Certain Activated Carbon From China

Investigation No. 731-TA-1103 (Preliminary)

Publication 3852 **May 2006**

U.S. International Trade Commission

Washington, DC 20436

U.S. International Trade Commission

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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been identified by the use of asterisks.

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-1103 (Preliminary)

CERTAIN ACTIVATED CARBON FROM CHINA

DETERMINATION

On the basis of the record[1] developed in the subject investigation, the United States International Trade Commission (Commission) determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)) (the Act), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from China of certain activated carbon,[2] provided for in subheading 3802.10.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).

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

[2] For purposes of this investigation, the product covered is certain activated carbon defined as a powdered, granular or pelletized carbon product obtained by "activating" with heat and steam various materials containing carbon, including but not limited to coal (including bituminous, lignite and anthracite), wood, coconut shells, olive stones, and peat. The thermal and steam treatments remove organic materials and create an internal pore structure in the carbon material. The producer can also use carbon dioxide gas (CO_2) in place of steam in this process. The vast majority of the internal porosity developed during the high temperature steam (or CO_2 gas) activation process is a direct result of oxidation of a portion of the solid carbon atoms in the raw material, converting them into a gaseous form of carbon. This definition covers all forms of activated carbon that are activated by steam or CO_2, regardless of raw material, grade, mixture, additives, further washing or post-activation chemical treatment (chemical or water washing, chemical impregnation or other treatment), or product form. Unless specifically excluded, this definition covers all physical forms of certain activated carbon, including powdered activated carbon ("PAC"), granular activated carbon ("GAC"), and pelletized activated carbon.

Excluded from this definition are chemically-activated carbons. The carbon-based raw material used in the chemical activation process is treated with a strong chemical agent, including but not limited to phosphoric acid or zinc chloride sulfuric acid, that dehydrates molecules in the raw material, and results in the formation of water that is removed from the raw material by moderate heat treatment. The activated carbon created by chemical activation has internal porosity developed primarily due to the action of the chemical dehydration agent. Chemically activated carbons are typically used to activate raw materials with a lignocellulosic component such as cellulose, including wood, sawdust, paper mill waste and peat.

To the extent that an imported activated carbon product is a blend of steam and chemically activated carbons, products containing 50 percent or more steam (or CO_2 gas) activated carbons are within this definition, and those containing more than 50 percent chemically activated carbons are outside this definition.

Also excluded from this definition are reactivated carbons and activated carbon cloth. Reactivated carbons are previously used activated carbons that have had adsorbed materials removed from their pore structure after use through the application of heat, steam and/or chemicals. Activated carbon cloth is a woven textile fabric made of or containing activated carbon fibers. It is used in masks and filters and clothing of various types where a woven format is required.

Any activated carbon meeting the physical description of subject merchandise provided above that is not expressly excluded from this definition is included within the definition.

COMMENCEMENT OF FINAL PHASE INVESTIGATION

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 March 8, 2006, a petition was filed with the Commission and Commerce by Calgon Carbon Corporation, Pittsburgh, PA, and Norit Americas, Inc., Marshall, TX, alleging that an industry in the United States is materially injured by reason of LTFV imports of certain activated carbon from China. Accordingly, effective March 8, 2006, the Commission instituted antidumping duty investigation No. 731-TA-1103 (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 March 15, 2006 (71 FR 13430). The conference was held in Washington, DC, on March 30, 2006, and all persons who requested the opportunity were permitted to appear in person or by counsel.

VIEWS OF THE COMMISSION

Based on the record in the preliminary phase of this investigation, we find that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of certain activated carbon imported 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 or threatened with material injury, or that the establishment of an industry is materially retarded, by reason of the allegedly unfairly traded imports.[1] In applying this standard, the Commission weighs the evidence before it and determines whether "(1) the record as a whole contains clear and convincing evidence that there is no material injury or threat of such injury; and (2) no likelihood exists that contrary evidence will arise in a final investigation."[2]

II. BACKGROUND

Certain activated carbon is black carbon material obtained by "activating" various materials containing high levels of carbon, including coal, wood, and coconut shells by treating them with steam, carbon dioxide, and/or heat.[3] The thermal treatments remove organic materials and create a large internal pore structure in the carbon material. The pores adsorb (trap) contaminants in liquids or gasses. Adsorption of contaminants removes organic compounds from the surrounding air, gas, or liquid streams, thus helping to purify the stream.[4] Certain activated carbon is used widely by municipal water treatment authorities to remove undesirable tastes and odors from drinking water and to eliminate contaminants from industrial waste water.[5] Other uses of certain activated carbon include removing color and impurities from food and chemicals, as well as removing mercury and dioxins from flue gas emissions.[6] Certain activated carbon is non-toxic and has no adverse environmental effects, although once activated carbon has been used, it may take on the toxicity of adsorbed materials.[7]

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[1] 19 U.S.C. § 1673b(a) (2000); see also, e.g., Co-Steel Raritan, Inc. v. United States, 357 F.3d 1294 (Fed. Cir. 2004); American Lamb Co. v. United States, 785 F.2d 994, 1001-04 (Fed. Cir. 1986); Aristech Chem. Corp. v. United States, 20 CIT 353, 354-55 (1996). No party argued that the establishment of an industry is materially retarded by reason of the allegedly unfairly traded imports.

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

[3] Confidential Report ("CR") at I-4, Public Report ("PR") at I-3. Activated carbon also may be produced via chemical activation, which is excluded from the scope of this investigation. Chemical activation generally is used to produce a high pore volume in cellulose-based raw material such as wood or peat. Chemically activated carbon primarily is used in vapor phase applications such as automobile emissions canisters, and in certain solvent recovery applications. Transcript for Commission Conference held March 30, 2006 ("Tr.") at 115-16 (Jordan).

[4] CR at I-2; PR at I-2.

[5] CR at I-6; PR at I-4.

[6] CR at I-6, I-7; PR at I-4, I-5.

[7] CR at I-8; PR at I-6.

Certain activated carbon is sold in three basic forms: powdered, granular, and pelletized.[8] Most U.S. producers and importers ship certain activated carbon directly to end users, while a far smaller percentage of certain activated carbon is shipped to distributors.[9] It generally is packaged and stored in plastic bags ranging from 25 to 2,000 pounds, and shipped either by rail or truck.[10]

The antidumping petition in this investigation was filed on March 8, 2006.[11] Petitioners are Calgon Carbon Corporation ("Calgon") and Norit Americas, Inc. ("Norit"). A group of U.S. importers of subject merchandise from China, (collectively referred to as "the Coalition of Importers of Activated Carbon" or "CIAC,")[12] participated in the conference and filed a brief. An additional group of U.S. importers and wholesalers/distributers of subject merchandise from China, (collectively referred to as the "CAC Group,")[13] filed a brief but did not participate at the conference. A group of exporters and producers of subject merchandise from China, (collectively referred to as "the Coalition of Chinese Producers of Activated Carbon" or "CCPAC,")[14] entered a notice of appearance but did not participate at the conference or file a brief.

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[8] CR at I-4; PR at I-3..

[9] CR/PR at Table II-1.

[10] CR at I-8; PR at I-6.

[11] On January 26, 2006, Petitioners in the instant investigation filed a petition alleging that an industry in the United States was materially injured and threatened with material injury by reason of LTFV imports of "activated carbon" from China, which included both steam activated and chemically activated carbon in the proposed scope of investigation. As a result of that filing, the Commission instituted investigation No. 731-TA-1102 (Preliminary): Activated Carbon from China. See Notice of Initiation, Activated Carbon from China, 71 Fed. Reg. 5688 (Feb. 2, 2006). Subsequently, on February 15, 2006, Petitioners withdrew their petition at the U.S. Department of Commerce ("Commerce"). Commerce had not initiated an investigation by that date, and the Commission discontinued its investigation effective that date. See Notice of Withdrawal of Petition, Activated Carbon from China 71 Fed. Reg. 9155 (Feb. 22, 2006).

[12] The fourteen individual members of CIAC are: Carbon Link Corp.; PICA USA; Cherishmet, Inc.; Jacobi Carbons, Inc.; Nichem Co., Nucon International, Inc.; Sorbent Technologies Corp.; Superior Absorbents, Inc.; Tea Importers, Inc.; U.S. Filters/Ionpure, Inc.; Unisorb Corp.; Bestac International, Inc.; Cal Pacific Carbon; and General Carbon Corp.

[13] The thirteen individual members of CAC Group are: Carbon Activated Corp.; Carbon Resources; Clean Environmental Concepts; KX Industries; ML Ball Company; Solid Industrial Group, Inc.; United Manufacturing International; Winfield Industries, Inc.; California Carbon; Global Minerals; Prominent Systems; Resin Tech; and Timemaster Trading.

[14] The twenty-one individual members of CCPAC are: Beijing Pacific Activated Carbon Products Co., Ltd; Daneng Zhenda Activated Carbon Co., Ltd; Datong Forward Activated Carbon Co., Ltd; Datong Huaqing Activated Carbon Co., Ltd; Datong Hongtai Activated Carbon Co., Ltd; Datong Huibao Activated Carbon Co., Ltd; Datong Juqiang Activated Carbon Co., Ltd; Datong Locomotive Coal & Chemicals Co., Ltd.; Datong Tri-Star & Power Carbon Plant; Datong Weidu Activated Carbon Co., Ltd; Datong Yunguang Chemical Plant; Jilin Province Bright Future Industry & Commerce Co., Ltd; Ningxia Guanghua-Cherishmet Activated Carbon Co., Ltd; Shanxi DMD Corporation; Shanxi Industry Technology Trading Co., Ltd; Shanxi Sincere Industrial Co., Ltd; Shanxi Xinhua Chemical Co., Ltd; Shanxi Xinshidai Imp & Exp Co. Ltd; Shanxi Xuanzhong Chemical Industry Co., Ltd; and Tangshan Solid Carbon Co., Ltd.

III. DOMESTIC LIKE PRODUCT

A. In General

In determining whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of the subject merchandise, the Commission first defines the "domestic like product" and the "industry."[15] 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."[16] 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."[17]

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.[18] No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.[19] The Commission looks for clear dividing lines among possible like products, and disregards minor variations.[20] Although the Commission must accept the determination of the U.S. Department of Commerce ("Commerce") as to the scope of the imported merchandise allegedly subsidized or sold at less than fair value, the Commission determines what domestic product is like the imported articles Commerce has identified.[21] The Commission must base its domestic like product determination on the record in this investigation. The Commission is not bound by prior determinations, even those pertaining to the same imported products, but may draw upon previous determinations in addressing pertinent like product issues.[22]

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[15] 19 U.S.C. § 1677(4)(A).

[16] Id.

[17] 19 U.S.C. § 1677(10).

[18] See, e.g., 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) consumer and producer perceptions of the products; (5) common manufacturing facilities, production processes and production employees; and where appropriate, (6) price. See Nippon Steel Corp., 19 CIT at 455 n.4; Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int'l Trade 1996).

[19] See, e.g., S. Rep. No. 249, 96th Cong., 1st Sess., at 90-91 (1979).

[20] Nippon Steel Corp., 19 CIT at 455; Torrington Co., 747 F. Supp. at 748-49; see also S. Rep. No. 249 at 90-91 (Congress has indicated that the domestic 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.")

[21] Hosiden Corp. v. Advanced Display Mfrs., 85 F.3d 1561, 1568 (Fed. Cir. 1996) (Commission may find a single domestic like product corresponding to several different classes or kinds defined by Commerce); Torrington Co., 747 F. Supp. at 748-52 (affirming Commission's determination of six domestic like products in investigations where Commerce found five classes or kinds).

[22] Acciai Speciali Terni S.p.A. v. United States, 118 F. Supp. 2d 1298, 1304-05 (Ct. Int'l Trade 2000); Nippon Steel Corp. v. United States, 19 CIT at 455; Asociacion Colombiana de Exportadores de Flores v. United States, 693 F. Supp. 1165, 1169 n.5 (Ct. Int'l Trade 1988) (particularly addressing like product determination); Citrosuco Paulista, S.A. v. United States, 704 F. Supp. 1075, 1087-88 (Ct. Int'l Trade 1988).

B. Product Description

The Department of Commerce's notice of initiation defines the imported merchandise within the scope of this investigation as follows –

> The merchandise subject to this investigation is certain activated carbon. Certain activated carbon is a powdered, granular or pelletized carbon product obtained by "activating" with heat and steam various materials containing carbon, including but not limited to coal (including bituminous, lignite and anthracite), wood**,** coconut shells, olive stones, and peat. The thermal and steam treatments remove organic materials and create an internal pore structure in the carbon material. The producer can also use carbon dioxide gas (CO_2) in place of steam in this process. The vast majority of the internal porosity developed during the high temperature steam (or CO_2 gas) activation process is a direct result of oxidation of a portion of the solid carbon atoms in the raw material, converting them into a gaseous form of carbon.
>
> The scope of this investigation covers all forms of activated carbon that are activated by steam or CO_2, regardless of raw material, grade, mixture, additives, further washing or post-activation chemical treatment (chemical or water washing, chemical impregnation or other treatment), or product form. Unless specifically excluded, the scope of this investigation covers all physical forms of certain activated carbon, including powdered activated carbon ("PAC")**,** granular activated carbon ("GAC"), and pelletized activated carbon.
>
> Excluded from the scope of the investigation are chemically-activated carbons. The carbon based raw material used in the chemical activation process is treated with a strong chemical agent, including but not limited to phosphoric acid, zinc chloride sulfuric acid or potassium hydroxide, that dehydrates molecules in the raw material by moderate heat treatment. The activated carbon created by chemical activation has internal porosity developed primarily due to the action of the chemical dehydration agent. Chemically activated carbons are typically used to activate raw materials with a lignocellulosic component such as cellulose, including wood, sawdust, paper mill waste and peat.
>
> To the extent that an imported activated carbon product is a blend of steam and chemically activated carbons, products containing 50 percent or more steam (or CO_2) gas activated carbons are within this scope, and those containing more than 50 percent chemically activated carbons are outside the scope.
>
> Also excluded from this scope are reactivated carbons. Reactivated carbons are previously used activated carbons that have had adsorbed materials removed from their pore structure after use through the application of heat, steam and/or chemicals.

> Also excluded from the scope is activated carbon cloth. Activated carbon cloth is a woven textile fabric made of or containing activated carbon fibers. It is used in masks and filters and clothing of various types where a woven format is required.
>
> Any activated carbon meeting the physical description of subject merchandise provided above that is not expressly excluded from the scope is included within this scope. The products under investigation are currently classifiable under Harmonized Tariff System of the United States ("HTSUS") subheading 3802.10.00. Although HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

C. Domestic Like Product

In general there are three types of activated carbon: 1) carbon that has been activated using thermal processing ("certain activated carbon"); 2) carbon that has been activated chemically; and 3) carbon that has been reactivated ("reactivated carbon"), typically using thermal processing. Only the first of these, certain activated carbon, is covered by the scope of this petition.

The domestic like product issues presented in the preliminary phase of this investigation concern the extent to which the Commission should define the domestic like product to be broader than Commerce's scope of investigation. Petitioners argue that the Commission should find one domestic like product consisting of certain activated carbon, coextensive with Commerce's scope of investigation.[23] Respondents[24] argue that the Commission should define the domestic like product to include both certain activated carbon and chemically activated carbon. Respondents assert that reactivated carbon is part of the same like product as steam and chemically activated carbon, but do not ask the Commission to broaden the domestic like product to include reactivated carbon for purposes of the preliminary determination.[25] For purposes of the preliminary phase of this investigation, we find a single domestic like product defined as certain activated carbon, coextensive with Commerce's scope of investigation**.**

1. Whether the Domestic Like Product Should Include Chemically Activated Carbon

Based on the Commission's traditional six factor like product analysis, we define the domestic like product to be certain activated carbon, coextensive with Commerce's scope of investigation.[26]

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[23] Petitioners' Postconference Brief at 4.

[24] Respondents are CIAC and CAC Group.

[25] CIAC's Postconference Brief at 9.

[26] In its analysis of the traditional domestic like product factors, the Commission generally considers a number of factors including: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) common manufacturing facilities, production processes and production employees; (5) customer or producer perceptions; and, when appropriate, (6) price. See, e.g., Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int'l Trade 1996). No single factor is dispositive, and the Commission may consider other factors relevant to a particular investigation. The Commission looks for clear dividing lines among possible like products, and disregards minor variations. See, e.g., S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979); Torrington Co., 747 F. Supp. at 748-49.

Physical Characteristics and Uses

The physical characteristics of certain activated carbon and chemically activated carbon, within the same type or form, are similar, such that they may not be physically distinguishable from each other to the naked eye. However, they differ due to the fundamental differences in the raw material activated. The vast majority of certain activated carbon is made from coal or coal-based carbons, while all domestically produced chemically activated carbon uses wood or a wood-based product as a raw material.[27] In general, wood-based, chemically activated carbons have more large- and medium-sized pores than do coal-based, certain activated carbons.

Generally speaking, the end use of certain activated carbon and chemically activated carbon is the same: to trap contaminants in liquids or gases through adsorption.[28] Their larger pores make chemically activated carbons particularly well-suited for vapor phase applications, while the smaller pores in certain activated carbons make them more suitable for liquid phase applications.[29]

Interchangeability

The record is somewhat mixed with regard to this factor.[30] Six importers, all individual members of CIAC, indicated that certain activated and chemically activated carbon are generally interchangeable, while three importers, one of whom is a member of CAC Group, stated that there is no interchangeability between certain activated and chemically activated carbon.[31] *** which is the primary domestic use for chemically activated carbon.[32]

Very small amounts of certain activated carbon and chemically activated carbon are blended into a single commercial product.[33] Even when blended, however, each component performs a unique filtration function.[34]

Petitioners concede that it is "possible" for chemically activated carbons to compete with certain activated carbons in some applications, but competition is rare because chemically activated carbons are more expensive to produce and are priced much higher than certain activated carbons.[35] ***[36] Petitioners state that there are numerous applications in which chemically activated carbons are used exclusively, including automotive emissions canisters (the largest application for chemically activated carbons in the U.S. market), and in the filtration of hydrolyzed vegetable protein, soda ash, fruit juice, and wine.[37] Although U.S. automakers used certain activated carbon in emissions canisters during the

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[27] CR at I-6; PR at I-5.

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

[29] CR at I-6, I-7; PR a I-5.

[30] CR at Appendix D, p. 4-5; PR at Appendix D, p. 3.

[31] CR at Appendix D, p. 5; PR at Appendix D, p. 3.

[32] CR at Appendix D, p. 4; PR at Appendix D, p. 3.

[33] CIAC's Postconference Brief at 6, Petitioners' Postconference Brief, Responses to Staff Question, at Exhibit 1 at 6.

[34] CIAC's Postconference Brief at 6, Petitioners' Postconference Brief, Responses to Staff Question, at Exhibit 1 at 6.

[35] Tr. at 29 (O'Brien). Petitioners state that chemically activated carbons cannot be used in aquariums and purifying pharmaceuticals due to concerns over phosphate leaking. Tr. at 82 (Rester).

[36] CR at II-7; PR at II-3.

[37] CR at Appendix D, p. 5; PR at Appendix D, p. 3. For most applications that use chemically activated carbon, including the automobile industry, certain activated carbon does not meet the required specifications. CR at II-7; PR at II-4.

1980s, and Respondents allege that some Asian automakers use certain activated carbon in this application, there is no evidence on the record that certain activated carbon has been used by automakers in the United States during the period of investigation.[38]

Channels of Distribution

The vast majority of certain activated carbon sold in the United States is sold directly to end-users, while a smaller percentage is sold to distributers.[39] ***[40] However, a majority of the end-users that use certain activated carbon are in different industries from those using chemically activated carbons. The most common application for certain activated carbon sold in the United States is in municipal water treatment facilities, while most chemically activated carbon sold in the United States is sold to the automotive industry for emission control.[41]

Common Manufacturing Facilities, Production Processes, and Production Employees

Currently, there are no U.S. producers that produce both certain activated carbon and chemically activated carbon. Until 2005, Norit produced both types of activated carbon, but in separate facilities and using different equipment.[42] Accordingly, there is no overlap in the facilities, workers, or equipment used in the production of certain activated carbon and chemically activated carbon.

The production processes for certain activated carbon and chemically activated carbon differ as well.[43] In the steam activated process, the characteristic pore structure is created when steam is applied to charcoal at high temperatures.[44] In the chemically activated process, the pore structure is created when a chemical agent is applied to wood, extracting hydrogen and oxygen in the form of water.[45]

Customer and Producer Perceptions

Six importers report that customers do not perceive a significant difference between certain activated carbon and chemically activated carbon, and that they are used by customers interchangeably.[46] One importer commented that chemically activated carbon is viewed as a *** while another importer stated that it ***.[47]

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[38] CR at I-7; PR at I-4.
[39] CR/PR at Table II-1.
[40] CR at Appendix D, p.8; PR at Appendix D, p. 3.
[41] CR at Appendix D, p.3; PR at Appendix D, p. 2; Tr. at 121 (Jordan) (overall municipal water purification plants account for approximately one-fifth of the total U.S. consumption of virgin activated carbon).
[42] CR at I-14; PR at I-10.
[43] CR at Appendix D, p. 6; PR at Appendix D, p. 3.
[44] CR at I-15, PR at I-10.
[45] CR at I-15, PR at I-10.
[46] CR at Appendix D, p. 9; PR at PR at Appendix D, p. 3.
[47] CR at Appendix D, p. 9-10; PR at PR at Appendix D, p. 3

Petitioners stated that producers perceive certain activated carbon and chemically activated carbon as different products that serve different markets.[48] The fact that ***.[49] ***[50]

Price

Relative to certain activated carbon, chemically activated carbon sells ***[51] ***.[52] An importer, ***, which is a member of CIAC, stated that its own information indicated that ***.[53] That same importer stated that *** has competed for municipal water treatment contracts at *** to steam activated carbons, although ***.[54]

Conclusion

Certain activated carbon and chemically activated carbon, within the same type or form, possess similar physical characteristics and share the same basic end use: to trap contaminants in liquids or gases through adsorption. However, differences in chemical and steam activation, and the raw material activated, create differences in pore structure and pore size. Chemically activated carbon is more effective in vapor phase applications in the automobile industry, its primary market. Interchangeability is limited. Certain activated carbon does not currently compete with chemically activated carbons in the domestic automobile market, despite the much higher prices paid for chemically activated carbon in that market. Although chemically activated carbon is theoretically interchangeable with certain activated carbon for certain applications, as a practical matter, the higher price of chemically activated carbon severely limits competition. While both types of carbon are sold primarily to end users, certain activated and chemically activated carbon cannot be said to share the same channels of distribution because the products are generally sold to different end users in different industries. Although the record is mixed with respect to customer and producer perceptions, this preliminary record indicates that the products do not share the same manufacturing facilities, equipment, employees, and production processes. Prices for certain activated carbon and chemically activated carbon differ substantially.

On these bases, we define the domestic like product as certain activated carbon, coextensive with the scope of the investigation. We may explore this issue further in any final phase of this investigation.

2. Whether the Domestic Like Product Should Include Reactivated Carbon

For purposes of the preliminary determination, no party has argued that the like product should be defined more broadly than the scope to include reactivated carbon.[55] Based on the Commission's traditional six factor like product analysis, we find that there is a clear dividing line between certain activated carbon and reactivated carbon in the preliminary phase of this investigation.

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[48] CR at I-13; PR at I-9.
[49] Petitioners' Postconference Brief at 15.
[50] CR at Appendix D, p. 9; PR at PR at Appendix D, p. 3.
[51] CR at Appendix D, p. 10; PR at PR at Appendix D, p. 3.
[52] CR at Appendix D, p. 10, PR at PR at Appendix D, p. 3 (responses of ***).
[53] CR at Appendix D, p. 10; PR at PR at Appendix D, p. 3.
[54] CR at Appendix D, p.10, and II-7; PR at PR at Appendix D, p. 3, and II-4.

[55] CR at I-12; PR at I-8, I-9.

Reactivated carbon is made by thermally or chemically removing chemical species adsorbed onto used activated carbon.[56] It appears that reactivated carbon and activated carbon cannot be physically distinguished within the same type or form of carbon (i.e., pelletized, powdered, granulated, etc.), and that both have the same use: to trap contaminants in liquids or gases through adsorption. Nonetheless, interchangeability between certain activated carbon and reactivated carbon is limited. Due to contamination and liability concerns, most reactivated carbon can be used only in its original application. Moreover, while some reactivated carbon is pooled for use in the same application for which the virgin product was directed, many purchasers are unwilling to buy reactivated carbon previously used by any other end-user. Additionally, reactivated carbons can never be used in certain beverage applications and food grade applications.[57] Although activated carbons can be used in any applications that use reactivated carbons, reactivated carbons are frequently limited to their original application, and are used only as a cost-saving measure. Even though almost all domestic producers of certain activated carbon market and sell reactivated carbon, the channels of distribution for the two products differ. Certain activated carbon is sold on the commercial market to a variety of end-users, much reactivated carbon is produced (reactivated) and consumed internally by end-users.[58] Moreover, because of contamination concerns, activation and reactivation are performed in different facilities using different equipment.[59]

Although the parties acknowledge differences in the production processes, the parties disagree as to the importance of these differences.[60] While some customers perceive reactivated carbon to be identical to low-grade virgin carbons, as previously discussed, some end-users accept only virgin activated carbon, and numerous other end-users use only their own reactivated carbons due to contamination concerns. There are also significant differences in price between the two products.[61] Reactivated carbon sells at much lower prices than does certain activated carbon. For the reasons discussed above, we find a clear dividing line between certain activated carbon and reactivated carbon for purposes of the preliminary phase of this investigation.

Accordingly, for purposes of this preliminary determination, we determine that the domestic like product does not include reactivated carbon. We may explore this issue further in any final phase of this investigation.

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[56] CR at I-10; PR at I-7, I-8.

[57] CR at I-11; PR at I-8.. Tr. at 164-165 (Clark); Tr. 165-166. Third-party reactivated carbon is never used in drinking water applications.

[58] CR at I-10; PR at I-7, I-8.

[59] CR at II-3; PR at II-2, II-3. According to one of CIAC's witnesses, there is some overlap in the equipment that can be used to produce activated and reactivated carbons. Specifically, the furnaces can be used to produced both products, with some cleaning and adjustment necessary for switching between producing the two products. Tr. at 110 (Kovach). Although Petitioners acknowledge that both activation and reactivation occur in a furnace or kiln, Petitioners have stated that activation and reactivation occur in separate facilities to avoid contamination. One domestic producer, ***, which *** the petition, stated that it uses the same machinery and employees to produce activated and reactivated carbon. For that producer, however, reactivated carbon accounted for *** percent of production using the common machinery and employees. CR at II-4; PR at II-3.

[60] Petitioners state that reactivated carbon does not require the production of char from the raw materials, and that the organic compounds removed during activation are different from the adsorbed compounds removed during reactivation. Petitioners' Postconference Brief at 23-24. Respondents argue that the processes are almost identical, although they acknowledge minor differences between the two processes regarding what is being carbonized, and that reactivated carbon needs to be blended with virgin activated carbon to make up for carbon lost in the reactivated carbon production process. CIAC's Postconference Brief at 12-14.

[61] CR II-7; PR at II-4.

IV. DOMESTIC INDUSTRY

A. In General

The domestic industry is defined 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."[62] In defining the domestic industry, the Commission's general practice has been to include in the industry all domestic production of the domestic like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.[63] Based on our finding that the domestic like product is certain activated carbon, for purposes of this preliminary determination, we find that the domestic industry consists of all known domestic producers of certain activated carbon.[64] We now turn our discussion to the issues presented under the statutory related parties provision.

B. Related Parties

We must determine whether any producer of the domestic like product should be excluded from the domestic industry pursuant to 19 U.S.C. § 1677(4)(B). Subsection 1677(4)(B) 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.[65] Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each investigation.

During the staff conference in this investigation, CIAC stated that it was "appropriate to at least probe the issue of exclusion of Calgon as a related party" in view of its imports from and operations in China. However, it provided no further discussion of this issue in its postconference submission.[66] Petitioners argue that there are no related party issues in the preliminary phase of this investigation with respect to Calgon because its interests clearly lie in domestic production rather than in importation of subject merchandise.[67]

We considered three related party issues in this investigation, relating to domestic producers Calgon, Norit, and California Carbon. These three domestic producers accounted for 100 percent of reported domestic production of certain activated carbon in 2005.[68]

Calgon is a related party due to its imports of subject merchandise. Calgon is also affiliated with ***.[69] It is a Petitioner and the *** producer of certain activated carbon, accounting for *** percent of domestic production of certain activated carbon in 2005. Calgon stated that it began importing subject merchandise from China after customers urged it to do so in the face of low prices from China.[70] Its ratio

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[62] 19 U.S.C. § 1677(4)(A).

[63] 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).

[64] The five firms that comprise the domestic industry are Calgon, Norit, California Carbon, Acticarb Tailored Products, LLC, and Cal Pacific Carbon.

[65] 19 U.S.C. § 1677(4)(B).

[66] Tr. at 174 (Vander Schaaf).

[67] Petitioners' Post Conference Brief at 27-29.

[68] CR at III-I; PR at III-1; CR/PR at Table IV-1.

[69] CR/PR at Table IV-I.

[70] Tr. at 28-29 (O'Brien).

of subject imports from China to domestic production was *** percent in 2005.[71] Calgon's operating income as a ratio of net sales ***[72]

Based on these data, Calgon's interests appear to lie more in domestic production than in importation. Additionally, it is a Petitioner; it accounts for the *** of domestic production of certain activated carbon; and it does not appear to derive a significant financial benefit from the subject imports in light of ***. On these grounds, we do not find that appropriate circumstances exist to exclude Calgon from the domestic industry.

Norit is a related party due to its imports of subject merchandise. It is a Petitioner and the *** domestic producer of certain activated carbon, accounting for *** percent of reported domestic production of certain activated carbon in 2005. The ratio of its subject imports to its production was *** percent in 2005.[73] Norit's operating income as a ratio to net sales ***.[74]

Based on these data, Norit's interests appear to lie in domestic production. It is a Petitioner; it accounts for a *** share of domestic production; and it does not appear to have benefitted financially from the subject imports, as it imported *** while experiencing ***. We do not find that appropriate circumstances exist to exclude Norit from the domestic industry.

California Carbon accounted for only *** percent of domestic production of certain activated carbon in 2005.[75] California Carbon reported that it ***. ***.[76] Although California Carbon ***, whether California Carbon should be excluded from the domestic industry under the related party provision is essentially moot at this time. Given that California Carbon *** for the domestic industry even if the Commission found exclusion to be appropriate.[77] Moreover, California Carbon accounted for *** percentage of domestic production that *** the aggregate domestic industry data.[78] Accordingly, we do not find that appropriate circumstances exist to exclude California Carbon from the domestic industry for purposes of this preliminary determination.

In sum, we do not find that appropriate circumstances exist to exclude Calgon, Norit, or California Carbon, from the domestic industry. Accordingly, we conclude that the domestic industry consists of all known domestic producers of certain activated carbon.

V. REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF LESS THAN FAIR VALUE IMPORTS FROM CHINA[79]

In the preliminary phase of antidumping or countervailing duty investigations, the Commission determines whether there is a reasonable indication that an industry in the United States is materially injured by reason of the imports under investigation.[80] In making this determination, the Commission must consider the volume of subject imports, their effect on prices for the domestic like product, and

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[71] CR at III-4; PR at III-3.

[72] CR/PR at Table VI-4.

[73] CR at III-4; PR at III-3.

[74] CR/PR at Table VI-4.

[75] CR at I-3, n. 8; PR at I-3, n. 8

[76] CR at III-4; PR at III-3.

[77] *** percent of California Carbon's operations were used for ***. CR at III-4; PR at III-3.

[78] CR at III-4; PR at III-3.

[79] Negligibility is not an issue in this investigation. The petition was filed on March 8, 2006. Based on official Commerce statistics, subject imports from China accounted for approximately 56.1 percent of total imports of certain activated carbon between March 2005 and February 2006, the most recent 12-month period for which data were available that preceded the filing of the petition. CR/PR at Table IV-6.

[80] 19 U.S.C. §§ 1671b(a) and 1673b(a).

their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.[81] The statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant."[82] In assessing whether there is a reasonable indication that the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.[83] No single factor is dispositive, and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[84]

For the reasons stated below, we determine that there is a reasonable indication that the domestic industry producing certain activated carbon is materially injured by reason of subject imports from China.

A. Conditions of Competition and the Relevant Business Cycle

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

1. Demand Conditions

Total apparent consumption of certain activated carbon increased by 12.8 percent over the period of investigation from *** in 2003 to *** in 2004, and to *** in 2005.[85] Consistent with the trend in consumption, market participants that responded to Commission questionnaires generally agreed that demand for certain activated carbon rose over the period of investigation.[86] They generally attributed higher demand to stricter U.S. Environmental Protection Agency ("EPA") regulations regarding the treatment of water, and the emission of pollutants.[87] Respondents state that new legislation regarding mercury emissions by power plants may result in a substantial increase in demand for certain activated carbon, while Petitioners characterize growth due to this demand as speculative and not imminent.[88] We intend to examine the issue of increased demand for certain activated carbon due to legislation concerning mercury emissions by power plants in any final phase of this investigation.

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[81] 19 U.S.C. § 1677(7)(B)(i). The Commission "may consider such other economic factors as are relevant to the determination" but shall "identify each [such] factor . . . [a]nd explain in full its relevance to the determination." 19 U.S.C. § 1677(7)(B); see also, e.g., Angus Chem. Co. v. United States, 140 F.3d 1478 (Fed. Cir. 1998).

[82] 19 U.S.C. § 1677(7)(A).

[83] 19 U.S.C. § 1677(7)(C)(iii).

[84] 19 U.S.C. § 1677(7)(C)(iii).

[85] CR/PR at Table C-1. Because official Commerce import statistics include chemically activated carbon, which is outside the scope of this investigation, we netted out the chemically activated carbon, using proportions gathered from questionnaire data, to derive total apparent consumption of certain activated carbon. Id.

[86] CR at II-6; PR at II-4.

[87] CR at II-6; PR at II-4.

[88] CIAC Postconference Brief at 21-22; Petitioners Postconference Brief at 30 n. 14.

2. Supply Conditions

U.S. Producer Supply

The Commission received questionnaire responses from three domestic producers of certain activated carbon, two of which are Petitioners, Calgon and Norit.[89] Petitioners accounted for approximately *** percent of reported U.S. production of certain activated carbon in 2005. Calgon is the *** producer of certain activated carbon, and Norit is the ***, accounting for *** percent and *** percent of reported domestic production in 2005, respectively.[90]

Approximately *** percent of U.S. producers' U.S. shipments of certain activated carbon went to end users in each year of the period of investigation.[91] A *** share of importers' U.S. shipments went to distributors, with shipments to end users accounting for between 64 and 74 percent of U.S. imports from China during the period of investigation.[92]

Throughout the period of investigation, the principal suppliers of certain activated carbon to the U.S. market were the domestic producers.[93] The next largest suppliers were importers of subject merchandise.[94] The remaining portion of the market was supplied by imports of certain activated carbon from nonsubject countries.[95]

Almost all of the certain activated carbon produced domestically is coal-based. Domestic producer *** produces mainly *** certain activated carbon, while domestic producer *** produces mainly *** certain activated carbon.[96]

As a share of total U.S. consumption, domestically produced certain activated carbon fell from 58.6 percent in 2003 to 53.1 percent in 2004, and to 51.7 percent in 2005.[97] Total U.S. consumption of certain activated carbon increased from *** in 2003 to *** in 2005, while total U.S. production ***.[98] Approximately *** percent of domestic producers' production capacity was ***.[99]

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[89] CR at III-1; PR at III-1. The petition identified five firms that produced activated carbon during 2003-2005. In addition to Petitioners, California Carbon, ***, produced *** pounds of certain activated carbon in 2005, accounting for *** percent of domestic production. CR at III-4; PR at III-1. The petition also lists as domestic producers, Acticarb Tailored Products, LLC, which stopped producing certain activated carbon in October 2005 and is not currently in operation, as well as Cal Pacific Carbon, ***. CR at III-1; PR at III-1. On March 15, 2006, CIAC filed an industry support challenge stating that numerous companies were not only importers of activated carbon, but also U.S. producers. See CR at III-2, n. 6; PR at III-1, n. 6. However, in response to a question posed by Commission staff as to whether the five firms identified in the petition are the only domestic "activators" of certain activated carbon, counsel for CIAC stated, "[t]o our knowledge, that's correct." Id. quoting Tr. at 158 (Heckendorn).

[90] CR at III-3, III-4; PR at III-1.

[91] CR/PR at Table II-1.

[92] CR/PR at Table II-1.

[93] CR/PR at Table IV-7.

[94] CR/PR at Table IV-7.

[95] CR/PR at Table IV-7.

[96] CR at VI-7; PR at VI-1. Calgon's U.S. shipments of certain activated carbon in 2005 were allocated as follows: ***. Calgon's U.S. Producer Questionnaire at Section II-11. Norit's U.S. shipments of certain activated carbon in 2005 were allocated as follows: ***. Norit's U.S. Producer Questionnaire at II-11.

[97] CR/PR at Table IV-10.

[98] Capacity utilization by domestic producers ***. CR/PR at Table C-1. Given the high capital intensive nature of certain activated carbon production, Petitioners assert that high capacity utilization rates are necessary to spread the high fixed costs over as much production volume as possible. Tr. at 38-39 (Hudgens). Calgon states that a production line closed in 2003 could be restarted if there were shortages and if prices justified it. Petitioners'

Subject import supply

Almost all of the certain activated carbon produced in China is coal-based, although according to conference testimony, China has also recently started producing small amounts of coconut-shell based certain activated carbon.[100] Chinese producers produce mainly granular certain activated carbon, but also some powdered and pelletized certain activated carbon.[101] As a share of total U.S. consumption, subject imports from China rose from 26.8 percent in 2003 to 30.2 percent in 2004 before falling slightly to 29.1 percent in 2005.[102]

Nonsubject import supply

There is limited record evidence on nonsubject imports. According to conference testimony and importer questionnaire responses, the increasing volume of nonsubject imports coming into the United States are primarily high performance, coconut shell activated carbon from Southeast Asia, particularly the Philippines, Sri Lanka, and India.[103] The importers noted that very little, if any, domestically produced activated carbon uses coconut shells as a raw material.[104] Two producers and four importers reported that non-price differences were never a factor when comparing U.S. product to certain activated carbon from nonsubject countries.

The volume of nonsubject imports has increased over the period examined.[105] As a share of total U.S. consumption by quantity, nonsubject imports increased from 14.6 percent in 2003 to 19.3 percent in 2005.[106]

3. Interchangeability

Petitioners argue that certain activated carbon is a commodity product and that price is the driving factor in purchasing decisions.[107] Respondents argue that activated carbon is not a commodity product. Rather, Respondents state that purchasers differentiate among activated carbons based on the carbons' source material, production methods, product structures, and other characteristics.[108] Respondents state that there are several applications in the food and chemical industries for which

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Postconference Brief at 47.

[99] CIAC's Postconference Brief at 23.

[100] Tr. at 169 (Skeini).

[101] Pelletized activated carbon is not currently produced in meaningful quantities in the United States. CR at II-9; PR at II-6.

[102] CR at II-4; PR at II-3. From 2003-2005, reported Chinese production capacity increased from 197.5 million pounds to 274.1 million pounds, as capacity utilization rose from 90.8 percent in 2003 to 92.0 percent in 2005. CR at II-4, II-5; PR at II-3.

[103] Tr. at 168-169 (Kovach and Skeini). Based on official Commerce data, the Philippines and Sri Lanka were the two largest sources for nonsubject imports of activated carbon over the period examined, accounting for 14.3 and 11.9 percent of imports in 2005, respectively. CR at IV-7, n. 4; PR at IV-I, n. 4.

[104] CR at II-11; PR at II-7.

[105] CR/PR at Table IV-7.

[106] CR/PR at Table III-10.

[107] See Petitioners' Postconference Brief at 31.

[108] CIAC's Postconference Brief at 16. CIAC notes that Calgon claims to sell at least 54 different activated carbon products, while Norit claims to sell 150 varieties of activated carbon products. Tr. 117-118 (Jordan).

subject imports cannot satisfy performance requirements.[109] Moreover, Respondents assert also that many end-users regard subject imports as poor in quality and inferior to domestically produced carbons.[110]

Reports were mixed as to the extent to which domestically produced certain activated carbon and subject imports are interchangeable. *** responding producers and 3 of 28 importers who reported having knowledge of both U.S. produced certain activated carbon and subject merchandise reported that Chinese and U.S. certain activated carbon are always interchangeable.[111] Five importers reported that product from the countries are frequently interchangeable, 19 importers reported the products are sometimes interchangeable, and one reported they are never interchangeable.[112] Numerous purchasers have confirmed lost sales, an indication of direct competition between domestic producers and Chinese producers of certain activated carbon.[113]

*** responding producers as well as four importers reported that non-price differences are never a factor in deciding whether to purchase certain activated carbon from China or domestically produced certain activated carbon. Seven importers reported that non-price differences are always a factor, eleven reported that non-price differences are frequently a factor, and six importers reported that non-price differences were sometimes a factor.[114] Importers listed quality, availability, particular product characteristics, and technical support as factors other than price that may influence their purchasing decisions.[115]

4. "Buy American" Contract Provisions

Respondents state that subject imports have not been able to penetrate several domestic markets for certain activated carbon due to requirements of municipalities to purchase domestically produced certain activated carbon to comply with "Buy American" provisions.[116] CIAC estimates that "Buy American" provisions protect between 26 million and 39 million pounds of certain activated carbon from import competition.[117] Petitioners state that Respondents greatly exaggerate the number of municipalities that have formal "Buy American" provisions in their contracts, and that these provisions actually apply to only a small minority of contracts.[118] Petitioners note that municipalities are often required by law to

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[109] CIAC asserts that there are several industries within the United States, including gold mines, respirators, and cigarette filters, that require a variety of activated carbon that is not produced by the domestic industry. Tr. at 122-123 (Jordan). Several importers noted that pelletized certain activated carbon is no longer produced in the United States, whereas it is produced in China. CR at II-9; PR at II-5, II-6. According to questionnaire data, imports of coal-based pelletized activated carbon from China was *** million pounds in 2005, as compared to total subject imports of *** million pounds in that year. CIAC's Postconference Brief at 20.

[110] CIAC's Postconference Brief at 20; Tr. at 119-121 (Jordan).

[111] CR at II-9; PR at II-5, II-6.

[112] CR at II-9; PR at II-5, II-6. *** during the period on investigation, indicated that certain activated carbon produced in the United States and China are frequently interchangeable. *** U.S. Importers' Questionnaire Response at 14.

[113] CR/PR at Table V-5.

[114] CR at II-10; PR at II-6.

[115] CR at II-10; PR at II-7.

[116] CIAC's Postconference Brief at 25.

[117] CIAC's Postconference Brief at 25-26. Moreover, CIAC argues that there are numerous privatized municipal purification facilities that de facto will use only domestically produced certain activated carbon. Tr. at 122 (Jordan).

[118] Petitioners' Postconference Brief at 34.

accept the lowest bid regardless of source.[119] We intend to examine the extent and effect of "Buy American" provisions in any final phase of this investigation.

B. Volume of Subject Imports

Section 771(7)(C)(i) of the Act provides that the "Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant."[120]

We find that subject import volume was significant during the period examined both in absolute terms and relative to consumption and production in the United States.[121][122]

In absolute terms, the volume of subject imports increased by *** percent from 2003 to 2005, from *** million pounds in 2003 to *** million pounds in both 2004 and 2005.[123]

The share of the quantity of U.S. apparent consumption held by subject imports increased by 2.3 percentage points from 2003 to 2005, rising from 26.8 percent in 2003 to 30.2 percent in 2004, before deceasing slightly to 29.1 percent in 2005.[124] As the market share held by subject imports rose throughout most of the period of investigation, the share held by the domestic industry fell. As total apparent U.S. consumption increased by 12.8 percent from 2003 to 2005, the share of the quantity of apparent U.S. consumption represented by U.S. producers' U.S. shipments declined from 58.6 percent in 2003 to 53.1 percent in 2004 and then to 51.7 percent in 2005, an overall decrease of 6.9 percentage points from 2003 to 2005.[125]

The volume of nonsubject imports and their market penetration also increased over the period examined.[126] The volume of nonsubject imports of certain activated carbon measured by quantity increased from *** million pounds in 2003 to *** million in 2004 and further to *** million in 2005. Nonsubject imports' share of total apparent consumption increased from 14.6 percent in 2003, to 16.7 percent in 2004, and rose to 19.3 percent in 2005, an overall increase of 4.7 percentage points from 2003 to 2005. CIAC argues that any displacement of market share experienced by the domestic industry has been due to increasing imports of nonsubject imports.[127] The record, however, indicates that the domestic industry has lost market share to both subject and nonsubject imports.[128] We intend to further explore the role of nonsubject imports in the U.S. market in any final phase of this investigation.[129]

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[119] Petitioners' Postconference Brief at 34.

[120] 19 U.S.C. § 1677(7)(C)(i).

[121] In addition to finding that subject import volume was significant during the period examined, Commissioner Hillman also finds the increase in volume to be significant.

[122] Official Commerce import statistics include chemically activated carbon, which is outside the scope of this investigation. In order to derive imports of certain activated carbon, we revised these figures downward using as a guide the proportions of certain activated carbon and chemically activated carbon reported in importer questionnaires. See, e.g., CR/PR at Table C-1.

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

[124] CR/PR at Table IV-10.

[125] CR/PR at Table IV-10.

[126] CR/PR at Table IV-10.

[127] CIAC's Postconference Brief at 24.

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

[129] In any final phase investigation, the Commission invites parties to comment on the applicability of the recent decision by the U.S. Court of Appeals for the Federal Circuit, Bratsk Aluminum Smelter v. United States, No. 05-1213 (Fed. Cir. Apr. 10, 2006) (under Fed. R. App. P. 41(b), the mandate has not yet issued), to the facts of this investigation. The Commission also invites parties to comment on whether the Commission should collect any additional information to address the issues raised by the Court, and if so, what, and how, that information should be

As a ratio to U.S. production, subject imports increased from *** percent in 2003 to *** percent in 2004, and then increased slightly to *** percent of U.S. production in 2005.[130]

We have considered the arguments advanced by Respondents with respect to subject imports. Respondents argue that subject import volumes are not significant because competition between domestically produced certain activated carbon and subject imports is limited by differences in product characteristics, with particular forms of certain activated carbon available from only domestic producers or subject imports. Both domestic producers and producers in China, however, offer a wide range of activated carbon products.[131] Moreover, while there are many product offerings, just a few products account for a substantial portion of sales in the U.S. market. Three products alone account for almost *** of U.S. commercial shipments and slightly more than *** of U.S. commercial shipments of Chinese-produced certain activated carbon.[132] While Respondents contend that subject imports have not been able to penetrate several domestic markets for certain activated carbon due to "Buy American" requirements, the record does not reflect that such requirements affect a substantial share of sales. With respect to Respondents' argument that actual or perceived quality differences limit competition between the two products, responses from producers and importers were mixed as to the degree of interchangeability and the importance of non-price factors in purchasing decisions.[133]

We find for purposes of the preliminary phase of this investigation that subject import volume was significant during the period examined, both in absolute terms and relative to consumption and production in the United States.[134] In any final phase of this investigation, we intend to explore whether and to what extent there may be limits to competition between domestically produced certain activated carbon and subject imports.[135]

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collected.

[130] CR/PR at Table IV-13.

[131] See product offerings by domestic and Chinese producers found at "Handout 2" distributed by counsel for Respondents at the March 30, 2006 conference and at Exhibit 13 to Petitioners' Postconference Brief.

[132] CR at V-4, PR at V-3.

[133] CR at II-9, II-10, PR at II-7.

[134] CIAC asserts that the domestic industry does not have the capacity to supply the U.S. market, and therefore subject imports are necessary to meet this demand. While we intend to examine this contention in any final phase of this investigation, the Commission has noted in prior determinations that "there is no short supply provision in the statute" and "the fact that the domestic industry may not be able to supply all of demand does not mean the industry may not be materially injured or threatened with material injury by reason of subject imports." Softwood Lumber from Canada, Inv. Nos. 701-TA-414 and 731-TA-928 (Article 1904 NAFTA Remand) at 108, n. 310 (December 2003). See also Metal Calendar Slides from Japan, Inv. No. 731-TA-1094 (Preliminary), USITC Pub. 3792 (August 2005) at 9, n. 45 ("[t]o the extent that Respondents claim that the Commission is legally unable to make an affirmative finding of material injury by reason of subject imports because the domestic industry is incapable of supplying domestic demand, they are incorrect.")

[135] CIAC argues that any displacement of market share experienced by the domestic industry has been due to increasing imports of nonsubject imports. The record, however, indicates that the domestic industry has lost market share to both subject and nonsubject imports. CR at V-5, PR at V-3. We intend to explore the role of nonsubject imports in the U.S. market in any final phase of this investigation.

C. Price Effects of the Subject Imports

Section 771(C)(ii) of the Act provides that, in evaluating the price effects of subject imports, the Commission shall consider whether – (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.[136]

The record reflects divergent views by market participants on the importance of price in purchasing decisions and interchangeability. All responding domestic producers found that subject imports were "always" interchangeable with subject imports, but only a few importers agreed.[137] Consistent with these mixed reports, the two *** domestic producers reported that non-price differences between subject imports and the domestic like product were never a factor in purchasing decisions, whereas 18 importers reported that non-price differences were always or frequently a factor, and ten importers reported that they were sometimes or never a factor.[138] We intend to explore issues regarding interchangeabilty and the importance of non-price factors in any final phase of this investigation.

In this investigation, U.S. producers and importers provided quarterly pricing data for three types of certain activated carbon.[139] Three U.S. producers and 21 importers provided usable pricing data.[140] By quantity, pricing data reported by responding firms accounted for approximately 49.8 percent of U.S. commercial shipments of U.S.-produced certain activated carbon and approximately 35.7 percent of U.S. commercial shipments of certain activated carbon produced in China.[141]

The pricing data collected in the preliminary phase of this investigation showed a consistent pattern of underselling. Subject imports undersold the domestic like product in 35 of the 36 quarters.[142] For all three products, the margins of underselling were almost all in double digits, and ranged as high as 44.6 percent.[143] For purposes of this preliminary investigation, we find that there has been significant price underselling of the domestic like product by subject imports.[144]

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[136] 19 U.S.C. § 1677(7)(C)(ii).

[137] CR/PR at Table II-2.

[138] CR/PR at Table II-3.

[139] The Commission collected data on the following types of certain activated carbon: (1) Granular activated carbon that is steam activated from coal (bituminous or lignite), unwashed, no more than 15 percent greater than 12 mesh and no more than 4 percent under 30 mesh, iodine no. 900 mg/g min, moisture 2% max; (2) Granular activated carbon that is steam activated from coal (bituminous or lignite), unwashed, no more than 5 percent greater than 12 mesh and no more than 4 percent under 40 mesh, iodine no. 1000 mg/g min, moisture 2% max; and (3) Powder activated carbon that is steam activated from coal (bituminous or lignite), unwashed, particle size 90% min, 325 mesh, iodine no. 700 mg/g min, moisture 5% max. CR at V-4; PR at V-3.

[140] CR at V-4; PR at V-3. Certain activated carbon is sold on both a spot and a contract basis. CR at V-3; PR at V-2.

[141] CR at V-4; PR at V-3.

[142] CR/PR at Tables V-1, V-2, V-3. For Product 3, the domestic product oversold the subject imports by ***.

[143] CR/PR at Tables V-1, V-2, V-3.

[144] *** suggested that sales to distributors are often made at a discount due to lower costs of sale involved in such transactions. CR at II-1; PR at II-1. The higher percentage of shipments of subject imports sold to distributers may place a downward bias on prices of imported certain activated carbon. We intend to examine this issue more closely in any final phase of this investigation.

We have also considered movements in certain activated carbon prices over the period of investigation. The Commission's pricing data for Product 1 show a *** in domestic prices for the period of investigation, while pricing data for Product 2 and Product 3 show a *** in domestic prices.[145] We find pricing movements have varied with no clear trend. Therefore, we do not find evidence that subject imports are depressing domestic prices to a significant degree.

We do find, however, that subject imports have prevented domestic price increases that otherwise would have occurred to a significant degree. The domestic industry's cost of goods sold ("COGS") as a share of net sales increased steadily throughout the period of investigation from *** percent in 2003 to *** percent in 2004, and to *** percent in 2005.[146] Unit COGS also increased from $*** in 2003 to $*** in 2004, and jumped to $*** in 2005.[147] We would expect domestic producers to raise prices in a growing market over the period of investigation as costs increased. However, these data indicate that as the domestic industry's costs increased, and significant volumes of lower priced subject imports entered the U.S. market, the domestic producers were unable to raise their prices to cover increasing costs.

Petitioners have acknowledged that they attempted to raise prices. Specifically, the record reflects that Calgon instituted a price increase of approximately 2 percent in 2005, but it appears that this increase did not cover substantial increases in the costs of raw materials (primarily coal) and a smaller increase in energy costs.[148] We therefore find evidence of price suppression in the form of a cost-price squeeze in 2005, when the COGS to net sales ratio was at its highest levels.

Confirmed lost sales and lost revenues provide additional support for our finding that subject imports have suppressed prices to a significant degree. Petitioners provided *** lost sales allegations and *** lost revenue allegations. Commission staff confirmed $*** in total lost sales and $*** in annual lost revenue.[149] By and large, price was the reason given for choosing the Chinese product.[150] These confirmed lost sales and revenues indicate that competition from subject imports prevented domestic producers from raising prices to cover increases in costs, even as demand increased over the period of investigation.

For the foregoing reasons, we find in the preliminary phase of this investigation that the subject imports have had significant adverse effects on domestic prices.

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[145] CR/PR at Tables V-1, V-2, V-3.

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

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

[148] Tr. at 199 (Hartquist).

[149] CR at V-10, V-11; PR at V-8.

[150] We note that many of the lost sales were to municipal water treatment facilities which, in many cases, are required to accept the lowest-priced-product that meets its required standards. CR at V-11; PR at V-8. A small number of the purchasers questioned with respect to the lost sales allegations indicated that while the Chinese product was the lowest priced product, it did not pass initial quality tests or performed poorly upon use. As a result, these purchasers plan to switch back to domestically produced certain activated carbon to meet their future requirements. CR at V-11; PR at V-8. We intend to explore this issue further in any final phase of this investigation. We also plan to explore Respondents' argument that purchasing higher priced domestically produced certain activated carbon is more "cost effective" than purchasing subject imports. In other words, we will explore whether it is actually less expensive for a customer to purchase domestically produced certain activated carbon for a higher price because it performs better and lasts longer than similar quantities of subject merchandise.

D. Impact of the Subject Imports[151]

Section 771(7)(C)(iii) provides that the Commission, in examining the impact of the subject imports on the domestic industry, "shall evaluate all relevant economic factors which have a bearing on the state of the industry."[152] These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, research and development, and factors affecting domestic prices. No single factor is dispositive and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[153]

We have examined performance indicators in trade and financial data for the domestic industry producing certain activated carbon. These data indicate declining overall trends, which are most evident in the financial data.[154]

Regarding trade data, we note that performance indicators were mixed over the period examined. U.S. producers' production of certain activated carbon increased from 2003 to 2004, but decreased in 2005.[155] Conversely, domestic producers' total shipments of certain activated carbon declined from 2003 to 2004, but increased from 2004 to 2005.[156] Overall industry capacity fell over the period of investigation, while capacity utilization ***.[157] The average number of production related workers and hours worked for certain activated carbon experienced an overall decline from 2003 to 2005.[158] Wages

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[151] In its notice of initiation of the antidumping duty investigation, Commerce estimated the dumping margins for subject imports from China to range from 114.33 percent to 333.66 percent. 71 Fed. Reg. at 16759.

[152] 19 U.S.C. § 1677(7)(C)(iii); see also SAA at 851 and 885 ("In material injury determinations, the Commission considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they also may demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports."). SAA at 885.

[153] 19 U.S.C. § 1677(7)(C)(iii); see also SAA at 851, 885; Live Cattle from Canada and Mexico, Inv. Nos. 701-TA-386, 731-TA-812-813 (Preliminary), USITC Pub. 3155 at 25 n.148 (Feb. 1999).

[154] Although Calgon acknowledges it is one of the largest importers of certain activated carbon from China, accounting for *** percent of total subject imports by quantity in 2005, Calgon states that its subject imports ***. Petitioners' Postconference Brief at 28. We note that Petitioners' reported imports of certain activated carbon were equivalent to *** percent of the total subject imports by quantity in 2005. CR/PR at Table IV-2. Calgon contends that it was forced to begin importing certain activated carbon from China because its customers urged it to do so in the face of extremely low prices from China. Tr. at 23-24 (O'Brien). CIAC argues that Petitioners were not forced to import subject merchandise due to competition from subject imports. Rather, they chose to develop activated carbon plants in China and import subject merchandise at the expense of their domestic production. By this strategy, CIAC argues that Petitioners avoided the high cost of raw materials and natural gas in the United States. Tr. at 176-177 (Skeini).

[155] Production increased from *** million pounds in 2003 to *** million pounds in 2004 and then fell to *** million pounds in 2005. CR/PR at Table C-1.

[156] U.S. commercial shipments declined from *** million pounds in 2003 to *** million pounds in 2004, and then increased to *** million pounds in 2005. CR/PR at Table C-1.

[157] CR at II-2, II-3; PR at. Due to the capital intensive nature of the production process, certain activated carbon plants are designed to run continuously at full capacity, except for scheduled maintenance shutdowns. Tr. at 38-39 (Hudgens). Despite increasing demand for certain activated carbon throughout the period of investigation, low-priced competition from Chinese imports have forced U.S. producers to reduce prices (or not raise them) to maintain volumes, rather than cut sales. By 2005, contract prices could not ***. CR at VI-1, PR at VI-I.

[158] The average number of production workers decreased from *** in 2003 to *** in 2004 and further to *** in 2005. Hours worked decreased from *** thousand in 2003 to *** thousand in 2004, and were slightly higher at *** thousand in 2005. CR/PR at Table C-1. Petitioners claim that Calgon closed a production line in 2003 because of subject import competition. Petitioners' Postconference Brief at 47; Tr. at 23 (O'Brien).

paid increased slightly from 2003 to 2005.[159] Productivity increased from 2003 to 2004, but was lower in 2005.[160]

Many of the domestic industry's consolidated financial indicators declined overall during the period of investigation. Operating income, operating margins, and net sales measured by quantity and value all declined, although capital expenditures and research and development expenditures increased over the period examined.

Operating income fell steadily by *** percent from 2003 to 2005.[161] The domestic industry's ratio of operating income to sales fell by *** percentage points from 2003 to 2005. Operating margins declined from *** percent in 2003 to *** percent in 2004, and fell further to *** percent in 2005.[162]

Both net sales measured by quantity and value decreased irregularly by *** percent and *** percent, respectively, from 2003 to 2005.[163] As discussed previously, COGS as a ratio to sales steadily increased from 2003 to 2005. COGS was *** percent of sales in 2003, and increased to *** percent of sales in 2005.[164]

Capital expenditures for the domestic industry increased from $*** million in 2003 to $*** million in 2004 before increasing slightly to $*** million in 2005.[165] Research and development expenses increased from $*** million in 2003 to $*** in 2004 and remained flat in 2005.[166]

Declines in U.S. industry performance indicators occurred as subject imports entered the U.S. market in increased and significant volumes, and gained market share almost exclusively at the expense of the domestic industry. At the same time, subject imports undersold the domestic like product, typically by double-digit margins, and suppressed domestic prices to a significant degree.

For purposes of this preliminary determination, we conclude that subject imports had an adverse impact on the condition of the domestic industry during the period of investigation. We find that the absolute and relative volume of subject imports, as well as the underselling by the subject imports, are significant. As subject imports captured market share, they suppressed domestic prices to a significant degree, causing declines in the domestic industry's financial performance, particularly at the end of the period of investigation. Operating income, operating margins, and net sales measured by both quantity and value, declined as the domestic industry lost market share.

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

[160] Productivity increased from *** pounds per hour in 2003 to *** pounds per hour in 2004, but fell to *** pounds per hour in 2005. CR/PR at Table C-1.

We also note that end-of-period inventories increased irregularly between 2003 and 2005. End-of-period inventories increased from *** million pounds in 2003, to *** million pounds in 2004, then decreased to *** million pounds in 2005. CR/PR at Table C-1.

[161] CR/PR at Table C-1. Operating income decreased from $*** million in 2003 to $*** million in 2004, then fell to *** million in 2005.

[162] CR/PR at Table C-1. Respondents have argued that any adverse condition Calgon experienced in the second half of 2005 was due to Hurricanes Rita and Katrina, and was unrelated to subject imports. CIAC's Postconference Brief at 46. The record indicates that Calgon suffered ***

[163] CR/PR at Table C-1. Net sales measured by quantity decreased from *** million pounds in 2003 to *** million pounds in 2004, before increasing slightly to *** million pounds in 2005. Net sales measured by value decreased from $*** million in 2003 to $*** million in 2004, before increasing to $*** million in 2005.

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

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

[166] CR/PR at Table VI-11.

CONCLUSION

For the reasons stated above, we find that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of certain activated carbon from China that are allegedly sold in the United States at less than fair value.

PART I: INTRODUCTION

BACKGROUND

This investigation results from a petition filed by Calgon Carbon Corporation (Calgon), Pittsburgh, PA, and Norit Americas, Inc. (Norit), Marshall, TX, on March 8, 2006, alleging that an industry in the United States is materially injured and threatened with material injury by reason of less-than-fair-value (LTFV) imports of certain activated carbon[1] from China. Information relating to the background of the investigation is presented in the following tabulation.[2]

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[1] In its notice of initiation, Commerce defined the subject product as follows:

"Certain activated carbon is a powdered, granular or pelletized carbon product obtained by "activating" with heat and steam various materials containing carbon, including but not limited to coal (including bituminous, lignite and anthracite), wood, coconut shells, olive stones, and peat. The thermal and steam treatments remove organic materials and create an internal pore structure in the carbon material. The producer can also use carbon dioxide gas (CO_2) in place of steam in this process. The vast majority of the internal porosity developed during the high temperature steam (or CO_2 gas) activated process is a direct result of oxidation of a portion of the solid carbon atoms in the raw material, converting them into a gaseous form of carbon.

The scope of this investigation covers all forms of activated carbon that are activated by steam or CO_2, regardless of the raw material, grade, mixture, additives, further washing or post-activation chemical treatment (chemical or water washing, chemical impregnation or other treatment), or product form. Unless specifically excluded, the scope of this investigation covers all physical forms of certain activated carbon, including powdered activated carbon ("PAC"), granular activated carbon ("GAC"), and pelletized activated carbon.

Excluded from the scope of the investigation are chemically-activated carbons. The carbon-based raw material used in the chemical activation process is treated with a strong chemical agent, including but not limited to phosphoric acid, zinc chloride, sulfuric acid, or potassium hydroxide, that dehydrates molecules in the raw material, and results in the formation of water that is removed from the raw material by moderate heat treatment. The activated carbon created by chemical activation has internal porosity developed primarily due to the action of the chemical dehydration agent. Chemically activated carbons are typically used to activate raw materials with a lignocellulosic component such as cellulose, including wood, sawdust, paper mill waste and peat.

To the extent that an imported activated carbon product is a blend of steam and chemically activated carbons, products containing 50 percent or more steam (or CO_2 gas) activated carbons are within this scope, and those containing more than 50 percent chemically activated carbons are outside this scope.

Also excluded from the scope are reactivated carbons. Reactivated carbons are previously used activated carbons that have had adsorbed materials removed from their pore structure after use through the application of heat, steam and/or chemicals.

Also excluded from the scope is activated carbon cloth. Activated carbon cloth is a woven textile fabric made of or containing activated carbon fibers. It is used in masks and filters and clothing of various types where a woven format is required.

Any activated carbon meeting the physical description of subject merchandise provided above that is not expressly excluded from the scope is included within this scope."

The products under investigation are classifiable in Harmonized Tariff Schedule of the United States ("HTS") subheading 3802.10.00. Although HTS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive. HTS subheading 3802.10.00 has a normal trade relations tariff rate of 4.8 percent *ad valorem*, applicable to imports from China. 71 FR 16757, April 4, 2006.

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

Date	*Action*
March 8, 2006	Petition filed with Commerce and the Commission;[3] institution of Commission investigation (71 FR 13430, March 15, 2006)
March 30, 2006	Commission's conference[4]
April 4, 2006	Commerce's notice of initiation (71 FR 16757)
April 21, 2006	Scheduled date for the Commission's vote
April 24, 2006	Commission determination due to Commerce

PREVIOUS INVESTIGATION

On January 26, 2006, petitioners in the instant investigation (Calgon and Norit) filed a petition alleging that an industry in the United States was materially injured and threatened with material injury by reason of LTFV imports of activated carbon[5] from China. As a result of that filing, the Commission instituted investigation No. 731-TA-1102 (Preliminary): Activated Carbon from China.[6] Subsequently, on February 15, 2006, petitioners withdrew their petition at Commerce and the Commission. Commerce had not initiated its investigation by that date and the Commission discontinued its investigation effective that date.[7]

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[3] The LTFV margin alleged in the petition, as recalculated by Commerce, ranges from 114.33 to 333.66 percent (71 FR 16759, April 4, 2006).

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

[5] In the petition, the subject product was described as follows:

"*Activated carbon is defined as a black carbon material obtained by "activating" various materials containing high levels of carbon (including but not limited to coal, wood and coconut shells) by heating them and/or treating them with chemicals. The thermal and/or chemical treatments remove organic materials and create a vast internal pore structure in the carbon material. The pores trap contaminants in liquids or gases, a process called adsorption. Adsorption of contaminants removes organic compounds from the surrounding air, gas or liquid steams, and thereby helps purify the stream. Activated carbon may be added to a liquid (such as water, for example) in a single use application to remove impurities and unwanted odors. It may also be used as the active agent in filtration and purification systems in which the gas or liquid is passed through or over the activated carbon to trap impurities. Typical uses of activated carbon include removing objectionable tastes and odors from drinking water; organics reduction in waste water; removing color and impurities from foods, pharmaceuticals, wine, liquor, fruit juices and chemicals; removing color from raw sugar in the refining stage; removing mercury and dioxins from flue gas emissions; and gasoline vapor and solvent recovery systems.*

Activated carbon is produced in the following three forms, as covered by this petition: (1) powdered activated carbon (PAC), (2) granular activated carbon (GAC), and (3) pelletized activated carbon. Powdered activated carbon is a pulverized material with particles predominately smaller than 80 mesh size. Pelletized activated carbon consists of extruded and cylindrical shaped pellets.

Activated may also be spun into activated carbon cloth, a product that is not covered by this petition. Some granular and pelletized activated carbon may be 'reactivated' after being used by having impurities thermally removed from the carbon, which renders the material able to be reused. Reactivated carbon is not the subject of this petition.."

Activated carbon is classifiable in the Harmonized Tariff Schedule of the United States ("HTS") subheading 3802.10.00. Activated Carbon from China Petition, pp. 2-3.

[6] 71 FR 5688, February 2, 2006.

[7] 71 FR 9155, February 22, 2006.

SUMMARY DATA

A summary of data collected in the investigation is presented in appendix C, tables C-1, C-2, and C-3. For table C-1, except as noted, certain activated carbon U.S. industry data are based on questionnaire responses of three firms that accounted for virtually all of U.S. production during 2003-05.[8] U.S. imports are based on official import statistics.[9] For table C-2, except as noted, chemically activated carbon U.S. industry data are based on questionnaire responses of two firms[10] that accounted for all of U.S. production during 2003-05. For table C-3, except as noted, total[11] activated carbon U.S. industry data are based on questionnaire responses of four firms that accounted for virtually all of U.S. production during 2003-05.

THE SUBJECT PRODUCT

The imported certain activated carbon covered by the scope of this investigation is described in detail in the "Background" section earlier in Part I.

Physical Characteristics and Uses[12]

Activated carbon is a solid material comprised primarily of carbon that has been specially treated to increase the porosity, and thus the surface area, of the material. The high surface area that results from "activation" allows greater adsorption of chemical species onto the solid carbon. The surface area and pore structure of activated carbon depend greatly on the raw materials and processing methods used. The primary raw material for the production of activated carbon can be most any solid material that has a high carbon content. Common raw materials for making activated carbon are coal, wood, coconut shells, olive stones, and peat.[13] In the United States and China, coal is the most often used raw material.[14]

Activated carbon is sold in three basic forms: powdered, granular, and pelletized. Powdered activated carbon (PAC) is usually defined as being predominately material that passes through an 80 mesh.[15] Granular activated carbon (GAC) has larger particles than PAC. The size range for GAC is usually specified by two mesh numbers between which most of the material is retained. For example, an 8x30 GAC predominately contains particles that pass through an 8 mesh (2.38 mm sieve openings) but do not pass through a 30 mesh (0.59 mm sieve openings).[16] Pelletized activated carbon consists of uniformly

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[8] ***.

[9] U.S. imports are based on official import statistics in tables C-2 and C-3, as well.

[10] One of the firms, Norit, ceased production of chemically activated carbon in 2005.

[11] Total activated carbon is certain activated carbon plus chemically activated carbon.

[12] In this section, the term activated carbon refers to both certain activated carbon (also referred to as steam-activated carbon) and chemically activated carbon.

[13] Petition, p. 13.

[14] Ibid.

[15] Mesh numbers refer to holes sizes in sieves used to separate granular materials. For example, an 80 mesh has sieve openings that are nominally 0.177 mm. Lower mesh numbers typically have larger-sized holes. See, Petition, p. 12.

[16] Petition, p. 12.

sized cylinders with typical diameters of 2 mm and lengths of 0.5 to 2 cm.[17] The primary benefit of pelletized activated carbon is that it produces a lower pressure drop over a fixed bed than GAC.[18]

Along with the size and shape of the activated carbon particles, factors that influence the efficiency of activated carbon in a given application are surface area, pore size distribution, ash content, and hardness.[19] These properties depend on the raw materials used as well as the activation process. The surface area and pore size distribution are related properties that determine how much of the desired chemical species will adsorb onto the activated carbon. Two characteristics of a given activated carbon sample that are related to the pore size distribution and surface area are the iodine number and the molasses number. Iodine number measures the mass of iodine that is absorbed from a standard solution by a given mass of activated carbon and is usually reported in units of milligrams of iodine absorbed per gram of activated carbon.[20] Since iodine is a small molecule, the iodine number indicates the abundance of small diameter pores in the activated carbon. Molasses number measures the efficiency with which a sample of activated carbon removes the color-inducing molecules from a mixture of molasses and water. Since the molecules that give molasses its color are large, relative to iodine, the molasses number measures the abundance of medium- to large-sized pores. A purchaser of activated carbon chooses an appropriate pore size distribution based on the size (and chemical properties) of the chemical species to be captured. Ash content of activated carbons varies greatly according to the raw material used to produce it. Since the ash is inorganic material that cannot be "activated," a higher ash content reduces the effectiveness of a given mass of activated carbon. Manufacturers generally control ash content by selecting low-ash starting materials. If a higher-ash raw material is used, it may be subjected to an acid wash step to reduce the ash content after activation. Hardness is an important property for specifying granular activated carbon. Harder activated carbons produce fewer fines during shipping and use. In some applications, generation of fines can be problematic.[21] Because chemically activated carbon is generally made using wood, it has lower hardness than certain activated, coal-based, carbon. Chemically activated carbons are generally powdered or pelletized due to their lower hardness.[22]

The primary use for activated carbon is in the separation of small concentrations of chemical species from liquid and gas streams. Because activated carbon has a low affinity for water but strongly absorbs organic and sulfur-containing chemicals, it is widely used to remove undesirable tastes and odors from drinking water and to eliminate contaminants from industrial waste water.[23] In the processing of foods (e.g., sugar, corn syrup, and vegetable oils), pharmaceuticals, and alcoholic beverages, activated carbon is used to remove unwanted color and impurities. Activated carbon is also used in the chemical process industries for solvent recovery. Applications of activated carbon in gas-phase systems include air purification, automobile emissions reduction, and solvent vapor recovery.[24]

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[17] ***.

[18] Ibid.

[19] Ibid.

[20] Since the iodine number is relatively simple to measure, it is often used as a substitute for surface area measurements, which require specialized equipment and highly trained technicians. ***.

[21] See, testimony of Stephen Clark, Water Tech, Conference transcript, p. 167.

[22] Petitioners' post-conference brief, p. 11.

[23] Frederick S. Baker, Charles E. Miller, Albert J. Repik, and E. Donald Tolles, "Carbon, Activated," Kirk-Othmer Encyclopedia of Chemical Technology, John Wiley & Sons, Inc., 2003, Sections 10.

[24] Ibid., Section 10.

There are two activation processes for producing activated carbon: thermal processing[25] and chemical processing. (See subsequent section for a discussion of the production processes.) Petitioners claim that the different processing methods produce different products that are used in separate applications. In general, chemically activated, wood-based carbons have more large- and medium-sized pores than certain activated, coal-based, carbons.[26] [27] According to the petitioners, this property makes chemically activated carbons more suitable for certain applications, including emissions canisters that capture gasoline vapors from automobile fuel tanks.[28] [29] Chemically activated carbons may also retain some of the activating agent (usually phosphoric acid or zinc chloride) that could leach out during processing and may make them unacceptable for certain applications such as aquarium filters or pharmaceutical purification.[30]

One use of activated carbon that may increase greatly in the future is the control of mercury emissions from coal-fired power plants. In 2005, the U.S. Environmental Protection Agency (EPA) issued the Clean Air Mercury Rule to cap and reduce mercury emissions from coal-fired power plants. When fully implemented, this regulation will reduce mercury emissions by nearly 70 percent.[31] Many states are also enacting limits for mercury emissions.[32] To meet the final mercury emissions cap, it is likely that a new mercury control technology will be needed.[33] While still in the demonstration stage of development, injection of powdered activated carbon into the flue gas from coal-fired plants has to this point shown the most promise for meeting the mercury emissions cap.[34]

Activated carbon is non-toxic and has no adverse environmental effects.[35] However, once the activated carbon has been used, it may take on the toxicity of adsorbed materials. Like nearly all

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[25] Thermally activated carbon is often referred to as steam-activated carbon. For purposes of this report, the term "certain activated carbon" should be viewed as thermally/steam activated carbon.

[26] Petition, p. 72; See, testimony of Ron Thompson, Norit, conference transcript, p. 29; *** importers' questionnaire responses, Question II-7.

[27] Some importers' questionnaire responses and conference testimony state either that there are no differences in the physical characteristics of chemically and certain activated carbon or that there is as much variation among certain activated carbons as there is between chemically and certain activated carbons. *** importers' questionnaire responses, Question II-7; See, testimony of J. Louis Kovach (NUCON), conference transcript, p. 107.

[28] Emissions canisters in automobiles capture gasoline vapors from the fuel tank while the engine is off. When the engine is running, hot gases pass through the canister, remove the adsorbed gasoline vapors, and carry them to the engine for combustion. The larger-sized pores in chemically activated carbon may allow it to perform better than certain activated carbon in this task. See, testimony of Timothy Wruble, Norit, conference transcript, p. 66.

[29] While the U.S. automobile makers predominately use chemically activated carbon at this time, certain-activated carbon was used in this application prior to the 1980s. See, testimony of Robert O'Brien, Calgon, conference transcript, p. 67. Some automakers outside the United States use certain activated, coal-based, carbon in this application. See, testimony of Anders Skeini, Jacobi, conference transcript, p. 162.

[30] See, testimony of Dennis Rester, Norit, conference transcript, p. 83.

[31] U.S. EPA, http://www.epa.gov/mercuryrule/basic.htm, retrieved April 5, 2006.

[32] See, testimony of Sid Nelson, Sorbent, conference transcript, p. 132.

[33] Thomas J. Feeley, III, Lynn A. Brickett, B. Andrew O'Palko, and James T. Murphy, "Field Testing of Mercury Control Technologies for Coal-fired Power Plants", U.S. Department of Energy/National Energy Technology Laboratory, May 2005, http://www.netl.doe.gov/technologies/coalpower/ewr/pubs/mercuryR%26D-v4-0505.pdf, retrieved March 30, 2006.

[34] Ibid.

[35] Norit America, Inc., *Material Safety Data Sheet, Activated Carbon*, http://www.norit-americas.com/pdf/MSDS117_rev4.pdf, retrieved March 14, 2006.

powdered and granular materials, eye or skin exposure to activated carbon may cause mild irritation. Inhalation of the dust from powdered or granular activated carbon may cause irritation of the respiratory track. Activated carbon is generally packaged and stored in plastic bags at weights ranging from 25 pounds to 2,000 pounds. Bags of activated carbon are shipped either by rail or truck. Bulk delivery by truck is also common.[36]

Manufacturing Facilities[37]

The process of making activated carbon differs based on the starting material used and whether the carbon is thermally or chemically activated. The two most common methods for producing activated carbon in the United States are thermal activation (also called steam activation) of coal, which is the process that the petitioners, Calgon and Norit, use, and chemical activation of wood.[38] A small amount of certain activated, wood-based, carbon, ***, is also produced domestically.[39]

Two commonly used processes for thermally activating coal are direct activation and reagglomeration. These processes only differ in the initial treatment of the coal. In direct activation, the coal is simply crushed to the desired size before undergoing subsequent processing steps. For reagglomeration, the coal is first crushed, then mixed with a binder, such as coal tar or petroleum pitch, and finally pressed into briquettes. These briquettes are crushed to the desired size before beginning the carbonization and activation process. To make pelletized carbon in either of these processes, the crushed starting material is mixed with a binder and extruded to produce cylinders that are typically 2 mm in diameter and 0.5 to 2 cm in length.[40]

For both direct activation and reagglomeration, the crushed material is added to one or more rotary kilns[41] for the carbonization step. The raw material is heated in the kiln, in the absence of oxygen, to approximately 400 degrees Celsius.[42] During this step, the water and volatile organic compounds are vaporized and removed from the kiln in the exhaust gases. The charred material is removed from the kiln after approximately six hours, ready for the activation step.

In thermal activation, the carbonized material is transferred to a rotary kiln or multiple hearth kiln.[43] The kiln is maintained at a temperature of approximately 1,000 degrees Celsius.[44] An oxidizing

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[36] See, testimony of Timothy Wruble, Norit, conference transcript, p. 99.

[37] In this section, the term activated carbon refers to both certain activated carbon (also referred to as steam-activated carbon) and chemically activated carbon.

[38] MeadWestvaco produces chemically activated carbon from wood. Norit also produced chemically activated, wood-based carbon until January 2005.

[39] Petition, p. 71.

[40] ***.

[41] A rotary kiln consists of a long cylindrical combustion chamber that is slightly tilted from horizontal. The material to be burned is added to the elevated end of the kiln. The tilt and rotation of the combustion chamber move the material out the opposite end. Residence time is controlled by the feed and rotation rates.

[42] Petition, p. 14.

[43] A multiple hearth kiln consists of a vertical column with grates at various heights in the column. Solid materials are fed into the top of the kiln and arms attached to a rotating center shaft push the material to the lower grates. Steam and/or air are fed into the bottom of the kiln. The residence time of the solid material in the kiln is determined by the rotation rate of the center shaft and by the feed rate, which controls the bed height on each grate.

[44] Petition, p. 14.

agent, usually steam,[45] is fed to the kiln. The high surface area of activated carbon is created in this step as the reaction between steam and carbon removes much of the material and leaves a porous structure. Variables such as the pore size and surface area are controlled by the kiln temperature and residence time of the material. After the activated carbon is removed from kiln, it can be milled and screened to final size and packaged for sale.

In the chemical activation of wood, an activating agent, typically phosphoric acid,[46] is added to sawdust before it is added to a rotary kiln. Both the carbonization process and the activation process take place in this kiln. The activating agent extracts moisture, reduces tar formation, and generates an open pore structure.[47] The pores created by chemical activation are generally larger than the pores formed during thermal activation.[48] The yield of activated carbon is generally 50 percent by weight of the raw material for chemical activation compared to 30 to 35 percent by weight for thermal activation.[49]

After activation, certain activated and chemically activated carbons can be further treated depending on the application for which it will be used. Two common treatments are acid washing, which is usually only used for certain activated carbon, and impregnation with metals. Acid washing is often used for certain activated carbons that have a high ash content.[50] Washing the certain activated carbon with hydrochloric or other acids removes minerals and ash resulting in a higher purity product. Acid-washed, certain activated carbons are often used in applications where process streams are acidic, such as purification of corn syrup. For some speciality applications, the activated carbon, either thermally or chemically activated, may be impregnated with metals or other chemicals. The impregnation would give the activated carbon the ability to adsorb a particular impurity or catalyze a desired reaction.

In some instances, used activated carbon can be "reactivated." Carbon is reactivated by thermally or chemically removing chemical species adsorbed onto the spent carbon. Reactivation is usually performed on granular or pelletized activated carbon and is rarely used on powdered activated carbon. Reactivation is often done by the end user and then reused by the same user. However, there are some firms who take spent carbon from the end user, reactivate it, and return it to the original user. In processes where environmentally regulated chemicals are being captured on activated carbon, strict bookkeeping of the amount of regulated chemical produced and how it is disposed of is required. For this reason, firms that reactivate carbon for a user usually process the carbon as single batch and return the same carbon to the user. In some applications, such as using activated carbon to capture molecules in the gas-phase, there is little risk that residual species in reactivated carbon will leach into the process. In these applications, it is possible for spent carbons from different users to be mixed together, reactivated, and sold to yet another user as "pooled" reactivated carbon.[51]

Interchangeability and Customer and Producer Perceptions

Nearly all producer and importer questionnaire respondents reported that there was at least some interchangeability between Chinese and U.S.-produced certain activated carbon. *** reported that there

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[45] Carbon dioxide, CO_2, may also be used as an oxidizing agent.

[46] In addition to phosphoric acid, other chemicals such as zinc chloride, sulfuric acid, or potassium hydroxide can be used to chemically activate steam. Zinc chloride is no longer used in the United States because of environmental concerns regarding zinc. Petition, p. 16.

[47] Baker, et al., "Carbon, Activated," Sections 10 and 11.

[48] Petition, p. 17.

[49] Baker, et al., "Carbon, Activated," Section 3.

[50] Ibid.

[51] See, testimony of Joe Enniking (NUCON), Conference transcript, p. 193.

are no direct substitutes for certain activated carbon.[52] For importers, the most commonly mentioned substitute was reactivated carbon which sells at a lower price than certain activated carbon.[53] Six importers suggested chemically activated carbon as a substitute in certain applications (e.g, water purification, decolorization, air treatment, etc.), although it is perceived as commanding a higher price than certain activated or reactivated carbon. More detailed information on interchangeability and customer and producer perceptions can be found in Part II of this report, *Conditions of Competition in the U.S. Market*.

Channels of Distribution

For the most part, shipments of certain and chemically activated carbon by both U.S. producers and imports went to end users. Over 90 percent of shipments by U.S. producers in both product categories went to end users during the period examined, while nearly 70 percent of shipments of certain activated Chinese product by U.S. importers went to the end user category and more than *** percent of chemically activated Chinese product went to end users. More detailed information on channels of distribution can be found in Part II of this report, *Conditions of Competition in the U.S. Market*.

Price

Information with regard to prices of certain activated carbon is presented in Part V of this report, *Pricing and Related Information*.

DOMESTIC LIKE PRODUCT ISSUES

During this investigation, petitioners have argued that the Commission should define the domestic like product as certain activated carbon, which is all steam (or gas) activated carbon other than chemically activated carbon, activated carbon fabric, and reactivated carbon, coextensive with the scope of the investigation.[54] Respondents, on the other hand, have urged the Commission to define the domestic like product more broadly to include chemically activated carbon.[55] [56] For purposes of the preliminary determination, no party has taken the position that the Commission should expand the like product to include reactivated carbon.[57] Nevertheless, respondents argue that the reality is that reactivated carbon is part of the same like product as certain- and chemically activated carbon.

The respondents argue that there is no clear dividing line between certain activated carbon and chemically activated carbon. They contend that there are a number of different types of activated carbon with unique composition. However, within the same type or form of carbon (such as pelletized, powdered, impregnated), the physical characteristics and uses of domestically produced certain activated carbon and domestically produced chemically activated carbon are identical. According to the respondents, certain activated carbon and chemically activated carbon within the same type are each used

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[52] *** reported that reactivated carbon is a substitute for certain activated carbon.

[53] No imports of reactivated carbon were reported by any importers.

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

[55] Coalition of Importers of Activated Carbon's (CIAC) postconference brief, p. 1.

[56] In the producer and importer questionnaires in this investigation, the Commission asked producers and importers to comment with respect to the differences and similarities between certain activated carbon and chemically activated carbon. Those responses are presented in appendix D.

[57] CIAC postconference brief, p. 9.

to trap contaminants in liquids or gases through adsorption, and cannot be physically distinguished from each other.

Respondents contend that certain activated carbon and chemically activated carbon are interchangeable as evidenced by the fact that they are often blended together.[58] Furthermore, the respondents state that several companies, including ***, have certain activated carbon products which are currently marketed or sold for use in the automotive industry. Some of these products compete directly with ***.[59]

With respect to channels of distribution, respondents contend that these are the same as demonstrated by the fact that most sellers of certain activated carbon also market and sell chemically activated carbon. The respondents also argue that the manufacturing facilities and production processes are extremely similar, and while there are alternative methods, the production methods only diverge in the second step of the activation process.

Petitioners contend that certain activated carbon and chemically activated carbon can be distinguished by the type of raw material generally used and the physical characteristics. Petitioners state that the vast majority of certain activated carbon domestically produced and imported from China, is made from some form of coal. On the other hand, all domestically produced chemically activated carbon uses wood or a wood-based product as raw material. The different activation processes, petitioners assert, create a difference in physical characteristics such as pore structure, size, and size distribution. Additionally, petitioners state that the structure of certain activated carbons is mechanically stronger than that of chemically activated carbons, making steam better suited for applications in which the carbon is subject to pressure or friction and chemically better suited for use in membrane technologies.

Petitioners argue that given the aforementioned differences in physical characteristics, as well as the presence of activation chemicals, and the higher cost structure and price of chemically activated carbon, the theoretical and actual interchangeability of chemically activated carbon is limited. Additionally, the petitioners contend that there is no substitution, in spite of respondents' arguments to the contrary, between certain activated carbon and chemically activated carbon in the automotive market, the largest market for chemically activated carbon.[60]

The petitioners note that they seldom compete with, and have different customer bases than MeadWestvaco, as evidence that there are differences in channels of distribution and differing perceptions by customers and producers of certain activated carbon and chemically activated carbon. Also, they point to MeadWestvaco's lack of interest in the investigation as further evidence of differences in perceptions. In addition, the petitioners contend that certain activated carbon is often viewed as more of a commodity product and often sold on the basis of price alone, while chemically activated carbons are sold on the basis of performance over price.[61]

With regard to manufacturing facilities and production processes, the petitioners assert that chemically activated carbons are produced using different equipment in different facilities. They note that when Norit produced both certain activated carbon and chemically activated carbon, it did so in separate production facilities.[62] The petitioners maintain that the certain activated carbon production process differs from that of chemically activated carbon in that it involves an initial carbonization

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[58] Ibid., p. 5.

[59] Ibid., p. 6.

[60] Petitioners' postconference brief, pp. 14-15.

[61] Ibid., p. 15.

[62] Ibid., p. 16. Norit's chemically activated production was located in Marshall, TX, separate from its certain activated production facility.

process.[63] Furthermore, they contend that the activation processes involved are completely different, with steam activation requiring higher temperatures and the presence of steam to carve out carbon atoms. On the other hand, chemical activation relies on the application of a dehydrating agent and lower temperature to open up the internal structure of the carbon. The petitioners argue that these differing processes result in differences in the final product on which it is graded, and which dictates its performance and application.[64]

[63] Ibid.

[64] Ibid., p. 17.

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

U.S. MARKET SEGMENTS

Both U.S. producers' U.S. commercial shipments of certain activated carbon as well as U.S. shipments of imported product from China are made primarily to end users. Types of end users include municipal water treatment facilities, food processing plants, and chemical processing plants.

Markets do not appear to be limited geographically with all three responding producers reporting nationwide sales. Fifteen of 30 responding importers also reported nationwide sales with another five reporting sales to at least four regions.

CHANNELS OF DISTRIBUTION

*** of certain activated carbon, as well as 11 of 26 responding importers, reported sales to both distributors and end users of certain activated carbon. Twelve importers and *** reported sales only to end users while three importers reported sales only to distributors. The *** of U.S. producers' U.S. shipments of certain activated carbon were shipped directly to end users throughout the period for which data were collected. Approximately *** percent of U.S. producers' U.S. shipments went to end users in each year between 2003 and 2005. A *** share of importers' U.S. shipments went to distributors, with shipments to end users accounting for between 64 and 74 percent of U.S. imports from China during the period 2003 to 2005. *** suggested that sales to distributors are often made at a discount due to lower cost of sale involved in such transactions. To the extent that this is true, it may place a downward bias on the observed price of imported certain activated carbon which is more frequently sold to distributors. Table II-1 presents information on channels of distribution for U.S. producers as well as for U.S. imports of subject product from China.

Table II-1
Certain activated carbon: U.S. producers' and U.S. importers' U.S. shipments by channels of distribution, 2003-05

Shipments	Calendar year		
	2003	2004	2005
	U.S. producers' U.S. shipments (in short tons)		
To distributors	***	***	***
To end users	***	***	***
	U.S. importers' subject U.S. shipments (in short tons)		
To distributors	14,879	22,308	26,235
To end users	42,093	49,698	46,834
	Share of U.S. producers' U.S. shipments (in percent)		
To distributors	***	***	***
To end users	***	***	***
	Share of U.S. importers' subject U.S. shipments (in percent)		
To distributors	26.1	31.0	35.9
To end users	73.9	69.0	64.1

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

SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

Domestic Production

Based on available information, staff believes that U.S. certain activated carbon producers are likely to respond to changes in demand with moderate to large changes in shipments of U.S.-produced certain activated carbon to the U.S. market. A small amount of unused capacity as well as limited ability to shift production to and from alternative products suggest a low degree of responsiveness, while the existence of alternative markets, ***, and moderately high inventories suggest a higher degree of responsiveness.

Industry capacity

Total U.S. capacity ***. U.S. producers' reported capacity utilization for certain activated carbon ***. Overall, the level of capacity utilization indicates that U.S. producers of certain activated carbon have *** in the event of a price change.[1] However, according to Petitioners' postconference brief, ***.[2] According to testimony at the staff conference, high levels of capacity utilization are necessary to keep costs low.[3]

Alternative markets

Overall, domestic producers' exports fell *** between 2003 and 2005 but ***.[4] ***.[5] The generally *** level of exports during the period indicates that domestic producers ***.

Inventory levels

Moderate inventories relative to total shipments indicate that U.S. producers are able to respond to changes in demand simply by increasing shipments from inventory. According to questionnaire responses, U.S. producers' aggregate beginning inventories were *** percent of annualized total shipments in 2005. Table III-1 presents complete inventory data for U.S. producers.

Production alternatives

***. *** reported that some production personnel will occasionally work on reactivating carbon. *** reported that reactivated carbon accounts for *** percent of production by the personnel that produce certain activated carbon. The *** reported producing certain activated carbon on the same machinery and using the same employees as does production of reactivated carbon. This producer reported that reactivated carbon accounted for *** percent of production using this machinery and these employees. Testimony by witnesses for the respondent parties during the staff conference indicated that the same

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[1] See table III-1 for additional details concerning capacity and capacity utilization.

[2] Petitioners' postconference brief, p. 31.

[3] *See*, testimony of Brad Hudgens, Georgetown Economic Services, conference transcript, pp. 38-39.

[4] See table III-1.

[5] ***.

equipment (specifically, the furnace) can be used to both activate virgin carbon and reactivate previously activated carbon with some cleaning and adjustment between production of the two products.[6]

Subject Imports

Imported certain activated carbon from China as a share of total U.S. imports of certain activated carbon fell from 64.6 percent in 2003 to 60.1 percent in 2005. Between 2003 and 2004, U.S. subject imports from China rose from 67.7 million pounds in 2003 to 82.9 million pounds in both 2004 and 2005. As a share of total U.S. consumption, subject imports from China rose from 26.8 percent in 2003 to 30.2 percent in 2004 before falling slightly to 29.1 percent in 2005. Based on available information, importers of certain activated carbon from China are likely to respond to changes in demand with moderate to large changes in the quantity shipped to the U.S. market. A large response is supported by the existence of alternative markets while the response is limited by small to moderate levels of inventory, a high capacity utilization rate, and an inability to produce other products using the same equipment with which certain activated carbon is produced.

Industry capacity

From 2003 to 2005, reported Chinese capacity grew from 197.5 million pounds to 274.1 million pounds (see table VII-1). Production more than kept pace with the growth in capacity as capacity utilization rose from 90.8 percent in 2003 to 92.0 percent in 2005. These data indicate that Chinese suppliers of certain activated carbon have some excess capacity with which they could increase production of certain activated carbon in the event of a price change.

Alternative markets

According to questionnaire responses from Chinese producers of certain activated carbon, exports to the United States accounted for 24.3 percent of all exports of certain activated carbon from China in 2005, down from 28.3 percent in 2004. Chinese producers, therefore, have the ability to divert product to or from other markets in response to relative changes in the price of certain activated carbon between the United States and other markets.

Inventory levels

Chinese producers' inventories, as a share of total shipments, fell from 8.8 percent in 2003 to 4.6 percent in 2004 before rising again to 6.9 percent during 2005. These data indicate that these producers have some ability to use inventories as a means of increasing shipments of certain activated carbon to the U.S. market.

Production alternatives

Only one of 24 responding Chinese producers indicated that they produced other products using the same equipment used to produce certain activated carbon. This foreign producer reported that certain activated carbon accounted for 85 percent of production using this equipment. It appears that Chinese producers are constrained in their ability to switch capacity to or from alternative products in the event of a change in demand for certain activated carbon.

U.S. Demand

[6] *See*, testimony of J. Louis Kovach, Nucon, conference transcript, p. 110.

Based on available information, certain activated carbon consumers are likely to respond to changes in the price of certain activated carbon with moderate changes in their purchases of certain activated carbon. The main contributing factor to the responsiveness of demand is the availability, or, in some cases lack thereof, of substitute products that can compete with certain activated carbon. Specifically, since reactivation of used carbon is a viable alternative for many customers, an increase in the price of virgin activated carbon may lead to more widespread use of reactivated product. However, the ability of end users to use reactivated product is not universal and many end users can use only virgin activated carbon. In addition, a substantial increase in the price of certain activated carbon may lead to more direct competition with the higher-priced chemically activated carbon which is a viable substitute for a number of end uses.

Demand Characteristics

Available data indicate that apparent U.S. consumption of certain activated carbon rose from *** in 2003 to *** in 2005, an increase of 12.8 percent.

When asked if demand for certain activated carbon had changed since 2002, *** responding major producers and 26 of 28 responding importers reported that demand had increased between 2003 and 2005. *** and two importers stated that demand has been growing consistently at 3 to 5 percent per year. The most commonly cited reason for the increase is stricter EPA regulations regarding the treatment of water as well as the emission of pollutants. In addition, respondent interested parties state that new legislation regarding mercury emissions by power plants may be the source of a substantial increase in demand for certain activated carbon.[7] One importer reported that demand had decreased and one importer reported that demand has been unchanged.

Substitute Products

*** reported that no direct substitutes exist. ***. Twenty-two of 27 responding importers reported that there are substitutes for certain activated carbon while five stated that there are no substitutes. The most widely reported substitute was reactivated carbon which was mentioned by 15 responding importers. Six importers listed chemically activated carbon as a substitute. Both reactivated and chemically activated carbon are reported by importers to be adequate substitutes in almost all applications in which certain activated carbon is used. For end users such as potable water treatment facilities, only reactivated carbon resulting from the reactivation of carbon from that specific customer can be used. Other customers can purchase “pooled” reactivated carbon which can originate from a variety of sources. Estimates provided by the petitioners indicate that reactivated carbon is 25 to 75 percent less expensive than virgin certain activated carbon.[8] While chemically activated carbon can often be used in the same applications as certain activated carbon, the price is substantially higher. ***.[9] In addition, for most applications that use chemically activated carbon (such as applications within the automotive industry), certain activated carbon does not meet the required specifications. Other substitutes listed more than once were ion exchange resins, zeolite, and clay.

[7] CIAC postconference brief, pp. 21-22.

[8] Petitioners’ postconference brief, pp. 25-26 and exhibit GENERAL-6.

[9] ***.

Cost Share

One producer reported that certain activated carbon accounts for ***. Other responding U.S. producers did not provide any information on this issue. Responding importers reported a wide range of estimates concerning the share of certain activated carbon costs in all end-use related costs. These estimates ranged from 0.01 percent to 90 percent for a variety of end uses. For the largest end use - water treatment - estimates of the cost share attributable to certain activated carbon ranged from 25 percent to 80 percent with several importers stating that the cost share for this end use was around 50 percent.

SUBSTITUTABILITY ISSUES

Factors Affecting Purchasing Decisions

It is generally agreed that as long as certain activated carbon meets the specifications required for the specific end use in question, then price is the largest single factor affecting purchase decisions. There may, however, be some differences in quality between domestically produced product and product imported from China. During the staff conference, representatives for the respondent interested parties reported that U.S.-produced certain activated carbon is often more effective and therefore requires less product for the same end use than Chinese-produced product.[10] Some end users require certain activated carbon with a lower ash content than is available with unwashed Chinese product. In such cases, the Chinese product must be acid-washed to remove ash and meet the required specifications. According to an industry witness appearing on behalf of respondent interested parties at the staff conference, such washing may increase costs by 30 to 40 percent.[11] Finally, many orders of granular certain activated carbon (***[12]) include removal of old product along with installation of new product. Service costs, therefore, may influence the purchase decision along with the cost of the certain activated carbon itself.

While not federally mandated in this industry, many municipalities enact their own "Buy America" regulations to certain activated carbon. Respondents claim that a substantial portion (20 to 30 percent) of municipal water treatment facilities purchase only U.S.-produced product.[13] Petitioners state that they believe these estimated percentages to be "overblown." In addition, they report that many of these "Buy America" policies are informal and could be ignored should price differences between domestic and imported product become too great.[14]

Comparisons of Domestic Products, Subject Imports, and Nonsubject Imports

Producers and importers were asked to report how frequently certain activated carbon from different countries was used in the same applications (table II-2). Both responding producers and 3 of 28 responding importers who reported having knowledge of both Chinese and U.S.-produced certain activated carbon reported that Chinese and U.S. certain activated carbon are always interchangeable. Five importers reported that product from the two countries is frequently interchangeable while 19 importers reported that product from China is sometimes interchangeable with U.S.-produced certain activated carbon and one reported that they were never interchangeable. While one importer cites quality issues as the reason for imperfect interchangeability (in that the Chinese product is of lower quality), most

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[10] *See*, testimony of Sid Nelson, Sorbent, conference transcript, p. 174.

[11] *See*, testimony of David Jordan, U.S. Filter Environmental Services, conference transcript, p. 119.

[12] Petitioners' postconference brief, exhibit 1 p. 16.

[13] CIAC postconference brief, pp. 25-26.

[14] Petitioners' postconference brief, p. 34.

importers simply state that different products are more or less suitable for certain end uses as a result of differences in inputs or production processes that produce different product characteristics. In addition, several stated that no pelletized certain activated carbon is produced in the United States, whereas it is produced in China. Reported comparisons involving nonsubject countries follow similar patterns and can be seen in table II-2. One importer noted that coconut-shell based product is more readily available from nonsubject countries.

Table II-2
Certain activated carbon: U.S. producers' and importers' perceived degree of interchangeability of products produced in the United States and other countries[1]

	U.S. producers					U.S. importers				
Country comparison	A	F	S	N	0	A	F	S	N	0
U.S. vs. China	2	0	0	0	1	3	5	19	1	2
U.S. vs. Nonsubject	2	0	0	0	1	3	2	11	3	8
China vs. Nonsubject	2	0	0	0	1	4	2	10	2	8

[1] Producers and importers were asked if certain activated carbon produced in the United States and in other countries is used interchangeably.

Note: "A" = Always, "F" = Frequently, "S" = Sometimes, "N" = Never, and "0" = No familiarity.

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

Producers and importers were also asked to assess how often differences other than price were significant in sales of certain activated carbon from the United States, China, or nonsubject countries (table II-3).

Table II-3
Certain activated carbon: U.S. producers' and importers' conceptions concerning the importance of non-price differences in purchases of certain activated carbon from the United States and other countries[1]

	U.S. producers					U.S. importers				
Country comparison	A	F	S	N	0	A	F	S	N	0
U.S. vs. China	0	0	0	2	1	7	11	6	4	2
U.S. vs. Nonsubject	0	0	0	2	1	5	7	1	4	9
China vs. Nonsubject	0	0	0	2	1	5	7	1	3	8

[1] Producers and importers were asked if differences other than price between certain activated carbon produced in the United States and in other countries are a significant factor in their firm's sales of the product.

Note: "A" = Always, "F" = Frequently, "S" = Sometimes, "N" = Never, and "0" = No familiarity.

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

*** responding producers as well as four of 28 responding importers reported that non-price differences are never a factor in sales of certain activated carbon from the United States and China. Seven importers reported that such differences are always a factor, while 11 reported that such differences are frequently a factor and six reported that non-price differences were sometimes a factor. Importers listed quality, availability, particular product characteristics, and technical support as factors other than price that may influence their purchase decisions. One importer stated that U.S.-produced certain activated carbon is of higher quality. Several others stated that availability, especially for "specialty" products, is superior for importers of Chinese certain activated carbon. Two producers and four importers reported that non-price difference were never a factor when comparing U.S. product to certain activated carbon from nonsubject countries, while two producers and three importers stated that non-price differences were never a factor when comparing Chinese certain activated carbon to nonsubject product. Twelve importers stated that non-price differences were either always or frequently a factor in purchase decisions involving product from nonsubject countries and one importer reported that such differences were sometimes a factor. Several importers noted that certain activated carbon made from coconut shells was available from only nonsubject sources.

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, as it relates to certain activated carbon, chemically activated carbon, and total activated carbon, 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 four firms that accounted for virtually all of U.S. production (three firms for certain activated, two for chemically activated, and four for total activated) during 2003-05.

U.S. PRODUCERS

The petition identified five firms that produced certain activated carbon during 2003-05. In addition to Calgon and Norit, California Carbon,[1] Acticarb Tailored Products, LLC (Acticarb),[2] and Cal Pacific Carbon (Cal Pacific)[3] were listed as producers of the subject product. Petitioners estimated the 2005 production of the latter three firms to be nearly *** pounds compared with the combined Calgon and Norit production of more than *** pounds.[4] Petitioners noted that they determined the "universe" of domestic producers in the following manner.

> "Principally as domestic producers of certain activated carbon, petitioners are aware of the other producers in the market by virtue of directly competing with them in bids. Many companies that hold themselves out as domestic producers of certain activated carbon are actually engaging in reactivation of used activated carbon or other post-production processing of activated carbon that is imported or produced by other domestic producers."[5] [6]

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[1] California Carbon ***.

[2] Acticarb stopped producing in October 2005 and is not currently in operation. Petition, p. 3, n. 6. ***.

[3] Cal Pacific ***.

[4] Petition, Exhibit General-1.

[5] Petition, p. 3.

[6] On March 15, 2006, Respondent CIAC filed an industry support challenge with Commerce stating among other things that "in addition to being importers of subject merchandise, the following companies are also U.S. producers of subject merchandise: Carbon Link Corporation (Carbon Link), NUCON, PICA USA, Inc. (PICA), and Superior Adsorbents, Inc. (SAI)." CAIC March 15, 2006 submission to Commerce, p. 2, n. 2. Commerce received additional submissions from CIAC on March 21, 22, and 24. Petitioners responded to those submissions on March 22 and 28.

In its March 21, 2006, submission to Commerce, CIAC provided the following information with regard to respondents "production" operations:

> Carbon Link–"Carbon Link produces a variety of activated carbon products in its facilities in Mount Vernon, Ohio. Carbon Link *** for uses primarily in the filtration field. In 2005, Carbon Link produced *** of activated carbon products."
>
> PICA–"PICA USA produces a variety of activated carbon products in its facilities in Columbus, Ohio. PICA USA ***. In 2005, PICA USA produced *** of activated carbon products."
>
> SAI–"SAI's production operations primarily involve ***. Additionally, SAI produces ***. SAI

(continued...)

Calgon is headquartered in Pittsburgh, PA, with production facilities located in Catlettsburg, KY[7] and Pearlington, MS.[8] It is the largest producer of certain activated carbon in the United States and also has operations around the world, including China.[9] According to its website, Calgon, along with its European operation Chemviron Carbon, is a "global manufacturer and supplier of granular activated carbon, innovative treatment systems, value added technologies and services for optimizing production processes and safely purifying the environment."[10] During the staff conference in this investigation, counsel for CIAC stated that it was "appropriate to at least probe the issue of exclusion of Calgon as a

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[6] (...continued)

products are used in ***. In 2005, SAI produced *** of activated carbon products."

NUCON–"NUCON operates production facilities in Columbus, Ohio. NUCON ***. NUCON produces ***. Additionally, NUCON produces ***. In 2005, NUCON produced *** of activated carbon products."

CAIC March 21, 2006 submission to Commerce, p. 2.

In its March 22, 2006, submission to Commerce, CIAC provided the following information to further clarify its position with regard to respondents' "production" operations:

"Additionally, we would like to restate for the record what we stated in our conversation with Department staff on Friday, March 17, 2005 {sic}, that ***."

CAIC March 22, 2006 submission to Commerce, p. 2.

Finally, in response to a question from Commission staff as to whether the five firms named in the petition are the only firms that actually activate carbon, counsel for CIAC stated:

"To our knowledge, that's correct. Some of our clients also do what's being characterized as further processing, but they don't include the activation step. There are others that are not represented in the proceeding that also do some further processing that does not involve activation.

See, testimony of Joseph H. Heckendorn, Bryan Cave, conference transcript, p. 158.

[7] ***. Calgon questionnaire.

[8] Calgon's Pearlington facility was closed from August 27, 2005, through November 7, 2005, due to damage caused by Hurricanes Katrina and Rita. In its postconference submission, CIAC argued that petitioner's (Calgon) claim that they are being materially injured by Chinese imports is "flatly unfounded," noting that Calgon's CEO, John Stanik's statements in conference calls held on October 26, 2005, and March 29, 2006, concerning the company's earnings in the third and fourth quarters of 2005, addressed the impact of Hurricanes Katrina and Rita on Calgon's financial performance with mentioning subject imports. In part, Mr. Stanik stated:

"Hurricanes Katrina and Rita both impacted the company's sales and costs. Regarding sales, the effects of the hurricanes were two-fold: Hurricane Katrina's path was directly over our Pearl River facility resulting in the plant being partially submerged under water. The consequence of this was to shutdown the facility, which remains down today (October 26, 2005). This downtime hindered our ability to meet some customer requests. The second effect was the effect that both hurricanes had on customer carbon and service consumption. Many of our Gulf Coast industrial and municipal customers experienced and continue to experience downtime in their operations."

CIAC postconference brief, p. 43.

[9] See, testimony of Robert O'Brien, Calgon, conference transcript, p. 15. Calgon Carbon (Tianjin) Co., Ltd., a Chinese producer/exporter of subject product, is a subsidiary of Calgon.

[10] http://www.calgoncarbon.com/company/index.html, retrieved March 31, 2006. Calgon Carbon is self-described as the world's largest manufacturer of granular activated carbon with production and operations in North America, Europe, and Asia. Ibid.

related party" in view of its imports from and operations in China;[11] however, CIAC provided no further discussion of this potential issue in its postconference submission. During 2003-05, Calgon's imports of certain activated carbon from China were the equivalent of *** percent, respectively, of its U.S. production.[12] [13]

Norit is headquartered in Marshall, TX, with certain activated production facilities located there as well as Pryor, OK.[14] Norit's parent company, Norit NV, is located in the Netherlands and has production facilities there.[15] According to its website, Norit is:

> ". . .the world's largest producer of activated carbon and related services. With over 80 years of experience, NORIT has grown to produce well over 150 different types of activated carbon products, enabling them to offer the most choices, precise fit and best performance for any application. NORIT also offers activated carbon reactivation, carbon change out services, and both granular and powdered carbon systems & equipment."[16]

Norit is also an importer of subject product from China. During 2003-05, Norit's imports from China were the equivalent of *** percent, respectively, of its U.S. production of certain activated carbon.[17]

California Carbon is located in Wilmington, CA, where it operates a small production facility for certain activated carbon as well as a facility for reactivating carbon. According to its ***, *** percent of its operations were used for ***. In 2005, California Carbon's production of certain activated carbon amounted to *** pounds, or *** percent of total U.S. production.[18]

As noted earlier, MeadWestvaco and Norit produced chemically activated carbon during the period examined, although Norit closed its production facility in 2005. MeadWestvaco, headquartered in Stamford, CT, is a diversified manufacturing company active in the packaging, consumer and office products, specialty chemicals, and specialty papers businesses.[19] It specialty chemicals division is

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[11] See, testimony of Lyle Vander Schaaf, conference transcript, p. 174.

[12] Table III-1. Calgon also ***.

[13] ***. Calgon questionnaire.

[14] See, testimony of Ronald Thompson, Norit, conference transcript, pp. 26-27. Norit also has separate reactivation facilities in the United States. Ibid. Norit closed its chemically activated carbon production facilities in Marshall, TX, in January 2005. Those facilities were separate from the certain activated carbon production facilities.

[15] Ibid, p. 27.

[16] http://www.noit-ac.com/, retrieved April 3, 2006.

[17] Table III-1. During 2003-05, Norit's imports of subject product were equivalent of *** percent, respectively, of its U.S. production of total activated carbon. Norit ***.

[18] California Carbon ***. California Carbon also ***. During 2003-05, its ***, respectively. Additionally, California Carbon is ***. Ibid.

[19] MeadWestvaco ***.

headquartered in Charleston, SC, and it produces chemically activated carbon at its facilities in Covington, VA, and Wickliffe, KY. MeadWestvaco ***. During 2003-05, ***.[20]

U.S. PRODUCERS' CAPACITY, PRODUCTION, CAPACITY UTILIZATION, SHIPMENT, INVENTORY, AND EMPLOYMENT DATA

Tables III-1, III-2, and III-3 present U.S. producers' capacity, production, capacity utilization, shipment, inventory, and employment data, for certain activated carbon, chemically activated carbon, and total activated carbon, respectively.

Table III-1
Certain activated carbon: U.S. capacity, production, capacity utilization, shipments, end-of-period inventories, and employment-related indicators, 2003-05

* * * * * * *

Table III-2
Chemically activated carbon: U.S. capacity, production, capacity utilization, shipments, end-of-period inventories, and employment-related indicators, 2003-05

* * * * * * *

Table III-3
Total activated carbon: U.S. capacity, production, capacity utilization, shipments, end-of-period inventories, and employment-related indicators, 2003-05

* * * * * * *

[20] Table VI-5 presents sales and financial data for producers of chemically activated carbon, by firm, for 2003-05.

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

U.S. IMPORTERS

The Commission sent importer questionnaires to 61 firms believed to be importers of certain activated carbon, as well as to all U.S. producers.[1] Usable questionnaire responses were received from 31 companies that in 2005 accounted for 96.3 percent of total activated carbon imports (based on official statistics) from China. Thirty-one companies reported imports of certain activated carbon from China during 2003-05, while seven reported imports from other sources. The five largest responding importers of certain activated carbon from China were ***, collectively accounting for 58.1 percent of reported imports of activated carbon from China in 2005. Imports of chemically activated carbon from China were reported by five companies,[2] with nine firms reporting imports from other sources. *** reported imports of chemically- activated carbon exclusively from China. *** imported chemically activated carbon from both China and other sources. A list of U.S. importers of activated carbon, the countries they import from, and their shares of reported 2005 imports from China are presented in table IV-1.

U.S. IMPORTS

U.S. imports of certain activated carbon, chemically activated carbon and total activated carbon are presented in tables IV-2, IV-3, and IV-4, respectively.[3] In 2005, China was the largest exporter of subject activated carbon to the United States, accounting for 60.1 percent of total imports of certain activated carbon, with the Philippines and Sri Lanka being the second and third largest exporters, respectively.[4]

[1] The Commission sent questionnaires to those firms identified in the petition and firms identified by the U.S. Customs and Border Protection ("Customs") as possible importers.

[2] ***.

[3] Imports of activated carbon are from official statistics under HTS subheading 3802.10.00.

[4] In 2005, the Philippines and Sri Lanka accounted for 14.3 and 11.9 percent of certain activated carbon imports, respectively.

Table IV-1
Activated carbon: U.S. importers, countries they import from, and shares (in percent) of 2005 imports

* * * * * * *

Table IV-2
Certain activated carbon: U.S. imports, by sources, 2003-05

* * * * * * *

Table IV-3
Chemically activated carbon: U.S. imports, by sources, 2003-05

* * * * * * *

Table IV-4
Total activated carbon: U.S. imports, by sources, 2003-05

Source	Calendar year		
	2003	2004	2005
	Quantity (*1,000 pounds*)		
China--			
Certain activated	67,719	82,942	82,940
Chemically activated	924	1,170	1,078
Total	68,644	84,111	84,018
Other sources	56,726	58,210	74,659
Total	125,370	142,322	158,677
	Value (*1,000 dollars*)[1]		
China--			
Certain activated	21,712	27,271	28,660
Chemically activated	581	715	648
Total	22,293	27,986	29,308
Other sources	46,136	47,930	59,868
Total	68,430	75,916	89,176
	Unit value (*per pound*)[1]		
China--			
Certain activated	$0.32	$0.33	$0.35
Chemically activated	$0.63	$0.61	$0.60
Average	$0.32	$0.33	$0.35
Other sources	0.81	0.82	0.80
Average	0.55	0.53	0.56
	Share of quantity (*percent*)		
China--			
Certain activated	54.0	58.3	52.3
Chemically activated	0.7	0.8	0.7
Total	54.8	59.1	52.9
Other sources	45.2	40.9	47.1
Total	100.0	100.0	100.0
	Share of value (*percent*)		
China--			
Certain activated	31.7	35.9	32.1
Chemically activated	0.8	0.9	0.7
Total	32.6	36.9	32.9
Other sources	67.4	63.1	67.1
Total	100.0	100.0	100.0

[1] Landed, duty-paid.

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

Source: Compiled from official Commerce statistics.

Changes in importers' operations since January 1, 2003 were reported by six firms and are presented in table IV-5.

Table IV-5
Activated carbon: U.S. importers and changes in operations since January 1, 2003

* * * * * * *

NEGLIGIBILITY

The Tariff Act provides for the termination of an investigation if imports of the subject product from a country are less than 3 percent of total imports, or, if there is more than one such country, their combined share is less than or equal to 7 percent of total imports, during the most recent 12 months for which data are available preceding the filing of the petition–in this case March 2005 to February 2006. The share (in *percent*) of the total quantity of U.S. imports, by sources, is presented in table IV-6.

Table IV-6
Activated carbon: U.S. imports, by sources, and share of total imports (in percent), March 2005-February 2006

Country	Certain activated carbon		Chemically activated carbon		Total activated carbon	
	Imports *(1,000 pounds)*	Share of total imports (percent)	Imports *(1,000 pounds)*	Share of total imports (percent)	Imports *(1,000 pounds)*	Share of total imports (percent)
China	79,951	56.1	1,039	4.7	80,990	48.8
Other sources	62,666	43.9	22,263	95.7	84,929	51.2
Total	142,617	100.0	23,326	100.0	165,919	100.0

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

Source: Compiled from official Commerce Statistics.

APPARENT U.S. CONSUMPTION

Data on U.S. consumption of certain activated carbon, chemically activated carbon and total activated carbon are presented in tables IV-7, IV-8, and IV-9, respectively. The quantity of U.S. consumption of certain activated carbon increased by 12.8 percent from 2003 to 2005.[5] The value of U.S. consumption of certain activated carbon increased by 11.4 percent from 2003 to 2005.[6]

Table IV-7
Certain activated carbon: U.S. producers' U.S. shipments, U.S. imports, by sources, and total U.S. consumption, 2003-05

* * * * * * *

Table IV-8
Chemically activated carbon: U.S. producers' U.S. shipments, U.S. imports, by sources, and total U.S. consumption, 2003-05

* * * * * * *

Table IV-9
Total activated carbon: U.S. producers' U.S. shipments, U.S. imports, by sources, and total U.S. consumption, 2003-05

* * * * * * *

[5] The quantity of U.S. consumption of chemically activated carbon and total activated carbon increased by 4.8 percent and 10.9 percent, respectively, from 2003 to 2005.

[6] The value of U.S. consumption of chemically activated carbon and total activated carbon increased by 10.5 percent and 11.0 percent, respectively, from 2003 to 2005.

U.S. MARKET SHARES

Market shares for certain activated carbon, chemically activated carbon, and total activated carbon are presented in tables IV-10, IV-11, and IV-12, respectively. Both the quantity and value of the U.S. producers' market share of certain activated carbon decreased steadily from 2003 through 2005.

Table IV-10
Certain activated carbon: U.S. consumption and market shares, 2003-05

Item	Calendar year		
	2003	2004	2005
	Quantity (*1,000 pounds*)		
U.S. consumption	***	***	***
	Value (*1,000 dollars*)		
U.S. consumption	***	***	***
	Share of quantity (*percent*)		
U.S. producers' U.S. shipments	58.6	53.1	51.7
U.S. imports from--			
China	26.8	30.2	29.1
Nonsubject countries	14.6	16.7	19.3
Total imports	41.4	46.9	48.3
	Share of value (*percent*)		
U.S. producers' U.S. shipments	64.4	59.2	57.8
U.S. imports from--			
China	14.1	16.9	16.8
Nonsubject countries	21.4	23.9	25.5
Total imports	35.6	40.8	42.2

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, using proportions gathered from questionnaire data.

Table IV-11
Chemically activated carbon: U.S. consumption and market shares, 2003-05

* * * * * * *

Table IV-12
Total activated carbon: U.S. consumption and market shares, 2003-05

* * * * * * *

RATIO OF SUBJECT IMPORTS TO U.S. PRODUCTION

Information concerning the ratio of subject imports to U.S. production of certain activated carbon, chemically activated carbon, and total activated carbon is presented in tables IV-13, IV-14, and IV-15, respectively.

Table IV-13
Certain activated carbon: Ratio of U.S. imports to U.S. production, by sources, 2003-05

* * * * * * *

Table IV-14
Chemically activated carbon: Ratio of U.S. imports to U.S. production, by sources, 2003-05

* * * * * * *

Table IV-15
Total activated carbon: Ratio of U.S. imports to U.S. production, by sources, 2003-05

* * * * * * *

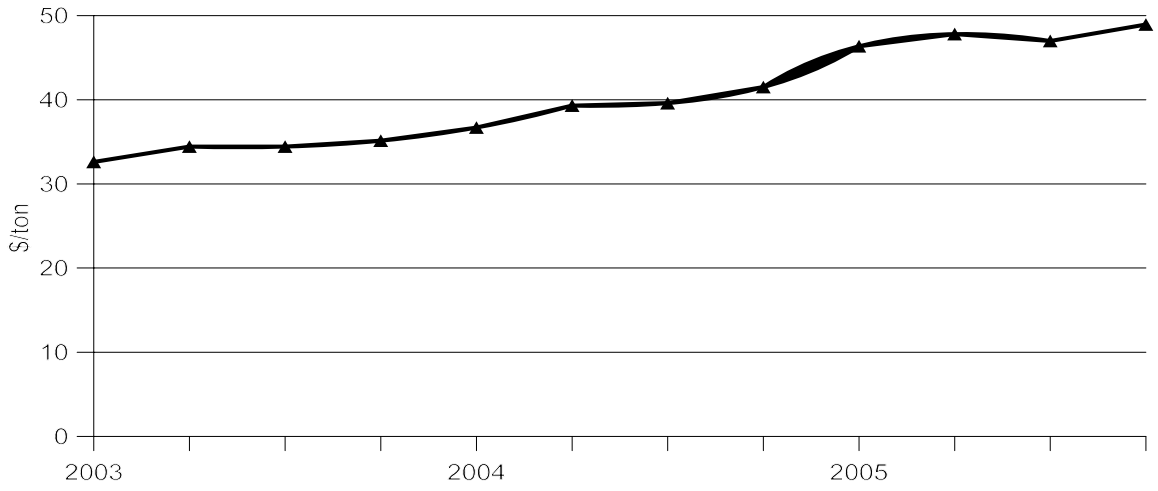
PART V: PRICING AND RELATED INFORMATION

FACTORS AFFECTING PRICES

Raw Materials

The production of certain activated carbon begins with some material that contains a high level of carbon. Such materials include, but are not limited to, coal (both bituminous and lignite), wood, coconut shells, olive stones, and peat. According to petitioners, coal is the raw material most widely used by both U.S. and Chinese producers of certain activated carbon.[1] As shown in figure V-1, the price of coal has risen over the period for which data were collected. Prices in the fourth quarter of 2005 were 50 percent higher than they were in the first quarter of 2003. Other raw materials used in the production process include pitch, phosphoric acid, oxygen, steam, and water.[2] Overall, raw materials accounted for *** percent of the cost of goods sold in 2005, *** percent in 2003 and. Electricity and natural gas are also used in the production process and accounted for *** percent of the total cost of good sold in 2005, *** percent in 2003.

Figure V-1
Coal prices: Average domestic price of coal to industrial plants, 2003-05



Source: Quarterly Coal Reports (various issues, 2003-2005) Table 25 - Average Price of Coal Receipts at Other Industrial Plants. Energy Information Administration, Office of Coal, Nuclear, Electric, and Alternate Fuels, U.S. Department of Energy. Available at http://tonto.eia.doe.gov/FTPROOT/coal/qcrhistory.htm.

Transportation Costs to the U.S. Market

Transportation costs for certain activated carbon from China to the United States (excluding U.S. inland costs) in 2005 are estimated to be equivalent to approximately 24.4 percent of the customs value

[1] Petition, p. 13.

[2] Petition, pp. 51-61.

for product from China. These estimates are derived from official import data and represent the transportation and other charges on imports valued on a c.i.f. basis, as compared with customs value.[3]

U.S. Inland Transportation Costs

Reported U.S. inland transportation costs for certain activated carbon were approximately *** percent for one responding major U.S. producer and *** percent for the other. The ***. Reported U.S. inland transportation costs ranged from 0 to 30 percent for the 30 reporting Chinese importers with all but two reporting transportation costs of 20 percent or less.

Producers and importers also were asked to estimate the percentage of their sales that occurred within certain distance ranges. One of the two major U.S. producers reported shipping *** percent of its sales under 100 miles and the other reported that *** percent of its sales were shipped less than 100 miles. The third reporting U.S. producer reported that *** percent of its sales were shipped under 100 miles. One major U.S. producer reported shipping *** percent of sales between 100 and 1,000 miles and the other reported that *** percent of its sales were shipped between 100 and 1,000 miles. The third responding U.S. producer reported that *** percent of its sales were shipped between 100 and 1,000 miles. Finally, while one major U.S. producer reported shipping *** percent of its sales more than 1,000 miles, the other major U.S. producer reported that *** percent of its sales were shipped more than 1,000 miles, and the third responding producer reported that *** percent of its sales were shipped over 1,000 miles. Seven of 31 responding importers reported shipping at least 50 percent of their sales more than 1,000 miles; 16 reported shipping at least 50 percent of their sales between 100 and 1,000 miles; and 7 reported shipping at least 50 percent of their sales less than 100 miles with 3 of those shipping 100 percent of their sales less than 100 miles.

Exchange Rates

From 2000 to June of 2005, the Chinese currency was pegged at 8.28 yuan per U.S. dollar. There was a small revaluation in the third quarter of 2005 raising the value of the Chinese currency to 8.14 yuan per dollar after which the yuan was moved to a partial float against the dollar. The yuan appreciated further in the fourth quarter of 2005, averaging 8.08 yuan per dollar.[4]

PRICING PRACTICES

Pricing Methods

Certain activated carbon is sold on both a spot and a contract basis. *** reported that ***. Short-term contracts last *** while long-term contracts ***. The third responding U.S. producer reported that ***. Six of 29 responding importers reported that 100 percent of their sales were on a spot basis with eight more reporting that at least 50 percent of their sales were on a spot basis. Seventeen of the 29 responding importers reported that at least half of their sales were made on a contract basis. Eight importers reported that at least 50 percent of their sales were on a long-term contract basis while six reported that more than 50 percent of their sales were on a short-term contract basis.

While ***. *** reported that they ***. ***. ***. While a majority (22 of 31) of responding importers reported determining price on at least some of their sales on a transaction-by-transaction basis, seven reported using a price list for some (usually the smaller) or all of their customers. Sixteen

[3] These estimates are based on HTS subheading 3802.10.00.

[4] Source: IMF International Financial Statistics. Downloaded from http://imfstatistics.org/imf/ifsBrowser.aspx April 6, 2006.

responding importers reported giving discounts based on, among other things, quantity, long-term orders, and early payment. Ten importers reported that they have no discount policy.

PRICE DATA

The Commission requested U.S. producers and importers of certain activated carbon to provide quarterly data for the total quantity and f.o.b. (U.S. point of shipment) value of certain activated carbon that was shipped to unrelated customers in the U.S. market. Data were requested for the period January 2003 to December 2005. The products for which pricing data were requested are defined as follows:

> ***Product 1***.–Granular activated carbon that is steam activated from coal (bituminous or lignite), unwashed, no more than 15 percent greater than 8 mesh and no more than 4 percent under 30 mesh, iodine no. 900 mg/g min, moisture 2% max
>
> ***Product 2***.– Granular activated carbon that is steam activated from coal (bituminous or lignite), unwashed, no more than 5 percent greater than 12 mesh and no more than 4 percent under 40 mesh, iodine no. 1000 mg/g min, moisture 2% max
>
> ***Product 3***.–Powder activated carbon that is steam activated from coal (bituminous or lignite), unwashed, particle size 90% min, 325 mesh, iodine no. 700 mg/g min, moisture 5% max

Three U.S. producers and 21 importers of certain activated carbon from China provided usable pricing data for sales of the requested products, although not all firms reported pricing for all quarters. Tables V-1 through V-3 and figures V-2 through V-4 present f.o.b. (U.S. point of shipment) selling prices for the three activated carbon products defined above produced and sold in the United States as well as products produced in China and imported into the United States. By quantity, pricing data reported by responding firms in 2003 through 2005 accounted for 49.8 percent of U.S. commercial shipments of U.S.-produced certain activated carbon and 35.7 percent of U.S. commercial shipments of Chinese-produced certain activated carbon.

Table V-1
Certain activated carbon: Weighted-average f.o.b. prices and quantities of domestic and imported product 1 and margins of underselling/(overselling), by quarters, January 2003-December 2005

Period	United States		China		
	Price (*per pound*)	Quantity (*pounds*)	Price (*per pound*)	Quantity (*pounds*)	Margin (*percent*)
2003:					
Jan.-Mar.	$***	***	$0.37	2,964,407	***
Apr.-June	***	***	0.40	3,852,530	***
July-Sept.	***	***	0.41	2,057,807	***
Oct.-Dec.	***	***	0.42	1,816,395	***
2004:					
Jan.-Mar.	***	***	0.36	3,453,197	***
Apr.-June	***	***	0.38	4,730,417	***
July-Sept.	***	***	0.44	3,537,833	***
Oct.-Dec.	***	***	0.46	2,519,064	***
2005:					
Jan.-Mar.	***	***	0.38	2,736,088	***
Apr.-June	***	***	0.42	3,631,809	***
July-Sept.	***	***	0.52	1,906,971	***
Oct.-Dec.	***	***	0.46	1,476,488	***

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

Table V-2
Certain activated carbon: Weighted-average f.o.b. prices and quantities of domestic and imported product 2 and margins of underselling/(overselling), by quarters, January 2003-December 2005

Period	United States		China		
	Price (*per pound*)	Quantity (*pounds*)	Price (*per pound*)	Quantity (*pounds*)	Margin (*percent*)
2003:					
Jan.-Mar.	$***	***	$0.45	1,725,502	***
Apr.-June	***	***	0.42	1,803,736	***
July-Sept.	***	***	0.43	1,066,081	***
Oct.-Dec.	***	***	0.44	1,275,186	***
2004:					
Jan.-Mar.	***	***	0.44	1,640,068	***
Apr.-June	***	***	0.44	1,954,385	***
July-Sept.	***	***	0.54	1,603,410	***
Oct.-Dec.	***	***	0.50	1,500,458	***
2005:					
Jan.-Mar.	***	***	0.46	2,217,212	***
Apr.-June	***	***	0.51	1,898,630	***
July-Sept.	***	***	0.43	1,555,818	***
Oct.-Dec.	***	***	0.43	1,284,326	***

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

Table V-3
Certain activated carbon: Weighted-average f.o.b. prices and quantities of domestic and imported product 3 and margins of underselling/(overselling), by quarters, January 2003-December 2005

Period	United States		China		
	Price (*per pound*)	Quantity (*pounds*)	Price (*per pound*)	Quantity (*pounds*)	Margin (*percent*)
2003:					
Jan.-Mar.	$***	***	$0.31	488,728	***
Apr.-June	***	***	0.28	1,251,826	***
July-Sept.	***	***	0.25	2,366,105	***
Oct.-Dec.	***	***	0.33	747,460	***
2004:					
Jan.-Mar.	***	***	0.26	873,934	***
Apr.-June	***	***	0.25	2,289,210	***
July-Sept.	***	***	0.26	2,011,196	***
Oct.-Dec.	***	***	0.29	1,257,643	***
2005:					
Jan.-Mar.	***	***	0.27	1,555,839	***
Apr.-June	***	***	0.26	1,829,518	***
July-Sept.	***	***	0.29	3,303,809	***
Oct.-Dec.	***	***	0.29	2,584,640	***

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

Figure V-2
Certain activated carbon: Weighted-average prices of domestic and imported product 1, by quarters, January 2003-December 2005

* * * * * * *

Figure V-3
Certain activated carbon: Weighted-average prices of domestic and imported product 2, by quarters, January 2003-December 2005

* * * * * * *

Figure V-4
Certain activated carbon: Weighted-average prices of domestic and imported product 3, by quarters, January 2003-December 2005

* * * * * * *

Price Trends

U.S. producers' average prices for both product 1 and product 3 showed no discernable trend over the period for which data were collected. While prices moved from quarter to quarter, overall they stayed relatively stable, rising by 3.5 percent between January-March 2003 and October-December 2005 for product 1 and falling by 3.1 percent for product 3. Prices for product 2 fell by 20.1 percent between January-March 2003 and July-September 2004 before recovering during 2005. Overall, prices for product 2 were 4.5 percent lower in October-December 2005 than in January-March 2003. ***. ***. ***.

Prices of U.S. shipments of product 1 imported from China show an upward trend throughout the period and have notable quarter-to-quarter variations. Overall, prices were 23.8 percent higher in October-December 2005 than in January-March 2003. Prices of U.S. shipments of product 2 imported from China were relatively flat through the early part of the period, rose to a high in July-September of 2004 and fell erratically thereafter, standing 3.1 percent lower in October-December 2005 than in January-March 2003. After exhibiting wide fluctuations in the early quarters of the period for which data were collected, prices of U.S. shipments of product 3 imported from China stayed relatively flat, rising slightly from June to December 2005. Overall, prices were 5.3 percent lower in October-December 2005 than they were in January-March 2003.

Price Comparisons

Prices of imports from China were lower than prices of U.S.-produced products 1 and 2 in all quarters during the period for which data were collected. Margins for product 1 ranged from a low of 23.1 percent in quarter four 2004 to a high of 42.8 percent in quarter one 2005. Aside from the first quarter of 2005, margins in the second half of the period were lower than they were in the first half of the period. Margins for product 2 were over 40 percent during the first five quarters of the period for which data were collected, fell to a low of 13.4 percent in July-September 2004 and rose to over 40 percent once again during the last half of 2005. Margins for product 3 changed erratically throughout the period and ranged from a low of -0.6 percent in October-December 2003 to a high of 31.4 percent in July-September 2003. Margins for product 3 were under 15 percent during the last two quarters of 2005.

LOST SALES AND LOST REVENUES

The petitioner provided a list of *** alleged lost sales to Chinese competitors totaling *** between January 2003 and December 2005. Staff attempted to contact customers associated with ***, or approximately *** percent, of those lost sales. In addition, petitioners alleged another *** per year of lost revenue attributable to lower prices on retained contracts caused by competition from Chinese producers. Staff was able to confirm *** of the alleged *** in total lost sales, and *** of the alleged *** in annual lost revenue. Customers rejected the allegation for various reasons in *** of the total lost sales. In the largest of the rejected allegations (accounting for *** in lost sales), the purchaser stated that while a Chinese supplier did win the initial bid, the supplied product did not pass quality tests and was replaced by domestically supplied certain activated carbon. Of those contacted, staff was unable to obtain information on *** in alleged lost sales and *** in lost revenue.

By and large, price was the reason for choosing the Chinese product. Many of the lost sales were to municipal water treatment facilities which, in many cases, must accept the lowest-priced product provided that it meets the required standards. A few respondents indicated that while the lowest-priced option was of Chinese product, the product did not pass initial tests or performed poorly upon use. As a result, these purchasers have switched or plan to switch back to domestically produced certain activated carbon. Since most of the alleged lost sales are from accounts with open annual bids, any bid lost to a supplier of Chinese product, regardless of who won the contract the previous year, was counted as a lost sale. Information on alleged lost sales and lost revenue can be seen in tables V-4 and V-5.

Table V-4
Certain activated carbon: U.S. producers' lost revenue allegations

* * * * * * *

Table V-5
Certain activated carbon: U.S. producers' lost sales allegations

* * * * * * *

PART VI: FINANCIAL EXPERIENCE OF U.S. FIRMS

BACKGROUND

Two firms, Calgon and Norit, provided production, shipment, and financial data on their operations on certain activated carbon. Two firms, MeadWestvaco and Norit, provided production, shipment, and financial data on their operations on chemically activated carbon. Each of them reported on a calendar year basis, and these data accounted for the vast majority of known U.S. production of certain and chemically activated carbon in 2005.[1]

OPERATIONS ON ACTIVATED CARBON

The results of U.S. firms' operations on certain activated carbon (table VI-1) are briefly summarized here. Total net sales quantities, values, and sales unit values (representing the combined data of ***), decreased irregularly between 2003 and 2005. Increases in the cost of raw materials led to an overall increase in the industry's cost of goods sold ("COGS"), which increased irregularly between 2003 and 2005, at the same time as sales declined. The industry's operating *** in 2005.

The combined results of *** on chemically activated carbon (table VI-2) differ considerably from the results described earlier for certain activated carbon, i.e., sales quantities, values, and unit values irregularly increased between 2003 and 2005. Energy costs increased while raw material costs and other components of COGS were flat or slightly declined during 2003-05 and the combined operating *** between 2003 and 2005. It should be noted that ***.

Table VI-1
Certain activated carbon: Results of operations of U.S. firms, 2003-05

* * * * * * *

Table VI-2
Chemically activated carbon: Results of operations of U.S. firms, 2003-05

* * * * * * *

Table VI-3
Total activated carbon: Aggregated results of operations of U.S. firms, 2003-05

* * * * * * *

In table VI-1, the data of *** differ in several important respects from those of ***: ***. These differences were ascribed to several factors, including *** between the two firms.[2] ***, for example, mainly produces *** whereas *** mainly produces a ***. The raw material input for the granular product reportedly is a harder (bituminous) coal that costs more than the soft (lignite) coal used to produce the powdered product; ***. *** also ***.

Sales and cost data for operations on certain activated carbon on a firm-by-firm basis are shown in table VI-4.

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[1] A third firm, ***, stated that it could not provide financial data on certain activated carbon, but did provide data for production, shipment, and pricing. Differences between the aggregated data on shipments and sales were *** in 2005.

[2] Petitioners' postconference brief, exh. 1, p. 19.

Table VI-4
Certain activated carbon: Results of operations of U.S. producers, by firm, 2003-05

* * * * * * *

The data in table VI-2, the results of operations on chemically activated carbon, are those reported by ***. *** accounts for a *** of the total in any one year. ***'s results reflect its efforts to *** operations and it ***. Hence, the data are predominantly those of ***. *** results of operations differ from those of ***: its sales unit values are *** and it was ***. *** cost structure for chemically activated carbon differs from that of the firms producing certain activated carbon (compare table VI-1 and table VI-2, for example). Its sales unit values are *** and the bulk of its costs are in energy and factory overhead. Table VI-5 presents data on a firm-by-firm basis for operations on chemically activated carbon.

Table VI-5
Chemically activated carbon: Results of operations of U.S. producers, by firm, 2003-05

*** * * * * * ***

Raw materials and energy represent a large and increasing component of total COGS of the three firms that reported sales of certain activated carbon and chemically activated carbon. With regard to certain activated carbon, raw material costs are chiefly composed of the costs of coal.[3] The ratio of raw material costs to total COGS, the ratio of raw material costs to sales, and the average unit value of raw materials *** during the three years investigated, as shown in table VI-6, which presents data for certain activated carbon. With regard to chemically activated carbon, the primary raw material input is wood. Although raw material costs of this product increased, they did not increase to the same extent as did the raw material costs of certain activated carbon. Energy costs, ***. The raw material and energy costs of chemically activated carbon are shown in table VI-7.

Table VI-6
Certain activated carbon: Raw material and energy costs, by firm, 2003-05

*** * * * * * ***

Table VI-7
Chemically activated carbon: Raw material and energy costs, by firm, 2003-05

* * * * * * *

Changes in the operating income of these firms are further evidenced by a variance analysis that shows the effects of prices and volume on net sales and of costs and volume on their total costs. Because the usefulness of the analysis may be diminished by the product mix and cost differences *** at the end of table VI-8.

Table VI-8
Certain activated carbon: Variance analysis on results of operations, 2003-05

[3] For a discussion and price series of coal and natural gas, see petitioners' postconference brief, pp. 35-36 and exh. 5.

* * * * * * *

This analysis shows that the decrease in operating income between 2003 and 2005 of $*** was attributable to combined unfavorable variances of price ***, net cost/expense ***, and lower sales volume. However, the mix of favorable and unfavorable variances differed considerably *** and shifted between the full calendar years, with an unfavorable price variance between 2003 and 2004 that was greater than the favorable net cost/expense variance; between 2004 and 2005 the unfavorable net cost/expense variance greatly outweighed the favorable price variance.

Tables VI-9 and VI-10 present a variance analysis for chemically activated carbon and total activated carbon, respectively.

Table VI-9
Chemically activated carbon: Variance analysis on results of operations, 2003-05

* * * * * * *

Table VI-10
Total activated carbon: Variance analysis on aggregated results of operations, 2003-05

* * * * * * *

CAPITAL EXPENDITURES AND RESEARCH AND DEVELOPMENT EXPENSES

*** reported capital expenditures, and research and development ("R&D") expenses for certain activated carbon while *** reported capital expenditures for chemically activated carbon (table VI-11). It appears that the primary purpose of ***.[4]

Table VI-11
Certain activated carbon and chemically activated carbon: Capital expenditures and R&D expenses, by firm, 2003-05

* * * * * * *

ASSETS AND RETURN ON INVESTMENT

The Commission's questionnaire requested data on assets used in the production, warehousing, and sale of certain activated carbon and chemically activated carbon to compute return on investment ("ROI") for 2003 to 2005. The data for total net sales and operating income are from tables VI-1 and VI-2. Operating income was divided by total net sales, resulting in the operating income ratio. Total net sales was divided by total assets, resulting in the asset turnover ratio. The operating income ratio was then multiplied by the asset turnover ratio, resulting in ROI; the expanded form of this equation shows how the profit margin and total assets turnover ratio interact to determine the return on investment.

U.S. producers' total assets and their ROI are presented in tables VI-12 and VI-13, certain activated carbon and chemically activated carbon, respectively. The total assets utilized in the production, warehousing, and sales of certain activated carbon were flat between 2003 and 2005 (the decrease in book value of fixed assets was made up for by an increase in the residual category of other noncurrent assets). ROI ***.

Table VI-12

[4] Petitioner's postconference brief, exh. 14.

Certain activated carbon: Value of assets used in the production, warehousing, and sale, and return on investment, 2003-05

* * * * * * *

For chemically activated carbon, ROI was ***. As stated at the staff conference, Norit closed the chemical activation facility at Marshall, TX,[5] ***. Chemically activated carbon assets and ROI are shown in table VI-13, and total activated carbon assets and ROI are shown in table VI-14.

Table VI-13
Chemically activated carbon: Value of assets used in the production, warehousing, and sale, and return on investment, 2003-05

* * * * * * *

Table VI-14
Total activated carbon: Total value of assets used in the production, warehousing, and sale, and return on investment, 2003-05

* * * * * * *

CAPITAL AND INVESTMENT

The Commission requested U.S. producers to describe any actual or anticipated negative effects of imports of certain activated carbon 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). U.S. producer responses are presented below.

Actual Negative Effects

Calgon ***.[6]

MeadWestvaco ***.

Norit ***.

Anticipated Negative Effects

Calgon ***.

MeadWestvaco ***.

Norit ***.

[5] Testimony of Ronald Thompson, Norit, conference transcript, p. 27.

[6] *See*, testimony of Robert O'Brien, Calgon, conference transcript, p. 25.

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

Tables VII-1, VII-2, and VII-3 present data provided by Chinese producers/exporters through their counsel with respect to their certain activated carbon, chemically activated carbon, and total activated carbon operations, respectively, in China. Twenty-four firms, 19 of which exported certain activated carbon to the United States, provided useable data.[1] The exports to the United States of these firms were equivalent to 56.4 percent of certain activated carbon U.S. imports from China in 2005. Seventeen firms noted that certain activated carbon represented 100 percent of their firm's total sales in 2005, with only two noting that it represented less than 50 percent. Two firms reported exporting chemically activated carbon to the United States.[2]

[1] Of the 19 firms, 14 are producer/exporters, while five are exporters only. ***.

[2] The two firms are ***. The exports to the United States of these two firms accounted for all of chemically activated carbon U.S. imports from China in 2005.

Table VII-1
Certain activated carbon: Chinese production capacity, production, shipments, and inventories, 2003-05 and projected 2006-07

Item	Actual experience			Projections	
	2003	2004	2005	2006	2007
	Quantity (*1,000 pounds*)				
Capacity	197,475	245,235	274,115	274,520	277,520
Production	181,279	228,943	260,851	266,147	268,356
End of period inventories	20,459	16,469	26,199	22,349	20,042
Shipments: Internal consumption	0	4,951	6,991	7,120	6,920
Home market	72,872	151,834	179,848	184,631	191,931
Exports to-- The United States	38,619	57,991	46,813	42,826	41,825
All other markets	119,883	147,080	146,092	149,844	144,892
Total exports	158,502	205,071	192,905	192,670	186,717
Total shipments	231,374	361,856	379,744	384,421	385,568
	Ratios and shares (*percent*)				
Capacity utilization	90.8	90.7	92.0	93.7	93.5
Inventories to production	11.3	7.2	10.0	8.4	7.5
Inventories to total shipments	8.8	4.6	6.9	5.8	5.2
Share of total quantity of shipments: Internal consumption	0.0	1.4	1.8	1.9	1.8
Home market	31.5	42.0	47.4	48.0	49.8
Exports to-- The United States	16.7	16.0	12.3	11.1	10.8
All other markets	51.8	40.6	38.5	39.0	37.6
All export markets	68.5	56.7	50.8	50.1	48.4

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

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

Table VII-2
Chemically activated carbon: Chinese production capacity, production, shipments, and inventories, 2003-05 and projected 2006-07

* * * * * * *

Table VII-3
Total activated carbon: Chinese production capacity, production, shipments, and inventories, 2003-05 and projected 2006-07

* * * * * * *

U.S. IMPORTERS' INVENTORIES

Inventories of certain activated carbon, chemically activated carbon, and total activated carbon as reported by U.S. importers are presented in tables VII-4, VII-5, and VII-6, respectively.

Table VII-4
Certain activated carbon: U.S. importers' end-of-period inventories of imports, 2003-05

Item	Calendar year		
	2003	2004	2005
Imports from China:			
Inventories (*1,000 pounds*)	18,091	20,730	22,976
Ratio to imports (*percent*)	29.3	26.7	28.8
Ratio to U.S. shipments of imports (*percent*)	29.2	27.6	30.1
Imports from all other sources:			
Inventories (*1,000 pounds*)	3,735	5,894	9,562
Ratio to imports (*percent*)	34.8	21.5	30.3
Ratio to U.S. shipments of imports (*percent*)	37.1	28.6	36.2
Imports from all sources:			
Inventories (*1,000 pounds*)	21,826	26,624	32,538
Ratio to imports (*percent*)	30.1	25.3	29.2
Ratio to U.S. shipments of imports (*percent*)	30.3	27.8	31.6

Note.--Ratios are based on firms that provided both inventory data and import and/or shipment data.

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

Table VII-5
Chemically activated carbon: U.S. importers' end-of-period inventories of imports, 2003-05

* * * * * * *

Table VII-6
Total activated carbon: U.S. importers' end-of-period inventories of imports, 2003-05

* * * * * * *

ANTIDUMPING DUTY ORDERS IN THIRD-COUNTRY MARKETS

An antidumping order was originally put into place covering Chinese imports of powdered activated carbon (both certain- and chemically activated) in the European Union (EU) in June 1996, with an antidumping rate of 66.8 percent. In June 2002, the EU set new antidumping duties of 323 Euros/ton (@$0.18/lb) on powdered activated carbon imports from China replacing the 66.8 percent duty set in June 1996.[3]

[3] Petitioners' postconference brief, exhibit 1, p. 5, responding to a question from the Commission staff. See also, petitioners' postconference brief, exhibit 11.

APPENDIX A

FEDERAL REGISTER NOTICES

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1103 (Preliminary)]

Certain Activated Carbon From China

AGENCY: 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–1103 (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 certain activated carbon,[1] provided for in subheading 3802.10.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. 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 April 24, 2006. The Commission's views are due at Commerce within five business days thereafter, or by May 1, 2006.

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).

DATES: *Effective Date:* March 8, 2006.

FOR FURTHER INFORMATION CONTACT: Jim McClure (202–205–3191), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted in response to a petition filed on March 8, 2006, by Calgon Carbon Corporation, Pittsburgh, PA, and Norit Americas, Inc., Marshall, TX.

[1] For purposes of this investigation, the product covered is certain activated carbon defined as a powdered, granular or pelletized carbon product obtained by ''activating'' with heat and steam various materials containing carbon, including but not limited to coal (including bituminous, lignite and anthracite), wood, coconut shells, olive stones, and peat. The thermal and steam treatments remove organic materials and create an internal pore structure in the carbon material. The producer can also use carbon dioxide gas (CO_2) in place of steam in this process. The vast majority of the internal porosity developed during the high temperature steam (or CO_2 gas) activation process is a direct result of oxidation of a portion of the solid carbon atoms in the raw material, converting them into a gaseous form of carbon. This definition covers all forms of activated carbon that are activated by steam or CO_2, regardless of raw material, grade, mixture, additives, further washing or post-activation chemical treatment (chemical or water washing, chemical impregnation or other treatment), or product form. Unless specifically excluded, this definition covers all physical forms of certain activated carbon, including powdered activated carbon (''PAC''), granular activated carbon (''GAC''), and pelletized activated carbon.

Excluded from this definition are chemically-activated carbons. The carbon-based raw material used in the chemical activation process is treated with a strong chemical agent, including but not limited to phosphoric acid or zinc chloride sulfuric acid, that dehydrates molecules in the raw material, and results in the formation of water that is removed from the raw material by moderate heat treatment. The activated carbon created by chemical activation has internal porosity developed primarily due to the action of the chemical dehydration agent. Chemically activated carbons are typically used to activate raw materials with a lignocellulosic component such as cellulose, including wood, sawdust, paper mill waste and peat.

To the extent that an imported activated carbon product is a blend of steam and chemically activated carbons, products containing 50 percent or more steam (or CO_2 gas) activated carbons are within this definition, and those containing more than 50 percent chemically activated carbons are outside this definition.

Also excluded from this definition are reactivated carbons and activated carbon cloth. Reactivated carbons are previously used activated carbons that have had adsorbed materials removed from their pore structure after use through the application of heat, steam and/or chemicals. Activated carbon cloth is a woven textile fabric made of or containing activated carbon fibers. It is used in masks and filters and clothing of various types where a woven format is required.

Any activated carbon meeting the physical description of subject merchandise provided above that is not expressly excluded from this definition is included within the definition.

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 March 30, 2006, at the U.S. International Trade Commission Building, 500 E Street, SW., Washington, DC. Parties wishing to participate in the conference should contact Jim McClure (202–205–3191) not later than March 27, 2006, 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 April 4, 2006, 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 §§ 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, except to the extent permitted by § 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

In accordance with §§ 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 § 207.12 of the Commission's rules.

By order of the Commission.

Issued: March 10, 2006.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E6–3756 Filed 3–14–06; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–904]

Initiation of Antidumping Duty Investigation: Certain Activated Carbon From the People's Republic of China

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

EFFECTIVE DATE: April 4, 2006.

FOR FURTHER INFORMATION CONTACT: Catherine Bertrand or Carrie Blozy, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–3207 or (202) 482–5403, respectively.

SUPPLEMENTARY INFORMATION:

INITIATION OF INVESTIGATION

The Petition

On March 8, 2006, the Department of Commerce (''Department'') received a petition on imports of certain activated carbon from the People's Republic of China (''PRC'') filed in proper form by Calgon Carbon Corporation and Norit Americas Inc. (''Petitioners''). The period of investigation (''POI'') is July 1, 2005, through December 31, 2005.

In accordance with section 732(b) of the Tariff Act of 1930, as amended (''the Act''), Petitioners alleged that imports of certain activated carbon 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 issued supplemental questions to Petitioners on March 10, 2006, and Petitioners filed their response on March 15, 2006.

Scope of Investigation

The merchandise subject to this investigation is certain activated carbon. Certain activated carbon is a powdered, granular or pelletized carbon product obtained by ''activating'' with heat and steam various materials containing carbon, including but not limited to coal (including bituminous, lignite and anthracite), wood, coconut shells, olive stones, and peat. The thermal and steam treatments remove organic materials and create an internal pore structure in the carbon material. The producer can also use carbon dioxide gas (CO_2) in place of steam in this process. The vast majority of the internal porosity developed during the high temperature steam (or CO_2 gas) activated process is a direct result of oxidation of a portion of the solid carbon atoms in the raw material, converting them into a gaseous form of carbon.

The scope of this investigation covers all forms of activated carbon that are activated by steam or CO_2, regardless of the raw material, grade, mixture, additives, further washing or post–activation chemical treatment (chemical or water washing, chemical impregnation or other treatment), or product form. Unless specifically excluded, the scope of this investigation covers all physical forms of certain activated carbon, including powdered activated carbon (''PAC''), granular activated carbon (''GAC''), and pelletized activated carbon.

Excluded from the scope of the investigation are chemically–activated carbons. The carbon–based raw material used in the chemical activation process is treated with a strong chemical agent, including but not limited to phosphoric acid, zinc chloride sulfuric acid or potassium hydroxide, that dehydrates molecules in the raw material, and results in the formation of water that is removed from the raw material by moderate heat treatment. The activated carbon created by chemical activation has internal porosity developed primarily due to the action of the chemical dehydration agent. Chemically activated carbons are typically used to activate raw materials with a lignocellulosic component such as cellulose, including wood, sawdust, paper mill waste and peat.

To the extent that an imported activated carbon product is a blend of steam and chemically activated carbons, products containing 50 percent or more steam (or CO_2 gas) activated carbons are within this scope, and those containing more than 50 percent chemically activated carbons are outside this scope.

Also excluded from the scope are reactivated carbons. Reactivated carbons are previously used activated carbons that have had adsorbed materials removed from their pore structure after use through the application of heat, steam and/or chemicals.

Also excluded from the scope is activated carbon cloth. Activated carbon cloth is a woven textile fabric made of or containing activated carbon fibers. It is used in masks and filters and clothing of various types where a woven format is required.

Any activated carbon meeting the physical description of subject merchandise provided above that is not expressly excluded from the scope is included within this scope. The

products under investigation are currently classifiable under the Harmonized Tariff Schedule of the United States (''HTSUS'') subheading 3802.10.00. Although HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Comments on Scope of Investigation

During our review of the petition, we discussed the scope with Petitioners to ensure that it accurately reflects the product for which the domestic industry is seeking relief. Petitioners had previously filed a petition on activated carbon from the People's Republic of China on January 26, 2006. On March 8, 2006, Petitioners filed a petition on certain activated carbon from the People's Republic of China. This petition changed the scope and domestic like product definition from the January 26, 2006 petition, which was subsequently withdrawn, to exclude chemically activated carbons. In the March 8, 2006, petition on certain activated carbon, Petitioners addressed their determination to limit the scope to only steam activated carbons and submitted information to support their assertion that chemical and steam activated carbons should not be considered within the scope or the domestic like product.

Moreover, as discussed in the preamble to the Department's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage. *See Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997). The Department encourages all interested parties to submit such comments within 20 calendar days of publication of this initiation notice. Comments should be addressed to Import Administration's Central Records Unit in Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230 - Attention: Catherine Bertrand and Carrie Blozy, Room 4003. 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 determination.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed by or on behalf of the domestic industry. In order to determine whether a petition has been filed by or on behalf of the industry, the Department, pursuant to section 732(c)(4)(A) of the Act, determines whether

a minimum percentage of the relevant industry supports the petition. A petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) 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. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A), or (ii) determine industry support using a statistically valid sampling method.

Section 771(4)(A) of the Act defines the ''industry'' as the producers of a domestic like product. Thus, to determine whether a 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 both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to a 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 like product, such differences do not render the decision of either agency contrary to law. *See USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001), citing *Algoma Steel Corp. Ltd. v. United States*, 688 F. Supp. 639, 644 (1988), aff'd 865 F.2d 240 (Fed. Cir. 1989), *cert. denied* 492 U.S. 919 (1989).

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).

With regard to the domestic like product, Petitioner does not offer a definition of domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted on the record, we have determined that certain activated carbon constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product. For a discussion of the domestic like product analysis in this case, see the *Initiation Checklist*, at Attachment I (Industry Support).

On March 15, 2006, we received an industry support challenge from importers of activated carbon.[1] We also received a letter of opposition to the petition from California Carbon, a U.S. producer of activated carbon, on March 24, 2006. *See Initiation Checklist* at Attachment I (Industry Support). Our review of the data provided in the petition, supplemental submissions, and other information readily available to the Department indicates that Petitioners have established industry support representing at least 25 percent of the total production of the domestic like product; and 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, requiring no further action by the Department pursuant to section 732(c)(4)(D) of the Act. Therefore, the domestic producers (or workers) who support the petition account for at least 25 percent of the total production of the domestic like product, and the requirements of section 732(c)(4)(A)(i) of the Act are met. Furthermore, the domestic producers who support the petition account for 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. Thus, the requirements of section 732(c)(4)(A)(ii) of the Act also are met. Accordingly, the Department determines that the petition was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act. *See Initiation Checklist* at Attachment I (Industry Support).

The Department finds that Petitioners filed the petition on behalf of the domestic industry because they are an interested party as defined in sections 771(9)(E) and (F) of the Act and they

[1] We received additional submissions from the importers on March 21, 22, and 24, 2006. Petitioners responded to these submissions on March 22 and March 28, 2006.

have demonstrated sufficient industry support with respect to the antidumping investigation that they are requesting the Department initiate. *See Initiation Checklist* at Attachment I (Industry Support).

Export Price

Petitioners relied on three U.S. prices for certain activated carbon manufactured in the PRC and offered for sale in the United States. Two prices were for POI sales of PAC and the other was for a sale of GAC. In each case, the U.S. price was the winning bid listed on a publically available bid sheet from a U.S. municipal water authority buying activated carbon. Each bid sheet identifies the price, terms of sale, and supplier of the winning bid. Because each of the bid prices were for delivery to the applicable municipal water authority, Petitioners deducted from the price, the costs associated with exporting and delivering the product, including U.S. inland freight, the U.S. importer/distributor profit margin, ocean freight and insurance charges, U.S. duty, port and wharfage fees, foreign inland freight costs, and foreign brokerage and handling. The Department recalculated one export price to adjust the U.S. inland freight figure used by Petitioners. *See Initiation Checklist*.

Normal Value

Petitioners stated that the PRC is a non–market economy (''NME'') and no determination to the contrary has yet been made by the Department. In previous investigations, the Department has determined that the PRC is a NME. *See Notice of Final Determination of Sales at Less Than Fair Value: Magnesium Metal from the People's Republic of China*, 70 FR 9037 (February 24, 2005), *Notice of Final Determination of Sales at Less Than Fair Value: Certain Tissue Paper Products from the People's Republic of China*, 70 FR 7475 (February 14, 2005), and *Notice of Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from the People's Republic of China*, 69 FR 70997 (December 8, 2004). In accordance with section 771(18)(C)(i) of the Act, the presumption of NME status remains in effect until revoked by the Department. The presumption of NME status for the PRC has not been revoked by the Department and remains in effect for purposes of the initiation of this investigation. Accordingly, the normal value (''NV'') of the product is appropriately 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.

Petitioners selected India as the surrogate country. Petitioners argued that, pursuant to section 773(c)(4) of the Act, India is an appropriate surrogate because it is a market–economy country that is at a comparable level of economic development to the PRC and is a significant producer and exporter of activated carbon. Based on the information provided by Petitioners, we believe that its use of India as a surrogate country is appropriate for purposes of initiating this investigation. After the initiation of the investigation, we will solicit comments regarding surrogate country selection. Also, pursuant to 19 CFR 351.301(c)(3)(i), interested parties will be provided an opportunity to submit publicly available information to value factors of production within 40 days after the date of publication of the preliminary determination.

Petitioners provided three dumping margin calculations using the Department's NME methodology as required by 19 CFR 351.202(b)(7)(i)(C). Petitioners calculated normal values based on consumption rates for producing activated carbon experienced by U.S. producers. In accordance with section 773(c)(4) of the Act, Petitioners valued factors of production, where possible, on reasonably available, public surrogate country data. To value certain factors of production, Petitioners used official Indian government import statistics, excluding those values from countries previously determined by the Department to be NME countries and excluding imports into India from Indonesia, Republic of Korea and Thailand, because the Department has previously excluded prices from these countries because they maintain broadly–available, non–industry specific export subsidies. *See Automotive Replacement Glass Windshields From the People's Republic of China: Final Results of Administrative Review*, 69 FR 61790 (October 21, 2004), and accompanying Issues and Decision Memorandum at Comment 5.

For the surrogate value for coal, Petitioners only used coking coal imports into India from New Zealand. We have recalculated the normal values to use a surrogate value for coking coal that is based on Indian imports of coking coal from all sources, except those specifically excluded above due to NME status or availability of export subsidies. *See Initiation Checklist* for details of the recalculation.

For inputs valued in Indian rupees and not contemporaneous with the POI, Petitioners used information from the wholesale price indices (''WPI'') in India as published by the International Monetary Fund in the *International Financial Statistics* to determine the appropriate adjustments for inflation. In addition, Petitioners made currency conversions, where necessary, based on the average rupee/U.S. dollar exchange rate for the POI, as reported on the Department's Web site.

For the normal value calculations, Petitioners derived the figures for factory overhead, selling, general and administrative expenses (''SG&A''), and profit from the financial ratios of an Indian activated carbon producer, Indo German Carbons Ltd. *See* Petition at page 63 and *Initiation Checklist*.

Fair Value Comparisons

Based on the data provided by Petitioners, there is reason to believe that imports of certain activated carbon from the PRC are being, or are likely to be, sold in the United States at less than fair value. Based upon comparisons of export price to the NV, calculated in accordance with section 773(c) of the Act, the estimated recalculated dumping margins for certain activated carbon from the PRC range from 114.33 percent to 333.66 percent.

Allegations and Evidence of Material Injury and Causation

Petitioners allege that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the individual and cumulated imports of the subject merchandise sold at less than NV. Petitioners contend that the industry's injured condition is illustrated by the decline in customer base, market share, domestic shipments, prices and financial performance. We have assessed the allegations and supporting evidence regarding material injury and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. *See Initiation Checklist* at Attachment II (Injury).

Separate Rates and Quantity and Value Questionnaire

The Department recently modified the process by which exporters and producers may obtain separate–rate status in NME investigations. *See* Policy Bulletin 05.1: Separate–Rates Practice and Application of Combination Rates in Antidumping Investigations

involving Non–Market Economy Countries (*Separate Rates and Combination Rates Bulletin*), (April 5, 2005), available on the Department's Web site at *http://ia.ita.doc.gov.* The process now requires the submission of a separate–rate status application. Based on our experience in processing the separate rates applications in the antidumping duty investigations of *Certain Artist Canvas from the People's Republic of China, Diamond Sawblades and Parts Thereof from the People's Republic of China and the Republic of Korea* and *Ceratin Lined Paper Products from India, Indonesia, and the People's Republic of China*, we have modified the application for this investigation to make it more administrable and easier for applicants to complete. *See Initiation of Antidumping Duty Investigation: Certain Artist Canvas From the People's Republic of China*, 70 FR 21996, 21999 (April 28, 2005), *Initiation of Antidumping Duty Investigations: Diamond Sawblades and Parts Thereof from the People's Republic of China and the Republic of Korea*, 70 FR 35625, 35629 (June 21, 2005), and *Initiation of Antidumping Duty Investigations: Certain Lined Paper Products from India, Indonesia, and the People's Republic of China*, 70 FR 58374, 58379 (October 6, 2005). The specific requirements for submitting the separate–rates application in this investigation are outlined in detail in the application itself, which will be available on the Department's Website at http://ia.ita.doc.gov on the date of publication of this initiation notice in the **Federal Register**. Please refer to this application for all instructions.

NME Respondent Selection and Quantity and Value Questionnaire

For NME investigations, it is the Department's practice to request quantity and value information from all known exporters identified in the petition. In addition, the Department typically requests the assistance of the NME government in transmitting the Department's quantity and value questionnaire to all companies who manufacture and export subject merchandise to the United States, as well as to manufacturers who produce the subject merchandise for companies who were engaged in exporting subject merchandise to the United States during the period of investigation. The quantity and value data received from NME exporters is used as the basis to select the mandatory respondents. Although many NME exporters respond to the quantity and value information request, at times some exporters may not have received the quantity and value questionnaire or may not have received it in time to respond by the specified deadline.

The Department is now publicizing its requirement that quantity and value responses must be submitted for both the quantity and value questionnaire and the separate–rates application by the respective deadlines in order to receive consideration for separate–rate status. This new procedure will be applied to all future investigations. Appendix I of this notice contains the quantity and value questionnaire that must be submitted by all NME exporters. In addition, the Department will post the quantity and value questionnaire along with the filing instructions on the IA Website (http://ia.ita.doc.gov). This quantity and value questionnaire is due no later than 15 calendar days from the date of publication of this notice. Consistent with Department practice, if a deadline falls on a weekend, federal holiday, or any other day when the Department is closed, the Department will accept the response on the next business day. *See Notice of Clarification: Application of ''Next Business Day'' rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, as amended*, 70 FR 24533 (May 10, 2005). The Department will continue to send the quantity and value questionnaire to those exporters identified in the petition and the NME government.

Use of Combination Rates in an NME Investigation

The Department will calculate combination rates for certain respondents that are eligible for a separate rate in this investigation. The *Separate Rates and Combination Rates Bulletin*, states:

> {w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME investigations will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non–investigated firms receiving the weighted–average of the individually calculated rates. This practice is referred to as the application of ''combination rates'' because such rates apply to specific combinations of exporters and one or more producers. The cash–deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question *and* produced by a firm that supplied the exporter during the period of investigation.

Separate Rates and Combination Rates Bulletin, at page 6.

Initiation of Antidumping Investigation

Based upon our examination of the petition on certain activated carbon from the PRC, we find that this petition meets the requirements of section 732 of the Act. Therefore, we are initiating an antidumping duty investigation to determine whether imports of certain activated carbon 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 determinations no later than 140 days after the date of these initiations.

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 government of the PRC.

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, within 25 days after the date on which it receives notice of this initiation, whether there is a reasonable indication that imports of certain activated carbon from the PRC are causing material injury, or threatening to cause material injury, to a U.S. industry. *See* section 733(a)(2) of the Act. A negative ITC determination will result in the investigation being terminated; otherwise, this investigation will proceed according to statutory and regulatory time limits.

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

Dated: March 28, 2006.

David M. Spooner.

Assistant Secretaryfor Import Administration.

APPENDIX I

Where it is not practicable to examine all known producers/exporters of subject merchandise, section 777A(c)(2) of the Tariff Act of 1930 (as amended) permits us to investigate 1) a sample of exporters, producers, or types of products that is statistically valid based on the information available at the time

of selection, or 2) exporters and producers accounting for the largest volume and value of the subject merchandise that can reasonably be examined.

In the chart provided below, please provide the total quantity and total value of all your sales of merchandise covered by the scope of this investigation (see scope section of this notice), produced in the PRC, and exported/shipped to the United States during the period July 1, 2005, through December 31, 2005.

Market	Total Quantity	Terms of Sale	Total Value
United States			
1. Export Price Sales			
2.			
a. Exporter name			
b. Address			
c. Contact			
d. Phone No.			
e. Fax No.			
3. Constructed Export Price Sales			
4. Further Manufactured			
Total Sales			

Total Quantity

- Please report quantity on a kilogram basis. If any conversions were used, please provide the conversion formula and source.

Terms of Sales

- Please report all sales on the same terms (*e.g.*, free on board).

Total Value

- All sales values should be reported in U.S. dollars. Please indicate any exchange rates used and their respective dates and sources.

Export Price Sales

- Generally, a U.S. sale is classified as an export price sale when the first sale to an unaffiliated person occurs before importation into the United States.
- Please include any sales exported by your company directly to the United States.
- Please include any sales exported by your company to a third–country market economy reseller where you had knowledge that the merchandise was destined to be resold to the United States.
- If you are a producer of subject merchandise, please include any sales manufactured by your company that were subsequently exported by an affiliated exporter to the United States.
- Please do not include any sales of merchandise manufactured in Hong Kong in your figures.

Constructed Export Price Sales

- Generally, a U.S. sale is classified as a constructed export price sale when the first sale to an unaffiliated person occurs after importation. However, if the first sale to the unaffiliated person is made by a person in the United States affiliated with the foreign exporter, constructed export price applies even if the sale occurs prior to importation.
- Please include any sales exported by your company directly to the United States.
- Please include any sales exported by your company to a third–country market economy reseller where you had knowledge that the merchandise was destined to be resold to the United States.
- If you are a producer of subject merchandise, please include any sales manufactured by your company that were subsequently exported by an affiliated exporter to the United States.
- Please do not include any sales of merchandise manufactured in Hong Kong in your figures.

Further Manufactured

- Further manufacture or assembly costs include amounts incurred for direct materials, labor and overhead, plus amounts for general and administrative expense, interest expense, and additional packing expense incurred in the country of further manufacture, as well as all costs involved in moving the product from the U.S. port of entry to the further manufacturer.

[FR Doc. E6–4864 Filed 4–3–06; 8:45 am]

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APPENDIX B

CONFERENCE WITNESSES

CALENDAR OF THE PUBLIC CONFERENCE

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

Subject:	Certain Activated Carbon from China
Inv No:	731-TA-1103 (Preliminary)
Date and Time:	March 30, 2006 - 9:30 a.m.

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

In Support of the Imposition of Antidumping Duties:

Collier Shannon Scott, PLLC
Washington, DC
on behalf of

Calgon Carbon Corporation and Norit Americas, Inc.

Ronald Thompson, President, Norit Americas, Inc.
Timothy Ruble, National Account Manager, Norit Americas, Inc.
Dennis Rester, Consultant, Norit Americas, Inc.
Robert O'Brien, Senior Vice-President, Calgon Carbon Corporation
James Gilmore, Director of Product Management, Calgon Carbon Corporation
Brad Hudgens, Economist, Georgetown Economic Services
David Rosner, Economist, Georgetown Economic Services

David A. Hartquist)
R. Alan Luberda)– OF COUNSEL
Mary T. Staley)

In Opposition to the Imposition of Antidumping Duties:

Bryan Cave, LLP
Washington, DC
on behalf of

The Coalition of Importers of Activated Carbon

David Jordan, Director, Product Services, U.S. Filter Environmental Services
J. Louis Kovach, President, Nucon International, Inc.
Joe Enneking, Vice-President, NUCON International, Inc.
Anders Skeini, President, Jacobi Carbons
Karl Krause, Business Manager, Jacobi Carbons
Sid Nelson, President, Sorbent Technologies
Stephen Clark, President, Water Tech, Inc.
Doug Gillen, Director, Environmental Products
Bill Brumfield, President, Carbon Link Corporation
Felipe Berer, International Trade Adviser, Bryan Cave

Lyle B. Vander Schaaf)
Corey L. Norton)– OF COUNSEL
Joseph H. Heckendorn)

APPENDIX C

SUMMARY DATA

Table C-1
Certain activated carbon: Summary data concerning the U.S. market, 2003-05

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Table C-2
Chemically activated carbon: Summary data concerning the U.S. market, 2003-05

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Table C-3
Total activated carbon: Summary data concerning the U.S. market, 2003-05

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APPENDIX D

PRODUCER AND IMPORTER COMMENTS REGARDING DIFFERENCES AND SIMILARITIES BETWEEN CHEMICALLY ACTIVATED CARBON AND CERTAIN ACTIVATED CARBON

The Commission requested producers and importers to describe the differences and similarities between chemically activated carbon and certain activated carbon with respect to: characteristics and uses; interchangeability; manufacturing processes; channels of distribution; customer and producer perceptions; and price. The responses follow:

Characteristics and Uses

* * * * * * *

Interchangeability

* * * * * * *

Manufacturing Processes

* * * * * * *

Channels of Distribution

* * * * * * *

Customer and Producer Perceptions

* * * * * * *

Price

* * * * * * *