

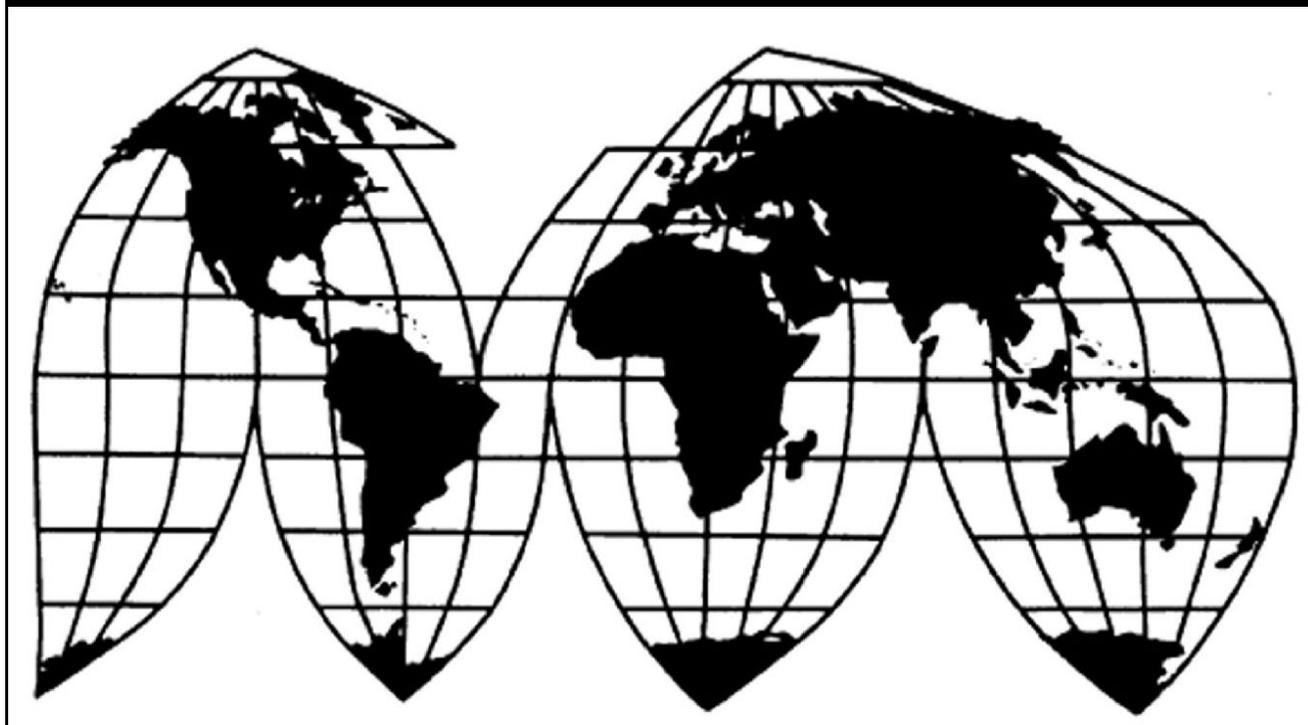
# **Certain Stilbenic Optical Brightening Agents from China and Taiwan**

Investigation Nos. 731-TA-1186-1187 (Second Review)

**Publication 5591**

**February 2025**

**U.S. International Trade Commission**



Washington, DC 20436

# U.S. International Trade Commission

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Note: Information that would reveal confidential operations of individual concerns may not be published. Such information is identified by brackets or by headings in confidential reports and is deleted and replaced with asterisks in public reports.

# UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation Nos. 731-TA-1186-1187 (Second Review)

Certain Stilbenic Optical Brightening Agents from China and Taiwan

## DETERMINATIONS

On the basis of the record<sup>1</sup> developed in the subject five-year reviews, the United States International Trade Commission (“Commission”) determines, pursuant to the Tariff Act of 1930 (“the Act”), that revocation of the antidumping duty orders on certain stilbenic optical brightening agents from China and Taiwan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

## BACKGROUND

The Commission previously instituted these second five-year reviews on October 2, 2022 (87 FR 59827), but subsequently terminated the reviews on January 13, 2023 (88 FR 2374) following Commerce’s final results of sunset reviews and revocation of the orders on certain stilbenic optical brightening agents from China and Taiwan (87 FR 80162, December 29, 2022). Following an appeal by domestic producer Archroma U.S., Inc., the U.S. Court of International Trade directed Commerce and the Commission to undertake reviews of the orders. *See Archroma U.S., Inc. v. U.S. Dep’t of Commerce, et al.*, 703 F. Supp. 3d 1396, 1403-04 (Ct. Int’l Trade 2024). The Commission reinstated these reviews on July 1, 2024 (89 FR 54525) and determined on October 7, 2024 that it would conduct expedited reviews (89 FR 88303, November 7, 2024).

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





## Views of the Commission

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

### I. Background

*Original Investigations:* On March 31, 2011, the Commission instituted investigations on imports of CSOBAs from China and Taiwan.<sup>1</sup> In May 2012, the Commission determined that an industry in the United States was materially injured by reason of less than fair value imports of CSOBAs from China and Taiwan.<sup>2</sup> The U.S. Department of Commerce (“Commerce”) issued antidumping duty orders on CSOBAs from China and Taiwan on May 10, 2012.<sup>3</sup>

*First Reviews:* On April 3, 2017, the Commission instituted the first five-year reviews of the orders.<sup>4</sup> After conducting expedited reviews, the Commission made affirmative determinations.<sup>5</sup> Effective November 27, 2017, Commerce issued a notice of the continuation of the antidumping duty orders on CSOBAs from China and Taiwan.<sup>6</sup>

*Current Reviews:* On October 3, 2022, the Commission instituted these second five-year reviews.<sup>7</sup> Effective November 27, 2022, Commerce issued its final results in which it revoked the orders because no interested party had filed a timely notice of intent to participate in the

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<sup>1</sup> *Certain Stilbenic Optical Brightening Agents from China and Taiwan*, 76 Fed. Reg. 19383 (Apr. 7, 2011).

<sup>2</sup> *Certain Stilbenic Optical Brightening Agents from China and Taiwan*, Inv. Nos. 731-TA-1186-1187 (Final), USITC Pub. 4322 (May 2012) (“*Original Determinations*”) at 1.

<sup>3</sup> *Certain Stilbenic Optical Brightening Agents from Taiwan: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order*, 77 Fed. Reg. 27419 (May 10, 2012); *Certain Stilbenic Optical Brightening Agents from the People’s Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order*, 77 Fed. Reg. 27423 (May 10, 2012).

<sup>4</sup> *Certain Stilbenic Optical Brightening Agents from China and Taiwan; Institution of Five-Year Reviews*, 82 Fed. Reg. 16226 (Apr. 3, 2017).

<sup>5</sup> *Certain Stilbenic Optical Brightening Agents from China and Taiwan; Determinations* 82 Fed. Reg. 50678 (Nov. 1, 2017).

<sup>6</sup> *Certain Stilbenic Optical Brightening Agents from the People’s Republic of China and Taiwan: Continuation of Antidumping Duty Orders*, 82 Fed. Reg. 55990 (Nov. 27, 2017).

<sup>7</sup> *Stilbenic Optical Brightening Agents from China and Taiwan; Institution of Five-Year Reviews*, 87 Fed. Reg. 59827 (Oct. 3, 2022).

reviews in response to Commerce’s notice of initiation.<sup>8</sup> Shortly thereafter, the Commission terminated its reviews.<sup>9</sup> Following an appeal of the terminations by Archroma U.S., Inc. (“Archroma”), a domestic producer of CSOBAs, the United States Court of International Trade (“CIT”) directed Commerce and the Commission to undertake reviews of the orders.<sup>10</sup>

On July 1, 2024, the Commission re-instituted the second five-year reviews of the orders.<sup>11</sup> Archroma filed the sole response to the notice of institution.<sup>12</sup> No respondent interested party responded to the notice of institution or otherwise participated in these reviews. On October 7, 2024, the Commission determined that the domestic interested party group response to the notice of institution was adequate and that the respondent interested party group response to the notice of institution was inadequate. Finding that no other circumstances warranted conducting full reviews, the Commission determined to conduct

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<sup>8</sup> *Stilbenic Optical Brightening Agents from the People’s Republic of China and Taiwan: Final Results of Sunset Reviews and Revocation of Order*, 87 Fed. Reg. 80162, 80163 (Dec. 29, 2022).

<sup>9</sup> *Stilbenic Optical Brightening Agents from China and Taiwan; Termination of Five-Year Reviews*, 88 Fed. Reg. 2374 (Jan. 13, 2023).

<sup>10</sup> *Archroma U.S., Inc., v. U.S. Dep’t of Commerce*, 703 F. Supp. 3d 1396, 1403-04 (Ct. Int’l Trade 2024). The court held that Commerce’s regulation, 19 C.F.R. § 351.218(d)(1), which requires a party to file a notice of intent within 15 days after Commerce issues its notice of initiation and prior to filing a substantive response, violated 19 U.S.C. §§ 1675(c)(2)-(3), which requires among other things, an interested party to submit a statement expressing its willingness to participate in a review and a statement regarding the likely effects of revocation of the order. *Id.* Specifically, the court explained that by revoking the orders based upon Archroma’s failure to submit a timely notice of intent to participate, despite Archroma’s later submission of a substantive response prior to Commerce’s 30-day deadline, Commerce had unlawfully “extinguish[ed]” Archroma’s right to participate in the sunset reviews. *Archroma*, 703 F. Supp. 3d at 1403.

<sup>11</sup> *Stilbenic Optical Brightening Agents from China and Taiwan; Institution of Five-Year Reviews*, 89 Fed. Reg. 54525 (July 1, 2024). The Commission filed its notice of institution on the same day that Commerce published its notice stating that it was reinstating the antidumping duty orders and reconducting the five-year reviews beginning on July 1, 2024. *Initiation of Five-Year (Sunset Reviews)*, 89 Fed. Reg. 54435 (July 1, 2024); *see also Stilbenic Optical Brightening Agents from Taiwan and the People’s Republic of China: Notice of Court Decision Not in Harmony with the Results of Antidumping Sunset Reviews, Reinstatement of Antidumping Duty Orders, and Reconduction of Sunset Reviews*, 89 Fed. Reg. 53392 (June 26, 2024) (announcing reinstatement of the orders and Commerce’s intent to reconduct the reviews).

<sup>12</sup> Archroma Substantive Response to Notice of Institution, EDIS No. 827848 (Jul. 31, 2024) (“*Archroma Resp.*”); Archroma Amendment to Response to Notice of Institution, EDIS Doc. 829182 (Aug. 9, 2024) (“*Archroma Am. Resp.*”).

expedited reviews of the orders.<sup>13</sup> On January 30, 2025, Archroma filed comments regarding the determination the Commission should reach in these expedited reviews pursuant to 19 C.F.R. § 207.62(d).<sup>14</sup>

U.S. industry data are based on information submitted by Archroma in its response to the notice of institution, which is estimated to have accounted for \*\*\* percent of domestic production of CSOBAs in 2021.<sup>15</sup> U.S. import data and related information are based on Commerce’s official import statistics.<sup>16</sup> Foreign industry data and related information are based on information from the original investigations and the prior reviews, as well as information submitted by Archroma in these expedited reviews and publicly available information, such as Global Trade Atlas (“GTA”) data, gathered by the Commission.<sup>17</sup> One purchaser of CSOBAs responded to the Commission’s adequacy phase questionnaire.<sup>18</sup>

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<sup>13</sup> *Stilbenic Optical Brightening Agents from China and Taiwan; Scheduling of Expedited Five-Year Reviews*, 89 Fed. Reg. 88303, 88304 (Nov. 7, 2024); *Explanation of Commission Views on Adequacy*, EDIS Doc. 835302 (Oct. 7, 2024).

<sup>14</sup> *Certain Stilbenic Optical Brightening Agents from China and Taiwan*: Final Comments, EDIS Doc. 842282 (Jan. 30, 2025) (*Archroma Comments*).

<sup>15</sup> Confidential Report (CR), INV-WW-113, EDIS Doc. 832944 (Sept. 23, 2024); Public Report (“PR”), *Certain Stilbenic Optical Brightening Agents from China and Taiwan*, Inv. Nos. 731-TA-1186-1187 (Second Review), USITC Pub. 5591 (Feb. 2025) at I-10 & Appendix B, B-3; *Stilbenic Optical Brightening Agents from China and Taiwan: Additional Information Regarding Substantive Response to Notice of Initiation*, EDIS Doc. 829182 (Aug. 27, 2024) (“*Archroma Response to Request for Additional Information*”) at Ex. 2. Due to the unusual posture of these reviews, having been re-instituted by the Commission in July 2024 at the direction of the CIT after their termination in January 2022, the period of review is 2017 to 2021. Nevertheless, we find the more recent information on the record concerning the CSOBA market, including information submitted by Archroma, relevant and informative for our determinations in these five-year reviews.

<sup>16</sup> CR/PR at Table I-5 & note. The Commission compiled the information contained in Table I-5 using official Commerce statistics for Harmonized Tariff Schedule (“HTS”) statistical reporting number 3204.20.8000, which may overstate subject imports as these data may contain out-of-scope products. *Id.* It is also unclear as to the basis and the form by which the quantity data are reported. *Id.*

<sup>17</sup> The Commission also used GTA data for Harmonized System (“HS”) subheading 3204.20 for Tables I-8, I-10, and I-11, which is a “basket” category containing both subject merchandise and out-of-scope products.

<sup>18</sup> The Commission sent questionnaires to five firms that Archroma identified as top purchasers of CSOBAs, and one purchaser, \*\*\*, responded. CR/PR at Appendix D, D-3.

## II. Domestic Like Product and Industry

### A. Domestic Like Product

In making its determination under section 751(c) of the Tariff Act, the Commission defines the “domestic like product” and the “industry.”<sup>19</sup> The Tariff Act defines “domestic like product” as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle.”<sup>20</sup> The Commission’s practice in five-year reviews is to examine the domestic like product definition from the original investigation and consider whether the record indicates any reason to revisit the prior findings.<sup>21</sup>

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

The stilbenic OBAs covered by the *Orders* are all forms (whether free acid or salt) of compounds known as triazinylaminostilbenes (*i.e.*, all derivatives of 4,4'-bis(1,3,5-triazin-2-yl) amino-2,2'-stilbenedisulfonic acid), except for compounds listed in the following paragraph. The stilbenic OBAs covered by the *Orders* include final stilbenic OBA products, as well as intermediate products that are themselves triazinylaminostilbenes produced during the synthesis of stilbenic OBA products.

Excluded from the *Orders* are all forms of 4,4'-bis(4-anilino-6-morpholino-1,3,5-triazin-2-yl) amino-2,2'-stilbenedisulfonic acid, C<sub>40</sub> H<sub>40</sub> N<sub>12</sub> O<sub>8</sub> S<sub>2</sub> (“Fluorescent Brightener 71”). The *Orders* cover the above-described compounds in any state (including but not

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<sup>19</sup> 19 U.S.C. § 1677(4)(A).

<sup>20</sup> 19 U.S.C. § 1677(10); *see, e.g., Cleo Inc. v. United States*, 501 F.3d 1291, 1299 (Fed. Cir. 2007); *NEC Corp. v. Department of Commerce*, 36 F. Supp. 2d 380, 383 (Ct. Int’l Trade 1998); *Nippon Steel Corp. v. United States*, 19 CIT 450, 455 (1995); *Timken Co. v. United States*, 913 F. Supp. 580, 584 (Ct. Int’l Trade 1996); *Torrington Co. v. United States*, 747 F. Supp. 744, 748-49 (Ct. Int’l Trade 1990), *aff’d*, 938 F.2d 1278 (Fed. Cir. 1991); *see also* S. Rep. No. 249, 96<sup>th</sup> Cong., 1<sup>st</sup> Sess. 90-91 (1979).

<sup>21</sup> *See, e.g., Internal Combustion Industrial Forklift Trucks from Japan*, Inv. No. 731-TA-377 (Second Review), USITC Pub. 3831 at 8-9 (Dec. 2005); *Crawfish Tail Meat from China*, Inv. No. 731-TA-752 (Review), USITC Pub. 3614 at 4 (July 2003); *Steel Concrete Reinforcing Bar from Turkey*, Inv. No. 731-TA-745 (Review), USITC Pub. 3577 at 4 (Feb. 2003).

limited to powder, slurry, or solution), of any concentrations of active stilbenic OBA ingredient, as well as any compositions regardless of additives (*i.e.*, mixtures or blends, whether of stilbenic OBAs with each other, or of stilbenic OBAs with additives that are not stilbenic OBAs), and in any type of packaging.

These stilbenic OBAs are classifiable under subheading 3204.20.8000 of the Harmonized Tariff Schedule of the United States (“HTSUS”), but they may also enter under subheadings 2933.69.6050, 2921.59.4000 and 2921.59.8090. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.<sup>22</sup>

Csobas within the scope definition are organic chemicals, also known as fluorescent whitening agents, primarily used for brightening paper products, and are a cost-effective way of raising the whiteness level of paper.<sup>23</sup> Without CSOBAs, many paper products have an aesthetically unappealing yellowish cast. When applied to paper, CSOBAs absorb ultraviolet light and emit blue light, compensating for the yellowish cast and making the paper appear a brighter white.<sup>24</sup>

All CSOBAs are built upon diaminostilbene disulfonic acid (“DAS”), a synthetic organic chemical.<sup>25</sup> Attached to the DAS structure are two 1,3,5-triazinyl rings. Attached to each of the 1,3,5-triazinyl groups are a derivative of aniline and an additional chemical component, typically an amine.<sup>26</sup> The number of sulfonate groups on the molecule affects the solubility of the

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<sup>22</sup> *Stilbenic Optical Brightening Agents from the People’s Republic of China and Taiwan: Final Results of the Expedited Second Sunset Reviews of the Antidumping Duty Orders*, 89 Fed. Reg. 88729 (Nov. 8, 2024) (“Final Results”) and accompanying *Issues and Decision Memorandum for the Second Sunset Reviews of the Antidumping Duty Orders on Stilbenic Optical Brightening Agents from the People’s Republic of China and Taiwan* (“Issues and Decision Memorandum”), A-570-972, A-583-848 (Sunset Review), EDIS Doc. 842270 (Nov. 5, 2024) at 2 (internal footnote omitted). The scope of the order is unchanged since the first five-year reviews. *Certain Stilbenic Optical Brightening Agents from China and Taiwan*, USITC Pub. 4737 (Oct. 2017) (“*First Reviews*”) at 4.

<sup>23</sup> CR/PR at I-7.

<sup>24</sup> CR/PR at I-7.

<sup>25</sup> CR/PR at I-9.

<sup>26</sup> CR/PR at I-9.

CSOBA in water and which specific CSOBA is best applied in the paper making process.<sup>27</sup> The identity of a CSOBA is specified by both the derivative of aniline used and the identity of the other chemical group attached to the 1,3,5-triazinyl ring.<sup>28</sup>

CSOBAs can be catalogued into three main categories (di, tetra, and hexa) based on the number of sulfonate groups that the molecule contains, which is determined by the derivative of aniline used in the production process.<sup>29</sup> The “di” category of CSOBAs contains two sulfonate groups and is produced using aniline.<sup>30</sup> The “tetra” category of CSOBAs contains four sulfonate groups and is produced using sulfanilic acid. The “tetra” category is the most versatile and most commonly used stilbenic optical brightening agent.<sup>31</sup> The “hexa” category of CSOBAs contains six sulfonate groups and is produced using aniline disulfonic acid.<sup>32</sup>

In the original investigations, the Commission defined the domestic like product as all forms, states, concentrations, and compositions of stilbenic OBA products coextensive with Commerce’s scope.<sup>33</sup> In the preliminary phase of the investigations, the Commission examined whether to define the domestic like product more broadly to include FB 71, a brightener excluded from the scope, but found a clear distinction between FB 71 and in-scope CSOBAs in terms of physical characteristics and uses, interchangeability, and customer and producer perceptions.<sup>34</sup> It also examined whether intermediate products should be defined as a separate domestic like product based on a semifinished products analysis, but found that intermediate products within the scope were not a separate domestic like product.<sup>35</sup>

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<sup>27</sup> CR/PR at I-8.

<sup>28</sup> CR/PR at I-9.

<sup>29</sup> CR/PR at I-7.

<sup>30</sup> CR/PR at I-7.

<sup>31</sup> CR/PR at I-8.

<sup>32</sup> CR/PR at I-7 through I-8.

<sup>33</sup> *Original Determinations*, USITC Pub. 4322 at 6.

<sup>34</sup> *Certain Stilbenic Optical Brightening Agents from China and Taiwan*, USITC Pub. 4236 (Preliminary) (May 2011) at 7-10 (“*Preliminary Determinations*”); *Original Determinations*, USITC Pub. 4322 at 6. In addition, the Commission found that the final CSOBA products within the scope shared physical characteristics and had the same general use, brightening paper products. It also found that the final products were generally interchangeable; were sold in the same channels of distribution (virtually all to end users); were perceived as similar by producers and customers; had common manufacturing facilities, production processes, and production employees; and overlapped in terms of price. *Id.*

<sup>35</sup> *Preliminary Determinations*, USITC Pub. 4236 at 10-11; *Original Determinations*, USITC Pub. 4322 at 6-10. The Commission found that the intermediate products were dedicated to the production of final CSOBA products; there was no separate market for the intermediate products; the central molecular structure for the intermediate and final products was the same; intermediate  
(Continued...)

In the first reviews, Archroma did not state a position with respect to the definition of the domestic like product.<sup>36</sup> The Commission found no new information in the record indicating that the characteristics of CSOBAs had changed since the original investigations.<sup>37</sup> Thus, the Commission again defined the domestic like product as all forms, states, concentrations, and compositions of CSOBAs coextensive with Commerce’s scope.<sup>38</sup>

In the current reviews, Archroma agrees with the definition of the domestic like product from the original investigations.<sup>39</sup> The record contains no information indicating that the pertinent characteristics and uses of CSOBAs have changed since the prior proceedings so as to warrant reconsideration of that definition. Accordingly, we again define the domestic like product as all forms, states, concentrations, and compositions of CSOBAs coextensive with Commerce’s scope.

## **B. Domestic Industry**

Section 771(4)(A) of the Tariff Act defines the relevant industry as the domestic “producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.”<sup>40</sup> In defining the domestic industry, the Commission’s general practice has been to include in the industry producers of all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.

These reviews raise the issue of whether appropriate circumstances exist to exclude a domestic producer from the domestic industry pursuant to section 771(4)(B) of the Tariff Act.<sup>41</sup> This provision allows the Commission, if appropriate circumstances exist, to exclude from the

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(...Continued)

products were transformed into final products by relatively straightforward chemical reactions; and there was minimal difference in the cost and value of the intermediate and final products. *Original Determinations*, USITC Pub. 4322 at 6 & n.21.

<sup>36</sup> *First Reviews*, USITC Pub. 4737 at 6-7; *id.* at 6 n.30 (noting that in the original investigations Clariant Corp., which was Archroma’s predecessor, supported the Commission finding one domestic like product coextensive with the scope of the investigations) (citing *Original Determinations*, USITC Pub. 4322 at 6).

<sup>37</sup> *First Reviews*, USITC Pub. 4737 at 6.

<sup>38</sup> *First Reviews*, USITC Pub. 4737 at 6-7.

<sup>39</sup> *Archroma Resp.* at 27.

<sup>40</sup> 19 U.S.C. § 1677(4)(A). The definitions in 19 U.S.C. § 1677 are applicable to the entire subtitle containing the antidumping and countervailing duty laws, including 19 U.S.C. §§ 1675 and 1675a. *See* 19 U.S.C. § 1677.

<sup>41</sup> *See* 19 U.S.C. § 1677(4)(B).

domestic industry producers that are related to an exporter or importer of subject merchandise or which are themselves importers.<sup>42</sup> Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each investigation.<sup>43</sup>

In the original investigations, the Commission defined the domestic industry as all U.S. producers of the domestic like product, namely Clariant Corporation ("Clariant"), BASF Corporation ("BASF"), and 3V Incorporated ("3V").<sup>44</sup> No party objected to this definition.<sup>45</sup> There were no related party issues in the final phase of the original investigations.<sup>46</sup>

In the first reviews, the Commission defined the domestic industry as consisting of all U.S. producers of CSOBA products coextensive with Commerce's scope.<sup>47</sup> The Commission considered whether appropriate circumstances existed to exclude U.S. producer \*\*\* from the domestic industry as a related party because it had been identified as an importer of subject merchandise and was affiliated with \*\*\*, a producer of CSOBAs in Taiwan.<sup>48</sup> The Commission concluded that it lacked sufficient information to determine whether \*\*\* should be excluded as

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<sup>42</sup> 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).

<sup>43</sup> 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); see also *Torrington Co. v. United States*, 790 F. Supp. at 1168.

<sup>44</sup> *Original Determinations*, USITC Pub. 4322 at 7. The Commission determined that converting the powdered form of CSOBA into an aqueous solution by mixing it with water, known as "letdown," did not constitute sufficient production-related activity to warrant treating converters as producers of CSOBAs. *Id.* at 7 n.23.

<sup>45</sup> *Original Determinations*, USITC Pub. 4322 at 7.

<sup>46</sup> *Original Determinations*, USITC Pub. 4322 at 7 n.24.

<sup>47</sup> *First Reviews*, USITC Pub. 4737 at 8.

<sup>48</sup> Confidential Views of the Commission (First Reviews), EDIS Doc. 830439 (Oct. 2017) at ("Confidential First Reviews") at 9-10.



a related party.<sup>49</sup> In addition, the Commission found that, even assuming, *arguendo*, that \*\*\* was a related party, appropriate circumstances did not exist to warrant its exclusion from the domestic industry.<sup>50</sup>

In the current reviews, the domestic interested party agrees with the definition of the domestic industry from the original investigations.<sup>51</sup>

As in the first reviews, \*\*\* may qualify as a related party because it is affiliated with \*\*\*, a producer and exporter of CSOBAs in Taiwan, and may also qualify for possible exclusion from the domestic industry as an importer of subject merchandise.<sup>52</sup> However, even assuming, *arguendo*, that \*\*\* were to qualify for possible exclusion under the related parties provision, \*\*\* did not respond to the notice of institution with any information or data concerning its domestic production operations that could be excluded from domestic industry data. Accordingly, consistent with our definition of the domestic like product, we define the domestic industry as all U.S. producers of CSOBA products coextensive with Commerce's scope.

### III. Cumulation

#### A. Legal Standard

With respect to five-year reviews, section 752(a) of the Tariff Act provides as follows: the Commission may cumulatively assess the volume and effect of imports of the subject merchandise from all countries with respect to which reviews under section 1675(b) or (c) of this title were initiated on the same day, if such imports would be likely to compete with each other and with domestic like products in the United States market. The Commission shall not cumulatively assess the volume and effects of imports of the subject merchandise in a case in which it

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<sup>49</sup> Confidential First Reviews at 9-10. Specifically, the Commission found that the record did not indicate whether \*\*\* imported, or \*\*\* exported, subject merchandise during the January 2012 to December 2016 period of review. *Id.* at 10.

<sup>50</sup> Confidential First Reviews at 10. Further, the Commission found that the existence of such circumstances would make no difference to the record of these reviews because the record contained no firm-specific data concerning \*\*\* to exclude. *Id.*

<sup>51</sup> *Archroma Resp.* at 27.

<sup>52</sup> *Archroma Resp.* at 9, 22; *Archroma Response to Request for Additional Information* at Ex. 2. According to Archroma, \*\*\*. *Id.*

determines that such imports are likely to have no discernible adverse impact on the domestic industry.<sup>53</sup>

Cumulation therefore is discretionary in five-year reviews, unlike original investigations, which are governed by section 771(7)(G)(i) of the Tariff Act.<sup>54</sup> The Commission may exercise its discretion to cumulate, however, only if the reviews are initiated on the same day, the Commission determines that the subject imports are likely to compete with each other and the domestic like product in the U.S. market, and imports from each such subject country are not likely to have no discernible adverse impact on the domestic industry in the event of revocation. Our focus in five-year reviews is not only on present conditions of competition, but also on likely conditions of competition in the reasonably foreseeable future.

## **B. Prior Proceedings and Arguments of the Parties**

*Original Investigations.* In the original investigations, the Commission found a reasonable overlap of competition between and among the domestic like product and imports from each subject country, and therefore cumulated subject imports from China and Taiwan.<sup>55</sup>

*First Reviews.* In the first reviews, the Commission exercised its discretion to cumulate subject imports from China and Taiwan.<sup>56</sup> Specifically, it did not find that subject imports from either country would be likely to have no discernible adverse impact in the event of revocation, citing the volume of subject imports from each subject country during the period of investigation, the subject producers' continued interest in the U.S. market, and the export orientation of subject producers.<sup>57</sup> It also found that there had been no change since the original investigations with respect to the moderate to high degree of fungibility between the domestic like product and subject imports, the channels of distribution for CSOBAs from

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<sup>53</sup> 19 U.S.C. § 1675a(a)(7).

<sup>54</sup> 19 U.S.C. § 1677(7)(G)(i); *see also, e.g., Nucor Corp. v. United States*, 601 F.3d 1291, 1293 (Fed. Cir. 2010) (Commission may reasonably consider likely differing conditions of competition in deciding whether to cumulate subject imports in five-year reviews); *Allegheny Ludlum Corp. v. United States*, 475 F. Supp. 2d 1370, 1378 (Ct. Int'l Trade 2006) (recognizing the wide latitude the Commission has in selecting the types of factors it considers relevant in deciding whether to exercise discretion to cumulate subject imports in five-year reviews); *Nucor Corp. v. United States*, 569 F. Supp. 2d 1328, 1337-38 (Ct. Int'l Trade 2008).

<sup>55</sup> *Original Determinations*, USITC Pub. 4322 at 8-9.

<sup>56</sup> *First Reviews*, USITC Pub. 4737 at 13.

<sup>57</sup> *First Reviews*, USITC Pub. 4737 at 10-11.

different sources, and geographic overlap.<sup>58</sup> Finally, the Commission found that no significant differences in the conditions of competition were likely to prevail after revocation with respect to subject imports from each source.<sup>59</sup>

*Current Reviews.* In the current reviews, the domestic interested party contends that the Commission should again exercise its discretion to cumulate subject imports from China and Taiwan.<sup>60</sup> It maintains that each factor that the Commission previously identified as supporting cumulation continues to be present.<sup>61</sup> It asserts that, because of the continued presence of subject imports from each country in the U.S. market, as well as the excess capacity and export orientation of the subject producers, there is no basis to conclude that subject imports from either of the subject countries would be likely to have no discernible adverse impact on the domestic industry.<sup>62</sup> In addition, the domestic interested party argues that there continues to be a reasonable overlap of competition between and among the subject imports and the domestic like product, and that subject imports from each source are likely to compete with each other and with the domestic like product under similar conditions in the event of revocation.<sup>63</sup>

### C. Analysis

The statutory threshold for cumulation is satisfied in these reviews because all reviews were initiated on the same day, July 1, 2024.<sup>64</sup> In addition, we consider the following issues in deciding whether to exercise our discretion to cumulate subject imports: (1) whether imports from any of the subject countries are precluded from cumulation because they are likely to have no discernible adverse impact on the domestic industry; (2) whether there is a likelihood of a reasonable overlap of competition among subject imports and the domestic like product; and (3) whether subject imports are likely to compete in the U.S. market under different conditions of competition.

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<sup>58</sup> *First Reviews*, USITC Pub. 4737 at 12-13.

<sup>59</sup> *First Reviews*, USITC Pub. 4737 at 13.

<sup>60</sup> *Archroma Resp.* at 8-10.

<sup>61</sup> *Archroma Resp.* at 8.

<sup>62</sup> *Archroma Resp.* at 8-9.

<sup>63</sup> *Archroma Resp.* at 9-10.

<sup>64</sup> CR/PR at I-2. Table I-1 (citing *Stilbenic Optical Brightening Agents from China and Taiwan; Institution of Five-Year Reviews*, 89 Fed. Reg. at 54525).

## 1. Likelihood of No Discernible Adverse Impact

The statute precludes cumulation if the Commission finds that subject imports from a country are likely to have no discernible adverse impact on the domestic industry.<sup>65</sup> Neither the statute nor the Uruguay Round Agreements Act (“URAA”) Statement of Administrative Action (“SAA”) provides specific guidance on what factors the Commission is to consider in determining that imports “are likely to have no discernible adverse impact” on the domestic industry.<sup>66</sup> With respect to this provision, the Commission generally considers the likely volume of subject imports and the likely impact of those imports on the domestic industry within a reasonably foreseeable time if the orders are revoked. Our analysis for each of the subject countries takes into account, among other things, the nature of the product and the behavior of subject imports in the original investigations.

Based on the record, we do not find that subject imports from China or Taiwan are likely to have no discernible adverse impact on the domestic industry in the event of revocation of the antidumping duty orders.

*China.* In the original investigations the volume of subject imports from China increased from \*\*\* pounds in 2009 to \*\*\* pounds in 2010, and then to \*\*\* pounds in 2011.<sup>67</sup> The market share of subject imports from China in terms of quantity increased from \*\*\* percent in 2009 to \*\*\* percent in 2010, and then to \*\*\* percent in 2011.<sup>68</sup> The Commission collected data from \*\*\* producers of subject merchandise in China, accounting for an estimated \*\*\* percent of production of subject merchandise in China in 2011.<sup>69</sup> During the original period of investigation, capacity utilization for these producers ranged from \*\*\* percent, and exports ranged from \*\*\* percent of total shipments.<sup>70</sup>

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<sup>65</sup> 19 U.S.C. § 1675a(a)(7).

<sup>66</sup> SAA, H.R. Rep. No. 103-316, vol. I at 887 (1994).

<sup>67</sup> Confidential First Reviews at 12 & n.45 (citing Confidential First Reviews Staff Report, INV-PP-083 (June 26, 2017), EDIS Doc. 830433 (“Confidential First Reviews Staff Report”) at I-21, Table I-4). Quantity data are in solution form. The value of subject imports from China also increased during the original investigations from \$\*\*\* in 2009 to \$\*\*\* in 2010, and then to \$\*\*\* in 2011. *Id.*

<sup>68</sup> Confidential First Reviews at 12. In terms of value, the market share increased from \*\*\* percent in 2009 to \*\*\* percent in 2010, and to \*\*\* percent in 2011. *Id.* at 12 n.46.

<sup>69</sup> Confidential First Reviews at 13.

<sup>70</sup> Confidential First Reviews at 13 & n.50 (citing Confidential Staff Report, Memorandum INV-KK-038, EDIS Doc. 830431 (March 5, 2012) (“Confidential Original Determinations Staff Report”) at VII-3, Table VII-1).

In the first reviews, subject imports from China increased from 804,000 pounds in 2012 to 971,000 pounds in 2013 and 2.0 million pounds in 2014, before decreasing to 903,000 pounds in 2015, and 943,000 pounds in 2016.<sup>71</sup> In 2016, subject imports from China accounted for \*\*\* percent of apparent U.S. consumption in terms of quantity.<sup>72</sup> In addition, the information available indicated that there were at least six firms producing CSOBAs in China.<sup>73</sup> GTA data concerning synthetic organic products used as fluorescent brightening agents classified under HS subheading 3204.20, a category that includes CSOBAs and out-of-scope products, indicated that China's exports of this product to the United States declined irregularly from \$8.2 million in 2012 to \$5.3 million in 2016, and that China's exports of this product to all markets increased from \$125.6 million in 2012 to \$151.8 million in 2016.<sup>74</sup> Available GTA data also showed that China was the world's largest exporter of such products.<sup>75</sup>

In these expedited reviews, there is limited information concerning the CSOBA industry in China.<sup>76</sup> The volume of subject imports from China declined irregularly during the period of review, increasing from 915,000 pounds in 2017 to 982,000 pounds in 2018, before decreasing to 660,000 pounds in 2019 and 475,000 pounds in 2020, and then increasing to 538,000 pounds in 2021.<sup>77</sup> The continued presence of subject imports from China in the U.S. market while under the discipline of the order indicates the continuing attractiveness of the U.S. market for subject producers/exporters in China. In 2021, subject imports from China accounted for \*\*\* percent of apparent U.S. consumption in terms of quantity.<sup>78</sup>

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<sup>71</sup> Confidential First Reviews at 12-13 & n.47 (citing Confidential First Reviews Staff Report at I-19, Table I-3). The Commission observed that the official Commerce statistics and GTA data for Tables I-3 through I-8 of the Commission's report for the first reviews may be overstated because they reflect imports under "HTS subheading 3204.20" which may contain out-of-scope products. *Id.* at 12-13 n.47

<sup>72</sup> Confidential First Reviews at 12-13 & n.48 (citing Confidential First Reviews Staff Report at I-21 through I-22, Tables I-4 through I-5). In 2016 subject imports from China accounted for \*\*\* percent of apparent U.S. consumption in terms of value. Confidential First Reviews at 13 n.48 (citing Confidential First Reviews Staff Report at I-25, Table I-6).

<sup>73</sup> *First Reviews*, USITC Pub. 4737 at 10.

<sup>74</sup> *First Reviews*, USITC Pub. 4737 at 10; *see also id.* at I-15, Table I-6.

<sup>75</sup> *First Reviews*, USITC Pub. 4737 at 10 & I-17, Table I-8.

<sup>76</sup> CR/PR at I-18.

<sup>77</sup> CR/PR at I-15, Table I-5. The value of subject imports from China fluctuated irregularly but declined overall, increasing from \$6.8 million in 2017 to \$18.2 million in 2018, then decreasing to \$9.1 million in 2019 and to \$4.4 million in 2020, before increasing to \$5.7 million in 2021. *Id.*

<sup>78</sup> CR/PR at I-17, Table I-6. In 2021, subject imports from China accounted for a \*\*\* percent share of apparent U.S. consumption by value. *Id.*

The information available also indicates that the subject industry in China is large and export oriented. The domestic interested party provided a list of 14 possible producers of CSOBAs in China.<sup>79</sup> Available information also indicates that the subject industry in China has been expanding its capacity. Specifically, according to \*\*\* submitted by the domestic interested party, \*\*\*.<sup>80</sup> The same information indicates that subject producers in China had capacity utilization rates ranging from \*\*\*. GTA data concerning synthetic organic products used as fluorescent brightening agents classified under HS subheading 3204.20, a category that includes CSOBAs and out-of-scope products, show that Chinese exports of such products increased irregularly during the period of review from 103.2 million pounds in 2017 to 113.5 million pounds in 2021.<sup>81</sup> These data also show that China was the world's largest exporter of such products in 2019, 2020 and 2021, and the second largest exporter in 2017 and 2018.<sup>82</sup>

During the original investigations, subject imports from China undersold the domestic like product in \*\*\* of \*\*\* quarterly comparisons on an f.o.b. basis and \*\*\* of \*\*\* comparisons on an as delivered basis.<sup>83</sup> No pricing data for subject imports from China were obtained in the first or current reviews.

Based on the record, including the significant and increasing volume of subject imports from China in the original investigations, the industry's large production capacity, including excess capacity, the continued presence of subject imports in the U.S. market while under the disciplining effects of the order, China's status as a leading global exporter, and the underselling by subject imports from China in the original investigations, we do not find that subject imports from China would likely have no discernible adverse impact on the domestic industry if the antidumping order covering these imports were revoked.

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<sup>79</sup> CR/PR at I-18 (citing *Archroma Response to Request for Additional Information* at Ex. 2).

<sup>80</sup> CR/PR at I-19, Table I-7 (citing *Archroma Resp.* at Ex. 6).

<sup>81</sup> CR/PR at I-22, Table I-11.

<sup>82</sup> CR/PR at I-22, Table I-11.

<sup>83</sup> Confidential Views of the Commission (Investigation), EDIS Doc. 830438 (May 2012) ("Confidential Original Determinations") at 27 n.123. These figures use the adjusted pricing data for China from the investigations. *Id.*

*Taiwan.* In the original investigations, the volume of subject imports from Taiwan increased from \*\*\* pounds in 2009 to \*\*\* pounds in 2010, and then to \*\*\* pounds in 2011.<sup>84</sup> The market share of subject imports from Taiwan in terms of quantity increased from \*\*\* percent in 2009 to \*\*\* percent in 2010, and then to \*\*\* percent in 2011.<sup>85</sup> In the original investigations, the Commission collected data from \*\*\* of subject merchandise in Taiwan, accounting for an estimated \*\*\* percent of production of subject merchandise in Taiwan in 2011. During the original period of investigation, capacity utilization for this firm ranged from \*\*\* percent, and exports ranged from \*\*\* percent of total shipments.<sup>86</sup>

In the first reviews, subject imports from Taiwan declined from 15.2 million pounds in 2012 to 14.9 million pounds in 2013, and 13.2 million pounds in 2014, increased to 14.2 million pounds in 2015, and then declined to 7.9 million pounds in 2016.<sup>87</sup> In 2016, subject imports from Taiwan accounted for \*\*\* percent of apparent U.S. consumption by quantity.<sup>88</sup> The information available also indicated that there were at least two firms producing CSOBAs in Taiwan,<sup>89</sup> and that one of the producers, \*\*\*, had a capacity utilization rate of \*\*\* percent.<sup>90</sup> GTA data concerning synthetic organic products used as fluorescent brightening agents classified under HS 3204.20, a category that included CSOBAs and out-of-scope products, indicated that exports by value from Taiwan to the United States declined irregularly from \$18.6 million in 2012 to \$10.9 million by 2016,<sup>91</sup> while total Taiwan exports declined irregularly from \$28.7 million in 2012 to \$18.4 million in 2016.<sup>92</sup> These data also showed that

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<sup>84</sup> Confidential First Reviews at 13-14. Quantity data are in solution form. The value of subject imports from Taiwan also increased over the original period of investigation from \$\*\*\* in 2009 to \$\*\*\* in 2010, and then to \$\*\*\* in 2011. *Id.* at 14 n.53.

<sup>85</sup> Confidential First Reviews at 14 n.54. In terms of value, Taiwan's market share of global exports for HS subheading 3204.20, a category that may include out-of-scope products, increased from \*\*\* percent in 2009 to \*\*\* percent in 2010, and to \*\*\* percent in 2011. *Id.*

<sup>86</sup> Confidential First Reviews at 14-15 & n.59 (citing Confidential Original Determinations Staff Report at VII-7, Table VII-3).

<sup>87</sup> *First Reviews*, USITC Pub. 4737 at 10-11. Imports of CSOBAs from Taiwan by value were \$21.7 million in 2012, \$23.8 million in 2013, \$23.5 million in 2014, \$24.6 million in 2015, and \$12.8 million in 2016. *Id.* at 11 n.55.

<sup>88</sup> Confidential First Reviews at 14 & n.56. In 2016, subject imports from Taiwan accounted for \*\*\* percent of apparent U.S. consumption by value. *Id.*

<sup>89</sup> *First Reviews*, USITC Pub. 4737 at 11.

<sup>90</sup> Confidential First Reviews at 14.

<sup>91</sup> *First Reviews*, USITC Pub. 4737 at 11.

<sup>92</sup> *First Reviews*, USITC Pub. 4737 at 11.

the United States was Taiwan's top export market for such products, and that Taiwan was the world's tenth-largest exporter of such products during the 2012-2016 period.<sup>93</sup>

In these expedited reviews, the record contains limited information concerning the CSOBA industry in Taiwan.<sup>94</sup> Subject imports from Taiwan declined irregularly during the period of review, declining from 8.5 million pounds in 2017 to 7.0 million pounds in 2018, 6.3 million pounds in 2019, and 4.2 million pounds in 2020, before increasing to 6.6 million pounds in 2021.<sup>95</sup> Subject imports from Taiwan accounted for \*\*\* percent of apparent U.S. consumption in 2016.<sup>96</sup>

The information available also indicates that the subject industry in Taiwan is large and a top global exporter. The domestic interested party reported that there is one producer of CSOBAs in Taiwan, TFM.<sup>97</sup> According to \*\*\* submitted by the domestic interested party, TFM had an annual CSOBA production capacity of \*\*\* metric tons in 2024, \*\*\*, with a capacity utilization rate of \*\*\* percent.<sup>98</sup> GTA data concerning synthetic organic products used as fluorescent brightening agents classified under HS 3204.20, a category that included CSOBAs and out-of-scope products, show that exports of such merchandise from Taiwan to the United States increased irregularly over the period of review, from 6.1 million pounds in 2017 to 8.3 million pounds in 2021, making the United States Taiwan's top export destination throughout the period.<sup>99</sup> The continued presence of subject imports from Taiwan in the U.S. market while under the discipline of the order indicates the continuing attractiveness of the U.S. market for subject producers/exporters in Taiwan. GTA data also show that Taiwan's total exports decreased irregularly from 14.4 million pounds in 2017 to 13.5 million pounds 2021, and that Taiwan was alternately the world's ninth or tenth largest exporter of such merchandise during the period.<sup>100</sup>

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<sup>93</sup> *First Reviews*, USITC Pub. 4737 at 11.

<sup>94</sup> CR/PR at I-20.

<sup>95</sup> CR/PR at I-15, Table I-5. The value of imports of subject merchandise from Taiwan was \$12.1 million in 2017, \$10.8 million in 2018, \$15.8 million in 2019, \$7.4 million in 2020, and \$10.2 million in 2021. *Id.*

<sup>96</sup> CR/PR at I-17, Table I-6.

<sup>97</sup> CR/PR at I-20 (citing *Archroma Response to Request for Additional Information* at Ex. 2).

<sup>98</sup> CR/PR at I-20, Table I-9 (citing TFM International website, "Country Introduction," <https://www.tfmintl.com/tw/about/2>, accessed Aug. 29, 2024, EDIS Doc. 2228581); *Archroma Resp.* at Exs. 6 & 7.

<sup>99</sup> CR/PR at I-21, Table I-10.

<sup>100</sup> CR/PR at I-22, Table I-11.



During the original investigations, subject imports from Taiwan undersold the domestic like product in \*\*\* of \*\*\* quarterly comparisons on an f.o.b. basis and in \*\*\* of \*\*\* quarterly price comparisons on an as delivered basis.<sup>101</sup> No pricing data for subject imports from Taiwan were obtained in the first or current reviews.

In light of the foregoing, including the significant and increasing volume of subject imports from Taiwan in the original investigations, the industry's large production capacity, including the availability of substantial excess capacity, its high volume of exports, the continued presence of subject imports from Taiwan from the U.S. while under the disciplining effects of the order, and the underselling by subject imports from Taiwan in the original investigations, we do not find that subject imports from Taiwan would likely have no discernible adverse impact on the domestic industry if the antidumping duty order were revoked.

## 2. Likelihood of a Reasonable Overlap of Competition

The Commission generally has considered four factors intended to provide a framework for determining whether subject imports compete with each other and with the domestic like product.<sup>102</sup> Only a "reasonable overlap" of competition is required.<sup>103</sup> In five-year reviews, the

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<sup>101</sup> Confidential Original Determinations at 26, n.120.

<sup>102</sup> The four factors generally considered by the Commission in assessing whether imports compete with each other and with the domestic like product are as follows: (1) the degree of fungibility between subject imports from different countries and between subject imports and the domestic like product, including consideration of specific customer requirements and other quality-related questions; (2) the presence of sales or offers to sell in the same geographical markets of imports from different countries and the domestic like product; (3) the existence of common or similar channels of distribution for subject imports from different countries and the domestic like product; and (4) whether subject imports are simultaneously present in the market with one another and the domestic like product. *See, e.g., Wieland Werke, AG v. United States*, 718 F. Supp. 50 (Ct. Int'l Trade 1989).

<sup>103</sup> *See Mukand Ltd. v. United States*, 937 F. Supp. 910, 916 (Ct. Int'l Trade 1996); *Wieland Werke*, 718 F. Supp. at 52 ("Completely overlapping markets are not required."); *United States Steel Group v. United States*, 873 F. Supp. 673, 685 (Ct. Int'l Trade 1994), *aff'd*, 96 F.3d 1352 (Fed. Cir. 1996). We note, however, that there have been investigations where the Commission has found an insufficient overlap in competition and has declined to cumulate subject imports. *See, e.g., Live Cattle from Canada and Mexico*, Inv. Nos. 701-TA-386 and 731-TA-812-13 (Preliminary), USITC Pub. 3155 at 15 (Feb. 1999), *aff'd sub nom, Ranchers-Cattlemen Action Legal Foundation v. United States*, 74 F. Supp. 2d 1353 (Ct. Int'l Trade 1999); *Static Random Access Memory Semiconductors from the Republic of Korea and Taiwan*, Inv. Nos. 731-TA-761-62 (Final), USITC Pub. 3098 at 13-15 (Apr. 1998).

relevant inquiry is whether there likely would be competition even if none currently exists because the subject imports are absent from the U.S. market.<sup>104</sup>

*Fungibility.* In the original investigations, the Commission found that domestically produced CSOBAs and subject imports from China and Taiwan were fungible.<sup>105</sup> It observed that there was a moderate to high degree of fungibility between the domestic like product, subject imports from Taiwan, and subject imports from China.<sup>106</sup> In the first reviews, the Commission found that there was no new information in the record to indicate that the fungibility of subject imports from either China or Taiwan had changed since the original investigations.<sup>107</sup>

In the current reviews, the domestic interested party argues that there continues to be a moderate to high degree of substitutability between subject imports from China and Taiwan and the domestic like product.<sup>108</sup> There is no new information on the record of these reviews to indicate that the degree of fungibility between and among subject imports from Taiwan and China and the domestic like product has changed since the prior proceedings.<sup>109</sup>

*Channels of Distribution.* In the original investigations, the Commission found that subject imports from China and Taiwan and the domestic like product were sold in the same channels of distribution, with \*\*\*.<sup>110</sup> In the first reviews, the Commission found that there was no new information indicating that these channels of distribution had changed.<sup>111</sup> In the current reviews, there is no new information on the record indicating that the channels of distribution have changed since the prior proceedings or are likely to do so upon revocation.<sup>112</sup>

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<sup>104</sup> See generally, *Cheflene Corp. v. United States*, 219 F. Supp. 2d 1313, 1314 (Ct. Int'l Trade 2002).

<sup>105</sup> *Original Determinations*, USITC Pub. 4322 at 9. One respondent argued that subject imports from Taiwan were not fungible with the domestic like product because subject imports from Taiwan had a higher purity level and greater technical support and service. However, the Commission found that the domestic like product, subject imports from China, and subject imports from Taiwan all met purchasers' quality requirements and that the record did not indicate any substantial differences between subject imports and the domestic like product with respect to product purity or technical support/service. *Id.*

<sup>106</sup> *Original Determinations*, USITC Pub. 4322 at 9.

<sup>107</sup> *First Reviews*, USITC Pub. 4737 at 12.

<sup>108</sup> *Archroma Resp.* at 9.

<sup>109</sup> CR/PR at I-16.

<sup>110</sup> Confidential Original Determinations at 12.

<sup>111</sup> *First Reviews*, USITC Pub. 4737 at 12.

<sup>112</sup> CR/PR at I-16.

*Geographic Overlap.* In the original investigations and first reviews, the Commission found that subject imports from both countries and the domestic like product were sold nationwide.<sup>113</sup> In these reviews, subject imports from both China and Taiwan entered the U.S. market through all four major borders of entry in each year of the 2017-2021 period.<sup>114</sup>

*Simultaneous Presence in Market.* In the original investigations, the Commission found that domestically produced and subject CSOBAs from all three categories (di, tetra, and hexa) were present to varying degrees in the U.S. market in each year from 2009 to 2011.<sup>115</sup> In the first reviews, the Commission found that subject import from China and Taiwan entered the United States during all 60 months of the period of review.<sup>116</sup> In the current reviews, subject imports from both China and Taiwan were reported in all 60 months of the period of review.<sup>117</sup>

*Conclusion.* The record of these expedited reviews contains limited information concerning subject imports in the U.S. market during the period of review. The record contains no information suggesting a change in the considerations that led the Commission in the original investigations and first reviews to conclude that there was a reasonable overlap of competition between and among subject imports from China and Taiwan and the domestic like product. In light of this, and absent any contrary argument, we find that there would likely be a reasonable overlap of competition among subject imports from China and Taiwan and between the domestic like product and subject imports from each source if the orders were revoked.

### **3. Likely Conditions of Competition**

In determining whether to exercise our discretion to cumulate subject imports, we assess whether the subject imports from China and Taiwan are likely to compete under similar or different conditions in the U.S. market after revocation of the orders. In the first reviews, the Commission exercised its discretion to cumulate imports from both subject

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<sup>113</sup> *Original Determinations*, USITC Pub. 4322 at 9; *First Reviews*, USITC Pub. 4737 at 12; *see also* Confidential First Reviews Staff Report at I-14.

<sup>114</sup> CR/PR at I-16; *see also Archroma Resp.* at 9 & Ex. 8.

<sup>115</sup> *Original Determinations*, USITC Pub. 4322 at 9.

<sup>116</sup> *First Reviews*, USITC Pub. 4737 at 13. The Commission noted that the record in the first reviews did not contain a breakdown by CSOBA category. *Id.* at 13 n.74.

<sup>117</sup> CR/PR at I-16; *Archroma Resp.* at 9-10. As with the first reviews, the available information does not contain a breakdown by CSOBA category. CR/PR at I-16.

countries.<sup>118</sup> In these reviews, the domestic interested party argues that the same conditions of competition continue to exist in the market as in the original investigations and the first reviews.<sup>119</sup> The record in these expedited reviews contains limited current information about the U.S. market for CSOBAs and the CSOBA industries in China and Taiwan. Based on the information available, and in the absence of any argument to the contrary, we do not find any likely significant difference in the conditions of competition that would warrant not cumulating subject imports from both countries.

#### **4. Conclusion**

In sum, we determine that subject imports of CSOBAs from China and Taiwan, considered individually, would not likely have no discernible adverse impact on the domestic industry if the corresponding orders were revoked. We also find a likely reasonable overlap of competition among subject imports from China and Taiwan and between the subject imports from each subject country and the domestic like product. Finally, we find that subject imports from China and Taiwan are likely to compete in the U.S. market under similar conditions of competition should the orders be revoked. We therefore exercise our discretion to cumulate subject imports from China and Taiwan for purposes of our analysis in these reviews.

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

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

In a five-year review conducted under section 751(c) of the Tariff Act, Commerce will revoke an antidumping or countervailing duty order unless: (1) it makes a determination that dumping or subsidization is likely to continue or recur and (2) the Commission makes a determination that revocation of the antidumping or countervailing duty order “would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.”<sup>120</sup> The SAA states that “under the likelihood standard, the Commission will engage in a

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<sup>118</sup> *First Reviews*, USITC Pub. 4737 at 13.

<sup>119</sup> *Archroma Comments* at 3.

<sup>120</sup> 19 U.S.C. § 1675a(a).

counterfactual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo – the revocation or termination of a proceeding and the elimination of its restraining effects on volumes and prices of imports.”<sup>121</sup> Thus, the likelihood standard is prospective in nature.<sup>122</sup> The U.S. Court of International Trade has found that “likely,” as used in the five-year review provisions of the Act, means “probable,” and the Commission applies that standard in five-year reviews.<sup>123</sup>

The statute states that “the Commission shall consider that the effects of revocation or termination may not be imminent, but may manifest themselves only over a longer period of time.”<sup>124</sup> According to the SAA, a “‘reasonably foreseeable time’ will vary from case-to-case, but normally will exceed the ‘imminent’ timeframe applicable in a threat of injury analysis in original investigations.”<sup>125</sup>

Although the standard in a five-year review is not the same as the standard applied in an original investigation, it contains some of the same fundamental elements. The statute provides that the Commission is to “consider the likely volume, price effect, and impact of

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<sup>121</sup> SAA at 883-84. The SAA states that “{t}he likelihood of injury standard applies regardless of the nature of the Commission’s original determination (material injury, threat of material injury, or material retardation of an industry). Likewise, the standard applies to suspended investigations that were never completed.” *Id.* at 883.

<sup>122</sup> While the SAA states that “a separate determination regarding current material injury is not necessary,” it indicates that “the Commission may consider relevant factors such as current and likely continued depressed shipment levels and current and likely continued {sic} prices for the domestic like product in the U.S. market in making its determination of the likelihood of continuation or recurrence of material injury if the order is revoked.” SAA at 884.

<sup>123</sup> See *NMB Singapore Ltd. v. United States*, 288 F. Supp. 2d 1306, 1352 (Ct. Int’l Trade 2003) (“‘likely’ means probable within the context of 19 U.S.C. § 1675(c) and 19 U.S.C. § 1675a(a)”), *aff’d mem.*, 140 Fed. Appx. 268 (Fed. Cir. 2005); *Nippon Steel Corp. v. United States*, 26 CIT 1416, 1419 (2002) (same); *Usinor Industeel, S.A. v. United States*, 26 CIT 1402, 1404 nn.3, 6 (2002) (“more likely than not” standard is “consistent with the court’s opinion;” “the court has not interpreted ‘likely’ to imply any particular degree of ‘certainty’”); *Indorama Chemicals (Thailand) Ltd. v. United States*, 26 CIT 1059, 1070 (2002) (“standard is based on a likelihood of continuation or recurrence of injury, not a certainty”); *Usinor v. United States*, 26 CIT 767, 794 (2002) (“‘likely’ is tantamount to ‘probable,’ not merely ‘possible’”).

<sup>124</sup> 19 U.S.C. § 1675a(a)(5).

<sup>125</sup> SAA at 887. Among the factors that the Commission should consider in this regard are “the fungibility or differentiation within the product in question, the level of substitutability between the imported and domestic products, the channels of distribution used, the methods of contracting (such as spot sales or long-term contracts), and lead times for delivery of goods, as well as other factors that may only manifest themselves in the longer term, such as planned investment and the shifting of production facilities.” *Id.*

imports of the subject merchandise on the industry if the orders are revoked or the suspended investigation is terminated.”<sup>126</sup> It directs the Commission to take into account its prior injury determination, whether any improvement in the state of the industry is related to the order or the suspension agreement under review, whether the industry is vulnerable to material injury if an order is revoked or a suspension agreement is terminated, and any findings by Commerce regarding duty absorption pursuant to 19 U.S.C. § 1675(a)(4).<sup>127</sup> The statute further provides that the presence or absence of any factor that the Commission is required to consider shall not necessarily give decisive guidance with respect to the Commission’s determination.<sup>128</sup>

In evaluating the likely volume of imports of subject merchandise if an order under review is revoked and/or a suspended investigation is terminated, the Commission is directed to consider whether the likely volume of imports would be significant either in absolute terms or relative to production or consumption in the United States.<sup>129</sup> In doing so, the Commission must consider “all relevant economic factors,” including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) the potential for product shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.<sup>130</sup>

In evaluating the likely price effects of subject imports if an order under review is revoked and/or a suspended investigation is terminated, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared to the domestic like product and whether the subject imports are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of the domestic like product.<sup>131</sup>

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<sup>126</sup> 19 U.S.C. § 1675a(a)(1).

<sup>127</sup> 19 U.S.C. § 1675a(a)(1). Commerce has made no duty absorption findings with respect to either subject country. *First Reviews*, USITC Pub. 4737 at 15 n.82; see *generally* Issues and Decision Memorandum.

<sup>128</sup> 19 U.S.C. § 1675a(a)(5). Although the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886.

<sup>129</sup> 19 U.S.C. § 1675a(a)(2).

<sup>130</sup> 19 U.S.C. § 1675a(a)(2)(A-D).

<sup>131</sup> See 19 U.S.C. § 1675a(a)(3). The SAA states that “[c]onsistent with its practice in investigations, in considering the likely price effects of imports in the event of revocation and (Continued...)

In evaluating the likely impact of imports of subject merchandise if an order under review is revoked and/or a suspended investigation is terminated, the Commission is directed to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including but not limited to the following: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.<sup>132</sup> All relevant economic factors are to be considered within the context of the business cycle and the conditions of competition that are distinctive to the industry. As instructed by the statute, we have considered the extent to which any improvement in the state of the domestic industry is related to the orders under review and whether the industry is vulnerable to material injury upon revocation.<sup>133</sup>

No respondent interested party participated in these expedited reviews. The record, therefore, contains limited new information with respect to the CSOBA industries in China and Taiwan. There also is limited information on the CSOBA market in the United States during the period of review. Accordingly, for our determinations, we rely as appropriate on the facts available from the original investigations and the first reviews, and the limited new information on the record in these second five-year reviews.

## **B. Conditions of Competition and the Business Cycle**

In evaluating the likely impact of the subject imports on the domestic industry if an order is revoked, the statute directs the Commission to consider all relevant economic factors “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”<sup>134</sup> The following conditions of competition inform our determinations.

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(...Continued)

termination, the Commission may rely on circumstantial, as well as direct, evidence of the adverse effects of unfairly traded imports on domestic prices.” SAA at 886.

<sup>132</sup> 19 U.S.C. § 1675a(a)(4).

<sup>133</sup> The SAA states that in assessing whether the domestic industry is vulnerable to injury if the order is revoked, the Commission “considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they may also demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.” SAA at 885.

<sup>134</sup> 19 U.S.C. § 1675a(a)(4).

## 1. The Original Investigations

*Demand Conditions.* In the original investigations, the Commission found that demand for CSOBAs was derived from demand in sectors in which the products were used, with the primary use being in the production of paper of various types.<sup>135</sup> Apparent U.S. consumption of CSOBAs fluctuated but increased overall over the period of investigation.<sup>136</sup> Market participants' perceptions regarding demand trends were mixed.<sup>137</sup>

*Supply Conditions.* Three firms accounted for all domestic production of CSOBAs during the original investigations: Clariant, BASF, and 3V.<sup>138</sup> Domestic producers' share of apparent U.S. consumption declined throughout the period of investigation, while subject imports' and nonsubject imports' share of apparent U.S. consumption both increased.<sup>139</sup>

*Substitutability and Other Conditions.* Each of the three categories of CSOBAs (di, tetra, and hexa) was supplied by domestic producers and subject imports from China and Taiwan; tetra was the predominant category in the U.S. market.<sup>140</sup> Although there was a disruption of supply of a key input in the production of CSOBAs in mid-2008, the Commission determined that domestic producers were able to meet their existing contractual supply commitments and that it was likely only a small portion of the market was affected by the shortage.<sup>141</sup> The Commission found that there was a moderate to high degree of substitutability among subject imports from both countries and the domestic like product and that price was an important factor in purchasing decisions.<sup>142</sup>

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<sup>135</sup> Confidential Original Determinations at 17.

<sup>136</sup> *Original Determinations*, USITC Pub. 4322 at 13.

<sup>137</sup> *Original Determinations*, USITC Pub. 4322 at 13. Market participants reported factors tending to reduce demand such as the recession, imports of finished paper products, and increased use of electronic-reading technology, as well as factors tending to increase demand, such as recovery from the recession and new standards for paper brightness. *Id.*

<sup>138</sup> *Original Determinations*, USITC Pub. 4322 at 13.

<sup>139</sup> *Original Determinations*, USITC Pub. 4322 at 13.

<sup>140</sup> *Original Determinations*, USITC Pub. 4322 at 13-14.

<sup>141</sup> *Original Determinations*, USITC Pub. 4322 at 14. The disruption resulted because China, the main global supplier of DAS, ordered the stoppage of certain manufacturing activities, including DAS production, during the run-up to the 2008 Olympic games in Beijing. *Id.*

<sup>142</sup> *Original Determinations*, USITC Pub. 4322 at 14-16.



## 2. First Reviews

*Demand Conditions.* In the first reviews, the Commission found that there was no new information on the record indicating that the drivers of demand for CSOBAs had changed since the original investigations.<sup>143</sup> The Commission observed that apparent U.S. consumption of CSOBAs was \*\*\* pounds in 2016, which was considerably lower than during the original investigations.<sup>144</sup> Archroma attributed the decline to a faster than expected decline in both domestic and global demand for newsprint and the closure of at least 14 paper mills around the country.<sup>145</sup> Archroma stated that it expected the decline in demand to continue.<sup>146</sup>

*Supply Conditions.* Domestic producers were the largest source of supply to the U.S. market in 2016, accounting for \*\*\* percent of apparent U.S. consumption by quantity.<sup>147</sup> Nonsubject imports were the second largest source of supply to the U.S. market in 2016, accounting for \*\*\* percent of apparent U.S. consumption by quantity.<sup>148</sup> Cumulated subject imports were the smallest source of supply to the U.S. market in 2016, accounting for \*\*\* percent of apparent U.S. consumption by quantity.<sup>149</sup> The information available suggested that domestic producers were capable of supplying the entirety of apparent U.S. consumption.<sup>150</sup>

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<sup>143</sup> *First Reviews*, USITC Pub. 4737 at 17.

<sup>144</sup> *First Reviews*, USITC Pub. 4737 at 17; Confidential First Reviews at 24 & n.98 (citing Confidential First Reviews Staff Report at I-22, Table I-5). In the original investigations, apparent U.S. consumption was \*\*\* pounds in 2009, \*\*\* pounds in 2010, and \*\*\* pounds in 2011. Confidential First Reviews Staff Report at I-22, Table I-5. Apparent U.S. consumption by value was \$\*\*\* in 2016, which was lower than the reported apparent U.S. consumption of \$\*\*\* in 2011. *Id.*

<sup>145</sup> *First Reviews*, USITC Pub. 4737 at 17.

<sup>146</sup> *First Reviews*, USITC Pub. 4737 at 17.

<sup>147</sup> Confidential First Reviews at 24 (citing Confidential First Reviews Staff Report at I-22, Table I-5).

<sup>148</sup> Confidential First Reviews at 25 & n.102 (citing Confidential First Reviews Staff Report at I-22, Table I-5). As previously discussed at section III.C.1, in the first reviews the Commission observed that the import data used for the apparent U.S. consumption calculation may include out-of-scope merchandise.

<sup>149</sup> Confidential First Reviews at 25 & n.103 (citing Confidential First Reviews Staff Report at I-22, Table I-5). Cumulated subject imports' market share by value was \*\*\* percent in 2016. Confidential First Reviews at 25 n.103.

<sup>150</sup> *First Reviews*, USITC Pub. 4737 at 17 & n.104 (comparing Confidential First Reviews Staff Report at with I-17, Table I-2 with I-22, Table I-5). In addition, purchasers responding to the questionnaire that Commission staff circulated during the adequacy phase reported anticipating (Continued...)

*Substitutability and Other Conditions.* In the first reviews, the Commission continued to find that there was a moderate to high degree of substitutability among subject imports from both countries and the domestic like product and that price was an important factor in purchasing decisions.<sup>151</sup>

### 3. Current Reviews

*Demand Conditions.* In the current reviews, there is no new information on the record indicating that the drivers of demand for CSOBAs have changed since the prior proceedings. As in the prior reviews, declining demand for paper during the period of review resulted in multiple mill closures, and reduced demand for CSOBAs.<sup>152</sup> Archroma estimates that apparent U.S. consumption \*\*\*.<sup>153</sup> Archroma attributes the declining demand for CSOBAs to the faster-than-expected decline in both domestic and global demand for printing and writing papers from effects of the COVID-19 pandemic, the move to telework, and digitalization of the economy, and anticipates “little to no growth in demand” within a reasonably foreseeable time.<sup>154</sup> In 2021, apparent U.S. consumption of CSOBAs was \*\*\* pounds, down from \*\*\* pounds in 2016 and \*\*\* pounds in 2011.<sup>155</sup>

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(...Continued)

changes in producers’ ability to increase production due to \*\*\*. Confidential First Reviews at 25. They also reported \*\*\*. *Id.*

<sup>151</sup> *First Reviews*, USITC Pub. 4737 at 18.

<sup>152</sup> *Archroma Resp.* at 10, 17 & Exs. 11-12; CR/PR at I-11, Table I-3 & I-17, Table I-6. Although the reported mill closures occurred outside the period of review (which ended in 2021), they are consistent with the declining demand reported by the domestic interested party and the lower level of apparent U.S. consumption in 2021. *Archroma Resp.* at 10. These mill closures include Pactiv’s Olmstead Mills, Ohio converting facility and Canton, North Carolina mill in 2023, West Rock’s North Charleston, South Carolina mill in 2023, Putney’s mill in Putney, Vermont in 2023, and McKinley Paper’s Port Angeles, Washington mill, which was announced for 2024. CR/PR at I-11, Table I-3; *see also Archroma Resp.* at 17 & nn.59-60 & Exs. 11-12. In addition, the Ashdown Mill in Arkansas announced an intent indefinitely to curtail production beginning in June 2024, reducing its capacity by 216,000 short tons. *Archroma Resp.* at 17 n.11, 27 n.79 & Ex. 11.

<sup>153</sup> *Archroma Resp.* at 10.

<sup>154</sup> *Archroma Resp.* at 10 & 26; CR/PR at I-11, Table I-3. In addition, some paper mills are taking paper machines offline and are switching to other production, such as pulp. *Archroma Resp.* at 26-27. \*\*\*, the purchaser that responded to the Commission’s questionnaire, did not report any changes in the demand conditions in CSOBAs for the current period of review. CR/PR at Appendix D, D-3.

<sup>155</sup> CR/PR at I-17, Table I-6. Apparent U.S. consumption in these reviews and the first reviews may be understated relative to that in the original investigations because responding domestic producers accounted for 100 percent of domestic production in the original investigations, but only \*\*\* percent of domestic production in the current reviews and \*\*\* percent in the first reviews. *Id.* at I-10. (Continued...)

*Supply Conditions.* In the current reviews, the record indicates that the domestic industry accounted for the largest share of apparent U.S. consumption of CSOBAs, subject imports accounted for the smallest share, and nonsubject imports accounted for the second-largest share.<sup>156</sup>

The information available indicates that the domestic industry accounted for \*\*\* percent of apparent U.S. consumption by quantity in 2021.<sup>157</sup> During the period of review, there were three domestic producers of CSOBAs: Archroma, 3V Sigma USA, Inc., and \*\*\*.<sup>158</sup> Archroma indicates that, \*\*\*.<sup>159</sup> As in the prior reviews, Archroma claims that the domestic industry has sufficient capacity to serve the entire U.S. market for CSOBAs.<sup>160</sup>

Cumulated subject imports were the smallest source of supply to the U.S. market in 2021, accounting for \*\*\* percent of apparent U.S. consumption.<sup>161</sup>

Nonsubject imports accounted for the second-largest source of supply in 2021, accounting for \*\*\* percent of apparent U.S. consumption that year.<sup>162</sup> Of the nonsubject sources, Switzerland is the largest source of supply, followed by India and Germany.<sup>163</sup>

*Substitutability and Other Conditions.* The record in these reviews contains no new information to indicate that the degree of substitutability between the domestic like product and subject imports or the importance of price in purchasing decisions has changed since the prior proceedings. Archroma argues that there continues to be a moderate to high degree of substitutability between subject imports and the domestic like product and that price

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For the original investigations, the percent active ingredient ranged from \*\*\* percent in 2011 and was \*\*\* percent in 2021. CR/PR at I-17, Table I-6 at note. The percent of active ingredient was not reported in 2016, but it appears to have been reported in solution form. *Id.* It is unclear as to a basis and form by which 2021 import quantity data are reported. *Id.* (citing *Archroma Response to Request for Additional Information* at 3).

<sup>156</sup> CR/PR at I-17, Table I-6.

<sup>157</sup> CR/PR at I-17, Table I-6. The domestic industry's share of apparent U.S. consumption in these reviews and the first reviews may be understated relative to that in the original investigations because responding domestic producers accounted for 100 percent of domestic production in the original investigations, but only \*\*\* percent of domestic production in the current reviews and \*\*\* percent in the first reviews. *Id.* at I-10.

<sup>158</sup> *Archroma Resp.* at 21-22; CR/PR at I-10; *Archroma Response to Request for Additional Information* at Ex. 2.

<sup>159</sup> *Archroma Resp.* at 22.

<sup>160</sup> *Archroma Resp.* at 3.

<sup>161</sup> CR/PR at I-17, Table I-6.

<sup>162</sup> CR/PR at I-17, Table I-6.

<sup>163</sup> CR/PR at I-15, Table I-5.

remains an important factor in purchasing decisions.<sup>164</sup> Accordingly, we again find that there is a moderate to high degree of substitutability between the domestic like product and subject imports, and that price remains an important factor in purchasing decisions.

Responding purchaser \*\*\* reported that \*\*\*.<sup>165</sup>

Effective September 24, 2018, CSOBAs originating in China became subject to an additional 10 percent *ad valorem* duty pursuant to Section 301 of the Trade Act of 1974 (“section 301 duty”).<sup>166</sup> Effective May 10, 2019, the section 301 duty for CSOBAs from China increased to 25 percent *ad valorem*.<sup>167</sup>

### C. Likely Volume of Subject Imports

#### 1. Prior Proceedings

In the original investigations, the Commission found that the increase in cumulated subject imports from China and Taiwan was significant, both in absolute terms and relative to consumption and production in the United States.<sup>168</sup> It observed that the volume of cumulated subject imports increased dramatically over the period of investigation and that these imports consistently increased their share of apparent U.S. consumption irrespective of whether consumption was increasing or decreasing.<sup>169</sup> The Commission found that, subject imports’ increased market penetration from 2009 to 2011 came at the direct expense of the domestic industry.<sup>170</sup> It found that as subject imports of the tetra category increased, domestic producers encouraged customers to use higher priced di and hexa category CSOBAs in an effort to retain market share and improve profitability, an effort that proved largely unsuccessful.<sup>171</sup>

In the first reviews, the Commission found that subject imports had declined sharply since the imposition of the orders but had remained in the market at appreciable quantities,

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<sup>164</sup> *Archroma Resp.* at 17.

<sup>165</sup> CR/PR at Appendix D, D-3. \*\*\* did not indicate whether the \*\*\* had affected the domestic industry’s ability to satisfy demand. *Id.*

<sup>166</sup> CR/PR at I-7 (citing 83 Fed. Reg. 47974 (Sept. 21, 2018)).

<sup>167</sup> CR/PR at I-7 (citing 84 Fed. Reg. 20459 (May 9, 2019)).

<sup>168</sup> *Original Determinations*, USITC Pub. 4322 at 16-17.

<sup>169</sup> *Original Determinations*, USITC Pub. 4322 at 16-17.

<sup>170</sup> *Original Determinations*, USITC Pub. 4322 at 17.

<sup>171</sup> *Original Determinations*, USITC Pub. 4322 at 17.

ranging from a high of 16 million pounds in 2012 to a low of 8.8 million pounds in 2016,<sup>172</sup> when they accounted for \*\*\* percent of apparent U.S. consumption.<sup>173</sup> Based on the information available, the Commission found that subject producers continued to manufacture and export substantial volumes of organic products used as fluorescent brighteners,<sup>174</sup> and had substantial capacity to produce CSOBAs.<sup>175</sup> The Commission also found that the subject industries were export oriented and would have an incentive to shift exports to the United States after revocation, given the large size and importance of the U.S. market.<sup>176</sup> In addition, the Commission observed that subject producers had established distribution networks within the United States, having maintained an appreciable presence in the U.S. market since the imposition of the orders.<sup>177</sup> Accordingly, the Commission found that the subject producers were likely, absent the restraining effects of the orders, to export significant volumes of CSOBAs to the U.S. market.<sup>178</sup>

## 2. Current Reviews

In the current reviews, the information available indicates that the volume of cumulated subject imports has continued to decline but that cumulated subject imports remained present in the U.S. market at appreciable quantities throughout the period of review while under the disciplining effects of the order. The volume of cumulated subject imports declined irregularly from 9.4 million pounds in 2017 to 8.0 million pounds in 2018, 7.0 million pounds in 2019, and 4.7 million pounds in 2020, before increasing to 7.1 million pounds in 2021.<sup>179</sup> Cumulated

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<sup>172</sup> *First Reviews*, USITC Pub. 4737 at 18 & I-12 through I-13, Table I-3. Cumulated subject import volumes in the original investigations were \*\*\* pounds in 2009, \*\*\* pounds in 2010, and \*\*\* pounds in 2011. Confidential First Reviews at 26 n.112 (citing Confidential First Reviews Staff Report at I-22, Table I-5).

<sup>173</sup> Confidential First Reviews at 27 & n.114 (citing Confidential First Reviews Staff Report at I-19, Table I-3). As discussed in section III.C.1, above, the import data used for the apparent consumption calculation may include out-of-scope merchandise.

<sup>174</sup> *First Reviews*, USITC Pub. 4737 at 19.

<sup>175</sup> *First Reviews*, USITC Pub. 4737 at 19.

<sup>176</sup> *First Reviews*, USITC Pub. 4737 at 19.

<sup>177</sup> *First Reviews*, USITC Pub. 4737 at 19.

<sup>178</sup> *First Reviews*, USITC Pub. 4737 at 19.

<sup>179</sup> CR/PR at I-15, Table I-5. The volume of cumulated subject imports decreased. *Id.* As discussed in section I above, the official Commerce statistics used to calculate volume may include out-of-scope products and may therefore be overstated.

subject imports accounted for \*\*\* percent of apparent U.S. consumption by quantity in 2021.<sup>180</sup>

The record in these reviews contains limited information on the subject industries in China and Taiwan. Nonetheless, the information available indicates that subject producers continue to have the ability and incentive to export subject merchandise to the U.S. market at significant volumes in the event of the revocation of the orders. Although no subject producer responded to the Commission's questionnaire in these reviews, the domestic interested party has identified 14 possible CSOBA producers in China and one possible producer of CSOBAs in Taiwan.<sup>181</sup>

The information available indicates that the subject industries in China and Taiwan maintain substantial capacity for the production of CSOBAs, including excess capacity. As discussed in section III.C.1 above, \*\*\* submitted by Archroma indicate that \*\*\* subject producers in China increased their SOBA production capacity from \*\*\* metric tons in 2021 to \*\*\* metric tons in 2024, when individual subject producers in China had capacity utilization rates ranging from \*\*\* to \*\*\* percent.<sup>182</sup> This same information indicates that the only subject producer in Taiwan, TFM, had an annual SOBA production capacity of \*\*\* metric tons in 2024, up from \*\*\* metric tons in 2021, and a capacity utilization rate of \*\*\* percent in 2024.<sup>183</sup> According to information from TFM's website submitted by Archroma, TFM has an additional three production lines that could be used to expand CSOBA production at any time.<sup>184</sup> Thus, subject producers possessed ample excess capacity in 2024.

The information available also indicates that the subject industries remained large exporters.<sup>185</sup> According to GTA data concerning synthetic organic products used as fluorescent brightening agents classified under HS 3204.20, including CSOBAs and out-of-scope products, exports of such merchandise from China increased irregularly from 103.1 million pounds in 2017 to 113.5 million pounds in 2021, and exports of such merchandise from Taiwan were 13.5

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<sup>180</sup> CR/PR at I-17, Table I-6. As previously discussed in section I above, the import data used for the apparent consumption calculation may include out-of-scope merchandise.

<sup>181</sup> CR/PR at I-18 and I-20 (citing *Archroma Response to Request for Additional Information* at Ex. 2).

<sup>182</sup> CR/PR at I-19, Table I-7 (citing *Archroma Resp.* at Ex. 6). \*\*\*. *Archroma Resp.* at Ex. 6.

<sup>183</sup> CR/PR at I-20, Table I-9 (citing TFM International website, "Country Introduction," <https://www.tfmintl.com/tw/about/2>, accessed Aug. 29, 2024, EDIS Doc. 2228581); see also *Archroma Resp.* at Ex. 7.

<sup>184</sup> CR/PR at I-20, Table I-9; *Archroma Resp.* at 9, 15, Exs. 6 & 7.

<sup>185</sup> CR/PR at I-22, Table I-11.

million pounds in 2021.<sup>186</sup> These data also indicate that China was the world's leading exporter of such merchandise between 2019 and 2021, and the second-largest exporter for 2017 to 2018, while Taiwan was the ninth-largest exporter of such merchandise from 2017 to 2020 and the tenth-largest exporter in 2021.<sup>187</sup>

The information available also indicates that the U.S. market remains attractive to subject producers. Despite the continuing closures of paper mills in the United States, the U.S. market for CSOBAs remains large and important.<sup>188</sup> Cumulated subject imports maintained a substantial presence in the U.S. market during the period of review, accounting for \*\*\* percent of apparent U.S. consumption in 2021.<sup>189</sup> This indicates that producers in the subject countries remain interested in supplying the U.S. market and have distribution networks and a customer base in the United States. In addition, as discussed in section III.C.1 above, GTA data indicate that the United States was the largest destination market for Taiwan exports of synthetic organic products used as fluorescent brightening agents classified under HS 3204.20, including CSOBAs and out-of-scope products, throughout the period of review.<sup>190</sup>

Given the foregoing, including the significant and increasing volume and market share of cumulated subject imports during the original investigations, the continued presence of subject imports in the U.S. market during the period of review, the subject industries' large capacity, including excess capacity, the substantial volume of exports by subject foreign producers/exporters, and the continued attractiveness of the U.S. market to subject producers, we find that the volume of cumulated subject imports would likely be significant, both in absolute terms and relative to U.S. consumption, if the orders were to be revoked.<sup>191</sup>

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<sup>186</sup> CR/PR at I-22, Table I-11. As discussed in section III.C.1 above, global exports also declined over the period of review; however, during that period Taiwan's share of global exports increased.

<sup>187</sup> CR/PR at I-22, Table I-11.

<sup>188</sup> *Archroma Resp.* at 14.

<sup>189</sup> CR/PR at I-17, Table I-6.

<sup>190</sup> CR/PR at I-21, Table I-10. Exports of such merchandise from Taiwan to the United States increased overall over the period of review, up from 6.1 million pounds in 2017 to 8.3 million pounds in 2021. *Id.*

<sup>191</sup> Although imports from China are currently subject to a 25 percent *ad valorem* duty under Section 301, neither Archroma nor the responding purchaser indicates that this duty would prevent subject imports from entering the U.S. market at significant levels if the orders were revoked. See generally *Archroma Resp.*; CR/PR at Appendix D. Given the Chinese industry's large capacity and exports, the continued presence of subject imports from China in the U.S. market despite the imposition of section 301 duties, and the attractiveness of the U.S. market, we find that the section 301 duties would not likely prevent subject imports from China from increasing to significant levels if the orders were revoked.

(Continued...)

## D. Likely Price Effects

### 1. Prior Proceedings

In the original investigations, the Commission found that subject imports from China and Taiwan significantly undersold the domestic like product.<sup>192</sup> In evaluating the pricing data, the Commission compared prices on both an f.o.b. basis as well as on a delivered price basis, but found that there were no substantial differences between the comparisons.<sup>193</sup> The Commission also found that other record evidence supported its finding of underselling, as the average unit values (“AUVs”) for U.S. commercial shipments of subject imports were lower than those for domestic producers’ shipments in each of the product specific categories (di, tetra, hexa) and the majority of responding purchasers reported that prices for subject imports were lower than those for the domestic like product.<sup>194</sup> The Commission concluded that significant underselling by subject imports from China and Taiwan enabled subject imports to gain market share at the expense of the domestic industry.<sup>195</sup>

Also, the Commission found that subject imports depressed prices of the domestic like product in the U.S. market to a significant degree.<sup>196</sup> The Commission noted that prices for domestically produced CSOBAs fluctuated over the period of investigation, but were substantially lower at the end of the period than at the beginning.<sup>197</sup> It found that the declines in domestic producers’ prices occurred as shipments of subject imports increased their market share at the expense of the domestic producers.<sup>198</sup>

In the first five-year reviews, the Commission found that, based on the moderate to high degree of substitutability between certain CSOBAs from different sources and the importance of price to purchasing decisions, the likely significant volume of cumulated subject imports

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The record of these expedited reviews contains no information on inventories of subject merchandise or the ability of subject producers to product shift. The information available also indicates that CSOBAs from China and Taiwan have not been subject to other antidumping or countervailing duty investigations outside of the United States. CR/PR at I-21.

<sup>192</sup> *Original Determinations*, USITC Pub. 4322 at 19.

<sup>193</sup> *Original Determinations*, USITC Pub. 4322 at 18-19.

<sup>194</sup> *Original Determinations*, USITC Pub. 4322 at 19. Responding purchasers also confirmed domestic producers’ lost sales and lost revenue allegations. *Id.*

<sup>195</sup> *Original Determinations*, USITC Pub. 4322 at 19.

<sup>196</sup> *Original Determinations*, USITC Pub. 4322 at 20.

<sup>197</sup> *Original Determinations*, USITC Pub. 4322 at 20.

<sup>198</sup> *Original Determinations*, USITC Pub. 4322 at 20.



would likely undersell the domestic like product to a significant degree, as in the original investigations.<sup>199</sup> It found that the significant volume of low-priced cumulated subject imports would likely force the domestic industry to either lower its prices or cede market share, thereby depressing or suppressing prices for the domestic like product to a significant degree.<sup>200</sup>

## **2. Current Reviews**

As discussed above in section IV.B.3, we have found that there is a moderate to high degree of substitutability between domestically produced CSOBAs and subject imports, and that price is an important factor in purchasing decisions for CSOBAs.

The record in these expedited reviews does not contain new product-specific pricing information. Based on the available information, including the moderate to high degree of substitutability between subject imports and the domestic like product, the importance of price in purchasing decisions, and the attractiveness of the U.S. market to subject producers, we find that if the orders were revoked, cumulated subject imports would likely undersell the domestic like product to gain market share, as occurred in the original investigations. Absent the discipline of the orders, the significant volumes of low-priced cumulated subject imports would likely take sales and market share from domestic producers and/or force the domestic industry to cut prices or restrain price increases necessary to cover any increasing costs, thereby depressing or suppressing prices for the domestic like product. Consequently, we find that if the orders were revoked, significant volumes of cumulated subject imports would likely have significant price effects.

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<sup>199</sup> *First Reviews*, USITC Pub. 4737 at 20.

<sup>200</sup> *First Reviews*, USITC Pub. 4737 at 20.

## E. Likely Impact<sup>201</sup>

### 1. Prior Proceedings

In the original investigations, the Commission found that subject imports had a significant impact on the domestic industry.<sup>202</sup> It observed that, despite some improvements between 2009 and 2010, the domestic industry's performance indicators in 2011 were all below 2009 levels.<sup>203</sup> It found that subject imports significantly displaced domestic production and depressed U.S. prices, leading to significant declines in the domestic industry's production, shipments, market share, capacity utilization, employment, and profitability.<sup>204</sup> According to the Commission, demand trends did not explain the domestic industry's condition, as the decline in the domestic industry's shipments occurred notwithstanding an overall increase in apparent U.S. consumption.<sup>205</sup> It found that nonsubject imports appeared to have played at most a minor role in the condition of the domestic industry.<sup>206</sup> It also found that the domestic industry's condition was not explained by the shortage of DAS (an input in the production of CSOBAs), as the shortage predated the period of investigation, was resolved quickly, and domestic producers were able to meet all major supply commitments.<sup>207</sup>

In the first reviews, the Commission concluded that the limited record available on the domestic industry's performance was insufficient for it to make a vulnerability finding.<sup>208</sup> Based on the information available, however, the Commission found that should the orders be revoked, the likely significant volume and price effects of the cumulated subject imports would

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<sup>201</sup> In its expedited second review of the antidumping duty orders, Commerce determined that revocation of the orders would likely result in the continuation or recurrence of dumping with margins of up to 106.17 percent for China and up to 6.19 percent for Taiwan. *Final Results*, 89 Fed. Reg. at 88729.

<sup>202</sup> *Original Determinations*, USITC Pub. 4322 at 22.

<sup>203</sup> *Original Determinations*, USITC Pub. 4322 at 21.

<sup>204</sup> *Original Determinations*, USITC Pub. 4322 at 21-22.

<sup>205</sup> *Original Determinations*, USITC Pub. 4322 at 22.

<sup>206</sup> *Original Determinations*, USITC Pub. 4322 at 22. The Commission found that the volume of nonsubject imports was \*\*\* and increased less than subject imports. Confidential Original Determinations at 32. The Commission observed that nonsubject imports were generally priced according to market forces and that the AUVs of nonsubject imports were consistently higher than the AUVs of subject imports and the domestic like product. *Id.*

<sup>207</sup> *Original Determinations*, USITC Pub. 4322 at 22. The Commission also observed that one domestic producer, BASF, produced its own DAS and would not have been affected by the shortage. *Id.*

<sup>208</sup> *First Reviews*, USITC Pub. 4737 at 21.

likely have a significant impact on the production, shipments, sales, market share, and revenues of the domestic industry.<sup>209</sup> By placing pressure on domestic producers to cut prices or cede market share to subject imports, the Commission concluded, cumulated subject imports would likely have a significant impact on the domestic industry after revocation.<sup>210</sup>

Further, the Commission considered whether there were other factors that may have had an impact on the domestic industry to ensure that it was not attributing injury from such other factors to subject imports.<sup>211</sup> The Commission observed that nonsubject imports had a significant presence in the U.S. market and that their market share had increased.<sup>212</sup> Given the domestic industry's improvements in operating income and ratio of operating income to net sales during the period of review and the domestic industry's status as the dominant supplier of CSOBAs to the U.S. market, however, the Commission found that the likely increase in subject imports would come at the expense of the domestic industry to a significant extent and have an adverse impact that was distinct from any caused by nonsubject imports.<sup>213</sup>

## 2. Current Reviews

The record in these five-year reviews contains limited information concerning the domestic industry's performance since the previous reviews.

The information available indicates that there has been a long-term decline in the domestic industry's capacity and U.S. shipments, although the domestic industry's performance was stronger in terms of capacity utilization and financial indicators in 2021 than in the last years examined in the prior proceedings.<sup>214</sup>

In 2021, the domestic industry's capacity was \*\*\* pounds, which was lower than in the prior proceedings, its production was \*\*\* pounds, which was higher than in 2016 but lower than in 2011, and its capacity utilization was \*\*\* percent, which was higher than in the prior

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<sup>209</sup> *First Reviews*, USITC Pub. 4737 at 21-22.

<sup>210</sup> *First Reviews*, USITC Pub. 4737 at 21-22.

<sup>211</sup> *First Reviews*, USITC Pub. 4737 at 22.

<sup>212</sup> *First Reviews*, USITC Pub. 4737 at 22.

<sup>213</sup> *First Reviews*, USITC Pub. 4737 at 22.

<sup>214</sup> CR/PR at I-12, Table I-4. As discussed in section IV.B.3 above, the data coverage of the domestic industry in these reviews and the first reviews is lower than in the original investigations. Consequently, the data on the domestic industry's performance in 2021 and 2016 may be understated relative to that in 2011. *Id.*

proceedings.<sup>215</sup> Although the industry's U.S. shipments in 2021 were lower than in the prior proceedings, at \*\*\* pounds, its share of apparent U.S. consumption, at \*\*\* percent, was higher than in 2011 and similar to that in 2016.<sup>216</sup> The industry's financial performance was also generally stronger than in the prior proceedings. The domestic industry's net sales value in 2021, at \$\*\*\*, was slightly higher than in 2016, though lower than in 2011,<sup>217</sup> while its COGS-to-net-sales ratio of \*\*\*, its operating income of \$\*\*\*, and its operating income margin of \*\*\* percent, all improved in 2021 compared to the prior proceedings.<sup>218</sup> The information available in these expedited reviews, which covers \*\*\* percent of the domestic industry, is insufficient for us to make a finding as to whether the domestic industry is vulnerable to continuation or recurrence of material injury in the event of revocation of the orders.<sup>219</sup>

Based on the information available in these reviews, we find that revocation of the orders would likely result in a significant increase in cumulated subject import volume that would likely undersell the domestic like product to a significant degree. Given the moderate to high degree of substitutability between the domestic like product and subject imports and the importance of price to purchasers, significant volumes of low-priced cumulated subject imports would likely capture sales and market share from the domestic industry and/or significantly depress or suppress prices for the domestic like product. The likely significant volume of cumulated subject imports and their adverse price effects would likely have a significant adverse impact on the domestic industry's production, shipments, sales, market share, and

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<sup>215</sup> CR/PR at I-12, Table I-4. In 2011, the domestic industry's capacity was \*\*\* pounds, its production was \*\*\* pounds, and its capacity utilization was \*\*\* percent. *Id.* In 2016, the industry's capacity was \*\*\* pounds, its production was \*\*\* pounds, and its capacity utilization was \*\*\* percent. *Id.*

<sup>216</sup> CR/PR at I-12, Table I-4 & I-17, Table I-6. The domestic industry's U.S. shipments were \*\*\* pounds in 2011 and \*\*\* pounds in 2016. *Id.* at I-12, Table I-4. The industry's share of apparent U.S. consumption was \*\*\* percent in 2011 and \*\*\* percent in 2016. *Id.* at I-17, Table I-6.

<sup>217</sup> CR/PR at I-12, Table I-4. In 2011, the domestic industry's net sales were \$\*\*\*, and in 2016 they were \$\*\*\*. *Id.*

<sup>218</sup> CR/PR at I-12, Table I-4. In 2011, the domestic industry's COGS-to-net-sales ratio was \*\*\* percent, and it reported an operating \*\*\* of \$\*\*\*, which resulted in an operating income margin of \*\*\* percent. *Id.* In 2016, the domestic industry's COGS-to-net-sales ratio was \*\*\*, and it reported an operating \*\*\* of \$\*\*\*, which resulted in an operating income margin of \*\*\* percent. *Id.* The value of the domestic industry's COGS and SG&A expenses were also lower than in prior proceedings, and its gross profit was higher. *Id.* In 2021, the value of the domestic industry's COGS was \$\*\*\*, compared to \$\*\*\* in 2011 and \$\*\*\* in 2016. *Id.* Similarly, in 2021, the value of the domestic industry's SG&A expenses was \$\*\*\*, compared to \$\*\*\* in 2011 and \$\*\*\* in 2016. *Id.* In addition, in 2021, the domestic industry's gross profit was \$\*\*\*, compared to \$\*\*\* in 2011 and 2016. *Id.*

<sup>219</sup> CR/PR at I-10.

revenues, which in turn would have a direct adverse impact on the industry's profitability and employment, as well as its ability to raise capital and make and maintain necessary capital investments.

We have also considered the role of factors other than subject imports, including the presence of nonsubject imports, so as not to attribute injury from other factors to the subject imports. Although the volume of nonsubject imports declined over the period of review from 13.5 million pounds in 2017 to 10.6 million pounds in 2021, nonsubject imports accounted for \*\*\* percent of apparent U.S. consumption in 2021, up from \*\*\* percent in 2016.<sup>220</sup> Notwithstanding the higher market share of nonsubject imports, however, the information available in these reviews shows that the domestic industry's operating income and operating income margin were stronger than in the prior proceedings.<sup>221</sup> Furthermore, the record provides no indication that the presence of nonsubject imports would prevent cumulated subject imports from entering the U.S. market in significant quantities or adversely affecting domestic prices after revocation of the orders. Given that the domestic industry accounted for \*\*\* percent of apparent U.S. consumption in 2021,<sup>222</sup> as well as the moderate to high degree of substitutability between subject imports and the domestic like product and the importance of price to purchasing decisions, the significant increase in cumulated subject imports that we have found likely after revocation would come at least in part at the domestic industry's expense, or else force domestic producers to lower their prices or forgo price increases in order to retain market share. Consequently, we find that any future effects of nonsubject imports would be distinct from the likely effects attributable to cumulated subject imports and that nonsubject imports would not prevent cumulated subject imports from having a significant impact on the domestic industry.

We recognize that apparent U.S. consumption was \*\*\* percent lower in 2021 than in 2016.<sup>223</sup> Archroma attributed the decline in demand for CSOBAs to a faster-than-expected decline in both the domestic and global demand for printing and writing papers from effects of the COVID-19 pandemic, the move to work from home, and the digitalization of the economy, which has continued after the COVID-19 pandemic.<sup>224</sup> To the extent that demand remains

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<sup>220</sup> CR/PR at I-15, Table I-5 & at I-17, Table I-6.

<sup>221</sup> CR/PR at I-12, Table I-4.

<sup>222</sup> CR/PR at I-17, Table I-6.

<sup>223</sup> CR/PR at I-17, Table I-6. Archroma estimates that apparent U.S. consumption \*\*\*. *Archroma Resp.* at 10.

<sup>224</sup> *Archroma Resp.* at 26-27.

weak or declines, the significant volume of low-priced cumulated subject imports that is likely after revocation would exacerbate the effects of weak or declining demand on the domestic industry.

In sum, we conclude that if the antidumping duty orders on CSOBAs from China and Taiwan were revoked, cumulated subject imports would likely have a significant impact on the domestic industry within a reasonably foreseeable time.

## **V. Conclusion**

For the foregoing reasons, we determine that revocation of the antidumping duty orders on CSOBAs from China and Taiwan would be likely to lead to the continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

# Information obtained in these reviews

## Background

On October 3, 2022, the U.S. International Trade Commission (“Commission”) gave notice, pursuant to section 751(c) of the Tariff Act of 1930, as amended (“the Act”),<sup>1</sup> that it had instituted reviews to determine whether revocation of antidumping duty orders on certain stilbenic optical brightening agents (“CSOBAs”) from China and Taiwan would likely lead to the continuation or recurrence of material injury to a domestic industry.<sup>2</sup> The Commission published its termination of these reviews on January 13, 2023<sup>3</sup> following Commerce’s revocation of the antidumping duty orders on CSOBAs from China and Taiwan.<sup>4</sup> Following an appeal by domestic producer Archroma U.S., Inc. (“Archroma”), the U.S. Court of International Trade directed Commerce and the Commission to undertake reviews of the orders.<sup>5</sup> On June 26, 2024, Commerce published notice that it was reinstating the antidumping duty orders and reconducting the five-year reviews beginning on July 1, 2024.<sup>6</sup> The Commission therefore reinstated the second five-year reviews of the antidumping duty orders on CSOBAs from China and Taiwan to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.<sup>7</sup> All interested parties were requested to respond to this notice by submitting

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

<sup>2</sup> 87 FR 59827, October 3, 2022. In accordance with section 751(c) of the Act, the U.S. Department of Commerce (“Commerce”) published a notice of initiation of five-year reviews of the subject antidumping duty orders. 87 FR 59779, October 3, 2022. Pertinent Federal Register notices are referenced in app. A, and may be found at the Commission’s website ([www.usitc.gov](http://www.usitc.gov)).

<sup>3</sup> 88 FR 2374, January 13, 2023.

<sup>4</sup> 87 FR 80162, December 29, 2022.

<sup>5</sup> *Archroma U.S., Inc. v. United States*, Ct., No. 22-354, Slip Op. 24-61 and Declaratory Judgment and Injunction. (Ct. Int’l Trade May 28, 2024).

<sup>6</sup> 89 FR 53392, June 26, 2024.

<sup>7</sup> 89 FR 54525, July 1, 2024. In accordance with section 751(c) of the Act, Commerce published a notice of initiation of five-year reviews of the subject antidumping duty orders. 89 FR 54435, July 1, 2024.

certain information requested by the Commission.<sup>8 9</sup> Table I-1 presents information relating to the background and schedule of this proceeding:

**Table I-1**  
**CSOBAs: Information relating to the background and schedule of this proceeding**

Effective date	Action
October 3, 2022	Notice of initiation by Commerce (87 FR 59779, October 3, 2022)
October 3, 2022	Notice of institution by Commission (87 FR 59827, October 3, 2022)
November 27, 2022	Commerce’s final results and revocation of orders (87 FR 80162, December 29, 2022)
November 27, 2022	Notice of termination of reviews by Commission (88 FR 2374, January 13, 2023)
June 7, 2024	Reinstatement of antidumping duty orders, and reconduction of reviews by Commerce (89 FR 53392, June 26, 2024)
July 1, 2024	Notice of initiation by Commerce (89 FR 54435, July 1, 2024)
July 1, 2024	Notice of institution by Commission (89 FR 54525, July 1, 2024)
October 7, 2024	Commission’s vote on adequacy
October 29, 2024	Commerce’s results of its expedited reviews
February 21, 2025	Commission’s determinations and views

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<sup>8</sup> As part of their response to the notice of institution, interested parties were requested to provide company-specific information. Information concerning responses to the notice of institution is presented in app. B. Summary data compiled in the original investigations are presented in app. C.

<sup>9</sup> Interested parties were also requested to provide a list of three to five leading purchasers in the U.S. market for the domestic like product and the subject merchandise. Presented in app. D are the responses received from purchaser surveys transmitted to the purchasers identified in this proceeding.



## The original investigations

The original investigations resulted from petitions filed on March 31, 2011 with Commerce and the Commission by Clariant Corp. (Archroma's predecessor), Charlotte, North Carolina.<sup>10</sup> On March 23, 2012 and March 26, 2012, respectively, Commerce determined that imports of CSOBAs from Taiwan and China were being sold at less than fair value.<sup>11</sup> The Commission determined on May 2, 2012 that the domestic industry was materially injured by reason of LTFV of CSOBAs from China and Taiwan.<sup>12</sup> On May 10, 2012, Commerce issued its antidumping duty orders with final weighted-average dumping margins ranging from 61.04 to 106.17 percent regarding China and 6.19 percent regarding Taiwan.<sup>13</sup>

## The first five-year reviews

On July 7, 2017, the Commission determined that it would conduct expedited reviews of the antidumping orders on CSOBAs from China and Taiwan.<sup>14</sup> On August 7, 2017, Commerce determined that revocation of the antidumping duty orders on CSOBAs from China and Taiwan would be likely to lead to continuation or recurrence of dumping.<sup>15</sup> On October 27, 2017, the Commission determined that material injury would be likely to continue or recur within a reasonably foreseeable time.<sup>16</sup> Following affirmative determinations in the five-year reviews by Commerce and the Commission, effective November 27, 2017, Commerce issued a continuation of the antidumping duty orders on imports of CSOBAs from China and Taiwan.<sup>17</sup>

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<sup>10</sup> Certain Stilbenic Optical Brightening Agents from China and Taiwan, Inv. Nos. 731-TA-1186-1187 (Final), USITC Publication 4322, May 2021 ("Original publication"), p. I-1.

<sup>11</sup> 77 FR 17027, March 23, 2012; and 77 FR 17436, March 26, 2012.

<sup>12</sup> 77 FR 27079, May 8, 2012.

<sup>13</sup> 77 FR 27419 and 77 FR 27423, May 10, 2012.

<sup>14</sup> 82 FR 37237, August 9, 2017.

<sup>15</sup> 82 FR 36732, August 7, 2017.

<sup>16</sup> 82 FR 50678, November 1, 2017.

<sup>17</sup> 82 FR 55990, November 27, 2017.

## Previous and related investigations

The Commission has conducted a number of previous import relief investigations on CSOBAs or similar merchandise, as presented in table I-2.

**Table I-2**  
**CSOBAs: Previous and related Commission proceedings and current status**

Date	Number	Country	ITC original determination	Current status
2003	701-TA-434 and 731-TA-1032	India	---	Petitions withdrawn
2003	731-TA-1030	China	---	Petition withdrawn
2003	731-TA-1031	Germany	---	Petition withdrawn
2003	701-TA-435 and 731-TA-1038	India	Negative	No orders
2003	731-TA-1036	China	Negative	No order
2003	731-TA-1037	Germany	Negative	No order

Source: U.S. International Trade Commission publications and Federal Register notices.

Note: "Date" refers to the year in which the investigation was instituted by the Commission. The products covered by the listed proceedings include stilbenedisulfonic acid and stilbenic fluorescent whitening agents.

## Commerce's five-year reviews

Commerce announced that it would conduct expedited reviews with respect to the orders on imports of CSOBAs from China and Taiwan with the intent of issuing the final results of these reviews based on the facts available not later than October 29, 2024.<sup>18</sup> Commerce publishes its Issues and Decision Memoranda and its final results concurrently, accessible upon publication at <https://access.trade.gov/public/FRNoticesListLayout.aspx> and subsequently on the Commission's Electronic Document Information System ("EDIS"). Issues and Decision Memoranda contain complete and up-to-date information regarding the background and history of the order, including scope rulings, duty absorption, changed circumstances reviews, and anticircumvention, as well as any decisions that may have been pending at the issuance of this report. Any foreign producers/exporters that are not currently subject to the antidumping duty orders on imports of CSOBAs from China and Taiwan are noted in the sections titled "The original investigations" and "U.S. imports," if applicable.

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<sup>18</sup> Letter from Jill E. Pollack, Senior Director, Office VII, AD/CVD Operations, Enforcement and Compliance, U.S. Department of Commerce to Nannette Christ, Director of Investigations, August 21, 2024.

## The product

### Commerce's scope

Commerce has defined the scope as follows:

*The OBAs covered by the Orders are all forms (whether free acid or salt) of compounds known as triazinylaminostilbenes (i.e., all derivatives of 4,4'-bis(1,3,5-triazin-2-yl) amino-2,2'-stilbenedisulfonic acid), except for compounds listed in the following paragraph. The stilbenic OBAs covered by the Orders include final stilbenic OBA products, as well as intermediate products that are themselves triazinylaminostilbenes produced during the synthesis of stilbenic OBA products.*

*Excluded from the Orders are all forms of 4,4'-bis(4-anilino-6-morpholino-1,3,5-triazin-2-yl) amino-2,2'-stilbenedisulfonic acid, C<sub>40</sub>H<sub>40</sub>N<sub>12</sub>O<sub>8</sub>S<sub>2</sub> ("Fluorescent Brightener 71"). The Orders cover the above-described compounds in any state (including but not limited to powder, slurry, or solution), of any concentrations of active stilbenic OBA ingredient, as well as any compositions regardless of additives (i.e., mixtures or blends, whether of stilbenic OBAs with each other, or of stilbenic OBAs with additives that are not stilbenic OBAs), and in any type of packaging.<sup>19</sup>*

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<sup>19</sup> 87 FR 80162, December 29, 2022.

## U.S. tariff treatment

CSOBAs are currently provided for in Harmonized Tariff Schedule of the United States (“HTS”) subheading 3204.20.80. The general rate of duty is 6.5 percent ad valorem for HTS subheading 3204.20.80.<sup>20</sup> Decisions on the tariff classification and treatment of imported goods are within the authority of U.S. Customs and Border Protection.

Effective September 24, 2018, CSOBAs originating in China are subject to an additional 10 percent ad valorem duty under section 301 of the Trade Act of 1974.<sup>21</sup> Effective May 10, 2019, this additional duty increased from 10 percent to 25 percent ad valorem.<sup>22</sup>

## Description and uses<sup>23</sup>

The subject CSOBAs are organic chemicals, also known as fluorescent whitening agents, primarily used for brightening paper products, and are a cost-effective way of raising the whiteness level of paper.<sup>24</sup> Without CSOBAs, many paper products have an aesthetically unappealing yellowish cast. When applied to paper, CSOBAs absorb ultraviolet light and emit blue light, compensating for the yellowish cast and making the paper appear a brighter white.

CSOBAs are classified as “di,” “tetra,” or “hexa” stilbenic optical brightening agents (SOBA), based on the number of sulfonate groups that the molecule contains, which is determined by the derivative of aniline used in the production process. The number of sulfonate groups on the molecule affects the solubility of the SOBA in water and the suitability of each specific SOBA in the paper making process.

The “di” category of CSOBAs contains two sulfonate groups and is produced using aniline. In paper making, the “di” category of CSOBAs is usually applied to the pulp slurry before

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<sup>20</sup> Depending on the form of the goods at the time of entry, the merchandise subject to these reviews may also be provided for in subheading 2921.59.40 and/or imported under HTS statistical reporting numbers 2921.59.8090 or 2933.69.6050. The general rate of duty is 6.5 percent ad valorem for HTS subheadings 2921.59.40 and 2921.59.80 and 3.5 percent ad valorem for HTS subheading 2933.69.60. USITC, HTS (2024) Basic Revision 8, Publication 5537, August 2024, 29-79, 29-129, 32-14.

<sup>21</sup> 83 FR 47974, September 21, 2018. See also HTS heading 9903.88.03 and U.S. note 20(f) to subchapter III of chapter 99 and related tariff provisions for this duty treatment. USITC, HTS (2024) Revision 8, USITC Publication 5537, August 2024, pp. 99-III-29–99-III-38.

<sup>22</sup> 84 FR 20459, May 9, 2019.

<sup>23</sup> Unless otherwise noted, this information is based on Certain Stilbenic Optical Brightening Agents from China and Taiwan, Inv. Nos. 731-TA-1186–1187 (Review), USITC Publication 4737, October 2017 (“First review publication”), pp. I-5-I-7.

<sup>24</sup> The SOBA Fluorescent Brightener 71, an additive to detergent, is excluded from Commerce’s scope.

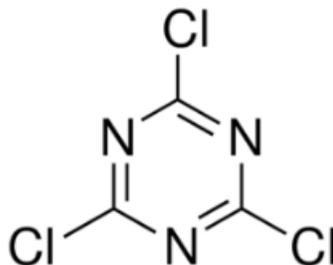
the paper web is formed due to its high affinity for cellulose. The “tetra” category of CSOBAs contains four sulfonate groups and is produced using sulfanilic acid. “Tetra” CSOBAs are the most versatile of the CSOBAs and can be applied at multiple stages in the paper making process, which is why they are the most commonly used CSOBAs. “Tetra” CSOBAs can either be added to the pulp slurry before the paper web is formed, in the size press, or in coating applications. FB 220, which is the most widely used SOBA, is in the “tetra” category. The “hexa” category of CSOBAs contains six sulfonate groups and is produced using aniline disulfonic acid. Application of the “hexa” CSOBAs in the paper making process is limited to surface coating operations for situations where high brightness is required.

Within the United States, CSOBAs are shipped as aqueous solutions with the percentage of the active ingredient typically 20 percent for “di” CSOBAs, 23 percent for “tetra” CSOBAs, and 16 percent for “hexa” CSOBAs. CSOBAs can be shipped in bulk or nonbulk containers. Bulk deliveries are made in tank truck or rail cars. Non-bulk deliveries are in drums, which can hold approximately 459 pounds, or intermediate bulk containers, which hold approximately 2,400 pounds of material. For shipment from China and Taiwan, CSOBAs are shipped either as aqueous solutions ready for final use in paper making or as a powder that must be dissolved in water before use. For CSOBAs shipped as powder, an importer or its affiliate, a third-party tolling operation, or the final user prepares the SOBA in an aqueous solution at the desired concentration. Powdered SOBA is shipped in “bulk bags” of various sizes.

For a specific SOBA, for example, FB 220, the active ingredient produced in the United States is identical to that produced in China and Taiwan. However, the product in aqueous solution may have additives and impurities that differ among the domestic producers and foreign producers. These impurities can increase the unattractive yellow hue and decrease the overall brightness of paper.

## Manufacturing process<sup>25</sup>

The primary inputs in the production of CSOBAs are diaminostilbene disulfonic acid (“DAS”), cyanuric chloride, and derivatives of aniline. DAS is generally the most expensive of these inputs. DAS contains the stilbene structure upon which CSOBAs are built. Cyanuric chloride contains the 1,3,5-triazinyl structure with chlorine atoms at the 2, 4, and 6 positions, shown below.



As explained in the description and uses section, the derivative of aniline used in production determines whether the specific SOBA is in the “di,” “tetra,” or “hexa” category.

CSOBAs are typically produced in a three-step process. In the first step, cyanuric chloride reacts with DAS to produce the first intermediate in SOBA production. In the second step, the first intermediate is reacted with a derivative of aniline, which replaces one of the remaining chlorine atoms on the 1,3,5 triazinyl group, to form the second intermediate. In the third step, the second intermediate is reacted with a final chemical component, typically an amine, to confer desired chemical and physical properties to the SOBA. The final chemical component replaces the remaining chlorine atoms on each of the 1,3,5-triazinyl groups.

An alternate production process is also possible where the first and second steps are different from those mentioned above. This process begins with cyanuric chloride reacting directly with a derivative of aniline. The intermediate produced in the first step of this alternate process is then reacted with DAS. This alternative process produces the same intermediate that results from step two of the process given above. The third step in the alternative process is the same as in the process described above.

A byproduct of these reactions is sodium chloride. The sodium chloride is removed from the final SOBA product by reverse osmosis or ultrafiltration. The sodium chloride solution is sent to a wastewater treatment facility and released back into the environment after treatment.

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<sup>25</sup> Unless otherwise noted, this information is based on the first review publication, pp. I-7-I-9.

Two domestic producers, Archroma and 3V Sigma USA, Inc. (“3V”), use batch processes to carry out the reaction steps above and produce CSOBAs. These producers purchase DAS from other chemical companies. DAS is primarily produced in China and, to a lesser extent, in India. Another process used to produce CSOBAs is a continuous process that starts with the production of DAS from toluene and other inputs. TFM, a producer of CSOBAs in Taiwan, reportedly uses a continuous process to produce CSOBAs.

## The industry in the United States

### U.S. producers

During the final phase of the original investigations, the Commission received U.S. producer questionnaires from three firms, which accounted for 100.0 percent of production of CSOBAs in the United States during 2011.<sup>26</sup> During the first five-year reviews, the domestic interested party provided a list of \*\*\* known and currently operating U.S. producers of CSOBAs.<sup>27</sup> One responding firm accounted for approximately \*\*\* percent of production of CSOBAs in the United States during 2016.<sup>28</sup>

In response to the Commission’s notice of institution in these current reviews, the domestic interested party provided a list of three known and currently operating U.S. producers of CSOBAs. Archroma, the one firm providing U.S. industry data in response to the Commission’s notice of institution accounted for approximately \*\*\* percent of production of CSOBAs in the United States during 2021.<sup>29</sup>

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<sup>26</sup> Original publication, p. III-1.

<sup>27</sup> Investigation Nos. 731-TA-1186-1187 (Review): Certain Stilbenic Optical Brightening Agents from China and Taiwan, Confidential Report, INV-PP-083, June 26, 2017, (“First review confidential report”), p. I-14.

<sup>28</sup> First review confidential report, p. I-2.

<sup>29</sup> Domestic interested party’s supplemental response to the notice of institution, August 27, 2024, exh. 2.



## Recent developments

Table I-3 presents events in the U.S. industry since the Commission’s last five-year reviews.<sup>30</sup>

**Table I-3**  
**CSOBAs: Developments in the U.S. industry**

Item	Firm	Event
Closure	Multiple	Multiple paper mills and converting facilities in the United States closed, including Pactiv’s Olmstead Mills, Ohio converting facility and Canton, North Carolina mill (2023); WestRock’s North Charleston, South Carolina mill (2023); Putney’s Putney, Vermont mill, (2024); and McKinley Paper’s Port Angeles, Washington mill (announced 2024).

Source: “2023 Brings More Pulp and Paper Mill Closures,” Resourcewise, June 1, 2023, <https://www.resourcewise.com/forest-products-blog/2023-brings-more-pulp-and-paper-mill-closures-do-you-have-the-right-data>; “McKinley to Close Port Angeles Paper Mill,” Paper Age, June 28, 2024, <https://www.paperage.com/2024news/06-28-2024mckinely-paper-closing-port-angeles-mill.html>; “Putney Paper Mill Shuts Down,” VTDigger, January 17, 2024, <https://vtdigger.org/2024/01/17/putney-paper-mill-shuts-down-eliminating-jobs-for-127-workers/>.

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

The Commission asked domestic interested parties to provide trade and financial data in their response to the notice of institution in the current five-year reviews. Table I-4 presents a compilation of the trade and financial data submitted from all responding U.S. producers in the original investigations and subsequent five-year reviews.

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<sup>30</sup> For recent developments, if any, in tariff treatment, please see “U.S. tariff treatment” section.

**Table I-4**  
**CSOBAs: Trade and financial data submitted by U.S. producers, by period**

Quantity in 1,000 pounds (in solution form); value in 1,000 dollars; unit value in dollars per pound; ratio in percent

Item	Measure	2011	2016	2021
Capacity	Quantity	***	***	***
Production	Quantity	***	***	***
Capacity utilization	Ratio	***	***	***
U.S. shipments	Quantity	***	***	***
U.S. shipments	Value	***	***	***
U.S. shipments	Unit value	***	***	***
Net sales	Value	***	***	***
COGS	Value	***	***	***
COGS to net sales	Ratio	***	***	***
Gross profit or (loss)	Value	***	***	***
SG&A expenses	Value	***	***	***
Operating income or (loss)	Value	***	***	***
Operating income or (loss) to net sales	Ratio	***	***	***

Source: For the years 2011 and 2016, data are compiled using data submitted in the Commission's original investigations and first five-year reviews. For the year 2021, data are compiled using data submitted by the domestic interested party. Domestic interested party's supplemental response to the notice of institution, August 27, 2024, exh. 2.

Note: For a discussion of data coverage, please see "U.S. producers" section. The percent active ingredient ranged from \*\*\* percent in 2011 and was \*\*\* percent in 2021. The percent of active ingredient was not reported in 2016 although it appears to be reported in solution form. Domestic interested party's supplemental response to the notice of institution, August 27, 2024, p. 3.

Note: The capacity decrease from 2016 to 2021 was caused by \*\*\*. \*\*\*. Domestic interested party's supplemental response to the notice of institution, August 27, 2024, pp. 2-4.

Note: Pursuant to the holding of the U.S. Court of International Trade in *Archroma* and consistent with Commerce's decision to limit Archroma's substantive response in its reconducted reviews to its previously rejected submission of November 1, 2022, the Commission's notice of re-institution requested data for calendar year 2021, consistent with the same data collection period originally requested in its initial notice of institution (87 FR 59779, October 3, 2022). Memorandum from Aleks Nakutis, Program Manager, Office I, AD/CVD Operations, Enforcement and Compliance, U.S. Department of Commerce, Re: Antidumping Duty Orders on Stilbenic OBAs from Taiwan and the People's Republic of China: Reconduction of Sunset Reviews, July 1, 2024.

## Definitions of the domestic like product and domestic industry

The domestic like product is defined as the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the subject merchandise. The domestic industry is defined as the U.S. producers as a whole of the domestic like product, or those producers whose collective output of the domestic like product constitutes a major proportion of the total domestic production of the product. Under the related parties provision, the Commission may exclude a U.S. producer from the domestic industry for purposes of its injury determination if “appropriate circumstances” exist.<sup>31</sup>

In its original determinations and its expedited first five-year review determinations, the Commission found a single domestic like product consisting of all forms, states, concentrations, and compositions of stilbenic optical brightening agent products co-extensive with Commerce’s scope. In its original determinations, the Commission defined the domestic industry to consist of all U.S. producers of the domestic like product, namely Clariant Corporation, BASF Corporation, and 3V Incorporated. In its expedited five-year review determinations, the Commission again defined the domestic industry as consisting of all U.S. producers of certain stilbenic optical brightening agents coextensive with Commerce’s scope.<sup>32</sup>

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<sup>31</sup> Section 771(4)(B) of the Tariff Act of 1930, 19 U.S.C. § 1677(4)(B).

<sup>32</sup> 89 FR 54525, July 1, 2024.

## **U.S. importers**

During the final phase of the original investigations, the Commission received U.S. importer questionnaires from eight firms, three of which imported CSOBAs from China and one of which imported CSOBAs from Taiwan.<sup>33</sup> Import data presented in the original investigations are based on questionnaire responses.

Although the Commission did not receive responses from any respondent interested parties in its first five-year reviews, the domestic interested party provided a list of four firms that may have imported CSOBAs from China and Taiwan.<sup>34</sup> Import data presented in the first reviews are based on official Commerce statistics.

Although the Commission did not receive responses from any respondent interested parties in these current reviews, in its response to the Commission's notice of institution, the domestic interested party provided a list of four possible U.S. importers of CSOBAs.<sup>35</sup>

## **U.S. imports**

Table I-5 presents the quantity, value, and unit value of U.S. imports from China and Taiwan as well as the other top sources of U.S. imports (shown in descending order of 2021 imports by quantity).

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<sup>33</sup> Original publication, p. IV-1.

<sup>34</sup> First review publication, p. I-12.

<sup>35</sup> Domestic interested party's supplemental response to the notice of institution, August 27, 2024, exh. 2.

**Table I-5**  
**CSOBAs: U.S. imports, by source and period**

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

Source	Measure	2017	2018	2019	2020	2021
China	Quantity	915	982	660	475	538
Taiwan	Quantity	8,508	7,012	6,348	4,211	6,560
Subject sources	Quantity	9,423	7,994	7,008	4,686	7,098
Switzerland	Quantity	6,359	6,434	6,861	7,738	6,883
India	Quantity	5,548	4,741	3,061	1,117	1,901
Germany	Quantity	786	1,030	1,289	1,207	1,199
All other sources	Quantity	839	611	969	922	649
Nonsubject sources	Quantity	13,533	12,817	12,179	10,985	10,633
All import sources	Quantity	22,956	20,811	19,187	15,671	17,731
China	Value	6,752	18,161	9,111	4,448	5,668
Taiwan	Value	12,106	10,821	15,751	7,449	10,241
Subject sources	Value	18,859	28,981	24,862	11,897	15,910
Switzerland	Value	24,800	24,842	31,904	32,012	29,374
India	Value	9,536	10,132	9,304	3,715	5,237
Germany	Value	4,539	5,935	5,120	5,440	8,483
All other sources	Value	2,936	1,733	2,901	2,843	2,041
Nonsubject sources	Value	41,811	42,642	49,230	44,010	45,135
All import sources	Value	60,670	71,624	74,092	55,907	61,045
China	Unit value	7.38	18.50	13.81	9.36	10.54
Taiwan	Unit value	1.42	1.54	2.48	1.77	1.56
Subject sources	Unit value	2.00	3.63	3.55	2.54	2.24
Switzerland	Unit value	3.90	3.86	4.65	4.14	4.27
India	Unit value	1.72	2.14	3.04	3.33	2.75
Germany	Unit value	5.78	5.76	3.97	4.51	7.07
All other sources	Unit value	3.50	2.84	2.99	3.08	3.14
Nonsubject sources	Unit value	3.09	3.33	4.04	4.01	4.24
All import sources	Unit value	2.64	3.44	3.86	3.57	3.44

Source: Compiled from official Commerce statistics for HTS statistical reporting number 3204.20.8000, accessed August 20, 2024. These data may be overstated as HTS statistical reporting number 3204.20.8000 may contain products outside the scope of these reviews. It is unclear as to a basis and the form by which the quantity data are reported.

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

## **Cumulation considerations<sup>36</sup>**

In assessing whether imports should be cumulated in five-year reviews, the Commission considers, among other things, whether there is a likelihood of a reasonable overlap of competition among subject imports and the domestic like product. Additional information concerning geographical markets and simultaneous presence in the market is presented below.<sup>37</sup>

Imports of CSOBAs from both China and Taiwan were reported in all 60 months between 2017 and 2021 and entered the United States through all four major borders of entry (i.e., northern, southern, eastern, and western) in each and every year from 2017 through 2021.

## **Apparent U.S. consumption and market shares**

Table I-6 presents data on U.S. producers' U.S. shipments, U.S. imports, apparent U.S. consumption, and market shares.

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<sup>36</sup> Unless otherwise noted, this information is based on official U.S. import statistics for HTS statistical reporting number 3204.20.8000.

<sup>37</sup> In addition, available information concerning subject country producers and the global market is presented in the next section of this report.

**Table I-6**  
**CSOBAs: Apparent U.S. consumption and market shares, by source and period**

Quantity in 1,000 pounds (in solution form); value in 1,000 dollars; shares in percent

Source	Measure	2011	2016	2021
U.S. producers	Quantity	***	***	***
China	Quantity	***	***	538
Taiwan	Quantity	***	***	6,560
Subject sources	Quantity	***	***	7,098
Nonsubject sources	Quantity	***	***	10,633
All import sources	Quantity	***	***	17,731
Apparent U.S. consumption	Quantity	***	***	***
U.S. producers	Value	***	***	***
China	Value	***	***	5,668
Taiwan	Value	***	***	10,241
Subject sources	Value	***	***	15,910
Nonsubject sources	Value	***	***	45,135
All import sources	Value	***	***	61,045
Apparent U.S. consumption	Value	***	***	***
U.S. producers	Share of quantity	***	***	***
China	Share of quantity	***	***	***
Taiwan	Share of quantity	***	***	***
Subject sources	Share of quantity	***	***	***
Nonsubject sources	Share of quantity	***	***	***
All import sources	Share of quantity	***	***	***
U.S. producers	Share of value	***	***	***
China	Share of value	***	***	***
Taiwan	Share of value	***	***	***
Subject sources	Share of value	***	***	***
Nonsubject sources	Share of value	***	***	***
All import sources	Share of value	***	***	***

Source: For the years 2011 and 2016, data are compiled using data submitted in the Commission's original investigations and first five-year reviews. For the year 2021, data are compiled using data submitted by the domestic interested party. U.S. imports are compiled using official Commerce statistics under HTS statistical reporting number 3204.20.80, accessed August 20, 2024. Domestic interested party's supplemental response to the notice of institution, August 27, 2024, exh. 2.

Note: For a discussion of data coverage, please see "U.S. producers" and "U.S. importers" section. The percent active ingredient ranged from \*\*\* percent in 2011 and was \*\*\* percent in 2021. The percent of active ingredient was not reported in 2016 although it appears to be reported in solution form. It is unclear as to a basis and the form by which 2021 import quantity data are reported. Domestic interested party's supplemental response to the notice of institution, August 27, 2024, p. 3.

Note: Share of quantity is the share of apparent U.S. consumption by quantity in percent; share of value is the share of apparent U.S. consumption by value in percent.

Notes continued on next page.

**Table I-6****CSOBAs: Apparent U.S. consumption and market shares, by source and period**

Note: Pursuant to the holding of the U.S. Court of International Trade in Archroma and consistent with Commerce's decision to limit Archroma's substantive response in its reconducted reviews to its previously rejected submission of November 1, 2022, the Commission's notice of re-institution requested data for calendar year 2021, consistent with the same data collection period originally requested in its initial notice of institution (87 FR 59779, October 3, 2022). Memorandum from Aleks Nakutis, Program Manager, Office I, AD/CVD Operations, Enforcement and Compliance, U.S. Department of Commerce, Re: Antidumping Duty Orders on Stilbenic OBAs from Taiwan and the People's Republic of China: Reconduction of Sunset Reviews, July 1, 2024

## The industry in China

### Producers in China

During the final phase of the original investigations, the Commission received foreign producer/exporter questionnaires from \*\*\* firms, which accounted for approximately \*\*\* percent of production of CSOBAs in China during 2011, and approximately \*\*\* percent of CSOBAs exports from China to the United States during 2011.<sup>38</sup>

Although the Commission did not receive responses from any respondent interested parties in its first five-year reviews, the domestic interested party provided a list of six possible producers of CSOBAs in China in that proceeding.<sup>39</sup>

Although the Commission did not receive responses from any respondent interested parties in these five-year reviews, the domestic interested party provided a list of fourteen possible producers of CSOBAs in China.<sup>40</sup>

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<sup>38</sup> Original confidential report, p. VII-1.

<sup>39</sup> First review publication, p. I-15.

<sup>40</sup> Domestic interested party's supplemental response to the notice of institution, August 27, 2024, exh. 2.



## Recent developments

Table I-7 presents events in the Chinese industry since the Commission’s last five-year reviews.

**Table I-7**  
**CSOBAs: Developments in the Chinese industry**

Item	Firm	Event
***	Multiple	***

Source: Domestic interested party’s response to notice of institution, August 9, 2024, exh. 6.

## Exports

Table I-8 presents export data for “Synthetic Organic Products Used as Fluorescent Brightening Agents,” a category that includes CSOBAs and out-of-scope products, from China (by export destination in descending order of quantity for 2021).

**Table I-8**  
**Synthetic organic products used as fluorescent brightening agents: Quantity of exports from China, by destination and period**

Quantity in 1,000 pounds

Destination market	2017	2018	2019	2020	2021
Japan	19,687	19,380	15,701	11,771	16,365
Thailand	9,392	5,555	9,197	7,928	9,484
Finland	3,861	6,455	11,107	7,293	7,952
Vietnam	8,589	6,589	6,253	6,398	7,480
Italy	2,998	7,217	12,164	10,264	7,434
Singapore	239	255	788	4,128	7,159
Indonesia	6,233	6,608	5,836	6,006	6,325
South Korea	2,458	1,295	2,436	4,055	6,261
Sweden	1,580	3,851	6,005	6,196	5,039
Turkey	2,230	1,294	2,198	4,431	3,028
All other markets	45,906	27,779	27,803	32,952	36,963
All markets	103,175	86,279	99,488	101,423	113,489

Source: Global Trade Information Services, Inc., Global Trade Atlas, HS subheading 3204.20, accessed August 27, 2024. These data may be overstated as HS subheading 3204.20 may contain products outside the scope of these reviews.

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

## The industry in Taiwan

### Producers in Taiwan

During the final phase of the original investigations, the Commission received foreign producer/exporter questionnaires from \*\*\* firm, which accounted for approximately \*\*\* percent of production of CSOBAs in Taiwan during 2011, and approximately \*\*\* percent of CSOBAs exports from Taiwan to the United States during 2011.<sup>41</sup>

Although the Commission did not receive responses from any respondent interested parties in its first five-year reviews, the domestic interested party provided a list of two possible producers of CSOBAs in Taiwan in that proceeding.<sup>42</sup>

Although the Commission did not receive responses from any respondent interested parties in these five-year reviews, the domestic interested party provided a list of one possible producer of CSOBAs in Taiwan.<sup>43</sup>

### Recent developments

Table I-9 presents events in the industry in Taiwan since the Commission’s last five-year reviews.

**Table I-9**  
**CSOBAs: Developments in the industry in Taiwan**

Item	Firm	Event
Expansion	Teh Fong Min International	2024 SOBA annual production capacity of 96,000 metric tons, ***.

Source: Domestic interested party’s response to notice of institution, August 9, 2024, exh. 6; TFM International website, “Company Introduction,” <https://www.tfmintl.com.tw/about/2>, accessed August 29, 2024.

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<sup>41</sup> Original confidential report, p. VII-4.

<sup>42</sup> First review publication, p. I-16.

<sup>43</sup> Domestic interested party’s supplemental response to the notice of institution, August 27, 2024, exh. 2.

## Exports

Table I-10 presents export data for “Synthetic Organic Products Used as Fluorescent Brightening Agents,” a category that includes CSOBAs and out-of-scope products, from Taiwan (by export destination in descending order of quantity for 2021).

**Table I-10**  
**Synthetic organic products used as fluorescent brightening agents: Quantity of exports from Taiwan, by destination and period**

Quantity in 1,000 pounds

Destination market	2017	2018	2019	2020	2021
United States	6,074	8,122	7,387	4,889	8,302
Finland	1,322	1,389	1,422	1,257	1,764
Portugal	2,073	1,898	860	1,237	937
Indonesia	36	113	34	237	860
Poland	-	-	-	66	463
Germany	132	185	148	190	148
China	306	376	488	240	137
Bangladesh	64	55	22	24	116
Thailand	138	82	144	96	55
Malaysia	111	21	43	0	44
All other markets	4,155	2,886	1,492	592	691
All markets	14,410	15,128	12,040	8,827	13,516

Source: Global Trade Information Services, Inc., Global Trade Atlas, HS subheading 3204.20, accessed August 27, 2024. These data may be overstated as HS subheading 3204.20 may contain products outside the scope of these reviews.

## Third-country trade actions

Based on available information, CSOBAs from China and Taiwan has not been subject to other antidumping or countervailing duty investigations outside the United States.

## The global market

During 2017-21, global trade in synthetic organic products used as fluorescent brightening agents, a category that includes CSOBAs and out-of-scope products, declined by 10.5 percent. During this period, China’s share of global exports increased from 20.3 percent to 24.9 percent and Taiwan’s increased from 2.8 percent to 3.0 percent. In 2017 and 2018, Germany was the largest exporter of these products, after which China was the largest exporter from 2019 to 2021.

Table I-11 presents global export data for “Synthetic Organic Products Used as Fluorescent Brightening Agents” (by source in descending order of quantity for 2021).

**Table I-11**  
**Synthetic organic products used as fluorescent brightening agents: Quantity of global exports by country and period**

Quantity in 1,000 pounds

Exporting country	2017	2018	2019	2020	2021
China	103,175	86,279	99,488	101,423	113,489
Germany	116,934	94,967	80,688	66,123	70,318
Spain	47,854	62,091	65,506	51,475	60,843
India	70,811	73,239	65,895	50,595	55,538
Italy	57,035	32,518	35,632	23,598	24,640
Indonesia	18,351	19,871	33,820	21,197	20,606
Netherlands	8,734	7,347	11,149	7,373	20,294
United States	14,921	18,968	18,662	15,699	19,243
Switzerland	15,400	16,814	16,085	16,545	14,850
Taiwan	14,410	15,128	12,040	8,827	13,516
All other exporters	41,642	37,906	41,662	38,430	42,421
All exporters	509,266	465,126	480,627	401,285	455,758

Source: Global Trade Information Services, Inc., Global Trade Atlas, HS subheading 3204.20, accessed August 27, 2024. These data may be overstated as HS subheading 3204.20 may contain products outside the scope of these reviews.

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

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



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

Citation	Title	Link
87 FR 59827, October 3, 2022	Stilbenic Optical Brightening Agents From China and Taiwan; Institution of Five-Year Reviews	<a href="https://www.govinfo.gov/content/pkg/FR-2022-10-03/pdf/2022-21229.pdf">https://www.govinfo.gov/content/pkg/FR-2022-10-03/pdf/2022-21229.pdf</a>
87 FR 59779, October 3, 2022	Initiation of Five-Year (Sunset) Reviews	<a href="https://www.govinfo.gov/content/pkg/FR-2022-10-03/pdf/2022-21419.pdf">https://www.govinfo.gov/content/pkg/FR-2022-10-03/pdf/2022-21419.pdf</a>
87 FR 80162, December 29, 2022	Stilbenic Optical Brightening Agents From People's Republic of China and Taiwan: Final Results of Sunset Reviews and Revocation of Order	<a href="https://www.govinfo.gov/content/pkg/FR-2022-12-29/pdf/2022-28380.pdf">https://www.govinfo.gov/content/pkg/FR-2022-12-29/pdf/2022-28380.pdf</a>
88 FR 2374, January 13, 2023	Stilbenic Optical Brightening Agents From China and Taiwan; Termination of Five-Year Reviews	<a href="https://www.govinfo.gov/content/pkg/FR-2023-01-13/pdf/2023-00206.pdf">https://www.govinfo.gov/content/pkg/FR-2023-01-13/pdf/2023-00206.pdf</a>
89 FR 53392, June 26, 2024	Stilbenic Optical Brightening Agents From Taiwan and the People's Republic of China: Notice of Court Decision Not in Harmony With the Results of Antidumping Sunset Reviews, Reinstatement of Antidumping Duty Orders, and Reconduct of Sunset Reviews	<a href="https://www.govinfo.gov/content/pkg/FR-2024-06-26/pdf/2024-14029.pdf">https://www.govinfo.gov/content/pkg/FR-2024-06-26/pdf/2024-14029.pdf</a>
89 FR 54435, July 1, 2024	Initiation of Five-Year (Sunset) Reviews	<a href="https://www.govinfo.gov/content/pkg/FR-2024-07-01/pdf/2024-14459.pdf">https://www.govinfo.gov/content/pkg/FR-2024-07-01/pdf/2024-14459.pdf</a>
89 FR 54525, July 1, 2024	Stilbenic Optical Brightening Agents From China and Taiwan; Institution of Five-Year Reviews	<a href="https://www.govinfo.gov/content/pkg/FR-2024-07-01/pdf/2024-14457.pdf">https://www.govinfo.gov/content/pkg/FR-2024-07-01/pdf/2024-14457.pdf</a>





**APPENDIX B**  
**RESPONSES TO THE NOTICE OF INSTITUTION**



# Responses to the Commission’s notice of institution

## Individual responses

The Commission received one submission in response to its notice of institution in the subject reviews. It was filed on behalf of Archroma U.S., Inc. (“Archroma”), a domestic producer of CSOBAs (referred to herein as “domestic interested party”).

A complete response to the Commission’s notice of institution requires that the responding interested party submit to the Commission all the information listed in the notice. Responding firms are given an opportunity to remedy or explain deficiencies in their responses and to provide clarifying details where appropriate. A summary of the number of responses and estimates of coverage for each is shown in table B-1.

**Table B-1**  
**CSOBAs: Summary of responses to the Commission’s notice of institution**

Interested party type	Number	Coverage
U.S. producer	1	***%

Note: The U.S. producer coverage figure presented is the domestic interested party’s estimate of its share of total U.S. production of CSOBAs during 2021. Domestic interested party’s supplemental response to the notice of institution, August 27, 2024, exh. 2.

## Party comments on adequacy

The Commission received party comments on the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews from the domestic interested party. The domestic interested party requests that the Commission conduct expedited reviews of the antidumping duty orders on CSOBAs.<sup>1</sup>

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<sup>1</sup> Domestic interested party’s comments on adequacy, September 6, 2024, p. 1.

## Company-specific information

**Table B-2**  
**CSOBAs: Response checklist for U.S. producers**

Yes = provided response; no = did not provide a response; NA = not available; not known = information was not known

<b>Item</b>	<b>Archroma U.S., Inc.</b>
<b>Nature of operation</b>	Yes
<b>Statement of intent to participate</b>	Yes
<b>Statement of likely effects of revoking the order</b>	Yes
<b>U.S. producer list</b>	Yes
<b>U.S. importer/foreign producer list</b>	Yes
<b>List of 3-5 leading purchasers</b>	Yes
<b>List of sources for national/regional prices</b>	Yes
<b>Trade/financial data</b>	Yes
<b>Changes in supply/demand</b>	Yes
<b>Complete response</b>	Yes

**APPENDIX C**

**SUMMARY DATA COMPILED IN PRIOR PROCEEDINGS**



Table C-1  
CSOBAs: Summary data concerning the U.S. market, 2009-11

\* \* \* \* \*

Table C-1--Continued  
CSOBAs: Summary data concerning the U.S. market, 2009-11

\* \* \* \* \*



Table D-1  
CSOBAs: U.S. producers' capacity, production, and capacity utilization, 2009-11

\* \* \* \* \*

Table D-2  
CSOBAs: U.S. producers' shipments, by type, 2009-11

\* \* \* \* \*

Table D-12

CSOBAs: U.S. shipments of domestic product, U.S. shipments of imports, by source, and apparent consumption, 2009-11

\* \* \* \* \*

Table D-13  
CSOBAs: Apparent consumption and market shares, by sources, 2009-11

\* \* \* \* \*

**APPENDIX D**

**PURCHASER QUESTIONNAIRE RESPONSES**



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

1. Have there been any significant changes in the supply and demand conditions for finished CSOBAs that have occurred in the United States or in the market for CSOBAs in China and/or Taiwan since January 1, 2017?

Purchaser	Yes / No	Changes that have occurred
***	***	***

2. Do you anticipate any significant changes in the supply and demand conditions for CSOBAs in the United States or in the market for CSOBAs in China and/or Taiwan within a reasonably foreseeable time?

Purchaser	Yes / No	Anticipated changes
***	***	***