

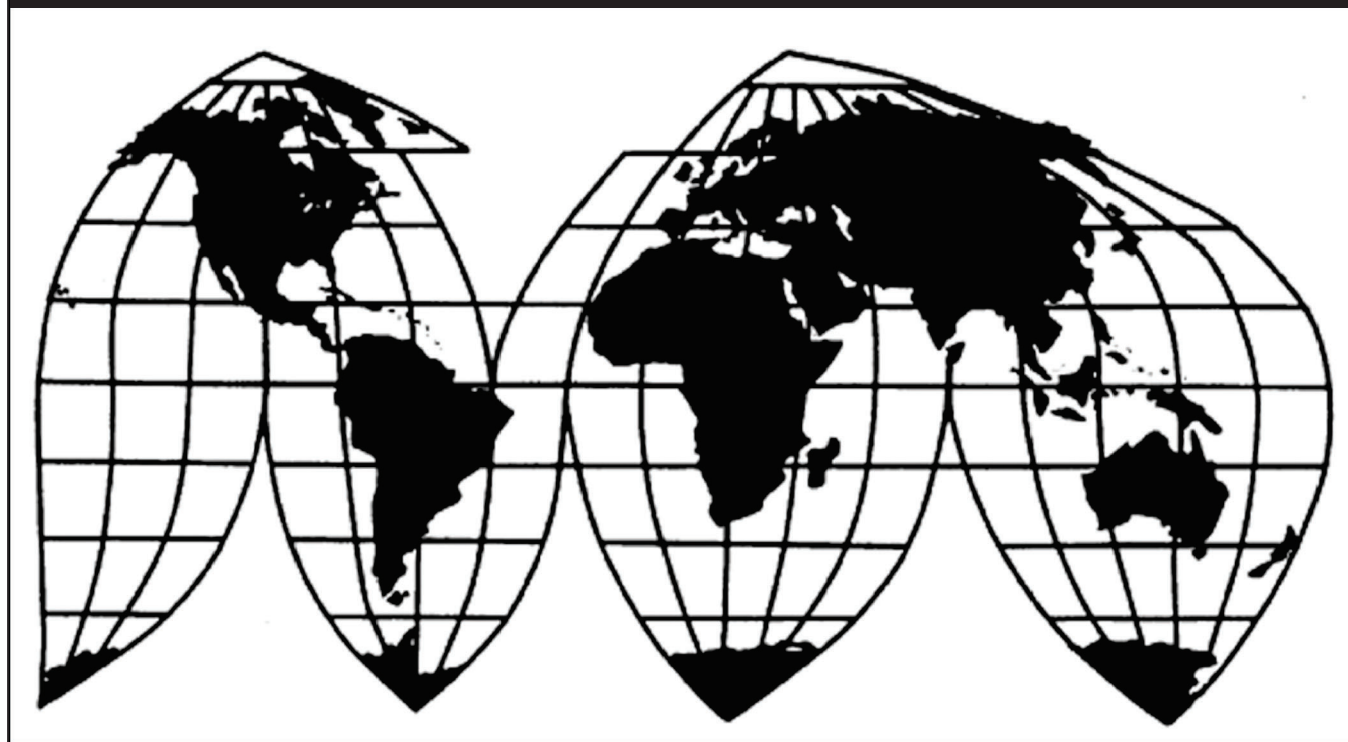
Cased Pencils from China

Investigation No. 731-TA-669 (Fifth Review)

Publication 5411

March 2023

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

COMMISSIONERS

David S. Johanson, Chairman

Rhonda K. Schmidlein

Jason E. Kearns

Randolph J. Stayin

Amy A. Karpel

Catherine DeFilippo
Director of Operations

Staff assigned

Alejandro Orozco, Investigator

Nathan Lotze, Industry Analyst

Pamela Davis, Economist

Alexandra Felchlin, Attorney

Jordan Harriman, Supervisory Investigator

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

U.S. International Trade Commission

Washington, DC 20436
www.usitc.gov

Cased Pencils from China

Investigation No. 731-TA-669 (Fifth Review)

Publication 5411



March 2023

CONTENTS

	Page
Determination	1
Views of the Commission	3
Information obtained in this review	I-1
Background	I-1
Responses to the Commission’s notice of institution.....	I-2
Individual responses	I-2
Party comments on adequacy	I-3
The original investigation.....	I-4
The first five-year review	I-4
The second five-year review	I-5
The third five-year review	I-5
The fourth five-year review	I-6
Previous and related investigations.....	I-6
Commerce’s five-year review	I-7
The product.....	I-7
Commerce’s scope.....	I-7
U.S. tariff treatment.....	I-9
Description and uses.....	I-10
Manufacturing process	I-12
The industry in the United States	I-13
U.S. producers.....	I-13
Recent developments	I-14
U.S. producers’ trade and financial data	I-15
Definitions of the domestic like product and domestic industry	I-16
U.S. importers	I-17
U.S. imports.....	I-18
Apparent U.S. consumption and market shares.....	I-20
The industry in China	I-22
Producers in China	I-22
Trade data for producers in China	I-23
Recent developments	I-24
Exports	I-24
Third-country trade actions	I-26
The global market	I-27

Appendixes

A.	<i>Federal Register</i> notices.....	A-1
B.	Company-specific data.....	B-1
C.	Summary data compiled in prior proceedings.....	C-1
D.	Purchaser questionnaire responses.....	D-1

Note: Information that would reveal confidential operations of individual concerns may not be published. Such information is identified by brackets or by headings in confidential reports and is deleted and replaced with asterisks in public reports.

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-669 (Fifth Review)

Cased Pencils from China

DETERMINATION

On the basis of the record¹ developed in the subject five-year review, the United States International Trade Commission (“Commission”) determines, pursuant to the Tariff Act of 1930 (“the Act”), that revocation of the antidumping duty order on cased pencils from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

BACKGROUND

The Commission instituted this review on August 1, 2022 (87 FR 46998) and determined on November 4, 2022 that it would conduct an expedited review (88 FR 2372, January 13, 2023).

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

Views of the Commission

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

I. Background

Original Investigation. In response to a petition filed on November 10, 1993, by the Pencil Makers Association, Inc., the Commission determined in December 1994 that an industry in the United States producing cased pencils was threatened with material injury by reason of imports of cased pencils from China that the U.S. Department of Commerce (“Commerce”) had found were sold in the United States at less than fair value (“LTFV”).¹ On December 28, 1994, Commerce issued an antidumping duty order on imports of cased pencils from China.²

Prior Reviews. In December 1999, July 2005, and November 2010, the Commission instituted its first, second, and third five-year reviews, respectively, of the antidumping duty order on cased pencils from China.³ In each of those reviews, the Commission decided to conduct an expedited review pursuant to section 751(c)(3) of the Tariff Act.⁴ The Commission determined in each of those reviews that revocation of the order would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a

¹ *Certain Cased Pencils from People’s Republic of China*, Inv. No. 731-TA-669 (Final), USITC Pub. 2837 (Dec. 1994) (“Original Determination”). The petition in the original investigation concerned subject imports from Thailand and China. The Commission made a final negative determination with respect to cased pencils from Thailand. See *Certain Cased Pencils from Thailand*, Inv. No. 731-TA-670 (Final), USITC Pub. 2816 (Oct. 1994) (“Original Determination for Thailand”). The Commission did not cumulate subject imports from Thailand with subject imports from China because it found that subject imports from Thailand were negligible and therefore ineligible for cumulation under the negligible imports provision that existed prior to the Uruguay Round Agreements Act (URAA). *Id.* at I-11 to I-16.

² Antidumping Duty Order: Certain Cased Pencils from the People’s Republic of China, 59 Fed. Reg. 66909 (Dec. 28, 1994).

³ *Cased Pencils from China*, 64 Fed. Reg. 67304 (Dec. 1, 1999) (first five-year review); *Cased Pencils from China*, 70 Fed. Reg. 38192 (July 1, 2005) (second five-year review); *Cased Pencils from China*, 75 Fed. Reg. 67102 (Nov. 1, 2010) (third five-year review).

⁴ *Cased Pencils from China*, Inv. No. 731-TA-669 (Review), USITC Pub. 3328 (Jul. 2000) at appendix B (Explanation of Commission Determination on Adequacy) (“First Five-Year Review”); *Cased Pencils from China*, Inv. No. 731-TA-669 (Second Review), USITC Pub. 3820 (Nov. 2005) at appendix B (Explanation of Commission Determination on Adequacy) (“Second Five-Year Review”); *Cased Pencils from China*, Inv. No. 731-TA-669 (Third Review), USITC Pub. 4239 (Jun. 2011) at appendix B (Explanation of Commission Determination on Adequacy) (“Third Five-Year Review”).

reasonably foreseeable time.⁵ Following the third five-year review, Commerce published its notice of continuation of the antidumping duty order, on July 12, 2011.⁶

In 2013, Commerce revoked the antidumping duty order with respect to “Beijing Fila Dixon Stationery Company, Ltd. a/k/a Beijing Dixon Ticonderoga Stationery Company, Ltd., a/k/a Beijing Dixon Stationery Company, Ltd., and Dixon Ticonderoga Company”⁷ and in 2015 affirmed that the revocation of the order in part continues to apply to Beijing Fila Dixon Stationery Co., Ltd. (“Beijing Fila”) as successor in interest.⁸

In June 2016, the Commission instituted the fourth five-year review of the antidumping duty order on cased pencils from China.⁹ In August 2017, after conducting a full review, the Commission determined that revocation of the antidumping order would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.¹⁰ On September 1, 2017, Commerce published its notice of continuation of the antidumping duty order on cased pencils from China.¹¹

Current Review. The Commission instituted the current review on August 1, 2022.¹² The Commission received a joint response from Musgrave Pencil Company, Inc. (“Musgrave”) and LaRose Industries LLC d/b/a Cra-Z-Art (“LaRose”),¹³ and a separate response from Dixon Ticonderoga Company (“Dixon Ticonderoga”) (collectively “domestic producers”).¹⁴ While the Commission received responses to its notice of institution from subject importers and/or exporters, it did not receive a response from any respondent interested party that opposed

⁵ First Five-Year Review, USITC Pub. 3328 at 13; Second Five-Year Review, USITC Pub. 3820 at 15; Third Five-Year Review, USITC Pub. 4239 at 21.

⁶ Certain Cased Pencils From the People’s Republic of China: Continuation of Antidumping Duty Order, 76 Fed. Reg. 40880 (July 12, 2011).

⁷ Certain Cased Pencils From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review and Determination To Revoke Order in Part, 78 Fed. Reg. 42932 (Jul. 18, 2013).

⁸ Certain Cased Pencils From the People’s Republic of China: Final Result of Antidumping Duty Changed Circumstances Review, 80 Fed. Reg. 19073 (Apr. 9, 2015).

⁹ *Cased Pencils from China*, Inv. No. 731-TA-669 (Fourth Review), USITC Pub. 4715 (Aug. 2017) at 4 & n.9 (“Fourth Five-Year Review”).

¹⁰ Fourth Five-Year-Review, USITC Pub.4715 at 3; *Cased Pencils From China*, 82 Fed. Reg. 40019 (Aug. 23, 2017).

¹¹ Certain Cased Pencils From the People’s Republic of China: Continuation of Antidumping Duty Order, 82 Fed. Reg. 41608 (Sep. 1, 2017).

¹² Cased Pencils From China; Institution of a Five-Year Review, 87 Fed. Reg. 46998 (Aug. 1, 2022).

¹³ Confidential Report, Memorandum INV-UU-103, Oct. 25, 2022 (“CR”); *Cased Pencils from China*, Inv. No. 731-TA-669 (Fifth Review), USITC Pub. 5411 (March 2023) (“PR”) at I-2; Musgrave and LaRose Second Supplemental Response, EDIS Doc. 781138 (Sept. 27, 2022) at 2.

¹⁴ Dixon Ticonderoga Response to the Notice of Institution, EDIS Doc. 779093 (Aug. 30, 2022) (“Dixon Ticonderoga Response”); CR/PR at Table I-2.

continuation of the order.¹⁵ On November 4, 2022, the Commission determined that the domestic interested party group response to the notice of institution was adequate and that the respondent interested party group response was inadequate.¹⁶ In the absence of any other circumstances that would warrant a full review, the Commission determined that it would conduct an expedited review of the order.¹⁷ Musgrave and LaRose submitted joint final comments and Dixon Ticonderoga submitted final comments pursuant to Commission rule 207.62(d)(1) on February 8, 2023.¹⁸

U.S. industry data for this review are based on the information that the domestic producers, which are estimated to have accounted for *** of domestic production of cased pencils in 2021, furnished in their respective responses to the notice of institution.¹⁹ U.S. import data and related information are based on official Commerce import statistics.²⁰ Foreign industry data and related information are based on information furnished by domestic producers in their responses to the notice of institution, information from the original investigation and prior five-year reviews, and publicly available information gathered by the Commission staff.²¹ Five U.S. purchasers responded to the Commission's adequacy phase questionnaire.²²

¹⁵ CR/PR at Table I-2. In its response to the notice of institution, Dixon Ticonderoga provided information on its subject imports and on the cased pencils operations of its affiliate firm FILA Dixon Stationery Kunshan Co., LTD ("Dixon Kunshan"), a Chinese producer/exporter of the subject merchandise. Dixon Kunshan accounted for *** percent of exports of subject merchandise in 2021. Dixon Ticonderoga and LaRose also estimated that they accounted for *** and *** percent, respectively, of total U.S. imports of cased pencils from China during 2021. *Id.*

¹⁶ Explanation of Adequacy of Commission Determination on Adequacy, EDIS Doc. 789104 (Feb. 1, 2023).

¹⁷ Cased Pencils From China; Scheduling of Expedited Five-Year Review, 88 Fed. Reg. 2372 (Jan. 13, 2023).

¹⁸ Musgrave and LaRose Final Comments, EDIS Doc. 789863 (Feb. 8, 2023); Dixon Ticonderoga Final Comments, EDIS Doc. 789936 (Feb. 8, 2023).

¹⁹ See CR/PR at Table I-2; Musgrave and LaRose Revised Response to Notice of Institution, EDIS Doc. 779357 (Sep. 2, 2022) ("Musgrave and LaRose Revised Response") at 3-4, 10, and 13-14; Musgrave and LaRose First Supplemental Response, EDIS Doc. 781062 (Sep. 26, 2022) at 3-5, 7-9; Musgrave and LaRose Second Supplemental Response; Musgrave and LaRose Third Supplemental Response, EDIS Doc. 781139 (Sep. 27, 2022); Musgrave and LaRose Fourth Supplemental Response, EDIS Doc. 781750 (Oct. 5, 2022); Musgrave and LaRose Final Comments at 12-13; Dixon Ticonderoga Response at 9, 12-13, Ex. 1 and 3; Dixon Ticonderoga Supplemental Response, EDIS Doc. 781045 (Sep. 26, 2022).

²⁰ See CR/PR at Tables I-6 & I-7.

²¹ See CR/PR at I-22-24, Tables I-8 & I-9.

²² CR/PR at D-3-4. *** provided questionnaire responses. *Id.*

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.”²³ 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.”²⁴ 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.²⁵

Commerce has defined the scope of the antidumping duty order in this five-year review as follows:

{C}ertain cased pencils of any shape or dimension (except as described below) which are writing and/or drawing instruments that feature cores of graphite or other materials, encased in wood and/or man-made materials, whether or not decorated and whether or not tipped (e.g., with erasers, etc.) in any fashion, and either sharpened or unsharpened. The pencils subject to the order are currently classifiable under subheading 9609.10.00 of the Harmonized Tariff Schedule of the United States (‘HTSUS’). Specifically excluded from the scope of the order are mechanical pencils, cosmetic pencils, pens, noncased crayons (wax), pastels, charcoals, chalks, and pencils produced under U.S. patent number 6,217,242, from paper infused with scents by the means covered in the above-referenced patent, thereby having odors distinct from those that may emanate from pencils lacking the scent infusion. Also excluded from the scope of the order are pencils with all of the following physical characteristics: (1) Length: 13.5 or more inches; (2) sheath diameter: not less than one-and-one quarter inches at any point (before sharpening); and (3) core length: Not more than 15 percent of the length of the pencil.

²³ 19 U.S.C. § 1677(4)(A).

²⁴ 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. Dep’t 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).

²⁵ *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).

In addition, pencils with all of the following physical characteristics are excluded from the scope of the order: Novelty jumbo pencils that are octagonal in shape, approximately ten inches long, one inch in diameter before sharpening, and three-and-one eighth inches circumference, composed of turned wood encasing one-and-one half inches of sharpened lead on one end and a rubber eraser on the other end.

Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of the order is dispositive.²⁶

Cased pencils are writing and/or drawing instruments consisting of graphite or other materials encased in wood and/or manmade materials. The wood is typically covered with several coats of quick drying lacquer (painted) and is tipped with an eraser and a ferrule (the small circular band of aluminum which affixes the eraser to the top of the pencil) to make a finished pencil. Cased pencils of all types are used almost exclusively for writing and drawing on paper or making marks on other objects. Decorated, designer, and novelty pencils are used not only for writing but also for collecting.²⁷ The most prevalent pencil today is the so-called commodity or economy pencil, the standard yellow No. 2 pencil. Virtually all No. 2 pencils sold in the United States have the same color, hardness, diameter, and length, and have similarly attached ferrules and erasers.²⁸ In addition to commodity or economy pencils, many different types of specialty and custom pencils are produced in the United States, including colored, golf, decorated, designer, novelty, promotional, advertising, carpenter, and drawing pencils.²⁹

In the original investigation, the Commission defined a single domestic like product consisting of all domestically produced cased pencils, including raw pencils, which are essentially unfinished cased pencils.³⁰ The Commission explained that “{a}lthough the physical characteristics of raw and unfinished cased pencils differ slightly in that the latter are lacquered and may contain a ferrule and an eraser, ... both items can act as hand{-}held writing instruments and can perform the same function — writing.”³¹ Moreover, the Commission

²⁶ Certain Cased Pencils from the People’s Republic of China: Final Results of the Expedited Fifth Sunset Review of the Antidumping Duty Order, 87 Fed. Reg. 71582 (Nov. 23, 2022). See also, Issues and Decision Memorandum for the Final Results of the Expedited Fifth Sunset Review of the Antidumping Duty Order on Certain Cased Pencils from the People’s Republic of China (Nov. 17, 2022) (“Issues & Decision Memo”) at 2.

²⁷ CR/PR at I-10.

²⁸ CR/PR at I-10.

²⁹ CR/PR at I-11.

³⁰ Original Determination, USITC Pub. 2837 at I-6.

³¹ Original Determination, USITC Pub. 2837 at I-7.

found that all cased pencils shared similar end uses and channels of distribution and utilized common manufacturing facilities and production employees.³²

In all prior five-year reviews, the Commission defined the domestic like product in the same manner that it did in the original investigation. In each review, no party had argued for a different domestic like product definition and that there was no new information obtained during the respective five-year reviews that suggested a reason for departing from the Commission's original definition of the domestic like product.³³

In this review, once again, the record contains no new information so as to warrant revisiting the Commission's domestic like product definition and no party has argued otherwise. The domestic producers indicate that they agree with the domestic like product definition the Commission adopted in the original investigation and prior reviews, as set out in the notice of institution.³⁴ Accordingly, we again define a single domestic like product consisting of all cased pencils, 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."³⁵ 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.

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

³² Original Determination, USITC Pub. 2837 at I-6.

³³ First Five-Year Review, USITC Pub. 3328 at 5; Second Five-Year Review, USITC Pub. 3820 at 5; Third Five-Year Review, USITC Pub. 4239 at 6; Fourth Five-Year Review, USITC Pub. 4715 at 7.

³⁴ The domestic producers indicate that they agree with the domestic like product definition the Commission adopted in the original investigation and prior reviews, as set out in the notice of institution. Musgrave and LaRose Revised Response at 16; Musgrave and LaRose Final Comments at 4; Dixon Ticonderoga Response at 8 n. 2; Dixon Ticonderoga Final Comments at 8.

³⁵ 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.

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

In the original investigation, the Commission found that domestic producer Pentech International, Inc. ("Pentech") was a related party. It concluded that appropriate circumstances existed to exclude Pentech from the domestic industry, which the Commission defined as "comprising the domestic producers of all cased pencils."³⁸

In the first five-year review, the Commission found that domestic producer *** was a related party but that appropriate circumstances did not exist to exclude it from the domestic industry.³⁹

In the second five-year review, the Commission found that domestic producer *** was a related party but that appropriate circumstances did not exist to exclude it from the domestic industry.⁴⁰ The Commission also stated that another domestic producer, Dixon Ticonderoga, had an interest in a pencil production facility in China, but observed that the record contained no information on the extent of Dixon Ticonderoga's ownership of the facility in China or whether Dixon Ticonderoga imported subject merchandise. In the absence of further information or any argument that it should be excluded as a related party, the Commission

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
- (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), *aff'd*, 839 F.3d 1377 (Fed. Cir. 2018); see also *Torrington Co. v. United States*, 790 F. Supp. at 1168.

³⁸ The Commission excluded Pentech from the industry because the company had benefited from LTFV imports and was shielded from the negative effects of those imports. Original Determination, USITC Pub. 2837 at I-8 to I-9.

³⁹ First Five-Year Review, USITC Pub. 3328 at 5-6; Confidential First Review Determination, EDIS Doc. 781415, at 7.

⁴⁰ Second Five-Year Review, USITC Pub. 3820 at 6; Confidential Second Review Determination, EDIS Doc. 781416 at 8.

found that appropriate circumstances did not exist to exclude Dixon Ticonderoga from the domestic industry.⁴¹

In the third five-year review, the Commission found that domestic producer Dixon Ticonderoga was a related party by virtue of its importation of subject merchandise and its ownership of a Chinese exporter of subject merchandise. It concluded that appropriate circumstances existed to exclude Dixon Ticonderoga from the domestic industry as a related party.⁴²

In the fourth five-year review, the Commission found that three domestic producers, ***, and Dixon Ticonderoga, qualified for possible exclusion under the related parties provision. It found that appropriate circumstances existed to exclude Dixon Ticonderoga from the domestic industry, but not ***.⁴³ The Commission explained that, although Dixon Ticonderoga supported continuation of the order, the facts, including Dixon Ticonderoga's high ratio of subject imports to domestic production and declining domestic production, suggested that Dixon Ticonderoga's primary interest was not in domestic production.⁴⁴ By contrast, the Commission found that both *** and *** primary interests were in domestic production.⁴⁵

In the current review, two domestic producers, LaRose and Dixon Ticonderoga, qualify for possible exclusion under the related parties provision because they imported cased pencils from China during the period of review.⁴⁶ Musgrave and LaRose argue that LaRose should not be excluded from the domestic industry and take no position as to whether Dixon Ticonderoga

⁴¹ Second Five-Year Review, USITC Pub. 3820 at 6.

⁴² The Commission found that, for the one year in the period of review (2009) for which there were data, Dixon Ticonderoga had been *** an importer of subject merchandise. Although Dixon Ticonderoga was a petitioner in the original investigation and responded to the notice of institution and provided comments in the third five-year review in support of continuation of the order, the Commission found that the evidence demonstrated that the company's primary focus had shifted to importation. Confidential Third Review Determination, EDIS Doc. 781417 at 10–11; Third Five-Year Review, USITC Pub. 4239 at 8–9.

⁴³ Fourth Five-Year Review, USITC Pub. 4715 at 9-10. Confidential Fourth Review, EDIS Doc. 781418 at 11-14.

⁴⁴ Fourth Five-Year Review, USITC Pub. 4715 at 10.

⁴⁵ Fourth Five-Year Review, USITC Pub. 4715 at 9-10. Confidential Fourth Review at 11-14.

⁴⁶ CR/PR at I-16. While Dixon Ticonderoga is also affiliated with a Chinese producer and exporter of the subject merchandise, as noted above, Commerce revoked the antidumping duty order with respect to this producer on July 18, 2013. See Dixon Ticonderoga Response at 7; *Certain Cased Pencils From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Determination To Revoke Order in Part*, 78 Fed. Reg. 42932 (Jul. 18, 2013); *Certain Cased Pencils From the People's Republic of China: Final Result of Antidumping Duty Changed Circumstances Review*, 80 Fed. Reg. 19073 (Apr. 9, 2015).

should be excluded in the current review.⁴⁷ Dixon Ticonderoga argues that it should not be excluded from the domestic industry, while acknowledging that the relevant facts are unchanged since the fourth five-year review, but also supports the Commission's previous definition of the domestic industry.⁴⁸

Below, we consider whether appropriate circumstances exist to exclude any of the related party producers from the domestic industry.

LaRose: LaRose accounted for approximately *** percent of domestic production in 2021, making it the *** domestic producer during the period of review.⁴⁹ In January 2021, LaRose acquired the pencil production facilities of Mattel, Inc. ("Mattel"), which was previously operated by RoseMoon.⁵⁰ It supports the continuation of the order covering subject imports.⁵¹ LaRose imported *** gross in 2021, and its ratio of subject imports to domestic production was *** percent that year.⁵² LaRose explains that its imports were of colored pencils, which are unavailable from domestic producers.⁵³

Based on LaRose's support of the continuation of the order, its recent acquisition of a domestic pencil production facility (RoseMoon), and ratio of subject imports to domestic production in 2021, LaRose's principal interest appears to be domestic production. Accordingly, we find that appropriate circumstances do not exist to exclude LaRose from the domestic industry pursuant to the related parties provision.

Dixon Ticonderoga: Dixon Ticonderoga was the *** domestic producer of cased pencils in 2021, accounting for approximately *** percent of domestic production.⁵⁴ It was a petitioner in the original investigation, has participated in each of the subsequent reviews, and supports continuation of the order.⁵⁵ Dixon Ticonderoga imported *** gross of subject imports in 2021.⁵⁶ Dixon Ticonderoga's domestic production was *** gross in 2021,⁵⁷ compared to ***

⁴⁷ Musgrave and LaRose Revised Response at 4-5.

⁴⁸ Dixon Ticonderoga Response at 8; Dixon Ticonderoga Final Comments at 8.

⁴⁹ CR/PR at Table I-2 note. Musgrave and LaRose First Supplemental Response at 2.

⁵⁰ CR/PR at I-14. Musgrave and LaRose Revised Response at 3; Musgrave and LaRose Final Comments at 5-7. *** was a petitioner in the original investigation. Confidential Fourth Review at 12.

⁵¹ Musgrave and LaRose Final Comments at 7.

⁵² CR/PR at I-16, Table B-4. A gross of pencils comprises 12 dozen (144) pencils. Third Five-Year Review, USITC Pub. 4239 at I-14.

⁵³ Musgrave and LaRose Final Comments at 5.

⁵⁴ CR/PR at Table I-2 note.

⁵⁵ Fourth Five-Year Review, USITC Pub. 4715 at 10. *See also* Dixon Ticonderoga Response at 2 and 6.

⁵⁶ CR/PR at Table B-4.

⁵⁷ CR/PR at Appendix B, Table B-4.

gross in 2009, *** gross in 2014, *** gross in 2015, and *** gross in 2016.⁵⁸ Dixon Ticonderoga’s ratio of subject imports to domestic production was *** percent that year.⁵⁹

While Dixon Ticonderoga supports continuation of the order, the limited information on the record of this review and the more robust record of the prior full fourth five-year review, in particular demonstrating a high ratio of subject imports to domestic production, suggest that Dixon Ticonderoga’s primary interest is not in domestic production. Accordingly, we find that appropriate circumstances exist to exclude Dixon Ticonderoga from the domestic industry as a related party.

In sum, consistent with our definition of the domestic like product, we define the domestic industry as all domestic producers of cased pencils, except for Dixon Ticonderoga.

III. Revocation of the Antidumping Duty Order 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.”⁶⁰ The SAA states that “under the likelihood standard, the Commission will engage in a counterfactual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo – the revocation or termination of a proceeding and the elimination of its restraining effects on volumes and prices of imports.”⁶¹ Thus, the likelihood standard is prospective in nature.⁶² The U.S. Court of International Trade (“CIT”) has found that

⁵⁸ Confidential Fourth Five-Year Review at 14, n.48.

⁵⁹ CR/PR at I-16, Table B-4.

⁶⁰ 19 U.S.C. § 1675a(a).

⁶¹ 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.

⁶² 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.

“likely,” as used in the five-year review provisions of the Act, means “probable,” and the Commission applies that standard in five-year reviews.⁶³

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.”⁶⁴ 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.”⁶⁵

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.”⁶⁶ 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 regarding duty absorption pursuant to 19 U.S.C. § 1675(a)(4).⁶⁷ 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.⁶⁸

⁶³ 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’”).

⁶⁴ 19 U.S.C. § 1675a(a)(5).

⁶⁵ 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.*

⁶⁶ 19 U.S.C. § 1675a(a)(1).

⁶⁷ 19 U.S.C. § 1675a(a)(1). Commerce has not made any duty absorption findings with respect to the order under review. *Commerce I&D Memorandum* at 7-8

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

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.⁶⁹ 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.⁷⁰

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.⁷¹

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.⁷² 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

⁶⁹ 19 U.S.C. § 1675a(a)(2).

⁷⁰ 19 U.S.C. § 1675a(a)(2)(A-D).

⁷¹ 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.

⁷² 19 U.S.C. § 1675a(a)(4).

which any improvement in the state of the domestic industry is related to the order under review and whether the industry is vulnerable to material injury upon revocation.⁷³

No respondent interested party participated in this expedited review. The record, therefore, contains limited new information with respect to the cased pencils industry in China. There also is limited information about the market for cased pencils in the United States during the period of review. Accordingly, for our determination, we rely as appropriate on the facts available from the original investigation and prior reviews and the limited new information in the record of this review.

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.”⁷⁴ The following conditions of competition inform our determination.

1. Demand Conditions

Prior Proceedings. In the original investigation, the Commission found that demand for cased pencils increased 10.1 percent from 1991 to 1993, from *** gross to *** gross.⁷⁵ Although the Commission characterized the market for cased pencils as mature, it observed in the first review that apparent U.S. consumption increased approximately *** percent between 1993 and 1998, the final year of the first review period, to *** gross.⁷⁶ For the second review period, apparent U.S. consumption in 2004 declined to *** gross, but remained above the 1993 quantity.⁷⁷ For the third review period, U.S. consumption increased to *** gross in 2009.⁷⁸

⁷³ 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.

⁷⁴ 19 U.S.C. § 1675a(a)(4).

⁷⁵ Original Determination, USITC Pub. 2837 at I-10; Confidential Original Determination Staff Report, Memorandum INV-R-184 (Nov. 23, 1994), EDIS Doc. 781405, at Table B-1.

⁷⁶ Confidential First Review Staff Report, Memorandum INV-X-139 (June 22, 2000), EDIS Doc. 781408, at Table I-3; First Five-Year Review, USITC Pub. 3328 at 8, Table I-3.

⁷⁷ Second Five-Year Review, USITC Pub. 3820 at 9; Confidential Second Review Determination at 12.

⁷⁸ Third Five-Year Review, USITC Pub. 4239 at 13; Confidential Third Review Determination at 17.

In the fourth five-year review, the Commission found that cased pencils were most commonly used for writing and drawing on paper in home, school, or business settings and that demand for cased pencils was influenced by population levels, especially changes in the number of school-age students, with a large portion of pencil purchases occurring during midsummer for the back-to-school season.⁷⁹ The Commission also observed that the consolidation and increasing concentration of purchasers observed in the original investigation had continued, resulting in fewer but larger purchasers of cased pencils with greater negotiating power.⁸⁰ Apparent U.S. consumption had increased from *** gross in 2014 to *** in 2015 and to *** gross in 2016, which was higher than the levels in the prior proceedings.⁸¹

Current Review. In this review, the information available indicates that the factors influencing demand remain unchanged from the prior proceedings. According to the domestic producers, the U.S. market for cased pencils is mature,⁸² characterized by relatively static demand and limited opportunities for extensive growth.⁸³ According to Musgrave and LaRose, there have been no new applications developed for pencils and demand remains driven by population levels, particularly that of school-aged children.⁸⁴ Musgrave and LaRose acknowledge that there was a temporary reduction in demand during the review period due to disruptions caused by the COVID-19 pandemic.⁸⁵ Retail data from NPD, a market research firm, show that U.S. retail sales of wood encased pencils *** from \$*** in 2016 to \$*** in 2021, a ***.⁸⁶ In 2021, apparent U.S. consumption of cased pencils was *** gross.⁸⁷

2. Supply Conditions

Prior Proceedings. In the original investigation, the Commission found that the market was supplied by 11 U.S. producers (including the eight that responded to the Commission's questionnaires) and imports from subject and nonsubject sources.⁸⁸ The Commission stated that the domestic industry recently had undergone restructuring.⁸⁹

⁷⁹ Fourth Five-Year Review, USITC Pub. 4715 at 14.

⁸⁰ Fourth Five-Year Review, USITC Pub. 4715 at 14.

⁸¹ Fourth Five-Year Review, USITC Pub. 4715 at 15; Confidential Fourth Review at 21.

⁸² Dixon Ticonderoga Response at 10; Musgrave and LaRose Revised Response at 15.

⁸³ Musgrave and LaRose Revised Response at 15.

⁸⁴ Musgrave and LaRose Final Comments at 8.

⁸⁵ Musgrave and LaRose Final Comments at 8. Responding purchaser *** stated that ***. CR/PR at D-3. Responding purchaser *** also reported that ***. *Id.*

⁸⁶ Dixon Ticonderoga Response at 10, Exhibit 3.

⁸⁷ CR/PR at Table I-7.

⁸⁸ Original Determination for Thailand, USITC Pub. 2816 at I-9 & n.35, I-10 n.39, I-12, II-8.

⁸⁹ Original Determination for Thailand, USITC Pub. 2816 at I-9.

In the first five-year review, the Commission observed that consolidation within the domestic industry had continued, with the number of U.S. producers declining to between seven and nine.⁹⁰ It also observed that the quantity and market share of nonsubject imports had increased since the original investigation.⁹¹

In the second five-year review, the domestic interested parties reported that there had been no further industry restructuring since the first five-year review.⁹² The Commission stated that when comparing the second review period with the original investigation and first review period, U.S. producers' production and market share continued to decrease while the quantity and market share of subject and nonsubject imports continued to increase.⁹³

In the third five-year review, there were eight U.S. firms producing cased pencils following the closure of one firm.⁹⁴ The domestic industry's share of apparent U.S. consumption continued to decline, reaching a level in 2009 that was lower than in the original investigation or any prior review, while subject imports' and nonsubject imports' shares of apparent U.S. consumption continued to rise to levels higher than in the original investigation.⁹⁵

During the fourth five-year review, the Commission observed that the number of domestic producers had declined from eight to four and that the domestic industry's capacity

⁹⁰ First Five-Year Review, USITC Pub. 3328 at 9.

⁹¹ In 1993, the last year of the original investigation, there were 2.0 million gross of nonsubject imports, accounting for *** percent of apparent U.S. consumption. First Five-Year Review, USITC Pub. 3328 at 9; Original Determination, USITC Pub. 2837 at Table B-1. In 1998, the only year during the first five-year review for which data were collected, there were 8.9 million gross of nonsubject imports, accounting for *** percent of apparent U.S. consumption. Confidential First Review Determination at 11–12.

⁹² Second Five-Year Review, USITC Pub. 3820 at 9.

⁹³ U.S. production decreased from *** gross in 1993 to *** gross in 1998 and to *** gross in 2004. U.S. producers' market share declined from *** percent in 1993 to *** percent in 1998 and to *** percent in 2004. Subject imports were 4.7 million gross in 1993, accounting for *** percent of apparent U.S. consumption; 6.0 million gross in 1998, accounting for *** percent of apparent U.S. consumption; and 9.2 million gross in 2004, accounting for *** percent of apparent U.S. consumption in 2004. Nonsubject imports were 2.0 million gross in 1993, accounting for *** percent of apparent U.S. consumption; 8.9 million gross in 1998, accounting for *** percent of apparent consumption; and 9.0 million gross in 2004, accounting for *** percent of apparent U.S. consumption. Confidential Second Review Determination at 12–14.

⁹⁴ Third Five-Year Review, USITC Pub. 4239 at 13.

⁹⁵ Confidential Fourth Review at 23. The domestic industry's share of apparent U.S. consumption was *** percent in 2009. Subject imports' market share was *** percent in 2009. Nonsubject imports' market share was *** percent in 2009. *Id.* at 23 n.86.

and production had declined by more than half due to the closure of Sanford L.P. in 2014.⁹⁶ While subject imports had declined as a share of apparent U.S. consumption during the period of review, U.S. shipments of subject imports had increased.⁹⁷ Nonsubject imports were the largest source of cased pencils in the U.S. market during the period of review.⁹⁸

Current Review. The domestic industry was the *** source of supply to the U.S. market, accounting for *** percent of the apparent U.S. consumption, or *** gross, in 2021.⁹⁹ This was ***.¹⁰⁰

Musgrave and LaRose maintain that the most significant change since the original investigation has been the domestic industry's removal from the commodity pencil market, in which the industry currently maintains a minor presence, and increased focus on specialty lines, such as decorator pencils.¹⁰¹ They also note that numerous domestic producers have closed U.S. production facilities since imposition of the order, including Sanford, Dixon Ticonderoga, and Tennessee Pencil Co., although no producers left the industry during the current period of review.¹⁰² Additionally, as previously discussed, in January 2021, LaRose purchased the pencil production assets owned by Mattel, which had previously been operated by Mattel's subsidiary RoseMoon, and includes the brands RoseMoon and RoseArt.¹⁰³ LaRose also reported upgrading the production equipment at its Lewisburg, Tennessee, manufacturing facility to produce pencils more efficiently and plans to continue doing so in 2023.¹⁰⁴

⁹⁶ Confidential Fourth Review at 23. From 2009 to 2016, the domestic industry's capacity declined from *** gross to *** gross, and production declined from *** gross to *** gross. *Id.* at 22-23. In 2016, the domestic producers' share of apparent U.S. consumption was *** percent, a level lower than in the original investigation or any prior review and smaller than the market shares of subject imports and nonsubject imports. Fourth Five-Year Review, USITC Pub. 4715 at 16; Confidential Fourth Review at 22-23.

⁹⁷ Fourth Five-Year Review, USITC Pub. 4715 at 16-17; Confidential Fourth Review at 23-24. Their share of apparent U.S. consumption decreased from *** percent in 2014 to *** percent in 2016, but U.S. shipments of subject imports increased from 7.9 million gross (\$60.3 million) in 2014 to 8.5 million gross (\$73.5 million) in 2016. *Id.*

⁹⁸ Fourth Five-Year Review, USITC Pub. 4715 at 17; Confidential Fourth Review at 24. Nonsubject imports share of apparent U.S. consumption increased from *** percent in 2014 to *** percent in 2016. *Id.*

⁹⁹ Calculated from CR/PR at Tables I-7 & B-2; *see also*, Staff Worksheet, EDIS Doc. 790758 (Feb. 21, 2023) at Table I-7b (Staff Worksheet).

¹⁰⁰ CR/PR at Table I-7.

¹⁰¹ Musgrave and LaRose Revised Response at 15; Musgrave and LaRose Final Comments at 9-10.

¹⁰² Musgrave and LaRose Revised Response at 3, 15; CR/PR at I-14.

¹⁰³ CR/PR at I-14; Musgrave and LaRose Revised Response at 3; Musgrave and LaRose Final Comments at 5-7.

¹⁰⁴ Musgrave and LaRose Revised Response at 10.

Subject imports were the *** largest source of supply in the U.S. market, accounting for *** percent of apparent U.S. consumption, or *** gross, in 2021.¹⁰⁵ According to the domestic producers, the Chinese cased pencil industry has continued to expand, despite a significant decline in demand in Chinese export markets.¹⁰⁶

Nonsubject imports were the *** source of supply in the U.S. market, accounting for *** percent of apparent U.S. consumption in 2021, or *** gross.¹⁰⁷ The largest nonsubject sources of cased pencils during the review period were Brazil, Mexico, India, the Philippines, Vietnam, and Thailand.¹⁰⁸

3. Substitutability and Other Conditions

Prior Proceedings. In the original investigation and each of the prior reviews, the Commission characterized cased pencils as a commodity product and observed the importance of price in purchasing decisions.¹⁰⁹ Two Commissioners characterized the market for cased pencils as price sensitive.¹¹⁰ Two other Commissioners observed that large, nationwide purchasers were increasingly making their purchasing decisions on the basis of price rather than nonprice factors.¹¹¹ In the first review, the Commission characterized the market for cased pencils as price sensitive and found the domestic like product and the subject imports to be highly substitutable.¹¹² In the second, third, and fourth reviews, the Commission stated that price was an important factor in purchasing decisions.¹¹³

¹⁰⁵ CR/PR at Table I-7.

¹⁰⁶ Dixon Ticonderoga's Response at 10, 14-15; Musgrave and LaRose's Response at 15.

¹⁰⁷ Calculated from CR/PR at Tables I-7 & B-2. *See also*, Staff Worksheet at Table I-7b.

¹⁰⁸ CR/PR at Table I-6.

¹⁰⁹ The Commission also observed that no new uses for pencils were likely to be discovered that would greatly increase demand for cased pencils. Original Determination for Thailand, USITC Pub. 2816 at I-9; Original Determination, USITC Pub. 2837 at I-10; First Five-Year Review, USITC Pub. 3328 at 8; Second Five-Year Review, USITC Pub. 3820 at 9; Third Five-Year Review, USITC Pub. 4239 at 12-13; Fourth Five-Year Review, USITC Pub. 4715 at 18.

In the original investigation, the Commission detailed that most purchasers reported that there were no significant differences in the types of pencils that are available from all sources and that pencils of a similar type perform a similar function whether imported from subject sources or domestically produced. Original Determination for Thailand, USITC Pub. 2816 at I-13 to I-14.

¹¹⁰ Original Determination, USITC Pub. 2837 at I-22 (Separate Views of Commissioner Rohr and Commissioner Newquist).

¹¹¹ Original Determination, USITC Pub. 2837 at I-17 (Additional Views of Chairman Watson and Commissioner Bragg).

¹¹² First Five-Year Review, USITC Pub. 3328 at 11.

¹¹³ Second Five-Year Review, USITC Pub. 3820 at 13; Third Five-Year Review, USITC Pub. 4239 at 18; Fourth Five-Year Review, USITC Pub. 4715 at 18.

In the third review, the Commission observed that domestic producers had concentrated their efforts in the specialty and custom pencil market during the period of review because of large volumes of subject imports in the commodity pencil segment.¹¹⁴ The Commission also found that internet-based pencil suppliers in China had become more prevalent, allowing these producers to participate more fully in the specialty pencil market.¹¹⁵

In the fourth review, the Commission found that there was a high degree of substitutability between domestically produced cased pencils and subject imports, and that price plays an important role in purchasing decisions.¹¹⁶ The Commission also found that producers in China had continued to access buyers in the U.S. market through internet trading portals.¹¹⁷

Current Review. The record in this review contains no new information to indicate that the degree of substitutability between the domestic like product and subject imports or the importance of price in purchasing decisions has changed since the last review.¹¹⁸ According to the domestic producers, there remains a high degree of substitutability between subject imports and domestically produced cased pencils, and price remains the primary consideration for purchasing decisions.¹¹⁹ Accordingly, we find that domestically produced cased pencils and subject imports are highly substitutable, and that price continues to be an important factor in purchasing decisions.

Effective February 14, 2020, cased pencils produced in China became subject to a 7.5 percent ad valorem duty under Section 301 of the Trade Act of 1974¹²⁰ (“section 301 tariffs”).¹²¹

Musgrave and LaRose indicate that section 301 tariffs have resulted in increased landed costs for slats and ferrules used in the domestic production of pencils.¹²² They state that the only available source for these two materials is China. Musgrave, LaRose, and Dixon

¹¹⁴ Third Five-Year Review, USITC Pub. 4239 at 13.

¹¹⁵ Third Five-Year Review, USITC Pub. 4239 at 13; Fourth Five-Year Review, USITC Pub. 4715 at 18.

¹¹⁶ Fourth-Five Year Review, USITC Pub. 4715 at 18.

¹¹⁷ Fourth-Five Year Review, USITC Pub. 4715 at 18.

¹¹⁸ See Dixon Ticonderoga Response at 25; Musgrave and LaRose Revised Response at 7-8; Musgrave and LaRose Final Comments at 11.

¹¹⁹ Dixon Ticonderoga Response at 25; Musgrave and LaRose Revised Response at 7-8; Musgrave and LaRose Final Comments at 11.

¹²⁰ 19 U.S.C. § 2411.

¹²¹ CR/PR at I-9. Notice of Modification of Section 301 Action: China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation, 85 Fed. Reg. 3741 (Sep. 21, 2018).

¹²² Dixon Ticonderoga’s Response at 10; Musgrave and LaRose Revised Response at 3.

Ticonderoga all cited an increase in wood prices. According to U.S. Producer Price Index (PPI) estimates, from December 2019 to December 2021, the price of lumber and wood products increased by 65 percent.¹²³

C. Likely Volume of Subject Imports

1. The Original Investigation and Prior Five-Year Reviews

In the original investigation, the Commission stated that the volume of subject imports increased rapidly over the period of investigation (“POI”) and that increases in imports of noncommodity, decorated pencils, which the domestic industry traditionally had been able to sell at a higher price, were particularly “marked.”¹²⁴ The Commission observed that exports to the U.S. market as a share of Chinese producers’ total shipments had increased over the POI while Chinese producers’ domestic shipments as a share of total shipments had decreased.¹²⁵ It found that these trends indicated that subject imports from China would be increasingly directed to the U.S. market and that the rapid increase in subject imports from China posed a threat of material injury to the domestic industry.¹²⁶

Following the imposition of the order in December 1994, the level of subject imports of cased pencils from China fell sharply in 1995 before rising again, such that the volume of subject imports in 1998 exceeded the highest level during the original POI.¹²⁷ Thus, notwithstanding the order, the volume of cased pencils from China increased in absolute terms in the first review period to 6.0 million gross in 1998, representing a *** percent share of the U.S. market, compared with a volume of 4.7 million gross in 1993 (a *** percent share of the market) during the original POI.¹²⁸ In the second review period, subject imports from China increased further, to 9.2 million gross units in 2004, accounting for *** percent of the U.S. market.¹²⁹

¹²³ CR/PR at I-14.

¹²⁴ Original Determination, USITC Pub. 2837 at I-16 (Additional Views of Chairman Watson and Commissioner Bragg); Original Determination, USITC Pub. 2837 at I-26 (Additional Views of Vice Chairman Janet A. Nuzum).

¹²⁵ Original Determination, USITC Pub. 2837 at I-17 (Additional Views of Chairman Watson and Commissioner Bragg).

¹²⁶ Original Determination, USITC Pub. 2837 at I-17 (Additional Views of Chairman Watson and Commissioner Bragg).

¹²⁷ First Five-Year Review, USITC Pub. 3328 at 10.

¹²⁸ Confidential First Five-Year Review Staff Report at Table I-3; First Five-Year Review, USITC Pub. 3328 at 10, Table I-3.

¹²⁹ Confidential Second Five-Year Review at 15; Second Five-Year Review, USITC Pub. 3820 at 11.

Between 1991 and 1993, capacity in China to produce cased pencils, production, and total shipments increased by *** percent, *** percent, and *** percent, respectively.¹³⁰ In the first five-year review, there was limited information on the record concerning the status of the cased pencil industry in China because there were no responses by foreign producers or exporters to the Commission's notice of institution.¹³¹ The Commission observed, however, that the United States was the largest export destination for cased pencils produced in China at the time of the first five-year review determination.¹³²

The record in the first five-year review further indicated that the number of cased pencil producers in China had increased since the time of the original investigation.¹³³ Because of this increase and the absence of any information on the record indicating any reduction in the production capacity of Chinese producers that existed at the time of the original investigation, the Commission concluded that the capacity to produce cased pencils in China had likely risen since the time of the original investigation.¹³⁴

Furthermore, the Commission found that the restraining effect of the order, as evidenced by the sharp drop in the volume of subject imports in the U.S. market immediately after its issuance, would be eliminated if the order were revoked.¹³⁵ In light of the Chinese cased pencil industry's capacity increases, the significant increase in its levels of exports since the order, and its historical ability to increase exports rapidly to the U.S. market, the Commission found in the first five-year review that, upon revocation of the order, producers of subject merchandise in China would increase exports to the U.S. market above already high levels.¹³⁶ The Commission consequently concluded that the likely volume of subject imports would be significant if the antidumping duty order were revoked.¹³⁷

In the second five-year review, the domestic interested parties identified 19 Chinese producers and 19 Chinese exporters of pencils.¹³⁸ According to a private market intelligence report, there were approximately 400 producers of cased pencils in China during 2003.¹³⁹ The

¹³⁰ Confidential First Five-Year Review at 13; First Five-Year Review, USITC Pub. 3328 at 10.

¹³¹ First Five-Year Review, USITC Pub. 3328 at 10.

¹³² First Five-Year Review, USITC Pub. 3328 at 10.

¹³³ First Five-Year Review, USITC Pub. 3328 at 10.

¹³⁴ First Five-Year Review, USITC Pub. 3328 at 10. The Commission found this conclusion to be corroborated by information in the record showing that Chinese exports of cased pencils to all countries had risen considerably since 1993, suggesting that capacity had indeed increased. First Five-Year Review, USITC Pub. 3328 at 10.

¹³⁵ First Five-Year Review, USITC Pub. 3328 at 10.

¹³⁶ First Five-Year Review, USITC Pub. 3328 at 10–11.

¹³⁷ First Five-Year Review, USITC Pub. 3328 at 11.

¹³⁸ Second Five-Year Review, USITC Pub. 3820 at 12.

¹³⁹ Second Five-Year Review, USITC Pub. 3820 at 12.

Commission stated that, given that the level of subject imports, at 9.2 million gross in 2004, exceeded the domestic producers' shipments of *** gross, subject imports' share of the U.S. market already exceeded the market share of the domestic industry and would be likely to increase even further if the order were revoked.¹⁴⁰ Accordingly, the Commission found that the likely volume of subject imports would be significant, both in absolute and relative terms.¹⁴¹

In the third five-year review, subject imports from China continued to enter the U.S. market in substantial quantities, increasing to 10.5 million gross in 2009.¹⁴² Subject imports' market share by quantity was *** percent in 2009, greater than their *** percent market share in 2004 and *** the market share from the original investigation.¹⁴³ The Commission found that Chinese exporters had been able to increase their exports to the United States even with the antidumping duty order in place.¹⁴⁴ In the third five-year review, the Commission had limited information regarding the foreign industry and no information indicating that the total number of producers in China had decreased from the approximately 400 producers of cased pencils in China reported during the second five-year review.¹⁴⁵ Domestic producers asserted that the capacity to produce cased pencils in China was at least 104 million gross in 2010, an increase of 36.8 percent from the 76 million gross capacity reported during the second five-year review,¹⁴⁶ and that the foreign inventories of subject merchandise in 2009 *** total U.S. consumption that year.¹⁴⁷ The Commission also noted that, in 2009, the industry in China exported a significant percentage (28 percent) of its domestic production of cased pencils and was the world's largest exporter of cased pencils by far, with the U.S. market being its largest export market, accounting for 25.1 percent of Chinese exports.¹⁴⁸ It found that because the average unit values ("AUVs") of Chinese exports to the U.S. market were higher than the AUVs of Chinese exports to any other market, the U.S. market would be an attractive export market for Chinese cased pencil producers, which would provide further incentive for these producers to increase exports to the United States.¹⁴⁹

¹⁴⁰ Second Five-Year Review, USITC Pub. 3820 at 12; Confidential Second Five-Year Review at 17.

¹⁴¹ Second Five-Year Review, USITC Pub. 3820 at 12.

¹⁴² Third Five-Year Review, USITC Pub. 4239 at 15; Confidential Third Five-Year Review at 20.

¹⁴³ Third Five-Year Review, USITC Pub. 4239 at 15; Confidential Third Five-Year Review at 20–21.

¹⁴⁴ Third Five-Year Review, USITC Pub. 4239 at 15.

¹⁴⁵ Third Five-Year Review, USITC Pub. 4239 at 15.

¹⁴⁶ Third Five-Year Review, USITC Pub. 4239 at 15.

¹⁴⁷ Domestic producers asserted that the Chinese industry had an inventory of 35 million gross cased pencils, compared to *** gross total consumption in the U.S. market in 2009. Third Five-Year Review, USITC Pub. 4239 at 15; Confidential Third Five-Year Review at 20–21.

¹⁴⁸ Third Five-Year Review, USITC Pub. 4239 at 15–16.

¹⁴⁹ Third Five-Year Review, USITC Pub. 4239 at 16.

The Commission thus found that, based on the large and increasing presence of subject imports in the U.S. market, the size of the industry in China, and the Chinese industry's total volume of exports and continued focus on the attractive U.S. market, Chinese producers would likely increase their exports to the United States above their already significant level if the antidumping duty order were revoked and that the likely volume of subject imports, both in absolute terms and as a share of the U.S. market, would be significant if the order were revoked.¹⁵⁰

In the fourth five-year review, the Commission observed that subject imports continued to maintain a substantial presence in the U.S. market, with subject import levels rising from 7.8 million gross in 2014 to 9.1 million gross in 2015 before declining to 8.5 million gross in 2016.¹⁵¹ Subject imports accounted for *** percent of apparent U.S. consumption in 2014, *** percent in 2015, and *** percent in 2016.¹⁵²

The Commission also found that the record indicated that the reported capacity of the cased pencils industry in China was substantial and growing and that there was large excess capacity.¹⁵³ It also observed that the data indicated that the production capacity of the subject industry exceeded the apparent U.S. consumption for 2016.¹⁵⁴ The Commission further found that the subject producers in China were export oriented and that the subject industry had the ability to increase exports of subject merchandise to the United States rapidly as it did during the original investigation.¹⁵⁵ Additionally, the Commission found that the United States remained an attractive market to subject producers due to the continued presence of subject imports in the U.S. market and the existence of import barriers in third country markets which would provide an additional incentive for subject producers to direct additional exports to the United States.¹⁵⁶ Consequently, the Commission concluded that revocation of the order would likely result in a significant increase in subject imports, both in absolute and relative terms.¹⁵⁷

2. The Current Review

The record in this five-year review indicates that the order had a disciplining effect on subject import volumes during the period of review. Subject imports decreased irregularly

¹⁵⁰ Third Five-Year Review, USITC Pub. 4239 at 16.

¹⁵¹ Fourth Five-Year Review, USTIC Pub. 4715 at 22.

¹⁵² Fourth Five-Year Review, USTIC Pub. 4715 at 22; Confidential Fourth Review at 32.

¹⁵³ Fourth Five-Year Review, USTIC Pub. 4715 at 22.

¹⁵⁴ Fourth Five-Year Review, USTIC Pub. 4715 at 22-23.

¹⁵⁵ Fourth Five-Year Review, USTIC Pub. 4715 at 23.

¹⁵⁶ Fourth Five-Year Review, USTIC Pub. 4715 at 23.

¹⁵⁷ Fourth Five-Year Review, USTIC Pub. 4715 at 23.

during the period of review from a period high of 9.9 million gross in 2017 to 9.2 million gross in 2018, 6.5 million gross in 2019, 7.2 million gross in 2020, and 4.2 million gross in 2021, accounting for *** percent of apparent U.S. consumption that year.¹⁵⁸ Subject import volume and market share was lower in 2021 than the periods examined in the prior proceedings.¹⁵⁹ While the drop in subject imports between 2020 and 2021 coincided with imposition of section 301 duties on cased pencils from China, subject imports also declined prior to those years declining, for example, 3.4 gross between 2017 and 2019.¹⁶⁰

Due to the expedited nature of this review, the record contains limited information on the cased pencil industry in China. The information available indicates that subject producers in China have the means and incentive to increase exports of subject merchandise to the U.S. market within a reasonably foreseeable time if the order were revoked. Dixon Ticonderoga provided a list of *** foreign producers/exporters of cased pencils in China, and Musgrave and LaRose provided a list of 37 foreign producers/exporters.¹⁶¹ According to a report from the China Writing Instruments Association, from 2019 to 2021, subject producers increased their production by *** percent, from *** gross in 2019 to *** gross in 2021, even as their inventories increased by *** percent, from *** gross in 2019 to *** gross in 2021, equivalent to *** percent of apparent U.S. consumption that year.¹⁶² This report also indicates that subject producers exported from *** to *** percent of their production during the 2019-2021 period.¹⁶³ Indeed, Global Trade Atlas (“GTA”) data show that China was by far the largest global exporter of pencils and crayons with leads encased in a sheath, a product category that includes cased pencils as well as out-of-scope products, throughout the period of review, even as its exports of such merchandise declined.¹⁶⁴ Thus, the subject industry in China remains large and export oriented.

Furthermore, cased pencil producers in China are likely to direct additional exports to the United States after revocation. Subject imports maintained a significant presence in the U.S. market during the period of review, maintaining ready distribution networks in the United

¹⁵⁸ CR/PR at Tables I-6 & I-7.

¹⁵⁹ CR/PR at Table I-7.

¹⁶⁰ CR/PR at Tables I-6 & I-7.

¹⁶¹ CR/PR at I-23.

¹⁶² CR/PR at I-24. *See also* Dixon Ticonderoga Response at 15 and Exhibit 5.

¹⁶³ Dixon Ticonderoga Response at 16 and Exhibit 5.

¹⁶⁴ CR/PR at I-24; Table I-10. GTA data indicate that China’s exports of pencils and crayons with leads encased in a sheath, a product category that includes out-of-scope products, declined irregularly from \$506.2 million in 2016 to \$420.9 million in 2021, a level 16.9 percent lower than in 2016. *Id.* According to the China Writing Instruments Association report, subject producers’ exports declined *** percent from 2019 to 2021. Dixon Ticonderoga Response at 15 and Exhibit 5.

States through affiliated importers and sales agents. According to GTA data, the United States remained the largest destination for Chinese exports of pencils and crayons with leads encased in a sheath, a product category that includes cased pencils as well as out-of-scope product, in 2021.¹⁶⁵ Providing subject producers with an economic incentive to increase their exports of cased pencils to the United States after revocation, information on the record indicates that prices for cased pencils in the U.S. market are higher than prices in third country markets.¹⁶⁶ Moreover, since 2013, Mexico has imposed definitive duties on imported pencils from China providing further incentive for subject producers to direct exports to the U.S. market upon revocation of the order.¹⁶⁷ As further evidence of the Chinese producers' continued interest in the U.S. market, U.S. Customs and Border Protection ("CBP") determined that cased pencils from China were transshipped via the Philippines into the United States to evade the antidumping duty order -- a determination currently on appeal before the U.S. Court of Appeals for the Federal Circuit.¹⁶⁸

In light of these facts, including the significant and increasing volume of subject imports during the original investigation, the continued presence of subject imports in the U.S. market during the current period of review, the subject industry's substantial capacity, inventories, and export orientation, and the attractiveness of the U.S. market to subject producers, we find that the volume of subject imports would likely be significant, both in absolute terms and relative to consumption in the United States, if the order were revoked.¹⁶⁹

¹⁶⁵ CR/PR at Table I-9.

¹⁶⁶ See Dixon Ticonderoga Response at 23-24, Exhibit 12. According to the GTA data provided by Dixon Ticonderoga, since 2016, the unit values of Chinese exports to the United States were 15-36 percent higher than the unit value of China's exports to other markets. *Id.*

¹⁶⁷ CR/PR at I-26.

¹⁶⁸ CR/PR at I-24 n. 89; Dixon Ticonderoga's Response at 10.

¹⁶⁹ While there is currently a section 301 tariff of 7.5 percent *ad valorem* duty on subject imports from China, only Musgrave and LaRose assert that they have had an impact, and then only on the cost of materials imported from China for use in domestic pencil production. Musgrave and LaRose Revised Response at 3. Neither Dixon Ticonderoga nor any responding purchaser reported that these tariffs have had an effect on either the supply of or demand for subject imports or that they anticipated such effects in the reasonably foreseeable future. See CR/PR at D-3. Given this, the substantial capacity and export orientation of subject producers, and the attractiveness of the U.S. market to subject producers, the information available indicates that this tariff would not prevent subject imports from increasing significantly if the order were revoked.

The record does not contain data concerning the potential for product shifting.

D. Likely Price Effects

1. The Original Investigation and Prior Five-Year Reviews

In the original investigation, the Commission found that the subject imports undersold domestically produced cased pencils consistently and that there was a likelihood the subject imports would have a depressing or suppressing effect on prices for the domestic like product.¹⁷⁰

In the first five-year review, because pricing information was limited to data on AUVs between 1997 and 1999, the Commission relied on the indication of underselling shown by those data notwithstanding their limitations.¹⁷¹ The Commission concluded that if the antidumping duty order were revoked, prices for the subject imports would decline significantly.¹⁷² It found that the record suggested that the cased pencils market was price sensitive and that there was a high degree of substitutability between the subject imports and domestic like product.¹⁷³ Moreover, the pricing patterns of the subject imports during the original investigation indicated that there was likely to be significant underselling by the subject imports.¹⁷⁴ The Commission observed that, in light of the growing concentration and consolidation of purchasers, which increasingly were comprised of nationwide catalog wholesalers and superstores that made purchasing decisions on the basis of price, increased volumes of low-priced subject imports would likely depress prices for domestically produced cased pencils.¹⁷⁵ Consequently, the Commission found that if the antidumping duty order were revoked, the subject imports would likely have significant price depressing or suppressing effects.¹⁷⁶

In the second and third five-year reviews, the Commission found that price remained a principal determinant in the sale of cased pencils.¹⁷⁷ Although the Commission acknowledged possible product mix issues, the record of each review indicated that the AUVs of the subject

¹⁷⁰ Original Determination, USITC Pub. 2837 at I-17 (Additional Views of Chairman Watson and Commissioner Bragg); *id.* at I-23 (Separate Views of Commissioner Rohr and Commissioner Newquist); *id.* at I-27 (Additional Views of Vice Chairman Janet A. Nuzum).

¹⁷¹ First Five-Year Review, USITC Pub. 3328 at 11.

¹⁷² First Five-Year Review, USITC Pub. 3328 at 11.

¹⁷³ First Five-Year Review, USITC Pub. 3328 at 11.

¹⁷⁴ First Five-Year Review, USITC Pub. 3328 at 11–12.

¹⁷⁵ First Five-Year Review, USITC Pub. 3328 at 12.

¹⁷⁶ First Five-Year Review, USITC Pub. 3328 at 12.

¹⁷⁷ Second Five-Year Review, USITC Pub. 3820 at 13; Third Five-Year Review, USITC Pub. 4239 at

imports were considerably lower than the AUVs of the U.S. producers' U.S. shipments.¹⁷⁸ The Commission found in each review that if the order were revoked, the subject imports would likely undersell the U.S. product in order to gain additional market share, forcing domestic producers to lower their prices to avoid further declines in their production and shipment levels.¹⁷⁹ It concluded in each review that if the order were revoked, the likely significant increase in subject import volume at prices that would likely undersell the U.S. product would likely have significant price effects on U.S. producers.¹⁸⁰

In the fourth five-year review, the Commission found that the concentration and consolidation of purchasers, which increasingly were superstores that made purchasing decisions on the basis of price, continued during the period of review.¹⁸¹ The Commission also observed that the AUVs of the subject imports were lower during the period of review than the AUVs of U.S. shipments of U.S. producers and nonsubject imports in each year for which data were collected and that this was consistent with their findings in the previous proceedings and other evidence in the record demonstrating that subject imports were sold or offered for sale at lower prices than the domestic like product.¹⁸²

The Commission found that, due to the likely significant volume of subject imports, the high substitutability between subject imports and the domestic like product, the importance of price in purchasing decisions, the history of underselling by the subject imports, and the continuing concentration of purchasers' power, subject producers would likely significantly undersell the domestic like product to gain market share as they did during the original investigation. Noting that subject imports had continued to move into the high-value specialty pencil markets occupied by domestic producers, the Commission found that subject import underselling would likely result in significant price effects, as domestic producers would be forced either to cut prices or risk losing sales to subject import competition.¹⁸³

¹⁷⁸ Second Five-Year Review, USITC Pub. 3820 at 13; Third Five-Year Review, USITC Pub. 4239 at 18.

¹⁷⁹ Second Five-Year Review, USITC Pub. 3820 at 13; Third Five-Year Review, USITC Pub. 4239 at 18.

¹⁸⁰ Second Five-Year Review, USITC Pub. 3820 at 13; Third Five-Year Review, USITC Pub. 4239 at 18. In the third five-year review, the Commission observed that, since the imposition of the order, export AUVs of cased pencils from China to the United States had risen significantly (between 18 and 21 percent) above the average AUVs of Chinese cased pencil exports to the rest of the world. The Commission found that although the order had not restrained all Chinese exports, it appeared to have placed some price discipline on those exports. Third Five-Year Review, USITC Pub. 4239 at 18.

¹⁸¹ Fourth Five-Year Review, USITC Pub. 4715 at 25.

¹⁸² Fourth Five-Year Review, USITC Pub. 4715 at 25. The Commission noted that the record contained extremely limited price comparison data. *Id.*

¹⁸³ Fourth Five-Year Review, USITC Pub. 4715 at 26.

2. The Current Review

As discussed in section III.B.3, we continue to find a high degree of substitutability between the domestic like product and subject imports and that price is an important factor in purchasing decisions.

The record in this expedited review does not contain new product-specific pricing information. Based on the available information, including significant underselling by subject imports in the original investigation, the high degree of substitutability between subject imports and the domestic like product, and the importance of price in purchasing decisions, we find that if the antidumping duty order were revoked, subject imports would likely undersell the domestic like product to a significant degree as they did during the original investigation. Given this, as well as the concentration of purchasers and the presence of subject imports in the specialty pencil market,¹⁸⁴ the significant volume of low-priced subject imports that is likely in the event of revocation would likely force domestic producers to reduce their prices, forego needed price increases, or risk losing sales and market share to subject imports.

Accordingly, we find that if the order were revoked, significant volumes of subject imports would likely undersell the domestic like product to a significant degree and would likely gain market share or have a significant depressing or suppressing effect on prices for the domestic like product.

E. Likely Impact

1. The Original Investigation and Prior Five-Year Reviews

In the original investigation, the Commission found that the U.S. cased pencil industry was threatened with material injury by reason of the subject imports, based on the domestic industry's declining market share, capacity utilization, and employment and its operating losses throughout the POI.¹⁸⁵ The Commission found that increased volumes of subject imports would lead to price declines for the domestic like product and would prevent domestic producers from recovering cost increases.¹⁸⁶ As a result, the Commission concluded that the domestic industry's financial performance would likely deteriorate.¹⁸⁷

¹⁸⁴ See Dixon Ticonderoga Response at 17-18, 36.

¹⁸⁵ Original Determination, USITC Pub. 2837 at I-10 to I-11, I-13.

¹⁸⁶ Original Determination, USITC Pub. 2837 at I-17 (Additional Views of Chairman Watson and Commissioner Bragg); *id.* at I-27 to I-28 (Additional Views of Vice Chairman Janet A. Nuzum).

¹⁸⁷ Original Determination, USITC Pub. 2837 at I-17 (Additional Views of Chairman Watson and Commissioner Bragg); *id.* at I-27 to I-28 (Additional Views of Vice Chairman Janet A. Nuzum).

In the first five-year review, the Commission stated that the order had a positive effect on the industry's performance.¹⁸⁸ It found that the industry was not vulnerable in light of its profitability and the increase in AUVs for domestically produced pencils since the original investigation.¹⁸⁹ The Commission then referred to its findings that revocation of the order likely would result in a significant increase in the volume of subject imports at prices significantly lower than those of the domestic like product and that such increased volumes of subject imports would likely depress or suppress the domestic industry's prices significantly.¹⁹⁰ It observed that because a reduction in prices would not stimulate significant additional demand, revocation would likely have a significant impact on the production, shipments, sales, and revenue levels of the domestic industry.¹⁹¹ These declines, the Commission reasoned, in turn would have a direct adverse impact on the industry's employment, profitability, and ability to raise capital and make and maintain necessary capital investments.¹⁹² Accordingly, based on the limited record in that review, the Commission concluded that, if the antidumping duty order were revoked, subject imports would likely have a significant impact on the domestic industry within a reasonably foreseeable time.¹⁹³

In the second five-year review, the Commission noted that the record did not include current financial information on the domestic industry or otherwise permit it to assess whether the industry was vulnerable but that the record did show that the domestic industry's production and U.S. shipments had declined substantially since the first review.¹⁹⁴ The Commission found that subject import volume was likely to be significant if the order were revoked, resulting in likely significant price effects.¹⁹⁵ It concluded that revocation of the antidumping duty order would be likely to lead to significant declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and

¹⁸⁸ First Five-Year Review, USITC Pub. 3328 at 13.

¹⁸⁹ First Five-Year Review, USITC Pub. 3328 at 13.

¹⁹⁰ First Five-Year Review, USITC Pub. 3328 at 13.

¹⁹¹ First Five-Year Review, USITC Pub. 3328 at 13.

¹⁹² First Five-Year Review, USITC Pub. 3328 at 13.

¹⁹³ First Five-Year Review, USITC Pub. 3328 at 13.

¹⁹⁴ Second Five-Year Review, USITC Pub. 3820 at 15. The domestic industry's production decreased from *** gross in 1998 to *** gross in 2004, and its U.S. shipments decreased from *** gross in 1998 to *** gross in 2004. Second Five-Year Review, USITC Pub. 3820 at 15; Confidential Second Review Determination at 21–22.

¹⁹⁵ Second Five-Year Review, USITC Pub. 3820 at 15.

investment; and negative effects on the domestic industry's development and production efforts within a reasonably foreseeable time.¹⁹⁶

In the third five-year review, the information in the record on the domestic industry's condition during the third five-year review was limited to one year (2009), which was insufficient for the Commission to make a finding on whether the domestic industry was vulnerable to the continuation or recurrence of material injury in the event of revocation of the order.¹⁹⁷ The data showed that the domestic industry had become smaller since the prior review.¹⁹⁸ In addition, although comparisons with the prior two reviews were not available, the domestic industry's operating income and operating income margins were lower than in the original investigation.¹⁹⁹ The Commission acknowledged that the share of the U.S. market held by nonsubject imports had continued to increase since the prior review but found that a significant portion of the expected increase in subject imports would continue to occur at the expense of the domestic industry given the likelihood of subject import underselling and adverse price effects.²⁰⁰ It also found that any lingering effects of the economic downturn in 2009 were not likely to sever the causal nexus between subject imports and their likely significant impact on the domestic industry if the order were revoked and that the likely volume and price effects of the subject imports would likely have had a significant impact on the production, shipments, sales, market share, and revenues of the domestic industry.²⁰¹ The Commission thus concluded that if the antidumping duty order were revoked, subject imports from China would likely have a significant impact on the domestic industry within a reasonably foreseeable time.²⁰²

In the fourth five-year review, the Commission determined that the condition of the domestic industry generally improved over the period of review despite the closure of domestic producer Sanford in 2014.²⁰³ While finding that the domestic industry was not vulnerable, the Commission concluded that revocation of the order would likely lead to a significant increase in the volume of subject imports that would likely undersell the domestic like product and significantly suppress or depress prices for the domestic like product.²⁰⁴ Accordingly, the

¹⁹⁶ Second Five-Year Review, USITC Pub. 3820 at 15.

¹⁹⁷ Third Five-Year Review, USITC Pub. 4239 at 20.

¹⁹⁸ Third Five-Year Review, USITC Pub. 4239 at 20.

¹⁹⁹ Third Five-Year Review, USITC Pub. 4239 at 20; Confidential Third Review Determination at 29.

²⁰⁰ Third Five-Year Review, USITC Pub. 4239 at 20.

²⁰¹ Third Five-Year Review, USITC Pub. 4239 at 20.

²⁰² Third Five-Year Review, USITC Pub. 4239 at 20–21.

²⁰³ Fourth Five-Year Review, USITC Pub. 4715 at 28.

²⁰⁴ Fourth Five-Year Review, USITC Pub. 4715 at 29.

Commission found that subject imports would likely have an adverse impact on the domestic industry after revocation.²⁰⁵

The Commission 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. The Commission observed that while nonsubject imports increased in volume during the period of review, there was no indication or argument on the record that the presence of nonsubject imports would prevent cased pencils imports from China from significantly increasing their presence in the U.S. market in the event of revocation of the order.²⁰⁶ It also observed that U.S. purchasers indicated in their responses to the Commission's questionnaire that they would purchase low-priced cased pencils from China if the order were revoked, creating significant downward pricing pressure on the domestic like product.²⁰⁷

2. The Current Review

The record of this expedited review contains limited new information on the domestic industry's condition, consisting of data provided by the domestic producers in their responses to the notice of institution. Due to the limited record in this expedited review, this information is insufficient for us to make a finding as to whether the domestic industry is vulnerable to the continuation or recurrence of material injury in the event of revocation of the order.²⁰⁸

The information available indicates that the domestic industry's performance in 2021 declined relative to the industry's performance in the prior proceedings by nearly every measure. The domestic industry's production capacity was *** gross, its production was ***

²⁰⁵ Fourth Five-Year Review, USITC Pub. 4715 at 29.

²⁰⁶ Fourth Five-Year Review, USITC Pub. 4715 at 29.

²⁰⁷ Fourth Five-Year Review, USITC Pub. 4715 at 29-30.

²⁰⁸ Based on the information available in this expedited review (covering *** U.S. production of cased pencils), Commissioner Kearns and Commissioner Karpel find that the domestic industry is vulnerable to dumped imports. Specifically, they observe that the domestic industry's capacity utilization ratio was *** percent with an operating *** to net sales ratio of *** percent in 2021; the domestic industry's production, U.S. shipments' quantity and value, and net sales are also lower in 2021 than in *any* starting year of the prior proceedings. CR/PR at Table I-5. Further, U.S. producers' market share has declined significantly from the original investigation; it was *** percent in 1993, *** percent in 1998, *** percent in 2004, *** percent in 2009, *** percent in 2016, and *** percent in 2021. CR/PR at I-7. While data in expedited reviews is limited and often makes it difficult to make a finding on vulnerability, Commissioner Kearns and Commissioner Karpel find that the record in this case demonstrates that the industry is vulnerable to injury and the effects of any decline in demand would exacerbate that injury if the order were revoked.

gross, and its capacity utilization rate was *** percent.²⁰⁹ The industry's U.S. shipments were *** gross, with a value of \$***.²¹⁰ In 2021, the domestic industry's net sales revenue was \$***, cost of goods sold ("COGS") was \$***, gross profit was \$***, and operating income was ***; its ratio of operating income to net sales was *** percent.²¹¹

Based on the information available in this review, we find that revocation of the order would likely lead to a significant volume of subject imports that would likely significantly undersell the domestic like product. Given the high degree of substitutability between domestically produced cased pencils and subject imports and the importance of price to purchasers, the likely significant volume of low-priced subject imports would likely capture sales and market share from the domestic industry and/or force domestic producers to lower their prices to defend their sales, thereby depressing or suppressing prices for the domestic like product to a significant degree. Consequently, subject imports would likely have a significant impact on the production, shipments, sales, market share, and revenue of the domestic industry. These declines would likely impact the domestic industry's profitability and employment, and its ability to raise capital, and to make and maintain capital investments.

We have also considered the role of factors other than subject imports, including the presence of nonsubject imports, so as not to attribute injury from other factors to subject imports. Although nonsubject imports have increased their presence in the U.S. market since the prior proceedings, accounting for *** percent of apparent U.S. consumption in 2021,²¹² the record provides no indication that the presence of nonsubject imports would prevent subject imports from entering the U.S. market in significant volumes through significant underselling after revocation of the order. Given the high degree of substitutability between subject imports and the domestic like product, the importance of price in purchasing decisions, and the likelihood of underselling by subject imports in the absence of the discipline of the order, we find the likely significant volume of subject imports would likely take market share at least in

²⁰⁹ Calculated from CR/PR at Tables I-5 & B-2. *See also*, Staff Worksheet at Table I-5b. Reported capacity utilization in 2021 was *** than in the last years examined in the prior proceedings. *Id.* *See also* CR/PR at Appendix C.

²¹⁰ Calculated from CR/PR at Tables I-5 & B-2. *See also*, Staff Worksheet at Table I-5b. The reported quantity and value of U.S. shipments was *** than in the last years examined in the prior proceedings. *Id.*

²¹¹ Calculated from CR/PR at Tables I-5 & B-2. *See also*, Staff Worksheet at Table I-5b. The industry's net sales were lower than in the last years of the prior proceedings, but its operating *** was *** as a share of net sales than in 2009 but worse than in 1993 or the industry's *** operating margin of *** percent in 2016. *Id.* The industry's COGS were lower than the last years of the prior proceedings. *Id.* Gross profits were lower during the current period of review than in 2016 and 1993, but higher than in 2009. *Id.*

²¹² Calculated from CR/PR at Tables I-7 & B-2. *See also*, Staff Worksheet at Table I-7b.

part at the expense of the domestic industry or depress or suppress domestic prices to a significant degree. Consequently, we find that any effects of nonsubject imports would be distinct from the likely effects attributable to the subject imports.

We recognize that apparent U.S. consumption was *** percent lower in 2021 than in 2016, and that retail sales of cased pencils declined *** percent, by value, during the period of review.²¹³ Nevertheless, neither the domestic producers nor any responding purchasers reported a significant decline in cased pencil demand during the period of review, or any decline in demand for the specialized pencils on which the domestic industry currently focuses. Furthermore, the likely significant volume of low-priced subject imports upon revocation would exacerbate the effects of any decline in demand on the domestic industry in the reasonably foreseeable future.

In sum, we conclude that if the order were revoked, subject imports from China would likely have a significant impact on the domestic industry within a reasonably foreseeable time.

IV. Conclusion

For the foregoing reasons, we determine that revocation of the antidumping duty order on cased pencils from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

²¹³ Calculated from CR/PR at Tables I-7 & B-2; Dixon Ticonderoga Response at 10, Exhibit 3. See also, Staff Worksheet at Table I-7b.

Information obtained in this review

Background

On August 1, 2022, 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 a review to determine whether revocation of the antidumping duty order on cased pencils from China would be likely to lead to 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} Table I-1 presents information relating to the background and schedule of this proceeding.

Table I-1
Cased pencils: Information relating to the background and schedule of this proceeding

Effective date	Action
August 1, 2022	Notice of initiation by Commerce (87 FR 46943, August 1, 2022)
August 1, 2022	Notice of institution by Commission (87 FR 46998, August 1, 2022)
November 4, 2022	Commission’s vote on adequacy (88 FR 2372, January 13, 2023)
November 23, 2022	Commerce’s results of its expedited review (87 FR 71582, November 23, 2022)
March 3, 2023	Commission’s determination and views

¹ 19 U.S.C. 1675(c).

² 87 FR 46998, August 1, 2022. In accordance with section 751(c) of the Act, the U.S. Department of Commerce (“Commerce”) published a notice of initiation of a five-year review of the subject antidumping duty order. 87 FR 46943, August 1, 2022. 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 the original investigation and any subsequent full review are 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 domestic like product and the subject merchandise. Presented in app. D are the responses received from purchaser surveys transmitted to the purchasers identified in this proceeding.

Responses to the Commission’s notice of institution

Individual responses

The Commission received two submissions in response to its notice of institution in the subject review. The first submission was filed on behalf of Dixon Ticonderoga Company (“Dixon Ticonderoga”), a U.S. producer of the domestic like product and a U.S. importer of the subject merchandise, as well as an affiliate to a Chinese producer and exporter of the subject merchandise.^{5 6} The second submission was filed on behalf of Musgrave Pencil Company, Inc. (“Musgrave”), a U.S. producer of the domestic like product, and LaRose Industries LLC dba Cra-Z-Art (“LaRose”), a U.S. producer of the domestic like product and a U.S. importer of the subject merchandise.^{7 8 9}

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 estimates of coverage for each is shown in table I-2.

⁵ Dixon Ticonderoga supports the continuation of the order covering imports of cased pencils from China. Dixon Ticonderoga’s response to the notice of institution, August 30, 2022, exh. 1.

⁶ In its response to the notice of institution, Dixon Ticonderoga provided information on its subject imports and on the cased pencils operations of its affiliate firm FILA Dixon Stationery Kunshan Co., LTD (“Dixon Kunshan”), a Chinese producer/exporter of the subject merchandise. See table I-2 notes, table I-8, and app. B for more information.

⁷ Both Musgrave and LaRose support the continuation of the order covering imports of cased pencils from China. Musgrave and LaRose’s response to the notice of institution, September 2, 2022, exh. 1.

⁸ In its response to the notice of institution, LaRose provided information on its subject imports. See table I-2 notes and app. B for more information.

⁹ Responding domestic interested parties named General Pencil Company, Inc. (“General Pencil”) as a fourth and current U.S. producer of the domestic like product.

General Pencil, Dixon Ticonderoga, and Musgrave, along with Rose Moon, Inc. (“Rose Moon”), which LaRose purchased in 2021, participated in the Commission’s full fourth five-year review on cased pencils from China. General Pencil, Dixon Ticonderoga, Musgrave, and Rose Moon accounted for nearly all of U.S. production of cased pencils during 2016. Cased Pencils from China, Inv. No. 731-TA-669 (Fourth Review), USITC Publication 4715, August 2017 (“Fourth review publication”), p. I-19.

Table I-2

Cased pencils: Summary of completed responses to the Commission’s notice of institution

Interested party	Type	Number of firms	Coverage
U.S. producers	Domestic	3	***
U.S. importers (also U.S. producers)	China	2	***
Foreign producer/exporter (U.S. producer-affiliate)	China	1	***

Note: In 2021, there were four known U.S. producers of cased pencils: Dixon Ticonderoga, Musgrave, LaRose, and General Pencil. Responding domestic interested parties Dixon Ticonderoga, Musgrave, and LaRose estimated that they accounted for ***, ***, and *** percent, respectively, of domestic production of cased pencils during 2021. Dixon Ticonderoga’s response to the notice of institution, August 30, 2022; exh. 1; Musgrave and LaRose’s supplemental response to the notice of institution, September 27, 2022, p. 8. Staff believe these figures ***. Nonetheless, given all available information, staff believe that Dixon Ticonderoga, Musgrave, and LaRose accounted for *** of U.S. production of cased pencils during 2021.

Note: Dixon Ticonderoga and LaRose estimated that they accounted for *** and *** percent, respectively, of total U.S. imports of cased pencils from China during 2021. Dixon Ticonderoga’s response to the notice of institution, August 30, 2022, exh. 1; Musgrave and LaRose’s supplemental response to the notice of institution, October 5, 2022, p. 2 and exh. 1. Together, these two importers are estimated to have accounted for *** percent of total U.S. imports of cased pencils from China during 2021.

Note: Dixon Ticonderoga estimated that its affiliate firm Dixon Kunshan accounted for *** percent of total exports of cased pencils from China to the United States during 2021. Dixon Ticonderoga’s response to the notice of institution, August 30, 2022, exh. 1; Dixon Ticonderoga’s supplemental response to the notice of institution, September 26, 2022, pp. 1-2.

Party comments on adequacy

The Commission received party comments on the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review from Musgrave and LaRose. Musgrave and LaRose request that the Commission conduct an expedited review of the antidumping duty order on cased pencils from China.¹⁰

¹⁰ Musgrave and LaRose’s comments on adequacy, October 14, 2022, p. 11.

The original investigation

The original investigation resulted from a petition filed on November 10, 1993, with Commerce and the Commission by the Pencil Makers Association, Inc. (“PMA”), Marlton, New Jersey.¹¹ ¹² On November 8, 1994, Commerce determined that imports of cased pencils from China were being, or were likely to be, sold at less than fair value (“LTFV”).¹³ The Commission determined on December 15, 1994, that the domestic industry was threatened with material injury by reason of LTFV imports of cased pencils from China.¹⁴ On December 28, 1994, Commerce issued its antidumping duty order with the final weighted-average dumping margins ranging from 0.0 to 44.66 percent.¹⁵

The first five-year review

On March 3, 2000, the Commission determined that it would conduct an expedited review of the antidumping duty order on cased pencils from China.¹⁶ On July 5, 2000, Commerce determined that revocation of the antidumping duty order on cased pencils from China would be likely to lead to continuation or recurrence of dumping.¹⁷ On July 24, 2000, the Commission determined that material injury would be likely to continue or recur within a reasonably foreseeable time.¹⁸ Following an affirmative determination in the five-year review by Commerce and the Commission, effective August 10, 2000, Commerce issued a continuation of the antidumping order on imports of cased pencils from China.¹⁹

¹¹ Certain Cased Pencils from the People’s Republic of China, Inv. No. 731-TA-669 (Final), USITC Publication 2837, December 1994 (“Original publication”), pp. II-3 and A-3.

¹² The original proceeding alleged that an industry in the United States was materially injured and threatened with material injury by reason of imports of cased pencils from China and Thailand. The Commission conducted the investigations for both China and Thailand concurrently. However, the Commission made a final negative determination in the investigation concerning Thailand. Original publication, p. II-3.

¹³ 59 FR 55625, November 8, 1994.

¹⁴ Original publication, p. 3; 59 FR 65788, December 21, 1994.

¹⁵ 59 FR 66909, December 28, 1994. China First and Guangdong, foreign producers/exporters of the subject merchandise, received a zero dumping margin and were excluded from the original order. *Id.* However, Commerce has not excluded these firms in previous sunset and administrative reviews. See Fourth review publication, pp. I-9-I-15.

¹⁶ 65 FR 15007, March 20, 2000.

¹⁷ 65 FR 41431, July 5, 2000.

¹⁸ 65 FR 46495, July 28, 2000.

¹⁹ 65 FR 48960, August 10, 2000.

The second five-year review

On October 4, 2005, the Commission determined that it would conduct an expedited review of the antidumping duty order on cased pencils from China.²⁰ On November 7, 2005, Commerce determined that revocation of the antidumping duty order on cased pencils from China would be likely to lead to continuation or recurrence of dumping.²¹ On November 30, 2005, the Commission determined that material injury would be likely to continue or recur within a reasonably foreseeable time.²² Following an affirmative determination in the five-year review by Commerce and the Commission, effective December 20, 2005, Commerce issued a continuation of the antidumping duty order on imports of cased pencils from China.²³

The third five-year review

On February 4, 2011, the Commission determined that it would conduct an expedited review of the antidumping duty order on cased pencils from China.²⁴ On March 7, 2011, Commerce determined that revocation of the antidumping duty order on cased pencils from China would be likely to lead to continuation or recurrence of dumping.²⁵ On June 27, 2011, the Commission determined that material injury would be likely to continue or recur within a reasonably foreseeable time.²⁶ Following an affirmative determination in the five-year review by Commerce and the Commission, effective July 12, 2011, Commerce issued a continuation of the antidumping duty order on imports of cased pencils from China.²⁷

²⁰ 70 FR 60557, October 18, 2005.

²¹ 70 FR 67427, November 7, 2005.

²² 70 FR 72652, December 6, 2005.

²³ 70 FR 75450, December 20, 2005.

²⁴ 76 FR 11267, March 1, 2011.

²⁵ 76 FR 12323, March 7, 2011.

²⁶ 76 FR 38697, July 1, 2011.

²⁷ 76 FR 40880, July 12, 2011.

The fourth five-year review

On September 6, 2016, the Commission determined that it would conduct a full review of the antidumping duty order on cased pencils from China.²⁸ On October 6, 2016, Commerce determined that revocation of the antidumping duty order on cased pencils from China would be likely to lead to continuation or recurrence of dumping.²⁹ On August 17, 2017, the Commission determined that material injury would be likely to continue or recur within a reasonably foreseeable time.³⁰ Following an affirmative determination in the five-year review by Commerce and the Commission, effective September 1, 2017, Commerce issued a continuation of the antidumping duty order on imports of cased pencils from China.³¹

Previous and related investigations

The Commission has conducted one previous import injury investigation on cased pencils or similar merchandise, as presented in table I-3.

Table I-3
Cased pencils: Previous and related Commission proceedings and status of orders

Date	Number	Country	ITC Original Determination	Current Status of Order
1994	731-TA-670	Thailand	Negative	ITA affirmative final determination; ITC negative final determination; no order issued.

Source: U.S. International Trade Commission publications and Federal Register notices.

Note: "Date" refers to the year in which the investigation or review was instituted by the Commission.

²⁸ 82 FR 12467, March 3, 2017.

²⁹ 81 FR 69513, October 6, 2016.

³⁰ 82 FR 40019, August 23, 2017.

³¹ 82 FR 41608, September 1, 2017.

Commerce's five-year review

Commerce announced that it would conduct an expedited review with respect to the order on imports of cased pencils from China with the intent of issuing the final results of this review based on the facts available not later than November 29, 2022.³² Commerce publishes its Issues and Decision Memoranda and its final results concurrently, accessible upon publication at <http://enforcement.trade.gov/frn/>. Issues and Decision Memoranda contain complete and up-to-date information regarding the background and history of the order, including scope rulings, duty absorption, changed circumstances reviews, and anticircumvention, as well as any decisions that may have been pending at the issuance of this report. Any foreign producers/exporters that are not currently subject to the antidumping duty order on imports of cased pencils from China are noted in the sections titled "The original investigation" and "U.S. imports," if applicable.

The product

Commerce's scope

Commerce has defined the scope as follows:

Imports covered by the Order are shipments of certain cased pencils of any shape or dimension (except as described below) which are writing and/or drawing instruments that feature cores of graphite or other materials, encased in wood and/or man-made materials, whether or not decorated and whether or not tipped (e.g., with erasers, etc.) in any fashion, and either sharpened or unsharpened.

The pencils subject to the Order are currently classifiable under subheading 9609.10.00 of the Harmonized Tariff Schedule of the United States (HTSUS).

³² Letter from Robert Bolling, Acting Office Director, Office IV, AD/CVD Operations, Enforcement and Compliance, U.S. Department of Commerce to Nannette Christ, Director of Investigations, U.S. International Trade Commission, September 20, 2022.

Specifically excluded from the scope of the Order are mechanical pencils, cosmetic pencils, pens, non-cased crayons (wax), pastels, charcoals, chalks, and pencils produced under U.S. patent number 6,217,242, from paper infused with scents by the means covered in the above-referenced patent, thereby having odors distinct from those that may emanate from pencils lacking the scent infusion.

Also excluded from the scope of the Order are pencils with all of the following physical characteristics: (1) Length: 13.5 or more inches; (2) sheath diameter: Not less than one-and-one quarter inches at any point (before sharpening); and (3) core length: Not more than 15 percent of the length of the pencil.

In addition, pencils with all of the following physical characteristics are excluded from the scope of the Order: Novelty jumbo pencils that are octagonal in shape, approximately ten inches long, one inch in diameter before sharpening, and three-and-one eighth inches in circumference, composed of turned wood encasing one-and-one half inches of sharpened lead on one end and a rubber eraser on the other end.

The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the merchandise covered by the scope of the Order is dispositive.³³

³³ 82 FR 41608, September 1, 2017.

U.S. tariff treatment

Cased pencils are currently provided for in Harmonized Tariff Schedule of the United States (“HTSUS” or “HTS”) subheading 9609.10.00 (“pencils and crayons, with leads encased in a sheath”).³⁴ The subheading includes lead pencils and colored pencils but does not include mechanical or cosmetic pencils.³⁵ The subheading covers a broader category of items that are explicitly excluded from the order (e.g., certain novelty jumbo pencils). Cased pencils produced in China are dutiable at a column 1-general rate of 14 cents per gross plus 4.3 percent ad valorem. Effective, February 14, 2020, cased pencils produced in China are subject to an additional 7.5 percent ad valorem duty under Section 301 of the Trade Act of 1974.³⁶ Decisions on the tariff classification and treatment of imported goods are within the authority of U.S. Customs and Border Protection (“CBP”).

³⁴ This HTS subheading has changed slightly since the fourth review. Prior to the 2022 HTS revisions, it covered all pencils and crayons, with leads encased in specifically a “rigid” sheath.

³⁵ Mechanical pencils are covered separately under HTS statistical reporting number 9608.40.4000 and pencils for cosmetic use are covered under chapter 33 of the HTS.

³⁶ The U.S. Trade Representative imposed the tariffs under Section 301 of the Trade Act of 1974 after determining that certain acts, policies, and practices of China are unreasonable or discriminatory and burden or restrict U.S commerce (82 FR 40213, August 24, 2017; 83 FR 14906, April 6, 2018). Cased pencils were included in the fourth enumeration (“Tranche 4”) of goods produced in China that are subject to additional Section 301 duties. Tranche 4 tariffs, with a duty rate of 10 percent were to go into effect September 1, 2019 (84 FR 43304, August 20, 2019). However, before Tranche 4 tariffs went into effect, the duty was raised to 15 percent ad valorem, with the same effective date of September 1, 2019 (84 FR 45821, August 30, 2019). Effective February 14, 2020, the duty rate was reduced to 7.5 percent ad valorem (85 FR 3741, January 22, 2020).

See also HTS heading 9903.88.15 and U.S. notes 20(r) and 20(s) to subchapter III of chapter 99 and related tariff provisions for this duty treatment. USITC, HTS (2022) Revision 10, USITC Publication 5373, July 2022, pp. 99-III-86 – 99-III-100, 99-III-295.

Description and uses³⁷

As indicated in the scope definition, cased pencils are writing and/or drawing instruments consisting of cores of graphite or other materials, encased in wood and/or man-made materials. The wood is typically covered with several coats of quick drying lacquer (painted) and is tipped with an eraser and a ferrule (the small circular band of aluminum which affixes the eraser to the top of the pencil) to make a finished pencil. Cased pencils of all types are used almost exclusively for writing and drawing on paper or making marks on other objects. Decorated, designer, and novelty pencils are used not only for writing but also for collecting.³⁸

As was the case in the original investigation and four prior five-year reviews, the most commonly sold pencil today is the so-called commodity or economy pencil, the standard yellow No. 2 pencil.³⁹ Virtually all No. 2 pencils sold in the United States have the same color, hardness, diameter, and length, and have similarly attached ferrules and erasers. The interested parties contend that Chinese producers manufacture both commodity and specialty products that compete directly with U.S. producers' cased pencils.⁴⁰

³⁷ Unless otherwise noted, this information is based on the Fourth review publication, pp. I-16-I-18.

³⁸ Decorated pencils have multicolored designs such as cartoon characters, or design-covered foil on the case. Novelty pencils are tipped with a decorative item such as a doll's head.

³⁹ The numerical graphic scale of designating pencils refers to the hardness of the core, 1 being the softest core (and darkest mark) and 4 the hardest core (and lightest mark). Most pencil manufacturers outside of the United States use a different HB (hardness and blackness) scale where a combination of letter and number inform the user of the hardness and blackness of the pencil and its markings. For more information see Pencils.com, "Graphite Grading Scales Explained," <https://pencils.com/hb-graphite-grading-scale/> (accessed October 6, 2022).

Dixon Ticonderoga noted that a large portion of the market consists of commodity cased pencils, the "Number 2 Standard" pencil being the dominant model. Due to their uniform size, color, and features, Dixon Ticonderoga states, "there is very little to distinguish the product of one producer from another." Dixon Ticonderoga's response to the notice of institution, August 30, 2022, p. 26.

⁴⁰ Dixon Ticonderoga's response to the notice of institution, August 30, 2022, p. 17; Musgrave and LaRose's response to the notice of institution, September 2, 2022, p. 8.

In addition to commodity or economy pencils, many different types of specialty and custom pencils are produced in the United States, including colored, golf, decorated, designer, novelty, promotional, advertising, carpenter, and drawing pencils. U.S. pencil producers concentrate on supplying specialty pencils and custom pencils for promotion and awards since imports from China have dominated the U.S. market segments for low-priced commodity pencils.⁴¹ Although the bulk of reported imports from China during the original investigations consisted of raw pencils⁴² and commodity pencils, domestic interested parties have indicated in past reviews that producers in China have developed the ability to produce smaller volume runs of decorator pencils (below 100,000 gross) and have expanded their participation in the pencil “blank” segment.⁴³ They also indicated that the antidumping duty order on cased pencils from China has permitted the industry in the United States to remain competitive in these specialty market areas.⁴⁴

In addition, e-commerce provides sellers with easy access to buyers in the U.S. market through dozens of internet trading portals and hundreds of individual companies that offer bulk products for sale, including cased pencils. The increase in internet-based buying and selling is particularly evident in the specialty and custom cased pencils segment of the market, where U.S. production has been concentrated.⁴⁵

⁴¹ Fourth review publication, pp. I-17.

⁴² A “raw” pencil has not been lacquered and has not had the eraser and ferrule added. Fourth review publication, pp. I-17, fn. 39.

⁴³ Unfinished pencils and blank pencils appear to be interchangeable industry terms for undecorated pencils that are used for printing customized messages. Fourth review publication, pp. 6, I-17-I-18, fn. 40.

⁴⁴ Fourth review publication, pp. I-18.

⁴⁵ Fourth review publication, pp. I-18.

Manufacturing process⁴⁶

The production process and techniques for both domestic and imported cased pencils has remained mostly unchanged since the original investigation. Dixon Ticonderoga described the pencil industry as "technologically mature" and observed that there have been "no remarkable technological advances" in the pencil manufacturing process or changes to the product.⁴⁷

The standard core of a cased pencil is made of graphite, clay, wax, and proprietary chemical mixtures, the specific combination of which determines the pencil's hardness. The pencil's sheath is usually made of wood, typically California incense cedar wood for premium pencils and basswood for value lines of pencils.⁴⁸ A groove is cut into the sheath to house the pencil core. Glue is then applied to the surface of the groove, and the core is placed in the groove. Another sheath with a similar groove cut into it is then glued on top of the first sheath, making what is called a "sandwich." The sandwich is then clamped under pressure to ensure bonding and reduce warping. After the sandwich has bonded, it is trimmed and then milled into separate pencils, typically nine. Three to seven coats of lacquer are applied to the pencils, followed by a clear coat. An eraser is then attached with a crimped ferrule to each pencil.

⁴⁶ Unless otherwise noted, this information is based on the Fourth review publication, pp. I-18.

⁴⁷ Dixon Ticonderoga's response to the notice of institution, August 30, 2022, p. 19.

⁴⁸ According to a representative from Musgrave, its supplier of wood slats processes most of its wood in factories in China. U.S. originating wood is exported to the supplier's factories in Tianjin and then Musgraves imports the processed slats. For more information, see WPLN, "The Company That Turned a Small Tennessee Town Into 'Pencil City' Still Holds On," <https://wpln.org/post/the-company-that-turned-a-small-tennessee-town-into-pencil-city-still-holds-on/> (accessed October 7, 2022).

The industry in the United States

U.S. producers

During the final phase of the original investigation, the Commission sent questionnaires to 11 U.S. producers. Responses were received from eight firms, six of which supplied useable information on their operations of cased pencils.^{49 50}

During the expedited first, second, and third five-year reviews, domestic interested parties identified nine, nine, and eight U.S. producers of cased pencils, respectively.⁵¹ Six, five, and four responding U.S. producers accounted for ***, ***, and 88 percent of total U.S. production of cased pencils during 1998, 2004, and 2009, respectively.⁵²

During the full fourth five-year review, the Commission received U.S. producer questionnaires from four firms, which were believed to account for nearly all of U.S. production of cased pencils in 2016.⁵³

In response to the Commission's notice of institution in this current review, domestic interested parties provided a list of four known and currently operating U.S. producers of cased pencils.⁵⁴ Three firms providing U.S. industry data in response to the Commission's notice of institution accounted for *** of U.S. production of cased pencils in 2021.⁵⁵

⁴⁹ Certain Cased Pencils from Thailand, Inv. No. 731-TA-670 (Final), USITC Publication 2816, October 1994 ("Thailand publication"), p. II-8. The Thailand publication is intended to be used in conjunction with the Commission's report on cased pencils from China. See Original publication (on China), p. II-3.

⁵⁰ In the original investigation, a coverage figure for the responding U.S. producers was not presented. See generally the Thailand publication at p. II-8-II-14.

⁵¹ Cased Pencils from China, Inv. No. 731-TA-669 (Review), USITC Publication 3328, July 2000 ("First review publication"), p. I-9. Cased Pencils from China, Inv. No. 731-TA-669 (Second Review), USITC Publication 3820, November 2005 ("Second review publication"), p. I-9. Cased Pencils from China, Inv. No. 731-TA-669 (Third Review), USITC Publication 4239, June 2011 ("Third review publication"), p. I-19.

⁵² Investigation No. 731-TA-669 (Review): Cased Pencils from China, Confidential Report, INV-X-139, June 22, 2000, ("First review confidential report"), p. I-3, fn.2. Investigation No. 731-TA-669 (Second Review): Cased Pencils from China, Confidential Report, INV-CC-185, October 26, 2005, ("Second review confidential report"), p. I-3, fn.3. Third review publication, p. I-3, fn. 4.

⁵³ Fourth review publication, pp. I-19 and III-1.

⁵⁴ The four firms include Dixon Ticonderoga, Musgrave, LaRose, and General Pencil. Dixon Ticonderoga's response to the notice of institution, August 30, 2022, p. 8; Musgrave and LaRose's response to the notice of institution, September 2, 2022, p. 10.

⁵⁵ See the "Individual responses" section of this report for a discussion on U.S. producers' coverage.

Recent developments

Since the Commission’s last five-year review, no known producer has left the U.S. cased pencils market. However, LaRose purchased the pencil production assets from Mattel in January 2021. These assets had been operated by Mattel’s subsidiary, Rose Moon, and include the brands Rose Moon and RoseArt.⁵⁶

Between 2016 and 2021, U.S. retail sales of cased pencils declined by *** percent.⁵⁷ In their responses to the notice of institution, domestic interested parties cited an increase in input costs since the last five-year review. Musgrave and LaRose cited an increase in the cost of slats and ferrules due to the 301 tariffs imposed on products from China.⁵⁸ They state that the only available source for these two materials is China. Musgrave, LaRose, and Dixon Ticonderoga all cited an increase in wood prices.⁵⁹ According to US Producer Price Index (PPI) estimates, from December 2019 to December 2021, the price of lumber and wood products increased by 65 percent.⁶⁰

Table I-4 presents events in the U.S. industry since the last five-year review.

Table I-4
Cased pencils: Recent developments in the U.S. industry

Item	Firm	Event
Acquisition	LaRose	In January 2021, LaRose acquired Mattel’s Arts, Crafts, Stationary (AST) business. Relevant brands included in the deal include RoseArt and Rose Moon, as well as USA Gold and USA Titanium pencils

Source: “LaRose Industries, LLC, d/b/a Cra-Z-Art, Acquires Arts, Crafts, Stationary Business from Mattel,” <https://apnews.com/press-release/pr-newswire/business-corporate-news-north-america-mergers-and-acquisitions-ownership-changes-669665fc58f4a8d7f5e62e67d56f37d4>, (accessed September 21, 2022).

⁵⁶ Musgrave and LaRose’s response to the notice of institution, September 2, 2022, p. 3; AP News, “LaRose Industries, LLC, d/b/a Cra-Z-Art, Acquires Arts, Crafts, Stationary Business from Mattel,” <https://apnews.com/press-release/pr-newswire/business-corporate-news-north-america-mergers-and-acquisitions-ownership-changes-669665fc58f4a8d7f5e62e67d56f37d4>, (accessed September 21, 2022).

⁵⁷ Dixon Ticonderoga’s response to the notice of institution, August 30, 2022, p. 12 and exh. 3.

⁵⁸ Musgrave and LaRose’s response to the notice of institution, September 2, 2022, p. 3.

⁵⁹ Musgrave and LaRose’s response to the notice of institution, September 2, 2022, p. 3; See Dixon Ticonderoga’s response to the notice of institution, August 30, p. 10 and exh. 9.

⁶⁰ PPI Commodity data for lumber and wood products, Series WPS081. Dixon Ticonderoga cited in its response to the notice of institution a figure of 67 percent without specifying exact months. See Dixon Ticonderoga’s response to the notice of institution, August 30, p. 10 and exh. 9.

U.S. producers' trade and financial data

The Commission asked domestic interested parties to provide trade and financial data in their response to the notice of institution in the current five-year review.⁶¹ Table I-5 presents a compilation of the trade and financial data submitted from all responding U.S. producers in the original investigation and subsequent five-year reviews.

Table I-5
Cased pencils: Trade and financial data submitted by U.S. producers, by period

Quantity in 1,000 gross; value in 1,000 dollars; unit value in dollars per gross; ratio is in percent

Item	Measure	1993	1998	2004	2009	2016	2021
Capacity	Quantity	***	***	***	***	***	***
Production	Quantity	***	***	***	***	***	***
Capacity utilization	Ratio	***	***	***	***	***	***
U.S. shipments	Quantity	***	***	***	***	***	***
U.S. shipments	Value	***	***	***	***	***	***
U.S. shipments	Unit value	***	***	***	***	***	***
Net sales	Value	***	***	***	***	***	***
COGS	Value	***	***	***	***	***	***
COGS to net sales	Ratio	***	***	***	***	***	***
Gross profit or (loss)	Value	***	***	***	***	***	***
SG&A expenses	Value	***	***	***	***	***	***
Operating income or (loss)	Value	***	***	***	***	***	***
Operating income or (loss) to net sales	Ratio	***	***	***	***	***	***

Source: For the years 1993, 1998, 2004, 2009, and 2016, data are compiled using data submitted in the Commission's original investigation and subsequent five-year reviews. For the year 2021, data are compiled using data submitted by domestic interested parties. Dixon Ticonderoga's response to the notice of institution, August 30, 2022, exh. 1; Musgrave and LaRose's response to the notice of institution, September 2, 2022, pp. 13-14 and exh. 1; Musgrave and LaRose's supplemental response to the notice of institution, September 27, 2022, pp. 4-5, 8-9, and exh. 1; Musgrave and LaRose's supplemental errata response to the notice of institution, September 27, 2022, pp. 1-2.

Note: For a discussion of data coverage, please see the "Individual responses" and "U.S. producers" sections of this report.

Note: Shares and ratios shown as "0.0" percent represent non-zero values less than "0.05" percent. Zeros, null values, undefined calculations, and unviable data are suppressed and shown as "---".

⁶¹ Individual company trade and financial data are presented in app. B.

Definitions of the domestic like product and domestic industry

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. 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 U.S. producer from the domestic industry for purposes of its injury determination if “appropriate circumstances” exist.⁶²

In its original determination, its expedited first, second, and third five-year review determinations, and its full fourth five-year review determination, the Commission defined the domestic like product as all cased pencils, coextensive with Commerce’s scope.⁶³

In its original determination the Commission defined the domestic industry as all domestic producers of cased pencils except for one domestic producer, Pentech International, Inc., which it excluded from the domestic industry under the related parties provision. In its expedited first and second five-year review determinations, the Commission defined the domestic industry as all domestic producers of cased pencils. In its expedited third five-year review determination, the Commission defined the domestic industry as all domestic producers of cased pencils except for one domestic producer, Dixon Ticonderoga, which it excluded from the domestic industry under the related parties provision. Certain Commissioners defined the domestic industry differently in the expedited third five-year review determination. Similarly, in its full fourth five-year review determination, the Commission defined the domestic industry as all domestic producers of cased pencils except for Dixon Ticonderoga, which it again excluded from the domestic industry under the related parties provision.⁶⁴

In their responses to the notice of institution for this current review, Dixon Ticonderoga and LaRose, which accounted for a reported *** percent of domestic production of cased pencils during 2021, also reported imports of the subject merchandise. In 2021, Dixon Ticonderoga’s subject imports were equivalent to *** percent of the quantity of its U.S. production of cased pencils. In 2021, LaRose’s subject imports were equivalent to *** percent of the quantity of its U.S. production of cased pencils.⁶⁵

⁶² Section 771(4)(B) of the Tariff Act of 1930, 19 U.S.C. § 1677(4)(B).

⁶³ 87 FR 46998, August 1, 2022.

⁶⁴ 87 FR 46998, August 1, 2022.

⁶⁵ Shares are derived from data presented in app. B.

U.S. importers

During the final phase of the original investigation, the Commission received U.S. importer questionnaires from 27 firms which reported imports of cased pencils from China. Import data presented in the original investigation were based on official Commerce statistics and questionnaire responses.⁶⁶

During the expedited first five-year review, the Commission received a response to its notice of institution from U.S. importer Raymond Geddes & Company, Inc. (“Geddes”). Geddes was estimated to account for *** percent of total U.S. imports of cased pencils from China during 1998. Domestic interested parties in the first review identified five firms, which included Geddes, as importers of cased pencils from China.⁶⁷ Import data presented in the first review were based on official Commerce statistics.⁶⁸

Although the Commission did not receive responses from any respondent interested parties in its expedited second five-year review, domestic interested parties identified 12 possible U.S. importers of cased pencils from China.⁶⁹ Import data presented in the second review were based on official Commerce statistics.⁷⁰

During the expedited third five-year review, the Commission received a response from Dixon Ticonderoga and a group of three domestic interested parties. These domestic interested parties identified Dixon Ticonderoga and more than 60 other firms as U.S. importers of cased pencils from China.⁷¹ Import data presented in the third review were based on official Commerce statistics.⁷²

⁶⁶ Thailand publication, pp. II-39-II-47. In the original investigation, a coverage figure for the responding U.S. importers was not presented. *Id.*

⁶⁷ First review confidential report, p. I-3, fn. 2.

⁶⁸ First review publication, pp. I-13-I-14.

⁶⁹ Second review publication, p. I-11. Domestic interested parties reported that in addition to the 12 U.S. importers identified, ***. Second review confidential report, p. I-18.

⁷⁰ Second review publication, pp. I-14-I-15.

⁷¹ Third review publication, p. I-23.

⁷² Third review publication, p. I-25-I-26.

During the full fourth five-year review, the Commission received U.S. importer questionnaires from 50 firms, which accounted for approximately *** percent of total U.S. imports of cased pencils from China during 2016.⁷³ Import data presented in the fourth review were based on questionnaire responses.⁷⁴

In their responses to the notice of institution for this current review, Dixon Ticonderoga and LaRose provided data regarding their U.S. imports and U.S. shipments of subject merchandise, which they reported accounted for an estimated *** percent of total U.S. imports of cased pencils from China during 2021.⁷⁵ In addition, Dixon Ticonderoga provided a list 96 firms it identified as U.S. importers of cased pencils from China.⁷⁶ Musgrave and LaRose also provided a list of 30 firms they identified as U.S. importers of cased pencils from China.⁷⁷

U.S. imports

Table I-6 presents the quantity, value, and unit value of U.S. imports from China as well as the other top sources of U.S. imports (shown in descending order of 2021 imports by quantity).

⁷³ Investigation No. 731-TA-669 (Fourth Review): Cased Pencils from China, Confidential Report, INV-PP-094, July 12, 2017, as revised by INV-PP-103, July 26, 2017 (“Fourth review confidential report”), pp. 1-10 and IV-1.

⁷⁴ Fourth review publication, p. IV-1, fn. 3.

⁷⁵ See table I-2 and app. B.

⁷⁶ Dixon Ticonderoga noted that there are potentially as many as 986 U.S. importers. Dixon Ticonderoga’s response to the notice of institution, August 30, 2022, p. 9 and exhs. 1-2.

⁷⁷ Musgrave and LaRose noted that there are “at least 91 firms” that are U.S. importers of the subject merchandise. Musgrave and LaRose’s response to the notice of institution, September 2, 2022, p. 11 and exh. 1; Musgrave and LaRose’s supplemental response to the notice of institution, September 27, 2022, pp. 5-6.

Table I-6
Cased pencils: U.S. imports, by source and period

Quantity in 1,000 gross; value in 1,000 dollars; unit value in dollars per gross

U.S. imports from	Measure	2017	2018	2019	2020	2021
China	Quantity	9,901	9,200	6,531	7,249	4,193
Brazil	Quantity	5,443	4,540	5,428	6,644	6,038
Mexico	Quantity	2,353	1,942	2,038	2,468	2,956
India	Quantity	1,532	1,722	2,107	2,640	2,898
Philippines	Quantity	1,774	3,176	2,633	2,276	1,788
Vietnam	Quantity	3,353	2,561	2,244	2,191	1,621
Thailand	Quantity	871	795	1,066	1,149	1,010
All other sources	Quantity	4,921	4,411	4,830	3,251	2,587
Nonsubject sources	Quantity	20,248	19,146	20,346	20,619	18,898
All import sources	Quantity	30,149	28,347	26,877	27,868	23,090
China	Value	72,778	71,665	60,032	65,780	41,416
Brazil	Value	51,625	40,367	53,408	62,582	66,277
Mexico	Value	33,650	24,324	27,037	28,994	27,780
India	Value	10,729	10,268	12,173	15,887	17,856
Philippines	Value	12,417	18,836	17,022	14,680	13,875
Vietnam	Value	30,549	21,046	20,193	20,541	15,819
Thailand	Value	6,702	5,539	6,200	6,844	8,397
All other sources	Value	44,647	38,613	39,552	36,135	33,186
Nonsubject sources	Value	190,319	158,992	175,585	185,664	183,189
All import sources	Value	263,097	230,657	235,617	251,444	224,605
China	Unit value	7.35	7.79	9.19	9.07	9.88
Brazil	Unit value	9.48	8.89	9.84	9.42	10.98
Mexico	Unit value	14.30	12.52	13.26	11.75	9.40
India	Unit value	7.00	5.96	5.78	6.02	6.16
Philippines	Unit value	7.00	5.93	6.46	6.45	7.76
Vietnam	Unit value	9.11	8.22	9.00	9.38	9.76
Thailand	Unit value	7.70	6.97	5.81	5.95	8.32
All other sources	Unit value	9.07	8.75	8.19	11.12	12.83
Nonsubject sources	Unit value	9.40	8.30	8.63	9.00	9.69
All import sources	Unit value	8.73	8.14	8.77	9.02	9.73

Source: Compiled from official Commerce statistics for HTS statistical reporting number 9609.10.0000, accessed September 8, 2022.

Note: Because of rounding, figure may not add to total shown.

Apparent U.S. consumption and market shares

Table I-7 presents data on U.S. producers' U.S. shipments, U.S. imports, apparent U.S. consumption, and market shares.

Table I-7
Cased pencils: Apparent U.S. consumption and market shares, by source and period

Quantity in 1,000 gross; value in 1,000 dollars; shares in percent

Source	Measure	1993	1998	2004	2009	2016	2021
U.S. producers	Quantity	***	***	***	***	***	***
China	Quantity	***	6,002	9,224	10,530	8,500	4,193
Nonsubject sources	Quantity	***	8,858	9,027	10,904	20,272	18,898
All import sources	Quantity	***	14,860	18,251	21,434	28,772	23,090
Apparent U.S. consumption	Quantity	***	***	***	***	***	***
U.S. producers	Value	***	***	***	***	***	***
China	Value	***	28,820	41,370	58,297	73,456	41,416
Nonsubject sources	Value	***	75,668	72,942	81,850	244,266	183,189
All import sources	Value	***	104,488	114,312	140,147	317,722	224,605
Apparent U.S. consumption	Value	***	***	***	***	***	***

Table continued.

Table I-7 continued**Cased pencils: Apparent U.S. consumption and market shares, by source and period**

Quantity in 1,000 gross; value in 1,000 dollars; shares in percent

Source	Measure	1993	1998	2004	2009	2016	2021
U.S. producers	Share of quantity	***	***	***	***	***	***
China	Share of quantity	***	***	***	***	***	***
Nonsubject sources	Share of quantity	***	***	***	***	***	***
All import sources	Share of quantity	***	***	***	***	***	***
U.S. producers	Share of value	***	***	***	***	***	***
China	Share of value	***	***	***	***	***	***
Nonsubject sources	Share of value	***	***	***	***	***	***
All import sources	Share of value	***	***	***	***	***	***

Source: For the years 1993, 1998, 2004, 2009, and 2016, data are compiled using data submitted in the Commission's original investigation and subsequent five-year reviews. For the year 2021, U.S. producers' U.S. shipments are compiled from the domestic interested parties' response to the Commission's notice of institution, and U.S. imports are compiled using official Commerce statistics under HTS statistical reporting number 9609.10.0000, accessed September 8, 2022.

Note: Share of quantity is the share of apparent U.S. consumption by quantity in percent; share of value is the share of apparent U.S. consumption by value in percent.

Note: For the years 1993 and 2016, apparent U.S. consumption is derived from U.S. shipments of imports, rather than U.S. imports.

Note: For a discussion of data coverage, please see "U.S. producers" and "U.S. importers" sections.

Note: For a discussion on U.S. producers excluded from the domestic industry, please see the "Definitions of the domestic like product and domestic industry" section of this report.

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

Note: Shares and ratios shown as "0.0" percent represent non-zero values less than "0.05" percent. Zeros, null values, undefined calculations, and unviable data are suppressed and shown as "--".

The industry in China

Producers in China

During the final phase of the original investigation, six foreign producers/exporters in China provided certain data in response to the Commission's questionnaire.⁷⁸

Although the Commission did not receive responses from any respondent interested parties in the expedited first five-year review, the domestic interested parties identified 16 producers of cased pencils in China in that proceeding.⁷⁹

Although the Commission did not receive responses from any respondent interested parties in the expedited second five-year review, the domestic interested parties identified 19 Chinese producers of pencils and 19 Chinese exporters of pencils.⁸⁰

During the expedited third five-year review, Dixon Ticonderoga and three domestic producers of cased pencils provided a response to the Commission's notice of institution. Dixon Ticonderoga provided a list of 74 Chinese exporters of pencils and the domestic producers identified 19 Chinese producers of pencils and 20 Chinese exporters of pencils in that proceeding.⁸¹

During the full fourth five-year review, the Commission received foreign producer/exporter questionnaires from three firms, which estimated that they accounted for *** percent of total production of cased pencils in China during 2016.⁸²

⁷⁸ Investigation Nos. 731-TA-669 and 670 (Final): Certain Cased Pencils from the People's Republic of China and Thailand, Confidential Report, INV-R-147, September 28, 1994 ("Original China and Thailand confidential report"), pp. I-61-I-65. The original staff report did not contain data as to the total number of cased pencil manufacturers and exporters in China at that time. Moreover, a coverage figure for the responding six firms was not presented. *Id.*

⁷⁹ First review publication, p. I-18.

⁸⁰ Second review publication, p. I-17. During the second review, domestic interested parties noted that according to a private market intelligence report by *Global Sources* on the writing instruments industry in China, there were approximately 400 producers of cased pencils in China during 2003. *Id.*

⁸¹ Third review publication, p. I-31. During the third review, Dixon Ticonderoga indicated that there was no information indicating that the total number of producers in China had decreased from the 400-producer estimate provided for in 2003. *Id.*

⁸² Fourth review confidential report, p. I-10.

In its response to the notice of institution for this current review, Dixon Ticonderoga provided certain information on the cased pencil operations of its affiliate firm Dixon Kunshan, a Chinese producer/exporter of the subject merchandise. Dixon Ticonderoga estimated that Dixon Kunshan accounted for *** percent of total production of cased pencils in China and *** percent of total exports of cased pencils from China to the United States during 2021.⁸³ Dixon Ticonderoga also provided a list *** foreign producers/exporters of the subject merchandise in China.⁸⁴ In addition, in their response to the notice of institution for this current review, Musgrave and LaRose provided a list of 37 foreign producers/exporters of subject merchandise in China.⁸⁵

Trade data for producers in China

Table I-8 presents the reported production, capacity, and exports of cased pencils producers in China during 2021, as well as data compiled in the original investigation (1993) and during the full fourth five-year review (2016).

Table I-8
Cased pencils: Producers China reported production, capacity, and exports to the United States, by period

Quantity in 1,000 gross; value in 1,000 dollars; ratio in percent

Item	Measure	1993	1998	2004	2009	2016	2021
Capacity	Quantity	***	---	---	---	***	***
Production	Quantity	***	---	---	---	***	***
Capacity utilization	Ratio	***	---	---	---	***	***
Exports to the United States	Quantity	***	---	---	---	***	***
Exports to the United States	Value	***	---	---	---	***	***

Source: For the year 1993, data are compiled using data submitted in the Commission’s original investigation. See Original China and Thailand confidential report at table 15. For the year 2016, data are compiled using data submitted in the Commission’s full fourth five-year review. See Fourth review confidential report at table IV-6. For the year 2021, data are compiled using data submitted by Dixon Ticonderoga. See app. B and Dixon Ticonderoga’s response to the notice of institution, August 30, 2022, exh. 1.

Note: Shares and ratios shown as “0.0” percent represent non-zero values less than “0.05” percent. Zeros, null values, undefined calculations, and unviable data are suppressed and shown as “---”.

⁸³ Dixon Ticonderoga’s response to the notice of institution, August 30, 2022, exh. 1; Dixon Ticonderoga’s supplemental response to the notice of institution, September 26, 2022, p. 2.

⁸⁴ Dixon Ticonderoga identified ***. Dixon Ticonderoga’s response to the notice of institution, August 30, 2022, p. 9 and exhs. 1, 2, and 6.

⁸⁵ Musgrave and LaRose’s response to the notice of institution, September 2, 2022, pp. 11-12.

Recent developments

Since the Commission's last five-year review, the following developments have occurred in China.⁸⁶ From 2019 to 2021, pencil production in China increased by *** percent, pencil exports from China declined by *** percent, and the volume of pencil inventories increased in by *** percent.⁸⁷ Through e-commerce and other channels, Chinese producers are increasingly targeting the high value specialty and custom pencil used for promotions and awards. This is the market segment where U.S. producers are currently concentrated.⁸⁸

Exports

Table I-9 presents export data for Harmonized System ("HS") subheading 9609.10, a subheading that includes cased pencils and out-of-scope products, from China (by export destination in descending order of value for 2021).

⁸⁶ In May 2019, CBP determined that cased pencils from China were transshipped via the Philippines into the U.S. to evade the antidumping order. U.S. Customs and Border Protection, *Notice of Final Determination as to Evasion, EAPA Case Number 7238*, May 6, 2019, appended as exh. 7 to Dixon Ticonderoga's response to the notice of institution, August 30, 2022. This determination, as amended by CBP's remand results, was sustained on appeal to the U.S. Court of International Trade, *Royal Brush Manufacturing, Inc. v. United States*, 545 F.Supp.3d 1357 (Ct. Int'l Trade 2021), and is currently before the U.S. Court of Appeals for the Federal Circuit. See Dixon Ticonderoga's response to the notice of institution, August 30, 2022, pp. 13-14 and exh. 7.

⁸⁷ Dixon Ticonderoga's response to the notice of institution, August 30, 2022, p. 15 and exh. 5. Note that Dixon Ticonderoga claims that the increased inventories are likely due to the inability of the Chinese domestic market to absorb the increased production volume, given the decline in exports.

⁸⁸ Dixon Ticonderoga's response to the notice of institution, August 30, 2022, p. 17.

Table I-9
Pencils and crayons with leads encased in a sheath: Value of exports from China, by destination and period

Value in 1,000s of dollars

Destination market	2017	2018	2019	2020	2021
United States	70,562	78,630	62,183	67,332	50,581
Russia	11,679	15,022	17,718	15,811	22,005
United Kingdom	19,984	19,787	20,107	18,782	19,948
Germany	15,805	15,167	15,633	14,454	19,233
Netherlands	9,701	9,625	11,015	12,238	16,995
Thailand	15,684	15,952	16,895	14,167	15,392
Italy	15,169	15,787	13,740	13,592	15,116
France	8,509	10,146	10,728	9,241	12,617
Philippines	19,745	23,640	20,819	13,962	12,112
Pakistan	24,611	20,505	19,291	7,044	11,530
All other markets	294,746	305,354	304,530	216,950	225,369
All markets	506,194	529,616	512,660	403,573	420,898

Source: Global Trade Information Services, Inc., Global Trade Atlas, HS subheading 9609.10, accessed September 23, 2022. These data may be overstated as HS subheading 9609.10 may contain products outside the scope of this review.

Notes: Because of rounding, figures may not add to totals shown.

Third-country trade actions

In March 2013, Mexico began an antidumping investigation on imported Chinese pencils.⁸⁹ Definitive duties were imposed in May 2014 and renewed in June 2020 after a sunset review.⁹⁰ The semiannual report submitted by Mexico to the World Trade Organization on March 21, 2022, indicated that its antidumping duty measures with respect to pencils produced in China are still in force.⁹¹

Antidumping duties were originally imposed by Turkey on January 14, 2003 and were extended effective August 9, 2014.⁹² These antidumping measures are no longer in place, having expired in August 2019, according to Turkey's semiannual report submitted to the World Trade Organization.⁹³

⁸⁹ Global Trade Alert, "Intervention 16919: Mexico: Extension of Definitive Antidumping Duty on Imports of Pencils from China," (accessed October 3, 2022). The investigation surrounded products under HS 9609.1001.

⁹⁰ Global Trade Alert, "Intervention 16919: Mexico: Extension of Definitive Antidumping Duty on Imports of Pencils from China," (accessed October 3, 2022).

⁹¹ World Trade Organization, Committee on Anti-Dumping Practices, Semi-Annual Report Under Article 16.4 of the Agreement—Mexico, March 21, 2022, [https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S006.aspx?Query=\(%40Symbol%3d+g%2fadp%2fn*+and+%40Title%3d+report*+and+semi*+\)+and+\(+%40DocumentDate+%3E%3d+2022%2f01%2f01+00%3a00%3a00+\)+and+\(+%40DocumentDate+%3C%3d+2022%2f12%2f31+23%3a59%3a59+\)&Language=ENGLISH&Context=FomerScriptedSearch&languageUIChanged=true](https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S006.aspx?Query=(%40Symbol%3d+g%2fadp%2fn*+and+%40Title%3d+report*+and+semi*+)+and+(+%40DocumentDate+%3E%3d+2022%2f01%2f01+00%3a00%3a00+)+and+(+%40DocumentDate+%3C%3d+2022%2f12%2f31+23%3a59%3a59+)&Language=ENGLISH&Context=FomerScriptedSearch&languageUIChanged=true).

⁹² World Trade Organization, Committee on Anti-Dumping Practices, Semi-Annual Report Under Article 16.4 of the Agreement—Turkey, March 2, 2017, [https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S006.aspx?Query=\(%40Symbol%3d+g%2fadp%2fn*+and+%40Title%3d+report*+and+semi*+\)+and+\(+%40DocumentDate+%3E%3d+2017%2f01%2f01+00%3a00%3a00+\)+and+\(+%40DocumentDate+%3C%3d+2017%2f12%2f31+23%3a59%3a59+\)&Language=ENGLISH&Context=FomerScriptedSearch&languageUIChanged=true](https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S006.aspx?Query=(%40Symbol%3d+g%2fadp%2fn*+and+%40Title%3d+report*+and+semi*+)+and+(+%40DocumentDate+%3E%3d+2017%2f01%2f01+00%3a00%3a00+)+and+(+%40DocumentDate+%3C%3d+2017%2f12%2f31+23%3a59%3a59+)&Language=ENGLISH&Context=FomerScriptedSearch&languageUIChanged=true).

⁹³ World Trade Organization, Committee on Anti-Dumping Practices, Semi-Annual Report Under Article 16.4 of the Agreement—Turkey, May 8, 2020, [https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S006.aspx?Query=\(%40Symbol%3d+g%2fadp%2fn*+and+%40Title%3d+report*+and+semi*+\)+and+\(+%40DocumentDate+%3E%3d+2020%2f01%2f01+00%3a00%3a00+\)+and+\(+%40DocumentDate+%3C%3d+2020%2f12%2f31+23%3a59%3a59+\)&Language=ENGLISH&Context=FomerScriptedSearch&languageUIChanged=true](https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S006.aspx?Query=(%40Symbol%3d+g%2fadp%2fn*+and+%40Title%3d+report*+and+semi*+)+and+(+%40DocumentDate+%3E%3d+2020%2f01%2f01+00%3a00%3a00+)+and+(+%40DocumentDate+%3C%3d+2020%2f12%2f31+23%3a59%3a59+)&Language=ENGLISH&Context=FomerScriptedSearch&languageUIChanged=true).

The global market

Table I-10 presents global export data for HS subheading 9609.10, a category that includes cased pencils and out-of-scope products (by source in descending order of value during 2021).

Table I-10
Pencils and crayons with leads encased in a sheath: Value of global exports by country and period

Value in 1,000s of dollars

Exporting country	2017	2018	2019	2020	2021
China	506,194	529,616	512,660	403,573	420,898
Germany	136,586	154,944	144,645	143,641	164,563
Brazil	75,491	67,137	71,571	74,895	74,588
Czech Republic	46,211	49,427	46,778	48,816	58,279
Vietnam	---	---	43,815	43,151	39,481
France	31,132	33,223	30,076	28,676	35,232
Indonesia	61,780	58,429	56,962	39,800	33,254
India	24,445	24,145	27,685	25,231	31,631
Mexico	36,411	29,192	31,757	33,675	29,884
Netherlands	14,879	17,741	18,695	21,711	26,703
All other exporters	202,107	209,430	203,505	184,880	199,703
All exporters	1,135,236	1,173,285	1,188,149	1,048,047	1,114,217

Source: Global Trade Information Services, Inc., Global Trade Atlas, HS subheading 9609.10. These data may be overstated as HS subheadings 9609.10 may contain products outside the scope of this review.

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

Note: Shares and ratios shown as "0.0" percent represent non-zero values less than "0.05" percent. Zeros, null values, undefined calculations, and unviable data are suppressed and shown as "---".

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
87 FR 46943, August 1, 2022	<i>Initiation of Five-Year (Sunset) Reviews</i>	https://www.govinfo.gov/content/pkg/FR-2022-08-01/pdf/2022-16430.pdf
87 FR 46998, August 1, 2022	<i>Cased Pencils From China; Institution of a Five-Year Review</i>	https://www.govinfo.gov/content/pkg/FR-2022-08-01/pdf/2022-16363.pdf

APPENDIX B
COMPANY-SPECIFIC DATA

* * * * *

* * * * *

* * * * *

* * * * *

APPENDIX C
SUMMARY DATA COMPILED IN PRIOR PROCEEDINGS

CONTENTS

	Page
Table B-2 Certain cased pencils: Summary data concerning the U.S. market, with producer data for all firms excluding Pentech, 1991-93, Jan.-June 1993, and Jan.-June 1994 (i.e., original investigation summary data).....	C-3
Table C-2 Cased pencils: Summary data concerning the U.S. market excluding the U.S. producer ***, 2014-16 (i.e., full fourth five-year review summary data).....	C-6

Table B-2

Certain cased pencils: Summary data concerning the U.S. market (with producer data for all firms excluding Pentech), 1991-93, Jan.-June 1993, and Jan.-June 1994

* * * * *

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission and from official statistics of the U.S. Department of Commerce.

* * * * *

* * * * *

Related party exclusion

Table C-2

Cased Pencils: Summary data concerning the U.S. market excluding the U.S. producer ***, 2014-16

(Quantity=1,000 gross; Value=1,000 dollars; Unit values, unit labor costs, and unit expenses=dollars per gross; Period changes=percent--exceptions noted)

	Reported data			Period changes		
	2014	2015	2016	2014-16	2014-15	2015-16
U.S. consumption quantity:						
Amount.....	***	***	***	***	***	***
Producers' share (fn1):						
Included producer.....	***	***	***	***	***	***
Excluded producer.....	***	***	***	***	***	***
All U.S. producers.....	***	***	***	***	***	***
Importers' share (fn1):						
China subject.....	***	***	***	***	***	***
China nonsubject.....	***	***	***	***	***	***
All other sources.....	***	***	***	***	***	***
Nonsubject sources.....	***	***	***	***	***	***
Total imports.....	***	***	***	***	***	***
U.S. consumption value:						
Amount.....	***	***	***	***	***	***
Producers' share (fn1):						
Included producer.....	***	***	***	***	***	***
Excluded producer.....	***	***	***	***	***	***
All U.S. producers.....	***	***	***	***	***	***
Importers' share (fn1):						
China subject.....	***	***	***	***	***	***
China nonsubject.....	***	***	***	***	***	***
All other sources.....	***	***	***	***	***	***
Nonsubject sources.....	***	***	***	***	***	***
Total imports.....	***	***	***	***	***	***
U.S. importers' U.S. shipments of imports from:						
China subject:						
Quantity.....	7,895	9,149	8,500	7.7	15.9	(7.1)
Value.....	60,290	71,713	73,456	21.8	18.9	2.4
Unit value.....	\$7.64	\$7.84	\$8.64	13.2	2.6	10.3
Ending inventory quantity.....	3,568	1,635	2,724	(23.7)	(54.2)	66.6
China nonsubject:						
Quantity.....	***	***	***	***	***	***
Value.....	***	***	***	***	***	***
Unit value.....	***	***	***	***	***	***
Ending inventory quantity.....	***	***	***	***	***	***
All other sources:						
Quantity.....	***	***	***	***	***	***
Value.....	***	***	***	***	***	***
Unit value.....	***	***	***	***	***	***
Ending inventory quantity.....	***	***	***	***	***	***
Nonsubject sources						
Quantity.....	12,975	14,370	20,272	56.2	10.8	41.1
Value.....	165,412	183,137	244,266	47.7	10.7	33.4
Unit value.....	\$12.75	\$12.74	\$12.05	(5.5)	(0.0)	(5.4)
Ending inventory quantity.....	2,044	2,054	3,790	85.4	0.5	84.5
Total imports:						
Quantity.....	20,870	23,520	28,772	37.9	12.7	22.3
Value.....	225,702	254,850	317,722	40.8	12.9	24.7
Unit value.....	\$10.81	\$10.84	\$11.04	2.1	0.2	1.9
Ending inventory quantity.....	5,612	3,689	6,514	16.1	(34.3)	76.6

Table continued on next page.

Table C-2--Continued

Cased Pencils: Summary data concerning the U.S. market excluding the U.S. producer ***, 2014-16

(Quantity=1,000 gross; Value=1,000 dollars; Unit values, unit labor costs, and unit expenses=dollars per gross; Period changes=percent--exceptions noted)

	Reported data			Period changes		
	Calendar year			Calendar year		
	2014	2015	2016	2014-16	2014-15	2015-16
U.S. producers:						
Average capacity quantity.....	***	***	***	***	***	***
Production quantity.....	***	***	***	***	***	***
Capacity utilization (fn1).....	***	***	***	***	***	***
U.S. shipments:						
Quantity.....	***	***	***	***	***	***
Value.....	***	***	***	***	***	***
Unit value.....	***	***	***	***	***	***
Export shipments:						
Quantity.....	***	***	***	***	***	***
Value.....	***	***	***	***	***	***
Unit value.....	***	***	***	***	***	***
Ending inventory quantity.....	***	***	***	***	***	***
Inventories/total shipments (fn1).....	***	***	***	***	***	***
Production workers.....	***	***	***	***	***	***
Hours worked (1,000s).....	***	***	***	***	***	***
Wages paid (\$1,000).....	***	***	***	***	***	***
Hourly wages.....	***	***	***	***	***	***
Productivity (gross per hour).....	***	***	***	***	***	***
Unit labor costs.....	***	***	***	***	***	***
Net Sales:						
Quantity.....	***	***	***	***	***	***
Value.....	***	***	***	***	***	***
Unit value.....	***	***	***	***	***	***
Cost of goods sold (COGS).....	***	***	***	***	***	***
Gross profit of (loss).....	***	***	***	***	***	***
SG&A expenses.....	***	***	***	***	***	***
Operating income or (loss).....	***	***	***	***	***	***
Net income.....	***	***	***	***	***	***
Capital expenditures.....	***	***	***	***	***	***
Unit COGS.....	***	***	***	***	***	***
Unit SG&A expenses.....	***	***	***	***	***	***
Unit operating income or (loss).....	***	***	***	***	***	***
Unit net income.....	***	***	***	***	***	***
COGS/sales (fn1).....	***	***	***	***	***	***
Operating income or (loss)/sales (fn1).....	***	***	***	***	***	***
Net income/sales (fn1).....	***	***	***	***	***	***

Notes:

fn1.--Reported data are in percent and period changes are in percentage points.

fn2.--Undefined.

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

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 interested parties and they provided contact information for the following eleven firms as top purchasers of cased pencils: ***. Purchaser questionnaires were sent to these eleven firms and five firms (***) provided questionnaire responses, which are presented below.¹

1. Have there been any significant changes in the supply and demand conditions for cased pencils that have occurred in the United States or in the market for cased pencils in China since January 1, 2017?

Purchaser	Yes / No	Changes that have occurred
***	***	***
***	***	***
***	***	***
***	***	***
***	***	***

¹ ***.

2. Do you anticipate any significant changes in the supply and demand conditions for cased pencils in the United States or in the market for cased pencils in China within a reasonably foreseeable time?

Purchaser	Yes / No	Anticipated changes
***	***	***
***	***	***
***	***	***
***	***	***
***	***	***

