Saccharin from China

Investigation No. 731-TA-1013 (Review)

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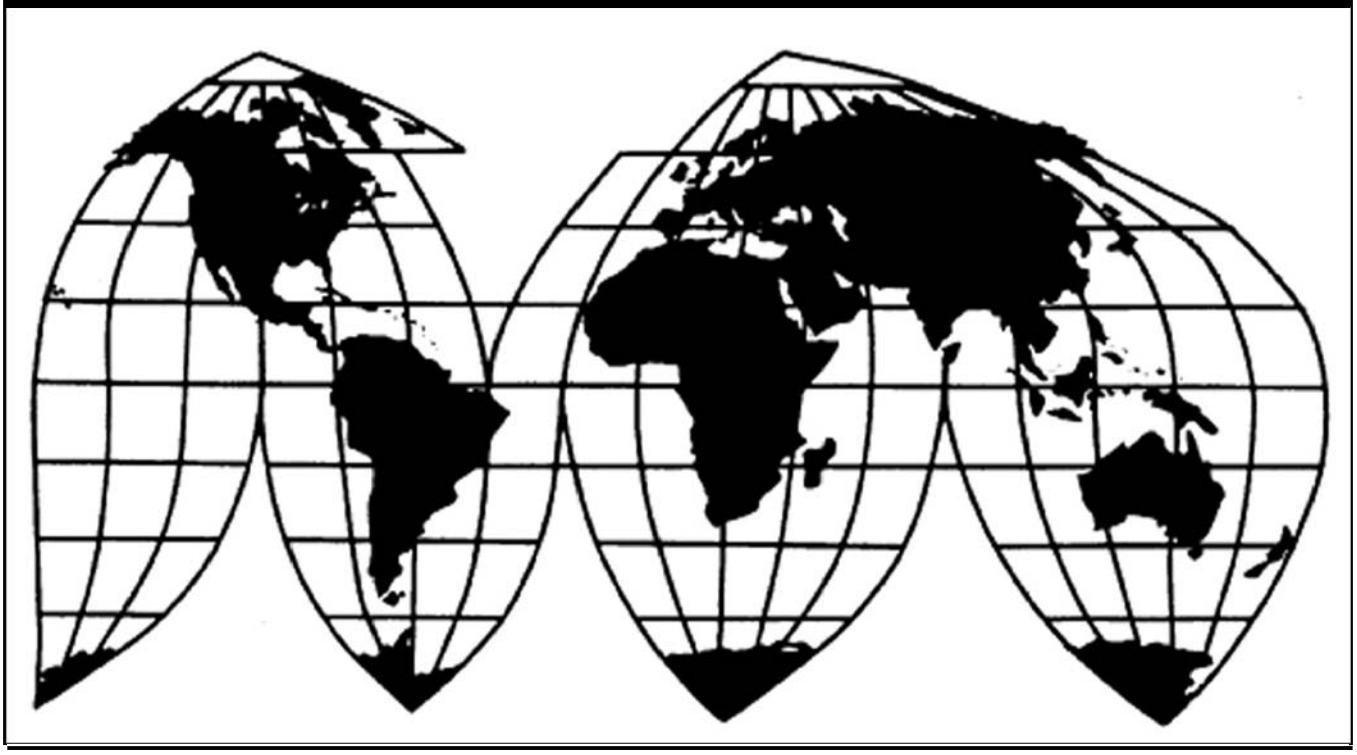
U.S. International Trade Commission



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Clark Workman, Economist
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Lemuel Shields, Statistician

James McClure, Supervisory Investigator

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

U.S. International Trade Commission

Washington, DC 20436
www.usitc.gov

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Note.–Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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-1013 (Review)

SACCHARIN FROM CHINA

DETERMINATION

On the basis of the record[1] 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 saccharin 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 June 2, 2008 (73 F.R. 31504) and determined on September 5, 2008 that it would conduct a full review (73 F.R. 53444, September 16, 2008). Notice of the scheduling of the Commission's review and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* on December 1, 2008 (73 F.R. 72837). The hearing was held in Washington, DC, on March 26, 2009, and all persons who requested the opportunity were permitted to appear in person or by counsel.

[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 Tariff Act"), that revocation of the antidumping duty order on imports into the United States of saccharin from the People's Republic of China ("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 June 2003, the Commission determined that an industry in the United States was materially injured by reason of less than fair value imports ("LTFV") of saccharin from China.[1] [2] Subsequently, the U.S. Department of Commerce issued an antidumping duty order on imports of saccharin from China.[3] The Commission's original determination was not appealed.

The Commission instituted this five-year review on June 2, 2008.[4] The Commission received a response to the notice of institution from PMC Specialties Group, Inc. ("PMC"), the sole domestic saccharin producer, and also one of the primary importers of subject merchandise during the review period.[5] The Commission received one respondent interested party response to the notice of institution from Rit-Chem Co., Inc. ("Rit-Chem"), an importer of the subject merchandise during the original investigation. The Commission, on September 5, 2008, found that domestic producer PMC's individual response was adequate, and that the domestic interested party group response was adequate. The Commission determined that the respondent interested party group response to the notice of institution was inadequate because it did not receive a response to the notice of institution from any Chinese subject producer.[6] However, the Commission found that changes in the conditions of competition warranted conducting a full review.[7]

PMC filed prehearing and posthearing briefs, presented witnesses at the hearing, and submitted final comments. Mr. Dennis Delaney, sales manager at TR International, Inc. ("TR International"), a chemical trading company based in Seattle, testified at the hearing on behalf of Chinese subject producer Tianjin Changjie Chemical Company ("Tianjin Changjie").[8] Although not a party to this review, ***

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[1] Saccharin from China, Inv. No. 731-TA-1013 (Final), USITC Pub. 3606 (June 2003) ("Original Determination"). All citations are to the confidential version of the Original Determination.

[2] The Commission has conducted investigations of saccharin on two previous occasions. In the 1977 investigations, conducted under the Antidumping Act of 1921, as amended, the Commission reached negative determinations. See Saccharin from Japan and the Republic of Korea, Inv. Nos. AA1921-174 & 175, USITC Pub. 846 (Dec. 1977). In the 1993-94 investigation, the Commission also reached a negative determination. See Saccharin from China, Inv. No. 731-TA-675 (Final), USITC Pub. 2842 (Dec. 1994).

[3] 68 Fed. Reg. 40906 (July 9, 2003).

[4] 73 Fed. Reg. 31504 (June 2, 2008).

[5] See e.g., CR/PR at IV-1.

[6] Vice Chairman Daniel R. Pearson determined that the respondent interested party group response was adequate.

[7] In the Commmission's explanation on adequacy, it determined that because PMC was the sole domestic producer and the primary importer of subject product in 2007, changes in the conditions of competition warranted conducting a full review. 73 Fed. Reg. 53444 (Sept. 16, 2008).

[8] We note that subject producer Tianjin Changie did not enter an appearance in this five-year review. We also note that Tianjin Changjie submitted a letter to the Commission dated March 23, 2009, seeking revocation of the order at issue in this five-year review.

submitted two letters to the Commission dated January 30, 2009, and March 25, 2009. *** also submitted a posthearing written statement.

II. DOMESTIC LIKE PRODUCT

In making its determination under section 751(c) of the Tariff Act, the Commission defines "the domestic like product" and the "industry."[9] The Tariff Act defines "domestic like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle."[10] The Commission's practice in five-year reviews is to look to the like product definition from the original determination and any previous reviews and consider whether the record indicates any reason to revisit that definition.[11]

A. Product Description

Commerce has defined the imported product subject to the order under review as follows:

> saccharin. Saccharin is a non-nutritive sweetener used in beverages and foods, personal care beverages and foods, personal care products such as toothpaste, table top sweeteners, and animal feeds. It is also used in metalworking fluids. There are four primary chemical compositions of saccharin: (1) sodium saccharin (American Chemical Society Chemical Abstract Service (CAS) Registry #128-44-9); (2) calcium saccharin (CAS Registry #6485-34-3); (3) acid (or insoluble) saccharin (CAS Registry #81-07-2); and (4) research grade saccharin. Most of the U.S.-produced and imported grades of saccharin from the PRC are sodium and calcium saccharin, which are available in granular, powder, spray-dried powder, and liquid forms. The merchandise subject to this investigation is classifiable under subheading 2925.11.00 of the Harmonized Tariff Schedule of the United States (HTSUS) and includes all types of saccharin imported under this HTSUS subheading, including research and specialized grades.[12]

Made from petroleum-based organic chemicals, saccharin is a chemical additive that is used primarily as a sweetener.[13] First synthesized in 1879, it has been used in the United States as a sugar substitute since 1885, primarily in food and beverage (either commercially added prior to consumption or personally added at the time of consumption) and in personal care products such as toothpaste and

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[9] 19 U.S.C. § 1677(4)(A).

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

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

[12] CR at I-10; PR at I-7.

[13] CR at I-11; PR at I-8.

mouthwash.[14] By weight, it is about 350 times sweeter than sugar.[15] It is also used as an additive in adhesives and in metalworking fluids to facilitate electroplating.[16] End users in the food and beverage markets are primarily soft-drink manufacturers and manufacturers of table-top sweetener packets for restaurants, airlines, and other firms serving beverages to the public.[17] The auto and auto parts industries consume saccharin in electroplating chrome bumpers and accessories. Saccharin is also used in pharmaceuticals, animal feed, tobacco, and food mixes.[18]

In the original determination, the Commission found one domestic like product consisting of all forms of saccharin, coextensive with Commerce's scope.[19] The Commission noted that, in the preliminary phase of the investigation, it had found one domestic like product consisting of all forms of saccharin based upon the similarity in physical characteristics and uses, general interchangeability, common channels of distribution, common manufacturing facilities and production process, and general similarity in price.[20] The Commission further observed that, in the final phase of the investigation, no party had argued the Commission should revisit its like product definition nor had any facts arisen that would otherwise indicate the Commission should do so.[21]

C. Analysis and Conclusion

In this five-year review, no facts have arisen that would indicate the Commission should revisit its original like product finding, nor has any party argued the Commission should do so. Accordingly, we find that the domestic like product consists of all forms of saccharin, which is coextensive with the scope.

III. DOMESTIC INDUSTRY AND RELATED PARTIES

A. Domestic Industry

Section 771(4)(A) of the Act defines the relevant industry as the domestic "producers as a {w}hole 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."[22] In deciding whether a firm qualifies as a domestic producer, the Commission generally has analyzed the overall nature of a firm's production-related activities in the United States, although production-related activity at minimum levels could be insufficient to constitute domestic production. The Commission generally considers six factors:

(1) source and extent of the firm's capital investment;
(2) technical expertise involved in U.S. production activities;

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[14] CR at I-11; PR at I-8.

[15] CR at I-11; PR at I-8.

[16] CR at I-11; PR at I-8.

[17] CR at I-11; PR at I-8.

[18] CR at I-11; PR at I-8.

[19] Original Determination at 6.

[20] Original Determination at 6; See also, Saccharin from China, Inv. No. 731-TA-1013 (Preliminary), USITC Pub. 3535 (Sept. 2002), at 5-7.

[21] Original Determination at 6.

[22] 19 U.S.C. § 1677(4)(A). The definitions in 19 U.S.C. § 1677 are applicable to the entire subtitle containing the antidumping and countervailing duty laws, including 19 U.S.C. §§ 1675 and 1675a. See 19 U.S.C. § 1677.

(3) value added to the product in the United States;
(4) employment levels;
(5) quantity and type of parts sourced in the United States; and
(6) any other costs and activities in the United States directly leading to production of the like product.[23]

No single factor is determinative and the Commission may consider any other factors it deems relevant in light of the specific facts of any investigation.[24] The Commission has also rejected the notion that a domestic producer must demonstrate a certain minimum amount of U.S. consumption to be considered a "producer."[25]

In the original investigation, the Commission defined the domestic industry as PMC, the sole domestic producer of saccharin.[26] Although not a party to this five-year review, *** submitted a written

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[23] See, e.g., Brake Rotors from China, Inv. No. 731-TA-744 (Second Review), USITC Pub. 4009 (June 2008) at 8, n. 39.

[24] See, e.g., Pure and Alloy Magnesium from Canada and Pure Magnesium from China, Inv. Nos. 701-TA-309-A-B and 731-TA-696 (Second Review), USITC Pub. 3859 (July 2006) at 14, 44 (not finding diecasters to be "producers"); Internal Combustion Industrial Forklift Trucks from Japan, Inv. No. T31-TA-377 (Second Review), USITC Pub. 3831 (December 2005) at 10-14; Sebacic Acid from China, Inv. No. 731-TA-653 (Second Review), USITC Pub. 3775 (May 2005) at 12-14; Aramid Fiber Formed of Poly Par-Phenylene Terepthalamide from the Netherlands, Inv. No. 731-TA-652 (Review), USITC Pub. 3394 (February 2001); Certain Cut-to-Length Steel Plate from France, India, Indonesia, Italy, Japan, and Korea, Inv. Nos. 701-TA-387-391, 731-TA-816-821 (Final), USITC Pub. 3273 at 9 (January 2000). See also Large Newspaper Printing Presses from Germany and Japan, Inv. Nos. 731-TA-736-737 (Final) USITC Pub. 2988 at 7-8 (August 1996). Commission practice has not clearly established a specific level of U.S. value added, or product finished value, required to qualify as a domestic producer; Aramid Fiber Formed of Poly Para-Phenylene Terephthalamide from the Netherlands, Inv. No. 731-TA-652 (Final), USITC Pub. 2783 at I-8-I-9 & n.34 (June 1994) ("no single factor -- including value added -- is determinative and . . . value added information becomes more meaningful when other production activity indicia are taken into account"); Low Fuming Brazing Copper Wire and Rod from New Zealand, Inv. No. 731-TA-246 (Final), USITC Pub. 1779 (November 1985) (the Commission concluded that 20 percent value added by flux coaters was sufficient); Low Fuming Brazing Copper Wire and Rod from South Africa, Inv. No. 731-TA-246 (Final), USITC Pub. 1790 (January 1986) (value added in the United States was 10 to 20 percent).

The Commission has also stated that a "modest percentage of domestically sourced parts or raw materials as a percentage of cost does not necessarily mean that a firm is not a domestic producer." Certain All Terrain Vehicles from Japan, Inv. No. 731-TA-388 (Final), USITC Pub. 2163 (March 1989) at 13-14. Conversely, the Commission has decided not to include a firm in the domestic industry where its operations contributed only a "minor percentage of the total value" of the product. Certain Radio Paging and Alerting Devices from Japan, Inv. No. 731-TA-102 (Final), USITC Pub. 1410 (August 1983) (operations involved assembly and soldering of foreign sourced parts involving little technical skill). See also, Color Television Receivers from the Republic of Korea and Taiwan, Inv. Nos. 731-TA-134 and 135 (Final), USITC Pub. 1514 (April 1984) at 7-8 (Commission emphasized for the first time that no single factor--including value added--is determinative).

[25] See Brake Rotors from China, Inv. No. 731-TA-744 (Second Review), USITC Pub. 4009 (June 2008) at 8, n. 39 ("[T]he statute does not set any minimum benchmark on how much domestic consumption must be supplied by a U.S. producer before such a producer may be considered a part of an 'industry.' Indeed, the statute contemplates, in certain circumstances, through its material retardation of the establishment of an industry provision, that there may be no current production, yet an industry may be found to exist.").

[26] USITC Pub. 3606 at 10. In the original investigation, no party raised the issue of whether PMC was engaged in sufficient production-related activities to qualify as a domestic producer of saccharin.

statement challenging PMC's status as a domestic producer of saccharin.[27] In its final comments, PMC disputes *** assertions and claims that it qualifies as a domestic producer of saccharin.[28]

Two production processes are currently in use worldwide to produce saccharin: the Maumee process, a continuous-production method that was developed in the United States and that has been used domestically during the review period, and the older Remsen-Fahlberg process, a batch-production method using different starting materials, which is the predominant method used worldwide.[29] Until mid-2006, PMC used the continuous Maumee process at its sole production facility located in Cincinnati, Ohio.[30] As discussed below, PMC modified its production process for saccharin and no longer uses the continuous Maumee process; instead, PMC's new process for producing saccharin involves mostly post-Maumee refining and is currently being done on a batch (not continuous) basis.[31]

According to PMC, the important advantages of the Maumee process (relative to the Remsen-Fahlberg process) include the following: ***.[32]

Prior to mid-2006, the Maumee process used by PMC used methyl anthranilate (MA) and sulfur dioxide as key raw materials. In mid-2006, PMC modified its Maumee production process for saccharin; according to PMC, this reengineering was intended to avoid using or producing certain hazardous chemicals (e.g., chlorine, sulfur dioxide, and ammonia), and therefore to make its saccharin production process safer and more environmentally friendly.[33] According to PMC, this process also allows it to manufacture saccharin more efficiently and more cost-effectively.[34] PMC states that its new Maumee process converts *** into saccharin, and that ***[35] ***[36] PMC worked in conjunction with ***[37] and in 2008, ***[38]

Based on the aforementioned six-factor test we generally consider in assessing whether a firm engages in sufficient production-related activities in the United States to be considered a domestic producer, we find that PMC qualifies as a domestic producer, although the issue is close.

Capital investment. PMC's capital expenditures were relatively low in this five-year review, increasing from *** in 2003 to $*** in 2008.[39] Nevertheless, PMC's total capital expenditures during the five-year review period were approximately $*** below its total capital expenditures during the original three-year period of investigation.[40] PMC also had *** capital expenditures in 2003, 2006, and

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[27] *** Statement at 8-13.

[28] See e.g., PMC Final Comments at 4-5 n.1.

[29] CR at I-14; PR at I-10.

[30] CR at I-15; PR at I-11.

[31] Both the Maumee continuous process and the Remsen-Fahlberg process are used in China. CR at I-14.

[32] CR at I-14; PR at I-10.

[33] PMC Prehearing Br. at 14.

[34] See e.g., PMC Posthearing Br, Exh.1 at 34-35.

[35] CR at I-15; PR at I-11.

[36] PMC Final Comments at 4-5 n.1.

[37] CR at I-15; PR at I-11.

[38] CR at I-15; PR at I-11.

[39] PMC's capital expenditures increased from *** in 2003 to *** in 2004 to *** in 2005, fell to *** in 2006 and 2007, and then increased to *** in 2008. CR/PR at Table C-1. In the original investigation, PMC's capital expenditures declined substantially during the period, falling from *** in 2000 to *** in 2002. Original CR/PR at Table VI-4.

[40] CR/PR at Table C-1; Original CR/PR at Table VI-4.

2007.[41] PMC's minimal capital expenditures included ***[42] However, we note that PMC had research and development ("R&D") expenses each year of the review period and that they increased every year since 2005, peaking at $*** in 2008.[43] Its annual R&D expenditures in 2005 through 2008 are greater than in any year of the original period of investigation ***.[44]

Technical expertise. PMC's new production process would appear to require less expertise than its older start-to-finish production. As noted above, PMC purchases its primary raw material input for producing saccharin, ***, from China. PMC ***.[45] PMC then performs ***.[46] Accordingly, PMC's ***.

Employment levels. During the review period, the number of PMC's production and related workers ("PRWs") decreased irregularly but more substantially than in the original investigation, although PMC has never employed large numbers of workers. During the original investigation, PMC's PRWs declined from *** workers in 2000 to *** workers in 2002.[47] During the review period, PMC's workforce declined from *** workers in 2003 to just *** workers in 2008.[48]

Value Added. Value added represents the conversion costs that PMC used to transform *** into saccharin. With respect to its "old" Maumee production process, PMC's value added represented *** percent of total costs in 2006.[49] With respect to its "new" and reengineered Maumee production process, PMC's value added represented *** percent of total costs in 2008.[50] [51] [52]

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[41] CR/PR at Table C-1; Original CR/PR at Table VI-4.

[42] OINV Trip Notes, PMC Responses to Plant Trip Questions at 2 (Feb. 3, 2009) (Cynthia Trainor).

[43] CR/PR at Table III-12.

[44] See e.g., CR/PR at Table III-12 and Original CR/PR at Table VI-4. We note that at the hearing, there was testimony that PMC's new process was "not extremely capital intensive, [but] did require a large amount of research and development." Hearing Tr. at 42 (Kerwin).

[45] CR/PR at Figure I-3.

[46] CR/PR at Figure I-3. The end product is food grade sodium saccharin. CR at III-4; PR at III-2.

[47] CR/PR at Table III-10.

[48] The number of production and related workers dropped from *** in 2003 to *** in 2004 to *** in 2005, increased to *** in 2006, dropped to *** in 2007, and then increased to *** in 2008. CR/PR at Table C-1. According to PMC, as of March 2009, it employs *** full-time and *** part-time workers in the production of saccharin. See, e.g., PMC Posthearing Br., Exh. 1 at 22.

[49] Derived from CR/PR at Table III-11.

[50] Derived from CR/PR at Table III-11.

[51] The estimate of PMC's value added for 2008 is based on comparing PMC's conversion costs (direct labor and other factory costs) to its total cost of goods sold.

[52] Chairman Aranoff, Vice Chairman Pearson, and Commissioner Pinkert do not join in this analysis of value added by PMC. They find that, although comparing conversion costs to total cost of goods sold can be an appropriate approach for determining the amount of value added, it is not appropriate given the information of record in the instant review – PMC's re-engineered saccharin production process may well involve costs that do not add significantly to the value of the raw material inputs. They note in this regard that the raw materials used by PMC in the re-engineered process generally have a higher value than that indicated by the available prices for saccharin, domestic and imported, over the period of review.

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Thus, in Chairman Aranoff, Vice Chairman Pearson, and Commissioner Pinkert's view, the amount of value added by PMC set forth in the text is overstated. Nevertheless, the information of record does not permit a contemporaneous calculation of the difference between the cost of the raw materials used by PMC under the re-engineered process and a non-aberrational domestic price for the finished product. Chairman Aranoff, Vice Chairman Pearson, and Commissioner Pinkert are therefore unable to rely on the valued-added factor in determining

(continued...)

Quantity and Type of Parts Sourced in the United States. During the review period, PMC sourced the primary raw material input, ***, from *** in China.

Other Costs. Besides converting *** to saccharin, there are minimal other costs associated with PMC's saccharin production.

Although the issue is extremely close, we find, on balance, that PMC's operations, although only batch production and smaller in scale compared to the original investigation, nevertheless constitute sufficient production-related activities to qualify it as a domestic producer. During the review period, PMC did produce and sell commercial volumes of saccharin. On the other hand, its employment and capital investment were low.[53] As noted above, PMC purchases the primary raw material input for producing saccharin *** from *** and PMC's *** production process is relatively simple and involves considerably fewer chemical reactions than its former process. The value added by PMC (*** percent of total costs in 2008) may be overstated.[54] Nevertheless, PMC is currently employing workers, operating production equipment to produce saccharin, and it has devoted some capital to bring this process on line rather than cease production entirely. On balance, and based on the record developed in this review, we find that PMC's production operations, although limited, are sufficient to qualify PMC as a domestic producer under the traditional six-factor test.[55]

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[52] (...continued)
whether PMC qualifies as a domestic producer. They find based on the Commission's analysis of the other relevant factors that PMC does qualify as a domestic producer.

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

[54] Commission practice has not clearly established a specific level of U.S. value added, or product finished value, required to qualify as a domestic producer; Aramid Fiber Formed of Poly Para-Phenylene Terephthalamide from the Netherlands, Inv. No. 731-TA-652 (Final), USITC Pub. 2783 at I-8-I-9 & n.34 (June 1994) ("no single factor -- including value added -- is determinative and . . . value added information becomes more meaningful when other production activity indicia are taken into account"); Low Fuming Brazing Copper Wire and Rod from New Zealand, Inv. No. 731-TA-246 (Final), USITC Pub. 1779 (November 1985) (the Commission concluded that 20 percent value added by flux coaters was sufficient); Low Fuming Brazing Copper Wire and Rod from South Africa, Inv. No. 731-TA-246 (Final), USITC Pub. 1790 (January 1986) (value added in the United States was 10 to 20 percent).

The Commission has also stated that a "modest percentage of domestically sourced parts or raw materials as a percentage of cost does not necessarily mean that a firm is not a domestic producer." Certain All Terrain Vehicles from Japan, Inv. No. 731-TA-388 (Final), USITC Pub. 2163 (March 1989) at 13-14. Conversely, the Commission has decided not to include a firm in the domestic industry where its operations contributed only a "minor percentage of the total value" of the product. Certain Radio Paging and Alerting Devices from Japan, Inv. No. 731-TA-102 (Final), USITC Pub. 1410 (August 1983) (operations involved assembly and soldering of foreign sourced parts involving little technical skill). See also, Color Television Receivers from the Republic of Korea and Taiwan, Inv. Nos. 731-TA-134 and 135 (Final), USITC Pub. 1514 (April 1984) at 7-8 (Commission emphasized for the first time that no single factor– including value added– is determinative).

[55] Should the order remain in place that long, the Commission will have occasion to revisit the nature of the domestic industry, conditions of competition in this market, and the question of whether PMC performs sufficient production-related activities to qualify as a domestic producer, in the next five-year review. We also note that the Commission may self-initiate a changed circumstances review at an earlier date if it receives information that shows changed circumstances sufficient to warrant a review of its determination. See 19 U.S.C. §1675(b); 19 C.F.R.. §207.45. See also, e.g., Certain Frozen Warmwater Shrimp and Prawns from India and Thailand, Inv. Nos. 751-TA-28-29, USITC Pub. 3813 (Nov. 2005). We also observe that, notwithstanding our finding that PMC is currently performing sufficient production-related activities to qualify as a domestic producer, given the costs and technical challenges associated with its production process PMC could reassess its decision to continue producing saccharin even with the order in place.

B. Related Parties

Section 771(4)(B) of the Act allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry producers that are related to an exporter or importer of subject merchandise, or which are themselves importers.[56]

In the original investigation, no party argued that PMC should be excluded from the domestic industry as a related party. Explaining that PMC's imports were equivalent to only *** percent of its domestic production in 2001 (and that PMC did not import subject merchandise in any other year during the period of investigation), the Commission concluded that "PMC's interests lie primarily in production and not importation."[57] Accordingly, the Commission found that appropriate circumstances did not exist to exclude PMC from the domestic industry as a related party.[58]

In this review, PMC is a related party because it was an importer of subject merchandise during the period of review.[59] Although PMC's production ***.[60] PMC, however, claims that it stopped importing subject merchandise from China in May 2008, and that it has not imported saccharin from any source (subject or non-subject) since July 2008.[61] Moreover, PMC is the sole domestic producer of saccharin.[62] Accordingly, we find that appropriate circumstances do not exist to exclude PMC from the domestic industry as a related party.

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[56] The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude a related party are as follows:

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

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

(3) the position of the related producer vis-à-vis the rest of the industry, i.e., whether inclusion or exclusion of the related party will skew the data for the rest of the industry.

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

[57] Original Determination at 7 n.18.

[58] Id.

[59] CR/PR at Table III-7.

[60] CR/PR at Table III-7.

[61] See e.g., PMC Final Comments at 5-7.

[62] The Commission typically has not found appropriate circumstances exist to exclude the sole domestic producer as a related party. See e.g. Tetrahydrofufuryl Alcohol from China, Inv. No. 731-TA-1046 (Preliminary), USITC Pub. 3620 (August 2003) at n. 20; Industrial Nitrocellulose from Brazil, China, France, Germany, Japan, Korea, the United Kingdom, and Yugoslavia, Inv. Nos. 731-TA-96 and 439-445 (Review), USITC Pub. 3342 (August 2000) at 8; Drafting Machines from Japan, Inv. No. 731-TA-432 (Review), USITC Pub. 3252 (November 1999) at 5.

IV. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF MATERIAL INJURY IF THE ANTIDUMPING DUTY ORDER ON SACCHARIN FROM CHINA WERE REVOKED

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

A. Legal Standards

In five-year reviews conducted under section 751(c) of the Act, Commerce will revoke an antidumping or countervailing duty order unless (1) it makes a determination that dumping or subsidization is likely to continue or recur and (2) the Commission makes a determination that revocation of the antidumping or countervailing duty order "would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time."[63] The Statement of Administrative Action Accompanying the Uruguay Round Agreements Act, H.R. Rep. No. 103-316 (1994) ("SAA") states that "under the likelihood standard, the Commission will engage in a counterfactual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the *status quo* – the revocation or termination of a proceeding and the elimination of its restraining effects on volumes and prices of imports."[64] Thus, the likelihood standard is prospective in nature.[65] The CIT 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.[66] [67] [68]

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[63] 19 U.S.C. § 1675a(a).

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

[65] Although 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.

[66] See NMB Singapore Ltd. v. United States, 288 F. Supp. 2d 1306, 1352 (Ct. Int'l Trade 2003) ("'likely' means probable within the context of 19 U.S.C. § 1675(c) and 19 U.S.C. § 1675a(a)"), aff'd mem., 140 Fed. Appx. 268 (Fed. Cir. 2005); Nippon Steel Corp. v. United States, 26 CIT 1416, 1419 (2002) (same); Usinor Industeel, S.A. v. United States, 26 CIT 1402, 1404 nn.3, 6 (2002) ("more likely than not" standard is "consistent with the court's opinion"; "the court has not interpreted 'likely' to imply any particular degree of 'certainty'"); Indorama Chemicals (Thailand) Ltd. v. United States, Slip Op. 02-105 at 20 (Ct. Int'l Trade Sept. 4, 2002) ("standard is based on a likelihood of continuation or recurrence of injury, not a certainty"); Usinor v. United States, 26 CIT 767, 794 (2002) ("'likely' is tantamount to 'probable,' not merely 'possible'").

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

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

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."[69] 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."[70]

Although the standard in a five-year review is not the same as the standard applied in original antidumping and countervailing duty investigations, 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."[71] 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 order is revoked or the suspension agreement is terminated, and any findings by Commerce regarding duty absorption pursuant to 19 U.S.C. § 1675(a)(4).[72] 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.[73]

The Commission has complete data coverage for the domestic industry, i.e., PMC. On the other hand, the Commission received a complete foreign producer questionnaire response from only one of five subject producers in China.[74] Accordingly, we have relied on the facts otherwise available when appropriate in this review, which consist primarily of information from the original investigation, information submitted in this five-year review, and information available from published sources.[75] [76]

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[69] 19 U.S.C. § 1675a(a)(5).

[70] 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.

[71] 19 U.S.C. § 1675a(a)(1).

[72] 19 U.S.C. § 1675a(a)(1). Commerce has not made duty absorption findings with respect the order under review. See, e.g., CR at I-13 at n.20.

[73] 19 U.S.C. § 1675a(a)(5). Although the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886.

[74] See, e.g., CR at IV-8 and IV-11.

[75] 19 U.S.C. § 1677e(a) authorizes the Commission to "use the facts otherwise available" in reaching a determination when (1) necessary information is not available on the record or (2) an interested party or any other person withholds information requested by the agency, fails to provide such information in the time or in the form or manner requested, significantly impedes a proceeding, or provides information that cannot be verified pursuant to 19 U.S.C. § 1677m(i). The verification requirements in 19 U.S.C. § 1677m(i) are applicable only to Commerce. See Titanium Metals Corp. v. United States, 155 F. Supp. 2d 750, 765 (Ct. Int'l Trade 2002) ("the 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 Commission investigations.").

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

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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."[77]

1. Original Investigation

The Commission discussed several conditions of competition relevant to its inquiry in its original determination. First, it noted that, pursuant to a study that found saccharin to be a cancer-causing agent in rats, the FDA banned the use of saccharin in food and beverages in 1977.[78] Shortly thereafter, Congress lifted the ban, but subjected the sale of saccharin to certain requirements.[79] In particular, the Saccharin Study and Labeling Act, renewed through May 1997, mandated that health warning labels be placed prominently on all products containing saccharin.[80] After further study, evidence supported the conclusion that saccharin does not cause cancer in humans, and thereafter the FDA approved saccharin for general use.[81] On December 21, 2000, President Clinton signed the SWEETEST Act, which removed the warning label on all products containing saccharin.[82]

Second, the Commission found that the large packaged-soft-drink manufacturers, such as Coca Cola and Pepsi, switched from saccharin to aspartame in their products that were bottled for retail sale in 1983, six years after the Saccharin Study and Labeling Act of 1977 requiring a warning label on products containing saccharin took effect.[83] However, because of the limited shelf life of aspartame, the large packaged-soft-drink manufacturers continued to use saccharin in beverages placed in dispensers, which did not require a warning label.[84]

Third, the Commission found that, since saccharin is an intermediate product that is used in various consumer products and agricultural and industrial applications, overall U.S. demand for saccharin is derived from the demand for the products that use it as an input.[85] The Commission noted that overall demand for saccharin as measured by apparent U.S. consumption had increased from *** pounds in 2000 to *** pounds in 2001 and to *** pounds in 2002.[86] The Commission also found that there was little seasonality in the demand for saccharin in most uses.[87]

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[76] (...continued)
industry as a whole and by drawing reasonable inferences from the evidence it finds most persuasive." SAA at 869.

[77] 19 U.S.C. § 1675a(a)(4).

[78] Original Determination at 8.

[79] Id.

[80] Id.

[81] Id.

[82] Id.

[83] Id.

[84] Id.

[85] Id. at 9.

[86] Id.

[87] Id.

Fourth, the Commission found that PMC was the only domestic saccharin producer and that PMC's capacity for producing saccharin had *** throughout the period of investigation at *** pounds.[88] However, the Commission noted that PMC's production fell throughout the period of investigation.[89]

Fifth, in addition to aspartame, the Commission found that other sweeteners may be substituted for saccharin including sugar, acesulfame-K, tagatose, alitame, and sucralose. Since these sweeteners are much more expensive than saccharin, the Commission noted that their substitution is often not considered economically feasible in many applications.[90]

Sixth, the Commission also noted that, during the 1993-94 antidumping duty investigation, there were questions concerning the quality of the Chinese product.[91] However, the Commission found that evidence on the record indicated that Chinese producers had corrected any quality problems that may have existed and met the qualification requirements of U.S. customers.[92]

Seventh and finally, in its conditions of competition analysis, the Commission found that non-subject imports had accounted for *** percent of apparent consumption in 2000, *** percent in 2001, and *** percent in 2002.[93]

2. Current Review

In this five-year review, we have considered a number of likely conditions of competition in the event the antidumping duty order regarding imports of saccharin from China were revoked.

a. Demand in the U.S. Market

As in the original investigation, because saccharin is an intermediate product that is used in various consumer products and agricultural and industrial applications, overall U.S. demand for saccharin is derived from the demand for the products that use it as an input.[94] These products include soft drinks, table top sweeteners, certain foods, toothpaste, mouthwash, pharmaceuticals, animal feed, herbicides, and metal-working fluids.[95]

During the review period, apparent U.S. consumption of saccharin fluctuated from year to year but was higher in 2008 (*** pounds) than in 2003 (*** pounds).[96] PMC notes that between 2003 and 2007, apparent U.S. consumption was below its level in 2002, the last full year of the original period of investigation.[97] We note that although apparent U.S. consumption of saccharin did increase significantly in 2008, the degree of the increase is overstated because there were significant increases in importer inventories during that year.[98]

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[88] Id.

[89] Id.

[90] Id.

[91] Id. at 10.

[92] Id.

[93] Id.

[94] CR at II-3; PR at II-2.

[95] CR at II-3 to II-4; PR at II-2.

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

[97] PMC Prehearing Br. at 16.

[98] PMC Prehearing Br. at 16-17.

b. Supply in the U.S. Market

As in the original investigation, PMC is the only domestic saccharin producer. PMC's capacity declined by *** percent overall during the review period, falling from *** pounds in 2003 through 2005 to *** pounds in 2006, declining to *** pounds in 2007, and then increasing to *** pounds in 2008.[99] PMC's production fell by *** percent overall during the review period, steadily declining from *** pounds in 2003 to *** pounds in 2007, and barely increasing to *** pounds in 2008.[100]

These very substantial declines in PMC's capacity and production during the review period (especially since 2006) were the result of PMC's ***. PMC claims that it was necessary for the company to ***[101] As discussed above, PMC now uses a reengineered Maumee process for producing saccharin ***;[102] PMC ***.[103]

During the review period, PMC made capital investments in terms of retooling its Cincinnati facility and purchasing small amounts of new equipment for its reengineered Maumee production process. As noted above, these capital expenditures were small and included *** and bringing its reengineered Maumee production process on-line.[104]

After its July 2006 shutdown, PMC did not produce for the remainder of 2006 nor for the entire year of 2007.[105] In 2008, PMC resumed saccharin production using its modified process, but was only able to use a ***.[106] Production occurred for only three months of 2008 (June-August) and at very modest levels (*** pounds).[107] Moreover, PMC encountered unacceptable levels of impurities in its output that necessitated further changes to the production process to remove the impurities from the ***.[108] In addition, PMC claims that *** experienced difficulty producing the quantity of *** needed for it to reach projected saccharin production.[109] Production resumed in 2009 but first quarter production was only *** pounds.[110] PMC claims that it has now resolved the problems relating to impurities and that it has once again resumed saccharin production, albeit still via limited batch production.[111] [112]

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

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

[101] PMC Prehearing Br. at 13-15.

[102] CR at I-15; PR at I-11.

[103] PMC reported that it decided ***. CR at III-5; PR at III-2. In addition to saccharin, ***. See e.g., Telephone/Meeting/Trip Notes, Industry Analyst Telephone Notes, March 6 and April 28, 2009. PMC also has identified two other Chinese producers of ***. Hearing Tr. at 80 (Bouligaraki).

[104] CR/PR at Table C-1; OINV Trip Notes, PMC Responses to Plant Trip Questions at 2 (Feb. 3, 2009) (Cynthia Trainor).

[105] CR/PR at Table III-1 n.1.

[106] CR at III-9; PR at III-3; PMC Responses to Staff Questions of April 20, 2009, pp. 1-2.

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

[108] CR at III-9; PR at III-3; PMC Responses to Staff Questions of April 20, 2009, pp. 1-2.

[109] CR at III-9 n.25; PR at III-3 n.25.

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

[111] PMC Responses to Staff Questions of April 20, 2009, pp. 1-2.

[112] PMC initially projected that it would produce *** of saccharin in 2009 and incrementally increase that output in each year through 2013. PMC Prehearing Br. at 20. Subsequently, however, PMC revised downward its projection for 2009 production to ***. PMC Posthearing Br., Exh. 1 at 22. PMC also reports that it has produced just *** of saccharin in the first quarter of 2009, and projects that it will produce *** of saccharin in April 2009.

(continued...)

***.[113] Chinese subject producers' most recent reported capacity, *** pounds in 2007, was almost seven times PMC's highest reported capacity level during the review period, and dwarfed PMC's most recent reported capacity of *** pounds in 2008.[114] Among the five principal Chinese producers, subject producer Shanghai Fortune received a zero dumping margin in its most recent administrative review; therefore, imports produced by Shanghai Fortune, while still subject to the order, currently enter the U.S. market at a zero deposit rate.[115]

Prices for the domestic like product and subject imports were substantially higher in 2008 than in earlier years of the review period. Industry participants attributed this to a world-wide shortage of saccharin due to a number of factors including the temporary, government-ordered closure of the largest Chinese subject producer (Suzhou Fine Chemicals Group Co., Ltd.) in October 2007, the temporary shutdown of all subject producers from August until September of 2008 during the Beijing Olympic Games, and ***.[116] However, prices in 2009 are reportedly more in line with pre-2008 prices, and most industry participants also reported that U.S. saccharin prices were unlikely to rise within the reasonably foreseeable future.[117]

*** led the domestic industry to lose considerable market share during the review period. Accordingly, non-subject imports' market share increased by *** percentage points during the review period, although subject imports gained substantially more market share than non-subject imports during that time.[118] Non-subject imports' market share declined at the end of the review period, falling from *** percent in 2007 to *** percent in 2008, whereas subject imports more than doubled their market share in the final year of the review period, increasing from *** percent in 2007 to *** percent in 2008.[119]

C. Revocation of the Antidumping Duty Order on Subject Imports Is Likely to Lead to Continuation or Recurrence of Material Injury

1. Likely Volume of Subject Imports

In evaluating the likely volume of imports of subject merchandise if the order under review 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.[120] 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.

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[112] (...continued)
PMC Posthearing Br. at Ex. 3.

[113] CR at IV-13; PR at IV-7.

[114] CR/PR at Tables IV-5 & C-1

[115] CR/PR at Table I-2.

[116] CR at V-4 & n.3; PR at V-3 n.3; CR at IV-13; PR at IV-7.

[117] See e.g., Hearing Tr. at 24.

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

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

[120] 19 U.S.C. § 1675a(a)(2).

In the original determination, the Commission found that the volume and market share of subject imports increased substantially throughout the period of investigation, with the quantity of subject imports more than doubling.[121] Subject imports' share of apparent U.S. consumption (as measured by quantity) increased from *** percent in 2000 to *** percent in 2001 and *** percent in 2002.[122] At the same time, the domestic industry lost substantial market share. The domestic producer's share of apparent U.S. consumption fell ***, from *** percent in 2000 to *** percent in 2002.[123] Nearly all of the domestic industry's loss of market share was gained by subject imports, as nonsubject imports' market share increased by only 3.7 percentage points over the period examined, from *** percent in 2000 to *** percent in 2002.[124] In light of the above, the Commission concluded that the increased volumes of subject imports were significant both in absolute terms and relative to production and consumption in the United States, and also found the increase in that volume to be significant.[125]

In this five-year review, subject imports maintained a growing and significant presence in the U.S. market, even with the order in place. By quantity, subject imports increased their U.S. market share by 35.1 percentage points during the review period, increasing from *** percent in 2003 to *** percent in 2008.[126] [127]

The domestic industry lost even more market share during the review period than it did in the original investigation, in large part due to ***. By quantity, PMC's share of apparent U.S. consumption dropped by 57.0 percentage points during the review period, falling from *** percent in 2003 to *** percent in 2008.[128] Most of the domestic industry's loss of market share was gained by subject imports, as non-subject imports' U.S. market share increased, but at a lower rate than the market share gained by subject imports.[129]

As noted above, only one producer in China (Tianjin Changjie) submitted a questionnaire response in this review.[130] However, there are reportedly four other subject producers in China: Kaifeng Xinghua Fine Chemical Factory ("Kaifeng"), Shanghai Fortune Chemical Co., Ltd. ("Shanghai Fortune"), Suzhou Fine Chemicals Group Co., Ltd. ("Suzhou"), and Tianjin North Food ("Tianjin North"). Industry consultancy reports indicate that total production capacity in China for all five subject producers was *** pounds in 2007, the most recent year for which estimates are available, whereas total production in that year was estimated to be *** pounds, and total exports were estimated to be *** pounds.[131] These production and capacity levels of Chinese subject producers greatly

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[121] Original Determination at 10.

[122] Id.

[123] Id. at 11.

[124] Id.

[125] Id.

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

[127] While PMC was a relatively large importer of subject merchandise, it was responsible for *** of the increase in the volume of subject imports during the review period. See e.g., CR/PR at Tables C-1 & III-7.

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

[129] Non-subject imports' market share (by volume) increased by 22.0 percentage points during the review period, increasing from *** percent in 2003 to *** percent in 2008. CR/PR at Table C-1.

[130] CR at IV-8; PR at IV-5.

[131] See, e.g., CR/PR at Table IV-6.

exceeded those for PMC at any time during the review period, and also exceeded those of the subject producers themselves during the original investigation period.[132] [133]

Chinese subject producers were even more export-oriented during the review period than in the original investigation. During the original investigation, total exports by reporting Chinese subject producers ranged between *** pounds in 2000 and *** pounds in 2002.[134] By 2007, total exports by Chinese subject producers were estimated to have grown to *** pounds.[135] During the review period, Chinese subject producers exported between *** percent and *** percent of their total production.[136]

Moreover, Chinese subject producers had considerable excess capacity available during the review period.[137] Industry consultancy reports indicate that subject producers' capacity utilization was *** percent in 2007, with over *** pounds of unused capacity.[138] This *** pounds of unused capacity is approximately two-and-one-half times greater than the volume of total apparent U.S. consumption in any given year during the review period.[139] Subject producer Tianjin Changie reported that ***, and that its capacity utilization was just *** percent in 2008, which represented *** pounds of excess capacity or *** percent of apparent U.S. consumption in 2008.[140]

As noted above, subject producers possessed ample excess capacity that could be directed to the U.S. market if the order were revoked and subject imports maintained a significant and growing U.S. presence throughout the review period, even with the antidumping duty order in place.[141] Subject producers also were highly, and increasingly, export-oriented over the review period. Moreover, as discussed below, the United States is an attractive market for subject imports because of the prevailing high prices for saccharin. In other words, subject producers have the ability and incentive to ship

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[132] Compare CR/PR at Table IV-4 with CR/PR at Table IV-6.

[133] Tianjin Changjie alone had the capacity to produce *** pounds of saccharin throughout the review period, which substantially exceeded PMC's capacity in every year of the review period. Moreover, Tianjin Changjie produced between *** pounds and *** pounds of saccharin between 2003 and 2008, which substantially exceeded PMC's saccharin production throughout the review period. Also, Tianjin Changjie's total exports to third-country markets were substantially larger than PMC's production throughout the review period. CR/PR at Table IV-5.

[134] CR/PR at Table IV-4.

[135] See, e.g., CR/PR at Table IV-6.

[136] See e.g., CR/PR at IV-6; PR at IV-5.

[137] See, e.g., CR/PR at Table IV-6.

[138] See e.g., CR/PR at Table IV-6.

[139] See e.g., CR/PR at Tables I-9 & IV-6.

[140] In its questionnaire response, subject producer Tianjin Changjie indicated that, ***. CR at IV-8; PR at IV-5; CR at D-13 to D-14; PR at D-12 to D-13. Tianjin Changie also reported that, ***. See e.g., PMC Final Comments at 12; CR at D-13 to D-14; PR at D-12 to D-13; Hearing Tr. at 127, 131, and 150.

[141] PMC also argues that there is evidence of circumvention of the order during the review period. We note that, in its administrative review proceeding before the Department of Commerce, PMC alleged that an Indian company, Beta Udyog Ltd. ("Beta Udyog"), had "sold {Chinese} subject merchandise at less than normal value in the United States during the period of review." PMC Posthearing Br., Ex.1 at 25. Beta Udyog did not respond to Commerce's requests for information. Accordingly, Commerce included Beta Udyog in the final results of Commerce's most recent administrative review of the order covered in this five-year review. CR/PR at Table I-2. This circumvention finding by Commerce provides additional evidence of continued interest in the U.S. market by Chinese saccharin producers.

We also note that, at the hearing, Mr. Dennis Delaney, Sales Manager at TR International and a witness testifying on behalf of subject producer Tianjin Changie, acknowledged "concerns about circumvention" as a factor in his company's decision not to import saccharin from third countries including Japan or Israel. Hearing Tr. at 133-134. While such allegations concerning circumvention are part of the record in this review, we do not rely on them to support our findings on the likely volume of imports in the event of revocation.

significant volumes of saccharin to the United States if the order were revoked. For all of the foregoing reasons, we find that the volume of subject imports is likely to be significant if the order were revoked.

2. Likely Price Effects of Subject Imports

In evaluating the likely price effects of subject imports if the order under review were revoked, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared to the domestic like product and whether the subject imports are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of the domestic like product.[142]

In the original determination, the Commission found that the domestic like product and subject merchandise were interchangeable and that price was an important factor in purchasing decisions.[143] The Commission found that subject imports undersold the domestic product in all quarters and for all five product categories for which price comparisons were available; the margins of underselling ranged from 6.1 percent to 59.6 percent. [144] The Commission found this underselling to be significant.[145]

In the original determination, the Commission also found that there was significant price suppression by reason of subject imports.[146] PMC's cost of goods sold relative to net sales increased steadily over the period examined.[147] The Commission found that PMC's inability to increase prices to meet rising costs was due to a significant degree to the increased volume of low-priced subject imports.[148] The Commission also found some evidence of price depression on the record, as domestic prices for products 4 and 5 fell during the period of investigation, while the quantity of subject imports rose.[149] The Commission also noted that lost sales allegations totaling approximately $*** were confirmed.[150] In light of the large and increasing volumes of subject imports over the period, persistent underselling, significant margins of underselling, evidence of price suppression and depression, and confirmed lost sales allegations, the Commission found that subject imports had significant adverse price effects.[151]

The record evidence in this review indicates that price continues to be an important factor in purchasing decisions,[152] and that the domestic like product and subject imports continue to be interchangeable.[153] The overwhelming majority of purchasers reported that the domestic like product

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[142] See 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.

[143] Original Determination at 12.

[144] Id.

[145] Id.

[146] Id.

[147] Id.

[148] Id.

[149] Id.

[150] Id.

[151] Id.

[152] CR/PR at Tables II-3 & II-4.

[153] See, e.g., CR at II-8 to II-9; PR at II-5 to II-6; CR/PR at Table II-5.

and subject imports were "always" or "frequently" interchangeable.[154] While there is information on the record suggesting that some purchasers and importers may regard the subject merchandise as inferior in quality to domestically produced saccharin,[155] Chinese subject producers nevertheless shipped significant volumes of saccharin into the U.S. market during the review period.

In this review, the Commission collected pricing data on five different products that accounted for almost 100 percent of PMC's total reported U.S. commercial saccharin shipments and 4.5 percent of subject imports between 2003 and 2008.[156] These data indicate that, despite the discipline of the order, there was still a majority of instances of underselling by subject imports (*** of *** possible comparisons between subject imports and the domestic like product involving margins that ranged from 1.1 to 673.9 percent).[157]

The degree of underselling during the period of review under the discipline of the order, together with the significant underselling during the original investigation, indicates that underselling is likely to be significant if the order is revoked. Moreover, there is evidence that the U.S. market is attractive for subject imports because of the relatively high U.S. prices for saccharin compared to other markets.[158] In light of the above, we find that the likely significant quantities of low-priced subject imports would likely be priced aggressively to gain market share, and they would undersell the domestic like product, and this underselling would significantly suppress and/or depress U.S. prices for saccharin.[159] For all of the foregoing reasons, we conclude that subject imports from China are likely to have significant adverse price effects in the event that the order were revoked.

3. Likely Impact of Subject Imports

In evaluating the likely impact of imports of subject merchandise if the order under review 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

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[154] Eight purchasers reported that U.S.-produced saccharin and subject merchandise were "always" or "frequently" interchangeable, while just one purchaser reported that they were "sometimes" interchangeable, and just one purchaser reported that they were "never" interchangeable. CR/PR at Table II-5.

[155] CR at II-8; PR at II-5.

[156] See, e.g., CR at V-4; PR at V-3.

[157] See, e.g., CR at V-13; PR at V-4 & CR/PR at Table V-6.

[158] See, e.g., Hearing Tr. at 128, 136 ("prices outside the U.S. have been much lower" and "European pricing is much lower than U.S. pricing.") (Delaney); See also, PMC Prehearing Br. at 32. While U.S. saccharin prices were substantially higher in 2008 than earlier in the review period, we note that 2008 was reportedly aberrational in terms of higher prices. Prices generally increased over the review period. While prices increased to a very large extent during 2008, we note these prices involved relatively small sales quantities, and appear to have reflected a price spike that was the result of a world-wide shortage of saccharin that we do not find likely to continue. CR at V-4; PR at V-3. We also note that, if 2008 were excluded, subject imports undersold the domestic like product in *** of *** quarterly price comparisons. CR at V-13; PR at V-4.

[159] As noted above, Mr. Dennis Delaney, Sales Manager at TR International, testified at the hearing on behalf of subject producer Tianjin Changjie. Mr. Delaney testified that U.S. prices for saccharin would "come down substantially" if the order were revoked. Hearing Tr. at 138. Mr. Delaney also testified that, if the order were revoked, U.S. saccharin prices would decline because subject producers would enter the U.S. market at such low prices. Hearing Tr. at 137-138.

the domestic like product.[160] 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.[161] 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 were revoked.[162]

In the original investigation, the Commission found that by gaining significant market share in a growing U.S. market at the expense of PMC, low-priced subject imports had a significant adverse impact on the domestic industry, as reflected in the declining levels of shipments, production, sales, and employment, combined with increasing inventories and lack of profitability. The Commission also found that any problems PMC had with delivery and quality issues were limited in scope and did not detract from the significant adverse impact of the subject imports on the domestic industry.[163]

The domestic industry's vulnerability in this five-year review must be assessed in light of the unusual circumstances over the review period. As discussed above, PMC has struggled considerably to ramp up its saccharin production after reengineering its Maumee process, resulting in significant periods when it was not producing any saccharin. The new process, which involves considerably fewer chemical steps and fewer employees than its previous method of saccharin production, has only been operating for a few months and at very low production volumes. PMC acknowledges that ***[164] PMC claims that it has resolved ***.[165] Nevertheless, it also concedes that it will not achieve the extremely modest production targets it set for 2009 due to these difficulties. Due to the continual revisions to PMC's production process and production projections, the Commission is unable to determine whether PMC is vulnerable.

Most of PMC's performance indicators declined during the review period, largely as a result of ***, as described above. PMC's capacity declined by *** percent overall, falling from *** pounds in 2003 to *** pounds in 2008.[166] PMC's production fell by ***, dropping from *** pounds in 2003 to *** pounds in 2007, and barely increasing to just *** pounds in 2008.[167] The domestic industry's capacity utilization fell by 40.7 percentage points, dropping from *** percent in 2003 to just *** percent in 2008.[168] The domestic industry's market share declined by 57.0 percentage points, falling from *** percent in 2003 to just *** percent in 2008.[169]

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[160] 19 U.S.C. § 1675a(a)(4).

[161] 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 or the magnitude of the net countervailable subsidy" in making its determination in a five-year review. 19 U.S.C. § 1675a(a)(6). The statute defines the "magnitude of the margin of dumping" to be used by the Commission in five-year reviews as "the dumping margin or margins determined by the administering authority under section 1675a(c)(3) of this title." 19 U.S.C. § 1677(35)(C)(iv). See also SAA at 887.

[162] The SAA states that in assessing whether the domestic industry is vulnerable to injury if the order is revoked, the Commission "considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they may also demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports." SAA at 885.

[163] See, e.g., Original Determination at 17.

[164] PMC Posthearing Br., Exh. 1 at 14-15.

[165] PMC Posthearing Br., Exh. 1 at 14-15.

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

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

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

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

U.S. shipments of the domestic like product fell by *** percent, dropping from *** pounds in 2003 to only *** pounds in 2008.[170] The number of PMC's PRWs, the number of PRW hours worked, and worker productivity decreased overall during the review period. The number of workers declined from *** workers in 2003 to just *** workers in 2008;[171] the number of PRW hours worked dropped from *** hours in 2003 to *** hours in 2008;[172] and worker productivity declined from *** pounds per hour in 2003 to *** pounds per hour in 2008.[173]

The domestic industry experienced operating losses in every year during the review period except 2007 when its operating income was just $***.[174] The domestic industry's operating losses ranged from $*** in 2008 to $*** in 2003.[175] The industry's operating income was *** percent in 2003, *** percent in 2004, *** percent in 2005, *** percent in 2006, *** percent in 2007, and *** percent in 2008.[176] The domestic industry's capital expenditures were nonexistent to minimal during the review period, ranging from *** in 2003, 2006, and 2007 to a period-high of $*** in 2005.[177]

We find that revocation of the order would likely have a significant adverse impact on the domestic industry. As noted above, the volume of subject imports is likely to be significant if the order were revoked, especially since subject imports represented a large and growing presence in the U.S. market even with the order in place, and subject producers possessed substantial excess capacity and were highly export-oriented during the review period. Subject imports undersold the domestic like product in *** percent of price comparisons during the review period, even with the order in place, and in *** percent of price comparisons during the original investigation when they were not under the discipline of the order. Given the substitutability between subject imports and the domestic like product, we find that, in the event of revocation, low-priced subject imports would likely increase in absolute terms and market share at the expense of the domestic industry, significantly undersell the domestic like product, and depress and suppress prices for the domestic like product. Accordingly, we find that revocation of the order would likely have an adverse impact on the domestic industry, including the domestic industry's production, shipments, sales, market share, employment, and profits.

We also have considered the growing presence of non-subject imports in the U.S. market. The United States remains an attractive market for subject imports; subject imports gained 35.1 percentage points of market share during the review period, even under the handicap of the antidumping duty order.[178] Although non-subject imports' market share increased by *** percentage points during the review period, subject imports gained market share at a higher rate.[179] Also, non-subject imports' market share declined at the end of the review period, falling from *** percent in 2007 to *** percent in 2008, whereas subject imports more than doubled their market share in the final year of the review

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

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

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

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

[174] PMC was profitable, albeit barely, in 2007 only because it produced no saccharin in 2007, and did not have any production costs in that year, but was selling previously produced and imported saccharin out of inventory. CR/PR at Table C-1.

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

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

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

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

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

period, increasing from *** percent in 2007 to *** percent in 2008.[180] Non-subject imports from Korea, which was the largest source of non-subject imports during the review period, actually declined from 3.4 million pounds in 2004 to 2.6 million pounds in 2008.[181] [182] Moreover, the average unit values ("AUVs") of non-subject imports were higher than the AUVs for subject imports in 2007 and 2008, indicating that subject imports would likely be priced more aggressively than non-subject imports if the order were revoked.[183] We therefore find that subject imports are likely to have a significant adverse impact upon the domestic industry if the order were revoked notwithstanding the growing presence of non-subject imports in the U.S. market.

CONCLUSION

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

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

[181] PMC Posthearing Br., Exh. 1 at 45.

[182] See, e.g., Hearing Tr. at 137 (Delaney) ("My opinion is that, especially the Koreans, they look at the U.S. market and if the antidumping order is revoked, then prices are going to come down substantially and they may not have a business anymore. They may not be able to enter – the Koreans may be out of this market.").

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

PART I: INTRODUCTION AND OVERVIEW

BACKGROUND

On June 2, 2008, the Commission gave notice, pursuant to section 751(c) of the Tariff Act of 1930 (the Act), that it had instituted a review to determine whether revocation of the antidumping duty order on saccharin from China would likely lead to the continuation or recurrence of material injury to a domestic industry. Effective September 5, 2008, the Commission determined that it would conduct a full review pursuant to section 751(c)(5) of the Act. Information relating to the background and schedule of the review is provided in the following tabulation.[1]

Effective date	Action
May 20, 2003	Commerce's antidumping duty determination (68 FR 27530, May 20, 2003), amended by 68 FR 35383, June 13, 2003)
June 2, 2008	Commission's institution of a review (73 FR 31504, June 2, 2008)
September 5, 2008	Commission's decision to conduct a full review (73 FR 53444, September 16, 2008)
October 9, 2008	Commerce's final results of an expedited review (73 FR 59604, October 9, 2008)
November 24, 2008	Commission's scheduling of the review (73 FR 72837, December 1, 2008)
March 26, 2009	Commission's hearing[1]
May 8, 2009	Date of the Commission's vote
May 21, 2009	Commission's determination and views were transmitted to Commerce
[1] App. B is a list of witnesses who appeared at the hearing.	

The Original Investigation

On July 11, 2002, a petition was filed with Commerce and the Commission alleging that an industry in the United States was materially injured and threatened with material injury by reason of imports of saccharin from China that were alleged to be sold in the United States at less than fair value ("LTFV"). In May 2003, Commerce made final an affirmative antidumping ("AD") determination. The Commission made a final affirmative injury determination in June 2003 and Commerce issued its antidumping duty order thereafter.[2]

Previous Investigations

Saccharin was the subject of previous Commission antidumping investigations in 1977 and 1993-94. In the 1977 investigations, the Commission determined that an industry in the United States was not

[1] The Commission's notice of institution, notice to conduct a full review, scheduling notice, and statement on adequacy appear in app. A and may also be found at the Commission's web site (internet address *www.usitc.gov*). Commissioners' votes on whether to conduct an expedited or full review may also be found at the web site.

[2] AD determination on China - 68 FR 27530, May 20, 2003, as amended by 68 FR 35383, July 13, 2003.

injured or likely to be injured by reason of LTFV imports from Japan and Korea.[3] In the 1993-94 investigations, involving China and Korea, Commerce determined that there were no sales at LTFV of saccharin from Korea and the Commission determined that an industry in the United States was not materially injured or threatened with material injury, and the establishment of an industry in the United States was not materially retarded, by reason of LTFV imports of saccharin from China.[4]

In July 2002, the U.S. saccharin industry filed for relief from alleged LTFV imports of saccharin from China.[5] The Commission published its affirmative final determination on imports of saccharin from China in June 2003. An antidumping duty order covering imports of saccharin from China was issued in July 2003.[6] [7] [8] On June 2, 2008, Commerce and the Commission initiated the current five-year "sunset" review of the antidumping duty order on China.[9]

Summary Data

Table I-1 presents a summary of data from the original investigation and from this review.

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[3] *Saccharin from Japan and the Republic of Korea*, Investigations No. AA1921-174 and 175, USITC Pub. 846, December 1977. Sherwin-Williams Co. (whose saccharin production unit was subsequently purchased by PMC, the petitioner in the 2002 investigation) filed the complaint which led to these investigations.

[4] *Saccharin from China*, Investigation No. 731-TA-675 (Final), USITC Pub. 2824, December 1994. PMC was the petitioner in these investigations.

[5] PMC was the petitioner.

[6] 68 FR 40906, July 9, 2003.

[7] On April 10, 2006, in response to a request by PMC on June 7, 2005, and initated by Commerce on October 26, 2005, Commerce issued a preliminary scope ruling that insoluble (acid) saccharin from China, converted in Israel into any other form of saccharin, is within the scope of the antidumping duty order covering saccharin from China. On September 29, 2006, PMC withdrew its request for a scope clarification, and request that Commerce terminate or rescind the scope inquiry. When asked at the hearing why PMC withdrew this request, PMC's response was that it "just decided that it needed to place its efforts and money to engineer our process instead of diluting our efforts and money to pursue that case." (Transcript, p. 50 (Bouligaraki)).

[8] On May 13, 2008, the Commission received a changed circumstances review request from Cumberland Packing Corp. ("Cumberland"), a domestic user of saccharin and Helm New York, Inc. ("Helm"), an importer of record, citing cessation of PMC saccharin production mid-2006 and an alleged joint venture among PMC and two substantial producers of saccharin in China. (Request for changed Circumstances Review and Revocation of Antidumping Duty Order Issued in *Saccharin From the People's Republic of China*, 68 Fed. Reg. 40906 (July 8, 2003). On June 2, 2008, this request was withdrawn. ***. (Cumberland's purchasers' questionnaire response, section II-3b.)

[9] 73 FR 31504, June 2, 2008, and 73 FR 31974, June 5, 2008, respectively. On September 5, 2008, the Commission determined to conduct a full review. 73 FR 53444, September 16, 2008.

Table I-1
Saccharin: Summary data from the original investigation and the current review, 2000-02 and 2003-08
(Quantity=*1,000 pounds*; value=*1,000 dollars*; unit values, unit labor costs, and unit financial data are *per pound*)

Item	2000	2001	2002	2003	2004	2005	2006	2007	2008
U.S. consumption quantity: Amount	***	***	***	***	***	***	***	***	***
Producers' share[1]	***	***	***	***	***	***	***	***	***
Importer's share: China[1 2]	***	***	***	***	***	***	***	***	***
All other countries[1]	***	***	***	***	***	***	***	***	***
Total imports[1]	***	***	***	***	***	***	***	***	***
U.S. consumption value: Amount	***	***	***	***	***	***	***	***	***
Producers' share[1]	***	***	***	***	***	***	***	***	***
Importer's share: China[1 2]	***	***	***	***	***	***	***	***	***
All other countries[1]	***	***	***	***	***	***	***	***	***
Total imports[1]	***	***	***	***	***	***	***	***	***
U.S. imports from- China:[2]									
Quantity	1,409	2,598	3,546	15	3	2	226	1,115	2,951
Value	2,353	4,011	5,574	26	8	13	736	3,433	28,863
Unit value	$1.67	$1.54	$1.57	$1.72	$2.70	$7.03	$3.26	$3.08	$9.78
All other countries:									
Quantity	1,363	1,490	1,767	2,982	3,937	4,608	4,275	4,931	5,396
Value	2,963	3,195	3,497	6,795	10,211	14,297	13,315	15,705	55,618
Unit value	$2.17	$2.14	$1.98	$2.28	$2.59	$3.10	$3.11	$3.18	$10.31
All countries:									
Quantity	2,772	4,088	5,313	2,997	3,940	4,610	4,501	6,046	8,346
Value	5,316	7,206	9,071	6,821	10,219	14,310	14,050	19,137	84,481
Unit value	$1.92	$1.76	$1.71	$2.28	$2.59	$3.10	$3.12	$3.17	$10.12

Source: Compiled from data submitted in PMC's U.S. producers' questionnaire response and from official import statistics of the U.S. Department of Commerce in both the original investigation and in the current review.

Table I-1--*Continued*
Saccharin: Summary data from the original investigation and the current review, 2000-02 and 2003-08

* * * * * * *

Statutory Criteria and Organization of the Report

Section 751(c) of the Act requires Commerce and the Commission to conduct a review no later than five years after the issuance of an antidumping or countervailing duty order or the suspension of an investigation to determine whether revocation of the order or termination of the suspended investigation "would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury."

Section 752(a) of the Act provides that in making its determination of likelihood of continuation or recurrence of material injury--

> *(1) IN GENERAL.-- . . . the Commission shall determine whether revocation of an order, or termination of a suspended investigation, would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. The Commission shall consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the order is revoked or the suspended investigation is terminated. The Commission shall take into account--*
>
> > *(A) its prior injury determinations, including the volume, price effect, and impact of imports of the subject merchandise on the industry before the order was issued or the suspension agreement was accepted,*
> > *(B) whether any improvement in the state of the industry is related to the order or the suspension agreement,*
> > *(C) whether the industry is vulnerable to material injury if the order is revoked or the suspension agreement is terminated, and*
> > *(D) in an antidumping proceeding . . ., (Commerce's findings) regarding duty absorption . . .*
>
> *(2) VOLUME.--In evaluating the likely volume of imports of the subject merchandise if the order is revoked or the suspended investigation is terminated, the Commission shall consider whether the likely volume of imports of the subject merchandise would be significant if the order is revoked or the suspended investigation is terminated, either in absolute terms or relative to production or consumption in the United States. In so doing, the Commission shall consider all relevant economic factors, including--*
>
> > *(A) any likely increase in production capacity or existing unused production capacity in the exporting country,*
> > *(B) existing inventories of the subject merchandise, or likely increases in inventories,*
> > *(C) the existence of barriers to the importation of such merchandise into countries other than the United States, and*
> > *(D) 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.*

(3) PRICE.--In evaluating the likely price effects of imports of the subject merchandise if the order is revoked or the suspended investigation is terminated, the Commission shall consider whether--

(A) there is likely to be significant price underselling by imports of the subject merchandise as compared to domestic like products, and

(B) imports of the subject merchandise are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of domestic like products.

(4) IMPACT ON THE INDUSTRY.--In evaluating the likely impact of imports of the subject merchandise on the industry if the order is revoked or the suspended investigation is terminated, the Commission shall consider all relevant economic factors which are likely to have a bearing on the state of the industry in the United States, including, but not limited to--

(A) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity,

(B) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, and

(C) 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.

The Commission shall evaluate all such relevant economic factors . . . within the context of the business cycle and the conditions of competition that are distinctive to the affected industry.

Section 752(a)(6) of the Act states further that in making its determination, "the Commission may consider the magnitude of the margin of dumping or the magnitude of the net countervailable subsidy. If a countervailable subsidy is involved, the Commission shall consider information regarding the nature of the countervailable subsidy and whether the subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement."

Information obtained during the course of the review that relates to the above factors is presented throughout this report. A summary of data collected in the review is presented in appendix C; table C-1 presents data on the total U.S. market for saccharin. U.S. industry data are based on the questionnaire response of the one firm that accounted for all U.S. production of saccharin during 2003-08. U.S. import data are based on official Commerce statistics for all sources. Responses by the U.S. producer, importers, and purchasers of saccharin to a series of questions concerning the significance of the existing antidumping duty order and the likely effects of revocation are presented in appendix D.

COMMERCE'S ORIGINAL INVESTIGATION AND ITS REVIEWS

Administrative Reviews

China

Commerce completed two antidumping duty order administrative reviews with regard to subject imports of saccharin from China. Information on Commerce's administrative reviews of the subject order on China are presented in table I-2.

Table I-2
Saccharin: Administrative reviews of the antidumping duty order for China

FR citation	Period of review	Producer or exporter	Margin
71 FR 7515 (February 13, 2006)	12/27/2002-6/30/2004	Shanghai Fortune Chemical Co., Ltd.	17.05
		All others[1]	329.33
72 FR 51800 (September 11, 2007)	7/1/2005-6/30/2006	Shanghai Fortune Chemical Co., Ltd.	0.00
		All others[1]	329.33

[1] The all other rate includes: Suzhou Fine Chemicals Group Co., Kaifeng Xinghua Fine Chemical Factory, Tianjin North Food, Tianjin Changjie Chemical Co., Ltd., and Beta Udyog Ltd. 71 FR 7515 (February 13, 2006). Beta Udyog ***. As part of the first annual administrative review (69 FR 52857, August 30, 2004), PMC requested that Commerce review entries from several foreign exporters/producers, including Beta Udyog. Beta Udyog did not respond to Commerce's request for information and Commerce issued its determination including Beta Udyog under the order. PMC's posthearing brief, exh. 9 and PMC's Responses to Plant Trip Questions, pp. 5-6.

Source: Cited *Federal Register* notices.

Results of Original Investigations and Expedited Five-Year Reviews

Table I-3 presents the margins calculated by Commerce in its original investigation and in its expedited reviews on China.

Table I-3
Saccharin: Commerce's original and five-year review antidumping duty margins for producers/exporters in China

Producer/exporter	Original margins[1] (*percent ad valorem*)	First five-year review margins[2] (*percent ad valorem*)
	China[1]	
Suzhou Fine Chemical Group Co., Ltd.	291.57	291.57
Shanghai Fortune Chemical Co., Ltd.	249.39	249.39
Kaifeng Xinhua Fine Chemical Factory	281.97	281.97
China-wide	329.94	329.94

[1] Notice of Final Determination of Sales at Less Than Fair Value: Saccharin From the People's Republic of China, 68 FR 27530, May 30, 2003; Notice of Amended Final Determination of Sales at Less Than Fair Value: Saccharin From the People's Republic of China, 68 FR 35383, June 13, 2003; Notice of Antidumping Duty Order: Saccharin from the People's Repubic of China, 68 FR 40906, July 9, 2003.
[2] Saccharin from the People's Republic of China: Notice of Final Results of Expedited Sunset Review of Antidumping Duty Order, 73 FR 59604, October 9, 2008.

Source: Cited *Federal Register* notices. Commerce's notice of final results of expedited review is presented in app. A.

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.[10] During the period of review, PMC was the only qualified U.S. producer of saccharin 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.[11] Table I-4 presents CDSOA disbursements and claims for Federal fiscal years (October 1-September 30) 2004-08.

Table I-4
Saccharin: Industry CDSOA disbursements, Federal fiscal years 2004-08

Fiscal year	Amount disbursed (*dollars*)	Amount claimed (*dollars*)
2004	3	20,843,187
2005	3,980	20,843,184
2006	39,030	20,839,204
2007	([1])	([1])
2008	95,599[2]	20,800,174
Total	138,612	83,325,749

[1] Not applicable, no filings listed on Customs' website.
[2] Data are for fiscal year 2008 as of January 15, 2009.

Source: Custom's *CDSOA Annual Reports* for disbursement and claims data for 2004-08 at http://www.cbp.gov/xp/cgov/trade/priority_trade/add_cvd/cont_dump/, retrieved February 23, 2009.

THE SUBJECT PRODUCT

According to Commerce's scope, the imported product subject to the antidumping duty order under review is defined by Commerce as follows:

> "*Saccharin is defined as a non-nutritive sweetener used in beverages and foods, toothpaste, table top sweeteners, and animal feeds. It is also used in metalworking fluids. There are four primary chemical compositions of saccharin: (1) Sodium saccharin (American Chemical Society Chemical Abstract Service ("CAS") Registry 128-44-9); (2) calcium saccharin (CAS Registry 6485-34-3); (3) acid (or insoluble) saccharin (CAS Registry 81-07-2); and (4) research grade saccharin. Most of the U.S.-produced and imported grades of saccharin from China are sodium and calcium saccharin, which are available in granular, powder, spray-dried powder, and liquid forms. The merchandise subject to this order is currently classifiable under subheading 2925.11.00 of the Harmonized Tariff Schedule of the United States (HTSUS) and includes all types of saccharin imported under this HTSUS subheading, including research and specialized grades. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this order remains dispositive.*"

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

[11] 19 CFR 159.64(g).

U.S. Tariff Treatment

Imports of this product are currently classifiable as saccharin and its salts under Harmonized Tariff Schedule of the United States ("HTS") subheading 2925.11.00 as set forth in the following tabulation:

HTS provision	Article description	General[1]	Special[2]	Column 2[3]
		Rates		
2925	Carboxyimide-function compounds (including saccharin and its salts) and imine-function compounds: Imides and their derivatives; salts thereof:			
2925.11.00	Saccharin and its salts	6.5 %	Free (A, AU, BH, CA, CL, E, IL, J, JO, MA, MX, OM, P, PE, SG)	15.4¢/kg + 61%

[1] Normal trade relations, sometimes referred to as the most-favored-nation duty rate.
[2] Special rates apply to imports of saccharin and its salts 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); OM (United States-Oman Free Trade Agreement Implementation Act) ;P (Dominican Republic-Central America-United States Free Trade Agreement Implementation Act); PE (United States-Peru Trade Promotion Agreement Implementation Act); SG (United States-Singapore Free Trade Agreement). China is not eligible for any special duty rates.
[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 (2009).

Physical Characteristics and Uses

Made from petroleum-based organic chemicals, saccharin is a chemical additive that is used primarily as a sweetener. First synthesized in 1879, it has been used in the United States as a sugar substitute since 1885,[12] primarily in foods and beverages (either commercially added prior to consumption or personally added at the time of consumption) and in personal care products such as toothpaste and mouthwash. By weight, it is about 350 times sweeter than sugar. It is also used as an additive in adhesives and in metalworking fluids to facilitate electroplating. End users for the foods and beverages markets are mostly soft-drink manufacturers and manufacturers of table-top sweetener packets for restaurants, airlines, and other firms serving beverages to the public. The auto and auto parts industries consume saccharin in electroplating chrome bumpers and accessories. Saccharin is also used in pharmaceuticals, animal feed, tobacco, and food mixes.

[12] Saccharin's use as a sweetener increased dramatically during World War I when most sugar was rationed and sent to the troops. See "The History, Synthesis, Metabolism and Uses of Artificial Sweeteners," Greg Hodgin, obtained online at http://wcw.emory.edu/ECIT/chem_ram/synth/Hodgin.htm on August 13, 2002.

Three chemical variations of saccharin are generally available:[13] (1) sodium saccharin, which accounts for the bulk of U.S. consumption and which is available in granular, powder, spray-dried powder, or liquid form, (2) calcium saccharin which is available in spray-dried form, and (3) acid (or insoluble) saccharin which is primarily available in spray-dried form. Like that produced in the United States, most of the material imported from China is sodium saccharin. The U.S. and Chinese producers, or at least those that export to the United States, appear to produce reasonably comparable products. Before purchasing, most users either require a certificate of analysis or conduct their own tests for purity and for adherence to Food and Drug Administration (FDA) specifications outlined in the Food Chemical Codex (FCC) and the United States Pharmacopeia (USP). Saccharin that meets these standards is known in the market as "food grade" and is required for virtually all uses other than adhesive production and electroplating. Both the U.S.- and Chinese-produced products are marketed as "food grade."

Pursuant to a study that found saccharin to be a cancer-causing agent in rats, the FDA banned the use of saccharin in food and beverages in 1977. Shortly thereafter, Congress imposed a moratorium on the ban, but subjected the sale of saccharin to certain requirements. The Saccharin Study and Labeling Act, renewed through May 1997, mandated that health warning labels be placed prominently on all products containing saccharin. According to the petitioner, saccharin's association with cancer and the warnings pertaining thereto had a negative impact in some market sectors in the late 1980s, particularly the packaged (non-fountain) soft drink market, and was a factor in helping the only other major artificial sweetener, aspartame,[14] [15] to displace sales. However, after further study, including tests involving mice

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[13] A fourth variation of saccharin known as research grade saccharin was listed in the petition and is included in the scope of this review. However, no sales of research grade saccharin were reported by PMC, U.S. importers, and Chinese exporters during the period examined at the final investigation or at the current review. At the public hearing of the final investigation, there was testimony that Sherwin-Williams Chemicals (prior to PMC's purchase of its saccharin production facilities) quarantined a regular-production batch of sodium saccharin, which was then completely analytically tested to ensure that it was not an abnormal batch. This material was called research grade saccharin and was used by the University of Nebraska and other institutions that studied the health impact of saccharin. (See hearing transcript of the final investigation, pp. 56-57.)

[14] Aspartame is produced by a completely different chemical process and, other than being synthesized from organic compounds, bears no chemical relationship to saccharin. It is about 200 times sweeter than sugar and, unlike saccharin, has nutritive value with a caloric-count-to-weight ratio comparable to that of sugar. Aspartame's major advantage over saccharin in the marketplace, other than not having the stigma of a carcinogen that saccharin had until recently with the warning label requirement, is that it is closer to natural sweeteners in taste; on the other hand, it is 10 to 15 times more expensive than saccharin (on a sugar equivalency basis). Hearing transcript of the final investigation, p. 24. Aspartame is used in two of saccharin's major markets--packaged (non-fountain) soft drinks and table-top sweeteners, but is not used in some saccharin end use applications such as electroplating, adhesives, and chemical intermediaries.

[15] Questions concerning the safety of aspartame, particularly the linkage between aspartame consumption by children and certain brain disorders including tumor development and epilepsy, also continue despite repeated examinations. In May 2002, a study published by the French Food Safety Agency (Agence Française de Sécurité Sanitaire des Aliments (AFSSA)) concluded that

> "{n}one of the carcinogenicity tests that have been conducted on rodents indicated a relationship between treatment with aspartame and the appearance of brain tumors. The epidemiological study by Olney et al. (Olney JW, Farber NB, Spitznagel E, Robins LN. "Increasing brain tumour rates: is there is a link to aspartame?," *J. Neurpathol. Exp. Neurol.,* 1996, 55(11), pp. 1115-1123) which suggested a link between the placing on the market of aspartame and a possible increase in the frequency of brain cancers in humans did not provide any scientific evidence to justify or demonstrate a basis for this suggestion; to date it has not been confirmed. Analysis of the scientific literature has demonstrated a lack of evidence based on the current state of knowledge which would enable a causal link to be established between the consumption of aspartame and the occurrence of epileptic seizures or anomalies on an electroencephalogram."

(continued...)

and monkeys, evidence strongly supported the conclusion that saccharin does not cause cancer in humans and the FDA delisted saccharin and on December 21, 2000, President Clinton signed the SWEETEST Act, which removed the warning label on all products using saccharin.[16]

The large packaged-soft-drink manufacturers, such as Coca Cola and Pepsi, switched from saccharin to aspartame in their products that were bottled for retail sale in 1983, 6 years after the Saccharin Study and Labeling Act of 1977 requiring a warning label on products containing saccharin took effect. However, because of the limited shelf life of aspartame, the large packaged-soft-drink manufacturers continued to use saccharin in their products for use in beverage dispensing equipment. With the lifting of the warning label and the growing use of blends, petitioner states that food formulators have used saccharin with other sweeteners to create cost-effective taste profiles in products prepared for retail sale.[17] Adding saccharin to blends reduces the total cost of the sweetener product since most sweeteners are more expensive than saccharin.[18] The amount of saccharin used in the blends varies from product to product depending on the desired food taste requirements. PMC stated that roughly 20 percent of its total sales of saccharin are used in products that contain blends.[19]

Manufacturing Processes

Two production processes are currently in use worldwide: the Maumee process, a continuous-production method which was developed in the United States and is the only process used domestically, and the older Remsen-Fahlberg process, a batch-production method using different starting materials,[20] that is the predominant method used worldwide. Both processes are used in China. The Maumee process will be discussed presently.

Beginning in 2007, PMC underwent a major renovation in their process for making saccharin. For that reason, the original Maumee process and its modifications will be discussed in some detail. During the Commission plant trip, the company representatives referred to the overall process of making saccharin as consisting of a "front end" and a "back end." The front end refers to the chemical reactions that make the crude saccharin (irrespective of the process), and the back end refers to the process of purifying and crystallizing the crude product (irrespective of the process)[21].

The following discussion will refer primarily to the front end of the process used by PMC. "***."[22]

The company stated that important advantages of the process (relative to the Remsen-Fahlberg process) included:

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[15] (...continued)
Assessment Report, AFSSA, May 7, 2002, p. 12.

[16] Hearing transcript of the final investigation, p. 20. The SWEETEST Act is an acronym for the Saccharin Warning Elimination via Environmental Testing Employing Science and Technology Act. See "Congress Gives Saccharin a Clean Bill of Health" press release of the Calorie Control Counsel obtained on line at http://www.caloriecontrol.org/pr12-22-00.html dated December 22, 2000.

[17] Hearing transcript of the final investigation, pp. 35-38.

[18] Ibid., pp. 36 and 40.

[19] Ibid., p. 51.

[20] Ortho-toluene sulfonamide is the starting material for the Remsen-Fahlberg process. Hearing transcript, p. 21; petition, p. 4. The discussion of the Maumee process which follows will contain a flow chart of the Remsen-Fahlberg process.

[21] Commission PMC Plant Trip, February 3, 2009. During the initial discussion, the company representatives discussed the chemical reactions (using a chemical flow chart, figure I-1) used to make saccharin by the Remsen-Fahlberg process, the Maumee process (and early modifications), and the latest Maumee modification. However, the plant tour followed the Maumee modification and its purification.

[22] The actual chemical reactions for the Maumee process are as follows: ***.

1. ***.
2. ***.
3. ***.

Reengineered Maumee Process

"***."[23] "***."[24] "***."[25]

PMC noted that as with saccharin, MA was produced at the Cincinnati location. ***, which are the chemicals used in the reactions found in figures I-1 and I-2.[26]

Figure I-1
Saccharin chemistry

* * * * * * *

Figure I-2
Saccharin purification

* * * * * * *

To put the manufacturing of MA and saccharin in perspective, the company noted "***." "***."[27] Chemical reactions that comprise the reengineered saccharin process from *** are presented in figure I-3.

Figure I-3
Synthesis of saccharin from *

* * * * * * *

Interchangeability and Customer and Producer Perceptions

The majority of U.S. producer and importer questionnaire respondents reported that the U.S.-produced product is always or frequently interchangeable with ***. With respect to customer and producer perceptions, questionnaire respondents reported *** with regard to price. The U.S. product was rated inferior to imports from China in terms of ***. More detailed information on interchangeability and customer and producer perceptions can be found in Part II of this report, *Conditions of Competition in the U.S. Market*.

[23] ***. (Commission staff telephone conversation with Customs National Import Specialist Richard Dunkel, April 14, 2009.)

[24] PMC *Responses to Plant trip Questions, attachment 1, p. 2.*

[25] PMC *Responses to Plant trip Questions, question 2, p. 2.*

[26] Jim McKenna, PMC, *Description of Saccharin Retooling*, December 17, 2008.

[27] PMC *Responses to Plant Trip Questions*, question 7, p. 5.

Channels of Distribution

During the period examined in this review, shipments of saccharin by the U.S. producer went entirely to ***. For imports of saccharin from China, the majority of shipments went to *** while imports of saccharin from nonsubject countries went primarily to ***. More detailed information on channels of distribution can be found in Part II of this report, *Conditions of Competition in the U.S. Market*.

Price

Information with regard to prices of saccharin is presented in Part V of this report, *Pricing and Related Information*.

DOMESTIC LIKE PRODUCT ISSUES

In the preliminary phase of the original investigation, the Commission found that there was one domestic like product consisting of all forms of saccharin. The Commission made this finding based on the similarity in physical characteristics and uses, general interchangeability, common channels of distribution, common manufacturing facilities and production process, and general similarity in price. In the final phase of the investigation, no party argued that the Commission should revisit its like product finding, nor did any facts arise that would otherwise indicate that the Commission should so do.[28] [29] In response to a question soliciting comments regarding the appropriate domestic like product in the Commission's notice of institution of these reviews, the domestic interested party stated that it agreed with the Commission's established definition of the domestic like product and agreed with the definitions of domestic like product and domestic industry stated in the Commission's Notice of Institution.[30]

U.S. MARKET PARTICIPANTS

U.S. Producers

The Commission received U.S. producer questionnaire responses from one producer that manufactured saccharin during 2003-July 2006 and in 2008, as presented in table I-5.

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[28] *Saccharin From China*, Inv. No. 731-TA-1013 (Final), Pub. 3606, June 2003, p. 5. The Commission found that the scope of the investigation pertained solely to saccharin. No party argued that the Commission should find that the domestic like product includes alternative sweeteners, such as aspartame. While the Commission may define the like product to be broader than the scope if the facts so warrant, see, e.g., *Certain Pasta from Italy and Turkey*, Inv. Nos.701-TA-365 and 366 and 731-TA-734 and 735 (Final), USITC Pub. 2977 at 8-12 (July 1996), the Commission found that the record did not indicate that a broader like product was appropriate here.

[29] Ibid. In its final phase prehearing brief, the Pro Trade Group's U.S. Sweetener Users Coalition stated that the Commission should consider whether sodium saccharin and calcium saccharin are separate domestic like products, and stated further that it would discuss this matter further at the hearing. Coalition's Prehearing Brief at 1. At the hearing, however, the Coalition explained that it was not seeking a finding of two domestic like products, but wished to point out the differences in the forms of saccharin in the context of conditions of competition. Hearing transcript, p. 181 (Aitken).

[30] PMC's Response to Notice of Institution, p. 11.

Table I-5
Saccharin: U.S. producer, production location, share of reported 2008 production, position on continuation of the antidumping and countervailing duty orders, and parent company, 2008

Producer	Production location(s)	Share of reported production *(percent)*	Position on continuation	Parent company
PMC	Cincinnati, OH	100	Support	***
Source: Compiled from data submitted in response to Commission questionnaires.				

Information for the domestic producer during the original investigations is the same as presented in table I-5.

U.S. Importers

Importers' questionnaires were sent to 35 firms identified in proprietary Customs data as importing saccharin;[31] eighteen firms responded to the Commission's questionnaires (table I-6).

Table I-6
Saccharin: U.S. importers, their locations, import sources, and their reported U.S. imports (*1,000 pounds*) in 2008

* * * * * * *

The largest importers of subject product, ***, accounted for an aggregate *** percent of reported subject import quantity in 2008. Individually, the companies' 2008 subject import quantity percentages are as follows: ***.

U.S. Purchasers

Purchasers' questionnaires were sent to 24 firms identified as purchasers of saccharin, fifteen firms responded to the Commission's questionnaires. Respondent purchaser names, locations, sources of purchases, type of firm, and end products produced are presented in table I-7.

Table I-7
Saccharin: Purchaser names, location, source of purchases, type of firm, and end products produced

* * * * * * *

APPARENT U.S. CONSUMPTION AND MARKET SHARES

Table I-8 presents apparent U.S. consumption for both the original investigation and the review period and table I-9 presents U.S. market shares for the same period.

[31] In addition, an importers' questionnaires was sent to the domestic producer PMC ***.

Table I-8
Saccharin: U.S. shipments of domestic product, U.S. imports, and apparent U.S. consumption, 2000-02 and 2003-08

* * * * * * *

Table I-9
Saccharin: U.S. market shares, 2000-02 and 2003-08

* * * * * * *

PART II: CONDITIONS OF COMPETITION IN THE U.S. MARKET

U.S. MARKET SEGMENTS/CHANNELS OF DISTRIBUTION

The saccharin marketed in the United States by PMC and by importers is used in various consumer products as well as industrial and agricultural applications. Generally, there is little seasonality in the demand for saccharin in most uses. One exception is diet soft drinks. As sales of soft drinks increase during summer months the demand for the saccharin used in these beverages also increases.[1]

*** sales of saccharin in the United States by PMC went to *** during 2003-08; sales by importers of Chinese-produced saccharin were divided between end users and distributors during this period, with the majority going to end users in all years except 2004 as shown in table II-1.

Table II-1
saccharin: U.S. producers' and importers' shares of reported U.S. shipments, by source and channel of distribution, 2003-08

Item	Calendar year					
	2003	2004	2005	2006	2007	2008
	Share of reported shipments *(percent)*					
Domestic producers' U.S. shipments of saccharin to:						
Distributors	***	***	***	***	***	***
End users	***	***	***	***	***	***
U.S. importers' U.S. shipments of saccharin from China to:						
Distributors	35.0	100.0	(1)	0.0	36.5	17.8
End users	65.0	0.0	(1)	100.0	63.5	82.2
U.S. importers' U.S. shipments of saccharin from all other countries to:						
Distributors	1.9	2.9	11.5	10.1	20.7	9.4
End users	98.1	97.1	88.5	89.9	79.3	90.6

[1] No shipments reported.

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

Lead times for delivery of saccharin vary widely. PMC reported that delivery requires only *** day when the product is sold from inventory, but requires *** days when it is produced to order. *** percent of PMC's sales are from inventory and *** percent are produced to order. Importers of product from China reported that lead times typically range from 1 to 7 days if saccharin is in stock in the United States. However, if it has to be ordered, 2 to 4 months may be required. Among eight responding importers of saccharin from China, four reported that all or a majority of their sales are from inventory and four reported that all or a majority of their sales are produced to order.

[1] Original investigation, conference transcript, p. 41 (McCullough).

PMC sells saccharin ***, while market areas for Chinese imports vary. Five of nine responding importers of Chinese product said that they sell saccharin throughout the United States. The other four firms reported selling in the Midwest, Northeast, Southeast, Southwest, and West Coast.

SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

The sensitivity of the domestic supply to changes in price depends on several factors including the level of excess capacity, the availability of alternate markets for U.S.-produced saccharin, inventory levels, and PMC's ability to shift to the manufacture of other products. PMC produced ***.

PMC had *** excess capacity during 2003-06 and had a *** ratio of exports to total shipments during this period. PMC's capacity utilization was *** percent in 2003, *** percent in 2004, *** percent in 2005 and *** percent in 2006. During 2003-06, the ratio of exports to total shipments ranged from a low of *** in 2004 to a high of *** percent in both 2003 and 2005. During 2003-06, the ratio of inventories to U.S. shipments ranged from a low of *** percent in 2004 to a high of *** percent in 2006. PMC reported that *** .

PMC was asked how easily it could shift its sales between the U.S. market and alternative country markets. PMC reported that ***.

Subject Imports

Just one foreign producer, Tianjin Changjie, submitted a questionnaire. Prior to 2003, Tianjin Changjie exported saccharin to the United States ***.

During the 2003-08 period, Tianjin Changjie reported capacity utilization rates for saccharin ranging from a low of *** percent in *** to a high of *** percent in ***. Tianjin's end-of-period inventories to total shipments ranged from a low of *** percent in *** to a high of *** percent in ***. Home market shipments have consistently accounted for a *** share of Tianjin's total shipments. These home market shipments ranged from a low of *** percent of total shipments in *** to a high of *** percent in ***. During 2008, they accounted for *** percent of total shipments. Exports shipments ranged from a low of *** percent of total shipments in *** to a high of *** percent in ***. During ***, *** percent of the quantity of Tianjin Changjie's shipments went to ***, *** percent went to ***, and *** percent went to other markets. No shipments went to the ***. The *** inventory level and *** of excess capacity indicate that Tianjin Changjie would be able to shift shipments of saccharin to the United States.

U.S. Demand

Since saccharin is an intermediate product used in various consumer products and agricultural and industrial applications, the overall U.S. demand for saccharin depends upon the demand for the products that use it as an input. Saccharin is an input in many products including soft drinks, table top sweeteners, certain foods, toothpaste, mouthwash, pharmaceuticals, animal feed, herbicides, and metal-working fluids. The overall demand for saccharin, as measured by U.S. apparent consumption, increased irregularly from *** pounds in 2003 to *** pounds in 2008.

When asked whether the U.S. demand for saccharin had increased, decreased, or remained the same since 2003, the majority of questionnaire respondents reported that demand had decreased or

remained the same. None reported that demand had increased. ***.[2] Among 9 responding importers, 6 reported that demand was unchanged, and 3 reported that it had decreased. Among 10 responding purchasers, 4 reported that demand had decreased, 2 reported that demand was unchanged, and 4 reported "other." Among importers and purchasers reporting a decrease in demand, reasons cited included the effects of the antidumping duties, the substitution of other sweeteners for saccharin, and cost increases for saccharin. Among purchasers reporting "other," one firm stated that demand had fluctuated and another stated that demand had first increased and then decreased.

Substitute Products

When asked whether substitutes for saccharin exist, PMC and a majority of importers and purchasers listed one or more substitutes. The most frequently mentioned were acesulfame K, sucralose, aspartame, and a more recently developed sweetener, stevia.[3] Comments by questionnaire respondents indicate that these other products are not easily substitutable for saccharin in most applications. Reasons cited included the higher costs of these sweeteners and differences in taste.[4] When asked whether the changes in the price of the alternative sweeteners affect the price of saccharin, most respondents answered no. One purchaser reported that changes in their prices influence the price of saccharin to a minor degree.

Cost Share

When asked to estimate the cost of saccharin as a share of the final cost of end-use products, the estimated percentages by questionnaire respondents varied widely from product to product. PMC estimated that saccharin accounts for about *** percent of the cost of pharmaceuticals, personal care products, and sweeteners. Estimates provided by end-use purchasers for dental products, mouthwash, cough medicines were consistently lower than 10 percent, and, in some cases, less than 1 percent. However, one firm estimated that saccharin accounts for *** percent of the cost of its toothpaste. Another firm estimates that saccharin accounts for *** percent of the cost of its electroplating process, another purchaser estimated that it accounts for about *** percent of the raw material cost of biocides, and another purchaser estimated that it accounts for *** percent of the cost of its table top sweetener.[5]

SUBSTITUTABILITY ISSUES

The extent of substitutability between domestic products and subject imports, between domestic products and nonsubject imports, and between subject and nonsubject imports is examined in this section. Much of the discussion is based on information obtained from questionnaire responses.

A total of 14 purchasers submitted completed questionnaires. They included eight distributors and six end users. The end users reported that they used saccharin in toothpaste, table top sweeteners, oral care products, pharmaceutical products, and other applications. Among the purchasers, eight reported purchasing U.S.-produced saccharin during the period, eight reported purchasing saccharin from China, and ten reported purchases from nonsubject sources including Israel, Korea, Japan, and Taiwan.

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[2] At the hearing, the petitioners stated that the market for saccharin is mature and that demand tends to be stable. Hearing transcript p. 23 (Kerwin), and pp. 37,62 (Bouligaraki).

[3] According to ***, an importer and purchaser, stevia was approved by the USDA in 2008.

[4] The higher costs of alternative sweeteners and differences in tastes were also discussed by the petitioners at the hearing. Hearing transcripts pp. 62-63 (Bouligaraki).

[5] ***.

The combined quantity of purchases by the responding 13 firms from the United States, China and nonsubject sources are shown in table II-2.

Table II-2
Saccharin: Quantity of purchases (in thousands of pounds) reported by U.S. purchasers, 2003-08

Purchase source	Year					
	2003	2004	2005	2006	2007	2008
United States	724.9	567.8	1,051.8	470.2	496.4	144.0
China	40.9	5.1	21.9	10.9	5.8	1,112.9
Nonsubject countries	2,176.3	3,105.8	3,170.3	2,884.7	3,184.1	3,022.7
Total	2,942.1	3,678.7	4,244	3,365.8	3,686.32	4,279.6

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

In order to evaluate the effects of the antidumping duty order on imports from China, purchasers were asked whether they had bought saccharin produced in China before 2003 and if so, whether their purchasing pattern had changed since that time. Of the 13 purchasers that responded, 9 answered that they had not purchased the Chinese product prior to 2003 and 4 answered that they had purchased Chinese-produced saccharin prior to 2003. Of the four firms that had purchased the Chinese product prior to 2003, two reported that they had discontinued purchases of the Chinese products because of the order and two reported that they had reduced purchases of the Chinese product.[6]

Factors Affecting Purchasing Decisions

When asked to rank the three most important factors involved in purchasing decisions, the 11 purchasers that responded consistently reported availability, price, and quality as the most important factors (table II-3). Other factors mentioned included traditional supplier and supply assurance.

Table II-3
Saccharin: Ranking of factors used in purchasing decisions as reported by U.S. purchasers

Factor	Number of firms reporting		
	Number one factor	Number two factor	Number three factor
Availability	3	5	2
Price	3	1	7
Quality	3	4	2
Other[1]	2	1	0

[1] Other factors include supply assurance and traditional supplier.

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

[6] One purchaser, ***, the manufacturer of *** reported that it discontinued purchases from China after the order went into effect, but began purchasing Chinese-produced saccharin again in 2008.

In order to obtain more information on purchasing decisions, firms were asked whether purchasing decisions are based mainly on price. Purchasers were instructed to answer "always," "usually," "sometimes," or "never." Five purchasers answered "usually," six answered "sometimes," and three answered "never." No firm answered "always."

Purchasers were also asked to report whether the factors shown in table II-4 are "very important,""somewhat important," or "not important" in their purchasing decisions. The factors firms cited most often as "very important" were availability (13 firms), price (10) firms, product consistency (13 firms), quality meeting industry standards (13 firms), and reliability of supply (14 firms).

Table II-4
Saccharin: Importance of purchasing factors, as reported by U.S. purchasers

Factor	Very important	Somewhat important	Not important
	Number of firms responding		
Availability	13	1	0
Delivery terms	3	9	2
Delivery time	5	8	0
Discounts offered	1	10	3
Extension of credit	2	7	5
Minimum quantity requirements	5	3	6
Packaging	3	7	4
Price	10	3	0
Product consistency	13	1	0
Product range	3	5	6
Quality meets industry standard	13	1	0
Quality exceeds industry standard	8	5	0
Reliability of supply	14	0	0
Technical support/service	5	5	4
U.S. transportation	0	11	3

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

Comparisons of Domestic Products and Subject Imports and Nonsubject Imports

To determine whether U.S.-produced saccharin generally can be used in the same applications as imports from China and nonsubject sources, producers, importers, and purchasers were asked whether the product can "always," "frequently," "sometimes," or "never" be used interchangeably. As shown in table II-5, the majority of questionnaire respondents reported that the U.S.-produced product and imports from China are always or frequently interchangeable. Similarly, the majority of questionnaire respondents consider U.S.-produced saccharin and imports from China as always or frequently interchangeable with nonsubject imports. One importer reported that the quality of the Chinese product is suspect in certain applications. One purchaser also reported that the inferior quality of the Chinese product precludes interchangeable use. However, another purchaser reported that the domestic producer and one Chinese manufacturer produce a very high quality material that is preferred in metalworking and pharmaceutical applications. One purchaser reported that there is no interchangeability of saccharin made in the United States because, since 2006, there has been no

Table II-5
Saccharin: Interchangeability of product from the United States and subject and nonsubject sources[1]

Country comparison	U.S. producers				U.S. importers				Purchasers			
	A	F	S	N	A	F	S	N	A	F	S	N
U.S. vs. China	***	***	***	***	5	2	2	0	6	2	1	1
U.S. vs. nonsubject	***	***	***	***	2	3	1	0	5	2	1	1
China vs. nonsubject	***	***	***	***	2	3	1	1	4	2	1	1

[1] Producers, importers, and purchasers were asked if saccharin produced in the United States and in other countries is used interchangeably.

Note: "A" = Always, "F" = Frequently, "S" = Sometimes, and "N" = Never.

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

meaningful production of saccharin in the United States since that year. This purchaser also stated that the largest Chinese producer, Shanghai Fortune, makes saccharin that meets its specifications. It stated that there are other smaller Chinese producers that are now subject to very high antidumping duties that may have more trouble in meeting its specifications.

In addition to questions concerning interchangeability, producers and importers were also asked to compare U.S.-produced products with imports from China and nonsubject imports in terms of product differences other than price such as quality, availability, product range, and other characteristics, as a factor in their sales of saccharin (table II-6). PMC reported that product differences are *** when comparing the U.S.-produced product with imports from China, while the majority of importers reported that the differences are frequently or sometimes important. One importer reported that the quality of the Korean product is superior to the quality of Chinese saccharin. Another importer reported that Shanghai Fortune and PMC produce the purest and highest quality material.

Table II-6
Saccharin: U.S. producers' and importers' perceived importance of factors other than price in sales of products produced in the United States and in other countries[1]

Country comparison	U.S. producers				U.S. importers			
	A	F	S	N	A	F	S	N
U.S. vs. China	***	***	***	***	0	1	4	3
U.S. vs. nonsubject	***	***	***	***	0	2	2	1
China vs. nonsubject	***	***	***	***	1	3	1	1

[1] Producers, importers, and purchasers were asked if differences other than price between saccharin produced in the United States and in other countries are a significant factor in their firms' sales of saccharin.

Note: "A" = Always, "F" = Frequently, "S" = Sometimes, "N" = Never, and "0" = No familiarity.

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

Purchasers also were asked to compare U.S.-produced saccharin and imported saccharin from China and nonsubject imports in 15 selected characteristics listed in table II-7, noting whether the domestic product was superior, comparable, or inferior to the imports. Four purchasers provided comparisons for the selected categories with respect to China. For this limited response, the U.S. product was rated inferior to imports from China in terms of price (i.e., higher price). For all other categories, there was no clear-cut advantage for either the United States or China. In the comparisons between the U.S. product and nonsubject imports, the United States product was rated inferior with regard to price. For all other categories, a majority of purchasers rated the products comparable.

Chinese imports were also compared with nonsubject imports as shown in the table. The results show that imports from China were ranked inferior to nonsubject imports in price, but in all other characteristics, there was no clear advantage for either China or nonsubject imports.

Table II-7
Saccharin: Comparisons between U.S.-produced and subject products from China, and subject and nonsubject products as reported by U.S. purchasers

Factor	U.S. vs. China			U.S. vs. nonsubject			China vs. nonsubject		
	S	C	I	S	C	I	S	C	I
	Number of responses								
Availability	0	3	1	0	7	2	1	5	0
Delivery terms	1	2	1	0	7	2	1	5	0
Delivery time	2	1	1	2	5	2	1	5	0
Discounts offered	0	1	2	0	5	4	1	5	0
Extension of credit	1	2	1	0	7	2	1	3	3
Lower price[1]	0	0	4	1	2	7	2	0	5
Lower U.S. transportation costs[1]	1	2	1	1	6	2	0	5	0
Minimum quantity requirements	1	2	1	1	6	2	0	5	0
Packaging	0	3	1	0	7	2	1	5	0
Product consistency	0	3	1	0	7	3	2	3	2
Product range	0	2	2	0	7	2	2	4	0
Quality meets industry standards	0	3	1	0	7	3	2	4	1
Quality exceeds industry standards	0	3	1	0	7	3	2	3	2
Reliability of supply	0	3	1	0	7	3	2	3	2
Technical support/service	1	2	1	0	7	3	2	3	2

[1]A rating of superior on price and U.S. transportation costs indicates that the first country generally has lower prices/U.S. transportation costs than the second country.

Note.--S=first listed country's product is superior; C=both countries' products are comparable; I=first listed country's product is inferior.
Source: Compiled from data submitted in response to Commission questionnaires.

ELASTICITY ESTIMATES

This section discusses elasticity estimates; parties were encouraged to comment on these estimates in their briefs. However, no party submitted any comments.

U.S. Supply Elasticity[7]

The domestic supply elasticity for saccharin measures the sensitivity of the quantity supplied by the U.S. producer to changes in the U.S. market price of saccharin. This elasticity depends upon several factors including the level of excess capacity, the availability of alternate markets for U.S.-produced saccharin, inventory levels, and the producer's ability to shift to the manufacture of other products. The earlier analysis of these factors indicates that the U.S. industry probably had considerable flexibility in

[7] A supply function is not defined in the case of a non-competitive market.

adjusting supply in response to price change during the 2003-06 period. During that period, the supply elasticity would probably have been in the 5 to 10 range. However, in view of *** an elasticity is difficult to estimate.

U.S. Demand Elasticity

The U.S. demand elasticity for saccharin measures the sensitivity of the overall quantity demanded to a change in the U.S. market price of saccharin. This estimate depends on factors discussed earlier such as the existence, availability, and commercial viability of substitute products, as well as the component share of the saccharin in the production of any downstream products. Since substitutes for saccharin are available in some applications, the aggregate demand for saccharin is likely to be moderately elastic; a range of -1.0 to -1.5 is suggested.

Substitution Elasticity

The elasticity of substitution depends upon the extent of product differentiation between the domestic and imported saccharin from China.[8] Product differentiation, in turn, depends upon such factors as quality and conditions of sale (availability, delivery, etc.). Based on available information indicating that the domestic and imported products from China can generally be used interchangeably, the elasticity of substitution between U.S.-produced saccharin and imported saccharin is likely to be in the range of 3 to 5.

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

PART III: CONDITION OF THE U.S. INDUSTRY

Information on the U.S. industry is based on the questionnaire response of the only known U.S. producer of saccharin. Hence, the industry data obtained account for all known U.S. production of saccharin during 2003-08.

U.S. PRODUCER'S CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION

During the original investigations, there was also only one U.S. producer of saccharin who responded to the Commission's questionnaire and that accounted for all U.S. production in 2002.

The current review includes U.S. production of saccharin by PMC, the only producer of saccharin in the United States. PMC is wholly owned by PMC, Inc., Sun Valley, CA, which purchased the saccharin-producing operations of Sherwin-Williams Co. in 1985. Sherwin-Williams began producing saccharin in 1966 when it purchased the Cincinnati, OH, saccharin plant of Maumee Chemical Co.[1] Numerous other firms, including Monsanto Co., St. Louis, MO; Lakeway Chemical Co., Muskegon, MI; and Pillsbury Co., Minneapolis, MN, previously produced saccharin in the United States. All of these other firms ceased production of the subject product by 1972.

PMC imported *** of saccharin from China during ***. PMC is ***.[2]

Data on PMC's capacity, production, and capacity utilization are presented in table III-1. Although PMC reported ***.[3]

Table III-1
Saccharin: U.S. producer's capacity, production, and capacity utilization, 2000-02 and 2003-08

* * * * * * *

PMC further reported ***.[4] Saccharin production ***. Details of the changes in the character of PMC's operations and capacity projections are presented later in this section.

The Commission asked PMC whether the production equipment and the production and related workers (PRWs) employed in the production of saccharin were used to produce other products. ***.[5] In response to a question concerning constraints that set the limits on production capabilities, PMC ***.[6] The Commission also asked if PMC was able to switch production between saccharin and other products in response to a change in the relative price of saccharin vis-a-vis the price of other products using the same equipment and labor. ***.[7]

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[1] *Saccharin from China*, Investigation No. 731-TA-1013 (Final), USITC Pub. No. 3606, June 2003, p. III-1.

[2] PMC's U.S. producers' questionnaire response, sections I-5 and I-6.

[3] ***.

[4] Ibid.

[5] PMC's U.S. producers' questionnaire response, section II-5.

[6] PMC's U.S. producers' questionnaire response, section II-6.

[7] PMC's U.S. producers' questionnaire response, section II-7.

Changes in Character of Operations and Capacity Projections

PMC reported operational changes in existing facilities during the period of review. ***.[8]

***.[9]

***.[10]

***.[11]

***.[12]

The Commission requested PMC's comments on a PMC Science-Tech Industries (Nanjing) Co., Ltd. 2007 web release in which it was indicated that a joint venture between PMC Global and a Chinese firm was "brewing" for production of 15,000 metric tons per year of saccharin, or about two-thirds of worldwide saccharin consumption.[13] PMC responded that it had made no investment at any joint venture in China with any saccharin producer.[14] PMC further stated that it had never been involved in any joint venture to produce saccharin in China, and as a matter of Chinese law, the Chinese saccharin industry is identified as an industry in which foreign investment has been "restricted" since 2002, at least through the end of 2007.[15]

PMC entered into a business relationship ***.[16] PMC reported that the decision to ***.[17]

Public and business proprietary information sources were also searched to obtain information concerning events that took place at PMC during the period of review. Sources include newspaper articles, consultancy reports, questionnaire responses, and written submissions to the Commission. A May 2006 newspaper article reported that PMC announced plans to eliminate most of its 138 employees, notifying state officials it will permanently terminate 103 employees - 23 salaried and 80 hourly workers - starting around July 3, 2006.[18] In its petition to The Department of Labor for Trade Adjustment Assistance ("TAA") and Alternative Trade Adjustment Assistance ("ATAA") for its "approximately 115" workers that had been or will be laid off, PMC provided the reason for worker eligibility for TAA and ATAA certification as, "unable to compete on standardized products that are mass produced. As a result of this inability to compete, our major products were outsourced to foreign producers".[19]

***.[20]

***.[21]

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[8] PMC's U.S. producers' questionnaire response, section II-2. Post hearing, PMC was requested to provide any notification documentation provided to its customers prior to July 2006 concerning possible disruption of supply due to the plant shutdown for reengineering. ***. PMC's posthearing brief, exh. 3, p. 11.

[9] Ibid.

[10] PMC's U.S. producers' questionnaire response, section II-2, attachment B.

[11] Ibid.

[12] Ibid.

[13] Transcript, pp. 54-55.

[14] Transcript, pp. 55-56.

[15] PMC's posthearing brief, exh. 1, p. 9, and exhs. 6, 13, 14, and 15.

[16] Ibid., exh. 1, p. 42.

[17] Ibid., exh. 1, pp. 42-43.

[18] Request for Changed Circumstances Review and Revocation of Antidumping Duty Order Issued in *Saccharin from The People's Rebublic of China*, exhibit A, "Saccharin Maker Cuts 130 Jobs," *The Enquirer*, May 11, 2006, Cincinnati.com.

[19] Ibid., exhibit C.

[20] ***.

[21] Correspondence to Commission staff from ***.

U.S. PRODUCER'S DOMESTIC SHIPMENTS, COMPANY TRANSFERS, AND EXPORT SHIPMENTS

Table III-2 presents U.S. producers' shipment data for saccharin. PMC's total shipments and commercial U.S. shipments ***. PMC reported ***. Export shipments ***. The unit values of U.S. commercial shipments ***.[22]

Table III-2
Saccharin: U.S. producer's shipments, by type, 2000-02 and 2003-08

* * * * * * *

PMC's U.S. shipments of saccharin by type of saccharin are shown in table III-3. ***. The quantity of U.S. shipments of *** during 2003-08, ***. PMC's U.S. shipments of acid saccharin ***. ***. ***. The unit values for calcium saccharin ***. The unit value of U.S. shipments of acid saccharin ***.

Table III-3
Saccharin: U.S. producer's U.S. commercial shipments, by type of saccharin, 2000-2002 and 2003-08

* * * * * * *

PMC received its ***.[23] The Commission requested that PMC provide monthly production, shipment, and inventory data for its reengineered saccharin process for the period March 2008-March 2009 (table III-4). Saccharin production was reported ***.

***.

As noted, PMC received its first *** and began production using the re-engineered process ***.[24] ***.[25] ***

Table III-4
Saccharin: U.S. producer's U.S. production, commercial shipments and inventories, by month, March 2008-March 2009

* * * * * * *

***.[26] ***.[27]

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[22] PMC responses to staff questions, April 21, 2009, p. 2.

[23] PMC bill of lading, March 2008.

[24] PMC's posthearing brief, exh.1, question 8, p. 14.

[25] Ibid. ***. PMC responses to staff questions, April 21, 2009, p. 1.

[26] Ibid., p. 15.

[27] Ibid.

PMC further described its reengineered production process as follows: "the volumes of output are modest, but we are in an R&D piloting type of operation because the raw material inputs are very expensive and the unfortunate loss of some of the materials due to yield issues is very troubling."[28]

When asked about future importation projections, PMC responded that it will try to cover customer needs through domestic production; however, should the need arise to have imported saccharin it might be done.[29] When asked whether there are other saccharin producers around the world who use *** as a starting point in their production process, PMC responded that to the best of its knowlege no other producers of saccharin in the world are using this raw material right now.[30]

The Commission also requested that PMC provide a copy of its business plan or any internal documents that describe, discuss, or analyze expected future market conditions for saccharin. The Commission further requested a specific projection of PMC's capacity to produce saccharin for 2009 and 2010.[31] PMC's response in its entirety is presented in table III-5.

Table III-5
Saccharin: PMC business projections 2009-13

* * * * * * *

PMC projects 2009 production volume at *** pounds, and projects *** percent in 2010 and *** percent annually during 2011-13. Shipment volumes are projected at *** pounds for 2009 with *** percent in 2010, *** percent in 2011, and about *** percent during 2012-13. The number of production and related workers is projected to *** during the period 2009-13.

U.S. PRODUCER'S INVENTORIES

Inventories *** during 2003-06 before *** (table III-6).

Table III-6
Saccharin: U.S. producers' end-of-period inventories, 2000-02 and 2003-08

* * * * * * *

U.S. PRODUCER'S IMPORTS AND PURCHASES

Table III-7 presents PMC's imports of saccharin from both subject and nonsubject countries.[32] PMC reported ***.[33] In the final phase of the original investigation, PMC reported that it ***

Table III-7
Saccharin: U.S. producer's production, imports of saccharin, and ratios of imports to production, 2000-02 and 2003-08

* * * * * * *

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[28] Transcript, p. 44 (Miller). ***. PMC responses to staff questions, April 21, 2009, p. 1.

[29] Transcript, p. 74 (Bouligaraki).

[30] Transcript, p. 79 (Bouligaraki).

[31] U.S. producers' questionnaire, section I-8 and section II-3.

[32] PMC producers' questionnaire response, section II-6.

[33] PMC's producers' and importer's questionnaire responses, sections II-13 and II-6, respectively.

***.[34] In the final phase of the original investigations, PMC ***.[35]

In the current five-year review, PMC reported ***.[36] ***.[37] ***.[38]

The Commission requested that PMC provide monthly import data for imports from China and from all other sources for the period calendar year 2008 and first quarter 2009. PMC's response is presented in table III-8.

Table III-8
Saccharin: PMC's monthly imports of saccharin, by source, January 2008-March 2009

* * * * * * *

PMC ***[39] during the period of review (table III-9).

Table III-9
Saccharin: U.S. producer's purchases of imported product, 2003-08

* * * * * * *

U.S. PRODUCERS' EMPLOYMENT, WAGES, AND PRODUCTIVITY

*** (table III-10). PMC ***.

Table III-10
Saccharin: Average number of production and related workers, hours worked, wages paid to such workers, hourly wages, productivity, and unit labor costs, 2000-02 and 2003-08

* * * * * * *

FINANCIAL EXPERIENCE OF THE U.S. PRODUCER

Introduction

The three forms of saccharin produced and sold by PMC (sodium saccharin, calcium saccharin, and acid saccharin), combined, are reflected in the profit-and-loss information presented in this section of the report. The relative importance of each type of saccharin sold by PMC remained fairly constant during the period examined. Sodium saccharin represented *** percent of PMC's saccharin sales (by quantity) during the first four years of the period examined, then increased to *** percent of PMC's saccharin sales during 2007 and 2008. From 2003 through 2006, the shares of calcium saccharin and acid saccharin represented *** percent and *** percent, respectively, of PMC's saccharin sales. In 2007 and

[34] PMC's final phase producers' questionnaire response, section II-4.

[35] PMC's final phase producers' questionnaire response, sections II-5 and II-6.

[36] PMC's importers' questionnaire response, sections II-7a and II-7b.

[37] ***.

[38] PMC's importers' questionnaire response, sections II-9a and II-9b.

[39] PMC's purchasers' questionnaire response, section II-13.

2008, both of these forms of saccharin represented *** of PMC's reported saccharin sales. PMC's financial data were reported on the basis of a calendar year. PMC reported ***.[40]

Operations on Saccharin

Income-and-loss data for PMC on its operations on saccharin are presented in table III-11. The domestic producer reported *** during the first four periods of review, followed by an *** in 2007 and a *** in 2008. Net sales (quantity and value), the cost of goods sold ("COGS"), and selling, general, and administrative ("SG&A") expenses all *** during the period of review. In particular, 2008 net sales (quantity and value) were ***. Per-pound revenues *** from 2003 to 2007, then *** in 2008.[41] Per-pound operating costs and expenses (COGS and SG&A expenses combined) followed a similar pattern of *** from 2003 to 2007, followed by a *** in 2008.

Table III-11
Saccharin: Results of operations of U.S. producer PMC, 2003-08

* * * * * * *

From 2007 to 2008, per-pound raw material costs ***, which resulted from ***. *** in per-pound direct labor ($***), other factory costs ($***), and SG&A expenses ($***) during this time were also ***.[42]

Despite the *** in sales quantities, profitability *** from 2003 to 2007 before *** in 2008. The *** operating margin reported in 2003 *** to a *** in 2007, then *** from the 2007 value.[43] [44]

Capital Expenditures and Research and Development Expenses

PMC's data on capital expenditures and research and development ("R&D") expenses are shown in table III-12. Capital expenditures were ***, and ranged from $***. In contrast, R&D expenses were *** and generally *** during the review period. According to PMC, its capital expenditures primarily reflect ***. R&D expenses primarily reflect ***.[45]

Table III-12
Saccharin: Capital expenditures and research and development expenses of U.S. producer PMC, 2003-08

* * * * * * *

Assets and Return on Investment

The Commission's questionnaire requested data on assets used in the production, warehousing, and sale of saccharin to compute return on investment ("ROI"). Although ROI can be computed in many

---

[40] Commission staff verified the U.S. producers' questionnaire response of PMC, and the results of the verification are incorporated in this report.

[41] ***.

[42] E-mail correspondence from ***, February 27, 2009, and confirmed during verification.

[43] ***. E-mail correspondence from ***, February 27, 2009, and confirmed during verification.

[44] Due to the *** in 2008 as compared to the prior review periods, a variance analysis is not shown in this report.

[45] E-mail correspondence from ***, February 27, 2009, and confirmed during verification.

different ways, a commonly used method is income divided by total assets. Therefore, ROI is calculated as operating income divided by total assets used in the production, warehousing, and sale of saccharin.

Data on PMC's assets and its ROI are presented in table III-13. The total assets utilized in the production, warehousing, and sale of saccharin *** irregularly from $*** in 2003 to $*** in 2008. The ROI *** from *** percent in 2003 to *** percent in 2007, then *** percentage points in 2008 to *** percent. The trend of the ROI was similar to the trend of the operating income margin during the reporting period.

Table III-13
Saccharin: Value of assets and return on investment of U.S. producer PMC, 2003-08

* * * * * * *

PART IV: U.S. IMPORTS, THE INDUSTRY IN CHINA, AND THE GLOBAL MARKET

U.S. IMPORTS

Proprietary Customs data identified 35 firms as significant importers of saccharin during the period for which data were gathered. Questionnaires were sent to these firms and all firms identified in the domestic interested parties' response to the notice of institution as importers of saccharin. In addition, an importers' questionnaire was sent to the domestic producer.

Data on U.S. imports of saccharin are presented in table IV-1 and are based on unadjusted official statistics of the Department of Commerce. Imports of saccharin enter the United States under HTS subheading 2925.11.00, an *eo nomine* category for saccharin and its salts.

Imports of saccharin from China increased from 226,000 pounds to 3.0 million pounds (or by 1,205.7 percent) from 2006 to 2008. The significant growth in imports of saccharin from China may be attributed to lower antidumping margins achieved through administrative reviews for the periods December 27, 2002 to June 30, 2004 and July 2005 to June 2006, which effectively lowered the antidumping margins on saccharin from China first to 17.05 percent, then to 0.00 percent for the Chinese saccharin producer Shanghai Fortune. The largest importers of saccharin from China in 2008 were *** and accounted for an aggregated *** percent of reported imports and *** percent of official statistics in 2008. About 48 and 25 percent of the import quantities from all other sources combined in 2008 were from Korea and Taiwan, respectively.

Table IV-1
Saccharin: U.S. imports, by sources, 2000-02 and 2003-08

Item	2000	2001	2002	2003	2004	2005	2006	2007	2008
Quantity (*1,000 pounds*)									
China	1,409	2,598	3,546	15	3	2	226	1,115	2,951
Nonsubject sources	1,363	1,490	1,767	2,982	3,937	4,608	4,275	4,931	5,396
Total	2,772	4,088	5,313	2,997	3,940	4,610	4,501	6,046	8,346
Landed, duty-paid value (*1,000 dollars*)									
China	2,353	4,011	5,574	26	8	13	736	3,433	28,863
Nonsubject sources	2,963	3,195	3,497	6,795	10,211	14,297	13,315	15,705	55,618
Total	5,316	7,206	9,071	6,821	10,219	14,310	14,050	19,137	84,481
Unit value (*per pound*)									
China	$1.67	$1.54	$1.57	$1.72	$2.70	$7.03	$3.26	$3.08	$9.78
Nonsubject sources	2.17	2.14	1.98	2.28	2.59	3.10	3.11	3.18	10.31
Average	1.92	1.76	1.71	2.28	2.59	3.10	3.12	3.17	10.12
Share of quantity (*percent*)									
China	50.8	63.6	66.7	0.5	0.1	0.0	5.0	18.4	35.4
Nonsubject sources	49.2	36.4	33.3	99.5	99.9	100.0	95.0	81.6	64.6
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Share of value (*percent*)									
China	44.3	55.7	61.4	0.4	0.1	0.1	5.2	17.9	34.2
Nonsubject sources	55.7	44.3	38.6	99.6	99.9	99.9	94.8	82.1	65.8
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Ratio of import quantity to U.S. production (*percent*)									
China	***	***	***	***	***	***	***	***	***
Nonsubject sources	***	***	***	***	***	***	***	***	***
Total	***	***	***	***	***	***	***	***	***

[1] Not applicable.

Note.–***.

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

Source: Compiled from official Commerce statistics.

U.S. SHIPMENTS OF U.S. IMPORTS BY TYPE

Table IV-2 shows U.S. shipments of U.S. imports from China by type of saccharin. Responding importers reported most shipments during the period were sodium saccharin, followed by calcium saccharin and then acid (insoluble) saccharin.

Table IV-2
Saccharin: U.S. importers' U.S. shipments of Chinese product, by type of saccharin, 2000-02 and 2003-08

* * * * * * *

U.S. IMPORTERS' IMPORTS SUBSEQUENT TO DECEMBER 31, 2008

The Commission requested importers to indicate whether they imported or arranged for the importation of saccharin from China after December 31, 2008. Of the 17 responding importers, three reported imports or arrangements for importation of saccharin totaling *** pounds from China as shown in the following tabulation, based on responses to Commission questionnaires:[1]

* * * * * * *

U.S. IMPORTERS' INVENTORIES

U.S. importers' inventories of saccharin are presented in table IV-3.

Table IV-3
Saccharin: U.S. importers' end-of-period inventories from China and other countries, 2003-08

* * * * * * *

THE INDUSTRY IN CHINA

Industry sources indicated five producers of saccharin in China for the period of review,[2] which is the same as the number of producers during the original investigation. Three producers responded to the Commission questionnaires in the original investigation and one producer, Tianjin Changjie, responded for the period of review.

China's Capacity, Production, Capacity Utilization, Home Market Shipments, Export Shipments, and Inventories

Data for Chinese production capacity, production, shipments, and inventories for the original investigation are presented in table IV-4; analogous data for the period of review are presented in tables IV-5 and IV-6.[3] During the original investigation, none of the responding producers of saccharin in China produced products other than saccharin on the same equipment and machinery used in the production of saccharin.

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[1] U.S. importers' questionnaire responses, section II-5.

[2] The Commission faxed and emailed the questionnaires to Kaifeng Xinghua Fine Chemical Factory ("Kaifeng"); Shanghai Fortune Chemical Co., Ltd. ("Shanghai Fortune"); Suzhou Fine Chemicals Group Co., Ltd. ("Suzhou"); Tianjin Changjie Chemical Co., Ltd. ("Tianjin Changjie"); and Tianjin North Food ("Tianjin North").

[3] Data for 2000-02 were sourced from the original investigation final phase Confidential Staff Report; data for 2003-08 were sourced from *The Survey of Saccharin in China,* "Current Supply Situation," CCM International Limited, September 2008, and The Global Trade Atlas.

Table IV-4
Saccharin: Chinese producers' capacity, production, inventories, and shipments, 2000-02

Item	Actual experience		
	2000	2001	2002
	Quantity (*1,000 pounds*)		
Capacity	41,466	41,687	41,688
Production	***	***	***
End of period inventories	***	***	***
Shipments: Internal consumption	***	***	***
Home market	***	***	***
Exports to– The United States	***	***	***
All other markets	***	***	***
Total exports	***	***	***
Total shipments	***	***	***
	Ratios and shares (*percent*)		
Capacity utilization	***	***	***
Inventories to production	***	***	***
Inventories to total shipments	***	***	***
Share of total shipments: Internal consumption	***	***	***
Home market	***	***	***
Exports to– The United States	***	***	***
All other markets	***	***	***
All export markets	***	***	***

Note.–Nonreconciliation of production, inventories, and shipments by 100,000 pounds in 2002 is the result of unreconciled data reported by ***.

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

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

The capacity, production, exports, and percentage of production exported for each producer of saccharin in China in 2007,[4] the last full calendar year for which data are available, are presented in the following tabulation:

* * * * * * *

The Commission received a foreign producers' questionnaire response from Tianjin Changjie. The firm ***. Tianjin Changjie reported that it ***.[5] Tianjin Changjie further reported that *** since January 1, 2003. Specifically, ***.[6]

Tianjin Changjie also indicated that ***.[7] With reference to constraints that set limits on production capacity, Tianjin Changjie ***.[8] Tianjin Changjie reported that *** of its total sales in its most recent fiscal year was represented by sales of saccharin.[9]

Table IV-5 presents Tianjin Changjie's production capacity, production, shipments, and inventories of saccharin produced during the period for which data were gathered. Tianjin Changjie's capacity *** during 2003-08 while production ***. The firm reported *** internal consumption or intracompany transfers and its commercial shipments to its home market ***. Tianjin Changjie's reported its main export markets as ***. The firm's total exports ***.

When asked to describe the significance of the existing antidumping duty order covering imports of saccharin from China, Tianjin Changjie reported that ***.[10]

Tianjin Changjie reported that it ***.[11]

Table IV-5
Saccharin: Tianjin Changjie's producers' capacity, production, inventories, and shipments, 2003-08

* * * * * * *

Since the Commission received a foreign producers' questionnaire response only from Tianjin Changjie, Commission staff attempted to gather additional data on the saccharin industry in China through consultancy reports. Table IV-6 presents aggregated capacity, production, inventory, and shipment data for the saccharin industry in China based on consultancy reports and the Global Trade Atlas.

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[4] *The Survey of Saccharin in China,* "Current Supply Situation," CCM International Limited, September 2008, p. 22.

[5] Tianjin Changjie's foreign producers' questionnaire response, sections I-4, I-5, I-6, and II-16.

[6] Ibid., section II-2.

[7] Ibid., section II-4.

[8] Ibid., section II-8.

[9] Ibid., section 11-9.

[10] Tianjin Changjie's foreign producers' questionnaire response, section II-14.

[11] Ibid., section II-18.

Table IV-6
Saccharin: Chinese producers' capacity, production, inventories, and shipments, 2003-07 and January-July 2008

Item	2003	2004	2005	2006	2007	Jan.-Jul. 2008
			Quantity (*1,000 pounds*)			
Capacity	***	***	***	***	***	***
Production	***	***	***	***	***	***
End-of-period inventories	***	***	***	***	***	***
Shipments: Internal consumption/transfers	***	***	***	***	***	***
Commercial home market	***	***	***	***	***	***
Exports to: United States	130	91	79	488	1,360	1,668
All other export markets: European Union	13,805	11,909	10,155	9,415	10,464	8,213
Asia	18,653	19,156	13,415	14,884	12,083	7,097
Other markets	10,923	11,326	9,643	10,727	11,589	2,623
Total exports	43,510	42,482	33,293	35,514	35,496	19,602
Total shipments	***	***	***	***	***	***
			Ratios and shares *(percent)*			
Capacity utilization	***	***	***	***	***	***
Inventories/production	***	***	***	***	***	***
Inventories/total shipments	***	***	***	***	***	***
Share of total shipments: Internal consumption/transfers	***	***	***	***	***	***
Home market commercial	***	***	***	***	***	***
Exports to: United States	***	***	***	***	***	***
European Union	***	***	***	***	***	***
Asia	***	***	***	***	***	***
Other markets	***	***	***	***	***	***
Total exports	***	***	***	***	***	***

[1] Not available, assumed negligible.

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

Source: Compiled from the Global Trade Atlas (specific country and market region export data) and *The Survey of Saccharin in China*, "Current Supply Situation," CCM International, September 2008.

In order to protect the sugar industry, the Chinese government has restricted saccharin production since the late 1990s, and since 2002, China's saccharin capacity ***.[12] Under such strict supervision, China's saccharin production was ***.[13] ***.[14]

***.[15]

***.[16]

According to the China Sugar Association, in 2006, the Chinese government restricted saccharin sales to its domestic market to about 7.7 million pounds, the same target set in previous years. Saccharin industry sources also say that the Chinese government's action is an effort to protect the environment from damage caused by phthalic acid used in saccharin production and responsible for significant pollution of water in China.[17]

Trade Restrictions in Third-Country Markets

In its questionnaires, the Commission asked whether the firms' exports of saccharin are subject to tariff or non-tariff barriers to trade in any countries other than the United States. India imposed its own provisional antidumping duty on imports of saccharin from China on June 6, 2006, which became final March 19, 2007. Specifically, imports of Chinese saccharin into India currently are subject to dumping margins ranging from $717.21 per metric ton to $2,151.33 per metric ton as follows:[18]

Producer	Exporter	Antidumping duty amount per metric ton (*dollars*)
Shanghai Fortune	Majestic International Trading Co., Ltd.	$717.21
Shanghai Fortune	All others	807.77
Kaifeng	Any	1,093.28
Tianjin Changjie	Any	1,127.67
All other producers	Any	2,151.33

[12] *The Survey of Saccharin in China*, p. 24.

[13] Ibid., p. 22.

[14] Ibid., pp. 22-23 and 25. The Suzhou plant in China was closed for environmental and safety issues; however, accidents that may have resulted in some fatalities also occurred in this time frame. In January 2007, due to a malfunction of its ventilation fan, Suzhou had a poisonous sulfur dioxide gas leak which penetrated its surrounding facilities and led to the poisoning of around 100 workers and the evacuation of more than 1,000 workers. On June 18, 2007, a broken reservoir pipe at Suzhou resulted in a sodium hypochlorite leak. PMC's posthearing brief, exh.1, p. 37, and exh. 10.

[15] Ibid., p. 23.

[16] Ibid., p. 25.

[17] "China Tightens Control on Saccharin Production," Dominique Patton, Foodnavigator.com, July 18, 2006, retrieved February 18, 2009.

[18] Importers' questionnaire responses, section I-12, and PMC's Response to the Notice of Institution, exh. 5.

GLOBAL MARKET

Supply and Demand

Data for global saccharin production by country are not publicly available. In consequence, publicly available Global Trade Atlas ("GTIS") trade volume data were the principal source for the current review encompassing calendar years 2003-08. GTIS data are available at the 6-digit HTS 2925.11 level, which may include saccharin outside the scope of the review. Export data and companion import data for 15 leading nonsubject global exporters of saccharin were extracted from the GTIS database, of which six countries currently ship saccharin to the United States (India, Japan, Netherlands, South Korea, Spain, and Taiwan). Individual country trade balances (trade surpluses and deficits) were subsequently calculated, and are also included herein. Data for Israel, which also ships saccharin to the United States, is currently not available on the GTIS database. Composite European Union ("EU") external trade data are also reported, together with reference data on the United States and on the subject country of China.

Only two major exporters of saccharin (China and Korea) are principally exporters of the product; and thus, they experience large trade surpluses. Several large global exporters, however, have traditionally experienced relatively large trade deficits in saccharin. Both exports and imports of such countries (e.g., Germany, Japan, and Taiwan) have been growing, but import demand has continued to outstrip that of exports. External trade outside of the EU countries is significant, but relatively balanced between exports from out of the region and imports into the region. As would be expected, there is a significant amount of cross-border trade between EU countries, the EU-15 countries in particular.

Export data by volume for major nonsubject exporting countries of interest for the five-year period 2003-07 are shown in table IV-7; U.S. and China export trade is shown for reference. The countries are ranked based on calendar year 2007.

In 2007, Korea was the leading nonsubject global saccharin exporter with 36 percent of the 15-country total and Korea and Germany together accounted for 58 percent of the total. Germany, Korea, and Taiwan experienced export growth rates significantly above average during the five-year period examined. During the five-year period, saccharin export volume grew by 45 percent for the top 15 nonsubject countries. EU external trade also increased.

Table IV-7
Saccharin: Global exports, by country and by regions, 2003-07

Source	Calendar year				
	2003	2004	2005	2006	2007
	Quantity (*1,000 pounds)*				
United States	365	187	2,090	2,210	1,822
China	43,510	42,482	33,293	35,514	35,496
Nonsubject exporting countries:					
South Korea	3,922	4,417	4,256	3,933	5,117
Germany	1,931	2,564	2,156	2,410	3,062
Taiwan	1	150	612	732	878
Netherlands	584	606	778	952	875
Japan	549	372	557	746	802
Singapore	538	51	44	0	586
Belgium	324	564	542	324	478
Spain	527	589	505	542	434
India	214	663	262	305	388
United Kingdom	428	139	551	335	353
Switzerland	526	254	367	240	289
France	159	276	203	209	280
Austria	126	57	62	29	216
Turkey	6	22	8	10	198
South Africa	34	43	37	106	177
All other	403	545	481	366	761
Total nonsubject exporting countries	10,271	11,311	11,420	11,241	14,895
Total	54,146	53,980	46,803	48,965	52,213
Regions:					
EU15 (external trade)	1,797	2,174	1,975	2,125	2,440
EU27 (external trade)	1,360	1,812	1,587	1,287	1,709

Note.–Export figures for HTS subheading 2925.11.

Source: Global Trade Atlas.

Principal nonsubject saccharin importing countries of interest are shown in the data of table IV-8. These countries exhibit significant overlap (10 countries) with the countries reported in the previous nonsubject export table, table IV-7.

Germany, the top global saccharin importer after the United States, ranks third in order of exports after subject China and nonsubject Korea, yet it is a major trade deficit country. According to the available GTIS import data, saccharin import demand fluctuated upward by 10.2 percent during the

Table IV-8
Saccharin: Global exports, by country and by regions, 2003-07

Source	2003	2004	2005	2006[1]	2007
	Quantity (1,000 pounds)				
United States	2,997	4,068	4,589	4,802	6,470
China	193	226	83	86	94
Nonsubject importing countries:					
Germany	3,922	4,500	4,381	4,098	6,105
Spain	3,073	3,327	3,428	3,115	3,188
United Kingdom	4,493	3,655	3,128	3,331	2,978
South Korea	1,797	2,021	2,814	2,889	2,920
Japan	3,496	2,178	2,499	2,106	2,540
India	3,300	4,201	4,210	3,888	2,495
Brazil	1,918	3,252	2,209	2,442	2,493
Taiwan	1,482	1,576	1,459	1,815	1,803
Switzerland	1,589	1,419	1,864	1,643	1,566
Argentina	1,475	1,649	1,480	1,344	1,372
Turkey	479	761	775	537	1,243
Russia	1,485	1,547	991	1,216	1,198
Mexico	542	719	740	994	1,112
Thailand	1,152	1,305	936	1,362	1,061
Netherlands	930	802	1,041	1,186	1,049
All other	10,148	9,201	8,770	37,796	9,322
Total nonsubject importing countries	41,281	42,111	40,724	69,761	42,446
Total	44,471	46,405	45,396	74,649	49,010
Regions:					
EU15 (external trade)	11,645	11,347	10,717	9,910	11,885
EU27 (external trade)	12,696	12,183	11,376	10,600	12,322

[1] The reason for the large increase in saccharin imports into all other nonsubject countries is attributable to imports of saccharin to France.

Note.–Import figures are for HTS subheading 2925.11.

Source: Global Trade Atlas.

2003-07 period. Import demand growth from the leading global importers, the United States and Germany, was well above the average during 2003-07.

Trade Balances

Table IV-9 contains GTIS data for 2003-07, accessed and organized into trade balances ranked based on calendar year 2007, from the largest trade surplus country to the largest trade deficit country, for various nonsubject importing countries of interest. Data for the subject country, China, is also provided for reference.

China and Korea command the largest global trade surpluses in order of importance, as shown. The largest global trade deficit countries are The United States, Germany, India, and Japan, in order of importance. The remaining country, Taiwan shows a more moderate trade deficit position. Korea's trade surplus position fluctuated upward during 2003-07. On the trade deficit side, however, the situation is mixed. While the trade deficit position of the United States and Germany widened during 2003-07, the trade deficits gradually fell in India, Japan, and Taiwan.

Table IV-9
Saccharin: World, subject- and nonsubject-country exports, imports, and trade balances, 2003-07[1]

Source	Calendar year				
	2003	2004	2005	2006	2007
	Quantity (*1,000 pounds*)				
World:					
Exports	54,146	53,981	46,803	48,965	52,212
Imports	44,471	46,405	45,396	74,649	49,009
Net exports/(imports)	9,675	7,576	1,408	(25,684)	3,203
United States:					
Exports	365	187	2,090	2,210	1,822
Imports	2,997	4,068	4,589	4,802	6,470
Net exports/(imports)	(2,632)	(3,881)	(2,499)	(2,591)	(4,648)
Subject:					
China:					
Exports	43,510	42,482	33,293	35,514	35,496
Imports	193	226	83	86	94
Net exports/(imports)	43,317	42,257	33,211	35,428	35,402
Nonsubject:					
Korea:					
Exports	3,922	4,417	4,256	3,933	5,117
Imports	1,797	2,021	2,814	2,889	2,920
Net exports/(imports)	2,125	2,396	1,442	1,044	2,197
Taiwan:					
Exports	1	150	612	732	878
Imports	1,482	1,576	1,459	1,815	1,803
Net exports/(imports)	(1,481)	(1,425)	(848)	(1,083)	(925)
Japan:					
Exports	549	372	557	746	802
Imports	3,496	2,178	2,499	2,106	2,540
Net exports/(imports)	(2,947)	(1,806)	(1,942)	(1,360)	(1,738)
India:					
Exports	214	663	262	305	388
Imports	3,300	4,201	4,210	3,888	2,495
Net exports/(imports)	(3,086)	(3,538)	(3,948)	(3,582)	(2,107)
Germany:					
Exports	1,931	2,564	2,156	2,410	3,062
Imports	3,922	4,500	4,381	4,098	6,105
Net exports/(imports)	(1,991)	(1,936)	(2,224)	(1,689)	(3,042)

[1] The trade balance is defined as the differential between exports and imports (exports - imports = net trade). A positive trade balance (net exports) results when exports are greater than imports; a negative trade balance (net imports) results when imports are greater than exports. Trade balances are ranked from high to low (positive to negative) based on calendar year 2007.

Note.–Export and import figures are for HTS subheading 2925.11.

Source: Global Trade Atlas.

Information concerning exports of saccharin from China to world destinations is presented in table IV-10 .

Table IV-10
Saccharin: China's world export destinations, 2003-07

Destination	2003	2004	2005	2006	2007
			Quantity (*1,000 pounds*)		
World	43,510	42,482	33,293	35,514	35,496
Brazil	4,744	4,070	2,158	3,302	4,047
Germany	3,605	3,220	2,820	1,886	4,019
Korea South	1,723	2,181	2,562	2,710	2,536
Spain	2,438	2,924	2,276	1,907	1,923
Japan	3,157	1,403	1,664	1,269	1,516
Taiwan	1,331	1,542	1,024	1,787	1,432
United States	130	91	79	488	1,360
United Kingdom	2,200	1,211	1,222	1,359	1,308
Indonesia	3,461	3,616	1,192	1,231	1,267
Argentina	1,576	1,637	1,243	1,265	1,142
India	3,684	3,857	3,417	2,937	1,095
France	1,297	1,068	1,369	1,396	1,035
Pakistan	923	1,243	683	1,558	959
Vietnam	775	844	1,030	951	940
Thailand	899	951	645	1,023	916
Subtotal	31,943	29,858	23,386	25,068	25,496
All other	11,567	12,624	9,907	10,446	10,000
Source: Global Trade Atlas.					

PART V: PRICING AND RELATED INFORMATION

FACTORS AFFECTING PRICING

Raw Material Costs

Raw materials constitute an important part of the final cost of saccharin. During 2003-08, PMC's raw material costs were *** of the cost of goods sold in 2003, *** percent in 2004, *** percent in 2005, *** percent in 2006, *** percent in 2007 and *** percent in 2008. The starting material that PMC currently uses in producing saccharin is ***.

Transportation Costs to the U.S. Market

Ocean transportation costs for saccharin shipped from China to the United States averaged about 1.0 percent of the customs value of these imports during 2008. This estimate is derived from official import data and represents the transportation and other charges on imports.[1]

U. S. Inland Transportation Costs

U.S. inland transportation costs generally account for a small share of the delivered price of saccharin. PMC reported that these costs accounted for about *** percent of the total delivered cost. Estimates by importers ranged from less than 1 percent to 5 percent, with the majority reporting shares of 1 percent or less.

Inland shipping distances for U.S.-produced saccharin were compared with those for imports from China. PMC reported that *** percent of its U.S. sales occur within 100 miles of its production facility, *** percent are within distances of 101 to 1,000 miles, and *** percent occur at distances of over 1,000 miles from its facility. For firms reporting imports from China during 2008, an average of 5 percent of sales occur within 100 miles of importers' storage facilities or ports of entry, 94 percent are within 101 to 1,000 miles, and less than 1 percent involve distances of over 1,000 miles.

Exchange Rates

The nominal exchange rate for the Chinese yuan in relation to the U.S. dollar is shown on a quarterly basis in figure V-1 for the period January-March 2003 through July-September 2008. The data show that the yuan has appreciated relative to the dollar since 2003. A real exchange rate could not be computed because of the lack of producer price indices for China.[2]

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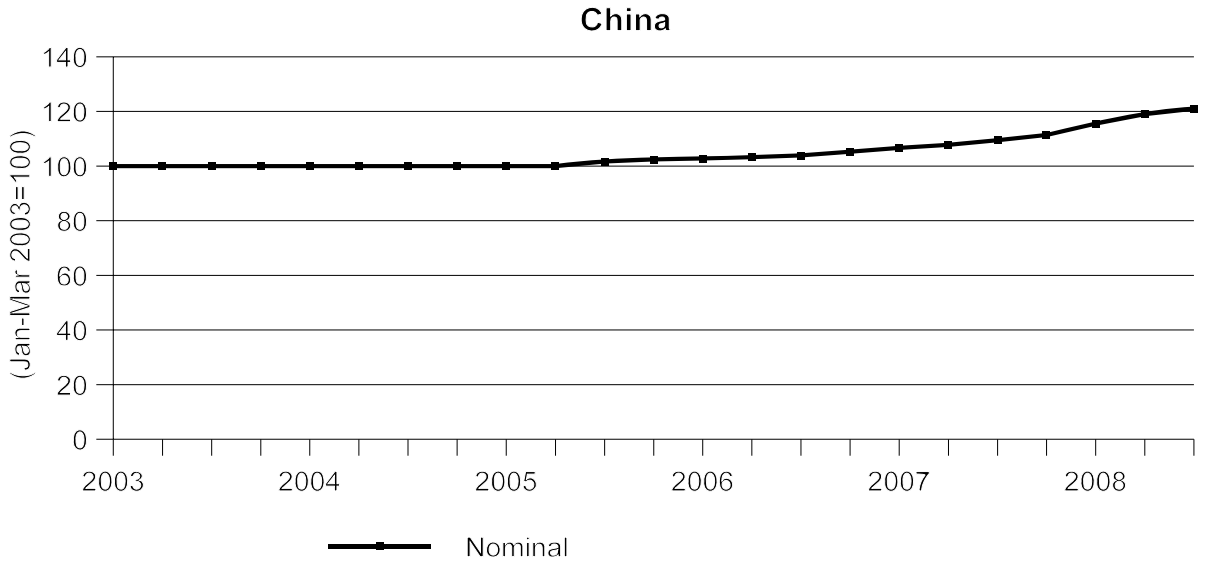
[1] The estimated cost was obtained by subtracting the customs value from the c.i.f. value of the imports for 2008 and then dividing by the customs value.

[2] A real exchange rate is calculated by adjusting the nominal rate for movements in producer prices in the United States and other countries.

Figure V-1
Exchange rates: Index of the nominal exchange rates of the currency of China in relation to the U.S. dollar, by quarters, 2003-08



Source: International Monetary Fund, *International Financial Statistics*, December 2008 and earlier issues.

PRICING PRACTICES

Questionnaire responses show that prices of saccharin are determined in several ways. PMC reported that most of its pricing was determined by *** during 2007 and 2008. During earlier years of the 2003-08 period, it also made use of *** and ***. Among importers of saccharin from China, methods reported included transaction-by-transaction negotiations and contracts. One firm reported that it gives quotations based on the current market supply and demand situations of saccharin.

PMC reported that it ***, while discounts of importers of saccharin from China vary by company. Among the eight importers, four reported that they do not offer discounts and four reported that they provide discounts based on quantity or volume. Neither PMC nor any of the importers give ***.

Saccharin prices are commonly quoted on *** by PMC and on either an f.o.b or delivered basis by importers of saccharin from China. Among the eight responding importers, three quote on an f.o.b basis, three quote on a delivered basis, and two quote both ways. None of the firms reported internet sales.

All sales of saccharin by PMC are on a *** basis, while imports from China are sold on both a spot and contract basis. Among importers of Chinese product, four firms reported that all sales are on a spot basis, and the other four reported a mixture of spot and contract sales. Contract periods reported ranged from two months to one year, with quantities and prices typically fixed during the contract period. None of the importers reported the use of meet or release provisions.

PRICE DATA

The Commission requested U.S. producers and importers to provide quarterly data for the total quantity and f.o.b. value of saccharin shipped to unrelated customers in the U.S. market during January 2003-December 2008. Pricing data were requested for the following products.

***Product 1*.—**Sodium saccharin, granular, sized or unsized, FCC, 10-17 percent water.

***Product 2*.—**Sodium saccharin, powder, FCC, 3-6 percent water.

***Product 3*.—**Acid or insoluble saccharin, spray-dried powder, FCC.

***Product 4*.—**Calcium saccharin, granular, spray-dried powder, FCC.

***Product 5*.—**Sodium saccharin, granular, sized or unsized, non-food grade, 10-17 percent water.

The U.S. producer and 11 importers of saccharin from China including PMC reported varying amounts of price information. During 2003-08, the combined sales of the specified products accounted for nearly 100 percent of PMC's domestic shipments and 4.5 percent of imports from China.

Price Trends

Weighted-average quarterly f.o.b. prices of the U.S. producer and importers of saccharin from China for the five products are shown in tables V- 1 through and V-5 and figure 2. PMC's prices for all five products increased from the first quarter of 2003 onward. The *** price increases recorded for products 1, 2 and 3 during 2008 involved very small sales quantities as compared to earlier periods. There is evidence that these price spikes were the result of a world-wide shortage of saccharin.[3] The spotty price data for imports from China also reflected irregular increases for all five products.

Table V-1
Saccharin: Weighted-average f.o.b. prices and quantities of domestic and imported product 1,[1] and margins of underselling/(overselling), by quarters, January 2003-December 2008

* * * * * * *

Table V-2
Saccharin: Weighted-average f.o.b. selling prices and quantities for product 2,[1] and margins of underselling/(overselling), January 2003-December 2008

* * * * * * *

[3] According to questionnaire responses by five importers, the world's large producer of saccharin was closed in China creating a world-wide shortage of saccharin. ***, an importer and purchaser of saccharin reported that Suzhou was closed by the Chinese government in October 2007, creating a global capacity shortage. Reportedly, the Chinese government also asked four other saccharin producers to close for two months starting in December 2008. According to ***, these events caused prices to rise over 700 percent and it became difficult to obtain saccharin.

Table V-3
Saccharin: Weighted-average f.o.b. selling prices and quantities for product 3,[1] and margins of underselling/(overselling), January 2003-December 2008

* * * * * * *

Table V-4
Saccharin: Weighted-average f.o.b. selling prices and quantities for product 4,[1] and margins of underselling/(overselling), January 2003-December 2008

* * * * * * *

Table V-5
Saccharin: Weighted-average f.o.b. selling prices and quantities for product 5,[1] and margins of underselling/(overselling), January 2003-December 2008

* * * * * * *

Figure V-2
Saccharin: Weighted-average quarterly f.o.b. prices of products 1-5, January 2003-December 2008

* * * * * * *

Price Comparisons

Imports from China were priced lower than U.S.-produced saccharin in 26 out of 41 comparisons as shown in table V-6. Margins of underselling ranged from 0.9 to 97 percent and margins of overselling ranged from 1.1 to 673.9 percent .

Table V-6
Saccharin: Instances and ranges of margins of under/overselling from the original investigation January 2000-December 2002, and the first review, January 2003-December 2008

	Underselling		Overselling	
	Number of instances	Range (*percent*)	Number of instances	Range (*percent*)
First Review:[1]				
All products	26	0.9 to 97.0	15	1.1 to 673.9
Original investigation:[2]				
All products	45	6.0 to 59.6	0	-

[1] January 2003 to December 2008.
[2] Price data for the original investigation were for the period January 2000 to December 2002.

Source: Compiled from data submitted in response to Commission questionnaires and the staff report from the original investigation (USITC Pub. 3606, June 2003).

APPENDIX A

FEDERAL REGISTER NOTICES AND THE COMMISSION'S STATEMENT ON ADEQUACY

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1013 (Review)]

Saccharin From China

AGENCY: United States International Trade Commission.

ACTION: Institution of a five-year review concerning the antidumping duty order on saccharin 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 saccharin 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 July 22, 2008. Comments on the adequacy of responses may be filed with the Commission by August 15, 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,

[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. 08–5–183, expiration date June 30, 2008. 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.

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

EFFECTIVE DATE: June 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.*

SUPPLEMENTARY INFORMATION:

Background—On July 9, 2003, the Department of Commerce issued an antidumping duty order on imports of saccharin from China (68 FR 40906). 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 one Domestic Like Product consisting of all forms of saccharin.

(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 all domestic producers of saccharin.

(5) The *Order Date* is the date that the antidumping duty order under review became effective. In this review, the Order Date is July 9, 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 July 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 August 15, 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 pounds and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

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

(b) 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 pounds and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

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

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

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

(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 pounds and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

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

By order of the Commission.

Issued: May 19, 2008.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E8–11527 Filed 5–30–08; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1013 (Review)]

Saccharin From China

AGENCY: United States International Trade Commission.

ACTION: Notice of Commission determination to conduct a full five-year review concerning the antidumping duty order on saccharin from China.

SUMMARY: The Commission hereby gives notice that it will proceed with a full review pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) to determine whether revocation of the antidumping duty order on saccharin from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. A schedule for the review will be established and announced at a later date. 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 5, 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.*

SUPPLEMENTARY INFORMATION: On September 5, 2008, the Commission determined that it should proceed to a full review in the subject five-year review pursuant to section 751(c)(5) of the Act. The Commission found that the domestic interested party group response to its notice of institution (72 FR 31504, June 2, 2008) was adequate and that the respondent interested party group response was inadequate.[1] The Commission also found that other circumstances warranted conducting a full review. 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.

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

By order of the Commission.

Dated: September 10, 2008.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E8–21536 Filed 9–15–08; 8:45 am]

BILLING CODE 7020–02–P

[1] Vice Chairman Pearson dissenting with respect to the respondent interested party group response.

DEPARTMENT OF COMMERCE

International Trade Administration

A–570–878

Saccharin from the People's Republic of China: Notice of Final Results of Expedited Sunset Review of Antidumping Duty Order

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

EFFECTIVE DATE: October 9, 2008.

FOR FURTHER INFORMATION CONTACT: Andrea Staebler Berton, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4037.

SUMMARY: On June 5, 2008, the Department of Commerce (''the Department'') initiated a sunset review of the antidumping duty order on saccharin from the People's Republic of China (''PRC''). On the basis of a notice of intent to participate, and an adequate substantive response filed on behalf of domestic interested parties, as well as a lack of response from respondent interested parties, the Department conducted an expedited (120–day) sunset review. As a result of the sunset review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping. The dumping margins are identified in the Final Results of Review section of this notice.

SUPPLEMENTARY INFORMATION:

Background

On June 5, 2008, the Department published the notice of initiation of the sunset review of the antidumping duty order on saccharin from the PRC pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). *See Initiation of Five–Year (''Sunset'') Reviews*, 73 FR 31974 (June 5, 2008) (''*Initiation Notice*''). On June 20, 2008, the Department received a notice of intent to participate from a domestic interested party, PMC Specialties Group, Inc. (''PMCSG''), within the deadline specified in section 351.218(d)(1)(i) of the Department's regulations. PMCSG claimed interested party status under section 771(9)(C) of the Act as the sole domestic producer of saccharin in the United States and the petitioner in the original investigation. On July 7, 2008, the Department received a substantive response from PMCSG within the deadline specified in section 351.218(d)(3)(i) of the Department's regulations. We did not receive responses from any respondent interested parties to this proceeding. As a result, pursuant to section 751(c)(3)(B) of the Act and section 351.218(e)(1)(ii)(C)(2) of the Department's regulations, the Department determined to conduct an expedited review of the order.

Scope of the Order

The product covered by this antidumping duty order is saccharin. Saccharin is defined as a non–nutritive sweetener used in beverages and foods, personal care products such as toothpaste, table top sweeteners, and animal feeds. It is also used in metalworking fluids. There are four primary chemical compositions of saccharin: (1) Sodium saccharin (American Chemical Society Chemical Abstract Service (''CAS'') Registry 128–44–9); (2) calcium saccharin (CAS Registry 6485–34–3); (3) acid (or insoluble) saccharin (CAS Registry 81–07–2); and (4) research grade saccharin. Most of the U.S.-produced and imported grades of saccharin from the PRC are sodium and calcium saccharin, which are available in granular, powder, spray–dried powder, and liquid forms. The merchandise subject to this order is currently classifiable under subheading 2925.11.00 of the *Harmonized Tariff Schedule of the United States* (''HTSUS'') and includes all types of saccharin imported under this HTSUS subheading, including research and specialized grades. Although the HTSUS subheading is provided for convenience and customs purposes, the Department's written description of the scope of this order remains dispositive.

Analysis of Comments Received

All issues raised in this review are addressed in the ''Issues and Decision Memorandum'' (''Decision Memorandum'') from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, dated concurrently with this notice, and is hereby adopted by this notice. The issues discussed in the Decision Memorandum include the likelihood of continuation or recurrence of dumping and the magnitude of the margins likely to prevail if the order were revoked. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit in room 1117 of the main Commerce building.

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

Final Results of Review

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

Manufacturers/Exporters/Producers	Weighted–Average Margin (percent)
Suzhou Fine Chemical Group Co., Ltd.	291.57
Shanghai Fortune Chemical Co., Ltd.	249.39
Kaifeng Xinhua Fine Chemical Factory	281.97
PRC–Wide	329.94

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

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

Dated: October 2, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E8–24030 Filed 10–8–08; 8:45 am]

BILLING CODE 3510–DS–S

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1013 (Review)]

Saccharin From China

AGENCY: United States International Trade Commission.

ACTION: Scheduling of a full five-year review concerning the antidumping duty order on saccharin from China.

SUMMARY: The Commission hereby gives notice of the scheduling of a full review pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) (the Act) to determine whether revocation of the antidumping duty order on saccharin 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:* November 24, 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 September 10, 2008, the Commission determined that responses to its notice of institution of the subject five-year review were such that a full review pursuant to section 751(c)(5) of the Act should proceed (73 FR 53444, September 16, 2008). A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements are available from the Office of the Secretary and at the Commission's Web site.

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 this review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission's notice of institution of the review need not file an additional notice of appearance. 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.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this review available to authorized applicants under the APO issued in the review, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the review. A party granted access to BPI following publication of the Commission's notice of institution of the review need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the review will be placed in the nonpublic record on March 9, 2009, and a public version will be issued thereafter, pursuant to section 207.64 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the review beginning at 9:30 a.m. on March 26, 2009, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before March 20, 2009. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on March 24, 2009, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), 207.24, and 207.66 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party to the review may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.65 of the Commission's rules; the deadline for filing is March 18, 2009. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.67 of the Commission's rules. The deadline for filing posthearing briefs is April 7, 2009; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the review may submit a written statement of information pertinent to the subject of the review on or before April 7, 2009. On April 29, 2009, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before May 1, 2009, but such final comments must not contain new factual information and must otherwise comply with section 207.68 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also 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).

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

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 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.

By order of the Commission.
Issued: November 24, 2008.

William R. Bishop,
Acting Secretary to the Commission.

[FR Doc. E8–28391 Filed 11–28–08; 8:45 am]
BILLING CODE 7020–02–P

EXPLANATION OF COMMISSION DETERMINATION ON ADEQUACY

in

Saccharin from China
Inv. No. 731-TA-1013 (Review)

On September 5, 2008, the Commission determined that it should proceed to a full review in the subject five-year review pursuant to section 751(c)(3)(B) of the Tariff Act of 1930, as amended, 19 U.S.C. § 1675(c)(3)(B).

The Commission received a response to the notice of institution of the five-year review of the antidumping duty order on imports of saccharin from China from PMC Specialties Group, Inc. ("PMC"), the sole domestic producer and the primary importer of saccharin from China in 2007. The Commission found this domestic interested party response to the notice of institution to be individually adequate. Because the Commission received an individually adequate response from PMC, the sole domestic producer of saccharin, the Commission also determined that the domestic interested party group response was adequate.

The Commission received one respondent interested party response to the notice of institution from Rit-Chem Co., Inc. ("Rit-Chem"), an importer of the subject merchandise during the original investigation, and found this respondent interested party response to be individually adequate. Although the Commission received individually adequate interested party responses to the notice of institution from importer and domestic interested party PMC, which alone accounted for the majority of imports of the subject merchandise in 2007, and importer respondent interested party Rit-Chem, the Commission determined that the respondent interested party group response to the notice of institution was inadequate.[1] However, in light of PMC's status as the sole domestic producer of the like product and the primary importer of subject merchandise in 2007, the Commission found that changes in the conditions of competition warranted conducting a full 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).

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[1] Commissioner Daniel R. Pearson determined that the respondent interested party group response was adequate.

APPENDIX B

CALENDAR OF PUBLIC HEARING

CALENDAR OF PUBLIC HEARING

Those listed below appeared as witnesses at the United States International Trade Commission's hearing:

Subject: Saccharin from China

Inv. No.: 731-TA-1013 (Review)

Date and Time: March 26, 2009 - 9:30 a.m.

Sessions were held in connection with this review in the Main Hearing Room, 500 E Street (room 101), SW, Washington, D.C.

OPENING REMARKS:

In Support of Continuation of the Antidumping Duty Order:

(**Adam H. Gordon**, Kelley Drye & Warren LLP)

In Support of Continuation of the Antidumping Duty Order:

Kelley Drye & Warren LLP
Washington, D.C.
on behalf of

PMC Specialties Group, Inc.

Zetta Bouligaraki, President, PMC Specialities Group, Inc.

Mark R. Miller, Vice President, Manufacturing *and* Director, Regulatory Affairs, PMC Specialities Group, Inc.

Cory Davids, Marketing Specialist, PMC Specialities Group, Inc.

Michael T. Kerwin, Economist, Georgetown Economic Services, LLC

Adam H. Gordon)
) – OF COUNSEL
Grace W. Kim)

In Opposition to Continuation of the Antidumping Duty Order:

TRInternational Inc.
Seattle, WA
on behalf of

Tianjin Changjie Chemical Co., Ltd.

Dennis Delaney, Sales Manager, TR International Inc.

REBUTTAL/CLOSING REMARKS:

In Support of Continuation of the Antidumping Duty Order:

(**Adam H. Gordon**, Kelley Drye & Warren LLP)

APPENDIX C

SUMMARY DATA

Table C-1
Saccharin: Summary data concerning the U.S. market, 2003-08

(Quantity=1,000 pounds, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per pound; period changes=percent, except where noted)

	Reported data						Period changes					
Item	2003	2004	2005	2006	2007	2008	2003-08	2003-04	2004-05	2005-06	2006-07	2007-08
U.S. consumption quantity:												
Amount	***	***	***	***	***	***	***	***	***	***	***	***
Producers' share (1)	***	***	***	***	***	***	***	***	***	***	***	***
Importers' share (1):												
China	***	***	***	***	***	***	***	***	***	***	***	***
All other sources	***	***	***	***	***	***	***	***	***	***	***	***
Total imports	***	***	***	***	***	***	***	***	***	***	***	***
U.S. consumption value:												
Amount	***	***	***	***	***	***	***	***	***	***	***	***
Producers' share (1)	***	***	***	***	***	***	***	***	***	***	***	***
Importers' share (1):	***	***	***	***	***	***	***	***	***	***	***	***
China	***	***	***	***	***	***	***	***	***	***	***	***
All other sources	***	***	***	***	***	***	***	***	***	***	***	***
Total imports	***	***	***	***	***	***	***	***	***	***	***	***
U.S. imports from:												
China:												
Quantity	15	3	2	226	1,115	2,951	19450.6	-79.8	-39.7	12149.9	394.4	164.7
Value	26	8	13	736	3,433	28,863	111134.2	-68.2	57.0	5582.8	366.5	740.8
Unit value	$1.72	$2.70	$7.03	$3.26	$3.08	$9.78	469.0	57.1	160.4	-53.6	-5.6	217.7
Ending inventory quantity	***	***	***	***	***	***	***	***	***	***	***	***
All other sources:												
Quantity	2,982	3,937	4,608	4,275	4,931	5,396	80.9	32.0	17.0	-7.2	15.3	9.4
Value	6,795	10,211	14,297	13,315	15,705	55,618	718.5	50.3	40.0	-6.9	18.0	254.1
Unit value	$2.28	$2.59	$3.10	$3.11	$3.18	$10.31	352.3	13.8	19.6	0.4	2.3	223.7
Ending inventory quantity	***	***	***	***	***	***	***	***	***	***	***	***
All sources:												
Quantity	2,997	3,940	4,610	4,501	6,046	8,346	178.5	31.5	17.0	-2.4	34.3	38.0
Value	6,821	10,219	14,310	14,050	19,137	84,481	1138.5	49.8	40.0	-1.8	36.2	341.4
Unit value	$2.28	$2.59	$3.10	$3.12	$3.17	$10.12	344.7	13.9	19.7	0.6	1.4	219.8
Ending inventory quantity	325	309	326	341	434	691	112.6	-4.8	5.5	4.4	27.3	59.4
U.S. producers':												
Average capacity quantity	***	***	***	***	***	***	***	***	***	***	***	***
Production quantity	***	***	***	***	***	***	***	***	***	***	***	***
Capacity utilization (1)	***	***	***	***	***	***	***	***	***	***	***	***
U.S. shipments:												
Quantity	***	***	***	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***	***	***	***
Export shipments:												
Quantity	***	***	***	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***	***	***	***
Inventories/total shipments (1)	***	***	***	***	***	***	***	***	***	***	***	***
Production workers	***	***	***	***	***	***	***	***	***	***	***	***
Hours worked (1,000s)	***	***	***	***	***	***	***	***	***	***	***	***
Wages paid ($1,000s)	***	***	***	***	***	***	***	***	***	***	***	***
Hourly wages	***	***	***	***	***	***	***	***	***	***	***	***
Productivity (pounds per hour)	***	***	***	***	***	***	***	***	***	***	***	***
Unit labor costs	***	***	***	***	***	***	***	***	***	***	***	***
Net sales:												
Quantity	***	***	***	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***	***	***	***
Cost of goods sold (COGS)	***	***	***	***	***	***	***	***	***	***	***	***
Gross profit or (loss)	***	***	***	***	***	***	***	***	***	***	***	***
SG&A expenses	***	***	***	***	***	***	***	***	***	***	***	***
Operating income or (loss)	***	***	***	***	***	***	***	***	***	***	***	***
Capital expenditures	***	***	***	***	***	***	***	***	***	***	***	***
Unit COGS	***	***	***	***	***	***	***	***	***	***	***	***
Unit SG&A expenses	***	***	***	***	***	***	***	***	***	***	***	***
Unit operating income or (loss)	***	***	***	***	***	***	***	***	***	***	***	***
COGS/sales (1)	***	***	***	***	***	***	***	***	***	***	***	***
Operating income or (loss)/ sales (1)	***	***	***	***	***	***	***	***	***	***	***	***

(1) "Reported data" are in percent and "period changes" are in percentage points.
(2) Not applicable.
(3) Not meaningful.

Note.--Financial data are reported on a fiscal year basis and may not necessarily be comparable to data reported on a calendar year basis. Because of rounding, figures may not add to the totals shown. Unit values and shares are calculated from the unrounded figures.

Source: Compiled from data submitted in response to Commission questionnaires and from official Commerce statistics.

APPENDIX D

COMMENTS ON THE SIGNIFICANCE OF THE EXISTING ANTIDUMPING DUTY ORDER AND THE LIKELY EFFECTS OF REVOCATION

U.S. PRODUCERS COMMENTS

The Commission requested U.S. producers to describe any anticipated changes in their operations or organization relating to the production of saccharin in the future if the antidumping duty order was to be revoked. (Question II-4)

PMC

"***."

The Commission requested U.S. producers to describe the significance of the antidumping duty order on their production capacity, production, U.S. shipments, inventories, purchases, employment, revenues, costs, profits, cash flow, capital expenditures, research and development expenditures, and asset values. (Question II-17)

PMC

"***."

The Commission asked U.S. producers whether they anticipated changes in their production capacity, production, U.S. shipments, inventories, purchases, employment, revenues, costs, profits, cash flow, capital expenditures, research and development expenditures, or asset values relating to the production of saccharin in the future if the antidumping duty order was to be revoked. (Question II-18)

PMC

"***."

U.S. IMPORTERS COMMENTS

The Commission asked U.S. importers if they would anticipate any changes in their operations or organization relating to the importation of saccharin the future if the antidumping duty order was to be revoked. (Question II-4)

***

"We are in direct competition with saccharin from China. We currently import and sell saccharin from Korea."

***

"Revoking the antidumping duty of saccharin from China would reduce our firm's raw material cost and therefore make our pricing more competitive in the U.S. sweetener market. No detailed figures are available at this time."

***

"Our cost of feed may go down."

***

"No."

***

"If the order were revoked, we anticipate that large volumes of Chinese saccharin would enter the United States and the price of imported Chinese saccharin would decline. With prices at low levels it would no longer be profitable for our company to trade in saccharin."

***

"No."

***

"We are currently handling saccharin from India and Japan, however, if the order is revoked, we will need to look at also importing saccharin from China to be competitive."

***

"No."

***

"No."

***

"No."

***

"With any pending anti-dumping duty put with saccharin, we will make a commercial decision and no longer import Indian saccharin."

***

"No."

***

"*** has not been involved in importing or purchasing saccharin since 2004 and does not anticipate any future involvement."

***

"No. Due to quality issues and risk mitigation."

***

"***."

***

"No."

***

"No."

***

"No."

The Commission requested U.S. importers to describe the significance of the existing antidumping duty order covering imports of saccharin in terms of their effect on their firms' imports, U.S. shipments of imports, and inventories. (Question II-11)

***

"We have only sold material originating from Korea."

***

"The existing antidumping duty actually prevents *** from selling more saccharin in the United States. At times we feel that certain questionable business practices by *** seem to be unfair and drive market prices to end users incredibly high."

***

"It keeps the cost of our end product higher than without the antidumping duty. This works toward making our customers uncompetitive in the world market."

***

"We have a relationship with Shanghai Fortune. I would expect a flood of cheap imports if the duties were removed."

***

"The antidumping duty order limits the number of Chinese companies from which we can import. Our company would only purchase saccharin from a Chinese company subject to a zero margin."

***

"None."

***

"Because of the anti-dumping duty order, we started importing saccharin from Japan and India. The market prices went up from the level of around US$4 per kilo to US$8 per kilo in 2003."

***

"The company only imported small quantities late in 2008 due to shortage of supply late in the year."

***

"The significance of the order is limited for *** since *** does not import any Chinese origin saccharin, nor did *** import Chinese origin saccharin before the order was issued. However, as our supplier, ***, doesn't produce saccharin (raw material) by itself, and needs to source it from others, *** has been losing its flexibility of sourcing."

***

"The antidumping duty order has allowed *** to sell saccharin made in India, a business that has been growing over the last three years."

***

"We have made 3 importation of Saccharin since 2003. Once we learned about the pending saccharin anti-dumping case, we have made a commercial decision not to import saccharin moving forward."

***

"Our business was initially negatively impacted for two years as we sourced product from other countries."

***

"Given that prior to the anti-dumping order, ***'s purchases and sales of saccharin were an insignificant part of its business, the implementation of the anti-dumping order confirmed ***'s intention to discontinue offering the product at the end of 2004."

***

"Biggest impact was pricing (increase)."

***

"***."

***

"The dramatic importation of Shanghai Fortune's saccharin into the U.S. makes the antidumping tariff against Chinese producers a joke. They have abused their 0% reduction and purchase from most plants forbidden to ship to States. It is as if there is no antidumping tariff in effect. They found a way around the

DOC/ITC regulations. Their own production is so small that there is no way they could produce any quantities close to the numbers entering the States. Further, they do not produce calcium and have been importing calcium saccharin as well from Kaifeng. They have made a mockery of the government."

***

"The antidumping duty effectively increases the domestic price as compared to the global price. This difference made the US market more attractive to non-subject manufacturers, which improved availability during the extreme shortages since Oct. 2007. The combination effect of antidumping and the shortage motivated us to begin imports in 2008."

***

"No answer."

The Commission requested U.S. importers if they would anticipate any changes in their imports, U.S. shipments of imports, or inventories of saccharin in the future if the antidumping duty order was to be revoked. (Question II-12)

***

"If the antidumping duty order were to be revoked, there would be significant sales losses within a year."

***

"If the antidumping duty on saccharin were revoked, we would expect to see an increase in saccharin imports into the United States. Our firm and other similar firms would possibly have a better opportunity to gain saccharin market share in the United States. This could, in turn, create more competition among importers and drive down prices for end users and manufacturers, such as P&G, Colgate, Unilever, Abbot Labs, Johnson & Johnson, and so on."

***

"We would buy from China assuming a better value than we have today, and assuming comparable quality."

***

"No."

***

"We would anticipate a large increase in imports from a large number of Chinese producers and exporters. The price of Chinese saccharin would sharply decline and our company would cease importing saccharin it was no longer profitable to trade in saccharin."

***

"No."

***

"Probably the Chinese producers other than Shanghai Fortune will become very aggressive to sell their saccharin to USA. So, we will need to try to make Japanese and Indian materials compete against the Chinese materials. The price for saccharin should go down. We have not discussed or determined what we will do if the anti-dumping duty order is to be revoked."

***

"No."

***

"No."

***

"If the anti-dumping duty were to be revoked, product from China would flood the U.S. market and it will probably be impossible to sell saccharin sourced from any other country. *** estimates that it's saccharin sales in the U.S. would disappear."

***

"No."

***

"A portion of our volume would be shifted back to China."

***

"No."

***

"No."

***

"***."

***

"No."

***

"*** could lower inventories because sodium saccharin would become more available."

***

"No."

U.S. PURCHASERS COMMENTS

The Commission requested U.S. purchasers to describe the likely effects of any revocation of the subject antidumping duty order on the future activities of their firm and the entire U.S. market. (Questions III-35 (1) and III-35 (2)). The following are quotations from the responses of purchasers:

(1) Effects on the activities of the firm

***

"We will experience some loss of business within a year from those companies that can use Chinese quality material."

***

"No Effect"

***

"We don't purchase Chinese saccharin."

***

"Price stability and availability in our industry it will make the U.S. competitive with the rest of the world."

***

"We will identify the supplier with the best total value (as selected by the criteria stated in III-27)."

***

"Don't know."

***

"None-- increase cost."

***

"Firm may become more aggressive in the domestic purchases of saccharin."

***

"Little to no input on buying decisions."

***

"We do not have any plans to re-enter this market. But, the revocation of the antidumping will most likely stabilize the market."

***

"Significant price decline immediate."

***

"None."

***

"Not much would change."

***

"We believe revocation of the antidumping order will result in a normalized, fair market for saccharin and increasing availability, which would allow our firm to buy based on the fundamentals of quality, price and service. This also would enable us to maintain our current levels of employment and would help ensure the survival of the *** brand and the viability of our business model.
As previously discussed, our business cannot sustain the current extremely high levels of saccharin prices. At a minimum, these prices will force us to increase our product prices on the shelf significantly, at a high cost to consumers. This, in turn, could cause consumers switch to another brand of sweetener, which will result in our company having to reduce the number of employees. As our answers to preceding questions indicate, if current conditions continue, we will also be forced to consider switching to another type of sweetener, which is a drastic measure that we could implement only with great difficulty, if at all.

*** employs *** workers in all and, at any given time, about *** of them are dedicated to the production of ***. Revocation of the order would be an essential step toward ensuring that these workers remain gainfully employed at a time when the national economy is experiencing great distress."

(2)Effects on the entire U.S. market

***

"There may be a slight drop in price. However, high quality material will remain more expensive."

***

"*** cannot comment on this, not having purchased saccharin since 2004."

***

"Unknown.

***

"Make the U.S. competitive with the rest of the world."

***

"More Chinese saccharine should become available to the U.S. market as suppliers other than Shanghai Fortune are able to ship here."

***

"Don't know."

***

"Reduce demand."

***

"Price of saccharin will fall because supply of cheaper material to the market will affect market price. This will happen as soon as duty is revoked and material not subject to duty enters marketplace."

***

"Cost of saccharin will likely decrease slightly within 3 months after revocation."

***

"It will stabilize the market."

***

"Significant price decline immediate."

***

"None."

***

"Prices will retreat towards historical US values and typical global market prices as compared to the drastically higher prices in the US."

***

"As previously indicated, we believe the revocation of the order will result in a normalized, fair market for saccharin.

In so doing, revocation would have no effect at all on domestic production of saccharin, as there are no domestic producers of saccharin. Hence, revocation would have no effect on the level of employment in the United States engaged in the production of saccharin. Revocation would have an effect only on the relative competitive position of imports from different countries in the U.S. market. It would not have an effect on the level of saccharin production in the United States. ***. The Commission's determination in this proceeding cannot reverse a decision that *** has already made.
A decision by the Commission to maintain the order under these circumstances would simply serve to keep prices high and to maximize the profits made by foreign producers and imports, all at the expense of U.S. companies like *** and at the expense of the ultimate consumer of saccharin-based products.

Nor would revocation of the order have any effect on the future of the domestic saccharin industry. It is clear that there is, and will be, no such industry. ***."

FOREIGN PRODUCERS/EXPORTERS' COMMENTS

The Commission requested foreign producers to indicate whether they anticipated any changes in their operations or organization relating to the production of PET film in the future if the antidumping duty order was to be revoked, and if yes, to describe those changes. (Question II-4)

Tianjin Changjie

"***."

The Commission requested foreign producers to identify export markets (other than the United States) where they have developed or to which they have increased their sales of saccharin as a result of the antidumping duty order. (Question II-13)

Tianjin Changjie

"***."

The Commission requested foreign producers to describe the significance of the existing antidumping and countervailing duty orders covering imports of saccharin in terms of their effect on their firms' production capacity, production, home market shipments, exports to the United States and other markets, and inventories. (Question II-14)

Tianjin Changjie

"***."

The Commission asked foreign producers if they would anticipate any changes in their production capacity, production, home market shipments, exports to the United States and other markets, or inventories in the future if the antidumping duty order was to be revoked. (Question II-15)

Tianjin Changjie

"***."

The Commission asked foreign producers to discuss any anticipated changes in terms of the product range, product mix, or marketing of saccharin in their home markets, for export to the United States, or for export to third-country markets in the future, identifying the time period(s) involved and the factor(s) that they believe would be responsible for such changes. (Question III-10)

Tianjin Changjie

"***."