Tetrahydrofurfuryl Alcohol From China

Investigation No. 731-TA-1046 (Review)

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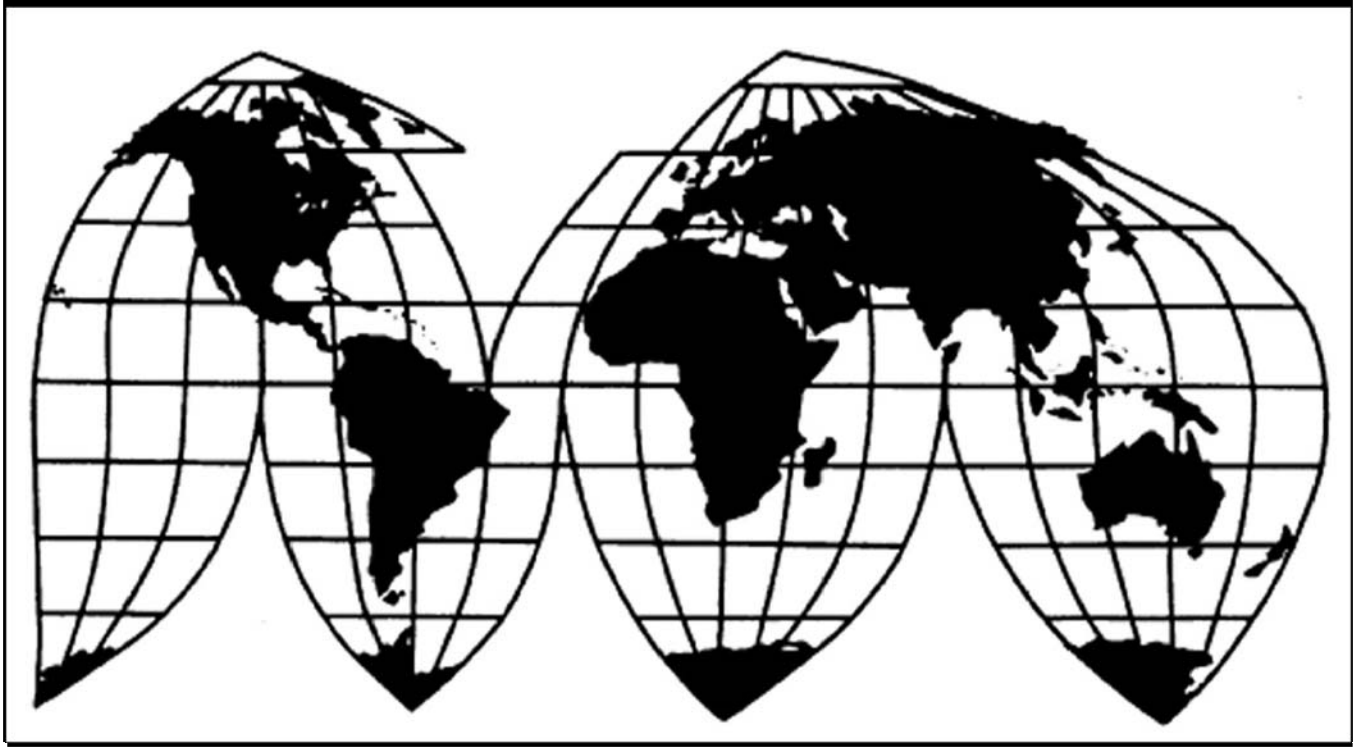
U.S. International Trade Commission



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U.S. International Trade Commission

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UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-1046 (Review)

TETRAHYDROFURFURYL ALCOHOL FROM CHINA

DETERMINATION

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

BACKGROUND

The Commission instituted this review on July 1, 2009 (74 F.R. 31752) and determined on October 5, 2009 that it would conduct an expedited review (74 F.R. 54067, October 21, 2009).

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

[2] Vice Chairman Daniel R. Pearson and Commissioners Deanna Tanner Okun and Charlotte R. Lane dissenting.

VIEWS OF THE COMMISSION

Based on the record in this five-year review, we determine under section 751(c) of the Tariff Act of 1930, as amended ("the Act"), that revocation of the antidumping duty order on tetrahydrofurfuryl alcohol ("THFA") from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[1]

I. BACKGROUND

The original investigation of THFA from China was instituted on June 23, 2003, based on a petition filed by Penn Specialty Chemicals Inc. ("Penn Specialty").[2] In July 2004, the Commission determined that an industry in the United States was materially injured by reason of imports of THFA sold at less-than-fair-value ("LTFV") from China.[3] The U.S. Department of Commerce ("Commerce") imposed an antidumping duty order on imports of THFA from China on August 6, 2004.[4]

The Commission instituted this review on July 1, 2009.[5] The Commission received only one substantive response to the notice of institution, a domestic interested party response from U.S. producer Penn A Kem LLC ("Penn").[6] Penn is believed to account for *** percent of total U.S. production of THFA in 2008.[7] The Commission did not receive any responses from producers or exporters of THFA in China or from any U.S. importers of the subject merchandise.

On October 5, 2009, the Commission found the domestic interested party response to the notice of institution adequate and the respondent interested party response inadequate.[8] The Commission did not find any circumstances that would warrant conducting a full review. Consequently, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Tariff Act of 1930, as amended.[9] Penn filed comments on the record on November 5, 2009. No respondent interested party has provided any information or argument to the Commission in this review. Accordingly, for our determination in this review, we rely as appropriate on facts available on the record, which consist

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[1] Vice Chairman Daniel R. Pearson, Commissioner Deanna Tanner Okun and Commissioner Charlotte R. Lane dissenting. See Dissenting Views of Vice Chairman Daniel R. Pearson, Commissioner Deanna Tanner Okun, and Commissioner Charlotte R. Lane. They join in sections I and II of these Views.

[2] Tetrahydrofurfuryl Alcohol from China, Inv. No. 731-TA-1046 (Final), July 2004, at I-1 ("Original Determination"). All cites are to the confidential views.

[3] Original Determination at 1. Three Commissioners found that an industry in the United States was neither materially injured nor threatened with material injury by reason of THFA from China. See Dissenting Views of Vice Chairman Deanna Tanner Okun, Commissioner Charlotte R. Lane, and Commissioner Daniel R. Pearson.

[4] Antidumping Duty Order: Tetrahydrofurfuryl Alcohol from the People's Republic of China, 69 Fed. Reg. 47911 (August 6, 2004).

[5] Tetrahydrofurfuryl Alcohol from the People's Republic of China, 74 Fed. Reg. 31752 (July 1, 2009).

[6] Confidential Staff Report (CR) at I-3 n.4; Public Staff Report (PR) at I-3 n.4 and Penn's Response to the Commission's Notice of Institution, dated July 31, 2009 ("Penn's Response"). In this response, Penn indicated that Minafin SARL (Luxembourg) acquired Penn Specialty in July 2008 and the name of the U.S. producer was changed to Penn A Kem LLC.

[7] CR/PR at Table I-2.

[8] See Explanation of Commission Determination on Adequacy at Appendix B.

[9] Id.; 19 U.S.C. § 1675(c)(3) (2000).

primarily of information from the original investigation and information collected in this five-year review, including that submitted by Penn and publicly available information.[10]

II. DOMESTIC LIKE PRODUCT AND INDUSTRY

A. Domestic Like Product

In making its determination under section 751(c), the Commission defines the "domestic like product" and the "industry."[11] The Act defines the "domestic like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle."[12] In five-year reviews, the Commission looks to the domestic like product definition from the original determination and any previous reviews and considers whether the record indicates any reason to revisit that definition.[13]

In the final results of its expedited sunset review, Commerce defined the subject merchandise as follows:

> tetrahydrofurfuryl alcohol ($C_5H_{10}O_2$) ("THFA"). THFA, a primary alcohol, is a clear, water white to pale yellow liquid. THFA is a member of the heterocyclic compounds known as furans and is miscible with water and soluble in many common organic solvents. THFA is currently classified in the Harmonized Tariff Schedules of the United States ("HTSUS") under subheading 2932.13.00.00. Although the HTSUS subheadings are provided for convenience and for the purposes of the U.S. Customs and Border Protection (Customs"), the Department's written description of the merchandise under investigation is dispositive.[14]

THFA is produced by the hydrogenation of furfuryl alcohol ("FA"); the primary raw materials are FA, hydrogen, and a catalyst. THFA may be produced by a vapor phase technology (used by Penn) or by a liquid phase (used by Chinese producer Zhucheng, Huaxing Chemical Co. ("Zhucheng")). However, THFA produced by either method is comparable to THFA produced by the other method.[15]

The starting point of the Commission's domestic like product analysis in a five-year review is the Commission's domestic like product determination in the original determination.[16] In the Commission's

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[10] See 19 U.S.C. § 1677e(a).

[11] 19 U.S.C. § 1677(4)(A).

[12] 19 U.S.C. § 1677(10). See Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int'l Trade 1996); Torrington Co. v. United States, 747 F. Supp. 744, 748-49 (Ct. Int'l Trade 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991). See also S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

[13] See e.g., Stainless Steel Sheet and Strip from France, Germany, Italy, Japan, Korea, Mexico, Taiwan, and the United Kingdom, Invs. Nos. 701-TA-380 to 382 and 731-TA-797 to 804 (Review), USITC Pub. 3788 at 6 (Jul. 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).

[14] 74 Fed. Reg. 57290 (November 5, 2009).

[15] Original Determination at 4.

[16] In its domestic like product determination, the Commission generally considers a number of factors, including the following: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) common manufacturing facilities, production processes and production employees; (5) customer or producer perceptions; and, when appropriate, (6) price. See Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int'l Trade 1996). No

(continued...)

original investigation, it defined a single domestic like product as THFA, corresponding to the scope of the investigation.[17] In this review, Penn indicates that it agrees with the Commission's definition of the domestic like product in the original investigation.[18] No new information was obtained during this review that would suggest revisiting the Commission's domestic like product definition. Therefore, we continue to define the domestic like product as THFA, coextensive with the scope definition.

B. Domestic Industry

Section 771(4)(A) of the Act defines the relevant domestic industry as the "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."[19]

In the original investigation, the Commission defined the domestic industry as consisting of all domestic producers of THFA, which was Penn.[20] There were no related party issues in the original investigation.[21]

In this review, Penn states that it does not object to the Commission's definition of the domestic industry as stated in the original investigation[22] and no new facts have been presented to warrant a different conclusion. Penn indicates that the structure of the domestic industry has not changed substantially since the original investigation and that it believes it is still the only domestic producer of THFA.[23] Accordingly, corresponding to our definition of the domestic industry in the original investigation and our definition of the domestic like product here, we define the domestic industry to include all domestic producers of THFA.[24]

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[16] (...continued)
single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation. The Commission looks for clear dividing lines among possible like products, and disregards minor variations. See, e.g., S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979); 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).

[17] Original Determination at 5.

[18] Penn's Response at 11.

[19] 19 U.S.C. § 1677(4)(A). In defining the domestic industry, the Commission's general practice has been to include in the industry all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market, provided that adequate production-related activity is conducted in the United States. See United States Steel Group v. United States, 873 F. Supp. 673, 682-83 (Ct. Int'l Trade 1994), aff'd, 96 F.3d 1352 (Fed. Cir. 1996).

[20] Original Determination at 5.

[21] Original Determination at 5.

[22] Penn's Response at 11.

[23] Penn's Response at 8. Although Penn notes in passing that there may be another small U.S. producer, Nova Molecular Technologies, Inc., that began production of THFA in 2008, Nova did not respond as a producer to the Commission's notice of institution or provide any information on the record of this review.

[24] The related parties provision, 19 U.S.C. § 1677 (4)(B), allows the Commission to exclude certain domestic producers from the domestic industry that import subject merchandise or have a corporate affiliation with importers or exporters of subject merchandise, if the Commission finds that appropriate circumstances exist. There are no related party issues in this review.

III. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF MATERIAL INJURY IF THE ANTIDUMPING DUTY ORDER IS REVOKED[25]

A. Legal Standard In a Five-Year Review

In a five-year review conducted under section 751(c) of the Act, Commerce will revoke an antidumping 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 duty order "would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time."[26] The Uruguay Round Agreements Act ("URAA"), Statement of Administrative Action ("SAA"), states that "under the likelihood standard, the Commission will engage in a counter-factual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo – the revocation or termination of a proceeding and the elimination of its restraining effects on volumes and prices of imports."[27] Thus, the likelihood standard is prospective in nature.[28] 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.[29]

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."[30] 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."[31]

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[25] Vice Chairman Daniel R. Pearson, Commissioner Deanna Tanner Okun and Commissioner Charlotte R. Lane do not join the remainder of these Views. See Dissenting Views of Vice Chairman Daniel R. Pearson, Commissioner Deanna Tanner Okun, and Commissioner Charlotte R. Lane.

[26] 19 U.S.C. § 1675a(a).

[27] The SAA, H.R. Rep. No. 103-316, vol. I, at 883-84 (1994). The SAA states that "[t]he likelihood of injury standard applies regardless of the nature of the Commission's original determination (material injury, threat of material injury, or material retardation of an industry). Likewise, the standard applies to suspended investigations that were never completed." SAA at 883.

[28] Although 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.

[29] 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 without opinion, 140 Fed. Appx. 268 (Fed. Cir. 2005); Nippon Steel Corp. v. United States, Slip Op. 02-153 at 7-8 (Ct. Int'l Trade Dec. 24, 2002) (same); Usinor Industeel, S.A. v. United States, Slip Op. 02-152 at 4 n.3 & 5-6 n.6 (Ct. Int'l Trade Dec. 20, 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, Slip Op. 02-105 at 20 (Ct. Int'l Trade Sept. 4, 2002) ("standard is based on a likelihood of continuation or recurrence of injury, not a certainty"); Usinor v. United States, Slip Op. 02-70 at 43-44 (Ct. Int'l Trade July 19, 2002) ("'likely' is tantamount to 'probable,' not merely 'possible'").

[30] 19 U.S.C. § 1675a(a)(5).

[31] 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.

Although the standard in a five-year review is not the same as the standard applied in an original antidumping duty 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."[32] 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 the suspension agreement is terminated, and any findings by Commerce regarding duty absorption pursuant to 19 U.S.C. § 1675(a)(4).[33]

No respondent interested party has participated in this review. The record, therefore, contains limited information with respect to THFA capacity and production in China. Accordingly, as already noted, we rely on the facts available on the record.[34]

B. Conditions of Competition and the Business Cycle

In evaluating the likely impact of the subject imports on the domestic industry, 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."[35] The following conditions of competition are relevant to our determination.

Demand. In the original investigation, the Commission found that demand for THFA in the United States market was derived from the demand for the final products that require THFA, such as agricultural chemicals, coatings, and cleaning solutions. The Commission found that demand, as measured by apparent U.S. consumption, fluctuated during the period and was down overall by *** percent between 2001 and 2003.[36] The Commission also found that the market for THFA was dominated by a handful of high-volume purchasers, with Penn's top five purchasers accounting for approximately *** percent of its shipments in 2003.[37]

While the available data are limited, we note that there is some evidence in the record that U.S. demand for THFA has increased since the original investigations. Demand, as measured by apparent U.S.

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[32] 19 U.S.C. § 1675a(a)(1).

[33] 19 U.S.C. § 1675a(a)(1). Commerce did not make any duty absorption findings with respect to the order under review. CR at I-5; PR at I-4. The statute further provides that the presence or absence of any factor that the Commission is required to consider shall not necessarily give decisive guidance with respect to the Commission's determination. 19 U.S.C. § 1675a(a)(5). While the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886.

[34] 19 U.S.C. § 1677e(a) authorizes the Commission to "use the facts otherwise available" in reaching a determination when (1) necessary information is not available on the record or (2) an interested party or other person withholds information requested by the agency, fails to provide such information in the time, form, or manner requested, significantly impedes a proceeding, or provides information that cannot be verified pursuant to section 782(i) of the Act. 19 U.S.C. § 1677e(a). The verification requirements in section 782(i) are applicable only to Commerce. 19 U.S.C. § 1677m(i). See Titanium Metals Corp., 155 F. Supp. 2d at 765 ("[T]he ITC correctly responds that Congress has not required the Commission to conduct verification procedures for the evidence before it, or provided a minimum standard by which to measure the thoroughness of a Commission investigation.").

[35] 19 U.S.C. § 1675a(a)(4).

[36] Original Determination at 5. During the original investigation, the quantity of apparent U.S. consumption of THFA was *** pounds in 2001 and *** million pounds in 2003. In interim 2004 (the first three months of 2004), apparent U.S. consumption was *** percent lower than in interim 2003.

[37] Original Determination at 6.

consumption, was *** pounds in 2008.[38] Penn indicates that demand for THFA experienced rapid growth, primarily in agricultural applications, ***.[39]

Supply. In the original investigation, the Commission found that Penn was the only domestic producer of THFA. Although some consumers expressed concern about supply disruptions during Penn's bankruptcy in the summer of 2001, the Commission noted that Penn in fact continued to produce and deliver THFA on a timely basis.[40]

In the original investigation, the Commission found that subject imports were the only other source of THFA in the U.S. market. Three firms, Kyzen, Advanced Resin Systems (ARS), and AllChem, were responsible for all subject imports of THFA during the period covered in the original investigation, with Kyzen accounting for *** percent of all subject imports during that period.[41]

The Commission noted in its original determination that *** of shipments of subject merchandise were imported directly by Kyzen for internal consumption. Kyzen had consistently divided its purchases between Penn and Zhucheng, the only Chinese producer of THFA identified by the Commission's investigation.[42]

The limited record in this review establishes that subject imports largely exited the U.S. market after the imposition of the antidumping duty order.[43] There were no known nonsubject imports *** in the current review.[44] The domestic industry appears to be able to supply *** U.S. market for THFA.[45]

Substitutability. In the original determination, the Commission found a high degree of substitutability between subject imports and the domestic like product.[46] Half of the responding purchasers ranked price as the most important factor in selecting a supplier, and purchasers indicated that price was an important factor more often than any other factor, including quality.[47]

Except as discussed above, there is no evidence on the record of this expedited review to suggest that these conditions have changed significantly since the original investigation. Accordingly, in this review, we find they provide us with a reasonable basis upon which to assess the likely effects of revocation of the order in the reasonably foreseeable future.

C. Likely Volume of Subject Imports

In evaluating the likely volume of imports of subject merchandise if the antidumping duty order is revoked, the Commission is directed to consider whether the likely volume of imports would be

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[38] CR/PR at Table I-7.

[39] CR at I-27; PR at I-17.

[40] Original Determination at 7.

[41] Original Determination at 7.

[42] Original Determination at 8.

[43] CR/PR at Table I-7. Official Commerce statistics were used to determine imports from China and we note that both THFA and FA are imported under HTS subheading 2932.13.00. CR at I-23 n.86; PR at I-15 n.86. Based on official Commerce statistics, imports from China were 38,000 pounds in 2008, or *** percent of the U.S. market. CR/PR at Tables I-5 & I-7. Penn believes that shipments of THFA from China ceased after the imposition of the antidumping duty order. CR at I-28; PR at I-18.

[44] CR at I-23; PR at I-16.

[45] CR/PR at Tables I-3 & I-7. In 2008, the domestic industry's capacity was *** pounds and its production was *** pounds as compared to apparent U.S. consumption of *** pounds.

[46] Original Determination at 8.

[47] Original Determination at 8.

significant either in absolute terms or relative to production or consumption in the United States.[48] In doing so, the Commission must consider "all relevant economic factors," including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) the potential for product shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.[49]

In the original determination, the Commission found that shipments of subject imports increased by *** percent between 2001 and 2003, increasing from *** pounds in 2001 to *** pounds in 2003.[50] Subject imports accounted for *** percent of the U.S. market in 2003, on a quantity basis, up from *** percent in 2001.[51] *** of this gain in market share came at the expense of the domestic industry, ***.

In the original determination, the Commission noted the unique role that Kyzen played in the U.S. market for THFA, as it was both the predominant importer and a significant consumer of the domestic like product since well before the period investigated in the original investigations.[52] Kyzen accounted for *** subject imports, which it internally consumed rather than sold. The Commission found that Kyzen's purchasing practices had remained relatively consistent, and therefore the Commission did not conclude that the volume or increase in the volume of subject imports was significant. The Commission noted, however, that the subject imports generally rose over the period, at a time when shipments of the domestic like product and apparent consumption were both trending downward, and that Kyzen's substantial purchases of subject imports formed the backdrop for Penn reducing its prices to several large customers in response to low-price offers of subject imports.[53] The Commission also noted that Commerce's preliminary affirmative finding discouraged all subject imports in 2004, including those by Kyzen, and the Commission therefore accorded less weight to interim 2004 data.[54]

With the antidumping duty order in place, subject import volumes are much smaller than in the original period of investigation. Based on official statistics, subject imports declined from *** pounds in 2003, the final full year of the period of investigation, to zero in 2004, and were 38,000 pounds in 2008.[55] Shipments of subject imports as a share of apparent U.S. consumption on a quantity basis declined from *** percent in 2003 to *** percent in 2008.[56]

Nothing in the record of this expedited review contradicts the evidence on the record of the original investigation that the Chinese industry producing the subject merchandise has substantial excess capacity and that it is export-oriented.[57] Moreover, the facts available on the record indicate that current

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[48] 19 U.S.C. § 1675a(a)(2).

[49] 19 U.S.C. § 1675a(a)(2)(A)-(D).

[50] Original Determination at 9.

[51] Original Determination at 10.

[52] Original Determination at 10.

[53] Original Determination at 11.

[54] Original Determination at 11.

[55] CR/PR at Table I-5. As stated previously, both THFA and FA are imported under HTS subheading 2932.13.00, and the 2008 imports may be nonsubject FA.

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

[57] In 2003, the Chinese THFA industry's capacity was *** pounds, their production was *** pounds, and their capacity utilization was *** percent. CR/PR at Table I-8. Moreover, exports of THFA accounted for *** percent of the Chinese THFA industry's total shipments, with the United States being the largest export market at *** percent of total shipments. CR/PR at Table I-8. We also note that from 2001 to 2003 the Chinese THFA industry became

(continued...)

Chinese capacity for THFA is approximately 16.5 million pounds, and that actual production capacity could be much higher because Chinese FA producers can invest in THFA technology and shift production from FA to THFA.[58]

Based on the export orientation of the Chinese THFA industry, the volume and market share that subject imports held prior to exiting the U.S. market after the antidumping duty order was imposed, and the evidence on the record of the Chinese industry's current capacity to produce THFA, we find that the Chinese industry would have the incentive and the ability to ship increasing volumes of THFA to the United States if the order were revoked. We therefore find that the likely increase in the volume of subject imports would be significant if the order were revoked.

D. Likely Price Effects of Subject Imports

In evaluating the likely price effects of subject imports if the antidumping duty order is revoked, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared to 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.[59]

In the original investigation, the Commission found that the domestic like product and subject imports were substitutable and that price was an important factor in purchasing decisions. The Commission also found that prices for the domestic like product generally declined,[60] and noted that prices for the domestic like product were higher in interim 2004, when the Chinese product exited the market, than in either the preceding quarter or the same period in 2003.

Commercial sales of imported THFA were relatively rare in the U.S. market at that time. Pricing data showed mostly overselling, which was likely explained by the fact that import prices were based on substantially lower quantities of subject imports as compared to the quantities on which the domestic prices were based.[61]

The Commission also considered purchaser prices, which showed underselling for most of the period by margins up to and exceeding *** percent.[62] The underselling gap disappeared at the end of the period as Penn was forced to reduce its prices. As the Commission noted, the market was small and dominated by a handful of large purchasers, and these purchasers were able to gain significant price concessions from Penn by citing lower-price quotes from subject imports.[63] The Commission found that these price concessions were a main reason why prices declined in 2002 and 2003, and that subject imports had a significant adverse effect on the prices paid by these customers, and thus the revenue received by Penn. Consequently, the Commission concluded that there had been significant price

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[57] (...continued)
increasingly export oriented and focused on the U.S. market. Id.

[58] CR at I-30-I-31; PR at I-19. This capacity figure represents Penn's estimate for Chinese producers Zhucheng, Zibo HuaAo, and Qingquan Medical.

[59] 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.

[60] Original Determination at 11.

[61] Original Determination at 12.

[62] Original Determination at 12.

[63] Original Determination at 13.

underselling by the subject imports and that the effect of subject imports had been to depress prices for the domestic like product to a significant degree.[64]

There is no new product-specific pricing information on the record in this expedited review. Although subject imports have essentially exited the U.S. market as a result of the antidumping duty order, Penn notes that the Chinese THFA industry directly competes with Penn in the Asian market and that the Chinese THFA industry *** that market.[65] As explained above, we find that the Chinese THFA industry likely would significantly increase exports to the United States in the reasonably foreseeable future if the antidumping duty order were revoked. There is nothing in the record of this review to suggest that price does not continue to be an important factor in purchasing decisions, or that purchasing practices have changed since the original investigation. Consequently, as in the original investigation, we find that subject imports would be likely to undersell the domestic like product in order to gain market share. We also find that purchasers would be likely to attempt to gain significant price concessions from the domestic industry by citing lower-price quotes for subject imports, as the Commission found they did in the original investigation. Therefore, we conclude that, if the order were revoked, subject imports from China likely would increase significantly at prices that likely would undersell the domestic like product and that those imports would likely have a depressing or suppressing effect on prices for the domestic like product.

E. Likely Impact of Subject Imports

In evaluating the likely impact of imports of subject merchandise if the antidumping duty order is revoked, the Commission is directed to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including, but not limited to 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.[66] 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.[67] 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 order at issue and whether the industry is vulnerable to material injury if the order is revoked.

In its original determination, the Commission found that the subject imports had a significant adverse impact on the domestic industry's performance. The Commission noted that domestic shipments declined somewhat faster than did overall apparent U.S. demand, and the domestic industry lost market

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[64] Original Determination at 14.

[65] Penn's Response at 8. Penn states that it was forced to ***. Id.

[66] 19 U.S.C. § 1675a(a)(4).

[67] 19 U.S.C. § 1675a(a)(4). Section 752(a)(6) of the Act states that "the Commission may consider the magnitude of the margin of dumping" in making its determination in a five-year review. 19 U.S.C. § 1675a(a)(6). The statute defines the "magnitude of the margin of dumping" to be used by the Commission in five-year reviews as "the dumping margin or margins determined by the administering authority under section 1675a(c)(3) of this title." 19 U.S.C. § 1677(35)(C)(iv). See also SAA at 887. Commerce expedited its determination in its review of THFA from China and found that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the following margins: 136.86 percent for Qingdao Wenken (F.T.Z.) Trading Co., Ltd., and 111.36 percent for the PRC-wide rate. 74 Fed. Reg. 57290 (November 5, 2009). These dumping margins were the same margins that Commerce calculated in the original less-than-fair value investigation. CR at I-5; PR at I-4.

share.[68] Declines in shipments and revenues were reflected in worsening industry performance by a number of measures, including declines in the number of employees, hours worked, and total wages. The Commission found that lower prices were a main reason why the industry posted consistently poor operating results over the period.[69] The Commission found that subject imports depressed prices to a degree that could not be offset by the improved cost structure of Penn after its emergence from bankruptcy.[70] In light of the significant adverse price effects of the subject imports, and the causal linkage between the subject imports and the domestic industry's declines in shipments, market share, employment indicators, and operating performance, the Commission concluded that the subject imports had a significant adverse impact on the domestic THFA industry.[71]

Because this is an expedited review, there is only limited information on the record concerning the performance and condition of the domestic industry since the original injury determination.[72] This information pertains only to certain economic factors and is available only for 2008.[73] The data show that the domestic industry's production and shipments were higher in 2008 than in 2003, the last full year of the original period of investigation, which is consistent with the increases in apparent U.S. consumption of THFA during this time period, and the near-total absence of imports from the U.S. market.[74] The average unit value of U.S. shipments was also higher in 2008 than in 2003.[75] The domestic industry's net sales in 2008 were *** those in 2003, and its cost of goods sold showed a comparable percentage increase.[76] The domestic industry's operating *** as much in 2008 than in 2003,[77] while operating margins improved somewhat, but were still *** in 2008.[78] The limited evidence in this expedited review does not permit us to determine whether the domestic industry producing THFA is vulnerable to the continuation or recurrence of material injury in the event of revocation of the order.[79]

Based on the information available in this review, including information in the record of the original investigation, we find that revocation of the order would likely lead to a significant increase in the volume of subject imports, and that this increased volume of subject imports would likely undersell the domestic like product to a significant degree and significantly depress or suppress U.S. prices for the

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[68] Original Determination at 15.

[69] Original Determination at 15.

[70] Original Determination at 15. The Commission did not attribute Penn's *** performance to its bankruptcy to any significant degree.

[71] Original Determination at 16.

[72] We note that Penn provided all the information requested in response to the Commission's Notice of Institution.

[73] See CR/PR at Table I-3.

[74] The domestic industry's production was *** pounds in 2008 compared to *** pounds in 2003. CR/PR at Table I-3. The domestic industry's shipments, by quantity, were *** pounds in 2008 compared to *** pounds in 2003. CR/PR at Table I-3.

[75] The average unit value of the domestic industry's shipments was $*** per pound in 2008 compared to $*** per pound in 2003. CR/PR at Table I-3.

[76] The domestic industry's net sales were $*** in 2008 compared to $*** in 2003. CR/PR at Table I-3. Its cost of goods sold was $*** in 2008 compared to $*** in 2003. CR/PR at Table I-3.

[77] CR/PR at Table I-3. The domestic industry's operating *** was $*** in 2008 compared to $*** in 2003.

[78] The domestic industry's operating income ratio was *** percent in 2008 compared to *** percent in 2003. CR/PR at Table I-3.

[79] There is no current information in the record of this expedited review pertaining to many of the other indicators, such as productivity, return on investments, cash flow, wages, ability to raise capital, investment capacity, and employment levels, that we customarily consider in assessing whether the domestic industry is in a weakened condition.

domestic like product. We find that the intensified subject import competition that would likely occur after revocation of the order would likely have a significant adverse impact on the domestic industry. Specifically, the domestic industry would likely lose market share to subject imports, and lower prices due to competition from subject imports, which would adversely impact its production, shipments, sales, and revenue. These reductions would likely have a direct adverse impact on the industry's profitability and employment levels, as well as its ability to raise capital and make and maintain necessary capital investments.

Accordingly, we conclude that, if the antidumping duty order on THFA from China were revoked, subject imports from China would be likely to have a significant adverse impact on the domestic industry within a reasonably foreseeable time.

CONCLUSION

For the foregoing reasons, we determine, under section 751(c) of the Act, that revocation of the antidumping duty order on THFA from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

DISSENTING VIEWS OF VICE CHAIRMAN DANIEL R. PEARSON, COMMISSIONER DEANNA TANNER OKUN, AND COMMISSIONER CHARLOTTE R. LANE

Section 751(d)(2) of the Tariff Act of 1930, as amended ("the Act"), requires that the U.S. Department of Commerce ("Commerce") revoke a countervailing duty or an antidumping duty order in a five-year ("sunset") review unless Commerce determines that dumping or a countervailable subsidy would be likely to continue or recur and the U.S. International Trade Commission ("Commission") determines that material injury to a U.S. industry would be likely to continue or recur within a reasonably foreseeable time.[1] Based on the record in this first five-year review, we determine that material injury is not likely to continue or recur within a reasonably foreseeable time if the antidumping duty order on tetrahydrofurfuryl alcohol ("THFA") from China is revoked.

We join our colleagues' discussion regarding domestic like product and domestic industry. We write separately to discuss the legal standard governing sunset reviews, conditions of competition, and to provide our analysis of the statutory factors.

I. REVOCATION OF THE ANTIDUMPING DUTY ORDER ON THFA FROM CHINA IS NOT LIKELY TO LEAD TO CONTINUATION OR RECURRENCE OF MATERIAL INJURY WITHIN A REASONABLY FORESEEABLE TIME

A. Legal Standard

In a five-year review conducted under section 751(c) of the Act, Commerce will revoke a countervailing or antidumping duty order or terminate a suspended investigation unless: (1) it makes a determination that dumping is likely to continue or recur, and (2) the Commission makes a determination that revocation of an order or termination of a suspended investigation "would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time."[2] The Statement of Administrative Action ("SAA") states that "under the likelihood standard, the Commission will engage in a counter-factual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo – the revocation or termination of a proceeding and the elimination of its restraining effects on volumes and prices of imports."[3] Thus, the likelihood standard is prospective in nature.[4] 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

[1] 19 U.S.C. § 1675(d)(2).

[2] 19 U.S.C. § 1675a(a).

[3] SAA, H.R. Rep. No. 103-316, vol. I, at 883-84 (1994). The SAA states that "[t]he likelihood of injury standard applies regardless of the nature of the Commission's original determination (material injury, threat of material injury, or material retardation of an industry). Likewise, the standard applies to suspended investigations that were never completed." SAA at 883.

[4] 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.

reviews.[5] [6] [7] 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."[8] According to the SAA, a "'reasonably foreseeable time' will vary from case-to-case, but normally will exceed the 'imminent' time frame applicable in a threat of injury analysis in antidumping and countervailing duty investigations."[9]

Although the standard in five-year reviews is not the same as the standard applied in original antidumping or countervailing duty investigations, it contains some of the same fundamental elements. The statute provides that the Commission is to "consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the order is revoked or the suspended investigation is terminated."[10] 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 order is revoked or the suspension agreement is terminated, and any findings by Commerce regarding duty absorption pursuant to 19 U.S.C. § 1675(a)(4).[11]

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[5] See NMB Singapore Ltd. v. United States, 288 F. Supp. 2d 1306, 1352 (Ct. Int'l Trade 2003) ("'likely' means probable within the context of 19 U.S.C. § 1675(c) and 19 U.S.C. § 1675a(a)"), aff'd mem., 140 Fed. Appx. 268 (Fed. Cir. 2005); Nippon Steel Corp. v. United States, 26 CIT 1416, 1419 (2002) (same); Usinor Industeel, S.A. v. United States, 26 CIT 1402, 1404 nn.3, 6 (2002) ("more likely than not" standard is "consistent with the court's opinion"; "the court has not interpreted 'likely' to imply any particular degree of 'certainty'"); Indorama Chemicals (Thailand) Ltd. v. United States, Slip Op. 02-105 at 20 (Ct. Int'l Trade Sept. 4, 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'").

[6] For a complete statement of Commissioner Okun's interpretation of the likely standard, see Additional Views of Vice Chairman Deanna Tanner Okun Concerning the "Likely" Standard in Certain Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe From Argentina, Brazil, Germany, and Italy, Invs. Nos. 701-TA-362 (Review) and 731-TA-707 to 710 (Review)(Remand), USITC Pub. 3754 (Feb. 2005).

[7] Commissioner Lane notes that, consistent with her views in Pressure Sensitive Plastic Tape From Italy, Inv. No. AA1921-167 (Second Review), USITC Pub. 3698 (June 2004), she does not concur with the U.S. Court of International Trade's interpretation of "likely," but she will apply the Court's standard in these reviews and all subsequent reviews until either Congress clarifies the meaning or the U.S. Court of Appeals for the Federal Circuit addresses this issue.

[8] 19 U.S.C. § 1675a(a)(5).

[9] 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.

[10] 19 U.S.C. § 1675a(a)(1).

[11] 19 U.S.C. § 1675a(a)(1). The statute further provides that the presence or absence of any factor that the Commission is required to consider shall not necessarily give decisive guidance with respect to the Commission's determination. 19 U.S.C. § 1675a(a)(5). While the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886. We note that no duty absorption findings have been made by Commerce.

B. Information Available in this Expedited Review

As an initial matter, we note that in this review, we are basing our decision on a limited record. Although the Commission does not issue questionnaires in expedited reviews, the Commission's Notice of Institution affords interested parties the opportunity to provide information that is relevant to this review. In this review, very little information was provided by interested parties that would inform the Commission's determination. In particular, with regard to the statutory factors the Commission is directed to consider under 19 U.S.C. § 1675a(a)(2), we lack information on the Chinese industry's capacity to produce THFA, its capacity utilization, its existing inventories of subject merchandise, and whether there is any potential for product shifting in the event of revocation of the order. Similarly, with regard to the statutory factors the Commission is directed to consider under 19 U.S.C. § 1675a(a)(3) and (4), we lack information on current price levels in the domestic THFA market, along with information on the domestic THFA industry's employment and inventory levels. Accordingly, we have relied on the facts available in this review, which consist primarily of the staff report and views in the original investigation, information collected by the Commission since the institution of this five-year review, and information submitted by Penn A Kem LLC ("Penn"), the primary domestic producer, in this review.[12]

C. Conditions of Competition

In evaluating the impact of subject imports on the domestic industry upon revocation of the order, the statute directs the Commission to evaluate all the relevant economic factors "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[13] On the basis of the record in this expedited review, we conclude that an important condition of competition in this market differs significantly from conditions existing during the original period of investigation.

First, in the original investigation, we noted one particularly significant event affecting the conditions of competition in the THFA market: the bankruptcy proceeding involving Penn, which at that time was the sole domestic supplier of THFA.[14] We observed that at the beginning of the period examined, Penn was in bankruptcy, but had emerged from bankruptcy by the end of the period. Thus, during the period that Penn was in bankruptcy, its ability to supply THFA to its customers was in doubt. We also noted that Penn's creditors were also putting pressure on Penn to sell the THFA business, further increasing uncertainty in the market. We concluded that these events likely caused some of Penn's customers to look elsewhere, particularly to subject imports, for their supplies of THFA. We recognized that Kyzen, the largest importer of THFA from China, and a major customer of Penn, imported *** from

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[12] Commissioner Okun notes that the statute authorizes the Commission to take adverse inferences in five-year reviews, but such authorization does not relieve the Commission of its obligation to consider the record evidence as a whole in making its determination. See 19 U.S.C. § 1677e. She generally gives credence to the facts supplied by the participating parties and certified by them as true, but bases her decision on the evidence as a whole, and does not automatically accept participating parties' suggested interpretation of the record evidence. Regardless of the level of participation, the Commission is obligated to consider all evidence relating to each of the statutory factors and may not draw adverse inferences that render such analysis superfluous. In general, the Commission makes determinations by "weighing all of the available evidence regarding a multiplicity of factors relating to the domestic industry as a whole and by drawing reasonable inferences from the evidence it finds most persuasive." SAA at 869.

[13] 19 U.S.C. § 1675a(a)(4).

[14] Tetrahydrofurfuryl Alcohol from China, Inv. No. 731-TA-1046 (Final), USITC Pub. 3709 (July 2004), Dissenting Views of Vice Chairman Deanna Tanner Okun, Commissioner Charlotte R. Lane, and Commissioner Daniel R. Pearson ("Dissenting Views") at 14.

China pursuant to a long-established strategy (put in place in 1997) of obtaining THFA from more than one source.[15]

In this review, no such uncertainty in the market exists. Penn emerged from its bankruptcy proceeding in 2002, and has not re-entered bankruptcy since.[16] In fact, Penn appears to have *** expanded its operations since the original period of investigation as, for example, its production of THFA in 2008 is *** its production in any calendar year of the original period.[17] Thus, one of the key conditions of competition that led to increases in subject imports during the original period of investigation is no longer in force. Moreover, based on the record in this review, Kyzen, formerly the largest importer, ***.[18]

Second, although demand as measured by apparent U.S. consumption declined during the original period of investigation, the market for THFA currently appears significantly larger. In particular, apparent U.S. consumption of THFA was approximately *** in 2008, up from approximately *** in 2003, the last year of the original period.[19] Penn reported that demand for THFA experienced rapid growth, particularly in agricultural applications, but that growth slowed after ***.[20] Inasmuch as the current record provides only one year of data, we do not have a basis upon which to evaluate Penn's claim of a slowing market.

Finally, in the original investigation we determined that THFA is a product that is sensitive to price, but that price considerations became paramount only after suppliers were qualified.[21] The record indicated that a significant number of purchasers reported that they required THFA suppliers to be certified or pre-qualified with respect to quality, and nearly all purchasers noted that THFA had to meet either internal specifications, customer specifications, or industry standards. Thus, to a purchaser weighing a decision to buy from Penn versus buying from a new, unproven supplier, quality mattered more than price. There is no evidence on the record of this review that would indicate that this condition of competition has changed.

D. Likely Volume of Subject Imports

The Commission is to consider whether the likely volume of subject imports would be significant either in absolute terms or relative to production or consumption in the United States if the order under review were revoked. In so doing, the Commission shall consider "all relevant economic factors," including four enumerated in the statute: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise in countries other than the United States; and (4) the potential for product shifting if the production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.[22]

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[15] USITC Pub. 3709 ("Dissenting Views") at 15.

[16] *Id*, and Confidential Staff Report ("CR") in this five-year review at I-18.

[17] CR, PR at table I-3. THFA production was *** in 2008, compared with *** in 2003.

[18] Penn response at 9; CR, PR at I-22.

[19] CR, PR at table I-7.

[20] Penn's Response to Commission Notice of Institution (Penn response), July 31, 2009, at 10-11.

[21] USITC Pub. 3709 ("Dissenting Views") at 14-15.

[22] 19 U.S.C. § 1675a(a)(2)(A-D).

Our focus in this review is whether subject import volume is likely to be significant in the reasonably foreseeable future if the antidumping duty order is revoked.[23] In performing our analysis, we have taken into account our previous volume findings with respect to the subject imports from China. In our original determination, we found that the volume of subject imports from China increased from *** pounds in 2001 to *** pounds in 2002, a ***-percent increase, then declined in 2003 to *** pounds, a ***-percent decline.[24] Subject import volumes began to decline in March 2003, three months before the petition was filed, and had completely exited the market in January-March ("interim") 2004, when compared to *** pounds in the comparable period of 2003. We further found that, as a share of domestic consumption, subject imports increased from *** percent of the market in 2001 to *** percent in 2002, then declined to *** percent in 2003.[25] Subject imports held a ***-percent share of the market in interim 2004, as opposed to *** percent in interim 2003.[26]

Because current data are limited in this expedited review, our analysis of the statutory factors focuses on the data and market at the time of the original investigation and also compares any data available for the current market. There is no new information on the record concerning China's capacity utilization or THFA inventories, and limited new information concerning its capacity to produce THFA. Penn claims that Chinese producers possess significant excess capacity and estimates total production capacity in China at 7,500 metric tons. It also claims that Chinese producers are "export-oriented," based on information from three firms gleaned from their web sites, and hence theorizes that such firms would have little trouble resuming exports to the United States.[27] Penn did not report the existence of any barriers facing Chinese exporters in third-country markets.

In the original investigation, China's production capacity reportedly remained steady at *** pounds and its capacity utilization fluctuated from a low of *** in *** to a high of *** in ***.[28] Moreover, while the Chinese industry became increasingly export-oriented (to the U.S. market and all other markets) from 2001 to 2003, these increases were at the expense of shipments to the home market. Shipments of subject Chinese merchandise to the U.S. market declined in 2003 and *** in 2004.[29]

It is uncertain whether the Chinese industry is significantly different in size from the original investigation. While Penn alleges that Chinese production capacity is significantly higher in the review (7,500 metric tons), Penn has not provided a basis for this estimate nor is it clear from other record evidence. We recognize that, at least in theory, there appears to be a significant probability of product-shifting, because it is likely that Chinese factories that produce THFA can also produce furfuryl alcohol ("FA") and, as Penn points out, Chinese producers would prefer to produce the higher-valued THFA product.[30] This potential for product-shifting, however, also existed at the time of the original investigation and we found the evidence did not support such a shift, even with the then-existing antidumping duty orders on imports of FA from China into the United States and the European Union.[31]

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[23] 19 U.S.C. § 1675a(a)(2).

[24] USITC Pub. 3709 (Dissenting Views) at 16 (citing INV-BB-085 at table IV-3).

[25] *Id* (citing INV-BB-085 at table C-1).

[26] In the original investigation, we recognized that the staff's market share calculations are based on shipments of imports. As subject imports were zero in interim 2004, shipments of imports in interim 2004 were likely related to imports made in 2003. USITC Pub. (Dissenting Views) at 16, n.31.

[27] Penn response at 7-8.

[28] CR/PR at Table I-8.

[29] CR/PR at table I-8.

[30] Penn response at p. 7, n.12.

[31] USITC Pub. 3709 (Dissenting Views) at 21-22.

Nonetheless, even though the volume and market share of subject imports increased overall during the original investigation period, we determine that subject import volume is not likely to increase significantly in the event the order is revoked, because the conditions of competition that encouraged the increase in subject imports that occurred during the original investigation period no longer exist. In particular, we found that the main driver behind any increases in volume was the fact that, during the early part of the period, Penn was an unreliable supplier because of its bankruptcy situation.[32] We observed that after Penn emerged from bankruptcy in mid-2002, imports declined, and did so before the petition was filed in June 2003. By contrast, in the current market, Penn, although ***, is not in bankruptcy and presumably is and has been a reliable supplier throughout the period of review.[33] Moreover, based on the record in this review, ***.[34] Thus, notwithstanding some record evidence alleging the possibility of an expanded Chinese industry, we conclude that imports would be unlikely to enter the U.S. market in significant quantities, because the circumstances that encouraged subject imports to do so during the original investigation no longer exist.

Therefore, we find that revocation of the antidumping duty order is not likely to lead to an increase in the volume of subject imports such that the likely volume of subject imports would be significant.

E. Likely Price Effects of Subject Imports

In evaluating the likely price effects of subject imports if the antidumping duty order is revoked, the Commission considers whether there is likely to be significant underselling by the subject imports as compared to the domestic like product, and if the subject imports are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of domestic like products.[35]

In performing our analysis, we have taken into account our previous price findings. In the original determination, we found that THFA produced in the United States and in China was readily interchangeable, once suppliers are qualified.[36] The Commission did not collect specific pricing data in this expedited review, nor did the parties provide such data. In the original investigation, however, we found that, although U.S. prices generally declined, this decline was not attributable to subject imports, because subject imports predominantly oversold domestic product, with overselling occurring in 11 of 15 comparisons.[37] We also noted that even when subject imports began to leave the U.S. market in early 2003, domestic prices continued to decline. With regard to price suppression, we observed that given the fact that prices of subject imports appear to have fluctuated without any clear trend while for the most part overselling the domestic product, we could not conclude that subject import prices prevented Penn's prices from rising to levels that would enable Penn to recoup its rising production costs.[38]

Because current pricing data are unavailable on the record in this review, we have no information that would enable us to evaluate whether subject imports, in the event of revocation of the order, would

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[32] USITC Pub. 3709 (Dissenting Views) at 17.

[33] CR, PR at table I-3.

[34] Penn Response at 9-10.

[35] 19 U.S.C. § 1675(a)(3).

[36] USITC Pub. 3709 (Dissenting Views) at 15-16.

[37] *Id* at 18. We also declined to place significant weight on alternative price comparisons proffered by Penn and the Commission staff (and relied upon by the Commission majority) because they were not made at the same level of trade.

[38] *Id* at 19.

be likely to enter the United States at prices that would undersell the domestic like product.[39] We acknowledge Commerce's determination that dumping is likely to continue or recur if the antidumping duty order is revoked as well as the fact that THFA, to a limited extent, is a commodity product.[40] Our conclusions, however, regarding the likely price effects if the antidumping duty order is revoked are drawn largely from our conclusions on the likely volume of subject imports. As discussed above, subject imports are not likely to increase significantly if the antidumping duty order is revoked, because the unique conditions of competition that led to surges in subject imports during the original investigation period no longer exist. Consequently, we find that revocation of the antidumping duty order would not likely lead to significant underselling by the subject imports as compared to the domestic like product, or to significant price depression or suppression, within a reasonably foreseeable time. Therefore, we find that revocation of the order is not likely to lead to any significant adverse price effects.

F. Likely Impact of Subject Imports

In evaluating the likely impact of imports of subject merchandise if the antidumping duty order is revoked, the Commission considers all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including, but not limited to: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.[41]

During the original investigation, we found that the impact of subject imports was not significant.[42] We recognized that Penn's financial performance was *** in all periods of the original investigation, but found that subject imports did not contribute significantly to that condition. We noted that most of Penn's economic and financial indicators appeared to improve at around the time Penn emerged from bankruptcy protection (i.e., mid-2002). Because the volume of subject imports peaked in late 2002 and early 2003, there was no correlation between Penn's financial performance and subject imports, inasmuch as Penn's financial performance improved at the same time that imports reached their highest level. We concluded that, even if such a link could be demonstrated, because the volume of subject imports was not significant and those imports had little, if any, effect on domestic prices, it would be difficult to conclude that Penn's losses were caused by subject imports. We noted that it was far more likely that Penn's troubles in the THFA industry were caused by the same issues that triggered its bankruptcy filing, coupled with a decline in demand for THFA.[43]

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[39] Penn asserts that ***, and that this shows that subject producers would undersell in the U.S. market if the order were revoked. Penn response at 7. We find Penn's argument unpersuasive. The submitted information, showing that ***, does not necessarily indicate that subject producers would undersell in the U.S. market, as ***.

[40] 74 Fed. Reg. 57,290 (Nov. 5, 2009). We note, however, that the level of dumping margins, *per se*, tells us nothing about whether there is likely to be significant price underselling by subject imports or whether subject imports are likely to be sold at prices that depress or suppress U.S. prices for THFA.

[41] 19 U.S.C. § 1675(a)(4).

[42] USITC Pub. 3709 (Dissenting Views) at 20.

[43] We noted that, on an overall establishment basis, Penn had ***. USITC Pub. 3709 (Dissenting Views) at 20, n.57.

Because the Commission elected not to conduct a full review, we have limited new information on the current condition of the domestic industry.[44] Capacity, production, capacity utilization, and shipment levels were *** higher than during the original investigation. Shipment unit values were higher and profitability levels were improved, although Penn ***.[45] On balance, the economic health of the THFA industry appears *** better than it was at the time of the original investigation. Consequently, despite the fact that the THFA industry ***, we do not conclude that it is vulnerable to future imports, given its *** increased size and the fact that, based on the limited information we have on the unit value of shipments, prices appear to have increased or at least stabilized.

Nevertheless, even were we to conclude that the industry is currently vulnerable, because we have concluded that, in the event of revocation, the volume of subject imports and their effect on U.S. prices would not likely be significant, we would not conclude that such imports would be likely to have a significant impact on domestic THFA producers' cash flow, inventories, employment, wages, growth, ability to raise capital, or investment within a reasonably foreseeable time in the event the order is revoked. We therefore find that revocation of the order is not likely to lead to the continuation or recurrence of material injury to the domestic THFA industry within a reasonably foreseeable time.

II. CONCLUSION

Subject imports are not likely to have significant adverse volume or price effects in the event of revocation, and are therefore not likely to have a negative impact on the domestic industry. Thus, we find that material injury to the U.S. THFA industry is not likely to continue or recur within a reasonably foreseeable time if the antidumping duty order on THFA from China is revoked.

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[44] Domestic parties only provided 2008 data on capacity, production, volume and value of shipments, net sales, cost of goods sold, SG&A expenses, operating income, and the ratio of operating income to net sales. CR, PR at table I-3.

[45] The capacity of the THFA industry was *** pounds in 2008, compared with *** pounds in 2003. Production was *** pounds in 2008, as opposed to *** pounds in 2003. Capacity utilization in 2008 was *** percent, compared with *** percent in 2003. The volume of U.S. shipments was *** pounds in 2008, while it was *** pounds in 2003. The unit value of U.S. shipments was $*** per pound in 2008, up from $*** in 2003. As a percent of net sales, Penn's operating *** was *** percent in 2008, compared with *** percent in 2003. CR, PR at table I-3.

INFORMATION OBTAINED IN THE REVIEW

INTRODUCTION

Effective July 1, 2009, in accordance with section 751(c) of the Tariff Act of 1930, as amended ("the Act"),[1] the U.S. International Trade Commission ("Commission" or "USITC") gave notice that it had instituted a review to determine whether revocation of the antidumping duty order on imports of tetrahydrofurfuryl alcohol ("THFA") from China would be likely to lead to a continuation or recurrence of material injury within a reasonably foreseeable time.[2] [3] On October 5, 2009, the Commission determined that the domestic interested party response to its notice of institution was adequate[4] and that the respondent interested party group response was inadequate.[5] In the absence of respondent interested party responses and any other circumstances that would warrant the conduct of a full review, the Commission determined to conduct an expedited review of the antidumping duty order pursuant to section 751(c)(3) of the Act (19 U.S.C. § 1675(c)(3)).[6] The following tabulation presents selected information relating to the schedule of this five-year review.[7]

Effective date	Action	*Federal Register* citation
July 1, 2009	Commission's institution of five-year review	74 FR 31752
July 1, 2009	Commerce's initiation of five-year review	74 FR 31412
October 5, 2009	Commission's determination to conduct an expedited five-year review and scheduling of expedited review	74 FR 54067
November 19, 2009	Commission's vote	Not applicable
November 30, 2009	Commission's determination to Commerce	Not applicable

[1] 19 U.S.C. 1675(c).

[2] *Tetrahydrofurfuryl Alcohol From China*, 74 FR 31752, July 2, 2009. All interested parties were requested to respond to this notice by submitting the information requested by the Commission. The Commission's notice of institution is presented in app. A.

[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 antidumping duty order concurrently with the Commission's notice of institution. *Initiation of Five-year ("Sunset") Review*, 74 FR 31412, July 1, 2009.

[4] The Commission received one submission from domestic producer Penn A Kem LLC ("Penn") in response to its notice of institution for the subject review. The domestic interested party is represented by the law firm of Thompson Hine LLP. The domestic interested party reported that it accounted for *** percent of total U.S. production of THFA in 2008. *Response* of domestic interested party, July 31, 2009, p. 10.

[5] The Commission did not receive a response from any respondent interested parties to its notice of institution.

[6] The Commission's notice of an expedited review appears in app. A. The Commission's statement on adequacy is presented in app. B.

[7] Cited *Federal Register* notices beginning with the Commission's institution of a five-year sunset review are presented in app. A.

The Original Investigation

On June 23, 2003, a petition was filed with Commerce and the Commission alleging that an industry in the United States was materially injured and threatened with further material injury by reason of less-than-fair-value ("LTFV") imports of THFA from China.[8] On June 18, 2004, Commerce made an affirmative final LTFV determination[9] and, effective July 29, 2004, the Commission determined that an industry in the United States was materially injured by reason of LTFV imports of THFA from China.[10] After receipt of the Commission's final affirmative determination, Commerce issued an antidumping duty order on imports of THFA from China.[11]

Commerce's Original Determination and Administrative Review Determinations

Commerce's original determination was published on June 18, 2004, and the antidumping duty order concerning THFA from China was issued on August 6, 2004. Since the issuance of the antidumping duty order, there have been no administrative reviews, no scope rulings concerning the antidumping duty order, no new shipper reviews, no changed circumstances determinations, and no duty absorption findings.

Commerce's Original Determination and Its Expedited Five-Year Review

On August 20, 2009, Commerce notified the Commission that it did not receive an adequate response to its notice of initiation from the respondent interested parties with respect to THFA from China and that it would conduct an expedited review of the order.[12] Information on Commerce's final determination and antidumping duty order is presented in table I-1.

Table I-1
THFA: Commerce's final determination and antidumping duty order

Action	Effective date	*Federal Register* citation	Period of investigation/ review	Antidumping duty margins	
				Firm-specific	PRC-wide[1]
				Percent ad valorem	
Final determination	06/18/2004	69 FR 34130	10/01/02-03/31/03	Qingdao Wenkem (F.T.Z.) Trading Co.Ltd 136.86	136.86
Antidumping duty order	08/06/2004	69 FR 47911	--	Qingdao Wenkem (F.T.Z.) Trading Co.Ltd 136.86	136.86

[1] The PRC-wide rate applies to all companies that did not otherwise receive a "firm-specific" rate.

Source: Cited *Federal Register* notices.

[8] The petition was filed by Penn Specialty Chemicals, Inc. ("Penn Specialty"), Plymouth Meeting, PA. In July 2008, Minafin SARL (Luxembourg) acquired Penn Specialty and changed its name to Penn A Kem LLC (hereinafter referred to as the domestic interested party and/or Penn). *Response* of domestic interested party, July 31, 2009, pp. 2-3.

[9] *Final Determination of Sales at Less Than Fair Value: Tetrahydrofurfuryl Alcohol From the People's Republic of China,* 69 FR 34130, June 18, 2004.

[10] *Tetrahydrofurfuryl Alcohol From China,* 69 FR 47178, August 4, 2004.

[11] *Notice of Antidumping Duty Order: Tetrahydrofurfuryl Alcohol From The People's Republic of China,* 69 FR 47911, August 6, 2004.

[12] *Letter from Barbara E. Tillman, Senior Director, AD/CVD Operations, Office 6, Import Administration, U.S. Department of Commerce,* August 20, 2009.

Distribution of Continued Dumping and Subsidy Offset Act Funds to Affected Domestic Producers

Qualified U.S. producers of THFA are eligible to receive disbursements from U.S. Customs and Border Protection ("Customs") under the Continued Dumping and Subsidy Offset Act of 2000 ("CDSOA"), also known as the Byrd Amendment.[13] No CDSOA disbursements have been made for the subject merchandise from China since the imposition of the order in 2004.[14]

Previous and Related Commission Investigations and Reviews

THFA has not been the subject of prior countervailing or antidumping duty investigations or reviews in the United States.

Furfuryl alcohol ("FA") is the primary precursor chemical for THFA. In May 1994, an antidumping petition was filed against imports of FA from China, South Africa, and Thailand, on behalf of Quaker Oats Chemicals, the predecessor company to Penn, the domestic interested party in the present review. In June 1995, the Commission made affirmative injury determinations for imports from all three countries. The Department of Commerce issued antidumping duty orders with margins ranging from 43.54 to 50.43 percent *ad valorem* for China, and single margins of 7.82 percent and 11.55 percent for Thailand and South Africa, respectively. The antidumping duty order on FA from South Africa was revoked by Commerce in 1999. In 2001, the Commission determined that revocation of the antidumping duty orders on China and Thailand would be likely to lead to a continuation or recurrence of material injury, and the orders were continued.[15] In 2006, the Commission determined that revocation of the antidumping duty orders on China and Thailand would be likely to lead to a continuation or recurrence of material injury, and the orders were continued.[16] On October 12, 2007, Commerce published its final results from its administrative review on FA and the results were a *de minimis* rate of 0.39 percent for Indorama Chemicals (Thailand) Ltd.[17] The current deposit rates for FA imports from China remain unchanged.

THE PRODUCT

Scope

> In its original antidumping duty order, Commerce defined the subject merchandise as follows: The product covered by this order is tetrahydrofurfuryl alcohol ($C_5H_{10}O_2$) ('THFA'). THFA, a primary alcohol, is a clear, water white to pale yellow liquid. THFA is a member of the heterocyclic compounds known as furans and is miscible with water and soluble in many common organic solvents.[18]

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[13] 19 CFR 159.64(g).

[14] Customs' *CDSOA Annual Reports 2004-09*, found at http://www.cbp.gov/xp/cgov/trade/priority_trade/add_cvd/cont_dump/.

[15] *Furfuryl Alcohol From China and Thailand, Invs. Nos. 731-TA-703 and 705 (Review)*, USITC Publication 3412, April 2001.

[16] *Furfuryl Alcohol From China and Thailand, Invs. Nos. 731-TA-703 and 705 (Second Review)*, USITC Publication 3885, September 2006.

[17] *Notice of Final Results of Antidumping Duty Administrative Review: Furfuryl Alcohol from Thailand*, 72 FR 58056, October 12, 2007.

[18] *Antidumping Duty Order: Tetrahydrofurfuryl Alcohol From the People's Republic of China*, 69 FR 47911, August 6, 2004.

Commerce has not received any requests for scope rulings since the original antidumping duty order date.

U.S. Tariff Treatment

THFA is provided for in subheading 2932.13.00 of the Harmonized Tariff Schedule of the United States ("HTS").[19] THFA has a normal trade relations tariff rate of 3.7 percent *ad valorem*, applicable to imports from China.

Domestic Like Product and Domestic Industry

The domestic like product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the subject merchandise. In its original determination, the Commission found a single domestic like product, coextensive with the scope, consisting of all domestically-produced THFA.[20] The domestic interested party indicated in its response to the Commission's notice of institution in this review that it agreed with the definition of the domestic like product as set out in the Commission's notice of institution and its final determination in the original investigation.[21]

The domestic industry is the collection of U.S. producers as a whole of the domestic like product, or those producers whose collective output of the domestic like product constitutes a major proportion of the total domestic production of the product. The original investigation resulted from a petition filed by Penn Specialty (which later was acquired and changed its name to Penn A Kem LLC) on June 23, 2003.[22] U.S. industry data presented in the Commission's staff report in the original investigation were based on the questionnaire response of one firm, Penn.[23] This firm was believed to have accounted for virtually all U.S. production of THFA. There were no related party issues identified in the original investigation.[24]

The Commission, based on its domestic like product determination, found one domestic industry, consisting of all U.S. producers of the domestic like product.[25] The domestic interested party indicated in its response to the Commission's notice of institution in this review that it agreed with the definition of the domestic industry as set out in the Commission's notice of institution and its final determination in the original investigation.[26]

The domestic interested party participating in this review indicated in its response to the Commission's notice of institution that the structure of the domestic industry has not changed

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[19] The written description provided above is dispositive as to the scope of the product coverage. The HTS classification is provided for convenience and for Customs purposes only.

[20] *Tetrahydrofurfuryl Alcohol From China: Inv. No. 731-TA-1046 (Final)*, USITC Publication 3709, July 2004, p. 5.

[21] *Response* of domestic interested party, July 31, 2009, p. 11.

[22] *Response* of domestic interested party, July 31, 2009, pp. 2-3.

[23] During the preliminary phase of the investigation, only one other U.S. producer of THFA was identified, Synetex. Synetex was a start-up firm that produced small quantities of THFA in 2000 and went out of business shortly thereafter. *Tetrahydrofurfuryl Alcohol From China: Inv. No. 731-TA-1046 (Final)*, USITC Publication 3709, July 2004, p. III-2.

[24] Penn *** internally consume, *** shipments of THFA to related parties. Confidential Staff Report, July 1, 2004, INV-BB-085, p. III-4.

[25] *Tetrahydrofurfuryl Alcohol From China: Inv. No. 731-TA-1046 (Final)*, USITC Publication 3709, July 2004, p. 5.

[26] *Response* of domestic interested party, July 31, 2009, p. 11.

substantially since the original investigation. That is, it is still essentially the only domestic producer of THFA. However, in its response to the Commission's notice of institution it stated that there may be a new entrant in the market, Nova Molecular Technologies, Inc. ("Nova Molecular"), Janesville, WI.[27] According to Nova Molecular's website, it is able to produce THFA.[28] The domestic interested party reported that it is not related to any exporter or importer of the subject merchandise from China.[29]

Physical Characteristics and Uses[30]

THFA is an environmentally acceptable and biodegradable specialty solvent. It is a member of the heterocyclic compounds known as furans, which are characterized by a nucleus consisting of an unsaturated ring of four carbon atoms and one oxygen atom. THFA has a high flash point, a high boiling point, a low freezing point, chemical and thermal stability, and a high solvency for organic and inorganic materials. There are no ASTM standards for THFA.[31]

The major use of THFA is as a solvent. In agricultural applications, THFA is used as a solvent for biocides, pesticides, and herbicides. It is also widely used as a solvent in a broad variety of cleaning products, from graffiti and floor polish removers to cleaners for printed circuit boards. THFA is also frequently used in the production of UV curables – adhesives, paints, coatings, and inks that bond chemically when exposed to ultraviolet light. Other applications in which THFA is used, though less commonly, include as an ingredient in paint and grime strippers for the automotive industry; as a coalescing agent for paints; as a solvent for epoxy resins; as a solvent for lacquers, shellac, and enamels; as a solvent in refining lubricating oils; as antifreeze in extremely cold temperatures; and as a chemical reactant in the production of lysine and certain plasticizers and pharmaceuticals.[32]

Manufacturing Process

THFA is produced by the hydrogenation of FA. The raw materials required for the production of THFA are precursor FA, hydrogen, and a catalyst to facilitate the chemical reaction yielding THFA. There are two possible technologies for the production of THFA: vapor phase and liquid phase. The basic process by which THFA is produced is the same for both technologies: raw FA, in liquid or vapor form, is mixed with hydrogen and fed into a reactor; a catalyst is then added to the mixture, converting the FA to THFA; the resulting THFA is then dehydrated and distilled.[33]

Based on evidence available in the record during the original investigation, Chinese producer Zhucheng employs liquid phase technology for the production of THFA. U.S. producer Penn has

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[27] Ibid., p. 8.

[28] http://www.novamolecular.com/products.html, retrieved October 15, 2009.

[29] *Response* of domestic interested party, July 31, 2009, p. 8.

[30] Much of the industry information presented throughout this section of the report is from the report issued in the final investigation, *Tetrahydrofurfuryl Alcohol From China: Inv. No. 731-TA-1046 (Final)*, USITC Publication 3709, July 2004.

[31] Ibid., pp. I-4-I-5.

[32] Ibid.

[33] Ibid., p. I-5.

traditionally employed vapor phase technology for its THFA production. ***.[34] ***.[35] The production cost and quality of THFA produced by the two different technologies are comparable.[36]

Raw Materials

The main raw material used in the production of THFA is FA. During the Commission's original investigation, the U.S. producer, Penn, reported that its raw material costs accounted for approximately *** percent of the costs of goods sold, up from *** percent in 2001.[37]

Interchangeability and Customer and Producer Perceptions

During the period examined in the original investigation, the Commission found that "a high degree of substitutability exists between subject imports and the domestic like product."[38] The U.S. producer and importers responding to Commission questionnaires in the original investigation largely agreed that THFA produced in the United States, China, and nonsubject countries was interchangeable.[39] The Commission found that "three quarters of responding purchasers reported that subject imports were comparable to the domestic like product in terms of product consistency and in meeting industry standards."[40] Additionally, the Commission determined that price is an important consideration for THFA purchasers in selecting a supplier: half of the responding purchasers ranked price first. "Further, purchasers indicated that price was an important factor more often than any other factor, including quality."[41] The domestic interested party in this review did not address interchangeability in its response to the Commission's notice of institution.[42]

Substitute Products

In the final phase of the original investigation, the following importers responded to the Commission's question on substitutes: Kyzen Corp. ("Kyzen"), ***. *** reported in its response to the Commission's questionnaire that there were no substitutes for THFA, *** did not answer the question, and Kyzen stated at the conference that THFA is a unique product, but also reported that ***.[43] Eight of 14 responding purchasers reported either "none" or "not applicable" in response to the question on substitutes, while four did not provide information; *** listed cyclic TMP, propoxylated THFA, and

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[34] Confidential Staff Report, July 1, 2004, INV-BB-085, pp. I-6-I-7.

[35] Ibid., p. I-7. ***. Ibid.

[36] Ibid. According to importer Kyzen, in the original investigation, ***. Both products meet commercial specifications. Ibid.

[37] *Tetrahydrofurfuryl Alcohol From China: Inv. No. 731-TA-1046 (Final)*, USITC Publication 3709, July 2004, p. V-1.

[38] Ibid., p. 7.

[39] Ibid., p. I-5.

[40] Ibid., pp. 7-8.

[41] Ibid., p. 8.

[42] *Response* of domestic interested party, July 31, 2009.

[43] *Tetrahydrofurfuryl Alcohol From China: Inv. No. 731-TA-1046 (Final)*, USITC Publication 3709, July 2004, p. II-6 and Confidential Staff Report, July 1, 2004, INV-BB-085, p. II-9.

isobornyl acrylate as possible substitutes for THFA.[44] Reformulating either in favor of using THFA or away from using THFA may involve significant time and testing expenses, and purchasers of the end product may resist any reformulation.[45] As a result, purchasers of THFA are not particularly sensitive to changes in the price of THFA, and lower prices for THFA are not likely to spur additional demand.[46] The Commission determined that there were no substitutes for THFA in most applications.

During the adequacy phase of this review, purchaser questionnaires were sent to *** leading purchasers of THFA. The Commission received *** response from ***.[47]

Channels of Distribution

In the U.S. market, domestic and imported THFA are sold to both distributors and end users.[48] During the original investigation, in 2003, data reported by the domestic interested party indicated that *** percent of its THFA was sold through distributors, with the remaining *** percent sold to end users.[49] In the original investigation, Penn reported it sold THFA on a nationwide basis, reducing its exposure to an economic downturn in any one region.[50]

Importers, other than Kyzen, reported that *** percent of their Chinese-produced THFA was sold to distributors and *** percent was sold to end users in 2003.[51] The three responding importers, AllChem, ARS, and Kyzen, all reported selling their THFA on the spot market.[52] AllChem sold its imported THFA in *** while ARS sold imported THFA in the ***. Kyzen reported that the vast majority of its imported THFA is used in the manufacture of cleaning agents which are sold throughout the United States.

Pricing

During the period examined in the original investigation, the Commission found that pricing data for commercial sales showed mostly overselling by subject imports, which was likely explained by the fact that the import prices were based on substantially lower quantities of subject imports as compared to

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[44] Ibid.

[45] *Tetrahydrofurfuryl Alcohol From China: Inv. No. 731-TA-1046 (Final)*, USITC Publication 3709, July 2004, p. 6.

[46] Ibid.

[47] ***'s Adequacy Phase U.S. Purchasers' Questionnaire, section 5a.

[48] Ibid., p. II-2.

[49] *Tetrahydrofurfuryl Alcohol From China: Inv. No. 731-TA-1046 (Final)*, USITC Publication 3709, July 2004, p. II-2. In 2002, Penn sold *** percent of its THFA by volume to distributors and *** percent to end users. In 2001, Penn sold *** percent to distributors and *** percent to end users. THFA is sold in 55-gallon drums and bulk containers of 20 metric tons, or approximately 44,100 pounds. In 2003, Penn sold *** percent of its THFA in bulk containers and *** percent in 55-gallon drums. Penn also sells ***. Confidential Staff Report, July 1, 2004, INV-BB-085, table II-1 and p. II-3.

[50] *Tetrahydrofurfuryl Alcohol From China: Inv. No. 731-TA-1046 (Final)*, USITC Publication 3709, July 2004, p. II-2. In 2003, Penn shipped THFA to *** U.S. states, although *** percent of Penn's THFA sales were shipped to just *** states: ***. The top *** states (adding *** to the list) accounted for *** percent of Penn's THFA shipments. Confidential Staff Report, July 1, 2004, INV-BB-085, p. II-3, fn. 7.

[51] Ibid., p. II-3.

[52] *Tetrahydrofurfuryl Alcohol From China: Inv. No. 731-TA-1046 (Final)*, USITC Publication 3709, July 2004, p. II-2. ***. Confidential Staff Report, July 1, 2004, INV-BB-085, p. II-3, fn. 9.

the quantities on which the domestic prices were based.[53] Penn and Kyzen suggested alternate ways of considering the pricing data, each of which had limitations.[54]

The Commission also considered purchaser prices, which show underselling by subject imports as compared to the domestic like product. For most of the period of original investigation, subject imports undersold the domestic like product by margins up to or exceeding *** percent.[55] The underselling gap disappeared by the end of the period of original investigation, as Penn lowered its prices. This margin was not caused by volume differences, as prices paid by high-volume purchasers of the domestic like product were nearly as high as prices paid by lower-volume purchasers of subject imports.[56]

Subject imports affected domestic prices even when they did not take market share from Penn. As the Commission noted in its original determination, sales in the THFA market tended to be made informally; the market was small and dominated by a handful of large purchasers. In 2002, when Penn was emerging from bankruptcy, ***, were able to gain significant price concessions from Penn by citing lower-price quotes for subject imports.[57] Penn lost significant revenue from these concessions, and *** continued to purchase at reduced prices through 2002 and 2003.[58] Thus, subject imports had a significant adverse effect on the prices paid by these customers, and thus the revenue received by Penn. Penn's sales to *** represented a significant share of the price data Penn reported to the Commission. Thus, Penn's lower prices to these customers were a main reason why its overall prices declined in 2002 and 2003.

Similarly, throughout the period of original investigation, Kyzen received a lower price from Penn than did any other domestic purchaser, even though Kyzen was only Penn's *** biggest customer by volume.[59] Penn was, however, aware of Kyzen's imports, and Kyzen's importing influenced the price concessions it received from Penn.[60]

Domestic prices generally declined throughout the period examined in the original investigation, but rose once subject imports left the market; purchasers generally paid significantly more for the domestic like product; and the domestic producer lost significant revenues when purchasers threatened to buy lower-cost imports. The Commission thus found that the subject imports had significant price-depressing effects on the domestic like product.

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[53] *Tetrahydrofurfuryl Alcohol From China: Inv. No. 731-TA-1046 (Final)*, USITC Publication 3709, July 2004, p. 10.

[54] Ibid. Penn argued that the Commission should rely on a comparison of Kyzen's import prices to prices for Penn's sales to end users, Penn Prehearing Brief at exh. 4, but this comparison ignores differences in the levels of trade. Kyzen argued that the Commission should rely on a comparison of the unit value of Kyzen's direct imports to the price of Kyzen's purchases from Penn. This comparison ignored differences in the product (shipped in 55-gallon drums versus bulk containers) and also ignored that Kyzen represented only a minority of the merchant market for THFA. The Commission stated that it hesitated to rely on a comparison of average unit values, given the differences in product mix. *Tetrahydrofurfuryl Alcohol From China: Inv. No. 731-TA-1046 (Final)*, USITC Publication 3709, July 2004, p. 10, fn. 58.

[55] Ibid., p. 10.

[56] Ibid.

[57] Ibid.

[58] Ibid. *** was able to gain similar price concessions from Penn in 2003.

[59] Ibid., pp. 10-11.

[60] Ibid. Penn's price to Kyzen undersold subject imports for most of the period of the original investigation. However, the price Penn granted to Kyzen remained far below the price paid by even higher-volume customers. The subject THFA imported by Kyzen was also packaged in 55-gallon drums, and should have commanded a higher price, while the domestic THFA purchased by Kyzen was in bulk containers. The Commission stated that it was reasonable to conclude that Kyzen's import purchases gave it significant leverage to obtain lower prices from Penn. Ibid., fn. 64.

During the period examined in the original investigation, the Commission found significant underselling by the subject imports and that the subject imports had depressed prices for the domestic like product to a significant degree.[61]

During the original investigation, the Commission collected usable pricing data for sales of THFA in the U.S. market from the U.S. producer, Penn, and the three responding importers, *** on two products. *** reported that sales of THFA are made on a transaction-by-transaction basis, with 100 percent of their sales taking place in the spot market. ***, on the other hand, reported that it uses a price list; negotiates contract prices for large-volume orders; and meets all competitive prices. Approximately *** percent of ***'s sales took place via contract, while the remaining *** percent took place in the spot market.[62]

The average duration of Penn's contracts was *** years, during which both the quantity and price were fixed. While contracts are negotiated at expiration, Penn typically offered meet-or-release terms. According to Penn, it changed *** percent of its contract prices during the period examined as a result of its meet-or-release obligations.[63]

In the original investigation, information collected indicated that THFA purchasers were gaining clout in negotiations in both the contract and spot markets. For example, *** and *** indicated on their lost revenue response forms that quotes from Chinese suppliers were used to re-negotiate with Penn.[64] Similarly, Penn described at the hearing how offers to sell THFA from Chinese producers increased the bargaining power of purchasers in the spot market, causing prices to fall:

> The way this happens is that our major customers outside Kyzen . . . came to us in the year 2002 with credible offer of Chinese THFA at very low prices, and they've told us very emphatically and clearly that we would lose most or all of our business if we didn't match those prices or at least come close . . . we decided that we weren't going to give up the volume so we didn't literally meet the Chinese THFA prices, but we came close enough so that our major customers at least decided to stick with us.[65]

According to Penn, offers to sell THFA were also used by its contract customers[66] to negotiate down the price of THFA:

> Typically, a customer who received the lower-price quotes for the purpose of subject product would approach Penn, and give Penn the option to retain that business by meeting the lower price offered . . . Penn, in an effort to maintain market share and customer relationships, as you heard earlier, often chose to meet the lower price.[67]

Penn also describes the domestic-or-import decision faced by many of its customers:

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[61] Ibid., p. 11.

[62] Confidential Staff Report, July 1, 2004, INV-BB-085, p. V-2.

[63] Ibid., pp. V-2-V-3.

[64] Ibid., p. V-12.

[65] *Tetrahydrofurfuryl Alcohol From China: Inv. No. 731-TA-1046 (Final)*, USITC Publication 3709, July 2004, p. V-5.

[66] ***. Confidential Staff Report, July 1, 2004, INV-BB-085, p. V-2, fn.3.

[67] *Tetrahydrofurfuryl Alcohol From China: Inv. No. 731-TA-1046 (Final)*, USITC Publication 3709, July 2004, p. V-6.

> I think a smart purchaser says to himself or herself, I've been buying from Penn for years. They have always done what I needed. I would rather continue to purchase from them, buy from one source, but I want a lower price. So our argument is that Chinese THFA has been used many, many times to get a lower price from us, legitimately . . . the source of the subject imports resulted in offers of lower prices to customers who we ultimately defended and met the prices; and, therefore, there were no imports.[68]

THE INDUSTRY IN THE UNITED STATES

U.S. Producers

U.S. industry data collected in the original investigation were based on the questionnaire response of one domestic producer that accounted for virtually all U.S. production of THFA.[69]

The domestic interested party reported in its response to the Commission's notice of institution that currently there are two domestic producers of THFA: Penn and a new market entrant, Nova Molecular.[70] Penn responded to the Commission's notice of institution in this review; Nova Molecular is not participating. Details regarding each firm's location and company shares of 2003 and 2008 total domestic production of THFA are presented in table I-2.

Table I-2
THFA: U.S. producers, locations, and company shares of 2003 and 2008 total domestic production

Firm	Location	Share of 2003 reported production (*percent*)	Estimated share of 2008 domestic production (*percent*)
Penn	Memphis, TN	***	***
Nova Molecular	Janesville, WI	([1])	([1])
Total		100.0	100.0

[1] Not available.

Source: Confidential Staff Report, INV-BB-085, July 1, 2004, p. III-1 and response of domestic interested party, July 31, 2009, p. 10.

Penn

Penn is headquartered in Memphis, TN, and in 2008 was acquired by Minafin SARL, Luxembourg.[71] Penn's facility was originally commissioned by the U.S. government during the Second World War to produce furfural for the synthetic rubber industry. In 1946, the site was purchased by Quaker Oats Chemicals, and production expanded to include furan and tetrahydrofuran ("THF"). When

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[68] Ibid., p. V-6.

[69] A second firm, Synetex, was identified in the preliminary phase of the investigation. It was a start-up firm that it produced small quantities of THFA in 2000 and then shortly thereafter it went out of business. *Tetrahydrofurfuryl Alcohol From China: Inv. No. 731-TA-1046 (Final)*, USITC Publication 3709, July 2004, p. III-2.

[70] *Response* of domestic interested party, July 31, 2009, p. 8.

[71] *Response* of domestic interested party, July 31, 2009, p. 8. Minafin, Minakem Group's Holding Company ("Minakem Group") and Penn Specialty Chemicals, Inc. announced that Penn Specialty Chemicals, Inc.'s chemical assets have been acquired by PennAkem, a wholly-owned subsidiary of the French Minakem Group. "With this acquisition, PennAkem becomes the world leading producer of furan, methyltetrahydrofuran (a green solvent with several technical advantages over tetrahydrofuran) and tetrahydrofurfuryl alcohol." http://www.pennakem.com/pdfs/PennakemPressRelease20080704.pdf, retrieved October 15, 2009.

Great Lakes Chemicals ("Great Lakes") purchased the facility in 1987, furfural production had been discontinued. Soon after its acquisition of the site, Great Lakes embarked on an expansion project that included the construction of a specialty chemicals plant. Great Lakes' capital expansion project was completed just prior to Penn's acquisition of the Memphis facility in July 1999.[72]

In July 2001, Penn went into bankruptcy as a result of cash flow problems that compromised its ability to service its debt. The impact of subject THFA was not a significant factor in driving Penn to file for bankruptcy protection.[73] In July 2002, Penn emerged from bankruptcy, and, as part of a court-approved plan, entered into a toll agreement with its largest raw material supplier and unsecured creditor to produce THF and polytetramethylene ether glycol ("PTMEG"), products that accounted for more than half of Penn's sales revenue. The agreement provided Penn with needed fixed cost coverage, but increased its reliance on its value-added fine chemicals and solvents products, and THFA in particular.[74] As a result of the toll agreement, THFA, which only accounted for 14 percent of Penn's total revenue, accounted for 30 percent of Penn's non-toll, profit-generating revenue.[75]

Today, Penn manufactures and sells THFA.[76] The primary applications for THFA are: agricultural "green" solvents or adjuvants, electronics cleaners, printing inks, reactive diluent for epoxy resins, industrial cleaner/paint strippers, and pharmaceutical intermediates.[77] The company has over 60 years of specialty and fine chemicals development and manufacturing experience. Its facility is modern and efficient, with over $75MM of capital investment in the last seven years.[78]

Nova Molecular

Nova Molecular is a privately owned Texas corporation, primarily owned by active participants in the company. Its high pressure reaction and fractional distillation plant is located in Pasadena, TX and its sales and administration office is located in Janesville, WI. On its website, Nova Molecular reports that its employees have expertise and success in batch and continuous distillation and high pressure reaction, amine chemistry, tetrahydrofuran recovery, hydrogenation, analytical, research, scale-up, custom production, and commercial chemical development. Nova Molecular offers both custom chemical processing and specialty chemicals, including THFA.[79]

U.S. Producer's Trade, Employment, and Financial Data

Data reported by the U.S. producer of THFA in the Commission's original investigation and in response to its five-year review institution notice are presented in table I-3. Data presented for 2001-03 and January-March 2003 and 2004 were provided by one producer (Penn) and were believed to have represented nearly 100 percent of the U.S. production of THFA during 2003. Data presented for 2008

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[72] *Tetrahydrofurfuryl Alcohol From China: Inv. No. 731-TA-1046 (Final)*, USITC Publication 3709, July 2004, p. III-1.

[73] Ibid., pp. III-1-III-2. Penn's bankruptcy agreement listed aggressive European competition, fluctuating exchange rates, and a threefold increase in natural gas prices as factors contributing to its bankruptcy filing. Ibid., p. III-1, fn. 4.

[74] Ibid., p. III-1.

[75] Ibid., p. III-1.

[76] http://www.pennakem.com/products/tetrahydrofufuryl_alchohol.htm, retrieved October 15, 2009.

[77] Ibid.

[78] Ibid.

[79] http://www.novamolecular.com/about.html, retrieved October 15, 2009.

were provided by one producer (Penn) which is believed to have represented *** percent of U.S. THFA production during the period of review.[80]

Table I-3
THFA: U.S. producer's trade, employment, and financial data, 2001-03, January-March 2003, January-March 2004, and 2008

* * * * * * *

During the original period of investigation, at *** pounds, Penn's THFA production capacity was ***. Capacity was limited only by equipment size, ***.[81] U.S. production increased throughout the original period examined, from *** pounds in 2001 to *** pounds in 2002 and *** pounds in 2003. The growth represented an increase of *** percent between 2001 and 2002, and *** percent between 2002 and 2003. Penn's capacity utilization similarly increased though the original period, from *** percent in 2001 to *** percent in 2002 and *** percent in 2003. Capacity utilization in the interim 2004 period was *** percentage points lower than in the corresponding 2003 period.

During the period examined in this five-year review (2003-08), production volume, U.S. commercial shipment volume, value, and unit value, net sales, cost of goods sold, gross profit or loss, SG&A expenses, and operating income or loss for calendar year 2008 are the only industry indicators available. U.S. production in 2008 was higher than production during the original investigation, by *** percent compared to 2001 and by *** percent compared to 2003. Capacity *** between the original period of investigation and 2008. In 2008, unit values have increased by *** percent when compared to unit values reported in 2003.

In its response to the Commission's notice of institution, the domestic producer stated that the antidumping duty order on imports of THFA from China has had a significant beneficial impact on the domestic industry because the unfairly-traded imports of Chinese THFA ceased in response to the order. The antidumping duty order, it claims, allowed the domestic industry to succeed in increasing demand in the U.S. market and enjoy periods of profitability.[82]

The domestic interested party noted in its response to the Commission's notice of institution in this review that there is significant capacity in China to provide THFA and that if the order is revoked Chinese exporters will immediately re-enter the U.S. market. The domestic interested party believes that Chinese exporters will resume their previous offerings of unfairly-traded, low-priced THFA which will undersell or significantly depress its price and result in a decrease in its revenue stream. It further argues that in the Asian market where it competes with Chinese exporters, the exporters quote and sell THFA at prices significantly lower than what it can sell for and still be profitable.[83]

U.S. IMPORTS AND APPARENT U.S. CONSUMPTION

U.S. Imports

During the original investigation, three firms (Kyzen, AllChem, and ARS) provided requested data to the Commission and the U.S. import data for the original period of investigation are based on their questionnaire responses. Kyzen was by far the largest importer during the original period examined,

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[80] *Response* of domestic interested party, July 31, 2009, pp. 8 and 10.

[81] Confidential Staff Report, July 1, 2004, INV-BB-085, p. III-3.

[82] *Response* of domestic interested party, July 31, 2009, p. 3.

[83] *Response* of domestic interested party, July 31, 2009, pp. 4-7.

accounting for *** percent of THFA imports in ***, *** percent of imports in ***, and *** percent of total imports over the 2001-03 period. AllChem imported THFA into the United States in ***.[84]

In its response to the Commission's notice of institution in this review, the domestic interested party listed the following three companies that it knows to have been importers of subject merchandise from China: Kyzen, AllChem, and ARS; however, it indicated that imports of Chinese THFA essentially ceased after the imposition of the antidumping duty order.[85] Table I-4 below provides publicly available information on each company.

Table I-4
THFA: Importer, headquarters, business, and products

Importer	Headquarters	Business	Products
Kyzen	Nashville, TN	•Claims to be the worldwide leader in the precision cleaning industry.	•Cleaning solutions and services
AllChem	Gainesville, FL	•Claims to be a market leader in the fields of water treatment, petroleum additives, and industrial chemicals (established as an importer/distributor of chemical products).	•National distributer of solvents, amines, and thiocyanates; provides custom packaging, manufacturing, formulating, blending, and compounding of various water treatment products to serve water treatment industries; leading marketer of specialty chemicals, fuel additives, and process chemicals to the energy-related industries.
ARS	Des Plaines, IL	([1])	•Manufactures and distributes industrial chemicals and related products.

[1] Not available.

Source: Company websites, http://www.allchem.com/, retrieved October 16, 2009 and http://www.kyzen.com/, retrieved October 16, 2009. BusinessWeek website, http://investing.businessweek.com/research/stocks/private/snapshot.asp?privcapId=6910591, retrieved October 16, 2009.

THFA import data for the annual periods 2001-08 are presented in table I-5. The quantity of U.S. imports of THFA from China increased by *** percent from 2001 to 2003, and ceased completely from 2004 to 2006. There may have been some imports from China in 2007 and 2008.[86] The value of U.S. imports from China increased from 2001 to 2002 by *** percent and decreased from 2002 to 2003 by ***

[84] Confidential Staff Report, July 1, 2004, INV-BB-085, p. IV-1.

[85] *Response* of domestic interested party, July 31, 2009, p. 9 and exh. 2.

[86] Official Commerce statistics were used for data reported from 2004-08. Both THFA and FA are imported under HTS subheading 2932.13.00.

percent. There were *** from nonsubject countries from 2001 to 2003; since 2003 there have been no known imports from nonsubject countries.[87]

Table I-5
THFA: U.S. imports, by source, 2001-08

Source	2001	2002	2003	2004	2005	2006	2007	2008
Quantity (*1,000 pounds*)								
China	***	***	***	0	0	0	59	38
All others	***	***	***	0	0	0	0	0
Total imports	***	***	***	0	0	0	59	38
Value (*$1,000*)								
China	***	***	***	(1)	(1)	(1)	84	51
All Others[1]	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Total imports	***	***	***	(1)	(1)	(1)	84	51
Unit value (*per pound*)								
China	***	***	***	(1)	(1)	(1)	$1.43	$1.36
All Others[1]	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Average total imports	***	***	***	(1)	(1)	(1)	$1.43	$1.36
Share of quantity (*percent*)								
China	***	***	***	(1)	(1)	(1)	100.0	100.0
All Others[1]	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Total imports	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

[1] Not applicable.

Note.– Both THFA and FA are imported under HTS subheading 2932.13.00.

Source: Confidential Staff Report, INV-BB-085, July 1, 2004, table IV-3 ***; Official Commerce statistics for China, HTS subheading number 2932.13.00 (2004-08). *Furfuryl Alcohol From China and Thailand, Investigation Nos. 701-TA-703 and 705 (Second Review)*, USITC Publication 3885, September 2006, p. I-13.

Ratios of Imports to U.S. Production

Information concerning the ratio of U.S. imports to U.S. production of THFA is presented in table I-6. Subject imports of THFA from China were equivalent to *** percent of U.S. production during 2001, increased to *** percent during 2002, and then decreased to *** percent in 2003. Subject imports of THFA from China were equivalent to *** percent of U.S. production during 2008. The ratio of

[87] Based on information developed in *** investigation Nos. 701-TA-703 and 705 (Second Review), Furfuryl Alcohol from China and Thailand, it appears that any imports under HTS subheading 2932.13.00 from countries other than China may consist solely of furfuryl alcohol. *Furfuryl Alcohol From China and Thailand, Investigation Nos. 701-TA-703 and 705 (Second Review)*, USITC Publication 3885, September 2006, p. I-13.

nonsubject imports to domestic production *** during the original period examined and is believed to have been zero in 2008.

Table I-6
THFA: Ratio of U.S. imports to U.S. production, by sources, 2001-03, January-March 2003, January-March 2004, and 2008

* * * * * * *

Apparent U.S. Consumption and Market Shares

Apparent U.S. consumption and market shares are presented in table I-7. The volume of apparent U.S. consumption of THFA declined by *** percent between 2001 and 2003. Apparent consumption quantity in 2008 was *** greater than apparent consumption during the original period, 2001-03, and was *** percent more than apparent consumption in 2003.[88] The quantity of THFA consumed in the United States remained fairly stable over the period examined in the original investigation. The value of U.S. apparent consumption declined in each year of the original period examined, and by a total of *** percent between 2001 and 2003.

Penn lost *** percentage points of market share to imports from China between 2001 and 2002. In 2003, Penn recovered *** percentage points of market share, its U.S. shipments accounting for *** percent of apparent U.S. consumption in that year. In the interim 2004 period, Penn's shipments accounted for *** percent of apparent U.S. consumption, compared to *** percent in the corresponding 2003 period. The domestic THFA industry in 2008 held an estimated *** percent of apparent U.S. consumption on the basis of quantity and an estimated *** percent on the basis of value. China held a *** percent share of the U.S. market in 2008.

Table I-7
THFA: U.S. producer's U.S. shipments, U.S. shipments of imports, and apparent U.S. consumption, 2001-03, January-March 2003, January-March 2004, and 2008

* * * * * * *

Demand for THFA is determined by the demand for the final products that require THFA. The primary end markets for THFA are agricultural chemicals, coatings, and cleaning solutions. Demand in each of these markets was sluggish during the original period of investigation; some of the markets experienced long-term weakness in demand.[89]

The domestic interested party indicated in its response to the Commission's notice of institution that demand for THFA experienced rapid growth, primarily in agricultural applications. ***. ***. ***.[90] ***.[91]

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[88] Staff cautions that the import data used for 2008 include THFA and FA.

[89] *Tetrahydrofurfuryl Alcohol From China: Inv. No. 731-TA-1046 (Final)*, USITC Publication 3709, July 2004, p. 6.

[90] *Response* of domestic interested party, July 31, 2009, pp. 10-11.

[91] Ibid.

ANTIDUMPING ACTIONS OUTSIDE THE UNITED STATES

During the original investigation, no evidence on the record suggested that THFA exported from China was subject to antidumping findings or remedies in any third country markets.[92]

THE INDUSTRY IN CHINA

In the original investigation, the Commission sent foreign producer/exporter questionnaires to nine Chinese firms believed to produce THFA. Two of the nine firms, Taizhou Qingquan Medical & Chemical Co., Ltd. ("Taizhou Qingquan") and Zhucheng Huaxiang Chemical Co. ("Zhucheng"), submitted responses to the Commission, and only Zhucheng reported having produced or exported THFA since January 2001. *** identified Zhucheng as the sole producer of the THFA it imported into the United States from China. *** identified Qingdao Wenkem Trading Co., Ltd. ("Qingdao Wenkem") as the Chinese producer of its THFA imports. Commerce confirmed in its preliminary investigation that Qingdao Wenkem exports, in full, the THFA manufactured by Zhucheng.[93] *** did not identify the producer of the THFA it imported from China.[94] Penn acknowledged that Zhucheng is the primary manufacturer and exporter of THFA imported into the United States.[95]

The domestic interested party's response to the Commission's notice of institution stated that it believed shipments of Chinese THFA to the United States ceased after the imposition of the antidumping duty order and cited the same Chinese producers from the original investigation.[96] Publicly available information on the operations of Zhucheng (the only actual producer during the original period of investigation) is presented below.

In 1996, Zhucheng's THFA production capability was established with the assistance of ARS and the encouragement of Kyzen, which provided Zhucheng with quality advice and tested its THFA through to market standard.[97] Kyzen began importing THFA produced by Zhucheng in significant quantities in 1997, with imports peaking in 1998 at about 1.3 million pounds.[98] On December 17, 2003, Zhucheng Huaxiang Chemical Co., Ltd. changed its name to Zhucheng Taisheng Chemical Co., Ltd.[99] On its company website, Zhucheng, states it is now ". . . mainly engaged in the production and trade of furan series, . . . {t}he main products include furfuryl alcohol, tetrahydrofurfuryl alcohol, ..."[100] The

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[92] Zhucheng, the only Chinese firm to report production or export of THFA in the period examined, certified that ***. Confidential Staff Report, July 1, 2004, INV-BB-085, p. VII-6.

[93] *Tetrahydrofurfuryl Alcohol From China: Inv. No. 731-TA-1046 (Final)*, USITC Publication 3709, July 2004, p. VII-1.

[94] Confidential Staff Report, July 1, 2004, INV-BB-085, p. VII-2. ***.

[95] *Tetrahydrofurfuryl Alcohol From China: Inv. No. 731-TA-1046 (Final)*, USITC Publication 3709, July 2004, p. VII-1.

[96] *Response* of domestic interested party, July 31, 2009, p. 9 and exh. 2.

[97] *Tetrahydrofurfuryl Alcohol From China: Inv. No. 731-TA-1046 (Final)*, USITC Publication 3709, July 2004, pp. VII-1-VII-2.

[98] Ibid., p. VII-2.

[99] http://www.zhuchengchem.com/cgi/search-en.cgi?f=introduction_en_1_+company_en_1_+product_en&t=introduction_en_1, retrieved October 19, 2009.

[100] http://www.zhuchengchem.com/cgi/search-en.cgi?f=introduction_en_1_+company_en_1_+product_en&t=introduction_en_1_, retrieved October, 19, 2009.

company has 736 employees (200 of them are technicians), 9 departments, 5 plants, one factory, and 2 Sino-foreign joint ventures (subsidiaries).[101]

THFA Operations

Table I-8 presents trade data for the Chinese THFA industry compiled during the original investigation. In the original investigation, Zhucheng estimated that it accounted for *** percent of total Chinese production of THFA, and *** percent of THFA exported from China to the United States, in 2003.[102] Based on data provided by U.S. importers, Zhucheng's shipments of THFA to the United States accounted for *** percent of U.S. imports of THFA from China during the original period examined.

Zhucheng's production capacity remained constant between 2001 and 2003 at *** pounds. This capacity represented *** percent of apparent U.S. consumption in 2003. Capacity utilization fluctuated over the period examined, increasing from *** percent in 2001 to *** percent in 2002, then declining to *** percent in 2003.

As a proportion of its production, Zhucheng's exports of THFA increased steadily over the period examined, from *** percent of total shipments in 2001 to *** percent of shipments in 2003. Shipments to the United States accounted for the majority of Zhucheng's exports between 2001 and 2003. Zhucheng reported *** exports of THFA to the United States in the first quarter of 2004. By comparison, shipments to the United States in the first quarter of 2003 accounted for *** percent of Zhucheng's total exports to the United States in that year. As a proportion of total shipments, home market shipments were at their highest level within the original period examined in the first quarter of 2004. Zhucheng identified Japan and the EU as its primary other export markets.[103]

Zhucheng projected that its home market shipments would account for *** percent of total shipments in 2004 and 2005, with exports to the United States accounting for a further *** percent, or *** pounds. Zhucheng based its 2004 and 2005 projections on ***.[104]

Table I-8
THFA: China's capacity, production, shipments, and inventories, 2001-03, January-March 2003, January-March 2004, and 2008

* * * * * * *

The domestic interested party's response to the Commission's notice of institution estimated Chinese capacity for THFA to be 7,500 metric tons (16.5 million pounds) and that the actual production capacity is much higher because Chinese furfuryl alcohol producers can invest in THFA technology and shift production from FA to THFA.[105] It also stated that if the order is revoked Chinese exports will immediately reenter the market at unfairly-traded, low prices which will depress its prices and result in a

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[101] Ibid.

[102] Confidential Staff Report, July 1, 2004, INV-BB-085, p. VII-2.

[103] *Tetrahydrofurfuryl Alcohol From China: Inv. No. 731-TA-1046 (Final)*, USITC Publication 3709, July 2004, p. VII-2.

[104] Confidential Staff Report, July 1, 2004, INV-BB-085, p. VII-3. ***. Ibid.

[105] *Response* of domestic interested party, July 31, 2009, pp. 6-7. The figure reported by Penn is based on Zhucheng Huaxiang, Zibo HuaAo, and Qingquan Medical. *Response* of domestic interested party, July 31, 2009, p. 7 n. 13.

decrease in its revenue.[106] In the original investigation, the Commission found ". . . that the effect of subject imports has been to depress prices for the domestic like product to a significant degree."[107]

[106] Ibid., p. 5.

[107] *Tetrahydrofurfuryl Alcohol From China: Inv. No. 731-TA-1046 (Final)*, USITC Publication 3709, July 2004, p. 11.

APPENDIX A

FEDERAL REGISTER NOTICES

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1046 (Review)]

Tetrahydrofurfuryl Alcohol From China

AGENCY: United States International Trade Commission.

ACTION: Institution of a five-year review concerning the antidumping duty order on tetrahydrofurfuryl alcohol from China.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on tetrahydrofurfuryl alcohol from China would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is July 31, 2009. Comments on the adequacy of responses may be filed with the Commission by September 15, 2009. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 09–5–201, expiration date June 30, 2011. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* July 1, 2009.

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

SUPPLEMENTARY INFORMATION:

Background. On August 6, 2004, the Department of Commerce issued an antidumping duty order on imports of tetrahydrofurfuryl alcohol from China (69 FR 47911). The Commission is conducting a review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions. The following definitions apply to this review:

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

(2) The *Subject Country* in this review is China.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determination, the Commission found a single *Domestic Like Product,* coextensive with the scope, consisting of all domestically-produced tetrahydrofurfuryl alcohol.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission found one *Domestic Industry* consisting of all domestic producers of the *Domestic Like Product.*

(5) The *Order Date* is the date that the antidumping duty order under review became effective. In this review, the *Order Date* is August 6, 2004.

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

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

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation. The Commission's designated agency ethics official recently has advised that a five-year review is no longer considered the ''same particular matter'' as the corresponding underlying original investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 73 FR 24609 (May 5, 2008). This advice was developed in consultation with the Office of Government Ethics. Consequently, former employees are no longer required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

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

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

Written submissions. Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is July 31, 2009. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is September 15, 2009. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you

are not a party to the review you do not need to serve your response).

Inability to provide requested information. Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information To Be Provided in Response to This Notice of Institution: As used below, the term ''firm'' includes any related firms.

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

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

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

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

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

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

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and E-mail address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2008, except as noted (report quantity data in pounds and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

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

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (*i.e.,* the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

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

(d) The quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s).

(e) The value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2008 (report quantity data in pounds and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') imports;

(b) The quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of *Subject Merchandise* imported from the *Subject Country;* and

(c) The quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from the *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2008 (report quantity data in pounds and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

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

(b) Capacity (quantity) of your firm to produce the *Subject Merchandise* in the *Subject Country* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) The quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject*

accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Country* since the *Order Date,* and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Country,* and such merchandise from other countries.

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

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

By order of the Commission.

Marilyn R. Abbott,

Secretary.

Issued: June 29, 2009.

William R. Bishop,

Acting Secretary to the Commission.

[FR Doc. E9–15647 Filed 7–1–09; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Five-year (''Sunset'') Review

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

SUMMARY: In accordance with section 751(c) of the Tariff Act of 1930, as amended (''the Act''), the Department of Commerce (''the Department'') is automatically initiating a five-year review (''Sunset Review'') of the antidumping duty orders listed below. The International Trade Commission (''the Commission'') is publishing concurrently with this notice its notice of *Institution of Five-year Review* which covers the same orders.

EFFECTIVE DATE: July 1, 2009.

FOR FURTHER INFORMATION CONTACT: The Department official identified in the Initiation of Review section below at AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW, Washington, DC 20230. For information from the Commission contact Mary Messer, Office of Investigations, U.S. International Trade Commission at (202) 205–3193.

SUPPLEMENTARY INFORMATION:

Background

The Department's procedures for the conduct of Sunset Reviews are set forth in its *Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) and 70 FR 62061 (October 28, 2005). Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in the Department's Policy Bulletin 98.3 - *Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders: Policy Bulletin*, 63 FR 18871 (April 16, 1998).

Initiation of Review

In accordance with 19 CFR 351.218(c), we are initiating the Sunset Review of the following antidumping duty orders:

DOC Case No.	ITC Case No.	Country	Product	Department Contact
A–570–007	731–TA–149	PRC	Barium Chloride (3rd Review)	Matthew Renkey (202) 482–2312
A–570–002	731–TA–130	PRC	Chloropicrin (3rd Review)	Matthew Renkey (202) 482–2312
A–570–888	731–TA–1047	PRC	Floor–Standing, Metal Top Ironing Tables And Parts Thereof	Dana Mermelstein (202) 482–1391
A–570–886	731–TA–1043	PRC	Polyethylene Retail Carrier Bags	Dana Mermelstein (202) 482–1391
A–557–813	731–TA–1044	Malaysia	Polyethylene Retail Carrier Bags	Dana Mermelstein (202) 482–1391
A–549–821	731–TA–1045	Thailand	Polyethylene Retail Carrier Bags	Dana Mermelstein (202) 482–1391
A–427–001	731–TA–44	France	Sorbitol (3rd Review)	Dana Mermelstein (202) 482–1391
A–475–820	731–TA–770	Italy	Stainless Steel Wire Rod (2nd Review)	Brandon Farlander (202) 482–0182
A–588–843	731–TA–771	Japan	Stainless Steel Wire Rod (2nd Review)	Brandon Farlander (202) 482–0182
A–580–829	731–TA–772	South Korea	Stainless Steel Wire Rod (2nd Review)	Brandon Farlander (202) 482–0182
A–469–807	731–TA–773	Spain	Stainless Steel Wire Rod (2nd Review)	Brandon Farlander (202) 482–0182
A–401–806	731–TA–774	Sweden	Stainless Steel Wire Rod (2nd Review)	Brandon Farlander (202) 482–0182
A–583–828	731–TA–775	Taiwan	Stainless Steel Wire Rod (2nd Review)	Brandon Farlander (202) 482–0182
A–570–887	731–TA–1046	PRC	Tetrahydrofurfuryl Alcohol	Matthew Renkey (202 482–2312

Filing Information

As a courtesy, we are making information related to Sunset proceedings, including copies of the pertinent statute and Department's regulations, the Department schedule for Sunset Reviews, a listing of past revocations and continuations, and current service lists, available to the public on the Department's sunset Internet Web site at the following address: ''http://ia.ita.doc.gov/sunset/.'' All submissions in these Sunset Reviews must be filed in accordance with the Department's regulations regarding format, translation, service, and certification of documents. These rules can be found at 19 CFR 351.303.

Pursuant to 19 CFR 351.103 (d), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 10 days of the publication of the Notice of Initiation.

Because deadlines in Sunset Reviews can be very short, we urge interested parties to apply for access to proprietary information under administrative protective order (''APO'') immediately following publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The Department's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306.

Information Required from Interested Parties

Domestic interested parties defined in section 771(9)(C), (D), (E), (F), and (G) of the Act and 19 CFR 351.102(b)) wishing to participate in a Sunset Review must respond not later than 15 days after the date of publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). In accordance with the Department's regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, the Department will automatically revoke the order without further review. *See* 19 CFR 351.218(d)(1)(iii).

If we receive an order–specific notice of intent to participate from a domestic interested party, the Department's regulations provide that *all parties* wishing to participate in the Sunset Review must file complete substantive responses not later than 30 days after the date of publication in the **Federal Register** of this notice of initiation. The required contents of a substantive response, on an order–specific basis, are set forth at 19 CFR 351.218(d)(3). Note that certain information requirements differ for respondent and domestic parties. Also, note that the Department's information requirements are distinct from the Commission's information requirements.[1] Please consult the Department's regulations for information regarding the Department's conduct of Sunset Reviews. Please consult the Department's regulations at 19 CFR Part 351 for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at the Department.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218 (c).

June 23, 2009.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. E9–15570 Filed 6–30–04; 8:45 am]

BILLING CODE 3510–DS–S

[1] In comments made on the interim final sunset regulations, a number of parties stated that the proposed five-day period for rebuttals to substantive responses to a notice of initiation was insufficient. This requirement was retained in the final sunset regulations at 19 CFR 351.218(d)(4). As provided in 19 CFR 351.302(b), however, the Department will consider individual requests to extend that five-day deadline based upon a showing of good cause.

APPENDIX B

COMMISSION'S STATEMENT ON ADEQUACY

EXPLANATION OF COMMISSION DETERMINATION ON ADEQUACY
in
Tetrahydrofurfuryl Alcohol from China, Inv. No. 731-TA-1046 (First Review)

On October 5, 2009, the Commission determined that it should proceed to an expedited review in the subject five-year review pursuant to section 751(c)(3)(B) of the Tariff Act of 1930, as amended, 19 U.S.C. § 1675(c)(3)(B).

The Commission received a single response filed by Penn A Kem LLC ("Penn A Kem"), which may be the sole domestic producer of tetrahydrofurfuryl alcohol ("THFA").[1] The Commission determined that the individual response of Penn A Kem was adequate. The Commission also determined that the domestic interested party group response was adequate.

The Commission received no response from any respondent interested party, and therefore determined that the respondent interested party group response to the notice of institution was inadequate. In the absence of an adequate respondent interested party group response or any other circumstances warranting a full review, the Commission determined to conduct an expedited review.

A record of the Commissioners' votes is available from the Office of the Secretary and the Commission's web site (http://www.usitc.gov).

[1] Penn A Kem believes that it is the sole U.S. producer of THFA, but it noted that a new entrant, Nova Molecular Technologies, Inc., may have started producing THFA in the United States in 2008. Penn A Kem Response to Notice of Institution at 8 (July 31, 2009).