

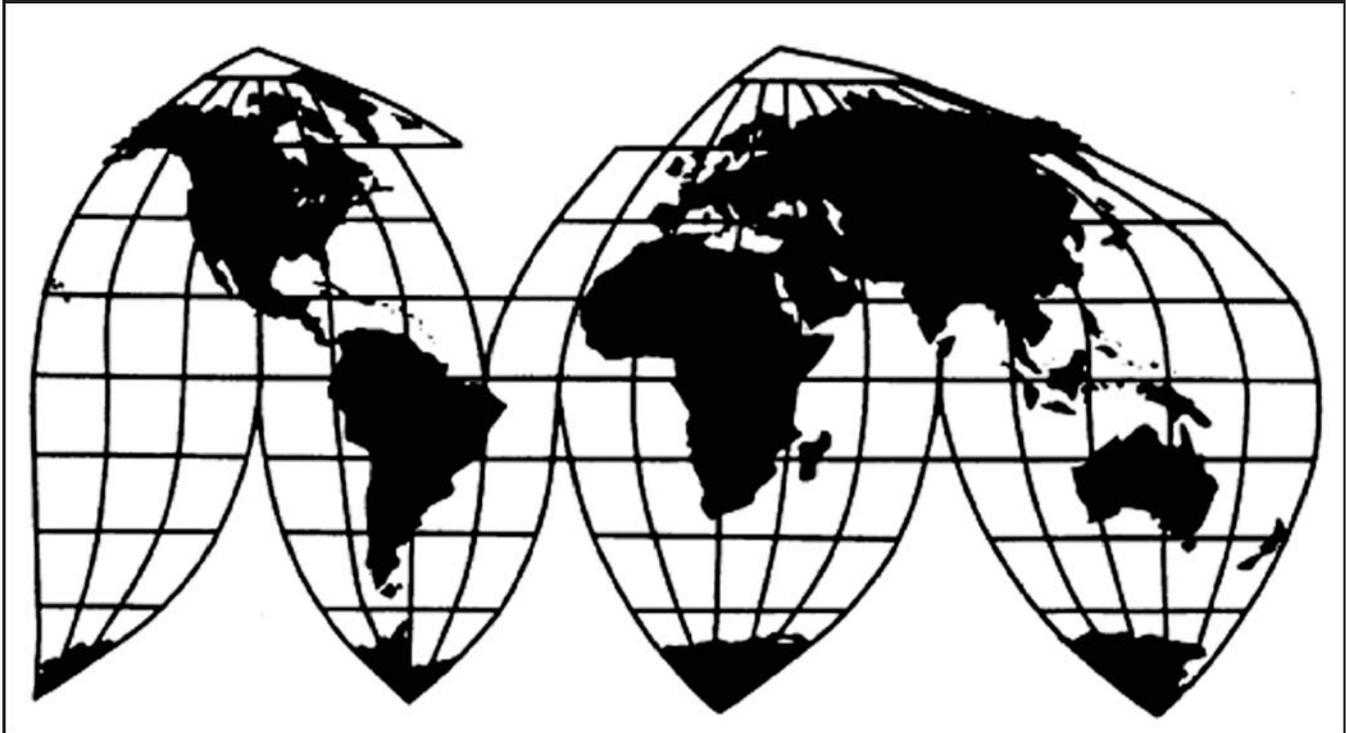
Foundry Coke from China

Investigation No. 731-TA-891 (Second Review)

Publication 4326

May 2012

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

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Note.—Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

UNITED STATES INTERNATIONAL TRADE COMMISSION
Investigation No. 731-TA-891 (Second Review)

FOUNDRY COKE FROM CHINA

DETERMINATION

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

BACKGROUND

The Commission instituted this review on December 1, 2011 (76 F.R. 74810) and determined on March 5, 2012 that it would conduct an expedited review (77 F.R. 15123, March 14, 2012).

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

VIEWS OF THE COMMISSION

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

I. BACKGROUND

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

On August 1, 2006, the Commission instituted the first five-year review of the order on foundry coke from China.³ The Commission determined in its expedited review that revocation of the antidumping duty order on foundry coke from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.⁴ Commerce published notice of the continuation of that antidumping duty order.⁵

The Commission instituted this current review on December 1, 2011.⁶ Domestic producers ABC Coke, Erie Coke, Tonawanda Coke Corp., and Walter Coke Co. (collectively “Domestic Producers”) filed responses to the notice of institution. On March 5, 2012, the Commission found the domestic interested party group response to be adequate. Because no responses were received from any respondent interested parties, the Commission found the respondent interested party group response to be inadequate. The Commission did not find any circumstances that would warrant conducting a full review of the order and, therefore, determined to conduct an expedited review.⁷

On April 5, 2012, Domestic Producers filed comments arguing that revocation of the antidumping duty order on foundry coke from China would likely lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.⁸ No respondent interested party provided any information or argument to the Commission in this expedited second review. As a result, the record contains limited new information on the foundry coke industry in China and the U.S. market for foundry coke. Accordingly, for our determination, we rely on the limited new information on the record in this

¹ Foundry Coke from China, Inv. No. 731-TA-891 (Final) USITC Pub. 3449 (Sept. 2001) (“Original Determination”).

² 66 Fed. Reg. 48,025, 48,025 (Sept. 17, 2001).

³ The Commission determined that it would conduct an expedited review of the order. 71 Fed. Reg. 67161 (Nov. 20, 2006).

⁴ Foundry Coke from China, Inv. No. 731-TA-891 (Review) USITC Pub. 3897 (Dec. 2006) (“First Review Determination”).

⁵ 72 Fed. Reg. 1214 (Jan. 10, 2007).

⁶ 76 Fed. Reg. 74810 (Dec. 1, 2011), reprinted in Confidential Report (“CR”) and Public Report (“PR”) at Appendix A.

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

⁸ Domestic Producers’ Final Comments at 1.

review and, to the extent appropriate, on the facts available from the original investigations and the first expedited review.^{9 10}

Commerce conducted its sunset review of the antidumping duty order on an expedited basis and published the results of its review on April 6, 2012.¹¹

II. DOMESTIC LIKE PRODUCT AND INDUSTRY

In making its determination under section 751(c) of the Act, the Commission first defines “the domestic like product” and the “industry.”¹²

A. Domestic Like Product

The Act defines “domestic like product” as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle.”¹³ The Commission’s practice in five-year reviews is to look to the like product definition from the original determination and any completed reviews and consider whether the record indicates any reason to revisit the prior findings.¹⁴

⁹ 19 U.S.C. § 1677e(a) authorizes the Commission to “use the facts otherwise available” in reaching a determination when (1) necessary information is not available on the record or (2) an interested party or other person withholds information requested by the agency, fails to provide such information in the time, form, or manner requested, significantly impedes a proceeding, or provides information that cannot be verified pursuant to section 782(i) of the Act. 19 U.S.C. § 1677e(a). The verification requirements in section 782(i) apply only to Commerce. 19 U.S.C. § 1677m(i); see Titanium Metals Corp. v. United States, 155 F. Supp. 2d 750, 765 (Ct. Int’l Trade 2001) (“{T}he ITC correctly responds that Congress has not required the Commission to conduct verification procedures for the evidence before it, or provided a minimum standard by which to measure the thoroughness of a Commission investigation.”).

¹⁰ Chairman Okun notes that the statute authorizes the Commission to take adverse inferences in five-year reviews, but such authorization does not relieve the Commission of its obligation to consider the record evidence as a whole in making its determination. See 19 U.S.C. § 1677e. She generally gives credence to the facts supplied by the participating parties and certified by them as true, but bases her decision on the evidence as a whole, and does not automatically accept participating parties’ suggested interpretations of the record evidence. Regardless of the level of participation, the Commission is obligated to consider all evidence relating to each of the statutory factors and may not draw adverse inferences that render such analysis superfluous. “In general, the Commission makes determinations by weighing all of the available evidence regarding a multiplicity of factors relating to the domestic industry as a whole and by drawing reasonable inferences from the evidence it finds most persuasive.” SAA at 869.

¹¹ 77 Fed. Reg. 20788 (April 6, 2012).

¹² 19 U.S.C. § 1677(4)(A).

¹³ 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).

¹⁴ See, e.g., Stainless Steel Sheet and Strip from Germany, Italy, Japan, Korea, Mexico, and Taiwan, Inv. Nos. 701-TA-382 and 731-TA-798-803 (Second Review), USITC Pub. 4244 (July 2011) at 6; Certain Carbon Steel Products from Australia, Belgium, Brazil, Canada, Finland, France, Germany, Japan, Korea, Mexico, Poland, Romania, Spain, Sweden, Taiwan, and the United Kingdom, Inv. Nos. AA1921-197 (Second Review), 701-TA-319, 320, 325-27, 348, and 350 (Second Review), and 731-TA-573-74, 576, 578, 582-87, 612, and 614-618 (Second Review), USITC Pub. 3899 (January 2007) at 31, n. 117; Internal Combustion Industrial Forklift Trucks from Japan, Inv. No. 731-TA-377 (Second Review), USITC Pub. 3831 (December 2005) at 8-9; Crawfish Tail Meat from
continue...

In the final results of its expedited sunset review, Commerce defined the imported merchandise within the scope of the order as “coke larger than 100 mm (4 inches) in maximum diameter and at least 50 percent of which is retained on a 100 mm (4 inch) sieve, of a kind used in foundries.”¹⁵ This merchandise is currently classifiable under statistical reporting number 2704.00.00.11 of the Harmonized Tariff Schedule (HTS) of the United States.¹⁶

Foundry coke is the carbonized product remaining after blended bituminous coals are heated and distilled.¹⁷ It is one of three types of metallurgical coke.¹⁸ Foundry coke is used as a fuel and as a source of carbon in the production of molten iron. As a fuel, foundry coke is used to melt scrap iron or pig iron with other metal compounds.¹⁹

The scope definition set out above is unchanged from Commerce’s original scope determination. In the original investigation and the first five-year review, the Commission defined a single domestic like product as foundry coke, coextensive with the scope of the investigation.²⁰ In this review, Domestic Producers have indicated that they agree with the Commission’s definition of the domestic like product in the original investigation and the first five-year review.²¹ There is no new information obtained during this review that would suggest any reason for revisiting the Commission’s like product definition in the original determination or the first review. Therefore, we continue to define the domestic like product as foundry coke, coextensive with the scope definition.

¹⁴ ...continue

China, Inv. No. 731-TA-752 (Review), USITC Pub. 3614 (July 2003) at 4; Steel Concrete Reinforcing Bar from Turkey, Inv. No. 731-TA-745 (Review), USITC Pub. 3577 (February 2003) at 4.

¹⁵ Foundry Coke Products from the People’s Republic from China: Final Results of the Expedited Sunset Review of the Antidumping Duty Order, 71 Fed. Reg. 70,956, 70,957 (Dep’t Commerce Dec. 7, 2006) (Commerce’s Review Determination).

¹⁶ According to Commerce, the written description provided above remains dispositive as to the scope of the product coverage. The HTS classification is provided for convenience and for Customs purposes. We also note that subject merchandise was previously classified under statistical reporting number 2704.00.00.10 until July 1, 2000. Id.

¹⁷ CR at I-7, PR at I-6; see also Original Determination at 4, I-2 to I-3.

¹⁸ “Metallurgical coke” is the carbonized product remaining after the destructive distillation of certain types of coal heated in the oven for many days or hours. Original Determination at 4. The types of metallurgical coke other than foundry coke are blast furnace coke and other industrial coke, including coke breeze. CR at I-7, PR at I-6.

¹⁹ CR at I-7, PR at I-6.

²⁰ Original Determination at 5, First Review Determination at 4. In the preliminary phase of the original investigation, the Commission considered whether blast furnace coke or industrial coke should be included in the domestic like product. The Commission determined that blast furnace coke was not part of the domestic like product in light of differences in physical characteristics and end uses, prices, production facilities and channels of distribution. Foundry Coke from China, Inv. No. 731-TA-891 (Preliminary), USITC Pub. 3365 (Nov. 2000) at 5-7. The Commission determined that industrial coke was not part of the domestic like product because of the differences in size, ash and carbon content, price, end uses, and customers. Thus, the Commission defined the domestic like product as consisting of only foundry coke. Id. at 7-8.

²¹ Domestic Producers’ Response at 22.

B. Domestic Industry

Section 771(4)(A) of the Act defines the relevant domestic industry as the “producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.”²²

In the original investigation and the first five-year review, the Commission defined the domestic industry as consisting of all domestic producers of foundry coke.²³ In this expedited second review, Domestic Producers state that they agree with the Commission’s previous domestic industry definition.²⁴ Given our finding with respect to the domestic like product, and because there is no new information obtained during this second review that would suggest any reason for revisiting the Commission’s prior definition of the domestic industry, we continue to define the domestic industry as all producers of foundry coke. There is no information on the record indicating that any domestic producer is a related party in this second review under 19 U.S.C. § 1677(4)(B).²⁵

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

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

A. Legal Standard In A Five-Year Review

In a five-year review conducted under section 751(c) of the Act, Commerce will revoke an antidumping 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.”²⁶ The SAA states that “under the likelihood standard, the Commission will engage in a counterfactual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo – the revocation or termination of a proceeding and the elimination of its restraining effects on volumes and prices of imports.”²⁷ Thus, the

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

²³ Original Determination at 6, First Review Determination at 5.

²⁴ Domestic Producers’ Response to Notice of Institution at 22.

²⁵ In the original investigation, the Commission found that certain domestic producers were related parties but did not find that appropriate circumstances existed to exclude those producers from the domestic industry. Original Determination at 7-9. There were no related party issues in the first expedited five-year review. First Review Determination at 5 n.22.

²⁶ 19 U.S.C. § 1675a(a).

²⁷ 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.

likelihood standard is prospective in nature.²⁸ The U.S. Court of International Trade has found that “likely,” as used in the five-year review provisions of the Act, means “probable,” and the Commission applies that standard in five-year reviews.^{29 30}

The Act 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.”³¹ 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.”³²

Although the standard in a five-year review is not the same as the standard applied in an original antidumping duty investigation, it contains some of the same fundamental elements. The statute provides that the Commission is to “consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the orders are revoked or the suspended investigation is terminated.”³³ It directs the Commission to take into account its prior injury determination, whether any improvement in the state of the industry is related to the order or the suspension agreement under review, whether the industry is vulnerable to material injury if the orders are revoked or the suspension agreement is terminated, and any findings by Commerce regarding duty absorption pursuant to 19 U.S.C. § 1675(a)(4).³⁴ 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.³⁵

²⁸ While the SAA states that “a separate determination regarding current material injury is not necessary,” it indicates that “the Commission may consider relevant factors such as current and likely continued depressed shipment levels and current and likely continued {sic} prices for the domestic like product in the U.S. market in making its determination of the likelihood of continuation or recurrence of material injury if the order is revoked.” SAA at 884.

²⁹ 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’”).

³⁰ For a complete statement of Chairman Okun’s interpretation of the likely standard, see Additional Views of Vice Chairman Deanna Tanner Okun Concerning the “Likely” Standard in Certain Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe From Argentina, Brazil, Germany, and Italy, Invs. Nos. 701-TA-362 (Review) and 731-TA-707 to 710 (Review)(Remand), USITC Pub. 3754 (Feb. 2005).

³¹ 19 U.S.C. § 1675a(a)(5).

³² 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.

³³ 19 U.S.C. § 1675a(a)(1).

³⁴ 19 U.S.C. § 1675a(a)(1).

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

B. Conditions of Competition

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

Demand. In the original investigation, the Commission found that demand for foundry coke was derived from demand for the end products produced by purchasers, mainly in the automotive and truck manufacturing sectors, the pipe and fittings sectors, and the municipal castings sectors.³⁷ Apparent U.S. consumption of foundry coke increased slightly from 1,154,784 metric tons in 1998 to 1,204,673 metric tons in 1999, but in 2000 declined to approximately the level of 1998 (1,155,875 metric tons).³⁸ In the first quarter of 2001, apparent U.S. consumption was lower (265,509 metric tons) than in the comparable period in 2000 (301,170 metric tons).³⁹

In the first five-year review, the Commission explained that the limited record revealed that demand for foundry coke was still derived from demand for downstream foundry products, mainly in the automotive and truck manufacturing sectors, the pipe and fittings sectors, and the municipal castings sectors. Demand for foundry coke in the U.S. market thus depended on the market for these sectors. Domestic Producers argued that demand for foundry coke to produce motor vehicle parts had declined as end users shifted to Chinese vehicle parts suppliers. They identified five U.S. automotive parts foundries that had closed during the period reviewed, accounting for a total decline in consumption of *** tons of foundry coke. The record indicated that apparent U.S. consumption of foundry coke measured by quantity was at *** metric tons in 2005, lower than it was in 2000 at 1,155,875 metric tons.⁴⁰

The record in this review, though limited, again reveals that demand for foundry coke derives from demand for downstream foundry products, mainly in the automotive and truck manufacturing sectors, the pipe and fittings sectors, and the municipal castings sectors.⁴¹ Domestic Producers argue that demand for foundry coke declined during the second review period mainly as a result of declines in U.S. sales of automobiles and light trucks and in the demand for foundry products in the construction industry.⁴² The record indicates that apparent U.S. consumption of foundry coke in 2010 was lower, at *** metric tons, than it was in 2000 at 1,155,875 metric tons and 2005 at *** metric tons.⁴³

Supply. In the original investigation, seven domestic firms comprised the domestic industry.⁴⁴ These seven firms increased production capacity by a moderate 1.7 percent from 1998 to 2000, primarily because of capital investments made by the domestic industry to retrofit, maintain, and improve efficiencies of aging batteries.⁴⁵ Domestic production of foundry coke decreased slightly from 1,236,785

³⁶ 19 U.S.C. § 1675a(a)(4).

³⁷ Original Determination at II-2.

³⁸ Original Determination at Table IV-2. By value, apparent U.S. consumption followed a similar trend, increasing from \$209.3 million in 1998 to \$212.9 million in 1999, before falling to \$200.7 million in 2000. *Id.*

³⁹ Original Determination at Table IV-2. By value, apparent U.S. consumption was lower in the first quarter of 2001 (\$46.0 million) than in the comparable period of 2000 (\$53.3 million). *Id.*

⁴⁰ First Review Determination at 8.

⁴¹ Original Determination, USITC 3449 at 10-11.

⁴² Domestic Producers Response to Notice of Institution at 4-5.

⁴³ CR/PR at Table I-5. By value, apparent U.S. consumption was higher in 2010 at \$*** million than in 2005 at \$*** million and in 2000 at \$200.7 million. *Id.*

⁴⁴ CR/PR at Table I-2.

⁴⁵ Original Determination at 11.

metric tons in 1998 to 1,235,246 metric tons in 1999, and then decreased 7.9 percent to 1,137,585 metric tons in 2000.⁴⁶

In the first five-year review, the Commission noted that two firms in the domestic industry, Acme Steel and Empire Coke, had ceased production of foundry coke and closed their production facilities.⁴⁷ The five remaining producers, all of which participated in the first review, accounted for 100 percent of domestic production of foundry coke at the time of that review.⁴⁸ Although the industry's production capacity was not available for the first review period, domestic production of foundry coke was higher in 2005, at 1,188,232 metric tons, than in 2000, at 1,137,585 metric tons.⁴⁹

The Commission explained in the first review that, whereas the U.S. producers' share of the U.S. market by quantity decreased in the original investigation from 99.0 percent in 1998 to 88.5 percent in 2000, their share in the first review period was *** percent in 2005, the only year in which data were available.⁵⁰ The Commission also explained that subject imports' share of the U.S. market in the original period of investigation increased directly at the expense of the domestic industry's share, from 1.0 percent of the quantity of U.S. shipments in 1998 to 11.5 percent in 2000.⁵¹ In the first review period, however, subject imports from China supplied the market with only small quantities in 2001 and 2002, and were absent from the U.S. market after 2002.⁵²

Whereas China constituted the only foreign supply source in the U.S. market in the original investigation,⁵³ in the first review period, nonsubject imports supplied *** percent of the U.S. market by quantity in 2005.⁵⁴ The principal sources of non-subject foundry coke imports in 2005 were Canada and Mexico.⁵⁵ The Commission also noted in the first five-year review that, as in the original investigation, the domestic industry continued to incur high costs to comply with environmental measures and to construct and maintain production equipment and that domestic production, therefore, was capital intensive.⁵⁶

Four domestic producers, which accounted for all current production of foundry coke, responded to the Commission's notice of institution in this second five-year review. The remaining producer from the first five-year review, Citizens Gas & Coke Utility, closed coke manufacturing operations in 2007.⁵⁷ U.S. producers' market share increased during the period from *** percent in 2005 to *** percent in

⁴⁶ Original Determination at 11, Table III-1.

⁴⁷ First Review Determination at 8. Acme Steel declared bankruptcy and ceased foundry coke production in November 2001, while Empire Coke ceased coke operations in July 2004. *Id.* n.45.

⁴⁸ First Review Determination at 8-9.

⁴⁹ First Review Determination at 9.

⁵⁰ First Review Determination at 9.

⁵¹ *See* Original Determination at Tables IV-3, C-1; First Review Determination at 9.

⁵² First Review Determination at 9.

⁵³ Original Determination at 12.

⁵⁴ First Review Determination at 9-10.

⁵⁵ First Review Determination at 10.

⁵⁶ First Review Determination at 10.

⁵⁷ Domestic Producers' Response to Notice of Institution at 2-3. Additionally, the former Sloss Industries became Walter Coke in 2009 as part of the reorganization of its parent Walter Industries, Inc.; in 2009, Walter Industries also changed its name to Walter Energy. CR at I-9 n.27, PR at I-7 n.27.

2010, while the market share of nonsubject imports declined from *** percent in 2005 to *** percent in 2010.⁵⁸ There were no subject imports in 2010.⁵⁹

Substitutability. In the original determination, the Commission observed that price was an important factor in purchasing decisions, although quality was often the first consideration. It further observed that the domestic and Chinese products were comparable in terms of quality, availability, delivery, quantity requirements, packaging, consistency, product range, supply reliability, and transportation costs, but that the Chinese product was considered advantageous in terms of price. The Commission concluded that the domestic and Chinese products were substitutable, notwithstanding differences in carbon and ash content.⁶⁰

Domestic Producers argued in the first five-year review that these conditions of competition were unchanged from the original investigation.⁶¹ The Commission found that conditions of competition in the foundry coke market were not likely to change significantly in the reasonably foreseeable future. Accordingly, in the first review, the Commission found that then current conditions in the market provided it with a reasonable basis on which to assess the likely effects of revocation of the order in the reasonably foreseeable future.⁶²

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

C. Likely Volume of Subject Foundry Coke Imports

In evaluating the likely volume of imports of subject merchandise if the 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.⁶³ In doing so, the Commission must consider “all relevant economic factors,” including the following 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.⁶⁴

Based on the record in this review, we conclude that the volume of subject imports is likely to be significant if the order is revoked. In making this finding, we recognize that there are currently no imports of subject foundry coke from China.⁶⁵ In five-year reviews, however, our focus is on whether the subject import volume is likely to be significant within a reasonably foreseeable time if the antidumping duty order is revoked.

⁵⁸ CR/PR at Table I-5.

⁵⁹ CR/PR at Table I-5.

⁶⁰ Original Determination at 12.

⁶¹ First Review Determination at 10.

⁶² First Review Determination at 10.

⁶³ 19 U.S.C. § 1675a(a)(2).

⁶⁴ 19 U.S.C. § 1675a(a)(2)(A-D).

⁶⁵ CR/PR at Table I-4.

In the original determination, the Commission found that the volume and market share of subject imports increased substantially by quantity and value throughout the period of investigation. In absolute terms, the volume of subject imports from China increased from *** metric tons valued at \$*** in 1998 to 119,649 metric tons valued at \$13.3 million in 1999, and then to 146,785 metric tons valued at \$15.8 million in 2000.⁶⁶ The Commission further found that subject imports captured a substantially increasing share of the U.S. market by quantity and value over the period of investigation at the expense of the domestic industry. Subject imports increased as a share of the U.S. market from only 1.0 percent of U.S. shipments in 1998 to 7.6 percent in 1999 and further to 11.5 percent in 2000.⁶⁷ In terms of value, subject imports' share of the market increased from 0.7 percent in 1998 to 5.7 percent in 1999, and further to 9.3 percent in 2000.⁶⁸ The Commission noted that U.S. importers continued shipping subject imports even after its affirmative preliminary determination, accounting for 6.6 percent of the volume and 6.0 percent of the value of the U.S. foundry coke market in the first quarter of 2001.⁶⁹ The Commission also observed that throughout the period of investigation, U.S. importers of foundry coke retained increasingly high end-of-period inventories. Therefore, it found that the volume and market share of subject imports, as well as the increases in those volumes and market share, were significant.⁷⁰

In the first five-year review, the Commission observed that, in the original investigation, the Commission had received capacity and production data for the Chinese foundry coke industry from two trade associations: the China Coking Industry Association and the Shanxi Province Economics and Trade Council.⁷¹ The two associations reported capacity ranging from 3,420,000 metric tons in 1998 to 2,731,000 metric tons in 2000; capacity utilization rates ranged from 53.2 percent in 1998 to 76.3 percent in 2000.⁷² The associations also reported production ranging from 1,820,000 metric tons in 1998 to 2,085,000 metric tons in 2000.⁷³ Furthermore, four Chinese exporters of foundry coke reported export data for the period examined, which revealed that their total exports of foundry coke from China increased in each year from 1998 to 2000 and, in particular, their exports to the United States more than doubled in *** of those years.⁷⁴ The Commission observed that these data suggested that the Chinese industry was becoming increasingly export-oriented during the original period of investigation.⁷⁵

The Commission also noted in the first review that, overall, the antidumping duty order issued in 2001 had a restraining effect on the volume of subject imports from China. Subject imports of foundry coke from China fell to 4,087 metric tons valued at \$2.3 million in 2001, and, although subject imports

⁶⁶ Original Determination at 14-15.

⁶⁷ Original Determination at 14-15.

⁶⁸ Original Determination at 14-15.

⁶⁹ Original Determination at 14-15.

⁷⁰ Original Determination at 14-15.

⁷¹ First Review Determination at 11. In the first review, the Commission also noted that the record in the original investigation revealed that, until late 2000, there were 61 producers of foundry coke in China. At the end of that year, the Chinese government's stringent environmental regulations shut down about half of the producers' operations. Several Chinese foundry coke producers were integrated vertically and/or horizontally, while ten were known to produce other types of coke and coal products. First Review Determination at 11, citing Original Determination at VII-1-2.

⁷² First Review Determination at 11, Original Determination at Table VII-1.

⁷³ First Review Determination at 11, Original Determination at Table VII-1.

⁷⁴ First Review Determination at 11-12, Original Determination at VII-2 to VII-3, Table VII-1.

⁷⁵ First Review Determination at 12.

increased to 9,900 metric tons valued at \$11.7 million in 2002, foundry coke imports from China fell to zero metric tons in 2003 and had remained absent from the U.S. market since then.⁷⁶

The Commission explained that, largely because subject producers in China declined to participate or furnish information in the review, including information on the volume of subject imports, the Commission was constrained to rely on the facts available on the record.⁷⁷ The Commission concluded, based on the facts available, that the volume of imports of subject foundry coke was likely to increase significantly, and that the resultant volume was likely to be significant, if the order were revoked.⁷⁸

The Commission explained that, although no specific data were provided in the review by subject producers regarding their current capacity, production levels, or export orientation, there was no indication that the Chinese foundry coke industry had changed significantly since the original investigation. In turn, during the original investigation the Chinese foundry coke industry's capacity and unused capacity levels were substantial, and it had exported a large percentage of its production (nearly 40 percent in 2000).⁷⁹ The Commission observed that, as described above, subject producers in China rapidly gained market share during the original investigation. These facts suggested that the Chinese foundry coke industry maintained large production capacity, had substantial unused production capacity, and remained export-oriented.⁸⁰

The Commission noted that subject producers would have some incentive to redirect exports from other markets to the United States in the absence of the order. Chinese capacity and production appeared to exceed home market demand, and an antidumping measure on foundry coke from China remained in place in India.⁸¹

Accordingly, in the first review, the Commission concluded that Chinese producers would have an incentive to shift significant volumes of exports back to the United States if the order were revoked. It based this conclusion on the substantial volumes of exports of the subject merchandise to the United States and rapid gains in market share during the original investigation, the substantial excess unused capacity available in the Chinese foundry coke industry, and the attractiveness of the U.S. market. The Commission therefore found that the likely volume of subject imports, both in absolute terms and relative to production and consumption in the United States, would be significant if the order were revoked.⁸²

In this second expedited five-year review, there were no imports of subject foundry coke from China in 2010. In fact, the record indicates that subject imports have been absent from the U.S. market since 2003.⁸³ No specific data were provided in the review by subject producers regarding their current capacity, production levels, or export orientation. Therefore, there is no indication from Chinese producers that the Chinese foundry coke industry has changed significantly since the original

⁷⁶ First Review Determination at 12.

⁷⁷ See First Review Determination at 12, 19 U.S.C. § 1677e(a).

⁷⁸ First Review Determination at 12.

⁷⁹ First Review Determination at 12.

⁸⁰ First Review Determination at 12.

⁸¹ First Review Determination at 12-13. The Commission noted that the European Union ("EU") also had imposed an antidumping measure on foundry coke from China during the original investigation, but that measure expired in 2005, during the period covered by the first review. Id. at 13 n.76. It also observed that the record in the review did not include information on the current size of inventories of foundry coke from China but that, in the original investigation, U.S. importers' end-of-period inventories increased from *** metric tons at the end of 1998 to 44,381 metric tons at the end of 1999 and then to 46,187 metric tons at the end of 2000. At the end of March 2001, importers retained 27,864 metric tons of subject foundry coke. First Review Determination at 13 n.77.

⁸² First Review Determination at 13.

⁸³ CR/PR at Table I-4, First Review Determination at 12.

investigation when its capacity and unused capacity levels were substantial and it exported a large percentage of its production. The limited new information obtained in this second expedited review is consistent with these prior findings.^{84 85}

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

D. Likely Price Effects of Subject Foundry Coke Imports

In evaluating the likely price effects of subject imports if the order under review were revoked, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports in relation 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.⁸⁶

In the original determination, the Commission found that subject imports and the domestic like product were generally substitutable and interchangeable in all end use sectors. It also found that price was an important factor in purchasing decisions and that subject imports were priced more favorably than the domestic like product. Because subject imports undersold the domestic like product in 13 of 13 quarters, the Commission concluded that foundry coke imports from China significantly undersold the domestic like product. It also found that subject imports suppressed and depressed prices in the domestic market to a significant degree. Despite rising unit cost of goods sold, rising unit selling, general, and administrative expenses, and substantial expenditures necessary for compliance with environmental requirements, the Commission observed that domestic producers' efforts in 1998 to gradually raise prices failed, as lower-priced subject imports began to enter the U.S. market. Instead, domestic prices tended to move gradually but steadily downward from the third quarter of 1998 through the first quarter of 2001, while subject import prices fluctuated from quarter to quarter. Import prices were consistently below

⁸⁴ The record indicates that the Indian antidumping duty order on foundry coke from China expired in 2009 but that the EU imposed a new antidumping duty order on foundry coke from China in 2008. Domestic Producers' Response to Notice of Institution at 18. Domestic Producers identified six firms believed to have produced foundry coke in China during the second review period. They also cite information indicating that production of all coke in China increased by 260 percent from 2000 to 2009 and that producers in China had approximately 130 million metric tons of excess coke capacity in 2011. See CR at I-17, PR at I-14. Domestic Producers also indicate that China's largest coke producer, Qinxin Group in Shanxi, switched at least some of its production from other metallurgical coke to higher-priced foundry coke in 2007. They argue, moreover, that inventories of Chinese foundry coke have built up at shipping ports and that Chinese producers would be able to shift production from other types of coke to produce foundry coke if the order were revoked. Domestic Producers' Response to Notice of Institution at 18-19, Domestic Producers' Final Comments at 3-5.

⁸⁵ Exports of foundry coke from China appear to be limited by export duties currently imposed on exports of certain raw material inputs, including coke, from China. CR at I-18, PR at I-14. Proceedings before the World Trade Organization, however, are intended to limit the ability of the Chinese government to continue to impose such duties. See, e.g., China - Measures Relating to the Exportation of Various Raw Materials, WT/DS394, 395, 398/R (July 5, 2011).

⁸⁶ 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.

domestic prices. The Commission found that domestic producers often were forced to lower their prices, in some cases with customers already under contract, to maintain customers in the face of the lower prices offered by importers of Chinese foundry coke. It further pointed out the existence of confirmed lost sales and revenues.⁸⁷

In the first expedited five-year review, the Commission noted that there was no new product-specific pricing information on the record.⁸⁸ The Commission found that Chinese producers would likely significantly increase exports to the United States in the reasonably foreseeable future if the antidumping duty order were revoked. Based on the information available in that review, including the determination in the original investigation, the Commission found that the market for subject merchandise was price competitive. Therefore, as in the original investigation, subject imports were likely to undersell the domestic like product to regain market share if the order were revoked. The volume of subject imports at those prices, in turn, was likely to have significant depressing and suppressing effects on prices of the domestic like product. The Commission therefore concluded that, if the order were revoked, subject imports from China would likely significantly increase at prices that would likely significantly undersell the domestic like product and that those imports would have a significant depressing or suppressing effect on prices for the domestic like product.⁸⁹

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

⁸⁷ Original Determination at 16-18, Table V-1.

⁸⁸ First Review Determination at 14. The only new pricing information on the record in the first review described average unit values for all imports of foundry coke during the period reviewed. The Commission examined these data because the record lacked product-specific information. Examination of the unit values of all imports showed that the average unit value of foundry coke from China in 2001 and 2002 was \$87.28 per metric ton and \$92.00 per metric ton, respectively, which was considerably lower than the average unit value of \$98.88 per metric ton and \$105.84 per metric ton of foundry from non-subject sources in those same years. First Review Determination at 14 n.80.

⁸⁹ First Review Determination at 14.

E. Likely Impact of Subject Foundry Coke Imports⁹⁰

In evaluating the likely impact of imports of subject merchandise if the orders under review were revoked, the Commission is directed to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including but not limited to the following:

(1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.⁹¹ 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. 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.⁹²

In its original determination, the Commission found that, as lower-priced subject imports captured market share at the expense of the domestic industry, the combination of declining U.S. shipments and depressed domestic prices caused the industry's sales revenues to fall. The Commission observed that while the industry's foundry cokemaking capacity increased moderately over the period, primarily because of capital investments, production and capacity utilization declined. These declines, it noted, outpaced shipments, resulting in growing end-of-period inventories and higher average unit costs. The Commission further found that subject imports negatively impacted all financial indicators, including average unit sales revenues, average unit gross profits, operating income, operating income margins, as well as other key domestic industry indicators, such as employment, wages, productivity, unit labor costs, and capital expenditures. The Commission therefore concluded that subject imports were having a significant adverse impact on the domestic foundry coke industry.⁹³

In the first five-year review, the Commission found that the domestic industry and the U.S. foundry coke market had contracted since the original investigation. Of the seven domestic producers that participated in the original investigation, two producers, together accounting for *** percent of

⁹⁰ Under the statute, “the Commission may consider the magnitude of the margin of dumping” in making its determination in a five-year review. 19 U.S.C. § 1675a(a)(6). The statute defines the “magnitude of the margin of dumping” to be used by the Commission in five-year reviews as “the dumping margin or margins determined by the administering authority under section 1675a(c)(3) of this title.” 19 U.S.C. § 1677(35)(C)(iv); *see also* SAA at 887. In the final results of its expedited five-year reviews, Commerce found that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the following margins: 48.55 percent for CITIC Trading Company, Ltd.; 75.58 percent for Minmetals Townlord Technology Co., Ltd.; 101.62 percent for Shanxi Dajin International (Group) Co., Ltd.; 105.91 percent for Sinochem International Co., Ltd.; and 214.89 percent for PRC-wide entities. 77 Fed. Reg. 20788, 20789 (April 6, 2012). Section 751(a)(4) of the Act requires Commerce, if requested by a party in an administrative review, to determine whether a foreign producer or importer of subject merchandise has absorbed antidumping duties. 19 U.S.C. § 1675a(a)(4). Commerce has not made any duty absorption determinations with respect to the antidumping duty order. 77 Fed. Reg. 20788 (April 6, 2012).

⁹¹ 19 U.S.C. § 1675a(a)(4).

⁹² 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, 19 U.S.C. § 1675a(a)(4).

⁹³ Original Determination at 19-22.

domestic foundry coke production in 2000, had ceased foundry coke operations entirely.⁹⁴ As discussed above, apparent U.S. consumption was lower in 2005 as compared to 2000.⁹⁵ Moreover, the industry continued to incur high costs to comply with environmental measures and to construct and maintain production equipment in the context of a smaller U.S. foundry market. Nonetheless, the limited information on the record of that expedited review revealed some improvements in the domestic industry's trade indicators since the original investigation. Domestic production of foundry coke was higher in 2005 at 1,188,232 metric tons than in 2000, 1,137,585 metric tons. The quantity and the value of domestic producers' U.S. shipments were also higher in 2005 (***) metric tons valued at \$*** million) than in 2000 (1,023,128 metric tons valued at \$182 million). Domestic producers' market share similarly was higher in 2005 at *** percent than in 2000 at 88.5 percent, while the share held by imports from China was lower in 2005 (zero percent) than in 2000 (11.5 percent).⁹⁶

The Commission noted in that review that there was no current information pertaining to many of the other indicators, such as operating income, capacity, capacity utilization rates, and employment levels, that the Commission customarily considers in assessing whether the domestic industry is in a weakened condition, as contemplated by the statute. The Commission found that the limited evidence in that expedited review was insufficient for it to make a finding on whether the domestic industry producing foundry coke was vulnerable to the continuation or reoccurrence of material injury in the event of revocation of the order.⁹⁷

In the first review, the Commission found that revocation of the order would likely lead to a significant increase in the volume of subject imports that would likely undersell the domestic like product to a significant degree and otherwise significantly suppress or depress U.S. prices. It found that the significant likely volume of low-priced subject foundry coke, when combined with the likely adverse price effects of those imports, would likely have a significant adverse impact on the production, shipments, sales, and revenue levels of the domestic industry. This reduction in the industry's production, shipments, sales, and revenue levels, the Commission found, would likely have a direct adverse impact on the industry's profitability and employment levels, as well as its ability to raise capital and make and maintain necessary capital investments. Accordingly, the Commission concluded that, if the antidumping duty order on foundry coke from China were revoked, subject imports from China would be likely to have a significant adverse impact on the domestic industry within a reasonably foreseeable time. Thus, it determined that revocation of the antidumping duty order on foundry coke from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.⁹⁸

As discussed above, the record in this second expedited five-year review reveals that the domestic industry and the U.S. foundry coke market have contracted since the original investigation. The number of domestic producers of foundry coke, after declining from seven in the original investigation to five in the first five-year review, declined to four during this review.⁹⁹ Apparent U.S. consumption measured by quantity was lower in 2010 as compared to 2005 and 2000.¹⁰⁰

⁹⁴ First Review Determination at 15.

⁹⁵ First Review Determination at 15.

⁹⁶ First Review Determination at 15.

⁹⁷ First Review Determination at 15.

⁹⁸ First Review Determination at 15.

⁹⁹ CR at I-9-10; CR/PR at Table I-2.

¹⁰⁰ As noted above, apparent U.S. consumption was *** metric tons in 2010 compared to *** metric tons in 2005 and 1,155,875 metric tons in 2000. By value, apparent U.S. consumption was higher in 2010 (\$*** million) compared to (\$*** million) in 2005 and (\$200.7 million) in 2000. CR/PR at Table I-5.

Consistent with the decline in apparent U.S. consumption, the domestic industry's production capacity was lower in the current review period than in the original investigation, at *** metric tons in 2010 compared with 1.4 million metric tons in 2000.¹⁰¹ Production was lower in the current review than in the original investigation and the first review, at *** metric tons in 2010 compared with 1.2 million metric tons in 2005 and 1.1 million metric tons in 2000.¹⁰² Capacity utilization was lower in the current review than in the original investigation, at *** percent in 2010 compared with 81.1 percent in 2000.¹⁰³ The quantity of domestic producers' U.S. commercial shipments was also lower in the current review than in the original investigation and the first review, at *** metric tons in 2010 compared with 1.1 million metric tons in 2005 and *** metric tons in 2000.¹⁰⁴

Nonetheless, the limited information on the record reveals some improvements in the domestic industry's performance since the original investigation. The value of domestic producers' U.S. shipments was higher in 2010 (\$***) than in 2005 (\$***) and 2000 (\$***).¹⁰⁵ Net sales were higher in 2010 (\$***) than in 2000 (\$***), as were both operating income (\$*** in 2010 compared with \$*** in 2000) and operating income as a percent of net sales (**% percent in 2010 compared with **% percent in 2000).¹⁰⁶ Domestic producers' market share similarly was higher in 2010 at **% percent than in 2005 at **% percent and 2000 at 88.5 percent.¹⁰⁷

There is no current information in the record, however, pertaining to many of the other indicators – such as employment and productivity – that we customarily consider in assessing whether the domestic industry is in a weakened condition. The limited evidence in these expedited reviews is insufficient for us to make a finding on whether the domestic industry is vulnerable to the continuation or recurrence of material injury in the event of revocation of the order.¹⁰⁸

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

¹⁰¹ CR/PR at Table I-3.

¹⁰² CR/PR at Table I-3.

¹⁰³ CR/PR at Table I-3.

¹⁰⁴ CR/PR at Table I-3.

¹⁰⁵ CR/PR at Table I-3.

¹⁰⁶ CR/PR at Table I-3.

¹⁰⁷ CR/PR at Table I-5.

¹⁰⁸ Commissioner Pinkert, while noting that the evidence available on this issue is limited, finds that the domestic industry producing foundry coke does not appear to be vulnerable. The industry's 2010 operating margin was **% percent, and its operating income amounted to \$***. Both of these figures are significantly more robust than the corresponding figures for 2000. CR/PR at Table I-3. Moreover, the domestic industry supplied virtually the entire U.S. market for foundry coke in 2010, accounting for **% percent of the U.S. market. CR/PR at Table I-5.

CONCLUSION

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

INFORMATION OBTAINED IN THE REVIEW

INTRODUCTION

On December 1, 2011, in accordance with section 751(c) of the Tariff Act of 1930 (“the Act”),¹ as amended, the U.S. International Trade Commission (“Commission”) gave notice that it had instituted a five-year review to determine whether revocation of the antidumping duty order on foundry coke from China would be likely to lead to a continuation or recurrence of material injury within a reasonably foreseeable time.^{2 3} On March 5, 2012, the Commission determined that the domestic interested party group response to its notice of institution was adequate.⁴ The Commission also determined that the respondent interested party group response was inadequate.⁵ The Commission found no other circumstances that would warrant conducting a full review.⁶ Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Act.⁷ The Commission voted on this review on May 16, 2012, and to notified Commerce of its determinations on May 29, 2012. Information relating to the background of the review is presented in the tabulation below.

Effective date	Action
September 17, 2001	Commerce’s original antidumping duty order issued (66 FR 48025)
January 10, 2007	Commerce’s continuation of the antidumping duty order after first review (72 FR 1214)
December 1, 2011	Commission’s institution of second five-year review (76 FR 74810)
December 1, 2011	Commerce’s initiation of second five-year review (76 FR 74775)
March 5, 2012	Commission’s decision to conduct an expedited second five-year review and scheduling of such review (77 FR 15123, March 14, 2012)
March 30, 2012	Commerce’s scheduled date to make its final determination in its expedited five-year review
May 16, 2012	Commission’s vote
May 29, 2012	Commission’s determination to Commerce
Source: Cited <i>Federal Register</i> notices.	

¹ 19 U.S.C. §1675©.

² All interested parties were requested to respond to the notice by submitting information requested by the Commission. 76 FR 74810, December 1, 2011. Copies of the Commission’s *Federal Register* notices are presented in app. A.

³ In accordance with section 751(c) of the Act, the U.S. Department of Commerce (“Commerce”) published a notice of initiation of the five-year review of the subject antidumping duty order concurrently with the Commission’s notice of institution. 76 FR 74775, December 1, 2011.

⁴ The Commission received one submission in response to its notice of institution for the subject review. It was filed on behalf of: ABC Coke, Erie Coke, Tonawanda Coke Corp., and Walter Coke Co. (referred to herein as “domestic interested parties”), domestic producers of foundry coke. The domestic interested parties reported that they accounted for all U.S. production of foundry coke. *Response* of domestic interested party, December 30, 2011, p. 2.

⁵ The Commission received no responses to its notice of institution from respondent interested parties.

⁶ A copy of the *Explanation of Commission Determination on Adequacy* is presented in app. B.

⁷ 19 U.S.C. § 1675(c)(3). See the Commission’s web site (<http://www.usitc.gov>) for Commissioner votes on whether to conduct expedited or full reviews.

The Original Investigation and Subsequent Five-Year Review

On September 20, 2000, a petition was filed with Commerce and the Commission alleging that an industry in the United States was materially injured by reason of dumped imports of foundry coke from China.⁸ On September 10, 2001, the Commission issued its determination that an industry in the United States was materially injured by reason of the subject imports.⁹ On September 17, 2001, Commerce imposed an antidumping duty order on imports of foundry coke from China. Table I-1 presents the rates of duty.

Table I-1
Foundry coke: Commerce's weighted-average LTFV margins

Manufacturer/exporter	Margin (percent ad valorem)
Shanxi Dajin International (Group) Co., Ltd.	101.62
Sinochem International Co., Ltd.	105.91
Minmetals Townlord Technology Co., Ltd.	75.58
CITIC Trading Co., Ltd.	48.55
Peoples Republic of China ("PRC")-Wide Rate	214.89

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

On August 1, 2006, the Commission instituted the first five-year review of the subject order and on November 6, 2006, the Commission determined that it would conduct an expedited review.¹⁰ On December 7, 2006, Commerce published its determination that revocation of the antidumping duty order on foundry coke from China would be likely to lead to continuation or recurrence of dumping at the rates determined in the original investigation.¹¹ On December 20, 2006, the Commission determined that material injury would be likely to continue or recur within a reasonably foreseeable time.¹² On January 10, 2007, Commerce published notice of the continuation of the antidumping duty order.¹³

Related Investigations

On June 8, 2004, in response to a request received from the Committee on Ways and Means of the U.S. House of Representatives, the Commission instituted a fact-finding investigation under section 332(g) of the Tariff Act of 1930 concerning competitive conditions facing the U.S. foundry industry

⁸ The petition was filed by ABC Coke, Citizens Gas & Coke Utility, Erie Coke Corp., Tonawanda Coke Corp., and the United Steelworkers of America, AFL-CIO. On February 15, 2001, Sloss Industries Corp. was added as a petitioner to the original investigation.

⁹ *Foundry Coke From China*, 66 FR 47926, September 14, 2001.

¹⁰ 71 FR 43518 and 71 FR 67161, November 20, 2006.

¹¹ 71 FR 70956.

¹² 71 FR 78223, December 28, 2006.

¹³ 72 FR 1214.

during 1999-2003.¹⁴ The foundry industry is the primary customer for foundry coke (see “Descriptions and Uses,” below).

Commerce’s Administrative Review

Since imposition of the antidumping duty order in September 2001, Commerce has conducted one administrative review with respect to imports of foundry coke from China, specifically, imports of foundry coke produced and/or exported by CITIC Trading Company, Ltd. (“CITIC”). As a result of this review, and the application of adverse facts available, the weighted-average dumping margin for CITIC was increased to 214.89 percent.¹⁵

Commerce’s Final Result of Expedited Five-Year Review

The Department of Commerce is scheduled to issue the final results of its expedited five-year review regarding the likelihood of continuation or recurrence of dumping with respect to foundry coke imported from China on March 30, 2012.

THE SUBJECT PRODUCT

Commerce’s Scope

Commerce has defined the subject merchandise as follows:

The product covered under the antidumping duty order is coke larger than 100 mm (4 inches) in maximum diameter and at least 50 percent of which is retained on a 100–mm (4 inch) sieve, of a kind used in foundries. The foundry coke products subject to the antidumping duty order were classifiable under subheading 2704.00.00.10 (as of Jan 1, 2000) and are currently classifiable under subheading 2704.00.00.11 (as of July 1, 2000) of the *Harmonized Tariff Schedule of the United States* (“HTSUS”).¹⁶

The Harmonized Tariff Schedule of the United States (“HTS”) subheading is provided for convenience and for Customs purposes, but Commerce’s written description of the merchandise is dispositive as to the scope of the product coverage.

Tariff Treatment

During the period covered by this review, subject merchandise was classified in HTS heading 2704.00.00 and imported under statistical reporting number 2704.00.0011. This HTS statistical reporting number covers the subject foundry coke by name and uses Commerce’s descriptive criteria; however,

¹⁴ See *Foundry Products: Competitive Conditions in the U.S. Market*, Investigation No. 332-460, USITC Publication 3771, May 2005.

¹⁵ *Final Results of Antidumping Administrative Review: Foundry Coke From the People’s Republic of China*, 69 FR 4108, January 28, 2004. Commerce’s review was requested by domestic interested parties, and covered the period March 8, 2001, through August 31, 2002.

¹⁶ *Foundry Coke Products from the People’s Republic of China: Continuation of Antidumping Duty Order*, 72 FR 1214, January 10, 2007.

some foundry coke imports may be misreported under statistical reporting numbers 2704.00.0025 and/or 2704.00.0050.¹⁷ Under this HTS number, the applicable general rate of duty is free.

Description and Uses¹⁸

Coke is a substance produced through the heating and distillation of coal, and is used primarily as a fuel in the production of metals. Foundry coke is one of three subgroups of metallurgical coke: foundry coke; blast furnace coke; and industrial coke, including coke breeze. The three types of metallurgical coke are distinguished by their size, shape, and chemical properties. Foundry coke is characterized by a more uniform shape and size than the other two types of metallurgical coke, as well as by its strength and low ash content. It is used both as a fuel and as a source of carbon in the production of molten iron. As a fuel, foundry coke is used to melt scrap iron or pig iron with other compounds; it is also used as a source of carbon for the melted product. The resulting molten iron is used to make various cast products such as automobile engines. Demand for foundry coke is derived from demand for the end products produced by purchasers, mainly in the automotive and truck manufacturing sectors, the pipe and fittings sectors, and the municipal castings sector.¹⁹

Manufacturing Process²⁰

Foundry coke is produced in a process called byproduct recovery, in which coking coals are heated in a retort oven until the volatile materials burn off; the volatile materials are then collected for further processing. The retort ovens, also called slot ovens because of their shape, are constructed in batteries containing 10 to 100 ovens in a series. The coking chambers alternate with heating chambers so each oven is heated on each side, with the coking process proceeding from the sides to the center of the oven. After the coking coals are loaded into the oven, it is heated to a range of 900 to 1,100 degrees Centigrade, usually for 26 to 32 hours. As the coking process proceeds, pressure builds, forcing the volatile compounds out of the oven through “offtake” pipes to the collecting main, where they are treated and separated for further processing.

After the coking process is completed, the doors on both ends of the oven are opened and a ram placed in front of one opening pushes the foundry coke out of the other side into a quenching car. At this point, the foundry coke has a temperature of about 1,000 degrees Centigrade and must be cooled before further processing; this is accomplished by spraying with water, or wet quenching. The quenched coke is then brought to the coke wharf where it is deposited for further cooling; the wharf is slanted so the quenched coke can slide onto a conveyor belt that moves the coke to the screening and loading operations.

The byproducts produced during the coking process are crude materials such as crude coal tar (which is refined into tar acid oils, soft pitch, creosote oil, road tar, and other products), crude light oil (a mixture of aromatic hydrocarbons (benzene, toluene, and xylenes), thiophene, mercaptans, hydrogen

¹⁷ In 2010, U.S. imports from China under HTS statistical reporting numbers 2704.00.0025 and 2704.00.0050 totaled 173,000 metric tons and total U.S. imports under these two HTS statistical reporting numbers totaled 1.1 million metric tons.

¹⁸ The description of the subject product in this section is based on information contained in the staff report of the original investigation. *Foundry Coke Staff Report Inv. No. 731-TA-891 (Final)*, Memorandum INV-Y-154, August 15, 2001, pp. I-2-I-4. See also *Foundry Coke From China, Investigation No. 731-TA-891 (Final)*, USITC Publication 3449, September 2001, p. I-2-I-3.

¹⁹ *Foundry Coke From China, Investigation No. 731-TA-891 (Final)*, USITC Publication 3449, September 2001, p. 10.

²⁰ *Ibid.* pp. I-2-I-3.

sulfide, and hydrogen disulfide), and coke oven gas (mixtures of hydrocarbons that can be used as a fuel and are generally used to produce electricity in the coke plant or to heat the ovens).

Domestic Like Product Issues

In its original determination, the Commission defined the domestic like product as consisting only of foundry coke, commensurate with the definition of Commerce's scope.²¹ Domestic interested parties responding to the Commission's notice of institution in this review agree with the domestic like product defined by the Commission in its original determination and first five-year review.²²

In this review, four firms were identified as top purchasers of foundry coke by the domestic interested parties. Two firms, *** responded to the Commission's purchaser surveys. *** reported that there have been no changes (and do not anticipate any changes) in technology; production methods; or development efforts to produce foundry coke that would affect the availability of foundry coke in the U.S. market or in the market for foundry coke in China within a reasonably foreseeable time. *** reported that the changes (and anticipated changes) in technology; production methods; or development efforts to produce foundry coke center around significant environmental pressure. *** also reported no change in the end uses for foundry coke, and no change in the existence or availability of substitute products.²³

THE INDUSTRY IN THE UNITED STATES

U.S. Producers

During the original investigation, there were seven producers of foundry coke in the United States: ABC Coke, Acme Steel Co.,²⁴ Citizens Gas & Coke Utility, Empire Coke Co.,²⁵ Erie Coke Corp., Sloss Industries Corp., and Tonawanda Coke Corp. During the first review, there were five producers of foundry coke in the United States: ABC Coke, Citizens Gas & Coke Utility,²⁶ Erie Coke Corp., Sloss Industries Corp., and Tonawanda Coke Corp. Currently, there are four firms that produce foundry coke in the United States: ABC Coke, Erie Coke Corp., Tonawanda Coke Corp., and Walter Coke (formerly Sloss Industries Corp.).²⁷

²¹ *Foundry Coke from China*, USITC Publication 3449, September 2001, p. 5.

²² *Foundry Coke from China*, USITC Publication 3897, December 2006, p. 4 and *Response* of domestic interested parties, December 30, 2011, p. 22.

²³ Purchaser survey responses of *** and ***. *** reported that given the significant increase in foundry coke prices in recent years it anticipates a substitute product to become economically feasible in the near future.

²⁴ In November 2001, ACME Steel Co. declared bankruptcy and shut down both its steelmaking and coke operations. *Foundry Coke from China*, USITC Publication 3897, December 2006, p. I-4. Subsequently, ACME Steel Co.'s steelmaking operations were purchased by International Steel Group, Inc., but the company's coke operations were not restarted. *Ibid.* n. 16.

²⁵ In July 2004, Empire Coke Co. shut down its coke operations. *Ibid.* p. I-4.

²⁶ In 2007, Citizens Gas & Coke Utility shut down its coke manufacturing plant after 98 years of operation. *Response* of domestic interested party, December 30, 2011, pp. 2-3. The firm was the largest producer in terms of number of ovens. The remaining utility distributes natural gas and changed its name to Citizens Energy Group. *Ibid.*

²⁷ According to the corporate website of Walter Coke (formerly Sloss Industries), "In 2009 Walter Industries, Inc. completed a multi-year reorganization into a pure play energy company, and changed its name to Walter Energy in order to reflect its new mission. At that time, Sloss Industries Inc., became Walter Coke." *See Walter Coke – History*, found at <http://walterenergy.com/operationscenter/coke/coke-history.html>, retrieved on February 17, 2012.

The four firms that responded to the notice of institution represent the entire U.S. foundry coke industry. Data reported by U.S. producers of foundry coke in these expedited second reviews are presented in table I-2 along with data for 2000 and 2005 (the terminal years for the original investigation and first review). None of the four existing U.S. producers of foundry coke is known to be related to any firms involved in the production of subject merchandise in China, or in the importation of subject merchandise into the United States.²⁸

Table I-2
Foundry coke: U.S. producers and shares of U.S. production, 2000, 2005, and 2010

Producer	Plant location	Share of U.S. production (percent)		
		2000	2005	2010
ABC Coke	Birmingham, AL	***	***	***
Acme Steel Co.	Chicago, IL	***	(¹)	(¹)
Citizens Gas & Coke Utility	Indianapolis, IN	***	***	(²)
Empire Coke Co.	Birmingham, AL	***	(³)	(³)
Erie Coke Corp.	Erie, PA	***	***	***
Tonawanda Coke Corp.	Tonawanda, NY	***	***	***
Walter Coke (formerly Sloss Industries Corp.)	Birmingham, AL	***	***	***

¹ Acme Steel Co. ceased production of coke in November 2001.
² Citizens Gas & Coke Utility ceased production of coke in 2007.
³ Empire Coke Co. ceased production of coke in July 2004.

Source: *Foundry Coke Staff Report Inv. No. 731-TA-891 (Final)*, Memorandum INV-Y-154, August 15, 2001, p. III-1; *Foundry Coke Staff Report Inv. No. 731-TA-891 (Review)*, November 22, 2006, table I-1; and *Response of domestic interested parties*, December 30, 2011, exh. 3.

U.S. Producers' Trade and Financial Data

Select trade and financial data relating to U.S. producers' operations on foundry coke for 2000 (based on record information from the original investigation), 2005 (based on information submitted in response to the Commission's notice of institution in the first review), and 2010 (based on information submitted in response to the Commission's notice of institution in this second review) are presented in table I-3.²⁹

²⁸ *Foundry Coke from China*, USITC Publication 3897, December 2006, p. I-4, n. 18. In its original determination, the Commission found that circumstances did not exist to exclude any U.S. producer of foundry coke from its definition of the U.S. industry under the related parties provision even though Empire Coke Co. and Sloss Industries Corp. were found to be related parties under the statute (Empire because it purchased and resold subject product from China, and Sloss because of a corporate relationship). *Foundry Coke From China, Investigation No. 731-TA-891 (Final)*, USITC Publication 3449, September 2001, pp. 6-9.

²⁹ The data in table I-3 are believed to account for 100 percent of U.S. production of foundry coke for all included periods.

Table I-3

Foundry coke: U.S. producers' capacity, production, capacity utilization, U.S. commercial shipments, and financial data, 2000, 2005, and 2010

Item	Calendar year		
	2000	2005	2010
Quantity (metric tons)			
Capacity (metric tons)	1,403,184	(¹)	***
Production (metric tons)	1,137,585	1,188,232	***
Capacity utilization (percent)	81.1	(¹)	***
Shipments quantity (metric tons): U.S. commercial shipments	***	1,071,487	***
Transfers/internal consumption	***	***	***
Export shipments	***	(¹)	***
Total shipments	***	(¹)	***
Value (\$1,000)			
Shipments value (\$1,000): U.S. commercial shipments	***	257,338	***
Transfers/internal consumption	***	***	***
Export shipments	***	(¹)	***
Total shipments	***	(¹)	***
Unit value (per metric ton)			
Shipments unit value (per metric ton): U.S. commercial shipments	\$***	\$240.17	\$***
Transfers/internal consumption	***	***	***
Export shipments	***	(¹)	***
Total shipments	***	(¹)	***
Selected financials (\$1,000)			
Net sales (\$1,000)	***	(¹)	***
COGS (\$1,000)	***	(¹)	***
Gross profit (\$1,000)	***	(¹)	***
SG&A (\$1,000)	***	(¹)	***
Operating income (\$1,000)	***	(¹)	***
COGS/sales (percent)	***	(¹)	***
Operating income/sales (percent)	***	(¹)	***
¹ Unavailable.			
Source: Foundry Coke Staff Report Inv. No. 731-TA-891 (Final), Memorandum INV-Y-154, August 15, 2001, p. III-1); Foundry Coke Staff Report Inv. No. 731-TA-891 (Review), November 22, 2006, table I-2; and Response of domestic interested parties, December 30, 2011, exh. 3.			

Reported capacity in 2010 has decreased by *** percent from 2000 (the terminal year of the original investigation). The decrease in capacity is largely due to firm closings mentioned earlier in this report.³⁰ According to domestic interested parties, demand has also decreased because demand for foundry coke is derived from demand for iron castings in the automotive and truck manufacturing sectors, the iron pipe and fittings sectors, and the municipal castings sectors. Those sectors are experiencing a decrease in demand.³¹ Domestic interested parties reported that they have ample capacity to meet any reasonably foreseeable demand.³² *** reported in its purchaser survey that because of environmental pressures for the domestic industry there could be additional plant closings, making demand for foundry coke significantly higher than the domestic industry's production capacity.³³ Reported operating income in 2010 has increased by *** percent from 2000.

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

U.S. Imports

Data relating to U.S. imports of foundry coke for 2000, 2005, and 2006-11 are presented in table I-4. Between 1998 and 2000, the period examined in the Commission's original investigation, China constituted the only source for U.S. imports of foundry coke.³⁴ During this period, imports from China increased by over *** percent. Following imposition of the antidumping duty order in 2001, imports from China decreased to below their 1998 level,³⁵ while imports from nonsubject countries entered the U.S. market.³⁶ In 2005, official Commerce statistics indicated that there were no imports of foundry coke from China and that there were 47,032 metric tons of foundry coke from Canada and Mexico imported into the United States. During the current review period, there have been no imports of foundry coke from China and sporadic imports from Canada, Colombia, and Ukraine.³⁷ Domestic interested parties

³⁰ Three foundry coke firms have closed since the original investigation: Acme Steel Co., Citizens Gas & Coke Utility, and Empire Coke Co.

³¹ *Response* domestic interested parties, pp. 4-7.

³² *Ibid.* at p. 7.

³³ Purchaser survey response of ***.

³⁴ Respondents in the Commission's original investigation suggested that the absence of nonsubject imports was attributable to the fact that foundry coke produced in nonsubject countries was too brittle to be shipped to the United States for commercial use. *Foundry Coke From China, Investigation No. 731-TA-891 (Final)*, USITC Publication 3449, September 2001, p. IV-1, n. 2. The Commission received importers' questionnaire responses from six firms in its original investigation. These firms were believed to account for all U.S. imports of foundry coke in 2000. *Ibid.* at IV-1.

³⁵ *Foundry Coke Staff Report Inv. No. 731-TA-891 (Review)*, November 22, 2006, p. I-7. According to domestic interested parties, one Chinese firm, CITIC Trading Company, Ltd., accounted for all exports of foundry coke from China to the United States in 2001 and 2002 after the antidumping duty order was imposed. Response to the notice of institution (additional data), October 6, 2006, pp. 2-3. As noted above, this firm was originally assigned an antidumping margin of 48.55 percent, lowest among the Chinese firms investigated by Commerce in its original investigation. In a subsequent administrative review, completed in January 2004, the margin for this exporter was increased to the China-wide 214.89 percent.

³⁶ *Ibid.*

³⁷ As indicated above, imports of foundry coke into the United States are classifiable under statistical reporting number 2704.00.0011 of the HTS. Although this reporting number is coextensive with Commerce's scope for the merchandise subject to this review, information collected in the original investigation suggested that between *** and 20 percent of U.S. imports of foundry coke at the time may have been sold as industrial coke, for uses other than
continue...

indicated in their response to the Commission's notice of institution in this current five-year review that there are no current importers importing foundry coke from China.³⁸

Table I-4
Foundry coke: U.S. imports, by source, 2000, 2005, 2006-11

Item	2000	2005	2006	2007	2008	2009	2010
Quantity (Metric tons)							
China	146,785	0	0	0	0	0	0
All other ¹	0	47,032	17,717	42,407	0	8,623	432
Total imports	146,785	47,032	17,717	42,407	0	8,623	432
Value (\$1,000)²							
China	15,832	0	0	0	0	0	0
All other ¹	0	6,426	2,693	7,947	0	1,159	286
Total imports	15,832	6,426	2,693	7,947	0	1,159	286
Unit value (per metric ton)							
China	\$107.86	\$(³)					
All other ¹	(³)	136.63	152.00	187.39	(²)	134.40	661.20
Total imports	107.86	136.63	152.00	187.39	(²)	134.40	661.20
¹ Imports from other sources are from Canada. ² Landed, duty-paid. ³ Not applicable.							
Source: Data for 2000 are based on questionnaire data submitted during the Commission's original investigation. Data for 2005-11 are based on official Commerce statistics, HTS statistical reporting number 2704.00.00.11.							

Apparent U.S. Consumption and Market Shares

Apparent consumption, based upon U.S. shipments and imports, in 2010 was *** metric tons (valued at \$*** million). Domestic production accounted for *** percent of apparent U.S. consumption, while imports from all other sources accounted for *** percent.

³⁷ ...continue

those of foundry coke, as a result of physical degradation during shipment. Staff report of August 15, 2001, Memorandum INV-Y-154, p. IV-2, n. 8.

³⁸ Response of domestic interested parties, December 30, 2011, p. 21.

Table I-5

Foundry coke: Apparent U.S. consumption and market shares, 2000, 2005, and 2010

Item	Calendar year		
	2000	2005 ¹	2010 ¹
Quantity (metric tons)			
U.S. producers' shipments	1,023,128	***	***
U.S. importers' shipments ²	132,747	47,032	432
Apparent consumption	1,155,875	***	***
Share of quantity (percent)			
U.S. producers' shipments	88.5	***	***
U.S. importers' shipments ²	11.5	***	***
Value (\$1,000)			
U.S. producers' shipments	181,965	***	***
U.S. importers' shipments ²	18,691	6,426	285
Apparent consumption	200,656	***	***
Share of value (percent)			
U.S. producers' shipments	90.7	***	***
U.S. importers' shipments ²	9.3	***	***
<p>¹ Data for 2005 and 2010 represent U.S. imports of foundry coke, rather than U.S. importers' shipments. ² In 2000, importers' share of consumption was comprised entirely of product from China; in 2005 and 2010, importers' share was comprised entirely of nonsubject imports.</p>			
<p>Source: Data for 2000 are based on <i>Foundry Coke Staff Report Inv. No. 731-TA-891 (Final)</i>, Memorandum INV-Y-154, August 15, 2001, table IV-2; data for 2005 are based on <i>Foundry Coke Staff Report Inv. No. 731-TA-891 (Review)</i>, November 22, 2006, table I-5; and data for 2010 are based on <i>Response of domestic interested parties</i>, December 30, 2011, exh. 3 and official Commerce import statistics for HTS statistical reporting number 2704.00.0011.</p>			

SUMMARY DATA

Appendix C presents the summary data from the original investigation on foundry coke from China.

ANTIDUMPING ACTIONS OUTSIDE THE UNITED STATES

At the time of the original investigation, definitive antidumping measures covering foundry coke products from China had been separately imposed by India and the European Union.³⁹ During the first five-year review, publicly available information suggested that the antidumping measures imposed by India remained in effect, while those imposed by the European Union expired in December 2005.⁴⁰ In 2008, the European Union imposed an antidumping duty measure on foundry coke from China.⁴¹

THE INDUSTRY IN CHINA

During the Commission's original investigation, there were believed to be 31 producers of foundry coke in China.⁴² Several producers of subject merchandise in China were believed to be vertically and/or horizontally integrated manufacturers, producing other types of coke and coal products, and/or operating their own coal mines.⁴³ The production capacity of Chinese producers of foundry coke also was believed to be relatively new, with 50 percent of capacity estimated to have been built in the 1990s, compared to that of U.S. producers, most of whose equipment was nearing the end of its average lifespan.⁴⁴ In 2000, Chinese producers' capacity was 2.7 million metric tons, production was 2.1 million metric tons, total exports were 828,220 metric tons. Exports to the United States accounted for 5.8 percent of total shipments and exports to all other markets (including Japan, the European Union, Korea, Taiwan, and "Southeast Asia") accounted for 33.9 percent of total shipments.⁴⁵ In the first five-year review, no specific information regarding Chinese producers, their capacity, production, or shipments of foundry coke were available. At the time of the first five-year review, the domestic interested parties'

³⁹ *Foundry Coke From China, Investigation No. 731-TA-891 (Final)*, USITC Publication 3449, September 2001, p. VII-3; Memorandum INV-Y-164 (staff report revisions), August 22, 2001, p. VII-2.

⁴⁰ *Foundry Coke From China, Investigation No. 731-TA-891 (Review)*, USITC Publication 3897, December 2006, pp. I-11-I-12 and n. 36.

⁴¹ *Response of domestic interested parties*, December 30, 2011, pp. 18, exhs. 30 and 31. According to the information provided by the domestic interested parties, the antidumping measure imposed by the European Union is set to expire on March 19, 2013.

⁴² *Foundry Coke From China, Investigation No. 731-TA-891 (Final)*, USITC Publication 3449, September 2001, p. VII-1. According to information obtained in the original investigation, the number of companies producing foundry coke in China was reduced from 61 during 2000 as a result of the enactment of stringent environmental regulations by the Government of China. *Ibid.*

⁴³ *Ibid.*

⁴⁴ *Ibid.*, pp. I-3 and VII-1.

⁴⁵ The data presented for Chinese producers in 2000 were based on information submitted by industry associations in China. The staff report of the original investigation did not estimate the share of total Chinese production of foundry coke accounted for by these data. On the basis of questionnaire-reported import data obtained in the original investigation, Chinese producers' data represented 83 percent of U.S. imports of foundry coke from China in 2000. *Compare Foundry Coke From China, Investigation No. 731-TA-891 (Final)*, USITC Publication 3449, September 2001, table IV-1 with *ibid.*, table VII-1.

response to the Commission's notice of institution highlighted studies indicating an increase in Chinese firms' coke production capacity between 2000 and 2005.⁴⁶

In this expedited second five-year review, the domestic interested parties identified six firms believed to produce foundry coke in China: Baoding Shangsheng Carbon Co., Chino Minerals Corp., Gongyi City Yi Yang Water Treatment Material Co., Huizhou Haihang Industrial Co., Tianjin General Nice Coke & Chemicals Co., and Tianjin Yue Yang Industrial & Trading Co.⁴⁷ No specific information regarding Chinese producers' capacity, production, or shipments of foundry coke since 2000 are available in this review. In their response to the Commission's notice of institution, domestic interested parties cited information that indicated that coke⁴⁸ production increased from 2000 to 2009 by 260 percent.⁴⁹ Accordingly, China produces 60 percent of the world's coke output.⁵⁰ In 2011, China had approximately 130 million metric tons of excess coke capacity.⁵¹ Domestic interested parties reported that China has some product shifting capability. In 2007, a Chinese consulting firm helped China's largest heat-recovery coke producer, Qinxin Group in Shanxi, switch from other metallurgical coke production to higher-priced foundry coke production.⁵² Finally, domestic interested parties explained that because coke producers must keep their batteries fired or risk damage to the batteries there is always a likelihood of increased inventories when demand declines (which according to the domestic interested parties is the current situation) and/or new capacity is added.⁵³

Currently, there are limited exports of coke from China because there is a 40 percent export duty on coke, as well as quotas and non-automatic export licensing and hidden minimum price requirements, in addition to the antidumping measures in the United States and certain third country markets.⁵⁴ Although, even with these disincentives in place it has still been profitable for some Chinese coke producers to export because Chinese domestic prices of coke are lower than the world price of coke.⁵⁵ According to domestic interested parties, revocation of the antidumping duty order on foundry coke from China would likely result in an increase of subject imports into the United States because of the higher world coke prices and Chinese producers oversupply.⁵⁶

⁴⁶ *Foundry Coke From China, Investigation No. 731-TA-891 (Review)*, USITC Publication 3897, December 2006, p. I-12.

⁴⁷ *Response of domestic interested parties*, December 30, 2011, exh. 35.

⁴⁸ As previously stated, there are three types of metallurgical coke: foundry coke, blast furnace coke, and industrial coke, including coke breeze. The only product subject to this review is foundry coke.

⁴⁹ *Ibid.* at 15 and exh. 21.

⁵⁰ *Ibid.*

⁵¹ *Ibid.*

⁵² *Ibid.* at 18 and exh. 32.

⁵³ *Ibid.* at 4-7 and 18.

⁵⁴ *Ibid.* at 13.

⁵⁵ *Ibid.* In August 2008, Chinese domestic price for coke was \$472 per metric ton and the world price was \$740 per metric ton. In November 2011, domestic Chinese blast furnace coke prices were about *** per metric ton while the export price was about *** per metric ton. *Ibid.* at 13-14 and exh. 19.

⁵⁶ *Ibid.* at 20.

APPENDIX A
***FEDERAL REGISTER* NOTICES**

**INTERNATIONAL TRADE
COMMISSION**

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

Foundry Coke From China; Institution of a Five-Year Review

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on foundry coke from China would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;¹ to be assured of consideration, the deadline for responses is January 3, 2012. Comments on the adequacy of responses may be filed with the Commission by February 10, 2012. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207), as most recently amended at 76 FR 61937 (October 6, 2011).

DATES: *Effective Date:* December 1, 2011.

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

¹No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117-0016/USITC No. 12-5-261, expiration date June 30, 2014. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

SUPPLEMENTARY INFORMATION: *Background.* On September 17, 2001, the Department of Commerce issued an antidumping duty order on imports of foundry coke from China (66 FR 48025). Following five-year reviews by Commerce and the Commission, effective January 10, 2007, Commerce issued a continuation of the antidumping duty order on imports of foundry coke from China (72 FR 1214). The Commission is now conducting a second 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 and its expedited five-year review determination, the Commission defined the *Domestic Like Product* as foundry coke, coextensive with the scope definition.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product*, or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determination and its expedited five-year review determination, the Commission defined the *Domestic Industry* as all domestic producers of foundry coke.

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

Participation in the review and public service list. Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to

participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation. The Commission's designated agency ethics official has advised that a five-year review is not considered the "same particular matter" as the corresponding underlying original investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 73 FR 24609 (May 5, 2008). This advice was developed in consultation with the Office of Government Ethics.

Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at (202) 205-3088.

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

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 January 3, 2012. 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 February 10, 2012. 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. Please consult the Commission's rules, as amended, 76 FR 61937 (Oct. 6, 2011) and the Commission's Handbook on Filing Procedures, 76 FR 62092 (Oct. 6, 2011), available on the Commission's Web site at <http://edis.usitc.gov>. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

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

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

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

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

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

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

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

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Country that currently export or have exported Subject Merchandise to the United States or other countries after 2005.

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

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

(9) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during

calendar year 2010, except as noted (report quantity data in metric tons and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

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

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

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

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

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

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 2010 (report quantity data in metric tons and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

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

(b) The quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of Subject

Merchandise imported from the Subject Country; and

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

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 2010 (report quantity data in metric tons and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

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

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

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

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Country after 2005, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider

include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Country, and such merchandise from other countries.

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

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

Issued: November 22, 2011.

By order of the Commission.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2011-30663 Filed 11-30-11; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Five-Year (“Sunset”) Review

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

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

DATES: *Effective Date:* December 1, 2011.

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

SUPPLEMENTARY INFORMATION:

Background

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

Policy Bulletin 98.3—*Policies Regarding the Conduct of Five-Year (“Sunset”) Reviews of Antidumping and Countervailing Duty Orders: Policy Bulletin*, 63 FR 18871 (April 16, 1998).

Initiation of Review

In accordance with 19 CFR 351.218(c), we are initiating the Sunset

Review of the following antidumping duty orders:

DOC case No.	ITC case No.	Country	Product	Department contact
A-570-862 ...	731-TA-891	China	Foundry Coke (2nd Review)	Jennifer Moats, (202) 482-5047.
A-351-825 ...	731-TA-678	Brazil	Stainless Steel Bar (3rd Review)	David Goldberger, (202) 482-4136.
A-533-810 ...	731-TA-679	India	Stainless Steel Bar (3rd Review)	David Goldberger, (202) 482-4136.
A-588-833 ...	731-TA-681	Japan	Stainless Steel Bar (3rd Review)	David Goldberger, (202) 482-4136.
A-469-805 ...	731-TA-682	Spain	Stainless Steel Bar (3rd Review)	David Goldberger, (202) 482-4136.

Filing Information

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

This notice serves as a reminder that any party submitting factual information in an AD/CVD proceeding must certify to the accuracy and completeness of that information. See section 782(b) of the Act. Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives in all AD/CVD investigations or proceedings initiated on or after March 14, 2011. See *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings: Interim Final Rule*, 76 FR 7491 (February 10, 2011) (*Interim Final Rule*) amending 19 CFR 351.303(g)(1) and (2) and supplemented by *Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings: Supplemental Interim Final Rule*, 76 FR 54697 (September 2, 2011). The formats for the revised certifications are provided at the end of the *Interim Final Rule*. The Department intends to reject factual submissions if the submitting party does not comply with the revised certification requirements.

Pursuant to 19 CFR 351.103(d), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is

requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 10 days of the publication of the Notice of Initiation.

Because deadlines in Sunset Reviews can be very short, we urge interested parties to apply for access to proprietary information under administrative protective order (“APO”) immediately following publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The Department’s regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306.

Information Required From Interested Parties

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

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

differ for respondent and domestic parties. Also, note that the Department’s information requirements are distinct from the Commission’s information requirements. Please consult the Department’s regulations for information regarding the Department’s conduct of Sunset Reviews.¹ Please consult the Department’s regulations at 19 CFR Part 351 for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at the Department.

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

Dated: November 9, 2011.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2011–30958 Filed 11–30–11; 8:45 am]

BILLING CODE 3510-DS-P

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

**INTERNATIONAL TRADE
COMMISSION**

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

**Foundry Coke From China; Scheduling
of an Expedited Five-Year Review**

AGENCY: United States International Trade Commission.

ACTION: Notice.

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

DATES: *Effective Date:* March 5, 2012.

FOR FURTHER INFORMATION CONTACT: Angela M.W. Newell (202-708-5409), 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 March 5, 2012, the Commission determined that the domestic interested party group response to its notice of institution (76 FR 74810, December 1, 2011) of the subject five-year review was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting a full review.¹ Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Act.

Staff report.—A staff report containing information concerning the subject matter of the review will be placed in the nonpublic record on April 2, 2012, and made available to persons on the Administrative Protective Order service list for this review. A public version will be issued thereafter, pursuant to section 207.62(d)(4) of the Commission's rules.

Written submissions.—As provided in section 207.62(d) of the Commission's rules, interested parties that are parties

to the review and that have provided individually adequate responses to the notice of institution,² and any party other than an interested party to the review may file written comments with the Secretary on what determination the Commission should reach in the review. Comments are due on or before April 5, 2012 and may not contain new factual information. Any person that is neither a party to the five-year review nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the review by April 5, 2012. However, should the Department of Commerce extend the time limit for its completion of the final results of its review, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. Please be aware that the Commission's rules with respect to electronic filing have been amended. The amendments took effect on November 7, 2011. See 76 Fed. Reg. 61937 (Oct. 6, 2011) and the newly

revised Commission's Handbook on E-Filing, available on the Commission's Web site at <http://edis.usitc.gov>.

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

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

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

By order of the Commission.

Issued: March 8, 2012.

James R. Holbein,
Secretary to the Commission.

WORK SCHEDULE

Investigation No. 731-TA-891 (Second Review)

FOUNDRY COKE FROM CHINA

Staff Assigned

Investigator	Angela Newell (708-5409).
Commodity-Industry Analyst	Cynthia Foreso (205-3348).
Attorney	Charles St. Charles (205-2782).
Supervisory Investigator	Elizabeth Haines (205-3200).

	DATE
Institution	December 1, 2011.
Report to the Commission:	
Draft to Supervisory Investigator	March 16, 2012.
Draft to Senior Review	March 26.
To the Commission	April 2.
Comments of Parties due ¹ :	April 5.
Legal issues memorandum to the Commission	May 10.
Briefing and vote (suggested date)	May 16.
Determination and views to Commerce	May 29, 2012.

¹ If comments contain business proprietary information, a nonbusiness proprietary version is due the following business day.

[FR Doc. 2012-6065 Filed 3-13-12; 8:45 am]

BILLING CODE 7020-02-P

¹ A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be

available from the Office of the Secretary and at the Commission's Web site.

² The Commission has found the responses submitted by ABC Coke, Erie Coke, Tonawanda

Coke Corporation, and Walter Coke Co. to be individually adequate. Comments from other interested parties will not be accepted (see 19 CFR 207.62(d)(2)).

APPENDIX B
STATEMENT ON ADEQUACY

EXPLANATION OF COMMISSION DETERMINATIONS ON ADEQUACY

in

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

On March 5, 2012, the Commission determined that it should conduct an expedited review in the subject five-year review pursuant to section 751(c)(3)(B) of the Tariff Act of 1930, as amended, 19 U.S.C. § 1675(c)(3)(B).

The Commission received a joint response to its notice of institution, with company specific data, from four domestic producers of Foundry Coke: ABC Coke, Erie Coke, Tonawanda Coke Corporation, and Walter Coke Co. The Commission found the individual response of each of these domestic producers to be adequate. Because these producers collectively accounted for a substantial percentage of domestic production of foundry coke, the Commission determined that the domestic interested party group response was adequate.

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

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

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

APPENDIX C
SUMMARY DATA FROM THE ORIGINAL INVESTIGATION

Table C-1

Foundry coke: Summary data concerning the U.S. market, 1998-2000, January-March 2000, and January-March 2001

Item	(Quantity=metric tons, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per metric ton; period changes=percent, except where noted)									
	Reported data					Period changes				
	1998	1999	2000	January-March		1998-2000	1998-1999	1998-2000	Jan.-Mar. 2000-2001	
U.S. consumption quantity:										
Amount	1,154,784	1,204,673	1,155,875	301,170	285,509	0.1	4.3	-4.1	-11.8	
Producers' share (1)	99.0	92.4	88.5	91.5	93.4	-10.5	-8.6	-3.9	1.9	
Importers' share (1):										
China	1.0	7.6	11.5	8.5	6.6	10.5	8.8	3.9	-1.6	
Other sources	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	
Total imports	1.0	7.6	11.5	8.5	6.6	10.5	8.6	3.9	-1.9	
U.S. consumption value:										
Amount	209,279	212,899	200,656	63,291	48,008	-4.1	1.7	-5.8	-13.7	
Producers' share (1)	99.3	94.3	90.7	93.0	94.0	-8.6	-5.0	-3.6	1.0	
Importers' share (1):										
China	0.7	5.7	9.3	7.0	6.0	8.6	5.0	3.6	-1.0	
Other sources	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	
Total imports	0.7	5.7	9.3	7.0	6.0	8.6	5.0	3.6	-1.0	
U.S. shipments of imports from:										
China:										
Quantity	11,212	91,323	132,747	25,828	17,463	1,084.0	714.5	45.4	-31.0	
Value	1,529	12,218	18,691	3,746	2,754	1,122.4	699.1	53.0	-26.5	
Unit value	\$136.37	\$133.79	\$140.80	\$145.15	\$157.70	3.2	-1.9	5.2	7.9	
Ending inventory quantity	***	44,361	46,187	52,036	27,864	***	***	4.1	-46.5	
Other sources:										
Quantity	0	0	0	0	0	(2)	(2)	(2)	(2)	
Value	0	0	0	0	0	(2)	(2)	(2)	(2)	
Unit value	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	
Ending inventory quantity	0	0	0	0	0	(2)	(2)	(2)	(2)	
All sources:										
Quantity	11,212	91,323	132,747	25,828	17,463	1,084.0	714.5	45.4	-31.0	
Value	1,529	12,218	18,691	3,746	2,754	1,122.4	699.1	53.0	-26.5	
Unit value	\$136.37	\$133.79	\$140.80	\$145.15	\$157.70	3.2	-1.9	5.2	7.9	
Ending inventory quantity	***	44,361	46,187	52,036	27,864	***	***	4.1	-46.5	
U.S. producers':										
Average capacity quantity	1,390,271	1,395,609	1,403,184	347,353	356,620	1.7	1.1	0.5	2.7	
Production quantity	1,236,785	1,235,246	1,137,585	296,341	257,338	-8.0	-0.1	-7.9	-12.9	
Capacity utilization (1)	89.8	88.5	81.1	85.0	72.2	-8.5	-1.1	-7.4	-12.9	
U.S. shipments:										
Quantity	1,143,572	1,113,350	1,023,128	275,542	248,048	-10.5	-2.5	-8.1	-10.0	
Value	207,750	200,881	181,965	49,545	43,252	-12.4	-3.4	-9.3	-12.7	
Unit value	\$181.67	\$180.25	\$177.85	\$179.81	\$174.37	-2.1	-0.8	-1.3	-3.0	
Export shipments:										
Quantity	***	***	***	***	***	***	***	***	***	
Value	***	***	***	***	***	***	***	***	***	
Unit value	***	***	***	***	***	***	***	***	***	
Ending inventory quantity	38,877	54,899	86,771	47,436	56,926	71.7	41.2	21.6	20.9	
Inventory/total shipments (1):										
Production workers	1,094	1,076	1,042	1,078	977	-4.8	-1.6	-3.2	-9.4	
Hours worked (1,000s)	2,392	2,380	2,354	607	530	-1.6	-0.5	-1.1	-12.7	
Wages paid (\$1,000s)	43,379	43,562	47,528	10,887	9,775	9.6	0.4	9.1	-10.2	
Hourly wages	\$18.14	\$18.30	\$20.19	\$17.94	\$18.44	11.3	0.9	10.3	2.8	
Productivity (tons/1,000 hours)	517.1	***	***	***	***	***	***	***	***	
Unit labor costs	\$35.07	***	***	***	***	***	***	***	***	
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.

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. January-March inventory ratios are annualized. Productivity and unit labor costs are calculated using data of firms providing both production and employment information.

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

