

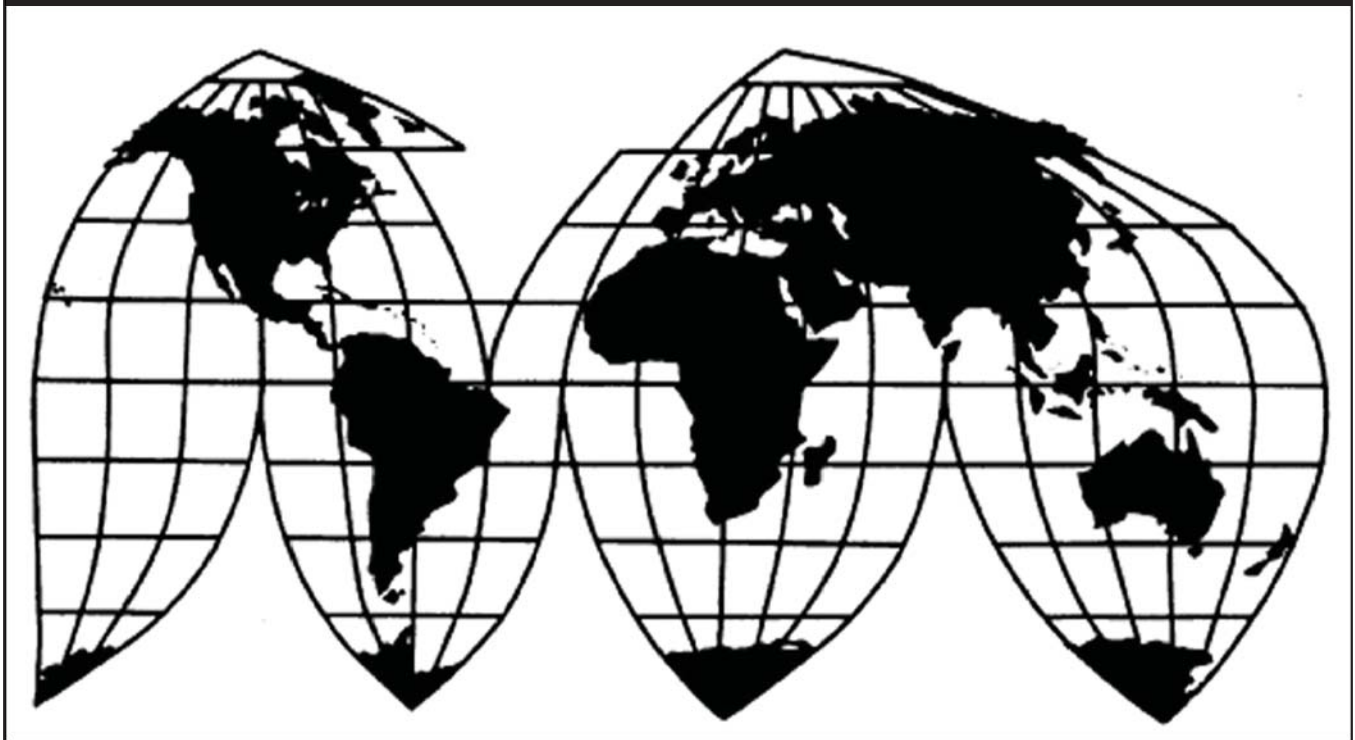
Cased Pencils from China

Investigation No. 731-TA-669 (Third Review)

Publication 4239

June 2011

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report. Such deletions are indicated by asterisks.

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-669 (Third Review)

CASED PENCILS 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)), that revocation of the antidumping duty order on cased pencils 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 November 1, 2010 (75 FR 67102) and determined on February 4, 2011 that it would conduct an expedited review (76 FR 11267, March 1, 2011).

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 cased pencils from China is likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

I. BACKGROUND

In December 1994, the Commission determined that an industry in the United States was threatened with material injury by reason of less than fair value (“LTFV”) imports of cased pencils from China,¹ and on December 28, 1994, the Department of Commerce (“Commerce”) issued an antidumping duty order on imports of cased pencils from China.²

On December 1, 1999, the Commission instituted its first five-year review pursuant to section 751(c) of the Act to determine whether revocation of the antidumping duty order on cased pencils from China would be likely to lead to continuation or recurrence of material injury.³ The Commission determined that the individual and group domestic interested party responses to its notice of institution were adequate. The Commission also found that the individual response of an importer of subject merchandise was adequate. However, because no respondent interested party other than that importer responded to the notice of institution, and the importer accounted for only a small portion of subject import volume, the Commission determined that the respondent interested party group response was inadequate. In the absence of any other circumstances warranting a full review, the Commission decided to conduct an expedited review pursuant to section 751(c)(3) of the Act.⁴ In that review, the Commission determined that revocation of the antidumping duty order covering cased pencils from China would likely

¹ Cased Pencils from China, Inv. No. 731-TA- 669 (Final), USITC Pub. 2816 (Dec. 1994) (“Original Determination”). Five Commissioners made affirmative determinations, three on the basis of a threat of material injury and two on the basis of current material injury. One Commissioner made a negative determination. The petition in the original investigation concerned Thailand, as well as China. The Commission made a final negative determination with respect to imports from Thailand, which were negligible and therefore not cumulated with imports from China. See Certain Cased Pencils from Thailand, Inv. No. 731-TA-670 (Final), USITC Pub. 2816 (Oct. 1994).

² 59 Fed. Reg. 66909 (Dec. 28, 1994). Excluded from the antidumping duty order as originally issued were cased pencils exported by China First and those exported by Guangdong that were manufactured by Three Star. China First was subsequently included under the order in an amended determination by Commerce in a voluntary remand. See Writing Instrument Mfrs. v. U.S. Department of Commerce, 21 CIT 1185, 984 F. Supp. 629 (1997), aff’d 178 F. 3d 1311 (Fed. Cir. 1998); Notice of Court Decision: Certain Cased Pencils from the People’s Republic of China, 62 Fed. Reg. 65243 (Dec. 11, 1997); Certain Cased Pencils from the People’s Republic of China; Notice of Amended Final Determination of Sales at Less Than Fair Value and Amended Antidumping Duty Order In Accordance With Final Court Decision, 64 Fed. Reg. 25275 (May 11, 1999). Thereafter, Commerce found that Three Star and China First were in fact the same entity and Commerce, therefore, no longer excluded the Three Star/Guangdong sales chain from the order. Certain Cased Pencils from the People’s Republic of China; Final Results and Partial Rescission of Antidumping Duty Administrative Review, 67 Fed. Reg. 48612, 48613 (July 25, 2002).

³ 64 Fed. Reg. 67304 (December 1, 1999).

⁴ Cased Pencils from China, Inv. No. 731-TA-669 (Review), USITC Pub. 3328 (June 2000) (“First Five-Year Review Determination”) at Attachment A (Explanation of Commission Determination on Adequacy).

lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.⁵

The Commission instituted the second five-year review on July 1, 2005.⁶ On October 4, 2005, 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 and therefore determined that the respondent interested party group response to the notice of institution was inadequate. In the absence of an adequate respondent interested party group response or other circumstances warranting a full review, the Commission decided to conduct an expedited review pursuant to section 751(c)(3) of the Act. In that review, the Commission determined that revocation of the antidumping duty order covering cased pencils 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.⁷

The Commission instituted this third review on November 1, 2010.⁸ On February 4, 2011, the Commission determined that the domestic interested party group response to its notice of institution was adequate, but that the respondent interested party group response was inadequate.⁹ In the absence of an adequate respondent interested party group response, or other factors warranting a full review, the Commission determined to conduct an expedited review pursuant to section 751(c)(3) of the Act.^{10 11} Domestic producer Dixon Ticonderoga Co. (“Dixon Ticonderoga”) responded to the Commission’s notice of institution and filed comments, and domestic producers Sanford, L.P. (“Sanford”), General Pencil Co., Inc. (“General Pencil”), and Musgrave Pencil Co. (“Musgrave Pencil”), jointly responded to the Commission’s notice of institution and filed comments. No respondent interested party has provided any information or argument to the Commission.

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.”¹² 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.”¹³ The Commission’s practice in five-year reviews is to look to the like product

⁵ First Five-Year Review Determination.

⁶ 70 Fed. Reg. 38192 (July 1, 2005).

⁷ Cased Pencils from China, Inv. No. 731-TA-669 (Second Review), USITC Pub. 3820 (Nov. 2005) (“Second Five-Year Review Determination”).

⁸ 75 Fed. Reg. 67102 (Nov. 1, 2010).

⁹ See Confidential Staff Report (“CR”) at Appendix B.

¹⁰ 19 U.S.C. § 1675(c)(3).

¹¹ See CR at Appendix B.

¹² 19 U.S.C. § 1677(4)(A).

¹³ 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).

definition from the original determination and any previous reviews and consider whether the record indicates any reason to revisit that definition.¹⁴

In this five-year review, Commerce has defined the scope of the antidumping duty order as follows:

Imports covered by the order are shipments of certain cased pencils of any shape or dimension (except as described below) which are writing and/or drawing instruments that feature cores of graphite or other materials, encased in wood and/or man-made materials, whether or not decorated and whether or not tipped (e.g., with erasers, etc.) in any fashion, and either sharpened or unsharpened. The pencils subject to the order are currently classifiable under subheading 9609.10.00 of the Harmonized Tariff Schedule of the United States (“HTSUS”). Specifically excluded from the scope of the order are mechanical pencils, cosmetic pencils, pens, noncased crayons (wax), pastels, charcoals, chalks, and pencils produced under U.S. patent number 6,217,242, from paper infused with scents by the means covered in the above-referenced patent, thereby having odors distinct from those that may emanate from pencils lacking the scent infusion. Also excluded from the scope of the order are pencils with all of the following physical characteristics: (1) Length: 13.5 or more inches; (2) sheath diameter: not less than one-and-one quarter inches at any point (before sharpening); and (3) core length: Not more than 15 percent of the length of the pencil. In addition, pencils with all of the following physical characteristics are excluded from the scope of the order: Novelty jumbo pencils that are octagonal in shape, approximately ten inches long, one inch in diameter before sharpening, and three-and-one eighth inches in circumference, composed of turned wood encasing one-and-one half inches of sharpened lead on one end and a rubber eraser on the other end. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of the order is dispositive.¹⁵

¹⁴ See Stainless Steel Sheet and Strip from France, Germany, Italy, Japan, Korea, Mexico, Taiwan and the United Kingdom, Inv. No. 701-TA-380-382 and 731-TA-797-804 (Review), USITC Pub. 3788 (July 2005) at 6; Crawfish Tail Meat from China, Inv. No. 731-TA-752 (Review), USITC Pub. 3614 (July 2003) at 4; Steel Concrete Reinforcing Bar from Turkey, Inv. No. 731-TA-745 (Review), USITC Pub. 3577 (Feb. 2003) at 4.

¹⁵ 76 Fed. Reg. 12323 (March 7, 2011). Commerce has issued the following scope rulings with respect to cased pencils from China: (1) Inspired Design LLC-Pedestal Pets pencil sets are within the scope of the order; (2) It’s Academic compasses with pencils are outside the scope of the order; (3) Paper Magic Group children’s valentine card sets with pencils are outside the scope of the order; (4) Walgreen Co. three graphite pencils and three cased charcoal drawing pencils contained in “Artskills Draw & Sketch Kit” are within the scope of the order; (5) the remaining items contained in Walgreen’s “Artskills Draw & Sketch Kit,” including one pencil sharpener, one sanding pad, one black eraser, one kneaded eraser and one tortillion, are outside the scope of the order; (6) Walgreen’s “ArtSkills Stencil Kit” is not within scope of the order; (7) The Smencil Co. pencils made from recycled newspaper packaged in plastic cylinders along with scent applicators in the “Smencils Home Kit” and “Smencils Mini Kit” are within the scope of the order; (8) Fiskars Brands, Inc. compasses are not included in the scope of the order; (9) Rich Frog Industries Inc. decorated wooden gift pencils are within the scope of the order; (10) Target Corp. RoseArt Clip ‘N Color is excluded from the scope of the order; (11) Barthco Trade Consultants twist crayons are outside the scope of the order; (12) Target Corp. “Hello Kitty Fashion Totes” are outside the scope of the order; (13) Target Corp. “Hello Kitty Memory Maker” is outside the scope of the order; (14) Target Corp. “Crayola the Wave” is outside the scope of the order; (15) Creative Designs International, Ltd. “Naturally Pretty,” a young girl’s
(continued...)

In its determination in the original investigation, the Commission found a single domestic like product consisting of all domestically produced cased pencils, including raw pencils, which are essentially unfinished case pencils.¹⁶ The Commission explained that “[a]lthough the physical characteristics of raw and unfinished cased pencils differ slightly in that the latter are lacquered and may contain a ferrule and an eraser, both items can act as hand held writing instruments and can perform the same function -- writing.”¹⁷ Moreover, the Commission found that all cased pencils shared the same end uses, channels of distribution, manufacturing facilities, and production employees.¹⁸

In the first and second five-year reviews, the Commission adhered to that domestic like product definition, noting that there was no new information obtained during those five-year reviews that suggested a reason for departing from the Commission’s original definition of the domestic like product, and that no party had argued for a different definition.¹⁹

In this third five-year review, there is no new information that would suggest a reason for departing from the Commission’s prior definitions of the domestic like product, and no party has argued for a different domestic like product definition. We therefore continue to define the domestic like product as all cased pencils, coextensive with Commerce’s scope.

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

The domestic interested parties identify the following eight firms as current U.S. manufacturers of cased pencils: Sanford, General Pencil, Musgrave Pencil, Rose Moon, Dixon Ticonderoga, Aakron Rule Co., Panda Pencil Co., and Harcourt Pencil Co.²¹

The only issue that arises in this third five-year review with respect to our definition of the domestic industry is whether any producer should be excluded under the related parties provision, 19 U.S.C. § 1677(4)(B). Section 771(4)(B) of the Act allows the Commission, if appropriate circumstances

¹⁵ (...continued)

10 piece dress-up vanity set, including two 3-inch pencils, is outside the scope of the order; and (16) Nadel Trading Corp. plastic “quasi-mechanical” pencil known as the Bensia pencil is outside the scope of the order. Issues and Decision Memorandum for the Final Results of the Expedited Third Five-Year Sunset Review of the Antidumping Duty Order on Certain Cased Pencils from the People’s Republic of China, March 1, 2011, p. 4.

Commerce has also made the following three changed circumstances findings with respect to cased pencils: (1) certain scent-infused pencils manufactured in China under U.S. patent number 6,217,242 (“Smencils”) are excluded from the order; (2) certain large novelty pencils that meet specific size and graphite characteristics are excluded from the order; and (3) certain novelty jumbo pencils that meet specific size, encasing and graphite characteristics are excluded from the order. Id. at 3.

¹⁶ Original Determination at I-7.

¹⁷ Original Determination at I-7.

¹⁸ Original Determination at I-6.

¹⁹ First Five-year Review Determination at 5; Second Five-Year Review Determination at 5.

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 producers of 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 CR at I-25, PR at I-19-20.

exist, to exclude from the domestic industry producers that are related to an exporter or importer of subject merchandise, or which are themselves importers.²²

In the original investigation the Commission found that one domestic producer, Pentech, was a related party and that appropriate circumstances existed to exclude Pentech from the domestic industry.²³ In the first five-year review, the Commission did not find appropriate circumstances to exclude any domestic producer from the domestic industry.²⁴

In the second five-year review period, the Commission found that one domestic producer, ***, was a related party, but did not find that appropriate circumstances existed to exclude it from the domestic industry.²⁵ The Commission also stated that another domestic producer, Dixon Ticonderoga, had a related pencil production facility in China, but noted that the record contained no information on the extent of Dixon Ticonderoga's ownership of the facility in China or whether Dixon Ticonderoga imported subject merchandise.²⁶ In the absence of further information on Dixon Ticonderoga's ownership and importation interests or any argument that it should be excluded as a related party, the Commission found that appropriate circumstances did not exist to exclude Dixon Ticonderoga from the domestic industry.²⁷

²² The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude a related party include the following:

- (1) the percentage of domestic production attributable to the importing producer;
- (2) the reason the U.S. producer has decided to import the product subject to investigation, i.e., whether the firm benefits from the LTFV sales or subsidies or whether the firm must import in order to enable it to continue production and compete in the U.S. market; and
- (3) the position of the related producer vis-a-vis the rest of the industry, i.e., whether inclusion or exclusion of the related party will skew the data for the rest of the industry.

See, e.g., Torrington Co. v. United States, 790 F. Supp. 1161 (Ct. Int'l Trade 1992), aff'd without opinion, 991 F.2d 809 (Fed. Cir. 1993).

The Commission has also concluded that a domestic producer that does not itself import subject merchandise, or does not share a corporate affiliation with an importer, may nonetheless be deemed a related party if it controls large volumes of imports. The Commission has found such control to exist where the domestic producer was responsible for a predominant proportion of an importer's purchases and the importer's purchases were substantial. See, e.g., Foundry Coke from China, Inv. No. 731-TA-891 (Final), USITC Pub. 3449 (September 2001) at 8-9.

²³ Original Determination at I-8 to I-9. The Commission excluded Pentech from the industry because it had benefitted from LTFV imports and was shielded from negative effects of those imports.

²⁴ The Commission found that one domestic producer, ***, had imported subject cased pencils, but found that appropriate circumstances did not exist to exclude *** from the domestic industry because the limited information in that record did not indicate the extent of *** importation activities, and because *** appearance in the review as a domestic producer supporting continuation of the order suggested that it did not import significant volumes or was not likely to do so if the order were revoked. First Five-Year Review Determination at 6. Also in the first five-year review, an importer alleged that another producer, Sanford, had imported the subject merchandise, but domestic producers refuted the claim, and the Commission concluded that Sanford had not imported subject merchandise.

²⁵ Second Five-Year Review Determination at 6. The Commission found that *** imported cased pencils from China and is related to ***, which imported decorator pencils from China, and was therefore, a related party. The Commission stated that the limited information on the record of that review did not indicate the extent of *** importation activities, but *** had appeared in that review as a domestic producer in support of continuation of the order, rather than as an importer. Moreover, *** stated that its primary interest was in domestic production rather than importation, and no party had requested ***.

²⁶ Second Five-Year Review Determination at 6.

²⁷ Second Five-Year Review Determination at 6. The Commission noted that Dixon Ticonderoga was estimated to account for *** percent of domestic production, a share greater than that of any of the responding domestic

(continued...)

In this third review, Dixon Ticonderoga reported in its response that, in addition to producing the domestic like product, it is also currently a U.S. importer of the subject merchandise.²⁸ Dixon Ticonderoga also reported that it now wholly owns Beijing Fila Dixon Stationary Co., Ltd., a Chinese producer and exporter of the subject merchandise.²⁹ Consequently, Dixon Ticonderoga is a related party as defined by the statute both by virtue of its importation as well as by virtue of its ownership of a Chinese exporter of subject merchandise.

We find that appropriate circumstances exist to exclude Dixon Ticonderoga from the domestic industry as a related party. In the second review, the Commission reported that although Dixon Ticonderoga continued to manufacture cased pencils in the United States, it had shifted much of its pencil production to China in 2002.³⁰ Moreover, for the one year of the current period of review for which the Commission has data, 2009, Dixon Ticonderoga has been *** an importer of subject merchandise. Dixon Ticonderoga reported that, in 2009, it produced *** gross of cased pencils in the United States and imported *** gross of subject cased pencils from related and unrelated pencil producers in China combined, a ratio of *** percent of U.S. imports to U.S. production. Dixon Ticonderoga also reported that its Chinese subsidiary produced and exported to the United States *** gross of subject cased pencils in 2009 for a ratio of *** percent exports to the United States to Dixon Ticonderoga's U.S. production.³¹ Dixon Ticonderoga was *** domestic producer of cased pencils, accounting for *** percent of total U.S. production based on the aggregate 2009 U.S. production data provided in the responses to the Commission's notice of institution.³² Although Dixon Ticonderoga was a Petitioner in the original investigation, and responded to the notice of institution and provided comments in this review in support of continuation of the order, we find that the evidence demonstrates that its primary focus has shifted to importation. Based on the limited record in this expedited review, Chairman Okun and Commissioner Pearson also find that Dixon Ticonderoga may have derived some benefit due to its related party status as ***.³³ Commissioners Aranoff and Pinkert, however, consistent with their respective practices regarding domestic industry exclusion, do not rely on Dixon Ticonderoga's financial performance in excluding it

²⁷ (...continued)

producers except Sanford. Accordingly, whatever its other interests, the Commission found that Dixon Ticonderoga had a significant commitment to domestic production.

²⁸ Response of Dixon Ticonderoga, December 1, 2010, p. 7; and Supplemental Response of Dixon Ticonderoga, January 6, 2011.

²⁹ Response of Dixon Ticonderoga, December 1, 2010, p. 7; and Supplemental Response of Dixon Ticonderoga, January 6, 2011.

³⁰ CR at I-30, PR at I-22.

³¹ Response of Dixon Ticonderoga, December 1, 2010, exh. 4; and Supplemental Response of Dixon Ticonderoga, January 5, 2011, exhs. 3 and 4.

³² CR/PR at Table I-4. No party has requested its exclusion from the domestic industry.

³³ Dixon Ticonderoga's operating income was \$*** in 2009, as compared to *** for Sanford, *** domestic producer of cased pencils, and *** for Musgrave Pencil, *** domestic producer. CR/PR at Table I-4.

from the domestic industry. Accordingly, based on this record, the Commission finds that appropriate circumstances exist to exclude Dixon Ticonderoga from the domestic industry as a related party.^{34 35}

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

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.”³⁶ The SAA states that “under the likelihood standard, the Commission will engage in a counter-factual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo – the revocation or termination of a proceeding and the elimination of its restraining effects on volumes and prices of imports.”³⁷ Thus, the likelihood standard is prospective in nature.³⁸ The U.S. Court of International Trade has found that “likely,” as used in the sunset review

³⁴ Vice Chairman Williamson notes that the evidence is mixed on whether Dixon Ticonderoga should be excluded as a related party. In particular, while its subject imports were *** domestic production in 2009, it was a petitioner in the original investigation and appeared in this review in support of the order’s continuation. No party has argued for its exclusion. Given the limited record in this expedited review, the Vice Chairman does not reach a finding on this issue, as inclusion or exclusion of Dixon Ticonderoga does not affect his analysis or conclusions. Because ***, the Vice Chairman does not separately discuss the data he used in his analysis.

³⁵ While Commissioner Lane notes that Dixon Ticonderoga’s imports were *** domestic production in 2009, she does not exclude it as a related party. The firm was a petitioner in the original investigation and appeared in this review in support of continuation of the order. In addition, the data on the record of this expedited review regarding its imports during the period of review are limited to one year. She further notes that her analysis is not impacted by the majority’s decision to exclude Dixon Ticonderoga from the domestic industry, given the *** changes in the relevant data.

³⁶ 19 U.S.C. § 1675a(a).

³⁷ SAA, H.R. Rep. No. 103-316, vol. I, at 883-84 (1994). The SAA states that “[t]he likelihood of injury standard applies regardless of the nature of the Commission’s original determination (material injury, threat of material injury, or material retardation of an industry). Likewise, the standard applies to suspended investigations that were never completed.” SAA at 883.

³⁸ 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.

provisions of the Act, means “probable,” and the Commission applies that standard in five-year reviews.³⁹

40 41

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.”⁴² 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.”⁴³

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.”⁴⁴ 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).⁴⁵

No respondent interested parties participated in this expedited review. The record, therefore, contains limited new information with respect to the cased pencil industry in China, as well as limited information on the cased pencil market during the period of review. Accordingly, for our determination,

³⁹ See NMB Singapore Ltd. v. United States, 288 F. Supp. 2d 1306, 1352 (Ct. Int’l Trade 2003) (“‘likely’ means probable within the context of 19 U.S.C. § 1675(c) and 19 U.S.C. § 1675a(a)”), aff’d mem., 140 Fed. Appx. 268 (Fed. Cir. 2005); Nippon Steel Corp. v. United States, 26 CIT 1416, 1419 (2002) (same); Usinor Industeel, S.A. v. United States, 26 CIT 1402, 1404 nn.3, 6 (2002) (“more likely than not” standard is “consistent with the court’s opinion”; “the court has not interpreted ‘likely’ to imply any particular degree of ‘certainty’”); Indorama Chemicals (Thailand) Ltd. v. United States, 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, 26 CIT 767, 794 (2002) (“‘likely’ is tantamount to ‘probable,’ not merely ‘possible’”).

⁴⁰ For a complete statement of Chairman 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, Invs. Nos. 701-TA-362 (Review) and 731-TA-707 to 710 (Review) (Remand), USITC Pub. 3754 (Feb. 2005).

⁴¹ 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), 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 these reviews and all subsequent reviews until either Congress clarifies the meaning or the U.S. Court of Appeals for the Federal Circuit addresses this issue.

⁴² 19 U.S.C. § 1675a(a)(5).

⁴³ 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.

⁴⁴ 19 U.S.C. § 1675a(a)(1).

⁴⁵ 19 U.S.C. § 1675a(a)(1). There have been no duty absorption findings by Commerce with respect to the order under review. CR at I-7, PR at I-6. 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.

we rely as appropriate on the facts available from the original investigation and prior reviews and the limited new information on the record in this review.^{46 47}

B. Conditions of Competition

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.”⁴⁸

1. The Original Investigation and the Prior Reviews

The Commission observed in the original investigation and the first and second five-year reviews that demand for cased pencils was seasonal and influenced by population levels, especially changes in the number of school-age students. The Commission also noted that the market for cased pencils was mature, and that no technological developments had occurred since the original investigation and none were likely in the reasonably foreseeable future.⁴⁹

The Commission noted in the first five-year review that the quantity of apparent U.S. consumption had increased approximately *** percent between 1993, the final year of the original period of investigation, and 1998, the final year of the first review period, from *** gross to *** gross.⁵⁰ For the second review period, apparent U.S. consumption in 2004 remained above the 1993 quantity, but declined compared with the end of the first five-year review period to *** gross in 2004.⁵¹

The Commission found that the domestic industry had consolidated in the original investigation.⁵² In the first five-year review, the Commission noted that the consolidation had continued: while there were 11 domestic producers at the time of the original investigation, there were between seven and nine in

⁴⁶ 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. v. United States*, 155 F. Supp. 2d 750, 765 (Ct. Int’l Trade 2001) (“[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.”).

⁴⁷ Chairman 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. See 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, 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.

⁴⁸ 19 U.S.C. § 1675a(a)(4).

⁴⁹ First Five-Year Review Determination at 8; Second Five-Year Review Determination at 9.

⁵⁰ First Five-Year Review Determination at 8; CR/PR at Table I-9.

⁵¹ Second Five-Year Review Determination at 9.

⁵² Original Determination at I-10.

the first review period.⁵³ In the second five-year review, the Commission identified nine domestic producers of cased pencils.⁵⁴

In the original investigation, the Commission recognized the importance of price in purchasing decisions. Two Commissioners characterized the market for cased pencils as price sensitive.⁵⁵ Two other Commissioners observed that there was a shift in the office supply market from small, regional distributors to nationwide catalog wholesalers and superstores. They observed that the large, nationwide purchasers were increasingly making their purchasing decisions on the basis of price rather than non-price factors.⁵⁶ In the first and second review periods, the Commission found that price remained the principal determinant in making a sale.⁵⁷

In the first and second reviews, the Commission noted that the quantity and market share of cased pencils from China increased since the original investigation notwithstanding the order. Imports of cased pencils from China were 4.7 million gross in 1993, accounting for *** percent of apparent U.S. consumption, then increased in absolute terms to 6.0 million gross in 1998, accounting for *** percent of apparent U.S. consumption. Subject imports then increased to 9.2 million gross in 2004, accounting for *** percent of apparent U.S. consumption in 2004.⁵⁸

The quantity and market share of nonsubject imports were also found to have increased since the original investigation. In 1993, there were 2.0 million gross units of imports from nonsubject countries, accounting for *** percent of apparent U.S. consumption. In 1998, 8.9 million gross units were imported from nonsubject countries, accounting for *** percent of apparent U.S. consumption. In 2004, there were 9.0 million gross units of imports from nonsubject countries, accounting for *** percent of apparent U.S. consumption.⁵⁹

2. The Current Review

In this review, we find the following conditions of competition relevant to our analysis.

The conditions of competition relied upon by the Commission in making its determinations in the second five-year reviews generally continued in the current period. The record indicates that competition for cased pencils remains centered principally on price as manufacturers fight for a share of a mature market with limited opportunities for extensive growth.⁶⁰ The record also indicates that a large share of cased pencil sales are being made to a few large customers, and as large stationary firms and mass market merchandisers have consolidated their dominance in the U.S. market, there are fewer large purchasers of cased pencils with greater negotiating power.⁶¹

⁵³ First Five-Year Review Determination at 8.

⁵⁴ Second Five-Year Review Determination at 5.

⁵⁵ Original Determination at I-22 (“Views of Commissioners Rohr and Newquist”).

⁵⁶ Original Determination at I-17 (“Views of Chairman Watson and Commissioner Bragg”).

⁵⁷ First Five-Year Review Determination at 11; Second Five-Year Review Determination at 13.

⁵⁸ Second Five-Year Review Determination at 9-10.

⁵⁹ First Five-Year Review Determination at 9; Second Five Year Review Determination at 10.

⁶⁰ CR at I-22, I-39, PR at I-18, I-28.

⁶¹ Response of Dixon Ticonderoga, December 1, 2010, p. 11; and Response of General Pencil, Musgrave Pencil, and Sanford, December 1, 2010, pp. 8 & 12.

Demand for cased pencils in the U.S. market is reportedly derived from population growth, principally among school-age children.⁶² Apparent U.S. consumption increased by *** percent, from *** gross in 2004 to *** gross in 2009.⁶³

The U.S. cased pencils market is supplied by domestic producers, subject imports, and nonsubject imports. The limited record in this review suggests that the domestic industry continues to consolidate, with eight firms currently producing cased pencils in the United States compared with 11 U.S. producers in the original investigation.⁶⁴ Since the Commission's second five-year review, domestic producer Tennessee Pencil ceased production of pencils, and ***.⁶⁵

The domestic industry's share of apparent U.S. consumption has continued to decline and has reached its lowest point during this review: it was *** percent in 1993, *** percent in 1998, *** percent in 2004, and *** percent in 2009.⁶⁶ Subject imports maintained a significant presence in the U.S. market during the period examined. The market share held by subject imports from China has increased since the original investigation to its highest level in 2009, accounting for *** percent of apparent U.S. consumption in 2009.⁶⁷ The market share held by nonsubject imports has increased since the original investigation to its highest level in 2009, accounting for *** percent of apparent U.S. consumption.⁶⁸ The top five nonsubject country sources of cased pencils in 2009 – Indonesia, Taiwan, Brazil, Costa Rica, and Vietnam – accounted for the *** of nonsubject imports volume that year.⁶⁹

In the face of large volumes of Chinese imports in the commodity pencil segment, domestic producers have concentrated their efforts in the specialty and custom pencil market.⁷⁰ Since the last review, however, Internet-based suppliers of Chinese pencils have become more widespread, which has allowed Chinese producers to participate more fully in the specialty pencil market. The record also indicates that the price for the largest raw material input in pencil production, wooden slats typically made with cedar or basswood, has increased dramatically over this review period.⁷¹

Based on the limited record evidence, we find that the conditions of competition in the cased pencils market are not likely to change significantly in the reasonably foreseeable future. We find that these conditions of competition provide us with a reasonable basis on which to assess the likely effects of revocation.

C. Likely Volume of Subject Imports

In evaluating the likely volume of imports of subject merchandise if an antidumping duty order is revoked, the Commission is directed to consider whether the likely volume of imports would be

⁶² CR at I-39, PR at I-28.

⁶³ CR/PR at Table I-9. Apparent U.S. consumption was *** gross in 1998 and *** gross in 1993.

⁶⁴ CR at I-24-25, PR at I-19-20. There may be other domestic producers. CR at I-25, n.61, PR at I-20, n.61

⁶⁵ CR at I-25, PR at I-20.

⁶⁶ CR/PR at Table I-9 (2009 market share calculated from Tables I-4 and I-9). In 2009, Dixon Ticonderoga's market share for shipments of its U.S. produced product was *** percent. See CR/PR Tables I-4 & I-9.

⁶⁷ CR/PR at Table I-9.

⁶⁸ CR/PR at Table I-9.

⁶⁹ CR/PR at Table I-8.

⁷⁰ Response of Sanford, General Pencil, and Musgrave Pencil, December 1, 2010, at 4.

⁷¹ Response of Dixon Ticonderoga, December 1, 2010, at 12.

significant either in absolute terms or relative to production or consumption in the United States.⁷² In doing so, the Commission must consider “all relevant economic factors,” including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) the potential for product shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.⁷³

1. The Original Investigation

In the original investigation the Commission noted that the volume of subject imports increased rapidly over the period of investigation, and that increases in imports of noncommodity, decorated pencils, which the domestic industry traditionally had been able to sell at a higher price, were particularly rapid.⁷⁴ The Commission found that exports to the United States as a share of Chinese producers’ total shipments had increased over the period of investigation while Chinese domestic shipments had decreased as a share of total shipments. It found that these trends indicated that imports from China would be increasingly directed to the U.S. market and that the rapid increase of imports from China posed a threat of material injury to the domestic industry.⁷⁵

2. The Prior Reviews

The record in the first five-year review further indicated that the number of producers of cased pencils in China had increased since the time of the original investigation. Because of this increase, and the lack of information indicating any reduction in the capacity of Chinese producers that existed at the time of the original investigation, the Commission concluded that the capacity to produce cased pencils in China had likely risen since the time of the original investigation. The Commission found this conclusion to be corroborated by information in the record showing that Chinese exports of cased pencils to all countries had risen considerably since 1993, suggesting that capacity had indeed increased.⁷⁶ In light of the Chinese industry’s capacity increases, the significant increase in its exports since the order, and its historic ability to rapidly increase exports to the United States, the Commission found that upon revocation of the order, producers of subject merchandise in China would increase exports to the United States above existing high levels. The Commission consequently concluded that the likely volume of subject imports would be significant if the antidumping duty order was revoked.⁷⁷

In the second five-year review, the domestic interested parties identified 19 Chinese producers and 19 Chinese exporters of pencils. According to a private market intelligence report, there were approximately 400 producers of cased pencils in China during 2003.⁷⁸ The level of subject imports in 2004 (9.2 million gross) exceeded the domestic producers’ shipments (***) gross). The Commission found that subject imports’ share of the U.S. market already exceeded the market share of the domestic

⁷² 19 U.S.C. § 1675a(a)(2).

⁷³ 19 U.S.C. § 1675a(a)(2)(A-D).

⁷⁴ Original Determination at I-16, I-26.

⁷⁵ Original Determination at I-16-I-17.

⁷⁶ First Five-Year Review Determination at 10.

⁷⁷ First Five-Year Review Determination at 10-11.

⁷⁸ Second Five-Year Review Determination at 12.

industry and would be likely to increase even further if the order were revoked.⁷⁹ Accordingly, the Commission found that the likely volume of subject imports would be significant, both in absolute and relative terms.⁸⁰

3. The Current Review

Several factors support the conclusion that subject import volume is likely to be significant in the event of revocation of the order. Notwithstanding the antidumping duty order, subject imports from China have continued to enter the U.S. market in substantial quantities and have increased from 9.2 million gross in 2004 to 10.5 million gross in 2009.⁸¹ The record indicates that the volume of subject imports was more than *** the combined 2009 U.S. production of General Pencil, Musgrave Pencil, and Sanford; these three producers accounted for approximately *** percent of U.S. production.⁸² Subject imports' market share by quantity was at its peak level over the periods investigated in 2009 at *** percent, greater than their *** percent market share in 2004, and *** the market share from the original investigation.⁸³ Thus, it is evident that cased pencils from China have a firm foothold in the U.S. market and Chinese exporters have been able to increase their exports to the United States even with the antidumping duty order in place.

Because of the lack of participation by Chinese producers and importers of subject merchandise, the Commission has limited information on the foreign industry in this review. In the last review, it was reported that there were approximately 400 producers of cased pencils in China during 2003, and domestic producers have indicated that there is no information indicating that the total number of producers in China has decreased from this figure.⁸⁴ Moreover, Dixon Ticonderoga listed 74 Chinese exporters of pencils in its response to the Commission in the current review.⁸⁵

Domestic producers note that the capacity to produce cased pencils in China was at least 104 million gross in 2010, an increase of 36.8 percent from the 76 million gross capacity reported in the previous period of review.⁸⁶ Domestic producers also assert that the Chinese industry has an inventory of 35 million gross cased pencils available for export, which *** the *** gross total consumption in the U.S. market in 2009.⁸⁷

The record indicates that China exports a significant percentage of its domestic production of cased pencils. In 2009, approximately 28 percent of China's production of cased pencils was exported.⁸⁸ Based on *Global Trade Atlas* data, China is, by far, the world's largest exporter of cased pencils,

⁷⁹ Id.

⁸⁰ Id.

⁸¹ CR/PR at Table I-9. The record indicates that subject imports have more than doubled since the original investigation.

⁸² Response of Sanford, General Pencil, and Musgrave Pencil, April 21, 2011, at 7.

⁸³ CR/PR at Table I-9.

⁸⁴ CR at I-43, PR at I-31.

⁸⁵ Response of Dixon Ticonderoga, December 1, 2010, at 8 and Ex. 2.

⁸⁶ CR at I-44; PR at I-32.

⁸⁷ Response of Dixon Ticonderoga, April 21, 2011, at 9-10.

⁸⁸ CR/PR at Table I-10.

representing more than one-third of total world exports, in terms of value, in 2009.⁸⁹ According to official Chinese export statistics, from 2005 to 2009, the quantity of China's total exports of cased pencils increased by 11.5 percent, rising from 38.8 million gross to 43.3 million gross.⁹⁰ The United States was consistently China's largest export market for cased pencils, accounting for 25.1 percent of China's exports in 2009.⁹¹

Moreover, in 2009 the average unit values ("AUVs") of Chinese exports to the U.S. market were higher than the AUVs to any other Chinese export market, other than Korea, Germany, and Canada, which collectively accounted for only 5.7 percent of Chinese exports.⁹² These higher AUVs make the United States an attractive export market for Chinese cased pencil producers, and would provide further incentive for these producers to increase exports to the United States.

Antidumping duty measures are currently in place in Turkey with respect to "pencils with leads of graphite and crayons encased in a rigid sheath" produced in China.⁹³ In 1994, Mexico imposed an antidumping duty on imports of pencils from China, but effective October 15, 2008, Mexico's antidumping duty was rescinded and replaced with a transitional duty, which was to be phased out over a three-year period.⁹⁴

Based on the large and increasing presence of subject imports in the U.S. market, the size of the industry in China, and the Chinese industry's total volume of exports and continued focus on the attractive U.S. market, we find that Chinese producers would likely increase their exports to the United States above their already significant level if the antidumping duty order was revoked. Thus, we find that the likely volume of subject imports, both in absolute terms and as a share of the U.S. market, would be significant if the order was revoked.

D. Likely Price Effects of Subject Imports

In evaluating the likely price effects of subject imports if the antidumping duty order is revoked, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared to the domestic like product and whether the subject imports are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of the domestic like product.⁹⁵

⁸⁹ CR/PR at Table I-12. We have used value data here because different countries measured pencil quantity in different ways.

⁹⁰ CR/PR at Table I-11.

⁹¹ CR/PR at Table I-11. According to domestic producers, the increase in Internet buying and selling of cased pencils, particularly marked in the specialty and custom segment, where U.S. production is increasingly concentrated, makes it much easier for a seller of subject imports to find a U.S. buyer. Response of General Pencil, Musgrave Pencil, and Sanford, April 21, 2011, p. 4.

⁹² CR/PR at Table I-11.

⁹³ CR at I-41, PR at I-30.

⁹⁴ CR at I-39, PR at I-30.

⁹⁵ 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.

1. The Original Determination

In the original determination, the Commission found that the subject imports undersold domestically produced cased pencils in the vast majority of pricing comparisons and that there was a significant likelihood the subject imports would have a depressing or suppressing effect on prices for the domestic like product. Subject import prices were declining for those products where competition with the domestic like product was most intense.⁹⁶

2. The Prior Reviews

In the first five-year review, because current pricing information was limited to data on AUVs between 1997 and 1999, the Commission relied on the indication of current underselling shown by those data notwithstanding their limitations.⁹⁷ The Commission concluded in that review that, if the antidumping duty order was revoked, prices for the subject imports would decline significantly. The Commission noted that the record suggested that the cased pencils market was price-sensitive and that there was a high degree of substitutability between the subject and domestic merchandise. Moreover, the pricing patterns of the subject imports in the review period and during the original investigation indicated that there was likely to be significant underselling by the subject imports. The Commission observed, in light of the growing concentration and consolidation of purchasers, which increasingly were nationwide catalog wholesalers and superstores that made purchasing decisions on the basis of price, that increased volumes of low-priced subject imports would likely depress prices for domestically produced cased pencils. Consequently, the Commission found that, if the antidumping duty order were to be revoked, the subject imports would likely have significant price depressing or suppressing effects.⁹⁸

In the second five-year review, the Commission found that price remained a principal determining factor in making a sale of cased pencils.⁹⁹ While the Commission noted that it was mindful of possible product mix issues, the record of that review indicated that the AUVs of the subject imports continued to be considerably lower than the AUVs of the U.S. producers' U.S. shipments.¹⁰⁰ The Commission found that, if the order were to be revoked, the subject imports would likely undersell the U.S. product in order to gain even more U.S. market share, forcing U.S. producers to lower their prices to avoid further declines in their production and shipment levels.¹⁰¹ The Commission therefore concluded that, if the order was revoked, the likely significant increase in subject import volume at prices that would likely undersell the U.S. product would likely have significant adverse price effects on U.S. producers.¹⁰²

⁹⁶ First Five-Year Review Determination at 11.

⁹⁷ The Commission, acknowledging that AUVs can be affected by variations in product mix, observed that AUVs of all cased pencils imported from China (including those that were at that time nonsubject imports) increased from \$3.82 per gross in 1994 to \$5.59 per gross in 1995, the first full year after issuance of the antidumping duty order. Since then, AUVs for imports from China fluctuated at lower levels. In 1998, the AUVs for cased pencil imports from China was \$4.81 per gross, which was considerably above pre-order levels, but well below the AUVs for the domestic like product, which was valued at *** per gross. First Five-Year Review Determination at 11.

⁹⁸ First Five-Year Review Determination at 11-12.

⁹⁹ Second Five-Year Review Determination at 13.

¹⁰⁰ Id.

¹⁰¹ Id.

¹⁰² Id.

3. The Current Review

There is no new product-specific pricing information on the record of this review. As noted above, price remains a principal determinant in making a sale as manufacturers compete for a share of this mature market.¹⁰³ Although we continue to be mindful of possible product mix issues, the record of this review indicates that the AUVs of the subject imports were \$5.53 per gross in 2009 compared with the AUVs of the U.S. producers' U.S. shipments, which were \$*** per gross.¹⁰⁴ We note that the increase in subject import AUVs may simply reflect the restraining effects of the order and variations in product mix. Moreover, as subject import volumes have more than doubled since the original investigation, the AUVs of the U.S. producers' U.S. shipments have fallen ***.¹⁰⁵

The record also indicates that since the imposition of the order, export AUVs of cased pencils from China to the United States have risen significantly above the average AUVs of Chinese cased pencil exports to the rest of the world.¹⁰⁶ In 2009 and in the first nine months of 2010, the AUVs of Chinese exports to the United States have been between 18 to 21 percent above the average export prices to the rest of the world, and well over 21 percent above those for Taiwan and the U.K., the second and third largest Chinese export markets.¹⁰⁷ The record thus demonstrates that while the order has not restrained all Chinese exports, it appears to have placed some price discipline on those exports.

We find it likely that subject foreign producers would resume their pattern of underselling from the original investigation if the order were revoked in order to further increase their share of this price-sensitive market. In response, domestic producers would have to either reduce their prices or relinquish market share. Accordingly, we find that, if the order were revoked, the likely significant increase in subject import volume at prices that would likely undersell the domestic like product would likely have significant adverse price effects on the domestic industry.

E. Likely Impact of Subject Imports¹⁰⁸

In evaluating the likely impact of imports of subject merchandise if the antidumping duty orders under review were 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 the following: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages,

¹⁰³ CR at I-13, PR at I-8.

¹⁰⁴ CR/PR at Tables I-4, I-5, I-8. We note that the large range of reported AUVs for the domestic producers suggests that there are significant product mix differences among them. CR/PR at Table I-4 (AUVs for General Pencil of \$*** per gross, for Musgrave Pencil of \$*** per gross, and for Sanford of \$*** per gross).

¹⁰⁵ CR/PR at Tables I-4, I-5 (showing that in 1993 the AUVs of U.S. producers' U.S. shipments were \$*** per gross).

¹⁰⁶ Response of Dixon Ticonderoga, April 21, 2011, at 13.

¹⁰⁷ *Id.* at 13-14.

¹⁰⁸ 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. In the final results of its expedited review of the antidumping duty order on cased pencils from China, Commerce found likely dumping margins of 8.60 percent for China First Pencil Co., Ltd; 19.36 percent for Shanghai Lansheng Corp; 11.15 percent for Shanghai Foreign Trade Corp; and 53.65 percent for Guangdong Provincial Stationery & Sporting Goods Import & Export Corp., and 53.65 percent for China-wide rate. 76 Fed. Reg. 12323 (March 7, 2011).

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.¹⁰⁹ 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.¹¹⁰ As instructed by the statute, we have considered the extent to which any improvement in the state of the domestic industry is related to the orders at issue and whether the industry is vulnerable to material injury if the orders were revoked.

1. The Original Determination

In the original determination the Commission found that the U.S. cased pencil industry was threatened with material injury by reason of the subject imports, based on the domestic industry's declining market share, capacity utilization, and employment and the domestic industry's operating losses experienced throughout the period of investigation.¹¹¹ The Commission found that increased volumes of subject imports would lead to price declines for the domestic like product and would prevent domestic producers from recovering cost increases. As a result, the Commission concluded that the domestic industry's financial performance would likely deteriorate.¹¹²

2. The Prior Reviews

In the first five-year review, the Commission noted that the order had had a positive effect on the industry's performance. The Commission found that the industry was not vulnerable in light of its current profitability and the increase in AUVs for domestically produced pencils since the original investigation. The Commission then referred to its findings that revocation of the order likely would result in a significant increase in the volume of subject imports at prices significantly lower than those of the domestic like product, and that such increased volumes of subject imports would likely depress or suppress the domestic industry's prices significantly. The Commission observed that, because a reduction in prices would not stimulate significant additional demand, revocation would likely have a significant adverse impact on the production, shipment, sales, and revenue levels of the domestic industry. These declines would in turn have a direct adverse impact on the industry's employment, profitability, and ability to raise capital and make and maintain necessary capital investments. Accordingly, based on the limited record in that review, the Commission concluded that, if the antidumping duty order were revoked, subject imports would be likely to have a significant adverse impact on the domestic industry within a reasonably foreseeable time.¹¹³

In the second five-year review, the Commission noted that the record did not include current financial information on the U.S. industry or otherwise permit it to assess whether the industry was currently vulnerable. The record did show, however, that the U.S. industry's production and U.S. shipments declined substantially since the first review. Its production decreased from *** gross in 1998 to *** gross in 2004, and its U.S. shipments decreased from *** gross in 1998 to *** gross in 2004.¹¹⁴ The Commission found that subject import volume was likely to be significant if the order is revoked, resulting in likely significant price effects. The Commission concluded that revocation of the

¹⁰⁹ 19 U.S.C. § 1675a(a)(4).

¹¹⁰ 19 U.S.C. § 1675a(a)(4).

¹¹¹ Original Determination at I-9 - I-12.

¹¹² Original Determination at I-17-I-18, I-27-I-28.

¹¹³ First Five-Year Review Determination at 12-13.

¹¹⁴ Second Five-Year Review Determination at 13-14.

antidumping duty order would be likely to lead to significant declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and negative effects on the domestic industry's development and production efforts within a reasonably foreseeable time.¹¹⁵

3. The Current Review

In these expedited reviews, the record information on the domestic industry's condition is limited. We collected 2009 data for several performance indicators, but no data from 2005 to 2008. The limited evidence in this expedited review is insufficient for us to make a finding on whether the domestic industry is vulnerable to the continuation or recurrence of material injury in the event of revocation of the order.¹¹⁶

The data show that, compared with the last review, the domestic industry has become smaller and virtually all of its performance indicators are significantly lower. In 2009, the domestic industry's capacity was *** gross, its production was *** gross, and its rate of capacity utilization was *** percent.¹¹⁷ The domestic industry's U.S. shipments were *** gross, accounting for *** percent of apparent U.S. consumption.¹¹⁸ All of these indicators are lower than in the last review.

Although comparisons with the last two reviews were not available, the domestic industry's operating ***, and operating margins of *** percent, were both lower than in the original investigation.¹¹⁹

We have also considered the role of factors other than the subject imports so as not to attribute injury from such factors to subject imports. The share of the U.S. market held by nonsubject imports has continued to increase since the last review; it was *** percent in 2004 and *** percent in 2009.¹²⁰ We nevertheless find that a significant portion of the expected increase in subject imports would continue to be at the expense of the domestic industry given the likelihood of subject import underselling and adverse price effects.

We recognize that the United States suffered from an economic downturn in 2009. Apparent U.S. consumption for cased pencils, however, increased by *** percent from 2004 to 2009, indicating that demand for cased pencils did not deteriorate significantly in the economic downturn.¹²¹ We find that any lingering effects of the economic downturn are not likely to sever the causal nexus between subject imports and their likely significant adverse impact on the domestic industry if the order were revoked.

Based on the record of this review, we find that the likely volume and price effects of the subject imports, should the order be revoked, would likely have a significant adverse impact on the production, shipments, sales, market share, and revenues of the domestic industry. Declines in these indicators of industry performance would have a direct adverse impact on the industry's profitability and employment,

¹¹⁵ Second Five-Year Review Determination at 14.

¹¹⁶ Commissioner Lane and Commissioner Pinkert conclude, based on the record evidence, that the domestic industry producing cased pencils is vulnerable. Capacity, capacity utilization, production, and U.S. shipments were lower for the domestic industry in 2009 than in the last review, as noted in the text. It is also significant that the domestic industry's market share has fallen sharply since the original investigation *** and that the domestic industry experienced *** and *** in 2009.

¹¹⁷ CR/PR at Table I-5 (as calculated from Table I-4).

¹¹⁸ CR/PR at Table I-9.

¹¹⁹ CR/PR at Table I-5.

¹²⁰ CR/PR at Table I-9. The share of the U.S. market held by nonsubject imports was *** percent in 1993 and *** percent in 1998. CR/PR at Table I-9.

¹²¹ CR/PR at Table I-9.

as well as its ability to raise capital, to make and maintain capital investments, and to fund research and development.

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

CONCLUSION

For the foregoing reasons, we determine that revocation of the antidumping duty order on cased pencils from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

INFORMATION OBTAINED IN THE REVIEW

INTRODUCTION

Background

On November 1, 2010, in accordance with section 751(c) of the Tariff Act of 1930, as amended (“the Act”),¹ the U.S. International Trade Commission (“Commission” or “USITC”) gave notice that it had instituted a review to determine whether revocation of the antidumping duty order on cased pencils from China would be likely to lead to a continuation or recurrence of material injury within a reasonably foreseeable time.^{2 3} On February 4, 2011, the Commission determined that the domestic interested party group response to its notice of institution was adequate⁴ and that the respondent interested party group response was inadequate.⁵ In the absence of respondent interested party responses and any other circumstances that would warrant the conduct of a full review, the Commission determined to conduct an expedited review of the antidumping duty order pursuant to section 751(c)(3) of the Act (19 U.S.C. § 1675(c)(3)).⁶ The Commission voted on this review on June 13, 2011. The Commission notified Commerce of its determination on June 24, 2011. The following tabulation presents selected information relating to the schedule of this five-year review.⁷

Effective date	Action	Federal Register citation
November 1, 2010	Commission’s institution of five-year review	75 FR 67102 November 1, 2010
November 1, 2010	Commerce’s initiation of five-year review	75 FR 67082 November 1, 2010
February 4, 2011	Commission’s determination to conduct an expedited five-year review	76 FR 11267 March 1, 2011
March 7, 2011	Commerce’s final expedited five-year review determination	76 FR 12323 March 7, 2011
June 13, 2011	Commission’s vote	Not applicable
June 24, 2011	Commission’s determination transmitted to Commerce	Not applicable

¹ 19 U.S.C. 1675(c).

² *Cased Pencils From China*, 75 FR 67102, November 1, 2010. All interested parties were requested to respond to this notice by submitting the information requested by the Commission. The Commission’s notice of institution is presented in app. A.

³ In accordance with section 751(c) of the Act, the U.S. Department of Commerce (“Commerce”) published a notice of initiation of a five-year review of the subject antidumping duty order concurrently with the Commission’s notice of institution. *Initiation of Five-Year (“Sunset”) Review*, 75 FR 67082, November 1, 2010.

⁴ The Commission received two submissions in response to its notice of institution in the subject review. One was filed on behalf of Dixon Ticonderoga Co. (“Dixon Ticonderoga”) and the other was filed on behalf of Sanford, L.P. (“Sanford”), General Pencil Co., Inc. (“General Pencil”), and Musgrave Pencil Co. (“Musgrave Pencil”), domestic producers of cased pencils. The domestic interested parties reported that together they accounted for approximately 88 percent of total U.S. production of cased pencils in 2009. *Response of Sanford, General Pencil, and Musgrave Pencil*, December 1, 2010, p. 10.

⁵ The Commission did not receive a response from any respondent interested parties to its notice of institution.

⁶ *Cased Pencils from China*, 76 FR 11267, March 1, 2011. The Commission’s notice of an expedited review appears in app. A. The Commission’s statement on adequacy is presented in app. B.

⁷ Cited *Federal Register* notices beginning with the Commission’s institution of a five-year sunset review are presented in app. A.

The Original Investigation and Subsequent Five-Year Reviews

On November 10, 1993, a petition was filed with Commerce and the Commission alleging that an industry in the United States was materially injured and threatened with further material injury by reason of less-than-fair-value (“LTFV”) imports of cased pencils from China.^{8 9} The petition was subsequently amended to include an allegation of critical circumstances with respect to imports of the subject merchandise from China. On November 8, 1994, Commerce made an affirmative final LTFV determination¹⁰ and, on December 15, 1994, the Commission completed its original investigation, determining that an industry in the United States was materially injured by reason of LTFV imports of cased pencils from China.¹¹ Following receipt of the Commission’s final affirmative determination, Commerce issued an antidumping duty order on imports of cased pencils from China.¹² Effective May 11, 1999, Commerce amended its antidumping duty order (and final LTFV determination) following the Federal Circuit’s affirmation of the CIT’s affirmation of Commerce’s voluntary remand determination.¹³ Commerce’s original and amended final dumping margins are presented in table I-1.

⁸ The petition was filed on behalf of the Pencil Makers Association, Inc. (“PMA”), and the individual companies comprising its membership (eight domestic manufacturers of cased pencils and one domestic manufacturer of cosmetic pencils). On January 1, 1994, the PMA merged with the Writing Instrument Manufacturers Association (“WIMA”), and the former PMA members formed the Pencil Section of the WIMA. *Certain Cased Pencils From the People’s Republic of China: Investigation No. 731-TA-669 (Final)*, USITC Publication 2837, December 1994, p. II-3; and *Cased Pencils From China: Investigation No. 731-TA-669 (Second Review)*, USITC Publication 3820, November 2005, p. I-2.

⁹ The original petition also included an allegation concerning LTFV imports of cased pencils from Thailand. However, the Commission made a final negative determination of injury in the investigation concerning Thailand on October 5, 1994. *Certain Cased Pencils From the People’s Republic of China: Investigation No. 731-TA-669 (Final)*, USITC Publication 2837, December 1994, p. II-3.

¹⁰ Commerce made affirmative critical circumstances findings with respect to subject imports from Shanghai Foreign Trade Corp., Shanghai Lansheng Corp., and all other Chinese pencil manufacturers which were found to be dumping and which did not respond to Commerce’s questionnaires. Because it found imports from China First Pencil Co. and Guangdong Provincial Stationery & Sporting Goods Import & Export Corp. to not be dumped, Commerce did not make a critical circumstances determination with respect to these companies. *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cased Pencils From the People’s Republic of China*, 59 FR 55625, November 8, 1994.

¹¹ The Commission made affirmative critical circumstances determinations with regard to LTFV imports from Shanghai Foreign Trade Corp., Shanghai Lansheng Corp., and all other Chinese pencil manufacturers. *Certain Cased Pencils From the People’s Republic of China: Investigation No. 731-TA-669 (Final)*, USITC Publication 2837, December 1994, p. I-24.

¹² *Antidumping Duty Order: Certain Cased Pencils from the People’s Republic of China*, 59 FR 66909, December 28, 1994.

¹³ Effective November 23, 1997, Customs began suspending liquidation of subject merchandise produced and exported by China First, pending final and conclusive court decision in the action and Commerce’s amendment for the final LTFV determination and the antidumping duty order. *Notice of Court Decision: Certain Cased Pencils From the People’s Republic of China*, 62 FR 65243, December 11, 1997; and *Certain Cased Pencils From the People’s Republic of China; Notice of Amended Final Determination of Sales at Less Than Fair Value and Amended Antidumping Duty Order in Accordance With Final Court Decision*, 64 FR 25275, May 11, 1999.

Table I-1**Cased pencils: Commerce's original and amended final dumping margins**

Exporter/producer	Final weighted average margin (in percent)	Final weighted average margin, as amended (in percent)
China First Pencil Co. ("China First")/China First	0.00	8.60
China First/all other producers	44.66	53.65
Shanghai Lansheng Corp. ("Lansheng")	17.45	19.36
Shanghai Foreign Trade Corp. ("SFTC")	8.31	11.15
Guangdong Provincial Stationery & Sporting Goods Import & Export Corp. ("Guangdong")/Shanghai Three Star Stationery Industry Corp. ("Three Star")	0.00	0.00
Guangdong/all other producers	44.66	53.65
PRC-wide	44.66	53.65
Source: <i>Notice of Final Determination of Sales at Less Than Fair Value: Certain Cased Pencils From the People's Republic of China</i> , 59 FR 55625, November 8, 1994; <i>Notice of Court Decision: Certain Cased Pencils From the People's Republic of China</i> , 62 FR 65243, December 11, 1997; and <i>Certain Cased Pencils From the People's Republic of China; Notice of Amended Final Determination of Sales at Less Than Fair Value and Amended Antidumping Duty Order in Accordance With Final Court Decision</i> , 64 FR 25275, May 11, 1999.		

The Commission instituted the first five-year review of the subject order on December 1, 1999, and determined on March 3, 2000, that it would conduct an expedited review.¹⁴ On July 5, 2000, Commerce published its determination that the revocation of the antidumping duty order on cased pencils from China would be likely to lead to continuation or recurrence of dumping at the amended final determination rates (see table I-1).¹⁵ The Commission determined that material injury would be likely to continue or recur within a reasonably foreseeable time on July 24, 2000, and published its determination on July 28, 2000.¹⁶ Commerce published notice of the first continuation of the antidumping duty order on August 10, 2000.¹⁷

The Commission instituted the second five-year review of the subject order on July 5, 2005, and determined on October 4, 2005, that it would conduct an expedited review.¹⁸ On November 7, 2005, Commerce published its determination that revocation of the antidumping duty order on cased pencils from China would be likely to lead to continuation or recurrence of dumping at the following weighted average margins: China First/Three Star (8.60 percent), Lansheng (19.36 percent), SFTC (11.15 percent),

¹⁴ *Cased Pencils From China*, 64 FR 67304, December 1, 1999; and *Scheduling of an Expedited Five-Year Review Concerning the Antidumping Duty Order on Cased Pencils From China*, 65 FR 15007, March 20, 2000.

¹⁵ *Certain Cased Pencils From the People's Republic of China; Final Results of Expedited Sunset Review of Antidumping Duty Order*, 65 FR 41431, July 5, 2000.

¹⁶ *Cased Pencils From China: Determination*, 65 FR 46495, July 28, 2000.

¹⁷ *Continuation of Antidumping Duty Order: Cased Pencils From the People's Republic of China*, 65 FR 48960, August 10, 2000.

¹⁸ *Cased Pencils From China*, 70 FR 60557, October 18, 2005.

Guangdong (53.65 percent), and PRC-wide rate (53.65 percent).¹⁹ On November 30, 2005, the Commission notified Commerce of its determination that material injury would be likely to continue or recur within a reasonably foreseeable time²⁰ and, on December 20, 2005, Commerce issued the second continuation of the antidumping duty order.²¹

Commerce's Final Result of Expedited Third Five-Year Review

Commerce published the final results of its expedited third five-year review on March 7, 2011. Commerce concluded that revocation of the antidumping duty order on cased pencils from China would be likely to lead continuation or recurrence of dumping at the following weighted average margins: China First (8.60 percent), Three Star (0.00 percent), Lansheng (19.36 percent), SFTC (11.15 percent), Guangdong (53.65 percent), and PRC-wide rate (53.65 percent).²²

Commerce's Administrative Reviews

Commerce has completed 12 administrative reviews of the antidumping duty order on cased pencils from China. Commerce also initiated, but later rescinded, two new shipper reviews.²³ There have been 16 scope rulings, three changed circumstances determinations, and no duty absorption findings with respect to cased pencils from China.²⁴ Information on Commerce's final determination, antidumping duty order, administrative review determinations, and final results of its expedited third five-year review is presented in table I-2.

¹⁹ Commerce originally excluded from the order exports made by Guangdong and produced by Three Star. However, Commerce determined in its 1999-2000 administrative review that the Guangdong/Three Star sales chain was no longer excluded from the order, and that all merchandise exported by Guangdong was subject to the cash deposit requirements at the PRC-wide rate. Commerce also determined in its 1999-2000 administrative review that China First and Three Star should be treated as a single entity. *Certain Cased Pencils from the People's Republic of China; Notice of Final Results of Expedited Sunset Review of Antidumping Duty Order*, 70 FR 67427, November 7, 2005.

²⁰ *Cased Pencils From China*, 70 FR 72652, December 6, 2005.

²¹ *Notice of Continuation of Antidumping Duty Order on Certain Cased Pencils from the People's Republic of China*, 70 FR 75450, December 20, 2005.

²² *Certain Cased Pencils From the People's Republic of China: Final Results of the Expedited Third Sunset Review of the Antidumping Duty Order*, 76 FR 12323, March 7, 2011.

²³ *Certain Cased Pencils from the People's Republic of China: Rescission of Antidumping Duty New Shipper Review*, 67 FR 11462, March 14, 2002; and *Certain Cased Pencils from the People's Republic of China: Rescission of Antidumping Duty New Shipper Review*, 68 FR 62427, November 4, 2003.

²⁴ *Issues and Decision Memorandum for the Final Results of the Expedited Third Five-Year Sunset Review of the Antidumping Duty Order on Certain Cased Pencils from the People's Republic of China*, March 1, 2011, pp. 3-4. See the section of this report entitled "Scope" for information concerning Commerce's scope rulings and changed circumstances findings.

Table I-2

Cased pencils: Commerce's final determination, antidumping duty order, administrative reviews, and final results of expedited third five-year review, by effective date

Action	Effective date	Federal Register citation	Period of review	Antidumping duty margins		
				Firm-specific ¹		Country-wide ²
				Percent ad valorem		
Final determination	11/08/94	59 FR 55625	--	China First/China First	0.00	44.66
Antidumping duty order	12/28/94	59 FR 66909		China First/all other	44.66	
				Guangdong/Three Star	0.00	
				Guangdong/all other	44.66	
				SFTC	8.31	
				Lansheng	17.45	
1994-95 Administrative review	05/06/97	62 FR 24636	12/21/94 - 11/30/95	China First/China First	0.00	44.66
				China First/all other	44.66	
				Guangdong/Three Star	0.00	
				Guangdong/all other	44.66	
				SFTC	8.31	
1994-95 Administrative review, as amended	07/08/97	62 FR 36492	12/21/94 - 11/30/95	China First/China First	0.00	53.65
				China First/all other	53.65	
				Guangdong/Three Star	0.00	
				Guangdong/all other	53.65	
				SFTC	8.31	
CIT decision affirming Commerce's remand findings on final determination	11/13/97	62 FR 65243 (12/11/97)	--	China First	8.60	53.65
				Lansheng	19.36	
				SFTC	11.15	
				Guangdong/Three Star	0.00	
				Guangdong/all others	53.65	
1995-96 Administrative review	01/07/98	63 FR 779	12/01/95 - 11/30/96	China First/China First	0.00	53.65
				China First/all other	53.65	
				SFTC	8.31	
				Guangdong/Three Star	0.00	
				Guangdong/all other	53.65	
1996-97 Administrative review	01/13/99	64 FR 2171	12/01/96 - 11/30/97	China First/China First	0.00	53.65
				China First/all other	53.65	
				SFTC	8.31	
				Guangdong/Three Star	0.00	
				Guangdong/all other	53.65	
Final determination/ antidumping duty order, as amended	05/11/99	64 FR 25275	--	China First	8.60	53.65
				Lansheng	19.36	
				SFTC	11.15	
				Guangdong/Three Star	0.00	
				Guangdong/all others	53.65	

Table continued on following page.

Table I-2--Continued

Cased pencils: Commerce's final determination, antidumping duty order, administrative reviews, and final results of expedited third five-year review, by effective date

Action	Effective date	Federal Register citation	Period of review	Antidumping duty margins		
				Firm-specific ¹		Country-wide ²
				Percent ad valorem		
1998-99 Administrative review	07/19/01	66 FR 37639	12/01/98 - 11/30/99	China First SFTC Guangdong/Three Star Guangdong/all others	53.65 8.31 0.00 53.65	53.65
1999-2000 Administrative review	07/25/02	67 FR 48612	12/01/99 - 11/30/00	China First ³ Three Star Guangdong ³ SFTC Kaiyuan Group	11.39 11.39 123.11 14.53 123.11	123.11
1999-2000 Administrative review, as amended	09/19/02	67 FR 59049	12/01/99 - 11/30/00	China First/Three Star SFTC Kaiyuan Group Guangdong	6.32 12.98 114.90 114.90	114.90
2000-01 Administrative review	07/21/03	68 FR 43082	12/01/00 - 11/30/01	CalCedar-Tianjin Rongxin	0.00 15.76	114.90
2001-02 Administrative review	05/21/04	69 FR 29266	12/01/01 - 11/30/02	China First/Three Star SFTC Rongxin	15.20 10.96 27.87	114.90
2002-03 Administrative review	07/22/05	70 FR 42301	12/01/02 - 11/30/03	China First/Three Star ⁴ SFTC Rongxin	0.61 13.25 22.63	114.90
2002-03 Administrative review, as amended	08/30/05	70 FR 51337	12/01/02 - 11/30/03	China First/Three Star ⁴ SFTC Rongxin	0.15 12.69 22.63	114.90
2003-04 Administrative review	07/06/06	71 FR 38366	12/01/03 - 11/30/04	China First/Three Star ⁴ SFTC Rongxin	26.62 25.70 12.37	114.90
2004-05 Administrative review	05/14/07	72 FR 27074	12/01/04 - 11/30/05	China First/Three Star ⁴ Beijing Dixon Rongxin	2.66 2.66 2.66	114.90

Table continued on following page.

Table I-2--Continued

Cased pencils: Commerce's final determination, antidumping duty order, administrative reviews, and final results of expedited third five-year review, by effective date

Action	Effective date	Federal Register citation	Period of review	Antidumping duty margins		
				Firm-specific ¹		Country-wide ²
				Percent ad valorem		
2006-07 Administrative review	07/13/09	74 FR 33406	12/01/06 - 11/30/07	China First ⁴ Three Star Rongxin SFTC	26.32 60.91 11.48 32.90	114.90 ⁵
2006-07 Administrative review, as amended	09/01/09	74 FR 45177	12/01/06 - 11/30/07	China First ⁴ Three Star Rongxin SFTC	10.41 59.62 11.48 32.21	114.90 ⁵
2007-08 Administrative review	07/07/10	75 FR 38980	12/01/07 - 11/30/08	China First ⁴ Three Star Beijing Dixon SFTC Rongxin	1.00 6.10 3.55 3.55 3.55	114.90 ⁵
Final results of expedited third five-year review	03/01/11	76 FR 12323 (03/07/11)	--	China First Three Star Lansheng SFTC Guangdong	8.60 0.00 19.36 11.15 53.65	53.65

¹ In instances where two firms are listed and separated with a forward slash ("/"), the first firm listed is the exporter of the subject merchandise and the second firm listed is the producer.

² The country-wide rate applies to all companies that otherwise have not received a "firm-specific" rate.

³ Commerce determined that China First and Three Star were a single entity for antidumping purposes. Three Star was, therefore, assigned the margin calculated for China First. Commerce also determined that the Guangdong/Three Star sales chain was no longer excluded from the order. All merchandise exported by Guangdong was found to be subject to cash deposit requirements at the PRC-wide rate.

⁴ Commerce combined China First with its subsidiaries Shanghai First Writing Instrument Co., Ltd.; Shanghai Great Wall Pencil Co., Ltd.; and China First Pencil Fang Zheng Co., Ltd.

⁵ Commerce specifically noted that the PRC-wide entity includes Anhui Import Export Co., Ltd.; Guangdong Provincial Stationery and Sporting Goods Import Export Corp. ("Guangdong"); and Tianjin Custom Wood Processing Co., Ltd.

Source: Cited *Federal Register* notices.

Distribution of Continued Dumping and Subsidy Offset Act Funds to Affected Domestic Producers

The Continued Dumping and Subsidy Offset Act of 2000 (“CDSOA”) (also known as the Byrd Amendment) provides that assessed duties received pursuant to antidumping or countervailing duty orders must be distributed to affected domestic producers for certain qualifying expenditures that these producers incur after the issuance of such orders.²⁵ Qualified U.S. producers of cased pencils have been eligible to receive disbursements from the U.S. Customs and Border Protection (“Customs”) under CDSOA relating to the orders covering the subject merchandise beginning in Federal fiscal year 2001.²⁶ Certifications were filed with Customs with respect to cased pencils from China during 2001-10.²⁷ The number of firms that filed with Customs varied from year to year, ranging from a total of two to six companies. In every year except 2001, 2003, and 2008, the following six firms received disbursements from Customs under CDSOA: Dixon Ticonderoga, General Pencil, Musgrave Pencil, Panda Pencil, Rose Moon, and Sanford. Table I-3 presents CDSOA disbursements for Federal fiscal years 2001-10.

Related Commission Investigations and Reviews

The Commission has conducted no other related investigations or reviews concerning cased pencils.

²⁵ Section 754 of the Tariff Act of 1930, as amended (19 U.S.C. § 1675(c)). The Deficit Reduction Act of 2005 repealed the CDSOA with respect to duties on entries of goods made and filed on or after October 1, 2007. See Pub. L. No. 109-171, 120 Stat. 4, 154 (2006).

²⁶ 19 CFR 159.64 (g).

²⁷ Customs’ CDSOA Annual Reports 2001-10, http://www.cbp.gov/xp/cgov/trade/priority_trade/add_cvd/cont_dump/.

Table I-3

Cased pencils: CDSOA claims and disbursements, Federal fiscal years 2001-10¹

Year	Claimant	Share of yearly allocation	Certification amount ²	Amount disbursed
		Percent	Dollars	
2001	Dixon Ticonderoga	78.1	81,581,515	252,676
	Faber-Castell (Newell Rubbermaid)	21.9	22,932,254	71,026
	Total, 2001	100.0	104,513,769	323,702
2002	Dixon Ticonderoga	16.1	102,917,411	440,820
	General Pencil	2.7	17,208,158	73,707
	J.R. Moon Pencil	11.8	75,105,173	321,693
	Musgrave Pen & Pencil	5.9	38,000,930	162,767
	Panda Pencil	1.3	8,518,285	36,486
	Sanford (successor to Empire)	62.2	397,517,819	1,702,663
	Total, 2002	100.0	639,267,776	2,738,136
2003	General Pencil	3.3	19,503,104	125,348
	J.R. Moon Pencil	13.7	79,605,964	511,633
	Musgrave Pen & Pencil	7.2	41,826,411	268,821
	Sanford (successor to Empire)	75.8	442,474,230	2,843,811
	Total, 2003	100.0	583,409,709	3,749,612
2004	Dixon Ticonderoga	16.5	127,282,798	1,113,853
	General Pencil	2.9	22,156,879	193,895
	Musgrave Pen & Pencil	6.1	46,556,570	407,417
	Panda Pencil	1.5	11,234,461	98,313
	Rose Moon	10.8	83,204,025	728,119
	Sanford (successor to Empire)	62.2	478,764,506	4,189,674
	Total, 2004	100.0	769,199,238	6,731,272
2005	Dixon Ticonderoga	16.8	143,600,009	123,860
	General Pencil	3.0	25,381,924	21,893
	Musgrave Pen & Pencil	6.1	51,705,369	44,598
	Panda Pencil	1.4	12,187,900	10,513
	Rose Moon	10.6	89,906,043	77,547
	Sanford (successor to Empire)	62.1	528,514,376	455,863
	Total, 2005	100.0	851,295,621	734,274
2006	Dixon Ticonderoga	16.5	151,795,443	12,090
	General Pencil	3.1	28,578,628	2,276
	Musgrave Pen & Pencil	6.2	57,255,880	4,560
	Panda Pencil	1.5	13,522,813	1,077
	Rose Moon	10.2	93,440,340	7,442
	Sanford (successor to Empire)	62.5	574,033,196	45,719
	Total, 2006	100.0	918,626,300	73,164

Table continued on following page.

Table I-3--Continued

Cased pencils: CDSOA claims and disbursements, Federal fiscal years 2001-10¹

Year	Claimant	Share of yearly allocation	Certification amount ²	Amount disbursed
		Percent	Dollars	
2007	Dixon Ticonderoga	15.6	153,749,938	2,028,784
	General Pencil	3.3	32,425,189	427,862
	Musgrave Pen & Pencil	6.5	64,305,630	848,535
	Panda Pencil	1.5	14,581,357	192,406
	Rose Moon	10.0	99,062,582	1,307,165
	Sanford (successor to Empire)	63.1	622,336,890	8,211,952
	Total, 2007	100.0	986,461,586	13,016,704
2008	Dixon Ticonderoga	13.9	152,193,607	831,159
	General Pencil	4.7	51,606,896	281,835
	Musgrave Pen & Pencil	7.4	81,149,351	443,172
	Rose Moon	10.4	114,342,696	624,448
	Sanford (successor to Empire)	63.6	699,001,309	3,817,382
	Total, 2008	100.0	1,098,293,859	5,997,996
2009	Dixon Ticonderoga	13.7	151,146,816	236,209
	General Pencil	4.6	51,147,469	79,932
	Musgrave Pen & Pencil	7.1	78,265,270	122,311
	Panda Pencil	1.3	14,647,012	22,890
	Rose Moon	10.3	113,718,248	177,717
	Sanford (successor to Empire)	63.0	695,183,927	1,086,420
	Total, 2009	100.0	1,104,108,742	1,725,480
2010	Dixon Ticonderoga	13.7	150,907,134	379,197
	General Pencil	4.6	51,067,537	128,322
	Musgrave Pen & Pencil	7.1	78,142,959	196,356
	Panda Pencil	1.3	14,290,396	35,909
	Rose Moon	10.3	113,540,532	285,303
	Sanford (successor to Empire)	63.0	694,097,507	1,744,116
	Total, 2010	100.0	1,102,046,065	2,769,202

¹ The Federal fiscal year is October 1-September 30.

² Qualifying expenditures incurred by domestic producers since the issuance of an order.

Source: Customs' CDSOA Annual Reports 2001-10,
http://www.cbp.gov/xp/cgov/trade/priority_trade/add_cvd/cont_dump/.

THE PRODUCT

Scope

In its most recent *Federal Register* notice, Commerce defined the subject merchandise as follows:

Imports covered by the order are shipments of certain cased pencils of any shape or dimension (except as described below) which are writing and/or drawing instruments that feature cores of graphite or other materials, encased in wood and/or man-made materials, whether or not decorated and whether or not tipped (e.g., with erasers, etc.) in any fashion, and either sharpened or unsharpened. The pencils subject to the order are currently classifiable under subheading 9609.10.00 of the Harmonized Tariff Schedule of the United States (“HTSUS”). Specifically excluded from the scope of the order are mechanical pencils, cosmetic pencils, pens, noncased crayons (wax), pastels, charcoals, chalks, and pencils produced under U.S. patent number 6,217,242, from paper infused with scents by the means covered in the above-referenced patent, thereby having odors distinct from those that may emanate from pencils lacking the scent infusion. Also excluded from the scope of the order are pencils with all of the following physical characteristics: (1) Length: 13.5 or more inches; (2) sheath diameter: not less than one-and-one quarter inches at any point (before sharpening); and (3) core length: Not more than 15 percent of the length of the pencil. In addition, pencils with all of the following physical characteristics are excluded from the scope of the order: Novelty jumbo pencils that are octagonal in shape, approximately ten inches long, one inch in diameter before sharpening, and three-and-one eighth inches in circumference, composed of turned wood encasing one-and-one half inches of sharpened lead on one end and a rubber eraser on the other end. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of the order is dispositive.²⁸

Commerce has issued the following scope rulings with respect to cased pencils from China:

(1) Inspired Design LLC-Pedestal Pets pencil sets are within the scope of the order; (2) It’s Academic compasses with pencils are outside the scope of the order; (3) Paper Magic Group children’s valentine card sets with pencils are outside the scope of the order; (4) Walgreen Co. three graphite pencils and three cased charcoal drawing pencils contained in “Artskills Draw & Sketch Kit” are within the scope of the order; (5) the remaining items contained in Walgreen’s “Artskills Draw & Sketch Kit,” including one pencil sharpener, one sanding pad, one black eraser, one kneaded eraser and one tortillion, are outside the scope of the order; (6) Walgreen’s “ArtSkills Stencil Kit” is not within scope of the order; (7) The Smencil Co. pencils made from recycled newspaper packaged in plastic cylinders along with scent applicators in the “Smencils Home Kit” and “Smencils Mini Kit” are within the scope of the order; (8) Fiskars Brands, Inc. compasses are not included in the scope of the order; (9) Rich Frog Industries Inc. decorated wooden gift pencils are within the scope of the order; (10) Target Corp. RoseArt Clip ‘N Color is excluded from the scope of the order; (11) Barthco Trade Consultants twist crayons are outside the scope of the order; (12) Target Corp. “Hello Kitty Fashion Totes” are outside the scope of the order; (13) Target Corp. “Hello Kitty Memory Maker” is outside the scope of the order; (14) Target Corp. “Crayola the Wave” is outside the scope of the order; (15) Creative Designs International, Ltd. “Naturally Pretty,” a young girl’s 10 piece dress-up vanity set, including two 3-inch pencils, is outside the scope of

²⁸ 76 FR 12323, March 7, 2011.

the order; and (16) Nadel Trading Corp. plastic “quasi-mechanical” pencil known as the Bensia pencil is outside the scope of the order.²⁹

Commerce has also made the following three changed circumstances findings with respect to cased pencils: (1) certain scent-infused pencils manufactured in China under U.S. patent number 6,217,242 (“Smencils”) are excluded from the order; (2) certain large novelty pencils that meet specific size and graphite characteristics are excluded from the order; and (3) certain novelty jumbo pencils that meet specific size, encasing and graphite characteristics are excluded from the order.³⁰

U.S. Tariff Treatment

Cased pencils are currently provided for under Harmonized Tariff Schedule of the United States (“HTS”) subheading 9609.10.00, “Pencils and crayons, with leads encased in a rigid sheath.” The specific HTS subheading includes both lead pencils and colored pencils, but does not include mechanical pencils or cosmetic pencils, which are excluded from the order.³¹ The HTS number is a somewhat broader category than the scope of this order as it includes certain items that have been specifically excluded from the order (e.g., certain novelty jumbo pencils). Also, some pencils contained in sets are classified elsewhere in the nomenclature, depending on the items in each such set and on the possible tariff provisions that might apply.³² A column-1 general rate of 14 cents/gross³³ + 4.3 percent *ad valorem* is applicable to imports of cased pencils from China.

Domestic Like Product and Domestic Industry

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. The domestic industry is the collection of 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 and in its expedited first and second five-year review determinations, the Commission defined the domestic like product as all cased pencils, coextensive with Commerce’s scope, and it defined the domestic industry as all domestic producers of cased pencils.³⁴ In the original determination, the Commission excluded one domestic producer, Pentech, from the domestic industry under the related parties provision.³⁵ The domestic interested parties did not

²⁹ *Issues and Decision Memorandum for the Final Results of the Expedited Third Five-Year Sunset Review of the Antidumping Duty Order on Certain Cased Pencils from the People’s Republic of China*, March 1, 2011, p. 4.

³⁰ *Ibid*, p. 3.

³¹ Mechanical pencils are covered separately under HTS heading 9608 and pencils for cosmetic use are covered under chapter 33 of the HTS.

³² Such sets could include, e.g., art sets or similar goods that are ready for retail sale and have a variety of items; some sets may be classified under general rule of interpretation 3(b) based on the component that gives the set its essential character.

³³ One gross is a group of 12 dozen, or 144, items.

³⁴ *Cased Pencils From China: Investigation No. 731-TA-669 (Second Review)*, USITC Publication 3820, November 2005, pp. 5 and 6.

³⁵ The domestic interested parties indicated during the first review of the order that Pentech had ceased domestic manufacturing operations and was purchasing only imports, primarily from China. In late 1999, Pentech formed a strategic partnership with a manufacturer in Shanghai, China, both to manufacture existing products and to develop new product lines. *Cased Pencils From China: Investigation No. 731-TA-669 (Second Review)*, USITC Publication 3820, November 2005, pp. 5, 6, and I-6.

comment on the Commission's definitions of the domestic like product and the domestic industry in their responses to the Commission's notice of institution in this third five-year review.

Physical Characteristics and Uses³⁶

As indicated in the scope definition, cased pencils are writing and/or drawing instruments that feature cores of graphite or other materials, encased in wood and/or man-made materials. The wood in most instances, is covered with several coats of quick drying lacquer (painted) and is tipped with an eraser and a ferrule (the small circular band of aluminum which affixes the eraser to the top of the pencil) to make a finished pencil. Cased pencils of all types are used almost exclusively for writing and drawing on paper or making marks on other objects. Decorated, designer, and novelty pencils are used not only for writing but also for collecting, especially by children.³⁷

As was the case in the original investigation and prior five-year reviews, the most commonly sold pencil today is the so-called commodity or economy pencil, the standard yellow No. 2 pencil.³⁸ Virtually all commodity pencils sold in the United States are of the same color, hardness, diameter, and length, and have similarly attached ferrules and erasers. The domestic interested parties indicated in their responses to the Commission's notice of institution in this third five-year review that there is very little to distinguish the commodity or economy pencil of one producer from another and, therefore, a very large portion of the U.S. pencils market remains the very definition of "commodity." They also indicated that China produces both commodity and specialty products that compete directly with U.S. producers' cased pencils.³⁹

In addition to commodity or economy pencils, many different types of specialty and custom pencils are produced in the United States, including colored, golf, decorated, designer, novelty, promotional, advertising, carpenter, and drawing pencils. In fact, the domestic interested parties indicated in their responses that many of the remaining U.S. pencil producers concentrate on supplying specialty pencils (e.g., golf pencils) and custom pencils for promotion and awards since Chinese imports have dominated the U.S. market segments for low-priced commodity pencils and large volume run decorator pencils.⁴⁰ Although the bulk of reported imports from China during the original investigation was comprised of raw pencils⁴¹ and commodity pencils, the domestic interested parties indicated that Chinese producers have developed the ability to produce smaller volume runs of decorator pencils (below 100,000 gross) and have expanded their participation in the pencil "blank" segment.⁴² They also indicated that the

³⁶ Unless indicated otherwise, the discussion in this section is based on information contained in *Cased Pencils From China: Investigation No. 731-TA-669 (Second Review)*, USITC Publication 3820, November 2005, pp. I-6 and I-7.

³⁷ Decorated pencils have multicolored designs (i.e., cartoon characters) or design-covered foil on the case. Novelty pencils are tipped with an item such as a "troll head."

³⁸ The number designation on a pencil refers to the hardness of the core, 1 being the softest and 4 the hardest.

³⁹ *Response* of General Pencil, Musgrave Pencil, and Sanford, December 1, 2010, p. 12; and *Response* of Dixon Ticonderoga, December 1, 2010, p. 18.

⁴⁰ *Response* of Dixon Ticonderoga, December 1, 2010, p. 12; and *Response* of General Pencil, Musgrave Pencil, and Sanford, December 1, 2010, pp. 12 and 13.

⁴¹ A "raw" pencil has not been lacquered and has not had the eraser and ferrule added.

⁴² Pencil blanks are unpainted and undecorated pencils that are used for printing customized messages. The domestic interested parties indicated in their response that companies that finish blanks have moved away from domestic suppliers in favor of Chinese imports. *Response* of General Pencil, Musgrave Pencil, and Sanford, December 1, 2010, pp. 12 and 13.

antidumping duty order has permitted the domestic industry to remain competitive in these important specialty market areas.⁴³

Manufacturing Process⁴⁴

The production process for both domestic and imported cased pencils is essentially the same and production techniques have remained essentially unchanged since the original investigation. There have been no remarkable technological advances concerning the production process and the product and the industry are considered to be technologically mature.⁴⁵

The standard core of a cased pencil is made of graphite, clay, wax, and proprietary chemical mixtures, the specific combination of which determines its hardness. The pencil sheath is usually made of wood, typically California incense cedar wood for premium pencils and basswood for value lines of pencils.⁴⁶ A groove is cut into the sheath to house the pencil core. Glue is then applied to the surface of the groove and the core is placed in the groove. Another sheath with a similar groove cut into it is then glued on top of the first sheath, making what is called a “sandwich.” The sandwich is then clamped under pressure to insure bonding and reduce warping. After the sandwich has bonded, it is trimmed and then milled into separate pencils, typically nine. Three to seven coats of lacquer are applied to the pencils, followed by a clear coat. An eraser is then attached with a crimped ferrule to each pencil.

Interchangeability and Customer and Producer Perceptions⁴⁷

The report for the original investigation indicated that the differences in appearance between U.S.-produced and imported cased pencils were not sufficiently great for the average retail customer to detect them. The imported pencils subject to the investigation, however, were made from lower quality, less expensive wood, eraser, ferrules, and cores than comparable U.S.-made articles. In response to questionnaires issued during the original investigation, U.S. importers generally conceded that the Chinese-produced pencils they imported were of lower quality than domestically produced pencils. The U.S. producers also alleged during the original investigation that the subject imports from China competed, for the most part, within the standard, black-lead commodity pencil category, and specifically with the lowest priced pencil in this category, the economy pencil. Commodity pencils typically varied according to the quality of the pencil and its price, with the higher priced commodity pencils having a better quality wood casing, ferrule, eraser, and a smoother lead.

As they did in the second five-year review, the domestic interested parties noted in this five-year review that a very large portion of the U.S. cased pencil market remains the very definition of “commodity” and that there is very little to distinguish the commodity pencils of one producer from

⁴³ *Response of General Pencil, Musgrave Pencil, and Sanford*, December 1, 2010, pp. 12 and 13.

⁴⁴ Unless indicated otherwise, the discussion in this section is based on information contained in *Cased Pencils From China: Investigation No. 731-TA-669 (Second Review)*, USITC Publication 3820, November 2005, p. I-7.

⁴⁵ *Response of General Pencil, Musgrave Pencil, and Sanford*, December 1, 2010, p. 12.

⁴⁶ The domestic interested parties indicated that the largest raw material input in cased pencil production is the wooden sheath (or “slats”) and that there have been substantial price increases for both cedar and basswood since the most recent sunset review: *** percent increase for cedar and *** percent increase for basswood. Musgrave Pencil indicated in its response to the Commission’s notice of institution in this third review that “***.” *Response of Dixon Ticonderoga*, December 1, 2010, p. 12; and *Response of General Pencil, Musgrave Pencil, and Sanford*, December 1, 2010, exh. C.

⁴⁷ Unless indicated otherwise, the discussion in this section is based on information contained in *Cased Pencils From China: Investigation No. 731-TA-669 (Second Review)*, USITC Publication 3820, November 2005, pp. I-7 and I-8.

another. They also noted that China produces both commodity and specialty products that compete directly with U.S. producers' cased pencils.⁴⁸ In addition, the domestic interested parties reported that Chinese imports had continued to make inroads beyond the low-priced commodity pencil and large-volume run decorator pencil market segments where domestic producers previously had dominated. They noted that Chinese producers had continued to develop the ability to produce smaller volume runs of decorator pencils (below 100,000 gross), which was a market niche primarily served by domestic producers. They also reported that Chinese pencil producers had continued to expand their participation in the pencil "blank" market segment and that the U.S. companies that finished blanks had moved away from domestic suppliers in favor of Chinese imports.⁴⁹

Channels of Distribution⁵⁰

Cased pencils produced in the United States are mainly sold to retailers (e.g., K-Mart, Wal-Mart, Staples, and Target) and to distributors, which in turn sell to end users, including schools, businesses, and individual consumers. Pencils imported from China during the original investigation reached the market through the same channels of distribution. Many distributors sold both domestic and imported pencils. The largest market segment was the retail mass market (***) percent of U.S.-produced cased pencils and (***) percent of U.S. shipments of cased pencils imported from China), which consisted of cased pencils sold directly to the public, usually in boxes or blisterpacked cards containing a dozen pencils or fewer. The office supply market was another large market segment. Pencils in this market segment tended to be higher priced than in the retail mass market and this segment was the most profitable for domestic producers during the original investigation. Decorated and novelty cased pencils formed another significant market segment, as did cased pencils sold to schools.

The report for the original investigation indicated that the office supply market was undergoing significant changes as smaller regional distributors were increasingly supplanted by nationwide catalogue wholesalers or by office supply superstore chains, such as Staples. This shift placed downward pressure on pencil prices as larger buyers demanded lower prices for the increased volume of pencils purchased. As was the case in the second five-year review, the domestic interested parties in their responses to the Commission's notice of institution in this third five-year review reported that, although there have been no new end users developed since the order was published, big box retailers, national office supply chains, national catalog companies, large stationery firms, and mass market merchandisers have consolidated their dominance in the market, so that there are fewer, larger purchasers with greater negotiating power, placing further downward pressures on prices. Moreover, the domestic interested parties claimed that large purchasers are now directly importing cased pencils from China, rather than purchasing from importers. In fact, the domestic interested parties noted that virtually all of these large scale purchasers maintain full-time purchasing operations in China (either through affiliated companies or purchasing agents), which enables them to negotiate the cheapest possible prices from Chinese and other Asian suppliers. Moreover, there are well established channels of distribution for subject cased pencils, including importers/distributors that have a long history of selling PRC-origin and other imported product on a nationwide basis.⁵¹

⁴⁸ *Response of Dixon Ticonderoga*, December 1, 2010, p. 18.

⁴⁹ *Response of General Pencil, Musgrave Pencil, and Sanford*, December 1, 2010, pp. 12 and 13.

⁵⁰ Unless indicated otherwise, the discussion in this section is based on information contained in *Staff Report on Investigation No. 731-TA-669 (Second Review): Cased Pencils From China*, INV-CC-185, October 26, 2005, pp. I-11 and I-12.

⁵¹ *Response of Dixon Ticonderoga*, December 1, 2010, pp. 11-13; *Response of General Pencil, Musgrave Pencil, and Sanford*, December 1, 2010, pp. 12-13.

In addition, e-commerce provides Chinese producers and exporters with almost-immediate and easy access to buyers in the U.S. market through dozens of internet trading portals and hundreds of individual companies that offer bulk products for sale, including cased pencils. The domestic interested parties noted that the increase in internet-based buying and selling is particularly evident in the specialty and custom cased pencils segment of the market, where U.S. production has been concentrated.⁵²

In the Commission's notice of institution in this third five-year review, interested parties were asked to provide a listing of the top U.S. purchasers of domestic and imported cased pencils. Top purchasers listed by the domestic producers in their responses included the following firms: ***.⁵³ Responses received from purchaser surveys mailed to the purchasers identified in the adequacy phase of this review are presented in appendix C.

Pricing⁵⁴

Cased pencils are priced differently according to the pencil type (i.e., commodity, carpenter, colored, specialty, etc.), the quality of the specific pencil, the size of the order, and the required packing (i.e., blister-wrapped packages for retail sales or boxed in bulk). They are generally sold on a delivered basis and typically priced by the gross by both U.S. producers and importers.

U.S. domestic producers reported selling a full range of pencil products during the original investigation; while U.S. importers of the Chinese product sold primarily low-priced commodity pencils, specialty pencils, and pencil blanks. The Commission's original investigation established the price sensitive nature of the U.S. market for cased pencils and noted that the market trends would "increase the importance of price alone and increase the downward pressure on commodity pencils, forcing competition in a way the domestic industry cannot compete."

As the Commission has found in the past, the domestic interested parties argued that competition for cased pencils remains centered principally on price as manufacturers fight for a share of a mature market. They noted that cased pencils continue to be a fungible, price sensitive product, with a large share of sales being made to a few large customers. As previously indicated, large stationery firms and mass market merchandisers have consolidated their dominance in the U.S. market, so that there are fewer, larger purchasers of cased pencils with greater negotiating power. These large purchasers often directly import cased pencils from China, rather than purchase from an importer, and make purchasing decisions on the basis of price alone.⁵⁵

Although there are no pricing data available for the U.S. product or for the U.S. imports of subject merchandise, U.S. producer Dixon Ticonderoga provided limited information concerning prices of cased pencils. Based on market intelligence available to Dixon Ticonderoga, the domestic wholesaler to retailer price of a standard yellow No. 2 pencil in China during the second half of 2010 was \$*** per gross. By contrast, the average manufacturer to first tier distributor price for the same product in the United States was \$*** per gross. The firm noted that the U.S. prices of the commodity pencil was over *** percent above the Chinese price and that the higher cased pencils prices in the United States, as

⁵² *Response of Dixon Ticonderoga*, December 1, 2010, pp. 23-25 and 30.

⁵³ *Response of General Pencil, Musgrave Pencil, and Sanford*, December 1, 2010, exhs. A, B, and C; and *Response of Dixon Ticonderoga*, December 1, 2010, exh. 3.

⁵⁴ Unless indicated otherwise, the discussion in this section is based on information contained in *Cased Pencils From China: Investigation No. 731-TA-669 (Second Review)*, USITC Publication 3820, November 2005, p. I-8.

⁵⁵ *Response of Dixon Ticonderoga*, December 1, 2010, p. 11; and *Response of General Pencil, Musgrave Pencil, and Sanford*, December 1, 2010, pp. 8 and 12.

compared with the Chinese market and alternative export markets, also make the United States an attractive export market for Chinese producers of cased pencils.⁵⁶

THE INDUSTRY IN THE UNITED STATES

U.S. Producers

The original investigation resulted from a petition filed on behalf of the PMA (and the individual companies comprising its membership) on November 10, 1993. In that investigation, the Commission identified 11 U.S. manufacturers of cased pencils, six of which provided useful information in response to Commission questionnaires. The three largest producers of cased pencils in 1993, Empire (***) percent of reported production), Faber (***) percent), and Dixon Ticonderoga (***) percent), offered primarily the standard, black-lead commodity pencil. Moon and Pentech concentrated in higher priced specialty pencils, while Musgrave reported that it mainly sold pencil blanks to advertising specialty companies.⁵⁷

During the first five-year review of the antidumping duty order, the domestic interested parties reported that there were “at most nine and possibly only seven” U.S. producers of cased pencils.⁵⁸ A submission to the Commission in response to its notice of institution in the first review was filed on behalf of the Pencil Section of the WIMA and six domestic producers.⁵⁹

The domestic interested parties that participated in the Commission’s second five-year review of the order indicated that there had been no further industry restructuring since the first review. However, in 2002, subsequent to the Commission’s determination in the first review of the order, Dixon Ticonderoga shifted much of its pencil production to China, although it continued to manufacture the Ticonderoga brand pencils in the United States. In their response to the Commission’s notice of institution in the second five-year review, the domestic interested parties listed the following nine firms as domestic producers of cased pencils: Aakron Rule, Dixon Ticonderoga, General Pencil, Harcourt Pencil Co. (“Harcourt”), Musgrave Pencil, Panda Pencil Co. (“Panda Pencil”), Rose Moon, Sanford, and Tennessee Pencil. In 2004, the three largest producers of cased pencils were Sanford (***), Rose Moon (***), and Musgrave (***).⁶⁰

In this third five-year review of the antidumping duty order, the participating domestic producers reported that the following eight firms currently produce cased pencils in the United States: Aakron Rule, Dixon Ticonderoga, General Pencil, Harcourt, Musgrave Pencil, Panda Pencil, Rose Moon, and

⁵⁶ *Response of Dixon Ticonderoga*, December 1, 2010, p. 20.

⁵⁷ *Staff Report on Investigations Nos. 731-TA-669 and 670 (Final): Certain Cased Pencils from the People’s Republic of China (China) and Thailand*, INV-R-147, September 28, 1994, pp. I-4, I-16, and I-17.

⁵⁸ *Cased Pencils From China: Investigation No. 731-TA-669 (Review)*, USITC Publication 3328, July 2000, p. I-9.

⁵⁹ The six domestic producers, who were all full members of WIMA, were: Aakron Rule Corp. (“Aakron Rule”), Dixon Ticonderoga, General Pencil, Musgrave, Sanford, and Tennessee Pencil. *Cased Pencils From China: Investigation No. 731-TA-669 (Review)*, USITC Publication 3328, July 2000, p. I-3.

⁶⁰ *Staff report on Investigation No. 731-TA-669 (Second Review): Cased Pencils from China*, INV-CC-185, October 26, 2005, p. I-14.

Sanford.⁶¹ They also reported that, since the Commission’s second sunset review, domestic producer Tennessee Pencil ceased production of pencils⁶² and ***. ***, they noted that domestic producer Sanford *** at its Lewisburg, TN pencil factory, and domestic producer Dixon Ticonderoga closed its Versailles, MO production factory.⁶³ The domestic interested parties also indicated that the four U.S. producers that are participating in this third five-year review (i.e., Dixon Ticonderoga, General Pencil, Musgrave Pencil, and Sanford) are believed to account for approximately 88 percent of U.S. production of cased pencils.⁶⁴ Data provided by the four domestic pencil producers are presented separately in table I-4. Based on the aggregate 2009 U.S. production data provided in the responses to the Commission’s notice of institution, Sanford is the largest of the four domestic producers of cased pencils, accounting for *** percent of reported 2009 U.S. production. Musgrave Pencil accounted for *** percent of reported 2009 U.S. production, Dixon Ticonderoga accounted for *** percent, and General Pencil accounted for *** percent.⁶⁵

Table I-4
Cased pencils: U.S. producers’ trade and financial data, by firm, 2009

* * * * *

U.S. Producers’ Trade, Employment, and Financial Data

Table I-5 presents data reported by U.S. producers of cased pencils in the Commission’s original investigation and its subsequent reviews. Domestic data presented in the Commission’s staff report for the period examined in the final phase of the original investigation were provided by the following five producers of cased pencils: Dixon Ticonderoga, Empire, Faber, Rose Moon, and Musgrave Pencil.⁶⁶ Data presented for the first five-year review were provided by six domestic cased pencil producers (Aakron Rule, Dixon Ticonderoga, General Pencil, Musgrave Pencil, Sanford (corporate successor in interest to Faber and Empire), and Tennessee Pencil) that were believed to have represented *** percent

⁶¹ *Response* of Dixon Ticonderoga, December 1, 2010, p. 8; and *Response* of Sanford, General Pencil, and Musgrave Pencil, December 1, 2010, pp. 2 and 10. *The Pencil Pages* (a website maintained by an individual pencil collector) lists additional companies as producing pencils in the United States. Based on information provided in *The Pencil Pages* and from individual company websites, other possible domestic producers of pencils may include Chattahoochee Pencil Co. (Atlanta, GA), National Pencil Co. LLC (Shelbyville, TN), Seaboard Pencil Co. (Brooksville, IL), Shelbyville Pencil Co. (Shelbyville, TN), and Tree Smart, Inc. (Lake Oswego, OR). See www.pencilpages.com.

⁶² Tennessee Pencil was primarily a producer of specialty, promotional pencils. *Response* of Dixon Ticonderoga, December 1, 2010, p. 8.

⁶³ *Response* of Sanford, General Pencil, and Musgrave Pencil, December 1, 2010, p. 3.

⁶⁴ The domestic interested parties’ estimate was calculated based on information regarding distributions under the CDSOA. *Response* of Sanford, General Pencil, and Musgrave Pencil, December 1, 2010, p. 10.

⁶⁵ *Response* of Dixon Ticonderoga, December 1, 2010, exh. 4.

⁶⁶ A sixth producer that provided a response to the Commission’s questionnaire in the final investigation, Pentech, was excluded as a related party by the Commission from the domestic industry in its original determination. Therefore, the data of Pentech are not included in the domestic industry data presented. *Staff Report on Investigations Nos. 731-TA-669 and 670 (Final): Certain Cased Pencils from the People’s Republic of China (China) and Thailand*, INV-R-147, September 28, 1994, table 2.

of U.S. production of cased pencils in 1998.⁶⁷ Data presented for the second five-year review were provided by five producers (General Pencil, Musgrave Pencil, Rose Moon, Sanford, and Tennessee Pencil) that were believed to have represented *** percent of U.S. production of cased pencils in 2004.⁶⁸ Data presented for the third five-year review were provided by four producers (Dixon Ticonderoga, General Pencil, Musgrave Pencil, and Sanford) that were believed to have represented approximately 88 percent of U.S. production of cased pencils in 2009.⁶⁹

Table I-5
Cased pencils: U.S. producers' trade, employment, and financial data, 1991-93, 1998, 2004, and 2009

* * * * *

The domestic interested parties participating in this third five-year review argued that the production and financial data provided in response to the Commission's notice of institution demonstrate that the U.S. industry manufacturing cased pencils is in poor condition, and has deteriorated markedly since the second five-year review. Indeed, production, shipment quantity, and shipment value have fallen since 2004 and financial indicators show an overall *** for the domestic industry. In particular, Sanford and General Pencil explained ***. The domestic producers also argued that the reduction in their domestic shipments has been the result of Chinese import competition in market niches primarily served by domestic producers, such as in smaller volume runs of decorator pencils (below 100,000 gross) and in the pencil "blank" market segment. They emphasized that because of the worldwide recession, weak demand for cased pencils, and raw material price increases,⁷⁰ U.S. production of cased pencils has fallen and the U.S. cased pencil industry is in a more vulnerable state than it was in the most recent sunset review.⁷¹

Two of the four participating domestic producers of cased pencils provided separate comments in their responses to the Commission's notice of institution in this third five-year review on the likely effects of the revocation of the antidumping order on the U.S. industry in general and/or their firm specifically. In its response, *** commented: "****." *** provided the following comment: "****."

Related Party Issues

The domestic producers indicated in their responses to the Commission's notice of institution in this third five-year review that the only domestic producer that qualifies as a related party is Dixon

⁶⁷ *Staff Report on Investigation No. 731-TA-669 (Review): Cased Pencils from China*, INV-X-139, June 22, 2000, p. I-3.

⁶⁸ *Staff Report on Investigation No. 731-TA-669 (Second Review): Cased Pencils from China*, INV-CC-185, October 26, 2005, p. I-3.

⁶⁹ The domestic interested parties' estimate was calculated based on information regarding distributions under the CDSOA. *Response of Sanford, General Pencil, and Musgrave Pencil*, December 1, 2010, p. 10.

⁷⁰ As previously indicated, the largest raw material input in pencil production is wooden slats and that there have been price increases of *** percent for cedar and *** percent for basswood since the most recent sunset review. In addition, the domestic producers indicated that raw materials costs are expected to increase over the next few years because of worldwide shortages of cedar and basswood. In fact, they stated that China, the major source for basswood, has announced 2011 price increases of *** percent over current levels. *Response of Dixon Ticonderoga*, December 1, 2010, pp. 12 and 30.

⁷¹ *Response of Dixon Ticonderoga*, December 1, 2010, pp. 6, 12, and 30; and *Response of General Pencil, Musgrave Pencil, and Sanford*, December 1, 2010, pp. 3-4 and 12-13.

Ticonderoga. Dixon Ticonderoga reported in its response that, in addition to producing the domestic like product, it is also currently a U.S. importer of the subject merchandise and wholly owns Beijing Fila Dixon Stationery Co., Ltd., a Chinese producer and exporter of the subject merchandise.⁷²

Dixon Ticonderoga was a petitioner in the original investigation and participated in the first and current (third) five-year reviews in support of the continuation of the order by responding to the Commission's notices of institution. The firm did not respond to the Commission's notice of institution in the second five-year review. In the original investigation, the Commission reported that Dixon Ticonderoga was ***. Dixon Ticonderoga was not identified during the Commission's first five-year review of the order as a related party. In the second five-year review, however, the Commission reported that although Dixon Ticonderoga continued to manufacture Ticonderoga brand pencils in Missouri, the firm shifted much of its pencil production to China in 2002.⁷³

Certain data concerning Dixon Ticonderoga's U.S. production of cased pencils, subject imports, and affiliated Chinese producer exports to the United States during 2009 are presented in table I-6.

Table I-6
Cased pencils: Certain data concerning Dixon Ticonderoga's U.S. production, subject imports, and affiliated Chinese producer exports to the United States, 2009

* * * * *

Dixon Ticonderoga reported that, in 2009, it produced *** gross of cased pencils in the United States and imported *** gross (\$***) of subject cased pencils from related and unrelated pencil producers in China combined. The unit value of Dixon Ticonderoga's 2009 cased pencil imports from China was \$*** per gross, which was lower than the average unit value of total U.S. cased pencil imports from China of \$5.53 per gross (see table I-8). The unit value of Dixon Ticonderoga's 2009 cased pencil imports from China was also *** lower than the average unit value of its 2009 U.S.-produced U.S. commercial shipments, which was \$*** per gross (see table I-4). The domestic producer also reported that its Chinese subsidiary produced and exported to the United States *** gross (\$***) of subject cased pencils in 2009 at an average unit value of \$*** per gross.⁷⁴ Additional data provided by Dixon Ticonderoga on its 2009 domestic operations were previously presented separately in table I-4.

U.S. IMPORTS AND APPARENT U.S. CONSUMPTION

U.S. Importers

During the original investigation, the Commission identified 27 U.S. importers of cased pencils from China (who imported either directly from China or through Hong Kong). The firms were located throughout the United States and reported selling the imported product nationwide. In the first review, the domestic interested parties identified five firms that imported pencils from China and, in their

⁷² *Response of Dixon Ticonderoga*, December 1, 2010, p. 7; and *Supplemental Response of Dixon Ticonderoga*, January 6, 2011.

⁷³ *Staff Report in Investigations Nos. 731-TA-669 and 670 (Final): Certain Cased Pencils from the People's Republic of China (China) and Thailand*, INV-R-147, September 28, 1994, p. I-18 and table 2; *Staff Report in Investigation No. 731-TA-669 (Review): Cased Pencils from China*, INV-X-139, June 22, 2000, pp. I-13 and I-16; and *Staff Report in Investigation No. 731-TA-669 (Second Review): Cased Pencils from China*, INV-CC-185, October 26, 2005, pp. I-3, I-14, and I-18.

⁷⁴ *Response of Dixon Ticonderoga*, December 1, 2009, exh. 4; and *Supplemental Response of Dixon Ticonderoga*, January 5, 2011, exhs. 3 and 4.

response to the Commission's notice of institution in the second five-year review, the domestic interested parties identified 12 possible U.S. importers of the subject merchandise from China.⁷⁵

In this third five-year review, the domestic interested parties identified more than 60 U.S. importers of cased pencils from China in their responses to the Commission's notice of institution. As previously indicated, the domestic interested parties indicated that Dixon Ticonderoga is a related party inasmuch as it is an importer of subject cased pencils from unrelated sources in China and from its related Chinese production facility.

U.S. Imports⁷⁶

U.S. imports of cased pencils are presented in table I-7 (1991-93, 1997-99, and 2000-04), table I-8 (2005-09), and figure I-1.⁷⁷ All producers of cased pencils in China are currently subject to the antidumping duty order.⁷⁸ China has remained the leading supplier of cased pencils to the United States since the original investigation. In the current five-year period of review, China's share of total imports fell from 44.6 percent in 2005 to 43.9 percent in 2007, before climbing to 49.1 percent in 2009. The quantity of U.S. imports of cased pencils found to be sold at LTFV increased by 226.2 percent from 1991 to 1993, and then increased by 127.0 percent from 1993 to 2004. U.S. imports from China/Hong Kong then increased further by 16.4 percent from 2005 to 2009. According to official U.S. import statistics, imports of cased pencils from China/Hong Kong during 2009 amounted to 10.5 million gross (\$58.3 million, landed duty-paid), which was more than *** the combined 2009 U.S. production of Dixon Ticonderoga, General Pencil, Musgrave Pencil, and Sanford (*** gross). The average unit value of cased pencils from China increased from \$4.68 per gross in 2005 to \$6.13 per gross in 2008 before falling to \$5.53 per gross in 2009. The 2009 average unit value of cased pencils imported from China (\$5.53 per gross) was lower than the average unit values of U.S. commercial shipments of Dixon Ticonderoga (\$*** per gross), General Pencil (\$*** per gross), and Musgrave Pencil (\$*** per gross), but was higher than the unit value of U.S. commercial shipments reported by domestic producer Sanford (\$*** per gross).

⁷⁵ *Cased Pencils From China: Investigation No. 731-TA-669 (Second Review)*, USITC Publication 3820, November 2005, p. I-11.

⁷⁶ The subject merchandise is currently provided for in HTS subheading 9609.10.00, "Pencils and crayons, with leads encased in a rigid sheath," which may include certain merchandise that has been excluded from the scope of the order. Also, some pencils contained in sets are classified elsewhere in the nomenclature, depending on the items in each such set.

⁷⁷ The petition for the original investigation alleged that cased pencils produced in China were often transhipped through Hong Kong. Information supplied in questionnaire responses submitted to the Commission supported this allegation. Therefore, import data for China presented in the original investigation and subsequent reviews include imports of cased pencils from Hong Kong. *Staff Report on Investigations Nos. 731-TA-669 and 670 (Final): Certain Cased Pencils from the People's Republic of China (China) and Thailand*, INV-R-147, September 28, 1994, p. I-23.

⁷⁸ Exports of pencils by Guangdong that were manufactured by Three Star were originally excluded from the order, as were pencils exported by China First. However, China First became subject to the antidumping duty order following court-ordered remand proceedings in 1999. In addition, China First and Three Star were determined by Commerce to be a single entity for antidumping purposes in 2002, meaning that pencils manufactured by Three Star and exported by Guangdong, which previously had been excluded from the order, were placed under its coverage.

Table I-7

Cased pencils: U.S. imports, by source, 1991-93, 1997-99, and 2000-04

Source	Original investigation			First review			Second review				
	1991	1992	1993	1997	1998	1999	2000	2001	2002	2003	2004
Quantity (1,000 gross)											
China/Hong Kong: Fair value ¹ imports	***	***	***	(²)	(²)	(²)	(²)	(²)	(²)	(²)	(²)
LTFV imports	***	***	***	(²)	(²)	(²)	(²)	(²)	(²)	(²)	(²)
Subtotal	1,306	3,276	4,724	3,835	6,002	5,961	7,246	7,519	7,499	7,879	9,224
Other sources ³	1,791	1,642	2,009	7,520	8,858	6,175	7,207	6,592	8,068	8,862	9,027
Total	3,098	4,918	6,734	11,355	14,860	12,136	14,453	14,411	15,567	16,741	18,251
Value (\$1,000)											
China/Hong Kong: Fair value ¹ imports	(²)	(²)	(²)	(²)	(²)	(²)	(²)	(²)	(²)	(²)	(²)
LTFV imports	(²)	(²)	(²)	(²)	(²)	(²)	(²)	(²)	(²)	(²)	(²)
Subtotal	9,029	17,957	21,691	17,410	28,820	29,455	34,988	33,503	34,749	37,519	41,370
Other sources ³	23,551	28,766	25,915	61,455	75,668	54,727	64,213	57,750	64,245	76,594	72,942
Total	32,580	46,724	47,605	78,865	104,488	84,182	99,201	91,253	98,994	114,113	114,312
Unit value (per gross)											
China/Hong Kong: Fair value ¹ imports	(²)	(²)	(²)	(²)	(²)	(²)	(²)	(²)	(²)	(²)	(²)
LTFV imports	(²)	(²)	(²)	(²)	(²)	(²)	(²)	(²)	(²)	(²)	(²)
Subtotal	\$6.91	\$5.48	\$4.59	\$4.54	\$4.81	\$4.94	\$4.83	\$4.46	\$4.63	\$4.76	\$4.48
Other sources ³	13.15	17.52	12.90	8.17	8.54	8.86	8.91	8.76	7.96	8.64	8.08
Total	10.52	9.50	7.07	6.95	7.03	6.94	6.86	6.47	6.36	6.82	6.26

¹ Exports of pencils by Guangdong that are manufactured by Three Star were originally excluded from the order, as were pencils exported by China First. However, China First became subject to the order following court-ordered remand proceedings in May 1999. In addition, China First and Three Star were subsequently determined by Commerce to be a single entity for antidumping purposes, meaning that pencils manufactured by Three Star and exported by Guangdong, which previously had been excluded from the order, were placed under its coverage in July 2002.

² Not available.

³ Primary nonsubject sources during 1991-93 were Brazil, Indonesia, Taiwan, and Mexico. In 2004, the primary other sources were Indonesia, Brazil, Costa Rica, Thailand, and Taiwan.

Note.--The petition for the original investigation alleged that cased pencils produced in China were often transhipped through Hong Kong. Information supplied in questionnaire responses submitted to the Commission supported this allegation. Therefore, import data for China presented in the original investigation and subsequent reviews include imports of cased pencils from Hong Kong.

Source: Staff Report on Investigation No. 731 -TA-669 (Second Review): Cased Pencils from China, INV-CC-185, October 26, 2005, table I-5.

Table I-8
Cased pencils: U.S. imports, by source, 2005-09

Source	2005	2006	2007	2008	2009
Quantity (1,000 gross)					
China	9,024	10,017	10,398	9,886	10,521
Hong Kong ¹	21	22	5	8	9
Subtotal ¹	9,045	10,039	10,402	9,895	10,530
Nonsubject countries:					
Indonesia	3,481	4,047	3,998	3,457	2,827
Taiwan	1,471	1,815	1,867	1,229	2,275
Brazil	1,626	2,369	2,555	2,321	2,101
Costa Rica	2,558	1,581	1,461	1,523	1,488
Vietnam	103	446	1,518	959	731
Other ²	1,968	2,327	1,892	2,170	1,482
Subtotal, nonsubject	11,207	12,585	13,292	11,658	10,904
Total, all countries	20,252	22,624	23,694	21,553	21,434
Value (\$1,000)					
China	42,199	49,489	55,972	60,588	58,213
Hong Kong ¹	104	514	149	183	84
Subtotal ¹	42,303	50,003	56,121	60,770	58,297
Nonsubject countries:					
Indonesia	15,024	16,035	18,834	15,067	11,352
Taiwan	10,881	11,661	13,099	9,423	16,426
Brazil	18,114	22,331	28,597	24,634	19,005
Costa Rica	12,442	12,040	11,845	9,379	10,088
Vietnam	922	2,731	7,836	5,039	4,153
Other ²	20,370	26,222	26,802	25,919	20,825
Subtotal, nonsubject	77,752	91,020	107,013	89,461	81,850
Total, all countries	120,055	141,023	163,133	150,232	140,147

Table continued on the following page.

Table I-8--Continued
Cased pencils: U.S. imports, by source, 2005-09

Source	2005	2006	2007	2008	2009
Unit value (per gross)					
China	\$4.68	\$4.94	\$5.38	\$6.13	\$5.53
Hong Kong ¹	5.01	23.44	32.74	21.54	9.39
Subtotal ¹	4.68	4.98	5.40	6.14	5.54
Nonsubject countries:					
Indonesia	4.32	3.96	4.71	4.36	4.02
Taiwan	7.40	6.42	7.02	7.67	7.22
Brazil	11.14	9.42	11.19	10.61	9.05
Costa Rica	4.86	7.62	8.11	6.16	6.78
Vietnam	8.92	6.13	5.16	5.25	5.68
Other ²	10.35	11.27	14.16	11.95	14.06
Average, nonsubject	6.94	7.23	8.05	7.67	7.51
Average, all	5.93	6.23	6.89	6.97	6.54
Share of quantity (percent)					
China	44.6	44.3	43.9	45.9	49.1
Hong Kong ¹	0.1	0.1	(³)	(³)	(³)
Subtotal ¹	44.7	44.4	43.9	45.9	49.1
Nonsubject countries:					
Indonesia	17.2	17.9	16.9	16.0	13.2
Taiwan	7.3	8.0	7.9	5.7	10.6
Brazil	8.0	10.5	10.8	10.8	9.8
Costa Rica	12.6	7.0	6.2	7.1	6.9
Vietnam	0.5	2.0	6.4	4.4	3.4
Other ²	9.7	10.2	7.9	10.1	7.0
Subtotal, nonsubject	55.3	55.6	56.1	54.1	50.9
Total, all countries	100.0	100.0	100.0	100.0	100.0

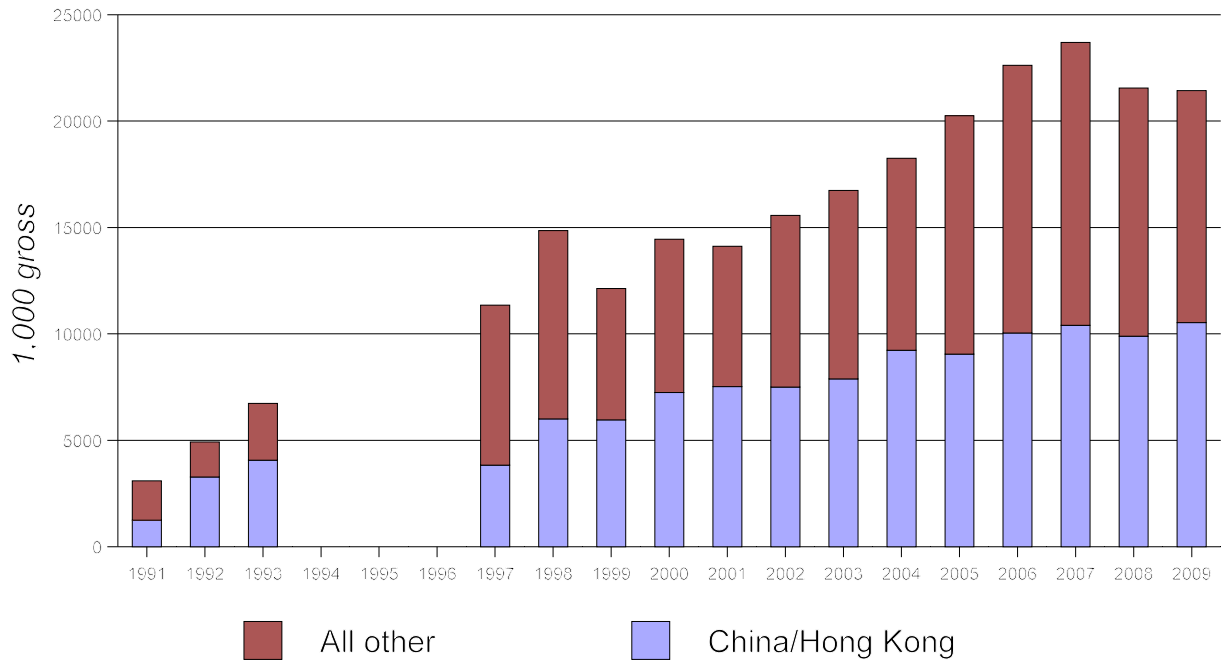
¹ The petition for the original investigation alleged that cased pencils produced in China were often transhipped through Hong Kong. Information supplied in questionnaire responses submitted to the Commission supported this allegation. Therefore, import data for China presented include imports of cased pencils from Hong Kong.

² Other primary nonsubject sources were Thailand, Mexico, United Kingdom, India, Czech Republic, Korea, and Germany.

³ Less than 0.05 percent.

Source: Official Commerce statistics, HTS statistical reporting number 9609.10.0000.

Figure I-1
Cased pencils: U.S. imports from China/Hong Kong¹ and all other sources, 1991-2009



¹ The petition for the original investigation alleged that cased pencils produced in China were often transhipped through Hong Kong. Information supplied in questionnaire responses submitted to the Commission supported this allegation. Therefore, import data for China presented include imports of cased pencils from Hong Kong.

Note.—Data for years 1994-96 are not available.

Source: *Staff Report on Investigation No. 731-TA-669 (Second Review): Cased Pencils from China*, INV-CC-185, October 26, 2005, table I-5 (1991-2004); and compiled from official Commerce statistics, HTS statistical reporting number 9609.10.0000 (2005-09).

Indonesia was the second leading supplier of cased pencils to the United States from 2005 to 2009. The average unit values of U.S. imports from Indonesia were consistently lower than the average unit values of U.S. imports from China from 2005 to 2009, but fluctuated throughout the period from a low of \$3.96 per gross reported in 2006 to a high of \$4.71 per gross in 2007. The average unit value of imports from Indonesia was \$4.02 per gross in 2009. Indonesia's share of total U.S. imports fell overall from 17.2 percent in 2005 to 13.2 percent in 2009.

Taiwan and Brazil were the third and fourth leading suppliers of imported cased pencils to the United States during 2005-09. Cased pencils from these two sources have consistently had higher average unit values than pencils from other leading suppliers, including China and Indonesia. In 2009, Taiwan's and Brazil's shares of total U.S. cased pencil imports were 10.6 percent and 9.8 percent, respectively.

Ratio of Imports to U.S. Production

Imports of cased pencils from China were equivalent to *** percent of U.S. production in 2009, compared with *** percent in 2004, *** percent in 1998, and *** percent in 1993. The ratio of imports of pencils from nonsubject countries to domestic production was *** percent in 2009, compared with *** percent in 2004, *** percent in 1998, and *** percent in 1993. The ratio of total imports to U.S. production increased throughout the period and was *** percent in 2009, a substantial increase when compared with *** percent in 2004, *** percent in 1998, and *** percent in 1993.

Apparent U.S. Consumption and Market Shares

Apparent U.S. consumption of cased pencils and market shares are presented in table I-9. Demand for cased pencils in the United States is reportedly derived from population growth, principally among school-age children. The U.S. market for cased pencils is described as a mature market with limited opportunities for extensive growth.⁷⁹ Since 2004, apparent U.S. consumption for cased pencils increased by *** percent; however, the share of apparent U.S. consumption held by domestic producers fell from *** percent in 2004 to *** percent in 2009. U.S. producers lost market share to both subject imports from China and nonsubject imports from other countries.

⁷⁹ *Response of General Pencil, Musgrave Pencil, and Sanford*, December 1, 2010, pp. 7, 8, and 12.

Table I-9

Cased pencils: U.S. producers' U.S. shipments, U.S. imports, and apparent U.S. consumption, 1991-93, 1998, 2004, and 2009

Item	Original investigation			First review	Second review	Third review
	1991	1992	1993	1998	2004	2009
Quantity (1,000 gross)						
U.S. shipments of U.S. product	***	***	***	*** ¹	***	***
U.S. imports from-- China/Hong Kong: Fair value imports	***	***	***	(²)	(³)	(³)
LTFV imports	***	***	***	(²)	9,224	10,530
Subtotal, China/Hong Kong	1,306	3,276	4,724	6,002	9,224	10,530
Other sources	1,791	1,642	2,009	8,858	9,027	10,904
Total imports	3,098	4,918	6,734	14,860	18,251	21,434
Apparent U.S. consumption	***	***	***	***	***	***
Share of consumption based on quantity (percent)						
U.S. shipments of U.S. product	***	***	***	***	***	***
U.S. imports from-- China/Hong Kong: Fair value imports	***	***	***	(²)	(³)	(³)
LTFV imports	***	***	***	(²)	***	***
Subtotal, China/Hong Kong	***	***	***	***	***	***
Other sources	***	***	***	***	***	***
Total imports	***	***	***	***	***	***
Apparent U.S. consumption	100.0	100.0	100.0	100.0	100.0	100.0
<p>¹ ***.</p> <p>² Not available.</p> <p>³ Not applicable. All cased pencils produced in China are currently subject of the antidumping duty order.</p> <p>Source: <i>Staff Report on Investigation No. 731-TA-669 (Second Review): Cased Pencils from China</i>, INV-CC-185, October 26, 2005, table I-7; <i>Response of Dixon Ticonderoga</i>, December 1, 2010, exh. 4; and official Commerce statistics, HTS statistical reporting number 9609.10.0000.</p>						

ANTIDUMPING ACTIONS OUTSIDE THE UNITED STATES

On October 18, 1994, Mexico imposed a final definitive antidumping duty rate of 451 percent on imports of pencils produced in China.⁸⁰ However, in 2008, Mexico and China signed an agreement under which Mexico committed to eliminate its antidumping duty orders on a broad range of Chinese products. Effective October 15, 2008, Mexico's antidumping duty on pencils imported from China was rescinded and replaced with a transitional duty, which was to be phased out over a three-year period.⁸¹ The semi-annual report submitted by Mexico to the World Trade Organization on September 14, 2010, indicated that there were no antidumping duty measures in force with respect to pencils produced in China.⁸² According to *Global Trade Atlas* data, exports of cased pencils from China to Mexico fluctuated from 2005 to 2009. Such exports to Mexico were as follows: 22,477 kilograms (\$100,890) in 2005, 18,939 kilograms (\$31,351) in 2006, 56,018 kilograms (\$115,941) in 2007, 7,358 kilograms (\$39,339) in 2008, and 43,535 kilograms (\$221,192) in 2009. Dixon Ticonderoga noted in its response to the Commission's notice of institution in this third five-year review that "the conduct of PRC exporters since the revocation of the antidumping order on cased pencils in Mexico shows that, in the absence of a check against less-than-fair-value imports, these exporters will substantially increase sales of low-priced pencils in the U.S. market after revocation."⁸³

Antidumping duty measures are currently in place in Turkey with respect to "pencils with leads of graphite and crayons encased in a rigid sheath" produced in China. Such duties were originally imposed by Turkey on January 14, 2003, and were extended following a review of the antidumping duty order completed on December 18, 2008. The definitive final antidumping duty rate concerning Turkey's imports of such pencils produced in China amounts to \$3.16/gross.⁸⁴ According to *Global Trade Atlas* data, exports of pencils from China to Turkey increased from 2005 to 2008, but fell in 2009. Such exports to Turkey were as follows: 42,513 kilograms (\$159,625) in 2005, 99,176 kilograms (\$389,096) in 2006, 119,750 kilograms (\$603,085) in 2007, 139,587 kilograms (\$530,098) in 2008, and 68,954 kilograms (\$309,480) in 2009.

THE SUBJECT INDUSTRY IN CHINA

Although the original staff report did not contain data as to the total number of cased pencil manufacturers in China at that time, six manufacturers and/or exporters provided information to the Commission on the Chinese pencil industry in response to questionnaires during the original investigation.⁸⁵ However, the Commission did not receive any responses to its notice of institution from Chinese producers in subsequent reviews of the antidumping duty order. During the first review, the domestic interested parties identified 16 Chinese producers of cased pencils and, during the second five-year review, the domestic interested parties identified 19 Chinese producers of pencils and 19 Chinese exporters of pencils.

⁸⁰ *World Trade Organization*, Committee on Anti-Dumping Practices, Semi-Annual Report Under Article 16.4 of the Agreement–Mexico, June 20, 1995, http://www.wto.org/english/tratop_e/adp_e/adp_e.htm.

⁸¹ *Market Profiles - Mexico*, <http://info.hktcdc.com/mktprof/america/mpmex.htm>, retrieved January 24, 2011.

⁸² *World Trade Organization*, Committee on Anti-Dumping Practices, Semi-Annual Report Under Article 16.4 of the Agreement–Mexico, September 14, 2010, http://www.wto.org/english/tratop_e/adp_e/adp_e.htm.

⁸³ *Response of Dixon Ticonderoga*, December 1, 2010, p. 6.

⁸⁴ *World Trade Organization*, Committee on Anti-Dumping Practices, Semi-Annual Report Under Article 16.4 of the Agreement–Turkey, March 5, 2009, http://www.wto.org/english/tratop_e/adp_e/adp_e.htm.

⁸⁵ *Staff Report on Investigations Nos. 731-TA-669 and 670 (Final): Certain Cased Pencils from the People's Republic of China (China) and Thailand*, INV-R-147, September 28, 1994, table 15.

The Commission's staff report in the second five-year review indicated that, according to a private market intelligence report published by *Global Sources* in October 2004 on the writing instruments industry in China, there were approximately 400 producers of cased pencils in China during 2003. That report noted that pencils (including mechanical pencils) accounted for 31 percent of China's exports of writing instruments in 2003. It also stated that producers of writing instruments in China at that time faced rising costs for labor, raw materials, and electricity but that intense competition from other producers in China kept them from raising prices on their products. China's production of all types of pencils (mechanical pencils, wood cased lead pencils, and wood cased colored pencils) amounted to 8.95 billion pieces (62.2 million gross) in 2003, a 9-percent increase over 2002. China's exports of wooden pencils (lead and colored) amounted to 6.08 billion pieces (42.2 million gross) in 2003. One of the largest exporters in China, Jinan Hangtung, reportedly produced about 1 billion pencils (6.9 million gross) in 2003. The *Global Sources* 2004 report also noted that low-end pencils in China were made from poplar wood, used lower quality graphite, and used low-end paint or no paint or lacquer at all; whereas mid-range and high-end pencils were made from basswood, used better quality graphite and rare earth elements, had a lacquered finish, and often were painted with multiple colors. The prices of the low-end Chinese pencils reportedly ranged from \$0.50 to \$1.76 per gross and the prices of the mid-range and high-end Chinese pencils ranged from \$0.93 to \$2.18 per gross at that time. The *Global Sources* report indicated that Chinese producers of low-end colored pencils used locally sourced talcum, clay, and pigments that resulted in dull colors, whereas higher quality colored pencils incorporated raw materials imported from Germany. The *Global Sources* report added that with rising prices for wood and concern about the environment, some companies had started to offer pencils made from recycled newspaper.⁸⁶

Domestic producer Dixon Ticonderoga indicated in its response to the Commission's notice of institution in this third five-year review of the antidumping duty order that it has no information indicating that the total number of producers in China has decreased from the 400-producer estimate provided for 2003. In fact, the domestic producer argued in its response that, even if there were a change in the structure of the Chinese industry, the total production capacity in China has increased since the last review. The producer provided a listing of 74 Chinese exporters of pencils in its response to the Commission's notice of institution in this third five-year review.⁸⁷ Domestic producers Sanford, General Pencil, and Musgrave Pencil identified 19 Chinese producers of pencils and 20 Chinese exporters of pencils in their response to the Commission's notice of institution.⁸⁸

In its response to the Commission's notice of institution in this third five-year review, Dixon Ticonderoga provided certain quantity data concerning the cased pencil industry in China. These data are presented in table I-10. These data show that cased pencil production in China increased by 33.0 percent from 2005 to 2009 and that the country's exports consumed a significant share of its cased pencils production. In 2009, 27.7 percent of China's total production of cased pencils was exported. China's production of cased pencils in 2009 was estimated at 100.7 million gross. By contrast, the total apparent U.S. consumption of cased pencils was *** gross in 2009.

⁸⁶ *Staff Report on Investigation No. 731-TA-669 (Second Review): Cased Pencils from China*, INV-CC-185, October 26, 2005, pp. I-25 and I-26 (citing *Global Sources*, "Writing Instruments Manufacturing in China," in *Writing Instruments: Global Sourcing Report*, October 2004). There have been no published updates to the *Global Sources* report on writing instruments since the original report was issued in 2004.

⁸⁷ *Response of Dixon Ticonderoga*, December 1, 2010, p. 8 and exh. 2.

⁸⁸ *Response of General Pencil, Musgrave Pencil, and Sanford*, December 1, 2010, p. 11.

Table I-10
Cased pencils: Chinese production, exports, imports, and apparent consumption, 2005-09

Item	2005	2006	2007	2008	2009
Quantity (1,000 gross)					
Production	75,694	81,250	90,972	91,667	100,694
Exports	25,055	27,501	30,592	30,732	27,925
Imports	909	876	1,123	693	711
Apparent consumption	51,549	54,625	61,503	61,628	73,481
Note.—Weight to gross conversion factor (1 gross=0.86 kilograms) provided by Dixon Ticonderoga. Source: <i>China Writing Instruments Association</i> (production) and <i>Global Trade Information Services</i> (imports and exports), as provided in <i>Response of Dixon Ticonderoga</i> , December 1, 2010, exh. 6.					

In their responses, the domestic producers argued that the increases in the volume of U.S. imports of cased pencils from China indicate that there has been a dramatic expansion of production and export capacity in China over the past several years. They stated that China’s substantial cased pencils production capacity is a result of many years of state control and of an economic policy of promoting local processing of raw materials, including China’s indigenous supplies of basswood. They estimated that the capacity to produce cased pencils in China was at least 104 million gross in 2010, an increase of 36.8 percent from the 76 million gross capacity level reported at the end of the previous period of review. They stated further that the United States is a prime destination for the growing Chinese cased pencil industry because of significantly higher prices in the United States compared with the Chinese market and other export markets.⁸⁹

Table I-11 presents official Chinese export statistics (as compiled by *Global Trade Information Services*) on Chinese cased pencil exports, by market, during 2005-09.⁹⁰ These data show that from 2005 to 2009, the quantity of China’s total exports of cased pencils increased by 11.5 percent, rising from 38.8 million gross to 43.3 million gross. The United States was consistently China’s largest export market for cased pencils, accounting for 25.1 percent (10.9 million gross) of China’s exports in 2009.

⁸⁹ *Response of Dixon Ticonderoga*, December 1, 2010, pp. 6, 9, and 12; and *Response of General Pencil, Musgrave Pencil, and Sanford*, December 1, 2010, p. 6.

⁹⁰ These data were provided by Dixon Ticonderoga in its response to the Commission’s notice of institution in this third five-year review of the antidumping duty order. Note that the export data provided by Dixon Ticonderoga and presented in table I-10 and table I-11 of this report differ even though the source cited is the same (*Global Trade Information Services*). One difference between the two export quantity presentations in Dixon Ticonderoga’s response noted by Commission staff is the difference in the conversion factor used, as indicated in the tables.

Table I-11
Cased pencils: Chinese exports, by market, 2005-09

Market	2005	2006	2007	2008	2009
Quantity (1,000 gross)					
United States	10,362	12,503	12,918	12,441	10,850
Taiwan	2,532	3,000	2,936	3,108	4,219
United Kingdom	1,470	2,043	2,157	2,212	1,799
India	726	818	946	1,456	1,692
Indonesia	2,069	2,173	1,797	1,702	1,631
Pakistan	659	1,030	1,496	1,553	1,433
Malaysia	854	1,048	1,067	1,398	1,116
United Arab Emirates	1,244	959	1,441	1,683	1,028
Korea	947	1,008	1,014	1,012	963
Thailand	801	633	957	897	853
Nigeria	936	627	950	1,408	785
South Africa	499	528	503	579	783
Germany	673	782	810	892	779
Sweden	656	599	730	723	768
Canada	641	1,008	1,072	1,061	729
All other	13,772	13,876	16,634	15,521	13,866
Total, world	38,843	42,636	47,428	47,645	43,293

Table continued on following page.

Table I-11--Continued**Cased pencils: Chinese exports, by market, 2005-09**

Market	2005	2006	2007	2008	2009
Value (1,000 dollars)					
United States	22,423	27,298	31,584	35,301	33,274
Taiwan	4,171	5,405	6,010	6,679	9,256
United Kingdom	3,033	4,117	4,906	5,524	4,857
India	1,127	1,679	2,689	4,517	5,027
Indonesia	3,105	3,561	3,265	3,401	3,345
Pakistan	1,632	2,004	3,149	3,410	4,243
Malaysia	1,750	2,046	2,413	3,542	2,786
United Arab Emirates	1,822	1,591	3,305	3,887	2,869
Korea	2,241	2,512	2,880	3,296	3,434
Thailand	1,369	1,207	1,794	1,873	1,904
Nigeria	1,015	896	1,410	2,373	1,241
South Africa	844	951	981	1,327	1,742
Germany	1,561	1,813	2,150	2,775	2,453
Sweden	1,093	826	1,112	1,374	1,554
Canada	1,326	2,206	2,789	3,161	2,284
All other	23,115	26,761	36,807	40,249	37,405
Total, world	71,629	84,873	107,243	122,688	117,674

Table continued on following page.

Table I-11--Continued**Cased pencils: Chinese exports, by market, 2005-09**

Market	2005	2006	2007	2008	2009
Unit value (per gross)					
United States	\$2.16	\$2.18	\$2.44	\$2.84	\$3.07
Taiwan	1.65	1.80	2.05	2.15	2.19
United Kingdom	2.06	2.02	2.27	2.50	2.70
India	1.55	2.05	2.84	3.10	2.97
Indonesia	1.50	1.64	1.82	2.00	2.05
Pakistan	2.48	1.95	2.11	2.20	2.96
Malaysia	2.05	1.95	2.26	2.53	2.50
United Arab Emirates	1.46	1.66	2.29	2.31	2.79
Korea	2.37	2.49	2.84	3.26	3.56
Thailand	1.71	1.91	1.87	2.09	2.23
Nigeria	1.08	1.43	1.48	1.69	1.58
South Africa	1.69	1.80	1.95	2.29	2.22
Germany	2.32	2.32	2.66	3.11	3.15
Sweden	1.67	1.38	1.52	1.90	2.02
Canada	2.07	2.19	2.60	2.98	3.13
All other	1.68	1.93	2.21	2.59	2.70
Total, world	1.84	1.99	2.26	2.58	2.72

Table continued on following page.

Table I-11--Continued

Cased pencils: Chinese exports, by market, 2005-09

Market	2005	2006	2007	2008	2009
Share of quantity (percent)					
United States	26.7	29.3	27.2	26.1	25.1
Taiwan	6.5	7.0	6.2	6.5	9.7
United Kingdom	3.8	4.8	4.5	4.6	4.2
India	1.9	1.9	2.0	3.1	3.9
Indonesia	5.3	5.1	3.8	3.6	3.8
Pakistan	1.7	2.4	3.2	3.3	3.3
Malaysia	2.2	2.5	2.2	2.9	2.6
United Arab Emirates	3.2	2.3	3.0	3.5	2.4
Korea	2.4	2.4	2.1	2.1	2.2
Thailand	2.1	1.5	2.0	1.9	2.0
Nigeria	2.4	1.5	2.0	3.0	1.8
South Africa	1.3	1.2	1.1	1.2	1.8
Germany	1.7	1.8	1.7	1.9	1.8
Sweden	1.7	1.4	1.5	1.5	1.8
Canada	1.6	2.4	2.3	2.2	1.7
All other	35.5	32.5	35.1	32.6	32.0
Total, world	100.0	100.0	100.0	100.0	100.0

Note.—Weight to gross conversion factor (1 gross=0.75 kilograms) based on actual weight of 12 SPARCO #2 pencils.

Source: Official Chinese export statistics compiled by *Global Trade Information Services*, as provided in *Response of Dixon Ticonderoga*, December 1, 2010, exh. 7.

THE GLOBAL MARKET

Tables I-12 and I-13 present *Global Trade Atlas* data on world exports and imports, by value, from 2005 to 2009.⁹¹ These data show that China is, by far, the world's largest supplier of cased pencils, representing more than one-third of total world exports (in terms of value) in 2009. The United States, on the other hand, is among the world's largest markets for cased pencils consumption and is the single largest export market for Chinese cased pencils. The United States represented one-fifth of global imports of cased pencils (in terms of value) in 2009.

Table I-12
Cased pencils: World exports, by source, 2005-09

Source	2005	2006	2007	2008	2009
Value (1,000 dollars)					
China	136,405	163,107	206,778	229,730	217,364
Germany	73,045	87,846	100,096	120,536	95,296
Brazil	40,066	47,907	52,889	54,036	46,176
Indonesia	40,622	48,560	53,414	49,051	44,976
Czech Republic	20,255	20,747	22,711	37,641	29,561
France	14,574	12,242	17,994	22,329	19,629
Taiwan	13,756	15,078	15,384	16,075	18,075
Thailand	17,453	18,185	16,708	17,700	17,995
Mexico	4,116	10,825	13,210	13,823	13,874
Netherlands	12,685	12,444	14,374	14,564	13,685
United Kingdom	9,670	14,814	14,983	16,663	12,945
United States	16,182	13,078	15,611	16,978	11,977
Costa Rica	11,976	12,235	12,579	9,706	10,746
All other	78,429	75,997	92,665	90,404	87,835
Total ¹	489,233	553,066	649,397	709,237	640,135

¹ 2005-08 data are not available for Iran and United Arab Emirates. 2005 data are not available for Kenya. Therefore, totals presented are understated for 2005-08.

Source: *Global Trade Atlas* (HTS subheading 9609.10).

⁹¹ Because the units of quantity reported by each country for exports and imports vary, quantity data are not presented.

Table I-13
Cased pencils: World imports, by market, 2005-09

Market	2005	2006	2007	2008	2009
Value (1,000 dollars)					
United States	109,000	128,342	149,150	138,576	130,144
United Kingdom	32,331	34,041	36,907	41,735	46,000
Germany	31,190	38,978	43,596	48,064	43,319
Italy	24,007	25,367	26,997	30,899	27,899
France	21,059	22,447	27,957	30,950	24,839
Mexico	18,240	17,016	36,275	35,463	24,480
Canada	19,733	19,755	20,211	22,799	19,569
Netherlands	12,949	13,802	15,469	16,614	16,097
Japan	12,010	17,849	17,239	17,246	14,573
Australia	10,480	11,195	11,208	13,458	13,713
Taiwan	6,513	7,648	7,516	9,485	13,554
Spain	12,924	14,119	17,188	17,369	12,455
Czech Republic	3,411	3,322	6,809	13,241	12,198
South Korea	10,299	11,839	14,331	14,613	11,862
All other	173,629	191,955	220,280	240,102	238,900
Total ¹	497,775	557,674	651,132	690,615	649,600
¹ 2005-08 data are not available for Iran and United Arab Emirates. 2005-06 data are not available for Nigeria and Yemen. 2005 data are not available for Kenya. Therefore, totals presented are understated for 2005-08. Source: <i>Global Trade Atlas</i> (HTS subheading 9609.10).					

APPENDIX A
FEDERAL REGISTER NOTICES

adopted by the Board (74 FR 1170, 1/12/09; correction 74 FR 3987, 1/22/09). The ASF is an option for grantees for the establishment or reorganization of general-purpose zones and can permit significantly greater flexibility in the designation of new "usage-driven" FTZ sites for operators/users located within a grantee's "service area" in the context of the Board's standard 2,000-acre activation limit for a general-purpose zone project. The application was submitted pursuant to the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR part 400). It was formally filed on October 26, 2010.

FTZ 176 was approved by the Board on March 1, 1991 (Board Order 511, 56 FR 10409, 3/12/91) and expanded on February 9, 2005 (Board Order 1368, 70 FR 9613, 2/28/05), August 3, 2006 (Board Order 1473, 71 FR 47483, 8/17/06) and on January 30, 2009 (Board Order 1603, 74 FR 6570, 2/10/09). FTZ 176 was reorganized under the ASF on August 19, 2010 (Board Order 1702, 75 FR 52511-52512, 8/26/2010).

The zone project currently has a service area that includes Winnebago, Stephenson, Ogle, Lee, DeKalb, and Boone Counties, and portions of Bureau, McHenry and Kane Counties, Illinois.

The applicant is requesting authority to expand the service area of the zone to include portions of LaSalle and Putnam Counties, as described in the application. If approved, the grantee would be able to serve sites throughout the expanded service area based on companies' needs for FTZ designation. The proposed expanded service area is adjacent to the Rockford Customs and Border Protection port of entry.

In accordance with the Board's regulations, Elizabeth Whiteman of the FTZ Staff is designated examiner to evaluate and analyze the facts and

information presented in the application and case record and to report findings and recommendations to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is January 3, 2011. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to January 18, 2011.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 2111, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230-0002, and in the "Reading Room" section of the Board's Web site, which is accessible via <http://www.trade.gov/ftz>. For further information, contact Elizabeth Whiteman at Elizabeth.Whiteman@trade.gov or (202) 482-0473.

Dated: October 26, 2010.

Andrew McGilvray,
Executive Secretary.

[FR Doc. 2010-27520 Filed 10-29-10; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Five-Year ("Sunset") Review

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

review ("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 the same orders.

DATES: *Effective Date:* November 1, 2010.

FOR FURTHER INFORMATION CONTACT: The Department official identified in the *Initiation of Review* section below at AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, 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).

Initiation of Review

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-533-817	731-TA-817	India	Certain Cut-to-Length Carbon-Quality Steel Plate (2nd Review).	David Goldberger (202) 482-4136.
A-560-805	731-TA-818	Indonesia	Certain Cut-to-Length Carbon-Quality Steel Plate (2nd Review).	David Goldberger (202) 482-4136.
A-475-826	731-TA-819	Italy	Certain Cut-to-Length Carbon-Quality Steel Plate (2nd Review).	David Goldberger (202) 482-4136.
A-588-847	731-TA-820	Japan	Certain Cut-to-Length Carbon-Quality Steel Plate (2nd Review).	David Goldberger (202) 482-4136.
A-580-836	731-TA-821	South Korea	Certain Cut-to-Length Carbon-Quality Steel Plate (2nd Review).	David Goldberger (202) 482-4136.
A-475-703	731-TA-385	Italy	Certain Cut-to-Length Carbon-Quality Steel Plate (3rd Review).	David Goldberger (202) 482-4136.
A-588-707	731-TA-386	Japan	Granular Polytetrafluoroethylene (3rd Review).	David Goldberger (202) 482-4136.
A-588-866	731-TA-1090	Japan	Superalloy Degassed Chromium	Dana Mermelstein (202) 482-1391.
A-570-827	731-TA-669	PRC	Cased Pencils (3rd Review)	David Goldberger (202) 482-4136.
A-570-804	731-TA-464	PRC	Sparklers (3rd Review)	Jennifer Moats (202) 482-5047.
A-533-809	731-TA-639	India	Forged Stainless Steel Flanges (3rd Review).	Dana Mermelstein (202) 482-1391.

DOC case No.	ITC case No.	Country	Product	Department contact
A-583-821	731-TA-640	Taiwan	Forged Stainless Steel Flanges (3rd Review).	Dana Mermelstein (202) 482-1391.
C-533-818	701-TA-388	India	Certain Cut-to-Length Carbon-Quality Steel Plate (2nd Review).	David Goldberger (202) 482-4136.
C-560-806	701-TA-389	Indonesia	Certain Cut-to-Length Carbon-Quality Steel Plate (2nd Review).	David Goldberger (202) 482-4136.
C-475-827	701-TA-390	Italy	Certain Cut-to-Length Carbon-Quality Steel Plate (2nd Review).	David Goldberger (202) 482-4136.
C-580-837	701-TA-391	South Korea	Certain Cut-to-Length Carbon-Quality Steel Plate (2nd Review).	David Goldberger (202) 482-4136.

Filing Information

As a courtesy, we are making information related to Sunset proceedings, including copies of the pertinent statute and Department's regulations, the Department schedule for Sunset Reviews, a listing of past revocations and continuations, and current service lists, available to the public on the Department's Internet Web site 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 this notice of initiation by filing a notice of intent to participate. 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 a Sunset Review 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 order 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. Please consult the Department's regulations for information regarding the Department's conduct of Sunset Reviews.¹ 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: October 27, 2010.

Susan H. Kuhbach,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2010-27522 Filed 10-29-10; 8:45 am]

BILLING CODE 3510-DS-P

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 to extend that five-day deadline based upon a showing of good cause.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0684-XZ34

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permit

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; request for comments.

SUMMARY: The Assistant Regional Administrator for Sustainable Fisheries, Northeast Region, NMFS, has made a preliminary determination that the subject exempted fishing permit (EFP) application contains all the required information and warrants further consideration. The subject EFP would allow commercial fishing vessels to conduct fishing operations that are otherwise restricted by the regulations governing the fisheries of the Northeastern United States. Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

DATES: Comments must be received on or before November 16, 2010.

ADDRESSES: Comments may be submitted by e-mail to NERO.EFP@noaa.gov. Written comments should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope "Comments on the SNE Flatfish Discard Mortality EFP." Comments may also be sent via facsimile (fax) to (978) 281-9135.

FOR FURTHER INFORMATION CONTACT: Melissa Vasquez, Fishery Policy Analyst, (978) 281-9166, fax (978) 281-9135.

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) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and E-mail address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) 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 2009, except as noted (report quantity data in pounds 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) Capacity (quantity) of your firm to produce the *Domestic Like Product* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

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

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

(e) The value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit,

(iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) 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 2009 (report quantity data in pounds 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*.

(11) 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 2009 (report quantity data in pounds 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;

(b) Capacity (quantity) of your firm to produce the *Subject Merchandise* in the *Subject Country* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for

downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) 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.

(12) 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.

(13) (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 Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: October 26, 2010.

Marilyn R. Abbott,
Secretary to the Commission.

[FR Doc. 2010-27444 Filed 10-29-10; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-669 (Third Review)]

Cased Pencils From China

AGENCY: United States International Trade Commission.

ACTION: Institution of a five-year review concerning the antidumping duty order on cased pencils 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 cased pencils 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 December 1, 2010. Comments on the adequacy of responses may be filed with the Commission by January 14, 2011. 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, subparts A, D, E, and F (19 CFR part 207), as most recently amended at 74 FR 2847 (January 16, 2009).

DATES: *Effective Date:* November 1, 2010.

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 December 28, 1994, the Department of Commerce (“Commerce”) issued an antidumping duty order on imports of cased pencils

from China (59 FR 66909). Following first five-year reviews by Commerce and the Commission, effective August 10, 2000, Commerce issued a continuation of the antidumping duty order on imports of cased pencils from China (65 FR 48960). Following second five-year reviews by Commerce and the Commission, effective December 20, 2005, Commerce issued a second continuation of the antidumping duty order on imports of cased pencils from China (70 FR 75450). The Commission is now conducting a third 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 Congress.

(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 and its expedited first and second five-year review determinations, the Commission defined the *Domestic Like Product* as all cased pencils, coextensive with Commerce's scope.

(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 and its expedited first and second five-year review determinations, the Commission defined the *Domestic Industry* as all domestic producers of cased pencils. In its original determination, the Commission excluded one domestic producer, Pentech, from the *Domestic Industry* under the related parties provision.

(5) 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 advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation. The Commission's designated agency ethics official has advised that a five-year review is not considered the “same particular matter” as the corresponding underlying original investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 73 FR 24609 (May 5, 2008). This advice was developed in consultation with the Office of Government Ethics. Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation was pending when they were Commission employees. For further ethics advice on this matter, 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.

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. 11–5–228, expiration date June 30, 2011. Public reporting burden for the request is estimated to average 15 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.

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 December 1, 2010. 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 January 14, 2011. 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) 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 after 2004.

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and E-mail address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) 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 2009, except as noted (report quantity data in gross 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) Capacity (quantity) of your firm to produce the *Domestic Like Product* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

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

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

(e) The value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) 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 2009 (report quantity data in gross 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*.

(11) 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 that your firm's(s') operations on that product during calendar year 2009 (report quantity data in gross 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) Capacity (quantity) of your firm to produce the *Subject Merchandise* in the *Subject Country* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) 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.

(12) 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* after 2004, 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.

(13) (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 Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: October 26, 2010.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 2010-27442 Filed 10-29-10; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731-TA-385 and 386 (Third Review)]

Granular Polytetrafluoroethylene Resin From Italy and Japan

AGENCY: United States International Trade Commission.

ACTION: Institution of five-year reviews concerning the antidumping duty orders on granular polytetrafluoroethylene resin from Italy and Japan.

SUMMARY: The Commission hereby gives notice that it has instituted reviews 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 orders on granular polytetrafluoroethylene resin from Italy and Japan 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

¹No 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. 11-5-231,

consideration, the deadline for responses is December 1, 2010. Comments on the adequacy of responses may be filed with the Commission by January 14, 2011. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207), as most recently amended at 74 FR 2847 (January 16, 2009).

DATES: *Effective Date:* November 1, 2010.

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 these reviews may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background.—On August 24, 1988, the Department of Commerce ("Commerce") issued an antidumping duty order on imports of granular polytetrafluoroethylene resin from Japan (53 FR 32267). On August 30, 1988, Commerce issued an antidumping duty order on imports of granular polytetrafluoroethylene resin from Italy (53 FR 33163). Following first five-year reviews by Commerce and the Commission, effective January 3, 2000, Commerce issued a continuation of the antidumping duty orders on imports of granular polytetrafluoroethylene resin from Italy and Japan (65 FR 6147, February 8, 2000). Following second five-year reviews by Commerce and the Commission, effective December 22, 2005, Commerce issued a continuation of the antidumping duty orders on imports of granular polytetrafluoroethylene resin from Italy and Japan (70 FR 76026). The

expiration date June 30, 2011. Public reporting burden for the request is estimated to average 15 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.

submissions with the Secretary by facsimile or electronic means only to the extent permitted by section 201.8 of the rules (see Handbook for Electronic Filing Procedures, http://www.usitc.gov/secretary/fed_reg_notices/rules/documents/handbook_on_electronic_filing.pdf). Persons with questions regarding electronic filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.50(a)(4) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.50(a)(4)).

By order of the Commission.

Issued: February 18, 2011.

William R. Bishop,

Hearings and Meetings Coordinator.

[FR Doc. 2011–4439 Filed 2–28–11; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–669 (Third Review)]

Cased Pencils From China

AGENCY: United States International Trade Commission.

ACTION: Scheduling of an expedited five-year review concerning the antidumping duty order on cased pencils 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 cased pencils 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, subparts A, D, E, and F (19 CFR part 207).

DATES: Effective Date: February 4, 2011.

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 February 4, 2011, the Commission determined that the domestic interested party group response to its notice of institution (75 FR 67102, November 1, 2010) 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. Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Act.^{1,2}

Staff report.—A staff report containing information concerning the subject matter of the review will be placed in the nonpublic record on April 18, 2011, and made available to persons on the Administrative Protective Order service list for this review. A public version will be issued thereafter, pursuant to section 207.62(d)(4) of the Commission's rules.

Written submissions.—As provided in section 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,³ and any party

¹ Commissioners Daniel R. Pearson and Shara L. Aranoff found that other circumstances warranted conducting a full review.

² 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.

³ The Commission has found the responses submitted by Dixon Ticonderoga Co.; General Pencil Co., Inc.; Musgrave Pencil Co.; and Sanford, L.P. to be individually adequate. Comments from

other than an interested party to the review may file written comments with the Secretary on what determination the Commission should reach in the review. Comments are due on or before April 21, 2011 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 April 21, 2011. 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 sections 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.

Determination.—The Commission has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B).

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

By order of the Commission.

Issued: February 18, 2011.

William R. Bishop,

Hearings and Meetings Coordinator.

[FR Doc. 2011–4440 Filed 2–28–11; 8:45 am]

BILLING CODE 7020–02–P

other interested parties will not be accepted (see 19 CFR 207.62(d)(2)).

carbon content is two percent or less, by weight, and (3) none of the elements listed below is equal to or exceeds the quantity, by weight, respectively indicated: 1.80 percent of manganese, or 1.50 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.10 percent of molybdenum, or 0.10 percent of niobium, or 0.41 percent of titanium, or 0.15 percent of vanadium, or 0.15 percent zirconium. All products that meet the written physical description, and in which the chemistry quantities do not equal or exceed any one of the levels listed above, are within the scope of the orders unless otherwise specifically excluded. The following products are specifically excluded from the orders: (1) Products clad, plated, or coated with metal, whether or not painted, varnished or coated with plastic or other non-metallic substances; (2) SAE grades (formerly AISI grades) of series 2300 and above; (3) products made to ASTM A710 and A736 or their proprietary equivalents; (4) abrasion-resistant steels (*i.e.*, USS AR 400, USS AR 500); (5) products made to ASTM A202, A225, A514 grade S, A517 grade S, or their proprietary equivalents; (6) ball bearing steels; (7) tool steels; and (8) silicon manganese steel or silicon electric steel.

Regarding the scope of the order for Japan, the following additional exclusions apply with respect to abrasion-resistant steels: NK-EH-360 (NK Everhard 360) and NK-EH-500 (NK Everhard 500). NK-EH-360 has the following specifications: (a) Physical Properties: Thickness ranging from 6–50 mm, Brinell Hardness: 361 min.; (b) Heat Treatment: controlled heat treatment; and (c) Chemical Composition (percent weight): C: 0.20 max., Si: 0.55 max., Mn: 1.60 max., P: 0.030 max., S: 0.030 max., Cr: 0.40 max., Ti: 0.005–0.020, B: 0.004 max. NK-EH-500 has the following specifications: (a) Physical Properties: Thickness ranging from 6–50 mm, Brinell Hardness: 477 min.; (b) Heat Treatment: Controlled heat treatment; and (c) Chemical Composition (percent weight): C: 0.35 max., Si: 0.55 max., Mn: 1.60 max., P: 0.030 max., S: 0.030 max., Cr: 0.80 max., Ti: 0.005–0.020, B: 0.004 max.

The merchandise subject to the orders is currently classifiable in the HTSUS under subheadings: 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.13.0000,

7211.14.0030, 7211.14.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7225.40.3050, 7225.40.7000, 7225.50.6000, 7225.99.0090, 7226.91.5000, 7226.91.7000, 7226.91.8000, 7226.99.0000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise covered by the orders is dispositive.

Analysis of Comments Received

All issues raised in these reviews are addressed in the “Issues and Decision Memorandum for the Expedited Sunset Reviews of the Antidumping Duty Orders on Certain Cut-To-Length Carbon-Quality Steel Plate from India, Indonesia, Italy, Japan, and the Republic of Korea” from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Deputy Assistant Secretary for Import Administration (Decision Memo), which is hereby adopted by, and issued concurrently with, this notice. The issues discussed in the Decision Memo include the likelihood of continuation or recurrence of dumping and the magnitude of the margins likely to prevail if the orders were revoked. Parties can find a complete discussion of all issues raised in these reviews and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, room 7046 of the main Department building.

In addition, a complete version of the Decision Memo can be accessed directly on the Web at <http://ia.ita.doc.gov/fjn>. The paper copy and electronic version of the Decision Memo are identical in content.

Final Results of Reviews

We determine that revocation of the antidumping duty orders on CTL Plate from India, Indonesia, Italy, Japan, and the Republic of Korea would be likely to lead to continuation or recurrence of dumping at the rates listed below:

Exporter/manufacturer	Margin percentage
India:	
Steel Authority of India, Ltd ..	42.39
All Others	42.39
Indonesia:	
PT Gunawan Dianjaya/PT Jaya Pari Steel Corporation	50.80
PT Krakatau Steel	52.42
All Others	50.80
Italy:	
Palini and Bertoli S.p.A	7.64
All Others	7.64
Japan:	

Exporter/manufacturer	Margin percentage
Kawasaki Steel Corporation	9.46
Kobe Steel, Ltd	59.12
Nippon Steel Corporation	59.12
NKK Corporation	59.12
Sumitomo Metal Industries, Ltd	59.12
All Others	9.46
Republic of Korea:	
Dongkuk Steel Mill Co., Ltd ..	2.98
All Others	2.98

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the return or destruction of APO materials or conversion to judicial protective orders is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing the results and notice in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act.

Dated: March 1, 2011.

Ronald K. Lorentzen,
Deputy Assistant Secretary for Import Administration.

[FR Doc. 2011-5125 Filed 3-4-11; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-827]

Certain Cased Pencils From the People's Republic of China: Final Results of the Expedited Third Sunset Review of the Antidumping Duty Order

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

DATES: *Effective Date:* March 7, 2011.

SUMMARY: On November 1, 2010, the Department of Commerce (“Department”) published in the **Federal Register** the notice of initiation of the third sunset review of the antidumping duty order on certain cased pencils (“pencils”) from the People’s Republic of China (“PRC”), pursuant to section 751(c) of the Tariff Act of 1930, as amended (“the Act”). *See Initiation of Five-Year (“Sunset”) Review*, 75 FR 67082 (November 1, 2010). The Department has conducted an expedited sunset review of this order pursuant to section 751(c)(3)(B) of the Act and 19

CFR 351.218(e)(1)(ii)(C)(2). As a result of the sunset review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the margins identified in the “Final Results of Review” section of this notice.

FOR FURTHER INFORMATION CONTACT: Seth Isenberg or Yasmin Nair, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-0588 and (202) 482-3813, respectively.

SUPPLEMENTARY INFORMATION:

Background

The antidumping duty order that covers pencils from the PRC was published in the **Federal Register** on December 28, 1994. See *Antidumping Duty Order: Certain Cased Pencils from the People’s Republic of China*, 59 FR 66909 (December 28, 1994), amended at *Certain Cased Pencils From the People’s Republic of China; Notice of Amended Final Determination of Sales at Less Than Fair Value and Amended Antidumping Duty Order in Accordance With Final Court Decision*, 64 FR 25275 (May 11, 1999). On November 1, 2010, the Department initiated the third sunset review of this order, pursuant to section 751(c) of the Act. See *Initiation of Five-Year (“Sunset”) Review*, 75 FR 67082 (November 1, 2010). The Department received a notice of intent to participate from domestic interested parties Sanford Corp.; General Pencil Co., Inc.; and Musgrave Pencil Co. (collectively, “Petitioners”), within the deadline specified in 19 CFR 351.218(d)(1)(i). Petitioners claimed interested party status under section 771(9)(C) of the Act, as manufacturers of a domestic-like product in the United States. The Department also received a notice of intent to participate from Dixon Ticonderoga Company (“Dixon”), within the deadline specified in 19 CFR 351.218(d)(1)(i). Dixon claimed interested party status under section 771(4)(B) of the Act, as an importer of

the subject merchandise that is related to a foreign producer and exporter of the subject merchandise.

On December 1, 2010, the Department received a substantive response from Petitioners. In addition to meeting the other requirements of 19 CFR 351.218(d)(3), Petitioners provided information on the volume and value of exports of pencils from the PRC. The Department did not receive a substantive response from Dixon. The Department did not receive adequate substantive responses, or any response at all, from any respondent interested parties to this proceeding. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted an expedited (120-day) sunset review of the antidumping duty order on pencils from the PRC.

Scope of the Order

Imports covered by the order are shipments of certain cased pencils of any shape or dimension (except as described below) which are writing and/or drawing instruments that feature cores of graphite or other materials, encased in wood and/or man-made materials, whether or not decorated and whether or not tipped (e.g., with erasers, etc.) in any fashion, and either sharpened or unsharpened. The pencils subject to the order are currently classifiable under subheading 9609.10.00 of the Harmonized Tariff Schedule of the United States (“HTSUS”). Specifically excluded from the scope of the order are mechanical pencils, cosmetic pencils, pens, non-cased crayons (wax), pastels, charcoals, chalks, and pencils produced under U.S. patent number 6,217,242, from paper infused with scents by the means covered in the above-referenced patent, thereby having odors distinct from those that may emanate from pencils lacking the scent infusion. Also excluded from the scope of the order are pencils with all of the following physical characteristics: (1) Length: 13.5 or more inches; (2) sheath diameter: not less than one-and-one quarter inches at any point (before sharpening); and (3) core

length: Not more than 15 percent of the length of the pencil.

In addition, pencils with all of the following physical characteristics are excluded from the scope of the order: Novelty jumbo pencils that are octagonal in shape, approximately ten inches long, one inch in diameter before sharpening, and three-and-one eighth inches in circumference, composed of turned wood encasing one-and-one half inches of sharpened lead on one end and a rubber eraser on the other end.

Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

Analysis of Comments Received

All issues raised in this review are addressed in the Issues and Decision Memorandum (“Decision Memorandum”) from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Deputy Assistant Secretary for Import Administration, dated March 1, 2011, which is hereby adopted by this notice. The issues discussed in the Decision Memorandum include the likelihood of continuation or recurrence of dumping and the magnitude of the margins likely to prevail if the order were revoked. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit in room 7046 of the main Commerce building.

In addition, a complete version of the Decision Memorandum can be accessed directly on the Internet at <http://ia.ita.doc.gov/frn>. The paper copy and electronic version of the Decision Memorandum are identical in content.

Final Results of Review

Pursuant to sections 752(c)(1) and (3) of the Act, we determine that revocation of the antidumping duty order on pencils from the PRC would be likely to lead to continuation or recurrence of dumping at the following weighted-average percentage margins:

Manufacturers/producers/exporters	Margin (percent)
China First Pencil Co., Ltd	8.60
Shanghai Three Star Stationery Industry Corp ¹	0.00
Shanghai Lansheng Corp	19.36
Shanghai Foreign Trade Corp	11.15
Guangdong Provincial Stationery & Sporting Goods Import & Export Corp ²	53.65

Manufacturers/producers/exporters	Margin (percent)
PRC-Wide Rate	53.65

¹ In the original order and subsequent administrative reviews, China First Pencil Co. Ltd (“China First”) and Shanghai Three Star Stationery Industry Co., Ltd. (“Three Star”) were treated as separate entities. In the 1999–2000 administrative review, the Department determined that China First and Three Star should henceforth be treated as a single entity. See *Certain Cased Pencils from the People’s Republic of China; Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 67 FR 48612 (July 25, 2002) (“99–00 Pencils Final”) and accompanying Issues and Decision Memorandum at Comment 12, amended at *Notice of Amended Final Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Cased Pencils from the People’s Republic of China*, 67 FR 59049 (September 19, 2002). The Department continued to treat China First and Three Star as a single entity in the four successive administrative reviews. In the 2006–2007 administrative review, the Department determined that due to new evidence regarding the relationship between China First and Three Star there was no longer a sufficient basis to combine the two companies. See *Certain Cased Pencils from the People’s Republic of China; Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 74 FR 33406 (July 13, 2009) and accompanying Issues and Decision Memorandum at Comment 1, amended at *Certain Cased Pencils from the People’s Republic of China: Amended Final Results of Antidumping Duty Administrative Review*, 74 FR 45177 (September 1, 2009). The Department continues to view China First and Three Star as separate and distinct entities as a result of the 2006–2007 administrative review determination. See *Certain Cased Pencils From the People’s Republic of China; Final Results of the Antidumping Duty Administrative Review*, 75 FR 38980 (July 7, 2010).

² The Department originally excluded from the order exports made by Guangdong Provincial Stationery & Sporting Goods Import & Export Corp. (“Guangdong”) and produced by Three Star. However, the Department determined in the 1999–2000 administrative review that the Guangdong/Three Star sales chain was no longer excluded from the order, and that all merchandise exported by Guangdong was subject to the cash deposit requirements at the PRC-Wide Rate. See *99–00 Pencils Final* and accompanying Issues and Decision Memorandum at Comment 1, amended at 67 FR 59049.

This notice also serves as the only reminder to parties subject to administrative protective order (“APO”) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the return or destruction of APO materials or conversion to judicial protective orders is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing the final results and notice in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act.

Dated: March 1, 2011.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 2011–5123 Filed 3–4–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–929]

Small Diameter Graphite Electrodes From the People’s Republic of China: Preliminary Results of the First Administrative Review of the Antidumping Duty Order; Partial Rescission of Administrative Review; and Intent To Rescind Administrative Review, in Part

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

SUMMARY: In response to requests from interested parties, the Department of Commerce. (“Department”) is conducting the first administrative

review of the antidumping duty order on small diameter graphite electrodes (“SDGE”) from the People’s Republic of China (“PRC”), covering the period August 21, 2008, through January 31, 2010. The Department has preliminarily determined that during the period of review (“POR”) respondents in this proceeding have made sales of subject merchandise at less than normal value (“NV”). If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection (“CBP”) to assess antidumping duties on all appropriate entries of subject merchandise during the POR. The Department is also rescinding this review for those exporters for which requests for review were timely withdrawn.¹ For the companies for which this review is rescinded, antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption. Furthermore, we determine that four companies for which a review was requested have not been responsive, and thus have not demonstrated entitlement to a separate rate.² As a result, we have preliminarily determined that they are part of the PRC-wide entity, and continue to be subject to the PRC-wide entity rate.³ Further, the Department intends to rescind this administrative review with respect to UK Carbon & Graphite (“UKCG”) if the Department concludes that there were no entries, exports, or sales of the subject merchandise to the

United States during the POR.⁴ Interested parties are invited to comment on these preliminary results. We will issue final results no later than 120 days from the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (“the Act”).

DATES: *Effective Date:* March 7, 2011.

FOR FURTHER INFORMATION CONTACT: Lindsey Novom or Frances Veith, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone: (202) 482–5256 or (202) 482–4295, respectively.

Background

On February 26, 2009, the Department published in the **Federal Register** the antidumping duty order on SDGE from the PRC.⁵ On February 1, 2010, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on SDGE from the PRC.⁶ On February 23, February 25, and February 26, 2010, the Department received timely requests for an administrative review of this antidumping duty order in accordance with 19 CFR 351.213(b) from Fushun Jinly Petrochemical Carbon Co., Ltd (“Fushun Jinly”), Xinghe County Muzi Carbon Co., Ltd. (“Muzi Carbon”), and Beijing Fangda Carbon Tech Co., Ltd. (“Beijing Fangda”), Chengdu Rongguang

⁴ See “Intent to Rescind, in Part, the Administrative Review” section below.

⁵ See *Antidumping Duty Order: Small Diameter Graphite Electrodes from the People’s Republic of China*, 74 FR 8775 (February 26, 2009).

⁶ See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Reviews*, 75 FR 5037 (February 1, 2010).

¹ See “Partial Rescission of the Administrative Review” section below.

² See “Separate Rates” section below.

³ See “The PRC-Wide Entity, PRC-Wide Rate, and Use of Adverse Facts Available” section below.

APPENDIX B
COMMISSION'S STATEMENT ON ADEQUACY

EXPLANATION OF COMMISSION DETERMINATION ON ADEQUACY

in

Cased Pencils from China
Inv. No. 731-TA-669 (Third Review)

On February 4, 2011, 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 two submissions from four domestic interested parties in response to the notice of institution. One response was filed on behalf of Sanford, L.P., General Pencil Co., Inc., and Musgrave Pencil Co., three domestic producers of cased pencils. The other was filed by domestic producer Dixon Ticonderoga Co. The Commission found the individual responses to be adequate, and determined that the domestic interested party group response was adequate.

The Commission received no response from any respondent interested party, and therefore determined that the respondent interested party group response was inadequate. In the absence of an adequate respondent interested party group response or any other circumstances warranting a full review, the Commission determined to conduct an expedited review.¹

A record of the Commissioners' votes is available from the Office of the Secretary and the Commission's web site (www.usitc.gov).

¹ Commissioners Daniel R. Pearson and Shara L. Aranoff found that circumstances warranted conducting a full review of the antidumping duty order and therefore voted to conduct a full review.

APPENDIX C
PURCHASER RESPONSES

As part of their response to the notice of institution, interested parties were asked to provide a list of three to five leading purchasers in the U.S. market for the domestic like product. A response was received from domestic interested parties and they named the following 15 firms as the top purchasers of cased pencils: ***. Purchaser questionnaires were sent to these 15 firms and nine firms (***) provided responses which are presented below. Please note that *** reported separate responses for its *** stores, which are shown separately below.

1. a) Have any changes occurred in technology; production methods; or development efforts to produce cased pencils that affected the availability of cased pencils in the U.S. market or in the market for cased pencils in China since 2005?

b) Do you anticipate any changes in technology; production methods; or development efforts to produce cased pencils that will affect the availability of cased pencils in the U.S. market or in the market for cased pencils in China within a reasonably foreseeable time?

Purchaser	Changes that have occurred	Anticipated changes
***	Yes. Our supplier, ***, has made significant investments in machinery and equipment to reduce their manufacturing costs. These investments have occurred during the past 12 months.	Yes. Low cost Chinese pencils exist in the marketplace today. If they continue to flood the market, or if the duties are reduced, we will be forced to source the pencils from a Chinese supplier. Chinese suppliers are aggressively seeking U.S. customers and don't seem to always be affected by the tariffs.
***	*** has no knowledge of technology, production, or development of this product. *** has no significant manufacturing information.	*** has no knowledge of technology, production, or development of this product. *** has no significant manufacturing information.
***	No.	No.
***	No.	No.
***	No.	No.
***	No.	No.
***	No.	No.
***	No.	No.
***	No. ***, as a retailer not directly involved with the production of pencils, is not aware of technology shifts affecting the availability of cased pencils.	No.
***	Yes. Since 2000, paper pencils have been on the market. However, this has had limited impact on the availability of cased pencils due to higher prices.	Yes. The availability of basswood and linden wood might affect the availability at current prices. Poplar wood will be readily available within 4 to 7 years.

2. a) Have any changes occurred in the ability to increase production of cased pencils (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production) that affected the availability of cased pencils in the U.S. market or in the market for cased pencils in China since 2005?

b) Do you anticipate any changes in the 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) that will affect the availability of cased pencils in the U.S. market or in the market for cased pencils in China within a reasonably foreseeable time?

Purchaser	Changes that have occurred	Anticipated changes
***	Yes. There appears to be more and more Chinese pencil manufacturers contacting U.S. companies and trying to secure business. This would appear to us to be an increase in capacity for manufacturing wood cased pencils in China.	Yes. We anticipate greater Chinese capacity. A previous domestic manufacturer, ***, has opened a factory in Beijing. If the tariffs were reduced, we would be forced to replace our domestic supplier with a Chinese supplier.
***	*** has no knowledge of this product and no significant manufacturing information.	*** has no knowledge of this product and no significant manufacturing information.
***	No.	No.
***	No.	No.
***	Yes. Pencil availability from Taiwan and Vietnam has increased in the last 5 years.	No.
***	No.	Yes. The shortage of cedar has affected the supply of wood cased pencils during back to school in 2010.
***	Yes. Suppliers have told us that there is a wood shortage.	Yes. Suppliers have told us that there is a wood shortage.
***	No.	No.
***	No. ***, as a retailer not directly involved with the production of pencils, is not aware of production shifts affecting the availability of cased pencils.	No.
***	No.	Yes. Shifted to other producing countries over the last 3 to 5 years.

3. a) Have any changes occurred in factors related to the ability to shift supply of cased pencils among different national markets (including barriers to importation in foreign markets or changes in market demand abroad) that affected the availability of cased pencils in the U.S. market or in the market for cased pencils in China since 2005?
- b) Do you anticipate any changes in 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) that will affect the availability of cased pencils in the U.S. market or in the market for cased pencils in China within a reasonably foreseeable time?

Purchaser	Changes that have occurred	Anticipated changes
***	Yes. From what we understand, Mexico has imposed very high customs on imported wood cased pencils from China, so fewer illegal shipments of wood cased pencils are coming from Mexico. We view this as a positive development.	Yes. We understand that Russia is having the same problem as the United States is having, and is considering imposing large duties as well.
***	*** has no significant manufacturing information.	*** has no significant manufacturing information.
***	No.	No.
***	Yes. Significant production of case pencils by Chinese manufacturers in China continues with manufacturers granted "favorable" anti-dumping duties, where a majority of this production is most likely sold to U.S. retailers and distributors by domestic companies. Other Asian countries (Vietnam, Taiwan, and Indonesia) also supply a large volume of pencils to the U.S. market.	No.
***	Yes. The last 3 years has seen significant rise in the consumption of wood cased pencils for use in the Chinese market. Several suppliers in China have been unable to bid on production space for export quotes recently due to filling production within local market needs.	No.
***	No.	No.
***	No.	No.
***	No. To the best of our knowledge, no.	No. To the best of our knowledge, no.

3.-Continued

Purchaser	Changes that have occurred	Anticipated changes
***	Yes. U.S. anti-dumping duties assessed for pencils produced in various countries always seems to have an affect on the geographical production of pencils, though this statement is made with no specific AD duty or investigation in mind.	Yes. U.S. anti-dumping duties assessed for pencils produced in various countries always seems to have an affect on the geographical production of pencils, though this statement is made with no specific AD duty or investigation in mind.
***	Yes. Change to other countries with reduced and/or no antidumping impact.	Yes. In the next year or two, new countries will have developed the capacity to meet the demands.

4. a) Have there been any changes in the end uses and applications of cased pencils in the U.S. market or in the market for cased pencils in China since 2005?
- b) Do you anticipate any changes in the end uses and applications of cased pencils in the U.S. market or in the market for cased pencils in China within a reasonably foreseeable time?

Purchaser	Changes that have occurred	Anticipated changes
***	No.	No.
***	No.	No.
***	No.	No.
***	No.	No.
***	No.	No.
***	No.	No.
***	No.	No.
***	No.	No.
***	No.	No.
***	Yes. Growth in markets outside of back to school. Examples include decorated cased pencils for seasonal, promotional, or party ware.	Yes. The market will decrease in the next 3 to 5 years due to technology usage at a younger age.

5. a) Have there been any changes in the existence and availability of substitute products for cased pencils in the U.S. market or in the market for cased pencils in China since 2005?

b) Do you anticipate any changes in the existence and availability of substitute products for cased pencils in the U.S. market or in the market for cased pencils in China within a reasonably foreseeable time?

Purchaser	Changes that have occurred	Anticipated changes
***	No.	No.
***	No.	No.
***	No.	No.
***	No.	No.
***	No.	No.
***	No.	No.
***	No.	No.
***	No.	No.
***	No.	No.
***	Yes. A small amount of liquid pencils have been introduced into the retail market recently.	No.
***	Yes. Paper, bamboo, plastic cased and mechanical pencils.	Yes. More reusable and eco-friendly material versus wood cased.

6. a) Have there been any changes in the level of competition between cased pencils produced in the United States, cased pencils produced in China, and such merchandise from other countries in the U.S. market or in the market for cased pencils in China since 2005?

b) Do you anticipate any changes in the level of competition between cased pencils produced in the United States, cased pencils produced in China, and such merchandise from other countries in the U.S. market or in the market for cased pencils in China within a reasonably foreseeable time?

Purchaser	Changes that have occurred	Anticipated changes
***	Yes. The existence of low cost Chinese pencils has definitely lowered costs in the U.S. and forced lower prices in the marketplace. It appears that illegal transshipments are taking place via Taiwan, Indonesia, and Thailand, circumventing anti-dumping duties. It also appears that major Chinese suppliers are qualifying for lower dumping duties and affecting the U.S. pencil manufacturers negatively.	Yes. Continued expansion of Chinese capacity will place greater pressure on U.S. pencil companies and may force additional closures which would affect U.S. competition. The U.S. has already seen around 15 companies go out of business, leaving only 2 or 3 real U.S. pencil manufacturers. I also worry about the quality of the paint and wood used in these low cost pencils and what affect it will have on the U.S. consumer. U.S.-made pencils are of significantly better quality than Chinese pencils. I have toured Chinese pencil factories and the quality standards of production and the sourcing of the raw materials are inferior to U.S. standards, but we are forced to compete with them.
***	No. Not to our knowledge.	No. Not to our knowledge.
***	No.	No.
***	No.	No.
***	Yes. Competitive sources are available in Vietnam, Indonesia, Taiwan, and India.	No.
***	Yes. *** no longer produces the value wood cased pencils because they were losing money by producing this item.	No.
***	No.	No.
***	Yes. We believe production of cased pencils in Indonesia has increased materially since 2005.	No.

6.–Continued

Purchaser	Changes that have occurred	Anticipated changes
***	Yes. From a pencil purchaser perspective, it appears that more pencils are produced in Vietnam recently than in past years.	No.
***	Yes. In the past 3 to 5 years, India, Indonesia, and the Philippines have increased production capacity.	Yes. More factories are opening with better labor markets and lower labor costs.

7. a) Have there been any changes in the business cycle for cased pencils in the U.S. market or in the market for cased pencils in China since 2005?

b) Do you anticipate any changes in the business cycle for cased pencils in the U.S. market or in the market for cased pencils in China within a reasonably foreseeable time?

Purchaser	Changes that have occurred	Anticipated changes
***	Yes. The collapse of U.S. new single-family home construction has definitely cause a reduction in demand for wood cased pencils.	Yes. We remain skeptical, but optimistic that the U.S. single-family housing market will grow slightly in 2011 and continue to improve in 2012, which should increase the demand for Carpenters Pencils in particular.
***	No. Not to our knowledge.	No. Not to our knowledge.
***	No.	No.
***	No.	No.
***	No.	No.
***	No.	No.
***	No.	No.
***	No.	No.
***	No.	No.
***	No.	Yes. There will be less back to school demand in the next 3 to 5 years resulting from increased technology usage and eco-friendly cost choices.