

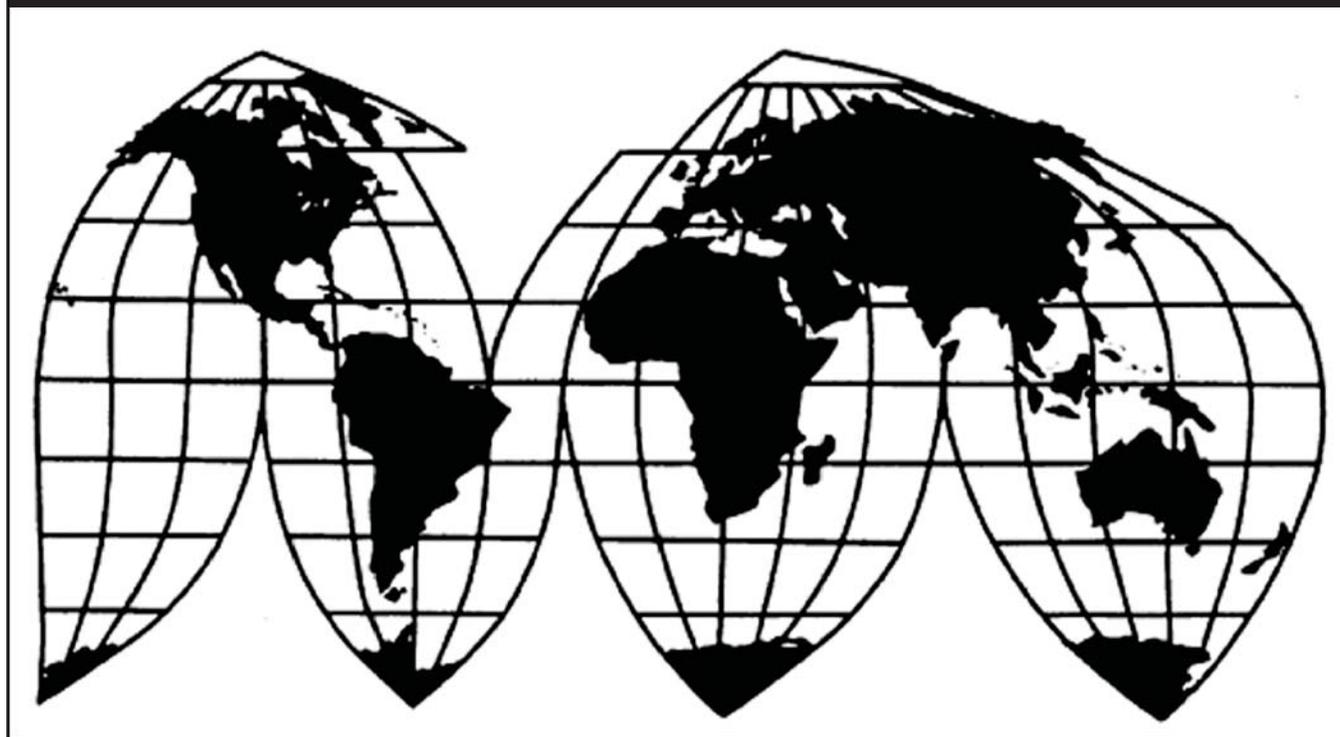
Certain Stilbenic Optical Brightening Agents from China and Taiwan

Investigation Nos. 731-TA-1186-1187 (Review)

Publication 4737

October 2017

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

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UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation Nos. 731-TA-1186-1187 (Review)

Certain Stilbenic Optical Brightening Agents from China and Taiwan

DETERMINATIONS

On the basis of the record¹ developed in the subject five-year reviews, the United States International Trade Commission (“Commission”) determines, pursuant to the Tariff Act of 1930 (“the Act”), that revocation of the antidumping duty orders on certain stilbenic optical brightening agents from China and Taiwan 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, pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)), instituted these reviews on April 3, 2017 (82 F.R. 16226) and determined on July 7, 2017 that it would conduct expedited reviews (82 F.R. 37237, August 9, 2017).

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

Views of the Commission

Based on the record in these five-year reviews, we determine under section 751(c) of the Tariff Act of 1930, as amended (“the Tariff Act”), that revocation of the antidumping duty orders on certain stilbenic optical brightening agents (“CSOBAs”) from China and Taiwan 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

The Original Investigations: On March 31, 2011, the Commission instituted investigations on imports of CSOBAs from China and Taiwan.¹ In May 2012, the Commission determined that an industry in the United States was materially injured by reason of less than fair value imports of CSOBAs from China and Taiwan.² The U.S. Department of Commerce (“Commerce”) issued antidumping duty orders on CSOBAs from China and Taiwan on May 10, 2012.³

The Current Reviews: The Commission instituted the current five-year reviews on April 3, 2017.⁴ The Commission received a single response to its notice of institution filed by Archroma U.S., Inc. (“Archroma”), a domestic producer of CSOBAs. The Commission received no respondent interested party responses to the notice of institution. On July 7, 2017, the Commission found the domestic interested party group response adequate and the respondent interested party group response inadequate.⁵ In the absence of other circumstances warranting full reviews, it determined to conduct expedited reviews.⁶

¹ Certain Stilbenic Optical Brightening Agents from China and Taiwan, 76 Fed. Reg. 19383 (Apr. 7, 2011).

² *Certain Stilbenic Optical Brightening Agents from China and Taiwan*, Inv. Nos. 731-TA-1186-1187 (Final), USITC Pub. 4322 (May 2012) (“Original Determinations”) at 1.

³ Certain Stilbenic Optical Brightening Agents from Taiwan: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order, 77 Fed. Reg. 27419 (May 10, 2012); Certain Stilbenic Optical Brightening Agents From the People’s Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order, 77 Fed. Reg. 27423 (May 10, 2012).

⁴ Certain Stilbenic Optical Brightening Agents From China and Taiwan; Institution of Five-Year Reviews, 82 Fed. Reg. 16226 (Apr. 3, 2017).

⁵ *Certain Stilbenic Optical Brightening Agents From China and Taiwan; Scheduling of Expedited Five-Year Reviews*, 82 Fed. Reg. 37237 (July 7, 2017); Explanation of Commission Determination on Adequacy, EDIS Doc. 621725 (Aug. 31, 2017).

⁶ 82 Fed. Reg. at 37237.

II. Domestic Like Product and Industry

A. Domestic Like Product

In making its determination under section 751(c) of the Tariff Act, the Commission defines the “domestic like product” and the “industry.”⁷ The Tariff Act defines “domestic like product” as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle.”⁸ The Commission’s practice in five-year reviews is to examine the domestic like product definition from the original investigation and consider whether the record indicates any reason to revisit the prior findings.⁹

Commerce has defined the imported merchandise within the scope of the orders under review as follows:

The stilbenic OBAs covered by this order are all forms (whether free acid or salt) of compounds known as triazinylaminostilbenes (*i.e.*, all derivatives of 4,4'-bis*** amino-2,2'-stilbenedisulfonic acid), except for compounds listed in the following paragraph. The stilbenic OBAs covered by this order include final stilbenic OBA products, as well as intermediate products that are themselves triazinylaminostilbenes produced during the synthesis of stilbenic OBA products.

Excluded from this order are all forms of 4,4'-bis*** amino-2,2'-stilbenedisulfonic acid, C₄₀H₄₀N₁₂O₈S₂ (Fluorescent Brightener 71). This order covers the above-described compounds in any state (including but not limited to powder, slurry, or solution), of any concentrations of active stilbenic OBA ingredient, as well as any compositions regardless of additives (*i.e.*, mixtures or blends, whether of stilbenic OBAs with each other, or of stilbenic OBAs with additives that are not stilbenic OBAs), and in any type of packaging.¹⁰

⁷ 19 U.S.C. § 1677(4)(A).

⁸ 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).

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

¹⁰ Issues and Decision Memorandum for the Expedited Sunset Review of the Antidumping Duty Orders on Certain Stilbenic Optical Brightening Agents from the People’s Republic of China and Taiwan, EDIS Doc. 624854 (Aug. 1, 2017).

CSOBAs within the scope definition are organic chemicals, also known as fluorescent whitening agents, primarily used for brightening paper products, and are a cost-effective way of raising the whiteness level of paper.¹¹ Without CSOBAs, many paper products have an aesthetically unappealing yellowish cast.¹² When applied to paper, CSOBAs absorb ultraviolet light and emit blue light, compensating for the yellowish cast and making the paper appear a brighter white.¹³

All CSOBAs are built upon diaminostilbene disulfonic acid (“DAS”), a synthetic organic chemical.¹⁴ Attached to the DAS structure are two 1,3,5-triazinyl rings.¹⁵ Attached to each of the 1,3,5-triazinyl groups are a derivative of aniline and an additional chemical component, typically an amine.¹⁶ The derivative of aniline used can be either aniline itself; sulfanilic acid, which contains one sulfonate group; or aniline disulfonic acid, which contains two sulfonate groups.¹⁷ The number of sulfonate groups on the molecule affects the solubility of the CSOBA in water and which specific CSOBA is best applied in the paper making process.¹⁸ The specific derivative of aniline that is used determines whether the molecule is classified as a “di,” “tetra,” or “hexa” CSOBA.¹⁹ The identity of a CSOBA is specified by both the derivative of aniline used and the identity of the other chemical group attached to the 1,3,5-triazinyl ring.²⁰

CSOBAs can be catalogued into three main categories (di, tetra, and hexa) based on the number of sulfonate groups that the molecule contains, which is determined by the derivative of aniline used in the production process.²¹ The “di” category of CSOBAs contains two sulfonate groups and is produced using aniline.²² The “tetra” category of CSOBAs contains four sulfonate groups and is produced using sulfanilic acid.²³ The “tetra” category is the most versatile and

¹¹ Confidential Report (“CR”) at I-7, Public Report (“PR”) at I-5.

¹² CR at I-7, PR at I-5.

¹³ CR at I-7, PR at I-6.

¹⁴ CR at I-7, PR at I-6.

¹⁵ CR at I-7, PR at I-6.

¹⁶ CR at I-7, PR at I-6.

¹⁷ CR at I-7, PR at I-6.

¹⁸ CR at I-8, PR at I-6.

¹⁹ CR at I-8, PR at I-6.

²⁰ CR at I-8, PR at I-6.

²¹ CR at I-8, PR at I-6.

²² CR at I-8, PR at I-6. In paper making, the “di” category of CSOBAs is usually applied to the pulp slurry before the paper web is formed due to its high affinity for cellulose. *Id.*

²³ CR at I-8, PR at I-6.

most commonly used stilbenic optical brightening agent.²⁴ The “hexa” category of CSOBAs contains six sulfonate groups and is produced using aniline disulfonic acid.²⁵

In the original investigations, the Commission defined the domestic like product as all forms, states, concentrations, and compositions of CSOBA products coextensive with Commerce’s scope.²⁶ No party objected to this definition of the domestic like product in the final phase of the investigations.²⁷ In the preliminary phase the Commission examined whether to define the domestic like product more broadly to include FB 71, a brightener excluded from the scope, but found a clear distinction between FB 71 and in-scope CSOBAs in terms of physical characteristics and uses, interchangeability, and customer and producer perceptions.²⁸ It also examined whether intermediate products should be defined as a separate domestic like product based on a semifinished products analysis, but found that intermediate products within the scope were not a separate domestic like product.²⁹

In the current reviews, Archroma does not state a position with respect to the definition of the domestic like product.³⁰ There is no new information in the record indicating that the characteristics of CSBOAs have changed since the original investigations.³¹ We therefore again

²⁴ CR at I-8, PR at I-6. “Tetra” CSOBAs can be applied at multiple locations in the paper making process, which is why they are the most commonly used CSOBAs. “Tetra” CSOBAs can either be added to the pulp slurry before the paper web is formed, in the size press, or in coating applications. FB 220, the most widely used CSOBA, is in the “tetra” category. *Id.* at I-8-9, PR at I-7.

²⁵ CR at I-9, PR at I-7. Application of the “hexa” CSOBAs in the paper making process is limited to the surface coating operations for situations where high brightness is required. *Id.*

²⁶ Original Determinations, USITC Pub. 4322 at 6.

²⁷ Original Determinations, USITC Pub. 4322 at 6.

²⁸ *Certain Stilbenic Optical Brightening Agents from China and Taiwan*, USITC Pub. 4236 (Preliminary) (May 2011) at 7-10 (“Preliminary Determinations”); Original Determinations, USITC Pub. 4322 at 6. In addition, the Commission found that the final CSOBA products within the scope shared physical characteristics and had the same general use, brightening paper products. It also found that the final products were generally interchangeable; were sold in the same channels of distribution (virtually all to end users); were perceived as similar by producers and customers; had common manufacturing facilities, production processes, and production employees; and overlapped in terms of price. Original Determinations, USITC Pub. 4322 at 6.

²⁹ Preliminary Determinations, USITC Pub. 4236 at 10-11; Original Determinations, USITC Pub. 4322 at 6. The Commission found that the intermediate products were dedicated to the production of final CSOBA products; there was no separate market for the intermediate products; the central molecular structure for the intermediate and final products was the same; intermediate products were transformed into final products by relatively straightforward chemical reactions; and there was minimal difference in the cost and value of the intermediate and final products. Original Determinations, USITC Pub. 4322 at 6 & n.21.

³⁰ *See generally* Archroma Response. In the original investigations, Clariant Corp. (the predecessor to Archroma) supported the Commission finding one domestic like product coextensive with the scope of the investigations. Original Determinations, USITC Pub. 4322 at 6.

³¹ *See generally* CR at I-6-13, PR at I-5-9.

define the domestic like product as all forms, states, concentrations, and compositions of CSOBAs coextensive with Commerce's scope.

B. Domestic Industry

Section 771(4)(A) of the Tariff Act defines the relevant industry as the domestic "producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."³² In defining the domestic industry, the Commission's general practice has been to include in the industry producers of all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.

In the original investigations, the Commission defined the domestic industry as all U.S. producers of the domestic like product, namely Clariant, BASF, and 3V.³³ No party objected to this definition.³⁴ There were no related party issues in the final phase of the original investigations.³⁵

In these reviews, we must determine whether any producer of the domestic like product should be excluded from the domestic industry pursuant to section 771(4)(B) of the Tariff Act. This provision allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry producers that are related to an exporter or importer of subject merchandise or which are themselves importers.³⁶ Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each investigation.³⁷

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

³³ Original Determinations, USITC Pub. 4322 at 7. The Commission determined that converting the powdered form of CSOBA into an aqueous solution by mixing it with water, known as "letdown," did not constitute sufficient production-related activity to warrant treating converters as producers of CSOBAs. *Id.* at 7 n.23.

³⁴ Original Determinations, USITC Pub. 4322 at 7.

³⁵ Original Determinations, USITC Pub. 4322 at 7 n.24.

³⁶ See *Torrington Co v. United States*, 790 F. Supp. 1161, 1168 (Ct. Int'l Trade 1992), *aff'd without opinion*, 991 F.2d 809 (Fed. Cir. 1993); *Sandvik AB v. United States*, 721 F. Supp. 1322, 1331-32 (Ct. Int'l Trade 1989), *aff'd mem.*, 904 F.2d 46 (Fed. Cir. 1990); *Empire Plow Co. v. United States*, 675 F. Supp. 1348, 1352 (Ct. Int'l Trade 1987).

³⁷ The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude a related party include the following:

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

(Continued...)

Domestic producer *** has been identified as an importer of subject merchandise and is affiliated with ***, a producer of CSOBAs in Taiwan.³⁸ Because of the expedited nature of these reviews, the record does not indicate whether *** imported or *** exported subject merchandise during the January 2012 to December 2016 period of review. The limited information on the record does not establish that, even assuming *arguendo* that *** is a related party, appropriate circumstances exist to warrant its exclusion from the domestic industry. Moreover, the existence of such circumstances would make no difference to the record of these reviews because the record contains no firm-specific data concerning *** to exclude.³⁹ We therefore again define the domestic industry as consisting of all U.S. producers of CSOBA products coextensive with Commerce’s scope.

III. Cumulation

A. Legal Standard

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

the Commission may cumulatively assess the volume and effect of imports of the subject merchandise from all countries with respect to which reviews under section 1675(b) or (c) of this title were initiated on the same day, if such imports would be likely to compete with each other and with domestic like products in the United States market. The Commission shall not cumulatively assess the volume and effects of imports of the subject merchandise in a case in which it determines that such imports are likely to have no discernible adverse impact on the domestic industry.⁴⁰

Cumulation therefore is discretionary in five-year reviews, unlike original investigations, which are governed by section 771(7)(G)(i) of the Tariff Act.⁴¹ The Commission may exercise its

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(5) whether the primary interest of the importing producer lies in domestic production or importation. *Changzhou Trina Solar Energy Co. v. USITC*, 100 F. Supp.3d 1314, 1326-31(Ct. Int’l. Trade 2015); see also *Torrington Co. v. United States*, 790 F. Supp. at 1168.

³⁸ CR at I-15, PR at I-11; Stilbenic Optical Brightening Agents from China and Taiwan: Response to Request for Additional Information Requested in Items 5 of 7 of the Notice of Institution (May 12, 2017) (“Archroma Response to Request for Additional Information”) at 2. According to Archroma, ***. Archroma Response to Request for Additional Information at 2.

³⁹ See CR/PR at Table I-2. *** did not respond to the notice of institution and the available data concerning domestic production operations are limited to that Archroma provided. *Id.*

⁴⁰ 19 U.S.C. § 1675a(a)(7).

⁴¹ 19 U.S.C. § 1677(7)(G)(i); see also, e.g., *Nucor Corp. v. United States*, 601 F.3d 1291, 1293 (Fed. Cir. 2010) (Commission may reasonably consider likely differing conditions of competition in deciding whether to cumulate subject imports in five-year reviews); *Allegheny Ludlum Corp. v. United States*, 475 F. Supp. 2d 1370, 1378 (Ct. Int’l Trade 2006) (recognizing the wide latitude the Commission has in (Continued...))

discretion to cumulate, however, only if the reviews are initiated on the same day, the Commission determines that the subject imports are likely to compete with each other and the domestic like product in the U.S. market, and imports from each such subject country are not likely to have no discernible adverse impact on the domestic industry in the event of revocation. Our focus in five-year reviews is not only on present conditions of competition, but also on likely conditions of competition in the reasonably foreseeable future.

B. The Original Investigations

In the original investigations, the Commission found a reasonable overlap of competition between and among the domestic like product and imports from each subject country, and therefore cumulated subject imports from China and Taiwan.⁴²

C. Likelihood of No Discernible Adverse Impact

The statute precludes cumulation if the Commission finds that subject imports from a country are likely to have no discernible adverse impact on the domestic industry.⁴³ Neither the statute nor the Uruguay Round Agreements Act (“URAA”) Statement of Administrative Action (“SAA”) provides specific guidance on what factors the Commission is to consider in determining that imports “are likely to have no discernible adverse impact” on the domestic industry.⁴⁴ With respect to this provision, the Commission generally considers the likely volume of subject imports and the likely impact of those imports on the domestic industry within a reasonably foreseeable time if the orders are revoked. Our analysis for each of the subject countries takes into account, among other things, the nature of the product and the behavior of subject imports in the original investigations.

China: In the original investigations, the volume of subject imports from China increased from *** pounds in 2009 to *** pounds in 2010, and then to *** pounds in 2011.⁴⁵ The market share of subject imports from China in terms of quantity increased from *** percent in 2009 to *** percent in 2010, and then to *** percent in 2011.⁴⁶

Official Commerce statistics indicate that U.S. imports of CSOBAs from China declined sharply from 2011 to 2012 and fluctuated thereafter. They were 804,000 pounds in 2012,

(...Continued)

selecting the types of factors it considers relevant in deciding whether to exercise discretion to cumulate subject imports in five-year reviews); *Nucor Corp. v. United States*, 569 F. Supp. 2d 1328, 1337-38 (Ct. Int’l Trade 2008).

⁴² Original Determinations, USITC Pub. 4322 at 8-9.

⁴³ 19 U.S.C. § 1675a(a)(7).

⁴⁴ SAA, H.R. Rep. No. 103-316, vol. I at 887 (1994).

⁴⁵ CR/PR at Table I-4. Quantity data are in solution form. The value of subject imports from China also increased during the original investigations, from *** in 2009 to *** in 2010, and then to *** in 2011. *Id.*

⁴⁶ CR/PR at Table I-5. In terms of value, the market share increased from *** percent in 2009 to *** percent in 2010 and to *** percent in 2011. *Id.*

971,000 pounds in 2013, 2.0 million pounds in 2014, 903,000 pounds in 2015, and 943,000 pounds in 2016.⁴⁷ In 2016, subject imports from China accounted for *** percent of apparent U.S. consumption in terms of quantity.⁴⁸

The information available indicates that there are at least six firms currently producing CSOBAs in China.⁴⁹ In the original investigations the Commission collected data from *** producers of subject merchandise in China, accounting for an estimated *** percent of production of subject merchandise in China in 2011. During the original period of investigation, capacity utilization for these producers ranged from *** percent, and exports ranged from *** percent of total shipments.⁵⁰ Available GTA data indicate that exports by value from China of synthetic organic products used as fluorescent brightening agents to the United States fluctuated but decreased overall from \$8.2 million in 2012 to \$5.3 million in 2016; to all markets exports of this product from China increased from \$125.6 million in 2012 to \$151.8 million in 2016.⁵¹ Available GTA data also indicate that China is the world's largest exporter of products classified under HS 3204.20.⁵² In light of the foregoing, we do not find that subject imports from China would likely have no discernible adverse impact on the domestic industry if the antidumping duty order were revoked.

Taiwan: In the original investigations, the volume of subject imports from Taiwan increased from *** pounds in 2009 to *** pounds in 2010, and then to *** pounds in 2011.⁵³ The market share of subject imports from Taiwan in terms of quantity increased from *** percent in 2009 to *** percent in 2010, and then to *** percent in 2011.⁵⁴

Official Commerce statistics indicate that subject imports from Taiwan declined from 2011 to 2012 and fluctuated downwards thereafter; they were 15.2 million pounds in 2012,

⁴⁷ CR/PR at Table I-3. We observe that the official Commerce statistics and Global Trade Atlas ("GTA") data for 2016 reported in Tables I-3 through I-8 of the Commission Report may be overstated as they reflect imports under HTS subheading 3204.20, which is a residual or "basket" category that may contain products outside the scope of these reviews. Further, it is unclear as to the basis and the form by which the import quantity data are reported. *Id.* at Tables I-3-8.

Imports of CSOBAs from China by value were \$6.0 million in 2012, \$7.4 million in 2013, \$10.1 million in 2014, \$7.1 million in 2015, and \$6.2 million in 2016. *Id.*

⁴⁸ CR/PR at Tables I-4-5. In 2016, subject imports from China accounted for *** percent of apparent U.S. consumption in terms of value. *Id.*

⁴⁹ Archroma Response at 11-12.

⁵⁰ Original Determinations, USITC Pub. 4322 at Table VII-I; Original CR, EDIS Doc. 613696 (Mar. 5, 2012) at Table VII-1.

⁵¹ CR/PR at Table I-6. Exports by value from China to the United States were \$8.2 million in 2012, \$7.6 million in 2013, \$10.3 million in 2014, \$7.1 million in 2015, and \$5.3 million in 2016. *Id.*

⁵² CR/PR at Table I-8.

⁵³ CR/PR at Table I-4. Quantity data are in solution form. The value of subject imports from Taiwan also increased over the original period of investigation from *** in 2009 to *** in 2010, and then to *** in 2011. *Id.*

⁵⁴ CR/PR at Table I-5. In terms of value, market share increased from *** percent in 2009 to *** percent in 2010 and to *** percent in 2011. *Id.*

14.9 million pounds in 2013, 13.2 million pounds in 2014, 14.2 million pounds in 2015, and 7.9 million pounds in 2016.⁵⁵ In 2016, subject imports from Taiwan accounted for *** percent of apparent U.S. consumption by quantity.⁵⁶

The information available indicates that there are currently at least two firms producing CSOBAs in Taiwan.⁵⁷ Archroma estimates that ***.⁵⁸ In the original investigations the Commission collected data from *** of subject merchandise in Taiwan, accounting for an estimated *** percent of production of subject merchandise in Taiwan in 2011. During the original period of investigation, capacity utilization for this firm ranged from *** percent, and exports ranged from *** percent of total shipments.⁵⁹ Available GTA data indicate that exports by value of synthetic organic products used as fluorescent brightening agents from Taiwan to the United States increased from \$18.6 million in 2012 to \$22.3 million in 2014, and then decreased to \$10.9 million by 2016.⁶⁰ They also show that the United States was Taiwan's top export market from 2012 to 2016; Taiwan's exports to all markets increased from \$28.7 million in 2012 to \$31.7 million in 2014, before declining to \$18.4 million in 2016.⁶¹ Available GTA data also indicate that Taiwan is the world's 10th largest exporter of products classified under HS 3204.40.⁶² In light of the foregoing, we do not find that subject imports from Taiwan would likely have no discernible adverse impact on the domestic industry if the antidumping duty order were revoked.

D. Likelihood of a Reasonable Overlap of Competition

The Commission generally has considered four factors intended to provide a framework for determining whether subject imports compete with each other and with the domestic like product.⁶³ Only a "reasonable overlap" of competition is required.⁶⁴ In five-year reviews, the

⁵⁵ CR/PR at Table I-3. Imports of CSOBAs from Taiwan by value were \$21.7 million in 2012, \$23.8 million in 2013, \$23.5 million in 2014, \$24.6 million in 2015, and \$12.8 million in 2016. *Id.*

⁵⁶ CR/PR at Tables I-4-5. In 2016, subject imports from Taiwan accounted for *** percent of apparent U.S. consumption by value. *Id.*

⁵⁷ Archroma Response at 11-12.

⁵⁸ Archroma Response at 8. According to Archroma, ***. *Id.* at 8, Appx 2.

⁵⁹ Original CR, EDIS Doc. 613696, at Table VII-3.

⁶⁰ CR/PR at Table I-7. Exports by value from Taiwan to the United States were \$18.6 million in 2012, \$20.8 million in 2013, \$22.3 million in 2014, \$19.8 million in 2015, and \$10.9 million in 2016. *Id.*

⁶¹ CR/PR at Table I-7.

⁶² CR/PR at Table I-8.

⁶³ The four factors generally considered by the Commission in assessing whether imports compete with each other and with the domestic like product are as follows: (1) the degree of fungibility between subject imports from different countries and between subject imports and the domestic like product, including consideration of specific customer requirements and other quality-related questions; (2) the presence of sales or offers to sell in the same geographical markets of imports from different countries and the domestic like product; (3) the existence of common or similar channels of distribution for subject imports from different countries and the domestic like product; and (4) whether subject
(Continued...)

relevant inquiry is whether there likely would be competition even if none currently exists because the subject imports are absent from the U.S. market.⁶⁵

Fungibility. In the original investigations, the Commission found that domestically produced CSOBAs and subject imports from China and Taiwan were fungible.⁶⁶ It observed that there was a moderate to high degree of substitutability between the domestic like product, subject imports from Taiwan, and subject imports from China.⁶⁷ There is no new information in the record in these reviews to indicate that the fungibility of subject imports from either China or Taiwan has changed since the original investigations.⁶⁸

Channels of Distribution. In the original investigations, the Commission found that subject imports from China and Taiwan and the domestic like product were sold in the same channels of distribution, with ***.⁶⁹ There is no new information in these reviews to indicate that this has changed.⁷⁰

Geographic Overlap. In the original investigations, the Commission found that subject imports from both countries and the domestic like product were sold nationwide.⁷¹ The record in these reviews indicates that U.S. imports of CSOBAs from both China and Taiwan entered the U.S. market through each major geographic region from 2012 to 2016.⁷²

(...Continued)

imports are simultaneously present in the market with one another and the domestic like product. *See, e.g., Wieland Werke, AG v. United States*, 718 F. Supp. 50 (Ct. Int'l Trade 1989).

⁶⁴ *See Mukand Ltd. v. United States*, 937 F. Supp. 910, 916 (Ct. Int'l Trade 1996); *Wieland Werke*, 718 F. Supp. at 52 ("Completely overlapping markets are not required."); *United States Steel Group v. United States*, 873 F. Supp. 673, 685 (Ct. Int'l Trade 1994), *aff'd*, 96 F.3d 1352 (Fed. Cir. 1996). We note, however, that there have been investigations where the Commission has found an insufficient overlap in competition and has declined to cumulate subject imports. *See, e.g., Live Cattle from Canada and Mexico*, Inv. Nos. 701-TA-386 and 731-TA-812-13 (Preliminary), USITC Pub. 3155 at 15 (Feb. 1999), *aff'd sub nom, Ranchers-Cattlemen Action Legal Foundation v. United States*, 74 F. Supp. 2d 1353 (Ct. Int'l Trade 1999); *Static Random Access Memory Semiconductors from the Republic of Korea and Taiwan*, Inv. Nos. 731-TA-761-62 (Final), USITC Pub. 3098 at 13-15 (Apr. 1998).

⁶⁵ *See generally, Cheflene Corp. v. United States*, 219 F. Supp. 2d 1313, 1314 (Ct. Int'l Trade 2002).

⁶⁶ Original Determinations, USITC Pub. 4322 at 9. One respondent argued that subject imports from Taiwan were not fungible with the domestic like product because subject imports from Taiwan had a higher purity level and greater technical support and service. However, the Commission found that the domestic like product, subject imports from China, and subject imports from Taiwan all met purchasers' quality requirements and that the record did not indicate any substantial differences between subject imports and the domestic like product with respect to product purity or technical support/service. *Id.*

⁶⁷ Original Determinations, USITC Pub. 4322 at 9.

⁶⁸ *See* CR at I-23-24, PR at I-14-15.

⁶⁹ Original Determinations, USITC Pub. 4322 at 9, Confidential Original Views, EDIS Doc. 613698 at 12.

⁷⁰ CR at I-23-24, PR at I-14.

⁷¹ Original Determinations, USITC Pub. 4322 at 9.

⁷² CR at I-23-24, PR at I-14.

Simultaneous Presence in Market. In the original investigations, the Commission found that domestically produced and subject CSOBAs from all three categories (di, tetra, and hexa) were present to varying degrees in the U.S. market in each year from 2009 to 2011.⁷³ The record in these reviews indicates that imports of CSOBAs from China and Taiwan entered the United States during all 60 months of the period of review.⁷⁴

Conclusion. The record in these expedited reviews contains very limited information concerning the characteristics of subject imports in the U.S. market from 2012 to 2016. The record contains no information suggesting that the reasonable overlap of competition found in the original investigations would not exist upon revocation. In light of this, and the absence of any contrary arguments, we find a likely reasonable overlap of competition between subject imports from China and Taiwan and among the domestic like product and subject imports from each source.

E. Likely Conditions of Competition

In determining whether to exercise our discretion to cumulate subject imports, we assess whether subject imports from the subject countries would compete under similar or different conditions in the U.S. market if the orders under review were revoked. The record in these reviews does not indicate that there would likely be any significant difference in the conditions of competition between subject imports upon revocation, and no party has argued to the contrary. Accordingly, we exercise our discretion to cumulate subject imports from China and Taiwan.

IV. Revocation of the Antidumping Duty Orders Would Likely Lead to Continuation or Recurrence of Material Injury Within a Reasonably Foreseeable Time

A. Legal Standards

In a five-year review conducted under section 751(c) of the Tariff Act, Commerce will revoke an antidumping or countervailing duty order unless: (1) it makes a determination that dumping or subsidization is likely to continue or recur and (2) the Commission makes a determination that revocation of the antidumping or countervailing duty order “would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.”⁷⁵ The SAA states that “under the likelihood standard, the Commission will engage in a counterfactual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo – the revocation or termination of a proceeding and the

⁷³ Original Determinations, USITC Pub. 4322 at 9.

⁷⁴ CR at I-24, PR at I-14. The record in these reviews does not contain a breakdown by CSOBA category. *Id.*

⁷⁵ 19 U.S.C. § 1675a(a).

elimination of its restraining effects on volumes and prices of imports.”⁷⁶ Thus, the likelihood standard is prospective in nature.⁷⁷ The U.S. Court of International Trade has found that “likely,” as used in the five-year review provisions of the Act, means “probable,” and the Commission applies that standard in five-year reviews.⁷⁸

The statute states that “the Commission shall consider that the effects of revocation or termination may not be imminent, but may manifest themselves only over a longer period of time.”⁷⁹ 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.”⁸⁰

Although the standard in a five-year review is not the same as the standard applied in an original 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.”⁸¹ 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 an order is revoked or a suspension agreement is terminated, and any findings by Commerce

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

⁷⁷ While the SAA states that “a separate determination regarding current material injury is not necessary,” it indicates that “the Commission may consider relevant factors such as current and likely continued depressed shipment levels and current and likely continued {sic} prices for the domestic like product in the U.S. market in making its determination of the likelihood of continuation or recurrence of material injury if the order is revoked.” SAA at 884.

⁷⁸ See *NMB Singapore Ltd. v. United States*, 288 F. Supp. 2d 1306, 1352 (Ct. Int’l Trade 2003) (“‘likely’ means probable within the context of 19 U.S.C. § 1675(c) and 19 U.S.C. § 1675a(a)”), *aff’d mem.*, 140 Fed. Appx. 268 (Fed. Cir. 2005); *Nippon Steel Corp. v. United States*, 26 CIT 1416, 1419 (2002) (same); *Usinor Industeel, S.A. v. United States*, 26 CIT 1402, 1404 nn.3, 6 (2002) (“more likely than not” standard is “consistent with the court’s opinion;” “the court has not interpreted ‘likely’ to imply any particular degree of ‘certainty’”); *Indorama Chemicals (Thailand) Ltd. v. United States*, 26 CIT 1059, 1070 (2002) (“standard is based on a likelihood of continuation or recurrence of injury, not a certainty”); *Usinor v. United States*, 26 CIT 767, 794 (2002) (“‘likely’ is tantamount to ‘probable,’ not merely ‘possible’”).

⁷⁹ 19 U.S.C. § 1675a(a)(5).

⁸⁰ 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.*

⁸¹ 19 U.S.C. § 1675a(a)(1).

regarding duty absorption pursuant to 19 U.S.C. § 1675(a)(4).⁸² 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.⁸³

In evaluating the likely volume of imports of subject merchandise if an order under review is revoked and/or a suspended investigation is terminated, 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.⁸⁴ In doing so, the Commission must consider "all relevant economic factors," including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) the potential for product shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.⁸⁵

In evaluating the likely price effects of subject imports if an order under review is revoked and/or a suspended investigation is terminated, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared to the domestic like product and whether the subject imports are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of the domestic like product.⁸⁶

In evaluating the likely impact of imports of subject merchandise if an order under review is revoked and/or a suspended investigation is terminated, 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.⁸⁷ 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

⁸² 19 U.S.C. § 1675a(a)(1). Commerce has made no duty absorption findings with respect to either subject country. CR at I-13, PR at I-9.

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

⁸⁴ 19 U.S.C. § 1675a(a)(2).

⁸⁵ 19 U.S.C. § 1675a(a)(2)(A-D).

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.

⁸⁷ 19 U.S.C. § 1675a(a)(4).

which any improvement in the state of the domestic industry is related to the orders under review and whether the industry is vulnerable to material injury upon revocation.⁸⁸

No respondent interested party participated in these expedited reviews. The record, therefore, contains limited new information with respect to the CSOBA industries in China and Taiwan. There also is limited information on the CSOBA market in the United States during the period of review. Accordingly, for our determination, we rely as appropriate on the facts available from the original investigations and the limited new information on the record in the current reviews.

B. Conditions of Competition and the Business Cycle

In evaluating the likely impact of the subject imports on the domestic industry if an order is revoked, 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.”⁸⁹ The following conditions of competition inform our determinations.

1. The Original Investigations

In the original investigations, the Commission found that demand for CSOBAs was derived from demand in sectors in which the products were used, with the primary use being in the production of paper of various types.⁹⁰ Apparent U.S. consumption of CSOBAs fluctuated but increased overall over the period of investigation.⁹¹ Market participants’ perceptions regarding demand trends were mixed.⁹²

Three firms accounted for all domestic production of CSOBAs during the original investigations: Clariant, BASF, and 3V.⁹³ Domestic producers’ share of apparent U.S. consumption declined throughout the period of investigation, while subject imports’ and nonsubject imports’ share of apparent U.S. consumption both increased.⁹⁴

⁸⁸ 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.

⁸⁹ 19 U.S.C. § 1675a(a)(4).

⁹⁰ Original Determinations, USITC Pub. 4322 at 12-13.

⁹¹ Original Determinations, USITC Pub. 4322 at 13.

⁹² Original Determinations, USITC Pub. 4322 at 13. Market participants reported factors tending to reduce demand such as the recession, imports of finished paper products, and increased use of electronic-reading technology, as well as factors tending to increase demand, such as recovery from the recession and new standards for paper brightness. *Id.*

⁹³ Original Determinations, USITC Pub. 4322 at 13.

⁹⁴ Original Determinations, USITC Pub. 4322 at 13.

Each of the three categories of CSOBAs (di, tetra, and hexa) was supplied by domestic producers and subject imports from China and Taiwan; tetra was the predominant category in the U.S. market.⁹⁵ Although there was a disruption of supply of a key input in the production of CSOBAs in mid-2008, the Commission determined that domestic producers were able to meet their existing contractual supply commitments and that it was likely only a small portion of the market was affected by the shortage.⁹⁶ The Commission found that there was a moderate to high degree of substitutability among subject imports from both countries and the domestic like product and that price was an important factor in purchasing decisions.⁹⁷

2. The Current Reviews

Demand Conditions: There is no new information on the record that indicates the drivers of demand for CSOBAs have changed since the original investigations. Apparent U.S. consumption of CSOBAs was *** pounds in 2016, considerably lower than during the original investigations.⁹⁸ Archroma indicates that apparent U.S. consumption of CSOBAs has decreased significantly from 2012 to 2016 as a result of a faster than expected decline in both domestic and global demand for newsprint and the closure of at least 14 paper mills around the country.⁹⁹ According to Archroma, demand is expected to continue to decline.¹⁰⁰

Supply Conditions: Domestic producers were the largest source of supply to the U.S. market in 2016; their share of apparent U.S. consumption based on quantity was *** percent.¹⁰¹ Nonsubject imports were the second largest source of supply to the U.S. market in 2016; their share of apparent U.S. consumption was *** percent by quantity.¹⁰² Cumulated subject imports were the smallest source of supply to the U.S. market in 2016; their market share was *** percent.¹⁰³ The information available suggests that domestic producers are capable of supplying the entirety of apparent U.S. consumption.¹⁰⁴

⁹⁵ Original Determinations, USITC Pub. 4322 at 13-14.

⁹⁶ Original Determinations, USITC Pub. 4322 at 14. The disruption resulted because China, the main global supplier of DAS, ordered the stoppage of certain manufacturing activities, including DAS production, during the run-up to the 2008 Olympic games in Beijing. *Id.*

⁹⁷ Original Determinations, USITC Pub. 4322 at 14-16.

⁹⁸ CR/PR at Table I-5. In the original investigations, apparent U.S. consumption was *** pounds in 2009, *** pounds in 2010, and *** pounds in 2011. *Id.* Apparent U.S. consumption by value was *** in 2016, which was lower than the *** in 2011. *Id.*

⁹⁹ Archroma Response at 6, 14. According to Archroma, apparent U.S. consumption of CSOBAs decreased by *** from 2012 to 2016. *Id.*

¹⁰⁰ Archroma Response at 14.

¹⁰¹ CR/PR at Table I-5.

¹⁰² CR/PR at Table I-5. As previously discussed, the import data used for the apparent consumption calculation may include out-of-scope merchandise.

¹⁰³ CR/PR at Table I-5. Cumulated subject imports' market share by value was *** percent. *Id.*

¹⁰⁴ Compare CR/PR at Table I-2 with CR/PR at Table I-5.

Purchasers responding to the questionnaire staff circulated in the adequacy phase reported anticipating changes in the ability of producers to increase production due to ***.¹⁰⁵ They also reported ***.¹⁰⁶

Substitutability: There is no indication that the substitutability among subject imports and the domestic like product has changed since the original investigations.¹⁰⁷ Accordingly, we again find a moderate to high degree of substitutability among subject imports from both countries and the domestic like product and that price is an important factor in purchasing decisions.

C. Likely Volume of Subject Imports

1. The Original Investigations

In the original investigations, the Commission found that the increase in cumulated subject imports from China and Taiwan was significant, both in absolute terms and relative to consumption and production in the United States.¹⁰⁸ It observed that the volume of cumulated subject imports increased dramatically over the period of investigation and that these imports consistently increased their share of apparent U.S. consumption irrespective of whether consumption was increasing or decreasing.¹⁰⁹ According to the Commission, subject imports' increased market penetration from 2009 to 2011 came at the direct expense of the domestic industry.¹¹⁰ It found that as subject imports of the tetra category increased, domestic producers encouraged customers to use higher priced di and hexa category CSOBAs in an effort to retain market share and improve profitability, an effort that proved largely unsuccessful.¹¹¹

2. The Current Reviews

During the original investigation, the quantity of U.S. shipments of cumulated subject imports peaked at 51.7 million pounds in 2011.¹¹² Since the orders were imposed, cumulated subject imports have declined sharply but have remained in the market in appreciable quantities, from a high of 16 million pounds in 2012 to a low of 8.8 million pounds in 2016.¹¹³

¹⁰⁵ CR/PR at D-3-4.

¹⁰⁶ CR/PR at D-3.

¹⁰⁷ See Archroma Response at 15.

¹⁰⁸ Original Determinations, USITC Pub. 4322 at 16-17.

¹⁰⁹ Original Determinations, USITC Pub. 4322 at 16-17.

¹¹⁰ Original Determinations, USITC Pub. 4322 at 17.

¹¹¹ Original Determinations, USITC Pub. 4322 at 17.

¹¹² CR/PR at Table I-4. Cumulated subject import volumes in the original investigations were *** pounds in 2009, *** pounds in 2010, and *** pounds in 2011.

¹¹³ CR/PR at Table I-3. As previously discussed, 2016 data may include out-of-scope merchandise. *Id.*

As observed above, cumulated subject imports accounted for *** percent of apparent U.S. consumption in 2016.¹¹⁴

Due to the expedited nature of these reviews, the record contains limited current information on the industries in China and Taiwan. Nevertheless, available information in the record indicates that the industries in the subject countries continue to manufacture and export substantial volumes of organic products used as fluorescent brighteners, a category which includes CSOBAs.¹¹⁵ There is no information in the current record suggesting any declines in subject producers' capacity or unused capacity since the prior reviews. Consequently, on the basis of the facts available, we find that subject producers continue to have substantial capacity to produce CSOBAs.

The information available indicates that the CSOBA industries in the subject countries, in light of their total worldwide exports, are export oriented.¹¹⁶ Producers in subject countries would have an incentive to shift exports to the U.S. because of the large size of its market,¹¹⁷ and importance as an export market.¹¹⁸ Additionally, these producers have established distribution networks within the United States.¹¹⁹ As observed above, subject imports have consistently maintained an appreciable presence in the U.S. market since the imposition of the orders.¹²⁰ Accordingly, based on the behavior of subject imports during the original investigations, subject producers' substantial production capacity and export orientation, and the attractiveness of the U.S. market, we find that the likely volume of cumulated subject imports, both in absolute terms and as a share of the U.S. market, would increase and be significant in the event of revocation.¹²¹

D. Likely Price Effects

1. The Original Investigations

In the original investigations, the Commission found that subject imports from China and Taiwan significantly undersold the domestic like product.¹²² In evaluating the pricing data, the Commission compared prices on both an f.o.b. basis as well as on a delivered price basis,

¹¹⁴ CR/PR at Table I-5.

¹¹⁵ CR/PR at Tables I-6-7. As previously discussed, the available GTA data include out-of-scope merchandise.

¹¹⁶ CR/PR at Table I-8. We observe that China and Taiwan are the world's first- and tenth-ranked exporters of CSOBAs globally. *Id.*

¹¹⁷ Archroma Response at 9.

¹¹⁸ See CR/PR at Table I-7. The United States was the largest export market for exports of brightening agents (which include out of scope merchandise) from Taiwan in 2016. CR/PR at Table I-7.

¹¹⁹ See CR at I-26, PR at I-16.

¹²⁰ CR/PR at Tables I-4-5.

¹²¹ Because of the expedited nature of these reviews, the record does not contain any information about inventories of the subject merchandise or the likelihood of product shifting.

¹²² Original Determinations, USITC Pub. 4322 at 19.

but found that there were no substantial differences between the comparisons.¹²³ The Commission also found that other record evidence supported its finding of underselling, as the average unit values (“AUVs”) for U.S. commercial shipments of subject imports were lower than those for domestic producers’ shipments in each of the product specific categories (di, tetra, hexa) and the majority of responding purchasers reported that prices for subject imports were lower than those for the domestic like product.¹²⁴ The Commission concluded that significant underselling by subject imports from China and Taiwan enabled subject imports to gain market share at the expense of the domestic industry.¹²⁵

Additionally, the Commission found evidence that subject imports depressed prices of the domestic like product in the U.S. market to a significant degree.¹²⁶ According to the Commission, prices for domestically produced CSOBAs fluctuated over the period of investigation, but were substantially lower at the end of the period than at the beginning.¹²⁷ It found that the declines in domestic producers’ prices occurred as shipments of subject imports increased their market share at the expense of the domestic producers.¹²⁸

2. The Current Reviews

The record does not contain current pricing comparisons due to the expedited nature of these reviews. As observed earlier, cumulated subject import volume would likely increase and be at significant levels upon revocation. Subject producers would likely resume the behavior observed in the original investigations, exporting subject merchandise at low prices to gain market share. Accordingly, cumulated subject imports would likely undersell domestically produced CSOBAs, as they did during the original investigations.

As discussed above, we continue to find a moderate to high degree of substitutability between subject imports from each subject country and the domestic like product and that price is an important factor in purchasing decisions. The likely significant volume of cumulated subject imports, which would likely undersell the domestic like product, would likely force the domestic industry to either lower prices or lose sales. In light of these considerations, we conclude that, absent the disciplining effect of the orders, cumulated subject imports would likely have significant depressing or suppressing effects on prices for the domestic like product.

¹²³ Original Determinations, USITC Pub. 4322 at 18-19.

¹²⁴ Original Determinations, USITC Pub. 4322 at 19. Responding purchasers also confirmed domestic producers’ lost sales and lost revenue allegations. *Id.*

¹²⁵ Original Determinations, USITC Pub. 4322 at 19.

¹²⁶ Original Determinations, USITC Pub. 4322 at 20.

¹²⁷ Original Determinations, USITC Pub. 4322 at 20.

¹²⁸ Original Determinations, USITC Pub. 4322 at 20.

E. Likely Impact

1. The Original Investigations

In the original investigations, the Commission found that subject imports had a significant impact on the domestic industry.¹²⁹ It observed that despite some improvements between 2009 and 2010, the domestic industry's performance indicators in 2011 were all below 2009 levels.¹³⁰ It found that subject imports significantly displaced domestic production and depressed U.S. prices, leading to significant declines in the domestic industry's production, shipments, market share, capacity utilization, employment, and profitability.¹³¹ According to the Commission, demand trends did not explain the domestic industry's condition, as the decline in the domestic industry's shipments occurred notwithstanding an overall increase in apparent U.S. consumption.¹³² It found that nonsubject imports appeared to have played at most a minor role in the condition of the domestic industry.¹³³ It also found that the domestic industry's condition was not explained by the shortage of DAS (an input in the production of CSOBAs), as the shortage predated the period of investigation, was resolved quickly, and domestic producers were able to meet all major supply commitments.¹³⁴

2. The Current Reviews

Because of the expedited nature of these reviews, information on the record concerning the recent performance of the domestic industry producing CSOBAs is limited. The limited record 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 orders.

The information on the record indicates that in 2016 the domestic industry's capacity was *** pounds, its production was *** pounds, and its capacity utilization was *** percent.¹³⁵ U.S. shipments were *** pounds in 2016.¹³⁶ The industry reported an operating income of ***, resulting in a ratio of operating income to net sales of *** percent.¹³⁷

¹²⁹ Original Determinations, USITC Pub. 4322 at 22.

¹³⁰ Original Determinations, USITC Pub. 4322 at 21.

¹³¹ Original Determinations, USITC Pub. 4322 at 21-22.

¹³² Original Determinations, USITC Pub. 4322 at 22.

¹³³ Original Determinations, USITC Pub. 4322 at 22. The Commission found that the volume of nonsubject imports was *** and increased less than subject imports. Confidential Original Views at 32. The Commission observed that nonsubject imports were generally priced according to market forces and that the AUVs of nonsubject imports were consistently higher than the AUVs of subject imports and the domestic like product. Original Determinations, USITC Pub. 4322 at 22.

¹³⁴ Original Determinations, USITC Pub. 4322 at 22. The Commission also observed that one domestic producer, BASF, produced its own DAS and would not have been affected by the shortage. *Id.*

¹³⁵ CR/PR at Table I-2.

¹³⁶ CR/PR at Table I-2.

¹³⁷ CR/PR at Table I-2. The 2016 data, which reflect the data Archroma provided in response to the notice of institution, are not fully comparable to the data from the original investigations, which (Continued...)

As previously discussed, revocation of the orders on CSOBAs from China and Taiwan would likely lead to a significant volume of cumulated subject imports that would undersell the domestic like product and have significant price effects on the domestic industry. Consequently, given the degree of substitutability of the product, the likely significant volume of cumulated subject imports would place pricing pressure on domestic producers, forcing them to cut prices or cede market share to subject imports. The likely significant volume of cumulated subject imports will be competing with the domestic industry for a share of continually declining U.S. consumption, as production of paper—the main end-use for CSOBAs—is also expected to decrease.¹³⁸ The likely significant volume of cumulated subject imports and their price effects would negatively affect the domestic industry’s capacity, production, capacity utilization, shipments, net sales values and quantities, employment levels, operating income, operating income margins, and capital investments.

We have also considered the role of factors other than subject imports, including nonsubject imports, so as not to attribute injury from other factors to the subject imports. We observe that nonsubject imports accounted for a significant share of apparent U.S. consumption in 2016 and that their market penetration has increased since the original investigations.¹³⁹ Nevertheless, the domestic industry’s operating income and ratio of operating income to net sales were both better in 2016 than in any year during the original period of investigation.¹⁴⁰ Moreover, because the domestic industry is the dominant supplier of CSOBAs to the U.S. market,¹⁴¹ any increase in subject import market share will likely be at the domestic industry’s expense to a significant extent. As a result, the adverse effects that the subject imports will likely cause to the domestic industry are distinguishable from those of nonsubject imports.

Accordingly, we conclude that, if the antidumping duty orders on CSOBAs were revoked, cumulated subject imports would likely have a significant impact on domestic producers of CSOBAs within a reasonably foreseeable time.

V. Conclusion

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

(...Continued)

concerned the operations of three domestic producers. We nevertheless observe that the domestic industry incurred *** throughout the original period of investigation. *Id.*

¹³⁸ CR at I-20, PR at I-13.

¹³⁹ CR/PR at Table I-5.

¹⁴⁰ CR/PR at Table I-5.

¹⁴¹ CR/PR at Table I-5.

INFORMATION OBTAINED IN THESE REVIEWS

BACKGROUND

On April 3, 2017, the U.S. International Trade Commission (“Commission”) gave notice, pursuant to section 751(c) of the Tariff Act of 1930, as amended (“the Act”),¹ that it had instituted reviews to determine whether revocation of antidumping duty orders on certain stilbenic optical brightening agents (“CSOBAs”) from China and Taiwan would likely lead to the continuation or recurrence of material injury to a domestic industry.² All interested parties were requested to respond to this notice by submitting certain information requested by the Commission.^{3 4} The following tabulation presents information relating to the background and schedule of this proceeding:

Effective or statutory date	Action
April 3, 2017	Notice of initiation and institution by Commerce and Commission
July 7, 2017	Commission vote on adequacy
August 1, 2017	Commerce results of its expedited reviews
August 31, 2017	Commission statutory deadline to complete expedited reviews
March 29, 2018	Commission statutory deadline to complete full reviews

¹ 19 U.S.C. 1675(c).

² *Certain Stilbenic Optical Brightening Agents from China and Taiwan; Institution of Five-Year Reviews*, 82 FR 16226, April 3, 2017. In accordance with section 751(c) of the Act, the U.S. Department of Commerce (“Commerce”) published a notice of initiation of five-year reviews of the subject antidumping duty order concurrently with the Commission’s notice of institution. *Initiation of Five-Year (“Sunset”) Review*, 82 FR 16159, April 3, 2017. Pertinent *Federal Register* notices are referenced in app. A, and may be found at the Commission’s website (www.usitc.gov).

³ As part of their response to the notice of institution, interested parties were requested to provide company-specific information. That information is presented in app. B. Summary data compiled in prior proceedings is presented in app. C.

⁴ Interested parties were also requested to provide a list of three to five leading purchasers in the U.S. market for the subject merchandise. Presented in app. D are the responses received from purchaser surveys transmitted to the purchasers identified in the adequacy phase of these reviews.

RESPONSES TO THE COMMISSION'S NOTICE OF INSTITUTION

Individual responses

The Commission received one submission in response to its notice of institution in the subject reviews. It was filed on behalf of Archroma U.S., Inc. ("Archroma"), a domestic producer of CSOBAs (also referred to herein as "domestic interested party").

A complete response to the Commission's notice of institution requires that the responding interested party submit to the Commission all the information listed in the notice. Responding firms are given an opportunity to remedy and explain any deficiencies in their responses. A summary of the number of responses and an estimate of coverage is shown in table I-1.

Table I-1
CSOBAs: Summary of responses to the Commission's notice of institution

Type of interested party	Completed responses	
	Number	Coverage
Domestic:		
U.S. producer	1	*** ¹

¹ In its response to the notice of institution, the domestic interested party estimated that it accounts for *** percent of total U.S. production of CSOBAs during 2016. This estimate is based on Archroma's internal market data kept in the ordinary course of business. *Archroma's Response to the Notice of Institution*, May 3, 2017, p. 13 and app. 1.

Party comments on adequacy

The Commission did not receive any submissions from parties commenting on the adequacy of the response to the notice of institution and whether the Commission should conduct expedited or full reviews.

RECENT DEVELOPMENTS IN THE INDUSTRY

Since the Commission's original investigations, the following developments have occurred in the CSOBA industry.

- BASF exited stilbenic optical brightening agent ("SOBA") production in both the United States⁵ and Europe at the end of 2012.⁶ BASF re-focused to direct their future growth markets for paper chemicals and dyestuffs in China, Indonesia, and India.⁷ Specifically, production for optical brighteners was relocated from their

⁵ *Generalized System of Preferences: Possible Modifications, 2015 Review*, USITC Publication 4609, May 2016, p. 162.

⁶ BASF, "Paper Chemicals," BASF Factbook 2011, July 2012, p. 58.

⁷ *BASF gears paper chemicals business toward growth markets*. <https://www.paper-chemicals.basf.com/portal/streamer?fid=506192> (accessed May 18, 2017).

German production plant to India.⁸ This restructuring was followed by BASF's dissolution of the Paper Chemicals division on January 1, 2015.⁹

- Clariant (original petitioner) divested all interests in its Textiles Chemicals, Paper Specialties and Emulsion business in 2013.¹⁰ SK capital Partners bought the division and Archroma launched in October 2013 as a “newly formed global color and specialty chemicals company.”¹¹
- A new sector of the CSOBA market, ‘Advanced Whitening,’ launched in April 2016 in which CSOBAs are one-half of a brightening package; the other half is a shading dye.¹² This process brings an overall reduction to the amount of optical brightening agents (“OBAs”) used during the whitening process.
- A result of the 2015 Generalized System of Preferences (“GSP”) review for possible modifications removed India as a beneficiary for 3204.20.80 “Other fluorescent brightening agents,” but Indonesia remains as a beneficiary.¹³

THE ORIGINAL INVESTIGATIONS

The original investigations resulted from petitions filed on March 31, 2011 with Commerce and the Commission by Clariant Corp. (Archroma's predecessor), Charlotte, North Carolina.¹⁴ On March 23, 2012, and March 26, 2012, respectively, Commerce published its final determinations that imports of CSOBAs from Taiwan and China were being sold at less than fair value (“LTFV”).¹⁵ The Commission determined on May 2, 2012 that the domestic industry was materially injured by reason of LTFV imports of CSOBAs from China and Taiwan.¹⁶ On May 10, 2012, Commerce issued an antidumping duty order on imports of CSOBAs from Taiwan with a

⁸ Ibid.

⁹ BASF, “Paper Chemicals,” BASF Factbook 2015, July 2016, p. 5.

¹⁰ “Clariant Divests Textile Chemicals, Paper Specialties and Emulsions Businesses to SK Capital,” <http://www.clariant.com/en/Corporate/News/2012/12/Clariant-divests-Textile-Chemicals-Paper-Specialties-and-Emulsions-businesses-to-SK-Capital> (accessed May 18, 2017).

¹¹ Archroma, “Archroma to come to life,” <http://www.archroma.com/news-releases/october-1-2013-archroma-to-come-to-life/> (accessed June 1, 2017).

¹² Jackson, Andrew, “Advanced paper whitening with higher sustainability and cost control,” <https://www.worldofchemicals.com/media/advanced-paper-whitening-with-higher-sustainability-and-cost-control/10911.html> (accessed May 18, 2017).

¹³ Results of the 2015/2016 Generalized System of Preferences (GSP) Annual Review. *List II: Decisions on Petitions to Remove a Product from Certain Beneficiary Countries from GSP.*

¹⁴ *Certain Stilbenic Optical Brightening Agents from China and Taiwan, Investigation Nos. 731-TA-1186-1187 (Final)*, USITC Publication 4322, May 2012, p. I-1.

¹⁵ *Certain Stilbenic Optical Brightening Agents From Taiwan: Final Determination of Sales at Less Than Fair Value*, 77 FR 17027, March 23, 2012; *Certain Stilbenic Optical Brightening Agents From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 77 FR 17436, March 26, 2012.

¹⁶ *Certain Stilbenic Optical Brightening Agents From China and Taiwan; Determinations*, 77 FR 27079, May 8, 2012.

final weighted-average dumping margin of 6.19 percent for Teh Fong Min International Co., Ltd. and all other manufacturers/exporters in Taiwan.¹⁷ In addition, on May 10, 2012, Commerce issued an antidumping duty order on imports of CSOBAs from China with final weighted-average dumping margins of 61.04 percent for producer/exporter Zhejiang Transfar Whyyon Chemical Co., Ltd., 91.78 percent for producer/exporter Zhejiang Hongda Chemicals Co., Ltd., and 106.17 percent for all other exporters in China that were not specifically listed.¹⁸

PRIOR RELATED INVESTIGATIONS

On March 31, 2003, Ciba Specialty Chemicals Corp. (“Ciba”), Tanytown, New York, filed petitions with the Commission and Commerce alleging that the domestic industry was being injured by reason of subsidized imports of certain 4,4'-diamino-2,2'-stilbenedisulfonic acid chemistry from India and LTFV imports from China, Germany, and India.¹⁹ The Commission instituted its investigations into this matter but the petitions were withdrawn shortly after filing.²⁰

On May 14, 2003, Ciba filed petitions with the Commission and Commerce alleging that the domestic industry was being injured by reason of subsidized imports of certain 4,4'-diamino-2,2'-stilbenedisulfonic acid chemistry from India and LTFV imports from China, Germany, and India.²¹ The Commission instituted its investigations into this matter and on June 30, 2003, the Commission determined that there was no reasonable indication that an industry in the United States was materially injured or threatened with material injury, or that the establishment of an industry in the United States was materially retarded, by reason of imports from China, Germany, and India of certain 4,4'-diamino-2,2'-stilbenedisulfonic acid chemistry, provided for in subheadings 2921.59.20 and 3204.20.80 of the Harmonized Tariff Schedule of the United States, that was alleged to be subsidized by the Government of India and that was alleged to be sold in the United States at LTFV.²²

¹⁷ *Certain Stilbenic Optical Brightening Agents From Taiwan: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order*, 77 FR 27419, May 10, 2012.

¹⁸ *Certain Stilbenic Optical Brightening Agents From the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order*, 77 FR 27423, May 10, 2012.

¹⁹ *4,4'-Diamino-2,2'-Stilbenedisulfonic Acid and Stilbenic Fluorescent Whitening Agents from China, Germany, and India*, 68 FR 17084, April 8, 2003.

²⁰ *4,4'-Diamino-2,2'-Stilbenedisulfonic Acid and Stilbenic Fluorescent Whitening Agents from China, Germany, and India*, 68 FR 19577, April 21, 2003.

²¹ *Certain 4,4'-Diamino-2,2'-Stilbenedisulfonic Acid Chemistry from China, India and Germany*, 68 FR 28252, May 23, 2003.

²² *Certain 4,4'-Diamino-2,2'-Stilbenedisulfonic Acid Chemistry from China, Germany, and India*, 68 FR 41661, July 14, 2003.

THE PRODUCT

Commerce's scope

In its original antidumping duty orders, Commerce defined the subject merchandise as follows:

The stilbenic OBAs covered by this order are all forms (whether free acid or salt) of compounds known as triazinylaminostilbenes (i.e., all derivatives of 4,4'-bis [1,3,5-triazin-2-yl] amino-2,2'-stilbenedisulfonic acid), except for compounds listed in the following paragraph. The certain stilbenic OBAs covered by this order include final stilbenic OBA products, as well as intermediate products that are themselves triazinylaminostilbenes produced during the synthesis of stilbenic OBA products.

Excluded from this order are all forms of 4,4'-bis[4-anilino-6-morpholino-1,3,5-triazin-2-yl] amino-2,2'-stilbenedisulfonic acid, C₄₀H₄₀N₁₂O₈S₂ ("Fluorescent Brightener 71"). This order covers the above-described compounds in any state (including but not limited to powder, slurry, or solution), of any concentrations of active stilbenic OBA ingredient, as well as any compositions regardless of additives (i.e., mixtures or blends, whether of stilbenic OBAs with each other, or of stilbenic OBAs with additives that are not stilbenic OBAs), and in any type of packaging.

These stilbenic OBAs are classifiable under subheading 3204.20.8000 of the Harmonized Tariff Schedule of the United States ("HTSUS"), but they may also enter under subheadings 2933.69.6050, 2921.59.4000 and 2921.59.8090. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.²³

Description and uses²⁴

The subject CSOBAs are organic chemicals, also known as fluorescent whitening agents, primarily used for brightening paper products, and are a cost-effective way of raising the whiteness level of paper.²⁵ Without CSOBAs, many paper products have an aesthetically

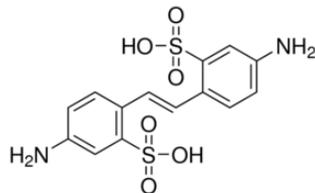
²³ *Certain Stilbenic Optical Brightening Agents From the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order*, 77 FR 27423, May 10, 2012; and *Certain Stilbenic Optical Brightening Agents From Taiwan: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order*, 77 FR 27419, May 10, 2012.

²⁴ Unless otherwise noted, this information is based on *Certain Stilbenic Optical Brightening Agents from China and Taiwan, Investigation Nos. 731-TA-1186-1187 (Final)*, USITC Publication 4322, May 2012, pp. I-6 through I-7.

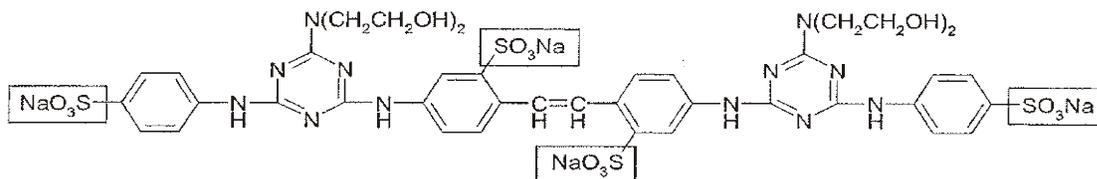
²⁵ Liu *et al.* (2012). "OBA use in high yield furnish," *BioResources* 7(2), 2582-2591.

unappealing yellowish cast. When applied to paper, CSOBAs absorb ultraviolet light and emit blue light, compensating for the yellowish cast and making the paper appear a brighter white.

All CSOBAs are built upon diaminostilbene disulfonic acid (“DAS”), a synthetic organic chemical. Attached to the DAS structure are two 1,3,5-triazinyl rings, shown below.²⁶



Attached to each of the 1,3,5-triazinyl groups are a derivative of aniline and an additional chemical component, typically an amine. The derivative of aniline used can be either aniline itself; sulfanilic acid, which contains one sulfonate group; or aniline disulfonic acid, which contains two sulfonate groups. The specific derivative of aniline that is used determines whether the molecule is classified as a “di,” “tetra,” or “hexa” CSOBA, as explained in more detail below. It should be noted that the trans-isomer exhibits strong fluorescence, the cis-isomer is non-fluorescent.²⁷ The identity of a CSOBA is specified by both the derivative of aniline used and the identity of the other chemical group attached to the 1,3,5-triazinyl ring. For example, the CSOBA known as Fluorescent Brightener 220 (F.B. 220) uses sulfanilic acid as the aniline derivative and diethanolamine as the other chemical group attached to the 1,3,5-triazinyl group. The structure of Fluorescent Brightener 220 is shown below.



CSOBAs are made in three main categories based on the number of sulfonate groups that the molecule contains, which is determined by the derivative of aniline used in the production process. The number of sulfonate groups on the molecule affects the solubility of the CSOBA in water and which specific CSOBA is best applied in the paper making process.

The “di” category of CSOBAs contains two sulfonate groups and is produced using aniline. In paper making, the “di” category of CSOBAs is usually applied to the pulp slurry before the paper web is formed due to its high affinity for cellulose.²⁸ The “tetra” category of CSOBAs contains four sulfonate groups and is produced using sulfanilic acid. “Tetra” CSOBAs are the most versatile of the CSOBAs and can be applied at multiple locations in the paper making process, which is why they are the most commonly used CSOBAs. “Tetra” CSOBAs can either be

²⁶ <http://www.sigmaaldrich.com/catalog/product/aldrich/462268?lang=en®ion=US> (accessed May 19, 2017).

²⁷ “Optical brightening agents” <http://www.paperacademy.net/1167/paper-coating-chemicals/paper-coating-optical-brightening-agents-oba/> (accessed May 19, 2017).

²⁸ Liu *et al.* “OBA use in high yield furnish,” *BioResources* 7(2), 2012, 2582-2591.

added to the pulp slurry before the paper web is formed, in the size press, or in coating applications. FB 220, which is the most widely used CSOBA, is in the “tetra” category. The “hexa” category of CSOBAs contains six sulfonate groups and is produced using aniline disulfonic acid. Application of the “hexa” CSOBAs in the paper making process is limited to the surface coating operations for situations where high brightness is required.²⁹

The CSOBA known as Fluorescent Brightener 71 (“FB 71”) is excluded from Commerce’s scope. According to the petitioner, FB 71 is primarily used as an additive in detergents and is not used as an optical brightening agent for paper. Within the United States, CSOBAs are shipped as aqueous solutions with the percentage of the active ingredient typically 20 percent for “di” CSOBAs, 23 percent for “tetra” CSOBAs, and 16 percent for “hexa” CSOBAs. CSOBAs can be shipped in bulk or nonbulk containers. Bulk deliveries are made in tank truck or rail cars. Non-bulk deliveries are in drums, which can hold approximately 459 pounds, or intermediate bulk containers, which hold approximately 2,400 pounds of material. For shipment from China and Taiwan, CSOBAs are shipped either as aqueous solutions ready for final use in paper making or as a powder that must be dissolved in water before use. For CSOBAs shipped as powder, an importer or its affiliate, a third party tolling operation, or the final user prepares the CSOBA in an aqueous solution at the desired concentration. Powdered CSOBA is shipped in “bulk bags” of various sizes.

For a specific CSOBA, for example, FB 220, the active ingredient produced in the United States is identical to that produced in China and Taiwan. However, the product in aqueous solution may have additives³⁰ and impurities that differ among the domestic producers and foreign producers. These impurities can increase the unattractive yellow hue and decrease the overall brightness of paper. The respondents in the original investigations claimed that the subject product from Taiwan has fewer impurities than the domestic like product.

Manufacturing process³¹

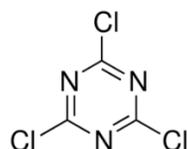
The primary inputs in the production of CSOBAs are DAS, cyanuric chloride, and derivatives of aniline. DAS is generally the most expensive of these inputs. DAS contains the stilbene structure upon which CSOBAs are built. Cyanuric chloride contains the 1,3,5-triazinyl structure with chlorine atoms at the 2, 4, and 6 positions, shown below.³²

²⁹ “Optical Brightening Agents” <http://www.paperacademy.net/1167/paper-coating-chemicals/paper-coating-optical-brightening-agents-oba/> (accessed May 17, 2017).

³⁰ Additives can include biocides, urea, polyvinyl alcohol, polyethylene glycol, which provide certain desirable characteristics for the final product.

³¹ Unless otherwise noted, this information is based on *Certain Stilbenic Optical Brightening Agents from China and Taiwan, Investigation Nos. 731-TA-1186-1187 (Final)*, USITC Publication 4322, May 2012, pp. I-7 through I-8.

³² <http://www.sigmaldrich.com/catalog/product/aldrich/c95501?lang=en®ion=US> (accessed May 19, 2017).



As explained in the description and uses section, the derivative of aniline used in the production determines whether the specific CSOBA is in the “di,” “tetra,” or “hexa” category.

CSOBAs are typically produced in a three step process. In the first step, cyanuric chloride reacts with DAS to produce the first intermediate in CSOBA production. In the second step, the first intermediate is reacted with a derivative of aniline, which replaces one of the remaining chlorine atoms on the 1,3,5 triazinyl group, to form the second intermediate. In the third step, the second intermediate is reacted with a final chemical component, typically an amine, to confer desired chemical and physical properties to the CSOBA. The final chemical component replaces the remaining chlorine atoms on each of the 1,3,5-triazinyl groups.

An alternate production process is also possible where the first and second steps are different from those mentioned above. This process begins with cyanuric chloride reacting directly with a derivative of aniline. The intermediate produced in the first step of this alternate process is then reacted with DAS. This alternative process produces the same intermediate that results from step two of the process given above. The third step in the alternative process is the same as in the process described above.

A byproduct of these reactions is sodium chloride. The sodium chloride is removed from the final CSOBA product by reverse osmosis or ultrafiltration. The sodium chloride solution is sent to a wastewater treatment facility and released back into the environment after treatment.

Two domestic producers, Archroma³³ and 3V Sigma USA, Inc. (“3V”), use batch processes to carry out the reaction steps above and produce CSOBAs. These producers purchase DAS from other chemical companies. DAS is primarily produced in China and, to a lesser extent, in India. Another process used to produce CSOBAs is a continuous process that starts with the production of DAS from toluene and other inputs. BASF indicated that it could purchase DAS from the merchant market to produce CSOBAs if its DAS manufacturing facility was down. TFM, a producer of CSOBAs in Taiwan, reportedly uses a continuous process to produce CSOBAs.

³³ Archroma predecessor, Clariant, divested its Textile Chemicals, Paper Specialties, and Emulsions businesses in 2013. Archroma is comprised of this divested division. “Clariant Divests Textile Chemicals, Paper Specialties and Emulsions Businesses to SK Capital,” <http://www.clariant.com/en/Corporate/News/2012/12/Clariant-divests-Textile-Chemicals-Paper-Specialties-and-Emulsions-businesses-to-SK-Capital> (accessed May 18, 2017).

U.S. tariff treatment

CSOBAs are currently provided for in Harmonized Tariff Schedule of the United States (“HTS”) subheading 3204.20.80, and may also be imported under subheading 2921.59.40 and statistical reporting numbers 2921.59.8090 and 2933.69.6050. The HTS subheadings, with the exception of 2933.69.60, have a normal trade relations tariff rate of 6.5 percent ad valorem applicable to imports from China and Taiwan. The normal trade relations tariff rate applicable to imports from China and Taiwan for subheading 2933.69.60 is 3.5 percent ad valorem.³⁴

The definition of the domestic like product

The domestic like product is defined as the domestically produced product or products, which are like, or in the absence of like, most similar in characteristics and uses with, the subject merchandise. In its original determinations, the Commission defined the domestic like product as all forms, states, concentrations, and compositions of stilbenic OBA products coextensive with Commerce’s scope.³⁵

In its notice of institution for these first five-year reviews, the Commission solicited comments from interested parties regarding what they deemed to be the appropriate definition of the domestic like product. Archroma did not indicate its position with regard to the Commission’s definition of the domestic like product in its response to the notice of institution in these reviews.³⁶

ACTIONS AT COMMERCE

Commerce has not conducted any changed circumstances reviews, critical circumstances reviews, anti-circumvention findings, duty absorption findings, or issued any company revocations since the imposition of the orders.

³⁴ These HTS categories are residual or “basket” categories covering other products in addition to the subject product. HTS subheading 3204.20.80 provides for synthetic organic products of a kind used as fluorescent brightening agents or as luminophores, other. HTS subheadings 2921.59.40 and 2921.59.80 (statistical reporting number 2921.59.8090) provides for aromatic polyamines and their derivatives; salts thereof. HTS subheading 2933.69.60 (statistical reporting number 2933.69.6050) provides for heterocyclic compounds with nitrogen heteroatom(s) only: compounds containing an unfused triazine ring in the structure.

³⁵ *Certain Stilbenic Optical Brightening Agents from China and Taiwan, Investigation Nos. 731-TA-1186-1187 (Final)*, USITC Publication 4322, May 2012, p. 6.

³⁶ *Archroma’s Response to the Notice of Institution*, May 3, 2017.

Scope rulings

Commerce issued two scope clarifications in October 2016, finding that Aako FB-71C and Fluorescent Brighter 351 imported by Proctor & Gamble are outside the scope of the orders.³⁷

Current five-year reviews

Commerce is conducting expedited reviews with respect to CSOBAs from China and Taiwan and intends to issue the final results of these reviews based on the facts available not later than August 1, 2017.³⁸

THE INDUSTRY IN THE UNITED STATES

U.S. producers

During the final phase of the original investigations, the Commission received U.S. producer questionnaires from three firms, 3V, BASF, and Clariant (Archroma's predecessor), which together accounted for approximately 100 percent of production of CSOBAs in the United States during 2011.³⁹ In its response to the Commission's notice of institution in these current five-year reviews, the domestic interested party identified the following firms as currently operating U.S. producers of CSOBAs: 3V, Archroma, and ***.⁴⁰ As previously mentioned, BASF ceased domestic SOBA production at the end of 2012.

Definition of the domestic industry and related party issues

The domestic industry is defined as 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. Under the related parties provision, the Commission may exclude a related party for purposes of its injury determination if "appropriate circumstances" exist.⁴¹ In its original determinations, the Commission defined

³⁷ *Notice of Scope Rulings*, 81 FR 69784, October 7, 2016.

³⁸ *Letter from Edward Yang, Director, AD/CVD Operations, Office VII, Enforcement and Compliance, U.S. Department of Commerce, to Michael Anderson*, May 18, 2017.

³⁹ *Certain Stilbenic Optical Brightening Agents from China and Taiwan, Investigation Nos. 731-TA-1186-1187 (Final)*, USITC Publication 4322, May 2012, p. III-1.

⁴⁰ *Archroma's Response to the Notice of Institution*, May 3, 2017, p. 10.

⁴¹ Section 771(4)(B) of the Tariff Act of 1930, 19 U.S.C. § 1677(4)(B).

the domestic industry as all U.S. producers of the domestic like product.⁴² There were no related party issues in the final phase of the original investigations.⁴³

In its notice of institution for these first five-year reviews, the Commission solicited comments from interested parties regarding the appropriate definition of the domestic industry and inquired as to whether any related parties issues existed. In its response to the Commission's notice of institution, Archroma identified ***.⁴⁴ In addition, Archroma named ***.⁴⁵ Archroma explained that ***.⁴⁶ Archroma did not indicate in its response to the notice of institution its position with regard to the Commission's definition of the domestic industry.⁴⁷

U.S. producers' trade and financial data

The Commission asked domestic interested parties to provide trade and financial data in response to the notice of institution of the current five-year reviews.⁴⁸ Table I-2 presents a compilation of the data submitted by the responding U.S. producer (Archroma) in these current reviews, as well as trade and financial data submitted by U.S. producers in the final investigations. Three U.S. producers that accounted for approximately 100 percent of U.S. production in 2011 provided data in the original investigations. One U.S. producer that is believed to have accounted for *** percent of U.S. production in 2016 provided data in these current reviews.

Table I-2
CSOBAs: Trade and financial data submitted by U.S. producers, 2009, 2010, 2011, and 2016

* * * * *

⁴² *Certain Stilbenic Optical Brightening Agents from China and Taiwan, Investigation Nos. 731-TA-1186-1187 (Final), USITC Publication 4322, May 2012, p. 7.*

⁴³ Ibid.

⁴⁴ *Archroma's Response to the Notice of Institution, May 3, 2017, pp. 10-11.*

⁴⁵ Ibid., p. 11.

⁴⁶ *Archroma's Response to Request for Additional Information, May 12, 2017, p. 2.*

⁴⁷ *Archroma's Response to the Notice of Institution, May 3, 2017.*

⁴⁸ Individual company trade and financial data are presented in app. B.

U.S. IMPORTS AND APPARENT CONSUMPTION

U.S. importers

During the final phase of the original investigations, the Commission received U.S. importer questionnaires from eight firms, three of which imported CSOBAs from China and one of which imported CSOBAs from Taiwan.⁴⁹ Although the Commission did not receive responses from any respondent interested parties in these current reviews, in its response to the Commission's notice of institution, the domestic interested party identified the following four known U.S. importers of the subject merchandise from the subject countries: TFMNA; Blankophor; Deepak Nitrite Corp., Inc.; and Sinar Syno.⁵⁰

U.S. imports

Table I-3 presents the quantity, value, and unit value for imports from China, Taiwan, and all other import sources combined.

Table I-3
CSOBAs: U.S. imports, 2012-16

Item	2012	2013	2014	2015	2016
	Quantity (1,000 pounds)				
China	804	971	1,984	903	943
Taiwan	15,150	14,899	13,234	14,227	7,887
Subtotal, subject	15,954	15,870	15,218	15,130	8,830
All other imports, nonsubject ¹	17,600	17,767	13,404	12,567	10,031
Total imports	33,554	33,637	28,622	27,697	18,861
	Landed, duty-paid value (\$1,000)				
China	5,966	7,412	10,078	7,139	6,211
Taiwan	21,673	23,775	23,491	24,642	12,794
Subtotal, subject	27,639	31,187	33,569	31,781	19,005
All other imports, nonsubject ¹	37,926	39,468	38,954	41,850	34,599
Total imports	65,565	70,655	72,523	73,631	53,604

Continued on the next page.

⁴⁹ *Certain Stilbenic Optical Brightening Agents from China and Taiwan, Investigation Nos. 731-TA-1186-1187 (Final)*, USITC Publication 4322, May 2012, p. IV-1.

⁵⁰ *Archroma's Response to the Notice of Institution, May 3, 2017*, p. 11.

Table I-3--Continued
CSOBAs: U.S. imports, 2012-16

Item	2012	2013	2014	2015	2016
	Unit value (dollars per pound)				
China	7.42	7.64	5.08	7.91	6.59
Taiwan	1.43	1.60	1.78	1.73	1.62
Subtotal, subject	1.73	1.97	2.21	2.10	2.15
All other imports, nonsubject ¹	2.15	2.22	2.91	3.33	3.45
Total imports	1.95	2.10	2.53	2.66	2.84

¹ Major nonsubject import sources include Switzerland, India, Germany, Indonesia, Belgium, and Korea.

Note.--Because of rounding, figures may not add to totals shown. Since this HTS subheading 3204.20.80 (“synthetic organic products of a kind used as fluorescent brightening agents or as luminophores, other”) is a residual or “basket” category covering other products in addition to the subject product, it is unclear as to the basis and the form by which the quantity data are reported.

Source: Official statistics of Commerce for HTS subheading 3204.20.80. These data may be overstated as HTS 3204.20.80 may contain products outside the scope of these reviews.

Apparent U.S. consumption and market shares

Table I-4 presents data on U.S. producers’ U.S. shipments, U.S. imports, and apparent U.S. consumption, while table I-5 presents data on U.S. market shares of U.S. apparent consumption. Archroma reported that the demand for OBAs fell by *** percent during 2012-16 due to a decline in the demand for newsprint. Archroma indicated that this decline in U.S. consumption is expected to continue.⁵¹

Table I-4
CSOBAs: U.S. producers’ U.S. shipments, U.S. imports, and apparent U.S. consumption, 2009-11, and 2016

* * * * *

Table I-5
CSOBAs: Apparent U.S. consumption and U.S. market shares, 2009-11, and 2016

* * * * *

⁵¹ Archroma’s Response to the Notice of Institution, May 3, 2017, p. 14.

CUMULATION CONSIDERATIONS

In assessing whether imports should be cumulated, the Commission determines whether U.S. imports from the subject countries compete with each other and with the domestic like product and has generally considered four factors: (1) fungibility, (2) presence of sales or offers to sell in the same geographical markets, (3) common or similar channels of distribution, and (4) simultaneous presence in the market. Information concerning geographical markets and simultaneous presence in the market is presented below.

Geographical markets

According to official U.S. import statistics (HTS subheading 3204.20.80), U.S. imports of CSOBAs from both China and Taiwan entered the U.S. market through each major geographic region during 2012-16. The majority of U.S. imports of CSOBAs from China during 2012-16 entered the United States through Customs districts in the Midwest (Chicago, Illinois; Cleveland, Ohio; and Detroit, Michigan) and the East (Charleston, South Carolina; Charlotte, North Carolina; New York, New York; Norfolk, Virginia; Ogdensburg, New York; and Savannah, Georgia).⁵² The majority of U.S. imports of CSOBAs from Taiwan during 2012-16 entered the United States through Chicago, Illinois (the Midwest); Columbia-Snake, Oregon and Seattle, Washington (the West); New Orleans, Louisiana (the South); and New York, New York and Boston, Massachusetts (the East).⁵³

Simultaneous presence in the market

According to official U.S. import statistics (HTS subheading 3204.20.80), U.S. imports of CSOBAs from China and Taiwan entered the United States during all 60 months from January 2012 to December 2016.

THE INDUSTRY IN CHINA

During the final phase of the original investigations, the Commission received foreign producer questionnaires from *** firms in China, which accounted for approximately *** percent of production of CSOBAs in China during 2011, and approximately *** percent of

⁵² Other Customs districts through which U.S. imports from China also entered the United States during 2012-16 include Anchorage, Alaska; Columbia-Snake, Oregon; Dallas-Fort Worth, Texas; Houston-Galveston, Texas; Laredo, Texas; Los Angeles, California; Miami, Florida; Mobile, Alabama; and New Orleans, Louisiana.

⁵³ Other Customs districts through which U.S. imports from Taiwan also entered the United States during 2012-16 include Anchorage, Alaska; Baltimore, Maryland; Charleston, South Carolina; Charlotte, North Carolina; Cleveland, Ohio; Detroit, Michigan; Duluth, Minnesota; Los Angeles, California; Milwaukee, Wisconsin; Minneapolis, Minnesota; Norfolk, Virginia; Pembina, North Dakota; Savannah, Georgia; and St. Albans, Vermont.

CSOBA exports from China to the United States during 2011.⁵⁴ While the Commission did not receive responses from any respondent interested parties in these current five-year reviews, the domestic interested party provided a list of six firms that it believes currently produce CSOBAs in China.⁵⁵

Table I-6 presents data compiled by the Global Trade Atlas for HTS subheading 3204.20 concerning China’s exports of “Synthetic Organic Products Used As Fluorescent Brightening Agents” (including CSOBAs) for 2012-16.

Table I-6
Synthetic Organic Products Used As Fluorescent Brightening Agents: Exports from China, by destination, 2012-16

Item	Calendar year				
	2012	2013	2014	2015	2016
	Value (1,000 dollars)				
Indonesia	12,046	13,330	14,092	16,359	17,223
Netherlands	8,093	8,254	7,989	10,437	13,970
Japan	12,242	12,431	11,446	9,945	11,330
Brazil	5,790	7,238	6,562	8,064	7,263
Thailand	6,392	5,927	8,618	7,766	6,680
Korea South	6,885	7,823	6,177	6,153	6,487
Mexico	4,437	3,742	4,486	5,924	6,042
Vietnam	4,875	5,008	4,443	5,954	5,465
United States	8,246	7,625	10,335	7,059	5,336
India	4,948	4,439	5,054	7,030	4,770
All Others	51,676	59,185	60,627	61,694	67,218
World	125,631	135,003	139,828	146,384	151,784

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

Source: Global Trade Information Services, Inc., Global Trade Atlas, HTS subheading 3204.20. These data may be overstated as HTS 3204.20 may contain products outside the scope of these reviews.

⁵⁴ Investigation Nos. 731-TA-1186-1187 (*Final*): Certain Stilbenic Optical Brightening Agents from China and Taiwan — *Staff Report, INV-KK-038, March 5, 2012*, p. VII-1.

⁵⁵ These firms include the following: Jining Cenwise Chemical Technologies Co., Ltd.; Hebei Sanchuan Chemical Co., Ltd.; Zhejiang Hongda Chemicals Co., Ltd.; Xiajin Zhenhua Chemical Technology Co., Ltd.; Shanxi Qing Shan Chemical Industry Co., Ltd.; and Zhejiang Transfar Whyyon Chemical Co., Ltd. *Archroma’s Response to the Notice of Institution, May 3, 2017*, pp. 11-12.

THE INDUSTRY IN TAIWAN

During the final phase of the original investigations, *** responded to the Commission’s foreign producer questionnaires. *** accounted for approximately *** percent of production of CSOBAs in Taiwan during 2011, and approximately *** percent of exports from Taiwan to the United States of CSOBAs during 2011. *** reported ***.⁵⁶ While the Commission did not receive responses from any respondent interested parties in these first five-year reviews, the domestic interested party identified two firms (TFM and Sun Rise Chemical Co.) that it believes currently produce CSOBAs in Taiwan.⁵⁷

Table I-7 presents data compiled by the Global Trade Atlas for HTS subheading 3204.20 concerning Taiwan’s exports of “Synthetic Organic Products Used As Fluorescent Brightening Agents” (including CSOBAs) for 2012-16.

Table I-7
Synthetic Organic Products Used As Fluorescent Brightening Agents: Exports from Taiwan, by destination, 2012-16

Item	Calendar year				
	2012	2013	2014	2015	2016
	Value (1,000 dollars)				
United States	18,624	20,818	22,329	19,838	10,912
Portugal	0	247	1,346	1,401	1,737
Finland	2,134	1,335	1,294	1,303	1,205
Netherlands	585	605	688	711	699
China	3,275	1,243	743	572	662
Colombia	0	0	58	482	512
Canada	214	0	436	139	414
Germany	226	283	314	221	363
Bangladesh	131	153	57	255	301
Thailand	241	256	266	308	262
All Others	3,307	4,975	4,150	3,082	1,350
World	28,737	29,913	31,681	28,312	18,418

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

Source: Global Trade Information Services, Inc., Global Trade Atlas, HTS subheading 3204.20. These data may be overstated as HTS 3204.20 may contain products outside the scope of these reviews.

⁵⁶ Investigation Nos. 731-TA-1186-1187 (*Final*): Certain Stilbenic Optical Brightening Agents from China and Taiwan — *Staff Report, INV-KK-038, March 5, 2012*, p. VII-4.

⁵⁷ *Archroma’s Response to the Notice of Institution, May 3, 2017*, pp. 11-12.

ANTIDUMPING OR COUNTERVAILING DUTY ORDERS IN THIRD-COUNTRY MARKETS

Based on available information, CSOBAs from China and Taiwan have not been subject to other antidumping or countervailing duty investigations outside the United States.

THE GLOBAL MARKET

Table I-8 presents data compiled by the Global Trade Atlas for HTS subheading 3204.20 concerning the largest global export sources of “Synthetic Organic Products Used As Fluorescent Brightening Agents” (including CSOBAs) for 2012-16.

Table I-8
CSOBAs: Global exports, by major sources, 2012-16

Item	Calendar year				
	2012	2013	2014	2015	2016
Value (1,000 dollars)					
China	125,631	135,003	139,828	146,384	151,784
Germany	101,077	94,759	100,610	85,996	81,199
India	73,507	77,197	86,996	83,163	77,852
Switzerland	70,543	85,550	89,831	81,942	72,038
United States	39,382	32,014	24,916	26,151	29,171
Italy	37,611	37,173	31,901	24,560	25,678
Netherlands	12,014	12,634	15,382	19,370	21,316
Spain	32,678	29,655	31,978	24,856	21,228
Belgium	18,104	20,494	19,957	16,864	18,641
Taiwan	28,737	29,913	31,681	28,312	18,418
United Kingdom	17,423	25,832	25,039	19,937	18,311
All other	80,192	81,395	75,343	73,065	68,352
Total	636,898	661,620	673,461	630,601	603,988

Note.--Because of rounding, figures may not add to total shown.

Source: Global Trade Information Services, Inc., Global Trade Atlas, HTS subheading 3204.20. These data may be overstated as HTS 3204.20 may contain products outside the scope of this review.

CSOBAs are a major subsector of the OBA market, which in turn is part of the dye industry as a whole. Worldwide ***.⁵⁸ Changes in the dye market are reflected in significant reorganization over the past several years and CSOBAs are not an exception to this trend,⁵⁹ as OBA production is being shifted toward Asia.⁶⁰ According to trade data, China is the top

⁵⁸ *Dyes – Chemical Economics Handbook*, December 1, 2014, p. 1.

⁵⁹ *GSP, Possible Modifications, 2015 Review Chapter 9 Removal: Fluorescent Brightening Agents, Excluding Benzoxazole (India and Indonesia)*, pp. 159-168.

⁶⁰ *BASF gears paper chemicals business toward growth markets*. <https://www.paper-chemicals.basf.com/portal/streamer?fid=506192> (accessed May 18, 2017).

exporter of CSOBAs globally (see table I-8). ***.⁶¹ Globally, stilbene-based optical brighteners are expected to remain as the “most preferred brightening agent” and accounted for over 65 percent of the global OBA market in 2014. These brighteners are expected to be the “dominant product segment in the global optical brighteners market over the period between 2015 and 2023.”⁶²

Demand for market pulp in printing and writing grades is dropping, and global demand is “projected to drop about 1% to 1.5% annually due to losses in Europe and North America.”⁶³ These losses are noteworthy because the U.S. paper industry alone consumes about 75 percent of brighteners, while detergents and textiles account for the majority of the consumption for the remaining 25 percent of the OBA market.⁶⁴ Demand for paper has been in flux in Europe and the United States over the past several years, leading to industry consolidation and closure of paper mills.⁶⁵ These losses are countered by increased demand in Asia and South America.⁶⁶ Dr. Fred Baumgartner of BASF stated, “paper chemicals are a difficult business to be in. Paper manufacturing is increasingly concentrated in Asia’s emerging markets, which is where future growth in the paper industry will originate.”⁶⁷ These losses in paper demand outside of Europe and North America are reflected in projections that the brightener market growth is expected ***.⁶⁸

On the manufacturing side, the price for DAS has fallen more than 20 percent since 2009, which has led to some “legitimate reductions in OBA pricing” worldwide.⁶⁹ However, OBA imports into certain countries are continuously priced below domestic market prices, resulting in market share gains for importers.⁷⁰ Global production capacity exceeding demand

⁶¹ *Dyes – Chemical Economics Handbook*, December 1, 2014, pp. 3-4.

⁶² “Optical Brighteners Market – Global Industry Analysis, Size, Share, Growth, Trends and Forecast 2015-2023,” <http://www.transparencymarketresearch.com/optical-brighteners-market.html> (accessed May 24, 2017).

⁶³ Cody, Harold, *Capacity Growth Could Undermine Recent Gains in Market Pulp Grades*, Paper Age, November/December 2016, pp. 18-19.

⁶⁴ *GSP, Possible Modifications, 2015 Review Chapter 9 Removal: Fluorescent Brightening Agents, Excluding Benzoxazole (India and Indonesia)*, p. 165.

⁶⁵ *Optical Brightening Agents for Papermaking – the supply and demand situation*, <http://www.canda-international.com/category/companies/paper-chemical-companies/3v-sigma/> (accessed May 15, 2017).

⁶⁶ *Ibid.*

⁶⁷ *ICIS*, “BASF to exit Europe market in optical brighteners for paper,” <https://www.icis.com/resources/news/2010/11/11/9409632/basf-to-exit-europe-market-in-optical-brighteners-for-paper/> (accessed May 18, 2017).

⁶⁸ *Dyes – Chemical Economics Handbook*, December 1, 2014, p.31.

⁶⁹ Jackson, Andrew, “Advance paper whitening with higher sustainability and cost control,” <https://www.worldofchemicals.com/media/advanced-paper-whitening-with-higher-sustainability-and-cost-control/10911.html> (accessed May 18, 2017).

⁷⁰ *Ibid.*

has allowed purchasers to benefit from low pricing in the marketplace.⁷¹ To stay afloat, suppliers have “resorted to desperate measures to save on costs and remain in business.”⁷² These measures are reflected in corporate reorganization, divestitures, and new technologies for OBA application as discussed in the “Recent Developments in the Industry” section of this report. Although both the dye and paper market have been volatile over the past several years, the future of CSOBAs looks to the global drive to produce papers with higher levels of whiteness and contrast.⁷³

INFORMATION ON NONSUBJECT COUNTRIES

India

The Indian chemical industry’s five-year plan indicated that during 2011 the paper chemicals segment, which includes CSOBAs, was valued at \$0.4 billion and was projected to increase by 13-14 percent per year by the end of 2017.⁷⁴ In 2006, Indian producer Deepak Nitrite Limited (“DNL”) acquired a production facility for diamino stilbene disulphonic acid (“DASDA”),⁷⁵ a key intermediate for OBAs in the paper, textile, and detergent industries. As of 2010, “DNL has attained almost 20% share of the global DASDA market,”⁷⁶ and 24 percent of their overall end user industry was OBAs.⁷⁷ DNL is recognized as the last major OBA producer to enter the Indian market,⁷⁸ and DNL currently has the production capacity of up to 200 million pounds (over 90,000 metric tons) of OBAs.⁷⁹ Indian producer Paramount Minerals and Chemicals Limited produces OBAs and, according to its website, the company’s current annual production capacity is 20,000 metric tons of liquid OBA and 2,500 metric tons of OBAs in powder form.⁸⁰ Another firm, Daikaffil (India), produces OBAs in India and has the ability to ship to the United States.⁸¹

⁷¹ Ibid.

⁷² Ibid.

⁷³ Ibid.

⁷⁴ “Indian chemical industry XIIth Five Year Plan,” 2011, p. 29.

⁷⁵ “Deepak Nitrite Acquires India’s Largest DASDA business,”

<http://www.lyncmigration.com/news/2006/11/02/2032884.htm#> (accessed May 24, 2017).

⁷⁶ Deepak Nitrite Ltd., “DNL Information Note – January 2010,” p. 7.

deepaknitrite.com/investor/dnl_information_note_january_2010.pdf (accessed May 24, 2017).

⁷⁷ Ibid., p. 21.

⁷⁸ *GSP, Possible Modifications, 2015 Review Chapter 9 Removal: Fluorescent Brightening Agents, Excluding Benzoxazole (India and Indonesia)*, p. 161.

⁷⁹ Deepak Nitrite Ltd., “Manufacturing Plant,” <http://deepaknitrite.com/infrastructure.html> (accessed June 1, 2017).

⁸⁰ *Paramount Minerals and Chemical Limited, “Infrastructure,”*

<http://www.pmcindia.com/infrastructure.aspx> (accessed June 1, 2017).

⁸¹ *Daikaffil, “Product,”* <http://www.daikaffil.com/product.html> (accessed May 19, 2017).

Under HS 3204.20, “India is the number three (3) nation for the year 2015 for both FWA sales and quantity produced.”⁸² Overall, India’s trade in brighteners has “increased over the last decade; Indian import values have nearly doubled, and export values have increased by over 50 percent.”⁸³ India primarily exports brightening agents to developed countries, and “the United States is estimated to be the third-largest export destination.”⁸⁴ The result of the 2015 GSP review for possible modifications is that India is no longer a beneficiary for 3204.20.80 “Other fluorescent brightening agents.”⁸⁵

Indonesia

The Indonesian fluorescent brightening agent industry consists of two major producers: Archroma Indonesia PT and Sinar Sno Kimia PT.⁸⁶ The volumes of Indonesia’s imports and exports of fluorescent dyes were estimated to have increased by about 20 percent during 2011-14, with exports generally exceeding imports by a factor of 2 to 3 times.⁸⁷ The result of the 2015 GSP review for possible modifications is that Indonesia remains as a beneficiary for 3204.20.80 “Other fluorescent brightening agents.”⁸⁸

Germany

In October 2010, Blankophor GmbH & Co. KG began operations as part of the Indulor Group to “research produce, and market Fluorescent Whitening Agents for the global paper industry.”⁸⁹ Since BASF has withdrawn from the European market for CSOBAs, Blankophor is becoming more competitive in the CSOBA market and has “several patent filings.”⁹⁰ Blankophor has entered into a licensing agreement for Archroma’s patented “improved optical brightening

⁸² *GSP, Possible Modifications, 2015 Review Chapter 9 Removal: Fluorescent Brightening Agents, Excluding Benzoxazole (India and Indonesia)*, p. 161.

⁸³ *Ibid.*

⁸⁴ *Ibid.*

⁸⁵ Results of the 2015/2016 Generalized System of Preferences (GSP) Annual Review. *List II: Decisions on Petitions to Remove a Product from Certain Beneficiary Countries from GSP.*

⁸⁶ As part of the GSP recommendations, Archroma responded to this assertion with the following: Archroma stated that it does not produce the subject products in Indonesia, asserting that Clariant retained the assets to manufacture these products and continues to produce fluorescent brightening agents in Indonesia. *GSP, Possible Modifications, 2015 Review Chapter 9 Removal: Fluorescent Brightening Agents, Excluding Benzoxazole (India and Indonesia)*, p. 162.

⁸⁷ *Ibid.*

⁸⁸ Results of the 2015/2016 Generalized System of Preferences (GSP) Annual Review. *List II: Decisions on Petitions to Remove a Product from Certain Beneficiary Countries from GSP.*

⁸⁹ Blankophor, “Company Info,” <http://www.blankophor.com/about-blankophor/company-info.html> (accessed May 17, 2017).

⁹⁰ Blankophor, “Innovation,” <http://www.blankophor.com/about-blankophor/innovation.html> (accessed May 17, 2017).

compositions.”⁹¹ This agreement was a result of a decision by the European Patent Office, which recognized Archroma as the owner of the European patent in question.⁹²

Switzerland

Archroma is headquartered in Switzerland with locations in 35 countries and 25 production sites.⁹³ According to Archroma’s website, the company’s Packaging & Paper Specialties and Coatings sector is managed from Switzerland.⁹⁴

Spain

According to a company announcement, Archroma is investing in a new production facility for tetrasulfonated OBAs at its Prat del Llobrgat site in Spain. This facility was expected to come on line during 2017.⁹⁵

⁹¹ *Archroma*, “Archroma grants patent license to Blankophor,” <http://www.archroma.com/news-releases/may-4-2015-archroma-grants-patent-license-to-blankophor/> (accessed May 17, 2017).

⁹² *Ibid.*

⁹³ *Archroma*, “Our organization,” <http://www.archroma.com/company/organization/> (accessed May 24, 2017).

⁹⁴ *Ibid.*

⁹⁵ “Archroma to invest in new production facility for tetrasulfonated OBAs at its Prat del Llobrgat site in Spain” <http://technology.risiinfo.com/chemicals/europe/archroma-invest-new-production-facility-tetrasulfonated-optical-brightening-agents-its-prat-del-llobregat-site-spain> (accessed May 18, 2017).

APPENDIX A

FEDERAL REGISTER NOTICES

The Commission makes available notices relevant to its investigations and reviews on its website, www.usitc.gov. In addition, the following tabulation presents, in chronological order, *Federal Register* notices issued by the Commission and Commerce during the current proceeding.

Citation	Title	Link
82 FR 16226 April 3, 2017	<i>Certain Stilbenic Optical Agents from China and Taiwan; Institution of a Five-Year Review</i>	https://www.gpo.gov/fdsys/pkg/FR-2017-04-03/pdf/2017-06429.pdf
82 FR 16159 April 3, 2017	<i>Initiation of Five-Year ("Sunset") Reviews</i>	https://www.gpo.gov/fdsys/pkg/FR-2017-04-03/pdf/2017-06490.pdf

APPENDIX B

COMPANY-SPECIFIC DATA

RESPONSE CHECKLIST FOR U.S. PRODUCERS

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APPENDIX C

SUMMARY DATA COMPILED IN PRIOR PROCEEDINGS

Table C-1
CSOBAs: Summary data concerning the U.S. market, 2009-11

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APPENDIX D
PURCHASER QUESTIONNAIRE RESPONSES

As part of their response to the notice of institution, interested parties were asked to provide a list of three to five leading purchasers in the U.S. market for the domestic like product. A response was received from domestic interested parties and it named the following eight firms as the top purchasers of stilbenic optical brighteners: ***. Purchaser questionnaires were sent to these eight firms and five firms (***) provided responses which are presented below.

1. a.) Have any changes occurred in technology; production methods; or development efforts to produce stilbenic optical brighteners that affected the availability of stilbenic optical brighteners in the U.S. market or in the market for stilbenic optical brighteners in China and Taiwan since 2012?
- b.) Do you anticipate any changes in technology; production methods; or development efforts to produce stilbenic optical brighteners that will affect the availability of stilbenic optical brighteners in the U.S. market or in the market for stilbenic optical brighteners in China and Taiwan within a reasonably foreseeable time?

Purchaser	Changes that have occurred	Anticipated changes
***	Yes. A Taiwan-based company has opened a production line in South Carolina.	No.
***	No.	No.
***	Yes. Increased environmental controls.	Yes. Again, increased environmental controls.
***	No. *** does not have knowledge of this matter.	No. *** does not have knowledge of this matter.
***	No. As a consumer and not a producer of stilbenic optical brighteners, we are not aware of any changes as described in this question.	No. As a consumer and not a producer of stilbenic optical brighteners, we are not aware of any changes as described in this question.

2. a.) Have any changes occurred in the ability to increase production of stilbenic optical brighteners (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production) that affected the availability of stilbenic optical brighteners in the U.S. market or in the market for stilbenic optical brighteners in China and Taiwan since 2012?
- b.) Do you anticipate any changes in the ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production) that will affect the availability of stilbenic optical brighteners in the U.S. market or in the market for stilbenic optical brighteners in China and Taiwan within a reasonably foreseeable time?

Purchaser	Changes that have occurred	Anticipated changes
***	Yes. Along with new capacity mentioned in 1a, we have been told by American manufacturers that “debottlenecking” occurred in plants which increased their capacity.	No.
***	No.	No.
***	No.	No.
***	No. *** does not have knowledge of this matter.	No. *** does not have knowledge of this matter.
***	Yes. TFM has opened a production facility in the United States. Time period of U.S.-based product from TFM was September 2015. *** is unable to confirm.	Yes. ***.

3. a.) Have any changes occurred in factors related to the ability to shift supply of stilbenic optical brighteners among different national markets (including barriers to importation in foreign markets or changes in market demand abroad) that affected the availability of stilbenic optical brighteners in the U.S. market or in the market for stilbenic optical brighteners in China and Taiwan since 2012?

b.) Do you anticipate any changes in factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad) that will affect the availability of stilbenic optical brighteners in the U.S. market or in the market for stilbenic optical brighteners in China and Taiwan within a reasonably foreseeable time?

Purchaser	Changes that have occurred	Anticipated changes
***	No.	No.
***	No.	No.
***	No.	No.
***	No. *** does not have knowledge of this matter.	No. *** does not have knowledge of this matter.
***	No. Not to our knowledge.	No. Not to our knowledge.

4. a.) Have there been any changes in the end uses and applications of stilbenic optical brighteners in the U.S. market or in the market for stilbenic optical brighteners in China and Taiwan since 2012?

b.) Do you anticipate any changes in the end uses and applications of stilbenic optical brighteners in the U.S. market or in the market for stilbenic optical brighteners in China and Taiwan within a reasonably foreseeable time?

Purchaser	Changes that have occurred	Anticipated changes
***	No.	No.
***	No.	No.
***	No.	No.
***	No. *** does not have knowledge of this matter.	No. *** does not have knowledge of this matter.
***	No. Not to our knowledge.	No. Not to our knowledge.

5. a.) Have there been any changes in the existence and availability of substitute products for stilbenic optical brighteners in the U.S. market or in the market for stilbenic optical brighteners in China and Taiwan since 2012?

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

Purchaser	Changes that have occurred	Anticipated changes
***	No.	No.
***	No.	No.
***	No.	No.
***	No. *** does not have knowledge of this matter.	No. *** does not have knowledge of this matter.
***	No. Not to our knowledge.	No. Not to our knowledge.

6. a.) Have there been any changes in the level of competition between stilbenic optical brighteners produced in the United States, stilbenic optical brighteners produced in China and Taiwan, and such merchandise from other countries in the U.S. market or in the market for stilbenic optical brighteners in China and Taiwan since 2012?

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

Purchaser	Changes that have occurred	Anticipated changes
***	Yes. The extra supply has put pressure on suppliers to lower their prices.	No.
***	No.	No.
***	No.	No.
***	No. *** does not have knowledge of this matter.	No. *** does not have knowledge of this matter.
***	Yes. Competition has increased in the United States with more sellers of optical brightening agents contacting *** about their offerings.	No. Difficult to foresee the future. The field is competitive at this point in time.

7. a.) Have there been any changes in the business cycle for stilbenic optical brighteners in the U.S. market or in the market for stilbenic optical brighteners in China and Taiwan since 2012?
- b.) Do you anticipate any changes in the business cycle for stilbenic optical brighteners in the U.S. market or in the market for stilbenic optical brighteners in China and Taiwan within a reasonably foreseeable time?

Purchaser	Changes that have occurred	Anticipated changes
***	Yes. Some optical brighteners go into papermaking and paper machines which have shut down in the US over the last five years, reducing demand.	Yes. Paper demand remains in a decline phase for the foreseeable future; hence, more paper production capacity will likely shut down over the next few years.
***	No.	No.
***	No.	No.
***	No. *** does not have knowledge of this matter.	No. *** does not have knowledge of this matter.
***	No. Not to our knowledge.	No. Not to our knowledge.