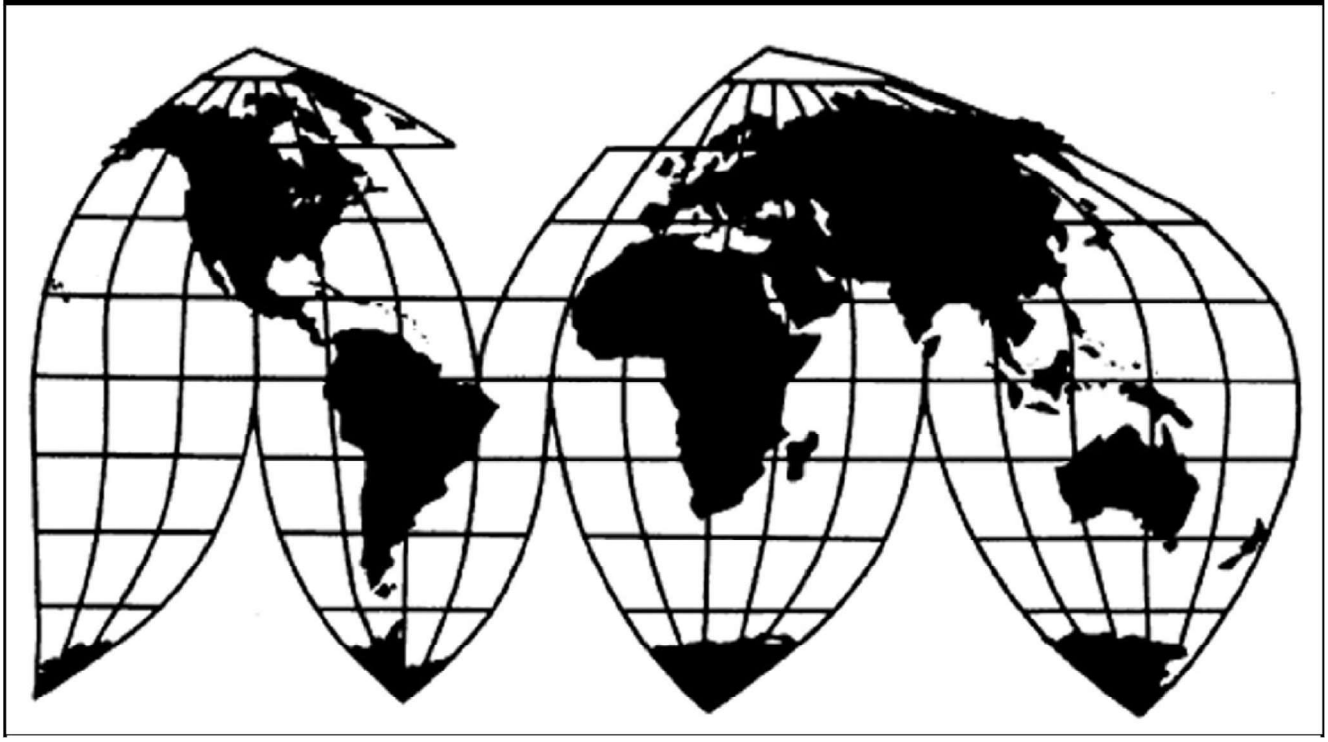
Certain Pea Protein from China

Investigation Nos. 701-TA-692 and 731-TA-1628 (Final)

Publication 5529 **August 2024**

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

COMMISSIONERS

Amy A. Karpel, Chair
David S. Johanson
Rhonda K. Schmidtlein
Jason E. Kearns

Catherine DeFilippo

Director of Operations

Staff assigned

Lawrence Jones, Investigator
Renee Berry, Industry Analyst
James Horne, Economist
Joanna Lo, Accountant
Onslow Hall, Statistician
Spencer Toubia, Attorney
Elizabeth Haines, Supervisory Investigator

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

U.S. International Trade Commission

Washington, DC 20436
www.usitc.gov

Certain Pea Protein from China

Investigation Nos. 701-TA-692 and 731-TA-1628 (Final)

Publication 5529

August 2024

CONTENTS

Page

CONTENTS

Page

CONTENTS

Page

CONTENTS

Page

Note.—Information that would reveal confidential operations of individual concerns may not be published.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

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation Nos. 701-TA-692 and 731-TA-1628 (Final)

Certain Pea Protein from China

DETERMINATIONS

On the basis of the record[1] developed in the subject investigations, the United States International Trade Commission ("Commission") determines, pursuant to the Tariff Act of 1930 ("the Act"), that an industry in the United States is materially injured by reason of imports of certain pea protein from China, provided for in subheadings 2106.10.00, 3504.00.10, 3504.00.50, and 2308.00.98 of the Harmonized Tariff Schedule of the United States, that have been found by the U.S. Department of Commerce ("Commerce") to be sold in the United States at less than fair value ("LTFV"), and imports of the subject merchandise from China that have been found to be subsidized by the government of China.[2] [3] [4]

BACKGROUND

The Commission instituted these investigations effective July 12, 2023, following receipt of petitions filed with the Commission and Commerce by Puris Proteins, LLC, Minneapolis, Minnesota. The final phase of the investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of certain pea protein

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

[2] 89 FR 55557 and 55559 (July 5, 2024).

[3] Commissioner David S. Johanson determined that a U.S. industry is threatened with material injury by reason of subject imports from China.

[4] The Commission also finds that imports subject to Commerce's affirmative critical circumstances determination are likely to undermine seriously the remedial effect of the countervailing and antidumping duty orders on certain pea from China. Commissioner Rhonda K. Schmidtlein makes negative critical circumstances determinations in the antidumping and countervailing duty investigations. Commissioner Johanson did not assess critical circumstances because he finds that the domestic industry is threatened with material injury and does not determine that the industry in the U.S. is materially injured.

from China were subsidized within the meaning of section 703(b) of the Act (19 U.S.C. 1671b(b)) and sold at LTFV within the meaning of 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* on March 5, 2024 (89 FR 15895). The Commission conducted its hearing on June 25, 2024. All persons who requested the opportunity were permitted to participate.

Views of the Commission

Based on the record in the final phase of these investigations, we determine that an industry in the United States is materially injured by reason of imports of certain high protein content pea protein ("HPC pea protein") found by the U.S. Department of Commerce ("Commerce") to be sold in the United States at less than fair value and subsidized by the government of China.[1] We also find that critical circumstances exist with respect to imports of HPC pea protein from China that are subject to Commerce's final affirmative critical circumstances determinations.[2] [3]

I. Background

PURIS Proteins LLC, d/b/a PURIS ("PURIS" or "Petitioner"), a domestic producer of certain high protein content pea protein ("HPC pea protein"), filed the petitions in these investigations on July 12, 2023.[4] PURIS submitted prehearing and posthearing briefs, and final comments, and representatives of PURIS appeared at the hearing accompanied by counsel.[5]

Several respondent entities participated in the final phase of these investigations. The China Chamber of Commerce of I/E of Foodstuffs, Native Produce and Animal By-products, Pea Protein Sub-Chamber, an association of Chinese producers/exporters of subject merchandise, as well as seven Chinese producers/exporters of subject merchandise, (collectively, "Chinese Respondents"), submitted prehearing and posthearing briefs, and final comments, and representatives of Chinese Respondents appeared at the hearing accompanied by counsel.[6]

---

[1] Commissioner David S. Johanson determines that an industry in the United States is threatened with material injury by reason of subject imports. *See* Concurring Views of David S. Johanson. Except as noted, he joins in sections I-V.3 of these views.

[2] Commissioner Rhonda K. Schmidtlein makes a negative determination with respect to critical circumstances. *See* Dissenting Views of Commissioner Rhonda K. Schmidtlein Regarding Critical Circumstances.

[3] Because Commissioner Johanson finds that the domestic industry is threatened with material injury by reason of subject imports from China, he does not reach the issue of critical circumstances. *See* Concurring Views of David S. Johanson.

[4] ***. Petition Volume I Supplemental at I-8.

[5] PURIS Prehearing Brief, EDIS Doc. 823943, and Bracketing Corrections, EDIS Doc. 824062 (June 20, 2024) (together, "PURIS Prehearing Br."); PURIS Posthearing Brief, EDIS Doc 824948 and Bracketing Corrections, EDIS Doc. 825094 (July 3, 2024) (together, "PURIS Posthearing Br."); PURIS Final Comments, EDIS Doc. 826765 and Bracketing Corrections, EDIS Doc. 826935 (July 23, 2024) (together, "PURIS Final Comments").

[6] The eight producers/exporters are Jianyuan International Co., Ltd.; Shandong Yuwang Ecological Food Industry Co., Ltd; Linyi Yuwang Vegetable Protein Co., Ltd.; Yantai T.Full Biotech Co., Ltd.; Yantai Oriental Protein Tech Co., Ltd. ("Yantai Oriental"); Yantai Shuangta Food Co., Ltd.; and Yosin Biotechnology (Yantai) Co., Ltd. Chinese Respondents Prehearing Brief, EDIS Doc. 823966 and (Continued...)

Additionally, NURA USA, LLC ("NURA"), an importer of subject merchandise, submitted prehearing and posthearing briefs and final comments.[7]

U.S. industry data are based on the questionnaire responses of three firms: PURIS, Archer Daniels Midland Company ("ADM"), and Ingredion Incorporated ("Ingredion") (collectively, "domestic producers") that accounted for all U.S. production of HPC pea protein during 2023.[8] U.S. import data are based on the questionnaire responses of 26 U.S. importers of HPC pea protein that accounted for an estimated *** percent of U.S. imports of subject merchandise from China, and approximately *** percent of nonsubject imports in 2023 based on Commerce import statistics under Harmonized Tariff Schedule of the United States ("HTSUS") statistical reporting numbers 3504.00.1000, 3504.00.5000, and 2106.10.0000.[9] Import data for nonresponding importers has been supplemented with annual, importer-specific export data reported by foreign producers of subject merchandise in their questionnaire responses.[10] Foreign industry data and related information are based on the

---

(…Continued)
Bracketing Corrections, EDIS Doc. 824073 (June 20, 2024) (together, "Chinese Respondents Prehearing Br."); Chinese Respondents Posthearing Brief, EDIS Doc 824993 and Bracketing Corrections, EDIS Doc. 825112 (July 2, 2024) (together, "Chinese Respondents Posthearing Br."); Chinese Respondents Final Comments, EDITS Doc. 826831 (July 23, 2024) ("Chinese Respondents Final Comments").

[7] NURA Prehearing Brief, EDIS Doc. 823954, and Bracketing Corrections, EDIS Doc. 824057(June 20, 2024) ("NURA Prehearing Br."); Nura Posthearing Brief, EDIS Doc 824958 (July 2, 2024) ("NURA Posthearing Br."); NURA Final Comments, EDITS Doc. 826875 and Bracketing Corrections, EDIS Doc. 827006 (July 23, 2024) (together, "NURA Final Comments").

[8] Confidential Staff Report, INV-WW-079 (July 16, 2024) as revised by INV-WW-082 (July 18, 2024) ("CR") at III-1; *Certain Pea Protein from China*, Inv. Nos. 701-TA-692 and 731-TA-1628 (Final), USITC Pub. 5529 (Aug. 2024) ("PR") at III-1.

[9] CR/PR at I-5, IV-1. HTSUS statistical reporting numbers 3504.00.1000, 3504.00.5000, and 2106.10.0000 are "basket categories," which include out-of-scope merchandise. The official import statistics have been adjusted to remove some out-of-scope imports; however, these coverage estimates may be understated given that these HTSUS statistical reporting numbers may still contain significant quantities of out-of-scope merchandise. CR/PR at IV-1 nn.2, 5. Furthermore, the coverage figure for nonsubject imports is likely significantly understated given that the vast majority of imports under the aforementioned HTSUS numbers for HPC pea protein from nonsubject sources likely consists of out-of-scope pea protein products. CR/PR at IV-1 n. 5. Petitioner contends that while U.S. importer questionnaires *** subject imports, official import statistics overstate imports since they are based on "basket category" HTSUS statistical reporting numbers. PURIS Posthearing Br. at Exhibit 1 pg. 37.

[10] CR/PR at IV-1 n.4. These supplemented data accounted for an estimated *** percent of U.S. imports of subject merchandise from China based on Commerce import statistics under the abovementioned HTSUS statistical reporting numbers in 2023. CR/PR at IV-1.

Data for certain missing importers that accounted for a small minority of imports were supplemented with annual, importer-specific export data reported by foreign producers of subject merchandise in their questionnaire responses. We acknowledge that export data reported by foreign producers may differ with import and U.S. shipment data in certain respects, including the timing and (Continued...)

questionnaire responses of seven producer/exporters in China, accounting for *** of HPC pea protein production in China and *** of U.S. imports of HPC pea protein from China in 2023.[11]

II. Domestic Like Product

A. In General

In determining whether an industry in the United States is materially injured or threatened with material injury by reason of imports of subject merchandise, the Commission first defines the "domestic like product" and the "industry."[12] Section 771(4)(A) of the Tariff Act of 1930, as amended ("the Tariff Act"), defines the relevant domestic industry as the "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."[13] In turn, 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."[14]

By statute, the Commission's "domestic like product" analysis begins with the "article subject to an investigation," *i.e.*, the subject merchandise as determined by Commerce.[15]

(…Continued)
value of shipments as well as the accounting of inventory held by U.S. importers. These possible differences were noted by the Commission in *Thermal Paper from Germany, Japan, Korea, and Spain*, Inv. Nos. 731-TA-1546-1549 (Final) (USITC Pub. 5237) (Nov. 2021) ("*Thermal Paper*") at 35 n.171, 50 n.262. While recognizing the *sui generis* nature of Commission determinations, we note that in *Thermal Paper*, the Commission declined to calculate apparent U.S. consumption by using export volumes reported by a foreign producer as a "proxy" for U.S. imports. *Thermal Paper*, USITC Pub. 5237 at 35 n.171. Here, rather than relying on an exporter's total exports as a proxy for U.S. imports as contemplated in *Thermal Paper*, we use importer-specific annual export data reported by subject producers to supplement the import data reported by responding importers and fill gaps for non-responding importers; such supplemental data are equivalent to approximately *** percent of U.S. imports of HPC pea protein from China under the relevant HTSUS statistical reporting numbers. CR/PR at I-5 & n.6; Foreign Producer Questionnaire at II-11. The use of these supplemental data provides a more complete picture of subject import volume and market share based on the best information reasonably available to the Commission, in the absence of more complete coverage by the importer questionnaire responses. Moreover, this importer-specific export data is consistent with other data on the record, specifically the purchases from non-responding importers *** reported by responding purchasers ***. *See* *** Purchaser QRs at II-6.

[11] CR/PR at VII-3.

[12] 19 U.S.C. § 1677(4)(A).

[13] 19 U.S.C. § 1677(4)(A).

[14] 19 U.S.C. § 1677(10).

[15] 19 U.S.C. § 1677(10). The Commission must accept Commerce's determination as to the scope of the imported merchandise that is subsidized and/or sold at less than fair value. *See*, *e.g.*, *USEC,* (Continued...)

Therefore, Commerce's determination as to the scope of the imported merchandise that is subsidized and/or sold at less than fair value is "necessarily the starting point of the Commission's like product analysis."[16] The Commission then defines the domestic like product in light of the imported articles Commerce has identified.[17] The decision regarding the appropriate domestic like product(s) in an investigation is a factual determination, and the Commission has applied the statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis.[18] No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.[19] The Commission looks for clear dividing lines among possible like products and disregards minor variations.[20]

(…Continued)
Inc. v. United States, 34 Fed. App'x 725, 730 (Fed. Cir. 2002) ("The ITC may not modify the class or kind of imported merchandise examined by Commerce."); *Algoma Steel Corp. v. United States,* 688 F. Supp. 639, 644 (Ct. Int'l Trade 1988), *aff'd*, 865 F.3d 240 (Fed. Cir.), *cert. denied*, 492 U.S. 919 (1989).

[16] *Cleo Inc. v. United States*, 501 F.3d 1291, 1298 (Fed. Cir. 2007); see also *Hitachi Metals, Ltd. v. United States*, Case No. 19-1289, slip op. at 8-9 (Fed. Circ. Feb. 7, 2020) (the statute requires the Commission to start with Commerce's subject merchandise in reaching its own like product determination).

[17] *Cleo*, 501 F.3d at 1298 n.1 ("Commerce's {scope} finding does not control the Commission's {like product} determination."); *Hosiden Corp. v. Advanced Display Mfrs*., 85 F.3d 1561, 1568 (Fed. Cir. 1996) (the Commission may find a single like product corresponding to several different classes or kinds defined by Commerce); *Torrington Co. v. United States*, 747 F. Supp. 744, 748–52 (Ct. Int'l Trade 1990), *aff'd*, 938 F.2d 1278 (Fed. Cir. 1991) (affirming the Commission's determination defining six like products in investigations where Commerce found five classes or kinds).

[18] *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); *Torrington Co. v. United States*, 747 F. Supp. 744, 749 n.3 (Ct. Int'l Trade 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991) ("every like product determination 'must be made on the particular record at issue' and the 'unique facts of each case'"). The Commission generally considers a number of factors, including the following: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) common manufacturing facilities, production processes, and production employees; and, where appropriate, (6) price. *See Nippon,* 19 CIT at 455 n.4; *Timken Co. v. United States*, 913 F. Supp. 580, 584 (Ct. Int'l Trade 1996).

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

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

B. Product Description

Commerce has defined the imported merchandise within the scope of these investigations as follows:

> . . .{H}igh protein content (HPC) pea protein which is a protein derived from peas (including, but not limited to, yellow field peas and green field peas) and which contains at least 65 percent protein on a dry weight basis. HPC pea protein may also be identified as, for example, pea protein concentrate, pea protein isolate, hydrolyzed pea protein, pea peptides, and fermented pea protein. Pea protein, including HPC pea protein, has the Chemical Abstracts Service (CAS) registry number 222400–29–5.
>
> The scope covers HPC pea protein in all physical forms, including all liquid (*e.g.*, solution) and solid (*e.g.*, powder) forms, regardless of packaging or the inclusion of additives (*e.g.*, flavoring, suspension agents, preservatives).
>
> The scope also includes HPC pea protein described above that is blended, combined, or mixed with non-subject pea protein or with other ingredients (*e.g.*, proteins derived from other sources, fibers, carbohydrates, sweeteners, and fats) to make products such as protein powders, dry beverage blends, and protein fortified beverages. For any such blended, combined, or mixed products, only the HPC pea protein component is covered by the scope of this investigation. HPC pea protein that has been blended, combined, or mixed with other products is included within the scope, regardless of whether the blending, combining, or mixing occurs in third countries.
>
> HPC pea protein that is otherwise within the scope is covered when commingled (*i.e.*, blended, combined, or mixed) with HPC pea protein from sources not subject to this investigation. Only the subject component of the commingled product is covered by the scope.
>
> A blend, combination, or mixture is excluded from the scope if the total HPC pea protein content of the blend, combination, or mixture (regardless of the source or sources) comprises less than five percent of the blend, combination, or mixture on a dry weight basis.
>
> All products that meet the written physical description are within the scope of the investigation unless specifically excluded. The following products, by way of example, are outside and/or specifically excluded from the scope of the investigation:
>
> - burgers, snack bars, bakery products, sugar and gum confectionary products, milk, cheese, baby food, sauces and

seasonings, and pet food, even when such products are made with HPC pea protein;

- HPC pea protein that has gone through an extrusion process to alter the HPC pea protein at the structural and functional level, resulting in a product with a fibrous structure which resembles muscle meat upon hydration. These products are commonly described as textured pea protein or texturized pea protein;
- HPC pea protein that has been further processed to create a small crunchy nugget commonly described as a pea protein crisp;
- protein derived from chickpeas.[21]

The scope is substantively unchanged from the preliminary phase of these investigations.[22]

HPC pea protein is a substance made from yellow or green field peas (together, "field peas" or "dry peas") containing at least 65 percent protein by weight, but typically containing 80 to 85 percent protein by weight.[23] It is commonly produced as a dry powder, with a neutral flavor, and is generally pasteurized, meaning that it is generally safe for direct human consumption without having to undergo additional processing. These characteristics make HPC pea protein suitable for use in adding protein content to a wide range of human food products. Leading categories of foods that incorporate HPC pea protein include sports nutrition products (*e.g.*, high-protein powders, shakes, and bars), dairy alternatives, and plant-based meat substitutes. HPC pea protein is also used in bakery, confectionary, and baby food products.[24]

HPC pea protein is produced using a "wet milling" process that involves grinding and milling field peas into pea flour, and then separating the starch and fiber from the flour using water and isoelectric precipitation.[25] The protein is then removed from the water through further chemical reactions, spraying, and evaporation, resulting in a finished dry power.[26]

---

[21] CR/PR at I-8-9; *Certain Pea Protein From the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Final Affirmative Critical Circumstances Determination,* 89 Fed. Reg. 55,559 (July 5, 2024) ("*Final AD Determination*") at Appendix I; *Certain Pea Protein from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination*, 89 Fed. Reg. 55,557 (Jul. 5, 2024) ("*Final CVD Determination"*) at Appendix I.

[22] *Certain Pea Protein from China*, Inv. Nos. 701-TA-692 and 731-TA-1628 (Preliminary) (Preliminary), USITC Pub. 5457 (Sep. 2023) ("*Preliminary Determinations*") at 6-8.

[23] CR/PR at I-10, II-1, V-1 & n.1.

[24] CR/PR at I-11.

[25] CR/PR at I-11-13.

[26] CR/PR at I-11-13.

C. Arguments

PURIS argues that the Commission should define a single domestic like product coextensive with the scope of these investigations, as it did in its preliminary determinations.[27] Respondents raised no arguments regarding the definition of the domestic like product in their briefs.[28]

D. Analysis

In its preliminary determinations, the Commission defined a single domestic like product consisting of all HPC pea protein, coextensive with Commerce's scope.[29] The Commission found that all in-scope HPC pea protein shared the same physical characteristics, end uses, and manufacturing facilities, processes, and employees, and were sold predominantly within the same channels of distribution. Additionally, the Commission found that all HPC pea protein is sold within a reasonably narrow range of prices, largely dependent on protein content. Further, the Commission found that despite some overlap in terms of channels of distribution and end-uses, HPC pea protein generally differs from out-of-scope low protein content ("LPC") pea protein in terms of physical characteristics; manufacturing facilities, production processes, and production employees; customer and producer perceptions; interchangeability; and price. The Commission concluded that the distinct physical characteristics of LPC pea protein as compared to HPC pea protein indicated that there are clear dividing lines between HPC pea protein and LPC pea protein.[30]

The record of the final phase of these investigations does not contain any new information or argument concerning the characteristics and uses of HPC pea protein suggesting that the Commission should revisit its definition of the domestic like product from the preliminary determinations.[31] In their briefs, no party contests PURIS's argument that the Commission should adopt the same definition of the domestic like product for purposes of the final determinations. Accordingly, we again define a single domestic like product consisting of HPC pea protein, coextensive with the scope.

---

[27] PURIS Prehearing Br. at 6-10.

[28] *See generally* Chinese Respondents Prehearing Br.; Nura Prehearing Br.; Chinese Respondents Posthearing Br.; Nura Posthearing Br.; Chinese Respondents Final Comments; Nura Final Comments.

[29] *Preliminary Determinations,* USITC Pub. 5457 at 14.

[30] *Preliminary Determinations*, USITC Pub. 5457 at 14.

[31] *See generally* CR/PR at I-10-13.

III. Domestic Industry

The domestic industry is defined 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.

These investigations raise two issues with respect to the domestic industry definition.[33] The first issue is whether the domestic industry includes growers of field peas in addition to manufacturers of HPC pea protein. The second issue concerns whether appropriate circumstances exist to exclude *** from the definition of the domestic industry pursuant to the related party provision since it imported subject imports during the January 2021 to December 2023 period of investigation ("POI").

A. Whether the Domestic Industry Includes Field Pea Growers

In cases involving processed agricultural products, section 771(4)(E) of the Tariff Act authorizes the Commission to include growers of a raw agricultural input within the domestic industry producing the processed agricultural product if:

(a) the processed agricultural product is produced from the raw product through a single continuous line of production,[34] and

---

[32] 19 U.S.C. § 1677(4)(A).

[33] We note that the scope of these investigations includes HPC pea protein "that is blended, combined, or mixed with non-subject pea protein or with other {non-additive} ingredients" to make out-of-scope downstream products and that "for any such blended, combined, or mixed products, only the HPC pea protein component is covered by the scope." CR/PR at I-8-9. The scope also covers "additives" that have been included with HPC pea protein. *Id.* In the preliminary phase of the investigations, the Commission found that because the scope only includes the HPC pea protein content of out-of-scope downstream products into which HPC pea protein has been blended, combined, or mixed, the blending, combining, or mixing of HPC pea protein with other ingredients into such products does not constitute the production of HPC pea protein, as it does not result in the production of a different in-scope product. *Preliminary Determinations*, USITC pub. 5457 at 15 n.64 (citing *Corrosion Inhibitors from China*, Inv. Nos. 701-TA-638, 731-TA-1473 (Final) USITC Pub. 5169 (Mar. 2021) at 12 n.63). In the final phase of the investigations, there is no new information or argument concerning this issue. Accordingly, for the reasons discussed in the preliminary determinations we do not include in the domestic industry firms engaged in blending, mixing, or combining HPC pea protein with other non-additive ingredients to make out-of-scope products.

[34] The statute provides that the processed product shall be considered to be processed from the raw product in a single, continuous line of production if:
(Continued...)

(b) there is a substantial coincidence of economic interest between the growers and producers of the processed product based upon the relevant economic factors.[35]

The Commission found during the preliminary phase of these investigations that the first prong of the grower/processor provision was not satisfied because field peas are not substantially or completely devoted to the production of HPC pea protein.[36]

The record in the final phase of these investigations does not contain any new information concerning the grower/processer provision warranting a different finding. No party has argued for the inclusion of dry pea growers in the domestic industry pursuant to the grower/processor provision. Petitioner, relying upon information published by the U.S. Department of Agriculture ("USDA"), estimates that approximately *** percent of U.S. dry pea production was directed to the production of HPC pea protein.[37] Based on USDA data concerning U.S. dry pea production and the domestic industry's production of HPC pea protein,[38] the record indicates that approximately *** percent of U.S. dry pea production was directed to the production of HPC pea protein in 2023.[39] Because the record indicates that domestically produced field peas are not substantially or completely devoted to the production

---

(…Continued)

(a) the raw agricultural product is substantially or completely devoted to the production of the processed agricultural product; and

(b) the processed agricultural product is produced substantially or completely from the raw product. 19 U.S.C. § 1677(4)(E)(ii).

[35] In addressing coincidence of economic interest under the second prong of the test, the Commission may, in its discretion, consider price, added market value, or other economic interrelationships. Further:

(a) if price is taken into account, the Commission shall consider the degree of correlation between the price of the raw agricultural product and the price of the processed agricultural product; and

(b) if added market value is taken into account, the Commission shall consider whether the value of the raw agricultural product constitutes a significant percentage of the value of the processed agricultural product. 19 U.S.C. § 1677(4)(E)(iii).

[36] *Preliminary Determinations*, USITC Pub. 5457 at 16-17.

[37] Petition at 20 n.51.

[38] "Dry peas" is a category of peas coterminous with "field peas." *See* CR/PR at V-1 n.1.

[39] CR/PR at Tables III-4, III-8; Petition at 20 n.51 (estimate is based on USDA data of field peas, dry edible, indicating that 1.8 billion pounds of dry peas were produced in 2023; the total volume of HPC pea protein production reported by the domestic industry of 25.2 million pounds by dry weight; and Petitioner's estimate that approximately *** pounds of peas are necessary to produce 1 pound of HPC pea protein).

of HPC pea protein, we find that the first prong of the grower/processor provision is unsatisfied and we therefore do not define the domestic industry to include pea growers.[40]

B. Related Parties

In these investigations, we must determine whether any producer of the domestic like product should be excluded from the domestic industry pursuant to section 771(4)(B) of the Tariff Act. 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.[41] Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each investigation.[42]

The record indicates that *** qualifies for possible exclusion from the domestic industry pursuant to the related parties provision because it imported subject merchandise during the POI.[43]

PURIS argues that the record of the final phase of the investigations contains no new information that would warrant excluding *** from the domestic industry and that the Commission should adopt the same definition of the domestic industry from the preliminary

---

[40] CR/PR at Table III-4, III-8. The Commission has previously found that the processing of significantly higher percentages of raw agricultural production did not satisfy the first prong of the grower/processor provision. *See*, *e.g.*, *Dried Tart Cherries from Turkey*, Inv. Nos. 701-TA-622 & 731-TA-1428 (Final), USITC Pub. 5014 (Jan. 2020) at 8-9 (first prong not met where approximately 25 to 35 percent of raw tart cherries were processed into dried tart cherries); *Certain Processed Hazelnuts from Turkey*, Inv. No. 731-TA-1057 (Preliminary), USITC Pub. 3656 (Dec. 2003) at 10 (first prong not met where 35 percent of in-shell hazelnuts were transformed into processed hazelnuts).

[41] *See Torrington Co.*, 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).

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

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

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

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

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

(5) whether the primary interest of the importing producer lies in domestic production or importation. *Changzhou Trina Solar Energy Co. v. USITC*, 100 F. Supp.3d 1314, 1326-31 (Ct. Int'l. Trade 2015), *aff'd,* 879 F.3d 1377 (Fed. Cir. 2018); *see also Torrington Co. v. United States*, 790 F. Supp. at 1168.

[43] CR/PR at III-18.

determinations.[44] Respondents raised no argument regarding the definition of the domestic industry in their briefs.[45] We consider below whether appropriate circumstances exist to exclude *** from the domestic industry.

*** was the *** U.S. producer of HPC pea protein in 2023, accounting for *** percent of domestic production that year, and *** on the petitions.[46] During the POI, its imports of subject merchandise were *** pounds by dry weight (hereinafter, "pounds") in 2021 (equivalent to *** percent of its domestic production), *** pounds in 2022 (equivalent to *** percent of its domestic production), and *** pounds in 2023.[47] *** domestic production increased from *** pounds in 2021 to *** pounds in 2022, before decreasing to *** pounds in 2023.[48] *** asserts that it ***" and in ***."[49] It indicated that it ***.[50] Consistent with this explanation, *** reported making capital expenditures totaling $*** in 2021, $*** in 2022, and $*** in 2023, in part, to ***.[51] *** operating and net income margins were *** than the domestic industry's average margins in 2023.[52]

*** ratio of subject imports to domestic production was *** in 2021, but progressively declined over the POI to *** by 2023, ***. Given this, as well as ***, *** primary interest during the POI appears to have been in domestic production. There is also no evidence that *** domestic production operations benefited from its subject imports to such an extent that its inclusion in the domestic industry would mask any potential injury. For these reasons, and in the absence of any contrary argument, we find that appropriate circumstances do not exist to exclude *** from the domestic industry pursuant to the related parties provision.

Accordingly, based on our definition of the domestic like product, we define the domestic industry to include all domestic producers of HPC pea protein.

---

[44] PURIS Prehearing Br. at 11.

[45] *See generally* Chinese Respondents Prehearing Br.; Nura Prehearing Br.; Chinese Respondents Posthearing Br.; Nura Posthearing Br.; Chinese Respondents Final Comments; Nura Final Comments.

[46] CR/PR at Table III-1.

[47] CR/PR at Table III-17.

[48] CR/PR at Table III-17.

[49] CR/PR at Table III-18.

[50] CR/PR at Table III-18.

[51] CR/PR at VI-1 n.2, Tables III-5, III-18, VI-5, VI-6.

[52] CR/PR at Tables III-1, VI-3. In 2023, *** operating income margin was *** percent, compared to a domestic industry average net income margin of *** percent. CR/PR at Table VI-3. In 2023, *** net income margin was *** percent, compared to a domestic industry average net income margin of *** percent. *Id*.

IV. Negligibility

Pursuant to section 771(24) of the Tariff Act, imports from a subject country of merchandise corresponding to a domestic like product shall be deemed negligible if they account for less than three percent (or four percent in the case of a developing country in a countervailing duty investigation) of all such merchandise imported into the United States during the most recent 12 months for which data are available preceding the filing of the petition.[53]

During the 12-month period preceding the filing of the petitions (July 2022 through June 2023), imports of HPC pea protein from China subject to these antidumping and countervailing duty investigations accounted for *** percent of total imports of HPC pea protein.[54] Because subject imports exceed the three percent negligibility threshold, we find that imports of HPC pea protein from China subject to the antidumping duty and countervailing duty investigations are not negligible.

V. Material Injury by Reason of Subject Imports

Based on the record in the final phase of this investigation, we find that an industry in the United States is materially injured by reason of imports of HPC pea protein from China that Commerce has found to be sold in the United States at less than fair value and subsidized by the government of China.

A. Legal Standards

In the final phase of antidumping and countervailing duty investigations, the Commission determines whether an industry in the United States is materially injured or threatened with material injury by reason of the imports under investigation.[55] In making this determination, the Commission must consider the volume of subject imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.[56] The statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant."[57] In

[53] 19 U.S.C. §§ 1671d(b), 1673d(b), 1677(24)(A)(i), 1677(24)(B); *see also* 15 C.F.R. § 2013.1 (developing countries for purposes of 19 U.S.C. § 1677(36)).

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

[55] 19 U.S.C. §§ 1671d(b), 1673d(b).

[56] 19 U.S.C. § 1677(7)(B). The Commission "may consider such other economic factors as are relevant to the determination" but shall "identify each {such} factor ... and explain in full its relevance to the determination." 19 U.S.C. § 1677(7)(B).

[57] 19 U.S.C. § 1677(7)(A).

assessing whether the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.[58] No single factor is dispositive, and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[59]

Although the statute requires the Commission to determine whether the domestic industry is "materially injured or threatened with material injury by reason of" unfairly traded imports,[60] it does not define the phrase "by reason of," indicating that this aspect of the injury analysis is left to the Commission's reasonable exercise of its discretion.[61] In identifying a causal link, if any, between subject imports and material injury to the domestic industry, the Commission examines the facts of record that relate to the significance of the volume and price effects of the subject imports and any impact of those imports on the condition of the domestic industry. This evaluation under the "by reason of" standard must ensure that subject imports are more than a minimal or tangential cause of injury and that there is a sufficient causal, not merely a temporal, nexus between subject imports and material injury.[62]

In many investigations, there are other economic factors at work, some or all of which may also be having adverse effects on the domestic industry. Such economic factors might include nonsubject imports; changes in technology, demand, or consumer tastes; competition among domestic producers; or management decisions by domestic producers. The legislative history explains that the Commission must examine factors other than subject imports to ensure that it is not attributing injury from other factors to the subject imports, thereby inflating an otherwise tangential cause of injury into one that satisfies the statutory material injury threshold.[63] In performing its examination, however, the Commission need not isolate

---

[58] 19 U.S.C. § 1677(7)(C)(iii).

[59] 19 U.S.C. § 1677(7)(C)(iii).

[60] 19 U.S.C. §§ 1671d(b), 1673d(b).

[61] *Angus Chemical Co. v. United States*, 140 F.3d 1478, 1484-85 (Fed. Cir. 1998) ("{T}he statute does not 'compel the commissioners' to employ {a particular methodology}."), *aff'g,* 944 F. Supp. 943, 951 (Ct. Int'l Trade 1996).

[62] The Federal Circuit, in addressing the causation standard of the statute, observed that "{a}s long as its effects are not merely incidental, tangential, or trivial, the foreign product sold at less than fair value meets the causation requirement." *Nippon Steel Corp. v. USITC*, 345 F.3d 1379, 1384 (Fed. Cir. 2003). This was further ratified in *Mittal Steel Point Lisas Ltd. v. United States*, 542 F.3d 867, 873 (Fed. Cir. 2008), where the Federal Circuit, quoting *Gerald Metals, Inc. v. United States*, 132 F.3d 716, 722 (Fed. Cir. 1997), stated that "this court requires evidence in the record 'to show that the harm occurred "by reason of" the LTFV imports, not by reason of a minimal or tangential contribution to material harm caused by LTFV goods.'" *See also Nippon Steel Corp. v. United States*, 458 F.3d 1345, 1357 (Fed. Cir. 2006); *Taiwan Semiconductor Industry Ass'n v. USITC*, 266 F.3d 1339, 1345 (Fed. Cir. 2001).

[63] SAA at 851-52 ("{T}he Commission must examine other factors to ensure that it is not attributing injury from other sources to the subject imports."); S. Rep. 96-249 at 75 (1979) (the (Continued...)

the injury caused by other factors from injury caused by unfairly traded imports.[64] Nor does the "by reason of" standard require that unfairly traded imports be the "principal" cause of injury or contemplate that injury from unfairly traded imports be weighed against other factors, such as nonsubject imports, which may be contributing to overall injury to an industry.[65] It is clear that the existence of injury caused by other factors does not compel a negative determination.[66]

Assessment of whether material injury to the domestic industry is "by reason of" subject imports "does not require the Commission to address the causation issue in any particular way" as long as "the injury to the domestic industry can reasonably be attributed to the subject imports."[67] The Commission ensures that it has "evidence in the record" to "show that the

---

(…Continued)
Commission "will consider information which indicates that harm is caused by factors other than less-than-fair-value imports."); H.R. Rep. 96-317 at 47 (1979) ("in examining the overall injury being experienced by a domestic industry, the ITC will take into account evidence presented to it which demonstrates that the harm attributed by the petitioner to the subsidized or dumped imports is attributable to such other factors;" those factors include "the volume and prices of nonsubsidized imports or imports sold at fair value, contraction in demand or changes in patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and productivity of the domestic industry"); *accord Mittal Steel*, 542 F.3d at 877.

[64] SAA at 851-52 ("{T}he Commission need not isolate the injury caused by other factors from injury caused by unfair imports."); *Taiwan Semiconductor Industry Ass'n,* 266 F.3d at 1345 ("{T}he Commission need not isolate the injury caused by other factors from injury caused by unfair imports . . . Rather, the Commission must examine other factors to ensure that it is not attributing injury from other sources to the subject imports." (emphasis in original)); *Asociacion de Productores de Salmon y Trucha de Chile AG v. United States*, 180 F. Supp. 2d 1360, 1375 (Ct. Int'l Trade 2002) ("{t}he Commission is not required to isolate the effects of subject imports from other factors contributing to injury" or make "bright-line distinctions" between the effects of subject imports and other causes.); *see also Softwood Lumber from Canada*, Inv. Nos. 701-TA-414 and 731-TA-928 (Remand), USITC Pub. 3658 at 100-01 (Dec. 2003) (Commission recognized that "{i}f an alleged other factor is found not to have or threaten to have injurious effects to the domestic industry, *i.e*., it is not an 'other causal factor,' then there is nothing to further examine regarding attribution to injury"), *citing Gerald Metals,* 132 F.3d at 722 (the statute "does not suggest that an importer of LTFV goods can escape countervailing duties by finding some tangential or minor cause unrelated to the LTFV goods that contributed to the harmful effects on domestic market prices.").

[65] S. Rep. 96-249 at 74-75; H.R. Rep. 96-317 at 47.

[66] *See Nippon Steel Corp*., 345 F.3d at 1381 ("an affirmative material-injury determination under the statute requires no more than a substantial-factor showing. That is, the 'dumping' need not be the sole or principal cause of injury.").

[67] *Mittal Steel*, 542 F.3d at 876, 878; *see also id.* at 873 ("While the Commission may not enter an affirmative determination unless it finds that a domestic industry is materially injured 'by reason of' subject imports, the Commission is not required to follow a single methodology for making that determination ... {and has} broad discretion with respect to its choice of methodology."), *citing United*
(Continued...)

harm occurred 'by reason of' the LTFV imports," and that it is "not attributing injury from other sources to the subject imports." [68] The Federal Circuit has examined and affirmed various Commission methodologies and has disavowed "rigid adherence to a specific formula."[69]

The question of whether the material injury threshold for subject imports is satisfied notwithstanding any injury from other factors is factual, subject to review under the substantial evidence standard.[70] Congress has delegated this factual finding to the Commission because of the agency's institutional expertise in resolving injury issues.[71]

B. Conditions of Competition

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

1. Demand

U.S. demand for HPC pea protein depends on the demand for U.S.-produced downstream products that use HPC pea protein as an ingredient, including plant-based food products, plant-based meat substitutes, sports nutrition products, protein powders, and ready-to-drink products such as nutritional drinks, shakes, and juices.[72] All responding U.S. producers, a majority of purchasers, and half of responding importers reported that demand either increased steadily during the POI or fluctuated upward.[73]

(…Continued)
States Steel Group v. United States, 96 F.3d 1352, 1362 (Fed. Cir. 1996) and S. Rep. 96-249 at 75. In its decision in *Swiff-Train v. United States*, 793 F.3d 1355 (Fed. Cir. 2015), the Federal Circuit affirmed the Commission's causation analysis as comporting with the Court's guidance in *Mittal*.

[68] *Mittal Steel*, 542 F.3d at 873 (quoting from *Gerald Metals*, 132 F.3d at 722), 877-79. We note that one relevant "other factor" may involve the presence of significant volumes of price-competitive nonsubject imports in the U.S. market, particularly when a commodity product is at issue. In appropriate cases, the Commission collects information regarding nonsubject imports and producers in nonsubject countries in order to conduct its analysis.

[69] *Nucor Corp. v. United States*, 414 F.3d 1331, 1336, 1341 (Fed. Cir. 2005); *see also Mittal Steel*, 542 F.3d at 879 ("*Bratsk* did not read into the antidumping statute a Procrustean formula for determining whether a domestic injury was 'by reason' of subject imports.").

[70] We provide in our discussion below a full analysis of other factors alleged to have caused any material injury experienced by the domestic industry.

[71] *Mittal Steel*, 542 F.3d at 873; *Nippon Steel Corp*., 458 F.3d at 1350, *citing U.S. Steel Group*, 96 F.3d at 1357; S. Rep. 96-249 at 75 ("The determination of the ITC with respect to causation is ... complex and difficult, and is a matter for the judgment of the ITC.").

[72] CR/PR at II-1.

[73] CR/PR at Table II-5. One U.S. producer reported that demand steadily increased while the remaining two reported that U.S. demand fluctuated upwards. *Id*. Two purchasers reported that demand steadily increased, two reported that demand fluctuated up, and three purchasers reported that demand fluctuated down. *Id*. Five importers reported that demand steadily increased, eight (Continued...)

All U.S. producers and a majority of purchasers reported that the U.S. HPC pea protein market is subject to business cycles, while the majority of importers reported that it is not subject to business cycles.[74] Of the firms reporting seasonal cycles rather than broad economic trends, responding firms generally reported that contract negotiations occur in the third and fourth quarters of each harvest year, following the fall harvest and during the holidays.[75]

During the POI, apparent U.S. consumption of HPC pea protein decreased by *** percent from 2021 to 2023, decreasing from *** pounds in 2021, to *** pounds in 2022, and *** pounds in 2023.[76]

2. Supply

The domestic industry was the second largest source of supply of HPC pea protein to the U.S. market during the POI. Its share of apparent U.S. consumption fluctuated but increased overall by *** percentage points between 2021 and 2023, increasing from *** percent in 2021 to *** percent in 2022, before decreasing to *** percent in 2023.[77]

Domestic producers reported new production facilities and changes in their production operations during the POI. Specifically, PURIS opened a new plant in Dawson, Minnesota in 2021, and ***.[78] However, PURIS closed and idled certain HPC pea protein-related plants, laying off workers, in November 2022 and May 2023.[79] Reflecting these developments, the domestic industry's practical capacity initially increased from 58.9 million pounds in 2021 to 85.3 million pounds in 2022, before decreasing to 60.3 million pounds, a level 2.4 percent higher than in 2021.[80]

Subject imports were *** the largest source of HPC pea protein in the U.S. market, accounting for more than *** percent of the market throughout the POI.[81] Subject imports as a share of apparent U.S. consumption increased irregularly during the POI, decreasing from *** percent in 2021 to *** percent in 2022, before increasing to *** percent in 2023.[82]

(…Continued)
reported that demand fluctuated up, eight reported that demand fluctuated down, and five reported that demand steadily decreased. *Id.*

[74] CR/PR at II-10.

[75] CR/PR at II-10.

[76] CR/PR at Tables IV-10, C-1.

[77] CR/PR at Tables IV-10, C-1.

[78] CR/PR at III-5, Table III-5. PURIS reported ***, while *** reported ***. CR/PR at Table III-5, VI-1 nn.2-3.

[79] CR/PR at Tables III-3, III-6, C-1.

[80] CR/PR at Tables III-8, C-1.

[81] CR/PR at Tables IV-10, C-1.

[82] CR/PR at Tables IV-10, C-1.

Nonsubject imports were the *** source of HPC pea protein in the U.S. market throughout the POI. Their share of apparent U.S. consumption declined by *** percentage points during the POI, declining from *** percent in 2021, to *** percent in 2022, and *** percent in 2023.[83] The primary source of nonsubject imports in 2023 was ***.[84]

A majority of responding U.S. producers reported certain supply constraints, while a majority of importers and purchasers reported no supply constraints during the POI.[85] For those firms that did report supply constraints, most indicated that constraints were temporary and occurred in 2021 and 2022.[86] *** reported shipping delays in early 2021 as well as ***.[87] *** reported production bottlenecks in 2022 and difficulties meeting shelf-life requirements.[88] Importers *** reported supply chain difficulties in shipping as a result of the COVID-19 pandemic.[89] Purchaser *** reported difficulties in obtaining organic HPC pea protein from U.S. producers.[90]

3. Substitutability and Other Conditions

We find that there is a at least moderate degree of substitutability between the domestic like product and subject imports. Two of three responding U.S. producers reported that subject imports were always or frequently interchangeable with the domestic like product.[91] A majority of U.S. importers and purchasers reported that subject imports were sometimes interchangeable with the domestic like product.[92] In addition, when asked to compare subject imports with the domestic like product regarding 24 purchasing factors, a majority of purchasers reported that the domestic like product was either superior or comparable to subject imports with respect to all factors except availability of non-organic HPC pea protein, price (meaning that subject imports were priced lower than the domestic like product), and supplier capacity.[93] In comparing the domestic like product with subject imports, a majority of domestic producers reported that differences other than price are never significant.[94] Responses from purchasers and importers were more mixed as a majority of

[83] CR/PR at Tables IV-10, C-1.

[84] CR/PR at II-7.

[85] CR/PR at II-7-8.

[86] CR/PR at II-7-8. Importers *** reported that there were supply constraints related to the COVID-19 pandemic. *Id*. at II-7-8.

[87] CR/PR at II-7.

[88] CR/PR at II-7.

[89] CR/PR at II-7-8.

[90] CR/PR at II-8-9.

[91] CR/PR at Table II-12.

[92] CR/PR at Tables II-13-14.

[93] CR/PR at Table II-11.

[94] CR/PR at Table II-15. One U.S. producer reported that there were sometimes differences other than price. *Id*.

responding importers and purchasers indicating that differences other than price were frequently or sometimes significant.[95] Factors that may limit the substitutability of domestically produced HPC pea protein and subject imports include differences in the flavor profile, solubility, binding, and product consistency of the HPC pea protein produced in different facilities.[96]

Although certain purchasers and importers emphasized some of these product differences between HPC pea protein from different sources and asserted there was limited interchangeability, a majority of responding purchasers (six of seven), making up *** of reported purchases, reported that they purchased subject imports instead of domestically produced HPC pea protein during the POI, and four of the six reported doing so because of the lower price of subject imports.[97] The record also indicates that domestically produced HPC pea protein and subject imports were sold in overlapping product-types (organic versus nonorganic) and were customized to the specifications of specific purchasers.[98] In addition, the Commission's pricing data indicate that there were overlapping sales of all pricing products in all quarters throughout the POI.[99]

We also find that price is an important factor in purchasing decisions, along with other factors. Responding purchasers most frequently ranked quality (five firms) followed by price

---

[95] CR/PR at Tables II-16-17. A plurality of importers (eight) reported that there were sometimes differences. *Id*. An equal number of purchasers reported that there were always differences other than price and that there were sometimes differences (two each). *Id*. at 17.

[96] CR/PR at II-13.

[97] CR/PR at II-22-23, Tables V-18-19.

[98] CR/PR at Tables III-13, IV-4. In 2023, *** percent of U.S. shipments of the domestic like product was of organic HPC pea protein while *** percent was of nonorganic. CR/PR at Table III-13. In 2023, *** percent of U.S. shipments of subject imports was of organic HPC pea protein while *** percent was of nonorganic and *** percent was unknown. CR/PR at Table IV-4. As we explain below in section V.E., no U.S. producer reported selling "customized/proprietary" grades, while *** percent of U.S. shipments of subject imports were of customized/proprietary grades. CR/PR at Tables III-15, IV-6. However, PURIS clarified that it regularly works with customers to create unique HPC pea protein products or stock keeping units ("SKUs"), but it reported these sales as "catalog/non-customized sales" because it adds such SKUs to its catalog of HPC pea protein products available to all customers. PURIS Posthearing Br. at 10; Hearing Tr. at 62 (Atchison), 63-64 (Hubert) (testifying that PURIS regularly works with customers to customize products to meet their unique specifications). PURIS estimates that these "customized," unique SKUs formulated for a particular customer accounted for approximately *** to *** percent of its pea protein sales volume during the POI. PURIS Posthearing Br. at Exhibit 2 pg. 15 & Attachment 24. *** domestic producers reported that they ***. CR/PR at II-7 nn.7-9. Although ***, its reported purchases accounted for only *** percent of apparent U.S. consumption during the POI. *Calculated from* CR/PR at Tables IV-10, V-18, C-1. We note that PURIS provided evidence in its posthearing brief ***. PURIS Posthearing Br. at Exhibit 2 & Attachments 2-6; *see also* section V.E., below.

[99] CR/PR at Tables V-4-7, V-16.

and availability (four firms each) in their top three factors in purchasing decisions for HPC pea protein.[100] The majority of purchasers (four of seven) reported that price was a very important purchasing factor, while no purchasers reported that price was not an important purchasing factor.[101] Nevertheless, a majority of responding purchasers reported that they sometimes or never purchase the lowest-priced product.[102] Additionally, although respondents emphasized the importance of non-price factors throughout the proceedings, they also acknowledged that purchasers of HPC pea protein are price sensitive.[103]

While respondents contend that more specialized HPC pea protein products are less sensitive to price, the record indicates that price remains an important factor to purchasers of customized products as well.[104]

Domestic producers reported that *** of their commercial U.S. shipments were sold through annual contracts in 2023 (*** percent), but also reported selling through long-term contracts (*** percent), short-term contracts (*** percent), and spot sales (*** percent).[105] Domestic producers reported that their contracts fix both price and quantity *** to raw materials.[106]

Importers reported that *** percent of their commercial shipments were sold through long-term contracts, *** percent through annual contracts, *** percent though short-term contracts, and *** percent through spot sales in 2023.[107] A majority of importers reported that their contracts fix both price and quantity *** to raw materials.[108]

U.S. producers and importers both sold HPC pea protein on a produced-to-order basis and from inventories, with importers reporting slightly shorter lead times for sales from U.S.

---

[100] CR/PR at Table II-7.

[101] CR/PR at Table II-8.

[102] CR/PR at II-14.

[103] *See* Hearing Tr. at 160, 210 (Dougan); 212 (Zhang) (testifying that price increases of "20 or 30" percent on HPC pea protein would motivate purchasers to reduce purchases); s*ee also* Nura Posthearing Br. at 10 (citing Hearing Tr. at 148 (Dougan), 212-14 (Zhang, YU), Exhibit 5; Chinese Respondents Posthearing Br., Responses to Commissioner Questions at 13 (noting that attempts by Chinese suppliers to raise prices were met with "strong resistance" from U.S. purchasers).

[104] *See* Chinese Respondents Posthearing Br., Responses to Commissioner Questions at 8; PURIS Posthearing Br. at Exhibit 2. Contemporaneous business documents submitted by PURIS indicate that PURIS's negotiations with purchasers seeking customized products revolved around price. *See* sections V.D and V.E, below.

[105] CR/PR at Table V-3.

[106] CR/PR at V-5.

[107] CR/PR at Table V-3.

[108] CR/PR at V-5. A majority of reporting importers reported that they do not renegotiate short-term or annual contracts while half reported that they renegotiate prices in long-term contracts. A majority of importers that they fix price and quantity in their short-term, annual, and long-term contracts. *Id*. Most importers reported not indexing prices to raw materials. *Id*. at 5-6.

inventories, but longer lead times for sales from foreign inventories or produced-to-order. Specifically, U.S. producers reported that the majority (*** percent) of their commercial shipments of were produced-to-order, with lead times averaging *** days.[109] The remaining *** percent of their commercial shipments came from inventories, with lead times averaging *** days.[110] Importers reported that the highest percentage (*** percent) of their commercial shipments of HPC pea protein were from U.S. inventories, with lead times averaging *** days. The remainder of their commercial shipments were from foreign inventories (*** percent), with lead times averaging *** days, or produced-to-order (*** percent), with lead times averaging *** days.[111]

The main raw material input for HPC pea protein is field peas, which made up *** percent of the domestic industry's total raw material costs in 2023.[112] Raw material costs accounted for the largest share of the domestic industry's cost of goods sold ("COGS") in 2021 and 2022; raw material costs as a share of COGS increased from *** percent in 2021 to *** percent in 2023, before decreasing to *** percent in 2023.[113]

Prices for dry peas, as published by the USDA, decreased from 2021 to 2023, from $0.18 per pound in 2021 to $0.15 per pound in 2022 and 2023.[114] However, prices for whole yellow field peas in Montana and North Dakota exhibited different trends, increasing from 2021 to June 2022 before decreasing through the end of 2023, but ending the POI 37.8 percent higher than at the beginning.[115]

The domestic producers produce HPC pea protein using a 24-hour, seven-day a week, continuous production process with minimum stoppages in order to maximize efficiency, which requires that their production facilities operate at a high rate of capacity utilization to be profitable.[116]

Imports of HPC pea protein from China under HTS statistical reporting number 2106.10.00.00 were subject to additional 25 percent *ad valorem* duties under section 301 of the Trade Act of 1974 ("Section 301 tariffs"), throughout the POI.[117] Imports of HPC pea protein from China under HTS statistical reporting numbers 3504.00.10.00 and 3504.00.50.00 were

[109] CR/PR at II-15-16.

[110] CR/PR at II-15-16.

[111] CR/PR at II-15-16.

[112] CR/PR at Table VI-4. Organic peas made up *** percent of raw material costs, while non-organic peas made up *** percent of raw material costs. *Id*. *** domestic producer to produce and sell HPC Pea Protein *** during the POI. CR/PR at VI-12 n.11.

[113] CR/PR at Table VI-1.

[114] CR/PR at Table III-4.

[115] CR/PR at V-1, Table V-1, Figure V-1.

[116] CR/PR at I-13.

[117] CR/PR at I-10.

initially subject to 15 percent *ad valorem* Section 301 tariffs, but these duties were reduced to 7.5 percent effective February 14, 2020.[118]

C. Volume of Subject Imports

Section 771(7)(C)(i) of the Tariff Act provides that the "Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant."[119]

The volume of subject imports declined irregularly during the POI, but remained significant—accounting for more than *** percent of the market throughout the period.[120] Subject imports decreased from 95.8 million pounds in 2021 to 73.1 million pounds in 2022 before increasing to 85.8 million pounds in 2023, a level 10.4 percent lower than in 2021.[121]

Subject imports' share of apparent U.S. consumption increased irregularly during the POI, decreasing from *** percent in 2021 to *** percent in 2021, before increasing to *** percent in 2023, a level *** percentage points higher than in 2021. [122]

Based on the foregoing, we find that the volume of subject imports is significant in both absolute terms and relative to consumption in the United States and that the increase in the volume of subject imports relative to U.S. consumption is significant.

D. Price Effects of the Subject Imports

Section 771(7)(C)(ii) of the Tariff Act provides that, in evaluating the price effects of the subject imports, the Commission shall consider whether

> (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and
> (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.[123]

---

[118] CR/PR at I-10.

[119] 19 U.S.C. § 1677(7)(C)(i).

[120] CR/PR at Tables IV-10, C-1.

[121] CR/PR at Table IV-2.

[122] CR/PR at Tables IV-10, C-1. As subject imports gained *** percentage points of market share from 2022 to 2023, the domestic industry lost *** percentage points of market share. *Id*. As such, a *** of the market share gain by subject imports from 2022 to 2023 was at the expense of the domestic industry.

[123] 19 U.S.C. § 1677(7)(C)(ii).

As previously discussed in section V.B.3, we find that there is at least a moderate degree of substitutability between the domestic like product and subject imports, and that price is an important factor in purchasing decisions for HPC Pea Protein.

We have examined multiple sources of data in our underselling analysis, including pricing data, import purchase cost data, and information concerning lost sales.

The Commission collected quarterly pricing data for the total quantity and f.o.b. value of four products shipped by U.S. producers and importers to unrelated customers from January 2021 through December 2023.[124] Three U.S. producers and 19 importers provided usable pricing data for sales of the requested products, although not all firms reported pricing for all products for all quarters.[125] Pricing data reported by these firms accounted for approximately *** percent of U.S. producers' total commercial U.S. shipments of HPC pea protein and *** percent of commercial U.S. shipments of subject imports China.[126] The pricing data show universal underselling by subject imports. Subject imports undersold the domestic like product in all 48 quarterly comparisons, involving reported subject import sales of *** pounds, at margins ranging from 17.9 to 58.6 percent and averaging 38.6 percent.[127]

The Commission also collected import purchase cost data for the same four pricing products from firms that directly imported these products from China and these data also show that subject import purchase costs were always lower than domestic sales prices. Purchase cost data reported by these nine firms accounted for approximately *** percent of subject imports in 2023.[128] Based on these data, landed duty-paid ("LDP") costs for subject imports were below the sales price for the domestic like product in all 37 quarterly comparisons,

---

[124] The four pricing products were as follows:

Product 1-- Low viscosity (less than 100 centipoise), organic, non-GMO, hydrolyzed pea protein, with a minimum pea protein content of 80 percent, a pH of 5.5 to 8.0, and a moisture content of a maximum of 10 percent;

Product 2-- High solubility (greater than 70 percent), organic, non-GMO, non-hydrolyzed pea protein, with a minimum pea protein content of 80 percent a pH of 5.5 to 8.0, and a moisture content of a maximum of 10 percent;

Product 3-- Low viscosity (less than 100 centipoise), non-organic, non-GMO, hydrolyzed pea protein, with a minimum pea protein content of 80 percent, a pH of 5.5 to 8.0, and a moisture content of a maximum of 10 percent; and

Product 4-- High solubility (greater than 70 percent), non-organic, non-GMO, non-hydrolyzed pea protein, with a minimum pea protein content of 80 percent a pH of 5.5 to 8.0, and a moisture content of a maximum of 10 percent. CR/PR at V-6-7.

[125] CR/PR at V-6.

[126] CR/PR at V-7.

[127] CR/PR at Table V-16. Average underselling margins were at their *** in 2022 (*** percent) and their *** in 2023 (***) percent. Appendix D, Table D-1.

[128] CR/PR at V-15.

involving reported subject import purchases of *** pounds, at price-cost differentials ranging from 24.9 percent to 78.0 percent and averaging 46.7 percent.[129]

We recognize that the import purchase cost data may not reflect the total cost of importing and therefore requested that direct importers provide additional information regarding the costs and benefits of directly importing HPC pea protein. Three of eight responding importers reported incurring additional costs beyond LDP costs by importing HPC pea protein directly instead of purchasing from a U.S. producer or importer.[130] These importers estimated that the additional costs ranged from 10 to 19 percent of the LDP value.[131] Given that subject import purchase costs were on average 46.7 percent below domestic sales prices, as noted above, the inclusion of the additional costs of 10 to 19 percent would still leave subject import purchase costs lower than domestic sales prices. Five responding importers reported that the cost of importing HPC pea protein from China is lower than purchasing from a U.S. producer or importer, whether including or excluding the additional costs associated with importing.[132] Five responding importers estimated that they saved between *** and *** percent of the purchase price by importing HPC pea protein rather than purchasing from a U.S. importer and between *** and *** percent of the purchase price by importing HPC pea protein rather than purchasing from a U.S. producer.[133]

We have also considered lost sales information. Of the seven responding purchasers, six purchasers reported that, since 2021, they had purchased subject merchandise instead of domestically produced HPC pea protein, and all six of these responding purchasers reported that subject import prices were lower than U.S. prices.[134] Four of these six purchasers reported purchasing *** pounds of subject imports instead of domestically produced HPC pea protein primarily because of their lower price,[135] representing *** percent of responding purchasers' total purchases,[136] and *** percent of apparent U.S. consumption over the entire POI.[137]

Based on the at least moderate degree of substitutability between domestically produced HPC pea protein and subject imports, the importance of price in purchasing decisions,

---

[129] CR/PR at Table V-17.

[130] CR/PR at V-15.

[131] CR/PR at V-15.

[132] CR/PR at V-16.

[133] CR/PR at V-16.

[134] CR/PR at Table V-19.

[135] CR/PR at Tables V-18-19.

[136] *Derived from* CR/PR at Tables V-18-19.

[137] CR/PR at Tables IV-10, V-18-19, C-1. Contrary to respondents' assertion, the volumes of lost sales were not ***, either on an absolute basis, or relative to apparent U.S. consumption. Chinese Respondents Prehearing Br. at 40. Indeed, the *** pounds of the domestic industry's lost sales to subject imports because of price was more than the decline in the domestic industry's U.S. shipment volume over the POI. *Compare* CR/PR at Tables V-19-20 with Table IV-10.

the universal subject import underselling, the purchase cost data showing that subject import purchase costs were always lower than domestic sales prices, and the lost sales information, we find that underselling by subject imports was significant.[138]

We have also considered whether subject imports depressed prices or prevented price increases that otherwise would have occurred to a significant degree. To do so we have examined the record evidence concerning price trends and the domestic industry's production costs relative to net sales AUVs, among other evidence indicative of whether U.S. prices would have been higher but for the presence of subject imports.

With respect to price trends during the POI as reflected in the pricing data,[139] the domestic industry's prices declined for ***, accounting for ***, between the first and last quarters of the POI, for overall decreases of *** percent for both products. Over the same period, domestic prices for products 2 and 3 increased by *** percent and *** percent, respectively.[140] Prices for subject imports followed similar trends, declining overall for *** by *** and *** percent, respectively.[141] Subject import prices for *** increased overall by *** and *** percent respectively.[142] [143]

With respect to potential price increases, we observe that the domestic industry's COGS-to-net sales ratio was *** even at the beginning of the POI and increased throughout the POI, from *** percent in 2021 to *** percent in 2022 and *** percent in 2023, a level ***

---

[138] CR/PR at Tables IV-10, C-1. For the reasons discussed below in section IV.E, we are not persuaded by respondents' argument that competition between subject imports and the domestic like product was attenuated such that the pervasive underselling by subject imports could have had no effects on the domestic industry.

[139] Of the five responding purchasers with knowledge, no purchaser reported that U.S. producers had reduced prices in order to compete with lower-priced subject imports. CR/PR at Table V-20.

[140] *See* CR/PR at Table V-12. U.S. producers' prices fluctuated but generally increased through the last quarter of 2022 or first quarter of 2023 and then generally declined in 2023, again with some fluctuation. *See* CR/PR at Tables V-4-7.

[141] *See* CR/PR at Tables V-8-11, V-12, V-13, Fig. V-11. Prices for product 4 fluctuated upward through the first half of 2022, peaking in the first quarter of 2023, and decreasing for the remainder of 2023. CR/PR at Tables V-8-11, V-12, V-13, Fig. V-11. Prices for product 1 fluctuated downward through the third quarter of 2023, before increasing and peaking in the first quarter of 2023 and then declining for the remainder of 2023. *Id*.

[142] CR/PR at Table V-12. Prices for product 2 remained flat throughout the POI, increasing slightly through the fourth quarter of 2022, and fluctuating in 2023. CR/PR at Tables V-8-11, V-12, V-13, Fig. V-11. Prices for product three fluctuated upward through the first half of 2022, peaking in 2022, and fluctuating in 2023. CR/PR at Tables V-8-11, V-12, V-13, Fig. V-11.

[143] Regarding purchase cost trends for products with comparisons available, subject import LDP costs decreased for *** by *** percent while increasing for *** by *** percent over the POI. CR/PR at Table V-12.

percentage points higher than in 2021.[144] The domestic industry's total net sales average unit value ("AUV") increased by $*** per pound (*** percent) from 2021 to 2022, and by $*** per pound (*** percent) from 2022 to 2023, for an overall increase of $*** per pound (*** percent) from 2021 to 2023.[145] The industry's total COGS per unit increased by $*** per pound (*** percent) from 2021 to 2022, and by $*** per pound (*** percent) from 2022 to 2023, for an overall increase of $*** per pound (*** percent) from 2021 to 2023.[146] The industry's raw material costs, which accounted for a majority of total COGS in 2021 and 2022, increased irregularly during the POI. The industry's raw material costs per pound increased by $*** per pound (*** percent) from 2021 to 2022 before decreasing by $*** per pound (*** percent) from 2022 to 2023, for an overall increase of $*** per pound (*** percent) from 2021 to 2023.[147] [148] Accordingly, the domestic industry was unable to increase the AUVs of its net sales

[144] CR/PR at Tables VI-1, VI-3, C-1. Total COGS increased from $*** in 2021 to $*** in 2022 before decreasing to $*** in 2023.

[145] CR/PR at Tables VI-1, VI-2, C-1. The domestic industry's total net sales AUVs increased from $*** in 2021 to $*** in 2022 and $*** in 2023. CR/PR at Tables VI-1, C-1. The domestic industry's U.S. shipment AUVs were affected somewhat by changes in product-mix over the POI as organic shipments, which have a higher price, increased as a share of the domestic industry's total sales. PURIS Posthearing Br. at 25-26 ("PURIS became more reliant on sales of organic and lower-volume SKU's" which are of higher value than inorganic and higher-volume products."); CR/PR at Table III-13. PURIS comprises *** of domestic production such that a shift in its product mix toward higher value products can drive AUV trends for the industry as a whole. CR/PR at Table III-1.

[146] CR/PR at Tables VI-1, VI-2. The domestic industry's total COGS per pound increased from $*** in 2021 to $*** in 2022 and $*** in 2023. CR/PR at Tables VI-3, C-1.

[147] CR/PR at Tables VI-1, VI-2. The domestic industry's raw material costs per pound increased from $*** in 2021 to $*** in 2022 before decreasing to $*** in 2023, a level *** percent higher than in 2021. CR/PR at Tables VI-3, C-1. As discussed above, while USDA published prices for dry edible peas decreased overall from 2021 to 2023, published prices for whole yellow field peas in Montana and North Dakota increased overall, initially increasing from 2021 to June 2022 before decreasing through the end of 2023 and ending the POI 37.8 percent higher than at the beginning. CR/PR at Tables III-4, V-1, Figure V-1.

[148] Contrary to respondents' assertions, the increase in the domestic industry's raw material costs per pound and COGS-to-net-sales ratio did not result from ***. *See* Chinese Respondents Posthearing Br. at 11; NURA Prehearing Br. at 21. The record indicates that PURIS's higher average raw material costs relative to other domestic producers was consistent with its status as the *** HPC pea protein made from organic peas, which accounted for approximately *** percent of its commercial U.S. shipments in 2023 and are made from higher priced raw materials. *** U.S. Producer QR at II-11; CR/PR at VI-13. Also, contrary to Chinese Respondents' assertion, PURIS's allegedly inefficient by-product cost structure compared to that of Chinese producers was not the source of its increasing COGS-to-net-sales ratio. The domestic industry's by-product revenues increased in absolute terms and as a percentage of raw material costs *** even as the industry's COGS to net sales ratio increased. CR/PR at Table VI-1. Furthermore, for the reasons discussed below in section IV.E, "{t}he Commission has generally rejected arguments that it should discount underselling or any adverse impact by subject imports because of the lower cost of manufacturing the subject imports," and that "importers take the domestic industry as (Continued...)

sufficiently to cover the increases in its unit COGS throughout the POI.[149] We recognize that Ingredion's ratio of COGS-to-net sales was ***, reflecting its startup of operations in the first year of the POI (though its ratio decline substantially over the POI).[150] However, other domestic producers' COGS-to-net sales ratios were also high and all above *** percent in 2022 and

---

(…Continued)
they find it." *Certain Preserved Mushrooms from France*, Inv. No. 731-TA-1587 (Final), USITC Pub. 5393 (Jan. 2023) ("*Preserved Mushrooms*") at 36 & n.188 (quoting *Certain Polyester Staple Fiber from China*, Inv. No. 731-TA-1104 (Final), USITC Pub. 3922 (June 2007) at 9, n.119; *Steel Wire Garment Hangers from China*, Inv. No. 731-TA-1123 (Final), USITC Pub. 4034 (Sep. 2008) at 19-20, n.133); *Iwatsu Electric Co. v. United States*, 758 F. Supp. 1506, 1512, 1518 (Ct. Int'l Trade 1991).

We are also unpersuaded by NURA's assertions regarding sales to ***. NURA Final Comments at 2-4. NURA contends that *** and therefore any lost sales to this purchaser and consequent impact on PURIS's operations, including ***, should be disregarded. NURA Final Comments at 2-4. The record shows, however, that PURIS specifically referred to *** as its *** and did *** during the POI. Thus, any shipments that PURIS made to *** during the POI were reported as U.S. shipments. *See* *** U.S. Producer QR at II-8. To the extent that *** as a result of competition from low-priced subject imports impacted PURIS's ***, this remains relevant to the Commission's injury analysis. *See* NURA Final Comments at 3-4; PURIS Posthearing Br., Exhibit 2 at 3-4. Furthermore, NURA's assertion regarding PURIS's *** to produce HPC pea protein for ***, yet there is no evidence to support such a conclusion. *See* NURA Final Comments at 3-4.

[149] CR/PR at Tables VI-1, VI-3. Other factory costs, which accounted for the majority of COGS in 2023, increased throughout the POI, increasing from $*** in 2021 to $*** in 2022, an increase of $*** per pound (*** percent), and increased to $*** in 2023, an increase of $*** per pound (*** per pound (*** percent) from 2021 to 2023. CR/PR at Tables VI-1, VI-3. Contrary to Respondents' assertions, however, the domestic industry's rising COGS-to-net-sales ratio cannot be explained by "elevated" startup costs or "***." Chinese Respondents Prehearing Br. at 53-54; NURA Prehearing Br. at 27; Chinese Respondents Posthearing Br., Responses to Commissioner Questions at 45-47; NURA Posthearing Br. at 11-13. ***, commenced sales of HPC pea protein in 2021, while PURIS opened a new plant in 2021 and *** and would have therefore reported these costs as other factory costs in 2021 and 2022. However, despite this concentration at the beginning of the POI, the domestic industry's other factory costs actually increased throughout the POI. CR/PR at Table VI-3. CR/PR at VI-1 n.2, 14 & nn.19-20, 12, CR/PR at Table III-3. Indeed, PURIS's other factory costs were the ***, long after its new plant came online. CR/PR at Table VI-3. Far from driving the domestic industry's increasing factory costs during the POI, ***. CR/PR at VI-1 n.2, 14, 12, Table VI-3. Moreover, even excluding Ingredion, which accounted for *** of the industry even in 2023, CR/PR at Table III-1, PURIS and ADM's per-unit COGS ***. CR/PR at Table VI-3. As such, startup costs do not explain the domestic industry's increasing other factory costs during the POI, much less the increases to other components of the industry's COGS. Furthermore, the other components of the domestic industry's per-unit COGS, including raw material costs, direct labor, and energy and utilities, increased from 2021 to 2023. CR/PR at Table VI-1, VI-3. Finally, (***) reported *** higher SG&A expenses than the industry average, measured as a share of either the AUVs of U.S. shipments or net sales, as a result of ***. CR/PR at VI-15. However, despite *** per-unit SG&A expenses peaking at a significant level in 2021, the domestic industry's per-unit SG&A expenses still increased over the POI, driven by increases for ***. CR/PR at Table VI-3.

[150] CR/PR at Table VI-3.

2023.[151] Further, from 2021 to 2022, the domestic industry's per-unit raw material costs rose from $*** to $***, an increase of $*** (*** percent).[152] At the same time, its unit net sales AUVs rose from $*** to $***, an increase of only $*** (*** percent).[153] Thus, even setting aside the role of other factory costs, the record evidence shows that the domestic industry was not able—by a significant margin—to pass on its increase in raw material costs in 2022.

We find that universal underselling by subject imports at large margins of underselling—in a market where there is at least a moderate degree of substitutability and price is an important purchasing factor—pervasively impacted domestic industry's ability to compete in the market throughout the POI, placing sustained downward pressure on domestic prices.[154] As reviewed above, the domestic producers' individual COGS-to-net sales ratios each exceeded *** percent in 2022 and 2023, and in 2022 domestic producers were not even able to pass on rising raw material costs much less other cost increases. In 2023, when domestic producers sought to improve their financial performance, they were unable to increase prices despite continued elevated costs,[155] and experienced price declines for their two largest volume products as subject imports gained *** percentage points of market share at their expense.[156] Thus, subject imports caused the domestic industry to be unable to raise prices sufficient with rising raw material costs in 2022, to hold on to market share in 2023, or to improve by any amount their unprofitable COGS-to-net sales ratios.

---

[151] CR/PR at Table VI-3. PURIS's COGS-to-net-sales ratio was *** percent in 2022 and *** percent in 2023, while ADM's COGS-to-net-sales ratio was *** percent in 2022 and *** percent in 2023. *Id.*

[152] CR/PR at Tables VI-1, VI-2.

[153] CR/PR at VI-13 n.12, VI-14 n.19.

[154] For the reasons discussed below in section V.E. below, we are not persuaded by respondents' contention that there that there is little correlation or a negative correlation between underselling margins and reported subject import sales quantities. Chinese Respondents Prehearing Br. at 48-52.

[155] As PURIS representatives testified, in 2023 PURIS was forced to idle plants given that its sales were being made at a loss and that it still needed to operate at high capacity utilization rates. Hearing Tr. at 34 (Hubert). While this took place, from late 2022 through 2023, PURIS was unable to match subject import prices cited by customers. *See* PURIS Posthearing Br. at Exhibit 2 (providing contemporaneous sales documents in late 2022 through 2023 showing that ***). During this same period, subject import prices declined significantly for three of the four pricing products. *See* PURIS Posthearing Br. at Exhibit 2; CR/PR at Table V-14 (indicating that subject import prices declined from the fourth quarter of 2023 to the fourth quarter of 2024 for all pricing products except pricing product 1). *Id*.

[156] As discussed in section V.B.3 above, U.S. producers sold *** their HPC pea protein through annual contracts, which do not index prices to raw material costs. CR/PR at V-5-6. Nevertheless, as raw material prices increased irregularly during the POI, the domestic industry's prices for the two pricing products that made up a large majority of its reported sales, ***, decreased irregularly. CR/PR at Table V-12.

Indeed, as further discussed in section V.E below, contemporaneous sales documentation provided by PURIS indicates that purchasers used ***.[157] In several instances, ***.[158] And purchasers confirmed this as well, acknowledging that the low price of subject imports caused them to purchase *** pounds of subject imports instead of domestic product.

We recognize that apparent U.S. consumption declined during the POI by *** percent. The record, however, does not support that this level of decline in apparent U.S consumption accounts for the extent of downward pricing pressure experienced by domestic producers.[159] As reviewed above, in each year of the POI, the domestic industry remained unable to sell HPC pea protein ***.[160] This occurred as subject imports, which held a commanding share of the market, universally undersold the domestic like product by wide margins, and purchasers acknowledge buying subject imports because they were priced lower than domestic product.[161] Further, it is not apparent that market participants perceived a drop in demand, notwithstanding the decline in apparent U.S. consumption.[162] A majority of responding market participants reported that demand increased over the POI, indicating that market participants by and large did not perceive a decrease in demand as would be suggested by the apparent U.S. consumption data.[163] Moreover, trends in apparent U.S. consumption within the POI do not track trends in prices. Indeed, the domestic industry's sales prices for all four pricing products *** from the first quarter of 2021 through the fourth quarter of 2022, corresponding to ***, but declined for products 1 and 4 during 2023 to levels lower than in the first quarter of 2021, as subject imports gained market share from the domestic industry.[164]

In sum, universal underselling by subject imports, which accounted for a dominant share of apparent U.S. consumption throughout the POI, at large margins of underselling, negatively impacted the domestic industry's ability to compete in the market. It forced the domestic industry to accept prices that were lower than they would have been otherwise, and domestic producers were unable to increase their prices sufficiently to cover their costs or even make

---

[157] *See e.g.*, PURIS Posthearing Br. at Exhibit 2, Attachment 8 (*** and indicating that *** would not sell to it unless PURIS ***); Attachments 10-12 (*** informing PURIS that ***); Attachment 18 (***).

[158] PURIS Posthearing Br. at Exhibit 2.

[159] The decline also does not account for the confirmed lost sales due to price or domestic producers losing market share to subject imports from 2022 to 2023. *See* CR/PR at Tables IV-10, V-19.

[160] CR/PR at Tables VI-1, VI-3.

[161] CR/PR at Tables V-16, V-19.

[162] CR/PR at Table II-5.

[163] CR/PR at Table II-5. We also note that U.S. demand for HPC pea protein is "moderately inelastic," meaning that U.S. demand for HPC pea protein is relatively insensitive to changes in price and that "the overall demand for HPC pea protein is likely to experience low-to-moderate changes in response to changes in price." CR/PR at II-9, 26.

[164] CR/PR at Table IV-10 (*** percent of the decline in apparent U.S. consumption during the POI occurred between 2021 and 2022), Figures V-2-5.

any measure of improvement to their COGS-to-net sales ratio and ***.[165] We therefore conclude that subject imports depressed prices for the domestic like product, and prevented price increases which otherwise would have occurred, to a significant degree.[166] The universal underselling by subject imports at large margins also caused domestic producers to lose sales over the POI.

Based on the record in the final phase of these investigations, we therefore find that subject imports had significant adverse price effects.

E. Impact of the Subject Imports[167]

Section 771(7)(C)(iii) of the Tariff Act provides that examining the impact of subject imports, the Commission "shall evaluate all relevant economic factors which have a bearing on the state of the industry."[168] These factors include output, sales, inventories, capacity

[165] Commissioners Kearns notes that the domestic industry was forced to accept prices that were lower than they would have been otherwise throughout the POI. *See*, *e.g.*, CR/PR at Tables D-1 (price comparisons by year: universal underselling with margins ranging up to *** percent in 2021, *** percent in 2022 and *** percent in 2023), Table D-2 (price-cost comparisons by year: average unit purchase costs below U.S. prices in all instances, with differentials ranging up to *** percent in 2021, *** percent in 2022, and *** percent in 2023); Table V-19 (Purchasers' responses to purchasing subject imports instead of domestic product, by firm); *see also* discussion above (price competition throughout the POI as reflected by at least moderate substitutability and universal underselling).

[166] We are not persuaded by respondents' argument that competition from allegedly substitutable out-of-scope products prevented U.S. producers from increasing prices over the POI. Hearing Tr. at 160, 210 (Dougan); 212 (Zhang). As noted above and discussed further in section V.E below, purchasers routinely cited subject import pricing, not substitute products, in order to gain price concessions from domestic producers. *See* PURIS Posthearing Br. at Exhibit 2. Indeed, while a majority of market participants reported that there are some substitutes for HPC pea protein, *** responding purchasers and only *** responding domestic producer and *** responding importers, reported that the availability of such substitutes affected U.S. prices for HPC pea protein. CR/PR at II-12; U.S. Producer QRs at IV-13; Importer QRs at III-14; Purchaser QRs at III-6. Furthermore, the record shows that U.S. demand for HPC pea protein is likely to be "moderately inelastic," meaning that "the overall demand for HPC pea protein is likely to experience low-to-moderate changes in response to changes in price." CR/PR at II-9, 26.

[167] The statute instructs the Commission to consider the "magnitude of the dumping margin" in an antidumping proceeding as part of its consideration of the impact of imports. 19 U.S.C. § 1677(7)(C)(iii)(V). In its final determinations of sales at less value, Commerce found antidumping duty margins ranging from 122.19 to 280.31 percent. *Final AD Determination,* 89 Fed. Reg. 55,559 at 55,560. We take into account in our analysis the fact that Commerce has made final findings that all subject producers in China are selling subject imports in the United States at less than fair value. Further, our analysis of the significant underselling of subject imports, described in both the price effects discussion and below, is particularly probative to an assessment of the impact of the subject imports.

[168] 19 U.S.C. § 1677(7)(C)(iii); *see also* SAA at 851 and 885 ("In material injury determinations, the Commission considers, in addition to imports, other factors that may be contributing to overall (Continued...)

utilization, market share, employment, wages, productivity, gross profits, net profits, operating profits, cash flow, return on investment, return on capital, ability to raise capital, ability to service debts, research and development ("R&D"), and factors affecting domestic prices. No single factor is dispositive and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[169]

By almost every measure, with the exception of capacity and employment indicators, the domestic industry's performance was poor throughout the POI, and declined overall from 2021 to 2023, as the industry experienced ***.[170]

The domestic industry's practical capacity increased by 2.4 percent from 2021 to 2023, increasing from 58.9 million pounds in 2021 to 85.3 million pounds in 2022, before decreasing to 60.3 million pounds in 2023.[171] In contrast, the domestic industry's HPC pea protein production declined by 16.8 percent from 2021 to 2023, increasing from 30.3 million pounds in 2021 to 44.6 million pounds in 2022, before decreasing to 25.2 million pounds in 2023.[172] As a result, its practical capacity utilization rate was low throughout the POI and declined by 9.7 percentage points from 2021 to 2023, increasing from 51.5 percent in 2021 to 52.3 percent in 2022, before decreasing to 41.8 percent.[173]

The domestic industry's employment indicators improved overall during the POI, with the exception of productivity. Its number of production and related workers ("PRWs") increased from *** PRWs in 2021, to *** PRWs in 2022, before declining to *** PRWs in 2023.[174] The industry's total hours worked increased from *** hours in 2021 to *** hours in 2022, before decreasing to *** hours in 2023.[175] Its wages paid increased from $*** in 2021,

---

(…Continued)
injury. While these factors, in some cases, may account for the injury to the domestic industry, they also may demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.").

[169] 19 U.S.C. § 1677(7)(C)(iii). This provision was amended by the Trade Preferences Extension Act ("TPEA") of 2015, Pub. L. 114-27.

[170] *See generally*, CR/PR at Tables VI-1, C-1. NURA argues that *** over the POI. NURA Final Comments Br. at 4-5 (citing PURIS Posthearing Br. at Exhibit 2 Attachment 2). However, PURIS reported ***. PURIS U.S. Producer QR at II-6, II-16. We note, however, that in the course of verifying PURIS's financial data, the Commission learned that ***. Verification Report EDIS Doc. 826621 at 6 & n.10; PURIS's U.S. Producer QR at III-4. Finally, NURA's assertion that *** is not supported by the record. NURA Final Comments at 5. NURA cites to Exhibit 4 of PURIS's posthearing brief as support, but this exhibit has no information about revenues, and the ***. PURIS Posthearing Br. at Exhibit 2 Attachment 24 & Exhibit 4.

[171] CR/PR at Tables III-6, III-8, C-1.

[172] CR/PR at Tables III-6, III-8, C-1.

[173] CR/PR at Tables III-6, III-8, C-1.

[174] CR/PR at Tables III-19, C-1.

[175] CR/PR at Tables III-19, C-1.

to $*** in 2022, and $*** in 2023.[176] Productivity per hour declined throughout the POI, declining from *** pounds per hour in 2021, to *** pounds per hour in 2022, and *** pounds per hour in 2023.[177]

The quantity of the domestic industry's U.S. shipments declined by *** percent from 2021 to 2023, increasing from *** pounds in 2021 to *** pounds in 2022, before declining *** pounds in 2023.[178] The domestic industry's market share increased by *** percentage points from 2021 to 2023, increasing from *** percent in 2021 to *** percent in 2022, before decreasing significantly to *** percent in 2023.[179] The industry's end-of-period inventories fluctuated but increased by *** percent from 2021 to 2023, increasing from *** pounds in 2021 to *** pounds in 2022, before decreasing to *** pounds in 2023.[180] The industry's end-of-period inventories as a share of U.S. shipments increased from *** percent in 2021, to *** percent in 2022, and *** percent in 2023.[181]

Most of the domestic industry's financial indicators, with the exception of its net sales value, decreased overall during the POI. Its net sales quantity increased from *** pounds in 2021 to *** pounds in 2022, before declining significantly to *** million pounds, an overall decrease of *** percent.[182] Its net sales value increased irregularly by *** percent over the POI, increasing from $*** million in 2021 to $*** million in 2022, before decreasing *** to $*** million in 2023.[183]

The domestic industry suffered gross losses throughout the POI and those losses worsened irregularly during the POI, increasing from *** in 2021 to *** in 2022, before narrowing to *** in 2023.[184] It suffered operating losses throughout the POI, and those losses worsened irregularly over the POI, increasing from *** in 2021 to *** in 2022, before narrowing to *** in 2023.[185] The domestic industry suffered net losses throughout the POI, and those losses also worsened irregularly, increasing from *** in 2021 to *** in 2022, before narrowing to *** in 2023.[186] Its operating loss to net sales ratio was *** throughout the POI and worsened by *** percentage points over the POI, from *** percent in 2021, to *** percent in 2022, and *** percent in 2023.[187] The industry's net loss to net sales ratio worsened by ***

[176] CR/PR at Tables III-19, C-1.
[177] CR/PR at Tables III-19, C-1.
[178] CR/PR at Tables III-10-11, IV-10, C-1.
[179] CR/PR at Tables III-10, C-1.
[180] CR/PR at Tables III-16, C-1.
[181] CR/PR at Tables III-16, C-1.
[182] CR/PR at Tables VI-1, C-1.
[183] CR/PR at Tables VI-1, C-1.
[184] CR/PR at Tables VI-1, C-1.
[185] CR/PR at Tables VI-1, C-1.
[186] CR/PR at Tables VI-1, C-1.
[187] CR/PR at Tables VI-1, C-1

percentage points over the POI, from *** percent in 2021, to *** percent in 2022, and *** percent in 2023.[188] Its total net assets increased from $*** in 2021 to $*** in 2022 before declining to $*** in 2023.[189] The industry's return on assets was *** throughout the POI and worsened from *** percent in 2021, to ***.[190]

The domestic industry's capital expenditures decreased overall between 2021 and 2023, while its R&D expenses increased. Capital expenditures increased from $*** million in 2021 to $*** million in 2022, before decreasing to $*** million.[191] Its R&D expenses increased from $*** million in 2021 to $*** million in 2022 and $*** million in 2023.[192] Several U.S. producers reported that they experienced negative effects on investments and negative effects on growth and development due to competition with subject imports.[193]

As discussed above, subject import volume was significant and accounted for a substantial and irregularly increasing share of apparent U.S. consumption during the POI. As significant volumes of subject imports universally undersold the domestic like product throughout the POI, the domestic industry lost sales and was forced to accept prices that were lower than they would have been otherwise, having been depressed and suppressed by subject imports. Contemporaneous business documents submitted by petitioner show that purchasers used low-priced subject imports to place downward pressure on domestic prices. The domestic industry's inability to increase prices sufficiently to cover its costs, which increased irregularly during the POI, increasingly placed the industry in a cost-price squeeze. As the domestic industry lost sales and had diminished market share due to subject imports, its production, capacity utilization, U.S. shipments, and employment-related indicators were lower than they would have been but for subject imports. As the domestic industry's shipments declined and it operated at low capacity utilization, it experienced increasing per-unit fixed costs that contributed to the industry's cost-price squeeze and caused the domestic industry ***and worsening financial losses during the POI.[194]

---

[188] CR/PR at Tables VI-1, C-1

[189] CR/PR at Tables VI-9, C-1.

[190] CR/PR at Table VI-10.

[191] CR/PR at Tables VI-5, C-1.

[192] CR/PR at Tables VI-7, C-1.

[193] CR/PR at Table VI-12.

[194] As indicated above in section V.B.C. above, domestic producers produce HPC pea protein using a continuous production process which requires that their production facilities operate at a high rate of capacity utilization to be profitable. CR/PR at I-13. In addition, as subject imports universally undersold the domestic like product, the domestic industry's ratios of end-of-period inventories to production, U.S. shipments, and total shipments increased significantly throughout the POI, showing that an increasing portion of the domestic industry's production was going to inventory rather than being sold. CR/PR at Table III-16. Specifically, its ratio of end-of-period inventories to production increased from *** percent in 2021, to *** percent in 2022, and *** percent in 2023; its ratio of end-of-(Continued...)

Thus, we find that subject imports had a significant adverse impact on the domestic industry.[195]

Respondents argue that subject imports could have had no impact on the domestic industry because competition between subject imports and the domestic like product is attenuated, allegedly because the domestic industry is incapable of supplying the customized and proprietary grades available from subject imports and because purchasers prefer certain flavor profiles and other non-price attributes of subject imports.[196] As an initial matter, for the reasons discussed in section IV.B.3 above, we find that there is at least a moderate degree of substitutability between subject imports and the domestic like product and that price is an important factor in purchasing decisions. Respondents argue that *** refused to purchase the domestic like product because U.S. producers could not provide it with customized/proprietary grades and observe that purchasers such as *** reported that U.S. producers are not qualified or certified to supply them with products that meet their unique specifications.[197] The record indicates that these factors did not significantly attenuate subject import competition. First, although *** was *** responding purchaser,[198] its purchases accounted for only *** percent of apparent U.S. consumption during the POI.[199] Accordingly, even if the domestic industry were incapable of supplying *** with certain proprietary products, this would not significantly attenuate subject import competition in the U.S. market.[200] Second, contemporaneous sales documents and communications between PURIS and ***, indicate that *** these purchasers to

---

(…Continued)
period inventories to U.S. shipments increased from *** percent in 2021, to *** percent in 2022, and *** percent in 2023; and its ratio of end-of-period inventories to total shipments increased from *** percent in 2021, to *** percent in 2022, and *** percent in 2023. *Id*.

[195] CR/PR at I-13. The Chinese Respondents acknowledge that if the subject imports were not underselling the domestic like product, the domestic industry might have additional sales and market share, which would cause the industry to gain some economies of scale and absorb some fixed costs, and this in turn would result in improvements in the industry's financial performance. *See* Chinese Respondents Posthearing Br., Responses to Commissioner Questions at 38. Although respondents contend that despite such improvements, *** this is not a determination the Commission needs to make in order to find that subject imports are causing material injury to the domestic industry. *Id.*; *Nippon Steel Corp.*, 345 F.3d at 1384 (explaining that "{a}s long as its effects are not merely incidental, tangential, or trivial, the foreign product sold at less than fair value meets the causation requirement").

[196] Chinese Respondents Prehearing Br. at 26-37; NURA Prehearing Br. at 28; Chinese Respondents Posthearing Br. at 4-7; NURA Posthearing Br. at 1-8.

[197] Chinese Respondents Prehearing Br. at 26-37; NURA Prehearing Br. at 28; Chinese Respondents Posthearing Br. at 4-7; NURA Posthearing Br. at 1-8.

[198] *** reported purchases of *** pounds of HPC pea protein during the POI represented *** percent of all responding purchasers' reported purchases of HPC pea protein during the POI. CR/PR at Table V-18.

[199] *Calculated from* CR/PR at Tables IV-10, V-18.

[200] CR/PR at Table V-18.

supply them with HPC pea protein, but was refused for reasons "***."[201] Indeed, these documents show that price is ***.[202] Third, the share of U.S. shipments of subject imports consisting of proprietary/customized grades was *** percent in 2021 and *** percent in 2023, indicating that the vast majority of subject imports consisted of other types of HPC pea protein.[203] Indeed, PURIS *** with domestically produced pea protein during the POI, and was therefore already a qualified supplier to *** for certain products.[204] Fourth, although domestic producers reported *** U.S. shipments of proprietary/customized HPC pea protein,[205] PURIS reported that it regularly develops unique SKUs for its customers and *** domestic producers reported that they ***.[206]

---

[201] PURIS Posthearing Br. at Exhibit 2 & Attachments 2-6. In these communications, *** specifically noted that it was *** PURIS's product. *Id.* at Exhibit 2, Attachment 2.

[202] PURIS Posthearing Br. at Exhibit 2 & Attachments 2-6. We disagree with respondents' contention that contemporaneous sales documentation provided by PURIS indicates that price was not a "threshold question" and that product quality and "formulation concerns are much higher priorities than price" because *** all *** information is shared from PURIS." Chinese Respondents' Final Comments at 3-4 (citing PURIS Posthearing Br. at Exhibit 2 & Attachment 2); NURA Final Comments at 6. *** first asked *** before ***. PURIS Posthearing Br. at Exhibit 2 & Attachment 2 pg. 7-8. Subsequently, *** requested prices in ***. *Id*. at 1-7. Indeed, in its final communication with PURIS, *** continued to request pricing. *Id*. at 1. Following this ***. PURIS Posthearing Br. at Exhibit 2 pg. 7, Attachment 3. Several months later ***." PURIS Posthearing Br. at Exhibit 2 pg. 7 & Attachment 6. Respondents contend that ***. Chinese Respondents' Final Comments at 3-4 (citing PURIS Posthearing Br. at Exhibit 2 & Attachment 2); NURA Final Comments at 6. However, ***. PURIS Posthearing Br. at Exhibit 2 & Attachment 2 pg. 3 (asking "***").

Respondents also argue that pursuant to the Commission's regulations, the Commission should disregard contemporaneous sales documentation provided by PURIS in its posthearing brief as "new factual information." However, respondents cite to 19 C.F.R § 207.24(b), which only addresses information provided at the hearing, not in posthearing briefs. The Commission's rule concerning posthearing briefs, 19 C.F.R § 207.5, provides that "{a}ny party may file a posthearing brief concerning the information adduced at or after the hearing with the Secretary within a time specified in the notice of scheduling or by the presiding official at the hearing." Not only was the contemporaneous sales documentation submitted with PURIS's posthearing brief related to arguments raised at the hearing, the documentation was also specifically requested by Commissioners at the hearing. *See e.g.*, Hearing Tr. at 72 (Commissioner Kearns), 96 (Commissioner Schmidtlein).

[203] CR/PR at Table IV-6. We note that a substantial portion of U.S. shipments by importers were reported with the customization status being either unknown or not provided, which suggests that customization was likely not a significant factor for those sales. *Id.*

[204] CR/PR at V-19. According to ***. PURIS Posthearing Br. at Exhibit 2 & Attachment 2.

[205] CR/PR at Table III-15.

[206] PURIS Posthearing Br. at 10; Hearing Tr. at 62 (Atchison), 63-64 (Hubert) (testifying that testified PURIS regularly works with customers to customize products to meet their unique specifications); CR/PR at II-7 nn.7-9. We also note that purchasers are constantly developing new products, and the existence of these customized proprietary grades and/or U.S. producer's alleged (Continued...)

Finally, the record does not indicate that subject imports were qualitatively superior to domestically produced HPC pea protein. Several major purchasers, including ***, reported that Chinese producers, but not U.S. producers, failed to qualify as suppliers.[207] Furthermore, as indicated above, *** of responding purchasers reported that U.S. producers were either superior or comparable to subject imports in terms of quality meets industry standards, quality exceeds industry standards, quality meets customer(s) standards, and quality exceeds customer(s).[208] Additionally, as discussed above, PURIS provided documentation showing sales discussions with many purchasers, including ***, in which the focus was on price rather than any quality or flavor distinctions.[209] Accordingly, we reject respondents' argument that competition between the domestic industry and subject imports was significantly attenuated.

We are also unpersuaded by respondents' assertion that subject imports could have had no impact on the domestic industry in light of the allegedly minimal or negative correlation between import volumes, market share, and underselling.[210] At the outset, we note that subject imports undersold the domestic like product throughout the POI at substantial margins, enabling subject imports to maintain their dominant position in the market. Additionally, when the volume of subject imports in the market declined in 2022 and underselling margins were at their lowest annual average, domestic producers were able to increase their U.S. shipments and gain market share, but these trends reversed in 2023 as the volume of subject imports increased and undersold at somewhat higher margins.[211] Furthermore, as discussed above, pervasive subject import underselling during the POI caused the domestic industry to lose sales, thereby reducing its production, U.S. shipments, and revenues. Contrary to respondents' argument that there was "limited overlap" between purchasers of subject imports and the domestic like product,[212] six responding purchasers reported shifting their purchases from the domestic like product to subject imports during the POI, including four that did so based on price, and the volume of confirmed lost sales, *** pounds, represented more than the overall decline in U.S. producers' U.S. shipments.[213] Further, even where there was no overlap of purchases of subject imports and the domestic like product for an individual purchaser, there is

---

(…Continued)
uncertified status does not prevent U.S. producers for competing for supplying such purchasers with new products. Hearing Tr. at 73 (Lorenzen).

[207] CR/PR at II-16.

[208] CR/PR at Table II-11.

[209] *See* PURIS Posthearing Br. at Exhibit 2.

[210] Chinese Respondents Prehearing Br. at 48-52; NURA Prehearing Br. at 10; NURA Posthearing Br. at 10.

[211] CR/PR at Table IV-10, D-1-2.

[212] Chinese Respondents Posthearing Br., Responses to Commissioner Questions at pg. 17-18; *see also* NURA Posthearing Br. at 8-9.

[213] CR/PR at Table V-19.

evidence that certain purchasers that only purchased subject imports still considered purchasing the domestic product and declined to do so based on price.[214]

We are also unpersuaded by respondents' arguments that any injury suffered by the domestic industry was caused by factors other than subject imports, including allegedly high startup and raw material costs and the domestic industry's alleged inefficient cost structure related to pea starch.[215] First, for the reasons discussed in section V.D above, the domestic industry's increasing costs and COGS-to-net-sales ratio over the POI cannot be explained by "elevated" startup costs.[216] Nor does the domestic industry's business model and/or cost structure break the causal nexus between the domestic industry's injury and subject imports. Respondents specifically contend that the domestic industry's cost structure relating to co-products/byproducts, including pea starch, is inefficient compared to that of Chinese producers.[217] As an initial matter, "{t}he Commission has generally rejected arguments that it should discount underselling or any adverse impact by subject imports because of the lower cost of manufacturing the subject imports," because "the statute 'requires the Commission to assess whether imports are being sold by importers in the U.S. market at lower prices than the domestic like product, not to compare the cost of production of foreign producers with the cost of production in the United States.'"[218] The Commission has long recognized that its "analysis must take the {domestic} industry as it finds it" because the relevant inquiry is whether subject imports had an adverse impact on the domestic industry during the POI.[219] Furthermore, the

---

[214] *See*, *e.g.*, PURIS Posthearing Br. at 9 (citing Exhibit 2 (***)). Further, PURIS' posthearing brief contains contemporaneous documentation (Exhibit 2) confirming that *** *Id*.

[215] Chinese Respondents Prehearing Br. at 53-54, 57-68; NURA Prehearing Br. at 27, 29-32; Chinese Respondents Posthearing Br., Responses to Commissioner Questions at 45-47; NURA Posthearing Br. at 11-13. As we explain below, even if the domestic industry were to have an inefficient cost structure relative to Chinese producers, the question is whether subject imports had an adverse impact on the domestic industry during the POI.

[216] NURA Prehearing Br. at 29-32; Chinese Respondents Prehearing Br. at 57-68.

[217] Specifically, NURA Prehearing Br. at 28-33; Chinese Respondents Prehearing Br. at 56-70.

[218] *See Preserved Mushrooms*, USITC Pub. 5393 at 36 & n.188 (quoting *Certain Polyester Staple Fiber from China*, Inv. No. 731-TA-1104 (Final), USITC Pub. 3922 (June 2007) at 9, n.119; *Steel Wire Garment Hangers from China*, Inv. No. 731-TA-1123 (Final), USITC Pub. 4034 (Sep. 2008) at 19-20, n.133). For example, in *Preserved Mushrooms*, the Commission was "unpersuaded by . . . {the} argument that any injury to the domestic industry is explained by its higher production costs relative to subject foreign producers{.} . . . {C}umulated subject producers' lower production costs . . . do not obviate our finding that low-priced cumulated subject imports had a significant adverse impact on the domestic industry." *Preserved Mushrooms,* USITC Pub. 5393 at 36.

[219] *Frozen Warmwater Shrimp from China, Ecuador, India, Indonesia, Malaysia, Thailand, & Vietnam*, USITC Inv. No. 701-TA-491 (Preliminary), USITC Pub. 4380 (Feb. 1, 2013) at 29 (citing *Iwatsu Electric Co. v. United States*, 758 F. Supp. 1506, 1512, 1518 (Ct. Int'l Trade 1991) ("The court has no doubt that the state of the domestic industry was attributable largely to its own multiple cost layering, but this does not mean that LTFV imports did not cause material injury. To borrow a principle from tort (Continued...)

domestic industry increased its byproduct sales overall from 2021 to 2023, which also increased relative to the domestic industry's raw material costs.[220] Regarding its allegedly high raw material costs, as already noted, PURIS is the *** HPC pea protein made from organic peas, which accounted for *** percent of its commercial U.S. shipments in 2023 and are made from higher cost raw materials.[221] Finally, even if the factors argued by respondents caused the domestic industry's financial condition to be weaker than it otherwise would have been, this would not undermine our finding that significant volumes of low-priced subject imports adversely impacted the domestic industry's performance by taking sales from the industry and depressing and suppressing domestic prices to a significant degree.[222]

We have considered whether there are other factors that may have had an impact on the domestic industry to ensure that we are not attributing injury from other factors to subject imports. As discussed in section V.C above, nonsubject imports were only the third largest source of supply and their market share declined throughout the POI, from *** percent in 2021, to *** percent in 2022, and *** percent in 2023.[223] The record also indicates that the AUVs of U.S. shipments of nonsubject imports were higher than the AUVs of U.S. shipments of subject imports throughout the POI.[224] Although most responding purchasers reported that the domestic like product was comparable to nonsubject imports in terms of price, a majority reported that subject imports were superior to nonsubject imports in terms of

---

(…Continued)
law, importers take the domestic industry as they find it."). *See also Narrow Woven Ribbons with Woven Selvedge from China & Taiwan*, USITC Inv. No. 701-TA-467 (Preliminary), USITC Pub. 4099 (Aug. 1, 2009) at 35 n.285 ("the statute does not permit the Commission to decline to find a material adverse impact by subject imports simply because the industry is not 'good enough' to deserve relief—instead the inquiry centers on determining whether there is, or will likely be, an adverse impact by subject imports that is material" and that underlying an analysis is "{t}he principle that the foreign industry and therefore the Commission must take the industry as it finds it.") (citing *Committee for Fair Beams Imports v. United States*, 27 CIT 932, 961 (2003) (quoting *Hosiden Corp. v. Advanced Display Mfrs, of America*, 85 F.3d 1561, 1569 (Fed. Cir. 1996) (internal quotations and bracketing omitted)).

[220] CR/PR at Table VI-1.

[221] CR/PR at IV-4, VI-12 n.11; PURIS U.S. Producer QR at II-11; Puris Posthearing Br. at Exhibit 1 pg. 26.

[222] *See e.g.*, *Nippon Steel Corp.*, 345 F.3d at 1381 ("the 'dumping' need not be the sole or principal cause of injury{}").

[223] CR/PR at Tables IV-10, C-1. Nonsubject imports increased from *** pounds in 2021 to *** pounds in 2022 before decreasing to *** pounds in 2023. CR/PR at Table IV-2. U.S. shipments of nonsubject imports declined throughout the POI by *** percent from *** pounds in 2021, to *** pounds in 2022, and *** pounds in 2023. CR/PR at Tables IV-10, C-1.

[224] CR/PR at Tables IV-10, C-1. The AUVs of U.S. shipments of nonsubject imports were $*** per pound in 2021, $*** per pound in 2022, and $*** per pound in 2023 while the AUVs of U.S. shipments of subject imports were $*** per pound in 2021, $*** per pound in 2022, and $*** per pound in 2023. *Id*.

price, meaning priced lower than nonsubject imports.[225] Thus, nonsubject imports could not explain the injury to the domestic industry that we have attributed to subject imports.

We recognize that apparent U.S. consumption declined by *** percent from 2021 to 2023.[226] However, as discussed in section V.D above, the record does not support that this decline in apparent U.S. consumption accounts for the extent of downward pricing pressure experienced by domestic producers during the POI. [227] In each year of the POI, including 2021 before apparent U.S. consumption contracted, the domestic industry was unable to sell HPC pea protein ***.[228] Further, based on questionnaire responses, it does not appear that a majority of market participants perceived a decline in demand that likely would have affected their price negotiations.[229] Rather, the record shows that a significant volume of subject imports significantly undersold the domestic like product during throughout the POI, and contemporaneous business documents indicate that purchasers used the ***.[230] Given this, demand trends could not explain the injury caused by the domestic industry's lost sales to subject imports or the significant price depressing and suppressing effects of low-priced subject imports on domestic prices.

In sum, based on the record of the final phase of these investigations, we find that subject imports had a significant adverse impact on the domestic industry.

VI. Critical Circumstances[231]

A. Legal Standards

In these investigations, Commerce made final affirmative critical circumstances findings for the separate rate companies and the China-wide entity in the antidumping duty investigation and for Yantai Oriental, Zhaoyuan Junbang Trading Co., Ltd. ("Zhaoyuan"), and "all other" producers and/or exporters in the countervailing duty investigation.[232] Because we have determined that the domestic industry is materially injured by reason of subject imports, we must further determine "whether the imports subject to the affirmative {Commerce critical

[225] CR/PR at Table II-11.

[226] CR/PR at Tables IV-10, C-1.

[227] Commissioner Kearns finds that the record reflects that the massive volume of subject imports that universally undersold the domestic like product materially injured the domestic industry throughout the POI, including when apparent U.S. consumption was relatively high.

[228] CR/PR at Tables VI-1, VI-3.

[229] CR/PR at Table II-5. A majority of combined responding domestic producers, importers, and purchasers reported that demand either increased steadily, or fluctuated up during the POI. *Id*.

[230] Petitioner's Posthearing Br. at Exhibit 2 & Attachments 2-4, 6-16.

[231] Commissioner Schmidtlein does not join this section. *See* Dissenting Views of Commissioner Rhonda K. Schmidtlein Regarding Critical Circumstances.

[232] *Final CVD Determination*, 89 Fed. Reg. 55,557; *Final AD Determination*, 89 Fed. Reg. 55,559.

circumstances} determination ... are likely to undermine seriously the remedial effect of the antidumping {and/or countervailing duty} order{s} to be issued."[233]

The SAA indicates that the Commission is to determine "whether, by massively increasing imports prior to the effective date of relief, the importers have seriously undermined the remedial effect of the order" and specifically "whether the surge in imports prior to the suspension of liquidation, rather than the failure to provide retroactive relief, is likely to seriously undermine the remedial effect of the order."[234] The legislative history for the critical circumstances provision indicates that the provision was designed "to deter exporters whose merchandise is subject to an investigation from circumventing the intent of the law by increasing their exports to the United States during the period between initiation of an investigation and a preliminary determination by {Commerce}."[235] An affirmative critical circumstances determination by the Commission, in conjunction with an affirmative determination of material injury by reason of subject imports, would normally result in the retroactive imposition of duties for those imports subject to the affirmative Commerce critical circumstances determination for a period 90 days prior to the suspension of liquidation.[236]

The statute provides that, in making this determination, the Commission shall consider, among other factors it considers relevant,

> (I) the timing and the volume of the imports,
> (II) a rapid increase in inventories of the imports, and
> (III) any other circumstances indicating that the remedial effect of the {order} will be seriously undermined.[237]

In considering the timing and volume of subject imports, the Commission's practice is to consider import quantities prior to the filing of the petitions with those subsequent to the filing of the petitions using monthly statistics on the record regarding those firms for which Commerce has made an affirmative critical circumstances determination.[238]

---

[233] 19 U.S.C. §§ 1671d(b)(4)(A)(i), 1673d(b)(4)(A)(i).

[234] SAA at 877.

[235] *ICC Industries, Inc. v United States,* 812 F.2d 694, 700 (Fed. Cir. 1987), *quoting* H.R. Rep. No. 96-317 at 63 (1979), *aff'g*, 632 F. Supp. 36 (Ct. Int'l Trade 1986). *See* 19 U.S.C. §§ 1671b(e)(2), 1673b(e)(2).

[236] 19 U.S.C. §§ 1671b(e)(2), 1673b(e)(2).

[237] 19 U.S.C. §§ 1671d(b)(4)(A)(ii), 1673d(b)(4)(A)(ii).

[238] *See Lined Paper School Supplies from China, India, and Indonesia*, Inv. Nos. 701-TA-442-43, 731-TA-1095-97, USITC Pub. 3884 at 46-48 (Sept. 2006); *Carbazole Violet Pigment from China and India*, Inv. Nos. 701-TA-437 and 731-TA-1060-61 (Final), USITC Pub. 3744 at 26 (Dec. 2004); *Certain Frozen Fish Fillets from Vietnam*, Inv. No. 731-TA-1012 (Final), USITC Pub. 3617 at 20-22 (Aug. 2003).

B. Party Arguments

PURIS argues that given the *** percent increase in imports when comparing five-month comparison periods, and the domestic industry's "vulnerable" condition, the Commission must make an affirmative critical circumstances determination if it is to provide an effective remedy.[239] It alleges that this increase is significant relative to apparent U.S. consumption and the domestic industry's U.S. shipments in 2023.[240] It also alleges that subject imports' inventories increased *** percent during the five-month period after the petition was filed.[241]

In contrast, respondents argue that the record does not support an affirmative critical circumstances finding.[242] They contend that the volume of subject imports was *** percent *** during the six month post-petition comparison period.[243] Moreover, Respondents claim that inventory levels *** and only ***.[244] They maintain that these increases are far less than the increases in cases where the Commission made affirmative critical circumstances determination.[245] Furthermore, Chinese Respondents contend that pricing data over the POI do not indicate that subject imports were rushed in before Commerce's preliminary determination since there were "***" in subject import prices, which ended the POI ***.[246]

C. Analysis

The petitions in these investigations were filed on July 12, 2023.[247] On June 27, 2024, Commerce issued its final determinations in its antidumping and countervailing duty investigations of HPC pea protein from China.[248] In its final countervailing duty determination, Commerce made an affirmative critical circumstances determination with respect to Yantai Oriental, Zhaoyuan, Focusherb LLC, Golden Protein Limited, Shandong Jianyuan Bioengineering

[239] PURIS Prehearing Br. at 38-40 (citing CR/PR at Table IV-8). PURIS asserts that the Commission must use a five-month comparison period because Commerce's preliminary CVD determination in December of 2023 was within six months of the filing of the petition. *Id*. at 39. Using five-month comparison periods, the pre-petition period would be February 2023 through June 2023 and the appropriate post-petition period would be July 2023 through November 2023.

[240] PURIS Prehearing Br. at 39-40 (citing CR/PR at Tables III-8, III-10, IV-8.).

[241] PURIS Prehearing Br. at 39-40 (citing CR/PR at Table IV-9).

[242] NURA Prehearing Br. at 38; Chinese Respondents Prehearing Br. at 91-97.

[243] NURA Prehearing Br. at 38; Chinese Respondents Prehearing Br. at 94; Chinese Respondents Posthearing Br., Responses to Commissioner Questions at 14.

[244] NURA Prehearing Br. at 38; Chinese Respondents Prehearing Br. at 94-96.

[245] NURA Prehearing Br. at 38; Chinese Respondents Prehearing Br. at 96-97; Chinese Respondents Posthearing Br. at 13-15, Exhibit 1 pgs. 58-60.

[246] Chinese Respondents Posthearing Br. at 13-15, Exhibit 1 pgs. 58-60.

[247] CR/PR at Table I-1.

[248] *Final CVD Determination*, 89 Fed. Reg. 55,557; *Final AD Determination*, 89 Fed. Reg. 55,559.

Co, Yantai Wanpy International Trade, and "all other" producer/exporters.[249] In its final antidumping duty determination, Commerce made an affirmative critical circumstances determination with respect to separate rate companies and the China-wide entity.[250]

We first consider the appropriate period for comparisons in our critical circumstances analysis. The Commission frequently relies on six-month comparison periods, but has relied on shorter periods when Commerce's preliminary determination applicable to the country at issue fell within the six-month post-petition period.[251] That situation arises here as Commerce's preliminary critical circumstance determination with respect to the countervailing duty investigation was rendered on December 18, 2023.[252] We have therefore determined to compare the volume of subject imports in the five months prior to the filing of the petition (February 2023 – June 2023) with the volume of subject imports in the five months after the filing of the petition (July 2023 – November 2023).[253]

---

[249] *Final CVD Determination*, 88 Fed. Reg. 55,557 at 55,558.

[250] *Final AD Determination*, 88 Fed. Reg. 55,559 at 55,560.

[251] *See Certain Hot-Rolled Steel Flat Products from Australia, Brazil, Japan, Korea, the Netherlands, Turkey, and the United Kingdom*, Inv. Nos. 701-TA-545-547, 731-TA-1291-1297 (Final), USITC Pub. 4638 at 49-50 (Sept. 2016); *Certain Corrosion-Resistance Steel Products from China, India, Italy, Korea, and Taiwan*, Inv. No. 701-TA-534-537 and 731-TA-1274-1278 (Final), USITC Pub. 4630 at 35-40 (July 2016); *Carbon and Certain Steel Wire Rod from China*, Inv. Nos. 701-TA-512, 731-TA-1248 (Final), USITC Pub. 4509 at 25-26 (Jan. 2015) (using five-month periods because preliminary Commerce countervailing duty determination was during the sixth month after the petition).

We note that the Commission is not required to examine the same periods that Commerce examined in performing the critical circumstances analysis. *See Certain Polyester Staple Fiber from China*, Inv. No. 731-TA-1104 (Final), USITC Pub. 3922 at 35 (June 2007); *Steel Concrete Reinforcing Bars from Turkey*, Inv. No. 731-TA-745 (Final), USITC Pub. 3034 at 34 (Apr. 1997).

[252] CR/PR at Table I-1; *Certain Pea Protein From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, and Alignment of Final Determination With Final Antidumping Duty Determination*, 8 Fed Reg. 87403, (Dec. 18, 2023).

[253] CR/PR at Table IV-8. Because the petition was filed on July 12, 2022, that month is included in the post-petition period.

We note that Commerce's preliminary critical circumstance determination with respect to the antidumping duty investigation was rendered on February 13, 2024, subsequent to six months after the filing of the petition. CR/PR at Table I-1; *Certain Pea Protein From the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, Postponement of Final Determination, and Extension of Provisional Measures*, 89 Fed Reg. 10038, (Feb. 13, 2024). However, consistent with previous cases, we use the same pre- and post-petition periods for both antidumping and countervailing duty critical circumstances analyses. *See e.g.*, *Small Vertical Shaft Engines from China*, Inv. Nos. 701-TA-643 and 731-TA-1493 (Final) USITC Pub. 5185 (Apr. 2021) at 43 n.243; *Corrosion-Resistant Steel Products from China, India, Italy, Korea, and Taiwan*, Inv. Nos. 701-TA-534-538 and 731-TA-1274-1278 (Final), USITC pub. 4620 (Jul. 2016) at 35-36.

[253] CR/PR at Table IV-8.

The increase in the volume of subject imports in the post-petition period was significant, particularly given how large the volume of subject imports was even before the post-petition increase in that volume, within the context of the overall U.S. market. Subject imports from China increased from *** pounds in the pre-petition period to *** pounds in the post-petition period, an increase of *** percent.[254] The post-petition volume of subject imports and the post-petition increase in the volume of subject imports were equivalent to *** percent and *** percent, respectively, of apparent U.S. consumption in 2023.[255] As indicated above, from 2022 to 2023, subject imports from China also increased as a share of apparent U.S. consumption from *** percent in 2022 to *** percent in 2023, gaining *** percentage points of market share.[256] Further, the post-petition increase in the volume of imports from China was equivalent to *** percent of the domestic industry's production in 2023.[257] We also note that effect of this increase in post-petition volume was exacerbated by the already-dominant position of subject imports in the U.S. market, having increased their share of apparent U.S. consumption irregularly from *** percent in 2021 to *** percent in 2023.[258] In short, while the

[254] CR/PR at Table IV-8.

[255] *Compare* CR/PR Table IV-10 *with* Table IV-8. Comparing post-petition imports from January 2023 to June 2023 to half of apparent U.S. consumption in 2023 (***), post-petition imports were equivalent to approximately *** percent of apparent U.S. consumption, and the increase in imports compared to the pre-petition period was equivalent to *** percent of apparent U.S. consumption. *Id.*

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

[257] *Derived from* CR/PR at Tables IV-7-8, C-1. We are unpersuaded by respondents' contention that the *** percent increase in post-petition import volume and the increase in end-of-period inventories are far less than the increases found in prior cases in which the Commission found critical circumstances. *See e.g.* NURA Prehearing Br. at 38. While the post-petition increase in the post-petition period was *** than the post-petition increase in the recent affirmative critical circumstances determination in *Mattresses* with respect to imports from Burma (101.6 percent), within the context of the overall U.S. market, the post-petition increase in the volume of imports in this case was *** than in *Mattresses*, which involved a post-petition increase in imports equivalent to only 2.3 percent of apparent U.S. consumption in the final year of the POI. *See Mattresses from Bosnia and Herzegovina, Bulgaria, Burma, Italy, Philippines, Poland, Slovenia, and Taiwan*, Inv. Nos. 731-TA-1629-1631, 1633, 1636-1638, and 1640 (Final), USITC Pub. 5520 (June 2024) ("*Mattresses*") at 68-69. In contrast, the post-petition increase in the volume of imports in this case was equivalent to *** percent of apparent U.S. consumption in the final year of the POI. *Derived from* CR/PR at Tables IV-8, C-1. Further, the share of apparent U.S. consumption accounted for by the volume of imports associated with the post-petition period was equivalent to 4.6 percent in *Mattresses*, while here the volume of imports associated with the post-petition period was equivalent to *** percent of apparent U.S. consumption.

[258] CR/PR at Table IV-10, C-1. As noted, the subject imports increased their market share of apparent U.S. consumption by *** percentage points from 2022 to 2023. *Id.* By contrast, in *Mattresses*, the Commission noted a *** increase in the market share of subject imports from Burma (6.4 percentage points from 2022 to 2023) and imports from Burma accounted for a much smaller share of apparent U.S. consumption (6.9 percent in 2023). *Mattresses*, USITC Pub. 5570 at 69, Table C-1.

percentage increase in post-petition imports is less than in some other recent investigations, that increase was from a very large base—a share of more than *** of the entire market.[259] [260]

The increase in the volume of imports involved in the post-petition period did not replace decreasing inventories. Rather, end-of-period U.S. inventories of the relevant subject imports from China were *** pounds at the end of the pre-petition period and *** pounds at the end of the post-petition period, an increase of *** percent.[261]

With respect to pricing, although prices of subject imports did not markedly decrease in the post-petition period,[262] we observe that subject imports undersold the domestic like product at large margins of underselling throughout the POI, averaging 38.6 percent.[263] That still larger margins of underselling were not required to effect the significant increase in the volume of imports involved in the post-petition period is not remarkable. Overall, subject

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

[260] The statute makes clear that Commerce makes the determination of whether "there have been massive imports of the subject merchandise over a relatively short period." 19 U.S.C. §§ 1671d(a)(2)(B), 1673d(a)(3)(B). Conversely, the Commission, "{i}f the finding of {Commerce} under subsection {1671d(a)(2) or subsection 1673d(a)(3)} is affirmative," is tasked with making a determination "as to whether imports subject to {Commerce's affirmative critical circumstances determination} are likely to undermine seriously the remedial effect of the order." 19 U.S.C. §§ 1671d(b)(4)(A)(i), 1673d(b)(4)(A)(i). In making that determination, the Commission is to consider "the timing and volume of the imports," "any rapid increase in inventories of the imports," and "any other circumstances indicating that the remedial effects of the {antidumping or} countervailing duty order will be seriously undermined." 19 U.S.C. §§ 1671d(b)(4)(A)(ii), 1673d(b)(4)(A)(ii). Thus, contrary to the dissenting views, there necessarily must be an increase in imports (indeed, there must be a Commerce finding of "massive imports of the subject merchandise over a relatively short period") for the Commission to reach an affirmative critical circumstances determination. 19 U.S.C. §§ 1671d(a)(2), 1673d(a)(3). Moreover, the Commission is to consider both the timing *and the volume* of imports. 19 U.S.C. §§ 1671d(b)(4)(A)(ii), 1673d(b)(4)(A)(ii). We have considered both the timing and the volume of imports subject to Commerce's affirmative critical circumstances determination, both in absolute terms and relative to apparent U.S. consumption. As reviewed above, the timing and volume of imports subject to Commerce's affirmative critical circumstances determination, together with the rise in inventories and other circumstances, indicate that the imports subject to Commerce's affirmative injury determination are likely to seriously undermine the remedial effects of the order.

[261] CR/PR at Table IV-9.

[262] The AUV of products 1-3, which ***, decreased from the first half of 2023 to the second half of 2023 by ***, ***, and *** percent, respectively. CR/PR at Tables V-4-6. In between the first and second half of 2023, prices decreased by *** or *** percent for product 1, *** or *** percent for product 2, and *** or *** percent for product 3. *Calculated from id.* Further, prices were lower in the fourth quarter of 2023 than in the first quarter of 2023 for all four pricing products as prices for products 1-4 declined by *** percent, *** percent, *** percent, and *** percent during this period, respectively. *Id*. However, the AUV for product 4 increased by *** percent during this same period. CR/PR at Tables V-4-6. In between the first and second half of 2023, prices decreased by *** or *** percent for product 4. CR/PR at Tables V-4-6.

[263] CR/PR at Table V-16.

imports from China continued to undersell the domestic like product in *** comparisons in the second half of 2023, involving *** pounds, and at significant margins ranging from *** to *** percent.[264]

In addition to the foregoing, the Commission views the timing of the increase in subject imports from China in the post-petition period as instructive.[265] Although apparent U.S. consumption declined over the POI, including from 2022 to 2023 by *** percent, subject imports from China significantly increased in the post-petition period by *** percent.[266] Subject imports decreased in every month of the five-month pre-petition period and were higher in three months of the post-petition period (August, September, and November) than in any month of the pre-petition period.[267] Subject import volume was higher in September 2023, at *** pounds, than in any other month in 2023, and *** percent higher than in the peak month of the pre-petition period.[268] Given importers' reported 45- and 67-day lead times for sales made from foreign inventories and produced to order, respectively, subject imports arriving in September would have been ordered immediately following the filing of the petitions in July.[269] Further, the effect of the post-petition increase in subject imports was to create a stockpile of imports prior to the imposition of provisional duties, as reflected by the *** percent increase in end-of-period inventories of subject merchandise between the pre- and post-petition periods.[270]

In light of the foregoing, we find the adverse impact of the subject imports from China subject to Commerce's affirmative critical circumstances determinations on the domestic industry is likely to undermine seriously the effect of the antidumping and countervailing duty orders. Subject imports, which maintained a dominant and increasing share of the U.S. market throughout the POI while universally underselling domestic product at large margins of underselling, increased by *** percent in the post-petition period, where this increase in volume of subject imports was equivalent to *** percent of the domestic industry's production

[264] *Compiled from* CR/PR at Tables V-4-7.

[265] As discussed in section V.B.1 above, responding domestic producers and a majority of purchasers reported that the HPC pea protein market was subject to seasonality, with contracting occurring in the third and fourth quarters of the harvest year. In light of this, we find it instructive that the volume of reported subject import sales of pricing products was *** percent higher in the second half of 2023 than in the second half of 2022, even though apparent U.S. consumption was lower in 2023 than in 2022. *Calculated from* CR/PR at Tables V-4-7.

[266] CR/PR at Tables IV-8, C-1.

[267] CR/PR at Table IV-8.

[268] CR/PR at Table IV-8; *calculated from* CR/PR at Tables IV-8, IV-10 (indicating that average monthly apparent U.S. consumption in 2023 was *** pounds).

[269] We note that 45 days after July 12, 2023 is August, 26, 2023 while 67 days after July 12, 2023 is September 17, 2023.

[270] CR/PR at Table IV-9.

in 2023 and occurred in the context of increasing U.S. inventories of subject imports.[271] As discussed above in section V.E., the domestic industry as a whole and on a company-specific basis *** throughout the POI as it lost sales and sustained downward pricing pressure on account of universal underselling by subject imports at large margins of underselling.[272] Accordingly, we determine that critical circumstances exist with respect to subject imports from China.

VII. Conclusion

For the reasons stated above, we determine that an industry in the United States is materially injured by reason of subject imports of HPC pea protein from China that are sold in the United States at less than fair value and subsidized by the government of China.[273] We also find that critical circumstances exist with respect to imports of HPC pea protein from China that are subject to Commerce's final affirmative critical circumstances determinations. [274]

[271] CR/PR at Tables IV-8, IV-9; *derived from* IV-7, C-1.

[272] CR/PR at Table VI-3.

[273] Commissioner David S. Johanson determines that an industry in the United States is threatened with material injury by reason of subject imports. *See* Concurring Views of David S. Johanson.

[274] Commissioner Schmidtlein makes a negative determination with respect to critical circumstances. *See* Dissenting Views of Commissioner Rhonda K. Schmidtlein Regarding Critical Circumstances.

SEPARATE AND CONCURRING VIEWS OF COMMISSIONER DAVID S. JOHANSON

I join sections I-V.B. of the Commission's views (Background, Domestic Like Product, Domestic Industry, Negligibility, Legal Standards for Present Material Injury, and Conditions of Competition), except to the extent noted below.

I write separately because I find that an industry in the United States is threatened with material injury by reason of subject imports of HPC pea protein that are being sold in the United States at less than fair value.

I find that while there is evidence that subject imports significantly undersold domestic like products during the period of investigation, in light of the importance of factors other than price in purchasing decisions, an unanticipated weakening in demand, and significant ***, there are not the indications I would expect that the injury attributable to the price effects of subject imports has yet been material to the domestic industry's ability to successfully compete in the US market.

Nevertheless, I find that the domestic industry's condition, however caused, leaves it vulnerable to further impact from subject imports. Moreover, given the large and growing excess capacity of Chinese HPC pea protein manufacturers, and increased export trends at the end of the POI, subject imports are likely to have such a material adverse impact in the imminent future.

I. Material Injury

A. Volume of Subject Imports

U.S. importers' U.S. shipments of subject imports decreased from 95.8 million pounds in 2021 to 73.1 million pounds in 2022 before increasing to 85.8 million pounds in 2023, for an overall decrease of 10.4 percent in volume over the POI.[1]

Subject imports' share of apparent U.S. consumption increased irregularly during the POI, decreasing from *** percent in 2021 to *** percent in 2021, before increasing to *** percent in 2023, a level *** percentage points higher than in 2021.[2]

I find that the volume of subject imports, is significant albeit decreasing in absolute terms and significant relative to consumption in the United States. Yet, while subject import

[1] CR/PR at Table IV-2.

[2] CR/PR at Tables IV-10, C-1. As subject imports gained *** percentage points of market share from 2022 to 2023, the domestic industry lost *** percentage points of market share. As such, a *** of the market share gain by subject imports from 2022 to 2023 was at the expense of the domestic industry.

volume increased relative to U.S. consumption during the POI, I find that the significance of the that increase is mitigated by a number of factors.

First, the increase in subject imports' share of the U.S. market of *** percentage points over the POI came at the expense of nonsubject imports, the market share of which decreased by *** percentage points.[3] U.S. producers' market share remained throughout the POI at levels at or above the market share they had prior to the period in which Commerce first calculated unfair trade to have occurred.[4]

Second, the ability of U.S. producers to gain additional market share in the POI was reduced by factors unrelated to subject imports. One of these related to the quality of certain products produced by ***.[5] ***.[6]

***.[7] ***.[8] ***.[9] ***.[10]

***.[11] ***.[12]

Such quality-related issues would inevitably impair the ability of *** to gain U.S. HPC pea protein market share as they no longer ***. These issues also had important implications for the industry's reported increases in cost of production, as discussed below.

Another problem that limited U.S. producers' ability to gain market share relates to the weakening demand for HPC pea protein during the POI. Over the long term, industry

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

[4] The period of investigation for Commerce's preliminary CVD investigation was calendar year 2022, while the period of investigation for Commerce's preliminary AD investigation was the first half of calendar year 2023. *Certain Pea Protein from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Preliminary Affirmative Critical Circumstances Determination and Alignment of Final Determination with Final Antidumping Determination*, 88 Fed. Reg. 87,403, 87,403 (Dep't Commerce Dec. 18, 2023); *Certain Pea Protein from the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, Postponement of Final Determination, and Extension of Provisional Measures*, 89 Fed. Reg. 10,038, 10,039 (Dep't Commerce Feb. 13, 2024).

[5] CR/PR at Table III-5 & VI-1 n.2.

[6] CR/PR at I-13, VI-1 n.1, & VI-12 n.8; *** U.S. Producer QR at III-9b; *** U.S. Producer QR at III-10b. The scope of this investigation covers HPC with at least 65 percent protein on a dry weight basis, while LPC has different applications because it has higher pea starch and fiber content giving it a more noticeable pea flavor. CR/PR at I-8, I-13.

[7] *** U.S. Producer QR at III-9b.

[8] CR/PR at VI-12 n.8 & VI-13 n.16; *** U.S. Producer QR at III-9b.***. CR/PR at Table III-9 & *** U.S. Producer QR at II-3a.

[9] HPC pea protein is subject to many industry, customer, and food safety standards. *See, e.g.,* CR/PR at II-7 to II-8, II-17, II-24.

[10] CR/PR at VI-12 n.8 & *** U.S. Producer QR at II-3a.

[11] ***U.S. Producer QR at III-10a.

[12] *** U.S. Producer QR at III-10b.

participants expected U.S. demand for HPC pea protein to increase.[13] For years the domestic industry was able to grow and attract investment notwithstanding imports from China.[14] During the POI, however, apparent U.S. consumption decreased *** percent.[15] This decrease in consumption was not attributable to subject imports as it represented amounts that purchasers stopped buying at all. That is, purchasers either turned to alternative sources of protein or simply purchased less protein.

To some extent this decrease in apparent consumption was likely the result of rising U.S. producer prices. The average unit value of U.S. producers' U.S. shipments steadily increased over the POI which would likely have led to some reduction in purchases (although the Staff Report assesses that demand for HPC pea protein is moderately inelastic, suggesting that demand is not very sensitive to increases in price).[16] There is also evidence, however, that demand was also declining even at lower prices. From 2021 to 2022, prices for all pricing products increased, and apparent consumption decreased *** percent.[17] Most U.S. producer prices peaked before the end of 2023 and for the most important pricing product, product 4, ended the POI somewhat below their level at the start of the POI, yet apparent consumption slipped another *** percent, indicating that such a reduction in price was not enough to increase total consumption.[18] This is consistent with other evidence that demand for HPC pea protein particularly for use in plant-based meat unexpectedly decreased.[19]

This weakness in consumption and demand was not apparent to all market participants as shown by the fact that market participants' perceptions of demand varied considerably and even contradicted each other. Many importers and purchasers were considerably more pessimistic about demand trends than domestic producers, all of whom believed that demand increased over the POI.[20] An over-optimistic view of demand is likely to lead to price levels that

[13] Hearing Tr. 15-16 (Lorenzen) ("For over 10 years now, many of us, including I think all the parties that you'll hear from on both sides today, have been confident there's a very bright future for HPCP protein here in the United States"); 38 (McLain) ("all parties agree that demand for HPC pea protein will likely grow").

[14] *See* Conf. Tr. 16-18 (Atchison) (describing growth of Puris HPC pea protein from 2014).

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

[16] CR/PR at II-27 and Table C-1.

[17] CR/PR at Tables V-4 to V-7 & Figs. V-2 to V-5; Table C-1.

[18] CR/PR at Tables V-4 to V-7 & Figs. V-2 to V-5.

[19] CR/PR at II-17 to II-18 (*** cites "overall category decline"; Hearing Tr. 17 (Lorenzen) (referencing "the short-term challenges in the sector for plant-based meat"); 127 (Zhang) ("high prices and exceptional taste made a lukewarm market reception to plant-based meat, leading to a downturn in the plant-based meat industry"). U.S. producers' and importers' shipments of HPC pea protein for meat substitutes declined considerably more than the average for all products. CR/PR at Tables III-14, IV-5.

[20] CR/PR at Tables II-5, C-1. Equal numbers of importers believed that demand fluctuated down or steadily decreased as that it fluctuated up or steadily increased, while three purchasers believed demand fluctuated down and four believed it fluctuated up or steadily increased. CR/PR at Table II-5. In (Continued...)

discourage consumption as sellers will stick to higher pricing without necessarily realizing that purchasers will buy less. Had U.S. producers correctly assessed the weakening of HPC pea protein demand in the POI they would have been better positioned to increase their shipments and further increase their market share over the POI.

U.S. producers did lose *** pounds of sales to subject imports in situations in which the purchaser acknowledged that price was a primary factor.[21] Yet, those lost sales were small in relation to U.S. consumption and to U.S. producers' U.S. shipments over the POI and did not translate into an overall decline in domestic producers' market share.[22] To the contrary, lost sales by reason of price were concentrated at the start of the POI and diminished toward the end, so that the U.S. industry was losing a smaller quantity of sales based on price at the end of the POI than at the start.[23]

For these reasons, although subject imports did increase relative to U.S. consumption during the POI, I do not find that increase was significant.

B. Price Effects of the Subject Imports

Subject imports undersold domestic like products in all comparisons during the POI by large and slightly increasing margins.[24] Yet, while I find that the underselling by subject imports was pervasive and significant, I do not find that this underselling led to significant price effects during the POI.

As an initial matter, I note that the underselling margins by themselves overstate the significance of the underselling. As discussed in relation to conditions of competition above, subject imports and domestic like products are on average moderately substitutable. Most purchasers reported that U.S. and Chinese products are only sometimes interchangeable, although others found it easy to switch between them.[25] Despite differences between HPC pea protein and substitute proteins, some purchasers would even consider switching to other protein sources (as illustrated by the decline in apparent consumption of HPC pea protein over

---

contrast all three U.S. producers believed there was an increase in demand, either steady or fluctuating. CR/PR at Table II-5.

[21] CR/PR at Tables V-19 & C-1.

[22] CR/PR at Tables V-19 & C-1.

[23] The large majority of sales that the domestic industry lost in part due to price, *** pounds, were purchased by ***. CR/PR at Table V-19.***. *** Purchaser QR at II-1.***.***. *** Purchaser QR at II-1; *** Purchaser QR at II-1.

[24] CR/PR at Table D-1. Direct purchase costs of imports were also lower that U.S. prices, and lost sale questionnaire responses confirmed that subject imports were typically priced lower than domestic like products. CR/PR at Tables V-19, D-2.

[25] *See* CR/PR at Table II-14; *see also* CR/PR at II-16 (purchaser *** reported that many firms unable to reproduce its taste profile, mouth feel, and solubility) & II-23 (purchaser *** reported that it found it easy to switch between suppliers).

the POI discussed above).[26] Several purchasers indicated that price/cost is not one of the top three characteristics they consider in purchasing decisions, or even report that price is only "somewhat important," and three of five responding purchasers reported there are always or frequently significant differences other than price between subject imports and domestically produced HPC pea protein.[27] Thus, while underselling was pervasive, in many transactions price was not a dispositive factor.

As an initial matter, in considering the price effects of subject imports, I do not find as discussed above that the increase in subject imports in relation to U.S. consumption during the POI was a significant price effect of subject imports, because subject imports did not gain market share at the expense of the U.S. industry over the course of the POI and because other factors unrelated to subject import pricing prevented the U.S. industry from gaining more market share than it did.

Additionally, I consider price trends. Average unit values of U.S. producers' shipments increased steadily by *** percent over the POI despite the pervasive underselling,[28] and for most of the POI prices for most pricing products, including Product 4, the most commonly produced product for the domestic industry, U.S. producers' prices were above their levels at the start of the POI.[29]

There was evidence that some prices decreased at the end of the POI. In particular, prices of Product 4 peaked in the first half of 2023, but were slightly lower in the last two quarters of the POI than at the start of the POI.[30] Prices for product 1 peaked in the first quarter of 2023.[31] Yet, that is not inconsistent with falling consumption and demand, and, in any case, did not prevent domestic producers' overall AUVs for U.S. shipments in 2023 from reaching their highest level on record.[32] Furthermore, downward price trends at the end of the POI also reflected decreases in raw material costs and increases in byproduct values. Prices for dry edible peas fell from $0.18/pound in 2021 to $0.15/pound in 2022 and 2023, and prices for whole yellow peas spiked in 2021 into early 2022 as a result of drought in the upper Midwest that later eased.[33] Prices for whole yellow peas were lower throughout the second half of 2023 than they had been at any time since the first quarter of 2021.[34] On an annual basis, the industry's reported unit raw material costs were higher in 2023 than they had been in 2021, but at the same time total and unit byproduct revenues were substantially higher in 2023 than in

[26] CR/PR at II-9.
[27] CR/PR at II-24 & Tables II-7, II-8, & II-17.
[28] CR/PR at Tables VI-1 & C-1.
[29] CR/PR at Tables V-4 to V-7.
[30] CR/PR at Table V-7.
[31] CR/PR at Table V-4.
[32] CR/PR at Table C-1.
[33] CR/PR at V-1 and Tables III-4, V-1.
[34] CR/PR at Table V-1.

2021, offsetting the increase in raw material costs to a degree.[35] I discuss further below the role of raw material costs and byproduct revenues in pricing decisions.

Accordingly, I do not find that subject import prices significantly depressed domestic producers' prices during the POI as prices increased by some measures while decreases by other measures were associated with falling consumption and demand and with decreases in raw material prices.

I have also considered whether subject imports suppressed or prevented price increases that otherwise would have occurred.

From 2021 through 2023 the domestic industry was caught in a cost-price squeeze, as the value of its shipments increased less than the value of its cost of goods. The domestic industry's total cost of goods sold (COGS) increased steadily by $*** from 2021 to 2023, while its total net sales value increased only $***.[36] As a result, the domestic industry's ratio of cost of goods sold to net sales increased from *** percent in 2021 to *** percent in 2023.[37]

Yet, most of the total cost increase in the domestic industry resulted from increases in "other factory" costs, which rose by $*** from 2021 to 2023.[38] In contrast, all costs other than the "other factory" category increased only $*** from 2021 to 2023, of which raw material costs increased only $*** over this same period.[39] Moreover, byproduct revenues, which offset rising costs, rose by $*** from 2021 to 2023.[40]

Normally one would expect a competitive industry to be able to increase prices enough to cover industry-wide increases in marginal costs such as rising raw material costs net of byproduct revenues. In contrast, the ability of producers to pass on their increases in "other factory" costs can in some cases be less clear, particularly if those categories include distinctly anomalous or idiosyncratic costs for particular producers. "Other factory" costs also typically include fixed or semi-fixed costs such as plant overhead and depreciation which are more difficult for a producer to pass on to purchasers in the short run.

In this case, the increases in the industry's "other factory" costs were almost entirely the result of increases in "other factory" costs ***.

---

[35] CR/PR at Table VI-1. The domestic industry's unit raw material cost increased from $*** per pound in 2021 to $*** per pound in 2022 before decreasing to $*** per pound in 2023, for a total increase from 2021 to 2023 of $*** per pound Calculated from CR/PR at Table VI-1. At the same time, the domestic industry's unit byproduct revenues steadily increased from $*** per pound in 2021 to $*** per pound in 2022 and $*** per pound in 2023. Calculated from CR/PR at Table VI-1. Thus, subtracting byproduct revenue, the domestic industry's raw material costs increased from $*** per pound in 2021 to $*** per pound in 2022 and decreased to $*** per pound in 2023. Calculated from CR/PR at Table VI-1.

[36] Calculated from CR/PR at Table VI-1.

[37] CR/PR at Table VI-1.

[38] Calculated from CR/PR at Table VI-1.

[39] Calculated from CR/PR at Table VI-1.

[40] Calculated from CR/PR at Table VI-1.

***.[41] ***.[42] ***.[43] ***.
***.[44] ***.[45] ***.[46] ***.
***.[47]

Accordingly, in analyzing whether the effect of subject import prices was to prevent the domestic industry from making price increases it otherwise would have, I place greater weight on the industry's ratio of raw material cost to net sales. Over the POI that increased from *** percent in 2021 to *** percent in 2023 which represents a relatively more favorable performance in a period of weak demand and declining consumption.[48]

Thus while I acknowledge that subject import prices likely did affect domestic producers' prices to some degree during the POI, given the moderate level of substitutability between domestic like products and subject imports and the degree of importance of price to purchasers, I do not find that these effects significantly depressed or suppressed the domestic industry's prices during the POI.

C. Impact of the Subject Imports

The domestic industry's trade performance was mixed during the POI and its employment indicators fluctuated. The industry's practical capacity increased by *** percent but its production decreased by *** percent resulting in a decline in capacity utilization of *** percent.[49] The U.S. industry's shipments decreased *** percent by volume, slightly less than the decrease in apparent consumption of *** percent, resulting in a slight increase of the domestic industry's market share of *** percentage points.[50] In value terms, the domestic industry's shipments increased *** percent and its unit values increased *** percent.[51] Its net sales fell *** percent by quantity, increased *** percent by value, and rose *** percent in unit.[52] Its inventories increased *** percent by quantity and *** percent as a ratio of total shipments.[53] The number of production workers the domestic industry employed increased

[41] Calculated from *** U.S. Producer QR at III-9a.
[42] Calculated from *** U.S. Producer QR at III-9a.
[43] *** U.S. Producer QR at III-10b. ***. *** U.S. Producer QR at III-9a, III-9h, & III-9i.
[44] *** revisions to U.S. Producer QR.
[45] *** U.S. Producer QR at III-10a & III-10b; *** revisions to U.S. Producer QR.
[46] CR/PR at VI-12 to VI-13 nn. 8, 12, & 16.
[47] ***. Calculated from CR/PR at Table VI-3.***. Calculated from CR/PR at Table VI-3. ***. Calculated from CR/PR at Table VI-3.
[48] CR/PR at Table VI-1.
[49] CR/PR at Table C-1.
[50] CR/PR at Table C-1.
[51] CR/PR at Table C-1.
[52] CR/PR at Table C-1.
[53] CR/PR at Table C-1.

from ***in 2021 to *** in 2022 before declining to *** in 2023; hours worked followed a similar pattern, rising *** percent in 2022 and falling ***percent in 2023 for an overall increase of *** percent.[54] Wages paid and hourly wages steadily increased by *** percent and *** percent respectively.[55]

The domestic industry lost money consistently, however, and its losses increased. On an operating basis it lost $*** in 2021 and $*** in 2023, and on a net basis it lost $*** in 2021 and $*** in 2023.[56] The ratio of its operating income to sales deteriorated from *** percent in 2021 to *** percent in 2023, while the ratio of its net income to net sales deteriorated from *** percent in 2021 to *** percent in 2023.[57] Its capital expenditures fell *** percent although R&D expenditures increased *** percent.[58]

For reasons addressed above, however, I do not ascribe a significant adverse impact on the industry to subject import pricing during the POI. Even though subject imports gained market share, the domestic industry also managed to slightly increase its own market share during the POI and would have gained an even larger share but for the fact that ***. Additionally, U.S. producers misjudged the market downturn, which would have encouraged them to keep prices higher for longer than if they had had a more accurate impression, thereby losing sales by discouraging consumption of HPC pea protein.

Furthermore, despite weak demand and steadily falling consumption, U.S. producers' prices were higher for most of the POI than at the POI's start and steadily increased on an AUV basis. To the extent prices decreased at the end of the POI they largely reflected decreases in published raw material prices. The industry experienced a cost-price squeeze to an extent but that was a consequence of unexpectedly poor demand.

Thus, based on the failure of subject imports' pricing to contribute significantly to downward trends in U.S. industry performance relative to the start of the POI, I do not find that the domestic industry is presently materially injured by reason of subject imports.

II. Threat of Material Injury

A. Legal Standards

Section 771(7)(F) of the Tariff Act directs the Commission to determine whether the domestic industry is threatened with material injury by reason of the subject imports by analyzing whether "further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is

[54] CR/PR at Table C-1.
[55] CR/PR at Table C-1.
[56] CR/PR at Table C-1.
[57] CR/PR at Table C-1.
[58] CR/PR at Table C-1.

accepted."[59] The Commission may not make such a determination "on the basis of mere conjecture or supposition" and considers the threat factors "as a whole" in making its determination whether dumped or subsidized imports are imminent and whether material injury by reason of subject imports would occur unless an order issues.[60] In considering the existence of threat of material injury, I consider all factors set forth as relevant in the statute.[61]

B. Likely Volume

While subject import volumes did not have a significant adverse impact on the domestic industry during the POI, the most recent trends did not bode well for the domestic industry's imminent future. U.S. importers' U.S. shipments of subject imports increased by 14.2 percent in

[59] 19 USC 1677(7)(F)(ii).

[60] 19 USC 1677(7)(F)(ii).

[61] *See* 19 USC 1677(F)(i). These factors are as follows:

(I) if a countervailable subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the countervailable subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement), and whether imports of the subject merchandise are likely to increase,

(II) any existing unused production capacity or imminent, substantial increase in production capacity in the exporting country indicating the likelihood of substantially increased imports of the subject merchandise into the United States, taking into account the availability of other export markets to absorb any additional exports,

(III) a significant rate of increase of the volume or market penetration of imports of the subject merchandise indicating the likelihood of substantially increased imports,

(IV) whether imports of the subject merchandise are entering at prices that are likely to have a significant depressing or suppressing effect on domestic prices and are likely to increase demand for further imports,

(V) inventories of the subject merchandise,

(VI) 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,

(VIII) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and

(IX) any other demonstrable adverse trends that indicate the probability that there is likely to be material injury by reason of imports (or sale for importation) of the subject merchandise (whether or not it is actually being imported at the time).

19 U.S.C. § 1677(7)(F)(i). To organize my analysis, I discuss the applicable statutory threat factors using the same volume/price/impact framework that applies to our material injury analysis. Thus, I discuss factors (I), (II), (III), (V), and (VI) in the analysis of subject import volume; factor (IV) in the analysis of import price effects; and factors (VIII) and (IX) in the analysis of impact. Factor (VII) concerning agricultural products does not apply in this investigation.

2023.[62] Subject importers' U.S. market share increased by *** percentage points in 2023, while U.S. producers' U.S. market share decreased *** percentage points.[63]

The record indicates that subject imports are likely to extend the increases in volume and market share observed in 2023 and become injurious absent relief for multiple reasons.

First, although Chinese producers report having reduced their capacity somewhat since 2021 and having approximately the same practical HPC pea protein capacity utilization rate in 2023 as in 2021, that still left the Chinese industry with unused practical capacity of *** pounds, equal to *** percent of 2023 U.S. consumption.[64] This unused capacity exceeded the ***.[65]

Thus, even a small portion of this capacity if directed to the U.S. market would likely result in a substantial additional increase in subject imports' market share, particularly if U.S. HPC pea protein consumption continues the decline experienced during the POI. Indeed, Chinese producers project that their excess capacity will increase to *** pounds in 2024 which would give them additional incentive to increase exports.[66]

Second, any additional increases in subject imports are more likely to come at the expense of U.S. producers in the imminent future than they were in the period of investigation. Although the increase in subject imports' market share during the POI as a whole came at the expense of nonsubject imports, in 2023, subject imports' increases in U.S. market share were mirrored by decreases in U.S. producers' market share, and there are currently fewer nonsubject imports left in the U.S. market for subject imports to displace.[67]

Third, the share of subject imports that exporters and resellers directed to the U.S. market increased over the POI, from *** percent in 2021 to *** percent in 2023, indicating that the U.S. market has become more enticing to Chinese HPC pea protein exporters relative to other potential export markets.[68] This is consistent with AUV data for exports from China in the HS category that includes HPC pea protein, which show AUVs for shipments to the United States have been consistently higher than AUVs for exports to all other markets except Japan.[69]

---

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

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

[64] Calculated from CR/PR at Tables VII-4, C-1. Responding Chinese producers reported practical HPC pea protein capacity of *** pounds in 2021 and *** pounds in 2023, and having a practical HPC pea protein capacity utilization rate of *** percent in 2021 and *** percent in 2023. CR/PR at Table VII-4.

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

[66] Calculated from CR/PR at Table VII-6.

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

[68] CR/PR at Table VII-6.

[69] CR/PR at Table VII-8. I recognize that this HS category includes nonsubject merchandise, so differences in product mix may explain some of the differences in AUVs among different export destinations. Furthermore, low-value products may be more popular in many Asian markets than in the U.S. market. Yet, the quantities of U.S. producers' shipments of subject merchandise from China (Continued...)

Nor are recent price decreases in the U.S. market likely to deter an increase in exports: some U.S. prices were weakening at the end of the POI, yet, rather than being discouraged by additional subject imports, subject imports increased in the last six months of 2023 relative to the first six months as reflected in monthly import data.[70]

Finally, inventories of subject merchandise held by foreign producers were higher at the end of 2023 than at the end of 2021, although lower than at the end of 2022.

Chinese Respondents argue that rising consumption will minimize subject imports' market share along with the susceptibility of the U.S. industry to injury.[71] Chinese Respondents assert, "{i}n the long term demand for pea protein will increase, with domestic and global trends towards health and wellness."[72] Yet, while there is evidence that HPC pea protein demand will increase in the United States in the long run, or at least that market participants believe it will increase at some point,[73] injury analysis must focus on the imminent future. Apparent consumption continued to decline in 2023, and I do not find there is evidence that a significant turnaround is likely in the next six to 12 months.

Chinese Respondents also argue that Chinese home market shipments "will continue to grow as they have over the POI."[74] In fact, however, Chinese producers and exporters report that their home market shipments decreased over the POI.[75] Chinese producers project that their home market shipments will increase in 2024 by *** pounds, rising from *** pounds in 2023 to *** pounds in 2024.[76] Yet, they also project that Chinese HPC pea protein production will decline *** pounds while capacity remains constant, leaving an increased projected excess capacity of ***.[77] Accordingly, the expected increase in Chinese home market shipments would not preclude increases in exports to the United States.

Chinese Respondents similarly argue that Chinese exports to third-country markets are projected to increase, but those projected increases are small, only *** pounds in 2024 and another *** in 2025.[78] They also would not preclude a significant increase in exports to the U.S. market.

---

accounted in each year ***. CR/PR at Tables VII-8 and C-1. Additionally, the markets represented in the AUV data represent a diverse global sample.

[70] CR/PR at Table IV-8.

[71] Respondents' Posthearing Br. 12.

[72] Hearing Tr. 12 (Kahn).

[73] Hearing Tr. 15-16 (Lorenzen) ("For over 10 years now, many of us, including I think all the parties that you'll hear from on both sides today, have been confident there's a very bright future for HPCP protein here in the United States"); 38 (McLain) ("all parties agree that demand for HPC pea protein will likely grow").

[74] Respondents' Posthearing Br. 12.

[75] CR/PR at Table VII-6.

[76] Calculated from CR/PR at Table VII-6.

[77] Calculated from CR/PR at Table VII-6.

[78] Respondents' Posthearing Br. 12 & Calculated from CR/PR at Table VII-6.

Chinese Respondents also argue that the Chinese HPC pea protein industry "has its capacity significantly constrained by the rising cost of raw peas, and especially by the steady market size of the pea starch market – a mature market with stable demand."[79] Yet, these are not constraints on capacity but rather alleged price incentives not to produce more or to sell more in the U.S. market. In fact, any such incentives are unlikely to deter increased HPC pea protein exports from China. Increases in pea costs are not likely to play a role, as Chinese producers source their peas on international markets in Canada, and while price data for Canada are not in the record, prices for U.S. growers in North Dakota and Montana have been falling.[80] Pea starch is also internationally traded, allowing Chinese producers to take advantage of demand elsewhere in the world, which reportedly is growing.[81] In any case, the reported stability of the pea starch industry in China has not prevented HPC pea protein output in China from fluctuating by 50,000 metric tons annually, which is equivalent to *** of U.S. consumption.[82]

C. Likely Price Effects

Subject imports pervasively undersold domestic like products by large margins, and I would expect this pattern to continue absent relief. Moreover, subject import prices have been declining at the very end of the POI, and underselling margins have slightly increased. As discussed above, subject imports have had some degree of impact on U.S. producers' prices, and if existing price trends and rising volume trends continue over the next six to 12 months, along with downward trends in consumption, it is likely that at some point in the imminent future subject imports would start to significantly depress or suppress domestic producers' prices.

D. Likely Impact

In assessing the likely impact of subject imports on the domestic industry, I consider the domestic industry to be vulnerable for several reasons.

First and foremost, the domestic industry has been losing money on a gross, operating, and net basis for several years, and these losses have been escalating. While these losses were

[79] Respondents' Posthearing Br. 12-13.

[80] Hearing Tr. 26 (Atchison) (Chinese producers buy peas in Canada); 203 (Zhang) (Chinese producer buys peas only from Canada due to clean taste), 204 (Yuan) (also sourcing solely in Canada which has most competitive price). CR/PR at Table V-1.

[81] Hearing Tr. 190 (Yu) (starch can be internationally traded); 107 (Lorenzen) (pea starch is growing market in United States).

[82] *See* CR/PR at Table C-1; Hearing Tr. 126 (Zhang) ("Therefore, the pea starch production capacity dictates the pea protein output in China, which fluctuates between 100,000 and 150,000 metric tons annually.").

not significantly linked to subject imports during the POI, they do make the domestic industry more susceptible to any further impact. ***.[83]

***.[84]

As a consequence of this vulnerability, impacts of subject imports that otherwise could be dismissed as immaterial to the industry's ability to successfully serve the U.S. market must be considered more threatening.

In this case, there is reason to expect subject imports will have a greater impact on the U.S. industry in the imminent future than they did in the past. As discussed above, I find that upward trends in subject imports' market share observed over the POI are likely to continue and increasingly come at the expense of the domestic industry. By the end of the POI the domestic industry's market share was barely above the level observed at the start; it would not take much more to push it into negative territory. While not all competition from subject imports is based on price, given the vulnerability of the industry even otherwise insignificant losses of sales based on price could well have a significant adverse impact. As discussed in relation to conditions of competition above, subject imports and domestic like products are on average moderately substitutable, so that while most purchasers reported that U.S. and Chinese products are only sometimes interchangeable, others find it easy to switch between them.[85]

Similarly, while the impact on domestic producers' prices that can reasonably be attributed to the price effects of subject import underselling has not been significant thus far, given the vulnerability of the U.S. industry even relatively minimal amounts of further price pressure combined with rising import volumes would be likely to have a significant impact.

III. Conclusion

For the foregoing reasons, and based on the record in the final phase of these investigations, I conclude that a domestic industry is threatened with material injury by reason of subject imports of HPC pea protein from China that Commerce has found to be subsidized and sold at less than fair value.

[83] Calculated from CR/PR at Table VI-13.

[84] CR/PR at Table VI-3.

[85] *See* CR/PR at Table II-14, II-16, & II-23.

Dissenting Views of Commissioner Rhonda K. Schmidtlein Regarding Critical Circumstances

I. Introduction

I join the majority in finding that an industry in the United States is materially injured by reason of imports of certain high protein content pea protein ("HPC pea protein") found by the U.S. Department of Commerce ("Commerce") to be sold in the United States at less than fair value and subsidized by the government of China. I disagree, however, with the majority's finding regarding critical circumstances. For the reasons explained below, I find that critical circumstances do not exist with respect to imports of HPC pea protein from China that are subject to Commerce's final affirmative critical circumstances determinations.

II. Critical Circumstances

A. Legal Standards

In these investigations, Commerce made final affirmative critical circumstances findings for the separate rate companies and the China-wide entity in the antidumping duty investigation and for Yantai Oriental, Zhaoyuan Junbang Trading Co., Ltd. ("Zhaoyuan"), and "all other" producers and/or exporters in the countervailing duty investigation.[1] Because I determined that the domestic industry is materially injured by reason of subject imports, I must further determine "whether the imports subject to the affirmative {Commerce critical circumstances} determination ... are likely to undermine seriously the remedial effect of the antidumping {and/or countervailing duty} order{s} to be issued."[2]

The SAA indicates that the Commission is to determine "whether, by massively increasing imports prior to the effective date of relief, the importers have seriously undermined the remedial effect of the order" and specifically "whether the surge in imports prior to the suspension of liquidation, rather than the failure to provide retroactive relief, is likely to seriously undermine the remedial effect of the order."[3] The legislative history for the critical circumstances provision indicates that the provision was designed "to deter exporters whose merchandise is subject to an investigation from circumventing the intent of the law by increasing their exports to the United States during the period between initiation of an investigation and a preliminary determination by {Commerce}."[4] An affirmative critical

[1] *Final CVD Determination*, 89 Fed. Reg. 55,557; *Final AD Determination*, 89 Fed. Reg. 55,559.

[2] 19 U.S.C. §§ 1671d(b)(4)(A)(i), 1673d(b)(4)(A)(i).

[3] SAA at 877.

[4] *ICC Industries, Inc. v United States,* 812 F.2d 694, 700 (Fed. Cir. 1987), *quoting* H.R. Rep. No. 96-317 at 63 (1979), *aff'g*, 632 F. Supp. 36 (Ct. Int'l Trade 1986). *See* 19 U.S.C. §§ 1671b(e)(2), 1673b(e)(2).

circumstances determination by the Commission, in conjunction with an affirmative determination of material injury by reason of subject imports, would normally result in the retroactive imposition of duties for those imports subject to the affirmative Commerce critical circumstances determination for a period 90 days prior to the suspension of liquidation.[5]

The statute provides that, in making this determination, the Commission shall consider, among other factors it considers relevant,

> (I) the timing and the volume of the imports,
>
> (II) a rapid increase in inventories of the imports, and
>
> (III) any other circumstances indicating that the remedial effect of the {order} will be seriously undermined.[6]

In considering the timing and volume of subject imports, the Commission's practice is to consider import quantities prior to the filing of the petitions with those subsequent to the filing of the petitions using monthly statistics on the record regarding those firms for which Commerce has made an affirmative critical circumstances determination.[7]

B. Party Arguments

As explained in the majority views, PURIS contends that the *** percent increase in imports when comparing five-month comparison periods, along with the *** percent increase in inventory levels and the domestic industry's "vulnerable" condition, warrants an affirmative critical circumstances determination.[8] Respondents, relying on a six-month comparison period, counter that the increase in subject import volume was *** percent and assert that this magnitude of change does not *** the increases in subject import volumes the Commission has relied on in prior cases where it made affirmative determinations of critical circumstances.[9] Respondents further assert that importers' inventory levels *** and only increased by *** percent during the six month post-petition period, which does not constitute a rapid increase in inventory levels that could seriously undermine the remedial effect of the orders.[10]

---

[5] 19 U.S.C. §§ 1671b(e)(2), 1673b(e)(2).

[6] 19 U.S.C. §§ 1671d(b)(4)(A)(ii), 1673d(b)(4)(A)(ii).

[7] *See Lined Paper School Supplies from China, India, and Indonesia*, Inv. Nos. 701-TA-442-43, 731-TA-1095-97, USITC Pub. 3884 at 46-48 (Sept. 2006); *Carbazole Violet Pigment from China and India*, Inv. Nos. 701-TA-437 and 731-TA-1060-61 (Final), USITC Pub. 3744 at 26 (Dec. 2004); *Certain Frozen Fish Fillets from Vietnam*, Inv. No. 731-TA-1012 (Final), USITC Pub. 3617 at 20-22 (Aug. 2003).

[8] PURIS Prehearing Br. at 38-40 (citing CR/PR at Table IV-8).

[9] Chinese Respondents Posthearing Br. at 14; Chinese Respondents Prehearing Br. at 96-97; NURA Prehearing Br. at 38.

[10] NURA Prehearing Br. at 38; Chinese Respondents Prehearing Br. at 94-96.

C. Analysis

The petitions in these investigations were filed on July 12, 2023.[11] As noted above, in its final countervailing duty determination, Commerce made an affirmative critical circumstances determination with respect to Yantai Oriental, Zhaoyuan, Focusherb LLC, Golden Protein Limited, Shandong Jianyuan Bioengineering Co, Yantai Wanpy International Trade, and "all other" producer/exporters.[12] In its final antidumping duty determination, Commerce made an affirmative critical circumstances determination with respect to separate rate companies and the China-wide entity.[13] Given that imports from all Chinese sources are covered by Commerce's critical circumstances determinations in both the antidumping and countervailing duty determinations, the volume of subject imports is the same for both investigations.

As an initial matter, I assume arguendo that a five-month period is the appropriate comparison in the current investigations. Commerce's preliminary determination with respect to the countervailing duty investigation was rendered on December 18, 2023, which falls within the six-month post-petition period.[14] Consequently, I start the analysis by comparing the volume of subject imports in the five months prior to the filing of the petitions (February 2023 – June 2023) with the volume of subject imports in the five months after the filing of the petitions (July 2023 – November 2023).[15]

---

[11] CR/PR at Table I-1.

[12] *Final CVD Determination*, 89 Fed. Reg. 55557 at 55558.

[13] *Final AD Determination*, 89 Fed. Reg. 55559 at 55560.

[14] CR/PR at Table I-1; *Certain Pea Protein From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, and Alignment of Final Determination With Final Antidumping Duty Determination*, 88 Fed Reg. 87403, (Dec. 18, 2023).

Given that Commerce's preliminary determination in the countervailing duty investigation falls within the latter half of the sixth month (December 18), I find the designation of the appropriate review period to be a close call in this case and that a six-month comparison period could be an equally reasonable choice. If six-month comparison periods are used, with a pre-petition period of January-June 2023 and a post-petition period of July-December 2023, the increases in imports and end-of-period inventory levels are less than the increases in the five-month comparison periods, with subject import volume increasing by *** percent in the post-petition period, and end-of-period inventories increasing by only *** when comparing inventory levels on June, 30, 2023, and December 30, 2023. CR/PR at Tables IV-8 and IV-9.

[15] CR/PR at Table IV-10. Although Commerce's preliminary determination with respect to the antidumping duty investigation was rendered on February 13, 2024, subsequent to six months after the filing of the petition, all imports from China would have been affected by the preliminary countervailing duty determination issued earlier. CR/PR at Table I-1; *Certain Pea Protein From the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, Postponement of Final Determination, and Extension of Provisional Measures*, 89 Fed Reg. 10038, (Feb 13, 2024). Consequently, consistent with Commission (Continued…)

The volume of subject imports from China increased from *** pounds in the pre-petition period to *** pounds in the post-petition period, an increase of *** percent.[16] U.S. importers' end-of-period inventories of subject imports from China were *** pounds at the end of the pre-petition period (June 2023) and *** pounds at the end of the post-petition period (November 2023), an increase of *** percent.[17] If a six month pre- and post-petition review period is utilized, the volume of subject imports increased by even less at *** percent and U.S. importers' end-of-period inventories of subject imports increased by substantially less at *** percent.[18] In my view, neither set of increases demonstrate a massive and rapid increase that would likely undermine the remedial effect of the orders. Indeed, importers' U.S. inventory levels at the end of 2023 were lower than each of the prior years of the POI, which does not suggest that importers were stockpiling imports prior to the imposition of duties to be used to undermine the orders.[19] There also is no evidence of significant changes in pricing patterns that might suggest the imports entering in the post-petition period were intended to circumvent a potential order. The average quarterly prices of subject imports from China generally started declining prior to the petitions being filed, with no apparent acceleration of this trend after the petitions were filed, and many pricing products actually show an increase in the price of subject imports in the last quarter of 2023.[20]

The statute and legislative history make clear that the magnitude of the increases in both import volume and inventories are important to the Commission's analysis (e.g., "massively increasing imports," "rapid increase in inventories").[21] I find that the increases present on this record do not satisfy this standard.[22] The majority focuses on the total volume

---

practice, I use the same pre- and post-petition periods for both the antidumping and countervailing duty critical circumstances analyses. *See, e.g.*, *Small Vertical Shaft Engines from China*, Inv. Nos. 701-TA-643 and 731-TA-1493 (Final) USITC Pub. 5185 (Apr. 2021) ("*SVSE from China*") at 43 n.243; *Corrosion-Resistant Steel Products from China, India, Italy, Korea, and Taiwan*, Inv. Nos. 701-TA-534-538 and 731-TA-1274-1278 (Final), USITC pub. 4620 (Jul. 2016) at 35-36.

[16] CR/PR at Table IV-8.

[17] CR/PR at Table IV-9.

[18] CR/PR at Tables IV-8 and IV-9.

[19] CR/PR at Table VII-9.

[20] *See* CR/PR at Tables V-4—V-11.

[21] SAA at 877; 19 U.S.C. §§ 1671d(b)(4)(A)(ii), 1673d(b)(4)(A)(ii).

[22] The increases in subject import volume and inventory levels noted by the majority are *** less than the increases in previous cases where the Commission reached affirmative critical circumstances determinations. *See* Chinese Respondents Prehearing Br. at 92-97; NURA Prehearing Br. at 37-38; *Mattresses from Bosnia and Herzegovina, Bulgaria, Burma, Italy, Philippines, Poland, Slovenia, and Taiwan*, Inv. Nos. 731-TA-1629-1631, 1633, 1636-1638, and 1640 (Final), USITC Pub. 5520 (June 2024) at 68 (affirmative determination with respect to Burma where subject import volume increased by 101.6 percent in the post-petition period); *Raw Honey from Argentina, Brazil, India, and Vietnam*, Inv. Nos. 731-TA-1560-1562 and 1564 (Final) USITC Pub. 5327 (May 2022) at 47 (affirmative determination with (Continued…)

of subject imports in the post-petition period, rather than the increase, and emphasizes that the imports were starting from a large base. Following the majority's logic, if subject imports start from a large base, there does not necessarily need to be an increase in import volume in the post-petition period at all, let alone a substantial or "massive" increase as contemplated by the statute and legislative history.

Based on the foregoing, I find that imports of HPC pea protein from China subject to Commerce's affirmative critical circumstances determinations are not likely to undermine seriously the redial effect of the antidumping and countervailing duty orders. Consequently, I make a negative determination with respect to critical circumstances.

III. Conclusion

For the reasons explained above, I find that critical circumstances do not exist with respect to imports of HPC pea protein from China that are subject to Commerce's final affirmative critical circumstances determinations.

---

respect to Vietnam where subject import volume increased by 83.2 percent and importers' inventories increased by almost threefold in the post-petition period); *Honey from Argentina and China*, Inv. Nos. 701-TA-402 and 731-TA-892-893 (Final), USITC Pub. 3470 (Nov. 2001) at 24 (affirmative determination where subject import volume increased by more than 78.5 percent and importers' inventories increased by 292 percent); *Synthetic Indigo from China*, Inv. No. 731-TA-851 (Final) USITC Pub. 3310 (June 2000) at 15 (affirmative determination where subject import volume increased by over 300 percent in the post-petition period); *see also SVSE from China*, USITC Pub. 5185 at 45-47 (affirmative determination where the Commission noted that subject imports "increased sharply" in the post-petition period, which led to a "substantial buildup" of inventories and created "a large stockpile of imports prior to the imposition of provisional duties").

Part I: Introduction

Background

These investigations result from petitions filed with the U.S. Department of Commerce ("Commerce") and the U.S. International Trade Commission ("USITC" or "Commission") by PURIS Proteins LLC ("Puris"), Minneapolis, Minnesota, on July 12, 2023, alleging that an industry in the United States is materially injured and threatened with material injury by reason of subsidized and less-than-fair-value ("LTFV") imports of high protein content pea protein ("HPC pea protein")[1] from China. Table I-1 presents information relating to the background of these investigations.[2] [3]

[1] See the section entitled "The subject merchandise" in Part I of this report for a complete description of the merchandise subject in this proceeding.

[2] Pertinent Federal Register notices are referenced in appendix A, and may be found at the Commission's website (www.usitc.gov).

[3] Appendix B is presented for the witnesses that appeared at the Commission's hearing.

Table I-1
HPC pea protein: Information relating to the background and schedule of this proceeding

Effective date	Action
July 12, 2023	Petitions filed with Commerce and the Commission; institution of the Commission investigations (88 FR 45924, July 18, 2023)
August 1, 2023	Commerce's notice of initiation (88 FR 52116 and 88 FR 52124, August 7, 2023)
August 28, 2023	Commission's preliminary determinations (88 FR 60495, September 1, 2023)
December 18, 2023	Commerce's preliminary CVD determination, preliminary affirmative critical circumstances determination, and alignment of final determination with final LTFV determination (88 FR 87403, December 18, 2023)
February 13, 2024	Commerce's preliminary AD determination, preliminary affirmative critical circumstances determination, postponement of final determination, and extension of provisional measures (89 FR 10038, February 13, 2024); scheduling of final phase of Commission investigations (89 FR 15895, March 5, 2024)
June 25, 2024	Commission's hearing
June 27, 2024	Commerce's final AD determination, final affirmative critical circumstances determination (89 FR 55557, July 5, 2024); Commerce's final CVD determination, final affirmative critical circumstances0 determination (89 FR 55559, July 5, 2024)
July 25, 2024	Scheduled date for the Commission's vote
August 19, 2024	Scheduled date for the Commission's views and determinations

Statutory criteria

Section 771(7)(B) of the Tariff Act of 1930 (the "Act") (19 U.S.C. § 1677(7)(B)) provides that in making its determinations of injury to an industry in the United States, the Commission--

> *shall consider (I) the volume of imports of the subject merchandise, (II) the effect of imports of that merchandise on prices in the United States for domestic like products, and (III) the impact of imports of such merchandise on domestic producers of domestic like products, but only in the context of production operations within the United States; and. . . may consider such other economic factors as are relevant to the determination regarding whether there is material injury by reason of imports.*

Section 771(7)(C) of the Act (19 U.S.C. § 1677(7)(C)) further provides that--[4]

[4] Amended by PL 114-27 (as signed, June 29, 2015), Trade Preferences Extension Act of 2015.

In evaluating the volume of imports of merchandise, the Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States is significant.. . .In evaluating the effect of imports of such merchandise on prices, the Commission shall consider whether. . .(I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.. . . In examining the impact required to be considered under subparagraph (B)(i)(III), the Commission shall evaluate (within the context of the business cycle and conditions of competition that are distinctive to the affected industry) all relevant economic factors which have a bearing on the state of the industry in the United States, including, but not limited to. . . (I) actual and potential decline in output, sales, market share, gross profits, operating profits, net profits, ability to service debt, productivity, return on investments, return on assets, and utilization of capacity, (II) factors affecting domestic prices, (III) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, (IV) actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and (V) in {an antidumping investigation}, the magnitude of the margin of dumping.

In addition, Section 771(7)(J) of the Act (19 U.S.C. § 1677(7)(J)) provides that—[5]

(J) EFFECT OF PROFITABILITY.—The Commission may not determine that there is no material injury or threat of material injury to an industry in the United States merely because that industry is profitable or because the performance of that industry has recently improved.

Organization of report

Part I of this report presents information on the subject merchandise, subsidy/dumping margins, and domestic like product. Part II of this report presents information on conditions of competition and other relevant economic factors. Part III presents information on the condition of the U.S. industry, including data on capacity, production, shipments, inventories, and

[5] Amended by PL 114-27 (as signed, June 29, 2015), Trade Preferences Extension Act of 2015.

employment. Parts IV and V present the volume of subject imports and pricing of domestic and imported products, respectively. Part VI presents information on the financial experience of U.S. producers. Part VII presents the statutory requirements and information obtained for use in the Commission's consideration of the question of threat of material injury as well as information regarding nonsubject countries.

Market summary

HPC pea protein is generally used to add protein content to a wide range of food and beverage products. The leading U.S. producer of HPC pea protein is ***. The largest foreign producers of HPC pea protein outside the United States are two Chinese producers, *** of China. The largest reporting U.S. importers of HPC pea protein from China are ***) is ***. U.S. purchasers of HPC pea protein are firms that manufacture food and beverages. Leading reporting purchasers from all sources include ***.

Apparent U.S. consumption of HPC pea protein totaled approximately *** pounds ($***) in 2023. Currently, three firms are known to produce HPC pea protein in the United States. U.S. producers' U.S. shipments of HPC pea protein totaled *** pounds ($***) in 2023, and accounted for *** percent of apparent U.S. consumption by quantity and *** percent by value. U.S. imports from subject sources totaled *** in 2023 and accounted for *** percent of apparent U.S. consumption by quantity and *** percent by value. U.S. imports from nonsubject sources totaled *** pounds ($***) in 2023 and accounted for *** percent of apparent U.S. consumption by quantity and *** percent by value.

Summary data and data sources

A summary of data collected in these investigations is presented in appendix C, table C-1. Except as noted, U.S. industry data are based on questionnaire responses of three firms that accounted for *** U.S. production of HPC pea protein during 2023. U.S. imports are based on questionnaire responses of 26 firms[6] that accounted for *** percent of U.S. imports from China

[6] The coverage figures are based on official Commerce import statistics that were adjusted to remove certain out-of-scope imports under the HTS statistical reporting numbers submitted in response to Commission questionnaires. The coverage figures are likely understated due to the wide range of out-of-scope products entering under these "basket" categories. Additional importers were identified and included in the imports from China category using information collected from Commission foreign producers' questionnaire responses, increasing the coverage for China to *** percent. See part IV, footnote 4 for additional information regarding coverage of U.S. importers.

and *** percent of nonsubject sources in 2023 under HTS statistical reporting numbers 3504.00.1000, 3504.00.5000, and 2106.10.0000, “basket” categories that include HPC pea protein and out-of-scope products.

Previous and related investigations

HPC pea protein has not been the subject of any prior antidumping or countervailing duty investigations in the United States.

Nature and extent of subsidies and sales at LTFV

Subsidies

On July 5, 2024, Commerce published a notice in the Federal Register of its final determination of countervailable subsidies for producers and exporters of HPC pea protein from China.[7] Table I-2 presents Commerce’s findings of subsidization of HPC pea protein in China.

[7] 89 FR 55557, July 5, 2024.

Table I-2
HPC pea protein: Commerce's final subsidy determination with respect to imports from China

Entity/Company	Final countervailable subsidy rate (percent ad valorem)
Yantia Oriental Protein Tech Co., Ltd.	16.52
Zhaoyuan Junbang Trading Co., Ltd.	15.15
Focusherb LLC	355.89
Golden Protein Limited	355.89
Shandong Jianyuan Bioengineering	355.89
Yantain Wanpy International Trade	355.89
All others	15.84

Source: 89 FR 55557, July 5, 2024.

Note: For further information on programs determined to be countervailable, see Commerce's associated Issues and Decision Memorandum.

Sales at LTFV

On July 5, 2024, Commerce published a notice in the Federal Register of its final determination of sales at LTFV with respect to imports from China.[8] Table I-3 presents Commerce's dumping margins with respect to imports of product from China.

[8] 89 FR 55559, July 5, 2024.

Table I-3
HPC pea protein: Commerce's final weighted-average LTFV margins with respect to imports from China

Exporter	Producer	Final dumping margin (percent)	Cash deposit rate (adjusted for subsidy offset) (percent)
Fenchem Biotek Ltd	Yantai Shuangta Food Co., Ltd	122.19	111.65
Jianyuan International Co., Ltd	Shandong Jianyuan Bioengineering Co., Ltd	122.19	111.65
Jianyuan International Co., Ltd	Hengyuan Biotechnology Co., Ltd	122.19	111.65
KTL Pharmaceutical Co., Limited	Jiujiang Tiantai Food Co., Ltd	122.19	111.65
Linyi Yuwang Vegetable Protein Co., Ltd	Linyi Yuwang Vegetable Protein Co., Ltd	122.19	111.65
Nutracean Co., Ltd	Yantai Shuangta Food Co., Ltd	122.19	111.65
Nutracean Co., Ltd	Zhaoyuan Junbang Trading Co., Ltd	122.19	111.65
Shandong Yuwang Ecological Food Industry Co., Ltd	Linyi Yuwang Vegetable Protein Co., Ltd	122.19	111.65
Yantai T. Full Biotech Co., Ltd	Yantai T. Full Biotech Co., Ltd	122.19	111.65
Yosin Biotechnology (Yantai) Co., Ltd	Yosin Biotechnology (Yantai) Co., Ltd	122.19	111.65
Yosin Import and Export (Yantai) Co., Ltd	Yosin Biotechnology (Yantai) Co., Ltd	122.19	111.65
Hainan Zhongxin Chemical Co., Ltd	Shandong Hua-Thai Food Products Co., Ltd	122.19	111.65
Hainan Zhongxin Chemical Co., Ltd	Shandong Jundu Talin Food Products Co., Ltd	122.19	111.65
Hainan Zhongxin Chemical Co., Ltd	Yosin Biotechnology (Yantai) Co., Ltd	122.19	111.65
Hainan Zhongxin Chemical Co., Ltd	Yosin Import and Export (Yantai) Co., Ltd	122.19	111.65
Hainan Zhongxin Chemical Co., Ltd	Yantai Shuangta Food Co., Ltd	122.19	111.65
All others		280.31	269.77

Source: 89 FR 55559, July 5, 2024.

The subject merchandise

Commerce's scope

In the current proceeding, Commerce has defined the scope as follows:[9]

> *The product within the scope of this investigation is high protein content (HPC) pea protein, which is a protein derived from peas (including, but not limited to, yellow field peas and green field peas) and which contains at least 65 percent protein on a dry weight basis. HPC pea protein may also be identified as, for example, pea protein concentrate, pea protein isolate, hydrolyzed pea protein, pea peptides, and fermented pea protein. Pea protein, including HPC pea protein, has the Chemical Abstracts Service (CAS) registry number 222400–29–5.*
>
> *The scope covers HPC pea protein in all physical forms, including all liquid (e.g., solution) and solid (e.g., powder) forms, regardless of packaging or the inclusion of additives (e.g., flavoring, suspension agents, preservatives).*
>
> *The scope also includes HPC pea protein described above that is blended, combined, or mixed with non-subject pea protein or with other ingredients (e.g., proteins derived from other sources, fibers, carbohydrates, sweeteners, and fats) to make products such as protein powders, dry beverage blends, and protein fortified beverages. For any such blended, combined, or mixed products, only the HPC pea protein component is covered by the scope of this investigation. HPC pea protein that has been blended, combined, or mixed with other products is included within the scope, regardless of whether the blending, combining, or mixing occurs in third countries.*
>
> *HPC pea protein that is otherwise within the scope is covered when commingled (i.e., blended, combined, or mixed) with HPC pea protein from sources not subject to this investigation. Only the subject component of the commingled product is covered by the scope.*
>
> *A blend, combination, or mixture is excluded from the scope if the total HPC pea protein content of the blend, combination, or mixture (regardless*

[9] 89 FR 55557 and 89 FR 55559, July 5, 2024. Certain interested parties commented on the scope as it appeared in Commerce's Initiation Notice. Commerce did not modify the scope language as it appeared in the Initiation Notice in neither its preliminary determination nor its final determination.

of the source or sources) comprises less than five percent of the blend, combination, or mixture on a dry weight basis.

All products that meet the written physical description are within the scope of the investigation unless specifically excluded. The following products, by way of example, are outside and/or specifically excluded from the scope of the investigation:

- *burgers, snack bars, bakery products, sugar and gum confectionary products, milk, cheese, baby food, sauces and seasonings, and pet food, even when such products are made with HPC pea protein;*
- *HPC pea protein that has gone through an extrusion process to alter the HPC pea protein at the structural and functional level, resulting in a product with a fibrous structure which resembles muscle meat upon hydration. These products are commonly described as textured pea protein or texturized pea protein;*
- *HPC pea protein that has been further processed to create a small crunchy nugget commonly described as a pea protein crisp;*
- *protein derived from chickpeas.*

The merchandise covered by the scope is currently classified under Harmonized Tariff Schedule of the United States (HTSUS) categories 3504.00.1000, 3504.00.5000, and 2106.10.0000. Such merchandise may also enter the U.S. market under HTSUS category 2308.00.9890. Although HTSUS categories and the CAS registry number are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

Tariff treatment

Based upon the scope set forth by Commerce, information available to the Commission indicates that the merchandise subject to these investigations are imported under the following subheadings of the Harmonized Tariff Schedule of the United States ("HTS"): 2106.10.00 (protein concentrates and textured protein substances), 3504.00.10 (protein isolates), and 3504.00.50 (peptones and their derivatives and other protein substances and their derivatives).[10] The 2024 general rate of duty is 6.4 percent ad valorem for HTS subheading

[10] According to the scope set forth by Commerce, imports of HPC pea protein may also import under HTS statistical reporting number 2308.00.9890 (vegetable materials and vegetable waste, vegetable (continued...)

2106.10.00, 5.0 percent for HTS subheading 3504.00.10, and 4.0 percent for HTS subheading 3504.00.50. Decisions on the tariff classification and treatment of imported goods are within the authority of U.S. Customs and Border Protection.

Pea protein imports from China are also subject to additional duties under section 301 of the Trade Act of 1974. Effective September 24, 2018, pea protein originating in China and imported under HTS 2106.10.0000 was subject to an additional 10 percent ad valorem duty. Effective May 10, 2019, the section 301 duty for this pea protein was increased to 25 percent.[11] Effective September 1, 2019, pea protein originating in China and imported under HTS 3504.00.1000 or HTS 3504.00.5000 was subject to an additional 15 percent ad valorem duty. Effective February 14, 2020, the section 301 duty for these imports was reduced to 7.5 percent.[12]

The product

Description and applications

HPC pea protein is a substance made from yellow or green field peas that have been dried before harvesting (i.e., dry peas). From this crop, the manufacturing process described below is performed to produce HPC pea protein, a substance which contains at least 65 percent protein by weight, but typically contains 80 to 85 percent protein by weight.[13] It is commonly a dry powder but can also be sold in liquid form. It has a neutral flavor and is used to add protein content to a wide range of food products for human consumption.[14] Because it is derived from

(…continued)

residues and byproducts, whether or not in the form of pellets, of a kind used in animal feeding, not elsewhere specified or included: other). However, as noted in Part IV, *** reported imports of HPC pea protein under this HTS statistical reporting number.

[11] 83 FR 47974, September 21, 2018; 84 FR 20459, May 9, 2019. See also HTS headings 9903.88.03 and 9903.88.04 and U.S. notes 20(e)–20(g) 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-26–99-III-51, 99-III-293. Goods exported from China to the United States prior to May 10, 2019, and entering the United States prior to June 1, 2019, were not subject to the escalated 25 percent duty (84 FR 21892, May 15, 2019).

[12] 84 FR 45821, August 30, 2019; 85 FR 3741, January 22, 2020. See also HTS heading 9903.88.15 and U.S. notes 20(r) and 20(s) 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-86–99-III-100, 99-III-295.

[13] Conference transcript, p. 22 (Hubert).

[14] Conference transcript, p. 28 (Chandak).

plants and is free from major food allergens such as milk, wheat, and soy, it is popular with food manufacturers seeking these attributes.[15] It is also typically pasteurized, meaning that it is generally safe for direct human consumption without having to undergo additional processing.[16]

Among the leading categories of foods using HPC pea protein as an ingredient is sports nutrition.[17] Sports nutrition products are generally high-protein powders, shakes, and bars. They are often marketed as improving the consumer's ability to perform in sports and exercise by, for example, aiding in muscle growth or recovery.[18] Another category of foods incorporating HPC pea protein is dairy alternatives. HPC pea protein can be used to add protein content to "plant-based milks, plant-based yogurts, cheeses and coffee creamers."[19] A third category of foods that may incorporate HPC pea protein is plant-based meat substitutes. For instance, HPC pea protein is the main source of protein in many of the meat alternatives produced by the company Beyond Meat.[20] Before being added to meat substitutes, HPC pea protein generally must undergo a process of extrusion that adds additional texture to the protein.[21] This process is normally performed by the manufacturer of the meat substitute and is not part of the manufacturing process described below. Outside of these 3 major categories, HPC pea protein has applications in other products, including bakery and confectionary products as well as baby food.[22]

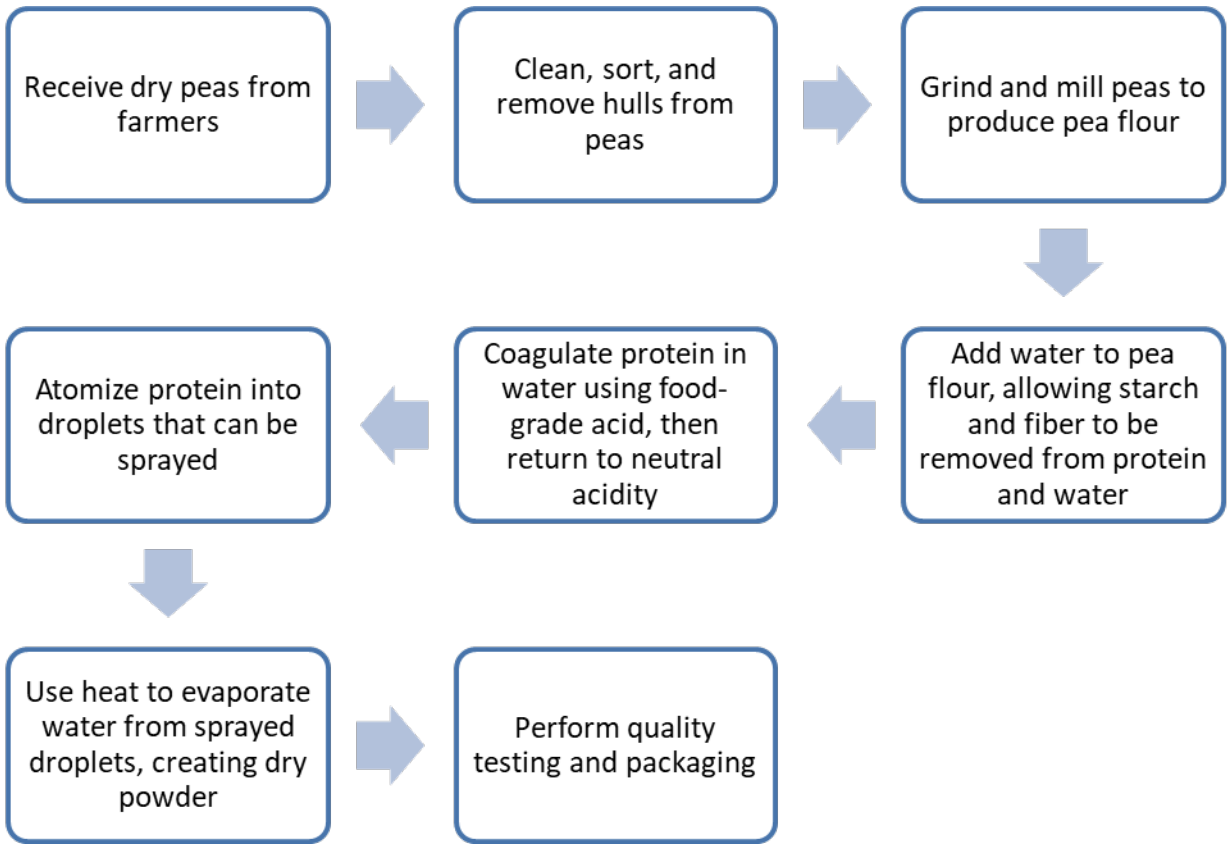
Manufacturing processes

The manufacturing of pea protein uses a capital-intensive process that begins with the arrival of dry peas at the manufacturing plant as shown in Figure I-1.[23] First, the peas are cleaned, any debris is sorted out, and the pea hulls are removed by machinery. Next, the peas are split, ground, and milled, resulting in dry pea flour. This flour contains starch, fiber, and protein. At this stage, the pea flour is combined with water, which allows for precise separation of the protein from the starch and fiber. The producer can use a range of separation techniques

[15] McKinsey and Company, "Alternative Proteins," August 16, 2019.
[16] Conference transcript, p. 22 (Atchison).
[17] Conference transcript, p. 82 (Hubert).
[18] Tate and Lyle, "A Look Inside the Sports Nutrition Market," July 2020.
[19] Conference transcript, p. 82 (Hubert).
[20] Beyond Meat, "Beyond Beef," accessed August 11, 2023.
[21] Conference transcript, p. 84 (Atchison).
[22] Petition, p. 7.
[23] Petition, pp. 8-10; Roquette, "How One Facility Will Turn 125,000 Metric Tons of Peas into Plant Protein Every Year," n.d.

to isolate and remove the starch and fiber from the protein and water. The starch and fiber may then undergo additional processing that allow them to be sold as separate food ingredients.[24] The protein and water, meanwhile, continue on to a step that coagulates the protein in water by isoelectric precipitation (i.e., using food-grade acid).[25] Once the protein is coagulated, caustic soda is added to return it to a neutral acidity. Finally, the protein is sprayed as droplets and the water is evaporated from the droplets using hot air. This results in the finished dry powder, at which point, quality testing and packaging steps can be performed.[26]

Figure I-1
HPC pea protein: Manufacturing process



Sources: Petition, pp. 8-10; Roquette, "How One Facility Will Turn 125,000 Metric Tons of Peas into Plant Protein Every Year," n.d.

[24] Conference transcript, p. 89 (Atchison).
[25] Petition, pp. 8-10.
[26] Roquette, "How One Facility Will Turn 125,000 Metric Tons of Peas into Plant Protein Every Year," n.d.

The manufacturing process for HPC pea protein requires specialized machinery and processes that ensure product quality and allow for small adjustments to meet individual customer specifications.[27] For example, the wet milling process described above (in which pea flour is combined with water to enable separation of the pea's protein from its starch and fiber) is a step that allows the manufacturer to produce pea protein with high protein content. Pea protein can also be produced through a dry milling process, but this reportedly results in a lower protein content because that process is not as efficient at isolating the various components of the pea.[28] This low protein content ("LPC") pea protein, generally produced through dry milling, has different applications because the higher pea starch and fiber content gives it a more noticeable pea flavor.[29] An additional important aspect of the manufacturing of HPC pea protein is that producers generally employ a continuous production process. This means that the machinery runs 24 hours a day, 7 days a week until a production run is completed, at which point the equipment is cleaned and recalibrated for the next run.[30] ***.[31]

Domestic like product issues

In the preliminary phase of these investigations, the Commission defined a single domestic like product consisting of HPC pea protein, coextensive with the scope. In the final phase of these investigations, no parties (in their comments on draft questionnaires) requested data or other information necessary for the analysis of the domestic like product.

[27] Conference transcript, p. 80 (Atchison).
[28] Conference transcript, p. 28 (Chandak).
[29] Conference transcript, p. 28 (Chandak).
[30] Conference transcript, p. 64 (Atchison); Roquette, "How One Facility Will Turn 125,000 Metric Tons of Peas into Plant Protein Every Year," n.d.
[31] Petitioner's postconference brief, exhibit 17, p. 1.

Part II: Conditions of competition in the U.S. market

U.S. market characteristics

HPC pea protein is a plant-based protein commonly sold in powder form. HPC pea protein is not a commonly used industry term but is used in this investigation to describe pea protein with a protein content higher than 65 percent on a dry weight basis.[1] The common market practice is to sell pea protein in specified protein contents.[2] HPC pea protein typically has a protein content of 80 to 85 percent on a dry weight basis.[3] HPC pea protein is generally marketed as an alternative to animal protein that can be consumed directly or serve as an ingredient in numerous items including: snack bars, plant-based meat products (e.g., burgers and sausages, chicken, fish, meatballs, etc.), ready-to-drink applications (e.g., nutritional drinks, juice, etc.), sauces and seasonings, desserts and ice creams, bakery products, dairy products, beverages, sugar and gum confectionary products, sweet spreads, chocolate confectionary products, baby food breakfast cereals, egg-based products, savory spreads, and soups.

One of three U.S. producers, nine of 25 importers, and two of seven purchasers reported that the market was subject to distinctive conditions of competition. Specifically, U.S. producer *** reported that the market for HPC pea protein is highly competitive on price, in part because consumer brands (and associated manufacturers) who buy HPC pea protein are themselves competing for limited shelf space in retail settings. Importer *** reported the pea protein is a co-product of pea starch. Importer *** also reported that Chinese producers sold HPC pea protein at a lower price due to the high value of the starch, while U.S. producers could not compete with Chinese producers because they sold HPC pea protein as the main product. Importer *** reported that the HPC pea protein market is growing, and more competitors are entering the market but that increased market participants make it hard to verify the labeling and sourcing claims of some suppliers. Importer *** reported that U.S. producers don't appear to have developed markets for pea starch while glass noodle production is a developed market for pea starch in Asia. Importer *** reported that agricultural volatility was a distinct condition of competition in the pea protein market. Importer *** reported that the unique characteristics of customized pea protein blends create a unique market condition where customers don't switch sources of supply. Purchaser *** reported that

[1] Conference transcript, p. 91 (Vaughn).
[2] Conference transcript, p. 91 (Vaughn).
[3] Conference transcript, p. 22 (Atchinson).

shortages of HPC pea protein were a unique market condition. Purchaser *** reported that the proprietary formulations that take years and extensive investment to create and are sourced through approved and qualified suppliers are unique conditions in the HPC pea protein market.

Apparent U.S. consumption of HPC pea protein fluctuated during the period of investigation. Apparent consumption decreased in terms of both quantity (*** percent) and value (*** percent) from 2021 to 2023. However, apparent consumption in terms of quantity decreased throughout the period of investigation, while apparent consumption in terms of value increased *** percent from 2021 to 2022 before decreasing *** percent from 2022 to 2023.

U.S. purchasers

The Commission received seven usable questionnaire responses from firms that had purchased HPC pea protein during the period of investigation.[4] [5] [6] Three responding purchasers are food manufacturers, one is a drink manufacturer, one is a food and drink manufacturer, one is a food manufacturer that also sells HPC pea protein to consumers, and one is a food and drink manufacturer that also sells HPC pea protein to consumers. Responding U.S. purchasers were located on the Pacific Coast, Midwest and Mountains regions of the United States. The largest responding purchasers of HPC pea protein are *** and ***.

[4] The following firms provided purchaser questionnaire responses: ***.

[5] Of the seven responding purchasers, five purchased the domestic HPC pea protein, six purchased imports of the subject merchandise from China, and two purchased imports of HPC pea protein from other sources.

[6] Five purchasers indicated they had marketing/pricing knowledge of domestic product, six of China product, and three of nonsubject countries.

Impact of section 301 tariffs

U.S. producers, importers, and purchasers were asked to report the impact of section 301 tariffs on overall demand, supply, prices, or raw material costs (table II-1). All responding U.S. producers reported that section 301 tariffs had no impact or were unaware of the impact of section 301 tariffs on the HPC pea protein market. The majority of importers and purchasers reported that section 301 tariffs had impacted the HPC pea protein market. Importers reported that section 301 tariffs increased the price of HPC pea protein. Importer *** reported that section 301 tariffs caused a 7.5-15.0 percent increase in the price of HPC pea protein. Importer *** reported that a 7.5 percent additional duty raised the total duty from 4.0 percent to 11.5 percent. Importer *** reported that section 301 tariffs increased the cost of HPC pea protein and the prices that their customers pay. Purchaser *** reported that section 301 tariffs increased demand and prices for HPC pea protein in the United States. Purchaser *** report that section 301 tariffs have caused customers to scramble to approve HPC pea protein from new suppliers.

Table II-1
HPC pea protein: Count of firms' responses regarding the impact of the 301 tariffs on Chinese origin products

Firm type	Yes	No	Don't Know
U.S. producers	0	1	2
Importers	15	4	6
Purchasers	4	1	2

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

Channels of distribution

U.S. producers and importers sold mainly to end users, as shown in table II-2.

Table II-2
HPC pea protein: Share of U.S. shipments by source, channel of distribution, and period

Shares in percent

Source	Channel	2021	2022	2023
United States	Distributors	***	***	***
United States	End users	***	***	***
China	Distributors	***	***	***
China	End users	***	***	***
Nonsubject	Distributors	***	***	***
Nonsubject	End users	***	***	***
All import	Distributors	***	***	***
All import	End users	***	***	***

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

Geographic distribution

U.S. producers and importers reported selling HPC pea protein to all regions in the United States (table II-3). For U.S. producers, *** percent of sales were within 100 miles of their production facility, *** percent were between 101 and 1,000 miles, and *** percent were over 1,000 miles. Importers sold *** percent within 100 miles of their U.S. point of shipment, *** percent between 101 and 1,000 miles, and *** percent over 1,000 miles.

Table II-3
HPC pea protein: Count of U.S. producers' and U.S. importers' geographic markets

Region	U.S. producers	China
Northeast	3	20
Midwest	3	18
Southeast	3	15
Central Southwest	3	16
Mountain	3	16
Pacific Coast	3	20
Other	1	1
All regions (except Other)	3	12
Reporting firms	3	22

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

Note: Other U.S. markets include AK, HI, PR, and VI.

Supply and demand considerations

U.S. supply

Table II-4 provides a summary of the supply factors regarding HPC pea protein from U.S. producers and from subject countries.

Table II-4
HPC pea protein: Supply factors that affect the ability to increase shipments to the U.S. market, by country

Quantity in 1,000 pounds dry weight; ratio and share in percent

Factor	Measure	United States	China
Capacity 2021	Quantity	58,879	***
Capacity 2023	Quantity	60,300	***
Capacity utilization 2021	Ratio	51.5	***
Capacity utilization 2023	Ratio	41.8	***
Inventories to total shipments 2021	Ratio	***	***
Inventories to total shipments 2023	Ratio	***	***
Home market shipments 2023	Share	***	***
Non-US export market shipments 2023	Share	***	***
Ability to shift production	Count	***	***

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

Note: Responding U.S. producers accounted for all known U.S. production of HPC pea protein in 2023. Responding foreign producer/exporter firms accounted for over *** percent of U.S. imports of HPC pea protein from China in 2023. For additional data on the number of responding firms and their share of U.S. production and of U.S. imports from each subject country, please refer to Part I, “Summary Data and Data Sources.”

Domestic production

Based on available information, U.S. producers of HPC pea protein have the ability to respond to changes in demand with large changes in the quantity of shipments of U.S.-produced HPC pea protein to the U.S. market. The main contributing factors to this degree of responsiveness of supply are the availability of unused capacity and high inventory levels. The limited ability to divert shipments from other markets and the limited ability to shift production to or from other products mitigates the responsiveness of supply.

U.S. producers reported increasing production capacity and decreasing production leading to decreased capacity utilization from 2021 to 2023. U.S. producers' inventories relative to total shipments increased from 2021 to 2023. Exports remained below *** percent of producers' reported shipments throughout the period. *** reported being able to produce other products on the same equipment used to produce HPC pea protein. *** reported being able switch production to *** using the same equipment used to produce HPC pea protein. *** reported that there are several factors that limit its ability to shift production to or from other products, namely that soy is an allergen, and it is dedicated to producing allergen-free products, and that there is a limited supply of fava beans and chickpeas to use as a raw material.

Subject imports from China

Based on available information, producers of HPC pea protein from China have the ability to respond to changes in demand with moderate-to-large changes in the quantity of shipments of HPC pea protein to the U.S. market. The main contributing factors to this degree of responsiveness of supply are the availability of some unused capacity, available inventories, and an ability to shift shipments to or from alternate markets. The limited ability to shift production to or from alternate products mitigates the responsiveness of supply.

Responding Chinese producers reported decreased production capacity and production while capacity utilization remained constant from 2021 to 2023. Chinese producers' inventories relative to total shipments increased from 2021 to 2023. In 2023, responding Chinese producers reported selling just under *** of shipments in their home market and just over *** of shipments to markets other than the United States. A plurality of responding Chinese producers (***) reported being able to produce other products on the same equipment used to produce HPC pea protein. Foreign producers *** reported being able to produce mung bean and fava bean protein and foreign producer *** reported being able to produce chickpea protein and lentil protein on the same equipment used to produce

HPC pea protein. Foreign producer *** reported that switching production to or from alternate products requires three days of cleaning and sterilizing machines in order to ensure the quality and purity of products. Foreign producer *** reported that it was only able to switch production to or from alternate products on the production lines making HPC pea protein with a protein content of over 80 percent.

Imports from nonsubject sources

Based questionnaire responses, imports from nonsubject countries accounted for *** percent of the total quantity of U.S. imports in 2023. The largest sources of these imports in 2023 was Canada. This country accounted for *** imports from nonsubject countries in 2023.

Supply constraints

Two of three U.S. producers reported that they had refused, declined, or been unable to supply HPC pea protein between January 1, 2021 and July 12, 2023. U.S. producer *** reported that there were temporary occasions in early 2021 where it was unable to meet some of the order requests within the specified timeframe but has since expanded capacity and has no issue meeting customer demand. U.S. producer *** reported that there were production bottlenecks in 2022 and it had difficulty meeting the shelf-life requirements the customers specified in their contracts. None of the U.S. producers reported supply constraints after the filing of the petition or that they had been unable to produce HPC pea protein for proprietary or customs standards.[7] [8] [9]

The majority of importers reported that they had not refused, declined, or been unable to supply HPC pea protein since January 1, 2021 or since the petition was filed on July 12, 2023. The majority of importers reported that they had been able to produce HPC pea protein for

[7] U.S. producer ***.
[8] U.S. producer ***.
[9] U.S. producer ***.

proprietary or customs standards for all of their customers' requests. However, importers *** reported that there were supply constraints prior to the filing of the petition due to the COVID-19 pandemic. Importer *** reported that increased demand in late 2021 and early 2022 combined with supply chain disruptions and increased shipping costs due to the COVID-19 pandemic caused supply constraints in the U.S. market and that U.S. producers had a very limited ability to meet this demand. Importer *** also reported that demand decreased in the second half of 2022 and the first half of 2023.

Importer *** reported that it had experienced supply constraints since the filing of the petition as HPC pea protein from China had become more expensive. Importer *** reported that it had experienced supply constraints since the filing of the petition, as all its clients stopped all projects until the results of the title VII investigation became clear. Importer *** reported that since the petition was filed there has been a shortage of organic HPC pea protein and it has been unable to meet demand. Importer *** reported that the tariff added since the petition was filed has eliminated China as a competitive source of HPC pea protein and that U.S. producers are not able to produce enough to meet U.S. demand. Importer *** reported that U.S. producers were unable to provide a HPC pea protein with the sensory profile at cost. Importer *** reported that it has experienced supply constraints since the petition was filed as it had practically stopped imported HPC pea protein from China.

Importer *** reported that because of various production methods each manufacturer will have limits to the level of customization of HPC pea protein and that some customers prefer Chinese HPC pea protein because it is different from U.S. or Canadian produced HPC pea protein in terms of color, flavor, and functional characteristics. Importer *** reported that it worked with specialized grades of HPC pea protein that Puris did not produce.

The majority of purchasers reported that they had not been refused, declined, or been unable to supply HPC pea protein since January 1, 2021 or since the petition was filed on July 12, 2023. The majority of purchasers reported that they had been able to source HPC pea protein to proprietary or customs standards. However, purchaser *** reported that they have been unable to source organic HPC pea protein in excess of 18 million pounds per year and that a number of U.S. and Canadian producers have been unable to meet its product characteristic requirements. Purchaser *** reported that it experienced supply constraints from U.S. producers in 2022 and 2023 prior to the petition being filed. Purchaser *** reported that U.S. producer Puris did not respond to a request for organic HPC pea protein in 2022 and Kerry and ADM were unable to supply organic HPC pea protein prior to the petition

being filed in 2023. Purchaser *** reported that it had experienced supply constraints since the petition was filed due to market disruptions caused by the title VII investigation which has caused market disruptions. Purchaser *** reported that a number of firms are unable to supply its customized and unique HPC pea protein blend which has a unique taste profile, mouth feel, and solubility.

New suppliers

Two of five responding purchasers indicated that new suppliers entered the U.S. market since January 1, 2021. Purchaser *** reported that Roquette opened a plant in Canada, ADM opened a plant in North Dakota, and Ingredion opened a plant in Iowa. Purchaser *** reported that Ingredion increased capacity in U.S. Louis Dreyfus and has plans for investments in North America. It also reported that ADM has increased production in the United States.

U.S. demand

Based on available information, the overall demand for HPC pea protein is likely to experience low-to-moderate changes in response to changes in price. The main contributing factor is the availability of substitute products. However, using substitutes for HPC pea protein in food and drink products could require label changes and might affect the flavor or other characteristics of the final product, which may limit a food or beverage manufacturer's willingness to use substitute products. Labeling changes may deter end users from purchasing substitute products as some of the reported substitute products are identified as major allergens in the Food Allergen Labeling and Consumer Protection act of 2004 and therefore may require additional labeling requirements that are not required for products containing HPC pea protein.[10] Furthermore, the qualities such as flavor profiles, solubility levels, and binding consistency that are reported to be factors other than price between pea proteins from different sources may also be factors that deter end users from switching from HPC pea protein to any other type of protein as end users may struggle to find an alternate protein that have the same characteristics. Lastly, the certification process that purchasers reported requiring for suppliers of HPC pea protein would most likely be required for suppliers of other protein types and serve as a barrier to switching between different types of protein with fluctuations in price.

[10] FDA Food Labeling & Nutrition, Food Allergies, https://www.fda.gov/food/food-labeling-nutrition/food-allergies, accessed May 31, 2024

End uses and cost share

U.S. demand for HPC pea protein depends on the demand for U.S.-produced downstream products. Reported end uses include various foods and beverages.

HPC pea protein accounts for a varying cost of the end-use products in which it is used, which depends on the amount of HPC pea protein used in the end-use product. U.S. producers reported the cost share of HPC pea protein in beverages ranged from 33 to 80 percent, while the cost share of HPC pea protein in food products ranged from 8 to 38 percent. Importers reported the cost share of HPC pea protein in beverages ranged from 10 to 82 percent, while the cost share of HPC pea protein in food products ranged from 10 to 70 percent. Purchasers report the cost share of HPC pea protein in beverages ranged from 3 to 59 percent, while the cost share of HPC pea protein in food products ranged from 3 to 15 percent.

Business cycles

All three U.S. producers and the majority of purchasers indicated that the HPC pea protein market was subject to business cycles. U.S. producer *** reported that the HPC pea protein market was subject to broad economic trends, and it allocates capital and resources according to the economic climate. U.S. producer *** reported that there are supply and demand cycles for are typical for a specialty product like HPC pea protein. U.S. producer *** reported that the pea harvest happens in the fall and contracting occurs during the third and fourth quarter of the year. Purchasers *** reported that the pea harvest is an annual event that impacts the market for HPC pea protein. Purchaser *** reported that usage of HPC pea protein in plant based meat are impacted by macroeconomic conditions that vary from year to year. It also reported that within each year, demand for plant based meat product is typically higher during the summer grilling season.

The majority of importers reported that the HPC pea protein market was not subject to business cycles. Importer *** reported the pea crop harvest impacts the raw material prices which directly impact the price of HPC pea protein. Importer *** reported that the demand for meat alternatives increased in 2021 to 2022 but decreased in 2023 as consumer acceptance did not match expectations causing firms to exit the market. Importer *** reported that the HPC pea protein market was seasonal and impacted by the holidays as well as the harvest and projected harvest of yellow peas. Importer *** reported that demand for HPC pea protein was seasonal and demand for HPC pea protein increased with the demand for plant based burgers in BBQ season.

Demand trends

The majority of U.S. producers and purchasers reported that U.S. and foreign demand for HPC pea protein had steadily increased or fluctuated up since January 1, 2021 (table II-5). Importers' responses on domestic demand for HPC pea protein were mixed, while the majority of importers reported that foreign demand had steady increased or fluctuated up since January 1, 2021. The majority of purchasers reported that the demand for end use products had steadily increased or fluctuated up since January 1, 2021.

Table II-5
HPC pea protein: Count of firms' responses regarding overall domestic and foreign demand, by firm type

Market	Firm type	Steadily Increased	Fluctuated Up	No change	Fluctuated Down	Steadily Decreased
Domestic demand	U.S. producers	1	2	0	0	0
Domestic demand	Importers	5	8	0	8	5
Domestic demand	Purchasers	2	2	0	3	0
Foreign demand	U.S. producers	1	2	0	0	0
Foreign demand	Importers	3	7	2	1	3
Foreign demand	Purchasers	2	2	0	2	0
Demand for end use products	Purchasers	2	2	1	2	0

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

Substitute products

All responding U.S. producers reported that there were substitutes for HPC pea protein. U.S. producers reported that rice protein, soy protein isolate, and fava protein could be used in most or all of the products that use HPC pea protein. U.S. producer *** reported that wheat protein isolate could be substituted for HPC pea protein in the production of tortillas and flatbread.

The majority of importers (12 of 21) reported that there are no substitutes for HPC pea protein. Those importers reporting that there were substitutes for HPC pea protein reported that rice and soy proteins are substitutes for HPC pea protein in most end uses. Importer *** reported that all vegetable proteins are interchangeable with each other in most end uses. Importer *** reported that fava bean protein can be substituted for HPC pea protein in food and beverages. Importer *** reported that fava bean protein, mung bean protein, and chickpea protein are substitutes for HPC pea protein in all plant-based protein foods.

The majority of responding purchasers (4 of 7) reported that there were substitutes for HPC pea protein. Purchaser *** reported that dairy based protein could be used in place of HPC pea protein in protein powders and shakes. Purchaser *** reported that soy protein can be used in the same products that use HPC pea protein. Purchaser *** reported that rice protein can be substituted for HPC pea protein. Purchaser *** reported that soy protein concentrate, wheat gluten protein, and fava bean protein could be used in place of HPC pea protein in plant based meat alternatives but did state that switching to these alternatives required label changes, especially because soy is an allergen.

Substitutability issues

This section assesses the degree to which U.S.-produced HPC pea protein and imports of HPC pea protein from subject countries can be substituted for one another by examining the importance of certain purchasing factors and the comparability of HPC pea protein from domestic and imported sources based on those factors. Based on available data, staff believes that there is a moderate degree of substitutability between domestically produced HPC pea protein and HPC pea protein imported from China.[11] Factors contributing to this level of substitutability are that HPC pea protein with the same flavor profile, solubility, binding, and product consistency can be used for the same end uses. Factors limiting substitutability are that HPC pea protein produced in different facilities can have different flavor profiles, solubility levels, and binding consistency. Factors other than price appear to be somewhat important to importers, and importer and purchaser perceptions on interchangeability on factors other than price are somewhat divided.

Factors affecting purchasing decisions

Purchaser decisions based on source

As shown in table II-6, most purchasers and their customers sometimes or never make purchasing decisions based on the producer or country of origin. Of the two purchasers that reported that they always make decisions based on the manufacturer, purchaser *** reported that Chinese HPC pea protein has a superior taste, viscosity, and overall sensory qualities compared to domestically produced HPC pea protein. Purchaser *** reported that there are two Chinese producers able to meet its unique taste profile, mouthfeel and solubility requirements. Purchaser *** reported that it bases purchasing decisions based on cost, carbon footprint evaluation, product specifications, the manufacture's capabilities, and consumption location. It also reported that once a specific supplier has been selected for an approved customer's formula, it rarely makes a change absent a material business reason.

[11] The degree of substitution between domestic and imported HPC pea protein depends upon the extent of product differentiation between the domestic and imported products and reflects how easily purchasers can switch from domestically produced HPC pea protein to the HPC pea protein imported from subject countries (or vice versa) when prices change. The degree of substitution may include such factors as relative prices (discounts/rebates), quality differences (e.g., grade standards, defect rates, etc.), and differences in sales conditions (e.g., lead times between order and delivery dates, reliability of supply, product services, etc.).

Table II-6
HPC pea protein: Count of purchasers' responses regarding frequency of purchasing decisions based on producer and country of origin

Firm making decision	Decision based on	Always	Usually	Sometimes	Never
Purchaser	Producer	2	0	3	1
Customer	Producer	0	0	4	2
Purchaser	Country	1	0	3	3
Customer	Country	0	0	3	3

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

Importance of purchasing domestic product

All responding purchasers reported that most or all of their purchases did not require purchasing U.S.-produced product. None of the responding purchasers reported that domestic product was required by law and required by their customers. One purchaser *** reported other preferences for domestic product. Purchaser *** reported that the extensive approval processes required to make any material ingredient changes resulted in it continuing to use certain pea protein products that happen to be from a U.S.-based supplier.

Most important purchase factors

The most often cited top three factors firms consider in their purchasing decisions for HPC pea protein were quality (5 firms) and availability and price/cost (4 firms each), as shown in table II-7. Quality was the most frequently cited first-most important factor (cited by three firms); quality (two firms) was the most frequently reported second-most important factor; and availability/supply and price/cost were the most frequently reported third-most important factor (three firms each).

Table II-7
HPC pea protein: Count of ranking of factors used in purchasing decisions as reported by purchasers, by factor

Factor	First	Second	Third	Total
Price / Cost	0	1	3	4
Quality	3	2	0	5
Availability / Supply	0	1	3	4
All other factors	4	3	1	NA

Source: Compiled from data submitted in response to Commission questionnaires.
Note: Other factors include taste, color, odor, mouth feel, solubility, viscosity, organic, client relationships, and food safety.

The majority of purchasers reported that they sometimes or never purchased the lowest price HPC pea protein.

Importance of specified purchase factors

Purchasers were asked to rate the importance of 24 factors in their purchasing decisions (table II-8). The factors rated as very important by more than half of responding purchasers were availability and product consistency (7 firms each); flavor, reliability of supply, supplier capacity, texture/mouth feel, quality meets industry standards, quality meets customer standards, quality exceeds industry standards (6 firms each); quality exceeds customer standards, and viscosity (5 firms each); color, minimum quantity requirements, payment terms, price, solubility, and technical support/service (4 firms each).

Table II-8
HPC pea protein: Count of purchasers' responses regarding importance of purchase factors, by factor

Factor	Very important	Somewhat important	Not important
Availability	7	0	0
Availability: Organic	3	1	3
Color	4	3	0
Delivery terms	3	3	1
Delivery time	3	4	0
Discounts offered	2	4	1
Flavor	6	1	0
Minimum quantity requirements	4	2	2
Packaging	3	2	2
Payment terms	4	1	2
Price	4	3	0
Product consistency	7	0	0
Product range	2	3	2
Quality meets industry standards	6	1	0
Quality exceeds industry standards	6	0	0
Quality meets customer(s) standards	6	1	0
Quality exceeds customer(s) standards	5	1	0
Reliability of supply	6	1	0
Solubility	4	3	0
Supplier Capacity	6	1	0
Technical support/service	4	2	1
Texture/mouth feel	6	0	1
U.S. transportation costs	3	2	1
Viscosity	5	1	1

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

Lead times

U.S. producers' commercial shipments were primarily produced HPC pea protein to order, while importers' commercial shipments were primarily from inventories. U.S. producers reported that *** percent of their commercial shipments were produced-to-order, with lead

times averaging *** days. The remaining *** percent of their commercial shipments came from inventories with lead times averaging *** days.

Importers report that *** percent of their commercial shipments came from U.S. inventories with lead times averaging *** days and *** percent came from foreign inventories with lead times averaging *** days. The remaining *** percent of their commercial shipments were produced-to-order with lead times averaging *** days.

Supplier certification

All responding purchasers require their suppliers to become certified or qualified to sell HPC pea protein to their firm. Purchasers reported that the time to qualify a new supplier ranged from 30 to 240 days and can cost between $15,000 and $50,000. Two purchasers reported that at least one domestic or foreign supplier had failed in its attempt to qualify HPC pea protein, or had lost its approved status since 2021. Purchaser *** reported that Yatain Shuangta failed to qualify as a supplier as its products did not meet the standards for taste and sensory specifications. Purchaser *** reported that multiple firms have not been able to produce its custom and unique taste profile, mouth feel, and solubility. The firms that failed to become qualified included Puris, Austrade, Roquette, Fenchem, Top Health, Talin, Pisane/Cosucra, Nexxus Foods, Jianyuan, Merit, Nutra Food Ingredients, NP Nutra, NNB Nutrition, Ingredion, Kerry, ADM, Glanbia, and Naturz Organic. Purchaser *** reported that T-Full, Shuangta, and Ingredion had failed to qualify as a supplier as HPC pea protein from these sources had sensory shortcomings and failed specifation adherence.

Minimum quality specifications

As can be seen from table II-9, purchaser responses regarding domestic suppliers' ability to meet minimum quality specifications were mixed. All responding purchasers reported that Chinese HPC pea protein always or usually met minimum quality specifications.

Table II-9
HPC pea protein: Count of purchasers' responses regarding suppliers' ability to meet minimum quality specifications, by source

Source of purchases	Always	Usually	Sometimes	Rarely or never	Don't Know
United States	0	3	1	1	1
China	2	4	0	0	0
All other sources	0	2	0	1	0

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

Note: Purchasers were asked how often domestically produced or imported HPC pea protein meets minimum quality specifications for their own or their customers' uses.

All responding purchasers reported factors that determined quality. Purchasers *** reported that taste and solubility were factors that determine quality. Purchaser *** reported that color and odor and low acidity were also factors that determine quality. Purchaser *** reported that mouthfeel was a factor that determines quality. Purchaser *** reported taste, food safety and sustainability were factors that determine quality. Purchaser *** reported that meeting specification, regulatory certifications, and material documentation were factors that determine quality. Purchaser *** reported that Non-GMO, Vegan, and a record of compliance in recent and past audits are factors that determine quality. Purchaser *** reported that quality is determined by brand standards and certification such as kosher, halal, NGPV and vegan certified, a lack of glyphosate residue and adherence to internal specifications (including particle size distribution, color, and PH levels).

Changes in purchasing patterns

Four purchasers reported that they had changed suppliers since January 1, 2021, while three reported that they had not. Purchaser *** reported that it had changed suppliers in 2023 to Roquette for a conventional grade with better taste and texture. Purchaser *** reported switching to Chinese pea protein that it purchased from U.S. importers. Purchaser *** reported that they have begun to look for new sources since the Commission's preliminary ruling. Purchaser *** reported that it added Yantai Oriental as a supplier due to demand.

Purchasers were also asked about changes in their purchasing patterns from different countries since January 1, 2021 (table II-10). The majority of purchasers reported that purchases from the United States fluctuated down, while the majority of purchases reported that purchases from China either fluctuated down or steadily decreased since January 1, 2021. Purchaser *** reported purchases of U.S.-produced product that fluctuated down due to large inventory in 2021 and that it did not need more HPC pea protein in 2022. Purchaser *** reported increased purchases of HPC pea protein from China due to increased sales of the final product. Purchasers reported that purchases from nonsubject countries and unknown sources had fluctuated down since January 1, 2021. Purchaser *** reported that it had decreased purchases of U.S.-produced pea protein as sales of finished goods that require pea protein declined and it had reformulated its products to use less foreign pea protein. Purchaser *** reported that its purchases of domestically produced HPC pea protein had fluctuated down and Chinese produced HPC protein had steadily decreased due to overall category decline and pricing and contractual

commitments with other suppliers. Purchaser *** reported that its purchases of HPC pea protein from nonsubject countries had increased due to contractual commitments for minimum volumes and when these contractually obligated purchases coincided with category declines the result was an increased share of its HPC pea protein consumption from nonsubject countries.

Table II-10
HPC pea protein: Count of purchasers' responses regarding changes in purchase patterns from U.S., subject, and nonsubject countries

Source of purchases	Steadily Increased	Fluctuated Up	No change	Fluctuated Down	Steadily Decreased	Did not purchase
United States	0	1	0	4	0	1
China	2	0	0	2	2	0
All other sources	1	0	0	1	0	2
Sources unknown	0	0	0	1	0	3

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

Purchase factor comparisons of domestic products, subject imports, and nonsubject imports

Purchasers were asked a number of questions comparing HPC pea protein produced in the United States, subject countries, and nonsubject countries. First, purchasers were asked for a country-by-country comparison on the same 24 factors (table II-8) for which they were asked to rate the importance. The majority of purchasers reported that U.S. and Chinese HPC pea protein were comparable on a number of factors. The majority of purchasers reported that HPC pea protein from the United States was inferior to HPC pea protein from China in terms of availability and price. A majority of purchasers reported that HPC pea protein from the United States was superior to HPC pea protein from China in terms of delivery time. Purchaser responses were mixed when comparing HPC pea protein from the United States and HPC protein from China in terms of discounts offered, flavor, and supplier capacity (table II-11).

Two purchasers provided comparisons between the United States and nonsubject sources and both reported that HPC pea protein produced in the United States and nonsubject sources are comparable on all factors except delivery time for which one purchaser reported HPC pea protein from the United States is superior.

The majority of purchasers reported that HPC pea protein from China and nonsubject countries was comparable on a number of factors. A majority of purchasers reported that Chinese HPC pea protein was superior to nonsubject HPC pea protein in terms of availability, color, price, and supplier capacity. A majority of purchasers reported that Chinese HPC pea protein was inferior to nonsubject HPC pea protein in terms of delivery time and technical

support/service. Purchaser responses comparing HPC pea protein from China and nonsubject sources in terms of payment terms and reliability of supple were mixed.

Table II-11
HPC pea protein: Count of purchasers' responses comparing U.S.-produced and imported product, by factor and country pair

Factor	Country pair	Superior	Comparable	Inferior
Availability	U.S. vs China	0	3	4
Availability: Organic	U.S. vs China	0	3	2
Color	U.S. vs China	1	5	1
Delivery terms	U.S. vs China	1	6	0
Delivery time	U.S. vs China	4	3	0
Discounts offered	U.S. vs China	0	3	3
Flavor	U.S. vs China	2	2	2
Minimum quantity requirements	U.S. vs China	0	6	1
Packaging	U.S. vs China	0	7	0
Payment terms	U.S. vs China	1	5	1
Price	U.S. vs China	0	1	5
Product consistency	U.S. vs China	1	3	2
Product range	U.S. vs China	0	5	1
Quality meets industry standards	U.S. vs China	1	3	2
Quality exceeds industry standards	U.S. vs China	1	4	1
Quality meets customer(s) standards	U.S. vs China	1	3	2
Quality exceeds customer(s) standards	U.S. vs China	0	4	2
Reliability of supply	U.S. vs China	0	4	3
Solubility	U.S. vs China	1	4	1
Supplier Capacity	U.S. vs China	0	3	3
Technical support/service	U.S. vs China	2	3	1
Texture/mouth feel	U.S. vs China	1	3	2
U.S. transportation costs	U.S. vs China	2	3	1
Viscosity	U.S. vs China	0	5	1

Table continued.

Table II-11 Continued
HPC pea protein: Count of purchasers' responses comparing U.S.-produced and imported product, by factor and country pair

Factor	Country pair	Superior	Comparable	Inferior
Availability	U.S. vs Nonsubject	0	2	0
Availability: Organic	U.S. vs Nonsubject	0	1	0
Color	U.S. vs Nonsubject	0	2	0
Delivery terms	U.S. vs Nonsubject	0	2	0
Delivery time	U.S. vs Nonsubject	1	1	0
Discounts offered	U.S. vs Nonsubject	0	2	0
Flavor	U.S. vs Nonsubject	0	2	0
Minimum quantity requirements	U.S. vs Nonsubject	0	2	0
Packaging	U.S. vs Nonsubject	0	2	0
Payment terms	U.S. vs Nonsubject	0	2	0
Price	U.S. vs Nonsubject	0	2	0
Product consistency	U.S. vs Nonsubject	0	2	0
Product range	U.S. vs Nonsubject	0	2	0
Quality meets industry standards	U.S. vs Nonsubject	0	2	0
Quality exceeds industry standards	U.S. vs Nonsubject	0	2	0
Quality meets customer(s) standards	U.S. vs Nonsubject	0	2	0
Quality exceeds customer(s) standards	U.S. vs Nonsubject	0	2	0
Reliability of supply	U.S. vs Nonsubject	0	2	0
Solubility	U.S. vs Nonsubject	0	2	0
Supplier Capacity	U.S. vs Nonsubject	0	2	0
Technical support/service	U.S. vs Nonsubject	0	2	0
Texture/mouth feel	U.S. vs Nonsubject	0	2	0
U.S. transportation costs	U.S. vs Nonsubject	0	2	0
Viscosity	U.S. vs Nonsubject	0	2	0

Table continued.

Table II-11 Continued
HPC pea protein: Count of purchasers' responses comparing U.S.-produced and imported product, by factor and country pair

Factor	Country pair	Superior	Comparable	Inferior
Availability	China vs Nonsubject sources	2	1	0
Availability: Organic	China vs Nonsubject sources	1	1	0
Color	China vs Nonsubject sources	2	1	0
Delivery terms	China vs Nonsubject sources	1	2	0
Delivery time	China vs Nonsubject sources	1	0	2
Discounts offered	China vs Nonsubject sources	1	2	0
Flavor	China vs Nonsubject sources	1	1	1
Minimum quantity requirements	China vs Nonsubject sources	0	3	0
Packaging	China vs Nonsubject sources	0	3	0
Payment terms	China vs Nonsubject sources	1	1	1
Price	China vs Nonsubject sources	2	1	0
Product consistency	China vs Nonsubject sources	0	2	1
Product range	China vs Nonsubject sources	0	3	0
Quality meets industry standards	China vs Nonsubject sources	0	3	0
Quality exceeds industry standards	China vs Nonsubject sources	0	2	1
Quality meets customer(s) standards	China vs Nonsubject sources	0	3	0
Quality exceeds customer(s) standards	China vs Nonsubject sources	0	3	0
Reliability of supply	China vs Nonsubject sources	1	1	1
Solubility	China vs Nonsubject sources	0	3	0
Supplier Capacity	China vs Nonsubject sources		1	0
Technical support/service	China vs Nonsubject sources	1	0	2
Texture/mouth feel	China vs Nonsubject sources	0	3	0
U.S. transportation costs	China vs Nonsubject sources	1	2	0
Viscosity	China vs Nonsubject sources	0	3	0

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

Note: With respect to cost/price factors, a rating of superior means that cost/price for the first source in the country pair is generally lower. For example, if a firm reported "U.S. superior," it meant that the U.S. product was generally priced lower than the imported product.

Comparison of U.S.-produced and imported HPC pea protein

In order to determine whether U.S.-produced HPC pea protein can generally be used in the same applications as imports from China; U.S. producers, importers, and purchasers were asked whether the products can always, frequently, sometimes, or never be used interchangeably. As shown in tables II-12 to II-14, the majority of U.S. producers reported that HPC pea protein from the United States, China, and nonsubject countries is always interchangeable; while the majority of importers reported that HPC pea protein from the United States, China, and nonsubject countries is sometimes interchangeable. The majority of responding purchasers reported that HPC pea protein from the United States, China, and nonsubject countries is sometimes or never interchangeable. U.S. producer *** reported that U.S. and Chinese produced HPC pea protein is sometimes interchangeable because of taste, functionality (i.e., solubility and binding), and product consistency.

Importer *** reported that HPC pea protein from the United States, China, and nonsubject countries were sometimes interchangeable because the quality of HPC pea protein from the United States and nonsubject countries was measurably less desirable than HPC pea protein from China. Importer *** reported that HPC pea protein from the United States, China, and nonsubject countries were sometimes interchangeable due to variations in taste, texture, and other sensory attributes. Importer *** also reported that cost and availability also influence interchangeability of HPC pea protein. Importer *** reported that the interchangeability of HPC pea protein relies on the specific applications of the finished good (i.e., the sports drink, protein shake, nutritional bar, etc.) and the functional attributes of the HPC pea protein (i.e., taste, viscosity, heat stability, foaming, gelling, etc.). Importer *** reported that Chinese producers of HPC pea protein generally use a fermentation method while producers in the United States, Canada, and Europe generally use an acid precipitation process and as a result the products are different in terms of color, flavor, and functionality which limits interchangeability. Importer *** reported that a customer's taste formulation is the key factor deciding interchangeability. Importer *** reported that Chinese produced HPC pea protein sometimes is unable to meet the standard for its customers and there are occasions where customers specifically request non-Chinese products. Importer *** reported that the protein content of HPC pea protein may be lower than HPC pea protein from other countries and that would change production formulations. Importer *** reported that gluten guarantees may differ from country to country which impacts certifications. Importer *** reported that Chinese product generally tastes better. Importer *** reported that HPC pea protein from the United States and China are never interchangeable because a proprietary process delivers a

unique flavor and functionality. Importer *** reported that HPC pea protein from the United States and China are sometimes interchangeable due to color and functionality. Importer *** reported that the interchangeability of HPC pea protein is more dependent on the individual producer rather than country. Importer *** reported that HPC pea protein sourced from different factories will not have the same taste/flavor profile, solubility, and consistency which are very important for certain end-use applications, namely ready-to-mix powders and ready-to-drink shakes. Importer *** reported that each HPC pea protein has a unique flavor, color, texture, and functionality derived by the unique manufacturer's facilities and that no HPC pea protein from one manufacturer is an exact match for another.

Purchaser *** reported that it had a customized and unique taste profile and although it has rigorously tested HPC pea protein from many other countries, it has been unable to find a match. Purchaser *** reported that taste, texture, and solution are differentiating factors between HPC pea protein from different sources. Purchaser *** reported that it found it easy to switch between HPC pea protein suppliers and typically customizes their process to each supplier. It reported that the performance of HPC pea protein from the United States, China, and nonsubject countries is similar.

Table II-12
HPC pea protein: Count of U.S. producers reporting the interchangeability between product produced in the United States and in other countries, by country pair

Country pair	Always	Frequently	Sometimes	Never
U.S. vs. China	2	0	1	0
U.S. vs. Other	2	1	0	0
China vs. Other	2	0	1	0

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

Table II-13
HPC pea protein: Count of importers reporting the interchangeability between product produced in the United States and in other countries, by country pair

Country pair	Always	Frequently	Sometimes	Never
U.S. vs. China	2	2	14	3
U.S. vs. Other	1	4	10	0
China vs. Other	1	2	11	0

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

Table II-14
HPC pea protein: Count of purchasers reporting the interchangeability between product produced in the United States and in other countries, by country pair

Country pair	Always	Frequently	Sometimes	Never
U.S. vs. China	0	1	3	1
U.S. vs. Other	0	1	2	1
China vs. Other	0	1	1	1

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

In addition, U.S. producers, importers, and purchasers were asked to assess how often differences other than price were significant in sales of HPC pea protein from the United States, subject, or nonsubject countries. As seen in table II-15, all U.S. producers reported that there are sometimes or never differences other than price between HPC pea protein from the United States, China, and nonsubject countries. Importers were mixed when reporting the differences other than price between HPC pea protein produced in the United States and China. The majority of importers reported that there were sometimes or never differences other than price between HPC pea protein produced in nonsubject countries and HPC pea protein produced in the United States and China (table II-16). The majority of purchasers reported that there were always or frequently differences other that price between HPC pea protein produced in the United States, China and nonsubject countries (table II-17). Importer *** reported that product availability and lead time differences were factors other than price between HPC pea protein from different sources. Importer *** reported that the knowledge and technology that U.S. producers hold results in a better product that is only available from American producers. Importer *** reported that food safety standards and the ability to meet certifications such as non-GMO, GFCO, Kosher, and Halal are differences other than price between HPC pea protein from different countries. Importer *** reported that taste is a difference other than price between U.S and Chinese produced HPC pea protein. Importer *** reported that taste solubility, consistency, supplier reliability, availability, lead times and customizability are factors other than price the differentiate HPC pea protein from different sources. Importer *** reported that availability, service, and response time are inferior in the United States. Purchaser *** reported that product quality is generally similar for HPC pea protein from different countries but that the performance in their specific process varies across suppliers. It reported that suppliers are subject to a rigorous approval process that assesses product performance in its products and process and supplier must meet their quality standards and required certifications.

Table II-15
HPC pea protein: Count of U.S. producers reporting the significance of differences other than price between product produced in the United States and in other countries, by country pair

Country pair	Always	Frequently	Sometimes	Never
U.S. vs. China	0	0	1	2
U.S. vs. Other	0	0	1	2
China vs. Other	0	0	1	2

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

Table II-16
HPC pea protein: Count of importers reporting the significance of differences between product produced in the United States and in other countries, by country pair

Country pair	Always	Frequently	Sometimes	Never
U.S. vs. China	4	7	8	1
U.S. vs. Other	1	5	4	3
China vs. Other	1	4	8	1

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

Table II-17
HPC pea protein: Count of purchasers reporting the significance of differences between product produced in the United States and in other countries, by country pair

Country pair	Always	Frequently	Sometimes	Never
U.S. vs. China	2	1	2	0
U.S. vs. Other	1	1	1	0
China vs. Other	1	1	1	0

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

Elasticity estimates

This section discusses elasticity estimates. No parties suggested alternate elasticity estimates but both petitioners and respondents commented on the elasticity of substitution in the hearing.

U.S. supply elasticity

The domestic supply elasticity for HPC pea protein measures the sensitivity of the quantity supplied by U.S. producers to changes in the U.S. market price of HPC pea protein. The elasticity of domestic supply depends on several factors including the level of excess capacity, the ease with which producers can alter capacity, producers' ability to shift to production of other products, the existence of inventories, and the availability of alternate markets for U.S.-produced HPC pea protein. Analysis of these factors above indicates that the U.S. industry has the ability to greatly increase or decrease shipments to the U.S. market; an estimate in the range of 6 to 10 is suggested.

U.S. demand elasticity

The U.S. demand elasticity for HPC pea protein measures the sensitivity of the overall quantity demanded to a change in the U.S. market price of HPC pea protein. This estimate depends on factors discussed above such as the existence, availability, and commercial viability of substitute products, as well as the component share of the HPC pea protein in the production of any downstream products. Based on the available information, the aggregate demand for HPC pea protein is likely to be moderately inelastic; a range of -0.5 to -1.0 is suggested.

Substitution elasticity

The elasticity of substitution depends upon the extent of product differentiation between the domestic and imported products.[12] Product differentiation, in turn, depends upon such factors as quality (e.g., chemistry, appearance, etc.) and conditions of sale (e.g., availability, sales terms/discounts/promotions, etc.). Based on available information, the elasticity of substitution between U.S.-produced HPC pea protein and imported HPC pea protein is likely to be in the range of 2.5 to 4. Functionality (i.e., taste, viscosity, heat stability, foaming, gelling, mouthfeel etc.) may limit the substitutability between HPC pea protein from the United States and China. Petitioners stated that they believe that the elasticity of substitution is much higher than the staff estimate.[13] Respondents stated that the staff's estimate of moderate substitutability is the maximum level of substitutability they would agree with.[14]

[12] The substitution elasticity measures the responsiveness of the relative U.S. consumption levels of the subject imports and the domestic like products to changes in their relative prices. This reflects how easily purchasers switch from the U.S. product to the subject products (or vice versa) when prices change.

[13] Hearing transcript, p. 76 (Vaughn).

[14] Hearing transcript, p. 201 (Dougan).

Part III: U.S. producers' production, shipments, and employment

The Commission analyzes a number of factors in making injury determinations (see 19 U.S.C. §§ 1677(7)(B) and 1677(7)(C)). Information on the subsidies and dumping margins was presented in Part I of this report and information on the volume and pricing of imports of the subject merchandise is presented in Part IV and Part V. Information on the other factors specified is presented in this section and/or Part VI and (except as noted) is based on the questionnaire responses of three firms that accounted for the *** U.S. production of HPC pea protein during 2023.

U.S. producers

The Commission issued a U.S. producer questionnaire to 17 firms based on information contained in the petitions and through staff research.[1] Three firms provided usable data on their operations. Staff believes that these responses represent *** U.S. production of HPC pea protein.

Table III-1 lists U.S. producers of HPC pea protein, their production locations, positions on the petitions, and shares of total U.S. production.

Table III-1
HPC pea protein: U.S. producers, their positions on the petitions, production locations, and shares of reported production, 2023

Shares in percent

Firm	Position on petition	Production location(s)	Share of production
Puris	Petitioner	Dawson, MN Turtle Lake, WI Oskaloosa, IA	***
ADM	***	Enderlin, ND	***
Ingredion	***	South Sioux City, NE	***
All firms	Various	Various	100.0

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

Note: Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent. Zeroes, null values, and undefined calculations are suppressed and shown as "---".

[1] Staff issued 14 U.S. producer questionnaires to firms that may produce additives and downstream products that contain both additives and HPC pea protein. None of these firms indicated that they had produced HPC or LPC pea protein, and did not complete the U.S. producer questionnaire.

Table III-2 presents information on U.S. producers' ownership, related and/or affiliated firms.

Table III-2
HPC pea protein: U.S. producers' ownership, related and/or affiliated firms

Reporting firm	Relationship type and related firm	Details of relationship
***	***	***
***	***	***

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

As indicated in table III-2, no U.S. producer is related to foreign producers of the subject merchandise or U.S. importers of the subject merchandise. As discussed in greater detail below, *** directly imported the subject merchandise and no U.S. producer purchased the subject merchandise from U.S. importers.

Table III-3 presents events in the U.S. industry since January 1, 2021.

Table III-3
HPC pea protein: Important industry events since 2021

Item	Firm	Event
Raw material shortage	All processors	Dry pea-growing regions in the Upper Midwest experienced a severe drought in 2021 and continuing into 2022, resulting in short supplies and high prices for dry peas.
Production stoppage	Puris	In November 2022, Puris temporarily idled production at its Oskaloosa, Iowa plant.
Plant opening	Puris	In October 2021, Puris opened a plant in Dawson, Minnesota, doubling its production capacity.
Production curtailment	Puris	In May 2023, Puris laid off 48 workers at its Turtle Lake, Wisconsin plant.
Plant opening	Affects all U.S. processors	In November 2021, French company Roquette opened the world's largest pea protein plant in Manitoba, Canada, increasing supply in the North American market.
Economic conditions	All processors	From December 2021 to December 2022, U.S. food prices increased by about 12 percent. While prices of plant-based products rose slightly less than this average, the higher overall prices for many plant-based products compared to other foods led to lower demand.

Sources: Ignaszewski, "2023 Outlook," Good Food Institute, April 11, 2023; Roquette, "Roquette Opens World's Largest Pea Protein Plant," November 17, 2021; WEAU News, "DWD: Puris Proteins, LLC in Turtle Lake Implementing Layoffs," May 26, 2023; Watrous, "Puris Doubles Production Capacity with New Facility," *Food Business News*, October 13, 2021; Hawk, "PurisFoods Reduces Workforce," *The Oskaloosa Herald*, November 30, 2022; Pratt, "U.S. Farmers Expect Bigger Pea Crop," *The Western Producer*, September 15, 2022.

Table III-4 and figure III-1 present data on U.S. production of dry edible peas during 2021-23, as reported by the U.S. Department of Agriculture's National Agriculture Statistics Services. U.S. production of dry edible peas increased from 0.9 billion pounds in 2021 to 1.5 billion pounds in 2022 and further increasing to 1.8 billion pounds in 2023. The average unit value ("AUV") of dry edible peas decreased from $0.18 in 2021 to $0.15 in 2022 and remained the same at $0.15 in 2023.

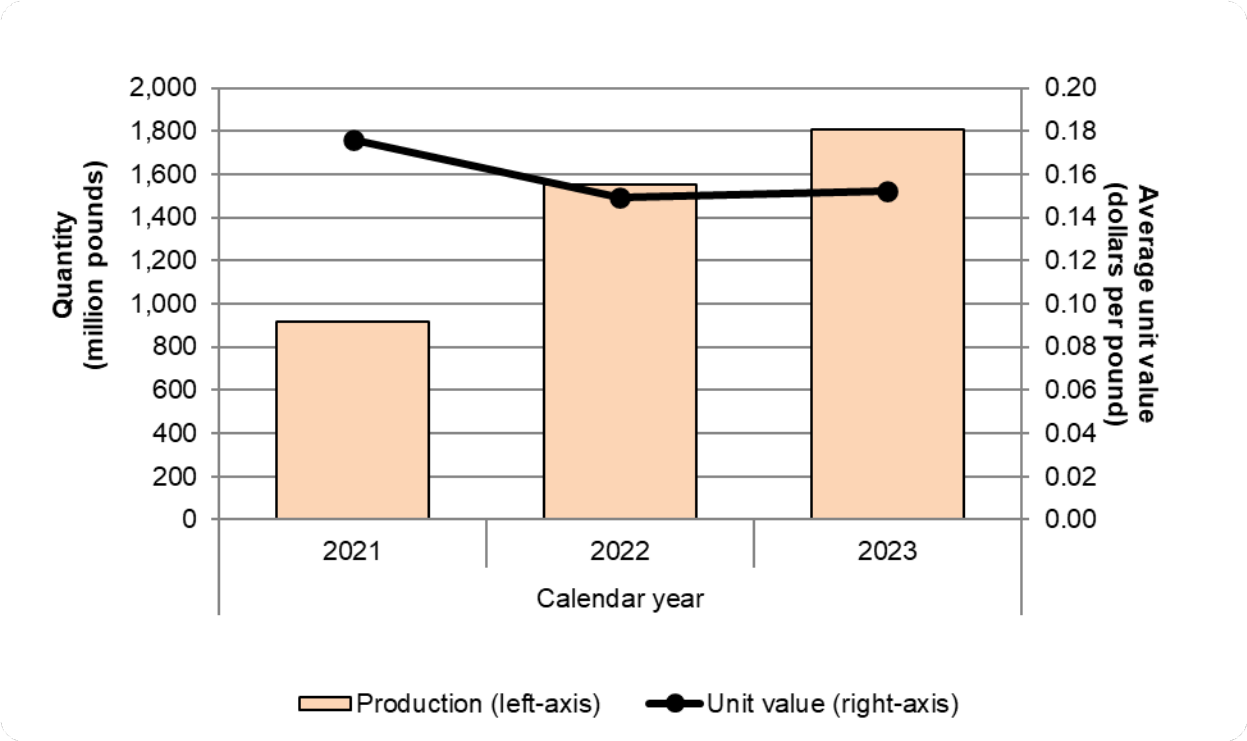
Table III-4
Dry edible peas: U.S. production, by period

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

Item	Measure	2021	2022	2023
Dry edible peas production	Quantity	916,100	1,551,700	1,808,600
Dry edible peas production	Value	161,465	231,557	275,639
Dry edible peas production	Unit value	0.18	0.15	0.15

Source: Compiled from data reported by the National Agriculture Statistics Services (NASS) of the U.S. Department of Agriculture (USDA), accessed June 3, 2024.

Figure III-1
Dry edible peas: U.S. production, by period



Source: Compiled from data reported by the National Agriculture Statistics Services (NASS) of the U.S. Department of Agriculture (USDA), accessed August 2, 2023.

Producers in the United States were asked to report any change in the character of their operations or organization relating to the production of HPC pea protein since 2021. Two of three U.S. producers *** indicated in their questionnaires that they had experienced such changes. Table III-5 presents the changes identified by these producers. At the Commission's hearing, the petitioners indicated that domestic producers had closed almost 25 million pounds worth of production capacity since 2021.[2]

[2] Hearing transcript, p. 42 (McClain).

Table III-5
HPC pea protein: U.S. producers' reported changes in operations, since January 1, 2021

Item	Firm name and narrative response on changes in operations
Plant openings	***
Plant openings	***
Plant closings	***
Production curtailments	***

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

U.S. production, capacity, and capacity utilization

Table III-6 presents U.S. producers' installed and practical capacity and production on the same equipment.

Table III-6
HPC pea protein: U.S. producers' installed and practical capacity and production on the same equipment as in-scope production, by period

Capacity and production in 1,000 pounds dry weight; utilization in percent

Item	Measure	2021	2022	2023
Installed overall	Capacity	195,927	228,996	228,996
Installed overall	Production	84,848	96,181	68,883
Installed overall	Utilization	43.3	42.0	30.1
Practical overall	Capacity	154,675	184,150	143,585
Practical overall	Production	84,848	96,181	68,883
Practical overall	Utilization	54.9	52.2	48.0
Practical HPC pea protein	Capacity	58,879	85,283	60,300
Practical HPC pea protein	Production	30,324	44,622	25,220
Practical HPC pea protein	Utilization	51.5	52.3	41.8

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

Table III-7 presents U.S. producers' reported narratives regarding practical capacity constraints.

Table III-7
HPC pea protein: U.S. producers' reported capacity constraints since January 1, 2021

Item	Firm name and narrative response on constraints to practical overall capacity
Production bottlenecks	***
Production bottlenecks	***
Production bottlenecks	***
Existing labor force	***
Existing labor force	***
Supply of material inputs	***
Other constraints	***

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

Table III-8 and figure III-2 present U.S. producers' production, capacity, and capacity utilization. U.S. producers' practical capacity fluctuated but increased between 2021 and 2023. The increase in practical capacity during 2021-23 reflects ***.[3] U.S. producers' production

[3] *** practical capacity increased from *** pounds in 2021 to *** pounds in 2022 and to *** pounds in 2023.

fluctuated but decreased during 2021-23. Capacity utilization decreased irregularly by 9.7 percentage points during 2021-23. At the Commission's hearing, the petitioners had indicated that the domestic producers had a capacity utilization rate well-below 50 percent even after they had cut capacity during 2023.[4]

Table III-8
HPC pea protein: U.S. producers' output, by firm and period

Practical capacity

Capacity in 1,000 pounds dry weight

Firm	2021	2022	2023
ADM	***	***	***
Ingredion	***	***	***
Puris	***	***	***
All firms	58,879	85,283	60,300

Table continued.

Table III-8 Continued
HPC pea protein: U.S. producers' output, by firm and period

Production

Production in 1,000 pounds dry weight

Firm	2021	2022	2023
ADM	***	***	***
Ingredion	***	***	***
Puris	***	***	***
All firms	30,324	44,622	25,220

Table continued.

Table III-8 Continued
HPC pea protein: U.S. producers' output, by firm and period

Capacity utilization

Capacity utilization in percent

Firm	2021	2022	2023
ADM	***	***	***
Ingredion	***	***	***
Puris	***	***	***
All firms	51.5	52.3	41.8

Note: Capacity utilization ratio represents the ratio of the U.S. producer's production to its production capacity.

Table continued.

[4] Hearing transcript, p. 42 (McClain).

Table III-8 Continued
HPC pea protein: U.S. producers' output, by firm and period

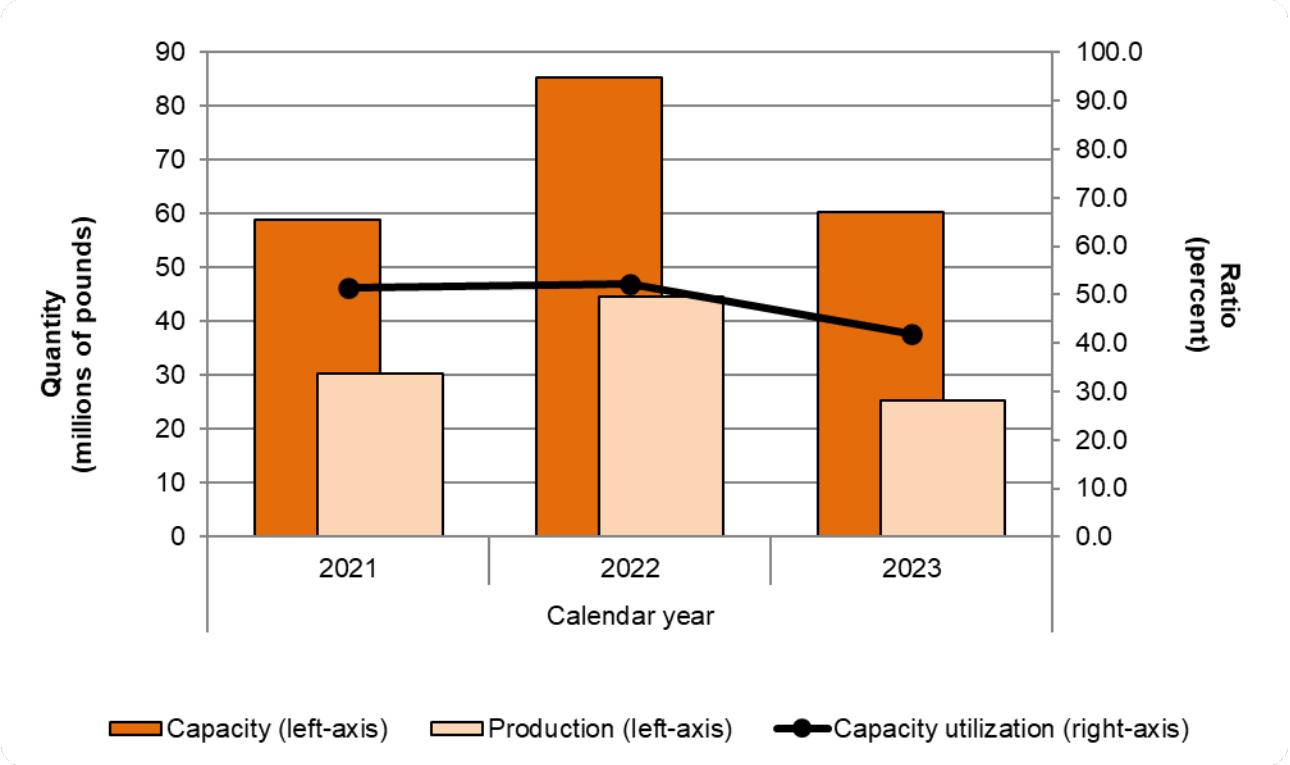
Share of production

Share in percent

Firm	2021	2022	2023
ADM	***	***	***
Ingredion	***	***	***
Puris	***	***	***
All firms	100.0	100.0	100.0

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

Figure III-2
HPC pea protein: U.S. producers' output, by period



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

Alternative products

As shown in table III-9, HPC pea protein accounted for between 35.7 and 46.4 percent of U.S. producers' overall production at the same facilities used to produce LPC pea protein and other protein products. *** of three U.S. producers reported producing other products at the same facilities used to produce HPC pea protein. *** reported the production of *** and *** reported the production of ***. Additionally, ***

***.[5] At the Commission's hearing, the Chinese respondent interested parties indicated that for every pound of HPC pea protein produced, there are four pounds of other products produced (including LPC pea protein).[6]

Table III-9
HPC pea protein: U.S. producers' overall production on the same equipment as in-scope production, by period

Quantity in 1,000 pounds dry weight; share in percent

Product type	Measure	2021	2022	2023
HPC pea protein	Quantity	30,324	44,622	25,220
LPC pea protein	Quantity	***	***	***
Other products	Quantity	***	***	***
Out-of-scope products	Quantity	54,524	51,559	43,663
All products	Quantity	84,848	96,181	68,883
HPC pea protein	Share	35.7	46.4	36.6
LPC pea protein	Share	***	***	***
Other products	Share	***	***	***
Out-of-scope products	Share	64.3	53.6	63.4
All products	Share	100.0	100.0	100.0

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

U.S. producers' U.S. shipments and exports

Table III-10 presents U.S. producers' U.S. shipments, export shipments, and total shipments.[7] U.S. shipments accounted for *** of U.S. producers' total shipments throughout the period examined.[8] [9] The quantity of U.S. shipments fluctuated but decreased by *** percent between 2021 and 2023. The value of U.S. shipments increased overall by *** percent during 2021-23. The AUV of U.S. shipments increased from $*** in 2021 to $*** in 2022, and increased to $*** in 2023, increasing overall by *** percent between 2021 and 2023.

[5] *** U.S. producer questionnaire response, section II-3a.

[6] Hearing transcript, p. 145 (Dougan).

[7] *** reported export shipments during the period examined, while *** export shipments, and both firms identified *** as its principal export market.

[8] *** U.S. producers' U.S. shipments were of pure HPC pea protein; *** reported U.S. shipments of blended HPC pea protein.

[9] *** reported commercial U.S. shipments during 2021-23. Internal consumption and transfers to related firms accounted for *** percent of U.S. producers' total U.S. shipments throughout the period examined.

Table III-10
HPC pea protein: U.S. producers' shipments, by destination and period

Quantity in 1,000 pounds dry weight; value in 1,000 dollars; unit value in dollars per pound dry weight; shares in percent

Item	Measure	2021	2022	2023
U.S. shipments	Quantity	***	***	***
Export shipments	Quantity	***	***	***
Total shipments	Quantity	***	***	***
U.S. shipments	Value	***	***	***
Export shipments	Value	***	***	***
Total shipments	Value	***	***	***
U.S. shipments	Unit value	***	***	***
Export shipments	Unit value	***	***	***
Total shipments	Unit value	***	***	***
U.S. shipments	Share of quantity	***	***	***
Export shipments	Share of quantity	***	***	***
Total shipments	Share of quantity	100.0	100.0	100.0
U.S. shipments	Share of value	***	***	***
Export shipments	Share of value	***	***	***
Total shipments	Share of value	100.0	100.0	100.0

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

Table III-11 presents U.S. producers' U.S. shipments by type (commercial shipments, internal consumption, and/or transfers). Commercial U.S. shipments and internal consumption both fluctuated but decreased during 2021-23. Both internal consumption and transfers to related firms accounted for *** of U.S. shipments during 2021-23.

Table III-12 presents U.S. producers' U.S. shipments by product type (not blended/mixed and blended/mixed) and period. U.S. producers *** any blended or mixed U.S. shipments of HPC pea protein during 2021-23.

Table III-13 and figure III-3 present U.S. producers' U.S. shipments by their organic status (organic or other than organic) during 2021-23. During 2021-23, U.S. producers' U.S. shipments of *** HPC pea protein accounted for *** of U.S. producers' U.S. shipments. *** reported U.S. shipments of both organic and other than organic HPC pea protein, while *** reported only U.S. shipments of other than organic HPC pea protein, during 2021-23. At the Commission's hearing, Puris indicated that it had sales of organic HPC pea protein during 2021-23.[10]

[10] Hearing transcript, p. 117 (Hubert).

Table III-11
HPC pea protein: U.S. producers' U.S. shipments, by type and period

Quantity in 1,000 pounds dry weight; value in 1,000 dollars; unit value in dollars per pound dry weight; shares in percent

Item	Measure	2021	2022	2023
Commercial U.S. shipments	Quantity	***	***	***
Internal consumption	Quantity	***	***	***
Transfers to related firms	Quantity	***	***	***
U.S. shipments	Quantity	***	***	***
Commercial U.S. shipments	Value	***	***	***
Internal consumption	Value	***	***	***
Transfers to related firms	Value	***	***	***
U.S. shipments	Value	***	***	***
Commercial U.S. shipments	Unit value	***	***	***
Internal consumption	Unit value	***	***	***
Transfers to related firms	Unit value	***	***	***
U.S. shipments	Unit value	***	***	***
Commercial U.S. shipments	Share of quantity	***	***	***
Internal consumption	Share of quantity	***	***	***
Transfers to related firms	Share of quantity	***	***	***
U.S. shipments	Share of quantity	100.0	100.0	100.0
Commercial U.S. shipments	Share of value	***	***	***
Internal consumption	Share of value	***	***	***
Transfers to related firms	Share of value	***	***	***
U.S. shipments	Share of value	100.0	100.0	100.0

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

Note: Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent. Zeroes, null values, and undefined calculations are suppressed and shown as "---".

Table III-12
HPC pea protein: U.S. producers' U.S. shipments, by type and period

Quantity in 1,000 pounds dry weight; value in 1,000 dollars; unit value in dollars per pound dry weight; shares in percent

Product type	Measure	2021	2022	2023
Not blended/mixed: HPC pea protein	Quantity	***	***	***
Blended/mixed: HPC pea protein	Quantity	***	***	***
All products	Quantity	***	***	***
Not blended/mixed: HPC pea protein	Value	***	***	***
Blended/mixed: HPC pea protein	Value	***	***	***
All products	Value	***	***	***
Not blended/mixed: HPC pea protein	Unit value	***	***	***
Blended/mixed: HPC pea protein	Unit value	***	***	***
All products	Unit value	***	***	***
Not blended/mixed: HPC pea protein	Share of quantity	***	***	***
Blended/mixed: HPC pea protein	Share of quantity	***	***	***
All products	Share of quantity	***	***	***
Not blended/mixed: HPC pea protein	Share of value	***	***	***
Blended/mixed: HPC pea protein	Share of value	***	***	***
All products	Share of value	***	***	***

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

Note: Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent. Zeroes, null values, and undefined calculations are suppressed and shown as "---".

Table III-13
HPC pea protein: U.S. producers' U.S. shipments, by organic status and period

Quantity in 1,000 pounds dry weight; value in 1,000 dollars; unit value in dollars per pound dry weight; shares in percent

Organic status	Measure	2021	2022	2023
Organic	Quantity	***	***	***
Other than organic	Quantity	***	***	***
All organic statuses	Quantity	***	***	***
Organic	Value	***	***	***
Other than organic	Value	***	***	***
All organic statuses	Value	***	***	***
Organic	Unit value	***	***	***
Other than organic	Unit value	***	***	***
All organic statuses	Unit value	***	***	***
Organic	Share of quantity	***	***	***
Other than organic	Share of quantity	***	***	***
All organic statuses	Share of quantity	***	***	***
Organic	Share of value	***	***	***
Other than organic	Share of value	***	***	***
All organic statuses	Share of value	***	***	***

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

Note: Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent. Zeroes, null values, and undefined calculations are suppressed and shown as "---".

Figure III-3
HPC pea protein: U.S. producers' U.S. shipments in 2023, by organic status

* * * * * * *

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

Table III-14 and figure III-4 present U.S. producers' U.S. shipments by their end use market (sports nutrition, dairy alternatives, meat substitutes, and all other end use markets) during 2021-23. U.S. producers indicated that the largest end use market was *** during 2021 and 2022, while the largest end use market during 2023 was the other end use market (which may include medical, animal nutrition, dietary supplements, bakery and industrial markets).

Table III-14
HPC pea protein: U.S. producers' U.S. shipments, by end use market and period

Quantity in 1,000 pounds dry weight; shares in percent

End use market	Measure	2021	2022	2023
Sports nutrition	Quantity	***	***	***
Dairy alternatives	Quantity	***	***	***
Meat substitutes	Quantity	***	***	***
Other end use markets	Quantity	***	***	***
All end use markets	Quantity	***	***	***
Sports nutrition	Share	***	***	***
Dairy alternatives	Share	***	***	***
Meat substitutes	Share	***	***	***
Other end use markets	Share	***	***	***
All end use markets	Share	100.0	100.0	100.0

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

Note: Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent. Zeroes, null values, and undefined calculations are suppressed and shown as "---". Other end uses may include, medical, animal nutrition, dietary supplements, bakery and industrial markets.

Figure III-4
HPC pea protein: U.S. producers' U.S. shipments in 2023, by end use market

* * * * * * *

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

Table III-15 presents U.S. producers' U.S. shipments by customization status and period during 2021-23. U.S. producers' reported U.S. shipments based on customization status were *** HPC pea protein.

Table III-15
HPC pea protein: U.S. producers' U.S. shipments, by customization status and period

Quantity in 1,000 pounds dry weight; value in 1,000 dollars; Unit values in dollars per pound dry weight; shares in percent

Customization status	Measure	2021	2022	2023
Proprietary/customized	Quantity	***	***	***
Catalog/non-customized	Quantity	***	***	***
All customization statuses	Quantity	***	***	***
Proprietary/customized	Value	***	***	***
Catalog/non-customized	Value	***	***	***
All customization statuses	Value	***	***	***
Proprietary/customized	Unit value	***	***	***
Catalog/non-customized	Unit value	***	***	***
All customization statuses	Unit value	***	***	***
Proprietary/customized	Share of quantity	***	***	***
Catalog/non-customized	Share of quantity	***	***	***
All customization statuses	Share of quantity	100.0	100.0	100.0
Proprietary/customized	Share of value	***	***	***
Catalog/non-customized	Share of value	***	***	***
All customization statuses	Share of value	100.0	100.0	100.0

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

Note: Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent. Zeroes, null values, and undefined calculations are suppressed and shown as "---".

U.S. producers' inventories

Table III-16 presents U.S. producers' end-of-period inventories and the ratio of these inventories to U.S. producers' production, U.S. shipments, and total shipments. U.S. producers' end-of-period inventories increased by *** percent during 2021-23.[11] The ratio of U.S. producers' end-of-period inventories to their U.S. production increased from *** percent in 2021 to *** percent in 2022 and to *** percent in 2023. The ratio of U.S. producers' end-of-period inventories to their U.S. shipments increased from *** percent in 2021 to *** percent in 2022 and to *** percent in 2023.

[11] *** reported higher end-of-period inventories in 2023 than in 2021, while *** U.S. producers end-of-period inventories were highest during 2022.

Table III-16
HPC pea protein: U.S. producers' end-of-period inventories

Quantity in 1,000 pounds dry weight; ratio in percent

Item	2021	2022	2023
End-of-period inventory quantity	***	***	***
Inventory ratio to U.S. production	***	***	***
Inventory ratio to U.S. shipments	***	***	***
Inventory ratio to total shipments	***	***	***

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

Note: Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent. Zeroes, null values, and undefined calculations are suppressed and shown as "---".

U.S. producers' imports from subject sources

U.S. producers' imports of HPC pea protein and reasons for importing are presented in tables III-17 and III-18. One U.S. producer, ***, reported imports of HPC pea protein from China. ***'s imports of HPC pea protein from China totaled to *** pounds dry weight in 2021, *** pounds in 2022, and *** pounds in 2023.

Table III-17
HPC pea protein: * U.S. production, subject imports, and ratio of subject imports to production, by source and period**

Quantity in1,000 pounds dry weight; ratio in percent

Item	Measure	2021	2022	2023
U.S. production	Quantity	***	***	***
Imports from China	Quantity	***	***	***
Imports from China to U.S. production	Ratio	***	***	***

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

Table III-18
HPC pea protein: U.S. producers' reasons for importing

Item	Narrative response on reasons for importing
***'s reason for importing	***

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

U.S. producers' purchases of imports from subject sources

No responding U.S. producer reported purchases of imports of HPC pea protein from China during 2021-23.

U.S. employment, wages, and productivity

Table III-19 shows U.S. producers' employment-related data. U.S. producers' production and related workers ("PRWs") fluctuated but increased by *** percent between 2021 and 2023.[12] Hours worked per PRW increased irregularly by *** percent between 2021 and 2023, Hourly wages increased by *** percent during 2021-23. Productivity decreased irregularly by *** percent during 2021-23. Unit labor costs increased by *** percent during 2021-23.

Table III-19
HPC pea protein: U.S. producers' employment related information, by period

Item	2021	2022	2023
Production and related workers (PRWs) (number)	***	***	***
Total hours worked (1,000 hours)	***	***	***
Hours worked per PRW (hours)	***	***	***
Wages paid ($1,000)	***	***	***
Hourly wages (dollars per hour)	***	***	***
Productivity (pounds dry weight per hour)	***	***	***
Unit labor costs (dollars per pound dry weight)	***	***	***

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

[12] ***. *** U.S. producer questionnaire responses, section II-14.

Part IV: U.S. imports, apparent U.S. consumption, and market shares

U.S. importers

The Commission issued importer questionnaires to 130 firms believed to be importers of HPC pea protein, as well as to all U.S. producers of HPC pea protein.[1] Usable questionnaire responses were received from 26 companies, representing *** percent of U.S. imports from China and *** percent from nonsubject sources in 2023 under HTS statistical reporting numbers 3504.00.1000, 3504.00.5000, and 2106.10.0000, "basket" categories that include HPC pea protein and out-of-scope products such as low protein content pea protein.[2] [3] Data for additional, nonreporting importers was collected in the foreign producer questionnaire responses. Where indicated, such data was used to supplement subject import data for the nonresponding importers, increasing the 2023 coverage for imports from China to *** percent based on official Commerce import statistics under the abovementioned HTS subheadings. [4] [5] Table IV-1 lists all responding U.S. importers of HPC pea protein from China and other sources, their locations, and their shares of U.S. imports, in 2023.

[1] The Commission issued questionnaires to those firms identified in the petitions, along with firms that, based on a review of data from third-party sources, may have accounted for more than one percent of total imports under HTS statistical reporting numbers 3504.00.1000, 3504.00.5000, and 2106.10.0000 during January 2021 through December 2023.

[2] The coverage figures are based on official Commerce import statistics, adjusted to remove certain out-of-scope imports under the HTS statistical reporting numbers submitted in response to Commission questionnaires.

[3] According to the scope set forth by Commerce, imports of HPC pea protein may also enter under HTS statistical reporting number 2308.00.9890. However, *** reported imports of HPC pea protein under this HTS statistical reporting number.

[4] The additional U.S. importers covered by these data include ***.

[5] With the inclusion of the "additional importers" from China (discussed above), staff believes such import data covers nearly all of the in-scope imports from China. Additionally, staff believes that the vast majority of imports under the primary HTS numbers for HPC pea protein from nonsubject sources represents out-of-scope pea protein products.

Table IV-1
HPC pea protein: U.S. importers, their headquarters, and share of imports within each source, 2023

Share in percent

Firm	Headquarters	China	Nonsubject sources	All import sources
AIDP Inc	City Of Industry, CA	***	***	***
Barentz	Avon, OH	***	***	***
Bulk Supplements	Henderson, NV	***	***	***
Farbest-Tallman	Park Ridge, NJ	***	***	***
Freemen	Edison, NJ	***	***	***
Green Boy	Los Angeles, CA	***	***	***
Green Wave	Cerritos, CA	***	***	***
Guzen	Walnut Creek, CA	***	***	***
Ingredion	Westchester, IL	***	***	***
Mitsubishi International	Hackensack, NJ	***	***	***
MycoTechnology	Aurora, CO	***	***	***
Nature's Ingredients	Fairfield, NJ	***	***	***
Nature's Power Nutraceuticals	Gardena, CA	***	***	***
Nexxus	Newark, DE	***	***	***
Nura	Irvine, CA	***	***	***
Nutrasumma	City Of Industry, CA	***	***	***
PGP International	Woodland, CA	***	***	***
Prinova	Itasca, IL	***	***	***
Proteins Plus	Mission Viejo, CA	***	***	***
Roquette	Keokuk, IA	***	***	***
Scoular	Omaha, NE	***	***	***
Solae	St. Louis, MO	***	***	***
Top Health	Edmonton, AB	***	***	***
United Pulse	Bismarck, ND	***	***	***
Zammex	Somerset, NJ	***	***	***
Zxchem	Somerset, NJ	***	***	***
Additional importers	Various	***	***	***
All firms	Various	100.0	100.0	100.0

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

Note: Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent. Zeroes, null values, and undefined calculations are suppressed and shown as “---“. Additional importers included are based on data submitted in response to the foreign producers' questionnaire, see footnote 5 above.

U.S. imports

Table IV-2, table IV-3, and figure IV-1 present data for U.S. imports of HPC pea protein from China and nonsubject sources.[6] The quantity of U.S. imports from China first decreased by 23.7 percent from 2021 to 2022, but then increased 17.4 percent from 2022 to 2023, for an overall decreased of 10.4 percent between 2021 and 2023. *** was the largest U.S. importer of HPC pea protein from China, accounting for approximately *** of those imports in each year during 2021-23. The quantity of U.S. imports from nonsubject sources (primarily from ***) also fluctuated over the period but overall increased by *** percent between 2021 to 2023.

Following similar trends as quantity, the value of U.S. imports from China first decreased by 8.1 percent from 2021 to 2022, then increased by 0.5 percent from 2022 to 2023, for an overall decrease of 7.6 percent between 2021 and 2023. The value of U.S. imports from nonsubject sources increased by *** percent during 2021-23, increasing by *** percent during 2021-22 then decreasing by *** percent during 2022-23.

The AUV of imports from China increased by 20.5 percent from $1.73 per pound in 2021 to $2.08 per pound in 2022 then decreased by 14.5 percent to $1.78 in 2023 ending 3.1 percent higher in 2023 than in 2021. The AUV of nonsubject imports fluctuated but increased overall by *** percent during 2021-23. During 2021 the unit value was ($*** per pound) than decreased to ($*** per pound during 2022), and increased from 2022 to 2023 from ($*** per pound in 2022 to ($*** per pound) in 2023.

The ratio of imports from China to U.S. production fluctuated but increased overall by *** percentage points during 2021-23. The ratio of imports from nonsubject sources to U.S. production increased by *** percentage points during 2021-23.

[6] *** imports were of pure HPC pea protein; *** reported *** of imports of blended HPC pea protein.

Table IV-2
HPC pea protein: U.S. imports by source and period

Quantity in 1,000 pounds dry weight; value in 1,000 dollars; unit value in dollars per pound dry weight; share and ratio in percent

Source	Measure	2021	2022	2023
China	Quantity	95,804	73,067	85,815
Nonsubject sources	Quantity	***	***	***
All import sources	Quantity	***	***	***
China	Value	165,315	151,949	152,672
Nonsubject sources	Value	***	***	***
All import sources	Value	***	***	***
China	Unit value	1.73	2.08	1.78
Nonsubject sources	Unit value	***	***	***
All import sources	Unit value	***	***	***
China	Share of quantity	***	***	***
Nonsubject sources	Share of quantity	***	***	***
All import sources	Share of quantity	100.0	100.0	100.0
China	Share of value	***	***	***
Nonsubject sources	Share of value	***	***	***
All import sources	Share of value	100.0	100.0	100.0
China	Ratio	***	***	***
Nonsubject sources	Ratio	***	***	***
All import sources	Ratio	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires. These data include the volumes added into imports based the missing U.S. importers reported in foreign producers' questionnaire responses (see footnote 5 above).

Note: Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent. Zeroes, null values, and undefined calculations are suppressed and shown as “---“.

Table IV-3
HPC pea protein: Changes in U.S. imports quantity, value, and unit values, by source and period

Percentage changes (%Δ) in percent

Source	Measure	2021-23	2021-22	2022-23
China	%Δ Quantity	▼(10.4)	▼(23.7)	▲17.4
Nonsubject sources	%Δ Quantity	▲***	▲***	▼***
All import sources	%Δ Quantity	▼***	▼***	▲***
China	%Δ Value	▼(7.6)	▼(8.1)	▲0.5
Nonsubject sources	%Δ Value	▲***	▲***	▼***
All import sources	%Δ Value	▼***	▼***	▼***
China	%Δ Unit value	▲3.1	▲20.5	▼(14.5)
Nonsubject sources	%Δ Unit value	▲***	▼***	▲***
All import sources	%Δ Unit value	▲***	▲***	▼***

Source: Compiled from data submitted in response to Commission questionnaires. These data include the volumes added into imports based the missing U.S. importers reported in foreign producers' questionnaire responses (see footnote 5 above).

Note: Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent. Zeroes, null values, and undefined calculations are suppressed and shown as "---".

Figure IV-1
HPC pea protein: U.S. import quantities and average unit values, by source and period

* * * * * * *

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

Table IV-4 and figure IV-2 present U.S. importers' U.S. shipments of imports during 2021-23 by organic status. During 2021, a plurality of U.S. importers' U.S. shipments from China were non-organic HPC pea protein. During 2022 and 2023, the majority of U.S. importers' U.S. shipments of imports from China were non-organic of HPC pea protein. Organic HPC pea protein accounted for no less than *** percent of U.S. importers' U.S. shipments during 2021-23 and were at a high of *** percent of U.S. importers' U.S. shipments of imports from China during 2022 during the three-year period. All or nearly all of U.S. importers' U.S. shipments of imports from nonsubject sources were certified organic.

Table IV-4
HPC pea protein: U.S. importers' U.S. shipments of imports from China, by organic status and period

Quantity in 1,000 pounds dry weight; Value in 1,000 dollars per pound dry weight; share in percent

Organic status	Measure	2021	2022	2023
Organic	Quantity	***	***	***
Other than organic	Quantity	***	***	***
Unknown / not reported	Quantity	***	***	***
All organic statuses	Quantity	***	***	***
Organic	Value	***	***	***
Other than organic	Value	***	***	***
Unknown / not reported	Value	***	***	***
All organic statuses	Value	***	***	***
Organic	Unit value	***	***	***
Other than organic	Unit value	***	***	***
Unknown / not reported	Unit value	***	***	***
All organic statuses	Unit value	***	***	***
Organic	Share of quantity	***	***	***
Other than organic	Share of quantity	***	***	***
Unknown / not reported	Share of quantity	***	***	***
All organic statuses	Share of quantity	100.0	100.0	100.0
Organic	Share of value	***	***	***
Other than organic	Share of value	***	***	***
Unknown / not reported	Share of value	***	***	***
All organic statuses	Share of value	100.0	100.0	100.0

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

Note: Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent. Zeroes, null values, and undefined calculations are suppressed and shown as "---".

Figure IV-2
HPC pea protein: U.S. importers' U.S. shipments of imports from China, by organic status and period

* * * * * * *

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

Table IV-5 and figure IV-3 present U.S. importers' U.S. shipments of imports from China during 2021-23, by end use market (sports nutrition, dairy alternatives, meat substitutes, other end use markets, or unknown/not reported). The largest single end use market (accounting for between *** percent and *** percent) of U.S. importers' U.S. shipments of imports from China were designated for sports nutrition, while approximately *** were unknown/not reported.

Table IV-5
HPC pea protein: U.S. importers' U.S. shipments of imports from China, by end use market and period
Quantity in 1,000 pounds dry weight; shares in percent

End use market	Measure	2021	2022	2023
Sports nutrition	Quantity	***	***	***
Dairy alternatives	Quantity	***	***	***
Meat substitutes	Quantity	***	***	***
Other end use markets	Quantity	***	***	***
Unknown / not reported	Quantity	***	***	***
All end use markets	Quantity	***	***	***
Sports nutrition	Share	***	***	***
Dairy alternatives	Share	***	***	***
Meat substitutes	Share	***	***	***
Other end use markets	Share	***	***	***
Unknown / not reported	Share	***	***	***
All end use markets	Share	100.0	100.0	100.0

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

Note: Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent. Zeroes, null values, and undefined calculations are suppressed and shown as "---". Other end uses potentially include, medical, animal nutrition, dietary supplements, bakery and industrial markets.

Figure IV-3
HPC pea protein: U.S. importers' U.S. shipments of imports from China, by end use market

* * * * * * *

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

Table IV-6 and figure IV-4 present U.S. importers' U.S. shipments of imports from China during 2021-23, by customization status and period (proprietary/customized, catalog/non-customized, and unknown/not reported). During 2021-23 the data were evenly split, with approximately *** of U.S. importers' U.S. shipments of imports from China by customization status were designated unknown/not reported, while approximately *** of reported U.S. importers' U.S. shipments of imports from China (by customization status) were proprietary/customized, while approximately *** of reported U.S. importers' U.S. shipments were catalog/non-customized. At the Commission's hearing, the Chinese respondent interested parties indicated that all U.S. consumption of customized or proprietary pea protein is supplied by subject imports.[7] In 2023, slightly more of the data were reported in a unknown/ not reported category, relative to have been expressly identified as either customized or non-customized by the responding U.S. importers.[8]

[7] Hearing transcript, p. 135 (Zhang).

[8] The import volumes supplemented by the foreign producers' questionnaire mentioned above in footnote 5 are included in the unknown/ not reported category.

Table IV-6
HPC pea protein: U.S. importers' U.S. shipments of imports from China, by customization status and period

Quantity in 1,000 pounds dry weight; value in 1,000 dollars; unit value in dollars per pound dry weight; shares in percent

Customization status	Measure	2021	2022	2023
Proprietary/customized	Quantity	***	***	***
Catalog/non-customized	Quantity	***	***	***
Unknown / not reported	Quantity	***	***	***
All customization statuses	Quantity	***	***	***
Proprietary/customized	Value	***	***	***
Catalog/non-customized	Value	***	***	***
Unknown / not reported	Value	***	***	***
All customization statuses	Value	***	***	***
Proprietary/customized	Unit value	***	***	***
Catalog/non-customized	Unit value	***	***	***
Unknown / not reported	Unit value	***	***	***
All customization statuses	Unit value	***	***	***
Proprietary/customized	Share of quantity	***	***	***
Catalog/non-customized	Share of quantity	***	***	***
Unknown / not reported	Share of quantity	***	***	***
All customization statuses	Share of quantity	100.0	100.0	100.0
Proprietary/customized	Share of value	***	***	***
Catalog/non-customized	Share of value	***	***	***
Unknown / not reported	Share of value	***	***	***
All customization statuses	Share of value	100.0	100.0	100.0

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

Note: Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent. Zeroes, null values, and undefined calculations are suppressed and shown as "---".

Figure IV-4
HPC pea protein: U.S. importers' U.S. shipments of imports from China in 2023, by customization status

* * * * * * *

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

Negligibility

The statute requires that an investigation be terminated without an injury determination if imports of the subject merchandise are found to be negligible.[9] Negligible imports are generally defined in the Act, as amended, as imports from a country of merchandise corresponding to a domestic like product where such imports account for less than 3 percent of the volume of all such merchandise imported into the United States in the most recent 12-month period for which data are available that precedes the filing of the petition or the initiation of the investigation. However, if there are imports of such merchandise from a number of countries subject to investigations initiated on the same day that individually account for less than 3 percent of the total volume of the subject merchandise, and if the

[9] Sections 703(a)(1), 705(b)(1), 733(a)(1), and 735(b)(1) of the Act (19 U.S.C. §§ 1671b(a)(1), 1671d(b)(1), 1673b(a)(1), and 1673d(b)(1)).

imports from those countries collectively account for more than 7 percent of the volume of all such merchandise imported into the United States during the applicable 12-month period, then imports from such countries are deemed not to be negligible.[10] Imports from China accounted for *** percent of total imports of HPC pea protein by quantity during July 2022 through June 2023. Table IV-7 presents U.S. imports of HPC pea protein during July 2022 through June 2023.

Table IV-7
HPC pea protein: U.S. imports in the twelve-month period preceding the filing of the petition, July 2022 through June 2023

Quantity in 1,000 pounds dry weight; share in percent

Source of imports	Quantity	Share of quantity
China	***	***
Nonsubject sources	***	***
All import sources	***	***

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

Note: The data for the negligibility period does not include the additional volumes added in for U.S. imports from China based on foreign producers' questionnaire responses. All else being equal inclusion of such data would have only increased the China share further to an even larger majority share of overall imports in this period.

Critical circumstances

On July 5, 2024, Commerce issued final CVD determinations that "critical circumstances" exist with regard to imports of HPC pea protein from China from Yantai Oriental Protein Tech Co., Ltd. (Yantai Oriental), Zhaoyuan Junbang Trading Co., Ltd. (Junbang), and all other producers and exporters, and the non-responsive companies.[11] On July 5, 2024, Commerce issued its final AD determination that "critical circumstances" exist with regard to imports of HPC pea protein from China for the separate-rate companies and the China-wide entity.[12] In these investigations, if both Commerce and the Commission make affirmative final critical circumstances determinations, certain subject imports may be subject to countervailing duties

[10] Section 771 (24) of the Act (19 U.S.C § 1677(24)).

[11] 89 FR 55557, July 5, 2024, referenced in app. A. When petitioners file timely allegations of critical circumstances, Commerce examines whether there is a reasonable basis to believe or suspect that (1) either there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at LTFV and that there was likely to be material injury by reason of such sales; and (2) there have been massive imports of the subject merchandise over a relatively short period.

[12] 89 FR 55559, July 5, 2024.

retroactive by 90 days from September 19, 2023, the effective date of Commerce's preliminary affirmative CVD determination and antidumping duties retroactive by 90 days from February 13, 2024, the effective date of Commerce's preliminary affirmative LTFV determination. Table IV-8 and figure IV-5 present monthly U.S. imports in the six months preceding the petitions (January-June 2023), and the six months after the filing of the petitions (July 2023-December 30, 2023). Table IV-9 presents U.S. importers' U.S. inventories of imports from China, from June 30, 2023 through December 31, 2023.

Table IV-8
HPC pea protein: U.S. imports subject to Commerce's affirmative final critical circumstances determination in the AD and CVD investigations, by month

Quantity in 1,000 pounds dry weight;

Month	Relation to petition	Quantity
January 2023	Before	***
February 2023	Before	***
March 2023	Before	***
April 2023	Before	***
May 2023	Before	***
June 2023	Before	***
July 2023	After	***
August 2023	After	***
September 2023	After	***
October 2023	After	***
November 2023	After	***
December 2023	After	***

Table continued

Table IV-8 Continued
HPC pea protein: U.S. imports subject to Commerce's affirmative final critical circumstances determination in the AD and CVD investigations, by differing number of months before and after the filing of the petitions

Quantity in 1,000 pounds dry weight

Comparison pre-post petition period	Cumulative before period quantity	Cumulative after period quantity	Difference in percent
1 month	***	***	***
2 months	***	***	***
3 months	***	***	***
4 months	***	***	***
5 months	***	***	***
6 months	***	***	***

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

Note: The data for the critical circumstance period does not include the additional volumes added in for U.S. imports from China based on foreign producers' questionnaire responses.

Figure IV-5
HPC pea protein: U.S. imports from China potentially subject to Commerce's final critical circumstances AD and CVD determinations, by month

* * * * * * *

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

Table IV-9
HPC pea protein: U.S. importers' U.S. inventories of imports from China for analysis in relation to final affirmative Commerce critical circumstances determinations in the AD and CVD investigations, by date

Quantity in 1,000 pounds dry weight

Date	Quantity	Index
June 30, 2023	***	***
July 31, 2023	***	***
August 31, 2023	***	***
September 30, 2023	***	***
October 31, 2023	***	***
November 30, 2023	***	***
December 31, 2023	***	***

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

Note: Index based on end of period inventories on June 30, 2023, equal to 100.0 percent.

Apparent U.S. consumption and market shares

Quantity

Table IV-10 and figure IV-6 present data on apparent U.S. consumption and U.S. market shares by quantity for HPC pea protein. Apparent U.S. consumption by quantity decreased from *** million pounds in 2021 to *** million pounds in 2022 (a decrease of *** percent) then

decreased to *** million pounds in 2023 (a decrease of *** percent), decreasing overall by *** percent between 2021 and 2023. U.S. producers' market share increased irregularly by *** percentage points during 2021-23, increasing by *** percentage points during 2021-22 then decreasing by *** percentage points during 2022-23. Subject import market share also fluctuated but increased by *** percentage points during 2021-23. Nonsubject import market share decreased by *** percentage points during 2021-23.

Table IV-10
HPC pea protein: Apparent U.S. consumption and market shares based on quantity, by source and period

Quantity in 1,000 pounds dry weight; shares in percent

Source	Measure	2021	2022	2023
U.S. producers	Quantity	***	***	***
China	Quantity	90,682	71,825	82,048
Nonsubject sources	Quantity	***	***	***
All import sources	Quantity	***	***	***
All sources	Quantity	***	***	***
U.S. producers	Share	***	***	***
China	Share	***	***	***
Nonsubject sources	Share	***	***	***
All import sources	Share	***	***	***
All sources	Share	100.0	100.0	100.0

Source: Compiled from data submitted in response to Commission questionnaires. These data include the volumes added into imports based the missing U.S. importers reported in foreign producers' questionnaire responses (see footnote 5 above).

Note: Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent. Zeroes, null values, and undefined calculations are suppressed and shown as "---".

Figure IV-6
HPC pea protein: Apparent U.S. consumption based on quantity, by source and period

* * * * * * *

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

Note: Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent. Zeroes, null values, and undefined calculations are suppressed and shown as "---".

Value

Table IV-11 presents data on apparent U.S. consumption and U.S. market shares by value for HPC pea protein. The value of apparent U.S. consumption increased from $*** in 2021 to $*** in 2022 (an increase of *** percent) then decreased to $*** in 2023 (a decrease of *** percent), decreasing overall by *** percent between 2021 and 2023. U.S. producers' market share increased irregularly by *** percentage points during 2021-23, increasing by *** percentage points during 2021-2022 then decreasing by *** percentage points during 2022-23. Subject import market share fluctuated but increased by *** percentage points during 2021-23. Nonsubject import market share decreased overall by *** percentage points between 2021 and 2023.

Table IV-11
HPC pea protein: Apparent U.S. consumption and market shares based on value, by source and period

Value in 1,000 dollars; shares in percent

Source	Measure	2021	2022	2023
U.S. producers	Value	***	***	***
China	Value	185,098	167,895	182,180
Nonsubject sources	Value	***	***	***
All import sources	Value	***	***	***
All sources	Value	***	***	***
U.S. producers	Share	***	***	***
China	Share	***	***	***
Nonsubject sources	Share	***	***	***
All import sources	Share	***	***	***
All sources	Share	100.0	100.0	100.0

Source: Compiled from data submitted in response to Commission questionnaires. These data include the volumes added into imports based the missing U.S. importers reported in foreign producers' questionnaire responses (see footnote 5 above).

Note: Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent. Zeroes, null values, and undefined calculations are suppressed and shown as "---".

Figure IV-7
HPC pea protein: Apparent U.S. consumption based on value, by source and period

* * * * * * *

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

Market specific segments for HPC pea protein

Tables IV-12 (proprietary/customized) and table IV-13 (catalog/non-customized) present data on U.S. market shares by quantity for HPC pea protein.

Table IV-12
HPC pea protein: Market for proprietary/customized HPC pea protein, by source and period

Quantity in 1,000 pounds dry weight; shares and ratios in percent; ratios are to overall apparent consumption

Source	Measure	2021	2022	2023
U.S. producers	Quantity	***	***	***
China	Quantity	***	***	***
Nonsubject sources	Quantity	***	***	***
All import sources	Quantity	***	***	***
All sources	Quantity	***	***	***
U.S. producers	Share	***	***	***
China	Share	***	***	***
Nonsubject sources	Share	***	***	***
All import sources	Share	***	***	***
All sources	Share	100.0	100.0	100.0
U.S. producers	Ratio	***	***	***
China	Ratio	***	***	***
Nonsubject sources	Ratio	***	***	***
All import sources	Ratio	***	***	***
All sources	Ratio	***	***	***

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

Note: Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent. Zeroes, null values, and undefined calculations are suppressed and shown as "---". Not all responding U.S. importers reported which category their data belonged to between proprietary/customized versus catalogue/non-customized, additionally the supplement based on foreign producers' questionnaire was also classified as unknown and therefore not included here.

Table IV-13
HPC pea protein: Market for catalog/non-customized HPC pea protein, by source and period

Quantity in 1,000 pounds dry weight; shares and ratios in percent; ratios are to overall apparent consumption

Source	Measure	2021	2022	2023
U.S. producers	Quantity	***	***	***
China	Quantity	***	***	***
Nonsubject sources	Quantity	***	***	***
All import sources	Quantity	***	***	***
All sources	Quantity	***	***	***
U.S. producers	Share	***	***	***
China	Share	***	***	***
Nonsubject sources	Share	***	***	***
All import sources	Share	***	***	***
All sources	Share	100.0	100.0	100.0
U.S. producers	Ratio	***	***	***
China	Ratio	***	***	***
Nonsubject sources	Ratio	***	***	***
All import sources	Ratio	***	***	***
All sources	Ratio	***	***	***

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

Note: Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent. Zeroes, null values, and undefined calculations are suppressed and shown as “---“. Not all responding U.S. importers reported which category their data belonged to between proprietary/customized versus catalogue/non-customized, additionally the supplement based on foreign producers' questionnaire was also classified as unknown and therefore not included here.

Part V: Pricing data

Factors affecting prices

Raw material costs

The principal raw material used in the production of HPC pea protein is yellow field peas.[1] U.S. producers typically source yellow field peas through production contracts with farmers that require U.S. producers to purchase the total quantity produced from a fixed number of acres at a price fixed prior to the farmer planting his fields.[2] Any shortfall in raw materials sourced through annual production contracts is made up by purchasing yellow field peas on the open market at harvest time.[3] Yellow field peas are dry when harvested[4] and can be stored in bins for up to a year.[5] Raw materials costs as a percentage of cost of goods (COGS) increased from *** percent in 2020 to *** percent in 2023.

The published price for yellow field peas increased by 161.8 percent from January 2021 to October 2021. Price spikes in 2021 and early 2022 were the result of a drought in the upper Midwest that decreased crop yield by up to 60 percent (figure V-1).[6] Prices began to decrease in July 2022. Published prices for yellow field peas increased 37.8 percent over the period of investigation.

[1] Conference transcript, p. 27 (Chandak). HPC pea protein can be made from from yellow or green field peas that have been dried before harvesting (a.k.a, dry peas). Conference transcript, p. 22 (Hubert). "Dry peas" is a category of peas coterminous with "field peas." See Conference transcript, p. 61 (Atchison).

[2] Conference transcript, p. 93 (Atchison).

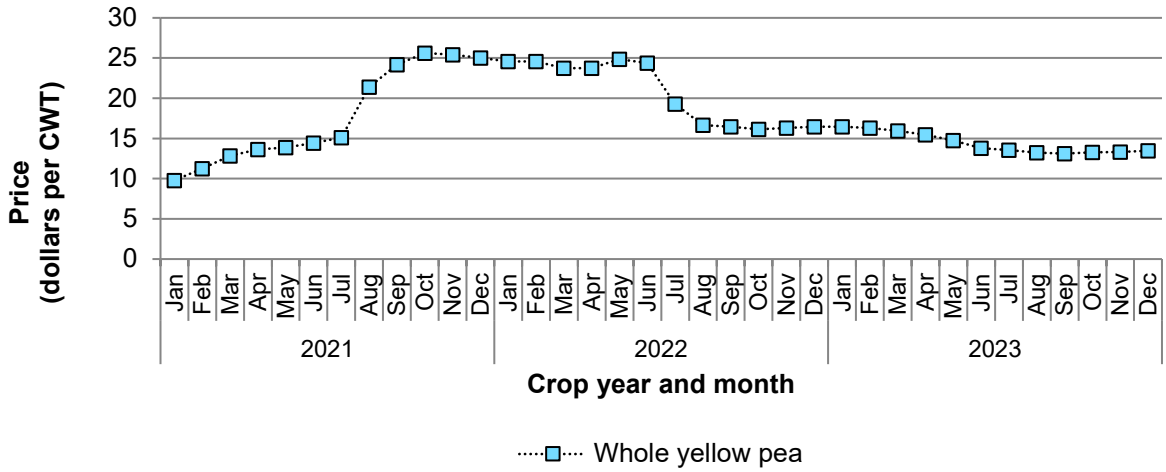
[3] Conference transcript, p. 94 (Atchison).

[4] Conference transcript, p. 61 (Atchison).

[5] Conference transcript, p. 67 (Atchison).

[6] Conference transcript, p. 89 (Atchison).

Figure V-1
Whole yellow peas: U.S. grower average quarterly price for whole yellow peas from North Dakota and Montana, by year and month



Source: AMS 2023 Dry Edible Bean Market News Summary, USDA Agricultural Marketing Service, https://www.ams.usda.gov/mnreports/lsaba.pdf, accessed May 16, 2024

Table V-1
Whole yellow peas: U.S. grower average quarterly price for whole yellow peas from North Dakota and Montana, by year and month

Price in dollars per pound

Year	Month	Price
2021	Jan	9.79
2021	Feb	11.26
2021	Mar	12.82
2021	Apr	13.65
2021	May	13.86
2021	Jun	14.42
2021	Jul	15.11
2021	Aug	21.40
2021	Sep	24.20
2021	Oct	25.63
2021	Nov	25.42
2021	Dec	25.00
2022	Jan	24.59
2022	Feb	24.59
2022	Mar	23.75
2022	Apr	23.75
2022	May	24.84
2022	Jun	24.38
2022	Jul	19.28
2022	Aug	16.65
2022	Sep	16.46
2022	Oct	16.15
2022	Nov	16.30
2022	Dec	16.46
2023	Jan	16.46
2023	Feb	16.31
2023	Mar	15.93
2023	Apr	15.47
2023	May	14.75
2023	Jun	13.80
2023	Jul	13.54
2023	Aug	13.25
2023	Sep	13.13
2023	Oct	13.29
2023	Nov	13.33
2023	Dec	13.49

Source: AMS 2023 Dry Edible Bean Market News Summary, USDA Agricultural Marketing Service, https://www.ams.usda.gov/mnreports/lsaba.pdf, accessed May 28, 2024

Transportation costs to the U.S. market

Transportation costs for HPC pea protein shipped from China to the United States averaged 3.2 percent during 2023. This estimate was derived from official import data and represents the transportation and other charges on imports.[7]

U.S. inland transportation costs

Two of three responding U.S. producers and 13 of 24 responding importers reported that they typically arrange transportation to their customers. U.S. producers reported that their U.S. inland transportation costs ranged from 1.0 to 9.0 percent while most importers reported inland transportation costs of 1.0 to 19.0 percent.

Pricing practices

Pricing methods

U.S. producers reported setting prices using transaction-by-transaction negotiations, contracts, and set price lists (table V-2). Importers reported setting prices using transaction-by-transaction negotiations, contracts, set price lists, and other methods, including market research and replacement cost of goods.

Table V-2
HPC pea protein: Count of U.S. producers' and importers' reported price setting methods

Method	U.S. producers	U.S. importers
Transaction-by-transaction	2	16
Contract	3	16
Set price list	1	10
Other	0	4
Responding firms	3	25

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

Note: The sum of responses down may not add up to the total number of responding firms as each firm was instructed to check all applicable price setting methods employed.

[7] The estimated transportation costs were obtained by subtracting the customs value from the c.i.f. value of the imports for 2023 and then dividing by the customs value based on the HTS statistical reporting numbers 3504.00.1000, 3504.00.5000, 2106.10.0000, and 2308.00.9890.

U.S. producers reported selling *** of their HPC pea protein under annual contracts while importers reported selling *** of their HPC pea protein under either annual or long-term contracts (table V-3).

Table V-3
HPC pea protein: U.S. producers' and importers' shares of commercial U.S. shipments by type of sale, 2023

Share in percent

Item	U.S. producers	Subject U.S. importers
Long-term contracts	***	***
Annual contract	***	***
Short-term contracts	***	***
Spot sales	***	***
Total	100.0	100.0

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

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

*** U.S. producers that use short-term contracts to sell HPC pea protein reported that these contracts typically lasted between *** days. U.S. producers report fixing both price and quantity in short-term contracts and that prices are not indexed to raw materials. *** U.S. producers reported selling HPC pea protein under annual contracts with both price and quantity fixed, and that prices were not indexed to raw materials. *** U.S. producers reported they do not include price renegotiation provisions in their short-term and annual contracts. *** U.S. producer who reported using long-term contracts reported that these contracts typically lasted just under *** and that price and quantity are fixed and prices are not indexed to raw materials.

Ten importers reported using short-term contracts to sell HPC pea protein that typically last between 30 and 180 days. Three importers reported renegotiating price in short-term contracts. Eight importers reported that their short-term contracts fix price and quantity and the remaining two reported either fixing quantity or price but not both in short-term contracts. Two importers reported that prices are indexed to raw materials in short-term contracts.

Fourteen importers reported selling HPC pea protein under annual contracts. A majority of importers reported that they did not renegotiate price in annual contracts. A majority reported that they fix price and quantity in annual contracts and that prices are not indexed to raw materials. Five importers reported selling HPC pea protein under long-term contracts and that these contracts typically ranged from 1.5 years to 2.5 years. Half of importers reported that they renegotiate price in long-term contracts. The majority of importers reported that they did not fix price and quantity in long-term contracts while the remaining importer reported that

they fix quantity only. None of the importers reported indexing prices to raw materials in long-term contracts.

Two purchasers reported purchasing HPC pea protein weekly, three purchase monthly, one purchases quarterly, and one purchases annually. Five of seven responding purchasers reported that their purchasing frequency had not changed since 2021. Most (six of seven) purchasers contact suppliers before making a purchase, with the number of suppliers contacted ranging from one to seven.

Sales terms and discounts

All responding U.S. producers and the majority of responding importers reported quoting prices on an f.o.b. basis. U.S. producers *** reported offering quantity discounts. Eight importers reported offering quantity discounts, eight reported offering discounts by total volume, and three reported offering other discounts, such as short shelf-life and expired inventory discounts. Seven importers reported having no discount policy.

Price leadership

One firm reported that *** was a price leader in the HPC pea protein market and led by charging a higher price but providing a product with better taste, texture and solubility. One firm reported *** as price leaders, indicating they led by supplying HPC pea protein from China. One firm reported *** as a price leader and indicated they have increased prices following the USITC's affirmative preliminary determinations.

Price and purchase cost data

The Commission requested U.S. producers and importers to provide quarterly data for the total quantity and f.o.b. value of the following HPC pea Protein products shipped to unrelated U.S. customers during January 2021-December 2023. Firms that imported these products from China for their own use and retail sale were requested to provide import purchase cost data.

Product 1.-- Low viscosity (less than 100 centipoise), organic, non-GMO, hydrolyzed pea protein, with a minimum pea protein content of 80 percent, a pH of 5.5 to 8.0, and a moisture content of a maximum of 10 percent.

Product 2.-- High solubility (greater than 70 percent), organic, non-GMO, non-hydrolyzed pea protein, with a minimum pea protein content of 80 percent a pH of 5.5 to 8.0, and a moisture content of a maximum of 10 percent.

Product 3.-- Low viscosity (less than 100 centipoise), non-organic, non-GMO, hydrolyzed pea protein, with a minimum pea protein content of 80 percent, a pH of 5.5 to 8.0, and a moisture content of a maximum of 10 percent.

Product 4.-- High solubility (greater than 70 percent), non-organic, non-GMO, non-hydrolyzed pea protein, with a minimum pea protein content of 80 percent, a pH of 5.5 to 8.0, and a moisture content of a maximum of 10 percent.

Price data

Three U.S. producers and 19 importers provided usable pricing data for sales of the requested products, although not all firms reported pricing for all products for all quarters.[8] Pricing data reported by these firms accounted for approximately *** percent of U.S. producers' U.S. shipments of HPC pea protein and *** percent of U.S. shipments of subject imports from China in 2023.

Price data for products 1-4 are presented in tables V-4 to V-7 and figures V-2 to V-5.

Table V-4
HPC Pea Protein: Weighted-average f.o.b. prices and quantities of domestic and imported product 1 and margins of underselling/(overselling), by source and quarter

Price in dollars per pound dry weight, quantity in pounds dry weight, margin in percent.

Period	U.S. price	U.S. quantity	China price	China quantity	China margin
2021 Q1	***	***	***	***	***
2021 Q2	***	***	***	***	***
2021 Q3	***	***	***	***	***
2021 Q4	***	***	***	***	***
2022 Q1	***	***	***	***	***
2022 Q2	***	***	***	***	***
2022 Q3	***	***	***	***	***
2022 Q4	***	***	***	***	***
2023 Q1	***	***	***	***	***
2023 Q2	***	***	***	***	***
2023 Q3	***	***	***	***	***
2023 Q4	***	***	***	***	***

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

Note: Product 1: Low viscosity (less than 100 centipoise), organic, non-GMO, hydrolyzed pea protein, with a minimum pea protein content of 80 percent, a pH of 5.5 to 8.0, and a moisture content of a maximum of 10 percent.

[8] Per-unit pricing data are calculated from total quantity and total value data provided by U.S. producers and importers. The precision and variation of these figures may be affected by rounding, limited quantities, and producer or importer estimates.

Figure V-2
HPC Pea Protein: Weighted-average prices and quantities of domestic and imported product 1, by source and quarter

Price of product 1

* * * * * * *

Volume of product 1

* * * * * * *

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

Note: Product 1: Low viscosity (less than 100 centipoise), organic, non-GMO, hydrolyzed pea protein, with a minimum pea protein content of 80 percent, a pH of 5.5 to 8.0, and a moisture content of a maximum of 10 percent.

Table V-5
HPC Pea Protein: Weighted-average f.o.b. prices and quantities of domestic and imported product 2 and margins of underselling/(overselling), by source and quarter

Price in dollars per pounds dry weight, quantity in pounds dry weights, margin in percent.

Period	U.S. price	U.S. quantity	China price	China quantity	China margin
2021 Q1	***	***	***	***	***
2021 Q2	***	***	***	***	***
2021 Q3	***	***	***	***	***
2021 Q4	***	***	***	***	***
2022 Q1	***	***	***	***	***
2022 Q2	***	***	***	***	***
2022 Q3	***	***	***	***	***
2022 Q4	***	***	***	***	***
2023 Q1	***	***	***	***	***
2023 Q2	***	***	***	***	***
2023 Q3	***	***	***	***	***
2023 Q4	***	***	***	***	***

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

Note: Product 2: High solubility (greater than 70 percent), organic, non-GMO, non-hydrolyzed pea protein, with a minimum pea protein content of 80 percent a pH of 5.5 to 8.0, and a moisture content of a maximum of 10 percent.

Figure V-3
HPC Pea Protein: Weighted-average prices and quantities of domestic and imported product 2, by source and quarter

Price of product 2

* * * * * * *

Volume of product 2

* * * * * * *

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

Note: Product 2: High solubility (greater than 70 percent), organic, non-GMO, non-hydrolyzed pea protein, with a minimum pea protein content of 80 percent a pH of 5.5 to 8.0, and a moisture content of a maximum of 10 percent.

Table V-6
HPC Pea Protein: Weighted-average f.o.b. prices and quantities of domestic and imported product 3 and margins of underselling/(overselling), by source and quarter[9]

Price in dollars per pounds dry weight, quantity in pounds dry weights, margin in percent.

Period	U.S. price	U.S. quantity	China price	China quantity	China margin
2021 Q1	***	***	***	***	***
2021 Q2	***	***	***	***	***
2021 Q3	***	***	***	***	***
2021 Q4	***	***	***	***	***
2022 Q1	***	***	***	***	***
2022 Q2	***	***	***	***	***
2022 Q3	***	***	***	***	***
2022 Q4	***	***	***	***	***
2023 Q1	***	***	***	***	***
2023 Q2	***	***	***	***	***
2023 Q3	***	***	***	***	***
2023 Q4	***	***	***	***	***

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

Note: Product 3: Low viscosity (less than 100 centipoise), non-organic, non-GMO, hydrolyzed pea protein, with a minimum pea protein content of 80 percent, a pH of 5.5 to 8.0, and a moisture content of a maximum of 10 percent.

[9] Increases in the volume of imports in the first quarter of 2022 and the fourth quarter of 2023 were due to Importer ***.

Figure V-4
HPC Pea Protein: Weighted-average prices and quantities of domestic and imported product 3, by source and quarter

Price of product 3

* * * * * * *

Volume of product 3

* * * * * * *

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

Note: Product 3: Low viscosity (less than 100 centipoise), non-organic, non-GMO, hydrolyzed pea protein, with a minimum pea protein content of 80 percent, a pH of 5.5 to 8.0, and a moisture content of a maximum of 10 percent.

Table V-7
HPC Pea Protein: Weighted-average f.o.b. prices and quantities of domestic and imported product 4 and margins of underselling/(overselling), by source and quarter

Price in dollars per pounds dry weight, quantity in pounds dry weights, margin in percent.

Period	U.S. price	U.S. quantity	China price	China quantity	China margin
2021 Q1	***	***	***	***	***
2021 Q2	***	***	***	***	***
2021 Q3	***	***	***	***	***
2021 Q4	***	***	***	***	***
2022 Q1	***	***	***	***	***
2022 Q2	***	***	***	***	***
2022 Q3	***	***	***	***	***
2022 Q4	***	***	***	***	***
2023 Q1	***	***	***	***	***
2023 Q2	***	***	***	***	***
2023 Q3	***	***	***	***	***
2023 Q4	***	***	***	***	***

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

Note: Product 4: High solubility (greater than 70 percent), non-organic, non-GMO, non-hydrolyzed pea protein, with a minimum pea protein content of 80 percent, a pH of 5.5 to 8.0, and a moisture content of a maximum of 10 percent.

Figure V-5
HPC Pea Protein: Weighted-average prices and quantities of domestic and imported product 4, by source and quarter

Price of product 4

* * * * * * *

Volume of product 4

* * * * * * *

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

Note: Product 4: High solubility (greater than 70 percent), non-organic, non-GMO, non-hydrolyzed pea protein, with a minimum pea protein content of 80 percent, a pH of 5.5 to 8.0, and a moisture content of a maximum of 10 percent.

Import purchase cost data

Nine importers reported useable import purchase cost data for products 1-4. Purchase cost data reported by these firms accounted for *** percent of imports from China in 2023. Landed duty paid purchase cost data for imports from China are presented in tables V-8 to V-11, along with U.S. producers' sales prices.[10]

Importers reporting import purchase cost data were asked to provide additional information regarding the costs and benefits of directly importing HPC pea protein.

Three of eight importers reported that they incurred additional costs beyond landed duty-paid costs by importing HPC pea protein directly rather than purchasing from a U.S. producer or U.S. importer. These importers estimated the total additional cost incurred; estimates ranged from 10 to 19 percent compared to the landed-duty paid value. Firms were also asked to identify specific additional costs they incurred as a result of importing HPC pea protein. Reported additional costs include additional storage, inland freight, and administrative costs.

Firms were also asked to describe how these additional costs incurred by importing HPC pea protein directly compares with additional costs incurred when purchasing from a U.S. producer or U.S. importer. One firm, ***, stated that U.S. producers sell at prices higher than the additional costs incurred from importing. It also stated that U.S. producers have a smaller scale and higher cost structure due to the way they manufacture HPC pea protein, and also a much lower value of the main co-stream, starch, than manufacturers in China. *** also stated that their additional costs incurred from importing directly are comparable to the additional costs they would incur if they purchased from another importer.

Two of 22 importers reported that they compare the cost of importing to the cost of purchasing from a U.S. producer in determining whether to import HPC pea protein, two importers compare costs to purchasing from a U.S. importer, and five importers reported that they do not compare the cost of importing with the cost of purchasing from either U.S. producers or importers.

Two importers identified benefits from importing HPC pea protein directly instead of purchasing from U.S. producers or importers. One firm, ***, stated that by directly importing they avoided additional costs or markups that would be incurred if they instead

[10] LDP import value does not include any potential additional costs that a purchaser may incur by importing rather than purchasing from another importer or U.S. producer. Price-cost differences are based on LDP import values whereas margins of underselling/overselling are based on importer sales prices.

purchased from a U.S. importer. *** also stated that purchasing from U.S. producers was not a viable option ***. Importer *** reported better taste as a benefit of importing HPC pea protein directly.

Firms were also asked whether the import cost (both excluding and including additional costs) of HPC pea protein they imported is lower than the price of purchasing HPC pea protein from a U.S. producer or importer. Five firms reported that the cost of importing HPC pea protein from China is lower than purchasing from a U.S. producer or importer excluding the additional costs associated with importing. Five firms reported that the import cost of importing HPC pea protein is lower than purchasing from a U.S. producer or importer including the additional costs associated with importing.

Three importers estimated that they saved between *** percent of the purchase price by importing HPC pea protein rather than purchasing from a U.S. importer, and saving between *** percent compared to purchasing the product from a U.S. producer.[11]

[11] Three firms reported that they based their estimates on previous company transactions, three reported basing their estimates on market research, and three reported other bases for their estimates, including price quotes from U.S. producers compared to LDP of imported protein, and requests for proposals.

Table V-8
HPC Pea Protein: Import landed duty-paid purchase costs and domestic prices, quantities of product 1, and price-cost differentials, by source and quarter

Price and LDP value in dollars per pounds dry weight, quantity in pounds dry weight, margin and price-cost differential in percent.

Period	U.S. price	U.S. quantity	China unit LDP value	China cost quantity	China differential
2021 Q1	***	***	***	***	***
2021 Q2	***	***	***	***	***
2021 Q3	***	***	***	***	***
2021 Q4	***	***	***	***	***
2022 Q1	***	***	***	***	***
2022 Q2	***	***	***	***	***
2022 Q3	***	***	***	***	***
2022 Q4	***	***	***	***	***
2023 Q1	***	***	***	***	***
2023 Q2	***	***	***	***	***
2023 Q3	***	***	***	***	***
2023 Q4	***	***	***	***	***

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

Note: Product 1: Low viscosity (less than 100 centipoise), organic, non-GMO, hydrolyzed pea protein, with a minimum pea protein content of 80 percent, a pH of 5.5 to 8.0, and a moisture content of a maximum of 10 percent.

Note: U.S. producer price data is the same as that presented in table V-4**.**

Figure V-6
HPC Pea Protein: U.S. producer prices and import purchase costs, and quantities, of product 1, by source and quarter

U.S. price and import purchase cost of product 1

* * * * * * *

Volume of product 1

* * * * * * *

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

Note: Product 1: Low viscosity (less than 100 centipoise), organic, non-GMO, hydrolyzed pea protein, with a minimum pea protein content of 80 percent, a pH of 5.5 to 8.0, and a moisture content of a maximum of 10 percent.

Table V-9
HPC Pea Protein: Import landed duty-paid purchase costs and domestic prices, quantities of product 2, and price-cost differentials, by source and quarter

Price and LDP value in dollars per pounds dry weight, quantity in pounds dry weight, margin and price-cost differential in percent.

Period	U.S. price	U.S. quantity	China unit LDP value	China cost quantity	China differential
2021 Q1	***	***	***	***	***
2021 Q2	***	***	***	***	***
2021 Q3	***	***	***	***	***
2021 Q4	***	***	***	***	***
2022 Q1	***	***	***	***	***
2022 Q2	***	***	***	***	***
2022 Q3	***	***	***	***	***
2022 Q4	***	***	***	***	***
2023 Q1	***	***	***	***	***
2023 Q2	***	***	***	***	***
2023 Q3	***	***	***	***	***
2023 Q4	***	***	***	***	***

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

Note: Product 2: High solubility (greater than 70 percent), organic, non-GMO, non-hydrolyzed pea protein, with a minimum pea protein content of 80 percent a pH of 5.5 to 8.0, and a moisture content of a maximum of 10 percent.

Note: U.S. producer price data is the same as that presented in table V-5.

Figure V-7
HPC Pea Protein: U.S. producer prices and import purchase costs, and quantities, of product 2, by source and quarter

U.S. price and import purchase cost of product 2

* * * * * * *

Volume of product 2

* * * * * * *

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

Note: Product 2: High solubility (greater than 70 percent), organic, non-GMO, non-hydrolyzed pea protein, with a minimum pea protein content of 80 percent a pH of 5.5 to 8.0, and a moisture content of a maximum of 10 percent.

Table V-10
HPC Pea Protein: Import landed duty-paid purchase costs and domestic prices, quantities of product 3, and price-cost differentials, by source and quarter

Price and LDP value in dollars per pounds dry weight, quantity in pounds dry weight, margin and price-cost differential in percent.

Period	U.S. price	U.S. quantity	China unit LDP value	China cost quantity	China differential
2021 Q1	***	***	***	***	***
2021 Q2	***	***	***	***	***
2021 Q3	***	***	***	***	***
2021 Q4	***	***	***	***	***
2022 Q1	***	***	***	***	***
2022 Q2	***	***	***	***	***
2022 Q3	***	***	***	***	***
2022 Q4	***	***	***	***	***
2023 Q1	***	***	***	***	***
2023 Q2	***	***	***	***	***
2023 Q3	***	***	***	***	***
2023 Q4	***	***	***	***	***

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

Note: Product 3: Low viscosity (less than 100 centipoise), non-organic, non-GMO, hydrolyzed pea protein, with a minimum pea protein content of 80 percent, a pH of 5.5 to 8.0, and a moisture content of a maximum of 10 percent.

Note: U.S. producer price data is the same as that presented in table V-6**.**

Figure V-8
HPC Pea Protein: U.S. producer prices and import purchase costs, and quantities, of product 3, by source and quarter

U.S. price and import purchase cost of product 3

* * * * * * *

Volume of product 3

* * * * * * *

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

Note: Product 3: Low viscosity (less than 100 centipoise), non-organic, non-GMO, hydrolyzed pea protein, with a minimum pea protein content of 80 percent, a pH of 5.5 to 8.0, and a moisture content of a maximum of 10 percent.

Table V-11
HPC Pea Protein: Import landed duty-paid purchase costs and domestic prices, quantities of product 4, and price-cost differentials, by source and quarter

Price and LDP value in dollars per pounds dry weight, quantity in pounds dry weight, margin and price-cost differential in percent.

Period	U.S. price	U.S. quantity	China unit LDP value	China cost quantity	China differential
2021 Q1	***	***	***	***	***
2021 Q2	***	***	***	***	***
2021 Q3	***	***	***	***	***
2021 Q4	***	***	***	***	***
2022 Q1	***	***	***	***	***
2022 Q2	***	***	***	***	***
2022 Q3	***	***	***	***	***
2022 Q4	***	***	***	***	***
2023 Q1	***	***	***	***	***
2023 Q2	***	***	***	***	***
2023 Q3	***	***	***	***	***
2023 Q4	***	***	***	***	***

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

Note: Product 4: High solubility (greater than 70 percent), non-organic, non-GMO, non-hydrolyzed pea protein, with a minimum pea protein content of 80 percent, a pH of 5.5 to 8.0, and a moisture content of a maximum of 10 percent.

Note: U.S. producer price data is the same as that presented in table V-7.

Figure V-9
HPC Pea Protein: U.S. producer prices and import purchase costs, and quantities, of product 4, by source and quarter

U.S. price and import purchase cost of product 4

* * * * * * *

Volume of product 4

* * * * * * *

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

Note: Product 4: High solubility (greater than 70 percent), non-organic, non-GMO, non-hydrolyzed pea protein, with a minimum pea protein content of 80 percent, a pH of 5.5 to 8.0, and a moisture content of a maximum of 10 percent.

Price and purchase cost trends

Table V-12 summarizes the price trends, by country and by product. During January 2021 through December 2023, prices for product 1 decreased regardless of source or purchase type. Prices for product 4 decreased for price data from the United States and China but purchase costs increased. Prices for product 3 increased for product from both the United States and China while purchase costs decreased. Prices for product 2 increased from the United States and increased for pricing data from China. As shown in the table, domestic price decreases were *** percent during January 2021 through December 2023, while import price decreases ranged from *** to *** percent. Domestic price increases ranged from *** to *** percent, while import price increases ranged from *** to *** percent.

Table V-12
HPC Pea Protein: Summary of price and cost data, by product and source

Volume in pounds dry weight, price and cost in dollars per pounds dry weight

Product	Source	Number of quarters	Quantity	Low price	High price	First quarter price	Last quarter price	Change over period
Product 1	United States	***	***	***	***	***	***	***
Product 1	China price	***	***	***	***	***	***	***
Product 1	China cost	***	***	***	***	***	***	***
Product 2	United States	***	***	***	***	***	***	***
Product 2	China price	***	***	***	***	***	***	***
Product 2	China cost	***	***	***	***	***	***	***
Product 3	United States	***	***	***	***	***	***	***
Product 3	China price	***	***	***	***	***	***	***
Product 3	China cost	***	***	***	***	***	***	***
Product 4	United States	***	***	***	***	***	***	***
Product 4	China price	***	***	***	***	***	***	***
Product 4	China cost	***	***	***	***	***	***	***

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

Note: Percentage change from the first quarter in which data were available in 2021 to the last quarter in which data were available in 2023.

Table V-13
HPC pea protein: Indexed U.S. producer prices, by quarter

Indexed prices in percent; 2021 Q1=100.0

Period	Product 1	Product 2	Product 3	Product 4
2021 Q1	100.0	100.0	100.0	100.0
2021 Q2	***	***	***	***
2021 Q3	***	***	***	***
2021 Q4	***	***	***	***
2022 Q1	***	***	***	***
2022 Q2	***	***	***	***
2022 Q3	***	***	***	***
2022 Q4	***	***	***	***
2023 Q1	***	***	***	***
2023 Q2	***	***	***	***
2023 Q3	***	***	***	***
2023 Q4	***	***	***	***

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

Figure V-10
HPC pea protein: Indexed U.S. producer prices, by quarter

* * * * * * *

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

Table V-14
HPC pea protein: Indexed subject U.S. importer prices, by quarter

Indexed prices in percent; 2021 Q1=100.0

Period	Product 1	Product 2	Product 3	Product 4
2021 Q1	100.0	100.0	100.0	100.0
2021 Q2	***	***	***	***
2021 Q3	***	***	***	***
2021 Q4	***	***	***	***
2022 Q1	***	***	***	***
2022 Q2	***	***	***	***
2022 Q3	***	***	***	***
2022 Q4	***	***	***	***
2023 Q1	***	***	***	***
2023 Q2	***	***	***	***
2023 Q3	***	***	***	***
2023 Q4	***	***	***	***

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

Figure V-11
HPC pea protein: Indexed U.S. importer prices, by quarter

* * * * * * *

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

Table V-15
HPC pea protein: Indexed subject U.S. importer prices and purchase costs, by quarter

Indexed price/cost in percent; 2021 Q1=100.0

Period	Product 1 - Cost	Product 2 - Cost	Product 3 - Cost	Product 4 - Cost
2021 Q1	100.0	***	100.0	100.0
2021 Q2	***	***	***	***
2021 Q3	***	***	***	***
2021 Q4	***	***	***	***
2022 Q1	***	***	***	***
2022 Q2	***	***	***	***
2022 Q3	***	***	***	***
2022 Q4	***	***	***	***
2023 Q1	***	***	***	***
2023 Q2	***	***	***	***
2023 Q3	***	***	***	***
2023 Q4	***	***	***	***

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

Note: Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent. Zeroes, null values, and undefined calculations are suppressed and shown as "---".

Figure V-12
HPC pea protein: Indexed subject U.S. importers' purchase costs, by quarter, by product

* * * * * * *

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

Price and purchase cost comparisons

Price comparisons

As shown in table V-16, prices for product imported from China were below those for U.S.-produced product in all instances (*** million pounds dry weight); margins of underselling ranged from 17.9 to 58.6 percent.

Table V-16
HPC Pea Protein: Instances of underselling and overselling and the range and average of margins, by product

Quantity in pounds dry weight; margin in percent

Products	Type	Number of quarters	Quantity	Average margin	Min margin	Max margin
Product 1	Underselling	12	***	***	***	***
Product 2	Underselling	12	***	***	***	***
Product 3	Underselling	12	***	***	***	***
Product 4	Underselling	12	***	***	***	***
All products	Underselling	48	***	38.6	17.9	58.6
Product 1	Overselling	***	***	***	***	***
Product 2	Overselling	***	***	***	***	***
Product 3	Overselling	***	***	***	***	***
Product 4	Overselling	***	***	***	***	***
All products	Overselling	***	***	***	***	***

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

Note: These data include only quarters in which there is a comparison between the U.S. and subject

Price-cost comparisons

As shown in table V-17, landed duty-paid costs for HPC pea protein imported from China were below the sales price for U.S.-produced product in all instances (*** million pounds dry weight); price-cost differentials ranged from 24.9 to 78.0 percent.

Table V-17
HPC Pea Protein: Instances of lower and higher import purchase costs and the range and average of price-cost differentials, by product

Quantity in pounds dry weight; price-cost differential in percent

Products	Type	Number of quarters	Quantity	Average differential	Min differential	Max differential
Product 1	Lower than US	10	***	***	***	***
Product 2	Lower than US	4	***	***	***	***
Product 3	Lower than US	11	***	***	***	***
Product 4	Lower than US	12	***	***	***	***
All products	Lower than US	37	***	46.7	24.9	78.0
Product 1	Higher than US	***	***	***	***	***
Product 2	Higher than US	***	***	***	***	***
Product 3	Higher than US	***	***	***	***	***
Product 4	Higher than US	***	***	***	***	***
All products	Higher than US	***	***	***	***	***

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

Note: These data include only quarters in which there is a comparison between the U.S. and subject product.

Lost sales and lost revenue

In the preliminary phase of the investigation, the Commission requested that U.S. producers of HPC pea protein report purchasers with which they experienced instances of lost sales or revenue due to competition from imports of HPC pea protein from China during January 2020 through March 2023. One U.S. producer, ***, submitted lost sales and lost revenue allegations. This U.S. producer identified *** firms with which it lost sales or revenue (*** consisting lost sales allegations, and *** consisting of lost revenue allegations).

In the final phase of the investigation, of the three responding U.S. producers, *** reported that they had to reduce prices, and *** reported that they had lost sales.

Staff contacted 21 purchasers and received responses from seven purchasers.[12] Responding purchasers reported purchasing and importing *** pounds dry weight of HPC pea protein during January 2021 through December 2023 (table V-18).

Table V-18
HPC pea protein: Purchasers' reported purchases and imports, by firm and source

Quantity in pounds dry weight, Change in shares in percentage points

Firm	Domestic quantity	Subject quantity	All other quantity	Change in domestic share	Change in subject share
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
All firms	***	***	***	***	***

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

Note: All other includes all other sources and unknown sources. Change is the percentage point change in the share of the firm's total purchases of domestic and/or subject country imports between first and last years.

[12] Two purchasers, *** and ***, submitted lost sales lost revenue survey responses in the preliminary phase, but did not submit purchaser questionnaire responses in the final phase.

Of the seven responding purchasers, six reported that, since 2021, they had purchased imported HPC pea protein from China instead of U.S.-produced product. The same six purchasers reported that subject import prices were lower than U.S.-produced product, and four of these purchasers reported that price was a primary reason for the decision to purchase imported product rather than U.S.-produced product. Three purchasers estimated the quantity of HPC pea protein from China purchased instead of domestic product; quantities estimated were *** pounds dry weight to *** pounds dry weight (table V-19). Purchasers identified quality and sensory characteristics (i.e., color, odor and solubility) as non-price reasons for purchasing imported rather than U.S.-produced product. Purchaser *** reported that pea protein isolate with near identical specifications from various suppliers can have different and unique sensory characteristics.

Table V-19
HPC pea protein: Purchasers' responses to purchasing subject imports instead of domestic product, by firm

Quantity in pounds dry weight

Firm	Purchased subject imports instead of domestic	Imports priced lower	Choice based on price	Quantity	Narrative on reasons for purchasing imports
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
All firms	Yes--6; No--1	Yes--6; No--0	Yes--4; No--2	***	

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

Table continued.

Table V-19 Continued
HPC pea protein: Purchasers' responses to purchasing subject imports instead of domestic product, by firm
Note: *** narrative on reasons for purchasing imports: ***.

Note: *** narrative on reasons for purchasing imports: ***.

Of the seven responding purchasers, none reported that U.S. producers had reduced prices in order to compete with lower-priced imports from China (table V-20).

Table V-20
HPC pea protein: Purchasers' responses to U.S. producer price reductions, by firm

Firm	Producers lowered prices	Price reduction	Narrative on producer price reductions
***	***	***	***
***	***	***	***
***	***	***	***
***	***	***	***
***	***	***	***
***	***	***	***
***	***	***	***
All firms	Yes--0; No--4	NA	NA

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

In responding to the lost sales lost revenue survey, some purchasers provided additional information on purchases and market dynamics. Purchaser *** reported that Chinese producers' primary production goal is noodles and pea protein is a byproduct of this process and this puts Chinese producers at an advantage.

Part VI: Financial experience of U.S. producers

Background[1]

Three U.S. producers (ADM, Ingredion, and Puris) provided usable financial results on their HPC pea protein operations.[2] All three U.S. producers reported financial data on a calendar year basis and on the basis of GAAP.[3]

Net sales consisted primarily of commercial sales, with *** U.S. producer (***) reporting internal consumption for all three periods for which data were collected and two (***) reporting very small amounts of transfers to related firms.[4] Non-commercial sales are included but not presented separately in this section of the report. Figure VI-1 presents each responding firm's share of the total reported net sales quantity in 2023.

[1] The following abbreviations are used in the tables and/or text of this section: generally accepted accounting principles ("GAAP"), fiscal year ("FY"), net sales ("NS"), cost of goods sold ("COGS"), selling, general, and administrative expenses ("SG&A expenses"), average unit values ("AUVs"), research and development expenses ("R&D expenses"), return on assets ("ROA"), January 1, 2021 to December 31, 2023 ("period examined"), high protein content ("HPC"; the subject product), and low protein content ("LPC"; the nonsubject product).

[2] The petitioner and the *** U.S. producer by net sales quantity and value, Puris (a family-owned operation), started production of HPC pea proteins in 2014, using seeds bred for nearly 40 years for human consumption. In 2018, Puris entered into a joint-venture with Cargill to accelerate pea protein production ***. Hearing transcript, pp. 23-25, 28 (Atchison) and Puris' U.S. producer questionnaire, I-5 and II-2a.

The *** U.S. producer by net sales quantity and value, ADM (NYSE: ADM), ***. Production began in ***. HPC pea protein sales in 2023 were *** percent of ADM's Human nutrition reporting sub-segment net sales or *** percent of its consolidated net sales. ADM's 2023 Form 10-K, p. 48 (as filed); response to staff question from ADM, August 16, 2023; and, ADM's U.S. producer questionnaire, II-2a, III-9a, and III-10a.

The third and *** U.S. producer by net sales quantity and value, Ingredion (NYSE: INGR), reported ***. Ingredion ***. Its HPC pea protein net sales in 2023 were *** percent of its consolidated total net sales. Ingredion's 2023 Form 10-K, p. 43 (as filed); response to staff questions from Ingredion, August 14, 2023 and July 8, 2024; and, Ingredion's U.S. producer questionnaire, II-2a and III-9a.

[3] Staff conducted a verification of Puris' U.S. producer questionnaire. The verification adjustments were incorporated into this report. Verification resulted in *** to Puris' U.S. producer questionnaire response: wages paid to PRWs in 2021, cost of organic and non-organic peas in 2022, SG&A expenses in 2021, interest expenses in 2021, R&D expenditures in 2022 and 2023, and pricing products data for almost all quarters for all four pricing products. As a result, Puris' gross loss *** percent in 2022; operating losses *** percent in 2021 and 4.0 percent in 2022; and, net losses *** percent in 2021 and *** percent in 2022. Puris' verification report, July 19, 2024.

[4] From 2021 to 2023, combined transfers to related firms and internal consumption accounted for *** of total net sales by quantity and value, respectively.

Figure VI-1
HPC pea protein: U.S. producers' share of net sales quantity in 2023, by firm

* * * * * * *

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

Operations on HPC pea protein

Table VI-1 presents aggregated data on U.S. producers' operations in relation to HPC pea protein, while table VI-2 presents corresponding changes in AUVs. Table VI-3 presents selected company-specific financial data.

Table VI-1
HPC pea protein: U.S. producers' results of operations, by item and period

Quantity in 1,000 pounds dry weight; value in 1,000 dollars; ratios in percent

Item	Measure	2021	2022	2023
Total net sales	Quantity	***	***	***
Total net sales	Value	***	***	***
COGS: Raw materials: Organic peas	Value	***	***	***
COGS: Raw materials: Non-organic peas	Value	***	***	***
COGS: Raw materials: Other raw material	Value	***	***	***
COGS: Raw materials: Total	Value	***	***	***
COGS: Direct labor	Value	***	***	***
COGS: Other factory	Value	***	***	***
COGS: Energy and utilities	Value	***	***	***
COGS: Less by-product revenue	Value	***	***	***
COGS: Total	Value	***	***	***
Gross profit or (loss)	Value	***	***	***
SG&A expenses	Value	***	***	***
Operating income or (loss)	Value	***	***	***
Other expense / (income), net	Value	***	***	***
Net income or (loss)	Value	***	***	***
Depreciation/amortization	Value	***	***	***
Cash flow	Value	***	***	***
COGS: Raw materials: Organic peas	Ratio to NS	***	***	***
COGS: Raw materials: Non-organic peas	Ratio to NS	***	***	***
COGS: Raw materials: Other raw material	Ratio to NS	***	***	***
COGS: Raw materials: Total	Ratio to NS	***	***	***
COGS: Direct labor	Ratio to NS	***	***	***
COGS: Other factory	Ratio to NS	***	***	***
COGS: Energy and utilities	Ratio to NS	***	***	***
COGS: Less by-product revenue	Ratio to NS	***	***	***
COGS: Total	Ratio to NS	***	***	***
Gross profit or (loss)	Ratio to NS	***	***	***
SG&A expense	Ratio to NS	***	***	***
Operating income or (loss)	Ratio to NS	***	***	***
Net income or (loss)	Ratio to NS	***	***	***

Table continued.

Table VI-1 Continued
HPC pea protein: U.S. producers' results of operations, by item and period

Shares in percent; unit values in dollars per pound dry weight; count in number of firms reporting

Item	Measure	2021	2022	2023
COGS: Raw materials: Organic peas	Share	***	***	***
COGS: Raw materials: Non-organic peas	Share	***	***	***
COGS: Raw materials: Other raw material	Share	***	***	***
COGS: Raw materials: Total	Share	***	***	***
COGS: Direct labor	Share	***	***	***
COGS: Other factory	Share	***	***	***
COGS: Energy and utilities	Share	***	***	***
COGS: Total (before by-product offset)	Share	***	***	***
Total net sales	Unit value	***	***	***
COGS: Raw materials: Organic peas	Unit value	***	***	***
COGS: Raw materials: Non-organic peas	Unit value	***	***	***
COGS: Raw materials: Other raw material	Unit value	***	***	***
COGS: Raw materials: Total	Unit value	***	***	***
COGS: Direct labor	Unit value	***	***	***
COGS: Other factory	Unit value	***	***	***
COGS: Unit energy and utilities	Unit value	***	***	***
COGS: Less by-product revenue	Unit value	***	***	***
COGS: Total	Unit value	***	***	***
Gross profit or (loss)	Unit value	***	***	***
SG&A expenses	Unit value	***	***	***
Operating income or (loss)	Unit value	***	***	***
Net income or (loss)	Unit value	***	***	***
Operating losses	Count	***	***	***
Net losses	Count	***	***	***
Data	Count	***	***	***

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

Note: Shares represent the share of COGS. Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent. Zeroes, null values, and undefined calculations are suppressed and shown as "---".

Table VI-2
HPC pea protein: Changes in AUVs between comparison periods

Changes in percent

Item	2021-23	2021-22	2022-23
Total net sales	▲***	▲***	▲***
COGS: Raw materials: Organic peas	▲***	▲***	▲***
COGS: Raw materials: Non-organic peas	▼***	▲***	▼***
COGS: Raw materials: Other raw material	▲***	▲***	▲***
COGS: Raw materials: Total	▲***	▲***	▼***
COGS: Direct labor	▲***	▲***	▲***
COGS: Other factory	▲***	▲***	▲***
COGS: Unit energy and utilities	▲***	▲***	▲***
COGS: Less by-product revenue	▲***	▲***	▲***
COGS: Total	▲***	▲***	▲***

Table continued.

Table VI-2 Continued
HPC pea protein: Changes in AUVs between comparison periods

Changes in dollars per pound dry weight

Item	2021-23	2021-22	2022-23
Total net sales	▲***	▲***	▲***
COGS: Raw materials: Organic peas	▲***	▲***	▲***
COGS: Raw materials: Non-organic peas	▼***	▲***	▼***
COGS: Raw materials: Other raw material	▲***	▲***	▲***
COGS: Raw materials: Total	▲***	▲***	▼***
COGS: Direct labor	▲***	▲***	▲***
COGS: Other factory	▲***	▲***	▲***
COGS: Unit energy and utilities	▲***	▲***	▲***
COGS: Less by-product revenue	▲***	▲***	▲***
COGS: Total	▲***	▲***	▲***
Gross profit or (loss)	▼***	▼***	▼***
SG&A expense	▲***	▲***	▲***
Operating income or (loss)	▼***	▼***	▼***
Net income or (loss)	▼***	▼***	▼***

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

Note: Percentages and unit values shown as “0.0” or “0.00” represent values greater than zero, but less than “0.05” or “0.005,” respectively. Zeroes, null values, and undefined calculations are suppressed and shown as “---”. Period changes preceded by a “▲” represent an increase, while period changes preceded by a “▼” represent a decrease.

Table VI-3
HPC pea protein: U.S. producers' sales, costs/expenses, and profitability, by firm and period

Net sales quantity

Quantity in 1,000 pounds dry weight

Firm	2021	2022	2023
ADM	***	***	***
Ingredion	***	***	***
Puris	***	***	***
All firms	***	***	***

Table continued.

Table VI-3 Continued
HPC pea protein: U.S. producers' sales, costs/expenses, and profitability, by firm and period

Net sales value

Value in 1,000 dollars

Firm	2021	2022	2023
ADM	***	***	***
Ingredion	***	***	***
Puris	***	***	***
All firms	***	***	***

Table continued.

Table VI-3 Continued
HPC pea protein: U.S. producers' sales, costs/expenses, and profitability, by firm and period

COGS

Value in 1,000 dollars

Firm	2021	2022	2023
ADM	***	***	***
Ingredion	***	***	***
Puris	***	***	***
All firms	***	***	***

Table continued.

Table VI-3 Continued
HPC pea protein: U.S. producers' sales, costs/expenses, and profitability, by firm and period

Gross profit or (loss)

Value in 1,000 dollars

Firm	2021	2022	2023
ADM	***	***	***
Ingredion	***	***	***
Puris	***	***	***
All firms	***	***	***

Table continued.

Table VI-3 Continued
HPC pea protein: U.S. producers' sales, costs/expenses, and profitability, by firm and period

SG&A expenses

Value in 1,000 dollars

Firm	2021	2022	2023
ADM	***	***	***
Ingredion	***	***	***
Puris	***	***	***
All firms	***	***	***

Table continued.

Table VI-3 Continued
HPC pea protein: U.S. producers' sales, costs/expenses, and profitability, by firm and period

Operating income or (loss)

Value in 1,000 dollars

Firm	2021	2022	2023
ADM	***	***	***
Ingredion	***	***	***
Puris	***	***	***
All firms	***	***	***

Table continued.

Table VI-3 Continued
HPC pea protein: U.S. producers' sales, costs/expenses, and profitability, by firm and period

Net income or (loss)

Value in 1,000 dollars

Firm	2021	2022	2023
ADM	***	***	***
Ingredion	***	***	***
Puris	***	***	***
All firms	***	***	***

Table continued.

Table VI-3 Continued
HPC pea protein: U.S. producers' sales, costs/expenses, and profitability, by firm and period

COGS to net sales ratio

Ratios in percent

Firm	2021	2022	2023
ADM	***	***	***
Ingredion	***	***	***
Puris	***	***	***
All firms	***	***	***

Table continued.

Table VI-3 Continued
HPC pea protein: U.S. producers' sales, costs/expenses, and profitability, by firm and period

Gross profit or (loss) to net sales ratio

Ratios in percent

Firm	2021	2022	2023
ADM	***	***	***
Ingredion	***	***	***
Puris	***	***	***
All firms	***	***	***

Table continued.

Table VI-3 Continued
HPC pea protein: U.S. producers' sales, costs/expenses, and profitability, by firm and period

SG&A expenses to net sales ratio

Ratios in percent

Firm	2021	2022	2023
ADM	***	***	***
Ingredion	***	***	***
Puris	***	***	***
All firms	***	***	***

Table continued.

Table VI-3 Continued
HPC pea protein: U.S. producers' sales, costs/expenses, and profitability, by firm and period

Operating income or (loss) to net sales ratio

Ratios in percent

Firm	2021	2022	2023
ADM	***	***	***
Ingredion	***	***	***
Puris	***	***	***
All firms	***	***	***

Table continued.

Table VI-3 Continued
HPC pea protein: U.S. producers' sales, costs/expenses, and profitability, by firm and period

Net income or (loss) to net sales ratio

Ratios in percent

Firm	2021	2022	2023
ADM	***	***	***
Ingredion	***	***	***
Puris	***	***	***
All firms	***	***	***

Table continued.

Table VI-3 Continued
HPC pea protein: U.S. producers' sales, costs/expenses, and profitability, by firm and period

Unit net sales value

Unit values in dollars per pound dry weight

Firm	2021	2022	2023
ADM	***	***	***
Ingredion	***	***	***
Puris	***	***	***
All firms	***	***	***

Table continued.

Table VI-3 Continued
HPC pea protein: U.S. producers' sales, costs/expenses, and profitability, by firm and period

Unit raw material costs

Unit values in dollars per pound dry weight

Firm	2021	2022	2023
ADM	***	***	***
Ingredion	***	***	***
Puris	***	***	***
All firms	***	***	***

Table continued.

Table VI-3 Continued
HPC pea protein: U.S. producers' sales, costs/expenses, and profitability, by firm and period

Unit direct labor costs

Unit values in dollars per pound dry weight

Firm	2021	2022	2023
ADM	***	***	***
Ingredion	***	***	***
Puris	***	***	***
All firms	***	***	***

Table continued.

Table VI-3 Continued
HPC pea protein: U.S. producers' sales, costs/expenses, and profitability, by firm and period

Unit other factory costs

Unit values in dollars per pound dry weight

Firm	2021	2022	2023
ADM	***	***	***
Ingredion	***	***	***
Puris	***	***	***
All firms	***	***	***

Table continued.

Table VI-3 Continued
HPC pea protein: U.S. producers' sales, costs/expenses, and profitability, by firm and period

Unit energy and utilities

Unit values in dollars per pound dry weight

Firm	2021	2022	2023
ADM	***	***	***
Ingredion	***	***	***
Puris	***	***	***
All firms	***	***	***

Table continued.

Table VI-3 Continued
HPC pea protein: U.S. producers' sales, costs/expenses, and profitability, by firm and period

Unit COGS

Unit values in dollars per pound dry weight

Firm	2021	2022	2023
ADM	***	***	***
Ingredion	***	***	***
Puris	***	***	***
All firms	***	***	***

Table continued.

Table VI-3 Continued
HPC pea protein: U.S. producers' sales, costs/expenses, and profitability, by firm and period

Unit gross profit or (loss)

Unit values in dollars per pound dry weight

Firm	2021	2022	2023
ADM	***	***	***
Ingredion	***	***	***
Puris	***	***	***
All firms	***	***	***

Table continued.

Table VI-3 Continued
HPC pea protein: U.S. producers' sales, costs/expenses, and profitability, by firm and period

Unit SG&A expenses

Unit values in dollars per pound dry weight

Firm	2021	2022	2023
ADM	***	***	***
Ingredion	***	***	***
Puris	***	***	***
All firms	***	***	***

Table continued.

Table VI-3 Continued
HPC pea protein: U.S. producers' sales, costs/expenses, and profitability, by firm and period

Unit operating income or (loss)

Unit values in dollars per pound dry weight

Firm	2021	2022	2023
ADM	***	***	***
Ingredion	***	***	***
Puris	***	***	***
All firms	***	***	***

Table continued.

Table VI-3 Continued
HPC pea protein: U.S. producers' sales, costs/expenses, and profitability, by firm and period

Unit net income or (loss)

Unit values in dollars per pound dry weight

Firm	2021	2022	2023
ADM	***	***	***
Ingredion	***	***	***
Puris	***	***	***
All firms	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires.
Note: Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent. Zeroes, null values, and undefined calculations are suppressed and shown as "---".

Net sales

As presented in table VI-1, total net sales quantity irregularly decreased while total net sales value irregularly increased from 2021 to 2023.[5] Table VI-3 shows that two U.S. producers (***) reported irregular declines in net sales volumes and values from 2021 to 2023.[6] U.S. producers reported net sales fluctuations resulting from fluctuations in ***.[7] [8] [9] U.S. producer

[5] *** accounted for *** percent of net sales quantity and *** percent net sales value over the period examined, driving the trends in net sales as well as other financial results of the aggregated U.S. HPC pea protein industry.

[6] The *** U.S. producer, ***, reported ***, with net sales volume consistently increasing and values irregularly increasing from 2021 to 2023.

[7] *** Response from *** to staff questions, August 10, 2023 and *** U.S. producer questionnaire, III-9b.

[8] ***. *** U.S. producer questionnaire, III-9b; emails from Marc Winkler, Ingredion, August 15, 2023, July 8-9, 2024; and, staff notes, EDIS Doc. 826078 (July 16, 2024)).

[9] Only one U.S. producer (***) reported that the COVID-19 pandemic affected its financial performance, ***. U.S. producer questionnaire responses, III-18.

Puris testified that sales gains in 2022 were the result of U.S. producers willing to sell at a loss but such a strategy is not sustainable.[10]

The *** reported the highest net sales AUVs, increasing each year from 2021 to 2023. *** attributed its increase in net sales AUVs primarily to increases in raw materials (***), but it was unable to increase prices to cover increasing costs. Differences in net sales among U.S. producers are largely attributable to differences in product mix and relative size and maturity of their respective HPC pea protein operations.[11]

[10] Puris' witness testified that it was forced to sell HPC pea protein at a loss from 2021 to 2023, "that was the only way we could obtain enough sales to keep our facilities operating…but that is not a sustainable model." Hearing transcript, p. 18 (Hubert) and p. 35 (Atchinson).

[11] In addition to many HPC pea protein-based products such as plant-based milk and snacks, the type of peas used (organic or non-organic) also vary among the three U.S. producers, with *** (***) processing and making HPC pea protein from organic peas. ***. U.S. producer questionnaires, III-9a and III-9e.

Cost of goods sold and gross profit or loss

As presented in table VI-1, raw material costs (mostly yellow field peas) represented the largest share of total COGS in 2021 and 2022, but the second largest in 2023.[12] Raw material costs in the aggregate, on a per-unit basis, and as a share of net sales all irregularly increased from 2021 to 2023. As noted earlier, North America experienced a drought in 2021 and one U.S. producer *** reporting that it ***.[13] [14] The extraction of protein from peas naturally results in by-products, primarily pea starch but also other products such as pea soluble and pea flour. As shown in table VI-1, by-product revenues are reported as an offset to COGS, increasing in absolute values, on a per-unit basis, and as a share of net sales from 2021 to 2023. All three U.S. producers stated that HPC pea protein is *** the sale of by-products (e.g., LPC pea protein and pea starch).[15] [16]

Table VI-3 presents company-specific raw material cost AUVs, with variations among U.S. producers partially attributable to the large range of product mix and volume of sales.

[12] The relative share of raw material costs to other COGS items decreased mostly due to ***. U.S. producer questionnaires, III-9b; emails from ***, Ingredion, July 8-9, 2024; and, staff notes, EDIS Doc. 826078 (July 16, 2024).

[13] ***. Response from *** to staff questions, August 10, 2023 and *** U.S. producer questionnaire, III-9b.

[14] *** explained that ***. *** U.S. producer questionnaire, III-9b.

[15] ***. In addition, ***. U.S. producer questionnaires, III-8d, III-8e, and III-8f and response from *** to staff questions, August 10, 2023.

[16] *** (noted earlier in footnote 8). Emails from ***, Ingredion, July 8-9, 2024 and, staff notes, EDIS Doc. 826078 (July 16, 2024).

***.[17] Yellow peas (both organic and non-organic) made up the largest share of raw materials costs. No U.S. producer reported raw materials for additives. Other raw material inputs include processing aids such as acids, bases, defoamer, and enzymes. Table VI-4 presents raw materials, by type.[18]

Table VI-4
HPC pea protein: U.S. producers' raw material costs in 2023

Value in 1,000 dollars; share of value in percent

Item	Value	Share of value
Organic peas	***	***
Non-organic peas	***	***
Other raw material	***	***
Raw materials	***	***

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

Other factory costs accounted for the second largest share of total COGS in 2021 and 2022 and the largest share of COGS in 2023. Other factory costs in absolute value, per-unit, and as a share of net sales, all consistently increased from 2021 to 2023.[19] The production of HPC pea protein involves "very significant fixed costs" and operating at high levels of capacity utilization is the only way to spread those fixed costs across more volume to reduce COGS per unit. Two U.S. producers (***) reported nonrecurring income and expenses classified as other factory costs during the period examined.[20] Energy and utility costs, which accounted for the third largest share of total COGS, irregularly increased in total value and consistently increased as a share to net sales and on a per-unit basis from 2021 to 2023. Direct

[17] Hearing transcript, pp. 24-26 (Atchinson).

[18] Two U.S. producers (***) reported purchasing inputs (***) from related firms equal to *** percent and *** percent, respectively, of total COGS in 2023; *** valued inputs using a negotiated transfer price to approximate FMV while *** inputs were valued using cost plus. U.S. producer questionnaires, III-5b and III-5c.

[19] In addition to *** inflation as another reason for increasing other factory costs. ***. Ingredion's U.S. producer questionnaire, III-9b and III-9g; emails from Marc Winkler, Ingredion, July 8-9, 2024; and, staff notes, EDIS Doc. 826078 (July 16, 2024).

[20] (***) reported non-recurring net gains of $*** in 2022 resulting from ***, reported in other factory costs. (***) reported non-recurring expense of $*** in 2023 resulting from ***. U.S. producer questionnaires, III-10a and III-10b.

labor costs, which accounted for the smallest share of total COGS, increased overall in total value, as a share to net sales, and on a per-unit basis from 2021 to 2023.

As presented in table VI-1, total COGS irregularly increased while the ratio of COGS to net sales and per-unit COGS consistently increased from 2021 to 2023, primarily from raw material costs and other factory costs increasing at a faster rate than net sales values.

Based on the data in table VI-1, total gross loss irregularly increased/worsened while the ratio of gross loss and per-unit gross loss consistently increased/worsened from 2021 to 2023. Gross loss increased from *** in 2021 to a loss of *** in 2022 before declining to a loss of *** in 2023; gross loss trend reflects total COGS increasing at much higher rates than revenue and ***.[21]

SG&A expenses and operating income or loss

As presented in table VI-1, U.S. producers' total and per-unit SG&A expenses consistently increased from 2021 to 2023. The SG&A expense ratios (i.e., total SG&A expenses divided by net sales) irregularly increased from 2021 to 2023. The *** U.S. producer (***) reported *** higher than industry average SG&A expenses, measured by AUVs and as share of net sales, as a result of ***.

Table VI-1 shows that U.S. producers' operating losses irregularly increased from 2021 to 2023. The continued decline in operating performance of U.S. producers is attributable to the same reasons as those for gross profit from 2021 to 2023 (i.e., sales AUVs increased less than total COGS and ***).

[21] ***. Puris testified that pea protein production is capital intensive and not as efficient (increased per-unit COGS) when operating at lower capacities {less sales to spread fixed costs}, resulting in negative profits. Hearing transcript, p. 34 (Hubert) and p. 56 (Lorenzon).

All other expenses and net income or loss

Classified below the operating income level are interest expenses, other expenses, and other income. In table VI-1, these items are aggregated and only the net amount is shown, revealing that net expenses increased (driven by interest expenses) from 2021 to 2023.[22]

Net income had a similar pattern as operating income: the industry reported irregularly increasing net losses from 2021 to 2023. The absolute difference between operating and net profits narrowed and widened in conjunction with changes in total interest expenses and all other income and expenses.[23]

Capital expenditures and research and development expenses

Table VI-5 presents capital expenditures, by firm, and table VI-7 presents R&D expenses, by firm. Tables VI-6 and VI-8 present the firms' narrative explanations of the nature, focus, and significance of their capital expenditures and R&D expenses, respectively.

Table VI-5
HPC pea protein: U.S. producers' capital expenditures, by firm and period

Value in 1,000 dollars

Firm	2021	2022	2023
ADM	***	***	***
Ingredion	***	***	***
Puris	***	***	***
All firms	***	***	***

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

[22] U.S. producer *** accounted for all of the interest expenses, other expenses, and other income (shown as all other expenses/income, net) below operating profits. ***.

[23] A variance analysis is not shown mostly due to the large variety of product mixes and different cost structures among the reporting firms, as well as *** new producer Ingredion.

Table VI-6
HPC pea protein: U.S. producers' narrative descriptions of their capital expenditures, by firm

Firm	Narrative on capital expenditures
ADM	***
Ingredion	***
Puris	***

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

Table VI-7
HPC pea protein: U.S. producers' R&D expenses, by firm and period

Value in 1,000 dollars

Firm	2021	2022	2023
ADM	***	***	***
Ingredion	***	***	***
Puris	***	***	***
All firms	***	***	***

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

Table VI-8
HPC pea protein: U.S. producers' narrative descriptions of their R&D expenses, by firm

Firm	Narrative on R&D expenses
ADM	***
Ingredion	***
Puris	***

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

Assets and return on assets

Table VI-9 presents data on the U.S. producers' total assets while table VI-10 presents their operating ROA.[24] Table VI-11 presents U.S. producers' narrative responses explaining their major asset categories and any significant changes in asset levels over time.

Table VI-9
HPC pea protein: U.S. producers' total net assets, by firm and period

Value in 1,000 dollars

Firm	2021	2022	2023
ADM	***	***	***
Ingredion	***	***	***
Puris	***	***	***
All firms	***	***	***

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

Table VI-10
HPC pea protein: U.S. producers' ROA, by firm and period

Ratio in percent

Firm	2021	2022	2023
ADM	***	***	***
Ingredion	***	***	***
Puris	***	***	***
All firms	***	***	***

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

Table VI-11
HPC pea protein: U.S. producers' narrative descriptions of their total net assets, by firm

Firm	Narrative description of net assets
ADM	***
Ingredion	***
Puris	***

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

[24] The operating ROA is calculated as operating income divided by total assets. With respect to a firm's overall operations, the total asset value reflects an aggregation of a number of assets which are generally not product specific. Thus, high-level allocations are generally required in order to report a total asset value on a product-specific basis.

Capital and investment

The Commission requested U.S. producers of HPC pea protein to describe any actual or potential negative effects of imports of HPC pea protein from China on their firms' growth, investment, ability to raise capital, development and production efforts, and/or the scale of capital investments. Table VI-12 presents the number of firms reporting an impact in each category and table VI-13 provides the U.S. producers' narrative responses.

Table VI-12
HPC pea protein: Count of firms indicating actual and anticipated negative effects of imports from subject sources on investment, growth, and development since January 1, 2021, by effect

Number of firms reporting

Effect	Category	Count
Cancellation, postponement, or rejection of expansion projects	Investment	1
Denial or rejection of investment proposal	Investment	1
Reduction in the size of capital investments	Investment	2
Return on specific investments negatively impacted	Investment	2
Other investment effects	Investment	1
Any negative effects on investment	Investment	2
Rejection of bank loans	Growth	0
Lowering of credit rating	Growth	1
Problem related to the issue of stocks or bonds	Growth	0
Ability to service debt	Growth	1
Other growth and development effects	Growth	2
Any negative effects on growth and development	Growth	2
Anticipated negative effects of imports	Future	2

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

Note: ***.

Table VI-13
HPC pea protein: U.S. producers' narratives relating to actual and anticipated negative effects of imports on investment, growth, and development, since January 1, 2021, by firm and effect

Item	Firm name and narrative on impact of imports
Cancellation, postponement, or rejection of expansion projects	***
Denial or rejection of investment proposal	***
Reduction in the size of capital investments	***
Reduction in the size of capital investments	***
Return on specific investments negatively impacted	***
Return on specific investments negatively impacted	***
Other negative effects on investments	***
Lowering of credit rating	***
Ability to service debt	***
Other effects on growth and development	***
Other effects on growth and development	***
Anticipated effects of imports	***
Anticipated effects of imports	***

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

Part VII: Threat considerations and information on nonsubject countries

Section 771(7)(F)(i) of the Act (19 U.S.C. § 1677(7)(F)(i)) provides that—

> *In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of the subject merchandise, the Commission shall consider, among other relevant economic factors*[1]*--*
>
> *(I) if a countervailable subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the countervailable subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement), and whether imports of the subject merchandise are likely to increase,*
>
> *(II) any existing unused production capacity or imminent, substantial increase in production capacity in the exporting country indicating the likelihood of substantially increased imports of the subject merchandise into the United States, taking into account the availability of other export markets to absorb any additional exports,*
>
> *(III) a significant rate of increase of the volume or market penetration of imports of the subject merchandise indicating the likelihood of substantially increased imports,*
>
> *(IV) whether imports of the subject merchandise are entering at prices that are likely to have a significant depressing or suppressing effect on domestic prices, and are likely to increase demand for further imports,*
>
> *(V) inventories of the subject merchandise,*

[1] Section 771(7)(F)(ii) of the Act (19 U.S.C. § 1677(7)(F)(ii)) provides that "The Commission shall consider {these factors} . . . as a whole in making a determination of whether further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted under this title. The presence or absence of any factor which the Commission is required to consider . . . shall not necessarily give decisive guidance with respect to the determination. Such a determination may not be made on the basis of mere conjecture or supposition."

(VI) 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,

(VII) in any investigation under this title which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv)) and any product processed from such raw agricultural product, the likelihood that there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission under section 705(b)(1) or 735(b)(1) with respect to either the raw agricultural product or the processed agricultural product (but not both),

(VIII) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and

(IX) any other demonstrable adverse trends that indicate the probability that there is likely to be material injury by reason of imports (or sale for importation) of the subject merchandise (whether or not it is actually being imported at the time).[2]

Information on the nature of the subsidies was presented earlier in this report; information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V; and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts is presented in Part VI. Information on inventories of the subject merchandise; foreign producers' operations, including the potential for "product-shifting;" any other threat indicators, if applicable; and any dumping in third-country markets, follows. Also presented in this section of the report is information obtained for consideration by the Commission on nonsubject countries.

[2] Section 771(7)(F)(iii) of the Act (19 U.S.C. § 1677(7)(F)(iii)) further provides that, in antidumping investigations, ". . . the Commission shall consider whether dumping in the markets of foreign countries (as evidenced by dumping findings or antidumping remedies in other WTO member markets against the same class or kind of merchandise manufactured or exported by the same party as under investigation) suggests a threat of material injury to the domestic industry."

The industry in China

The Commission issued foreign producers' or exporters' questionnaires to 20 firms believed to produce and/or export HPC pea protein from China.[3] Usable responses to the Commission's questionnaire were received from seven firms: Shanghai Freeman Lifescience Co., Ltd., ("Shanghai Freeman"), Jianyuan International Co., Ltd., ("Jianyuan"), Yantai Oriental Protein Tech Co., Ltd., ("Yantai Oriental"), Yantai T. Full Biotech Co., Ltd., ("Yantai Full Biotech"), Yosin Biotechnology (Yantai) Co., Ltd., ("Yosin"), Linyi Yuwang Vegetable Protein Co., Ltd., ("Linyi Yuwang"), Yantai Shuangta Food Co., Ltd., ("Yantai Shuangta"). Collectively, these firms accounted for *** production of HPC pea protein in China during 2023. These firms also accounted for *** of total exports of HPC pea protein from China to the United States during 2023. Table VII-1 presents information on the HPC pea protein operations of the responding producers and exporters in China.[4]

[3] These firms were identified through a review of information submitted in the petition and presented in third-party sources.

[4] One firm *** reported *** of resales during each year, 2021-23. These resales accounted for *** of all reported exports of HPC pea protein during 2021-23.

Table VII-1
HPC pea protein: Summary data for producers in China, 2023

Producer	Production (1,000 pounds dry weight)	Share of reported production (percent)	Exports to the United States (1,000 pounds dry weight)	Share of reported exports to the United States (percent)	Total shipments (1,000 pounds dry weight)	Share of firm's total shipments exported to the United States (percent)
Jianyuan	***	***	***	***	***	***
Linyi Yuwang	***	***	***	***	***	***
Yantai Full Biotech	***	***	***	***	***	***
Yantai Oriental	***	***	***	***	***	***
Yantai Shuangta	***	***	***	***	***	***
Yosin	***	***	***	***	***	***
All individual producers	***	100.0	***	100.0	***	***

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

Note: Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent. Zeroes, null values, and undefined calculations are suppressed and shown as "---".

Table VII-2 presents events in China's industry since January 1, 2021.

Table VII-2
HPC pea protein: Important industry events in China since 2021

Item	Firm	Event
Other	Other producers and Beyond Meat	Beyond Meat opened its first downstream product plant in China in April 2021.

Source: Liao, "Beyond Meat Opens its First Production Plant in China," *Tech Crunch*, April 7, 2021.

Changes in operations

Producers in China were asked to report any change in the character of their operations or organization relating to the production of HPC pea protein since January 1, 2021. Four of the seven responding producers reported that they had experienced such changes. Table VII-3 presents the changes identified by these producers.

Table VII-3
HPC pea protein: Reported changes in operations in China since January 1, 2021, by firm

Item	Firm name and accompanying narrative response regarding changes in operations
Plant openings	***
Plant closings	***
Production curtailments	***
Expansions	***
Expansions	***
Acquisitions	***

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

Operations on HPC pea protein

Table VII-4 presents data on China producers' installed, practical overall, and practical HPC pea protein capacity, production and utilization on the same equipment.

Table VII-4
HPC pea protein: Producers' in China installed and practical capacity, production, and utilization on the same equipment as in-scope production, by period

Capacity and production 1,000 pounds dry weight; utilization in percent

Item	Measure	2021	2022	2023
Installed overall	Capacity	***	***	***
Installed overall	Production	***	***	***
Installed overall	Utilization	***	***	***
Practical overall	Capacity	***	***	***
Practical overall	Production	***	***	***
Practical overall	Utilization	***	***	***
Practical HPC pea protein	Capacity	***	***	***
Practical HPC pea protein	Production	***	***	***
Practical HPC pea protein	Utilization	***	***	***

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

Table VII-5 presents Chinese producers' reported practical overall capacity constraints since January 1, 2021. The producers reported capacity constraints, including production bottlenecks, existing labor force, and other constraints such as ***.

Table VII-5
HPC pea protein: Producers' in China reported practical overall capacity constraints since January 1, 2021

Item	Firm name and narrative response on constraints to practical overall capacity
Production bottlenecks	***
Existing labor force	***
Existing labor force	***
Other constraints	***
Other constraints	***
Other constraints	***
Other constraints	***
Other constraints	***

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

Table VII-6 presents information on the HPC pea protein operations of the responding producers and exporters in China.[5] Chinese producers' practical capacity decreased by *** percent during 2021-23. Chinese producers' capacity utilization fluctuated but increased during 2021-23, increasing from *** percent in 2021 to *** percent in 2023. Practical capacity and production are projected to decrease during 2024 and 2025, respectively, from 2023 levels. Export shipments accounted for at least *** percent of Chinese producers' total shipments in each year between 2021 and 2023.[6] Chinese producers' exports to the United States fluctuated but increased by *** percent from 2021 to 2023.[7] Chinese producers' exports to the United States are projected to decrease from 2023 levels to 2024 to 2025 projections. Exports to all other markets fluctuated but decreased from 2021 to 2023. Exports to all other markets are projected to increase *** from 2023 levels to projections for 2024 to 2025.

[5] *** was the largest Chinese producer in each year during 2021-23, accounting for at least *** of reported HPC pea protein production in China. In 2023, *** was the second largest Chinese producer, accounting for at least *** percent of total production in China. Additionally, *** was the largest exporter of HPC pea protein from China during 2023.

[6] *** Chinese producers' shipments (inclusive of home market shipments and export shipments) were of pure HPC pea protein; *** reported shipments of blended HPC pea protein.

[7] Trends for export shipments from China to the United States are primarily attributable to ***. *** was the largest exporter of HPC pea protein from China to the United States in each year during 2021-23, accounting for *** percent of exports from China to the United States. *** was the second largest exporter, accounting for *** percent of exports from China to the United States.

Table VII-6
HPC pea protein: Data on industry in China, by period

Quantity in 1,000 pounds dry weight

Item	2021	2022	2023	Projection 2024	Projection 2025
Capacity	***	***	***	***	***
Production	***	***	***	***	***
End-of-period inventories	***	***	***	***	***
Internal consumption	***	***	***	***	***
Commercial home market shipments	***	***	***	***	***
Home market shipments	***	***	***	***	***
Exports to the United States	***	***	***	***	***
Exports to all other markets	***	***	***	***	***
Export shipments	***	***	***	***	***
Total shipments	***	***	***	***	***
Resales exported to the United States	***	***	***	***	***
Total exports to the United States	***	***	***	***	***

Table continued

Table VII-6 Continued
HPC pea protein: Data on industry in China, by period

Ratio and share in percent

Item	2021	2022	2023	Proj-ection 2024	Proj-ection 2025
Capacity utilization ratio	***	***	***	***	***
Inventory ratio to production	***	***	***	***	***
Inventory ratio to total shipments	***	***	***	***	***
Internal consumption share	***	***	***	***	***
Commercial home market shipments share	***	***	***	***	***
Home market shipments share	***	***	***	***	***
Exports to the United States share	***	***	***	***	***
Exports to all other markets share	***	***	***	***	***
Export shipments share	***	***	***	***	***
Total shipments share	***	***	***	***	***
Share of total exports to the United States by producers	***	***	***	***	***
Share of total exports to the United States by resellers	***	***	***	***	***
Adjusted share of total shipments exported to the United States	***	***	***	***	***

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

Note: Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent. Zeroes, null values, and undefined calculations are suppressed and shown as “---“.

Alternative products

As shown in table VII-7, responding firms in China produced other products on the same equipment and machinery used to produce HPC pea protein. HPC pea protein accounted for approximately *** of Chinese producers' total production on the same equipment as in-scope production in all periods examined, with out-of-scope products (primarily ***) accounting for the balance. Of the six Chinese producers that reported production of out-of-scope products on the same equipment used to produce HPC pea protein, *** indicated that they are able to switch production between HPC pea protein and out-of-scope products. *** reported that it is able to switch production between HPC pea protein and ***, while *** reported that it is able to switch production between HPC pea protein and ***.[8] At the Commission's hearing, the Chinese respondent parties indicated that Chinese production of pea protein is limited by their market for starch because they're not going to increase their pea protein production to match pea protein demand because that means they get three or four times as much of everything else, that they don't have a place to put.[9]

Table VII-7
HPC pea protein: Producers' in China overall production on the same equipment as in-scope production, by product type and period

Quantity in 1,000 pounds dry weight; Share in percent

Product type	Measure	2021	2022	2023
HPC pea protein	Quantity	***	***	***
LPC pea protein	Quantity	***	***	***
Other products	Quantity	***	***	***
Out-of-scope products	Quantity	***	***	***
All products	Quantity	***	***	***
HPC pea protein	Share	***	***	***
LPC pea protein	Share	***	***	***
Other products	Share	***	***	***
Out-of-scope products	Share	***	***	***
All products	Share	***	***	***

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

Exports

Table VII-8 presents Global Trade Atlas ("GTA") export data for protein concentrates, protein isolates, and other protein substances (a category that includes HPC pea protein and out-of-scope products) from China. During 2023, the United States was the top export market

[8] *** questionnaire responses, II-4a.

[9] Hearing transcript, p. 200 (Dougan).

for those exports from China, accounting for 13.5 percent of total exports, followed by the Netherlands and Japan, accounting for 8.8 percent and 6.5 percent, respectively.[10]

Table VII-8
Protein concentrates, protein isolates, and other protein substances: Exports from China, by destination market and by period

Quantity in 1,000 pounds dry weight; value in 1,000 dollars

Destination market	Measure	2021	2022	2023
United States	Quantity	166,676	115,127	124,249
Netherlands	Quantity	95,405	63,348	81,515
Japan	Quantity	55,701	60,230	60,197
Philippines	Quantity	66,891	70,552	55,648
Indonesia	Quantity	54,846	60,728	55,576
Vietnam	Quantity	21,312	21,165	39,652
Russia	Quantity	51,602	38,394	36,571
Mexico	Quantity	26,091	35,380	35,749
South Africa	Quantity	33,213	31,058	34,221
All other destination markets	Quantity	376,470	399,215	399,337
All destination markets	Quantity	948,208	895,197	922,715
United States	Value	245,747	186,990	184,838
Netherlands	Value	81,057	72,508	80,079
Japan	Value	82,089	96,752	91,354
Philippines	Value	62,243	79,117	54,953
Indonesia	Value	61,543	80,590	58,078
Vietnam	Value	19,587	24,477	28,943
Russia	Value	66,391	56,113	41,191
Mexico	Value	33,004	51,608	44,347
South Africa	Value	42,988	46,009	36,447
All other destination markets	Value	491,851	584,861	495,424
All destination markets	Value	1,186,500	1,279,026	1,115,655

Table continued

[10] The United States was also the top export market for those exports from China in 2020 and 2021, accounting for 17.6 percent of total exports in 2021 and 12.9 percent in 2022.

Table VII-8--continued
Protein concentrates, protein isolates, and other protein substances: Exports from China, by destination market and by period

Unit values in dollars per pound dry weight; shares in percent

Destination market	Measure	2021	2022	2023
United States	Unit value	1.47	1.62	1.49
Netherlands	Unit value	0.85	1.14	0.98
Japan	Unit value	1.47	1.61	1.52
Philippines	Unit value	0.93	1.12	0.99
Indonesia	Unit value	1.12	1.33	1.05
Vietnam	Unit value	0.92	1.16	0.73
Russia	Unit value	1.29	1.46	1.13
Mexico	Unit value	1.26	1.46	1.24
South Africa	Unit value	1.29	1.48	1.07
All other destination markets	Unit value	1.31	1.47	1.24
All destination markets	Unit value	1.25	1.43	1.21
United States	Share of quantity	17.6	12.9	13.5
Netherlands	Share of quantity	10.1	7.1	8.8
Japan	Share of quantity	5.9	6.7	6.5
Philippines	Share of quantity	7.1	7.9	6.0
Indonesia	Share of quantity	5.8	6.8	6.0
Vietnam	Share of quantity	2.2	2.4	4.3
Russia	Share of quantity	5.4	4.3	4.0
Mexico	Share of quantity	2.8	4.0	3.9
South Africa	Share of quantity	3.5	3.5	3.7
All other destination markets	Share of quantity	39.7	44.6	43.3
All destination markets	Share of quantity	100.0	100.0	100.0

Source: Official exports statistics under HS subheading 7407.21 as reported by China Customs in the Global Trade Atlas database, accessed May 22, 2024.

Note: Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent. Zeroes, null values, and undefined calculations are suppressed and shown as "---". United States is shown at the top, all remaining top export destinations shown in descending order of 2023 data.

U.S. inventories of imported merchandise

Table VII-9 presents data on U.S. importers' reported inventories of HPC pea protein. U.S. importers' end-of-period inventories of imports from China fluctuated but decreased by *** percent during 2021-23. U.S. importers' end-of-period inventories of imports from nonsubject sources increased and *** during 2021-23.

The ratio of U.S. importers' end-of-period inventories to their imports from China increased from *** percent in 2021 to *** percent in 2022 but decreased to *** percent in 2023. In contrast, the ratio of U.S. importers' end-of-period inventories to their imports from nonsubject sources increased from *** percent in 2021 to *** percent in 2023.

Table VII-9
HPC pea protein: U.S. importers' inventories and their ratio to select items, by source and period

Quantity in 1,000 pounds dry weight; ratio in percent

Measure	Source	2021	2022	2023
Inventories quantity	China	***	***	***
Ratio to imports	China	***	***	***
Ratio to U.S. shipments of imports	China	***	***	***
Ratio to total shipments of imports	China	***	***	***
Inventories quantity	Nonsubject	***	***	***
Ratio to imports	Nonsubject	***	***	***
Ratio to U.S. shipments of imports	Nonsubject	***	***	***
Ratio to total shipments of imports	Nonsubject	***	***	***
Inventories quantity	All	***	***	***
Ratio to imports	All	***	***	***
Ratio to U.S. shipments of imports	All	***	***	***
Ratio to total shipments of imports	All	***	***	***

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

Note: Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent. Zeroes, null values, and undefined calculations are suppressed and shown as "---".

U.S. importers' outstanding orders

The Commission requested importers to indicate whether they imported or arranged for the importation of HPC pea protein from China and all other sources after December 31, 2023. Their reported data is presented in table VII-10.

Table VII-10
HPC pea protein: U.S. importers' arranged imports, by source and period

Quantity in 1,000 pounds dry weight

Source	Jan-Mar 2024	Apr-Jun 2024	Jul-Sep 2024	Oct-Dec 2024	Total
China	***	***	***	***	***
Nonsubject sources	***	***	***	***	***
All import sources	***	***	***	***	***

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

Third-country trade actions

Based on available information, HPC pea protein from China has not been subject to other antidumping or countervailing duty investigations outside the United States.

Information on nonsubject countries

Outside of China and the United States, the European Union (EU) and Canada are major producers of HPC pea protein. Among EU member countries, France has the largest dry pea

crop production and is also home to major processor Roquette.[11] In 2021, Roquette opened the world's largest pea protein processing plant, in Manitoba, Canada. Roquette reported that the plant was important because Canada has the world's leading supply of dry peas (being the second largest producer after Russia), so the new facility offered access to raw materials as well as the ability to serve leading markets on both sides of the Atlantic.[12] The opening of this facility is likely the reason for the sharp increase in exports (from 2021 to 2022) of protein products from Canada shown in the table below. Canadian supply of dry peas can be important for U.S. processors in years when the U.S. crop is low, and Canadian processors often sell their pea protein in the U.S. market.[13] The data in table VII-11 include protein concentrates and isolates other than those derived from peas, and other proteins likely account for why Brazil appears among the top 5 exporters (excluding the United States). As of 2019, a major Brazilian agricultural processor was reportedly looking into expanding into pea protein production (using peas sourced from Canada and Argentina), but this reportedly would have made them Brazil's first producer of pea protein.[14]

[11] FAOSTAT database, "Crops and Livestock Products: Peas, Dry," accessed August 12, 2023.

[12] Roquette, "Roquette Opens World's Largest Pea Protein Plant," November 17, 2021; FAOSTAT database, "Crops and Livestock Products: Peas, Dry," accessed August 12, 2023.

[13] Conference transcript, p. 96 (Atchison).

[14] Michail, "Brazil's Milhão Moves into Plant Proteins," August 23, 2019.

Table VII-11
Protein concentrates, protein isolates, and other protein substances: Global exports, by reporting country and by period

Quantity in 1,000 pounds dry weight; Value in 1,000 dollars

Exporting country	Measure	2021	2022	2023
United States	Quantity	480,254	425,749	355,830
China	Quantity	948,208	895,197	922,715
Netherlands	Quantity	254,538	275,450	269,471
France	Quantity	158,753	130,467	134,241
Belgium	Quantity	157,248	214,859	119,233
Brazil	Quantity	125,554	146,849	116,878
Canada	Quantity	103,249	136,403	101,033
Denmark	Quantity	81,919	84,783	100,219
Serbia	Quantity	104,940	111,636	99,118
India	Quantity	71,443	78,412	89,685
Spain	Quantity	73,399	87,363	82,017
Germany	Quantity	86,985	79,319	76,470
All other exporters	Quantity	597,688	515,162	507,109
All reporting exporters	Quantity	3,244,177	3,181,649	2,974,019
United States	Value	1,619,341	1,571,640	1,355,372
China	Value	1,186,500	1,279,026	1,115,655
Netherlands	Value	635,448	697,404	743,565
France	Value	472,545	445,255	484,374
Belgium	Value	275,737	284,234	290,232
Brazil	Value	238,737	363,069	325,538
Canada	Value	241,028	308,712	246,001
Denmark	Value	331,539	460,923	424,349
Serbia	Value	63,642	83,843	80,913
India	Value	57,207	65,256	72,105
Spain	Value	212,167	282,511	243,010
Germany	Value	435,780	418,172	369,915
All other exporters	Value	1,652,463	1,857,932	1,964,167
All reporting exporters	Value	7,422,134	8,117,977	7,715,195

Table continued

Table VII-11 Continued
Protein concentrates, protein isolates, and other protein substances: Global exports, by reporting country and by period
Unit values in dollars per pound dry weight; Shares in percent

Exporting country	Measure	2021	2022	2023
United States	Unit value	3.37	3.69	3.81
China	Unit value	1.25	1.43	1.21
Netherlands	Unit value	2.50	2.53	2.76
France	Unit value	2.98	3.41	3.61
Belgium	Unit value	1.75	1.32	2.43
Brazil	Unit value	1.90	2.47	2.79
Canada	Unit value	2.33	2.26	2.43
Denmark	Unit value	4.05	5.44	4.23
Serbia	Unit value	0.61	0.75	0.82
India	Unit value	0.80	0.83	0.80
Spain	Unit value	2.89	3.23	2.96
Germany	Unit value	5.01	5.27	4.84
All other exporters	Unit value	2.76	3.61	3.87
All reporting exporters	Unit value	2.29	2.55	2.59
United States	Share of quantity	14.8	13.4	12.0
China	Share of quantity	29.2	28.1	31.0
Netherlands	Share of quantity	7.8	8.7	9.1
France	Share of quantity	4.9	4.1	4.5
Belgium	Share of quantity	4.8	6.8	4.0
Brazil	Share of quantity	3.9	4.6	3.9
Canada	Share of quantity	3.2	4.3	3.4
Denmark	Share of quantity	2.5	2.7	3.4
Serbia	Share of quantity	3.2	3.5	3.3
India	Share of quantity	2.2	2.5	3.0
Spain	Share of quantity	2.3	2.7	2.8
Germany	Share of quantity	2.7	2.5	2.6
All other exporters	Share of quantity	18.4	16.2	17.1
All reporting exporters	Share of quantity	100.0	100.0	100.0

Source: Official exports statistics under HS subheading 3504.00 and 2106.10 as reported by various national statistical authorities in the Global Trade Atlas Suite database, accessed March 28, 2024.

Note: Global export data based on the HS 6-digit harmonized codes cover both in-scope HPC pea protein as well as other out-of-scope protein concentrate and isolate trade.

Note: Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent. Zeroes, null values, and undefined calculations are suppressed and shown as "---". United States is shown at the top followed by the countries under investigation, all remaining top exporting countries in descending order of 2023 data.

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 45924, July 18, 2023	*Certain Pea Protein From China; Institution of Antidumping and Countervailing Duty Investigations and Scheduling of Preliminary Phase Investigations*	https://www.govinfo.gov/content/pkg/FR-2023-07-18/pdf/2023-15196.pdf
88 FR 52116, August 7, 2023	*Certain Pea Protein From the People's Republic of China: Initiation of Countervailing Duty Investigation*	https://www.govinfo.gov/content/pkg/FR-2023-08-07/pdf/2023-16817.pdf
88 FR 52124, August 7, 2023	*Certain Pea Protein From the People's Republic of China: Initiation of Less- Than-Fair-Value Investigation*	https://www.govinfo.gov/content/pkg/FR-2023-08-07/pdf/2023-16816.pdf
88 FR 87403, December 18, 2023	*Certain Pea Protein From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, and Alignment of Final Determination With Final Antidumping Duty Determination*	https://www.govinfo.gov/content/pkg/FR-2023-12-18/pdf/2023-27699.pdf
89 FR 10038, February 13, 2024	*Certain Pea Protein From the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, Postponement of Final Determination, and Extension of Provisional Measures*	https://www.govinfo.gov/content/pkg/FR-2024-02-13/pdf/2024-02965.pdf
89 FR 15895, March 5, 2024	*Certain Pea Protein From China; Scheduling of the Final Phase of Countervailing Duty and Antidumping Duty Investigations*	https://www.govinfo.gov/content/pkg/FR-2024-03-05/pdf/2024-04577.pdf
89 FR 55557, July 5, 2024	*Certain Pea Protein From the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination*	https://www.govinfo.gov/content/pkg/FR-2024-07-05/pdf/2024-14687.pdf

Citation	Title	Link
89 FR 55559, July 5, 2024	*Certain Pea Protein From the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Final Affirmative Critical Circumstances Determination*	https://www.govinfo.gov/content/pkg/FR-2024-07-05/pdf/2024-14686.pdf

APPENDIX B

LIST OF HEARING WITNESSES

CALENDAR OF PUBLIC HEARING

Those listed below appeared in the United States International Trade Commission's hearing:

Subject: Certain Pea Protein from China

Inv. Nos.: 701-TA-692 and 731-TA-1628 (Final)

Date and Time: June 25, 2024 - 9:30 a.m.

Sessions were held in connection with these investigations in the Main Hearing Room (Room 101), 500 E Street, SW., Washington, DC.

OPENING REMARKS:

In Support of Imposition (**Stephen J. Orava**, King & Spalding LLP)

In Opposition to Imposition
(**Jordan C. Kahn,** Grunfeld, Desiderio, Lebowitz, Silverman & Klestadt LLP)

In Support of the Imposition of the Antidumping and Countervailing Duty Orders:

King & Spalding LLP
Washington, DC
on behalf of

Puris Proteins LLC, d/b/a PURIS

Tyler Lorenzen, Chief Executive Officer, PURIS

Nicole Atchison, Board Member, PURIS, Chief Executive Officer, PURIS Holdings, and Chief Executive Officer, World Food Processing

Zachariah Hubert, Product Line and Corporate Development Manager, PURIS

Kushal Chandak, Vice President, Research and Development, PURIS

Andrew Szamosszegi, Principal, Capital Trade, Inc.

Stephen Orava)
Stephen Vaughn)
) – OF COUNSEL
Patrick McLain)

Barbara Medrado)

In Opposition to the Imposition of the
Antidumping and Countervailing Duty Orders:

Grunfeld, Desiderio, Lebowitz, Silverman & Klestadt LLP
Washington, DC
on behalf of

China Chamber of Commerce I/E of Foodstuffs, Native Produce and Animal By-products Pea Protein Sub-Chamber (an association of Chinese producers/exporters of subject merchandise), and Chinese producers/ exporters of subject merchandise Jianyuan International Co., Ltd.
Shandong Yuwang Ecological Food Industry Co., Ltd.
Linyi Yuwang Vegetable Protein Co., Ltd.
Yantai T.Full Biotech Co., Ltd.
Yantai Oriental Protein Tech Co., Ltd.
Yantai Shuangta Food Co., Ltd.
Yosin Biotechnology (Yantai) Co., Ltd.
(collectively "Chinese Respondents")

Lu Yu, Vice President, China Chamber of Commerce of Import & Export of Foodstuffs, Native Produce & Animal By-Products (CFNA)

Hongwei Zhang, Sales Manager, Yantai T. Full Biotech Co., Ltd.

Shibo Yuan, Sales Manager, Yantai Shuangta Food Co., Ltd.

Zheng Xu, Attorney, Jincheng Tongda &Neal

Shengtao Liang, Attorney, Jincheng Tongda &Neal

Jim Dougan, Partner, ION Economics, LLC

RoseAnna Harrison, Economic Consultant, ION Economics, LLC

Jordan C. Kahn)
) – OF COUNSEL
Ruting Chen)

REBUTTAL/CLOSING REMARKS:

In Support of Imposition (**Stephen Vaughn**, King & Spalding LLP)

In Opposition to Imposition

(**Jordan C. Kahn,** Grunfeld, Desiderio, Lebowitz, Silverman & Klestadt LLP)

APPENDIX C

SUMMARY DATA

Table C-1
HPC pea protein: Summary data concerning the U.S. market, by item and period
Quantity=1,000 pounds dry weight; Value=1,000 dollars; Unit values, unit labor costs, and unit expenses=dollars per pound dry weight; Period changes=percent--exceptions noted

Item	Reported data: Calendar year 2021	2022	2023	Period changes: Comparison years 2021-23	2021-22	2022-23
U.S. consumption quantity:						
Amount	***	***	***	▼***	▼***	▼***
Producers' share (fn1)	***	***	***	▲***	▲***	▼***
Importers' share (fn1):						
China	***	***	***	▲***	▼***	▲***
Nonsubject sources	***	***	***	▼***	▼***	▼***
All import sources	***	***	***	▼***	▼***	▲***
U.S. consumption value:						
Amount	***	***	***	▼***	▲***	▼***
Producers' share (fn1)	***	***	***	▲***	▲***	▼***
Importers' share (fn1):						
China	***	***	***	▲***	▼***	▲***
Nonsubject sources	***	***	***	▼***	▼***	▼***
All import sources	***	***	***	▼***	▼***	▲***
U.S. importers' U.S. shipments of imports from: (fn2)						
China:						
Quantity	90,682	71,825	82,048	▼(9.5)	▼(20.8)	▲14.2
Value	185,098	167,895	182,180	▼(1.6)	▼(9.3)	▲8.5
Unit value	$2.04	$2.34	$2.22	▲8.8	▲14.5	▼(5.0)
Ending inventory quantity	12,471	12,974	11,696	▼(6.2)	▲4.0	▼(9.9)
Nonsubject sources:						
Quantity	***	***	***	▼***	▼***	▼***
Value	***	***	***	▼***	▼***	▼***
Unit value	***	***	***	▼***	▲***	▼***
Ending inventory quantity	***	***	***	▲***	▲***	▲***
All import sources:						
Quantity	***	***	***	▼***	▼***	▲***
Value	***	***	***	▼***	▼***	▲***
Unit value	***	***	***	▲***	▲***	▼***
Ending inventory quantity	***	***	***	▲***	▲***	▲***
U.S. producers':						
Practical capacity quantity	58,879.00	85,283	60,300	▲2.4	▲44.8	▼(29.3)
Production quantity	30,324	44,622	25,220	▼(16.8)	▲***	▼(43.5)
Capacity utilization (fn1)	51.5	52.3	41.8	▼(9.7)	▲0.8	▼(10.5)
U.S. shipments:						
Quantity	***	***	***	▼***	▲***	▼***
Value	***	***	***	▲***	▲***	▼***
Unit value	***	***	***	▲***	▲***	▲***
Export shipments:						
Quantity	***	***	***	▼***	▼***	▼***
Value	***	***	***	▼***	▲***	▼***
Unit value	***	***	***	▲***	▲***	▲***
Ending inventory quantity	***	***	***	▲***	▲***	▼***
Inventories/total shipments (fn1)	***	***	***	▲***	▲***	▲***
Production workers	***	***	***	▲***	▲***	▼***
Hours worked (1,000s)	***	***	***	▲***	▲***	▼***
Wages paid ($1,000)	***	***	***	▲***	▲***	▼***
Hourly wages (dollars per hour)	***	***	***	▲***	▲***	▲***
Productivity (pounds dry weight per hour)	***	***	***	▼***	▼***	▼***
Unit labor costs	***	***	***	▲***	▲***	▲***

Table C-1
HPC pea protein: Summary data concerning the U.S. market, by item and period
Quantity=1,000 pounds dry weight; Value=1,000 dollars; Unit values, unit labor costs, and unit expenses=dollars per pound dry weight; Period changes=percent--exceptions noted

Item	Reported data			Period changes		
	Calendar year			Comparison years		
	2021	2022	2023	2021-23	2021-22	2022-23
Net sales:						
Quantity	***	***	***	▼***	▲***	▼***
Value	***	***	***	▲***	▲***	▼***
Unit value	***	***	***	▲***	▲***	▲***
Cost of goods sold (COGS)	***	***	***	▲***	▲***	▼***
Gross profit or (loss) (fn3)	***	***	***	▼***	▼***	▲***
SG&A expenses	***	***	***	▲***	▲***	▲***
Operating income or (loss) (fn3)	***	***	***	▼***	▼***	▲***
Net income or (loss) (fn3)	***	***	***	▼***	▼***	▲***
Unit COGS	***	***	***	▲***	▲***	▲***
Unit SG&A expenses	***	***	***	▲***	▲***	▲***
Unit operating income or (loss) (fn3)	***	***	***	▼***	▼***	▼***
Unit net income or (loss) (fn3)	***	***	***	▼***	▼***	▼***
COGS/sales (fn1)	***	***	***	▲***	▲***	▲***
Operating income or (loss)/sales (fn1)	***	***	***	▼***	▼***	▼***
Net income or (loss)/sales (fn1)	***	***	***	▼***	▼***	▼***
Capital expenditures	***	***	***	▼***	▼***	▼***
Research and development expenses	***	***	***	▲***	▼***	▲***
Total assets	***	***	***	▼***	▲***	▼***

Note.--Shares and ratios shown as “0.0” percent represent non-zero values less than “0.05” percent (if positive) and greater than “(0.05)” percent (if negative). Zeroes, null values, and undefined calculations are suppressed and shown as “---“. Period changes preceded by a “▲” represent an increase, while period changes preceded by a “▼” represent a decrease.

fn1.--Reported data are in percent and period changes are in percentage points.
fn2.--Information on U.S. importers' U.S. shipments of imports from China (from U.S. imporers' questionnaire responses) was supplemented with additional volumes of shipments of imports based on information reported in foreign producers' questionnaire responses. See first page of part IV for a detailed discussion.
fn3.--Percent changes only calculated when both comparison values represent profits; The directional change in profitability provided when one or both comparison values represent a loss.

Source: Compiled from data submitted in response to Commission questionnaires. 508-compliant tables containing these data are contained in parts III, IV, VI, and VII of this report.

APPENDIX D

PRICE AND PURCHASE COST COMPARISONS BY YEAR

The quantities and margins of underselling/lower priced purchase costs by year for the pricing (D-1) and purchase cost data (D-2) are presented below.

Table D-1
HPC pea protein: Instances and quantities of underselling/overselling and the range and average of margins, by period
Quantity in pounds; Margins in percent

Periods	Type	Number of quarters	Quantity	Average margin	Min margin	Max margin
2021	Underselling	16	***	***	***	***
2022	Underselling	16	***	***	***	***
2023	Underselling	16	***	***	***	***
All periods	Underselling	48	***	38.6	17.9	58.6
2021	Overselling	***	***	***	***	***
2022	Overselling	***	***	***	***	***
2023	Overselling	***	***	***	***	***
All periods	Overselling	***	***	***	***	***

Table D-2
HPC pea protein: Instances and quantities of lower/(higher) average unit purchase costs compared to U.S. prices and the range and average of price/cost differentials, by product
Quantity in pounds; Margins in percent

Periods	Type	Number of quarters	Quantity	Average margin	Min margin	Max margin
2021	Underselling	12	***	***	***	***
2022	Underselling	14	***	***	***	***
2023	Underselling	11	***	***	***	***
All periods	Underselling	37	***	46.7	24.9	78.0
2021	Overselling	***	***	***	***	***
2022	Overselling	***	***	***	***	***
2023	Overselling	***	***	***	***	***
All periods	Overselling	***	***	***	***	***