Certain Pea Protein from China

Investigation Nos. 701-TA-692 and 731-TA-1628 (Preliminary)

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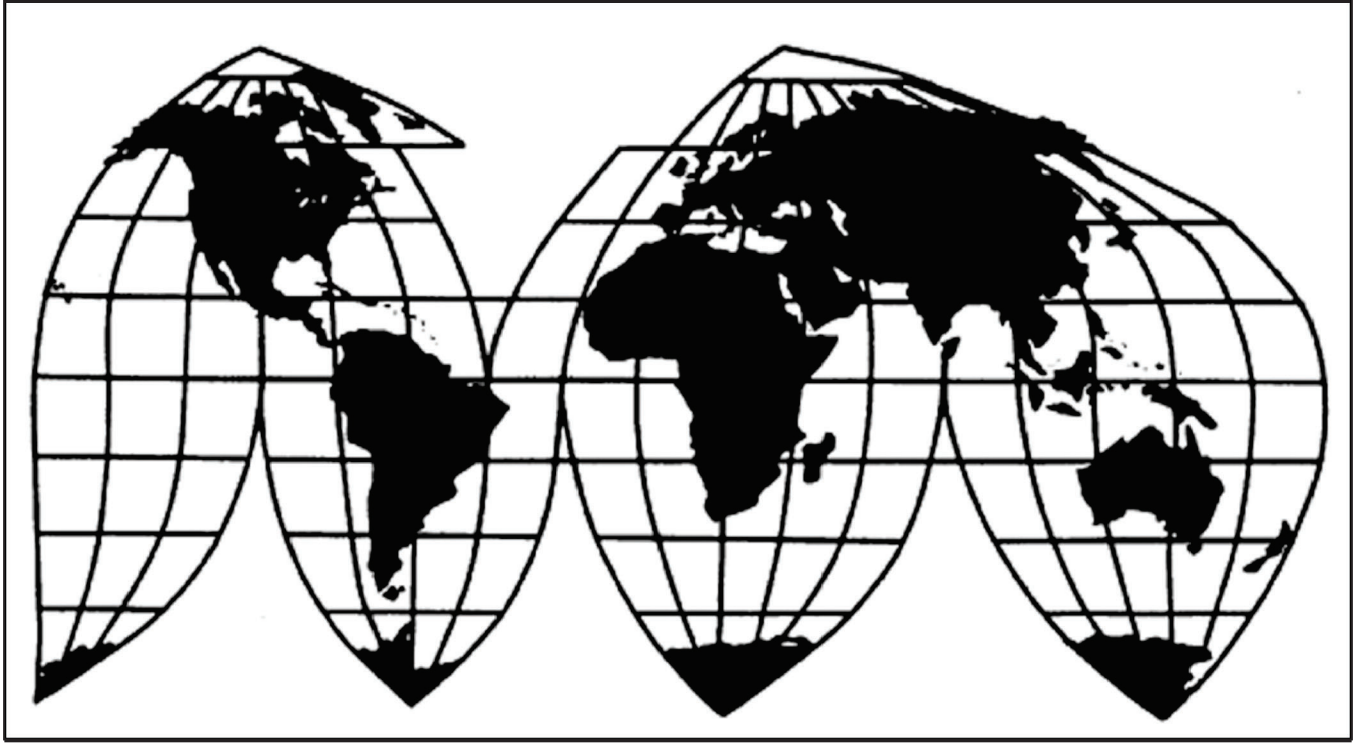
U.S. International Trade Commission



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U.S. International Trade Commission

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UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation Nos. 701-TA-692 and 731-TA-1628 (Preliminary)

Certain Pea Protein from China

DETERMINATIONS

On the basis of the record[1] developed in the subject investigations, the United States International Trade Commission ("Commission") determines, pursuant to the Tariff Act of 1930 ("the Act"), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of certain pea protein from China, provided for in subheadings 3504.00.10, 3504.00.50, and 2106.10.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value ("LTFV") and to be subsidized by the government of China.[2]

COMMENCEMENT OF FINAL PHASE INVESTIGATIONS

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling, which will be published in the *Federal Register* as provided in § 207.21 of the Commission's rules, upon notice from the U.S. Department of Commerce ("Commerce") of affirmative preliminary determinations in the investigations under §§ 703(b) or 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under §§ 705(a) or 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

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

[2] 88 FR 52116 and 88 FR 52124 (August 7, 2023).

BACKGROUND

On July 12, 2023, PURIS Proteins LLC, Minneapolis, Minnesota filed petitions with the Commission and Commerce, alleging that an industry in the United States is materially injured or threatened with material injury by reason of subsidized imports of certain pea protein from China and LTFV imports of certain pea protein from China. Accordingly, effective July 12, 2023, the Commission instituted countervailing duty investigation No. 701-TA-692 and antidumping duty investigation No. 731-TA-1628 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of July 18, 2023 (88 FR 45924). The Commission conducted its conference on August 2, 2023. All persons who requested the opportunity were permitted to participate.

Views of the Commission

Based on the record in the preliminary phase of these investigations, we determine that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of certain high protein content pea protein ("HPC pea protein") from China that are allegedly sold in the United States at less than fair value ("LTFV") and subsidized by the government of China.

I. The Legal Standard for Preliminary Determinations

The legal standard for preliminary antidumping and countervailing duty determinations requires the Commission to determine, based upon the information available at the time of the preliminary determinations, whether there is a reasonable indication that a domestic industry is materially injured or threatened with material injury, or that the establishment of an industry is materially retarded, by reason of the allegedly unfairly traded imports.[1] In applying this standard, the Commission weighs the evidence before it and determines whether "(1) the record as a whole contains clear and convincing evidence that there is no material injury or threat of such injury; and (2) no likelihood exists that contrary evidence will arise in a final investigation."[2]

II. Background

Parties to the Investigation. PURIS Proteins LLC, d/b/a PURIS ("PURIS"), a domestic producer of HPC pea protein, filed the petitions in these investigations on July 12, 2023.[3] Petitioner appeared at the staff conference accompanied by counsel and submitted a postconference brief.[4]

Several respondent entities participated in these investigations. Counsel for the China Chamber of Commerce of I/E of Foodstuffs, Native Produce and Animal By-products Pea Protein

[1] 19 U.S.C. §§ 1671b(a), 1673b(a) (2000); *see also American Lamb Co. v. United States*, 785 F.2d 994, 1001-04 (Fed. Cir. 1986); *Aristech Chem. Corp. v. United States, 2*0 CIT 353, 354-55 (1996). No party argues that the establishment of an industry in the United States is materially retarded by the allegedly unfairly traded imports.

[2] *American Lamb Co.*, 785 F.2d at 1001; *see also Texas Crushed Stone Co. v. United States*, 35 F.3d 1535, 1543 (Fed. Cir. 1994).

[3] ***. "Response of Petitioner to Volume I Supplemental Questionnaire," EDIS Doc. 800719 (July 21, 2023) ("Petition Supplemental") l at I-8.

[4] Petitioner's Post-Conference Brief, EDIS Doc. 801854 (Aug. 7, 2023) ("Petitioner Postconference Br.").

Sub-Chamber, an association of Chinese producers/exporters of subject merchandise, as well as eight Chinese producers/exporters of subject merchandise, (collectively, "Chinese Respondents")[5] appeared at the conference and submitted a postconference brief.[6] Additionally, NURA USA, LLC ("NURA"), an importer of subject merchandise, filed a postconference brief.[7]

Data Coverage. Except as noted, U.S. industry data are based on questionnaire responses of three firms that accounted for *** U.S. production of HPC pea protein in 2022.[8] U.S. imports are based on the questionnaire responses of 19 importers that accounted for approximately *** percent of U.S. imports of subject merchandise from China, and approximately *** percent of nonsubject imports in 2022 under Harmonized Tariff Schedule ("HTS") statistical reporting numbers 3504.00.1000, 3504.00.5000 and 2106.10.0000.[9] The Commission received usable questionnaire responses from eight foreign producers/exporters of subject merchandise accounting for *** production of HPC pea protein in China in 2022 and approximately *** percent of all Chinese exports of HPC pea protein to the United States in 2022.[10] In any final phase of these investigations, we intend to further examine the best

[5] The eight producers/exporters are Jianyuan International Co., Ltd.; Shandong Yuwang Ecological Food Industry Co., Ltd; Linyi Yuwang Vegetable Protein Co., Ltd.; Suzhou Wanshen Flour Products Co., Ltd.; Yantai T.Full Biotech Co.,Ltd.; Yantai Oriental Protein Tech Co., Ltd.; Yantai Shuangta Food Co., Ltd.; and Yosin Biotechnology (Yantai) Co., Ltd.

[6] Chinese Respondents' Post-Conference Brief, EDIS Doc. 802630 (Aug. 7, 2023) ("Chinese Respondents Postconference Br.").

[7] "NURA Corrected Postconference Brief," EDIS Doc. 802193 (Aug. 11, 2023) ("NURA Postconference Br.").

[8] Confidential Staff Report, INV-VV-066 (Aug. 21, 2023) ("CR") at I-4, IV-1; Public Report, *Certain Pea Protein from China*, Inv. Nos. 701-TA-692 and 731-TA-1628 (Preliminary) USITC Pub. 5457 (Sept. 2023) ("PR").

[9] CR/PR at I-IV. HTS statistical reporting numbers 3504.00.1000, 3504.00.5000 and 2106.10.0000 are "basket categories," which include out-of-scope merchandise. In deriving this coverage estimate, official import statistics have been adjusted to remove out-of-scope imports reported in importer questionnaire responses; however, these estimates may be understated given that these HTS numbers may still contain significant quantities of out-of-scope merchandise. CR/PR at IV-1 n.2. Petitioner estimates that imports of HPC pea protein within the scope of these investigations account for *** to *** percent of imports under these HTS numbers, by volume. Petitioner Postconference Br. at Exhibit 1, p. 1, Exhibit 15.

[10] CR/PR at VII-3. Petitioner and Chinese Respondents both contend that the importer questionnaire response data understate nonsubject imports, while Chinese Respondents assert that such data also understate subject import data toward the beginning of the January 2020 through March 2023 period of investigation ("POI"). Petitioner Postconference Br. at Exhibit 1, p. 1; Chinese Respondent Postconference Br. at 20-21. Chinese Respondents propose using alternative methodologies for measuring subject and nonsubject imports and their share of apparent U.S. (Continued…)

methodology for measuring subject and nonsubject import volumes. We invite parties, in their comments on the draft questionnaires, to offer further suggestions on how to improve coverage, including identifying any importers of HPC pea protein missing from the data in the preliminary phase of these investigations.

III. Domestic Like Product

In determining whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of the subject merchandise, the Commission first defines the "domestic like product" and the "industry."[11] Section 771(4)(A) of the Tariff Act of 1930, as amended ("the Tariff 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."[12] In turn, the Tariff Act defines "domestic like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation."[13]

By statute, the Commission's "domestic like product" analysis begins with the "article subject to an investigation," *i.e.*, the subject merchandise as determined by the U.S. Department of Commerce ("Commerce").[14] Therefore, Commerce's determination as to the scope of the imported merchandise that is subsidized and/or sold at LTFV is "necessarily the starting point of the Commission's like product analysis."[15] The Commission then defines the

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consumption, including using foreign producer questionnaire data concerning exports from China instead of subject import data from importer questionnaire responses, combined with data on nonsubject imports gathered from importer questionnaire responses. Chinese Respondent Postconference Br. at 20-21, Exhibit 1, pgs. 4-5, Exhibit 3A. This methodology would not increase coverage of nonsubject imports and would also understate the volume of subject imports, given the responding foreign producers' estimate that they accounted for only *** percent of all Chinese exports of HPC pea protein to the United States. Chinese Respondents Postconference Br. at 21; CR/PR at VII-3, Appendix E.

[11] 19 U.S.C. § 1677(4)(A).

[12] 19 U.S.C. § 1677(4)(A).

[13] 19 U.S.C. § 1677(10).

[14] 19 U.S.C. § 1677(10). The Commission must accept Commerce's determination as to the scope of the imported merchandise that is subsidized and/or sold at LTFV. *See*, *e.g.*, *USEC, Inc. v. United States*, 34 Fed. App'x 725, 730 (Fed. Cir. 2002) ("The ITC may not modify the class or kind of imported merchandise examined by Commerce."); *Algoma Steel Corp. v. United States,* 688 F. Supp. 639, 644 (Ct. Int'l Trade 1988), *aff'd*, 865 F.3d 240 (Fed. Cir.), *cert. denied*, 492 U.S. 919 (1989).

[15] *Cleo Inc. v. United States*, 501 F.3d 1291, 1298 (Fed. Cir. 2007); *see also Hitachi Metals, Ltd. v.* (Continued…)

domestic like product in light of the imported articles Commerce has identified.[16] The decision regarding the appropriate domestic like product(s) in an investigation is a factual determination, and the Commission has applied the statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis.[17] No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.[18] The Commission looks for clear dividing lines among possible like products and disregards minor variations.[19] The Commission may, where appropriate, include domestic articles in the domestic like product in addition to those described in the scope.[20]

A. Scope Definition

In its notices of initiation, Commerce defined the imported merchandise within the scope of these investigations as follows:

United States, Case No. 19-1289, slip op. at 8-9 (Fed. Cir. Feb. 7, 2020) (the statute requires the Commission to start with Commerce's subject merchandise in reaching its own like product determination).

[16] *Cleo*, 501 F.3d at 1298 n.1 ("Commerce's {scope} finding does not control the Commission's {like product} determination."); *Hosiden Corp. v. Advanced Display Mfrs.,* 85 F.3d 1561, 1568 (Fed. Cir. 1996) (the Commission may find a single like product corresponding to several different classes or kinds defined by Commerce); *Torrington Co. v. United States*, 747 F. Supp. 744, 748–52 (Ct. Int'l Trade 1990), *aff'd*, 938 F.2d 1278 (Fed. Cir. 1991) (affirming the Commission's determination defining six like products in investigations where Commerce found five classes or kinds).

[17] *See, e.g., Cleo*, 501 F.3d at 1299; *NEC Corp. v. Department of Commerce*, 36 F. Supp. 2d 380, 383 (Ct. Int'l Trade 1998); *Nippon Steel Corp. v. United States*, 19 CIT 450, 455 (1995); *Torrington Co. v. United States*, 747 F. Supp. 744, 749 n.3 (Ct. Int'l Trade 1990), *aff'd*, 938 F.2d 1278 (Fed. Cir. 1991) ("every like product determination 'must be made on the particular record at issue' and the 'unique facts of each case'"). The Commission generally considers a number of factors including the following: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) common manufacturing facilities, production processes, and production employees; and, where appropriate, (6) price. *See Nippon*, 19 CIT at 455 n.4; *Timken Co. v. United States*, 913 F. Supp. 580, 584 (Ct. Int'l Trade 1996).

[18] *See*, *e.g.*, S. Rep. No. 96-249 at 90-91 (1979).

[19] *See*, *e.g.*, *Nippon*, 19 CIT at 455; *Torrington*, 747 F. Supp. at 748-49*; see also* S. Rep. No. 96-249 at 90-91 (Congress has indicated that the like product standard should not be interpreted in "such a narrow fashion as to permit minor differences in physical characteristics or uses to lead to the conclusion that the product and article are not 'like' each other, nor should the definition of 'like product' be interpreted in such a fashion as to prevent consideration of an industry adversely affected by the imports under consideration.").

[20] *See*, *e.g.*, *Pure Magnesium from China and Israel*, Inv. Nos. 701-TA-403 and 731-TA-895-96 (Final), USITC Pub. 3467 at 8 n.34 (Nov. 2001); *Torrington,* 747 F. Supp. at 748-49 (holding that the Commission is not legally required to limit the domestic like product to the product advocated by the petitioner, co-extensive with the scope).

. . .{H}igh protein content (HPC) pea protein, which is a protein derived from peas (including, but not limited to, yellow field peas and green field peas) and which contains at least 65 percent protein on a dry weight basis. HPC pea protein may also be identified as, for example, pea protein concentrate, pea protein isolate, hydrolyzed pea protein, pea peptides, and fermented pea protein. Pea protein, including HPC pea protein, has the Chemical Abstracts Service (CAS) registry number 222400-29-5.

The scope covers HPC pea protein in all physical forms, including all liquid (*e.g.*, solution) and solid (*e.g.*, powder) forms, regardless of packaging or the inclusion of additives (*e.g.*, flavoring, suspension agents, preservatives).

The scope also includes HPC pea protein described above that is blended, combined, or mixed with non-subject pea protein or with other ingredients (*e.g.*, proteins derived from other sources, fibers, carbohydrates, sweeteners, and fats) to make products such as protein powders, dry beverage blends, and protein fortified beverages. For any such blended, combined, or mixed products, only the HPC pea protein component is covered by the scope of this investigation.

HPC pea protein that has been blended, combined, or mixed with other products is included within the scope, regardless of whether the blending, combining, or mixing occurs in third countries.

HPC pea protein that is otherwise within the scope is covered when commingled (*i.e.*, blended, combined, or mixed) with HPC pea protein from sources not subject to this investigation. Only the subject component of the commingled product is covered by the scope.

A blend, combination, or mixture is excluded from the scope if the total HPC pea protein content of the blend, combination, or mixture (regardless of the source or sources) comprises less than five percent of the blend, combination, or mixture on a dry weight basis.

All products that meet the written physical description are within the scope of the investigation unless specifically excluded. The following products, by way of example, are outside and/or specifically excluded from the scope of the investigation:

- burgers, snack bars, bakery products, sugar and gum confectionary products, milk, cheese, baby food, sauces and seasonings, and pet food, even when such products are made with HPC pea protein.
- HPC pea protein that has gone through an extrusion process to alter the HPC pea protein at the structural and functional level, resulting in a product with a fibrous structure which resembles muscle meat upon hydration. These products are commonly described as textured pea protein or texturized pea protein.
- HPC pea protein that has been further processed to create a small crunchy nugget commonly described as a pea protein crisp.
- protein derived from chickpeas.[21]

HPC pea protein is a substance made from yellow or green field peas (together, "field peas" or "dry peas") containing at least 65 percent protein by weight, but typically containing 80 to 85 percent protein by weight.[22] It is commonly produced as a dry powder, with a neutral flavor, and is generally pasteurized, meaning that it is generally safe for direct human consumption without having to undergo additional processing. These characteristics make HPC pea protein suitable for use in adding protein content to a wide range of human food products. Leading categories of foods that incorporate HPC pea protein include sports nutrition products (*e.g.*, high-protein powders, shakes, and bars), dairy alternatives, and plant-based meat substitutes. HPC pea protein is also used in bakery and confectionary products, as well as baby food.[23]

HPC pea protein is produced using a "wet milling" process that involves grinding and milling field peas into pea flour, and then separating the starch and fiber from the flour using

[21] *Certain Pea Protein From the People's Republic of China: Initiation of Less-Than-Fair-Value Investigation*, 88 Fed. Reg. 52124, 52126 (Aug. 7, 2023) ("*Initiation Notice*"); *Certain Pea Protein From the People's Republic of China: Initiation of Countervailing Duty Investigation*, 88 Fed. Reg. 52116, 52219-52220 (Aug. 7, 2023).

[22] CR/PR at I-7.

[23] CR/PR at I-7-8.

water and isoelectric precipitation.[24] The protein is then removed from the water through further chemical reactions, spraying, and evaporation, resulting in a finished dry power.[25]

B. Arguments of the Parties

Petitioner's Argument. Petitioner argues that the Commission should define a single domestic like product coextensive with the scope of these investigations.[26] It maintains that the Commission should not expand the definition of the domestic like product to encompass low protein content pea protein ("LPC pea protein").[27] According to Petitioner, HPC pea protein and LPC pea protein have distinct physical characteristics and end uses and are produced using different manufacturing processes and employees. As a result, the two products are not interchangeable and are perceived by market participants as distinct products, which are sold to different end users at different price points.[28]

Petitioner also argues that the Commission's traditional domestic like product factors support defining a single domestic like product coextensive with the scope, given that all HPC pea protein, including HPC pea protein that has been comingled, blended, combined, or mixed with other products, has similar physical characteristics; shares the same production processes and manufacturing facilities using the same employees; is interchangeable to the extent that they meet the same or comparable specifications; is sold through similar channels of distribution; is perceived by producers and customers as a distinct product category; and is sold within a reasonable range of prices.[29]

Respondents' Argument. Respondents do not contest the domestic like product definition advocated by Petitioner, but reserve the right to do so in any final phase of the investigations.[30]

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[24] CR/PR at I-8-9.

[25] CR/PR at I-8-9.

[26] Petitioner Postconference Br. at 3-8; Petition at 15-20.

[27] Petitioner Postconference Br. at 7-8; Conference Transcript ("Conf. Tr.") at 27-28 (Chandak), 37-38 (Medrado).

[28] Petitioner Postconference Br. at 7-8; Petition at 16-17.

[29] Petitioner Postconference Br. at Exhibit 1, p. 3-5; Petition at 14-20; Petition Supplemental at 9-14.

[30] Chinese Respondents Postconference Br. at Exhibit 1, p. 25; s*ee generally* NURA Postconference Br.

C. Analysis

Based on the record, and absent any argument to the contrary, we define a single domestic like product consisting of HPC pea protein, coextensive with the scope in these investigations.

Physical Characteristics and Uses. The record in the preliminary phase of these investigations indicates that all forms of HPC pea protein, including pea protein that has "been blended, combined, or mixed with other products," share the same physical characteristics and overlapping end uses.[31] According to Petitioner, HPC pea protein is produced using field peas and a "wet milling" process that results in a final product with a protein content greater than or equal to 65 percent by dry weight, but that typically ranges from 80 to 85 percent.[32] Petitioner contends that HPC pea protein is typically pasteurized, thereby making it safe for direct human consumption without further processing.[33] It also indicates that HPC pea protein has a neutral flavor and aroma that can be consumed on its own or used as an ingredient in other human food and beverage products, including in which only flavor and suspension agents are added to the protein.[34] HPC pea protein is typically packaged in medium poly liner bags ranging from ten to 100 pounds to be sold to manufacturers as an ingredient or to distributors that repackage the powder for selling to retailers.[35] Although HPC pea protein that is blended, combined, or mixed with other products undergoes some additional processing, the record in the preliminary phase of these investigations does not indicate that such processing changes the essential nature of the HPC pea protein, as by altering its high protein content or its safety for direct human consumption.[36]

The record also indicates that HPC pea protein differs from out-of-scope LPC pea protein in terms of physical characteristics and uses. Although LPC pea protein is also produced from field peas, it is manufactured using a different, dry milling production process that results in an end-product with a protein content that is below 65 percent, and typically ranges from 50 to 55

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[31] *See generally* CR/PR at I-7-8.

[32] Petitioner Postconference Br. at 7-8; Conf. Tr. at 22-23 (Hubert), 28 (Chandak), 52-53 (Atchison). *See also* CR/PR at I-7.

[33] Conf. Tr. at 28 (Chandak), 55 (Atchison); Petition at 16. *See also* CR/PR at I-7.

[34] Petitioner Postconference Br. at 7-8; Petition at 16. Petitioner contends that these products include snack bars, plant-based meat products (*e.g.*, burgers, sausages, chicken, fish, meatballs), ready-to-drink applications (*e.g.*, nutritional drinks, juice), sauces and seasonings, desserts and ice creams, bakery products, dairy products, beverages, sugar and gum confectionary products, sweet spreads, chocolate confectionary products, baby food, breakfast cereals, egg products, savory spreads, and soup. Petition at 15. *See also* CR/PR at I-8.

[35] Petition at 10; CR/PR at Table III-1.

[36] Petitioner Postconference Br. at Exhibit 1, pgs. 4-5.

percent.[37] Petitioner also asserts that, while HPC pea protein has a neutral flavor and aroma, LPC pea protein has a stronger pea flavor and aroma that precludes its use in certain applications.[38] According to Petitioner, HPC pea protein also has a "much broader array of applications" because it is pasteurized.[39] LPC pea protein, on the other hand, is generally unpasteurized, thereby necessitating additional processing before it is fit for human consumption.[40] Consequently, LPC pea protein is used primarily to make animal feed and highly processed human food products such as pastas and confectionary products.[41]

*** U.S. producers and a *** importers (***) reported that the physical characteristics and uses of HPC pea protein are never comparable with those of LPC pea protein, with *** reporting that they were only somewhat comparable.[42]

Manufacturing Facilities, Production Processes and Employees. The record indicates that all HPC pea protein is made in the same manufacturing facilities using the same, "wet milling" production process and the same employees.[43] There are five major steps used to manufacture HPC pea protein: 1) field peas purchased from farmers are cleaned and dehulled; 2) the peas are split in half, ground, and milled, thereby creating pea flour; 3) pea protein is then extracted from the pea flour by first adding water, separating fiber and starch using physical techniques, and then separating protein from the water-protein using chemical techniques; 4) the coagulated pea protein is spray-dried into a powder; and 5) the resulting powder is packaged in poly liner bags.[44] HPC pea protein that has been blended, combined, or mixed with other ingredients into out-of-scope downstream products undergoes some additional processing; however, this does not change the essential physical characteristics of the HPC pea protein.[45]

By contrast, the record indicates that out-of-scope LPC pea protein is produced using a different, dry milling process, generally in different facilities using different production

[37] CR/PR at I-9-10, Table I-1.

[38] Petition at 15-16; Conf. Tr. 53 (Achinson).

[39] Petitioner Postconference Br. at 7-8; Petition at 16; CR/PR at I-7.

[40] Conf. Tr. 53 (Achinson); Petition at 16; Petitioner Postconference Br. at 7-8; Petition at 16; CR/PR at I-7.

[41] Petition at 16-17; Conf. Tr. at 29 (Chandak). Petitioner indicated that while HPC pea protein is also used as an ingredient in ***." Petitioner Postconference Br. at Exhibit 17 (declaration of Nicole Atchison).

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

[43] Conf. Tr. at 28 (Chandak).

[44] Petition at 9-10, CR/PR at I-7-8.

[45] Petitioner Postconference Br. at 7-8, Exhibit 1, p. 4; Conf. Tr. at 22-23 (Hubert), 28 (Chandak), 52-53 (Atchison).

employees than those used to produce HPC pea protein.[46] According to Petitioner, it is not possible to produce HPC pea protein using the dry milling process and impractical to produce LPC pea protein using the wet milling process, as evidenced by the absence of any U.S. producer that does so.[47]

*** U.S. producers reported that HPC pea protein and LPC pea protein are never produced using the same manufacturing facilities, production processes, and production employees, noting that the dry milling process typically requires different equipment and different employees, although *** U.S. producer reported that they mostly are.[48] *** of importers (***) reported that LPC pea protein and HPC pea protein are either sometimes or never made in the same facilities using the same processes and employees.[49]

Channels of Distribution. Domestically produced HPC pea protein was sold mainly through "other channels of distribution," typically to industrial food processors that use the HPC pea protein as an ingredient for downstream products or to affiliated firms, with such sales accounting for *** to *** percent of the domestic industry's U.S. shipments during the 2020-2022 period. The remainder of domestically produced HPC pea protein was sold to either end-users (accounting for *** to *** percent of the domestic industry's U.S. shipments during the 2020-2022 period) or to distributors that typically "repackage HPC pea protein to sell it directly to consumers" (accounting for *** to *** percent of the domestic industry's U.S. shipments during the same period).[50]

The record indicates that there is some overlap between HPC pea protein and out-of-scope LPC pea protein in terms of channels of distribution. *** U.S. producers reported that the channels of distribution between LPC pea protein and HPC pea protein are somewhat comparable, while *** reported that they are fully comparable.[51] Importers' responses regarding the comparability of the channels of distribution for LPC pea protein and HPC pea

[46] A dry milling process uses differences in particle size and density as well as air to separate protein from the starch in peas. Conf. Tr. at 28 (Chandak), 53 (Atchison).

[47] Petition at 19; Conf. Tr. at 52-53 (Atchison).

[48] CR/PR at Table I-2, U.S. Producer Questionnaire Responses at V-1.d. *** indicated that ***. CR/PR at Table D-1; *** U.S. Producer Questionnaire Response at V-1.d. However, *** reported ***. *** U.S. Producer Questionnaire Response at II-4. PURIS indicated that the peas used in other pea products such LPC pea protein must also be cleaned and conditioned, which may include some of the same facilities, employees, and/or facilities. Conf. Tr. at 88 (Atchison).

[49] CR/PR at Table I-2. A *** of importers (***) reported that they are never made in the same facilities using the same employees. *Id*.

[50] CR/PR at II-2, Table II-2; Petition at 17.

[51] CR/PR at Table I-2. While *** indicated that the channels of distribution between the two products are ***, it added that "***." *** U.S. Producer Questionnaire Response at V-1.c.

protein were mixed.[52] According to PURIS, while there are some overlapping channels of distribution for HPC pea protein and LPC pea protein, LPC pea protein is mostly purchased by animal feed manufacturers, unlike HPC pea protein, and is generally not purchased by distributors for repackaging and sale to retailers, like HPC pea protein, because it is typically unpasteurized and therefore not safe for direct human consumption.[53]

Interchangeability. The record indicates that all HPC pea protein is potentially interchangeable to some degree in that it is all generally safe for direct human consumption, as a "ready-to-eat" product and used for its protein content.[54]

In contrast, the record indicates that HPC pea protein is generally not interchangeable with out-of-scope LPC pea protein in the same applications because they have different physical properties and are processed differently by end users.[55] As discussed above, LPC pea protein has a lower protein content and a "stronger pea flavor and aroma" than HPC pea protein. Because LPC pea protein is typically not pasteurized, it is generally used in animal feed as well as a limited range of human food products that require further processing to become fit for consumption.[56] *** U.S. producers and a *** of importers (***) reported that LPC pea protein and HPC pea protein are never interchangeable.[57]

Producer and Customer Perceptions. According to Petitioner, customers and producers perceive all forms of HPC pea protein, including pea protein that has "been blended, combined, or mixed with other products," to be comparable while customers do not perceive out-of-scope LPC pea protein to be an acceptable substitute for HPC pea protein because its differing physical characteristics dictate different end uses.[58] *** U.S. producers and a *** of importers (***) reported that LPC pea protein and HPC pea protein are never perceived by customers and producers to be comparable.[59]

Price. According to Petitioner, the price of different HPC pea protein products depends on a given product's protein content, and all HPC pea protein products, including those

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[52] CR/PR at Table I-2. A *** reported that they were mostly comparable, *** reported that they were fully comparable, *** importers reported that they were somewhat comparable, and *** importers reported that they were never comparable. *Id*.

[53] Conf. Tr. at 53 (Atchison); Petition at 17.

[54] Conf. Tr. at 28 (Chandak); Conf. Tr. at 55, 70 (Atchison).

[55] Petitioner Postconference Br. at 9-10; Conf. Tr. at 38 (Medrado).

[56] Petition at 17, Conf. Tr. at 38 (Medrado); Conf. Tr. at 27-29 (Chandak).

[57] CR/PR at Table I-2. *** reported that HPC pea protein and LPC pea protein are somewhat interchangeable. *** U.S. Producer Questionnaire Response at V-1.b.

[58] Petition at 17-18; Conf. Tr. at 38 (Medrado).

[59] CR/PR at Table I-2. While *** reported that HPC pea protein and LPC pea protein are somewhat comparable, it indicated that "***." CR/PR at Table D-1; *** U.S. Producer Questionnaire Response at V-1.e.

blended, combined, or mixed with other products, are sold within a reasonably narrow range of prices.[60] In contrast, the record indicates that out-of-scope LPC pea protein is generally priced lower than HPC pea protein.[61] *** U.S. producers and a *** of importers (***) reported that the prices of LPC pea protein and HPC pea protein are never comparable.[62]

Conclusion. The record in the preliminary phase of these investigations indicates that all HPC pea protein corresponding to the scope of these investigations shares the same physical characteristics, in having a protein content that is above 65 percent and being generally safe for direct human consumption without further processing. All HPC pea protein is used in similar applications, namely as an additive to human food and beverage products, and is sold through the same channels of distribution. All HPC pea protein is manufactured in the same facilities using the same production processes, the wet milling process, and employees. Although HPC pea protein that is blended, combined, or mixed with other ingredients to produce out-of-scope downstream products undergoes some additional processing, such processing does not appear to change the essential nature of the HPC pea protein, including its high protein content and safety for direct human consumption. Additionally, all HPC pea protein is sold within a reasonably narrow range of prices, largely dependent on protein content. In light of the above, there only appear to be minor differences between HPC pea protein products, including HPC pea protein that has been "been blended, combined, or mixed with other products." Thus, we define a single domestic like product encompassing all HPC pea protein within the scope of the investigations.

By contrast, the record indicates that there are more differences than similarities between HPC pea protein and out-of-scope LPC pea protein. Despite some overlap in terms of channels of distribution and end-uses, HPC pea protein generally differs from LPC pea protein in terms of physical characteristics; manufacturing facilities, production processes, and production employees; customer and producer perceptions; interchangeability; and price. The distinct physical characteristics of LPC pea protein as compared to HPC pea protein, including its lower protein content, earthier flavor, and lack of pasteurization, dictate its use in largely different applications than HPC pea protein. Accordingly, because the record indicates more than minor differences between HPC pea protein and out-of-scope LPC pea protein, we do not define the domestic like product to include out-of-scope LPC pea protein.

[60] Petitioner Postconference Br. at Exhibit 1, pp. 3-4; Petition at 14-20; Petition Supplemental at 9-14.

[61] Petitioner Postconference Br. at 4; Petition at 16.

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

IV. Domestic Industry

The domestic industry is defined as the domestic "producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."[63] In defining the domestic industry, the Commission's general practice has been to include in the industry producers of all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.

These investigations raise two domestic industry issues.[64] The first issue is whether the domestic industry should include growers of field peas in addition to manufacturers of HPC pea protein. The second issue concerns whether appropriate circumstances exist to exclude any producer from the domestic industry pursuant to the statutory related parties provision.

A. Grower/Processor Provision

In cases involving processed agricultural products, section 771(4)(E) of the Tariff Act authorizes the Commission to include growers of a raw agricultural input within the domestic industry producing the processed agricultural product if:

> (a) the processed agricultural product is produced from the raw product through a single continuous line of production,[65] and

[63] 19 U.S.C. § 1677(4)(A).

[64] Petitioner contends that firms engaged in blending, mixing, or combining HPC pea protein with other ingredients to make out-of-scope products should not be included within the domestic industry, and Respondents do not disagree with Petitioner's proposed definition of the domestic industry for purposes of the preliminary phase of the investigations. Petitioner Postconference Brief at Exhibit 1, p. 5; Chinese Respondents Postconference Brief at 6. We note that the scope of these investigations includes HPC pea protein "that is blended, combined, or mixed with non-subject pea protein or with other ingredients" to make out-of-scope downstream products and that "for any such blended, combined, or mixed products, only the HPC pea protein component is covered by the scope." CR/PR at I-5-6. Because the scope only includes the HPC pea protein content of out-of-scope downstream products into which HPC pea protein has been blended, combined, or mixed, the blending, combining, or mixing of HPC pea protein with other ingredients into such products does not constitute the production of HPC pea protein, as it does not result in the production of a different in-scope product. *See, e.g., Corrosion Inhibitors from China*, Inv. Nos. 701-TA-638, 731-TA-1473 (Final) USITC Pub. 5169 (Mar. 2021) at 12 n. 63.

[65] The statute provides that the processed product shall be considered to be processed from the raw product in a single, continuous line of production if:

(a) the raw agricultural product is substantially or completely devoted to the production of the processed agricultural product; and

(Continued…)

(b) there is a substantial coincidence of economic interest between the growers and producers of the processed product based upon the relevant economic factors.[66]

Petitioner argues that because the first prong of the grower/processor provision is not satisfied, the Commission should not include pea growers within the definition of the domestic industry.[67] According to Petitioner, domestically produced field peas are not substantially devoted to the production of HPC pea protein, as required under the first prong, because only a small share of field peas is processed into HPC pea protein.[68]

Respondents do not address whether the grower/processor provision is satisfied in these investigations.

The record of the preliminary phase of these investigations indicates that the first prong of the grower/processor provision is not satisfied because field peas are not substantially or completely devoted to the production of HPC pea protein. Petitioner, relying upon information published by the U.S. Department of Agriculture ("USDA"), estimates that approximately *** percent of U.S. dry pea production was directed to the production of HPC pea protein.[69] Based on USDA data concerning U.S. dry pea production and the domestic industry's production of HPC pea protein, the record indicates that approximately *** percent of U.S. dry pea production was directed to the production of HPC pea protein in 2022.[70] Because the record

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(b) the processed agricultural product is produced substantially or completely from the raw product. 19 U.S.C. § 1677(4)(E)(ii).

[66] In addressing coincidence of economic interest under the second prong of the test, the Commission may, in its discretion, consider price, added market value, or other economic interrelationships. Further:

(a) if price is taken into account, the Commission shall consider the degree of correlation between the price of the raw agricultural product and the price of the processed agricultural product; and

(b) if added market value is taken into account, the Commission shall consider whether the value of the raw agricultural product constitutes a significant percentage of the value of the processed agricultural product.

19 U.S.C. § 1677(4)(E)(iii).

[67] Petition at 20 n.51.

[68] Petition at 20 n.51.

[69] Petition at 20 n.51. The record of these investigations indicates that "dry peas" is a category of peas coterminous with "field peas." *See* Conf. Tr. at 61.

[70] This estimate is based on USDA data of field peas, dry edible, indicating that 1,509,200,000 pounds of dry peas were produced in 2022; the total volume of HPC pea protein production reported by (Continued…)

indicates that domestically produced field peas are not substantially or completely devoted to the production of HPC pea protein, we find that the first prong of the grower/processor provision is unsatisfied and do not define the domestic industry to include pea growers.[71]

B. Related Parties

The second issue is whether appropriate circumstances exist to exclude any domestic producers from the domestic industry pursuant to Section 771(4)(B) of the Tariff Act. This provision allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry producers that are related to an exporter or importer of subject merchandise or which are themselves importers.[72] Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each investigation.[73] *** is subject to possible

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the domestic industry of *** by dry weight; and Petitioner's estimate that approximately *** pounds of peas are necessary to produce 1 pound of HPC pea protein. CR/PR at Tables III-4, III-6, III-8; Petition at 20 n.51.

[71] *See, e.g., Dried Tart Cherries from Turkey*, Inv. Nos. 701-TA-622 and 731-TA-1448 (Preliminary), USITC Pub. 4902 (June 2019) at 9 (first prong not met where 25 to 35 percent of the raw product was used to produce the domestic like product); *Certain Processed Hazelnuts from Turkey*, Inv. No. 731-TA-1057 (Preliminary), USITC Pub. 3656 (Dec. 2003) at 10 (first prong not met where 35 percent of the raw product was used to produce the domestic like product); and *Tart Cherry Juice and Tart Cherry Juice Concentrate from Germany and Yugoslavia*, Inv. Nos. 731-TA-512 and 513 (Preliminary), USITC Pub. 2378 (May 1991) at 14-15 (first prong not met where most of the crops grown were used for processing goods other than the domestic like product).

[72] *See Torrington Co. v. United States*, 790 F. Supp. 1161, 1168 (Ct. Int'l Trade 1992), *aff'd without opinion*, 991 F.2d 809 (Fed. Cir. 1993); *Sandvik AB v. United States*, 721 F. Supp. 1322, 1331-32 (Ct. Int'l Trade 1989), *aff'd mem.,* 904 F.2d 46 (Fed. Cir. 1990); *Empire Plow Co. v. United States*, 675 F. Supp. 1348, 1352 (Ct. Int'l Trade 1987).

[73] The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude a related party include the following:

(1) the percentage of domestic production attributable to the importing producer;

(2) the reason the U.S. producer has decided to import the product subject to investigation (whether the firm benefits from the LTFV sales or subsidies or whether the firm must import in order to enable it to continue production and compete in the U.S. market);

(3) whether inclusion or exclusion of the related party will skew the data for the rest of the industry;

(4) the ratio of import shipments to U.S. production for the imported product; and

(5) whether the primary interest of the importing producer lies in domestic production or importation. *Changzhou Trina Solar Energy Co. v. USITC*, 100 F. Supp.3d 1314, 1326-31 (Ct. Int'l. Trade 2015), *aff'd*, 839 F.3d 1377 (Fed. Cir. 2018); *see also Torrington Co. v. United States*, 790 F. Supp. at 1168.

exclusion from the domestic industry under the related parties provision because it imported subject merchandise during the POI.[74]

1. Arguments of the Parties

Petitioner argues that the Commission should find that appropriate circumstances do not exist to exclude any firms from the domestic industry because *** primary interest lies in domestic production of HPC pea protein rather than importation. [75] Accordingly, Petitioner asserts that the Commission should define the domestic industry as consisting of all U.S. producers of the domestic like product.[76]

Respondents do not address the issue of related parties.

2. Analysis

We discuss below whether appropriate circumstances exist to exclude *** from the domestic industry.

*** was the *** U.S. producer of HPC pea protein in 2022, accounting for *** percent of domestic production that year.[77] During the POI, its imports of subject merchandise were *** pounds in 2020 (equivalent to *** percent of its domestic production), *** pounds in 2021 (equivalent to *** percent of its domestic production), and *** pounds in 2022 (equivalent to *** percent of its domestic production); it imported *** pounds of subject merchandise in January through March 2022 ("interim 2022") (equivalent to *** percent of its domestic production), and it imported *** in January through March 2023 ("interim 2023").[78] *** domestic production increased from *** pounds in 2020 to *** pounds in 2021 and *** pounds in 2022, and was *** pounds in interim 2023 compared to *** pounds in interim 2022.[79] *** asserts that it ***" and in ***."[80] It indicated that it ***.[81] Consistent with this explanation, *** reported ***.

*** ratio of subject imports to domestic production was *** in 2020 and *** in 2021, but progressively declined over the POI to *** by interim 2023, ***. Given this, as well as ***, *** primary interest during the POI appears to have been in domestic production. The record

[74] CR/PR at III-17.
[75] Petitioner Postconference Br. at Exhibit 1 pgs. 16-18.
[76] Petitioner Postconference Br. at 6.
[77] CR/PR at Table III-1.
[78] CR/PR at Table III-14.
[79] CR/PR at Table III-8.
[80] CR/PR at Table III-15.
[81] CR/PR at Table III-15.

in this preliminary phase of the investigations also has no indication that its inclusion would skew the data for the domestic industry. For these reasons, and the lack of any argument to the contrary, we find that appropriate circumstances do not exist to exclude *** from the domestic industry pursuant to the related parties provision.

In sum, consistent with our definition of the domestic like product, we define the domestic industry to include all U.S. producers of HPC pea protein.

V. Negligible Imports

Pursuant to Section 771(24) of the Tariff Act, imports from a subject country of merchandise corresponding to a domestic like product that account for less than 3 percent of all such merchandise imported into the United States during the most recent 12 months for which data are available preceding the filing of the petition shall be deemed negligible.[82]

During the 12-month period preceding the filing of the petitions (July 2022 through June 2023), subject imports from China subject to these antidumping and countervailing duty investigations accounted for *** percent of total imports of HPC pea protein.[83] As subject imports are above the statutory threshold, we find that imports of HPC pea protein from China subject to the antidumping and countervailing duty investigations are not negligible.

VI. Reasonable Indication of Material Injury by Reason of Subject Imports

A. Legal Standard

In the preliminary phase of antidumping and countervailing duty investigations, the Commission determines whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of the imports under investigation.[84] In making this determination, the Commission must consider the volume of subject imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.[85] The statute defines "material injury" as "harm which is not inconsequential,

[82] 19 U.S.C. §§ 1671b(a), 1673b(a), 1677(24)(A)(i), 1677(24)(B); *see also* 15 C.F.R. § 2013.1 (developing countries for purposes of 19 U.S.C. § 1677(36)).

[83] CR/PR at Table IV-6.

[84] 19 U.S.C. §§ 1671b(a), 1673b(a).

[85] 19 U.S.C. § 1677(7)(B). The Commission "may consider such other economic factors as are relevant to the determination" but shall "identify each {such} factor ... and explain in full its relevance to the determination." 19 U.S.C. § 1677(7)(B).

immaterial, or unimportant."[86] In assessing whether there is a reasonable indication that the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.[87] No single factor is dispositive, and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[88]

Although the statute requires the Commission to determine whether there is a reasonable indication that the domestic industry is "materially injured or threatened with material injury by reason of" unfairly traded imports,[89] it does not define the phrase "by reason of," indicating that this aspect of the injury analysis is left to the Commission's reasonable exercise of its discretion.[90] In identifying a causal link, if any, between subject imports and material injury to the domestic industry, the Commission examines the facts of record that relate to the significance of the volume and price effects of the subject imports and any impact of those imports on the condition of the domestic industry. This evaluation under the "by reason of" standard must ensure that subject imports are more than a minimal or tangential cause of injury and that there is a sufficient causal, not merely a temporal, nexus between subject imports and material injury.[91]

In many investigations, there are other economic factors at work, some or all of which may also be having adverse effects on the domestic industry. Such economic factors might include nonsubject imports; changes in technology, demand, or consumer tastes; competition among domestic producers; or management decisions by domestic producers. The legislative history explains that the Commission must examine factors other than subject imports to ensure that it is not attributing injury from other factors to the subject imports, thereby

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[86] 19 U.S.C. § 1677(7)(A).

[87] 19 U.S.C. § 1677(7)(C)(iii).

[88] 19 U.S.C. § 1677(7)(C)(iii).

[89] 19 U.S.C. §§ 1671b(a), 1673b(a).

[90] *Angus Chemical Co. v. United States*, 140 F.3d 1478, 1484-85 (Fed. Cir. 1998) ("{T}he statute does not 'compel the commissioners' to employ {a particular methodology}."), *aff'g,* 944 F. Supp. 943, 951 (Ct. Int'l Trade 1996).

[91] The Federal Circuit, in addressing the causation standard of the statute, observed that "{a}s long as its effects are not merely incidental, tangential, or trivial, the foreign product sold at less than fair value meets the causation requirement." *Nippon Steel Corp. v. USITC*, 345 F.3d 1379, 1384 (Fed. Cir. 2003). This was further ratified in *Mittal Steel Point Lisas Ltd. v. United States*, 542 F.3d 867, 873 (Fed. Cir. 2008), where the Federal Circuit, quoting *Gerald Metals, Inc. v. United States*, 132 F.3d 716, 722 (Fed. Cir. 1997), stated that "this court requires evidence in the record 'to show that the harm occurred "by reason of" the LTFV imports, not by reason of a minimal or tangential contribution to material harm caused by LTFV goods.'" *See also Nippon Steel Corp. v. United States*, 458 F.3d 1345, 1357 (Fed. Cir. 2006); *Taiwan Semiconductor Industry Ass'n v. USITC*, 266 F.3d 1339, 1345 (Fed. Cir. 2001).

inflating an otherwise tangential cause of injury into one that satisfies the statutory material injury threshold.[92] In performing its examination, however, the Commission need not isolate the injury caused by other factors from injury caused by unfairly traded imports.[93] Nor does the "by reason of" standard require that unfairly traded imports be the "principal" cause of injury or contemplate that injury from unfairly traded imports be weighed against other factors, such as nonsubject imports, which may be contributing to overall injury to an industry.[94] It is clear that the existence of injury caused by other factors does not compel a negative determination.[95]

Assessment of whether material injury to the domestic industry is "by reason of" subject imports "does not require the Commission to address the causation issue in any particular way" as long as "the injury to the domestic industry can reasonably be attributed to the subject

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[92] SAA at 851-52 ("{T}he Commission must examine other factors to ensure that it is not attributing injury from other sources to the subject imports."); S. Rep. 96-249 at 75 (1979) (the Commission "will consider information which indicates that harm is caused by factors other than less-than-fair-value imports."); H.R. Rep. 96-317 at 47 (1979) ("in examining the overall injury being experienced by a domestic industry, the ITC will take into account evidence presented to it which demonstrates that the harm attributed by the petitioner to the subsidized or dumped imports is attributable to such other factors;" those factors include "the volume and prices of nonsubsidized imports or imports sold at fair value, contraction in demand or changes in patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and productivity of the domestic industry"); *accord Mittal Steel*, 542 F.3d at 877.

[93] SAA at 851-52 ("{T}he Commission need not isolate the injury caused by other factors from injury caused by unfair imports."); *Taiwan Semiconductor Industry Ass'n,* 266 F.3d at 1345 ("{T}he Commission need not isolate the injury caused by other factors from injury caused by unfair imports .... *Rather, the Commission must examine other factors to ensure that it is not attributing injury from other sources to the subject imports*." (emphasis in original)); *Asociacion de Productores de Salmon y Trucha de Chile AG v. United States*, 180 F. Supp. 2d 1360, 1375 (Ct. Int'l Trade 2002) ("{t}he Commission is not required to isolate the effects of subject imports from other factors contributing to injury" or make "bright-line distinctions" between the effects of subject imports and other causes.); *see also Softwood Lumber from Canada*, Inv. Nos. 701-TA-414 and 731-TA-928 (Remand), USITC Pub. 3658 at 100-01 (Dec. 2003) (Commission recognized that "{i}f an alleged other factor is found not to have or threaten to have injurious effects to the domestic industry, *i.e*., it is not an 'other causal factor,' then there is nothing to further examine regarding attribution to injury"), *citing Gerald Metals,* 132 F.3d at 722 (the statute "does not suggest that an importer of LTFV goods can escape countervailing duties by finding some tangential or minor cause unrelated to the LTFV goods that contributed to the harmful effects on domestic market prices.").

[94] S. Rep. 96-249 at 74-75; H.R. Rep. 96-317 at 47.

[95] *See Nippon Steel Corp*., 345 F.3d at 1381 ("an affirmative material-injury determination under the statute requires no more than a substantial-factor showing. That is, the 'dumping' need not be the sole or principal cause of injury.").

imports."[96] The Commission ensures that it has "evidence in the record" to "show that the harm occurred 'by reason of' the LTFV imports," and that it is "not attributing injury from other sources to the subject imports."[97] The Federal Circuit has examined and affirmed various Commission methodologies and has disavowed "rigid adherence to a specific formula."[98]

The question of whether the material injury threshold for subject imports is satisfied notwithstanding any injury from other factors is factual, subject to review under the substantial evidence standard.[99] Congress has delegated this factual finding to the Commission because of the agency's institutional expertise in resolving injury issues.[100]

B. Conditions of Competition and the Business Cycle

The following conditions of competition inform our analysis of whether there is a reasonable indication of material injury by reason of subject imports.

1. Demand Conditions

U.S. demand for HPC pea protein depends on the demand for U.S.-produced downstream products that use HPC pea protein as an ingredient, including plant-based food products, plant-based meat substitutes, sports nutrition products, protein powders, and ready-to-drink products such as nutritional drinks, shakes, and juices.[101] All responding U.S. producers

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[96] *Mittal Steel*, 542 F.3d at 876, 878; *see also id.* at 873 ("While the Commission may not enter an affirmative determination unless it finds that a domestic industry is materially injured 'by reason of' subject imports, the Commission is not required to follow a single methodology for making that determination ... {and has} broad discretion with respect to its choice of methodology.") *citing United States Steel Group v. United States*, 96 F.3d 1352, 1362 (Fed. Cir. 1996) and S. Rep. 96-249 at 75. In its decision in *Swiff-Train v. United States*, 793 F.3d 1355 (Fed. Cir. 2015), the Federal Circuit affirmed the Commission's causation analysis as comporting with the Court's guidance in *Mittal*.

[97] *Mittal Steel*, 542 F.3d at 873 (quoting from *Gerald Metals*, 132 F.3d at 722), 877-79. We note that one relevant "other factor" may involve the presence of significant volumes of price-competitive nonsubject imports in the U.S. market, particularly when a commodity product is at issue. In appropriate cases, the Commission collects information regarding nonsubject imports and producers in nonsubject countries in order to conduct its analysis.

[98] *Nucor Corp. v. United States*, 414 F.3d 1331, 1336, 1341 (Fed. Cir. 2005); *see also Mittal Steel*, 542 F.3d at 879 ("*Bratsk* did not read into the antidumping statute a Procrustean formula for determining whether a domestic injury was 'by reason' of subject imports.").

[99] We provide in our discussion below a full analysis of other factors alleged to have caused any material injury experienced by the domestic industry.

[100] *Mittal Steel*, 542 F.3d at 873; *Nippon Steel Corp.*, 458 F.3d at 1350, *citing U.S. Steel Group*, 96 F.3d at 1357; S. Rep. 96-249 at 75 ("The determination of the ITC with respect to causation is ... complex and difficult, and is a matter for the judgment of the ITC.").

[101] CR/PR at II-7-8.

and a majority of responding importers reported that demand either increased steadily during the POI or fluctuated upward.[102]

All responding U.S. producers reported that the U.S. HPC pea protein market is subject to business cycles while the majority of responding importers (14 of 19) reported that it is not subject to business cycles.[103] Responding importers *** reported that the HPC pea protein market is subject to business cycles driven by trends in plant-based meat substitutes and "healthy lifestyle trends," respectively.[104]

Apparent U.S. consumption increased from *** pounds in 2020 to *** pounds in 2021 and *** pounds in 2022, a level *** percent higher than in 2020; it was lower in interim 2023, at *** pounds, than in interim 2022, when it was *** pounds.[105]

2. Supply Conditions

Subject imports were the largest source of HPC pea protein in the U.S. market throughout the POI. Subject imports as a share of apparent U.S. consumption were *** percent in 2020, *** percent in 2021, and *** percent in 2022; subject import market share was lower in interim 2023, at *** percent, than in interim 2022, when it was *** percent.[106]

The domestic industry was the second largest source of HPC pea protein in the U.S. market during the POI. The industry's share of apparent U.S. consumption was *** percent in 2020, *** percent in 2021, and *** percent in 2022; its share of apparent U.S. consumption was lower in interim 2023 (*** percent) than in interim 2022 (*** percent).[107] Petitioner,

[102] CR/PR at Table II-5. Petitioner asserts that U.S. demand for HPC pea protein increased from 2020 to 2022 before declining in interim 2023 relative to interim 2022, while Respondents assert that demand decreased throughout the POI but is likely to increase in the near future. Conf. Tr. at 10 (Marshal); Petitioner Postconference Br. at Exhibit 1 21; Chinese Respondents Postconference Br. at 3, 10; NURA Postconference Br. at 4.

[103] CR/PR at II-8.

[104] CR/PR at II-7.

[105] CR/PR at Tables IV-7, C-1. CR/PR at Tables IV-7, C-1. Apparent U.S. consumption may be understated to the extent that importer questionnaire response data understate subject and nonsubject import volumes, as discussed in section II above.

[106] CR/PR at Tables IV-7, C-1. Subject import volume may be understated to the extent that importer questionnaire response data do not capture the total volume of subject imports, as discussed in section II above. Subject import market share may be affected by the level of coverage of subject and nonsubject imports.

[107] CR/PR at Tables IV-7, C-1. Domestic industry market share may be overstated to the extent that importer questionnaire data understate subject and nonsubject import volumes, as discussed in section II above.

PURIS, was the largest U.S. producer during the POI, accounting for *** percent of domestic production of HPC pea protein in 2022.[108]

Domestic producers opened several HPC pea protein plants during the POI, leading to an increase in practical capacity from *** pounds in 2020 to *** pounds in 2022, an increase of *** percent.[109] Specifically, PURIS opened a new plant in Dawson, Minnesota in 2021 and ***.[110] However, in the later part of the POI, PURIS closed and idled certain HPC pea protein-related plants, laying off workers, in November 2022 and May 2023, resulting in the domestic industry's practical capacity being *** percent lower in interim 2023 than in interim 2022.[111]

Nonsubject imports were the smallest source of HPC pea protein in the U.S. market throughout the POI. Nonsubject imports as a share of apparent U.S. consumption were *** percent in 2020, *** percent in 2021, and *** percent in 2022; nonsubject import market share was higher in interim 2023 (*** percent) than in interim 2022 (*** percent).[112] The primary sources of nonsubject imports were ***.[113]

Two of three responding domestic producers and five of 19 responding importers reported experiencing supply constraints during the POI.[114] *** reported shipping delays in late 2020 and early 2021 as well as ***.[115] Importer *** provided ***.[116] Domestic producer *** reported production bottlenecks in 2022 and difficulties meeting shelf-life requirements.[117] Importer *** reported difficulties in shipping from China during the Covid-19 pandemic.[118] Importer *** reported placing certain customers on product allocation because of demand growth in early 2022.[119]

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[108] CR/PR at Table III-1. The other *** are Archer-Daniels-Midland Co. and Ingredion, Inc. CR/PR at III-1.

[109] CR/PR at Tables III-8, C-1.

[110] CR/PR at III-8, Tables III-3, VI-6. PURIS reported ***, while *** reported ***. CR/PR at Table VI-6.

[111] CR/PR at Tables III-3, III-6, C-1. The domestic industry's practical capacity was *** pounds in interim 2022 and *** pounds in interim 2023. CR/PR at Tables III-6, C-1.

[112] CR/PR at Tables IV-7, C-1. Nonsubject import volume and market share may be understated, as discussed in section II above. The Commission will endeavor to collect comprehensive data on subject and nonsubject imports in any final phase of the investigations.

[113] CR/PR at IV-3. The largest sources of imports under HTS subheadings 3504.00.1000, 3504.00.5000, and 2106.10.0000 were Brazil and Canada, based on official U.S. import data.

[114] CR/PR at II-6.

[115] CR/PR at II-6.

[116] NURA Postconference Br. at 6, Exhibit 1.

[117] CR/PR at II-6.

[118] CR/PR at II-9.

[119] CR/PR at II-6.

3. Substitutability and Other Conditions

Based on the record in the preliminary phase of these investigations, we find that there is at least a moderate degree of substitutability between domestically produced HPC pea protein and subject imports.[120] A majority of responding U.S. producers reported that the domestic like product and subject imports were always interchangeable.[121] While importers' responses regarding interchangeability were more mixed, most responding importers reported that the domestic like product and subject imports were at least sometimes interchangeable.[122] Factors that may limit the substitutability of domestically produced HPC pea protein and subject imports include differences in the flavor profile, solubility, binding, and product consistency of the HPC pea protein produced in different facilities.[123] Nevertheless, all five purchasers responding to the Commission's lost sales/lost revenue survey reported purchasing subject imports instead of the domestic like product during the POI, and four of the five reported doing so because of the lower price of subject imports, which suggests there is substitutability between the products.[124]

We also find that price is an important factor in purchasing decisions, among other important factors. Responding purchasers most frequently cited price and quality as the first-most important purchasing factors, followed by availability.[125] *** domestic producers reported that factors other than price are *** significant in sales of HPC pea protein from the United States and China.[126] On the other hand, most responding importers (12 of 17) reported that factors other than price are always or frequently significant in such sales.[127]

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[120] *See* CR/PR at II-8-9.

[121] CR/PR at Table II-7.

[122] CR/PR at Table II-8.

[123] CR/PR at II-9. Respondents contend that the importance of such non-price factors to purchasers precludes the substitutability of subject imports and the domestic like product. Chinese Respondents Postconference Br. at 27; NURA Postconference Br. at 6-7, Exhibit 2. In any final phase of these investigations, we intend to further investigate the extent to which factors other than price limit the substitutability of domestically produced HPC pea protein and subject imports and influence purchasing decisions.

[124] CR/PR at V-29, Table V-18. Responding purchasers report purchasing 78.0 million pounds of HPC pea protein during the POI. *Id*. at V-29. Four purchasers reported purchasing *** pounds of low-priced subject imports instead of domestic product where price was a primary reason for purchasing subject imports instead of domestic product. *Id*. at Table V-18. *See also* Petitioner Postconference Br. at Exhibit 17, p. 2 (declaration from Nicole Atchison indicating that ***").

[125] CR/PR at Table II-6. Purchasers responding to the lost sales/lost revenue survey identified taste, texture, price, lead times, solubility, quality, and availability/reliability as the main factors considered in their purchasing decisions. *Id*. at II-9.

[126] CR/PR at Table II-9.

[127] CR/PR at Table II-10.

U.S. producers and importers both sold HPC pea protein on a produced-to-order basis and from inventories, with importers reporting slightly shorter lead times for sales from U.S. inventories, but longer lead times for sales from foreign inventories or produced-to-order. Specifically, U.S. producers reported that the majority (*** percent) of their commercial shipments were produced-to-order, with lead times averaging *** days. The remaining *** percent of their commercial shipments came from inventories, with lead times averaging *** days. Importers reported that the highest percentage (*** percent) of their commercial shipments of HPC pea protein were from U.S. inventories, with lead times averaging *** days. The remainder of their commercial shipments were from foreign inventories (*** percent), with lead times averaging *** days, or produced-to-order (*** percent), with lead times averaging *** days.[128]

The main raw material input for HPC pea protein is field peas, which made up *** percent of the domestic industry's total raw material costs in 2022.[129] Raw material costs ranged between *** percent and *** percent of the domestic industry's cost of goods sold ("COGS") from 2020 to 2022.[130] Driven by a severe drought in the upper Midwest in 2021, [131] prices for dry peas, as published by the USDA, increased irregularly by 50 percent from 2020 to 2022, increasing from $0.10 per pound in 2020 to $0.18 per pound 2021, before decreasing to $0.15 per pound in 2022.[132]

Petitioner also states that it produces HPC pea protein using a 24-hour, seven-day a week, continuous production process with minimum stoppages in order to maximize efficiency, which requires that it operate at a high rate of capacity utilization to be profitable.[133]

Imports from China under HTS statistical reporting numbers 2106.10.00.00 were subject to additional 25 percent *ad valorem* duties under Section 301 of the Trade Act of 1974 ("Section 301 tariffs"), throughout the POI.[134] Imports from China under HTS statistical reporting

[128] CR/PR at II-9-10.

[129] CR/PR at VI-15, Table VI-4.

[130] *Calculated from* CR/PR at Table VI-1 and include the by-product offset. Raw material costs ranged between *** percent and *** percent of the domestic industry's COGS, not including the by-product offset from 2020 to 2022. CR/PR at Table VI-1.

[131] CR/PR at VI-14; Conf. Tr. at 19 (Atchison).

[132] CR/PR at Table III-4. Price data for dry yellow peas in Montana showed similar trends from 2020 through 2022, with increasing prices from 2020 to 2021 followed by a slight decline in 2022, with prices lower in the second half of 2022 than in the first half of 2022. CR/PR at Table V-1. The domestic industry's raw material costs on a per-unit basis also showed increases over the POI. *See* CR/PR at Table VI-1.

[133] Conf. Tr. at 64 (Atchison) Petitioner Postconference Br. at Exhibit 17, pgs. 1-2.

[134] CR/PR at I-7-8.

numbers 3504.00.10.00 and 3504.00.50.00 were initially subject to 15 percent *ad valorem* Section 301 tariffs, but these duties were reduced to 7.5 percent effective February 14, 2020.[135]

C. Volume of Subject Imports

Section 771(7)(C)(i) of the Tariff Act provides that the "Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant."[136]

The volume of subject imports increased by *** percent from 2020 to 2022, increasing from *** pounds in 2020 to *** pounds in 2021 before decreasing to *** pounds in 2022. The volume of subject imports was lower in interim 2023, at *** pounds, than in interim 2022, at *** pounds.[137]

Subject imports' share of apparent U.S. consumption was *** percent in 2020, *** percent in 2021, and *** percent in 2022. Subject imports as a share of apparent U.S. consumption were lower in interim 2023 (*** percent) than in interim 2022 (*** percent).[138]

The ratio of subject imports to U.S. production increased from *** percent in 2020 to *** percent in 2021 before declining to *** percent in 2022. The ratio of subject imports to U.S. production was *** percent in interim 2023 compared to *** percent in interim 2022.[139]

Based on the record of the preliminary phase of the investigations, we find that the volume of subject imports is significant, both in absolute terms and relative to apparent U.S. consumption and production.[140]

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[135] CR/PR at I-7-8.

[136] 19 U.S.C. § 1677(7)(C)(i).

[137] CR/PR at Table IV-2. U.S. shipments of subject imports followed similar trends, increasing from *** pounds in 2020 to *** pounds in 2021 and declining to *** pounds in 2022, a level *** percent higher than in 2020; they were lower in interim 2023 at *** pounds than in interim 2022 at *** pounds. CR/PR at Tables IV-7, C-1.

[138] CR/PR at Tables IV-7, C-1.

[139] CR/PR at Table IV-2.

[140] Subject import volume, in absolute terms and relative to domestic production, may be understated, as discussed in section II above. Low importer questionnaire response coverage of subject and nonsubject imports would also affect the volume of subject imports relative to apparent U.S. consumption. Respondents claim that subject import volume reported by responding importers may be more understated toward the beginning of the POI, which would have influenced the apparent increasing trend. Chinese Respondent Postconference Br. at 20-21.

D. Price Effects of the Subject Imports

Section 771(7)(C)(ii) of the Tariff Act provides that, in evaluating the price effects of subject imports, the Commission shall consider whether –

> (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and
>
> (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.[141]

As addressed in section VI.B.3. above, we have found that there is at least a moderate degree of substitutability between domestically produced HPC pea protein and subject imports, and that price is an important factor in purchasing decisions, among other important factors.

We have examined several sources of data in our underselling analysis, including both pricing data and import purchase cost data. The Commission collected quarterly pricing data for the total quantity and f.o.b. value of four products shipped by U.S. producers and importers to unrelated customers during the POI.[142] All three U.S. producers and 16 importers provided usable pricing data for sales of the requested products, although not all firms reported pricing for all products for all quarters.[143] Pricing data reported by these firms accounted for approximately *** percent of U.S. producers' U.S. commercial shipments of HPC pea protein and *** percent of importers' reported U.S. commercial shipments of subject imports in 2022.[144]

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[141] 19 U.S.C. § 1677(7)(C)(ii).

[142] The four pricing products were as follows:

Product 1-- Low viscosity, organic, non-GMO, hydrolyzed pea protein, with a minimum pea protein content of 80 percent, a pH of 5.5 to 8.0, and a moisture content of a maximum of 10 percent;

Product 2-- High solubility, organic, non-GMO, non-hydrolyzed pea protein, with a minimum pea protein content of 80 percent a pH of 5.5 to 8.0, and a moisture content of a maximum of 10 percent;

Product 3-- Low viscosity, non-organic, non-GMO, hydrolyzed pea protein, with a minimum pea protein content of 80 percent, a pH of 5.5 to 8.0, and a moisture content of a maximum of 10 percent; and

Product 4-- High solubility, non-organic, non-GMO, non-hydrolyzed pea protein, with a minimum pea protein content of 80 percent a pH of 5.5 to 8.0, and a moisture content of a maximum of 10 percent. CR/PR at V-6.

[143] CR/PR at V-6.

[144] CR/PR at V-6.

The pricing data show pervasive underselling, with subject imports underselling the domestic like product in all 52 quarterly comparisons (involving reported subject import sales of *** pounds), at margins ranging from 25.6 to 72.0 percent and averaging 45.4 percent.[145]

The Commission also collected import purchase cost data for the same four pricing products from firms that directly imported these products for their own internal use or retail sale.[146] The purchase cost data reported by eight firms accounted for approximately *** percent of subject imports in 2022.[147] Based on these data, landed duty-paid ("LDP") costs for subject imports were below the sales price for the domestic like product in all 29 quarterly comparisons (involving reported subject import purchases of *** pounds), at price-cost differentials ranging from 31.9 percent to 72.4 percent and averaging 52.3 percent.[148]

We recognize that the import purchase cost data may not reflect the total cost of importing and therefore requested that importers provide additional information regarding the costs and benefits of directly importing HPC pea protein. Only one of eight responding importers reported incurring additional costs beyond LDP costs by importing HPC pea protein directly instead of purchasing from a U.S. producer or importer.[149] This importer estimated that the additional cost was approximately *** percent in addition to the LDP value.[150] Given that subject import purchase costs were on average 52.3 percent below domestic sales prices, the inclusion of the additional costs of *** percent would still leave subject import purchase costs lower than domestic sales prices in all comparisons.[151]

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[145] CR/PR at Tables V-4—V-7, V-15.

[146] CR/PR at V-15. Comparisons were only available for products one, two, and four. *Id*. at Table V-16.

[147] CR/PR at V-15.

[148] CR/PR at Table V-16.

[149] CR/PR at V-15.

[150] CR/PR at V-15.

[151] CR/PR at V-15, Tables V-8–V-10. Three responding importers reported that the cost of importing HPC pea protein from China is lower than purchasing from a U.S. producer or importer excluding the additional costs associated with importing. Two responding importers reported that the cost of importing HPC pea protein from China is lower than purchasing from a U.S. producer or importer including the additional costs associated with importing. Five responding importers estimated that they saved between *** and *** percent of the purchase price by importing HPC pea protein rather than purchasing from a U.S. importer and between *** and *** percent of the purchase price by importing HPC pea protein rather than purchasing from a U.S. producer. *Id*. at V-15-16.

Eight firms identified benefits importing HPC pea protein directly instead of purchasing from U.S. producers or importers, including lower costs, better control over supply chains, increased availability, access to better tasting product, access to HPC pea protein that meets set requirements, and decreased lead times. *Id.*

We have also considered purchasers' responses to the lost sales/lost revenue survey. All five responding purchasers reported that, since 2020, they purchased subject imports instead of U.S.-produced product.[152] All five responding purchasers also reported that subject imports were priced lower than the domestic like product, and four of the five reported that price was a primary reason for their purchases of *** pounds of subject imports instead of domestically produced HPC pea protein.[153]

Based on the foregoing, we find that subject import underselling was significant during the POI.[154]

We have also considered price trends during the POI. The domestic industry's sales prices increased irregularly for all four pricing products from the first quarter of 2020 through the first quarter of 2023.[155] These sales price increases ranged from *** to *** percent, depending on the product.[156] [157]

Subject import sales prices also fluctuated during the POI, increasing irregularly for products 2 through 4 but declining irregularly for product 1.[158] Sales price increases for products 2 through 4 ranged from *** to *** percent, depending on the product, while sales prices for product 1 decreased by *** percent.[159] Subject import purchase costs exhibited similar trends, increasing irregularly for pricing products 1 and 2 and declining irregularly for product 4.[160] For products 1 and 2, purchase cost increases ranged from *** to *** percent, depending on the product while its sales price for product 4 decreased by *** percent.[161]

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[152] CR/PR at Table V-29.

[153] CR/PR at Table V-18. Confirmed lost sales were equivalent to *** percent of responding purchasers' reported purchases and imports of subject merchandise during the POI; moreover, these lost sales were equivalent to *** the responding purchasers' reported purchases from the domestic industry during the POI. *Calculated from id.* at Tables V-17, V-18.

[154] Commissioner Karpel notes that this underselling caused significant price suppression, as discussed below.

[155] CR/PR at Tables V-4 – V-7, V-11. Prices generally decreased from the first quarter of 2020 though the third quarter of 2021 before generally increasing throughout the remainder of the POI. *Id*.

[156] CR/PR at Table V-11.

[157] Of the five responding purchasers, none reported that U.S. producers had reduced prices in order to compete with lower-priced imports from China; four reported that they did not know whether U.S. producers had reduced prices in order to compete with lower-priced imports from China. CR/PR at Table V-19.

[158] CR/PR at Tables V-4 – V-7, V-11. Prices remained relatively stable from the first quarter of 2020 through the second quarter of 2021 before generally increasing through the third quarter of 2022 and then decreasing for the remainder of the POI. *Id*.

[159] CR/PR at Table V-11.

[160] CR/PR at Tables V-4 – V-7, V-12.

[161] CR/PR at Table V-11.

We have also examined whether subject imports prevented price increases which otherwise would have occurred to a significant degree. The domestic industry's COGS-to-net sales ratio increased from *** percent in 2020 to *** percent in 2021 and *** percent in 2022; it was higher in interim 2023, at *** percent, than in interim 2022, at *** percent.[162] The domestic industry's unit COGS increased from $*** per pound in 2020 to $*** per pound in 2021 and $*** per pound in 2022; it was higher, at $*** per pound, in interim 2023, compared with $*** per pound in interim 2022.[163] At the same time, the domestic industry's net sales average unit values ("AUVs") decreased from $*** per pound in 2020 to $*** per pound in 2021 before increasing to $*** per pound in 2022; it was higher, at $*** per pound, in interim 2023, compared with $*** per pound in interim 2022.[164]

A considerable portion of the domestic industry's increasing unit COGS during the POI resulted from increasing unit other factory costs, driven in part by the costs incurred by domestic producers as they ramped up new domestic production facilities.[165] At the same time, the domestic industry was unable to increase its prices sufficiently to cover its increasing raw material costs during the period despite increasing demand.[166] As the domestic industry's raw material costs increased by $*** per pound from 2020 to 2022,[167] the industry's net sales AUV increased by only $*** per pound, placing the industry in a cost-price squeeze.[168] The domestic industry's net sales AUVs declined by $*** per pound between 2020 and 2021 as the industry's per-unit raw material costs increased by $*** per pound.[169] Between 2021 and 2022, per-unit raw material costs increased by $*** per pound while net sales AUVs increased by $*** per pound.[170] Given the significant volume of low-priced subject imports in the market, as well as the at least moderate degree of substitutability and the importance of price in purchasing decisions, we find, based on the record of these preliminary phase investigations,

[162] CR/PR at Tables IV-1, C-1.

[163] CR/PR at Table VI-1.

[164] CR/PR at Table VI-1.

[165] CR/PR at III-4, Tables III-3, VI-1.

[166] We note that most firms reported that U.S. demand increased or fluctuated upward during the POI. CR/PR at Table II-5.

[167] CR/PR at Tables VI-1, VI-2. The domestic industry's per-unit raw material costs rose from $*** per pound in 2020 to $*** per pound in 2021 and $*** per pound in 2022; they were higher, at $*** per pound in interim 2023, compared with $*** per pound in interim 2022. *Id.* at Table VI-3.

[168] CR/PR at Tables VI-1, VI-2.

[169] CR/PR at Tables VI-1—VI-3.

[170] CR/PR at Table VI-2.

that subject imports prevented price increases for the domestic like product that otherwise would have occurred to a significant degree during the POI.[171]

In sum, based on the record in the preliminary phase of these investigations, we find that subject imports significantly undersold and had significant price-suppressing effects on the domestic like product.

E. Impact of the Subject Imports[172]

Section 771(7)(C)(iii) of the Tariff Act provides that the Commission, in examining the impact of the subject imports on the domestic industry, "shall evaluate all relevant economic factors which have a bearing on the state of the industry." These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, gross profits, net profits, operating profits, cash flow, return on investment, return on capital, ability to raise capital, ability to service debt, research and development ("R&D"), and factors affecting domestic prices. No single factor is dispositive and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[173]

The domestic industry's capacity, production, employment, U.S. shipments, and market share generally increased from 2020 to 2022, as new domestic production facilities ramped up

[171] Respondents argue that subject imports could have had no adverse price effects because subject import underselling did not coincide with any increase in subject import market share and there was little correlation between subject import underselling margins and reported sales quantities. *See* Chinese Respondents Postconference Br. at 28. They also claim that the pricing evidence is consistent with their view that there is no substitutability between subject and domestic HPC pea protein and that price is not an important factor. *Id*. Based on the record of these preliminary phase investigations, we find that there is a reasonable indication that subject imports suppressed prices for the domestic like product to a significant degree. We note that Respondents' arguments concerning substitutability and the importance of price are inconsistent with the five responding purchasers buying subject imports rather than domestic product, and with the four responding purchasers reporting that price was a primary reason for purchasing *** pounds of subject imports rather than the domestic like product. CR/PR at Table V-18. Furthermore, subject imports need not capture market share from the domestic industry to have adverse price effects. The record shows that significant volumes of subject imports undersold the domestic like product throughout the POI as the domestic industry was unable to increase its prices sufficiently to cover its increasing raw material costs, despite growing domestic demand for HPC pea protein. *See* CR/PR at Tables II-5, VI-1-2.

[172] Commerce initiated the antidumping duty investigation of HPC pea protein from China based on estimated dumping margins of 18.48 to 280.31 percent. *Initiation Notice*, 88 Fed. Reg. 52124 at 52126; CR/PR at I-4.

[173] 19 U.S.C. § 1677(7)(C)(iii). This provision was amended by the Trade Preferences Extension Act of 2015, Pub. L. 114-27.

and apparent U.S. consumption increased *** percent.[174] Despite growing demand, however, the domestic industry was unable to increase its prices sufficiently to cover its increasing raw material costs, resulting in a cost-price squeeze and declines in the industry's financial performance.[175]

The domestic industry's HPC pea protein practical capacity increased overall by *** percent from 2020 to 2022, from *** pounds in 2020 to *** pounds in 2021 and *** pounds in 2022; it was lower in interim 2023 at *** pounds in 2022 than in 2023 at *** pounds.[176] Its production increased overall by *** percent from 2020 to 2022, from *** pounds in 2020 to *** pounds in 2021 and *** pounds in 2022; it was lower in interim 2023 at *** pounds in interim 2022 at *** pounds.[177] Its capacity utilization declined from *** percent in 2020 to *** percent in 2021, and *** percent in 2022, a decline of *** percentage points; it was lower in interim 2023 at *** percent than in interim 2022 at *** percent.[178]

The domestic industry's employment-related performance indicia generally increased from 2020 to 2022. Specifically, its number of production and related workers ("PRWs"),[179] wages paid,[180] hours worked,[181] hourly wages,[182] and productivity,[183] all increased from 2020 to 2022. However, all of these indicia except hourly wages, were lower in interim 2023 than in interim 2022 as the industry idled production facilities.[184]

The domestic industry's U.S. shipments increased by *** percent from 2020 to 2022, from *** pounds in 2020 to *** pounds in 2021 and *** pounds in 2022; they were lower in interim 2023 at *** pounds than in interim 2022 at *** pounds.[185] As discussed above, the domestic industry's market share increased by *** percentage points from 2020 to 2022,

[174] *See* CR/PR at Table VI-1.

[175] *See* CR/PR at Table VI-1.

[176] CR/PR at Tables III-6, C-1.

[177] CR/PR at Tables III-6, C-1.

[178] CR/PR at Tables III-6, C-1.

[179] The number of PRWs increased from *** in 2020, to *** in 2021, and *** in 2022; they were lower in interim 2023 at *** than in interim 2022 at ***. CR/PR at Tables III-16, C-1.

[180] Wages paid totaled $*** in 2020, $*** in 2021, and $*** in 2022; they were lower in interim 2023 at $*** than in interim 2022 at $***. CR/PR at Tables III-16, C-1.

[181] Total hours worked totaled *** in 2020, *** in 2021, and *** in 2022; they were lower in interim 2023 at *** than in interim 2022 at ***. CR/PR at Tables III-16, C-1.

[182] Hourly wages in $/hour were $*** in 2020, $*** in 2021, and $*** in 2022; they were higher in interim 2023 at $*** than in interim 2022 at $***. CR/PR at Tables III-16, C-1.

[183] Productivity in dry weight pounds/hour were *** in 2020, *** in 2021, and *** in 2022; it was lower in interim 2023 at *** than in interim 2022 at ***. CR/PR at Tables III-16, C-1.

[184] CR/PR at Tables III-5, III-16, C-1.

[185] CR/PR at Tables III-10, IV-7, C-1.

declining from *** percent in 2020 to *** percent in 2021, before increasing to *** percent in 2022; it was lower in interim 2023 at *** percent than in interim 2022 at *** percent.[186]

The domestic industry's end-of-period inventories increased by *** percent from 2020 to 2022, from *** pounds in 2020 to *** pounds in 2021, and *** pounds in 2022; they were higher in interim 2023 at *** pounds than in interim 2022 at *** pounds.[187]

Despite experiencing an increase in net sales volume from 2020 to 2022, the domestic industry suffered substantial declines in its financial performance throughout the POI, experiencing *** that worsened during the period. Its net sales revenue increased by *** percent from 2020 to 2022, from $*** in 2020 to $*** in 2021 and $*** in 2022; it was lower in interim 2023 at $*** than in interim 2022 at $***.[188] Its gross profits declined from $*** in 2020, to *** in 2021, and *** in 2022; they were lower in interim 2023 at *** than in interim 2022 at ***.[189] Its operating income declined from *** in 2020, to *** in 2021, and *** in 2022; it was lower in interim 2023 at *** than in interim 2022 at *** .[190] As a ratio to net sales, its operating income margin declined from *** percent in 2020, to *** percent in 2021, and *** percent in 2022; it was lower in interim 2023 at *** percent than in interim 2022 at *** percent.[191] Its net income declined from *** in 2020, to *** in 2021, and *** in 2022; it was lower in interim 2023 at *** than in interim 2022 at ***.[192] Its net income margin decreased from *** percent in 2020, to *** percent in 2021, and *** percent in 2022; it was lower in interim 2023 at *** percent than in interim 2022 at *** percent.[193] Its net assets increased from $*** in 2020, to $*** in 2021 and $*** in 2022.[194] Its return on assets declined during this period, declining from *** percent in 2020, to *** percent in 2021, and *** percent in 2022.[195]

The domestic industry's capital expenditures decreased from $*** in 2020, to $*** in 2021, and $*** in 2022; they were lower in interim 2023, at $***, than in interim 2022, at $***.[196] Its R&D expenses increased from $*** in 2020 to $*** in 2021 and 2022; it was lower

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[186] CR/PR at Tables III-10, IV-7, C-1.

[187] CR/PR at Tables III-13, C-1.

[188] CR/PR Tables VI-1, VI-3, C-1. Its net sales volume increased by *** percent from 2020 to 2022, from *** pounds in 2020, to *** pounds in 2021, and *** pounds in 2022; it was lower in interim 2023 at *** pounds than in interim 2022 at *** pounds. *Id*.

[189] CR/PR Tables VI-1, VI-3, C-1.

[190] CR/PR Tables VI-1, VI-3, C-1.

[191] CR/PR Tables VI-1, VI-3, C-1.

[192] CR/PR Tables VI-1, VI-3, C-1.

[193] CR/PR Tables VI-1, VI-3, C-1.

[194] CR/PR at Tables VI-10, C-1. Net asset data are not available for the interim periods. *Id.*

[195] CR/PR at Table VI-10. Return on asset information is not available for the interim periods. *Id.*

[196] CR/PR Tables VI-5, C-1.

in interim 2023 at $*** than in interim 2022 at $***.[197] Lastly, two of three responding U.S. producers reported that subject imports had negative effects on investment as well as growth and development during the POI.[198]

Based on the record in the preliminary phase of these investigations, we have found that the significant volume of subject imports significantly undersold the domestic like product and suppressed prices for the domestic like product to a significant degree. As raw material prices increased, competition from significant volumes of low-priced subject imports prevented domestic producers from increasing their prices sufficiently to cover their increased costs, even as demand increased, placing them in a cost-price squeeze. The impact of this cost-price squeeze on the domestic industry's financial performance was exacerbated by the *** pounds of confirmed lost sales, which resulted in reduced revenues as well as lower capacity utilization and increased inventories.[199] Consequently, the domestic industry suffered *** losses throughout the POI, even as the industry's production and U.S. shipments increased from 2020 to 2022. As its financial performance declined, PURIS *** at its Oskaloosa, Iowa plant in November 2022 and idled production and *** at its Turtle Lake, Wisconsin plant in May 2023.[200] We find that subject imports had a significant impact on the domestic industry.

Chinese Respondents argue that subject imports could not have injured the domestic industry because, in their view, subject import competition is attenuated by factors that limit the substitutability of subject imports and the domestic like product.[201] Petitioner counters that subject imports and the domestic like product are interchangeable, alleging that ***,[202] and that price is a "critical" factor in purchasing decisions.[203] Contrary to Respondents' argument, all five of the responding purchasers reporting purchasing subject imports instead of

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[197] CR/PR at Tables VI-7, C-1.

[198] CR/PR at Table VI-12.

[199] CR/PR at Tables V-18, C-1; Conf. Tr. at 64 (Atchison) Petitioner Postconference Br. at Exhibit 17, pgs. 1-2 (indicating the domestic industry's need to maintain a high capacity utilization rate given its continual process).

[200] CR/PR at III-4; Conf. Tr. at 20 (Atchison).

[201] Chinese Respondents Postconference Br. at 6, 27, 33. NURA Postconference Br. at 6-7, Exhibit 2. Specifically, they contend that subject imports contain notable differences in characteristics and specifications that the domestic industry cannot meet and that are more important than price to purchasers. They point to information provided by *** of NURA, ***, indicating that ***, it did so ***. *Id.*

[202] Chinese Respondents Postconference Br. at Exhibit 17, p. 2 (declaration of Nicole Atchison).

[203] Petition at 23; *see also* Conf. Tr. at 24 (Hubert) (indicating that competition in the U.S. HPC pea protein market "takes place largely on price"), Conf. Tr. at 29 (Chandak) (indicating that Chinese HPC pea protein is "general interchangeable" with HPC pea protein manufactured by PURIS and that PURIS "must compete {with Chinese producers} on price").

the domestic like product, and four of those purchasers reported purchasing subject imports instead of the domestic like product due to their lower price, which suggests some degree of head-to-head competition and substitutability.[204] Nonetheless, in any final phase of the investigations, we intend to further investigate any factors that may serve to limit the substitutability between the domestic like product and subject imports and the extent to which non-price factors may be driving purchasing decisions.

We have also considered whether there are other factors that may have impacted the domestic industry to ensure that we are not attributing injury from such other factors to subject imports. While we note that coverage of nonsubject imports was relatively low in the preliminary phase of these investigations, the AUVs of U.S. shipments of nonsubject imports were *** than the AUVs of U.S. shipments of subject imports throughout the POI.[205] Nonsubject imports, therefore, likely do not explain the significant price-suppressing effects on the domestic like product that we have attributed to the significant volume of low-priced subject imports.

Demand trends alone also cannot explain the injury that we have attributed to subject imports. Chinese Respondents argue that any injury experienced by the domestic industry was the result of what they characterize as declining U.S. demand throughout the POI.[206] Contrary to this argument, however, all responding U.S. producers and a majority of responding importers reported that demand increased or fluctuated upward during the period, consistent with the increase in apparent U.S. consumption from 2020 to 2022.[207] While apparent U.S. consumption was lower in interim 2023 than in interim 2022, this decline cannot explain the domestic industry's declining financial performance from 2020 to 2022.[208]

We are also unpersuaded by Chinese Respondents' argument that the domestic industry's high COGS-to-net sales ratio resulted not from subject import competition but from the high start-up costs incurred by domestic producers that commissioned new production facilities during the POI.[209] As discussed in section VI.D above, the increase in the industry's ratio of COGS to net sales was driven not only by higher unit factory costs but also by increasing

[204] CR/PR at Table V-18. Petitioner asserts that the lost sales/lost revenue responses also show that it has overlapping customers with subject imports. Petitioner Postconference Br. at Exhibit 1, p. 19

[205] CR/PR at Table C-1. We recognize that AUV comparisons may be influenced by differences in product mix and changes in product mix over time.

[206] Chinese Respondents Postconference Br. at 33.

[207] CR/PR at Tables II-5, IV-7, C-1.

[208] CR/PR at Table C-1.

[209] Chinese Respondents Postconference Br. at 6, 29, 33.

raw material costs, which domestic producers were unable to recoup through corresponding price increases during the POI.

In sum, based on the record of the preliminary phase of these investigations, we conclude that subject imports had a significant impact on the domestic industry.

VII. Conclusion

For the reasons stated above, we determine that there is a reasonable indication that an industry in the United States is materially injured by reason of subject imports of HPC pea protein that are allegedly sold in the United States at LTFV and subsidized by the government of China.

Part I: Introduction

Background

These investigations result from petitions filed with the U.S. Department of Commerce ("Commerce") and the U.S. International Trade Commission ("USITC" or "Commission") by PURIS Proteins LLC ("Puris"), Minneapolis, Minnesota, on July 12, 2023, alleging that an industry in the United States is materially injured and threatened with material injury by reason of subsidized and less-than-fair-value ("LTFV") imports of high protein content pea protein ("HPC pea protein")[1] from China. Table I-1 presents information relating to the background of these investigations.[2] [3]

Table I-1
HPC pea protein: Information relating to the background and schedule of this proceeding

Effective date	Action
July 12, 2023	Petitions filed with Commerce and the Commission; institution of the Commission investigations (88 FR 45924, July 18, 2023)
August 1, 2023	Commerce's notice of initiation (88 FR 52116 and 88 FR 52124, August 7, 2023)
August 2, 2023	Commission's conference
August 25, 2023	Commission's vote
August 28, 2023	Commission's determinations
September 5, 2023	Commission's views

Statutory criteria

Section 771(7)(B) of the Tariff Act of 1930 (the "Act") (19 U.S.C. § 1677(7)(B)) provides that in making its determinations of injury to an industry in the United States, the Commission--

> *shall consider (I) the volume of imports of the subject merchandise, (II) the effect of imports of that merchandise on prices in the United States for domestic like products, and (III) the impact of imports of such merchandise on domestic producers of domestic like products, but only in the context of production operations within the United States; and. . . may consider such other economic factors as are relevant to the*

[1] See the section entitled "The subject merchandise" in Part I of this report for a complete description of the merchandise subject in this proceeding.

[2] Pertinent Federal Register notices are referenced in appendix A, and may be found at the Commission's website (www.usitc.gov).

[3] A list of witnesses appearing at the conference is presented in appendix B of this report.

determination regarding whether there is material injury by reason of imports.

Section 771(7)(C) of the Act (19 U.S.C. § 1677(7)(C)) further provides that--[4]

In evaluating the volume of imports of merchandise, the Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States is significant.. . .In evaluating the effect of imports of such merchandise on prices, the Commission shall consider whether. . .(I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.. . . In examining the impact required to be considered under subparagraph (B)(i)(III), the Commission shall evaluate (within the context of the business cycle and conditions of competition that are distinctive to the affected industry) all relevant economic factors which have a bearing on the state of the industry in the United States, including, but not limited to. . . (I) actual and potential decline in output, sales, market share, gross profits, operating profits, net profits, ability to service debt, productivity, return on investments, return on assets, and utilization of capacity, (II) factors affecting domestic prices, (III) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, (IV) actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and (V) in {an antidumping investigation}, the magnitude of the margin of dumping.

In addition, Section 771(7)(J) of the Act (19 U.S.C. § 1677(7)(J)) provides that—[5]

(J) EFFECT OF PROFITABILITY.—The Commission may not determine that there is no material injury or threat of material injury to an industry in the United States merely because that industry is profitable or because the performance of that industry has recently improved.

[4] Amended by PL 114-27 (as signed, June 29, 2015), Trade Preferences Extension Act of 2015.
[5] Amended by PL 114-27 (as signed, June 29, 2015), Trade Preferences Extension Act of 2015.

Organization of report

Part I of this report presents information on the subject merchandise, alleged subsidy/dumping margins, and domestic like product. Part II of this report presents information on conditions of competition and other relevant economic factors. Part III presents information on the condition of the U.S. industry, including data on capacity, production, shipments, inventories, and employment. Parts IV and V present the volume of subject imports and pricing of domestic and imported products, respectively. Part VI presents information on the financial experience of U.S. producers. Part VII presents the statutory requirements and information obtained for use in the Commission's consideration of the question of threat of material injury as well as information regarding nonsubject countries.

Market summary

HPC pea protein is generally used to add protein content to a wide range of food and beverage products. The leading U.S. producer of HPC pea protein is ***. The leading producers of HPC pea protein outside the United States include *** of China. The leading U.S. importers of HPC pea protein from China are ***, while the leading U.S. importer of HPC pea protein from nonsubject countries (primarily ***) is ***. U.S. purchasers of HPC pea protein are firms that manufacture food and beverages. Leading purchasers include ***.

Apparent U.S. consumption of HPC pea protein totaled approximately *** pounds ($***) in 2022. Currently, three firms are known to produce HPC pea protein in the United States. U.S. producers' U.S. shipments of HPC pea protein totaled *** pounds ($***) in 2022, and accounted for *** percent of apparent U.S. consumption by quantity and *** percent by value. U.S. importers' U.S. shipments of imports from subject sources totaled *** pounds ($***) in 2022 and accounted for *** percent of apparent U.S. consumption by quantity and *** percent by value. U.S. importers' U.S. shipments of imports from nonsubject sources totaled *** pounds ($***) in 2022 and accounted for *** percent of apparent U.S. consumption by quantity and *** percent by value.

Summary data and data sources

A summary of data collected in these investigations is presented in appendix C, table C-1. Except as noted, U.S. industry data are based on questionnaire responses of three firms that accounted for *** U.S. production of HPC pea protein during 2022. U.S. imports are based on questionnaire responses of 19 firms that accounted for *** percent of U.S. imports from China and *** percent of nonsubject sources in 2022 under HTS statistical reporting numbers 3504.00.1000, 3504.00.5000, and 2106.10.0000, "basket" categories that include HPC pea protein and out-of-scope products.[6]

Previous and related investigations

HPC pea protein has not been the subject of any prior antidumping or countervailing duty investigations in the United States.

Nature and extent of alleged subsidies and sales at LTFV

Alleged subsidies

On August 7, 2023, Commerce published a notice in the Federal Register of the initiation of its countervailing duty investigation on HPC pea protein from China.[7]

Alleged sales at LTFV

On August 7, 2023, Commerce published a notice in the Federal Register of the initiation of its antidumping duty investigation on HPC pea protein from China.[8] Commerce has initiated antidumping duty investigations based on estimated dumping margins ranging from 18.48 percent to 280.31 percent for HPC pea protein from China.

[6] The coverage figures are based on official Commerce import statistics adjusted to remove certain out-of-scope imports under the HTS statistical reporting numbers submitted in response to Commission questionnaires. Moreover, the coverage figures are likely understated due to the wide range of out-of-scope products entering under these "basket" categories.

[7] For further information on the alleged subsidy programs see Commerce's notice of initiation and related CVD Initiation Checklist. 88 FR 52116, August 7, 2023.

[8] 88 FR 52124, August 7, 2023.

The subject merchandise

Commerce's scope

In the current proceeding, Commerce has defined the scope as follows:[9]

> *The product within the scope of this investigation is high protein content (HPC) pea protein, which is a protein derived from peas (including, but not limited to, yellow field peas and green field peas) and which contains at least 65 percent protein on a dry weight basis. HPC pea protein may also be identified as, for example, pea protein concentrate, pea protein isolate, hydrolyzed pea protein, pea peptides, and fermented pea protein. Pea protein, including HPC pea protein, has the Chemical Abstracts Service (CAS) registry number 222400–29–5.*
>
> *The scope covers HPC pea protein in all physical forms, including all liquid (e.g., solution) and solid (e.g., powder) forms, regardless of packaging or the inclusion of additives (e.g., flavoring, suspension agents, preservatives).*
>
> *The scope also includes HPC pea protein described above that is blended, combined, or mixed with non-subject pea protein or with other ingredients (e.g., proteins derived from other sources, fibers, carbohydrates, sweeteners, and fats) to make products such as protein powders, dry beverage blends, and protein fortified beverages. For any such blended, combined, or mixed products, only the HPC pea protein component is covered by the scope of this investigation. HPC pea protein that has been blended, combined, or mixed with other products is included within the scope, regardless of whether the blending, combining, or mixing occurs in third countries.*
>
> *HPC pea protein that is otherwise within the scope is covered when commingled (i.e., blended, combined, or mixed) with HPC pea protein from sources not subject to this investigation. Only the subject component of the commingled product is covered by the scope.*
>
> *A blend, combination, or mixture is excluded from the scope if the total HPC pea protein content of the blend, combination, or mixture (regardless of the source or sources) comprises less than 5 percent of the blend, combination, or mixture on a dry weight basis.*

[9] 88 FR 52116 and 88 FR 52124, August 7, 2023.

All products that meet the written physical description are within the scope of the investigation unless specifically excluded. The following products, by way of example, are outside and/or specifically excluded from the scope of the investigation:

- *burgers, snack bars, bakery products, sugar and gum confectionary products, milk, cheese, baby food, sauces and seasonings, and pet food, even when such products are made with HPC pea protein.*
- *HPC pea protein that has gone through an extrusion process to alter the HPC pea protein at the structural and functional level, resulting in a product with a fibrous structure which resembles muscle meat upon hydration. These products are commonly described as textured pea protein or texturized pea protein.*
- *HPC pea protein that has been further processed to create a small crunchy nugget commonly described as a pea protein crisp.*
- *protein derived from chickpeas.*

Tariff treatment

Based upon the scope set forth by Commerce, information available to the Commission indicates that the merchandise subject to these investigations are imported under the following provisions of the Harmonized Tariff Schedule of the United States ("HTS"): 2106.10.0000 (protein concentrates and textured protein substances), 3504.00.1000 (protein isolates), and 3504.00.5000 (peptones and their derivatives and other protein substances and their derivatives).[10] The 2023 general rate of duty is 6.4 percent for HTS subheading 2106.10.00, 5.0 percent for HTS subheading 3504.00.10, and 4.0 percent for HTS subheading 3504.00.50. Decisions on the tariff classification and treatment of imported goods are within the authority of U.S. Customs and Border Protection.

Pea protein imports from China are also subject to additional duties under section 301 of the Trade Act of 1974. Effective September 24, 2018, pea protein originating in China and imported under HTS 2106.10.0000 was subject to an additional 10 percent ad valorem duty.

[10] According to the scope set forth by Commerce, imports of HPC pea protein may also enter under HTS statistical reporting number 2308.00.9890 (vegetable materials and vegetable waste, vegetable residues and byproducts, whether or not in the form of pellets, of a kind used in animal feeding, not elsewhere specified or included: other). However, as noted in Part IV, *** reported imports of HPC pea protein under this HTS statistical reporting number.

Effective May 10, 2019, the section 301 duty for this pea protein was increased to 25 percent.[11] Effective September 1, 2019, pea protein originating in China and imported under HTS 3504.00.1000 or HTS 3504.00.5000 was subject to an additional 15 percent ad valorem duty. Effective February 14, 2020, the section 301 duty for these imports was reduced to 7.5 percent.[12]

The product

Description and applications

HPC pea protein is a substance made from yellow or green field peas that have been dried before harvesting (i.e., dry peas). From this crop, the manufacturing process described below is performed to produce HPC pea protein, a substance which contains at least 65 percent protein by weight, but typically contains 80 to 85 percent protein by weight.[13] It is commonly a dry powder but can also be sold in liquid form. It has a neutral flavor and is used to add protein content to a wide range of food products for human consumption.[14] Because it is derived from plants and is free from major food allergens such as milk, wheat, and soy, it is popular with food manufacturers seeking these attributes.[15] It is also typically pasteurized, meaning that it is generally safe for direct human consumption without having to undergo additional processing.[16]

Among the leading categories of foods using HPC pea protein as an ingredient is sports nutrition.[17] Sports nutrition products are generally high-protein powders, shakes, and bars. They are often marketed as improving the consumer's ability to perform in sports and exercise

[11] 83 FR 47974, September 21, 2018; 84 FR 20459, May 9, 2019. See also HTS headings 9903.88.03 and 9903.88.04 and U.S. notes 20(e)–20(g) to subchapter III of chapter 99 and related tariff provisions for this duty treatment. USITC, HTS (2023) Revision 10, USITC Publication 5451, July 2023, pp. 99-III-26–99-III-51, 99-III-293. Goods exported from China to the United States prior to May 10, 2019, and entering the United States prior to June 1, 2019, were not subject to the escalated 25 percent duty (84 FR 21892, May 15, 2019).

[12] 84 FR 45821, August 30, 2019; 85 FR 3741, January 22, 2020. See also HTS heading 9903.88.15 and U.S. notes 20(r) and 20(s) to subchapter III of chapter 99 and related tariff provisions for this duty treatment. USITC, HTS (2023) Revision 10, USITC Publication 5451, July 2023, pp. 99-III-86–99-III-100, 99-III-295.

[13] Conference transcript, p. 22 (Hubert).

[14] Conference transcript, p. 28 (Chandak).

[15] McKinsey and Company, "Alternative Proteins," August 16, 2019.

[16] Conference transcript, p. 22 (Atchison).

[17] Conference transcript, p. 82 (Hubert).

by, for example, aiding in muscle growth or recovery.[18] Another category of foods incorporating HPC pea protein is dairy alternatives. HPC pea protein can be used to add protein content to "plant-based milks, plant-based yogurts, cheeses and coffee creamers."[19] A third category of foods that may incorporate HPC pea protein is plant-based meat substitutes. For instance, HPC pea protein is the main source of protein in many of the meat alternatives produced by the company Beyond Meat.[20] Before being added to meat substitutes, HPC pea protein generally must undergo a process of extrusion that adds additional texture to the protein.[21] This process is normally performed by the manufacturer of the meat substitute and is not part of the manufacturing process described below. Outside of these 3 major categories, HPC pea protein has applications in other products, including bakery and confectionary products as well as baby food.[22]

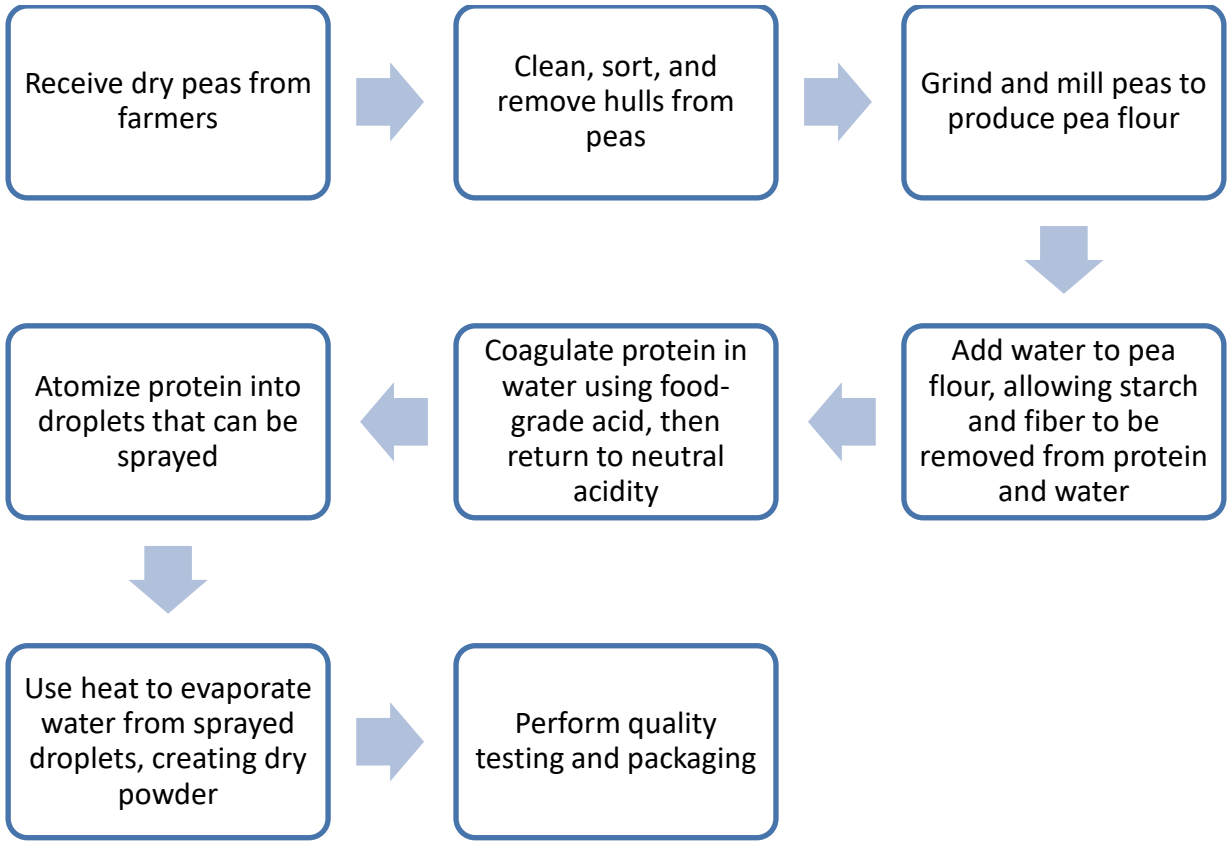
Manufacturing processes

The manufacturing of pea protein uses a capital-intensive process that begins with the arrival of dry peas at the manufacturing plant.[23] First, the peas are cleaned, any debris is sorted out, and the pea hulls are removed by machinery. Next, the peas are split, ground, and milled, resulting in dry pea flour. This flour contains starch, fiber, and protein. At this stage, the pea flour is combined with water, which allows for precise separation of the protein from the starch and fiber. The producer can use a range of separation techniques to isolate and remove the starch and fiber from the protein and water. The starch and fiber may then undergo additional processing that allow them to be sold as separate food ingredients.[24] The protein and water, meanwhile, continue on to a step that coagulates the protein in water by isoelectric precipitation (i.e., using food-grade acid).[25] Once the protein is coagulated, caustic soda is added to return it to a neutral acidity. Finally, the protein is sprayed as droplets and the water

[18] Tate and Lyle, "A Look Inside the Sports Nutrition Market," July 2020.
[19] Conference transcript, p. 82 (Hubert).
[20] Beyond Meat, "Beyond Beef," accessed August 11, 2023.
[21] Conference transcript, p. 84 (Atchison).
[22] Petition, p. 7.
[23] Petition, pp. 8-10; Roquette, "How One Facility Will Turn 125,000 Metric Tons of Peas into Plant Protein Every Year," n.d.
[24] Conference transcript, p. 89 (Atchison).
[25] Petition, pp. 8-10.

is evaporated from the droplets using hot air. This results in the finished dry powder, at which point, quality testing and packaging steps can be performed.[26]

Figure I-1
HPC pea protein: Manufacturing process



Sources: Petition, pp. 8-10; Roquette, "How One Facility Will Turn 125,000 Metric Tons of Peas into Plant Protein Every Year," n.d.

The manufacturing process for HPC pea protein requires specialized machinery and processes that ensure product quality and allow for small adjustments to meet individual customer specifications.[27] For example, the wet milling process described above (in which pea flour is combined with water to enable separation of the pea's protein from its starch and fiber) is a step that allows the manufacturer to produce pea protein with high protein content. Pea protein can also be produced through a dry milling process, but this reportedly results in a

[26] Roquette, "How One Facility Will Turn 125,000 Metric Tons of Peas into Plant Protein Every Year," n.d.

[27] Conference transcript, p. 80 (Atchison).

lower protein content because that process is not as efficient at isolating the various components of the pea.[28] This low protein content ("LPC") pea protein, generally produced through dry milling, has different applications because the higher pea starch and fiber content gives it a more noticeable pea flavor.[29] An additional important aspect of the manufacturing of HPC pea protein is that producers generally employ a continuous production process. This means that the machinery runs 24 hours a day, 7 days a week until a production run is completed, at which point the equipment is cleaned and recalibrated for the next run.[30] ***.[31]

Domestic like product issues

The Commission's decision regarding the appropriate domestic product(s) that are "like" the subject imported product is based on a number of factors including: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) common manufacturing facilities, production processes, and production employees; (5) customer and producer perceptions; and (6) price. Information regarding these factors is discussed below.

The Petitioner proposes that the Commission should find a single domestic like product, coextensive with the scope of these investigations.[32] The Petitioner contends that there is a clear dividing line between LPC pea protein and HPC pea protein, and that the Commission should not expand the like product definition to include LPC pea protein.[33] The Chinese Respondents do not take a position with respect to the domestic like product definition proposed by the Petitioner for the purposes of the preliminary phase of these investigations, but reserve their right to do so in the future, should these investigations proceed to the final phase.[34]

U.S. producers and importers were asked to compare in-scope HPC pea protein to out-of-scope LPC pea protein using the factors which the Commission typically considers in

[28] Conference transcript, p. 28 (Chandak).
[29] Conference transcript, p. 28 (Chandak).
[30] Conference transcript, p. 64 (Atchison); Roquette, "How One Facility Will Turn 125,000 Metric Tons of Peas into Plant Protein Every Year," n.d.
[31] Petitioner's postconference brief, exhibit 17, p. 1.
[32] Petitioner's postconference brief, pp. 3-6.
[33] Ibid., pp. 7-8.
[34] Chinese Respondents' postconference brief, p. 6.

regarding the appropriate domestic product(s) that are "like" the subject imported product. Table I-2 presents the count of these comparisons, by factor and firm type. Narrative responses on the domestic like product factors are presented in appendix D.

Table I-2
HPC pea protein: Count of firms' responses regarding the domestic like factors comparing in-scope HPC pea protein to out-of-scope LPC pea protein

Factor	Firm type	Fully	Mostly	Somewhat	Never
Physical characteristics	U.S. producers	***	***	***	***
Physical characteristics	U.S. importers	***	***	***	***
Interchangeability	U.S. producers	***	***	***	***
Interchangeability	U.S. importers	***	***	***	***
Channels	U.S. producers	***	***	***	***
Channels	U.S. importers	***	***	***	***
Manufacturing	U.S. producers	***	***	***	***
Manufacturing	U.S. importers	***	***	***	***
Perceptions	U.S. producers	***	***	***	***
Perceptions	U.S. importers	***	***	***	***
Price	U.S. producers	***	***	***	***
Price	U.S. importers	***	***	***	***

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

Part II: Conditions of competition in the U.S. market

U.S. market characteristics

HPC pea protein is a plant-based protein commonly sold in powder form. HPC pea protein is not a commonly used industry term but used in this investigation to describe pea protein with a protein content higher than 65 percent on a dry weight basis.[1] The common market practice is to sell pea protein in specified protein contents.[2] HPC pea protein typically has a protein content of 80 to 85 percent on a dry weight basis.[3] HPC pea protein is generally marketed as an alternative to animal protein that can be consumed directly or serve as an ingredient in numerous items including: snack bars, plant-based meat products (e.g. burgers and sausages, chicken, fish, meatballs, etc.), ready-to-drink applications (e.g. nutritional drinks, juice, etc.), sauces and seasonings, desserts and ice creams, bakery products, dairy products, beverages, sugar and gum confectionary products, sweet spreads, chocolate confectionary products, baby food breakfast cereals, egg-based products, savory spreads, and soups.

One of three U.S. producers and five of 19 importers indicated that the market was subject to distinctive conditions of competition. Specifically, U.S. producer *** reported that the nature of the retail market requires firms to compete for shelf space to be presented to consumers. Importer *** reported that the HPC pea protein market is growing and attracting new entrants into the market. Importer *** reported that quality and taste of HPC pea proteins have large influences in the market. Importer *** reported that U.S. producers do not have the same level of experience as Chinese producers in customizing pea protein to make a customer's desired flavor and solubility profile. Furthermore, Importer *** reported that Chinese producers are willing to make customized formulations for HPC pea protein and U.S. producer Puris only offers off-the-shelf products that may not be suitable or optimal for a customer's needs.

Apparent U.S. consumption in terms of quantity and value increased during January 2020- December 2022. Overall, apparent U.S. consumption in 2022 was *** percent higher in terms of quantity and *** percent higher in terms of value than in 2020. However, apparent U.S. consumption was *** percent lower in terms of quantity and *** percent lower in terms of value in the first quarter of 2023 than in the first quarter of 2022.

[1] Conference transcript, p. 91 (Vaughn).
[2] Conference transcript, p. 91 (Vaughn).
[3] Conference transcript, p. 22 (Atchinson).

Impact of section 301 tariffs

U.S. producers and importers were asked to report the impact of section 301 tariffs on U.S. demand for HPC pea protein (tables II-1). Two U.S. producers reported that they did not know if section 301 tariffs had any impact on U.S. demand for HPC pea protein, while one reported that section 301 tariffs had no impact on U.S. demand for HPC pea protein. Nine importers reported that section 301 tariffs had an impact on U.S. demand for HPC pea protein. Importer *** reported that section 301 tariffs have increased the cost of HPC pea protein and have reduced demand. Importer *** reported that section 301 tariffs have increased prices and that these higher prices are being born by consumers. Importer *** reported that the additional 7.5 percent duty of the 301 tariffs raised the total duty cost from 4 percent to 11.5 percent. Importer *** reported that section 301 tariffs increased the customers prices by 7.5 to 15.0 percent. Importer *** reported that section 301 tariffs had no impact on the sales volume of HPC pea protein as customers still demand the product.

Table II-1
HPC pea protein: Count of firms' responses regarding the impact of the 301 tariffs on Chinese origin products

Impact on	Firm type	Yes	No	Don't Know
Demand	U.S. producers	0	1	2
Demand	Importers	9	5	5

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

Channels of distribution

U.S. producers sold mainly through other channels of distribution, such as business to business sales to manufacturers that use HPC pea protein as an ingredient, or sales to affiliate firms. Importers mainly sold to end users, as shown in table II-2.

Table II-2
HPC pea protein: Share of U.S. shipments by source, channel of distribution, and period

Shares in percent

* * * * * * *

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

Geographic distribution

U.S. producers and importers reported selling HPC pea protein to all regions of United States (table II-3). For U.S. producers, *** percent of sales were within 100 miles of their production facility, *** percent were between 101 and 1,000 miles, and *** percent were over 1,000 miles. Importers sold *** percent within 100 miles of their U.S. point of shipment, *** percent between 101 and 1,000 miles, and *** percent over 1,000 miles.

Table II-3
HPC pea protein: Count of U.S. producers' and U.S. importers' geographic markets

Region	U.S. producers	China
Northeast	3	15
Midwest	3	13
Southeast	3	13
Central Southwest	3	13
Mountains	3	15
Pacific Coast	3	16
Other	1	2
All regions (except Other)	3	10
Reporting firms	3	18

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

Note: Other U.S. markets include AK, HI, PR, and VI.

Supply and demand considerations

U.S. supply

Table II-4 provides a summary of the supply factors regarding HPC pea protein from producers in the United States and China.

Table II-4
HPC pea protein: Supply factors that affect the ability to increase shipments to the U.S. market, by country

Quantity in 1,000 pounds dry weight; ratios and shares in percent; Count in number of firms reporting

* * * * * * *

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

Note: Responding U.S. producers accounted for virtually all of U.S. production of HPC pea protein in 2022. Responding foreign producer/exporter firms accounted for virtually all of U.S. imports of HPC pea protein from China during 2022. For additional data on the number of responding firms and their share of U.S. production and of U.S. imports from each subject country, please refer to Part I, “Summary Data and Data Sources.”

Domestic production

Based on available information, U.S. producers of HPC pea protein have the ability to respond to changes in demand with moderate-to-large changes in the quantity of shipments of U.S.-produced HPC pea protein to the U.S. market. The main contributing factors to this degree of responsiveness of supply are the availability of unused capacity and high inventory levels. The limited ability to divert shipments from other markets and the limited ability to shift production to or from other products mitigates the responsiveness of supply.

U.S. producers reported increasing production and production capacity from 2020 to 2022. Production capacity increased at a greater rate than production, leading to a decrease in capacity utilization from 2020 to 2022. U.S. producers' inventories relative to total shipments increased from 2020 to 2022. Exports remained below *** percent of producers' reported shipments throughout the period. *** reported being able to produce other products on the same equipment used to produce HPC pea protein. *** reported being able switch production to *** using the same equipment used to produce HPC pea protein. *** reported that there are several factors that limit *** ability to shift production to or from other products, namely that soy is an allergen and *** dedicated to producing allergen-free products, and that there is a limited supply of fava beans and chickpeas to use as a raw material.

Subject imports from China

Based on available information, producers of HPC pea protein from China have the ability to respond to changes in demand with moderate-to-large changes in the quantity of shipments of HPC Pea protein to the U.S. market. The main contributing factors to this degree of responsiveness of supply are the availability of some unused capacity, high inventory levels, and an ability to shift shipments to or from alternate markets. The limited ability to shift production to or from alternate products mitigates the responsiveness of supply.

Responding Chinese producers reported increased production capacity and decreased production which led to a decrease in capacity utilization from 2020 to 2022. Chinese producers' inventories relative to total shipments increased from 2020 to 2022. In 2022, responding Chinese producers reported selling just under *** of shipments in their home market and just under *** of shipments to markets other than the United States. A plurality of responding Chinese producers (***) reported being able to produce other products on the same equipment used to produce HPC pea protein. Foreign producers *** reported being able to produce mung bean and fava bean protein and

foreign producer *** reported being able to produce chickpea protein and lentil protein on the same equipment used to produce HPC pea protein. Foreign producer *** reported that switching production to or from alternate products requires three days of cleaning and sterilizing machines in order to ensure the quality and purity of products. Foreign producer *** reported that it was only able to switch production to or from alternate products on the production lines making HPC pea protein with a protein content of over 80 percent and that production lines making HPC pea protein with a protein content of 72 percent can only process peas.

Imports from nonsubject sources

Based on official import statistics, imports from nonsubject countries accounted for 77.9 percent of total U.S. imports in 2022. The largest sources of these imports in 2022 were Brazil and Canada.[4] Combined, these countries accounted for 43.0 percent of imports from nonsubject countries in 2022.

Supply constraints

Two of three U.S. producers reported that they had experienced supply constraints since January 1, 2020 while 14 of 19 importers reported that they had not experienced supply constraints over the same period. U.S. producer *** reported that there were times in late 2020 and early 2021 when it had not been able to meet some orders within the required time frame. U.S. producer *** reported that it has experienced production bottlenecks in 2022 and had difficulties meeting contract terms (specifically the shelf life requirements). Importer *** reported that it had difficulties maintaining inventories and serving customers in a timely manner due to difficulties in shipping product from China during the Covid-19 pandemic. Importer *** reported that demand growth in early 2022 resulted in product allocation for new and existing customers. Importer *** reported that it experienced supply constrains until mid-2022 when it opened a new plant in Canada.

U.S. demand

Based on available information, the overall demand for HPC pea protein is likely to experience moderate changes in response to changes in price. The main contributing factor is the availability of substitute products. However, using substitutes for HPC pea protein in food and drink products could require label changes and might affect the flavor or other

[4] The portion of nonsubject imports is based on official import statistics under HTS 3504.00.1000, 3504.00.5000, and 2106.10.000

characteristics of the product, which may limit a food or beverage manufacture's willingness to use substitute products.

End uses and cost share

U.S. demand for HPC pea protein depends on the demand for U.S.-produced downstream products. Reported end uses include various foods and beverages.

HPC pea protein accounts for a varying cost of end-use products in which it is used, depending on the amount of HPC pea protein used in the end-use product. U.S. producers reported the cost share of HPC pea protein in beverages ranged from 33 to 80 percent, while the cost share of HPC pea protein in food products ranged from 8 to 38 percent. Importers reported the cost share of HPC pea protein in beverages ranged from 10 to 82 percent, while the cost share of HPC pea protein in food products ranged from 20 to 38 percent.

Business cycles

All three responding U.S. producers indicated that the market was subject to business cycles. U.S. producer *** reported that foodservice providers and food product manufactures respond to broader economic cycles, the availability of credit, and household spending, and U.S. producer *** reported that raw material contracting occurs during the third and fourth quarter of each year.

Most importers (14 of 19) reported that the market for HPC pea protein was not subject to business cycles. Importer *** reported that the growth and decline of meat-less meat products was a business cycle unique to the HPC pea protein market. Importer *** reported that the HPC pea protein market was subject to healthy lifestyle trends.

The majority of U.S. producers and importers reported that the HPC pea protein market was not subject to distinct conditions of competition. U.S. producer *** reported that distinct conditions of competition in the HPC pea protein market have been created by new production facilities in North America, Europe, and Asia. *** also reported competition for shelf-space in consumer facing retail as a distinct condition of competition. Importer *** reported that U.S. producers do not have the same level of experience as Chinese producers in customizing HPC pea protein to a customer's desired flavor and solubility profile.

Demand trends

All responding U.S. producers and the majority of importers reported that U.S. and foreign demand for HPC pea protein had increased or fluctuated upward since January 1, 2020 (table II-5).

Table II-5
HPC pea protein: Count of firms' responses regarding overall domestic and foreign demand, by firm type

Market	Firm type	Steadily Increase	Fluctuate Up	No change	Fluctuate Down	Steadily Decrease
Domestic demand	U.S. producers	1	2	0	0	0
Domestic demand	Importers	4	7	1	6	1
Foreign demand	U.S. producers	1	2	0	0	0
Foreign demand	Importers	3	6	1	0	1

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

Substitute products

All responding U.S. producers reported that there were substitutes for HPC pea protein. U.S. producers reported that rice protein, soy protein isolate, and fava protein could be used in most or all of the products that use HPC pea protein. U.S. producer *** reported that wheat protein isolate could be substituted for HPC pea protein in the production of tortillas and flatbread.

The majority of importers (11 of 17) reported that there are no substitutes for HPC pea protein. Those importers reporting that there were substitutes for HPC pea protein reported that rice and soy proteins are substitutes for HPC pea protein in most end uses. Importer *** reported that all vegetable proteins are interchangeable with each other in most end uses.

Substitutability issues

This section assesses the degree to which U.S.-produced HPC pea protein and imports of HPC pea protein from subject countries can be substituted for one another by examining the importance of certain purchasing factors and the comparability of HPC pea protein from domestic and imported sources based on those factors. Based on available data, staff believes that there is a moderate degree of substitutability between domestically produced pea protein and HPC pea protein imported from China.[5] Factors contributing to this level of substitutability

[5] The degree of substitution between domestic and imported HPC pea protein depends upon the extent of product differentiation between the domestic and imported products and reflects how easily purchasers can switch from domestically produced HPC pea protein to the HPC pea protein imported from subject countries (or vice versa) when prices change. The degree of substitution may include such factors as relative prices (discounts/rebates), quality differences (e.g., grade standards, defect rates, etc.), and differences in sales conditions (e.g., lead times between order and delivery dates, reliability of supply, product services, etc.).

are that HPC pea protein with the same flavor profile, solubility, binding, and product consistency can be used for the same end uses. Factors limiting substitutability are that HPC pea protein produced in different facilities can have different flavor profiles, solubility levels, and binding consistency. Factors other than price appear to be at somewhat important to importers and perceptions on interchangeability on factors other than price as somewhat divided.

Factors affecting purchasing decisions

Purchasers responding to lost sales lost revenue allegations[6] were asked to identify the main purchasing factors their firm considered in their purchasing decisions for HPC pea protein. The major purchasing factors identified by firms include taste, texture, price, lead times, solubility, quality, and availability/reliability of supply.

Most important purchase factors

The most often cited top three factors firms consider in their purchasing decisions for HPC pea protein were availability/supply (5 firms), and price and quality (4 firms each), as shown in table II-6. Quality and price were the most frequently cited first-most important factors (cited by 2 firms each); availability/supply was the most frequently reported second-most important factor (3 firms); and quality and availability/supply were the most frequently reported third-most important factors (2 firms each).

Table II-6
HPC pea protein: Count of ranking of factors used in purchasing decisions as reported by purchasers, by factor

Factor	First	Second	Third	Total
Price / Cost	2	1	1	4
Quality	2	0	2	4
Availability / Supply	0	3	2	5
All other factors	1	1	0	NA

Source: Compiled from data submitted in response to Commission questionnaires.
Note: Other factors include solubility, taste, and texture.

Lead times

HPC pea protein produced in the United States is primarily produced-to-order, while HPC pea protein from China is sold primarily from U.S. inventories. U.S. producers reported that *** percent of their commercial shipments were produced-to-order, with lead times

[6] This information is compiled from responses by purchasers identified by Petitioners to the lost sales lost revenue allegations. See Part V for additional information.

averaging *** days. The remaining *** percent of their commercial shipments came from inventories, with lead times averaging *** days. Importers reported that *** percent of HPC pea protein from China came from U.S. inventories, with lead times averaging *** days; *** percent came from foreign inventories, with lead times averaging *** days; and *** percent was produced to order, with lead times averaging *** days.

Comparison of U.S.-produced and imported HPC pea protein

In order to determine whether U.S.-produced HPC pea protein can generally be used in the same applications as imports from China, U.S. producers and importers were asked whether the products can always, frequently, sometimes, or never be used interchangeably. As shown in table II-7, the majority of U.S. producers reported that HPC pea protein from the United States, China, and nonsubject countries is always interchangeable. However, U.S. producer *** reported that U.S.-produced HPC pea protein is sometimes interchangeable with Chinese HPC pea protein due to differences in solubility and binding. U.S. producer *** reported that Chinese HPC pea protein is sometimes interchange with HPC pea protein from nonsubject countries due to differences in taste, solubility, binding, and product consistency.

As shown in table II-8, the majority of importers reported that there are sometimes differences between HPC pea protein produce in the United States, China, and nonsubject countries. Importer *** reported that the flavor of HPC pea protein from different factories is different. Importer *** reported that country of origin is not the factor limiting the interchangeability of HPC pea protein but the specific characteristics of each product that makes it suitable for specific applications. Importer *** reported that Chinese HPC pea protein sometimes does not meet customer standards. Importer *** reported that HPC pea protein produced in different factories have different flavor profiles, solubility and consistency, which limits interchangeability. Importer *** reported that if the taste, smell, size, function, and quality are similar than pea protein is interchangeable regardless of country of origin.

Table II-7
HPC pea protein: Count of U.S. producers reporting the interchangeability between product produced in the United States and in other countries, by country pair

Country pair	Always	Frequently	Sometimes	Never
United States vs. China	2	0	1	0
United States vs. Other	2	1	0	0
China vs. Other	2	0	1	0

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

Table II-8
HPC pea protein: Count of importers reporting the interchangeability between product produced in the United States and in other countries, by country pair

Country pair	Always	Frequently	Sometimes	Never
United States vs. China	1	3	10	2
United States vs. Other	1	2	7	0
China vs. Other	1	1	7	0

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

In addition, U.S. producers, importers, and purchasers were asked to assess how often differences other than price were significant in sales of HPC pea protein from the United States, China, or nonsubject countries. As seen in table II-9, U.S. producers reported that there are sometimes or never differences other than price between HPC pea protein from the United States, China, and nonsubject countries. As seen in table II-10, the majority of importers reported that there are always or frequently differences other than price between HPC pea protein produced in the United States and China. The majority of importers reported that there are sometimes or never differences other than price between HPC pea protein produced in the United States and nonsubject countries. Importers' responses on the differences other than price between HPC pea protein produced in China and nonsubject countries were mixed. Importer *** reported that there are always differences in flavor and functionality between HPC pea protein produced in the United States and China. Importer *** reported that Chinese producers sometimes do not meet customer standards. Importer *** reported that Chinese HPC pea protein producers do not provide technical support or good sales documents and have limited product ranges.

Table II-9
HPC pea protein: Count of U.S. producers reporting the significance of differences other than price between product produced in the United States and in other countries, by country pair

Country pair	Always	Frequently	Sometimes	Never
United States vs. China	0	0	1	2
United States vs. Other	0	0	1	2
China vs. Other	0	0	1	2

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

Table II-10
HPC pea protein: Count of importers reporting the significance of differences between product produced in the United States and in other countries, by country pair

Country pair	Always	Frequently	Sometimes	Never
United States vs. China	7	5	4	1
United States vs. Other	2	2	4	2
China vs. Other	2	3	4	1

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

Part III: U.S. producers' production, shipments, and employment

The Commission analyzes a number of factors in making injury determinations (see 19 U.S.C. §§ 1677(7)(B) and 1677(7)(C)). Information on the subsidies and dumping margins was presented in Part I of this report and information on the volume and pricing of imports of the subject merchandise is presented in Part IV and Part V. Information on the other factors specified is presented in this section and/or Part VI and (except as noted) is based on the questionnaire responses of three firms that accounted for *** U.S. production of HPC pea protein during 2022.

U.S. producers

The Commission issued a U.S. producer questionnaire to three firms based on information contained in the petitions. Three firms provided usable data on their operations. Staff believes that these responses represent *** U.S. production of HPC pea protein.

Table III-1 lists U.S. producers of HPC pea protein, their production locations, positions on the petitions, and shares of total U.S. production.

Table III-1
HPC pea protein: U.S. producers, their positions on the petitions, production locations, and shares of reported production, 2022

Shares in percent

Firm	Position on petitions	Production location(s)	Share of production
ADM	***	Enderlin, ND	***
Ingredion	***	South Sioux City, NE	***
Puris	Petitioner	Dawson, MN Turtle Lake, WI Oskaloosa, IA	***
All firms	Various	Various	100.0

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

Table III-2 presents information on U.S. producers' ownership, related and/or affiliated firms. No U.S. producer is related to foreign producers of the subject merchandise or U.S. importers of the subject merchandise. In addition, as discussed in greater detail below, *** directly imported the subject merchandise and no U.S. producer purchased the subject merchandise from U.S. importers.

Table III-2
HPC pea protein: U.S. producers' ownership, related and/or affiliated firms

Reporting firm	Relationship type and related firm	Details of relationship
***	***	***
***	***	***

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

Table III-3 presents events in the U.S. industry since January 1, 2020.

Table III-3
HPC pea protein: Important industry events since January 1, 2020

Item	Firm	Event
Raw material shortage	All processors	Dry pea-growing regions in the Upper Midwest experienced a severe drought in 2021 and continuing into 2022, resulting in short supplies and high prices for dry peas.
Production stoppage	Puris	In November 2022, Puris temporarily idled production at its Oskaloosa, Iowa plant.
Plant opening	Puris	In October 2021, Puris opened a plant in Dawson, Minnesota, doubling its production capacity.
Production curtailment	Puris	In May 2023, Puris laid off 48 workers at its Turtle Lake, Wisconsin plant.
Plant opening	Affects all U.S. processors	In November 2021, French company Roquette opened the world's largest pea protein plant in Manitoba, Canada, increasing supply in the North American market.
Economic conditions	All processors	From December 2021 to December 2022, U.S. food prices increased by about 12 percent. While prices of plant-based products rose slightly less than this average, the higher overall prices for many plant-based products compared to other foods led to lower demand.

Sources: Ignaszewski, "2023 Outlook," Good Food Institute, April 11, 2023; Roquette, "Roquette Opens World's Largest Pea Protein Plant," November 17, 2021; WEAU News, "DWD: Puris Proteins, LLC in Turtle Lake Implementing Layoffs," May 26, 2023; Watrous, "Puris Doubles Production Capacity with New Facility," *Food Business News*, October 13, 2021; Hawk, "PURIS Foods Reduces Workforce," *The Oskaloosa Herald*, November 30, 2022; Pratt, "U.S. Farmers Expect Bigger Pea Crop," *The Western Producer*, September 15, 2022.

Table III-4 and figure III-1 present data on U.S. production of dry edible peas during 2020-22, as reported by the U.S. Department of Agriculture's National Agriculture Statistics Services. Figure III-2 presents data on U.S. acreage dedicated to the production of dry edible peas in 2016. As previously discussed, the Upper Midwest region of the United States experienced a severe drought in 2021 that continued into 2022, resulting in decreased yields and higher prices for dry edible peas. U.S. production of dry edible peas decreased by more than half from 2.2 billion pounds in 2020 to 0.9 billion pounds in 2021 before increasing to 1.5 billion pounds in 2022. The average unit value ("AUV") of dry edible peas increased from $0.10 in 2020 to $0.18 in 2021 then decreased to $0.15 in 2022.

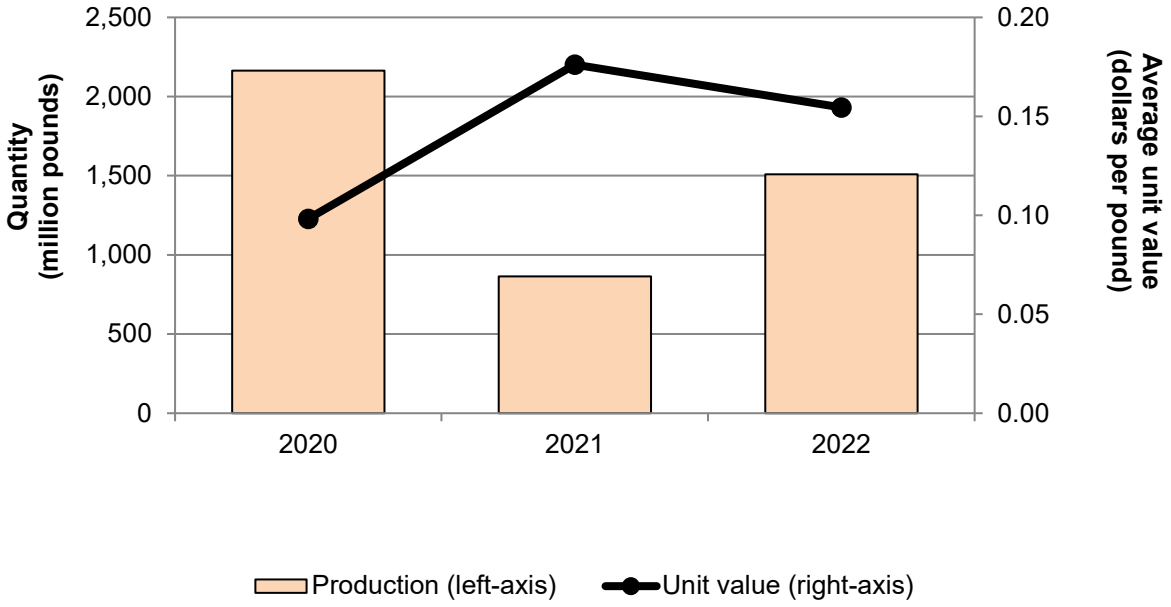
Table III-4
Dry edible peas: U.S. production, by period

Quantity in 1,000 pounds; value in 1,000 dollars; unit value in dollars per pound

Item	Measure	2020	2021	2022
Dry edible peas production	Quantity	2,162,900	863,600	1,509,200
Dry edible peas production	Value	212,544	152,104	233,256
Dry edible peas production	Unit value	0.10	0.18	0.15

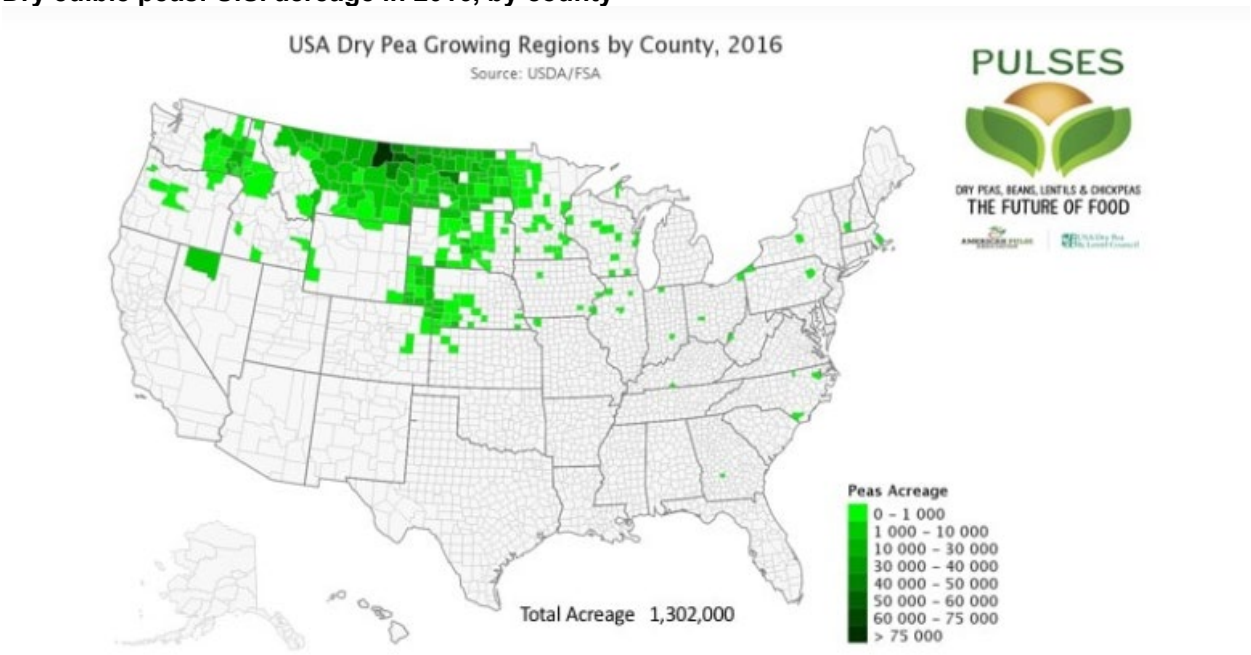
Source: Compiled from data reported by the National Agriculture Statistics Services (NASS) of the U.S. Department of Agriculture (USDA), data for "Crops and Plants: Field Crops: Peas, Dry Edible," accessed August 2, 2023.

Figure III-1
Dry edible peas: U.S. production, by period



Source: Compiled from data reported by the National Agriculture Statistics Services (NASS) of the U.S. Department of Agriculture (USDA), data for "Crops and Plants: Field Crops: Peas, Dry Edible," accessed August 2, 2023.

Figure III-2
Dry edible peas: U.S. acreage in 2016, by county



Source: USA Pulses, Processing Information and Technical Manual, Chapter 3, available at https://www.usapulses.org/technical-manual/chapter-3-production/dry-peas, access August 7, 2023.

Note: While data in this figure are from 2016, the general region in the United States in which dry edible peas are produced has not materially changed.

Producers in the United States were asked to report any change in the character of their operations or organization relating to the production of HPC pea protein since January 1, 2020. *** indicated in their questionnaires that they had experienced such changes, which are presented in table III-5. *** reported that ***. *** also reported that ***; this in turn ***. *** reported that ***. *** also reported that ***. First, ***. Then ***.

Table III-5
HPC pea protein: U.S. producers' reported changes in operations, since January 1, 2020

Item	Firm name and narrative response on changes in operations
Plant openings	***
Plant openings	***
Plant closings	***
Production curtailments	***

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

U.S. production, capacity, and capacity utilization

Table III-6 presents U.S. producers' installed overall capacity, practical overall capacity, and practical HPC pea protein capacity and production on the same equipment.

Table III-6
HPC pea protein: U.S. producers' installed and practical capacity and production on the same equipment as in-scope production, by period

Capacity and production in 1,000 pounds dry weight; utilization in percent

Item	Measure	2020	2021	2022	Jan-Mar 2022	Jan-Mar 2023
Installed overall	Capacity	***	***	***	***	***
Installed overall	Production	***	***	***	***	***
Installed overall	Utilization	***	***	***	***	***
Practical overall	Capacity	***	***	***	***	***
Practical overall	Production	***	***	***	***	***
Practical overall	Utilization	***	***	***	***	***
Practical HPC pea protein	Capacity	***	***	***	***	***
Practical HPC pea protein	Production	***	***	***	***	***
Practical HPC pea protein	Utilization	***	***	***	***	***

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

Table III-7 presents U.S. producers' reported narratives regarding practical capacity constraints.

Table III-7
HPC pea protein: U.S. producers' reported capacity constraints since January 1, 2020

Item	Firm name and narrative response on constraints to practical overall capacity
Production bottlenecks	***
Production bottlenecks	***
Production bottlenecks	***
Existing labor force	***
Existing labor force	***
Supply of material inputs	***
Other constraints	***

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

Table III-8 and figure III-3 present U.S. producers' production, practical capacity, and capacity utilization.[1] U.S. producers' practical capacity *** between 2020 and 2022, increasing by *** percent during 2020-21 then increasing by *** percent during 2021-22. The increase in practical capacity during 2020-22 reflects *** and ***.[2] U.S. producers' production increased by *** percent during 2020-21 then increased by *** percent during 2021-22, increasing overall by *** between 2020 and 2022. Conversely, practical capacity and production were *** percent and *** percent lower, respectively, in January-March 2023 than in January-March 2022. Capacity utilization decreased irregularly by *** percentage points during 2020-22, decreasing from *** percent in 2020 to *** percent in 2021 then increasing to *** percent in 2022. Capacity utilization was *** percentage points lower in January-March 2023 (*** percent) than in January-March 2022 (*** percent).

Table III-8
HPC pea protein: U.S. producers' output, by firm and period

Practical capacity

Capacity in 1,000 pounds dry weight

Firm	2020	2021	2022	Jan-Mar 2022	Jan-Mar 2023
ADM	***	***	***	***	***
Ingredion	***	***	***	***	***
Puris	***	***	***	***	***
All firms	***	***	***	***	***

Table continued.

[1] Trends in the domestic industry were largely driven by ***.

[2] *** practical capacity increased from *** pounds in 2020 to *** pounds in 2021 and to *** pounds in 2022, an increase of *** percent during 2020-22. *** practical capacity increased *** from *** pounds in 2020 to *** pounds in 2021 and 2022.

Table III-8 Continued
HPC pea protein: U.S. producers' output, by firm and period

Production

Production in 1,000 pounds dry weight

Firm	2020	2021	2022	Jan-Mar 2022	Jan-Mar 2023
ADM	***	***	***	***	***
Ingredion	***	***	***	***	***
Puris	***	***	***	***	***
All firms	***	***	***	***	***

Table continued.

Table III-8 Continued
HPC pea protein: U.S. producers' output, by firm and period

Capacity utilization

Capacity utilization in percent

Firm	2020	2021	2022	Jan-Mar 2022	Jan-Mar 2023
ADM	***	***	***	***	***
Ingredion	***	***	***	***	***
Puris	***	***	***	***	***
All firms	***	***	***	***	***

Table continued.

Table III-8 Continued
HPC pea protein: U.S. producers' output, by firm and period

Share of production

Share in percent

Firm	2020	2021	2022	Jan-Mar 2022	Jan-Mar 2023
ADM	***	***	***	***	***
Ingredion	***	***	***	***	***
Puris	***	***	***	***	***
All firms	100.0	100.0	100.0	100.0	100.0

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

Note: Capacity utilization ratio represents the ratio of the U.S. producer's production to its production capacity.

Figure III-3
HPC pea protein: U.S. producers' output, by period

* * * * * * *

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

Alternative products

As shown in table III-9, HPC pea protein accounted for between *** and *** percent of U.S. producers' overall production on the same equipment used to produce HPC pea protein. *** of three U.S. producers reported producing other products on the same equipment used to produce HPC pea protein. *** reported the production of *** and *** reported the production of ***.[3]

[3] *** further reported that ***. *** U.S. producer questionnaire response, II-4.

Table III-9
HPC pea protein: U.S. producers' overall production on the same equipment as in-scope production, by period

Quantity in 1,000 pounds dry weight; ratio and share in percent

Product type	Measure	2020	2021	2022	Jan-Mar 2022	Jan-Mar 2023
HPC pea protein	Quantity	***	***	***	***	***
LPC pea protein	Quantity	***	***	***	***	***
Other legume proteins	Quantity	***	***	***	***	***
Other products	Quantity	***	***	***	***	***
All out-of-scope products	Quantity	***	***	***	***	***
All products	Quantity	***	***	***	***	***
HPC pea protein	Share	***	***	***	***	***
LPC pea protein	Share	***	***	***	***	***
Other legume proteins	Share	***	***	***	***	***
Other products	Share	***	***	***	***	***
All out-of-scope products	Share	***	***	***	***	***
All products	Share	100.0	100.0	100.0	100.0	100.0

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

Note: Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent. Zeroes, null values, and undefined calculations are suppressed and shown as "---".

U.S. producers' U.S. shipments and exports

Table III-10 presents U.S. producers' U.S. shipments, export shipments, and total shipments.[4] U.S. shipments accounted for *** of U.S. producers' total shipments throughout the period examined.[5] [6] The quantity of U.S. shipments increased by *** percent during 2020-21 then increased by *** percent during 2021-22, increasing overall by *** percent between 2020 and 2022. Similarly, the value of U.S. shipments increased by *** percent during 2020-21 then increased by *** percent during 2021-22, increasing overall by *** percent during 2020-22. The quantity and value of U.S. shipments were *** percent and *** percent lower, respectively, in January-March 2023 than in January-March 2022. The AUV of U.S. shipments decreased from $*** in 2020 to $*** in 2021 (a decrease of *** percent) then increased to $*** in 2022 (an increase of *** percent), increasing overall by *** percent between 2020 and 2022. The AUV of U.S. shipments was *** percent higher in January-March 2023 at $*** than in January-March 2022 at $***.

[4] *** reported export shipments during the period examined, while *** export shipments. *** reported export shipments *** and identified *** as its principal export markets. *** reported export shipments *** and identified *** as its principal export market.

[5] *** U.S. producers' U.S. shipments were of pure HPC pea protein; *** reported U.S. shipments of blended HPC pea protein.

[6] *** reported commercial U.S. shipments ***. *** reported internal consumption *** and *** reported transfers to related firms ***. Internal consumption and transfers to related firms accounted for *** percent of U.S. producers' total U.S. shipments throughout the period examined.

Table III-10
HPC pea protein: U.S. producers' shipments, by destination and period

Quantity in 1,000 pounds dry weight; value in 1,000 dollars; unit value in dollars per pound dry weight; shares in percent

Item	Measure	2020	2021	2022	Jan-Mar 2022	Jan-Mar 2023
U.S. shipments	Quantity	***	***	***	***	***
Export shipments	Quantity	***	***	***	***	***
Total shipments	Quantity	***	***	***	***	***
U.S. shipments	Value	***	***	***	***	***
Export shipments	Value	***	***	***	***	***
Total shipments	Value	***	***	***	***	***
U.S. shipments	Unit value	***	***	***	***	***
Export shipments	Unit value	***	***	***	***	***
Total shipments	Unit value	***	***	***	***	***
U.S. shipments	Share of quantity	***	***	***	***	***
Export shipments	Share of quantity	***	***	***	***	***
Total shipments	Share of quantity	100.0	100.0	100.0	100.0	100.0
U.S. shipments	Share of value	***	***	***	***	***
Export shipments	Share of value	***	***	***	***	***
Total shipments	Share of value	100.0	100.0	100.0	100.0	100.0

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

Table III-11 and figure III-4 present U.S. producers' U.S. shipments in 2022 by packaging size. *** U.S. producers' U.S. shipments were medium packaging size. Table III-12 and figure III-5 present U.S. producers' U.S. shipments in 2022 by certification status. *** of U.S. producers' U.S. shipments were not certified organic.

Table III-11
HPC pea protein: U.S. producers' U.S. shipments in 2022, by packaging size

Quantity in 1,000 pounds dry weight; shares in percent

Packaging size	Quantity	Share
Bulk or supersacks	***	***
Large	***	***
Medium	***	***
Small	***	***
All packaging sizes	***	100.0

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

Note: Zeroes, null values, and undefined calculations are suppressed and shown as "---". Bulk or supersack packaging size is greater or equal to 2,000 pounds; large packaging size is greater than or equal to 100 pounds and less than 2,000 pounds; medium packaging size is greater than or equal to 10 pounds and less than 100 pounds; and small packaging size is less than 10 pounds.

Figure III-4
HPC pea protein: U.S. producers' U.S. shipments in 2022, by packaging size

* * * * * * *

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

Table III-12
HPC pea protein: U.S. producers' U.S. shipments in 2022, by certification status

Quantity in 1,000 pounds dry weight; shares in percent

Certification status	Quantity	Share
Organic	***	***
Not organic	***	***
All certification statuses	***	100.0

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

Figure III-5
HPC pea protein: U.S. producers' U.S. shipments in 2022, by certification status

* * * * * * *

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

U.S. producers' inventories

Table III-13 presents U.S. producers' end-of-period inventories and the ratio of these inventories to U.S. producers' production, U.S. shipments, and total shipments. U.S. producers' end-of-period inventories increased by *** percent during 2020-22 (increasing by *** percent during 2020-21 then increasing by *** percent during 2021-22) and were *** percent higher in January-March 2023 than in January-March 2022.[7] The ratio of U.S. producers' end-of-period inventories to their U.S. production increased from *** percent in 2020 to *** percent in 2021 and to *** percent in 2022; it was higher in January-March 2023 at *** percent than in January-March 2022 at *** percent. The ratio of U.S. producers' end-of-period inventories to their U.S. shipments increased from *** percent in 2020 to *** percent in 2021 and to *** percent in 2022; it was higher in January-March 2023 at *** percent than in January-March 2022 at *** percent.

Table III-13
HPC pea protein: U.S. producers' inventories and their ratio to select items, by period

Quantity in 1,000 pounds dry weight; ratio in percent

Item	2020	2021	2022	Jan-Mar 2022	Jan-Mar 2023
End-of-period inventory quantity	***	***	***	***	***
Inventory ratio to U.S. production	***	***	***	***	***
Inventory ratio to U.S. shipments	***	***	***	***	***
Inventory ratio to total shipments	***	***	***	***	***

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

[7] *** reported higher end-of-period inventories in 2022 than in 2020. *** reported higher end-of-period inventories in January-March 2023 than in January-March 2022, while *** end-of-period inventories were lower over the same comparison.

U.S. producers' imports from subject sources

U.S. producers' imports of HPC pea protein are presented in table III-14 and U.S. producers' reasons for importing are presented in table III-15. One U.S. producer, ***, reported imports of HPC pea protein from ***. ***'s imports of HPC pea protein from *** totaled to *** pounds in 2020, *** pounds in 2021, *** pounds in 2022, and *** pounds in January-March 2022. *** stated that ***. *** further stated that ***. *** reported *** imports of HPC pea protein from *** during January-March 2023, explaining that ***.

Table III-14
HPC pea protein: *'s U.S. production, subject imports, and ratio of subject imports to production, by source and period**

Quantity in 1,000 pounds dry weight; ratio in percent

Item	Measure	2020	2021	2022	Jan-Mar 2022	Jan-Mar 2023
U.S. production	Quantity	***	***	***	***	***
Imports from ***	Quantity	***	***	***	***	***
Imports from *** to U.S. production	Ratio	***	***	***	***	***

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

Note: Zeroes, null values, and undefined calculations are suppressed and shown as "---".

Table III-15
HPC pea protein: U.S. producers' reasons for importing

Item	Narrative response on reasons for importing
***'s reason for importing	***

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

U.S. producers' purchases of imports from subject sources

No responding U.S. producer reported purchases of imports of HPC pea protein from China during 2020-22 and both interim periods.

U.S. employment, wages, and productivity

Table III-16 shows U.S. producers' employment-related data. U.S. producers' production and related workers ("PRWs") increased by *** percent during 2020-21 and by *** percent during 2021-22, increasing overall by *** percent between 2020 and 2022. PRWs were *** percent lower in January-March 2023 than in January-March 2022. Hours worked per PRW increased irregularly by *** percent between 2020 and 2022, decreasing by *** percent during 2020-21 then increasing by *** percent during 2021-22. Hourly wages increased by *** percent during 2020-21 then increased by *** percent during 2021-22, ending *** percent higher in 2022 than in 2020. Hours worked per PRW were *** percent lower in January-March 2023 than in January-March 2022, while hourly wages were *** percent higher over the same comparison. Productivity increased irregularly by *** percent during 2020-22 (increasing by *** percent during 2020-21 then decreasing by *** percent during 2021-22) and was *** percent lower in January-March 2023 than in January-March 2022. Unit labor costs increased by *** percent during 2020-22 (increasing by *** percent during 2020-21 then increasing by *** percent during 2021-22) and were *** percent higher in January-March 2023 than in January-March 2022.

Table III-16
HPC pea protein: U.S. producers' employment related information, by period

Item	2020	2021	2022	Jan-Mar 2022	Jan-Mar 2023
Production and related workers (PRWs) (number)	***	***	***	***	***
Total hours worked (1,000 hours)	***	***	***	***	***
Hours worked per PRW (hours)	***	***	***	***	***
Wages paid ($1,000)	***	***	***	***	***
Hourly wages (dollars per hour)	***	***	***	***	***
Productivity (pounds dry weight per hour)	***	***	***	***	***
Unit labor costs (dollars per pound dry weight)	***	***	***	***	***

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

Part IV: U.S. imports, apparent U.S. consumption, and market shares

U.S. importers

The Commission issued importer questionnaires to 51 firms believed to be importers of HPC pea protein, as well as to all U.S. producers of HPC pea protein.[1] Usable questionnaire responses were received from 19 companies, representing *** percent of U.S. imports from China and *** percent from nonsubject sources in 2022 under HTS statistical reporting numbers 3504.00.1000, 3504.00.5000, and 2106.10.0000, "basket" categories that include HPC pea protein and out-of-scope products.[2] [3] Table IV-1 lists all responding U.S. importers of HPC pea protein from China and other sources, their locations, and their shares of U.S. imports, in 2022.

[1] The Commission issued questionnaires to those firms identified in the petitions, along with firms that, based on a review of data from third-party sources, may have accounted for more than one percent of total imports under HTS statistical reporting numbers 3504.00.1000, 3504.00.5000, and 2106.10.0000 during January 2020 through March 2023.

[2] The coverage figures are based on official Commerce import statistics adjusted to remove certain out-of-scope imports under the HTS statistical reporting numbers submitted in response to Commission questionnaires. Moreover, the coverage figures are likely understated due to the wide range of out-of-scope products entering under these "basket" categories.

[3] According to the scope set forth by Commerce, imports of HPC pea protein may also enter under HTS statistical reporting number 2308.00.9890. However, *** reported imports of HPC pea protein under this HTS statistical reporting number.

Table IV-1
HPC pea protein: U.S. importers, their headquarters, and share of imports within each source, 2022

Share in percent

Firm	Headquarters	China	Nonsubject sources	All import sources
AIDP	City Of Industry, CA	***	***	***
All About Naturals	West Valley City, UT	***	***	***
Bulk Supplements	Henderson, NV	***	***	***
Farbest-Tallman	Park Ridge, NJ	***	***	***
Foodguys	Seattle, WA	***	***	***
Freemen Nutra	Edison, NJ	***	***	***
Ingredion	Westchester, IL	***	***	***
Nutravative	Allen, TX	***	***	***
Nature's Ingredients	Fairfield, NJ	***	***	***
Nature's Power	Gardena, CA	***	***	***
Nura	Irvine, CA	***	***	***
Nutrasumma	Phoenix, AZ	***	***	***
Prinova	Hanover Park, IL	***	***	***
Protein Plus	Irvine, CA	***	***	***
Roquette	Keokuk, IA	***	***	***
Sunwarrior	Washington, UT	***	***	***
Top Health	Edmonton, AB	***	***	***
United Pulse	Bismarck, ND	***	***	***
Zammex	Somerset, NJ	***	***	***
All firms	Various	100.0	100.0	100.0

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

Note: Shares and ratios shown as “0.0” represent values greater than zero, but less than “0.05” percent. Zeroes, null values, and undefined calculations are suppressed and shown as “---”.

Note: *** reported imports of HPC pea protein during ***.

U.S. imports

Table IV-2, table IV-3, and figure IV-1 present data for U.S. imports of HPC pea protein from China and all other sources.[4] The quantity of U.S. imports from China increased by *** percent between 2020 and 2022 (increasing by *** percent during 2020-21 then decreasing by *** percent during 2021-22) but were *** percent lower in January-March 2023 than in January-March 2022. *** was the largest U.S. importer of HPC pea protein from China, accounting for *** of those imports in each year during 2020-22 and both interim periods. The quantity of U.S. imports from nonsubject sources (primarily from ***) decreased by *** percent during 2020-21 then increased by *** percent during 2021-22, ending *** percent lower in 2022 than in 2020.[5]

The value of U.S. imports from China increased by *** percent during 2020-21 then increased by *** percent during 2021-22, increasing overall by *** percent between 2020 and 2022. Conversely, the value of U.S. imports from China was *** percent lower in January-March 2023 than in January-March 2022. The value of U.S. imports from nonsubject sources decreased by *** percent during 2020-22, decreasing by *** percent during 2020-21 then increasing by *** percent during 2021-22.

The AUV of imports from China increased by *** percent from $*** per pound in 2020 to $*** per pound in 2021 then increased by *** percent to $*** in 2022, ending *** percent higher in 2022 than in 2020. The AUV of imports from China was *** percent lower in January-March 2023 ($*** per pound) than in January-March 2022 ($*** per pound).

The ratio of imports from China to U.S. production fluctuated but decreased overall by *** percentage points during 2020-22; it increased from *** percent in 2020 to *** percent in 2021 (an increase of *** percentage points) then decreased to *** percent in 2022 (a decrease of *** percentage points). The ratio of imports from China to U.S. production was *** percentage points lower in January-March 2023 at *** percent than in January-March 2022 at *** percent.

[4] *** imports were of pure HPC pea protein; *** reported *** of imports of blended HPC pea protein.

[5] No U.S. importer reported imports of HPC pea protein from nonsubject sources during January-March 2022. Imports from nonsubject sources were *** pounds in January-March 2023.

Table IV-2
HPC pea protein: U.S. imports by source and period

Quantity in 1,000 pounds dry weight; value in 1,000 dollars; unit value in dollars per pound dry weight; share and ratio in percent

Source	Measure	2020	2021	2022	Jan-Mar 2022	Jan-Mar 2023
China	Quantity	***	***	***	***	***
Nonsubject sources	Quantity	***	***	***	***	***
All import sources	Quantity	***	***	***	***	***
China	Value	***	***	***	***	***
Nonsubject sources	Value	***	***	***	***	***
All import sources	Value	***	***	***	***	***
China	Unit value	***	***	***	***	***
Nonsubject sources	Unit value	***	***	***	***	***
All import sources	Unit value	***	***	***	***	***
China	Share of quantity	***	***	***	***	***
Nonsubject sources	Share of quantity	***	***	***	***	***
All import sources	Share of quantity	100.0	100.0	100.0	100.0	100.0
China	Share of value	***	***	***	***	***
Nonsubject sources	Share of value	***	***	***	***	***
All import sources	Share of value	100.0	100.0	100.0	100.0	100.0
China	Ratio	***	***	***	***	***
Nonsubject sources	Ratio	***	***	***	***	***
All import sources	Ratio	***	***	***	***	***

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

Note: Share of quantity is the share of U.S. imports by quantity; share of value is the share of U.S. imports by value; ratio are U.S. imports to production. Zeroes, null values, and undefined calculations are suppressed and shown as "---".

Table IV-3
HPC pea protein: Changes in U.S. imports quantity, value, and unit value, by source and period

%Δ in percent

Source	Measure	2020-22	2020-21	2021-22	Jan-Mar 2022-23
China	%Δ Quantity	▲***	▲***	▼***	▼***
Nonsubject sources	%Δ Quantity	▼***	▼***	▲***	▼***
All import sources	%Δ Quantity	▲***	▲***	▼***	▼***
China	%Δ Value	▲***	▲***	▲***	▼***
Nonsubject sources	%Δ Value	▼***	▼***	▲***	▼***
All import sources	%Δ Value	▲***	▲***	▲***	▼***
China	%Δ Unit value	▲***	▲***	▲***	▼***
Nonsubject sources	%Δ Unit value	▼***	▼***	▼***	▼***
All import sources	%Δ Unit value	▲***	▲***	▲***	▼***

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

Note: Zeroes, null values, and undefined calculations are suppressed and shown as "---".

Figure IV-1
HPC pea protein: U.S. import quantities and average unit values, by source and period

* * * * * * *

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

Table IV-4 and figure IV-2 present U.S. importers' U.S. shipments of imports in 2022 by packaging size. *** U.S. importers' U.S. shipments of imports from China and *** U.S. importers' U.S. shipments of imports from nonsubject sources were medium packaging size. Table IV-5 and figure IV-3 present U.S. importers' U.S. shipments of imports in 2022 by certification status. Approximately *** of U.S. importers' U.S. shipments of imports from China and *** U.S. importers' U.S. shipments of imports from nonsubject sources were certified organic.

Table IV-4
HPC pea protein: U.S. importers' U.S. shipments of imports in 2022, by packaging size and source

Quantity in 1,000 pounds dry weight; share in percent

Packaging size	China: Quantity	China: Share	Nonsubject: Quantity	Nonsubject: Share	All import sources: Quantity	All import sources: Share
Bulk or supersacks	***	***	***	***	***	***
Large	***	***	***	***	***	***
Medium	***	***	***	***	***	***
Small	***	***	***	***	***	***
All packaging sizes	***	100.0	***	100.0	***	100.0

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

Note: Zeroes, null values, and undefined calculations are suppressed and shown as "---". Bulk or supersack packaging size is greater or equal to 2,000 pounds; large packaging size is greater than or equal to 100 pounds and less than 2,000 pounds; medium packaging size is greater than or equal to 10 pounds and less than 100 pounds; and small packaging size is less than 10 pounds.

Figure IV-2
HPC pea protein: U.S. importers' U.S. shipments of imports from China in 2022, by packaging size

* * * * * * *

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

Table IV-5
HPC pea protein: U.S. importers' U.S. shipments of imports in 2022, by certification status and source

Quantity in 1,000 pounds dry weight; share in percent

Certification status	China: Quantity	China: Share	Nonsubject: Quantity	Nonsubject: Share	All import sources: Quantity	All import sources: Share
Organic	***	***	***	***	***	***
Not organic	***	***	***	***	***	***
All certification statuses	***	100.0	***	100.0	***	100.0

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

Note: Zeroes, null values, and undefined calculations are suppressed and shown as "---".

Figure IV-3
HPC pea protein: U.S. importers' U.S. shipments of imports from China in 2022, by certification status

* * * * * * *

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

Negligibility

The statute requires that an investigation be terminated without an injury determination if imports of the subject merchandise are found to be negligible.[6] Negligible imports are generally defined in the Act, as amended, as imports from a country of merchandise corresponding to a domestic like product where such imports account for less than 3 percent of the volume of all such merchandise imported into the United States in the most recent 12-month period for which data are available that precedes the filing of the petition or the initiation of the investigation. However, if there are imports of such merchandise from a number of countries subject to investigations initiated on the same day that individually account for less than 3 percent of the total volume of the subject merchandise, and if the imports from those countries collectively account for more than 7 percent of the volume of all such merchandise imported into the United States during the applicable 12-month period, then imports from such countries are deemed not to be negligible.[7] Imports from China accounted for *** percent of total imports of HPC pea protein by quantity during July 2022 through June 2023.

Table IV-6
HPC pea protein: U.S. imports in the twelve-month period preceding the filing of the petition, July 2022 through June 2023

Quantity in 1,000 pounds dry weight; share in percent

Source of imports	Quantity	Share of quantity
China	***	***
Nonsubject sources	***	***
All import sources	***	100.0

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

[6] Sections 703(a)(1), 705(b)(1), 733(a)(1), and 735(b)(1) of the Act (19 U.S.C. §§ 1671b(a)(1), 1671d(b)(1), 1673b(a)(1), and 1673d(b)(1)).

[7] Section 771 (24) of the Act (19 U.S.C § 1677(24)).

Apparent U.S. consumption and market shares

Quantity

Table IV-7 and figure IV-4 present data on apparent U.S. consumption and U.S. market shares by quantity for HPC pea protein.[8] Apparent U.S. consumption by quantity increased from *** pounds in 2020 to *** pounds in 2021 (an increase of *** percent) then increased to *** pounds in 2022 (an increase of *** percent), increasing overall by *** percent between 2020 and 2022. In contrast, apparent U.S. consumption by quantity was *** percent lower in January-March 2023 at *** pounds than in January-March 2022 at *** pounds. U.S. producers' market share increased irregularly by *** percentage points during 2020-22, decreasing by *** percentage points during 2020-21 then increasing by *** percentage points during 2021-22. U.S. producers' market share was *** percentage points lower in January-March 2023 than in January-March 2022. Subject import market share increased by *** percentage points during 2020-21 then decreased by *** percentage points during 2021-22, increasing overall by *** percentage points during 2020-22. Nonsubject import market share decreased by *** percentage points during 2020-21 then increased by *** percentage points during 2021-22, decreasing overall by *** percentage points between 2020 and 2022. Subject import market share was *** percentage points lower in January-March 2023 than in January-March 2022, while nonsubject import market share was *** percent higher over the same comparison.

[8] Appendix E presents data on apparent U.S. consumption and U.S. market shares with data for China based on Chinese producers' reported exports to the United States.

Table IV-7
HPC pea protein: Apparent U.S. consumption and market shares based on quantity, by source and period

Quantity in 1,000 pounds dry weight; shares in percent

Source	Measure	2020	2021	2022	Jan-Mar 2022	Jan-Mar 2023
U.S. producers	Quantity	***	***	***	***	***
China	Quantity	***	***	***	***	***
Nonsubject sources	Quantity	***	***	***	***	***
All import sources	Quantity	***	***	***	***	***
All sources	Quantity	***	***	***	***	***
U.S. producers	Share	***	***	***	***	***
China	Share	***	***	***	***	***
Nonsubject sources	Share	***	***	***	***	***
All import sources	Share	***	***	***	***	***
All sources	Share	100.0	100.0	100.0	100.0	100.0

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

Note: Zeroes, null values, and undefined calculations are suppressed and shown as "---".

Figure IV-4
HPC pea protein: Apparent U.S. consumption based on quantity, by source and period

* * * * * * *

Source: Compiled from data submitted in response to Commission questionnaires

Value

Table IV-8 and figure IV-5 present data on apparent U.S. consumption and U.S. market shares by value for HPC pea protein. The value of apparent U.S. consumption increased from $*** in 2020 to $*** in 2021 (an increase of *** percent) then increased to $*** in 2022 (an increase of *** percent), increasing overall by *** percent between 2020 and 2022. Conversely, the value of apparent U.S. consumption was *** percent lower in January-March 2023 at $*** than in January-March 2022 at $***. U.S. producers' market share increased irregularly by *** percentage points during 2020-22, decreasing by *** percentage points during 2020-21 then increasing by *** percentage points during 2021-22. Subject import market share increased by *** percentage points during 2020-21 then decreased by *** percentage points during 2021-22, ending *** percentage points higher in 2022 than in 2020. U.S. producers' market share was *** percent higher in January-March 2023 than in January-March 2022, while subject import market share was *** percent lower over the same comparison. Nonsubject import market share decreased overall by *** percentage points between 2020 and 2022, decreasing by *** percentage points during 2020-21 then decreasing by *** percentage points during 2021-22. Nonsubject import market share was *** percentage points higher in January-March 2023 than in January-March 2022.

Table IV-8
HPC pea protein: Apparent U.S. consumption and market shares based on value, by source and period

Value in 1,000 dollars; shares in percent

Source	Measure	2020	2021	2022	Jan-Mar 2022	Jan-Mar 2023
U.S. producers	Value	***	***	***	***	***
China	Value	***	***	***	***	***
Nonsubject sources	Value	***	***	***	***	***
All import sources	Value	***	***	***	***	***
All sources	Value	***	***	***	***	***
U.S. producers	Share	***	***	***	***	***
China	Share	***	***	***	***	***
Nonsubject sources	Share	***	***	***	***	***
All import sources	Share	***	***	***	***	***
All sources	Share	100.0	100.0	100.0	100.0	100.0

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

Note: Zeroes, null values, and undefined calculations are suppressed and shown as "---".

Figure IV-5
HPC pea protein: Apparent U.S. consumption based on value, by source and period

* * * * * * *

Source: Compiled from data submitted in response to Commission questionnaires

Part V: Pricing data

Factors affecting prices

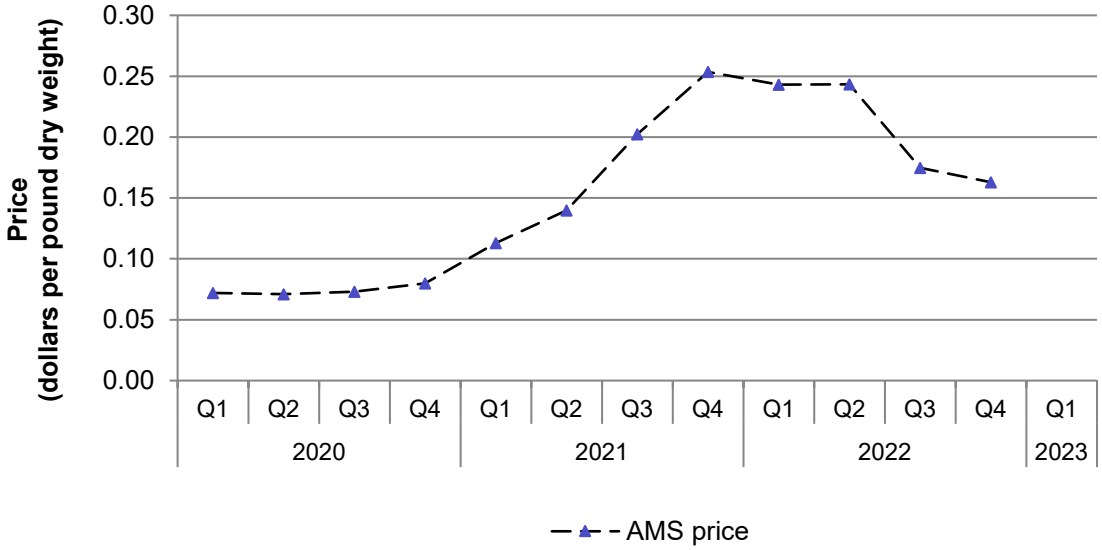
Raw material costs

The principal raw material used in the production of HPC pea protein is yellow field peas.[1] U.S. producers typically source yellow field peas through production contracts with farmers that require U.S. producers to purchase the total quantity produced from a fixed number of acres at a price fixed prior to the farmer planting his fields.[2] Any shortfall in raw materials sourced through annual production contracts is made up by purchasing yellow field peas on the open market at harvest time.[3] Yellow field peas are dry when harvested[4] and can be stored in bins for up to a year.[5] Raw materials costs as a percentage of cost of goods (COGS) increased from *** percent in 2020 to *** percent in 2022.

The published price for yellow field peas increased 128.5 percent from January 2020 to December 2022. Price spikes in 2021 and early 2022 were the result of a drought in the upper Midwest that decreased crop yield by up to 60 percent (figure V-1).[6]

[1] Conference transcript, p. 27 (Chandak).
[2] Conference transcript, p. 93 (Atchison).
[3] Conference transcript, p. 94 (Atchison).
[4] Conference transcript, p. 61 (Atchison).
[5] Conference transcript, p. 67 (Atchison).
[6] Conference transcript, p. 89 (Atchison).

Figure V-1
Whole yellow peas: U.S. grower average quarterly price for whole yellow peas from North Dakota and Montana, by quarter and year



Source: AMS 2022 Bean Market Summary, USDA Market News, https://www.ams.usda.gov/mnreports/lsaba.pdf, accessed August 7, 2023

Table V-1
Whole yellow peas: U.S. grower average quarterly price for whole yellow peas from North Dakota and Montana, by quarter and year

Price in dollars per pound

Period	Price
2020 Q1	0.07
2020 Q2	0.07
2020 Q3	0.07
2020 Q4	0.08
2021 Q1	0.11
2021 Q2	0.14
2021 Q3	0.20
2021 Q4	0.25
2022 Q1	0.24
2022 Q2	0.24
2022 Q3	0.17
2022 Q4	0.16
2023 Q1	NA

Source: AMS 2022 Bean Market Summary, USDA Market News, https://www.ams.usda.gov/mnreports/lsaba.pdf, accessed August 7, 2023

Transportation costs to the U.S. market

Transportation costs for HPC pea protein shipped from China to the United States averaged 9.7 percent during 2022. These estimates were derived from official import data and represent the transportation and other charges on imports.[7]

U.S. inland transportation costs

The majority of responding U.S. producers and half of responding importers reported that they typically arrange transportation to their customers. U.S. producers reported that their U.S. inland transportation costs ranged from 1.0 to 9.0 percent, while most importers reported costs of 1.5 to 8.0 percent.

[7] The estimated transportation costs were obtained by subtracting the customs value from the c.i.f. value of the imports for 2022 and then dividing by the customs value based on the HTS statistical reporting number Bureau using HTS statistical reporting numbers 3504.00.1000, 3504.00.5000, and 2106.10.0000.

Pricing practices

Pricing methods

U.S. producers reported setting prices using transaction-by-transaction negotiations, contracts, and price lists (table V-2). Importers reported setting prices using transaction-by-transaction negotiations, contracts, price lists, and other methods, including market research and replacement cost of goods.

Table V-2
HPC pea protein: Count of U.S. producers' and importers' reported price setting methods

Method	U.S. producers	Importers
Transaction-by-transaction	2	14
Contract	3	13
Set price list	1	9
Other	0	1
Responding firms	3	19

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

Note: The sum of responses down may not add up to the total number of responding firms as each firm was instructed to check all applicable price setting methods employed.

U.S. producers reported selling the *** majority of HPC pea protein under annual contracts. Importers reported selling the *** majority of HPC pea protein under annual and long-term contracts (table V-3).

Table V-3
HPC pea protein: U.S. producers' and importers' shares of commercial U.S. shipments by type of sale, 2022

Share in percent

Type of sale	U.S. producers	Subject importers
Long-term contracts	***	***
Annual contracts	***	***
Short-term contracts	***	***
Spot sales	***	***
Total	100.0	100.0

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

Note: Because of rounding, figures may not add to the totals shown.

*** U.S. producers that use short-term contracts to sell HPC pea protein reported that these contracts typically lasted between *** days. U.S. producers report fixing both price and quantity in short-term contracts and that prices are not indexed to raw materials. *** U.S. producers reported selling HPC pea protein under annual contracts and that

they fixed both price and quantity in these contracts and that prices were not indexed to raw materials.

Eight importers reported using short-term contracts to sell HPC pea protein and that these contracts typically last 180 days. The majority of importers reported that these contracts fix price and quantity and that prices are not indexed to raw materials. Twelve importers reported selling HPC pea protein under annual contracts. The majority of importers reported that they fix price and quantity in annual contracts and that prices are not indexed to raw materials. Three importers reported selling HPC pea protein under long-term contracts and that these contracts typically ranged from 1.5 years to 2.5 years. The majority of importers reported that they fix price and quantity in long-term contracts. One importer reported indexing prices to raw materials in long-term contracts.

Sales terms and discounts

All U.S. producers and the majority of importers typically quote prices on an f.o.b. basis. U.S. producers *** reported offering quantity discounts. Importers reported offering quantity, total volume, and other discounts. Other discounts include short shelf-life and expired inventory discounts.

Price and purchase cost data

The Commission requested U.S. producers and importers to provide quarterly data for the total quantity and f.o.b. value of the following HPC pea protein products shipped to unrelated U.S. customers during January 2020-March 2023. Firms that imported these products from China for their own use and retail sale were requested to provide import purchase cost data.

Product 1.-- Low viscosity, organic, non-GMO, hydrolyzed pea protein, with a minimum pea protein content of 80 percent, a pH of 5.5 to 8.0, and a moisture content of a maximum of 10 percent.

Product 2.-- High solubility, organic, non-GMO, non-hydrolyzed pea protein, with a minimum pea protein content of 80 percent a pH of 5.5 to 8.0, and a moisture content of a maximum of 10 percent.

Product 3.-- Low viscosity, non-organic, non-GMO, hydrolyzed pea protein, with a minimum pea protein content of 80 percent, a pH of 5.5 to 8.0, and a moisture content of a maximum of 10 percent.

Product 4.-- High solubility, non-organic, non-GMO, non-hydrolyzed pea protein, with a minimum pea protein content of 80 percent a pH of 5.5 to 8.0, and a moisture content of a maximum of 10 percent.

Price data

Three U.S. producers and 16 importers provided usable pricing data for sales of the requested products, although not all firms reported pricing for all products for all quarters.[8] Pricing data reported by these firms accounted for approximately *** percent of U.S. producers' commercial shipments of HPC pea protein and *** percent of U.S. commercial shipments from China in 2022.

Price data for products 1-4 are presented in tables V-4 to V-7 and figures V-2 to V-5.

[8] Per-unit pricing data are calculated from total quantity and total value data provided by U.S. producers and importers. The precision and variation of these figures may be affected by rounding, limited quantities, and producer or importer estimates.

Table V-4
HPC pea protein: Weighted-average f.o.b. prices and quantities of domestic and imported product 1 and margins of underselling/(overselling), by quarter

Price in dollars per pound dry weigh, quantity in pounds dry weight, margin in percent.

* * * * * * *

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

Note: Product 1: Low viscosity, organic, non-GMO, hydrolyzed pea protein, with a minimum pea protein content of 80 percent, a pH of 5.5 to 8.0, and a moisture content of a maximum of 10 percent.

Figure V-2
HPC pea protein: Weighted-average f.o.b. prices and quantities of domestic and imported product 1, by quarter

Price of product 1

* * * * * * *

Volume of product 1

* * * * * * *

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

Note: Product 1: Low viscosity, organic, non-GMO, hydrolyzed pea protein, with a minimum pea protein content of 80 percent, a pH of 5.5 to 8.0, and a moisture content of a maximum of 10 percent.

Table V-5
HPC pea protein: Weighted-average f.o.b. prices and quantities of domestic and imported product 2 and margins of underselling/(overselling), by quarter

Price in dollars per pound dry weigh, quantity in pounds dry weight, margin in percent.

* * * * * * *

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

Note: Product 2: High solubility, organic, non-GMO, non-hydrolyzed pea protein, with a minimum pea protein content of 80 percent a pH of 5.5 to 8.0, and a moisture content of a maximum of 10 percent.

Figure V-3
HPC pea protein: Weighted-average f.o.b. prices and quantities of domestic and imported product 2, by quarter

Price of product 2

* * * * * * *

Volume of product 2

* * * * * * *

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

Note: Product 2: High solubility, organic, non-GMO, non-hydrolyzed pea protein, with a minimum pea protein content of 80 percent a pH of 5.5 to 8.0, and a moisture content of a maximum of 10 percent.

Table V-6
HPC pea protein: Weighted-average f.o.b. prices and quantities of domestic and imported product 3 and margins of underselling/(overselling), by quarter

Price in dollars per pound dry weigh, quantity in pounds dry weight, margin in percent.

* * * * * * *

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

Note: Product 3: Low viscosity, non-organic, non-GMO, hydrolyzed pea protein, with a minimum pea protein content of 80 percent, a pH of 5.5 to 8.0, and a moisture content of a maximum of 10 percent.

Figure V-4
HPC pea protein: Weighted-average f.o.b. prices and quantities of domestic and imported product 3, by quarter

Price of product 3

* * * * * * *

Volume of product 3

* * * * * * *

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

Note: Product 3: Low viscosity, non-organic, non-GMO, hydrolyzed pea protein, with a minimum pea protein content of 80 percent, a pH of 5.5 to 8.0, and a moisture content of a maximum of 10 percent.

Table V-7
HPC pea protein: Weighted-average f.o.b. prices and quantities of domestic and imported product 4 and margins of underselling/(overselling), by quarter

Price in dollars per pound dry weigh, quantity in pounds dry weight, margin in percent.

* * * * * * *

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

Note: Product 4: High solubility, non-organic, non-GMO, non-hydrolyzed pea protein, with a minimum pea protein content of 80 percent, a pH of 5.5 to 8.0, and a moisture content of a maximum of 10 percent.

Figure V-5
HPC pea protein: Weighted-average f.o.b. prices and quantities of domestic and imported product 4, by quarter

Price of product 4

* * * * * * *

Volume of product 4

* * * * * * *

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

Note: Product 4: High solubility, non-organic, non-GMO, non-hydrolyzed pea protein, with a minimum pea protein content of 80 percent, a pH of 5.5 to 8.0, and a moisture content of a maximum of 10 percent.

Import purchase cost data

Eight importers reported useable import purchase cost data for products 1, 2 and 4. Importers did not report import purchase cost data for product 3. Purchase cost data reported by these firms accounted for *** percent of U.S. imports from China in 2022. Landed duty paid purchase cost data for imports from China are presented in tables V-8 to V-10, and figures V-6 to V-8 along with U.S. producers' sales prices.[9]

Importers reporting import purchase cost data were asked to provide additional information regarding the costs and benefits of directly importing HPC pea protein.

One of eight importers reported that they incurred additional costs beyond landed duty-paid costs by importing HPC pea protein directly rather than purchasing from a U.S. producer or U.S. importer. This importer estimated the total additional cost incurred at 13.0 percent in addition to the landed-duty paid value. Firms were also asked to identify specific additional costs they incurred as a result of importing HPC pea protein and reported costs including duties and customs.

Firms were also asked to describe how these additional costs incurred by importing HPC pea protein directly compare with additional costs incurred when purchasing from a U.S. producer or U.S. importer. Importer *** reported that typically the mark-up for HPC purchased from a U.S. producer or importer ranges from 10.0 to 18.0 percent above purchase costs.

Three of 8 importers reported that they compare costs of importing to the cost of purchasing from a U.S. producer in determining whether to import HPC pea protein, six importers compare costs to purchasing from a U.S. importer, and two importers do not compare costs of purchasing from either U.S. producers or importers.

Eight importers identified benefits from importing HPC pea protein directly instead of purchasing from U.S. producers or importers; they included lower costs, better control over supply chains, increased availability, access to better tasting product, access to HPC pea protein that meets set requirements, and decreased lead times.

Firms were also asked whether the import costs (both excluding and including additional costs) of HPC pea protein that they imported are lower than the prices of purchasing HPC pea protein from a U.S. producer or importer. Three firms reported that the cost of importing HPC pea protein from China is lower than purchasing from a U.S. producer or importer excluding the

[9] LDP import value does not include any potential additional costs that a purchaser may incur by importing rather than purchasing from another importer or U.S. producer. Price-cost differences are based on LDP import values whereas margins of underselling/overselling are based on importer sales prices.

additional costs associated with importing. Two firms reported that the import cost of importing HPC pea protein is lower than purchasing from a U.S. producer or importer including the additional costs associated with importing.

Five importers estimated that they saved between *** percent of the purchase price by importing HPC pea protein rather than purchasing from a U.S. importer and saving between *** percent compared to purchasing the product from a U.S. producer.

Table V-8
HPC pea protein: Import landed duty-paid purchase costs and domestic prices, quantities of product 1, and price-cost differentials, by quarter

Price and LDP value in dollars per pound dry weight, quantity in pounds dry weight, margin and price-cost differential in percent.

* * * * * * *

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

Note: Product 1: Low viscosity, organic, non-GMO, hydrolyzed pea protein, with a minimum pea protein content of 80 percent, a pH of 5.5 to 8.0, and a moisture content of a maximum of 10 percent.

Note: U.S. producer price data is the same as that presented in table V-4**.**

Figure V-6
HPC pea protein: U.S. producer prices and import purchase costs, and quantities, of product 1, by quarter

U.S. price and import purchase cost of product 1

* * * * * * *

Volume of product 1

* * * * * * *

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

Note: Product 1: Low viscosity, organic, non-GMO, hydrolyzed pea protein, with a minimum pea protein content of 80 percent, a pH of 5.5 to 8.0, and a moisture content of a maximum of 10 percent.

Table V-9
HPC pea protein: Import landed duty-paid purchase costs and domestic prices, quantities of product 2, and price-cost differentials, by quarter

Price and LDP value in dollars per pound dry weight, quantity in pounds dry weight, margin and price-cost differential in percent.

* * * * * * *

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

Note: Product 2: High solubility, organic, non-GMO, non-hydrolyzed pea protein, with a minimum pea protein content of 80 percent a pH of 5.5 to 8.0, and a moisture content of a maximum of 10 percent.

Note: U.S. producer price data is the same as that presented in table V-5**.**

Figure V-7
HPC pea protein: U.S. producer prices and import purchase costs, and quantities, of product 2, by quarter

U.S. price and import purchase cost of product 2

* * * * * * *

Volume of product 2

* * * * * * *

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

Note: Product 2: High solubility, organic, non-GMO, non-hydrolyzed pea protein, with a minimum pea protein content of 80 percent a pH of 5.5 to 8.0, and a moisture content of a maximum of 10 percent.

Table V-10
HPC pea protein: Import landed duty-paid purchase costs and domestic prices, quantities of product 4, and price-cost differentials, by quarter

Price and LDP value in dollars per pound dry weight, quantity in pounds dry weight, margin and price-cost differential in percent.

* * * * * * *

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

Note: Product 4: High solubility, non-organic, non-GMO, non-hydrolyzed pea protein, with a minimum pea protein content of 80 percent, a pH of 5.5 to 8.0, and a moisture content of a maximum of 10 percent.

Note: U.S. producer price data is the same as that presented in table V-7**.**

Figure V-8
HPC pea protein: U.S. producer prices and import purchase costs, and quantities, of product 4, by quarter

U.S. price and import purchase cost of product 4

* * * * * * *

Volume of product 4

* * * * * * *

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

Note: Product 4: High solubility, non-organic, non-GMO, non-hydrolyzed pea protein, with a minimum pea protein content of 80 percent, a pH of 5.5 to 8.0, and a moisture content of a maximum of 10 percent.

Price and purchase cost trends

Most prices increased during January 2020 to March 2023. Table V-11 summarizes the price trends, by country and by product. As shown in the table, domestic price increases ranged from *** to *** percent. Import price increases ranged from *** to *** percent and the import price decreased by *** percent. Landed duty-paid costs increases was *** percent and decrease was *** percent.

Table V-11
HPC pea protein: Summary of price and cost data, by product and source

Prices and unit LDP values in dollars per pound dry weight; Quantity in pounds dry weight; Change in percent

* * * * * * *

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

Note: Percentage change from the first quarter in which data were available in 2020 to the last quarter in which data were available in 2023.

Figure V-9
HPC pea protein: Indexed U.S. producer prices, by quarter

* * * * * * *

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

Table V-12
HPC pea protein: Indexed U.S. producer prices, by quarter

Indexed prices in percent

* * * * * * *

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

Figure V-10
HPC pea protein: Indexed subject U.S. importers' prices, by quarter

* * * * * * *

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

Table V-13
HPC pea protein: Indexed subject U.S. importers' prices, by quarter

Indexed purchase cost in percent

* * * * * * *

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

Note: Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent. Zeroes, null values, and undefined calculations are suppressed and shown as "---".

Figure V-11
HPC pea protein: Indexed subject U.S. importers' purchase costs, by quarter, by product

* * * * * * *

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

Table V-14
HPC pea protein: Indexed subject U.S. importers' purchase costs, by quarter, by product

Indexed purchase cost in percent

* * * * * * *

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

Note: Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent. Zeroes, null values, and undefined calculations are suppressed and shown as "---".

Price and purchase cost comparisons

Price comparisons

As shown in table V-15, prices for product imported from China were below those for U.S.-produced product in all instances (*** pounds dry weight); margins of underselling ranged from 25.6 to 72.0 percent.

Table V-15
HPC pea protein: Instances of underselling and overselling and the range and average of margins, by product

Quantity in pounds dry weight; margin in percent

Product	Type	Number of quarters	Quantity	Average margin	Min margin	Max margin
Product 1	Underselling	13	***	***	***	***
Product 2	Underselling	13	***	***	***	***
Product 3	Underselling	13	***	***	***	***
Product 4	Underselling	13	***	***	***	***
All products	Underselling	52	***	45.4	25.6	72.0
Product 1	Overselling	---	***	***	***	***
Product 2	Overselling	---	***	***	***	***
Product 3	Overselling	---	***	***	***	***
Product 4	Overselling	---	***	***	***	***
All products	Overselling	---	---	---	---	---

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

Note: These data include only quarters in which there is a comparison between the U.S. and subject product.

Price-cost comparisons

As shown in table V-16, landed duty-paid costs for HPC pea protein imported from China were below the sales price for U.S.-produced product in all instances (*** pounds dry weight); price-cost differentials ranged from 31.9 to 72.4 percent.

Table V-16
HPC pea protein: Instances of lower and higher import purchase costs and the range and average of price-cost differentials, by product

Quantity in pounds dry weight; price-cost differential in percent

Product	Type	Number of quarters	Quantity	Average price-cost differential	Min price-cost differential	Max price-cost differential
Product 1	Lower than U.S. price	13	***	***	***	***
Product 2	Lower than U.S. price	3	***	***	***	***
Product 3	Lower than U.S. price	---	***	***	***	***
Product 4	Lower than U.S. price	13	***	***	***	***
All products	Lower than U.S. price	29	***	52.3	31.9	72.4
Product 1	Higher than U.S. price	---	***	***	***	***
Product 2	Higher than U.S. price	---	***	***	***	***
Product 3	Higher than U.S. price	---	***	***	***	***
Product 4	Higher than U.S. price	---	***	***	***	***
All products	Higher than U.S. price	---	---	---	---	---

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

Note: These data include only quarters in which there is a comparison between the U.S. and subject product.

Lost sales and lost revenue

The Commission requested that U.S. producers of HPC pea protein report purchasers with which they experienced instances of lost sales or revenue due to competition from imports of HPC pea protein from China since January 2020. Of the three responding U.S. producers, two reported that they had to reduce prices, and three reported that they had lost sales. One U.S. producer (***) submitted lost sales and lost revenue allegations. This U.S. producer identified *** firms with which it had lost sales or revenue (*** consisting lost sales allegations, and *** consisting of both types of allegations).

Staff contacted 20 purchasers and received responses from five purchasers. Responding purchasers reported purchasing 78.0 million pounds dry weight of HPC pea protein during January 2020-March 2023 (table V-17).

During 2022, responding purchasers purchased 2.3 percent from U.S. producers, 96.6 percent from China, and 1.1 percent from nonsubject countries. Purchasers were asked about changes in their purchasing patterns from different sources since 2020. Of the responding purchasers, one reported downward fluctuating purchases from domestic producers, two reported upward fluctuating or increasing purchases, and two did not purchase any domestic product.[10] Explanations for increasing purchases of domestic product included growth in the sales of products that use HPC pea protein and new HPC pea protein products entering the market. Three purchasers reported upward fluctuating or increasing purchases of HPC pea protein from China, while two reported downward fluctuating or decreasing purchases.

Of the five responding purchasers, all reported that, since 2020, they had purchased imported HPC pea protein from China instead of U.S.-produced product. All five of these purchasers reported that subject import prices were lower than U.S.-produced product, and four of these purchasers reported that price was a primary reason for the decision to purchase imported product rather than U.S.-produced product. Four purchasers estimated the quantity of HPC pea protein from China purchased instead of domestic product; these firms estimated a quantity of *** pounds dry weight (table V-18). One purchaser (***) identified its long standing relationship with a Chinese producer as a non-price reason for purchasing imported rather than U.S.-produced product.

Of the five responding purchasers, none reported that U.S. producers had reduced prices in order to compete with lower-priced imports from China; four reported that they did not know (table V-19).

[10] None of the five responding purchasers indicated that they did not know the source of the HPC pea protein they purchased.

Table V-17
HPC pea protein: Purchasers' reported purchases and imports, by firm and source

Quantity in pounds dry weight; Change in shares in percentage points

* * * * * * *

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

Note: All other includes all other sources and unknown sources. Change is the percentage point change in the share of the firm's total purchases of domestic and/or subject country imports between first and last years.

Table V-18
HPC pea protein: Purchasers' responses to purchasing subject imports instead of domestic product, by source

Quantity in pounds dry weight

Firm	Purchased subject imports instead of domestic	Imports priced lower	Choice based on price	Quantity	Narrative on reasons for purchasing imports
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
All firms	Yes--5; No--0	Yes--5; No--0	Yes--4; No--1	***	NA

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

Table V-19
HPC pea protein: Purchasers' responses to U.S. producer price reductions, by firm

Firm	Producers lowered prices	Price reduction	Narrative on producer price reductions
***	***	***	***
***	***	***	***
***	***	***	***
***	***	***	***
All firms	Yes--0; No--1	***	NA

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

In responding to the lost sales lost revenue survey, some purchasers provided additional information on purchases and market dynamics. Purchaser *** reported that Chinese producers' primary production goal is noodles and pea protein is a byproduct of this process and this puts Chinese producers at an advantage.

Part VI: Financial experience of U.S. producers

Background[1]

Three U.S. producers (ADM, Ingredion, and Puris) provided usable financial results on their HPC pea protein operations.[2] All three U.S. producers reported financial data on a calendar year basis and on the basis of GAAP.

Figure VI-1 presents each responding firm's share of the total reported net sales quantity in 2022. Net sales consisted primarily of commercial sales, with *** U.S. producer (***) reporting internal consumption for all five periods for which data were collected and two (***) reporting very small amounts of transfers to related firms.[3] Non-commercial sales are included but not presented separately in this section of the report.

[1] The following abbreviations are used in the tables and/or text of this section: generally accepted accounting principles ("GAAP"), fiscal year ("FY"), net sales ("NS"), cost of goods sold ("COGS"), selling, general, and administrative expenses ("SG&A expenses"), average unit values ("AUVs"), research and development expenses ("R&D expenses"), return on assets ("ROA"), January 2020 to March 2023 ("period examined"), January to March 2022 ("interim 2022"), January to March 2023 ("interim 2023").

[2] The petitioner and the *** U.S. producer by net sales quantity and value, Puris (a family-owned operation), started production of HPC pea proteins in 2014, using seeds bred for nearly 40 years for human consumption. In 2018, Puris entered into a joint-venture with Cargill to accelerate pea protein production ***. Conference transcript, pp. 15-17 (Atchison) and Puris' U.S. producer questionnaire, I-5, II-2a and II-9a.

The *** U.S. producer by net sales quantity and value, ADM (NYSE: ADM), ***. Production *** began in ***. HPC pea protein sales in 2022 were ***, August 16, 2023.

The third and *** U.S. producer by net sales quantity and value, Ingredion (NYSE: INGR), reported ***. Ingredion *** percent of the total sales of its North America reporting segment, Ingredion's 2022 Form 10-K, p. 48 (as filed), Ingredion's U.S. producer questionnaire, II-2a and III-9a, and response to staff question from ***, August 14, 2023.

[3] From 2020 to March 2023, combined transfers to related firms and internal consumption accounted for *** of total net sales by quantity and value, respectively.

Figure VI-1
HPC pea protein: U.S. producers' share of net sales quantity in 2022, by firm

* * * * * * *

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

Operations on HPC pea protein

Table VI-1 presents aggregated data on U.S. producers' operations in relation to HPC pea protein, while table VI-2 presents corresponding changes in AUVs. Table VI-3 presents selected company-specific financial data.

Table VI-1
HPC pea protein: U.S. producers' results of operations, by item and period

Quantity in 1,000 pounds dry weight; value in 1,000 dollars; ratios in percent

Item	Measure	2020	2021	2022	Jan-Mar 2022	Jan-Mar 2023
Total net sales	Quantity	***	***	***	***	***
Total net sales	Value	***	***	***	***	***
COGS: Raw materials	Value	***	***	***	***	***
COGS: Direct labor	Value	***	***	***	***	***
COGS: Other factory	Value	***	***	***	***	***
COGS: Less by-product revenue	Value	***	***	***	***	***
COGS: Total	Value	***	***	***	***	***
Gross profit or (loss)	Value	***	***	***	***	***
SG&A expenses	Value	***	***	***	***	***
Operating income or (loss)	Value	***	***	***	***	***
Other expense / (income), net	Value	***	***	***	***	***
Net income or (loss)	Value	***	***	***	***	***
Depreciation/amortization	Value	***	***	***	***	***
Cash flow	Value	***	***	***	***	***
COGS: Raw materials	Ratio to NS	***	***	***	***	***
COGS: Direct labor	Ratio to NS	***	***	***	***	***
COGS: Other factory	Ratio to NS	***	***	***	***	***
COGS: Less by-product revenue	Ratio to NS	***	***	***	***	***
COGS: Total	Ratio to NS	***	***	***	***	***
Gross profit	Ratio to NS	***	***	***	***	***
SG&A expense	Ratio to NS	***	***	***	***	***
Operating income or (loss)	Ratio to NS	***	***	***	***	***
Net income or (loss)	Ratio to NS	***	***	***	***	***

Table continued.

Table VI-1 Continued
HPC pea protein: U.S. producers' results of operations, by item and period

Shares in percent; unit values in dollars per pound dry weight; count in number of firms reporting

Item	Measure	2020	2021	2022	Jan-Mar 2022	Jan-Mar 2023
COGS: Raw materials	Share	***	***	***	***	***
COGS: Direct labor	Share	***	***	***	***	***
COGS: Other factory	Share	***	***	***	***	***
COGS: Total	Share	***	***	***	***	***
Total net sales	Unit value	***	***	***	***	***
COGS: Raw materials	Unit value	***	***	***	***	***
COGS: Direct labor	Unit value	***	***	***	***	***
COGS: Other factory	Unit value	***	***	***	***	***
COGS: Less by-product revenue	Unit value	***	***	***	***	***
COGS: Total	Unit value	***	***	***	***	***
Gross profit or (loss)	Unit value	***	***	***	***	***
SG&A expenses	Unit value	***	***	***	***	***
Operating income or (loss)	Unit value	***	***	***	***	***
Net income or (loss)	Unit value	***	***	***	***	***
Operating losses	Count	***	***	***	***	***
Net losses	Count	***	***	***	***	***
Data	Count	***	***	***	***	***

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

Note: Shares represent the share of COGS before by-product offset. Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent. Zeroes, null values, and undefined calculations are suppressed and shown as "---".

Table VI-2
HPC pea protein: Changes in AUVs between comparison periods

Changes in percent

Item	2020-22	2020-21	2021-22	Jan-Mar 2022-23
Total net sales	▲***	▼***	▲***	▲***
COGS: Raw materials	▲***	▲***	▲***	▲***
COGS: Direct labor	▲***	▲***	▲***	▲***
COGS: Other factory	▲***	▲***	▲***	▲***
COGS: Less by-product revenue	▲***	▲***	▲***	▲***
COGS: Total	▲***	▲***	▲***	▲***

Table continued.

Table VI-2 Continued
HPC pea protein: Changes in AUVs between comparison periods

Changes in dollars per pound dry weight

Item	2020-22	2020-21	2021-22	Jan-Mar 2022-23
Total net sales	▲***	▼***	▲***	▲***
COGS: Raw materials	▲***	▲***	▲***	▲***
COGS: Direct labor	▲***	▼***	▲***	▲***
COGS: Other factory	▲***	▲***	▲***	▲***
COGS: Less by-product revenue	▲***	▲***	▲***	▲***
COGS: Total	▲***	▲***	▲***	▲***
Gross profit or (loss)	▼***	▼***	▼***	▼***
SG&A expense	▲***	▲***	▼***	▲***
Operating income or (loss)	▼***	▼***	▼***	▼***
Net income or (loss)	▼***	▼***	▼***	▼***

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

Note: Percentages and unit values shown as "0.0" or “0.00” represent values greater than zero, but less than "0.05" or “0.005,” respectively. Zeroes, null values, and undefined calculations are suppressed and shown as “---”. Period changes preceded by a “▲” represent an increase, while period changes preceded by a “▼” represent a decrease.

Table VI-3
HPC pea protein: U.S. producers' sales, costs/expenses, and profitability, by firm and period

Net sales quantity

Quantity in 1,000 pounds dry weight

Firm	2020	2021	2022	Jan-Mar 2022	Jan-Mar 2023
ADM	***	***	***	***	***
Ingredion	***	***	***	***	***
Puris	***	***	***	***	***
All firms	***	***	***	***	***

Table continued.

Table VI-3 Continued
HPC pea protein: U.S. producers' sales, costs/expenses, and profitability, by firm and period

Net sales value

Value in 1,000 dollars

Firm	2020	2021	2022	Jan-Mar 2022	Jan-Mar 2023
ADM	***	***	***	***	***
Ingredion	***	***	***	***	***
Puris	***	***	***	***	***
All firms	***	***	***	***	***

Table continued.

Table VI-3 Continued
HPC pea protein: U.S. producers' sales, costs/expenses, and profitability, by firm and period

COGS (including revenue from by-product offset)

Value in 1,000 dollars

Firm	2020	2021	2022	Jan-Mar 2022	Jan-Mar 2023
ADM	***	***	***	***	***
Ingredion	***	***	***	***	***
Puris	***	***	***	***	***
All firms	***	***	***	***	***

Table continued.

Table VI-3 Continued
HPC pea protein: U.S. producers' sales, costs/expenses, and profitability, by firm and period

Gross profit or (loss)

Value in 1,000 dollars

Firm	2020	2021	2022	Jan-Mar 2022	Jan-Mar 2023
ADM	***	***	***	***	***
Ingredion	***	***	***	***	***
Puris	***	***	***	***	***
All firms	***	***	***	***	***

Table continued.

Table VI-3 Continued
HPC pea protein: U.S. producers' sales, costs/expenses, and profitability, by firm and period

SG&A expenses

Value in 1,000 dollars

Firm	2020	2021	2022	Jan-Mar 2022	Jan-Mar 2023
ADM	***	***	***	***	***
Ingredion	***	***	***	***	***
Puris	***	***	***	***	***
All firms	***	***	***	***	***

Table continued.

Table VI-3 Continued
HPC pea protein: U.S. producers' sales, costs/expenses, and profitability, by firm and period

Operating income or (loss)

Value in 1,000 dollars

Firm	2020	2021	2022	Jan-Mar 2022	Jan-Mar 2023
ADM	***	***	***	***	***
Ingredion	***	***	***	***	***
Puris	***	***	***	***	***
All firms	***	***	***	***	***

Table continued.

Table VI-3 Continued
HPC pea protein: U.S. producers' sales, costs/expenses, and profitability, by firm and period

Net income or (loss)

Value in 1,000 dollars

Firm	2020	2021	2022	Jan-Mar 2022	Jan-Mar 2023
ADM	***	***	***	***	***
Ingredion	***	***	***	***	***
Puris	***	***	***	***	***
All firms	***	***	***	***	***

Table continued.

Table VI-3 Continued
HPC pea protein: U.S. producers' sales, costs/expenses, and profitability, by firm and period

COGS (including revenue from by-product offset) to net sales ratio

Ratios in percent

Firm	2020	2021	2022	Jan-Mar 2022	Jan-Mar 2023
ADM	***	***	***	***	***
Ingredion	***	***	***	***	***
Puris	***	***	***	***	***
All firms	***	***	***	***	***

Table continued.

Table VI-3 Continued
HPC pea protein: U.S. producers' sales, costs/expenses, and profitability, by firm and period

Gross profit or (loss) to net sales ratio

Ratios in percent

Firm	2020	2021	2022	Jan-Mar 2022	Jan-Mar 2023
ADM	***	***	***	***	***
Ingredion	***	***	***	***	***
Puris	***	***	***	***	***
All firms	***	***	***	***	***

Table continued.

Table VI-3 Continued
HPC pea protein: U.S. producers' sales, costs/expenses, and profitability, by firm and period

SG&A expenses to net sales ratio

Ratios in percent

Firm	2020	2021	2022	Jan-Mar 2022	Jan-Mar 2023
ADM	***	***	***	***	***
Ingredion	***	***	***	***	***
Puris	***	***	***	***	***
All firms	***	***	***	***	***

Table continued.

Table VI-3 Continued
HPC pea protein: U.S. producers' sales, costs/expenses, and profitability, by firm and period

Operating income or (loss) to net sales ratio

Ratios in percent

Firm	2020	2021	2022	Jan-Mar 2022	Jan-Mar 2023
ADM	***	***	***	***	***
Ingredion	***	***	***	***	***
Puris	***	***	***	***	***
All firms	***	***	***	***	***

Table continued.

Table VI-3 Continued
HPC pea protein: U.S. producers' sales, costs/expenses, and profitability, by firm and period

Net income or (loss) to net sales ratio

Ratios in percent

Firm	2020	2021	2022	Jan-Mar 2022	Jan-Mar 2023
ADM	***	***	***	***	***
Ingredion	***	***	***	***	***
Puris	***	***	***	***	***
All firms	***	***	***	***	***

Table continued.

Table VI-3 Continued
HPC pea protein: U.S. producers' sales, costs/expenses, and profitability, by firm and period

Unit net sales value

Unit values in dollars per pound dry weight

Firm	2020	2021	2022	Jan-Mar 2022	Jan-Mar 2023
ADM	***	***	***	***	***
Ingredion	***	***	***	***	***
Puris	***	***	***	***	***
All firms	***	***	***	***	***

Table continued.

Table VI-3 Continued
HPC pea protein: U.S. producers' sales, costs/expenses, and profitability, by firm and period

Unit raw material costs

Unit values in dollars per pound dry weight

Firm	2020	2021	2022	Jan-Mar 2022	Jan-Mar 2023
ADM	***	***	***	***	***
Ingredion	***	***	***	***	***
Puris	***	***	***	***	***
All firms	***	***	***	***	***

Table continued.

Table VI-3 Continued
HPC pea protein: U.S. producers' sales, costs/expenses, and profitability, by firm and period

Unit direct labor costs

Unit values in dollars per pound dry weight

Firm	2020	2021	2022	Jan-Mar 2022	Jan-Mar 2023
ADM	***	***	***	***	***
Ingredion	***	***	***	***	***
Puris	***	***	***	***	***
All firms	***	***	***	***	***

Table continued.

Table VI-3 Continued
HPC pea protein: U.S. producers' sales, costs/expenses, and profitability, by firm and period

Unit other factory costs

Unit values in dollars per pound dry weight

Firm	2020	2021	2022	Jan-Mar 2022	Jan-Mar 2023
ADM	***	***	***	***	***
Ingredion	***	***	***	***	***
Puris	***	***	***	***	***
All firms	***	***	***	***	***

Table continued.

Table VI-3 Continued
HPC pea protein: U.S. producers' sales, costs/expenses, and profitability, by firm and period

Unit by-product revenue, offset

Unit values in dollars per pound dry weight

Firm	2020	2021	2022	Jan-Mar 2022	Jan-Mar 2023
ADM	***	***	***	***	***
Ingredion	***	***	***	***	***
Puris	***	***	***	***	***
All firms	***	***	***	***	***

Table continued.

Table VI-3 Continued
HPC pea protein: U.S. producers' sales, costs/expenses, and profitability, by firm and period

Unit COGS (including revenue from by-product offset)

Unit values in dollars per pound dry weight

Firm	2020	2021	2022	Jan-Mar 2022	Jan-Mar 2023
ADM	***	***	***	***	***
Ingredion	***	***	***	***	***
Puris	***	***	***	***	***
All firms	***	***	***	***	***

Table continued.

Table VI-3 Continued
HPC pea protein: U.S. producers' sales, costs/expenses, and profitability, by firm and period

Unit gross profit or (loss)

Unit values in dollars per pound dry weight

Firm	2020	2021	2022	Jan-Mar 2022	Jan-Mar 2023
ADM	***	***	***	***	***
Ingredion	***	***	***	***	***
Puris	***	***	***	***	***
All firms	***	***	***	***	***

Table continued.

Table VI-3 Continued
HPC pea protein: U.S. producers' sales, costs/expenses, and profitability, by firm and period

Unit SG&A expenses

Unit values in dollars per pound dry weight

Firm	2020	2021	2022	Jan-Mar 2022	Jan-Mar 2023
ADM	***	***	***	***	***
Ingredion	***	***	***	***	***
Puris	***	***	***	***	***
All firms	***	***	***	***	***

Table continued.

Table VI-3 Continued
HPC pea protein: U.S. producers' sales, costs/expenses, and profitability, by firm and period

Unit operating income or (loss)

Unit values in dollars per pound dry weight

Firm	2020	2021	2022	Jan-Mar 2022	Jan-Mar 2023
ADM	***	***	***	***	***
Ingredion	***	***	***	***	***
Puris	***	***	***	***	***
All firms	***	***	***	***	***

Table continued.

Table VI-3 Continued
HPC pea protein: U.S. producers' sales, costs/expenses, and profitability, by firm and period

Unit net income or (loss)

Unit values in dollars per pound dry weight

Firm	2020	2021	2022	Jan-Mar 2022	Jan-Mar 2023
ADM	***	***	***	***	***
Ingredion	***	***	***	***	***
Puris	***	***	***	***	***
All firms	***	***	***	***	***

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

Note: Ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent. Zeroes, null values, and undefined calculations are suppressed and shown as "---".

Net sales

As presented in table VI-1, both total net sales quantity and value increased each year from 2020 to 2022; both quantity and value were lower in interim 2023 than in interim 2022.[4] Table VI-3 shows that U.S. producers (***) both reported increasing net sales volumes and values from 2020 to 2022, but both reported lower net sales volume and values in interim 2023 than in interim 2022. [5] *** increase in total net sales resulted from overall growth in all of its plant-based market segments (e.g., plant-based milks, yogurt, creamers, meat, cereal, snacks, etc.).[6] [7] *** explained that ***.[8]

By far the *** reported the highest net sales AUVs, increasing each year from 2020 to 2022; interim period net sales AUVs were higher in interim 2023 than in interim 2022. *** attributed its increase in net sales AUVs primarily to increases in raw

[4] *** accounted for *** percent of net sales quantity and *** percent net sales value over the period examined, driving the trends in net sales as well as other financial results of the aggregated U.S. HPC pea protein industry.

[5] The *** U.S. producer, ***, reported ***, with net sales volume and values increasing in 2022 and both were higher in interim 2023 than in interim 2022.

[6] Response from *** to staff questions, August 10, 2023.

[7] Only one U.S. producer (***) reported that the COVID-19 pandemic affected its financial performance, ***. U.S. producer questionnaire responses, III-18.

[8] ***. Response from *** to staff questions, August 10, 2023.

materials (***), but it was unable to increase prices to cover increasing costs. Differences in net sales among U.S. producers are largely attributable to differences in product mix and relative size and maturity of their respective HPC pea protein operations.[9]

Cost of goods sold and gross profit or loss

As presented in table VI-1, raw material costs (nearly all made up of yellow peas) represented the largest share of total COGS in 2020 and the second largest in 2021, 2022, and the interim periods.[10] Total raw material costs increased in value from 2020 to 2022 but were lower in interim 2023 than in interim 2022. On a per-unit basis and as a share of net sales, raw materials *** increased from 2020 to 2022; raw materials were higher in interim 2023 than in interim 2022 on a per-unit basis but were lower as a share of net sales between the two interim periods. As noted earlier, the severe drought in the North American pea market in 2021 resulted in much lower volumes of peas available, with *** receiving *** volumes of peas from its contracted farmers and ***.[11] Table VI-3 presents company-specific raw material cost AUVs, with variations among U.S. producers partially attributable to the large range of product mix and volume of sales.

[9] In addition to many HPC pea protein-based products such as dairy and snacks, the type of peas used (organic or non-organic) also vary among the three U.S. producers. ***.

*** from 2020 to March 2023. U.S. producer questionnaire responses, III-9d; response from *** to staff questions, August 10, 2023; response from *** to staff questions, August 14, 2023; and response from *** to staff questions, August 16, 2023.

No U.S. producer reported sales of HPC pea protein blended with other plant-based proteins since January 1, 2020. One U.S. producer (***) reported using ***. U.S. producer questionnaires, III-8c and response from *** to staff questions, August 16, 2023.

[10] The relative share of raw material costs to other COGS items decreased from ***. ***.

[11] ***. Response from *** to staff questions, August 10, 2023.

Yellow peas made up 94.1 percent of total raw material costs in 2022 (other raw material inputs are processing aids such as acids, bases, defoamer, and enzymes). Table VI-4 presents raw materials, by type.[12]

Table VI-4
HPC pea protein: U.S. producers' raw material costs in 2022

Value in 1,000 dollars; unit values in dollars per pound dry weight; share of value in percent

Item	Value	Unit value	Share of value
Peas	***	***	***
Other material inputs	***	***	***
All raw materials	***	***	***

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

Other factory costs accounted for the second largest share of total COGS in 2020 and the largest share of in 2021, 2022, and in both interim periods.[13] Total other factory costs increased in value from 2020 to 2022 and were higher in interim 2023 than in interim 2022. On a per-unit basis and as a share of net sales, other factory costs *** increased from 2020 to 2022 and were higher in interim 2023 than in interim 2022. Direct labor costs, which accounted for the smallest share of total COGS, increased in total value, as a share to net sales, and on a per-unit basis from 2020 to 2022; total direct labor costs were lower while as a share to net sales and on a per-unit basis, direct labor costs were lower in interim 2023 than in interim 2022.[14]

The extraction of protein from peas naturally results in by-products, primarily pea starch but also includes other products such as pea soluble and pea flour. By-product revenues are

[12] Two U.S. producers (***) reported purchasing inputs (***) from related firms equal to *** percent and *** percent, respectively, of total COGS in 2022; *** valued inputs using a negotiated transfer price to approximate FMV while *** inputs were valued using cost plus. U.S. producer questionnaires, III-6 and III-7a.

[13] In addition to the *** included in other factory costs. For Puris, wastewater management is approximately ***. Calculated from monthly costs from response from *** to staff questions, August 10, 2023.

[14] One U.S. producer (***) reported non-recurring net gains of $*** in 2022 resulting from ***, all reported in other factory costs. *** U.S. producer questionnaire, III-10a and III-10b.

reported as an offset to COGS, increasing by all reported measures from 2020 to 2022 and were higher in interim 2023 than in interim 2022.[15] [16]

As presented in table VI-1, total COGS and the ratio of COGS to net sales *** increased from 2020 to 2022, primarily resulting from raw material costs and other factory costs increasing at a faster rate than net sales values. The AUVs of total COGS also *** increased from 2020 to 2022, reflecting the previously discussed increases in per-unit raw materials and other factory costs. Total COGS were lower while the ratio of COGS to net sales and AUVs of COGS were higher in interim 2023 than in interim 2022.

Based on the data in table VI-1, all presented measures of gross profit *** declined from 2020 to 2022 and were lower in interim 2023 than in interim 2022. The decline in gross profits (from *** in 2020 to *** in 2021 and further to *** in 2022) reflects COGS increasing at much higher rates than revenue and ***.[17]

SG&A expenses and operating income or loss

As presented in table VI-1, U.S. producers' total SG&A expenses increased from 2020 to 2022 and were higher in interim 2023 than in interim 2022. The AUVs of SG&A expenses fluctuated within a narrow band (from *** per pound) from 2020 to 2022 and were higher in interim 2023 than in interim 2022. The SG&A expense ratios (i.e., total SG&A expenses divided by net sales) *** decreased from 2020 to 2022 but were higher in interim 2023 than in interim 2022. The *** U.S. producer (***) reported *** higher than industry average SG&A expenses, measured by AUVs and as share of net sales as a result of ***.

[15] ***. Response from *** to staff questions, August 10, 2023.

[16] ***. Response from *** to staff questions, August 16, 2023.

[17] ***. At the staff conference, a witness for Puris stated that pea protein production is capital intensive and not as efficient (increased per-unit COGS) when operating at lower capacities, resulting in negative profits. Conference transcript, p. 30 (Chandak).

Table VI-1 shows that U.S. producers' operating losses increased from 2020 to 2022, with operating losses being higher in interim 2023 than in interim 2022. The declines in operating performance of U.S. producers are attributable to the same reasons as those for gross profit from 2020 to 2022 (i.e., sales AUVs increased less than total COGS and ***).

All other expenses and net income or loss[18]

Classified below the operating income level are interest expenses, other expenses, and other income. In table VI-1, these items are aggregated and only the net amount is shown, revealing that net all other expenses and income increased (driven by interest expenses) from 2020 to 2022 and were higher in interim 2023 than in interim 2022.

Net income had a similar pattern as operating income: the industry reported declining net income (in the form of increasing net losses) from 2020 to 2022; net losses were higher in interim 2023 than in interim 2022. The absolute difference between operating and net profits narrowed and widened in conjunction with changes in total interest expenses and all other income and expenses.[19]

[18] U.S. producer *** accounted for nearly all of the other expenses/income, net below operating profits. *** reported very small amounts of other expenses/income, net from corporate allocations (the HPC pea protein facility is less than *** percent of ***). The third U.S. producer (***) did not report any expenses/income below operating profits (HPC pea protein operations are less than *** percent of *** to HPC pea protein.

[19] A variance analysis is not shown mostly due to the large variety of product mixes and different cost structures among the reporting firms as well as *** new producer Ingredion.

Capital expenditures and R&D expenses

Table VI-5 presents capital expenditures, by firm, and table VI-7 presents R&D expenses, by firm. Tables VI-6 and VI-8 present the firms' narrative explanations of the nature, focus, and significance of their capital expenditures and R&D expenses, respectively.

Table VI-5
HPC pea protein: U.S. producers' capital expenditures, by firm and period

Value in 1,000 dollars

Firm	2020	2021	2022	Jan-Mar 2022	Jan-Mar 2023
ADM	***	***	***	***	***
Ingredion	***	***	***	***	***
Puris	***	***	***	***	***
All firms	***	***	***	***	***

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

Table VI-6
HPC pea protein: U.S. producers' narrative descriptions of their capital expenditures, by firm

Firm	Narrative on capital expenditures
ADM	***
Ingredion	***
Puris	***

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

Table VI-7
HPC pea protein: U.S. producers' R&D expenses, by firm and period

Value in 1,000 dollars

Firm	2020	2021	2022	Jan-Mar 2022	Jan-Mar 2023
ADM	***	***	***	***	***
Ingredion	***	***	***	***	***
Puris	***	***	***	***	***
All firms	***	***	***	***	***

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

Table VI-8
HPC pea protein: U.S. producers' narrative descriptions of their R&D expenses, by firm

Firm	Narrative on capital expenditures
ADM	***
Ingredion	***
Puris	***

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

Assets and return on assets

Table VI-9 presents data on the U.S. producers' total assets while table VI-10 presents their operating ROA.[20] Table VI-11 presents U.S. producers' narrative responses explaining their major asset categories and any significant changes in asset levels over time.

[20] The operating ROA is calculated as operating income divided by total assets. With respect to a firm's overall operations, the total asset value reflects an aggregation of a number of assets which are generally not product specific. Thus, high-level allocations are generally required in order to report a total asset value on a product-specific basis.

Table VI-9
HPC pea protein: U.S. producers' total net assets, by firm and period

Value in 1,000 dollars

Firm	2020	2021	2022
ADM	***	***	***
Ingredion	***	***	***
Puris	***	***	***
All firms	***	***	***

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

Table VI-10
HPC pea protein: U.S. producers' ROA, by firm and period

Ratio in percent

Firm	2020	2021	2022
ADM	***	***	***
Ingredion	***	***	***
Puris	***	***	***
All firms	***	***	***

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

Table VI-11
HPC pea protein: U.S. producers' narrative descriptions of their total net assets, by firm

Firm	Narrative on assets
ADM	***
Ingredion	***
Puris	***

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

Capital and investment

The Commission requested U.S. producers of HPC pea protein to describe any actual or potential negative effects of imports of HPC pea protein from China on their firms' growth, investment, ability to raise capital, development and production efforts, or the scale of capital investments. Table VI-12 presents the number of firms reporting an impact in each category and table VI-13 provides the U.S. producers' narrative responses.

Table VI-12
HPC pea protein: Count of firms indicating actual and anticipated negative effects of imports from subject sources on investment, growth, and development since January 1, 2020, by effect

Number of firms reporting

Effect	Category	Count
Cancellation, postponement, or rejection of expansion projects	Investment	0
Denial or rejection of investment proposal	Investment	1
Reduction in the size of capital investments	Investment	0
Return on specific investments negatively impacted	Investment	2
Other investment effects	Investment	1
Any negative effects on investment	Investment	2
Rejection of bank loans	Growth	0
Lowering of credit rating	Growth	0
Problem related to the issue of stocks or bonds	Growth	0
Ability to service debt	Growth	1
Other growth and development effects	Growth	2
Any negative effects on growth and development	Growth	2
Anticipated negative effects of imports	Future	2

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

Note: ***.

Table VI-13
HPC pea protein: U.S. producers' narratives relating to actual and anticipated negative effects of imports on investment, growth, and development, since January 1, 2020, by firm and effect

Item	Firm name and narrative on impact of imports
Denial or rejection of investment proposal	***
Return on specific investments negatively impacted	***
Return on specific investments negatively impacted	***
Other negative effects on investments	***
Ability to service debt	***
Other effects on growth and development	***
Other effects on growth and development	***
Anticipated effects of imports	***
Anticipated effects of imports	***

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

Part VII: Threat considerations and information on nonsubject countries

Section 771(7)(F)(i) of the Act (19 U.S.C. § 1677(7)(F)(i)) provides that—

> *In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of the subject merchandise, the Commission shall consider, among other relevant economic factors*[1]*--*
>
> *(I) if a countervailable subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the countervailable subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement), and whether imports of the subject merchandise are likely to increase,*
>
> *(II) any existing unused production capacity or imminent, substantial increase in production capacity in the exporting country indicating the likelihood of substantially increased imports of the subject merchandise into the United States, taking into account the availability of other export markets to absorb any additional exports,*
>
> *(III) a significant rate of increase of the volume or market penetration of imports of the subject merchandise indicating the likelihood of substantially increased imports,*
>
> *(IV) whether imports of the subject merchandise are entering at prices that are likely to have a significant depressing or suppressing effect on domestic prices, and are likely to increase demand for further imports,*
>
> *(V) inventories of the subject merchandise,*

[1] Section 771(7)(F)(ii) of the Act (19 U.S.C. § 1677(7)(F)(ii)) provides that "The Commission shall consider {these factors} . . . as a whole in making a determination of whether further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted under this title. The presence or absence of any factor which the Commission is required to consider . . . shall not necessarily give decisive guidance with respect to the determination. Such a determination may not be made on the basis of mere conjecture or supposition."

(VI) 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,

(VII) in any investigation under this title which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv)) and any product processed from such raw agricultural product, the likelihood that there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission under section 705(b)(1) or 735(b)(1) with respect to either the raw agricultural product or the processed agricultural product (but not both),

(VIII) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and

(IX) any other demonstrable adverse trends that indicate the probability that there is likely to be material injury by reason of imports (or sale for importation) of the subject merchandise (whether or not it is actually being imported at the time).[2]

Information on the nature of the alleged subsidies was presented earlier in this report; information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V; and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts is presented in Part VI. Information on inventories of the subject merchandise; foreign producers' operations, including the potential for "product-shifting;" any other threat indicators, if applicable; and any dumping in third-country markets, follows. Also presented in this section of the report is information obtained for consideration by the Commission on nonsubject countries.

[2] Section 771(7)(F)(iii) of the Act (19 U.S.C. § 1677(7)(F)(iii)) further provides that, in antidumping investigations, ". . . the Commission shall consider whether dumping in the markets of foreign countries (as evidenced by dumping findings or antidumping remedies in other WTO member markets against the same class or kind of merchandise manufactured or exported by the same party as under investigation) suggests a threat of material injury to the domestic industry."

The industry in China

The Commission issued foreign producers' or exporters' questionnaires to 20 firms believed to produce and/or export HPC pea protein from China.[3] Usable responses to the Commission's questionnaire were received from eight firms: FocusHerb LLC ("Focus Herb"); Jianyuan International Co., Ltd. ("Jianyuan"); Linyi Yuwang Vegetable Protein Co., Ltd. ("Linyi"); Shanghai Elim Organic Food Co., Ltd. ("Elim Organic"); Oriental Protein; Shuangta Food; Yantai T.Full Biotech Co., Ltd. ("TFull"); and Yosin Biotechnology (Yantai) Co.,Ltd. ("Yosin").[4] [5] Collectively, these firms estimated that they accounted for *** production of HPC pea protein in China during 2022. These firms also estimated that their exports of HPC pea protein to the United States accounted for approximately *** percent of total exports of HPC pea protein from China to the United States during 2022. Table VII-1 and table VII-2 present information on the HPC pea protein operations of the responding producers and exporters in China.

[3] These firms were identified through a review of information submitted in the petition and presented in third-party sources.

[4] Of the responding eight firms, six are producers/exporters of HPC pea protein in China (Jianyuan, Linyi, Oriental Protein, Shuangta Food, TFull, and Yosin) and two are exporters of HPC pea protein produced in China by other firms (Elim Organic and Focus Herb).

[5] Chinese producer *** did not submit a response to the Commission's questionnaire. Chinese Respondents reported that this firm accounted for less than *** percent of total HPC pea protein production in China and that it *** HPC pea protein *** during January 2020 through June 2023. Chinese Respondents' postconference brief, attachment 1, p. 1.

Table VII-1
HPC pea protein: Summary data for producers in China, 2022

Quantity in 1,000 pounds dry weight; share in percent

Firm	Production (1,000 pounds dry weight)	Share of reported production (percent)	Exports to the United States (1,000 pounds dry weight)	Share of reported exports to the United States (percent)	Total shipments (1,000 pounds dry weight)	Share of firm's total shipments exported to the United States (percent)
Jianyuan	***	***	***	***	***	***
Linyi	***	***	***	***	***	***
Oriental Protein	***	***	***	***	***	***
Shuangta Food	***	***	***	***	***	***
TFull	***	***	***	***	***	***
Yosin	***	***	***	***	***	***
All firms	***	100.0	***	100.0	***	***

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

Table VII-2
HPC pea protein: Summary data for resellers in China, 2022

Quantity in 1,000 pounds dry weight; share in percent

Firm	Resales exported to the United States (1,000 pounds dry weight)	Share of resales exported to the United States (percent)
Elim Organic	***	***
Focus Herb	***	***
All firms	***	***

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

Note: Zeroes, null values, and undefined calculations are suppressed and shown as "---".

Note: Focus Herb *** of HPC pea protein *** during ***.

Table VII-3 presents events in China's industry since January 1, 2020.

Table VII-3
HPC pea protein: Important industry events in China since January 1, 2020

Item	Firm	Event
Other	All producers	Beyond Meat opened its first production plant in China in April 2021.

Source: Liao, "Beyond Meat Opens its First Production Plant in China," *Tech Crunch*, April 7, 2021.

Changes in operations

Producers in China were asked to report any change in the character of their operations or organization relating to the production of HPC pea protein since January 1, 2020. Four producers indicated in their questionnaires that they had experienced such changes. Table VII-4 presents the changes identified by these producers. *** reported that ***. *** reported ***. *** reported that *** and also reported a ***. *** reported that ***.

Table VII-4
HPC pea protein: Reported changes in operations in China since January 1, 2020, by firm

Item	Firm name and accompanying narrative response on changes in operations
Plant openings	***
Prolonged shutdowns	***
Production curtailments	***
Expansions	***
Expansions	***
Acquisitions	***

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

Operations on HPC pea protein

Table VII-5 presents data on Chinese producers' installed capacity, practical overall capacity, and practical HPC pea protein capacity and production on the same equipment.

Table VII-5
HPC pea protein: Chinese producers' installed and practical capacity and production on the same equipment as in-scope production, by period

Capacity and production in 1,000 pounds dry weight; utilization in percent

Item	Measure	2020	2021	2022	Jan-Mar 2022	Jan-Mar 2023
Installed overall	Capacity	***	***	***	***	***
Installed overall	Production	***	***	***	***	***
Installed overall	Utilization	***	***	***	***	***
Practical overall	Capacity	***	***	***	***	***
Practical overall	Production	***	***	***	***	***
Practical overall	Utilization	***	***	***	***	***
Practical HPC pea protein	Capacity	***	***	***	***	***
Practical HPC pea protein	Production	***	***	***	***	***
Practical HPC pea protein	Utilization	***	***	***	***	***

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

Table VII-6 presents Chinese producers' reported capacity constraints since January 1, 2020. The producers reported capacity constraints including production bottlenecks, existing labor force, and other constraints such as ***.

Table VII-6
HPC pea protein: Chinese producers' reported capacity constraints since January 1, 2020

Item	Firm name and narrative response on constraints to practical overall capacity
Production bottlenecks	***
Existing labor force	***
Other constraints	***
Other constraints	***
Other constraints	***
Other constraints	***
Other constraints	***

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

Table VII-7 presents information on the HPC pea protein operations of the responding producers and exporters in China.[6] Chinese producers' practical capacity increased by *** percent from 2020 to 2021 then decreased by *** percent during from 2021 to 2022, ending *** percent higher in 2022 than in 2020. Chinese producers' production followed a similar trend, increasing by *** percent during 2020-21 then decreasing by *** percent during 2021-22, decreasing overall by *** percent between 2020 and 2022. Practical capacity was *** percent lower in January-March 2023 than in January-March 2022, while production was *** percent higher over the same comparison. Chinese producers' capacity utilization decreased in each year during 2020-22, decreasing from *** percent in 2020 to *** percent in 2021 then decreasing to *** percent in 2022; it was higher in January-March 2023 at *** percent than in January-March 2022 at *** percent. Practical capacity and production are projected to decrease by *** percent and *** percent, respectively, from 2022 to 2023 and remain at those decreased level in 2024.

Export shipments accounted for more than *** of Chinese producers' total shipments in each year between 2020 and 2022 and in January-March 2023.[7] Exports to the United States increased by *** percent from 2020 to 2021 then decreased by *** percent from 2021 to 2021, ending *** percent lower in 2022 than in 2020; they were *** percent lower in January-March 2023 than in January-March 2022.[8] Exports to the United States are projected to increase by *** percent from 2022 to 2023 and increase by *** percent from 2023 to 2024. Exports to all other markets decreased by *** percent from 2020 to 2021 then decreased by *** percent from 2021 to 2022, decreasing overall by *** percent during 2020-22; they were *** percent higher in January-March 2023 than in January-March 2022. Exports to all other markets are projected to increase by *** percent from 2022 to 2023 then increase by *** percent from 2023 to 2024.

[6] *** was the largest Chinese producer in each year during 2020-22 and in both interim periods, accounting for *** percent of total HPC pea protein production in China. *** was the second largest Chinese producer, accounting for *** percent of total production in China.

[7] *** Chinese producers' shipments (inclusive of home market shipments and export shipments) were of pure HPC pea protein; *** reported shipments of blended HPC pea protein.

[8] Trends for export shipments from China to the United States are primarily attributable to ***. *** was the largest exporter of HPC pea protein from China to the United States in each year during 2020-22 and in both interim periods, accounting for *** percent of total exports from China to the United States. *** was the second largest exporter, accounting for *** percent of total exports from China to the United States.

Table VII-7
HPC pea protein: Data on industry in China, by period

Quantity in 1,000 pounds dry weight

Item	2020	2021	2022	Jan-Mar 2022	Jan-Mar 2023	Projection 2023	Projection 2024
Capacity	***	***	***	***	***	***	***
Production	***	***	***	***	***	***	***
End-of-period inventories	***	***	***	***	***	***	***
Internal consumption	***	***	***	***	***	***	***
Commercial home market shipments	***	***	***	***	***	***	***
Home market shipments	***	***	***	***	***	***	***
Exports to the United States	***	***	***	***	***	***	***
Exports to all other markets	***	***	***	***	***	***	***
Export shipments	***	***	***	***	***	***	***
Total shipments	***	***	***	***	***	***	***
Resales exported to the United States	***	***	***	***	***	***	***
Total exports to the United States	***	***	***	***	***	***	***

Table continued.

Table VII-7 Continued
HPC pea protein: Data on industry in China, by period

Ratio and share in percent

Item	2020	2021	2022	Jan-Mar 2022	Jan-Mar 2023	Projection 2023	Projection 2024
Capacity utilization ratio	***	***	***	***	***	***	***
Inventory ratio to production	***	***	***	***	***	***	***
Inventory ratio to total shipments	***	***	***	***	***	***	***
Internal consumption share	***	***	***	***	***	***	***
Commercial home market shipments share	***	***	***	***	***	***	***
Home market shipments share	***	***	***	***	***	***	***
Exports to the United States share	***	***	***	***	***	***	***
Exports to all other markets share	***	***	***	***	***	***	***
Export shipments share	***	***	***	***	***	***	***
Total shipments share	***	***	***	***	***	***	***
Share of total exports to the United States by producers	***	***	***	***	***	***	***
Share of total exports to the United States by resellers	***	***	***	***	***	***	***
Adjusted share of total shipments exported to the United States	***	***	***	***	***	***	***

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

Note: Shares and ratios shown as “0.0” represent values greater than zero, but less than “0.05” percent. Zeroes, null values, and undefined calculations are suppressed and shown as “---”.

Alternative products

As shown in table VII-8, responding firms in China produced other products on the same equipment and machinery used to produce HPC pea protein. HPC pea protein accounted for approximately *** of Chinese producers' total production on the same equipment as in-scope production in all periods examined, with out-of-scope products (primarily ***) accounting for the balance. Of the six Chinese producers that reported production of out-of-scope products on the same equipment used to produce HPC pea protein, *** indicated that they are able to switch production between HPC pea protein and out-of-scope products. *** reported that it is able to switch production between HPC pea protein and ***, while *** reported that it is able to switch production between HPC pea protein and ***.[9]

Table VII-8
HPC pea protein: Producers' in China overall production on the same equipment as in-scope production, by period

Quantity in 1,000 pounds dry weight; share in percent

Product type	Measure	2020	2021	2022	Jan-Mar 2022	Jan-Mar 2023
HPC pea protein	Quantity	***	***	***	***	***
LPC pea protein	Quantity	***	***	***	***	***
Other legume proteins	Quantity	***	***	***	***	***
Other products	Quantity	***	***	***	***	***
Out-of-scope products	Quantity	***	***	***	***	***
All products	Quantity	***	***	***	***	***
HPC pea protein	Share	***	***	***	***	***
LPC pea protein	Share	***	***	***	***	***
Other legume proteins	Share	***	***	***	***	***
Other products	Share	***	***	***	***	***
Out-of-scope products	Share	***	***	***	***	***
All products	Share	100.0	100.0	100.0	100.0	100.0

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

Note: Zeroes, null values, and undefined calculations are suppressed and shown as "---".

[9] *** questionnaire responses, II-4a.

Exports

Table VII-9 presents Global Trade Atlas ("GTA") export data for protein concentrates, protein isolates, and other protein substances (a category that includes HPC pea protein and out-of-scope products) from China. During 2022, the United States was the top export market for those exports from China, accounting for 12.9 percent of total exports, followed by the Philippines and the Netherlands, accounting for 7.9 percent and 7.1 percent, respectively.[10]

Table VII-9
Protein concentrates, protein isolates, and other protein substances: Exports from China, by destination market and by period

Quantity in 1,000 pounds dry weight; value in 1,000 dollars

Destination market	Measure	2020	2021	2022
United States	Quantity	276,498	166,676	115,127
Philippines	Quantity	83,736	66,891	70,552
Netherlands	Quantity	87,576	95,405	63,348
Indonesia	Quantity	38,695	54,846	60,728
Japan	Quantity	49,972	55,685	60,230
Russia	Quantity	51,875	51,602	38,394
Mexico	Quantity	21,444	26,091	35,380
South Korea	Quantity	23,664	29,316	31,734
South Africa	Quantity	30,927	33,213	31,058
All other destination markets	Quantity	209,018	369,061	388,646
All destination markets	Quantity	873,405	948,788	895,197
United States	Value	206,490	246,105	186,990
Philippines	Value	49,872	62,243	79,117
Netherlands	Value	57,736	81,057	72,508
Indonesia	Value	34,580	61,638	80,590
Japan	Value	72,200	82,066	96,752
Russia	Value	50,716	66,407	56,113
Mexico	Value	22,090	33,005	51,608
South Korea	Value	32,264	35,592	43,054
South Africa	Value	30,872	42,988	46,009
All other destination markets	Value	364,405	475,816	566,284
All destination markets	Value	921,225	1,186,917	1,279,026

Table continued.

[10] The United States was also the top export market for those exports from China in 2020 and 2021, accounting for 31.7 percent of total exports in 2020 and 17.6 percent in 2021.

Table VII-9 Continued
Protein concentrates, protein isolates, and other protein substances: Exports from China, by destination market and by period

Unit value in dollars per pound dry weight; share in percent

Destination market	Measure	2020	2021	2022
United States	Unit value	0.75	1.48	1.62
Philippines	Unit value	0.60	0.93	1.12
Netherlands	Unit value	0.66	0.85	1.14
Indonesia	Unit value	0.89	1.12	1.33
Japan	Unit value	1.44	1.47	1.61
Russia	Unit value	0.98	1.29	1.46
Mexico	Unit value	1.03	1.26	1.46
South Korea	Unit value	1.36	1.21	1.36
South Africa	Unit value	1.00	1.29	1.48
All other destination markets	Unit value	1.74	1.29	1.46
All destination markets	Unit value	1.05	1.25	1.43
United States	Share of quantity	31.7	17.6	12.9
Philippines	Share of quantity	9.6	7.1	7.9
Netherlands	Share of quantity	10.0	10.1	7.1
Indonesia	Share of quantity	4.4	5.8	6.8
Japan	Share of quantity	5.7	5.9	6.7
Russia	Share of quantity	5.9	5.4	4.3
Mexico	Share of quantity	2.5	2.7	4.0
South Korea	Share of quantity	2.7	3.1	3.5
South Africa	Share of quantity	3.5	3.5	3.5
All other destination markets	Share of quantity	23.9	38.9	43.4
All destination markets	Share of quantity	100.0	100.0	100.0

Source: Official exports statistics under HS subheadings 3504.00 and 2106.10 as reported by China Customs in the Global Trade Atlas Suite database, accessed August 2, 2023.

Note: United States is shown at the top. All remaining top export destinations are shown in descending order of 2022 data.

U.S. inventories of imported merchandise

Table VII-10 presents data on U.S. importers' reported end-of-period inventories of HPC pea protein. U.S. importers' end-of-period inventories of imports from China increased by *** percent during 2020-21 then decreased by *** percent during 2021-22, ending *** percent higher in 2022 than in 2020, and were *** percent lower in January-March 2023 than in January-March 2022. U.S. importers' end-of-period inventories of imports from nonsubject sources decreased by *** percent during 2020-21 then decreased by *** percent during 2021-22, ending *** percent lower in 2022 than in 2020. There were *** end-of-period inventories of imports from nonsubject sources in January-March 2022 but there were *** pounds reported in January-March 2023.

The ratio of U.S. importers' end-of-period inventories to their imports from China increased from *** percent in 2020 to *** percent in 2021 and to *** percent in 2022; it was higher in January-March 2023 (*** percent) than in January-March 2022 (*** percent). In contrast, the ratio of U.S. importers' end-of-period inventories to their imports from nonsubject sources decreased from *** percent in 2020 to *** percent in 2021 and to *** percent in 2022.

Table VII-10
HPC pea protein: U.S. importers' inventories and their ratio to select items, by source and period

Quantity in 1,000 pounds dry weight; ratio in percent

Measure	Source	2020	2021	2022	Jan-Mar 2022	Jan-Mar 2023
Inventories quantity	China	***	***	***	***	***
Ratio to imports	China	***	***	***	***	***
Ratio to U.S. shipments of imports	China	***	***	***	***	***
Ratio to total shipments of imports	China	***	***	***	***	***
Inventories quantity	Nonsubject sources	***	***	***	***	***
Ratio to imports	Nonsubject sources	***	***	***	***	***
Ratio to U.S. shipments of imports	Nonsubject sources	***	***	***	***	***
Ratio to total shipments of imports	Nonsubject sources	***	***	***	***	***
Inventories quantity	All import sources	***	***	***	***	***
Ratio to imports	All import sources	***	***	***	***	***
Ratio to U.S. shipments of imports	All import sources	***	***	***	***	***
Ratio to total shipments of imports	All import sources	***	***	***	***	***

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

Note: Zeroes, null values, and undefined calculations are suppressed and shown as "---".

U.S. importers' outstanding orders

The Commission requested importers to indicate whether they imported or arranged for the importation of HPC pea protein from China and all other sources after March 31, 2023. Their reported data is presented in table VII-11.

Table VII-11
HPC pea protein: U.S. importers' arranged imports, by source and period

Quantity in 1,000 pounds dry weight

Source	Apr-Jun 2023	Jul-Sep 2023	Oct-Dec 2023	Jan-Mar 2024	Total
China	***	***	***	***	***
Nonsubject sources	***	***	***	***	***
All import sources	***	***	***	***	***

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

Third-country trade actions

Based on available information, HPC pea protein from China has not been subject to other antidumping or countervailing duty investigations outside the United States.

Information on nonsubject countries

Outside of China and the United States, the European Union (EU) and Canada are major producers of HPC pea protein. Among EU member countries, France has the largest dry pea crop production and is also home to major processor Roquette.[11] In 2021, Roquette opened the world's largest pea protein processing plant, in Manitoba, Canada. The company reported that the plant was important because Canada has the world's leading supply of dry peas (being the second largest producer after Russia), so the new facility offered excellent access to raw materials as well as the ability to serve leading markets on both sides of the Atlantic.[12] The opening of this facility is likely the reason for the sharp increase in exports of protein products from Canada shown in the table below. The U.S. and Canadian HPC pea protein industries are reportedly somewhat integrated, because Canadian supply of dry peas can be important for U.S. processors in years when the U.S. crop is low, and Canadian processors often sell their pea protein in the U.S. market.[13] The data in table VII-12 include protein concentrates and isolates

[11] FAOSTAT database, "Crops and Livestock Products: Peas, Dry," accessed August 12, 2023.
[12] Roquette, "Roquette Opens World's Largest Pea Protein Plant," November 17, 2021; FAOSTAT database, "Crops and Livestock Products: Peas, Dry," accessed August 12, 2023.
[13] Conference transcript, p. 96 (Atchison).

other than those derived from peas, and other proteins likely account for why Brazil appears among the top 5 exporters. As of 2019, a major Brazilian agricultural processor was reportedly looking into expanding into pea protein production (using peas sourced from Canada and Argentina), but this reportedly would have made them Brazil's first producer of pea protein.[14]

Table VII-12
Protein concentrates, protein isolates, and other protein substances: Global exports, by exporter and by period

Quantity in 1,000 pounds dry weight; value in 1,000 dollars

Exporting country	Measure	2020	2021	2022
United States	Quantity	459,345	480,254	425,749
China	Quantity	873,405	948,788	895,197
Netherlands	Quantity	214,680	254,538	281,960
Belgium	Quantity	145,504	157,873	211,010
Brazil	Quantity	118,930	125,554	146,849
Canada	Quantity	62,973	104,019	139,813
France	Quantity	173,664	158,753	130,398
Serbia	Quantity	108,985	104,940	111,636
Spain	Quantity	61,945	73,399	86,192
Denmark	Quantity	65,991	81,919	84,783
Germany	Quantity	88,949	86,985	78,811
India	Quantity	78,712	71,443	78,412
All other exporters	Quantity	496,844	589,626	511,767
All reporting exporters	Quantity	2,949,928	3,238,090	3,182,577
United States	Value	1,443,588	1,619,341	1,571,640
China	Value	921,225	1,186,917	1,279,026
Netherlands	Value	546,506	635,448	697,263
Belgium	Value	246,053	276,410	283,174
Brazil	Value	183,790	238,737	363,069
Canada	Value	168,524	241,028	305,338
France	Value	445,579	472,545	443,818
Serbia	Value	58,071	63,642	83,843
Spain	Value	147,365	212,167	280,271
Denmark	Value	206,682	331,539	460,923
Germany	Value	352,595	435,780	415,229
India	Value	52,062	57,207	65,256
All other exporters	Value	1,417,427	1,643,763	1,825,368
All reporting exporters	Value	6,189,467	7,414,525	8,074,217

Table continued.

[14] Michail, "Brazil's Milhão Moves into Plant Proteins," August 23, 2019.

Table VII-12 Continued
Protein concentrates, protein isolates, and other protein substances: Global exports, by exporter and by period

Unit value in dollars per pound dry weight; share in percent

Exporting country	Measure	2020	2021	2022
United States	Unit value	3.14	3.37	3.69
China	Unit value	1.05	1.25	1.43
Netherlands	Unit value	2.55	2.50	2.47
Belgium	Unit value	1.69	1.75	1.34
Brazil	Unit value	1.55	1.90	2.47
Canada	Unit value	2.68	2.32	2.18
France	Unit value	2.57	2.98	3.40
Serbia	Unit value	0.53	0.61	0.75
Spain	Unit value	2.38	2.89	3.25
Denmark	Unit value	3.13	4.05	5.44
Germany	Unit value	3.96	5.01	5.27
India	Unit value	0.66	0.80	0.83
All other exporters	Unit value	2.85	2.79	3.57
All reporting exporters	Unit value	2.10	2.29	2.54
United States	Share of quantity	15.6	14.8	13.4
China	Share of quantity	29.6	29.3	28.1
Netherlands	Share of quantity	7.3	7.9	8.9
Belgium	Share of quantity	4.9	4.9	6.6
Brazil	Share of quantity	4.0	3.9	4.6
Canada	Share of quantity	2.1	3.2	4.4
France	Share of quantity	5.9	4.9	4.1
Serbia	Share of quantity	3.7	3.2	3.5
Spain	Share of quantity	2.1	2.3	2.7
Denmark	Share of quantity	2.2	2.5	2.7
Germany	Share of quantity	3.0	2.7	2.5
India	Share of quantity	2.7	2.2	2.5
All other exporters	Share of quantity	16.8	18.2	16.1
All reporting exporters	Share of quantity	100.0	100.0	100.0

Source: Official exports statistics under HS subheadings 3504.00 and 2106.10 as reported by various national statistical authorities in the Global Trade Atlas Suite database, accessed August 2, 2023.

Note: United States is shown at the top followed by the country under investigation, all remaining top exporting countries in descending order of 2022 data.

APPENDIX A

FEDERAL REGISTER NOTICES

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

Citation	Title	Link
88 FR 45924, July 18, 2023	*Certain Pea Protein From China; Institution of Antidumping and Countervailing Duty Investigations and Scheduling of Preliminary Phase Investigations*	https://www.govinfo.gov/content/pkg/FR-2023-07-18/pdf/2023-15196.pdf
88 FR 52116, August 7, 2023	*Certain Pea Protein From the People's Republic of China: Initiation of Countervailing Duty Investigation*	https://www.govinfo.gov/content/pkg/FR-2023-08-07/pdf/2023-16817.pdf
88 FR 52124, August 7, 2023	*Certain Pea Protein From the People's Republic of China: Initiation of Less- Than-Fair-Value Investigation*	https://www.govinfo.gov/content/pkg/FR-2023-08-07/pdf/2023-16816.pdf

APPENDIX B

LIST OF STAFF CONFERENCE WITNESSES

CALENDAR OF PUBLIC PRELIMINARY CONFERENCE

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

Subject: Certain Pea Protein from China

Inv. Nos.: 701-TA-692 and 731-TA-1628 (Preliminary)

Date and Time: August 2, 2023 - 9:30 a.m.

Sessions were held in connection with these preliminary phase investigations in the Main Hearing Room (Room 101), 500 E Street, SW., Washington, DC.

OPENING REMARKS:

In Support of Imposition (**Stephen J. Orava**, King & Spalding LLP)
In Opposition to Imposition
(**William F. Marshall**, Grunfeld, Desiderio,Lebowitz, Silverman & Klestadt LLP)

In Support of the Imposition of the Antidumping and Countervailing Duty Orders:

King & Spalding LLP
Washington, DC
on behalf of

Puris Proteins, LLC dba PURIS

Nicole Atchison, Chief Executive Officer, PURIS Holdings and World Food Processing

Zachariah Hubert, Product Line Manager, PURIS

Kushal Chandak, Vice President, Research and Development, PURIS

Stephen J. Orava
Stephen P. Vaughn) – OF COUNSEL
Barbara Medrado

In Opposition to the Imposition of the
Antidumping and Countervailing Duty Orders:

Grunfeld, Desiderio, Lebowitz, Silverman & Klestadt LLP
Washington, DC
on behalf of

China Chamber of Commerce I/E of Foodstuffs
Native Produce and Animal By-products Pea Protein Sub-Chamber
Jianyuan International Co., Ltd.
Shandong Yuwang Ecological Food Industry Co., Ltd.
Linyi Yuwang Vegetable Protein Co., Ltd.
Suzhou Wanshen Flour Products Co., Ltd.
Yantai T.Full Biotech Co., Ltd.
Yantai Oriental Protein Tech Co., Ltd.
Yantai Shuangta Food Co., Ltd.
Yosin Biotechnology (Yantai) Co., Ltd.

William F. Marshall) – OF COUNSEL

REBUTTAL/CLOSING REMARKS:

In Support of Imposition (**Stephen P. Vaughn**, King & Spalding LLP)
In Opposition to Imposition
(**William F. Marshall**, Grunfeld, Desiderio, Lebowitz, Silverman & Klestadt LLP)

APPENDIX C

SUMMARY DATA

Table C-1
HPC pea protein: Summary data concerning the U.S. market, by item and period

Quantity=1,000 pounds dry weight; Value=1,000 dollars; Unit values, unit labor costs, and unit expenses=dollars per pound dry weight; Period changes=percent--exceptions noted

	Reported data					Period changes			
	Calendar year			Jan-Mar		Comparison years			Jan-Mar
Item	2020	2021	2022	2022	2023	2020-22	2020-21	2021-22	2022-23
U.S. consumption quantity:									
Amount	***	***	***	***	***	▲***	▲***	▲***	▼***
Producers' share (fn1)	***	***	***	***	***	▲***	▼***	▲***	▼***
Importers' share (fn1):									
China	***	***	***	***	***	▲***	▲***	▼***	▼***
Nonsubject sources	***	***	***	***	***	▼***	▼***	▲***	▲***
All import sources	***	***	***	***	***	▼***	▲***	▼***	▲***
U.S. consumption value:									
Amount	***	***	***	***	***	▲***	▲***	▲***	▼***
Producers' share (fn1)	***	***	***	***	***	▲***	▼***	▲***	▲***
Importers' share (fn1):									
China	***	***	***	***	***	▲***	▲***	▼***	▼***
Nonsubject sources	***	***	***	***	***	▼***	▼***	▼***	▲***
All import sources	***	***	***	***	***	▼***	▲***	▼***	▼***
U.S. importers' U.S. shipments of imports from:									
China:									
Quantity	***	***	***	***	***	▲***	▲***	▼***	▼***
Value	***	***	***	***	***	▲***	▲***	▲***	▼***
Unit value	***	***	***	***	***	▲***	▲***	▲***	▼***
Ending inventory quantity	***	***	***	***	***	▲***	▲***	▼***	▼***
Nonsubject sources:									
Quantity	***	***	***	***	***	▲***	▼***	▲***	▲***
Value	***	***	***	***	***	▲***	▲***	▲***	▲***
Unit value	***	***	***	***	***	▲***	▲***	▼***	▲***
Ending inventory quantity	***	***	***	***	***	▼***	▼***	▼***	▲***
All import sources:									
Quantity	***	***	***	***	***	▲***	▲***	▲***	▼***
Value	***	***	***	***	***	▲***	▲***	▲***	▼***
Unit value	***	***	***	***	***	▲***	▲***	▲***	▼***
Ending inventory quantity	***	***	***	***	***	▲***	▲***	▼***	▲***
U.S. producers':									
Practical capacity quantity	***	***	***	***	***	▲***	▲***	▲***	▼***
Production quantity	***	***	***	***	***	▲***	▲***	▲***	▼***
Capacity utilization (fn1)	***	***	***	***	***	▼***	▼***	▲***	▼***
U.S. shipments:									
Quantity	***	***	***	***	***	▲***	▲***	▲***	▼***
Value	***	***	***	***	***	▲***	▲***	▲***	▼***
Unit value	***	***	***	***	***	▲***	▼***	▲***	▲***
Export shipments:									
Quantity	***	***	***	***	***	▲***	▲***	▼***	▲***
Value	***	***	***	***	***	▲***	▲***	▲***	▲***
Unit value	***	***	***	***	***	▲***	▼***	▲***	▲***
Ending inventory quantity	***	***	***	***	***	▲***	▲***	▲***	▲***
Inventories/total shipments (fn1)	***	***	***	***	***	▲***	▲***	▲***	▲***
Production workers	***	***	***	***	***	▲***	▲***	▲***	▼***
Hours worked (1,000s)	***	***	***	***	***	▲***	▼***	▲***	▼***
Wages paid ($1,000)	***	***	***	***	***	▲***	▲***	▲***	▼***
Hourly wages (dollars per hour)	***	***	***	***	***	▲***	▲***	▲***	▲***
Productivity (pounds dry weight per hour)	***	***	***	***	***	▲***	▲***	▼***	▼***
Unit labor costs	***	***	***	***	***	▲***	▲***	▲***	▲***

Table continued.

Table C-1 Continued
HPC pea protein: Summary data concerning the U.S. market, by item and period

Quantity=1,000 pounds dry weight; Value=1,000 dollars; Unit values, unit labor costs, and unit expenses=dollars per pound dry weight; Period changes=percent--exceptions noted

	Reported data					Period changes			
	Calendar year			Jan-Mar		Comparison years			Jan-Mar
Item	2020	2021	2022	2022	2023	2020-22	2020-21	2021-22	2022-23
U.S. producers': Continued									
Net sales:									
Quantity	***	***	***	***	***	▲***	▲***	▲***	▼***
Value	***	***	***	***	***	▲***	▲***	▲***	▼***
Unit value	***	***	***	***	***	▲***	▼***	▲***	▲***
Cost of goods sold (COGS)	***	***	***	***	***	▲***	▲***	▲***	▼***
Gross profit or (loss) (fn2)	***	***	***	***	***	▼***	▼***	▼***	▼***
SG&A expenses	***	***	***	***	***	▲***	▲***	▲***	▲***
Operating income or (loss) (fn2)	***	***	***	***	***	▼***	▼***	▼***	▼***
Net income or (loss) (fn2)	***	***	***	***	***	▼***	▼***	▼***	▼***
Unit COGS	***	***	***	***	***	▲***	▲***	▲***	▲***
Unit SG&A expenses	***	***	***	***	***	▲***	▲***	▼***	▲***
Unit operating income or (loss) (fn2)	***	***	***	***	***	▼***	▼***	▼***	▼***
Unit net income or (loss) (fn2)	***	***	***	***	***	▼***	▼***	▼***	▼***
COGS/sales (fn1)	***	***	***	***	***	▲***	▲***	▲***	▲***
Operating income or (loss)/sales (fn1)	***	***	***	***	***	▼***	▼***	▼***	▼***
Net income or (loss)/sales (fn1)	***	***	***	***	***	▼***	▼***	▼***	▼***
Capital expenditures	***	***	***	***	***	▼***	▼***	▼***	▼***
Research and development expenses	***	***	***	***	***	▲***	▲***	▼***	▼***
Net assets	***	***	***	***	***	▲***	▲***	▲***	***

Source: Compiled from data submitted in response to Commission questionnaires. 508-compliant tables containing these data are contained in parts III, IV, VI, and VII of this report.

Note.--Shares and ratios shown as "0.0" percent represent non-zero values less than "0.05" percent (if positive) and greater than "(0.05)" percent (if negative). Zeroes, null values, and undefined calculations are suppressed and shown as "---". Period changes preceded by a "▲" represent an increase, while period changes preceded by a "▼" represent a decrease.

fn1.--Reported data are in percent and period changes are in percentage points.
fn2.--Percent changes only calculated when both comparison values represent profits; The directional change in profitability provided when one or both comparison values represent a loss.

APPENDIX D

U.S. PRODUCERS' AND IMPORTERS' NARRATIVE RESPONSES TO THE COMPARABILITY OF IN-SCOPE HPC PEA PROTEIN AND OUT-OF-SCOPE LPC PEA PROTEIN

Table D-1
HPC pea protein: U.S. producers' narratives regarding the domestic like product factors comparing in-scope HPC pea protein to out-of-scope LPC pea protein

Factor	Producer name and narrative on domestic like product factors
Physical characteristics	***
Physical characteristics	***
Physical characteristics	***
Interchangeability	***
Interchangeability	***
Interchangeability	***
Channels	***
Channels	***
Channels	***
Manufacturing	***
Manufacturing	***
Manufacturing	***
Perceptions	***
Perceptions	***
Perceptions	***
Price	***
Price	***
Price	***

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

Table D-2
HPC pea protein: U.S. importers' narratives regarding the domestic like product factors comparing in-scope HPC pea protein to out-of-scope LPC pea protein

Factor	Importer name and narrative on domestic like product factors
Physical characteristics	***
Physical characteristics	***
Physical characteristics	***
Physical characteristics	***
Physical characteristics	***
Physical characteristics	***
Physical characteristics	***
Physical characteristics	***
Physical characteristics	***
Physical characteristics	***
Physical characteristics	***
Physical characteristics	***
Physical characteristics	***
Interchangeability	***
Interchangeability	***
Interchangeability	***
Interchangeability	***
Interchangeability	***
Interchangeability	***

Factor	Importer name and narrative on domestic like product factors
Interchangeability	***
Interchangeability	***
Interchangeability	***
Interchangeability	***
Interchangeability	***
Interchangeability	***
Interchangeability	***
Channels	***
Channels	***
Channels	***
Channels	***
Channels	***
Channels	***
Channels	***
Channels	***
Channels	***
Channels	***
Channels	***
Channels	***
Manufacturing	***

Factor	Importer name and narrative on domestic like product factors
Manufacturing	***
Manufacturing	***
Manufacturing	***
Manufacturing	***
Manufacturing	***
Manufacturing	***
Manufacturing	***
Manufacturing	***
Manufacturing	***
Manufacturing	***
Perceptions	***
Perceptions	***
Perceptions	***
Perceptions	***
Perceptions	***
Perceptions	***
Perceptions	***
Perceptions	***
Perceptions	***
Perceptions	***

Factor	Importer name and narrative on domestic like product factors
Perceptions	***
Perceptions	***
Price	***
Price	***
Price	***
Price	***
Price	***
Price	***
Price	***
Price	***
Price	***
Price	***

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

APPENDIX E

ALTERNATIVE APPARENT U.S. CONSUMPTION

Tables E-1 and E-2 present data on apparent U.S. consumption and U.S. market shares by quantity for HPC pea protein. Data for U.S. producers are based on U.S. producers' U.S. shipments, data for nonsubject sources are based on U.S. importers' U.S. shipments, and data for China are based on Chinese producers' reported exports to the United States.

Table E-1
HPC pea protein: Apparent U.S. consumption and market shares based on quantity data, by source and period

Quantity in 1,000 pounds dry weight; share in percent

Source	Measure	2020	2021	2022	Jan-Mar 2022	Jan-Mar 2023
U.S. producers	Quantity	***	***	***	***	***
China	Quantity	***	***	***	***	***
Nonsubject sources	Quantity	***	***	***	***	***
All import sources	Quantity	***	***	***	***	***
All sources	Quantity	***	***	***	***	***
U.S. producers	Share	***	***	***	***	***
China	Share	***	***	***	***	***
Nonsubject sources	Share	***	***	***	***	***
All import sources	Share	***	***	***	***	***
All sources	Share	100.0	100.0	100.0	100.0	100.0

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

Note: Zeroes, null values, and undefined calculations are suppressed and shown as "---". Data for U.S. producers are based on U.S. producers' U.S. shipments, data for nonsubject sources are based on U.S. importers' U.S. shipments, and data for China are based on Chinese producers' reported exports to the United States.

Table E-2
HPC pea protein: Changes in apparent U.S. consumption quantity, by source and period

%Δ in percent; ppt Δ in percentage points

Source	Measure	2020-22	2020-21	2021-22	Jan-Mar 2022-23
U.S. producers	%Δ Quantity	▲***	▲***	▲***	▼***
China	%Δ Quantity	▼***	▲***	▼***	▼***
Nonsubject sources	%Δ Quantity	▲***	▼***	▲***	▲***
All import sources	%Δ Quantity	▼***	▲***	▼***	▼***
All sources	%Δ Quantity	▼***	▲***	▼***	▼***
U.S. producers	ppt Δ Quantity	▲***	▼***	▲***	▼***
China	ppt Δ Quantity	▼***	▲***	▼***	▼***
Nonsubject sources	ppt Δ Quantity	▲***	▼***	▲***	▲***
All import sources	ppt Δ Quantity	▼***	▲***	▼***	▲***
All sources	ppt Δ Quantity	***	***	***	***

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

Note: Zeroes, null values, and undefined calculations are suppressed and shown as "---". Period changes preceded by a "▲" represent an increase, while period changes preceded by a "▼" represent a decrease.