



A-469-814  
Administrative Review  
POR: 06/01/2016-05/31/2017  
**Public Document**  
E&C Office VII: AH

DATE: October 17, 2018

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

FROM: James Maeder  
Associate Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations  
performing the duties of Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for Final Results of the 2016-  
2017 Antidumping Duty Administrative Review of Chlorinated  
Isocyanurates from Spain

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I. Summary

The Department of Commerce (Commerce) published the preliminary results of the administrative review of the antidumping duty (AD) order on chlorinated isocyanurates (chlorinated isos) from Spain on July 9, 2018.<sup>1</sup> This review covers a single producer/exporter of subject merchandise, Ercros S.A. (Ercros). The period of review (POR) is June 1, 2016, through May 31, 2017. We analyzed case and rebuttal briefs that interested parties submitted on the record. As a result of our analysis we have made no changes from *Preliminary Results*. We recommend that you approve the position described in the “Discussion of the Issues” section of this memorandum.

II. Scope of the Order

The products covered by the order are chlorinated isocyanurates. Chlorinated isocyanurates are derivatives of cynauric acid, described as chlorinated s-triazine triones. There are three primary chemical compositions of chlorinated isocyanurates: (1) trichloroisocyanuric acid (Cl<sub>3</sub>(NCO)<sub>3</sub>), (2) sodium dichloroisocyanurate (dihydrate) (NaCl<sub>2</sub>(NCO)<sub>3</sub> 2H<sub>2</sub>O), and (3) sodium dichloroisocyanurate (anhydrous) (NaCl<sub>2</sub>(NCO)<sub>3</sub>). Chlorinated isocyanurates are available in powder, granular, and tableted forms. The order covers all chlorinated isocyanurates. Chlorinated isocyanurates are currently classifiable under subheadings 2933.69.6015,

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<sup>1</sup> See *Chlorinated Isocyanurates from Spain: Preliminary Results of Antidumping Duty Administrative Review; 2016-2017*, 83 FR 31725 (July 9, 2018) (*Preliminary Results*) and accompanying Preliminary Decision Memorandum (PDM).

2933.69.6021, and 2933.69.6050 of the Harmonized Tariff Schedule of the United States (HTSUS). The tariff classification 2933.69.6015 covers sodium dichloroisocyanurates (anhydrous and dihydrate forms) and trichloroisocyanuric acid. The tariff classifications 2933.69.6021 and 2933.69.6050 represent basket categories that include chlorinated isocyanurates and other compounds including an unfused triazine ring. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

### III. Discussion of the Issues

Comment: Allegation of a Particular Market Situation (PMS)

#### Petitioners' Comments

- Pursuant to Section 773(e) of the Act, Commerce may adjust constructed value when the cost of any raw material does not reflect sales made in the ordinary course of trade.
- Cyanuric acid (CYA) is a major input in the production of chlorinated isos, and Ercros purchased CYA at far below market value.
- A large percentage of Ercros' CYA was purchased from China. The price of this Chinese CYA is distorted by government intervention in the market for both CYA and chlorinated isos.
- Chinese exports of chlorinated isos are subject to U.S. and European Union (EU) antidumping duties and U.S. countervailing duties, which creates an incentive for Chinese producers to export CYA rather than chlorinated isos.
- The imposition of antidumping duties on chlorinated isos has the same impact of the export taxes imposed in *Biodiesel from Indonesia*.<sup>2</sup>
- The particular market situation in this review calls for the application of Section 773(e) to determine the value of CYA used in the production of chlorinated isos by Ercros.
- Commerce should rely on the average unit value of imports of CYA into Spain, excluding imports from China, to value Ercros' consumption of CYA.

#### Ercros' Rebuttal

- The petitioners made their original PMS allegation in an April 30, 2018, letter<sup>3</sup> to Commerce, and Commerce rejected this allegation in the *Preliminary Results*.
- Commerce should continue to reject the PMS allegation, as the petitioners have not provided any additional information or argument that justifies otherwise.
- In the PDM Commerce found that the petitioners' PMS allegation lacked evidentiary support to show that prices for CYA in Spain were distorted. The petitioners have failed

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<sup>2</sup> *Biodiesel from Indonesia; Final Determination of Sales at Less Than Fair Value*, 83 Fed. Reg. 8835 (March 1, 2018), and accompanying Issues and Decision Memorandum (*Biodiesel IDM*) at 22.

<sup>3</sup> See letter from the petitioners, "Chlorinated Isocyanurates from Spain (12<sup>th</sup> Antidumping Administrative Review): Comments Concerning the Preliminary Determination," April 30, 2018 (PMS Allegation).

to make any additional efforts to meet their evidentiary burden, therefor Commerce should continue to reject the PMS allegation.

- The petitioners have not addressed the flaws in their methodology of comparing the price of one input with the price of a broad category of chemical products, as noted by Commerce in the PDM.<sup>4</sup>
- The petitioners ask in their brief for Commerce to replace Ercros' CYA cost with a value derived from both raw materials and finished goods. Commerce rejected this approach in the preliminary results and should continue to do so in the final.
- The presence of comparably-priced Japanese CYA during the POR confirms that the European CYA market was not distorted.
- The petitioners have not submitted any further information to support their PMS allegation, therefore Commerce should continue to reject the PMS allegation.
- If, arguendo, Commerce finds that it cannot use Ercros' CYA purchases from Chinese suppliers, Commerce should use Ercros' purchases from Japanese suppliers to value CYA.
- There is insufficient time left in this review for Commerce to accept additional information. Commerce should issue the final results by the current due date of November 6, 2018, without amendment.

#### Commerce Position

We find that the petitioners have not demonstrated that a particular market situation with respect to CYA exists in Spain. The petitioners claim in their case brief, as they did in their April 30, 2018, PMS allegation, that Ercros purchased CYA at far below market value.<sup>5</sup> In the preliminary results, however, Commerce found that the information the petitioners placed on the record regarding the price of CYA “. . . are not specific for CYA, rather the information covers a broad category of chemical products (including chlorinated isos itself), and therefore does not provide sufficient evidence of price distortion for CYA.”<sup>6</sup> The petitioners do not dispute that the benchmark information they provided relates to a broader category of products, which includes the finished product. Importantly, the record evidence with respect to this issue did not change. The petitioners' analysis essentially compares a price of the relevant input (CYA) to the price of a broader category of chemical products, which includes, among other things, the finished merchandise. Accordingly, the petitioners have failed to demonstrate that the prices for CYA in Spain were depressed or distorted.

In their case brief, the petitioners also argue that imposition of antidumping duties on chlorinated isos distorted the EU market for CYA in the same way that export taxes imposed in *Biodiesel from Indonesia* distorted the market for inputs. Once again, as explained earlier, the petitioners did not provide sufficient evidence that the alleged price distortion for CYA exists. Furthermore, Commerce finds that Biodiesel from Indonesia involved a different fact pattern. In *Biodiesel from Indonesia*, Commerce (1) had input-specific benchmarks that demonstrated the price distortion, rather than benchmarks based on broad categories of products, and (2) found evidence

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<sup>4</sup> See PDM at 4.

<sup>5</sup> See PMS Allegation at 3.

<sup>6</sup> See PDM at 4.

of government price controls not alleged or found on the record of this case.<sup>7</sup> We therefore continue to find, as we did in the preliminary results, that the petitioners reliance on *Biodiesel from Indonesia* is “misplaced.”<sup>8</sup> The petitioners did not provide any new argument to refute this conclusion.

In conclusion, the petitioners have not offered any new evidence or argument which would cause Commerce to revisit its decision regarding the PMS allegation. Commerce continues to find that the petitioners’ claim that a PMS exists is unsubstantiated. As a result, the dumping margin calculated in the preliminary results is unchanged in these final results.

#### IV. Recommendation

We recommend adopting the above position. If this recommendation is accepted, we will publish the final results of this review and the final dumping margin in the *Federal Register*.

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Agree

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Disagree

10/17/2018

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Signed by: CHRISTIAN MARSH

Christian Marsh

Deputy Assistant Secretary  
for Enforcement and Compliance

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<sup>7</sup> *Id.*

<sup>8</sup> *Id.*