

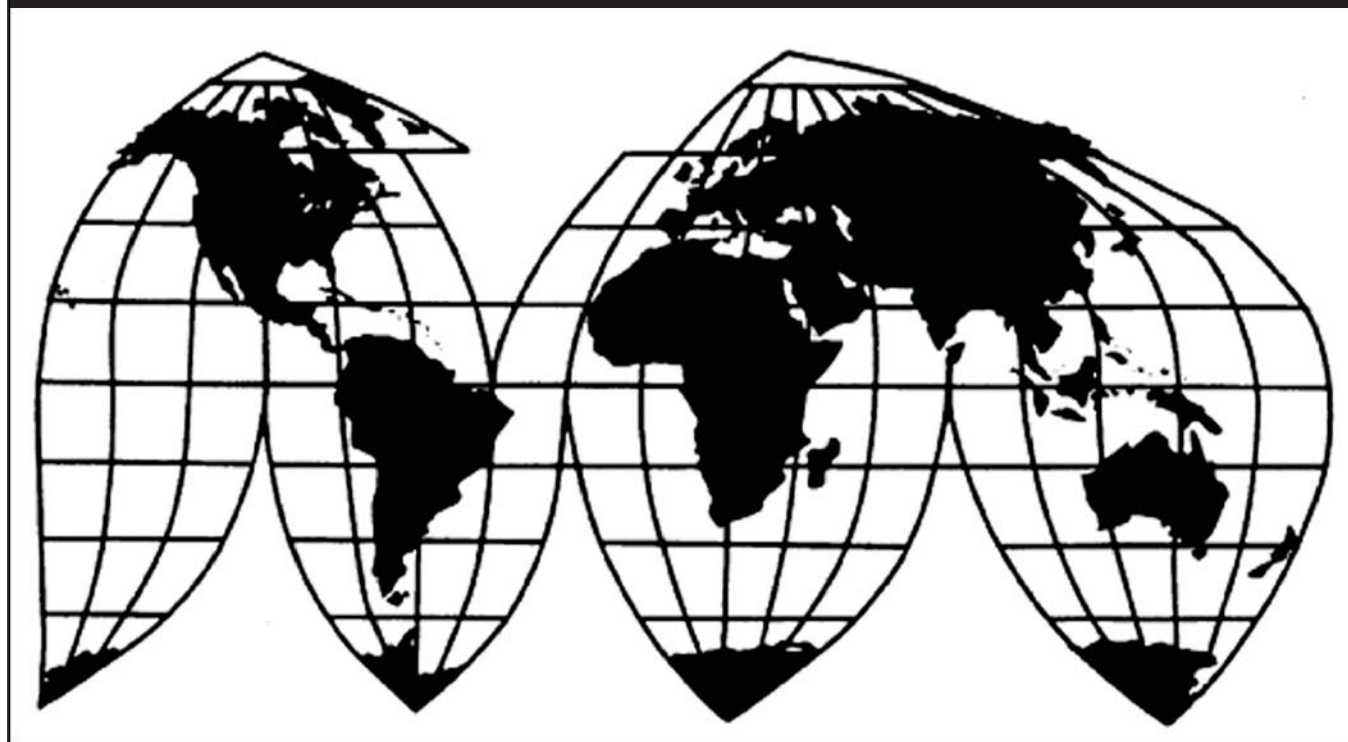
# Porcelain-on-Steel Cooking Ware from China

Investigation No. 731-TA-298 (Fourth Review)

Publication 4625

July 2016

**U.S. International Trade Commission**



Washington, DC 20436

# U.S. International Trade Commission

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## UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-298 (Fourth Review)

Porcelain-on-Steel Cooking Ware from China

### DETERMINATION

On the basis of the record<sup>1</sup> developed in the subject five-year review, the United States International Trade Commission (“Commission”) determines, pursuant to the Tariff Act of 1930 (“the Act”), that revocation of the antidumping duty order on porcelain-on-steel cooking ware from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.<sup>2</sup>

### BACKGROUND

The Commission, pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)), instituted this review on February 1, 2016 (81 F.R. 5133) and determined on May 6, 2016 that it would conduct an expedited review (81 F.R. 32345, May 23, 2016).

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

<sup>2</sup> Commissioner Meredith A. Broadbent not participating.





## Views of the Commission

Based on the record in this five-year review, we determine under section 751(c) of the Tariff Act of 1930, as amended (“the Tariff Act”), that revocation of the antidumping duty order on porcelain-on-steel cooking ware (“POS cooking ware”) from China would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.<sup>1</sup>

### I. Background

*Original Investigations and Prior Reviews.* In November 1986, the Commission determined that an industry in the United States was materially injured by reason of less than fair value (“LTFV”) imports of POS cooking ware from China, Mexico, and Taiwan, and by reason of subsidized imports of this product from Mexico.<sup>2</sup> The U.S. Department of Commerce (“Commerce”) issued antidumping duty orders with respect to POS cooking ware from all three subject countries and a countervailing duty order with respect to POS cooking ware from Mexico in December 1986.<sup>3</sup>

On February 1, 1999, the Commission instituted its first five-year reviews of the antidumping duty orders and countervailing duty order on POS cooking ware from China, Mexico, and Taiwan.<sup>4</sup> On May 7, 1999, the Commission decided to conduct full five-year reviews.<sup>5</sup> On January 4, 2000, Commerce published its negative determination of the likelihood of the continuation or recurrence of a countervailable subsidy in the review of the countervailing duty order on POS cooking ware from Mexico.<sup>6</sup> The Commission subsequently terminated its five-year review of that order on January 7, 2000.<sup>7</sup> In March 2000, the Commission determined that revocation of the antidumping duty orders on POS cooking ware from China, Mexico, and Taiwan would likely lead to continuation or recurrence of material

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<sup>1</sup> Commissioner Broadbent did not participate in this review.

<sup>2</sup> *Porcelain-on-Steel Cooking Ware From China, Mexico, and Taiwan*, Inv. Nos. 701-TA-265, 731-TA-297-299 (Final), USITC Pub. 1911 (Nov. 1986) (“Original Determination”).

<sup>3</sup> See *Porcelain-on-Steel Cooking Ware from the People’s Republic of China*, 51 Fed. Reg. 43414 (Dec. 2, 1986) (antidumping duty order); *Porcelain-on-Steel Cooking Ware from Taiwan*, 51 Fed. Reg. 43416 (Dec. 2, 1986) (antidumping duty order); *Porcelain-on-Steel Cooking Ware from Mexico*, 51 Fed. Reg. 43415 (Dec. 2, 1986) (antidumping duty order); and *Porcelain-on-Steel Cooking Ware from Mexico*, 51 Fed. Reg. 44827 (Dec. 12, 1986) (countervailing duty order).

<sup>4</sup> *Certain Cooking Ware from China, Korea, Mexico, and Taiwan*, 64 Fed. Reg. 4896 (Feb. 1, 1999) (notice of Commission determinations to conduct full five-year reviews).

<sup>5</sup> *Certain Cooking Ware from China, Korea, Mexico, and Taiwan*, 64 Fed. Reg. 38471 (July 16, 1999) (scheduling of full five-year reviews).

<sup>6</sup> *Porcelain-on-Steel Cooking Ware from Mexico*, 65 Fed. Reg. 284 (Jan. 4, 2000) (final results of full sunset review and revocation of countervailing duty order).

<sup>7</sup> *Porcelain-on-Steel Cooking Ware from Mexico*, 65 Fed. Reg. 2430 (Jan. 14, 2000) (termination of five-year review).

injury to an industry in the United States within a reasonably foreseeable time.<sup>8</sup> However, in April 2002, Commerce revoked the antidumping duty order on POS cooking ware from Mexico, pursuant to a changed circumstances review.<sup>9</sup>

On March 1, 2005, the Commission instituted second reviews with respect to the two remaining orders on POS cooking ware from China and Taiwan.<sup>10</sup> On June 6, 2005, the Commission determined that the domestic interested party response was adequate, that the respondent interested party response was inadequate, and that no other circumstance warranted conducting full reviews. It accordingly voted to expedite the reviews.<sup>11</sup> In October 2005, the Commission determined that revocation of the antidumping duty orders on POS cooking ware from China and Taiwan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.<sup>12</sup>

On October 1, 2010, the Commission instituted third reviews with respect to the orders on POS cooking ware from China and Taiwan.<sup>13</sup> No domestic interested party filed a response to Commerce's notice of initiation concerning the review of the order on POS cooking ware from Taiwan, so Commerce revoked the order and the Commission terminated its review concerning POS cooking ware from Taiwan.<sup>14</sup> On January 4, 2011, the Commission found the domestic interested party response to the notice of institution adequate and the respondent interested party response inadequate and that no other circumstance warranted conducting a full review. It accordingly voted to expedite the review. In February 2011, it determined that revocation of the antidumping duty order on POS cooking ware from China would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.<sup>15</sup>

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<sup>8</sup> *Porcelain-on-Steel Cooking Ware from China, Mexico, and Taiwan, and Top-of-the-Stove Stainless Steel Cooking Ware from Korea and Taiwan*, Inv. Nos. 701-TA-267 and 268 (Review) and 731-TA-297-299, 304 and 305 (Review), USITC Pub. 3286 ("First Review Determination") at 1 (March 2000).

<sup>9</sup> *Porcelain-on-Steel Cookware from Mexico*, 67 Fed. Reg. 19553 (April 22, 2002) (final results of changed circumstances antidumping duty administrative review, revocation of the antidumping duty order, and rescission of the administrative reviews).

<sup>10</sup> *Porcelain-on-Steel Cooking Ware from China and Taiwan*, 70 Fed. Reg. 9974 (March 1, 2005) (institution of five-year reviews).

<sup>11</sup> *Porcelain-on-Steel Cooking Ware from China and Taiwan*, 70 Fed. Reg. 35708 (June 21, 2005) (scheduling of expedited five year reviews).

<sup>12</sup> *Porcelain-on-Steel Cooking Ware from China and Taiwan*, Inv. Nos. 731-TA-298 and 299 (Second Review) USITC Pub. 3808 (Oct. 2005) ("Second Review Determination").

<sup>13</sup> *Porcelain-on-Steel Cooking Ware from China and Taiwan*, 70 Fed. Reg. 9974 (March 1, 2005) (institution of five-year reviews).

<sup>14</sup> *Porcelain-on-Steel Cooking Ware from China*, Inv. No. 731-TA-298 (Third Review), USITC Pub. 4216 at 4 n.12 (Feb. 2011) ("Third Review Determination").

<sup>15</sup> Third Review Determination, USITC Pub. 4216 at 4.

*Current Review.* The Commission instituted this fourth review on February 1, 2016.<sup>16</sup> Columbian Home Products LLC (“Columbian”), a domestic producer of POS cooking ware, filed the only response to the notice of institution. On May 6, 2016, the Commission found Columbian’s response and the domestic interested party group response adequate, the respondent interested party group response inadequate, and decided to conduct an expedited review pursuant to section 751(c)(3) of the Tariff Act.<sup>17</sup>

## II. Domestic Like Product and Industry

### A. Domestic Like Product

In making its determination under section 751(c) of the Tariff Act, the Commission defines the “domestic like product” and the “industry.”<sup>18</sup> The Tariff Act defines “domestic like product” as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle.”<sup>19</sup> The Commission’s practice in five-year reviews is to examine the domestic like product definition from the original investigation and consider whether the record indicates any reason to revisit the prior findings.<sup>20</sup>

Commerce has defined the imported merchandise within the scope of the order under review as follows:

{P}orcelain-on-steel cooking ware from the PRC, including tea kettles, which do not have self-contained electric heating elements. All of the foregoing are constructed of steel and are enameled or glazed with vitreous glasses.<sup>21</sup>

The scope description set out above has remained unchanged since the original investigations.<sup>22</sup>

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<sup>16</sup> *Porcelain-on-Steel Cooking Ware from China*, 81 Fed. Reg. 5133 (Feb. 1, 2016) (notice of institution of review).

<sup>17</sup> Explanation of Adequacy, EDIS Doc. 581959.

<sup>18</sup> 19 U.S.C. § 1677(4)(A).

<sup>19</sup> 19 U.S.C. § 1677(10); *see, e.g., Cleo Inc. v. United States*, 501 F.3d 1291, 1299 (Fed. Cir. 2007); *NEC Corp. v. Department of Commerce*, 36 F. Supp. 2d 380, 383 (Ct. Int’l Trade 1998); *Nippon Steel Corp. v. United States*, 19 CIT 450, 455 (1995); *Timken Co. v. United States*, 913 F. Supp. 580, 584 (Ct. Int’l Trade 1996); *Torrington Co. v. United States*, 747 F. Supp. 744, 748-49 (Ct. Int’l Trade 1990), *aff’d*, 938 F.2d 1278 (Fed. Cir. 1991); *see also* S. Rep. No. 249, 96<sup>th</sup> Cong., 1<sup>st</sup> Sess. 90-91 (1979).

<sup>20</sup> *See, e.g., Internal Combustion Industrial Forklift Trucks from Japan*, Inv. No. 731-TA-377 (Second Review), USITC Pub. 3831 at 8-9 (Dec. 2005); *Crawfish Tail Meat from China*, Inv. No. 731-TA-752 (Review), USITC Pub. 3614 at 4 (July 2003); *Steel Concrete Reinforcing Bar from Turkey*, Inv. No. 731-TA-745 (Review), USITC Pub. 3577 at 4 (Feb. 2003).

<sup>21</sup> *Porcelain-on-Steel Cooking Ware from the People's Republic of China*, 81 Fed. Reg. 36870 (June 8, 2016) (final results of expedited sunset review).

The information regarding the nature of POS cooking ware is unchanged since the Commission's third five-year reviews. POS cooking ware consists of articles of porcelain-coated steel used as receptacles in the cooking and heating of food. Items of porcelain-coated steel used only to handle or process food, *i.e.*, POS kitchenware, such as mixing bowls and colanders, are not included in the scope of the order. Porcelain is an opaque glass suffused onto the steel during the production process by means of intense heat.<sup>23</sup> The most common POS cooking ware articles are skillets, frypans, saucepans, double boilers, dutch ovens, stock pots, steamers, canners, blanchers, coffee pots, egg poachers, teakettles, broiling pans, and roasters.<sup>24</sup>

POS cooking ware is manufactured and sold in a wide variety of shapes, sizes, configurations, steel thicknesses, colors, decorative patterns, trim, handle designs (either wood, phenolic resin, or various metals), and/or price ranges.<sup>25</sup> Over the years, these articles have become increasingly differentiated, particularly in terms of style and decoration.<sup>26</sup> Several variations of a single article may be offered by a single producer. Most articles of POS cooking ware are sold individually; the remainder are sold in sets, the most common consisting of seven pieces, such as a skillet, dutch oven, two sauce pans, and three lids, with one lid serving both the skillet and dutch oven.<sup>27</sup>

*Original Investigations and Prior Reviews.* In the original investigations, the Commission defined a single domestic like product encompassing all domestically produced POS cooking ware.<sup>28</sup> In the first reviews, the Commission again defined the domestic like product as all POS

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(...continued)

<sup>22</sup> Commerce has issued various scope determinations with respect to the order. In 2003, it issued a scope determination that clarified that the following items are excluded from the scope of the order: "barbeque grill basket, Delux Grill Topper, Porcelain Coated Grill Topper, and Wok Topper." *Porcelain-on-Steel Cooking Ware from the People's Republic of China*, 68 Fed. Reg. 19781 (April 22, 2003) (notice of rescission of antidumping duty administrative review). In 1991, Commerce clarified that high quality, hand finished cooking ware, including the small basin, medium basin, large basin, small colander, large colander, 8" bowl, 6" bowl, mugs, ash tray, napkin rings, utensil holder and utensils, ladle, cream & sugar, and mixing bowls are properly considered kitchen ware and are therefore, outside the scope of the order. Further, Commerce clarified that CGS International's casserole, 12-cup coffee pot, 6-cup coffee pot, roasting pan, oval roaster, and butter warmer are within the scope of the order. *Porcelain-on-Steel Cooking Ware from the People's Republic of China*, 56 Fed. Reg. 19833 (Apr. 30, 1991) (notice of scope ruling). In response to a request from Texsport, on August 8, 1990, Commerce determined that camping sets, with the exception of the cups and plates included in those sets, are within the scope of the order. *Porcelain-on-Steel Cooking Ware from the People's Republic of China*, 55 Fed. Reg. 43020 (Oct, 25, 1990) (final results of expedited sunset review).

<sup>23</sup> Confidential Report ("CR") at I-3-4, Public Report ("PR") at I-3.

<sup>24</sup> CR at I-3, PR at I-3.

<sup>25</sup> CR at I-4, PR at I-3.

<sup>26</sup> CR at I-4, PR at I-3.

<sup>27</sup> CR at I-4, PR at I-3.

<sup>28</sup> Original Determination, USITC Pub. 1911 at 4-7. The Commission found that teakettles were not a separate like product. *Id.* at 6-7.

cooking ware.<sup>29</sup> It found that the six factors the Commission typically considers in its domestic like product analysis supported its finding that POS cooking ware should be the domestic like product; respondents sought a broader domestic like product including all other metallic cooking ware and ovenware. The Commission found “clear distinctions” between POS cooking ware, available only in light gauges, and other metallic domestic cooking ware which was produced at different facilities, had more extensive applications, and was sold at higher prices.<sup>30</sup> The Commission also noted that its domestic like product definition included tea kettles, which were subject merchandise for the order on China but not for the order on Taiwan.<sup>31</sup> In the second and third reviews, the Commission found there was no new information on the record to warrant revisiting the domestic like product definition.<sup>32</sup>

*Current Review.* In this review, Columbian has indicated that it agrees with the Commission’s definition of the domestic like product in the original investigations and prior reviews.<sup>33</sup> There is no new information obtained during this review that would suggest any reason to revisit this domestic like product definition.<sup>34</sup> We therefore define the domestic like product as all POS cooking ware, including tea kettles, coextensive with Commerce’s scope.

## **B. Domestic Industry**

Section 771(4)(A) of the Tariff Act defines the relevant industry as the domestic “producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.”<sup>35</sup> In defining the domestic industry, the Commission’s general practice has been to include in the industry producers of all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.

In the original investigations and previous reviews, the Commission defined the domestic industry as all U.S. producers of POS cooking ware. There was no basis to exclude any producer from the domestic industry in any of the prior proceedings.<sup>36</sup>

Columbian agrees with the domestic industry definition used in the previous five-year

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<sup>29</sup> First Review Determination, USITC Pub. 3286 at 8-9; Second Review Determination, USITC Pub. 3808 at 8.

<sup>30</sup> First Review Determination, USITC Pub. 3286 at 8.

<sup>31</sup> Second Review Determination, USITC Pub. 3808 at 8 n.36.

<sup>32</sup> Second Review Determination, USITC Pub. 3808 at 8; USITC Pub. 4216 at 6; Third Review Determination, USITC Pub. 4216 at 6.

<sup>33</sup> Columbian Final Comments at 2 (“Final Comments”).

<sup>34</sup> See generally CR at I-3-6, PR at I-3-4.

<sup>35</sup> 19 U.S.C. § 1677(4)(A). The definitions in 19 U.S.C. § 1677 are applicable to the entire subtitle containing the antidumping and countervailing duty laws, including 19 U.S.C. §§ 1675 and 1675a. See 19 U.S.C. § 1677.

<sup>36</sup> Original Determination, USITC Pub. 1911 at 5; First Review Determination, USITC Pub. 3286 at 10; Second Review Determination, USITC Pub. 3808 at 9; Third Review Determination, USITC Pub. 4216 at 7.

reviews and original investigations.<sup>37</sup> The record indicates that Columbian is the only domestic producer of POS cooking ware and is not a related party.<sup>38</sup> We therefore define the domestic industry as consisting of the sole domestic producer of POS cooking ware, Columbian.

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

#### **A. Legal Standards**

In a five-year review conducted under section 751(c) of the Tariff Act, Commerce will revoke an antidumping or countervailing duty order unless: (1) it makes a determination that dumping or subsidization is likely to continue or recur and (2) the Commission makes a determination that revocation of the antidumping or countervailing duty order “would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.”<sup>39</sup> The Uruguay Round Agreements Act Statement of Administrative Action (“SAA”) states that “under the likelihood standard, the Commission will engage in a counterfactual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo – the revocation or termination of a proceeding and the elimination of its restraining effects on volumes and prices of imports.”<sup>40</sup> Thus, the likelihood standard is prospective in nature.<sup>41</sup> The U.S. Court of International Trade has found that “likely,” as used in the five-year review provisions of the Act, means “probable,” and the Commission applies that standard in five-year reviews.<sup>42</sup>

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<sup>37</sup> Final Comments at 3.

<sup>38</sup> CR at I-12, PR at I-9.

<sup>39</sup> 19 U.S.C. § 1675a(a).

<sup>40</sup> SAA, H.R. Rep. 103-316, vol. 1 at 883-84 (1994). The SAA states that “{t}he likelihood of injury standard applies regardless of the nature of the Commission’s original determination (material injury, threat of material injury, or material retardation of an industry). Likewise, the standard applies to suspended investigations that were never completed.” *Id.* at 883.

<sup>41</sup> While the SAA states that “a separate determination regarding current material injury is not necessary,” it indicates that “the Commission may consider relevant factors such as current and likely continued depressed shipment levels and current and likely continued {sic} prices for the domestic like product in the U.S. market in making its determination of the likelihood of continuation or recurrence of material injury if the order is revoked.” SAA at 884.

<sup>42</sup> See *NMB Singapore Ltd. v. United States*, 288 F. Supp. 2d 1306, 1352 (Ct. Int’l Trade 2003) (“‘likely’ means probable within the context of 19 U.S.C. § 1675(c) and 19 U.S.C. § 1675a(a)”), *aff’d mem.*, 140 Fed. Appx. 268 (Fed. Cir. 2005); *Nippon Steel Corp. v. United States*, 26 CIT 1416, 1419 (2002) (same); *Usinor Industeel, S.A. v. United States*, 26 CIT 1402, 1404 nn.3, 6 (2002) (“more likely than not” standard is “consistent with the court’s opinion;” “the court has not interpreted ‘likely’ to imply any particular degree of ‘certainty’”); *Indorama Chemicals (Thailand) Ltd. v. United States*, 26 CIT 1059, 1070 (2002)

(continued...)

The statute states that “the Commission shall consider that the effects of revocation or termination may not be imminent, but may manifest themselves only over a longer period of time.”<sup>43</sup> According to the SAA, a “‘reasonably foreseeable time’ will vary from case-to-case, but normally will exceed the ‘imminent’ timeframe applicable in a threat of injury analysis in original investigations.”<sup>44</sup>

Although the standard in a five-year review is not the same as the standard applied in an original investigation, it contains some of the same fundamental elements. The statute provides that the Commission is to “consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the orders are revoked or the suspended investigation is terminated.”<sup>45</sup> It directs the Commission to take into account its prior injury determination, whether any improvement in the state of the industry is related to the order or the suspension agreement under review, whether the industry is vulnerable to material injury if an order is revoked or a suspension agreement is terminated, and any findings by Commerce regarding duty absorption pursuant to 19 U.S.C. § 1675(a)(4).<sup>46</sup> The statute further provides that the presence or absence of any factor that the Commission is required to consider shall not necessarily give decisive guidance with respect to the Commission’s determination.<sup>47</sup>

In evaluating the likely volume of imports of subject merchandise if an order under review is revoked and/or a suspended investigation is terminated, the Commission is directed to consider whether the likely volume of imports would be significant either in absolute terms or relative to production or consumption in the United States.<sup>48</sup> In doing so, the Commission must consider “all relevant economic factors,” including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) the potential for product shifting if production facilities in the foreign

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(...continued)

(“standard is based on a likelihood of continuation or recurrence of injury, not a certainty”); *Usinor v. United States*, 26 CIT 767, 794 (2002) (“‘likely’ is tantamount to ‘probable,’ not merely ‘possible’”).

<sup>43</sup> 19 U.S.C. § 1675a(a)(5).

<sup>44</sup> SAA at 887. Among the factors that the Commission should consider in this regard are “the fungibility or differentiation within the product in question, the level of substitutability between the imported and domestic products, the channels of distribution used, the methods of contracting (such as spot sales or long-term contracts), and lead times for delivery of goods, as well as other factors that may only manifest themselves in the longer term, such as planned investment and the shifting of production facilities.” *Id.*

<sup>45</sup> 19 U.S.C. § 1675a(a)(1).

<sup>46</sup> 19 U.S.C. § 1675a(a)(1). Commerce has not made any duty absorption findings regarding POS cooking ware from China. CR at I-10, PR at I-7.

<sup>47</sup> 19 U.S.C. § 1675a(a)(5). Although the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886.

<sup>48</sup> 19 U.S.C. § 1675a(a)(2).

country, which can be used to produce the subject merchandise, are currently being used to produce other products.<sup>49</sup>

In evaluating the likely price effects of subject imports if an order under review is revoked and/or a suspended investigation is terminated, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared to the domestic like product and whether the subject imports are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of the domestic like product.<sup>50</sup>

In evaluating the likely impact of imports of subject merchandise if an order under review is revoked and/or a suspended investigation is terminated, the Commission is directed to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including but not limited to the following: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.<sup>51</sup> All relevant economic factors are to be considered within the context of the business cycle and the conditions of competition that are distinctive to the industry. As instructed by the statute, we have considered the extent to which any improvement in the state of the domestic industry is related to the orders under review and whether the industry is vulnerable to material injury upon revocation.<sup>52</sup>

No respondent interested party participated in this expedited review. The record, therefore, contains limited new information with respect to the POS cooking ware industry in China. There also is limited information on the POS cooking ware market in the United States during the period of review. Accordingly, for our determination, we rely as appropriate on the facts available from the original investigations and prior reviews, and the limited new information on the record in this fourth five-year review.

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<sup>49</sup> 19 U.S.C. § 1675a(a)(2)(A-D).

<sup>50</sup> See 19 U.S.C. § 1675a(a)(3). The SAA states that “[c]onsistent with its practice in investigations, in considering the likely price effects of imports in the event of revocation and termination, the Commission may rely on circumstantial, as well as direct, evidence of the adverse effects of unfairly traded imports on domestic prices.” SAA at 886.

<sup>51</sup> 19 U.S.C. § 1675a(a)(4).

<sup>52</sup> The SAA states that in assessing whether the domestic industry is vulnerable to injury if the order is revoked, the Commission “considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they may also demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.” SAA at 885.



## B. Conditions of Competition and the Business Cycle

In evaluating the likely impact of the subject imports on the domestic industry if an order is revoked, the statute directs the Commission to consider all relevant economic factors “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”<sup>53</sup> The following conditions of competition inform our determination.

### 1. Demand Conditions

In the original investigations, the Commission found that apparent U.S. consumption increased by 2.0 percent between 1983 and 1984 before declining by 0.3 percent in 1985 and 3.7 percent between January-June (“interim”) 1985 and interim 1986.<sup>54</sup>

In its first reviews, the Commission found that POS cooking ware formed a small but distinctive segment of the large and varied U.S. cooking ware market.<sup>55</sup> It found that apparent U.S. consumption for POS cooking ware was at almost the same level as during the original investigations, suggesting that demand would remain steady in the foreseeable future.<sup>56</sup>

In the second reviews, the Commission found that the conditions of competition were similar to those in the first review period and were not likely to change significantly in the reasonably foreseeable future.<sup>57</sup> It observed that apparent U.S. consumption of POS cooking ware remained in the same range as during the original investigations and first reviews, although it was significantly lower in 2004.<sup>58</sup>

In the third review, the Commission found that the conditions of competition it observed in the second reviews generally continued to exist.<sup>59</sup> It observed that while competition with other types of cooking ware, *i.e.* cast aluminum, stainless steel, and enameled cast iron cooking ware, was the most significant factor affecting overall demand for POS cooking ware, POS cooking ware nonetheless served distinct markets for tea kettles, roasters, seafood pots, and camp cooking ware.<sup>60</sup> The Commission found that apparent U.S. consumption of POS cooking ware increased between 2008 and 2009.<sup>61</sup>

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<sup>53</sup> 19 U.S.C. § 1675a(a)(4).

<sup>54</sup> Original Determination, USITC Pub. 1911 at 13. At the time of the original investigations, the Commission was not yet obligated to consider the “context of the business cycle and the conditions of competition that are distinctive to the affected industry,” and thus did not make findings in that regard. *See id.* at 4-11. The provision instructing the Commission to consider, *inter alia*, conditions of competition was added to 19 U.S.C. § 1677(7)(C)(iii) in 1988.

<sup>55</sup> First Review Determination, USITC Pub. 3286 at 16.

<sup>56</sup> First Review Determination, USITC Pub. 3286 at 16.

<sup>57</sup> Second Review Determination, USITC Pub. 3808 at 15.

<sup>58</sup> Second Review Determination, USITC Pub. 3808 at 14.

<sup>59</sup> Third Review Determination, USITC Pub. 4216 at 10.

<sup>60</sup> Third Review Determination, USITC Pub. 4216 at 10-11.

<sup>61</sup> Third Review Determination, USITC Pub. 4216 at 10.

In this review, the information available indicates that the conditions of competition that influence demand for POS cooking ware have not changed significantly since the prior reviews.<sup>62</sup> Apparent U.S. consumption in 2015 was \*\*\* units, which was lower than all previous years on record for which the Commission calculated apparent U.S. consumption.<sup>63</sup>

## 2. Supply Conditions

In the original investigations, the Commission found that there was one domestic supplier of POS cooking ware, General Housewares Corporation (“GHC”).<sup>64</sup> It found that GHC’s share of apparent U.S. consumption decreased throughout the January 1983 – June 1986 period of investigation (“POI”) whereas subject imports increased their share of the U.S. market by almost 14 percentage points.<sup>65</sup>

In the first reviews, the Commission found that GHC and its successor, Columbian, continued to be the only domestic producer of POS cooking ware.<sup>66</sup> It observed that whereas GHC had produced both heavy- and light-gauge POS cooking ware, Columbian stopped producing heavy-gauge POS cooking ware. In the first reviews, Columbian’s U.S. shipments and market share in terms of both volume and value were lower than the levels reported by GHC in the original POI.<sup>67</sup> The Commission observed that the market share of cumulated subject imports declined significantly in the first five-year review period compared with the original POI and that nonsubject imports of POS cooking ware accounted for the majority of sales in the United States and had doubled in volume since the original POI.<sup>68</sup>

In the second reviews, the Commission found that Columbian remained the sole domestic producer of POS cooking ware and that its share of the U.S. market increased, notwithstanding decreased shipments, due to a reduction in apparent U.S. consumption.<sup>69</sup> The Commission found that the market share of subject imports from China and Taiwan had also increased slightly.<sup>70</sup>

In the third review, the Commission found that the POS cooking ware industry was a mature industry with few changes in technology that affected supply since 2005.<sup>71</sup> Apparent U.S. consumption of POS cooking ware increased between 2008 and 2009.<sup>72</sup> The Commission observed that nonsubject imports were concentrated in heavy-gauge POS cooking ware which did not compete with the domestic industry’s products whereas subject imports from China

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<sup>62</sup> Columbian Response to the Notice of Institution (“Response”) at 14; Final Comments at 3.

<sup>63</sup> See CR/PR at Table I-5.

<sup>64</sup> Original Determination, USITC Pub. 1911 at 5.

<sup>65</sup> Original Determination, USITC Pub. 1911 at 13-14.

<sup>66</sup> First Review Determination, USITC Pub. 3286 at 17.

<sup>67</sup> First Review Determination, USITC Pub. 3286 at 17.

<sup>68</sup> First Review Determination, USITC Pub. 3286 at 14, 17.

<sup>69</sup> Second Review Determination, USITC Pub. 3808 at 14.

<sup>70</sup> Second Review Determination, USITC Pub. 3808 at 14.

<sup>71</sup> Third Review Determination, USITC Pub. 4216 at 11.

<sup>72</sup> Third Review Determination, USITC Pub. 4216 at 10.

were the domestic industry's leading competitor in light-gauge POS cooking ware. It found that subject imports had increased whereas nonsubject imports had decreased.<sup>73</sup>

In this review, Columbian remains the sole domestic producer of POS cooking ware and held \*\*\* percent of the U.S. market by quantity in 2015. Subject imports from China increased their market share slightly from 2009, capturing \*\*\* percent of the U.S. market based on quantity in 2015.<sup>74</sup> Nonsubject imports' U.S. market share decreased slightly compared to 2009 and was \*\*\* percent in 2015.<sup>75</sup>

### 3. Substitutability and Other Conditions

In the original investigations, the Commission found that notwithstanding minor differences among the products, there was a high degree of substitutability between domestically produced POS cooking ware and subject imports.<sup>76</sup> It also observed that there were common channels of distribution for imports from all of the subject countries.<sup>77</sup> The Commission found that price was a critical factor in purchasing decisions.<sup>78</sup>

In the first reviews, the Commission again found that the domestic like product and the subject merchandise were quite similar or indistinguishable and that price was a critical factor in purchasing decisions.<sup>79</sup>

In the second reviews, the Commission found POS cooking ware was characterized in terms of the thickness of the underlying metal. The domestic industry produced only light-gauge POS cooking ware while producers in China and Taiwan produced light and heavy-gauge POS cooking ware. Based on these circumstances, the Commission concluded that there was a moderate degree of substitution between subject imports and the domestic like product and that price was an important factor in purchasing decisions.<sup>80</sup>

In the third review, the Commission found that little had changed in the U.S. market since the second reviews, that there was a moderate degree of substitutability between domestically produced POS cooking ware and subject imports, and that price remained a leading factor in purchasing decisions.<sup>81</sup>

In this review, there is no new information on the record to suggest that the substitutability of POS cooking ware from domestic and subject sources has changed since the original investigations and prior reviews. Accordingly, we again find that the domestic like

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<sup>73</sup> Third Review Determination, USITC Pub. 4216 at 11.

<sup>74</sup> CR/PR at Table I-5. Subject imports as a share of the U.S. market by value decreased from \*\*\* percent in 2009 to \*\*\* percent in 2015.

<sup>75</sup> CR/PR at Table I-5.

<sup>76</sup> Original Determination, USITC Pub. 1911 at 11.

<sup>77</sup> Original Determination, USITC Pub. 1911 at 11.

<sup>78</sup> First Review Determination, USITC Pub. 3286 at 20.

<sup>79</sup> Second Review Determination, USITC Pub. 3808 at 17.

<sup>80</sup> Second Review Determination, USITC Pub. 3808 at 15.

<sup>81</sup> Third Review Determination, USITC Pub. 4216 at 11.

product and subject POS cooking ware are moderately substitutable and that price continues to be an important factor in purchasing decisions.

### C. Likely Volume of Subject Imports

*Original Investigations and Prior Reviews.* In the original investigations, the Commission found that the cumulated volume of subject imports rose by 52 percent in terms of units and 25 percent in terms of value over the POI.<sup>82</sup>

In the first reviews, the Commission found that cumulated subject imports declined from 8.7 million units in 1985 to 3.0 million units in 1998, and declined in terms of value from \$22.8 million in 1985 to \$6.8 million in 1998.<sup>83</sup> The Commission found that the lower post-order subject import volumes were attributable to the effects of the antidumping duty orders.<sup>84</sup> The Commission also observed in the first reviews that the industries in each of the subject countries appeared to have a substantial volume of underutilized capacity. The Commission observed that the total output of the POS cooking ware industry in China dwarfed domestic U.S. production, as did the total volume of POS cooking ware exports from China.<sup>85</sup>

In the second five-year reviews, the Commission noted that since the first five-year reviews, cumulated subject imports from China and Taiwan increased from 3.0 million units in 1998 to 4.0 million units in 2004.<sup>86</sup> On a value basis, they increased from \$6.8 million in 1998 to \$9.7 million in 2004.<sup>87</sup> The Commission found that the high U.S. market share that the cumulated subject imports attained prior to the imposition of the orders, and their retention of significant market share, suggested that subject producers would likely substantially increase their exports to the United States upon revocation of the antidumping duty orders.<sup>88</sup> The apparent high capacity levels and excess capacity in the subject countries also indicated to the Commission that subject imports would increase significantly if the orders were revoked. The Commission concluded that the subject import volume would likely be significant and would likely increase significantly should the orders be revoked.<sup>89</sup>

In the third review, the Commission again found that subject import volume would likely be significant and would likely increase significantly should the order be revoked. It observed that subject imports had increased since the second reviews even with the antidumping duty order in place. It further observed that available information on the record indicated that Chinese capacity and production of POS cooking ware had increased since the second reviews.<sup>90</sup>

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<sup>82</sup> Original Determination, USITC Pub. 1911 at 13.

<sup>83</sup> First Review Determination, USITC Pub. 3286 at 18.

<sup>84</sup> First Review Determination, USITC Pub. 3286 at 18.

<sup>85</sup> First Review Determination, USITC Pub. 3286 at 19.

<sup>86</sup> Second Review Determination, USITC Pub. 3808 at 16.

<sup>87</sup> Second Review Determination, USITC Pub. 3808 at 16.

<sup>88</sup> Second Review Determination, USITC Pub. 3808 at 16.

<sup>89</sup> Second Review Determination, USITC Pub. 3808 at 16.

<sup>90</sup> Third Review Determination, USITC Pub. 4216 at 13.

The Commission also found that Chinese exporters of POS cooking ware had the ability to shift large amounts of exports from other markets to the United States if the order were revoked.<sup>91</sup>

*Current Review.* The information available in this review shows that subject imports have remained in the U.S. market. From 2010 to 2015, the volume of subject imports ranged from 3.0 or 2.98 to 6.8 million units.<sup>92</sup> Subject imports were 3.1 million units in 2015, which was lower than they were in 2004 and 2009, but higher than 1985 and 1998.<sup>93</sup> In 2015, subject imports accounted for \*\*\* percent of apparent U.S. consumption by quantity.<sup>94</sup>

The record does not contain any current data specific to POS cooking ware production or capacity in China because subject producers did not participate or furnish information in this review.<sup>95</sup> Nonetheless, the information available in this review indicates that Chinese producers of POS cooking ware remain very interested in the U.S. market. Subject import volumes were higher throughout the period of review than they were during the original investigations and first reviews, and subject imports have increased their share of the U.S. market since the original investigations.<sup>96</sup> The available information indicates that the POS cooking ware industry in China has a very large capacity, has recently expanded capacity, and is able to increase exports to the U.S. market should the order be revoked.<sup>97</sup> Global trade data show that in every year between 2010 and 2015, China has been the world's largest exporter for a category of exports that includes POS cooking ware.<sup>98</sup> Additionally, Columbian reported that there are several producers of POS cooking ware from China not currently participating in the U.S. market which currently export POS cooking ware to Canada and can readily expand their North American presence were the order revoked.<sup>99</sup> Consequently, subject producers have both the means and incentive to increase their U.S. exports of the subject merchandise should the order be revoked.

We find that given the increased volume of subject imports, the continued interest that Chinese producers of POS cooking ware have in the U.S. market, and their ability to increase export volumes, the POS cooking ware industry in China is likely to increase exports of subject merchandise to the United States upon revocation of the order. Therefore, we find that the likely volume of subject imports, both in absolute terms and relative to consumption in the United States, would be significant if the order was revoked.

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<sup>91</sup> Third Review Determination, USITC Pub. 4216 at 13.

<sup>92</sup> CR/PR at Table I-3.

<sup>93</sup> CR/PR at Table I-4.

<sup>94</sup> CR/PR at Table I-5.

<sup>95</sup> The record also does not contain any current information about inventories of the subject merchandise or subject producers' ability to shift production between products. The record does indicate that there are no outstanding antidumping or countervailing duty orders in other markets concerning POS cooking ware from China. CR at I-20-21, PR at I-13.

<sup>96</sup> CR/PR at Tables I-4-5.

<sup>97</sup> Response at 22-25.

<sup>98</sup> CR/PR at Table I-6. Chinese export data are based on statistics from the Global Trade Atlas for an HTS subheading broader than the scope definition.

<sup>99</sup> Response at 24.

#### D. Likely Price Effects

*Original Investigations and Prior Reviews.* In the original investigations, the Commission found that pricing data were difficult to assess because producers changed production lines over the course of the investigation period, and the pricing categories encompassed products of different gauges and colors.<sup>100</sup> The Commission found that the domestic producer had been unable to raise prices enough to cover increases in its costs, and that purchasers had provided anecdotal evidence of price undercutting.<sup>101</sup>

In the first reviews, the Commission received no specific pricing information for subject imports from China or Taiwan. It found, however, that the domestic like product and the subject merchandise were quite similar or indistinguishable, price was a critical factor in purchasing decisions, and domestically produced POS cooking ware was likely to be highly sensitive to price-based competition.<sup>102</sup> Accordingly, the Commission found that, in order to gain a greater share of the POS cooking ware market, subject imports from China and Taiwan would likely be priced aggressively. The Commission concluded that underselling would likely be significant in the event of revocation of the antidumping duty orders given subject producers' pricing behavior during the original investigations, the importance of price, the substitutability of the products, and the fact that increased subject import volumes for this product would likely be achieved through lower prices, leading to significant price depression in the U.S. market.<sup>103</sup>

In the second reviews, the Commission had no new product-specific pricing information. Based on information available, including the determinations in the original investigations and the first reviews, the Commission again found that the market for POS cooking ware was price competitive.<sup>104</sup> It also found that subject imports would likely undersell the domestic like product in order to regain market share if the orders were revoked.<sup>105</sup> The Commission concluded that the volume of subject imports at those prices, in turn, would be likely to have significant depressing and suppressing effects on prices of the domestic like product.<sup>106</sup>

In the third review, the Commission found that price remained a leading consideration in purchasing decisions and that POS cooking ware, as the least expensive cooking ware on the market, was highly sensitive to price-based competition.<sup>107</sup> The Commission observed that the record of the third review lacked new pricing data, but nonetheless found that other information on the record indicated that subject imports would be able to undersell the domestic like product by significant margins if the order were revoked.<sup>108</sup> In light of the likely

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<sup>100</sup> Original Determination, USITC Pub. 1911 at 14.

<sup>101</sup> Original Determination, USITC Pub. 1911 at 14.

<sup>102</sup> First Review Determination, USITC Pub. 3286 at 20.

<sup>103</sup> First Review Determination, USITC Pub. 3286 at 21.

<sup>104</sup> Second Review Determination, USITC Pub. 3808 at 17.

<sup>105</sup> Second Review Determination, USITC Pub. 3808 at 17.

<sup>106</sup> Second Review Determination, USITC Pub. 3808 at 17.

<sup>107</sup> Third Review Determination, USITC Pub. 4216 at 15.

<sup>108</sup> Third Review Determination, USITC Pub. 4216 at 15.

significant volume of subject imports, the Commission's original findings, and the information on the record in the third review, the Commission concluded that subject imports would likely significantly undersell the domestic like product to gain market share and would likely have significant depressing or suppressing effects on domestic prices if the order were revoked.<sup>109</sup>

*Current Review.* There is no new product-specific pricing information on the record in this review. In the absence of these data, we have considered the AUV data that Columbian placed on the record.<sup>110</sup> In 2015, the AUVs for subject imports were below both the AUVs for nonsubject imports and the AUVs for the domestic like product.<sup>111</sup>

We found above that the domestic like product and the subject imports are moderately substitutable and that price continues to be an important factor in purchasing decisions. Because price is an important factor in purchasing decisions, if the order was revoked, subject imports would likely increase their sales in the U.S. market by underselling the domestic like product and the domestic producer would likely be unable to increase prices, as occurred in the original investigations. Given this evidence and the available data which indicate that subject imports have lower values than the domestic like product, we find that subject import underselling would likely be significant if the order was revoked.

We find that if the order was revoked, the likely significant underselling by subject imports, combined with the likely higher volumes of subject imports, would likely exert downward pressure on prices for the domestic like product. The Commission found in the original investigations that domestic producers were unable to increase prices due to the presence of subject imports. Therefore, we conclude that revocation of the order would likely result in significant subject import underselling that would likely depress or suppress prices for the domestic like product to a significant degree.

## **E. Likely Impact**

*Original Investigations and Prior Reviews.* In the original investigations, the Commission found that the domestic industry was materially injured, noting that production and capacity utilization declined over the course of the POI, as did domestic shipments, the number of workers, and the hours worked.<sup>112</sup> The Commission also observed that all measures of the domestic industry's profitability declined from 1983 to 1985.<sup>113</sup>

In the first reviews, the Commission found that if the antidumping duty orders were revoked, subject imports would likely have a significant adverse impact on the domestic industry within a reasonably foreseeable time. The Commission observed that the condition of the domestic industry had improved since the imposition of the orders, and that the industry

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<sup>109</sup> Third Review Determination, USITC Pub. 4216 at 15.

<sup>110</sup> We view comparisons of AUVs from different sources with caution because differences in AUVs may reflect differences in product mix.

<sup>111</sup> CR/PR at Tables I-2-3.

<sup>112</sup> Original Determination, USITC Pub. 1911 at 7.

<sup>113</sup> Original Determination, USITC Pub. 1911 at 7-8.

was not currently vulnerable, yet the industry nonetheless showed several signs of weakness.<sup>114</sup> It found that given steady demand for POS cooking ware, and the fact that nonsubject imports were concentrated in heavy-gauge product, the increase in shipments of subject imports would cause a decrease in Columbian's domestic shipments.<sup>115</sup> Declines in volumes and prices caused by subject imports were also likely to have a significant adverse impact on the domestic industry's production, shipments, sales, and revenue levels.<sup>116</sup> The Commission concluded that revocation of the orders would have a direct adverse effect on the domestic industry's profitability and cause commensurate employment declines.<sup>117</sup>

In the second reviews, the Commission found that it did not have sufficient information to determine whether or not the domestic industry was vulnerable to the continuation or recurrence of material injury. It found that domestic production and shipments of POS cooking ware had decreased since issuance of the orders.<sup>118</sup> Further, the Commission found that the domestic producer's market share based on quantity had declined, while the share held by subject imports also declined.<sup>119</sup> Noting the limits of the available data and relying on the determinations and data in the original investigations and the first reviews, the Commission concluded that the volume and price effects of the subject imports would likely have a significant adverse impact on the domestic industry.<sup>120</sup>

In the third review, the Commission found that the domestic industry had become smaller since the original investigations, but had also stabilized. It found that the order helped the domestic industry compete with subject imports and subsequently increase its market share.<sup>121</sup> The Commission also observed that nonsubject imports had decreased in the U.S. market and did not compete with the domestic like product, whereas subject imports competed with the domestic like product.<sup>122</sup> It found that in the absence of the disciplining effect of the order, it was likely that subject imports would increase competition with the domestic like product for sales, particularly at large retail accounts, and that the domestic industry would likely lose sales to lower-priced subject imports.<sup>123</sup> The Commission concluded that in light of increasing demand and declining nonsubject imports, subject imports would likely have a material adverse impact on the domestic industry if the order were revoked.<sup>124</sup>

*Current Review.* Because this is an expedited review, we have only limited information with respect to the domestic industry's financial performance, consisting of the data that Columbian provided in response to the notice of institution and data from the original

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<sup>114</sup> First Review Determination, USITC Pub. 3286 at 22.

<sup>115</sup> First Review Determination, USITC Pub. 3286 at 23.

<sup>116</sup> First Review Determination, USITC Pub. 3286 at 23.

<sup>117</sup> First Review Determination, USITC Pub. 3286 at 23.

<sup>118</sup> Second Review Determination, USITC Pub. 3808 at 19.

<sup>119</sup> Second Review Determination, USITC Pub. 3808 at 20.

<sup>120</sup> Second Review Determination, USITC Pub. 3808 at 20.

<sup>121</sup> Third Review Determination, USITC Pub. 4216 at 17-18.

<sup>122</sup> Third Review Determination, USITC Pub. 4216 at 18.

<sup>123</sup> Third Review Determination, USITC Pub. 4216 at 18.

<sup>124</sup> Third Review Determination, USITC Pub. 4216 at 18-19.



investigations and prior reviews. The record is insufficient for us to make a finding on whether the domestic industry is vulnerable to the continuation or recurrence of material injury in the event of revocation of the order.<sup>125</sup>

In 2015, the capacity of the domestic industry was \*\*\* units, production was \*\*\* units, capacity utilization was \*\*\* percent, and U.S. shipments were \*\*\* units.<sup>126</sup> The domestic industry reported that its ratio of operating income to sales was \*\*\* percent.<sup>127</sup> Based on the limited information on the record, we find that should the order be revoked, the likely significant volume and price effects of the subject imports would likely have a significant impact on the production, shipments, sales, market share, and revenues of the domestic industry. This impact would likely cause declines in the domestic industry's financial performance.

We have also considered the role of factors other than subject imports, including the presence of nonsubject imports, so as not to attribute injury from other factors to the subject imports. Nonsubject imports accounted for \*\*\* percent of the U.S. market in 2015.<sup>128</sup> However, the record indicates that nonsubject imports are predominantly heavier-gauge cooking ware, whereas U.S. production is solely lighter-gauge cooking ware.<sup>129</sup> Consequently, the increased volume of subject imports is likely to come at the expense of the domestic industry, rather than nonsubject imports, particularly because historical data indicate that the U.S. market for POS cooking ware is likely to continue to be generally stable.<sup>130</sup> We consequently have not attributed to the subject imports any likely injury caused by other factors.

Accordingly, we conclude that if the order was revoked, subject imports would likely have a significant impact on the domestic industry within a reasonably foreseeable time.

#### **IV. Conclusion**

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

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<sup>125</sup> Based on the record in this expedited review, Commissioner Pinkert finds that the domestic industry producing POS cooking ware is vulnerable to the continuation or recurrence of material injury in the event of revocation of the antidumping duty order. Although the industry's operating income margin in 2015 was \*\*\* percent, that was \*\*\* lower than the margin it achieved in 2009, and its operating income, net sales, and U.S. commercial shipments were all substantially lower in 2015 than in 2009. CR/PR at Table I-2.

<sup>126</sup> CR/PR at Table I-2. Each of these indicators was lower in 2015 than it was in 2009. *Id.*

<sup>127</sup> CR/PR at Table I-2.

<sup>128</sup> CR/PR at Table I-5.

<sup>129</sup> Response at 14.

<sup>130</sup> See CR/PR at Table I-2.



## INFORMATION OBTAINED IN THIS REVIEW

### BACKGROUND

On February 1, 2016, the U.S. International Trade Commission (“Commission”) gave notice, pursuant to section 751(c) of the Tariff Act of 1930, as amended (“the Act”),<sup>1</sup> that it had instituted a review to determine whether revocation of the antidumping duty order on porcelain-on-steel cooking ware (“POS cooking ware”) from China would likely lead to the continuation or recurrence of material injury to a domestic industry.<sup>2</sup> All interested parties were requested to respond to this notice by submitting certain information requested by the Commission.<sup>3 4</sup> The following tabulation presents information relating to the background and schedule of this proceeding:

<b>Effective or statutory date</b>	<b>Action</b>
February 1, 2016	Notice of initiation and institution by Commerce and Commission
May 6, 2016	Scheduled date for Commission vote on adequacy
June 1, 2016	Scheduled date for Commerce results of its expedited review
June 30, 2016	Commission statutory deadline to complete expedited review
January 26, 2017	Commission statutory deadline to complete full review

### RESPONSES TO THE COMMISSION’S NOTICE OF INSTITUTION

#### Individual responses

The Commission received one submission in response to its notice of institution in the subject review. It was filed on behalf of Columbian Home Products, LLC (“Columbian”), the only

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

<sup>2</sup> *Porcelain-on-Steel Cooking Ware From China; Institution of a Five-Year Review*, 81 FR 5133, February 1, 2016. In accordance with section 751(c) of the Act, the U.S. Department of Commerce (“Commerce”) published a notice of initiation of a five-year review of the subject antidumping duty order concurrently with the Commission’s notice of institution. *Initiation of Five-Year (“Sunset”) Review*, 81 FR 5418, February 2, 2016. Pertinent *Federal Register* notices are referenced in app. A, and may be found at the Commission’s website ([www.usitc.gov](http://www.usitc.gov)).

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

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

domestic producer of porcelain-on-steel cooking ware (referred to herein as “domestic interested party”).<sup>5</sup>

### **Party comments on adequacy**

The Commission received one submission from parties commenting on the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. This submission was filed on behalf of Columbian. In its comments, the domestic interested party maintains that its response to the Commission’s notice of institution is adequate, while the respondent interested party response is inadequate. Columbian asserts the Commission should conduct an expedited review of the order, citing its detailed response to the Commission’s notice of institution, the absence of a respondent interested party response, and the lack of circumstances that would warrant conducting a full review.<sup>6</sup>

### **RECENT DEVELOPMENTS IN THE INDUSTRY**

Since the Commission’s last five-year review, there have been no new developments in the POS cooking ware industry. According to Columbian, supply and demand conditions in the U.S. have not changed since imposition of the orders. In addition, there have been no new developments in either production technologies or input material usage.<sup>7</sup>

### **THE PRODUCT**

#### **Commerce’s scope**

Commerce has defined the subject merchandise as:

The merchandise covered by this order is porcelain-on-steel cooking ware from the PRC, including tea kettles, which do not have self-contained electric heating elements. All of the foregoing are constructed of steel and are enameled or glazed with vitreous glasses. The merchandise is currently classifiable under the Harmonized Tariff Schedule of the United States (“HTSUS”) subheading 7323.94.00. The HTSUS subheading is provided for convenience and customs purposes. The written description of the scope remains dispositive.<sup>8</sup>

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<sup>5</sup> A complete response to the Commission’s notice of institution requires that the responding interested party submit to the Commission all the information listed in the notice. Responding firms are given an opportunity to remedy and explain any deficiencies in their responses.

<sup>6</sup> Columbian’s comments on adequacy, April 14, 2016, p. 8.

<sup>7</sup> *Domestic Interested Party’s Response to the Notice of Institution*, March 2, 2016, p. 41.

<sup>8</sup> *Porcelain-on-Steel Cooking Ware From the People’s Republic of China: Continuation of Antidumping Duty Order*, 76 FR 13602, March 14, 2011.

## Description and uses<sup>9</sup>

POS cooking ware consists of articles of porcelain-coated steel used as receptacles in the cooking and heating of food. Related items of porcelain-coated steel used only to handle or process food, i.e., POS kitchenware, such as mixing bowls and colanders, are not included. Porcelain is an opaque glass, suffused onto the steel during the production process by means of intense heat. Among the most common POS cooking ware articles are skillets, frypans, saucepans, double boilers, dutch ovens, stock pots, steamers, canners, blanchers, coffee pots, egg poachers, teakettles, broiling pans, and roasters. Although such articles of POS cooking ware are primarily identified according to the kind of cooking they are designed to perform and/or the kind of food they are designed to heat, their use, to a greater extent, may be linked to their unique characteristics for specialized applications.

POS cooking ware is categorized in terms of the thickness of its steel substrate. Light-gauge POS cooking ware is typically less than 0.6 mm thick and bears a single coat of dark-colored porcelain, which may have white flecks. Heavy-gauge POS cooking ware is typically more than 0.6 mm thick and, accordingly, can support more layers of porcelain, which allows the use of a broader array of colors and decoration.<sup>10</sup>

All of the most common articles of POS cooking ware identified above are sold in a wide variety of shapes, sizes, configurations, steel thicknesses, colors, decorative patterns, trim, handle designs (either wood, phenolic resin or various metals), and/or price ranges. Over the years these articles have become increasingly differentiated, particularly in terms of style and decoration. Several variations of a single article may be offered by a single producer. Most articles of POS cooking ware are sold individually; the remainder are sold in sets, the most common consisting of seven pieces, such as a skillet, dutch oven, two sauce pans, and three lids, with one lid serving both the skillet and dutch oven.

## Manufacturing process<sup>11</sup>

There are two main stages in the production of POS cooking ware. First, blanks are cut from a porcelain enameling grade of steel sheet and pressed into the shape of the desired cooking ware article. The second stage is the enameling process, in which the articles are coated with a porcelain enamel glaze and then fired at high temperatures (1,500-1,550 degrees Fahrenheit). Light-gauge POS cooking ware enamel produced in the United States is limited to only four colors (or variations of the four) as only a single layer of porcelain will bond to the steel. When producing the heavy-gauge POS cooking ware, two or three layers of glaze may be

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<sup>9</sup> Unless otherwise noted, this information is based on *Porcelain-on-Steel Cooking Ware from China, Inv. No. 731-TA-298 (Third Review)*, USITC Publication 4216, February 2011, p. I-10.

<sup>10</sup> Columbian currently produces light-gauge POS cooking ware only, while China is reported to produce both light- and heavy-gauge POS cooking ware.

<sup>11</sup> Unless otherwise noted, this information is based on *Porcelain-on-Steel Cooking Ware from China, Inv. No. 731-TA-298 (Third Review)*, USITC Publication 4216, February 2011, p. I-11.

applied to achieve the desired decoration or color. The presses and other equipment used to form the various articles are interchangeable, enabling the workers to shift easily from the production of one article to another.<sup>12</sup>

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

POS cooking ware is currently imported under HTS statistical reporting numbers 7323.94.0010, 7323.94.0021, and 7323.94.0026 (“cooking and kitchen ware, of iron (other than cast iron) or steel, enameled”). POS cooking ware imported from China enters the U.S. market at a column 1-general duty rate of 2.7 percent.

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

The domestic like product is defined as the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the subject merchandise. The domestic industry is defined as the U.S. producers as a whole of the domestic like product, or those producers whose collective output of the domestic like product constitutes a major proportion of the total domestic production of the product. In its original determination, its full first five-year review determination, and its expedited second and third review determinations, the Commission defined the domestic like product as all POS cooking ware, including teakettles, and it defined the domestic industry as all domestic producers of the domestic like product.<sup>13</sup>

In its notice of institution for this review, the Commission solicited comments from interested parties regarding the appropriate domestic like product and domestic industry. According to its response to the notice of institution, domestic producer Columbian is unaware of any reason that the like product definition should be revised and agrees with the Commission’s definitions.<sup>14</sup>

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<sup>12</sup> According to the petitioner, “Factors affecting the supply of POS cooking ware in the U.S. and foreign markets have not changed significantly since imposition of the orders. There have been no developments in either production technologies or input material usage.” *Domestic Interested Party’s Response to the Notice of Institution*, March 2, 2016, p. 41.

<sup>13</sup> *Porcelain-on-Steel Cooking Ware from Mexico, the People’s Republic of China, and Taiwan, Inv. Nos. 701-TA-265 and 731-TA-297-299 (Final)*, USITC Publication 1911, November 1986, pp. 4-7; *Porcelain-on-Steel Cooking Ware From China, Mexico, and Taiwan, and Top-of-the-Stove Stainless Steel Cooking Ware From Korea and Taiwan, Inv. Nos. 701-TA-267 and 268 and 731-TA-297-299, 304 and 305 (Review)*, USITC Publication 3286, March 2000, pp. 5-10; *Porcelain-on-Steel Cooking Ware From China and Taiwan, and Top-of-the-Stove Stainless Steel Cooking Ware From Korea and Taiwan, Inv. Nos. 701-TA-267 and 268 and 731-TA-298, 299, 304, and 305 (Second Review)*, USITC Publication 3808, October 2005, p. 8; and *Porcelain-on-Steel Cooking Ware from China, Inv. No. 731-TA-298 (Third Review)*, USITC publication 4216, February 2011, pp. 6-7.

<sup>14</sup> *Domestic Interested Party’s Response to the Notice of Institution*, March 2, 2016, p. 42.

## THE ORIGINAL INVESTIGATION AND SUBSEQUENT REVIEWS

### The original investigation

The original investigation resulted from a petition filed on December 4, 1985 with Commerce and the Commission by General Housewares Corp. (“GHC”), Terre Haute, Indiana.<sup>15</sup> On October 10, 1986, Commerce published an affirmative final LTFV determination<sup>16</sup> and, on November 26, 1986, the Commission completed its original investigation, determining that an industry in the United States was materially injured by reason of LTFV imports of POS cooking ware from China.<sup>17</sup> Following receipt of the Commission’s final affirmative determination, Commerce issued an antidumping duty order on imports of POS cooking ware from China, with a margin of 66.65 percent for China National Light Industrial Products Import and Export Corporation (“CNL”) and all others.<sup>18</sup>

### The first five-year review

The Commission instituted the first five-year review of the subject order on February 1, 1999, and determined on May 7, 1999, that it would conduct a full review.<sup>19</sup> On September 16, 1999, Commerce published its determination that the revocation of the antidumping duty order on POS cooking ware from China would be likely to lead to continuation or recurrence of dumping at a rate of 66.65 percent for CNL and all others.<sup>20</sup> The Commission determined that material injury would be likely to continue or recur within a reasonably foreseeable time, and published its determination on April 5, 2000. Commerce published notice of the continuation of the antidumping duty order on April 14, 2000.<sup>21</sup>

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<sup>15</sup> GHC was the only U.S. producer of POS cooking ware during the Commission’s original investigation. In 1998, Columbian acquired GHC’s POS cooking ware business and became the successor-in-interest to the original petitioner. Columbian has remained the only U.S. producer of POS cooking ware since its acquisition of the GHC POS cooking ware operations in 1998. *Domestic Interested Party’s Response to the Notice of Institution*, March 2, 2016, pp. 4 and 38.

<sup>16</sup> *Porcelain-on-Steel Cooking Ware From the People’s Republic of China; Final Determination of Sales at Less Than Fair Value*, 51 FR 36419, October 10, 1986.

<sup>17</sup> *Porcelain-on-Steel Cooking Ware From Mexico, the People’s Republic of China, and Taiwan*, 51 FR 42946, November 26, 1986.

<sup>18</sup> *Antidumping Duty Order; Porcelain-on-Steel Cooking Ware From the People’s Republic of China*, 51 FR 43414, December 2, 1986.

<sup>19</sup> *Porcelain-on-Steel Cooking Ware From China and Taiwan*, 64 FR 4896, February 1, 1999; and *Certain Cooking Ware From China, Korea, Mexico, and Taiwan*, 64 FR 27295, May 19, 1999.

<sup>20</sup> *Final Results of Expedited Sunset Review: Porcelain-on-Steel Cooking Ware From the People’s Republic of China*, 64 FR 50271, September 16, 1999.

<sup>21</sup> *Porcelain-on-Steel Cooking Ware From China, Mexico, and Taiwan, and Top-of-the-Stove Stainless Steel Cooking Ware From Korea and Taiwan*, 65 FR 17902, April 5, 2000; and *Continuation of*

(continued...)

### The second five-year review

The Commission instituted the second five-year review of the subject order on March 1, 2005, and determined on June 6, 2005, that it would conduct an expedited review.<sup>22</sup> On October 5, 2005, Commerce published its determination that revocation of the antidumping duty order on POS cooking ware from China would be likely to lead to continuation or recurrence of dumping at a rate of 66.65 for CNL and all others, and on October 27, 2005, the Commission notified Commerce of its determination that material injury would be likely to continue or recur within a reasonably foreseeable time.<sup>23</sup> Commerce issued the second continuation of the antidumping duty order effective November 22, 2005.<sup>24</sup>

### The third five-year review

The Commission instituted the third five-year review of the subject order on October 1, 2010, and determined on January 4, 2011, that it would conduct an expedited review.<sup>25</sup> On February 10, 2011, Commerce published its determination that revocation of the antidumping duty order on POS cooking ware from China would be likely to lead to continuation or recurrence of dumping at a rate of 66.65 percent for CNL and all others, and on February 28, 2011, the Commission notified Commerce of its determination that material injury would be likely to continue or recur within a reasonably foreseeable time.<sup>26</sup> Commerce issued the third continuation of the antidumping duty order effective March 14, 2011.<sup>27</sup>

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(...continued)

*Antidumping Duty Orders: Porcelain-on-Steel Cooking Ware From China, Mexico, and Taiwan*, 65 FR 20136, April 14, 2000.

<sup>22</sup> *Porcelain-on-Steel Cooking Ware From China and Taiwan (Investigations Nos. 731-TA-298 and 299 (Second Review)); Top-of-the-Stove Stainless Steel Cooking Ware From Korea and Taiwan (Investigations Nos. 701-TA-267 and 268 and 731-TA-304 and 305 (Second Review))*, 70 FR 9974, March 1, 2005; and 70 FR 35708, June 21, 2005.

<sup>23</sup> *Porcelain-on-Steel Cooking Ware from the People's Republic of China and Taiwan; Five-year ("Sunset") Reviews of Antidumping Duty Orders; Final Results*, 70 FR 58187, October 5, 2005; and *Porcelain-on-Steel Cooking Ware From China and Taiwan; Top-of-the-Stove Stainless Steel Cooking Ware From Korea and Taiwan*, 70 FR 67740, November 8, 2005.

<sup>24</sup> *Porcelain-on-Steel Cooking Ware from the People's Republic of China and Taiwan; Continuation of Antidumping Duty Orders*, 70 FR 70581, November 22, 2005.

<sup>25</sup> *Porcelain-on-Steel Cooking Ware From China and Taiwan; Top-of-the-Stove Stainless Steel Cooking Ware From Korea*, 75 FR 62144, October 7, 2010; and *Porcelain-on-Steel Cooking Ware From China*, 76 FR 2920, January 18, 2011.

<sup>26</sup> *Porcelain-on-Steel Cooking Ware from the People's Republic of China: Final Results of the Expedited Sunset Review of the Antidumping Duty Order; Final Results*, 76 FR 7534, February 10, 2011; and *Porcelain-on-Steel Cooking Ware From China*, 76 FR 12369, March 7, 2011.

<sup>27</sup> *Porcelain-on-Steel Cooking Ware From the People's Republic of China: Continuation of Antidumping Duty Order*, 76 FR 13602, March 14, 2011.



## PRIOR RELATED INVESTIGATIONS

On May 4, 1979, a petition was filed with the Commission by GHC for import relief under section 201(a)(1) of the Trade Act of 1974. The petition requested that an investigation be instituted to determine whether cooking ware of steel, enameled or glazed with vitreous glasses, was being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic industry producing a like product.<sup>28</sup>

On November 13, 1979, the Commission unanimously determined that imports of POS cooking ware were a substantial cause of serious injury, or the threat thereof, to the domestic industry.<sup>29</sup> In Proclamation 4713, effective January 17, 1980, and expiring on January 16, 1984, the President imposed a temporary duty increase on the subject POS cooking ware, valued not over \$2.25 per pound and not including teakettles.<sup>30</sup>

## ACTIONS AT COMMERCE

Commerce has not made any findings with respect to company revocations or duty absorption since the imposition of the order. However, as a result of an administrative review, Clover Enamelware Enterprise, Ltd. and its affiliated reseller, Lucky Enamelware Factor Ltd. are subject to a *de minimis* rate of zero.<sup>31</sup> In addition, Commerce has not conducted any administrative reviews, new shipper reviews, critical circumstances reviews, changed circumstances reviews, or anti-circumvention findings since the last five-year review.

### Scope rulings

As shown in table I-1, Commerce has conducted seven scope inquiry reviews concerning the antidumping duty order on POS cooking ware from China, two of which were concluded since the last five-year review.

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<sup>28</sup> On June 20, 1979, the Commission amended the scope of the investigation by adding other types of nonelectric cooking ware, such as aluminum, cast iron, and stainless steel cooking ware.

<sup>29</sup> The Commission made negative determinations with respect to all the other types of nonelectric cooking ware.

<sup>30</sup> *Porcelain-on-Steel Cooking Ware from Mexico, the People's Republic of China, and Taiwan: Investigation Nos. 701-TA-265 and 731-TA-297-299 (Final)*, USITC Publication 1911, November 1986, pp. A-2-A-3.

<sup>31</sup> *Porcelain-on-Steel Cooking Ware From China; Final Results of Antidumping Duty Administrative Review*, 65 FR 31144, May 16, 2000

**Table I-1**  
**POS cooking ware: Scope inquiry reviews**

Date	Requestor	Ruling
August 8, 1990 (55 FR 43020, October 25, 1990)	Texsport	Camping sets, with the exception of the cups and plates included in those sets, are within the scope of the order.
January 30, 1991 (56 FR 1983, April 30, 1991)	CGS International	High quality, hand finished cookware, including the small basin, medium basin, large basin, small colander, large colander, 8" bowl, 6" bowl, mugs, ash tray, napkin rings, utensil holder and utensils, ladle, cream & sugar, and mixing bowls are properly considered kitchenware and are therefore, outside the scope of the order. Further, CGS International's casserole, 12-cup coffee pot, 6-cup coffee pot, roasting pan, oval roaster, and butter warmer are within the scope of the order.
March 8, 2000 (65 FR 41957, July 7, 2000)	Tristar Products	Grill sets with aluminum grill plates are outside the scope of the order.
October 29, 2003 (70 FR 24533, May 10, 2005)	Target Corporation	Certain enamel-clad beverage holders and dispensers are outside the scope of the order.
January 4, 2005 (70 FR 41374, July 19, 2005)	Taybek International	The Pro Popper professional popcorn popper is within the scope of the order.
May 7, 2012 (77 FR 52313, August 29, 2012)	The Coleman Company, Inc.	The stockpot locking lid of its Signature Series All-In-One Cooking System And Max Series is within the scope of the antidumping duty order; the stockpot cooking base of its Signature Series All-In-One Cooking System And Max Series is not within the scope of the order.
December 10, 2014 (80 FR 22969, April 24, 2015)	The Companion Group	The Companion Group's rectangular and round drip pans are within the scope of the order because the products: (1) Are constructed of steel and are enameled or glazed with vitreous glasses; (2) do not have self-contained electric heating elements; and (3) are used as cooking ware

Source: Cited *Federal Register* notices.

### Current five-year review

Commerce is conducting an expedited review with respect to POS cooking ware from China and intends to issue the final results of these reviews based on the facts available not later than June 1, 2016.<sup>32</sup>

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<sup>32</sup> Jim Doyle, letter to Catherine DeFilippo, April 4, 2016.

## THE INDUSTRY IN THE UNITED STATES

### U.S. producers

The original antidumping duty investigation resulted from a petition filed on behalf of GHC on December 4, 1985, the sole U.S. producer of POS cooking ware at the time. In March 1998, Columbian acquired GHC's POS cooking ware business and became the successor-in-interest to the original petitioner. Columbian has remained the only U.S. producer of POS cooking ware since its acquisition of the GHC POS cooking ware operations in 1998.<sup>33</sup>

### Related party issues

Columbian is not related to any Chinese producer or exporter of POS cooking ware. In addition, Columbian has not imported subject merchandise at any time since its acquisition of GHC's POS cooking ware operations.<sup>34</sup>

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

The Commission asked domestic interested parties to provide trade and financial data in their response to the notice of institution of the current five-year review.<sup>35</sup> Table I-2 presents data submitted from GHC/Columbian in the Commission's original investigation and subsequent reviews.

**Table I-2**  
**POS cooking ware: Trade and financial data submitted by GHC/Columbian, 1985, 1998, 2004, 2009, and 2015**

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## U.S. IMPORTS AND APPARENT CONSUMPTION

### U.S. importers

In the final phase of the original investigation, at least 50 firms were believed to have imported POS cooking ware. Data received from U.S. importers accounted for approximately 31 percent of subject imports from China.<sup>36</sup> During the first and second five-year reviews of the antidumping duty order, two firms were identified as U.S. importers of POS cooking ware from

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<sup>33</sup> *Domestic Interested Party's Response to the Notice of Institution*, March 2, 2016, pp. 4 and 38.

<sup>34</sup> *Domestic Interested Party's Response to the Notice of Institution*, March 2, 2016, p. 38

<sup>35</sup> Individual company trade and financial data are presented in app. B.

<sup>36</sup> *Porcelain-on-Steel Cooking Ware from Mexico, the People's Republic of China, and Taiwan, Inv. Nos. 701-TA-265 and 731-TA-297-299 (Final)*, USITC Publication 1911, November 1986, p. A-15.

China. During the third five-year review, Columbian identified five firms as U.S. importers of POS cooking ware from China. During this current review, Columbian identified seven firms as possible U.S. importers of POS cooking ware from China in its response to the Commission's notice of institution.<sup>37</sup>

### **U.S. imports<sup>38</sup>**

The Commission found that the cumulated volume of imports from China, Mexico, Taiwan, and Spain<sup>39</sup> rose 52 percent by quantity and 25 percent by value over the investigation period. Antidumping duty orders were imposed in late 1986, and imports of Chinese subject merchandise decreased thereafter.

In the first five-year reviews, cumulated subject imports from China, Mexico, and Taiwan accounted for up to \*\*\* percent of the market during the review period.<sup>40</sup> Subject imports were 6.7 million units in 1997 and 4.7 million units in 1998. The Commission found that the lower post-order subject import volume was attributable to the effects of the antidumping orders. The Commission found that subject imports were likely to be significant if the antidumping duty orders were revoked. It observed that each of the subject countries appeared to have a substantial volume of underutilized capacity. The Commission noted that the total output of the POS cooking ware industry in China dwarfed domestic production, as did the total volume of POS cooking ware exports from China.

In the second five-year reviews, the Commission noted that since the previous five-year reviews, cumulated subject imports from China and Taiwan increased from 2.98 million units in 1998 to 3.94 million units in 2004. On a value basis, they increased from \$6.79 million in 1998 to \$9.67 million in 2004. The Commission again found a likely significant volume of subject imports if the antidumping duty orders were revoked. It based this finding on the cumulated imports' high market share during the original investigations and continued high U.S. market share as well as the apparent high capacity and excess capacity in the subject countries.

In the third five-year reviews, the Commission noted that notwithstanding the antidumping duty order, subject imports from China continued to enter the U.S. market in substantial quantities and increased since the prior period of review, rising from 3.6 million units in 2004 to 4.9 million units in 2009. By contrast, nonsubject imports fell over the same period, from 6.3 million units to 4.7 million units. Thus, it was evident to the Commission that Chinese POS cooking ware had a firm foothold in the U.S. market and Chinese exporters were

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<sup>37</sup> *Domestic Interested Party's Response to the Notice of Institution*, March 2, 2016, exh. 12.

<sup>38</sup> Unless otherwise noted, this information is based on *Porcelain-on-Steel Cooking Ware from China, Inv. No. 731-TA-298 (Third Review)*, USITC Publication 4216, February 2011, pp. 12-14.

<sup>39</sup> At the time of the original investigations, imports of POS cooking ware from Spain were subject to a preliminary investigation by the Commission. The investigation with regard to Spain did not result in the issuance of an antidumping or countervailing duty order because it was terminated after GHC withdrew the dumping petition.

<sup>40</sup> Confidential Opinion in Third Review, p. 17.

able to increase their exports to the United States even with the antidumping duty order in place. The Commission again found a likely significant volume of subject imports if the antidumping duty order were revoked. It based this finding on the sustained and large presence of subject imports in the U.S. market, the size of the industry in China, the Chinese industry's total volume of exports, and the potential for the shifting of Chinese exports from other markets to the United States.

Table I-3 presents the quantity, value, and unit value for imports from China as well as the other top sources of U.S. imports (shown in descending order of 2015 imports by quantity). Though substantially lower in quantity than during 1983-85, POS cooking ware from China retain a presence in the U.S. market, with unit values below the average for total imports and other individual leading sources of import supply in each year between 2010 and 2015. Overall U.S. imports of POS cooking ware declined by 53.4 percent between 2010 and 2015, while average unit values increased during the same period, by 33.9 percent.

**Table I-3**  
**POS cooking ware: U.S. imports, 2010-15**

Item	2010	2011	2012	2013	2014	2015
<b>Quantity (1,000 units)</b>						
China (subject)	6,751	4,178	4,115	4,208	2,977	3,070
Thailand	2,432	1,836	1,217	1,437	895	1,002
Mexico	972	808	792	769	638	758
Indonesia	1,033	886	959	818	535	507
All other imports	1,299	1,020	1,127	522	470	486
Subtotal, nonsubject	5,736	4,550	4,095	3,546	2,538	2,753
Total imports	12,487	8,728	8,210	7,754	5,515	5,823
<b>Landed, duty-paid value (\$1,000)</b>						
China (subject)	20,739	13,565	12,477	13,865	10,051	10,247
Thailand	18,745	16,107	11,937	15,374	10,240	11,266
Mexico	4,589	3,787	3,723	3,902	3,183	4,206
Indonesia	6,652	6,171	6,478	5,950	3,924	5,549
All other imports	5,032	3,980	4,670	3,470	2,971	3,554
Subtotal, nonsubject	35,018	30,045	26,808	28,696	20,318	24,575
Total imports	55,757	43,610	39,285	42,561	30,369	34,822
<b>Unit value (dollars per unit)</b>						
China (subject)	3.07	3.25	3.03	3.29	3.38	3.34
Thailand	7.71	8.77	9.81	10.70	11.44	11.24
Mexico	4.72	4.69	4.70	5.07	4.99	5.55
Indonesia	6.44	6.97	6.75	7.27	7.33	10.94
All other imports	3.87	3.90	4.14	6.65	6.32	7.31
Subtotal, nonsubject	6.10	6.60	6.55	8.09	8.01	8.93
Total imports	4.47	5.00	4.79	5.49	5.51	5.98

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

Note.--Subject imports may be slightly overstated due to out-of-scope merchandise.

Source: Official statistics of Commerce for HTS statistical reporting numbers 7323.94.0010, 7323.94.0021, and 7323.94.0026.

## Apparent U.S. consumption and market shares

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

**Table I-4**  
**POS cooking ware: U.S. producers' U.S. shipments, U.S. imports, and apparent U.S. consumption, 1985, 1998, 2004, 2009, and 2015**

Item	1985	1998	2004	2009	2015
	<b>Quantity (1,000 units)</b>				
U.S. producers' U.S. shipments	***	***	***	***	***
U.S. imports from—					
China	1,977	1,335	3,631	4,908	3,070
All other	16,498	17,072	6,238 <sup>1</sup>	4,732	2,753
Total imports	18,475	18,407	9,868 <sup>1</sup>	9,642	5,823
Apparent U.S. consumption	***	***	*** <sup>1</sup>	***	***
	<b>Value (1,000 dollars)</b>				
U.S. producers' U.S. shipments	***	***	(2)	***	***
U.S. imports from—					
China	3,305	3,020	8,833	15,591	10,247
All other	49,380	51,091	28,772 <sup>1</sup>	28,188	24,575
Total imports	52,685	54,111	37,605 <sup>1</sup>	43,780	34,822
Apparent U.S. consumption	***	***	(2)	***	***

<sup>1</sup> Data as originally tabulated. Not derivable from official Commerce statistics.

<sup>2</sup> Not available.

Source: For the years 1985, 1998, 2004, and 2009, data are compiled using data submitted in the Commission's original investigations and subsequent reviews. See *app. C*. For the year 2015, U.S. producers' U.S. shipments are compiled from the domestic interested parties' response to the Commission's notice of institution and U.S. imports are compiled using official Commerce statistics, HTS statistical reporting numbers 7323.94.0010, 7323.94.0021, and 7323.94.0026.

**Table I-5**  
**POS cooking ware: Apparent U.S. consumption and U.S. market shares, 1985, 1998, 2004, 2009, and 2015**

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## THE INDUSTRY IN CHINA

In the first five-year review, China's POS cooking ware industry was estimated to have produced \*\*\* units in 1998.<sup>41</sup> In response to the Commission's notice of institution in the second five-year review of the order, Columbian estimated that there were approximately 34 manufacturers of POS cooking ware in China with a production capacity \*\*\* the amount of U.S. domestic consumption of POS cooking ware.<sup>42</sup> In its response to the notice of institution in the third five-year review, Columbian indicated that China is currently the leading global competitor for light-gauge POS cooking ware products and that there are at least 47 current producers and exporters of POS cooking ware in China.<sup>43</sup> Columbian also noted that, as a result of the duties, only a few companies were exporting the subject merchandise to the United States. Columbian indicated that a large number of Chinese producers are currently exporting POS cooking ware to the Canadian market and could readily enter the U.S. market. Columbian also reported that the Chinese POS cooking ware industry has continued to invest and expand Chinese production, and is supplying the global market.

In this current fourth review, the Commission did not receive any responses to the notice of institution from foreign producers or exporters. Columbian provided a list of 69 firms that they believe currently produce POS cooking ware in China.<sup>44</sup> Columbian continues to report that only a few companies are currently exporting the subject merchandise to the United States as a result of the duties. According to Columbian, these firms are \*\*\*.<sup>45</sup> Columbian maintains that the Chinese industry is highly export-oriented and several Chinese firms have recently expanded capacity and/or have plans to expand capacity in the near future. In addition, Columbian reports that a number of Chinese producers and exporters are currently serving the Canadian market, and can readily enter the U.S. market.<sup>46</sup>

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

Based on available information, subject POS cooking ware from China has not been subject to any other import relief investigations in any other countries.

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<sup>41</sup> China's annual POS cookware production provided by the American Embassy in Beijing. *Porcelain-on-Steel Cooking Ware From China, Mexico, and Taiwan, and Top-of-the-Stove Stainless Steel Cooking Ware From Korea and Taiwan, Inv. Nos. 701 -TA-267 and 268 (Review) and 731-TA-297-299,304 and 305 (Review)*, USITC Publication 3286, March 2000 p. IV-7.

<sup>42</sup> Confidential Second Review Staff Report, Memorandum INV-CC-099, July 1, 2005, p. I-43.

<sup>43</sup> *Porcelain-on-Steel Cooking Ware from China, Inv. No. 731-TA-298 (Third Review)*, USITC Publication 4216, February 2011, p. I-20.

<sup>44</sup> *Domestic Interested Party's Response to the Notice of Institution*, March 2, 2016, p. 22.

<sup>45</sup> *Ibid.*, p. 22.

<sup>46</sup> *Ibid.*, pp. 23-25.

## THE GLOBAL MARKET

Table I-6 presents data on the largest global export sources of POS cooking ware during 2010-15. China and India accounted for most global exports of POS cooking ware during 2010-15; their combined export share was 69 percent during 2015. Total global exports decreased by 9.7 percent (21,747 short tons) during 2010-15. The total export decrease was driven by the 19.2 percent (21,264 short tons) export decline from China. According to the domestic interested party, nonsubject POS cooking ware is predominately heavier-gauge cooking ware while U.S. production is solely of lighter-gauge cooking ware.<sup>47</sup>

**Table I-6**  
**POS cooking ware: Global exports by major sources, 2010-15**

Item	2010	2011	2012	2013	2014	2015
	Quantity (short tons)					
China	110,767	113,915	90,047	90,332	89,671	89,502
India	48,778	50,556	46,012	48,010	65,537	51,550
Turkey	6,604	8,346	9,162	8,802	7,812	5,726
Italy	3,285	5,812	6,650	7,478	7,729	6,995
Romania	6,214	5,637	5,451	6,469	7,291	6,349
Russia	3,838	2,982	2,515	5,499	6,540	8,407
Spain	5,821	6,587	5,025	4,860	5,751	6,225
Thailand	4,146	4,095	3,392	4,851	4,612	5,051
Germany	3,769	3,670	3,762	3,824	4,486	5,089
Mexico	4,692	4,729	4,298	3,541	3,433	4,098
All other	27,001	25,857	25,220	23,211	18,748	14,173
Total	224,914	232,185	201,535	206,877	221,610	203,167

Note.--Because of rounding, figures may not add to total shown. Exports may include products outside the scope of this review and therefore may be overstated.

Source: IHS Inc., Global Trade Atlas, HS subheading 7323.94.

Three countries do not report their POS cooking exports by weight but by number of units instead. These countries are Colombia, Peru, and the United States. Table I-3 excludes exports from these countries; the table I-7 below presents data for these exports. The United States accounted for the great majority of the combined exports of these three countries accounting for 92 percent of these exports in 2015.

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<sup>47</sup> Ibid., p. 14.



**Table I-7****POS cooking ware: Global exports by Colombia, Peru, and the United States, 2010-15**

Item	2010	2011	2012	2013	2014	2015
	<b>Quantity (number of units)</b>					
United States	3,489,571	3,525,366	4,208,442	4,839,464	5,324,560	4,297,303
Peru	506,122	588,076	488,312	474,868	619,645	374,254
Colombia	7,151	6,636	89	1,015	44,681	16,902

Note.--Exports may include products outside the scope of this review and therefore may be overstated.

Source: IHS Inc., Global Trade Atlas, HS subheading 7323.94.

Mexico and Thailand are the largest nonsubject suppliers to the United States and accounted for 64 percent of nonsubject U.S. imports and 30 percent of all U.S. imports in 2015 (table I-3). Mexico's largest export market is the United States which accounted for 60.3 percent of Mexico's total exports (table I-8). Four export markets, the United States, Guatemala, Honduras, and Colombia accounted for virtually all, 96 percent, of Mexico's exports. Thailand exports most of its POS cooking ware to the United States, 37.5 percent, and Germany, 23.7 percent and its six largest markets, the United States, Germany, Japan, China, and Korea, account for almost all, 92.6 percent, of its exports (table I-9).

**Table I-8****POS cooking ware: Global exports from Mexico, by market, 2010-15**

Item	2010	2011	2012	2013	2014	2015
	<b>Quantity (short tons)</b>					
United States	3,198	2,978	2,738	2,166	2,153	2,472
Guatemala	598	769	632	615	592	672
Honduras	626	692	718	494	466	505
Colombia	0	43	25	16	10	291
All others	271	248	184	249	212	158
Total	4,692	4,729	4,298	3,540	3,432	4,099

Note.--Exports may include products outside the scope of this review and therefore may be overstated.

Source: IHS Inc., Global Trade Atlas, HS subheading 7323.94.

**Table I-9****POS cooking ware: Global exports from Thailand, by market, 2010-15**

<b>Item</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>
	<b>Quantity (short tons)</b>					
United States	2,725	2,417	1,723	2,399	1,767	1,892
Germany	99	260	395	819	1,028	1,197
Japan	586	723	613	654	797	911
China	5	18	47	140	271	323
Canada	196	201	201	176	196	186
Korea	53	60	38	92	127	168
All others	483	416	376	571	425	373
Total	4,146	4,095	3,392	4,851	4,612	5,050

Note.--Exports may include products outside the scope of this review and therefore may be overstated.

Source: IHS Inc., Global Trade Atlas, HS subheading 7323.94.

**APPENDIX A**

***FEDERAL REGISTER NOTICES***



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

<b>Citation</b>	<b>Title</b>	<b>Link</b>
81 FR 5133 February 1, 2016	<i>Porcelain-on-Steel Cooking Ware From China; Institution of a Five-Year Review</i>	<a href="https://www.gpo.gov/fdsys/pkg/FR-2016-02-01/pdf/2016-01727.pdf">https://www.gpo.gov/fdsys/pkg/FR-2016-02-01/pdf/2016-01727.pdf</a>
81 FR 5418 February 2, 2016	<i>Initiation of Five-Year ("Sunset") Review</i>	<a href="https://www.gpo.gov/fdsys/pkg/FR-2016-02-02/pdf/2016-01999.pdf">https://www.gpo.gov/fdsys/pkg/FR-2016-02-02/pdf/2016-01999.pdf</a>



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





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

Item	Columbian
	Quantity=1,000 units; value=1,000 dollars; Unit values, unit labor costs, and unit financial data are per pound
Nature of operation	✓
Statement of intent to participate	✓
Statement of likely effects of revoking the order	✓
U.S. producer list	✓
U.S. importer/foreign producer list	✓
List of 3-5 leading purchasers	✓
List of sources for national/regional prices	?
<b>Production:</b>	
Quantity	***
Percent of total reported	***
Capacity	***
<b>Commercial shipments:</b>	
Quantity	***
Value	***
<b>Internal consumption:</b>	
Quantity	***
Value	***
Net sales	***
COGS	***
Gross profit or (loss)	***
SG&A expenses (loss)	***
Operating income/(loss)	***
Changes in supply/demand	✓
<p>Note.—The production, capacity, and shipment data presented are for calendar year 2015. The financial data are for fiscal year ended December 31, 2015.</p> <p>✓ = response provided; * = response not provided; <b>NA</b> = not applicable; ? = indicated that the information was not known.</p>	



**APPENDIX C**

**SUMMARY DATA COMPILED IN PRIOR INVESTIGATIONS**



**Table I-4**  
**POS cooking ware: Colombian's trade, employment, and financial data, 1983-85, 1997-98, 2004,**  
**and 2009**

\* \* \* \* \*

**Table I-7**  
**POS cooking ware: U.S. producers' U.S. shipments, U.S. imports, and apparent U.S. consumption, 1983-85, 1997-98, 2004, and 2009**

Item	1983	1984	1985	1997	1998	2004	2009
<b>Quantity (1,000 units)</b>							
U.S. producers' U.S. shipments	***	***	***	***	***	***	***
U.S. imports from-- China	472	613	1,977	1,601	1,335	3,631	4,908
Other sources	14,678	17,242	16,498	20,589	17,072	6,238 <sup>1</sup>	4,732
Total imports	15,150	17,855	18,475	22,190	18,407	9,868 <sup>1</sup>	9,642
Apparent U.S. consumption	***	***	***	***	***	*** <sup>1</sup>	***
<b>Value (1,000 dollars)</b>							
U.S. producers' U.S. shipments	***	***	***	***	***	( <sup>2</sup> )	***
U.S. imports from-- China	282	1,370	3,305	3,238	3,020	8,833	15,591
Other sources	57,647	59,127	49,380	67,599	51,091	28,772 <sup>1</sup>	28,188
Total imports	57,929	60,497	52,685	70,837	54,111	37,605 <sup>1</sup>	43,780
Apparent U.S. consumption	***	***	***	***	***	( <sup>2</sup> )	***
<b>Share of consumption based on quantity (percent)</b>							
U.S. producers' U.S. shipments	***	***	***	***	***	***	***
U.S. imports from-- China	***	***	***	***	***	***	***
Other sources	***	***	***	***	***	***	***
Total imports	***	***	***	***	***	***	***
Apparent U.S. consumption	100.0	100.0	100.0	100.0	100.0	100.0	100.0
<b>Share of consumption based on value (percent)</b>							
U.S. producers' U.S. shipments	***	***	***	***	***	( <sup>2</sup> )	***
U.S. imports from-- China	***	***	***	***	***	( <sup>2</sup> )	***
Other sources	***	***	***	***	***	( <sup>2</sup> )	***
Total imports	***	***	***	***	***	( <sup>2</sup> )	***
Apparent U.S. consumption	100.0	100.0	100.0	100.0	100.0	100.0	100.0
<sup>1</sup> Data as originally tabulated. Not derivable from official Commerce statistics. <sup>2</sup> Not available.							
Note.—Because of rounding, figures may not add to the totals shown.							
Source: <i>Staff Report on Porcelain-on-Steel Cooking Ware From China and Taiwan, and Top-of-the-Stove Stainless Steel Cooking Ware From Korea and Taiwan, Investigation Nos. 701-TA-267 and 268 and 731-TA-298, 299, 304, and 305 (Second Review)</i> , June 17, 2005, INV-CC-099, table I-13; official Commerce statistics, HTS statistical reporting numbers 7323.94.0010, 7323.94.0021, and 7323.94.0026; and <i>Response of domestic interested party</i> , November 1, 2010, p. 35.							

**APPENDIX D**

**PURCHASER QUESTIONNAIRE RESPONSES**





As part of their response to the notice of institution, interested parties were asked to provide a list of three to five leading purchasers in the U.S. market for the domestic like product. A response was received from domestic interested parties and it named the following five firms as the top purchasers of porcelain-on-steel cookware: \*\*\*. Purchaser questionnaires were sent to these five firms and three firms (\*\*\*) provided responses which are presented below.

1. a.) Have any changes occurred in technology; production methods; or development efforts to produce porcelain-on-steel cookware that affected the availability of porcelain-on-steel cookware in the U.S. market or in the market for porcelain-on-steel cookware in China since initial year of review (2011)?
- b.) Do you anticipate any changes in technology; production methods; or development efforts to produce porcelain-on-steel cookware that will affect the availability of porcelain-on-steel cookware in the U.S. market or in the market for porcelain-on-steel cookware in China within a reasonably foreseeable time?

<b>Purchaser</b>	<b>Changes that have occurred</b>	<b>Anticipated changes</b>
***	***	***
***	***	***
***	***	***

2. a.) Have any changes occurred in the ability to increase production of porcelain-on-steel cookware (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production) that affected the availability of porcelain-on-steel cookware in the U.S. market or in the market for porcelain-on-steel cookware in China since 2011?
- b.) Do you anticipate any changes in the ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production) that will affect the availability of porcelain-on-steel cookware in the U.S. market or in the market for porcelain-on-steel cookware in China within a reasonably foreseeable time?

<b>Purchaser</b>	<b>Changes that have occurred</b>	<b>Anticipated changes</b>
***	***	***
***	***	***
***	***	***

3. a.) Have any changes occurred in factors related to the ability to shift supply of porcelain-on-steel cookware among different national markets (including barriers to importation in foreign markets or changes in market demand abroad) that affected the availability of porcelain-on-steel cookware in the U.S. market or in the market for porcelain-on-steel cookware in China since 2011?

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

<b>Purchaser</b>	<b>Changes that have occurred</b>	<b>Anticipated changes</b>
***	***	***
***	***	***
***	***	***

4. a.) Have there been any changes in the end uses and applications of porcelain-on-steel cookware in the U.S. market or in the market for porcelain-on-steel cookware in China since 2011?

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

<b>Purchaser</b>	<b>Changes that have occurred</b>	<b>Anticipated changes</b>
***	***	***
***	***	***
***	***	***

5. a.) Have there been any changes in the existence and availability of substitute products for porcelain-on-steel cookware in the U.S. market or in the market for porcelain-on-steel cookware in China since 2011?

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

<b>Purchaser</b>	<b>Changes that have occurred</b>	<b>Anticipated changes</b>
***	***	***
***	***	***
***	***	***

6. a.) Have there been any changes in the level of competition between porcelain-on-steel cookware produced in the United States, porcelain-on-steel cookware produced in country, and such merchandise from other countries in the U.S. market or in the market for porcelain-on-steel cookware in China since 2011?

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

<b>Purchaser</b>	<b>Changes that have occurred</b>	<b>Anticipated changes</b>
***	***	***
***	***	***
***	***	***

7. a.) Have there been any changes in the business cycle for porcelain-on-steel cookware in the U.S. market or in the market for porcelain-on-steel cookware in China since 2011?

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

<b>Purchaser</b>	<b>Changes that have occurred</b>	<b>Anticipated changes</b>
***	***	***
***	***	***
***	***	***

