading of the Implementation Details of the Notification, Choi Su-regulation No. 40 (2010).[60]

5. Shandong Province: grants to enterprises exporting key products

Description: Petitioners contend that Shandong Province has policies to encourage trade and exportation growth, which include: (1) interest discounts on loans to "productive exportation enterprises" used for the R&D of export products; (2) subsidies for export credit insurance; and, subsidies to entities having made "remarkable contributions to the foreign economic cooperation and international trade development of the province." Petitioners note that four major producers and exporters of chlorinated isos, Heze Huayi, Liaocheng London, Kangtai, and Zhucheng Taisheng, are located in Shandong Province.[61]
Financial contribution: This government grant constitutes a financial contribution in the form of a direct transfer of funds under section 771(5)(D)(i) of the Act.

Specificity: This program is specific because it is contingent upon export activity, pursuant to section 771(5A)(B) of the Act.

Benefit: This program provides a benefit in the amount of the grant received under 19 CFR 351.504(a).

Support: Petitioners provided the following: Notice of Making Efforts to Accomplish the Work of Applying the Trade Promotion Capital for Agricultural, Light Industry and Textile Products in 2006, No. 747 (LWJMFZ 2006); 2006 Shandong Province Policies on Encouraging Trade and Exportation Expansion, Lu Cai Qi, No. 5(2006).[62]

E. Local and Municipal Programs

1. Grants for export credit insurance

Description: Petitioners assert that this program reimburses PRC companies for export credit insurance fees that they have paid to Sinosure. Petitioners contend that companies report fees paid to their local authorities and receive a grant when approved. Petitioners state that Chinese Premier Wen mentioned increasing the use of export credit insurance in August 2012.

Financial contribution: This government grant constitutes a financial contribution in the form of a direct transfer of funds under section 771(5)(D)(i) of the Act.

Specificity: These programs are specific because they are limited to companies that export, pursuant to section 771(5A)(B) of the Act.

[60] *See* Volume VI of the Petition at Exhibit CVD-78.
[61] *See* Volume I of the Petition at 32, Table 8.
[62] *See* Volume VI of the Petition at Exhibits CVD-80 & 81, respectively.

Benefit: This program provides a benefit in the amount of the grant received under 19 CFR 351.504(a).

Support: The Department has previously determined that this program confers a countervailable subsidy under U.S. law.[63] Moreover, Petitioners provided the following: "Wen called for faster payment of export tax rebates, greater use of export credit insurance and reduced inspections and fees to ease the burden on companies," Bloomberg News (August 26, 2012).[64]

2. Special Fund for Energy Saving Technology Reform

Description: Petitioners state that according to the *Circular of the MOF and NDRC on Printing and Distributing Interim Measures of Energy Saving Technology Reform Awards Fiscal Funds*, Article 1, the special fund was in place during the 11th 5-Year period. Petitioners speculate that the GOC distributed the funds to enterprises (Article 14) in order to encourage energy-saving technology renovation projects (Article 5). Petitioners contend that the funds were arranged by the GOC (Articles 5 and 14), but the local governments were mandated to play a role in supervision of the implementation (Article 15). Petitioners note that the Department countervailed this program in *Citric Acid*, and that the Department found that enterprises whose energy-saving innovation projects result in energy savings that exceed 10,000 tons of coal will receive an award. Petitioners also note that the standard award is RMB 200 per ton of coal for the eastern PRC provinces (RMB 250 for those in mid-west provinces). According to Petitioners, currently available enabling documents, this program was in place during the 11th 5-Year period, which lapsed by the end of 2010, however, given the non-recurring character of the grant, the benefits should be allocated over the average useful life of assets.

Financial contribution: This government grant constitutes a financial contribution in the form of a direct transfer of funds under Section 771(5)(D)(i) of the Act.

Specificity: This program is specific because it is limited to a group of enterprises under section 771(5A)(D)(i) of the Act, specifically, the group of enterprises with energy-saving innovation projects resulting in energy savings that exceed 10,000 tons of coal.

Benefit: This grant program confers a benefit equal to the amount of the funds provided under 19 CFR 351.504.

Support: The Department has previously determined that this program confers a countervailable subsidy under U.S. law.[65] In addition, Petitioners provided the following: Guangdong Provincial Department of Finance, the Provincial Economic and Trade Commission Office of Guangdong Province on the issuance of special funds for energy management Interim Measures, Guangdong Cai Gong {2008} No. 126, (July 9, 2008); NDRC, MOF on the issuance of "Energy-Saving

[63] *See Steel Wheels*, and accompanying Issues and Decision Memorandum at Section VII.O; *PC Strand*, and accompanying Issues and Decision Memorandum at Section I.H.
[64] *See* Volume VI of the Petition at Exhibit CVD-82.
[65] *See Citric Acid*, and accompanying Issues and Decision Memorandum at Section I.T.

Technological Transformation of Financial Incentives Fund Management Interim Measures," Cai Jian {2007} No. 371 (August 10, 2007).[66]

3. The Clean Production Technology Fund

Description: Petitioners note that according to Article 21 of the *Provisional Measures on Clean Production Inspection*, funds are granted to enterprises that voluntarily undertake "clean production inspection with remarkable achievement after the implementation of clean production plans, development and reform commissions and environmental protection administration." Petitioners further note that Article 22 provides that the "development and reform commissions" have the power to designate clean production projects among the clean production implementation plans undertaken by the enterprises for energy saving, water saving, comprehensive utilization, increasing energy utilization rates, and preventing pollution. Petitioners maintain that based on currently available information, this program is discretionary and it is awarded only to those who are deemed to have had a "remarkable achievement."

Financial contribution: This government grant constitutes a financial contribution in the form of a direct transfer of funds under section 771(5)(D)(i) of the Act.

Specificity: This program is provided to a limited number of recipients, specifically, recipients with projects related to energy or water conservation or pollution control that qualify for benefits. Accordingly, the program is specific within the meaning of section 771 (5A)(D)(iii)(I) of the Act.

Benefit: This grant program confers a benefit equal to the amount of the funds provided under 19 CFR 351.504.

Support: The Department has previously determined that the purpose of this program "is to provide incentives and rewards . . . to encourage enterprises to conduct clean production inspection."[67] Also, Petitioners provided the following: Ministry of Environmental Protection, State Environmental Protection Administration Order No. 16 (August 16, 2004).[68]

II. ALLEGED PROGRAMS ON WHICH THE DEPARTMENT IS NOT INITIATING AN INVESTIGATION

1. Land and Land Usage at Preferential Rates Provided by Jiangsu and Shandong Provinces

Description: Petitioners claim that the price of state-owned land usage may be reduced by 10,000 to 50,000 RMB per hectare depending on the scale of the investment. Petitioners contend that in Jiangsu Province, eligible priority development projects can obtain land for a transfer fee of no less than 70 percent of the minimum price. Petitioners assert that for this reason, the

[66] *See* Volume VI of the Petition at Exhibits CVD-83 & 84.
[67] *See CFS Paper*, and accompanying Issues and Decision Memorandum at Section III.B (determining that the potential benefit is less than 0.005 percent and not including that potential benefit in respondent's CVD rate).
[68] *See* Volume VI of the Petition at Exhibit CVD-85; *see also* Supplement to the Petition at 18 - 19.

authorities in Jiangsu Province have discretion to provide land at a discount, as low as 30 percent below the minimum price.

Petitioners also contend that Shandong Province may provide up to a 30 percent discount on the land leases for energy saving and environmental protection industrial projects. Petitioners suggest that eligible priority development projects can obtain the land for a transfer fee of no less than 70 percent of the minimum price, and for this reason, the authorities in Shandong Province have discretion to provide land at a discount, as low as 30 percent below the minimum price.

Financial Contribution: The sale of land or land-use rights at LTAR constitutes a financial contribution in the form of providing goods and services pursuant to section 771(5)(D)(iii) of the Act.

Specificity: Sales of land-use rights are specific because they are limited to enterprises or an industry located within a designated geographical region pursuant to section 771(5A)(D)(iv) of the Act.

Benefit: The sale of land or land-use rights at below-market prices (*i.e.*, for LTAR) constitutes a benefit pursuant to 19 CFR 351.511(a).

Support: The Department has previously determined that this program confers a countervailable subsidy under U.S. law.[69] Moreover, Petitioners provided the following: "State-owned Construction Land Use Right Transfer Price Evaluation Technical Specification," *State Preferential Policies for Supporting State-Level Economic and Technology Development Zones*, Ministry of Land and Resources Notice, Guo Tu Zi Fa (April 8, 2013); "Jiangsu Provincial Department of Jiangsu Provincial Development and Reform Commission on the Adjustment of Industrial Land Price Policy to Inform the Implementation of Standards," Guo Tu Zi Fa, No. 56 (June 26, 2009); "Shandong Adjust Industrial Land Premium Policy," *Shandong Provincial Department's Ministry of Land and Natural Resources' Forward on Adjusting the Minimum Price Standards for Industrial Land Policy*, Ministry of Land and Resources (August 20, 2009).[70]

Recommendation: First, we note that the Department did not find this program countervailable in *Solar Cells*. The decision in *Solar Cells* to countervail the provision of land was made specifically with respect to two respondents and we note for one of the respondents, only for the land use rights provided outside of Jiangsu Province. Thus, based on the examination of the information provided in the petition, the referenced documents do not show that there is a program in either province providing 30 percent discounts on land use rights. The documents state that the entities responsible for providing land use rights within the respective province cannot provide leases for industrial land at prices lower than the corresponding land prices. These documents indicate that the provincial government is not setting discounted land prices but is setting administrative guidelines and a floor so that land authorities cannot lease land below these prices.. Thus, the evidence provided by Petitioners does not substantiate the

[69] *See Solar Cells*, and accompanying Issues and Decision Memorandum at Section VI. A.4. (for land located in the province of Jiangsu).
[70] *See* Volume IV of the Petition at Exhibits CVD-9, 10 & 11, respectively; *see also* Supplement to the Petition at 16 - 17.

allegation that Jiangsu Province and Shandong Province provide land for LTAR. Accordingly, we recommend finding that with regard to this component of the allegation Petitioners have failed to support their allegation of a countervailable subsidy.

2. Exemption from Land-Use Taxes and Fees

Description: Petitioners maintain that certain companies do not pay land-use taxes and fees, *i.e.*, these companies never paid taxes or fees and no such taxes or fees were owed. Additionally, Petitioners note that the taxes reported by a producer of chlorinated isos are substantially lower than the taxes reported by other producers. Petitioners maintain that although this program was discontinued in 2007, companies who took advantage of it are still accruing benefits in terms of possessing land that they otherwise would not have. Although in a prior case the respondent argued that its exemption was due to its status as an FIE, there is nothing to indicate that this program was limited to FIEs. Petitioners state that at least one producer of chlorinated isos, Sino-Korea Anhui Suzhou, is an FIE.

Financial contribution: The exemption from land-use taxes and fees confers a countervailable subsidy and is a financial contribution in the form of revenue forgone by the GOC pursuant to section 771(5)(D)(ii) of the Act.

Specificity: The exemption/reduction by this program is limited as a matter of law to certain enterprises, FIEs, and is therefore specific under section 771(5A)(D)(i) of the Act.

Benefit: The benefit received is in the amount of the tax savings, pursuant to 19 CFR 351.509(a)(l).

Support: The Department has previously determined that this program confers a countervailable subsidy under U.S. law.[71]

Recommendation: We found this program countervailable in *Thermal Paper* (2008), but we noted that the exemption which applied to FIEs ended in 2007. We found this exemption to be a recurring subsidy. We would recommend not initiating since the only possible benefit from this program is the tax saving incurred from the land use-tax and fee exemption. These ended after 2007, so no possible benefit. As a result, we recommend finding that Petitioners have failed to support their allegation of a countervailable subsidy.

3. Corporate Income Tax Law Article 26.1: Income tax exemption from State Treasury debt

Description: According to Petitioners, under the Corporate Income Tax Law Article 26.1, interest from State treasury debt is exempt from income tax for industries and projects that are eligible for key support from the GOC.

Financial contribution: This tax exemption provides a financial contribution in the form of government revenue foregone under section 771(5)(D)(ii) of the Act.

[71] *See Thermal Paper*, and accompanying Issues and Decision Memorandum at Section I.M.

Specificity: This program is specific because it is limited to an eligible group of enterprises under section 771(5A)(D)(i) of the Act.

Benefit: The income tax exemption confers a benefit equal to the amount of revenue foregone by the government under 19 CFR 351.510.

Support: Petitioners provided the following: Corporate Income Tax Law Article 26.1; The Implementation Rules for the Corporate Income Tax Law Article 82, KPMG; *Twelfth Five-Year Plan, 2011-2015* (July 26, 2011).[72]

Recommendation: There is nothing in either the Corporate Income Tax Law or the Implementation Rules that limit this exemption for industries and projects that are eligible for key support from the State, because any company that purchases or holds State treasury debt receives this tax exemption. Consequently, we recommend finding that Petitioners have failed to support their allegation of a countervailable subsidy.

4. Corporate Income Tax Law Article 26.2: income tax exemption for qualified dividends, profit distribution and other returns on equity investments derived by a resident enterprise from another resident enterprise

Description: Petitioners claim that, according to Corporate Income Tax Law Article 26.2, qualified investment income is exempt from income tax for industries that are eligible for support from the GOC. Petitioners note that a qualified investment (dividends, profit distributions, and other returns on equity investments) refers to the investment return derived by a resident enterprise from its direct investment in another resident enterprise, which are held for at least 12 months. The 2011 Guiding Catalog of Industrial Structural Adjustment lists "chemical products" under encouragement projects, indicating that producers of chlorinated isos receive key support from the GOC.

Financial contribution: This program provides a financial contribution in the form of government revenue foregone under section 771(5)(D)(ii) of the Act.

Specificity: The program is specific within the meaning of section 771(5A)(D)(ii) of the Act because the tax legislation establishes objective criteria governing the eligibility for, and the amount of, the subsidy. In addition, the program is specific under section 771(5A)(D)(iii)(I) of the Act because the actual recipients of the subsidy are limited in number.

Benefit: The tax reduction confers a benefit equal to the amount of revenue foregone by the government under 19 CFR 351.510.

Support: Petitioners provided the following: Corporate Income Tax Law Article 26.2, KPMG; Implementation Rules for the Corporate Income Tax Law, Article 83, KPMG; *Twelfth Five-Year Plan, 2011-2015* (July 26, 2011).[73]

[72] *See* Volume VI of the Petition at Exhibits CVD-53 - 55, respectively.
[73] *See* Volume VI of the Petition at Exhibits CVD-71, 72 & 55, respectively.

Recommendation: Although Petitioners allege that this program is specific because it is limited to certain types of qualified investment and limited to enterprises that receive key support from the State, there is no information provided in the tax law and implementing rules that restricts access to this exemption to enterprises that receive key support from the State. Thus, this exemption is available to all companies. Therefore, we recommend finding that Petitioners have failed to support their allegation of a countervailable subsidy.

5. Corporate Income Tax Law Article 32: accelerated depreciation of fixed assets

Description: Petitioners maintain that enterprises are allowed to accelerate the depreciation of fixed assets if they are: (1) fixed assets that are upgraded and replaced frequently due to advancement in technologies; or (2) fixed assets that are exposed to constantly high levels of vibration or corrosion. The minimum amortization period is 60 percent of the prescribed period, and the assets must be depreciated using the double-declining-balance or sum-of-the-year-digits method. To produce chlorinated isos, cyanuric acid is reacted with caustic soda, resulting in a sodium cyanurate salt which is then reacted with chlorine. This is a highly corrosive process, and as a result the equipment used in its manufacture is susceptible to corrosion. This program is tailored to the chemical industry, particularly those firms using chemicals such as acids and caustic soda, because of the nature of its manufacturing processes.

Financial contribution: This program provides a financial contribution in the form of government revenue foregone under section 771(5)(D)(ii) of the Act.

Specificity: This program is specific under section 771 (5A)(D)(iii)(I) of the Act because the recipients of the subsidy are limited in number and under section 771(5A)(D)(iii)(II) of the Act because the chemical industry is the predominant user of the subsidy.

Benefit: The income tax exemption confers a benefit equal to the amount of revenue foregone by the government under 19 CFR 351.510.

Support: The Department has previously determined that similar accelerated depreciation provisions confer a countervailable subsidy under U.S. law.[74] Moreover, Petitioners provided the following: Corporate Income Tax Law Article 32; KPMG, The Implementation Rules for the Corporate Income Tax Law Article 98.[75]

Recommendation: This program applies to all assets that need to be upgraded or frequently replaced and those assets which are exposed to high levels of vibration or corrosion. While assets used by the chemical industry could fall under this definition, Petitioners have failed to support their specificity allegation because the types of assets falling under this definition would fall into a wide array of industries. As a result, we recommend finding that Petitioners have failed to support their allegation of a countervailable subsidy.

[74] *See Certain Oil Country Tubular Goods from the People's Republic of China: Final Affirmative Countervailing Duty Determination, Final Negative Critical Circumstances Determination*, 74 FR 64045 (December 7, 2009) and accompanying Issues and Decision Memorandum at Section I.I.

[75] *See* Volume VI of the Petition at Exhibits CVD-56 & 57, respectively.

6. Zhanjiang (Shanghai) Municipality and Zhanjiang Economic & Technological Development Zone export related assistance

Description: Petitioners contend that Zhanjiang Municipality and Zhanjiang Economic & Technological Development Zone provided export assistance in the form of grants. At least one major producer and exporter of chlorinated isos, Sino-Korea Anhui Suzhou SDF, is located in Shanghai.[76]

Financial contribution: These grants are a financial contribution under section 771(5)(D)(i) of the Act.

Specificity: The amount of the grant is contingent upon export performance, and therefore the subsidy is specific under section 771(5A)(B) of the Act.

Benefit: This program provides a benefit equal to the amount of a grant, pursuant to 19 CFR 351.504(a).

Support: The Department has previously determined that this program confers a countervailable subsidy under U.S. law.[77]

Recommendation: While Petitioners have correctly stated that the Department has found this program countervailable, they have allege that this program provides benefits to companies in Shanghai; however, the Zhangjiang program we countervailed is in Guangdong Province, not in Shanghai. Therefore, Petitioners have incorrectly alleged this program and the information provided in the Petition does not show that any producers of the subject merchandise are located in Guangdong Province. Thus, we recommend finding that Petitioners have failed to support their allegation of a countervailable subsidy.

7. Zhanjiang (Shanghai) environmental subsidies

Description: Petitioners assert that according to Zhanjiang (Shanghai) Finance Bureau's award notice listing grant recipients in 2006, awards were made to "aquaculture and processing key industries" for environmental protection projects. This assistance is a direct transfer of funds. Among the specific goals of the *Twelfth Five-Year Plan, 2011-2015* is to reduce ammonia nitrogen and nitrogen oxide emissions by 10 percent. Consistent with these targets, it is reasonable to conclude that chlor-alkali and chlorinated isos producers will receive benefits in connection with reductions in such emissions. According to Zhangjiang (Shanghai) Finance Bureau's award notice listing grant recipients in 2006, awards were made to "aquaculture and processing key industries." At least one major producer and exporter of chlorinated isos, Sino-Korea Anhui Suzhou SDF, is located in Shanghai.[78]

[76] *See* Volume I of the Petition at 32, Table 8.
[77] *See Thermal Paper*, and accompanying Issues and Decision Memorandum at Section I.K.
[78] *See* Volume I of the Petition at 32, Table 8.

Financial contribution: This program is a direct transfer of funds and is a financial contribution under section 771 (5)(D)(i) of the Act.

Specificity: The subsidy is specific because the recipients are limited in number under section 771 (5A)(D)(iii) of the Act.

Benefit: This program provides a benefit in the amount of a grant pursuant to 19 CFR 351.504(a).

Support: The Department has previously determined that this program confers a countervailable subsidy under U.S. law.[79] Also, Petitioners provided the *Twelfth Five-Year Plan, 2011-2015* (July 26, 2011).[80]

Recommendation: While Petitioners have correctly stated that the Department has found this program countervailable, they have alleged that this program provides benefits to companies in Shanghai; however, the Zhangjiang program we countervailed is in Guangdong Province, not in Shanghai. Therefore, Petitioners have incorrectly alleged this program and the information provided in the Petition does not show that any producers of the subject merchandise are located in Guangdong Province. Therefore, we recommend finding that Petitioners have failed to support their allegation of a countervailable subsidy.

8. Corporate Income Tax Law Article 34: tax credit for the purchase of special equipment for the purpose of environmental protection, energy and water conservation or production safety

Description: Petitioners note that ten percent of investments or expenses made for the purchase of special equipment for the purpose of environmental protection, energy and water conservation, or production safety may be credited against income tax payable, provided that the equipment is kept for at least five years. This equipment is listed in the Catalogue of Preferential Corporate Income Tax Treatments for Specialized Equipment in Energy or Water Conservation and the Catalogue of Preferential CIT Treatments for Specialized Equipment in Environmental Protection. If the company transfers or leases the equipment within five years of purchase, the amount of the tax credit must be repaid.

Financial contribution: This program provides a financial contribution in the form of government revenue foregone under section 771(5)(D)(ii) of the Act.

Specificity: This program is limited to companies that purchase specific equipment. Thus, the program is specific under section 771(5A)(D)(iii)(I) of the Act because the recipients of the subsidy are limited in number.

[79] *See Thermal Paper*, and accompanying Issues and Decision Memorandum at Section I.L.
[80] *See* Volume VI of the Petition at Exhibit CVD-55.

Benefit: The tax reduction confers a benefit equal to the amount of revenue foregone by the government under 19 CFR 351.510.

Support: Petitioners provided the following: Corporate Income Tax Law Article 34; The Implementation Rules for the Corporate Income Tax Law, Article 100; Notice of Issuance of the Catalogue of Preferential Corporate Income Tax Treatments for Specialized Equipment in Energy or Water Conservation (2008 Version) and the Catalogue of Preferential CIT Treatments for Specialized Equipment in Environmental Protection (2008 Version), Caishui, No. 115, Jointly Issued by the Ministry of Finance, the State Administration of Taxation and the State Development and Reform Committee (August 20, 2008); Notice of Issuance of the Catalogue of Preferential Corporate Income Tax Treatments for Specialized Equipment in Safe Production (2008 Version), Caishui, No. 118, Jointly Issued by the Ministry of Finance, the State Administration of Taxation, and the State Administration of Work Safety (August 28, 2008).[81]

Recommendation: Upon review of the catalogues listing the equipment for Energy and Water Savings Equipment and Environmental Protection Equipment, this equipment (*e.g.*, air conditioning equipment, ventilators, pumps, industrial boilers, air pollution prevention equipment, environmental monitoring instrumentation) appears to be able to be used by a wide array of enterprises and industries. Consequently, we recommend finding that Petitioners have failed to support their allegation of a countervailable subsidy.

9. Trade financing services from China's Export-Import Bank

Description: Petitioners note that, according to its website, the Export-Import Bank of China ("China ExIm") provides various services to borrowers, including packing loans, export bill purchases, opening letters of credit, opening letters of guarantee, inward bill advance, delivery against guarantee, factoring, forfeiting and other services. Petitioners maintain that the stated objective of these programs is to fulfill China ExIm's duties entrusted by the GOC.

Financial contribution: These programs provide a direct financial contribution by the GOC under sections 771(5)(B)(i) and (D)(i) of the Act.

Specificity: These programs are specific because they are limited to companies that export, pursuant to section 771(5A)(B) of the Act.

Benefit: The benefit is an amount equal to the amount of revenue forgone by the government under 19 CFR 351.510, or equal to the amount of the funds provided under 19 CFR 351.504.

Support: Petitioners provided the following: Export-Import Bank of China, Trade Financing; Export-Import Bank of China, 2012 Annual Report at 19.[82]

Recommendation: Petitioners' alleged benefit is revenue forgone and grants, however, the alleged financial contribution is direct transfer of funds which would include loans. Thus, the evidence provided by Petitioners does not support the allegation of loans being provided under

[81] *See* Volume VI of the Petition at Exhibits CVD-58 - 61, respectively; *see also* Supplement to the Petition at 18.
[82] *See* Volume VI of the Petition at Exhibits CVD-66 - 67, respectively.

terms that would confer a benefit to producers of subject merchandise. Petitioners have failed to provide information to support an allegation that pre-shipment packing loans and the discounts of trade bill are provided at preferential rates. Furthermore, there is no information explaining or detailing the financial contribution and benefit for export and import factoring services provided by the bank. Therefore, we recommend finding that Petitioners have failed to support their allegation of a countervailable subsidy.

RECOMMENDATION:

We have examined the accuracy and adequacy of the evidence provided in the Petition as discussed in this checklist and attachments, and recommend determining that the evidence is sufficient to justify the initiation of a CVD investigation with regard to the PRC. We also recommend determining that the Petition has been filed by, or on behalf of, the domestic industry.

ATTACHMENTS:

I. Scope of the Investigation
II. Analysis of Industry Support
III. Analysis of Allegations and Evidence of Material Injury and Causation
IV. Action Letter from the ITC

Attachment I

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") ($Cl_3(NCO)_3$), (2) sodium dichloroisocyanurate (dihydrate) ($NaCl_2(NCO)_3$ X $2H_2O$), and (3) sodium dichloroisocyanurate (anhydrous) ($NaCl_2(NCO)_3$). 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.

Attachment II

Analysis of Industry Support for the Petitions Covering Chlorinated Isocyanurates from Japan and the People's Republic of China

Background

Sections 702(c)(4)(A) and 732(c)(4)(A) of the Tariff Act of 1930, as amended ("the Act"), state that the administering authority shall determine that a petition has been filed by or on behalf of the industry if the domestic producers or workers who support the petition account for: (1) at least 25 percent of the total production of the domestic like product; and (2) 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. The above-referenced Petitions[1] contain data supporting a finding that Petitioners'[2] share is at least 25 percent of total production of the domestic like product and more than 50 percent of the domestic like product production of those producers expressing support for, or opposition to, the Petitions.

Section 771(4)(A) of the Act defines "industry" as the producers of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the Act directs the Department of Commerce ("the Department") to look to producers and workers who produce the domestic like product. The 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 (section 771(10) of the Act), 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 result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.[3]

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 subtitle." 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. While the Department is not bound by the criteria used by the ITC to determine the domestic like product in answering this question, we have reviewed these factors as presented by Petitioners. The criteria are: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions; (5) common manufacturing facilities, processes, and employees; and (6) price.[4] With regard to the domestic like product, Petitioners

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[1] *See* Petitions 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 ("Petitions").

[2] Petitioners are Clearon Corp. ("Clearon") and Occidental Chemical Corporation ("OxyChem").

[3] *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)).

[4] *See Fujitsu Ltd. v. United States*, 36 F. Supp. 2d 394, 397-98 (CIT 1999); *Torrington Co. v. United States*, 747 F. Supp. 744, 748-49 (CIT 1990), *aff'd*, 938 F.2d 1278 (Fed. Cir. 1991); *see also Antidumping and Countervailing*

do not offer a definition of domestic like product distinct from the scope of the investigations.[5] Petitioners note that "{t}he Commission looks for clear dividing lines among possible like products and disregards minor variations. Where there is a 'continuum' of products slightly distinguishable from each other, the Commission treats the merchandise as a single product."[6] As a result, Petitioners contend that there is a single like product co-extensive with the scope of the investigations. For a detailed analysis and discussion, see the "Analysis of Domestic Like Product" section below.

Analysis of Domestic Like Product

A. Chlorinated Isocyanurates

Petitioners address the six criteria used by the ITC to determine the domestic like product in Volume I of the Petitions, at 96-108. Petitioners note that "{i}n the 2005 investigation of *Chlorinated Isocyanurates from China and Spain*, the Commission found that chlorinated {isocyanurates} constituted a single like product coextensive with the scope of the petition and Commerce investigations. The Commission considered and rejected three arguments for subdividing chlorinated {isocyanurates} into different like products."[7] Petitioners urge the Department to find a single like product co-extensive with the scope for purposes of these investigations. Petitioners make the following arguments:

1) Physical Characteristics and Uses

Chlorinated isocyanurates ("chlorinated isos"), as defined by the scope of the investigations, consist of sodium dichloroiscyanurates ("dichlor") and trichoroisocyanuric acid ("trichlor"). According to Petitioners, both dichlor and trichlor are produced by chlorinating cyanuric acid and have similar chemical compositions.[8] Petitioners note that both dichlor and trichlor are white granular or powder products, when sold in bulk, and may be pressed into tablets.[9] Petitioners further note that both dichlor and trichlor "are chemically stable means of storing and delivering chlorine, which is released when the product is introduced into water."[10] According to Petitioners, both products are primarily used as pool water disinfectants and for sanitization, but can also be used in sanitizers, detergents, cleaners, scouring powders, bleaches, and for water treatment applications.[11] Although dichlor and trichlor have slightly different applications due to their differing available chlorine percentages, Petitioners argue that these differences do not create clear dividing lines.[12]

Duty Handbook, Twelfth Edition, United States International Trade Commission, Publication 3916 (April 2007), at II-33.

[5] *See* Volume I of the Petitions, at 96.

[6] *Id.*, at 97 (citations omitted).

[7] *Id.*, at 96 (citation omitted), and Volume II of the Petitions, at Exhibit GEN-10; *see also Chlorinated Isocyanurates from China and Spain*, Inv. Nos. 731-TA-1082 and 1083 (Final), USITC Pub. 3782 (June 2005) ("*Chlorinated Isocyanurates from China and Spain"*) at 6-10.

[8] *See* Volume I of the Petitions, at 97.

[9] *Id.*

[10] *Id.*

[11] *Id.*, at 98.

[12] *Id*., at 97.

Petitioners also contend that powdered chlorinated isos have the same physical characteristics and uses as other chlorinated isos. According to Petitioners, powdered chlorinated isos differ from granular chlorinated isos only in the size of the individual particles; in terms of chemical composition, powdered and granular chlorinated isos are identical.[13] In fact, Petitioners note that granular chlorinated isos are produced by granulation of powdered chlorinated isos.[14]

In addition, Petitioners also contend that blended chlorinated isos tablets have the same or very similar physical characteristics to other forms of chlorinated isos. According to Petitioners, blended chlorinated isos tablets contain trichlor or dichlor and other active ingredients that provide (or are advertised to provide) additional functions.[15] As an example, Petitioners note that dichlor may be blended with additional components, such as an effervescent, to cause the tablet to dissolve faster.[16] Petitioners argue that the blended tablets compete with other forms of chlorinated isos for the same customer applications because blending chlorinated isos with other components, such as algaecides or clarifiers, does not alter the end uses of the product.[17] According to Petitioners, there are no "'clear dividing lines' based on whether the subject merchandise is in granular, tablet, blended tablet, or another form."[18]

2) Interchangeability

Petitioners note that, although both dichlor and trichlor have similar uses, dichlor tends to be used for "shock treatments" (where chlorine levels need to be increased quickly to combat bacteria and algae attacks), while trichlor is used as a "maintenance product because of its slower release and lower solubility characteristics."[19] However, Petitioners note that both trichlor and dichlor are chemically equivalent once dissolved in water.[20]

According to Petitioners, powdered chlorinated isos have no substantial independent end-use or separate market. Petitioners note that the majority of chlorinated isos powder is used to make granular products and a small percentage of trichlor powder is used as "shock" product for swimming pools since powder dissolves faster.[21]

With respect to blended tablets, Petitioners argue that blended tablets compete with "pure" dichlor and trichlor tablets, as well as other forms of chlorinated isos, for the same customer applications. According to Petitioners, although blended tablets may be marketed as having additional properties, blending the tablets with additional components does not alter the end uses of the product.[22]

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[13] *Id.*, at 103.
[14] *Id.*
[15] *Id.*, at 100.
[16] *Id.*
[17] *Id.*, at 101.
[18] *Id.* (citation omitted).
[19] *Id.*, at 98.
[20] *Id.*
[21] *Id.*, at 103-104.
[22] *Id.*, at 101.

3) Channels of Distribution

Petitioners note that both dichlor and trichlor are marketed and sold through the same channels of distribution (repackagers (that also may be tableters), wholesale distributors, retailers, pool service professionals, consumers, and commercial swimming pool and spa operators).[23] Likewise, Petitioners state that powdered chlorinated isos and blended tablets are distributed through the same channels of distribution as other chlorinated isos.[24]

4) Customer and Producer Perceptions

Petitioners contend that all chlorinated isos are advertised and perceived by customers and producers as sanitizing products.[25]

5) Common Manufacturing Facilities, Processes, and Employees

Petitioners state that production of both dichlor and trichlor involves the same basic chemical process even though different equipment is used to make the two products. According to Petitioners, "{f}or at least one domestic producer, manufacturing takes place in the same facilities, using the same employees."[26]

Petitioners also note that all chlorinated isos manufacturers produce both powdered and granular trichlor, with powdered product being produced first and then granulated to produce the granular product. According to Petitioners, if there is demand for powdered trichlor, domestic producers will sell that product. If there is no demand for powdered trichlor, "any powder that falls through the sizing operation during granulation is simply recycled back through the granulation process and recovered as granular product."[27]

With respect to blended tablets, Petitioners note that blended tablets are produced in the same facilities that produce trichlor tablets and repackage granular trichlor and dichlor. In fact, Petitioners state that the raw material for the production of blended tablets is primarily granular chlorinated isos. Furthermore, Petitioners state that blended tablets are produced on the same presses that produce trichlor tablets.[28]

6) Pricing

Petitioners note that "the price differential between dichlor and trichlor follows no standard pattern and is quite changeable. Hence, at times, prices for both chlorinated isos may be the same or the price of trichlor may be even higher than the price of dichlor."[29] However, in general, Petitioners contend that the price of dichlor tends to be higher because the volume

[23] *Id.*, at 98.
[24] *Id.*, at 101 and 104.
[25] *See* Volume I of the Petitions, at 98 and Volume II of the Petitions, at Exhibits GEN-3, GEN-4, and GEN-5.
[26] *Id.*, at 98.
[27] *Id.*, at 104.
[28] *Id.*, at 101.
[29] *Id.*, at 99.

produced is lower and there are more production steps.[30] Petitioners also note that blended tablets are sold at higher prices than bulk granular trichlor to account for the additional costs of blending and tableting.[31]

Department's Position:

We have analyzed the criteria presented by Petitioners and have found there is reason to conclude that all chlorinated isos comprise a single domestic like product. We note that Petitioners' domestic like product definition is consistent with the domestic like product defined by the ITC in the previous antidumping duty investigations of chlorinated isos.[32] Furthermore, unless the Department finds Petitioners' definition of the domestic like product to be inaccurate, we will adopt the domestic like product definition set forth in the Petitions. While the statute 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," pursuant to section 771(10) of the Act, Petitioners have presented the Department with information pertaining to the factors the ITC traditionally analyzes. Based on our analysis of the information submitted in the Petitions, all chlorinated isos (including powdered chlorinated isos and blended tablets) have common physical characteristics and uses; compete with each other for certain end uses; are sold through the same channels of distribution; are produced using similar production processes, in common manufacturing facilities, using common employees; and are priced similarly.

B. Tableting and Repackaging

Petitioners also contend that, consistent with the ITC's examination in *Chlorinated Isocyanurates from China and Spain*, the domestic industry producing the domestic like product should not include processors that take bulk trichlor, press it into tablets, and repackage it for retail sale.[33] To support their argument, Petitioners address the six factors normally considered by the ITC in analyzing whether production-related activities are sufficient to constitute "production," with references to the ITC's consideration of this issue in *Chlorinated Isocyanurates from China and Spain*.[34]

Petitioners note that Petitioner Clearon's capital investment in tableting and packaging equipment is [ ] than the company's total book value of property, plant, and equipment utilized in chlorinated isos operations in 2012.[35] Petitioners further contend that there are substantial differences in the training and technical expertise of the workforce involved in producing dichlor/trichlor and the technical expertise of the tableters and re-packers. For support, Petitioners note that the majority of labor used in Clearon's tableting and packaging

[30] *Id.*
[31] *Id.*, at 102.
[32] *Id.* at 96, 99, 102-103, 104-105, and Volume II of the Petitions, at Exhibit GEN-10; *see also Chlorinated Isocyanurates from China and Spain*, at 6-10.
[33] *See* Volume I of the Petitions, at 105 and Volume II of the Petitions, at Exhibit GEN-10; *see also Chlorinated Isocyanurates from China and Spain*, at 10-14.
[34] *See* Volume I of the Petitions, at 105-108 and Volume II of the Petitions, at Exhibit GEN-10; *see also Chlorinated Isocyanurates from China and Spain*, at 10-14.
[35] *See* Volume I of the Petitions, at 105.

facility consists of unskilled, low-wage contract workers.[36] Furthermore, Petitioners state that Clearon employed [ ] production and related workers in 2012, [ ] of which are involved in the tableting operations.[37] With respect to value added to the product in the United States, Petitioners state that "tableting trichlor adds [ ] percent to the cost of granular trichlor sold in the U.S. market."[38] Petitioners also note that prices for trichlor vary along a continuum depending on the type of packaging (bulk versus retail) and the form of the product (granular versus tablet). According to Petitioners, prices range from [ ] for trichlor 90 granular to [ ] for trichlor in 3-inch tablets, packaged in pails for retail sale.[39] Finally, Petitioners note that major tableters in the United States are also importers of chlorinated isos from China and Japan.[40]

Petitioners also note that the Department found that tableting imported chlorinated isos in Canada was not sufficient to change the country of origin of the imported chlorinated isos.[41] Furthermore, Petitioners contend that, in other cases where chemical products were manipulated into different forms without chemical reaction, the Department has determined that merely changing the form of the subject chemicals did not sufficiently alter the essential character of the products to change the country of origin.[42]

Department's Position:

We have analyzed the criteria presented by Petitioners and have found there is reason to conclude that the domestic industry should not include tableters. Significantly, we note that Petitioners' definition of the domestic industry in these Petitions is consistent with the determination of three ITC Commissioners to exclude companies that only tablet and repackage chlorinated isos from the domestic industry in the previous antidumping duty investigations of chlorinated isos.[43] Based on our analysis of the information submitted in the Petitions, the facts remain very similar to the facts examined by the ITC in *Chlorinated Isocyanurates from China and Spain*. Data provided by Petitioners indicate that tableting does not require significant capital investment, technical production expertise, or employment levels when compared to the capital investment, technical expertise, and employment levels required to establish an integrated chlorinated isos operation.

Industry Support Calculation

In determining whether Petitioners have standing (*i.e.*, those domestic workers and producers supporting the Petitions account for (1) at least 25 percent of the total production of the domestic like product and (2) more than 50 percent of the production of the domestic like product

[36] *Id.*, at 106.
[37] *Id.*
[38] *Id.*
[39] *Id.*
[40] *Id.*, at 106-107, Volume III of the Petitions, at Exhibit AD-17, and Volume IV of the Petitions, at Exhibit CVD-87.
[41] *Id.*, at 108 and Volume II of the Petitions, at Exhibit GEN-7.
[42] *See* Volume I of the Petitions, at 108.
[43] *Id.* at 107, and Volume II of the Petitions, at Exhibit GEN-10; *see also Chlorinated Isocyanurates from China and Spain*, at 10-14.

produced by that portion of the industry expressing support for, or opposition to, the Petitions), we conducted the following analysis.

We considered the industry support data contained in the Petitions with reference to the domestic like product as defined in Attachment I, "Scope of the Investigation," to this Checklist and discussed above. We also considered Petitioners arguments regarding the definition of the domestic industry, also discussed above. Petitioners state that there are three producers of chlorinated isos in the United States: Clearon, OxyChem, and BioLab, Inc. ("BioLab").[44] To support their claim, Petitioners provided an affidavit from Jeffrey L. Williams, the Senior Business Manager, ACL, Chlorite & Silicates, OxyChem, who has worked for OxyChem since 1986. Mr. Williams states that, based on his knowledge of the market, his company's [ ], and feedback from OxyChem's customers in the U.S. market, OxyChem, Clearon, and BioLab are the three manufacturers of chlorinated isos in the United States.[45] Furthermore, Petitioners provided a marketing research report on chlorinated isocyanurates, from SRI Consulting, which also identifies the same three producers of chlorinated isocyanurates in the United States.[46]

To establish industry support, Petitioners provided their own production of the domestic like product for calendar year 2012.[47] In addition, Petitioners estimated BioLab's 2012 production of the domestic like product.[48]

Petitioners note that [ ].[49] According to Petitioners, [ ].[50] To estimate the BioLab's 2012 production of the domestic like product, Petitioners first calculated [ ].[51] Petitioners contend that [ ].[52] Next, Petitioners applied [ ] to calculate BioLab's estimated trichlor production in 2012.[53] To calculate total 2012 production of the domestic like product, Petitioners added their own 2012 production to the estimated 2012 production of BioLab.[54]

Petitioners compared their own 2012 production volume to the estimated 2012 production volume of the entire domestic industry.[55] Based on information provided in the Petitions, Petitioners account for [ ] percent of total production of the domestic like product.

[44] *See* Volume I of the Petitions, at 2-3.
[45] *See* Volume II of the Petitions, at Exhibit GEN-12.
[46] *Id.*, at Exhibit GEN-9 (E. Linka, H. Janshkar, C. Funada, "CEH Marketing Research Report, Chlorinated Isocyanurates," (Chemical Economics Handbook – SRI Consulting, 2012), at 5, 12.)
[47] *See* Volume I of the Petitions, at 4.
[48] *Id*. and Volume II of the Petitions, at Exhibit GEN-12.
[49] *See* Volume I of the Petitions, at 3.
[50] *See* Volume II of the Petitions, at Exhibit GEN-12.
[51] *Id.*
[52] *Id.*
[53] *Id.*
[54] *See* Volume I of the Petitions, at 4.
[55] *Id.*

Table 1
Calculation of Industry Support

Petitioners	2012 Production of Chlorinated Isos (1,000 lbs)
Clearon	[ ]
OxyChem	[ ]
Other U.S. Producers	
BioLab	[ ]
Total 2012 U.S. Production of Chlorinated Isos	[ ]
Total Industry Support	[ ]%

Challenge to Industry Support

None.

Findings

We relied on information provided by Petitioners, as described above, to establish total 2012 production of chlorinated isos. Using these data, as demonstrated above, we find that the domestic producers who support the Petitions account for at least 25 percent of the total production of the domestic like product. We further find that the domestic producers who support the Petitions 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 Petitions. Therefore, we find that there is adequate industry support within the meaning of sections 702(c)(4)(A) and 732(c)(4)(A) of the Act.

We conducted a search of the internet and have been unable to locate information that contradicts Petitioners' assertions. We find that Petitioners have provided data that are reasonably available. For these reasons, we determine that there is adequate industry support for initiating these investigations. Accordingly, we find that the Petitions have met the requirements of sections 702(c)(4)(A) and 732(c)(4)(A) of the Act.

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

I. Introduction

When making a determination regarding the initiation of antidumping duty and countervailing duty investigations, the Department of Commerce ("the Department") examines, on the basis of sources readily available to the Department, whether the petitions allege the elements necessary for the imposition of antidumping and countervailing duties and contain information reasonably available to the petitioner that supports the allegations.[1] This attachment analyzes the sufficiency of the allegations and supporting evidence regarding material injury and causation.

II. Definition of Domestic Industry

The domestic industry is described with reference to producers of the domestic like product, as provided for in section 771(4)(A) of the Act. The Petitions[2] define the domestic industry as U.S. producers of chlorinated isocyanurates ("chlorinated isos").[3] Petitioners[4] identify themselves, as well as one other producer of the domestic like product, as the companies constituting the domestic industry in the United States.[5] For a discussion of the domestic like product, *see* Attachment II, "Analysis of Industry Support for the Petitions Covering Chlorinated Isocyanurates from Japan and the People's Republic of China," to this Checklist.

III. Evidence of Injury and Threat of Injury

To determine injury, the statute requires an evaluation of the volume, price effects, and impact of imports on the domestic industry and may consider other economic factors.[6] Specifically, in examining the impact of imports, section 771(7)(C)(iii) of the Act states that:

> In examining the impact {of imports on domestic producers} …, the {International Trade} Commission {"ITC"} shall evaluate all relevant economic factors which have a bearing on the state of the industry in the United States, including, but not limited to–
>
> > (I) actual and potential decline in output, sales, market share, profits, productivity, return on investments, and utilization of capacity,

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[1] *See* sections 702(c)(1)(A)(i) and 732(c)(1)(A)(i) of the Tariff Act of 1930, as amended ("the Act").
[2] *See* Petitions 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 ("Petitions"). Petitioners filed the Supplement to the AD/CVD Petitions, dated September 9, 2013, in response to the Department's request for additional information regarding the Petitions.
[3] *See* Volume I of the Petitions, at 105-108.
[4] The petitioners are Clearon Corp. and Occidental Chemical Corporation (collectively, "Petitioners").
[5] *See* Volume I of the Petitions, at 2-3 and Exhibits GEN-9 and GEN-12.
[6] *See* section 771(7)(B)(i) of the Act.

(II) factors affecting domestic prices,
(III) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment,
(IV) actual and potential negative effects on the existing development and production efforts of the domestic industry..., and
(V) in {an antidumping proceeding}…, the magnitude of the margin of dumping.

The Petitions allege that the domestic industry has experienced the following types of injury by reason of imports from Japan and the People's Republic of China ("China"):

- Reduced market share (Volume I of the Petitions, at 115, 116 and 127, and Volume II of the Petitions, at Exhibit GEN-14);
- Declining production, capacity utilization, and shipments (Volume I of the Petitions, at 115 and 123-127, and Volume II of the Petitions, at Exhibits GEN-9, GEN-12, and GEN-14);
- Underselling and price depression or suppression (Volume I of the Petitions, at 119-121 and 127-128, and Volume II of the Petitions, at Exhibits GEN-11, GEN-15 and GEN-16);
- Lost sales and revenues (Volume I of the Petitions, at 119-121, and Volume II of the Petitions, at Exhibit GEN-16);
- Negative impact on employment, hours worked, and wages paid (Volume I of the Petitions, at 125-127, and Volume II of the Petitions, at Exhibit GEN-14); and
- Decline in financial performance (Volume I of the Petitions, at 121, and 126-128, and Volume II of the Petitions, at Exhibit GEN-14).

The Petitions also allege that the domestic industry could be threatened with further injury by reason of imports from Japan and China:

- Countervailable subsidies from the Government of China (Volume I of the Petitions, at 128);
- Continued increase of subject imports and market penetration (Volume I of the Petitions, at 128-131);
- Substantial existing capacity to increase production (Volume I of the Petitions, at 119, 129 and 131, and Volume II of the Petitions, at Exhibits GEN-9, GEN-11 and GEN-17);
- Continued underselling and price depression or suppression (Volume I of the Petitions, at 130-131, and Volume II of the Petitions, at Exhibit GEN-11); and
- Substantial inventories of subject merchandise in the U.S. market (Volume I of the Petitions, at 131).

The information from the Petitions provides the Department with a sufficient basis to conclude that the allegations of material injury and threat of material injury as a result of imports of subject merchandise are adequately supported.

IV. Cumulation

Section 771(7)(G)(i) of the Act requires the ITC to cumulate imports from all countries for which petitions were filed on the same day if such imports compete with each other and with the domestic like product in the United States market. On August 29, 2013, Petitioners filed the Petitions against the two subject countries. Citing to import data and the ITC's affirmative injury determination in the antidumping duty investigations of chlorinated isos from China and Spain,[7] Petitioners argue that cumulation is appropriate.[8]

In determining whether cumulation is appropriate, the ITC uses a framework of four factors.[9] These factors, along with the sections of the Petitions in which they are addressed, are listed below.

- The degree of fungibility between imports from the two subject countries and between the imports and the domestic like product.

  Petitioners submit that "chlorinated isos from China, Japan and the United States are highly fungible chemical commodities… {and} are fully interchangeable in the market."[10] Moreover, Petitioners contend that market conditions do not differ from those in the *2005 Chlorinated Isos from China and Spain Investigations*, in which the ITC found that "{s}ome producers, importers and purchasers reported that as long as the product is registered with the EPA, regardless of where it is produced, it is always interchangeable."[11]

- Whether the imports and the domestic like product are handled in common or similar channels of distribution.

  Petitioners contend that imports and the domestic like product are sold through similar channels of distribution. Petitioners submit that "mass market retailers…purchase subject imports and domestically produced chlorinated isos…{and} sell the subject imports and domestic chlorinated isos on a nationwide basis."[12] Petitioners also note that subject imports and domestically produced chlorinated isos are sold through distributors.[13]

- The presence of sales or offers for sale of the imports and the domestic like product in the same geographic markets.

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[7] *See* U.S. International Trade Commission, *Chlorinated Isocyanurates from China and Spain*, Inv. Nos. 731-TA-1082 and 1083 (Final), USITC Pub. 3782 (June 2005) (hereinafter, *2005 Chlorinated Isos from China and Spain Investigations*).
[8] *See* Volume I of the Petitions, at 109-112, and Volume II of the Petitions, at Exhibits GEN-2, GEN-10, GEN-11.
[9] *See Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea, and Taiwan*, Inv. Nos. 731-TA-278-280 (Final), USITC Pub. 1845 (May 1986); *see also Fundicao Tupy, S.A. v. United States*, 678 F. Supp. 898, 902 (Ct. Int'l Trade 1988), *aff'd*, 859 F.2d 915 (Fed. Cir. 1988).
[10] *See* Volume I of the Petitions, at 109-110, and Volume II of the Petitions, at Exhibits GEN-2, GEN-10, and GEN-11.
[11] *See* Volume I of the Petitions at 109-110, and Volume II of the Petitions, at Exhibits GEN-10 and GEN-11.
[12] *See* Volume I of the Petitions, at 110, and Volume II of the Petitions, at Exhibit GEN-10.
[13] *Id*., and Volume II of the Petitions, at Exhibit GEN-13.

Petitioners submit that subject imports and the domestic like product are sold in overlapping geographic markets. Petitioners argue that, as demonstrated by import data, "96.4% of the volume of subject imports entered through the same Customs Districts… {and}{t}he vast majority of imports arrive through Los Angeles or New York and are distributed nationally from either coast."[14]

- Whether the imports are present in the U.S. market simultaneously.

Petitioners submit that imports from China and Japan have been simultaneously present in the U.S. market over the three year period of investigation ("POI").[15] Furthermore, Petitioners argue that subject imports "have continued to enter through Los Angeles and New York in 2013."[16]

V. Negligibility

Section 771(24)(A)(i) of the Act states that "imports from a country of merchandise corresponding to a domestic like product identified by the Commission are 'negligible' if such imports account for less than 3 percent of the volume of all such merchandise imported into the United States in the most recent 12-month period for which the data are available . . ." According to ITC Dataweb import data provided by Petitioners for the most recent 12-month period for which the data were available (July 2012 through June 2013), the volume of chlorinated isos imports from China and Japan accounted for 50.4 percent and 42 percent of total imports, respectively.[17] Petitioners submit that "it is clear from these data that imports from China and Japan were not negligible."[18] Petitioners further contend that the volume of subject imports from the two countries, whether measured cumulatively or individually, is significant.[19]

VI. Causation of Material Injury or Threat of Material Injury

Petitioners contend that the material injury and the threat of material injury to the domestic industry were caused by the impact of the allegedly dumped and subsidized imports from Japan and China. In support of their argument, Petitioners provide information on the historical trend of the volume of the allegedly dumped and subsidized imports, focusing on the period beginning with 2010 and ending with the year-to-date data for June 2013 (the most recently available data).[20] In the Petitions, Petitioners demonstrate the effect of these import volumes, and their respective values, on domestic prices, market share, production, shipments, capacity utilization, employment, hours worked, wages paid, and the consequent impact on the domestic industry,

[14] *See* Volume I of the Petitions, at 110-111.
[15] *Id*., at 111-112.
[16] *Id.*, at 112, and Volume II of the Petitions, at Exhibit GEN-13.
[17] *See* Volume I of the Petitions, at 112-113; Volume III of the Petitions, at Exhibit AD-2; and Volume IV of the Petitions, at Exhibit CVD-86.
[18] *See* Volume I of the Petitions, at 112.
[19] *Id.*, at 114.
[20] *Id.*, at 109-115 and 129-130; Volume II of the Petitions, at Exhibits GEN-13 and GEN-14; Volume III of the Petitions, at Exhibit AD-2; and Volume IV of the Petitions, at Exhibit CVD-86.

specifically on financial performance, sales and revenue.[21] Petitioners argue that this evidence reflects the injurious effects on the U.S. industry's financial performance and market share caused by increasing imports of the subject chlorinated isos at prices substantially lower than price offers from Petitioners, thereby resulting in significant incidents of lost sales and revenues.[22]

In making a determination regarding causation of material injury, the ITC is directed to evaluate the volume of subject imports (section 771(7)(B)(i)(I) of the Act), the effect of those imports on the prices of domestically-produced products (section 771(7)(B)(i)(II) of the Act) and their impact on the domestic operations of U.S. producers (section 771(7)(B)(i)(III) of the Act). Petitioners base their allegations of causation of current injury upon their reduced market share; decline in production, capacity utilization, and shipments; underselling and price depression or suppression; negative impact on employment, hours worked, and wages paid; lost sales and revenues; and decline in financial performance.[23]

In regards to the threat of material injury, Petitioners base their allegations on countervailable subsidies from the Government of China; continued increase of subject imports and market penetration; substantial existing capacity to increase production; continued underselling and price depression or suppression; and substantial inventory overhang.[24]

The allegations of causation of material injury and the threat of material injury are based upon the factors indicating current injury, as well as the factors indicating threat of material injury as noted above. The factors related to causation presented in the injury section of the Petitions are the types of factors that the ITC is directed to consider for the purpose of evaluating causation under sections 771(7)(C) and 771(7)(F) of the Act.

VII. Conclusion

In order to assess the accuracy and adequacy of the evidence relating to the allegations regarding material injury and causation, we examined the information presented in the Petitions and the supplement to the Petitions, and compared it with information that was reasonably available (*e.g.*, import data on the ITC website and additional industry reports available online). We have not located any information that contradicts Petitioners' assertions.

We have analyzed Petitioners' evidence regarding material injury and causation and have found that the information in the Petitions demonstrates a sufficient showing of injury or threat of injury to the U.S. industry producing chlorinated isos. Therefore, we find the overall evidence of injury included in the Petitions to be adequate to initiate the investigations of chlorinated isos from China and Japan. Ultimately, the ITC will make the final determination with respect to material injury, or threat thereof, and causation.

[21] *See* Volume I of the Petitions, at 115- 116 and 119-128, and Volume II of the Petitions, at Exhibits GEN-9, GEN-12 and GEN-14 through GEN-16.
[22] *Id.*
[23] *See* Section III above.
[24] *See* Volume I of the Petitions, at 119 and 128-132, and Volume II of the Petitions, at Exhibits GEN-9, GEN-11, GEN-14 and GEN-17.

UNITED STATES INTERNATIONAL TRADE COMMISSION
DIRECTOR OF INVESTIGATIONS ACTION REQUEST

Subject		Control No.	INV-13-079
Investigation Nos. 701-TA-501 and 731-TA-1226 (Preliminary): Chlorinated Isocyanurates from China and Japan--Institution of countervailing duty and antidumping duty investigations and scheduling of preliminary phase investigations		Office	Investigations
		Date Initiated	09-3-13
Signature of Initiator	Director, Office of Investigations	Date Out	09-3-13
		Date Due	Expedite

STAFF CONCURRENCES

Office	Signature	Date	Office	Signature	Date
INV		9/3/13	TATA		9/3/13
INV		9/3/13	GC		3Sept13

PURPOSE OF REQUEST

To obtain approval of the attached draft notice of institution and scheduling and the proposed draft schedule.

BACKGROUND INFORMATION

The attached draft notice of institution and scheduling and the proposed draft schedule are in response to petition filed on August 29, 2013 by Clearon Corp., South Charleston, WV; and Occidental Chemical Corp., Dallas, TX. The petition alleges that an industry in the United States is materially injured or threatened with material injury by reason of subsidized imports of chlorinated isocyanurates from China and less-than-fair-value imports of chlorinated isocyanurates from Japan.

Commission staff has not identified any significant defects in the petition with respect to injury allegations and related information.

RECOMMENDATION

To obtain approval of the attached draft notice of institution and scheduling and the proposed draft schedule.

NATURE OF DIRECTOR'S ACTION

☒ Approved	☐ Disapproved	☐ Other	Signature	Date
				9-3-13

COMMENTS

Staff assigned to the investigation include: Joanna Lo, investigator (205-1888); John Benedetto, economist (205-3270); Mary Klir, accountant (205-3247); Christopher Robinson, industry analyst (205-2602); David Goldfine, attorney-advisor (708-5452); and, Elizabeth Haines, supervisory investigator (205-3200).

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation Nos. 701-TA-501 and 731-TA-1226 (Preliminary)

CHLORINATED ISOCYANURATES FROM CHINA AND JAPAN

Institution of antidumping and countervailing duty investigations and scheduling of preliminary phase investigations.

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping and countervailing duty investigations Nos. 701-TA-501 and 731-TA-1226 (Preliminary) under sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. §§ 1671b(a) and 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from chlorinated isocyanurates from China and Japan, provided for in subheadings 2933.69.60 and 3808.99.95 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value by Japan and alleged to be subsidized by China. Unless the Department of Commerce extends the time for initiation pursuant to sections 702(c)(1)(B) or 732(c)(1)(B) of the Act (19 U.S.C. §§ 1671a(c)(1)(B) or 1673a(c)(1)(B)), the Commission must reach a preliminary determination in antidumping and countervailing duty investigations in 45 days, or in this case by October 11, 2013. The Commission's views are due at Commerce within five business days thereafter, or by October 22, 2013.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

EFFECTIVE DATE: August 29, 2013.

FOR FURTHER INFORMATION CONTACT: Joanna Lo (202-205-1888), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these

investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION:

Background.--These investigations are being instituted in response to a petition filed on August 29, 2013 by Clearon Corp., South Charleston, WV; and Occidental Chemical Corp. Dallas, TX.

Participation in the investigations and public service list.--Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the *Federal Register*. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.--Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. § 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the *Federal Register*. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.--The Commission's Director of Investigations has scheduled a conference in connection with these investigations for 9:30 a.m. on September 19, 2013, at the U.S. International Trade Commission Building, 500 E Street SW, Washington, DC. Requests to appear at the conference should be filed with William.Bishop@usitc.gov and Sharon.Bellamy@usitc.gov (DO NOT FILE ON EDIS) on or before September 17, 2013. Parties in support of the imposition of countervailing and antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions.--As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before September 24, 2013, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony

contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. Please be aware that the Commission's rules with respect to electronic filing have been amended. The amendments took effect on November 7, 2011. See 76 Fed. Reg. 61937 (Oct. 6, 2011) and the newly revised Commission's Handbook on E-Filing, available on the Commission's web site at http://edis.usitc.gov.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

AUTHORITY: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

Lisa R. Barton
Acting Secretary to the Commission

Issued: