

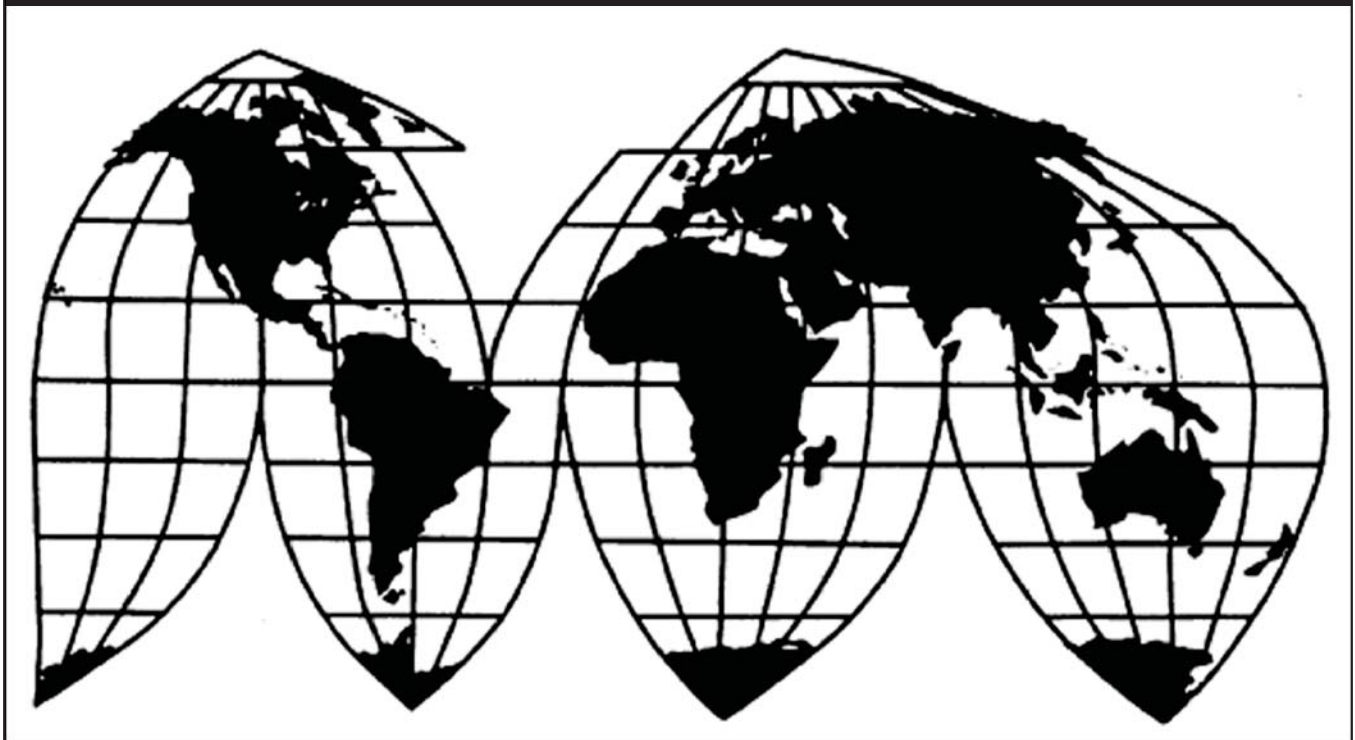
Sodium Nitrite from China and Germany

Investigation Nos. 701-TA-453 and 731-TA-1136-1137 (Review)

Publication 4451

January 2014

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Note.—Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted.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

UNITED STATES INTERNATIONAL TRADE COMMISSION

**Investigation Nos. 701–TA–453 and 731–TA–1136–1137 (Review)
Sodium Nitrite from China and Germany**

On the basis of the record¹ developed in the subject five-year reviews, the United States International Trade Commission (Commission) determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)), that revocation of the countervailing duty order on sodium nitrite from China and the antidumping duty orders on sodium nitrite from China and Germany would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

BACKGROUND

The Commission instituted these reviews on July 1, 2013 (78 FR 39316) and determined on October 21, 2013, that it would conduct expedited reviews (78 FR 68474, November 14, 2013).

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

Views of the Commission

Based on the record in these five-year reviews, we determine under section 751(c) of the Tariff Act of 1930, as amended (“the Tariff Act”), that revocation of the countervailing duty order on sodium nitrite from China and the antidumping duty orders on sodium nitrite from China and Germany would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

I. Background

The original investigations of sodium nitrite from China and Germany were instituted in response to a petition filed by General Chemical LLC (“General Chemical”), a domestic producer of sodium nitrite, on November 8, 2007.¹ In August 2008, the Commission determined that an industry in the United States was materially injured by reason of imports of sodium nitrite from China that the U.S. Department of Commerce (“Commerce”) found had been subsidized and by reason of imports of sodium nitrite from China and Germany that Commerce found had been sold at less than fair value.² Commerce issued antidumping duty and countervailing duty orders on imports of sodium nitrite from China and Germany on August 27, 2008.³

The Commission instituted these reviews on July 1, 2013.⁴ The Commission received one substantive response to the notice of institution from General Chemical.⁵ It did not receive a response from any respondent interested party. On October 21, 2013, the Commission found General Chemical’s response to the notice of institution individually adequate, the domestic industry party group response adequate, and the respondent interested party group responses inadequate.⁶ The Commission did not find any circumstances that would warrant conducting full reviews and determined that it would conduct expedited reviews pursuant to section 751(c)(3) of the Tariff Act.^{7 8}

¹ *Sodium Nitrite from China and Germany*, Inv. Nos. 701-TA-453 and 731-TA-1136-1137 (Final), USITC Pub. 4029 (August 2008) (“USITC Pub. 4029”) at 3.

² USITC Pub. 4029 at 3.

³ *Sodium Nitrite From Germany and the People’s Republic of China: Countervailing Duty Order*, 73 Fed. Reg. 50595 (August 27, 2008), and *Sodium Nitrite From the Federal Republic of Germany and the People’s Republic of China: Antidumping Duty Orders*, 73 Fed. Reg. 50593 (August 27, 2008).

⁴ *Sodium Nitrite from China and Germany: Institution of Five-Year Reviews*, 78 Fed. Reg. 39316 (July 1, 2013).

⁵ General Chemical Substantive Response to the Commission’s Notice of Institution (July 30, 2013) (“Response”).

⁶ Summary Voting Sheet, EDIS Doc. 520467.

⁷ 19 U.S.C. § 1675(c)(3).

⁸ See Explanation of Commission Determination on Adequacy and 78 Fed. Reg. 68474 (November 14, 2013).

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.”⁹ 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.”¹⁰ 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.¹¹

Commerce has defined the scope of the orders in these five-year reviews as follows: Sodium nitrite in any form, at any purity level. In addition the sodium nitrite covered by these investigations may or may not contain an anti-caking agent. Examples of names commonly used to reference sodium nitrite are nitrous acid, sodium salt, anti-rust, diazotizing salts, erinitrit, and filmerine. Sodium nitrite’s chemical composition is NaNO₂, and it is generally classified under subheading 2834.1010 of the Harmonized Tariff Schedule of the United States (“HTS”). The American Chemical Society Chemical Abstract Service (“CAS”) has assigned the name “sodium nitrite” to sodium nitrite. The CAS registry number is 7632-00-0.¹²

The scope definition set out above is unchanged from that in the original investigations.

Sodium nitrite is an industrial chemical produced in different grades (technical and food) and in both dry (flake, granular, or prill) and liquid (solution) forms. Dry sodium nitrite is sold in bags, drums, and super sacks, and the liquid form is sold in tank truck and rail car

⁹ 19 U.S.C. § 1677(4)(A).

¹⁰ 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, 96th Cong., 1st Sess. 90-91 (1979).

¹¹ *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).

¹² *Sodium Nitrite From Germany and the People’s Republic of China: Final Results of the Expedited First Sunset Review of the Antidumping Duty Order*, 78 Fed. Reg. 69368, 69369 (Nov. 19, 2013) (“*Commerce Sunset Review (AD)*”), and *Sodium Nitrite From the People’s Republic of China: Final Results of the Expedited First Sunset Review of the Countervailing Duty Order*, 78 Fed. Reg. 69646, 69647 (Nov. 20, 2013) (“*Commerce Sunset Review (CVD)*”).

quantities. Whether in dry or liquid form, sodium nitrite is an industrial inorganic chemical that is primarily used as an intermediate or process chemical. Sodium nitrite is used in the production of inks, organic dyes, and other chemicals; wastewater treatment; food preservation; and production of human and veterinary medicines.¹³

Sodium nitrite is produced by the transformation of liquid ammonia and caustic soda or soda ash. Liquid ammonia is oxidized with air at a high temperature in a catalytic bed to form nitrogen oxide. The nitrogen oxide enters an absorption tower where it reacts with either a caustic soda or soda ash solution to form a sodium nitrite solution. Regardless of whether caustic soda or soda ash is used as a raw material, all sodium nitrite destined for sale as a dry product must undergo additional processing to form sodium nitrite crystals. These crystals are dried and blended with an anti-caking agent or are compacted into a thin cake and flaked.¹⁴ Food grade sodium nitrite undergoes further testing to certify that the product meets specific quality standards.¹⁵

In the original investigations, the Commission found a single domestic like product consisting of sodium nitrite, regardless of form or grade, that was coextensive with the scope of the investigations.¹⁶ There is no new information obtained during these reviews that would suggest any reason to revisit the Commission's domestic like product definition from the original determinations, and the responding domestic producer agrees with that definition.¹⁷ Accordingly, we define the domestic like product as sodium nitrite, regardless of form or grade, that is coextensive with Commerce's scope description.

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."¹⁸ 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 its original investigations, the Commission defined the domestic industry as consisting of the domestic producers of sodium nitrite.¹⁹ In these reviews, General Chemical has stated

¹³ Confidential Report, Memorandum INV-LL-102 (December 2, 2013) ("CR") at I-8 to I-9, and at Table I-1; Public Report, *Sodium Nitrite from China and Germany*, Inv. Nos. 701-TA-453 and 731-TA-1136-1137 (Reviews), USITC Pub. 4451 (January 2014) ("PR") at I-6 to I-7, and at Table I-1.

¹⁴ CR at I-10, PR at I-7 to I-8.

¹⁵ CR at I-10 to I-11, PR at I-7 to I-8.

¹⁶ USITC Pub. 4029 at 8.

¹⁷ See generally CR at I-6 to I-13, PR at I-5 to I-9; Response at 35.

¹⁸ 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.

¹⁹ USITC Pub. 4029 at 8-9.

that it agrees with the domestic industry definition in the original investigations.²⁰ In light of the definition of the domestic like product, we define the domestic industry as all domestic producers of sodium nitrite.²¹

III. Cumulation

A. Legal Standard

With respect to five-year reviews, section 752(a) of the Tariff Act provides as follows: the Commission may cumulatively assess the volume and effect of imports of the subject merchandise from all countries with respect to which reviews under section 1675(b) or (c) of this title were initiated on the same day, if such imports would be likely to compete with each other and with domestic like products in the United States market. The Commission shall not cumulatively assess the volume and effects of imports of the subject merchandise in a case in which it determines that such imports are likely to have no discernible adverse impact on the domestic industry.²²

Cumulation therefore is discretionary in five-year reviews, unlike original investigations, which are governed by section 771(7)(G)(i) of the Tariff Act.²³ The Commission may exercise its discretion to cumulate, however, only if the reviews are initiated on the same day, the Commission determines that the subject imports are likely to compete with each other and the domestic like product in the U.S. market, and imports from each such subject country are not likely to have no discernible adverse impact on the domestic industry in the event of revocation. Our focus in five-year reviews is not only on present conditions of competition, but also on likely conditions of competition in the reasonably foreseeable future.

In the original investigations, the Commission cumulated subject imports from China and Germany. The parties did not dispute the appropriateness of cumulation. The Commission

²⁰ Response at 35; General Chemical Final Comments (December 9, 2013) (“Final Comments”) at 8. General Chemical is the predominant U.S. producer of sodium nitrite. Since the antidumping and countervailing duty orders were issued in 2008, however, SABIC Innovative Chemicals US, LLC (“SABIC”) has begun selling liquid form sodium nitrite that it recovers from a waste stream process as a byproduct. Response at 31.

²¹ There are no related party issues in these reviews.

²² 19 U.S.C. § 1675a(a)(7).

²³ 19 U.S.C. § 1677(7)(G)(i); *see also, e.g., Nucor Corp. v. United States*, 601 F.3d 1291, 1293 (Fed. Cir. 2010) (Commission may reasonably consider likely differing conditions of competition in deciding whether to cumulate subject imports in five-year reviews); *Allegheny Ludlum Corp. v. United States*, 475 F. Supp. 2d 1370, 1378 (Ct. Int’l Trade 2006) (recognizing the wide latitude the Commission has in selecting the types of factors it considers relevant in deciding whether to exercise discretion to cumulate subject imports in five-year reviews); *Nucor Corp. v. United States*, 569 F. Supp. 2d 1328, 1337-38 (Ct. Int’l Trade 2008).

found that, although there were differences among the domestic like product and subject imports from China and Germany in terms of the forms and grades sold in the U.S. market, there was also considerable overlap, particularly for technical-grade sodium nitrite in granular and prilled forms.²⁴ General Chemical and the sole German producer, BASF AG (“BASF”), reported selling their products ***,²⁵ and importers of subject imports from China sold their products in the Northeast, Mid-Atlantic, Southeast, Midwest, Southwest, and West Coast markets. Therefore, the Commission found that subject imports from China and Germany and the domestic like product were sold in the same geographic markets.²⁶ The Commission also found that domestic shipments of sodium nitrite, subject imports from China, and subject imports from Germany were each present in the U.S. market throughout the January 2005-March 2008 period of investigation (“POI”).²⁷ The Commission found that subject imports from China entered the United States with increasing monthly frequency over the period, while subject imports from Germany entered the United States consistently in every month.²⁸

In these reviews, the statutory threshold for cumulation is satisfied because all reviews were initiated on the same day, July 1, 2013.²⁹ In addition, we consider the following issues in deciding whether to exercise our discretion to cumulate the subject imports: (1) whether imports from either of the subject countries are precluded from cumulation because they are likely to have no discernible adverse impact on the domestic industry; (2) whether there is a likelihood of a reasonable overlap of competition among subject imports from the subject countries and the domestic like product; and (3) whether subject imports are likely to compete in the U.S. market under different conditions of competition.

B. Likelihood of No Discernible Adverse Impact

The statute precludes cumulation if the Commission finds that subject imports from a country are likely to have no discernible adverse impact on the domestic industry.³⁰ Neither the statute nor the Uruguay Round Agreements Act (“URAA”) Statement of Administrative Action (“SAA”) provides specific guidance on what factors the Commission is to consider in determining that imports “are likely to have no discernible adverse impact” on the domestic industry.³¹ With respect to this provision, the Commission generally considers the likely volume of subject imports and the likely impact of those imports on the domestic industry within a reasonably foreseeable time if the orders are revoked. Our analysis for each of the subject countries takes into account, among other things, the nature of the product and the behavior of subject imports in the original investigations.

²⁴ USITC Pub. 4029 at 11-12.

²⁵ Confidential Original Views at 16; USITC Pub. 4029 at 13.

²⁶ USITC Pub. 4029 at 13.

²⁷ USITC Pub. 4029 at 13.

²⁸ USITC Pub. 4029 at 13-14.

²⁹ 78 Fed. Reg. 39256 (July 1, 2013).

³⁰ 19 U.S.C. § 1675a(a)(7).

³¹ SAA, H.R. Rep. No. 103-316, vol. I at 887 (1994).

Based on the record in these reviews, we do not find that imports from either of the subject countries would likely have no discernible adverse impact on the domestic industry in the event of revocation.

China. In the original investigations, the quantity of subject imports from China increased from 519,000 pounds in 2005 to 1.0 million pounds in 2006 and 1.6 million pounds in 2007.³² Chinese producers' share of apparent U.S. consumption, by quantity, increased from *** percent in 2005 to *** percent in 2006 and *** percent in 2007.³³ Based on publicly available information, General Chemical estimated that subject producers' capacity was *** pounds annually.³⁴

The quantity of subject imports from China was 176,000 pounds in 2012.³⁵ General Chemical alleges that Chinese producers' capacity to produce sodium nitrite is massive compared to global demand and that more than *** Chinese manufacturers claim to be producing sodium nitrite.³⁶ Based on the foregoing, we do not find that subject imports from China would likely have no discernible adverse impact on the domestic industry if the orders were revoked.

Germany. In the original investigations, the volume of subject imports from Germany increased from 7.7 million pounds in 2005 to 10.2 million pounds in 2006 and 11.7 million pounds in 2007.³⁷ The share of apparent U.S. consumption held by subject imports from Germany, by quantity, rose from *** percent in 2005 to *** percent in 2006 and *** percent in 2007.³⁸ The capacity of the sole subject German producer, BASF, was *** pounds in each year of the POI.³⁹ Its production was *** pounds in 2005, *** pounds in 2006, and *** pounds in 2007. Its capacity utilization was *** percent in 2005, *** percent in 2006, and *** percent in 2007.⁴⁰ BASF exported *** percent of its total shipments in 2005, *** percent in 2006, and *** percent in 2007.⁴¹

The quantity of subject imports from Germany was 7,000 pounds in 2012.⁴² General Chemical states that BASF is the largest producer of sodium nitrite outside of China and that it has a capacity of *** pounds, which is more than *** that of General Chemical.⁴³ Based on the

³² CR/PR at Table I-5.

³³ CR/PR at Table I-9.

³⁴ Memorandum INV-FF-086 ("Original Confidential Staff Report") at VII-4. The Commission issued producer questionnaires to 37 sodium nitrite producers in China during the original investigations. It did not receive any responses. USITC Pub. 4029 at 17.

³⁵ CR/PR at Table I-5.

³⁶ CR at I-30, PR at I-20, and CR/PR at Table I-11; Response at 26 and Exhibit 1.

³⁷ CR/PR at Table I-5.

³⁸ CR/PR at Table I-9.

³⁹ Original Confidential Staff Report at Table VII-2.

⁴⁰ CR at I-34, PR at I-23.

⁴¹ Original Confidential Staff Report at Table VII-2.

⁴² CR/PR at Table I-5.

⁴³ Original Confidential Staff Report at Table VII-2; Response at 27; *see also* CR at I-35, PR at I-23.

record, we do not find that subject imports from Germany would likely have no discernible adverse impact on the domestic industry if the orders were revoked.

C. Likelihood of a Reasonable Overlap of Competition

The Commission generally has considered four factors intended to provide a framework for determining whether subject imports compete with each other and with the domestic like product.⁴⁴ Only a “reasonable overlap” of competition is required.⁴⁵ In five-year reviews, the relevant inquiry is whether there likely would be competition even if none currently exists because the subject imports are absent from the U.S. market.⁴⁶

Fungibility. The Commission found in the original investigations that subject imports were generally interchangeable with the domestic like product. It also found that different forms or grades of sodium nitrite were considered to be interchangeable, at least for certain end users or purchasers.⁴⁷ There is no new information in these reviews to indicate that this has changed. General Chemical contends that sodium nitrite, regardless of source, is a fungible chemical commodity.⁴⁸

Channels of Distribution. In the original investigations, the Commission found that both domestically produced sodium nitrite and the subject imports were sold to distributors and end users.⁴⁹ There is no new information in these reviews to indicate that this has changed.

⁴⁴ The four factors generally considered by the Commission in assessing whether imports compete with each other and with the domestic like product are as follows: (1) the degree of fungibility between subject imports from different countries and between subject imports and the domestic like product, including consideration of specific customer requirements and other quality-related questions; (2) the presence of sales or offers to sell in the same geographical markets of imports from different countries and the domestic like product; (3) the existence of common or similar channels of distribution for subject imports from different countries and the domestic like product; and (4) whether subject imports are simultaneously present in the market with one another and the domestic like product. See, e.g., *Wieland Werke, AG v. United States*, 718 F. Supp. 50 (Ct. Int’l Trade 1989).

⁴⁵ See *Mukand Ltd. v. United States*, 937 F. Supp. 910, 916 (Ct. Int’l Trade 1996); *Wieland Werke*, 718 F. Supp. at 52 (“Completely overlapping markets are not required.”); *United States Steel Group v. United States*, 873 F. Supp. 673, 685 (Ct. Int’l Trade 1994), *aff’d*, 96 F.3d 1352 (Fed. Cir. 1996). We note, however, that there have been investigations where the Commission has found an insufficient overlap in competition and has declined to cumulate subject imports. See, e.g., *Live Cattle from Canada and Mexico*, Inv. Nos. 701-TA-386 and 731-TA-812-13 (Preliminary), USITC Pub. 3155 at 15 (Feb. 1999), *aff’d sub nom, Ranchers-Cattlemen Action Legal Foundation v. United States*, 74 F. Supp. 2d 1353 (Ct. Int’l Trade 1999); *Static Random Access Memory Semiconductors from the Republic of Korea and Taiwan*, Inv. Nos. 731-TA-761-62 (Final), USITC Pub. 3098 at 13-15 (Apr. 1998).

⁴⁶ See generally, *Cheflin Corp. v. United States*, 219 F. Supp. 2d 1313, 1314 (Ct. Int’l Trade 2002).

⁴⁷ CR at I-23, PR at I-16.

⁴⁸ Response at 20.

⁴⁹ USITC Pub. 4029 at 13.

General Chemical claims that subject imports would be sold through the same major chemical distributors ***.⁵⁰

Geographic Overlap. In the original investigations, General Chemical and German producer BASF reported selling their products ***, and importers of subject merchandise reported that they served six U.S. regions.⁵¹ As indicated above, both domestically produced and imported sodium nitrite were sold to the same major chemical distributors during the original investigation and, thus, subject imports served the same U.S. geographical markets as General Chemical.⁵²

Simultaneous Presence in Market. In the original investigations, the Commission found that domestic shipments of sodium nitrite, subject imports from China, and subject imports from Germany were present in the U.S. market throughout the POI.⁵³ In these reviews, the record shows that subject imports from China and Germany were present in the market in each year of the period of review.⁵⁴

Conclusion. The record of these expedited reviews contains very limited information concerning the participation of subject imports from China and Germany in the U.S. market since imposition of the orders. That information indicates that the simultaneous presence in the U.S. market observed in the original investigations has continued. The record contains no information suggesting that upon revocation, imports from either subject country would have characteristics, distribution patterns, or a geographic presence that would be different than they had during the original POI. In light of this, and the absence of any contrary arguments, we find a likely reasonable overlap of competition between subject imports from China and Germany, and between subject imports from each country and the domestic like product, should the orders be revoked.

D. Likely Conditions of Competition

In determining whether to exercise our discretion to cumulate the subject imports, we assess whether subject imports from China and Germany likely would compete under similar or different conditions in the U.S. market if the orders were revoked.⁵⁵

The record of the original investigations and data submitted in response to the notice of institution, which constitute the available facts for these reviews concerning the subject industries, indicate that the industries in both countries have been export oriented and have participated in the U.S. market since the original POI. The record in these reviews does not indicate that there would likely be any significant difference in the conditions of competition

⁵⁰ Response at 20-21 and nn.48-49.

⁵¹ Confidential Original Views at 16; USITC Pub. 4029 at 13.

⁵² Response at 20-21 and n.48.

⁵³ USITC Pub. 4029 at 13.

⁵⁴ CR/PR at Table I-5.

⁵⁵ USITC Pub. 4029 at 13-14 and 23-25.

between subject imports from China and Germany if the orders were revoked.⁵⁶ Accordingly, we exercise our discretion to cumulate subject imports from China and Germany.

IV. Revocation of the Antidumping and Countervailing Duty Orders 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.”⁵⁷ The 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.”⁵⁸ Thus, the likelihood standard is prospective in nature.⁵⁹ 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.⁶⁰

⁵⁶ Commissioner Pinkert explains his analysis of other considerations as follows. Where, in a five-year review, he does not find that imports of the subject merchandise would be likely to have no discernible adverse impact on the domestic industry in the event of revocation, and finds that such imports would be likely to compete with each other and with the domestic like product in the U.S. market, he cumulates them unless there is a condition or propensity – not merely a trend – that is likely to persist for a reasonably foreseeable time and that significantly limits competition such that cumulation is not warranted. He finds no indication on this record of such a condition or propensity with respect to imports from any of the subject countries. Consequently, he has cumulated all such imports.

⁵⁷ 19 U.S.C. § 1675a(a).

⁵⁸ SAA at 883-84. 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.

⁵⁹ 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.

⁶⁰ 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) (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.”⁶¹ 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.”⁶²

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.”⁶³ 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 the orders are revoked or a suspension agreement is terminated, and any findings by Commerce regarding duty absorption pursuant to 19 U.S.C. § 1675(a)(4).⁶⁴ 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.⁶⁵

In evaluating the likely volume of imports of subject merchandise if the orders under review are 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.⁶⁶ 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

(...Continued)

(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) (“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’”).

⁶¹ 19 U.S.C. § 1675a(a)(5).

⁶² 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.*

⁶³ 19 U.S.C. § 1675a(a)(1).

⁶⁴ 19 U.S.C. § 1675a(a)(1). Commerce has not made any duty absorption findings with respect to the orders under review. CR at I-3, PR at I-3.

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

⁶⁶ 19 U.S.C. § 1675a(a)(2).

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.⁶⁷

In evaluating the likely price effects of subject imports if the orders under review are 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.⁶⁸

In evaluating the likely impact of imports of subject merchandise if the orders under review are 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.⁶⁹ 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.⁷⁰

No respondent interested party participated in these expedited reviews. The record, therefore, contains limited new information with respect to the sodium nitrite industries in China and Germany. There also is limited information on the sodium nitrite 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 data submitted in the response to the notice of institution.

⁶⁷ 19 U.S.C. § 1675a(a)(2)(A-D).

⁶⁸ 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.

⁶⁹ 19 U.S.C. § 1675a(a)(4).

⁷⁰ 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.”⁷¹ The following conditions of competition inform our determinations.

Demand Conditions. In the original investigations, the Commission found that demand for sodium nitrite was driven by demand for production of downstream products. Available data on apparent U.S. consumption indicated that demand in the U.S. market had decreased over the POI, while questionnaire responses regarding demand trends were mixed.⁷² The Commission observed that certain firms that had previously used sodium nitrite as a raw material or intermediate in their production of other products had moved overseas or no longer used sodium nitrite.⁷³ The Commission found, however, that long-term demand for sodium nitrite was expected to be stable given the lack of substitutes.⁷⁴

The record in these reviews indicates that demand continues to be driven by the production of downstream products. Although apparent U.S. consumption has decreased since 2007, General Chemical reports that no end users have exited the U.S. market during the period.⁷⁵ Apparent U.S. consumption decreased from *** pounds in 2007 to *** pounds in 2012.⁷⁶ The record also shows, however, that demand is expected to grow marginally through 2017 and that the use of sodium nitrite in water treatment and corrosion inhibition applications is expected to grow at a moderate rate.⁷⁷

Supply Conditions. In the original investigations, the Commission found that there were two domestic producers during the POI, General Chemical and Repauno. General Chemical’s parent, GenTek, acquired Repauno in July 2006. The Repauno facility was closed in November 2006, removing a significant portion of the domestic industry’s capacity.⁷⁸ There was one known producer of sodium nitrite in Germany, BASF, the largest producer of sodium nitrite globally. Although the petition identified numerous potential producers of sodium nitrite in China, no Chinese producer responded to the Commission’s questionnaires.⁷⁹ Throughout the

⁷¹ 19 U.S.C. § 1675a(a)(4).

⁷² USITC Pub. 4029 at 16. Some market participants reported that demand was decreasing, others reported that demand was stable, and a few responded that demand for particular end uses was increasing. *Id.*

⁷³ USITC Pub. 4029 at 16.

⁷⁴ USITC Pub. 4029 at 16.

⁷⁵ Response at 10 and Table 2.

⁷⁶ CR/PR at Table I-9. We note that the figure for apparent U.S. consumption in 2012 is modestly understated as it does not include U.S. shipments by SABIC, which is estimated to account for approximately *** percent of U.S. production. CR/PR at Table I-3.

⁷⁷ Response at 10-11 and Exhibit 1 at 4; Final Comments at 6.

⁷⁸ USITC Pub. 4029 at 18.

⁷⁹ USITC Pub. 4029 at 17. The petitioner identified 92 possible producers of sodium nitrite in China and Commission staff successfully transmitted questionnaires to 37 of them. *Id.*

POI, nonsubject imports from India and Poland accounted for a very small and stable share of the market in each annual or interim period.⁸⁰

In these reviews, the record shows that General Chemical is still the primary producer of sodium nitrite in the United States.⁸¹ As noted above, since the antidumping and countervailing duty orders were issued in 2008, SABIC has begun selling liquid sodium nitrite that it recovers as a byproduct of a waste stream process.⁸² Imports of sodium nitrite from China and Germany, as well as nonsubject sources, have continued to supply the U.S. market since issuance of the orders.⁸³

The domestic industry's share of apparent U.S. consumption was higher in 2012, at *** percent, than it was in 2007, when it was *** percent. The share of apparent U.S. consumption held by cumulated subject imports was *** percent in 2007 and *** percent in 2012, while nonsubject imports held *** percent of the U.S. market in 2007 and *** percent in 2012. The largest supplier of nonsubject imports of sodium nitrite since issuance of the orders has been India.⁸⁴

Substitutability and Other Conditions. In the original investigations, there was a relatively high degree of substitution between sodium nitrite from China and Germany and the domestic like product when produced in the same grade or form.⁸⁵ Reporting market participants indicated that there were no other products that could be substituted for sodium nitrite.⁸⁶ Purchasers reported quality and price as the most important factors in their purchasing decisions and also reported that they often purchased the lowest-priced sodium nitrite.⁸⁷ The Commission also found that sodium nitrite was produced in several forms or grades and was a convenient source of nitrous acid in the production of other products, and that the cost of sodium nitrite as a share of the total cost of various end-use products varied.⁸⁸

⁸⁰ USITC Pub. 4029 at 17-18.

⁸¹ General Chemical accounted for at least *** percent of total domestic production of sodium nitrite in 2012. CR at I-16, PR at I-11.

⁸² SABIC's output is limited by the production of its primary product (polymers). CR at I-15, PR at I-10, and CR/PR at Table I-3.

⁸³ CR/PR at Table I-5.

⁸⁴ CR/PR at Table I-6. Total nonsubject imports were 1.0 million pounds in 2008, 3.7 million pounds in 2009, 2.9 million pounds in 2010, 4.3 million pounds in 2011, and 5.8 million pounds in 2012. *Id.*

⁸⁵ Original Confidential Staff Report at II-7. In the original investigations, subject imports from China included sodium nitrite in "prilled" form, which was not produced by BASF or General Chemical. Prilled sodium nitrite is a spherical product that does not cake. General Chemical and BASF offered both a granular sodium nitrite product with anti-caking agents and a flake form that does not cake. The Commission found that Customs generally considered the granular and prill forms of sodium nitrite to be interchangeable. USITC Pub. 4029 at 11.

⁸⁶ USITC Pub. 4029 at 15.

⁸⁷ USITC Pub. 4029 at 19, 26.

⁸⁸ USITC Pub. 4029 at 15.

In these reviews, there is no new information on the record to suggest that these conditions have changed since the original investigations.⁸⁹ Accordingly, we again find that the domestic like product and subject sodium nitrite are generally substitutable and that price continues to be an important factor in purchasing decisions.

C. Likely Volume of Subject Imports

Original Investigations. In the original investigations, subject imports increased during the POI, even while apparent U.S. consumption decreased. Cumulated subject imports increased from 8.2 million pounds in 2005 to 11.2 million pounds in 2006 and 13.3 million pounds in 2007. The share of apparent U.S. consumption held by cumulated subject imports increased from *** percent in 2005 to *** percent in 2006 and *** percent in 2007. Even after the filing of the petitions, the volume and market share of cumulated subject imports continued to increase, although at a slower rate than previously.⁹⁰

The Commission found that the domestic industry's shipment volume and market share decreased during the POI. Nonsubject imports were not an important presence in the market, accounting for only *** percent or less during the POI. Thus, the Commission found that the increasing volumes of cumulated subject imports took market share away from the domestic industry, which generally refused to lower prices to maintain volume.⁹¹ The Commission concluded that the increase in subject imports was significant, both on an absolute basis and relative to consumption.⁹²

Current Reviews. In these reviews, the information available indicates that the orders have had a disciplining effect on the volume of subject imports, which decreased significantly since the imposition of the orders in 2008. Cumulated subject imports fell from 13.3 million pounds in 2007 to 5.2 million pounds in 2008 and were at greatly reduced quantities thereafter. In 2012, total shipments of cumulated subject imports were 183,000 pounds.⁹³

As previously stated, no foreign producer or exporter of subject merchandise in either China or Germany participated in these expedited reviews. Nevertheless, available record data indicate that the industries in China and Germany continue to manufacture and export substantial volumes of nitrites, including sodium nitrite.⁹⁴ In the original investigations, BASF was reportedly the world's largest producer of sodium nitrite and had capacity in excess of

⁸⁹ General Chemical asserts that the basic conditions of competition have remained unchanged during the period of review and that price continues to play an important role in purchasing decisions. Response at 10-11; Final Comments at 6-7.

⁹⁰ Confidential Original Views at 33; USITC Pub. 4029 at 23.

⁹¹ USITC Pub. 4029 at 24.

⁹² USITC Pub. 4029 at 24.

⁹³ CR/PR at Table I-8.

⁹⁴ CR at I-30 to I-31, PR at I-19 to I-20, and CR/PR at Table I-12 (China); CR at I-34 to I-36, PR at I-22 to I-23, and CR/PR at Table I-14 (Germany). The available data on production and exports from China and Germany are based on broader categories than the scope, covering both subject nitrites and nonsubject products. *See id.*

apparent U.S. consumption.⁹⁵ General Chemical asserts that BASF remains the largest producer of sodium nitrite in the world outside of China and that its capacity remains at levels comparable to those reported in the original investigations.⁹⁶ Available Eurostat data (for a category of nitrite and nitrate products broader than the subject merchandise) indicate that Germany is a very significant exporter of nitrite products.⁹⁷ Similarly, although Chinese customs data pertain to a category of nitrite products broader than the subject merchandise, they indicate that exports of nitrite products from China are large and have been increasing substantially since 2010.⁹⁸

The United States remains an attractive market to the sodium nitrite industries in China and Germany. Subject imports from China and Germany have remained in the U.S. market since imposition of the orders, albeit at substantially lower quantities than during the original investigations.⁹⁹ Available data suggest that the United States is one of the largest importers of nitrites, including sodium nitrite, in the world.¹⁰⁰ General Chemical reported that distributors and end users of sodium nitrite in the United States have consolidated since the original investigations and that BASF has acquired two of General Chemical's end user customers since imposition of the orders, thus making it easier for imports to reenter the market in significant volumes.¹⁰¹

Additionally, General Chemical argues that BASF *** and that the EU market has the lowest projected growth in demand for sodium nitrite of any world region through 2017.¹⁰² General Chemical reports that the Chinese sodium nitrite industry, which has over 40 producers, has substantial excess capacity, perhaps as much as *** metric tons, and that the entire global market is estimated to be only *** metric tons.¹⁰³ Moreover, Chinese producers continue to export substantial quantities of nitrites, a category which includes sodium nitrite, to the United States.¹⁰⁴ In light of the attractiveness of the U.S. market and the export-oriented nature of the industries in China and Germany, we find that the subject industries are likely to exercise their ability to increase exports of subject merchandise to the United States upon revocation of the orders.

The record also indicates that there are barriers to importation of the subject merchandise into countries other than the United States. India currently maintains antidumping duty orders on imports of sodium nitrite from China and Germany,¹⁰⁵ and on April 17, 2013, India's Directorate General of Safeguards announced the initiation of a safeguard

⁹⁵ USITC Pub. 4029 at 17; Original Confidential Staff Report at Table VII-2.

⁹⁶ CR at I-35, PR at I-23, and CR/PR at Table I-9; Response at 27.

⁹⁷ CR/PR at Table I-14.

⁹⁸ CR/PR at Table I-12.

⁹⁹ CR/PR at Tables I-5 and I-7.

¹⁰⁰ CR/PR at Table I-18.

¹⁰¹ Response at 30.

¹⁰² Response at 25, 27 and Exhibit 1 at 4; Comments at 16.

¹⁰³ Response at 27-28 and Exhibit 1 at 3 and 16.

¹⁰⁴ CR at I-31 and n.55, PR at I-20 and n.55.

¹⁰⁵ CR at I-33, I-38, and nn.58 and 69, PR at I-22, I-25, and nn.58 and 69.

investigation concerning imports of sodium nitrite into India.^{106 107} These existing barriers and potential barrier create further incentives for the subject producers to direct exports to the U.S. market should the orders under review be revoked.¹⁰⁸

In light of these factors, we find that the subject producers are likely, absent the restraining effects of the orders, to direct significant volumes of sodium nitrite to the U.S. market, as they did during the POI. 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 orders were revoked.

D. Likely Price Effects

Original Investigations. In the original investigations, the Commission found that subject imports significantly undersold the domestic like product during the POI at large margins. Subject imports undersold the domestic like product in 25 of 26 quarterly pricing comparisons for product 1 (technical-grade sodium nitrite), with margins of underselling ranging from *** percent to *** percent. Subject imports undersold the domestic like product in 4 of 8 quarterly pricing comparisons for product 2 (food-grade sodium nitrite), with margins of underselling ranging from *** percent to *** percent.¹⁰⁹ The data showed significant underselling by the subject imports whether the sales were to distributors or to end users.¹¹⁰

The Commission did not find that subject imports had significant price suppressing or depressing effects on the domestic like product.¹¹¹ The Commission did find, however, that

¹⁰⁶ CR at I-39, PR at I-26.

¹⁰⁷ India was the top destination for exports of nitrites from China and one of the top five destinations for exports of nitrites from Germany from 2008 to 2012. CR/PR at Tables I-12 and I-14. In addition, India was the top importer of nitrites in the world during the POR and China and Germany were its principal import sources. CR at I-33, I-38, and nn.58 and 69, PR at I-22, I-25, and nn.58 and 69.

¹⁰⁸ Due to the failure of any foreign producer, exporter, or importer of subject merchandise from China or Germany to participate in these reviews, the record does not contain current information regarding any existing inventories of subject merchandise, any likely increase in such inventories, or the potential for product shifting if production facilities in China or Germany which can be used to produce sodium nitrite are currently being used to manufacture other products. CR at I-29 to I-30 and I-34; PR at I-19 to I-20 and I-23. With respect to product shifting, General Chemical argues that BASF is the only major producer of sodium nitrite outside of China that is fully integrated. As an integrated producer, BASF can produce all of the upstream raw materials used to manufacture sodium nitrite, including nitric acid and caustic soda. General Chemical contends that, because BASF is a major global producer of caustic soda and chlorine, BASF has a strong incentive to consume caustic soda in the production of sodium nitrite when caustic soda prices are depressed relative to chlorine prices, rather than sell it at relatively low world-market prices. Response at 26-27.

¹⁰⁹ Confidential Original Views at 40; USITC Pub. at 27.

¹¹⁰ USITC Pub. 4029 at 27.

¹¹¹ It did find that, in some instances, the domestic industry was forced to reduce its prices for dry and liquid forms of sodium nitrite to compete with low-priced subject imports of dry form sodium nitrite. USITC Pub. 4029 at 28.

low-priced subject imports displaced significant volumes of domestically produced sodium nitrite. For these reasons, the Commission concluded that there had been significant price underselling by the increasing volumes of subject imports that had adversely affected the domestic industry by taking market share during a time of decreasing demand.¹¹²

Current Reviews. As discussed above, we continue to find that subject imports from China and Germany are substitutable for sodium nitrite manufactured in the United States and that price is an important factor in purchasing decisions. The record does not contain current pricing comparisons due to the expedited nature of these reviews. Based on the available information, we find that the significant underselling observed during the original investigations would likely recur if the antidumping and countervailing duty orders were revoked.¹¹³ This underselling in turn would likely cause the domestic industry to choose between two strategies. One would be to maintain prices, but lose sales to subject imports, as was the case in the original investigations.¹¹⁴ The other would be to cut prices to meet those of the subject imports.

Given our finding that cumulated subject imports would likely increase in the event of revocation, we conclude that the likely significant volume of cumulated imports of sodium nitrite from China and Germany would likely undersell the domestic like product to a significant degree to gain market share and would also have likely significant effects on the domestic industry's prices or sales volumes.

¹¹² USITC Pub. 4029 at 28.

¹¹³ We have not relied upon data regarding average unit values ("AUVs") of the subject imports and the domestic like product as a basis for making pricing comparisons because of product mix issues. Although the AUV data are not probative for making price comparisons, the AUVs for the subject imports and the domestic like product are the most useful data on the record for examining price trends. See Final Comments at 8-9 and Table 1. These data provide some indication that prices for both the domestic like product and the subject imports have increased since imposition of the orders. CR/PR at Tables I-2 and I-5.

¹¹⁴ USITC Pub. 4029 at 24, 28; see also CR at I-15, I-19 and CR/PR at Tables I-2 and I-5; Response at 9; Final Comments at 17-18.

E. Likely Impact¹¹⁵

Original Investigations. In the original investigations, the Commission found that the domestic industry was performing poorly in 2005, and many of the domestic industry's performance indicators worsened significantly between 2005 and 2006 as the volume of low-priced cumulated subject imports increased.¹¹⁶ The domestic industry's production, capacity,¹¹⁷ and U.S. shipments decreased over the POI.¹¹⁸ Net sales also fell, although the cost of goods sold to net sales ratio improved (*i.e.*, decreased).¹¹⁹ The Commission found that the domestic industry was able to offset increasing raw materials costs at the end of the POI by eliminating fixed costs for the Repauno facility and increasing capacity utilization at the General Chemical facility so as to distribute costs over a larger production output.¹²⁰

The Commission found that the domestic industry's operating income improved over the POI from *** in 2005 to *** in 2007. The industry's ratio of operating income to net sales improved by *** percentage points, as its operating income margin improved from *** percent to *** percent in 2007.¹²¹ Capital expenditures increased modestly over the POI (with the exception of 2006, when they increased significantly due to General Chemical's acquisition of Repauno), but research and development expenditures decreased.¹²² Finally, the Commission found that, in an industry where production facilities needed to operate continuously at high

¹¹⁵ Under the statute, "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 a five-year review 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. Commerce expedited its sunset reviews and found that revocation of the antidumping duty orders would lead to a continuation or recurrence of dumping at the following margins: 190.74 percent for the China-wide entity; 237.00 percent for German producer BASF AG, and 150.82 for all other German producers/exporters. *Commerce Sunset Review (AD)*, 78 Fed. Reg. at 69369. Commerce found that revocation of the countervailing duty order would lead to a continuation or recurrence of countervailable subsidies at the rate of 169.01 percent for Shanxi Jiaocheng Hongxing Chemical Company, Ltd. (Shanxi Jiaocheng); Tianjin Soda Plant Tianjin Port Free Trade Zone Pan Bohai International Trading Company, Ltd. (Tianjin Soda Plant); and all others. *Commerce Sunset Review (CVD)*, 78 Fed. Reg. at 6964

¹¹⁶ USITC Pub. 4029 at 29.

¹¹⁷ The Commission found that the domestic industry's decrease in production capacity and temporary increase in capacity utilization between 2006 and 2007 were due, at least in part, to General Chemical's closure of the Repauno facility. Confidential Original Views at 45-46; USITC Pub. 4029 at 30-31.

¹¹⁸ USITC Pub. 4029 at 30.

¹¹⁹ USITC Pub. 4029 at 31.

¹²⁰ USITC Pub. 4029 at 31.

¹²¹ Confidential Original Views at 47; USITC Pub. at 31.

¹²² USITC Pub. 4029 at 32.

capacity utilization rates, the domestic industry lost sales to subject imports and, as a result, experienced decreases in U.S. shipments and production levels.¹²³

The Commission concluded that, given the significant volume and significant increase in the volume of cumulated subject imports, decreasing apparent U.S. consumption, significant underselling by subject imports, confirmed lost sales and lost revenues, and decreases in the domestic industry's performance, the subject imports had a material adverse impact on the domestic sodium nitrite industry.¹²⁴

Current Reviews. The information available concerning the domestic industry's condition in these reviews consists of the data that General Chemical provided in response to the notice of institution.¹²⁵ Because these are expedited reviews, we have only limited information with respect to the domestic industry's financial performance. The limited 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 orders.¹²⁶

The information on the record indicates that General Chemical's capacity was *** pounds in 2012,¹²⁷ its production was *** pounds, and its capacity utilization was *** percent.¹²⁸ U.S. shipments were *** pounds in 2012.¹²⁹ General Chemical reported an operating income of \$*** from sales of \$***, resulting in an operating margin of *** percent in 2012.¹³⁰ General Chemical maintains that the antidumping and countervailing duty orders led to increases in its production, capacity utilization, U.S. shipments, market share, capital investment, and operating performance.¹³¹

Based on the information on the record, we find that, should the orders be revoked, the likely significant volume of subject imports that would likely significantly undersell the domestic like product would likely have a significant adverse impact on the production, shipments, sales, market share, and revenues of the domestic industry. These declines would likely have a direct adverse impact on the domestic industry's profitability.

We also have 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

¹²³ USITC Pub. 4029 at 32.

¹²⁴ USITC Pub. 4029 at 32.

¹²⁵ General Chemical estimates that it accounted for approximately *** percent of U.S. sodium nitrite production in 2012. CR/PR at Table I-3.

¹²⁶ Based on the record of these reviews, Commissioner Pinkert finds that the domestic industry is not vulnerable to the continuation or recurrence of material injury in the event of revocation of the orders. The information provided by ***, which accounts for about *** percent of domestic production, shows that it had an operating income margin in 2012 of *** percent. CR at I-17, PR at I-11, and CR/PR at Table I-4. In addition, its *** in 2012 *** the levels achieved in any year of the period covered by the original investigations.

¹²⁷ CR/PR at Table I-4.

¹²⁸ CR/PR at Table I-4.

¹²⁹ CR/PR at Table I-4.

¹³⁰ CR/PR at Table I-4.

¹³¹ Response at 17-18.

imports. Imports of sodium nitrite from nonsubject countries, particularly India, have been present in increasing quantities in the U.S. market since the orders were imposed in 2007.¹³² Notwithstanding the increase in nonsubject imports during this period, the domestic industry was able to increase its share of the U.S. market.¹³³ Therefore, any increase in subject imports upon revocation would likely be, at least in substantial part, at the expense of the domestic industry.

Accordingly, we conclude that, if the antidumping and countervailing duty orders were revoked, cumulated subject imports from China and Germany would likely have a significant adverse impact on the domestic industry within a reasonably foreseeable time.

V. Conclusion

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

¹³² CR/PR at Table I-6.

¹³³ CR/PR at Table I-9.

INFORMATION OBTAINED IN THE REVIEWS

Introduction

Background

On July 1, 2013, the U.S. International Trade Commission (“Commission” or “USITC”) gave notice, pursuant to section 751(c) of the Tariff Act of 1930, as amended (“the Act”),¹ that it had instituted reviews to determine whether revocation of the countervailing duty order on sodium nitrite from China or antidumping duty orders on sodium nitrite from China and Germany would likely lead to the continuation or recurrence of material injury to a domestic industry.^{2 3} On October 21, 2013, the Commission determined that it would conduct expedited reviews pursuant to section 751(c)(3) of the Act.⁴

The following tabulation presents the information relating to the background and schedule of this proceeding:

¹ 19 U.S.C. 1675(c).

² *Sodium Nitrite from China and Germany; Institution of Five-Year Reviews*, 73 FR 39316, July 1, 2013. All interested parties were requested to respond to this notice by submitting the information requested by the Commission.

³ 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 countervailing duty and antidumping duty orders concurrently with the Commission’s notice of institution; *Sodium Nitrite From China and Germany; Institution of Five-Year Reviews*, 73 FR 39316, July 1, 2013.

⁴ *Sodium Nitrite from China and Germany; Scheduling of Expedited Five-Year Reviews Concerning the Countervailing Duty Order and Antidumping Duty Order on Sodium Nitrite From China and the Antidumping Duty Order on Sodium Nitrite From Germany*, 78 FR 68474, November 14, 2013. The Commission received one submission in response to its notice of institution in the subject reviews from General Chemical LCC, believed to account for a substantial portion of production of the domestic like product in 2012. The Commission did not receive any responses from producers in China or Germany or importers of the subject merchandise from China or Germany. The Commission determined that the domestic interested party group response to its notice of institution was adequate and that the respondent interested party group response was inadequate. In the absence of respondent interested party responses and any other circumstances that would warrant the conduct of full reviews, the Commission determined to conduct expedited reviews.

Effective date	Action
August 27, 2008	Commerce's countervailing duty order on sodium nitrite from China (73 FR 50595) http://www.gpo.gov/fdsys/pkg/FR-2008-08-27/pdf/E8-19884.pdf and antidumping duty orders on sodium nitrite from China and Germany (73 FR 50593) http://www.gpo.gov/fdsys/pkg/FR-2008-08-27/pdf/E8-19895.pdf
July 1, 2013	Commission's institution of first five-year reviews (78 FR 39316) http://www.gpo.gov/fdsys/pkg/FR-2013-07-01/pdf/2013-15550.pdf
July 1, 2013	Commerce's initiation of first five-year reviews (78 FR 39256) http://www.gpo.gov/fdsys/pkg/FR-2013-07-01/pdf/2013-15708.pdf
October 21, 2013	Commission's determination to conduct an expedited five-year review (78 FR 68474, November 14, 2013) http://www.gpo.gov/fdsys/pkg/FR-2013-11-14/pdf/2013-27210.pdf (The press release announcing the Commission's determination concerning the adequacy and conduct of an expedited review can be found at http://www.usitc.gov/press_room/news_release/2013/er1021115.htm . A summary of the Commission's votes concerning the adequacy and the conduct of an expedited review can be found at http://pubapps2.usitc.gov/sunset/caseProfSuppAttmnt/download/11584). The Commission's explanation of its determination can be found at (http://pubapps2.usitc.gov/sunset/caseProfSuppAttmnt/download/11587).
November 19, 2013 and November 20, 2013	Commerce's final result of expedited five-year reviews of the countervailing duty and antidumping orders (78 FR 69646 and 78 FR 69368) http://www.gpo.gov/fdsys/pkg/FR-2013-11-19/pdf/2013-27719.pdf and http://www.gpo.gov/fdsys/pkg/FR-2013-11-20/pdf/2013-27828.pdf
January 16, 2014	Commission's vote
January 29, 2014	Commission's determination

The original investigations

The original investigations resulted from a petition filed on November 8, 2007, by General Chemical LLC alleging that an industry in the United States was materially injured and threatened with material injury by reason of subsidized and less-than-fair-value ("LTFV") imports of sodium nitrite. On July 8, 2008, Commerce determined that imports of sodium nitrite from China were being sold at LTFV and that countervailable subsidies were being provided to producers and exporters of sodium nitrite from China.⁵ Also on July 8, 2008, Commerce determined that imports of sodium nitrite from Germany were being sold at LTFV.⁶ On August 20, 2008, the Commission issued its determination that an industry in the United States was materially injured by reason of subsidized and LTFV imports of sodium nitrite from China and LTFV imports of sodium nitrite from Germany.⁷ Commerce issued countervailing

⁵ *Notice of Final Determination of Sales at Less Than Fair Value: Sodium Nitrite from the People's Republic of China*, 73 FR 38984, July 8, 2008; and *Sodium Nitrite from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 73 FR 38981, July 8, 2008.

⁶ *Notice of Final Determination of Sales at Less Than Fair Value: Sodium Nitrite from the Federal Republic of Germany*, 73 FR 38986, July 8, 2008.

⁷ *Sodium Nitrite from China and Germany, Investigation Nos. 701-TA-453 and 731-TA-1136-1137 (Final)*, USITC Publication 4029, August 2008, p. 1. See also *Notice of Final Determination of Sales at Less Than Fair Value: Sodium Nitrite from the People's Republic of China*, 73 FR 38984, July 8, 2008; *Notice of*

and antidumping duty orders on sodium nitrite from China and an antidumping duty order on sodium nitrite from Germany on August 27, 2008.⁸

Commerce's administrative reviews

Commerce has issued a notice for the opportunity to request an administrative review every year since the original investigations, but has not conducted any administrative reviews on sodium nitrite. Commerce has not made any duty absorption findings, issued any scope rulings, or conducted any separate new shipper reviews or changed circumstances reviews for these orders.⁹

Commerce's final results of expedited first five-year reviews

Commerce conducted expedited reviews with respect to sodium nitrite from China and Germany and issued the final results of its reviews based on the facts available on November 19, 2013 and November 20, 2013. Commerce determined that revocation of the countervailing duty order from China and antidumping duty orders on sodium nitrite from China and Germany would likely lead to continuation or recurrence of countervailable subsidies and dumping with the following likely margins:

- A 169.01 percent net countervailable subsidy rate for Shanxi Jiaocheng Hongxing Chemical Co., Ltd. (Shanxi Jiaocheng), Tianjin Soda Plant Tianjin Port Free Trade Zone Pan Bohai International Trading Co., Ltd. (Tianjin Soda Plant), and all other Chinese manufacturers, exporters, and producers.
- A 190.74 percent weighted-average margin for all manufacturers, exporters, and producers from China.
- A 237.00 percent weighted-average margin for producer BASF AG from Germany.
- A 150.82 percent weighted-average margin for all other manufacturers, exporters, and producers from Germany.¹⁰

Final Determination of Sales at Less Than Fair Value: Sodium Nitrite from the Federal Republic of Germany, 73 FR 38986, July 8, 2008; and *Sodium Nitrite from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 73 FR 38981, July 8, 2008.

⁸ *Sodium Nitrite from the People's Republic of China: Countervailing Duty Order*, 73 FR 50595, August 27, 2008; and *Sodium Nitrite from the Federal Republic of Germany and the People's Republic of China: Antidumping Duty Orders*, 73 FR 50593, August 27, 2008.

⁹ *Issues and Decision Memorandum for the Final Results of the Expedited First Sunset Review of the Countervailing Duty Order on Sodium Nitrite from the People's Republic of China*, November 13, 2013, p. 2; and *Issues and Decision Memorandum for the Expedited First Sunset Reviews of the Antidumping Duty Orders on Sodium Nitrite from Germany and the People's Republic of China*, November 13, 2013, p. 3.

¹⁰ *Sodium Nitrite from Germany and the People's Republic of China: Final Results of the Expedited First Sunset Reviews of the Antidumping Duty Orders*, 78 FR 69368, November 19, 2013 and *Sodium Nitrite from the People's Republic of China: Final Results of the Expedite First Sunset Review of the Countervailing Duty Order*, 78 FR 69646, November 20, 2013.

According to Commerce, the following programs could fall within the definition of an export subsidy under Article 3.1 of the ASCM, as receipt of benefits under these programs may be contingent upon export activity:¹¹

- Loans and Interest Subsidies Related to the Northeast Revitalization Fund
- The State Key Technologies Renovation Project Fund
- Grants to Loss-Making State-Owned Enterprises
- Provision of Electricity to SOEs for Less Than Adequate Remuneration
- Provision of Land to SOEs for Less Than Adequate Remuneration
- Income Tax Exemption for Export-Oriented Foreign Invested Enterprises (FIE)
- Preferential Tax Policies for Enterprises with Foreign Investment (Two Free, Three Half Program)
- Reduced Income Tax Rates for FIEs Based on Location
- Reduced Income Tax Rate for New or High Technology Enterprises
- Preferential Tax Policies for Research and Development by FIEs
- Reduced Income Tax Rate for FIEs Under the West Revitalization Program
- Income Tax Reduction or Exemption for Export-Oriented or High Technology Enterprises Under the West Revitalization Program
- Preferential Tax Policies Under the West Revitalization Program
- Jiangsu Province Tax Programs
- Zhejiang Province Tax Programs
- Guangdong Province Tax Programs
- Shandong Province Tax Programs
- Beijing Municipality Tax Programs
- Tianjin Municipality Tax Programs
- Shanghai Municipality Tax Programs
- Chongqing Municipality Tax Programs
- Corporate Income Tax Refund Program for Reinvestment of FIE Profits in Export-Oriented Enterprises
- Income Tax Credits on Purchases of Domestically Produced Equipment by Domestically Owned Companies
- Value Added Tax (VAT) Rebate for FIE Purchases of Domestically Produced Equipment
- VAT and Tariff Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries
- Reduced Interest Rate Loans Provided by Liaoning Province
- Provincial Export Interest Subsidies (Guangdong and Zhejiang Provinces)
- Guangdong Province Funds for Outward Expansion of Industries
- Provision of Land for Less than Adequate Remuneration (Jiangsu Province, Zhejiang Province, and Chongqing Municipality)

¹¹ *Issues and Decision Memorandum for the Final Results of the Expedited First Sunset Review of the Countervailing Duty Order on Sodium Nitrite from the People's Republic of China*, November 13, 2013, pp. 6-9.

- Provision of Water for Less than Adequate Remuneration (Zhejiang Province)
- Chongqing Municipality Tax Programs

Previous and related investigations

The Commission has not previously conducted an investigation that included sodium nitrite.

THE PRODUCT

Commerce's scope

In its countervailing duty and antidumping duty orders, Commerce defined the subject merchandise as follows:

Sodium nitrite in any form, at any purity level. In addition, the sodium nitrite covered by these investigations may or may not contain an anti-caking agent. Examples of names commonly used to reference sodium nitrite are nitrous acid, sodium salt, anti-rust, diazotizing salts, erinitrit, and filmerine. Sodium nitrite's chemical composition is NaNO_2 , and it is generally classified under subheading 2834.10.10 of the Harmonized Tariff Schedule of the United States ("HTS"). The American Chemical Society Chemical Abstract Service ("CAS") has assigned the name "sodium nitrite" to sodium nitrite. The CAS registry number is 7632-00-0¹²

U.S. tariff treatment

The product subject to these reviews is currently classified in subheading 2834.10.10 of the HTS at a general rate of duty of 5.5 percent *ad valorem*.¹³ The HTS tariff treatment of sodium nitrite has not changed since 2008.

Domestic like product and domestic industry

In the preliminary phase of the original investigations, General Chemical requested that the Commission define the domestic like product consistent with Commerce's scope and

¹² *Sodium Nitrite from the People's Republic of China: Countervailing Duty Order*, 73 FR 50595, August 27, 2008; and *Sodium Nitrite from the Federal Republic of Germany and the People's Republic of China: Antidumping Duty Orders*, 73 FR 50593, August 27, 2008.

¹³ For purposes of the scope of these reviews, the narrative description is dispositive, not the tariff heading, CAS registry number or CAS name, which are provided for convenience and customs purposes.

the domestic industry as General Chemical. German respondent BASF did not argue otherwise. No party contested the issues in the final phase of the investigations.¹⁴

In the final phase of the original investigations, the Commission found that there is a continuum of sodium nitrite products of different grades and/or forms, with no clear dividing lines based on grade and/or form. In light of these facts, the Commission defined a single domestic like product consisting of sodium nitrite, regardless of form or grade, coextensive with the scope of the investigations. Consistent with the Commission's definition of the domestic like product, the Commission defined the domestic industry as including all domestic producers of sodium nitrite, which included General Chemical (and Repauno when it was operating).¹⁵

In the response to the notice of institution, General Chemical agreed with the definitions of the domestic like product and domestic industry that were adopted in the original investigations, but reserved the right to comment on the appropriate definitions during the course of the proceeding.¹⁶

Description and uses¹⁷

Sodium nitrite is an industrial chemical with a chemical formula of NaNO_2 . It is a pale straw-colored material that is very soluble in water, where it forms a clear to slightly yellowish solution. Pure sodium nitrite melts at about 284°C and it begins to decompose at about 320°C into sodium oxide, nitrogen oxides, and nitrogen. Sodium nitrite is hygroscopic, but relatively insoluble in most organic solvents. Sodium nitrite is an active oxidizing agent and can also function as a reducing agent toward such powerful oxidizing agents as dichromate, permanganate, chlorate, and chlorine. In the presence of acids, sodium nitrite forms nitrous acid. In an acid medium, sodium nitrite reacts with organic alcohols and amines to form organic nitrites such as amyl nitrite.

Sodium nitrite is produced in both dry (flake, granular, or prill) and liquid (solution) forms. Dry sodium nitrite is sold in bags, drums, and super sacks, and the liquid form is sold in tank trucks and rail cars. Granular sodium nitrite is a powder that may or may not be treated with an anti-caking agent. If not treated, the sodium nitrite will harden over time into a solid brick-like mass that must be broken up. The flake form is sodium nitrite that has been fed through a compactor and then is broken into flakes by a screen. Because of this additional processing, it may be slightly more expensive than the granular product. During the original investigations, the prill form of sodium nitrite sold in the U.S. market was produced in China. It is a granular product that is similar in form to tapioca (i.e., small spherical shaped pieces

¹⁴ *Sodium Nitrite from China and Germany, Investigation Nos. 701-TA-453 and 731-TA-1136-1137 (Final)*, USITC Publication 4029, August 2008, p. 8.

¹⁵ *Sodium Nitrite from China and Germany, Investigation Nos. 701-TA-453 and 731-TA-1136-1137 (Final)*, USITC Publication 4029, August 2008, pp. 7-9.

¹⁶ *Response to the Commission's Notice of Institution*, July 30, 2013, p. 35.

¹⁷ Unless otherwise noted this information comes from the Confidential Staff Report in *Sodium Nitrite from China and Germany, Inv. Nos. 701-TA-453 and 731-TA-1136-1137 (Final)*, Memorandum INV-FF-086 (July 28, 2008), as revised by Memoranda INV-FF-093 and INV-FF-100 (August 4 and August 7, 2008) – hereinafter “Confidential Original Staff Report,” pp. I-7 and I-8.

that do not clump together or harden). The liquid form is sodium nitrite powder dissolved in water, typically about a 40 percent solution. Table I-1 details the major end uses of sodium nitrite, the forms used by each end use, and the application process.

**Table I-1
Sodium nitrite: End-use applications, forms used, and application process**

* * * * * * *

Many industrial applications of sodium nitrite are based on its oxidizing properties and its decomposition in an acid solution to nitrous acid. Some of the principal applications of sodium nitrite are in the production of chemicals and dyes including azo, food, and textile dyes. Sodium nitrite is used with metals for coating, detinning, plating, and corrosion inhibition. It is also used by the rubber industry in synthetic rubber and blowing compounds. In addition, sodium nitrite is used in heat transfer salts. It is used in wastewater treatment to control odor and to inhibit the growth of bacteria. Finally, sodium nitrite is used in meat curing as a food preservative. In the medical field, sodium nitrite is an antidote to cyanide poisoning and as such is used in cyanide antidote kits. Other medical applications for sodium nitrite include the possible use for treatment for stroke victims to increase blood flow to the heart and other muscles.

Production process¹⁸

The industrial manufacturing process to produce sodium nitrite relies on the transformation of liquid ammonia and caustic soda or soda ash. Liquid ammonia is oxidized with air at a high temperature in a catalytic bed to form nitrogen oxides (NO and NO₂). The nitric oxides enter an absorption tower where they react with either soda ash (sodium carbonate) or caustic soda (sodium hydroxide) solutions to form a sodium nitrite solution. If caustic soda is used, the liquid formed at this stage is sufficiently concentrated and pure to be sold directly to some customers for certain uses. If, however, soda ash is used, the liquid is highly diluted and must go through several steps to remove water, and thereby increase the sodium nitrite concentration.

Regardless of whether soda ash or caustic soda is used as a raw material, all sodium nitrite destined for sale as a dry product must undergo additional processing. The sodium nitrite liquid is pumped through an evaporator-crystallizer where sodium nitrite crystals are formed. The crystals are centrifuged to separate the sodium nitrite crystals. The sodium nitrite crystals are then either dried to reduce the moisture from three percent to less than 0.2

¹⁸ Unless otherwise noted, the discussion in this section is from the Confidential Original Staff Report, pp. I-8 and I-9.

percent (which yields a high purity product), dried and blended with an anti-caking agent (which increases the flow ability of the powder), or further dried, compacted into a thin cake, and flaked. Food grade sodium nitrite undergoes a testing process which permits the manufacturer to certify that the product meets specific quality standards, especially with respect to the presence of heavy metals. If the sodium nitrite was produced using soda ash, it would need to be dissolved to form a liquid product, if that is the saleable form preferred by the customer. This is accomplished by dissolving the centrifuged crystals in water and applying heat. Each shipment is diluted to the customer's specifications, although a liquid with a 40 percent sodium nitrite concentration is a common standard.

Interchangeability and customer and producer perceptions

As discussed above, sodium nitrite is available in different grades (technical and food grade) and in different forms (granular, flake, liquid, and prill). In the original investigations, the Commission observed that "record evidence in these investigations indicates that, when produced to the same form or grade, sodium nitrite produced domestically and imported from China and Germany are highly substitutable for one another."¹⁹ Overall, responding purchasers reported that U.S. product and the subject imports from China and Germany were always or frequently interchangeable.²⁰

From the record of the original investigations, the Commission found that dry forms of sodium nitrite are somewhat more easily substituted for one another, but somewhat less substitutable for the liquid form of sodium nitrite. The Commission concluded, however, that switching between various forms of sodium nitrite is technically possible, and purchasers take into account prices of other forms of sodium nitrite in their pricing negotiations.²¹

In the response to the notice of institution, General Chemical agreed with the characterization in the original investigations that there are not any other products that will substitute for sodium nitrite.²²

Channels of distribution

In the original investigations, according to General Chemical, *** large national distributors accounted for a majority of the distributor business in the United States, but there were also a large number of end users. While General Chemical reported that there were a number of small distributors and end users, it stated that 8 to 16 firms likely made up about 80 percent of General Chemical's business.²³ In 2007, *** percent of the domestic industry's U.S.

¹⁹ *Sodium Nitrite from China and Germany, Investigation Nos. 701-TA-453 and 731-TA-1136-1137 (Final)*, USITC Publication 4029, August 2008, p. 19.

²⁰ *Sodium Nitrite from China and Germany, Investigation Nos. 701-TA-453 and 731-TA-1136-1137 (Final)*, USITC Publication 4029, August 2008, p. 20.

²¹ *Sodium Nitrite from China and Germany, Investigation Nos. 701-TA-453 and 731-TA-1136-1137 (Final)*, USITC Publication 4029, August 2008, p. 23

²² *Response to the Commission's Notice of Institution*, July 30, 2013, p. 11.

²³ Confidential Original Staff Report, pp. II-1 and II-2.

shipments were to distributors, compared to *** percent of imports from Germany and *** percent of imports from China.²⁴

In its response to the notice of institution, General Chemical noted that imports are still primarily purchased by the two largest distributors of chemical products, ***. However, General Chemical also provided a list of leading purchasers in the U.S. sodium nitrite market.²⁵ Imports from Germany will primarily be imported by BASF Corporation for sale through major chemical distributors, according to General Chemical. Imports from China will be purchased by major chemical trading companies, including Univar and Brenntag.²⁶ General Chemical contends that ***.²⁷

Pricing and related information

In the original investigations, the raw materials used to produce sodium nitrite include ammonia, soda ash, and caustic soda. All producers use ammonia, but the use of caustic soda or soda ash depends upon the production process of the sodium nitrite manufacturer. General Chemical uses soda ash to produce its sodium nitrite while former U.S. producer Repauno used caustic soda. As discussed in greater detail below, an additional producer recovers sodium nitrite from a waste stream.

General Chemical presented the prices of different grades of sodium nitrite in the response to the notice of institution. Table I-2 shows the volume, revenue, and unit value for sodium nitrite by grade including free-flow food grade, pure liquor blend, and other grades in 2008-12.²⁸ Figure I-1 shows the annual average prices for each grade of sodium nitrite sold in the U.S. market in 2008-12 provided in the domestic industry's response to the notice of institution.

²⁴ Confidential Original Staff Report, table II-1.

²⁵ The leading purchasers include ***; *Response to the Commission's Notice of Institution*, July 30, 2013, p. 32.

²⁶ *Response to the Commission's Notice of Institution*, July 30, 2013, p. 20.

²⁷ *Response to the Commission's Notice of Institution*, July 30, 2013, p. 21.

²⁸ Other grades include free-flow technical, high purity flake, high purity granular, high purity special granular, and reagent grade.

Table I-2
Sodium nitrite: Volume, revenue, and unit value for different grades of sodium nitrite sold in the U.S. market, 2008-12

* * * * *

Figure I-1
Sodium nitrite: Average annual prices (net price per pound) for different grades of sodium nitrite sold in the U.S. market, 2008-12

* * * * *

THE INDUSTRY IN THE UNITED STATES

U.S. producers

At the time the original petitions were filed, the petitioner, General Chemical was the only active U.S. producer of sodium nitrite. In mid-2005, General Chemical and Repauno²⁹ were operating at a loss attributed to low output and unused capacity, which led to them discussing a joint venture or merger. Since General Chemical was better positioned because it had greater capacity and a lower cost structure of sodium nitrite of the two firms, GenTek, a parent company of General Chemical, acquired Repauno in July 2006. General Chemical subsequently closed the Repauno facility in November 2006 and its ownership was turned over to its original owner, DuPont.³⁰

The domestic industry's response to the notice of institution indicated that General Chemicals is still the primary producer of sodium nitrite. Since the countervailing and antidumping duty orders entered into effect, however, SABIC Innovative Chemicals US, LLC developed a process to recover sodium nitrite from a waste stream at its polymer plant in 2011.³¹ However, ***.³² Table I-3 presents the domestic producers of sodium nitrite, their production locations, and their shares of domestic production of sodium nitrite in 2007 and 2012.

²⁹ Repauno at the time was a sodium nitrite producer. The Repauno facility began as a joint venture between DuPont and other investors. It was then acquired by U.S. Salt Holdings in 1999.

³⁰ Confidential Original Staff Report, pp. III-1 to III-4.

³¹ *Response to the Commission's Notice of Institution*, July 30, 2013, p. 2.

³² *Response to the Commission's Notice of Institution*, July 30, 2013, pp. 2-3.

Table I-3
Sodium nitrite: U.S. producers, production locations, and shares of reported U.S. production in 2007 and 2012

Firm	Plant location	Share of U.S. production (percent)	
		2007	2012
General Chemical	Parsippany, NJ	***	***
SABIC Innovative Chemicals US, LLC	Mount Vernon, IN	***	***
Total		100	100

Source: Response to the Commission's Notice of Institution, July 30, 2013, pp. 2-3 and exh 8; and Confidential Original Staff Report, pp. III-1 to III-4.

U.S. producers' trade and financial data

The Commission requested domestic interested parties to provide certain data in their response to the notice of institution of the five-year review of the countervailing and anti-dumping orders. Data reported by General Chemical from both the original investigations and the response to the notice of institution are presented in Table I-4. The 2012 data presented in the table were provided by General Chemical, which accounted for at least *** percent of the total domestic production of sodium nitrite.³³

Table I-4
Sodium nitrite: U.S. producers' trade and financial data, 2005-07 and 2012

* * * * *

The domestic industry (based on General Chemical's data) reported that the operating income margin for the domestic producers was *** percent in 2012, compared to ranging between *** percent to *** percent during 2005-07. The domestic industry reported *** during the original investigations. However, in 2012, the domestic industry recorded ***. Additionally, capacity utilization for the domestic producers was *** percent in 2012 as opposed to during 2005-07 when it ranged from *** percent to *** percent. General Chemical contends the imposition of the countervailing and antidumping duty order in 2008 has allowed it to reinvest in its business and that it has undertaken more than 80 capital spending projects totaling nearly *** dollars since 2008. By comparison, total capital spending in the 2005-07 period, excluding the acquisition cost of Repauno, amounted to *** dollars.³⁴

³³ Response to the Commission's Notice of Institution, July 30, 2013, pp. 2-3.

³⁴ Response to the Commission's Notice of Institution, July 30, 2013, p. 18.

U.S. IMPORTS AND APPARENT CONSUMPTION

U.S. importers

In the original investigations, the Commission issued importer questionnaires to 21 firms and received usable data from 12 firms, partial information from one firm, and confirmation of non-importation by four firms.³⁵ Import data were based on official Commerce statistics on imports for consumption and revised to exclude imports from Canada, Chile, Greece, Japan, the Netherlands, and Norway that were found to have been incorrectly classified.

In the original investigations, eight firms indicated that they imported sodium nitrite from China, three imported from Germany, one from India, and two from Poland. BASF Corp.'s imports of sodium nitrite were believed to account for *** U.S. imports from Germany, by quantity, in 2005-07. The leading U.S. importers of sodium nitrite from China included *** and ***.³⁶

In the response to the notice of institution, the domestic industry observed an increase in the number of U.S. importers of subject merchandise and identified U.S. importers that they believed to be currently importing or to have imported subject merchandise from China and Germany since 2008. These importers include ***.³⁷

U.S. imports

Table I-5 shows U.S. imports for subject countries and nonsubject countries from 2005 to 2012. Between 2005 and 2007, imports from China increased from 0.5 million pounds to 1.6 million pounds. Imports from Germany increased from 7.7 million pounds to 11.7 million pounds. Imports from all other sources increased threefold from 2005 to 2007, but never accounted for more than 5.0 percent of the total quantity of imports.

³⁵ Four firms did not respond to the Commission's importer questionnaire.

³⁶ Confidential Original Staff Report, p. I-3.

³⁷ *Response to the Commission's Notice of Institution*, July 30, 2013, exh 13.

Table I-5
Sodium nitrite: U.S. imports data, by sources, 2005-12

Item	2005	2006	2007	2008	2009	2010	2011	2012
Quantity (1,000 pounds)								
China	519	1,044	1,626	829	44	49	139	176
Germany	7,717	10,175	11,723	4,352	82	71	35	7
Subtotal	8,236	11,219	13,349	5,181	126	120	174	183
All other sources ²	132	359	629	1,045	3,691	2,945	4,251	5,836
Total ²	8,368	11,578	13,979	6,228	3,817	3,065	4,426	6,019
Value (\$1,000)¹								
China	122	245	476	282	28	14	58	110
Germany	1,627	2,072	2,680	1,074	40	29	17	19
Subtotal	1,750	2,318	3,155	1,356	68	43	75	129
All other sources ²	17	69	113	579	1,429	1,174	1,742	2,454
Total ²	1,767	2,387	3,269	1,935	1,497	1,217	1,817	2,583
Unit value (dollars per pound)¹								
China	0.24	0.24	0.29	0.34	0.64	0.29	0.42	0.62
Germany	0.21	0.21	0.23	0.25	0.49	0.41	0.48	2.87
Average	0.21	0.21	0.24	0.30	0.57	0.35	0.45	0.70
All other sources ²	0.13	0.19	0.18	0.55	0.39	0.40	0.41	0.42
Average, total ²	0.21	0.21	0.23	0.31	0.39	0.40	0.41	0.43
Share of quantity (percent)								
China	6.2	9.0	11.6	13.3	1.2	1.6	3.1	2.9
Germany	92.2	87.9	83.9	69.8	2.1	2.3	0.8	0.1
Subtotal	98.4	96.9	95.5	83.1	3.3	3.9	3.9	3.0
All other sources ²	1.6	3.1	4.5	16.7	96.7	96.1	96.1	97.0
Total ²	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Share of value (percent)								
China	6.9	10.3	14.6	14.6	1.9	1.2	3.2	4.3
Germany	92.1	86.8	82.0	55.5	2.7	2.4	0.9	0.7
Subtotal	99.0	97.1	96.5	70.1	4.5	3.5	4.1	5.0
All other sources ²	1.0	2.9	3.5	29.9	95.5	96.5	95.9	95.0
Total ²	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

¹ Landed, duty paid.

² Import data include Belgium, India, and Poland and do not include reported imports from Canada, Chile, Greece, Japan, Netherlands, and Norway. In the original investigations, these countries were found to have been incorrectly classified and excluded from import data.

Note. – U.S. imports are reported at the 8-digit HTS subheading, 2834.1010, covering sodium nitrite.

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

Source: Compiled from the Confidential Original Staff Report, table IV-2; and U.S. import data from USITC DataWeb/USDOC (accessed August 8, 2013).

General Chemical contends that, since the countervailing and antidumping duty orders entered into effect in August 2008, imports of sodium nitrite from China and Germany have declined significantly. Balancing the absence of the former volume of imports from subject countries, the domestic industry also noted imports from India had significantly increased. However, according to General Chemical, the absence of subject imports also allowed a substantial increase in domestic industry shipments.³⁸ The aggregate quantity of U.S. imports of sodium nitrite from China and Germany fell by more than half in 2008 relative to 2007; since then, subject imports have been present in quantities equivalent to less than one percent of their peak level in 2007. The value of U.S. imports of sodium nitrite from China and Germany likewise declined in 2008 and thereafter, while the unit value of subject imports fluctuated in an upward trend, reaching \$0.70 by 2012. The quantity and value of U.S. imports from all other sources increased both during 2005-07 and during 2008-12 (with the single exception of 2010). While the average unit value of U.S. imports from all nonsubject sources did not increase to the levels of those from China and Germany, they nonetheless more than doubled in the years following 2005-07.

Table I-6 presents U.S. imports of sodium nitrite from each of the nonsubject countries from 2005 to 2012. These countries include Belgium, India, and Poland.

³⁸ *Response to the Commission's Notice of Institution*, July 30, 2013, pp. 12-13.

Table I-6
Sodium nitrite: Nonsubject U.S. imports, by source, 2005-12

Item	2005	2006	2007	2008	2009	2010	2011	2012
Quantity (1,000 pounds)								
Belgium	0	0	0	0	0	11	0	0
India	0	46	50	293	2,985	2,359	4,206	5,836
Poland	132	313	580	752	705	575	44	0
Total ³	132	359	629	1,045	3,691	2,945	4,251	5,836
Value (\$1,000)²								
Belgium	0	0	0	0	0	8	0	0
India	0	22	19	333	1,230	987	1,721	2,454
Poland	17	47	94	244	199	177	14	0
Total ³	17	69	113	579	1,429	1,174	1,742	2,454
Unit value (dollars per pound)²								
Belgium	(¹)	(¹)	(¹)	(¹)	(¹)	0.73	(¹)	(¹)
India	(¹)	0.49	0.39	1.14	0.41	0.42	0.41	0.42
Poland	0.13	0.15	0.16	0.32	0.28	0.31	0.32	(¹)
Average, nonsubject ³	0.13	0.19	0.18	0.55	0.39	0.40	0.41	0.42

¹ Not applicable.

² Landed, duty paid.

³ Does not include reported imports from Canada, Chile, Greece, Japan, Netherlands, and Norway that, in the original investigations, were found to have been incorrectly classified and excluded from import data.

Note. -- U.S. imports are reported at the 8-digit HTS subheading, 2834.1010, covering sodium nitrite.

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

Source: Compiled from the Confidential Original Staff Report, table IV-2; and U.S. import data from USITC DataWeb/USDOC (accessed August 8, 2013).

Cumulation considerations

In assessing whether subject imports are likely to compete with each other and with the domestic like product in connection with its cumulation analysis, the Commission generally has considered the following four factors: (1) the degree of fungibility, including specific customer requirements and other quality-related question; (2) presence of sales or offers to sell in the same geographic markets; (3) common channels of distribution; and (4) simultaneous presence in the market. Channels of distribution and interchangeability are discussed previously in this report. Additional information concerning fungibility, geographic markets, and simultaneous presence are presented below. From the data in the original investigations, the Commission determined that there was a reasonable overlap of competition, and the Commission cumulatively assessed the volume and effects of subject imports from China and Germany for the purposes of its material injury analysis.³⁹ In its response to the notice of institution, General Chemical states that the Commission should cumulate subject imports of sodium nitrite from China and Germany for purposes of these reviews.⁴⁰

³⁹ *Response to the Commission's Notice of Institution*, July 30, 2013, pp. 7-8.

⁴⁰ *Response to the Commission's Notice of Institution*, July 30, 2013, p. 21.

Fungibility

In the original investigations, the Commission concluded that, although there were differences among the domestic like product and subject imports from China and Germany in terms of the forms and grades sold in the U.S. market, there was also considerable overlap, particularly for technical-grade sodium nitrite in granular and prilled form. The overlap among the domestic like product and subject imports from China and Germany was less for liquid and flake forms of sodium nitrite. Generally, subject imports from China and Germany were reported to be interchangeable with domestic like product although there are occasionally quality or other non-price concerns with the Chinese product. Moreover, different forms or grades of sodium nitrite were considered to be interchangeable, at least for certain end uses and/or purchasers. Overall, the Commission found subject imports from China and Germany fungible with one another and with the domestic like product.⁴¹

Figure I-2 represents the share of quantity of U.S. producers' and importers' commercial shipments of sodium nitrite, by form, in 2007. China primarily exported the product in prill form to the United States, and Germany and all other importers primarily exported granular sodium nitrite. In the response to the notice of institution, General Chemical stated that nothing has changed in terms of fungibility of subject imports since the original investigations, indicating that sodium nitrite from China and Germany or the United States is a fungible chemical commodity.⁴²

Figure I-2
Sodium nitrite: U.S. producers' and importers' commercial shipments, by form, 2007

* * * * *

Geography

During the original investigations, General Chemical and BASF reported selling their products ***. None of the responding importers of sodium nitrite from China reported selling the product nationwide; rather each reported selling in one or two specific market areas. Nevertheless, the market areas reported by these importers included the Northeast, West Coast, Mid-Atlantic, Midwest, Southeast, and Southwest. The Commission found that subject imports from China and Germany and the domestic like product were sold in the same geographical markets.⁴³

Based on the limited quantities of imports of sodium nitrite from China and Germany that entered the United States in 2012 and 2013, the primary port of entry for subject imports

⁴¹ *Sodium Nitrite from China and Germany, Investigation Nos. 701-TA-453 and 731-TA-1136-1137 (Final)*, USITC Publication 4029, August 2008, pp. 11-12.

⁴² *Response to the Commission's Notice of Institution*, July 30, 2013, p. 20.

⁴³ *Sodium Nitrite from China and Germany, Investigation Nos. 701-TA-453 and 731-TA-1136-1137 (Final)*, USITC Publication 4029, August 2008, p. 13.

from China was Seattle, Washington, while the primary port of entry for subject imports from Germany was Buffalo, New York.⁴⁴

Presence in the market

Like domestic shipments of sodium nitrite, sodium nitrite produced in China and Germany was present in the U.S. market throughout 2005 to 2007. Based on Commerce statistics, imports of sodium nitrite from China entered the United States with increasing monthly frequency over the period while those from Germany entered the United States consistently in every month.⁴⁵ Table I-7 shows the number of months subject imports had a presence in the market for each year from 2008 to 2012.

Table I-7
Sodium nitrite: Number of months where subject imports were present, by source, 2008-12

Source	Calendar year				
	2008	2009	2010	2011	2012
China	5	1	1	2	1
Germany	8	3	2	1	2

Source: Data compiled from tariff and trade data from the U.S. Department of Commerce and the U.S. International Trade Commission.

Apparent U.S. consumption and market shares

During 2005-07, total apparent U.S. consumption decreased by *** percent by quantity and *** percent by value. The quantity of subject imports increased 62.1 percent between 2005 and 2007 while U.S. producer's U.S. shipments decreased by *** percent. During this period, imports of sodium nitrite from China increased by 213.2 percent and imports from Germany increased by 51.9 percent, while imports from nonsubject sources increased by 376.5 percent. The U.S. producer's share of the quantity and value of apparent U.S. consumption of sodium nitrite decreased from 2005 to 2007.⁴⁶

Table I-8 shows U.S. shipments of domestic product, U.S. imports, and apparent U.S. consumption from 2005-07, and 2012. Table I-9 shows U.S. market shares from 2005-07, and 2012.

According to General Chemical's response to the notice of institution, since 2008, consumption has been relatively stable, no new end-users have exited the U.S. market, and demand is expected to grow marginally. According to General Chemical, the market for sodium nitrite is mature and grows in line with GDP, thus demand is expected to grow *** percent in the U.S. market through 2017.⁴⁷

⁴⁴ Data compiled from tariff and trade data from the U.S. Department of Commerce and U.S. International Trade Commission.

⁴⁵ *Sodium Nitrite from China and Germany, Investigation Nos. 701-TA-453 and 731-TA-1136-1137 (Final)*, USITC Publication 4029, August 2008, p. 14.

⁴⁶ Confidential Original Staff Report, p. IV-23.

⁴⁷ *Response to the Commission's Notice of Institution*, July 30, 2013, pp. 10-12.

Table I-8
Sodium nitrite: U.S. shipments of domestic product, U.S. imports, and apparent U.S. consumption, 2005-07 and 2012

Item	2005	2006	2007	2012
Quantity (1,000 pounds)				
U.S. producers' U.S. shipments	***	***	***	***
China	519	1,044	1,626	176
Germany	7,717	10,175	11,723	7
Subtotal	8,236	11,219	13,349	183
All other	132	359	629	5,836
Total imports	8,368	11,578	13,979	6,019
Apparent U.S. consumption	***	***	***	***
Value (1,000 dollars)				
U.S. producers' U.S. shipments	***	***	***	***
China	122	245	476	110
Germany	1,627	2,072	2,680	19
Subtotal	1,750	2,318	3,155	129
All other	17	69	113	2,454
Total imports	1,767	2,387	3,269	2,583
Apparent U.S. consumption	***	***	***	***

Source: Compiled from the Confidential Original Staff Report, table IV-7; *Response to the Commission's Notice of Institution*, July 30, 2013, exh 5; and data compiled from tariff and trade data from the U.S. Department of Commerce and the U.S. International Trade Commission.

Table I-9
Sodium nitrite: U.S. market shares, 2005-07 and 2012

* * * * *

Ratio of imports to U.S. production

Table I-10 presents information on the ratio of subject and nonsubject imports to U.S. production of sodium nitrite. During the original investigations, the ratio of subject imports to U.S. production increased from *** percent in 2005 to *** percent in 2007. Nonsubject imports as a share of U.S. production also increased from *** percent of production in 2005 to *** percent in 2007.⁴⁸

According to tariff and trade data from the U.S. Department of Commerce and the U.S. International Trade Commission, subject imports in 2012 accounted for *** percent of U.S. production while imports from all other nonsubject imports have *** percent.

Table I-10
Sodium nitrite: Ratios of U.S. imports to U.S. production, by sources, 2005-07 and 2012

* * * * *

THE INDUSTRY IN CHINA

Background

In the original investigations, the petition identified 92 potential producers of sodium nitrite in China, but was unable to identify manufacturers that exported sodium nitrite to the United States. Staff sent foreign producer questionnaires, by fax and e-mail, to all manufacturers identified in the petition and successfully transmitted the questionnaire to 37 companies in China. However, no questionnaire responses were received from producers of the subject merchandise in China. Importer questionnaire respondents that identified the foreign producer of their imports of sodium nitrite from China listed five producing firms: Hualong Ammonium Nitrite Co., Ltd. (“Hualong”), Jiaonan Hengyuan Chemical, Shanxi Jiaocheng Hong Xing Chemicals Ltd., Shanghai Huayuan Chemical Co., Ltd., and Weifang Longstar Chemical, Inc.⁴⁹

In the response to the notice of institution, the domestic industry listed the following four additional manufacturers and exporters: ***.⁵⁰

⁴⁸ Confidential Original Staff Report, p. IV-27.

⁴⁹ Confidential Original Staff Report, p. VII-2.

⁵⁰ *Response to the Commission's Notice of Institution*, July 30, 2013, exh. 14.

Capacity and production

Hualong described itself as the largest producer of sodium nitrite in Asia with an annual capacity to produce 160,000 tons (or 320 million pounds) of sodium nitrites and nitrates combined, and stated that it exports to the United States, India, Indonesia, Italy, South Korea, and the Middle East. General Chemical estimated based on public available information and *** that total Chinese capacity to produce sodium nitrite is *** pounds.⁵¹

Since no Chinese producers responded to the notice of institution, there is little further data available on the capacity or production of sodium nitrite in China. According to the response to the notice of institution, Chinese capacity is massive by comparison to global demand for nitrites.⁵² In the domestic industry's estimated demand of inorganic nitrite salts for 2012, it projected a large share of demand to be in Asia summing to around ***. China is believed to account for *** percent of total consumption of mainly sodium salt nitrites and some potassium salt nitrite.⁵³ There are more than 40 Chinese vendors claiming to be producing nitrites. Table I-11 shows the main Chinese nitrite producers with their respective location, and claimed capacity in kilotons.

Table I-11
Nitrite and nitrates: Primary Chinese nitrite and nitrate producers

* * * * *

Exports

The original investigations reported a larger commodity category at the 6-digit international harmonization level than HTS subheading 2834.10.10, which covers the subject sodium nitrite. It is not known by exactly how much this categorical coverage distorts the statistical information given in the original investigations. It is likely to be very large, however, given that U.S. imports of sodium nitrite from China were approximately 1.6 million pounds in 2007 and the Global Trade Atlas reported exports of metallic nitrites from China to the United States of 13.4 million pounds in 2007. China was a net exporter of metallic nitrites.⁵⁴ In 2012, exports of nitrites to the United States from China amounted to 13,975,000 pounds.⁵⁵

⁵¹ Confidential Original Staff Report, p. VII-4.

⁵² *Response to the Commission's Notice of Institution*, July 30, 2013, p. 26.

⁵³ *Response to the Commission's Notice of Institution*, July 30, 2013, exh 1.

⁵⁴ Confidential Original Staff Report, p. VII-4.

⁵⁵ Chinese exports are reported at the 6-digit HTS subheading, 2834.10, covering sodium nitrite and other, nonsubject nitrites. Data from U.S. import data from USITC Dataweb/USDOC (accessed August 8, 2013; Chinese export data from the Global Trade Information Service, Inc. World Trade Atlas Database (accessed various dates).

Table I-12 shows the top ten export destinations for China in terms of quantity and includes the respective value and unit value data from 2008 to 2012.

Table I-12

Nitrites: Exports of nitrites from China, top ten destination countries, 2008-12

Partner country	Quantity (1,000 pounds)				
	2008	2009	2010	2011	2012
India	13,555	29,137	17,585	19,535	38,488
South Korea	11,028	11,089	15,161	15,128	16,936
United States	11,663	10,276	10,511	16,014	13,975
Japan	1,168	4,593	9,249	9,134	7,611
Indonesia	5,833	7,107	6,956	5,494	6,382
Taiwan	3,193	4,173	4,689	4,215	4,275
Thailand	3,296	2,577	3,276	3,271	3,549
Iran	1,623	1,941	2,472	1,252	1,852
Pakistan	1,286	1,504	1,468	1,598	1,764
Saudi Arabia	2,578	1,091	1,466	1,071	1,757
All other sources	9,409	14,387	17,072	16,339	17,411
World	64,632	87,875	89,905	93,051	114,001
	Value (1,000 dollars)				
India	3,767	5,493	3,572	4,312	7,770
South Korea	3,049	2,167	3,259	3,411	3,385
United States	2,782	2,556	2,584	4,869	4,435
Japan	311	1,055	2,266	2,441	1,901
Indonesia	1,491	1,363	1,415	1,224	1,266
Taiwan	765	778	947	904	865
Thailand	843	501	671	733	712
Iran	342	407	506	303	431
Pakistan	271	292	313	331	337
Saudi Arabia	665	247	342	297	413
All other sources	2,203	2,914	3,585	3,829	3,658
World	16,488	17,773	19,460	22,654	25,173
	Unit value (dollars per pound)				
India	0.28	0.19	0.20	0.22	0.20
South Korea	0.28	0.20	0.21	0.23	0.20
United States	0.24	0.25	0.24	0.30	0.32
Japan	0.27	0.23	0.24	0.27	0.25
Indonesia	0.25	0.19	0.20	0.22	0.20
Taiwan	0.24	0.19	0.20	0.21	0.20
Thailand	0.25	0.20	0.20	0.22	0.20
Iran	0.21	0.21	0.20	0.24	0.23
Pakistan	0.21	0.20	0.21	0.21	0.19
Saudi Arabia	0.26	0.23	0.23	0.28	0.24
All other sources	0.23	0.20	0.21	0.23	0.21
World	0.25	0.20	0.22	0.24	0.22

Source: China Customs.

Tariff or non-tariff barriers to trade

In 2000, India issued an antidumping duty order on imports of sodium nitrite from China with an antidumping duty of the difference between US\$524.63 per metric ton (\$0.24 per pound) and the landed price of imports per metric ton on all imports of sodium nitrite from China. No producer or exporter in China participated in the original investigations. After conducting a review of the order in 2005, the Government of India continued the order on imports of sodium nitrite from China.⁵⁶

On June 30, 2011, the Indian Ministry of Commerce and Industry announced the extension of existing antidumping duties on imports of sodium nitrite originating in or exported from China. The HS code in question was 2834.1000 and the extension is meant to last for an additional five years.⁵⁷ The notification of final findings for the sunset review was issued June 30, 2013.⁵⁸

On April 17, 2013, India's Directorate General of Safeguards announced the initiation of a safeguard investigation concerning imports of sodium nitrite into India. The notice specifically noted that sodium nitrite is imported into India "primarily from China and Germany."⁵⁹

THE INDUSTRY IN GERMANY

Background

In the original investigations, the petition identified one producer of sodium nitrite in Germany: BASF AG. BASF AG has confirmed that there are no other sodium nitrite producers in Germany. In the final investigations, BASF AG entered a notice of appearance, submitted both a foreign producer and an importer questionnaire, and participated at the Commission's hearing. Three responding importers, BASF Corp., ***, and *** reported imports of sodium nitrite from Germany. In 2007, *** percent of BASF AG's exports to the United States were imported by its U.S. subsidiary, BASF Corp.⁶⁰

The domestic industry's response to the notice of institution identifies four additional German manufacturers and exporters of sodium nitrite: ***.⁶¹

⁵⁶ Confidential Original Staff Report, p. VII-14.

⁵⁷ Global Trade Alert, *India: Antidumping duties on imports of sodium nitrite originating in or exported from China*, June 30, 2011.

⁵⁸ *Final Findings Notification: Antidumping Sunset Review Investigation concerning imports of Sodium Nitrite originating in or exported from China PR*, No. 15/4/2010-DGAD, June 30, 2011.

⁵⁹ Notice of Initiation of a Safeguard Investigation Under Rule 6 of the Customs Tariff (Identification and Assessment of Safeguard Duty) Rules, 1997, issued by the Director General (Safeguards), New Delhi, April 17, 2013.

⁶⁰ Confidential Original Staff Report, p. VII-6.

⁶¹ *Response to the Commission's Notice of Institution*, July 30, 2013, exh 14.

Capacity and production

Table I-13 shows German production of sodium nitrite during 2005-07. The table shows that production of all sodium nitrite had increased by almost ***. Also, production of sodium nitrite decreased from 2005 to 2006, but then increased from 2006 to 2007. BASF AG capacity remained at *** pounds over the course of 2005-07, with capacity utilization in the *** percent range.⁶² BASF AG did not report any new production data since the original investigations.

Table I-13
Sodium nitrite: German production, 2005-07 and 2012

* * * * *

In the response to the notice of institution, General Chemical characterized BASF as the largest producer of sodium nitrite, by capacity, outside of China. Its capacity is more than *** the capacity of General Chemical, as it reportedly has *** in capacity to produce sodium and potassium nitrites.⁶³ Additionally, General Chemical contends that BASF has ***.⁶⁴

Exports

In the original investigations, principal export markets for BASF AG's sodium nitrite were those in ***. BASF AG reported facing competition in the European Community with ***, according to its customers and distributors. The company further stated that ***. Some customers in ***.⁶⁵

Table I-14 shows German exports from 2008-12 by country for a broader grouping of both nitrites and nitrates to various countries. During the original investigations, exports of sodium nitrite to the United States *** though their share of exports to production only accounted for *** percent in 2007. Germany also sustained a *** share of exports to production to non-U.S. markets at an average of *** during 2005-07.⁶⁶ Table I-15 shows the quantities of German exports to the United States from 2008 to 2012, which encompasses the same broader grouping of nitrites and nitrates. In 2012, exports of nitrites and nitrates to the United States from Germany amounted to 1,411,000 pounds.⁶⁷

⁶² Confidential Original Staff Report, table VII-2.

⁶³ *Response to the Commission's Notice of Institution*, July 30, 2013, p. 26.

⁶⁴ *Response to the Commission's Notice of Institution*, July 30, 2013, p. 27.

⁶⁵ Confidential Original Staff Report, p. VII-11.

⁶⁶ Confidential Original Staff Report, table VII-2.

⁶⁷ German exports are reported at the 4-digit HTS subheading, 2834, covering sodium nitrite and other, nonsubject nitrites and nitrates. Data from U.S. import data from USITC Dataweb/USDOC (accessed August 8, 2013; German export data from the Global Trade Information Service, Inc. World Trade Atlas Database (accessed various dates).

Table I-14

Nitrites and nitrates: Germany exports, nitrites and nitrates, by country, 2008-12

Quantity (1,000 pounds)					
Partner country	2008	2009	2010	2011	2012
Netherlands	48,757	35,725	44,371	57,364	38,923
France	11,097	8,406	8,596	9,828	10,778
Brazil	13,178	8,818	12,411	11,183	10,775
Switzerland	5,810	6,043	10,480	10,094	8,856
India	3,983	4,582	14,284	12,237	8,267
Taiwan	8,025	5,790	7,064	6,987	6,471
Spain	5,750	3,573	5,071	6,577	6,123
Mexico	3,610	4,661	4,234	4,587	6,112
Belgium	3,498	2,773	4,622	5,082	4,699
South Korea	4,816	3,956	4,192	5,345	4,551
All other sources	62,858	41,186	53,711	43,705	42,608
World	171,370	125,511	169,040	172,983	148,159
Value (1,000 dollars)					
Netherlands	8,456	6,779	7,327	10,131	7,448
France	5,281	3,742	3,485	5,413	5,007
Brazil	4,481	3,993	6,015	4,932	5,482
Switzerland	1,843	1,912	2,600	2,760	2,281
India	1,345	1,024	3,343	2,958	2,141
Taiwan	1,994	1,527	1,832	2,088	1,975
Spain	2,499	1,801	2,791	3,924	4,040
Mexico	1,090	1,670	1,466	1,604	2,241
Belgium	3,808	1,909	4,056	5,815	2,876
South Korea	1,466	982	1,152	1,711	1,530
All other sources	32,181	25,823	31,047	38,907	41,591
World	64,444	51,162	65,115	80,243	76,611
Unit value (dollars per pound)					
Netherlands	0.17	0.19	0.17	0.18	0.19
France	0.48	0.45	0.41	0.55	0.46
Brazil	0.34	0.45	0.48	0.44	0.51
Switzerland	0.32	0.32	0.25	0.27	0.26
India	0.34	0.22	0.23	0.24	0.26
Taiwan	0.25	0.26	0.26	0.30	0.31
Spain	0.43	0.5	0.55	0.6	0.66
Mexico	0.30	0.36	0.35	0.35	0.37
Belgium	1.09	0.69	0.88	1.14	0.61
South Korea	0.30	0.25	0.27	0.32	0.34
All other sources	0.51	0.63	0.58	0.89	0.98
World	0.38	0.41	0.39	0.46	0.52

Note. – German exports for 2012 are reported at the 4-digit HTS heading 2834, covering sodium nitrite and other, nonsubject nitrites and nitrates.

Source: Eurostat.

Table I-15
Nitrites and nitrates: Exports from Germany to the United States, 2008-12

Quantity (1,000 pounds)					
Year	2008	2009	2010	2011	2012
United States	4,077	480	800	954	1,411

Note. – German exports from 2008 to 2012 are reported at the 4-digit HTS heading 2834, covering sodium nitrite and other, nonsubject nitrites and nitrates.

Source: Eurostat.

Tariff or non-tariff barriers to trade

In India, an antidumping duty order on imports from Germany entered into effect in November 2002 and was continued on March 3, 2008 after a sunset review. The applicable tariff rate was \$51.83 per metric ton (\$0.02 per pound), but in its sunset review, the Ministry of Commerce and Industry revised the rate “considering the current level of dumping from subject countries and injury suffered by the domestic industry.” The new measure imposes an antidumping duty on a reference price basis. BASF AG reported that it did not participate in the original investigations or the sunset review in India because of the “low overall importance” of the Indian market to BASF AG. According to BASF AG, the Indian antidumping duty order did not have any impact on BASF AG’s exports to other markets ***. BASF AG provided its export volumes to India before and after the imposition of the antidumping duty order.⁶⁸

On April 12, 2013, the Government of India extended its antidumping duty on imports of sodium nitrite originating in, or exported from, the European Union for one year up to April 10, 2014.⁶⁹ The initiation notification for a request for a sunset review was issued on March 23, 2013 on behalf of the domestic producers of the subject goods.⁷⁰ The scope of these reviews includes sodium nitrite of all forms.

On April 17, 2013, India’s Directorate General of Safeguards announced the initiation of a safeguard investigation concerning imports of sodium nitrite into India. The notice specifically noted that sodium nitrite is imported into India “primarily from China and Germany.”⁷¹

⁶⁸ Confidential Original Staff Report, p. VII-15.

⁶⁹ Indian Tax Arena, *CG extends anti-dumping duty on imports of ‘Sodium Nitrite’, originating in, or exported from, European Union up to 10-Apr-2014*, April 12, 2013.

⁷⁰ *Initiation of Sunset Review of the definitive anti-dumping duty imposed on imports of Sodium Nitrite originating in or exported from the European Union*, F.No. 15/1009/2012-DGAD, Gazette of India, Part-I, Section-I, March 23, 2013.

⁷¹ Notice of Initiation of a Safeguard Investigation Under Rule 6 of the Customs Tariff (Identification and Assessment of Safeguard Duty) Rules, 1997, issued by the Director General (Safeguards), New Delhi, April 17, 2013.

THE GLOBAL MARKET

Table I-16 shows the top 10 largest exporters of nitrites in the world. These numbers reflect broader trends in nitrite production. China has been the largest exporter of nitrites since at least 2008. Exports from China have increased from 64.6 million pounds in 2008 to 114.0 million pounds in 2012. Exports from China far exceed those from any other source, including the United States and India. Germany does not rank within the top exporters for nitrites since its global exports are reported at an even broader scope than nitrites. Table I-17 shows the top 5 exporters at the nitrite and nitrate level. In the global market of nitrites and nitrates, Germany ranks fourth exporting 148.2 million pounds of nitrites and nitrates for 2012. China ranks second in this category, exporting 497.5 million pounds in 2012.

Table I-16
Nitrites: Exports of nitrites by reporting country (partner: world), 2008-12

Reporting country	Quantity (1,000 pounds)				
	2008	2009	2010	2011	2012
China	64,632	87,875	89,905	93,051	114,001
United States	14,080	15,337	14,780	15,139	19,040
India	5,799	7,691	11,414	10,850	12,572
Russia	1,053	657	3,480	8,370	8,836
Canada	880	1,608	3,617	3,253	5,033
Netherlands	1,955	1,839	1,433	3,056	2,456
Ukraine	11,334	629	824	687	2,291
Poland	14,383	10,040	9,570	1,925	2,143
Belgium	725	388	1,241	1,931	1,706
Sweden	1,030	708	904	946	1,096

Note.--Data include exports classified under HTS heading 2834.10.

Source: Global Trade Information Source, "Global Trade Atlas."

Table I-17
Nitrites and nitrates: Exports of nitrites and nitrates by reporting country (partner: world), 2008-12

Reporting country	Quantity (1,000 pounds)				
	2008	2009	2010	2011	2012
Chile	954,624	505,493	972,141	886,272	934,049
China	361,072	441,063	536,245	526,900	497,516
Belgium	179,372	126,666	192,655	218,233	178,471
Germany	171,418	125,546	169,088	173,032	148,201
Spain	21,162	17,432	57,728	81,983	144,550

Note.--Data include exports classified under HTS heading 2834.

Source: Global Trade Information Source, "Global Trade Atlas."

Table I-18 shows the top 11 importers for sodium nitrite. Again, these data cover a broader scope than that of the subject merchandise. Since 2009, India has been the largest importer of nitrites and continues to rank first among the top ten importers in 2012 at 44.1 million pounds. The United Kingdom consistently has ranked as the second largest importer

since 2009, reaching 28.2 million pounds in 2012 and the Netherlands follows closely as the third largest importer in 2012 at 27.4 million pounds. Germany ranks eleventh in the global market accounting for 8.7 million pounds in 2012. China ranks fifty-fifth in the global market.

Table I-18
Nitrites: Imports of nitrites by reporting country (partner: world), 2008-12

Reporting country	Quantity (1,000 pounds)				
	2008	2009	2010	2011	2012
India	18,771	31,564	29,855	29,134	44,058
United Kingdom	20,696	14,538	21,965	29,487	28,233
Netherlands	132	22,697	24,509	20,860	27,421
South Korea	17,166	15,141	20,484	19,996	22,669
United States	26,740	20,612	15,856	20,554	19,679
Brazil	13,010	9,881	11,837	11,604	11,895
Japan	3,136	7,316	13,845	13,489	11,712
Canada	9,060	8,395	8,846	9,781	11,573
Taiwan	15,182	10,082	13,472	11,795	10,343
France	11,314	8,450	8,915	8,979	9,795
Germany	6,693	4,888	6,162	9,182	8,688

Note.--Data include exports classified under HTS heading 2834.10.

Source: Global Trade Information Source, "Global Trade Atlas."