

UNITED STATES INTERNATIONAL TRADE COMMISSION

COUMARIN FROM CHINA
Investigation No. 731-TA-677 (Review)

DETERMINATION AND VIEWS OF THE COMMISSION
(USITC Publication No. 3305, May 2000)

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COUMARIN FROM CHINA

DETERMINATION

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

BACKGROUND

The Commission instituted this review on December 30, 1999 (64 F.R. 73576, December 30, 1999) and determined on April 6, 2000 that it would conduct an expedited review (65 F.R. 24504, April 26, 2000). The Commission transmitted its determination in this review to the Secretary of Commerce on May 30, 2000. The views of the Commission are contained in USITC Publication 3305 (May 2000), entitled *Coumarin From China: Investigation No. 731-TA-677 (Review)*.

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

VIEWS OF THE COMMISSION

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

I. BACKGROUND

In February 1995, the Commission determined that an industry in the United States was being materially injured by reason of imports of coumarin from China that were being sold at less than fair value.² On February 9, 1995, the Department of Commerce (“Commerce”) issued an antidumping duty order on imports of coumarin from China.³

On December 30, 1999, the Commission instituted a review pursuant to section 751(c) of the Act to determine whether revocation of the antidumping duty order on coumarin from China would likely lead to continuation or recurrence of material injury.⁴

In five-year reviews, the Commission initially determines whether to conduct a full review (which would include a public hearing, the issuance of questionnaires, and other procedures) or an expedited review, as follows. First, the Commission determines whether individual responses of interested parties to the notice of institution are adequate. Second, based on those responses deemed individually adequate, the Commission determines whether the collective responses submitted by two groups of interested parties – domestic interested parties (producers, unions, trade associations, or worker groups) and respondent interested parties (importers, exporters, foreign producers, trade associations, or subject country governments) – demonstrate a sufficient willingness among each group to participate and provide information requested in a full review.⁵ If the Commission finds the responses from either group of interested parties to be inadequate, the Commission may determine, pursuant to section 751(c)(3)(B) of the Act, to conduct an expedited review unless it finds that other circumstances warrant a full review.

The only response to the Notice of Institution in this review was filed on behalf of Rhodia Inc. (“Rhodia”), a domestic producer of coumarin,⁶ and the Paper, Allied-Industrial Chemical and Energy Workers International Union, Local 2-00948 (“PACE”), a labor union that represents the coumarin production workers at Rhodia.⁷ Rhodia accounted for 100 percent of U.S. coumarin production in 1999.⁸ No respondent interested party filed a response.⁹

² Coumarin from The People’s Republic of China, Inv. No. 731-TA-677 (Final), USITC Pub. 2852 (Feb. 1995) (“Original Determination”).

³ 60 Fed. Reg. 7751 (Feb. 9, 1995).

⁴ 64 Fed. Reg. 73576 (Dec. 30, 1999).

⁵ See 19 C.F.R. § 207.62(a); 63 Fed. Reg. 30599, 30602-05 (June 5, 1998).

⁶ Rhodia is the successor-in-interest to Rhône-Poulenc, the petitioner in the original investigation.

⁷ For the purpose of these views we refer to Rhodia and PACE collectively as “Rhodia.”

⁸ Response of Rhodia to the Notice of Institution at 2 (February 22, 2000) (“Rhodia’s Response”).

⁹ Nor did any other person file a submission under Commission Rule 207.61(d). A coalition of eight U.S. importers submitted an entry of appearance and APO application, which were subsequently withdrawn, and did not respond to
(continued...)

On April 6, 2000, the Commission determined that the domestic interested party group response to its notice of institution was adequate but that the respondent interested party group response was inadequate.¹⁰ Pursuant to section 751(c)(3)(B) of the Act,¹¹ the Commission voted to expedite its review of this matter.

II. DOMESTIC LIKE PRODUCT AND INDUSTRY

A. Domestic Like Product

In making its determination under section 751(c), the Commission defines the “domestic like product” and the “domestic industry.”¹² The Act defines “domestic like product” as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle.”¹³ In a section 751(c) review, the Commission must also take into account “its prior injury determination.”¹⁴

In its final five-year review determination, Commerce defined the subject merchandise as:

an aroma with the chemical formula $C_9H_6O_2$, that is also known by other names, including 2H-1-benzopyran-2-one, 1,2-benzopyrone, cis-ocoumaric acid lactone, coumarinic anhydride, 2-Oxo-1,2-benzopyran, 5,6-benzo-alpha-pyrone, ortho-hydroxycinnamic acid lactone, cis-ortho-coumaric acid anhydride, and tonka bean camphor. All forms and variations of coumarin are included within the scope of the order, such as coumarin in crystal, flake or powder form, and “crude” or unrefined coumarin (i.e., prior to purification or crystallization). Excluded from the scope of this order are ethylcoumarins ($C_{11}H_{10}O_2$) and methylcoumarins ($C_{10}H_8O_2$). This merchandise is currently classifiable under the Harmonized Tariff Schedule (“HTS”) subheading 2932.21.00. The HTS subheading is provided for convenience and for Customs purposes only. The written description remains dispositive.¹⁵

Coumarin is a white crystalline substance with a sweet, fresh, hay-like odor. The product was originally extracted from tonka beans, but synthetic production has displaced those natural sources. Its

⁹ (...continued)

the Commission’s notice of institution.

¹⁰ See Explanation of Commission Determination on Adequacy in Coumarin from China (April 6, 2000). See also 65 Fed. Reg. 24504 (Apr. 26, 2000).

¹¹ 19 U.S.C. § 1675(c)(3)(B).

¹² 19 U.S.C. § 1677(4)(A).

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

¹⁴ 19 U.S.C. § 1675(a)(1)(a).

¹⁵ 64 Fed. Reg. 53996 (Oct. 5, 1999).

primary use is as a major fragrance component in detergents and personal care products.¹⁶ Coumarin is also used as a metal brightener in the electroplating industry and as an intermediate chemical to produce derivative products such as dihydrocoumarin (used as a flavor and in the fragrance industry).¹⁷

In the original investigation, the Commission determined that the domestic like product was all coumarin.¹⁸ There is no new information obtained during this five-year review that would suggest a reason for revisiting the Commission's original like product determination.¹⁹ Rhodia stated in its response to the Notice of Institution that it agreed with the Commission's original like product definition.²⁰ Accordingly, we define the domestic like product as all coumarin.

B. Domestic Industry

Section 771(4)(A) of the Act defines the relevant industry as the "domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product."²¹ Given our definition of the domestic like product, we define the domestic industry as the sole domestic producer of coumarin.²²

III. REVOCATION OF THE ANTIDUMPING DUTY ORDER ON COUMARIN FROM CHINA WOULD LIKELY LEAD TO CONTINUATION OR RECURRENCE OF MATERIAL INJURY WITHIN A REASONABLY FORESEEABLE TIME

A. Legal Standard

In a five-year review conducted under section 751(c) of the Act, Commerce will revoke an antidumping duty order unless: (1) it makes a determination that subsidization and/or dumping is likely to continue or recur, and (2) the Commission makes a determination that revocation of an order "would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time."²³ The SAA states that "under the likelihood standard, the Commission will engage in a counter-factual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo – the revocation [of the order] . . . and the elimination of its restraining effects on volumes and prices of imports."²⁴ Thus, the likelihood standard is prospective in nature.²⁵ The statute provides that "the

¹⁶ Confidential Report ("CR") at I-6; Public Report ("PR") at I-5.

¹⁷ CR at I-6; PR at I-5.

¹⁸ Original Determination at I-6.

¹⁹ *See generally* CR at I-6, n.14; PR at I-5, n.14.

²⁰ Rhodia's Response at 21-22; CR and PR at I-4.

²¹ 19 U.S.C. § 1677(4)(A).

²² Rhodia is the only domestic producer of coumarin, and the successor-in-interest to Rhône-Poulenc, the only domestic producer of coumarin at the time of the original investigation. Rhodia is not related to any Chinese producer or exporter of coumarin. CR at I-9; PR at I-7.

²³ 19 U.S.C. § 1675a(a).

²⁴ SAA, H.R. Rep. No. 103-316, vol. I, at 883-84 (1994). The SAA states that "[t]he likelihood of injury standard applies regardless of the nature of the Commission's original determination (material injury, threat of material injury, (continued...))

Commission shall consider that the effects of revocation . . . may not be imminent, but may manifest themselves only over a longer period of time.”²⁶ According to the SAA, a “‘reasonably foreseeable time’ will vary from case-to-case, but normally will exceed the ‘imminent’ time frame applicable in a threat of injury analysis [in antidumping duty investigations].”^{27 28}

Although the standard in five-year reviews is not the same as the standard applied in original antidumping duty investigations, it contains some of the same fundamental elements. The statute provides that the Commission is to “consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the order is revoked.”²⁹ 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 under review, and whether the industry is vulnerable to material injury if the order is revoked.^{30 31}

Section 751(c)(3) of the Act and the Commission’s regulations provide that in an expedited five-year review the Commission may issue a final determination “based on the facts available, in accordance

²⁴ (...continued)
or material retardation of an industry).” SAA at 883.

²⁵ 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.

²⁶ 19 U.S.C. § 1675a(a)(5).

²⁷ 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.*

²⁸ In analyzing what constitutes a reasonably foreseeable time, Commissioner Koplan examines all the current and likely conditions of competition in the relevant industry. He defines “reasonably foreseeable time” as the length of time it is likely to take for the market to adjust to a revocation. In making this assessment, he considers all factors that may accelerate or delay the market adjustment process including any lags in response by foreign producers, importers, consumers, domestic producers, or others due to: lead times; methods of contracting; the need to establish channels of distribution; product differentiation; and any other factors that may only manifest themselves in the longer term. In other words, this analysis seeks to define “reasonably foreseeable time” by reference to current and likely conditions of competition, but also seeks to avoid unwarranted speculation that may occur in predicting events into the more distant future.

²⁹ 19 U.S.C. § 1675a(a)(1).

³⁰ 19 U.S.C. § 1675a(a)(1). The statute further provides that the presence or absence of any factor that the Commission is required to consider shall not necessarily give decisive guidance with respect to the Commission’s determination. 19 U.S.C. § 1675a(a)(5). While the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886.

³¹ Section 752(a)(1)(D) of the Act directs the Commission to take into account in five-year reviews involving antidumping proceedings “the findings of the administrative authority regarding duty absorption.” 19 U.S.C. § 1675a(a)(1)(D). Commerce has not issued any duty absorption findings in connection with the orders under review.

with section 776.”³² We note that the statute authorizes the Commission to take adverse inferences in five-year reviews, but emphasize that such authorization does not relieve the Commission of its obligation to consider the record evidence as a whole in making its determination. We generally give credence to the facts supplied by the participating parties and certified by them as true, but base our decision on the evidence as a whole, and do not automatically accept the participating parties’ suggested interpretation of the record evidence. Regardless of the level of participation and the interpretations urged by participating parties, the Commission is obligated to consider all evidence relating to each of the statutory factors and may not draw adverse inferences that render such analysis superfluous. “In general, the Commission makes determinations by weighing all of the available evidence regarding a multiplicity of factors relating to the domestic industry as a whole and by drawing reasonable inferences from the evidence it finds most persuasive.”³³ As noted above, no respondent interested party adequately responded to the Commission’s notice of institution. Accordingly, we have relied on the facts available in this review, which consist primarily of the record in the Commission’s original investigation on coumarin, the limited information collected by the Commission since the institution of these reviews, and the information submitted by the sole domestic producer.

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

B. Conditions of Competition

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

As in the original investigation, the record in this review indicates that this market is characterized by several conditions of competition, namely: (1) coumarin is a substitutable commodity-like product;³⁵ (2) importers can maintain significant inventories in the United States, allowing for just-in-time delivery; (3) there are a small number of firms that purchase coumarin and price information is rapidly

³² 19 U.S.C. § 1675(c)(3)(B); 19 C.F.R. § 207.62(e). Section 776 of the Act, in turn, authorizes the Commission to “use the facts otherwise available” in reaching a determination when: (1) necessary information is not available on the record or (2) an interested party or any other person withholds information requested by the agency, fails to provide such information in the time or in the form or manner requested, significantly impedes a proceeding, or provides information that cannot be verified pursuant to section 782(i) of the Act. 19 U.S.C. § 1677e(a). The statute permits the Commission to use adverse inferences in selecting from among the facts otherwise available when an interested party has failed to cooperate by acting to the best of its ability to comply with a request for information. 19 U.S.C. § 1677e(b). Such adverse inferences may include selecting from information from the record of our original determination and any other information placed on the record. *Id.*

³³ SAA at 869.

³⁴ 19 U.S.C. § 1675a(a)(4).

³⁵ During the original investigation there was some discrepancy as to differences in quality. Petitioner maintained that the subject imports and domestic product were equivalent in content and quality. Importer respondents claimed that there were differences in overall quality and inconsistency within shipments from China. However, the record of this review indicates that despite some problems with inconsistent quality of product shipped by some Chinese producers, U.S. importers have uniformly been able to qualify as suppliers to the largest coumarin purchasers. Original Determination at I-16, n. 66; CR at I-7; PR at I-5-6.

disseminated within the industry; (4) contracts are awarded by competitive bidding and typically contain meet-or-release clauses; (5) there are an increasing number of importers of Chinese coumarin and price competition among importers is fierce; and (6) demand is inelastic, (that is because the demand for coumarin is derived from the demand for downstream fragrance products and coumarin represents a small share of the price of the fragrance products, a decline in the price of coumarin would not be likely to increase demand).³⁶

The record also indicates that apparent U.S. consumption of coumarin in 1999 was comparable to levels during the time of the original investigation.³⁷ Demand for coumarin is still derived from the demand for downstream products,³⁸ and there are relatively few purchasers that account for a large portion of demand.³⁹ During the original investigation, there were almost no nonsubject imports of coumarin,⁴⁰ but since the imposition of the antidumping duty order, increasing amounts of nonsubject coumarin have been imported, primarily from Japan.⁴¹ In 1999, China accounted for 45 percent of total U.S. imports of coumarin, while Japan accounted for 44 percent. Consequently, while the domestic industry has gained market share since the imposition of the order, market share formerly held by subject imports has also gone to Japanese imports.⁴²

Based on the record evidence, we find that these conditions of competition in the U.S. coumarin market are not likely to change significantly in the reasonably foreseeable future. Accordingly, we find that current conditions in the U.S. coumarin market provide us with a sufficient basis upon which to assess the likely effects of revocation of the antidumping duty order within the reasonably foreseeable future.

C. Likely Volume of Subject Imports

In evaluating the likely volume of imports of subject merchandise if the order under review is revoked, the Commission is directed to consider whether the likely volume of imports would be significant either in absolute terms or relative to production or consumption in the United States.⁴³ In doing so, the Commission must consider “all relevant economic factors,” including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) the potential for product shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.⁴⁴

³⁶ Original Determination at I-7.

³⁷ CR at I-17; PR at I-13; CR and PR at Table I-3.

³⁸ CR at I-19; PR at I-13; citing Original Determination at I-7.

³⁹ CR at I-7-8; PR at I-6.

⁴⁰ CR and PR at Table I-2.

⁴¹ *Id.*

⁴² CR and PR at Table I-3.

⁴³ 19 U.S.C. § 1675a(a)(2).

⁴⁴ 19 U.S.C. § 1675a(a)(2)(A)-(D).

In the original investigation, the Commission found that the market share of subject imports more than doubled during the period of investigation to account for a majority of apparent U.S. consumption.⁴⁵ The Commission also found that an increase in market share for subject imports represented an equal loss in market share for the domestic industry.⁴⁶ Immediately following imposition of the antidumping duty order in February 1995, subject imports from China fell significantly. The quantity of subject imports in 1995 was approximately *** percent of 1991 import levels.⁴⁷ In 1997, when Commerce amended its final determination and increased the antidumping margins for Chinese producers Jiangsu Native and Tiangin Native, the volume of subject imports dropped even further.⁴⁸ We conclude that the order has led to a reduced presence of Chinese imports in the United States.

There is limited information on the record concerning the current status of the coumarin industry in China because there were no responses by foreign producers or exporters to the Commission's notice of institution. According to Rhodia, 16 Chinese firms have produced coumarin since 1993, five of which had an aggregate production capacity of 3.1 millions pounds and production of 1.3 million pounds in 1999. Rhodia reports that capacity utilization for these five Chinese producers was approximately 42 percent in 1999, indicating that unused capacity in China was about *** U.S. production in that year.⁴⁹ Moreover, the available information indicates that the coumarin industry in China continues to be heavily export-oriented⁵⁰ and that China has not developed significant alternate markets since the time of the original investigation, as seen by the industry's reportedly low capacity utilization rate. We also note that there is little demand for coumarin in China.⁵¹

The rapid increase in imports found during the original investigation demonstrates an ability by Chinese exporters to rapidly increase shipments to the United States. The United States is likely to be an attractive market for increasing volumes of Chinese coumarin if the order is revoked both because of the overall size of the market and because the European Union, another important market for China, has also had an antidumping duty order in place on Chinese coumarin since April 1996.⁵²

Based on the record in this review, it is likely that producers in China would significantly increase exports to the U.S. market if the order is revoked.⁵³ We therefore conclude that, based on the record

⁴⁵ Original Determination at I-14-15.

⁴⁶ Original Determination at I-15.

⁴⁷ CR at I-12; PR at I-8.

⁴⁸ CR at I-13-16; PR at I-11-12. Commerce's original order imposed antidumping duty margins of 15.04 percent for Jiangsu Native, 50.35 percent for Tiangin Native, and 160.80 percent for all other manufacturers and exporters from China. 60 Fed. Reg. 7751 (Feb. 9, 1995). The order was later amended to increase the margin for Jiangsu Native to 31.02 percent and the margin for Tiangin Native to 70.45 percent. 62 Fed. Reg. 8424 (Feb. 25, 1997).

⁴⁹ CR at I-20 PR at I-15. Rhodia states that there is substantial global excess capacity, much of which is in China. Rhodia's Response at 7.

⁵⁰ CR at I-21; PR at I-15.

⁵¹ *Id.*

⁵² CR at I-22; PR at I-15.

⁵³ Chairman Bragg infers that, upon revocation, subject producers would revert to their historical emphasis on exporting to the United States, as evidenced in the Commission's original determination. Based upon the record in this review, Chairman Bragg finds that the historical emphasis will likely result in significant volumes of subject imports into the United States if the order is revoked.

evidence, the volume of subject imports would likely increase to a significant level absent the restraining effects of the order.

D. Likely Price Effects

In evaluating the likely price effects of subject imports if the antidumping duty order is revoked, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared with domestic like products and whether the subject imports are likely to enter the United States at prices that would have a significant depressing or suppressing effect on the prices of domestic like products.⁵⁴

During the original investigation, the Commission found that the prices of Chinese coumarin were generally below the U.S. producer's prices for non-bid contracts and consistently below the U.S. producer's prices for spot sales.⁵⁵ The Commission found that the prices of Chinese coumarin declined during the period of investigation while the U.S. producer's prices remained constant, resulting in lost sales and lost market share.⁵⁶ The Commission concluded that the domestic producer "lost several large customers because of low import prices" and that "subject imports suppressed domestic coumarin prices to a significant degree."⁵⁷

In 1999, even with the antidumping duty order in place, the average unit value ("AUV") for the domestic producer's shipments of coumarin was \$***-- lower than at any period reviewed during the original investigation.⁵⁸ The limited information in the record in this review concerning prices of Chinese coumarin indicates that the AUV of subject imports was generally below the AUV of nonsubject imports from Japan.⁵⁹ This pricing information, in conjunction with the high level of substitutability between domestic and subject coumarin, and the Chinese industry's incentive to maximize the use of available capacity, indicates that, if the order were revoked, subject imports would likely undersell the domestic like product, as they did before the orders were imposed, and would significantly depress or suppress U.S. prices.⁶⁰ Thus, based on the record in this review, we find that revocation of the antidumping duty orders would be likely to lead to significant underselling by the subject imports of the domestic like product, as well as significant price depression and suppression.

E. Likely Impact of Subject Imports

⁵⁴ 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.

⁵⁵ CR at I-16; PR at I-12.

⁵⁶ Original Determination at I-11.

⁵⁷ Original Determination at I-12.

⁵⁸ CR at I-11; PR at I-8.

⁵⁹ CR at I-17; PR at I-12.

⁶⁰ Chairman Bragg infers that, in the event of revocation, subject producers will revert to aggressive pricing practices in connection with exports of subject merchandise to the United States, as evidences in the Commission's original determination.

In evaluating the likely impact of imports of subject merchandise if the order is revoked, the Commission is directed to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including but not limited to: (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.⁶¹ 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.⁶² As required by the statute, we have considered the extent to which any improvement in the state of the domestic industry is related to the antidumping duty order at issue and whether the industry is vulnerable to material injury if the order is revoked.⁶³

In the original investigation, the Commission found that subject imports had a detrimental impact on the domestic industry resulting in losses in sales volume, production, and capacity. It also found that operating income, profitability, and employment suffered as well.⁶⁴

The record in this review indicates that the order had a positive effect on industry performance. U.S. shipments of domestically produced coumarin increased significantly from *** pounds in 1994 to *** pounds in 1995.⁶⁵ The domestic producer also reports increased profitability⁶⁶ and expanded employment.⁶⁷ In light of the foregoing, we do not conclude that the domestic industry is currently in a vulnerable condition.⁶⁸

⁶¹ 19 U.S.C. § 1675a(a)(4).

⁶² 19 U.S.C. § 1675a(a)(4). Section 752(a)(6) of the Act states that “the Commission may consider the magnitude of the margin of dumping” in making its determination in a five-year review. 19 U.S.C. § 1675a(a)(6). The statute defines the “magnitude of the margin of dumping” to be used by the Commission in five-year reviews as “the dumping margin or margins determined by the administering authority under section 1675a(c)(3) of this title.” 19 U.S.C. § 1677(35)(C)(iv). See also SAA at 887.

Commerce’s original order imposed antidumping duty margins of 15.04 percent for Jiangsu Native, 50.35 percent for Tiangin Native, and 160.80 percent for all other manufacturers and exporters from China. 60 Fed. Reg. 7751 (Feb. 9, 1995). The order was later amended to increase the margin for Jiangsu Native to 31.02 percent and the margin for Tiangin Native to 70.45 percent. 62 Fed. Reg. 8424 (Feb. 25, 1997). Commerce expedited its determination in its five-year review of coumarin from China, and found that revocation of the antidumping duty order would likely lead to continuation or recurrence of dumping at margins of 31.02 percent for Jiangsu Native, 70.45 percent for Tiangin Native, and 160.80 percent for all other manufacturers and exporters from China. Commerce’s Final Results of Expedited Sunset Review, 65 Fed. Reg. at 25906 (May 4, 2000).

⁶³ The SAA states that in assessing whether the domestic industry is vulnerable to injury if the orders are 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.

⁶⁴ Original Determination at I-18.

⁶⁵ CR at I-10; PR at I-7.

⁶⁶ *Id.*

⁶⁷ Rhodia’s Response at 17.

⁶⁸ Based upon the limited record in this expedited review, Chairman Bragg determines that the domestic industry currently is not in a weakened condition as contemplated by the vulnerability criterion of the statute.

We find it likely that revocation of the order 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 industry's prices significantly. This would likely have a significant adverse impact on the production, shipment, sales, and revenue levels of the domestic industry. This reduction in the industry's production, sales, and revenue levels would have a direct adverse impact on the industry's employment, profitability, and ability to raise capital and make and maintain necessary capital investments. Accordingly, based on the limited record in this review, we conclude that, if the antidumping duty order is revoked, subject imports would be likely to have a significant adverse impact on the domestic industry within a reasonably foreseeable time.

CONCLUSION

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