

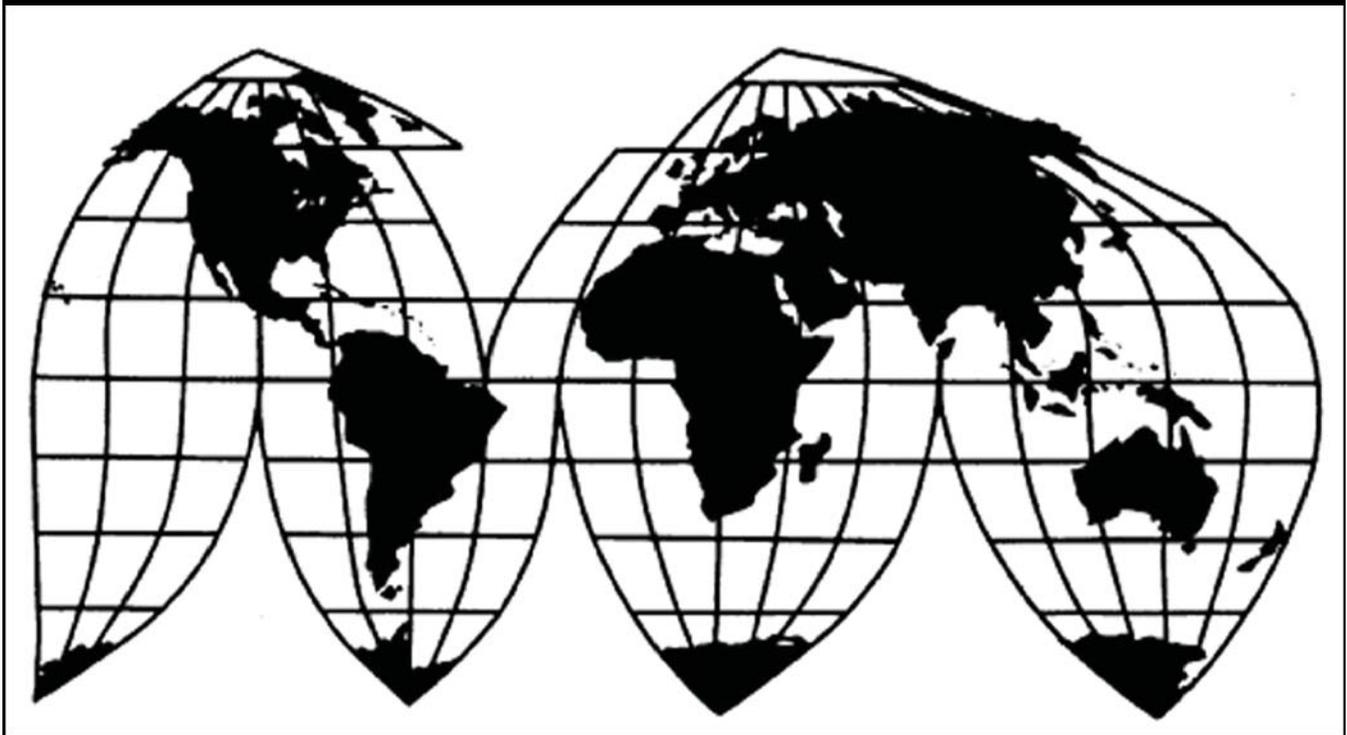
# Chloropicrin from China

Investigation No. 731-TA-130 (Fourth Review)

Publication 4561

August 2015

**U.S. International Trade Commission**



Washington, DC 20436

# U.S. International Trade Commission

## COMMISSIONERS

**Meredith M. Broadbent, Chairman**

**Dean A. Pinkert, Vice Chairman**

**Irving A. Williamson**

**David S. Johanson**

**F. Scott Kieff**

**Rhonda K. Schmidlein**

---

Elizabeth Haines

*Acting Director of Operations*

---

### *Staff assigned*

Cynthia Trainor, Investigator

Jeffrey Clark, Industry Analyst

Cindy Cohen, Economist

Maureen Letostak, Statistician

Darlene Smith, Statistical Assistant

David Goldfine, Attorney

Jane Dempsey, Attorney

Frederick Ruggles, Supervisory Investigator

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

# U.S. International Trade Commission

Washington, DC 20436  
*www.usitc.gov*

## Chloropicrin from China

Investigation No. 731-TA-130 (Fourth Review)

**Publication 4561**



**August 2015**



# CONTENTS

	Page
<b>Determination</b> .....	<b>1</b>
<b>Views of the Commission</b> .....	<b>3</b>
<b>Information obtained in these reviews</b> .....	<b>I-1</b>
Background.....	I-1
Responses to the Commission’s Notice of Institution .....	I-2
Individual responses .....	I-2
Party comments on adequacy.....	I-2
Recent developments in the industry .....	I-3
The product .....	I-3
Commerce’s scope .....	I-3
Description and uses .....	I-4
U.S. tariff treatment .....	I-5
The definition of the domestic like product.....	I-5
The original investigation and subsequent reviews.....	I-5
The original investigation .....	I-5
The first five-year review.....	I-6
The second five-year review.....	I-6
The third five-year review .....	I-6
Prior related investigations .....	I-7
Actions at Commerce .....	I-7
Current review results .....	I-7
The industry in the United States .....	I-7
U.S. producers .....	I-7
Definition of the domestic industry and related parties issues .....	I-8
U.S. producers’ trade and financial data.....	I-9

## CONTENTS

	Page
U.S. imports and apparent consumption .....	I-9
U.S. importers.....	I-9
U.S. imports .....	I-10
Apparent U.S. consumption and market shares .....	I-11
The industry in China.....	I-12
Foreign producers .....	I-12
Antidumping or countervailing duty orders in third-country markets.....	I-14
The global market .....	I-14
<b>Appendixes-</b>	
A. <i>Federal Register</i> notices .....	A-1
B. Company-specific data .....	B-1
C. Summary data compiled in prior proceedings .....	C-1
D. Purchaser questionnaire responses .....	D-1

Note.—Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted. Such deletions are indicated by asterisks.

# UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-130 (Fourth Review)

Chloropicrin from China

## DETERMINATION

On the basis of the record<sup>1</sup> developed in the subject five-year review, the United States International Trade Commission (“Commission”) determines, pursuant to the Tariff Act of 1930, that revocation of the antidumping duty order on chloropicrin from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

## BACKGROUND

The Commission, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)), instituted this review on April 1, 2015 (80 F.R. 17496) and determined on July 6, 2015 that it would conduct an expedited review (80 F.R. 43461, July 22, 2015).

---

<sup>1</sup> The record is defined in sec. 207.2(f) of the Commission’s Rules of Practice and Procedure (19 CFR § 207.2(f)).



## Views of the Commission

Based on the record in this five-year review, we determine under section 751(c) of the Tariff Act of 1930, as amended (“the Tariff Act”), that revocation of the antidumping duty order on chloropicrin from China would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

### I. Background

#### A. The Original Determination

The Commission instituted the original investigation of chloropicrin from China in response to a petition filed by Niklor Chemical Co. (“Niklor”) and LCP Chemicals & Plastics (“LCP”), domestic producers of chloropicrin, filed in April 1983. In March 1984, the Commission unanimously determined that an industry in the United States was materially injured by reason of imports of chloropicrin from China that were being sold at less than fair value.<sup>1</sup> Subsequently, the U.S. Department of Commerce issued an antidumping duty order covering these imports.<sup>2</sup>

#### B. The Commission’s Five-Year Reviews

In November 1998, the Commission instituted its first five-year review. Four domestic producers – ASHTA Chemicals Inc. (“ASHTA”), HoltraChem Manufacturing Company, L.L.C. (“HoltraChem”), Niklor, and Trinity Manufacturing, Inc. (“Trinity”) – filed a joint response containing company-specific information. The Commission did not receive any response from respondent interested parties.<sup>3</sup> The Commission conducted an expedited review and determined that revocation of the order on chloropicrin from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.<sup>4</sup> Commerce published its notice of continuation of the antidumping duty order in August 1999.<sup>5</sup>

In March 2004, the Commission instituted its second five-year review. Three domestic producers – ASHTA, Niklor, and Trinity – and a company representing that it had the capacity to, but did not actually produce, chloropicrin, Arvesta Corporation (“Arvesta”), filed a joint response containing company-specific information. As in the first review, the Commission did

---

<sup>1</sup> *Chloropicrin from China*, Inv. No. 731-TA-130, USITC Pub. 1505 (March 1984) (“Original Determination”).

<sup>2</sup> *Chloropicrin from China*, 49 Fed. Reg. 10691 (Mar. 22, 1984) (antidumping duty order).

<sup>3</sup> *Chloropicrin from China*, Inv. No. 731-TA-130, USITC Pub. 3175 (Apr. 1999) (“First Five-Year Review”).

<sup>4</sup> *Chloropicrin from China*, 64 Fed. Reg. 16998 (Apr. 7, 1999).

<sup>5</sup> *Chloropicrin from China*, 64 Fed. Reg. 42655 (Aug. 5, 1999) (notice of continuation of antidumping duty order).

not receive any responses from respondent interested parties. The Commission conducted an expedited review and determined that revocation of the order on chloropicrin from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.<sup>6</sup> Commerce published its notice of continuation of the antidumping duty order in August 2004.<sup>7</sup>

In July 2009, the Commission instituted its third five-year review. Three domestic producers – ASHTA, Niklor,<sup>8</sup> and Trinity – filed a joint response containing company-specific information. Although the Commission determined that the domestic interested party group response was adequate and that the respondent interested party group response was inadequate, the Commission decided to conduct a full review in light of information regarding possible changes in conditions of competition. Based on the record in the third review,<sup>9</sup> the Commission determined that revocation of the order on chloropicrin from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.<sup>10</sup> Commerce published its notice of continuation of the antidumping duty order in May 2010.<sup>11</sup>

### C. The Current Review

The Commission instituted this current review on April 1, 2015.<sup>12</sup> Three domestic producers – ASHTA, Niklor, and Trinity – filed a joint response containing company-specific information. The Commission did not receive any responses from producers or exporters of chloropicrin in China or any U.S. importers of the subject merchandise. The Commission found the domestic interested party response to the notice of institution to be adequate and the respondent interested party response to be inadequate. The Commission did not find any

---

<sup>6</sup> *Chloropicrin from China*, Inv. No. 731-TA-130, USITC Pub. 3712 (Aug. 2004) (“Second Five-Year Review”).

<sup>7</sup> *Chloropicrin from China*, 69 Fed. Reg. 51811 (Aug. 23, 2004) (notice of continuation of antidumping duty order).

<sup>8</sup> By the time the Commission instituted its third review, Niklor had ceased producing chloropicrin. Niklor had \*\*\*, although economic conditions since the second review had not warranted resumption of operations. Confidential Report (“CR”) at I-13, Public Report (“PR”) at I-8.

<sup>9</sup> In the third full review, the Commission did not receive any questionnaire responses from chloropicrin producers in China. The only information that the Commission received during the third review from importers or producers of subject merchandise was a questionnaire response from one importer accounting for all imports of subject imports during the period of review. \*\*\*. *Chloropicrin from China*, Inv. No. 731-TA-130, USITC Pub. 4142 at 4, n.11 (Apr. 2010) (“Third Five-Year Review”); Confidential Third Review Determination, EDIS Doc. 558260 at 5, n.11.

<sup>10</sup> Third Five-Year Review, USITC Pub. 4142 at 3.

<sup>11</sup> *Chloropicrin from China*, 75 Fed. Reg. 27704 (May 18, 2010) (notice of continuation of antidumping duty order).

<sup>12</sup> *Chloropicrin from China*, 80 Fed. Reg. 17496 (Apr. 1, 2015) (institution of a five-year review).

circumstances that would warrant conducting a full review.<sup>13</sup> Consequently, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Tariff Act.<sup>14</sup> The domestic producers did not file comments pursuant to 19 C.F.R. § 206.62(d).

## II. Domestic Like Product and Industry

### A. Domestic Like Product

In making its determination under section 751(c) of the Tariff Act, the Commission defines the “domestic like product” and the “industry.”<sup>15</sup> 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 under this subtitle.”<sup>16</sup> The Commission’s practice in five-year reviews is to examine the domestic like product definition from the original investigation and consider whether the record indicates any reason to revisit the prior findings.<sup>17</sup>

Commerce has defined the scope of the antidumping duty order as follows:

The merchandise subject to this antidumping duty order is chloropicrin, also known as trichloronitromethane. A major use of the product is as a pre-plant fumigant (pesticide). Such merchandise is currently classifiable under Harmonized Tariff Schedule (“HTS”) item number 2904.90.50.05.<sup>18</sup>

The scope definition has not changed substantively since the original investigation.

Chloropicrin is a highly toxic liquid chemical compound, used primarily as an active agent in pre-plant soil fumigants for killing fungi. Small amounts are also used to control insects and rodents in grain storage and to prevent wood decay. Chloropicrin is a relatively expensive fungicide, so its use is normally limited to high-value crops such as strawberries, tobacco,

---

<sup>13</sup> *Chloropicrin from China*, 80 Fed. Reg. 43461 (July 22, 2015).

<sup>14</sup> 19 U.S.C. § 1675(c)(3).

<sup>15</sup> 19 U.S.C. § 1677(4)(A).

<sup>16</sup> 19 U.S.C. § 1677(10); *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); *Timken Co. v. United States*, 913 F. Supp. 580, 584 (Ct. Int’l Trade 1996); *Torrington Co. v. United States*, 747 F. Supp. 744, 748-49 (Ct. Int’l Trade 1990), *aff’d*, 938 F.2d 1278 (Fed. Cir. 1991); *see also* S. Rep. No. 249, 96<sup>th</sup> Cong., 1<sup>st</sup> Sess. 90-91 (1979).

<sup>17</sup> *See, e.g., Internal Combustion Industrial Forklift Trucks from Japan*, Inv. No. 731-TA-377 (Second Review), USITC Pub. 3831 at 8-9 (Dec. 2005); *Crawfish Tail Meat from China*, Inv. No. 731-TA-752 (Review), USITC Pub. 3614 at 4 (July 2003); *Steel Concrete Reinforcing Bar from Turkey*, Inv. No. 731-TA-745 (Review), USITC Pub. 3577 at 4 (Feb. 2003).

<sup>18</sup> *Chloropicrin from China*, 80 Fed. Reg. 47467 (Aug. 7, 2015) (final results of the expedited sunset review of the antidumping duty order).

flowers, and tree-grown fruit, although it is also used for relatively lower-value crops which require less fumigant per acre to achieve the same pest control and accompanying increase in yield. Chloropicrin is usually blended with other chemical agents, such as methyl bromide, into a single fumigant with mixture ranges from less than one percent chloropicrin to more than 50 percent.<sup>19</sup>

In its original investigation, first and second expedited five-year reviews, and third full five-year review, the Commission defined a single domestic like product as all chloropicrin.<sup>20</sup> The domestic producers in this review agree with this definition.<sup>21</sup> The record contains no new information providing any basis for the Commission to revisit or alter the domestic like product definition.<sup>22</sup> We therefore continue to define the domestic like product as all chloropicrin, consistent with Commerce's scope.

## **B. Domestic Industry**

Section 771(4)(A) of the Tariff Act defines the relevant industry as the domestic "producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."<sup>23</sup> 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.

In the original investigation, first and second expedited reviews, and third full review, the Commission defined the domestic industry to consist of all domestic producers of chloropicrin.<sup>24</sup>

The domestic producers agree that the Commission should adopt the same definition of domestic industry in this review that it did in the prior proceedings.<sup>25</sup> There are no related party or other domestic industry issues in this review.<sup>26</sup> Accordingly, we continue to define the domestic industry as consisting of all domestic producers of chloropicrin.

---

<sup>19</sup> CR at I-6 to I-8, PR at I-4 to I-5.

<sup>20</sup> Original Determination, USITC Pub. 1505 at 3; First Five-Year Review, USITC Pub. 3175 at 4; Second Five-Year Review, USITC Pub. 3712 at 4; Third Five-Year Review, USITC Pub. 4142 at 6.

<sup>21</sup> Domestic Producers' Response to the Notice of Institution at 11 (May 1, 2015) ("Domestic Producers' Response").

<sup>22</sup> See generally, CR at I-8 to I-9, PR at I-5.

<sup>23</sup> 19 U.S.C. § 1677(4)(A). The definitions in 19 U.S.C. § 1677 are applicable to the entire subtitle containing the antidumping and countervailing duty laws, including 19 U.S.C. §§ 1675 and 1675a. See 19 U.S.C. § 1677.

<sup>24</sup> Original Determination, USITC Pub. 1505 at 3; First Five-Year Review, USITC Pub. 3175 at 5; Second Five-Year Review, USITC Pub. 3712 at 5; Third Five-Year Review, USITC Pub. 4142 at 6.

<sup>25</sup> Domestic Producers' Response at 11.

<sup>26</sup> The domestic producers report that no domestic producer imported subject merchandise or is related to a foreign producer or importer of subject merchandise. Domestic Producers' Response at 4.

### III. Revocation of the Antidumping Duty Order Would Likely Lead to Continuation or Recurrence of Material Injury Within a Reasonably Foreseeable Time

#### A. Legal Standards

In a five-year review conducted under section 751(c) of the Tariff Act, Commerce will revoke an antidumping or countervailing duty order unless (1) it makes a determination that dumping or subsidization is likely to continue or recur and (2) the Commission makes a determination that revocation of the antidumping or countervailing duty order “would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.”<sup>27</sup> The SAA states that “under the likelihood standard, the Commission will engage in a counterfactual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo – the revocation or termination of a proceeding and the elimination of its restraining effects on volumes and prices of imports.”<sup>28</sup> Thus, the likelihood standard is prospective in nature.<sup>29</sup> The U.S. Court of International Trade has found that “likely,” as used in the five-year review provisions of the Act, means “probable,” and the Commission applies that standard in five-year reviews.<sup>30</sup>

The statute states that “the Commission shall consider that the effects of revocation or termination may not be imminent, but may manifest themselves only over a longer period of time.”<sup>31</sup> According to the SAA, a “‘reasonably foreseeable time’ will vary from case-to-case, but

---

<sup>27</sup> 19 U.S.C. § 1675a(a).

<sup>28</sup> Uruguay Round Agreements Act Statement of Administrative Action (SAA), H.R. Rep. 103-316, vol. 1 at 883-84 (1994). The SAA states that “{t}he likelihood of injury standard applies regardless of the nature of the Commission’s original determination (material injury, threat of material injury, or material retardation of an industry). Likewise, the standard applies to suspended investigations that were never completed.” *Id.* at 883.

<sup>29</sup> While the SAA states that “a separate determination regarding current material injury is not necessary,” it indicates that “the Commission may consider relevant factors such as current and likely continued depressed shipment levels and current and likely continued {sic} prices for the domestic like product in the U.S. market in making its determination of the likelihood of continuation or recurrence of material injury if the order is revoked.” SAA at 884.

<sup>30</sup> See *NMB Singapore Ltd. v. United States*, 288 F. Supp. 2d 1306, 1352 (Ct. Int’l Trade 2003) (“‘likely’ means probable within the context of 19 U.S.C. § 1675(c) and 19 U.S.C. § 1675a(a)”), *aff’d mem.*, 140 Fed. Appx. 268 (Fed. Cir. 2005); *Nippon Steel Corp. v. United States*, 26 CIT 1416, 1419 (2002) (same); *Usinor Industeel, S.A. v. United States*, 26 CIT 1402, 1404 nn.3, 6 (2002) (“more likely than not” standard is “consistent with the court’s opinion;” “the court has not interpreted ‘likely’ to imply any particular degree of ‘certainty’”); *Indorama Chemicals (Thailand) Ltd. v. United States*, 26 CIT 1059, 1070 (2002) (“standard is based on a likelihood of continuation or recurrence of injury, not a certainty”); *Usinor v. United States*, 26 CIT 767, 794 (2002) (“‘likely’ is tantamount to ‘probable,’ not merely ‘possible’”).

<sup>31</sup> 19 U.S.C. § 1675a(a)(5).

normally will exceed the ‘imminent’ timeframe applicable in a threat of injury analysis in original investigations.”<sup>32</sup>

Although the standard in a five-year review is not the same as the standard applied in an original investigation, it contains some of the same fundamental elements. The statute provides that the Commission is to “consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the orders are revoked or the suspended investigation is terminated.”<sup>33</sup> It directs the Commission to take into account its prior injury determination, whether any improvement in the state of the industry is related to the order or the suspension agreement under review, whether the industry is vulnerable to material injury if an order is revoked or a suspension agreement is terminated, and any findings by Commerce regarding duty absorption pursuant to 19 U.S.C. § 1675(a)(4).<sup>34</sup> The statute further provides that the presence or absence of any factor that the Commission is required to consider shall not necessarily give decisive guidance with respect to the Commission’s determination.<sup>35</sup>

In evaluating the likely volume of imports of subject merchandise if an order under review is revoked and/or a suspended investigation is terminated, the Commission is directed to consider whether the likely volume of imports would be significant either in absolute terms or relative to production or consumption in the United States.<sup>36</sup> In doing so, the Commission must consider “all relevant economic factors,” including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) 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.<sup>37</sup>

In evaluating the likely price effects of subject imports if an order under review is revoked and/or a suspended investigation is terminated, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared to the domestic like product and whether the subject imports are likely to enter the

---

<sup>32</sup> SAA at 887. Among the factors that the Commission should consider in this regard are “the fungibility or differentiation within the product in question, the level of substitutability between the imported and domestic products, the channels of distribution used, the methods of contracting (such as spot sales or long-term contracts), and lead times for delivery of goods, as well as other factors that may only manifest themselves in the longer term, such as planned investment and the shifting of production facilities.” *Id.*

<sup>33</sup> 19 U.S.C. § 1675a(a)(1).

<sup>34</sup> 19 U.S.C. § 1675a(a)(1). Commerce has not made any duty absorption findings regarding imports of chloropicrin from China. CR at I-11, PR at I-7.

<sup>35</sup> 19 U.S.C. § 1675a(a)(5). Although the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886.

<sup>36</sup> 19 U.S.C. § 1675a(a)(2).

<sup>37</sup> 19 U.S.C. § 1675a(a)(2)(A-D).

United States at prices that otherwise would have a significant depressing or suppressing effect on the price of the domestic like product.<sup>38</sup>

In evaluating the likely impact of imports of subject merchandise if an order under review is revoked and/or a suspended investigation is terminated, the Commission is directed to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including but not limited to the following: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.<sup>39</sup> All relevant economic factors are to be considered within the context of the business cycle and the conditions of competition that are distinctive to the industry. As instructed by the statute, we have considered the extent to which any improvement in the state of the domestic industry is related to the order under review and whether the industry is vulnerable to material injury upon revocation.<sup>40</sup>

No respondent interested party participated in this expedited review. Accordingly, for our determination, we have relied on the facts otherwise available, which consist of information from the original investigation and the third full review; information submitted by domestic producers in the prior proceedings and this current review; and information from published sources.

## **B. Conditions of Competition and the Business Cycle**

In evaluating the likely impact of the subject imports on the domestic industry if an order is revoked, the statute directs the Commission to consider all relevant economic factors “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”<sup>41</sup> The following conditions of competition inform our determination.

**Demand Conditions.** Demand for chloropicrin depends on the demand for its end use applications. In the original investigation, the Commission found that the sale of chloropicrin

---

<sup>38</sup> See 19 U.S.C. § 1675a(a)(3). The SAA states that “[c]onsistent with its practice in investigations, in considering the likely price effects of imports in the event of revocation and termination, the Commission may rely on circumstantial, as well as direct, evidence of the adverse effects of unfairly traded imports on domestic prices.” SAA at 886.

<sup>39</sup> 19 U.S.C. § 1675a(a)(4).

<sup>40</sup> The SAA states that in assessing whether the domestic industry is vulnerable to injury if the order is revoked, the Commission “considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they may also demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.” SAA at 885.

<sup>41</sup> 19 U.S.C. § 1675a(a)(4).

was seasonal, with the bulk of the product sold during the months of April to October for blending with other chemicals for use in fumigating fields in the summer and fall.<sup>42</sup>

In the first and second expedited five-year reviews, the Commission found that demand, as measured by apparent U.S. consumption, had increased from the time of the original investigation in 1984. Specifically, consumption of chloropicrin had \*\*\* by the time of the first review, and had \*\*\* by the time of the second review.<sup>43</sup> In the second review, the Commission observed that the U.S. Environmental Protection Agency (“EPA”) had implemented a staged phase-out of methyl bromide for environmental reasons; as the share of methyl bromide in fumigant blends declined, the proportion of other active ingredients, including chloropicrin, increased.<sup>44</sup> The Commission found that the higher proportion of chloropicrin used in fumigant blends had contributed to the increase in demand, but that the future effects of the phase-out of methyl bromide on the demand for chloropicrin were unclear.<sup>45</sup>

In the third, full five-year review, the Commission found that apparent U.S. consumption decreased slightly from \*\*\* pounds in 2006 to \*\*\* pounds in 2007, before increasing to \*\*\* pounds in 2008.<sup>46</sup> The Commission observed that two contrary trends had affected the demand for chloropicrin. First, the EPA continued to implement a staged phase-out of methyl bromide, which had originally been scheduled for completion in 2005, but was extended as a result of the grant of a critical use exemption which allowed for its limited production, consumption, and importation. Second, in 2008 and 2009, the EPA had issued re-registration eligibility decision (“RED”) procedures, requiring, among other things, risk mitigation measures including buffer zones, public notice of use, and community outreach and education programs to determine chloropicrin’s usability based on its effects on human health and the environment. Also in 2009, California’s EPA had issued an evaluation of chloropicrin as a toxic air contaminant.<sup>47</sup> The Commission concluded that even though the use of chloropicrin had increased as a result of the phase-out of methyl bromide, Federal and State regulatory restrictions would likely make the production and use of chloropicrin more complicated and expensive in the future, and that the overall effect of the contrary trends on future demand was uncertain.<sup>48</sup>

In this current review, chloropicrin continues to be used primarily as a soil fumigant and usually is blended with other chemical agents into a single fumigant.<sup>49</sup> As a fumigant, chloropicrin use is highly regulated at the Federal and state levels. Since the third review, the

---

<sup>42</sup> Original Determination, USITC Pub. 1505 at 8.

<sup>43</sup> First Five-Year Review, USITC Pub. 3175 at 7; Confidential First Review Determination, EDIS Doc. 557998 at 9; Second Five-Year Review, USITC Pub. 3712 at 7; Confidential Second Review Determination, EDIS Doc. 557999 at 9.

<sup>44</sup> Second Five-Year Review, USITC Pub. 3712 at 8.

<sup>45</sup> Second Five-Year Review, USITC Pub. 3712 at 8.

<sup>46</sup> Third Five-Year Review, USITC Pub. 4142 at 10; Confidential Third Review Determination, EDIS Doc. 558000 at 18.

<sup>47</sup> Third Five-Year Review, USITC Pub. 4142 at 10-11.

<sup>48</sup> Third Five-Year Review, USITC Pub. 4142 at 11.

<sup>49</sup> CR at I-7, PR at I-4.

EPA issued phase II of the RED procedures for chloropicrin, requiring restrictive measures such as buffer zones, fumigant management plans for each application, and a reduction in the area that can be treated. The EPA also imposed a year-round air monitoring study requirement in regions of high chloropicrin use.<sup>50</sup> Additionally, California's EPA completed its evaluation of chloropicrin as a toxic air contaminant, resulting in restrictions on chloropicrin application time periods, reductions of application rates, and requirement of a two-year mouse chronic toxicity study to be conducted at the expense of the U.S. chloropicrin industry.<sup>51</sup> California also instituted increased review procedures, making permits for the use of chloropicrin more difficult to obtain.<sup>52</sup>

Notwithstanding the additional regulatory developments, apparent U.S. consumption was higher in 2014 than in 2008, or any prior year for which we have data. Specifically, apparent U.S. consumption was \*\*\* pounds in 2014 compared to \*\*\* pounds in 2008.<sup>53</sup>

The domestic producers state that although the U.S. market for chloropicrin has grown due to the continued decline in the share of methyl bromide in fumigant blends, the future market situation for chloropicrin will deteriorate as a result of EPA's increasing regulatory requirements and restrictions and the recent development of an alternative fumigant, Paladin® (dimethyl disulfide).<sup>54</sup> The domestic producers maintain that the phase-out of methyl bromide is nearly complete, and they anticipate that the percentage of chloropicrin in fumigant blends will increase infinitesimally going forward and will not be sufficient to offset the projected decline in chloropicrin demand resulting from the growing number of regulatory restrictions and compliance requirements.<sup>55</sup>

**Supply Conditions.** In the original investigation, the Commission found that for most of the period of investigation, there were only two domestic producers, Niklor and LCP. The Commission further found that imports of chloropicrin from China increased significantly from negligible amounts in 1980 to substantial amounts in 1983, which resulted in the domestic producers' loss of market share.<sup>56</sup>

In the first and second expedited reviews and third full review, the Commission found that subject imports from China virtually exited the U.S. market since the imposition of the antidumping duty order in 1984. The Commission found that, since that time, there had been only small volumes of subject imports and no known nonsubject imports.<sup>57</sup>

---

<sup>50</sup> CR at I-5, I-7, PR at I-3, I-4.

<sup>51</sup> CR at I-6, PR at I-3.

<sup>52</sup> CR at I-6, PR at I-3.

<sup>53</sup> CR/PR at Table I-4.

<sup>54</sup> Domestic Producers' Response at 8-9.

<sup>55</sup> Domestic Producers' Response at 9-10.

<sup>56</sup> Original Determination, USITC Pub. 1505 at 5.

<sup>57</sup> First Five-Year Review, USITC Pub. 3175 at 7; Second Five-Year Review, USITC Pub. 3712 at 7; Third Five-Year Review, USITC Pub. 4142 at 11.

With the exit from the market of subject imports, the Commission found in the second review that the domestic producers had recaptured their earlier share of the market.<sup>58</sup> Although the number of domestic producers had changed slightly since the original investigation, Niklor, ASHTA, and Trinity accounted for all domestic production of chloropicrin by the time of the second review.<sup>59</sup> Niklor subsequently ceased production of chloropicrin, leaving ASHTA and Trinity as the only operating domestic producers of chloropicrin during the third full review.<sup>60</sup>

In this current review, ASHTA and Trinity \*\*\* percent of current domestic production of chloropicrin.<sup>61</sup> In 2014, the domestic industry supplied virtually the entire U.S. chloropicrin market.<sup>62</sup> There were no subject imports and only nominal quantities of nonsubject imports from Japan that year.<sup>63</sup>

**Substitutability.** In the original investigation, first and second expedited five-year reviews and third full review, the Commission found that there was a high degree of substitutability between domestically produced chloropicrin and subject imports and that price was an important consideration in purchasing decisions.<sup>64</sup> In the third full review, purchasers listed price and availability as the most important factors affecting their chloropicrin purchasing decisions.<sup>65</sup>

There is no information in this review that indicates that the high substitutability between domestically produced chloropicrin and subject imports, or the importance of price, has changed since the original investigation and the prior reviews. Accordingly, we again find that there is a high degree of substitutability between the domestic like product and subject imports and that price continues to be an important consideration in purchasing decisions.

---

<sup>58</sup> Second Five-Year Review, USITC Pub. 3712 at 7.

<sup>59</sup> CR at I-12 to I-13, PR at I-7.

<sup>60</sup> Although Niklor had not resumed production of chloropicrin, it still retained the equipment and capacity to do so. Third Five-Year Review, USITC Pub. 4142 at 3, n.6. ASHTA and Trinity have accounted for all domestic production of chloropicrin since at least 2003. CR at I-12 to I-13, PR at I-7 to I-8.

<sup>61</sup> CR at I-13 to I-14, PR at I-8. Niklor still retains the capacity to produce chloropicrin in the future. CR at I-13, n.25, PR at I-8, n.25.

<sup>62</sup> CR/PR at Table I-5.

<sup>63</sup> CR/PR at Table I-3. Since 2009, the only subject imports were a very small quantity in 2012. Nonsubject imports were present in the U.S. market in nominal to relatively small quantities in 2009, 2010, 2011, and 2014. *Id.*

<sup>64</sup> Original Determination, USITC Pub. 1505 at A-3 to A-4; First Five-Year Review, USITC Pub. 3175 at 8; Second Five-Year Review, USITC Pub. 3712 at 7; Third Five-Year Review, USITC Pub. 4142 at 12.

<sup>65</sup> Third Five-Year Review, USITC Pub. 4142 at 12.

## C. Likely Volume of Subject Imports

### 1. Original Investigation and First Review

In the original determination, the Commission found that shipments of chloropicrin from China increased from a negligible amount in 1980 to a substantial amount in 1981, and tripled in 1982, before declining slightly in 1983. The Commission found the increase in imports to be significant relative to U.S. consumption.<sup>66</sup>

In the first expedited five-year review, the Commission found that, based on facts available, subject import volume would likely increase significantly and be significant if the order were revoked.<sup>67</sup> Although there were no subject imports in the period examined in the first review, the Commission observed that the record from the original investigation indicated that the Chinese chloropicrin producers had the ability and willingness quickly to establish a significant presence in the U.S. market based on the rapid increase in the volume of subject imports during the original investigation, which led the United States to become China's primary export market for chloropicrin by 1983.<sup>68</sup> The Commission found that the evidence suggested that Chinese producers had ample ability to export significant volumes of chloropicrin to the United States if the order were revoked.<sup>69</sup>

In the second expedited five-year review, the Commission again concluded that based on facts available, subject import volume would likely increase significantly and would be significant if the order were revoked. Although the Commission acknowledged that there were no subject imports in the United States at the time of the review, it inferred from the available data that total production capacity for chloropicrin in China was significantly greater than in the original investigation.<sup>70</sup> Additionally, the volume of subject imports in 1982 was equivalent to \*\*\* of apparent U.S. consumption in 2004. The Commission found that these circumstances suggested that the chloropicrin industry in China had ample ability to export significant volumes of chloropicrin to the United States if the order were revoked.<sup>71</sup> The Commission concluded, because of the similarities between the conditions of competition prevailing at the time and those existing prior to the imposition of the order, that it was likely that the chloropicrin industry in China would resume shipping significant volumes of chloropicrin to the U.S. market in the absence of the antidumping duty order.<sup>72</sup>

---

<sup>66</sup> Original Determination, USITC Pub. 1505 at 5. The Commission found that subject imports were discontinued after Commerce's preliminary determination, which found a 22 percent dumping margin. *Id.* at 4, n.10.

<sup>67</sup> First Five-Year Review, USITC Pub. 3175 at 8.

<sup>68</sup> First Five-Year Review, USITC Pub. 3175 at 8-9.

<sup>69</sup> First Five-Year Review, USITC Pub. 3175 at 9.

<sup>70</sup> Second Five-Year Review, USITC Pub. 3712 at 10.

<sup>71</sup> Second Five-Year Review, USITC Pub. 3712 at 10; Confidential Second Review Determination, EDIS Doc. 557999 at 13.

<sup>72</sup> Second Five-Year Review, USITC Pub. 3712 at 10.

In the third full review, the Commission again concluded that the likely volume of subject imports would be significant if the order were revoked. The Commission emphasized that the Chinese chloropicrin industry had considerable excess production capacity estimated to be \*\*\* pounds, equivalent to \*\*\* percent of apparent U.S. consumption.<sup>73</sup> The Commission found that the Chinese industry, which was highly export-oriented and facing barriers in other markets, would find the United States to be an attractive market because it was the world's second largest chloropicrin market, with more than \*\*\* of global consumption, and was likely to remain one of the top chloropicrin markets in the future despite projected slow growth in demand.<sup>74</sup> Based on the demonstrated ability of Chinese chloropicrin producers to increase imports into the U.S. market rapidly, their substantial production capacity and unused capacity, their export orientation, and the attractiveness of the U.S. market, the Commission concluded that the likely volume of subject imports, both in absolute terms and as a share of the U.S. market, would be significant if the order were revoked.<sup>75</sup>

## 2. Current Review

The limited evidence in the record of this review indicates that the Chinese chloropicrin industry has the means and incentive to export a significant volume of subject merchandise to the U.S. market within a reasonably foreseeable time if the antidumping duty order is revoked.

The available information continues to support the findings from the prior reviews that the Chinese chloropicrin industry has substantial production capacity and is export oriented. The record further indicates that the subject industry in China will have even greater capacity in the near future. Specifically, the sole current Chinese producer, Dalian Dyechem International Corporation ("Dalian"), has the capacity to produce 22 million pounds of chloropicrin annually.<sup>76</sup> Another Chinese producer, Shandong Yuanjie Agrochemicals Technology Co., Ltd. ("Shandong"), also with the capacity to produce 22 million pounds of chloropicrin, is set to begin chloropicrin production this year.<sup>77</sup> The information available indicates that the industry in China is large and growing and continues to be export oriented.<sup>78</sup>

---

<sup>73</sup> Third Five-Year Review, USITC Pub. 4142 at 13; Confidential Third Review Determination, EDIS Doc. 558000 at 23-24.

<sup>74</sup> Third Five-Year Review, USITC Pub. 4142 at 13; Confidential Third Review Determination, EDIS Doc. 558000 at 24. The Commission observed that although the European Union was the third largest global consumer of chloropicrin, importation of Chinese chloropicrin reportedly \*\*\*. Third Five-Year Review, USITC Pub. 4142 at 13; Confidential Third Review Determination, EDIS Doc. 558000 at 25.

<sup>75</sup> Third Five-Year Review, USITC Pub. 4142 at 13.

<sup>76</sup> CR at I-22, PR at I-13.

<sup>77</sup> CR at I-22 to I-23, PR at I-13.

<sup>78</sup> CR/PR at Table I-7. Global Trade Atlas data indicate that during each year from 2009 to 2014, China was the world's largest source of exports for sulfated, nitrated or nitrosated derivatives of hydrocarbons, whether or not halogenated, a product category that includes but is broader than subject merchandise.

The United States remains an attractive market to the industry in China. The domestic producers indicate that chloropicrin prices in the United States are well above those found in the subject producers' current export markets.<sup>79</sup> Moreover, there are barriers to the importation of chloropicrin in markets other than the United States. The subject producers had to withdraw their chloropicrin products from the European market, previously a major export market, pursuant to action from the European Commission.<sup>80</sup> The domestic producers state that with the European market closed to chloropicrin exports, the United States is now the largest available export market.<sup>81</sup>

Based on the volume and market share that subject imports held prior to exiting the U.S. market after imposition of the antidumping duty order, evidence on the record of the Chinese chloropicrin industry's increasing capacity and export orientation, and the size and attractiveness of the U.S. market, we conclude that subject import volume will likely be significant, both in absolute terms and relative to U.S. consumption, should the order be revoked.<sup>82</sup>

#### **D. Likely Price Effects**

##### **1. Original Investigation and First Review**

In its original determination, the Commission found significant underselling, and significant price suppression and depression, by imports of chloropicrin from China. Specifically, the Commission observed that the low prices of subject imports forced U.S. producers to reduce their prices by significant margins in order to compete with such imports.<sup>83</sup>

In its first and second expedited five-year reviews, the Commission found that revocation of the antidumping duty order would likely lead to significant price effects, including significant underselling, and significant price suppression and depression.<sup>84</sup> Based largely on the record from the original investigation, the Commission found in both reviews that there was a relatively high level of substitutability between domestically produced chloropicrin and

---

<sup>79</sup> Domestic Producers' Response at 2-3.

<sup>80</sup> Domestic Producers' Response at 3; European Commission Implementing Regulation (EU) No. 1381/2011 (Dec. 22, 2011) (requiring withdrawal of all products containing chloropicrin). We note that chloropicrin has not been subject to any trade remedy proceedings in any country other than the United States. CR at I-24, PR at I-14.

<sup>81</sup> Domestic Producers' Response at 3.

<sup>82</sup> The record lacks data addressing existing inventories of subject merchandise and the potential for product-shifting if production facilities in China, which can be used to produce chloropicrin, are currently being used to produce other products.

<sup>83</sup> Original Determination, USITC Pub. 1505 at 5, 9.

<sup>84</sup> First Five-Year Review, USITC Pub. 3175 at 10; Second Five-Year Review, USITC Pub. 3712 at 11.

the subject imports.<sup>85</sup> It stated that price was an important factor in purchasing decisions and that subject imports exhibited significant margins of underselling in the original investigation. The Commission reasoned that, given these facts, it was likely that the Chinese producers would offer attractively low prices to U.S. purchasers in order to regain market share, as they had done in the original investigation, if the antidumping duty order were revoked. Consequently, the Commission concluded that prices for domestically produced chloropicrin would likely decline to a significant degree in response to the likely significant volumes of substitutable subject imports offered at lower prices.<sup>86</sup>

In the third full review, the Commission again found that revocation of the antidumping duty order would lead to significant volumes of subject imports from China that likely would undersell domestically produced chloropicrin and have significant depressing or suppressing effects on the prices of the domestic like product. Noting that the record in the review did not call into question prior findings that the domestic like product and the subject imports were good substitutes and that price was an important factor in purchasing decisions, the Commission found that if the order were revoked, the Chinese producers would resume aggressive underselling to increase market share, leading to significant adverse price effects similar to those found in the original investigation.<sup>87</sup>

## 2. Current Review

There is no new product-specific pricing information on the record of this review. The record of this review indicates that, as explained above, domestically produced chloropicrin and subject imports are highly substitutable and price is an important factor in purchasing decisions. As previously stated, if the order were revoked, Chinese producers would likely resume exporting substantial volumes of chloropicrin to the United States. The subject producers would likely sell the subject merchandise at low prices and undersell domestically produced chloropicrin to gain market share, as had occurred during the original period of investigation.

Because price is important to purchasing decisions, the presence of significant quantities of subject imports that are likely to enter the United States in the event of revocation and that are likely to undersell the domestically produced product will force domestic chloropicrin producers to either lower prices or lose sales. In light of these considerations, we conclude that absent the discipline of the order, the subject imports would also likely have significant depressing or suppressing effects on prices for the domestic like product.

---

<sup>85</sup> First Five-Year Review, USITC Pub. 3175 at 10; Second Five-Year Review, USITC Pub. 3712 at 11.

<sup>86</sup> First Five-Year Review, USITC Pub. 3175 at 10; Second Five-Year Review, USITC Pub. 3712 at 11.

<sup>87</sup> Third Five-Year Review, USITC Pub. 4142 at 14-15.

## E. Likely Impact<sup>88</sup>

### 1. Original Investigation and First Review

In the original determination the Commission found that the availability of low-priced chloropicrin from China significantly affected the U.S. market structure and resulted in domestic producers losing significant sales volume and market share to subject imports.<sup>89</sup> It found declines in the domestic industry's production and shipments, as well as declines in capacity utilization and deterioration of the domestic industry's financial condition.<sup>90</sup> The Commission also observed that the condition of the domestic industry improved after Commerce made its preliminary determination.<sup>91</sup>

In the first and second expedited five-year reviews, the Commission found that since the imposition of the antidumping duty order, the domestic industry's market share had increased as subject imports exited the market. The basic substitutability of chloropicrin had enabled the domestic industry readily to regain domestic market share from the subject imports.<sup>92</sup> Given the substitutable nature of the product, however, the Commission found that the likely volume of subject imports upon revocation of the order entering at low prices would likely have a significant adverse impact on production, shipment, sales and revenue levels of the domestic industry.<sup>93</sup> The Commission therefore concluded in each review based on the limited record that subject imports would be likely to have a significant adverse impact on the domestic industry within a reasonably foreseeable time if the antidumping duty order were revoked.<sup>94</sup>

In the third full review, the Commission found that the condition of the domestic industry generally declined from 2006 to 2007 before improving substantially in 2008.<sup>95</sup> The Commission attributed the improved performance in the domestic industry's production and capacity and utilization rates in 2008 to the increase in demand created by the continued

---

<sup>88</sup> Under the statute, "the Commission may consider the magnitude of the margin of dumping" in making its determination in a five-year review. 19 U.S.C. § 1675a(a)(6). The statute defines the "magnitude of the margin of dumping" to be used by the Commission in five-year reviews as "the dumping margin or margins determined by the administering authority under section 1675a(c)(3) of this title." 19 U.S.C. § 1677(35)(C)(iv); *see also* SAA at 887.

Commerce expedited its antidumping duty review determination and found that revocation of the antidumping duty order would likely lead to continuation or recurrence of dumping at weighted average margins up to 58.0 percent. *Chloropicrin from China*, 80 Fed. Reg. at 47467.

<sup>89</sup> Original Determination, USITC Pub. 1505 at 6.

<sup>90</sup> Original Determination, USITC Pub. 1505 at 4-5.

<sup>91</sup> Original Determination, USITC Pub. 1505 at 4, n.10.

<sup>92</sup> First Five-Year Review, USITC Pub. 3175 at 11; Second Five-Year Review, USITC Pub. 3712 at 12.

<sup>93</sup> First Five-Year Review, USITC Pub. 3175 at 12; Second Five-Year Review, USITC Pub. 3712 at 12.

<sup>94</sup> First Five-Year Review, USITC Pub. 3175 at 12; Second Five-Year Review, USITC Pub. 3712 at 12.

<sup>95</sup> Third Five-Year Review, USITC Pub. 4142 at 16.

phase-out of methyl bromide, the particularly favorable weather conditions for chloropicrin use, and the increase in U.S. exports.<sup>96</sup> The Commission found, however, that future increases in demand for chloropicrin upon completion of the phase-out were uncertain and that lower priced chloropicrin imports from China would not significantly stimulate additional demand, but would likely cause purchasers to switch to subject imports. Given that there did not appear to be any nonsubject sources of chloropicrin available to U.S. purchasers, the Commission found that any gain in market share by subject imports after revocation would come entirely at the domestic industry's expense.<sup>97</sup> The Commission concluded that the volume and price effects of subject imports would likely have a significant adverse impact on the production, shipments, sales, market share, and revenues of the domestic industry, which, in turn, would have a direct adverse impact on the industry's profitability and employment, as well as the domestic industry's ability to raise capital and to make and maintain capital investments.<sup>98</sup>

## 2. Current Review

Because this is an expedited review, information on the record concerning the performance of the domestic industry since the third review pertains only to certain economic factors and is available only for 2014.<sup>99</sup> This limited information is insufficient for us to make a finding on whether the domestic industry is vulnerable to the continuation or recurrence of material injury in the event of revocation of the order.<sup>100</sup>

The information on the record indicates that the domestic industry's capacity and output were higher in 2014 than in 2008, and that it operated profitably in 2014. Capacity was \*\*\* pounds in 2014, more than \*\*\* the 2008 level.<sup>101</sup> Production in 2014 was \*\*\* pounds and U.S. shipments were \*\*\* pounds. Capacity utilization was \*\*\* percent in 2014.<sup>102</sup>

In 2014, the domestic industry's net sales were \$\*\*\*, its gross profits were \$\*\*\*, its operating income was \$\*\*\*, and its ratio of operating income to net sales was \*\*\* percent. Net

---

<sup>96</sup> Third Five-Year Review, USITC Pub. 4142 at 17.

<sup>97</sup> Third Five-Year Review, USITC Pub. 4142 at 17-18.

<sup>98</sup> Third Five-Year Review, USITC Pub. 4142 at 18.

<sup>99</sup> CR/PR at Table I-2. Domestic industry information includes data from Niklor, which, as previously indicated, does not currently produce chloropicrin but retains the capacity to do so. CR/PR at Appendix B.

<sup>100</sup> Based on the record of this review, Vice Chairman Pinkert finds that the domestic industry is not vulnerable to the continuation or recurrence of material injury in the event of revocation of the antidumping duty order. The domestic industry performed well in 2014 relative to its performance in most prior years for which the Commission has information and reported an operating income margin of \*\*\* percent. CR/PR at Table I-2.

<sup>101</sup> CR/PR at Table I-2.

<sup>102</sup> By contrast, in 2008, the domestic producers' production was \*\*\* pounds, U.S. shipments were \*\*\* pounds, and capacity utilization was \*\*\* percent. CR/PR at Table I-2.

sales and gross profits in 2014 were higher, but operating income and operating margin were lower, than in 2008.<sup>103</sup>

Based on the information available in this review, we find that revocation of the order would likely lead to a significant increase in the volume of subject imports and that these imports would likely undersell and significantly depress or suppress U.S. prices of domestically produced chloropicrin. We find that the intensified subject import competition that would likely occur after revocation of the order would likely have a significant impact on the domestic industry. Specifically, the domestic industry would likely lose market share to subject imports and experience lower prices due to competition from subject imports, which would adversely impact its production, shipments, sales, and revenue. These reductions would likely have a direct adverse impact on the industry's profitability and employment levels, as well as its ability to raise capital and make and maintain necessary capital investments.

We have also considered the role of factors other than subject imports, including the presence of nonsubject imports, so as not to attribute likely injury from other factors to the subject imports. As previously stated, official import statistics indicate that Japan was the only source of nonsubject imports during this review and that these imports were minimal. Moreover, almost all production of chloropicrin in Japan is being consumed domestically.<sup>104</sup> We accordingly conclude that the likely adverse effects of revocation that we have identified are not attributable to nonsubject imports.

We therefore conclude that, if the orders were revoked, subject imports from China would be likely to have a significant impact on the domestic industry within a reasonably foreseeable time.

#### **IV. Conclusion**

For the foregoing reasons, we determine that revocation of the antidumping duty order on chloropicrin from China would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

---

<sup>103</sup> CR/PR at Table I-2. In 2008, net sales were \$\*\*\*, gross profit was \$\*\*\*, operating income was \$\*\*\*, and the operating ratio was \*\*\* percent. *Id.*

<sup>104</sup> CR at I-25, PR at I-14.



## INFORMATION OBTAINED IN THIS REVIEW

### BACKGROUND

On April 1, 2015, the U.S. International Trade Commission (“Commission”) gave notice, pursuant to section 751(c) of the Tariff Act of 1930, as amended (“the Act”),<sup>1</sup> that it had instituted a review to determine whether revocation of the antidumping duty order on chloropicrin from China would likely lead to the continuation or recurrence of material injury to a domestic industry.<sup>2</sup> All interested parties were requested to respond to this notice by submitting certain information requested by the Commission.<sup>3 4</sup> The following tabulation presents information relating to the background and schedule of this proceeding:

Effective or statutory date	Action
April 1, 2015	Notice of institution and initiation by Commerce and Commission
July 6, 2015	Scheduled date for Commission vote on adequacy
July 30, 2015	Scheduled date for Commerce results of its expedited review
August 31, 2015 or November 28, 2015 (if extended)	Commission statutory deadline to complete expedited review (unless extended)
March 28, 2016 or June 24, 2016 (if extended)	Commission statutory deadline to complete full review (unless extended)

---

<sup>1</sup> 19 U.S.C. 1675(c).

<sup>2</sup> *Chloropicrin from China: Institution of a Five-Year Review*, 80 FR 17496, April 1, 2015. In accordance with section 751(c) of the Act, the U.S. Department of Commerce (“Commerce”) published a notice of initiation of a five-year review of the subject antidumping duty order concurrently with the Commission’s notice of institution. *Initiation of Five-Year (“Sunset”) Review*, 80 FR 17388, April 1, 2015. Pertinent *Federal Register* notices are referenced in Appendix A, and may be found at the Commission’s website ([www.usitc.gov](http://www.usitc.gov)).

<sup>3</sup> As part of their response to the notice of institution, interested parties were requested to provide company-specific information. That information is presented in Appendix B. Summary data compiled in prior proceedings is presented in Appendix C.

<sup>4</sup> Interested parties were also requested to provide a list of three to five leading purchasers in the U.S. market for the subject merchandise. Presented in Appendix D are the responses received from purchaser surveys mailed to the purchasers identified in the adequacy phase of this review.

## RESPONSES TO THE COMMISSION’S NOTICE OF INSTITUTION

### Individual responses

The Commission received one submission in response to its notice of institution in the subject review. It was filed on behalf of the following entities: ASHTA Chemicals Inc. (“ASHTA”), Niklor Chemical Co., Inc. (“Niklor”), and Trinity Manufacturing, Inc. (“Trinity”) domestic producers of chloropicrin (collectively referred to herein as “domestic interested parties”). No responses were received from respondent interested parties.

A complete response to the Commission’s notice of institution requires that the responding interested party submit to the Commission all the information listed in the notice. Responding firms are given an opportunity to remedy and explain any deficiencies in their responses. A summary of the number of responses and estimates of coverage for each is shown in the tabulation below.

**Table I-1: Summary of responses to the Commission’s notice of institution**

Type of interested party	Completed responses	
	Number	Coverage
Domestic	1	100%
Responding domestic interested parties estimated that they accounted for 100 percent of U.S. production of chloropicrin in 2014.		

### Party comments on adequacy

The Commission received one submission from parties commenting on the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. This submission was filed on behalf of the following entities: ASHTA, Niklor, and Trinity. These domestic interested parties accounted for 100 percent of production of the domestic like product throughout the period of review and fully participated in the review (i.e., they filed a substantive response to the Commission’s notice of institution and provided a timely response to the Commission’s cure letter). As such, the domestic interested parties request that the Commission find the domestic interested parties’ responses to the notice of institution to be adequate.<sup>5</sup>

Conversely, no foreign producer of the subject merchandise entered an appearance or filed a substantive response to the notice of institution in this review. Therefore, the domestic interested parties request that the Commission find the foreign producers’ responses to the notice of institution to be inadequate and that the Commission conduct an expedited review.<sup>6</sup>

---

<sup>5</sup> *Domestic Interested Parties Comments on Adequacy*, June 15, 2015, pp. 1-2.

<sup>6</sup> *Ibid.*, p. 2.

## RECENT DEVELOPMENTS IN THE INDUSTRY

Since the Commission's last five-year review, the following developments have occurred in the chloropicrin industry.

- The Environmental Protection Agency ("EPA") completed phase II of the re-registration eligibility decision ("RED") procedures for chloropicrin requiring buffer zones and Fumigant Management Plans ("FMPs") for each application and a reduction in area that can be treated with a resultant decrease in volume of chloropicrin products used.
- In 2014, an EPA RED review for chloropicrin imposed a year-round air monitoring study requirement in regions of high chloropicrin use (California coastal region, central Washington State, and the Florida Palmetto/Ruskin area) at a projected cost in excess of \$2.0 million to U.S. chloropicrin producers.
- At the State level, the California EPA's evaluation of chloropicrin as a toxic air contaminant resulted in more restrictive application time periods and reduced application rates.
- The California EPA additionally requires a two-year mouse chronic toxicity study at a projected cost to the U.S. chloropicrin industry estimated at about \$2.0 million.
- Permit conditions for use of chloropicrin in California are more difficult in that decisions and recommendations of professional local country Agriculture Commissioners must now be reviewed by elected County Commissioners.

## THE PRODUCT

### Commerce's scope

Commerce has defined the subject merchandise as:

*The merchandise subject to this antidumping duty order is chloropicrin, also known as trichloronitromethane. A major use of the product is as a pre-plant soil fumigant (pesticide). Such merchandise is currently classifiable under Harmonized Tariff Schedule ("HTS") item number 2904.90.50.05. The HTS item number is provided for convenience and customs purposes. The written description remains dispositive.<sup>7</sup>*

---

<sup>7</sup> *Chloropicrin from the People's Republic of China: Notice of Continuation of Antidumping Duty Order*, 75 FR 27704, May 18, 2010.

## Description and uses<sup>8</sup>

Chloropicrin is a highly toxic liquid chemical compound that has the formula  $\text{CCl}_3\text{NO}_2$ . At the time of the original investigation, it was used primarily as an active agent in pre-plant soil fumigants for killing fungi; in addition, small amounts were used to control insects and rodents in grain storage and to prevent decay in wood. Because of the high cost of using chloropicrin as a soil fungicide, it is used mostly for high unit value crops such as strawberries, tobacco, flowers, and tree-grown fruit; when used for relatively low unit value crops, such as potatoes, it is generally because such crops require less fumigant per acre to achieve the same pest control and accompanying increase in yield.

Chloropicrin is still used primarily as a soil fumigant and usually is blended with other chemical agents into a single fumigant. The chloropicrin component of a mixed fumigant can range from less than one percent to more than 50 percent. In the past, a substantial amount of chloropicrin was used for soil fumigation with methyl bromide ( $\text{CH}_3\text{Br}$ ). In 1999, the EPA began implementation of staged phase-out of the soil fumigant methyl bromide, to be phased out entirely in 2005. However, methyl bromide was granted a Critical Use Exemption from the EPA and Montreal Protocol, which allowed for limited production, consumption, and importations of methyl bromide after January 1, 2005 for specific uses determined by the Protocol Parties to be "critical." States such as California and Florida rely heavily on the use of methyl bromide and chloropicrin in the production of their crops, and reportedly participate in the critical use exemption process. Exemption allowances are decided on a yearly basis, taking into account the availability of technically and economically feasible alternatives to methyl bromide. Critical use exemptions are granted by crop, and then allocated geographically once the total amount of methyl bromide exemption is fixed.

With increased restrictions on the use of methyl bromide, chloropicrin has been subject to greater regulatory review through the EPA's RED procedures to determine the chemical's usability based upon a reassessment of its effect on human health and the environment. Buffer zone requirements impose restrictions on the use of chloropicrin for farms and greenhouses, particularly for small establishments located in areas with nearby suburban development. Such mitigation measures impact the utility of chloropicrin as a pre-planting soil fumigant. Public community education and outreach requirements may result in public backlash against the use of chloropicrin.

While chloropicrin is viewed by some as a viable alternative to methyl bromide, it is limited in its capabilities as it lacks the herbicidal properties of methyl bromide (as do all alternatives). Environmentally, chloropicrin does not contribute to significant ozone depletion because it breaks down both in soil and sunlight; however, it is highly toxic to humans and wildlife.

---

<sup>8</sup> Unless otherwise noted this information is based on *Chloropicrin from China, Investigation No. 731-TA-130 (Third Review)*, USITC Publication 4142, April 2010, pp. I-8 through I-10.

## **U.S. tariff treatment**

Chloropicrin is currently imported under HTS statistical reporting number 2904.90.5005 (Trichloronitromethane (chloropicrin)). Absent antidumping duties, chloropicrin enters the U.S. market at a column 1-general duty rate of “3.7 percent *ad valorem*.”

### **The definition of the domestic like product**

The domestic like product is defined as the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the subject merchandise. In its original determination, the Commission defined the domestic like product as “chloropicrin produced through the use of nitromethane.”<sup>9</sup> In its expedited first and second five-year reviews, the Commission defined the domestic like product as all chloropicrin, consistent with Commerce’s scope. The Commission further defined the domestic industry as all producers of chloropicrin.<sup>10</sup> In its third full five-year review, the Commission found that the appropriate definition of the domestic like product was all chloropicrin, the same as Commerce’s scope and unchanged from the Commission’s original determination and two subsequent five-year reviews.<sup>11</sup>

In its notice of institution for this review, the Commission solicited comments from interested parties regarding the appropriate domestic like product. According to their response to the notice of institution, the domestic producers concur with this definition.<sup>12</sup>

## **THE ORIGINAL INVESTIGATION AND SUBSEQUENT REVIEWS**

### **The original investigation**

The original investigation resulted from a petition filed on April 6, 1983 with Commerce and the Commission by counsel for Niklor, Long Beach, California, and LCP Chemicals & Plastics, Inc. (“LCP”), with plants in Orrington, Maine, and Ashtabula, Ohio. In March 1984, the Commission completed its original investigation, determining that an industry in the United States was materially injured by reason of LTFV imports of chloropicrin from China.<sup>13</sup> After receipt of the Commission’s final affirmative determination, Commerce issued an antidumping

---

<sup>9</sup> *Chloropicrin from China, Investigation No. 731-TA-130 (Third Review)*, USITC Publication 4142, April 2010, p. 5.

<sup>10</sup> *Ibid.*

<sup>11</sup> *Ibid.*, p. 6.

<sup>12</sup> *Domestic Interested Parties’ Substantive Response to the Commission’s Notice of Institution*, May 1, 2015, p. 11.

<sup>13</sup> *Chloropicrin from China: Determination*, 49 FR 11893, March 28, 1984.

duty order on imports of chloropicrin from China.<sup>14</sup> Data compiled during the original investigations and subsequent reviews is presented in appendix C.

### **The first five-year review**

On November 2, 1998, the Commission instituted the first five-year review of the subject order. In April 1999, following an expedited review, the Commission determined that revocation of the antidumping duty order on chloropicrin from China would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.<sup>15</sup> Effective April 14, 1999, Commerce issued a continuation of the antidumping duty order.<sup>16</sup>

### **The second five-year review**

On March 1, 2004, the Commission instituted the second five-year review of the subject order. In August 2004, following an expedited review, the Commission determined that revocation of the antidumping duty order on chloropicrin from China would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.<sup>17</sup> Effective August 23, 2004, Commerce issued a continuation of the antidumping duty order.<sup>18</sup>

### **The third five-year review**

On July 1, 2009, the Commission instituted the third five-year review of the subject order. In April 2010, following a full review, the Commission determined that revocation of the antidumping duty order on chloropicrin from China would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.<sup>19</sup> Effective May 18, 2010, Commerce issued a continuation of the antidumping duty order.<sup>20</sup>

---

<sup>14</sup> *Notice of Antidumping Duty Order: Chloropicrin from The People's Republic of China*, 49 FR 10691, March 22, 1984.

<sup>15</sup> *Chloropicrin from China: Determination*, 64 FR 16998, April 7, 1999.

<sup>16</sup> *Continuation of Antidumping Duty Order: Chloropicrin from The People's Republic of China*, 64 FR 42655, August 5, 1999.

<sup>17</sup> *Chloropicrin from China: Determination*, 69 FR 48520, August 10, 2004.

<sup>18</sup> *Continuation of Antidumping Duty Order: Chloropicrin from The People's Republic of China*, 69 FR 51811, August 23, 2004.

<sup>19</sup> *Chloropicrin from China: Determination*, 75 FR 21346, April 23, 2010.

<sup>20</sup> *Chloropicrin from The People's Republic of China: Continuation of Antidumping Duty Order*, 75 FR 27704, May 18, 2010.

### **Prior related investigations**

The subject product has not been the subject of any prior antidumping or countervailing duty investigations in the United States.

### **ACTIONS AT COMMERCE**

Since the last review, there have been no scope rulings, changed circumstances reviews, or findings of duty absorption by Commerce.

### **Current review results**

Commerce notified the Commission that it had not received adequate responses from respondent interested parties to its notice initiating the current five-year review of the antidumping order on imports of chloropicrin from China. Commerce intends to conduct an expedited review of the order and to issue the final results of that expedited review no later than July 30, 2015.<sup>21</sup>

### **THE INDUSTRY IN THE UNITED STATES**

#### **U.S. producers**

At the time of the original investigation, two companies produced chloropicrin in the United States: Niklor and LCP.<sup>22</sup> No domestic producer was related to an exporter or importer of chloropicrin from China or imported chloropicrin from China during the original investigation, or was otherwise a related party as defined by the statute.

During the Commission's first expedited five-year review, Niklor still produced chloropicrin. The LCP plant at Ashtabula, Ohio, was acquired by LinChem Inc. in 1989 and has operated as ASHTA since May 1992. The LCP plant at Orrington, Maine, was operated by Hanlin Group Inc. until it was acquired by HoltraChem as part of bankruptcy proceedings in 1994. Trinity has produced chloropicrin in Hamlet, North Carolina, since at least 1990. ASHTA, HoltraChem, Niklor, and Trinity provided a response to the Commission's notice of institution in the first review.

In their response to the Commission's notice of institution in the second expedited five-year review, the domestic producers indicated that ASHTA, Niklor, and Trinity accounted for all domestic production of chloropicrin during 2003. The domestic producers reported that

---

<sup>21</sup> U.S. Department of Commerce, International Trade Administration, 50-Day Letter, May 20, 2015.

<sup>22</sup> *Chloropicrin from China, Investigation No. 731-TA-130 (Final)*, USITC Publication 1505, March 1984, p. A-5.

HoltraChem ceased production of chloropicrin following the Commission's first review and that its chloropicrin production facilities were purchased by Arvesta Corp. ("Arvesta") in 2005.<sup>23</sup>

In its response to the Commission's notice of institution in the third full five-year review, the domestic producers indicated that ASHTA and Trinity are the only currently operating producers of the domestic like product. Although economic conditions during the period of full third review did not warrant Niklor manufacturing at its new facility, Niklor planned to resume production.<sup>24</sup>

In response to the Commission's notice of institution in this current fourth review, domestic producers of chloropicrin provided a list of three known U.S. producers of chloropicrin: ASHTA (accounting for \*\*\* percent of 2014 U.S. chloropicrin production), Niklor<sup>25</sup> (\*\*% percent); and Trinity (\*\*% percent).<sup>26</sup> Domestic producers are not aware of any related parties among the U.S. producers.<sup>27</sup>

As noted by the domestic producers of chloropicrin, \*\*\*. Although economic conditions during the period since the last review have not warranted Niklor manufacturing at its new facility, Niklor retains the equipment to do so and may produce chloropicrin at a future time, depending on market conditions.<sup>28</sup> In the case of ASHTA, \*\*\*.<sup>29 30</sup>

### **Definition of the domestic industry and related parties issues**

The domestic industry is defined as the U.S. producers as a whole of the domestic like product, or those producers whose collective output of the domestic like product constitutes a major proportion of the total domestic production of the product. In its original determination and its first three five-year review determinations, the Commission defined the domestic industry as all domestic producers of chloropicrin, which accounted for all U.S. production of

---

<sup>23</sup> Arvesta changed its name to Arysta LifeSciences North America ("Arysta") on August 10, 2005, concurrent with an announcement of its headquarters moving from San Francisco, California, to research Triangle Park, North Carolina. *Chloropicrin from China, Investigation No. 731-TA-130 (Third Review)*, USITC Publication 4142, April 2010, pp. I-11-I-12.

<sup>24</sup> *Ibid.*, p. I-12.

<sup>25</sup> Niklor does not currently produce chloropicrin, but retains the equipment to do so and may produce chloropicrin at a future time, depending on market conditions. *Substantive Response of Domestic Interested Parties to the Commission's Notice of Institution*, May 1, 2015, pp. 1-4.

<sup>26</sup> *Ibid.*, Appendix B.

<sup>27</sup> *Ibid.*, p. 4.

<sup>28</sup> *Ibid.*, p. 4.

<sup>29</sup> *Ibid.*

<sup>30</sup> \*\*\* was requested in a USITC cure letter sent June 2, 2015. The cure letter response noted that the response provided in *Domestic Interested Parties Substantive Response to the Notice of Institution* is applicable to the domestic industry generally and specifically to \*\*\*. *Domestic Interested Parties Response to Cure Letter*, June 8, 2015, p. 2.

chloropicrin during those periods.<sup>31</sup> The domestic interested parties in this current fourth five-year review believe that they account for 100 percent of current domestic production of chloropicrin.<sup>32</sup>

During the period examined in the current review, no domestic producer has imported subject merchandise or is related to a foreign producer or importer of the subject merchandise.<sup>33</sup>

### U.S. producers' trade and financial data

The Commission asked domestic interested parties to provide trade and financial data in their response to the notice of institution of the current five-year review.<sup>34</sup> Table I-2 presents a compilation of the data submitted from all responding U.S. producers as well as trade and financial data submitted by U.S. producers in the original investigation and prior five-year reviews.

Table I-2

**Chloropicrin: Trade and financial data submitted by U.S. producers, 1980-83, 1997, 2003, 2006-2008, and 2014**

\* \* \* \* \*

### U.S. IMPORTS AND APPARENT CONSUMPTION

#### U.S. importers

In the final phase of the original investigation, the Commission issued questionnaires to firms believed to be importers of subject chloropicrin, as well as to all U.S. producers of chloropicrin. Usable questionnaire responses were received from four companies, representing all known imports from China under item 408.29 (pesticides, not artificially mixed, other than insecticides, herbicides, and fungicides) of the Tariff Schedule of the United States, for calendar years 1980 – 1983.<sup>35</sup> The first and second five-year reviews on chloropicrin from China were expedited and no questionnaires were issued. In the third full five-year review, the Commission

---

<sup>31</sup> *Chloropicrin from China, Investigation No. 731-TA-130 (Third Review)*, USITC Publication 4142, (April 2010), p. 6. In the original Determination at 3 and A-5 (Commission defined the domestic industry as the two U.S. producers of chloropicrin identified in the investigation, Niklor and LCP Chemicals and Plastics, Inc.); First five-Year Review at 6; Second Five-Year Review at 6.

<sup>32</sup> Domestic producers are not aware of any related parties among the U.S. producers. *Substantive Response of Domestic Interested Parties to the Commission's Notice of Institution*, May 1, 2015, p. 4.

<sup>33</sup> *Ibid.*

<sup>34</sup> Individual company trade and financial data are presented in Appendix B.

<sup>35</sup> *Confidential Staff Report, INV-H-039, Chloropicrin from China, Investigation No. 731-TA-130 (Final)*, February 27, 1984, p. A-10.

sent questionnaires to three firms believed to have imported chloropicrin between 2006 and 2009. All three firms provided information in response to the questionnaires: two of the firms provided certification that they had not imported chloropicrin during the period for which data were collected. Data reported by the sole responding U.S. subject importer comprised virtually all subject imports of chloropicrin from China.<sup>36</sup>

In their response to the Commission's notice of institution in this current fourth five-year review, domestic interested parties stated that they are not aware of any U.S. importers of chloropicrin from China.<sup>37</sup>

### **U.S. imports**

Subject imports from China virtually exited the U.S. market after imposition of the antidumping duty order in 1984. Since that time, only small volumes of subject merchandise have been imported and no subject imports were sold commercially during the period of previous reviews.<sup>38</sup>

Table I-3 presents the quantity, value, and unit value for imports from subject country China as well as all imports from nonsubject countries. Japan was the only nonsubject source of imports of chloropicrin during 2009 through 2014.

---

<sup>36</sup> *Chloropicrin from China, Investigation No. 731-TA-130 (Third Review)*, USITC Publication 4142, (April 2010), p. IV-1.

<sup>37</sup> *Substantive Response of Domestic Interested Parties to the Commission's Notice of Institution*, May 1, 2015, p. 4.

<sup>38</sup> *Chloropicrin from China, Investigation No. 731-TA-130 (Third Review)*, USITC Publication 4142, (April 2010), p. 11.

**Table I-3**  
**Chloropicrin: U.S. imports, 2009-14**

Item	2009	2010	2011	2012	2013	2014
	<b>Quantity (1,000 pounds)</b>					
China (subject)	0.0	0.0	0.0	6.6	0.0	0.0
All other imports (nonsubject)	15.4	35.3	6.6	0.0	0.0	2.2
Total imports	15.4	35.3	6.6	6.6	0.0	2.2
	<b>Landed, duty-paid value (\$1,000)</b>					
China (subject)	0.0	0.0	0.0	18	0.0	0.0
All other imports (nonsubject)	496	1,105	207	3	0.0	145
Total imports	496	1,105	207	21	0.0	145
	<b>Unit value (dollars per pound)</b>					
China (subject)	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	2.72	( <sup>1</sup> )	( <sup>1</sup> )
All other imports (nonsubject)	32.14	32.14	31.33	31.30	( <sup>1</sup> )	65.80
Total imports	32.14	32.14	31.33	2.72	( <sup>1</sup> )	65.80

<sup>1</sup> Not applicable.

Note.--Because of rounding, figure may not add to total shown.

Source: Official statistics of the Department of Commerce for HTS statistical reporting number 2904.90.5005.

### Apparent U.S. consumption and market shares

Table I-4 presents data on U.S. producers' U.S. shipments, U.S. imports, and apparent U.S. consumption, while table I-5 presents data on U.S. market shares of U.S. apparent consumption.

**Table I-4**  
**Chloropicrin: U.S. producers' U.S. shipments, U.S. imports, and apparent U.S. consumption, 1980-83, 1997, 2003, 2006-08, and 2014**

\* \* \* \* \*

**Table I-5**  
**Chloropicrin: Apparent U.S. consumption and U.S. market shares, 1980-83, 1997, 2003, 2006-08, and 2014**

\* \* \* \* \*

## THE INDUSTRY IN CHINA

### Foreign producers

During the final phase of the original investigation, China's chloropicrin production \*\*\* was the \*\*\* of chloropicrin imported into the United States and SINOCEM accounted for all of China's known exports of chloropicrin to the United States.<sup>39</sup> SINOCEM reported that the capacity to produce chloropicrin in China was \*\*\* pounds per year, exports of chloropicrin from China accounted for between \*\*\* and \*\*\* percent of Chinese production, and exports to the United States increased from \*\*\* percent of exports in 1980 to \*\*\* percent in 1983.<sup>40</sup>

In the first five-year review, no foreign producers responded to the Commission's notice of institution. There were no known public data concerning chloropicrin operations at the Dalian plant; however, U.S. producers at the time of the first review believed that the plant continued to produce chloropicrin and that it exported significant quantities of chloropicrin to \*\*\*.<sup>41</sup> Further, in the first review, U.S. producers cited the availability of nitromethane in China, noting that this important raw material for making chloropicrin is not only produced in China but also exported to the United States.<sup>42</sup>

In the second five-year review, no foreign producer of chloropicrin in China responded to the Commission's notice of institution. The domestic interested parties that responded to the Commission's notice of the institution of its second five-year review claimed that the capacity of Dalian Dye-Chemicals Group to produce chloropicrin in China had expanded by \*\*\* percent since 1998, and was estimated to total \*\*\* pounds. They also reported that China exported substantial quantities of chloropicrin to third countries, particularly to Japan and Europe, at prices 20 to 40 percent below U.S. prices.<sup>43</sup>

In the third five-year review, no foreign producer of chloropicrin in China responded to the Commission's notice of institution. Three potential producers of chloropicrin in China were identified from the response of the domestic interested parties to the Commission's notice of institution and independent staff research. The Commission issued foreign producer/exporter questionnaires to all three potential chloropicrin producers in China (Dalian Dyechem International Corp. ("Dalian"); Jiangsu Luye Agrochemicals Co., Ltd. ("Jiangsu"); and Jinan Haohua Industry Co., Ltd. ("Jinan")); however, no producer of chloropicrin in China responded to the Commission's questionnaire. Subsequent research confirmed only one producer of chloropicrin in China, Dalian.<sup>44</sup>

---

<sup>39</sup> *Original Investigation Confidential Staff Report, INV-H-039*, February 27, 1984, p. A-10.

<sup>40</sup> *Ibid.*, A-29.

<sup>41</sup> *First Review Confidential Staff Report, INV-W-033*, March 4, 1999, p. I-10.

<sup>42</sup> *Ibid.*, p. I-11.

<sup>43</sup> *Domestic Interested Parties Substantive Response to the Notice of Institution (Second Review)*, p. 4.

<sup>44</sup> *Third Review Confidential Staff Report, INV-HH-020*, March 23, 2010, p. IV-6.

In this current fourth five-year review, no foreign producer of chloropicrin in China responded to the Commission’s notice of institution. The Chinese chloropicrin producer Dalian was identified with an estimated capacity to produce 22 million pounds of chloropicrin. Another Chinese producer, Shandong Yuanjie Agrochemicals Technology Co., Ltd. (“Shandong Yuanjie”), which is integrated from the raw material nitromethane forward, is scheduled to come on-stream in June 2015 with a capacity of 22 million pounds of chloropicrin.<sup>45</sup>

Table I-6 presents China’s top export destinations for HS 2904.90, “sulfonated, nitrated or nitrosated derivatives of hydrocarbons, whether or not halogenated: Other” which includes chloropicrin. According to Global Trade Atlas, the United States was China’s third largest export destination, at this level of aggregation, during 2009-14, accounting for 9.9 percent of China’s exports.

**Table I-6**  
**Sulfonated, nitrated or nitrosated derivatives of hydrocarbons, whether or not halogenated:**  
**Other: China’s top export destinations, 2009-14**

Item	2009	2010	2011	2012	2013	2014
<b>Quantity (1,000 pounds)</b>						
<b>China's exports<sup>1</sup> by destination market.—</b>						
Japan	25,283	31,087	22,536	19,467	23,876	26,367
India	14,257	9,822	9,262	6,605	7,008	16,658
Netherlands	1,411	1,656	3,064	4,564	4,687	5,104
Korea South	2,070	1,865	2,751	3,203	4,259	2,707
Brazil	3,113	615	2,593	5,505	3,631	4,936
United States	5,695	10,232	13,382	4,458	2,784	3,327
United Kingdom	683	877	1,631	1,301	1,766	1,468
Australia	207	44	2,791	6,473	1,541	791
Mexico	514	805	1,087	1,728	1,510	1,215
Belgium	265	944	906	1,008	1,232	2,275
All other sources	8,543	10,426	16,596	8,697	6,279	8,613
Total	62,040	68,372	76,600	63,008	58,575	73,462

<sup>1</sup> Reported exports. These data relate to China's reported exports reported and aggregated by the destination market.

Note: HS 2904.90 used for exports used in this table includes not just chloropicrin, but also other similar products, and thus likely overstates Chinese exports of chloropicrin.

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

Source: Global Trade Information Services, Inc., *Global Trade Atlas*, HS subheading 2904.90, accessed June 8, 2015.

---

<sup>45</sup> *Domestic Interested Parties Substantive Response to the Notice of Institution (Fourth Review)*, pp. 2, 4-5.

## ANTIDUMPING OR COUNTERVAILING DUTY ORDERS IN THIRD-COUNTRY MARKETS

Based on available information, chloropicrin has not been subject to any other import relief investigations in third-country markets.

### THE GLOBAL MARKET

Table I-7 presents the largest global export sources of chloropicrin and related chemicals during 2009-14. Global Trade Atlas statistics that include chloropicrin are presented at a "basket" six-digit HS heading level (3204.17) for sulfonated, nitrated, or nitrosated derivatives of hydrocarbons, whether or not halogenated, whereas chloropicrin is classified *eo nomine* as a ten-digit statistical reporting number (3204.17.9040) in the HTSUS.

**Table I-7**

**Sulfonated, nitrated or nitrosated derivatives of hydrocarbons, whether or not halogenated:  
Other: Global exports by major sources, 2009-14**

Item	2009	2010	2011	2012	2013	2014
China	62,040	68,372	76,600	63,008	58,575	73,462
India	31,059	40,691	33,596	32,556	45,567	44,086
USA	8,347	8,662	16,517	12,983	13,252	11,380
United Kingdom	7,335	8,878	9,193	10,554	9,365	11,255
Italy	7,114	12,046	9,625	9,200	9,244	9,588
Algeria	5,732	5,708	1,166	7,831	9,162	7,397
Belgium	4,808	3,159	3,979	3,417	4,713	4,987
Germany	20,086	25,124	26,224	16,286	4,592	4,742
Netherlands	3,386	794	4,169	3,400	2,094	2,255
Malaysia	137	251	71	44	1,074	163
Kuwait	101	0	0	0	285,408	( <sup>1</sup> )
All other sources	11,576	15,461	5,569	3,353	2,729	2,793
Total	161,722	189,146	186,709	162,631	445,777	172,108

<sup>1</sup> Data not yet available.

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

Source: Global Trade Information Services, Inc., *Global Trade Atlas*, HS subheading 2904.90, accessed June 8, 2015.

The limited information available on chloropicrin indicates that global production is concentrated in China and the United States. Japan was the only source of nonsubject imports of chloropicrin during the 2009 through 2014 period of fourth review as reported under HTSUS statistical reporting number 2904.90.5005. If Japan is continuing to produce chloropicrin, then almost all production is being consumed domestically as even the basket category of exports

from Japan captured only minor trade. The large volume of exports from India presented in table I-7 likely contain at most only minor amounts of chloropicrin.

In its *Substantive Response to the Notice of Institution*, the domestic industry reported knowledge of two Chinese producers. The first, Dalian Dyestuffs & Chemicals Corporation,<sup>46</sup> has chloropicrin capacity of 22 million pounds.<sup>47</sup> The other, Shandong Yuanjie Agrochemicals Technology Co., Ltd., is expected to begin operations in June 2015 with a capacity of 22 million pounds of chloropicrin.<sup>48</sup>

---

<sup>46</sup> The U.S. producers name Dalian Dyechem International Corporation in their Substantive Response. According to its web site, Dalian Dyechem International Corporation is the trading arm of Dalian Dyestuffs & Chemicals Corp. <http://www.daliandc.com.cn/> (accessed June 12, 2015).

<sup>47</sup> *Substantive Response*, May 1, 2015, p. 2.

<sup>48</sup> *Ibid.*



**APPENDIX A**

***FEDERAL REGISTER NOTICES***



The Commission makes available notices relevant to its investigations and reviews on its website, [www.usitc.gov](http://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
80 FR 17496 April 1, 2015	<i>Chloropicrin From China: Institution of a Five-Year Review</i>	<a href="http://www.gpo.gov/fdsys/pkg/FR-2015-04-01/pdf/2015-06940.pdf">http://www.gpo.gov/fdsys/pkg/FR-2015-04-01/pdf/2015-06940.pdf</a>
80 FR 17388 April 1, 2015	<i>Initiation of Five-Year ("Sunset") Review</i>	<a href="http://www.gpo.gov/fdsys/pkg/FR-2015-04-01/pdf/2015-07500.pdf">http://www.gpo.gov/fdsys/pkg/FR-2015-04-01/pdf/2015-07500.pdf</a>



**APPENDIX B**  
**COMPANY-SPECIFIC DATA**



**RESPONSE CHECKLIST FOR U.S. PRODUCERS**

Item	ASHTA	Trinity	Niklor	Total
	Quantity=1,000 pounds; value=1,000 dollars; Unit values, unit labor costs, and unit financial data are per pound			
Nature of operation	✓	✓	✓	✓
Statement of intent to participate	✓	✓	✓	✓
Statement of likely effects of revoking the order	✓	✓	✓	✓
U.S. producer list	✓	✓	✓	✓
U.S. importer/foreign producer list	✓	✓	✓	✓
List of 3-5 leading purchasers	✓	✓	✓	✓
List of sources for national/regional prices	✓	✓	✓	✓
<b>Production:</b>				
Quantity	***	***	***	***
Percent of total reported	***	***	***	100.0
Capacity	***	***	***	***
<b>Commercial shipments:</b>				
Quantity	***	***	***	***
Value	***	***	***	***
<b>Internal consumption:</b>				
Quantity	***	***	***	***
Value	***	***	***	***
Net sales	***	***	***	***
COGS	***	***	***	***
Gross profit or (loss)	***	***	***	***
SG&A expenses (loss)	***	***	***	***
Operating income/(loss)	***	***	***	***
Changes in supply/demand	✓	✓	✓	✓
<b>Note.—The production, capacity, and shipment data presented are for calendar year 2014. The financial data are for fiscal years ending ***.</b> ✓ = response proved; ✗ = response not provided; NA = not applicable; ? = indicated that the information was not known.				



**APPENDIX C**

**SUMMARY DATA COMPILED IN PRIOR PROCEEDINGS**



**Table B-1**  
**Chloropicrin: Summary data concerning the U.S. market, 2006-08, January-September 2008, and**  
**January-September 2009**

\* \* \* \* \*



**APPENDIX D**

**PURCHASER QUESTIONNAIRE RESPONSES**



As part of their response to the notice of institution, interested parties were asked to provide a list of three to five leading purchasers in the U.S. market for the domestic like chloropicrin. Domestic interested parties responded and named the following firms as the top purchasers of chloropicrin: \*\*\*, \*\*\*, and \*\*\*. The Commission issued purchaser questionnaires to these firms and one firm (\*\*\*) provided a response which is presented below.

1. a.) Have any changes occurred in technology; production methods; or development efforts to produce chloropicrin that affected the availability of chloropicrin in the U.S. market or in the market for chloropicrin in China since 2009?
- b.) Do you anticipate any changes in technology; production methods; or development efforts to produce chloropicrin that will affect the availability of chloropicrin in the U.S. market or in the market for chloropicrin in China within a reasonably foreseeable time?

Purchaser	Changes that have occurred	Anticipated changes
***	No.	No.

2. a.) Have any changes occurred in the ability to increase production of chloropicrin (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production) that affected the availability of chloropicrin in the U.S. market or in the market for chloropicrin in China since 2009?
- b.) Do you anticipate any changes in the ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production) that will affect the availability of chloropicrin in the U.S. market or in the market for chloropicrin in China within a reasonably foreseeable time?

Purchaser	Changes that have occurred	Anticipated changes
***	No.	It is our understanding a second facility in China will start production of chloropicrin, increasing the overall production capacity in China. This will increase the availability of chloropicrin in China for export to the U.S. market.

3. a.) Have any changes occurred in factors related to the ability to shift supply of chloropicrin among different national markets (including barriers to importation in foreign markets or changes in market demand abroad) that affected the availability of chloropicrin in the U.S. market or in the market for chloropicrin in China since 2009?

b.) Do you anticipate any changes in factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad) that will affect the availability of chloropicrin in the U.S. market or in the market for chloropicrin in China within a reasonably foreseeable time?

<b>Purchaser</b>	<b>Changes that have occurred</b>	<b>Anticipated changes</b>
***	No.	No.

4. a.) Have there been any changes in the end uses and applications of chloropicrin in the U.S. market or in the market for chloropicrin in China since 2009?

b.) Do you anticipate any changes in the end uses and applications of chloropicrin in the U.S. market or in the market for chloropicrin in China within a reasonably foreseeable time?

<b>Purchaser</b>	<b>Changes that have occurred</b>	<b>Anticipated changes</b>
***	The completion of Phase II of USEPA RED for chloropicrin and Fumigant Management Plans (with buffer zones) are now required for each application. Also, the California EPA's evaluation of chloropicrin as a toxic air contaminant has resulted in more restrictive applications.	California's development of "chloropicrin mitigation measures" will likely reduce the amount of Chloropicrin used after they are adopted fall of 2015.

5. a.) Have there been any changes in the existence and availability of substitute products for chloropicrin in the U.S. market or in the market for chloropicrin in China since 2009?

b.) Do you anticipate any changes in the existence and availability of substitute products for chloropicrin in the U.S. market or in the market for chloropicrin in China within a reasonably foreseeable time?

<b>Purchaser</b>	<b>Changes that have occurred</b>	<b>Anticipated changes</b>
***	The development of an alternative fumigant, Palladin® (dimethyl disulfide) will reduce U.S. market demand for chloropicrin as a direct alternative to methyl bromide blends.	The development of allyloisothiocyanate (Dominus) will reduce U.S. market demand for chloropicrin as a direct alternative to methyl bromide blends when registered in CA.

6. a.) Have there been any changes in the level of competition between chloropicrin produced in the United States, chloropicrin produced in China, and such merchandise from other countries in the U.S. market or in the market for chloropicrin in China since 2009?

b.) Do you anticipate any changes in the level of competition between chloropicrin produced in the United States, chloropicrin produced in China, and such merchandise from other countries in the U.S. market or in the market for chloropicrin in China within a reasonably foreseeable time?

<b>Purchaser</b>	<b>Changes that have occurred</b>	<b>Anticipated changes</b>
***	No.	We understand at least one new producer in China is scheduled to start production of chloropicrin this year, substantially increasing China's capacity to produce and export chloropicrin.

7. a.) Have there been any changes in the business cycle for chloropicrin in the U.S. market or in the market for chloropicrin in China since 2009?

b.) Do you anticipate any changes in the business cycle for chloropicrin in the U.S. market or in the market for chloropicrin in China within a reasonably foreseeable time?

<b>Purchaser</b>	<b>Changes that have occurred</b>	<b>Anticipated changes</b>
***	No.	No.

