

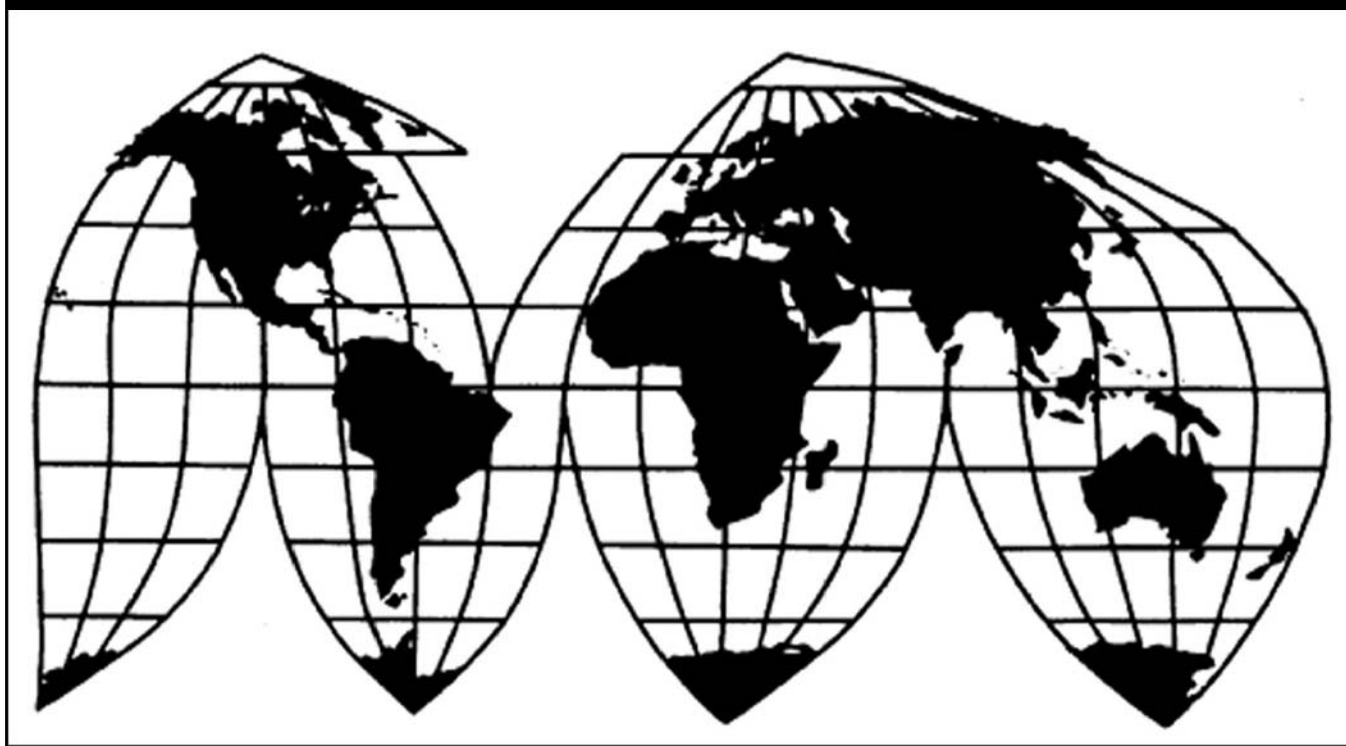
Barium Carbonate from China

Investigation No. 731-TA-1020 (Review)

Publication 4060

January 2009

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

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Note.—Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-1020 (Review)

BARIUM CARBONATE FROM CHINA

DETERMINATION

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

BACKGROUND

The Commission instituted this review on September 2, 2008 (73 F.R. 51315) and determined on December 8, 2008 that it would conduct an expedited review (73 F.R. 77058, December 18, 2008).

The Commission transmitted its determination in this review to the Secretary of Commerce on January 30, 2009. The views of the Commission are contained in USITC Publication 4060 (January 2009), entitled *Barium Carbonate from China: Investigation No. 731-TA-1020 (Review)*.

By order of the Commission.

Marilyn R. Abbott
Secretary to the Commission

Issued:

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

VIEWS OF THE COMMISSION

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

I. BACKGROUND

In September 2003, the Commission determined that an industry in the United States was materially injured by reason of imports of barium carbonate from China sold at less than fair value.² On October 1, 2003, Commerce published an antidumping duty order covering barium carbonate from China.³

On September 2, 2008, the Commission instituted this five-year review to determine whether revocation of the antidumping duty order on barium carbonate from China would likely lead to the continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.⁴ Chemical Products Corporation (“CPC”), a domestic producer accounting for virtually all domestic production of barium carbonate, filed a response to the notice of institution.⁵ No respondent interested party filed a response.

On December 8, 2008, the Commission determined that the domestic interested party group response to its notice of institution was adequate but that the respondent interested party group response was inadequate. In the absence of an adequate respondent interested party group response or other factors warranting a full review, the Commission determined to conduct an expedited review pursuant to section 751(c)(3) of the Act.^{6 7} CPC filed comments on the record on January 7, 2009. No respondent interested party has provided any information or argument to the Commission in this review. Accordingly, we rely on the facts available on the record, which consist primarily of information from the original investigation, as well as information collected in this five-year review, including information submitted by CPC.^{8 9}

² See Barium Carbonate from China, Inv. No. 731-TA-1020 (Final), USITC Pub. 3631 (Sep. 2003); see also 68 Fed. Reg. 55653 (Sept. 26, 2003).

³ 68 Fed. Reg. 56619 (Oct. 1, 2003).

⁴ 73 Fed. Reg. 51315 (Sep. 2, 2008).

⁵ CPC’s Response to Notice of Institution (Oct. 22, 2008).

⁶ 19 U.S.C. § 1675(c)(3).

⁷ See Confidential Staff Report (“CR”) and Public Staff Report (“PR”) at Appendix B.

⁸ The statute authorizes the Commission to “use the facts otherwise available” in reaching a determination when (1) necessary information is not available on the record or (2) an interested party or other person withholds information requested by the agency, fails to provide such information in the time, form, or manner requested, significantly impedes a proceeding, or provides information that cannot be verified pursuant to section 782(i) of the Act. 19 U.S.C. § 1677e(a). The verification requirements in section 782(i) are applicable only to Commerce. 19 U.S.C. § 1677m(i). See Titanium Metals Corp., 155 F. Supp. 2d at 765 (“[T]he ITC correctly responds that Congress has not required the Commission to conduct verification procedures for the evidence before it, or provided a minimum standard by which to measure the thoroughness of a Commission investigation.”).

⁹ Commissioner Okun notes that the statute authorizes the Commission to take adverse inferences in five-year reviews, but such authorization does not relieve the Commission of its obligation to consider the record evidence as a whole in making its determination. 19 U.S.C. § 1677e. She generally gives credence to the facts supplied by the participating parties and certified by them as true, but bases her decision on the evidence as a whole, and does not
(continued...)

II. DOMESTIC LIKE PRODUCT AND INDUSTRY

A. Domestic Like Product

In making its determination under section 751(c), the Commission defines the “domestic like product” and the “industry.”¹⁰ The Act defines the “domestic like product” as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle.”¹¹ In five-year reviews, the Commission looks to the domestic like product definition from the original determination and any previous reviews and considers whether the record indicates any reason to revisit that definition.¹²

In this five-year review, Commerce has defined the imported merchandise within the scope of the antidumping duty order as “[b]arium carbonate, regardless of form or grade.”¹³ This scope definition is unchanged from that in the original investigation.

Barium carbonate is a heavy, odorless, white-to-cream colored chemical with the chemical formula BaCO₃. It is found naturally in the mineral witherite, although most barium carbonate sold commercially is produced synthetically. Barium carbonate is sold in granular, powder, or high-purity form. The granular and powdered forms of barium carbonate, which typically contain at least 98 percent barium carbonate, have essentially the same chemical composition and similar physical properties, differing principally in their particle size. Granular barium carbonate consists of relatively large particles of barium carbonate (average particle in excess of 105 microns). Powdered barium carbonate consists of smaller particles (average particle of 3-5 microns or less). CPC produces a specialized, spray-dried form of powdered barium carbonate, Micro-Flo™, the flow characteristics of which facilitate its feeding into production lines. High-purity barium carbonate contains a smaller percentage of impurities than the forms described above, with a barium carbonate content in excess of 99.5 percent, and is used in the production of ***.¹⁴

During the original investigation, a significant amount of domestic consumption of barium carbonate was for U.S. production of glass used in cathode-ray tubes for televisions and computers. This

⁹ (...continued)

automatically accept participating parties’ suggested interpretations of the record evidence. Regardless of the level of participation and the interpretations urged by participating parties, the Commission is obligated to consider all evidence relating to each of the statutory factors and may not draw adverse inferences that render such analysis superfluous. “In general, the Commission makes determinations by weighing all of the available evidence regarding a multiplicity of factors relating to the domestic industry as a whole and by drawing reasonable inferences from the evidence it finds most persuasive.” The Uruguay Round Agreements Act, Statement of Administrative Action, H.R. Doc. No. 103-316, Vol. 1 at 186 (1994) (“SAA”) at 869.

¹⁰ 19 U.S.C. § 1677(4)(A).

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

¹² See Stainless Steel Sheet and Strip from France, Germany, Italy, Japan, Korea, Mexico, Taiwan, and the United Kingdom, Inv. Nos. 701-TA-380 to 382 and 731-TA-797 to 804 (Review), USITC Pub. 3788 at 6 (July 2005); Crawfish Tail Meat from China, Inv. No. 731-TA-752 (Review), USITC Pub. 3614 at 4 (July 2003); Steel Concrete Reinforcing Bar from Turkey, Inv. No. 731-TA-745 (Review), USITC Pub. 3577 at 4 (Feb. 2003).

¹³ CR at I-7, PR at 1-6.

¹⁴ CR at I-8 - I-10, PR at 1-7.

glass is no longer manufactured in the United States.¹⁵ The remaining major end uses for barium carbonate are in the manufacture of bricks, tiles, and other clay products; fit for glazing of porcelain or ceramics; and production of specialty glass (e.g., reflective glass beads for road signs).¹⁶

The starting point of the Commission's like product analysis in a five-year review is the Commission's like product determination in the original determination.¹⁷ In that determination the Commission found no clear dividing line between the forms of the product and accordingly defined the domestic like product as all barium carbonate, coextensive with the scope of subject merchandise.¹⁸

In this five-year review, CPC agrees with the Commission's domestic like product definition from the original investigation.¹⁹ No new facts have been presented to warrant a different conclusion. Accordingly, we find, based on the available information, that there is one domestic like product consisting of barium carbonate, regardless of form or grade, coextensive with the scope of the order.

B. Domestic Industry and Related Parties

Section 771(4)(A) of the Act defines the relevant domestic industry as the "producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."²⁰ In defining the domestic industry, the Commission's general practice has been to include in the industry producers of all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market, provided that adequate production-related activity is conducted in the United States.²¹

In the original investigation, the Commission defined the domestic industry to encompass the only two domestic producers of barium carbonate during the period examined: CPC, by far the larger producer, and Osram Sylvania.²² CPC does not object to this definition of the domestic industry, and no new facts have been presented to warrant a different conclusion. Accordingly, consistent with our

¹⁵ CR at I-9, PR at 1-7. See also discussion of demand for barium carbonate under Conditions of Competition and the Business Cycle, *infra*.

¹⁶ CR at I-9, PR at 1-7. In the original investigation, the Commission identified other uses for barium carbonate, including production of other barium chemicals, and hard ferrite magnets used in direct current motors, TV tubes, speakers and telephones. USITC Pub. 3631 at 5 n.15. During the period examined in the original investigation, *** produced a small quantity of high-purity barium carbonate used in the production of ***. USITC Pub. 3631 at 5 n.15, CR at I-8 - I-9 (note: all citations to the original determination are to Pub. 3631, from which the referenced business proprietary information has been deleted).

¹⁷ In its domestic like product determination, the Commission generally considers a number of factors, including the following: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) common manufacturing facilities, production processes and production employees; (5) customer or producer perceptions; and, when appropriate, (6) price. See Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int'l Trade 1996). No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation. The Commission looks for clear dividing lines among possible like products, and disregards minor variations. See, e.g., S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979); 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).

¹⁸ USITC Pub. 3631 at 5-6 (Sep. 2003), citing Barium Carbonate From China, Inv. No. 731-TA-1020 (Preliminary), USITC Pub. 3561 at 4-7 (Nov. 2002).

¹⁹ CPC's Response to Notice of Institution at 15, CPC's Comments (Jan. 7, 2009) at 4.

²⁰ 19 U.S.C. § 1677(4)(A).

²¹ See United States Steel Group v. United States, 873 F. Supp. 673, 682-83 (Ct. Int'l Trade 1994), *aff'd*, 96 F.3d 1352 (Fed. Cir. 1996).

²² USITC Pub. 3631 at 6. During the period examined in the original investigation, CPC accounted for *** percent and Osram Sylvania for less than *** percent of domestic production. *Id.* at 6 n. 25.

definition of the domestic industry in the original investigation, and our definition of the domestic like product here, we define the domestic industry to include all domestic producers of barium carbonate.²³

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

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

A. Legal Standard In a Five-Year Review

In a five-year review conducted under section 751(c) of the Act, Commerce will revoke an antidumping duty order unless (1) it makes a determination that dumping is likely to continue or recur, and (2) the Commission makes a determination that revocation of the antidumping duty order “would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.”²⁴ The Uruguay Round Agreements Act (“URAA”), Statement of Administrative Action (“SAA”), states that “under the likelihood standard, the Commission will engage in a counter-factual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo – the revocation or termination of a proceeding and the elimination of its restraining effects on volumes and prices of imports.”²⁵ Thus, the likelihood standard is prospective in nature.²⁶ 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.^{27 28 29}

²³ The related parties provision, 19 U.S.C. § 1677(4)(B), allows for the exclusion of certain domestic producers from the domestic industry for the purposes of an injury determination. There is no evidence that any domestic producer qualifies as a related party in this review. CPC’s Response to Notice of Institution at 11-12.

²⁴ 19 U.S.C. § 1675a(a).

²⁵ The SAA, H.R. Rep. No. 103-316, vol. I, at 883-84 (1994). The SAA states that “[t]he likelihood of injury standard applies regardless of the nature of the Commission’s original determination (material injury, threat of material injury, or material retardation of an industry). Likewise, the standard applies to suspended investigations that were never completed.” SAA at 883.

²⁶ 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.

²⁷ See NMB Singapore Ltd. v. United States, 288 F. Supp. 2d 1306, 1352 (Ct. Int’l Trade 2003) (“‘likely’ means probable within the context of 19 U.S.C. § 1675(c) and 19 U.S.C. § 1675a(a)”), aff’d without opinion, 140 Fed. Appx. 268 (Fed. Cir. 2005); Nippon Steel Corp. v. United States, Slip Op. 02-153 at 7-8 (Ct. Int’l Trade Dec. 24, 2002) (same as NMB); Usinor Industeel, S.A. v. United States, Slip Op. 02-152 at 4 n.3 & 5-6 n.6 (Ct. Int’l Trade Dec. 20, 2002) (“more likely than not” standard is “consistent with the court’s opinion”; “the court has not interpreted ‘likely’ to imply any particular degree of ‘certainty’”); Indorama Chemicals (Thailand) Ltd. v. United States, Slip Op. 02-105 at 20 (Ct. Int’l Trade Sept. 4, 2002) (“standard is based on a likelihood of continuation or recurrence of injury, not a certainty”); Usinor v. United States, Slip Op. 02-70 at 43-44 (Ct. Int’l Trade July 19, 2002) (“‘likely’ is tantamount to ‘probable,’ not merely ‘possible’”).

²⁸ For a complete statement of Commissioner Okun’s interpretation of the likely standard, see Additional Views of Vice Chairman Deanna Tanner Okun Concerning the “Likely” Standard in Certain Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe from Argentina, Brazil, Germany, and Italy, Inv. Nos. 701-TA-362 (Review) (continued...)

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.”³⁰ According to the SAA, a “‘reasonably foreseeable time’ will vary from case-to-case, but normally will exceed the ‘imminent’ timeframe applicable in a threat of injury analysis in original investigations.”³¹

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

No respondent interested party has participated in this review. The record, therefore, contains limited information with respect to the barium carbonate industry in China. Accordingly, as already noted, we rely on the facts available on the record.

B. Conditions of Competition and the Business Cycle

In evaluating the likely impact of the subject imports on the domestic industry, the statute directs the Commission to consider all relevant economic factors “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”³⁴

In this review, we find several conditions of competition similar to those found in the original investigation as well as several additional conditions of competition relevant to our analysis. In the original investigation, the Commission explained that the principal uses for barium carbonate were in the production of glass, particularly television glass, and bricks and tile. Production of glass then accounted for approximately 79 percent of total U.S. consumption of barium carbonate. Glass production relied primarily upon the granular form of the product, and about *** of U.S. producers’ barium carbonate

²⁸ (...continued)
and 731-TA-707-710 (Review) (Remand), USITC Pub. 3754 (Feb. 2005).

²⁹ Commissioner Lane notes that, consistent with her views in Pressure Sensitive Plastic Tape from Italy, Inv. No. AA1921-167 (Second Review), USITC Pub. 3698 (June 2004) at 15-17, she does not concur with the U.S. Court of International Trade’s interpretation of “likely” but she will apply the Court’s standard in this review and all subsequent reviews until either Congress clarifies the meaning or the U.S. Court of Appeals for the Federal Circuit addresses the issue.

³⁰ 19 U.S.C. § 1675a(a)(5).

³¹ 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.

³² 19 U.S.C. § 1675a(a)(1).

³³ 19 U.S.C. § 1675a(a)(1). Commerce did not make any duty absorption findings with respect to the order under review. See Commerce’s Review Determination, 73 Fed. Reg. 11,868. The statute further provides that the presence or absence of any factor that the Commission is required to consider shall not necessarily give decisive guidance with respect to the Commission’s determination. 19 U.S.C. § 1675a(a)(5). While the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886.

³⁴ 19 U.S.C. § 1675a(a)(4).

shipments in 2002 were of the granular product. The granular product accounted for an increasing portion of the subject imports from China over the period examined. The Commission found that the brick and tile industry relied virtually exclusively upon the powdered form of the product.³⁵

The Commission found that, when measured by total apparent domestic consumption, U.S. barium carbonate demand declined from *** short tons in 2000 to *** short tons in 2002. Apparent domestic consumption in interim (January through March) 2003, *** short tons, was higher than that in interim 2002, *** short tons. It found that the decline in U.S. barium carbonate demand over the period examined related to a general economic slowdown as well as reduced demand for television glass resulting from increased imports of finished television sets. The Commission observed that, in general, there were no substitutes for barium carbonate.³⁶

There were two domestic producers of the domestic like product during the original period of investigation, with CPC by far the larger producer.³⁷ The Commission noted that domestic supply also included subject imports from China, as well as nonsubject imports, primarily from Mexico and Germany. Nonsubject imports declined significantly between 2000 and 2002, while subject imports from China increased in that period.³⁸

The Commission found that there was a moderate to high degree of substitution between domestic barium carbonate and subject imports, with substitution higher with respect to the granular form.³⁹

In this review, we note the absence of any new information that would cause us to reconsider many of our findings in the original investigation, including that the principal uses for barium carbonate are in glass, brick, and tile production, that glass production relies primarily on granular barium carbonate, and that brick and tile production relies primarily on barium carbonate in powdered form. Nor is there new information that would cause us to reconsider our findings that there are no substitutes for barium carbonate and that CPC accounts for virtually all production of the domestic like product.

However, while a significant amount of barium carbonate had been used in the production of glass for cathode-ray tubes for television and computer screens during the original period of investigation, cathode ray tubes have been largely replaced since that time by flat panel (e.g., LCD or plasma) or projection screens, which require little or no barium carbonate. As a result, glass for cathode-ray tubes is no longer manufactured in the United States.⁴⁰ In the period of review, demand for barium carbonate, when measured by total apparent domestic consumption, has concomitantly declined sharply from what was the period of investigation low of *** short tons in 2002 to *** short tons in 2007.⁴¹

The record in this review indicates that the quality of barium carbonate produced in China has improved since the original period of investigation, the range of barium carbonate produced in China has expanded, and Chinese producers are now able to compete effectively in the full range of end use

³⁵ USITC Pub. 3631 at 7.

³⁶ USITC Pub. 3631 at 8.

³⁷ USITC Pub. 3631 at 8.

³⁸ USITC Pub. 3631 at 8.

³⁹ USITC Pub. 3631 at 9. Regarding competition in the powdered form of barium carbonate, the Commission explained that *** of CPC's sales of powdered barium carbonate to brick and tile manufacturers were of its Micro-Flo™ product, for which there were no directly equivalent subject imports. It noted, additionally, that subject imports in powdered form were sold largely in the western United States, whereas the domestic powdered product was sold mainly in other parts of the country. Id.

⁴⁰ CPC's Response to Notice of Institution at 13.

⁴¹ CR/PR at Table I-5.

applications in the United States.⁴² Accordingly, we find that the degree of substitution between domestic barium carbonate and subject imports is even higher than the moderate to high degree of substitution the Commission found in the original investigation.

C. Likely Volume of Subject Imports

In evaluating the likely volume of imports of subject merchandise if the antidumping duty order is 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.⁴³ 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.⁴⁴

In the original investigation, the Commission found that the volume of subject imports from China increased from *** short tons in 2000 to *** short tons in 2002, after declining to *** short tons in 2001, and was lower, at *** short tons, in interim 2003 compared with *** short tons in interim 2002. It found that, from 2000 to 2002, the trend for importers’ shipments of subject imports was similar, but those shipments did not decline in the interim 2003 period due to sales from importers’ inventories. Shipments of subject imports increased from *** short tons in 2000 to *** short tons in 2002, after declining to *** short tons in 2001. Shipments of subject imports in interim 2003, *** short tons, were higher than in interim 2002, when they were *** short tons.⁴⁵

The Commission found that, as a share of the volume of apparent U.S. consumption, shipments of subject imports increased from *** percent in 2000 to *** percent in 2002, after declining to *** percent in 2001. In interim 2003, their share of apparent U.S. consumption was *** percent, compared with *** percent in interim 2002. The Commission found that subject imports increased relative to domestic production as well. The volume of subject imports was equivalent to *** percent of domestic production in 2000, *** percent in 2001, and *** percent in 2002; the share was *** percent in interim 2003 compared with *** percent in interim 2002. The ratio of shipments of subject imports to U.S. production increased from *** percent in 2000 to *** percent in 2002, after declining to *** percent in 2001. The ratio of shipments of subject imports to U.S. production in interim 2003, *** percent, was higher than that in interim 2002, when it was *** percent.⁴⁶ Consequently, the Commission found the volume of subject imports to be significant in absolute terms and relative to production and consumption in the United States.⁴⁷

With the antidumping duty order in place, subject import volumes are much smaller than in the original period of investigation. Based on official statistics, subject imports declined from *** short tons in 2002, the final full year of the period of investigation, to 192 short tons in 2003, then declined

⁴² CR at I-12, PR at 1-9.

⁴³ 19 U.S.C. § 1675a(a)(2).

⁴⁴ 19 U.S.C. § 1675a(a)(2)(A)-(D).

⁴⁵ USITC Pub. 3631 at 9-10.

⁴⁶ USITC Pub. 3631 at 10.

⁴⁷ Id.

irregularly to 154 short tons in 2007.⁴⁸ Shipments of subject imports as a share of apparent U.S. consumption declined from *** percent in 2002 to *** percent in 2007.⁴⁹

For the following reasons, we find that the volume of subject imports would be likely to be significant if the order were revoked. First, significant production capacity currently exists in China. Production capacity of nine producers of barium carbonate in China was reportedly *** short tons as of August 2008.⁵⁰ This production capacity dwarfs apparent U.S. consumption, which was *** short tons in 2007.⁵¹ It also reflects a substantial increase from production capacity reported in the original investigation by the two responding Chinese producers, which accounted for *** percent of subject imports in 2002. Their capacity increased during the period of investigation from *** short tons in 2000 to *** short tons in 2002.⁵² We also find the substantial level of Chinese producers' total exports of barium carbonate, described below, to be further evidence that significant production capacity exists in China.

The barium carbonate industry in China is export oriented and the volume of its total exports has increased substantially since the original investigation. Total exports for the Chinese producers responding in the original investigation increased from *** short tons in 2000 to *** short tons in 2002, and those exports accounted for approximately *** of the responding Chinese producers' total shipments during that period. The record shows that total exports of all Chinese producers ranged over the review period from *** short tons in 2004 to *** short tons in 2007.⁵³ We find therefore that subject producers in China are focused on exports to a significant degree.

We also find that Chinese producers would be able to increase exports to the United States in the event of revocation by shifting exports from other markets to the United States. The ease with which such a shift would occur is indicated by the increase, rather than decrease, in total exports of the Chinese producers following the steep drop in Chinese exports to the United States after the antidumping duty order was issued.⁵⁴ The Chinese producers' ability to shift volumes among export markets – and, therefore, their ability to shift exports to the United States in the event of revocation of the antidumping duty order – is also indicated by the magnitude of the annual fluctuations of export volumes among their numerous export markets during the period of review.⁵⁵

We find that producers in China have the capability to increase exports to the United States and would have sufficient incentive to do so, particularly in light of recent limitations on Chinese producers' ability to sell in European markets,⁵⁶ if the order were revoked. Accordingly, we find that imports of barium carbonate from China would be likely to be significant in the reasonably foreseeable future if the antidumping duty order were revoked.

⁴⁸ CR/PR at Table I-4.

⁴⁹ CR/PR at Table I-5.

⁵⁰ CR/PR at Table I-6.

⁵¹ CR/PR at Table I-5.

⁵² CR at I-20, PR at 1-14; CR/PR at Table I-6.

⁵³ CR/PR at Table I-6.

⁵⁴ CR/PR at Table I-6.

⁵⁵ See CPC's Response to Notice of Institution at Exhibit 3 (Chinese barium carbonate exports based on Chinese customs data).

⁵⁶ We also note that the European Union imposed antidumping duties on barium carbonate from China as of July 2005. CR at I-19, PR at I-13; see also 19 U.S.C. § 1675a(a)(2)(C) (barriers to the importation of the subject merchandise into countries other than the United States is among the factors to be considered in assessment of whether the volume of subject imports is likely to be significant in the event of revocation).

D. Likely Price Effects of Subject Imports

In evaluating the likely price effects of subject imports if the antidumping duty order is revoked, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared to the domestic like product and whether the subject imports are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of the domestic like product.⁵⁷

In the original investigation, the Commission found that most of the domestic like product and subject imports were substantially interchangeable and used in the same applications, that the quality of subject imports was generally comparable to that of the domestic like product, that there was a moderate to high degree of substitutability between the subject imports and the domestic like product, and that price was a significant factor in purchasing decisions.⁵⁸ The Commission found that the subject imports in granular form undersold the domestic like product in 7 of 13 comparisons, with margins ranging from 0.1 percent to 9.1 percent, with the most *** underselling in the final four quarters of the period, when the volume of subject imports increased by ***. The Commission noted that subject imports of the powdered form of barium carbonate, which accounted for a smaller portion of the market than did the granular form, undersold the domestic product in all 13 comparisons, with margins ranging from 10.7 percent to 36.0 percent. The Commission found these margins of underselling to be significant.⁵⁹

The Commission found that, overall, domestic producer prices for the granular and powdered product declined between the first and final quarters of the period examined and that domestic producer prices, accordingly, were significantly depressed by the subject imports over the period of investigation.⁶⁰ The Commission also found that the prices of the Chinese product had suppressed domestic prices to a significant degree by preventing the domestic industry from increasing prices sufficiently to cover increased costs of goods sold. Additionally, the Commission found that several lost sales and lost revenue allegations had been verified and that other record evidence *** also tended to confirm a significant degree of negative price effects due to the subject imports.⁶¹

In this five-year review, we find that subject imports would likely have a significant adverse impact on prices for the domestic like product were the order to be revoked. As noted above, new information obtained in this review indicates that the quality of subject imports is now more comparable to that of the domestic like product than during the original investigation and that they are now more competitive in a greater range of applications.

The only data on prices in this expedited review are average unit values (“AUVs”). In 2007, the AUV of subject imports was *** percent lower than the AUV of domestic producer shipments.⁶² In light of the significantly reduced current volume of subject imports and the significant volume in the original investigation, we find that subject imports would be priced aggressively to regain market share if the order were revoked. Thus, the pricing patterns observed in the original investigation, and the evidence of

⁵⁷ 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.

⁵⁸ USITC Pub. 3631 at 10-11.

⁵⁹ USITC Pub. 3631 at 11.

⁶⁰ USITC Pub. 3631 at 12.

⁶¹ USITC Pub. 3631 at 13.

⁶² CR/PR at Tables I-3, I-4 (the 2007 AUVs of the domestic like product and subject imports were \$*** and \$391.31, respectively). We note that, as a general rule, we do not place great weight on AUV comparisons where product mix issues exist. In this instance, however, because of the lack of respondent party participation in this review, we must rely on the facts available.

continued low prices with the order in place, indicate that the subject imports would likely undersell the domestic like product if the order were removed.

As noted above, we find that relatively low priced subject imports are likely to increase significantly in the reasonably foreseeable future if the antidumping duty order is revoked. We conclude that, at these likely volumes, the subject imports would be likely to have significant depressing or suppressing effects on the prices of the domestic like product.

E. Likely Impact of Subject Imports

In evaluating the likely impact of imports of subject merchandise if the antidumping duty order is revoked, the Commission is directed to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including, but not limited to 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.⁶³ 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.⁶⁴ As instructed by the statute, we have considered the extent to which any improvement in the state of the domestic industry is related to the order at issue and whether the industry is vulnerable to material injury if the order is revoked.

In the original investigation, the Commission found that subject imports had a significant adverse impact on the domestic industry.⁶⁵ The Commission found that the adverse impact of subject imports was most evident in the domestic industry's prices, which the industry cut in the face of import competition in order to maintain sales and production volumes. Thus, the primary effect of subject imports on the domestic industry was reflected in its financial indicators. In that regard, the Commission found that the industry's operating income had declined as suppression and depression of domestic prices translated into a decline in the AUV of the domestic industry's net sales.⁶⁶

In this five-year review, we note that there is limited information on the record concerning the current condition of the domestic industry, in particular its current financial condition. This limited information does not permit us to determine whether the domestic industry is vulnerable to the continuation or recurrence of material injury if the antidumping duty order were to be revoked. We recognize however that, due largely to declining demand for barium carbonate in what was previously its

⁶³ 19 U.S.C. § 1675a(a)(4).

⁶⁴ 19 U.S.C. § 1675a(a)(4). Section 752(a)(6) of the Act states that "the Commission may consider the magnitude of the margin of dumping" in making its determination in a five-year review. 19 U.S.C. § 1675a(a)(6). The statute defines the "magnitude of the margin of dumping" to be used by the Commission in five-year reviews as "the dumping margin or margins determined by the administering authority under section 1675a(c)(3) of this title." 19 U.S.C. § 1677(35)(C)(iv). See also SAA at 887. In its expedited review of the order, Commerce has concluded that were the antidumping duty order to be revoked, dumping would likely recur at the rate of 34.44 percent for Qingdao Red Star Chemical and a rate of 81.30 percent China-wide. 74 Fed. Reg. 882 (Jan. 9, 2009).

Section 751(a)(4) of the Act requires Commerce, if requested by a party in an administrative review, to determine whether a foreign producer or importer of subject merchandise has absorbed antidumping duties. 19 U.S.C. § 1675a(a)(4). Commerce has not conducted any administrative reviews under the order and, therefore, has not made a duty absorption finding.

⁶⁵ USITC Pub. 3631 at 14-15.

⁶⁶ *Id.*

principal end use, apparent U.S. consumption has declined since the original investigation, as have domestic production and shipments.⁶⁷

We find that the domestic industry has experienced positive effects as a result of the order. Domestic industry shipments as a share of apparent U.S. consumption, as well as the AUV of domestic industry shipments, were higher in 2007 than in any year of the original period of investigation.⁶⁸ We also find it likely that subject import volumes would have been higher, and domestic producers' market share and prices lower, absent the order.⁶⁹ Moreover, CPC has been able to sell its barium carbonate at prices that cover its costs and provide it with a reasonable return due to the effects of the antidumping duty order.

As discussed above, revocation of the antidumping duty order on barium carbonate from China would likely result in a significant increase in subject import volumes, significant subject import underselling, and significant price suppression or depression. We find that the intensified subject import competition likely after revocation of the order would likely have a significant adverse impact on the domestic industry. Specifically, the domestic industry would likely lose market share to subject imports, which would adversely impact the industry's production, shipments, sales, revenues, and employment. Declining production, sales and revenues, as well as depressed or suppressed prices for the domestic like product, would adversely impact the domestic industry's profitability, as well as its ability to raise capital and make and maintain necessary capital investments.

Given the likelihood of significant subject import volume and adverse price effects absent the order, we conclude that revocation of the order would likely have a significant adverse impact on the domestic industry within a reasonably foreseeable time.

CONCLUSION

For the foregoing reasons, we determine that revocation of the antidumping duty order on barium carbonate from China would be likely to lead to continuation or recurrence of material injury to the U.S. barium carbonate industry within a reasonably foreseeable time.

⁶⁷ Domestic industry production declined from *** short tons in 2002 to *** short tons in 2007. CR/PR at Table I-3. Domestic industry shipments declined from *** short tons in 2002 to *** short tons in 2007, as apparent U.S. consumption declined, as noted above, from *** short tons in 2002 to *** short tons in 2007. CR/PR at Tables I-3, I-5.

⁶⁸ The domestic industry's shipments as a share of apparent U.S. consumption was *** percent in 2007, whereas its market share ranged from *** to *** percent in the original period of investigation. CR/PR at Tables I-5. The AUV of domestic industry shipments was \$*** per short ton in 2007, whereas AUVs ranged from \$*** to \$*** per short ton during the original period of investigation. CR/PR at Table I-3.

⁶⁹ CR/PR at Table I-2.

INFORMATION OBTAINED IN THE FIVE-YEAR REVIEW

INTRODUCTION

On September 2, 2008, in accordance with section 751(c) of the Tariff Act of 1930, as amended (“the act”),¹ the U.S. International Trade Commission (“Commission” or “USITC”) gave notice that it had instituted a review to determine whether revocation of the antidumping duty order on barium carbonate from China would be likely to lead to a continuation or recurrence of material injury within a reasonably foreseeable time.^{2 3} On December 8, 2008, 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 a full review.⁵ Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Act.^{6 7} The Commission voted on this review on January 21, 2009, and notified Commerce of its determination on January 30, 2009. Selected information relating to the schedule of this review is presented below:⁸

Effective date	Action
September 2, 2008	Commission’s institution of five-year review (73 FR 51315, September 2, 2008)
September 2, 2008	Commerce’s notice of initiation (73 FR 51275, September 2, 2008)
December 8, 2008	Commission’s determination to conduct expedited five-year review and scheduling of expedited review (73 FR 77058, December 18, 2008).
December 31, 2008	Commerce’s final result due for expedited five-year review
January 21, 2009	Commission’s vote
January 30, 2009	Commission’s determination transmitted to Commerce

The Original Investigation

On September 30, 2002, a petition was filed with Commerce and the Commission alleging that an industry in the United States was materially injured and threatened with further material injury by reason

¹ 19 U.S.C. 1675 (c).

² 73 FR 51315, September 2, 2008. 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. 73 FR 51275, September 2, 2008.

⁴ The domestic producer, Chemical Products Corp. (“CPC”), submitted the only response to the Commission’s notice of institution for the subject review. CPC is represented by the law firm of Gibson, Dunn & Crutcher LLP. CPC indicated in its response that it is the only commercial producer of barium carbonate in the United States in 2008, and, for purposes of the antidumping law, constitutes the “Domestic Industry.” Response of CPC to the notice of institution (“Response,” October 22, 2008), p. 2.

⁵ The Commission’s statement on adequacy is presented in app. B.

⁶ 10 U.S.C. § 1675(c)(3).

⁷ 73 FR 77058, December 18, 2008. The Commission’s notice of scheduling of the expedited review 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.

of less-than-fair-value (“LTFV”) imports of barium carbonate (regardless of form or grade) from China.⁹ On August 6, 2003, Commerce made an affirmative final LTFV determination regarding barium carbonate from China.¹⁰ The Commission completed its original investigation concerning barium carbonate from China on September 19, 2003, determining that an industry in the United States was materially injured by reason of LTFV imports of barium carbonate from China, and Commerce issued an antidumping duty order on imports of barium carbonate from China.¹¹

Commerce’s Original Determination and Subsequent Review Determination

Commerce has not conducted any annual administrative reviews or changed-circumstances reviews concerning barium carbonate from China. There have been no duty absorption findings or scope rulings on the subject merchandise covered by the order. The order remains in effect for all manufacturers, producers, and exporters of barium carbonate from China. Information on Commerce’s final determination, antidumping duty order, and requests for administrative review is presented in table I-1.

Table I-1
Barium carbonate: Commerce’s final determination and antidumping duty order

Period of review	Type of proceeding and date results published	Margin (percent)
1/1/2002-6/30/2002	Final determination and antidumping duty order (68 FR 46577, August 6, 2003) AD order (68 FR 56619, October 1, 2003)	Qingdao Red Star Chemical Import & Export Co., Ltd. 34.44 China-wide rate 81.30
3/17/03-9/30/04	Opportunity to Request Administrative Review (69 FR 58889, October 1, 2004)	No review conducted
10/1/04-9/30/05	Opportunity to Request Administrative Review (70 FR 57558, October 3, 2005)	No review conducted
10/1/05-9/30/06	Opportunity to Request Administrative Review (71 FR 57920, October 2, 2006)	No review conducted
10/1/06-9/30/07	Opportunity to Request Administrative Review (72 FR 55741, October 1, 2007)	No review conducted
10/1/07-9/30/08	Opportunity to Request Administrative Review (73 FR 57056, October 1, 2008)	No review conducted

Source: Cited *Federal Register* notices.

⁹ The petition was filed by counsel on behalf of Chemical Products Corp. (“CPC”), Cartersville, GA. *Barium Carbonate From China*, Investigation No. 731-TA-1020 (Final), USITC Publication 3631, September 2003 (“*Publication 3631*”), p. I-1.

¹⁰ 68 FR 55653, September 26, 2003.

¹¹ 68 FR 55653, September 26, 2003, and 68 FR 56619, October 1, 2003.

Absent any requests for review, antidumping duties are assessed on entries of barium carbonate from China at rates equal to those of the original order.

Commerce’s Final Results of Expedited Five-Year Review

On October 22, 2008, Commerce notified the Commission that it did not receive an adequate response to its notice of initiation from the respondent interested parties with respect to barium carbonate from China and that it would conduct an expedited review of the order.¹² Commerce will issue the final results of its review no later than December 31, 2008.

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

The Continued Dumping and Subsidy Offset Act of 2000 (“CDSOA”) (also know 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.¹³ During the period of review, CPC was the only qualified U.S. producer of barium carbonate eligible to receive disbursements from the U.S. Customs and Border Protection (“Customs”) under CDSOA relating to the antidumping duty order on the subject product.¹⁴ Table I-2 presents CDSOA disbursements and claims for Federal fiscal years (October 1-September 30) 2004-08. Inasmuch as the Chinese imports essentially left the U.S. market subsequent to the issuance of the initial antidumping order, little in the way of CDSOA disbursements has occurred.

Table I-2
Barium carbonate: Industry CDSOA disbursements, Federal fiscal years 2004-08

Fiscal year	Amount disbursed (<i>dollars</i>)	Amount claimed (<i>dollars</i>)
2004	(¹)	(¹)
2005	10,383	21,911,000
2006	37,687	23,631,617
2007	45,319	26,376,931
2008	34,911 ²	0
Total	128,300	(¹)

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

² Data are for preliminary CDSOA amounts available as of April 30, 2008.

Source: Custom’s *CDSOA Annual Reports* for disbursement and claims data for 2004-07 at http://www.cbp.gov/xp/cgov/trade/priority_trade/add_cvd/cont_dump/, retrieved December 19, 2008.

¹² Letter from Susan Kuhback, Senior Director, AD/CVD Operations, Office 1, Import Administration, U.S. Department of Commerce, October 22, 2008.

¹³ Section 754 of the Tariff Act of 1930, as amended (19 U.S.C. §1675(c)).

¹⁴ 19 CFR 159.64(g).

THE PRODUCT

Scope

In its order, Commerce has defined the scope of this investigation as follows:

“Barium carbonate, regardless of form or grade. The product is currently classifiable under subheading 2836.60.0000 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 this proceeding is dispositive.”

U.S. Tariff Treatment

Imports of this product are currently classifiable under Harmonized Tariff Schedule of the United States (“HTS”) subheading 2836.60.00 as set forth in the following tabulation:

HTS provision	Article description	General ¹	Special ²	Column 2 ³
		Rates (<i>ad valorem</i>)		
2836	Carbonates; peroxocarbonates (percarbonates); commercial ammonium carbonate containing ammonium carbamate:			
2836.60.00	Barium carbonate	2.3	Free (A, AU, BH, CA, CL, E, IL, J, JO, MA, MX, P, SG)	8.4

¹ Normal trade relations, formerly known as the most-favored-nation duty rate.
² Special rates apply to imports of barium carbonate 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); 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); SG (United States-Singapore Free Trade Agreement).
³ Applies to imports from a small number of countries that do not enjoy normal trade relations duty status.

Source: Harmonized Tariff Schedule of the United States (2008) - Supplement 1.

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.¹⁵

¹⁵ The Commission’s decision regarding the appropriate domestic products that are “like” the subject imported product is based on a number of factors, including (1) physical characteristics and uses; (2) common manufacturing facilities and production employees; (3) interchangeability; (4) customer and producer perceptions; (5) channels of distribution; and where appropriate, (6) price.

In its original determination the Commission found the appropriate domestic like product to be “all barium carbonate,” coextensive with Commerce’s scope.¹⁶ In response to a question soliciting comments regarding the appropriate domestic like product and domestic industry in the Commission’s notice of institution of this five-year review, CPC agreed with the Commission’s domestic like product and domestic industry definitions as stated in the notice of institution.¹⁷

Physical Characteristics and Uses¹⁸

Barium carbonate is a heavy, odorless, white-to-cream colored chemical with the chemical formula BaCO₃. It is found naturally in the mineral witherite, although most barium carbonate sold commercially is produced synthetically. Barium carbonate is sold commercially in granular, powder, or high-purity form.

The granular and powdered forms of barium carbonate, which typically contain at least 98 percent barium carbonate, have essentially the same chemical composition and similar physical properties, differing principally in their particle size. Granular barium carbonate consists of relatively large particles of barium carbonate (average particle size in excess of 105 microns), whereas powdered barium carbonate consists of small, discrete particles (average particle size of 3-5 microns or less).

High-purity barium carbonate, with a barium content in excess of 99.5 percent, contains a smaller percentage of impurities than the forms described above and is used in the production of ***. ***.

During the original investigation, a significant amount of barium carbonate sold in the United States was used in the production of glass for cathode-ray tube televisions. This glass is no longer manufactured in the United States, with consequent diminished demand for barium carbonate.¹⁹ The use of barium carbonate in TVs and computer screens declined as cathode ray tubes were replaced by certain flat panel TVs (e.g., LCD or plasma) or projection TVs, which require little or no barium carbonate.

Currently, the major end uses for barium carbonate are in the production of specialty glass (e.g., reflective glass beads for road signs), frit for glazing of porcelain or ceramics, and in the manufacture of bricks, tiles, and other clay products.

In general, there are no substitutes for barium carbonate. During the original investigation, glass cullet (recycled glass articles, glass waste, and finished glass that does not meet specifications that is introduced into the production line) reportedly acted as an effective substitute for barium carbonate by reducing demand for new purchases of the chemical for use in certain TV glass production.

Manufacturing Process²⁰

Although barium carbonate can be extracted from the barium-carbonate containing mineral witherite, in practice it has proven more economical to prepare commercial-grade barium carbonate synthetically using a raw material barite ore which contains natural barium sulfate. Barite ore accounted for *** percent of CPS’s raw material costs to produce barium carbonate in 2002, and for *** percent of its total cost of goods sold in that year.

The steps used by CPC to produce commercial grade barium carbonate (***) from barite ore are as follows:

¹⁶ *Publication 3631*, p. 6.

¹⁷ *Response*, October 22, 2008, p. 15.

¹⁸ This section was taken largely from INV-AA-122, August 30, 2003 (“*Confidential Investigation Report*”), pp. I-5-I-11.

¹⁹ *Response*, October 22, 2008, p. 13.

²⁰ This section was taken largely from the *Confidential Investigation Report*, pp. I-11-I-14.

- Barite ore (barium sulfate), which is highly insoluble, is reduced to barium sulfide, which is very soluble, in a reducing kiln using coke as a carbon source.
- Barium sulfide is dissolved in water and leached to remove impurities.
- The barium sulfide solution is reacted with carbon dioxide to produce, as a precipitate, barium carbonate.
- The barium carbonate precipitate is filtered to remove excess water and then dried.
- The dried barium carbonate is pulverized to produce powdered barium carbonate. To produce the granular grade, the dried barium carbonate undergoes an additional processing step, calcination.²¹

An additional barium carbonate product, Micro-Flo™, is produced *** in a process wherein ***, thereby forming tiny micro-sphere particles which resemble granulated product, only smaller.²²

According to CPC, the basic production process is common to both CPC and the Chinese producers; however, there are a few significant differences. Similarities include the raw material used in both countries, which is barite ore, and the fact that CPC and the barium carbonate producers in China produce both the granular and powdered forms of barium carbonate. According to CPC, differences between the domestic and the Chinese production process include the following:

- CPC uses coke as a carbon source in a gas or fuel oil-fired furnace; producers in China use steam coal as a carbon source and pulverized steam coal as the fuel input for the kiln.
- Producers in China use a grade of coal having a lower carbon content than the coke used by CPC.
- CPC purchases carbon dioxide gas directly; producers in China don't have access to reliable sources of carbon dioxide and must produce their own carbon dioxide by reacting limestone (calcium carbonate) and coal in a kiln.
- At CPC, calcining to produce the granular grade is accomplished using the same equipment as for drying because of the availability of natural gas; in China where natural gas is not readily available, producers need to use separate equipment for drying and calcining that is fueled by coal and kerosene, respectively.
- At CPC, the production process is designed to ensure that the proper mix of elemental carbon and barite ore is maintained continuously in the reducing kiln to a high degree of accuracy. However, the Chinese producers cannot maintain such a degree of control given the "lumpy" nature of their feedstock. Such a lack of control would result in a substantial loss of efficiency by the Chinese producers, estimated by CPC to amount to about *** percent as compared with CPC's production process.

According to CPC, because the Chinese barium carbonate producers lack the energy or chemical inputs as described above, the Chinese production process is far less efficient and more complicated than the production process employed by CPC, resulting in substantial cost disadvantages for the Chinese

²¹ Calcination is heating of a solid to a temperature which is below its melting point but which is sufficiently high to achieve the transformation desired, in this case the transformation to a granular form. *Confidential Investigation Report*, p. I-11, fn. 55.

²² ***. Staff field trip notes, June 22, 2003, *Confidential Investigation Report*, p. I-12, fn. 56.

producers. In contrast, a representative of BassTech, which imports and markets barium carbonate produced by Red Star, contended that the cost structure of CPC is higher than that of Red Star because CPC must either procure a much lower quality barite ore locally or import a higher quality barite ore from China. The barite ore that CPC obtains locally is mixed with clay; before the ore can be used for the production of barium carbonate, it must be separated from the clay through a process referred to as beneficiation.²³

Interchangeability and Customer and Producer Perceptions

During the period examined in the original investigation (2000-02), the Commission found that “the bulk of the domestic like product and subject imports are substantially interchangeable” and that {t}he quality of subject imports is generally comparable to that of the domestic like product.”²⁴ The Commission further noted that there is a moderate to high degree of substitution between the domestic barium carbonate and subject imports, with substitution higher with respect to the granular form. Red Star contended that the qualification process necessary to become a supplier of barium carbonate represents a significant barrier to imports of subject barium carbonate from China. The Commission stated that the record indicated, however, that any such barriers are not particularly high or difficult to surmount in the short to medium term.²⁵

CPC believes that Chinese producers of barium carbonate are able to compete for all remaining end-use applications for barium carbonate in the United States, including the brick and tile sector.²⁶ CPC believes that the quality and the range of barium carbonate produced by Chinese manufacturers has expanded since the period of the original investigation and that Chinese exporters are now able to compete effectively for the full range of end-use applications in the United States.²⁷

Channels of Distribution²⁸

During the period examined in the original investigation, barium carbonate in granular form accounted for *** of all U.S. shipments by CPC and by importers of Chinese material. About *** percent of the quantity of CPC’s shipments was granular in 2002, and about *** percent was powdered. *** percent of its powdered barium carbonate went to brick and tile manufacturers and the remainder went to other uses. For imports from China, about *** percent of U.S. shipments of granular barium

carbonate went to glass manufacturers and about *** percent of powdered barium carbonate went to brick and tile manufacturers.²⁹

During the period examined in the original investigation, sales of barium carbonate were made to end user manufacturers (84.6 percent) and distributors (15.4 percent). Of the manufacturing firms that used barium carbonate, nine produced glass products, four bricks, and nine produced other products including specialty chemicals, lamps, coating, ceramic products, and continuous cast molding for the U.S. steel industry. Eleven purchasers reported purchases of granular and 17 reported buying powdered

²³ Beneficiation is ***. *Confidential Investigation Report*, p. I-14, fn. 65.

²⁴ *Publication 3631*, p. 10.

²⁵ *Ibid.*, p. 9.

²⁶ In the original investigation, the Commission found that “there exists only limited competition between domestic barium carbonate and subject imports in the brick and tile market.” *Publication 3631*, p. 7.

²⁷ *Response*, p. 14.

²⁸ This section was taken largely from the *Confidential Investigation Report*, pp. II-1-II-3.

²⁹ *Confidential Investigation Report*, p. II-1.

barium carbonate during the period of original investigation. Four firms reported purchases of Chinese-produced granular barium carbonate, and eight reported purchases of Chinese-produced powdered barium carbonate.³⁰

Pricing

During the period examined in the original investigation (2000-02), the Commission found underselling by the subject imports to be significant, and that domestic producer prices were significantly depressed and suppressed by the subject imports over the period considered.³¹ For these reasons, the Commission determined that “the lower prices brought about by subject import competition have resulted in present material injury to the domestic industry...”³²

According to CPC in this current five-year review, if the antidumping order were revoked, there is a strong likelihood that the same pattern would recur, resulting in renewed material injury to CPC.³³ CPC further opined that there is no reason to believe that any aspect of the pricing behavior of Chinese exporters in the U.S. market would change if the order were revoked; it is highly likely that revocation of the antidumping duty order would lead to a resumption of Chinese exports of barium carbonate to the United States at ruinously low prices.³⁴

THE INDUSTRY IN THE UNITED STATES

U.S. Producers

During the period examined in the original investigation, the U.S. barium carbonate industry was comprised of two producers, CPC and Osram Sylvania. CPC is a privately held corporation managed by the Dellinger family, which has produced barium carbonate at Cartersville, GA, since 1933. Osram Sylvania is a *** subsidiary of Siemens AG, Munich, Germany, and is a U.S. producer of specialty lighting products headquartered in Towanda, PA. Although this firm accounted for less than *** percent of total U.S. barium carbonate production volume during the period examined in the original investigation, ***.³⁵

In its response to the Commission’s notice of institution in this five-year review, CPC indicated that it believes that it is now the only domestic producer of barium carbonate. CPC *** and CPC is not aware that Osram Sylvania currently produces any barium carbonate for resale.^{36 37}

³⁰ *Confidential Investigation Report*, p. II-6.

³¹ *Publication 3631*, p. 12.

³² *Response*, October 22, 2008, p. 9.

³³ *Ibid.*

³⁴ *Ibid.*, p. 10.

³⁵ *Confidential Investigation Report*, pp. III-1-III-2.

³⁶ *Response*, October 22, 2008, p. 11.

³⁷ During the period examined in the original investigation, CPC purchased subject merchandise from an importer but ceased such purchases when it concluded that a longer-term relationship with that importer would be inconsistent with its own continued production. The Commission found, in light of the ratio of CPC’s purchases to its production, that appropriate circumstance would not exist to exclude CPC from the domestic industry even if those purchases had been of a magnitude great enough for CPC to be deemed “related.” *Publication 3631*, p. 6, n.26. CPC reports no domestic producer imports of subject barium carbonate during the period examined in this five-year review and identifies no other potential related party issue. *Response*, October 22, 2008, pp. 11-12.

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

Data reported by U.S. producers of barium carbonate in the Commission's original investigation and in response to the five-year review's institution notice are presented in table I-3.

Table I-3
Barium carbonate: U.S. producers' trade, employment, and financial data, 2000-02 and 2003-07

* * * * *

During the period examined in the original investigation (2000-02), the domestic industry producing barium carbonate experienced constant production capacity with fluctuating capacity utilization rates. CPC's U.S. shipment volume followed roughly the same trend as that of capacity utilization, although unit values peaked at \$*** per short ton in 2001, the year in which the capacity utilization rate was lowest. Overall, CPC's U.S. shipments displayed a *** downward trend in unit value. The industry's export shipments, while averaging only about *** percent of total shipment volume, commanded *** average unit values during the period examined due to *** export shipments which averaged \$***.³⁸ End-of period inventory volumes and ratios to production and shipments in general displayed *** downward trends during 2000-02. Average hours worked were constant during the period examined, and hourly wages increased steadily. The rise in unit labor costs during the period examined, expressed in dollars per ton, generally tracked wage trends.³⁹ Financial indicators generally declined during the period, as net sales declined and expenses per pound increased.

During the period examined in this five-year review (2003-07), production volume and U.S. shipment volume, value, and unit value for calendar year 2007 are the only industry indicators available.⁴⁰ CPC estimates that current demand for barium carbonate in the United States is less than 15,000 short tons annually and the company has reacted to the reduced demand conditions for barium carbonate in the United States by reducing its production capacity and taking steps to align its supply with the available demand.⁴¹

³⁸ *Confidential Investigation Report*, p. III-4.

³⁹ *Ibid.*

⁴⁰ *Response*, October 22, 2008, p. 13.

⁴¹ *Ibid.*

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

U.S. Importers

Twelve importers responded to the Commission's questionnaires in the final phase of the original investigation and provided essentially complete importer coverage.

In its response to the Commission's notice of institution in this five-year review, CPC listed one company, Wintersun Chemical, Ontario, CA, that may be importing (or may have recently imported) barium carbonate from China into the United States during the period of review.

U.S. Imports

Table I-4 presents import data on barium carbonate from 2000 to 2007. The data for 2000-02 are based on questionnaire data; data for 2003-07 are based on official import statistics.

Table I-4
Barium carbonate: U.S. imports, based on a combination of questionnaire data and official Commerce statistics, by source, 2000-07

Item	2000	2001	2002	2003	2004	2005	2006	2007
Quantity (short tons)								
China	***	***	***	192	88	339	328	154
Other	***	***	***	10,619	11,190	7,285	4,868	3,400
Total	***	***	***	10,811	11,278	7,625	5,196	3,554
Landed duty-paid value (\$1,000)								
China	***	***	***	65	24	151	147	60
Other	***	***	***	4,836	5,222	4,060	4,877	2,724
Total	***	***	***	4,901	5,246	4,211	5,024	2,784
Landed duty-paid unit value (per short ton)								
China	\$***	\$***	\$***	\$335.40	\$268.30	\$443.51	\$446.67	\$391.31
Other	***	***	***	455.44	466.66	557.28	1,001.81	801.03
Average	***	***	***	453.30	465.11	552.21	966.75	783.28
Share of total quantity (percent)								
China	***	***	***	1.8	0.8	4.5	6.3	4.3
Other	***	***	***	98.2	99.2	95.5	93.7	95.7
Total	***	***	***	100.0	100.0	100.0	100.0	100.0
Share of total value (percent)								
China	***	***	***	1.3	0.5	3.6	2.9	2.2
Other	***	***	***	98.7	99.5	96.4	97.1	97.8
Total	***	***	***	100.0	100.0	100.0	100.0	100.0
Source: Confidential Investigation Report, table IV-2 (based on questionnaire data) and official Commerce statistics (HTS subheading 2836.60.00).								

During the original investigation period (2000-02), the quantity of subject imports increased from *** percent of total U.S. imports in 2000 to *** percent in 2002 while the average unit value of such imports declined by *** percent. However, total imports decreased due to a decline in nonsubject imports from Mexico.

During the period examined in this five-year review, subject import volume decreased irregularly, reaching the highest level of the 2003-07 period in 2005 before declining in both 2006 and 2007. The average unit value of subject imports rose irregularly from \$335.40 in 2003 to \$446.67 in 2006, before decreasing to \$391.31 in 2007.

Apparent U.S. Consumption and Market Shares

Apparent U.S. consumption and market shares are presented in table I-5. Apparent consumption was calculated from a summation of CPC's U.S. shipments and U.S. shipments of imports during the initial investigation period (2000-02). The volume of apparent U.S. consumption of barium carbonate declined by *** percent between 2000 and 2002; however, the market share of CPC's volume of shipments increased from *** percent in 2000 to *** percent in 2002. The market share of the volume of shipments of imports of barium carbonate from China also increased from *** percent in 2000 to *** percent in 2002. U.S. shipments of imports from China in table I-5 are ***,⁴² During the period examined in this five-year review, apparent consumption for calendar 2007 was calculated using official import statistics as U.S. shipments of imports were not available. Apparent consumption quantity in 2007 was *** of apparent consumption quantity in 2002 and *** of apparent consumption quantity in 2000. The reduced demand for barium carbonate in glass production for cathode-ray tube televisions is a significant factor in diminished overall barium carbonate apparent consumption.⁴³

Table I-5
Barium carbonate: Apparent U.S. consumption and market shares, 2000-02 and 2003-07

* * * * *

ANTIDUMPING ACTIONS OUTSIDE THE UNITED STATES

During the period examined in the original investigation (2000-02), India imposed an antidumping duty order on barium carbonate from China in May 2000.⁴⁴

During the period examined in this five-year review, the European Community imposed antidumping duties on imports of Chinese barium carbonate in July 2005 as follows:⁴⁵

Chinese producer/exporter	Definitive duties (<i>percent ad valorem</i>)
Hubei Jingshan Chutian Barium Salt Corp. Ltd.	3.4
Zaozhuang Yongli Chemical Co.	4.6
All others	31.7

⁴² *Confidential Investigation Report*, pp. IV-16 and IV-18.

⁴³ *Response*, October 22, 2008, p. 13.

⁴⁴ *Confidential Investigation Report*, p. VII-8.

⁴⁵ *Response*, October 22, 2008, p. 7 and exh. 4.

THE INDUSTRY IN CHINA

During the original investigation, the Commission sent questionnaires to 21 firms in China believed to be producers and/or exporters of barium carbonate. The two major producers in China (Red Star and Hebei Xinji Chemical Group) provided data in response to the Commission's questionnaire.⁴⁶ Export shipments to the United States provided by these two firms accounted for *** percent of reported U.S. imports of the subject merchandise during 2002.

In its response to the Commission's notice of institution in this five-year review, CPC provided a list of nine producers (and their locations (primarily Guizhou and Hebei) and attendant capacities (as of August 2008)) of the subject merchandise in China that currently can and have produced barium carbonate for export to the United States or other countries since 2002.⁴⁷

Operations in China

Table I-6 presents data on the industry in China producing and/or exporting barium carbonate. During the original investigation period (2000-02), aggregate data provided in response to Red Star and Hebei Xinji's questionnaires show that the combined firms' barium carbonate operations experienced increases in capacity, production, and shipments in each year for which data were collected. Exports to the United States accounted for a *** declining share of total shipments over the period, while home market shipments accounted for about *** of total shipments.⁴⁸ Full data regarding the operations of the Chinese industry producing and exporting barium carbonate were not available for this five-year review (2003-07); however, partial estimates of export and capacity data were provided.⁴⁹

Table I-6
Barium carbonate: China's capacity, production, shipments, and inventories, 2000-02 and 2003-07

* * * * *

⁴⁶ *Confidential Investigation Report*, pp. VII-1-VII-2.

⁴⁷ *Response*, October 22, 2008, p. 6 and exh. 2.

⁴⁸ *Confidential Investigation Report*, p. VII-4.

⁴⁹ *Response*, October 22, 2008, p. 12 and exhs. 2 and 3.

APPENDIX A
***FEDERAL REGISTER* NOTICES**

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-1020 (Review)]

Barium Carbonate From China

AGENCY: United States International Trade Commission.

ACTION: Institution of a five-year review concerning the antidumping duty order on barium carbonate from China.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on barium carbonate from China would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;¹ to be assured of consideration, the deadline for responses is October 22, 2008.

Comments on the adequacy of responses may be filed with the Commission by November 18, 2008. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* September 2, 2008.

FOR FURTHER INFORMATION CONTACT:

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

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. 08-5-188, 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.

SUPPLEMENTARY INFORMATION:

Background. On October 1, 2003, the Department of Commerce issued an antidumping duty order on imports of barium carbonate from China (68 FR 56619). The Commission is conducting a review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions. The following definitions apply to this review:

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

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

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

(4) The *Domestic Industry* is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission defined the Domestic Industry as producers of barium carbonate.

(5) The *Order Date* is the date that the antidumping duty order under review became effective. In this review, the Order Date is October 1, 2003.

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

Participation in the review and public service list. Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21

days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Former Commission employees who are seeking to appear in Commission five-year reviews are 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 recently has advised that a five-year review is no longer 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 no longer required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202-205-3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list. Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification. Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the

Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions. Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is October 22, 2008. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is November 18, 2008. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

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

Information to be provided in response to this Notice of Institution: As used below, the term "firm" includes any related firms.

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

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

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

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

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

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Country that currently export or have exported Subject Merchandise to the United States or other countries since the Order Date.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 2007 (report quantity data in short tons and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

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

(b) the quantity and value of U.S. commercial shipments of the Domestic

Like Product produced in your U.S. plant(s); and

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

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 2007 (report quantity data in short tons and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

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

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

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

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 2007 (report quantity data in short tons and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

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

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

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in

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

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

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: August 25, 2008.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E8-20226 Filed 8-29-08; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Five-year (“Sunset”) Review

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

SUMMARY: In accordance with section 751(c) of the Tariff Act of 1930, as amended (“the Act”), the Department of Commerce (“the Department”) is automatically initiating a five-year review (“Sunset Review”) of the antidumping duty order 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 order.

EFFECTIVE DATE: September 2, 2008.

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 & Constitution

Ave., NW, Washington, DC 20230. For information from the Commission contact Mary Messer, Office of Investigations, U.S. International Trade Commission at (202) 205–3193.

SUPPLEMENTARY INFORMATION:

Background

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

Initiation of Review

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

DOC Case No.	ITC Case No.	Country	Product	Department Contact
A–570–880	731–TA–1020	PRC	Barium Carbonate	Juanita Chen (202) 482–1904

Filing Information

As a courtesy, we are making information related to Sunset proceedings, including copies of the pertinent statute and Department’s regulations, the Department schedule for Sunset Reviews, a listing of past revocations and continuations, and current service lists, available to the public on the Department’s sunset Internet Web site at the following address: “<http://ia.ita.doc.gov/sunset/>.” All submissions in these Sunset Reviews must be filed in accordance with the Department’s regulations regarding format, translation, service, and certification of documents. These rules can be found at 19 CFR 351.303.

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

Because deadlines in Sunset Reviews can be very short, we urge interested parties to apply for access to proprietary information under administrative

protective order (“APO”) immediately following publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The Department’s regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306.

Information Required From Interested Parties

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

If we receive an order-specific notice of intent to participate from a domestic interested party, the Department’s regulations provide that *all parties* wishing to participate in the Sunset Review must file complete substantive responses not later than 30 days after the date of publication in the **Federal Register** of this notice of initiation. The required contents of a substantive response, on an order-specific basis, are set forth at 19 CFR 351.218(d)(3). Note that certain information requirements differ for respondent and domestic parties. Also, note that the Department’s information requirements are distinct from the Commission’s information requirements. Please consult the Department’s regulations for information regarding the Department’s conduct of Sunset Reviews.¹ Please consult the Department’s regulations at 19 CFR Part 351 for definitions of terms

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.

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: August 20, 2008.

Edward C. Yang,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. E8-20306 Filed 8-29-08; 8:45 am]

Billing Code: 3510-DS-S

**INTERNATIONAL TRADE
COMMISSION****[Investigation No. 731-TA-1020 (Review)]****Barium Carbonate From China****AGENCY:** United States International Trade Commission.**ACTION:** Scheduling of an expedited five-year review concerning the antidumping duty order on barium carbonate from China.

SUMMARY: The Commission hereby gives notice of the scheduling of an expedited review pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(3)) (the Act) to determine whether revocation of the antidumping

duty order on barium carbonate from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* December 8, 2008.

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

SUPPLEMENTARY INFORMATION:

Background. On December 8, 2008, the Commission determined that the domestic interested party group response to its notice of institution (73 FR 51315, September 2, 2008) of the subject five-year review was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting a full review.¹ Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Act.

Staff report. A staff report containing information concerning the subject matter of the review will be placed in the nonpublic record on December 30, 2008, and made available to persons on the Administrative Protective Order service list for this review. A public version will be issued thereafter, pursuant to section 207.62(d)(4) of the Commission's rules.

Written submissions. As provided in section 207.62(d) of the Commission's rules, interested parties that are parties to the review and that have provided individually adequate responses to the

notice of institution,² and any party other than an interested party to the review may file written comments with the Secretary on what determination the Commission should reach in the review. Comments are due on or before January 7, 2009 and may not contain new factual information. Any person that is neither a party to the five-year review nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the review by January 7, 2009. However, should the Department of Commerce extend the time limit for its completion of the final results of its review, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

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

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

Issued: December 12, 2008.

By order of the Commission.

William R. Bishop,

Hearings and Meetings Coordinator.

[FR Doc. E8-29996 Filed 12-17-08; 8:45 am]

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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 response submitted by Chemical Products Corp. to be individually adequate. Comments from other interested parties will not be accepted (*see* 19 CFR 207.62(d)(2)).

APPENDIX B
STATEMENT ON ADEQUACY

EXPLANATION OF COMMISSION DETERMINATION ON ADEQUACY

in

Barium Carbonate from China,
Inv. No. 731-TA-1020 (Review)

On December 8, 2008, the Commission determined that it should proceed to an expedited review in the subject five-year review pursuant to section 751(c)(3)(B) of the Tariff Act of 1930, as amended, 19 U.S.C. § 1675(c)(3)(B).

The Commission determined that the domestic interested party group response to its notice of institution was adequate. In this regard, the Commission received an adequate response from Chemical Products Corp. (“CPC”), a domestic producer of barium carbonate. CPC accounts for virtually all U.S. production of barium carbonate.

Because no respondent interested parties responded to the notice of institution, the Commission determined that the respondent interested party group response was inadequate.

The Commission did not find any circumstances that would warrant conducting a full review. The Commission, therefore, determined to conduct an expedited review.

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

