Certain Activated Carbon from China

Investigation No. 731-TA-1103 (Third Review)

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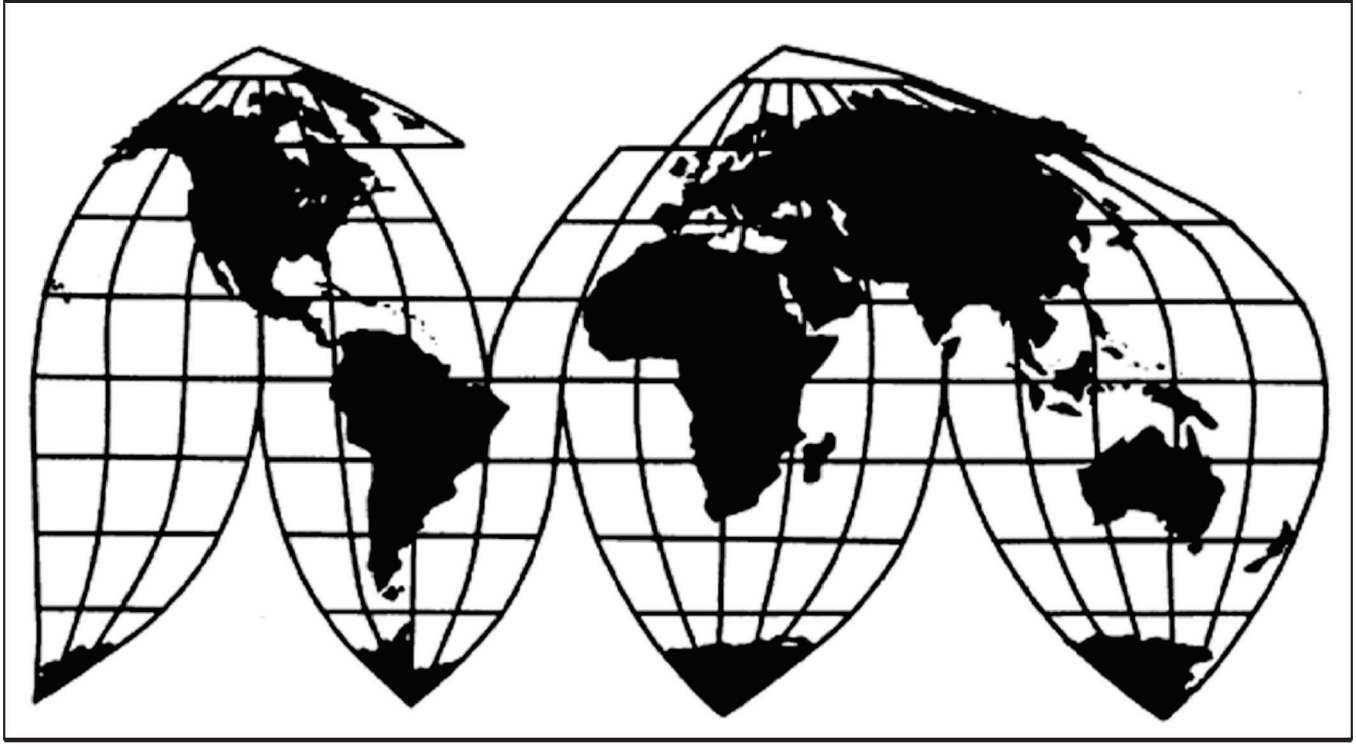
U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

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UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-1103 (Third Review)

Certain Activated Carbon from China

DETERMINATION

On the basis of the record[1] developed in the subject five-year review, the United States International Trade Commission ("Commission") determines, pursuant to the Tariff Act of 1930 ("the Act"), that revocation of the antidumping duty order on certain activated carbon 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 this review on June 1, 2023 (88 FR 35926) and determined on September 5, 2023 that it would conduct an expedited review (88 FR 68670, October 4, 2023).

[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 this five-year review, we determine under section 751(c) of the Tariff Act of 1930, as amended ("the Tariff Act"), that revocation of the antidumping duty order on certain activated carbon ("activated carbon") 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 investigation: The investigation resulted from an antidumping duty petition filed on March 8, 2006, by U.S. producers Calgon Carbon Corporation ("Calgon") and Norit Americas Inc. ("Norit"). On March 2, 2007, the Department of Commerce ("Commerce") determined that imports of activated carbon from China were being sold at less than fair value ("LTFV").[1] The Commission subsequently made an affirmative determination on April 16, 2007.[2] Commerce published an antidumping duty order on certain activated carbon from China on April 27, 2007.[3]

Prior Reviews: The Commission instituted the first five-year review of the order on March 1, 2012.[4] After conducting a full review, the Commission determined that revocation of the antidumping duty order on activated carbon from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a

[1] 72 Fed. Reg. 9508 (Mar. 2, 2007).

[2] *Certain Activated Carbon from China*, Inv. No. 731-TA-1103 (Final), USITC Pub. 3913 (Apr. 2007) ("*Original Determination*"); 72 Fed. Reg. 19723 (Apr. 19, 2007).

[3] 72 Fed. Reg. 20988 (Apr. 27, 2007).

[4] 77 Fed. Reg. 12614 (Mar. 1, 2012).

reasonably foreseeable time.[5] Following affirmative determinations by Commerce and the Commission, Commerce issued a notice of continuation of the antidumping duty order on imports of activated carbon from China on March 18, 2013.[6]

The Commission instituted the second five-year review on February 1, 2018.[7] After conducting an expedited review, the Commission determined that revocation of the antidumping duty order on activated carbon 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.[8] Following affirmative determinations by Commerce and the Commission, Commerce issued a notice of continuation of the antidumping duty order on imports of activated carbon from China on July 12, 2018.[9]

Current Review: On June 1, 2023, the Commission instituted this third five-year review.[10] It received a joint response to the notice of institution from three domestic producers of activated carbon: ADA Carbon Solutions, LLC ("ADA"), Calgon, and Norit, (collectively, "domestic interested parties").[11] The Commission also received responses to the notice of institution from two respondent interested parties: Jacobi Carbons, Inc. ("Jacobi"), and Carbon Activated Corporation ("CAC"). On September 5, 2023, the Commission determined that the domestic interested party group response to its notice of institution was adequate and that the

[5] *Certain Activated Carbon from China*, Inv. No. 731-TA-1103 (Review), USITC Pub. 4381 (Feb. 2013) ("First Review") at 1; 78 Fed. Reg. 13894 (Mar. 1, 2013).

[6] 78 Fed. Reg. 16654 (Mar. 18, 2013).

[7] 83 Fed. Reg. 4681 (Feb. 1, 2018).

[8] *Certain Activated Carbon from China*, Inv. No. 731-TA-1103 (Second Review), USITC Pub. 4797 (Jun. 2018) ("Second Review") at 1; 83 Fed. Reg. 31568 (Jul. 6, 2018).

[9] 83 Fed. Reg. 32269 (Jul. 12, 2018).

[10] 88 Fed. Reg. 35926 (Jun. 1, 2023).

[11] Domestic Industry's Substantive Response to the Notice of Institution, EDIS Doc. 799684 (Jun. 30, 2023) ("Domestic Industry Response") at 1.

respondent interested party group response was inadequate.[12] The Commission did not find any circumstances that would warrant conducting a full review and thus determined that it would conduct an expedited review of the order.[13] On October 26, 2023, both domestic interested parties and CAC filed comments with the Commission pursuant to 19 C.F.R. § 207.62(d).[14]

U.S. industry data are based on information submitted by the domestic interested parties in their response to the notice of institution, which is estimated to have accounted for 100 percent of domestic production of activated carbon in 2022[15] U.S. import data and related information are based on Commerce's official import statistics.[16] Foreign industry data and related information are based on information from the original investigation and prior reviews, as well as information submitted by domestic and respondent interested parties in this expedited review and publicly available information, such as Global Trade Atlas ("GTA") data, gathered by the Commission.

[12] Explanation of Commission Determination on Adequacy, EDIS Doc. 805389 (Oct. 5, 2023). Chairman David S. Johanson determined that the respondent interested party group response was adequate.

[13] *Id.* Chairman Johanson and Commissioner Rhonda K. Schmidtlein voted to conduct a full review.

[14] Domestic Industry's Final Comments Regarding the Commission's Determination in This Review, EDIS Doc. 807007 (Oct. 26, 2023) ("Domestic Final Comments"); CAC Final Comments Regarding Commission's Determination in This Review, EDIS Doc. 807030 (Oct. 26, 2023) ("CAC Final Comments").

[15] Domestic Industry Response at 20; Confidential Report, INV-VV-067 (Aug. 24, 2023) ("CR"); *Certain Activated Carbon from China*, Inv. No. 731-TA-1103 (Third Review), USITC Pub. 5474 (Nov. 2023) ("PR") at Table I-2.

[16] CR/PR at Tables I-6-I-7. Import data for the period of review are based on imports under HTS statistical reporting numbers 3802.10.0010, 3802.10.0020, and 3802.10.0050. *Id.* Because these HTS reporting numbers may contain out-of-scope products, import data may be overstated. *Id.*

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."[17] 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."[18] 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.[19]

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

> *The merchandise subject to the order 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.*

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[17] 19 U.S.C. § 1677(4)(A).

[18] 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).

[19] *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 scope of the order 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 the order 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 order 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 the scope, and those containing more than 50 percent chemically activated carbons are outside the scope. This exclusion language regarding blended material applies only to mixtures of steam and chemically activated carbons.

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 the scope.[20]

The scope of this review is essentially unchanged from that in the original investigation and prior reviews.[21] Activated carbon is carbon material obtained by "activating" various

[20] 88 Fed. Reg. 66810 (Sept. 23, 2023).

[21] *See* Second Review, USITC Pub. 4797 at 9 & n.31.

materials containing high levels of carbon, including coal, wood, and coconut shells, by heating in the presence of steam or carbon dioxide. The thermal treatments increase the porosity and surface area, which 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 use for activated carbon is the separation of small concentrations of chemical species from liquid and gas streams.[22]

Coal is the primary raw material for activated carbon in both the United States and China. Coal-based 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. Other uses of coal-based activated carbon include removing color and impurities from food and chemicals, as well as removing mercury and dioxins from flue gas emissions. Coconut-based activated carbon is used primarily in the gold mining and cigarette filter industries, as well as being a price premium product for home water filters. 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.[23]

In the original investigation, the Commission considered and rejected respondents' arguments that the domestic like product should be defined more broadly than the scope to include chemically activated carbon and reactivated carbon. The Commission found one

[22] Second Review, Confidential Version ("Confidential Second Review"), EDIS Doc. 799927 at 12; CR/PR at I-9.

[23] *See* CR/PR at I-7-12.

domestic like product that was coextensive with Commerce's scope of investigation, activated carbon.[24]

In the first five-year review, the Commission found the record did not indicate that the characteristics and uses of domestically produced activated carbon had changed since the prior proceedings or that the like product definition should be revisited.[25] None of the responding parties argued for a different definition of the domestic like product, and the Commission found a single domestic like product that was coextensive with Commerce's scope of the investigation, activated carbon.[26]

In the second five-year review, the record did not indicate any changes to the characteristics of activated carbon since the prior proceedings.[27] The domestic industry agreed with the Commission's definition of the domestic like product in the prior proceedings, and respondents did not object to it.[28] Thus, the Commission defined the domestic like product as activated carbon that was coextensive with Commerce's scope of investigation.[29]

In the current review, the record does not contain any new information indicating that the pertinent characteristics and uses of activated carbon have changed since the prior proceedings so as to warrant revisiting the Commission's domestic like product definition.[30] The domestic interested parties agree with the domestic like product definition the Commission adopted in the original investigation, and respondent interested parties raise no objection to

[24] *Original Determination*, USITC Pub. 3913 at 6-10; *see* CR/PR at I-7-12.
[25] *First Review*, USITC Pub. 4381 at 6.
[26] *First Review*, USITC Pub. 4381 at 6.
[27] *Second Review*, USITC Pub. 4797 at 10.
[28] *Second Review*, USITC Pub. 4797 at 10.
[29] *Second Review*, USITC Pub. 4797 at 10.
[30] CR/PR at I-6 to I-12.

the definition.[31] Consequently, we again define the domestic like product as activated carbon, coextensive with the scope.

B. Domestic Industry

Section 771(4)(A) of the Tariff Act defines the relevant industry as the domestic "producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."[32] 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.

This review raises the issue of whether appropriate circumstances exist to exclude any producer from the domestic industry pursuant to section 771(4)(B) of the Tariff Act, known as the related parties provision. This provision allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry producers that are related to an exporter or importer of subject merchandise or which are themselves importers.[33] Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each investigation.[34]

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[31] Domestic Industry Response at 21; Jacobi Response at 15; *see also* CAC Response at 1-9 (not addressing how the Commission should define the domestic like product).

[32] 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.

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

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

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

In the original investigation, the Commission considered whether appropriate circumstances existed to exclude domestic producers Calgon, Norit, and California Carbon from the domestic industry based on the related parties provision. All three U.S. producers imported subject merchandise and Calgon was ***.[35] The Commission found that appropriate circumstances did not exist to exclude Calgon or Norit from the domestic industry, as their interests lay primarily in production rather than importation and neither had significantly benefitted from its subject imports. In contrast, the Commission found that appropriate circumstances existed to exclude California Carbon from the domestic industry as its interest lay primarily in importation rather than production, based on its ***.[36] The Commission thus defined the domestic industry as all known producers of activated carbon, except for California Carbon.[37]

In the first review, the Commission considered whether appropriate circumstances existed to exclude U.S. producer Calgon from the domestic industry due to its imports of

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

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

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

(5) whether the primary interest of the importing producer lies in domestic production or importation. *Changzhou Trina Solar Energy Co. v. U.S. Int'l Trade Comm'n*, 100 F. Supp 3d 1314, 1329 (Ct. Int'l Trade 2015).

[35] Original Determination, Confidential Version ("Original Confidential Determination"), EDIS Doc. 273377 at 15.

[36] California Carbon ***. Original Confidential Determination at 17.

[37] *Original Determination*, USITC Pub. 3913 at 12.

subject merchandise and its foreign affiliation.[38] The Commission found that appropriate circumstances did not exist for its exclusion from the domestic industry, again finding that Calgon's interests lay primarily in domestic production rather than importation.[39] The Commission thus defined the domestic industry as all domestic producers of activated carbon.

In the second five-year review, the Commission considered whether to exclude Calgon from the domestic industry due to its affiliation with a wholly owned subsidiary, Chinese producer/exporter Calgon Carbon (Suzhou) Co. Ltd. No party advocated for its exclusion from the domestic industry.[40] Given Calgon's focus on domestic production, and the lack of evidence that it had benefitted from its relationship with its subsidiary, the Commission found that appropriate circumstances did not exist to exclude Calgon from the domestic industry and the Commission defined the domestic industry as all domestic producers of activated carbon.[41]

In the current review, the domestic interested parties agree with the definition of the domestic industry from the prior proceedings, and respondent interested parties do not contest

[38] In its response to the Commission's notice of institution in the first five-year review, the Domestic Industry indicated that California Carbon continued to produce activated carbon in the United States, and that it should be excluded from the Commission's definition of the domestic industry in that five-year review. The Commission explained that in light of its very small production of activated carbon in the United States, however, staff did not issue California Carbon a producer's questionnaire during the first five-year review. Consequently, the Commission observed that the record of the review contained no data from California Carbon that could be excluded, even assuming, *arguendo,* that California Carbon was a related party. *First Review*, USITC Pub. 4381 at 7 n. 20.

[39] Calgon's ratio of subject imports to domestic production ranged between *** and *** percent during the first review period. First Review, Confidential Version, EDIS Doc. 504816 ("Confidential First Review") at 8-9 & n. 22. The Commission also considered the fact that domestic producer *** purchased subject imports during the review period but found that it had not controlled large volumes of subject imports and that it was not a related party. *Id.* at 9 & n.21.

[40] *Second Review*, USITC Pub. 4797 at 12.

[41] *Second Review*, USITC Pub. 4797 at 10; Confidential Second Review at 17.

the definition.[42] No party argues for the exclusion of any domestic producer under the related parties provision.

Calgon qualifies as a related party because it is related to Calgon Carbon (Suzhou) Co., Ltd., a Chinese producer and exporter of activated carbon, and ***.[43] We consider below whether appropriate circumstances exist to exclude either producer from the domestic industry.

Calgon. Calgon was the *** largest domestic producer of activated carbon in 2022, accounting for *** percent of domestic production of activated carbon that year.[44] It supports continuation of the order.[45] Notwithstanding its status as a related party, Calgon ***, indicating that its principal interest is in domestic production. Nor is there any information on the record indicating that Calgon's affiliation with a Chinese producer and exporter has shielded it from subject import competition, or that its inclusion in the domestic industry would skew industry data. For these reasons, we find that appropriate circumstances do not exist to exclude Calgon from the domestic industry.

****.* *** was the *** largest domestic producer of activated carbon in 2022, accounting for *** percent of domestic production of activated carbon that year.[46] It supports

[42] Domestic Industry Response at 21.
[43] Domestic Industry Response at 18.
[44] Domestic Industry Response at 20.
[45] Domestic Industry Response at 3.
[46] Domestic Industry Response at 20.

continuation of the order.[47] ***.[48]

In light of ***, its principal interest would appear to be in domestic production. Nor is there any information on the record indicating that *** inclusion in the domestic industry would skew industry data. For these reasons, we find that appropriate circumstances do not exist to exclude *** from the domestic industry.

In sum, consistent with our definition of the domestic like product, we define the domestic industry as consisting of all U.S. producers of activated carbon.

III. Revocation of the Antidumping Duty Order 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."[49] The 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

[47] Domestic Industry Response at 3.
[48] Domestic Industry Response at Exhibit 1.
[49] 19 U.S.C. § 1675a(a).

elimination of its restraining effects on volumes and prices of imports."[50] Thus, the likelihood standard is prospective in nature.[51] 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.[52]

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."[53] 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."[54]

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[50] SAA at 883-84. The SAA states that "{t}he likelihood of injury standard applies regardless of the nature of the Commission's original determination (material injury, threat of material injury, or material retardation of an industry). Likewise, the standard applies to suspended investigations that were never completed." *Id*. at 883.

[51] 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.

[52] *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'").

[53] 19 U.S.C. § 1675a(a)(5).

[54] 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*.

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 imports of the subject merchandise on the industry if the orders are revoked or the suspended investigation is terminated."[55] 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).[56] 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.[57]

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.[58] In doing so, the Commission

[55] 19 U.S.C. § 1675a(a)(1).

[56] 19 U.S.C. § 1675a(a)(1). In the second administrative review, which was during the period examined in the first five-year review, Commerce determined that duties were being absorbed on Jacobi Carbons AB's U.S. sales of the subject merchandise through its affiliated importer, given that Jacobi did not rebut the duty absorption presumption with evidence that the unaffiliated U.S. purchaser paid the full duty ultimately assessed on the subject merchandise. Since the first five-year review, Commerce has not made further duty absorption findings. *Certain Activated Carbon From the People's Republic of China: Final Results of Expedited Third Sunset Review of the Antidumping Duty Order*, 88 Fed. Reg. 66810 (Sept. 28, 2023), *citing* Issues and Decision Memorandum for the Final Results of the Expedited Third Sunset Review of the Antidumping Duty Order on Certain Activated Carbon From the People's Republic of China, EDIS Doc. 807679 (Nov. 2, 2023) at 5, 8-9.

[57] 19 U.S.C. § 1675a(a)(5). Although the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886.

[58] 19 U.S.C. § 1675a(a)(2).

must consider "all relevant economic factors," including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) the potential for product shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.[59]

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.[60]

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,

[59] 19 U.S.C. § 1675a(a)(2)(A-D).

[60] *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.

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.[61] All relevant economic factors are to be considered within the context of the business cycle and the conditions of competition that are distinctive to the industry. As instructed by the statute, we have considered the extent to which any improvement in the state of the domestic industry is related to the order under review and whether the industry is vulnerable to material injury upon revocation.[62]

The record contains limited new information with respect to the activated carbon industry in China. There also is limited information on the activated carbon market in the United States during the period of review ("POR"). Accordingly, for our determination, we rely as appropriate on the facts available from the original investigation and prior reviews, and the limited new information on the record in this third five-year review.

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."[63] The following conditions of competition inform our determination.

[61] 19 U.S.C. § 1675a(a)(4).

[62] 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.

[63] 19 U.S.C. § 1675a(a)(4).

1. Demand Conditions

Prior Proceedings. In the original investigation, the Commission found that apparent U.S. consumption increased by *** percent over the period of investigation, and market participants generally agreed that demand for activated carbon had increased.[64] Petitioners stated demand for activated carbon was expected to grow moderately over the next several years due to new regulations governing clean air and water, the increased popularity of bottled water and other beverages, and new mercury emissions standards for coal utilities.[65]

In the first review, the Commission found that demand for activated carbon continued to increase; it also found that mercury abatement applications in coal-fired electric power plants contributed importantly to the increase in consumption. Market participants differed on how U.S. Environmental Protection Agency ("EPA") mercury abatement regulations, which went into effect in April 2012, would affect future demand for activated carbon. Some market participants believed that these new regulations could cause demand for activated carbon to rise, while others believed that the regulations would not have that effect. Some coal-fired electrical plant operators were considering converting to natural gas as a less expensive energy source, or shutting down due to the anticipated cost of the new regulations, either of which would reduce the effect of the EPA regulation on future demand of activated carbon. The Commission noted that the new regulations were subject to legal challenges.[66]

In the second five-year review, the Commission found that although demand for activated carbon continued to increase, the Domestic Industry noted that the increase

[64] *Original Determination*, USITC Pub. 3913 at 13; Confidential Original Determination at 18.
[65] *Original Determination*, USITC Pub. 3913 at 13; Confidential Original Determination at 18.
[66] *First Review*, USITC Pub. 4381 at 10-11.

anticipated in the first five-year review did not occur due to continued litigation over the mercury abatement regulations and continued low prices in the United States for natural gas.[67] The Commission also found that low natural gas prices had encouraged the conversion of coal-fired electricity plants, which use activated carbon, to natural gas.[68]

Current Review. In the current five-year review, the information available indicates that demand for activated carbon continues to be driven by demand for its primary end use applications, including the processing of foods, solvent recovery, air purification, automobile emissions reduction, and solvent vapor recovery.[69] According to the domestic interested parties and respondent interested party Jacobi, demand for activated carbon has continued to expand since the prior five-year review.[70] Jacobi also claims that U.S. demand for activated carbon is likely to continue to increase in the short to medium term due to the likelihood that the U.S. Environmental Protection Agency will finalize a rule, proposed in March 2023, that would require increased removal of perfluorinated chemicals from drinking water, potentially using activated carbon.[71]

Apparent U.S. consumption increased from 496.2 million pounds in 2017 to *** pounds in 2022.[72]

[67] *Second Review*, USITC Pub. 4797 at 16.
[68] *Second Review*, USITC Pub. 4797 at 16.
[69] CR/PR at I-9.
[70] Domestic Interested Parties Response at 21; Jacobi Response at 14.
[71] Jacobi Response at 14.
[72] CR/PR at Table I-7. As noted above, U.S. import data are based on Commerce's official import statistics which may contain out-of-scope merchandise. Therefore, apparent U.S. consumption may be overstated.

2. Supply Conditions

Prior Proceedings. In the original investigation, the Commission found that the principal suppliers of activated carbon to the U.S. market were domestic producers, followed by subject imports and nonsubject imports. The Commission determined that all the activated carbon produced domestically and virtually all the subject imports were coal-based, while almost all the nonsubject imports were coconut-based. It found that the domestic producers' reported capacity utilization increased over the period. The domestic producers claimed that their facilities were designed for, and depended on, running at full capacity, except for scheduled maintenance shutdowns.[73]

In the first review, the Commission found that the domestic industry's capacity increased over the POR, and that the domestic industry was the largest supplier to the U.S. market, followed by nonsubject imports and then subject imports. Nonsubject imports were predominantly coconut-based activated carbon, while producers in both the United States and China predominantly produced coal-based activated carbon.[74]

In the second five-year review, the Commission found that the domestic industry remained the largest supplier to the U.S. market, followed by nonsubject imports and subject imports.[75] Both the domestic industry and respondents acknowledged that nonsubject imports had increased their share of the U.S. market since the original investigation.[76] The Domestic

[73] *Original Determination*, USITC Pub. 3913 at 14-15.
[74] *First Review*, USITC Pub. 4381 at 12 & n.59.
[75] *Second Review*, USITC Pub. 4797 at 16-17.
[76] *Second Review*, USITC Pub. 4797 at 17.

Industry maintained that domestic producers had the ability to respond to changes in demand for activated carbon ***.[77]

Current Review. In the current five-year review, the majority of apparent U.S. consumption continues to be satisfied by the domestic industry, followed by nonsubject imports and subject imports.[78]

The domestic industry accounted for *** percent of apparent U.S. consumption in 2022.[79] According to the domestic interested parties, there are currently three domestic producers of activated carbon: Calgon, Norit, and ADA.[80] Norit announced the idling of its activated carbon production facility in Marshall, Texas in September 2020.[81] Respondent interested party Jacobi claims that Calgon recently completed the expansion of its Pearl River plant, allegedly in the second quarter of 2023, and that ADA has plans to expand its coal-based activated carbon production.[82]

Subject imports accounted for *** percent of apparent U.S. consumption in 2022.[83] Respondent interested party CAC contends that regulatory changes in China's coal sector constrain Chinese production of activated carbon. Specifically, CAC claims that China has closed nearly half of its coal mines since 2017, due to safety and environmental concerns, and that the demands of China's coal-fired power plants have limited the ability of the subject industry to

[77] *Second Review*, USITC Pub. 4797 at 17; Confidential Second Review at 24-25.
[78] CR/PR at I-18, Table I-7.
[79] CR/PR at I-18, Table I-7.
[80] Domestic Industry Response at 2, 20.
[81] CR/PR at Table I-4. Norit made two agreements with ADA where (1) ADA would supply and manufacture Norit's activated carbon products, and (2) Norit would sell to ADA, its mine in Marshall, TX. Domestic Industry Response at 20.
[82] Jacobi Response at 13.
[83] CR/PR at Table I-7.

rapidly increase production of activated carbon. As a result, CAC argues, producers in China are primarily focused on meeting increased demand in the Chinese home market and are limited in their ability to supply the U.S. market.[84]

Nonsubject imports accounted for *** percent of apparent U.S. consumption in 2022.[85] The leading sources of nonsubject imports during the POR were India, Sri Lanka, and the Philippines.[86]

3. Substitutability and Other Conditions

Prior Proceedings. In the original investigation, a majority of market participants reported that the domestic like product and subject imports were generally interchangeable, although the data were more mixed regarding interchangeability between the domestic like product and nonsubject imports. The Commission determined that the most commonly stated reason for the lack of interchangeability was the unavailability in the United States of domestically produced coconut-based activated carbon. It noted the different physical structures of coconut- and coal-based activated carbon, and noted that Petitioners acknowledged that they were not completely interchangeable.[87] The Commission also found that the price of coal, the principal input in the domestic producers' manufacture of activated carbon, increased significantly over the period of investigation. It further found that electricity

[84] Certain Activated Carbon from China: Carbon Activated Corporation's Response to Notice of Institution of Third Review, EDIS Doc. 799788 (Jul. 3, 2023) ("CAC Response") at 8-9; Certain Activated Carbon from China: Carbon Activated Corporation's Final Comments, EDIS Doc. 807030 (Oct. 26, 2023) ("CAC Final Comments") at 4-5.

[85] CR/PR at Table I-7.

[86] CR/PR at Table I-6.

[87] *Original Determination*, USITC Pub. 3913 at 15-16. In particular, coconut-based activated carbon usually had greater hardness and smaller pores than carbon-based activated carbon, making it more suitable for certain applications, such as gold mining, cigarette filters, and specialty-oriented home water filters.

and natural gas, also used in the production process, accounted for an increasing share of the total cost of goods sold ("COGS") because of increasing energy costs over the period.[88]

The Commission also found that price was an important factor in purchasing decisions. Price was identified by numerous purchasers as either the most important or second-most important factor affecting purchasing decisions, and a large majority of purchasers also listed price as "very important" in their purchasing decisions.[89] The Commission noted that it was generally agreed that as long as certain activated carbon met the specifications required for an end use, price was the largest single factor affecting purchasing decisions.[90]

In the first review, the Commission found that the domestic like product and subject imports were generally substitutable. The Commission found that this substitutability was not limited by the fact that most Chinese producers supplied direct-activated carbon while the domestic industry supplied direct-activated and reagglomerated activated carbon because both the domestic industry and the Chinese producers could produce both types of carbon.[91] The Commission found that although nonprice factors were important, price was also an important purchasing factor.[92] The Commission found that raw material costs, principally the cost of metallurgical coal, increased substantially over the review period and constituted a significant share of total COGS.[93]

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[88] *Original Determination*, USITC Pub. 3913 at 15.

[89] *Original Determination*, USITC Pub. 3913 at 19. Other factors listed by the majority of purchasers as very important in their purchasing decisions included product availability, delivery terms and times, product consistency, quality, and reliability of supply. *Id*.

[90] *Original Determination*, USITC Pub. 3913 at 19. A majority of responding purchasers reported that they "always" or "usually" purchased the lowest-priced product. *Id*.

[91] *First Review*, USITC Pub. 4381 at 13.

[92] *First Review*, USITC Pub. 4381 at 12.

[93] *First Review*, USITC Pub. 4381 at 13.

In the second five-year review, the Commission found the domestic like product and subject imports would likely be generally substitutable and that price would continue to be an important factor in purchasing decisions if the order were revoked. It did not find any new information on the record that indicates any changes in substitutability since the prior proceedings.

The Commission also found that nonsubject imports continued to be predominantly coconut-based, which may have limited their substitutability with predominantly coal-based domestic like product and subject imports.[94]

Current Review. The record in this review 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. Domestic interested parties argue that the U.S. market for activated carbon remains highly price sensitive due to the substitutable nature of the domestic like product and subject imports.[95] Although respondent interested party CAC claims that China exported several types of activated carbon that are not produced in the United States during the period of review, thereby limiting the substitutability of subject and domestic activated carbon in its view, CAC provided no information indicating that Chinese production of activated carbon is limited to such products or any information concerning the importance of such products to the U.S. market.[96]

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[94] Activated carbon from four sources of nonsubject imports in the U.S. market in 2017, India, Indonesia, the Philippines, and Sri Lanka, were primarily coconut-based. *Second Review*, USITC Pub. 4797 at 18.

[95] Domestic Response at 14.

[96] CAC Response at 4-5; CAC Final Comments at 7, n. 26. Specifically, CAC contends that the relatively higher average unit values ("AUVs") of subject imports reflect the fact that they include several types of activated carbon that are higher value and not produced in the United States, including

Accordingly, we again find that the domestic like product and subject imports are generally substitutable, and that price remains an important factor in purchasing decisions.

There is no new information on the record of this review indicating that nonsubject imports from the leading sources, including India, Indonesia, and the Philippines, are no longer coconut-based, and generally sold for different end uses than the coal-based activated carbon produced domestically and imported from China.[97] According to respondent interested party CAC, however, nonsubject imports of coal-based activated carbon from countries such as Australia, Canada, and Mexico have come to play a larger role in the U.S. market than during the original investigation.[98]

Effective September 24, 2018, activated carbon originating in China became subject to an additional 10 percent ad valorem duty under Section 301 of the Trade Act of 1974. Effective

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(1) coal-based granular, direct activation (acid-washed or non-acid washed); (2) coal-based powder, direct activation; and (3) anthracite coal-based, steam-activated, pelletized. *Id.* Even accepting *arguendo* that subject imports included higher-value types of activated carbon that are not produced domestically, there is no information on the record indicating that the Chinese industry produces only these types of activated carbon or that its exports to the United States would consist primarily of such products if the order were revoked. To the contrary, in the full first review, the Commission found that Chinese producers were capable of producing the same type of activated carbon supplied by the domestic industry. *First Review*, USITC Pub. 4381 at 13. In the current review, respondent interested party Jacobi reports that Chinese producers supply coal-based activated carbon, Jacobi Response at 5, which is a type of activated carbon that is also supplied by the domestic industry. CR/PR at I-8. The much lower AUVs of Chinese exports to countries other than the United States, based upon Chinese export statistics submitted by the domestic interested parties, indicates that the Chinese industry also produces and exports lower-priced commodities grades of activated carbon. *See* Domestic Response at Exhibit 6. Furthermore, to the extent that the higher-value types of activated carbon allegedly exported from China to the United States serve a limited market in the United States, subject producers would have an incentive to increase exports of other types of activated carbon after revocation of the order as a means of increasing their market share after revocation.

[97] *See* CR/PR at I-8-10, Table I-6; *see also* CAC Response at 3.

[98] CAC Response at 3.

May 10, 2019, the section 301 duty for activated carbon from China was increased to 25 percent.[99]

C. Likely Volume of Subject Imports

1. Prior Proceedings

In the original investigation, the Commission found that the volume of subject imports was significant both in absolute terms and relative to consumption and production in the United States, and that the increase in that volume was also significant.[100] The volume of subject imports from China increased by *** percent from 2003 to 2005, before declining in 2006.[101] The Commission also found that the increase in nonsubject imports over the period of investigation did not diminish the significance of the increase in subject import volume.[102]

In the first five-year review, subject import volume and market penetration were both well below their levels in the original period of investigation. The Commission found that the order had a restraining effect on import volume, and that a significant volume of subject imports was likely if the order were revoked.[103] It found that the industry in China had more than ample excess capacity to produce additional subject merchandise and that it had incentives to increase shipments to the United States. The record indicated that there were more than 200 subject Chinese producers of activated carbon that produced more than 240

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[99] CR/PR at I-7.

[100] *Original Determination*, USITC Pub. 3913 at 17.

[101] *Original Determination*, USITC Pub. 3913 at 17. Confidential Original Determination at 25-26. The Commission found that subject import volume declined rapidly after preliminary duties were announced by Commerce in October 2006. *Id.*

[102] *Original Determination*, USITC Pub. 3913 at 18. The Commission found that while the increases in subject import volumes and market share came primarily at the expense of the domestic industry, increases in the nonsubject imports reflected increased demand for the coconut-based product for its specific end uses. *Id*.

[103] *First Review*, USITC Pub. 4381 at 14.

million metric tons of coal-based activated carbon.[104] The responding Chinese producers alone reported significant capacity, excess capacity, and inventories that could be used to increase shipments to the United States.[105] Because the capacity of all Chinese producers of activated carbon was far greater than that of the producers providing data to the Commission, information in the record concerning the reporting producers' capacity and capacity utilization indicated that the overall industry had the ability to significantly increase exports of activated carbon to the United States.[106]

The Commission also found that the industry producing subject merchandise in China had incentives to increase exports to the United States significantly upon revocation. The United States had the *** market for activated carbon in the world and U.S. prices were attractive.[107] Chinese producers of activated carbon were export oriented and exported subject merchandise worldwide. The Commission found that the size of the U.S. market and the likely pricing available would make it likely that these Chinese producers would use their excess capacity to direct further exports to the United States upon revocation. Furthermore, subject imports had maintained a significant ongoing presence in the U.S. market during the review, indicating that the U.S. market was important to Chinese producers and that they had distributors and customers currently in the market for additional subject imports.[108] The Commission also found it significant that Chinese exports of powdered activated carbon were covered by an EU antidumping measure, and that powdered activated carbon was the form of

[104] *First Review*, USITC Pub. No. 4381 at 15.
[105] *First Review*, USITC Pub. No. 4381 at 15; Confidential First Review at 20-21.
[106] *First Review*, USITC Pub. No. 4381 at 15.
[107] *First Review*, USITC Pub. No. 4381 at 15; Confidential First Review at 22.
[108] *First Review*, USITC Pub. No. 4381 at 16.

activated carbon used in mercury abatement, a source of potential future growth in U.S. demand. It found that the EU measure increased the incentive for Chinese producers to sell additional activated carbon into the U.S. mercury abatement market.[109]

Chinese respondents alleged that shortages of coal in China would have a restraining effect on any exports of activated carbon in the reasonably foreseeable future. The Commission disagreed, finding that there was no evidence in the record of widespread coal shortages in China during the POR or of an inability of subject Chinese producers to acquire the type of metallurgical coal used to make activated carbon; furthermore, to the extent that there were coal shortages, they did not appear to have had an effect on the subject producers' production or exports of activated carbon during the POR.[110] It concluded that the volume of subject imports, both in absolute terms and relative to production and consumption in the United States, would likely be significant in the reasonably foreseeable future if the order were revoked.[111]

During the second five-year review, subject imports had a limited presence in the U.S. market.[112] Subject import volume decreased overall, from 34.5 million pounds in 2012 to 17.4 million pounds in 2017, which was the lowest volume of subject imports since 2007.[113]

The Commission found that, although the limited volume of subject imports during the review period indicated that the order had a disciplining effect, the record indicated that the subject producers maintained both a strong interest in supplying the U.S. market with activated

[109] *First Review*, USITC Pub. No. 4381 at 16-17.
[110] *First Review*, USITC Pub. No. 4381 at 16.
[111] *First Review*, USITC Pub. No. 4381 at 17.
[112] *Second Review*, USITC Pub. 4797 at 20.
[113] *Second Review*, USITC Pub. 4797 at 20.

carbon and the ability to increase the amount they supplied. As the Commission explained, the Chinese industry was highly export-oriented, as the world's largest exporter of activated carbon. GTA data showed that China had exported 566.5 million pounds of activated carbon in 2017, up from 512.7 million pounds in 2013.[114] The Commission also found that the Chinese industry continued to have high levels of production capacity and excess capacity. Based on the information available, the Chinese activated carbon industry had production capacity of *** and excess capacity of *** in 2015, which was more than the domestic industry's total production of 360.0 million pounds in 2017.[115] The Commission further found that Chinese producers remained interested in the U.S. market, given that the United States remained the eighth largest destination market for activated carbon exported from China and the world's *** consumer of activated carbon.[116]

The Commission rejected respondents' argument that the order was no longer necessary since there had been a large decline in subject imports since 2011, which had been offset by increased nonsubject imports.[117] It explained that the volume of subject imports with the order in place was not indicative of their likely volume after revocation, and nonsubject imports were unlikely to restrain subject imports because they primarily consisted of coconut-based activated carbon that may have had limited substitutability with subject imports.[118] The Commission also rejected respondents' argument that various factors, including increased environmental enforcement, coal shortages, and the absence of export licenses, would likely

[114] *Second Review*, USITC Pub. 4797 at 21.
[115] *Second Review*, USITC Pub. 4797 at 21.
[116] Confidential Second Review at 32.
[117] *Second Review*, USITC Pub. 4797 at 22.
[118] *Second Review*, USITC Pub. 4797 at 22.

limit Chinese exports of activated carbon to the United States, explaining that these factors had not prevented Chinese exports of activated carbon from increasing substantially since 2005.[119] Finally, the Commission rejected respondents' argument that there was less of an incentive for Chinese exporters to ship activated carbon to the U.S. market given the termination of the EU order on powdered activated carbon, explaining that Chinese producers had sufficient excess capacity to increase exports to both markets if the order were revoked.[120] The Commission concluded that the volume of subject imports would likely increase to a significant level if the order were revoked.[121]

2. The Current Review

The information available indicates that the order has continued to have a restraining effect on the volume of subject imports. The volume of subject imports fluctuated during the current review period, decreasing from 25.7 million pounds in 2018 to 21.4 million pounds in 2019, and further decreasing to 15 million pounds in 2020 and 11.1 million pounds in 2021, before increasing to 19.8 million pounds in 2022.[122] Subject imports accounted for *** percent of apparent U.S. consumption in 2022.[123]

The record in this expedited review contains limited information on the subject industry in China. Nonetheless, the information available indicates that subject producers continue to have the ability and incentive to export significant volumes of subject merchandise to the U.S.

[119] *Second Review*, USITC Pub. 4797 at 22.
[120] *Second Review*, USITC Pub. 4797 at 22.
[121] *Second Review*, USITC Pub. 4797 at 23.
[122] CR/PR at I-17, Table I-6.
[123] CR/PR at I-18, Table I-7. As noted above, U.S. import data are based on Commerce's official import statistics which may contain out-of-scope merchandise. Therefore, the volume and market share of subject imports and apparent U.S. consumption may be overstated.

market in the event of revocation of the order. The domestic interested parties identified 100 possible producers of activated carbon in China, while CAC identified 13 possible producers and Jacobi identified 18 possible producers.[124] Domestic interested parties argue that producers in China have massive capacity and that many producers of subject merchandise have increased production since the original investigation.[125] In particular, based on information from *** submitted by the domestic interested parties, the Chinese industry's shipments of activated carbon (including out-of-scope forms of activated carbon) ***.[126] The domestic interested parties also submitted information from the websites of six major Chinese producers of activated carbon indicating that each of the producers possess substantial annual production capacity, ranging from 44.1 million pounds to 220.5 million pounds.[127]

The information available also indicates that the Chinese industry remains a large exporter of activated carbon. According to GTA data, which may include out-of-scope products, China was the world's largest exporter of activated carbon throughout the POR.[128] These data

[124] CR/PR at I-19; Domestic Response at 8, 19, Exhibit 3; CAC response at 6; Jacobi response at Exhibit 1.

[125] Domestic Response at 8.

[126] Domestic Response at 8, Exhibit 4. ***. *Id*. at 8 n.2.

[127] Domestic Response at 9, Exhibit 5. Specifically, this information indicates that Datong Coal Jinding Activated Carbon Co. ("Jinding") has an annual production capacity of 220.5 million pounds, Fujian Yuanli Active Carbon, Ltd. ("Fujian") has an annual production capacity of 110.2 million pounds, Jiangsu Zhuxi Activated Carbon Co., Ltd. ("Jiangsu") has an annual production capacity of 44.1 million pounds, Ningxia Huanhui Activated Carbon Limited ("Ningxia") has an annual production capacity of 77.2 million pounds, and Shanxi Xinhua Chemical ("Shanxi") has an annual production capacity of 44.1 million pounds. *Id.*

[128] CR/PR at Table I-10.

also show that China's total exports of activated carbon increased irregularly during the POR, from 628.5 million pounds in 2018 to 655.2 million pounds in 2021, before declining to 645.4 million pounds in 2022.[129] The volume of Chinese exports of activated carbon in 2022 was larger than apparent U.S. consumption that year.[130] According to ***, China's exports of activated carbon have increased *** percent since imposition of the order, from *** in 2007 to *** in 2022.[131] This same *** also indicates that the Chinese industry exported *** percent, of its production in 2022.[132] Consistent with these data, information from the websites of six major Chinese producers submitted by the domestic interested parties show that each of the producers export activated carbon, with two touting exports to the United States and one to North America.[133]

The information available also indicates that the U.S. market remains attractive to subject producers in China. Subject imports maintained a presence in the U.S. market throughout the POR, accounting for *** percent of apparent U.S. consumption in 2022,

[129] CR/PR at I-21, Table I-9. According to Chinese export statistics, Chinese exports of activated carbon increased throughout the POR from 628.5 million pounds in 2018, to 583.2 million pounds in 2019, 570 million pounds in 2020, 655.2 million pounds in 2021, and 645.5 million pounds in 2022.

[130] CR/PR at I-21, Tables I-7, I-9. Apparent U.S. consumption was *** pounds in 2022. *Id.* at Table I-7.

[131] Domestic Final Comments at 10-11.

[132] Domestic Response at 11, Exhibit 4.

[133] Domestic Response at 9, Exhibit 5. Specifically, according to this information, Datong considers the United States a major export market; Fujian exports to over 30 countries; Gongyi Songshan Activated Carbon Factory exports to the United States, Southeast Asia, Europe, and Japan; Jiangsu considers itself "the major activated carbon export base . . . in China"; Ningxia exports to over 30 countries; and Shanxi exports large quantities to North America. *Id.*

[133] Domestic Response at 10-11.

thereby retaining customers and distribution networks.[134] According to Chinese Customs Statistics submitted by the domestic interested parties, the United States was the tenth largest destination market for China's exports of activated carbon in 2022, even while under the restraining effect of the order.[135] China Customs Statistics also indicate that in 2022, the AUV of Chinese exports to the United States, at $1.22 per pound, was higher than the AUV of Chinese exports to third country markets, at $0.89 per pound, which would give Chinese producers an economic incentive to increase exports to the United States if the order were revoked.[136]

We are unpersuaded by the respondent interested parties' various arguments that subject import volume is unlikely to be significant if the order were revoked. Although subject import volume was much lower during the POR than during the original investigation, the volume of subject imports under the disciplining effect of the order is not predictive of the volume of subject imports in the order were revoked, notwithstanding CAC's argument to the contrary.[137]

We further find, as the Commission did in the prior five-year reviews of the subject order, that the increased presence of nonsubject imports in the U.S. market since imposition of the order would not likely prevent subject import volume being significant after revocation, as argued by CAC and Jacobi.[138] First, as discussed in section III.B.3 above, the information

[134] Domestic Response at 10-11.

[135] Domestic Response at 11, Exhibit 6. We observe that the HS classification to which these data apply also contain out-of-scope merchandise, and therefore, subject imports may be overstated.

[136] Domestic Response at 14, Exhibit 6. Respondent interested party CAC claims that the average landed duty-paid unit value of subject imports from China was $1.79 per pound in 2022. CAC Response at 4.

[137] CAC Response at 2-3; CAC Final Comments at 3.

[138] CAC Response at 3; Jacobi Response at 5.

available indicates that imports of activated carbon from the largest nonsubject country sources, including India, Sri Lanka, and the Philippines, remain coconut-based, and thus unlikely to restrain any increase in subject imports, which are coal-based and thus generally used in different applications, after revocation.[139] Furthermore, any increase in subject imports after revocation of the order would therefore come primarily at the expense of the domestic industry, which is the largest supplier to the U.S. market and which also supplies coal-based activated carbon.

We are also unpersuaded by CAC's argument that the reduced availability of coal in China and increased Chinese consumption of activated carbon during the POR, as discussed in section III.B.3 above, would prevent subject imports from being significant after revocation.[140] Neither of these factors prevented Chinese exports of activated carbon from increasing from 2018 to 2022, according to GTA data and China Customs Statistics submitted by the domestic interested parties, to a level that exceeded apparent U.S. consumption in 2022.[141] According to information from ***, the Chinese industry's exports as a share of its total shipments declined only *** from *** percent in 2017 to a projected *** percent in 2022, as ***.[142] The Chinese industry remains the world's largest exporter of activated carbon, and the higher prices available in the U.S. market would give subject

[139] CR/PR at Table I-6; CAC Response at 3.
[140] CAC Response at 3, 8-9; CAC Final Comments at 4-5.
[141] CR/PR at Table I-9; Domestic Response at Exhibit 6.
[142] Domestic Industry Response at 10-11, Exhibit 4.

producers an economic incentive to shift exports from third country markets to the U.S. market if the order were revoked.

We are also unpersuaded by Jacobi's argument that subject imports are unlikely to increase after revocation due to the section 301 duty on imports of activated carbon from China, discussed in section III.B.3 above.[143] We find that the section 301 duty is unlikely to prevent subject imports from being significant in light of the Chinese industry's large volume of exports and the attractiveness of the U.S. market to subject producers. Indeed, section 301 duties did not prevent subject imports from increasing by 31.6 percent from 2020 to 2022, to a level 13.6 percent higher than in 2017.[144]

Given the foregoing, including the significant and increasing volume of subject imports in the original investigation, the continued presence of subject imports in the U.S. market during the POR, the subject industry's large size and exports of activated carbon, and the attractiveness of the U.S. market, we find that the volume of subject imports would likely be significant, both in absolute terms and relative to U.S. consumption, if the order were revoked.[145]

D. Likely Price Effects

1. Prior Proceedings

In the original investigation, the Commission found, based on the general substitutability between the domestic like product and subject imports, that price was the most

[143] Jacobi's Response at 5.

[144] CR/PR at Table I-6; Second Review, USITC Pub. 4797 at 20.

[145] The information available indicates that there are no trade actions on activated carbon from China in third countries. CR/PR at I-21. The record of this expedited review contains no information concerning inventories of subject imports or the ability of subject producers to shift production from other products to activated carbon.

important single factor affecting purchasing decisions, as long as the activated carbon met the specifications required for the end use in question. Price was identified by numerous purchasers as either the most important or second most important factor in purchasing decisions. Purchasers found the domestic like product and subject imports to be fairly comparable, except in price, where almost all purchasers reported that the domestic like product was higher in price than the subject imports.[146]

The Commission found that there had been significant price underselling of the domestic like product by the subject imports throughout the period of investigation; subject imports undersold the domestic like product in 34 out of 36 quarterly comparisons from 2003 to 2005, and in 11 out of 12 quarterly comparisons in 2006.[147] It found that price movements varied and did not show a clear trend over the period of investigation; therefore, the Commission did not find subject imports had depressed domestic prices to a significant degree.[148] The Commission, however, found that subject imports had prevented domestic price increases that otherwise would have occurred to a significant degree. It noted that the domestic industry's COGS as a ratio to net sales increased steadily throughout the period of investigation. Despite increased demand, domestic producers were unable to raise prices to cover their increasing costs as significant volumes of lower priced subject imports entered the U.S. market. The Commission thus determined that there was evidence of price suppression in the form of a cost-price squeeze.

[146] *Original Determination*, USITC Pub. 3913 at 19.
[147] *Original Determination*, USITC Pub. 3913 at 20.
[148] *Original Determination*, USITC Pub. 3913 at 19-20.

The Commission found that confirmed lost sales and lost revenues provided additional support for finding that subject imports had taken sales from U.S. producers and had suppressed prices to a significant degree. It found that price was by and large the reason for choosing the Chinese product, and that many of the lost sales were to municipal water treatment facilities which, in many cases, had to accept the lowest-priced product that met their required standards.[149]

In the first review, the Commission found that activated carbon produced in the United States and China were generally substitutable, and that price remained an important factor in purchasing decisions. Despite the increase in prices over the review period and the discipline of the order, the Commission found that subject imports undersold the domestic like product in 60 of 66 quarterly price comparisons.[150]

The Commission found that the substitutability of the domestic like product and the subject imports, the importance of price in purchasing decisions, and the incentives for Chinese producers to increase their exports to the U.S. market made it likely that Chinese producers would price their product more aggressively to gain market share in the absence of the order. It also found that subject imports would likely undersell the domestic like product at even larger margins than in the first review.[151] The Commission concluded that upon revocation of the order, subject imports would likely significantly undersell the domestic like product and

[149] *Original Determination*, USITC Pub. 3913 at 21. The Commission found that subject import prices rose significantly during 2006, particularly in the last two quarters, and found that the improvement in the pricing data for 2006 was related to the pendency of the investigation. *Original Determination*, USITC Pub. 3913 at 20, n.125.

[150] *First Review*, USITC Pub. 4381 at 18-19.

[151] *First Review*, USITC Pub. 4381 at 19.

have a significant depressing or suppressing effect on prices within a reasonably foreseeable time.[152]

In the second five-year review, the Commission found that the U.S. market for activated carbon remained price sensitive. Based on the attractiveness of the U.S. market, the general substitutability between domestically-produced and subject activated carbon, and the importance of price to purchasers, the Commission found that subject producers would likely resume their underselling behavior from the original investigation if the order were revoked, as a means of gaining sales and market share. Thus, the Commission found that subject imports would likely significantly undersell the domestic like product after revocation, as they did in the original investigation and in the first review period with the order in place.[153]

Based on the substitutability between the domestic like product and subject imports and the importance of price to purchasing decisions, the Commission found that if the order were revoked, the likely significant volume of low-priced subject imports would likely force the domestic industry to lower prices, restrain price increases, or lose sales. The Commission concluded that subject imports would likely have significant price effects after revocation.[154]

2. The Current Review

As discussed in section III.B.3 above, we continue to find that the domestic like product and subject imports are generally substitutable and that price remains an important factor in purchasing decisions.

[152] *First Review*, USITC Pub. 4381 at 19.
[153] *Second Review*, USITC Pub. 4797 at 24.
[154] *Second Review*, USITC Pub. 4797 at 25.

The record in this expedited review does not contain new product-specific pricing information. Based on the available information, including the general substitutability between the domestic like product and subject imports and the importance of price in purchasing decisions, we find that if the order were revoked, the likely significant volumes of subject imports would likely undersell the domestic like product to a significant degree, as they did in the original investigation and in the first review period with the order in place.[155] Absent the discipline of the order, the significant volumes of low-priced subject imports would likely take sales and market share from domestic producers and/or force the domestic industry to cut prices or restrain price increases necessary to cover any increasing costs, thereby depressing or suppressing prices for the domestic like product. Consequently, we find that if the order were revoked, significant volumes of subject imports would likely have significant price effects.

E. Likely Impact

1. Prior Proceedings

In the original investigation, the Commission found that subject imports were having a significant adverse impact on the domestic industry producing activated carbon. It found that

[155] We are unpersuaded by CAC's argument that the relatively higher AUVs of subject imports compared to the AUVs of nonsubject imports throughout the POR makes it likely that subject import prices will remain at a similar level after revocation of the order. CAC Final Comments at 6-7. Subject import prices under the disciplining effect of the order are not predictive of subject import prices in the event of revocation. Based on China Customs Statistics submitted by domestic interested parties, the AUVs of China's exports of activated carbon to countries other than the United States averaged just $0.89 per pound in 2022, while the AUVs of China's exports to the United States – with the antidumping duty order in place – averaged $1.22 per pound that same year. Domestic Response at 14, Exhibit 6. This information indicates that Chinese producers could reduce their prices on exports of activated carbon to the U.S. market absent the disciplining effect of the order, as a means of gaining market share.

trade data indicators were mixed, but many of the domestic industry's financial indicators declined from 2003 to 2005, before recovering only somewhat in 2006.[156]

The Commission found that the decrease in the domestic industry's performance indicators occurred as subject imports entered the U.S. market in 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, such that domestic producers were unable to raise prices sufficiently to cover increasing raw material and energy costs.[157]

The Commission observed that nonsubject imports were in the U.S. market during the period of investigation, but noted they were sold for different end uses and were typically priced higher than subject imports. Therefore, the Commission determined that the presence of nonsubject imports in the U.S. market did not preclude the material injury suffered by the domestic industry by reason of subject imports.[158]

In the first five-year review, the Commission found that most indicators of the domestic industry's performance showed considerable improvement, including capacity, production, and shipments. The domestic industry was profitable throughout the period of review and both

[156] *Original Determination*, USITC Pub. 3913 at 21-22. The Commission found that the improvements in the domestic industry's condition in 2006 were related to the pendency of the investigation, and therefore gave less weight to the data for 2006 for purposes of its material injury analysis. It found that domestic prices increased after the petition was filed and that subject import volume declined after preliminary duties were imposed in October 2006. *Original Determination*, USITC Pub. 3913 at 17.

[157] *Original Determination*, USITC Pub. 3913 at 23.

[158] *Original Determination*, USITC Pub. 3913 at 24.

operating income and operating margins increased. Capital expenditures also increased. Given these data, the Commission did not find the domestic industry to be vulnerable.[159]

Nonetheless, the Commission found that the volume of subject imports would likely increase significantly and would have adverse effects on the domestic pricing if the order were revoked, and lead to continuation or recurrence of material injury to the domestic industry. Although demand was expected to increase moderately in the future, it found that increased demand during the original investigation did not preclude material injury by reason of subject imports. Given its findings that additional volumes of subject imports would likely undersell the domestic like product and likely have significant depressing or suppressing effects on prices for the domestic like product, the Commission found that the domestic industry would need to respond to subject imports by either foregoing sales and ceding market share, or by cutting or restraining prices in the face of increasing costs for raw materials. The resulting loss of production or revenues would likely cause deterioration in the financial performance of the domestic industry.[160]

In its nonattribution analysis, the Commission again considered the role of nonsubject imports and found that they held a relatively small but increasing portion of the market. However, it noted that nonsubject imports were predominantly coconut-based, with generally different end-use applications and less direct competition with the coal-based subject imports and domestic like product for the majority of end-use applications.[161]

[159] *First Review*, USITC Pub. 2013 at 21-22.
[160] *First Review*, USITC Pub. 2013 at 22-23.
[161] *First Review*, USITC Pub. 2013 at 23.

In the expedited second review, the Commission found that while the U.S. industry's production capacity, production, total shipments, and total sales were higher in 2017 than in 2006 and 2011,[162] the industry suffered an operating loss.[163] The Commission noted that the limited evidence in the expedited review was insufficient to make a finding on whether the domestic industry was vulnerable to the continuation or recurrence of material injury in the event of revocation of the order. The Commission found that if the order were revoked, the likely significant increase in subject import volume, combined with their adverse price effects, would likely have a significant impact on domestic producers of activated carbon within a reasonably foreseeable time.[164]

In considering the role of factors other than subject imports, the Commission found that any modest increase in demand would not likely offset the impact of subject imports if the order were revoked, given the size and export orientation of the Chinese industry and its history of underselling.[165] While recognizing that nonsubject imports had increased their presence in the U.S. market, the Commission reiterated that most nonsubject imports were coconut-based and thus used in different end uses than the coal-based domestic like product and subject imports.[166] Given this, as well as the domestic industry's substantial share of the

[162] *Second Review*, USITC Pub. 4797 at 27. The domestic industry's production capacity for activated carbon was *** pounds in 2006, *** pounds in 2011, and 507.0 million pounds in 2017. Its production was *** pounds in 2006, *** pounds in 2011, and 360.0 million pounds in 2017. Its total U.S. shipments were *** pounds in 2006, *** pounds in 2011, and 289.1 million pounds in 2017. Its total net sales in value was *** in 2006, *** in 2011, and $369.8 million in 2017. Second Confidential Review at 41.

[163] *Second Review*, USITC Pub. 4797 at 27.

[164] *Second Review*, USITC Pub. 4797 at 27-28.

[165] *Second Review*, USITC Pub. 4797 at 27.

[166] *Second Review*, USITC Pub. 4797 at 28.

U.S. market, the Commission found that the likely increase in subject imports would come primarily at the expense of the domestic industry.[167]

2. The Current Review[168]

The record in this expedited review contains limited information concerning the domestic industry's performance since the previous review. The available information indicates that the domestic industry's performance in 2022 was mixed compared to its performance in the last years examined in the prior proceedings. In 2022, the domestic industry's capacity was *** pounds and its production was *** pounds, which was higher than in 2006 and 2011 but lower than in 2017, and its capacity utilization was *** percent, which was higher than in 2011 and 2017 but lower than in 2006.[169] The industry's U.S. shipments were *** pounds in 2022, which was higher than in any of the prior proceedings.[170] The industry's share of apparent U.S. consumption in 2022, at *** percent, was *** higher than in 2006 but lower than in 2017 and 2011.[171] The industry's net sales value was lower in 2022, at $***, than in 2011 and 2017, but higher than in 2006; its operating

[167] *Second Review*, USITC Pub. 4797 at 28.

[168] In its expedited review, Commerce determined that revocation of the order would result in the continuation or recurrence of dumping, with margins up to 228.11 percent. *Certain Activated Carbon From the People's Republic of China: Final Results of Expedited Third Sunset Review of the Antidumping Duty Order*, 88 Fed. Reg. 66810 (Sept. 28, 2023).

[169] CR/PR at Table I-5. In 2017, the domestic industry's capacity was 507.0 million pounds, its production was 360.0 million pounds, and its capacity utilization was 71.0 percent. *Id*. In 2011, the domestic industry's capacity was *** pounds, its production was *** pounds, and its capacity utilization was *** percent. *Id.* In 2006, the domestic industry's capacity was *** pounds, its production was *** pounds, and its capacity utilization was *** percent. *Id*.

[170] CR/PR at Table I-5. The domestic industry's U.S. shipments were 289.1 million pounds in 2017, *** pounds in 2011, and *** pounds in 2006. *Id.*

[171] CR/PR at Table I-7. The domestic industry's share of apparent U.S. consumption was 58.3 percent in 2017, *** percent in 2011, and *** percent in 2006. *Id.*

income, at $***, and its ratio of operating income to net sales, at *** percent, were higher than in 2017 and 2006 but lower than in 2011.[172] Moreover, in 2022, the domestic industry's gross profit was $***, which was higher than in 2006 and 2017 but lower than in 2011.[173] This limited information is insufficient for us to make a finding as to whether the domestic industry is vulnerable to continuation or recurrence of material injury in the event of revocation of the order.

Based on the information available in this review, we find that revocation of the order would likely result in a significant volume of subject imports that would likely undersell the domestic like product to a significant degree. Given the general substitutability between the domestic like product and subject imports and the importance of price to purchasers, significant volumes of low-priced subject imports would likely capture sales and market share from the domestic industry and/or significantly depress or suppress prices for the domestic like product. The likely significant volume of subject imports and their adverse price effects would likely have a significant adverse impact on the domestic industry's production, shipments, sales, market share, and revenues, which in turn would have a direct adverse impact on the industry's profitability and employment, as well as its ability to raise capital and make and maintain necessary capital investments.

[172] CR/PR at I-14, Table I-5. In 2017, the industry's net sales were $369.8 million, it experienced an operating loss of $8.6 million, and its ratio of operating income to net sales was negative 2.3 percent. In 2011, the industry's net sales were $***, its operating income was $***, and its ratio of operating income to net sales was *** percent. *Id.* In 2006, the industry's net sales were $***, its operating income was $***, and its ratio of operating income to net sales was *** percent. *Id.*

[173] CR/PR at Table 1-5. The domestic industry's gross profit was $54.9 million in 2017, $*** in 2011, and $*** in 2006. *Id*.

We have also considered the role of factors other than subject imports, including the presence of nonsubject imports. The volume of nonsubject imports increased steadily during the period of review from 182.5 million pounds in 2018 to 224.9 million pounds in 2022,[174] and accounted for *** percent of apparent U.S. consumption in 2022, up from 35.8 percent in 2017.[175] As discussed in section III.C.2 above, however, nonsubject imports from the largest country sources are coconut-based, and thus used in largely different applications than the domestic like product and subject imports, which are coal-based.[176] The record thus provides no indication that the presence of nonsubject imports would prevent subject imports from entering the U.S. market in significant quantities or adversely affecting domestic prices after revocation of the order. Given that the domestic industry accounted for *** percent of apparent U.S. consumption in 2022, as well as the general substitutability of the domestic like product and subject imports and the importance of price in purchasing decisions, the presence of nonsubject imports in the U.S. market would likely not prevent the significant volume of low-priced subject imports that is likely after revocation from taking market share from the domestic industry or from forcing domestic producers to lower their prices or forgo price

[174] CR/PR at I-17, Table I-6.

[175] CR/PR at I-18, Table I-7. The record suggests that coconut-based applications may be growing which may account, in part, for the increased volume of non-subject imports over the review. Certain activated carbon made from coconut shells typically has different properties from certain activated carbon made from coal. Notably, coconut-based activated carbon usually has greater hardness and smaller pore sizes than coal-based activated carbon. The process of recovering gold from mined ore involves the absorption of gold on activated carbon. The extra hardness of coconut-based carbon helps to reduce the loss of gold that can occur when the activated carbon particles break into smaller pieces. In cigarette filters, coconut-based carbon may be better than coal-based activated carbon at absorbing chemicals that affect the flavor of the cigarette. *Id*. at I-9 to I-10. However, given the limited information on the record in this expedited review the precise correlation between any increase in demand for coconut-based applications and the increase in volume of nonsubject imports is not entirely clear.

[176] CR/PR at I-9.

increases in order to retain market share. For these reasons, we find that any effects of nonsubject imports would be distinct from the likely effects attributable to the subject imports and nonsubject imports would not prevent subject imports from having a significant impact on the domestic industry.

In sum, we conclude that if the antidumping duty order on activated carbon from China were revoked, subject imports would likely have a significant impact on the domestic industry within a reasonably foreseeable time.

IV. Conclusion

For the foregoing reasons, we determine that revocation of the antidumping duty order on activated carbon 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.

Information obtained in this review

Background

On June 1, 2023, the U.S. International Trade Commission ("Commission") gave notice, pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"),[1] that it had instituted a review to determine whether revocation of the antidumping duty order on certain activated carbon from China would be likely to lead to continuation or recurrence of material injury to a domestic industry.[2] All interested parties were requested to respond to this notice by submitting certain information requested by the Commission.[3] Table I-1 presents information relating to the background and schedule of this proceeding:

Table I-1
Certain activated carbon: Information relating to the background and schedule of this proceeding

Effective date	Action
June 1, 2023	Notice of initiation by Commerce (88 FR 35832, June 1, 2023)
June 1, 2023	Notice of institution by Commission (88 FR 35926, June 1, 2023)
September 5, 2023	Commission's vote on adequacy
September 28, 2023	Commerce's results of its expedited review
November 20, 2023	Commission's determination and views

[1] 19 U.S.C. 1675(c).

[2] 88 FR 35926, June 1, 2023. In accordance with section 751(c) of the Act, the U.S. Department of Commerce ("Commerce") published a notice of initiation of a five-year review of the subject antidumping order. 88 FR 35832, June 1, 2023. Pertinent Federal Register notices are referenced in app. A, and may be found at the Commission's website (www.usitc.gov).

[3] As part of their response to the notice of institution, interested parties were requested to provide company-specific information. That information is presented in app. B. Summary data compiled in the original investigation and subsequent full first review are presented in app. C.

Responses to the Commission's notice of institution

Individual responses

The Commission received three submissions in response to its notice of institution in the subject review. They were filed on behalf of the following entities:

1. ADA Carbon Solutions, LLC ("ADA"), Calgon Carbon Corporation ("Calgon Carbon"), and Norit Americas, Inc. ("Norit"), domestic producers of certain activated carbon (collectively referred to herein as "domestic interested parties"). ***.[4]
2. Carbon Activated Corporation ("CAC"), a U.S. importer of certain activated carbon from China.
3. Jacobi Carbons, Inc. ("Jacobi"), a U.S. importer of certain activated carbon from China.

A complete response to the Commission's notice of institution requires that the responding interested party submit to the Commission all the information listed in the notice. Responding firms are given an opportunity to remedy or explain deficiencies in their responses and to provide clarifying details where appropriate. A summary of the number of responses and estimates of coverage for each is shown in table I-2.

[4] ***.

Table I-2
Certain activated carbon: Summary of responses to the Commission's notice of institution

Interested party	Number of firms	Coverage
U.S. producer	3	100.0%
U.S. importer	3	***%

Note: The U.S. producer coverage figure presented is the domestic interested parties' estimate of their share of total U.S. production of certain activated carbon during 2022. Domestic interested parties' response to the notice of institution, June 30, 2023, p. 20.

Note: The U.S. importer coverage figure presented is the estimated share of the quantity of total U.S. imports of certain activated carbon from China in 2022 accounted for by responding firms CAC, Jacobi, and ***. The estimate was calculated as the quantity of total reported imports (*** pounds) divided by the quantity of total U.S. imports from China reported for 2022 in Commerce's official import statistics (19,753,580 pounds). ***. CAC's response to the notice of institution, July 3, 2023, p. 8; Jacobi's response to the notice of institution, July 3, 2023, exh. 1; domestic interested parties' response to the notice of institution, June 30, 2023, exh. 1.

Note: During the original investigation, Jacobi and CAC accounted for *** percent of reported U.S. imports of certain activated carbon from China in 2006; they were the ***- and ***-largest U.S. importers of such merchandise in that year, behind only ***, which accounted for *** percent. Investigation No. 731-TA-1103 (Final): Certain Activated Carbon from China, Confidential Report, INV-EE-028, March 16, 2007 ("Original confidential report"), table IV-1.

Party comments on adequacy

The Commission received party comments on the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews from ADA, Calgon Carbon, Norit, CAC, and Jacobi. ADA, Calgon Carbon, and Norit request that the Commission conduct an expedited review of the antidumping duty order on certain activated carbon from China.[5] CAC requests that the Commission conduct a full review of the antidumping duty order on certain activated carbon from China.[6] Jacobi requests that the Commission conduct a full review of the antidumping duty order on certain activated carbon from China.[7]

The original investigation

The original investigation resulted from a petition filed on March 8, 2006, with Commerce and the Commission by Calgon Carbon, Pittsburgh, Pennsylvania, and Norit,

[5] Domestic interested parties' comments on adequacy, August 15, 2023, p. 2.
[6] CAC's comments on adequacy, August 15, 2023, p. 2.
[7] Jacobi's comments on adequacy, August 15, 2023, p. 2.

Marshall, Texas.[8] On March 2, 2007, Commerce determined that imports of certain activated carbon from China were being sold at less than fair value ("LTFV").[9] The Commission determined on April 16, 2007, that the domestic industry was materially injured by reason of LTFV imports of certain activated carbon from China.[10] On April 27, 2007, Commerce issued an antidumping duty order with the final weighted-average dumping margins ranging from 61.95 percent to 228.11 percent.[11]

The first five-year review

On June 4, 2012, the Commission determined that it would conduct a full review of the antidumping duty order on certain activated carbon from China.[12] On June 6, 2012, Commerce published its determination that revocation of the antidumping duty order on certain activated carbon from China would be likely to lead to continuation or recurrence of dumping.[13] On February 22, 2013, the Commission determined that material injury would be likely to continue or recur within a reasonably foreseeable time.[14] Following affirmative determinations in the five-year review by Commerce and the Commission, effective March 18, 2013, Commerce issued a continuation of the antidumping duty order on imports of certain activated carbon from China.[15]

The second five-year review

On May 7, 2018, the Commission determined that it would conduct an expedited review of the antidumping duty order on certain activated carbon from China.[16] On June 11, 2018, Commerce determined that revocation of the antidumping duty order on certain activated carbon from China would be likely to lead to continuation or recurrence of dumping.[17] On June 29, 2018, the Commission determined that revocation of the antidumping duty order on certain activated carbon from China would be likely to lead to continuation or recurrence of material

[8] Certain Activated Carbon from China, Inv. No. 731-TA-1103 (Final), USITC Publication 3913, April 2007 ("Original publication"), p. I-1.
[9] 72 FR 9508, March 2, 2007.
[10] 72 FR 19723, April 19, 2007.
[11] 72 FR 20988, April 27, 2007.
[12] 77 FR 38082, June 26, 2012.
[13] 77 FR 33420, June 6, 2012.
[14] 78 FR 13894, March 1, 2013.
[15] 78 FR 16654, March 18, 2013.
[16] 83 FR 24345, May 25, 2018.
[17] 83 FR 26949, June 11, 2018.

injury to an industry in the United States within a reasonably foreseeable time.[18] Following affirmative determinations in the five-year reviews by Commerce and the Commission, effective July 12, 2018, Commerce issued a continuation of the antidumping duty order on imports of certain activated carbon from China.[19]

Previous and related investigations

The Commission has conducted one previous import relief investigation on certain activated carbon or similar merchandise, as presented in table I-3.

Table I-3
Activated carbon: Previous and related Commission proceedings and current status

Date	Number	Country	ITC original determination	Current status
2006	731-TA-1102 Certain activated carbon and chemically activated carbon	China	---	Petition withdrawn

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

Note: "Date" refers to the year in which the investigation was instituted by the Commission.

Commerce's five-year review

Commerce announced that it would conduct an expedited review with respect to the order on imports of certain activated carbon from China with the intent of issuing the final results of this review based on the facts available not later than 120 days after the date of publication of the Federal Register notice of initiation.[20] Commerce publishes its Issues and Decision Memoranda and its final results concurrently, accessible upon publication at https://access.trade.gov/public/FRNoticesListLayout.aspx. Issues and Decision Memoranda contain complete and up-to-date information regarding the background and history of the order, including scope rulings, duty absorption, changed circumstances reviews, and anticircumvention, as well as any decisions that may have been pending at the issuance of this report. Any foreign producers/exporters that are not currently subject to the antidumping order on imports of certain activated carbon from China are noted in the sections titled "The original investigation" and "U.S. imports," if applicable.

[18] 83 FR 31568, July 6, 2018.
[19] 83 FR 32269, July 12, 2018.
[20] Letter from Alex Villanueva, Senior Director, Office I, AD/CVD Operations, Enforcement and Compliance, U.S. Department of Commerce to Nannette Christ, Director of Investigations, July 25, 2023.

The product

Commerce's scope

Commerce has defined the scope as follows:

The merchandise subject to the order 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 the order 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 the order 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 order 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 the scope, and those containing more than 50 percent

chemically activated carbons are outside the scope. This exclusion language regarding blended material applies only to mixtures of steam and chemically activated carbons.

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 the scope. [21]

U.S. tariff treatment

Certain activated carbon is currently provided for in Harmonized Tariff Schedule of the United States ("HTS") subheading 3802.10.00. The general rate of duty is 4.8 percent ad valorem for HTS subheading 3802.10.00.[22] Decisions on the tariff classification and treatment of imported goods are within the authority of U.S. Customs and Border Protection.

Effective September 24, 2018, certain activated carbon originating in China became subject to an additional 10 percent ad valorem duty under Section 301 of the Trade Act of 1974, as provided for in subheading 9903.88.03.[23] Effective May 10, 2019, this additional duty increased from 10 percent to 25 percent ad valorem.[24]

Description and uses[25] [26]

Activated carbon is a solid material consisting primarily of carbon that has been specially treated to increase the porosity, and thus the surface area, of the material. The high surface

[21] 83 FR 32269, July 12, 2018.

[22] USITC, HTS (2023) Basic Revision 10, Publication 5451, July 2023, p. 38.4.

[23] 83 FR 47974, September 21, 2018. See also HTS heading 9903.88.03 and U.S. note 20(p) to subchapter III of chapter 99 and related tariff provisions for this duty treatment. USITC, HTS (2023) Revision 10, USITC Publication 5451, July 2023, pp. 99-III-28–99-III-37, 99-III-72.

[24] 84 FR 20459, May 9, 2019.

[25] Unless otherwise noted, this information is based on Certain Activated Carbon from China, Investigation No. 731-TA-1103 (Second Review), USITC Publication 4797, June 2018 ("Second review publication"), pp. I-10—I-12.

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

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. In both the United States and China, coal is the primary raw material. However, activated carbon can be produced from almost any solid material that has a high carbon content. Other common raw materials for making activated carbon are wood, coconut shells, olive stones, and peat.

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

In addition to the size and shape of the activated carbon particles, surface area, pore size distribution, ash content, and hardness influence the efficiency of activated carbon in a given application. 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. The 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.[28] Since iodine is a small molecule, a high iodine number indicates the abundance of small diameter pores (micropores) in the activated carbon. The 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

[27] Mesh numbers refer to hole 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.

[28] 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.

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, the material can undergo a post-activation, acid wash step to reduce the ash content.

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.[29] Some customers in water treatment prefer harder activated carbon that does not break down and change shape during repeated backwashing of the filter bed.

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 wastewater. 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. Chemical process industries use activated carbon for solvent recovery. Applications of activated carbon in gas-phase systems include air purification, automobile emissions reduction, and solvent vapor recovery.

Certain activated carbon made from coconut shells typically has different properties from certain activated carbon made from coal. Specifically, coconut-based activated carbon usually has greater hardness and smaller pore sizes than coal-based activated carbon. These differences may make coconut-based carbon better than coal-based carbon for certain applications, such as gold mining and manufacturing filters for cigarettes. The process of recovering gold from mined ore involves the adsorption of gold on activated carbon. The extra hardness of coconut-based carbon helps to reduce the loss of gold that can occur when the activated carbon particles break into smaller pieces. In cigarette filters, coconut-based carbon may be better than coal-based activated carbon at adsorbing chemicals that affect the flavor of the cigarette. In other applications, these property differences may not be meaningful and either coconut- or coal-based activated carbon can be used. PAC is used to remove mercury and

[29] Because chemically activated carbon is generally made using wood, it has lower hardness than certain activated carbon made from coal. Chemically activated carbons are generally powdered or pelletized due to their lower hardness.

other metals from flue gas of coal-fired power plants. In December 2011, the EPA finalized national emissions standards for hazardous air pollutants from coal- and oil-fired electric generating plants.

Activated carbon is non-toxic and has no adverse environmental effects. However, once the activated carbon has been used, it may take on the toxicity of adsorbed materials. Like nearly all 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 tract. 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 by truck. Bulk delivery by truck is also common.

Manufacturing process[30] [31]

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 ADA, Calgon Carbon, and Norit use, and chemical activation of wood.

The domestic industry uses both direct activation and reagglomeration[32] to produce certain activated carbon. Calgon Carbon activates carbon after reagglomeration, Norit primarily produces certain activated carbon by direct activation of coal, and ADA exclusively produces certain activated carbon by direct activation of coal. Most Chinese producers supply direct activated carbon, but a few Chinese producers can also supply reagglomerated carbon.

For both direct activation and reagglomeration, the crushed material is added to one or more rotary kilns[33] for the carbonization step. The raw material is heated in the kiln, in the absence of oxygen, to approximately 400 degrees Celsius. During this step, the water and volatile organic compounds are vaporized and removed from the kiln in the exhaust gases. The

[30] Unless otherwise noted, this information is based on Second review publication, pp. I-12—I-14.

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

[32] Reagglomeration occurs before the activation of the carbon. The starting material, typically coal, is ground to a powder. This powder is combined with a binder, such as tar, and pressed into briquettes before further grinding and activation.

[33] A rotary kiln consists of a long cylindrical combustion chamber that is slightly tilted from horizontal. Material is added to the elevated end of the kiln. The tilt and rotation of the combustion chamber move the material out the opposite end. The feed and rotation rates control the residence time of the material.

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.[34] The kiln is maintained at a temperature of approximately 1,000 degrees Celsius. An oxidizing agent, usually steam, 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,[35] 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. The pores created by chemical activation are generally larger than the pores formed during thermal activation. 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.

In some instances, used certain activated carbon can be "reactivated." Spent carbon is reactivated by heating it in a kiln until the adsorbed species are desorbed[36] or destroyed. Reactivated carbon tends to have slightly lower activity than virgin certain activated carbon. Reactivation is usually performed on granular or pelletized activated carbon and is rarely used on powdered activated carbon. Reactivation is sometimes performed by the end user and then reused by the same user. However, some firms 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 its method of disposal 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.

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[34] 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 enter 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.

[35] 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.

[36] Desorption is the process in which a molecule leaves the surface to which it is adsorbed.

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.

The industry in the United States

U.S. producers

During the final phase of the original investigation, the Commission received U.S. producer questionnaires from three firms (Calgon Carbon, California Carbon, and Norit), which accounted for virtually all production of certain activated carbon in the United States during 2003-06.[37] During the first five-year review, the Commission received U.S. producer questionnaires from three firms (ADA, Calgon Carbon, and Norit), which accounted for virtually all production of certain activated carbon in the United States during 2011.[38] During the second five-year review, the same three responding firms accounted for 100 percent of production of certain activated carbon in the United States during 2017.[39]

In response to the Commission's notice of institution in this current review, domestic interested parties ADA, Calgon Carbon, and Norit reported that they remain the only known and currently operating U.S. producers of certain activated carbon, accounting for 100 percent of production of certain activated carbon in the United States during 2022.[40]

Recent developments

Table I-4 presents events in the U.S. industry since the Commission's last five-year review.[41]

[37] Original publication, p. I-2. California Carbon, which accounted for only *** percent of domestic production of certain activated carbon in 2006, was excluded from the domestic industry pursuant to the related parties provision. Original confidential views, p. 17.

[38] Certain Activated Carbon from China, Investigation No. 731-TA-1103 (Review), USITC Publication 4381, February 2013 ("First review publication"), p. I-5.

[39] Second review publication, p. I-2.

[40] Domestic interested parties' response to the notice of institution, June 30, 2023, p. 20.

[41] For recent developments, if any, in tariff treatment, please see "U.S. tariff treatment" section.

Table I-4
Certain activated carbon: Developments in the U.S. industry

Item	Firm	Event
Closure	Norit	September 30, 2020, Cabot Norit announced two agreements with ADA Carbon Solutions. Under one agreement, ADA Carbon Solutions will manufacture and supply Cabot Norit's activated carbon products. Under a separate agreement, Cabot Norit sold its Marshall, TX mine to ADA, which planned to close the mine. Cabot Norit also announced its intention to idle activation kilns at its manufacturing facility in Marshall, TX and its intention to continue packaging and warehousing at the facility and operation activities, including post-treatment of activated carbon. Cabot Norit planned to continue sourcing activated carbon from its Estevan, Canada joint venture.

Source: "Cabot Corporation Announces Long-Term Supply Agreement with ADES," Business Wire, September 30, 2020, https://www.businesswire.com/news/home/20200930005794/en/Cabot-Corporation-Announces-Long-Term-Supply-Agreement-With-ADES, retrieved August 7, 2023

U.S. producers' trade and financial data

The Commission asked domestic interested parties to provide trade and financial data in their response to the notice of institution in the current five-year review.[42] Table I-5 presents a compilation of the trade and financial data submitted from all responding U.S. producers in the original investigation and subsequent five-year reviews.

[42] Individual company trade and financial data are presented in app. B.

Table I-5
Certain activated carbon: Trade and financial data submitted by U.S. producers, by period

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

Item	Measure	2006	2011	2017	2022
Capacity	Quantity	***	***	507,000	***
Production	Quantity	***	***	359,994	***
Capacity utilization	Ratio	***	***	71.0	***
U.S. shipments	Quantity	***	***	289,129	***
U.S. shipments	Value	***	***	291,631	***
U.S. shipments	Unit value	***	***	1.01	***
Net sales	Value	***	***	369,753	***
COGS	Value	***	***	314,812	***
COGS to net sales	Ratio	***	***	85.1	***
Gross profit or (loss)	Value	***	***	54,942	***
SG&A expenses	Value	***	***	63,530	***
Operating income or (loss)	Value	***	***	(8,588)	***
Operating income or (loss) to net sales	Ratio	***	***	(2.3)	***

Source: For the years 2006, 2011, and 2017, data are compiled using data submitted in the Commission's original investigation and first and second five-year reviews. For the year 2022, data are compiled using data submitted by domestic interested parties. Domestic interested parties' response to the notice of institution, June 30, 2023, exh. 1.

Note: For a discussion of data coverage, please see "U.S. producers" section.

Definitions of the domestic like product and domestic industry

The domestic like product is defined as the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the subject merchandise. The domestic industry is defined as the U.S. producers as a whole of the domestic like product, or those producers whose collective output of the domestic like product constitutes a major proportion of the total domestic production of the product. Under the related parties provision, the Commission may exclude a U.S. producer from the domestic industry for purposes of its injury determination if "appropriate circumstances" exist.[43]

In its original determination, its full first five-year review determination, and its expedited second five-year review determination, the Commission defined the domestic like

[43] Section 771(4)(B) of the Tariff Act of 1930, 19 U.S.C. § 1677(4)(B).

product to be certain activated carbon, coextensive with Commerce's scope of the investigation. In its original determination, the Commission defined the domestic industry as all known producers of certain activated carbon, with the exception of one firm, California Carbon, which was excluded pursuant to the related parties provision. In the full first five-year review determination and the expedited second five-year review determination, the Commission defined the domestic industry as all known domestic producers of certain activated carbon.[44]

In 2022, *** accounted for *** percent of total subject imports from China and its subject imports were equivalent to *** percent of the quantity of ***. ***. ***.[45]

U.S. importers

During the final phase of the original investigation, the Commission received U.S. importer questionnaires from 25 firms, which accounted for approximately 95.9 percent of total U.S. imports of certain activated carbon from China during 2006.[46] Import data presented in the original investigations are based on official Commerce statistics, as adjusted using questionnaire responses to exclude imports of chemically activated carbon.[47] During the first five-year review, the Commission received U.S. importer questionnaires from 30 firms, which accounted for virtually all U.S. imports of certain activated carbon from China during 2011.[48] Import data presented in the first review are based on questionnaire responses.[49] In their responses to the Commission's notice of institution for the second five-year review, the

[44] 88 FR 35926, June 1, 2023.

[45] Domestic interested parties' response to the notice of institution, June 30, 2023, p. 18 and exh. 1.

[46] Original publication, p. IV-1. During the original investigation, Jacobi and CAC accounted for *** percent of reported U.S. imports of certain activated carbon from China in 2006; they were the ***- and ***-largest U.S. importers of such merchandise in that year, behind only ***, which accounted for *** percent. Original confidential report, table IV-1.

[47] Original publication, p. 13 and tables IV-2 and IV-4.

[48] First review publication, p. I-5. During the full first review, CAC and Jacobi accounted for *** percent of reported U.S. imports of certain activated carbon from China in 2011; they were the ***- and ***-largest U.S. importers of such merchandise in that year. Investigation No. 731-TA-1103 (Review): Certain Activated Carbon from China, Confidential Report, INV-LL-010, January 23, 2013 ("First review confidential report"), table I-5.

[49] First review publication, p. I-5.

domestic interested parties provided a list of 84 potential U.S. importers of certain activated carbon from China and respondent interested parties provided a list of 13 potential U.S. importers of certain activated carbon from China.[50] Import data presented in the second review are based on official Commerce statistics.[51]

In their responses to the notice of institution for this current review, three importers of certain activated carbon from China provided data regarding their U.S. imports and U.S. shipments (see appendix B). In addition, respondent interested parties CAC and Jacobi provided a list of 14 firms that may currently import certain activated carbon from China.[52] The domestic interested parties provided a list of 93 firms that may currently import certain activated carbon from China.[53]

U.S. imports

Table I-6 presents the quantity, value, and unit value of U.S. imports from China as well as the other top sources of U.S. imports (shown in descending order of 2022 imports by quantity).

[50] Second review publication, p. I-18.

[51] Second review publication, table I-4.

[52] CAC's response to the notice of institution, July 3, 2023, p. 6; Jacobi's supplemental response to the notice of institution, July 14, 2023, exh. 1.

[53] Domestic interested parties' response to the notice of institution, June 30, 2023, exh. 7.

Table I-6
Certain activated carbon: U.S. imports, by source and period

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

U.S. imports from	Measure	2018	2019	2020	2021	2022
China (subject)	Quantity	25,737	21,386	15,010	11,134	19,754
India	Quantity	49,763	51,853	37,936	48,973	62,533
Sri Lanka	Quantity	29,576	28,186	33,385	34,671	50,414
Philippines	Quantity	19,011	19,704	19,682	20,203	26,576
All other sources	Quantity	84,195	89,441	78,543	77,129	85,363
Nonsubject sources	Quantity	182,545	189,184	169,546	180,976	224,886
All import sources	Quantity	208,282	210,570	184,556	192,109	244,640
China (subject)	Value	34,714	34,822	20,965	15,771	35,285
India	Value	51,739	51,324	38,488	57,043	82,207
Sri Lanka	Value	34,327	33,528	35,175	45,096	74,259
Philippines	Value	17,720	17,979	17,510	19,751	30,895
All other sources	Value	87,045	99,515	88,778	99,811	120,875
Nonsubject sources	Value	190,832	202,346	179,951	221,700	308,236
All import sources	Value	225,546	237,169	200,916	237,472	343,522
China (subject)	Unit value	1.35	1.63	1.40	1.42	1.79
India	Unit value	1.04	0.99	1.01	1.16	1.31
Sri Lanka	Unit value	1.16	1.19	1.05	1.30	1.47
Philippines	Unit value	0.93	0.91	0.89	0.98	1.16
All other sources	Unit value	1.03	1.11	1.13	1.29	1.42
Nonsubject sources	Unit value	1.05	1.07	1.06	1.23	1.37
All import sources	Unit value	1.08	1.13	1.09	1.24	1.40

Source: Compiled from official Commerce statistics for HTS statistical reporting numbers 3802.10.0010, 3802.10.0020, and 3802.10.0050, accessed June 28, 2023. These data may be overstated as HTS statistical reporting numbers 3802.10.0010, 3802.10.0020, and 3802.10.0050 may contain products outside the scope of this review.

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

Apparent U.S. consumption and market shares

Table I-7 presents data on U.S. producers' U.S. shipments, U.S. imports, apparent U.S. consumption, and market shares.

Table I-7
Certain activated carbon: Apparent U.S. consumption and market shares, by source and period

Quantity in 1,000 pounds; value in 1,000 dollars; shares in percent

Source	Measure	2006	2011	2017	2022
U.S. producers	Quantity	***	***	289,129	***
China (subject)	Quantity	***	34,252	17,388	19,754
Nonsubject sources	Quantity	***	110,734	189,689	224,886
All import sources	Quantity	***	144,985	207,078	244,640
Apparent U.S. consumption	Quantity	***	***	496,206	***
U.S. producers	Value	***	***	291,631	***
China (subject)	Value	***	42,099	20,472	35,285
Nonsubject sources	Value	***	133,240	174,158	308,236
All import sources	Value	***	175,340	194,630	343,522
Apparent U.S. consumption	Value	***	***	486,261	***
U.S. producers	Share of quantity	***	***	58.3	***
China (subject)	Share of quantity	***	***	3.5	***
Nonsubject sources	Share of quantity	***	***	38.2	***
All import sources	Share of quantity	***	***	41.7	***
U.S. producers	Share of value	***	***	60.0	***
China (subject)	Share of value	***	***	4.2	***
Nonsubject sources	Share of value	***	***	35.8	***
All import sources	Share of value	***	***	40.0	***

Source: For the years 2006, 2011, and 2017, data are compiled using data submitted in the Commission's original investigation and first and second five-year reviews. For the year 2022, U.S. producers' U.S. shipments are compiled from the domestic interested parties' response to the Commission's notice of institution and U.S. imports are compiled using official Commerce statistics for HTS statistical reporting numbers 3802.10.0010, 3802.10.0020, and 3802.10.0050, accessed June 28, 2023.

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

Note: For 2011, apparent U.S. consumption is derived from U.S. shipments of imports, rather than U.S. imports.

Note: For a discussion of data coverage, please see "U.S. producers" and "U.S. importers" sections.

The industry in China

Producers in China

During the final phase of the original investigation, the Commission received foreign producer/exporter questionnaires from eight firms, which accounted for approximately *** percent of certain activated carbon exports from China to the United States during 2006.[54] During the first five-year review, the Commission received foreign producer/exporter questionnaires from four firms, which accounted for approximately *** percent of production of certain activated carbon from China during 2011, and approximately *** percent of exports from China to the United States of certain activated carbon during 2011.[55] During the second five-year review, the Commission received one response to the notice of institution from a foreign producer/exporter in China, which accounted for approximately *** percent of exports from China to the United States of certain activated carbon in 2017.[56]

Although the Commission did not receive responses from any foreign producers in this five-year review, the domestic interested parties provided a list of 100 possible producers of certain activated carbon in China.[57] In addition, in their responses to the notice of institution in this current review, importer CAC provided a list of 13 firms that may currently produce certain activated carbon in China and importer Jacobi provided a list of 18 possible producers in China.[58]

[54] Original confidential report, p. VII-1.

[55] First review confidential report, p. IV-11.

[56] Investigation No. 731-TA-1103 (Second Review): Certain Activated Carbon from China, Confidential Report, INV-QQ-046, April 25, 2018, table I-1.

[57] Domestic interested parties' response to the notice of institution, June 30, 2023, exh. 3.

[58] CAC's response to the notice of institution, July 3, 2023, p. 6; Jacobi's response to the notice of institution, July 3, 2023, exh. 1.

Recent developments

Table I-8 presents events in the Chinese industry since the Commission's last five-year review.

Table I-8
Certain activated carbon: Developments in the Chinese industry

Item	Firm	Event
Regulation	All	On January 1, 2018, China enacted the Water Pollution Prevention and Control Law covering treatment of drinking and wastewater.
Regulation	All	On March 4, 2020, the Standardization Administration of China released four mandatory standards controlling volatile organic chemicals.
Coal production	All	In June 2020, the government of Shanxi, a major coal producing region, announced the shut-down of coal mines with an annual capacity of less than 600,000 tons, by the end of the year.
Coal production	All	In October 2021, China's National Development and Reform Commission ordered coal mines to produce as much as possible in advance of winter.

Source: "2 new environmental laws to go into effect in 2018," China.org.cn, January 1, 2018, http://www.china.org.cn/china/2018-01/01/content_50176729.htm, retrieved August 7, 2023; "China Releases Four VOC Standards Relating to the Electrical and Electronics Industry," SafeGuardS. June 9, 2020, https://www.sgs.com/en-us/news/2020/06/safeguards-08620-china-releases-four-voc-standards-relating-to-the-electrical-and-electronics, retrieved August 7, 2023; China's coal mining hub Shanxi to shut small mines by end-2020, Reuters, June 9, 2020, https://www.reuters.com/article/us-china-coal-shanxi-idUSKBN23G1EJ, retrieved August 7, 2023; Wang, Philip, "China tells mines to produce 'as much coal as possible'," CNN Business, October 20, 2021, https://www.cnn.com/2021/10/20/business/china-coal-production-intl-hnk/index.html, retrieved August 7, 2023.

Exports

Table I-9 presents export data for HS 3802.10, a category that includes certain activated carbon and may include out-of-scope products, from China (by export destination in descending order of quantity for 2022).

Table I-9
Activated carbon: Quantity of exports from China, by destination and period

Quantity in 1,000 pounds

Destination market	2018	2019	2020	2021	2022
Japan	117,003	97,987	96,363	108,452	104,131
South Korea	78,865	79,909	83,122	105,960	84,637
Belgium	55,677	46,422	40,479	48,415	57,061
Italy	34,748	33,045	36,565	40,996	34,763
Germany	28,192	28,700	29,341	37,989	32,256
Netherlands	34,283	33,043	28,876	30,897	30,080
India	21,076	24,962	21,015	24,138	26,192
Russia	10,411	7,506	5,470	13,261	22,720
Taiwan	19,437	20,785	26,093	26,030	21,239
United Kingdom	16,436	16,970	14,229	18,040	21,215
All other markets	212,368	193,917	188,534	201,038	211,155
All markets	628,496	583,247	570,087	655,216	645,449

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

Source: Global Trade Information Services, Inc., Global Trade Atlas, HS subheading 3802.10, accessed August 7, 2023. These data may be overstated as HS subheading 3802.10 may contain products outside the scope of this review.

Third-country trade actions

Based on available information, certain activated carbon from China is not currently subject to other antidumping or countervailing duty investigations outside the United States. The European Union ("EU") previously imposed antidumping duties on powdered activated carbon from China.[59] The EU repealed the antidumping duties on powdered activated carbon with Commission Implementing Regulation (EU) No 898/2014 of August 18, 2014.

[59] See European Commission ("EC") Regulations No 1006/96 of June 3, 1996; No 1011/2002 of June 10, 2002; and No 649/2008 of July 8, 2008. The European antidumping duty was only on powdered activated carbon; there were no European antidumping duties on other types of certain activated carbon.

The global market[60]

Table I-10 presents global export data for HS 3802.10, a category that includes certain activated carbon and may include out-of-scope products, (by source in descending order of quantity for 2022).

Table I-10
Activated carbon: Quantity of global exports by country and period

Quantity in 1,000 pounds

Exporting country	2018	2019	2020	2021	2022
China	628,496	583,247	570,087	655,216	645,449
India	211,252	224,750	239,735	289,506	340,446
Philippines	169,738	174,697	169,754	160,769	175,791
Belgium	163,292	149,577	166,187	170,210	174,787
United States	164,163	155,885	152,070	155,345	148,248
Germany	125,030	111,039	109,729	122,583	130,359
Sri Lanka	91,106	98,497	102,997	119,042	123,046
Netherlands	91,054	95,921	111,994	75,756	91,094
Indonesia	61,052	63,290	60,878	52,496	56,951
Malaysia	34,817	44,874	30,678	37,528	43,634
All other exporters	320,875	422,987	236,391	275,409	220,009
All exporters	2,060,873	2,124,765	1,950,501	2,113,860	2,149,814

Source: Global Trade Information Services, Inc., Global Trade Atlas, HS subheading 3802.10, accessed August 7, 2023. These data may be overstated as HS subheading 3802.10 may contain products outside the scope of this review.

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

[60] Unless otherwise noted, this information is based on Second review publication, pp. I-28—I-31.

APPENDIX A

FEDERAL REGISTER NOTICES

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

Citation	Title	Link
88 FR 35926 June 1, 2023	*Certain Activated Carbon From China; Institution of a Five-Year Review*	https://www.govinfo.gov/content/pkg/FR-2023-06-01/pdf/2023-11464.pdf
88 FR 35832 June 1, 2023	*Initiation of Five-Year (Sunset) Reviews*	https://www.govinfo.gov/content/pkg/FR-2023-06-01/pdf/2023-11680.pdf

APPENDIX B

COMPANY-SPECIFIC DATA

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APPENDIX C

SUMMARY DATA COMPILED IN PRIOR PROCEEDINGS

Table C-1
CAC: Summary data concerning the U.S. market, 2003-06

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Table C-1
Certain activated carbon: Summary data concerning the U.S. market, 2007-11, January-June 2011, and January-June 2012

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

	Reported data							Period changes					
						January-June							Jan.-June
Item	2007	2008	2009	2010	2011	2011	2012	2007-11	2007-08	2008-09	2009-10	2010-11	2011-12
U.S. consumption quantity:													
Amount	***	***	***	***	***	***	***	***	***	***	***	***	***
Producers' share (1)	***	***	***	***	***	***	***	***	***	***	***	***	***
Importers' share (1):													
China	***	***	***	***	***	***	***	***	***	***	***	***	***
All other sources	***	***	***	***	***	***	***	***	***	***	***	***	***
Total imports	***	***	***	***	***	***	***	***	***	***	***	***	***
U.S. consumption value:													
Amount	***	***	***	***	***	***	***	***	***	***	***	***	***
Producers' share (1)	***	***	***	***	***	***	***	***	***	***	***	***	***
Importers' share (1):													
China	***	***	***	***	***	***	***	***	***	***	***	***	***
All other sources	***	***	***	***	***	***	***	***	***	***	***	***	***
Total imports	***	***	***	***	***	***	***	***	***	***	***	***	***
U.S. shipments of imports from:													
China:													
Quantity	37,446	35,249	32,736	27,914	34,252	15,806	16,905	-8.5	-5.9	-7.1	-14.7	22.7	7.0
Value	31,576	41,023	44,657	34,750	42,099	18,749	20,225	33.3	29.9	8.9	-22.2	21.2	7.9
Unit value	$0.84	$1.16	$1.36	$1.24	$1.23	$1.19	$1.20	45.8	38.0	17.2	-8.7	-1.3	0.9
Ending inventory quantity	12,661	15,337	7,836	7,801	10,414	9,525	9,634	-17.7	21.1	-48.9	-0.4	33.5	1.1
All other sources:													
Quantity	60,151	78,619	83,868	105,304	110,734	54,779	56,844	84.1	30.7	6.7	25.6	5.2	3.8
Value	60,984	86,224	93,808	115,200	133,240	62,692	78,618	118.5	41.4	8.8	22.8	15.7	25.4
Unit value	$1.01	$1.10	$1.12	$1.09	$1.20	$1.14	$1.38	18.7	8.2	2.0	-2.2	10.0	20.8
Ending inventory quantity	18,300	22,020	35,512	34,689	38,136	38,819	41,924	108.4	20.3	61.3	-2.3	9.9	8.0
All sources:													
Quantity	97,597	113,868	116,604	133,217	144,985	70,586	73,749	48.6	16.7	2.4	14.2	8.8	4.5
Value	92,560	127,247	138,465	149,950	175,340	81,442	98,843	89.4	37.5	8.8	8.3	16.9	21.4
Unit value	$0.95	$1.12	$1.19	$1.13	$1.21	$1.15	$1.34	27.5	17.8	6.3	-5.2	7.4	16.2
Ending inventory quantity	30,961	37,357	43,348	42,490	48,550	48,344	51,558	56.8	20.7	16.0	-2.0	14.3	6.6
U.S. producers':													
Average capacity quantity	***	***	***	***	***	***	***	***	***	***	***	***	***
Production quantity	***	***	***	***	***	***	***	***	***	***	***	***	***
Capacity utilization (1)	***	***	***	***	***	***	***	***	***	***	***	***	***
U.S. shipments:	***	***	***	***	***	***	***	***	***	***	***	***	***
Quantity	***	***	***	***	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***	***	***	***	***
Export shipments:	***	***	***	***	***	***	***	***	***	***	***	***	***
Quantity	***	***	***	***	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***	***	***	***	***
Inventories/total shipments (1)	***	***	***	***	***	***	***	***	***	***	***	***	***
Production workers	***	***	***	***	***	***	***	***	***	***	***	***	***
Hours worked (1,000s)	***	***	***	***	***	***	***	***	***	***	***	***	***
Wages paid ($1,000)	***	***	***	***	***	***	***	***	***	***	***	***	***
Hourly wages	***	***	***	***	***	***	***	***	***	***	***	***	***
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)	***	***	***	***	***	***	***	***	***	***	***	***	***
Capital expenditures	***	***	***	***	***	***	***	***	***	***	***	***	***
Unit COGS	***	***	***	***	***	***	***	***	***	***	***	***	***
Unit SG&A expenses	***	***	***	***	***	***	***	***	***	***	***	***	***
Unit operating income or (loss)	***	***	***	***	***	***	***	***	***	***	***	***	***
COGS/sales (1)	***	***	***	***	***	***	***	***	***	***	***	***	***
Operating income or (loss)/ sales (1)	***	***	***	***	***	***	***	***	***	***	***	***	***

(1) "Reported data" are in percent and "period changes" are in percentage points.

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

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