

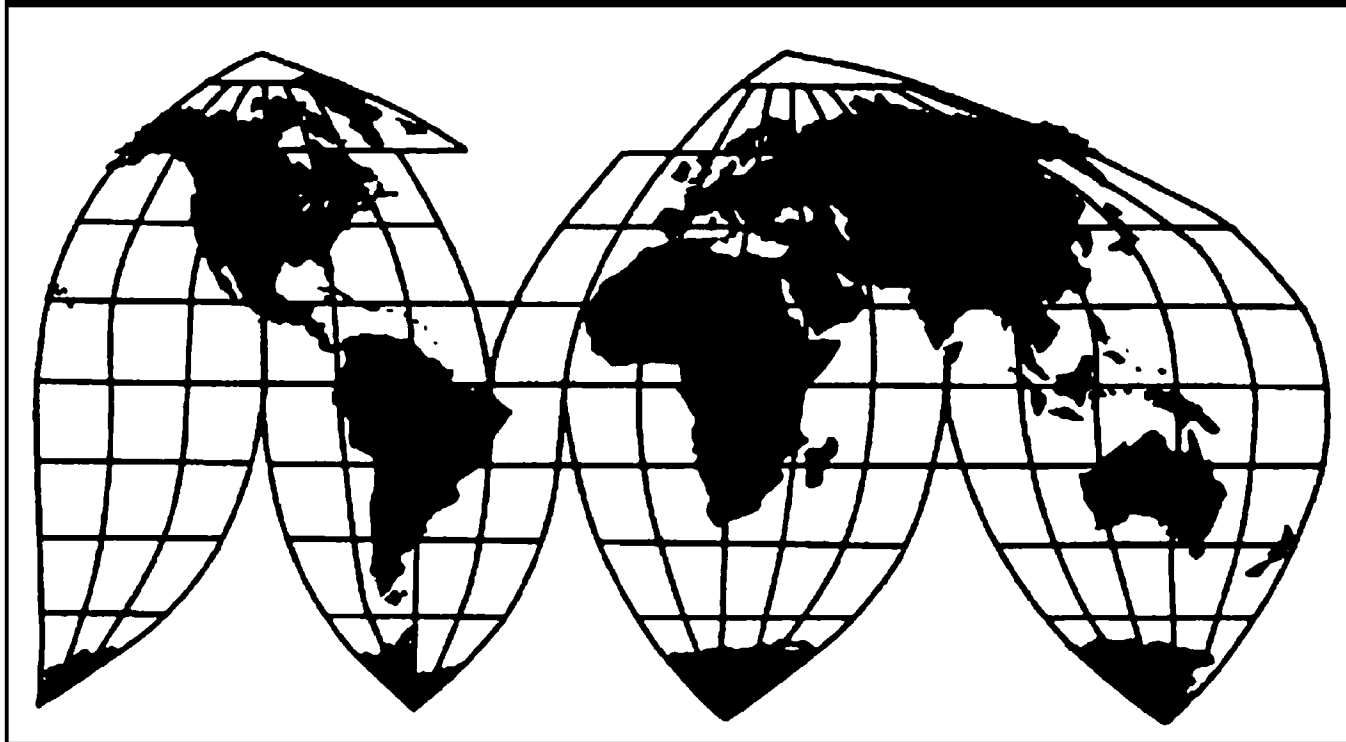
Melamine from China

Investigation Nos. 701-TA-526 and 731-TA-1262 (Review)

Publication 5210

June 2021

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

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DETERMINATIONS

On the basis of the record¹ developed in the subject five-year reviews, the United States International Trade Commission (“Commission”) determines, pursuant to the Tariff Act of 1930 (“the Act”), that revocation of the countervailing duty and antidumping duty orders on melamine from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

BACKGROUND

The Commission instituted these reviews on November 2, 2020 (85 FR 69359) and determined on February 5, 2021 that it would conduct expedited reviews (86 FR 29594, June 2, 2021).

By order of the Commission.

Lisa R. Barton
Secretary to the Commission

Issued:

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

Views of the Commission

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

I. Background

Original Investigations. On November 12, 2014, Cornerstone Chemical Company, Inc. (“Cornerstone”), a domestic producer of melamine, filed antidumping and countervailing duty petitions on melamine from China and Trinidad & Tobago.¹ In December 2015, the Commission determined that an industry in the United States was materially injured by reason of dumped and subsidized subject imports of melamine from China.² The Commission reached negative determinations in the investigations of melamine from Trinidad & Tobago.³ On December 28, 2015, the U.S. Department of Commerce (“Commerce”) issued antidumping and countervailing duty orders on imports of melamine from China.⁴

¹ *Melamine from China and Trinidad and Tobago*, Inv. Nos. 701-TA-526-527 and 731-TA-1262-1263 (Final), USITC Pub. 4585 (Dec. 2015) (“*Original Determination*”).

² *Original Determination*, USITC Pub. 4585 at 3. In making its determinations on subject imports from China, the Commission cumulated subject imports from China and Trinidad & Tobago. *Id.* at 8-10.

³ *Original Determination*, USITC Pub. 4585 at 3. For purposes of the determinations on subject imports from Trinidad & Tobago, those imports were ineligible for cumulation with subject imports from China pursuant to 19 U.S.C. § 1677(7)(G)(ii)(III) (cumulation exception for any country designated as a beneficiary country under the Caribbean Basin Economic Recovery Act). *Id.* at 8. Consequently, for purposes of its determinations on subject imports from Trinidad & Tobago, the Commission assessed those imports separately. *See id.* at 22-30.

⁴ *Melamine from China: Antidumping Duty and Countervailing Duty Orders*, 80 Fed. Reg. 80751 (Dec. 28, 2015).

Current Reviews. The Commission instituted these five-year reviews of the antidumping and countervailing duty orders on melamine from China on November 2, 2020.⁵ Cornerstone filed the sole response to the notice of institution.⁶ The Commission found the domestic interested party group response to the notice of institution adequate and the respondent interested party group response inadequate. In the absence of any other circumstances that would warrant full reviews, the Commission determined to conduct expedited reviews of the orders.⁷ Cornerstone submitted final comments pursuant to Commission rule 207.62(d)(1) on June 2, 2021.⁸

U.S. industry data for these reviews are based on the information that Cornerstone, which stated that it accounted for all domestic production of melamine in 2019, furnished in its response to the notice of institution.⁹ U.S. import data and related information are based on Commerce's official import statistics.¹⁰ Foreign industry data and related information are based on information furnished by Cornerstone, questionnaire responses from the original investigations, and publicly available information.¹¹ The Commission did not receive any response to the adequacy phase questionnaire from U.S. purchasers of melamine.¹²

⁵ *Melamine from China: Notice of Institution*, 85 Fed. Reg. 69359 (Nov. 2, 2020).

⁶ Confidential Report ("CR") and Public Report ("PR") at I-2.

⁷ *Scheduling of Expedited Five-Year Reviews; Melamine from China*, 86 Fed. Reg. 29594 (June 2, 2021).

⁸ Cornerstone Confidential Final Comments, EDIS Doc. 743747 (June 2, 2021) ("Comments").

⁹ CR/PR at Table I-1; Cornerstone's Confidential Response to the Notice of Institution, EDIS Doc. 727078 (Dec. 3, 2020) ("Response") at 22.

¹⁰ See CR/PR at Tables I-5 and I-6.

¹¹ See CR/PR at I-13, Tables I-7, I-8, and I-9.

¹² CR/PR at D-3.

II. Domestic Like Product and Industry

A. Domestic Like Product

In making its determination under section 751(c) of the Tariff Act, the Commission defines the “domestic like product” and the “industry.”¹³ The Tariff Act defines “domestic like product” as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle.”¹⁴ The Commission’s practice in five-year reviews is to examine the domestic like product definition from the original investigation and consider whether the record indicates any reason to revisit the prior findings.¹⁵

Commerce has defined the scope of the antidumping and countervailing duty orders in these reviews as follows:

melamine (Chemical Abstracts Service (CAS) registry number 108–78–01, molecular formula $C_3H_6N_6$). Melamine is a crystalline powder or granule typically (but not exclusively) used to manufacture melamine formaldehyde resins. All melamine is covered by the scope of the order irrespective of purity, particle size, or physical form. Melamine that has been blended with other products is included within this scope when such blends include constituent parts that have been intermingled, but that have not been chemically reacted with each other to produce a different product. For such blends, only the melamine component of the mixture is covered by the scope of the order. Melamine that is otherwise subject to the order is not excluded when commingled with melamine from sources not subject to the order. Only the subject component of such commingled products is covered by the scope of the order.

¹³ 19 U.S.C. § 1677(4)(A).

¹⁴ 19 U.S.C. § 1677(10); see, e.g., *Cleo Inc. v. United States*, 501 F.3d 1291, 1299 (Fed. Cir. 2007); *NEC Corp. v. 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); *Timken Co. v. United States*, 913 F. Supp. 580, 584 (Ct. Int’l Trade 1996); *Torrington Co. v. United States*, 747 F. Supp. 744, 748-49 (Ct. Int’l Trade 1990), *aff’d*, 938 F.2d 1278 (Fed. Cir. 1991); see also S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

¹⁵ See, e.g., *Internal Combustion Industrial Forklift Trucks from Japan*, Inv. No. 731-TA-377 (Second Review), USITC Pub. 3831 at 8-9 (Dec. 2005); *Crawfish Tail Meat from China*, Inv. No. 731-TA-752 (Review), USITC Pub. 3614 at 4 (July 2003); *Steel Concrete Reinforcing Bar from Turkey*, Inv. No. 731-TA-745 (Review), USITC Pub. 3577 at 4 (Feb. 2003).

The subject merchandise is provided for in subheading 2933.61.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading and CAS registry number are provided for convenience and customs purposes, the written description of the scope is dispositive.¹⁶

The scope definition set out above is unchanged since the original investigations.¹⁷

Melamine is an organic chemical most commonly used in the production of melamine-formaldehyde (“MF”) resins. It is sold as a white, crystalline powder with a purity of 99.8 percent. MF resins are used in the production of laminates, surface coatings, adhesives, molding compounds, paper treatments, and other applications. Laminates made using MF resins are used in kitchen and bathroom countertops, tabletops, doors, and cabinets. MF resins provide hardness, transparency, and stain resistance for a long-lasting working surface.¹⁸

In the original investigations, the Commission defined a single domestic like product, consisting of melamine, that was coextensive with Commerce’s scope definition.¹⁹ The definition of the domestic like product was not disputed in either the preliminary phase or final phase of the original investigations.²⁰

¹⁶ *Melamine from China: Final Results of the Expedited Sunset Review of the Antidumping Duty Order*, 86 Fed. Reg. 13528 (Mar. 9, 2021) (“Commerce AD Sunset Determination”); *Issues and Decision Memorandum for the Expedited Sunset Review of the Antidumping Duty Order on Melamine from the People’s Republic of China* (Mar. 2, 2021) at 2 (“Commerce AD I&D Memo”); *Melamine from China: Final Results of the Expedited Sunset Review of the Countervailing Duty Order*, 86 Fed. Reg. 11501 (Feb. 25, 2021) (“Commerce CVD Sunset Determination”); and *Issues and Decision Memorandum for the Expedited Sunset Review of the Countervailing Duty Order on Melamine from the People’s Republic of China* (Feb. 19, 2021) at 2 (“Commerce CVD I&D Memo”).

¹⁷ *See Original Determination*, USITC Pub. 4585 at 5.

¹⁸ CR/PR at I-5.

¹⁹ *Original Determination*, USITC Pub. 4585 at 6.

²⁰ *Original Determination*, USITC Pub. 4585 at 6; *Melamine from China and Trinidad and Tobago*, Inv. Nos. 701-TA-526-527 and 731-TA-1262-1263 (Preliminary), USITC Pub. 4514 at 6 (Jan. 2015).

In these reviews, the record contains no information suggesting that the characteristics and uses of domestically produced melamine have changed since the prior proceedings.²¹ Cornerstone agrees with the domestic like product definition from the original investigations.²² We therefore again define a single domestic like product, melamine, as described in Commerce's scope definition.

B. Domestic Industry

Section 771(4)(A) of the Tariff Act defines the relevant industry as the domestic "producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."²³ In defining the domestic industry, the Commission's general practice has been to include in the industry producers of all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.

There were no domestic industry issues in the original investigations.²⁴ The record indicated that Cornerstone was the sole producer of the domestic like product.²⁵ Consequently, the Commission defined the domestic industry as consisting of Cornerstone.²⁶

In the current reviews, Cornerstone agrees with the domestic industry definition the Commission adopted in the original investigations.²⁷ It states that it remains the sole domestic

²¹ See generally CR/PR at I-6-8.

²² Response at 26.

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

²⁴ *Original Determination*, USITC Pub. 4585 at 6 & n.24.

²⁵ *Original Determination*, USITC Pub. 4585 at 6.

²⁶ *Original Determination*, USITC Pub. 4585 at 7.

²⁷ Response at 26.

producer of melamine, that it is not affiliated with any producer of subject merchandise, and that it does not import subject merchandise.²⁸ Consequently, the record does not indicate that there are any domestic industry or related party issues in these reviews. We accordingly define the domestic industry to encompass the sole known domestic producer of melamine, Cornerstone.

III. Revocation of the Antidumping and Countervailing Duty Orders Would Likely Lead to Continuation or Recurrence of Material Injury Within a Reasonably Foreseeable Time

A. Legal Standards

In a five-year review conducted under section 751(c) of the Tariff Act, Commerce will revoke an antidumping or countervailing duty order unless: (1) it makes a determination that dumping or subsidization is likely to continue or recur and (2) the Commission makes a determination that revocation of the antidumping or countervailing duty order “would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.”²⁹ The Uruguay Round Agreements Act Statement of Administrative Action (“SAA”) states that “under the likelihood standard, the Commission will engage in a counterfactual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo – the revocation or termination of a proceeding and the elimination of its restraining effects on volumes and prices of imports.”³⁰ Thus, the likelihood standard is prospective in

²⁸ Response at 22-23; *see also*, Comments at 3.

²⁹ 19 U.S.C. § 1675a(a).

³⁰ SAA, H.R. Rep. 103-316, vol. 1 at 883-84 (1994). The SAA states that “{t}he likelihood of injury standard applies regardless of the nature of the Commission’s original determination (material injury, threat of material injury, or material retardation of an industry). Likewise, the standard applies to suspended investigations that were never completed.” *Id.* at 883.

nature.³¹ The U.S. Court of International Trade (“CIT”) has found that “likely,” as used in the five-year review provisions of the Act, means “probable,” and the Commission applies that standard in five-year reviews.³²

The statute states that “the Commission shall consider that the effects of revocation or termination may not be imminent, but may manifest themselves only over a longer period of time.”³³ According to the SAA, a “‘reasonably foreseeable time’ will vary from case-to-case, but normally will exceed the ‘imminent’ timeframe applicable in a threat of injury analysis in original investigations.”³⁴

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

³¹ While the SAA states that “a separate determination regarding current material injury is not necessary,” it indicates that “the Commission may consider relevant factors such as current and likely continued depressed shipment levels and current and likely continued {sic} prices for the domestic like product in the U.S. market in making its determination of the likelihood of continuation or recurrence of material injury if the order is revoked.” SAA at 884.

³² See *NMB Singapore Ltd. v. United States*, 288 F. Supp. 2d 1306, 1352 (Ct. Int’l Trade 2003) (“‘likely’ means probable within the context of 19 U.S.C. § 1675(c) and 19 U.S.C. § 1675a(a)”), *aff’d mem.*, 140 Fed. Appx. 268 (Fed. Cir. 2005); *Nippon Steel Corp. v. United States*, 26 CIT 1416, 1419 (2002) (same); *Usinor Industeel, S.A. v. United States*, 26 CIT 1402, 1404 nn.3, 6 (2002) (“more likely than not” standard is “consistent with the court’s opinion;” “the court has not interpreted ‘likely’ to imply any particular degree of ‘certainty’”); *Indorama Chemicals (Thailand) Ltd. v. United States*, 26 CIT 1059, 1070 (2002) (“standard is based on a likelihood of continuation or recurrence of injury, not a certainty”); *Usinor v. United States*, 26 CIT 767, 794 (2002) (“‘likely’ is tantamount to ‘probable,’ not merely ‘possible’”).

³³ 19 U.S.C. § 1675a(a)(5).

³⁴ SAA at 887. Among the factors that the Commission should consider in this regard are “the fungibility or differentiation within the product in question, the level of substitutability between the imported and domestic products, the channels of distribution used, the methods of contracting (such as spot sales or long-term contracts), and lead times for delivery of goods, as well as other factors that may only manifest themselves in the longer term, such as planned investment and the shifting of production facilities.” *Id.*

imports of the subject merchandise on the industry if the orders are revoked or the suspended investigation is terminated.”³⁵ It directs the Commission to take into account its prior injury determination, whether any improvement in the state of the industry is related to the order or the suspension agreement under review, whether the industry is vulnerable to material injury if an order is revoked or a suspension agreement is terminated, and any findings by Commerce regarding duty absorption pursuant to 19 U.S.C. § 1675(a)(4).³⁶ The statute further provides that the presence or absence of any factor that the Commission is required to consider shall not necessarily give decisive guidance with respect to the Commission’s determination.³⁷

In evaluating the likely volume of imports of subject merchandise if an order under review is revoked and/or a suspended investigation is terminated, the Commission is directed to consider whether the likely volume of imports would be significant either in absolute terms or relative to production or consumption in the United States.³⁸ In doing so, the Commission must consider “all relevant economic factors,” including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) the potential for product shifting if production facilities in the foreign

³⁵ 19 U.S.C. § 1675a(a)(1).

³⁶ 19 U.S.C. § 1675a(a)(1). Commerce has not made any duty absorption findings with respect to the orders under review. Commerce AD I&D Memo at 4; Commerce CVD I&D Memo at 3.

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

³⁸ 19 U.S.C. § 1675a(a)(2).

country, which can be used to produce the subject merchandise, are currently being used to produce other products.³⁹

In evaluating the likely price effects of subject imports if an order under review is revoked and/or a suspended investigation is terminated, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared to the domestic like product and whether the subject imports are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of the domestic like product.⁴⁰

In evaluating the likely impact of imports of subject merchandise if an order under review is revoked and/or a suspended investigation is terminated, the Commission is directed to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including but not limited to the following: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.⁴¹ All relevant economic factors are to be considered within the context of the business cycle and the conditions of competition that are

³⁹ 19 U.S.C. § 1675a(a)(2)(A-D).

⁴⁰ See 19 U.S.C. § 1675a(a)(3). The SAA states that “{c}onsistent with its practice in investigations, in considering the likely price effects of imports in the event of revocation and termination, the Commission may rely on circumstantial, as well as direct, evidence of the adverse effects of unfairly traded imports on domestic prices.” SAA at 886.

⁴¹ 19 U.S.C. § 1675a(a)(4).

distinctive to the industry. As instructed by the statute, we have considered the extent to which any improvement in the state of the domestic industry is related to the orders under review and whether the industry is vulnerable to material injury upon revocation.⁴²

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

B. Conditions of Competition and the Business Cycle

In evaluating the likely impact of the subject imports on the domestic industry if an order is revoked, the statute directs the Commission to consider all relevant economic factors “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”⁴³ The following conditions of competition inform our determinations.

1. Demand Conditions

Original Investigations. In the original investigations, the Commission found that demand for melamine depended on the demand for downstream products that use melamine resins.⁴⁴ Melamine resins were used in a wide variety of applications, including wood

⁴² The SAA states that in assessing whether the domestic industry is vulnerable to injury if the order is revoked, the Commission “considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they may also demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.” SAA at 885.

⁴³ 19 U.S.C. § 1675a(a)(4).

⁴⁴ *Original Determination*, USITC Pub. 4585 at 15.

adhesives, polyurethane foam, foam for upholstery or care sponges, water soluble polymers, coatings, paper coatings, and other laminates.⁴⁵ The Commission found that overall demand for melamine was likely to exhibit small changes in response to changes in price.⁴⁶ Apparent U.S. consumption increased from *** pounds in 2012 to *** pounds in 2013 and then declined to *** pounds in 2014, for an overall decline of *** percent from 2012 to 2014.⁴⁷

Current Reviews. In the current reviews, the record gives no indication that the factors affecting demand for melamine have changed since the prior proceedings. Cornerstone asserts that there have been no significant changes in demand for melamine in the U.S. market since imposition of the orders.⁴⁸

Apparent U.S. consumption in 2019 was *** pounds, a level higher than that in 2012 or 2014, but lower than in 2013.⁴⁹ A market survey Cornerstone submitted that was prepared by *** indicates that U.S. melamine consumption rose on an annual basis from 2016 to 2019, and declined in 2020.⁵⁰ *** attributes the decrease in U.S. consumption of melamine in 2020 to ***.⁵¹ It projects that U.S. melamine consumption would increase at *** between 2020 and 2025 due to ***.⁵²

⁴⁵ *Original Determination*, USITC Pub. 4585 at 15.

⁴⁶ *Original Determination*, USITC Pub. 4585 at 15.

⁴⁷ *Original Determination*, USITC Pub. 4585 at 15; *Confidential Original Determination*, EDIS Doc. 729734 at 21.

⁴⁸ Response at 24-25.

⁴⁹ CR/PR at Table I-6.

⁵⁰ Response, Ex. 1 at 25.

⁵¹ Response, Ex. 1 at 25.

⁵² Response, Ex. 1 at 25.

2. Supply Conditions

Original Investigations. In the original investigations, the Commission stated that the domestic industry was the largest supplier of melamine in the U.S. market.⁵³ The domestic industry's market share declined irregularly; it was *** percent in 2012, *** percent in 2013, and *** percent in 2014.⁵⁴

Cumulated subject imports' market share increased from *** percent in 2012 to *** percent in 2013 and *** percent in 2014.⁵⁵ In 2014, China was the largest individual source of U.S. imports of melamine.⁵⁶

The market share of nonsubject imports of melamine increased from *** percent in 2012 to *** percent in 2013, and then declined to *** percent in 2014.⁵⁷ The principal sources of such imports during the period of investigation ("POI") were the Netherlands and Germany.⁵⁸

Current Reviews. Cornerstone remains the sole domestic producer.⁵⁹ In 2019, Cornerstone was the second largest source of supply to the U.S. market, accounting for *** percent of apparent U.S. consumption.⁶⁰

⁵³ *Original Determination*, USITC Pub. 4585 at 16.

⁵⁴ *Original Determination*, USITC Pub. 4585 at 16; *Confidential Original Determination* at 22.

⁵⁵ *Original Determination*, USITC Pub. 4585 at 16; *Confidential Original Determination* at 22.

⁵⁶ *Original Determination*, USITC Pub. 4585 at 16. The record indicated that the market share of subject imports from China rose from *** percent in 2012 to *** percent in 2013 and *** percent in 2014. Commission Report INV-NN-086 at Table IV-6 (Nov. 19, 2015), EDIS Doc. 729729 ("Original CR"). By contrast, the Commission found that the market share of subject imports from Trinidad & Tobago declined from 2012 to 2014. *Original Determination*, USITC Pub. 4585 at 16.

⁵⁷ *Original Determination*, USITC Pub. 4585 at 16; *Confidential Original Determination* at 23.

⁵⁸ *Original Determination*, USITC Pub. 4585 at 17.

⁵⁹ CR/PR at Table I-1. *See also*, Response at 26. ***. CR/PR at I-8. *See also*, Response, Ex. 1 at 24.

⁶⁰ CR/PR at Tables I-5 and I-6.

Subject imports have had a very small presence in the U.S. market since 2016 and were essentially absent from the U.S. market in 2019. During 2019, subject imports accounted for *** percent of apparent U.S. consumption.⁶¹ Nonsubject imports were the largest supplier of the U.S. market in 2019, with a market share of *** percent.⁶² The Netherlands was the largest source of nonsubject imports during four of the five years from 2015 to 2019.⁶³

3. Substitutability and Other Conditions

Original Investigations. In the original investigations, the Commission found that there was a high degree of substitutability between domestically produced melamine and subject imports, including those from China.⁶⁴ It explained that all melamine had the same chemical composition and met the same industry purity standards when sold in the United States. Most market participants reported that subject imports and the domestic like product were always or frequently interchangeable.⁶⁵ Purchasers found the domestic like product comparable to subject imports with respect to most purchasing factors.⁶⁶

The Commission found that price was an important consideration in purchasing decisions. Quality was the most frequently cited top purchasing factor, followed by price and availability. Eight of 19 purchasers reported that they usually purchased the lowest priced product.⁶⁷

⁶¹ CR/PR at Table I-6.

⁶² CR/PR at Table I-6.

⁶³ CR/PR at Table I-5.

⁶⁴ *Original Determination*, USITC Pub. 4585 at 17.

⁶⁵ *Original Determination*, USITC Pub. 4585 at 17.

⁶⁶ *Original Determination*, USITC Pub. 4585 at 17.

⁶⁷ *Original Determination*, USITC Pub. 4585 at 17.

The Commission identified the primary raw materials used to produce melamine as ammonia and carbon dioxide. It stated that melamine plants needed to operate continuously to be efficient and that shutting down a melamine plant would incur significant costs.⁶⁸

Current Reviews. The record in these reviews contains no new information to indicate that the degree of substitutability between the domestic like product and subject imports, or the importance of price in purchasing decisions, has changed since the prior proceedings. Cornerstone maintains that melamine from all sources is interchangeable and that price is an extremely important purchasing factor.⁶⁹ Accordingly, we again find that domestically produced melamine and subject imports are highly substitutable, and that price continues to be an important factor in purchasing decisions for melamine in the U.S. market.

Effective September 24, 2018, subject merchandise became subject to an additional 10 percent *ad valorem* duty under Section 301 of the Trade Act of 1974⁷⁰ (“section 301 tariffs”). Effective May 10, 2019, this additional duty increased from 10 percent to 25 percent *ad valorem*.⁷¹

C. Likely Volume of Subject Imports

1. The Original Investigations

As noted above, in the original investigations the Commission cumulated subject imports from China and Trinidad & Tobago for its analysis of material injury by reason of subject imports from China.⁷² The Commission found that cumulated subject imports had a

⁶⁸ *Original Determination*, USITC Pub. 4585 at 17.

⁶⁹ Response at 21, 24-25.

⁷⁰ 19 U.S.C. § 2411.

⁷¹ CR/PR at I-5.

⁷² *Original Determination*, USITC Pub. 4585 at 10.

substantial presence in the U.S. market during the POI until the petitions were filed at the end of 2014, at which point they sharply declined.⁷³ The volume of cumulated subject imports increased from *** pounds in 2012 to *** pounds in 2013 and then decreased to *** pounds in 2014.⁷⁴ Cumulated subject imports' market share increased from *** percent in 2012 to *** percent in 2013 and *** percent in 2014.⁷⁵ The Commission found that cumulated subject imports' gain in market share was at the expense of the domestic industry, whose market share declined from *** percent in 2012 to *** percent in 2014.⁷⁶

Cumulated subject import volume was lower in January-June ("interim") 2015 (*** pounds) than in interim 2014 (*** pounds).⁷⁷ The Commission found that the reduced presence of cumulated subject imports during interim 2015 was attributable in substantial part to the filing of the petitions and consequently accorded less weight to data for interim 2015.⁷⁸

The Commission concluded that the volume of cumulated subject imports, and the increase in that volume, were significant both in absolute terms and relative to consumption and production in the United States.⁷⁹

⁷³ *Original Determination*, USITC Pub. 4585 at 17-18.

⁷⁴ *Original Determination*, USITC Pub. 4585 at 18; *Confidential Original Determination* at 25. The volume of subject imports from China increased from 5.8 million pounds in 2012 to 23.3 million pounds in 2014. See *Original Determination*, USITC Pub. 4585 at Table IV-2a.

⁷⁵ *Original Determination*, USITC Pub. 4585 at 18; *Confidential Original Determination* at 25. The market share of subject imports from China increased from *** percent to *** percent from 2012 to 2014, for an increase of *** percentage points. Original CR at Table IV-6.

⁷⁶ *Original Determination*, USITC Pub. 4585 at 18; *Confidential Original Determination* at 25. Cumulated subject imports also increased relative to U.S. production. *Original Determination*, USITC Pub. 4585 at 18; *Confidential Original Determination* at 26.

⁷⁷ The volume of subject imports from China was 3.2 million pounds in interim 2015 and 12.8 million pounds in interim 2014. See *Original Determination*, USITC Pub. 4585 at Table IV-2a.

⁷⁸ *Original Determination*, USITC Pub. 4585 at 18; *Confidential Original Determination* at 26.

⁷⁹ *Original Determination*, USITC Pub. 4585 at 18.

2. The Current Reviews

The record in these five-year reviews indicates that the orders have had a disciplining effect on subject import volume. The volume of subject imports decreased from 3.2 million pounds in 2015, the year the orders were issued, to 180,000 pounds in 2016 and then declined irregularly to 37,000 pounds in 2019.⁸⁰ By contrast, the peak annual volume of subject imports from China during the original POI was 28.7 million pounds in 2014.⁸¹ Subject imports accounted for *** percent of apparent U.S. consumption in 2019.⁸²

The record indicates that producers of melamine in China have the means to significantly increase exports to the United States should the orders be revoked. As previously stated, no producer or exporter of subject merchandise participated in these expedited reviews and, therefore, there is limited new information regarding producers in China. There is no information in the record, however, calling into question the Commission's finding in the original investigations that the industry in China is large and export oriented. Indeed, the record indicates that the melamine industry in China is the largest in the world, with an annual capacity of *** metric tons and production of *** metric tons as of 2020.⁸³ According to the market survey Cornerstone submitted, there were *** major producers of melamine in China in 2020, *** of which have capacity of *** metric tons or more.⁸⁴ Cornerstone indicates that since the imposition of the orders, *** new melamine plants have opened in China, with a

⁸⁰ CR/PR at Table I-5. The volume of subject imports was 58,000 pounds in 2017 and 14,000 pounds in 2018. *Id.*

⁸¹ *Compare* CR/PR at Table I-6 and C-1.

⁸² CR/PR at Table I-6.

⁸³ Response, Ex. 1 at 8.

⁸⁴ Response, Ex. 1 at 78.

combined capacity of *** metric tons, and that another *** plants were expected to add an additional *** metric tons of capacity in 2020 and 2021.⁸⁵ Cornerstone asserts that the new and anticipated capacity in China exceeds Cornerstone’s annual melamine capacity in the United States and that total capacity in China now exceeds global consumption.⁸⁶ Indeed, the market survey that Cornerstone submitted indicates that unused melamine capacity in China far exceeds annual U.S. consumption.⁸⁷

Additionally, the information available in these reviews indicates that the industry in China remains export oriented. Global Trade Atlas (“GTA”) data show that in each year between 2015 and 2019, China was by far the largest global exporter of melamine.⁸⁸ Commerce has found that the subsidy programs likely to continue or recur include export subsidy programs within the meaning of Article 3.1 of the World Trade Organization Agreement on Subsidies and Countervailing Measures.⁸⁹ Such programs serve as an incentive for export activity.

Melamine producers in China are likely to direct additional exports to the United States upon revocation. The industry in China exported substantial quantities of melamine to numerous markets globally from 2015 to 2019, and Chinese producers exported significant quantities to the United States prior to the imposition of the orders.⁹⁰ The United States is a relatively substantial global market for melamine and is anticipated to experience modest

⁸⁵ Response at 10-11; *see also*, Comments at 6.

⁸⁶ Response at 10-11 and Ex. 1 at 8; *see also*, Comments at 6.

⁸⁷ Response, Ex. 1 at 8

⁸⁸ CR/PR at Table I-9.

⁸⁹ Commerce CVD I&D Memo at 7-8.

⁹⁰ CR/PR at Table I-8 and Table C-1.

growth in demand for melamine in the reasonably foreseeable future.⁹¹ The attractiveness of the U.S. market is enhanced by the fact that two of the larger potential export markets for subject producers are Western Europe and the Indian subcontinent, where jurisdictions have imposed antidumping duties on melamine from China.⁹²

In light of the foregoing, we find that the volume of subject imports will likely increase to significant levels absent the discipline of the orders. We consequently conclude that the volume of subject imports, both in absolute terms and relative to consumption in the United States, would likely be significant if the orders were revoked.⁹³

D. Likely Price Effects

1. The Original Investigations

In the original investigations, the Commission found that the domestic like product and subject imports were highly substitutable and that price was an important consideration in purchasing decisions.⁹⁴ The Commission also found that cumulated subject imports undersold domestic products in *** of *** (or *** percent of) quarterly comparisons from 2012 to 2014 and that the quantity of cumulated subject imports in underselling observations far exceeded that in overselling observations.⁹⁵ Accordingly, the Commission found cumulated subject

⁹¹ Response, Ex. 1 at 8 and 25.

⁹² Exports of melamine from China are subject to antidumping duties in the European Union and India. See CR/PR at I-14-15. Western Europe was the *** in 2020. Response, Ex. 1 at 8.

⁹³ We observe that the record in these expedited reviews contains no information concerning inventories of the subject merchandise or the potential for product shifting. There is no information on the record indicating that section 301 tariffs have had or will likely have an effect on either the supply of, or demand for, subject imports.

⁹⁴ *Original Determination*, USITC Pub. 4585 at 18.

⁹⁵ *Original Determination*, USITC Pub. 4585 at 19. The record indicated that subject imports from China undersold the domestic like product in 18 quarterly (or *** percent of) comparisons involving 22.1 million pounds of subject imports and oversold the domestic like product in seven

imports' underselling of the domestic like product to be significant from 2012 to 2014. It further found that as a result of the underselling, and the importance of price in purchasing decisions, the domestic industry lost market share to the cumulated subject imports during that period.⁹⁶

The Commission stated that while the domestic producers' prices fluctuated, there were only small price decreases from 2012 to 2014, which it deemed insufficient to support a finding that the subject imports depressed prices to a significant degree.⁹⁷ It also found that subject imports did not prevent the domestic industry from raising prices during the period in light of declining apparent U.S. consumption and the nature of Cornerstone's cost increases.⁹⁸ Consequently, the Commission concluded that the record did not indicate that subject imports prevented price increases that would have occurred to a significant degree.⁹⁹

The Commission therefore concluded that there was significant underselling by cumulated subject imports that led to these imports increasing their market share at the expense of the domestic industry.¹⁰⁰

2. The Current Reviews

There is no new product-specific pricing information on the record of these expedited reviews. As previously discussed, we find that domestically produced melamine and subject imports are highly substitutable, and that price is an important factor in purchasing decisions.

quarterly (or *** percent of) comparisons involving 5.0 million pounds of subject imports. *Id.* at Table V-7.

⁹⁶ *Original Determination*, USITC Pub. 4585 at 19; *Confidential Original Determination* at 27.

⁹⁷ *Original Determination*, USITC Pub. 4585 at 19.

⁹⁸ *Original Determination*, USITC Pub. 4585 at 20.

⁹⁹ *Original Determination*, USITC Pub. 4585 at 20.

¹⁰⁰ *Original Determination*, USITC Pub. 4585 at 20.

There is information in the record that the industry in China continues to offer lower prices to stimulate sales.¹⁰¹ Consequently, if the antidumping and countervailing duty orders were revoked, subject imports would likely compete in the U.S. market on the basis of price by underselling the domestic like product, as they did during the original investigations. The underselling would likely cause subject imports to gain market share at the expense of the domestic industry and/or to have price-depressing or -suppressing effects on the domestic like product. Accordingly, we find that subject imports would likely have significant price effects if the orders were revoked.

E. Likely Impact

1. The Original Investigations

In its original determinations, the Commission found that cumulated subject imports had a significant impact on the domestic industry.¹⁰² It found that while some indicators of the domestic industry's performance were stable or rising, other indicators declined, including market share, production, capacity utilization, U.S. shipments, sales revenue, and operating income.¹⁰³

The Commission found that from 2012 to 2014, cumulated subject import volume increased significantly and that cumulated subject imports took market share from the domestic industry due to underselling. As a result of the market share losses, the domestic

¹⁰¹ Response, Ex. 11.

¹⁰² *Original Determination*, USITC Pub. 4585 at 21.

¹⁰³ *Original Determination*, USITC Pub. 4585 at 20-21.

industry's revenues were lower than they would have been otherwise, and its financial performance deteriorated.¹⁰⁴

The Commission considered whether there were other factors that may have had an impact on the domestic industry. It recognized that imports not subject to investigation gained market share between 2012 and 2014, but also noted that the increase was minor and that the imports were typically sold at higher prices than the domestic like product.¹⁰⁵ It consequently found that any adverse effects from the imports not subject to investigation were distinct from those it attributed to cumulated subject imports.¹⁰⁶

2. The Current Reviews

Due to the expedited nature of these reviews, the record contains limited information on the domestic industry's performance since the original investigations. The available information concerning the domestic industry's condition consists primarily of data Cornerstone furnished in its response to the notice of institution.

In 2019, the domestic industry's capacity was *** pounds, its production was *** pounds, and its capacity utilization was *** percent.¹⁰⁷ U.S. shipments were *** pounds, valued at ***, with an average unit value ("AUV") of \$*** per pound.¹⁰⁸ In 2019, the domestic industry had net sales revenues of \$***, a cost of goods sold of \$***, a gross profit of \$***, and

¹⁰⁴ *Original Determination*, USITC Pub. 4585 at 21.

¹⁰⁵ *Original Determination*, USITC Pub. 4585 at 22.

¹⁰⁶ *Original Determination*, USITC Pub. 4585 at 22

¹⁰⁷ CR/PR at Table I-4. Capacity in 2019 was at the same level as during the original investigations; production and capacity utilization in 2019 were higher than in 2014, but lower than in 2012 or 2013. *See id.*

¹⁰⁸ CR/PR at Table I-4. The quantity and value of U.S. shipments in 2019 were higher than they were in 2013 or 2014, but lower than in 2012. *Id.* The AUV of U.S. shipments was lower in 2019 than during any year of the original POI. *See id.*

an operating income of \$***; its operating income ratio was ***.¹⁰⁹ Because of the expedited nature of these reviews, the information in the record is insufficient for us to make a finding as to whether the domestic industry is vulnerable to the continuation or recurrence of material injury in the event of revocation of the orders.

Based on the information available in these reviews, we find that revocation of the orders would likely lead to a significant volume of subject imports that would likely significantly undersell the domestic like product, leading subject imports to gain market share and/or have price-depressing or -suppressing effects on the domestic like product. Subject imports' significant volume and price effects would likely have a significant adverse effect on the domestic industry's production, capacity utilization, shipments, employment, and profitability.

We have also considered the role of factors other than subject imports, including the presence of nonsubject imports, so as not to attribute injury from other factors to subject imports. Although nonsubject imports have increased their presence in the U.S. market since the original investigations, and their market share was *** percent in 2019,¹¹⁰ the record provides no indication that the presence of nonsubject imports would prevent subject imports from entering the U.S. market in significant volumes upon revocation of the orders. Given the high degree of substitutability of the domestic like product and subject imports, any increase in subject import market share would likely come, at least in substantial part, at the expense of the domestic industry. In light of these considerations, we find that any likely effects of imports

¹⁰⁹ CR/PR at Table I-4. In 2019, the industry's net sales revenues, gross profit, operating income, and operating income ratio were all lower than during any year of the original POI. *Id.*

¹¹⁰ CR/PR at Table I-6.

from nonsubject countries are distinguishable from the likely effects we have attributed to the subject imports.

Accordingly, we conclude that if the antidumping and countervailing duty orders were revoked, subject imports would likely have a significant impact on the domestic industry within a reasonably foreseeable time.

IV. Conclusion

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

APPENDIX A

FEDERAL REGISTER NOTICES

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

Citation	Title	Link
85 FR 69359 November 2, 2020	<i>Melamine From China; Institution of Five-Year Reviews</i>	https://www.govinfo.gov/content/pkg/FR-2020-11-02/pdf/2020-24217.pdf
85 FR 69585 November 3, 2020	<i>Initiation of Five-Year (Sunset) Reviews</i>	https://www.govinfo.gov/content/pkg/FR-2020-11-03/pdf/2020-24304.pdf

APPENDIX B
COMPANY-SPECIFIC DATA

RESPONSE CHECKLIST FOR U.S. PRODUCERS

Item	Cornerstone Chemical Company	
	Quantity=1,000 pounds; value=1,000 dollars	
Nature of operation		***
Statement of intent to participate	✓	
Statement of likely effects of revoking the order	✓	
U.S. producer list	✓	
U.S. importer/foreign producer list	✓	
List of 3-5 leading purchasers	✓	
List of sources for national/regional prices		***
Production:		
Quantity		***
Percent of total reported		***
Capacity		***
Commercial shipments:		
Quantity		***
Value		***
Internal consumption/company transfers:		
Quantity		***
Value		***
Net sales		***
COGS		***
Gross profit or (loss)		***
SG&A expenses		***
Operating income or (loss)		***
Changes in supply/demand	✓	
<p>Note.—The production, capacity, and shipment data presented are for calendar year 2019. The financial data are for fiscal year ended December 31, 2019.</p> <p>✓ = response provided; ✖ = response not provided; NA = not applicable; ? = indicated that the information was not known.</p>		

APPENDIX C

SUMMARY DATA COMPILED IN PRIOR PROCEEDINGS

Table C-1

Melamine: Summary data concerning the U.S. market, 2012-14, January to June 2014, and January to June 2015

(Quantity=1,000 pounds; Value=1,000 dollars; Unit values, unit labor costs, and unit expenses=dollars per pound; Period changes=percent--exceptions noted)

	Reported data					Period changes			
	2012	Calendar year 2013	2014	January to June 2014	2015	2012-14	Calendar year 2012-13	2013-14	Jan-Jun 2014-15
U.S. consumption quantity:									
Amount.....	***	***	***	***	***	***	***	***	***
Producers' share (fn1).....	***	***	***	***	***	***	***	***	***
Importers' share (fn1):									
China.....	***	***	***	***	***	***	***	***	***
Trinidad and Tobago.....	***	***	***	***	***	***	***	***	***
Subject sources.....	***	***	***	***	***	***	***	***	***
All others sources.....	***	***	***	***	***	***	***	***	***
Total imports.....	***	***	***	***	***	***	***	***	***
U.S. consumption value:									
Amount.....	***	***	***	***	***	***	***	***	***
Producers' share (fn1).....	***	***	***	***	***	***	***	***	***
Importers' share (fn1):									
China.....	***	***	***	***	***	***	***	***	***
Trinidad and Tobago.....	***	***	***	***	***	***	***	***	***
Subject sources.....	***	***	***	***	***	***	***	***	***
All others sources.....	***	***	***	***	***	***	***	***	***
Total imports.....	***	***	***	***	***	***	***	***	***
U.S. imports from:									
China:									
Quantity.....	5,871	23,335	28,696	12,782	3,216	388.8	297.5	23.0	(74.8)
Value.....	4,801	16,323	17,216	8,263	2,025	258.6	240.0	5.5	(75.5)
Unit value.....	\$0.82	\$0.70	\$0.60	\$0.65	\$0.63	(26.6)	(14.5)	(14.2)	(2.6)
Ending inventory quantity.....	***	***	***	***	***	***	***	***	***
Trinidad and Tobago									
Quantity.....	37,787	26,418	26,500	19,665	6,923	(29.9)	(30.1)	0.3	(64.8)
Value.....	22,929	17,740	17,772	13,586	4,469	(22.5)	(22.6)	0.2	(67.1)
Unit value.....	\$0.61	\$0.67	\$0.67	\$0.69	\$0.65	10.5	10.7	(0.1)	(6.6)
Ending inventory quantity.....	***	***	***	***	***	***	***	***	***
Subject sources:									
Quantity.....	43,658	49,754	55,196	32,447	10,138	26.4	14.0	10.9	(68.8)
Value.....	27,730	34,063	34,988	21,849	6,494	26.2	22.8	2.7	(70.3)
Unit value.....	\$0.64	\$0.68	\$0.63	\$0.67	\$0.64	(0.2)	7.8	(7.4)	(4.9)
Ending inventory quantity.....	***	***	***	***	***	***	***	***	***
All other sources:									
Quantity.....	27,999	32,461	27,248	14,617	21,407	(2.7)	15.9	(16.1)	46.5
Value.....	18,295	23,227	18,119	9,982	14,320	(1.0)	27.0	(22.0)	43.5
Unit value.....	\$0.65	\$0.72	\$0.66	\$0.68	\$0.67	1.8	9.5	(7.1)	(2.0)
Ending inventory quantity.....	***	***	***	***	***	***	***	***	***
Total imports:									
Quantity.....	71,657	82,215	82,444	47,065	31,546	15.1	14.7	0.3	(33.0)
Value.....	46,025	57,290	53,107	31,831	20,814	15.4	24.5	(7.3)	(34.6)
Unit value.....	\$0.64	\$0.70	\$0.64	\$0.68	\$0.66	0.3	8.5	(7.6)	(2.4)
Ending inventory quantity.....	***	***	***	***	***	***	***	***	***
U.S. producers:									
Average capacity quantity.....	***	***	***	***	***	***	***	***	***
Production quantity.....	***	***	***	***	***	***	***	***	***
Capacity utilization (fn1).....	***	***	***	***	***	***	***	***	***
U.S. shipments:									
Quantity.....	***	***	***	***	***	***	***	***	***
Value.....	***	***	***	***	***	***	***	***	***
Unit value.....	***	***	***	***	***	***	***	***	***
Export shipments:									
Quantity.....	***	***	***	***	***	***	***	***	***
Value.....	***	***	***	***	***	***	***	***	***
Unit value.....	***	***	***	***	***	***	***	***	***
Ending inventory quantity.....	***	***	***	***	***	***	***	***	***
Inventories/total shipments (fn1).....	***	***	***	***	***	***	***	***	***
Production workers.....	***	***	***	***	***	***	***	***	***
Hours worked (1,000s).....	***	***	***	***	***	***	***	***	***
Wages paid (\$1,000).....	***	***	***	***	***	***	***	***	***
Hourly wages (dollars).....	***	***	***	***	***	***	***	***	***
Productivity (pounds per hour).....	***	***	***	***	***	***	***	***	***
Unit labor costs.....	***	***	***	***	***	***	***	***	***
Net sales:									
Quantity.....	***	***	***	***	***	***	***	***	***
Value.....	***	***	***	***	***	***	***	***	***
Unit value.....	***	***	***	***	***	***	***	***	***
Cost of goods sold (COGS).....	***	***	***	***	***	***	***	***	***
Gross profit or (loss).....	***	***	***	***	***	***	***	***	***
SG&A expenses.....	***	***	***	***	***	***	***	***	***
Operating income or (loss).....	***	***	***	***	***	***	***	***	***
Net income or (loss).....	***	***	***	***	***	***	***	***	***
Capital expenditures.....	***	***	***	***	***	***	***	***	***
Unit COGS.....	***	***	***	***	***	***	***	***	***
Unit SG&A expenses.....	***	***	***	***	***	***	***	***	***
Unit operating income or (loss).....	***	***	***	***	***	***	***	***	***
Unit net income or (loss).....	***	***	***	***	***	***	***	***	***
COGS/sales (fn1).....	***	***	***	***	***	***	***	***	***
Operating income or (loss)/sales (fn1).....	***	***	***	***	***	***	***	***	***
Net income or (loss)/sales (fn1).....	***	***	***	***	***	***	***	***	***

Notes:

fn1.--Report data are in percent and period changes are in percentage points.
fn2.--Undefined.

Source: Compiled from data submitted in response to Commission questionnaires and official U.S. import statistics.

APPENDIX D
PURCHASER QUESTIONNAIRE RESPONSES

As part of their response to the notice of institution, interested parties were asked to provide a list of three to five leading purchasers in the U.S. market for the domestic like product. A response was received from domestic interested parties and it named the following four firms as the top purchasers of melamine: ***. Purchaser questionnaires were sent to these four firms and no firms provided a response to the questions listed below:

1. Have there been any significant changes in the supply and demand conditions for melamine that have occurred in the United States or in the market for melamine in China since December 29, 2015?
2. Do you anticipate any significant changes in the supply and demand conditions for melamine in the United States or in the market for melamine in China within a reasonably foreseeable time?