

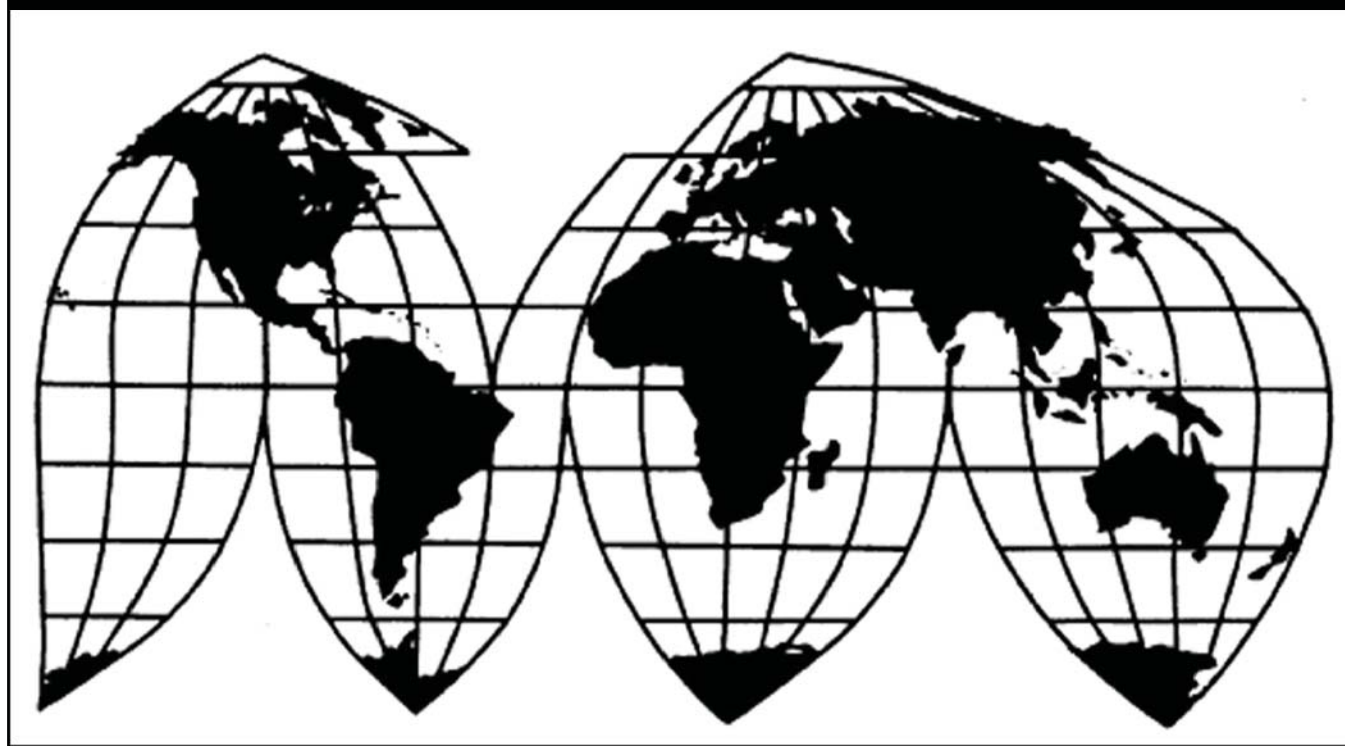
Carbazole Violet Pigment 23 from China and India

Investigation Nos. 701-TA-437 and 731-TA-1060 and 1061 (Review)

Publication 4151

April 2010

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

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Robert B. Koopman
Acting Director of Operations

Staff assigned

Cynthia Trainor, Investigator
Elizabeth Duall, Attorney-advisor
Mary Jane Alves, Attorney-advisor

James McClure, Supervisory investigator

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

U.S. International Trade Commission

Washington, DC 20436
www.usitc.gov

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Investigation Nos. 701-TA-437 and 731-TA-1060 and 1061 (Review)

CARBAZOLE VIOLET PIGMENT 23 FROM CHINA AND INDIA

DETERMINATIONS

On the basis of the record¹ developed in the subject five-year reviews, 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 countervailing duty order on carbazole violet pigment 23 from India would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time and that revocation of the antidumping duty orders on carbazole violet pigment 23 from China and India 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 2, 2009 (74 F.R. 56663) and determined on February 5, 2010 that it would conduct expedited reviews (75 F.R. 14468, March 25, 2010).

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 these five-year reviews, we determine, under section 751(c) of the Tariff Act of 1930, as amended (“the Act”), that revocation of the antidumping duty orders on carbazole violet pigment 23 (“CVP-23”) from China and India and the countervailing duty order on CVP-23 from India would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

I. BACKGROUND

On November 21, 2003, Nation Ford Chemical Company (“NFC”) and Sun Chemical Corporation (“Sun”) filed petitions alleging that imports of CVP-23 from India were being subsidized and that imports of CVP-23 from China and India were being sold at less than fair value in the U.S. market. NFC is a domestic producer of crude CVP-23, and Sun is a domestic producer of finished CVP-23 in the forms of dry color and presscake. All six Commissioners voted in the affirmative in the original investigations and determined that a U.S. industry was materially injured by reason of cumulated subject imports. On December 29, 2004, the U.S. Department of Commerce (“Commerce”) issued antidumping duty orders on subject imports from China and India and a countervailing duty order on subject imports from India.¹

The Commission instituted the instant reviews on November 2, 2009.² NFC and Sun jointly filed the sole response to the notice of institution.³ On February 5, 2010, the Commission determined that, for each of the reviews, the domestic interested party response was adequate and the respondent interested party response was inadequate. In the absence of an adequate respondent interested party group response or any other circumstances warranting full reviews, the Commission determined to conduct expedited reviews pursuant to section 751(c)(3) of the Act.⁴

On April 13, 2010, NFC and Sun filed final comments pursuant to 19 C.F.R. § 207.62(d).⁵ No respondent interested party has provided any information or arguments to the Commission in these reviews. Accordingly, for our determinations, we rely as appropriate on the facts available on the record, which consist of information collected in these five-year reviews (including information submitted by domestic producers, purchaser responses, and publicly available information) and information from the original investigations.

¹ Carbazole Violet Pigment 23 from China and India - Confidential Staff Report, Memorandum INV-HH-035 (April 8, 2010) (“CR”) at I-4, PR I-4 (citations to the public version of the staff report will be to “PR”).

² 74 Fed. Reg. 56663 (Nov. 2, 2009).

³ See Substantive Response of NFC and Sun to Sunset Reviews (Dec. 2, 2009) (“NFC and Sun Response to Notice of Institution”).

⁴ Vice Chairman Pearson found that the domestic interested party group response was adequate and the respondent interested party group response was inadequate, but other circumstances warranted full reviews. See, e.g., Explanation of Commission Determinations on Adequacy, reprinted in CR at App. B; 19 U.S.C. § 1675(c)(3) (2000).

⁵ See Final Comments of NFC and Sun In Sunset Review (April 13, 2010) (“NFC and Sun Final Comments”).

II. DOMESTIC LIKE PRODUCT

In making its determination under section 751(c) of the Act, the Commission defines the “domestic like product” and the “industry.”⁶ The Act defines “domestic like product” as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle.”⁷ The Commission’s practice in five-year reviews is to examine the like product definition from the original determination and any completed reviews and consider whether the record indicates any reason to revisit the prior findings.⁸

In its expedited review determination, Commerce defined the subject merchandise as follows:

CVP-23 identified as Color Index No. 51319 and Chemical Abstract No. 6358-30-1, with the chemical name of diindolo [3,2-b:3',2'-m] triphenodioxazine, 8,18-dichloro-5,15-diethyl-5,15-dihydro-, and molecular formula of C₃₄H₂₂Cl₂N₄O₂. The subject merchandise includes the crude pigment in any form (e.g., dry powder, paste, wet cake) and finished pigment in the form of presscake and dry color.⁹

CVP-23 is a type of synthetic organic chemical used as a colorant or pigment to color inks, textiles, plastics, coatings, and other materials.¹⁰ Crude CVP-23 has no use other than to produce finished CVP-23 in the forms of presscake and dry color. Presscake is produced from crude CVP-23 using a particle size reduction process. Dry color CVP-23 is pure pigment and presscake has varying amounts of pigment diluted with water. Dry color can be sold for numerous end uses, including the coloring of plastics, printing inks, and textiles, as well as the production of dispersions. Presscake can be processed into dry pigment powder or used to make pigment dispersions.¹¹

In the original investigations, the Commission found a single domestic like product coextensive with the scope definition. Because the scope included both crude CVP-23 as well as certain finished CVP-23 products (i.e., presscake and dry color), the Commission used the semi-finished like product analysis in examining the issue of the appropriate domestic like product.¹² The Commission found that,

⁶ 19 U.S.C. § 1677(4)(A).

⁷ 19 U.S.C. § 1677(10); see, e.g., Cleo Inc. v. United States, 501 F.3d 1291, 1299 (Fed. Cir. 2007); NEC Corp. v. Department of Commerce, 36 F. Supp. 2d 380, 383 (Ct. Int’l Trade 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int’l Trade 1996); Torrington Co. v. United States, 747 F. Supp. 744, 748-49 (Ct. Int’l Trade 1990), aff’d, 938 F.2d 1278 (Fed. Cir. 1991); see also S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

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

⁹ As Commerce further stated, pigment dispersions in any form (e.g., pigments dispersed in oleoresins, flammable solvents, water) are not included within the scope of the orders. The merchandise subject to these orders is classifiable under subheading 3204.17.9040 of the Harmonized Tariff Schedule of the United States (“HTSUS”), but the written description of the merchandise under the orders is dispositive. See, e.g., 75 Fed. Reg. 13257 (Mar. 19, 2010); 75 Fed. Reg. 12497 (Mar. 16, 2010).

¹⁰ CR/PR at I-13.

¹¹ CR/PR at I-13.

¹² In cases where an issue is presented as to whether articles at different stages of processing should be included in the same like product, the Commission uses the semi-finished like product analysis and considers the following factors: (1) whether the upstream article is dedicated to production of the downstream article; (2) whether there are

(continued...)

based on the record as a whole, there was not a sufficiently clear dividing line between crude and finished CVP-23 to warrant finding two separate like products.¹³

In their response to the notice of institution, NFC and Sun stated that they agree with the domestic like product definition the Commission described in its notice of institution and adopted in the original investigations.¹⁴ The record in these expedited reviews provides no basis to call into question the Commission's previous definition of the domestic like product. Accordingly, we continue to define the domestic like product as crude and finished CVP-23 coextensive with the scope definition.

III. DOMESTIC INDUSTRY

Section 771(4)(A) of the Act defines the relevant industry as the domestic "producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."¹⁵ 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.

At the time of the original investigations, there were five U.S. firms involved in the production of crude or finished CVP-23.¹⁶ The Commission found that no domestic producers directly imported subject merchandise from China or India¹⁷ and found that no domestic producer, ***,¹⁸ was a related party based on a direct or indirect control relationship between any of the domestic producers and any exporters or

¹² (...continued)

perceived to be separate markets for the upstream and downstream articles; (3) differences in physical characteristics and functions of upstream and downstream articles; (4) differences in cost or value of the vertically differentiated articles; and (5) significance and extent of processes used to transform upstream into downstream articles. See, e.g., Glycine from India, Japan, and Korea, Invs. Nos. 731-TA-1111 to 1113 (Prelim.), USITC Pub. 3921 at 7 (May 2007); Artists' Canvas from China, Inv. No. 731-TA-1091 (Final), USITC Pub. 3853 at 6 (May 2006); Live Swine from Canada, Inv. No. 731-TA-1076 (Final), USITC Pub. 3766 at 8, n.40 (Apr. 2005); Certain Frozen Fish Fillets from Vietnam, Inv. No. 731-TA-1012 (Prelim.), USITC Pub. 3533 at 7 (Aug. 2002).

¹³ Carbazole Violet Pigment 23 from China and India, Investigations Nos. 701-TA-437 and 731-TA-1060 and 1061 (Final), USITC Pub. 3744 (December 2004) ("Original Determination") at 7.

¹⁴ NFC and Sun Response to Notice of Institution at 18.

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

¹⁶ Carbazole Violet Pigment 23 from China and India – Confidential Staff Report, Memorandum INV-BB-148 (Nov. 30, 2004) ("Orig. Investigations CR") at III-2, Table III-1. The five U.S. producers were Allegheny Color Corp. ("Allegheny"), Barker Fine Color ("Barker"), Clariant Corp. ("Clariant"), Summit Specialty Chemicals LLC (***), NFC, and Sun. Barker (***) ***. Original Investigation CR at III-2. Allegheny ***. See Original China/India Determinations, Confidential Opinion (EDIS Doc. 220827) ("Views of the Commission"), at 8 n.19; Original Investigations CR at III-1. The only other remaining producer of CVP-23, Clariant Corporation, terminated its U.S. production of CVP-23 in December 2008. NFC and Sun Response to Notice of Institution at 10.

¹⁷ Original Determination, USITC Pub. 3744, at 8.

¹⁸ ***. See Views of the Commission at 11.

importers of the subject merchandise.¹⁹ Accordingly, the Commission defined the domestic industry to include all domestic producers of crude and finished CVP-23.²⁰

In their response to the Commission's notice of institution, NFC and Sun agree with the definition of the domestic industry as set forth in the notice of institution and the Commission's final determinations in the original investigations.²¹ NFC and Sun believe that they are the only U.S. producers of CVP-23 currently operating and that together they account for 100 percent of U.S. production of crude and finished CVP-23.²² NFC produces only crude CVP-23 and produces it exclusively for Sun.^{23 24}

During these reviews, Sun imported subject crude CVP-23 from China and India.²⁵ The imports ceased in November 2007 with respect to India and in September 2008 with respect to China, and there is no indication that Sun plans to import again from subject sources in the reasonably foreseeable future.²⁶ According to Sun, there were some changes in supply conditions that contributed to its decision to import crude CVP-23 from China and India. In particular, Sun's Japanese supplier, Sumitomo Chemical, ceased production of crude CVP-23 in 2007, and Sun received its last shipment from that company in July 2007. In addition, in 2003, ***.²⁷ In the latter part of 2006, however, NFC decided to switch to a new production process and had substantially reduced production capacity during 2006, all of 2007, and part of 2008 while the new system was being installed. During this time, Sun was forced to source its crude

¹⁹ Views of the Commission at 12. Section 771(4)(B) of the Act allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry producers that are related to an exporter or importer of subject merchandise, or which are themselves importers. The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude a related party are as follows:

(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-à-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 mem., 991 F.2d 809 (Fed. Cir. 1993).

²⁰ Original Determination, USITC Pub. 3744, at 8.

²¹ NFC and Sun Response to Notice of Institution at 18.

²² NFC and Sun Response to Notice of Institution at 10.

²³ NFC and Sun Response to Notice of Institution at 10.

²⁴ In the original investigations, the Commission noted that no party argued that any company involved in the production of CVP-23 was not engaged in sufficient production-related activities in the United States to qualify as a domestic producer. The Commission found that companies that produce crude CVP-23 and companies that produce finished CVP-23 were part of the domestic industry and treated products within the definition of the domestic like product made by these producers as shipments of the domestic industry. Original Determination, USITC Pub. 3744, at 8, n.35. The record in these reviews does not suggest that the Commission should reach a different conclusion.

²⁵ Specifically, Sun imported *** pounds in 2004, *** pounds in 2006, *** pounds in 2007, and *** pounds in 2008. CR at I-26, n.41/PR at I-18, n.41; NFC and Sun Response to Notice of Institution at Appendix 1. Sun's reported production of finished CVP-23 in 2008 was *** pounds. NFC and Sun Response to Notice of Institution at 15.

²⁶ NFC and Sun Response to Notice of Institution at 16.

²⁷ CR at I-21-22/PR at I-17.

CVP-23 from other countries, including the subject countries.²⁸ In April 2008, when the installation was complete, NFC returned to supplying most of Sun's crude pigment and since May 2009 has been supplying Sun's entire crude CVP-23 requirements.²⁹ Sun, a petitioner in the original investigations, currently is the sole domestic producer of finished CVP-23. There is no evidence that Sun's interest lies primarily in the importation of CVP-23 as opposed to production.³⁰ Therefore, we find that appropriate circumstances do not exist for the exclusion of Sun from the domestic industry.

Accordingly, and consistent with our single domestic like product recommendation, we continue to define the domestic industry as including all domestic producers of crude and finished CVP-23.

IV. CUMULATION

A. Original Investigations

In the original investigations, the Commission cumulated subject imports from both countries, finding a reasonable overlap of competition among the domestic like product and subject imports from China and India³¹ and also a reasonable overlap of competition between subject imports from China and India.³² Throughout the period examined in the original investigations, there were (i) subject imports from China and U.S. shipments by the domestic industry of crude CVP-23 and (ii) subject imports from China and India, as well as U.S. shipments by the domestic industry of presscake and dry color.³³

The Commission found that there was overlap between the domestic industry and subject imports from China and India with respect to shipments for ink-related applications and in the merchant market for water-based applications.³⁴ It also found that there was a moderate-to-high degree of substitutability between the domestic like product and subject imports, although subject imports from China may have had a higher degree of substitutability for the domestic like product than subject imports from India.³⁵ Moreover, domestic producers, importers, and purchasers generally agreed that subject imports from China and India and the domestic like product were interchangeable with each other.³⁶ Based on these considerations, the Commission concluded that subject imports from China and India were sufficiently fungible with each other and with the domestic like product to support a finding of a reasonable overlap of competition.

The Commission also found a substantial geographic overlap among subject imports from China and India and the domestic like product based on the sharing of common ports of entry by subject imports from China and India and the nationwide distribution of U.S. shipments by the domestic industry and

²⁸ CR at I-26/PR at I-18.

²⁹ CR at I-26/PR at I-18.

³⁰ When the sole domestic producer is also a related party, we previously have found that appropriate circumstances do not exist to exclude the producer under the related party provision. See, e.g., 1-Hydroxyethylidene-1, 1-Diphosphonic Acid (HEDP) from China and India, Invs. Nos. 731-TA-1146-1147 (Final), USITC Pub. 4072 at 9 (Apr. 2009) at 9; Tetrahydrofurfuryl Alcohol from China, Invs. No. 731-TA-1046 (Preliminary), USITC Pub. 3620 at n.20 (Aug. 2003).

³¹ See Original Determination, USITC Pub. 3744, at 11.

³² See Original Determination, USITC Pub. 3744, at 11.

³³ See Original Determination, USITC Pub. 3744, at 11.

³⁴ See Original Determination, USITC Pub. 3744, at 11-12.

³⁵ See Original Determination, USITC Pub. 3744, at 12.

³⁶ See Original Determination, USITC Pub. 3744, at 12.

subject imports from China and India.³⁷ The Commission further found that subject imports from China and India and the domestic like product were present in the U.S. market throughout the period examined and generally were sold in the same channels of distribution.³⁸

B. Legal Standard

With respect to five-year reviews, section 752(a) of the Act provides as follows:

the Commission may cumulatively assess the volume and effect of imports of the subject merchandise from all countries with respect to which reviews under section 1675(b) or (c) of this title were initiated on the same day, if such imports would be likely to compete with each other and with domestic like products in the United States market. The Commission shall not cumulatively assess the volume and effects of imports of the subject merchandise in a case in which it determines that such imports are likely to have no discernible adverse impact on the domestic industry.³⁹

Cumulation therefore is discretionary in five-year reviews, unlike original investigations, which are governed by section 771(7)(G)(I) of the Act.⁴⁰ The Commission may exercise its discretion to cumulate, however, only if the reviews are initiated on the same day, the Commission determines that the subject imports are likely to compete with each other and the domestic like product in the U.S. market, and imports from each such subject country are not likely to have no discernible adverse impact on the domestic industry in the event of revocation. Our focus in five-year reviews is not only on present conditions of competition, but also on likely conditions of competition in the reasonably foreseeable future.

The statutory threshold for cumulation is satisfied in these reviews, because the reviews were initiated on the same day: November 2, 2009.⁴¹ We consider three issues in deciding whether to exercise our discretion to cumulate the subject imports as follows: (1) whether imports from any of the subject countries are precluded from cumulation because they are likely to have no discernible adverse impact on the domestic industry; (2) whether there is a likelihood of a reasonable overlap of competition among imports of CVP-23 from the subject countries and the domestic like product; and (3) other considerations, such as whether there are similarities and differences in the likely conditions of competition under which

³⁷ See Original Determination, USITC Pub. 3744, at 13.

³⁸ See Original Determination, USITC Pub. 3744, at 13.

³⁹ 19 U.S.C. § 1675a(a)(7).

⁴⁰ 19 U.S.C. § 1677(7)(G)(i); see also, e.g., Nucor Corp. v. United States, ___ F.3d ___, App. No. 2009-1234, Slip Op. at 7-8 (Fed. Cir. Apr. 7, 2010) (Commission may reasonably consider likely differing conditions of competition in deciding whether to cumulate subject imports in five-year reviews); Allegheny Ludlum Corp. v. United States, 475 F. Supp. 2d 1370, 1378 (Ct. Int'l Trade 2006) (recognizing the wide latitude the Commission has in selecting the types of factors it considers relevant in deciding whether to exercise discretion to cumulate subject imports in five-year reviews); Nucor Corp. v. United States, 569 F. Supp. 2d 1328, 1337-38 (Ct. Int'l Trade 2008).

⁴¹ See 74 Fed. Reg. 56663 (Nov. 2, 2009).

subject imports are likely to compete in the U.S. market.^{42 43} NFC and Sun contend that the Commission should exercise its discretion to cumulate imports from China and India.⁴⁴

C. Likelihood of No Discernible Adverse Impact

The statute precludes cumulation if the Commission finds that subject imports from a country are likely to have no discernible adverse impact on the domestic industry.⁴⁵ Neither the statute nor the Uruguay Round Agreements Act (“URAA”) Statement of Administrative Action (“SAA”) provides specific guidance on what factors the Commission is to consider in determining that imports “are likely to have no discernible adverse impact” on the domestic industry.⁴⁶ With respect to this provision, the Commission generally considers the likely volume of subject imports and the likely impact of those imports on the domestic industry within a reasonably foreseeable time if the orders are revoked.

Based on the record, we do not find that imports from either of the subject countries are likely to have no discernible adverse impact on the domestic industry in the event of revocation of the antidumping and countervailing duty orders. Our analysis for each of the subject countries takes into account the nature of the product and the behavior of subject imports in the original investigations. In the original investigations, the Commission found that there was moderate to high substitutability between subject imports and the domestic like product and that price was an important consideration in choosing a supplier of CVP-23.⁴⁷ The record in these reviews also indicates that imports of subject CVP-23 from China and India into the U.S. market continued throughout the review period,⁴⁸ despite the existence of the antidumping and countervailing duty orders.

⁴² Vice Chairman Pearson and Commissioner Okun note that while they consider the same issues discussed in this section in determining whether to exercise their discretion to cumulate the subject imports, their analytical framework begins with whether imports from the subject countries are likely to face similar conditions of competition. For those subject imports which are likely to compete under similar conditions of competition, they next proceed to consider whether there is a likelihood of a reasonable overlap of competition whereby those imports are likely to compete with each other and with the domestic like product. Finally, if based on that analysis they intend to exercise their discretion to cumulate one or more subject countries, they analyze whether they are precluded from cumulating such imports because the imports from one or more subject countries, assessed individually, are likely to have no discernible adverse impact on the domestic industry. See Steel Concrete Reinforcing Bar From Belarus, China, Indonesia, Korea, Latvia, Moldova, Poland, and Ukraine, Invs. Nos. 731-TA-873 to 875, 877 to 880, and 882 (Review), USITC Pub. 3933 (Jul. 2007) (Separate and Dissenting Views of Chairman Daniel R. Pearson and Commissioner Deanna Tanner Okun Regarding Cumulation). Accord Nucor Corp. v. United States, 605 F. Supp.2d 1361, 1372 (Ct. Int’l Trade 2009); Nucor Corp. v. United States, 594 F. Supp.2d 1320, 1345-47 (Ct. Int’l Trade 2008), aff’d, Slip Op. 2009-1234 (Fed Cir. Apr. 7, 2010).

⁴³ As explained below, Commissioners Lane and Pinkert apply a different analytical framework in determining whether other considerations justify declining to exercise their discretion to cumulate the subject imports.

⁴⁴ NFC and Sun Response to Notice of Institution at 18.

⁴⁵ 19 U.S.C. § 1675a(a)(7).

⁴⁶ SAA, H.R. Rep. No. 103-316, vol. I at 887 (1994).

⁴⁷ Original Determination, USITC Pub. 3744 at 12 and n.59.

⁴⁸ CR/PR at Table I-9. It should be noted, however, that some of the same problems with the official import statistics that the Commission identified in the original investigations (*i.e.*, the inability to distinguish crude and finished CVP-23 and the potential overstatement or understatement of figures) may continue to affect the data in these reviews. See, *e.g.*, Views of the Commission at 25.

China. In the original investigations, the Commission requested data from 19 Chinese firms believed to produce CVP-23.⁴⁹ The Commission received questionnaire responses from only four Chinese producers and from five non-producing exporters.⁵⁰ The record in the original investigations demonstrated that, even though Chinese producers were operating at *** levels of capacity utilization during most of the period examined,⁵¹ they nonetheless manufactured and exported large volumes of crude and finished CVP-23 to the United States.⁵² With respect to presscake, exports from China were *** percent of Chinese producers' shipments in 2001, *** percent in 2002, and *** percent in 2003, with exports to the United States representing the ***. For dry color, exports from China were *** percent of Chinese producers' shipments in 2001, *** percent in 2002, and *** percent in 2003.⁵³ The record in the original investigations also shows that, where price comparisons were possible, Chinese subject imports undersold the domestic product.⁵⁴

Although the record in these expedited reviews contains very limited current information about the Chinese industry, it contains no information indicating that subject imports from China would likely have no discernible adverse impact. Therefore, in light of the large quantities of subject imports from China during the original investigations, the export orientation of the Chinese industry, the significant Chinese production capacity, the substitutability of subject imports and the domestic like product, the significant and widespread underselling by subject imports from China during the original investigations, and the important role of price in purchasing decisions, we do not find that subject imports from China would likely have no discernible adverse impact on the domestic industry if the orders were revoked.

India. In the original investigations, the Commission requested data from 14 firms believed to produce CVP-23. The Commission received questionnaire responses from three producers of CVP-23 in India.⁵⁵ The Indian producers reported significant levels of production of CVP-23 during the period

⁴⁹ Orig. Investigations CR at VII-1.

⁵⁰ Orig. Investigations CR at VII-1. The responding producer indicated that they accounted for approximately *** percent, in aggregate, of production of CVP-23 in China in 2003.

⁵¹ The total capacity of reporting firms for finished CVP-23 was *** pounds in 2001, *** pounds in 2002, and *** pounds in 2003; it was *** pounds in interim 2003 and *** pounds in interim 2004. Their capacity utilization for crude CVP-23 was *** percent in 2001, *** percent in 2002, and *** percent in 2003. Their capacity utilization rate for finished CVP-23 was *** percent in 2001, *** percent in 2002, and *** percent in 2003. Orig. Investigations CR at Table VII-1 and Table VII-2.

⁵² Total production of crude CVP-23 by the reporting Chinese firms was *** pounds in 2001, *** pounds in 2002, and *** pounds in 2003; it was *** pounds in interim 2003 and *** pounds in interim 2004. Total production of finished CVP-23 by reporting firms was *** pounds in 2001, *** pounds in 2002, and *** pounds in 2003; it was *** in interim 2003 and *** in interim 2004. Orig. Investigations CR at Tables VII-1 and VII-2. The volume of subject imports (crude and finished CVP-23) from China into the United States was *** pounds in 2001, *** pounds in 2002, and *** pounds in 2003; it was *** pounds in interim 2003 and *** pounds in interim 2004. Orig. Investigations CR at Table IV-2.

⁵³ Orig. Investigations CR at Table VII-2.

⁵⁴ Specifically, for presscake (product 2), price comparisons were possible in 14 quarters and the Chinese product was priced below the U.S. product in all quarters. Underselling margins ranged from 22.0 to 50.4 percent, and averaged 36.3 percent. Orig. Investigations CR at V-10. For dry color (product 3), price comparisons were possible in a total of 14 quarters and the Chinese product was priced below the U.S. product in all quarters. Underselling margins ranged from 46.3 to 54.8 percent, and averaged 50.8 percent. Orig. Investigations CR at V-11. No price comparisons were possible for crude CVP-23 (product 1) because ***. Orig. Investigations CR at Table V-1, n.1.

⁵⁵ Orig. Investigations CR at VII-6. The three producers were Alpanil Industries, AMI Pigments Pvt. Ltd., and Pidilite Industries Ltd. According to Pidilite, these three respondents were the only known manufacturers of CVP-23 in India.

examined.⁵⁶ Indian producers also had substantial excess capacity to produce crude and finished CVP-23 throughout the period examined.⁵⁷ Their capacity utilization rate for crude CVP-23 was *** percent in 2001, *** percent in 2002, *** percent in 2003, *** percent in interim 2003, and *** percent in interim 2004.⁵⁸ For finished CVP-23, capacity utilization was *** percent in 2001, *** percent in 2002, *** percent in 2003, *** percent in interim 2003, and *** percent in interim 2004.⁵⁹ Indian producers' exports of finished CVP-23 in the form of dry color were *** percent of total shipments in 2001, *** percent in 2002, *** percent in 2003, *** percent in interim 2003, and *** percent in interim 2004.⁶⁰ Indian producers' exports of finished CVP-23 in the form of presscake were *** percent of total shipments in 2001, *** percent in 2002, and *** percent in 2003; they were *** percent in interim 2003 and *** percent in interim 2004.⁶¹

When price comparisons were possible, the record showed significant and pervasive underselling by Indian CVP-23.⁶² Prices for Indian CVP-23 also fell by *** percent between the first quarter of 2001 and the second quarter of 2004.⁶³

Although the record in these expedited reviews contains very limited current information about the Indian industry, it contains no information indicating that subject imports from India would likely have no discernible adverse impact. Therefore, in light of the appreciable quantities of subject imports from India during the original investigations, the export orientation of the Indian industry, the significant excess capacity in India, the substitutability of subject imports and the domestic like product, the significant and widespread underselling by subject imports from India during the original investigations, and the important role of price in purchasing decisions, we do not find that subject imports from India would likely have no discernible adverse impact on the domestic industry if the orders are revoked.

⁵⁶ Total production of crude CVP-23 by the reporting Indian firms was *** pounds in 2001, *** pounds in 2002, *** pounds in 2003, *** pounds in interim 2003, and *** pounds in interim 2004. Orig. Investigations CR at Table VII-3 (revised version). Total production of finished CVP-23 by the reporting Indian firms was *** pounds in 2001, *** pounds in 2002, *** pounds in 2003, *** pounds in interim 2003, and *** pounds in interim 2004. Orig. Investigations CR at Table VII-4.

⁵⁷ Total capacity of crude CVP-23 for the reporting firms was *** in 2001, *** pounds in 2002, and *** pounds in 2003; it was *** pounds in interim 2003 and *** pounds in interim 2004. Orig. Investigations CR at Table VII-3 (revised version). The total capacity of reporting firms for finished CVP-23 was *** pounds in 2001, *** pounds in 2002, and *** pounds in 2003; it was *** pounds in interim 2003 and *** pounds in interim 2004. Orig. Investigations CR at Table VII-4.

⁵⁸ Orig. Investigations CR at Table VII-3 (revised version).

⁵⁹ Orig. Investigations CR at Table VII-4 (revised version).

⁶⁰ Orig. Investigations CR at Table VII-4 (revised version).

⁶¹ Orig. Investigations CR at Table VII-4 (revised version).

⁶² For presscake (product 2), price comparisons were possible in eight quarters and the Indian presscake ***. Orig. Investigations CR at V-11 (revised version). For dry color (product 3), price comparisons were possible between the United States and India in all 14 quarters and in all quarters the Indian product was priced below the U.S. product. Underselling margins ranged from 42.3 to 54.1 percent, and averaged 47.3 percent. Orig. Investigations CR at V-11 (revised version).

⁶³ Orig. Investigations CR at V-11 (revised version).

D. Likelihood of a Reasonable Overlap of Competition

The Commission generally has considered four factors intended to provide a framework for determining whether the imports compete with each other and with the domestic like product.⁶⁴ Only a “reasonable overlap” of competition is required.⁶⁵ In five-year reviews, the relevant inquiry is whether there likely would be competition even if none currently exists because the subject imports are absent from the U.S. market.⁶⁶ We observe that the record of these expedited reviews contains very little new information about either the subject industries or the characteristics of the subject imports that have been present in the U.S. market since the period examined in the original investigations. Consequently, most of the information available is from the original investigations.

*Fungibility.*⁶⁷ In the original investigations, the Commission found that subject imports from China and India were fungible with both the domestic like product and with each other. In making this finding, the Commission relied on information from responding domestic producers, importers, and purchasers who generally agreed that subject imports from China and India and domestically produced CVP-23 are “sometimes,” “frequently,” or “always” interchangeable with one another.⁶⁸

⁶⁴ The four factors generally considered by the Commission in assessing whether imports compete with each other and with the domestic like product are as follows: (1) the degree of fungibility between the imports from different countries and between imports and the domestic like product, including consideration of specific customer requirements and other quality related questions; (2) the presence of sales or offers to sell in the same geographical markets of imports from different countries and the domestic like product; (3) the existence of common or similar channels of distribution for imports from different countries and the domestic like product; and (4) whether the imports are simultaneously present in the market. See, e.g., Wieland Werke, AG v. United States, 718 F. Supp. 50 (Ct. Int’l Trade 1989).

⁶⁵ See Mukand Ltd. v. United States, 937 F. Supp. 910, 916 (Ct. Int’l Trade 1996); Wieland Werke, 718 F. Supp. at 52 (“Completely overlapping markets are not required.”); United States Steel Group v. United States, 873 F. Supp. 673, 685 (Ct. Int’l Trade 1994), aff’d, 96 F.3d 1352 (Fed. Cir. 1996). We note, however, that there have been investigations where the Commission has found an insufficient overlap in competition and has declined to cumulate subject imports. See, e.g., Live Cattle From Canada and Mexico, Invs. Nos. 701-TA-386 and 731-TA-812 to 813 (Prelim.), USITC Pub. 3155 at 15 (Feb. 1999), aff’d sub nom. Ranchers-Cattlemen Action Legal Foundation v. United States, 74 F. Supp. 2d 1353 (Ct. Int’l Trade 1999); Static Random Access Memory Semiconductors from the Republic of Korea and Taiwan, Invs. Nos. 731-TA-761 to 762 (Final), USITC Pub. 3098 at 13-15 (Apr. 1998).

⁶⁶ See generally Cheflene Corp. v. United States, 219 F. Supp. 2d 1313, 1314 (Ct. Int’l Trade 2002).

⁶⁷ Commissioner Lane notes that, with respect to fungibility, her analysis does not require such similarity of products that a perfectly symmetrical fungibility is required and that this factor would be better described as an analysis of whether subject imports from each country and the domestic like product could be substituted for each other. See Separate Views of Commissioner Charlotte R. Lane, Certain Lightweight Thermal Paper from China, Germany, and Korea, Invs. Nos. 701-TA-451 and 731-TA-1126-1128 (Prelim.), USITC Pub. 3964 at 32-33 (Nov. 2007).

⁶⁸ See Original Determination, USITC Pub. 3744, at 12-13. The Commission noted in the original investigations that subject imports from China may have a higher degree of substitutability with domestically produced CVP-23 than subject imports from India. There was also some evidence on the record that subject imports from India had a more difficult time meeting qualification requirements than U.S. and Chinese products, but purchasers often reported that CVP-23 from all three sources was comparable. Nevertheless, the Commission found that subject imports from China and India competed with the domestic industry, especially for sales of presscake and dry color and for ink- and water-related applications.

Geographic Overlap. In the original investigations, the Commission found that the domestic like product and imports from each subject country were sold nationwide.⁶⁹ The Commission also found that subject imports from China and India shared common ports of entry.⁷⁰

Channels of Distribution. In the original investigations, the Commission found that subject imports from China and India and the domestic like product generally were sold in the same channels of distribution (i.e., to end users and/or distributors).⁷¹

Simultaneous Presence in Market. In the original investigations, the Commission found that subject imports from China and India and domestically produced CVP-23 were all present in the U.S. market throughout the period examined.⁷²

Conclusion. The record in these expedited reviews does not contain any new information concerning likely reasonable overlap of competition that would contradict the Commission's findings in the original investigations or that suggests that circumstances in the U.S. market have changed. Therefore, we find that the determinations made by the Commission in the original investigations concerning fungibility, geographic overlap, channels of distribution, and simultaneous presence in the market are also applicable in these five-year reviews. Consequently, we find a likely reasonable overlap of competition among the domestic like product and imports from China and India, and between subject imports from China and India.

E. Other Considerations⁷³

In determining whether to exercise our discretion to cumulate the subject imports, we assess whether the subject imports from each group of subject countries for which we have found there is a likely reasonable overlap of competition are likely to compete under similar or different conditions in the U.S. market in the event of revocation.⁷⁴ The record in these expedited reviews contains very little current information about the industries in China and India. Based on the limited information in the current record, we do not find any significant differences in likely conditions of competition among imports from any of the subject countries for which we have found a likely reasonable overlap of competition.

Accordingly, we have decided to exercise our discretion to cumulate subject imports from China and India in these reviews.

⁶⁹ See Original Determination, USITC Pub. 3744 at 13.

⁷⁰ See Original Determination, USITC Pub. 3744 at 13.

⁷¹ See Views of the Commission at 19; Orig. Investigations CR at I-12-13.

⁷² See Original Determination, USITC Pub. 3744 at 13.

⁷³ Commissioners Lane and Pinkert explain their analysis of other considerations as follows. Where, in a five-year review, they do not find that the subject imports would be likely to have no discernible adverse impact on the domestic industry if the orders were revoked, and find that such imports would be likely to compete with each other and with the domestic like product in the U.S. market, they cumulate such imports unless there is a condition or propensity – not merely a trend – that is likely to persist for a reasonably foreseeable time and that significantly limits competition such that cumulation is not warranted. Based on the record in these reviews, they find that there is no such condition or propensity with respect to the subject imports from China and India, and they have cumulated them in these reviews.

⁷⁴ See, e.g., Nucor Corp. v. United States, ___ F.3d ___, App. No. 2009-1234, Slip Op. at 7-8 (Fed. Cir. Apr. 7, 2010) (Commission may reasonably consider likely differing conditions of competition in deciding whether to cumulate subject imports in five-year reviews); Allegheny Ludlum Corp., 475 F. Supp. 2d at 1378 (recognizing the wide latitude the Commission has in selecting the type of factors it considers relevant in deciding whether to exercise discretion to cumulate subject imports in five-year reviews); Nucor Corp., 569 F. Supp. 2d at 1337-38.

V. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF MATERIAL INJURY IF THE ANTIDUMPING AND COUNTERVAILING DUTY ORDERS ARE REVOKED

A. Legal Standards

In a five-year review conducted under section 751(c) of the Act, Commerce will revoke an antidumping or countervailing duty order unless (1) it makes a determination that dumping or subsidization is likely to continue or recur and (2) the Commission makes a determination that revocation of the antidumping or countervailing duty order “would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.”⁷⁵ The SAA states that “under the likelihood standard, the Commission will engage in a counterfactual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the *status quo* – the revocation or termination of a proceeding and the elimination of its restraining effects on volumes and prices of imports.”⁷⁶ Thus, the likelihood standard is prospective in nature.⁷⁷ The U.S. Court of International Trade has found that “likely,” as used in the five-year review provisions of the Act, means “probable,” and the Commission applies that standard in five-year reviews.^{78 79 80}

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.”⁸¹ According to

⁷⁵ 19 U.S.C. § 1675a(a).

⁷⁶ SAA at 883-84. The SAA states that “[t]he likelihood of injury standard applies regardless of the nature of the Commission’s original determination (material injury, threat of material injury, or material retardation of an industry). Likewise, the standard applies to suspended investigations that were never completed.” *Id.* at 883.

⁷⁷ 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.

⁷⁸ 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’”).

⁷⁹ For a complete statement of Commissioner Okun’s interpretation of the likely standard, see Additional Views of Vice Chairman Deanna Tanner Okun Concerning the “Likely” Standard in Certain Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe From Argentina, Brazil, Germany, and Italy, Invs. Nos. 701-TA-362 (Review) and 731-TA-707 to 710 (Review) (Remand), USITC Pub. 3754 (Feb. 2005).

⁸⁰ 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.

⁸¹ 19 U.S.C. § 1675a(a)(5).

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.”⁸²

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.”⁸³ 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).⁸⁴ 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.⁸⁵

No respondent interested parties participated in these expedited reviews. The record, therefore, contains no information with respect to the foreign CVP-23 industries in China and India during the period of review and only limited information on the U.S. CVP-23 market during the period of review.

Accordingly, for our determinations, we rely as appropriate on the facts available on the record.^{86 87}

⁸² 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.*

⁸³ 19 U.S.C. § 1675a(a)(1).

⁸⁴ 19 U.S.C. § 1675a(a)(1). There have been no duty absorption findings on the subject merchandise covered by the orders. CR at I-8.

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

⁸⁶ 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.”).

⁸⁷ Commissioner Okun notes that the statute authorizes the Commission to take adverse inferences in five-year reviews, but such authorization does not relieve the Commission of its obligation to consider the record evidence as a whole in making its determination. 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.

B. Conditions of Competition and Business Cycle

In evaluating the likely impact of the subject imports on the domestic industry, the statute directs the Commission to consider all relevant economic factors “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”⁸⁸ We find the following conditions of competition relevant to our determinations.

1. Demand

The Commission found in the original investigations that demand for CVP-23 was derived from the demand for other products, such as printing inks, plastics, coatings, and textiles, which in turn depended on such industries as advertising, packaging, and clothing.⁸⁹ Therefore, CVP-23 does not have its own business cycle.⁹⁰ The Commission further found that the largest use for CVP-23 was in the production of printing inks. During the original investigations, U.S. demand for inks decreased over the period examined as demand for printed products contracted.⁹¹ Because there were no real alternatives to CVP-23 and because CVP-23 did not account for a large share of the cost of at least some of the end products in which it is used, the Commission found that changes in CVP-23 prices were not likely to lead to large changes in the quantity demanded.⁹² The Commission found that apparent U.S. consumption of crude CVP-23 declined from *** pounds in 2001 to *** pounds in 2002 and *** pounds in 2003, although it was higher in interim 2004 at *** pounds than in interim 2003 at *** pounds.⁹³ The Commission found that apparent U.S. consumption of finished CVP-23 (presscake and dry color) was *** pounds in 2001, *** pounds in 2002, *** pounds in 2003, and was *** pounds in interim 2003 and *** pounds in interim 2004.⁹⁴

The record of these reviews does not contain information on apparent U.S. consumption since the original period examined. In their response to the notice of institution, NFC and Sun assert that apparent U.S. consumption has remained relatively flat.⁹⁵ The data provided by NFC and Sun, however, may not accurately reflect actual market conditions.⁹⁶ Therefore, we decline to use the data provided by NFC and Sun to compute apparent U.S. consumption. NFC and Sun also report that there has been a significant increase in imports of non-subject dispersions (downstream products that may compete with subject CVP-

⁸⁸ 19 U.S.C. § 1675a(a)(4).

⁸⁹ Views of the Commission at 21; Orig. Investigations CR at II-5.

⁹⁰ Views of the Commission at 21.

⁹¹ Views of the Commission at 21; Orig. Investigations CR at II-5. Sun argued that there was a slight upswing in demand in 2003 due to a somewhat improved U.S. economy. Orig. Investigations CR at II-6.

⁹² Views of the Commission at 21; Orig. Investigations CR at II-7-10.

⁹³ Views of the Commission at 21-22; Orig. Investigations CR at Table IV-9.

⁹⁴ Views of the Commission at 22; Orig. Investigations CR at Table IV-12.

⁹⁵ NFC and Sun Response to Notice of Institution at 8, Appendix 1.

⁹⁶ CR at I-34/PR at I-25. Specifically, the data provided in Appendix 1 to the response to the Notice of Institution contains a mixture of Sun’s crude imports, unattributed aggregated finished imports, official statistics for imports of CVP-23 from non-subject countries, Sun’s sales, and apparent consumption calculated from the mixture of data. As domestic interested parties provided a list of five known and currently operating U.S. importers of CVP-23 from China and three U.S. importers of CVP-23 from India beyond NFC and Sun, the import data may understate imports of CVP-23 from China and India. CR at I-34, n.46/PR at I-25, n.46.

23) from China and India and these non-subject imports are gaining substantial U.S. market share,⁹⁷ and there is no contrary evidence in the record.

2. Supply

During the original investigations, there was only one known producer of crude CVP-23 in the United States, NFC, but several domestic producers converted imported or domestically produced crude CVP-23 into finished CVP-23.⁹⁸ In addition to subject imports, there were non-subject imports present in the U.S. market throughout the period examined.⁹⁹

During the period examined in the original investigations, *** domestically produced crude CVP-23 was toll-produced by NFC for Sun.¹⁰⁰ *** imported crude CVP-23 (from subject and/or non-subject sources) to produce finished CVP-23. In 2001, Sun ***, but at a lower tolling rate in order to ensure a domestic supply of crude CVP-23.¹⁰¹ The Commission found that Sun's purchases of crude CVP-23 from NFC accounted for *** percent of its crude CVP-23 requirements in 2001, *** percent in 2002, *** percent in 2003, *** percent in interim 2003, and *** percent in interim 2004.¹⁰² The Commission also found that a significant volume of finished CVP-23 was internally transferred by Sun, which used some of its presscake to produce dry color and flush color.¹⁰³

The Commission found that the domestic industry's capacity utilization for the production of crude CVP-23 declined from *** percent in 2001 to *** percent in 2002, before increasing to *** percent in 2003; it was *** percent in interim 2003 and *** percent in interim 2004.¹⁰⁴ For finished CVP-23, capacity utilization was *** percent in 2001, *** percent in 2002, *** percent in 2003, *** percent in interim 2003, and *** percent in interim 2004.¹⁰⁵

Since the imposition of the orders, there have been significant changes in supply conditions that have affected U.S. and global production.¹⁰⁶ First, a domestic producer, Clariant Corporation, ceased production of CVP-23 in December 2008.¹⁰⁷ Second, one of Sun's sources of crude CVP-23, non-subject producer Sumitomo Chemical in Japan, informed Sun in 2006 that it was experiencing environmental problems and therefore was operating at reduced capacity.¹⁰⁸ Sumitomo announced in the first part of 2007 that it was discontinuing production entirely; Sun received its last shipment of crude CVP-23 from Sumitomo in July 2007.¹⁰⁹ Third, in the latter part of 2006, NFC, the only producer of crude CVP-23 in the United States, decided to switch to a new system for producing crude CVP-23. During part of 2006,

⁹⁷ NFC and Sun Response to Notice of Institution at 17; NFC and Sun Final Comments at 3. There is evidence on the record that these imports may not be reported under the correct subheading of the Harmonized Tariff Schedule of the United States. NFC and Sun Response to Notice of Institution at 17.

⁹⁸ Original Determination, USITC Pub. 3744, at 15.

⁹⁹ Original Determination, USITC Pub. 3744, at 15. Non-subject imports were from Germany, France, and Japan. Original Determination, USITC Pub. 3744, at 15, n.76.

¹⁰⁰ Views of the Commission at 23.

¹⁰¹ Views of the Commission at 24; Orig. Investigations CR at III-6, VI-3, n.4.

¹⁰² Views of the Commission at 24; Orig. Investigations CR at III-4.

¹⁰³ See Original Determination, USITC Pub. 3744, at 16.

¹⁰⁴ Views of the Commission at 24; Orig. Investigations CR at Table III-2.

¹⁰⁵ Orig. Investigations CR at Table III-2.

¹⁰⁶ NFC and Sun Response to Notice of Institution at 16-17.

¹⁰⁷ NFC and Sun Response to Notice of Institution at 4, 10; NFC and Sun Final Comments at 3.

¹⁰⁸ NFC and Sun Response to Notice of Institution at 16.

¹⁰⁹ NFC and Sun Response to Notice of Institution at 17.

all of 2007, and part of 2008, NFC substantially reduced production capacity while it was installing this new system.¹¹⁰ During this time, Sun purchased most of its crude pigment from producers in China and Germany.¹¹¹ After installation of the new system was completed in April 2008, NFC regained its capacity to supply Sun's entire crude CVP-23 requirements and has been doing so since May 2009.¹¹²

3. Increased production costs

According to NFC and Sun, the costs of the main raw materials used to produce CVP-23 (carbazole and chloranil) have increased since the orders were issued.¹¹³ Specifically, they argue that carbazole costs have increased due to the limited availability of coal tar.¹¹⁴ Furthermore, they state that energy and labor costs also increased over the same period.¹¹⁵ Consequently, the record indicates that the overall cost of production of CVP-23 has increased.¹¹⁶

4. Interchangeability

In the original investigations, the Commission found that there was a moderate to high level of interchangeability between the domestic like product and subject imports.¹¹⁷ Nothing in the current record contradicts this finding.

5. Pricing

In the original investigations, the Commission found that price is an important consideration in purchasing CVP-23.¹¹⁸ Domestic purchasers ranked quality/consistency as the most important factor, with price being the secondary consideration.¹¹⁹ Although quality is the most important factor in purchasing decisions, CVP-23 typically is purchased from suppliers whose quality and reliability have already been established.¹²⁰ Out of 24 total responses, twenty purchasers said that they "usually" or "sometimes" purchase CVP-23 at the lowest price.¹²¹

Nothing on the record of these expedited reviews indicates that the importance of price in purchasing decisions has declined since the time of the original investigations.

¹¹⁰ NFC and Sun Response to Notice of Institution at 17.

¹¹¹ NFC and Sun Response to Notice of Institution at 17.

¹¹² NFC and Sun Response to Notice of Institution at 17.

¹¹³ NFC and Sun Response to Notice of Institution at 2; NFC and Sun Final Comments at 3. NFC's new production process for crude CVP-23, however, uses dianil, a carbazole derivative, instead of carbazole as the starting raw material. NFC and Sun Response to Notice of Institution at 17. This may mitigate some of the reported increase to the extent it is associated with increases in the cost of carbazole.

¹¹⁴ NFC and Sun Response to Notice of Institution at 2; NFC and Sun Final Comments at 3.

¹¹⁵ NFC and Sun Response to Notice of Institution at 2; NFC and Sun Final Comments at 3.

¹¹⁶ NFC and Sun Response to Notice of Institution at 2; NFC and Sun Final Comments at 3.

¹¹⁷ See Original Determination, USITC Pub. 3744, at 12, n.59.

¹¹⁸ See Original Determination, USITC Pub. 3744, at 12, n.59.

¹¹⁹ See Original Determination, USITC Pub. 3744, at 12, n.59 and 19.

¹²⁰ See Original Determination, USITC Pub. 3744, at 19.

¹²¹ See Original Determination, USITC Pub. 3744, at 19.

C. Likely Volume of Subject Imports

In evaluating the likely volume of imports of subject merchandise if the antidumping and countervailing duty orders under review were revoked, the Commission is directed to consider whether the likely volume of imports would be significant either in absolute terms or relative to production or consumption in the United States.¹²² 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.¹²³

In the original investigations, the Commission found that the volume of subject imports and the increase in that volume were significant, both in absolute terms and relative to production and consumption.¹²⁴ Whether measured in terms of cumulated subject import volume or in terms of U.S. shipments of cumulated subject imports, the Commission found that the absolute volume of cumulated subject imports *** over the period examined.¹²⁵ The market share of subject imports of finished CVP-23 increased from *** percent in 2001 to *** percent in 2002 and *** percent in 2003; it was *** percent in interim 2003 and *** percent in interim 2004.¹²⁶ The market share of subject imports of crude CVP-23 increased from *** percent in 2001 to *** percent in 2002, then declined to *** percent in 2003; it was *** percent in interim 2003 and *** percent in interim 2004 (in 2003, Sun began substituting more domestically produced crude CVP-23 for subject imports of crude CVP-23 from China).¹²⁷ The Commission found that the ratio of subject imports of finished CVP-23 to domestic production *** over the period examined and that the ratio of subject imports of crude CVP-23 to domestic production *** between 2001 and 2002.¹²⁸

The Commission also found that the domestic industry’s market share was relatively steady over the period examined, and that the trends in market share were consistent with the Commission’s findings that the domestic industry lowered its prices in response to low-priced subject imports in order to maintain (or limit losses in) its market share.¹²⁹

No respondent interested parties participated in these expedited reviews. The record, therefore, contains no information with respect to capacity and production of CVP-23 in China and India during the period of review. Accordingly, for our determinations, we rely as appropriate on the facts available on the record. Data received in the original investigations demonstrate that the industries in China and India

¹²² 19 U.S.C. § 1675a(a)(2).

¹²³ 19 U.S.C. § 1675a(a)(2)(A)-(D).

¹²⁴ See Original Determination, USITC Pub. 3744, at 17.

¹²⁵ Views of the Commission at 26. The cumulated volume of subject imports increased from *** pounds in 2001 to *** pounds in 2002, and then declined somewhat to *** pounds in 2003; it was *** pounds in interim 2003 and *** pounds in interim 2004. Views of the Commission at 26; Orig. Investigations CR at Table IV-2.

¹²⁶ Views of the Commission at 27; Original Investigations CR at Table IV-16.

¹²⁷ Views of the Commission at 27, n.97, 28; Original Investigations CR at Table IV-13.

¹²⁸ Views of the Commission at 28; Original Investigations CR at Tables IV-17 and IV-18.

¹²⁹ Views of the Commission at 28.

have the capacity to produce significant volumes of CVP-23.¹³⁰ There is no evidence that the sizes of the foreign industries have declined since the original investigations.

As noted above, the record in the original investigations also demonstrated that, even though they were operating at *** levels of capacity utilization during most of the original period examined,¹³¹ Chinese producers produced and exported large and increasing volumes of crude and finished CVP-23 to the United States.¹³² According to the data provided in the original investigations, Indian producers also had substantial excess capacity for the production of crude and finished CVP-23.¹³³ Moreover, data from the original investigations show that the Chinese and Indian producers of CVP-23 were export-oriented.¹³⁴

The record in these reviews also indicates that there continued to be some imports of subject CVP-23 from China and India into the U.S. market throughout the review period.¹³⁵ Sun does not account for all of these imports, indicating that others continued to import subject CVP-23 into the U.S. market despite the existence of the antidumping and/or countervailing duty orders. In addition, there is some evidence that, after imposition of the orders, subject producers shifted their exports to the United States to

¹³⁰ Original Investigations CR at Table VII-1, Table VII-2, Table VII-3 (revised version), and Table VII-4 (revised version). Responding Chinese producers in the original investigations reported capacity of *** pounds of CVP-23 (crude and finished) in 2001, *** pounds in 2002, and *** pounds in 2003. They reported production of *** pounds of CVP-23 (crude and finished) in 2001, *** pounds in 2002, and *** pounds in 2003. Responding Indian producers in the original investigations reported capacity of *** pounds of CVP-23 (crude and finished) in 2001, *** pounds in 2002, and *** pounds in 2003. They reported production of *** pounds of CVP-23 (crude and finished) in 2001, *** pounds in 2002, and *** pounds in 2003. Not all producers of subject CVP-23 in China and India responded to the Commission's questionnaires. Therefore, these data do not represent the full size of the foreign industries.

¹³¹ Chinese producers of crude CVP-23 were operating at capacity utilization rates of *** percent in 2001, *** percent in 2002, and *** percent in 2003. Chinese producers of finished CVP-23 were operating at capacity utilization rates of *** percent in 2001, *** percent in 2002, and *** percent in 2003. Orig. Investigations CR at Tables VII-1 and VII-2.

¹³² The volume of subject imports (crude and finished CVP-23) from China increased from *** pounds in 2001 to *** pounds in 2002, and to *** pounds in 2003; it was *** pounds in interim 2003 and *** pounds in interim 2004. Orig. Investigations CR at Table IV-2.

¹³³ Capacity utilization rates for Indian crude CVP-23 were *** percent in 2001, *** percent in 2002, *** percent in 2003, *** percent in interim 2003, and *** percent in interim 2004. Capacity utilization rates for finished CVP-23 were *** percent in 2001, *** percent in 2002, *** percent in 2003, *** percent in interim 2003, and *** percent in interim 2004. Orig. Investigations CR (revised) at Table VII-4.

¹³⁴ With respect to Chinese presscake, exports were *** percent of total shipments in 2001, *** percent in 2002, and *** percent in 2003; they were *** percent in interim 2003 and *** percent in interim 2004, with exports to the United States representing the ***. For dry color, Chinese exports were *** percent of shipments in 2001, *** percent in 2002, and *** percent in 2003; they were *** percent in interim 2003 and *** percent in interim 2004. While Chinese exports of crude CVP-23 constituted a relatively small percentage of production, Chinese producers internally consumed/transferred a *** percentage of crude CVP-23 to manufacture presscake and dry color, a *** percentage of which was then exported. See Orig. Investigations CR at Tables VII-1 and VII-2. In addition, ***. Orig. Investigations CR at Table VII-2, n.2. Indian producers reported exports of finished CVP-23 that were *** percent of total shipments in 2001, *** percent in 2002, *** percent in 2003, *** percent in interim 2003, and *** percent in interim 2004. Orig. Investigations CR (revised) at Table VII-4. As was the case in China, while Indian exports of crude CVP-23 were a relatively small percentage of production, Indian producers internally consumed/transferred a *** percentage of crude CVP-23 to manufacture presscake and dry color, a *** percentage of which was then exported. See Original Investigations CR (revised) at Tables VII-3 and VII-4.

¹³⁵ CR at Table I-9. It should be noted, however, that official import statistics may be subject to the same problems found during the original investigations, such as the inability to distinguish crude and finished CVP-23 and the potential overstatement or understatement of figures. See, e.g., Views of the Commission at 25.

downstream dispersion products that are not within the scope of the orders. This product shifting provides further evidence of subject producers' continued interest in supplying the U.S. market.¹³⁶

Based on the evidence from the original investigations regarding volume and market share of subject imports, substantial production capacity and unused capacity in China and India, and the export orientation of the Chinese and Indian industries as well as the continued presence of imports from China and India in the U.S. market after imposition of the orders, we find that Chinese and Indian producers have the ability and the incentive to increase their exports to the United States significantly if the orders were revoked. Therefore, we find that the likely volume of subject imports, both in absolute terms and relative to production and consumption in the United States, would likely be significant within the reasonably foreseeable future if the order were revoked.

D. Likely Price Effects of Subject Imports

In evaluating the likely price effects of subject imports if the antidumping and countervailing duty orders under review were 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.¹³⁷

In the original investigations, the Commission found there are no direct substitutes for CVP-23 and that purchasers ranked price as the second most important factor after quality.¹³⁸ Moreover, the Commission found a moderate-to-high degree of substitutability between subject imports and the domestic like product.¹³⁹ Based on quarterly weighted-average price information from U.S. producers and importers from January 2001 through June 2004 (for three products: crude CVP-23, presscake, and dry color), the Commission found significant underselling by cumulated subject imports.¹⁴⁰ For presscake, subject imports undersold the domestic like product in all 22 quarters for which price comparisons were possible, with margins of underselling that ranged from 12.1 percent to 50.4 percent.¹⁴¹ In all 28 quarters for which price comparisons were possible, subject imports of dry color from China and India undersold the domestic like product, with margins of underselling that ranged from 42.3 percent to 54.8 percent.¹⁴²

¹³⁶ Domestic interested parties report that such non-subject dispersion imports from China and India are gaining a substantial U.S. market share. CR at I-28; NFC and Sun Response to Notice of Institution at 17.

¹³⁷ 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.

¹³⁸ Original Determination, USITC Pub. 3744, at 19.

¹³⁹ Original Determination, USITC Pub. 3744, at 19. The Commission found that Chinese CVP-23 had a higher degree of substitutability for domestic CVP-23 than Indian CVP-23.

¹⁴⁰ Original Determination, USITC Pub. 3744, at 20; Orig. Investigations CR at V-5, V-10-11 and Tables V-1, V-2, and V-3.

¹⁴¹ Original Determination, USITC Pub. 3744, at 20; Orig. Investigations CR at V-10-11 and Table V-2.

¹⁴² Original Determination, USITC Pub. 3744, at 20; Orig. Investigations CR at V-11 and Table V-3.

No price comparisons for crude CVP-23 were possible because *** reported price data ***.¹⁴³ Using *** as a proxy for domestic prices of crude CVP-23, the Commission found that domestic prices were *** percent above subject import prices for crude CVP-23 in most of the period examined.¹⁴⁴

The Commission also found significant price depression by subject imports, noting that the prices for the domestic like product and subject imports declined throughout almost the entire period examined.¹⁴⁵ The Commission found that the domestic industry's raw material costs declined throughout most of the period examined, but found that the domestic industry faced increased raw material costs in interim 2004.¹⁴⁶ The Commission found that the declines in raw material costs *** the reductions in average unit revenues that the domestic industry experienced throughout most of the period examined.¹⁴⁷ Although the average unit revenue was *** in interim 2004 compared to 2003, the Commission found that *** raw material costs offset the modest increase.¹⁴⁸ The Commission concluded, therefore, that changes in raw material costs did not adequately explain the significant decline in the prices of domestic CVP-23 during the period examined.¹⁴⁹

Furthermore, the Commission found that purchaser data corroborated the significant underselling and price depression by subject imports, citing to record evidence of lost sales and lost revenue allegations totaling approximately \$*** (approximately *** pounds) and comments by purchasers that U.S. producers had to reduce prices in order to compete with subject imports.¹⁵⁰

Accordingly, the Commission found that subject imports from China and India had significant adverse price effects.¹⁵¹

There is no new product-specific pricing information on the record of these expedited reviews. As explained above, Chinese and Indian producers likely would increase their exports to the United States significantly in the reasonably foreseeable future if the orders were revoked. Moreover, the Commission found in the original investigations that price was an important consideration in purchasing decisions, and evidence on the record indicates that price continues to be an important factor for purchasers. Consequently, we find that subject imports would be likely to undersell the domestic like product in order to gain market share as they successfully did during the period examined in the original investigations. Therefore, we conclude that, if the orders were revoked, subject imports from China and India likely would increase significantly at prices that likely would undersell the domestic like product, and that those imports likely would have a depressing or suppressing effect on prices for the domestic like product.

¹⁴³ Orig. Investigations CR at V-5 and Table V-1.

¹⁴⁴ Views of the Commission at 32 (derived from Orig. Investigations CR at Table V-1).

¹⁴⁵ Original Determination, USITC Pub. 3744, at 21.

¹⁴⁶ Original Determination, USITC Pub. 3744, at 21.

¹⁴⁷ Views of the Commission at 33.

¹⁴⁸ Views of the Commission at 33-34.

¹⁴⁹ Views of the Commission at 34.

¹⁵⁰ Views of the Commission at 34.

¹⁵¹ Views of the Commission at 34.

E. Likely Impact of Subject Imports¹⁵²

In evaluating the likely impact of imports of subject merchandise if the antidumping and countervailing 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, 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.¹⁵³ 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.¹⁵⁴ 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.

In the original investigations, the Commission examined performance indicators of the domestic industry, including consolidated trade and financial results for the domestic industry and the separate trade and financial data of the domestic producers of crude and finished CVP-23. The Commission noted that, given their relative size and functions in the domestic industry, the performance of NFC and Sun contributed importantly to the domestic industry's overall performance.¹⁵⁵ The Commission found that the market share held by the domestic industry and production and sales volumes were relatively steady over the period examined¹⁵⁶ and that apparent U.S. consumption of finished CVP-23 was also relatively stable, but that subject imports of CVP-23 from China and India were present in the U.S. market in significant volumes and were increasing significantly absolutely and relative to domestic production and consumption.¹⁵⁷ The Commission found that, although the industry as a whole did not lose significant sales volume or market share over the period examined, its net sales value declined due to falling

¹⁵² The SAA states that in assessing whether the domestic industry is vulnerable to injury if the order is revoked, the Commission "considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they may also demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports." SAA at 885; see also 19 U.S.C. § 1675a(a)(4). Section 752(a)(6) of the Tariff Act states that "the Commission may consider the magnitude of the margin of dumping or the magnitude of the net countervailable subsidy" 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 its expedited sunset reviews of the antidumping duty orders on CVP-23 from China and India, Commerce found that revocation would be likely to lead to continuation or recurrence of dumping. Commerce calculated the following margins for China: 12.46 percent for Goldlink Industries Co., Ltd.; 57.07 for Nantong Haidi Chemical Co., Ltd.; 39.29 for Trust Chem Co., Ltd.; 85.41 for Tianjin Hanchem International Trading Co., Ltd.; and 241.32 for the PRC-wide rate. Commerce calculated the following margins for India in its expedited sunset reviews: 27.23 percent for Alpanil Industries Ltd.; 66.59 percent for Pidilite Industries Ltd., and 44.80 percent for the all others rate. CR at Table I-6.

In its expedited sunset review of the countervailing duty order on CVP-23 from India, Commerce calculated the following final net subsidy rates: 17.57 percent for Alpanil Industries Ltd.; 17.33 percent for Pidilite Industries Ltd.; 33.61 percent for AMI Pigments Pvt Ltd.; and 20.55 percent for the all others rate. CR at Table I-5.

¹⁵³ 19 U.S.C. § 1675a(a)(4).

¹⁵⁴ 19 U.S.C. § 1675a(a)(4).

¹⁵⁵ Views of the Commission at 35.

¹⁵⁶ Views of the Commission at 35-36.

¹⁵⁷ Views of the Commission at 36.

prices.¹⁵⁸ Net sales of crude and finished CVP-23 were \$*** in 2001, \$*** in 2002, \$*** in 2003, \$*** in interim 2003, and \$*** in interim 2004.¹⁵⁹

With respect to crude CVP-23, the Commission found that the domestic industry's capacity utilization declined from *** percent in 2001 to *** percent in 2002 as the domestic industry, and more specifically Sun, increased purchases of imported crude CVP-23 from the subject countries at the expense of domestic crude CVP-23 production and lowered tolling fees it paid for crude CVP-23 produced by NFC.¹⁶⁰ The Commission found that Sun then increased the percentage of crude CVP-23 that it purchased from NFC and increased the tolling fee that it paid NFC somewhat in order to ensure a consistent supply of domestically produced crude CVP-23.¹⁶¹ Consequently, the capacity utilization rate for crude CVP-23 increased from *** percent in 2002 to *** percent in 2003; it was *** percent in interim 2003 and *** percent in interim 2004.

The Commission found that capacity utilization for finished CVP-23 remained *** and declined irregularly throughout the period examined.¹⁶² It was *** percent in 2001, *** percent in 2002, *** percent in 2003, *** percent in interim 2003, and *** percent in interim 2004.¹⁶³

The Commission found that the number of production-related workers for CVP-23 fell over the period examined.¹⁶⁴ Moreover, due to downward price pressure from subject imports, the domestic industry had *** operating margins (ratio of operating income to net sales) of *** percent in 2001 and *** percent in 2002, with *** in the crude segment of the industry in 2002.¹⁶⁵ In 2003, the industry's operating margin was *** percent as costs and efficiencies improved; it was *** percent in interim 2003 and *** percent in interim 2004.¹⁶⁶ The Commission noted that the *** for crude CVP-23 were *** from 2001 to 2003, and that the industry *** in interim 2004.¹⁶⁷

The Commission concluded that, although the domestic industry's overall market share was relatively steady, its financial performance had suffered due to eroding prices and, consequently, subject imports from China and India had adversely affected the domestic industry during the period examined.

The limited evidence in these expedited reviews does not permit us to determine whether the domestic industry is vulnerable to the continuation or recurrence of material injury if the orders were revoked, but the data do indicate some weakness in the domestic industry.¹⁶⁸ The net sales value for both crude and finished CVP-23 has declined since 2003.¹⁶⁹ Evidence on the record indicates that the domestic

¹⁵⁸ Views of the Commission at 37.

¹⁵⁹ Views of the Commission at 37; Orig. Investigations CR at Table VI-6.

¹⁶⁰ Views of the Commission at 37.

¹⁶¹ Views of the Commission at 37-38.

¹⁶² Views of the Commission at 38; Orig. Investigations CR at Table C-2.

¹⁶³ Views of the Commission at 38; Orig. Investigations CR at Table C-2.

¹⁶⁴ Views of the Commission at 38, n.148; Orig. Investigations CR at Table C-2.

¹⁶⁵ Views of the Commission at 39.

¹⁶⁶ Views of the Commission at 39; Orig. Investigations CR at Table VI-6.

¹⁶⁷ Views of the Commission at 39; Orig. Investigations CR at Table VI-1. The Commission noted that the industry's *** performance in interim 2004 was due, in part, to Sun's decision to source a larger portion of its crude CVP-23 requirements domestically.

¹⁶⁸ There is no information in the record of these expedited reviews pertaining to indicators that we customarily consider in assessing whether the domestic industry is in a weakened condition, such as productivity, return on investments, cash flow, wages, ability to raise capital, investment capacity, and employment levels.

¹⁶⁹ CR/PR at Table I-8. Net sales value in 2003 was *** for crude CVP-23 and *** for finished CVP-23. In 2008, it was *** for crude CVP-23 and *** for finished CVP-23.

industry has experienced increasing costs since the original investigations¹⁷⁰ and that there has been an increase in imports of non-subject dispersions, which are downstream products that may compete with the domestic like product.¹⁷¹ In 2008, the domestic industry experienced an operating loss as a percentage of sales of *** percent for crude CVP-23 and *** percent for finished CVP-23,¹⁷² and the average unit values for domestically produced crude and finished CVP-23 are *** than the values reported during the original investigations.¹⁷³

Based on the information available in these reviews, including information from the record of the original investigations, we find that revocation of the orders likely would lead to a significant increase in the volume of subject imports. In addition, subject imports likely would significantly undersell the domestic like product, resulting in significant depression and/or suppression of U.S. prices for the domestic like product. We find that the intensified subject import competition that would likely occur after revocation of the orders would likely have a significant adverse impact on the domestic industry. Specifically, the domestic industry would likely lose market share to low-priced subject imports and would likely obtain lower prices due to competition from subject imports, which would adversely affect its production, shipments, sales, and revenue. These reductions would likely have an adverse impact on the domestic industry.

Accordingly, we conclude that, if the orders on CVP-23 from China and India were revoked, subject imports would be likely to have a significant adverse impact on the domestic industry within a reasonably foreseeable time.

CONCLUSION

For the above reasons, we determine that revocation of the countervailing duty order on CVP-23 from India and the antidumping duty orders on CVP-23 from China and India would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

¹⁷⁰ CR at I-41; NFC and Sun Response to Notice of Institution at 2.

¹⁷¹ Domestic interested parties report that such non-subject dispersion imports from China and India are gaining a substantial U.S. market share. CR at I-28/PR at I-27; NFC and Sun Response to Notice of Institution at 17.

¹⁷² CR at Table I-8. The *** was *** for crude CVP-23 and *** for finished CVP-23.

¹⁷³ CR/PR at Table I-8. Average unit value in 2003 was *** per pound for crude CVP-23 and *** per pound for finished CVP-23. In 2008, the average unit value for crude CVP-23 was *** per pound and the average unit value for finished CVP-23 was *** per pound.

INFORMATION OBTAINED IN THE FIVE-YEAR REVIEW

INTRODUCTION

On November 2, 2009, 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 reviews to determine whether revocation of the countervailing duty order on carbazole violet pigment 23 from India and the antidumping duty orders on carbazole violet pigment 23 from China and India would be likely to lead to a continuation or recurrence of material injury within a reasonably foreseeable time.^{2 3} On February 5, 2010, the Commission determined that the domestic interested party response to the notice of institution was adequate;⁴ the Commission also determined that the respondent interested party response was inadequate. The Commission found no other circumstances that would warrant conducting full reviews.⁵ Accordingly, the Commission determined that it would conduct expedited reviews pursuant to section 751(c)(3) of the Act.^{6 7} The Commission is scheduled to vote on these reviews on April 29, 2010, and will notify Commerce of its determinations on May 10, 2010. Selected information relating to the schedule of the current reviews is presented in the following tabulation:⁸

Effective date	Action
November 2, 2009	Commission’s institution of five-year review (74 FR 56663, November 2, 2009)
November 2, 2009	Commerce’s notice of initiation (74 FR 56593, November 2, 2009)
February 5, 2010	Commission’s determination to conduct expedited five-year reviews and scheduling of expedited reviews (75 FR 14468, March 25, 2010).
March 16, 2010	Commerce’s final result of expedited AD five-year reviews on China and India (75 FR 12497, March 16, 2010)
March 19, 2010	Commerce’s final result of expedited CVD five-year review on India (75 FR 13257, March 19, 2010)
April 29, 2010	Commission’s vote
May 10, 2010	Commission’s determinations transmitted to Commerce

The Original Investigations

¹ 19 U.S.C. 1675 (c).

² 74 FR 56663, November 2, 2009. 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. 74 FR 56593, November 2, 2009.

⁴ The domestic producers, Nation Ford Chemical Co. (“NFC”) and Sun Chemical Corp. (“Sun”), submitted the only response to the Commission’s notice of institution for the subject review. NFC and Sun are represented by the law firm of Pepper Hamilton LLP. NFC and Sun indicated in their response that they are the only commercial producers of violet 23 in the United States in 2009, and, for purposes of the antidumping law, constitute the “Domestic Industry.” Response of NFC and Sun to the notice of institution (“Response,” December 2, 2009), p. 4.

⁵ Vice Chairman Daniel R. Pearson found that the domestic interested party group response was adequate and the respondent interested party group response was inadequate, but other circumstances warranted full reviews. The Commission’s statement on adequacy is presented in app. B.

⁶ 10 U.S.C. § 1675(c)(3).

⁷ 75 FR 14468, March 25, 2010. The Commission’s notice of scheduling of the expedited reviews appears in app. A.

⁸ Cited *Federal Register* notices beginning with the Commission’s institution of the five-year review are presented in app. A.

On November 21, 2003, petitions were 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 subsidized imports of carbazole violet pigment 23 (“violet 23”) from India and less-than-fair-value imports of violet 23 from China and India.⁹ On November 17, 2004, Commerce made an affirmative final countervailing duty determination regarding violet 23 from India and final LTFV determinations regarding violet 23 from China and India.¹⁰ The Commission completed its original investigations concerning violet 23 from China and India on September 19, 2004, determining that an industry in the United States was materially injured by imports of violet 23 from China and India, and Commerce issued a countervailing duty order on imports of violet 23 from India and antidumping duty orders on imports of violet 23 from China and India.¹¹

Commerce’s Original Determinations and Subsequent Review Determinations

Commerce has initiated several annual administrative reviews of both the countervailing duty (“CVD”) order and antidumping duty (“AD”) orders. The CVD order remains in effect for all manufacturers, producers, and exporters of violet 23 from India. Information on Commerce’s final CVD determination, antidumping duty order, and requests for administrative reviews are presented in table I-1.

⁹ The petition was filed by counsel on behalf of NFC, Fort Mill, SC, and Sun, Cincinnati, OH. *Carbazole Violet Pigment 23 From China and India*, Investigation Nos. 701-TA-437 and 731-TA-1060 and 1061 (Final), USITC Publication 3774, December 2004 (“*Publication 3774*”), p. 1.

¹⁰ 69 FR 67321; 69 FR 67304; and 69 FR 67306, all of November 17, 2004.

¹¹ 69 FR 77995; 69 FR 77987; and 69 FR 77988, all of December 29, 2004.

Table I-1
Violet 23: Commerce's final CVD determination, CVD order, and administrative reviews

Period	Type of proceeding and date results published	Net subsidy Rate (<i>percent ad valorem</i>)
	Final determination (69 FR 67321, November 17, 2004) CVD order (69 FR 77995, December 29, 2004)	Alpanil 17.57 Pidilite 17.33 AMI 33.61 All others 20.55
4/27/04-12/31/04	Opportunity to Request Administrative Review (70 FR 72109, December 1, 2005)	No review conducted
1/1/05-12/31/05	Opportunity to Request Administrative Review (71 FR 69543, December 1, 2006) Administrative Review Initiation (72 FR 5005, February 2, 2007) Administrative Review Recission (72 FR 15113, March 30, 2007)	No review conducted
1/1/06-12/31/06	Opportunity to Request Administrative Review (72 FR 67889, December 3, 2007) Administrative Review Initiation (73 FR 4829, January 28, 2008) Administrative Review Recission (73 FR 44704, July 31, 2008)	No review conducted
1/1/07-12/31/07	Opportunity to Request Administrative Review (73 FR 72764, December 1, 2008) Administrative Review Initiation (74 FR 5821, February 2, 2009) Administrative Review Extension (74 FR 41864, August 19, 2009) Administrative Review Preliminary Results (75 FR 977, January 7, 2010)	Alpanil 7.79
Source: Cited <i>Federal Register</i> notices.		

Commerce initiated several annual administrative reviews of the AD order on China and India. The orders remain in effect for all manufacturers, producers, and exporters of violet 23 from China and India. Information on Commerce's final AD determinations, orders, and requests for administrative reviews concerning China and India are presented in tables I-2 and I-3, respectively.

Table I-2

Violet 23: Commerce's final AD determination, AD order, and AD administrative reviews for China

Period	Type of proceeding and date results published	Weighted-average margin (percent ad valorem)
4/1/03-9/30/03	Final determination (69 FR 67304, November 17, 2004) AD order (69 FR 77987, December 29, 2004)	Gold Link Industries Co. Ltd..... 5.51 Nantong Haidi Chemical Co. 44.50 Trust Chem Co., Ltd..... 27.19 Tianjin Hanchem International Trading..... 217.94 All others 217.94
6/24/04-11/30/05	Opportunity to Request Administrative Review (70 FR 72109, December 1, 2005) Administrative Review Initiation (71 FR 5241, February 1, 2006) Administrative Review Preliminary Results and Partial Recission (71 FR 65073, November 7, 2006) Administrative Review Final Result (72 FR 26589, May 10, 2007)	Tianjin Hanchem International Trading..... 0.00
12/1/05-11/30/06	Opportunity to Request Administrative Review (71 FR 69543, December 1, 2006) Administrative Review Initiation (72 FR 5005, February 2, 2007) Recission in Part of Administrative Review (72 FR 34670, June 25, 2007) Recission of Remainder of Administrative Review (72 FR 71354, December 17, 2007)	No review conducted
12/1/06-11/30/07	Opportunity to Request Administrative Review (72 FR 67889, December 3, 2007) Administrative Review Initiation (73 FR 4829, January 28, 2008) Administrative Review Final Results (74 FR 883, January 9, 2009)	All others 241.32 (Includes Gold Link Industries Co. Ltd.)
12/1/07-11/30/08	Opportunity to Request Administrative Review (73 FR 72764, December 1, 2008) Administrative Review Initiation (74 FR 5821, February 2, 2009) Administrative Review Time Extension (74 FR 39622, August 7, 2009) Administrative Review Preliminary Results (74 FR 68780, December 29, 2009)	Trust Chem Co., Ltd..... 29.57
12/1/08-11/30/09	Opportunity to Request Administrative Review (74 FR 62743, December 1, 2009)	No review initiated

Source: Cited *Federal Register* notices.

Table I-3

Violet 23: Commerce’s final AD determination, AD order, and AD administrative reviews for India

Period	Type of proceeding and date results published	Weighted-average margin (percent ad valorem)
10/1/12-9/30/03	Final determination (69 FR 67306, November 17, 2004) AD order (69 FR 77988, December 29, 2004)	Alpanil Industries, Ltd..... 27.23 Pidilite Industries Ltd (amended)..... 66.59 All others (amended)..... 44.80
6/24/04-11/30/05 12/1/04-11/30/05	Opportunity to Request Administrative Review (70 FR 72109, December 1, 2005) Initiation of New Shipper Review (71 FR 4569, January 27, 2006) Recission of New Shipper Review (71 FR 26926, May 9, 2006)	No review conducted No review conducted
12/1/05-11/30/06	Opportunity to Request Administrative Review (71 FR 69543, December 1, 2006) Administrative Review Initiation (72 FR 5005, February 2, 2007) Administrative Review Final Result (73 FR 19811, April 11, 2008)	Alpanil Industries Ltd. 11.25
12/1/06-11/30/07	Opportunity to Request Administrative Review (72 FR 67889, December 3, 2007) Administrative Review Initiation (73 FR 4829, January 28, 2008) Administrative Review Final Results (73 FR 74141, December 5, 2008)	Alpanil Industries Ltd. 66.59 Pidilite Industries Ltd (amended)..... 66.59
12/1/07-11/30/08	Opportunity to Request Administrative Review (73 FR 72764, December 1, 2008) Administrative Review Initiation (74 FR 5821, February 2, 2009) Administrative Review Extension (74 FR 45610, September 3, 2009) Administrative Review Extension (74 FR 60237, November 20, 2009) Administrative Review Preliminary Results (74 FR 68038, December 22,2009)	Alpanil Industries Ltd. 71.74
12/1/2008-11/30/2009	Opportunity to Request Administrative Review (74 FR 62743, December 1, 2009) Administrative Review Initiation¹ (75 FR 4770, January 29, 2010)	Review in progress

¹ 75 FR 10759, March 9, 2010, Carbazole Violet Pigment 23 from India; Initiation of Antidumping Duty Changed-Circumstances Review. Because Commerce is currently conducting an administrative review, it will conduct the changed-circumstances review in the context of the 2008-09 administrative review, and intends to issue the preliminary results of the changed-circumstances review with the preliminary results of the 2008-09 administrative review.

Source: Cited *Federal Register* notices.

There have been no duty absorption findings or scope rulings on the subject merchandise covered by the orders; however, as a result of a court decision not in harmony with the final determination of sales at less than fair value with respect to China, an amended final AD determination for China was issued in accordance with the court decision (table I-4) .

Table I-4
Violet 23: Amended final China AD determination

Period	Type of proceeding and date results published	Weighted-average margin (percent ad valorem)
4/1/03-9/30/03	Court decision not in harmony with final determination (72 FR 327, January 4, 2007) Amended final determination in accordance with court decision (72 FR 15101, March 20, 2007)	Gold Link Industries Co. Ltd..... 12.46 Nantong Haidi Chemical Co. 57.07 Trust Chem Co., Ltd..... 39.29 Tianjin Hanchem International Trading..... 85.41 All others 241.32
Source: Cited <i>Federal Register</i> notices.		

Commerce’s Final Results of Expedited Five-Year Reviews

On March 19, 2010, Commerce published its final results of the expedited five-year review of the countervailing duty order on violet 23 from India. The final net subsidy rates as reported by Commerce are presented in table I-5.

Table I-5
Violet 23: Commerce’s final results of expedited five-year review of CVD order on India

Manufacturer/exporter	Net subsidy Rate (percent ad valorem)
Alpanil Industries Ltd	17.57
Pidilite Industries Ltd	17.33
AMI Pigments Pvt Ltd	33.61
All others	20.55
Source: Commerce’s final results of the expedited five-year (Sunset) review of the countervailing duty order, 75 FR 13257, March 19, 2010.	

On March 16, 2010, Commerce published its final results of the expedited five-year review of the antidumping duty orders on violet 23 from China and India. The final weighted-average margins as reported by Commerce are presented in table I-6.

Table I-6**Violet 23: Commerce's final results of expedited five-year review of AD orders on China and India**

Manufacturer/exporter	Weighted-average margin (percent ad valorem)
China:	
GoldLink Industries Co., Ltd.	12.46
Nantong Haidi Chemical Co., Ltd.	57.07
Trust Chem Co., Ltd.	39.29
Tianjin Hanchem International Trading Co., Ltd.	85.41
All others	241.32
India:	
Alpanil Industries Ltd	27.23
Pidilite Industries Ltd	66.59
All others	44.80
Source: Commerce's final results of the expedited sunset reviews of the antidumping duty orders, 75 FR 12497, March 16, 2010.	

**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.¹² Table I-7 presents CDSOA disbursements and claims for Federal fiscal years (October 1-September 30) 2004-09, by source and by firm.

¹² Section 754 of the Tariff Act of 1930, as amended (19 U.S.C. §1675(c)).

Table I-7

Violet 23: Industry CDSOA disbursements, by firm, by source, Federal fiscal years 2004-09

Fiscal year	China AD	India CVD	India AD	India total	Company total
Amount dispersed (dollars)					
2004	(¹)	(¹)	(¹)	(¹)	(¹)
2005	(¹)	(¹)	(¹)	(¹)	(¹)
2006:					
Allegheny	967	2,394	9,578	11,972	12,939
Clariant	9,324	(¹)	89,594	89,594	98,918
NFC	1,306	3,137	12,544	15,681	16,987
Sun	4,288	10,303	41,204	51,507	55,795
Total 2006	15,915	15,834	152,919	168,754	184,669
2007:					
NFC	12,226	431	576	1,007	13,233
Sun	44,451	1,567	2,095	3,662	48,113
Total 2007	56,676	1,997	2,671	4,668	61,344
2008:					
Clariant	357,087	(¹)	32,442	32,442	389,529
NFC	55,688	8,163	5,068	13,231	68,919
Sun	218,775	32,069	19,911	51,980	270,755
Total 2008	631,550	49,231	57,422	97,653	729,203
2009:					
NFC	403,465	8,809	13,098	21,907	425,372
Sun	1,585,061	34,609	51,459	86,068	1,671,129
Total 2009	1,988,526	43,418	64,557	107,975	2,096,501

¹ Not applicable, no filings listed on Customs' website.

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

Source: Custom's CDSOA Annual Reports for disbursement and claims data for 2004-09 at http://www.cbp.gov/xp/cgov/trade/priority_trade/add_cvd/cont_dump/, retrieved March 30, 2010.

THE PRODUCT

Scope

The imported product subject to the antidumping and countervailing duty orders has been defined by Commerce as:

*“Carbazole violet pigment 23 identified as Color Index No. 51319 and Chemical Abstract No. 6358-30-1, with the chemical name of diindolo ***triphenodioxazine,8,18-dichloro-5,15-diethyl-5,15,dihydro-, and molecular formula of C₃₄H₂₂Cl₂N₄O₂. The subject merchandise includes the crude pigment in any form (e.g. dry powder, paste, wet cake) and finished pigment in the form of presscake and dry color. Pigment dispersions in any form (e.g., pigments dispersed in oleoresins, flammable solvents, water) are not included within the scope of the orders. The merchandise subject to these orders is classifiable under subheading 3204.17.9040 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of these orders is dispositive.”¹³*

U.S. Tariff Treatment

Imports of this product are currently reported under Harmonized Tariff Schedule of the United States (“HTS”) statistical reporting number 3204.17.9040 as set forth in the tabulation on the following page showing subheading 3204.17.90.

¹³ 75 FR 12497, March 16, 2010.

HTS provision	Article description	General ¹	Special ²	Column 2 ³
		Rates (<i>percent ad valorem</i>)		
3204	Synthetic organic coloring matter, whether or not chemically defined; preparations as specified in note 3 to this chapter based on synthetic organic coloring matter; synthetic organic products of a kind used as fluorescent brightening agents or as luminophores, whether or not chemically defined: Synthetic organic coloring matter and preparations based thereon as specified in note 3 to this chapter:			
3204.17	Pigments and preparations based thereon:	6.5	Free (A+, AU, BH, CA, CL, D, E, IL, J, JO, L, MA, MX, OM, P, PE) 1.1 (SG)	72
3204.17.90	Other			
3204.17.9040	Pigment violet 23			
<p>¹ Normal trade relations, formerly known as the most-favored-nation duty rate.</p> <p>² Special rates apply to imports of violet 23 from certain trading partners of the United States as follows: A+ (GSP); AU (United States-Australia Free Trade Agreement); BH (United States-Bahrain Free Trade Agreement Implementation Act); CA and MX (North American Free Trade Agreement); CL (United States-Chile Free Trade Agreement); D (African Growth and Opportunity Act); E (Caribbean Basin Economic Recovery Act); IL (United States-Israel Free Trade Area); J (Andean Trade Preference Act); JO (United States-Jordan Free Trade Area Implementation Act); MA (United States-Morocco Free Trade Agreement Implementation Act); P (Dominican Republic-Central America-United States Free Trade Agreement Implementation Act); PE (United States-Peru Trade Promotion Agreement Implementation Act); SG (United States-Singapore Free Trade Agreement).</p> <p>³ Applies to imports from a small number of countries that do not enjoy normal trade relations duty status.</p>				
Source: Harmonized Tariff Schedule of the United States (2010).				

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 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.¹⁴

¹⁴ In cases where an issue is presented as to whether articles at different stages of processing should be included in the same like product, the Commission uses the semi-finished like product analysis and considers the following factors: (1) whether the upstream article is dedicated to production of the downstream article; (2) whether there are perceived to be separate markets for the upstream and downstream articles; (3) differences in physical characteristics (continued...)

In its original determinations the Commission found, based on its semifinished like product analysis, a “single domestic like product, violet 23, whether in crude or finished form, that is coextensive with Commerce’s scope.”¹⁵ In response to a question soliciting comments regarding the appropriate domestic like product and domestic industry in the Commission’s notice of institution of these five-year reviews, domestic interested parties agreed with the Commission’s domestic like product and domestic industry definitions from the original investigations as stated in the notice of institution.¹⁶

Physical Characteristics and Uses¹⁷

Violet 23 is a type of synthetic organic chemical used as a colorant or pigment to color inks, textiles, plastics, coatings, and other materials. Crude violet 23 has no use or intended purpose other than to produce finished violet 23 in the forms of presscake or dry color. Presscake is produced from crude using a particle size reduction process. Dry color violet 23 is pure pigment, and presscake has varying degrees of pigment diluted with water. Dry color can be sold for numerous end uses, including plastics, printing inks, textiles, and to produce dispersions. Presscake can be processed into dry pigment powder, or used to make pigment dispersions.

U.S. producers were requested to provide data on U.S. shipments (commercial shipments and internal consumption) of finished violet 23 (presscake and dry color) produced in their U.S. establishments and made to major end-use application markets. For U.S. producers of finished violet 23, the volume of 2003 U.S. shipments are allocated to end-use application markets as follows: inks *** percent, textiles *** percent, plastics *** percent, coatings *** percent, and other applications *** percent.

For importers of the Chinese finished pigment, 2003 U.S. shipments of imported Chinese finished violet 23 were allocated to major end-use markets as follows: inks *** percent, textiles *** percent, plastics *** percent, coatings *** percent, and other applications *** percent.

For importers of the Indian finished pigment, 2003 U.S. shipments of imported Indian finished violet 23 were allocated *** percent to *** end-use market.

Manufacturing Process¹⁸

There are five separate chemical reactions required to synthesize the crude pigment. Carbazole is reacted with diethylsulfate and potassium hydroxide to produce ethyl carbazole (EC) (the ethylation reaction) that is reacted with nitric acid to produce nitro-ethyl-carbazole (NEC) (the nitration reaction). NEC is then reduced with either sodium sulfide/sulfur or hydrogen/catalyst to form amino-ethyl-carbazole (AEC) (the reduction reaction). AEC is then reacted with chloranil to form “di-anil” (the condensation reaction) that is heat-treated with a catalyst, either p-toluene-sulfonyl-chloride or benzene-sulfonyl-chloride, to form the crude pigment (the ring closure reaction). All of these reactions are carried

¹⁴ (...continued)

and functions of upstream and downstream articles; (4) differences in cost or value of the vertically differentiated articles; and (5) significance and extent of processes used to transform upstream into downstream articles.

¹⁵ *Publication 3744*, p. 8.

¹⁶ *Response Of NFC and Sun to the Notice of Institution of Sunset Reviews (“Response”)*, December 2, 2009, p. 18.

¹⁷ This section was taken largely from INV-BB-148, November 30, 2004 (“*Confidential Investigation Report*”), pp. I-8-I-9.

¹⁸ This section was taken largely from the *Confidential Investigation Report*, pp. I-9-I-11.

out in solvents, such as xylene and o-dichlorobenzene. Other solvents, such as methanol and isopropyl alcohol, are used to displace the reaction solvents in the final purification steps and to facilitate water washing of the crude pigment.

The differences between the physical form of crude violet 23 and finished violet 23 (presscake or dry color) are notable. Crude violet 23 is usually obtained in the form of masses of very large crystals characterized by very hard texture, low strength, and poor brightness, indicating the presence of coarse particles that are difficult to disperse. Before crude violet 23 can be used in any application, it must be further refined, having its physical and chemical properties (but not its chemical structure) modified and improved.

During the original investigations and the period of review crude pigment was produced in the United States only by NFC. As mentioned above, during the original investigations the reactions used to produce it are carried out in solvents and use several different vessels, each designed and constructed for the specific reactions and operations to be performed. In addition to the reaction chemistry, there are several other chemical unit operations required to produce the pigment, including washing, purification, filtering, solvent recovery, waste water treatment, and drying. Support facilities include steam production, cooling water, vacuum service, waste-water treatment, environmental venting, and capability for the safe handling of hazardous chemicals used to produce the pigment.

During the five-year reviews NFC and Sun report that during part of 2006, all of 2007, and part of 2008, NFC substantially reduced production capacity while it discontinued production of crude violet 23 by the process it had previously used and switched to a new process and system. They report that, after completing installation of the new system in April 2008, NFC had the capacity to supply Sun's entire crude violet 23 requirements and has been doing so since May 2009.¹⁹

At least at the time of the original investigations, the production processes used in China and India were believed to be similar to that of NFC. One major exception, however, is ***.

Crude violet 23 is converted to presscake and dry color in an attrition process referred to as "salt grinding." The physical inputs required to produce presscake are water, salt, diethylene glycol, caustic soda, and hydrochloric acid. This process results in a presscake that can be dried and pulverized to produce dry color or used to make pigment dispersions.

Clariant, which Sun and NFC reported terminated violet 23 production operations in December 2008, used to employ a production process that ***. According to Clariant, this "****." ***.

Interchangeability and Customer and Producer Perceptions

During the period examined in the original investigations (2001-June 2004), the Commission found that "there is a moderate-to-high degree of substitutability between domestic violet 23 and subject imports, although subject imports from China may have a higher degree of substitutability for the domestically-produced violet 23 than does Indian violet 23. Domestic producers, importers, and purchasers generally agreed that subject imports from China and India and domestically-produced violet 23 are interchangeable with one another, and although there is some evidence that subject imports from India had a more difficult time meeting qualification requirements than their U.S. and Chinese competitors, purchasers often reported that violet 23 from all three sources was comparable."²⁰

Domestically produced crude violet 23, however, is not interchangeable with domestically produced finished violet 23. Crude violet 23 has no use or intended purpose other than as an intermediate to produce finished violet 23 in the forms of presscake or dry color. Crude violet 23 is usually obtained on the form of masses of very large crystals characterized by very hard texture, low strength, and poor brightness, indicating the presence of coarse particles that are difficult to disperse. Before crude violet 23 can be used in any application, it must be further refined, having its physical and chemical properties (but

¹⁹ *Response*, p. 17.

²⁰ *Publication 3744*, p. 12. (footnotes omitted)

not its chemical structure) modified and improved; particle size must be reduced and classified to uniformity to achieve a softer texture, high strength, bright, uniformly dispersible finished pigment.²¹

Channels of Distribution²²

U.S. producers sold crude and finished violet 23 *** to end users during the period for which data were gathered. Imports of Chinese crude violet 23 were sold *** to end users in 2001, then end users received *** percent in 2002, *** percent in 2003, and *** percent during interim 2004. Imports of Chinese finished violet 23 (presscake and dry color) were sold *** to end users in 2001 and 2002, then end users received *** percent of presscake and *** percent of dry color in 2003, and *** percent of presscake and *** percent of dry color during interim 2004. There were no imports of crude violet 23 from India during the period for which data were gathered in the original investigations. Sales of imported of Indian violet 23 presscake were allocated as follows: *** percent of presscake to end users in 2001 and 2002, (***). Imports of Indian violet 23 dry color were sold as follows: *** percent to end users and *** percent to distributors in 2001, *** percent to end users and *** percent to distributors in 2002, *** percent to end users and *** percent to distributors in 2003, *** percent to end users and *** percent to distributors during interim 2003, and *** percent to end users and *** percent to distributors in interim 2004. Imports of crude violet 23 from all other sources were sold *** percent to end users and *** percent to distributors in 2001, and *** to end users in 2002, 2003, and the 2003 and 2004 interim periods. Imports of finished violet 23 from all other sources ***, and *** percent were sold to end users during the period for which data were gathered.

Pricing

During the period examined in the original investigations, prices of domestically-produced finished violet 23 were well above those for crude violet 23. Unit values for U.S. producers' commercial shipments of crude violet 23 declined irregularly from \$*** per pound in 2001 to \$*** per pound in 2003, and were \$*** per pound in January-June 2004. Average unit values for U.S. producers' commercial domestic shipments of finished violet 23 declined from \$*** per pound in 2001 to \$*** per pound in 2003, and were \$*** per pound in January-June 2004.²³

During the period examined in the original investigations (2001-June 2004), the Commission found "consistent and pervasive underselling by the cumulated subject imports to be significant," and that domestic producer prices were significantly depressed and suppressed by the cumulated subject imports over the period considered.²⁴ For these reasons, the Commission found "significant price underselling and significant price depression" and that "cumulated subject imports from China and India have had significant adverse price effects."²⁵

According to NFC and Sun in this five-year review, if the antidumping order were revoked, Chinese and Indian imports would flood the U.S. market at unfairly traded low prices in order to capture market share. The anticipated high volumes of unfairly low-priced Chinese and Indian imports would have significant depressing and suppressing effects on NFC's and Sun's prices.²⁶

²¹ Ibid., p. I-8.

²² This section was taken largely from the *Confidential Investigation Report*, pp. I-12-I-13.

²³ *Confidential Investigation Report*, p. I-13. (footnotes omitted)

²⁴ *Publication 3744*, p. 21.

²⁵ Ibid., p. 22.

²⁶ *Response*, December 2, 2009, p. 9.

Semi-finished Domestic Like Product Analysis²⁷

Crude violet 23 is an upstream product that is further processed into the finished violet 23 downstream product of presscake which is in turn processed into the finished violet 23 downstream product of dry color.

In the original investigations, Petitioners and Clariant contended that crude violet 23 has no independent uses from presscake and dry color violet 23. Indeed, all domestically produced crude violet 23 is used in the production of presscake and dry color. NFC is the only U.S. producer of crude violet 23, and *** of its crude violet 23 has been toll-produced for Sun for use in the production of presscake and dry color. Chinese respondents acknowledged that crude violet 23 is only used for the production of finished violet 23.

Chinese and Indian respondents stated that whereas crude violet 23 is a chemical intermediate used in the conversion to finished violet 23, presscake and dry color are marketed as finished products to the industries that incorporate violet 23 as colorant into their downstream products. Thus, they argued, crude and finished violet 23 have separate markets, even though they share ultimate end uses as a colorant.²⁸ The market for domestically produced crude violet 23 consists *** of Sun, whereas the market for finished violet 23 consists of firms that produce downstream products such as inks, coatings, and textiles. There are also internal transfers of finished violet 23 *** for the production of inks.

Petitioners and Clariant contended that crude violet 23 embodies and imparts to presscake and dry color essential characteristics and functions that can be achieved in no other way, although they conceded that crude violet 23 has very hard texture, low strength, and poor brightness compared to finished violet 23, indicating the presence of coarse pigment particles that are difficult to disperse. Chinese and Indian respondents conceded that crude and finished violet 23 have the same chemical structure, but argued that they have different physical characteristics due to their physical form. They argued that crude violet 23 is an intermediate input whereas presscake and dry color are finished colorant products that can be incorporated into coloring processes.

Value is added in the production phase between crude and finished violet 23, although crude violet 23 is the most costly input used to produce finished violet 23. During the original investigations, the overall value added provided by producers of finished violet 23 on a weighted-average basis is *** percent exclusive of SG&A expenses and *** percent inclusive of SG&A expenses. However, as Chinese respondents contended, finished violet 23 sells at much higher prices than crude violet 23 because the multi-stage production process for finished violet 23 involves substantial costs above the cost of acquiring or producing crude violet 23. Prices for crude and finished (presscake and dry color) violet 23 were presented in tables V-I (crude), V-II (presscake), and V-III (dry color) of Part V of the original investigation staff report.

Crude violet 23 is subjected to a process known as “salt grinding” that, after washing and filtration, produces presscake. Some presscake is dried to make dry color, the most common form of the pigment used in the U.S. market. Petitioners noted that the grinding of crude to finished violet 23 in the forms of presscake and dry color is strictly a physical process that reduces the particle size of the pigment, making it useful for coloring paints, inks, plastics, and other materials. Clariant contended that the process of transforming crude violet 23 into finished violet 23 is more than simple physical processing, to the extent that ***. It contended that this process, like the transformation of crude indigo slurry into indigo, is part of the continuum of processes in the production of the final product. Chinese and Indian respondents contended that the production of finished violet 23 involves a multi-stage production process.

²⁷ *Confidential Investigation Report*, pp. I-14-I-16. (footnotes omitted)

²⁸ Indian respondents’ posthearing brief, p. 6.

THE INDUSTRY IN THE UNITED STATES

U.S. Producers

During the period examined in the original investigation, the U.S. violet 23 industry was comprised of five producers. The sole U.S. producer of crude violet 23 was NFC, Fort Mill, SC. Finished violet 23 was produced by Sun, Cincinnati, OH, and also by three smaller producers (Allegheny Color Corp. ***, Ridgeway, PA; Barker Fine Color, Ludlow KY;²⁹ Clariant Corp., Coventry, RI) and a *** Summit Specialty Chemicals, LLC, Fort Lee, NJ ***.³⁰ NFC is a small, privately held producer of organic chemicals and Sun is one of the world's leading producers of organic pigments and dispersions.³¹

In its response to the Commission's notice of institution in this five-year review, NFC and Sun believe that they are the only currently operating U.S. producers of violet 23. NFC and Sun understand that Clariant Corp. terminated its U.S. production of violet 23 in December 2008. NFC produces only violet 23 crude and exclusively produces such crude for Sun. Sun uses the crude purchased from NFC to produce violet 23 finished pigment as presscake and dry color.³²

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

Data reported by U.S. producers of violet 23 in the Commission's original investigation and in response to the five-year reviews' institution notice are presented in table I-8.

During the period examined in the original investigations (2001-03), crude production decreased in 2002 as ***. Crude production increased in 2003 when ***.³³

While capacity utilization varied *** among firms producing the finished pigment, U.S. producers' capacity to produce finished violet 23 was *** apparent U.S. consumption of finished violet 23 in each year of the original investigation.³⁴ ***. It shipped ***.³⁵

In its response to the Commission's notice of institution in this five-year review, domestic interested parties provided certain trade and financial data for 2008 which are included where applicable in table I-8.

²⁹ Producer *** had ceased U.S. production operations in 2003. See original Determination, pp. 22 and 37. Producer Allegheny ***. See original Determination, p. 8 n.19; *Confidential Investigation Report*, p. III-1.

³⁰ *Confidential Investigation Report*, p. III-1.

³¹ *Ibid.*, pp. III-3 and III-5

³² *Response*, p. 10.

³³ *Confidential Investigation Report*, p. III-7.

³⁴ *Ibid.*

³⁵ *Ibid.*, III-13.

Table I-8

Violet 23: U.S. producers' trade, employment, and financial data, 2001-03 and 2004-08

* * * * *

During the period examined in these five-year reviews (2004-08), capacity, production volume, U.S. shipment volume, value, and unit value, sales value, and income or loss for calendar year 2008 are the only industry indicators available.³⁶

Sun traditionally sourced its violet 23 crude from NFC and Sumitomo Chemical in Japan. In 2006, Sumitomo informed Sun that it was having environmental problems and was operating at reduced capacity. In 2007, Sumitomo announced it was discontinuing violet 23 production entirely and the last shipment received from Sumitomo by Sun was in July 2007.³⁷

Also, in the latter part of 2006, NFC decided to switch to a new production process with a new starting material which required the installation of a new pressure filtering system and associated piping and tanks representing an investment of almost one million dollars. The new process is safer, has greatly reduced environmental emissions, and has resulted in a product of much higher purity and quality of coloring.³⁸

As a result of the installation of the new production process equipment, NFC had substantially reduced production capacity during part of 2006, all of 2007, and part of 2008. With the loss of its supply of crude violet 23 from Sumitomo, Sun was forced to source most of its crude pigment from China and Germany. Installation of the new filter system was completed in April 2008, and NFC returned to supplying most of Sun's requirement for crude pigment. NFC reported that it now has capacity to supply Sun's entire violet 23 crude requirements and has been so doing since May 2009.³⁹

Related Parties

The Commission did not find any U.S. producer was a related party in the original investigations. ***.⁴⁰ During the five-year review period, Sun imported subject merchandise from both China and India.⁴¹

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

U.S. Importers

Twenty-eight importers responded to the Commission's questionnaires in the final phase of the original investigations and accounted for an average of approximately *** percent of the value of official violet 23 imports from China, *** percent of the value of official violet 23 import statistics from India, and *** percent of the value of official violet 23 import statistics from all other sources in 2003.

³⁶ *Response*, p. 13-16.

³⁷ *Ibid.*, pp. 16-17.

³⁸ *Ibid.*, p. 17.

³⁹ *Ibid.*

⁴⁰ *See original Determination.*, p. 25 (footnote omitted).

⁴¹ During these five-year reviews, Sun imported subject violet 23 as follows: *** pounds in 2004; *** pounds in 2005; *** pounds in 2006; *** pounds in 2007; and *** pounds in 2008. These subject *** imports were *** from China as follows: *** pounds in 2004; *** pounds in 2005; *** pounds in 2006; *** pounds in 2007; and *** pounds in 2008. Sun also imported *** from India during the period of five-year reviews as follows: *** pounds in 2006 and *** pounds in 2007. *Response*, app. 1.

In its response to the Commission's notice of institution in these five-year reviews, domestic interested parties listed six companies, Aakash Chemicals, Glendale Heights, IL (China); Alpha Chem Inc., Nashua, NH (India); Campbell Colors, Inc., Greenville, SC (China and India); Lansco Colors, Montvale, NJ (China and India); Shanco International Inc., Hazlet, NY (China); and Spectra Colorants, Inc., Union, SC (China), that may be importing (or may have recently imported) subject violet 23 into the United States during the period of review.⁴²

U.S. Imports

Import data for 2001-03 are based on questionnaire data; data for 2004-08 are based on official import statistics. Although violet 23 is provided for separately in official U.S. import statistics, the volume data reported in those statistics may be overstated.⁴³ Because of this possibility, coupled with the fact that questionnaire data enabled (1) crude and finished (presscake and dry color) violet 23 to be presented separately (which is not possible using official statistics) and (2) the use of importers' U.S. shipment data to calculate apparent U.S. consumption, questionnaire data were used for imports of violet 23 crude, presscake, and dry color in the original investigations.

During these five-year reviews, absent questionnaire data, the use of official import statistics provides data for aggregated violet 23 (crude, presscake, and dry color). No separate statistics for crude or finished (presscake and dry color) are available from official import statistics. Table I-9 presents import data on violet 23 from 2001 to 2008.

During the original investigations period (2001-03), the quantity of imports of violet 23 from China increased throughout the period examined, while the value increased irregularly. The volume of U.S. imports of violet 23 from India decreased irregularly during 2001-03, whereas the value of U.S. imports of violet 23 from India decreased steadily during 2001-03. Both volume and value of imports of violet 23 from nonsubject countries decreased during 2001-03.

During the period examined in these five-year reviews, subject import volume decreased irregularly while the average unit value of subject imports increased irregularly. The volume increases during 2006 and 2007 may be attributable to Sun's increased reliance on violet 23 imports during the concurrent NFC production decreases during its 2006-08 change in production process for violet 23 crude and loss of violet 23 crude supply from Sumitomo in July 2007. Sun reported that it stopped importing violet 23 crude from India in November 2007 and from China in September 2008.⁴⁴

According to domestic interested parties, there has been a significant increase in nonsubject dispersion imports from China and India, which are gaining substantial U.S. market share. They report that these imports do not appear to be reported correctly under statistical reporting number 3204.17.9040 of the HTS, though some may have been.⁴⁵

⁴² *Response*, pp. 10-11.

⁴³ *Confidential Investigation Report*, p. IV-3.

⁴⁴ *Ibid.*, pp. 16-17.

⁴⁵ *Response*, p. 17.

Table I-9

Violet 23: U.S. imports, based on a combination of questionnaire data and official Commerce statistics, by source, 2001-03 and 2004-08

Item	2001	2002	2003	2004	2005	2006	2007	2008
Quantity (1,000 pounds)								
China:								
Crude	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Finished presscake	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Finished dry color	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Subtotal, finished	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Total	***	***	***	331	97	331	450	105
India:								
Crude	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Finished presscake	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Finished dry color	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Subtotal, finished	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Total	***	***	***	23	27	33	64	20
Subject imports:								
Crude	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Finished presscake	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Finished dry color	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Subtotal, finished	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Total	***	***	***	354	123	364	514	125
Other:								
Crude	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Finished presscake	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Finished dry color	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Subtotal, finished	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Total	***	***	***	693	868	609	751	1,054
All imports:								
Crude	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Finished presscake	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Finished dry color	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Subtotal, finished	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Total	***	***	***	1,047	991	974	1,265	1,179

Table continued on next page.

Table I-9--Continued

Violet 23: U.S. imports, based on a combination of questionnaire data and official Commerce statistics, by source, 2001-03 and 2004-08

Item	2001	2002	2003	2004	2005	2006	2007	2008
Landed duty-paid value (1,000 dollars)								
China:								
Crude	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Finished presscake	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Finished dry color	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Subtotal, finished	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Total	***	***	***	3,210	611	3,196	4,227	1,353
India:								
Crude	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Finished presscake	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Finished dry color	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Subtotal, finished	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Total	***	***	***	308	421	474	962	276
Subject Imports:								
Crude	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Finished presscake	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Finished dry color	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Subtotal, finished	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Total	***	***	***	3,518	1,032	3,671	5,190	1,629
Other:								
Crude	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Finished presscake	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Finished dry color	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Subtotal, finished	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Total	***	***	***	8,368	10,278	6,352	8,553	13,341
All imports:								
Crude	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Finished presscake	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Finished dry color	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Subtotal, finished	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Total	***	***	***	11,886	11,310	10,023	13,743	14,970

Table continued on next page.

Table I-9--Continued

Violet 23: U.S. imports, based on a combination of questionnaire data and official Commerce statistics, by source, 2001-03 and 2004-08

Item	2001	2002	2003	2004	2005	2006	2007	2008
<i>Unit value (per pound)</i>								
China:								
Crude	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Finished presscake	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Finished dry color	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Subtotal, finished	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Total	***	***	***	\$9.70	\$6.33	\$9.66	\$9.40	\$12.91
India:								
Crude	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Finished presscake	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Finished dry color	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Subtotal, finished	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Total	***	***	***	13.32	15.80	14.16	14.98	13.85
Subject Imports:								
Crude	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Finished presscake	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Finished dry color	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Subtotal, finished	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Total	***	***	***	9.93	8.38	10.08	10.10	13.06
Other:								
Crude	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Finished presscake	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Finished dry color	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Subtotal, finished	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Total	***	***	***	12.08	11.84	10.42	11.39	12.66
All imports:								
Crude	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Finished presscake	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Finished dry color	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Subtotal, finished	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Total	***	***	***	11.35	11.41	10.29	10.86	12.70

Table continued on next page.

Table I-9--Continued

Violet 23: U.S. imports, based on a combination of questionnaire data and official Commerce statistics, by source, 2001-03 and 2004-08

Item	2001	2002	2003	2004	2005	2006	2007	2008
Share of quantity (percent)								
China:								
Crude	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Finished presscake	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Finished dry color	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Subtotal, finished	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Total	***	***	***	31.6	9.7	34.0	35.5	8.9
India:								
Crude	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Finished presscake	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Finished dry color	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Subtotal, finished	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Total	***	***	***	2.2	2.7	3.4	5.1	1.7
Subject imports:								
Crude	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Finished presscake	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Finished dry color	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Subtotal, finished	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Total	***	***	***	33.8	12.4	37.4	40.6	10.6
Other:								
Crude	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Finished presscake	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Finished dry color	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Subtotal, finished	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Total	***	***	***	66.2	87.6	62.6	59.4	89.4
All imports:								
Crude	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Finished presscake	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Finished dry color	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Subtotal, finished	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Total	***	***	***	100.0	100.0	100.0	100.0	100.0

Table continued on next page.

Table I-9--Continued

Violet 23: U.S. imports, based on a combination of questionnaire data and official Commerce statistics, by source, 2001-03 and 2004-08

Item	2001	2002	2003	2004	2005	2006	2007	2008
Share of value (percent)								
China:								
Crude	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Finished presscake	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Finished dry color	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Subtotal, finished	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Total	***	***	***	27.0	5.4	31.9	30.8	9.0
India:								
Crude	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Finished presscake	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Finished dry color	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Subtotal, finished	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Total	***	***	***	2.6	3.7	4.7	7.0	1.8
Subject imports:								
Crude	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Finished presscake	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Finished dry color	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Subtotal, finished	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Total	***	***	***	29.6	9.1	36.6	37.8	10.9
Other:								
Crude	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Finished presscake	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Finished dry color	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Subtotal, finished	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Total	***	***	***	70.4	90.9	63.4	62.2	89.1
All imports:								
Crude	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Finished presscake	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Finished dry color	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Subtotal, finished	***	***	***	(¹)	(¹)	(¹)	(¹)	(¹)
Total	***	***	***	100.0	100.0	100.0	100.0	100.0

¹ Not available.

Note.—Because of rounding, figures may not add to the totals shown. Unit values and shares are calculated from unrounded figures.

Source: Confidential Investigation Report, table IV-2 (based on questionnaire data) and official Commerce statistics (HTS statistical reporting number 3204.17.9040).

Apparent U.S. Consumption and Market Shares

In the original investigation, data on apparent U.S. consumption and market shares of violet 23 were based on U.S. producers' and importers' shipments as reported in responses to the Commission's questionnaires in order to provide separate data for crude violet 23, violet 23 presscake, violet 23 dry color, and finished violet 23 (presscake and dry color).

In its response to the Commission's notice of institution in this five-year review, domestic interested parties provided U.S. import and consumption data in an appendix to the domestic interested parties' response to the notice of institution; however, the data may misrepresent actual market conditions and are not used to compute apparent consumption.⁴⁶ Tables I-10, I-11, I-12, and I-13 present data on apparent U.S. consumption and market shares of violet 23 crude, finished presscake, finished dry color, and total finished violet 23, respectively.

Table I-10

Crude violet 23 (crude): Apparent U.S. consumption and market shares, 2001-03 and 2004-08

* * * * *

Table I-11

Finished violet 23 (presscake): Apparent U.S. consumption and market shares, 2001-03 and 2004-08

* * * * *

Table I-12

Finished violet 23 (dry color): Apparent U.S. consumption and market shares, 2001-03 and 2004-08

* * * * *

Table I-13

Finished violet 23 (presscake and dry color): Apparent U.S. consumption and market shares, 2001-03 and 2004-08

* * * * *

SUPPLY AND DEMAND

Demand

Demand for violet 23 is derived from the demand for other products such as printing inks, plastics, coatings, and textiles, which in turn depend on such industries as advertising, packaging, and clothing. Violet 23 thus does not have its own business cycle. The largest use of violet 23 is in the production of printing inks. During the original investigations, U.S. demand for inks decreased over the

⁴⁶ The data provided in an appendix to the domestic interested parties response to the notice of institution contains a mixture of Sun's crude imports, unattributed aggregated finished imports, official statistics for imports of violet 23 from nonsubject countries, Sun's sales, and apparent consumption calculated from the mixture. As domestic interested parties provided a list of five known and currently operating U.S. importers of violet 23 from China and three U.S. importers of violet 23 from India beyond NFC and Sun, the Sun import data may underrepresent imports of violet 23 from both China and India and is not used to compute apparent consumption for these five-year reviews. *Response*, pp. 10-11 and app. 1.

period of investigation as demand for printed products contracted, although Sun argued that there was a slight upswing in demand in 2003 due to a somewhat improved U.S. economy. Because there are no real alternatives to violet 23 and because violet 23 does not account for a large share of the cost of at least some of the end use products in which it is used, changes in violet 23 prices are not likely to lead to large changes in the quantity demanded.⁴⁷

Supply

During the original investigations, NFC was the only known producer of crude violet 23 in the United States. During the period of original investigations, several domestic producers converted imported or domestically-produced crude violet 23 into finished violet 23, including Allegheny, Barker, Bayer, Clariant, and Sun. Barker (a ***) closed its business at the end of 2003. In addition to subject imports from China and India, there were also non-subject imports present in the U.S. market throughout the period of original investigation. In terms of end-use applications, there was overlap among U.S. shipments of subject imports from China and India and domestically-produced violet 23 during the period of original investigation, particularly for ink applications.⁴⁸

During the period of original investigation, *** imported crude violet 23 (whether from subject and/or non-subject countries) to produce finished violet 23. Over the course of the period of investigation, Sun's purchasing activity under the toll agreement changed. According to Sun, in order to compete with subject imports of finished violet 23 in the U.S. market, Sun reduced the quantity of crude violet 23 that it had purchased from NFC in 2002, lowered the corresponding tolling fee that it paid to NFC, and purchased Chinese crude violet 23. Subsequently, Sun ***, but at a lower tolling rate than in 2001, in order to ensure a domestic supply of crude violet 23. In 2003, Sun increased its purchases from NFC at the expense of its imports of subject crude violet 23 from China. Petitioners testified that Sun has an interest in maintaining a secure U.S. supply source for crude violet 23. Thus, Sun's purchases of crude violet 23 from NFC accounted for *** percent of its crude requirement in 2001, *** percent in 2002, *** percent in 2003, and *** percent in interim 2004.⁴⁹

During the original investigations, a significant volume of finished violet 23 was internally transferred. Sun used some of its presscake to produce dry color and flush color at its plant in Cincinnati, OH, and Sun shipped some presscake to its Amelia, OH plant where it was converted to aqueous dispersions. Some of Sun's dry color was also used internally by Sun's Ink Division (General Printing Ink).⁵⁰

Factors Affecting Prices

During the original investigations, the domestic industry's comprehensive raw material costs for finished violet 23 (tolling raw material, tolling fee, and imported crude violet 23) declined throughout most of the period of investigation; however, the domestic industry faced increased raw materials costs in interim 2004. The declines in raw material costs *** the reductions in average unit revenues which the industry experienced throughout most of the period of investigation. While interim 2004 average unit revenue was *** compared to 2003, *** raw material costs offset this modest increase. The Commission

⁴⁷ See original Determination, p. 21 (footnotes omitted).

⁴⁸ Ibid., p. 22 (footnotes omitted).

⁴⁹ Ibid., p. 24 (footnotes omitted).

⁵⁰ Ibid., p. 25 (footnotes omitted).

thus concluded that changes in raw material costs did not adequately explain the significant decline in domestic violet 23 prices during the investigation period.⁵¹

During the five-year reviews, domestic interested parties reported that the costs of the main raw materials for violet 23 have increased since the orders were issued. According to NFC and Sun, carbazole costs have increased due to the limited availability of coal tar, chloranil costs have increased due to the general increase in aromatic chemicals, and energy and labor costs also have increased over the same period. Consequently, they report that NFC's and Sun's overall cost of production has increased.⁵²

Substitute Products

During the original investigation, virtually all responding purchasers reported that there were no direct substitutes for violet 23. In selecting a violet 23 supplier, purchasers ranked price as the second most important factor, after quality. Out of twenty-four total responses, twenty purchasers said that they "usually" or "sometimes" purchased violet 23 offered at the lowest price. While quality is the most important factor in purchasing decisions, violet 23 is typically purchased from suppliers whose quality and reliability have already been established, making price and volume the focal point of contract negotiations. Indeed, the overwhelming majority of purchasers reported that they require potential suppliers to pass certain qualification procedures to assure that quality standards are met before they will even enter into contract negotiations with them. The majority of purchasers reported that they contact only two or three suppliers while some purchasers reported that they contact just one supplier before negotiating contract terms and conditions.⁵³

During the original investigation, the Commission found that there is a moderate-to-high degree of substitutability between subject imports and the domestic like product, although Chinese violet 23 had a higher degree of substitutability for domestic violet 23 than does Indian violet 23. Questionnaire respondents reported that violet 23 from each of the three sources was generally interchangeable with the others, and there was overlap in the end-use applications for which violet 23 from these sources was sold and offered for sale, particularly for inks, and more specifically for water-based application inks. Subject imports from China and India were also sold on similar terms and under similar circumstances. The majority of producers (4 of 5), importers (21 of 23), and purchasers (18 of 24) noted that the price of violet 23 does not depend on its end-use application. To the extent that there were price variances among end users in inks, plastics, and coatings, such price variances appeared to be mostly a function of volume.⁵⁴

Purchasers

As part of their response to the notice of institution, interested parties were asked to provide a list of three to five leading purchasers in the U.S. market for the domestic like product. A response was received from domestic interested parties and it named the following five firms as the top purchasers of carbazole violet pigment 23: Flint Group Pigments, INX International Ink Company, Siegwerk USA Company, Sun Chemical Corporation, and Techmer PM. Purchaser questionnaires were sent to these five firms and four firms (***, ***, ***, and ***) provided responses.

All responding purchasers reported that no changes occurred in technology; production methods; or development efforts to produce violet 23 that affected the availability of violet 23 in the U.S. market or

⁵¹ *Ibid.*, pp. 33-34 (footnotes omitted).

⁵² *Response*, p. 2.

⁵³ *See* original Determination, pp. 29-30 (footnotes omitted).

⁵⁴ *Ibid.*, pp. 30-31 (footnotes omitted).

in the market for violet 23 in China or India since 2004, nor are any such changes anticipated within a reasonably foreseeable time.⁵⁵

Three responding purchasers reported no changes in the ability to increase production of violet 23 that affected the availability of violet 23 in the U.S. market or in the market for violet 23 in China or India since 2004; however, one purchaser responded that in 2009 Toyo Pigments Japan increased its capacity to violet 23 for export to the U.S. market. All four purchasers reported that they did not anticipate any production changes in the U.S. market or in the market for violet 23 in China or India within a reasonably foreseeable time.⁵⁶

All responding purchasers reported no changes in factors related to the ability to shift supply of violet 23 among different national markets that affected the availability of violet 23 in the U.S. market or in the market for violet 23 in China or India since 2004 and that no changes in these factors is anticipated within a reasonably foreseeable time.⁵⁷

Three responding purchasers reported no changes in the end uses and applications of violet 23 in the U.S. market or in the market for violet 23 in China or India since 2004. One purchaser reported that immediately after imposition of duties violet 23 became less cost effective such that alternative pigments were used. All four responding purchasers did not anticipate any changes in end uses and applications of violet 23 in these markets within a reasonably foreseeable time.⁵⁸

No responding purchaser reported any changes in the existence and availability of substitute products for violet 23 in the U.S. market or in the market for violet 23 in China or India since 2004. All responding purchasers also agreed that no such changes were anticipated within a reasonably foreseeable time.⁵⁹

When asked if there had been any changes in the level of competition between violet 23 produced in the United States, violet 23 produced in China or India, and violet 23 from all other countries in the U.S. market or the market for violet 23 in China or India since 2004, purchaser responses were mixed. *** reported that the “countervailing duty” on violet 23 from India and China has impacted competitive pricing on imports. *** reported that in 2004 its violet 23 purchases were predominantly from China, with minor amounts from the EU and United States and that the duty caused it to cease purchases from China and India and shift purchases to the EU and Japan because the single U.S. producer is its competitor and not qualified for the company’s mail violet 23 purchases. As a result, suppliers from the EU and Japan have had a greater opportunity to sell violet 23 in the U.S. market. *** reported that the tariff increase has made U.S. manufacturers more competitive. All responding purchasers agreed that no changes in the level of competition among U.S.-produced, Chinese, Indian, or nonsubject violet 23 is anticipated within a reasonably foreseeable time.⁶⁰

⁵⁵ Purchaser questionnaire responses (sections Ia and Ib).

⁵⁶ Ibid., (sections 2a and 2b).

⁵⁷ Ibid., (sections 3a and 3b).

⁵⁸ Ibid., (sections 4a and 4b).

⁵⁹ Ibid., (sections 5a and 5b).

⁶⁰ Ibid., (sections 6a and 6b).

ANTIDUMPING ACTIONS OUTSIDE THE UNITED STATES

There were no known violet 23 third-country market import relief investigations or existing antidumping duty orders on the product from China or India either during the period examined in the original investigations (2001-03) or during the period examined in these five-year reviews (2004-08).⁶¹

THE INDUSTRY IN CHINA

During the original investigations, the Commission requested data from 19 firms in China believed to be producers and/or exporters of violet 23. The Commission received questionnaire response from four producers of violet 23 in China (Hangzhou Baihe Chemical Co., Ltd. (“Baihe”); Nantong Haidi Chemicals Co., Ltd. (“Haidi”); Nanton Longteng Chemical Co., Ltd. (“Longteng”); and Wuxi Xinguang Chemical Industry Co., Ltd. (“Wuxi”) and from five non-producing exporters (Aesthetic ColorTech (Shanghai) Co., Ltd.; Goldlink Industries Co., Ltd.; JECO Pigment China Co. Ltd.; Tianjin Hanchem International Trading Co., Ltd.; and Trust Chem Co., Ltd. *** was *** the largest of the reporting firms. The responding producers indicated that they accounted for in aggregate approximately *** percent of the production of violet 23 in China in 2003.⁶²

In its response to the Commission’s notice of institution in these five-year reviews, domestic interested parties did not provide a list of producers (and their locations) as of 2008 of violet 23 in China that could or did produce violet 23 for export to the United States or other countries since 2004.

Operations in China

Tables I-14 and I-15 present data on the industry in China producing and/or exporting crude and finished violet 23, respectively.

Table I-14

Crude violet 23: China’s capacity, production, shipments, and inventories, 2001-03 and 2004-08

* * * * *

Table I-15

Finished violet 23 (presscake and dry color): China’s capacity, production, shipments, and inventories, 2001-03 and 2004-08

* * * * *

THE INDUSTRY IN INDIA

During the original investigations, the Commission requested data from 14 firms believed to produce violet 23. The Commission received questionnaire responses from three producers of violet 23 in India (Alpanil Industries (“Alpanil”), AMI Pigments Pvt.Ltd. (“AMI”), and Pidilite Industries Ltd. (“Pidilite”). According to a representative of Pidilite, these three Indian respondents were the only known manufacturers of violet 23 in India. In addition to exports to the United States, the responding Indian producers also reported exports of violet 23 to markets in ***.

⁶¹ *Confidential Investigation Report*, p.VII-13.

⁶² *Ibid.*, pp. VII-1-VII-2.

In its response to the Commission's notice of institution in these five-year reviews, domestic interested parties did not provide a list of producers (and their locations) as of 2008 of violet 23 in India that could and did produce violet 23 for export to the United States or other countries since 2004.

Operations in India

Tables I-16 and I-17 present data on the industry in India producing and/or exporting crude and finished violet 23, respectively.

Table I-16

Crude Violet 23: India's capacity, production, shipments, and inventories, 2001-02 and 2004-08

* * * * *

Table I-17

Finished Violet 23 (presscake and dry color): India's capacity, production, shipments, and inventories, 2001-03 and 2004-08

* * * * *

APPENDIX A
***FEDERAL REGISTER* NOTICES**

**INTERNATIONAL TRADE
COMMISSION**

[Investigation Nos. 701-TA-437 and 731-TA-1060-1061 (Review)]

**Carbazole Violet Pigment 23 From
China and India**

AGENCY: United States International Trade Commission.

ACTION: Institution of five-year reviews concerning the countervailing duty order on carbazole violet pigment 23 from India and the antidumping duty orders on carbazole violet pigment 23 from China and India.

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

countervailing duty order on carbazole violet pigment 23 from India and the antidumping duty orders on carbazole violet pigment 23 from China and India 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 2, 2009. Comments on the adequacy of responses may be filed with the Commission by January 15, 2010. 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 2, 2009.

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 December 29, 2004, the Department of Commerce issued a countervailing duty order on carbazole violet pigment 23 from India and antidumping duty orders on carbazole violet pigment 23 from China and India (69 FR 77987–77989 and 77995–77996). The Commission is conducting reviews to determine whether revocation of the orders 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 full reviews or an expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to these reviews:

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

(2) The *Subject Countries* in these reviews are China and India.

(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 determinations, the Commission found a single *Domestic Like Product* comprised of both crude violet pigment 23 and finished carbazole violet pigment 23 (in the form of presscake and dry color) that corresponds to 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 determinations, the Commission defined the Domestic Industry to include all producers of crude and/or finished carbazole violet pigment 23.

(5) The *Order Date* is the date that the countervailing and antidumping duty orders under review became effective. In these reviews, the *Order Date* is December 29, 2004.

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

Participation in the reviews 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 reviews 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 reviews.

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 these reviews available to authorized applicants under the APO issued in the reviews, 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 reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews 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

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. 10–5–204, 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.

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 2, 2009. 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 expedited or full reviews. The deadline for filing such comments is January 15, 2010. 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 reviews must be served on all other parties to the reviews (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 reviews 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 determinations in the reviews.

Information to be Provided in Response to this Notice of Institution: If you are a domestic producer, union/worker group, or trade/business association; import/export *Subject*

Merchandise from more than one *Subject Country*; or produce *Subject Merchandise* in more than one *Subject Country*, you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent *Subject Country*. 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 these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the countervailing and antidumping duty orders 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 each *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 2008, except as noted (report quantity data in pounds of 100-percent pure pigment 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. *As appropriate, for each of the following, please report separate data for crude violet 23 pigment, presscake, and dry color, to avoid double-counting.*

(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(ies)*, provide the following information on your firm's(s') operations on that product during calendar year 2008 (report quantity data in pounds of 100-percent pure pigment 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. *As appropriate, for each of the following,*

please report separate data for crude violet 23 pigment, presscake, and dry color, to avoid double-counting.

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

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

(c) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from each *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(ies)*, provide the following information on your firm's(s') operations on that product during calendar year 2008 (report quantity data in pounds of 100-percent pure pigment and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association. *As appropriate, for each of the following, please report separate data for crude violet 23 pigment, presscake, and dry color, to avoid double-counting.*

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

(b) Capacity (quantity) of your firm to produce the *Subject Merchandise* in each *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 each *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(ies)* 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(ies)*, 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: These reviews are 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, 2009.

William R. Bishop,

Acting Secretary to the Commission.

[FR Doc. E9-26141 Filed 10-30-09; 8:45 am]

BILLING CODE P

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

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 2, 2009.

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:

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

DOC case No.	ITC case No.	Country	Product	Department contact
A-533-838	731-TA-1061	India	Carbazole Violet Pigment 23	Dana Mermelstein (202) 482-1391
A-570-892	731-TA-1060	PRC	Carbazole Violet Pigment 23	Dana Mermelstein (202) 482-1391
A-570-891	731-TA-1059	PRC	Hand Trucks	Dana Mermelstein (202) 482-1391
A-570-501	731-TA-244	PRC	Natural Bristle Paint Brushes & Brush Heads (3rd Review).	Jennifer Moats (202) 482-5047
C-533-839	701-TA-437	India	Carbazole Violet Pigment 23	Dana Mermelstein (202) 482-1391

Filing Information

As a courtesy, we are making information related to Sunset proceedings, including copies of the pertinent statute and the 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 Tariff Act of 1930, as amended (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 21, 2009.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. E9–26346 Filed 10–30–09; 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.

**INTERNATIONAL TRADE
COMMISSION**

[Investigation Nos. 701-TA-437 and 731-TA-1060-1061 (Review)]

**Carbazole Violet Pigment 23 From
China and India**

AGENCY: United States International Trade Commission.

ACTION: Scheduling of expedited five-year reviews concerning the countervailing duty order on carbazole violet pigment 23 from India and the antidumping duty orders on carbazole violet pigment 23 from China and India.

SUMMARY: The Commission hereby gives notice of the scheduling of expedited reviews 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 countervailing duty order on carbazole violet pigment 23 from India and the antidumping duty orders on carbazole violet pigment 23 from China and India would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. 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). 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).

DATES: *Effective Date:* February 5, 2010.

FOR FURTHER INFORMATION CONTACT:

Cynthia Trainor (202-205-3354), 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 February 5, 2010, the Commission determined that the domestic interested party group response to its notice of institution (74 FR 56663 November 2, 2009) of the subject five-year reviews was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting full reviews.¹ Accordingly, the Commission determined that it would conduct expedited reviews pursuant to section 751(c)(3) of the Act.

Staff report. A staff report containing information concerning the subject matter of the reviews will be placed in the nonpublic record on April 8, 2010, and made available to persons on the Administrative Protective Order service list for these reviews. 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 reviews and that have provided individually adequate responses to the notice of institution,² and any party other than an interested party to the

reviews may file written comments with the Secretary on what determinations the Commission should reach in the reviews. Comments are due on or before April 13, 2010 and may not contain new factual information. Any person that is neither a party to the five-year reviews nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the reviews by April 13, 2010. However, should the Department of Commerce extend the time limit for its completion of the final results of its reviews, 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 reviews must be served on all other parties to the reviews (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: These reviews are 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.

Issued: March 18, 2010.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 2010-6618 Filed 3-24-10; 8:45 am]

BILLING CODE 7020-02-P

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

² The Commission has found the responses submitted by Nation Ford Chemical Co. and Sun Chemical Corp. to be individually adequate. Comments from other interested parties will not be accepted (*see* 19 CFR 207.62(d)(2)).

continuation or recurrence of dumping as indicated in the "Final Results of Review" section of this notice.

EFFECTIVE DATE: March 16, 2010.

FOR FURTHER INFORMATION CONTACT: Bryan Hansen or Minoo Hatten, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3683 or (202) 482-1690, respectively.

SUPPLEMENTARY INFORMATION:

Background

On November 2, 2009, the Department initiated sunset reviews of the antidumping duty orders on CVP 23 from India and the PRC¹ pursuant to section 751(c) of the Act. See *Notice of Initiation*.

On November 10, 2009, the Department received a notice of intent to participate in these sunset reviews from Nation Ford Chemical Company and Sun Chemical Corporation (collectively, the domestic interested parties) within the 15-day period specified in 19 CFR 351.218(d)(1)(i). The domestic interested parties claimed interested-party status under section 771(9)(C) of the Act as producers of a domestic like product in the United States.

The Department received complete substantive responses to the *Notice of Initiation* from the domestic interested parties within the 30-day period specified in 19 CFR 351.218(d)(3)(i). The Department received no substantive responses from any respondent interested parties and no hearing was requested. On the basis of a notice of intent to participate and adequate substantive responses filed on behalf of the domestic interested parties and no responses filed on behalf of respondent interested parties and in accordance with section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department is conducting expedited (120-day) sunset reviews of the antidumping duty orders on CVP 23 from India and the PRC.

Scope of the Orders

The product covered by the antidumping duty orders on CVP 23 from India and the PRC is CVP 23 identified as Color Index No. 51319 and Chemical Abstract No. 6358-30-1, with

the chemical name of diindolo [3,2-b:3,2-m]² triphenodioxazine, 8,18-dichloro-5, 15-diethyl-5, 15-dihydro-, and molecular formula of C₃₄H₂₂Cl₂N₄O₂. The subject merchandise includes the crude pigment in any form (e.g., dry powder, paste, wet cake) and finished pigment in the form of presscake and dry color. Pigment dispersions in any form (e.g., pigment dispersed in oleoresins, flammable solvents, water) are not included within the scope of the orders. The merchandise subject to the orders is classifiable under subheading 3204.17.90.40 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written descriptions of the scope of the orders are 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 Carbazole Violet Pigment 23 from India and the People's Republic of China" from Acting Deputy Assistant Secretary John M. Andersen to Deputy Assistant Secretary Ronald K. Lorentzen, dated concurrently with this notice (Decision Memo), which is hereby adopted by 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 1117 of the main Department of Commerce building.

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

Final Results of Reviews

The Department determines that revocation of the antidumping duty orders on CVP 23 from India and the PRC would be likely to lead to a continuation or recurrence of dumping at the following weighted-average percentage margins:

DEPARTMENT OF COMMERCE

International Trade Administration

[A-533-838, A-570-892]

Carbazole Violet Pigment 23 from India and the People's Republic of China: Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders

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

SUMMARY: On November 2, 2009, the Department initiated sunset reviews of the antidumping duty orders on carbazole violet pigment 23 (CVP 23) from India and 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*, 74 FR 56593 (November 2, 2009) (*Notice of Initiation*). The Department has conducted expedited (120-day) sunset reviews of these orders pursuant to 19 CFR 351.218(e)(1)(ii)(C)(2). As a result of these sunset reviews, the Department finds that revocation of the antidumping duty orders would be likely to lead to

¹ On December 29, 2004, the Department published the following antidumping duty orders: *Antidumping Duty Order: Carbazole Violet Pigment 23 From the People's Republic of China*, 69 FR 77987 (December 29, 2004); *Notice of Amended*

Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Carbazole Violet Pigment 23 From India, 69 FR 77988 (December 29, 2004).

² The bracketed section of the product description, [3,2-b:3',2'-m], is not business-proprietary information. In this case, the brackets are simply part of the chemical nomenclature.

Country	Company	Weighted-Average Margin (Percent)
India	Alpanil Industries Ltd.	27.23
	Pidilite Industries Ltd.	66.59
	All Others	44.80
PRC	GoldLink Industries Co., Ltd.	12.46
	Nantong Haidi Chemical Co., Ltd.	57.07
	Trust Chem Co., Ltd.	39.29
	Tianjin Hanchem International Trading Co., Ltd.	85.41
	PRC-wide	241.32

Notification Regarding APO

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

The Department is 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 9, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 2010-5713 Filed 3-15-10; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

[C-533-839]

**Carbazole Violet Pigment 23 from
India: Final Results of the Expedited
Five-year (Sunset) Review of the
Countervailing Duty Order**

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

SUMMARY: On November 2, 2009, the
Department of Commerce (the
Department) initiated a sunset review of
the countervailing duty (CVD) order on
Carbazole Violet Pigment 23 (CVP-23)

from India pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). See *Initiation of Five-year (Sunset) Review*, 74 FR 56593 (November 2, 2009) (*Initiation Notice*). On the bases of a notice of intent to participate and an adequate response filed on behalf of domestic interested parties, and in this case no response from any respondent interested party, the Department conducted an expedited sunset review of the CVD order pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(B). As a result of this review, the Department finds that revocation of the CVD order would likely lead to continuation or recurrence of countervailable subsidies at the levels indicated in the “Final Results of Review” section of this notice.

EFFECTIVE DATE: March 19, 2010.

FOR FURTHER INFORMATION CONTACT: Martha Douthit or Mark Hoadley, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW, Washington, DC 20230; telephone: (202) 482-5050 or (202) 482-3148, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published in the **Federal Register** the notice of initiation of the first five-year sunset review of the CVD order on CVP-23 from India, pursuant to section 751(c) of the Act. See *Initiation Notice*. The Department received notice of intent to participate from domestic interested parties and Petitioners in the original investigation, Nation Ford Chemical Company and Sun Chemical Corporation (collectively, Petitioners). On December 2, 2009, Petitioners submitted a timely substantive response in accordance with 19 CFR 351.218(d)(1)(i). Petitioners claimed interested party status as U.S. producers of the domestic like product, pursuant to section 771(9)(C) of the Act. The Department did not receive a response from the Government of India or any other respondent interested party in this proceeding. In accordance with 19 CFR 351.218(e)(1)(ii)(C)(1), the Department notified the International Trade Commission (ITC) that respondent interested parties provided inadequate responses to the *Initiation Notice*. See Letter from Edward C. Yang, Senior Executive Coordinator, AD/CVD Operations, Office 9, Import Administration, to Ms. DeFilippo, Director, Office of Investigations, ITC, dated December 22, 2009. As a result, pursuant to 19 CFR 51.218(e)(1)(ii)(B)

and (C)(2), the Department conducted an expedited review of this order.

Scope of the Order

The merchandise covered by this order is CVP-23 identified as Color Index No. 51319 and Chemical Abstract No. 6358-30-1, with the chemical name of diindolo [3,2-b:3',2'-m] triphenodioxazine, 8,18-dichloro-5,15-diethy-5,15-dihydro-, and molecular formula of C³⁴H²²Cl²N⁴O².¹ The subject merchandise includes the crude pigment in any form (e.g., dry powder, paste, wet cake) and finished pigment in the form of presscake and dry color. Pigment dispersions in any form (e.g., pigments dispersed in oleoresins, flammable solvents, water) are not included within the scope of the order. The merchandise subject to this order is classifiable under subheading 3204.17.9040 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under the order is dispositive.

Analysis of Comments Received

A complete discussion of all issues raised in this review is addressed in the accompanying Issues and Decision Memorandum (Decision Memorandum), from John M. Andersen, Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Deputy Assistant Secretary for Import Administration, dated concurrently with this notice, which is hereby adopted by this notice. Parties can obtain a public copy of the Decision Memorandum on file in the Central Records Unit, room 1117, of the main Commerce building. In addition, a complete public version of the Decision Memorandum can be accessed directly on the Web 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

The Department determines that revocation of the CVD order would be likely to lead to continuation or recurrence of a countervailable subsidy at the rates listed below:

PRODUCER/EXPORTER	NET SUBSIDY RATE
Alpanil Industries Ltd	17.57% ad valorem

¹ The bracketed section of the product description, [3,2-b:3',2'-m], is not business proprietary information. In this case, the brackets are simply part of the chemical nomenclature. See December 4, 2003 amendment to petition (supplemental petition) at 8.

PRODUCER/EXPORTER	NET SUBSIDY RATE
Pidilite Industries Ltd	17.33% ad valorem
AMI Pigments Pvt. Ltd ..	33.61% ad valorem
All Others	20.55% ad valorem

Notification Regarding Administrative Protective Order

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 order 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 these results and notice in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: March 9, 2010.

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

[FR Doc. 2010-6090 Filed 3-18-10; 8:45 am]

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APPENDIX B
STATEMENT ON ADEQUACY

EXPLANATION OF COMMISSION DETERMINATIONS ON ADEQUACY

in

Carbazole Violet Pigment 23 from China and India
Inv. Nos. 701-TA-437 and 731-TA-1060-1061 (Review)

On February 5, 2010, the Commission determined that it should conduct expedited reviews in the subject five-year reviews pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)(3)).

The Commission received a single response filed jointly by Nation Ford Chemical Company (“NFC”) and Sun Chemical Corporation (“Sun”). NFC is a domestic producer of crude carbazole violet pigment 23 (“CVP-23”) and Sun is a domestic producer of CVP-23 finished pigment in the forms of dry color and presscake. NFC and Sun believe that they are the only U.S. producers of CVP-23 currently operating and that together they account for 100 percent of U.S. production of crude and finished CVP-23. The Commission found the joint response of the domestic producers adequate. The Commission also determined that the domestic interested party group response to its notice of institution was adequate.

No responses were received from any respondent interested parties. Consequently, the Commission determined that the respondent interested party group response was inadequate.

The Commission did not find any circumstances that would warrant conducting full reviews of the orders.¹ The Commission, therefore, determined to conduct expedited reviews of the orders.

A record of the Commissioners’ votes is available from the Office of the Secretary and on the Commission’s website (<http://www.usitc.gov>).

¹ Vice Chairman Daniel R. Pearson found that the domestic interested party group response was adequate and the respondent interested party group response was inadequate, but other circumstances warranted full reviews.

