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UNITED STATES DEPARTMENT OF COMMERCE
The Under Secretary for International Trade
Washington, D.C. 20230

A-570-898

Scope Ruling (Capo)

PUBLIC DOCUMENT

IA/08:KGH

MEMORANDUM TO: Stephen J. Claeys
Deputy Assistant Secretary
for Import Administration

THROUGH: Wendy Franke *WFr*
Director
AD/CVD Operations, Office 8

Charles Riggle *CR*
Program Manager
AD/CVD Operations, Office 8

FROM: Katharine G. Huang *KH*
International Trade Compliance Analyst
AD/CVD Operations, Office 8

SUBJECT: Final Scope Ruling on the Antidumping Duty Order on
Chlorinated Isocyanurates from the People's Republic of China:
Scope Inquiry on Chlorinated Isocyanurates Processed by Capo
Industries Ltd. in Canada

Summary

On October 9, 2007, the Department of Commerce ("Department") issued a preliminary scope ruling that chlorinated isocyanurates ("chlorinated isos") imported into Canada from the People's Republic of China ("PRC") by Capo Industries Ltd. ("Capo"), and then processed and exported by Capo to the United States, are within the scope of the antidumping duty order on chlorinated isos from the PRC. *See Notice Antidumping Duty Order: Chlorinated Isocyanurates from the People's Republic of China*, 70 FR 36561 (June 24, 2005) ("PRC Isos Order"). The Department concluded that because the processing performed by Capo in Canada of chlorinated isos imported from the PRC does not substantially transform the chlorinated isos, such chlorinated isos remain products of the PRC.

After consideration of the only post-preliminary comment, submitted by BioLab, Inc. ("BioLab"), a domestic producer of the like product, we recommend that the Department issue a final scope ruling finding that chlorinated isos imported into Canada from the PRC by Capo and then processed and exported by Capo to the United States, are within the scope of the *PRC Isos Order*.



Background

On November 22, 2006, pursuant to 19 CFR 351.225(c), BioLab requested that the Department issue a ruling that chlorinated isos imported from the PRC into Canada by Capo and then exported by Capo to the United States, regardless of whether packaged, tableted, blended with additives, or otherwise further processed in Canada, are covered by the *PRC Isos Order*. On March 9, 2007, in response to BioLab's scope ruling request, pursuant to 19 CFR 351.225(e), the Department initiated a formal scope inquiry under the *PRC Isos Order* to request information about Capo's product exported to the United States. On October 9, 2007, the Department issued its preliminary ruling in the instant scope inquiry.¹ On November 2, 2007, BioLab submitted comments on the Preliminary Scope Ruling. No other parties commented on the Preliminary Scope Ruling.

Scope of the Order (A-570-898)

The products covered by this order are chlorinated isocyanurates, as described below:

The products covered by this order are chlorinated isocyanurates. Chlorinated isocyanurates are derivatives of cyanuric acid, described as chlorinated s-triazine triones. There are three primary chemical compositions of chlorinated isocyanurates: (1) trichloroisocyanuric acid ($\text{Cl}_3(\text{NCO})_3$), (2) sodium dichloroisocyanurate (dihydrate) ($\text{NaCl}_2(\text{NCO})_3 \cdot 2\text{H}_2\text{O}$), and (3) sodium dichloroisocyanurate (anhydrous) ($\text{NaCl}_2(\text{NCO})_3$). Chlorinated isocyanurates are available in powder, granular, and tableted forms. This order covers all chlorinated isocyanurates.

Chlorinated isocyanurates are currently classifiable under subheadings 2933.69.6015, 2933.69.6021, 2933.69.6050, 3808.40.50, 3808.50.40 and 3808.94.50.00 of the Harmonized Tariff Schedule of the United States ("HTSUS"). The tariff classification 2933.69.6015 covers sodium dichloroisocyanurates (anhydrous and dihydrate forms) and trichloroisocyanuric acid. The tariff classifications 2933.69.6021 and 2933.69.6050 represent basket categories that include chlorinated 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 this order is dispositive.

See the *PRC Isos Order*.

¹ See Memorandum from Katharine G. Huang, International Trade Compliance Analyst, to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, through Wendy Frankel, Director, AD/CVD Operations, Office 8 and Charles Riggle, Program Manager, Re: Preliminary Scope Ruling on Antidumping Duty Order on Chlorinated Isocyanurates from the People's Republic of China ("Preliminary Scope Ruling") (October 9, 2007).

BioLab's Comments


BioLab maintains that the Department correctly found that chlorinated isos imported into Canada from the PRC by Capo and then exported by Capo to the United States, are within the scope of the *PRC Isos Order*. BioLab supports the Department's analysis that the products exported by Capo to the United States meet the physical description of the products falling within the scope of the *PRC Isos Order*. Also, BioLab supports the Department's conclusion that Capo's claimed processing is actually repackaging of imported chlorinated isos for retail sale. Additionally, BioLab supports the Department's determination that there are no chemical changes between the products that Capo imported from the PRC and the products Capo exported to the United States; therefore, Capo's value-added argument in the instant scope inquiry is "not controlling."²

BioLab urges the Department to issue instructions to U.S. Customs and Border Protection ("CBP") suspending liquidation and requiring a cash deposit of estimated duties for all unliquidated entries of chlorinated isos exported by Capo on or after March 9, 2007, the date of this scope inquiry initiation.

Recommendation

We recommend that the Department continue to find that chlorinated isos imported into Canada from the PRC by Capo and then processed and exported by Capo to the United States, are within the scope of the *PRC Isos Order* for the same reasons stated in the Preliminary Scope Ruling. Specifically, we find that Capo's processing in Canada is essentially a repackaging operation with respect to Chinese-origin product and does not substantially transform the chlorinated isos imported from the PRC by Capo. We also recommend instructing CBP to collect antidumping duties on the full value of chlorinated isos repackaged from Chinese-origin chlorinated isos and exported by Capo to the United States.

Agree Disagree



Stephen J. Claeys
Deputy Assistant Secretary
For Import Administration

4/9/08

Date

² See Preliminary Scope Ruling at 12.