Melamine From Japan

Investigation No. AA1921-162 (Review)

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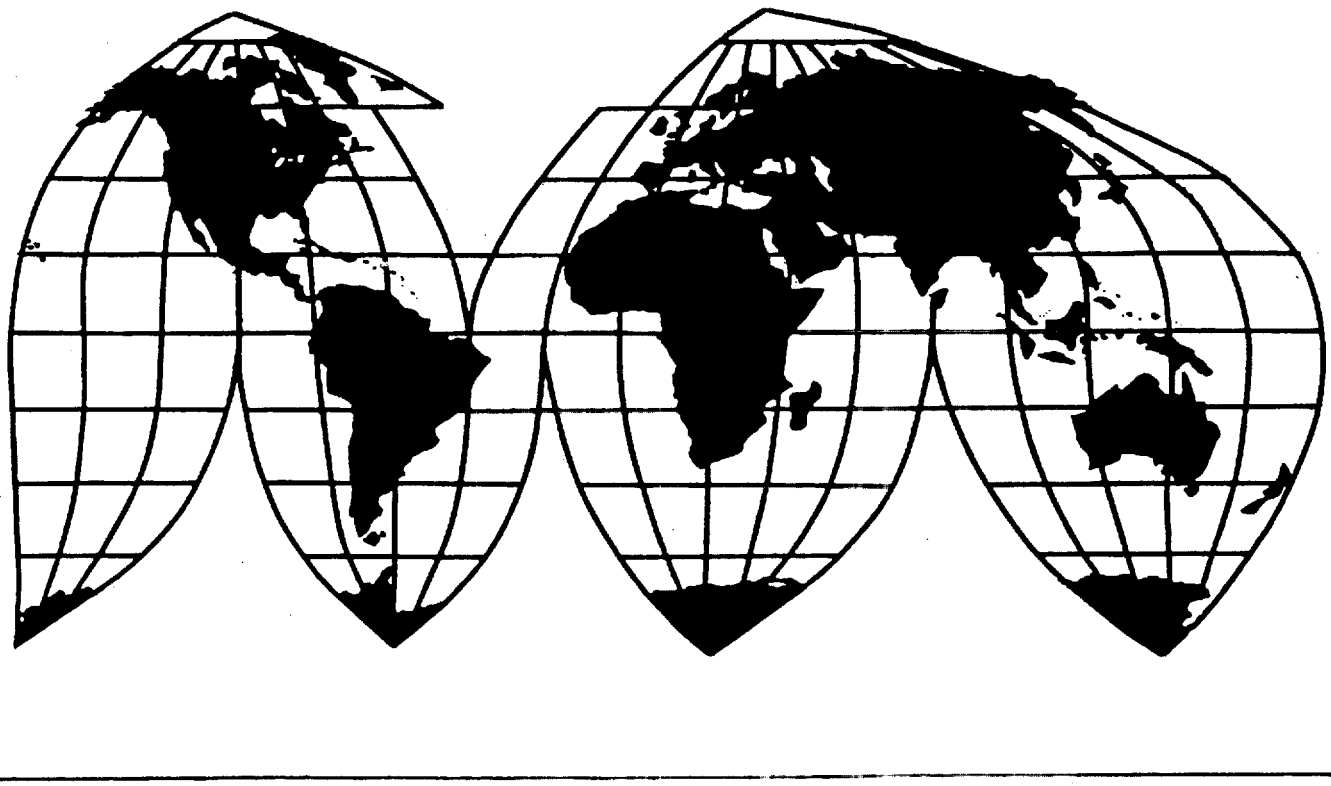
U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

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Note. -- Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from the public version of this document. Such deletions are indicated by asterisks (***).

GLOSSARY OF TERMS AND ACRONYMS

AMEL	American Melamine Industries
BASF	BASF Aktiengesellschaft
Borden	Borden Chemical, Inc.
C. Itoh	C. Itoh & Co.
COGS	Cost of goods sold
Commerce	U.S. Department of Commerce
Commission	U.S. International Trade Commission
Cytec	Cytec Melamine, Inc.
DRI	Data Resources International
DSM NV	NV Nederlandse Staatsmijnen -- Dutch States Mines
DSM	DSM Melamine Americas, Inc.
F.o.b.	Free on board
FR	Federal Register
GDP	Gross Domestic Product
GNP	Gross National Product
HTS	Harmonized Tariff Schedule of the United States
LTFV	Less than fair value
MCI	Melamine Chemicals, Inc.
Mitsui	Mitsui Toatsu Chemicals, Inc.
Nichimen	Nichimen Co., Ltd.
Nissan	Nissan Chemical Industries, Ltd.
Nosawa	Nosawa & Co.
PRWs	Production and related workers
R&D	Research and development
SEC	Securities and Exchange Commission
SG&A	Selling, general, and administration expenses
SRI	Stanford Research Institute
Taiyo	Taiyo America, Inc.
Transcript	Transcript of hearing
Treasury	U.S. Department of the Treasury
WTO	World Trade Organization

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. AA1921-162 (Review)

MELAMINE FROM JAPAN

DETERMINATION

On the basis of the record[1] developed in the subject five-year review, the United States International Trade Commission determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)) (the Act), that revocation of the antidumping finding on melamine from Japan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[2]

BACKGROUND

The Commission instituted this review on August 3, 1998 (63 F.R. 41282) and determined on November 5, 1998 that it would conduct a full review (63 F.R.63747, November 16, 1998). Notice of the scheduling of the Commission's review and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* on January 13, 1999 (64 F.R. 2233). The hearing was held in Washington, DC, on May 20, 1999, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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

[2] Vice Chairman Miller and Commissioner Askey dissenting.

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 Act"), that revocation of the antidumping finding covering melamine from Japan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[1]

I. BACKGROUND

In December 1976, the Commission determined that a domestic industry was being injured and was likely to be injured by reason of imports of melamine from Japan.[2] On February 2, 1977, the Department of Treasury published an antidumping finding on melamine from Japan.[3] On August 3, 1998, the Commission instituted a review pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"), to determine whether revocation of the antidumping finding on melamine from Japan would likely lead to continuation or recurrence of material injury.[4]

In five-year reviews, the Commission initially determines whether to conduct a full review (which would generally include a public hearing, the issuance of questionnaires, and other procedures) or an expedited review. First, the Commission determines whether individual responses to the notice of institution are adequate. Second, based on those responses deemed individually adequate, the Commission determines whether the collective responses submitted by two groups of interested parties -- domestic interested parties (producers, unions, trade associations, or worker groups) and respondent interested parties (importers, exporters, foreign producers, trade associations, or subject country governments) -- demonstrate a sufficient willingness among each group to participate and provide information requested in a full review.[5] If the Commission finds the responses from both groups of interested parties to be adequate, it will determine to conduct a full review.

In this review, the Commission received responses to the notice of institution from one of two domestic producers, Melamine Chemicals, Inc. ("MCI"), and from one importer, Taiyo America, Inc. ("Taiyo"), one of *** importers of the product from Japan in 1997 and 1998. No Japanese producers responded to the notice. On November 5, 1998, the Commission determined that both individual interested party responses to its notice of institution were adequate, that the domestic interested party group response was adequate, and that the respondent interested party group response was adequate.[6] Accordingly, the Commission decided to conduct a full five-year review.[7] Only MCI filed a notice of appearance and participated in the proceeding as a party.

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[1] Vice Chairman Miller and Commissioner Askey dissenting. They determine that revocation of the antidumping finding covering melamine from Japan would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. *See* Dissenting Views of Vice Chairman Marcia E. Miller and Commissioner Thelma J. Askey.

[2] Melamine in Crystal Form from Japan, Inv. No. AA1921-162, USITC Pub. 796 (Dec. 1976) ("Original Determination").

[3] 42 Fed. Reg. 6366 (Feb. 2, 1977).

[4] 63 Fed. Reg. 41282 (Aug. 3, 1998).

[5] *See* 19 C.F.R. § 207.62(a); 63 Fed. Reg. 30599, 30602-05 (June 5, 1998).

[6] *See* 63 Fed. Reg. 63747 (Nov. 16, 1998).

[7] *Id.* Commissioner Crawford concluded that the domestic and respondent group responses were inadequate and voted for an expedited review. Commissioner Hillman concluded that the domestic group response was adequate and that the respondent group response was inadequate, but found that other circumstances warranted a full review.

II. DOMESTIC LIKE PRODUCT AND INDUSTRY

A. Domestic Like Product

In making its determination under section 751(c), the Commission defines the "domestic like product" and the "industry."[8] The 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."[9] In its final five-year review determination, Commerce defined the merchandise subject to the finding as "melamine, in crystal form, from Japan."[10] On February 28, 1997, Commerce determined that melamine, in crystal form, with special physical characteristics (*i.e.*, 100 percent of the particles are smaller than 10 microns) was also within the scope of the finding.[11] Melamine is a fine, white crystalline powder that is used primarily to manufacture amino resins, the major end uses of which include surface coatings, laminates, molding compounds, paper treatment, adhesives, and textile-treatment applications in the automotive, appliance, dinnerware, furniture, fabric, and wood paneling industries.[12]

The starting point of our like product analysis in a five-year review is the like product definition in the Commission's original determination. Because the Antidumping Act, 1921, did not contain a "like product" provision, the Commission did not make a like product determination *per se* in its original determination. Instead, it stated that "melamine, by and large, is a uniform end product" and that the "domestic industry" at issue consists "of the facilities devoted to the production of melamine in the United States."[13] Thus, in the context of current statutory terminology, the Commission effectively treated all melamine, in crystal form, as a single domestic like product. We see no circumstances in this case that would warrant a different approach.

In its response to the notice of institution, Taiyo, an importer of Japanese melamine, argues that the Commission should consider the fine, particle-sized melamine that it imports for its specialty ink applications -- melamine crystal of a particle size of less than 10 microns -- to be a separate like product. MCI disputes Taiyo's assertion and argues that the Commission should determine that there is one domestic like product comprising melamine in crystal form of all particle sizes, and we agree.

Regardless of particle size, the chemical composition of all melamine is similar.[14] While users prefer certain sizes for their specific processes,[15] it appears that there is significant interchangeability among melamine of different particle sizes.[16] In addition, all melamine is produced on process specific equipment using the same employees and is sold through identical channels of distribution.[17] Should a

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[8] 19 U.S.C. § 1677(4)(A).

[9] 19 U.S.C. § 1677(10). *See* 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. 96-249 at 90-91 (1979).

[10] 63 Fed. Reg. 67654, 67655 (Dec. 8, 1998).

[11] 63 Fed. Reg. at 67655.

[12] Confidential Staff Report ("CR") at I-9, Public Staff Report ("PR") at I-7.

[13] Original Determination at 3.

[14] CR at I-13, PR at I-9.

[15] *See* CR at I-13, PR at I-9.

[16] MCI's Posthearing Brief at A-44.

[17] CR at I-13, PR at I-9. Before the melamine is ground, if necessary, domestic producers utilize high- and low-pressure processes to manufacture melamine and the equipment used is specific to that particular process. Thus, the manufacturing process and the equipment used are not exactly the same throughout the domestic industry,

(continued...)

smaller particle size be desired, customers may have the melamine ground, as grinding is a relatively minor operation and would be the last step in the production process.[18] Melamine ground to specific sizes may command a price premium,[19] although the quantification of such a premium is in dispute.[20] On the basis of similar chemical composition, the same channels of distribution, production facilities and employees, and significant interchangeability, we determine that the product most similar to melamine crystal of a particle size of less than 10 microns is all melamine in crystal form.[21]

Accordingly, we find that there is one domestic like product in this review, consisting of all melamine in crystal form and inclusive of all particle sizes.

B. Domestic Industry

Section 771(4)(A) of the Act defines the relevant industry as the "domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product."[22] 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, provided that adequate production-related activity is conducted in the United States.[23] Accordingly, based on the definition of the domestic like product as determined above, we find that for the purposes of this review the domestic industry includes the two domestic producers of melamine in crystal form. These producers are MCI and American Melamine Industries ("AMEL"), which is a joint venture between Cytec Melamine, Inc. ("Cytec") and DSM Melamine Americas, Inc. ("DSM").

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[17] (...continued)
although all domestic producers use a low-pressure process and one also uses a high-pressure process. *See* CR at I-11 - I-12, PR at I-8 - I-9.

[18] MCI's Prehearing Brief at 9-10; MCI's Posthearing Brief at A-43; *see* CR at I-11, PR at I-8.

[19] CR at I-14, PR at I-10; *see* MCI's Posthearing Brief at Exh. P.

[20] MCI claims that prices ***. MCI's Posthearing Brief at A-45; *see* Tr. at 36-37.

[21] We note that the Commission "generally has not drawn lines based solely on size, and has looked for other points of distinction before finding separate like products." Heavy Forged Handtools from the People's Republic of China, Inv. No. 731-TA-457 (Final), USITC Pub. 2357, at 7-8 (Feb. 1991), *citing* Sweaters Wholly or in Chief Weight of Manmade Fibers from Hong Kong, the Republic of Korea and Taiwan, Inv. Nos. 731-TA-488-450 (Preliminary), USITC Pub. 2234, at 4-5 (Nov. 1989). *See also* Color Picture Tubes from Canada, Japan, the Republic of Korea, and Singapore, Inv. Nos. 731-TA-367-370 (Final), USITC Pub. 2046 (Dec. 1987) (all color picture tubes are one like product regardless of size). With regard to Taiyo's imports of melamine crystal of a particle size of less than 10 microns, we note that while there is domestic production of melamine crystal of a particle size of greater than 10 microns, and there are imports of such melamine, there is no domestic production of melamine crystal of a particle size of less than 10 microns. *See* Tr. at 36. If there is no domestic production "like" the subject imports, the Commission must find the domestic product that is "most similar in characteristics and uses with" the imports. 19 U.S.C. § 1677(10). Accordingly, the product most similar to melamine crystal of a particle size of less than 10 microns is all melamine in crystal form. *See* Certain Hot-Rolled Steel Products from Brazil, Japan, and Russia, Invs. Nos. 701-TA-384 & 731-TA-806-808 (Preliminary), USITC Pub. 3142, at 5 n.14 (Nov. 1998).

[22] 19 U.S.C. § 1677(4)(A).

[23] *See, e.g.*, United States Steel Group v. United States, 873 F. Supp. 673, 682-83 (Ct. Int'l Trade 1994), *aff'd*, 96 F.3d 1352 (Fed. Cir. 1996).

III. REVOCATION OF THE FINDING ON MELAMINE FROM JAPAN IS LIKELY TO LEAD TO CONTINUATION OR RECURRENCE OF MATERIAL INJURY WITHIN A REASONABLY FORESEEABLE TIME

A. Legal Standard

In a five-year review conducted under section 751(c) of the Act, Commerce will revoke an antidumping finding unless: (1) it makes a determination that dumping is likely to continue or recur, and (2) the Commission makes a determination that revocation of the finding "would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time."[24] The Uruguay Round Agreements Act ("URAA") Statement of Administrative Action ("SAA") states that "under the likelihood standard, the Commission will engage in a counter-factual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo -- the revocation [of the finding] . . . and the elimination of its restraining effects on volumes and prices of imports."[25] Thus, the likelihood standard is prospective in nature.[26] The statute states that "the Commission shall consider that the effects of revocation . . . may not be imminent, but may manifest themselves only over a longer period of time."[27] According to the SAA, a "'reasonably foreseeable time' will vary from case-to-case, but normally will exceed the 'imminent' time frame applicable in a threat of injury analysis ***."[28] [29]

Although the standard in five-year reviews is not the same as the standard applied in original antidumping or countervailing duty investigations, 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 [finding] is revoked."[30] It directs the Commission to take into account its prior injury determination, whether any improvement in the state of

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[24] 19 U.S.C. § 1675a(a).

[25] SAA, H.R. Rep. No. 103-316, Vol. I, 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)." SAA at 883.

[26] 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 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 [finding] is revoked." SAA at 884.

[27] 19 U.S.C. § 1675a(a)(5).

[28] 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.*

[29] In analyzing what constitutes a reasonably foreseeable time, Commissioners Crawford and Koplan examine all the current and likely conditions of competition in the relevant industry. They define "reasonably foreseeable time" as the length of time it is likely to take for the market to adjust to a revocation. In making this assessment, they consider all factors that may accelerate or delay the market adjustment process including any lags in response by foreign producers, importers, consumers, domestic producers, or others due to: lead times; methods of contracting; the need to establish channels of distribution; product differentiation; and any other factors that may only manifest themselves in the longer term. In other words, their analysis seeks to define "reasonably foreseeable time" by reference to current and likely conditions of competition, but also seeks to avoid unwarranted speculation that may occur in predicting events into the more distant future.

[30] 19 U.S.C. § 1675a(a)(1).

the industry is related to the finding under review, and whether the industry is vulnerable to material injury if the finding is revoked.[31] [32]

The statute provides that when an interested party withholds information that has been requested by the Commission, the Commission may "use the facts otherwise available in reaching" its determination.[33] [34] As noted above, no Japanese producers responded to the Commission's notice of institution, nor did any respond to foreign producer questionnaires.[35] Accordingly, with respect to the foreign industry, we have relied on the facts available in this review, which consist primarily of the record in the original investigation, information collected by Commission staff since the institution of this review, including information obtained from SRI International,[36] and information provided by MCI.

For the reasons stated below, we determine that revocation of the antidumping finding on melamine from Japan would be likely to lead to continuation or recurrence of material injury to the domestic melamine industry within a reasonably foreseeable time.

B. Conditions of Competition

In evaluating the likely impact of the subject imports on the domestic industry if the finding is revoked, the statute directs the Commission to evaluate all relevant economic factors "within the context

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[31] 19 U.S.C. § 1675a(a)(1). 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. 19 U.S.C. § 1675a(a)(5). While the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886.

[32] Section 752(a)(1)(D) of the Act directs the Commission to take into account in five-year reviews involving antidumping proceedings "the findings of the administrative authority regarding duty absorption." 19 U.S.C. § 1675a(a)(1)(D). Commerce did not issue any duty absorption findings in this matter. *See* 63 Fed. Reg. at 67656.

[33] 19 U.S.C. § 1677e(a). The statute permits the Commission to use adverse inferences in selecting from among the facts otherwise available when an interested party has failed to cooperate by acting to the best of its ability to comply with a request for information. 19 U.S.C. § 1677e(b). Such adverse inferences may include selecting from information from the record of our original determination and any other information placed on the record. *Id.*

[34] Chairman Bragg and Commissioner Koplan note that the statute authorizes the Commission to take adverse inferences in five-year reviews, but emphasize that such authorization does not relieve the Commission of its obligation to consider the record evidence as a whole in making its determination. "[T]he Commission balances all record evidence and draws *reasonable* inferences in reaching its determinations." SAA at 869 [emphasis added]. Practically speaking, when only one side has participated in a five-year review, much of the record evidence is supplied by that side, although that data is supplemented with publicly available information. We generally give credence to the facts supplied by the participating parties and certified by them as true, but base our decision on the evidence as a whole, and do not automatically accept the participating parties' suggested interpretation of the record evidence. Regardless of the level of participation and the interpretations urged by participating parties, the Commission is obligated to consider all evidence relating to each of the statutory factors and may not draw adverse inferences that render such analysis superfluous. "In general, the Commission makes determinations by weighing all of the available evidence regarding a multiplicity of factors relating to the domestic industry as a whole and by drawing reasonable inferences from the evidence it finds most persuasive." *Id.*

[35] While Taiyo did respond to an importer questionnaire, it did not file briefs or participate in the hearing.

[36] *Chemical Economics Handbook*, "Melamine," SRI International (Jan. 1996 & May 1999 draft) ("SRI CEH").

of the business cycle and conditions of competition that are distinctive to the affected industry."[37] In performing our analysis under the statute, we have taken into account the following conditions of competition in the U.S. market for melamine.

First, melamine is a commodity product, and U.S. and Japanese melamine are largely interchangeable; *i.e.,* there is a moderate to high degree of substitutability between U.S. and Japanese melamine.[38] While price is an important factor in the sale of melamine, quality and product availability may be equal, if not more important, considerations in purchasing decisions.[39] In the original investigation, all responding purchasers stated that the price of melamine was the controlling factor in their purchasing decisions.[40]

As was the case in the original investigation, the demand for melamine is primarily dependent upon the economic strength of the ***, which are the chief consumers of melamine.[41] As such, the market for melamine has grown significantly from the time of the original investigation until the present,[42] commensurate with overall economic growth.

In addition, as in the original investigation, there are few domestic and foreign producers.[43] The business cycle for melamine is affected by urea prices and capacity changes, as well as U.S. economic growth.[44] The industry is capital intensive and when investment in new capacity occurs, fixed costs increase and declines in profitability result due to increased operating costs and problems in ramping up the new capacity. When these problems are resolved and the new capacity has been in use for a suitable period of time (*i.e.,*"matures"), costs decline and profitability rises.[45]

We note that the quantity of non-subject imports of melamine is small but growing. Between 1997 and 1998, the market share of non-subject imports increased from *** percent to *** percent.[46] In contrast, the quantity of non-subject imports declined steadily from *** in 1973 to *** in 1975.[47]

U.S. producers reported that in 1998 *** of their melamine production went to end users and *** was for internal consumption/company transfers. During the original investigation, captive use/internal company transfers also accounted for approximately one-third of annual U.S. production.[48] We have

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[37] 19 U.S.C. § 1675a(a)(4).

[38] The degree of substitution between domestic and imported melamine depends upon such factors as relative prices, quality (*e.g.,* purity), and conditions of sale (*e.g.,* price discounts/rebates, payment terms, and product support). CR at II-9, PR at II-6.

[39] CR at II-10 - II-11, PR at II-6 - II-7.

[40] Original Determination at 7-8.

[41] CR at II-6, PR at II-4; *see* Original Report at A-14 - A-15.

[42] Apparent U.S. consumption of melamine increased, in terms of quantity, from *** pounds in 1975 to *** pounds in 1998. In terms of value, apparent U.S. consumption increased from *** in 1975 to *** in 1998. U.S. production increased over the same period from *** pounds to *** pounds and the quantity of U.S. shipments increased from *** pounds to *** pounds. CR/PR at Table I-1.

[43] At the time of the original investigation, there were three domestic and three Japanese producers of melamine. Original Staff Report at A-9, A-32. There are currently two firms comprising the domestic industry and three Japanese producers. CR/PR at Table I-4.

[44] CR at II-3, PR at II-2.

[45] CR at II-3 n.7, D-3, D-5; PR at II-2 n.7, D-3, D-4; MCI's Posthearing Brief at A-28.

[46] Non-subject imports increased from *** pounds in 1997 to *** pounds in 1998. The value of these imports increased from *** to *** during the same period. CR/PR at Table I-5. Non-subject imports' share of the value of apparent consumption increased from *** percent in 1997 to *** percent in 1998. CR/PR at Table I-6.

[47] Original Report at Table 6.

[48] CR/PR at II-1 & n.1. MCI interprets "company transfers" to include arms-length sales to its related companies: Borden Chemical, Inc. and Sun Coast Industries. (Borden purchased MCI in 1997 and purchased Sun

(continued...)

considered captive consumption as a condition of competition in our analysis of whether the industry is likely to be materially injured by subject imports if the finding is revoked.[49] [50] In this review, the significance of the amount of captive production is diminished because of the arms-length nature of MCI's transfers to related companies, which account for a significant portion of the domestic production that could potentially be considered as internally produced.[51] [52]

Based on the record evidence, we find that these conditions of competition in the melamine market are not likely to change significantly in the reasonably foreseeable future. Accordingly, in this review, we find that current conditions in the melamine market provide us with a reasonable basis from which to assess the likely effects of revocation of the antidumping finding within a reasonably foreseeable time.[53]

C. Likely Volume of Subject Imports

In evaluating the likely volume of imports of subject merchandise if the finding under review is revoked, 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.[54] 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,

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[48] (...continued)
Coast in 1998. Sun Coast is now known as Plastics Manufacturing Co., Division of Borden Chemical, Inc.) MCI explains that it manufactures only one product -- melamine -- and does not internally consume any of it. Rather, it sells a portion of its production to these companies at ***. MCI's Posthearing Brief at A-15, A-27; Tr. at 42, 44. MCI shipped *** percent of its melamine to these companies in 1997 and *** percent in 1998. CR at III-A-3, PR at III-2. Cytec and DSM each have rights to half of the output of their joint venture AMEL, which is the only other domestic producer. *See* CR at I-15, PR at I-10. Cytec consumed internally *** percent of its AMEL-produced melamine in 1997 and *** percent in 1998. CR at III-A-3, PR at III-2.

[49] *See generally* Sebacic Acid from China, Inv. No. 731-TA-653 (Review), USITC Pub. 3189, at 7 n.26 (May 1999), in which we stated that the captive production provision is not applicable to five-year review investigations. We note that the determination in that case should have referred to 19 U.S.C. § 1677(7)(C)(iv).

[50] Commissioners Hillman and Koplan are reexamining whether or not the captive production provision applies to five-year reviews. They note that in neither Sebacic Acid nor in any other five-year review, including this one, has the Commission had the benefit of parties' arguments in favor of or against the application of the captive production provision to five-year reviews.

[51] We take no position on whether transfers to a related company (such as those by MCI) constitute internal transfers for the purpose of the captive production provision. While we are not applying the captive production provision to this review, we note that our conclusion would not differ even if we were to focus primarily on the merchant market for melamine.

[52] Commissioner Crawford does not join this sentence or the preceding footnote.

[53] In analyzing whether revocation of a finding or order would be likely to lead to a continuation or recurrence of material injury within a reasonably foreseeable time, Commissioner Crawford takes as her starting point the date on which the revocation would actually take place. In this review, the finding would be revoked in January 2000. 19 U.S.C. § 1675(c)(6)(A)(iv).

[54] 19 U.S.C. § 1675a(a)(2).

which can be used to produce the subject merchandise, are currently being used to produce other products.[55]

In the original investigation, the Commission found that subject imports had increased from 300,000 pounds (or 7.8 percent of total U.S. imports from all sources) in 1973 to 5.1 million pounds (or 80 percent of total U.S. imports from all sources) in 1975. The ratio of subject imports to U.S. consumption rose from less than one percent in 1973 to greater than six percent in 1975, which was the year in which at least four-fifths of such imports were sold at less than fair value.[56]

The volume of subject imports is currently at a very low level relative to total consumption.[57] However, our task in a five-year review investigation is to assess the likely volume upon revocation of the finding. Data derived from SRI International indicate that Japanese capacity utilization is high.[58] While this information viewed alone might support a finding of limited Japanese ability to increase exports to the United States, other information supports the conclusion that subject import volumes are likely to be significant if the finding is revoked.

Japanese producers export a substantial portion of their production[59] and have demonstrated the ability to shift large quantities of their exports to new target markets in a short period of time. ***.[60] Japan has also quickly redirected exports to Canada, South America, and other non-traditional export markets in 1998.[61] Furthermore, total Japanese exports are ***, as ***.[62]

Japanese producers have steadily and substantially increased their production of melamine since 1993.[63] By contrast, while ***.[64] As a result of the increase in production and recent decrease in demand, Japanese melamine inventories ***, reaching over *** metric tons in 1998, by far their highest level during the 1993 to 1998 period.[65] Taken together, the amount of Japanese melamine held in inventory and the increased shipments to Europe from 1997 to 1998, which are unlikely to be repeated because they arose from one-time severe production problems in Europe, represent an amount of melamine available for export to the United States equivalent to nearly *** percent of apparent U.S. consumption in 1998.[66]

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[55] 19 U.S.C. § 1675a(a)(2)(A)-(D).

[56] Original Determination at 4-5.

[57] The ratio is less than *** percent for both 1997 and 1998. CR/PR at Table I-6.

[58] Japanese producers' capacity utilization was *** percent in 1997 and *** percent in 1998. CR/PR at Table IV-4.

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

[60] MCI's Posthearing Brief at 9 & Exh. E; *see* CR at II-6, PR at II-4. European imports of Japanese melamine rose from ***. MCI's Posthearing Brief at A-22 & Exh. U; *see* CR/PR at Table I-6.

[61] MCI's Posthearing Brief at 9 & Exh. K. Canadian imports of Japanese melamine rose from *** metric tons in 1996 to *** metric tons in 1998 (over ***). MCI's Posthearing Brief at Exh. K. Japanese exports to non-traditional export markets increased from *** metric tons in 1996 to *** metric tons in 1998, or from ***. MCI's Prehearing Brief at Ex. E.

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

[63] Japanese production has increased steadily from *** metric tons in 1993 to *** metric tons in 1998. CR/PR at Table IV-4.

[64] CR at II-9, PR at II-6.

[65] End-of-period inventories fell from *** metric tons in 1993 to *** metric tons in 1997, then grew to *** metric tons in 1998. CR/PR at Table IV-4.

[66] *See* CR/PR at Tables I-6, IV-4; MCI's Posthearing Brief at 9 & Exhs. E, U. Melamine producers have high fixed capital costs that create a strong incentive to operate at maximum capacity. *See* CR at D-6, PR at D-5. Thus we view the 1998 increase in melamine inventories in Japan and the shipments to the European Union as indicative of the kind of excess volume that will be produced annually in the foreseeable future, and that will be

(continued...)

Additionally, we find that it is unlikely that other markets will readily absorb significantly increased Japanese shipments. Because of increased capacity in Korea, Indonesia, and China, the Japanese producers face growing competition in a number of their traditional Asian export markets.[67] Indonesia and Korea have added production capacity in recent years, and MCI submitted information indicating that China will add an additional *** of production capacity to be operational by the end of 1999.[68] Moreover, over the next five years the Japanese home market is projected to experience negative growth in real GDP followed by moderate expansion.[69] The average annual growth for Japanese home market consumption of melamine is projected to be *** percent from 1998 to 2003.[70]

Further information suggests that the Japanese producers have the ability and incentive to ship significant quantities of melamine to the United States market in a short period of time. Japanese producers currently have affiliated companies in the United States that are selling similar products,[71] allowing them to quickly redirect their exports to this market as they did in the European and Canadian markets.[72] Higher tariffs in the European Union and in certain South American and Asian countries relative to the United States, and the long-term stability of the U.S. market vis-à-vis certain Asian markets, make the U.S. market attractive.[73] Thus, Japanese producers will have an incentive to redirect exports to the United States if the finding is revoked. Indeed, MCI submitted sales call information indicating that Japanese producers have already made preparations to *** in the event the finding is revoked, such as ***.[74]

The Japanese producers' ability to shift melamine exports quickly to new regions, as explained above, indicates that they are well-equipped to shift such exports to the United States upon revocation of the finding without decreasing their shipments to other traditional markets. Japanese producers' behavior at the time of the original investigation, when subject imports increased significantly over the period of investigation,[75] suggests that they would pursue a similar strategy should the opportunity present itself.[76] Accordingly, we find that the current low market share of subject imports is a result of the restraining effects of the finding rather than the Japanese producers' unwillingness or lack of interest in shipping significant volumes to the United States. Moreover, it is unlikely that the European Union will again

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[66] (...continued)
available for export to the United States.

[67] MCI's Posthearing Brief at 9; *see* CR at II-6, PR at II-4.

[68] MCI's Posthearing Brief at 9, A-23 & Exh. H. We find that other Chinese plants will likely displace at least some Japanese melamine currently sold in Southeast Asia. *See* SRI CEH at 57-59 (May 1999 draft).

[69] CR at II-9, PR at II-6; *see* MCI's Posthearing Brief at Exh. X.

[70] CR at II-9, PR at II-6.

[71] The three Japanese producers of melamine all have subsidiaries in the United States. MCI's Prehearing Brief at 12, A-7; *see* MCI's Final Comments at 3, Tr. at 20.

[72] Indeed, the stable nature of melamine crystals could enable the Japanese firms to store the product in their U.S. affiliates' warehouses. *See* Tr. at 27. In such an event, product availability and customer support for the Japanese merchandise would be equal to that of the U.S. product, leaving price as the sole factor affecting purchasing decisions. *See* CR at II-10, PR at II-6; MCI's Posthearing Brief at 10.

[73] MCI's Posthearing Brief at 9; MCI's Prehearing Brief at 22.

[74] MCI's Posthearing Brief at 2-3, A–1 & Exh. B; Tr. at 18.

[75] Subject imports increased from 0.3 million pounds in 1973 to 2.8 million pounds in 1974, and increased further to 5.1 million pounds in 1975. Original Report at Table 13.

[76] While Commissioner Crawford has considered the Commission's prior injury determination, she notes that the current record is particularly important in her analysis of the likely volume of subject imports in the absence of the existing finding.

suffer the temporary shortages suffered in 1997 and 1998, further indicating that the Japanese will have to divert their domestic production increases elsewhere.

As described above, there is increased production capacity in Southeast Asia, diminishing Japan's ability to ship melamine to its traditional export markets, as well as *** in Japan. We do not expect that all these *** or the volume represented by the one-time shipments to Europe would be shipped to the United States. However, based upon the facts available in the current record, and in the absence of contrary evidence or argument, we find it likely that Japanese producers would ship substantial volumes of the subject merchandise should the finding be revoked, especially in view of the highly substitutable nature of this commodity product. Given the foregoing, we determine that subject import volumes are likely to be significant within a reasonably foreseeable time if the antidumping finding is revoked.[77]

D. Likely Price Effects of Subject Imports

In evaluating the likely price effects of subject imports if the antidumping finding is revoked, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared with domestic like products and whether the subject imports are likely to enter the United States at prices that would have a significant depressing or suppressing effect on the prices of domestic like products.[78]

In the original investigation, the Commission found that the subject imports significantly undersold the U.S. product in the latter part of the period of investigation by as much as *** percent.[79] It also found that there was price depression due to the subject imports.[80]

Recent price data collected by the Commission are mixed. Prices for U.S.-produced melamine were generally substantially higher at the end of 1998 than at the beginning of 1997;[81] however, MCI submitted information indicating that its prices have *** in 1999.[82] No price comparisons between Japanese and U.S. melamine in the U.S. market were possible.[83]

In the absence of more probative price data, we base our finding on price effects on other information. In particular, as indicated above, price is an important factor in purchasing decisions, and the domestic product is moderately to highly substitutable with the Japanese product. Moreover, we have found that a significant increase in the volume of subject imports from Japan is likely in the event the

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[77] Product shifting is not an option because the machinery used to produce melamine cannot be used to produce other chemicals. CR at II-4, PR at II-3; Tr. at 15.

[78] 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.

[79] Original Determination at 6.

[80] Original Determination at 6-7.

[81] *See* CR/PR at Tables V-1 - V-3, V-5.

[82] According to MCI, the price of melamine declined from *** per pound in March 1999 to *** per pound in May 1999. In addition, MCI argues, in view of the behavior of the Japanese in other non-traditional export markets, it is likely that if the finding is revoked they will offer melamine at a price approximating *** per pound in order to gain market share. MCI's Posthearing Brief at 11, A-30, A-31.

[83] CR at V-5 - V-6; PR at V-3 - V-4.

finding is revoked. Thus, we find it likely that the Japanese producers would offer attractively low prices to U.S. purchasers in order to regain market share if the finding is revoked.[84] [85]

In light of our finding regarding the likely future volumes of imports, and in the absence of contrary information or argument, we find that it is likely that the subject imports would undersell the domestic merchandise significantly[86] and enter the United States at prices that would have significant depressing or suppressing effects on the prices for the domestic like product within a reasonably foreseeable time if the finding is revoked.

E. Likely Impact of Subject Imports

In evaluating the likely impact of imports of subject merchandise if the finding is revoked, 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: (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.[87] 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.[88] 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 antidumping finding at issue and whether the industry is vulnerable to material injury if the finding is revoked.[89]

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[84] MCI submitted sales call information purporting to indicate that Japanese producers will aggressively price their product to obtain sales in the U.S. market in view of their behavior in export markets outside of Southeast Asia and Australia. In one instance, a Japanese producer recently ***. In another instance, a Japanese producer offered the product to a customer ***. MCI's Posthearing Brief at 3-4, A-1 - A-2 & Exhs. C-D. This information is consistent with a finding of likely underselling by Japanese producers in the U.S. market in the event of revocation.

[85] Commissioner Crawford determines that if the finding is revoked, subject imports will have a significant effect on domestic prices. The record demonstrates that the domestic and subject merchandise are substitutable. If the finding is revoked, it is likely that the volume of subject imports will increase significantly, and demand for the domestic product will decrease, shifting to subject imports. With this shift in demand away from the domestic product, MCI likely will be forced to choose between reducing its prices and/or decreasing its production. Because chemical industries must operate at higher capacity levels than other industries to achieve maximum efficiency, she finds that MCI likely will be forced to reduce its prices to compete with the subject imports.

[86] Commissioner Crawford does not base her finding on a likelihood of significant underselling.

[87] 19 U.S.C. § 1675a(a)(4).

[88] 19 U.S.C. § 1675a(a)(4). Section 752(a)(6) of the Act states that "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. In its final five-year review determination, Commerce published a dumping margin of 60 percent for Nissan Chemicals, Ltd. and an "all others" margin of 70.22 percent. 63 Fed. Reg. at 67656.

[89] The SAA states that in assessing whether the domestic industry is vulnerable to injury if the finding 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." (continued...)

In the original determination, the Commission found that increased imports at less than fair value, both absolutely and relative to domestic consumption, caused material injury to the domestic industry. It also found declines in production and capacity utilization, as well as declines in employment, lost sales, and deterioration of the domestic industry's financial condition.[90]

Since imposition of the finding, domestic market share increased as subject imports exited the market. Japanese shipments of melamine were less than *** percent of consumption in both 1997 and 1998.[91] Non-subject imports gained only a small portion of the market share lost by subject imports[92] and do not appear to have adversely affected the ability of the domestic industry to improve its financial condition. The basic substitutability of the product has enabled the domestic industry to readily replace subject imports and regain domestic market share. Net sales have improved, as have gross profit and operating income.[93] With regard to capital expenditures, Cytec, MCI, and DSM all state that existing and/or future investment would be *** by revocation of the finding.[94]

The domestic industry has asserted that it is in a vulnerable state.[95] The evidence in the record indicates that domestic production, shipments, capacity utilization, employment, sales, and unit sales values have increased substantially since the period of the original investigation.[96] Furthermore, the domestic industry's operating income was substantial in 1998.[97] Accordingly, we do not find that the domestic industry is in a weakened state, as contemplated by the vulnerability criterion of the statute.[98]

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[89] (...continued)
SAA at 885.

[90] Original Determination at 5–9.

[91] CR/PR at Table I-6.

[92] Non-subject imports increased, in terms of quantity, from *** percent of apparent U.S. consumption in 1975 to *** percent in 1998. CR/PR at Table I-1.

[93] The value of net sales increased from *** in 1975 to *** in 1998. Gross profit increased from *** in 1975 to *** in 1998. Over the same period, operating income climbed from *** to ***. CR/PR at Table I-1.

[94] CR at D-4 - D-6, PR at D-3 - D-5; *see* MCI's Posthearing Brief at A-33 - A-34. One producer has approved plans to invest approximately $20 million to increase capacity to approximately 170 million pounds per year (to come on line in late 1999). The other producer plans to invest $73 million to build a new plant with the capacity to manufacture 66 million pounds of melamine per year (operational in 2001). CR at II-4 n.11; PR at II-3 n.11. Revocation of the finding may ***. *See* CR at D-4, D-5; PR at D-3, D-4.

[95] MCI's Prehearing Brief at 29; MCI's Posthearing Brief at 12, A-20 - A-21.

[96] U.S. production rose from *** pounds in 1975 to *** pounds in 1998. The quantity of U.S. shipments increased from *** pounds in 1975 to *** pounds in 1998. Capacity utilization increased from *** percent in 1975 to *** percent in 1998. There were *** production and related workers in 1975 and *** in 1998. The value of net sales climbed from *** in 1975 to *** in 1998, while unit sales values rose from *** to ***. CR/PR at Table I-1.

[97] Operating income was *** in 1998. CR/PR at Table I-1.

[98] *See* SAA at 885 ("The term 'vulnerable' relates to susceptibility to material injury by reason of dumped or subsidized imports. This concept is derived from existing standards for material injury and threat of material injury .... If the Commission finds that the industry is in a weakened state, it should consider whether the industry will deteriorate further upon revocation of [a finding] ....").

This view is tempered by the sharp rise in domestic inventories in 1998 and data submitted by MCI showing *** and further *** in 1999.[99] [100]

Although we do not find the industry to be in a vulnerable condition at present, we find that the likely significant increase in the subject imports in the wake of the revocation of the finding would likely have an adverse impact on the domestic industry's output, sales, and revenue, especially in view of the substitutable nature of the product, as it is likely that increased volumes of subject imports will gain market share at the expense of the domestic industry.[101] The likely significant price effects will have a negative effect on industry revenue and profitability. Consequently, such imports will have direct adverse effects on the industry's profits; cash flow; the ability to raise capital;[102] the ability to make capital investments; employment;[103] and the ability to continue development of improved production methods and new and improved products[104] within a reasonably foreseeable time. Accordingly, and in the absence of contrary information or argument, we find that, if the antidumping finding is revoked, subject imports would be likely to have a significant adverse impact on the domestic industry within a reasonably foreseeable time.

CONCLUSION

For the foregoing reasons, we determine that revocation of the antidumping finding on melamine from Japan would be likely to lead to continuation or recurrence of material injury to the U.S. melamine industry within a reasonably foreseeable time.

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[99] MCI's inventories reached the equivalent of *** in April 1999. MCI's Prehearing Brief at 30. The industry normally maintains inventories equivalent to one month's production capacity. Tr. at 105; MCI's Posthearing Brief at A-47. While the Commission did not gather data regarding end-of-period inventories in the original investigation, we note that U.S. producers' end-of-period inventories increased from *** pounds in 1997 to *** pounds in 1998. CR/PR at Table III-4.

[100] Commissioner Crawford finds that the magnitude of any adverse effects of revocation is likely to increase with the degree of vulnerability of the industry. She finds that the domestic industry in this review is not particularly vulnerable to injury if the finding is revoked.

[101] U.S. demand for melamine is predicted to grow by *** to *** percent per year from 1999 through 2004. CR at II-15, PR at II-10. This increase will be insufficient to absorb all or most of the likely increase in imports from Japan.

[102] *See* CR at D-5, D-6, PR at D-4 - D-5.

[103] Domestic producers claim that the industry would likely experience shutdowns of several months to exhaust its inventory if the finding is revoked, and estimate that wages and employment would drop to *** percent of present levels. CR at D-5, D-6, PR at D-4, D-5; MCI's Posthearing Brief at A-37.

[104] *See* CR at D-3, D-6; PR at D-3, D-5; MCI's Posthearing Brief at A-36.

DISSENTING VIEWS OF VICE CHAIRMAN MARCIA E. MILLER AND COMMISSIONER THELMA J. ASKEY

Based on the record in this five-year review, we determine under section 751(c) of the Tariff Act of 1930, as amended, that revocation of the antidumping finding on melamine from Japan would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

I. Background

In December 1976, the Commission determined that the domestic melamine industry was injured by imports of melamine from Japan that the Department of Treasury had determined were being sold at less than fair value.[105] In February 1977, the Treasury Department issued an antidumping finding on melamine from Japan.[106] Pursuant to section 751(c) of the statute, the Commission instituted a five-year review in August 1998 to determine whether revocation of the antidumping finding would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.[107]

II. Legal Standard

In five-year reviews, the Department of Commerce will revoke an antidumping finding unless: (1) it makes a determination that dumping is likely to continue or recur, and (2) the Commission makes a determination that revocation of the finding would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.[108] In making its determination, the Commission must consider the likely volume, price effects, and impact of subject imports on the domestic industry if the antidumping finding is revoked, taking into account (i) the Commission's prior injury determinations, including the volume, price effects, and impact of subject imports on the domestic industry at that time, (ii) whether any improvement in the state of the industry is related to the finding, and (iii) whether the industry is vulnerable to material injury if the finding is revoked.[109]

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[105] Melamine in Crystal Form from Japan, Inv. No. AA1921-162, USITC Pub. No. 796 (Dec. 1976) ("Original Determination"). The original affirmative determination resulted from a 3-3 vote of the Commission. The statute provides that an equally divided vote of the Commission constitutes an affirmative determination. 19 U.S.C. § 1330(d).

[106] 42 Fed. Reg. 6,366 (Feb. 2, 1977).

[107] 63 Fed. Reg. 41,282 (Aug. 3, 1998).

[108] 19 U.S.C. § 1675(d)(2).

[109] 19 U.S.C. § 1675a(a). The Commission must also take into account any duty absorption findings; Commerce has made none in this case. 63 Fed. Reg. 67,654, 67,656 (Dec. 8, 1998). In evaluating the likelihood of material injury in this review we have considered the Commission's analysis of the volume, price effects, and impact of subject imports on the domestic industry in the 1973-75 period of investigation. However, given the substantial lapse of time and significant changes in market conditions since 1975, we do not view the volume, price effects, and impact of subject imports during the original investigation as good predictors of the likely volume, price effects, and impact of subject imports in the reasonably foreseeable future if the finding is revoked. For the same reasons, it is difficult in this case to assess to what extent any improvement in the state of the industry is related to the antidumping finding.

III. Domestic Like Product and Domestic Industry

The statute defines the relevant industry to be considered in a five-year review as the "domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product."[110] The "domestic like product," in turn, is defined 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."[111] The Department of Commerce has defined the merchandise subject to this antidumping finding as "melamine, in crystal form, from Japan."[112]

The starting point of our like product analysis is the Commission's original determination. Because of differences in the statute, the Commission did not make a like product finding *per se* in the original determination. However, the Commission effectively treated all melamine in crystal form as a single like product. We see no circumstances in this review that would warrant a different approach.[113] Accordingly, we find that there is one domestic like product in this review, consisting of all melamine in crystal form. Consistent with this finding, we define the domestic industry as the two U.S. producers of melamine in crystal form: Melamine Chemicals, Inc. ("MCI") and American Melamine Industries ("AMEL"), which is a joint venture of Cytec Melamine, Inc. ("Cytec") and DSM Melamine Americas, Inc. ("DSM").

A. Conditions of Competition

In evaluating the impact of subject imports on the domestic industry if an antidumping finding is revoked, the statute directs the Commission to evaluate all of the relevant economic factors "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[114] Discussed below are the conditions of competition that weigh significantly in our determination that revocation of the finding is not likely to lead to continuation or recurrence of material injury to the melamine industry within a reasonably foreseeable time.

The product subject to this investigation is crystalline melamine chiefly used to manufacture melamine formaldehyde resins. Melamine is used primarily to manufacture amino resins that are used in surface coatings, laminates, molding compounds, paper treatment, adhesives, and textile treatment applications. Surface coatings accounted for approximately 39 percent of U.S. melamine end use in 1997. Principal uses for surface-coating resins are in appliance finishes, automotive topcoats, and metal furniture finishes. Similarly, laminates accounted for approximately 35 percent of melamine use in 1997. Laminate products include kitchen and bathroom counter tops, cabinets, doors, table tops, and partitions in commercial buildings.[115]

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[110] 19 U.S.C. § 1677(4)(A).

[111] 19 U.S.C. § 1677(10).

[112] 63 Fed. Reg. at 67,655.

[113] We note that Taiyo America, Inc., an importer of melamine from Japan, argued that very fine melamine (with a particle size of less than 10 microns) should be considered a separate like product. However, the domestic industry does not produce melamine with this particle size. CR at III-A-6, PR at III-3. Therefore, consistent with Commission practice, we do not consider melamine with particle sizes of less than 10 microns to be a separate like product. Instead, we must determine what is the most similar domestic product to the imported melamine, which we determine in this review to be melamine of larger particle sizes.

[114] 19 U.S.C. § 1675a(a)(4).

[115] CR at I-9-10, PR at I-7-8.

Melamine is used to produce a variety of products for use in the automotive, construction, and textile industries. Thus, the demand for melamine is derived from the demand in those industries.[116] Average annual growth in U.S. melamine consumption was *** percent for the period 1994-98.[117] U.S. apparent consumption of melamine over the period of investigation ("POI") remained strong, at nearly *** million pounds in 1997 and *** million pounds in 1998.[118] U.S. melamine consumption is projected to grow *** percent per year through 2004, as compared to *** percent per year for worldwide growth.[119]

The melamine industry has producers located around the world, with five major producers accounting for approximately 60 percent of world capacity.[120] The domestic industry consists of two producers, MCI and AMEL, which, as noted above, is a 50-50 joint venture between Cytec and DSM. Under the joint venture agreement, Cytec and DSM each purchase *** percent of AMEL's melamine production at cost and are precluded from discussing or exchanging information on prices, customers, and other competitive information.[121] Hence, there are three domestic suppliers. In 1998, MCI accounted for approximately *** percent of U.S. production and AMEL accounted for approximately *** percent of U.S. production.[122]

The domestic industry dominates the U.S. melamine market. The domestic producers' market share was *** percent in 1997 and *** percent in 1998.[123] The remainder of the domestic market over the POI was accounted for by subject and non-subject imports, *** percent in 1997, and *** percent in 1998.[124] Capacity utilization was also high during the POI -- *** percent in 1997 and *** percent in 1998.[125] A significant amount of consumption is consumed internally by members of the domestic industry or sold to related entities. Overall, *** percent of total melamine shipments were consumed internally or sold to related entities in 1997 and *** percent was consumed internally or sold to related entities in 1998.[126]

B. Likely Volume of Subject Imports

In evaluating the likely volume of imports of subject merchandise if the finding under review is revoked, the statute directs the Commission 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.[127] In so doing, 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

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[116] U.S. real GDP is projected to grow at an average annual rate of 2.3 percent over the next four years. Projections for growth over this period for the automotive and construction industries range from *** to *** percent. CR at II-15, PR at II-10.

[117] CR at II-6, PR at II-4.

[118] CR at I-4, PR at I-3.

[119] CR at II-9, PR at II-6. Questionnaire responses indicate that a majority of U.S. producers, importers, and purchasers of melamine expect *** demand growth for the next two to five years for the domestic melamine industry. CR at II-15, PR at II-10.

[120] CR at I-16, PR at I-11.

[121] CR at I-15-16, PR at I-10.

[122] CR at II-2, PR at II-I.

[123] CR at I-20, PR at I-13.

[124] CR at I-20, PR at I-13. Subject imports from Japan were ***; *** pounds in 1997, and *** pounds in 1998. CR at IV-1, PR at IV-1.

[125] CR at III-A-1, PR at III-1.

[126] CR at III-A-3, PR at III-2.

[127] 19 U.S.C. § 1675a(a)(2).

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.[128]

During the original period of investigation, imports from Japan increased from 300,000 pounds in 1973 to 5.1 million pounds in 1975. The market share of imports from Japan increased from less than one percent to over six percent during that time.[129] After the finding was imposed, imports from Japan largely ceased.[130] In 1997 and 1998, imports from Japan were at very low levels.[131] For the reasons discussed below, we think it is not likely that the volume of imports from Japan would be significant in the reasonably foreseeable future if the finding is revoked.

First, the Japanese producers are operating ***. In 1998, the Japanese producers operated at *** percent capacity utilization.[132] Indeed, since 1994, the Japanese industry has operated at *** capacity even in the face of increasing competition from new melamine production facilities that have come on stream in Asia in recent years.[133] Moreover, production capacity in Japan is *** within the reasonably foreseeable future.[134]

While operating ***, the Japanese industry has sold its melamine almost exclusively in markets outside the United States. In 1998, over *** percent of Japanese production was consumed in markets in Asia, Australia, and New Zealand.[135] Therefore, the Japanese producers would need to divert shipments from their traditional markets in order to export significant volumes to the U.S. market. MCI argues that the economic recession in Japan and other Asian markets has lowered demand in those traditional markets and provides the Japanese producers with a strong incentive to divert shipments to the United States.[136] However, demand is forecasted to *** in Japan's traditional markets in Asia (*** percent) and Oceania (*** percent), as well as in Japan (*** percent).[137] Thus, we think it unlikely that Japanese producers would divert significant shipments from established customers and markets, particularly given these likely growth rates.

We recognize that inventories in Japan *** in 1998 than in 1997. In 1998, inventories in Japan were *** metric tons or approximately *** million pounds, which was approximately *** the 1997 level.[138] These inventories are within the normal range for the melamine industry, however.[139] Thus, the *** from 1997 reflects an *** from an *** of inventories resulting from very strong worldwide demand in 1997. While these inventories suggest that the Japanese producers would have some ability to increase shipments to the U.S. market, these inventories are not so large as to suggest to us the likelihood of

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[128] 19 U.S.C. § 1675a(a)(2)(A)-(D).

[129] Original Determination at 4-5.

[130] CR at IV-1, PR at IV-1.

[131] CR at IV-1, PR at IV-1.

[132] CR at IV-6, PR at IV-3.

[133] CR at IV-6, PR at IV-3. See MCI Prehearing Br. at 18 (discussing new melamine facilities in Indonesia and Korea).

[134] [***]. Chemical Economics Handbook, "Melamine," SRI International (Jan. 1996 & May 1999 draft) ("Chemical Economics Handbook") at 49.

[135] Chemical Economics Handbook, at 49-50 and 56 ***.

[136] MCI Prehearing Br. at 19.

[137] Chemical Economics Handbook at 5 (projecting average annual growth rates through 2003).

[138] Chemical Economics Handbook at 49-50.

[139] See MCI Posthearing Br. at A-47 (indicating that the normal inventory level is one month of annual production capacity). With an annual production capacity level of *** metric tons, an inventory level of *** metric tons nearly equals one month's production capacity. CR at IV-6, PR at IV-3.

significant volumes of imports from Japan in the reasonably foreseeable future, particularly given the Japanese industry's market orientation toward Asia and the likely continued growth in Asian markets.

The other factors we are required to consider do not suggest the likelihood of significant volumes of imports from Japan. There are no significant barriers to importation of melamine from Japan into other markets. In addition, facilities used to produce melamine cannot be used to produce other products.[140] Consequently, there appears to be no potential for product shifting.

In reaching our conclusion, we have considered MCI's arguments about the likely volume of imports. MCI hypothesizes that the Japanese producers have a *** – approximately *** metric tons – ***.[141] MCI derives this volume by adding Japanese inventories in 1998 (approximately *** metric tons), plus the amount of Japanese exports to Europe in 1998 (approximately *** metric tons), plus the planned capacity of a new melamine facility that is expected to open in China later in 1999 (approximately *** metric tons).[142] MCI argues that the volumes shipped to Europe in 1998 were due to high demand in Europe caused by production outages experienced by European producers that are unlikely to be repeated, and that the planned facility in China will displace Japanese product in its traditional Asian markets.[143]

We think it is highly speculative to conclude that all or a substantial portion of the *** metric tons of the planned Chinese facility will simply displace Japanese product in Asia. We note in this regard that current Chinese production is considered to be of ***.[144] Similarly, because current Japanese inventory levels are *** -- and melamine producers must maintain inventories to guard against unexpected production outages[145] – we think it is unlikely that the Japanese producers would deplete all or a substantial portion of their inventories to make sales in the United States.

While the ability to ship a relatively small volume to Europe in 1998 in response to unusual demand conditions and current Japanese inventories suggest some ability to begin shipments to the United States, we do not think it is likely that all or even most of this purported excess supply would be exported to the United States, in light of the Japanese producers' orientation toward other markets and the anticipated growth in those markets. We also note that to date neither the large, established melamine producers in Europe, nor the new producers in Asia have shown the ability to enter the U.S. market to any significant extent. This fact supports the conclusion that other factors, discussed below, make it unlikely that U.S. consumers would readily switch from established sources of supply.

In sum, if the finding were revoked, we think there would be some increase in imports of melamine from Japan into the U.S. market. However, given capacity constraints in Japan, the Japanese producers' orientation toward other markets, and competitive conditions in the U.S. market, we think the likely volume of imports from Japan would not be significant, particularly in light of our analysis of the likely price effects and impact of subject imports.

C. Likely Price Effects of Subject Imports

In evaluating the likely price effects of subject imports if the antidumping finding is revoked, the Commission is directed to consider whether there is likely to be significant underselling by the subject

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[140] CR at II-5, PR at II-3.

[141] MCI Posthearing Br. at A-18-19.

[142] MCI Posthearing Br. at A-22-24.

[143] Id.

[144] CR at II-12, PR at II-8.

[145] See Transcript of Hearing (hereafter "Tr.") (May 20, 1999) at 87-88 (discussing difficulties in maintaining constant production levels).

imports as compared with domestic like products and whether the subject imports are likely to enter the United States at prices that would have a significant depressing or suppressing effect on the prices of domestic like products.[146]

The original determination noted that Japanese melamine was priced substantially higher than domestic melamine in 1974, but by 1975 and early 1976 Japanese melamine was priced as much as 22 percent lower in some instances. The Commission concluded that this underselling contributed to a six percent decline in domestic prices of melamine.[147]

Prices for melamine were strong during the POI, especially in 1998. Average unit values rose by *** percent from *** per pound in 1997 to *** per pound in 1998.[148] Also, the weighted average prices reported by purchasers for products 1, 2, and 3 rose over the POI.[149] Prices of melamine for MCI appear to have declined in the first five months of 1999, but this decline has been only to mid-1997 levels.[150]

The record in this review indicates that while price is an important factor in purchasing decisions, it is not the principal purchasing criterion. Two-thirds of purchasers (10 of 15) indicated that purchasing decisions were either "sometimes" or "never" based mainly on price (as opposed to "always" or "usually").[151] In fact, more purchasers cited "availability" and "quality" as their "Number 1" factor in their purchasing decisions.[152] Purchasers also indicated that country of origin of melamine was not very important (7 of 16 responded "never"). In contrast, *** percent of purchasers indicated that purchasing decisions were "always" or "usually" based on which firm produced the melamine.[153] In this regard, we note that a significant percentage of domestic production -- *** percent in 1998 -- is consumed internally or sold to related purchasers.[154]

The record suggests that the domestic industry has inherent advantages in the U.S. market due to its development of new efficient production processes coupled with lower transportation costs as compared to foreign competitors.[155] MCI testified that in 1989, it began using a new, more efficient technology that it invented and patented, and that it is in the process of building an additional plant using an even more efficient version of this technology.[156] MCI characterized this technology as the "lowest-cost production technology in the world" and one that is more efficient than the technology used by the Japanese producers.[157] This technology gives MCI a distinct cost advantage in the U.S. market.

Given the *** of subject imports, direct price comparisons in the U.S. market were not possible. However, MCI provided some anecdotal evidence regarding current Japanese pricing in third country markets such as Canada. We place less weight on this evidence given the absence of detailed information in the record regarding market conditions in third country markets. However, even this evidence does not persuade us that the Japanese producers would be aggressive price leaders having

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[146] 19 U.S.C. § 1675a(a)(3).

[147] Original Determination at 6.

[148] CR at C-4, PR at C-3.

[149] CR at V-12, PR at V-5-6.

[150] MCI reported that its overall net selling price fell from *** per pound in January 1999 to *** per pound in May 1999. CR at V-6, PR at V-4.

[151] CR at II-10, PR at II-6.

[152] CR at II-11, PR at II-7.

[153] CR at II-10, PR at II-7.

[154] CR at III-A-3, PR at III-2.

[155] Importers reported that transport costs accounted for *** percent of the total cost of melamine, with an average cost of 8.9 percent. CR at V-1, PR at V-1. MCI estimated that the cost of shipping melamine to the United States from Japan is approximately $*** per pound. MCI Prehearing Br. at 22-23.

[156] Tr. at 14, 21, and 70.

[157] Tr. at 85 and 100.

significant adverse price effects in the U.S. market. Instead, this evidence suggests that the Japanese producers would price competitively with other suppliers in the market. For example, MCI cites to a ***. The same salesman call report indicates, however, that ***, a major European producer, was ***.[158] Moreover, even MCI agrees with the characterization by a purchaser in *** that ***.[159]

We recognize that, as in most markets, an additional source of supply could lead to some downward pressure on domestic prices. However, given the attenuated role of price in purchasing decisions, the inherent advantages of the domestic industry, and the competitive nature of this market, we conclude that any underselling that may occur upon revocation of the finding is not likely to be significant, and the limited volumes of subject imports are not likely to enter the United States at prices that would have significant depressing or suppressing effects on prices for the domestic like product.

D. Likely Impact of Subject Imports

In evaluating the likely impact of imports of subject merchandise if the finding is revoked, 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: (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.[160] 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.[161] We have considered the extent to which any improvement in the state of the domestic industry is related to the antidumping finding at issue and whether the industry is vulnerable to material injury if the finding is revoked.

The current condition of the U.S. market is substantially different than the prevailing condition in the 1973-75 period of investigation. Then, the melamine industry was suffering from the effects of a severe recession in the U.S. economy. For example, capacity utilization was only 51 percent in 1975. The Commission found that imports from Japan exacerbated an already injurious condition brought about by the economic recession.[162] In contrast, in 1997-98, the U.S. economy was booming and the domestic melamine industry posted very strong results. Operating income, for example, was *** percent in

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[158] MCI Posthearing Brief at 3 and Exhibit C. See also id. at 2 (summarizing salesman call report characterizing Japanese offers as *** than recent MCI sales prices).

[159] MCI Final Comments at 6 (June 28, 1999).

[160] 19 U.S.C. § 1675a(a)(4).

[161] 19 U.S.C. § 1675a(a)(4). Section 752(a)(6) of the Act states that "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). On December 8, 1998, Commerce published in the *Federal Register* the results of its review and determined that revocation of the finding would lead to the continuation or recurrence of dumping. Commerce predicted margins of dumping of 60.0 percent for Nissan Chemicals, Ltd., and 70.22 percent for all other firms. 63 Fed. Reg. at 67,656.

[162] Original Determination at 5-6.

1998.[163] Moreover, the domestic producers dominate the U.S. market, accounting for *** percent and *** percent of U.S. consumption in 1997 and 1998, respectively.[164]

MCI provided information indicating domestic prices and financial performance *** in early 1999.[165] As discussed above, however, these *** were only to levels that prevailed in 1997, when the industry was very profitable.

We also note that MCI developed and patented a highly efficient production technology in the early 1980s. One of MCI's facilities uses this technology and a more advanced version of this technology will be used in the new, state-of-the-art facility that MCI is building. The new facility is scheduled to open in 2001.[166] MCI's representative testified at the hearing that "we have by far a more efficient process than any of the processes being used in Japan."[167]

For these reasons, we do not consider the domestic industry to be vulnerable to material injury if the finding is revoked. Indeed, we consider this industry to be very strong. It is likely to remain strong, moreover, since U.S. and worldwide demand is expected to grow at an annual rate of *** percent and *** percent, respectively, through 2004.

In these circumstances, we conclude that subject imports would not likely have a significant impact on the domestic industry's operational and financial performance if the finding is revoked. While we anticipate that there would be some increase in the volume of imports from Japan and that these imports would have some effect on domestic prices, we think the domestic industry would readily withstand this increased competition without suffering material injury. This conclusion is supported by the fact that DSM and Cytec, which, through their joint venture, account for nearly *** percent of U.S. production, *** of the antidumping finding. Instead, these companies *** when asked whether they supported or opposed revocation.[168] This fact suggests that the *** of the domestic industry *** that revocation of the antidumping finding would be likely to lead to material injury.

CONCLUSION

For the foregoing reasons, we determine that revocation of the antidumping finding on melamine from Japan would not be likely to lead to continuation or recurrence of material injury to the U.S. melamine industry within a reasonably foreseeable time.

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[163] CR at III-B-5, PR at III-6.
[164] CR at I-20, PR at I-13.
[165] MCI Posthearing Br. at 12-15.
[166] CR at III-A-3, PR at III-1.
[167] Tr. at 100.
[168] CR at I-14, PR at I-10.

PART I: INTRODUCTION AND OVERVIEW

BACKGROUND

In 1975, MCI[1] filed a complaint with Treasury alleging that melamine crystals (hereinafter melamine)[2] imported from Japan were being sold in the United States at LTFV. Treasury instituted an investigation on December 19, 1975, and on September 20, 1976, advised the U.S. Tariff Commission (now the U.S. International Trade Commission) that melamine in crystal form from Japan was being sold in the United States at LTFV within the meaning of the Antidumping Act, 1921, as amended. Accordingly, the Commission, on October 6, 1976, instituted investigation No. AA1921-162 to determine whether an industry in the United States was being or was likely to be injured, or was prevented from being established, by reason of the importation of such merchandise into the United States. On December 20, 1976, the Commission determined that a domestic industry was being injured and was likely to be injured by LTFV imports of melamine from Japan.[3] Treasury published an antidumping duty finding in the *Federal Register* on February 2, 1977.

On August 3, 1998, the Commission instituted a five-year review concerning the antidumping finding on melamine from Japan. On November 5, 1998, the Commission determined that a full review should proceed to determine whether revocation of the finding would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.[4] Information relating to the background of the review is provided in the following tabulation:[5]

Effective date	Action	*Federal Register* citation
February 2, 1977	Treasury's antidumping duty finding	42 FR 6366
August 3, 1998	Commission's institution of five-year review	63 FR 41282
November 5, 1998	Commission's decision to conduct a full review	63 FR 63747 (Nov. 16, 1998)
December 8, 1998	Commerce's final results of expedited sunset review	63 FR 67654
December 23, 1998	Commission's scheduling of full review	64 FR 2233 (Jan. 13, 1999)
May 20, 1999	Commission's hearing[1]	Not applicable

[1] On Nov. 14, 1997, MCI became a wholly-owned subsidiary of Borden.

[2] For the purposes of this review, melamine in crystal form is defined as a fine white crystalline powder used to manufacture melamine formaldehyde resins. This product, if imported, is classified *eo nomine* under subheading 2933.61.00 of the HTS and is dutiable in 1999 at 3.5 percent ad valorem.

[3] Three Commissioners found in the affirmative and three found in the negative. Under the statute, the Commission is deemed to have made an affirmative determination if the Commissioners voting are evenly divided as to whether its determination should be in the affirmative or in the negative.

[4] See the Commission's internet web site (*http://www.usitc.gov)* for Commissioner votes on whether to conduct an expedited or full investigation.

[5] Recent *Federal Register* notices cited in the tabulation are presented in app. A.

Effective date	Action	*Federal Register* citation
July 7, 1999	Date of Commission's vote	Not applicable
July 21, 1999	Commission's determination transmitted to Commerce	Not applicable

[1] The list of hearing witnesses is presented in app. B.

There have been four other Commission investigations concerning imports of melamine. MCI, the original petitioner in this review, was also the petitioner in all of these previous investigations. In early 1979, MCI alleged that melamine in crystal form from Austria, Italy, and the Netherlands was being sold in the United States at LTFV. The Commission's investigation concerning imports of melamine from the Netherlands (No. 731-TA-16) was terminated in April 1980 because Commerce issued a final determination of no LTFV sales. In May 1980, the Commission determined that an industry in the United States was not materially injured or threatened with material injury, and the establishment of an industry in the United States was not materially retarded, by reason of imports of melamine in crystal form from Austria and Italy that were being sold at LTFV.[6] In 1982, the Commission determined that there was no reasonable indication that an industry in the United States was materially injured or threatened with material injury, or that the establishment of an industry in the United States was materially retarded, by reason of allegedly LTFV imports of melamine from Brazil.[7]

SUMMARY DATA

A summary of data collected in the review is presented in appendix C. U.S. industry data are based on questionnaire responses of three firms[8] (two of which share the output of a single production facility) that accounted for 100 percent of U.S. production of melamine during 1997 and 1998. U.S. import data are based on questionnaire responses of importers accounting for 100 percent of imports from Japan and approximately 77 percent of imports from all other sources. A summary of data from the original investigation and from this review is presented in table I-1 on the following page.

[6] *Melamine in Crystal Form From Austria and Italy, Investigations Nos. 731-TA-13 (Final) and 731-TA-14 (Final)*, USITC Pub. 1065 (May 1980).

[7] *Melamine From Brazil, Investigation No. 731-TA-107 (Preliminary)*, USITC Pub. 1303 (Oct. 1982).

[8] MCI, Cytec, and DSM. The latter two firms are 50-50 joint venture partners in AMEL, which operates the physical production facility. AMEL did not submit a producer's questionnaire.

Table I-1
Melamine: Summary data presenting selected items from the original and current investigations, 1973-75 and 1997-98

(Quantity in 1,000 pounds, value in 1,000 dollars, unit values per pound, shares in percent)

Item	1973	1974	1975	1997	1998
U.S. consumption quantity:					
Amount	***	***	***	***	***
Producers' share	***	***	***	***	***
Importers' share					
Japan	***	***	***	***	***
All other	***	***	***	***	***
Total imports	***	***	***	***	***
U.S. consumption value:					
Amount	***	***	***	***	***
Producers' share	***	***	***	***	***
Importers' share					
Japan	***	***	***	***	***
All other	***	***	***	***	***
Total imports	***	***	***	***	***
U.S. production and shipments data:					
Capacity	144,000	150,000	170,000	***	***
Production	118,720	130,672	85,894	***	***
Capacity utilization	82.4	87.1	50.5	***	***
U.S. shipments:					
Quantity	79,308	73,132	48,273	***	***
Value	14,862	21,540	16,186	***	***
Unit value	$0.19	$0.29	$0.34	***	***
Export shipments:					
Quantity	***	***	***	***	***
Value	***	***	***	***	***
Unit value	***	***	***	***	***
U.S. employment and financial data:					
PRWs	238	331	204	***	***
Hours worked (1,000s)	448	572	490	***	***
Net sales	18,007	23,067	23,346	133,022	147,220
COGS	12,265	13,801	17,581	105,897	91,303
Gross profit or (loss)	5,742	9,266	7,765	27,125	55,917
Operating income or (loss)	4,961	8,305	6,622	9,816	47,745
Operating income margin (percent)	27.6	36.0	26.1	7.4	32.4

[1] Less than 0.05 percent.

Source: Data for 1997-98 are compiled from Commission questionnaires in this review. Data for 1973-75 are from the staff report of Dec. 1, 1976.

STATUTORY CRITERIA

Section 751(c) of the Tariff Act of 1930 requires Commerce and the Commission to conduct a review no later than 5 years after the issuance of an antidumping or countervailing duty order or the suspension of an investigation to determine whether revocation of the order or termination of the suspended investigation "would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury."[9]

Section 752(a)(1) of the Act states that the Commission " . . . shall consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the order is revoked or the suspended investigation is terminated. The Commission shall take into account--

> (A) its prior injury determinations, including the volume, price effect, and impact of imports of the subject merchandise on the industry before the order was issued or the suspension agreement was accepted,
>
> (B) whether any improvement in the state of the industry is related to the order or the suspension agreement,
>
> (C) whether the industry is vulnerable to material injury if the order is revoked or the suspension agreement is terminated, and
>
> (D) in an antidumping proceeding, Commerce's findings regarding duty absorption."

Section 752(a)(2) of the Act states that "[I]n evaluating the likely volume of imports of the subject merchandise if the order is revoked or the suspended investigation is terminated, the Commission shall consider whether the likely volume of imports of the subject merchandise would be significant if the order is revoked or the suspended investigation is terminated, either in absolute terms or relative to production or consumption in the United States. In so doing, the Commission shall consider all relevant economic factors, including--

> (A) any likely increase in production capacity or existing unused production capacity in the exporting country,
>
> (B) existing inventories of the subject merchandise, or likely increases in inventories,
>
> (C) the existence of barriers to the importation of such merchandise into countries other than the United States, and
>
> (D) 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."

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[9] Certain transition rules apply to the scheduling of reviews such as this one involving antidumping and countervailing duty orders and suspensions of investigations that were in effect prior to Jan. 1, 1995 (the date the WTO Agreement entered into force with respect to the United States). Reviews of these transition orders will be conducted over a 3-year transition period running from July 1, 1998, through June 30, 2001. Transition reviews must be completed not later than 18 months after initiation. No transition order may be revoked before Jan. 1, 2000.

Section 752(a)(3) of the Act states that "[I]n evaluating the likely price effects of imports of the subject merchandise if the order is revoked or the suspended investigation is terminated, the Commission shall consider whether--

> (A) there is likely to be significant price underselling by imports of the subject merchandise as compared to domestic like products, and
>
> (B) imports of the subject merchandise are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of domestic like products."

Section 752(a)(4) of the Act states that "[I]n evaluating the likely impact of imports of the subject merchandise on the industry if the order is revoked or the suspended investigation is terminated, the Commission shall consider all relevant economic factors which are likely to have a bearing on the state of the industry in the United States, including, but not limited to--

> (A) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity,
>
> (B) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, and
>
> (C) 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.

The Commission shall evaluate all [such] relevant economic factors within the context of the business cycle and the conditions of competition that are distinctive to the affected industry."

Section 752(a)(6) of the Act states that in making its determination, " . . . the Commission may consider the magnitude of the margin of dumping or the magnitude of the net countervailable subsidy. If a countervailable subsidy is involved, the Commission shall consider information regarding the nature of the countervailable subsidy and whether the subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement."

Information obtained during the course of the review that relates to the above factors is presented throughout this report. Responses by U.S. producers, importers, and purchasers of melamine to a series of questions concerning the significance of the existing antidumping duty order and the likely effects of its revocation are presented in appendix D. No producers of the product in Japan responded to similar questions in the foreign producer's questionnaire.

NATURE AND EXTENT OF SALES AT LTFV

On December 8, 1998, Commerce published notice in the *Federal Register* of the final results of its expedited sunset review on melamine in crystal form from Japan. Commerce published dumping margins that it believed to be probative of the behavior of Nissan, and all other producers/exporters. The dumping margin for Nissan is 60 percent, the rate Treasury calculated in its original 1976 determination (41 FR 41727, September 23, 1976). The "all others" rate is 70.22 percent. As a result of its review,

Commerce found that revocation of the antidumping finding would be likely to lead to continuation or recurrence of dumping.

Treasury and Commerce have conducted several administrative reviews. The following tabulation, obtained from Commerce's internet site entitled "Five-Year (Sunset) Reviews," shows the company-specific and "all others" dumping margins (in percent) that resulted from those reviews.

Period of review	C. Itoh	Mitsui	Nichimen	Nissan	Nosawa
Apr. 1, 1978-Jan. 31, 1980	60.00	70.22	60.00	60.00	60.00
Feb. 1, 1980-Jan. 31, 1981	60.00	70.22	60.00	60.00	60.00
Feb. 1, 1981-Jan. 31, 1982	60.00	70.22	60.00	60.00	60.00
Feb. 1, 1982-Mar. 31, 1983	60.00	70.22	60.00	60.00	60.00

The following tabulation presents available data from the U.S. Customs Service concerning the actual duties collected pursuant to the antidumping duty order on melamine in crystal form from Japan and the customs value of imports in 1993-97.

Item	1993	1994	1995	1996	1997
	Value (*dollars*)				
Duties collected	(1)	0	0	(1)	***
Value of imports	(1)	0	0	(1)	***

[1] Not available.

THE SUBJECT PRODUCT

The scope of this review as defined by Commerce is melamine in crystal form from Japan. Melamine in crystal form is a fine white crystalline powder primarily used to manufacture melamine formaldehyde resins. On February 28, 1997 (62 FR 9176), melamine in crystal form with special physical characteristics (100 percent of the particles are smaller than 10 microns) was determined to be within the scope of the order. This review covers all manufacturers and exporters of melamine in crystal form from Japan.

Uses

Melamine is used primarily to manufacture amino resins (i.e., melamine-formaldehyde resins). Major end-use applications for melamine-formaldehyde resins include surface-coatings, laminates, molding-compounds, paper-treatment, adhesives, and textile-treatment applications in the automotive, appliance, dinnerware, furniture, fabric, and wood paneling industries, as shown in table I-2 below.[10]

Table I-2
Melamine: Applications by region (percent)

Application	United States	Japan	Europe	Asia
Coatings	39	14	6	0
Laminates	35	10	56	5
Molding compounds	9	5	4	10
Paper and textiles	5	3	3	0
Adhesives	4	62	25	80
Miscellaneous	8	6	6	5

Source: "The World Melamine Industry," *Nitrogen No. 228* (July-Aug. 1997), p. 51.

The largest U.S. application of melamine, which accounted for approximately 39 percent of U.S. melamine end use in 1997, is in the manufacture of surface-coating resins. In this application melamine-formaldehyde resins are further treated with additional chemicals, with the resultant product rendered insoluble in organic solvents. Principal uses for surface-coating resins are in appliance finishes, automotive topcoats, and metal furniture finishes. Surface-coating resins are also used in intumescent paints used for fire protection. In the presence of intense heat, intumescent paint forms a solid foam that protects the painted surface.

The second largest single use of melamine in the United States, in the form of melamine formaldehyde resins, is in the manufacture of high-pressure laminating resins, accounting for 35 percent of U.S. consumption in 1997. High-pressure laminates are used as surface layers when a combination of decorative effect and durability (e.g., heat, abrasion, and stain resistance) is desired. Typical high-pressure laminate products are kitchen and bathroom counter tops, cabinets, doors, table tops, and partitions in commercial buildings. Although acrylic, diallyl phthalate, and unsaturated polyester resins and polyvinyl chloride impregnated fabric offer some competition to high-pressure laminates, melamine resin is superior in providing the best combination of appearance and durability.

Molding compounds comprise the next largest U.S. use of melamine, accounting for 9 percent of U.S. consumption in 1997. More than 90 percent of all molding compounds are consumed in the production of dinnerware. Other products manufactured with molding

[10] Melamine applications vary by world region. In Asia (and South America) the main application is for adhesives for wooden boards such as plywood, particle board, and fiber board as well as molded dinnerware. In Europe, the major uses of melamine are in wood-like furniture products and in the upper sheet of laminated counter- and table tops. (Transcript, pp. 64-65; "The World Melamine Industry," *Nitrogen No. 228* (July-Aug. 1997), p. 51.)

compounds include ash trays, automobile distributor caps, buttons, school furniture, and toilet seats.

The manufacture of paper-treating resins, textile-treating resins, adhesives, and other miscellaneous uses accounted for approximately 17 percent of U.S. melamine consumption in 1997. Paper-treating resins are used primarily to provide wet strength to paper. Textile-treating resins are used primarily to impart wrinkle resistance to cotton fabrics and to give body to some synthetic fabrics. The bulk of melamine-based adhesives are used in the manufacture of plywood. Leather-tanning agents, ion-exchange resins for water treatment, and gypsum plaster are some of the other types of articles that are made from melamine.

Manufacturing Processes

All world melamine production capacity is based on thermal decomposition of urea. Melamine is commercially derived by heating a mixture of urea and ammonia in either a high- or low-pressure conversion process. The inputs urea and ammonia (carrier gas) react in the presence of heat and pressure to yield melamine (which is then purified) and ammonia and carbon dioxide by-products, which are captured as carbamate (ammonia and carbon dioxide in water).[11]

Following the production of pure melamine, the resultant crystalline product, which contains a large particle size distribution, may be physically ground to yield a product with a smaller particle size distribution. A superfine product, with finer particle sizes and a smaller particle size distribution, is produced by the same grinding process, then sieved from the ground melamine.[12]

Commercial processes to convert urea to melamine have been developed by many companies. High-pressure non-catalytic processes were developed by American Cyanamid Company, Nissan, and MCI. Low pressure gaseous-phase catalytic processes were developed by BASF, DSM NV, and Chemie Linz. The BASF and DSM NV processes are the most widely used; both are low-pressure processes.[13]

MCI operates two melamine production plants at its Donaldsonville, LA, location. Plant M-I, built in 1972, utilizes ***, low-pressure (100 psi) catalytic gas-phase process technology originally designed by DSM NV, and *** reaction vessels. Unground melamine produced by the M-I plant is 99.9 percent pure by weight and contains a wide distribution of particle sizes. This melamine is physically ground to a smaller range of particle sizes; superfine melamine is sieved from the ground product.

Technology for MCI's M-II plant, built in 1989, is *** and involves a continuous high-pressure (2,000 psi), non-catalyst, liquid-phase technology designed by MCI, and *** reaction vessels. In this process, hot urea melt is fed into a reactor under high pressure and then converted directly into a liquid form of melamine, which is then solidified by direct contact with liquid ammonia in a chiller. The gaseous by-products of anhydrous ammonia and carbon monoxide are recovered and returned to the nearby urea plant. The advantage to this process is

[11] Plant trip to MCI melamine production facility, Donaldsonville, LA, Feb. 26, 1999.
[12] Ibid.
[13] "The World Melamine Industry," *Nitrogen No. 228* (July-Aug. 1997), p. 43.

the formation of about 97 percent pure crystalline melamine without recrystallization. Melamine of this purity is suitable for many applications.[14]

The M-II plant produces general purpose (GP) melamine. GP melamine consists of very fine crystals coalesced into larger particle sizes in a large particle size distribution. Most impurities are larger molecules made up of two or three melamine molecules stuck together. Although this GP melamine may appear slightly yellow, rather than white, impurities as described above pose no problems in most melamine applications.[15]

MCI's M-II melamine process plant is the only melamine plant in the world that does not recrystallize melamine product. MCI has further developed its non-recrystallization melamine process technology, referred to as M-4, slated for use in its plant currently being built near Memphis, TN, to be ***.[16]

DOMESTIC LIKE PRODUCT ISSUES

In its original determination, the Commission found that, "Although there are differing manufacturing processes by which melamine is produced and various raw materials used in its production, melamine, by and large, is a uniform end product."[17] There were no like product issues addressed in the Commission's Statement of Reasons. In this five-year review, petitioners view like product as in the original Commission investigation. However, a like product issue has been raised by respondent Taiyo, which cited the unavailability of U.S.-produced melamine having the fine particle size and particle size distribution required by Taiyo. In letters to both Commerce and the Commission, Taiyo requested that melamine with 100 percent of the particles smaller than 10 microns be excluded from the scope of the order.[18] Taiyo also contends that, because the small quantity of the "unique fine particle sized powdered" melamine it imports from Japan is not used to "manufacture melamine formaldehyde resins," it should not be subject to the antidumping order. Taiyo adds that the melamine it imports from Japan is used as a raw material in its specialty inks.

All melamine, regardless of particle size, has a similar chemical composition.[19] Product may be differentiated by particle size distribution and packaging preference. Product interchangeability determination relies on user preference for their specific process. All melamine is sold through identical channels of distribution, regardless of particle size distribution or packaging. All melamine is produced on process-specific equipment using the same production employees. Only melamine can be produced on the equipment and machinery

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[14] MCI plant trip, Feb. 26, 1999.

[15] Ibid.

[16] Ibid.

[17] *Melamine in Crystal Form From Japan, Investigation No. AA1921-162*, USITC Pub. 796 (Dec. 1976), p. 3. The Commission generally considers a number of factors in defining the domestic like product, including: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) common manufacturing facilities, production processes and production employees; (5) customer and producer perceptions; and where appropriate, (6) price.

[18] Taiyo is a U.S. importer and user of melamine from Japan. Taiyo purchases melamine from its parent company (Taiyo Ink Mfg. Co., Ltd.) in Japan; the melamine is made in Japan by Nissan. As indicated earlier, on Feb. 28, 1997, Commerce determined that melamine with 100 percent of the particles smaller than 10 microns is within the scope of the existing antidumping order.

[19] Melamine purity may vary slightly depending upon production process.

used in the production of melamine. MCI has in-house capability to grind melamine crystals to user specified particle size distribution requirements. However, users also have the option to buy either unground or ground melamine to be independently ground to specific process requirement particle size distribution tolerances. Melamine ground to specific tolerance levels may command a compensatory price premium.[20]

U.S. MARKET PARTICIPANTS

U.S. Producers

The two firms comprising the domestic industry producing melamine are shown in table I-3. One of the two firms, MCI, is the petitioner in the Commission's original antidumping investigation and opposes the revocation of the current dumping order on imports of melamine from Japan. Neither joint venture partner in the other producer, AMEL, ***. AMEL, formed in 1987 as a 50-50 joint venture between Cytec and DSM, is the larger U.S. producer of melamine, accounting for *** percent of domestic production in 1998.

Table I-3
Melamine: U.S. producers and their plant locations, melamine products produced, and their shares of production in 1998

Firm	Plant locations	Melamine products produced	Share of U.S. production (*percent*)
AMEL	Westwego, LA	Unground and ground	***
MCI[1]	Donaldsonville, LA	Unground, ground, and "Superfine"	***

[1] Petitioner.

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

AMEL owns a melamine manufacturing facility at Cytec's Fortier facility located near Westwego, LA, in which it began operations in April 1989 with an annual capacity of ***.[21]

On November 14, 1997, MCI became a wholly-owned subsidiary of Borden, which, in turn, is a wholly-owned subsidiary of Borden, Inc. MCI accounted for *** percent of domestic industry production of melamine in 1998. MCI's melamine production facility is located in Donaldsonville, LA. In 1989, MCI started up its M-II production plant in Donaldsonville. The M-II plant has an annual capacity of 15,000 metric tons (33 million pounds). Start-up of the M-II plant was completed in April 1991. In 1998, MCI (and Borden) announced plans for a new

[20] Transcript, pp. 16-17.

[21] Prior to Dec. 17, 1993, Cytec was a unit of American Cyanamid Co. At the time of the Commission's 1976 investigation, the Fortier, LA, plant was owned by American Cyanamid Co. The estimated annual capacity of the Fortier plant in 1976 was 70 million pounds, or 41 percent of aggregate U.S. capacity in that year.

melamine plant with an annual capacity of 30,000 metric tons (66 million pounds) to be built near Memphis, TN. It is anticipated that the Memphis plant will begin production in 2001.[22]

Global Capacity

Worldwide annual melamine production capacity was estimated at approximately 665,000 metric tons per year in 1997.[23] Five major melamine producers together account for over 60 percent of world melamine capacity. DSM is the world's largest international melamine producer with about 25.5 percent of global melamine capacity located in facilities in three different parts of the world (one-half of the U.S. AMEL joint venture, one in the Netherlands, and one in Indonesia). Agrolinz of Europe, with an estimated 13.5 percent of global capacity from production facilities in Austria and Italy, is second largest. MCI of the United States and BASF of Germany, each with an estimated 7.2 percent each of global capacity, are tied for third, followed closely by Nissan of Japan with an estimated 6.9 percent. Table I-4 summarizes the estimated annual production capacity of major global melamine producers in 1997.

U.S. Importers

The Commission sent questionnaires to 39 firms that were believed to have imported melamine in 1997 or 1998. Two of the firms, Taiyo and ***, were importers of the product from Japan and 37 were importers from nonsubject countries. Nonsubject respondent importers accounted for approximately 76 percent of 1998 imports on the basis of value. These firms imported melamine primarily from Canada, China, Korea, Indonesia, Spain, the Netherlands, Italy, and Hong Kong. Twenty-three of the 39 firms (including Taiyo and ***) submitted responses to the questionnaires; 14 of these supplied usable data.

Taiyo is owned by Taiyo Ink Manufacturing Co., Ltd., in Japan and is located in Carson City, NV. Two U.S. producers, MCI and DSM (one of the two joint venture partners in AMEL), reported imports of nonsubject melamine, from Italy (***) and the Netherlands (***).

U.S. Purchasers

The Commission sent questionnaires to 22 firms that were believed to be purchasers of melamine in 1997 and 1998. Usable responses were received from 17 purchasers, all of which were end users. The companies are located in Ohio (4 purchasers), Connecticut (2), North Carolina (2), Texas, California, Georgia, Missouri, New Jersey, Oregon, South Carolina, Washington, and Wisconsin.

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[22] "Borden to Build Melamine Unit," *Chemical Marketing Reporter* (Dec. 21, 1998), p. 3.

[23] "The World Melamine Industry," *Nitrogen No. 228* (July-Aug. 1997), p. 51. Capacities may be understated. However, countries, companies, and orders of magnitude cited remain valid.

Table I-4
Melamine: Selected estimated global capacity, 1997

Region/Country	Company	Capacity *(1,000 metric tons)*	Percent
United States			
	MCI	48	7.2
	AMEL	60	9.0
Total United States		108	16.2
Japan			
	Nissan	46	6.9
	Mitsui	40	6.0
	Mitsubishi	30	4.5
Total Japan		116	17.4
Europe			
Netherlands	DSM	90	13.5
Austria	Agrolinz	50	7.5
Germany	BASF	48	7.2
Italy	Agrolinz	40	6.0
Poland	Pulawy	30	4.5
Other Europe		24	3.6
Total Europe		282	42.4
Asia			
China	Sichuan Chemical	12	1.8
Other China		13	2.0
Total China		25	3.8
Indonesia	DSM	50	7.5
	Sri Melamine Rejeki	20	3.0
Total Indonesia		70	10.5
Korea	Namhae Chemical	20	3.0
	Samsung	16	2.4
Total Korea		36	5.4
Saudi Arabia	SAFCO	20	3.0
Other Asia	(India, Iran)	8	1.2
Total Asia		159	23.9
Total selected		665	100.0

Source: "The World Melamine Industry," *Nitrogen No. 228* (July-Aug. 1997), p. 51.

APPARENT U.S. CONSUMPTION

The quantity of apparent U.S. consumption decreased 5.6 percent from 1997 to 1998, as shown in table I-5, while the value of U.S. consumption increased by 14.1 percent.

Table I-5
Melamine: U.S. shipments of domestic product, U.S. import shipments, by sources, and apparent U.S. consumption, 1997-98

* * * * * * *

U.S. MARKET SHARES

Table I-6 shows that from 1997 to 1998, the market share held by U.S. producers decreased by 1.5 percentage points on the basis of quantity and 2.0 percentage points on the basis of value. The share for imports from Japan was less than 0.05 percent in both years. Accordingly, the market share held by imports from other sources increased by 1.5 percentage points on the basis of quantity and 1.9 percentage points on the basis of value.

Table I-6
Melamine: Apparent U.S. consumption and market shares, 1997-98

* * * * * * *

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

CHANNELS OF DISTRIBUTION AND MARKET SEGMENTATION

Both U.S.-produced and imported melamine in the U.S. market are allocated primarily to either internal consumption/company transfers or sales to end users in the merchant market. Available information indicates that the majority of both U.S.-produced and imported melamine went to end users. During 1998, data reported by U.S. producers indicate that *** of their melamine production went to end users, and *** was for internal consumption/company transfers.[1] Data from importers indicate that *** of their melamine imports went to end users, and *** was for internal consumption/company transfers.[2]

Purchaser questionnaires suggest some, perhaps evolving, market segmentation based on country of origin. Six of nine purchasers report buying only U.S. melamine because of the superior quality of the product. While the data are limited regarding country-to-country comparisons, melamine from China appears to be relatively lower in overall quality as compared to melamine from the United States, Japan, Korea, and Europe. *** reported that U.S. and Korean melamine are used in similar applications, but Chinese material is not used in identical applications because of higher impurity and moisture contents. Similarly, *** reported that equivalent usages exist for U.S.-produced melamine versus European, Indonesian, and Japanese material, while Chinese melamine is not used in the same applications because of unsuitable quality.

The only three reported instances of failed attempts to qualify new suppliers involved firms from China and Indonesia.[3] Further, *** reported declining to purchase less expensive material from China due to quality concerns.

U.S. MARKET - 1975 AND 1998

Total domestic capacity in 1975 was approximately two-thirds of the current level, and consisted of three U.S. producers -- MCI, American Cyanamid, and Allied Chemical -- with shares of total U.S. capacity at 41, 41, and 18 percent, respectively. Together, these three firms accounted for approximately *** percent of the value of U.S. apparent consumption.[4] Imports accounted for *** percent of the value of 1975 domestic consumption, with Japan accounting for nearly 80 percent of total imports. Other major suppliers of imported melamine during this time period were Italy, Austria, and the Netherlands.[5]

Currently, there are two U.S. producers of melamine -- MCI and AMEL -- which together account for *** percent of the 1998 value of U.S. apparent consumption. Of these two companies, *** has the greater share of total U.S. production at *** percent, while *** has *** percent. Imports

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[1] Current information on distribution channels is somewhat similar to that reported in the Commission's original melamine report from 1976. At that time, captive use/internal transfers accounted for approximately one-third of annual U.S. production, with most of the remaining two-thirds sold directly to end users. At the May 20, 1999 hearing, MCI stated that none of its production was internally consumed. MCI engages in transfers to related companies which are "arm's length sales at prices comparable to the market." Transcript, p. 106.

[2] Percentages reflect compiled data for all responding importers regardless of country of origin for imported melamine. Only two responding importers, *** and ***, report importing Japanese melamine. All melamine imported by *** and *** went to internal consumption.

[3] *** reported that melamine produced by *** and *** of China, as well as *** of Indonesia, failed to meet quality requirements. Similarly, *** and *** responded that Chinese melamine failed to meet quality requirements, but did not provide the names of the suppliers.

[4] Staff report of Dec. 1, 1976, pp. A-9, A-17, and A-22.

[5] Ibid., pp. A-20 to A-22.

currently account for *** percent of the value of apparent domestic consumption, with Japanese imports representing virtually none of this figure. Significant suppliers of imported melamine in 1998 were Canada,[6] China, Korea, and Indonesia.

SUPPLY AND DEMAND CONSIDERATIONS

Melamine Business Cycle

The relevant factors affecting the melamine business cycle are urea prices (the primary raw material in melamine production) and capacity changes on the supply side, and U.S. economic growth on the demand side. For example, when low urea prices and "mature" capacity[7] combine with robust economic growth, the melamine business cycle is at a peak. This particular set of conditions existed during the last two years, and is the alleged cause of strong profits for the U.S. melamine industry during this time frame. In contrast, 1999 is claimed to be a period of decline in the melamine business cycle due to higher urea prices and stagnating demand in the U.S. market.[8]

U.S. Supply

Domestic Production

Based on available information, U.S. melamine producers are likely to respond to changes in demand with moderately high changes in the quantity of shipments of U.S.-produced melamine. The main factors limiting the responsiveness of supply are high capacity utilization rates and the inability to shift to or from melamine production.[9] Offsetting these limitations, however, are increasing end-of-period inventories and strong (but weakening) export market sales. It should also be noted that the ability to respond to changes in demand is at least partially dependent upon the ability to supply the quality level and particle size(s) for which melamine demand exists.[10]

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[6] Canadian imports are primarily transshipments from European producers. Interview with *** of SRI.

[7] With new additions to capacity, fixed costs rise and profitability declines due to problems in ramping up the new capacity. When these problems are resolved and the new capacity has been in use for a suitable time period ("mature" capacity), costs decline and profitability rises.

[8] Posthearing brief submitted on behalf of MCI, dated June 1, 1999, pp. A-28 - A-29.

[9] Response to the notice of institution submitted on behalf of MCI, dated Feb. 11, 1999, p. 10.

[10] *** reported that it must import the fine grind necessary for its ink applications from Japan because no U.S. producer sells this very fine grind (average particle size less than 5 microns). *** has countered that domestically produced melamine can be further refined by a U.S. grinder in lieu of importation from Japan; thus U.S.-produced melamine is acceptable for applications requiring smaller particle sizes. Further, 10 of 15 purchasers reported that exact specifications of melamine do not vary depending on end use.

Industry Capacity

Data reported by U.S. producers indicate that there is minimal capacity with which to expand production.[11] Domestic capacity utilization rose from *** percent in 1997 to *** percent in 1998. Further, the reported inability to switch between production of melamine and other chemicals implies that reported capacity is the definitive upper bound because product shifting is not an option.

Inventory Levels

The relatively high inventories at the end of the period of investigation indicate that U.S. producers have an increasing ability to immediately respond to changes in demand. Inventories increased substantially from *** million pounds in 1997 to *** million pounds in 1998, representing *** percent of annual shipments in 1997 and *** percent in 1998. Relative to U.S. consumption, inventories represented *** percent of demand in 1997 and *** percent in 1998.

Export Markets

Primary export markets for U.S.-produced melamine in 1998 were Canada, the Netherlands, and Brazil, which comprised ***, ***, and *** percent of total U.S. melamine exports, respectively. Available data indicate that U.S. producers have experienced a decline in export sales of melamine since 1997. As a share of total shipments, exports accounted for *** percent in 1997 and fell to *** percent in 1998 (based on value). These data suggest that U.S. producers have a substantial, albeit a somewhat weakening, ability to respond to changes in prices in the U.S. market by diverting melamine to or from the U.S. market.

In response to the Commission's question regarding ability to shift sales between the U.S. market and alternative country markets, *** noted that it is currently quite difficult to penetrate certain export markets due to the Asian crisis, Japan's recession, and new production in Southeast Asia.

Production Alternatives

According to U.S. producers, there are no production alternatives for melamine because melamine production requires the use of specialized equipment unadaptable to the production of other products.

Subject Imports

Based on limited available information, Japanese melamine producers may respond to changes in demand with relatively large changes in the quantity of shipments of Japanese melamine to the U.S. market. The primary factors behind this projected high degree of responsiveness are increasing inventories and declining demand in alternative markets.[12] As noted for U.S. producers, the ability to react to changes in melamine demand is at least partially dependent upon the ability to supply the quality level and particle size(s) for which demand exists.

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[11] AMEL has approved plans to invest approximately $20 million to increase capacity (expected to come on line in late 1999) by about 170 million pounds per year. Cytec 10-K reports for 1996-98.

Borden (which now operates MCI) plans to invest $73 million to build a new melamine plant (operational in 2001) with a capacity of 66 million pounds per year. Response to the notice of institution submitted on behalf of MCI, dated Feb. 11, 1999, p. 9.

[12] Response to the notice of institution submitted on behalf of MCI, dated Feb. 11, 1999, pp. 5-6.

Industry Capacity

Based on available information, capacity utilization was ***.[13]

Inventory Levels

*** believes that inventory levels for Japanese melamine producers are increasing due to weaker demand resulting from the Asian economic crisis and new capacity in some primary export markets of Southeast Asia. Available data indicate that inventories represented ***.[14]

Alternative Markets

Data from 1998 indicate that at least *** percent of Japanese exports went to Southeast Asian countries.[15] Since 1995, ***.[16] Nevertheless, weaker melamine demand in certain Southeast Asian markets suggests that Japanese producers may have substantial ability to divert melamine to the U.S. market.

U.S. Demand

Demand Characteristics

Over *** percent of U.S. melamine production is consumed in melamine resins (primarily melamine-formaldehyde resins), while the remaining amount is largely consumed in the production of flame retardants. Demand for melamine is primarily dependent upon the economic strength of ***.[17]

Available information indicates an average annual growth rate for U.S. melamine consumption of *** percent for the period 1994 to 1998.[18] Comparable information was reported by U.S. producers, importers, and purchasers, who expressed general agreement that overall demand for melamine in the United States showed a modest increase over the past two decades in line with overall economic growth.[19] Importers and purchasers reported new or greater use in laminated flooring, flame retardants, cookware, and furniture as key factors behind recent increased demand.

Substitute Products

Based on questionnaire responses from U.S. producers, importers, and purchasers, there are no direct substitutes for melamine, particularly in the production of melamine-formaldehyde resins. Among producers, *** noted that any substitution would occur among downstream products. Among importers and purchasers, polymeric methylene diphenol isocyanate may be a substitute in adhesives, and polyol may be a partial substitute in polyurethane foams. However, respondents generally view such substitute products as imperfect due to negative side effects and/or higher costs.

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[13] Prehearing brief submitted on behalf of MCI, dated May 13, 1999, Attachment E, pp. 43-44.

[14] Ibid.

[15] On a country-by-country basis, ***. Ibid., p. 50.

[16] Ibid.

[17] *Chemical Economics Handbook,* "Melamine," SRI International, May 1999 (draft), pp. 17-18.

[18] Ibid.

[19] MCI describes the U.S. melamine market as exhibiting growth slightly better than GNP, while the European market exhibits growth in line with GNP. According to MCI, the U.S. market is evolving into a "GNP market" as the U.S. moves toward the European level of melamine consumption. Transcript, pp. 64-65.

In some applications, available information indicates that several other substitutes exist for major intermediate products of melamine. ***.[20]

Cost Share

Based on limited available information, melamine represents approximately *** percent of the variable manufacturing cost of melamine-formaldehyde resins. For the three primary subsets of melamine-formaldehyde resins, melamine as an input relative to total variable manufacturing cost equates to approximately *** percent for melamine surface coatings, *** percent for melamine laminates, and *** percent for molding compounds.[21] These represent intermediate products, however, and the melamine cost share is substantially less for final goods. Available data indicate that the melamine cost share for many end use products is *** percent.

TRENDS IN U.S. SUPPLY AND DEMAND

Producers, importers and purchasers were asked to identify supply factors that affected the availability of U.S. and Japanese melamine in the U.S. market since 1977. While importers were generally unfamiliar with factors affecting Japanese supply (other than the antidumping finding currently under review), purchasers and producers cited similar factors in their responses concerning U.S.-produced melamine.

Capacity expansions by U.S. producers beginning in the late 1980s and continuing throughout the 1990s significantly increased melamine availability in the U.S. market. *** reported that weaker domestic demand in 1993 led to curtailed U.S. production. One purchaser, ***, noted that from 1993 forward there was limited availability of U.S.-produced material, which eventually forced some purchasers to buy imported melamine. Over the past 2 years, manufacturing problems at U.S. plants and the purchase of MCI by Borden[22] were cited as key factors in the relatively limited availability of U.S.-produced melamine and concurrent price increases.

Information supplied by respondents indicates that planned additional U.S. capacity, as well as new Asian capacity, should provide adequate future melamine supplies in the U.S. market,[23] despite projected high growth in certain market segments, particularly laminated flooring, which is expected to

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[20] *Chemical Economics Handbook,* "Melamine," SRI International, May 1999 (draft), pp. 19-21, 26, 28, and interview with *** of SRI.

[21] According to *** and *** of ***, these cost share ranges appear reasonable for variable manufacturing costs. In order to estimate melamine cost share as a percent of total cost, they suggest that these figures be reduced by 50 percent.

[22] Borden's 1997 purchase of MCI was cited by some purchasers as reducing the amount of melamine on the market because Borden uses much of MCI's production for its consumption requirements. *** reported that Borden/MCI severed their relationship as a melamine supplier to *** in early 1998 because Borden and *** are direct competitors.

[23] One importer commented that MCI's planned capacity expansion using the M-II production process does not create a product "good enough to cover applications other than plywood glue." Similarly, one purchaser noted that Stamicarbon (low-pressure) technology, not the M-II process, is suitable to its applications. Since MCI is only adding capacity using the lower-cost M-II technology, there is concern over the future price and availability of Stamicarbon-produced melamine.

According to ***, the current M-II product ***. Posthearing brief submitted on behalf of MCI, dated June 1, 1999, p. A-39.

continue experiencing strong growth (approximately 10 percent per year) into the near future. Overall, U.S. melamine consumption is projected to grow *** percent through 2004, as compared to *** percent for worldwide growth.[24]

SUPPLY AND DEMAND IN THE JAPANESE HOME MARKET

Available information indicates that the average annual growth rate for Japanese melamine consumption was *** percent for the period 1994 to 1998. ***.[25] One U.S. importer noted that Japanese producers have effectively blocked imports into Japan by maintaining lower domestic prices as compared to global competitors.

Estimates of real GDP for Japan over the next 5 years show negative growth followed by moderate economic expansion. Estimates expressed as a percentage change from the previous year are as follows: (2.7) percent in 1999, 0.5 percent in 2000, 0.7 percent in 2001, 1.8 percent in 2002, 2.3 percent in 2003, and 2.5 percent in 2004.[26] Similarly, an Economic Planning Agency survey reported that major Japanese companies are pessimistic about Japan's economic prospects for the next 3 years, with average annual growth projected to be no more than 0.8 percent.[27] Average annual growth for Japanese melamine consumption in the home market is projected to be *** percent for the period 1998-2003.[28]

SUBSTITUTABILITY ISSUES

The degree of substitution between domestic and imported melamine depends upon such factors as relative prices, quality (e.g., purity), and conditions of sale (e.g., price discounts/rebates, payment terms, product support, etc.). Based on available data, staff believes that there is a moderate to high degree of substitution between domestic melamine and melamine imported from Japan.

Factors Affecting Purchasing Decisions

While price is an important factor in the sale of melamine, other factors such as quality and product availability may be equally, if not more, important considerations in purchase decisions. Table II-1 summarizes purchasers' responses concerning the top three factors that they consider in melamine purchasing decisions. As indicated in the table, quality and availability were cited most frequently by responding purchasers as the primary factors when purchasing melamine.[29]

Another question asked of purchasers reveals that price is indeed a very important factor. When asked how often their firms' purchase decisions for melamine were based mainly on price, 5 out of 15 indicated answers of "always" or "usually," 7 indicated "sometimes," and only 3 indicated "never." Akin to the results shown in table II-1, most purchasers who did not report that melamine buying decisions were always based on price cited quality, availability, and supplier support as more important factors.

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[24] *Chemical Economics Handbook,* "Melamine," SRI International, May 1999 (draft), p. 5.

[25] Prehearing brief submitted on behalf of MCI, dated May 13, 1999, Attachment E, p. 45.

[26] DRI - *World Economic Outlook,* First Quarter 1999, p. A-3.

[27] *Japan Digest,* Apr. 26, 1999, p. 13.

[28] Prehearing brief submitted on behalf of MCI, dated May 13, 1999, Attachment E, p. 45.

[29] MCI believes that price is always the most important factor in purchase decisions. Transcript, p. 96.

Similar questions concerning the country of origin and producer of melamine suggest that, while country of origin may not be an important factor,[30] melamine purchase decisions based on which firm produced the material are quite common. Ten of 16 purchasers answered this question with responses of "always" or "usually". Superior quality, availability, and reliability of supply were, once again, key factors in purchasers' decisions to favor certain producers over others.

Table II-1
Melamine: Ranking of factors used in purchasing decisions for unground and ground melamine crystal, as reported by U.S. purchasers

Factor	Number 1 factor	Number 2 factor	Number 3 factor
	Number of firms reporting		
Availability	5	4	2
Price	2	4	6
Quality	5	5	1
Other[1]	2	1	5

[1] Category includes prearranged contracts, supplier support, and use of traditional supplier.

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

Comparison of Domestic Products and Subject Imports

All U.S. producers and 6 of 11 importers believe that U.S. and Japanese melamine are used interchangeably. While most importers who did not answer with the majority reported having no knowledge of product interchangeability between the two relevant categories, *** reported that no U.S. producer provides the very finely ground melamine necessary for its applications. Further, several importers indicated other dissimilarities with respect to product characteristics, such as the longer lead times for Japanese material.

Due to the lack of imports from Japan, the Commission obtained subject import data from ***.[31] Responses to various questions reveal that U.S. and Japanese melamine are used in the same applications, and are generally comparable with the exceptions that Japanese melamine is inferior in terms of delivery time and transportation network.[32]

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[30] Seven purchasers responded "never", 4 responded "sometimes", and 4 responded "always". Quality was again cited as the primary reason behind purchase decisions where country of origin was the main factor.

[31] *** purchased Japanese melamine in the second quarter of 1998. The price data are unusable because *** was unable to categorize the subject imports by particle size as requested by the Commission. However, the company's responses to qualitative parts of the Commission's questionnaire have been incorporated into this report.

*** purchased Japanese melamine in Canada in the fourth quarter of 1998. While price data reported by *** are unusable, the company's responses to qualitative parts of the Commission's questionnaire have been incorporated into this report.

[32] MCI contends that these differences exist because of the dumping order, and would be erased (i.e., through stockpiling at U.S. subsidiaries) if the order were revoked. Thus, according to MCI, revocation would result in U.S.-produced and subject melamine becoming perfect substitutes which compete solely on price. Transcript, p. 28.

Comparison of Domestic Products and Nonsubject Imports

All U.S. producers and 10 of 12 importers believe that U.S. and nonsubject melamine are used interchangeably. In the two instances where importers did not answer with the majority, one reported having no knowledge of product interchangeability between the two relevant categories, and the other reported that Chinese material is not interchangeable due to inferior quality. Further, several importers indicated longer lead times as a product characteristic which makes nonsubject imports less desirable as compared to the domestic product.

The Commission obtained nonsubject import data from five purchasers, specifically for melamine from China, Indonesia, Italy, and Korea. Responses to various questions reveal that U.S. and nonsubject melamine are used in the same applications with the exception of reportedly inferior material from China.

Comparability between U.S. and nonsubject material varied by country. However, available information indicates that the least amount of comparability relative to U.S. material exists for Chinese and Indonesian melamine, where U.S. material was cited as vastly superior with the exceptions of price, discounts, and availability. In contrast, U.S. melamine is quite comparable to Italian and Korean melamine. Purchaser data reveals that Italian melamine may be superior to U.S. material in terms of discounts and transportation costs, but potentially inferior in reliability, delivery terms, and technical support. Korean material may be inferior to U.S. material in terms of transportation network as well as the aforementioned three criteria, but potentially superior to U.S. material in terms of price and discounts.

Comparison of Subject Imports and Nonsubject Imports

Two U.S. producers[33] and 7 of 12 importers believe that Japanese melamine and nonsubject melamine are used interchangeably. With one exception,[34] all firms that did not answer with the majority reported having no knowledge of product interchangeability between the two relevant categories. One importer, ***, reported that Japanese melamine is superior to nonsubject material in quality control and transportation networks.[35]

MODELING ESTIMATES

U.S. Supply Elasticity

The domestic supply elasticity for melamine measures the sensitivity of the quantity supplied by U.S. producers to changes in the U.S. market price for melamine. The elasticity of domestic supply depends on several factors, including the level of excess capacity, the ease with which producers can alter capacity, producers' ability to shift to production of other products, the existence of inventories, and the availability of alternate markets for U.S.-produced melamine. Previous analysis of these factors indicates that the U.S. industry is likely to be able to increase or decrease shipments to the U.S. market

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[33] Within the AMEL joint venture, *** reported no knowledge of interchangeability, but *** reported that subject and nonsubject imports of melamine are interchangeable.

[34] *** reported that the two products were not interchangeable, but did not provide information on the reasoning behind its answer.

[35] MCI perceives subject producers as a greater threat to the U.S. melamine industry than nonsubject producers based on historic marketing approaches exhibited by these two groups. According to MCI, Japanese producers have the desire and ability to aggressively enter the U.S. market and set up long-term supply arrangements with U.S. purchasers. In contrast, nonsubject producers have significantly less capacity and generally enter the U.S. market on a short-term, opportunistic basis. Transcript, pp. 20 and 109.

within a 1 year time frame primarily due to high inventory levels and strong sales in export markets. Available data indicate that the domestic supply of melamine to the U.S. market is within the range of 3 to 5. *** did not comment on the supply elasticity estimate.

U.S. Demand Elasticity

The U.S. demand elasticity for melamine measures the sensitivity of the overall quantity demanded to a change in the U.S. market price for melamine. This estimate depends on the factors discussed earlier, such as the existence, availability, and commercial viability of substitute products. As noted earlier, there are some products that have been cited as potential substitutes for melamine; however, there appear to be limitations for these substitute products. Based on available information, the aggregate demand for melamine is likely to be in a highly inelastic range of -0.1 to -0.5.[36]

*** argues that the demand elasticity is less than -0.2 due to the lack of viability of substitute products. Staff agrees that available substitutes for melamine are limited and not perfect. However, information obtained since the prehearing report reveals that substitution based on relative prices may occur for certain melamine uses. For example, ***.[37]

Substitution Elasticity

The elasticity of substitution depends upon the extent of product differentiation between the domestic and imported products.[38] Product differentiation, in turn, depends upon such factors as quality and conditions of sale. Based on available information, the elasticity of substitution between U.S.-produced and subject melamine is likely to be fairly high, within a range of 2 to 5, indicating that purchasers will switch purchases to the imported product as the relative prices change.

*** disagreed with the original substitution elasticity estimate range of 2 to 4 based on the belief that U.S.-produced and subject melamine would be perfect substitutes in a U.S. market without the dumping order. Staff agrees that without the duty as a barrier to entry, Japanese melamine has the potential to be a closer substitute to U.S.-produced melamine. However, staff does not agree with ***'s belief that the substitution elasticity is "possibly infinite."[39] Available information indicates that many purchasers are satisfied with the quality and reliability of supply in their existing U.S. supplier relationships. Purchasers appear to value these relationships, with 12 of 15 reporting that they never (7) or rarely (5) change suppliers. Positive brand awareness appears to exist for U.S. producers, as most reporting purchasers (who primarily buy U.S. material) make purchasing decisions based on the melamine producer. Moreover, some purchasers reported only buying imported material because they were unable to obtain melamine from a U.S. supplier. Thus, even if differences in lead time and supplier support were mitigated, staff does not believe the substitution elasticity of U.S.-produced melamine and Japanese melamine would approach infinity.

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[36] In the prehearing report, the demand elasticity for melamine was estimated to be in a range of -0.5 to -1.0. Information obtained since the prehearing report has been incorporated into the new estimate of melamine demand elasticity.

[37] In most cases, this is not strictly competition on price, but a cost/performance trade-off. Melamine laminates and melamine surface coatings are actually intermediate products, yet demand for these intermediate products impacts the overall demand for melamine. *Chemical Economics Handbook.* "Melamine," SRI International, May 1999 (draft), pp. 19-21, 26, 28, and interview with *** of SRI.

[38] The substitution elasticity measures the responsiveness of the relative U.S. consumption levels of the subject imports and U.S. like products to changes in their relative prices. This reflects how easily purchasers switch from the U.S. product to the subject products (or vice versa) when prices change.

[39] Transcript, p. 28.

Exogenous Growth in Demand

As discussed previously, melamine demand depends primarily on ***. Projections for automotive production and construction investment indicate growth over the next 4 years at average annual rates of 1.2 and 0.8 percent, respectively, and GDP is projected to grow at an average annual rate of 2.3 percent in this same time frame.[40] Questionnaire responses indicate that the majority of U.S. producers, importers, and purchasers of melamine expect stable demand growth for the next 2 to 5 years, with increased demand for laminates offsetting weaker or stagnant demand in other segments. Based on available information, exogenous growth in melamine demand is likely to be in the range of 2.0 to 5.0 percent per year through 2004. *** did not comment on the exogenous growth in demand estimate.

Model Discussion

While simulation models are frequently used by economists to estimate the likely impact of trade policy changes such as tariff increases/reductions or the imposition of quotas, particular difficulties with the most common methodologies arise when imports are imperfect substitutes for domestic goods and their baseline market share is zero or close to zero. The most significant problem relates to measuring the effects of trade policy changes as percentage changes from baseline levels. When the baseline value of the import market share is zero or close to zero, it is no longer possible to estimate changes in import levels as a percentage of the baseline values. The typical methodology employed by staff to estimate the likely impact of the recurrence or continuation of dumping in five-year review cases suffers from these same limitations. In the current case, the 1998 (baseline) U.S. market share for melamine from Japan is *** percent. As a result, no formal simulation modeling was conducted by staff.[41]

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[40] DRI - *The U.S. Economy*, Mar. 1999, pp. 10 and 63.

[41] The simulation models typically used by the Commission are partial equilibrium models that assume domestic and imported products are less than perfect substitutes. Such models, also known as Armington models, are relatively standard in applied trade policy analysis and are used for the analysis of trade policy changes in both partial and general equilibrium. Based on the discussion earlier, staff has selected a range of estimates that represent price-supply, price-demand, and product-substitution relationships (i.e., supply elasticity, demand elasticity, and substitution elasticities) in the U.S. melamine market. Along with these estimates, the models may use data on market shares, growth in exogenous demand, and Commerce's determination on the expected level of dumping or subsidy should the antidumping finding be revoked.

U.S. PRODUCERS' PRODUCTION, EMPLOYMENT, AND FINANCIAL EXPERIENCE

Information in this section is based predominantly on the questionnaire responses of three firms (with two production facilities) that accounted for 100 percent of U.S. melamine production in 1997-98.[1] Figure III-1 shows U.S. production, exports, imports, and consumption of melamine since 1975. Figure statistics were obtained from SRI's *Chemical Economics Handbook.*

Figure III-1
Melamine: U.S. production, imports, exports, and consumption, 1975-98

* * * * * * *

U.S. PRODUCERS' CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION

As shown in table III-1, average production capacity increased by *** percent from 1997 to 1998 and production rose by *** percent, resulting in an increase in capacity utilization of *** percentage points.

Table III-1
Melamine: U.S. producers' capacity, production, and capacity utilization, 1997-98

* * * * * * *

One of the two U.S. producers reported expansions in capacity since January 1, 1997. AMEL expanded the capacity of its Fortier, LA, melamine plant in 1997-98 by 5 million pounds, or to 155 million pounds per year. AMEL has approved plans to further expand the production capacity of this facility by about 15 million pounds, at a capital cost of approximately $20 million.[2] This expansion (to 170 million pounds per year) is expected to come on line by the end of 1999.

In late 1998, Borden (MCI's parent company) approved plans to construct a $73 million, 30,000 metric tons-per-year (66 million pounds) melamine facility near Memphis, TN. Construction of the new plant will begin in mid-1999 and is scheduled for completion by early 2001.[3]

There are no toll agreements for production of melamine in the United States and there is no U.S. production of melamine in foreign trade zones.

U.S. PRODUCERS' DOMESTIC SHIPMENTS, COMPANY TRANSFERS, AND EXPORT SHIPMENTS

As shown in table III-2, U.S. producers' U.S. shipments decreased *** percent in quantity but increased *** percent in value from 1997 to 1998, as the average unit value increased by *** percent.

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[1] DSM and Cytec each submitted a producer's questionnaire response for their share of output from their joint venture producer AMEL. MCI also submitted a producer's questionnaire.

[2] Obtained from Cytec's 10-K reports for 1996-98, found at the SEC's Edgar internet site at *http://www.sec.gov/Archives/edgar/data/912513/0000950130-99-001857.txt*, retrieved Apr. 26, 1999.

[3] "Borden to Build Melamine Unit," *Chemical Marketing Reporter* (Dec. 21, 1998), p. 3.

Export shipments, which accounted for about *** percent of total shipments, also declined along with total shipments. Export shipments were primarily to Canada, the Netherlands, Brazil, Argentina, Mexico, Colombia, the United Kingdom, Chile, Venezuela, and Korea.

A significant amount of consumption occurs among members of the domestic industry. Overall, *** percent of total melamine shipments were consumed internally in 1997 and *** percent in 1998. Specifically, Cytec consumed *** percent of its AMEL-produced melamine internally in 1997 and *** percent in 1998. MCI shipped *** percent of its melamine internally[4] in 1997 and *** percent in 1998.

Table III-2
Melamine: U.S. producers' shipments, by type, 1997-98

* * * * * * *

In response to party comments and the Commission's review of the draft questionnaires, the questionnaires were designed to collect separate data for four product breakouts. Producers and importers were asked for information on (1) unground melamine; (2) ground melamine with an average particle size of approximately 28 microns; (3) ground melamine with an average crystal size of 10 to 15 microns, equivalent to Superfine® melamine;[5] and (4) ground melamine with 100 percent of particles less than 10 microns, average particle size less than 5 microns.

U.S. producers were asked to provide data on their shipments of melamine by product categories in 1998. As shown in table III-3, the *** of U.S. producers' domestic commercial (*** percent) and export (*** percent) sales/shipments of melamine were of unground melamine in bulk or bags of 1,000-3,000 pounds. U.S. producer's sales/shipments of ground melamine with an average particle size of approximately 28 microns were *** percent of domestic and *** percent of export sales. Domestic sales/shipments of ground melamine with an average particle size of 10 to 15 microns were *** percent of total domestic sales, and there were no export sales of this product in 1998. Similarly, there were no U.S. producers' domestic or export sales of ground melamine with all particles less than 10 microns, and an average particle size less than 5 microns.

With regard to packaging options, the *** of both domestic (*** percent) and export (*** percent) sales/shipments of melamine were in bags of 1,000-3,000 pounds. Bulk sales accounted for *** percent of domestic sales, but no export sales. Bags of 50-60 pounds accounted for *** percent of domestic melamine sales and *** percent of export sales.

[4] ***.

[5] "Superfine" is a registered trademark of MCI..

Table III-3
Melamine: Share (percent) of U.S. producers' domestic and export shipments, by product categories and packaging options, 1998

Item	Domestic sales			
	Bulk	Bags of 1,000-3,000 pounds	Bags of 50-50 pounds	Bags of less than 50 pounds
Unground	***	***	***	0.0
Ground, average particle size of approximately 28 microns	0.0	***	***	0.0
Ground, average particle size 10 to 15 microns	0.0	0.0	***	0.0
Ground, all particles less than 10 microns, average particle size less than 5 microns	0.0	0.0	0.0	0.0
	Export sales			
	Bulk	Bags of 1,000-3,000 pounds	Bags of 50-60 pounds	Bags of less than 50 pounds
Unground	0.0	***	***	0.0
Ground, average particle size of approximately 28 microns	0.0	***	***	0.0
Ground, average particle size 10 to 15 microns	0.0	0.0	0.0	0.0
Ground, all particles less than 10 microns, average particle size less than 5 microns	0.0	0.0	0.0	0.0

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

U.S. PRODUCERS' INVENTORIES

U.S. producers' inventories increased by *** percent from 1997 to 1998, as shown in table III-4, and the ratio of inventories to total shipments rose by *** percentage points. The ratio of inventories to production increased by *** percentage points in this period. All three firms reported an increase in year-end inventories in 1998, but most of the rise was reported by ***, which alleged in its questionnaire response that its inventories have begun to increase dramatically because (a) Japan's major

export markets have now installed their own large domestic production, and (b) *** can no longer sell into its traditional export markets because Japanese suppliers have taken these markets at low prices (see p. D-4 in app. D for the complete text of ***'s comments on this question).

Table III-4
Melamine: U.S. producers' end-of-period inventories, 1997-98

*	*	*	*	*	*	*	

U.S. PRODUCERS' PURCHASES

Other than direct imports, *** purchased melamine since January 1, 1997. ***.

U.S. PRODUCERS' EMPLOYMENT, WAGES, AND PRODUCTIVITY

From 1997 to 1998, the average number of PRWs decreased *** percent while hours worked decreased *** percent, as shown in table III-5. Total wages paid increased *** percent and hourly wages rose *** percent during this period. Productivity increased *** percent, resulting in a drop of *** percent in unit labor costs.

Table III-5
Average number of PRWs producing melamine, hours worked, wages paid to such employees, and hourly wages, productivity, and unit labor costs, 1997-98

*	*	*	*	*	*	*	

FINANCIAL CONDITION OF THE U.S. INDUSTRY

Background

The U.S. domestic industry is comprised of Cytec, DSM, and MCI. Cytec, formerly a unit of American Cyanamid, and DSM are co-partners in AMEL, a joint venture producing melamine.[6] MCI, also a producer of melamine, was purchased by Borden in 1997, and is now a wholly-owned subsidiary of that company. Cytec, DSM, and MCI provided 1997 and 1998 financial information related to the production and sale of melamine. In 1997, MCI's fiscal year ended on June 30, but it was subsequently changed to a calendar fiscal year in 1998. In response to the Commission's questionnaire, MCI provided financial data for 1997 on a calendar-year basis. All other financial data provided to the Commission were based on calendar fiscal years.

AMEL uses a low-pressure conversion process to produce melamine.[7] MCI, in addition to utilizing a traditional low-pressure conversion process, also developed and is producing melamine using a high-pressure production process (M-II). While the same raw materials are used in the low- and high-pressure conversion processes, the unit costs for the M-II production process are reportedly *** percent less than the low-pressure conversion methods. The M-II production process represented *** percent of MCI's total melamine production volume in 1997 and 1998, respectively.

Operations on Melamine

Income-and-loss data for the U.S. producers on their melamine operations are presented in table III-6; data on a per-pound basis are shown in table III-7. Between 1997 and 1998, total sales volume declined 7.0 percent, while total sales value increased 10.7 percent. The average unit sales price of melamine increased by 18.9 percent, while the average unit COGS fell by 7.3 percent. The reduction in COGS was driven by decreasing unit raw material and reported overhead. The effect of increasing unit prices and decreasing unit costs resulted in gross profit rising by 106.1 percent between 1997 and 1998.

Industry operating income was positive in both years, increasing 386.5 percent between 1997 and 1998. The increase in 1998 gross and operating income can be explained in part by MCI's reported *** in 1997. With ***, MCI's reported gross margin *** in 1997. Improved average unit price and lower COGS led to a *** in MCI's gross profit in 1998.

Below the operating income line, net income was boosted by MCI's sale of certain process patents to DSM in 1997. Total net income and cash flow increased by 77.1 and 53.8 percent, respectively.

Selected financial data, by firm, are presented in table III-8.

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[6] The joint venture's sole function is the production of melamine, which is in turn divided between Cytec and DSM. Cytec and DSM separately reported their revenues and costs (which they share equally) related to the joint venture. AMEL did not provide separate financial information to the Commission.

[7] The proprietary ***.

Table III-6
Results of operations of U.S. producers in the production of melamine, fiscal years 1997-98

Item	Fiscal year	
	1997	1998
	Quantity (*1,000 lbs.*)	
Trade sales	***	***
Company transfers	***	***
Total sales	252,963	235,373
	Value (*$1,000*)	
Trade sales	***	***
Company transfers	***	***
Total sales	133,022	147,220
COGS	105,897	91,303
Gross profit	27,125	55,917
SG&A expenses	17,310	8,172
Operating income or (loss)	9,815	47,745
Interest expense	***	***
Other expense	***	***
Other income items	***	***
Net income or (loss)	26,700	47,289
Depreciation/amortization	13,249	14,144
Cash flow	39,949	61,433
	Ratio to net sales (*percent*)	
COGS	79.6	62.0
Gross profit	20.4	38.0
SG&A expenses	13.0	5.6
Operating income or (loss)	7.4	32.4
Net income or (loss)	20.1	32.1
	Number of firms reporting	
Operating losses	1	0
Data	3	3

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

Table III-7
Results of operations (per pound) of U.S. producers in the production of melamine, fiscal years 1997-98

Item	Fiscal year	
	1997	1998
	Unit value (*per pound*)	
Net sales	$0.53	$0.63
COGS:		
Raw materials	0.18	0.16
Direct labor	0.03	0.04
Other factory	0.20	0.19
COGS	0.42	0.39
Gross profit	0.11	0.24
SG&A expenses	0.07	0.03
Operating income or (loss)	0.04	0.20

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

Table III-8
Results of operations of U.S. producers in the production of melamine, by firm, fiscal years 1997-98

* * * * * * *

A variance analysis for Cytec, DSM, and MCI is presented in table III-9. The information for this variance analysis is derived from table III-6. Table III-9 shows that increased operating income between 1997 and 1998 was due primarily to a favorable price variance and to a somewhat lesser extent to a favorable net cost/expense variance. These favorable variances completely offset the minor unfavorable net volume variance.

Table III-9
Variance analysis for melamine operations of U.S. producers, fiscal years 1997-98

Item	Fiscal years 1997-98
	Value (*$1,000*)
Trade sales:	
Price variance	17,039
Volume variance	(18,190)
Trade sales variance	(1,151)
Company transfers:	
Price variance	7,665
Volume variance	7,684
Transfer variance	15,349
Total net sales:	
Price variance	23,448
Volume variance	(9,250)
Total net sales variance	14,198
Cost of sales:	
Cost variance	7,230
Volume variance	7,364
Total cost variance	14,594
Gross profit variance	28,792
SG&A expenses:	
Expense variance	7,934
Volume variance	1,204
Total SG&A variance	9,138
Operating income variance	37,930
Summarized as:	
Price variance	23,448
Net cost/expense variance	15,165
Net volume variance	(682)

Note: Unfavorable variances are shown in parentheses; all others are favorable.

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

Capital Expenditures, R&D Expenses, and Investment in Productive Facilities

The responding firms' data on capital expenditures, R&D expenses, and the value of their property, plant, and equipment are shown in table III-10. The combined information provided by Cytec and DSM represents expenditures and investments associated with AMEL. Only Cytec and MCI reported R & D expenses during the period of review.

With respect to new productive capacity, MCI's prospective construction of a new melamine plant in Tennessee is not reflected in the information shown in table III-10.

Table III-10
Value of assets, capital expenditures, and R&D expenses of U.S. producers of melamine, fiscal years 1997-98

Item	Fiscal year	
	1997	1998
	Value (*$1,000*)	
Capital	3,567	5,828
R&D	***	***
Fixed assets:		
Original	175,603	181,773
Book	132,148	126,590

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

Capital and Investment

The Commission requested U.S. producers to describe the significance of the existing antidumping finding covering imports of melamine from Japan in terms of revenues, costs, profits, cash flow, capital expenditures, R & D expenditures, and asset values. The Commission also requested U.S. producers to state whether they anticipated any changes in these factors if the antidumping finding were revoked. Their responses are shown in appendix D.

PART IV: U.S. IMPORTS AND THE FOREIGN INDUSTRY

U.S. IMPORTS

Information in this section covers 100 percent of imports from Japan[1] and approximately 76 percent of 1998 imports, based on value, from all other sources. Statistics were compiled from questionnaire responses. Table IV-1 below shows that, from 1997 to 1998, the total quantity of imports rose 230.0 percent and the total value of imports increased 241.7 percent. The share of imports from Japan rose *** percentage point in quantity and increased *** percentage point in value.

Table IV-1
Melamine: U.S. imports, by sources, 1997-98

Item	1997	1998
	Quantity (*1,000 pounds*)	
Japan	***	***
Other sources	***	***
Total	1,276	4,211
	Value (*$1,000*)	
Japan	$***	$***
Other sources	***	***
Total	907	3,099
	Unit value (*per pound*)	
Japan	***	***
Other sources	***	***
Average	0.71	0.74
	Share of quantity (*percent*)	
Japan	***	***
Other sources	***	***
Total	100.00	100.0
	Share of value (*percent*)	
Japan	***	***
Other sources	***	***
Total	100.0	100.0

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

U.S. importers were asked to provide data on their imports of melamine for sale in the U.S. market in 1998 by product categories. As shown in table IV-2, the *** (*** percent) of U.S. importers' U.S. sales were of unground melamine. Sales of this unground material occurred in bags of 1,000-3,000 pounds (*** percent) and in 50-60 pound bags (*** percent). U.S. sales of ground melamine imports

[1] As noted by MCI in its response to the Commission's notice of institution of this review, "Since the imposition of the antidumping order in 1976, U.S. imports of melamine from Japan have remained at *de minimis* levels."

with an average particle size of approximately 28 microns accounted for (*** percent) and U.S. sales of ground melamine imports with an average particle size of 10-15 microns accounted for (*** percent) of total U.S. sales of imported melamine.

Table IV-2
Melamine: Share (percent) of U.S. imports for domestic U.S. sale, by product categories and packaging options, 1998

Item	Imports			
	Bulk	Bags of 1,000-3,000 pounds	Bags of 50-50 pounds	Bags of less than 50 pounds
Unground	0.0	***	***	0.0
Ground, average particle size of approximately 28 microns	0.0	***	***	0.0
Ground, average particle size 10 to 15 microns	0.0	0.0	***	0.0
Ground, all particles less than 10 microns, average particle size less than 5 microns	0.0	0.0	0.0	0.0

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

U.S. IMPORTERS' INVENTORIES

From 1997 to 1998, the ratio of inventories to imports from Japan fell *** percentage points while the ratio to imports from other sources rose *** percentage points, as shown in table IV-3 below. There were no U.S. shipments of imports from Japan (all imports from Japan were by the end user) and the ratio of inventories to U.S. shipments of imports from other sources rose by 8.4 percentage points.

Table IV-3
Melamine: U.S. importers' end-of-period inventories of imports from Japan and other countries, 1997-98

* * * * * * *

JAPANESE PRODUCERS

According to SRI's *Chemical Economics Handbook* submitted by counsel for MCI as attachment B in response to the Commission's notice of institution,[2] ***. ***.[3] ***.

* * * * * * *

JAPANESE CAPACITY, PRODUCTION, CAPACITY UTILIZATION, DOMESTIC SHIPMENTS, EXPORT SHIPMENTS, AND INVENTORIES

The following excerpts are also taken from the *Chemical Economics Handbook*. Although the report is somewhat dated (written in January 1996, generally with about 20 years of data, but only through 1994), a draft of an update to the melamine chapter, due to subscribers late in 1999, was obtained from SRI. Together, they offer some insights into trends affecting Japanese melamine producers from the 1970s through 1998.

* * * * * * *

Table IV-4, derived from statistics presented in the *Chemical Economics Handbook*,[4] shows that Japanese producers' estimated capacity utilization increased by *** percentage points from 1993 to 1998. ***. Figure IV-1 presents statistics from the *Chemical Economics Handbook* for Japanese production, imports, exports, and consumption for the 1975-98 period.

Table IV-4
Melamine: Statistics for producers in Japan, 1993-98

* * * * * * *

Figure IV-1
Melamine: Japan's production, imports, exports, and consumption, 1975-98

* * * * • * *

[2] Response to the notice of institution submitted on behalf of MCI, dated Feb. 11, 1999, attachment B, pp. 673.3001 J-Q. This attachment, the *Chemical Economics Handbook*, is proprietary business information of SRI.

[3] At the time of the Commission's 1976 investigation there were also 3 Japanese producers -- Nissan, Mitsui, and Nippon Carbide. Nissan exported more than *** percent of all Japanese manufactured melamine sold in the United states, and was the sole subject of Treasury's investigation. Mitsui ***. Nippon Carbide produced no melamine in 1976 and reportedly had no plans to do so before 1978.

[4] SRI ***.

MCI alleges in response to questions IV-B-22 and IV-B-23 in its producer's questionnaire that ***. ***.[5] ***.

[5] In addition to its joint venture in the United States, DSM (whose head office is in the Netherlands) has a joint venture in Indonesia that operates a melamine plant with a current annual capacity of 50,000 metric tons. See DSM's internet web site at *http://www.dsm.nl/csc/milieu/melamine/index.html,* retrieved Apr. 29, 1999. According to DSM, "Studies are currently being carried out into debottlenecking projects at DSM Melamine plants in the US (Frontier (sic), La) and Indonesia (Bontang). In addition to these debottlenecking projects DSM Melamine has also launched a study into the construction of a new melamine plant with a capacity of 30,000 tonnes/year. This plant, which will come on stream in the year 2000 and is likely to be built in Geleen (the Netherlands), will use new high-pressure technology. DSM recently acquired the global rights to this technology and the associated know-how from the US company MCI. DSM Melamine and MCI are cooperating on a R&D project aimes (sic) at further improving high-pressure technology." DSM also has a melamine plant in the Netherlands, which, with an annual capacity of 90,000 metric tons, is reportedly the largest in the world and is being expanded in 1999 by an additional 10,000 metric tons per year.

PART V: PRICING AND RELATED INFORMATION

FACTORS AFFECTING PRICES

Raw Material Costs

The main raw material used in the production of melamine is urea, which accounts for *** of total raw material costs.[1] The significance of total raw material costs in the overall cost structure varies among U.S. producers, but such costs accounted for an average of *** percent of the total 1998 cost of melamine production. Despite this substantial percentage, U.S. producers and importers stated that there is little, if any, correlation between raw material costs and the market price of melamine. According to ***, urea prices are driven by the agriculture market and can vary by up to 50 percent in a year. Further, *** noted that raw material costs are not expected to influence melamine prices in the near future, despite projected increases in these costs in the 1999-2001 time frame.[2]

U.S. Transportation Costs

Transportation costs of melamine for delivery within the United States appear to be fairly consistent among U.S. producers, but showed more variability among importers and purchasers. U.S. producers reported that these costs accounted for approximately 4.5 percent of the total cost of melamine. For the 7 importers that provided usable responses to this question, these costs accounted for between *** and *** percent of the total cost of melamine, with an average of 8.9 percent.

Purchasers were asked to provide data specifically on U.S. inland transportation costs as a percent of the total cost of purchased melamine. For the 16 purchasers that provided usable responses, these costs accounted for between *** and *** percent of the total cost of purchased melamine, with an average of 4.4 percent. Such costs, however, do not appear important to purchasers, as 12 of 16 reported that U.S. inland transportation costs are not a major factor in sourcing considerations.

All U.S. producers reported a geographic market area encompassing the entire United States. Virtually no importers provided a response to this question because the question specified imports of melamine from Japan.

Producers and importers were also requested to provide estimates of the shares of their shipments that were made within specified distance ranges. Among U.S. producers, an average of *** percent of shipments occurred within 100 miles, and *** percent occurred within 100 to 1,000 miles. Among the 7 importers that provided usable responses to this question, an average of 25.7 percent of shipments occurred within 100 miles, and 66.4 percent occurred within 100 to 1,000 miles.

Exchange Rates

Quarterly data reported by the International Monetary Fund indicate that the real value of the Japanese yen appreciated 3.9 percent in the first nine months of 1997, then weakened vis-a-vis the U.S. dollar by 14.4 percent through the third quarter of 1998. Finally, the real value of the Japanese yen

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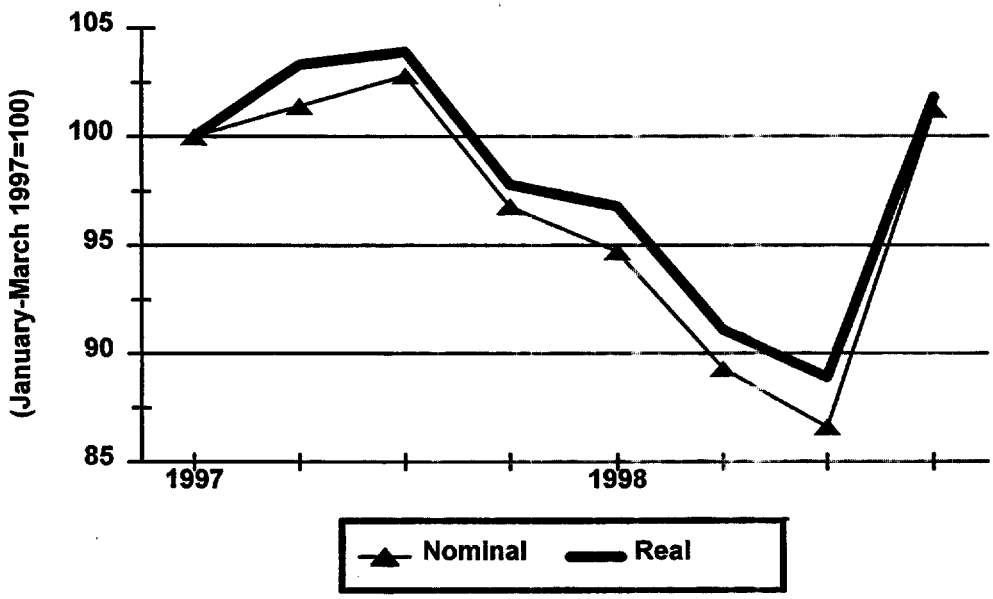
[1] *Chemical Economics Handbook,* "Melamine," SRI, May 1999 (draft), p. 31.

[2] While the market prices of melamine and urea may not correlate, urea prices nonetheless impact the profitability of melamine production. In the 1997-early 1998 time frame, melamine demand was at record levels both globally and domestically while urea prices were very low. According to MCI, this resulted in anomalous profitability. Transcript, p. 39.

appreciated 14.5 percent in the last 3 months of 1998. Similar nominal exchange rate trends occurred during the period of investigation (figure V-1).

***.[3]

Figure V-1
Exchange rates: Indices of the nominal and real values of the Japanese yen relative to the U.S. dollar, by quarters, Jan. 1997-Dec. 1998



Source: International Monetary Fund, *International Financial Statistics*, Jan. 1999.

PRICING PRACTICES

Pricing Methods

Most sales of melamine in the United States are made on a transaction-by-transaction basis, with price lists used as a starting point for individual negotiations. According to purchasers, competing prices are frequently discussed during negotiations. However, 6 of 15 purchasers reported contacting just 1 supplier before making a purchase decision, while the other 9 purchasers contact between 2 and 3 suppliers. Further, while the vast majority of purchasers buy only from U.S. producers, 8 of 13 reported that none of their purchases were made in conjunction with "Buy American" policies.

Available information indicates that the majority of U.S. producers' sales are on a spot basis. Usable data regarding this question are not available for importers because the Commission questionnaire asked specifically for Japanese imports, of which there were virtually none during the period for which information was requested. Two U.S. producers, *** and ***, reported that between

[3] Prehearing brief submitted on behalf of MCI, dated May 13, 1999, Attachment E, p. 48.

*** and *** percent of their sales were on a contract basis, with contracts varying in duration from 1 to 5 years. Both U.S. producers reported that contracts had a meet-or-release provision, but they had dissimilar responses regarding other contract terms. For example, *** reported that contracts involved a fixed quantity whereas *** reported that neither quantity nor price was fixed.[4]

Sales Terms and Discounts

The vast majority of melamine producers and importers did not report having fixed discount policies. However, some producers and importers reported that price discounting may occur during negotiations with individual customers. U.S. producers and importers also showed near unanimity on the issue of payment terms, reporting that payment is required within 30 days.[5] In contrast, U.S. producers, importers, and purchasers were somewhat mixed with regard to how prices are quoted in the melamine market. All U.S. producers reported that price quotes occur on an f.o.b. basis, while among importers *** and *** quote prices on a delivered basis, and ***[6] quotes prices on an f.o.b. basis. All purchasers except *** reported that price quotes occur on an f.o.b. basis.

PRICE DATA

The Commission requested U.S. producers and importers of melamine to provide quarterly data for the total quantity and value of certain melamine products in order to determine the weighted-average price in each quarter. Data were requested for the period January 1997 through December 1998. The products for which pricing data were requested are as follows:

Product 1: Unground melamine crystal in bulk or in bags of 1,000 pounds or more. Shipments of 40,000 pounds or more.

Product 2: Ground melamine crystal with average crystal size of 28 microns, in bags of 50 to 60 pounds.

Product 3: Ground melamine crystal with average crystal size between 10 and 15 microns, in bags of 50 to 60 pounds. Equivalent to "Superfine"[7] melamine.

Product 4: Ground melamine crystal with 100% of particles less than 10 microns, average particle size less than 5 microns, in bags of 20 to 50 pounds.

All U.S. producers provided usable pricing data for sales of products 1-3 in the U.S. market, although not necessarily for all quarters or for all products over the period of investigation. No U.S.

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[4] According to MCI, sales on a contractual basis generally reflect requirement contracts with quarterly price negotiations. In contrast to producers' and importers' questionnaire responses, MCI characterizes melamine sales as primarily contractual, with spot pricing used as a hedge against lower melamine prices in the future. Transcript, pp. 74-75.

[5] Most importers did not respond to this question because the Commission specifically asked for data regarding melamine from Japan. However, several importers responded despite the fact that they do not import from Japan, and their answers were factored into this analysis.

[6] *** is a U.S. producer in the AMEL joint venture as well as an importer of melamine.

[7] "Superfine" is a registered trademark of MCI.

producers provided data for product 4. Reported pricing data are estimated to account for 90 percent of U.S. shipments of domestic melamine in 1998.

No importers provided usable pricing data for sales of the requested products. However, two importers of Japanese melamine, *** and ***, provided the Commission with quarterly price data for the melamine they import for captive consumption. Data provided by *** are the only data collected for product 4.[8] Similarly, only two purchasers, *** and ***, reported buying Japanese melamine during the period of investigation. In contrast to their import data, *** was unable to classify the material by particle size, while both purchase and consumption of ***'s melamine took place in Canada. Thus, the related purchaser price data are unusable.

Price Trends

Weighted-average f.o.b. prices reported by U.S. producers showed overall increases during the period January 1997 through December 1998 (tables V-1 through V-3 and figures V-2 through V-4). Prices for products 1 through 3 as reported by U.S. producers increased ***, ***, and *** percent, respectively, from the first quarter of 1997 to the fourth quarter of 1998. On an annual basis, the price data trended as follows: product 1 increased *** percent in 1997 and *** percent in 1998, product 2 increased *** percent in 1997 and *** percent in 1998, and product 3 increased *** percent in 1997 and decreased *** percent in 1998.[9]

Table V-1
Product 1: Weighted-average f.o.b. prices and quantities as reported by U.S. producers, by quarters, Jan. 1997-Dec. 1998

*	*	*	*	*	*	*

[8] *** reported that it must import the fine grind necessary for its ink applications from Japan because no U.S. producer sells this very fine grind (average particle size less than 5 microns). *** has countered that domestically produced melamine can be further refined by a U.S. grinder in lieu of importation from Japan. Information obtained from ***, a U.S. grinder, reveals that the cost of grinding melamine to the level specified for product 4 tends to fall in a broad range of $*** per pound to $*** per pound depending on the degree of grinding necessary to achieve the relevant specification. Additional information supplied by *** in its posthearing brief (p. A-10) reveals quotes from grinders that fall in a range of $***-$*** per pound to achieve a particle size of 10 microns.

In June/July 1996, *** supplied *** with a sample of MCI's Superfine® melamine (product 3) to be ground to *** specifications (product 4). *** quoted *** $*** in start-up costs and $*** per pound for grinding costs. Excluding freight costs, *** of *** estimated the total per-pound cost of using U.S.-produced melamine at $*** per pound as compared to approximately $*** per pound (before 60 percent duty) for the Japanese material. According to ***, the U.S. cost is affected by the small quantity *** needs for its applications as compared to the Japanese material, which is purchased in larger quantities by ***'s parent company in Japan.

[9] ***'s melamine prices during the first 5 months of 1999 declined to approximately mid-1997 levels. *** reported that ***'s overall net selling price fell from $*** per pound in Jan. 1999 to $*** per pound in May 1999. Posthearing brief submitted on behalf of ***, dated June 1, 1999, p. 14.

Table V-2
Product 2: Weighted-average f.o.b. prices and quantities as reported by U.S. producers, by quarters, Jan. 1997-Dec. 1998

* * * * * * *

Table V-3
Product 3: Weighted-average f.o.b. prices and quantities as reported by U.S. producers, by quarters, Jan. 1997-Dec. 1998

* * * * * * *

Figure V-2
Weighted-average f.o.b. prices for U.S.-produced product 1, by quarters, Jan. 1997-Dec. 1998

* * * * * * *

Figure V-3
Weighted-average f.o.b. prices for U.S.-produced product 2, by quarters, Jan. 1997-Dec. 1998

* * * * * * *

Figure V-4
Weighted-average f.o.b. prices for U.S.-produced product 3, by quarters, Jan. 1997-Dec. 1998

* * * * * * *

Similarly, weighted-average delivered prices reported by purchasers showed overall increases during the period January 1997 through December 1998 (table V-4). Prices for products 1 through 3 as reported by purchasers increased ***, ***, and *** percent, respectively, from the first quarter of 1997 to the fourth quarter of 1998. On an annual basis, the price data trended as follows: product 1 increased *** percent in 1997 and *** percent in 1998, product 2 increased *** percent in 1997 and *** percent in 1998, and product 3 increased *** percent in 1997 and *** percent in 1998. It should be noted that much of the data reported by purchasers for product 3 involved larger quantity sizes than requested by the Commission. Quantity discounts are not uncommon for large orders, and thus may explain the noticeable differences between U.S. producer and purchaser price data for this product.[10]

[10] Interview with *** of ***.

Table V-4
Weighted-average delivered prices and quantities for U.S.-produced products 1 through 3 as reported by purchasers, by quarters, Jan. 1997-Dec. 1998

* * * * * * *

Purchasers were asked to provide information on relative prices for imported melamine versus the domestic product during the period of investigation. Of the *** usable responses, *** purchasers reported that U.S. melamine prices have remained the same, specifically with respect to Korea, China, Italy, and Japan. Two purchasers reported that domestically produced melamine has increased in price relative to the aforementioned countries, and one purchaser noted that U.S. prices have decreased relative to the world market.

Price Comparisons

As previously mentioned, price comparisons between the domestic and Japanese products, based on questionnaire data, were not possible. Price data for Japanese melamine were obtained only from two importers, *** and ***, and two purchasers, *** and ***. While the import data are not technically usable for price comparisons, ***'s data have been provided in table V-5 and figure V-5 (product 4) for informational purposes.[11] These data trend with exchange rate movement of the Japanese yen versus the U.S. dollar. According to *** of ***, purchase prices during the period of investigation were *** without the exchange rate effect.

Table V-5
Product 4: Weighted-average f.o.b. purchase prices and quantities as reported by U.S. importers, by quarters, Jan. 1997-Dec. 1998

* * * * * * *

Figure V-5
Weighted-average f.o.b. prices for Japanese-produced product 4, by quarters, Jan. 1997-Dec. 1998

* * * * * * *

While the purchaser data for imported Japanese melamine provided by *** and *** are unusable, they nevertheless represent the only comparative data collected during the period of investigation.[12] *** purchased product 1 in Canada during the fourth quarter of 1998. The total quantity of Japanese melamine purchased by *** was *** pounds, and the delivered unit value was $*** per pound. In contrast, *** purchasers reported buying a total of *** pounds of U.S.-produced product 1 in that time frame, with a weighted-average delivered unit value of $*** per pound.[13]

[11] *** imported Japanese melamine for internal consumption in March 1998. *** imported *** pounds of product 2 from Japan at a delivered unit value of $*** per pound.

[12] *** was unable to classify purchased melamine by particle size as requested by the Commission. Based on available information, *** purchased *** pounds of ground Japanese melamine in the second quarter of 1998 at a delivered unit value of $*** per pound.

[13] *** of *** reported that the delivered unit value for U.S.-produced melamine (product 1) in Canada during the fourth quarter of 1998 was $***-*** per pound. ***'s purchase prices in Canada for both U.S.-produced and Japanese melamine reflect total delivered prices, including duties.

APPENDIX A

FEDERAL REGISTER NOTICES

INTERNATIONAL TRADE COMMISSION

[Investigation No. AA1921-162 (Review)]

Melamine From Japan

AGENCY: United States International Trade Commission.

ACTION: Institution of a five-year review concerning the antidumping duty order on melamine from Japan.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on melamine from Japan would be likely to

lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; the deadline for responses is September 22, 1998. Comments on the adequacy of responses may be filed with the Commission by October 16, 1998.

For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 F.R. 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at http://www.usitc.gov/rules.htm.

EFFECTIVE DATE: August 3, 1998.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193) or Vera Libeau (202–205-3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

On February 2, 1977, the Department of the Treasury issued an antidumping duty order on imports of melamine from Japan (42 F.R. 6366). The Commission is conducting a review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

Definitions

The following definitions apply to this review:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The Subject Country in this review is Japan.

(3) The Domestic Like Product is 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 melamine in crystal form.

(4) The Domestic Industry is 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, the Commission defined the *Domestic Industry* as producers of melamine in crystal form.

(5) The Order Date is the date that the antidumping duty order under review became effective was suspended. In this review, the Order Date is February 2, 1977.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the Review and Public Service List

Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and APO Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification

Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written Submissions

Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is September 22, 1998. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning whether the Commission should conduct an expedited review. The deadline for filing such comments is October 16, 1998. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability To Provide Requested Information

Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification

(or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information To Be Provided in Response to This Notice of Institution

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. § 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. § 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in Japan that currently export or have exported Subject Merchandise to the United States or other countries since 1975.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 1997 (report quantity data in thousands of pounds and value data in thousands of U.S. dollars). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/ which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production; and

(b) the quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from Japan, provide the following information on your firm's(s') operations on that product during calendar year 1997 (report quantity data in thousands of pounds and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from Japan accounted for by your firm's(s') imports; and

(b) the quantity and value of U.S. commercial shipments of Subject Merchandise imported from Japan.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in Japan, provide the following information on your firm's(s') operations on that product during calendar year 1997 (report quantity data in thousands of pounds and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in Japan accounted for by your firm's(s') production; and

(b) the quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from Japan accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Country since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; 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); and 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). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Country, and melamine from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: July 28, 1998.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 98-20651 Filed 7-31-98; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. AA1921-162 (Review)]

Melamine From Japan

AGENCY: United States International Trade Commission.

ACTION: Notice of Commission decision to conduct a full five-year review concerning the antidumping duty order on melamine from Japan.

SUMMARY: On November 5, 1998, the Commission determined that a full review pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) should proceed in the subject five-year review.[1] The Commission ruled that interested party responses to the notice of institution (63 FR 41282, August 3, 1998) are adequate.[2] Accordingly, the Commission hereby gives notice of a full review to determine whether revocation of the antidumping duty order on melamine from Japan would be likely to lead to continuation or recurrence of material injury. A schedule for the review will be established and announced at a later date.

For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 FR 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at http://www.usitc.gov/rules.htm.

EFFECTIVE DATE: November 5, 1998.

FOR FURTHER INFORMATION CONTACT: Cynthia Trainor (202-205-3354) or Robert Eninger (202-205-3194), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by

[1] Commissioner Crawford dissenting.

[2] A record of the Commissioners' votes and statements by Chairman Bragg and Commissioner Crawford are available from the Office of the Secretary and at the Commission's web site.

accessing its internet server (http://www.usitc.gov).

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: November 9, 1998.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 98-30461 Filed 11-13-98; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-588-056]

Final Results of Expedited Sunset Review: Melamine, in Crystal Form, From Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Expedited Sunset Review: Melamine, in Crystal Form, from Japan.

SUMMARY: On August 3, 1998, the Department of Commerce ("the Department") initiated a sunset review of the antidumping finding on melamine, in crystal form, from Japan (63 FR 41227) pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"). On the basis of a notice of intent to participate and substantive comments filed on behalf of the domestic industry, and inadequate response (in this case no response) from respondent interested parties, the Department determined to conduct an expedited review. As a result of this review, the Department finds that revocation of the antidumping finding would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Magnitude of the Margin section of this notice.

FOR FURTHER INFORMATION CONTACT: Scott E. Smith or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-6397 or (202) 482-1560, respectively.

EFFECTIVE DATE: December 8, 1998.

Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) ("*Sunset Regulations*"). Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871 (April 16, 1998) ("*Sunset Policy Bulletin*").

Scope

The merchandise subject to this antidumping finding is melamine, in crystal form, from Japan. Melamine, in crystal form, is a fine white crystalline powder used to manufacture melamine formaldehyde resins, currently classifiable under 2933.61.00 of the Harmonized Tariff Schedule of the United States (HTSUS).

On February 28, 1997 (62 FR 9176), melamine, in crystal form, with special physical characteristics (100% of the particles are smaller than 10 microns) was determined to be within the scope of the order. Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description remains dispositive.

This review covers all manufacturers and exporters of melamine, in crystal form, from Japan.

Background

On August 3, 1998, the Department initiated a sunset review of the antidumping finding on melamine, in crystal form, from Japan (63 FR 41227), pursuant to section 751(c) of the Act. The Department received a Notice of Intent to Participate from Melamine Chemicals Inc. ("MCI") on August 14, 1998, within the deadline specified in section 351.218(d)(1)(i) of the *Sunset Regulations*. MCI claimed interested party status under section 771(9)(C) of the Act, as a United States manufacturer of melamine. We received a complete substantive response from MCI on September 1, 1998, within the 30-day deadline specified in the *Sunset Regulations* under section 351.218(d)(3)(i). We did not receive a substantive response from any respondent interested party to this proceeding. As a result, pursuant to section 751(c)(3)(B) of the Act and our regulations (19 CFR 351.218(e)(1)(ii)(C)(*2*)), the Department determined to conduct an expedited review.

Determination

In accordance with section 751(c)(1) of the Act, the Department conducted this review to determine whether revocation of the antidumping finding would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making this determination, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping finding, and shall provide to the International Trade Commission ("the Commission") the magnitude of the margin of dumping likely to prevail if the finding is revoked.

The Department's determinations concerning continuation or recurrence of dumping and the magnitude of the margin are discussed below. In addition, parties' comments with respect to continuation or recurrence of dumping and the magnitude of the margin are addressed within the respective sections below.

Continuation or Recurrence of Dumping

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act ("URAA"), specifically the Statement of Administrative Action ("the SAA"), H.R. Doc. No. 103–316, vol. 1 (1994), the House Report, H.R. Rep. No. 103–826, pt.1 (1994), and the Senate Report, S. Rep. No. 103–412 (1994), the Department issued its *Sunset Policy Bulletin* providing guidance on methodological and analytical issues, including the bases for likelihood determinations. In its *Sunset Policy Bulletin*, the Department indicated that determinations of likelihood will be made on an order-wide basis (*see* section II.A.3). In addition, the Department indicated that normally it will determine that revocation of an antidumping order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above *de minimis* after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly (*see* section II.A.3).

The antidumping finding on melamine, in crystal form, from Japan was published in the **Federal Register** as Treasury Decision 73–54 (42 FR 6366, February 2, 1977). Since that time, the Department has conducted several administrative reviews. The finding remains in effect for all imports from all manufacturers of melamine, in crystal form, from Japan.

In its substantive response, MCI argues that "there is a strong likelihood that dumping by Japanese producers (of melamine) would resume" if the antidumping finding were revoked (*See* Substantive Response, September 1, 1998). With respect to whether dumping continued at any level above *de minimis* after the issuance of the finding, MCI asserts that, as documented in the final results of reviews reached by Treasury and the Department, when Japanese shipments to the United States market were examined, dumping margins of 60 and 70.22% were found. MCI states that the conclusion to be drawn from these dumping margins is that respondents in this case have been unable or unwilling to restructure their operations so as to sell melamine in the United States at fair value. Furthermore, MCI asserts that competitive pricing pressures and global market conditions for melamine, in crystal form, are such that any future sales of the subject merchandise to the United States would likely be at less than fair value. It argues in its substantive response, as well as in previous submissions to the Department, that there is, and has been, excess production capacity in both the U.S. and Japanese melamine industries. According to MCI, this excess capacity has prompted Japanese melamine producers to sell their products in Southeast Asian, Australian, and Iranian markets at less than fair value. MCI asserts that revocation of the finding would allow the Japanese producers to take similar actions in the United States.

With respect to import volumes, MCI had indicated that there has been a cessation of exports of the subject merchandise to the United States. The final results from the three most recent administrative reviews indicate that there were no shipments of melamine, in crystal form, from Japan.[1]

In the administrative reviews conducted by the Department over the life of this finding, only one firm ever reported shipments.[2] In each of the subsequent reviews, the Department

[1] As indicated in 47 FR 23507, May, 28, 1983; 47 FR 44597, October 8, 1982; and 48 FR 38527, August 24, 1983.

[2] *See Melamine in Crystal Form From Japan: Final Results of Administrative Review of Antidumping Finding*, 46 FR 15305 (March 5, 1981).

determined that there were no shipments from any of the known exporters of melamine from Japan.[3] We find, therefore, that the cessation of imports after the issuance of the finding and the existence of dumping margins after the issuance of the finding are highly probative of the likelihood of continuation of dumping. Deposit rates above *de minimis* levels continue in effect for exports by all known Japanese exporters of melamine, in crystal form. As discussed in Section II.A.3 of the *Sunset Policy Bulletin*, the SAA at 890, and the House Report at 63–64, if imports cease after the order is issued, we may reasonably assume that the exporters could not sell in the United States without dumping and that, to reenter the U.S. market, they would have to resume dumping. Furthermore, if companies continue to dump with the discipline of an order in place, we may reasonably assume that dumping would continue if the discipline were removed. Therefore, absent argument and evidence to the contrary and, given that exports of the subject merchandise have ceased and dumping margins above *de minimis* continue in effect, the Department determines that dumping is likely to continue or recur if the finding were revoked.

Because the Department based this determination on the cessation of dumping and the continued existence of margins above *de minimis*, it is not necessary to address MCI's arguments concerning competitive pricing pressures, global market conditions, or excess U.S. production capacity in this notice.

Magnitude of the Margin

In the *Sunset Policy Bulletin*, the Department stated that, in a sunset review of an antidumping finding for which no company-specific margin or all others rate is included in the Treasury finding published in the **Federal Register**, the Department normally will provide to the Commission the company-specific margin from the first final results of administrative review published in the **Federal Register** by the Department. Additionally, if the first final results do not contain a margin for a particular company, the Department normally will provide the Commission, as the margin for that company, the first "new shipper" rate established by the Department for that finding. (*See* section II.B.1. of the *Sunset Policy Bulletin.*) Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. (*See* sections II.B.2 and 3. of the *Sunset Policy Bulletin*).

Treasury did publish a weighted-average dumping margin in this finding for Nissan Chemical Industries, Ltd. of 60 percent (41 FR 41727, September 23, 1976). However, Treasury did not publish a "new shipper" rate or a rate for any other company exporting subject merchandise in this or any subsequent determination. Under these circumstances, the Department normally will provide the Commission, as the margin for any new company not reviewed by Treasury, the first "new shipper" rate established by the Department for that finding. The first "new shipper" rate established by the Department was 70.22 percent (47 FR 23507, May 28, 1982).

In its substantive response, MCI suggests that the Department choose the 60% dumping margin originally imposed by Treasury for Nissan Chemical Industries, Ltd. In addition, according to MCI, the Department should select the 70.22% dumping margin for other companies applied by the Department in subsequent administrative reviews.

We agree with MCI and, consistent with the policy, we determine that the original margins calculated by the Department and Treasury are probative of the behavior of the Japanese manufacturers and exporters of melamine, in crystal form. We will report to the Commission the company-specific and "all other's" margins contained in the Final Results section of this notice.

Final Results of Review

As a result of this review, the Department finds that revocation of the antidumping finding would be likely to lead to continuation or recurrence of dumping at the levels indicated below.

Manufacturer/exporter	Margin (percent)
Nissan Chemicals, Ltd.	60
All Others	70.22

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This five-year ("sunset") review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: December 1, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–32537 Filed 12–7–98; 8:45 am]

BILLING CODE 3510–DS–P

[3] *See Melamine in Crystal Form From Japan: Final Results of Administrative Review of Antidumping Finding;* 47 FR 23507 (May 28, 1982). *Melamine in Crystal Form From Japan; Final Results of Administrative Review of Antidumping Finding;* 47 FR 44597 (October 8, 1982), *Melamine in Crystal Form From Japan; Final Results of Administrative Review of Antidumping Finding;* 48 FR 38527 (August 24, 1983), and *Melamine in Crystal Form From Japan; Final Results of Administrative Review of Antidumping Finding and Determination Not To Revoke;* 49 FR 32634 (August 14, 1984).

INTERNATIONAL TRADE COMMISSION

[Investigation No. AA1921–162 (Review)]

Antidumping: Melamine From Japan

AGENCY: United States International Trade Commission.

ACTION: Scheduling of a full five-year review concerning the antidumping duty finding on melamine from Japan.

SUMMARY: The Commission hereby gives notice of the scheduling of a full review pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)(5)) (the Act) to determine whether revocation of the antidumping duty finding on melamine from Japan would be likely to lead to continuation or recurrence of material injury. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 F.R. 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at http://www.usitc.gov/rules.htm.

EFFECTIVE DATE: December 23, 1998.

FOR FURTHER INFORMATION CONTACT: Cynthia Trainor (202–205–3354), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

On November 5, 1998, the Commission determined that responses to its notice of institution of the subject five-year review were such that a full review pursuant to section 751(c)(5) of the Act should proceed (63 FR 63747, November 16, 1998). A record of the Commissioners' votes and statements of Chairman Lynn M. Bragg and Commissioner Carol T. Crawford are available from the Office of the Secretary and at the Commission's web site.

Participation in the review and public service list

Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in this review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission's notice of institution of the review need not file an additional notice of appearance. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this review available to authorized applicants under the APO issued in the review, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. § 1677(9), who are parties to the review. A party granted access to BPI following publication of the Commission's notice of institution of the review need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report

The prehearing staff report in the review will be placed in the nonpublic record on May 4, 1999, and a public version will be issued thereafter, pursuant to section 207.64 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with the review beginning at 9:30 a.m. on May 20, 1999, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before May 12, 1999. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on May 17, 1999, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), 207.24, and 207.66 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written Submissions

Each party to the review may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.65 of the Commission's rules; the deadline for filing is May 13, 1999. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.67 of the Commission's rules. The deadline for filing posthearing briefs is June 1, 1999; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the review may submit a written statement of information pertinent to the subject of the review on or before June 1, 1999. On June 23, 1999, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before June 28, 1999, but such final comments must not contain new factual information and must otherwise comply with section 207.68 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's

rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority

This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: January 4, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99-752 Filed 1-12-99; 8:45 am]

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APPENDIX B

LIST OF WITNESSES APPEARING AT THE COMMISSION'S HEARING

CALENDAR OF PUBLIC HEARING

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

Subject:	Melamine from Japan
Inv. No.:	AA1921-162 (Review)
Date and Time:	May 20, 1999 - 9:30 a.m.

Sessions were held in connection with this investigation in the Main Hearing Room, 500 E Street, SW, Washington, DC.

In Support of the Continuation of the Finding/Order:

Baker & McKenzie
Washington, D.C.
on behalf of

Melamine Chemicals, Incorporated

Martin F. Lapari, Vice President and General Manager, Melamine Chemicals, Incorporated

Brian Kelly, President, Brian Kelly, Incorporated

Kevin M. O'Brien)
)—OF COUNSEL
Stephen J. Orava)

CLOSING REMARKS

In Support of Continuation (**Kevin M. O'Brien**, Baker & McKenzie)

APPENDIX C

SUMMARY DATA

Table C-1
Melamine: Summary data concerning the U.S. market, 1997-98

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APPENDIX D

COMMENTS BY U.S. PRODUCERS, IMPORTERS, AND PURCHASERS REGARDING THE EFFECTS OF THE ANTIDUMPING FINDING AND THE LIKELY EFFECTS OF ITS REVOCATION

U.S. PRODUCERS' COMMENTS REGARDING THE EFFECTS OF THE FINDING AND THE LIKELY EFFECTS OF REVOCATION

Anticipated Operational/Organizational Changes If Finding Were To Be Revoked (Question II-4)

The Commission requested U.S. producers to describe any anticipated changes in the character of their operations or organization relating to the production of melamine in the future if the antidumping finding on melamine from Japan were to be revoked. Their responses are as follows:

Cytec

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DSM

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MCI

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Significance of Existing Finding In Terms of Trade and Related Data (Question II-14)

The Commission requested U.S. producers to describe the significance of the existing antidumping finding covering imports of melamine from Japan in terms of its effect on their firms' production capacity, production, U.S. shipments, inventories, purchases, and employment. Their responses are as follows:

Cytec

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DSM

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MCI

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Anticipated Changes In Trade and Related Data If Finding Were To Be Revoked (Question II-15)

The Commission requested U.S. producers to describe any anticipated changes in their production capacity, production, U.S. shipments, inventories, purchases, or employment relating to the production of melamine in the future if the antidumping finding on melamine from Japan were to be revoked. Their responses are as follows:

Cytec

* * * * * * *

DSM

* * * * * * *

MCI

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Significance of Existing Finding In Terms of Financial Data (Question III-8)

The Commission asked U.S. producers to describe the significance of the existing antidumping finding covering imports of melamine from Japan in terms of its effect on their firm's revenues, costs, profits, cash flow, capital expenditures, research and development expenditures, and asset values. Their responses are as follows:

Cytec

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DSM

* * * * * * *

MCI

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Anticipated Changes in Financial Data If Finding Were To Be Revoked (Question III-9)

The Commission asked U.S. producers to describe any anticipated changes in their revenues, costs, profits, cash flow, capital expenditures, research and development expenditures, or asset values relating to the production of melamine in the future if the antidumping finding on melamine from Japan were to be revoked. Their responses are as follows:

Cytec

* * * * * * *

DSM

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MCI

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U.S. IMPORTERS' COMMENTS REGARDING THE EFFECTS OF THE FINDING AND THE LIKELY EFFECTS OF REVOCATION

Anticipated Operational/Organizational Changes If Finding Were To Be Revoked (Question II-4)

The Commission requested importers to describe any anticipated changes in the character of their operations or organization relating to the importation of melamine in the future if the antidumping finding on melamine from Japan were to be revoked. Their responses are as follows:

* * * * * * *

Significance of Existing Finding In Terms of Trade and Related Data (Question II-8)

The Commission requested importers to describe the significance of the existing antidumping finding covering imports of melamine from Japan in terms of its effect on their firm's imports, U.S. shipments of imports, and inventories. Their responses are as follows:

* * * * * * *

Anticipated Changes In Trade and Related Data If Finding Were To Be Revoked (Question II-9)

The Commission requested importers to describe any anticipated changes in their imports, U.S. shipments of imports, or inventories of melamine in the future if the antidumping finding on melamine from Japan were to be revoked. Their responses are as follows:

* * * * * * *

U.S. PURCHASERS' COMMENTS REGARDING THE LIKELY EFFECTS OF REVOCATION

Effects of Revocation on Future Activities of the Firms and the U.S. Market as a Whole (Question III-11)

The Commission asked purchasers to comment on the likely effects of revocation of the antidumping finding on (1) the future activities of their firm and (2) the U.S. market as a whole. Their responses are as follows:

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FOREIGN PRODUCERS' COMMENTS REGARDING THE EFFECTS OF THE FINDING AND LIKELY EFFECTS OF REVOCATION

Significance of Existing Finding In Terms of Trade and Related Data (Question II-15)

The Commission requested foreign producers to describe the significance of the existing antidumping finding covering imports of melamine from Japan in terms of its effect on their firm's production capacity, production, home market shipments, exports to the United States and other markets, and inventories. Their responses are as follows:

* * * * * * *