

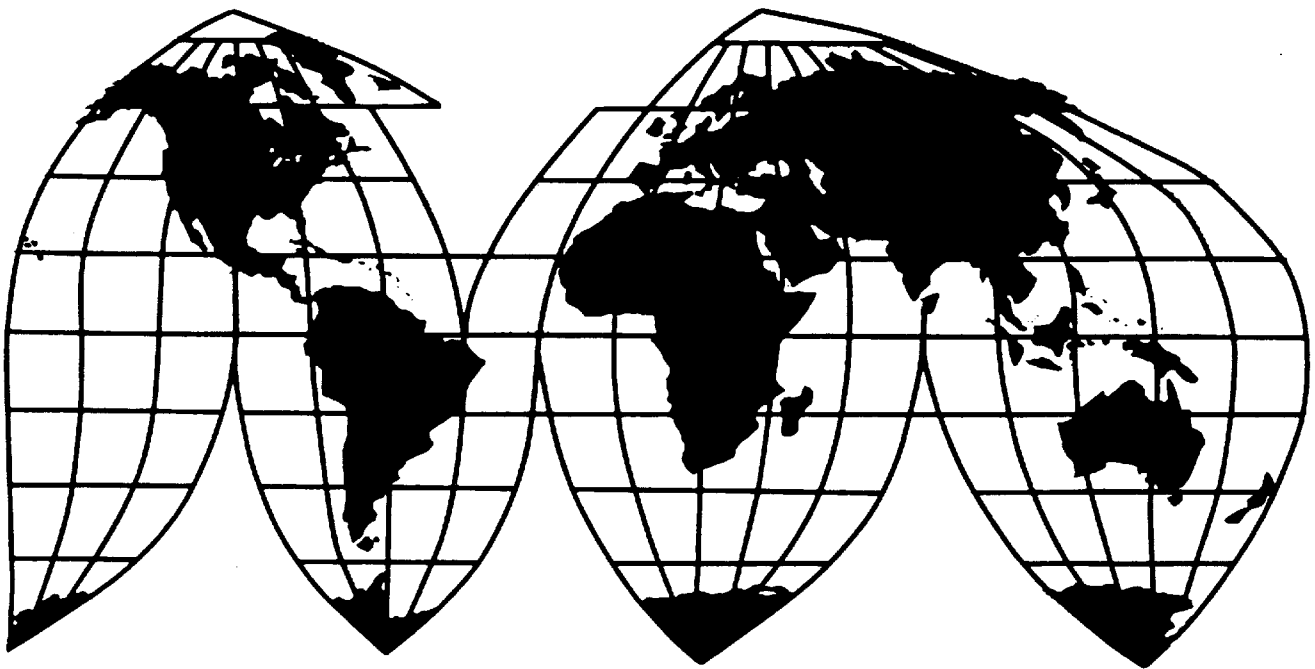
Foundry Coke From China

Investigation No. 731-TA-891 (Review)

Publication 3897

December 2006

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

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UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-891 (Review)

FOUNDRIY COKE FROM CHINA

DETERMINATION

On the basis of the record¹ developed in the subject five-year review, the United States International Trade Commission (Commission) determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)) (the Act), that revocation of the antidumping duty order on foundry coke from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

BACKGROUND

The Commission instituted this review on August 1, 2006 (71 F.R. 43518) and determined on November 6, 2006 that it would conduct an expedited review (71 F.R. 67161, November 20, 2006).

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

VIEWS OF THE COMMISSION

Based on the record in this five-year review, we determine under section 751(c) of the Tariff Act of 1930, as amended (the Act), that revocation of the antidumping duty order on foundry coke from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

1. BACKGROUND

On September 10, 2001, the Commission determined that an industry in the United States was materially injured by reason of imports of foundry coke sold at less than fair value (LTFV) from China.¹ The Department of Commerce (Commerce) imposed an antidumping duty order on imports of foundry coke from China on September 17, 2001.²

On August 1, 2006, the Commission instituted this review pursuant to section 751(c) of the Act, to determine whether revocation of the antidumping duty order on foundry coke from China would be likely to lead to continuation or recurrence of material injury to the domestic industry.³ The Commission received only one substantive response to the notice of institution.⁴ The sole domestic interested party response was filed collectively by ABC Coke, Citizens Gas & Coke Utility, Erie Coke Corp., Sloss Industries Corp., and Tonawanda Coke Corp. (hereinafter collectively referred to as Domestic Producers).⁵ These five firms are believed to account for all U.S. production of foundry coke in 2005.⁶ The Commission did not receive a response from any respondent interested party. On November 6, 2006, the Commission determined that the domestic interested party group response to its notice of institution was adequate.⁷ It also determined that the respondent interested party group response to the notice of institution was inadequate.⁸ In the absence of an adequate respondent interested party group response, the Commission determined to conduct an expedited review pursuant to section 751(c)(3) of the Act.^{9 10}

¹ Foundry Coke from China, Inv. No. 731-TA-891 (Final) USITC Pub. 3449 (Sept. 2001) (Original Determination). Citations are to the public version, unless otherwise noted.

² Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Foundry Products from the People's Republic of China, 66 Fed. Reg. 48,025, 48,025 (Dep't Commerce Sept. 17, 2001).

³ Institution of a Five-year Review concerning the Antidumping Duty Order on Foundry Coke from China, 71 Fed. Reg. 43,518, 43,518 (Int'l Trade Comm'n Aug. 1, 2006), reprinted in Confidential Staff Report (CR), INV-DD-158 (Nov. 22, 2006) at Appendix A.

⁴ CR at I-3 n.3, Public Staff Report (PR) at I-1 n.3.

⁵ Domestic Producers' Response to Notice of Institution at 1 (Sept. 19, 2006) (Domestic Producers' Response).

⁶ Id. at 3.

⁷ See Explanation of Commission Determination on Adequacy, CR/PR at Appendix B.

⁸ Explanation of Commission Determination on Adequacy, CR/PR at Appendix B. The absence of any respondent interested party response to the notice of institution left the Commission without the preliminary respondent information requested in the notice of institution and without an indication that any respondent firm or entity would be willing to participate by providing information requested by the Commission if the Commission were to conduct a full review. See 70 Fed. Reg. at 22695 (request for interested party statement of willingness to participate).

⁹ 19 U.S.C. § 1675(c)(3) (2000).

¹⁰ See Explanation of Commission Determination on Adequacy, CR/PR at Appendix B.

II. DOMESTIC LIKE PRODUCT AND INDUSTRY

A. Domestic Like Product

In making its determination under section 751(c), the Commission defines the “domestic like product” and the “industry.”¹¹ The Act defines the “domestic like product” as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle.”¹²

In the final results of its expedited sunset review, Commerce defined the imported merchandise within the scope of the order as “coke larger than 100 mm (4 inches) in maximum diameter and at least 50 percent of which is retained on a 100-mm (4 inch) sieve, of a kind used in foundries.”¹³ This merchandise is currently classifiable under statistical reporting number 2704.00.00.11 of the Harmonized Tariff Schedule (HTS) of the United States.¹⁴

Foundry coke is the carbonized product remaining after blended bituminous coals are heated and distilled.¹⁵ It is one of three types of metallurgical coke.¹⁶ Foundry coke is used as a fuel and as a source of carbon in the production of molten iron. As a fuel, foundry coke is used to melt scrap iron or pig iron with other metal compounds.¹⁷

The scope definition set out above is unchanged from Commerce’s original scope determination. In the Commission’s original determination, it defined the domestic like product as foundry coke, commensurate with the scope of the investigation.¹⁸ In this review, Domestic Producers have indicated that they agree with the Commission’s definition of the domestic like product in the original investigation.¹⁹ There is no new information obtained during this review that would suggest revisiting the Commission’s like product definition in the original determination. Therefore, we continue to define the domestic like product as foundry coke, coextensive with the scope definition.

¹¹ 19 U.S.C. § 1677(4)(A).

¹² 19 U.S.C. § 1677(10). See Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int’l Trade 1996); Torrington Co. v. United States, 747 F. Supp. 744, 748-49 (Ct. Int’l Trade 1990), aff’d, 938 F.2d 1278 (Fed. Cir. 1991). See also S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

¹³ Foundry Coke Products from the People’s Republic from China: Final Results of the Expedited Sunset Review of the Antidumping Duty Order, 71 Fed. Reg. 70,956, 70,957 (Dep’t Commerce Dec. 7, 2006) (Commerce’s Review Determination).

¹⁴ According to Commerce, the written description provided above remains dispositive as to the scope of the product coverage. The HTS classification is provided for convenience and for Customs purposes. We also note that subject merchandise was previously classified under statistical reporting number 2704.00.00.10 until July 1, 2000. Id.

¹⁵ CR at I-6, PR at I-3; see also Original Determination, USITC Pub. 3449 at 4, I-2 to I-3.

¹⁶ “Metallurgical coke” is the carbonized product remaining after the destructive distillation of certain types of coal heated in the oven for many days or hours. Original Determination, USITC Pub. 3449 at 4. The types of metallurgical coke other than foundry coke are blast furnace coke and other industrial coke, including coke breeze. CR at I-6, PR at I-3.

¹⁷ CR at I-6, PR at I-3.

¹⁸ Original Determination, USITC Pub. 3449 at 5.

¹⁹ Domestic Producers’ Response to Notice of Institution (Additional Data) at 4 (Oct. 6, 2006) (hereinafter Domestic Producers’ Additional Data Response).

B. Domestic Industry

Section 771(4)(A) of the 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.”²⁰

In the original determination, the Commission defined the domestic industry as consisting of all domestic producers of foundry coke, comprised of Domestic Producers in the current review as well as Acme Steel Co. and Empire Coke Co.²¹ No party disagrees with this definition of the domestic industry,²² and there is no new information obtained during this review that would suggest any reason for revisiting our prior domestic industry definition. Accordingly, we continue to define the domestic industry as all producers of foundry coke.

III. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF MATERIAL INJURY IF ANTIDUMPING DUTY ORDER IS REVOKED

For the reasons stated below, we determine that revocation of the antidumping duty order on foundry coke from China would be likely to lead to continuation or recurrence of material injury to the domestic industry producing foundry coke within a reasonably foreseeable time.

A. Legal Standard In a Five-Year Review

In a five-year review conducted under section 751(c) of the Act, Commerce will revoke an antidumping duty order unless: (1) it makes a determination that dumping or subsidization is likely to continue or recur, and (2) the Commission makes a determination that revocation of the antidumping duty order “would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.”²³ The Uruguay Round Agreements Act, Statement of Administrative Action, states that “under the likelihood standard, the Commission will engage in a counter-factual analysis; it must

²⁰ 19 U.S.C. § 1677(4)(A). In defining the domestic industry, the Commission’s general practice has been to include in the industry all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market, provided that adequate production-related activity is conducted in the United States. See United States Steel Group v. United States, 873 F. Supp. 673, 682-83 (Ct. Int’l Trade 1994), aff’d, 96 F.3d 1352 (Fed. Cir. 1996).

²¹ Original Determination, USITC Pub. 3449 at 1, 6. During this review, both Acme Steel and Empire Coke ceased production of foundry coke and closed their production facilities. Specifically, Acme Steel declared bankruptcy and ceased foundry coke production in November 2001, while Empire Coke ceased coke operations in July 2004. CR at I-7, PR at I-4.

²² Domestic Producers’ Additional Data Response at 4. Domestic Producers expressly reported no imports or corporate affiliations with importers or exporters of subject merchandise. Domestic Producers’ Additional Response at 2. Thus, there are no related party issues in this review pursuant to 19 U.S.C. § 1677(4)(B).

In the original investigation, Empire Coke was deemed a related party in light of its *** purchases of subject merchandise. The Commission did not find that appropriate circumstances existed to exclude Empire Coke from the domestic industry because its financial condition *** consistent with the domestic industry, it ***, and it purchased subject merchandise to supplement its *** and to satisfy the needs of its related purchasers. Original Determination, USITC Pub. 3449 at 7-9. Sloss Industries also was deemed a related party because of its affiliation with a firm that owned *** of subject merchandise. In light of Sloss Industries’ *** financial performance at the end of the period despite ***, its support for the petition, and the lack of benefit from its relationship with the ***, the Commission also did not find that appropriate circumstances existed to exclude Sloss Industries from the domestic industry. Original Determination, USITC Pub. 3449 at 7-9.

²³ 19 U.S.C. § 1675a(a).

decide the likely impact in the reasonably foreseeable future of an important change in the status quo – the revocation or termination of a proceeding and the elimination of its restraining effects on volumes and prices of imports.”²⁴ Thus, the likelihood standard is prospective in nature.²⁵ The U.S. Court of International Trade has found that “likely,” as used in the five-year review provisions of the Act, means “probable,” and the Commission applies that standard in five-year reviews.^{26 27 28}

The statute states that “the Commission shall consider that the effects of revocation or termination may not be imminent, but may manifest themselves only over a longer period of time.”²⁹ According to the SAA, a “‘reasonably foreseeable time’ will vary from case-to-case, but normally will exceed the ‘imminent’ timeframe applicable in a threat of injury analysis in original investigations.”^{30 31}

²⁴ The Uruguay Round Agreements Act, Statement of Administrative Action, H.R. Rep. No. 103-316, vol. I, at 883-84 (1994) (SAA). The SAA states that “[t]he likelihood of injury standard applies regardless of the nature of the Commission’s original determination (material injury, threat of material injury, or material retardation of an industry). Likewise, the standard applies to suspended investigations that were never completed.” SAA at 883.

²⁵ While the SAA states that “a separate determination regarding current material injury is not necessary,” it indicates that “the Commission may consider relevant factors such as current and likely continued depressed shipment levels and current and likely continued [sic] prices for the domestic like product in the U.S. market in making its determination of the likelihood of continuation or recurrence of material injury if the order is revoked.” SAA at 884.

²⁶ See NMB Singapore Ltd. v. United States, 288 F. Supp. 2d 1306, 1352 (Ct. Int’l Trade 2003) (“‘likely’ means probable within the context of 19 U.S.C. § 1675(c) and 19 U.S.C. § 1675a(a)”), aff’d without opinion, 140 Fed. Appx. 268 (2005); Nippon Steel Corp. v. United States, Slip Op. 02-153 at 7-8 (Ct. Int’l Trade Dec. 24, 2002) (same); Usinor Industeel, S.A. v. United States, Slip Op. 02-152 at 4 n.3 & 5-6 n.6 (Ct. Int’l Trade Dec. 20, 2002) (“more likely than not” standard is “consistent with the court’s opinion”; “the court has not interpreted ‘likely’ to imply any particular degree of ‘certainty’”); Indorama Chemicals (Thailand) Ltd. v. United States, Slip Op. 02-105 at 20 (Ct. Int’l Trade Sept. 4, 2002) (“standard is based on a likelihood of continuation or recurrence of injury, not a certainty”); Usinor v. United States, Slip Op. 02-70 at 43-44 (Ct. Int’l Trade July 19, 2002) (“‘likely’ is tantamount to ‘probable,’ not merely ‘possible’”).

²⁷ For a complete statement of Commissioner Okun’s interpretation of the likely standard, see Additional Views of Vice Chairman Deanna Tanner Okun Concerning the “Likely” Standard in Certain Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe from Argentina, Brazil, Germany, and Italy, Inv. Nos. 701-TA-362 (Review) and 731-TA-707-710 (Review) (Remand), USITC Pub. 3754 (Feb. 2005).

²⁸ Commissioner Lane notes that, consistent with her views in Pressure Sensitive Plastic Tape from Italy, Inv. No. AA1921-167 (Second Review), USITC Pub. 3698 (June 2004) at 15-17, she does not concur with the U.S. Court of International Trade’s interpretation of “likely” but she will apply the Court’s standard in this review and all subsequent reviews until either Congress clarifies the meaning or the U.S. Court of Appeals for the Federal Circuit addresses the issue.

²⁹ 19 U.S.C. § 1675a(a)(5).

³⁰ SAA at 887. Among the factors that the Commission should consider in this regard are “the fungibility or differentiation within the product in question, the level of substitutability between the imported and domestic products, the channels of distribution used, the methods of contracting (such as spot sales or long-term contracts), and lead times for delivery of goods, as well as other factors that may only manifest themselves in the longer term, such as planned investment and the shifting of production facilities.” Id.

³¹ In analyzing what constitutes a reasonably foreseeable time, Commissioner Koplán examines all the current and likely conditions of competition in the relevant industry. He defines “reasonably foreseeable time” as the length of time it is likely to take for the market to adjust to a revocation or termination. In making this assessment, he considers all factors that may accelerate or delay the market adjustment process including any lags in response by foreign producers, importers, consumers, domestic producers, or others due to: lead times; methods of contracting; the need to establish channels of distribution; product differentiation; and any other factors that may only manifest themselves in the longer term. In other words, this analysis seeks to define “reasonably foreseeable time” by

(continued...)

Although the standard in a five-year review is not the same as the standard applied in an original antidumping duty investigation, it contains some of the same fundamental elements. The statute provides that the Commission is to “consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the orders are revoked or the suspended investigation is terminated.”³² It directs the Commission to take into account its prior injury determination, whether any improvement in the state of the industry is related to the order or the suspension agreement under review, whether the industry is vulnerable to material injury if the orders are revoked or the suspension agreement is terminated, and any findings by Commerce regarding duty absorption pursuant to 19 U.S.C. § 1675(a)(4).³³

No respondent interested party has participated in this review. The record, therefore, contains limited information with respect to the foundry coke industry in China. Accordingly, we rely on available information when appropriate, which consists primarily of information from the original investigation and information collected in this five-year review, including that submitted by Domestic Producers.^{34 35}

B. Conditions of Competition and the Business Cycle

In evaluating the likely impact of the subject imports on the domestic industry, the statute directs the Commission to consider all relevant economic factors “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”³⁶ The following conditions of competition are relevant to our determination.

³¹ (...continued)

reference to current and likely conditions of competition, but also seeks to avoid unwarranted speculation that may occur in predicting events into the more distant future.

³² 19 U.S.C. § 1675a(a)(1).

³³ 19 U.S.C. § 1675a(a)(1). Commerce did not make any duty absorption findings with respect to the order under review. See Commerce’s Review Determination, 71 Fed. Reg. at 70,956-57. The statute further provides that the presence or absence of any factor that the Commission is required to consider shall not necessarily give decisive guidance with respect to the Commission’s determination. 19 U.S.C. § 1675a(a)(5). While the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886.

³⁴ 19 U.S.C. § 1677e(a) authorizes the Commission to “use the facts otherwise available” in reaching a determination when: (1) necessary information is not available on the record or (2) an interested party or other person withholds information requested by the agency, fails to provide such information in the time, form, or manner requested, significantly impedes a proceeding, or provides information that cannot be verified pursuant to section 782(i) of the Act. 19 U.S.C. § 1677e(a). The verification requirements in section 782(i) are applicable only to Commerce. 19 U.S.C. § 1677m(i). See Titanium Metals Corp., 155 F. Supp. 2d at 765 (“[T]he ITC correctly responds that Congress has not required the Commission to conduct verification procedures for the evidence before it, or provided a minimum standard by which to measure the thoroughness of a Commission investigation.”).

³⁵ Commissioner Okun notes that the statute authorizes the Commission to take adverse inferences in five-year reviews, but such authorization does not relieve the Commission of its obligation to consider the record evidence as a whole in making its determination. 19 U.S.C. § 1677e. She generally gives credence to the facts supplied by the participating parties and certified by them as true, but bases her decision on the evidence as a whole, and does not automatically accept participating parties’ suggested interpretations of the record evidence. Regardless of the level of participation and the interpretations urged by participating parties, the Commission is obligated to consider all evidence relating to each of the statutory factors and may not draw adverse inferences that render such analysis superfluous. “In general, the Commission makes determinations by weighing all of the available evidence regarding a multiplicity of factors relating to the domestic industry as a whole and by drawing reasonable inferences from the evidence it finds most persuasive.” SAA at 869.

³⁶ 19 U.S.C. § 1675a(a)(4).

Demand. In the original investigation, the Commission found that demand for foundry coke was derived from demand for the end products produced by purchasers, mainly in the automotive and truck manufacturing sectors, the pipe and fittings sectors, and the municipal castings sectors. Apparent U.S. consumption of foundry coke increased slightly from 1,154,784 metric tons in 1998 to 1,204,673 metric tons in 1999, but in 2000 declined to the level of 1998 (1,155,875 metric tons).³⁷ In the first quarter of 2001, apparent U.S. consumption was lower (265,509 metric tons) than in the comparable period in 2000 (301,170 metric tons).³⁸

The record in this review, though limited, reveals that demand for foundry coke remains derived from demand for downstream foundry products, mainly in the automotive and truck manufacturing sectors, the pipe and fittings sectors, and the municipal castings sectors.³⁹ Demand for foundry coke in the U.S. market thus depends on the market for these sectors. Domestic Producers maintain that demand for foundry coke to produce motor vehicle parts has declined as end users have shifted to Chinese suppliers. They identified five U.S. automotive parts foundries that have closed during the period reviewed, accounting for a total decline in consumption of *** tons of foundry coke.⁴⁰ The record indicates that apparent U.S. consumption of foundry coke in 2005 was lower at *** metric tons than it was in 2000 at 1,155,875 metric tons.⁴¹

Supply. In the original investigation, seven domestic firms comprised the domestic industry.⁴² These seven firms increased production capacity by a moderate 1.7 percent from 1998 to 2000, primarily because of capital investments made by the domestic industry to retrofit, maintain, and improve efficiencies of aging batteries.⁴³ Domestic production of foundry coke decreased slightly from 1,236,785 metric tons in 1998 to 1,235,246 metric tons in 1999, and then decreased 7.9 percent in 2000 to 1,137,585 metric tons.⁴⁴

As noted above, during this review, two firms in the domestic industry, Acme Steel and Empire Coke, ceased production of foundry coke and closed their production facilities.⁴⁵ The five remaining producers, all of which participated in this review, account for 100 percent of current domestic production of foundry coke.⁴⁶ Although the industry's current production capacity is not available, domestic

³⁷ CR/PR at Table I-5. By value, apparent U.S. consumption followed a similar trend, increasing from \$209.3 million in 1998 to \$212.9 million in 1999, before falling to \$200.7 million in 2000. Id.

³⁸ Original Determination, USITC Pub. 3449 at Table IV-3. By value, apparent U.S. consumption was lower in the first quarter of 2001 (\$46.0 million) than in the comparable period of 2000 (\$53.3 million). Original Determination, USITC Pub. 3449 at Table IV-3.

³⁹ Original Determination, USITC 3449 at 10-11.

⁴⁰ CR at I-14 n. 29, PR at I-9 n. 29; Domestic Producers' Additional Data Response at 3-4 & unnumbered Exh. We note that Domestic Producers identified two other automotive parts foundries, but these two foundries are located in Canada, one of which is expected to close in 2007. Id.

⁴¹ CR/PR at Table I-5. By value, apparent U.S. consumption was higher in 2005 at \$*** million than in 2000 at \$200.7 million. Id.

⁴² CR/PR at Table I-1.

⁴³ Original Determination, USITC Pub. 3449 at 11.

⁴⁴ Id. at 11, Table III-1.

⁴⁵ CR at I-7, PR at I-4. Acme Steel declared bankruptcy and ceased foundry coke production in November 2001, while Empire Coke ceased coke operations in July 2004. Id.

⁴⁶ CR at I-7, PR at I-4.

production of foundry coke was higher in 2005 at 1,188,232 metric tons compared to 1,137,585 metric tons in 2000.⁴⁷

Since the imposition of the order, the domestic industry has been the principal supplier to the U.S. market. Subject and non-subject imports, however, have also supplied the market for some part of the period reviewed.⁴⁸ In the original investigation, U.S. producers' share of the U.S. market by quantity decreased from 99.0 percent in 1998 to 92.4 percent in 1999 and fell further to 88.5 percent in 2000.⁴⁹ Information gathered in this review reveals that U.S. producers' share of the U.S. market by quantity was *** percent in 2005, the only year in which data are available.⁵⁰

Subject imports' share of the U.S. market increased directly at the expense of the domestic industry's share from only 1.0 percent of the quantity of U.S. shipments in 1998 to 7.6 percent in 1999 and further to 11.5 percent in 2000.⁵¹ Subject imports from China supplied the market with small quantities of foundry coke in 2001 and 2002, but have been absent from the U.S. market since 2003.⁵²

Non-subject imports have occupied a relatively minor share of the foundry coke market since the original investigation. From 1998 to 2000, China constituted the only foreign supply source in the U.S. market.⁵³ Non-subject imports increasingly entered the U.S. market in 2001 and 2002, but discontinued

⁴⁷ CR/PR at Table I-2.

⁴⁸ CR/PR at Table I-3.

⁴⁹ Original Determination, USITC Pub. 3449 at Table C-1. By value, U.S. producers' market share declined, dropping from 99.3 percent in 1998 to 94.3 percent in 1999 and then further to 90.7 percent in 2000. Original Determination, USITC Pub. 3449 at Table C-1.

⁵⁰ CR/PR at Table I-5. By value, U.S. producers' share of the U.S. market was *** percent in 2005. Id.

⁵¹ Original Determination, USITC Pub. 3449 at Table IV-3. In terms of value, subject imports' share of the market also increased from 0.7 percent in 1998 to 5.7 percent in 1999 and then to 9.3 percent in 2000. Original Determination, USITC Pub. 3449 at Table C-1.

⁵² See CR/PR at Table I-3. The volume of subject imports in 2001 was 4,087 metric tons, increasing to 9,900 metric tons in 2002. These imports increased by value from \$357,000 in 2001 to \$911,000 in 2002. Id. Domestic Producers believe that one Chinese firm, CITIC Trading Company, Ltd., accounted for all exports of foundry coke from China to the United States in 2001 and 2002. Domestic Producers' Additional Data Response at 2-3.

⁵³ Original Determination, USITC Pub. 3449 at 12. In the original investigation, the Commission received usable importers' questionnaires from six firms; these firms were believed to account for all U.S. imports of foundry coke in 2000. Id. at IV-1.

their presence until 2005.⁵⁴ Non-subject imports supplied *** percent of the U.S. market by quantity in 2005.⁵⁵ The principal sources of non-subject foundry coke imports in 2005 were Canada and Mexico.⁵⁶

As in the original investigation, the record indicates that the domestic industry continues to incur high costs to comply with environmental measures and to construct and maintain production equipment. Domestic production, therefore, is capital intensive.⁵⁷

Substitutability. In the original determination, the Commission observed that price was an important factor in purchasing decisions, although quality was often the first consideration. It further observed that the domestic and Chinese product were comparable in terms of quality, availability, delivery, quantity requirements, packaging, consistency, product range, supply reliability, and transportation costs, but the Chinese product was considered advantageous in terms of price. The Commission concluded that domestic and Chinese product were substitutable, notwithstanding differences in carbon and ash content.⁵⁸ Domestic Producers maintain that these conditions continue today.⁵⁹

Based on the record evidence, we find that conditions of competition in the foundry coke market are not likely to change significantly in the reasonably foreseeable future. Accordingly, in this review, we find that current conditions in the market provide us with a reasonable basis on which to assess the likely effects of revocation of the order in the reasonably foreseeable future.

C. Likely Volume of Subject Foundry Coke Imports

In evaluating the likely volume of imports of subject merchandise if the antidumping and countervailing duty orders are revoked, the Commission is directed to consider whether the likely volume of imports would be significant either in absolute terms or relative to production or consumption in the United States.⁶⁰ In doing so, the Commission must consider “all relevant economic factors,” including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases

⁵⁴ CR/PR at Table I-3. In 2001, the volume of non-subject imports was 23,356 metric tons valued at \$2.3 million. The following year, non-subject imports increased markedly to 110,274 metric tons valued at \$11.7 million. CR/PR at Table I-3. There were no non-subject imports of foundry coke in 2003 and 2004. In 2005, the volume of non-subject imports was 47,032 metric tons valued at \$6.4 million. *Id.* While there were zero non-subject imports from January through June 2006, there were 19,069 metric tons of non-subject imports in the comparable period in 2005. *Id.* By value, the volume of non-subject imports was \$2.3 million in 2001, increasing to \$11.7 million in 2002. In 2005, the volume of non-subject imports was valued at \$6.4 million. From January to July 2005, the volume of non-subject imports was valued at \$2.9 million. *Id.*

According to official Commerce import statistics, the Netherlands was the principal source of U.S. imports of foundry coke in 2001 and 2002. CR at I-11 n.26, PR at I-7 n.26. There were two other sources of U.S. imports of foundry coke in those two years: Canada and Poland. *Id.* In 2005, Canada and Mexico were the principal non-subject supply sources. CR at I-11, PR at I-7.

⁵⁵ CR/PR at Table I-5. By value, non-subject imports occupied *** percent of the market in 2005. *Id.*

⁵⁶ CR at I-11, PR at I-7. We note that Domestic Producers, as in the original determination, maintain that there were no non-subject sources of supply during the period reviewed. Domestic Producers’ Response at 8-9; Domestic Producers’ Additional Data Response at 4. The record, as discussed above, disputes their position.

⁵⁷ See Domestic Producers’ Response at 8-9 (“Nothing has changed in the U.S. market.”).

⁵⁸ *Id.* at 12.

⁵⁹ Domestic Producers’ Response at 8-9 (“Nothing has changed in the U.S. market or with the Chinese producers.”).

⁶⁰ 19 U.S.C. § 1675a(a)(2).

in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) the potential for product shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.⁶¹

In the original determination, the quantity of subject imports of foundry coke from China rose *** from *** metric tons valued at \$*** in 1998 to 119,649 metric tons valued at \$13.3 million in 1999, and then to 146,785 metric tons valued at \$15.8 million in 2000.⁶² During this period, subject imports from China increased by over *** percent by quantity.⁶³ The quantity of foundry coke imports from China was lower in January through March 2001 than in the comparable period in 2000, following the filing of the petition.⁶⁴ Over the period of investigation, subject imports accounted for an increasingly large share of the U.S. market, rising from only 1.0 percent of the quantity of shipments in 1998 to 7.6 percent in 1999 and to 11.5 percent in 2000.⁶⁵ In terms of value, subject imports' share of the market also increased significantly, from 0.7 percent of the market in 1998, to 5.7 percent in 1999, and to 9.3 percent in 2000.⁶⁶ The increased market share of subject imports came directly at the expense of the domestic industry. The Commission noted that U.S. importers continued shipping subject imports even after its affirmative preliminary determination, accounting for 6.6 percent of the volume and 6.0 percent of the value of the U.S. foundry coke market in the first quarter of 2001.⁶⁷ The Commission also observed that, throughout the period of investigation, U.S. importers of foundry coke retained increasingly high end-of-period inventories. Thus, the Commission found the volume and market share of subject imports, as well as the increases in those volumes and market share, were significant.⁶⁸

In the original investigation, the Commission received capacity and production data for the Chinese foundry coke industry from two trade associations: the China Coking Industry Association and the Shanxi Province Economics and Trade Council.⁶⁹ The two associations reported capacity ranging from 3,420,000 metric tons in 1998 to 2,731,000 metric tons in 2000; capacity utilization rates ranged from 53.2 percent in 1998 to 76.3 percent in 2000.⁷⁰ The associations also reported production ranging from 1,820,000 metric tons in 1998 to 2,085,000 metric tons in 2000.⁷¹ Furthermore, four Chinese exporters of foundry coke reported export data for the period examined, which revealed that their total exports of foundry coke from China increased in each year from 1998 to 2000 and, in particular, their

⁶¹ 19 U.S.C. § 1675a(a)(2)(A)-(D).

⁶² Original Determination, USITC Pub. 3449 at Table IV-1. There were no imports of subject merchandise during the period January through March 2001. In the comparable period of 2000, the quantity of subject imports of foundry coke from China was 33,455 metric tons valued at \$3.6 million. Id.

⁶³ CR at I-11, PR at I-7.

⁶⁴ Id.

⁶⁵ Original Determination, USITC Pub. 3449 at Table IV-3.

⁶⁶ Original Determination, USITC Pub. 3449 at Table IV-3.

⁶⁷ Id.

⁶⁸ Original Determination, USITC Pub. 3449 at 14-15.

⁶⁹ The record in the original investigation reveals that until late 2000, there were 61 producers of foundry coke in China. At the end of that year, the Chinese government's stringent environmental regulations shut down about half of the producers' operations. Several Chinese foundry coke producers were integrated vertically and/or horizontally, while 10 were known to produce other types of coke and coal products. Original Determination, USITC Pub. 3449 at VII-1 to VII-2.

⁷⁰ Original Determination, USITC Pub. 3449 at Table VII-1.

⁷¹ Original Determination, USITC Pub. 3449 at Table VII-1.

exports to the United States more than doubled in *** of those years.⁷² These data suggested that the Chinese industry was becoming increasingly export-oriented over the original period of investigation.

The antidumping duty order on subject foundry coke from China was issued in 2001. Overall, the order has had a restraining effect on the volume of subject imports from China. Subject imports of foundry coke from China fell to 4,087 metric tons valued at \$2.3 million in 2001, and, although subject imports increased to 9,900 metric tons valued at \$11.7 million in 2002, foundry coke imports from China fell to zero metric tons in 2003 and have remained absent from the U.S. market ever since.⁷³

In this review, largely because subject producers in China have declined to participate or furnish information in the review, including information on the volume of subject imports, the Commission is constrained to rely on the facts available on the record.⁷⁴ We conclude, based on the facts available, that the volume of imports of subject foundry coke is likely to increase significantly, and the resultant volume is likely to be significant, if the order is revoked.

As noted, no specific data were provided in this review by subject producers regarding their current capacity and production levels for foundry coke or the industries' export orientation. Accordingly, there is no indication that the Chinese foundry coke industry has changed significantly since the original investigation, when its capacity and unused capacity levels were substantial, and it exported a large percentage of its production (nearly 40 percent in 2000).⁷⁵ As described immediately above, subject producers from China rapidly gained market share during the original investigation. These facts suggest that the Chinese foundry coke industry maintains large production capacity, has substantial unused production capacity, and remains export-oriented.

In addition to the Chinese industry's export orientation, we note that subject producers would have some incentive to redirect exports from other markets to the United States in the absence of the order. As discussed immediately above, Chinese production and production capacity for coke products, including foundry coke, appear to exceed current home market demand. Moreover, the record indicates

⁷² Original Determination, USITC Pub. 3449 at VII-2 to VII-3, Table VII-1.

⁷³ CR/PR at Table I-3.

⁷⁴ See 19 U.S.C. § 1677e(a); see also e.g., Glycine from China, Inv. No. 731-TA-718 (Review), USITC Pub. 3315 (June 2000) at 6-7.

⁷⁵ Original Determination, USITC Pub. 3449 at Table VII-1. We note that Domestic Producers have discussed several studies pertaining to the production capacity of the entire Chinese coke industry, which includes foundry coke. Domestic Producers' Response at 4-7. One study indicates that coke production and capacity have increased "drastically" in one Chinese province, with production rising from approximately 50 million tons in 2000 to 72 million tons in 2004. Id. at 4. A second study cited by Domestic Producers indicates that with the existing and planned mechanical coke capacity at 330 million tons, a heavy surplus in coke production capacity exists in China. Id. at 5. This second study indicates that production capacity exceeded "market demand" by 30 to 40 percent. Id. The study also describes the Chinese industry as widely dispersed around many producers, i.e., it is not concentrated; for instance, the study notes that the largest producer only accounts for two percent of the total production capability of coke. Id. at 6. A third study indicates that the Chinese coke market increased production to its highest level in May 2006 at 23.4 million tons. Id. at 7. While these studies overstate the actual production capacity and production of the foundry coke industry in China, they further support our finding that the Chinese foundry coke industry has high production levels and has substantial production capacity. This information also suggests that Chinese producers of foundry coke have the ability to produce other coke products on the facilities they use to produce foundry coke and could shift to production of foundry coke if the order were revoked, although we do not rely on product-shifting as a basis for our conclusion on likely subject import volume. See Original Determination, USITC Pub. 3449 at I-2 to I-3 & n.5, I-6 to I-8.

that India imposed an antidumping measure on foundry coke from China during the original investigation. That measure remains in effect today.^{76 77}

Based on the substantial volumes of exports to the United States and rapid gains in market share during the original investigation, the substantial excess unused capacity available in the Chinese foundry coke industry, and the attractiveness of the U.S. market, Chinese producers would have an incentive to shift significant volumes of exports back to the United States if the order were revoked. We therefore find that the likely volume of subject imports, both in absolute terms and relative to production and consumption in the United States, would be significant if the order were revoked.

D. Likely Price Effects of Subject Foundry Coke Imports

In evaluating the likely price effects of subject imports if the antidumping order is revoked, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared to domestic like products and whether the subject imports are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of the domestic like product.⁷⁸

In the original determination, the Commission found that subject imports and the domestic like product were generally substitutable and interchangeable in all end use sectors. It also found that price was an important factor in purchasing decisions and that subject imports were priced more favorably than the domestic like product. Because subject imports undersold the domestic like product in 13 of 13 quarters, the Commission concluded that foundry coke imports from China significantly undersold the domestic like product. It also found that subject imports suppressed and depressed prices in the domestic market to a significant degree. Despite rising unit cost of goods sold, rising unit selling, general, and administrative expenses, and substantial expenditures necessary for compliance with environmental requirements, the Commission observed that domestic producers' efforts in 1998 to gradually raise prices failed, as lower-priced subject imports began to enter the U.S. market. Instead, domestic prices tended to move gradually but steadily downward from the third quarter of 1998 through the first quarter of 2001, while subject import prices fluctuated from quarter to quarter, but were consistently below domestic prices. The Commission found that domestic producers often were forced to lower their prices, in some cases with customers already under contract, to maintain customers in the face of the lower prices offered by importers of Chinese foundry coke. It further pointed out the existence of confirmed lost sales and revenues allegations.⁷⁹

⁷⁶ CR at I-16 to I-17, PR at I-11 to I-12. We also note that the record indicates that the European Union also imposed an antidumping measure on foundry coke from China during the original investigation, but that measure expired in 2005, during the period covered by this review. CR at I-16 to I-17, PR at I-11 to I-12.

⁷⁷ We note that the record does not indicate any information regarding the current size of inventories of foundry coke from China. In the original investigation, U.S. importers' end-of-period inventories increased from *** metric tons at the end of 1998 to 44,381 metric tons at the end of 1999 and then to 46,187 metric tons at the end of 2000. At the end of March 2001, importers retained 27,864 metric tons of subject foundry coke. Original Determination, USITC Pub. 3449 at 16 (Confidential Version).

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

⁷⁹ Original Determination, USITC Pub. 3449 at 16-18, Table V-1 (Confidential Version).

There is no new product-specific pricing information on the record in this expedited review.⁸⁰ As concluded above, we find that Chinese producers would likely significantly increase exports to the United States in the reasonably foreseeable future if the antidumping duty order were revoked. Based on the information available in this review, including the determination in the original investigation, we find that the market for subject merchandise is price competitive. Therefore, as in the original investigation, subject imports would likely undersell the domestic like product to regain market share. The volume of subject imports at those prices, in turn, would be likely to have significant depressing and suppressing effects on prices of the domestic like product. We therefore conclude that, were the order revoked, subject imports from China would likely significantly increase at prices that would likely significantly undersell the domestic like product and those imports would have a significant depressing or suppressing effect on prices for the domestic like product.

E. Likely Impact of Subject Foundry Coke Imports

In evaluating the likely impact of imports of subject merchandise if the antidumping duty order is revoked, the Commission is directed to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including but not limited to: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.⁸¹ All relevant economic factors are to be considered within the context of the business cycle and the conditions of competition that are distinctive to the industry.⁸² As instructed by the statute, we have considered the extent to which any improvement in the state of the domestic industry is related to the order at issue and whether the industry is vulnerable to material injury if the order is revoked.

In its original determination, the Commission found that, as lower-priced subject imports captured market share at the expense of the domestic industry, the combination of declining U.S. shipments and depressed domestic prices caused the industry's sales revenues to fall. The Commission observed that while the industry's foundry cokemaking capacity increased moderately over the period, primarily because of capital investments, production and capacity utilization declined. These declines, it noted, were outpaced by declines in shipments, resulting in growing end-of-period inventories and higher average unit costs. The Commission further found that subject imports negatively affected all financial

⁸⁰ We note that the only new pricing information on the current record describes average unit values for all imports of foundry coke during the period reviewed. We have examined these data because the record lacks product-specific information. Examination of the unit values of all imports shows that the average unit value of foundry coke from China in 2001 and 2002 was \$87.28 per metric ton and \$92.00 per metric ton, respectively, which was considerably lower than the average unit value of \$98.88 per metric ton and \$105.84 per metric ton of foundry from non-subject sources in those same years. CR/PR at Table I-3.

⁸¹ 19 U.S.C. § 1675a(a)(4).

⁸² 19 U.S.C. § 1675a(a)(4). Section 752(a)(6) of the Act states that “the Commission may consider the magnitude of the margin of dumping” in making its determination in a five-year review. 19 U.S.C. § 1675a(a)(6). The statute defines the “magnitude of the margin of dumping” to be used by the Commission in five-year reviews as “the dumping margin or margins determined by the administering authority under section 1675a(c)(3) of this title.” 19 U.S.C. § 1677(35)(C)(iv). See also SAA at 887. Commerce expedited its determination in its review of foundry coke from China and found that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the following margins: 48.55 percent for CITIC Trading Company, Ltd.; 75.58 percent for Minmetals Townlord Technology Co., Ltd.; 101.62 percent for Shanxi Dajin International (Group) Co., Ltd.; 105.91 percent for Sinochem International Co., Ltd.; and 214.89 percent for PRC-wide entities. Commerce's Review Determination, 71 Fed. Reg. at 70,957.

indicators, including average unit sales revenues, average unit gross profits, operating income, operating income margins, as well as other key domestic industry indicators, such as employment, wages, productivity, unit labor costs, and capital expenditures. The Commission therefore concluded that subject imports were having a significant adverse impact on the domestic foundry coke industry.⁸³

The record reveals that the domestic industry and the U.S. foundry coke market have contracted since the original investigation. Of the seven domestic producers that participated in the original investigation, two producers, collectively accounting for *** percent of domestic foundry coke production in 2000, have ceased foundry coke operations entirely.⁸⁴ As discussed above, apparent U.S. consumption was lower in 2005 as compared to 2000.⁸⁵ Moreover, the industry continues to incur high costs to comply with environmental measures and to construct and maintain production equipment in the context of a smaller U.S. foundry market. Nonetheless, the limited information on the record reveals some improvements in the domestic industry's trade indicators since the original investigation. Domestic production of foundry coke was higher in 2005 at 1,188,232 metric tons than in 2000 (1,137,585 metric tons); the quantity and the value of domestic producers' U.S. shipments was also higher in 2005 (*** metric tons valued at \$*** million) than in 2000 (1,023,128 metric tons valued at \$182 million).⁸⁶ Domestic producers' market share similarly was higher in 2005 at *** percent than in 2000 at 88.5 percent, while the share held by imports from China was lower in 2005 (zero percent) than in 2000 (11.5 percent).⁸⁷

There is no current information in the record, however, pertaining to many of the other indicators, such as operating income, capacity, capacity utilization rates, and employment levels, that we customarily consider in assessing whether the domestic industry is in a weakened condition, as contemplated by the statute. The limited evidence in this expedited review is insufficient for us to make a finding on whether the domestic industry producing foundry coke is vulnerable to the continuation or reoccurrence of material injury in the event of revocation of the order.

We find that revocation of the order would likely lead to a significant increase in the volume of subject imports that would likely undersell the domestic like product to a significant degree and otherwise significantly suppress or depress U.S. prices. We find that the significant likely volume of low-priced subject foundry coke, when combined with the likely adverse price effects of those imports, would likely have a significant adverse impact on the production, shipments, sales, and revenue levels of the domestic industry. This reduction in the industry's production, shipments, sales, and revenue levels would likely have a direct adverse impact on the industry's profitability and employment levels, as well as its ability to raise capital and make and maintain necessary capital investments. Accordingly, we conclude that, if the antidumping duty order on foundry coke from China were revoked, subject imports from China would be likely to have a significant adverse impact on the domestic industry within a reasonably foreseeable time. Thus, we determine that revocation of the antidumping duty order on foundry coke from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

⁸³ Original Determination, USITC Pub. 3449 at 19-22.

⁸⁴ CR at I-7, PR at I-4; CR/PR at Table I-1.

⁸⁵ As noted above, apparent U.S. consumption was *** metric tons in 2005 as compared to 1,155,875 metric tons in 2000. By value, apparent U.S. consumption was higher in 2005 (\$*** million) as compared to 2000 (\$200.7 million). CR/PR at Table I-5.

⁸⁶ CR/PR at Table I-2.

⁸⁷ CR/PR at Table I-5; Original Determination, USITC Pub. 3449 at Table C-1.

CONCLUSION

For the foregoing reasons, we determine under section 751(c) of the Act that revocation of the antidumping duty order on foundry coke from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

INTRODUCTION

Background

On August 1, 2006, the Commission gave notice that it had instituted a five-year review to determine whether revocation of the antidumping duty order on imports of foundry coke from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.^{1 2} On November 6, 2006, the Commission determined that the domestic interested party response to its notice of institution was adequate;³ the Commission also determined that the respondent interested party response was inadequate. The Commission found no other circumstances that would warrant conducting a full review. Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)(3)).⁴ The Commission voted on this review on December 12, 2006; its administrative deadline to transmit its determination to the Department of Commerce (“Commerce”) is December 20, 2006, and the statutory deadline is December 29, 2006. Information relating to the background of the review is presented in the tabulation below.

Effective date	Action	Federal Register citation
September 17, 2001	Imposition of antidumping duty order	66 FR 48025
August 1, 2006	Initiation of Commerce’s five-year review	71 FR 43443
August 1, 2006	Institution of Commission’s five-year review	71 FR 43518
November 6, 2006	Commission’s determination to conduct expedited five-year review; scheduling of Commission’s review	71 FR 67161 (November 20, 2006)
November 29, 2006	Scheduled date for final results of Commerce’s expedited review	Not applicable
December 12, 2006	Commission’s vote	Not applicable
December 20, 2006	Commission’s determination transmitted to Commerce	Not applicable

¹ 71 FR 43518. All interested parties were requested to respond to the notice by submitting information requested by the Commission.

² *Federal Register* notices relating to this five-year review are presented in app. A.

³ The Commission received one submission in response to its notice of institution for the subject review. The response was filed on behalf of ABC Coke, Citizens Gas & Coke Utility, Erie Coke Corp., Sloss Industries Corp., and Tonawanda Coke Corp. These five firms are believed to account for all U.S. production of foundry coke in 2005. Domestic interested parties’ response to the notice of institution, September 19, 2006, p. 3.

⁴ Commissioner votes on whether to conduct an expedited or full review are available at the Commission’s website (www.usitc.gov). The Commission’s statement on adequacy is presented in app. B.

The Original Investigation

The original investigation pertaining to this review resulted from a petition filed on September 20, 2000 on behalf of ABC Coke, Citizens Gas & Coke Utility, Erie Coke Corp., Tonawanda Coke Corp., and the United Steelworkers of America, AFL-CIO, alleging that an industry in the United States was materially injured and threatened with material injury by reason of less-than-fair-value (“LTFV”) imports of foundry coke from China.⁵ On September 10, 2001, the Commission issued its determination that an industry in the United States was materially injured by reason of the subject imports.⁶ Commerce subsequently imposed an antidumping duty order on imports of foundry coke from China on September 17, 2001, with the following rates of duty (in percent *ad valorem*):⁷

<u>Manufacturer/exporter</u>	<u>Margin</u>
Shanxi Dajin International (Group) Co., Ltd.	101.62
Sinochem International Co., Ltd.	105.91
Minmetals Townlord Technology Co., Ltd.	75.58
CITIC Trading Co., Ltd.	48.55
PRC-Wide Rate	214.89

Related Investigations

On June 8, 2004, in response to a request received from the Committee on Ways and Means of the U.S. House of Representatives, the Commission instituted a fact-finding investigation under section 332(g) of the Tariff Act of 1930 concerning competitive conditions facing the U.S. foundry industry during 1999-2003.⁸ The foundry industry is the primary customer for foundry coke (see “Descriptions and Uses,” below).

Commerce’s Administrative Review

Since the imposition of the antidumping duty order in September 2001, Commerce has conducted one administrative review with respect to imports of foundry coke from China, specifically, imports of foundry coke produced and/or exported by CITIC Trading Co., Ltd. (“CITIC”). As a result of this review, and the application of adverse facts available, the weighted-average dumping margin for CITIC was increased to 214.89 percent.⁹

⁵ Sloss Industries Corp. was added as a petitioner to the original investigation on February 15, 2001.

⁶ *Foundry Coke From China*, 66 FR 47926, September 14, 2001.

⁷ *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Foundry Coke Products From The People’s Republic of China*, 66 FR 48025, September 17, 2001.

⁸ See *Foundry Products: Competitive Conditions in the U.S. Market*, Investigation No. 332-460, USITC Publication 3771, May 2005.

⁹ *Final Results of Antidumping Administrative Review: Foundry Coke From the People’s Republic of China*, 69 FR 4108, January 28, 2004. Commerce’s review was requested by domestic interested parties, and covered the period March 8, 2001 through August 31, 2002.

Commerce's Final Results of Expedited Sunset Review

The Department of Commerce is scheduled to issue the final results of its expedited five-year review regarding the likelihood of continuation or recurrence of dumping with respect to foundry coke imported from China on November 29, 2006.

THE PRODUCT

Scope

Commerce's notice of imposition of an antidumping duty order on imports of foundry coke from China defined the scope of the product subject to review as follows: "coke larger than 100 mm (4 inches) in maximum diameter and at least 50 percent of which is retained on a 100-mm (4 inch) sieve, of a kind used in foundries."¹⁰ Foundry coke products subject to this review are currently imported under statistical reporting number 2704.00.0011 of the Harmonized Tariff Schedule of the United States (HTS), and enter the United States free of duty under column 1-general, applicable to imports from China.¹¹

Description and Uses¹²

Coke is a substance produced through the heating and distillation of coal, and is used primarily as a fuel in the production of metals. Foundry coke is one of three subgroups of metallurgical coke: foundry coke; blast furnace coke; and industrial coke, including coke breeze. The three types of metallurgical coke are distinguished by their size, shape, and chemical properties. Foundry coke is characterized by a more uniform shape and size than the other two types of metallurgical coke, as well as by its strength and low ash content. It is used both as a fuel and as a source of carbon in the production of molten iron. As a fuel, foundry coke is used to melt scrap iron or pig iron with other compounds; it is also used as a source of carbon for the melted product. The resulting molten iron is used to make various cast products such as automobile engines. Demand for foundry coke is derived from demand for the end products produced by purchasers, mainly in the automotive and truck manufacturing sectors, the pipe and fittings sectors, and the municipal castings sector.¹³

Domestic Like Product Issues

In its original determination, the Commission defined the domestic like product as consisting only of foundry coke, commensurate with the definition of Commerce's scope.¹⁴ Domestic interested parties

¹⁰ *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Foundry Coke Products From The People's Republic of China*, 66 FR 48025, September 17, 2001.

¹¹ HTS statistical reporting number 2704.00.0011 is broadly coextensive with the scope of the antidumping duty order on foundry coke from China (the statistical reporting number includes reference to ASTM testing standards not contained in the scope). See Chapter 27 of the 2006 HTS.

¹² The description of the subject product in this section is based on information contained in the staff report of the original investigation (Memorandum INV-Y-154), August 15, 2001, pp. I-2-I-4. See also *Foundry Coke From China, Investigation No. 731-TA-891 (Final)*, USITC Publication 3449, September 2001, p. I-2-I-3.

¹³ *Foundry Coke From China, Investigation No. 731-TA-891 (Final)*, USITC Publication 3449, September 2001, p. 10.

¹⁴ *Ibid.*, p. 5.

responding to the Commission's notice of institution in this review agree with the domestic like product defined by the Commission in its original determination.¹⁵

THE INDUSTRY IN THE UNITED STATES

U.S. Producers

At the time of the Commission's original investigation, there were seven producers of foundry coke in the United States. The names of these seven firms, and their shares of U.S. foundry coke production in 2000 and 2005, are presented in table I-1. According to information provided by domestic interested parties in this review, two of the seven firms identified in the original investigation no longer produce foundry coke: Acme Steel Co. declared bankruptcy and shut down both its steelmaking and coke operations in November 2001, while Empire Coke Co. shut down its coke operations in July 2004.¹⁶ The remaining five firms are believed to account for 100 percent of current U.S. production of foundry coke.¹⁷ None of the five existing U.S. producers of foundry coke is known to be related to any firms involved in the production of subject merchandise in China, or in the importation of subject merchandise into the United States.¹⁸

U.S. Producers' Operations on Foundry Coke

Select trade and financial data relating to U.S. producers' operations on foundry coke for 1998-2000 (based on record information from the original investigation) and 2005 (based on information submitted in response to the Commission's notice of institution in this review) are presented in table I-2.¹⁹ U.S. producers' aggregate production and U.S. shipments of foundry coke declined throughout the period examined in the original investigation, as did their capacity utilization and the unit value of their U.S. shipments. Based on available data, U.S. producers' production of foundry coke was higher in 2005 than in 2000, but lower than in 1998; the quantity of U.S. producers' U.S. commercial shipments of foundry coke in 2005 was *** percent higher than its highest point during the period examined in the original investigation (1998). The unit value of U.S. producers' U.S. commercial shipments was *** percent higher in 2005 than in 1998. U.S. producers made *** intra-company transfers *** internal consumption of foundry coke in 2005; such shipments accounted for *** percent of producers' total shipments during the period examined in the original investigation. Export data for 2005 are unavailable.²⁰

¹⁵ Domestic interested parties' response to the notice of institution (additional data), October 6, 2006, p. 4.

¹⁶ Domestic interested parties' response to the notice of institution, September 19, 2006, p. 3 and n. 1. According to this response, Acme Steel Co.'s steelmaking operations were purchased by International Steel Group, Inc. subsequent to Acme's declaration of bankruptcy, but the company's coke operations were not restarted.

¹⁷ Domestic interested parties' response to the notice of institution, September 19, 2006, p. 3.

¹⁸ Domestic interested parties' response to the notice of institution (additional data), October 6, 2006, p. 2. In its original determination, the Commission found that circumstances did not exist to exclude any U.S. producer of foundry coke from its definition of the U.S. industry under the related parties provision even though Empire and Sloss were found to be related parties under the statute (Empire because it purchased and resold subject product from China, and Sloss because of a corporate relationship). *Foundry Coke From China, Investigation No. 731-TA-891 (Final)*, USITC Publication 3449, September 2001, pp. 6-9.

¹⁹ The data in table I-2 are believed to account for 100 percent of U.S. production of foundry coke for all included periods.

²⁰ According to information submitted by domestic interested parties in this review, at present, "U.S. producers do not export foundry coke (except in small quantities to Canada and Mexico)." Domestic interested parties' response to the notice of institution (additional data), October 6, 2006, p. 4.

Table I-1

Foundry coke: U.S. producers and shares of U.S. production, 2000 and 2005

Producer	Plant location	Share of U.S. production (percent)	
		2000	2005
ABC Coke	Birmingham, AL	***	***
Acme Steel Co.	Chicago, IL	***	(1)
Citizens Gas & Coke Utility	Indianapolis, IN	***	***
Empire Coke Co.	Birmingham, AL	***	(2)
Erie Coke Corp.	Erie, PA	***	***
Sloss Industries Corp.	Birmingham, AL	***	***
Tonawanda Coke Corp.	Tonawanda, NY	***	***

¹ Acme Steel Co. ceased production of coke in November 2001.
² Empire Coke Co. ceased production of coke in July 2004.

Source: Compiled from information contained in the record of the Commission's original investigation (staff report of August 15, 2001, Memorandum INV-Y-154, p. III-1) and information submitted by domestic interested parties in this review (response to the notice of institution, September 19, 2006, exh. 1).

Between 1998 and 2000, U.S. producers of foundry coke experienced declining net sales and operating income, and an increasing ratio of costs to sales.²¹ Detailed financial data for 2005 are not available. In its response to the notice of institution in this review, domestic interested parties argue that general patterns of trade among U.S. producers of foundry coke are unchanged from the original investigation.²² These parties argue that current U.S. producers of foundry coke are vulnerable to renewed unfair import competition because of declining U.S. consumption, caused by increasing U.S. imports of downstream foundry products.²³

²¹ In its original determination, the Commission noted that high fixed costs and environmental compliance costs were among the conditions of competition pertinent to its analysis. *Foundry Coke From China, Investigation No. 731-TA-891 (Final)*, USITC Publication 3449, September 2001, pp. 11-12.

²² Domestic interested parties' response to the notice of institution (additional data), October 6, 2006, p. 4.

²³ Domestic interested parties' response to the notice of institution, September 19, 2006, p. 11 (citing *Foundry Products: Competition Conditions in the U.S. Market*, Investigation No. 332-460, USITC Publication 3771, May 2005 at Abstract). See also domestic interested parties' response to the notice of institution (additional data), October 6, 2006, pp. 3-4 (noting the "structural shift of end users to China").

Table I-2

Foundry coke: U.S. producers' production, shipments, and financial results, 1998-2000 and 2005

Item	Calendar year			
	1998	1999	2000	2005
Capacity (<i>metric tons</i>)	1,380,271	1,395,609	1,403,184	(1)
Production (<i>metric tons</i>)	1,236,785	1,235,246	1,137,585	1,188,232
Capacity utilization (<i>percent</i>)	89.6	88.5	81.1	(1)
Shipments quantity (<i>metric tons</i>): U.S. commercial shipments	***	***	***	1,071,487
Transfers/internal consumption	***	***	***	***
Export shipments	***	***	***	(1)
Total shipments	***	***	***	(1)
Shipments value (\$1,000): U.S. commercial shipments	***	***	***	257,338
Transfers/internal consumption	***	***	***	***
Export shipments	***	***	***	(1)
Total shipments	***	***	***	(1)
Shipments unit value (<i>per metric ton</i>): U.S. commercial shipments	***	***	***	\$240.17
Transfers/internal consumption	***	***	***	***
Export shipments	***	***	***	(1)
Total shipments	***	***	***	(1)
Net sales (\$1,000)	***	***	***	(1)
COGS (\$1,000)	***	***	***	(1)
Gross profit (\$1,000)	***	***	***	(1)
SG&A (\$1,000)	***	***	***	(1)
Operating income (\$1,000)	***	***	***	(1)
COGS/sales (<i>percent</i>)	***	***	***	(1)
Operating income/sales (<i>percent</i>)	***	***	***	(1)
¹ Not available.				
Source: Compiled from information contained in the record of the Commission's original investigation (staff report of August 15, 2001, Memorandum INV-Y-154, tables III-1, III-2, and VI-1) and information submitted by domestic interested parties in this review (response to the notice of institution, September 19, 2006, exh. 1).				

U.S. IMPORTS AND CONSUMPTION

U.S. Imports

Data relating to U.S. imports of foundry coke between 1998 and July 2006 are presented in table I-3. Between 1998 and 2000, the period examined in the Commission's original investigation, China constituted the only source for U.S. imports of foundry coke.²⁴ During this period, imports from China increased by over *** percent. Following imposition of the antidumping duty order in 2001, imports from China decreased to below their 1998 level,²⁵ while imports from nonsubject countries entered the U.S. market.²⁶ By 2003, U.S. imports of foundry coke from all sources ceased entirely. Official Commerce statistics indicate that 47,000 metric tons of foundry coke were imported into the United States from Canada and Mexico in 2005; the latest available data, as of the record-closing date of this review (October 6, 2006), indicate that there have been no imports of foundry coke into the United States from any source in 2006.²⁷

Under the provisions of the Continued Dumping and Subsidy Offset Act of 2000 ("CDSOA"), duties collected pursuant to an antidumping or countervailing duty order are disbursed by U.S. Customs and Border Protection ("Customs") to eligible affected domestic producers (and/or labor groups). A summary of Customs' disbursements in fiscal years 2001-05²⁸ relating to the order on foundry coke from China is presented in table I-4.

²⁴ Respondents in the Commission's original investigation suggested that the absence of nonsubject imports was attributable to the fact that foundry coke produced in nonsubject countries was too brittle to be shipped to the United States for commercial use. *Foundry Coke From China, Investigation No. 731-TA-891 (Final)*, USITC Publication 3449, September 2001, p. IV-1, n. 2. The Commission received importers' questionnaire responses from six firms in its original investigation. These firms were believed to account for all U.S. imports of foundry coke in 2000. *Ibid.*, p. IV-1. No new importers were identified by domestic interested parties in their response to the Commission's notice of institution in this review.

²⁵ According to domestic interested parties, one Chinese firm, CITIC Trading Company, Ltd., accounted for all exports of foundry coke from China to the United States in 2001 and 2002 after the antidumping duty order was imposed. Response to the notice of institution (additional data), October 6, 2006, pp. 2-3. As noted above, this firm was originally assigned an antidumping margin of 48.55 percent, lowest among the Chinese firms investigated by Commerce in its original investigation. In a subsequent administrative review, completed in January 2004, the margin for this exporter was increased to the China-wide 214.89 percent.

²⁶ According to official Commerce import statistics, the Netherlands was the source for the largest quantity of U.S. imports of foundry coke in 2001 and 2002. Canada and Poland were the only other sources for U.S. imports of foundry coke during this two-year period.

²⁷ As indicated above, imports of foundry coke into the United States are classifiable under statistical reporting number 2704.00.0011 of the HTS. Although this reporting number is coextensive with Commerce's scope for the merchandise subject to this review, information collected in the original investigation suggested that between *** and 20 percent of U.S. imports of foundry coke at the time may have been sold as industrial coke, for uses other than those of foundry coke, as result of physical degradation during shipment. Staff report of August 15, 2001, Memorandum INV-Y-154, p. IV-2, n. 8.

²⁸ According to Customs' website, as of April 30, 2006, there were no (zero) funds available for disbursement to affected domestic producers of foundry coke (or labor groups) for fiscal year 2006. See "FY 2006 Preliminary CDSOA Amounts Available" at http://cbp.gov/xp/cgov/import/add_cvd/cont_dump/cdsoa_06/.

Table I-3
Foundry coke: U.S. imports, 1998-2005, January-July 2005, and January-July 2006

Source	Calendar year								January-July	
	1998	1999	2000	2001	2002	2003	2004	2005	2005	2006
Quantity (metric tons)										
China	***	119,649	146,785	4,087	9,900	0	0	0	0	0
All other sources	0	0	0	23,356	110,274	0	0	47,032	19,069	0
Total imports	***	119,649	146,785	27,443	120,174	0	0	47,032	19,069	0
Value (\$1,000)¹										
China	***	13,307	15,832	357	911	0	0	0	0	0
All other sources	0	0	0	2,310	11,671	0	0	6,426	2,889	0
Total imports	***	13,307	15,832	2,666	12,582	0	0	6,426	2,889	0
Unit value (per metric ton)										
China	***	\$111.22	\$107.86	\$87.28	\$92.00	(2)	(2)	(2)	(2)	(2)
All other sources	(2)	(2)	(2)	98.88	105.84	(2)	(2)	136.63	151.49	(2)
Total imports	***	111.22	107.86	97.16	104.70	(2)	(2)	136.63	151.49	(2)
¹ Landed, duty-paid. ² Not applicable.										
Source: Data for 1998-2000 are based on questionnaire data obtained in the Commission's original investigation (Staff report of August 15, 2001, Memorandum INV-Y-154, table IV-1); data for 2001-05 and January-July 2006 are based on official Commerce statistics for HTS statistical reporting number 2704.00.0011.										

Table I-4
Foundry coke: Disbursement of CDSOA funds, fiscal years 2001-05

Producer/ labor group	Fiscal year				
	2001	2002	2003	2004	2005
Dollars					
ABC Coke	--	--	65,352.89	111,493.00	12,327.50
Citizens Gas & Coke Utility	--	--	78,668.69	147,336.54	14,867.24
Erie Coke Corp.	--	--	23,633.34	41,413.87	4,508.81
Sloss Industries Corp.	--	--	26,517.59	42,474.09	4,705.92
Tonawanda Coke Corp.	--	--	30,561.26	52,174.60	5,641.67
United Steelworkers	--	--	51.06	--	--
Total	--	--	224,784.83	394,892.10	42,051.14
Source: U.S. Customs and Border Protection annual CDSOA disbursement reports, available at http://cbp.gov/xp/cgov/import/add_cvd/cont_dump/ .					

Apparent U.S. Consumption

Data relating to apparent U.S. consumption of foundry coke, and the market shares of U.S. producers and U.S. importers, are presented in table I-5. During the period examined in the Commission's original investigation, the market share (by quantity) of U.S. importers of foundry coke (exclusively from China) increased from 1.0 to 11.5 percent. Available data in this review indicate that U.S. producers held a ***-percent share of the U.S. market for foundry coke in 2005 (in quantity terms), and that apparent U.S. consumption was *** percent lower in 2005 than in 2000.²⁹

THE INDUSTRY IN CHINA

At the time of the Commission's original investigation (2001), there were believed to be 31 producers of foundry coke in China.³⁰ Several producers of subject merchandise in China were believed to be vertically and/or horizontally integrated manufacturers, producing other types of coke and coal products and/or operating their own coal mines.³¹ The production capacity of Chinese producers of foundry coke also was believed to be relatively new, with 50 percent of capacity estimated to have been built in the 1990s, compared to that of U.S. producers, most of whose equipment was nearing the end of

²⁹ As indicated above, U.S. demand for foundry coke is derived from demand for downstream foundry products. According to information provided by domestic interested parties, closures among U.S. foundries will result in an aggregate reduction of foundry coke consumption of 180,000 tons between 2002 and 2007. Domestic interested parties' response to the notice of institution (additional data), October 6, p. 4.

³⁰ *Foundry Coke From China, Investigation No. 731-TA-891 (Final)*, USITC Publication 3449, September 2001, p. VII-1. According to information obtained in the original investigation, the number of companies producing foundry coke in China was reduced by one-half during 2000 as a result of the enactment of stringent environmental regulations by the Government of China. Ibid.

³¹ Ibid.

Table I-5
Foundry coke: Apparent U.S. consumption and market shares, 1998-2000 and 2005

Item	Calendar year			
	1998	1999	2000	2005 ¹
Quantity (metric tons)				
U.S. producers' shipments	1,143,572	1,113,350	1,023,128	***
U.S. importers' shipments ²	11,212	91,323	132,747	47,032
Apparent consumption	1,154,784	1,204,673	1,155,875	***
Share of quantity (percent)				
U.S. producers' shipments	99.0	92.4	88.5	***
U.S. importers' shipments ²	1.0	7.6	11.5	***
Value (\$1,000)				
U.S. producers' shipments	207,750	200,681	181,965	***
U.S. importers' shipments ²	1,529	12,218	18,691	6,426
Apparent consumption	209,279	212,899	200,656	***
Share of value (percent)				
U.S. producers' shipments	99.3	94.3	90.7	***
U.S. importers' shipments ²	0.7	5.7	9.3	***
¹ Data for 2005 represent U.S. imports of foundry coke, rather than U.S. importers' shipments. ² Importers' share of consumption in 1998-2000 was comprised entirely of product from China; in 2005, importers' share was comprised entirely of nonsubject imports. Source: Data for 1998-2000 are based on information obtained in the Commission's original investigation (<i>Foundry Coke from China, Investigation No. 731-TA-891</i> , USITC Publication 3449, September 2001, tables IV-2 and IV-3); data for 2005 are based on official Commerce import statistics for HTS statistical reporting number 2704.00.0011, and information submitted by domestic interested parties in response to the Commission's notice of institution in this review.				

its average lifespan.³² Information obtained in the original investigation relating to Chinese producers' capacity, production, and shipments of foundry coke is presented in table I-6.³³

³² Ibid., pp. I-3 and VII-1.

³³ The data presented in table I-6 were based on information submitted by industry associations in China. The staff report of the original investigation did not estimate the share of total Chinese production of foundry coke accounted for by these data. On the basis of questionnaire-reported import data obtained in the original investigation, the data in table I-6 represent 83 percent of U.S. imports of foundry coke from China in 2000. *Compare Foundry Coke From China, Investigation No. 731-TA-891 (Final)*, USITC Publication 3449, September 2001, table IV-1 with *ibid.*, table VII-1.

Table I-6

Foundry coke: Chinese producers' capacity, production, and shipments, 1998-2000

Item	Calendar year		
	1998	1999	2000
Quantity (metric tons)			
Capacity	3,420,000	3,796,000	2,731,000
Production	1,820,000	1,915,600	2,085,000
Shipments:			
Home market	1,196,414	1,223,079	1,256,780
Exports to--			
United States	***	52,457	121,935
All other markets ¹	***	640,065	706,285
Total exports	623,586	692,522	828,220
Total shipments	1,820,000	1,915,601	2,085,000
Ratios and shares (percent)			
Capacity utilization	53.2	50.5	76.3
Share of shipments:			
Home market	65.7	63.8	60.3
Exports to--			
United States	***	2.7	5.8
All other markets ¹	***	33.4	33.9
Total exports	34.3	36.2	39.7
<p>¹ Japan, the European Union, Korea, Taiwan, and "Southeast Asia" were among the "other" markets for Chinese-produced foundry coke identified in the original investigation.</p> <p>Note.—The data in this table are reproduced exactly from its source in the staff report of the original investigation. Numbers in the table may not add to the totals shown due to rounding or other adjustments in the original data.</p> <p>Source: Staff report of August 19, 2001, Memorandum INV-Y-154, table VII-1.</p>			

Between 1998 and 2000, Chinese firms' production capacity decreased by 20 percent, while production increased by 15 percent, resulting in a 23-percentage point increase in capacity utilization.³⁴ Shipments to the Chinese home market accounted for the majority of Chinese firms' shipments during the period, with exports to the United States accounting for a less-than-6-percent but growing share of total shipments. At the time of the original investigation, definitive antidumping measures covering foundry

³⁴ As noted above, Chinese firms' production capacity for foundry coke was projected to decline further, reducing to 1.4 million metric tons by 2002. *Foundry Coke From China, Investigation No. 731-TA-891 (Final)*, USITC Publication 3449, September 2001, table VII-1. Capacity utilization was correspondingly projected to increase to 90 percent by 2002. Ibid.

coke products from China had been separately imposed by India and the European Union.³⁵ Publicly available information suggests that the antidumping measures imposed by India remain in effect, while those imposed by the European Union expired in December 2005.³⁶

No specific information regarding Chinese producers' capacity, production, or shipments of foundry coke since 2000 are available in this review. In their response to the Commission's notice of institution, domestic interested parties highlight studies indicating an increase in Chinese firms' coke production capacity between 2000 and 2005.³⁷ According to one of these studies, coke production capacity and output (including, but not limited to, foundry coke) in the Chinese province of Shanxi increased "drastically" during this period, with production increasing from 50 million tons in 2000 to 72 million tons in 2004.³⁸ The study goes on to note that "excessive growth of production capacity" in the Chinese industry has led to a decrease in the price for coke products in 2005, including products for export.

A second study cited by domestic interested parties notes a "heavy surplus in coke production capacity" in China, placing mechanical coking capacity (existing and planned) at 330 million tons, and noting that this capacity exceeded "market demand" by 30-40 percent.³⁹ This study also indicates that the Chinese coking industry is characterized by a low level of concentration, with the largest producer accounting only for "about 2 percent of the total production capability of commodity coke." Finally, information submitted by domestic interested parties suggests that implementation of a Government of China policy to close the most polluting coke-producing plants has "so far been inconsistent."⁴⁰

According to domestic interested parties, revocation of the antidumping duty order on foundry coke from China would likely result in an increase of subject imports into the United States. They cite "increased interest" among Chinese firms in producing foundry coke, as well as a recent "trade case" in which Indian coke manufacturers are seeking "relief" covering foundry coke, potentially diverting 200,000 to 225,000 tons of subject merchandise to the United States.⁴¹

³⁵ *Foundry Coke From China, Investigation No. 731-TA-891 (Final)*, USITC Publication 3449, September 2001, p. VII-3; Memorandum INV-Y-164 (staff report revisions), August 22, 2001, p. VII-2.

³⁶ Web site of India's Ministry of Commerce and Industry, http://commerce.nic.in/ad_cases.htm ("Metallurgical Coke"); web site of the European Commission, http://ec.europa.eu/trade/issues/respectrules/anti_dumping/stats.htm ("Coke (over 80mm)").

³⁷ Domestic interested parties' response to the notice of institution, September 19, 2006, pp. 4-7.

³⁸ *Ibid.*, referencing "Present State and Prospect of Shanxi Coking Industry," delivered by the director of the province's Development and Reform Commission. According to this paper, Shanxi accounts for 40 percent of total Chinese production of coke (of which foundry coke is one subset), suggesting total coke production in China of at least 180 million tons in 2004.

³⁹ Domestic interested parties' response to the notice of institution, September 19, 2006, pp. 5-6, referencing "China Coking Industry's Sustainable Development," as presented by the "Manager Director" of China National Minerals Co.

⁴⁰ *Ibid.*, p. 6, n. 2, citing *Coke Market Report*, May 23, 2005. Domestic interested parties' response includes references to the heavily polluting nature of Chinese coke production. *See generally* *ibid.*, pp. 5-6.

⁴¹ Domestic interested parties' response to the notice of institution, September 19, 2006, p. 7. Domestic interested parties' response did not describe the nature of the "trade case" initiated in India, but noted that the preliminary margins in the case are 107 percent. The web site of India's Ministry of Commerce and Industry contained information on only one antidumping investigation involving "metallurgical coke" from China, an investigation completed in August 1998 and alluded to above. *See* http://commerce.nic.in/ad_cases.htm.

APPENDIX A

FEDERAL REGISTER NOTICES

DEPARTMENT OF COMMERCE**International Trade Administration****Initiation of Five-year ("Sunset") Reviews**

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

SUMMARY: In accordance with section 751(c) of the Tariff Act of 1930, as amended ("the Act"), the Department of Commerce ("the Department") is automatically initiating a five-year ("Sunset Review") of the antidumping and countervailing duty orders listed below. The International Trade Commission ("the Commission") is publishing concurrently with this notice its notice of *Institution of Five-year Review* which covers these same order.

EFFECTIVE DATE: August 1, 2006.

FOR FURTHER INFORMATION CONTACT: The Department official identified in the *Initiation of Review(s)* section below at AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th & Constitution Ave., NW., Washington, DC 20230. For information from the Commission contact Mary Messer, Office of Investigations, U.S. International Trade Commission at (202) 205-3193.

SUPPLEMENTARY INFORMATION:**Background**

The Department's procedures for the conduct of Sunset Reviews are set forth in its *Procedures for Conducting Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) and 70 FR 62061 (October 28, 2005). Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in the Department's Policy Bulletin 98.3 *Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871 (April 16, 1998) ("Sunset Policy Bulletin").

Initiation of Reviews

In accordance with 19 CFR 351.218(c), we are initiating the Sunset Review of the following antidumping and countervailing duty orders:

DOC Case No.	ITC Case No.	Country	Product	Department Contact
A-570-862	731-TA-894	PRC	Foundry Coke	Jim Nunno(202) 482-0783
A-823-810	731-TA-891	Ukraine	Solid Agricultural Grade Ammonium Nitrate	Brandon Farlander (202) 482-0182
A-357-814	731-TA-898	Argentina	Certain Hot-Rolled Carbon Steel Flat Products	Zev Primor (202) 482-4114
A-570-865	731-TA-899	PRC	Certain Hot-Rolled Carbon Steel Flat Products	Zev Primor (202) 482-4114
A-533-820	731-TA-900	India	Certain Hot-Rolled Carbon Steel Flat Products	Zev Primor (202) 482-4114

DOC Case No.	ITC Case No.	Country	Product	Department Contact
A-560-812	731-TA-901	Indonesia	Certain Hot-Rolled Carbon Steel Flat Products	Zev Primor (202) 482-4114
A-834-806	731-TA-902	Kazakhstan	Certain Hot-Rolled Carbon Steel Flat Products	Dana Mermelstein (202) 482-1391
A-421-807	731-TA-903	Netherlands	Certain Hot-Rolled Carbon Steel Flat Products	Dana Mermelstein (202) 482-1391
A-485-806	731-TA-904	Romania	Certain Hot-Rolled Carbon Steel Flat Products	Zev Primor (202) 482-4114
A-791-809	731-TA-905	South Africa	Certain Hot-Rolled Carbon Steel Flat Products	Dana Mermelstein (202) 482-1391
A-583-835	731-TA-906	Taiwan	Certain Hot-Rolled Carbon Steel Flat Products	Dana Mermelstein (202) 482-1391
A-549-817	731-TA-907	Thailand	Certain Hot-Rolled Carbon Steel Flat Products	Dana Mermelstein (202) 482-1391
A-823-811	731-TA-908	Ukraine	Certain Hot-Rolled Carbon Steel Flat Products	Dana Mermelstein (202) 482-1391
A-822-804	731-TA-873	Belarus	Steel Concrete Reinforcing Bars	Brandon Farlander (202) 482-0182
A-570-860	731-TA-874	PRC	Steel Concrete Reinforcing Bars	Brandon Farlander (202) 482-0182
A-560-811	731-TA-875	Indonesia	Steel Concrete Reinforcing Bars	Brandon Farlander (202) 482-0182
A-449-804	731-TA-878	Latvia	Steel Concrete Reinforcing Bars	Brandon Farlander (202) 482-0182
A-841-804	731-TA-879	Moldova	Steel Concrete Reinforcing Bars	Brandon Farlander (202) 482-0182
A-455-803	731-TA-880	Poland	Steel Concrete Reinforcing Bars	Brandon Farlander (202) 482-0182
A-580-844	731-TA-877	South Korea	Steel Concrete Reinforcing Bars	Brandon Farlander (202) 482-0182
A-823-809	731-TA-882	Ukraine	Steel Concrete Reinforcing Bars	Brandon Farlander (202) 482-0182
Countervailing Duty Proceedings.				
C-357-815	701-TA-404	Argentina	Certain Hot-Rolled Carbon Steel Flat Products	Brandon Farlander (202) 482-0182
C-533-821	701-TA-405	India	Certain Hot-Rolled Carbon Steel Flat Products	Brandon Farlander (202) 482-0182
C-560-813	701-TA-406	Indonesia	Certain Hot-Rolled Carbon Steel Flat Products	Brandon Farlander (202) 482-0182
C-791-810	701-TA-407	South Africa	Certain Hot-Rolled Carbon Steel Flat Products	Dana Mermelstein (202) 482-1391
C-549-818	701-TA-408	Thailand	Certain Hot-Rolled Carbon Steel Flat Products	Dana Mermelstein (202) 482-1391

Filing Information

As a courtesy, we are making information related to Sunset proceedings, including copies of the Department's regulations regarding Sunset Reviews (19 CFR 351.218) and *Sunset Policy Bulletin*, the Department's schedule of Sunset Reviews, case history information (*i.e.*, previous margins, duty absorption determinations, scope language, import volumes), and service lists available to the public on the Department's sunset Internet website at the following address: "http://ia.ita.doc.gov/sunset/." All submissions in these Sunset Reviews must be filed in accordance with the Department's regulations regarding format, translation, service, and certification of documents. These rules can be found at 19 CFR 351.303.

Pursuant to 19 CFR 351.103(c), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 10 days of the publication of the Notice of Initiation.

Because deadlines in Sunset Reviews can be very short, we urge interested parties to apply for access to proprietary information under administrative protective order ("APO") immediately following publication in the **Federal Register** of the notice of initiation of the sunset review. The Department's regulations on submission of proprietary information and eligibility to receive access to business proprietary

information under APO can be found at 19 CFR 351.304-306.

Information Required from Interested Parties

Domestic interested parties (defined in section 771(9)(C), (D), (E), (F), and (G) of the Act and 19 CFR 351.102(b)) wishing to participate in these Sunset Reviews must respond not later than 15 days after the date of publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). In accordance with the Department's regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, the Department will automatically revoke the orders without further review. See 19 CFR 351.218(d)(1)(iii).

If we receive an order-specific notice of intent to participate from a domestic interested party, the Department's regulations provide that *all parties* wishing to participate in the Sunset Review must file complete substantive responses not later than 30 days after the date of publication in the **Federal Register** of this notice of initiation. The required contents of a substantive response, on an order-specific basis, are set forth at 19 CFR 351.218(d)(3). Note that certain information requirements differ for respondent and domestic parties. Also, note that the Department's information requirements are distinct from the Commission's information

requirements.¹ Please consult the Department's regulations for information regarding the Department's conduct of Sunset Reviews. Please consult the Department's regulations at 19 CFR Part 351 for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at the Department.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

Dated: July 27, 2006.

Thomas F. Futtner,

Acting Office Director, AD/CVD Operations, Office 4, Import Administration.

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BILLING CODE 3510-DS-S

¹ In comments made on the interim final sunset regulations, a number of parties stated that the proposed five-day period for rebuttals to substantive responses to a notice of initiation was insufficient. This requirement was retained in the final sunset regulations at 19 CFR 351.218(d)(4). As provided in 19 CFR 351.302(b), however, the Department will consider individual requests for extension of that five-day deadline based upon a showing of good cause.

**INTERNATIONAL TRADE
COMMISSION****[Investigation No. 731-TA-891 (Review)]****Foundry Coke From China****AGENCY:** United States International Trade Commission.**ACTION:** Institution of a five-year review concerning the antidumping duty order on foundry coke from China.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on foundry coke from China would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;¹ to be assured of consideration, the deadline for responses is September 20, 2006. Comments on the adequacy of responses may be filed with the Commission by October 16, 2006. For further information concerning the conduct of this review and rules of general application, consult the Commission's

¹ No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117-0016/USITC No. 06-5-156, expiration date June 30, 2008. Public reporting burden for the request is estimated to average 10 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* August 1, 2006.

FOR FURTHER INFORMATION CONTACT:

Mary Messer (202-205-3193), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background. On September 17, 2001, the Department of Commerce issued an antidumping duty order on imports of foundry coke from China (66 FR 48025). The Commission is conducting a review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions. The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The *Subject Country* in this review is China.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determination, the Commission defined the Domestic Like Product as foundry coke.

(4) The *Domestic Industry* is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the

product. In its original determination, the Commission defined the Domestic Industry as domestic producers of foundry coke.

(5) The *Order Date* is the date that the antidumping duty order under review became effective. In this review, the Order Date is September 17, 2001.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the review and public service list. Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Former Commission employees who are seeking to appear in Commission five-year reviews are reminded that they are required, pursuant to 19 CFR 201.15, to seek Commission approval if the matter in which they are seeking to appear was pending in any manner or form during their Commission employment. The Commission's designated agency ethics official has advised that a five-year review is the "same particular matter" as the underlying original investigation for purposes of 19 CFR 201.15 and 18 U.S.C. 207, the post employment statute for Federal employees. Former employees may seek informal advice from Commission ethics officials with respect to this and the related issue of whether the employee's participation was "personal and substantial." However, any informal consultation will not relieve former employees of the obligation to seek approval to appear from the Commission under its rule 201.15. For ethics advice, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202-205-3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list. Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the

application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification. Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions. Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is September 20, 2006. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is October 16, 2006. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability to provide requested information. Pursuant to section

207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information To Be Provided in Response to This Notice of Institution: As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and e-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Country that currently export or have

exported Subject Merchandise to the United States or other countries since the Order Date.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 2005 (report quantity data in metric tons and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) The quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) The quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 2005 (report quantity data in metric tons and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Country accounted for by your firm's(s') imports;

(b) The quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Country; and

(c) The quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from the Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 2005 (report quantity data in metric tons and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you

are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Country accounted for by your firm's(s') production; and

(b) The quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Country since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Country, and such merchandise from other countries.

(11) (*Optional*) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of Title VII of the Act; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: July 26, 2006.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E6-12277 Filed 7-31-06; 8:45 am]

BILLING CODE 7020-02-P

subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* November 6, 2006.

FOR FURTHER INFORMATION CONTACT: Jai Motwane (202-205-3176), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background. On November 6, 2006, the Commission determined that the domestic interested party group response to its notice of institution (71 FR 43518) of the subject five-year review was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting a full review.¹ Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Act.

Staff report. A staff report containing information concerning the subject matter of the review will be placed in the nonpublic record on November 28, 2006, and made available to persons on the Administrative Protective Order service list for this review. A public version will be issued thereafter, pursuant to § 207.62(d)(4) of the Commission's rules.

Written submissions. As provided in § 207.62(d) of the Commission's rules, interested parties that are parties to the review and that have provided individually adequate responses to the notice of institution,² and any party other than an interested party to the review may file written comments with the Secretary on what determination the

**INTERNATIONAL TRADE
COMMISSION**

[Investigation No. 731-TA-891 (Review)]

Foundry Coke From China

AGENCY: United States International Trade Commission.

ACTION: Scheduling of an expedited five-year review concerning the antidumping duty order on foundry coke from China.

SUMMARY: The Commission hereby gives notice of the scheduling of an expedited review pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(3)) (the Act) to determine whether revocation of the antidumping duty order on foundry coke from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207,

¹ A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's Web site.

² The Commission has found the responses submitted by ABC Coke, Citizens Gas & Coke Utility, Erie Coke, Sloss Industries Corp., and Tonawanda Coke Corp. to be individually adequate. Comments from other interested parties will not be accepted (see 19 CFR 207.62(d)(2)).

Commission should reach in the review. Comments are due on or before December 1, 2006 and may not contain new factual information. Any person that is neither a party to the five-year review nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the review by December 1, 2006. However, should the Department of Commerce extend the time limit for its completion of the final results of its review, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

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

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.62 of the Commission's rules.

By order of the Commission.

Issued: November 15, 2006.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E6-19542 Filed 11-17-06; 8:45 am]

BILLING CODE 7020-02-P

APPENDIX B
STATEMENT ON ADEQUACY

EXPLANATION OF COMMISSION DETERMINATION ON ADEQUACY

in

Foundry Coke from China, Inv. No. 731-TA-891 (Review)

On November 6, 2006, the Commission determined that it should proceed to an expedited review in the subject five-year review pursuant to section 751(c)(3)(B) of the Tariff Act of 1930, as amended, 19 U.S.C. § 1675(c)(3)(B).

The Commission received an adequate consolidated response from domestic producers ABC Coke, Citizens Gas & Coke Utility, Erie Coke, Sloss Industries Corporation, and Tonawanda Coke Corporation (collectively “domestic producers”). That response contained company specific data for each of these producers, which collectively account for an overwhelming majority of domestic production of foundry coke. Thus, the Commission determined that the domestic interested party group response to its notice of institution was adequate.

The Commission did not receive a response from any respondent interested party in the review and, therefore, determined that the respondent interested party group response was inadequate.

Given the absence of an adequate respondent interested party group response, and any other circumstances that might warrant proceeding to a full review, the Commission determined to conduct an expedited review. A record of the Commissioners’ votes is available from the Office of the Secretary and the Commission’s web site (<http://www.usitc.gov>).

