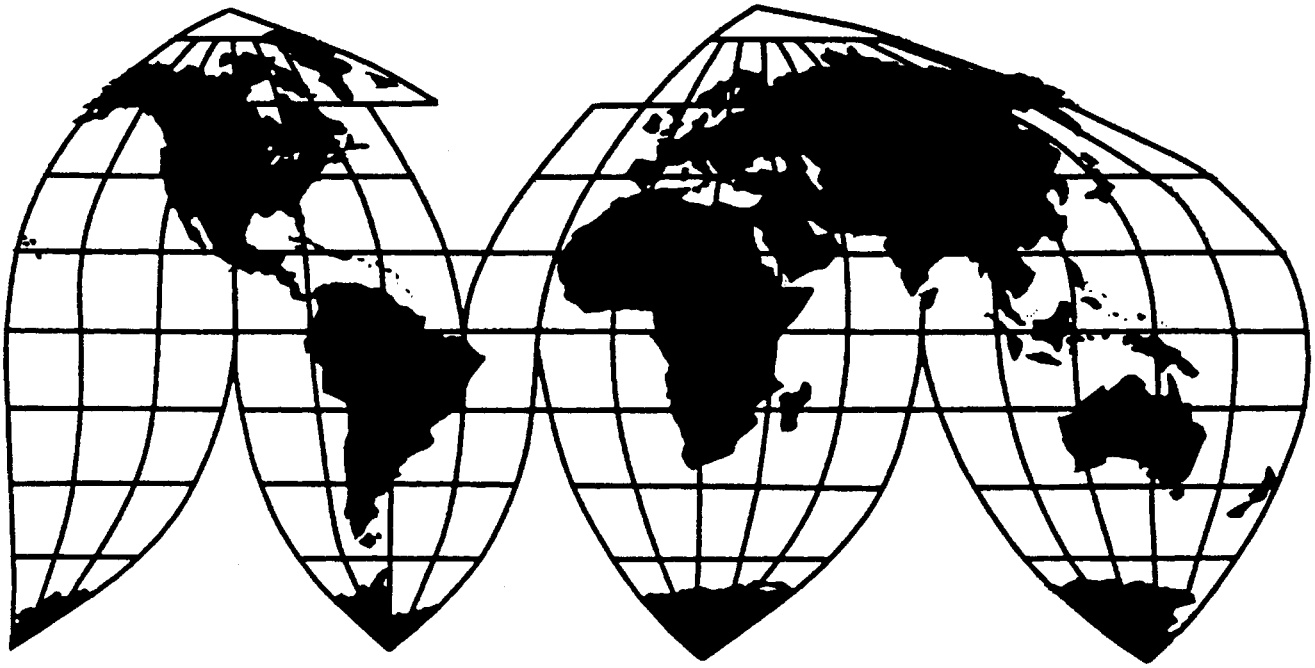
Foundry Coke From China

Investigation No. 731-TA-891 (Preliminary)

Publication 3365 **November 2000**

U.S. International Trade Commission



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U.S. International Trade Commission

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Address all communications to
Secretary to the Commission
United States International Trade Commission
Washington, DC 20436

U.S. International Trade Commission

Washington, DC 20436
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Note.–Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report. Such deletions are indicated by asterisks.

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GLOSSARY OF ABBREVIATIONS
(In alphabetical order)

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-891 (Preliminary)

FOUNDRY COKE FROM CHINA

DETERMINATION

On the basis of the record[1] developed in the subject investigation, the United States International Trade Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)), that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports from China of foundry coke, provided for in heading 2704.00.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).

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

BACKGROUND

On September 20, 2000, a petition was filed with the Commission and the Department of Commerce by ABC Coke, Birmingham, AL; Citizens Gas and Coke, Indianapolis, IN; Erie Coke, Erie, PA; Tonawanda Coke, Tonawanda, NY; and the United Steelworkers of America, AFL-CIO, alleging that an industry in the United States is materially injured and threatened with material injury by reason of LTFV imports of foundry coke from China. Accordingly, effective September 20, 2000, the Commission instituted antidumping duty investigation No. 731-TA-891 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of September 27, 2000 (65 FR 58103). The conference was held in Washington, DC, on October 11, 2000, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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

VIEWS OF THE COMMISSION

Based on the record in this investigation, we find that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of foundry coke from China that are allegedly sold in the United States at less than fair value ("LTFV").

I. THE LEGAL STANDARD FOR PRELIMINARY DETERMINATIONS

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

II. DOMESTIC LIKE PRODUCT AND INDUSTRY

A. In General

To determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of the subject merchandise, the Commission first defines the "domestic like product" and the "industry."[3] Section 771(4)(A) of the Tariff Act of 1930, as amended ("the Act"), defines the relevant domestic industry as the "producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."[4] In turn, the 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 . . . ."[5]

The decision regarding the appropriate domestic like product(s) in an investigation is a factual determination, and the Commission has applied the statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis.[6] No single factor is dispositive, and the Commission

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[1] 19 U.S.C. § 1673b(a); *see also* American Lamb Co. v. United States, 785 F.2d 994, 1001-1004 (Fed. Cir. 1986); Aristech Chemical Corp. v. United States, 20 CIT 353, 354 (1996).

[2] American Lamb, 785 F.2d at 1001 (Fed. Cir. 1986); *see also* Texas Crushed Stone Co. v. United States, 35 F.3d 1535, 1543 (Fed. Cir. 1994).

[3] 19 U.S.C. § 1677(4)(A).

[4] 19 U.S.C. § 1677(4)(A).

[5] 19 U.S.C. § 1677(10).

[6] *See, e.g.*, Acciai Speciali Terni S.p.A. v. United States, No. 00-125, Slip Op. at 3-4, 28 (Ct. Int'l Trade Oct. 2, 2000); Allegheny Ludlam Corp. v. United States, No. 00-109, Slip Op. at 9-10 (Ct. Int'l Trade Aug. 28, 2000); NEC Corp. v. Dep't of Commerce, 36 F. Supp. 2d 380, 383 (Ct. Int'l Trade 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Torrington Co. v. United States, 747 F. Supp. 744, 749, n.3 (Ct. Int'l Trade 1990) *aff'd*, 938 F.2d 1278 (Fed. Cir. 1991) ("every like product determination 'must be made on the particular record at issue' and the 'unique facts of each case'"). The Commission generally considers a number of factors including: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) common manufacturing facilities, production processes and production employees;

(continued...)

may consider other factors it deems relevant based on the facts of a particular investigation.[7] The Commission looks for clear dividing lines among possible like products and disregards minor variations.[8] Although the Commission must accept the determination of the Department of Commerce ("Commerce") as to the scope of the imported merchandise allegedly subsidized or sold at LTFV, the Commission determines what domestic product is like the imported articles Commerce has identified.[9]

B. Product Description

In its notice of initiation, Commerce defined the imported merchandise within the scope of this investigation as follows:

> coke larger than 100 mm (4 inches) in maximum diameter and at least 50 percent of which is retained on a 100-mm (4 inch) sieve, of a kind used in foundries. The foundry coke products subject to this investigation are currently classifiable under subheading 2704.00.00.10 of the Harmonized Tariff Schedules of the United States (HTSUS).[10]

Foundry coke is the carbonized product remaining after blended bituminous coals are heated in an oven for a period of time.[11] It is one of three types of metallurgical coke,[12] and accounts for 5 to 7

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[6] (...continued)
and, where appropriate, (6) price. *See* Nippon Steel, 19 CIT at 455, n.4; Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int'l Trade 1996).

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

[8] Nippon Steel, 19 CIT at 455; Torrington, 747 F. Supp. at 748-49. *See also* S. Rep. No. 96-249, at 90-91 (1979) (Congress has indicated that the like product standard should not be interpreted in "such a narrow fashion as to permit minor differences in physical characteristics or uses to lead to the conclusion that the product and article are not 'like' each other, nor should the definition of 'like product' be interpreted in such a fashion as to prevent consideration of an industry adversely affected by the imports under consideration.").

[9] Hosiden Corp. v. Advanced Display Mfrs., 85 F.3d 1561, 1568 (Fed. Cir. 1996) (Commission may find a single like product corresponding to several different classes or kinds defined by Commerce); Torrington, 747 F. Supp. at 748-752 (affirming Commission determination of six like products in investigations where Commerce found five classes or kinds).

[10] 65 Fed. Reg. 58103 (Oct. 17, 2000). Although the HTSUS subheadings are provided for convenience and Customs purposes, Commerce noted that its written description of the scope of this investigation is dispositive. *Id.*

[11] Confidential Report, Memorandum INV-X-228 (Oct. 30, 2000) ("CR") at I-2, Public Report, ("PR") at I-2. *See also* Foundry Coke: A Review of the Industries in the United States and China, Inv. No. 332-407, USITC Pub. 3323 at I-1 (July 2000) ("Section 332 Report").

[12] "Metallurgical coke" is the carbonized product remaining after the destructive distillation of certain types of coal are heated in an oven for many days or hours. Section 332 Report at I-2. The types of metallurgical coke other than foundry coke are blast furnace coke (or "furnace coke") and other industrial coke, including coke breeze. CR at I-2, Section 332 Report at I-1.

percent of annual U.S. metallurgical coke production. Foundry coke is used primarily in the production of molten iron in a cupola furnace,[13] both as a fuel and a source of carbon for the melted product.[14]

C. Domestic Like Product Issues

Petitioners contend that the Commission should find a single domestic like product consisting only of foundry coke.[15] For the purposes of the preliminary phase of this investigation, respondents do not challenge the domestic like product definition proposed by petitioners.[16] However, they argue that expansion of the like product to include blast furnace coke and industrial coke would make the evidence for a negative determination "even more compelling."[17] Based on the record developed in the preliminary phase of this investigation, we determine that there is a single domestic like product comprised only of foundry coke.

1. Whether blast furnace coke should be included in the domestic like product

Foundry coke and blast furnace coke share some similar physical characteristics, and both are types of metallurgical coke.[18] However, the two types of coke are distinguishable in other physical aspects, including size,[19] coal composition,[20] ash content, and uniformity and screening requirements.[21] The differences in physical characteristics largely reflect the differences in end uses. Foundry coke is used primarily in the production of molten iron in cupola furnaces. The molten iron is then used to make various cast products such as automotive engines.[22] In light of its end uses, foundry coke must have good strength, low ash content, and uniform shape and size.[23] Blast furnace coke is used in an iron-making blast furnace for the production of steel.[24] It must be a very stable product in order to withstand abrasion and breakage during handling and use in the blast furnace.[25] Industry literature indicates that there is limited interchangeability between foundry coke and blast furnace coke, in that the latter is used only in

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[13] A "cupola furnace" is a cylindrically-shaped continuous melting device that is charged in alternating layers of metal (*e.g.*, scrap iron) and replacement fuel (*e.g.*, foundry coke). Section 332 Report at E-2.

[14] CR at I-2, PR at I-2 ; Section 332 Report at I-1.

[15] Petitioners' Postconference Brief at 3-5; Transcript of Conference, Oct. 11, 2000 ("Conference Tr.") at 16-17.

[16] Respondents' Postconference Brief at Q-6, n. 16.

[17] Respondents' Postconference Brief at Q-6.

[18] CR at I-2, PR at I-2.

[19] Foundry coke is relatively large, at four or more inches in diameter, and needs to be of uniform shape or size. CR at I-2, I-4, PR at I-1, I-4; Section 332 Report at I-2-3. By comparison, blast furnace coke is one to three inches in diameter, and does not need to be of a uniform shape or size. CR at I-2, I-4, PR at I-2, I-4.

[20] Foundry coke is made from a blend of coals, whereas furnace coke is not. CR at I-4, *citing* Conference Tr. at 16 and 54.

[21] Foundry coke sizes are generally 6x9, 5x9, 5x10, 4x9, 4x6, or some variation of these measurements. Conference Tr. at 68. Unlike foundry coke, blast furnace coke does not require screening. CR at I-2, PR at I-1. *See* Conference Tr. at 68-69.

[22] CR at I-2, PR at I-2.

[23] CR at I-2, PR at I-2.

[24] CR at I-2, PR at I-2.

[25] Section 332 Report at I-2.

the production of steel and cannot be used in foundry cupolas because of its smaller size.[26] One domestic foundry coke producer stated that customers will refuse to take "very many {pieces} below foundry size."[27]

Blast furnace coke, which accounts for approximately 90 percent of annual U.S. coke production, is primarily produced captively by U.S. steel producers, and therefore distributed through internal transfers.[28] In contrast, more than *** percent of domestic foundry coke producers' 1999 shipments were sold on the open market.[29]

For the most part, foundry coke and blast furnace coke are produced by different producers, but there is some overlap. As stated above, most domestic blast furnace coke is produced internally by steel producers, whereas foundry coke is produced predominantly by the six foundry coke producers. However, three foundry coke producers make some blast furnace coke in addition to foundry coke.[30] Although it is technologically possible for U.S. foundry coke producers to produce larger quantities of blast furnace coke, the Clean Air Act restricts the amount of blast furnace coke that they can produce.[31]

The foundry coke producers who also make blast furnace coke use some common equipment for the two types of coke production, but production equipment as well as the cycling time for each type of coke may differ.[32] *** use the same ovens to make both types of coke; however, they use different coals, higher temperatures, and a shorter cycling time for blast furnace coke.[33] In addition, *** uses a different *** for its blast furnace coke.[34] *** produces the two products in separate ovens.[35]

The domestic producers view foundry coke and blast furnace coke as separate products.[36] In general, blast furnace coke is sold to steel manufacturers whereas foundry coke is sold to foundries.[37] Because the end users for each product are different, it follows that these customers, as well as the producers, perceive the two types of coke as different products. Reflecting the differences in coal input, ash content, cycling times, and quality controls, foundry coke commands a higher price than blast furnace coke.[38]

In sum, the record indicates that foundry coke and blast furnace coke are produced from different types of coal and are made with specific size differences that control their end uses. They are sold at different prices almost entirely to different groups of end users for use in the production of different end products. Although some foundry coke producers make both types of coke, the two types of coke

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[26] CR at I-5, PR at I-4.

[27] Conference Tr. at 70.

[28] Section 332 Report at I-5-6; Conference Tr. at 16, 56. Although there were no industry-wide data collected for blast furnace coke, petitioners estimate that at least 80 percent of domestically-produced blast furnace coke is captively consumed by steel mills. Conference Tr. at 56.

[29] *See* CR and PR at Table III-2.

[30] CR at I-4, n.12, PR at I-3, n.12.

[31] Conference Tr. at 47-48, 72, 75-76.

[32] CR at I-4-5 & n.12, PR at I-3-4 & n.12.

[33] CR at I-2, I-4, n.12, PR at I-2, I-3, n.12. Foundry coke is cycled on an oven by oven basis at about 28 hours, whereas the cycle for blast furnace coke is about 18 hours. Conference Tr. at 48.

[34] CR at I-5, PR at I-4.

[35] CR at I-4, n.12, PR at I-3, n.12.

[36] *See, e.g.*, Conference Tr. at 72-73.

[37] CR at I-5, PR at I-4.

[38] CR at I-5, PR at I-4.

generally are produced by different producers, and most foundry coke is sold on the open market whereas most blast furnace coke is internally consumed. Based on these considerations, we conclude that blast furnace coke is not part of the domestic like product.[39]

2. Whether industrial coke should be included in the domestic like product

Industrial coke consists of those products remaining after the screening of foundry coke and blast furnace coke.[40] It includes products that are undersized or otherwise rejected for foundry or blast furnace use because of carbon or ash content.[41] Since industrial coke is mainly a byproduct of foundry or blast furnace coke, it does not have unique chemical characteristics that distinguish it from other types of coke. The main physical distinction is its size. Industrial coke has different end uses from foundry coke (and from blast furnace coke). It is not used in foundries, and instead is used in the production of other products including rock wool, beet sugar, calcium carbide, and smelting iron.[42]

While industrial coke, like foundry coke, is used as fuel, there is limited interchangeability between the two products. As noted in the preceding discussion, foundry cupolas generally cannot use non-foundry coke because of the smaller size of such alternative products.[43] While industrial users may technically be able to use foundry coke, they do not in fact use the two interchangeably because of cost prohibitions.[44] Industrial coke that is the byproduct of foundry coke is manufactured using the same processes, facilities, and employees as those used to produce foundry coke. Industrial coke that is the byproduct of blast furnace coke is predominantly produced by non-foundry coke producers, and may be subject to whatever production differences exist between foundry and blast furnace coke, as noted in the preceding discussion.

The evidence in the record suggests that foundry coke and industrial coke are both sold directly by the domestic producers to end users. However, domestic producers view foundry coke and industrial coke as separate products.[45] They sell foundry coke only to foundries, and industrial coke to other customers such as lead smelters and rock wool, sugar beet, and calcium carbide producers.[46] Because the end users for each product are different, it follows that these customers, as well as the producers, perceive the two types of coke as different products. According to domestic producers, industrial coke prices range from $*** to $*** per ton less than foundry coke.[47]

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[39] Commissioner Askey notes that, in any final investigation, she intends to seek further information concerning whether blast furnace coke should be part of the domestic like product.

[40] CR at I-2, PR at I-2; Section 332 Report at I-2, n.9.

[41] CR at I-2, PR at I-2. Industrial coke also includes "coke breeze," *i.e.*, the fine screenings from crushed coke used predominantly as a fuel source in the process of agglomerating iron. *Id.*

[42] Section 332 Report at I-2, n. 9; Petitioners' Postconference Brief at 4-5 and Exhibit 1.

[43] CR at I-5, I-6, PR at I-4-5.

[44] As a plant manager for industrial coke user USG testified: "[W]hat we're looking for from the coke that we purchase is we're using it strictly as a fuel. . . .[W]hen we do our purchasing we look at it strictly on a heat value basis for providing that. The reason our material falls outside of the foundry coke, and we don't compete with the people buying the foundry coke, is because we literally could not afford in our process that high cost material." Conference Tr. at 151.

[45] *See, e.g.*, Conference Tr. at 39, 58, 78-79.

[46] CR at I-6, PR at I-4-5; Petitioners' Postconference Brief at 5 and Exhibit 1.

[47] Petitioners' Postconference Brief at 5.

In sum, industrial coke may be the byproduct of foundry coke that is manufactured at foundry coke facilities using the same lines, processes, and employees. However, the differences in size, and occasionally in ash and carbon content, create significant differences in the price, end uses, and customers for domestically-produced foundry coke and industrial coke. Based on these considerations, we conclude that industrial coke is not part of the domestic like product in the preliminary phase of this investigation.[48]

3. Conclusion

For the purposes of the preliminary phase of this investigation, we conclude that there is one domestic like product, consisting only of foundry coke.

D. Domestic Industry and Related Parties

1. Domestic Industry

The domestic industry is defined as "the producers as a [w]hole of a domestic like product."[49] In defining the domestic industry, the Commission's general practice has been to include in the industry all of the domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.[50] Based on our finding that the domestic like product consists of foundry coke, we conclude that the domestic industry consists of all domestic producers of that product.

2. Related Parties

We must further determine whether any producer of the domestic like product should be excluded from the domestic industry pursuant to section 771(4)(B) of the Act. That provision of the statute allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry producers that are related to an exporter or importer of subject merchandise or which are themselves importers.[51] Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each case.[52] In defining the domestic industry in this investigation, we have considered

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[48] Commissioner Askey notes that, in any final investigation, she intends to seek further information concerning whether industrial coke should be part of the domestic like product.

[49] 19 U.S.C. § 1677(4)(A).

[50] *See* United States Steel Group v. United States, 873 F. Supp. 673, 681-84 (Ct. Int'l Trade 1994), *aff'd*, 96 F.3d 1352 (Fed. Cir. 1996).

[51] 19 U.S.C. § 1677(4)(B).

[52] Sandvik AB v. United States, 721 F. Supp. 1322, 1331-32 (Ct. Int'l Trade 1989), *aff'd without opinion*, 904 F.2d 46 (Fed. Cir. 1990); Empire Plow Co. v. United States, 675 F. Supp. 1348, 1352 (Ct. Int'l Trade 1987). The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude the related parties include: (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, *i.e.*, 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; and (3) the position of the related producers vis-a-vis the rest of the industry, *i.e.*, whether inclusion or exclusion of the related party will skew the data for the rest of the industry. *See, e.g.*, Torrington Co. v. United States, 790 F. Supp. 1161, 1168 (Ct. Int'l Trade 1992), *aff'd without opinion*, 991 F.2d

(continued...)

whether Empire Coke Co. ("Empire") or Sloss Industries Corp. ("Sloss") should be excluded from the domestic industry under the related parties provision.

a. Sloss Industries Corp.

Sloss is a wholly-owned subsidiary of Walter Foundries ("Walter"),[53] which apparently wholly owns a U.S. importer of subject foundry coke, ***.[54] In these circumstances, Walter directly controls Sloss as well as ***, and therefore Sloss is a related party under 19 U.S.C. § 1677(4)(B)(ii)(III).

*** imports of subject Chinese coke were equal to *** percent of Sloss's foundry coke production in 1999.[55] Sloss does not itself import any subject coke, but does sell its domestically-produced coke to ***.[56] Thus, its affiliated importer, ***, both imports foundry coke directly from China and purchases domestic foundry coke from ***.[57]

Sloss maintains separate financial records from those maintained by the corporate parent.[58] Although Sloss is performing ***, it is not clear whether Sloss is deriving a benefit from its relationship with ***. The record does not indicate the reasons for *** importation or the nature of the relationship between Sloss and ***.[59] Sloss accounted for *** percent of domestic foundry coke production in 1999, whereas *** accounted for *** percent.[60] Based on the information in the record, we do not find that there are appropriate circumstances to exclude Sloss from the domestic industry.

b. Empire Coke Co.

During the period of investigation, Empire ***.[61] Since Empire is neither an importer of subject products nor related through corporate affiliation to such an importer, Empire is not *ipso facto* a "related party" under 19 U.S.C. § 1677(4)(B)(ii)(III). However, Empire may be deemed a related party if its purchases of imports are sufficient to amount to "control" of a large share of subject imports.[62] In certain previous cases, the Commission has found such control to exist where the domestic producer was

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[52] (...continued)
809 (Fed. Cir. 1993). The Commission has also considered the ratio of import shipments to U.S. production for related producers and whether the primary interests of the related producers lie in domestic production or in importation. *See, e.g.*, Melamine Institutional Dinnerware from China, Indonesia, and Taiwan, Invs. Nos. 731-TA-741-743 (Final), USITC Pub. 3016 (Feb. 1997) at 14, n..81.

[53] CR at III-3, PR at III-2.

[54] *See* CR at IV-1, PR at IV-1.

[55] CR at III-3, PR at III-2.

[56] *See* CR at IV-1, PR at IV-1.

[57] *See* CR at IV-1, PR at IV-1.

[58] *See* CR and PR at Table VI-3.

[59] The data for Sloss and *** were taken (with permission) from the Section 332 investigation. Given the nature of that investigation, the Section 332 questionnaires did not elicit some of the pertinent information relevant to the related party question in this investigation.

[60] CR at III-1, PR at III-1.

[61] CR at III-2, IV-2, n. 4, PR at III-2, IV-1, n. 4. Empire purchased imports from *** in 1999 and from *** in interim 2000. Empire is a wholly-owned subsidiary of McWane. CR at III-2, PR at III-2.

[62] *See* Structural Steel Beams From Germany, Japan, Korea, and Spain, Invs. Nos. 701-TA-401 (Preliminary) and 731-TA-852-855 (Preliminary), USITC Pub. 3225 (Sept. 1999) at 8.

responsible for a predominant portion of an importer's purchases and the importer's purchases were substantial.[63]

*** accounted for *** percent of subject imports in 1999,[64] and Empire's purchases accounted for *** percent of *** imports in 1999.[65] For the purposes of the preliminary phase of this investigation, we find these volumes sufficient to view Empire as a related party. However, we do not find appropriate circumstances to exclude Empire from the domestic industry.

While Empire's *** subject imports in 1999 were not insignificant,[66] the evidence in the record suggests that Empire's primary interests continue to lie in domestic production of foundry coke, and not in importation. The importer (***) from whom Empire ***, has since exited the market.[67] In addition, Empire's *** in proportion to Empire's foundry coke production, equaling *** percent of Empire's *** foundry coke production.[68]

In its producers' questionnaire response, Empire indicated that it ***.[69] Thus, it appears that Empire's transactions concerning the subject imports may have been prompted by the needs of its related purchasers to stay competitive with their competitors who may have been purchasing and using Chinese coke.[70] Further, in its questionnaire response, Empire, a non-petitioning company, ***.[71] Based on the information in the record, we find that appropriate circumstances do not exist to exclude Empire from the domestic industry.

III. CONDITIONS OF COMPETITION[72]

Several conditions of competition are pertinent to our analysis in this investigation. First, environmental compliance costs represent a significant ongoing cost for the domestic foundry coke industry.[73] The industry has already spent over $100 million in complying with environmental

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[63] *See, e.g.*, Certain Cut-to-Length Steel Plate from the Czech Republic, France, India, Indonesia, Italy, Japan, Korea, and Macedonia, Invs. Nos. 701-TA-387-392 and 731-TA-815-822 (Preliminary), USITC Pub. 3181 at 12 (Apr. 1999); Certain Brake Drums and Rotors from China, Inv. No. 731-TA-744 (Final), USITC Pub. 3035 at 10 n.50 (Apr. 1997).

[64] CR at IV-2, PR at IV-1.

[65] CR at III-2, PR at III-2. *** did not return an importers' questionnaire, but Empire reported that *** imported *** metric tons of subject coke on Empire's behalf in 2000. CR at IV-1, n. 1, PR at IV-1, n. 1. As such, there is limited information in the current record to ascertain whether Empire's *** were sufficient to amount to "control" of a large share of subject imports.

[66] Empire's *** subject Chinese coke were equal to *** percent of Empire's foundry coke production in 1999. CR at III-2, PR at III-2.

[67] CR at IV-2, PR at IV-1.

[68] CR at IV-1, n. 1, PR at IV-1, n. 1; Empire's Producers' Questionnaire Response.

[69] Empire's Producers' Questionnaire Response at 6.

[70] The need for the purchasers of foundry coke to compete in their end markets with other manufacturers who are using Chinese coke, or with low-priced Chinese end product, was noted by two purchasers–one a pipe and fittings producer, and the other a producer of manhole covers. Conference Tr. at 42-43, 44-45.

[71] For example, Empire indicated that *** and that it ***. Empire's Producers' Questionnaire Response at ***.

[72] Imports from China accounted for all U.S. imports of foundry coke during the period of investigation. CR and PR at Table IV-1. Therefore, negligibility is not an issue in this investigation.

[73] Petition at 12-13; Conference Tr. at 17-18, 32, 35.

regulations, in particular the Clean Air Act of 1990, and there are further significant costs that domestic foundry coke producers will continue to incur in the future in order to stay environmentally compliant.

In addition, the record suggests that the industry may be capital intensive and that capital expenditures are likely to increase in the imminent future as maintenance and repair costs on aging equipment increase.[74] High expenses associated with building and maintaining the production equipment as well as costs of complying with environmental requirements may indicate that the industry must maintain high capacity utilization rates to offset its costs.[75]

Demand for foundry coke is derived from the demand for the end products produced by purchasers in the automotive and truck building sectors and the pipe and fittings sectors.[76] [77] From 1997 through 1999, apparent U.S. consumption of foundry coke increased by 8.5 percent.[78] However, apparent consumption was 3.3 percent lower during the first half of 2000 relative to the comparable period for 1999.[79] According to petitioners, 1999 marked the top of a business cycle that has begun to fall as the demand for foundry coke declines in response to declines in end use markets.[80]

Domestic capacity utilization for foundry coke remained relatively steady at approximately 75 percent from 1997 through 1999 and during interim 1999.[81] In interim 2000, capacity utilization dropped to 70 percent.[82] Concurrent with the lower capacity utilization rates and decreased demand during interim 2000, U.S. producers' domestic shipments fell relative to interim 1999, while shipments of subject imports rose relative to interim 1999.[83] There were no nonsubject imports of foundry coke into the United States during the period of investigation.[84]

The evidence obtained during the preliminary phase of this investigation indicates that price is the most important factor in the sale of foundry coke, although quality and availability are also important considerations in purchase decisions.[85] The current record lacks some pertinent information relevant to evaluating the degree to which the domestic product and subject imports are substitutable. However, the evidence in the current record suggests that at least some purchasers, particularly in the pipe and fittings sectors, view the Chinese product as substitutable for the domestic product.[86] Notwithstanding quality

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[74] *See, e.g.*, Conference Tr. at 18-19, 35, 65-67, 72-73.

[75] In any final investigation, we intend to explore further petitioners' assertions concerning the capital intensive nature of the industry and the need to maintain high capacity utilization rates.

[76] CR at II-3, PR at II-2; Conference Tr. at 26, 28; Section 332 Report at 2-4.

[77] We note as a condition of competition that two domestic producers–*** and ***--reported internal transfers of foundry coke to related pipe foundries in the United States. CR at III-4, PR at III-3. No party has argued for application of the statutory captive production provision, 19 U.S.C. § 1677(7)(C)(iv), and for the purposes of the preliminary phase of this investigation, we do not address the applicability of that provision. We note, however, that the proportionate share of internal transfers amounted only to *** percent of 1999 U.S. shipments by domestic producers. CR and PR at Table III-2.

[78] CR and PR at IV-3 and Tables IV-2, IV-3 and C-1.

[79] CR and PR at IV-3 and Tables IV-2, IV-3 and C-1.

[80] Conference Tr. at 17-18, 26, 30.

[81] CR and PR at Table III-1.

[82] CR and PR at Table III-1.

[83] CR and PR at Table IV-3.

[84] CR and PR at Table IV-3.

[85] CR at II-4, PR at II-3.

[86] *See, e.g.*, CR at II-4, PR at II-3; Conference Tr. at 39-41, 42-43. In any final investigation, we intend to

(continued...)

differences, these purchasers indicated that they are willing to test the Chinese product or that they had already done so and found the Chinese product to be satisfactory for their uses, either alone or in combination with the domestic product.[87]

Transportation costs are an important factor in the price of foundry coke because such costs are high relative to the value of the product.[88] U.S. producers report that transportation costs account for between *** percent of the total cost of foundry coke.[89] As a consequence of the high freight costs, sales tend to be concentrated within a geographically close range to each producer.[90]

Most U.S. sales of foundry coke are on a contract basis, varying in duration from one to five years for domestic producers and from *** for importers.[91] All responding domestic producers and importers reported that foundry coke prices are fixed in their contracts, and *** reported that quantities are also fixed.[92] Notwithstanding the prevalence of fixed price contracts, all responding domestic producers, as well as ***, reported that their contracts contain meet-or-release provisions.[93] Domestic producers typically negotiate their contracts during the last quarter of the year, and are now in the process of negotiating contracts for 2001 with their customers.[94]

IV. REASONABLE INDICATION OF THREAT OF MATERIAL INJURY BY REASON OF ALLEGEDLY LTFV IMPORTS

Section 771(7)(F) of the Act directs the Commission to determine whether the U.S. industry is threatened with material injury by reason of the subject imports by analyzing whether "further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted."[95] The Commission may not make such a determination "on the basis of mere conjecture or supposition,"[96] and considers the threat factors "as a whole." In making our determination, we have considered all factors that are relevant to this

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[86] (...continued)
explore further the degree to which this is true across the various purchaser markets. For example, we intend to seek further information addressing substitutability for non-metallurgy uses, such as automotive parts.

[87] Conference Tr. at 39-40, 44; CR at II-4, n. 9, PR at II-3, n. 9.

[88] CR at V-1, PR at V-1.

[89] CR at V-1, PR at V-1.

[90] CR at V-1-2, PR at V-1.

[91] CR at V-3-4, PR at V-2. The record indicates that *** percent of reported sales by domestic producers were by contract, and *** percent of importers' sales were by contract. *Id.*

[92] CR at V-3, PR at V-2.

[93] In any final investigation, we intend to explore further the extent to which contracts contain meet-or-release clauses or similar provisions, and the extent to which such clauses are exercised. In addition, Commissioner Askey intends to request the parties to supply copies of the actual contracts containing such clauses.

[94] Conference Tr. at 30.

[95] 19 U.S.C. §§ 1673b(a) and 1677(7)(F)(ii).

[96] 19 U.S.C. §1677(7)(F)(ii). An affirmative threat determination must be based upon "positive evidence tending to show an intention to increase the levels of importation." Metallverken Nederland B.V. v. United States, 744 F. Supp. 281, 287 (Ct. Int'l Trade 1990), *citing* American Spring Wire Corp. v. United States, 590 F. Supp. 1273, 1280 (Ct. Int'l Trade 1984). *See also* Calabrian Corp. v. United States, 794 F. Supp. 377, 387-88 (Ct. Int'l Trade 1992), *citing* H.R. Rep. No. 1156, 98th Cong., 2d Sess. 174 (1984).

investigation.[97] [98] [99] In considering the statutory threat factors, we have taken into account the current state of the industry and conditions of competition distinctive to the foundry coke industry.[100] Based on an evaluation of the relevant statutory factors, we find that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of foundry coke from China that are allegedly sold in the United States at less than fair value.

By quantity and value, the volume of subject imports increased during the period of investigation, from 26,647 metric tons valued at $3.0 million in 1997 to 113,332 metric tons valued at $12.9 million in 1999.[101] More notably, there was a marked increase in the volume of subject imports in the interim periods, with 9,130 metric tons valued at $1.3 million entering during the first six months of 1999, as compared to 38,980 metric tons valued at $4.1 million entering during the comparable period in 2000.[102] Subject imports' market share also increased during the period of investigation, from no share in 1997 to 1.3 percent in 1998 and then to 9.0 percent in 1999.[103] Likewise, subject imports gained market share in interim 2000 relative to interim 1999, with their share increasing from 2.6 percent to 7.0 percent.[104] In terms of value, subject imports' share of the market also increased, albeit at a somewhat slower rate than the volume increase. By value, subject imports represented none of the market in 1997, 1.0 percent in 1998, and 6.7 percent in 1999; for the interim periods, subject imports' market share was 2.3 percent in 1999 and 6.2 percent in 2000.[105] By volume and value, U.S. producers' market share declined inversely to subject imports' share, dropping from essentially 100 percent of volume and value in 1997 to 98.7 percent of volume and 99.0 percent of value in 1998, and then to 91.0 percent of volume and 93.3 percent of value in 1999.[106] For interim 2000, as compared to interim 1999, U.S. producers' market share was 4.4 percentage points lower by quantity and 3.9 percentage points lower by value.[107] We find that the rate of increase in subject import volume, both in absolute terms and as a share of

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[97] 19 U.S.C. § 1677(7)(F)(i). Factors I and VII are inapplicable since this investigation does not involve a countervailable subsidy or the importation of agricultural products.

[98] The statute instructs the Commission to consider the "magnitude of the dumping margin" in an antidumping proceeding as part of its consideration of the impact of imports. 19 U.S.C. § 1677(7)(C)(iii)(V). In its notice of initiation, Commerce estimated a 226.38 percent antidumping duty margin. 65 Fed. Reg. 61303, 61305 (Oct. 17, 2000).

[99] Commissioner Bragg notes that she does not ordinarily consider the magnitude of the margin of dumping to be of particular significance in evaluating the effects of subject imports on the domestic producers. *See* Separate and Dissenting Views of Commissioner Lynn M. Bragg in Bicycles from China, Inv. No. 731-TA-731 (Final), USITC Pub. 2968 (June 1996).

[100] *See* Suramerica de Aleaciones Laminadas, C.A. v. United States, 44 F.3d 978, 983 (Fed. Cir. 1994); NEC Corp. v. Dept. of Commerce and USITC, 83 F.Supp.2d 1339, 1342-43 (Ct. Int'l Trade 1999); Calabrian Corp., 794 F. Supp. at 387-88.

[101] CR and PR at Table IV-1. We note, however, that a large portion of this increase was attributable to imports by or shipments to end users related to U.S. foundry coke producers. *See* CR and PR at Tables IV-1 and IV-2; Questionnaire Responses of *** and ***.

[102] CR and PR at Table IV-1.

[103] CR and PR at Table IV-3.

[104] CR and PR at Table IV-3.

[105] CR and PR at Table IV-3.

[106] CR and PR at Table IV-3.

[107] CR and PR at Table C-1.

apparent consumption, provides an indication that subject imports are likely to increase significantly in the imminent future.

The record on production capacity and capacity utilization in China is very limited in the preliminary phase of this investigation.[108] Indeed, the limited data about the Chinese industry makes it difficult to conclude, under the American Lamb standard, that the evidence for a negative determination is "clear and convincing" and that no relevant contrary evidence will arise in a final determination.[109] The limited data we do have indicate that the Chinese producers have been operating at high capacity utilization rates in 1999 and interim 2000. However, even these limited data indicate that Chinese production capacity is almost double the volume of foundry coke exported from China to the United States in 1999.[110] Moreover, the information obtained in the Commission's recent Section 332 study shows that Chinese producers' capacity to produce foundry coke exceeds that reported in the preliminary phase of this investigation.[111] Although respondents have argued that many Chinese production facilities have shut down as a result of recent environmental enforcement requirements,[112] the current record lacks information as to whether these facilities have been or will be replaced.[113]

A significant and increasing percentage of the reported Chinese production is exported, while Chinese home market shipments have remained steady.[114] The reporting Chinese producers increased their shipments to the United States from no exports in 1997 to 15,000 metric tons in 1998 and then to 31,573 metric tons in 1999. The interim data indicate that the volume of exports to the United States are continuing to increase, with 45,296 metric tons entering the United States in interim 2000 as compared to 18,500 metric tons that entered in interim 1999.[115] The data currently in the record thus indicate that Chinese foundry coke producers are at least somewhat export oriented, and have focused an increasing percentage of these exports toward the United States market.

In addition, the likelihood of substantially increased imports of the subject merchandise into the United States is further indicated by the existence of antidumping duty remedies issued by third countries. In January 2000, India imposed antidumping duties ranging from $18.00 to $25.00 per metric ton on imports of foundry coke from China.[116] In June 2000, the European Union, China's second largest export market for foundry coke, imposed provisional antidumping duties on imports of foundry coke from China, with margins of 45.1 percent.[117] We find it likely that the existence of these orders could cause producers in China to divert exports to other markets, including the United States.

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[108] *See* CR at VII-3, PR at VII-3.

[109] *See* American Lamb, 785 F.2d at 1001.

[110] CR and PR at Tables IV-1 and VII-1.

[111] *See* Section 332 Report at III-3.

[112] Respondents' Postconference Brief at 43 and Q-14-21. *See also* Respondents' letter to staff, dated Oct. 30, 2000.

[113] We intend to explore this question further in any final investigation.

[114] CR and PR at Table VII-1.

[115] CR and PR at Table VII-1.

[116] Petition at Exhibit 7; Petitioners' Postconference Brief at Exhibit 16; CR at VII-3, PR at VII-2.

[117] Petition at 20 and Exhibit 20; Petitioners' Postconference Brief at Exhibit 15; CR at VII-3, PR at VII-2.

The record indicates that foundry coke producers generally do not maintain inventories.[118] The limited data provided by Chinese producers show no inventories of the subject merchandise in China.[119] However, U.S. importers reported substantial but declining end-of-period inventories held in December of 1997, 1998, and 1999, as well as in June 2000.[120]

Although Chinese producers may theoretically be able to switch from production of blast furnace coke to foundry coke, the limited record in the preliminary phase of this investigation does not contain information which indicates that subject producers are in fact able to product shift.[121]

In considering whether the subject imports are likely to depress or suppress domestic prices to a significant degree, we note that subject imports undersold the domestic product in all except one comparison over the period examined.[122] Although there was no significant effect on U.S. producers' prices during most of the period of investigation, U.S. producers' reported prices for the one product examined declined significantly toward the end of the period.[123] In addition, several purchasers confirmed allegations of lost sales and revenues that occurred during the latter part of the investigation.[124] However, the average unit value of shipments of the domestic like product increased slightly over the period of investigation, while the average unit values of the subject imports showed no clear trend.[125] The apparent underselling instead may reflect quality and substitutability issues that we intend to examine further in any final phase of the investigation. We find that, especially given the apparent recent decline in domestic consumption and the likely significant subject import volume increases, these imports are likely to enter the United States at prices that would have a significant depressing or suppressing effect on domestic prices of foundry coke.

We also find that the imports of foundry coke from China are likely to have a significant adverse impact upon the performance of the United States industry. Despite their market share losses from 1997 through 1999, U.S. producers' open market U.S. shipments were unchanged during this period, as apparent domestic consumption rose from 1997 to 1999.[126] The data indicate, however, that the subject imports captured nearly all of the growth in the U.S. market, thereby depriving the domestic producers of participating in the market expansion. Moreover, the data in the current record suggest that apparent consumption has begun to decline, as reflected in the interim data.[127] In addition, domestic producers' total U.S. shipments (including open market shipments and internal transfers) declined by 1.3 percent

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[118] CR at II-1, PR at II-1; Petition at 20 and Exhibit 20; Petitioners' Postconference Brief at Exhibit 15; CR at VII-3, PR at VII-2.

[119] CR and PR at Table VII-1.

[120] CR and PR at Table VII-2. Respondents asserted that these inventory levels reflect their need to build up inventories in order to supply customers in the Midwest and Northern region of the United States when barge traffic shuts down during the winter months. Respondents' Postconference Brief at 49-50; Conference Tr. at 102. We will seek to explore this contention further in any final investigation.

[121] In any final investigation, we may examine further respondents' contention that product shifting toward more foundry coke production for export is unlikely, given the significant supply deficit for blast furnace coke in the United States. Respondents' Postconference Brief 48.

[122] CR and PR at Table V-1.

[123] CR and PR at Table V-1.

[124] CR and PR at Table V-2; Conference Tr. at 41, 44.

[125] CR and PR at Tables VI-3 and IV-1.

[126] CR and PR at Tables IV-2 and IV-3.

[127] Apparent U.S. consumption was 578,124 metric tons in interim 2000, as compared to 598,125 metric tons in interim 1999. CR and PR at Table IV-2.

from 1997 to 1999, and were 7.7 percent lower in interim 2000 than they were in interim 2000.[128] We note, however, that some of the decline reflected a drop in domestic producers' internal transfer shipments.[129]

The subject imports did not have a significant adverse impact on the industry during the period of investigation. The industry remained profitable throughout the period of investigation; however, its operating income -- in absolute terms, on a per-unit basis, and as a percentage of sales -- declined between 1998 and 1999 and showed further declines in a comparison of the interim periods.[130] At the same time, SG&A expenses also increased, but at a slower rate, and capital expenditures fell.[131] We note that the financial position of several members of the industry was more precarious than that of others. Given the substantial environmental compliance expenses that this industry will be required to expend on an ongoing basis, as well as other high maintenance costs associated with foundry coke production, we find it likely that the declines indicated towards the end of the period of investigation will continue at a significant rate if the industry is forced to continue competing with the increasing volumes of low priced subject imports.

Related to the likely financial impact, we have also examined the statutory criterion concerning the actual and potential negative effects on the existing development and production efforts of the domestic industry.[132] As indicated above, the domestic producers have been and will continue to be required to make significant capital expenditures to comply with environmental requirements. To the extent that the subject imports may adversely affect the industry's profitability, the subject imports are likely to have a significant adverse impact on the industry's efforts to produce foundry coke in compliance with environmental regulations.

Therefore, based on the record in the preliminary phase of this investigation, we find there is a reasonable indication that the U.S. industry producing foundry coke is threatened with material injury by reason of allegedly LTFV imports of foundry coke from China.

CONCLUSION

For the reasons stated above, we determine that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of foundry coke from China that are allegedly sold in the United States at less than fair value.

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[128] CR and PR at Tables IV-2 and C-1.

[129] In any final investigation, we intend to examine further the internal transfers.

[130] CR and PR at Tables VI-1 and C-1. Between 1998 and 1999, gross profits fell by 17.4 percent, unit operating income declined by 22.2 percent, and operating margins declined by 4.1 percentage points. In interim 2000, as compared to interim 1999, gross profits were lower by an additional 18.2 percent, unit operating income declined by an additional 20.8 percent, and operating margins declined by an additional 3.2 percentage points.

[131] CR and PR at Tables VI-1 and C-1.

[132] 19 U.S.C. § 1677(7)(F)(I)(VIII). The record indicates that the industry is unlikely to be engaged in the development of derivative or more advanced versions of the like product. Therefore, that specific aspect of this threat criterion is not relevant in this investigation.

PART I: INTRODUCTION

BACKGROUND

This investigation results from a petition filed by ABC, Birmingham, AL; Citizens, Indianapolis, IN; Erie, Erie, PA; Tonawanda, Tonawanda, NY; and the United Steelworkers of America, AFL-CIO on September 20, 2000, alleging that an industry in the United States is materially injured and threatened with material injury by reason of LTFV imports of foundry coke[1] from China. Information relating to the background of the investigation is provided below.[2]

Date	*Action*
September 20, 2000 .	Petition filed with Commerce and the Commission;[3] institution of Commission investigation (65 FR 58103, September 27, 2000)
October 11, 2000 ...	Commission's conference[4]
October 17, 2000 ...	Commerce's notice of initiation (65 FR 61303)
November 6, 2000 ..	Commission's vote
November 14, 2000 .	Commission determination due to Commerce

SUMMARY DATA

A summary of data collected in the investigation is presented in appendix C, table C-1. Except as noted, U.S. industry data are based on questionnaire responses of 6 firms that accounted for nearly 100 percent of U.S. production of foundry coke during 1999.[5] U.S. imports are based on the questionnaire responses of 5 firms that accounted for all of U.S. imports of foundry coke during 1999.

THE PRODUCT

Physical Characteristics and Uses[6]

For purposes of this investigation, foundry coke is defined as coke larger than 100 mm (4 inches) in maximum diameter and at least 50 percent of which is retained on a 100-mm (4-inch) sieve, of a kind used in foundries, as covered by statistical reporting number 2704.00.0010 of the HTS.[7]

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[1] For purposes of this investigation, foundry coke is provided for in heading 2704.00.00 of the HTS. All types of coke enter the United States free of duty from all sources.

[2] *Federal Register* notices cited in the tabulation are presented in app. A.

[3] The petition alleged LTFV margins to be as follows: 205.21 percent for China.

[4] A list of witnesses who appeared at the conference is presented in app. B.

[5] Acme also produced some foundry coke on a trial basis during 1999, but the Commission did not receive the firm's response to its producer's questionnaire in time to be incorporated into this report.

[6] Information in this section is derived from the Commission's 332 investigation on foundry coke and from Anderson Jr., Nils: *North American Coke Today...Red Hot Coke for Red Hot Iron 1990.*

[7] Foundry coke is the only type of coke for which separate data are gathered in official statistics. Therefore, this statistical reporting number does not include industrial coke, which is generally under 4 inches. However, because

(continued...)

There are three subgroups of metallurgical coke: foundry coke, blast furnace coke, and other industrial coke, including both industrial coke and coke breeze. Foundry coke is the carbonized product used both as a fuel and as a source of carbon in a cupola furnace for the production of molten iron. Foundry coke, as a fuel, is used to melt scrap or pig iron with other compounds; it is also used as a source of carbon for the melted product. The molten iron is then used to make various cast products such as automotive engines. As a result, it is necessary for the foundry coke to have a good strength and low ash content. Blast furnace coke is a type of metallurgical coke used in an iron-making blast furnace for the production of steel. Blast furnace coke requires higher temperatures and shorter coking times than foundry coke and does not necessarily need to be of a uniform shape and/or size as does foundry coke. Also, unlike foundry coke, coals are usually not blended to produce blast furnace coke, nor does the coke need to be screened. Industrial coke is defined as those products that are not used in either a blast furnace or foundries, either because of the size, carbon content, or ash content. Finally, coke breeze is the fine screenings from crushed coke used predominantly as a fuel source in the process of agglomerating iron.

Manufacturing Process

Foundry coke is produced using one of two processes: the byproduct recovery process or the beehive process. In the United States, foundry coke producers use the byproduct recovery process, in which coking coals are heated in a retort oven until the volatile materials burn off; the volatile materials are then collected for further processing. The retort ovens, also called slot ovens because of their shape, are constructed in batteries containing 10 to 100 ovens in series. The coking chambers alternate with heating chambers so each oven is heated on each side, with the coking process proceeding from the sides to the center of the oven. After the coking coals are loaded into the oven, it is heated to 900° to 1,100°C, usually for 26 to 32 hours. As the coking process proceeds, pressure builds, forcing the volatile compounds out of the oven through "offtake" pipes to the collecting main, where they are treated and separated for further processing.

After the coking process is completed, the doors on both ends of the oven are opened and a ram placed in front of one opening pushes the foundry coke cake out the other side into a quenching car. At this point, the foundry coke has a temperature of about 1,000°C and must be cooled before further processing. In the United States, the most common method for cooling the foundry coke is wet quenching. In this operation, the quenching car containing the foundry coke proceeds to the quenching tower, usually located at the end of the battery, where the hot foundry coke is sprayed with water until cooled. The quenched foundry coke is then brought to the coke wharf, where it is deposited for further cooling. The wharf is sloped, so the foundry coke slides onto a conveyer belt at the bottom that moves it to the screening and loading operations.

In the beehive process, which is used in China, crushed and blended coking coals are placed in a kiln lined with firebrick and ignited while restricting the air flow. The older dome-shaped ovens were usually built in single rows against an earthen bank or against another row of ovens. Coking time for foundry coke produced using the beehive process is about 8 to 11 days. Several ovens are also connected to a common chimney that is used to disperse the waste emissions directly into the atmosphere.

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[7] (...continued)
of possible degradation during transit, most coke imported into the United States as foundry coke is actually a mixture of foundry and industrial coke. Respondents estimate that degradation averages 20-25 percent per shipment. Conference transcript, pp. 125 and 130. Petitioners believe that importers' degradation rate is overstated and that it is actually somewhere in the range of *** percent. See petitioners' postconference brief, p. 15.

LIKE PRODUCT ISSUES

This section presents information related to the Commission's "domestic like product" determination.[8] Both petitioners and respondents argue for a single domestic like product consisting solely of foundry coke. However, respondents suggest that the like product could be expanded to include both blast furnace coke and industrial coke. The following discussion summarizes the parties' arguments concerning the like product issue.

Blast Furnace Coke

Blast furnace coke is a type of metallurgical coke used in iron-making blast furnaces, specifically to produce molten iron, which is further refined and alloyed to make steel. Blast furnace coke is usually 1 to 3 inches in diameter, and according to respondents, is a stable product that is able to withstand abrasion and breaking during handling.[9] Both blast furnace and foundry coke are produced from metallurgical coals. Foundry coke is produced from a blend of coals, which distinguishes it from blast furnace coke, which is not produced from blended coals.[10] Respondents argue that this results in only slight differences between the chemistries of blast furnace coke and foundry coke. According to respondents, the primary physical difference between blast furnace coke and foundry coke is size.[11]

Both blast furnace and foundry coke may be made in the same ovens, using the same PRWs.[12] Respondents further assert that all coke can and does use the same manufacturing facilities, production processes, and production employees. Some of the production equipment, as well as the coking time required for each type of coke, may vary. ***.[13] Respondents state that blast furnace and foundry coke are somewhat interchangeable for certain end users, because almost all foundry end users of foundry coke obtain and use blast furnace coke in their operations when foundry coke breaks up into sizes smaller than 4 inches during the delivery process to the foundry.[14] The record indicates, however, that blast furnace coke is only used in the production of steel and can not used in foundry cupolas because of its smaller size.[15] Respondents suggest that blast furnace coke and foundry coke are both sold to end users who use coke in their production process. In general, blast furnace coke is sold to steel manufacturers while foundry coke is sold to foundries. Respondents assert that while customers may perceive a

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

[9] Respondents' postconference brief, p. Q-8.

[10] Conference transcript, pp. 16 and 54.

[11] Respondents' postconference brief, p. Q-8.

[12] Three U.S. producers, ***, ***, and ***, all make blast furnace coke in addition to foundry coke. *** and *** both make foundry and blast furnace coke in the same ovens, although they do use different coals and a shorter coking time in order to do so. *** produces the two products in separate ovens, but did not rule out the possibility of using one oven for both products. (See phone interviews of October 23, 2000 and October 24, 2000).

[13] Phone interview of October 23, 2000.

[14] Respondents' postconference brief, p. Q-9.

[15] Anderson Jr., Nils: *North American Coke Today...Red Hot Coke for Red Hot Iron 1990*, pp. 42-44.

difference between the cokes, that perception is based primarily on the size of the product. Finally, blast furnace coke is sold at a cheaper price than foundry coke.[16]

Petitioners counter that most foundry coke in the United States is produced by merchant coke producers, whereas most blast furnace coke is produced captively by domestic steel producers.[17] Foundry and blast furnace coke have different physical characteristics, including different sizes and chemistries, and are produced from different coal blends.[18] Petitioners further aver that foundry and blast furnace coke have different end uses. Foundry coke is used in cupola foundries for the production of iron, while blast furnace coke is used in blast furnaces for the production of steel. Finally, end users perceive the products as being different, and the products are sold through different channels of distribution.[19]

Industrial Coke

Respondents define industrial coke as consisting of the undersized material (less than 4 inches) after the screening of blast furnace and foundry coke.[20] Industrial coke is used as a fuel in the production of rock wool, sugar beets, calcium carbide, and smelting lead.[21] As it may be a byproduct of both foundry and blast furnace coke production, the primary difference between foundry coke and industrial coke, as indicated by respondents, is its size rather than its chemical composition.[22] Given that industrial coke is undersized foundry coke, industrial coke uses the same manufacturing facilities, production processes, and production employees.[23] Like blast furnace coke, respondents argue that industrial coke is somewhat interchangeable with foundry coke. Again, all three are forms of metallurgical coke and all are used primarily as a fuel source. Industrial coke, because of its size, cannot be used in foundry production, and is generally only used in the production of non-foundry products, such as rock wool and smelting lead.[24] Respondents contend that on a basic level, industrial coke shares the same channels of distribution as foundry coke, both going to end users who use the coke in their production process. Industrial coke, however, is generally only sold to end users able to utilize less-than-4 inch coke, i.e. non-foundry users. Customers perceive differences between the three forms of metallurgical coke, but respondents argue that the perception is based primarily on the size of the product.[25] Finally, like blast furnace coke, industrial coke sells at a lower price than foundry coke.[26]

With respect to industrial coke, petitioners argue that while industrial coke is largely a byproduct of foundry coke production, it differs from foundry coke by size, end user, customer perception, and

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[16] Respondents' postconference brief, p. Q-11.

[17] Conference transcript, p. 56.

[18] Petitioners' postconference brief, p. 4.

[19] Ibid.

[20] Degradation often results in imported foundry coke also containing industrial coke. USG Interiors believes that an antidumping order on foundry coke would effectively preclude imports of industrial coke from China because industrial coke imports generally enter the United States as a byproduct of imports of foundry coke, as foundry coke is defined in the petition. USG Interiors' postconference brief, p. 2.

[21] Conference transcript, p. 151.

[22] Respondents' postconference brief, p. Q-8.

[23] Conference transcript, pp. 68-69.

[24] Ibid., pp. 151-152.

[25] Respondents' postconference brief, p. Q-9.

[26] Ibid., p. Q-11.

price.[27] Customers use industrial coke in different end uses, as mentioned above. Further, industrial coke prices range from *** less per ton than foundry coke.[28]

[27] Petitioners' postconference brief, p. 4.

[28] Ibid., p. 5.

PART II: CONDITIONS OF COMPETITION IN THE U.S. MARKET

U.S. MARKET SEGMENTS/CHANNELS OF DISTRIBUTION

Sales of foundry coke in the U.S. market by U.S. producers and importers take place directly to end users. It is generally accepted that U.S. foundry coke is a higher quality (that is lower ash and higher carbon content) than the foundry coke imported from China and can be used interchangeably in most, if not all, applications.[1]

SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

Based on available information, U.S. foundry coke producers are likely to respond to changes in demand with changes in the quantity of shipments of U.S.-product to the U.S. market. The main contributing factors to the high degree of responsiveness of supply are the availability of unused capacity, which is sufficient to meet current domestic demand as well as projected future demand.[2]

Industry Capacity

U.S. capacity has remained unchanged during 1997-99 as capacity is directly related to the number of ovens in operation. Data reported by U.S. producers indicate that there is available capacity with which to expand production. Domestic capacity utilization remained relatively stable at 75 to 76 percent during 1997-99. However, capacity utilization decreased from 75 percent during the first half of 1999 to 70 percent during the first half of 2000.

Inventory Levels

Foundry coke is generally not inventoried for long periods because of degradation.[3] However, inventories increased slightly from 43,608 metric tons in 1997 to 46,017 metric tons during 1999; inventories during the first half of 2000 decreased to 39,061 metric tons. Inventories accounted for 3.7 percent of production and of U.S. producers' total shipments in 1999.

Export Markets

Because of their close proximity, the principal markets for U.S. foundry coke exports are Canada and Mexico. Available data indicate that U.S. producers' exports of foundry coke increased slightly from 102,794 metric tons in 1997 to 106,829 metric tons in 1999. As a share of total shipments, exports accounted for 8.2 percent in 1997 and rose slightly to 8.3 percent in 1999 and to 8.8 percent during January-June 2000. Data indicate that U.S. producers have some limited ability to respond to changes in prices in the U.S. market by diverting foundry coke to or from the U.S. market.

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[1] U.S. producers' and importers' responses to Commission questionnaires.

[2] USITC, *Foundry Coke: A Review of the Industries in the United States and China*, Inv. No. 332-407, pub. No. 3323, July 2000, p. 2-11.

[3] Conference transcript, p. 69.

Production Alternatives

While it may be possible for U.S. foundry coke producers to use their facilities in the production of blast furnace coke, producers have spent substantial capital in coal-blending facilities, screening facilities, and other technologies specific to the production of foundry coke but not needed to produce blast furnace coke. The industry is unable to shift to the production of blast furnace coke because existing foundry coke ovens are old and the shorter coking times (more pushes during a cycle) required for blast furnace coke production would cause extensive damage to oven walls that could not be repaired.[4] In addition, the more pushes per day, the less likely that many of the plants could meet the provisions of the Clean Air Act.[5] Also, under the provisions of the Clean Air Act, permits for higher through-puts are capped and cannot be increased; for example, Tonawanda's operating permit is restricted to 25 percent of the maximum furnace coke production.[6]

U.S. Demand

Demand Characteristics

U.S. producers and importers generally agree that demand for foundry coke in the United States has remained relatively constant or decreased somewhat during the period for which data were collected. However, available data indicate that U.S. apparent consumption of foundry coke increased slightly from 1.2 million metric tons in 1997 and 1998 to 1.3 million metric tons in 1999. U.S. apparent consumption decreased from 598,125 metric tons during January-June 2000 to 578,124 metric tons during January-June 2000. During the period for which data were collected, U.S. producers' shipments generally declined while imports from China increased substantially.

Five of the U.S. producers responded that overall demand has remained constant but that demand for domestic production decreased due to lower-priced imports. Both responding importers reported that demand has remained constant or decreased somewhat.

Substitute Products

Based on responses from both U.S. producers and importers, there are no known commercial substitutes for foundry coke in cupolas as a source of fuel and carbon. All of the responding U.S. producers and 1 importer, ***, reported that there were no substitutes for foundry coke in foundry applications. One importer, ***, reported that other production processes, such as the use of formed coke and electric arc furnaces, were being tested by some end users; however formed coke is not commercially viable and electricity cannot be used in most foundry applications.

Cost Share

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[4] USITC, *Foundry Coke: A Review of the Industries in the United States and China*, Inv. No. 332-407, pub. No. 3323, July 2000, p. 2-11 and conference transcript, p. 72.

[5] Conference transcript, p. 72. For more detailed information concerning the provisions of the Clean Air Act of 1990 concerning foundry coke production see USITC, *Foundry Coke: A Review of the Industries in the United States and China*, Inv. No. 332-407, pub. No. 3323, July 2000, pp. 2-13 to 2-23.

[6] Conference transcript, p. 76.

Foundry coke is used in foundry cupola furnaces as both a source of fuel and carbon to melt scrap steel in the production of certain auto parts, pipes, and other castings. Based on responses to questionnaires, the total cost of foundry products accounted for by foundry coke varies based on the application but is estimated at 5 to 10 percent.

SUBSTITUTABILITY ISSUES

The degree of substitution between domestic and imported foundry coke depends upon such factors as price, quality, and availability. Based on the data available at this preliminary phase of the investigation, it is estimated that there is a high degree of substitution between domestic and imported foundry coke.

Factors Affecting Purchasing Decisions

Price is the most important factor in the sale of foundry coke; however, other factors such as quality and availability are also important considerations in purchase decisions.[7] Suppliers generally compete on price[8] only if their product has been tested and deemed as consumable by the end user.

U.S. producers and importers were asked whether there were any differences in product characteristics or sales conditions between the U.S.-produced foundry coke and foundry coke produced in China that were significant factors in their sales of foundry coke. According to U.S. producers, the domestic foundry coke is superior to imported foundry coke in terms of quality but the Chinese product is sold at a much lower price.[9]

Comparisons of Domestic Products, Subject Imports, and Nonsubject Imports

U.S. producers and importers were asked whether foundry coke produced in the United States and in other countries is used interchangeably. All 5 U.S. producers responded that foundry coke from the United States is used interchangeably with product from China and from nonsubject countries but noted that no other countries were exporting foundry coke to the U.S. market.

Both U.S. importers responded that foundry coke from the United States is limited in its interchangeably with product from China. *** reported that some applications cannot use higher ash lower carbon imports from China without oxygen enrichment. *** added that China fills a small market and that foundries mix the imported product with foundry coke produced in the United States in order to attain the proper carbon levels.

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[7] USITC, *Foundry Coke: A Review of the Industries in the United States and China*, Inv. No. 332-407, pub. No. 3323, July 2000, p. 2-11.

[8] Chinese foundry coke was generally offered at about $25 per metric ton less than U.S.-produced foundry coke. Conference transcript, pp. 41 and 74. U.S. importers stated that the lower price is the result of lower transportation costs and, in the case of U-Met, sales to customers without screening for small sizes. Conference transcript, pp. 86-87.

[9] While some foundries use 100 percent Chinese foundry coke, others have mixed Chinese and domestic product in order to obtain the appropriate heat and carbon value. Ward testified that U-Met offered Chinese foundry coke at a "significantly lower price" than its regular U.S. foundry coke supplier and that after test runs, Ward found that the cost savings justified the change to Chinese foundry coke. However, the domestic supplier lowered its price to maintain the business. Conference transcript, pp. 39-41.

PART III: U.S. PRODUCERS' PRODUCTION, SHIPMENTS, AND EMPLOYMENT

The Commission analyzes a number of factors in making injury determinations (see 19 U.S.C. §§ 1677(7)(B) and 1677(7)(C)). Information on the alleged margin of dumping was presented earlier in this report and information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V. Information on the other factors specified is presented in this section and/or Part VI and (except as noted) is based on the questionnaire responses of 6 firms that accounted for *** percent of U.S. production of foundry coke during 1999.[1]

U.S. PRODUCERS

The 6 U.S. producers, ***, their plant locations, and shares of 1999 production are summarized in the following tabulation:

Firm name	Plant locations	Share of 1999 production (*percent*)
ABC	Birmingham, AL	***
Citizens	Indianapolis, IN	***
Empire	Birmingham, AL	***
Erie	Erie, PA	***
Sloss	Birmingham, AL	***
Tonawanda	Tonawanda, NY	***
Total		100.0

ABC, the *** producer of foundry coke in the United States, is a wholly-owned division of the Drummond Company, Inc. Besides foundry coke, which it produces in 132 ovens, ABC also produces tar, light oil, and sulphate and coke oven gas as byproducts of its foundry coke production at its Birmingham facility. ABC has been involved in a toll agreement with *** and is a petitioner in this investigation.

Citizens is the *** producer of foundry coke in the United States, producing the product in 160 ovens. Citizens also produces blast furnace coke, coal tar, coke oven gas, sugar beets, mineral wool, and smelting lead, in addition to its foundry coke production. Blast furnace coke accounts for *** percent of Citizens' sales.[2] Citizens is a petitioner in this investigation.

[1] The Commission received the questionnaire response of Acme, which produced a small volume of foundry coke in 1999 and 2000 on a trial basis, too late to be incorporated into the staff report. Koppers ceased production of foundry coke in 1997.

[2] Citizens is able to produce blast furnace coke because of its Title 5 operating permit under the Clean Air Act. Conference transcript, p. 76.

Empire is a wholly-owned subsidiary of McWane, Inc., of Birmingham, AL. Empire produces special foundry products, such as blacking, seacoal, and fireclay, accounting for *** percent of its sales, as byproducts of its foundry coke production in its 60 ovens. Empire has also ***.[3] ***. Empire ***.[4]

Erie shares joint ownership with Tonawanda of Tonawanda, NY. At its Erie, PA facility, Erie also produces less-than-4-inch coke as well as crude coke oven tar as byproducts of its foundry coke production in its 51 ovens.[5] Less-than-4-inch coke accounts for *** percent of Erie's sales. Tonawanda also produces coke of less than 4 inches, accounting for *** percent of its sales, as well as tar and light oil in its 60 ovens. Both Erie and Tonawanda are petitioners in this investigation.

Sloss is a wholly-owned subsidiary of Walter Industries. Sloss produces both foundry and blast furnace coke at its Birmingham plant in 120 ovens. Its related firm, ***, is an importer of foundry coke from China. ***.

U.S. PRODUCTION, CAPACITY, AND CAPACITY UTILIZATION

As shown in table III-1, U.S. production of foundry coke trended downward, declining slightly by 0.6 percent during 1997-99, and an additional 6.6 percent in the interim period. Capacity remained unchanged during 1997-99, resulting in the capacity utilization rate remaining stable, before falling by 5.0 percentage points in the interim periods.[6]

Table III-1
Foundry coke: U.S. production capacity, production, and capacity utilization, 1997-99, January-June 1999, and January-June 2000

Item	Calendar year			January-June	
	1997	1998	1999	1999	2000
Capacity (*metric tons*)	1,667,549	1,667,549	1,667,549	831,659	832,596
Production (*metric tons*)	1,258,249	1,270,900	1,251,045	624,253	583,070
Capacity utilization (*percent*)	75.5	76.2	75.0	75.1	70.0

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

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

[3] Empire's purchases account for *** percent of ***'s imports in 1999.

[4] Respondents have suggested that Empire be excluded from the domestic industry based on its purchases of imported foundry coke. (Respondents incorrectly identify Empire as the importer of record for these purchases.) Respondents also cite a passage from the firm's producer questionnaire stating that ***. Respondents' postconference brief, p. Q-12. Petitioners counter that Empire, as a producer of foundry coke, has suffered significant injury as a result of Chinese imports, and that imports, on behalf of Empire's parent, are only purchased ***. Petitioners' postconference brief, pp. 5-7.

[5] Erie did not indicate whether its less-than-4-inch coke was considered industrial or blast furnace coke.

[6] Respondents suggest that these capacity utilization rates are somewhat misleading because they do not take into account the byproducts, such as industrial coke, that are often produced as a result of the foundry coke production process. They further contend that utilization rates should be higher as the domestic producers are able to recycle some of their byproducts back into the production process. Respondents' postconference brief, pp. 35-36.

U.S. PRODUCER'S DOMESTIC SHIPMENTS AND EXPORT SHIPMENTS

Open-market U.S. shipments of foundry coke trended upward by *** percent during 1997-99, by quantity, before falling by *** percent in the interim periods, as shown in table III-2. By value, open-market shipments rose during 1997-99 as a result of increasing unit values, which increased by $*** per ton, before falling in the interim periods by $***. Transfer shipments saw a significant decline during the period for which data were collected, falling *** percent by quantity from 1997 to 1999 and by *** percent in the first two quarters of 2000, as compared to the first two quarters of 1999.[7] *** and *** account for all of the industry's transfer shipments. Both firms ship foundry coke to related pipe foundries in the United States. The overall effect was a decline of 1.3 percent of total U.S. shipments by quantity during 1997-99 and a 7.7 percent decline in the interim periods. By value, total U.S. shipments witnessed an increase during 1997-99, with the unit value rising by $5.57 before falling slightly in 2000.

Export shipments of foundry coke trended upward by quantity during 1997-99, by 3.9 percent, before declining slightly in the interim periods. By value, exports rose by a smaller 1.7 percent during 1997-99 as a result of declining unit values, which fell by $3.91. Export unit values remained stable between the interim periods.

[7] Much of this decline was attributable to ***, which did not ship any of its domestically-produced product to related firms in 2000. ***'s transfer shipments also declined in the interim periods, by *** percent.

Table III-2
Foundry coke: U.S. producers' shipments, by types, 1997-99, January-June 1999, and January-June 2000

Item	Calendar year			January-June	
	1997	1998	1999	1999	2000
	Quantity (*metric tons*)				
Open-market U.S. shipments	***	***	***	***	***
Captive U.S. shipments	***	***	***	***	***
Total U.S. shipments	1,151,157	1,177,422	1,136,221	582,721	537,878
Export shipments	102,794	99,059	106,829	53,242	52,158
Total shipments	1,253,951	1,276,481	1,243,050	635,963	590,036
	Value (*1,000 dollars*)				
Open-market U.S. shipments	***	***	***	***	***
Captive U.S. shipments	***	***	***	***	***
Total U.S. shipments	198,782	207,651	202,530	105,350	96,629
Export shipments	18,578	17,708	18,890	9,502	9,309
Total shipments	217,360	225,359	221,420	114,852	105,938
	Unit value (*per metric ton*)				
Open-market U.S. shipments	$***	$***	$***	$***	$***
Captive U.S. shipments	***	***	***	***	***
Total U.S. shipments	172.68	176.36	178.25	180.79	179.65
Export shipments	180.73	178.76	176.82	178.47	178.48
Total shipments	173.34	176.55	178.13	180.60	179.54

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

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

U.S. PRODUCER'S INVENTORIES

U.S. end-of-period inventories of foundry coke fluctuated upward, increasing by 5.5 percent during 1997-99 before increasing significantly, by 57.4 percent, in the first two quarters of 2000, as compared to the first two quarters of 1999 (table III-3). As a result, the ratio of inventories to production, inventories to U.S. shipments, and inventories to total shipments, all increased over the period for which data were collected, most significantly in interim 2000.

Table III-3
Foundry coke: U.S. producer's end-of-period-inventories, 1997-99, January-June 1999, and January-June 2000

Item	Calendar year			January-June	
	1997	1998	1999	1999	2000
EOP inventories *(metric tons)*	43,608	38,023	46,017	24,815	39,061
Ratio to production *(percent)*	3.6	3.1	3.8	2.0	3.3
Ratio to U.S. shipments *(percent)*	3.9	3.3	4.2	2.1	3.6
Ratio to total shipments *(percent)*	3.6	3.1	3.8	2.0	3.3
Source: Compiled from data submitted in response to Commission questionnaires.					

U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY

As with production and shipments, U.S. employment data for foundry coke trended downward during 1997-99, resulting in a decline in overall employment of 12 PRWs. Employment picked up somewhat in the interim periods, rising by 7. The decline in the number of PRWs during 1997-99 also meant a decline in hours worked by 0.3 percent, before an increase of 5.7 percent in 2000. Wages remained relatively stable during the period for which data were collected. Productivity was also stable during 1997-99, before declining in 2000 by 12.1 percent. The result was higher unit labor costs in 2000.

Table III-4
Foundry coke: Average number of PRWs, hours worked, wages paid to such employees, and hourly wages, productivity, and unit labor costs, 1997-99, January-June 1999, and January-June 2000

Item	Calendar year			January-June	
	1997	1998	1999	1999	2000
PRWs *(number)*	976	986	964	960	967
Hours worked *(1,000)*	2,215	2,220	2,208	1,080	1,142
Wages paid *($1,000)*	41,063	40,358	40,523	20,031	20,849
Hourly wages	$18.54	$18.18	$18.35	$18.55	$18.26
Productivity *(metric tons per hour)*	0.57	0.57	0.57	0.58	0.51
Unit labor costs *(per metric ton)*	$32.64	$31.76	$32.39	$32.09	$35.76
Source: Compiled from data submitted in response to Commission questionnaires.					

PART IV: U.S. IMPORTS, APPARENT CONSUMPTION, AND MARKET SHARES

U.S. IMPORTERS

The Commission sent questionnaires to 9 firms believed to be importers of foundry coke; of these, 8 firms supplied questionnaire responses, 5 of which supplied usable data.[1] The five responding firms are believed to have accounted for all imports of foundry coke in 1999.[2]

Because foundry coke is easily damaged in transit, making degradation a major concern, most importers of foundry coke are located within a hundred-mile radius of their clients.[3] Importers of foundry coke are concentrated on the East and West Coast. U-Met services most of the East Coast with its imports coming into the United States through the port at Camden, NJ. Shook receives all of its foundry coke imports at the port in New Orleans, LA, and through a system of barges, transports its merchandise to warehouses located along a river system. The remaining U.S. importers, ***, ***, and ***, are located in the West, in ***, ***, and ***, respectively. *** shares common ownership with ***, a U.S. producer of foundry coke. The firm purchases both domestic foundry coke from *** and Chinese foundry coke. Two of the importers, *** and ***, imported foundry coke for a one year period-- *** in 1999 and *** in 1998. ***, however, accounted for *** percent of total imports in 1999.[4]

U.S. IMPORTS

Imports of foundry coke shown in table IV-1 are based on the responses of 5 firms to the Commission's importer questionnaire.[5] Imports of foundry coke trended upward by quantity during

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[1] Data for ***, ***, and *** were taken from questionnaire responses to the Commission's 332 investigation on foundry coke from China at the explicit permission of the importers. (See phone interviews of October 11, 2000 and October 14, 2000.) The Commission did not receive a questionnaire response from ***, which is known to be an importer of foundry coke. According to ***'s client, ***, the firm imported *** on behalf of *** in 2000. This figure is not included in the import totals for 2000. (See phone interviews of October 11, 2000.) While *** submitted a questionnaire response, respondents informed the Commission that *** is only the broker, and that *** was the importer of record for those shipments.

[2] There may have been some double-counting in the import data in the Commission's 332 on foundry coke, accounting for the differences between that report's import statistics and the data presented in this report. Currently, the only country exporting foundry coke to the United States is China. Respondents believe that this is because only Chinese foundry coke can endure being shipped without facing severe degradation. Foundry coke from other sources, such as the EU or Japan, is too brittle and would not be commercially viable once it reached the United States. See conference transcript, p. 127.

[3] Conference transcript, p. 97. This applies to the importer's warehouses in the case of Shook.

[4] No U.S. producer imported foundry coke from China during the period for which data were collected. ***, however, did purchase Chinese foundry coke from both *** and *** in 1999 and 2000, respectively. ***, a firm that shares common ownership with ***, also imported during the period for which data were collected.

[5] Respondents contend that U.S. import figures by quantity may be misleading because of the degradation which occurs between the Chinese port, where the reported imports are measured, and the U.S. port. U-Met and Shook both report degradation rates averaging roughly 20 percent. The degraded foundry coke is often sold off as industrial coke for different end uses. (See conference transcript, pp. 137, 125.) Petitioners believe that importers' degradation rate is overstated and that it is actually somewhere in the range of *** percent. See petitioners' postconference brief, p. 15.

1997-99 and also rose in the first two quarters of 2000 compared to interim 1999.[6] U.S. imports of foundry coke from China are relatively new, beginning in 1997. Most of the foundry coke imported in 1997 was inventoried. The decline in imports in 1998 indicated that most foundry coke sold during that year was sold from existing inventories. Imports of foundry coke did rise overall by 325.3 percent during 1997-99. Most of the increase in 1999 was the result of the entrance of *** into the market; *** only imported for roughly a year, before exiting the market by the beginning of 2000. The increase in imports during the interim periods appeared to be the result of increased imports from one importer, ***, which accounted for *** percent of total imports in the interim of 2000. The average unit value of imports remained relatively stable overall between 1997 and 1999 before it declined by $37.74 per metric ton in 2000.

Table IV-1
Foundry coke: U.S. imports, by sources, 1997-99, January-June 1999, and January-June 2000

Source	Calendar year			January-June	
	1997	1998	1999	1999	2000
	Quantity (*metric tons*)				
China	26,647	14,856	113,332	9,130	38,980
Other sources	0	0	0	0	0
Total	26,647	14,856	113,332	9,130	38,980
	Value (*1,000 dollars*)[1]				
China	3,048	2,007	12,940	1,315	4,143
Other sources	0	0	0	0	0
Total	3,048	2,007	12,940	1,315	4,143
	Unit value (*per metric ton*)[1]				
China	$114.38	$135.10	$114.18	$144.03	$106.29
Other sources	(2)	(2)	(2)	(2)	(2)
Average	114.38	135.10	114.18	144.03	106.29
	Share of quantity (*percent*)				
China	100.0	100.0	100.0	100.0	100.0
Other sources	0	0	0	0	0
Total	100.0	100.0	100.0	100.0	100.0
	Share of value (*percent*)				
China	100.0	100.0	100.0	100.0	100.0
Other sources	0	0	0	0	0
Total	100.0	100.0	100.0	100.0	100.0

[1] Landed, duty-paid.
[2] Not applicable.

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

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

[6] Interim 2000 imports do not include data from *** because of the late date at which its data were received. The firm imported *** metric tons, valued at $*** c.i.f., of foundry coke in 2000.

APPARENT U.S. CONSUMPTION

Data on U.S. consumption of foundry coke, as shown in table IV-2 , are based on U.S. producers' and importers' total U.S. shipments.[7] U.S. consumption of foundry coke grew 8.5 percent by quantity during 1997-99 before declining by 3.3 percent in the interim periods. The increase during 1997-99 is attributable to rising imports, which outweighed the negative effect of declining U.S. producers' shipments, particularly in 1999, when U.S. shipments of imports grew by 615.2 percent. The growth in imports did not offset the decline in U.S. producers' shipments in the interim 2000 period, however, causing an overall decline in consumption. By value, the trend was similar, with consumption growing by 9.2 percent during 1997-99 before falling in the interim period of 2000.

[7] In the case of ***, ***, and ***, commercial shipments and imports are identical because of the method of collecting data in the Commission's 332 investigation on foundry coke.

Table IV-2
Foundry coke: U.S. shipments of domestic product, U.S. import shipments, by sources, and apparent U.S. consumption, 1997-99, January-June 1999, and January-June 2000

Item	Calendar year			January-June	
	1997	1998	1999	1999	2000
	Quantity (*metric tons*)				
U.S. producers' open market shipments	***	***	***	***	***
U.S. transfer shipments	***	***	***	***	***
U.S. total shipments	1,151,157	1,177,422	1,136,221	582,721	537,878
U.S. shipments of imports from-- China	22	15,804	113,028	15,404	40,246
Nonsubject countries	0	0	0	0	0
All countries	22	15,804	113,028	15,404	40,246
Apparent U.S. consumption	1,151,179	1,193,226	1,249,249	598,125	578,124
	Value (*1,000 dollars*)				
U.S. producers' open market shipments	***	***	***	***	***
U.S. transfer shipments	***	***	***	***	***
U.S. total shipments	198,782	207,651	202,530	105,350	96,629
U.S. shipments of imports[1] from-- China	4	2,196	14,581	2,518	6,396
Nonsubject countries	0	0	0	0	0
All countries	4	2,196	14,581	2,518	6,396
Apparent U.S. consumption	198,786	209,847	217,111	107,868	103,025

[1] F.o.b. U.S. port of entry.

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

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

U.S. MARKET SHARES

Market shares for foundry coke, based on U.S. producers' shipments and U.S. importers' shipments, are presented in table IV-3. U.S. producers maintained a significant market share during the period for which data were collected, although that share did witness some decline. Producers saw their share drop from essentially 100 percent in 1997 to a low of 91.0 percent in 1999. Some of that loss was regained in the first half of 2000, when the producers' share increased to 93.0 percent. Conversely, the importers' share increased from a negligible level in 1997 to 9.0 percent by 1999. Their share declined somewhat in 2000, to 7.0 percent, largely as the result of the exit of *** from the business. Despite this, importers' market share was still higher in the interim of 2000 than the corresponding period in 1999.

Table IV-3
Foundry coke: Apparent U.S. consumption and market shares, 1997-99, January-June 1999, and January-June 2000

Item	Calendar year			January-June	
	1997	1998	1999	1999	2000
	Quantity (*metric tons*)				
Apparent consumption	1,151,179	1,193,226	1,249,249	598,125	578,124
	Value (*1,000 dollars*)				
Apparent consumption	198,786	209,847	217,111	107,868	103,025
	Share of quantity (*percent*)				
U.S. producers' U.S. shipments	100.0	98.7	91.0	97.4	93.0
U.S. shipments of imports from--					
China	(1)	1.3	9.0	2.6	7.0
Nonsubject countries	0.0	0.0	0.0	0.0	0.0
All countries	(1)	1.3	9.0	2.6	7.0
	Share of value (*percent*)				
U.S. producers' U.S. shipments	100.0	99.0	93.3	97.7	93.8
U.S. shipments of imports from--					
China	(1)	1.0	6.7	2.3	6.2
Nonsubject countries	0.0	0.0	0.0	0.0	0.0
All countries	(1)	1.0	6.7	2.3	6.2

[1] Less than 0.05 percent.

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

Source: Compiled from data submitted in response to Commission questionnaires and from official Commerce statistics.

PART V: PRICING AND RELATED INFORMATION

FACTORS AFFECTING PRICES

Raw Material Costs

The raw material for foundry coke is coal. The price of the raw material can vary based on the price of the rank of coal used; generally a high quality (low sulfur, high carbon) bituminous coal is preferred.[1] Raw materials account for an average of *** percent of the total cost of producing foundry coke.[2]

Transportation Costs to the U.S. Market

Transportation costs for foundry coke from China to the United States (excluding U.S. inland costs) are estimated to be 20.4 percent of the landed, duty-paid value. Estimates are derived from official U.S. import data and represent the transportation and other charges on imports.[3]

U.S. Inland Transportation Costs

Transportation costs of foundry coke for delivery within the United States vary from firm to firm. For the 4 U.S. producers who responded to this question, these costs accounted for between *** percent of the total cost of foundry coke. For the 2 importers who responded to this question, these costs accounted for between *** percent of the total cost of foundry coke. One U.S. producer reported a geographic market area encompassing the continental United States; 1 reported the Southeast as well as some parts of the Midwest and West; 2 reported the Midwest; and 2 reported the Northeast. One importer reported that its geographic market encompassed markets east of the Mississippi River and 1 reported markets in the Eastern portion of the United States.

Producers and importers were also requested to provide estimates of the percentages of their shipments that were made within specified distance ranges. Among the 5 U.S. producers who responded to this question, a range of 10 to 82 percent of shipments occurred within 100 miles and a range of 20 to 85 percent occurred within 1,000 miles; 4 producers reported that a range of 1 to 15 percent of shipments occurred over 1,000 miles. Of the 2 importers who responded to this question, a range of 80 to 93 percent of shipments occurred within 100 miles and 7 to 20 percent occurred from 100 to 1,000 miles; importers reported that no shipments occurred over 1,000 miles.

Exchange Rates

Quarterly data reported to the International Monetary Fund indicate that the nominal value of the Chinese yuan appreciated by 0.2 percent from January 1997 to September 2000 (figure V-1).

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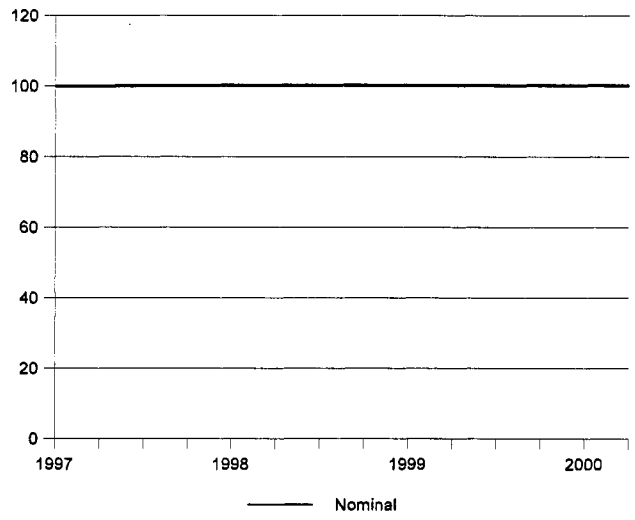
[1] Ranks of coal include bituminous, anthracite, lignite, and sub-bituminous.

[2] Based on responses to the Commission's questionnaires and conference transcript, p. 71.

[3] Data for the customs value and the landed, duty-paid value of the imports were used. Imports of coke enter the U.S. market free of duty.

Figure V-1
Exchange rates: Indices of the nominal exchange rates of the Chinese yuan relative to the U.S. dollar, by quarters, January 1997-September 2000



Source: International Monetary Fund, *International Financial Statistics*, September 2000.

PRICING PRACTICES

Pricing Methods

Most sales of foundry coke in the United States are made on transaction by transaction negotiations based on current market conditions. Available information indicates that from *** percent of U.S. producers' sales of foundry coke are on a contract basis while *** percent of importers' sales were contract.

U.S. producers' contracts vary in duration from 1 to 5 years and are renegotiated annually. Reported contract terms were similar, with *** reporting that the price was fixed while *** reported that both the quantity and the price were fixed. All of the 5 responding producers reported that contract agreements do contain a meet-or-release provision. *** reported that their contracts have a minimum percentage requirement; *** reported that quantity requirements were stated in each contract and could vary. *** reported that there were no standard quantity requirements.

U.S. importers' contracts vary in duration from *** and are renegotiated within the range of *** or ***. Reported contract terms were similar, with both the quantity and the price fixed. Also, ***. ***.

Sales Terms and Discounts

Two of the producers of foundry coke, ***, reported that discounts are available to large-volume customers with the discount used to meet a lower offered price from another supplier; *** reported that discounts are not used. ***.

Both importers and one producer, ***, stated that typical payment terms ***. The remaining U.S. producers responding to these questions, ***, reported that typical payment terms required payment within 30 days and that price quotes occur on a f.o.b. basis.

PRICE DATA

The Commission requested U.S. producers and importers of foundry coke to provide quarterly f.o.b. data for the total quantity and value of foundry coke shipped. These data were used to determine the weighted-average price in each quarter. Data were requested for the period January 1997 through June 2000. The product for which pricing data was requested was as follows:

Product 1.-- Coke larger than 100 mm (4 inches) in maximum diameter, at least 50 percent of which is retained in a 100 mm (4-inch) sieve, of a kind used in foundries.

Five of the 6 U.S. producers and 2 importers[4] provided usable pricing data for sales of the requested products in the U.S. market, although not necessarily for all quarters over the period of investigation.

Price Trends

Weighted-average prices for domestically produced foundry coke generally remained stable until July 1999, when prices began to decrease (table V-1 and figure V-2). Weighted-average prices for foundry coke from China decreased from a high of *** per metric ton during the third quarter of 1997 (the first year of importation) to a low of *** per metric ton during the second quarter of 1999; prices began to increase slightly during the second half of 1999, before increasing substantially during 2000.

Table V-1
Foundry coke: Weighted-average f.o.b. prices and quantities shipped by U.S. producers and importers and margins of underselling/(overselling), by quarters, January 1997-June 2000

* * * * * * *

Figure V-2
Foundry coke: U.S. and Chinese prices, by quarters, January 1997-June 2000

* * * * * * *

Price Comparisons

Foundry coke from China undersold the domestic product in 10 quarters and oversold the domestic product in 1 quarter. Margins of underselling ranged from a low of *** percent to a high of *** percent; Chinese product oversold the domestic product by *** percent during the third quarter of 1997.

LOST SALES AND LOST REVENUES

All 4 of the petitioners plus 1 additional producer provided 28 lost sales allegations and 14 lost revenue allegations due to imports of foundry coke from China. All cited firms were contacted; in some instances, purchasers were not willing to respond to questions from the Commission. The allegations

[4] ***.

confirmed by purchasers or that were unverifiable are reported in tables V-2 and V-3.[5] For those allegations confirmed, purchasers stated that the lower price of the Chinese foundry coke was the most important factor in their purchasing decisions.

Table V-2
Foundry coke: Lost sales allegations

* * * * * * *

Table V-3
Foundry coke: Lost revenue allegations

* * * * * * *

[5] None of the purchasers contacted denied the allegations of the domestic producers.

PART VI: FINANCIAL CONDITION OF THE U.S. INDUSTRY

BACKGROUND

This section of the report represents the financial information of the 6 foundry coke producers who comprised nearly 100.0 percent of U.S. foundry coke production during 1999.

The U.S. producers of foundry coke can be described as either (1) divisions of larger, diversified companies or (2) stand-alone entities in which foundry coke production and sales are the primary activities. ABC, consistently the *** producer in terms of sales volume and value, is a division of Drummond Company, which is engaged in coal mining and real estate activity.[1] The *** producer of foundry coke is Citizens (through its manufacturing division, Indianapolis Coke).[2] Empire is a division of McWane, which also owns companies producing valve components, cast iron pipes, and fittings.[3] Sloss is comprised of three divisions, one of which produces foundry coke. The other two divisions of Sloss produce slag wool and derivative fibers, and specialty chemicals, respectively.[4] Tonawanda is a wholly-owned subsidiary of ***. While Erie is a stand-alone company, it is ***.[5]

*** were the only companies to report sales to related companies during the period examined.[6] Except for interim 2000 (when *** reported no related party sales), a significant portion (over ***) of the total sales reported by *** were to related companies. ***, on the other hand, reported a somewhat smaller and declining percentage of related party sales during the period examined.[7]

Responding U.S. producers do not all share the same fiscal year: *** reported financial information for fiscal years ending June 30, while *** reported financial information based on a fiscal year ending September 30. The remaining companies reported their financial information based on a calender year.

OPERATIONS ON FOUNDRY COKE

Income-and-loss data for the U.S. producers on their foundry coke operations are presented in table VI-1. Data on a per-metric-ton basis are shown in table VI-2.

From 1997 to 1999 total sales volume was relatively stable. In 1998, the larger volume foundry coke producers (***) reported higher sales volume, which resulted in an 3.4 percent-increase in total sales volume compared to 1997. A portion of this increase in sales volume was at least in part due

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[1] According to Drummond Company's website, coal mining and marketing are its "traditional and largest area of business." Coke production and sales were entered into when the Drummond Company acquired Alabama By-Product's Corporation. Retrieved on October 12, 2000 from *http://www.drummondco.com/organization.htm.*

[2] Citizens is itself organized as a public charitable trust. Retrieved on October 11, 2000 at *http://www.citizensgas.com/default.htm.*

[3] ***.

[4] Retrieved on October 11, 2000 at *http://www.sloss.com.* The majority of the financial data for Sloss is based on information submitted for the Commission's 332 foundry coke investigation.

[5] ***.

[6] ***.

[7] ***.

Table VI-1
Foundry coke: Results of operations of U.S. producers, fiscal years 1997-99, January-June 1999, and January-June 2000

Item	Fiscal year			January-June	
	1997	1998	1999	1999	2000
	Quantity (*metric tons*)				
Commercial sales	***	***	***	***	***
Related party transfers	***	***	***	***	***
Total sales	1,242,785	1,285,623	1,250,193	635,962	590,036
	Value (*$1,000*)				
Commercial sales	***	***	***	***	***
Related party transfers	***	***	***	***	***
Total sales	215,142	226,603	219,007	114,828	105,937
COGS	166,127	171,234	173,281	89,710	85,383
Gross profit	49,015	55,369	45,726	25,119	20,554
SG&A expenses	12,558	12,350	13,183	7,097	7,319
Operating income or (loss)	36,457	43,019	32,543	18,022	13,235
Interest expense	972	1,060	422	517	233
Other expense	1,858	1,937	1,029	887	775
Other income items	2,086	2,100	1,785	919	951
Net income or (loss)	35,713	42,122	32,877	17,537	13,178
Depreciation/amortization	16,337	18,198	17,916	9,091	7,708
Cash flow	52,050	60,320	50,793	26,627	20,886
	Ratio to net sales (*percent*)				
COGS	77.2	75.6	79.1	78.1	80.6
Gross profit	22.8	24.4	20.9	21.9	19.4
SG&A expenses	5.8	5.5	6.0	6.2	6.9
Operating income or (loss)	16.9	19.0	14.9	15.7	12.5
Net income or (loss)	16.6	18.6	15.0	15.3	12.4
	Number of firms reporting				
Operating losses	0	0	0	0	1
Data	6	6	6	6	6

Note.-- Because of rounding, figures may not add to the totals shown. *** reported full-year financial data for fiscal years ending June 30, 1998, 1999, and 2000.

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

Table VI-2
Foundry coke: Results of operations (per metric ton) of U.S. producers, fiscal years 1997-99, January-June 1999, and January-June 2000

Item	Fiscal year			January-June	
	1997	1998	1999	1999	2000
Net sales	$173	$176	$175	$181	$180
Cost of sales					
Raw materials	90	88	90	87	88
Direct labor	26	26	28	25	29
Other factory	18	19	21	29	28
Total COGS	134	133	139	141	145
Gross profit	39	43	37	39	35
SG&A expenses	10	10	11	11	12
Operating income or (loss)	29	33	26	28	22

Note.-- Because of rounding, figures may not add to the totals shown. *** reported full-year financial data for fiscal years ending June 30, 1998, 1999, and 2000.

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

to Koppers' exit from the foundry coke market.[8] Somewhat smaller volume companies ***, in contrast, reported lower sales volume in 1998.

In addition to higher overall sales volume, sales revenue in 1998 also increased due to higher average unit sales values (1.8 percent higher). Although the magnitude of change in average unit sales value from 1997 to 1998 varied by company, all producers reported some increase in average unit sales value during that period. The positive combination of higher sales volumes and higher average unit sales values resulted in a 5.3 percent increase in total sales revenue from 1997 to 1998.

While the other U.S. producers reported increases in 1998 average unit sales value ranging from a low of *** percent for *** to a somewhat higher *** percent for ***, *** reported the largest increases in average unit sales values: *** percent. Unlike the majority of other U.S. producers, *** reported decreased sales volume from 1997 to 1998. *** reported a somewhat smaller increase in average unit sales value, but experienced a similar decline in sales volume. In contrast, *** reported one of the largest percentage increases in average unit sales value, but at the same time achieved the largest percentage increase in sales volume from 1997 to 1998.[9]

From 1998 to 1999 the positive overall changes in sales volume and average unit sales value were reversed. In 1999, total sales volume fell by 2.8 percent, which was somewhat less than the amount by which sales volume increased in 1998. Also, the average unit sales value fell by 0.6 percent and thus

[8] At the October 11, 2000 conference (conference transcript, p. 29) John Person, President of ABC, stated that his company "picked up a substantial portion" of Koppers' contract business after that company ceased foundry coke operations in 1997.

[9] The average unit sale values reported by *** remained the lowest of any producer throughout the period examined. The average unit sales values reported by *** was consistently the highest.

gave back a portion of the previous year's increase. The combination of these negative elements resulted in a 3.4 percent decline in total sales revenue from 1998 to 1999. As a result, 1999 total sales revenue was only marginally higher than total sales revenue in 1997.

Along with the majority of U.S. producers, and despite reporting the largest reductions in average unit sales value, *** reported lower sales volume in 1999.[10] In contrast, *** reported a somewhat smaller decrease in average unit sales value (*** percent), but reported a ***-percent increase in sales volume. ***, the two largest producers, also reported small reductions in average unit sales value, but reported declines in sales volume from 1998 to 1999. The only producer to report an increase in average unit sales value from 1998 to 1999 was ***, while *** was the only producer to report higher sales volume.

For interim 2000, U.S. producers reported different trends in terms of change in average unit sales value. While the average unit sales values for *** were lower than the averages for interim 1999, *** reported marginally higher average unit sales values for interim 2000. At the end of the period, the average unit sales value reported by *** was notably higher than the averages reported for previous full-year periods. Despite this fact, ***'s higher unit costs resulted in significantly lower operating income.[11] In contrast, the interim 2000 average unit sales values for *** were either approximately the same or lower than the averages for previous full-year periods. For the industry as a whole, lower sales volume and higher costs resulted in lower operating income for interim 2000 compared to interim 1999.[12]

As shown in table VI-2, average unit values for raw material costs were relatively stable during the period examined. In contrast, costs for direct labor and other factory costs generally increased in terms of both unit and absolute value.[13] While gross profit and operating income were positively affected by increased sales values and volume from 1997 to 1998, higher costs (most notably at the end of the period examined) resulted in lower gross profit and operating income for the remainder of the period.[14] Despite this deterioration in profitability, the only company to report an operating loss was ***.

Unlike other U.S. producers, whose operating income declined to a loss or, in several cases, remained only just above breakeven, *** maintained a less precarious level of operating income throughout the period examined. At least two positive elements (unrelated to the average unit sales

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[10] The large reduction in ***'s average unit sales value was almost entirely due to lower average prices and volume to related companies. In 1997, the difference between ***'s average commercial unit sales value and average related company transfer unit value was approximately $20 per metric ton. In 1998, the difference was reduced to approximately $13 per metric ton. In 1999, the average unit sales values were approximately the same. From 1998 to 1999, the proportion of ***'s transfers to total sales went from *** percent to *** percent. In contrast, *** reported average unit values for commercial and related party sales which were approximately the same throughout the period.

[11] Along with *** reported its highest level of operating income in 1998.

[12] With the exception of ***, all U.S. producers reported lower sales volume and sales revenue in interim 2000, as compared to interim 1999. *** reported sales revenue for interim 2000 which was marginally higher than sales revenue reported for interim 1999.

[13] While this trend was not uniform (or of equal magnitude), the largest volume producers (***) reported increasing unit conversion costs during the period examined. *** reported declining production volume after 1998. While *** maintained a relatively consistent level of production throughout the period, production volume of foundry coke was lower in interim 2000 than in interim 1999.

[14] *** were the only companies to report declining average unit SG&A expenses.

values it achieved) appear to explain this: ***'s COGS on a per ton basis was significantly less than the unit COGS reported by other producers, while its SG&A expenses on a per unit basis were also the lowest.[15]

All of the U.S. producers reported that they generated byproduct sales revenue which was used to offset the cost of manufacturing foundry coke.[16] With the exception of ***, total byproduct sales revenue represented a relatively small amount compared to total sales of foundry coke. According to a company official at ***, byproduct sales revenue was high because blast furnace coke was reported as a byproduct.[17] (Note: *** appear to be the only companies which produce blast furnace coke on a regular basis.) *** and several other producers also specified foundry coke which is 4 inches and under (i.e., industrial coke) as a byproduct.[18]

Total estimated cash flows from operations increased in 1998 along with net income and then subsequently declined. Smaller producers with less significant net income at the beginning of the period reported the weakest cash flows at the end of the period examined. With the exception of ***, U.S. producers reported estimated cash flows from operations only somewhat larger than their reported depreciation expense. ***.[19]

Selected financial data, by firms, are presented in table VI-3.

Table VI-3
Foundry coke: Results of operations of U.S. producers, by firms, fiscal years 1997-99, January-June 1999, and January-June 2000

* * * * * * *

A variance analysis for the 6 U.S. producers of foundry coke is presented in table VI-4 and is derived from information reported in table VI-1. The variance analysis provides an assessment of changes in profitability as related to changes in pricing, cost, and volume. The analysis is most effective when the product involved is homogeneous and product mix does not vary.

Table VI-4 illustrates that the overall reduction of $3.9 million in operating income for 1999, as compared to 1997, was the result of an unfavorable cost/expense variance. As noted above, the components of cost which increased and caused this unfavorable variance were related to conversion costs (direct labor and factory overhead) and, to a lesser extent, SG&A expenses. The unfavorable cost/expense variance was offset somewhat by a favorable price variance. While the volume variance

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[15] ***.

[16] A byproduct is considered incidental to the production of a primary product and also possesses a relatively low sales value compared to the primary product. According to U.S. generally accepted accounting principles, principal production costs are not assigned to by-products, and related sales revenue is treated as either a deduction from COGS or "other revenue." *Cost Accounting: Using a Cost Management Approach*, L. Gayle Rayburn, Fifth Edition (1993), pp. 258 and 261. In this case, all of the U.S. producers reported in their questionnaire responses that they treated byproduct sales revenue as an offset to COGS. In their financial statements, however, at least some producers appear to have recognized the sale of "byproduct" blast furnace coke as "revenue," as opposed to a credit against COGS.

[17] ***.

[18] ***. Based on information provided at the October 11, 2000 conference, degradation of foundry coke into less valuable industrial coke is common among all producers.

[19] ***.

Table VI-4
Foundry coke: Variance analysis of U.S. producers' operations, fiscal years 1997-99, January-June 1999, and January-June 2000

Item	Fiscal year			January–June
	1997-99	1997-98	1998-99	1999-2000
Trade sales:	Value (*$1,000*)			
Price variance	***	***	***	***
Volume variance	***	***	***	***
Commercial sales variance	***	***	***	***
Related party transfers:				
Price variance	***	***	***	***
Volume variance	***	***	***	***
Related party transfer variance	***	***	***	***
Total net sales:				
Price variance	2,583	4,045	(1,351)	(599)
Volume variance	1,282	7,416	(6,245)	(8,292)
Total net sales variance	3,865	11,461	(7,596)	(8,891)
Cost of sales:				
Cost variance	(6,164)	619	(6,766)	(2,152)
Volume variance	(990)	(5,726)	4,719	6,478
Total cost variance	(7,154)	(5,107)	(2,047)	4,326
Gross profit variance	(3,289)	6,354	(9,643)	(4,564)
SG&A expenses:				
Expense variance	(550)	641	(1,173)	(735)
Volume variance	(75)	(433)	340	513
Total SG&A variance	(625)	208	(833)	(222)
Operating income variance	(3,914)	6,562	(10,476)	(4,786)
Summarized as:				
Price variance	2,583	4,045	(1,351)	(599)
Net cost/expense variance	(6,714)	1,260	(7,939)	(2,886)
Net volume variance	217	1,257	(1,186)	(1,301)

Note.-- Unfavorable variances are shown in parentheses; all others are favorable.

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

was positive, it was in effect neutral because sales volume in 1999 was approximately the same as sales volume in 1997.

INVESTMENT IN PRODUCTIVE FACILITIES, CAPITAL EXPENDITURES, AND R&D EXPENSES

The responding firms' data on capital expenditures, R&D expenses, and the value of their property, plant, and equipment are shown in table VI-5. Total capital expenditures were highest in 1997 and then subsequently declined. *** consistently reported large capital expenditures and were, in addition to ***, the only companies to report R&D expenses.[20] For these companies, capital expenditures generally were close to the total depreciation expenses being recognized.[21] With the exception of *** in 1997, the remaining (and lower volume) producers generally reported smaller total capital expenditures.

As noted in previous sections of this report, environmental costs are a significant consideration for the domestic industry. For example, the provisions of the Clean Air Act of 1990 require air, water, and solid waste compliance for emission points on ovens; e.g., doors and lids.[22] Over the next two years U.S. producers will be required to make additional capital expenditures as new EPA guidelines are implemented.[23]

The majority of ***'s large capital expenditure in 1997 was for a waste water treatment facility (which came on line in June of 1998).[24] Subsequent capital expenditures by *** during the period examined were related to a number of smaller projects.[25] Approximately a third of ***'s 1998 capital expenditures were for a retention pond.[26] In contrast, only a few of ***'s capital expenditures appeared to be directly related to environmental compliance.[27]

All producers except *** reported capital expenditures which were generally less than estimated cash flows from operations.[28]

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[20] *** reported the largest R&D expenses. According to a company official, R&D expenses were related to a ***. ***'s relatively small R&D expenses were related to the sampling and analysis of coal volatility and expandability: "petrographics" and "sole oven and moveable wall analysis." The information submitted by *** indicated that its R&D expenses were also related to coal sampling and analysis.

[21] A company official at *** stated that capital expenditures are generally close to the depreciation allowance. ***.

[22] Conference transcripts, p. 65.

[23] Petitioners' postconference brief, p. 10.

[24] ***.

[25] ***.

[26] ***.

[27] ***'s "Detail of Capital Expenditures" indicated that there were a number of projects and expenditures related to the general operations of the plant. It should be noted, however, that costs associated with environmental compliance are also reflected in operating expenses related to increased personnel for maintenance, repair, and monitoring. At the October 11, 2000 conference, Martin Dusel, Executive Vice President of Citizens, stated that about 30 percent of operating costs were related to environmental compliance (conference transcript, p. 32).

[28] A *** company official stated that the company spent more on capital expenditures (early in the period examined) because the market was considered better and it was necessary to take advantage of the cash flows being generated. In contrast, as the market reportedly softened and cash flows declined, the company reduced its capital expenditures. ***.

Table VI-5
Foundry coke: Value of assets, capital expenditures, and R&D expenses of U.S. producers, fiscal years 1997-99, January-June 1999, and January-June 2000

Item	Fiscal year			January-June	
	1997	1998	1999	1999	2000
Capital expenditures	**Value (*$1,000*)**				
ABC	***	***	***	***	***
Citizens	***	***	***	***	***
Empire	***	***	***	***	***
Erie	***	***	***	***	***
Sloss	***	***	***	***	***
Tonawanda	***	***	***	***	***
Total capital expenditures	18,559	13,820	12,628	6,427	6,046
R&D expenditures	**Value (*$1,000*)**				
ABC	***	***	***	***	***
Citizens	***	***	***	***	***
Empire	***	***	***	***	***
Erie	***	***	***	***	***
Sloss	***	***	***	***	***
Tonawanda	***	***	***	***	***
Total R&D expenses	662	247	287	24	22
Fixed assets:	**Value (*$1,000*)**				
Total original cost	353,578	360,194	377,150	362,417	369,221
Total book value	159,226	151,106	153,960	145,469	148,453

Note.-- ***.

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

CAPITAL AND INVESTMENT

The Commission requested U.S. producers to describe any actual or potential negative effects of imports of foundry coke from China on their firms' growth, investment, and ability to raise capital or development and production efforts (including efforts to develop a derivative or more advanced version of the product). Their responses are shown in appendix D.

PART VII: THREAT CONSIDERATIONS

The Commission analyzes a number of factors in making threat determinations (see 19 U.S.C. § 1677(7)(F)(i)). Information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V, and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts is presented in Part VI. Information on inventories of the subject merchandise; foreign producers' operations, including the potential for "product-shifting;" any other threat indicators, if applicable; and any dumping in third-country markets, follows.

THE INDUSTRY IN CHINA

According to the Commission's 332 investigation on foundry coke, there were approximately 25 producers of foundry coke in China in 1997. Respondents have suggested that as many as 10 of these producers have shut down operations as a result of the Chinese government passing more stringent environmental regulations on all metallurgical coke producers in China.[1] Of the remaining 15, respondents further suggest that 3 of the producers manufacture foundry coke with a minimum ash content of 9.5 percent or above, making it unsuitable for the U.S. market.[2] The Commission received usable data from 3 of these producers and 1 exporter of foundry coke. Most of the producers of foundry coke are located in the Shanxi Province of China. According to the 332 investigation on foundry coke, several of the Chinese foundry coke producers are integrated vertically and/or horizontally; of the original 25 producers, 10 are known to produce other types of coke and coal products, and 8 have their own mines to supply at least part of their raw material.[3] Approximately 53.1 percent of current Chinese foundry coke capacity was built in the 1990s as foreign demand for Chinese foundry coke increased with improved quality of the Chinese product.[4]

The Chinese producers manufacture foundry coke using the beehive process. While 48 percent of total Chinese capacity uses an improved beehive method, by which the coals are heated in ovens fired with gas fittings set underneath the ovens in long, hollow brick buildings, the Chinese production process is considered environmentally hazardous since none of the byproducts of coking are captured.[5] As a result, successive announcements of environmental regulations by the Chinese government in recent

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[1] Respondents' postconference brief, p. Q-15. Petitioners do not believe that Chinese enforcement of environmental regulations can be relied upon to effectively eliminate all noncompliant beehive activity. They note that beehive ovens can be used to produce either foundry or blast furnace coke and believe that beehive oven capacity in China will remain under-reported, despite the implementation of stricter environmental standards. (See petitioners' postconference brief, p. 20.) Petitioners also suggest that due to the lack of significant response to the Commission's foreign producer questionnaire, the Commission should take adverse inferences on the issue of available Chinese production capacity. Petitioners' postconference brief, p. 3.

[2] Respondents' postconference brief, p. Q-15.

[3] B. Goswami, *Chinese Coke 1999 Directory*, p. 76.

[4] USITC, *Foundry Coke: A Review of the Industries in the United States and China*, Inv. No. 332-407, pub. No. 3323, July 2000, pp. 3-2, 3-14. Better quality foundry coke usually denoted lower ash (under 10.5 percent) and higher carbon content.

[5] Ibid., pp. 1-4, 3-2.

years allegedly have resulted in a decrease in production capacity and foundry coke supply, especially as it pertains to the older beehive ovens in China.[6]

Reported Chinese production of foundry coke increased by 48.1 percent during 1997-99 before increasing by 5.0 percent in interim period 2000 (table VII-1). Increased production was a direct result of increased capacity. Home market sales remained relatively stable during 1997-99 with a 20 percent increase between 1997 and 1998. Home market sales comprised 14.7 percent of total shipments in 1999 compared with sales to the United States of 15.5 percent. Exports to the United States, which were zero in 1997, more than doubled between 1998 and 1999 and rose by an additional 144.8 percent in interim 2000. Projections for full year 2000 show a continued increase. Exports to other markets dropped slightly in 1998 before recovering by 35.2 percent in 1999, and remained somewhat flat in the interim period.[7]

China's second largest export market, the EU, recently enacted provisional antidumping measures against imports of foundry coke from China, with margins of 45.1 percent applied to imports. Respondents believe that these additional duties will not have a significant impact on China's exports to the EU as EU producers of foundry coke cannot supply the entire market.[8] Additionally, India has imposed antidumping duties on foundry coke products from China. An exemption from the duty has been made for manufacturers of pig iron and steel.[9]

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[6] Ibid., p. 3-14, and respondents' postconference brief, p. Q-15.

[7] Respondents believe that exports to third markets should increase as East Asia continues to recover from the Asian crisis. In particular, respondents anticipate that Chinese shipments to Japan and Korea should continue to increase. Respondents' postconference brief, p. Q-5.

[8] Respondents' postconference brief, pp. Q-2-4. Petitioners dispute the claim that duties upwards of 45 percent will have no effect on Chinese exports to the EU market. Petitioners' postconference brief, p. 3.

[9] Correspondence from respondents, October 19, 2000, p. 2. While respondents believe that foundries in India could also petition for an exemption under the same authority for which pig iron and steel manufacturers petitioned and were granted an exemption, to date such an exemption for foundries has not been requested or issued.

Table VII-1
Foundry coke: Chinese production capacity, production, shipments, and inventories, 1997-99, January-June 1999, January-June 2000, and projected 2000-01

Item	Actual experience					Projections	
				January-June			
	1997	1998	1999	1999	2000	2000	2001
	Quantity (*metric tons*)						
Capacity	135,000	160,000	200,000	130,000	140,000	210,000	210,000
Production	135,000	150,000	200,000	100,000	105,000	208,000	210,000
EOP inventories	0	0	0	0	0	0	0
Shipments:							
Internal consumption	0	0	0	0	0	0	0
Home market	25,000	30,000	30,000	19,000	15,000	33,000	35,000
Exports to--							
The United States	0	15,000	31,573	18,500	45,296	52,000	30,000
All other markets	110,000	105,000	142,000	73,500	74,500	158,000	180,000
Total exports	110,000	120,000	173,573	92,000	119,796	210,000	210,000
Total shipments	135,000	150,000	203,573	111,000	134,796	243,000	245,000
	Ratios and shares (*percent*)						
Capacity utilization	100.0	93.8	100.0	76.9	75.0	99.0	100.0
Inventories to production	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Inventories to total shipments	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Share of total quantity of shipments:							
Internal consumption	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Home market	18.5	20.0	14.7	17.1	11.1	13.6	14.3
Exports to--							
The United States	0.0	10.0	15.5	16.7	33.6	21.4	12.2
All other markets	81.5	70.0	69.8	66.2	55.3	65.0	73.5
All export markets	81.5	80.0	85.3	82.9	88.9	86.4	85.7

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

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

U.S. INVENTORIES OF PRODUCT FROM CHINA

Only 2 importers, *** and ***, provided the Commission with inventory data on their imports of foundry coke during the period for which data were collected.[10] As shown in table VII-2, inventories were very high relative to imports in 1997 and 1998, as the reporting importers chose to inventory rather than ship a significant portion of their imports, especially in 1997. Towards the end of the period, inventories leveled off, and the ratio of inventories to U.S. shipments declined substantially.

Table VII-2
Foundry coke: U.S. importers' end-of-period inventories of imports, 1997-99, January-June 1999, and January-June 2000

* * * * * * *

[10] Data from the 3 remaining importers were taken from questionnaire responses from the Commission's 332 investigation on foundry coke, which did not ask for inventory data.

APPENDIX A

FEDERAL REGISTER NOTICES

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–891 (Preliminary)]

Foundry Coke From China

AGENCY: United States International Trade Commission.

ACTION: Institution of antidumping investigation and scheduling of a preliminary phase investigation.

SUMMARY: The Commission hereby gives notice of the institution of an investigation and commencement of preliminary phase antidumping investigation No. 731–TA–891 (Preliminary) under section 733(a) of the

Tariff Act of 1930 (19 U.S.C. 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from China of foundry coke, provided for in heading 2704.00.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to section 732(c)(1)(B) of the Act (19 U.S.C. 1673a(c)(1)(B)), the Commission must reach a preliminary determination in antidumping investigations in 45 days, or in this case by November 6, 2000. The Commission's views are due at the Department of Commerce within five business days thereafter, or by November 14, 2000.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

EFFECTIVE DATE: September 20, 2000.

FOR FURTHER INFORMATION CONTACT: Jozlyn Kalchthaler (202–205–3457), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*).

SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted in response to a petition filed on September 20, 2000, by ABC Coke, Birmingham, AL; Citizens Gas and Coke, Indianapolis, IN; Erie Coke, Erie, PA; Tonawanda Coke, Tonawanda, NY; and the United Steelworkers of America, AFL–CIO.

Participation in the investigation and public service list.—Persons (other than petitioners) wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this investigation available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigation under the APO issued in the investigation, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Commission's Director of Operations has scheduled a conference in connection with this investigation for 9:30 a.m. on October 11, 2000, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Jozlyn Kalchthaler (202–205–3457) not later than October 6, 2000, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions.—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before October 16, 2000, a written brief containing information and arguments pertinent to the subject matter of the investigation. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

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

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

Issued: September 21, 2000.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–24821 Filed 9–26–00; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–862]

Initiation of Antidumping Duty Investigation: Foundry Coke Products From the People's Republic of China

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

EFFECTIVE DATE: October 17, 2000.

FOR FURTHER INFORMATION CONTACT: James Doyle, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0159.

Initiation of Investigation

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 ("Act") by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department of Commerce's ("Department") regulations are to 19 CFR part 351 (2000).

The Petition

On September 20, 2000, the Department received a petition on imports of foundry coke products from the People's Republic of China ("PRC") filed in proper form by ABC Coke, Citizens Gas and Coke Utility, Erie Coke, Tonawanda Coke Corporation, and United Steelworkers of America, AFL–CIO, hereinafter referred to as "the petitioners." On September 25, 2000, the Department received a supplement to the petition. On September 27, 2000, the Department requested clarification of certain areas of the petition and received a response on October 2, 2000.

In accordance with section 732(b) of the Act, the petitioners allege that imports of foundry coke products from

the PRC are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring and threaten to injure an industry in the United States.

The Department finds that the petitioners filed this petition on behalf of the domestic industry because they are interested parties as defined in section 771(9)(C) and (D) of the Act and they have demonstrated sufficient industry support with respect to the antidumping duty investigation they are requesting the Department to initiate (*see* "Determination of Industry Support for the Petition" below).

Scope of Investigation

For purposes of this investigation, the product covered is coke larger than 100 mm (4 inches) in maximum diameter and at least 50 percent of which is retained on a 100-mm (4 inch) sieve, of a kind used in foundries.

The foundry coke products subject to this investigation are currently classifiable under subheading 2704.00.00.10 of the *Harmonized Tariff Schedules of the United States* (HTSUS). Although the HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope of this investigation is dispositive.

During our review of the petition, we discussed the scope with the petitioners to ensure that it accurately reflects the product for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the Department's regulations (62 FR 27323), we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages all interested parties to submit such comments within 20 calender days of publication of this notice. Comments should be addressed to Import Administration's Central Records Unit at Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with interested parties prior to the issuance of the preliminary determinations.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (1) At least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition.

Section 771(4)(A) of the Act defines the "industry" as the producers as a whole of a domestic like product. Thus, to determine whether the petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission ("ITC"), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While the Department and the ITC must apply the same statutory definition regarding the domestic like product (*see* section 771(10) of the Act), they do so for different purposes and pursuant to separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the domestic like product, such differences do not render the decision of either agency contrary to law.[1]

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation," *i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition.

In this case, the domestic like product referred to in the petition is the single domestic like product defined in the "Scope of Investigation" section, above. At this time, the Department has no basis on the record to find the petition's definition of the domestic like product to be inaccurate. The Department, therefore, has adopted the domestic like product definition set forth in the petition.

Moreover, the Department has determined that the petition contains adequate evidence of industry support; therefore, polling was not unnecessary (*see Initiation Checklist* Re: Industry Support, October 10, 2000) ("*Initiation Checklist*"). To the best of the Department's knowledge, producers supporting the petition represent over 50 percent of total production of the domestic like product. Additionally, no person who would qualify as an interested party pursuant to section 771(9) (A), (C), (D), (E), or (F) of the Act has expressed opposition to the petition.

Accordingly, the Department determines that this petition is filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

Export Price and Normal Value

The following is a description of the allegation of sales at less than fair value upon which the Department based its decision to initiate this investigation. The sources of data for the deductions and adjustments relating to U.S. price and factors of production are also discussed in the *Initiation Checklist*. Should the need arise to use any of this information as facts available under section 776 of the Act in our preliminary or final determination, we may reexamine the information and revise the margin calculations, if appropriate.

Based on information obtained from the ITC's section 332 study on the foundry coke industries in the United States and the PRC, *Foundry Coke: A Review of the Industries in the United States and China*, July 2000 ("*332 Study*"), the petitioners identified the following PRC companies as major producers of foundry coke products in the PRC: Ying Xian, Top Reach (De-Rui), Ju Fu, Xiao Shan, Sanjia, Yuan Hui, Feng Yang Wen Feng, Ping Yao Feng Yang, Shuang Fa, Zhong Pu, Bai Zhang, Jin Yang, Military Farmland, Huang He, Jia Wei, Liangyu, Ping Yao Hua Feng, San Sheng, Tang Xin, Ying Xing, Wen Fei, Ying Dong, Fu You, Bao Wan, and Yao Long. Of these 25 companies the petitioners identified Ying Xian, Top Reach (De-Rui), Ju Fu, and Xiao Shan as the producers of a large quantity of foundry coke products exported to the United States.

The petitioners based export price ("EP") on import values declared to the U.S. Customs Service. In calculating import values declared to the U.S. Customs Service, the petitioners used the HTSUS category under which subject merchandise is currently classified (*i.e*, 2704.00.00.10). The petitioners calculated one EP based on the average unit values for entries of subject merchandise during February and March 2000. In order to obtain ex-factory prices, the petitioners deducted foreign inland freight from the Customs value. According to the ITC's *332 study*

[1] *See Algoma Steel Corp. Ltd.*, v. *United States*, 688 F. Supp. 639, 642–44 (CIT 1988); High Information Content Flat Panel Displays and Display Glass from Japan: Final Determination; Rescission of Investigation and Partial Dismissal of Petition, 56 FR 32376, 32380–81 (July 16, 1991).

on the foundry coke industries in the United States and the PRC, in the PRC foundry coke is transported to the port by either truck or train. For purposes of calculating foreign inland freight, the petitioners used the surrogate value for rail because of the large distances involved and the lower expense of shipping by rail, as compared to shipments by truck. For purposes of initiation we have found that this is a conservative estimate. We relied on the data in the petition except for valuing foreign inland freight. *See Initiation Checklist.*

The petitioners assert that the Department considers the PRC to be a non-market economy country ("NME") and, therefore, constructed normal value ("NV") based on the factors of production methodology pursuant to section 773(c) of the Act. In previous cases, the Department has determined that the PRC is an NME country. *See, e.g., Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from the People's Republic of China ("Cold-Rolled Steel from China")*, 65 FR 34660 (May 31, 2000). In accordance with section 771(18)(c)(i) of the Act, the NME status remains in effect until revoked by the Department. The NME status of the PRC has not been revoked by the Department and, therefore, remains in effect for purposes of the initiation of this investigation. Accordingly, the NV of the product appropriately is based on factors of production valued in a surrogate market economy country in accordance with section 773(c) of the Act. In the course of this investigation, all parties will have the opportunity to provide relevant information related to the issues of the PRC's NME status and the granting of separate rates to individual exporters.

As required by 19 CFR 351.202(b)(7)(i)(C), the petitioners provided a dumping margin calculation using the Department's NME methodology described in 19 CFR 351.408. For the NV calculation, the petitioners based the factors of production, as defined by section 773(c)(3) of the Act (raw materials, labor, energy and capital cost), for foundry coke products on the quantities of inputs used by one of the petitioning firms, Citizens Gas & Coke. *See Initiation Checklist*

The petitioners selected India as their surrogate country. Citing the Department's recent determination in cold-rolled steel from the PRC, the petitioners stated that India is comparable to the PRC in its level of economic development and is a significant producer of foundry coke products. Based on the information provided by the petitioners, we believe that the petitioners' use of India as a surrogate country is appropriate for purposes of initiation of this investigation. *See Initiation Checklist.*

In accordance with section 773(c)(4) of the Act, the petitioners valued factors of production for foundry coke products, where possible, on reasonably available, public surrogate country data. To value coal (the sole raw material input), the petitioners used a value for coking coal as reported in the *Monthly Statistics of Foreign Trade of India,* Vol. II—Imports, Directorate General of Commercial Intelligence & Statistics, Ministry of Commerce, Government of India, Calcutta. Labor was valued using the regression-based wage rate for the PRC, in accordance with 19 CFR 351.408(c)(3). Energy (coke oven gas) was valued using an Indian surrogate value for natural gas, adjusted for the relative difference in heating values between natural gas and coke oven gas. For overhead, SG&A and profit, the petitioners applied rates derived from the publicly available annual report of an Indian producer of comparable merchandise, Tata Iron and Steel Co., Ltd.

Based on comparisons of EP to NV, calculated in accordance with section 773(c) of the Act, the estimated dumping margin for foundry coke products from the PRC is 226.38 percent.

Fair Value Comparisons

Based on the data provided by the petitioners, there is reason to believe that imports of foundry coke products from the PRC are being, or are likely to be, sold in the United States at less than fair value.

Allegations and Evidence of Material Injury and Causation

The petition alleges that the U.S. industry producing the domestic like product is being materially injured and is threatened with material injury, by reason of the imports of the subject merchandise sold at less than NV. The petitioners contend that the industry's injured condition is evident in the declining trends in: (1) U.S. market share, (2) domestic production, (3) shipments, (4) capacity utilization, (5) employment, and (6) profit margins.

The allegations of injury and causation are supported by relevant evidence including ITC section 332 import data, lost sales, and pricing information. The Department assessed the allegations and supporting evidence regarding material injury and causation and determined that these allegations are supported by accurate and adequate evidence and meet the statutory requirements for initiation (see Attachments to *Initiation Checklist,* Re: Material Injury).

Initiation of Antidumping Investigation

Based upon our examination of the petition on foundry coke imports from the PRC, we find that the petition meets the requirements of section 732 of the Act. Therefore, we are initiating an antidumping duty investigation to determine whether imports of foundry coke products from the PRC are being, or are likely to be, sold in the United States at less than fair value. Unless postponed, we will make our preliminary determination no later than 140 days after the date of this initiation.

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of the petition has been provided to the representatives of the PRC. We will attempt to provide a copy of the public version of the petition to each exporter named in the petition, as appropriate.

International Trade Commission Notification

We have notified the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, no later than November 6, 2000, whether there is a reasonable indication that imports of foundry coke products from the PRC are causing material injury, or threatening to cause material injury, to a U.S. industry. A negative ITC determination will result in this investigation being terminated; otherwise, this investigation will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 777(i) of the Act.

Dated: October 10, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Administration.

[FR Doc. 00–26654 Filed 10–16–00; 8:45 am]

BILLING CODE 3510–DS–P

APPENDIX B

LIST OF WITNESSES

CALENDAR OF PUBLIC CONFERENCE

Those listed below appeared as witnesses at the United States International Trade Commission's conference:

Subject:	Foundry Coke from China
Inv. No.:	731-TA-891 (Preliminary)
Date and Time:	October 11, 2000 - 9:30 a.m.

The conference in connection with this investigation was held in the Commission's Main Hearing Room, 500 E Street, SW, Washington, DC.

Congressional Appearances

The Honorable Spencer Bachus, U.S. Congressman, 6th District, State of Alabama
The Honorable Phil English, U.S. Congressman, 21st District, State of Pennsylvania

In Support of the Imposition of Antidumping Duties:

Schagrin Associates
Washington, DC
on behalf of

ABC Coke, Erie Coke Corp., Citizens Gas and Coke Utility, Tonawanda Coke Corp., and United Steelworkers of America, AFL-CIO

Robert A. Bloom, President, Erie Coke Corp. and President, Tonawanda Coke Corp.

Martin C. Dusel, Executive Vice President, Citizens Gas and Coke Utility

John M. Pearson, President, ABC Coke

Gary Hubbard, Director of Public Affairs, United Steelworkers of America, AFL-CIO

Joseph G. Harvey, Director of Purchasing and Transportation, Neenah Foundry

Greg Simmons, Technical Director, Charlotte Pipe and Foundry Co.

William Walters, Casting Manager, Ward Manufacturing

Roger B. Schagrin)
)--OF COUNSEL
Andrew B. Knapp)

In Opposition to the Imposition of Antidumping Duties:

White and Case
Washington, DC
on behalf of

Shook Trading, Inc. and U-Met of Pennsylvania

Douglas Shook, Jr., President, Shook Trading, Inc.

Patrick Kellerman, Shook Trading, Inc.

John Grantham, Shook Trading, Inc.

Charles W. Knapp, U-Met of Pennsylvania

Lyle Vander Schaaf)
Adams Lee)--OF COUNSEL
Frank Morgan)

Sutherland, Asbill, and Brennan
Washington, DC
on behalf of

USG Interiors, Inc.

Fred M. Mazurski, Energy Manager, USG Interiors, Inc.

Curtis H. Malone, Plant Manager, Red Wing Plant, USG Interiors, Inc.

Mary Patricia Michel--OF COUNSEL

APPENDIX C

SUMMARY DATA

Table C-1
Foundry coke: Summary data concerning the U.S. market, 1997-99, January-June 1999, and January-June 2000

(Quantity=metric tons, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per mertic ton; period changes=percent, except where noted)

	Reported data					Period changes			
				January-June					Jan.-June
Item	1997	1998	1999	1999	2000	1997-99	1997-98	1998-99	1999-00
U.S. consumption quantity:									
Amount	1,151,179	1,193,226	1,249,249	598,125	578,124	8.5	3.7	4.7	-3.3
Producers' share (1)	100.0	98.7	91.0	97.4	93.0	-9.0	-1.3	-7.7	-4.4
Importers' share (1):									
China	(2)	1.3	9.0	2.6	7.0	9.0	1.3	7.7	4.4
Other sources	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total imports	(2)	1.3	9.0	2.6	7.0	9.0	1.3	7.7	4.4
U.S. consumption value:									
Amount	198,786	209,847	217,111	107,868	103,025	9.2	5.6	3.5	-4.5
Producers' share (1)	100.0	99.0	93.3	97.7	93.8	-6.7	-1.0	-5.7	-3.9
Importers' share (1):									
China	(2)	1.0	6.7	2.3	6.2	6.7	1.0	5.7	3.9
Other sources	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total imports	(2)	1.0	6.7	2.3	6.2	6.7	1.0	5.7	3.9
U.S. shipments of imports from:									
China:									
Quantity	22	15,804	113,028	15,404	40,246	(4)	(4)	615.2	161.3
Value	4	2,196	14,581	2,518	6,396	(4)	(4)	564.0	154.0
Unit value	$181.82	$138.95	$129.00	$163.46	$158.92	-29.0	-23.6	-7.2	-2.8
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Other sources:									
Quantity	0	0	0	0	0	(3)	(3)	(3)	(3)
Value	0	0	0	0	0	(3)	(3)	(3)	(3)
Unit value	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)
Ending inventory quantity	0	0	0	0	0	(3)	(3)	(3)	(3)
All sources:									
Quantity	22	15,804	113,028	15,404	40,246	(4)	(4)	615.2	161.3
Value	4	2,196	14,581	2,518	6,396	(4)	(4)	564.0	154.0
Unit value	$181.82	$138.95	$129.00	$163.46	$158.92	-29.0	-23.6	-7.2	-2.8
Ending inventory quantity	***	***	***	***	***	***	***	***	***

Table continued on next page.

Table C-1--Continued
Foundry coke: Summary data concerning the U.S. market, 1997-99, January-June 1999, and January-June 2000

(Quantity=metric tons, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per mertic ton; period changes=percent, except where noted)

	Reported data					Period changes			
				January-June					Jan.-June
Item	1997	1998	1999	1999	2000	1997-99	1997-98	1998-99	1999-00
U.S. producers':									
Average capacity quantity	1,667,549	1,667,549	1,667,549	831,659	832,596	0.0	0.0	0.0	0.1
Production quantity	1,258,249	1,270,900	1,251,045	624,253	583,070	-0.6	1.0	-1.6	-6.6
Capacity utilization (1)	75.5	76.2	75.0	75.1	70.0	-0.4	0.8	-1.2	-5.0
U.S. shipments:									
Quantity	1,151,157	1,177,422	1,136,221	582,721	537,878	-1.3	2.3	-3.5	-7.7
Value	198,782	207,651	202,530	105,350	96,629	1.9	4.5	-2.5	-8.3
Unit value	$172.68	$176.36	$178.25	$180.79	$179.65	3.2	2.1	1.1	-0.6
Export shipments:									
Quantity	102,794	99,059	106,829	53,242	52,158	3.9	-3.6	7.8	-2.0
Value	18,578	17,708	18,890	9,502	9,309	1.7	-4.7	6.7	-2.0
Unit value	$180.73	$178.76	$176.82	$178.47	$178.48	-2.2	-1.1	-1.1	(2)
Ending inventory quantity	43,608	38,023	46,017	24,815	39,061	5.5	-12.8	21.0	57.4
Inventories/total shipments (1)	3.5	3.0	3.7	2.0	3.3	0.2	-0.5	0.7	1.4
Production workers	976	986	964	960	967	-1.2	1.0	-2.2	0.7
Hours worked (1,000s)	2,215	2,220	2,208	1,080	1,142	-0.3	0.2	-0.5	5.7
Wages paid ($1,000s)	41,063	40,358	40,523	20,031	20,849	-1.3	-1.7	0.4	4.1
Hourly wages	$18.54	$18.18	$18.35	$18.55	$18.26	-1.0	-1.9	1.0	-1.6
Productivity (metric tons per 1,000 hours	0.57	0.57	0.57	0.58	0.51	-0.3	0.8	-1.0	-11.7
Unit labor costs	$32.64	$31.76	$32.39	$32.09	$35.76	-0.7	-2.7	2.0	11.4
Net sales:									
Quantity	1,242,785	1,285,623	1,250,193	635,962	590,036	0.6	3.4	-2.8	-7.2
Value	215,142	226,603	219,007	114,828	105,937	1.8	5.3	-3.4	-7.7
Unit value	$173.11	$176.26	$175.18	$180.56	$179.54	1.2	1.8	-0.6	-0.6
Cost of goods sold (COGS)	166,127	171,234	173,281	89,710	85,383	4.3	3.1	1.2	-4.8
Gross profit or (loss)	49,015	55,369	45,726	25,119	20,554	-6.7	13.0	-17.4	-18.2
SG&A expenses	12,558	12,350	13,183	7,097	7,319	5.0	-1.7	6.7	3.1
Operating income or (loss)	36,457	43,019	32,543	18,022	13,235	-10.7	18.0	-24.4	-26.6
Capital expenditures	18,559	13,820	12,628	6,427	6,046	-32.0	-25.5	-8.6	-5.9
Unit COGS	$133.67	$133.19	$138.60	$141.06	$144.71	3.7	-0.4	4.1	2.6
Unit SG&A expenses	$10.10	$9.61	$10.54	$11.16	$12.40	4.4	-4.9	9.8	11.2
Unit operating income or (loss)	$29.33	$33.46	$26.03	$28.34	$22.43	-11.3	14.1	-22.2	-20.8
COGS/sales (1)	77.2	75.6	79.1	78.1	80.6	1.9	-1.7	3.6	2.5
Operating income or (loss)/ sales (1)	16.9	19.0	14.9	15.7	12.5	-2.1	2.0	-4.1	-3.2

(1) "Reported data" are in percent and "period changes" are in percentage points.
(2) Less than 0.05 percent.
(3) Not applicable.
(4) More than 1,000 percent.

Note.--Financial data are reported on a fiscal year basis and may not necessarily be comparable to data reported on a calendar year basis. Because of rounding, figures may not add to the totals shown. Unit values and shares are calculated from the unrounded figures.

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

APPENDIX D

EFFECTS OF IMPORTS ON PRODUCERS' EXISTING DEVELOPMENT AND PRODUCTION EFFORTS, GROWTH, INVESTMENT, AND ABILITY TO RAISE CAPITAL

The Commission requested U.S. producers to describe any actual or potential negative effects of imports of foundry coke from China on their firms' growth, investment, and ability to raise capital or development and production efforts (including efforts to develop a derivative or more advanced version of the product).

Actual Negative Effects

The majority of responding producers stated that they had experienced actual negative effects as a result of foundry coke imports from China. Summarized excerpts from producer responses are provided below. (Note: Statements that are not in quotes reflect items checked in section III-11 of the questionnaire.)

ABC: ***.
Citizens: ***.
Empire: ***.
Erie: ***.
Tonawanda: ***.

Anticipated Negative Effects

The majority of responding producers stated that they also anticipate negative effects as a result of imports of foundry coke from China. Narrative excerpts from producer responses are provided below.

ABC: ***.
Citizens: ***.
Empire: ***.
Erie: ***.
Tonawanda: ***.