

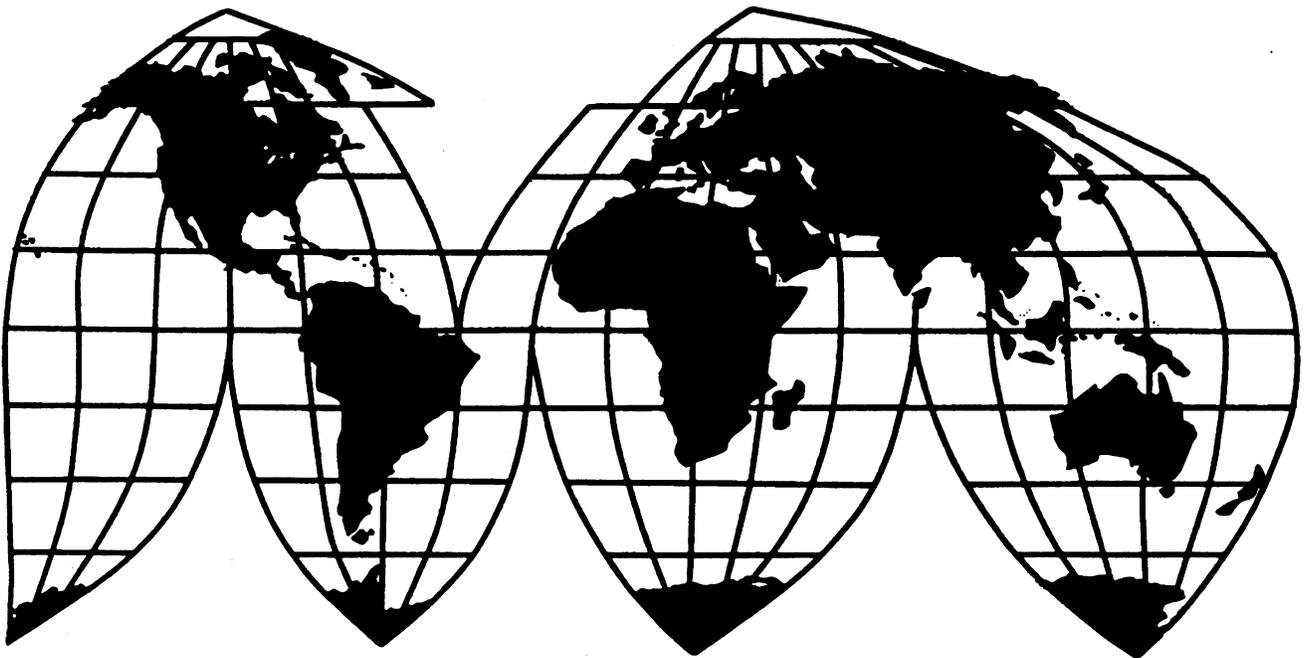
# Persulfates From China

Investigation No. 731-TA-749 (Review)

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**U.S. International Trade Commission**



Washington, DC 20436

# U.S. International Trade Commission

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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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



# UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-749 (Review)

## PERSULFATES 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 determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)), that revocation of the antidumping duty order on persulfates from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

### BACKGROUND

On September 6, 2002, the Commission determined that the domestic interested party group response to its notice of institution (67 FR 38333, June 3, 2002) was adequate and the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting a full review.<sup>2</sup> Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Act.

The Commission transmitted its determination in this review to the Secretary of Commerce on October 31, 2002. The views of the Commission are contained in USITC Publication 3555 (October 2002), entitled *Persulfates From China: Investigation No. 731-TA-749 (Review)*.

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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 C.F.R. § 207.2(f)).

<sup>2</sup> A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements is available from the Office of the Secretary and at the Commission's web site.



## IEWS OF THE COMMISSION

Based on the record in this five-year review, we determine under section 751(c) of the Tariff Act of 1930, as amended (“the Act”), that revocation of the antidumping duty order concerning persulfates 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.

### I. BACKGROUND

In June 1997, the Commission determined that an industry in the United States was materially injured by reason of imports of persulfates from China that the Department of Commerce (“Commerce”) determined to be sold at less than fair value (“LTFV”).<sup>1</sup> On June 3, 2002, the Commission instituted a review pursuant to section 751(c) of the Act to determine whether revocation of the antidumping duty order on persulfates from China would likely lead to continuation or recurrence of material injury within a reasonably foreseeable time.<sup>2</sup>

In five-year reviews, the Commission initially determines whether to conduct a full review (which would include a public hearing, the issuance of questionnaires, and other procedures) or an expedited review. In order to make this decision, the Commission first determines whether individual responses to the notice of institution are adequate. Next, based on those responses deemed individually adequate, the Commission determines whether the collective responses submitted by two groups of interested parties – domestic interested parties (such as producers, unions, trade associations, or worker groups) and respondent interested parties (such as importers, exporters, foreign producers, trade associations, or subject country governments) – demonstrate a sufficient willingness among each group to participate and provide information requested in a full review. If the Commission finds the responses from both groups of interested parties to be adequate, or if other circumstances warrant, it will determine to conduct a full review.<sup>3</sup>

The Commission received one response to its notice of institution. The response came from FMC Corporation (“FMC”), the sole U.S. producer of persulfates (thus reflecting 100 percent of total domestic production).<sup>4</sup> FMC also filed comments on adequacy, arguing that the Commission should expedite the review because its response to the notice of institution was adequate and no other interested party (respondent producers or others) had filed a response.

On September 6, 2002, the Commission found that the domestic interested party group response was adequate. The Commission also found that the respondent interested party group response was inadequate. Pursuant to 19 U.S.C. § 1675(c)(3)(B), the Commission expedited review of this matter.<sup>5</sup>

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<sup>1</sup> Persulfates from China, Inv. No. 731-TA-749 (Final), USITC Pub. 3044 (June 1997) (“Original Determination”), at 3.

<sup>2</sup> 67 Fed. Reg. 38333 (June 3, 2002).

<sup>3</sup> See 19 C.F.R. § 207.62(a); 63 Fed. Reg. 30599, 30602-05 (June 5, 1998).

<sup>4</sup> Response of FMC Corporation to Notice of Institution (July 23, 2002) (“Initial Response”).

<sup>5</sup> 67 Fed. Reg. 59863 (September 24, 2002).

## II. DOMESTIC LIKE PRODUCT AND INDUSTRY

### A. Domestic Like Product

In making its determination under section 751(c), the Commission defines the “domestic like product” and the “industry.”<sup>6</sup> The Act defines the “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>7</sup>

In its final five-year review determination, Commerce defined the imported product covered by the existing antidumping duty order as

persulfates, including ammonium, potassium, and sodium persulfates. The chemical formula[s] for these persulfates are, respectively,  $(\text{NH}_4)_2\text{S}_2\text{O}_8$ ,  $\text{K}_2\text{S}_2\text{O}_8$ , and  $\text{Na}_2\text{S}_2\text{O}_8$ .<sup>8</sup>

Persulfates are salts that are produced in the form of a dry white crystalline powder that is odorless. They are derived from a common source, persulfuric acid, and the active ingredient for all three salts is the persulfate anion. Persulfates have two major applications: (1) as catalysts in the process of polymerization; and (2) as oxidants in cleaning, microetching, and plating processes. Persulfates as catalysts are used in producing, *inter alia*, latex for carpet backing and paper coating, acrylic latex paint, and other acrylics and polyvinyls. Persulfates as oxidants are used in the production of, *inter alia*, printed circuit boards. They are also used in such other applications as the desizing and bleaching of textiles, water treatment, and film processing. Persulfates account for only a small percentage of the cost of the final products in which they are used.<sup>9</sup>

The starting point of the Commission’s like product analysis in a five-year review is the Commission’s like product determination in the original investigation.<sup>10</sup> In the original investigation, the Commission found one domestic like product consisting of ammonium, potassium, and sodium persulfates.<sup>11</sup> The Commission based this finding on similarities in physical characteristics and uses, common manufacturing facilities and production employees, producer perceptions of similarity between the products, evidence of interchangeability among the three products, and common channels of

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<sup>6</sup> 19 U.S.C. § 1677(4)(A).

<sup>7</sup> 19 U.S.C. § 1677(10). See Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int’l Trade 1996); Torrington Co. v. United States, 747 F. Supp. 744, 748-49 (Ct. Int’l Trade 1990), aff’d, 938 F.2d 1278 (Fed. Cir. 1991). See also S. Rep. No. 249, 96<sup>th</sup> Cong., 1<sup>st</sup> Sess. 90-91 (1979).

<sup>8</sup> 67 Fed. Reg. 62226, 62227 (October 4, 2002). Commerce also noted that the subject merchandise is currently classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) as follows: for ammonium and potassium persulfates, 2833.40.60; for sodium persulfate, 2833.40.20. Id.

<sup>9</sup> Confidential Report (“CR”) at I-4-I-5, Public Report (“PR”) at I-4-I-5.

<sup>10</sup> In its like product determination, the Commission generally considers a number of factors including: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) common manufacturing facilities, production processes, and production employees; (5) customer or producer perceptions; and, where appropriate, (6) price. See Timken, 913 F. Supp. at 584. No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation. The Commission looks for clear dividing lines among possible like products, and disregards minor variations. See, e.g., S. Rep. No. 249, 96<sup>th</sup> Cong., 1<sup>st</sup> Sess. 90-91 (1979); Torrington, 747 F. Supp. at 748-49.

<sup>11</sup> Original Determination at 4.

distribution.<sup>12</sup> In its response to the Commission's notice of institution, FMC stated that it agreed with the Commission's definition of the domestic like product from the original investigation.<sup>13</sup> No party takes issue with this definition, nor have new facts been presented to warrant a conclusion different from that which the Commission originally reached. Accordingly, we find, based on the available information, one domestic like product consisting of ammonium, sodium, and potassium persulfates.

## **B. Domestic Industry**

Section 771(4)(A) of the Act defines the relevant domestic industry as the "producers as a [w]hole 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>14</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, provided that adequate production-related activity is conducted in the United States.<sup>15</sup> Consistent with our definition of the domestic like product, we find that the domestic industry comprises all domestic producers of ammonium, sodium, and potassium persulfates – that is, FMC, the sole domestic producer.<sup>16</sup>

## **III. REVOCATION OF THE ANTIDUMPING DUTY ORDER ON PERSULFATES FROM CHINA IS LIKELY TO LEAD TO CONTINUATION OR RECURRENCE OF MATERIAL INJURY WITHIN A REASONABLY FORESEEABLE TIME**

### **A. Legal Standard**

In a five-year review conducted under section 751(c) of the Act, Commerce will revoke an antidumping duty order or finding unless it makes a determination that dumping is likely to continue or recur and the Commission makes a determination that material injury would be likely to continue or recur if the order or finding is revoked, as described in section 752(a).

Section 752(a) of the Act states that in a five-year review "the Commission shall determine whether revocation of an order [or finding], or termination of a suspended investigation, would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time."<sup>17</sup> The Uruguay Round Agreements Act ("URAA") Statement of Administrative Action ("SAA") indicates that "under the likelihood standard, the Commission will engage in a counter-factual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo – the revocation [of the order or finding] . . . and the elimination of its restraining effects on volumes and

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<sup>12</sup> Original Determination at 4.

<sup>13</sup> Initial Response at 21.

<sup>14</sup> 19 U.S.C. § 1677(4)(A).

<sup>15</sup> See United States Steel Group v. United States, 873 F. Supp. 673, 682-83 (Ct. Int'l Trade 1994), aff'd, 96 F.3d 1352 (Fed. Cir. 1996).

<sup>16</sup> We note that, unlike in the original investigation, there are no related party issues in this review. See 19 U.S.C. § 1677(4)(B). In the original investigation, the Commission found that FMC imported very small amounts of Chinese persulfates in 1994 and 1995, but determined that appropriate circumstances did not exist to exclude FMC from the domestic industry as a related party because the amounts were minuscule and FMC's interests clearly lay in production, not importation. Original Determination at 5. There is no evidence that FMC has imported Chinese persulfates since 1995.

<sup>17</sup> 19 U.S.C. § 1675a(a).

prices of imports.”<sup>18</sup> Thus, the likelihood standard is prospective in nature.<sup>19</sup> The statute states that “the Commission shall consider that the effects of revocation . . . may not be imminent, but may manifest themselves only over a longer period of time.”<sup>20</sup> According to the SAA, a “‘reasonably foreseeable time’ will vary from case-to-case, but normally will exceed the ‘imminent’ time frame applicable in a threat of injury analysis [in antidumping and countervailing duty determinations].”<sup>21</sup>

Although the standard in five-year reviews is not the same as the standard applied in original antidumping or countervailing duty investigations, it contains some of the same 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 order is revoked.” It directs the Commission to take into account its prior injury determinations, whether any improvement in the state of the industry is related to the order under review, and whether the industry is vulnerable to material injury if the order is revoked.<sup>22 23</sup>

Section 751(c)(3) of the Act and the Commission’s regulations provide that in an expedited five-year review the Commission may issue a final determination “based on the facts available, in accordance with section 776.”<sup>24</sup> We have relied on the facts available in this review, which consist primarily of the record in the original investigation, information submitted by FMC, and official Commerce statistics.

For the reasons stated below, we determine that revocation of the antidumping duty order on persulfates from China would likely lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

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<sup>18</sup> URAA SAA, H.R. Rep. No. 316, 103d Cong., 2d Sess., vol. I at 883-84 (1994).

<sup>19</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 prices for the domestic like product in the U.S. market in making its determinations of the likelihood of continuation or recurrence of material injury if the order is revoked.” SAA at 884.

<sup>20</sup> 19 U.S.C. § 1675a(a)(5).

<sup>21</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>22</sup> 19 U.S.C. § 1675a(a)(1). The statute further provides that the presence or absence of any factor that the Commission is required to consider shall not necessarily give decisive guidance with respect to the Commission’s determination. 19 U.S.C. § 1675a(a)(5). While the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886.

<sup>23</sup> Section 752(a)(1)(D) of the Act directs the Commission to take into account in five-year reviews involving antidumping proceedings “the findings of the administrative authority regarding duty absorption.” 19 U.S.C. § 1675a(a)(1)(D). Commerce made no duty absorption findings in its five-year review determination. 67 Fed. Reg. 62226 (October 4, 2002).

<sup>24</sup> 19 U.S.C. § 1675(c)(3)(B); 19 C.F.R. § 207.62(e). Section 776 of the Act, in turn, authorizes the Commission to “use the facts otherwise available” in reaching a determination when: (1) necessary information is not available on the record or (2) an interested party or any other person withholds information requested by the agency, fails to provide such information in the time or in the form or manner requested, significantly impedes a proceeding, or provides information that cannot be verified pursuant to section 782(i) of the Act. 19 U.S.C. § 1677e(a).

## B. Conditions of Competition

In evaluating the likely impact of the subject imports on the domestic industry if the order is revoked, the statute directs the Commission to evaluate all relevant economic factors “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”<sup>25</sup> Conditions of competition that are relevant to the persulfates industry are discussed below.

In the original investigation, the Commission highlighted several pertinent conditions of competition. First, although competition comes from both subject and non-subject imports, there is only one domestic producer, FMC.<sup>26</sup> Second, demand is cyclical; trends in the market are closely tied to economic conditions in the housing, automotive, and packaged goods markets, among others.<sup>27</sup> During the original period of investigation, total apparent consumption increased. The domestic industry’s share of consumption fluctuated, but showed a slight overall increase between 1994 and 1996. Domestic capacity remained steady during this period.<sup>28</sup> Third, an August 1995 fire shut down FMC’s manufacturing for six weeks and destroyed 800 tons of inventory. The inventory lost was not significant in terms of total production for 1995, but there was evidence that many purchasers sought to develop alternate sources of supply other than FMC.<sup>29</sup> Fourth, in June 1995, the European Union (“EU”) imposed a provisional antidumping duty of 83.3 percent on imports of persulfates from China. The EU imposed its final antidumping duty, also 83.3 percent, in December 1995.<sup>30</sup>

The current conditions of competition are similar in a number of respects to those existing at the time of the original investigation, although the EU antidumping order imposed in 1995 on persulfates from China expired in early 2002.<sup>31</sup> FMC remains the only domestic producer, although competition in the market continues to come from both subject and non-subject imports.<sup>32</sup> Imports, subject and non-subject, constituted \*\*\* percent of domestic consumption in 2001, down from \*\*\* percent in 1996.<sup>33</sup>

Demand trends for persulfates remain cyclical and tied to the economic conditions of the markets for products in which persulfates are used.<sup>34</sup> Apparent U.S. consumption increased substantially between the period of the original investigation and 2001.<sup>35</sup> The 2001 figure, however, signals a softening in demand, continuing into 2002 according to FMC, that has resulted from the overall downturn in the U.S. economy and is exacerbated by a decline in printed circuit board production, an important market for persulfates.<sup>36</sup>

Domestic production capacity has remained level at \*\*\* million pounds since the original period of investigation. U.S. consumption has increased overall since the original period of investigation, as has the domestic capacity utilization rate, which was \*\*\* percent in 2001, compared with \*\*\* percent in

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<sup>25</sup> 19 U.S.C. § 1675a(a)(4).

<sup>26</sup> Original Determination at 6.

<sup>27</sup> Original Determination at 6.

<sup>28</sup> Original Determination at 7.

<sup>29</sup> Original Determination at 6.

<sup>30</sup> Original Determination at 6.

<sup>31</sup> CR at I-15, PR at I-11.

<sup>32</sup> Initial Response at 1.

<sup>33</sup> CR and PR at Table I-3.

<sup>34</sup> Initial Response at 5.

<sup>35</sup> For the years 1994 through 1996, the figures in millions of pounds were \*\*\*, respectively. CR and PR at Table I-3. In 2001, apparent U.S. consumption stood at \*\*\* million pounds.

<sup>36</sup> CR at I-13, PR at I-9; Initial Response at 5, 19.

1994 and \*\*\* percent in 1996.<sup>37</sup> China's persulfates production capacity, on the other hand, increased \*\*\* between 1996 and 2000 and its capacity utilization rate declined from \*\*\* percent in 1996 to 45.2 percent in 2000.<sup>38</sup>

As the Commission found in the original investigation, subject imports and U.S. product are interchangeable.<sup>39</sup> In addition, persulfates are a commodity-like product for which purchasers actively seek and use the availability of lower-priced product to obtain more favorable prices from an incumbent supplier.<sup>40</sup> Price remains a very important factor in purchasing decisions for persulfates. The interchangeability of subject imports and U.S. product and the significance of price in the U.S. persulfates market have only increased, given that the quality of the Chinese product reportedly has improved since the original period of investigation.<sup>41</sup>

Based on the available evidence, we find that these conditions of competition are not likely to change significantly in the reasonably foreseeable future. Accordingly, they provide the basis upon which we assess the likely effects of revocation within a reasonably foreseeable time.

### C. Likely Volume of Subject Imports

In evaluating the likely volume of imports of subject merchandise if the order under review is revoked, the Commission is directed to consider whether the likely volume of imports would be significant either in absolute terms or relative to production or consumption in the United States.<sup>42</sup> In doing so, the Commission must consider "all relevant economic factors," including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) the potential for product shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.<sup>43</sup>

In the original investigation, the Commission found the volume and increase in volume of subject imports to be significant.<sup>44</sup> The total quantity of shipments of subject imports more than doubled between 1994 and 1995 and continued to increase significantly between 1995 and 1996, for a nearly three-fold increase over the period of investigation. In terms of value, subject import shipments followed the same trend.<sup>45</sup> The market share of subject imports, by quantity, effectively doubled between 1994 and 1995 and increased by almost another third between 1995 and 1996, for a nearly three-fold increase

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<sup>37</sup> CR and PR at Table I-1.

<sup>38</sup> CR and PR at Table I-4. Aggregate capacity for China rose from \*\*\* million pounds in 1996 to 75 million pounds in 1998 and 137 million pounds in 2000. Initial Response at Exh. 3A; CR and PR at Table I-4; Confidential Staff Report of Original Investigation, INV-U-046 (June 3, 1997) ("Staff Report of June 3, 1997") at VII-2 and Table VII-1.

<sup>39</sup> Original Determination at 4, 12.

<sup>40</sup> Original Determination at 11-12; Initial Response at 7.

<sup>41</sup> Initial Response at 6; Original Determination at 11 n.62 (noting that there was "little" evidence of "significant" quality differences between subject imports and domestic persulfates).

<sup>42</sup> 19 U.S.C. § 1675a(a)(2).

<sup>43</sup> 19 U.S.C. § 1675a(a)(2)(A-D).

<sup>44</sup> Original Determination at 11.

<sup>45</sup> Original Determination at 10.

during the period of investigation. In terms of value, subject imports' market share more than doubled in the same period.<sup>46</sup>

The original investigation demonstrates that the Chinese persulfates industry was able to establish quickly a significant presence in the U.S. market. The antidumping duty order imposed in 1997 had a restraining effect on these imports. The volume of subject imports in 1996 was \*\*\* million pounds, the same year China's market share reached a pre-order high of \*\*\* percent in terms of quantity.<sup>47</sup> After the order was imposed, imports of persulfates from China, based on official Commerce statistics, declined markedly to 1.9 million pounds in 1997 and then increased erratically to 4.1 million pounds in 2000.<sup>48</sup> The volume in 2001, for which the most recent Commerce statistics are available, was 3.2 million pounds, and China's market share for that year was \*\*\* percent of apparent U.S. consumption.<sup>49</sup> Imports from China have therefore maintained a post-order presence in the U.S. market, although they have not attained their pre-order highs. Chinese import volumes in 2001 returned to the level seen in 1994, the first year of the original period of investigation.<sup>50</sup> The volume of non-subject imports has returned to the highest levels of the pre-order period but, given that apparent U.S. consumption is higher, their U.S. market share is below that of the original period of investigation.<sup>51</sup>

China's persulfates industry reportedly has expanded since the original investigation. At that time, there were four known producers of persulfates in China with significant production.<sup>52</sup> Respondents in the original investigation claimed that there were another five persulfates producers in China, four that produced 100 tons or less and one that captively consumed nearly all of its production.<sup>53</sup> In this review, the available data indicate that there are twelve known Chinese persulfates producers, four of which began production in 1999.<sup>54</sup> In terms of production capacity, the smallest among the twelve producers has a capacity of 880,000 pounds. Ten have production capacities in excess of 2 million pounds, five in excess of 13 million pounds.<sup>55</sup> The largest producer of persulfates in China, Shanghai Ai Jian Reagent Co., Ltd. ("Ai Jian"), has expanded its capacity from 29 million pounds in 1999 to over 46 million pounds in 2000 and maintained a capacity utilization rate in 2000 of only 46 percent.<sup>56</sup> China's aggregate production capacity nearly doubled between 1998 and 2000, growing from 75 million pounds in 1998 to 137 million pounds in 2000. The aggregate capacity utilization rate in 2000 was 45 percent.<sup>57</sup> Thus, China's excess capacity in 2000 exceeds total U.S. consumption.<sup>58</sup>

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<sup>46</sup> Original Determination at 10.

<sup>47</sup> CR and PR at Tables I-2 and I-3.

<sup>48</sup> CR at I-11, PR at I-8; CR and PR at Figure I-1.

<sup>49</sup> CR and PR at Tables I-2 and I-3.

<sup>50</sup> CR and PR at Table I-2.

<sup>51</sup> CR and PR at Tables I-2 and I-3.

<sup>52</sup> Original Determination at VII-1.

<sup>53</sup> Original Determination at VII-1.

<sup>54</sup> CR at I-14, PR at I-10; Initial Response at 9 and Exh. 4.

<sup>55</sup> Initial Response at Exh. 3A.

<sup>56</sup> Initial Response at Exh. 3A.

<sup>57</sup> Initial Response at Exh. 3A.

<sup>58</sup> CR and PR at Tables I-3, I-4.

Data from the original investigation showed that exports accounted for a predominant part of Chinese shipments, and that the United States was an important export market.<sup>59</sup> China's persulfates industry remains export oriented. For example, Ai Jian states on its website that its products are exported to more than thirty countries and have received preapproval from several major U.S. companies, such as Dow Chemical, BASF, Rohm and Haas, and 3M.<sup>60</sup> Another major producer, Shaanxi Baohua Chemical Co., Ltd., which has a capacity of over 19 million pounds and operated in 2000 at a capacity utilization rate of only 33 percent, states on its website that it is ISO certified and that, "[r]elying on its export business, the [Baohua persulfates] products have been used by the firms of Europe, the Americas, Southeast Asia, and Hong Kong and Taiwan." The company "warmly" welcomes "the businesses in the world" as customers.<sup>61</sup> Other persulfates producers in China also promote their product for worldwide export.<sup>62</sup>

In light of the increase in the volume and market share of subject persulfates during the original investigation, the significant excess capacity resulting from the Chinese persulfates industry's recent capacity expansion, and the Chinese industry's continuing export orientation, we conclude that the likely volume of imports of the subject merchandise would be significant absent the restraining effect of the antidumping duty order.<sup>63</sup>

#### **D. Likely Price Effects of Subject Imports**

In evaluating the likely price effects of subject imports if the antidumping duty order is revoked, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared to domestic like products 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 domestic like products.<sup>64</sup>

Pricing data from the original investigation showed that Chinese products undersold domestic persulfates in 56 of 57 pricing comparisons, by margins as high as 50.4 percent. Given the high degree of interchangeability between domestic and Chinese persulfates<sup>65</sup> and the clear importance of price in purchasing decisions, the Commission noted that even small margins of underselling were significant. The Commission also found, consistent with reports of purchasers using lower-priced product as leverage in purchasing negotiations, numerous confirmed instances of lost sales and lost revenues. The Commission concluded that LTFV imports suppressed domestic prices to a significant degree. The

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<sup>59</sup> From 1994 to 1996, exports accounted for between \*\*\* and \*\*\* percent of the Chinese industry's total shipments, with exports to the United States accounting for between \*\*\* and \*\*\* percent of total shipments. Staff Report of June 3, 1997, at Table VII-1.

<sup>60</sup> Initial Response at 10-11 and Exh. 5.

<sup>61</sup> Initial Response at 11 and Exh. 6.

<sup>62</sup> Initial Response at 11-12 and Exhs. 7-9.

<sup>63</sup> That the EU revoked its antidumping duties earlier this year, thus potentially making exports to the EU more attractive, does not alter our conclusion, given the scope of the Chinese industry's expansion and sheer magnitude of its unused capacity.

<sup>64</sup> 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>65</sup> FMC points out that, because Chinese producers have continued to improve the quality of their product, subject imports and the domestic like product are "even more" interchangeable today than they were in 1997. Initial Response at 6.

domestic industry was unable to raise its prices to help offset 1995 and 1996 increases in operating costs because of the large presence of dumped imports of persulfates from China.<sup>66</sup>

The limited record in this review shows that post-order average unit values of imports of persulfates from China have actually declined since the original investigation, notwithstanding the discipline imposed by the order. The average unit value, per pound, of imported subject merchandise was \$0.50 in 1996. Average unit values per pound fluctuated between \$0.43 and \$0.45 from 1997 to 2000. In 2001, the figure was \$0.49.<sup>67</sup>

Given the price sensitivity of the U.S. persulfates market and the interchangeability of subject imports and the domestic product, the persistent underselling by subject imports in the original investigation, and the continuing, low post-order prices for Chinese persulfates, coupled with the substantial excess production capacity in China and softening demand conditions in the U.S. market, we find that, if the order were revoked, significant volumes of subject imports likely would significantly undersell the domestic like product to gain market share and would have significant depressing or suppressing effects on the prices of the domestic like product within a reasonably foreseeable time.

### **E. Likely Impact of Subject Imports**

In evaluating the likely impact of imports of subject merchandise if the order is revoked, the Commission is directed to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including but not limited to: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.<sup>68</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.<sup>69</sup> As instructed by the statute, we have considered the extent to which any improvement in the state of the domestic industry is related to the antidumping duty order at issue and whether the industry is vulnerable to material injury if the order is revoked.<sup>70</sup>

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<sup>66</sup> Original Determination at 11-12.

<sup>67</sup> CR and PR at I-11 and Table I-2. The probative value of average unit value data may be limited to some extent by differences in product mix among sources and changes in product mix over time. Even so, we note that for U.S. commercial shipments, FMC's average unit values per pound were \$0.73 in 1996 and \$0.77 in 2001. CR and PR at Table I-1. FMC reports that its average prices per pound for all persulfates were \$0.78 in 1999 and \$0.77 in 2000. Initial Response at 14 n.35.

<sup>68</sup> 19 U.S.C. § 1675a(a)(4).

<sup>69</sup> Id. Section 752(a) of the Act states that "the Commission may consider the magnitude of the margin of dumping" in making its determination in a five-year review. 19 U.S.C. § 1675a(a)(6). The statute defines the "magnitude of the margin of dumping" to be used by the Commission in five-year reviews as "the dumping margin or margins determined by the administering authority under section 1675a(c)(3) of this title." 19 U.S.C. § 1677(35)(C)(iv). See also SAA at 887.

In the final results of its expedited sunset review of the antidumping order on persulfates from China, Commerce determined that revocation of the order would likely lead to a continuation or recurrence of dumping at weighted-average margins of 32.22 percent for Sinochem Jiangsu Wuxi Import & Export Corporation, 34.41 percent for Shanghai Ai Jian Import & Export Corporation, 34.97 percent for Guangdong Petroleum Chemical Import and Export Trade, and 119.02 percent "PRC-wide." 67 Fed. Reg. 62226, 62227 (October 4, 2002).

<sup>70</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  
(continued...)

In the original investigation, the Commission noted that certain indicators of industry performance showed improvement over the period of investigation, including production, shipments, and net sales, all of which rose along with domestic consumption. However, gross profit declined “steadily and substantially” during the same period. Operating income also declined throughout the investigation period and became an operating loss in 1996. Unit sales values increased only slightly, while unit COGS and unit SG&A increased “steadily and significantly.”<sup>71</sup> The Commission found that the sharp increase in subject import volume and market share at LTFV prices that were often significantly below prices for comparable domestic products prevented the domestic industry from offsetting at least some of its increased costs with price increases. That large purchasers frequently turned to subject imports when offered lower prices constituted additional evidence of the adverse impact that LTFV imports of persulfates had on the domestic industry, particularly on its financial performance.<sup>72</sup>

There is limited information in the record concerning the current condition of the domestic industry. FMC has not increased production capacity since the original investigation, and its average unit values of U.S. shipments have remained essentially flat since 1999 (since 1996 they are up by \*\*\* percent).<sup>73</sup> Certain industry indicators have improved since the order was imposed: U.S. producer’s production, U.S. shipments, capacity utilization, and market share all increased.<sup>74</sup> We attribute these improvements to the positive effect of the order in restraining subject import volumes.<sup>75</sup> The limited information in this review, however, does not permit a determination of whether the domestic industry is vulnerable to material injury if the antidumping duty order is revoked.<sup>76</sup>

As discussed above, revocation of the antidumping duty order would likely lead to significant increases in the volume of subject imports from China. Given softening demand conditions and the likely significant underselling by the subject imports, the significant increase in subject imports is likely to cause a significant decline in the volume of the domestic producer’s shipments as well as significant negative price effects. We find that the volume and price effects of the subject imports would have a significant negative impact on the domestic industry and would likely cause the domestic industry to lose market share. In addition, the price and volume declines would likely have a significant adverse impact on the production, shipments, sales, and revenue levels of the domestic industry. The reductions in the industry’s production, sales, and revenue levels would have a direct adverse impact on the industry’s profitability, as well as its ability to raise capital and make and maintain necessary capital investments. Finally, we find it likely that revocation of the order will result in commensurate employment declines for the industry.

For all of these reasons, we conclude that revocation of the antidumping duty order on persulfates from China likely would have a significant adverse impact on the domestic industry within a reasonably foreseeable time.

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<sup>70</sup> (...continued)

these factors, in some cases, may account for the injury to the domestic industry, they may also demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.” SAA at 885.

<sup>71</sup> Original Determination at 12-13.

<sup>72</sup> Original Determination at 14.

<sup>73</sup> CR and PR at Table I-1; Initial Response at 14 n.35. See supra note 67.

<sup>74</sup> CR and PR at Tables I-1 and I-3.

<sup>75</sup> Absent financial performance data for the years following the imposition of the order, we are unable to measure with any specificity the order’s impact on FMC’s current financial condition.

<sup>76</sup> Based on the limited record in this review, Commissioner Bragg does not find that the domestic industry is currently in a weakened state, as contemplated by the vulnerability criterion of the statute.

## CONCLUSION

For the above-stated reasons, we determine that revocation of the antidumping duty order on persulfates from China would be likely to lead to continuation or recurrence of material injury to the U.S. persulfates industry within a reasonably foreseeable time.



**INFORMATION OBTAINED IN THE REVIEW**



## INTRODUCTION

On June 3, 2002, the Commission gave notice that it had instituted a review to determine whether revocation of the antidumping duty order on persulfates from China would be likely to lead to a continuation or recurrence of material injury within a reasonably foreseeable time.<sup>1</sup> On September 6, 2002, the Commission determined that the domestic interested party response to its notice of institution was adequate;<sup>2</sup> the Commission also determined that the respondent interested party response was inadequate. The Commission found no other circumstances that would warrant conducting a full review. Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)(3)).<sup>3</sup> The Commission voted on this review on October 22, 2002, and notified Commerce of its determination on October 31, 2002.

### The Original Investigation

The Commission completed the original investigation<sup>4</sup> on June 25, 1997, determining that an industry in the United States was materially injured by reason of imports of persulfates from China that Commerce determined to be sold at less than fair value. After receipt of the Commission's determination, Commerce issued an antidumping duty order on imports of persulfates from China.<sup>5</sup>

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<sup>1</sup> 67 FR 38333, June 3, 2002. All interested parties were requested to respond to this notice by submitting the information requested by the Commission.

<sup>2</sup> The Commission received one submission in response to its notice of institution for the subject review. It was filed on behalf of FMC Corp. (FMC), Philadelphia, PA, the sole known U.S. producer of subject persulfates.

<sup>3</sup> 67 FR 59863, September 24, 2002. The Commission's notice of its expedited review appears in appendix A. See the Commission's web site (<http://www.usitc.gov>) for Commissioner votes on whether to conduct an expedited or full review. The Commission's statement on adequacy is presented in appendix B.

<sup>4</sup> The investigation resulted from a petition filed on July 11, 1996, by FMC.

<sup>5</sup> 62 FR 36259, July 7, 1997, as amended by 62 FR 39212, July 22, 1997. This order required the posting of a cash deposit equal to the estimated weighted-average antidumping duty margins, which were 32.22 percent for manufacturer/producer/exporter Sinochem Jiangsu Wuxi Import & Export Corp., 34.41 percent for Shanghai AJ Import and Export Corp. (or Shanghai Ai Jian Import & Export Corp.), 34.97 percent for Guangdong Petroleum Chemical Import & Export Trade Corp., and 119.02 percent for the China-wide rate. Since the imposition of the antidumping duty order, Commerce has completed three administrative reviews:

(1) 64 FR 69494, December 13, 1999, as amended by 65 FR 1356, January 10, 2000: 5.54 percent for Shanghai Ai Jian and 7.37 percent for Sinochem Jiangsu (the rate for Guangdong Petroleum continued to be 34.97 percent, and the China-wide rate continued to be 119.02 percent);

(2) 65 FR 46691, July 31, 2000: 2.62 percent for Shanghai Ai Jian (the rate for Sinochem Jiangsu continued to be 7.37 percent, but Guangdong Petroleum became subject to the China-wide rate of 119.02 percent); and

(3) 66 FR 42628, August 14, 2001: 0.04 percent (*de minimis*) for Shanghai Ai Jian (the rate for Sinochem Jiangsu continued to be 7.37 percent, and the China-wide rate continued to be 119.02 percent).

In addition, on August 6, 2002, Commerce published its preliminary results of an administrative review in which the margin for Shanghai Ai Jian was 0.00 percent (the rate for Sinochem Jiangsu continued to be 7.37 percent, and the China-wide rate continued to be 119.02 percent).

## Commerce's Final Results of Expedited Sunset Review

In its expedited review of the antidumping duty order on persulfates from China, Commerce determined that revocation of the order would be likely to lead to continuation or recurrence of dumping at the following weighted-average margins: Sinochem Jiangsu, 32.22 percent; Shanghai Ai Jian, 34.41 percent; Guangdong Petroleum, 34.97 percent; and a China-wide rate of 119.02 percent.<sup>6</sup>

### THE PRODUCT

#### Scope

Commerce's web site provides the following definition of the subject product (persulfates):

The products covered by this review are persulfates, including ammonium, potassium, and sodium persulfates. The chemical formulas for these persulfates are, respectively,  $(\text{NH}_4)_2\text{S}_2\text{O}_8$ ,  $\text{K}_2\text{S}_2\text{O}_8$ , and  $\text{Na}_2\text{S}_2\text{O}_8$ . Ammonium and potassium persulfates are currently classified under subheading 2833.40.60 of the Harmonized Tariff Schedule of the United States (HTSUS). Sodium persulfate is classified under HTSUS subheading 2833.40.20. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this review is dispositive.<sup>7</sup>

#### Description and Uses

The imported products subject to this investigation are peroxydisulfates, commonly known as persulfates. There are three salts included within the persulfates definition: ammonium persulfate, potassium persulfate, and sodium persulfate; the latter is dutiable at 3.7 percent *ad valorem*, and the former two products at 3.1 percent. This section presents information on both imported and domestically produced persulfates, as well as information related to the Commission's "domestic like product" determination.<sup>8</sup> In its original investigation, the Commission found one domestic like product consisting of ammonium, sodium, and potassium persulfates, and one U.S. industry consisting of FMC.<sup>9</sup>

#### Physical Characteristics and Uses

Persulfates are produced in the form of a dry white crystalline powder that is odorless. The three salts are indistinguishable when subject to a visual or tactile exam. They are all derived from a common source, persulfuric acid. The active ingredient for all three salts is the persulfate anion.

Persulfates are used in many industrial processes and commercial products. Persulfates have two major applications: (1) as catalysts or "initiators" in the process of polymerization and (2) as oxidants in cleaning, microetching, and plating processes. Persulfates as catalysts are used in producing latex for carpet backing and paper coating, acrylic latex paint, and for other acrylics and polyvinyls used in

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<sup>6</sup> 67 FR 62226, October 4, 2002. Commerce's notice appears in appendix A.

<sup>7</sup> See Commerce's web site (<http://web.ita.doc.gov/ia/SunCase.nsf>) at [Case Information](#).

<sup>8</sup> The Commission's decision regarding the appropriate domestic products that are "like" the subject imported products is based on a number of factors including (1) physical characteristics and uses; (2) common manufacturing facilities and production employees; (3) interchangeability; (4) customer and producer perceptions; (5) channels of distribution; and, where appropriate, (6) price.

<sup>9</sup> *Persulfates from China, Inv. No. 731-TA-749 (Final)*, USITC Pub. 3044, June 1997, pp. 4-5.

adhesives, among other uses. Persulfates as oxidants are used in printed circuit boards, among other uses. Persulfates are also used in applications such as the desizing and bleaching of textiles, water treatment, and film processing. Persulfates account for only a small percentage of the cost of the final products in which they are used.

### **Manufacturing Facilities and Production Employees**

Based on information provided in 1997, the manufacturing processes for ammonium, potassium, and sodium persulfates are similar. Production begins in an electrolytic cell where liquid ammonium persulfate is produced as an intermediate product. This liquid ammonium persulfate is then crystallized into a wet cake, which is fed into the ammonium, sodium, and potassium persulfate downstream production, in which the wet cake is further processed in a fluid bed dryer and then packaged for shipment. One difference between the salts is the removal and recycling of the ammonia that is released in the sodium and potassium persulfates production processes. The recycling of ammonia is a critical material-balance issue which requires that the ammonium persulfate line be running in order to produce sodium or potassium persulfate. Information developed in the original investigation indicated that the three persulfate salts are manufactured in the same plant, using the same or similar equipment and production workers. There are no known significant differences in the persulfate production processes used in China and the United States, although the Chinese process may be slightly less automated.

Between \*\*\* and \*\*\* percent of FMC's persulfates production was captively consumed in the production of downstream products each year during 1994-96, and about \*\*\* percent in 2001. These downstream products are produced in a separate facility, using different production workers than are used for persulfates.

### **Interchangeability and Customer and Producer Perceptions**

According to FMC, while there are slight solubility and active oxygen content differences among the persulfate salts, all three salts can be and are used interchangeably because their essential characteristics are the same. According to the hearing testimony of respondents ICC Chemical Corporation (ICC) and Aceto Corporation, importers of the subject merchandise in the original investigation, the persulfates are not interchangeable. However, in its questionnaire response, Aceto stated that the three salts \*\*\*. Every purchaser that responded to the questionnaire in the original investigation reported that there are functionality differences among ammonium, potassium, and sodium persulfates that would preclude substituting one salt for another, and only one reported that it actually substituted among these salts.<sup>10</sup>

FMC claims that the domestic and imported products are even more interchangeable today than they were in 1997 because the Chinese producers have continued to improve the quality of their product.<sup>11</sup> In the original investigation, Aceto contended that Chinese persulfates were not interchangeable with domestically produced persulfates in a number of applications, due to problems with caking or lumping from moisture, particle size, and off-white color from black specks. Aceto claimed Chinese persulfates were not suitable for oil recovery and cosmetics applications, and had limited use in emulsion polymerization and printed circuit board industries. \*\*\*. FMC argued that caking is a problem with persulfates of any origin, that imports from China may be used in oil recovery

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<sup>10</sup> \*\*\* reported that it tried substituting in an emergency situation but that neither sodium nor potassium persulfate worked as well as ammonium persulfate in its reaction.

<sup>11</sup> FMC's July 23, 2002, response to the Commission's notice instituting this review investigation (FMC's *Response*), p. 6.

and cosmetics, and that these two applications account for only 2-3 percent of demand for persulfates. Furthermore, FMC contended that customers perceive the Chinese persulfates as interchangeable with the domestic product, and that competition among these products exists across all segments of the market.

### **Substitute Products**

According to FMC in the original investigation, there is no chemical that competes with persulfates in the oxidation market. Hydrogen peroxide is a distant competitor as a gross etchant when manufacturers want to quickly remove copper from areas where it is not wanted. However, hydrogen peroxide is not a functional substitute in this application as it is too powerful an etch, which polishes the surface and leads to poor adhesion and scrap. Another chemical that competes distantly in the oxidation market is a trade-named product from Dupont called Oxone. One importer, \*\*\*, said that latex polymers, benzoyl peroxide, and azobis-isobutylnitrile can be used as substitutes, although they are considered less efficient and more hazardous.

### **Channels of Distribution**

Both domestic and imported persulfates are believed to be sold in substantial quantities to end users as well as distributors. In the original investigation, parties agreed that the channels of distribution for Chinese and domestic products were the same.

### **Price**

In the original investigation, Aceto asserted that the three salts are priced differently, with ammonium persulfate being the lowest priced. In fact, pricing data obtained from FMC and importers showed that potassium persulfate was nearly always priced the highest of the three salts, sodium persulfate was priced next highest, and ammonium persulfate was generally priced the lowest. In 2001, FMC reported that unit values of its production of persulfates were \$\*\*\* per pound for potassium persulfate, \$\*\*\* per pound for sodium persulfate, and \$\*\*\* per pound for ammonium persulfate.

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

### **U.S. Producer<sup>12</sup>**

FMC Corporation, Philadelphia, PA, is a diversified manufacturing company producing industrial, agricultural, and specialty chemicals, with revenues of \$1.9 billion in 2001. Persulfates are a part of FMC's industrial chemicals business segment. FMC's persulfates manufacturing plant is located in Tonawanda, NY. FMC is not related to any foreign producer of persulfates or any U.S. importer of persulfates from China.

In August 1995, FMC experienced a warehouse fire in its Tonawanda plant that destroyed 800 tons of its inventory and shut down production for six weeks. FMC claimed that there was no short-supply situation in the United States as a result of the fire for a number of reasons: (1) the timing of the fire coincided with FMC's scheduled annual maintenance, so that customers and FMC were already building inventories in anticipation of a two-week shutdown; (2) FMC diverted its exports back to the

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<sup>12</sup> All discussion in this section is from the *Staff Report of June 3, 1997*, pp. III-1-III-10, and from FMC's *Response* in this review investigation, unless indicated otherwise.

United States to fulfill customer requirements; and (3) \*\*\*. FMC stated that it did not put customers on formal allocation, and that there were only two customers who experienced spot shortages of one day, due primarily to communication problems. In the original investigation, Aceto and ICC stated that there was indeed a short-supply situation, which resulted in their increased imports from China.

### U.S. Production, Capacity, and Shipments

Comparable data reported by FMC in the Commission's original investigation and in response to the review institution notice are presented in table I-1. There are no current financial data available on persulfates. In the original investigation, FMC's ratio of operating income to net sales was \*\*\* percent in 1994, \*\*\* percent in 1995, and \*\*\* percent in 1996.

**Table I-1**

**Persulfates: FMC's capacity, production, and U.S. shipments, 1994-96 and 2001**

\* \* \* \* \*

### U.S. IMPORTS AND CONSUMPTION

#### U.S. Imports

In the original investigation, 11 firms, accounting for nearly all of subject imports, reported data to the Commission on their imports of persulfates from China. In its response to the Commission's notice of institution, FMC identified 6 importers of Chinese persulfates.<sup>13</sup>

U.S. imports of persulfates are shown in table I-2. The Commission's report for the original investigation had conflicting reasons for the rise in imports from China. "The petitioner cited unfair competition and a diversion of Chinese exports from the European Community in the wake of dumping duties imposed in July 1995, while the respondents claim that the short-supply situation caused by the August 1995 fire at FMC forced purchasers to look to China for an alternate and reliable source of supply."<sup>14</sup>

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<sup>13</sup> FMC's *Response*, exhibit 10.

<sup>14</sup> *Staff Report of June 3, 1997*, p. IV-1.

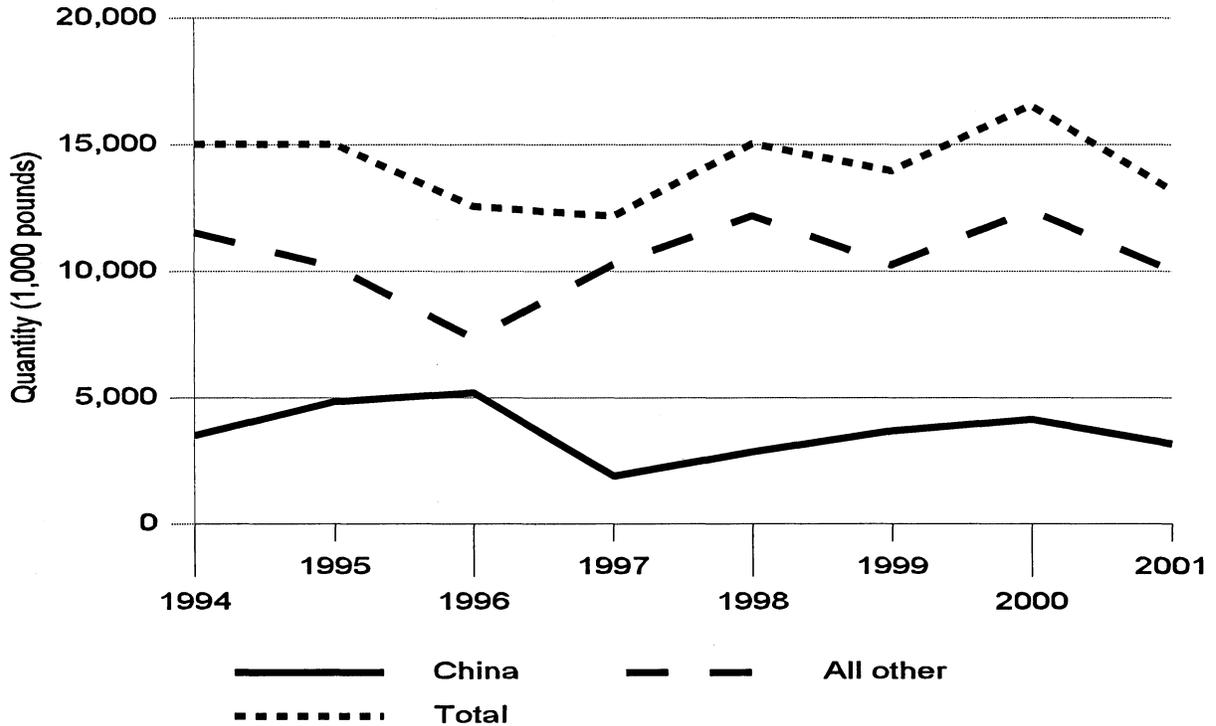
**Table I-2**  
**Persulfates: U.S. imports, by source, 1994-96 and 2001**

Item	1994	1995	1996	2001
<b>Quantity (1,000 pounds)</b>				
China	***	***	***	3,181
Other sources <sup>1</sup>	***	***	***	10,051
Total	***	***	***	13,232
<b>Landed duty-paid value (1,000 dollars)</b>				
China	***	***	***	1,544
Other sources <sup>1</sup>	***	***	***	6,472
Total	***	***	***	8,016
<b>Landed duty-paid unit value (per pound)<sup>2</sup></b>				
China	\$***	\$***	\$***	\$0.49
Other sources <sup>1</sup>	***	***	***	0.65
Total	***	***	***	0.60
<sup>1</sup> Other major sources of imports included Germany, Japan, and Taiwan in 1994-96 and these 3 countries as well as India and Turkey in 2001. <sup>2</sup> Excluding antidumping duties.				
Source: <i>Staff Report of June 3, 1997</i> , p. IV-3, for 1994-96 data (compiled from data submitted in response to Commission questionnaires) and compiled from official Commerce statistics for 2001 data.				

The import data presented for 1994-96 in table I-2 were compiled from data submitted in response to Commission questionnaires. Data on the volume of imports of persulfates (in 1,000 pounds) as reported in official Commerce statistics for 1994-2001 are presented in the following tabulation and figure I-1:

Year	Imports from China	Imports from other sources	Total imports
1994	3,503	11,525	15,028
1995	4,856	10,180	15,036
1996	5,204	7,368	12,572
1997	1,911	10,272	12,183
1998	2,856	12,196	15,052
1999	3,702	10,262	13,964
2000	4,145	12,408	16,553
2001	3,181	10,051	13,232
Note: Official Commerce statistics indicate that the landed, duty-paid unit value of imports of persulfates from China was \$0.43 per pound in 1994, \$0.50 per pound in 1995, \$0.50 per pound in 1996, \$0.45 per pound in 1997, \$0.45 per pound in 1998, \$0.43 per pound in 1999, \$0.44 per pound in 2000, and \$0.49 per pound in 2001.			

**Figure I-1**  
**Persulfates: U.S. imports from China and all other sources, by quantity, 1994-2001**



Source: Compiled from official Commerce statistics.

### Apparent U.S. Consumption

Apparent U.S. consumption of persulfates during the original investigation and 2001 are shown in table I-3. FMC contends that consumption decreased from 60 million pounds in 2000 to 52 million pounds in 2001 and an estimated 52 million pounds in 2002, a downturn exacerbated by the decline in an important market for persulfates, printed circuit board production.<sup>15</sup>

<sup>15</sup> FMC's Response, p. 19. \*\*\*.

**Table I-3**

**Persulfates: U.S. producers' U.S. shipments, U.S. imports, and apparent U.S. consumption, 1994-96 and 2001**

Item	1994	1995	1996	2001
	<b>Quantity (1,000 pounds)</b>			
U.S. producer's U.S. shipments	***	***	***	***
U.S. importers' shipments: <sup>1</sup> China	***	***	***	3,181
Other sources	***	***	***	10,051
Total	***	***	***	13,232
Apparent U.S. consumption	***	***	***	***
	<b>Share of consumption (percent)</b>			
U.S. producer's U.S. shipments	***	***	***	***
U.S. importers' shipments: <sup>1</sup> China	***	***	***	***
Other sources	***	***	***	***
Total	***	***	***	***
<p><sup>1</sup> Imports presented here for 1994-96 are based on the responses to the Commission questionnaires during the original investigation (U.S. importers' shipments); 2001 data are U.S. imports compiled from official Commerce statistics.</p> <p>Source: <i>Staff Report of June 3, 1997</i>, p. IV-5 for 1994-96 data and official Commerce statistics for 2001 imports; FMC's <i>Response</i> for 2001 U.S. producer's U.S. shipments data.</p>				

### THE INDUSTRY IN CHINA

The Commission's report for the original investigation identified four known producers of any significance in China. In its response to the Commission's notice of institution of this review investigation, FMC identified 12 Chinese producers of persulfates.<sup>16</sup> Four producers reportedly began production in 1999.<sup>17</sup> Data reported to the Commission during the original investigation on the Chinese persulfate industry are presented in table I-4, with certain data updated for 2000. FMC contends that the largest producer of persulfates in China, Shanghai Ai Jian, has built an entirely new production facility and expanded its persulfates capacity from 28 million pounds in 1999 to over 46 million pounds in 2000, with a capacity utilization rate in 2000 of only 46 percent. It also notes that Shanghai Ai Jian's web site states that its persulfates have been pre-approved by several major named U.S. firms. According to FMC, Shanghai Ai Jian accounted for 34.5 percent of known Chinese production of persulfates in 2000.<sup>18</sup> Shanghai Ai Jian's current antidumping duty margin on persulfates is *de minimis*.

<sup>16</sup> Ibid., exhibit 4.

<sup>17</sup> Ibid., p. 9.

<sup>18</sup> FMC's *Response*, exhibit 3C.

Table I-4

## Persulfates: China's capacity, production, and shipments, 1994-96 and 2000

Item	1994	1995	1996	2000 <sup>1</sup>
	Quantity (1,000 pounds, except as noted)			
Capacity	***	***	***	137,238
Production	***	***	***	61,963
Capacity utilization (percent)	***	***	***	45.2
Shipments: Home market	***	***	***	(?)
Exports: United States	***	***	***	(?)
Other	***	***	***	(?)
Total exports	***	***	***	(?)
Total shipments	***	***	***	(?)
<sup>1</sup> 2001 data not available. <sup>2</sup> Not available.				
Source: <i>Staff Report of March 18, 1997</i> , p. VII-2, for 1993-95 data (which were compiled from data submitted in response to Commission questionnaires); <i>FMC's Response</i> , exhibits 3A and 3C, for 2000 data.				

In December 1995, the European Union imposed a final antidumping duty order of 83.3 percent on imports of persulfates from China. The antidumping order expired in early 2002.<sup>19</sup>

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<sup>19</sup> FMC's *Response*, p. 20.



**APPENDIX A**  
***FEDERAL REGISTER NOTICES***



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**INTERNATIONAL TRADE  
COMMISSION**

[Investigation No. 731-TA-749 (Review)]

**Persulfates 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 determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)), that revocation of the antidumping duty order on persulfates from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

**Background**

On September 6, 2002, the Commission determined that the domestic interested party group

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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)).

response to its notice of institution (67 FR 38333, June 3, 2002) was adequate and the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting a full review.<sup>2</sup> Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Act. The Commission transmitted its determination in this review to the Secretary of Commerce on October 31, 2002. The views of the Commission are contained in USITC Publication 3555 (October 2002), entitled Persulfates From China: Investigation No. 731-TA-749 (Review).

Issued: October 23, 2002.

By order of the Commission.

**Marilyn R. Abbott,**  
*Secretary to the Commission.*

[FR Doc. 02-27436 Filed 10-28-02; 8:45 am]

BILLING CODE 7020-02-P

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**INTERNATIONAL TRADE  
COMMISSION**

[Investigation No. 731-TA-749 (Review)]

**Persulfates From China**

**AGENCY:** United States International Trade Commission.

**ACTION:** Scheduling of an expedited five-year review concerning the antidumping duty order on persulfates from China.

**SUMMARY:** The Commission hereby gives notice of the scheduling of an expedited review pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)(3)) (the Act) to determine whether revocation of the antidumping duty order on persulfates from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

**EFFECTIVE DATE:** September 6, 2002.

**FOR FURTHER INFORMATION CONTACT:** Fred Ruggles (202-205-3187), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>).

**SUPPLEMENTARY INFORMATION:**

**Background.**—On September 6, 2002, the Commission determined that the domestic interested party response to its notice of institution (67 FR 38333, June 3, 2002) was adequate and the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant

conducting a full review.<sup>1</sup> Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Act.

**Staff report.**—A staff report containing information concerning the subject matter of the review will be placed in the nonpublic record on October 3, 2002, and made available to persons on the Administrative Protective Order service list for this review. A public version will be issued thereafter, pursuant to section 207.62(d)(4) of the Commission's rules.

**Written submissions.**—As provided in section 207.62(d) of the Commission's rules, interested parties that are parties to the review and that have provided individually adequate responses to the notice of institution,<sup>2</sup> and any party other than an interested party to the review may file written comments with the Secretary on what determination the Commission should reach in the review. Comments are due on or before October 8, 2002, and may not contain new factual information. Any person that is neither a party to the five-year review nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the review by October 8, 2002. However, should Commerce extend the time limit for its completion of the final results of its review, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules.

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

**Authority:** This review is being conducted under authority of title VII of the Tariff Act

<sup>1</sup> A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's web site.

<sup>2</sup> The Commission has found the response submitted by FMC Corporation to be individually adequate. Comments from other interested parties will not be accepted (see 19 CFR 207.62(d)(2)).

of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: September 19, 2002.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. 02-24239 Filed 9-23-02; 8:45 am]

**BILLING CODE 7020-02-P**

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**DEPARTMENT OF COMMERCE**

**International Trade Administration**

**[A-570-847]**

**Final Results of Expedited Sunset  
Review: Persulfates From the People's  
Republic of China**

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

**ACTION:** Notice of final results of expedited sunset review: Persulfates from the People's Republic of China.

**SUMMARY:** On July 22, 1997, the Department of Commerce ("the Department") published the notice of initiation of a five-year sunset review of the antidumping duty order on persulfates from the People's Republic of China ("PRC"), pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act").<sup>1</sup> On the basis of a notice of intent to participate and adequate substantive comments filed on behalf of domestic interested parties, and inadequate response (in this case no response) from respondent interested parties, the Department determined to conduct an expedited sunset review of this antidumping duty order. As a result of this review, the Department finds that revocation of the antidumping order would be likely lead to continuation or recurrence of dumping at the levels indicated in the "Final Results of Review" section of this notice.

**EFFECTIVE DATE:** October 4, 2002.

**FOR FURTHER INFORMATION CONTACT:**

Amir R. Eftekhari or James P. Maeder, Jr., Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-5331 or (202) 482-3330.

**SUPPLEMENTARY INFORMATION:**

**Statute and Regulations**

This review is conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in Procedures for Conducting Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders, 63 FR 13516 ("Sunset Regulations") and in 19 CFR part 351 (2001) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3 Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin, 63 FR 18871 (April 16, 1998) ("Sunset Policy Bulletin").

**Scope of Review**

The products covered by this review are persulfates, including ammonium, potassium, and sodium persulfates. The chemical formula for these persulfates are, respectively, (NH<sub>4</sub>)<sub>2</sub>S<sub>2</sub>O<sub>8</sub>, K<sub>2</sub>S<sub>2</sub>O<sub>8</sub>,

and Na<sub>2</sub>S<sub>2</sub>O<sub>8</sub>. Ammonium and potassium persulfates are currently classified under subheading 2833.40.60 of the Harmonized Tariff Schedule of the United States (HTSUS). Sodium persulfates are classified under HTSUS subheading 2833.40.20. The HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of this proceeding is dispositive.

**Background**

On July 22, 1997, the Department published the notice of initiation of the five-year sunset review of the antidumping duty order on persulfates from the PRC in accordance with section 751(c)(6)(A)(i) of the Tariff Act of 1930.<sup>2</sup> On June 11, 2002, the Department received a Notice of Intent to Participate on behalf of FMC Corporation (collectively, "the domestic interested parties") as specified in § 351.218(d)(1)(i) of the Sunset Regulations.

On July 3, 2002, the Department received a complete substantive response from the domestic interested parties, as specified in the Sunset Regulations under § 351.218(d)(3)(i).

The Department did not receive a substantive response from any respondent interested party in this proceeding. Consequently, pursuant to section 751(c)(3)(B) of the Act, and 19 CFR 351.218(e)(1)(ii)(C), the Department conducted an expedited (120-day) sunset review of this order.

**Analysis of Comments Received**

All issues raised by the domestic interested parties to this sunset review are addressed in the Issues and Decision Memorandum ("Decision Memorandum") from Jeffrey A. May, Director, Office of Policy, Import Administration, to Faryar Shirzad, Assistant Secretary for Import Administration, dated October 2, 2002, which is adopted by this notice. The issues discussed in the Decision Memorandum include the likelihood of continuation or recurrence of dumping and the magnitude of the margin likely to prevail were the order revoked. Parties can find a complete discussion of all issues raised in this sunset review and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, room B-099, of the Department's main building.

In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at <http://>

[ia.ita.doc.gov/frn](http://ia.ita.doc.gov/frn), under the heading "October 2002." The paper copy and electronic version of the Decision Memorandum are identical in content.

**Final Results of Review**

We determine that revocation of the antidumping duty order would likely lead to continuation or recurrence of dumping at the following percentage weighted-average margins:

Manufacturer/producers/exporter	Weighted-average margin (percent)
Sinochem Jiangsu Wuxi Import & Export Corporation (Wuxi)	32.22
Shanghai Ai Jian Import & Export Corporation (Ai Jian) .....	34.41
Guangdong Petroleum Chemical Import and Export Trade (Guangdong) .....	34.97
PRC-wide .....	119.02

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

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

Dated: September 30, 2002.

**Faryar Shirzad,**

*Assistant Secretary for Import Administration.*

[FR Doc. 02-25307 Filed 10-3-02; 8:45 am]

BILLING CODE 3510-DS-P

<sup>1</sup> Notice of Initiation of Five Year "Sunset" Reviews, 67 FR 9439 (March 1, 2002).

<sup>2</sup> Notice of Initiation of Five Year "Sunset" Reviews, 67 FR 38332 (June 3, 2002).

**APPENDIX B**  
**STATEMENT ON ADEQUACY**



## **EXPLANATION OF COMMISSION DETERMINATION ON ADEQUACY**

in

*Persulfates from China*, Inv. No. 731-TA-749 (Review)

On September 6, 2002, the Commission determined that it should proceed to an expedited review in the subject five-year review pursuant to section 751(c)(3)(B) of the Tariff Act of 1930, as amended, 19 U.S.C. § 1675(c)(3)(B).

The Commission received a response from FMC Corporation (“FMC”), a domestic producer. The Commission determined that FMC’s response was individually adequate. The Commission also determined that the FMC’s response was an adequate domestic interested party group response because FMC accounts for a significant share of domestic production of the like product.

The Commission did not receive a response from any respondent interested party. Consequently, the Commission determined that the respondent interested party group response was inadequate.

The Commission did not find any circumstances that would warrant conducting a full review. The Commission therefore determined to conduct an expedited review. A record of the Commissioners’ votes is available from the Office of the Secretary and at the Commission’s website (<http://www.usitc.gov>).