Polyethylene Retail Carrier Bags from Indonesia, Taiwan, and Vietnam

Investigation Nos. 701-TA-462 and 731-TA-1156-1158 (Final)

Publication 4144 **April 2010**

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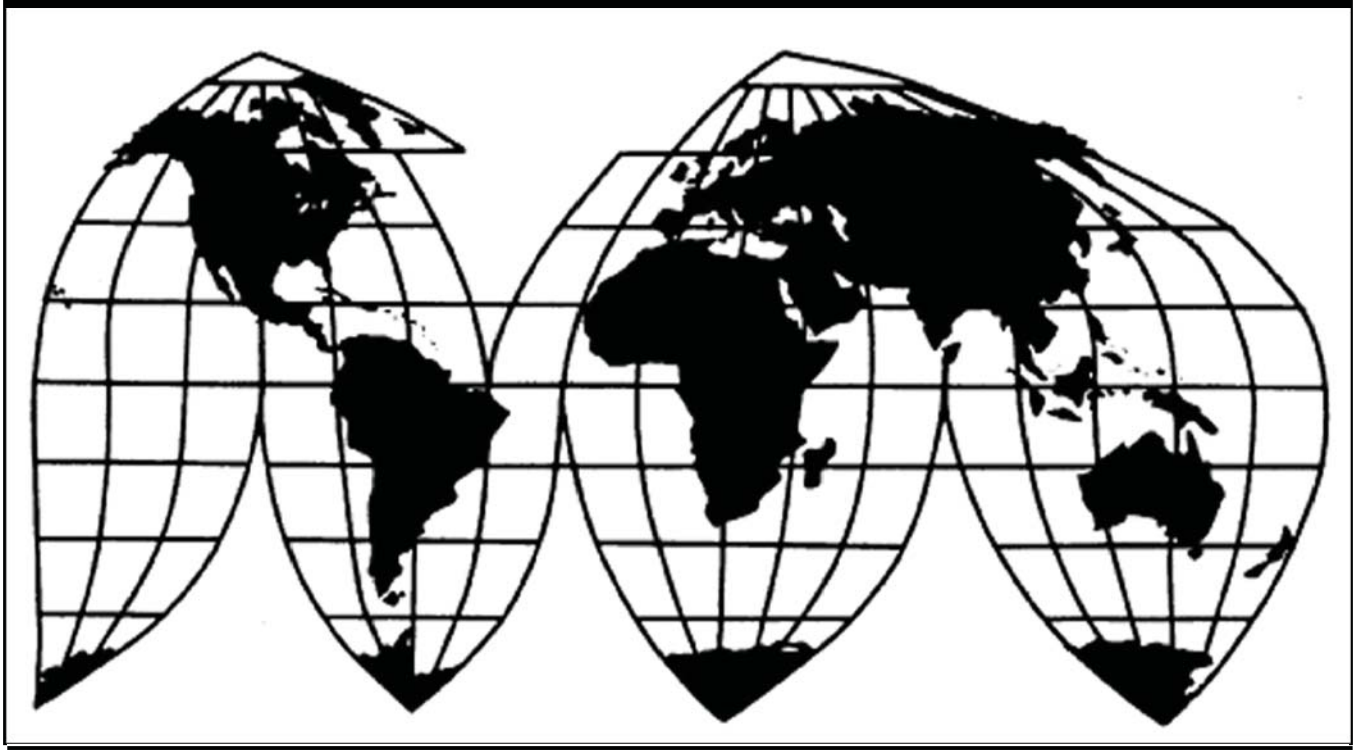

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Note.-Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report. Such deletions are indicated by asterisks.

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation Nos. 701-TA-462 and 731-TA-1156-1158 (Final)

POLYETHYLENE RETAIL CARRIER BAGS FROM INDONESIA, TAIWAN, AND VIETNAM

DETERMINATIONS

On the basis of the record[1] developed in the subject investigations, the United States International Trade Commission (Commission) determines, pursuant to section 705(b) of the Tariff Act of 1930 (19 U.S.C. § 1671d(b)) (the Act), that an industry in the United States is threatened with material injury by reason of imports from Vietnam of polyethylene retail carrier bags (PRCBs), provided for in subheading 3923.21.00 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce (Commerce) to be subsidized by the Government of Vietnam.[2] The Commission further determines, pursuant to section 735(b) of the Act (19 U.S.C. § 1673d(b)), that an industry in the United States is threatened with material injury by reason of imports from Indonesia, Taiwan, and Vietnam of PRCBs that have been found by Commerce to be sold in the United States at less than fair value (LTFV).[3] In addition, the Commission determines that it would not have found material injury but for the suspension of liquidation.

BACKGROUND

The Commission instituted these investigations effective March 31, 2009, following receipt of petitions filed with the Commission and Commerce by Hilex Poly Co., LLC, Hartsville, SC and Superbag Corp., Houston, TX. The final phase of these investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of PRCBs from Indonesia, Taiwan, and Vietnam were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. § 1673b(b)) and that imports of PRCBs from Vietnam were being subsidized within the meaning of section 703(b) of the Act (19 U.S.C. § 1671b(b)). Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of December 3, 2009 (74 FR 63410). The hearing was held in Washington, DC, on March 16, 2010, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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

[2] Vice Chairman Daniel R. Pearson dissenting.

[3] Vice Chairman Daniel R. Pearson dissenting.

VIEWS OF THE COMMISSION

Based on the record in the final phase of these investigations, we find that the domestic industry producing polyethylene retail carrier bags ("PRCBs") is threatened with material injury by reason of imports of PRCBs from Indonesia, Taiwan, and Vietnam that the U.S. Department of Commerce ("Commerce") has found to be sold in the United States at less than fair value ("LTFV") and imports of PRCBs from Vietnam that Commerce has found to be subsidized by the Government of Vietnam.[1]

I. BACKGROUND

The petitions in these investigations were filed on March 31, 2009. The petitioners are Hilex Poly Co., LLC and Superbag Corporation (collectively, "petitioners"), two of the largest domestic producers of PRCBs. The only respondents that participated in the hearing and filed briefs in these final phase investigations were Indonesian foreign producers PT Super Exim Sari and PT Super Makmur (collectively, "respondents").

The Commission has relatively complete coverage for the domestic industry.[2] Foreign producer coverage from all three subject countries, however, is less complete. Responding subject foreign producers in all three countries estimated that they represented a relatively *** share of their respective countries' PRCB production and exports to the United States in 2008.[3] Their reported exports as a share of subject imports from each country that year, however, suggests a greater degree of questionnaire coverage with respect to exports to the United States, but not necessarily with respect to production.[4]

II. DOMESTIC LIKE PRODUCT

A. <u>In General</u>

In determining whether an industry in the United States is materially injured or threatened with material injury by reason of imports of the subject merchandise, the Commission first defines the

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[1] Vice Chairman Pearson joins the majority in finding that the domestic industry producing PRCBs is not materially injured by reason of imports of PRCBs from Indonesia, Taiwan, and Vietnam that Commerce has found to be sold in the United States at LTFV and imports of PRCBs from Vietnam that Commerce has found to be subsidized by the Government of Vietnam. He therefore joins the majority opinion in sections I, II, III, and IV, and also in section V, as it pertains to material injury and except where otherwise noted. Vice Chairman Pearson dissents from the majority, however, in finding that the domestic industry producing PRCBs is not threatened with material injury by reason of subject imports. <u>See</u> Dissenting Views of Vice Chairman Pearson.

[2] Confidential Staff Report ("CR") at III-1; Public Staff Report ("PR") at III-1.

[3] The three responding Indonesian producers estimated that they accounted for *** percent of Indonesian PRCB production and *** percent of Indonesian PRCB exports to the United States in 2008. CR at VII-1; PR at VII-1. The three responding Taiwan producers estimated that they accounted for *** percent of Taiwan PRCB production and *** percent of Taiwan PRCB exports to the United States in 2008. CR at VII-3; PR at VII-1-2. The seven responding Vietnamese producers estimated that they accounted for *** percent of Vietnamese PRCB production and *** percent of Vietnamese PRCB exports to the United States in 2008. Memorandum INV-HH-037 (Apr. 14, 2010), at VII-5; PR at VII-2.

[4] The three responding Indonesian producers reported exports to the United States equivalent to *** percent of the quantity of U.S. imports of PRCBs from Indonesia that year. CR at VII-1; PR at VII-1. The three responding Taiwan producers reported exports to the United States equivalent to *** percent of the quantity of U.S. imports of PRCBs from Taiwan that year. CR at VII-3; PR at VII-2. The seven responding Vietnamese producers reported exports to the United States equivalent to *** percent of the quantity of U.S. imports of PRCBs from Vietnam that year. Memorandum INV-HH-037 (Apr. 14, 2010), at VII-5; PR at VII-2.

"domestic like product" and the "industry."[5] Section 771(4)(A) of the Tariff Act of 1930, as amended ("the Tariff Act"), defines the relevant domestic industry as the "producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."[6] In turn, 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."[7]

The decision regarding the appropriate domestic like product(s) in an investigation is a factual determination, and the Commission has applied the statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis.[8] No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.[9] The Commission looks for clear dividing lines among possible like products and disregards minor variations.[10] Although the Commission must accept Commerce's determination as to the scope of the imported merchandise that is subsidized or sold at less than fair value,[11] the Commission determines what domestic product is like the imported articles Commerce has identified.[12]

B. Product Description

Commerce has defined the imported merchandise within the scope of these investigations as follows:

> The merchandise subject to these investigations is [PRCBs], which also may be referred to as t-shirt sacks, merchandise bags, grocery bags, or checkout bags. The subject merchandise is defined as non-sealable sacks and bags with handles (including drawstrings), without zippers or integral extruded closures, with or without gussets, with

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[5] 19 U.S.C. § 1677(4)(A).

[6] 19 U.S.C. § 1677(4)(A).

[7] 19 U.S.C. § 1677(10).

[8] See, e.g., Cleo, Inc. v. United States, 501 F.3d 1291, 1299 (Fed. Cir. 2007); NEC Corp. v. Department of Commerce, 36 F. Supp. 2d 380, 383 (Ct. Int'l Trade 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Torrington Co. v. United States, 747 F. Supp. 744, 749 n.3 (Ct. Int'l Trade 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991) ("every like product determination 'must be made on the particular record at issue' and the 'unique facts of each case'"). The Commission generally considers a number of factors, including the following: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) common manufacturing facilities, production processes, and production employees; and, where appropriate, (6) price. See Nippon, 19 CIT at 455 n.4; Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int'l Trade 1996).

[9] See, e.g., S. Rep. No. 96-249 at 90-91 (1979).

[10] Nippon, 19 CIT at 455; Torrington, 747 F. Supp. at 748-49; see also S. Rep. No. 96-249 at 90-91 (1979) (Congress has indicated that the like product standard should not be interpreted in "such a narrow fashion as to permit minor differences in physical characteristics or uses to lead to the conclusion that the product and article are not 'like' each other, nor should the definition of 'like product' be interpreted in such a fashion as to prevent consideration of an industry adversely affected by the imports under consideration.").

[11] See, e.g., USEC, Inc. v. United States, 34 Fed. Appx. 725, 730 (Fed. Cir. 2002) ("The ITC may not modify the class or kind of imported merchandise examined by Commerce."); Algoma Steel Corp. v. United States, 688 F. Supp. 639, 644 (Ct. Int'l Trade 1988), aff'd, 865 F.3d 240 (Fed. Cir.), cert. denied, 492 U.S. 919 (1989).

[12] Hosiden Corp. v. Advanced Display Mfrs., 85 F.3d 1561, 1568 (Fed. Cir. 1996) (the Commission may find a single like product corresponding to several different classes or kinds defined by Commerce); Cleo, 501 F.3d at 1298 n.1 ("Commerce's {scope} finding does not control the Commission's [like product] determination."); Torrington, 747 F. Supp. at 748-52 (affirming the Commission's determination defining six like products in investigations in which Commerce found five classes or kinds).

> or without printing, of polyethylene film having a thickness no greater than 0.035 inch (0.889 mm) and no less than 0.00035 inch (0.00889 mm), and with no length or width shorter than 6 inches (15.24 cm) or longer than 40 inches (101.6 cm). The depth of the bag may be shorter than 6 inches but not longer than 40 inches (101.6 cm). PRCBs are typically provided without any consumer packaging and free of charge by retail establishments, e.g., grocery, drug, convenience, department, specialty retail, discount stores, and restaurants to their customers to package and carry their purchased products. The scope of these investigations excludes (1) polyethylene bags that are not printed with logos or store names and that are closeable with drawstrings made of polyethylene film and (2) polyethylene bags that are packed in consumer packaging with printing that refers to specific end-uses other than packaging and carrying merchandise from retail establishments, e.g., garbage bags, lawn bags, trash-can liners.[13]

Imports of merchandise included within the scope of these investigations are currently reported under statistical category 3923.21.0085 of the Harmonized Tariff Schedule of the United States.[14]

PRCBs are bags with handles made of polyethylene film that are provided by retailers to their customers free of charge for packaging and carrying purchased goods home from the point of sale.[15] PRCBs come in several varieties. T-shirt bags, so called due to their resemblance to tank-top styled undershirts, are made of thinner, typically 1 mil or less, denser polyethylene film and are generally printed with simple designs of one or two, but up to four, colors.[16] Die-cut and drawstring bags are made of thicker, around 1 mil, polyethylene film with handles die cut, or punched, into the top portion of the bags, sometimes reinforced, and are also generally printed with simple designs.[17] Higher-end PRCBs[18] may be made of even thicker polyethylene film, most greater than 2.5 mils, and may possess one or more of the following features: attached handles of plastic, string, or rope; gussets (i.e., accordion-like creases that enable the bag to contract and expand); square bottoms; cardboard or plastic inserts at the bottom of the bag; plastic or metal grommets and fasteners; and elaborate, multi-colored designs printed on multiple sides of the bag.[19]

C. Like Product Analysis

In its prior antidumping duty investigations covering PRCBs from China, Malaysia, and Thailand, conducted in 2004, the Commission defined a single domestic like product encompassing a continuum of PRCBs made in a wide range of shapes and sizes with a variety of features.[20] The Commission rejected respondents' argument that certain high-end PRCBs be defined as a separate

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[13] CR at I-8-9; PR at I-7.

[14] CR at I-9; PR at I-7.

[15] CR at I-10, 16; PR at I-8, 12.

[16] CR at I-10-11; PR at I-8-9.

[17] CR at I-11, I-16; PR at I-9, 12-13; Conference Transcript ("Conference Tr."). at 82 (Daniels), 141 (Wisla).

[18] We note that "higher-end" does not appear to be a well defined term in the industry. See CR/PR at Table II-2 (when asked to report the characteristics associated with "high-end" PRCBs, purchasers reported a broad range of such attributes).

[19] CR at I-11, 16; PR at I-9, 12-13.

[20] See Confidential Views, PRCBs from China, Malaysia, and Thailand, Inv. Nos. 731-TA-1043-1045 (Final) ("2004 Confidential Views"), at 7-13. We note that the scope of the 2004 investigations was identical to the scope of these final phase investigations with the exception that the HTSUS statistical category in these investigations is specific to PRCBs, whereas the HTSUS statistical category in the 2004 investigations was a "basket" category that included PRCBs. See Conference Tr. at 72 (Dorn).

domestic like product because the argument "[did] not account for the vast array of PRCBs that fall in the middle of the continuum."[21]

In the preliminary phase of these investigations, respondents argued that the Commission should define two domestic like products corresponding to high-end PRCBs, defined as PRCBs that are 2.25 mils or more in thickness and reusable, and all other PRCBs, respectively.[22] Petitioners argued that the Commission should define a single domestic like product that is coextensive with the scope of the investigations.[23] The Commission concluded that "there is insufficient evidence on the record of these preliminary investigations for us to conclude that there is a clear dividing line separating high-end PRCBs from other types of PRCBs on the continuum of PRCB products," and defined a single domestic like product that was coextensive with the scope of the investigations and was comprised of a continuum of PRCB products.[24] It based this determination on evidence that "higher-end" domestically produced PRCBs of unknown thickness competed with subject imported high-end PRCBs; evidence that PRCBs thinner than 2.25 mils are reused; and the lack of evidence or argument addressing the similarities and differences between domestically produced PRCBs in the middle of the continuum of PRCB products and subject imported high-end PRCBs.[25] The Commission indicated that it intended to explore the issue further in any final phase of the investigations and requested that respondents provide in their written comments on draft questionnaires a more detailed definition of their proposed high-end PRCBs.[26]

In the final phase of these investigations, petitioners again argue that the Commission should define a single domestic like product that is coextensive with the scope of the investigations and is comprised of a continuum of PRCB products.[27] Respondents, however, no longer argue that the Commission should define high-end PRCBs as a separate domestic like product, and they implicitly accept the Commission's domestic like product definition from the preliminary phase of the investigations.[28]

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[21] 2004 Confidential Views at 12.

[22] See PRCBs from Indonesia, Taiwan, and Vietnam, Inv. Nos. 701-TA-462 and 731-TA-1156-1158 (Preliminary), USITC Pub. 4080 (May 2009) ("Public Preliminary Views"), at 5-6. The following respondents participated in the staff conference and filed a post-conference brief in the preliminary phase of the investigations: foreign producers and importers Ampac Packaging Vietnam Ltd., The Cannon Group, Inc., Chung Va (Vietnam) Plastic Packaging Co., Ltd., Elkay Plastics Co., Inc., Glopack, Inc., Industrias Chung Va (Holdings) Limitada, MHI Inc., Packaging Concepts International, PT Super Exim Sari, and PT Super Makmur; and domestic producers and importers Ampac Plastics LLC and Glopack, Inc. Id. at 1.

[23] Public Preliminary Views, at 4-5.

[24] Public Preliminary Views, at 10.

[25] Public Preliminary Views at 10; see also id. at 7-9.

[26] Public Preliminary Views at 10.

[27] See Petitioners' Prehearing Br. at 9-17.

[28] Respondents' Prehearing Br. at 3-5. Respondents suggest that the Commission should define two separate domestic like products corresponding to t-shirt bags and all other PRCBs. Id. at 3-4. Recognizing that "it is too late in the investigation for the Commission to gather data that would be needed to conduct a full requisite analysis on the basis of those two like products," respondents "argue that there is no injury to the domestic industry based on one like product." Id. at 4. In their comments on the draft questionnaires for the final phase of these investigations, filed on November 25, 2009, respondents did not indicate that they would be arguing for two domestic like products corresponding to T-shirt bags and all other PRCBs, and did not request that the Commission collect the data that would be necessary to conduct its analysis on such a basis. See 19 C.F.R. 207.20(b); Notice of Final Rulemaking, 61 Fed. Reg. 37,818, 37,826 (July 22, 1996) (explaining the promulgation of rule 207.20(b), providing that "[t]he Director shall circulate draft questionnaires in the final phase of an investigation to parties to the investigation for comment": "It is often impracticable to satisfy new data collection requests made during the later stages of a final phase investigation, given the need to collect, verify, and analyze data, release data under APO, and receive comments from the parties concerning data before the record closes."). Consequently, the record does not contain

In the preliminary phase of these investigations, we found evidence that domestically produced "higher-end" PRCBs, which do not satisfy the definition of high-end PRCBs,[29] share certain similarities with subject imported high-end PRCBs in terms of the six domestic like product factors, and compete with subject imported high-end PRCBs to some degree.[30] On that basis, we found no clear dividing line separating high-end PRCBs from the continuum of other PRCB products.[31] There is no new evidence on the record of the final phase of these investigations that would warrant our reconsideration of these findings.[32] We therefore define a single domestic like product that is coextensive with the scope of the investigations and is comprised of a continuum of PRCB products.

III. DOMESTIC INDUSTRY

A. In General

The domestic industry is defined 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."[33] 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. Based on our definition of a single domestic like product, we define a single domestic industry consisting of all domestic producers of PRCBs.

B. Related Parties

We must determine whether any producer of the domestic like product should be excluded from the domestic industry as a related party pursuant to 19 U.S.C. § 1677(4)(B). Subsection 1677(4)(B) allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry producers that are related to an exporter or importer of subject merchandise or which are themselves

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the information that would be necessary for the Commission to conduct its analysis on the basis of the domestic like product definitions proposed by respondents, for the first time, in their prehearing brief, filed on March 9, 2010.

[29] CR at I-17 & n.57. *** reported production of high-end PRCBs during the period examined, and ***. CR at I-17 n.57. Moreover, as a practical matter, the record does not contain the information we would need to perform our analysis with respect to the domestic industry producing high-end PRCBs because, although these data were requested, ***. Id. at Table C-2, note.

[30] See Public Preliminary Views at 6-10. *** reported *** sales of higher-end PRCBs in the preliminary phase of the investigations, see id. at 7-9, yet reported no production of high-end PRCBs in the final phase of the investigations. See U.S. Producers' Questionnaire Response of *** at question II-14.

[31] Public Preliminary Views, at 10.

[32] See, e.g., CR at I-10; PR at I-8 (all PRCBs share the same general physical characteristics and uses); Petitioners' Prehearing Br. at 11 (noting that domestic producers *** report that their higher-end PRCBs do not satisfy the definition of high-end PRCBs, but nevertheless compete directly with subject imported high-end PRCBs). There also is no information on the record suggesting that our domestic like product analysis from the preliminary phase of the investigations is any less valid with respect to the definition of high-end PRCBs adopted in the final phase of the investigations: "Custom-made high-end shopping bags that incorporate value added materials such as cardboard inserts (top or bottom) and/or manually applied handles of various material (i.e., rope handle, rope drawstring, ribbon handle, tri-fold handle, rigid plastic molded handle, and plastic or metal grommets)." CR at I-15; PR at I-12. High-end PRCBs as defined in the preliminary phase of the investigations, bags with thicknesses greater than 2.25 mils, possessed these same characteristics. See Public Preliminary Views at 7; Confidential Preliminary Staff Report at I-13-14; Public Preliminary Staff Report at I-9-10.

[33] 19 U.S.C. § 1677(4)(A).

importers.[34] Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each investigation.[35]

In the preliminary phase of these investigations, no party argued that any related party should be excluded from the domestic industry.[36] The Commission found that eight domestic producers, ***, qualified as related parties and concluded that circumstances did not warrant the exclusion of any related party from the domestic industry.[37]

In the final phase of these investigations, petitioners argue that the Commission should exclude Inteplast from the domestic industry as a related party.[38] Respondents have not addressed the issue of related parties.

We find that six domestic producers, ***, qualify as related parties because they were importers of subject merchandise from Indonesia, Taiwan, or Vietnam during the period examined.[39] In addition, *** are related to subject foreign exporters of PRCBs.[40]

We again find that circumstances do not warrant the exclusion of any related party, including Inteplast. The ratio of Inteplast's imports of subject PRCBs to its domestic production of PRCBs increased from *** percent in 2006 to *** percent in 2007 and *** percent in 2008, and was *** percent in January-September 2009 ("interim 2009"), *** from *** percent in January-September 2008 ("interim 2008").[41] Given that Inteplast produced *** more PRCBs domestically than it imported from subject countries throughout the period examined, we find that Inteplast's primary interest was in domestic production during the period.[42]

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[34] 19 U.S.C. § 1677(4)(B).

[35] 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, i.e., whether the firm benefits from the LTFV sales or subsidies or whether the firm must import in order to enable it to continue production and compete in the U.S. market, and (3) the position of the related producer vis-a-vis the rest of the industry, i.e., whether inclusion or exclusion of the related party will skew the data for the rest of the industry. See, e.g., Torrington Co. v. United States, 790 F. Supp. 1161 (Ct. Int'l Trade 1992), aff'd without opinion, 991 F.2d 809 (Fed. Cir. 1993). The Commission has also considered the ratio of import shipments to U.S. production for related producers and whether the primary interest of the related producer lies in domestic production or importation. These latter two considerations were cited as appropriate factors in Allied Mineral Products, Inc. v. United States, 28 CIT 1861, 1865 (2004) ("The most significant factor considered by the Commission in making the 'appropriate circumstances' determination is whether the domestic producer accrued a substantial benefit from its importation of the subject merchandise."); USEC, Inc. v. United States, 132 F. Supp. 2d 1, 12 (Ct. Int'l Trade 2001) ("the provision's purpose is to exclude from the industry headcount domestic producers substantially benefitting from their relationships with foreign exporters."), aff'd, 34 Fed. Appx. 725 (Fed. Cir. 2002); S. Rep. No. 249, 96th Cong. 1st Sess. at 83 (1979) ("where a U.S. producer is related to a foreign exporter and the foreign exporter directs his exports to the United States so as not to compete with his related U.S. producer, this should be a case where the ITC would not consider the related U.S. producer to be a part of the domestic industry").

[36] Confidential Preliminary Views at 17; Public Preliminary Views at 12.

[37] Confidential Preliminary Views at 15-17; Public Preliminary Views at 11-12.

[38] Petitioners' Prehearing Br. at 19.

[39] See CR/PR at Table III-5; 19 U.S.C. § 1677(4)(B). *** imported subject PRCBs, while *** purchased significant quantities of subject imports. CR/PR at Table III-5.

[40] CR/PR at Table III-1.

[41] CR/PR at Table III-5.

[42] CR/PR at Table III-1. We also note that Inteplast ranked as the *** largest domestic producer in 2008. Id. Inteplast does not report the reason that it increased its imports of subject PRCBs.

We also note that there is little evidence that Inteplast's domestic production operations benefitted from dumped or subsidized PRCBs.[43] [44] Inteplast's operating income margin did not *** during the period of investigation, though its rank in terms of profitability did improve over the period.[45] For this reason, Inteplast's inclusion in the domestic industry would not skew data for the rest of the industry. In sum, we find that circumstances do not warrant the exclusion of Inteplast or any other related party from the domestic industry.[46]

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[43] Consistent with her practice in past investigations and reviews, Chairman Aranoff does not rely on individual-company operating income margins, which reflect a domestic producer's financial operations related to production of the domestic like product, in assessing whether a related party has benefitted from importation of subject merchandise. Rather, she determines whether to exclude a related party based principally on its ratio of subject imports to domestic production and whether its primary interests lie in domestic production or importation.

[44] Commissioner Pinkert has considered the financial performance of the six related party producers as one of the factors in his analysis of whether to exclude one or more of them from the domestic industry. He notes in this regard that certain of these producers appear to have enjoyed a financial benefit from import operations. CR/PR at G-5. As explained below, however, he has not excluded any of them from the domestic industry.

First, the six related party producers exhibited relatively low import to domestic production ratios (under 50 percent) throughout the period examined. Second, it is unclear whether their domestic operations benefitted from the import operations -- their operating margins did not differ significantly from those of non-importing domestic producers. Finally, as Petitioners have argued, domestic producers may well have engaged in import operations to remain competitive with subject imports.

[45] CR/PR at Table VI-2. Inteplast's operating income margin declined from *** percent in 2006 to *** percent in 2007 before increasing to *** percent in 2008. Id. Its operating income margin was *** percent in interim 2009, up from *** percent in interim 2008. Id. It is noteworthy that Inteplast's peak operating income margin during the 2006-2008 period was in ***, when the ratio of its subject imports to domestic production was the lowest of the period. Relative to the performance of other domestic producers, Inteplast was the *** most profitable domestic producer in 2006 and 2007, the *** most profitable domestic producer in 2008, and the *** most profitable domestic producer in interim 2009. Id.

[46] With respect to related parties other than Inteplast, between 2006 and 2008, the ratio of subject imports to domestic production increased for *** but was virtually zero for ***. See CR/PR at Table III-5. For all five producers, however, the ratio of subject imports to domestic production remained under 50 percent throughout the period examined, indicating that all remained more interested in domestic production than importing. Id. Indeed, petitioners have claimed that domestic producers were forced to import PRCBs as a means of sustaining their higher-cost domestic operations, and also that these producers would likely reduce their imports of subject PRCBs if relief were granted. See Petitioners' Post-Conference Br. at 22; Conference Tr. at 20 (Bazbaz) ("[S]ome domestic producers are using blended sales programs. That is a domestic producer will commit to sell a customer its higher priced domestic bags and lower priced imported bags at a single average price."); Petitioners' Responses to Commissioner Questions, at 40. At the same time, there is no evidence that these five related parties derived a significant financial benefit from their importation of PRCBs from subject countries, since the operating income margins of each producer did not differ significantly from the operating income margins of domestic producers that did not import from subject countries. See CR/PR at Table VI-2. In this regard, we note that the related party with the highest ratio of subject imports to domestic production, ***. See id. at Table VI-2 & n.1. No party argues that any related party other than Inteplast should be excluded from the domestic industry. Thus, we find that circumstances do not warrant the exclusion of *** as related parties.

IV. CUMULATION[47]

A. Background

For purposes of evaluating the volume and price effects for a determination of material injury by reason of the subject imports, section 771(7)(G)(i) of the Tariff Act requires the Commission to cumulate subject imports from all countries as to which petitions were filed and/or investigations self-initiated by Commerce on the same day, if such imports compete with each other and with domestic like products in the U.S. market and no statutory exceptions apply.[48] The statutory threshold for cumulation is satisfied in these investigations because the petitions with respect to Indonesia, Taiwan, and Vietnam were filed on the same day, March 31, 2009.[49]

In assessing whether subject imports compete with each other and with the domestic like product, the Commission has generally considered four factors:

(1) the degree of fungibility between the subject imports from different countries and between imports and the domestic like product, including consideration of specific customer requirements and other quality related questions;

(2) the presence of sales or offers to sell in the same geographic markets of subject imports from different countries and the domestic like product;

(3) the existence of common or similar channels of distribution for subject imports from different countries and the domestic like product; and

(4) whether the subject imports are simultaneously present in the market.[50] [51]

While no single factor is necessarily determinative, and the list of factors is not exclusive, these factors are intended to provide the Commission with a framework for determining whether the subject imports compete with each other and with the domestic like product.[52] Only a "reasonable overlap" of competition is required.[53]

In the preliminary phase of these investigations, the Commission found a reasonable overlap of competition between subject imports from Indonesia, Taiwan, and Vietnam, and the domestic like

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[47] Negligibility is not an issue in these investigations. Based on official Commerce statistics, subject imports from Indonesia accounted for 6.5 percent of all imports of PRCBs, subject imports from Taiwan accounted for 11.2 percent of all imports of PRCBs, and subject imports from Vietnam accounted for 19.6 percent of all imports of PRCBs, by volume, during the most recent 12-month period preceding the filing of the petition for which data are available. CR at IV-6; PR at IV-4.

[48] 19 U.S.C. § 1677(7)(G)(i).

[49] CR at I-1; PR at I-1. None of the statutory exceptions to cumulation is applicable.

[50] See Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea, and Taiwan, Inv. Nos. 731-TA-278-280 (Final), USITC Pub. 1845 (May 1986), aff'd, Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898 (Ct. Int'l Trade), aff'd, 859 F.2d 915 (Fed. Cir. 1988).

[51] Commissioner Lane notes with respect to the first factor that her analysis does not require such similarity of products that a perfectly symmetrical fungibility is required. See Separate Views of Commissioner Charlotte R. Lane, Certain Lightweight Thermal Paper from China, Germany, and Korea, Inv. Nos. 701-TA-451 and 731-TA-1126-1128 (Preliminary), USITC Pub. 3964 (Nov. 2007).

[52] See, e.g., Wieland Werke, AG v. United States, 718 F. Supp. 50 (Ct. Int'l Trade 1989).

[53] The Uruguay Round Agreements Act, Statement of Administrative Action, H.R. Doc. No. 103-316, Vol. 1 at 848 (1994) ("SAA") expressly states that "the new section will not affect current Commission practice under which the statutory requirement is satisfied if there is a reasonable overlap of competition." SAA at 848 (citing Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898, 902 (Ct. Int'l Trade 1988)), aff'd, 859 F.2d 915 (Fed. Cir. 1988). See Goss Graphic Sys., Inc. v. United States, 33 F. Supp. 2d 1082,1087 (Ct. Int'l Trade 1998) ("cumulation does not require two products to be highly fungible"); Wieland Werke, AG, 718 F. Supp. at 52 ("Completely overlapping markets are not required.").

product, and among the imports themselves.[54] The Commission thus analyzed subject imports on a cumulated basis.[55]

In the final phase of these investigations, petitioners argue that the Commission should again consider subject imports from Indonesia, Taiwan, and Vietnam on a cumulated basis because, in their view, there is a reasonable overlap of competition between subject imports from all three countries and the domestic like product based on the four factors the Commission considers in analyzing the issue.[56] Respondents do not address the issue of cumulation in the context of material injury.

B. Reasonable Overlap of Competition Analysis

Based on the record of these investigations, we find a reasonable overlap of competition among subject imports from Indonesia, Taiwan, and Vietnam and between subject imports from each source and the domestic like product. First, the record indicates that there is a high degree of substitutability between the subject imports from each source and the domestic like product, as well as among the subject imports.[57] The majority of responding producers, importers, and purchasers reported that the domestic like product is "always" or "frequently" interchangeable with subject imports from Indonesia, Taiwan, and Vietnam, and that subject imports from each source are "always" or "frequently" interchangeable with each other.[58] When asked whether differences other than price are ever significant to purchasers, almost all producers and a majority of importers and purchasers responded "sometimes" or "never," though a significant minority of importers and purchasers reported that differences other than price are "always" or "frequently" significant to purchasers choosing between subject imports and the domestic like product.[59]

Second, PRCBs from all sources generally served the same geographic markets during the period of investigation. Subject imports from Indonesia, Taiwan, and Vietnam entered the United States through multiple ports of entry dispersed across the country, and responding importers reported shipping almost half of their subject import shipments under 100 miles.[60] Domestic producers tended to serve slightly broader geographic markets than importers.[61] Nine of 14 domestic producers reported serving a nationwide market.[62] Therefore, the record indicates that subject imports from all three sources and the domestic like product served all regions of the United States.

Third, subject imports from Indonesia, Taiwan, and Vietnam and the domestic like product shared the same general channels of distribution. During the period examined, a majority of U.S. shipments of both the domestic like product and subject imports from Indonesia and Taiwan was shipped directly to end users, though U.S. shipments of subject imports from Vietnam were almost evenly divided between

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[54] Public Preliminary Views at 13-14.

[55] Public Preliminary Views at 13-14.

[56] See Petitioners' Prehearing Br. at 22-23.

[57] CR at II-21; PR at II-15.

[58] CR at II-27; PR at II-20; CR/PR at Table II-12.

[59] CR/PR at Table II-13.

[60] Responding importers reported shipping 47.5 percent of their subject import shipments under 100 miles, 26.4 percent of their subject import shipments between 100 and 1,000 miles, and 26.1 percent of their subject import shipments over 1,000 miles. CR/PR at Tables II-3, V-2. Twelve of 36 importers of subject PRCBs reported serving the national market, while 24 reported serving one or more regional markets. CR/PR at Table II-3. We note that these data do not break out the country source of the subject imported PRCBs.

[61] Domestic producers reportedly shipped 10.1 percent of their domestic like product shipments less than 100 miles, 58.1 percent of their domestic like product shipments between 101 and 1,000 miles, and 31.8 percent of their domestic like product shipments more than 1,000 miles. CR/PR at Tables II-3, V-2.

[62] CR/PR at Table II-3.

end users and distributors between 2006 and 2008.[63] The balance of U.S. shipments of PRCBs from all sources was made to distributors.[64]

Finally, PRCBs from all sources were simultaneously present in the U.S. market, given that subject imports from Indonesia, Taiwan, and Vietnam entered the United States in every month of the period examined.[65]

We conclude that there is a reasonable overlap of competition between and among subject imports and the domestic like product, and, therefore, cumulate subject imports from Indonesia, Taiwan, and Vietnam for purposes of our analysis of material injury by reason of subject imports.

C. Cumulation for Threat Analysis

Because our determinations address the issue of threat of material injury by reason of subject imports, we must also consider whether to cumulate subject imports from Indonesia, Taiwan, and Vietnam for purposes of a threat analysis. In contrast to cumulation for material injury, cumulation for a threat analysis is discretionary. Under section 771(7)(H) of the Tariff Act, the Commission may "to the extent practicable" cumulatively assess the volume and price effects of subject imports from all countries as to which petitions were filed on the same day if the requirements for cumulation in the material injury context are satisfied.[66]

In the final phase of these investigations, petitioners argue that the Commission should exercise its discretion to cumulate subject imports from all three sources for purposes of any threat analysis because in their view, subject imports share common trends and operate under the same conditions of competition.[67] Respondents disagree, and argue that the Commission should exercise its discretion to consider subject imports from Indonesia on a decumulated basis because subject imports from Indonesia exhibited different trends and were subject to different conditions of competition than subject imports from Taiwan and Vietnam over the period examined.[68]

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[63] Between 2006 and 2008, shipments to end users accounted for between 70.4 and 72.5 percent of U.S. shipments of the domestic like product, between 69.4 and 82.8 percent of U.S. shipments of subject imports from Indonesia, between 55.2 and 66.8 percent of subject imports from Taiwan, and between 45.0 and 50.5 percent of subject imports from Vietnam. CR/PR at Table II-1. In interim 2009, shipments to end users accounted for 57.0 percent of U.S. shipments of the domestic like product, 68.4 percent of U.S. shipments of subject imports from Indonesia, 58.6 percent of subject imports from Taiwan, and 63.2 percent of subject imports from Vietnam Id.

[64] Between 2006 and 2008, shipments to distributors accounted for between 27.5 and 29.6 percent of U.S. shipments of the domestic like product, between 17.2 and 30.6 percent of U.S. shipments of subject imports from Indonesia, between 33.2 and 44.8 percent of subject imports from Taiwan, and between 49.5 and 55.0 percent of subject imports from Vietnam. CR/PR at Table II-1. In interim 2009, shipments to distributors accounted for 43.0 percent of U.S. shipments of the domestic like product, 31.6 percent of U.S. shipments of subject imports from Indonesia, 41.4 percent of subject imports from Taiwan, and 36.8 percent of subject imports from Vietnam Id.

[65] CR at IV-5; PR at IV-4.

[66] 19 U.S.C. § 1677(7)(H).

[67] Petitioners' Prehearing Br. at 56-57.

[68] Hearing Tr. at 182 (Lee); Respondents' Posthearing Br. at 10-11. First, they claim that subject import volume from Indonesia increased by less than subject imports from Taiwan and Vietnam, and declined in terms of both volume and market share between 2007 and 2008, unlike subject imports from Taiwan and Vietnam. Hearing Tr. at 182-83 (Lee); Respondents' Posthearing Br. at 11-12; CR at Tables IV-2-3. Second, they contend that subject imports from Indonesia were generally priced higher than subject imports from Taiwan and Vietnam, because a relatively high proportion of subject imports from Indonesia consisted of high-end PRCBs. Hearing Tr. at 184-85 (Lee); Respondents' Posthearing Br. at 14. Finally, they claim that subject producers in Indonesia did not increase their capacity over the period examined, unlike producers in Taiwan and Vietnam, and that the record contains ***. Hearing Tr. at 177-78 (Lee); Respondents' Posthearing Br. at 12-14; Respondents' Responses to Commissioner Questions, at 5-6 (arguing that Indonesia is not a popular destination for foreign direct investment); CR/PR at Tables

In the preceding section, we found that the requirements for cumulating subject imports for purposes of our material injury analysis are satisfied, and there is no information on the record to suggest that the reasonable overlap of competition between and among subject imports and the domestic like product will not continue into the imminent future. We further find that subject imports from Indonesia, Taiwan, and Vietnam are likely to compete under similar conditions of competition in the U.S. market in the imminent future, based on the following considerations.[69]

First, subject imports from all three sources increased overall over the full years of the period examined in terms of both absolute volume and market share.[70] In terms of volume, between 2006 and 2008, subject imports from Indonesia increased 37.6 percent, subject imports from Taiwan increased 110.7 percent, and subject imports from Vietnam increased 134.9 percent.[71] In terms of market share, between 2006 and 2008, subject imports from Indonesia increased their share of the quantity of apparent U.S. consumption by 0.9 percentage points, subject imports from Taiwan increased their share by 2.5 percentage points, and subject imports from Vietnam increased their share by 4.3 percentage points.[72] There is no evidence on the record that subject imports from Indonesia, Taiwan, and Vietnam differed significantly in terms of product mix.[73]

VII-1-3.

[69] In determining for purposes of a threat analysis whether to exercise his discretion to cumulate subject imports for which there is a reasonable overlap of competition, Commissioner Pinkert places primary weight on volume and price trends.

[70] Specifically, subject imports from Indonesia increased from 2.0 billion bags in 2006 to 3.4 billion bags in 2007, but declined to 2.8 billion bags in 2008. Memorandum INV-HH-037 (Apr. 14, 2010)/PR at Table C-4. Subject imports from Indonesia were 1.5 billion bags in interim 2009, down from 2.4 billion bags in interim 2008. Id. Subject imports from Taiwan increased from 2.2 billion bags in 2006 to 4.0 billion bags in 2007 and 4.6 billion bags in 2008. Id. Subject imports from Taiwan were lower in interim 2009, at 2.2 billion bags, than in interim 2008, at 3.6 billion bags. Id. Subject imports from Vietnam increased from 3.1 billion bags in 2006 to 7.3 billion bags in 2007 and then remained stable in 2008, at 7.2 billion bags. Id. Subject imports from Vietnam were higher in interim 2009, at 5.8 billion bags, than in interim 2008, at 5.1 billion bags. Id.

[71] Memorandum INV-HH-037 (Apr. 14, 2010)/PR at Table C-4. Subject import volume from Indonesia was 37.9 percent lower in interim 2009 as compared to interim 2008 and subject import volume from Taiwan was 37.8 percent lower, while subject import volume from Vietnam was 15.0 percent higher. Id.

[72] Memorandum INV-HH-037 (Apr. 14, 2010)/PR at Table C-4. The market share of subject imports from Indonesia was 1.2 percentage points lower in interim 2009 as compared to interim 2008 and the market share of subject imports from Taiwan was 1.8 percentage points lower, while the market share of subject imports from Vietnam was 1.0 percentage point higher. Id.

[73] The record indicates that the product mix of subject imports from all three countries was focused on "T-shirt style" bags. See Memorandum INV-HH-037 (Apr. 14, 2010)/PR at Tables V-2, E-1-3; CR/PR at Tables V-3-9. We recognize that the average unit value of subject imports from Indonesia was higher than the average unit value of subject imports from Taiwan and Vietnam throughout most of the period examined, although the average unit value of subject imports from all three countries converged somewhat in 2008 and interim 2009. See Memorandum INV-HH-037 (Apr. 14, 2010)/PR at Table C-4.

We find, however, that the record does not support respondents' argument that the generally higher average unit value of subject imports from Indonesia resulted from the relatively higher proportion of subject imports from Indonesia consisting of high-end PRCBs. See Hearing Tr. at 178 (Lee); Respondents' Posthearing Br. at 14. The proportion of subject imports from Indonesia consisting of high-end PRCBs remained too small over the period examined, at 0.6 percent in 2006, 0.7 percent in 2007, 1.4 percent in 2008, and 1.6 percent in interim 2009, to have had a significant influence over the relative average unit value of subject imports from Indonesia, particularly given that the product mix of all three subject countries was otherwise focused on "T-shirt style" bags. Compare Memorandum INV-HH-037 (Apr. 14, 2010)/PR at Table C-4 with CR/PR at Table C-2. Nor was Indonesia the only significant subject source of high-end PRCBs during the period examined. The volume of high-end PRCBs imported from Vietnam exceeded the volume of high-end PRCBs imported from Indonesia over the 2006-2008 period, even though the proportion of subject imports from Vietnam comprised of high-end PRCBs was generally

Subject imports from Indonesia, Taiwan, and Vietnam also exhibited similar patterns of over- and underselling.[74] Subject imports from all three sources generally oversold the domestic like product with respect to product 2 and generally undersold the domestic like product with respect to products 1, 6, and 8.[75] Moreover, subject imports from Taiwan and Vietnam exhibited a similarly mixed pattern of under- and overselling with respect to product 3, and subject imports from Indonesia and Vietnam exhibited a similar pattern of predominant underselling with respect to product 7.[76]

In addition, responding subject foreign producers in Indonesia, Taiwan, and Vietnam reported a similar dependence on exports to the U.S. market and lack of a significant home market, and a similar degree of excess capacity, towards the end of the period examined. Specifically, responding subject producers in Indonesia, Taiwan, and Vietnam reported that a similarly high share of their total shipments were exported to the United States in 2008, at *** percent, *** percent, and *** percent, respectively, and in interim 2009, at *** percent, *** percent, and *** percent, respectively.[77] Responding subject producers in Indonesia, Taiwan, and Vietnam also reported that a similarly low share of their total shipments were made to home market customers in 2008, at *** percent, *** percent, and ***, respectively, and in interim 2009, at *** percent, *** percent, and ***, respectively.[78] Finally, responding subject producers in Indonesia, Taiwan, and Vietnam reported a similarly low rate of capacity utilization in 2008, at *** percent, *** percent, and *** percent, respectively, and in interim 2009, at *** percent, *** percent, and *** percent, respectively.[79] These data indicate that subject producers in

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lower. See CR/PR at Table C-2. The volume of high-end PRCBs imported from Taiwan exceeded the volume of high-end PRCBs imported from Indonesia in 2006. Id. We are therefore unconvinced that the generally higher average unit value of subject imports from Indonesia was a function of the higher proportion of subject imports from Indonesia comprised of high-end PRCBs.

[74] We also note that a comparison between delivered prices of PRCBs imported directly by purchasers and domestic producers' pricing data indicates that subject import prices from all three subject countries were pervasively priced lower than the domestic like product with respect to products 2 and 3. Compare Memorandum INV-HH-037 (Apr. 14, 2010)/PR at Tables E-1-2 with CR/PR at Tables V-3-4. We recognize that the delivered prices of PRCBs imported directly by purchasers are at a different level of trade than domestic producers' pricing data, but note that delivered subject import prices include transportation costs whereas domestic producers' prices, which were reported f.o.b. at the factory gate, do not.

We also recognize that imports from different subject country sources exhibited a different pattern of over- and underselling with respect to products 4 and 5, see CR/PR at Tables V-5-6, although we note that the sales quantities of imports from Indonesia and Taiwan available for price comparisons for products 4 and 5 were low. We also acknowledge that direct import prices for subject imports from Indonesia were higher than domestic producers' prices with respect to product 5, unlike direct import prices for subject imports from Taiwan and Vietnam, which were lower. Compare Memorandum INV-HH-037 (Apr. 14, 2010)/PR at Table E-3 with CR/PR at Table V-6. Nevertheless, in most cases, the pattern of under- and overselling by subject imports, and the extent to which direct import prices were lower than domestic producers' prices, was similar with respect to subject imports from all three countries.

[75] See CR/PR at Tables V-3, 7, 9.

[76] See CR/PR at Tables V-4, 8.

[77] CR/PR at Tables VII-1-2; Memorandum INV-HH-037 (Apr. 14, 2010)/PR at Table VII-3.

[78] CR/PR at Tables VII-1-2; Memorandum INV-HH-037 (Apr. 14, 2010)/PR at Table VII-3.

[79] CR/PR at Tables VII-1-2; Memorandum INV-HH-037 (Apr. 14, 2010)/PR at Table VII-3. We recognize that responding foreign producers in Indonesia reported relatively stable capacity over the period examined, while *** responding foreign producers in Taiwan and Vietnam began production after the beginning of 2006, and thus reported *** increases in capacity over the period examined. Compare CR/PR at Table VII-1 with CR/PR at Table VII-2; Memorandum INV-HH-037 (Apr. 14, 2010)/PR at Table VII-3; see also CR at VII-3, 5. But the fact remains that responding foreign producers in Indonesia, like responding foreign producers in Taiwan and Vietnam, reported *** excess capacity in 2008. See id. (in 2008, reported excess capacity was *** bags in Indonesia, *** bags in Taiwan, and *** bags in Vietnam).

Indonesia, Taiwan, and Vietnam will have similar capabilities and incentives to increase their exports to the United States in the imminent future.

On balance, we conclude that subject imports from Indonesia, Taiwan, and Vietnam increased in volume and market share between 2006 and 2008 in a similar fashion, and exhibited a similar pattern of over- and underselling during the period examined.[80] We also find similarities with respect to important characteristics of the industries in all three countries. In sum, we find that the similarities in the conditions of competition facing subject imports from Indonesia, Taiwan, and Vietnam outweigh the differences, and have exercised our discretion to cumulate subject imports from Indonesia, Taiwan, and Vietnam for our analysis of threat of material injury by reason of subject imports.

V. MATERIAL INJURY AND THREAT OF MATERIAL INJURY BY REASON OF SUBJECT IMPORTS

A. Legal Standards

1. In General

In the final phase of antidumping and countervailing duty investigations, the Commission determines whether an industry in the United States is materially injured or threatened with material injury by reason of the imports under investigation.[81] In making this determination, the Commission must consider the volume of subject imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.[82] The statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant."[83] In assessing whether the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.[84] No single factor is dispositive, and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[85]

Although the statute requires the Commission to determine whether the domestic industry is "materially injured or threatened with material injury by reason of" unfairly traded imports,[86] it does not define the phrase "by reason of," indicating that this aspect of the injury analysis is left to the Commission's reasonable exercise of its discretion.[87] In identifying a causal link, if any, between subject

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[80] Commissioner Pinkert acknowledges some differences in volume trends between subject imports from Indonesia as opposed to those from Taiwan and Vietnam. Specifically, subject imports from Indonesia decreased in both volume and market share from 2007 to 2008, which was not the case for subject imports from Taiwan or Vietnam. Nevertheless, given that there are significant similarities in the volume trends, specifically that subject import volume and market share for all three subject countries increased substantially from 2006 to 2008, as well as parallel pricing trends, Commissioner Pinkert exercises his discretion to cumulate subject imports from Indonesia with those from Taiwan and Vietnam for purposes of his threat determination.

[81] 19 U.S.C. §§ 1671d(b), 1673d(b).

[82] 19 U.S.C. § 1677(7)(B)(i). The Commission "may consider such other economic factors as are relevant to the determination" but shall "identify each {such} factor ... and explain in full its relevance to the determination." 19 U.S.C. § 1677(7)(B).

[83] 19 U.S.C. § 1677(7)(A).

[84] 19 U.S.C. § 1677(7)(C)(iii).

[85] 19 U.S.C. § 1677(7)(C)(iii).

[86] 19 U.S.C. §§ 1671d(a), 1673d(a).

[87] Angus Chemical Co. v. United States, 140 F.3d 1478, 1484-85 (Fed. Cir. 1998) ("{T}he statute does not 'compel the commissioners' to employ {a particular methodology}."), aff'd, 944 F. Supp. 943, 951 (Ct. Int'l Trade 1996).

imports and material injury to the domestic industry, the Commission examines the facts of record that relate to the significance of the volume and price effects of the subject imports and any impact of those imports on the condition of the domestic industry. This evaluation under the "by reason of" standard must ensure that subject imports are more than a minimal or tangential cause of injury and that there is a sufficient causal, not merely a temporal, nexus between subject imports and material injury.[88]

In many investigations, there are other economic factors at work, some or all of which may also be having adverse effects on the domestic industry. Such economic factors might include nonsubject imports; changes in technology, demand, or consumer tastes; competition among domestic producers; or management decisions by domestic producers. The legislative history explains that the Commission must examine factors other than subject imports to ensure that it is not attributing injury from other factors to the subject imports, thereby inflating an otherwise tangential cause of injury into one that satisfies the statutory material injury threshold.[89] In performing its examination, however, the Commission need not isolate the injury caused by other factors from injury caused by unfairly traded imports.[90] Nor does the "by reason of" standard require that unfairly traded imports be the "principal" cause of injury or contemplate that injury from unfairly traded imports be weighed against other factors, such as nonsubject

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[88] The Federal Circuit, in addressing the causation standard of the statute, observed that "{a}s long as its effects are not merely incidental, tangential, or trivial, the foreign product sold at less than fair value meets the causation requirement." Nippon Steel Corp. v. USITC, 345 F.3d 1379, 1384 (Fed. Cir. 2003). This was further ratified in Mittal Steel Point Lisas Ltd. v. United States, 542 F.3d 867, 873 (Fed. Cir. 2008), where the Federal Circuit, quoting Gerald Metals, Inc. v. United States, 132 F.3d 716, 722 (Fed. Cir. 1997), stated that "this court requires evidence in the record 'to show that the harm occurred "by reason of" the LTFV imports, not by reason of a minimal or tangential contribution to material harm caused by LTFV goods.'" See also Nippon Steel Corp. v. United States, 458 F.3d 1345, 1357 (Fed. Cir. 2006); Taiwan Semiconductor Industry Ass'n v. USITC, 266 F.3d 1339, 1345 (Fed. Cir. 2001).

[89] SAA at 851-52 ("{T}he Commission must examine other factors to ensure that it is not attributing injury from other sources to the subject imports."); S. Rep. 96-249 at 75 (1979) (the Commission "will consider information which indicates that harm is caused by factors other than less-than-fair-value imports."); H.R. Rep. 96-317 at 47 (1979) ("in examining the overall injury being experienced by a domestic industry, the ITC will take into account evidence presented to it which demonstrates that the harm attributed by the petitioner to the subsidized or dumped imports is attributable to such other factors;" those factors include "the volume and prices of nonsubsidized imports or imports sold at fair value, contraction in demand or changes in patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and productivity of the domestic industry"); accord Mittal Steel, 542 F.3d at 877.

[90] SAA at 851-52 ("{T}he Commission need not isolate the injury caused by other factors from injury caused by unfair imports."); Taiwan Semiconductor Industry Ass'n v. USITC, 266 F.3d 1339, 1345 (Fed. Cir. 2001) ("{T}he Commission need not isolate the injury caused by other factors from injury caused by unfair imports ... . Rather, the Commission must examine other factors to ensure that it is not attributing injury from other sources to the subject imports." (emphasis in original)); Asociacion de Productores de Salmon y Trucha de Chile AG v. United States, 180 F. Supp. 2d 1360, 1375 (Ct. Int'l Trade 2002) ("{t}he Commission is not required to isolate the effects of subject imports from other factors contributing to injury" or make "bright-line distinctions" between the effects of subject imports and other causes.); see also Softwood Lumber from Canada, Invs. Nos. 701-TA-414 and 731-TA-928 (Remand), USITC Pub. 3658 at 100-01 (Dec. 2003) (Commission recognized that "{i}f an alleged other factor is found not to have or threaten to have injurious effects to the domestic industry, i.e., it is not an 'other causal factor,' then there is nothing to further examine regarding attribution to injury"), citing Gerald Metals, Inc. v. United States, 132 F.3d 716, 722 (Fed. Cir. 1997) (the statute "does not suggest that an importer of LTFV goods can escape countervailing duties by finding some tangential or minor cause unrelated to the LTFV goods that contributed to the harmful effects on domestic market prices.").

imports, which may be contributing to overall injury to an industry.[91] It is clear that the existence of injury caused by other factors does not compel a negative determination.[92]

Assessment of whether material injury to the domestic industry is "by reason of" subject imports "does not require the Commission to address the causation issue in any particular way" as long as "the injury to the domestic industry can reasonably be attributed to the subject imports" and the Commission "ensure{s} that it is not attributing injury from other sources to the subject imports."[93] [94] Indeed, the Federal Circuit has examined and affirmed various Commission methodologies and has disavowed "rigid adherence to a specific formula."[95]

The Federal Circuit's decisions in Gerald Metals, Bratsk, and Mittal Steel all involved cases where the relevant "other factor" was the presence in the market of significant volumes of price-competitive nonsubject imports. The Commission interpreted the Federal Circuit's guidance in Bratsk as requiring it to apply a particular additional methodology following its finding of material injury in cases involving commodity products and a significant market presence of price-competitive nonsubject imports.[96] The additional "replacement/benefit" test looked at whether nonsubject imports might have replaced subject imports without any benefit to the U.S. industry. The Commission applied that specific additional test in subsequent cases, including the Carbon and Certain Alloy Steel Wire Rod from Trinidad and Tobago determination that underlies the Mittal Steel litigation.

Mittal Steel clarifies that the Commission's interpretation of Bratsk was too rigid and makes clear that the Federal Circuit does not require the Commission to apply an additional test nor any one specific methodology; instead, the court requires the Commission to have "evidence in the record" to "show that the harm occurred 'by reason of' the LTFV imports," and requires that the Commission not attribute injury from nonsubject imports or other factors to subject imports.[97] Accordingly, we do not consider

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[91] S. Rep. 96-249 at 74-75; H.R. Rep. 96-317 at 47.

[92] See Nippon Steel Corp., 345 F.3d at 1381 ("an affirmative material-injury determination under the statute requires no more than a substantial-factor showing. That is, the 'dumping' need not be the sole or principal cause of injury.").

[93] Mittal Steel, 542 F.3d at 877-78; see also id. at 873 ("While the Commission may not enter an affirmative determination unless it finds that a domestic industry is materially injured 'by reason of' subject imports, the Commission is not required to follow a single methodology for making that determination ... {and has} broad discretion with respect to its choice of methodology.") citing United States Steel Group v. United States, 96 F.3d 1352, 1362 (Fed. Cir. 1996) and S. Rep. 96-249 at 75.

[94] Commissioner Pinkert does not join this paragraph or the following four paragraphs. He points out that the Federal Circuit, in Bratsk, 444 F.3d 1369, and Mittal, held that the Commission is required, in certain circumstances when considering present material injury, to undertake a particular kind of analysis of nonsubject imports. Mittal explains as follows:

> What Bratsk held is that "where commodity products are at issue and fairly traded, price-competitive, nonsubject imports are in the market," the Commission would not fulfill its obligation to consider an important aspect of the problem if it failed to consider whether nonsubject or non-LTFV imports would have replaced LTFV subject imports during the period of investigation without a continuing benefit to the domestic industry. 444 F.3d at 1369. Under those circumstances, Bratsk requires the Commission to consider whether replacement of the LTFV subject imports might have occurred during the period of investigation, and it requires the Commission to provide an explanation of its conclusion with respect to that factor.

542 F.3d at 878.

[95] Nucor Corp. v. United States, 414 F.3d 1331, 1336, 1341 (Fed. Cir. 2005); see also Mittal Steel, 542 F.3d at 879 ("Bratsk did not read into the antidumping statute a Procrustean formula for determining whether a domestic injury was 'by reason' of subject imports.").

[96] Mittal Steel, 542 F.3d at 875-79.

[97] Mittal Steel, 542 F.3d at 873 (quoting from Gerald Metals, 132 F.3d at 722), 875-79 & n.2 (recognizing the Commission's alternative interpretation of Bratsk as a reminder to conduct a non-attribution analysis).

ourselves required to apply the replacement/benefit test that was included in Commission opinions subsequent to Bratsk.

The progression of Gerald Metals, Bratsk, and Mittal Steel clarifies that, in cases involving commodity products where price-competitive nonsubject imports are a significant factor in the U.S. market, the Court will require the Commission to give full consideration, with adequate explanation, to non-attribution issues when it performs its causation analysis.[98] [99]

The question of whether the material injury threshold for subject imports is satisfied notwithstanding any injury from other factors is factual, subject to review under the substantial evidence standard.[100] Congress has delegated this factual finding to the Commission because of the agency's institutional expertise in resolving injury issues.[101]

2. Material Injury by Reason of Subject Imports

In evaluating the volume of subject imports, section 771(7)(C)(i) of the Tariff Act provides that the "Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant."[102]

In evaluating the price effects of the subject imports, section 771(7)(C)(ii) of the Tariff Act provides that the Commission shall consider whether –

> (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and
> (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.[103]

In examining the impact of subject imports, section 771(7)(C)(iii) of the Tariff Act provides that the Commission "shall evaluate all relevant economic factors which have a bearing on the state of the industry."[104] These factors include output, sales, inventories, ability to raise capital, research and

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[98] Commissioner Lane also refers to her dissenting views in Polyethylene Terephthalate Film, Sheet, and Strip from Brazil, China, Thailand, and the United Arab Emirates, Invs. Nos. 731-TA-1131 to 1134 (Final), USITC Pub. 4040 (Oct. 2008), for further discussion of Mittal Steel.

[99] To that end, after the Federal Circuit issued its decision in Bratsk, the Commission began to present published information or send out information requests in final phase investigations to producers in nonsubject countries that accounted for substantial shares of U.S. imports of subject merchandise (if, in fact, there were large nonsubject import suppliers). In order to provide a more complete record for the Commission's causation analysis, these requests typically seek information on capacity, production, and shipments of the product under investigation in the major source countries that export to the United States. The Commission plans to continue utilizing published or requested information in final phase investigations in which there are substantial levels of nonsubject imports.

[100] We provide in our respective discussions of volume, price effects, and impact a full analysis of other factors alleged to have caused any material injury experienced by the domestic industry.

[101] Mittal Steel, 542 F.3d at 873; Nippon Steel Corp., 458 F.3d at 1350, citing U.S. Steel Group, 96 F.3d at 1357; S. Rep. 96-249 at 75 ("The determination of the ITC with respect to causation is ... complex and difficult, and is a matter for the judgment of the ITC.").

[102] 19 U.S.C. § 1677(7)(C)(i).

[103] 19 U.S.C. § 1677(7)(C)(ii).

[104] 19 U.S.C. § 1677(7)(C)(iii); see also SAA at 851 and 885 ("In material injury determinations, 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 also may demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.").

development, and factors affecting domestic prices. No single factor is dispositive and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[105]

3. Threat of Material Injury by Reason of Subject Imports

Section 771(7)(F) of the Tariff Act directs the Commission to determine whether the U.S. industry is threatened with material injury by reason of the subject imports by analyzing whether "further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted."[106] The Commission may not make such a determination "on the basis of mere conjecture or supposition," and considers the threat factors "as a whole" in making its determination whether dumped or subsidized imports are imminent and whether material injury by reason of subject imports would occur unless an order is issued.[107] In making our determination, we consider all statutory threat factors that are relevant to this investigation.[108]

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[105] 19 U.S.C. § 1677(7)(C)(iii); see also SAA at 851, 885; Live Cattle from Canada and Mexico, Inv. Nos. 701-TA-386, 731-TA-812-813 (Preliminary), USITC Pub. 3155 at 25 n.148 (Feb. 1999).

[106] 19 U.S.C. § 1677(7)(F)(ii).

[107] 19 U.S.C. § 1677(7)(F)(ii).

[108] These factors are as follows:

> (I) if a countervailable subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the countervailable subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement) and whether imports of the subject merchandise are likely to increase,
>
> (II) any existing unused production capacity or imminent, substantial increase in production capacity in the exporting country indicating the likelihood of substantially increased imports of the subject merchandise into the United States, taking into account the availability of other export markets to absorb any additional exports,
>
> (III) a significant rate of increase of the volume or market penetration of imports of the subject merchandise indicating the likelihood of substantially increased imports,
>
> (IV) whether imports of the subject merchandise are entering at prices that are likely to have a significant depressing or suppressing effect on domestic prices and are likely to increase demand for further imports,
>
> (V) inventories of the subject merchandise,
>
> (VI) 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.
>
> * * *
>
> (IX) any other demonstrable adverse trends that indicate the probability that there is likely to be material injury by reason of imports (or sale for importation) of the subject merchandise (whether or not it is actually being imported at the time).

19 U.S.C. § 1677(7)(F)(i). To organize our analysis, we discuss the applicable statutory threat factors using the same volume/price/impact framework that applies to our material injury analysis. Statutory threat factors (I), (II), (III), (V), and (VI) are discussed in the analysis of subject import volume. Statutory threat factor (IV) is discussed in the price effects analysis, and statutory threat factor (IX) is discussed in the impact analysis. Statutory threat factor (VII) is inapplicable, as no imports of agricultural products are involved in this investigation. No argument was

B. Conditions of Competition

The following conditions of competition inform our analysis in the final phase of these investigations.

1. Demand Conditions

Apparent U.S. consumption for PRCBs declined by 6.7 percent between 2006 and 2008, from 108.7 billion bags in 2006 to 105.3 billion bags in 2007 and 101.4 billion bags in 2008, and was flat over the interim period, at 74.4 billion bags in interim 2008 and 74.5 billion bags in interim 2009.[109] When asked how demand for PRCBs in the U.S. market has changed since 2006, nine responding producers reported a decrease, four reported no change, and none reported an increase, while 12 importers reported a decrease, ten reported no change, two reported an increase, and two reported that demand fluctuated.[110] Reasons given by responding producers and importers for the decline in PRCB demand since 2006 included the weakening economy, increased use of alternative bag types, legislative actions regulating the use of PRCBs, the increased cost of PRCBs, and consumer perceptions.[111] Petitioners project that PRCB demand will remain flat or decline in the imminent future due to environmental laws and increased acceptance of reusable bags.[112]

The record indicates that laws and regulations taxing, banning, or limiting the use of PRCBs have been enacted in San Francisco, CA; Westport, CT; the Outer Banks of North Carolina; Seattle, WA; and Washington, DC, and have been considered, but not implemented, in 32 states and localities throughout the United States.[113] When asked whether they expect the passage of laws regulating PRCB use and disposal to affect PRCB demand, 8 of 12 responding domestic producers answered yes, with an average projected demand decline of 11 percent; 12 of 27 responding importers answered yes, with an average projected demand decline of 27 percent; and 27 of 50 responding purchasers answered yes, with an average projected demand decline of 18 percent.[114]

2. Supply Conditions

API, Hilex, Inteplast, and Superbag were *** domestic producers during the period of investigation, accounting for *** percent, *** percent, *** percent, and *** percent of domestic PRCB production in 2008, respectively.[115] All other domestic producers combined accounted for only ***

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made that the domestic industry is currently engaging or will imminently engage in any efforts to develop a derivative or more advanced version of the domestic like product, which would implicate statutory threat factor (VIII).

[109] Memorandum INV-HH-037 (Apr. 14, 2010)/PR at Table C-4.

[110] CR at II-15; PR at II-10.

[111] CR at II-15; PR at II-10-11.

[112] Petitioners' Prehearing Br. at 58 (citing CR at Table II-7). When asked whether PRCB demand had been affected by the passage of laws regulating use and disposal of PRCBs, 4 of 13 responding domestic producers answered yes, with an average estimated demand decline of 6 percent; 10 of 26 responding importers answered yes, with an average estimated demand decline of 16 percent; and 10 of 49 responding purchasers answered yes, with an average estimated demand decline of 5 percent. CR/PR at Table II-7.

[113] CR at II-20; PR at II-13-14. The record also indicates that the 5-cent per-bag tax imposed on PRCBs in Washington, DC has had a significant impact on PRCB demand there. Id.

[114] CR/PR at Table II-7.

[115] CR/PR at Table III-1.

percent of domestic production in 2008.[116] Between 2006 and 2008, Hilex closed three PRCB production facilities and Europackaging closed one, resulting in a 4.1 percent decline in domestic production capacity.[117]

On May 9, 2008, Hilex, the dominant domestic producer of PRCBs, voluntarily filed for relief under Chapter 11 of the U.S. Bankruptcy code, reportedly to reduce its overall debt and strengthen its balance sheet.[118] Hilex emerged from bankruptcy protection in July 2008.[119]

Imports from subject and nonsubject sources accounted for 35.9 percent of apparent U.S. consumption in 2008.[120] Two major producers in Taiwan, and most responding producers in Vietnam, first began producing PRCBs during the period examined.[121]

The principal sources of nonsubject imports were China, Malaysia, and Thailand,[122] and PRCBs from all three countries are subject to antidumping duty orders imposed in 2004.[123] A substantial proportion of imports from these countries was imported from producers not subject to the orders, however, including *** percent of imports from China and *** percent of imports from Malaysia in 2008.[124] Nonsubject imports declined from 34.7 billion bags in 2006, or 31.8 percent of apparent U.S. consumption, to 20.9 billion bags in 2007, or 19.8 percent of apparent U.S. consumption, before increasing slightly to 21.8 billion bags in 2008, or 21.5 percent of apparent U.S. consumption, a volume 37.2 percent below that of 2006.[125]

3. Substitutability and Other Conditions of Competition

The record indicates that there is a high degree of substitutability between PRCBs, regardless of the source, and that price is an important consideration in purchasing decisions.[126] The majority of responding producers, importers, and purchasers reported that the domestic like product is "always" or "frequently" interchangeable with subject imports from Indonesia, Taiwan, and Vietnam, and that subject imports from each source are "always" or "frequently" interchangeable with each other.[127] When asked whether differences other than price are ever significant to purchasers, almost all producers and a majority of importers and purchasers responded "sometimes" or "never," though a significant minority of importers and purchasers reported that differences other than price are "always" or "frequently" significant to purchasers choosing between subject imports and the domestic like product.[128] When asked to identify the three major factors considered in selecting among different suppliers of PRCBs, 49 of 52

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[116] CR/PR at Table III-1.

[117] CR at III-3 & n. 4; PR at III-3 & n.4; CR/PR at Tables III-2, C-1. Additionally, *** reported that Hurricane Katrina forced it to move production equipment overseas for much of the period examined. CR at III-3; PR at III-3.

[118] CR at VI-11 n.4; PR at VI-4 n.4.

[119] CR at VI-11 n.4; PR at VI-4 n.4.

[120] Memorandum INV-HH-037 (Apr. 14. 2010)/PR at Table C-4.

[121] CR at VII-3; PR at VII-2; Memorandum INV-HH-037 (Apr. 14, 2010), at VII-5; PR at VII-2.

[122] CR at IV-1; PR at IV-1. The next largest source of nonsubject imports was Canada, which accounted for 2 percent of total imports during the 2006-08 period. CR at II-9; PR at II-7.

[123] CR at IV-1; PR at IV-1. On October 21, 2009, the Commission initiated sunset reviews of the antidumping duty order on PRCBs from China, Malaysia. and Thailand, and these reviews are currently ongoing. CR at I-4 & n.6; PR at I-4 n.6.

[124] Derived by Commission staff from proprietary Customs data. See EDIS Document No. 422010.

[125] CR/PR at Tables IV-3-4; Memorandum INV-HH-037 (Apr. 14, 2010)/PR at Table C-4.

[126] See CR at II-21, 22-23; PR at II-15.

[127] CR at II-27; PR at II-20; CR/PR at Table II-12.

[128] CR/PR at Table II-13.

responding purchasers ranked price among their top three factors, more than any other factor, and 15 responding purchasers reported that price was the most important factor.[129] Twenty-three of 46 purchasers reported that they always or usually purchase the lowest-priced PRCBs.[130] When asked to rate the importance of 18 factors relevant to selecting among different suppliers of PRCBs, 46 of 51 responding purchasers reported that "price" was a "very important" factor, second only to "product consistency," which was reported to be a "very important" factor by 47 responding purchasers.[131]

Two additional conditions of competition inform our analysis in the final phase of these investigations. First, at the hearing, witnesses from Hilex and Superbag testified that their PRCB production facilities must operate around the clock to reduce unit costs to an economical level, and that this factor has compelled them to defend their key high-volume customers, their "baseload business," by meeting low subject import prices.[132] Customers lost to subject imports, the witness from Hilex stated, may only be regained by undercutting the new incumbent supplier's price.[133]

Second, we note that raw materials, principally polyethylene resin, accounted for 70.7 percent of the total cost of goods sold reported by domestic producers in 2008.[134] The price of polyethylene resin was volatile over the period examined, decreasing irregularly during 2006 before trending higher through August 2008, when it peaked, declining sharply through January 2009, and then trending higher through February 2010.[135] ***, and a witness for Superbag testified at the hearing that many of Superbag's agreements with customers include terms or informal understandings that adjust PRCB prices to account for changes in resin prices.[136]

C. Volume of Subject Imports

We find that subject import volume was significant over the period examined, both in absolute terms and relative to apparent U.S. consumption and domestic industry production, and that the increase in subject import volume and market share also was significant.[137] Cumulated subject imports increased

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[129] CR at II-22; PR at II-16; CR/PR at Table II-9.

[130] CR at II-22; PR at II-16 (with 20 purchasers reporting "sometimes" and three reporting "rarely").

[131] CR at II-23; PR at II-17; CR/PR at Table II-10.

[132] Hearing Tr. at 25-26 (Bazbaz), 35-37 (Daniels); see also id. at 49 (Dorn); Petitioners' Prehearing Br. at 31.

[133] Hearing Tr. at 36-37 (Daniels); see also Petitioners' Prehearing Br. at 32.

[134] CR at V-1; PR at V-1.

[135] CR/PR at Figure V-1.

[136] CR at V-1; PR at V-1; Hearing Tr. at 26 (Bazbaz) ("With many customers we have agreements that tie our price to the cost of resin as measured by publicly-available index. With other customers, we have an informal understanding that our price will be adjusted to reflect changes in the price of resin, . . ."). There is no evidence on the record that importers' contracts include similar terms. See CR at V-4; PR at V-3.

[137] In a final phase investigation, the statute requires the Commission to consider whether changes in volume, price effects, or impact are related to the pendency of the investigation. 19 U.S.C. § 1677(7)(I). If the Commission determines that such changes are related to the pendency of the investigation, it has the discretion under the statute to reduce the weight accorded to such information but is not required to do so. Id. In the final phase of these investigations, petitioners argue that the Commission should discount post-petition data because these data were distorted by the pendency of these investigations, as market participants altered their buying patterns to the benefit of the domestic industry. Petitioners' Prehearing Br. at 34-39; Petitioners' Posthearing Br. at 5. Respondents argue that the Commission should not discount post-petition information because, in their view, the filing of the petition had no "meaningful effect" on subject import volume. Hearing Tr. at 165 (Morgan); Respondents' Final Comments at 2-3.

We recognize that the filing of the petitions on March 31, 2009 had some effect on subject import volume and the condition of the domestic industry. Subject import volume was 13.5 percent lower and subject import market share was 2.0 percentage points lower in interim 2009 as compared to interim 2008. Memorandum INV-HH-

by 100.3 percent between 2006 and 2008, from 7.3 billion bags in 2006 to 14.7 billion bags in 2007 and 14.6 billion bags in 2008, but were 13.5 percent lower in interim 2009, at 9.5 billion bags, than in interim 2008, at 11.0 billion bags.[138] At the same time, the ratio of subject import volume to apparent U.S. consumption increased from 6.7 percent in 2006 to 13.9 percent in 2007 and 14.4 percent in 2008, but was 12.7 percent in interim 2009, down from 14.8 percent in interim 2008.[139] The ratio of subject imports to domestic industry production increased from 10.4 percent in 2006 to 20.3 percent in 2007 and 22.0 percent in 2008, but was 18.4 percent in interim 2009, down from 21.5 percent in interim 2008.[140]

We recognize that domestic producers themselves imported subject PRCBs over the period examined. The domestic industry's share of total subject imports increased from *** percent in 2006 to *** percent in 2007 and *** percent in 2008, and was 18.6 percent in interim 2009, down from 23.7 percent in interim 2008.[141] We nevertheless reject respondents' argument that we should discount these volumes of subject imports.[142] We note that subject imports by one domestic producer may be injurious to other domestic producers and to the domestic industry as a whole, which includes domestic workers.[143] Moreover, when domestic producers import subject merchandise to remain competitive and avoid losing customers, this action may itself be evidence of the material injury the industry is sustaining.[144] Thus, as in previous investigations, we have assessed the significance of total subject imports.[145]

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037 (Apr. 14, 2010)/PR at Table C-4. At the same time, the domestic industry's performance improved in interim 2009 relative to interim 2008 according to most measures. See CR/PR at Table VI-1. Nevertheless, the record indicates that several factors other than subject imports also influenced the domestic industry's performance over the interim period, including fluctuations in raw material prices, the recession, and *** lagging performance. See CR at II-15, VI-1, VI-11 n.4; PR at II-10-11, VI-1, VI-4 n.4. Because we cannot conclude that the filing of the petition contributed significantly to the domestic industry's improved performance in interim 2009, we do not exercise our discretion to discount post-petition information.

[138] Memorandum INV-HH-037 (Apr. 14, 2010)/PR at Table C-4. We rely on subject import data adjusted to reflect *** importation of PRCBs from Indonesia under both HTS 3923.21.0085 and HTS 3923.21.0095, as reported in the proprietary customs data under both statistical reporting numbers. See id. at IV-2. We do so because *** explanation for the adjustment is credible and the adjustment is significant.

[139] Memorandum INV-HH-037 (Apr. 14, 2010)/PR at Table C-4.

[140] Memorandum INV-HH-037 (Apr. 14, 2010)/PR at Table C-4.

[141] Compare CR/PR at Table III-5 with Memorandum INV-HH-037 (Apr. 14, 2010)/PR at Table C-4.

[142] See Respondents' Prehearing Br. at 7-14, 19.

[143] Certain Lined Paper School Supplies from China, India, and Indonesia, Inv. Nos. 701-TA-442-443 and 731-TA-1095-1097 (Final), USITC Pub. 3884 (Sept. 2006) at 38-39; Polyethylene Retail Carrier Bags from China, Malaysia, and Thailand, Inv. Nos. 731-TA-1043-1045 (Final), USITC Pub. 3710 (Aug. 2004) at 27; see, generally, Timken U.S. Corp. v. United States, 310 F. Supp. 2d 1327, 1338 (Ct. Int'l Trade 2004) (remanding the Commission's sunset determination for failure to examine the likely competitive behavior of foreign producers toward the domestic industry as a whole, especially those domestic producers unrelated to subject importers, in its volume and price effects analysis). Further, we note that petitioners Hilex and Superbag, which together accounted for *** percent of domestic PRCB production in 2008, imported *** PRCBs from subject countries during the period examined, ***. CR/PR at Tables III-1, 5.

[144] S. Rep. No. 100-171, 100th Cong., 1st Sess., 117 (1988); see also H. Rep. 100-40, 100th Cong., 1st Sess. 128-29 (1988). Indeed, petitioners have claimed that domestic producers were forced to import PRCBs as a means of sustaining their higher-cost domestic operations. See Petitioners' Post-Conference Br. at 22; Conference Tr. at 20 (Bazbaz) ("[S]ome domestic producers are using blended sales programs. That is a domestic producer will commit to sell a customer its higher priced domestic bags and lower priced imported bags at a single average price."). They also claim ***. Petitioners' Responses to Commissioner Questions, at 40.

[145] See, e.g., Certain Lined Paper School Supplies from China, India, and Indonesia, Inv. Nos. 701-TA-442-443 and 731-TA-1095-1097 (Final), USITC Pub. 3884 (Sept. 2006) at 38-39; Wooden Bedroom Furniture from China, Inv. No. 731-TA-1058 (Final), USITC Pub. 3743 (December 2004), at 26-27; Polyethylene Retail Carrier Bags from China, Malaysia, and Thailand, Inv. Nos. 731-TA-1043-1045 (Final), USITC Pub. 3710 (Aug. 2004) at 27; see also

Based on the preceding analysis, we find that cumulated subject import volume is significant, both in absolute terms and relative to consumption and production in the United States, and that the increase in subject import volume and market penetration was also significant. We also find that this significant rate of increase in the volume and market penetration of cumulated subject imports during the period of investigation indicates the likelihood of substantially increased imports in the imminent future for the following reasons.

With respect to our threat analysis, we initially note that we have limited information concerning the subject foreign industries in Indonesia, Taiwan, and Vietnam, given the failure of a significant number of subject foreign producers to cooperate and respond to the Commission's foreign producers' questionnaire.[146] Therefore, we have relied on the facts otherwise available when appropriate in the final phase of these investigations, which consists primarily of information submitted in the investigations and information available from public sources.[147] [148]

Responding subject foreign producers in Taiwan and Vietnam increased their capacity *** during the period examined and responding subject foreign producers in Indonesia, Taiwan, and Vietnam possessed *** excess capacity at the end of the period with which to resume increasing their exports of PRCBs to the U.S. market at a significant rate. On a cumulated basis, responding subject foreign producers increased their capacity by *** percent between 2006 and 2008, from *** billion bags in 2006 to *** billion bags in 2008, and their capacity was slightly higher in interim 2009, at *** billion bags,

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HEDP from China and India, Inv. Nos. 731-TA-1146-1147 (Final), USITC Pub. 4072 (April 2009), at 21 n.127 ("[W]e are not permitted under the statute to . . . count subject imports imported by a domestic producer toward domestic industry shipments.").

[146] See 19 U.S.C. § 1677e(a). We recognize that data reported by responding foreign producers likely understate subject country capacity and production to a significant degree. See Petitioners' Prehearing Br., at 68-72, Exhibits 30-39.

[147] 19 U.S.C. § 1677e(a) authorizes the Commission to ":use the facts otherwise available" in reaching a determination when (1) necessary information is not available on the record or (2) an interested party or any other person withholds information requested by the agency, fails to provide such information in the time or in the form or manner requested, significantly impedes a proceeding, or provides information that cannot be verified pursuant to 19 U.S.C. § 1677m(i). The verification requirements in 19 U.S.C. § 1677m(i) are applicable only to Commerce. See Titanium Metals Corp. v. United States, 155 F. Supp. 2d 750, 765 (Ct. Int'l Trade 2002) ("the ITC correctly responds that Congress has not required the Commission to conduct verification procedures for the evidence before it, or provided a minimum standard by which to measure the thoroughness of Commission investigations.").

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

than in interim 2008, at *** billion bags.[149] Two of three responding Taiwan producers and most responding Vietnamese producers only began producing PRCBs during the period examined.[150]

A substantial proportion of the capacity reported by subject foreign producers in Indonesia, Taiwan, and Vietnam *** at the end of the period examined. On a cumulated basis, responding subject foreign producers reported a capacity utilization rate of only *** percent in interim 2009, yielding excess capacity of *** billion bags.[151] In that same period, responding subject Indonesian producers reported a capacity utilization rate of *** percent, yielding excess capacity of *** bags; responding subject Taiwan producers reported a capacity utilization rate of *** percent, yielding excess capacity of *** bags; and responding subject Vietnamese producers reported a capacity utilization rate of *** percent, yielding excess capacity of *** bags.[152] The cumulated excess capacity of responding subject foreign producers in interim 2009, *** bags, was equivalent to *** percent of apparent U.S. consumption during the period.[153]

Although we place only limited weight on projections, cumulated subject foreign producers project that their excess capacity will increase over the 2008 level of *** billion bags to *** billion bags in 2009 and *** billion bags in 2010.[154] Responding Taiwan and Vietnamese producers project that they will possess excess capacity of a *** greater magnitude in full years 2009 and 2010,[155] while responding Indonesian producers project excess capacity of a *** lower magnitude.[156] [157]

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[149] Memorandum INV-HH-037 (Apr. 14, 2010)/PR at Table VII-4. Responding subject Taiwan producers reported a *** percent increase in their capacity between 2006 and 2008, from *** bags in 2006 to *** bags in 2007 and *** bags in 2008, and stable capacity when comparing interim periods, at *** bags. CR/PR at Table VII-2. Responding subject Vietnamese producers reported a *** percent increase in their capacity between 2006 and 2008, from *** bags in 2006 to *** bags in 2007 and *** bags in 2008, with reported capacity *** higher in interim 2009, at *** bags, than in interim 2008, at *** bags. Memorandum INV-HH-037 (Apr. 14, 2010)/PR at Table VII-3.

[150] CR at VII-3, 5; PR at VII-1-2.

[151] Memorandum INV-HH-037 (Apr. 14, 2010)/PR at Table VII-4.

[152] CR/PR at Tables VII-1-2; Memorandum INV-HH-037 (Apr. 14, 2010)/PR at Table VII-3.

[153] CR/PR at Tables IV-3, VII-1-2; Memorandum INV-HH-037 (Apr. 14, 2010)/PR at Tables VII-3, 4. We find that actual excess capacity is likely higher than reported excess capacity based on the reportedly low coverage of the foreign producers' questionnaire responses in the final phase of these investigations. CR at VII-1, 3; PR at VII-1-2; Memorandum INV-HH-037 (Apr. 14, 2010), at VII-5; PR at VII-2. The record contains evidence that subject foreign producers of PRCBs in Vietnam that did not complete questionnaire responses in the final phase of these investigations possess significant PRCB capacity and exported a significant share of their shipments to the United States during the period examined. See Petitioners' Prehearing Br., at 68-72, Exhibits 30-39.

[154] Memorandum INV-HH-037 (Apr. 14, 2010)/PR at Table VII-4.

[155] Responding Taiwan producers project that their capacity utilization rate will be *** percent in full year 2009, yielding *** bags of excess capacity, and *** percent in 2010, yielding *** bags of excess capacity. CR/PR at Table VII-2. Responding Vietnamese producers project that their capacity utilization rate will be *** percent in full year 2009, yielding *** bags of excess capacity, and *** percent in 2010, yielding *** bags of excess capacity. Memorandum INV-HH-037 (Apr. 14, 2010)/PR at Table VII-3. Moreover, *** Vietnamese producers reported producing other products using the same resources used to produce PRCBs, and could therefore shift production from other products to PRCBs in order to increase production of PRCBs. Id. at VII-6.

[156] Responding Indonesian producers project that their capacity utilization rate will be *** percent in full year 2009, yielding *** bags of excess capacity, and *** percent in 2010, yielding *** bags of excess capacity. CR/PR at Table VII-1.

[157] The reported ratio of inventories to shipments remained under *** percent throughout the period examined in all three subject countries. See CR/PR at Tables VII-1-2; Memorandum INV-HH-037 (Apr. 14, 2010)/PR at Table VII-3. PRCB producers tend to maintain relatively low inventories because most PRCBs are printed with company-specific names or logos and hence cannot be shifted from one customer to another. CR at II-8; PR at II-6. Importers held larger inventories of subject imports in the United States, with end-of-period inventories increasing from 2.2 billion bags in 2006, equivalent to 14.1 percent of U.S. shipments of subject imports, to 3.7 billion bags in 2007, equivalent to 22.9 percent of U.S. shipments of subject imports, and 4.1 billion bags in 2008, equivalent to 23.2

Subject Indonesian, Taiwan, and Vietnamese producers not only possess the ability to increase exports to the United States significantly in the imminent future, but also the incentive to do so given their dependence on exports to the United States during the period examined and the absence of significant home or third country markets. On a cumulated basis, responding subject foreign producers reported that their exports to the United States constituted *** percent of their total shipments in 2008, and *** percent in interim 2009, while their shipments to home market customers constituted only *** percent of their total shipments in 2008, and *** percent in interim 2009.[158] Exports to third country markets constituted *** percent of their total shipments in 2008 and *** percent in interim 2009.[159] Responding producers in each subject country project that *** or more of their total shipments will continue to be exported to the United States in full year 2009 and 2010.[160] Only by significantly increasing their exports to the United States will producers in Indonesia, Taiwan, and Vietnam be able to fill their excess capacity.[161]

Consequently, we conclude that the cumulated volume of subject imports, which was significant during the period of investigation, is likely to increase substantially in the imminent future.[162]

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percent of shipments of subject imports. CR/PR at Table VII-5. Importer end-of-period inventories were 4.1 billion in interim 2009, equivalent to 25.9 percent of U.S. shipments of subject imports, and 4.2 billion bags in interim 2008, equivalent to 25.1 percent of U.S. shipments. Id. We note that inventories held by importers, like inventories held by domestic producers, are largely customized for specific customers, as petitioners estimate that only *** percent of apparent U.S. consumption consists of "generic" PRCBs. Petitioners' Responses to Commissioner Questions at 5. Thus, we recognize that subject imports inventoried by importers may be earmarked for specific customers pursuant to sales that have already taken place.

[158] Memorandum INV-HH-037 (Apr. 14, 2010)/PR at Table VII-4.

[159] Memorandum INV-HH-037 (Apr. 14, 2010)/PR at Table VII-4. Responding subject producers in Indonesia, Taiwan, and Vietnam reported that in 2008, their exports to the United States constituted ***, ***, and *** percent of their total shipments, respectively. CR/PR at Table VII-1-2; Memorandum INV-HH-037 (Apr. 14, 2010)/PR at Table VII-3. By contrast, responding subject producers in Indonesia, Taiwan, and Vietnam reported that their shipments to home market customers constituted only ***, ***, and *** percent, of their total shipments, respectively, while their shipments to third country export markets constituted ***, ***, and *** percent of their total shipments, respectively. Id.

[160] CR/PR at Table VII-1-2; Memorandum INV-HH-037 (Apr. 14, 2010)/PR at Table VII-3.

[161] In this regard, we note that responding producers in Taiwan and Vietnam project that their rate of capacity utilization will decline with the share of their total shipments exported to the United States in full year 2009 and 2010. See CR/PR at Table VII-2; Memorandum INV-HH-037 (Apr. 14, 2010)/PR at Table VII-3. This suggests that responding producers in Taiwan and Vietnam anticipate that their excess capacity will grow absent increased exports to the United States. We also note that two major subject foreign producers of PRCBs, ***, have reportedly suspended production of PRCBs pending the outcome of these investigations. CR at VII-3 n.3; PR at VII-1 n.3; Foreign Producers' Questionnaire Response of ***, at question II-6. There is evidence on the record that some plants in Vietnam were built solely to serve the U.S. market. See Hearing Tr. at 50-51 (Dorn) (testifying that "many factories from China and other countries and territories have moved to Vietnam to circumvent antidumping orders from the U.S. government."), 109-10 (Dorn) (testifying that "the industry in Vietnam in particular is very new" as "plants that had sprung up by producers in other countries subject to the duties on Malaysia, China and Taiwan who had moved to Vietnam to circumvent the duties in place."); Memorandum INV-HH-037 (Apr. 14, 2010), at VII-5; PR at VII-2.

[162] We have considered the nature of the subsidies received by PRCB producers in Vietnam that Commerce has found to be countervailable. CR at I-5; PR at I-4. Commerce found the following five programs in Vietnam to be countervailable: income tax preferences for encouraged industries, income tax preferences for FIEs, land rent reduction or exemption for exporters, import duty exemptions for raw materials, and exemption of import duties on imports of spare parts and accessories for industrial zone enterprises. Id. On the basis of these programs, Commerce calculated final countervailable subsidy rates ranging from 0.44 percent, which is de minimis, to 52.56 percent. CR/PR at Table I-1.

D. Price Effects of the Subject Imports

As addressed in section V.B.2.c. above, the record indicates that there is a high degree of substitutability between subject imports and the domestic like product and that price is an important consideration in purchasing decisions.[163] The record also indicates that bidding events, including bidding events conducted over the internet, were a factor in the U.S. market during the period examined, and that price was often the determinative factor in such events. Sixteen of 49 responding purchasers reported that they had participated in bidding events and provided data on 29 bidding events, whose winning bids accounted for 11.4 percent of apparent U.S. consumption in interim 2009.[164] The country with the lowest bidder was the country with the winning bid in 20 of the 23 bidding events for which such data were reported.[165]

Thirteen domestic producers, 8 importers of PRCBs from Indonesia, 10 importers of PRCBs from Taiwan, and 18 importers of PRCBs from Vietnam provided usable quarterly net U.S. f.o.b. selling price data for sales of the requested products, although not all firms reported pricing for all products for all quarters.[166] Pricing data reported by these firms accounted for approximately 69.7 percent of the domestic industry's U.S. shipments of PRCBs, 19.5 percent of PRCBs imported from Indonesia, 32.2 percent of PRCBs imported from Taiwan, and 58.7 percent of PRCBs imported from Vietnam during the period of investigation, by quantity.[167] These data indicate that subject imports undersold the domestic like product in 150 quarterly comparisons and oversold the domestic like product in 107 quarterly comparisons.[168] [169]

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[163] See CR at II-21-22, 27-33; PR at II-15, 20-26; CR/PR at Tables II-9-10, 12-14.

[164] CR at V-5; PR at V-3.

[165] Memorandum INV-HH-037 (Apr. 14, 2010), at V-5; PR at V-3-4. Most bids were won by domestic producers, though five bids were won, at least partly, by subject imports. Id.

[166] CR at V-10; PR at V-5.

[167] See CR at V-10-11; PR at V-5.

[168] CR/PR at Table V-11. We rely on pricing data reported on a per-pound basis to control for the wide range of sizes, and hence weights, encompassed by each pricing product definition. CR at V-11-12; PR at V-5-6. PRCB prices vary with bag weight given that raw material costs represented 70.7 percent of the total cost of producing PRCBs in 2008. CR at V-1; PR at V-1. The probative value of average unit value data is questionable, given evidence that PRCBs range in price from 1 cent to 27 cents per bag, and reportedly up to 65 cents per bag, depending on their weight and other physical attributes. See CR/PR at Appendix D; Preliminary Views at 21 n.144; see also CR at V-11-12; PR at V-5-6. We therefore do not rely on such data in our pricing analysis.

[169] Chairman Aranoff concurs with the majority for purposes of her no present injury determination that no price depression is evident based on the record information. She also agrees that price comparisons were mixed throughout the period for those products comprising the majority of the price data collected, due to differences in product mix, different volumes of sales, and differences in the levels of trade at which prices were reported. While she recognizes the price sensitive nature of the PRCB market and that the industry faced a cost-price squeeze toward the end of the period of investigation, she is unable to conclude on this record that subject import prices suppressed price increases that otherwise would have occurred and thus contributed to price suppression during this timeframe.

Chairman Aranoff notes that, during the period of investigation subject imports gained market share largely at the expense of non-subject imports from China, Malaysia and Thailand, which recently became subject to antidumping duty orders. She finds that the substitution in the market between previously low-priced PRCBs from non-subject countries and PRCBs from the subject countries likely limited the degree to which subject import prices affected prices for the domestic like product during this period. She concurs with the majority, however, that subject foreign producers have the ability and incentive to send a significantly greater volume of PRCBs to the United States in the imminent future. In light of the price sensitive nature of the PRCB market, importers are likely to price subject product aggressively in order to gain sales. Since the U.S. market has had five years to adjust to the antidumping duty orders on imports from China, Malaysia and Thailand, reducing the likelihood of further displacement of non-subject imports by subject imports, she finds that the rising volume of subject imports is more likely in the imminent future to take sales directly from domestic producers than was the case during the period of

Subject imports generally oversold the domestic like product with respect to products 2-5, with subject import shipments of these products overselling the domestic like product in 92 quarterly comparisons and underselling the domestic like product in 38 quarterly comparisons.[170] Products 2-4 are "T-shirt style" PRCBs, accounting for 97.0 percent of reported domestic like product sales, by weight, while product 5 is a "die cut handle style" PRCB, accounting for 0.8 percent of reported domestic like product sales, by weight.[171] Product 3 alone accounted for 86.0 percent of reported domestic like product sales, by weight, and the pattern of over- and underselling was more mixed with respect to this product, with subject imports overselling the domestic like product in 24 quarterly comparisons and underselling the domestic like product in 20 quarterly comparisons with respect to this product.[172]

We observe that the prevalence of subject import overselling with respect to products 2-5 is likely, at least in part, a function of the much lower volume of reported subject import sales relative to reported domestic like product sales for these products.[173] The record indicates that, in general, higher volume sales tend to be sold at a lower average unit price. Nine of 12 producers and 10 of 29 importers reportedly offered their customers volume discounts of some kind,[174] and the lower unit fixed costs made possible by large production runs would permit domestic producers to make higher volume sales at a lower average unit price with no effect on operating income margins.[175] Thus, the relatively higher volume of reported domestic like product sales of product 2-5 would tend to reduce the average unit price of domestic like product sales relative to the average unit price of subject import sales of these products. For this reason, we place reduced weight on these data with respect to products 2-5.

We have also considered the higher volume import pricing data provided by large retailers that directly imported PRCBs from Indonesia, Taiwan, and Vietnam for their own use. They reported delivered purchase prices for their direct imports of products 2, 3 and 5, and these data indicate that subject import delivered prices were lower than domestic producers' prices in 49 quarterly comparisons

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investigation. She therefore concludes that subject imports are likely to enter at prices that will have a significant depressing or suppressing effect on domestic prices, and are likely to increase demand for further imports, in the imminent future.

[170] CR/PR at Table V-11.

[171] See CR/PR at Tables V-2-9.

[172] CR/PR at Table V-4.

[173] See CR/PR at Tables V-3-6. For product 2, the average quarterly volume of reported sales was 14.3 million pounds with respect to the domestic like product, but only 55,000 pounds with respect to subject imports from Indonesia, 1.3 million pounds with respect to subject imports from Taiwan, and 690,000 pounds with respect to subject imports from Vietnam. See CR/PR at Table V-3. For product 3, the average quarterly volume of reported sales was 137.2 million pounds with respect to the domestic like product, but only 585,000 pounds with respect to subject imports from Indonesia, 1.6 million pounds with respect to subject imports from Taiwan, and 3.9 million pounds with respect to subject imports from Vietnam. See CR/PR at Table V-4. For product 4, the average quarterly volume of reported sales was 3.2 million pounds with respect to the domestic like product, but only 19,500 pounds with respect to subject imports from Indonesia, 19,000 pounds with respect to subject imports from Taiwan, and 460,000 pounds with respect to subject imports from Vietnam. See CR/PR at Table V-5. For product 5, the average quarterly volume of reported sales was 1.2 million pounds with respect to the domestic like product, but only 17,000 pounds with respect to subject imports from Indonesia and 210,000 pounds with respect to subject imports from Vietnam, with no reported sales of subject imports from Taiwan. See CR/PR at Table V-6.

[174] CR at V-4-5; PR at V-3; Domestic Producers' Questionnaire Responses of ***, ***, ***, ***, ***, ***, ***, ***, ***, and ***, at question IV-4; Respondents' Responses to Commissioner Questions, at Q-15 ("Large volume purchasers often receive a lower average price than purchasers of smaller volumes.").

[175] See Hearing Tr. at 25-26 (Bazbaz), 35-37 (Daniels); see also id. at 49 (Dorn) (testifying that domestic PRCB production facilities must operate around the clock to reduce unit fixed costs to an economical level); Petitioners' Prehearing Br. at 31.

and higher than domestic producers' prices in 11 quarterly comparisons.[176] Although delivered subject direct import prices are at a different level of trade than domestic producers' prices, we nevertheless find that these data have some relevance to our analysis. Subject direct import delivered prices are overstated relative to domestic producers' prices, if anything, because subject direct import delivered prices include transportation costs from the port to the purchaser's facility, whereas domestic producers' prices are reported f.o.b. the factory gate, excluding transportation costs to the purchaser.[177] Moreover, direct import pricing data cover a substantial proportion of subject imports, having been reported by purchasers accounting for 76.8 percent of subject imports from Indonesia, 48.0 percent of imports from Taiwan, and 22.8 percent of imports from Vietnam, by quantity.[178] Direct import pricing data also cover a much larger proportion of subject imports of product 3 from Indonesia and Taiwan than import sales pricing data, by weight, making these data more comparable to domestic like product sales pricing data in terms of sales volume and potential volume discounts.[179]

Subject imports generally undersold the domestic like product with respect to products 1 and 6-8, with subject import shipments of these products underselling the domestic like product in 112 quarterly comparisons and overselling the domestic like product in 13 quarterly comparisons.[180] Apart from product 1, which is a "T-shirt sack" style PRCB, these products consist of lower-volume and higher-value PRCBs, and together accounted for only 2.3 percent of reported domestic like product sales, by weight.[181]

Purchasers confirmed three of petitioners' *** lost sales allegations, amounting to lost sales of $***, and one of petitioners' *** lost revenue allegations, amounting to lost revenue of $***.[182] We note, however, that many purchasers disagreed with petitioners' lost sales and revenue allegations not because the allegations were untrue, but because the purchasers lacked the documentation necessary to confirm

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[176] Compare CR/PR at Tables V-3-4, 6 with Memorandum INV-HH-037 (Apr. 14, 2010)/PR at Tables E-1-3. With respect to product 2, delivered subject direct import prices were lower than domestic producers' prices in 10 quarterly comparisons and higher than domestic producers' prices in one quarterly comparison. Compare CR/PR at Table V-3 with Memorandum INV-HH-037 (Apr. 14, 2010)/PR at Table E-1. With respect to product 3, subject direct import prices were lower than domestic producers' prices in 28 quarterly comparisons and higher than domestic producers' prices in two quarterly comparisons. Compare CR/PR at Table V-4 with EDIS Document No. 423799 (correcting the subject direct import pricing data for product 3 contained in Memorandum INV-HH-037 (Apr. 14, 2010), at Table E-2); PR at Table E-2. With respect to product 5, subject direct import prices were lower than domestic producers' prices in 14 quarterly comparisons and higher than domestic producers' prices in eight quarterly comparisons. Compare CR/PR at Table V-6 with Memorandum INV-HH-037 (Apr. 14, 2010)/PR at Table E-3.

[177] CR at V-9; PR at V-4. Contrary to respondents' argument, the domestic producers' reported prices, similar to reported direct import prices, do not include a distributor mark-up. See Respondents' Responses to Commissioner Questions, at Q-15. Domestic producers and distributors are separate and distinct channels of distribution at different levels of trade. See CR at I-19, II-1; PR at I-15, II-1.

[178] CR at V-11 n. 18; PR at V-5 n.18. By comparison, pricing data cover 19.5 percent of subject imports from Indonesia, 32.2 percent of imports from Taiwan, and 58.7 percent of imports from Vietnam. CR at V-11; PR at V-5.

[179] Compare CR/PR at Table V-4 (covering Indonesian subject import shipments of 8.8 million pounds and Taiwan subject import shipments of 24.1 million pounds) with Memorandum INV-HH-037 (Apr. 14, 2010)/PR at Table E-2 (covering Indonesian subject import shipments of 59.7 million pounds and Taiwan subject import shipments of 40.7 million pounds). Delivered prices for product 3 imported directly from Indonesia were lower than domestic producers' prices in seven of seven quarterly comparisons, and delivered prices for product 3 imported directly from Taiwan were lower than domestic producers' prices in nine of ten quarterly comparisons. Memorandum INV-HH-037 (Apr. 14, 2010)/PR at Table E-2.

[180] CR/PR at Table V-11.

[181] See CR/PR at Tables V-2-9.

[182] CR at V-34; PR at V-16; CR/PR at Table V-12.

whether the allegations were true.[183] In addition, two purchasers that denied petitioners' lost sales allegations, ***, nevertheless reported that they switched from the domestic like product to subject imports during the period examined at least partly due to price, and one, ***, reported that domestic producers reduced their prices in order to compete with subject imports.[184]

Based on both the significant increase in subject import market share in the price-sensitive PRCB market over the period examined and direct import pricing data, we find some evidence that subject import prices were lower than domestic producers' prices during the period.[185]

We find no evidence that subject imports depressed the domestic producers' prices during the period examined. Although domestic producers' prices were generally lower at the end of the period examined as compared to the beginning of the period,[186] domestic producers' prices followed the trend of polyethylene resin prices,[187] as would be expected given the reported prevalence of sales agreements that adjust PRCB prices to account for changes in the cost of raw materials.[188]

We do find some evidence, however, that subject imports suppressed domestic producers' prices over the period examined. In 2008, the domestic industry experienced the early stages of a cost-price squeeze, as it was unable to increase the unit value of its net sales sufficiently to cover the increased unit cost of raw materials.[189] This resulted in a 2.9 percentage point increase in the domestic industry's ratio of cost of goods sold to net sales and a corresponding 2.9 percentage point decline in the domestic industry's ratio of gross profits to net sales.[190]

We find that the domestic industry's inability to pass its higher raw material prices along to customers through higher prices was due in part to low-priced subject import competition. As noted above, there is a high degree of substitutability between subject imports and the domestic like product, and price is an important factor in purchasing decisions. Because domestic producers must operate their

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[183] See CR at 38-44. Purchasers that denied petitioners' lost sales or revenue allegations based on their inability to ascertain the accuracy of the allegations, due to the absence of documentation, include ***.

[184] *** conceded that it purchases imported PRCBs from ***, one of the largest importers of subject PRCBs, and that "price is a factor" in its purchasing decisions. CR at V-40; PR at V-17. *** reported in the preliminary phase of the investigations that it had shifted purchases from U.S. producers to subject imports since January 1, 2006, and that price was one of several considerations. CR at V-43; PR at V-18. Also in the preliminary phase of the investigations, *** reported that U.S. producers reduced their prices in order to compete with the prices of subject imports, while opining that domestic producers may have reduced their prices for reasons other than subject imports. CR at V-43-44; PR at V-19.

[185] Commissioner Lane finds, based on the significant increase in subject import market share and all pricing data contained in the record of these final phase investigations, that there is evidence of significant underselling by the subject imports during the period of investigation. As noted above, the staff report indicates that there is a predominance of overselling with respect to pricing products 2-5. She finds the direct import data to be more reflective of pricing levels in the general market, particularly with respect to pricing product 3, regarding which the vast majority of domestic like product sales occurred. As explained above, the higher volume sales tend to be made at discounted prices, which is substantiated by the direct import data for that product. Compare Memorandum INV-HH-037 (Apr. 14, 2010)/PR at Table E-2 with CR/PR at Table V-4.

[186] See CR/PR at Tables C-2-9. Domestic producers' prices per pound were lower in the third quarter of 2009 than in the first quarter of 2006 with respect to products 2-6 and 8, but higher in the third quarter of 2009 than in the first quarter of 2006 with respect to products 1 and 7. See id. at Table V-10.

[187] CR at V-32; PR at V-14.

[188] CR at V-1; PR at V-1; see also Hearing Tr. at 41 (Rizzo) ("The prices that Hilex and other U.S. producers charge are grounded in reality. They move up and down with the changes in the price of polyethylene resin.")

[189] CR at VI-1; PR at VI-1; CR/PR at Table VI-1.

[190] CR at VI-1; PR at VI-1; CR/PR at Table VI-1. We recognize that the filing of the petitions on March 31, 2009 may have had some effect on subject import market share volume and market share. Nevertheless, we do not exercise our discretion to discount post-petition information for the reasons addressed above.

PRCB production facilities continuously to reduce unit fixed costs to an economical level, domestic producers facing low-priced subject import competition for higher-volume customers, known as their "baseload" business, can either meet the competition by lowering their prices or lose the customers and suffer a lower rate of capacity utilization and higher unit costs. The record contains some evidence that subject import prices were generally lower than domestic producers' prices, and subject imports could not have increased their share of the U.S. market so significantly between 2006 and 2008 without extremely competitive pricing. We therefore conclude that low-priced subject imports played some role in the domestic industry's cost-price squeeze in 2008.

Interim period data provide further support for our finding that subject imports suppressed the domestic producers' prices to some degree in 2008. In interim 2009, subject import market share in terms of quantity was 2.1 percentage points lower than in interim 2008, and domestic industry market share 1.9 percentage points higher.[191] As the domestic industry gained market share at the expense of subject imports, its cost of goods sold declined by more than its net sales value, resulting in higher gross profits.[192] The domestic industry's ratio of cost to goods sold to net sales was 86.6 percent in interim 2009, down from 92.2 percent in interim 2008, due largely to a decline in raw material costs.[193] The domestic industry's cost-price squeeze in 2008, when subject import market share peaked, and the subsequent reversal of its cost-price squeeze in interim 2009, when the domestic industry captured market share from subject imports, indicate that subject imports suppressed the domestic producers' prices to some extent in 2008.[194] These trends also indicate that small changes in raw material costs relative to net sales value can have a significant impact on the domestic industry's financial performance, magnifying the vulnerability of the domestic industry to the effects of subject imports in the imminent future.[195]

Based on the evidence during the period examined, we find that subject imports are entering at prices that are likely to have a significant depressing or suppressing effect on domestic prices, and are likely to increase demand for further imports, in the imminent future. As subject foreign producers seek to fill their excess capacity by significantly increasing their exports to the United States, they are likely to do so by underselling domestic producers, given the high degree of substitutability between subject imports and the domestic like product, the importance of price to purchasing decisions, and evidence of low subject import prices during the period examined. As in 2008, domestic producers will likely be compelled to defend their baseload business by meeting low-priced subject import competition, making it likely that the cost-price squeeze experienced by the domestic industry that year will recur. This is particularly so in light of projected flat to declining demand and the volatility of resin prices.

Thus, we conclude that subject foreign producers are likely to engage in significant underselling as a means of significantly increasing their exports to the U.S. market in the imminent future, creating further demand for subject imports in the U.S. market and likely depressing and suppressing domestic prices to a significant degree.

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[191] Memorandum INV-HH-037 (Apr. 14, 2010)/PR at Table C-4.

[192] CR at VI-1; PR at VI-1; CR/PR at Table VI-1.

[193] CR/PR at Table VI-1.

[194] At the same time, we note, the price of polyethylene resin reached its highest level of the period examined in August and September of 2008, declined sharply through January 2009, and then increased moderately thereafter to a level still well below that of August and September 2008. CR at V-1; PR at V-1; CR/PR at Figure V-1.

[195] Between 2007 and 2008, the domestic industry's unit raw material costs increased by 21.0 percent while the unit value of its net sales increased by only 12.6 percent, contributing to a 26.7 percent decline in the domestic industry's gross profits. CR/PR at Table VI-1. In interim 2009, the domestic industry's unit raw material costs were 37.6 percent lower than in interim 2008, while the unit value of its net sales was only 24.4 percent lower, contributing to gross profits that were 33.6 percent higher in interim 2009 than in interim 2008. Id.

E. Impact of the Subject Imports[196]

Based on the record of the final phase of these investigations, we find that the domestic industry's performance declined between 2006 and 2008 according to most measures, but improved in interim 2009 relative to interim 2008.

Domestic industry production increased 3.0 percent between 2006 and 2007, from 70.2 billion bags to 72.3 billion bags, but declined 8.4 percent to 66.3 billion bags in 2008, a level 5.6 percent below that in 2006.[197] Domestic industry production was 51.5 billion bags in interim 2009, up from 51.1 billion bags in interim 2008.[198] Domestic PRCB capacity was flat in 2006 and 2007, at 83.2 billion bags, but declined 4.2 percent in 2008 to 79.7 billion bags, a level 4.1 percent below that in 2006.[199] This capacity reduction resulted in large part from the closure of four domestic PRCB production facilities, three by Hilex and one by Europackaging.[200] The domestic industry's capacity was 67.4 billion bags in interim 2009, up from 60.9 billion bags in interim 2008.[201]

Corresponding to these trends in production and capacity, the domestic industry's rate of capacity utilization increased from 84.4 percent in 2006 to 86.9 percent in 2007 before declining to 83.1 percent in 2008, a level lower than that in 2006.[202] The domestic industry's capacity utilization was 76.5 percent in interim 2009, down from 83.8 percent in interim 2008.[203] Given that domestic producers reportedly must operate their facilities continuously to reduce their unit costs to economical levels, it is particularly noteworthy that domestic producers were unable to boost their capacity utilization even as they shuttered four production facilities.[204]

Domestic industry employment declined throughout the period, from 3,495 workers in 2006 to 3,160 workers in 2007 and to 2,971 workers in 2008, for a 15 percent decline over the period.[205]

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[196] We have considered the magnitude of the dumping margins found by Commerce. In its final determinations of sales at LTFV, Commerce issued weighted-average LTFV margins ranging from 69.64 to 85.17 percent with respect to subject imports from Indonesia, from 36.54 to 95.81 percent with respect to subject imports from Taiwan, and from 52.30 to 76.11 percent with respect to subject imports from Vietnam. CR/PR at Tables I-2-4; Memorandum INV-HH-037 (Apr. 14, 2010)/PR at Table I-2.

[197] CR/PR at Table III-2.

[198] CR/PR at Table III-2.

[199] CR/PR at Tables III-2, C-1.

[200] CR at III-3 & n.4; PR at III-3 & n.4. We recognize that Mr. Daniels of Hilex testified at the conference that his company's capacity reductions resulted "to some degree" from efforts to consolidate its production facilities after the acquisition of Sonoco and Vanguard. Conference Tr. at 95 (Daniels).

[201] CR/PR at Tables III-2, C-1.

[202] CR/PR at Table III-2.

[203] CR/PR at Table III-2.

[204] See Hearing Tr. at 26 (Bazbaz), 35 (Daniels) ("But even this large reduction in capacity did not enable us to align our capacity with demand. Our reduction in capacity has been matched by an equivalent drop in our sales and production due to the surge of imports from subject countries. That left us with as much excess capacity as we had before we closed the three plants."); see also Conference Tr. at 20 (Bazbaz), 26-27 (Daniels) ("closing the three plants. This is a major problem because our facilities, like those of Superbag, are designed to operate continuously.")

[205] CR/PR at Table III-6. Hours worked declined from 7,597,000 in 2006 to 7,154,000 in 2007 and to 6,903,000 in 2008. Id. Labor productivity in bags per hour initially increased from 9,242 bags in 2006 to 10,109 bags in 2007, but declined to 9,601 bags in 2008. Id.

Domestic industry employment was 2,874 workers in interim 2009, down from 3,011 workers in interim 2008.[206]

The domestic industry's net sales trended lower with production, increasing 6.1 percent between 2006 and 2007, from 68.7 billion bags to 72.9 billion bags, but declining 7.8 percent in 2008 to 67.2 billion bags, a level 2.2 percent below that of 2006.[207] The domestic industry's net sales were 51.2 billion bags in interim 2009, up from 49.9 billion bags in interim 2008.[208] The domestic industry's U.S. shipments of PRCBs followed a similar trend, increasing 4.5 percent between 2006 and 2007, from 66.8 billion bags to 69.8 billion bags, before declining 6.7 percent to 65.1 billion bags in 2008, a level 2.5 percent below that of 2006.[209] The domestic industry's U.S. shipments were 49.8 billion bags in interim 2009, up from 48.3 billion bags in interim 2008.[210] The domestic industry's share of apparent U.S. consumption, by quantity, increased from 61.4 percent in 2006 to 66.3 percent in 2007, but declined to 64.2 percent in 2008, a level 2.7 percentage points higher than in 2006.[211] The domestic industry's share of apparent U.S. consumption, by quantity, was 66.8 percent in interim 2009, up from 64.9 percent in interim 2008.[212]

The domestic industry's financial performance was weak in 2006 and 2007 and deteriorated sharply in 2008. As domestic producers increased their prices in an effort to recoup higher raw material costs, their net sales value fluctuated within a narrow band during the period, declining 2.5 percent between 2006 and 2007, from $996.1 million to $971.2 million, but increasing 3.8 percent to $1.0 billion in 2008, a level slightly higher than that in 2006.[213] The domestic industry's operating income, however, was only $4.9 million in 2006, equivalent to 0.5 percent of net sales, and $6.8 million in 2007, equivalent to 0.7 percent of net sales, and swung to an operating loss of $32.0 million in 2008, equivalent to 3.2 percent of net sales, as the increase in the domestic industry's unit COGS outstripped the increase in the unit value of total net sales.[214] The domestic industry's capital expenditures also declined markedly from $38.8 million in 2006 to $17.6 million in 2007 and to $14.5 million in 2008, a level 62.5 percent lower than that in 2006.[215] Its return on investment, *** percent in 2006 and *** percent in 2007, *** to *** percent in 2008.[216]

In interim 2009, however, the domestic industry's performance improved relative to interim 2008. Because raw material prices, and hence PRCB prices, were lower in interim 2009 than in interim 2008, the domestic industry's net sales value was $580.1 million in interim 2009, down from $747.4 million in interim 2008.[217] But because domestic producers' prices declined by less than their raw material costs, the domestic industry's operating income was $24.6 million, equivalent to 4.2 percent of

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[206] CR/PR at Table III-6. Hours worked were 4,903,000 in interim 2009, down from 5,108,000 in interim 2008. Labor productivity was 10,508 bags per hour in interim 2009, up from 10,001 bags per hour in interim 2008. Id.

[207] CR/PR at Tables VI-1, C-1.

[208] CR/PR at Tables VI-1, C-1.

[209] CR/PR at Table III-3, C-1.

[210] CR/PR at Table III-3, C-1.

[211] Memorandum INV-HH-037 (Apr. 14, 2010)/PR at Table C-4.

[212] Memorandum INV-HH-037 (Apr. 14, 2010)/PR at Table C-4.

[213] CR/PR at Table VI-1; Memorandum INV-HH-037 (Apr. 14, 2010)/PR at Table C-1.

[214] CR/PR at Table VI-1; Memorandum INV-HH-037 (Apr. 14, 2010)/PR at Table C-1. The 14.2 percent increase in SG&A expenses between 2007 and 2008 also contributed to the decline in operating income. CR/PR at Table VI-1.

[215] CR/PR at Table VI-5. R&D expenses also declined from $1.7 million in 2006 and 2007 to $1.2 million in 2008. Id.

[216] CR/PR at Table VI-6.

[217] CR/PR at Table VI-1.

net sales, in interim 2009, up from a loss of $4.6 million, equivalent to 0.6 percent of net sales, in interim 2008.[218] The domestic industry's capital expenditures and R&D expenses were lower in interim 2009, at $6.0 million and $696,000, respectively, than in interim 2008, at $10.3 million and $1.0 million, respectively.[219]

We recognize that the domestic industry performed poorly in 2008, when subject import market share peaked, although subject import volume declined, and the domestic industry benefitted from improved financial performance in interim 2009, when subject import market share was down relative to interim 2008. However, we also note that when the volume and market share of subject imports increased substantially from 2006 to 2007, the domestic industry's financial performance remained relatively unchanged.[220] Subject imports had some adverse impact on the domestic industry in that they contributed to the cost-price squeeze experienced by the industry in 2008, as addressed above. But the record indicates that factors other than subject imports also adversely impacted the domestic industry's performance over the period, which prevents us from finding a sufficient causal nexus between the subject imports and material injury. Thus, we cannot conclude that subject imports materially injured the domestic industry over the period examined.[221]

First, fluctuations in the price of raw materials, which accounted for 70.7 percent of the domestic industry's total cost of goods sold in 2008,[222] also had a significant impact on the domestic industry's performance in 2008 and over the interim periods. In 2008, the average monthly price of resin escalated to a period high in August 2008, significantly contributing to the cost-price squeeze experienced by the domestic industry in that year.[223] After September 2008, however, the average monthly price of resin fell sharply through January 2009 and then remained at levels well below that of August 2008, reducing the domestic industry's ratio of cost of goods sold to net sales and contributing to the industry's improved performance in interim 2009 relative to interim 2008.[224]

Second, the 6.7 percent decline in apparent U.S. consumption between 2006 and 2008, resulting from the weakening economy and other factors, has adversely impacted the domestic industry's

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[218] CR at VI-1; PR at VI-1; CR/PR at Table VI-1.

[219] CR/PR at Table VI-5. Return on investment data are unavailable for the interim period. See CR/PR at Table VI-6.

[220] Commissioner Pinkert acknowledges these trends but does not find them dispositive with respect to causation or noncausation of present material injury. He notes that the domestic industry performed poorly every year from 2006 to 2008. Because -- as discussed in the text -- factors other than the subject imports adversely affected the domestic industry's performance overwhelmingly during that timeframe, he is unable to conclude that the subject imports caused the poor performance.

[221] Commissioner Lane finds that cumulated subject imports did injure the domestic industry during the period of investigation. As noted above, cumulated subject imports increased by 100.3 percent between 2006 and 2008. Memorandum INV-HH-037 (Apr. 14, 2010)/PR at Table C-4. Nonsubject import volume declined during the period. At the same time, many indicators of the condition of the domestic industry declined as well. While she is mindful of the fact that, during part of the period, there was a recession and one major domestic producer was under bankruptcy protection, these occurrences took place toward the end of the period. While these occurrences certainly exacerbated the domestic industry's poor condition, they do not explain it. This is also true for raw material costs, which decreased at the beginning of the period before rising towards the end. It is clear to her that the doubling of significantly low-priced subject imports over the period is a cause of injury to the domestic industry. In view of the other matters occurring during the period, however, it is difficult to pinpoint this injury in a manner that would show that cumulated subject imports are more than a minimal, or tangential, cause of injury.

[222] CR at V-1; PR at V-1.

[223] See CR at V-1,VI-1; PR at V-1, VI-1; CR/PR at Figure V-1.

[224] See CR at V-1,VI-1; PR at V-1, VI-1; CR/PR at Figure V-1; see also Hearing Tr. at 63 (Daniels) ("In the tail end of 2008, we saw some de-escalation in resin prices, and you always have a bit of a lag effect on that, so we had some wind in our sails and profitability that way.")

performance.[225] Conversely, the stabilization of apparent U.S. consumption in interim 2009 relative to interim 2008 has benefitted the domestic industry.[226]

Third, the domestic industry's declining performance over the 2006-2008 period partly reflects ***, which accounted for *** percent of domestic production in 2008.[227] *** financial performance over the 2006-2008 period was ***, and ***.[228] There is no clear relationship between *** and subject imports because *** in 2006, before subject import volume and market share had increased significantly.[229] Conversely, the domestic industry's improved performance in interim 2009 relative to interim 2008 partly reflects ***.[230] Although we conduct our analysis with reference to domestic producers as a whole, and recognize that domestic producers other than *** also suffered declining performance over the 2006-2008 period, we cannot ignore the evidence that ***.[231]

Finally, we also recognize that nonsubject imports[232] commanded a larger share of apparent U.S. consumption than subject imports throughout the period examined. We recognize that the record indicates there is a high degree of substitutability between subject imports and the domestic like product, on the one hand, and nonsubject imports, on the other.[233] Nonsubject imports also maintained a significant presence in the U.S. market, and a larger share of apparent U.S. consumption than subject imports, throughout the period of investigation.[234] Unlike subject imports, however, nonsubject imports declined significantly in absolute terms and as a share of apparent U.S. consumption between 2006 and 2008.[235] Moreover, nonsubject import prices were generally higher than subject import prices, though lower than domestic producers' prices.[236]

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[225] Memorandum INV-HH-037 (Apr. 14, 2010)/PR at Table C-4; CR at II-15; PR at II-10 (8 of 9 responding domestic producers attributed the decline in PRCB demand to the weakening economy).

[226] Memorandum INV-HH-037 (Apr. 14, 2010)/PR at Table C-4.

[227] CR/PR at Table III-1.

[228] CR/PR at Table VI-2; ***.

[229] CR/PR at Table VI-2 (***); Memorandum INV-HH-037 (Apr. 14, 2010)/PR at Table C-4.

[230] CR/PR at Table VI-2 (***); ***.

[231] See Tables VI-1-2. We note that *** of 13 domestic producers reported that their operating income margin worsened over the 2006-2008 period, and the number of domestic producers reporting an operating loss increased from *** in 2006 to *** in 2007 and *** in 2008. CR/PR at Table VI-2.

[232] The principal sources of nonsubject imports, as discussed above, are subject to antidumping duty orders imposed in 2004.

[233] The majority of responding domestic producers, importers, and purchasers reported that nonsubject imports are "always" or "frequently" used interchangeably with both subject imports and the domestic like product. CR at II-27; PR at II-20; CR/PR at Table II-12. The majority of responding domestic producers, importers, and purchasers also reported that factors other than price are "sometimes" or "never" important to purchasers choosing between subject imports, nonsubject imports, and the domestic like product, with one exception. See CR/PR at Table II-13. A slight majority of importers reported that factors other than price are "frequently" or "always" important to purchasers choosing between nonsubject imports and the domestic like product. Id.

[234] Memorandum INV-HH-037 (Apr. 14, 2010)/PR at Table C-4.

[235] Nonsubject imports declined from 34.7 million bags in 2006, equivalent to 31.8 percent of apparent U.S. consumption, to 21.8 million bags in 2008, equivalent to 21.5 percent of apparent U.S. consumption. Memorandum INV-HH-037 (Apr. 14, 2010)/PR at Table C-4. Between the interim periods, nonsubject imports remained stable at a level well below that of 2006, at 15.1 million bags in interim 2008, equivalent to 20.3 percent of apparent U.S. consumption, and 15.2 million bags in interim 2009, equivalent to 20.4 percent of apparent U.S. consumption. Memorandum INV-HH-037 (Apr. 14, 2010)/PR at Table C-4.

[236] CR at F-3; PR at F-3 (nonsubject import prices were higher than subject import prices in 260 of 430 possible comparisons, or 60.5 percent of the time, and lower than domestic producers' prices in 111 of 196 possible comparisons, or 56.6 percent of the time.).

Given the many factors other than subject imports that influenced domestic industry performance over the period examined, we cannot conclude that subject imports contributed more than marginally or tangentially to any material injury suffered by the domestic industry over the period.

We do find that the domestic industry is threatened with imminent material injury by reason of cumulated subject imports, however. As an initial matter, we find that the domestic industry is vulnerable to material injury. We base our vulnerability finding on evidence that PRCB demand will stagnate or decline in the imminent future, as addressed above, and also on evidence that the domestic industry's nascent recovery is fragile. The domestic industry's performance deteriorated over the 2006-2008 period according to most measures, with weak profitability in 2006 and 2007 and substantial operating losses in 2008. Although the domestic industry's performance improved in interim 2009 relative to interim 2008 according to most measures, its operating income margin remained an anemic 4.2 percent, and other measures of the domestic industry's performance declined, including its rate of capacity utilization, employment, hours worked, capital expenditures, and R&D expenditures.[237] Even a small increase in the domestic industry's cost of raw materials relative to its net sales value could reverse much of the domestic industry's apparent progress.[238]

The record indicates that foreign producers in all three subject countries possessed substantial excess capacity at the end of the period examined, and that the vast majority of their shipments was exported to U.S. market over the period. Indeed, most PRCB capacity in Taiwan and Vietnam was installed during the period examined, with most shipments from these new facilities exported to the U.S. market.[239] Much of this capacity currently lies unused, and at least two major foreign producers have suspended production pending the outcome of these investigations.[240] Absent relief, we find that these subject foreign producers are likely to fill their excess capacity by significantly increasing their exports to the U.S. market. In order to do so, they are likely to undersell domestic producers to a significant degree, given the high degree of substitutability between subject imports and the domestic like product, the importance of price to purchasing decisions, and the already low subject import prices during the period examined. As in 2008, domestic producers will likely be compelled to defend their baseload business by meeting low-priced subject import competition, making it likely that the cost-price squeeze experienced by the domestic industry that year will recur in the imminent future. This is particularly so in light of projected flat to declining demand, the volatility of resin prices, and the sensitivity of the domestic industry's financial performance to even a small increase in the domestic industry's cost of raw materials relative to its net sales value.

We have considered whether there are other factors that might threaten the domestic industry with injury in the imminent future.[241] As addressed above, apparent U.S. consumption of PRCBs declined 6.7

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[237] See CR/PR at Tables III-2, 6, VI-1, 5.

[238] Petitioners claim that raw material costs increased throughout 2009 and into 2010, and are likely to continue to increase in the imminent future with the economic recovery. See Petitioners' Posthearing Br. at 15; Hearing Tr. at 63 (Daniels).

[239] See CR/PR at Table VII-2; Memorandum INV-HH-037 (Apr. 14, 2010)/PR at Table VII-3.

[240] See CR at VII-3 n.3; PR at VII-1 n.3; Foreign Producers' Questionnaire Response of ***, at question II-6.

[241] Although the domestic industry will likely continue to import a significant proportion of subject imports in the imminent future, as it did over the period examined, CR/PR at Table III-5, this likelihood does not detract from our finding that the domestic industry is threatened with material injury by reason of subject imports. As addressed above, subject imports by one domestic producer may be injurious to other domestic producers and to the domestic industry as a whole. ***, which together accounted for *** percent of domestic production in 2008, imported practically no PRCBs from subject countries during the period examined, with the exception of a small quantity imported by *** in 2007. CR/PR at Tables III-1, 5. We also note that the domestic industry accounted for a lower share of subject imports in interim 2009, at 18.6 percent, than in interim 2008, at 23.7 percent, CR/PR at Table III-5, lending some credence to petitioners' contention that domestic producers will reduce their reliance on subject imports if granted relief from the injurious effects of subject imports. Petitioners' Responses to Commissioner

percent between 2006 and 2008 due to both the weakening economy and environmental concerns, including the enactment of laws regulating the use and disposal of PRCBs, but was stable when comparing the interim periods.[242] Petitioners project that PRCB demand will remain flat or decline in the imminent future due to environmental laws and increased acceptance of reusable bags.[243]

We find that the likelihood of flat to declining PRCB demand in the imminent future, though increasing the domestic industry's vulnerability, does not break the causal link between subject imports and the threat of material injury. Although apparent U.S. consumption declined over the 2006-2008 period, due in part to the economic downturn, apparent U.S. consumption stabilized when comparing the interim periods as the economy began to recover.[244] There is no information on the record indicating that laws regulating the use and disposal of PRCBs that would significantly reduce apparent U.S. consumption of PRCBs are likely to be enacted in the imminent future.[245]

We also find that *** during the 2006-2008 period, with no clear connection between *** and subject imports, is unlikely to continue in the imminent future, given ***.[246] Although *** remains vulnerable to material injury for the same reasons that domestic producers as a whole are vulnerable,[247] *** has apparently addressed the factors responsible for its *** in 2006, prior to the significant increase in subject import volume and market share. Accordingly, *** is unlikely to suffer any performance issues going forward that might sever the causal link between subject imports and the threat of material injury.

Finally, we have also considered the role of nonsubject imports in the U.S. market and concluded that they do not break the causal link between subject imports and the threat of imminent material injury to the domestic industry by reason of subject imports. As addressed above, nonsubject import volume and market share declined between 2006 and 2008, unlike subject import volume and market share, and nonsubject import prices were generally higher than subject import prices over the period.[248] The antidumping duty orders imposed on PRCBs from China, Malaysia, and Thailand, in 2004 will likely have some restraining effect on nonsubject imports in the imminent future, given that China, Malaysia, and Thailand are among the largest sources of nonsubject imports.[249]

We find it unlikely that nonsubject import volume and market share will increase significantly in the imminent future given their declining trend and relatively higher prices over the period examined, and

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Questions, at 40.

[242] Memorandum INV-HH-037 (Apr. 14, 2010)/PR at Table C-4; CR at II-15; PR at II-10-11; CR/PR at Table II-7.

[243] Petitioners' Prehearing Br. at 58 (citing CR at Table II-7). When asked whether PRCB demand had been affected by the passage of laws regulating use and disposal of PRCBs, nine of 13 responding domestic producers answered yes, with an average estimated demand decline of 6 percent; 10 of 26 responding importers answered yes, with an average estimated demand decline of 16 percent; and 10 of 49 responding purchasers answered yes, with an average estimated demand decline of 5 percent. CR/PR at Table II-7.

[244] Memorandum INV-HH-037 (Apr. 14, 2010)/PR at Table C-4.

[245] See CR at II-20-21; PR at II-13-14. Although *** reported that "if national regulation on bags and the taxing of bags happen then it would reduce the usage of bags by ***%," and a national plastic bag bill was introduced in the House of Representatives on April 22, 2009, there is no information on the record that the bill has progressed through the legislative process or that the bill would impose the kind of "national regulation" that *** references. CR at II-20-21; PR at II-14-15.

[246] CR at VI-11 n.4; PR at VI-4 n.4.

[247] We note that ***. CR/PR at Table VI-2.

[248] See Memorandum INV-HH-037 (Apr. 14, 2010)/PR at Table C-4; CR at F-3; PR at F-3 (subject import prices were lower than nonsubject import prices in 260 of 430 quarterly comparisons, or 60.5 percent of the time).

[249] CR at I-4, II-13; PR at I-3, II-9.

the antidumping duty orders on PRCBs from China, Malaysia, and Thailand.[250] We recognize that, just as the imposition of antidumping duty orders on PRCBs from China, Malaysia, and Thailand reportedly resulted in the emergence of new PRCB producers in Vietnam,[251] PRCB production equipment could be shifted from Indonesia, Taiwan, and Vietnam to nonsubject countries.[252] New sources of nonsubject imports, however, are unlikely to result in a significant increase in nonsubject imports in the imminent future. Some subject foreign producers utilize large, high-volume PRCB production equipment that is difficult to transport.[253] And even with respect to subject foreign producers that utilize smaller, modular PRCB production equipment that is easier to transport,[254] there is no evidence on the record that such equipment would likely be moved and fully operational in the imminent future. We note that to the contrary, there was a two-year lag between the imposition of the antidumping duty orders on PRCBs from China, Malaysia, and Thailand, and the establishment of new PRCB production facilities in Vietnam.[255] Thus, nonsubject imports do not sever the causal link between subject imports and the threat of material injury.

In sum, the record indicates that there is a causal nexus between subject imports and the threat of material injury to the domestic industry. We conclude that the likely significant increase in subject import volume and market share, and their likely significant adverse price effects, will imminently cause material injury to the domestic industry absent antidumping duty orders on PRCBs from Indonesia, Taiwan, and Vietnam, and the countervailing duty order on PRCBs from Vietnam. Accordingly, we determine that the domestic industry is threatened with material injury by reason of cumulated subject imports from Indonesia, Taiwan, and Vietnam.

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[250] The record contains no information on the capacity and export orientation of PRCB producers in nonsubject countries. CR at VII-11-12; PR at VII-6. Nevertheless, it is unlikely that nonsubject import volume and market share would have declined so significantly over the period examined if nonsubject producers possessed significant excess capacity and lacked significant home and third country markets. This is particularly so given that a substantial proportion of imports from China and Malaysia was imported from producers not subject to the antidumping duty orders on PRCBs from China and Malaysia. See EDIS Document No. 422010. Although these orders are currently subject to five-year reviews that could result in the revocation of one or more of the orders, we cannot and will not speculate as to the outcome of the reviews. 19 U.S.C. § 1677(7)(F)(ii) (providing that "a [threat] determination may not be made on the basis of mere conjecture or supposition").

[251] See Hearing Tr. at 50-51 (Dorn) ("You also know that many factories from China and other countries and territories have moved to Vietnam to circumvent anti-dumping orders from the U.S. government."); Conference Tr. at 6 (Dorn) ("Producers in China also began to move production equipment to Vietnam where they could obtain substantial subsidies from the socialist government.").

[252] See Hearing Tr. at 145 (Dorn) ("In the Asian market where they have very small bubbles and they actually do them floor by floor going up, it's much less expensive to move those assets around from one country to the next.")

[253] Hearing Tr. at 145 (Dorn) ("For the domestic part, it's rather an expensive cost to do it because once again to Mr. Bazbaz's points, we have rather large extrusion equipment and large converting equipment."), 207 (Lin) ("So our equipment is very giant, so I would say it is not easy to move these machines.").

[254] See Hearing Tr. at 145 (Dorn) ("In the Asian market where they have very small bubbles and they actually do them floor by floor going up, it's much less expensive to move those assets around from one country to the next."); Conference Tr. at See Tr. at 95-96 (Mr. von Schriltz: "[H]ow difficult and expensive is it for a producer to shift production from one country or another?" Mr: Bazbaz: "I believe it's a very simple operation. You just pick up the equipment. The equipment is modular so you have different extrusion lines and different bag machines and just put it onto a truck and get it elsewhere.").

[255] Although antidumping duty orders were imposed on PRCBs from China, Malaysia, and Thailand on August 9, 2004, 69 Fed. Reg. 48201; 69 Fed. Reg. 48203; 69 Fed. Reg. 48204, PRCB capacity in Vietnam did not increase significantly until 2007. See Memorandum INV-HH-037 (Apr. 14, 2010)/PR at Table VII-3 (capacity reported by responding foreign producers in Vietnam increased from *** bags in 2006 to *** bags in 2007 and *** bags in 2008).

We further determine, pursuant to 19 U.S.C. §§ 1671d(b)(4)(B) and 1673d(b)(4)(B), that we would not have made material injury determinations but for Commerce's suspension of liquidation on subject imports from Taiwan on October 27, 2009 and on subject imports from Indonesia and Vietnam on November 3, 2009.[256] Since our interim January-September 2009 data predate the suspension of liquidation, and there is no evidence that the pendency of these investigations significantly influenced subject import trends, the suspension of liquidation did not materially affect our material injury analysis.

CONCLUSION

For the foregoing reasons, we determine that the domestic industry producing PRCBs is threatened with material injury by reason of PRCBs from Indonesia, Taiwan, and Vietnam found by Commerce to be sold in the United States at LTFV and by PRCBs from Vietnam found by Commerce to be subsidized by the Government of Vietnam.

[256] See 74 Fed. Reg. 55183 (Oct. 27, 2009), 74 Fed. Reg. 56807 (Nov. 3, 2009).

DISSENTING VIEWS OF VICE CHAIRMAN DANIEL R. PEARSON

I concur with the majority's discussions of the domestic like product in Section II, of the domestic industry in Section III, of cumulation for purposes of both the material injury and threat determinations in Section IV, of the applicable legal standards in Section V.A., of the conditions of competition and the business cycle in Section V.B. I also concur with the majority's determination that the domestic industry producing certain polyethylene retail carrier bags (PRCBs) is not materially injured by reason of imports of PRCBs from Indonesia, Taiwan, and Vietnam that Commerce has found to be sold in the United States at less than fair value and imports of PRCBs from Vietnam that Commerce has found to be subsidized by the Government of Vietnam, and so I join the applicable parts of Sections V.C. (volume), V.D. (price), and V.E. (impact). However, I dissent from the majority's determination that the domestic industry producing PRCBs is threatened with material injury by reason of imports of PRCBs from Indonesia, Taiwan, and Vietnam that Commerce has found to be sold in the United States at less than fair value and imports of PRCBs from Vietnam that Commerce has found to be subsidized by the Government of Vietnam, and I instead find that the domestic industry is not threatened with material injury by reason of such imports. As such, I do not join those parts of Sections Sections V.C. (volume), V.D. (price), and V.E. (impact) of the majority's views and instead provide the following dissenting views.

I. NO THREAT OF MATERIAL INJURY BY REASON OF IMPORTS OF PRCBs FROM INDONESIA, TAIWAN, AND VIETNAM

I find that there is not a threat of material injury to a domestic industry producing PRCBs by reason of imports of PRCBs from Indonesia, Taiwan, and Vietnam that Commerce has found to be sold in the United States at less than fair value and imports of PRCBs from Vietnam that Commerce has found to be subsidized by the Government of Vietnam.[1]

A. Volume of the Subject Imports

Subject imports of PRCBs grew rapidly between 2006 and 2007, both absolutely[2] and in terms of market share.[3] However, the trend in subject imports for the remainder of the period examined was relatively flat. There is no reason to expect that, in the absence of antidumping and countervailing duty orders, there will be an imminent and substantial increase in subject import volumes that would lead to a loss of market share for the U.S. industry.

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[1] For a discussion of the legal standards to be used in threat determinations, see Section V.A.3. of the Majority's Views. I concur with the majority regarding cumulation for purposes of a threat determination and cumulate all three subject countries. See Section IV.C. of the Majority's Views.

[2] I concur with the majority and will also use volume data from Table C-4 in my analysis. Majority's Views at 21 n.141. U.S. shipments of subject imports of PRCBs initially increased from 7.28 billion bags in 2006 to 14.67 billion bags in 2007, before decreasing slightly to 14.59 billion bags in 2008, an overall increase of 100.3 percent. U.S. shipments of subject imports of PRCBs decreased to 9.50 billion bags in interim 2009, compared with 10.98 billion bags in interim 2008. Staff Memorandum, INV-HH-037 (Apr. 14, 2010) at Table C-4.

[3] The share of U.S. shipments of subject imports in apparent U.S. consumption of PRCBs increased from 6.7 percent in 2006 to 13.9 percent in 2007, and to 14.4 percent in 2008, an overall increase of 7.7 percentage points. U.S. shipments of subject imports of PRCBs decreased to 12.7 percent in interim 2009, compared with 14.8 percent in interim 2008. Memo INV-HH-037 at Table C-4.

I base this conclusion on the reality that subject imports primarily gained market share from nonsubject imports, not from domestic producers.[4] Nonsubject imports from China, Malaysia, and Thailand have been under antidumping orders since 2004.[5] The only significant increase in subject imports, coming between 2006 and 2007, occurred at the same time as a dramatic decrease in nonsubject imports from China, Malaysia, and Thailand, and both subject and nonsubject imports have been relatively stable since that time. U.S. market shares of subject imports stabilized between 2007 and 2008 and interim 2009 market shares showed that subject imports had declined slightly. Because subject and nonsubject imports appear to compete with each other more directly than with the domestic like product,[6] I do not expect there to be a substantial increase in subject imports that leads to a decline in U.S. market share for domestic producers in the imminent future.

These six Asian countries (China, Indonesia, Malaysia, Taiwan, Thailand, and Vietnam) are the largest sources of U.S. imports of the subject product and, together, they made up between 86.6 and 91.9 percent of total U.S. imports, by quantity, over the period of full years from 2006 to 2008.[7] Evidence on the record indicates that production was redirected to the three subject countries after the imposition of the orders against China, Malaysia, and Thailand in 2004.[8] Evidence also shows that there is some degree of common ownership between a Malaysian producer of PRCBs and a large Indonesian producer.[9]

The only significant change in the subject imports' U.S. market share occurred at the beginning of the period when subject imports increased from 6.7 percent of U.S. consumption in 2006 to 13.9 percent in 2007, or by 7.2 percentage points. The context of this increase is important, however, as it was

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[4] Domestic producer's share in U.S. consumption increased irregularly over the period from 61.4 percent in 2007, to 66.3 percent in 2007, before declining somewhat to 64.2 percent in 2008, resulting in a 2.7 percentage point increase over the period of full years. The share of the domestic industry was 66.8 in interim 2009, as compared with 64.9 percent in interim 2008. Memo INV-HH-037 at Table C-4.

[5] CR/PR at I-1.

[6] Respondents' Posthearing Br. at Q-33 to Q-34 (characterizing their conclusion as economic intuition but noting that necessary data on elasticities of substitution between subject and nonsubject imports are lacking). There are indications that more importers and purchasers see limitations to interchangeability between U.S. and imported PRCBs than between subject and nonsubject imports. When U.S.-produced PRCBs are compared against subject imports, the responses of importers and purchasers indicating that the products are either "sometimes" or "never" interchangeable ranges between 14 and 40 percent, with a simple average of 24 percent. When U.S.-produced PRCBs are compared against nonsubject imports, those percentages range between 26 and 41 percent with a simple average of 33 percent. But when subject imports are compared against nonsubject imports, the percentage responding either "sometimes" or "never" interchangeable ranges between 0 and 23 percent, with a simple average of only 8 percent. CR/PR at Table II-12.

[7] Memo INV-HH-037 at Table C-4; CR at II-9; PR at II-7; CR at VII-12; PR at VII-6. Over the entire period examined, from 2006 through interim 2009, imports from the six Asian source countries accounted for 88.4 percent of total aggregate U.S. imports. Memo INV-HH-037 at Table C-4. For 2008, among these six Asian countries, Vietnam was the second-largest source of PRCB imports, Taiwan was the fourth-largest source, and Indonesia was the sixth-largest source. CR at II-9; PR at II-7. In every full year period and in the interim periods, the combined imports from China, Malaysia, and Thailand were larger than the combined subject imports from Indonesia, Taiwan, and Vietnam. Respondents' Prehearing Br. at 6. Canada was the seventh-largest source of U.S. imports of PRCBs, with about 2 percent of total U.S. imports. CR at II-9; PR at II-7; Majority's Views at 30 n.125.

[8] Tr. at 50-51 (Mr. Dorn) ("You also know that many factories from China and other countries and territories have moved to Vietnam to circumvent antidumping orders from the U.S. government."); Tr. at 169 (Ms. Lin) ("Most of the Vietnamese factory are [sic] set up by Chinese people, after they had this anti-dumping order imposed in China."); Respondents' Posthearing Br. at Q-6 ("Like Vietnam, Taiwan was a viable alternative country for Chinese PRCB producers looking to relocate, as Taiwan is not only geographically close to China, but also shares a common language (Mandarin Chinese).").

[9] Petitioners' Prehearing at 62 n.282; Petitioners' Posthearing Br. at 46 & n.119.

contemporaneous with a significant decline in the U.S. market share of nonsubject imports from China, Malaysia, and Thailand, which declined from 26.7 percent of U.S. consumption in 2006 to 15.3 percent in 2007, or by 11.4 percentage points.[10] Therefore, despite the increased imports from the three subject countries, the aggregate U.S. market share of these six Asian countries actually declined from 33.4 percent in 2006 to 29.2 percent in 2007, or by 4.2 percentage points; U.S. producers gained 4.9 percentage points of market share over that same period.[11]

After this initial readjustment, the market share of imports from the six Asian countries increased by 3.7 percentage points, from 29.2 percent in 2007 to 32.9 percent in 2008. Thus, over the period of full years from 2006 to 2008, the combined U.S. market share for imports from the six countries declined irregularly from 33.4 percent to 32.9 percent, or by 0.5 percentage points.[12] The combined U.S. market share for the six Asian countries in interim 2009 was 29.4 percent, compared with 32.1 percent in interim 2008.[13] Both the full year data and the comparison between the interim periods show total imports of PRCBs from the six Asian source countries to be steady, perhaps trending slightly downward. And, despite the significant increase in subject import volumes and market share between 2006 and 2007, further increases did not occur. Thus, there is no trend that would suggest an imminent significant increase in subject import volume. And, if such an increase did occur, it likely would come at the expense of nonsubject imports.

Nothing on this record indicates a likelihood that different conditions of competition would prevail in the immediate future such that changes in the market share of subject imports would cause changes in the market share of domestic producers. Rather, the empirical evidence suggests that the six primary Asian exporting countries compete with each other for roughly 30 percent of the U.S. market, while domestic producers serve roughly 65 percent.

While production capacity in the cumulated subject countries grew rapidly from 2006 to 2008, it should be noted that capacity started from a relatively low level. Total known capacity in the subject countries in 2006 was only *** percent of the reported capacity of the domestic industry in that same year.[14] Also, projected capacity figures for 2009 and 2010 do not show growth, and perhaps even indicate a downward trend.[15] Even if all the known excess capacity in Indonesia, Taiwan, and Vietnam in 2008 were to have been employed, with all the resulting output being sent to the U.S. market, this would have resulted in an increase in subject imports representing only *** percent of U.S. consumption in 2008.[16] Excess capacity in the subject countries, by itself, does not constitute an imminent threat of significantly

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[10] Memo INV-HH-037 at Table C-4.

[11] Calculated from Memo INV-HH-037 at Table C-4.

[12] Calculated from Memo INV-HH-037 at Table C-4.

[13] Calculated from Memo INV-HH-037 at Table C-4.

[14] Compare CR/PR at Table III-2 with Memo INV-HH-037 at Table VII-4.

[15] Memo INV-HH-037 at Table VII-4 (indicating a less than *** percent decline in capacity between 2008 and 2009, and a further *** decline in 2010). I acknowledge, however, that some of the projected decline in capacity may be related to the pendency of these orders and that, were the orders not be put in place, that some of this idled capacity may return. Petitioners' Prehearing Br. at 66.

[16] Reported production capacity in the subject countries increased from *** billion bags in 2006 to *** billion bags in 2008, an increase of *** percent. Reported excess capacity increased throughout the period, from *** billion bags in 2006 to *** billion bags in 2008. The capacity utilization rate in the subject countries was *** percent in interim 2009, as compared to *** percent in interim 2008. Memo INV-HH-037 at Table VII-4. Despite the responding foreign producers' low estimates of their own importance within their country's industry, it appears that these responses do account for a representative share of U.S. imports from the subject countries. Responding Indonesian producers account for *** percent of the quantity of U.S. imports of PRCBs from Indonesia in 2008; responding Taiwanese producers account for *** percent of U.S. imports from Taiwan; and responding Vietnamese producers account for *** percent of U.S. imports from Vietnam. CR at VII-1, -3, & -5; PR at VII-1 to VII-2.

increased import volumes; while excess capacity grew by *** percent in the subject countries between 2007 and 2008,[17] subject import volumes actually declined by 0.6 percent while the share of U.S. consumption held by subject imports increased by only 0.4 percentage points.[18] Producers in the subject countries showed a propensity during the period examined not to use all of their available capacity. Nothing in this record suggests a change in that pattern in the imminent future.

Inventories held in the United States by U.S. importers are not a significant factor.[19] Despite a steady increase in the ratio of inventories held to U.S. shipments of subject imports, inventories held in the United States typically are already imprinted with the logo of the ultimate purchaser; thus, such inventories are not fungible and thus are not likely to affect the U.S. market share held by the domestic industry.[20] Inventories held by subject foreign producers in subject countries remained a small percentage of total shipments throughout the period.[21]

The potential for product shifting by producers in subject countries is minimal as some of the equipment used to make the subject product is product-specific.[22] Additionally, there were no known trade remedies in third countries, either now in-place or being considered, against PRCBs from any of the subject countries.[23]

To summarize, the evidence indicates that: (1) the increase in subject import volumes between 2006 and 2007 occurred primarily in response to a decrease in nonsubject import volumes from China, Malaysia, and Thailand that may have been related to antidumping orders issued in 2004; (2) after this initial readjustment, U.S. market shares for subject imports steadied, and then showed declines in interim 2009; (3) when viewed in the aggregate, the U.S. market share of imports from the six significant Asian suppliers, accounting for about 88 percent of total U.S. imports, remained relatively steady, if slightly declining, over the entire period examined; (4) despite rapid growth in capacity in subject countries, known capacity remains small in comparison to the capacity of the domestic industry; (5) increasing excess capacity in the subject countries did not result in increased subject import volumes or any significant increase in subject imports' U.S. market share; and (6) other factors, such as inventories of PRCBs, product-shifting by foreign producers, and trade remedies in third countries are not likely to result in significantly increased U.S. imports of the subject product. Thus, I find that no significant

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[17] Memo INV-HH-037 at Table VII-4 (excess capacity increased from *** billion bags in 2007 to *** billion bags in 2008).

[18] Memo INV-HH-037 at Table C-4.

[19] I note that inventories of subject imports held by U.S. importers increased over the period, and represented 14.0 percent of U.S. shipments of subject imports in 2006, 14.4 percent in 2007, and 18.9 percent in 2008. Importers' inventories of subject imports were 22.1 percent of U.S. shipments of subject imports in interim 2009, compared with 22.3 percent in interim 2008. CR/PR at Table VII-5.

[20] See, e.g., Tr. at 156 (Mr. Morgan) ("[O]nce the import . . . enters the market, the sale has already been made. The target has already been printed on the bag."); Tr. at 174 (Mr. Lee) ("Bags are often printed with company-specific logos, and thus are not freely transferrable to other customers.")

[21] Inventories held by subject foreign producers increased from *** percent of total foreign producer shipments in 2006 to *** percent in 2008. Inventories held by subject foreign producers was *** percent of total foreign producer shipments in interim 2009, compared to *** percent in interim 2008. Memo INV-HH-037 at Table VII-4.

[22] CR at I-17; PR at I-13 (stating that converting equipment is product-specific). *** stated that they produce other polyethylene products using the same resources. CR at VII-6 & n.9; PR at VII-2 & n.8. The "majority product" for respondent Indonesian producer P.T. Super Exim Sari is industrial packaging bags. Tr. at 164 (Ms. Lin). Only 5 of 14 domestic producers reported making other products on the same equipment as PRCBs. CR at II-9; PR at II-6.

[23] CR at VII-11; PR at VII-6.

increase in subject import volume is imminent,[24] and if such an increase should occur, it likely would be at the expense of nonsubject imports.

B. Price Effects of the Subject Imports

Among the eight pricing products, there are two different pictures of subject import pricing presented. Within products 1 through 4, the more basic "t-shirt" bags, subject imports oversold the U.S.-produced PRCBs in 88 of 146 quarterly comparisons, or in 60.3 percent of comparisons. Within products 5 through 8, which are bags with more sophisticated features, subject imports undersold the U.S.-produced PRCBs in 92 of 111 quarterly comparisons, or in 82.9 percent of comparisons.[25] It is important to note that products 1 through 4 account for almost 98 percent, by weight, of the total volume of pricing products sold.[26] Therefore, I place more emphasis on the predominant pattern of overselling in products 1 through 4 as I assess the price effects of subject imports. The volume of sales of products 2 and 3 alone account for fully 94 percent, by weight, of total sales of the eight pricing products; within these two pricing products, subject imports oversold U.S.-produced PRCBs in 62 out of 87 quarterly comparisons, or in 71.3 percent of comparisons.[27] [28] Given that there is a predominant pattern of subject import overselling in the two pricing products that account for the vast majority of the U.S. market for PRCBs, it does not seem likely that subject imports would cause significant negative price effects in the U.S. market in the imminent future.

Petitioners have pointed out that direct imports by retailers played an important role in the market and that, in this market segment, subject imports were frequently priced lower than both the subject imports sold by importers and the domestic like product.[29] Subject imports entering as direct imports

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[24] I have taken into consideration the nature of the subsidies received by PRCB producers in Vietnam that Commerce found to be countervailable, pursuant to statutory threat factor (I). CR at I-5; PR at I-4. Commerce found that, with respect to Vietnam, the following five programs were countervailable: (1) income tax preferences for encouraged industries; (2) income tax preferences for export-oriented Foreign-Invested Enterprises ("FIEs"); (3) land rent reduction or exemption for exporters; (4) import duty exemptions for raw materials; and (5) the exemption from import duties for imports of spare parts and accessories for industrial zone enterprises. Id. On the basis of these findings, Commerce calculated final countervailable subsidy rates ranging from 0.44 percent, which is de minimis, to 52.56 percent. PR/CR at Table I-1.

[25] CR/PR at Table V-11. I concur with the majority's adoption of pricing data as expressed in price per pound. Majority's Views at 40 n.169.

[26] Calculated using volume data from all eight pricing tables for the U.S. and all three subject countries. CR/PR at Tables V-2 to V-9. The coverage afforded by the eight pricing products was good, covering 69.7 percent of U.S. producers' U.S. shipments, 19.5 percent of U.S. imports of PRCBs from Indonesia, 32.2 percent of U.S. imports from Taiwan, and 58.7 percent of U.S. imports from Vietnam. CR at V-10 to V-11; PR at V-5.

[27] I note that even if the price comparisons are made using the price-per-bag data from Appendix D of the staff report, a majority of quarterly comparisons for products 2 and 3, in 45 of 87, or 51.7 percent, of available quarterly comparisons, still show overselling by subject imports in a majority of the comparisons.

[28] Petitioners are correct in pointing out that pricing data from the *** was not provided to the Commission in the final phase of these investigations. Petitioners' Posthearing Br. at 10; CR at V-10 n.16; PR at V-5 n.16. *** did however, provide pricing data in the preliminary phase of these investigations, Respondents' Posthearing Br. at Q-24, and there the Commission found "pronounced" overselling by subject imports in the "highest volume pricing products." The Commission found that "[w]ith respect to products 1 and 2 [which in the final phase are divided among products 1, 2, and 3], . . . subject imports oversold the domestic like product in 64 of 72 quarterly comparisons, or 88.9 percent of the time." *Polyethylene Retail Carrier Bags from Indonesia, Taiwan, and Vietnam*, Inv. No. 701-TA-462 and 731-TA-1156-1158 (Preliminary) (Public Version), Pub. 4080 (May 2009) at 21.

[29] Petitioners' Prehearing Br. at 45; Tr. at 122 (Mr. Dorn).

were only recorded for three of the eight pricing products (products 2, 3, and 5).[30] Of those, only pricing product 3 had significant levels of direct imports of the subject product.[31] While the Commission has traditionally compared prices at the same level of trade, it may be observed that direct import prices for product 3 were usually between 5 and 33 percent lower than the prices paid by those buyers for the domestic like product.[32] Knowing that direct imports were largely accounted for by ***,[33] it is likely that these direct imports are simple designs. This is potentially significant because respondents have provided evidence that prices, even within the defined dimensions of product 3—albeit with prices expressed in terms of 1,000 bags, may range by *** depending on the dimensions of the bag and the complexity of the printing.[34] This raises the possibility that some of these observed price differences may be accounted for by product mix variations, even within product 3.

Furthermore, even with the favorable pricing of direct imports, total direct imports from subject countries have declined significantly over the period, from *** pounds in 2006, to *** pounds in 2007, to *** pounds in 2008, before increasing to *** in interim 2009.[35] And, consistent with the majority's observation[36] that lower prices depend on higher volumes, there is a correlation, at least for product 3, between the price differentials between direct imports and U.S.-produced PRCBs and the quarterly volumes of direct imports.[37] Therefore, with direct imports declining over the period examined, and with the expectation that price differentials between direct imports and U.S.-produced PRCBs will therefore also decline, it does not seem likely that direct imports would lead to negative price effects in the imminent future.

It also does not appear that subject imports are likely to have significant price-depressing or price-suppressing effects in the imminent future. The domestic industry's ratio of COGS to net sales has not been correlated with either subject import volume or market shares, but instead has been driven

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[30] Memo INV-HH-037 at Table E-2. Direct imports accounted for 76.8 percent of U.S. imports from Indonesia, 48.0 percent of U.S. imports from Taiwan, and 22.8 percent of imports from Vietnam. CR at V-11 n.18; PR at V-5 n.18.

[31] The volume of direct imports of product 3 from subject countries was about twice the volume of importers' sales of product 3. Memo INV-HH-037 at Table E-2. While the volume of direct imports of product 5 from subject countries was about equal to the volume of importers' sales of product 5, direct imports were never more than 1 million pounds per year. CR/PR at Table E-4. The volume of direct imports of product 2 from subject countries was only about 3 percent of the volume of importers' sales of product 2 and never exceeded 600,000 pounds per year. CR/PR at Table E-2.

[32] Compare CR/PR at Table V-4 with Memo INV-HH-037 at Table E-2.

[33] CR at V-11 nn. 18 & 20; PR at V-5 nn. 18 & 20. For support for the proposition that *** use simpler bag designs, see CR at II-5; PR at II-3.

[34] Respondents' Posthearing Br. at Q-17 (showing prices, per 1,000 bags, not per pound, may range from $*** to $***). But see Petitioners' Posthearing Br. at Exhibit 3 (showing that smaller, thinner bags have a higher manufacturing cost per pound).

[35] Calculations based on CR/PR at Tables E-2 & E-4; Memo INV-HH-037 at Table E-2.

[36] Majority's Views at 41 ("The record indicates that, in general, higher volume sales tend to be sold at a lower average unit price.").

[37] The two largest quarterly volumes of direct imports from Indonesia were in QI & QII 2006, which were also the two quarters with the highest percentage differences between Indonesian direct import and U.S. prices. The two largest quarterly volumes of direct imports from Taiwan were in QIII & QIV 2006, which were also the two quarters with the highest percentage differences between Taiwanese direct import and U.S. prices. The largest quarterly volume of direct imports from Vietnam was in QIII 2007, which was also the quarter with the highest percentage difference between Vietnamese direct import and U.S. prices. Compare Memo INV-HH-037 at Table E-2 with CR/PR at Table V-4.

largely by raw material prices, specifically the price of polyethylene resin.[38] At the time of the significant increase in subject imports, between 2006 and 2007, with subject imports gaining 7.2 percentage points of U.S. market share, the ratio of COGS to net sales stayed unchanged. Then, between 2007 and 2008, when subject imports had leveled off, gaining only 0.4 percentage points of U.S. market share, the ratio of COGS to net sales increased by 2.9 percentage points to 92.9 percent. Finally, with the U.S. market share of subject imports 2.0 percentage points lower in interim 2009 compared with interim 2008, the ratio of COGS to net sales declined by 5.6 percentage points.[39] This indicates that the increase in the ratio of COGS to net sales in 2008 was not a reflection of price suppression relating to competition from subject imports, but rather reflected a rapid increase in the price of polyethylene resin that peaked in August and September 2008.[40] Raw material prices rose so quickly in the summer of 2008 that even agreements used by the domestic industry allowing for increases in raw material costs to be passed on to the customer were not effective in maintaining producers' margins.[41] Likewise, the decline in the ratio of COGS to net sales between the interim periods was caused by the steep decline in the price of polyethylene resin that bottomed out in January and February 2009, but remained below typical levels through interim 2009.[42] Nor was there evidence that price depression would be a factor in the imminent future; although prices did show some declines in interim 2009, this was more a function of significantly reduced raw material costs that allowed U.S. producers to increase their profitability while still passing along savings to their customers.

Petitioners also argue that, even though subject imports essentially replaced nonsubject imports in the U.S. market, had this not happened, and had nonsubject imports instead remained as they were, this would have benefitted the domestic industry because subject import prices are lower than nonsubject prices.[43] This may seem to be supported by data from the pricing products showing that a majority of quarterly comparisons between subject and nonsubject prices show lower subject import prices.[44] But, if the focus is put on the highest-volume products, the comparative pricing of subject and nonsubject imports is more ambiguous. For instance, with respect to product 3—again the highest-volume product—when comparing five of the six Asian source countries, although *** is almost always the highest-priced source country, *** is the lowest-priced Asian source country in more than 90 percent of quarterly comparisons. Also, the volume of U.S. imports of product 3 from Thailand is significantly larger, in every quarter, than the comparatively negligible U.S. imports from China, and is larger, in many quarters, than the cumulated subject imports of product 3.[45]

Of the *** lost sales allegations involving subject imports of PRCBs totaling $***, only three allegations totaling $*** were confirmed.[46] Of the *** lost revenue allegations involving subject imports totaling $***, only one allegation totaling $*** was confirmed.[47] When considering such allegations, it is

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[38] Tr. at 41 (Mr. Rizzo) ("The prices . . . move up and down with the changes in the price of polyethylene resin."). Raw material costs accounted for 70.7 percent of the total cost of goods sold during 2008. CR/PR at V-1.

[39] Memo INV-HH-037 at Tables C-1 & C-4.

[40] CR/PR at Figure V-1.

[41] CR/PR at V-1; Tr. at 26-27 &113-14 (Mr. Bazbaz).

[42] CR/PR at Figure V-1.

[43] Tr. at 106 (Mr. Dorn) (basing observation on average unit values).

[44] CR/PR at F-3 (showing that subject imports prices were lower than nonsubject prices in 260 of 430, or in 60.5 percent of, quarterly comparisons).

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

[46] CR at V-34; PR at V-16; CR/PR at Table V-12.

[47] CR at V-34; PR at V-16; CR/PR at Table V-13. I note that *** of the *** lost revenue allegations were reported to have occurred in the fourth quarter of 2008. CR/PR at Table V-13. That prices for PRCBs were

(continued...)

worth remembering that, when *** is implicated in a lost sale,[48] *** also is *** importer of nonsubject imports.[49] Considering that the value of net sales for the domestic industry averaged about $1 billion per year,[50] the value of those confirmed allegations are of an insignificant magnitude and do not indicate any unusual pricing disadvantage experienced by the domestic industry in this competitive marketplace.

To summarize, the evidence relating to price effects indicates that: (1) while there was some subject import underselling in the pricing products, it was mostly confined to the very low volume products 5 through 8; (2) for the four higher volume "t-shirt bag" products, 60.3 percent of the quarterly comparisons showed overselling by subject imports, and for products 2 and 3 that made up 94 percent, by weight, of the total volume of pricing products, 71.3 percent of the quarterly comparisons showed subject import overselling; (3) while direct import prices were frequently lower than domestic prices, such non-traditional price comparisons could be influenced by other factors such as product mix and volume discounting; (4) to the extent that direct imports may have had an adverse influence on prices, this threat has been reduced since the beginning of the period examined as volumes of direct imports declined steadily, by about 80 percent, between 2006 and 2008; (5) subject imports did not have either a price-depressing or a price-suppressing effect on domestic prices during the period examined and that modest changes in the ratio of COGS to net sales were simply following changes in raw material costs; (6) although subject import prices were lower than nonsubject import prices in a majority of quarterly comparisons across all pricing products, for the highest-volume pricing product, product 3, nonsubject imports from Thailand were almost always priced lower, and entered in larger volumes, than subject imports; and (7) that there was *** evidence of lost sales or lost revenues. Thus, I find that there is no imminent threat of significant price-depressing or price-suppressing effects relating to subject imports.

C. Impact of the Subject Imports on the Domestic Industry

Because I find neither an imminent threat of significantly increased volumes of subject imports nor an imminent threat that subject imports will be entering at significantly price-depressing or price-suppressing prices, I therefore find that there is no imminent threat of a negative impact by reason of subject imports on the domestic industry producing PRCBs.

Other evidence supporting this conclusion includes the fact that the domestic industry did succeed in gaining market share lost by nonsubject imports. The share of U.S. consumption held by the domestic industry increased irregularly by 2.5 percentage points over the period examined, initially increasing from 61.7 percent in 2006 to 66.3 percent in 2007, before declining to 64.2 percent in 2008. The domestic industry's share of the U.S. market in interim 2009 was 66.8 percent, as compared with 64.9 percent in interim 2008.[51]

U.S. production of PRCBs declined by 5.6 percent over the period of full years from 2006 to 2008.[52] The magnitude of this decline was consistent with decreasing U.S. consumption, which declined

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[47] (...continued)
declining in this quarter is not unexpected, given what was happening contemporaneously with resin prices. CR/PR at Figure V-1.

[48] E.g., Petitioners' Prehearing Br. at 42-43.

[49] CR/PR at IV-1.

[50] Memo INV-HH-037 at Table C-1.

[51] Memo INV-HH-037 at Table C-4.

[52] Production by U.S. producers rose from 70.2 billion bags in 2006 to 72.3 billion bags in 2007, but then declined to 66.3 billion bags in 2008. CR/PR at Table C-1.

by 6.7 percent over the period of full years from 2006 to 2008.[53] Domestic production capacity also declined by a similar amount, 4.1 percent.[54] As a result, capacity utilization by the domestic industry was relatively flat, declining by only 1.3 percentage points over the period of full years from 2006 to 2008.[55] The propensity for domestic production trends to follow U.S. consumption trends continued in the interim periods: as U.S. consumption steadied between the interim periods,[56] so did production by the domestic industry.[57] Capacity utilization by the domestic industry decreased when comparing the interim periods, but only because the domestic industry added capacity in interim 2009.[58] Additionally, petitioners are not predicting any imminent significant decline in demand.[59] The data on production capacity, production, or capacity utilization, together with projection of demand, do not indicate any imminent threat of material injury to the domestic industry as a result of subject imports.

As emphasized by respondents, the financial trends for the domestic industry "do not correlate to the subject import volumes in any meaningful way."[60] The ratio of operating income to net sales initially improved slightly from 0.5 percent in 2006 to 0.7 percent in 2007 at the same time that the volume of subject imports doubled from 7.3 billion to 14.7 billion bags. The operating ratio then declined to negative 3.2 percent in 2008 as the volume of subject imports slipped 0.6 percent to 14.6 billion bags. Then, with the volume of subject imports 13.5 percent lower in interim 2009 than it was in interim 2008, declining from 11.0 billion bags in interim 2008 to 9.5 billion bags in interim 2009, the ratio of operating income to net sales improved by 4.9 percentage points between the interim periods.[61]

While the movements in the ratio of operating income to net sales do not correlate with the changes in subject import volumes, they do correlate with movements in the price of its raw material, polyethylene resin. The rapid increase in resin prices in 2008, followed by the collapse of those same prices at the end of 2008, with prices remaining below typical levels throughout interim 2009,[62] appears to offer an essentially complete explanation for the movements in the domestic industry's operating margin. The unit value of raw materials in interim 2009 was $6.19, as compared to $9.92 in interim 2008, a decline of 37.6 percent.[63] This is how, even with the value of net sales in interim 2009 being 22.4 percent lower than in interim 2008, and with the average unit value of those sales having declined by even more, by 24.4 percent, the domestic industry was still able to increase its operating margin by 4.9

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[53] Apparent U.S. consumption declined steadily from 108.7 billion bags in 2006 to105.3 billion bags in 2007 to 101.4 billion bags in 2008. Memo INV-HH-037 at Table C-4.

[54] Domestic production capacity was flat between 2006 and 2007 at 83.2 billion bags, but then declined to 79.7 billion bags in 2008. CR/PR at Table C-1.

[55] Capacity utilization by the domestic industry initially increased from 84.4 percent in 2006 to 86.9 percent in 2007, before declining to 83.1 percent in 2008. CR/PR at Table C-1.

[56] Apparent U.S. consumption was 74.5 billion bags in interim 2009, as compared with 74.4 billion bags in interim 2008. Memo INV-HH-037 at Table C-4.

[57] Production by U.S. producers was 51.5 billion bags in interim 2009, as compared with 51.1 billion bags in interim 2008. CR/PR at Table C-1.

[58] Capacity was 67.4 billion bags in interim 2009, as compared with 60.9 billion in interim 2008. As a result, capacity utilization was 76.5 percent in interim 2009, as compared with 83.8 percent in interim 2008. CR/PR at Table C-1.

[59] Tr. at 38 (Mr. Daniels) (predicting that as the economy recovers, demand for PRCBs will be "flat at best"); Tr. at 100 (Mr. Daniels) (predicting "stagnant if not marginal declines" in demand).

[60] Respondents' Posthearing Br. at 1; Tr. at 150-51 (Mr. Morgan).

[61] Memo INV-HH-037 at Table C-4 (increasing from negative 0.6 percent to 4.2 percent).

[62] CR/PR at Figure V-1.

[63] CR/PR at Table VI-1 (the "unit" value is per 1,000 bags).

percentage points.[64] Although the prices of polyethylene resin increased steadily throughout interim 2009,[65] there is no indication that such gradual increases constitute an imminent threat of material injury to the domestic industry,[66] or render it vulnerable.

Another factor on which I have based my determination is the recent improvement in the financial performance ***. I concur with the majority's assessment of this market development,[67] which clearly played a role in the 4.9 percentage point improvement in the domestic industry's operating margin between the interim periods, and which was not related to subject imports. *** domestic producer, constituting *** percent of domestic production in 2008, has ***.[68] This development has contributed to a healthier domestic industry that is neither vulnerable nor likely to experience imminent and significant deterioration in its financial performance.[69]

To summarize, the evidence indicates that: (1) absent imminent threats of substantial increases in subject import volumes and imminent pricing pressures caused by subject imports, the threat of imminent negative impact on the domestic industry caused by subject imports is negligible; (2) the market share of domestic producers within U.S. consumption increased by 2.5 percentage points over the period of full years from 2006 to 2008, and increased further over the interim periods; (3) trends in domestic production capacity and domestic production closely followed trends in U.S. consumption and show no negative impacts resulting from subject imports, nor any threat of such negative impacts; (4) adverse trends in domestic capacity utilization in interim 2009 were caused solely by an increase in domestic production capacity as production remained flat between the interim periods; (5) trends in the domestic industry's operating margins show no correlation with trends in subject imports and, further, show signs of dramatic improvement in interim 2009, and so do not suggest vulnerability or a threat of material injury by subject imports; and (6) the decline in the domestic industry's operating margin in 2008 and its subsequent improvement in interim 2009 is instead almost entirely explained by significant movements in raw material prices and by company-specific factors that had no relation to subject imports. Thus, I find that there is no likelihood of any imminent significant negative impacts on the domestic industry from subject imports.

CONCLUSION

For the reasons stated above, I determine that an industry producing PRCBs in the United States is not materially injured nor threatened with material injury by reason of imports of PRCBs from Indonesia, Taiwan, and Vietnam that Commerce has found to be sold in the United States at less than fair value and imports of PRCBs from Vietnam that Commerce has found to be subsidized by the Government of Vietnam.

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[64] Memo INV-HH-037 at Table C-1.

[65] CR/PR at Figure V-1.

[66] Petitioners stated that they expected raw material prices in 2010 "to plateaux and then have a slight decline." Tr. at 142 (Mr. Daniels).

[67] Majority's Views at 52-53.

[68] CR/PR at Table VI-2; CR at VI-11 n.4; PR at VI-4 n.4.

[69] In total, 8 of the 13 domestic producers showed improvement in their operating margins between the interim periods. CR/PR at Table VI-2.

PART I: INTRODUCTION

BACKGROUND

These investigations result from petitions filed with the U.S. Department of Commerce ("Commerce") and the U.S. International Trade Commission ("USITC" or "Commission") by Hilex Poly Co., LLC ("Hilex"), Hartsville, SC, and Superbag Corp. ("Superbag"), Houston, TX, on March 31, 2009, alleging that an industry in the United States is materially injured or threatened with material injury by reason of subsidized and less-than-fair-value ("LTFV") imports of polyethylene retail carrier bags ("PRCBs")[1] from Vietnam and LTFV imports of PRCBs from Indonesia and Taiwan. Information relating to the background of the investigations is provided below.[2]

Effective date	Action
March 31, 2009	Petitions filed with Commerce and the Commission; institution of Commission investigations (74 FR 16009, April 8, 2009)
April 27, 2009	Commerce's notices of initiation (74 FR 19049 (AD); 74 FR 19064 (CVD))
May 15, 2009	Commission's preliminary determinations (74 FR 25771, May 29, 2009)
September 4, 2009	Commerce's preliminary countervailing duty determination (74 FR 45811)
October 27, 2009	Commerce's preliminary antidumping duty determination (74 FR 55183) (Taiwan)
October 27, 2009	Scheduling of final phase of Commission investigations (74 FR 63410, December 3, 2009)
November 3, 2009 December 4, 2009	Commerce's preliminary antidumping duty determination (74 FR 56807) (Indonesia) and amended determination (74 FR 63720)
November 3, 2009	Commerce's preliminary antidumping duty determination (74 FR 56813) (Vietnam)
March 16, 2010	Commission's hearing[1]
March 26, 2010	Commerce's final antidumping duty determination (75 FR 14569) (Taiwan)
April 1, 2010	Commerce's final antidumping duty determination (75 FR 16431) (Indonesia)
April 1, 2010	Commerce's final antidumping duty determination (75 FR 16434) (Vietnam)
April 1, 2010	Commerce's final countervailing duty determination (75 FR 16428)
April 15, 2010	Commission's vote
April 26, 2010	Commission's determinations transmitted to Commerce

[1] A list of witnesses that appeared at the hearing may be found at App. B.

[1] See the section entitled "The Subject Merchandise" in *Part I* of this report for a complete description of the merchandise subject to these investigations.

[2] Selected *Federal Register* notices cited in the tabulation are presented in app. A.

STATUTORY CRITERIA AND ORGANIZATION OF THE REPORT

Statutory Criteria

Section 771(7)(B) of the Tariff Act of 1930 (the "Act") (19 U.S.C. § 1677(7)(B)) provides that in making its determinations of injury to an industry in the United States, the Commission–

> *shall consider (I) the volume of imports of the subject merchandise, (II) the effect of imports of that merchandise on prices in the United States for domestic like products, and (III) the impact of imports of such merchandise on domestic producers of domestic like products, but only in the context of production operations within the United States; and . . . may consider such other economic factors as are relevant to the determination regarding whether there is material injury by reason of imports.*

Section 771(7)(c)) of the Act (19 U.S.C. § 1677(7)(c))) further provides that--

> *In evaluating the volume of imports of merchandise, the Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States is significant.*
> . . .
> *In evaluating the effect of imports of such merchandise on prices, the Commission shall consider whether . . . (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.*
> . . .
> *In examining the impact required to be considered under subparagraph (B)(i)(III), the Commission shall evaluate (within the context of the business cycle and conditions of competition that are distinctive to the affected industry) all relevant economic factors which have a bearing on the state of the industry in the United States, including, but not limited to*
> . . .
> *(I) actual and potential declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity, (II) factors affecting domestic prices, (III) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, (IV) actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and (V) in {an antidumping investigation}, the magnitude of the margin of dumping.*

Organization of the Report

Part I of this report presents information on the subject merchandise, subsidy rates and dumping margins, and domestic like product. *Part II* of this report presents information on conditions of competition and other relevant economic factors. *Part III* presents information on the condition of the U.S. industry, including data on capacity, production, shipments, inventories, and employment. *Part IV* presents the volume of imports of the subject merchandise, and *Part V* presents the pricing of domestic and imported subject merchandise. *Part VI* presents information on the financial experience of U.S. producers. *Part VII* presents the statutory requirements and information obtained for use in the Commission's consideration of the question of threat of material injury as well as information regarding nonsubject countries.

U.S. MARKET SUMMARY

PRCBs are generally used by retail customers to package and carry their purchased products home from the point of sale. The leading U.S. producers of PRCBs are Advance Polybag, Inc. ("API"), Hilex, Inteplast Group Ltd. ("Inteplast"), and Superbag, while leading reporting producers of PRCBs in subject countries include *** in Indonesia, *** in Taiwan, and *** in Vietnam. The leading U.S. importer of PRCBs from Indonesia is ***, while the leading importers from Taiwan are *** and *** and the leading importers from Vietnam are *** and ***. Leading importers of PRCBs from nonsubject countries (primarily China, Malaysia, and Thailand) include ***.

Apparent U.S. consumption of PRCBs totaled approximately 101 billion PRCBs ($1.5 billion) in 2008. Currently, at least 17 firms are known to produce PRCBs in the United States. U.S. producers' U.S. shipments of PRCBs totaled 65 billion PRCBs ($983 million) in 2008, and accounted for 64.2 percent of apparent U.S. consumption by quantity and 66.1 percent by value. U.S. imports from subject sources totaled approximately 15 billion PRCBs ($186 million) in 2008 and accounted for 14.4 percent of apparent U.S. consumption by quantity and 12.5 percent by value. U.S. imports from nonsubject countries also subject to antidumping duties[3] totaled approximately 19 billion PRCBs ($255 million) in 2008 and accounted for 18.6 percent of apparent U.S. consumption by quantity and 17.2 percent by value. U.S. imports from other nonsubject sources totaled approximately 3 billion PRCBs ($63 million) in 2008 and accounted for 2.9 percent of apparent U.S. consumption by quantity and 4.2 percent by value.

SUMMARY DATA AND DATA SOURCES

A summary of data collected in the investigations on all PRCBs is presented in appendix C, table C-1, a summary of data collected in the investigations specifically on high-end PRCBs is presented in appendix C, table C-2, a summary of data collected in the investigations excluding data from U.S. producer Inteplast is presented in appendix C, table C-3,[4] and a summary of data collected in the investigations incorporating late submissions received from importer Wal-Mart is presented in appendix C, table C-4. Except as noted, U.S. industry data are based on questionnaire responses of 13 firms that accounted for nearly 100 percent of U.S. production of PRCBs during 2008.[5] U.S. imports are based on official import statistics of Commerce.

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[3] China, Malaysia, and Thailand.

[4] Petitioners contend that Inteplast should be excluded from the domestic industry under the related parties provision. Petitioners' prehearing brief, pp. 17-21.

[5] Thirteen U.S. producers of PRCBs provided useable questionnaire responses during this phase of the investigations. Based upon preliminary phase questionnaire data, two companies not providing responses during the final phase, *** and ***, collectively represented less than *** percent of U.S. PRCB production in 2008.

PREVIOUS AND RELATED INVESTIGATIONS

PRCBs have been the subject of prior antidumping duty investigations in the United States. In 2004, the Commission determined that an industry in the United States was materially injured by reason of imports of PRCBs from China, Malaysia, and Thailand that were found by Commerce to be sold in the United States at less than fair value. Those orders are currently the subject of 5-year sunset reviews.[6]

Hilex and Superbag, the two petitioners in these current investigations, were also petitioners in the 2004 investigations.[7]

The product scope used in the prior investigations was the same as the scope used in the current investigations involving Indonesia, Taiwan, and Vietnam.[8] The ongoing 5-year reviews of the antidumping duty order on PRCBs from China, Malaysia, and Thailand also have the same product scope as the current investigations.

In addition to the aforementioned Title VII investigations, Superbag filed a complaint in 2004 alleging infringement of one of the firm's patents under section 337 of the Tariff Act of 1930 related to the importation into the United States, sale for importation, and/or sale within the United States after importation of certain "T-styled" plastic grocery and retail bags. An administrative law judge of the Commission found that a violation had occurred and recommended that the Commission issue a general exclusion order on these bags.[9] Settlements and consent orders were entered into with some respondents, and the Commission entered a general exclusion order against all other covered imports.[10]

NATURE AND EXTENT OF SUBSIDIES AND SALES AT LTFV

Subsidies

On April 1, 2010, Commerce published a notice in the *Federal Register* of its final determination of countervailable subsidies for producers and exporters of PRCBs from Vietnam.[11] Commerce found the following five programs in Vietnam to be countervailable: Income Tax Preferences for Encouraged Industries, Income Tax Preferences for FIEs, Land Rent Reduction or Exemption for Exporters, Import Duty Exemptions for Raw Materials, and Exemption of Import Duties on Imports of Spare Parts and Accessories for Industrial Zone Enterprises. Table I-1 presents Commerce's final subsidy rates with respect to countervailable subsidies of PRCBs from Vietnam.

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[6] *Polyethylene Retail Carrier Bags from China, Malaysia, and Thailand*, 74 FR 54069, October 21, 2009.

[7] *Polyethylene Retail Carrier Bags from China, Malaysia, and Thailand*, 69 FR 47957, August 6, 2004. Inteplast Group, Ltd.; PCL Packaging, Inc.; and Vanguard Plastics, Inc. (purchased by Hilex in October 2005) were co-petitioners with Hilex (the High Density Film Division of Sonoco Products Co., which was purchased by Hilex in 2003) and Superbag in the 2004 investigations.

[8] Petition, p. 5.

[9] *In the Matter of Certain Plastic Grocery and Retail Bags; Notice of Commission Determination Not To Review an Initial Determination Finding a Violation of Section 337; Schedule for Written Submissions on Remedy, the Public Interest, and Bonding*, 69 FR 31638, June 4, 2004.

[10] Petition, p. 3.

[11] *Polyethylene Retail Carrier Bags From the Socialist Republic of Vietnam: Final Affirmative Countervailing Duty Determination*, 75 FR 16428, April 1, 2010.

Table I-1
PRCBs: Commerce's final countervailable subsidy rates with respect to imports from Vietnam

Entity	Final countervailable subsidy rates (*percent*)
Advance Polybag Co., Ltd.	52.56
Chin Sheng Company, Ltd.	0.44 (*de minimis*)
Fotai Vietnam Enterprise Corp. and Fotai Enterprise Corp.	5.28
All others	5.28
Source: 75 FR 16428, April 1, 2010.	

Sales at LTFV

On March 26, 2010, Commerce published a notice in the *Federal Register* of its final determination of sales at LTFV with respect to imports of PRCBs from Taiwan.[12] On April 1, 2010, Commerce published notices in the *Federal Register* of its final determinations of sales at LTFV with respect to imports from Indonesia[13] and Vietnam.[14] Tables I-2, I-3, and I-4 present Commerce's dumping margins with respect to imports of PRCBs from Indonesia, Taiwan, and Vietnam, respectively.

Table I-2
PRCBs: Commerce's final weighted-average LTFV margins with respect to imports from Indonesia

Producer/exporter	Final dumping margins (*percent*)
P.T. Sido Bangun Indonesia	85.17
P.T. Super Exim Sari Ltd./P.T. Super Makmur	69.64
All others	69.64
Source: 75 FR 16431, April 1, 2010.	

[12] *Polyethylene Retail Carrier Bags From Taiwan: Final Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 75 FR 14569, March 26, 2010.

[13] *Polyethylene Retail Carrier Bags From Indonesia: Final Determination of Sales at Less Than Fair Value*, 75 FR 16431, April 1, 2010.

[14] *Polyethylene Retail Carrier Bags From the Socialist Republic of Vietnam*, 75 FR 16434, April 1, 2010.

Table I-3
PRCBs: Commerce's final weighted-average LTFV margins with respect to imports from Taiwan

Producer/exporter	Final dumping margins (*percent*)
Ipsido Corporation	95.81
TCI Plastic Co., Ltd.	36.54
All others	36.54
Source: 75 FR 14569, March 26, 2010.	

Table I-4
PRCBs: Commerce's final weighted-average LTFV margins with respect to imports from Vietnam

Producer/exporter	Final dumping margins (*percent*)
Alpha Plastics (Vietnam) Co., Ltd.	52.30
Alta Company	52.30
Ampac Packaging Vietnam Ltd.	52.30
BITAHACO	52.30
Chin Sheng Co., Ltd.	52.30
Chung Va (Vietnam) Plastic Packaging Co., Ltd.	52.30
Hanoi 27-7 Packaging Company Limited, aka Hanoi 27-7 Packing Company Limited, aka HAPACK Co., Ltd., aka HAPACK	52.30
Hoi Hung Company Limited/Kong Wai Polybag Printing Company	52.30
Kinsplastic Vietnam Ltd. Co.	52.30
Loc Cuong Trading Producing Company Limited, aka Loc Cuong Trading Producing Company, aka Loc Cuong Trading Producing Co. Ltd.	52.30
Ontrue Plastics Co., Ltd. (Vietnam)	52.30
Richway Plastics Vietnam Co., Ltd.	52.30
RKW Lotus Limited Co., Ltd., aka RKW Lotus Limited, aka RKW Lotus Ltd.	52.30
VINAPACKINK Co., Ltd.	52.30
VN K's International Polybags Joint Stock Company/K's International Polybags MFG Ltd.	52.30
VN Plastic Industries Co., Ltd.	52.30
Vietnam-wide entity	76.11
Source: 75 FR 16434, April 1, 2010.	

THE SUBJECT MERCHANDISE

Commerce's Scope

Commerce has defined the scope of these investigations as follows:

The merchandise subject to these investigations is polyethylene retail carrier bags (PRCBs), which also may be referred to as t-shirt sacks, merchandise bags, grocery bags, or checkout bags. The subject merchandise is defined as non-sealable sacks and bags with handles (including drawstrings), without zippers or integral extruded closures, with or without gussets, with or without printing, of polyethylene film having a thickness no greater than 0.035 inch (0.889 mm) and no less than 0.00035 inch (0.00889 mm), and with no length or width shorter than 6 inches (15.24 cm) or longer than 40 inches (101.6 cm). The depth of the bag may be shorter than 6 inches but not longer than 40 inches (101.6 cm). PRCBs are typically provided without any consumer packaging and free of charge by retail establishments, e.g., grocery, drug, convenience, department, specialty retail, discount stores, and restaurants to their customers to package and carry their purchased products. The scope of these investigations excludes (1) polyethylene bags that are not printed with logos or store names and that are closeable with drawstrings made of polyethylene film and (2) polyethylene bags that are packed in consumer packaging with printing that refers to specific end-uses other than packaging and carrying merchandise from retail establishments, e.g., garbage bags, lawn bags, trash-can liners.[15]

Tariff Treatment

PRCBs are classifiable in the Harmonized Tariff Schedule of the United States ("HTS") under subheading 3923.21.00 and reported for statistical purposes under statistical reporting number 3923.21.0085. Table I-5 presents current *ad valorem* tariff rates for PRCBs. Imports of PRCBs from Indonesia are eligible for duty-free treatment under the Generalized System of Preferences, upon proper importer claim, but are otherwise dutiable at the general rate. Imports of PRCBs from Taiwan and Vietnam are dutiable at the general rate of 3 percent *ad valorem*.

[15] Ibid.

Table I-5
PRCBs: Tariff rates, 2010

HTS provision	Article description	General[1]	Special[2]	Column 2[3]
		Rates *(percent)*		
3923.21	Sacks and bags (including cones):			
3923.21.00	Of polymers of ethylene.....	3%	Free (A*, AU, BH, CA, CL, E, IL, J, JO, MA, MX, OM, P, PE, SG) ([4])	80%
3923.21.0085	Polyethylene retail carrier bags (PRCBs) with handles (including drawstrings), with no length or width shorter than 6 inches (152.4 mm) or longer than 40 inches (1,016 mm).....			

[1] Normal trade relations, formerly known as the most-favored-nation duty rate, applicable to Taiwan and Vietnam.
[2] Imports from Indonesia are duty-free pursuant to the Generalized System of Preferences, upon proper importer claim, but are otherwise dutiable at the general rate. Taiwan and Vietnam are not eligible for special rates of duty.
[3] Applies to imports from a small number of countries that do not enjoy normal trade relations duty status.
[4] General note 3(c)(i) defines the special duty program symbols enumerated in this column.

Source: Harmonized Tariff Schedule of the United States (2010).

THE PRODUCT

Description and Applications

PRCBs are non-sealable plastic sacks or bags of polyethylene with carrying handles, and are intended to be dispensed free of charge to consumers by retail establishments in order to carry purchased merchandise.[16] PRCBs, whether domestically produced or imported, consist principally of FDA-approved high-density polyethylene ("HDPE") resin films, low-density ("LDPE") resin films, or combinations thereof varying in size, shape, thickness, and strength characteristics depending on their intended use,[17] and may contain single or double-sided printing in single or multiple colors.[18] [19] PRCBs produced in the United States generally carry a printed manufacturer's identification or logo on the bag surface along with a recycling symbol encouraging recycling and disclosing the predominate form of plastic, #2 for HDPE and #4 for LDPE,[20] while imported PRCBs usually carry the recycling symbol but not necessarily the producer logo or country-of-origin identification.[21] All PRCBs, domestically produced and imported, are equipped with carrying handles of various types (including drawstrings) ranging from die-cut handles formed in the bag surface to applied handles of various types, and may be designed with side or bottom pleats (gussets), square bottoms, or bottom and side seals depending upon the intended use.[22]

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[16] Information in this paragraph is from the petition unless otherwise noted.

[17] Transcript of the April 21, 2009 conference in the preliminary phase of these investigations ("conference transcript"), p. 78 (Daniels).

[18] Petitioners' postconference brief, Petitioners' Responses to Questions from Staff, pp. 5-6.

[19] ***.

[20] Staff examination of samples exhibited during the conference in the preliminary phase of the investigations.

[21] Conference transcript, pp. 16-17 (Bazbaz) and p. 33 (Rizzo).

[22] Ibid., pp. 37-38 (Halimi), together with examination of samples exhibited during the conference.

PRCBs are generally dispensed free of charge to customers by a wide range of retail outlets, including grocery, drug, convenience, department, specialty retail, and discount stores, together with restaurants.[23] T-shirt bags (which derive their name from the fact that they resemble sleeveless undershirts that have two straps that rest on the shoulders) are the highest-volume type of PRCBs[24] dispensed in a wide variety of retail outlets. Such PRCBs range from so-called low-end thin-walled HDPE bags found in grocery and many other stores, to larger and thicker t-shirt bags found in department stores.[25] T-shirt merchandise bags may also be made of softer, glossier, and more puncture-resistant LDPE resins, especially linear low-density polyethylene ("LLDPE").[26] In contrast, so-called higher-end bags of either HDPE, LDPE, or LLDPE range from medium-scale die cut bags of various configurations dispensed at restaurant and merchandise outlets to higher-scale die-cut, drawstring, and soft loop handle shopping bags found in more fashionable chain and upscale department stores. Other upscale bags contain detailed high quality multicolored printing and graphics, complete with attached soft loop or trifold handles, flat bottoms and the like, and are typically dispensed to customers in boutiques and other specialty stores. According to petitioners, the full range of bags is reportedly produced in both the United States and the subject countries.[27]

Manufacturing Process

The process for manufacturing PRCBs is generally the same everywhere in the world. It is basically a four-step process consisting of (1) blending polyethylene resin pellets, color concentrates, and other additives; (2) extrusion and film forming; (3) printing; and (4) bag conversion.[28] In the United States, producers run high-volume plants on a 24/7 basis when in operation, due to the capital intensive and competitive nature of the business. The major costs are ***.[29]

The following diagram illustrates the fundamentals of the typical blown film extrusion process employed by PRCB producers worldwide.

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[23] Petition, p. 5.

[24] Conference transcript, pp. 83-84 (Dorn).

[25] Ibid., p. 37 (Halimi), together with examination of samples exhibited during the conference.

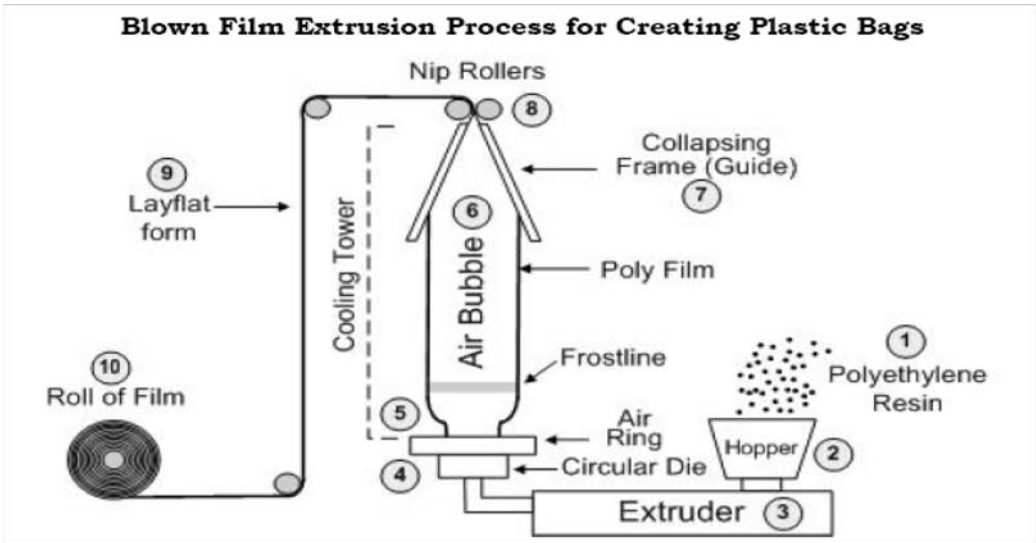
[26] Conference transcript, p. 77 (Daniels), together with examination of samples exhibited during the conference.

[27] Conference transcript, p. 15 (Dorn).

[28] Ibid., pp. 15-16 (Bazbaz), and ***.

[29] ***.

Figure I-1
PRCBs: Typical production process



Source: "10 Steps to Plastic Bags," J.T. McWilliams, President, Multi-Pak USA, 2006, found at http://www.multipakUSA.com (accessed April 2009).

In the process, a polyethylene resin blend is fed to a screw extruder or a series of coextruders where the plastic mix is formed into a homogeneous molten mixture. After exiting the extruder, the plastic melt is forced through an annual (circular) die and air-blown into a large cylindrical film bubble of the desired thickness and diameter. The plastic film bubble cools and solidifies as it continues to rise, and upon reaching the desired thickness at the top of the cooling tower, the bubble is collapsed and formed into a two-sided plastic film up to 6 feet or more in width. On the way down to ground level, the plastic film sheet runs through rollers, which smooth it out, before being fed onto large spools where several thousand pounds of film can be wound. The film is now ready to be sent through the printing and bag conversion processes. Extrusion and bag conversion in the United States are generally separate continuous automated processes employing different equipment and usually a selected set of trained employees.[30]

In the bag conversion section, a continuous run of wide film sheet is first surface-treated to better accept ink, and then fed into a flexographic ink printing press where the sheet is printed on one or both sides in up to eight colors in multiple parallel sets of the desired logos and identification, depending upon how many individual bags are to be produced. The flexographic printing process employed in the United States is an environmentally friendly water-based system which eliminates undesirable toxic volatile organic compound (VOC) emissions into the atmosphere, whereas certain subject country producers of imported bags can employ the organic solvent-based rotogravure printing process, which they claim produces superior print quality.[31] [32] The printed film roll next proceeds in a continuous fashion to a

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[30] ***.

[31] Conference transcript, p. 119 (Gitlin).

[32] According to questionnaire responses, all U.S. producers of PRCBs with the exception of *** use only the flexographic printing process. *** reported using the rotogravure process in addition to the flexographic process. Regarding the type of ink used, all U.S. producers with the exception of *** reported using only water-based inks in

(continued...)

slitter sealer which cuts and seals the wide film strips into a selected number of individual bag sections. If the film is to have side or bottom pleats (gussets), the parallel sections of individual bag film pass though gusseting equipment to form the pleats. Following this operation, a handle of the desired configuration is either die cut into or attached to the bag film to complete the bag conversion process.[33] High volume t-shirt or die-cut bags are typically boxed in quantities of 500 to 2,000 bags by an operator at the end of the line. Most scrap is recycled, and following bag inspection the boxes are loaded onto pallets, warehoused, and shipped, usually by truck in the United States.[34] [35] The international standard units of measurement for bag film thickness are generally expressed in terms of microns (one-millionth of a meter) or mils (0.001 inches).[36] One mil is equal to 25.4 microns.

DOMESTIC LIKE PRODUCT ISSUES

The Commission's decision regarding the appropriate domestic product(s) that are "like" the subject imported product is based on a number of factors including: (1) physical characteristics and uses; (2) common manufacturing facilities and production employees; (3) interchangeability; (4) customer and producer perceptions; (5) channels of distribution; and (6) price. Information regarding these factors is discussed below.

During the preliminary phase of the investigations on PRCBs from Indonesia, Taiwan, and Vietnam, the Commission defined a single domestic like product coextensive with the scope of these investigations.[37] The Commission cited "a lack of sufficient evidence on the record of the preliminary phase investigations demonstrating a clear dividing line separating high-end PRCBs from other types of PRCBs on the continuum of PRCB products."[38] Counsel on behalf of certain producers of PRCBs in Indonesia, Taiwan, and Vietnam and certain U.S. importers had contended at the conference and in their postconference brief that the Commission should find two distinct domestic like products in these investigations: (1) custom-made high-end shopping bags[39] and (2) low-end commodity type t-shirt bags and medium end die-cut handle bags and drawstring bags.[40] [41] The definition of high-end PRCBs was modified at the beginning of the final phase investigations to reflect suggestions made by the same

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[32] (...continued)
production of PRCBs; *** producers use solvent-based inks.

[33] ***.

[34] ***.

[35] ***.

[36] Conference transcript, p. 83 (Daniels).

[37] *Polyethylene Retail Carrier Bags from Indonesia, Taiwan, and Vietnam, Invs. Nos. 701-TA-462 and 731-TA-1156-1158 (Preliminary)*, USITC Publication 4080, May 2009, p. 4.

[38] Ibid, p. 10.

[39] Custom-made high-end shopping bags were defined by the respondents as polyethylene retail carrier bags that "are made from thick gauge polyethylene of at least 2.25 mil, going up to 3 or 4 mil, making them reusable items. High end shopping bags also incorporate value added materials such as cardboard inserts, handles of various materials, and plastic or metal grommets, all of which must be applied by hand." Postconference brief of Garvey Schubert Barer, p. 3.

[40] Low-end commodity type t-shirt bags and medium end die-cut handle bags and drawstring bags were defined by the respondents as "all disposable, designed for the single time use of carrying merchandise home from the store. They are made from thin gauge polyethylene. T-shirt bags are made from the thinnest possible polyethylene. Die cut and draw string bags are made from a heavier gauge of polyethylene, but are still too thin to be considered a reusable plastic bag." Ibid.

[41] E.g., conference transcript, pp. 116-124 (Gitlin).

respondents during the process of drafting questionnaires.[42] This revised definition did not cite differences in gauge (thickness) as a means for differentiating low-end and high-end PRCBs, as was the case during the preliminary phase investigations.[43] Instead, the high-end PRCB definition that was included in the final phase questionnaires is as follows:

> "Custom-made high-end shopping bags that incorporate value added materials such as cardboard inserts (top or bottom) and/or manually applied handles of various material (i.e., rope handle, rope drawstring, ribbon handle, tri-fold handle, rigid plastic molded handle), and plastic or metal grommets."

At the hearing in the final phase investigations, respondents stated that for the purposes of the current investigations they were no longer contesting the Commission's definition of the domestic like product as it was determined in the preliminary phase investigations and in the related review investigations.[44] Petitioners have contended that all PRCBs constitute a single domestic like product, coextensive with the scope of the investigations,[45] as was found by the Commission in the preliminary phase of these investigations and the final phase of the investigations of PRCBs from China, Malaysia, and Thailand in 2004.[46] Petitioners also maintained during the preliminary phase investigations that nothing had changed since the 2004 investigations that would warrant the Commission's adoption of a different like product definition in these investigations.[47]

Physical Characteristics and Uses

Petitioners note that all PRCBs are made of polyethylene film, whether high-density, low-density, and/or linear low-density, and that the end uses for all PRCBs are the same, i.e., to package and carry goods from retail establishments. In addition, they note, all such bags are given away for free.[48]

In the preliminary phase of these investigations, respondents asserted that high-end shopping bags are different from t-shirt bags and medium-end die-cut handle bags and drawstring bags in that they incorporate value-added materials such as cardboard or hard plastic bottoms and tops, applied handles made of either hard plastic, rope, ribbon or paper, and hard plastic or metal grommets and fasteners.[49] High-end shopping bags also reportedly possess high-register full-color graphics, with some covering 100-percent of the bag, including side gussets. According to respondents in the preliminary phase, high-end bags are viewed by customers as more attractive and decorative, serving as a walking billboard for establishments such as high-end specialty or boutique retailers.[50] High-end PRCBs are not good candidates for recycling, respondents claimed, because such bags are constructed of non-recyclable

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[42] However, on February 10, 2010, counsel for these respondents withdrew its notice of appearance in the investigations.

[43] Respondents' comments on draft final phase questionnaires, attachment 1, p. 1.

[44] Transcript of the Commission's March 15, 2010 hearing ("hearing transcript"), p. 11, pp. 186-187 (Lee).

[45] Petitioners' comments on draft final phase questionnaires, p. 2.

[46] Petitioners' postconference brief, p. 5.

[47] Conference transcript, p. 8 (Dorn).

[48] Petitioners' postconference brief, p. 5.

[49] Resondents' postconference brief, p. 3.

[50] Ibid., p. 7.

materials, including affixed cardboard, hard plastic, rope, fabric, and metal, although consumers tend to reuse them.[51] By contrast, t-shirt, die-cut, and drawstring bags are either quickly discarded or recycled.

Respondents in the preliminary phase of these investigations claimed that nearly all t-shirt bags and die-cut bags are reportedly less than 1 mil in thickness, whereas high-end shopping bags incorporating manually-applied materials are often of a thicker gauge.[52] [53] According to those respondents, die-cut merchandise bags and drawstring bags are generally made in thicknesses of 1 mil (25 microns).[54] Consequently, respondents contended, t-shirt bags reportedly use either exclusively high-density polyethylene or a mixture using very high percentages of high-density polyethylene in order for the maximum strength needed for the bags to hold the weight of a bag of groceries.[55]

The Commission determined during the preliminary phase investigations that:

> "All PRCBs share the same general physical characteristics and uses. All are made from polyethylene film and have handles, and all are provided by retailers to their customers free of charge to package and carry goods from retail establishments."[56]

Manufacturing Facilities and Production Employees

Several domestic producers claim to produce higher-end PRCBs, but ***, ***, has indicated that it produces high-end PRCBs as defined in the Commission's questionnaire.[57] [58] Petitioners contend that the raw materials, production processes, and equipment used to make PRCBs are essentially the same for all types of PRCBs.[59] For example, U.S. producer Command uses the same extrusion and printing equipment to produce all of its t-shirt bags and higher-end bags.[60] Hilex's film extrusion and printing equipment can be used to make die-cut merchandise bags, bottom gusset merchandise bags with side seals, and header merchandise bags, while Command's extrusion equipment and printing equipment are used to make all of its ten PRCB product types. Command's converting equipment is product-specific, but its employees are trained to work on any of the converting lines.[61] In addition to producing higher-end t-shirt bags, Command reported that it was a major U.S. producer of other higher-end PRCBs, including wave bags, high trundle bags, and soft knit bags. There is reportedly a significant overlap in

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[51] Ibid., p. 8.

[52] Respondents' postconference brief, pp. 4 and 6, and conference transcript, p. 118 (Gitlin).

[53] Respondents' comments on draft final phase questionnaires, attachment 1, p. 1.

[54] Respondents' postconference brief, pp. 6-7.

[55] Ibid., p. 7.

[56] *Polyethylene Retail Carrier Bags from Indonesia, Taiwan, and Vietnam, Invs. Nos. 701-TA-462 and 731-TA-1156-1158 (Preliminary)*, USITC Publication 4080, May 2009, p. 6.

[57] *** producer questionnaire response, section II-14-A. *** has not exceeded *** dollars in commercial sales of high-end PRCBs in any one year during the period for which data were collected. The product is described as a ***. E-mail from ***, January 28, 2010.

[58] One other company, ***, was initially believed to produce high-end PRCBs based upon pricing data provided in their questionnaire response. This company subsequently confirmed that it does not in fact produce high-end PRCBs. E-mail from ***, February 26, 2010.

[59] Petitioners' postconference brief, p. 7.

[60] Ibid., p. 7, and conference transcript, pp. 38-39 (Halimi) and ***.

[61] Petitioners' postconference brief, Petitioners' Responses to Questions from Staff, p. 6.

the equipment and employees that Command uses to make higher-end PRCBs and PRCBs other than higher-end.[62]

Petitioners also state that there is no PRCB production technology that is unique to the subject countries; the very same type of equipment used there is also used by companies in the United States. If necessary, they note, a bag producer can contract out the printing of the rolls of film to companies that specialize in printing, in order to achieve any desired level of print quality.[63]

Respondents in the preliminary phase of these investigations argued that t-shirt bags, die-cut bags, and drawstring bags are commodity products that are produced in huge production runs on capital-intensive, fully automated machinery, with no manual labor involved.[64] In contrast, they argued that high-end shopping bags, by definition, require manual labor or the incorporation of value-added materials such as cardboard inserts that are only known to be incorporated using manual labor. In their prehearing brief, respondents claim that there are two distinct sets of U.S. producers, those using their facilities to produce t-shirt bags and those producing all other PRCBs.[65]

In the preliminary phase investigations, the Commission found that:

> "All types of PRCBs are generally produced in the same facilities with the same employees, but not necessarily with the same overall production processes. While the first three steps of the four-step PRCB production process . . . are shared by all types of PRCBs, the last production step, conversion, differs according to the type of PRCB being produced."[66]

Interchangeability and Customer and Producer Perceptions

Petitioners view PRCBs as a continuum of domestic like products, from lower-end t-shirt bags to the medium-end t-shirt and die-cut merchandise bags to the high-end bag categories.[67] Respondents in the preliminary phase of these investigations contended that because high-end shopping bags and PRCBs other than high-end are so vastly different, they are not interchangeable in the marketplace.[68] They stated that retail high-end shopping bags not only convey the merchandise to purchasers, but also serve as advertising vehicles for brands or names.[69] High-end shopping bags reportedly are "reusable," providing customers with the latitude to use them in other ways, e.g., providing a gift bag for a friend or the carrying of shoes and lunch between home and the workplace.[70] Further data regarding customer perceptions can be found in Part II of this report, entitled "Conditions of Competition in the U.S. Market."

The Commission stated in the 2004 final phase investigations that:

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[62] Conference transcript, p. 38 (Halimi).

[63] Petitioners' postconference brief, Petitioners' Responses to Staff Questions, p. 5.

[64] Respondents' postconference brief, pp. 10-11.

[65] Respondents' prehearing brief, pp. 4-5.

[66] *Polyethylene Retail Carrier Bags from Indonesia, Taiwan, and Vietnam, Invs. Nos. 701-TA-462 and 731-TA-1156-1158 (Preliminary)*, USITC Publication 4080, May 2009, p. 8.

[67] Petitioners' postconference brief, p. 6.

[68] Respondents' postconference brief, p. 8, and conference transcript, p. 122 (Gitlin).

[69] Respondents' postconference brief, p. 10.

[70] Conference transcript, p. 154 (Levinson).

"Most responding purchasers reported that high-end and low-end PRCBs have the same uses (both are handed out at the point of purchase) and are interchangeable if size and gauge are comparable. Most purchasers also reported that there is no clear distinction between high-end and low-end PRCBs. However, some purchasers noted differences between high-end and low-end PRCBs with respect to customer perceptions, physical characteristics, and price."[71]

Channels of Distribution

Petitioners contend that all PRCBs are sold through the same channels of distribution, whether directly to retail establishments or indirectly to retail establishments through distributors.[72] In the preliminary phase of these investigations, respondents reported that t-shirt bags, die-cut bags, and drawstring bags are commodity products sold in large quantities directly to grocery store chains, drugstore chains, mass merchandisers, and box store chains, and a significant share may be sold through internet sales and reverse auctions. Respondents claimed that no high-end bags are sold via internet or reverse auctions. According to them, high-end shopping bags are for "mom and pop" stores, retailers like individual boutiques, or large upscale retailers. High-end shopping bags are also custom-made products and, they argued, are sold through packaging distributors and in much smaller quantities than other PRCBs.[73] In the preliminary phase investigations, the Commission found that "all types of PRCBs are sold either directly to retailers or to distributors that ultimately sell the PRCBs to retailers."[74]

Information on the channels of distribution of domestically produced and imported PRCBs is presented in Part II of this report, *Conditions of Competition in the U.S. Market*.

Price

Petitioners state that there is a broad price continuum for PRCBs, depending on factors such as the blend of polyethylene film used, the thickness of such film, the design of the bag, the size of the bag, the complexity of the print design, and the number of print colors used.[75]

In the preliminary phase investigations, the Commission found that high-end PRCBs, as they were defined in those investigations, had substantially higher average unit values than the prices of the four pricing products for which data were collected, none of which were high-end PRCBs. On the other hand, the Commission also found evidence that PRCBs exist on a broad price continuum, with high-end PRCBs (as defined in the preliminary phase) not necessarily more expensive than other types of PRCBs.[76]

Pricing information obtained in the current investigations is presented in Part V of this report, *Pricing and Related Information*. The Commission obtained pricing data on eight product categories of PRCBs, two of which may be considered high-end PRCBs. The latter two product categories may include features such as rope handles and/or cardboard bottoms that may or may not be manually applied. Domestic producers' prices varied considerably among the eight categories for which pricing data were

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[71] *Polyethylene Retail Carrier Bags from China, Malaysia, and Thailand, Invs. Nos. 731-TA-1043-1045 (Final)*, USITC Publication 3710, August 2004, p. 7.

[72] Petitioners' postconference brief, p. 6.

[73] Respondents' postconference brief, p. 9.

[74] *Polyethylene Retail Carrier Bags from Indonesia, Taiwan, and Vietnam, Invs. Nos. 701-TA-462 and 731-TA-1156-1158 (Preliminary)*, USITC Publication 4080, May 2009, p. 8.

[75] Petitioners' postconference brief, p. 8.

[76] *Polyethylene Retail Carrier Bags from Indonesia, Taiwan, and Vietnam, Invs. Nos. 701-TA-462 and 731-TA-1156-1158 (Preliminary)*, USITC Publication 4080, May 2009, p. 9.

obtained, but the two product categories which may be considered high-end PRCBs had the highest prices of any product.

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

CHANNELS OF DISTRIBUTION

Sales and distribution of PRCBs occur in a variety of ways, though most purchasers buy from a domestic producer or a distributor. The market includes distributors of varying sizes that sell imported and domestically produced PRCBs; these distributors may offer other packaging services (e.g., printing) as well. Domestic producers also import or purchase PRCBs to complement their product offering. Some large retailers import directly and also purchase from domestic producers. Some of these retailers, such as *** and ***, have been among the largest importers of PRCBs since 2006. Mr. Bazbaz of Superbag stated that some firms that both import and produce PRCBs, such as ***, use a blended sales program wherein both domestic and imported bags are sold together at a single, averaged price.[1]

It is common for sales to be negotiated between producers and retailers, with producers actually shipping the product to distributors, which then ship a bundle of items, including the PRCBs, to the end user as needed.[2] The shares of shipments from producers and importers reported to go to distributors and end users are presented in table II-1.

PURCHASER CHARACTERISTICS

Purchaser questionnaires were sent to 112 purchasers of PRCBs identified by U.S. producers and importers. Fifty-two purchasers responded to the purchaser questionnaire. Of the 52 purchasers, 19 firms identified themselves as food retailers, 20 firms identified themselves as retailers of other products, 13 firms identified themselves as distributors of packaging suppliers, and 3 firms identified themselves as distributors of food or other products.[3]

Responding purchasers reported purchases totaling 26.5 billion bags in 2008 ($434 million), accounting for approximately 26.1 percent of the market during that year on a quantity basis (29.1 percent on a value basis).[4] Fifteen purchasers buy PRCBs sourced from only one country, typically the United States, and reported that they did so for reasons such as availability, lead time, pricing, quality control, freight charges, service, and consistency of supply. Only 14 of 52 responding purchasers reported that they had made significant changes to their purchasing patterns in the last three years. Such changes included: changes in sourcing, increasing overall purchases, changes in purchasing frequency, using reverse auctions, and a change in PRCB specifications.

In addition to those firms that reported changing their general purchasing patterns, 23 purchasers reported changes in the relative shares of PRCBs bought from different countries in the last three years. Nine firms reported decreasing their purchases of PRCBs from domestic producers (citing cost, quality, ability to lock in a price, service, and supplier decision to source elsewhere), while eight firms reported an increase in purchases from domestic sources (citing availability, domestic source, price, quality, and shorter lead times). *** reported that it increased its domestic purchases relative to those from Indonesia, Taiwan, and Vietnam, because of quality and price. Two firms reported an increase in the share of purchases from Indonesia, and two reported a decrease. Five firms reported a decrease in the share of purchases from Taiwan, one reported an increase, one firm reported that its purchases increased

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[1] Hearing transcript, p. 21 (Bazbaz) and petitioners' prehearing brief, p. 25.

[2] Petitioners' postconference brief, pp. 25-26 and conference transcript, p. 31 (Rizzo).

[3] Three purchasers indicated more than one category; for example, food retailer and other retailer.

[4] Some purchasers did not provide data on their annual purchases, so these data are understated, and do not include retailers' direct imports of PRCBs.

Table II-1
PRCBs: U.S. producers' and importers' U.S. shipments of PRCBs, by sources and channels of distribution, 2006-08, January-September 2008, and January-September 2009

Item	2006	2007	2008	Jan.-Sept. 2008	Jan.-Sept. 2009
	Share of reported shipments (*percent*)				
Domestic producers' U.S. shipments of PRCBs to:					
Distributors	29.6	27.5	28.7	27.6	43.0
End users	70.4	72.5	71.3	72.4	57.0
U.S. importers' U.S. shipments of PRCBs from:					
Indonesia: Distributors	28.2	30.6	17.2	43.0	31.6
End users	71.8	69.4	82.8	57.0	68.4
Taiwan: Distributors	33.2	44.8	34.7	37.1	41.4
End users	66.8	55.2	65.3	62.9	58.6
Vietnam: Distributors	49.5	55.0	53.2	52.6	36.8
End users	50.5	45.0	46.8	47.4	63.2

Note.–Data for domestic producers include only U.S. commercial shipments.

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

prior to 2009 then decreased, and one reported both increases and decreases based on resin prices. Seven firms reported a decrease in the share of purchases from Vietnam, four reported an increase, and one reported an increase until March 2009 when it stopped purchasing from Vietnam. With respect to PRCBs from nonsubject countries, three firms reported increased purchases from China while one firm reported decreased purchases from China; three firms reported decreased purchases from Thailand while two firms reported increased purchases from Thailand; two firms reported decreased purchases from Malaysia; one firm each reported increased purchases from Cambodia and Germany; and one firm reported decreased purchases from the Philippines.

U.S. MARKET CHARACTERISTICS

To serve the various categories of customers, PRCBs come in a variety of types, such as t-shirt bags, die-cut handle bags, wave handle bags, patch handle bags, drawstring style bags, flat-bottom loop handle bags, and a number of others. Differences in dimensions and printing further differentiate PRCBs. Imported high-end bags typically are printed using a solvent-based rotogravure process which reportedly yields a higher-quality print job than the water-based flexographic printing typically found

among domestic producers of PRCBs.[5] So-called high-end bags may have printing that serves as a form of advertising[6] for the firm (a.k.a. "bagvertising").

Petitioners contend that large portions of both the subject imports and the domestic like product are shipped to distributors that warehouse them and then ship them to retailers along with other items such as register tape.[7] Respondents in the preliminary phase of these investigations contended that this is the case for t-shirt style bags sold through food service distributors to smaller stores, but often t-shirt style bags are also sold directly to mass-market retailers, grocers, drug stores, and big box chain stores. High-end PRCBs, they claimed, are sold through packaging distributors which also sell other packaging products such as tissue paper and ribbons.[8] Further, it was reported that high-end PRCBs used to be sold through different channels of distribution than PRCBs other than high-end, but now food service and retail packaging distributors have begun to sell high-end PRCBs.[9]

Most responding purchasers reported that they do not purchase high-end PRCBs; however, 11 of 52 responding purchasers reported purchasing high-end PRCBs and three of the 11 purchased only high-end PRCBs. Purchasers were also asked to indicate the characteristics they believe to be consistent with high-end PRCBs, and responses are shown in table II-2. Firms that purchased both high-end PRCBs and other types of PRCBs were asked whether they request quotes for all types of PRCBs together. Responses to this question were mixed: some firms said "yes," while others said "no" or "sometimes;" one firm stated that the suppliers of high-end PRCBs are not usually competitive on other PRCBs.

Thirty of 46 responding purchasers reported that they expect the PRCBs they provide to customers to be reused in ways that might serve as "bagvertising."[10] When asked how important this is in determining the type of PRCBs used, 13 firms indicated that it was "very important," 14 indicated "somewhat important," and 2 indicated "not important." Firms that indicated that the bagvertising value was "very important" included clothing retailers that use high-end bags, as well as firms that use PRCBs other than high-end such as ***.

Retailers were asked how important it is that the PRCBs they purchase be of a quality that enhances their store's image, as opposed to simply enabling customers to carry their purchases out of the store. In response to this question, 18 of 41 responding purchasers indicated it is "much more" important, 9 indicated "somewhat more," 7 indicated "equally important," 4 indicated "somewhat less," 1 indicated "much less," and 2 replied it is "not at all important."

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[5] Conference transcript, pp. 119 and 162 (Gitlin). At the conference, references to high-end bags were made with regard to bags that are 2.25 mils or greater in thickness.

[6] To a certain extent, many PRCBs function as advertising for retail establishments. *See*, *e.g.*, conference transcript, p. 190 (Dorn). However, high-end bags such as square-bottomed bags may be easier to read than t-shirt bags because the thicker polyethylene film of high-end bags does not bunch up when carrying an item, whereas the film in t-shirt bags bunches up and makes reading the store name or logo difficult. Respondents' joint postconference brief, p. 10. Also, respondents contend, "High-end bags are a piece of artwork that express the image and the wishes of the retailer." Conference transcript, p. 122 (Gitlin).

[7] Conference transcript, p. 31 (Rizzo).

[8] Respondents' postconference brief, p. 9.

[9] Conference transcript, pp. 122-123 (Gitlin).

[10] Responses of four purchasers that did not check off either the "yes" nor the "no" box to the first part of the question asking about "bagvertising" were assumed to be "yes," since they then indicated in their answers to the second part of the question that "bagvertising" was somewhat important in determining the type of PRCBs they use.

Table II-2
PRCBs: Characteristics of high-end PRCBs, as reported by U.S. purchasers

Characteristic	Number of firms reporting
Rope handles	30
Ribbon handles	28
Metal or plastic grommets	28
Rigid plastic molded handles	27
Rope drawstring	26
Cardboard inserts	26
Clipped rope ends	23
Tied rope ends	23
Six-color printing	20
String loop handle bags	20
Soft-loop handles	20
Drawstring-style bags	19
Tri-fold handles	17
Patch handle bags	14
Flat-bottom bags	13
Wave top bags	10
Die cut handle bags	7
T-shirt bags	6
Other [1]	2

[1] One purchaser reported "side or bottom gusseted bags" and one reported "process printing."

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

At the conference, respondents contended that the PRCBs produced by petitioners are commodity t-shirt bags and that imported "high-end bags are a piece of artwork that express the image and the wishes of the retailer out on the street"[11] and account for about one percent of the U.S. PRCB market.[12] Petitioners contend that t-shirt sacks or bags are commodity products that compete solely on the basis of price.[13]

[11] Conference transcript, p. 122 (Gitlin).

[12] Conference transcript, p. 112 (Perry). Data collected in the final phase of these investigations indicate that high-end PRCBs, all of which appear to be imported, account for approximately 3 percent of the U.S. PRCB market.

[13] Petitioners' postconference brief, pp. 12-19.

GEOGRAPHIC MARKETS

Nine U.S. producers reported selling PRCBs nationwide, whereas the other five reported that they served regional markets.[14] Twelve of 36 importers reported serving the national market, whereas the remaining 24 reported serving regional markets as described further in table II-3.

Table II-3
PRCBs: Geographic market areas in the United States served by domestic producers and importers of subject product

Region	Producers	Importers
National	9	12
Northeast	1	10
Midwest	4	10
Southeast	3	4
Central Southwest	5	5
Rocky Mountains	2	3
Pacific	2	12
Other	5	7

Note.–Fourteen producers and 36 importers responded to this question. Firms reporting serving all regions or all regions except "other" were reported as selling nationally. Firms were not limited to the number of market areas that they could report.

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

SUPPLY AND DEMAND CONSIDERATIONS

Supply

Thirteen producers of PRCBs responded substantively to the Commission's questionnaire. The largest producer is ***, which accounted for *** percent of sales of domestically produced PRCBs in 2008 on a quantity basis. Petitioners reported that Hilex closed three facilities in California, North Carolina, and Texas since the start of 2007, and Europackaging, LLC ("Europackaging") has closed its domestic operations.[15] In addition, 8 of 13 U.S. producers reported that they imported PRCBs during the period of investigation. Representatives of the three producers appearing at the preliminary conference reported that their imports of PRCBs were due in part to not having the right equipment to make a certain

[14] One producer, ***, provided substantive answers to relatively few questions in its response to the Commission's producer's questionnaire. Elsewhere in this report, tabulations of responses from producers only make reference to its questionnaire response when an answer was provided.

[15] Petitioners' postconference brief, pp. 33-34. ***.

size bag, and representatives of the two producers appearing at the hearing reported importing light-weight bags enables their equipment to produce bags of thicker plastic which yield a higher return.[16]

Domestic Production

Based on available information, U.S. producers have the ability to respond to changes in demand with moderate changes in the quantity of shipments of U.S.-produced PRCBs to the U.S. market. The main contributing factors to the moderate degree of responsiveness of supply are the availability of unused capacity and the existence of some production alternatives; however, responsiveness is constrained by small levels of interchangeable inventories and small levels of export shipments.

Industry capacity

U.S. producers' reported capacity utilization decreased unevenly, increasing from 84.4 percent in 2006 to 86.9 percent in 2007 before decreasing to 83.1 percent in 2008, and 76.5 percent in interim 2009 compared with 83.8 percent in interim 2008 (*see* table III-2). Accordingly, U.S. producers have some excess capacity with which they could increase production of PRCBs.

Alternative markets

U.S. producers' export shipments as a percent of total shipments increased from 3.2 percent in 2006 to 3.3 percent in 2007 and 2008 but were lower in January-September 2009 (2.7 percent) than in January-September 2009 (3.2 percent) (*see* table III-3). This level of exports during the period indicates that domestic producers are somewhat constrained in their ability to shift shipments between the United States and other markets in response to price changes.

Inventory levels

In general, domestic producers do not keep more inventory on hand than is being prepared for shipment. PRCBs are most often printed with company-specific names or logos, rather than being generic "thank you"-type bags.[17] As such, inventories held by producers tend to be relatively low and can rarely be switched from one customer to another. U.S. producers' inventories, as a ratio to total shipments, decreased from 5.5 percent in 2006 and 2007 to 4.4 percent in 2008, and were 4.9 percent in interim 2009 compared with 7.8 percent in interim 2008 (*see* table III-4). These data indicate that U.S. producers are constrained in their ability to use inventories to increase shipments to the U.S. market.

Production alternatives

Five of the 14 responding producers reported that they produce other products using the same equipment, machinery, and/or production and related workers that they use to produce PRCBs. Alternative products include: envelopes, food bags, garbage bags, industrial bags, custom LDPE bags, non-PRCB merchandise bags, security bags, specialty film, and wickets.

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[16] Conference transcript, pp. 67-69 (Bazbaz, Daniels, and Halimi) and hearing transcript, pp. 97-98 (Bazbaz and Daniels).

[17] Conference transcript, p. 105 (Daniels). In addition, Mr. Daniels reported that he believes Hilex does not make any unprinted bags. Ibid. Petitioners estimated that generic bags account for *** percent of the market. Petitioners posthearing brief, responses to Commission questions, p. 5. In general, respondents also agree that the generic bags are a small portion of the market. Hearing transcript, pp. 174-175 (Lee).

Foreign Supply[18]

Seven countries supplied 94.0 percent of the quantity of imported PRCBs in 2008: Thailand, Vietnam, China, Taiwan, Malaysia, Indonesia, and Canada, in descending order.[19] Since 2004, companies in Thailand, China, and Malaysia have been subject to antidumping duty orders in the United States, which are currently being reviewed.

The quantity of U.S. imports of PRCBs from Indonesia, Taiwan, and Vietnam increased by 114.9 percent (7.8 billion bags) between 2006 and 2007, then decreased by 0.6 percent in 2008, and were 13.5 percent lower in the first three quarters of 2009 compared with the same time period in 2008 (*see* table C-1). Petitioners estimated that there are 90 manufacturers and exporters of PRCBs in Indonesia, Taiwan, and Vietnam combined,[20] and allege that many of these companies have been increasing their capacity, have excess capacity, and are export-oriented.[21]

Indonesia

Industry Capacity*--**According to three foreign producer questionnaire responses received from Indonesian producers in the final phase of these investigations, reported capacity in Indonesia increased between 2006 and 2008 from *** billion bags to *** billion bags in 2007, was *** billion bags in 2008, and was *** lower in interim 2009 than in interim 2008 (billion bags in interim 2008 and *** billion bags in interim 2009).[22] Production decreased from 2006 to 2008 (from *** billion bags to *** billion bags), and was lower in interim 2009 than in interim 2008 (*** billion bags compared with *** billion bags). Capacity utilization also decreased, from *** percent in 2006 to *** percent in 2008 and was lower in interim 2009 (*** percent) than in interim 2008 (*** percent).

Alternative Markets*--**Indonesian producers' reported shipments of PRCBs exported to the United States, as a share of their total shipments, decreased irregularly from *** percent in 2006 to *** percent in 2008, and was lower in the first three quarters of 2009 (percent) than in the first three quarters of 2008 (*** percent).[23] Principal alternative export markets identified by Indonesian producers and exporters in the preliminary and final phases of these investigations include Africa, Canada, Denmark, the EU, Hong Kong, Japan, the Middle East, the Netherlands, Poland, Singapore, Spain, Sweden, and the United Kingdom.

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[18] Data on industries in foreign countries is understated, since not all foreign producers and exporters responded to the Commission's questionnaire.

[19] These data are based on imports under HTS statistical reporting number 3923.21.0085.

[20] Petition, exhs. II-4, II-5, and II-6.

[21] Petitioners' postconference brief, pp. 38-43.

[22] As noted in *Part VII* of this report, these three firms accounted for *** percent of production of PRCBs in Indonesia and *** percent of exports of PRCBs from Indonesia to the United States.

[23] The United States is Indonesia's second-largest trading partner under HTS subheading 3923.21, which includes sacks and bags of polymers of ethylene, some of which are nonsubject bags. Whereas Indonesia's exports to the United States under HTS subheading 3923.21 decreased from 20.8 million kg to 9.8 million kg over 2006-08, Indonesia's exports to Japan increased from 29.0 million kg to 31.7 million kg, and now account for 51.3 percent of Indonesia's total exports under this broader HTS subheading. The next-largest destination for Indonesia's exports under this HTS subheading is the United Kingdom, which accounted for just over half of what Indonesia exported to the United States. *Global Trade Atlas*.

Inventory Levels--U.S. importers' inventories of Indonesian PRCBs, as a ratio to their U.S. shipments of PRCBs from Indonesia, increased irregularly from *** percent at the end of 2006 to *** percent at the end of 2008, but were lower at the end of September 2009 (*** percent) than at the end of September 2008 (*** percent). Inventories of PRCBs maintained by foreign producers and exporters in Indonesia increased irregularly from *** percent of total shipments at the end of 2006 to *** percent at the end of 2008, but were *** lower at the end of interim 2009 (*** percent) than at the end of interim 2008 (*** percent).

Taiwan

Industry Capacity--According to three foreign producer questionnaire responses and one exporter questionnaire response received by the Commission, reported capacity in Taiwan increased between 2006 and 2008, from *** billion bags to *** billion bags. Capacity was *** higher in interim 2009 than in interim 2008, however (*** billion bags).[24] Reported production increased *** from 2006 to 2008, from *** billion bags to *** billion bags; production was *** in interim 2009 as in interim 2008 (*** billion bags). Capacity utilization decreased from *** percent in 2006 to *** percent in 2007 and *** percent in 2008, but was *** in January-September 2009 (*** percent) as it was in January-September 2008 (*** percent).

Alternative Markets–The Taiwan producers' and exporter's reported shipments of PRCBs exported to the United States, as a share of their total shipments, increased from *** percent in 2006 to *** percent in 2008, and was higher in interim 2009 (*** percent) than in interim 2008 (*** percent). The share of shipments exported to alternative markets increased irregularly, from *** percent in 2006 to *** percent in 2007 before declining to *** percent in 2008. It was lower in interim 2009 (*** percent) than in interim 2008 (*** percent) as well.[25] The responding Taiwan producers and exporter did not identify their principal alternative export markets.

Inventory Levels–U.S. importers' inventories of Taiwan PRCBs, as a ratio to their U.S. shipments of PRCBs from Taiwan, decreased irregularly from *** percent at the end of 2006 to *** percent at the end of 2008, and were higher at the end of September 2009 (*** percent) than at the end of September 2008 (*** percent). Inventories of PRCBs maintained by foreign producers and exporters in Taiwan as a share of total shipments increased irregularly from *** percent at the end of 2006 to *** percent at the end of 2008, and were higher at the end of interim 2009 (*** percent) than at the end of interim 2008 (*** percent).

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[24] As noted in *Part VII* of this report, these four firms accounted for *** percent of production of PRCBs in Taiwan and *** percent of exports of PRCBs from Taiwan to the United States.

[25] The United States is Taiwan's largest destination for exports classified under HTS subheading 3923.21, a "basket" category including nonsubject bags, and was the destination for 80.2 percent of Taiwan's exports in 2008. Taiwan's exports to the United States under HTS subheading 3923.21 increased from 29.1 million kg to 38.0 million kg over 2006-08, and increased the United States' share from 70.3 in 2006 to 80.2 percent in 2008. The only other large export market for Taiwan's exports under this HTS subheading is Japan, which accounted for 16.8 percent of Taiwan's exports in 2008. *Global Trade Atlas*.

Vietnam

Industry Capacity--According to seven foreign producer questionnaire responses received from Vietnamese producers in the final phase of these investigations, reported capacity in Vietnam increased between 2006 and 2008, from *** billion bags in 2006 to *** billion bags in 2007 and to *** billion bags in 2008.[26] In addition, capacity was *** higher in the first three quarters of 2009 (*** billion bags) than in the first three quarters of 2008 (*** billion bags). Production increased irregularly from 2006 to 2008 (from *** billion bags to *** billion bags), though production was lower in interim 2009 than in interim 2008 (*** billion bags, down from *** billion bags). Capacity utilization increased from *** percent in 2006 to *** percent in 2007 and to *** percent in 2008, but capacity utilization was lower in interim 2009 (*** percent) than in interim 2008 (*** percent).

Alternative Markets--Vietnamese producers' shipments of PRCBs exported to the United States, as a share of their total shipments, decreased irregularly, increasing from *** percent in 2006 to *** percent in 2007 before decreasing to *** percent in 2008. This ratio was also lower in January - September 2009 (*** percent) than in January -September 2008 (*** percent). Home market shipments were ***. Principal alternative export markets identified by Vietnamese producers and exporters include Australia, the EU, Germany, Hong Kong, Japan, the Netherlands, Panama, South America, and the United Kingdom.

Inventory Levels--U.S. importers' inventories of Vietnamese PRCBs, as a ratio to their U.S. shipments of PRCBs from Vietnam, increased from *** percent at the end of 2006 to *** percent at the end of 2008, but were lower at the end of September 2009 (*** percent) than at the end of September 2008 (*** percent). Inventories of PRCBs maintained by foreign producers and exporters in Vietnam as a share of total shipments decreased from *** percent at the end of 2006 to *** percent at the end of 2008, and were even lower (*** percent) at the end of interim 2009 than at the end of interim 2008 (*** percent).

Nonsubject Imports

Thailand, China, and Malaysia, nonsubject countries subject to antidumping orders, were the first, second, and fourth largest sources of imports of PRCBs, respectively, during 2006-08, on a quantity basis, accounting for approximately 56 percent of the quantity of U.S. imports during that period. Imports from these countries decreased by 44.6 percent (13.0 billion bags) between 2006 and 2007, with 85.9 percent of the decrease attributable to a drop in imports from Thailand, and then increased by 16.9 percent (2.7 billion bags) between 2007 and 2008.

General Supply Conditions

When asked if there had been any changes in the product range or marketing of PRCBs, 12 of the 13 responding producers and the 27 of the 32 responding importers reported that there have not been any significant changes. Producer *** noted that there has been a movement away from patch handle bags towards wave top bags and an increased use of online auctions. Of the five importers reporting changes,

[26] As noted in *Part VII* of this report, these seven firms accounted for *** percent of production of PRCBs in Vietnam and *** percent of exports of PRCBs from Vietnam to the United States.

two reported changes in product selection, two reported that there had been a push towards recycling PRCBs, and two importers reported that PRCBs are being changed so that they are more biodegradable.[27]

Respondents argue that the volume of subject imports that was imported by domestic producers should be treated separately from that imported by other firms, because in their view, injury due to the producers' imports would be self-inflicted.[28] Furthermore, respondents contend that Hilex was seeking supply from Super Exim in Indonesia in April 2008.[29] Petitioners respond that all subject imports are injurious, regardless of which firm is importing the PRCBs, and note that some producer/importers such as API maintain a blended sales program with prices averaged between the U.S. product's price and the imported product's price.[30] Mr. Bazbaz of producer Superbag testified that he imports a lightweight T-shirt bag that his firm could produce, but that it is more profitable to use the equipment he would employ to produce these bags for bags of thicker plastic.[31]

Demand

U.S. Demand

Demand Characteristics

Demand for PRCBs is derived primarily from retail and food service demand, as many retail and food service firms provide PRCBs to their customers to carry home food and other merchandise. Petitioners stated that demand has not been hurt by the recent economic downturn, as people are still shopping and needing PRCBs. In their view, consumers are simply shopping at lower-end stores like Walmart more often.[32] In the 2004 investigations, petitioners asserted that demand is dependent on population growth, not the retail environment.[33] From 2006 to 2008, however, apparent U.S. consumption of PRCBs decreased by 6.3 percent in terms of quantity.

Producers and importers were asked specifically how demand for PRCBs in the U.S. and worldwide markets has changed since 2006. Nine of 13 responding producers and 12 of 26 responding importers reported that U.S. demand decreased, 4 producers and 10 importers reported that demand was unchanged, 2 importers reported that demand increased, and 2 importers reported that demand fluctuated. Five of 8 responding producers and 11 of 16 responding importers reported that demand outside the United States was unchanged, while 3 producers and 5 importers reported that demand outside the United States had decreased.

Eight of the nine producers that explained why U.S. demand had decreased attributed the decrease to the weakening economy. One of these producers also attributed the decline to increased use of alternate types of bags, while another attributed the decline to pending or passed legislative actions which may limit the use of PRCBs. Four producers explained why demand outside the United States had decreased, with three firms attributing the decline to environmental concerns and two attributing it to the

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[27] One firm reported both more recycling and increased biodegradable bags.

[28] Respondents' prehearing brief, pp. 8 and 11.

[29] Ibid., p. 11.

[30] Hearing transcript, pp. 94-95 (Dorn) and 96 (Bazbaz).

[31] Hearing transcript, pp. 97-98 (Bazbaz and Daniels).

[32] Conference transcript, p. 58 (Daniels).

[33] Petitioners' postconference brief in the 2004 investigations on PRCBs from China, Malaysia, and Thailand, p. 23.

economic downturn.[34] At the hearing, Petitioners noted that demand in the future looks, at best, stagnant, if not marginally declining.[35]

Importers attributed declining demand to environmental concerns (6 importers); the economic recession (5 importers); increased use of alternative types of bags (4 importers); and the increased cost of plastic bags and consumer perceptions (1 importer). In contrast, two importers reported that U.S. demand had increased because of economic growth. *** reported that overall demand was unchanged since 2006, despite the increased use of alternative/reusable bags. *** reported that demand had fluctuated, increasing with the opening of new stores, but decreasing because some states required paper bags.[36] Four importers explained why worldwide demand had declined, with two firms attributing it to the economic downturn,[37] one to environmental concerns, and one to increased regulation.

Purchasers were asked how their firm's sales in which they use PRCBs had changed since 2006. In response to this question, 23 purchasers reported that their sales increased, 7 reported that they decreased, 6 reported no change, and 4 reported that they fluctuated. Most purchasers that reported an increase in sales reported that their demand for PRCBs had also increased.

Substitute Products

Five of 11 responding producers, 16 of 22 responding importers, and 31 of 52 responding purchasers reported that other products could be substituted for PRCBs. Purchasers listed the following substitutes for PRCBs: paper bags (28 purchasers), reusable bags (17 purchasers), and boxes (3 purchasers). When asked if changes in the prices of substitute products affected the price for PRCBs, all responding purchasers answered "no."

Four of the 11 producers reported that paper bags were substitutes for PRCBs, with two reporting that they were "frequently" substitutes and two reporting that they were sometimes substitutes.[38] Two of these producers also reported that reusable bags were either sometimes or rarely substitutes and one reported that plastic bags without handles were sometimes substitutes. Thirteen of the 22 responding importers reported that paper bags were substitutes for PRCBs, with three reporting that they were "always" substitutes, two reporting that they were "frequently" substitutes, four reporting that they were "sometimes" substitutes, and three reporting that they were "rarely" substitutes.[39] Other substitutes reported by importers included non-woven bags (reported as a substitute "always" by one importer, "frequently" by another and "rarely" by two) and reusable bags ("sometimes" by one importer and "rarely" by another). Producers, importers, and purchasers were asked if the substitution of paper bags for plastic bags had changed since 2006, and their responses are summarized in table II-4.

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[34] One producer reported that demand declined because of both environmental concerns and the economic downturn.

[35] Hearing transcript, p. 100 (Rizzo).

[36] Domestic producers report that no state has banned PRCBs or required paper bags. Petitioners' prehearing brief, app. 1, p. 2.

[37] One of these reported that demand had also declined because of "consumer awareness."

[38] One producer reported that non-PRCB bags were substitutes but did not report how common this substitution was.

[39] One reported that paper bags were substitutes but did not report how common this substitution was.

Table II-4
PRCBs: Number of producers, importers, and purchasers reporting that substitution of paper bags for PRCBs had increased, decreased, or was unchanged since 2006

Type of firm	Increased	Unchanged	Decreased
Producers	0	8	1
Importers	10	6	2
Purchasers	8	23	7
Source: Compiled from data submitted in response to Commission questionnaires.			

Producers, importers and purchasers were asked if paper bags could be used as substitutes for different types of PRCBs. Responses are summarized in table II-5. Producers and importers were also asked what shares of their sales of PRCBs were of high-end PRCBs compared with PRCBs other than high-end. They were also asked to further describe the specific types of PRCBs that they sold. Their responses to these questions are in table II-6.

Table II-5
PRCBs: Number of producers, importers, and purchasers reporting that paper bags were or were not substitutes for different types of PRCBs

Type of PRCB	Producers		Importers		Purchasers	
	Yes	No	Yes	No	Yes	No
T-shirt bags	5	9	16	15	29	16
Die cut handle bags	5	9	11	17	15	19
Patch handle	5	9	8	19	14	22
Drawstring bags	5	9	7	19	11	24
Flat-bottom bags	5	9	9	18	15	20
String loop handle bags	5	9	6	20	12	23
Other PRCBs	5	9	10	16	11	20
Source: Compiled from data submitted in response to Commission questionnaires.						

According to the parties, the demand for reusable heavy duty plastic, cloth, woven, or other bags has been increasing.[40] Petitioners contend that the effect on the market has been minimal and has reduced demand by less than one percent.[41] A representative from purchaser *** noted that his firm has undergone advertising campaigns to get people to use the more than *** reusable bags that it has sold. According to him, *** efforts are paying off and people are reusing these bags "more and more and more," though the most recent data he has seen shows a decrease in usage of PRCBs by *** customers of only *** percent.[42]

[40] See, e.g., conference transcript, p. 12 (Levinson), pp. 57 and 62 (Daniels).

[41] Conference transcript, pp. 57-59 and 62 (Bazbaz, Daniels, and Halimi).

[42] Telephone interview with ***.

Table II-6
PRCBs: Number of producers and importers reporting shares of sales for different types of PRCBs

Type of PRCB	Producers			Importers		
	Number reporting any sales	Number reporting product was 100 percent of sales	Percent of sales	Number reporting any sales	Number reporting product was 100 percent of sales	Percent of sales
High-end bags[1]	1	***	0.3	12	0	20.6
PRCBs other than high-end	14	***	99.7	22	11	79.4
T-shirt bags	7	3	51.1	24	10	55.4
Die cut handle bags	8	0	19.7	14	0	19.1
Patch handle	6	0	10.7	8	0	4.3
Drawstring bags	3	0	7.0	8	0	5.2
Flat-bottom bags	4	0	5.2	11	1	8.6
String loop handle bags	2	0	0.8	4	0	1.3
Other PRCBs	4	0	5.5	10	0	6.1

[1] *** reported that it produced high-end bags in this question, but in other questions it reported that it did not produce these bags.

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

Legislation

Producers, importers, and purchasers were asked if demand has shifted from PRCBs to reusable bags, paper bags, or if the passage of laws or the expected passage of laws regarding plastic bags has affected or is expected to affect demand for PRCBs, and, if so, the percentage decline in demand for PRCBs (table II-7).

Presently, however, there are few bans or taxes on plastic bag use in effect. San Francisco banned thin, non-compostable plastic bags in 2007 in supermarkets and pharmacies, leading to 5 million fewer plastic bags being used per month, as of March 2008.[43] Westport, CT and the Outer Banks of North Carolina have also banned plastic bags,[44]and Los Angeles, CA will ban plastic bags effective July 2010 if consumption goals are not met. Seattle, WA passed a 20-cent fee for plastic and paper bags in

[43] Conference transcript, p. 65 (Halimi), and "San Francisco Plastic Bag Ban Interests Other Cities," retrieved from http://www.npr.org/templates/story/story.php?storyId=89135360, accessed March 22, 2010.

[44] "Westport First in State to Ban Plastic Bags," New York Times, September 26, 2008, retrieved from http://www.nytimes.com/2008/09/28/nyregion/connecticut/28bagsct.html?partner=rssnyt&emc=rss, accessed March 22, 2010 and "N.C. Retailers Hurry to Prepare for Bag Ban," Virginian-Pilot, August 23, 2009, retrieved from http://hamptonroads.com/2009/08/nc-retailers-hurry-prepare-bag-ban, accessed March 22, 2010.

Table II-7
PRCBs: Number of producers, importers, and purchasers reporting changes that have or have not affected demand for PRCBs

Change	Producers			Importers			Purchasers		
	No	Yes	Percent decrease in demand[1]	No	Yes	Percent decrease in demand[1]	No	Yes	Percent decrease in demand[1]
Increased use of reusable bags	6	5	5	19	10	17	32	18	6
Increased use of paper bags	13	0	--	18	12	20	42	8	6
Passage of laws regulating use and disposal of PRCBs	9	4	6	16	10	16	39	10	5
Expect passage of laws regulating use and disposal of PRCBs	4	8	11	15	12	27	23	27	18

[1] Percentages are derived as simple averages from those firms that reported "yes" and also reported percentages. Not all respondents provided demand decrease estimates.

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

2008, but it was subsequently voted down in August 2009. Plastic bag ban or fee proposals were considered in 32 states or localities throughout the United States, particularly in California, though most have not been enacted or have been overturned.[45] Also, a national plastic bag bill was introduced to the House of Representatives in 2009.[46] Internationally, plastic bag taxes, fees, or bans have been implemented in numerous countries and regions, ranging from Australia to Zanzibar.[47]

Imposing fees or bans on plastic bags can reduce use of plastic bags. For example, on January 1, 2010, Washington DC enacted a 5-cent-per-bag tax on plastic and paper bags at certain types of businesses including grocery stores, drug stores, and restaurants without seating areas. Since that time, 73 percent of D.C. residents reportedly have used a reusable bag when shopping, and of that 73 percent, 46 percent reported using reusable bags more than they had prior to January 1, 2010.[48] When Ireland first

[45] "Plastic Bag Fee Passes Calif. Committee," ABCNews, April 13, 2009, retrieved from http://abclocal.go.com/kabc/story?section=news/state&id=6759302, accessed March 22, 2010, and "D.C., Dublin and Downtown Santa Barbara: The Bag Tax's U.S. Premier, Progress Abroad and Possibilities in Our Own Backyard," Santa Barbara News Network, January 5, 2010, retrieved from http://www.thesbnn.com/?p=2707, accessed March 22, 2010.

[46] "Moran Introduces National Plastic Bag Bill on Earth Day," April 22, 2009, retrieved from http://www.house.gov/list/press/va08_moran/Plastic.shtml, accessed March 22, 2010.

[47] Ibid., and "FACTBOX-Plastic Not Fantastic? -- Bag Bans Around the World," Reuters, May 27, 2008, retrieved from http://www.reuters.com/article/idUSPEK170445, last accessed March 22, 2010. Petitioners also described taxes in Ireland, and bans in parts of China and North Africa. Hearing transcript, p. 101 (Daniels).

[48] "D.C.'s left leanings confirmed in poll," *Washington Post*, p. C-1, February 7, 2010.

added a fee on plastic bags in 2002, use decreased by 90 percent.[49] China's ban on plastic bags reduced their use in supermarkets by 66 percent. In fact, "Statistics from the National Development and Reform Commission showed that the 106 outlets of Wal-Mart China had reduced plastic bag usage by 80 percent in the past year."[50] In response to a staff question, *** stated that "***."

Cost Share

Although high-end bags cost more than other PRCBs, the costs of either type of PRCB are very small compared to most retail purchases, and retailers generally provide PRCBs free of charge to the final consumer.

SUBSTITUTABILITY ISSUES

The degree of substitution between domestic and imported products depends upon factors such as relative prices, quality, and conditions of sale (e.g., price discounts/rebates, lead times between order and delivery dates, payment terms, product services, etc.). Based on producer and importer questionnaire responses, staff believes that on the whole, there is likely to be a high degree of substitution between PRCBs produced in the United States and those produced in Indonesia, Taiwan, and Vietnam.[51]

Knowledge of Country Sources

Purchasers were asked to indicate the countries of origin for PRCBs for which they have actual marketing/pricing knowledge. Forty-two of 52 responding purchasers were familiar with U.S.-produced PRCBs, 6 were familiar with those from Indonesia, 12 were familiar with those from Taiwan, and 16 were familiar with those from Vietnam.[52] Purchasers were also asked how often they are aware of whether the PRCBs they purchased are imported or produced in the United States, how often they know the manufacturer, and how often their customers are aware of, or interested in, the country of origin. The majority of purchasers reported that they always or usually know the manufacturer of the PRCBs they purchase and whether the PRCBs are produced domestically or imported, but that customers are less often aware of, or interested in, the origin of the PRCBs they purchase (table II-8).

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[49] Ibid.

[50] "One Year After Plastic Bag Ban, How is China Doing?" China Daily, May 26, 2009, retrieved from http://www.chinadaily.com.cn/bizchina/2009-05/26/content_7944466.htm, accessed March 22, 2010.

[51] Staff suggests that, based on the evidence submitted, the degree of substitution between high-end bags manufactured domestically and those imported from the subject countries is lower due to print quality options, handle options (rope, tape, grommets, and other hand-applied options), and cardboard insert options.

[52] In addition, purchasers listed the following nonsubject countries: China, Ecuador, Germany, India, Israel, Korea, Malaysia, Mexico, the Philippines, Singapore, and Thailand.

Table II-8
PRCBs: Certain purchaser responses to questions regarding the origin of their purchases

Purchaser/customer decision	Always	Usually	Sometimes	Rarely	Never
Purchaser aware of whether U.S.-produced or imported	32	10	6	4	0
Purchaser knows the manufacturer	25	11	8	4	4
Purchaser's customer is aware of or interested in the country of origin	17	9	10	7	5
Source: Compiled from data submitted in response to Commission questionnaires.					

Factors Affecting Purchasing Decisions

Major Factors in Purchasing

Purchasers were asked to identify the three major factors considered by their firm in deciding from whom to buy PRCBs (table II-9). Forty-nine of 52 responding purchasers reported that price was one of the top three factors, with price reported to be the most important factor by 15 firms. Forty-three of 52 firms named quality as one of their top three factors in their purchasing decision, and quality was the most-frequently cited most important factor (25 purchasers). Availability was listed as a top-three factor by 18 purchasers and delivery was listed as a top-three factor by 10 purchasers.

When purchasers were asked how frequently they purchased the lowest-priced PRCBs, 5 purchasers replied "always," 18 replied "usually," 20 replied "sometimes," 3 replied "rarely," and 1 replied "never." Twenty-six purchasers listed reasons why they purchased higher-priced PRCBs even though lower-priced PRCBs were available. Reasons reported by purchasers included: quality, availability, lead times, reliability of supply, maintaining multiple suppliers, and minimum quantity requirements. Several firms reported purchasing higher-priced PRCBs from U.S. producers because of shorter lead times, and two firms reported purchasing higher-priced PRCBs from Taiwan because of the higher quality of the product.

Table II-9
PRCBs: Ranking factors used in purchasing decisions, as reported by U.S. purchasers

Factor	Number of firms reporting			
	First	Second	Third	Total
Price	15	19	15	49
Quality (including meeting or exceeding specifications)	25	14	4	43
Availability	3	6	9	18
Delivery, delivery terms, lead times	0	1	9	10
Traditional supplier/supplier relationship/prearranged contracts	4	1	1	6
Reliability	0	3	2	5
Consistency	0	1	4	5
Service	0	2	3	5
Extension of credit	0	1	2	3
Customer selects supplier	2	0	0	2
Supplier's financial stability	2	0	0	2
Terms	0	0	1	1
Suppliers ability to make product	1	0	0	1
Suppliers ability to meet criteria	0	1	0	1
Product line	0	0	1	1
Capacity	0	0	1	1

Note.–Some purchasers listed more than three factors. Among those factors deemed important enough to rank, but not in the top three, were delivery, product consistency, availability, and technical support.

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

Importance of Specified Purchase Factors

Purchasers were asked to rate the importance of 18 factors they consider when making their purchasing decisions; their responses are summarized in table II-10. The factors listed as "very important" by at least three-quarters of the 51 responding firms were product consistency (47 firms); price (46 firms); availability and reliability of supply (45 firms each); and delivery time, print quality, and quality meets industry standards (39 firms each). Conversely, over 70 percent of responding purchasers (36 firms) rated the availability of high-end PRCBs as "not important," though this may be due to the smaller relative share of high-end PRCBs purchased in the market.

Table II-10
PRCBs: Importance of factors as reported by U.S. purchasers

Factor[1]	Very important	Somewhat important	Not important
	Number of firms responding		
Availability	45	5	1
Availability of high-end PRCBs	8	5	36
Customization of bags	25	21	5
Delivery terms	28	21	2
Delivery time	39	11	1
Discounts offered	26	21	4
Extension of credit	17	12	2
Minimum quantity requirements	18	16	17
Packaging	11	28	12
Price	46	5	0
Print quality	39	11	1
Product consistency	47	4	0
Product range	8	23	20
Quality meets industry standards	39	9	3
Quality exceeds industry standards	20	22	7
Reliability of supply	45	5	1
Technical support/service	14	24	13
U.S. transportation costs	30	15	6
Other	6	1	0

[1] The following "other" factors were listed as very important: life cycle cost, meet specifications, customer service, ability to be flexible in demand changes, and research and development. One firm listed "reference checks" as a somewhat important factor.

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

Factors Determining Quality

Purchasers were asked to identify the factors that determine the quality of PRCBs. Purchasers reported numerous specific factors including meeting industry standards and specifications; print quality, color, and overall appearance; gauge; seam, handle, and overall bag strength; durability; and number of tears and torn handles.

Purchasers were asked how often different country sources meet minimum quality specifications, and their responses are summarized in table II-11.

Table II-11
PRCBs: Frequency of sources meeting minimum quality specifications, purchaser responses[1]

Country	Always	Usually	Sometimes	Rarely	Never
United States	16	20	7	0	0
Subject countries:					
Indonesia	6	5	6	0	2
Taiwan	7	8	6	1	1
Vietnam	10	13	3	2	1
Nonsubject countries:					
China	6	4	1	0	0
Malaysia	3	0	0	0	0
Thailand	2	4	0	0	0

[1] Purchasers were asked how often domestic and imported PRCBs from subject and nonsubject countries meet minimum quality specifications for their uses or their customers' uses.

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

Certification/Qualification Issues

Purchasers were asked if they require their suppliers to be certified or prequalified. Thirty-one of 52 responding purchasers reported that they required prequalification, with nearly all of these firms requiring it for all of their purchases. Qualification often involves testing samples for quality and adherence to specifications and may also include on-site evaluations of PRCB factories. Suppliers may also be evaluated for reliability of supply, financial stability, and customer service. Twenty-five firms reported the time required for certification or qualification; specifically, 11 firms reported qualification times of two weeks or less, 11 firms reported qualification times of one to three months, and 3 firms reported qualification times up to six months. Ten of 50 responding purchasers reported that one or more firms had failed to qualify. Specifically, seven purchasers listed U.S. producers as failing to qualify as follows (reasons are identified in parentheses): ***. Two purchasers reported that producers in Vietnam didn't qualify due to failure to meet quality specifications, poor service, and inability to meet demand. One purchaser reported that one supplier of PRCBs from Indonesia and one from Taiwan failed to qualify based on quality and price. In addition, four purchasers listed one producer each in nonsubject countries China, India, Israel, and Thailand as failing to qualify.

Supply Sources

Twenty-eight purchasers reported contacting between one and three suppliers for their PRCB needs, and 13 purchasers reported contacting four or more suppliers. Twenty-nine of 52 purchasers reported changing suppliers since 2006. A number of different PRCB suppliers were added or dropped by individual purchasers; the sources named most often as added or dropped were Spectrum, API, and Hilex. Six purchasers reported adding Spectrum because of price, quality, service, and being the "first to cover the west coast supply chain," while four reported adding API because of API's consistent quality

and printing, and a desire to diversify sources. Four purchasers reported dropping Hilex as a supplier for reasons which included product quality, pricing, service, and required monthly price reviews. Three purchasers dropped Spectrum because of price and one firm dropped Spectrum because of quality and price. Only two responding purchasers reported that they became aware of new suppliers since 2006.

Lead Times

Seven of the 11 responding producers reported selling most of their PRCBs on a produced-to-order basis. Based on a simple average, 61.6 percent of PRCB sales were produced-to-order and lead times for such orders averaged 26 days. Lead times for those producers that reported selling PRCBs out of inventory ranged from 2 to 14 days and averaged 7 days.

Most responding importers (14 of 26) also reported selling exclusively on a produced-to-order basis. Five importers reported selling mainly out of U.S. inventory, and one reported selling mainly out of overseas inventories.[53] Reported lead times for importers' sales from inventory averaged 5.6 days. For importers' sales that are produced-to-order, importers' lead times averaged 84 days while lead times averaged 92 days for product being shipped from overseas inventories.[54]

Comparisons of Domestic Products, Subject Imports, and Nonsubject Imports

Producers, importers, and purchasers were asked to assess the interchangeability between PRCBs produced in the United States, subject countries, and nonsubject countries; responses are presented in table II-12. The majority of responding producers, importers, and purchasers reported that U.S.-produced PRCBs are "always" or "frequently" interchangeable with both subject and nonsubject imports. Producers, importers, and purchasers also reported that subject imports are "always" or "frequently" interchangeable with each other, and that domestic PRCBs and subject imported PRCBs are "always" or "frequently" interchangeable with PRCBs from nonsubject countries. Nine importers described specific differences between domestic product and imports that limited their interchangeability. Their responses cited factors such as: high-end bags which require hand labor are available from China, Indonesia, and other countries but are not available from the United States; printing from Taiwan and artwork and thickness of imported bags are superior to U.S. bags; and U.S. producers require very large minimum orders. Five purchasers noted non-price differences that limit interchangeability, with several purchasers noting print quality differences. Specific comments by these purchasers included: higher quality artwork and thicker bags from subject and nonsubject overseas sources; inconsistency in strength, color, and printing quality of domestic PRCBs compared to those manufactured in India, Taiwan, Thailand, and Vietnam; and that flat-bottomed shopper bags cannot be manufactured domestically.

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[53] *** reported selling 100 percent produced to order and 100 percent from overseas inventories. Its response has been included with those produced to order and not with overseas inventories. Using a simple average, 77.8 percent of all responding importers' sales were sold on a produced-to-order basis.

[54] ***.

Table II-12
PRCBs: U.S. producers', importers', and purchasers' perceived degree of interchangeability of products produced in the United States and from other sources[1]

Country comparison	U.S. producers				U.S. importers				U.S. purchasers			
	A	F	S	N	A	F	S	N	A	F	S	N
U.S. vs. Indonesia	10	1	0	0	6	3	6	0	13	4	3	0
U.S. vs. Taiwan	11	0	0	0	9	3	2	0	14	3	5	1
U.S. vs. Vietnam	11	1	0	0	8	3	4	0	17	5	5	1
U.S. vs. other sources[2]	11	0	0	0	6	4	6	1	28	4	11	0
Indonesia vs. Taiwan	10	0	0	0	7	3	0	0	12	4	1	0
Indonesia vs. Vietnam	10	0	0	0	7	3	1	1	12	4	2	0
Indonesia vs. other sources[2]	10	0	0	0	6	4	3	0	18	3	2	0
Taiwan vs. Vietnam	10	1	0	0	8	3	0	0	13	4	1	0
Taiwan vs. other sources[2]	10	1	0	0	7	3	0	0	18	2	0	0
Vietnam vs. other sources[2]	10	1	0	0	8	4	1	0	23	2	2	0

[1] Producers, importers, and purchasers were asked if PRCBs produced in the United States and in other countries are used interchangeably and to what degree.
[2] Purchasers used Canada, China, Colombia, Ecuador, Germany, Hong Kong, India, Israel, Japan, Malaysia, Philippines, South Africa, and Thailand for comparisons.

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

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

In addition, producers, importers, and purchasers were asked to assess how often differences other than price were significant in sales of PRCBs from the United States, Indonesia, Taiwan, Vietnam, and nonsubject countries; their responses are summarized in table II-13. A majority of producers reported that differences other than price are "never" significant in their sales of PRCBs. Importers, however, were much more likely to report differences other than price between U.S. product and imports. Specific differences were reported by nine importers.[55] Several purchasers noted differences as well.[56]

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[55] The differences reported by importers include: differences in printing and thickness between U.S. bags and bags from Malaysia, Taiwan, Thailand and Vietnam; better print quality from Taiwan; high minimum order quantities for U.S. bags; imported PRCBs from Indonesia and Vietnam have features such as clip loop handles, rope handles, cardboard, top and bottom ribbon handles, PVC tops and bottoms, double turndown, and grommets; high-end bags from Indonesia are better quality than those from the United States; Indonesia and "other countries" can use hand labor that U.S. producers cannot use to produce PRCBs economically; product from Indonesia is made with hand labor while U.S. and Vietnam products are not; quality of imports is consistently superior to U.S. product; differences in lead times; Taiwan does not produce the labor-intensive product available from Vietnam and "other" countries, and Vietnam does not produce print quality available from "other" countries; and U.S. producers do not sell high-end PRCBs, while there is little difference between product from the countries listed.

[56] These purchasers identified the following factors that limit interchangeability: high-end PRCBs not produced domestically; domestic product more consistent; better availability and quicker delivery for domestic product than

(continued...)

Table II-13
PRCBs: U.S. producers' and importers' perceived importance of factors other than price in sales of product produced in the United States and in other sources[1]

Country comparison	U.S. producers				U.S. importers				U.S. purchasers			
	A	F	S	N	A	F	S	N	A	F	S	N
U.S. vs. Indonesia	0	1	1	9	5	4	4	2	6	3	5	6
U.S. vs. Taiwan	0	0	2	9	3	2	7	2	6	3	6	7
U.S. vs. Vietnam	0	1	2	9	5	3	4	3	8	3	7	9
U.S. vs. other sources	0	0	2	9	5	4	4	4	11	4	24	7
Indonesia vs. Taiwan	0	0	1	9	2	1	5	3	3	2	4	8
Indonesia vs. Vietnam	0	0	1	9	1	1	8	2	2	2	5	9
Indonesia vs. other sources	0	0	1	9	1	1	7	4	0	1	6	18
Taiwan vs. Vietnam	0	0	2	9	1	1	6	3	2	2	4	10
Taiwan vs. other sources	0	0	2	9	1	1	6	2	0	1	3	18
Vietnam vs. other sources	0	0	2	9	1	2	7	3	3	1	6	18

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

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

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

Factor Comparisons

Purchasers were asked to compare PRCBs produced in the United States, subject countries, and nonsubject countries with respect to 19 different attributes. Thirty-seven purchasers provided responses; details are provided in table II-14.

[56] (...continued)
for subject and nonsubject imports; printing quality and thicker bags from subject and nonsubject sources; higher quality bags and more flexible order volumes for PRCBs from Taiwan compared to domestically produced PRCBs; and higher quality black bags from Thailand compared to domestic sources.

Table II-14
PRCBs: Comparisons of U.S. product, product from subject countries, and product from other sources, as reported by U.S. purchasers

Factor	U.S. vs Indonesia			U.S. vs Taiwan			U.S. vs Vietnam		
	S	C	I	S	C	I	S	C	I
	Number of firms responding								
Availability	2	14	1	3	17	1	6	20	1
Availability of high-end PRCBs	1	8	2	3	11	2	3	15	3
Customization of bags	2	14	0	6	18	0	7	20	1
Delivery terms	3	12	1	5	16	1	9	15	2
Delivery time	9	5	2	10	6	2	12	7	3
Discounts offered	0	12	4	2	15	4	3	19	3
Extension of credit	1	12	1	2	16	1	5	16	2
Minimum quantity requirements	0	13	3	1	16	4	3	20	3
Packaging	0	16	0	0	20	1	5	21	0
Price[1]	2	8	4	3	9	7	5	10	9
Print quality	3	12	1	4	15	2	6	17	3
Product consistency	4	12	0	4	15	2	6	18	2
Product range	0	12	2	4	13	3	3	17	3
Quality meets industry standards	3	12	0	3	16	1	5	18	2
Quality exceeds industry standards	3	10	1	3	12	4	4	17	4
Reliability of supply	2	12	2	3	15	3	7	17	2
Strength of bag	2	13	1	4	15	2	6	19	1
Technical support/service	3	12	0	4	15	2	7	17	1
U.S. transportation costs[1]	6	7	1	8	11	1	9	13	3

Table continued on following page.

Table II-14--*Continued*
PRCBs: Comparisons of U.S. product, product from subject countries, and product from other sources, as reported by U.S. purchasers

Factor	Taiwan vs Vietnam			U.S. vs nonsubject[2]			Indonesia vs nonsubject[3]		
	S	C	I	S	C	I	S	C	I
	Number of firms responding								
Availability	1	1	0	3	17	0	0	3	0
Availability of high-end PRCBs	2	0	0	1	11	1	0	2	0
Customization of bags	0	2	0	3	13	2	0	2	0
Delivery terms	0	2	0	8	12	0	0	2	0
Delivery time	1	1	0	12	8	0	0	2	0
Discounts offered	0	2	0	3	16	0	0	2	0
Extension of credit	0	2	0	3	14	1	0	2	0
Minimum quantity requirements	0	2	0	3	15	2	0	2	0
Packaging	2	0	0	2	14	4	0	2	0
Price[1]	0	1	1	2	9	9	0	2	0
Print quality	2	0	0	1	15	4	0	2	0
Product consistency	0	2	0	1	15	5	0	2	0
Product range	1	1	0	2	17	0	0	2	0
Quality meets industry standards	0	2	0	2	18	0	0	2	0
Quality exceeds industry standards	0	2	0	2	16	1	0	2	0
Reliability of supply	1	1	0	5	13	1	0	2	0
Strength of bag	0	2	0	2	14	4	0	2	0
Technical support/service	1	1	0	8	11	0	0	2	0
U.S. transportation costs[1]	0	2	0	9	9	0	0	2	0

Table continued on following page.

Table II-14--*Continued*
PRCBs: Comparisons of U.S. product, product from subject countries, and product from other sources, as reported by U.S. purchasers

Factor	Taiwan vs nonsubject[4]			Vietnam vs nonsubject[5]		
	S	C	I	S	C	I
	Number of firms responding					
Availability	0	2	0	0	7	0
Availability of high-end PRCBs	0	1	0	0	5	0
Customization of bags	1	1	0	0	5	0
Delivery terms	1	1	0	0	7	0
Delivery time	1	1	0	0	7	0
Discounts offered	0	2	0	0	7	0
Extension of credit	1	1	0	0	7	0
Minimum quantity requirements	1	1	0	0	7	0
Packaging	1	1	0	0	7	0
Price[1]	1	0	1	0	6	1
Print quality	0	2	0	0	7	0
Product consistency	2	0	0	0	8	0
Product range	0	2	0	0	7	0
Quality meets industry standards	2	0	0	0	7	0
Quality exceeds industry standards	2	0	0	0	7	0
Reliability of supply	0	2	0	0	7	0
Strength of bag	2	0	0	0	7	0
Technical support/service	1	1	0	0	7	0
U.S. transportation costs[1]	0	1	0	1	5	1

[1] A rating of superior means that the price/U.S. transportation cost is generally lower. For example, if a firm reported "U.S. superior," it meant that the price of U.S. product is generally lower than the price of the imported product.
[2] The nonsubject sources included in these comparisons were Cambodia, China, Germany, India, Korea, Macao, Malaysia, the Philippines, Singapore, and Thailand.
[3] The nonsubject countries included in these comparisons were China, Germany, and Thailand.
[4] The nonsubject countries included in these comparisons were China and Thailand.
[5] The nonsubject sources included in these comparisons were China, Germany, India, Macao, Malaysia, and Thailand.

Note.--S=first listed country's product is superior; C=both countries' products are comparable; I=first listed country's product is inferior.

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

The majority of firms comparing products from the United States and the subject countries reported that the products were comparable for all factors (for one or more of the subject countries) except delivery time, price, and U.S. transportation costs. With respect to delivery time, 9 of 16 purchasers reported that the U.S. product was superior to that from Indonesia, 10 of 18 purchasers reported that the U.S. product was superior to that from Taiwan, and 12 of 22 purchasers reported that the U.S. product was superior to that from Vietnam. In comparing the price of U.S.-produced PRCBs to

those from subject countries, 4 of 14 firms reported that the PRCBs from Indonesia were priced lower, 7 of 19 firms reported that PRCBs from Taiwan were priced lower, and 9 of 24 firms reported that PRCBs from Vietnam were priced lower. Finally, with regard to U.S. transportation costs, 6 of 14 firms rated the U.S. product as superior to that from Indonesia, 8 of 20 firms rated the U.S. product as superior to that from Taiwan, and 9 of 25 firms rated the U.S. product as superior to that from Vietnam.

ELASTICITY ESTIMATES

U.S. Supply Elasticity[57]

The domestic supply elasticity for PRCBs measures the sensitivity of the quantity supplied to changes in the U.S. market price of PRCBs. The elasticity of domestic supply depends on several factors including the level of excess capacity, the ease with which producers can alter capacity, producers' ability to shift to and from production of other products, the existence of inventories, and the availability of alternative markets for U.S.-produced PRCBs.

In the short term, the domestic industry has a moderate degree of responsiveness to changes in prices. Supply responsiveness is enhanced by possible available capacity and the ability to switch to producing PRCBs instead of other products, but is limited by the quantity and type of inventory on hand and ***. Domestic supply elasticity is likely in the range of 2 to 4. Petitioners commented that the elasticity of supply should be 4, reflecting the U.S. industry's available capacity.[58]

U.S. Demand Elasticity

The U.S. demand elasticity for PRCBs measures the sensitivity of the overall quantity demanded to a change in the U.S. market price of PRCBs, and is likely to be low, in the range of -0.3 to -0.6. This estimate is driven by factors discussed earlier, such as the low cost share of PRCBs relative to the cost of most retail purchases and the limited substitutability of other products for PRCBs. Petitioners agree that demand for PRCBs is price inelastic.[59]

Substitution Elasticity

The elasticity of substitution depends upon the extent of product differentiation between the domestic and imported products.[60] Product differentiation, in turn, depends upon such factors as quality (both perceived and actual), specifications, availability, and conditions of sale. Most of the producers, importers, and purchasers reported that PRCBs produced domestically are comparable to PRCBs imported from subject and nonsubject countries with respect to most factors. Based on the above data, substitution elasticity between domestic and imported PRCBs is high, and is likely to be in the range of 4 to 6.

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

[58] Petitioners' prehearing brief, app. 1, p. 3.

[59] Petitioners' prehearing brief, p. 32.

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

PART III: U.S. PRODUCERS' PRODUCTION, SHIPMENTS, AND EMPLOYMENT

The Commission analyzes a number of factors in making injury determinations (see 19 U.S.C. §§ 1677(7)(B) and 1677(7)(C)). Information on the margins of dumping was presented earlier in this report and information on the volume of imports of the subject merchandise is presented in *Part IV*. Information regarding pricing of domestic and imported subject merchandise is presented in *Part V*. Information on the other factors specified is presented in this section and/or *Part VI* and (except as noted) is based on the questionnaire responses of 13 firms that accounted for nearly 100 percent of U.S. production of PRCBs during 2008.[1]

U.S. PRODUCERS

The Commission sent producer questionnaires to 58 U.S. companies identified in the petition and through independent staff research. Out of these 58 companies, 13 provided useable data, 9 certified that they had not produced PRCBs since January 1, 2006, and the remaining 36 provided no response,[2] but none of the 36 are known to account for more than a very minimal share of U.S. production, if they produce PRCBs at all. Of the producers that provided useable data, petitioners (Hilex and Superbag) together accounted for almost *** percent of U.S. production in 2008, with the two companies accounting for approximately *** and *** percent of U.S. production, respectively, in that year. The remaining production was accounted for almost exclusively by ***, which together with petitioners accounted for over 90 percent of U.S. production in 2008.

Presented in table III-1 is a list of current domestic producers of PRCBs and each company's position on the petition, production location(s), related and/or affiliated firms, and share of reported production of PRCBs in 2008.

[1] Two producers, ***, provided questionnaire responses during the preliminary phase of these investigations but not during the final phase. ***. E-mail from *** March 8, 2010. *** represented less than *** percent of U.S. production in 2008.

[2] One other *** producer, ***, provided answers to certain questions in its response to the Commission's questionnaire, but these data were not useable for the purposes of trade data tabulation.

Table III-1
PRCBs: U.S. producers, positions on the petition, U.S. production locations, related and/or affiliated firms, and shares of 2008 reported U.S. production

Firm	Position on petition	U.S. production location(s)	Related and/or affiliated firms	Share of production (*percent*)
Ampac	***	Cincinnati, OH	***	***
API	***	North Las Vegas, NV Oklahoma City, OK Kenner, LA Elkridge, MD	***	***
Bemis	***	Terre Haute, IN	***	***
Command	***	Los Angeles, CA	None	***
Durabag	***	Tustin, CA	None	***
Genpak	***	Bloomington, MN	***	***
Hilex	***	Carrollton, TX Farmers Branch, TX Jacksonville, FL Jerome, ID Milesburg, PA North Vernon, IN Richmond, VA Overland, MO	***	***
Inteplast	***	Livingston, NJ Lolita, TX N. Dighton, MA	***	***
Omega	***	Lyndhurst, NJ	***	***
Poly-Pak	***	Melville, NY	None	***
Roplast	***	Oroville, CA	***	***
Superbag	***	Houston, TX	None	***
Unistar	***	Harahan, LA Houston, TX	***	***
			Total	100.0

Note.–Because of rounding, shares may not total to 100.0 percent. Pan Pacific Plastics Mfg., Inc., ("PPPMI") a U.S. producer of PRCBs, did not provide a questionnaire response but gave estimated production of *** bags in 2008. E-mail from ***, December 18, 2009. Pak-Sher Packaging ("Pak-Sher") another U.S. producer of PRCBs, did not provide a questionnaire response but gave estimated production of *** PRCBs in 2008. E-mail from ***, June 8, 2009.

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

Three U.S. producers are related to subject foreign producers of PRCBs and one is related to U.S. importers of the subject merchandise. In addition, as discussed in greater detail under "U.S. producers'

imports and purchases" below, 6 U.S. producers directly import subject merchandise and 1 also purchases subject merchandise from U.S. importers and or domestic producers.

U.S. CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION

Capacity, production, and capacity utilization all declined during the 2006-08 calendar year period. During the January-September 2009 interim period, however, capacity increased relative to the same period in 2008. The interim 2009 increase in capacity can be attributed to *** purchases of new equipment and modification of the cycle time on existing equipment.[3] Much of the decrease in capacity and production from 2006 to 2008 can be attributed to plant closures by Hilex (three facilities closed).[4] Additionally, *** was forced to move production equipment overseas for much of this period due to Hurricane Katrina. *** offset some of the 2006-08 decrease in capacity by purchasing additional equipment due to the imposition of duties on PRCBs from China, Malaysia, and Thailand. Additionally, *** added *** new extruders in 2006, which led to an increase in capacity of approximately *** bags annually. More recently, *** added or modified equipment in 2009 which led to an increase in capacity of approximately *** for the 2009 interim period relative to the same period in 2008.[5] U.S. producers' aggregate capacity was well below apparent U.S. consumption of PRCBs in each year of the 2006-08 period and was lower to a lesser extent during the 2009 interim period relative to the same period in 2008.

Of the 13 U.S. producers, *** were the 5 U.S. producers reporting production of other products using the same equipment and/or workers used to produce PRCBs. U.S. producers' capacity, production, and capacity utilization data for PRCBs are presented in table III-2 and figure III-1.

Table III-2
PRCBs: U.S. capacity, production, and capacity utilization, 2006-08, January-September 2008, and January-September 2009

Item	Calendar year			January-September--	
	2006	2007	2008	2008	2009
Capacity (*1,000 bags*)	83,182,701	83,232,332	79,737,217	60,936,535	67,365,922
Production (*1,000 bags*)	70,212,269	72,320,872	66,276,349	51,085,031	51,516,891
Capacity utilization (*percent*)	84.4	86.9	83.1	83.8	76.5

Note. –*** reported having tolling agreements for PRCB production. *** and *** did not include tolled production in their questionnaire responses as all tolled production was ***. *** reported tolled production by two U.S. companies, *** and ***, and included this production in its questionnaire data.

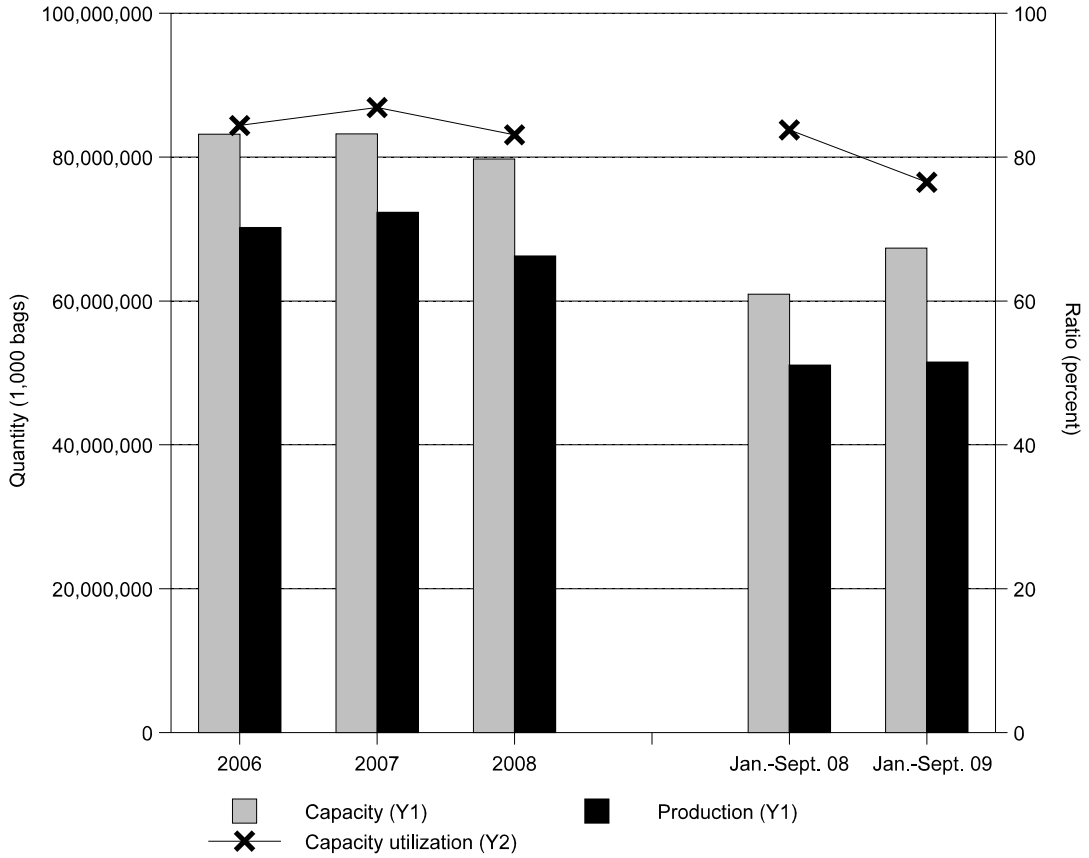
Source: Compiled from data submitted in response to Commission questionnaires.

[3] ***.

[4] Hilex closed its Rancho Cucamonga, CA plant in February 2007, its Victoria, TX plant in January 2008, and its Mount Olive, NC plant in October 2008. Hearing transcript, pp. 34-35 (Daniels). Additionally, based upon ***, *** closed a production facility during this period.

[5] ***.

Figure III-1
PRCBs: U.S. producers' capacity, production, and capacity utilization, 2006-08, January-September 2008, and January-September 2009



Source: Table III-2.

U.S. PRODUCERS' SHIPMENTS

Data on U.S. producers' shipments of PRCBs are presented in table III-3. From 2006 to 2008, total shipments decreased slightly on a quantity basis but increased slightly on a value basis. During the 2009 interim period, however, total shipments increased slightly on a quantity basis and decreased substantially on a value basis when compared with the same period in 2008. Average unit values also were lower during the 2009 interim period relative to the same period in 2008. There was no reported internal consumption or transfers to related firms.

Table III-3
PRCBs: U.S. producers' shipments, by types, 2006-08, January-September 2008, and January-September 2009

Item	Calendar year			January-September--	
	2006	2007	2008	2008	2009
Quantity (*1,000 bags*)					
Commercial shipments	66,786,015	69,767,941	65,085,412	48,299,776	49,811,732
Internal consumption	0	0	0	0	0
Transfers to related firms	0	0	0	0	0
U.S. shipments	66,786,015	69,767,941	65,085,412	48,299,776	49,811,732
Export shipments	2,207,673	2,351,519	2,209,901	1,574,534	1,400,301
Total shipments	68,993,688	72,119,460	67,295,313	49,874,310	51,212,033
Value (*1,000 dollars*)					
Commercial shipments	958,691	922,941	983,006	725,586	563,808
Internal consumption	0	0	0	0	0
Transfers to related firms	0	0	0	0	0
U.S. shipments	958,691	922,941	983,006	725,586	563,808
Export shipments	37,645	38,575	30,330	21,908	16,549
Total shipments	996,336	961,516	1,013,336	747,494	580,357
Unit value (*per 1,000 bags*)					
Commercial shipments	$14.35	$13.23	$15.10	$15.02	$11.32
Internal consumption	([1])	([1])	([1])	([1])	(1)
Transfers to related firms	([1])	([1])	([1])	([1])	(1)
U.S. shipments	14.35	13.23	15.10	15.02	11.32
Export shipments	17.05	16.40	13.72	13.91	11.82
Total shipments	14.44	13.33	15.06	14.99	11.33
Share of quantity (*percent*)					
Commercial shipments	96.8	96.7	96.7	96.8	97.3
Internal consumption	0.0	0.0	0.0	0.0	0.0
Transfers to related firms	0.0	0.0	0.0	0.0	0.0
U.S. shipments	96.8	96.7	96.7	96.8	97.3
Export shipments	3.2	3.3	3.3	3.2	2.7
Total shipments	100.0	100.0	100.0	100.0	100.0

[1] Not applicable.

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

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

U.S. PRODUCERS' INVENTORIES

Table III-4, which presents end-of-period inventories for PRCBs, shows that inventories generally decreased during the period for which data were collected.

Table III-4
PRCBs: U.S. producers' end-of-period inventories, 2006-08, January-September 2008, and January-September 2009

Item	Calendar year			January-September--	
	2006	2007	2008	2008	2009
Inventories (*1,000 bags*)	3,800,923	3,995,589	2,976,270	5,202,339	3,350,997
Ratio to production (*percent*)	5.4	5.5	4.5	7.6	4.9
Ratio to U.S. shipments (*percent*)	5.7	5.7	4.6	8.1	5.0
Ratio to total shipments (*percent*)	5.5	5.5	4.4	7.8	4.9

Note.–Partial-year ratios are based on annualized production and shipments.

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

U.S. PRODUCERS' IMPORTS AND PURCHASES

Seven of the 13 responding U.S. producers imported directly and/or purchased PRCBs from one or more of the subject countries during the period for which data were collected. U.S. producers' imports and purchases of PRCBs are presented in table III-5. In 2008, U.S. producers that imported directly or purchased imports of PRCBs represented *** percent of the quantity of U.S. imports from Taiwan and *** percent of the quantity of U.S. imports from Vietnam. During the January-September 2009 period, these companies represented *** and *** percent of the quantity of U.S. imports from Taiwan and Vietnam, respectively.

Table III-5
PRCBs: U.S. producers' imports and purchases, 2006-08, January-September 2008, and January-September 2009

* * * * * * *

U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY

The U.S. producers' aggregate employment data for PRCBs are presented in table III-6. The data reflect the plant closures mentioned earlier in this section, specifically the approximately *** positions eliminated as a result of the three closures by Hilex.[6] During the period for which data were collected, API, Command, and Inteplast increased the number of production and related workers employed at their facilities, and these increases offset somewhat the effect of the aforementioned plant closures on the U.S. industry as a whole. From 2006-08, hours worked per worker, hourly wages, productivity, and unit labor costs increased, while the number of production related workers and total hours worked decreased. In

[6] The number of positions eliminated with *** closure of its U.S. operations is unknown because the company did not complete a U.S. producers' questionnaire response in the final phase of these investigations.

comparing the 2008 and 2009 interim periods, it is evident that employment-related measures were lower in interim 2009 than in interim 2008, with the exception of hours worked per worker and productivity.

Table III-6
PRCBs: U.S. producers' employment-related data, 2006-08, January-September 2008, and January-September 2009

Item	Calendar year			January-September--	
	2006	2007	2008	2008	2009
Production and related workers (PRWs)	3,495	3,160	2,971	3,011	2,874
Hours worked by PRWs (*1,000 hours*)	7,597	7,154	6,903	5,108	4,903
Hours worked per PRW	2,174	2,264	2,324	1,696	1,706
Wages paid to PRWs (*1,000 dollars*)	95,452	105,602	103,881	80,564	75,528
Hourly wages	$12.56	$14.76	$15.05	$15.77	$15.41
Productivity (*bags produced per hour*)	9,241.6	10,108.7	9,600.8	10,000.6	10,507.9
Unit labor costs (*per 1,000 bags*)	$1.36	$1.46	$1.57	$1.58	$1.47

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

PART IV: U.S. IMPORTS, APPARENT CONSUMPTION, AND MARKET SHARES

U.S. IMPORTERS

Importer questionnaires were sent to 97 firms believed to be importers of subject PRCBs, as well as to all U.S. producers of PRCBs.[1] Usable questionnaire responses were received from 42 companies, representing approximately 60 percent of total 2008 imports from Indonesia, Taiwan, and Vietnam under HTS statistical reporting number 3923.21.0085.[2]

For subject countries, the leading U.S. importer of PRCBs from Indonesia is ***, while the leading importers from Taiwan are *** and the leading importers from Vietnam are ***. Leading importers of PRCBs from nonsubject countries (primarily China, Malaysia, and Thailand) include ***.

U.S. IMPORTS

Table IV-1 presents data for U.S. imports of PRCBs from Indonesia, Taiwan, Vietnam, and all other sources.[3] From 2006 to 2008, total imports decreased on a quantity basis but increased on a value basis.[4] Subject imports more than doubled during that period on both a quantity and a value basis. During the 2009 interim period, subject imports decreased on both a quantity and value basis compared to the same period in 2008. Imports from China, Malaysia, and Thailand, the three nonsubject countries that are currently subject to antidumping duties resulting from unrelated investigations, decreased on a quantity basis during the period for which data were collected, but increased on a value basis between 2006 and 2008 and then decreased between the interim periods.

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[1] The Commission sent questionnaires to those firms identified during the preliminary phase investigations, along with firms that, based on a review of data provided by U.S. Customs and Border Protection ("Customs"), may have imported greater than one percent of total imports under HTS statistical reporting number 3923.21.0085 in any one calendar year from subject countries since 2006 or during the January-September 2009 period.

[2] According to questionnaire responses, subject imports in 2008 totaled 8.8 billion PRCBs. U.S. Department of Commerce statistics show total subject imports during 2008 of 14.6 billion PRCBs.

[3] *** in 2006 *** imported PRCBs from *** under both HTS 3923.21.0085 and HTS 3923.21.0095. This information was obtained by staff near the conclusion of the investigatory period and therefore was unable to be included in the text of the staff report. Summary table C-4 to this report reflects 2006 imports from Indonesia by *** as reported by proprietary customs data under both of the aforementioned statistical reporting numbers.

[4] U.S. producers accounted for *** percent of the quantity of PRCBs imported from subject countries in 2008, up from *** percent in 2006 and *** percent in 2007. Staff notes that these imports do not by themselves account for the trends discussed in this section.

Table IV-1
PRCBs: U.S. imports, by sources, 2006-08, January-September 2008, and January-September 2009

Source	Calendar year			January-September	
	2006	2007	2008	2008	2009
	Quantity (*1,000 bags*)				
Indonesia	1,592,965	3,396,505	2,819,569	2,365,162	1,469,854
Taiwan	2,171,587	3,988,867	4,575,499	3,561,990	2,215,669
Vietnam	3,061,998	7,288,037	7,192,325	5,055,117	5,811,440
Subtotal	6,826,550	14,673,409	14,587,393	10,982,269	9,496,963
China, Malaysia, Thailand[1]	29,079,228	16,114,332	18,833,894	12,928,070	12,408,875
All other sources	5,575,003	4,748,210	2,942,934	2,212,148	2,829,145
Total	41,480,781	35,535,951	36,364,221	26,122,487	24,734,983
	Value (*1,000 dollars*)[2]				
Indonesia	25,400	45,808	40,948	33,005	12,998
Taiwan	19,454	42,318	56,848	42,993	20,008
Vietnam	19,734	73,757	88,189	59,982	44,323
Subtotal	64,588	161,884	185,986	135,980	77,328
China, Malaysia, Thailand[1]	219,763	228,082	255,232	177,532	112,403
All other sources	51,774	76,586	63,180	46,116	39,907
Total	336,125	466,552	504,398	359,628	229,639
	Unit value (*per 1,000 bags*)[2]				
Indonesia	$15.95	$13.49	$14.52	$13.95	$8.84
Taiwan	8.96	10.61	12.42	12.07	9.03
Vietnam	6.44	10.12	12.26	11.87	7.63
Subtotal	9.46	11.03	12.75	12.38	8.14
China, Malaysia, Thailand[1]	7.56	14.15	13.55	13.73	9.06
All other sources	9.29	16.13	21.47	20.85	14.11
Average	8.10	13.13	13.87	13.77	9.28

Table continued on following page.

Table IV-1--*Continued*
PRCBs: U.S. imports, by sources, 2006-08, January-September 2008, and January-September 2009

Source	Calendar year			January-September	
	2006	2007	2008	2008	2009
	Share of quantity (*percent*)				
Indonesia	3.8	9.6	7.8	9.1	5.9
Taiwan	5.2	11.2	12.6	13.6	9.0
Vietnam	7.4	20.5	19.8	19.4	23.5
Subtotal	16.5	41.3	40.1	42.0	38.4
China, Malaysia, Thailand[1]	70.1	45.3	51.8	49.5	50.2
All other sources	13.4	13.4	8.1	8.5	11.4
Total	100.0	100.0	100.0	100.0	100.0
	Share of value (*percent*)				
Indonesia	7.6	9.8	8.1	9.2	5.7
Taiwan	5.8	9.1	11.3	12.0	8.7
Vietnam	5.9	15.8	17.5	16.7	19.3
Subtotal	19.2	34.7	36.9	37.8	33.7
China, Malaysia, Thailand[1]	65.4	48.9	50.6	49.4	48.9
All other sources	15.4	16.4	12.5	12.8	17.4
Total	100.0	100.0	100.0	100.0	100.0

[1] In the 2004 antidumping duty investigations on PRCBs from China, Malaysia, and Thailand, three firms were found by Commerce to have *de minimis* dumping margins and thus were excluded from the antidumping duty orders: Hang Lung Plastic Manufactory and Nantong Huasheng Plastic Products Co., Ltd. (China), and Bee Lian Plastic Industries (Malaysia). Imports of PRCBs from these firms are included in the category "China, Malaysia, Thailand."
[2] Landed, U.S. port of entry, duty-paid.

Source: Compiled from official Commerce statistics.

CUMULATION CONSIDERATIONS

In assessing whether imports should be cumulated, the Commission determines whether U.S. imports from the subject countries compete with each other and with the domestic like product and has generally considered four factors: (1) fungibility; (2) presence of sales or offers to sell in the same geographic market; (3) common or similar channels of distribution; and (4) simultaneous presence in the market. Issues concerning channels of distribution and fungibility are addressed in *Part II* of this report. The remaining factors are addressed below.

Geographical Markets

With regard to geographical market overlap, U.S. imports of PRCBs from Indonesia entered through multiple U.S. ports of entry, dispersed across the nation. The overwhelming majority of imports entered via the ports of Los Angeles, CA, New York, NY, and Norfolk, VA. U.S. imports of PRCBs from Taiwan also entered through multiple U.S. ports of entry, dispersed across the nation. The overwhelming majority entered via the ports of Los Angeles, CA, Galveston, TX, and New York, NY. Lastly, U.S. imports of PRCBs from Vietnam also entered through multiple U.S. ports of entry, dispersed across the nation, and the overwhelming majority entered via the ports of Los Angeles, CA, Baltimore, MD, New York, NY, and Galveston, TX. At the conference, petitioners argued that imports from the three subject countries are sold in the same geographic markets as each other and as the domestic like product.[5]

Simultaneous Presence in the Market

Commerce statistics and pricing data submitted to the Commission show that imports from Indonesia, Taiwan, and Vietnam entered the United States in every month of the period for which data were collected.

NEGLIGIBILITY

The statute requires that an investigation be terminated without an injury determination if imports of the subject merchandise are found to be negligible.[6] Negligible imports are generally defined in the Tariff Act of 1930, as amended, as imports from a country of merchandise corresponding to a domestic like product where such imports account for less than 3 percent of the volume of all such merchandise imported into the United States in the most recent 12-month period for which data are available that precedes the filing of the petition or the initiation of the investigation. However, if there are imports of such merchandise from a number of countries subject to investigations initiated on the same day that individually account for less than 3 percent of the total volume of the subject merchandise, and if the imports from those countries collectively account for more than 7 percent of the volume of all such merchandise imported into the United States during the applicable 12-month period, then imports from such countries are deemed not to be negligible.[7] Imports from Indonesia, Taiwan, and Vietnam accounted for 6.5, 11.2, and 19.6 percent of total imports of PRCBs by quantity during the 12-month period beginning in March 2008 and ending in February 2009 (the month preceding the filing of the petition), respectively, and therefore none of the three subject countries' imports could be considered negligible.[8]

APPARENT U.S. CONSUMPTION

Data concerning apparent U.S. consumption of PRCBs during the period of investigation are shown in table IV-2 and figure IV-1.

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[5] Conference transcript, pp. 42-43 (Narkin).

[6] Sections 703(a)(1), 705(b)(1), 733(a)(1), and 735(b)(1) of the Act (19 U.S.C. §§ 1671b(a)(1), 1671d(b)(1), 1673b(a)(1), and 1673d(b)(1)).

[7] Section 771(24) of the Act (19 U.S.C. § 1677(24)).

[8] Data compiled using official Commerce statistics.

Table IV-2
PRCBs: U.S. shipments of domestic product, U.S. shipments of imports, and apparent U.S. consumption, 2006-08, January-September 2008, and January-September 2009

Item	Calendar year			January-September	
	2006	2007	2008	2008	2009
	Quantity (*1,000 bags*)				
U.S. producers' U.S. shipments	66,786,015	69,767,941	65,085,412	48,299,776	49,811,732
U.S. of imports from–					
Indonesia	1,592,965	3,396,505	2,819,569	2,365,162	1,469,854
Taiwan	2,171,587	3,988,867	4,575,499	3,561,990	2,215,669
Vietnam	3,061,998	7,288,037	7,192,325	5,055,117	5,811,440
Subtotal	6,826,550	14,673,409	14,587,393	10,982,269	9,496,963
China, Malaysia, Thailand[1]	29,079,228	16,114,332	18,833,894	12,928,070	12,408,875
All other sources	5,575,003	4,748,210	2,942,934	2,212,148	2,829,145
Total U.S. imports	41,480,781	35,535,951	36,364,221	26,122,487	24,734,983
Apparent U.S. consumption	108,266,796	105,303,892	101,449,633	74,422,263	74546715
	Value (*1,000 dollars*)				
U.S. producers' U.S. shipments	958,691	922,941	983,006	725,586	563,808
U.S. imports from--					
Indonesia	25,400	45,808	40,948	33,005	12,998
Taiwan	19,454	42,318	56,848	42,993	20,008
Vietnam	19,734	73,757	88,189	59,982	44,323
Subtotal	64,588	161,884	185,986	135,980	77,328
China, Malaysia, Thailand[1]	219,763	228,082	255,232	177,532	112,403
All other sources	51,774	76,586	63,180	46,116	39,907
Total U.S. imports	336,125	466,552	504,398	359,628	229,639
Apparent U.S. consumption	1,294,816	1,389,493	1,487,404	1,085,214	793,447

[1] In the 2004 antidumping duty investigations on PRCBs from China, Malaysia, and Thailand, three firms were found by Commerce to have *de minimis* dumping margins and thus were excluded from the antidumping duty orders: Hang Lung Plastic Manufactory and Nantong Huasheng Plastic Products Co., Ltd. (China), and Bee Lian Plastic Industries (Malaysia). Imports of PRCBs from these firms are included in the category "China, Malaysia, Thailand."

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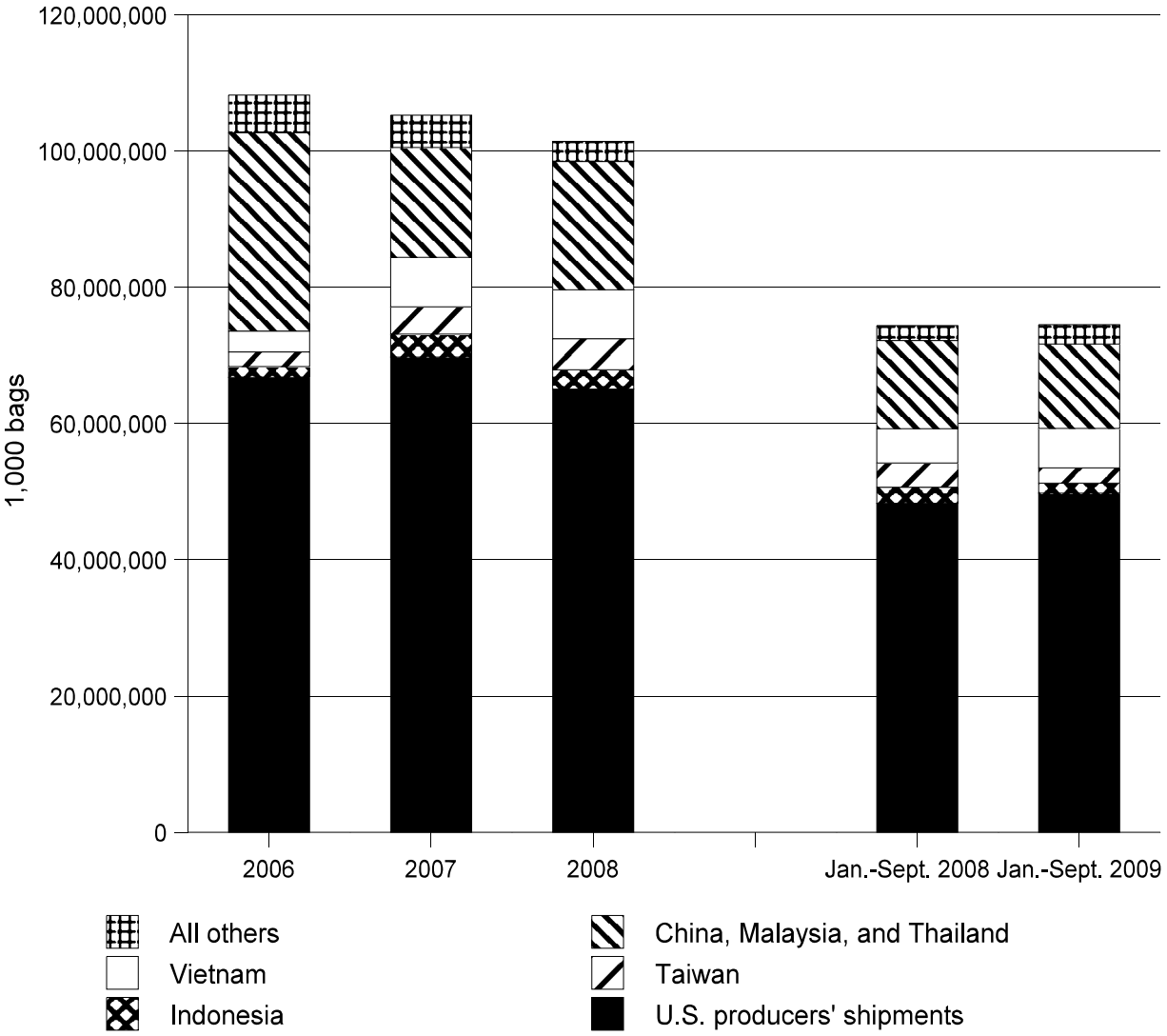
Note.–Because of rounding, figures may not add to the totals shown. In order to obtain greater importer coverage than what is available using questionnaire response data, U.S. imports (as shown in official Commerce statistics) were used as a proxy for U.S. shipments of imports.

Source: Compiled from official Commerce statistics.

Figure IV-1
PRCBs: Apparent U.S. consumption, by sources, 2006-08, January-September 2008, and January-September 2009



Source: Table IV-2.

U.S. MARKET SHARES

U.S. market share data are presented in table IV-3. U.S. producers' share of apparent U.S. consumption experienced a moderate increase on a quantity basis during 2006-08 and again between the interim periods. On a value basis, the U.S. producers' share decreased by 7.9 percentage points from 2006 to 2008 but was 4.2 percentage points higher during the 2009 interim period relative to the 2008 interim period. This increase in the quantity and value shares of consumption held by U.S. producers during the 2009 interim period corresponded with decreases in the shares of consumption represented by subject imports and by imports from China, Malaysia, and Thailand.

Table IV-3
PRCBs: U.S. consumption and market shares, 2006-08, January-September 2008, and January-September 2009

Item	Calendar year			January-September	
	2006	2007	2008	2008	2009
	Quantity (*1,000 bags*)				
Apparent U.S. consumption	108,266,796	105,303,892	101,449,633	74,422,263	74,546,715
	Value (*1,000 dollars*)				
Apparent U.S. consumption	1,294,816	1,389,493	1,487,404	1,085,214	793,447
	Share of quantity (*percent*)				
U.S. producers' U.S. shipments	61.7	66.3	64.2	64.9	66.8
U.S. imports from--					
Indonesia	1.5	3.2	2.8	3.2	2.0
Taiwan	2.0	3.8	4.5	4.8	3.0
Vietnam	2.8	6.9	7.1	6.8	7.8
Subtotal	6.3	13.9	14.4	14.8	12.7
China, Malaysia, Thailand[1]	26.9	15.3	18.6	17.4	16.6
All other sources	5.1	4.5	2.9	3.0	3.8
All countries	38.3	33.7	35.8	35.1	33.2
	Share of value (*percent*)				
U.S. producers' U.S. shipments	74.0	66.4	66.1	66.9	71.1
U.S. imports from--					
Indonesia	2.0	3.3	2.8	3.0	1.6
Taiwan	1.5	3.0	3.8	4.0	2.5
Vietnam	1.5	5.3	5.9	5.5	5.6
Subtotal	5.0	11.7	12.5	12.5	9.7
China, Malaysia, Thailand[1]	17.0	16.4	17.2	16.4	14.2
All other sources	4.0	5.5	4.2	4.2	5.0
All countries	26.0	33.6	33.9	33.1	28.9

[1] In the 2004 antidumping duty investigations on PRCBs from China, Malaysia, and Thailand, three firms were found by Commerce to have *de minimis* dumping margins and thus were excluded from the antidumping duty orders: Hang Lung Plastic Manufactory and Nantong Huasheng Plastic Products Co., Ltd. (China), and Bee Lian Plastic Industries (Malaysia). Imports of PRCBs from these firms are included in the category "China, Malaysia, Thailand."

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

Source: Compiled from official Commerce statistics.

RATIO OF IMPORTS TO U.S. PRODUCTION

Information concerning the ratio of imports to U.S. production of PRCBs is presented in table IV-4. The decrease in U.S. production between 2006 and 2008 corresponded with a more than doubling of the ratio of imports from subject countries to U.S. production. During that same period, the ratio of imports from nonsubject countries to U.S. production decreased. During the 2009 interim period, U.S. production was slightly higher while subject imports were slightly lower when compared to the 2008 interim period. Consequently, the ratio of subject imports to U.S. production was 3.1 percentage points lower during the 2009 interim period relative to the same period in 2008.

Table IV-4
PRCBs: U.S. production, U.S. imports, and ratios of imports to U.S. production, 2006-08, January-September 2008, and January-September 2009

Item	Calendar year			January-September	
	2006	2007	2008	2008	2009
	Quantity (*1,000 bags*)				
U.S. production	70,212,269	72,320,872	66,276,349	51,085,031	51,516,891
Imports from:					
Indonesia	1,592,965	3,396,505	2,819,569	2,365,162	1,469,854
Taiwan	2,171,587	3,988,867	4,575,499	3,561,990	2,215,669
Vietnam	3,061,998	7,288,037	7,192,325	5,055,117	5,811,440
Subtotal	6,826,550	14,673,409	14,587,393	10,982,269	9,496,963
China, Malaysia, Thailand[1]	29,079,228	16,114,332	18,833,894	12,928,070	12,408,875
All other sources	5,575,003	4,748,210	2,942,934	2,212,148	2,829,145
Total imports	41,480,781	35,535,951	36,364,221	26,122,487	24,734,983
	Ratio of U.S. imports to production (*percent*)				
Imports from:					
Indonesia	2.3	4.7	4.3	4.6	2.9
Taiwan	3.1	5.5	6.9	7.0	4.3
Vietnam	4.4	10.1	10.9	9.9	11.3
Subtotal	9.7	20.3	22.0	21.5	18.4
China, Malaysia, Thailand[1]	41.4	22.3	28.4	25.3	24.1
All other sources	7.9	6.6	4.4	4.3	5.5
Total imports	59.1	49.1	54.9	51.1	48.0

[1] In the 2004 antidumping duty investigations on PRCBs from China, Malaysia, and Thailand, three firms were found by Commerce to have *de minimis* dumping margins and thus were excluded from the antidumping duty orders: Hang Lung Plastic Manufactory and Nantong Huasheng Plastic Products Co., Ltd. (China), and Bee Lian Plastic Industries (Malaysia). Imports of PRCBs from these firms are included in the category "China, Malaysia, Thailand."

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

Source: Compiled from official Commerce statistics.

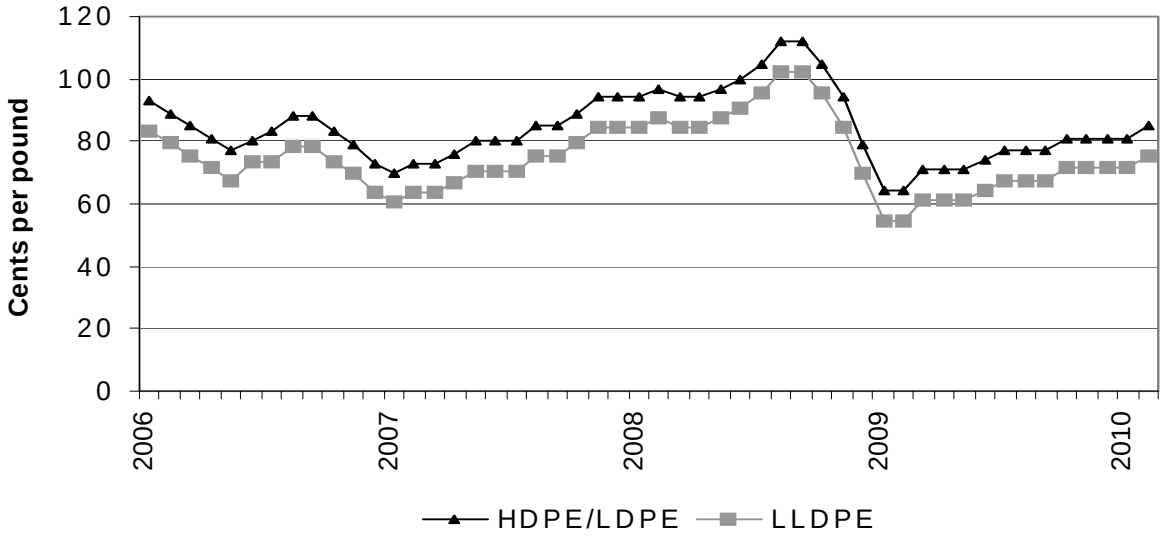
PART V: PRICING AND RELATED INFORMATION

FACTORS AFFECTING PRICES

Raw Materials

The main raw material used in the production of PRCBs is polyethylene resin. It and other raw materials accounted for 70.7 percent of the total cost of goods sold during 2008 (*see* Part VI: Financial Experience of U.S. Producers). The prices of three types of polyethylene resin (high-density polyethylene, low-density polyethylene, and linear low-density polyethylene - LDPE, HDPE, and LLDPE, respectively) decreased irregularly through 2006 before generally increasing through August 2008 (figure V-1).[1] Prices then decreased rapidly through January 2009 but then increased through February 2010. Mr. Rizzo of Hilex reported that the "overwhelming majority" of its agreements include specific language regarding how raw material price changes are passed through to the customer.[2]

Figure V-1
Polyethylene resin: Average monthly U.S. price, January 2006-February 2010



Source: Compiled from data published in *Plastics News*.

U.S. Inland Transportation Costs

Twelve U.S. producers reported that U.S. inland transportation costs ranged from 1 to 10 percent of the total delivered cost of PRCBs, and averaged 4.1 percent, based on a simple average. Seventeen of 25 responding importers reported that U.S. inland transportation costs ranged between 1 and 8 percent (averaging 3.9 percent) of the total delivered cost of PRCBs, whereas the other 8 importers reported

[1] Petitioners reported that prices of polyethylene resin were similar worldwide, partly due to their relationship to changes in oil and natural gas prices. Conference transcript, p. 61 (Daniels).

[2] Hearing transcript, p. 111 (Rizzo)

inland transportation costs ranging between 13.5 and 30 percent (averaging 20.8 percent); the overall average was 8.8 percent.[3]

All 12 responding U.S. producers reported that they arranged delivery. They also reported the distances that they shipped their PRCBs: 10.1 percent less than 100 miles; 58.1 percent between 101 and 1,000 miles; and 31.8 percent more than 1,000 miles, based on a simple average. Twenty-three of the 29 responding importers reported that they arranged delivery. Based on a simple average, the 24 responding importers reported shipping 47.5 percent of their PRCBs less than 100 miles, 26.4 percent between 101 and 1,000 miles, and 26.1 percent more than 1,000 miles.[4]

PRICING PRACTICES

Pricing Methods

The 13 U.S. producers of PRCBs reported that they use a variety of methods in determining prices. The manner in which prices are determined can depend on the size of the customer. Overall, 10 producers use transaction-by-transaction negotiations, 8 have contracts for multiple shipments, 3 use price lists, 5 report selling over the internet, and 6 reported other methods of determining prices.[5] Additionally, two producers stated that their contract prices move in conjunction with polyethylene resin prices. At the conference, Mr. Bazbaz of Superbag averred that, for his firm, and to his knowledge the rest of the industry, PRCB prices reflect changes in plastic resin prices and "are adjusted by the weight of the bags multiplied by the change of that index."[6]

Twenty-nine importers reported pricing methods, with 20 reporting that they set prices on a transaction-by-transaction basis, 8 reporting contracts for multiple shipments, 5 using price lists, 1 selling via the internet, and 4 reporting other methods of price setting.[7]

Eight of the 12 responding producers reported that they sell their PRCBs via long-term contracts, 11 sell PRCBs via short-term contracts, and 11 sell on the spot market. Based on a simple average, 23.6 percent of U.S. producers' sales are via long-term contracts (over 12 months in length), 34.4 percent of sales are via short-term contracts (12 months or less in length), and 42.0 percent are spot sales. In contrast, 13 of 26 responding importers sell PRCBs exclusively on a spot basis, and three sell exclusively on a short-term contract basis. The other importers used a combination of these approaches, selling 66.2 percent on the spot market, 29.2 percent via short-term contracts, and 4.5 percent via long-term contracts.[8]

The nine producers that sell via long-term contracts reported that contracts are up to two years in length. Six of the nine responding producers noted that prices could be renegotiated or changed during the contract. One producer noted that prices are fixed, five noted that quantities are fixed, two stated that both price and quantities were fixed, and one stated that neither quantities nor prices are fixed. Four producers (***) indicated that long-term contracts usually have a meet-or-release clause, while an equal number reported the opposite. Short-term contracts entered into by the 12 responding producers can vary in length from 3 months to a year, do not typically have price renegotiation clauses (according to eight producers), but can contain meet-or-release clauses (according to eight producers), and fix both prices and quantities (according to six producers). The Commission asked producers to quantify how often meet-or-

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[3] These data disregard one importer's outlying response of 58 percent, and are based on a simple average.

[4] Errant data submitted by *** were not used in this calculation.

[5] Multiple producers reported that they use more than one method of determining prices.

[6] Conference transcript, p. 59 (Bazbaz).

[7] As with the producers, multiple importers reported that they use more than one method of determining prices. These data include producers who also import.

[8] Errant data submitted by *** were not used in this calculation.

release clauses were invoked.[9] Petitioners replied that there was pressure in the market not to invoke resin-based price increases. Producer ***.[10]

The four importers that reported selling via long-term contracts typically have contracts which last between one and three years. All four importers noted that prices could, at least sometimes, be renegotiated or changed. One importer reported that contracts typically fix price, one reported that contracts fix quantity, one reported that contracts do not fix price or quantity, and one reported that this varies by contract. The three responding importers indicated that long-term contracts usually do not have a meet-or-release clause. Short-term contracts entered into by the 14 responding importers can vary in length from 3 months to a year, do not typically include price renegotiation clauses (according to 11 importers) or meet-or-release clauses (according to 12 importers), and can fix both prices and quantities (according to 10 importers), although some of these importers reported that this varies among contracts.

Sales Terms and Discounts

All 13 responding producers and 19 of 26 responding importers reported that sales terms for PRCBs are typically net 30 days.[11] Nine producers reported that prices are generally quoted on a delivered basis, and four generally quote prices on an f.o.b. warehouse/factory basis. Among responding importers, 14 reported that they generally quote delivered prices, 12 generally quote f.o.b. prices, and one quotes prices using both methods.

With respect to price discounts, 5 of 11 producers reported offering some type of volume discount on their sales of PRCBs,[12] though these discounts reportedly may apply to as few as one customer. Additionally, *** reported that it offers rebates, and, on occasion, prebates.[13] Three producers reported that they do not offer discounts beyond those granted for early payment. More than half of responding importers (15 of 29) reported that they do not offer discounts, 10 reported offering quantity discounts, and four reported offering other types of discounts.[14]

Bidding

Petitioners contend that 75 percent of U.S. consumption is supplied through internet bids.[15] Purchasers were asked whether they had used a bidding process, including reverse internet auctions or other internet bid solicitations, for procuring PRCBs. Sixteen of 49 responding purchasers noted that they had engaged in such activity. Further data were requested for their four largest bidding events from January 2006 to September 2009. In total, purchasers provided some data regarding 29 bidding events; the winning bids accounted for 11.4 percent of the value of apparent consumption of PRCBs in January 2006-September 2009. Details of these events are provided in table V-1. Data regarding the quantities, values, lowest domestic and lowest subject-country bids, the winner of the bidding event, and the reasons for the supplier to be selected were not universally provided. Within the data that were provided, however, it is of note that the country of the lowest bidder was the country of the winning bidder in 20 of

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[9] Hearing transcript, p. 88 (Okun).

[10] Petitioners' posthearing brief, responses to Commission questions, pp. 4-5.

[11] Other payment terms listed by producers were net 10 and net 31 days. Other payment terms listed by importers were net 10, net 60, net 90, and payment on delivery.

[12] These discounts are in addition to those previously mentioned for early payment.

[13] Prebates are cash incentives offered to customers to enter into a supply agreement that are paid at the beginning of the contract. Conference transcript, p. 73 (Rizzo).

[14] These discounts are in addition to those previously mentioned for early payment.

[15] Hearing transcript, p. 45 (Rizzo).

the 23 reported bidding events for which purchasers reported both data points. Most bids were won by domestic producers though five of the winning bids were won, at least partially, by subject imports. Among the factors other than price that were given consideration by the purchasers were: factors about the bags themselves (bag quality, feel, thickness, print quality, and tensile strength); logistics (availability, delivery time, and supply chain flexibility); supplier-specific factors (customer service level, financial health of the supplier, past experience, production capacity, references, and reliability); and financial considerations (ability to purchase additional cases at the same price, ability to index prices monthly, freight charges, and lifecycle costs).

Table V-1
PRCBs: Submitted data regarding bidding events reported by purchasers

* * * * * * *

PRICE DATA

The Commission asked U.S. producers and importers of PRCBs to provide quarterly data for the total quantity and f.o.b. value of commercial shipments of certain PRCBs that were shipped to unrelated customers in the U.S. market during the period January 2006 to September 2009. Importers that imported directly for their own use were asked to provide quarterly data for the total quantity and delivered value (to their first domestic warehouse or storage facility) of certain PRCBs. The products for which pricing data were requested are as follows:

Product 1.--**"T-shirt sack"-style bag with (a) dimensions 8-9" width x 4-6" side x 15-17" length, (b) 11-13 microns film thickness, (c) side gussets, and (d) printed with one or two colors on at least one side (5-30 percent ink coverage for entire bag). Typically, these PRCBs weigh between 4.7 and 7.9 pounds per 1,000 bags.**

Product 2.--**"T-shirt sack"-style bag with (a) dimensions 10-11" width x 6.5-7" side x 17-20" length, (b) 12-15 microns film thickness, (c) side gussets, and (d) printed with one or two colors on at least one side (5-30 percent ink coverage for entire bag). Typically, these PRCBs weigh between 8.1 and 13.2 pounds per 1,000 bags.**

Product 3.--**"T-shirt sack"-style bag with (a) dimensions 11.5-12" width x 6.5-7" side x 20-22" length, (b) 12-15 microns film thickness, (c) side gussets, and (d) printed with one or two colors on at least one side (5-30 percent ink coverage for entire bag). Typically, these PRCBs weigh between 10.2 and 15.3 pounds per 1,000 bags.**

Product 4.--**"T-shirt sack"-style bag with (a) dimensions 15-16" width x 7-9" side x 27-30" length, (b) 20-24 microns film thickness, (c) side gussets, and (d) printed with one or two colors on at least one side (5-30 percent ink coverage for entire bag). Typically, these PRCBs weigh between 21.8 and 33.4 pounds per 1,000 bags.**

Product 5.--**Die-cut-handle-style merchandise bags with (a) dimensions 15-17" width x 3-5" side x 20-25" length, (b) 20-24 microns film thickness, (c) side gussets, and (d) printed with at least two colors on at least one side (5-50 percent ink coverage for entire bag).**

Product 6.--**Die-cut-handle-style merchandise bags with (a) dimensions 15-18" width x 17-19" length, (b) 31-39 microns film thickness, (c) no side gussets, and (d) with or without a bottom gusset of up to 6" (3" plus 3"), and (e) printed with at least two colors on at least one side (5-50 percent ink coverage for entire bag).**

Product 7.--**Merchandise or carry-out bag with (a) rope drawstring attached, (b) dimensions 15-18" width x 16-20" length (with or without bottom gusset), (c) 30-60 microns film thickness, and (d) print with 1-6 colors (5-100 percent ink coverage for entire bag).**

Product 8.--**Heat-sealed, square-bottomed merchandise or carry-out bag with or without a bottom cardboard insert, having (a) dimensions 11-18" width x 4-8" side x 12-20" length (with or without side gusset, (b) 50-150 microns film thickness, (d) separately applied flat flexible plastic handle, and (e) print with 1-6 colors on up to 5 sides (5-100 percent ink coverage for entire bag).**

Thirteen U.S. producers provided usable pricing data for sales of the requested products, along with 8 importers for sales of PRCBs from Indonesia, 10 importers for sales of PRCBs from Taiwan, and 18 importers for sales of PRCBs from Vietnam.[16] In addition, 12 importers reported usable pricing data for their sales of imports from nonsubject countries China and Thailand. Not all firms reported pricing for all products for all quarters.[17] In addition to the value of shipments, data were collected on both a pound and number-of-bags basis. Pricing data for the eight products reported by these firms on a per-pound basis are shown in tables V-2 to V-9 and figures V-2 to V-9. Data on a per-1,000 bag basis are presented in appendix D.

The data presented in tables V-2 through V-9 and figures V-2 through V-9 accounted for 69.7 percent of U.S. producers' U.S. shipments of PRCBs, 19.5 percent of U.S. imports of PRCBs from Indonesia, 32.2 percent of U.S. imports of PRCBs from Taiwan, and 58.7 percent of U.S. imports of PRCBs from Vietnam in January 2006 to September 2009 on a quantity basis.[18] Pricing data reported by importers of PRCBs from nonsubject countries accounted for 13.9 percent of U.S. imports from

[16] Pricing data for domestic producers was provided by ***. Importers *** provided useable pricing data for imported PRCBs. Pricing data from Indonesia, Vietnam, China, and Thailand provided by *** were not included in the data set because they were ***. Staff has been unable to obtain corrections for these data from these importers. Quarterly pricing data were also not submitted by ***. Only estimated average unit values are available, on a combined basis, for all PRCBs that it imports.

[17] Some firms reported data for products that don't exactly fit the description that was provided, but were reported to compete closely with bags in that category. The following companies indicated that the pricing data they submitted differed from, but was competitive with, the pricing products described in the questionnaire: ***. These data are included in the pricing data presented below.

[18] These data do not include direct imports by ***, which accounted for 76.8 percent of imports from Indonesia, 48.0 percent of imports from Taiwan, and 22.8 percent of imports from Vietnam on a per-bag basis.

nonsubject countries in January 2006 to September 2009 on a quantity basis, not including direct imports.[19]

A considerable amount of PRCBs was imported directly by five retailers for their own use from the three subject countries and from China, Malaysia, and Thailand, and in most quarters exceed the volumes imported by other importers.[20] Data reported by direct importers (those which did not resell their PRCBs but used them instead) are reported on a per-pound basis in appendix E. Appendix F contains tables reporting prices and quantities of PRCBs imported from nonsubject countries China and Thailand and figures containing the same data, augmented with domestic and subject-country quantities and prices.[21]

Pricing comparisons between different sources of PRCBs are complicated by the fact that each of the eight pricing product definitions encompasses a range of sizes, and hence weights, of bags. This can cause the weight of the unit of measure (1,000 bags) to vary considerably. In the preliminary phase of these investigations, data were requested on four broader categories of PRCBs. At that time, *** submitted an analysis calculating the weight of a few sizes of bags that all fall within the definition of one of the pricing products, finding that for one product, the weight of 1,000 bags of the largest type of PRCBs that fell within the definition of that product was 333.6 percent heavier than the weight of the smallest bags that fell within the definition of that pricing product. The difference in bag weight is due to the increased polyethylene resin and other additives used to make the bags. In order to better control for this, pricing product definitions selected in the final phase investigations were narrowed. However, due to the nature of the PRCBs and purchaser-specific preferences, a single-size pricing product would not yield an accurate portrayal of the market. Different manufacturers' formulations of inputs can yield differing strengths and/or elasticity for the size/thickness of a PRCB. Thus, differing sizes and thicknesses of bags can compete for the same account. Furthermore, if a purchaser wants a certain bag with a specific capacity, it may be willing to accept variations in the length, width, and depth of the PRCBs to achieve that capacity. Accordingly, some variation in size is necessary to account for these flexibilities. To account for some of these differences, data presented herein are given on a weight basis rather than a quantity basis. Even taking this into account, different plastic formulations and PRCB silhouettes may result in different strengths, elasticities, and other characteristics of the bag per given weight of plastic, so some variation in pricing may result based on these factors as well.[22]

With respect to product 8, producers and importers were asked whether their data include PRCBs which have and do not have cardboard inserts. Three of the four producers reporting sales of product 8 reported that their PRCBs which fall into this category do not contain cardboard inserts, whereas *** reported that its PRCBs do.[23] All six responding importers reported that their imported product 8 PRCBs have cardboard inserts, and two of the six reported that their data include PRCBs which do not contain cardboard inserts as well.

Respondents contend that import pricing data for products 6, 7, and 8 largely reflects import pricing data reported by ***.[24] For these products, *** imported PRCB pricing data from Indonesia were reported by *** and *** import pricing data from Taiwan were reported by ***. With respect to import pricing data on PRCBs from Vietnam, *** reported *** percent of pricing data for product 6, *** percent of pricing data for product 7, and *** percent of pricing data for product 8 on a per-pound basis.

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[19] Including data for direct imports would add an additional 13.1 percent.

[20] Direct imports by retailers were reported by ***.

[21] There were no reported imports from Malaysia that were resold in the United States.

[22] The alleged use of *** or commingling by Inteplast (*see* Petitioners' prehearing brief, p. 20) had no effect on the pricing data, as ***.

[23] ***.

[24] Respondents' prehearing brief, p. 27.

Table V-2
PRCBs: Weighted-average f.o.b. prices and quantities of domestic and imported product 1,[1] and margins of (overselling)/underselling, by quarters, January 2006-September 2009

Period	United States		Indonesia			Taiwan			Vietnam		
	Price (*per pound*)	Quantity (*pounds*)	Price (*per pound*)	Quantity (*pounds*)	Margin (*percent*)	Price (*per pound*)	Quantity (*pounds*)	Margin (*percent*)	Price (*per pound*)	Quantity (*pounds*)	Margin (*percent*)
2006:											
Jan.-Mar.	$1.12	1,608,212	--	0	--	$1.06	46,300	5.0	$***	***	***
Apr.-June	1.02	1,974,064	--	0	--	***	***	***	***	***	***
July-Sept.	1.00	1,932,698	--	0	--	***	***	***	1.07	348,999	(7.6)
Oct.-Dec.	***	***	--	0	--	1.61	96,046	***	1.02	291,162	***
2007:											
Jan.-Mar.	0.93	1,082,562	$***	***	***	1.11	69,208	(18.7)	1.03	228,344	(10.2)
Apr.-June	1.15	2,108,346	***	***	***	***	***	***	1.01	334,488	12.2
July-Sept.	1.37	1,795,934	***	***	***	***	***	***	1.11	308,148	18.5
Oct.-Dec.	1.40	1,738,007	***	***	***	***	***	***	1.11	415,428	21.2
2008:											
Jan.-Mar.	1.54	962,601	***	***	***	1.43	23,919	6.9	1.24	551,729	19.6
Apr.-June	1.49	1,362,823	***	***	***	***	***	***	1.22	789,147	18.3
July-Sept.	1.50	1,675,178	--	0	--	1.34	42,606	10.8	1.34	706,030	10.3
Oct.-Dec.	1.50	1,210,124	--	0	--	1.16	140,780	22.2	1.34	461,165	10.3
2009:											
Jan.-Mar.	1.33	926,903	--	0	--	***	***	***	***	***	***
Apr.-June	1.34	1,318,579	--	0	--	1.08	172,570	19.6	1.08	442,630	19.1
July-Sept.	1.28	1,588,535	--	0	--	1.08	179,680	15.9	1.10	373,838	14.4

[1] "T-shirt sack"-style bag with (a) dimensions 8-9" width x 4-6" side x 15-17" length, (b) 11-13 microns film thickness, (c) side gussets, and (d) printed with one or two colors on at least one side (5-30 percent ink coverage for entire bag). Typically, these PRCBs weigh between 4.7 and 7.9 pounds per 1,000 bags.

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

Table V-3
PRCBs: Weighted-average f.o.b. prices and quantities of domestic and imported product 2,[1] and margins of (overselling)/underselling, by quarters, January 2006-September 2009

Period	United States		Indonesia			Taiwan			Vietnam		
	Price (*per pound*)	Quantity (*pounds*)	Price (*per pound*)	Quantity (*pounds*)	Margin (*percent*)	Price (*per pound*)	Quantity (*pounds*)	Margin (*percent*)	Price (*per pound*)	Quantity (*pounds*)	Margin (*percent*)
2006:											
Jan.-Mar.	$***	***	$***	***	***	$***	***	***	$***	***	***
Apr.-June	***	***	***	***	***	0.99	94,306	***	0.97	161,609	***
July-Sept.	***	***	***	***	***	***	***	***	***	***	***
Oct.-Dec.	***	***	--	0	--	0.97	205,202	***	***	***	***
2007:											
Jan.-Mar.	***	***	***	***	***	***	***	***	***	***	***
Apr.-June	***	***	***	***	***	***	***	***	***	***	***
July-Sept.	***	***	***	***	***	***	***	***	0.86	1,316,977	***
Oct.-Dec.	***	***	***	***	***	***	***	***	0.98	410,595	***
2008:											
Jan.-Mar.	***	***	***	***	***	***	***	***	1.04	840,266	***
Apr.-June	***	***	***	***	***	***	***	***	***	***	***
July-Sept.	***	***	***	***	***	***	***	***	***	***	***
Oct.-Dec.	***	***	***	***	***	***	***	***	1.08	217,928	***
2009:											
Jan.-Mar.	***	***	--	0	--	***	***	***	0.98	416,881	***
Apr.-June	0.80	8,054,419	--	0	--	***	***	***	0.84	2,121,759	(4.3)
July-Sept.	***	***	***	***	***	***	***	***	***	***	***

[1] "T-shirt sack"-style bag with (a) dimensions 10-11" width x 6.5-7" side x 17-20" length, (b) 12-15 microns film thickness, (c) side gussets, and (d) printed with one or two colors on at least one side (5-30 percent ink coverage for entire bag). Typically, these PRCBs weigh between 8.1 and 13.2 pounds per 1,000 bags.

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

Table V-4
PRCBs: Weighted-average f.o.b. prices and quantities of domestic and imported product 3,[1] and margins of (overselling)/underselling, by quarters, January 2006-September 2009

Period	United States		Indonesia			Taiwan			Vietnam		
	Price (*per pound*)	Quantity (*pounds*)	Price (*per pound*)	Quantity (*pounds*)	Margin (*percent*)	Price (*per pound*)	Quantity (*pounds*)	Margin (*percent*)	Price (*per pound*)	Quantity (*pounds*)	Margin (*percent*)
2006:											
Jan.-Mar.	$0.96	122,036,770	$***	***	***	$0.86	549,577	10.1	$***	***	***
Apr.-June	0.89	139,627,966	***	***	***	0.89	622,629	0.1	***	***	***
July-Sept.	0.89	148,495,366	***	***	***	***	***	***	0.90	1,972,961	(2.0)
Oct.-Dec.	0.89	132,567,619	***	***	***	***	***	***	0.92	1,426,870	(4.2)
2007:											
Jan.-Mar.	0.80	131,095,739	***	***	***	1.08	240,378	(36.3)	1.02	784,327	(27.9)
Apr.-June	0.81	138,932,508	***	***	***	***	***	***	***	***	***
July-Sept.	0.87	154,986,520	***	***	***	***	***	***	***	***	***
Oct.-Dec.	0.93	144,476,940	***	***	***	***	***	***	***	***	***
2008:											
Jan.-Mar.	0.96	133,191,393	***	***	***	***	***	***	***	***	***
Apr.-June	0.99	146,663,943	***	***	***	***	***	***	***	***	***
July-Sept.	1.05	133,651,777	***	***	***	***	***	***	0.96	6,680,996	8.2
Oct.-Dec.	1.01	136,848,501	***	***	***	***	***	***	1.02	3,675,697	(1.0)
2009:											
Jan.-Mar.	0.74	123,044,920	***	***	***	***	***	***	0.86	2,161,519	(16.6)
Apr.-June	0.74	133,966,445	***	***	***	***	***	***	0.76	2,979,896	(2.8)
July-Sept.	0.78	138,272,249	***	***	***	***	***	***	0.80	2,490,649	(2.4)

[1] "T-shirt sack"-style bag with (a) dimensions 11.5-12" width x 6.5-7" side x 20-22" length, (b) 12-15 microns film thickness, (c) side gussets, and (d) printed with one or two colors on at least one side (5-30 percent ink coverage for entire bag). Typically, these PRCBs weigh between 10.2 and 15.3 pounds per 1,000 bags.

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

Table V-5
PRCBs: Weighted-average f.o.b. prices and quantities of domestic and imported product 4,[1] and margins of (overselling)/underselling, by quarters, January 2006-September 2009

Period	United States		Indonesia			Taiwan			Vietnam		
	Price (*per pound*)	Quantity (*pounds*)	Price (*per pound*)	Quantity (*pounds*)	Margin (*percent*)	Price (*per pound*)	Quantity (*pounds*)	Margin (*percent*)	Price (*per pound*)	Quantity (*pounds*)	Margin (*percent*)
2006:											
Jan.-Mar.	$0.95	2,288,562	--	0	--	--	0	--	--	0	--
Apr.-June	0.89	2,803,915	--	0	--	--	0	--	$***	***	***
July-Sept.	0.88	2,447,322	--	0	--	$***	***	***	***	***	***
Oct.-Dec.	0.88	4,413,802	--	0	--	***	***	***	***	***	***
2007:											
Jan.-Mar.	0.87	3,033,423	--	0	--	***	***	***	1.05	111,810	(21.8)
Apr.-June	0.87	3,977,593	--	0	--	***	***	***	***	***	***
July-Sept.	0.93	4,526,540	--	0	--	***	***	***	1.32	39,702	(42.1)
Oct.-Dec.	0.94	6,813,064	--	0	--	--	0	--	***	***	***
2008:											
Jan.-Mar.	1.05	2,594,756	$***	***	***	--	0	--	***	***	***
Apr.-June	1.10	2,076,401	--	0	--	--	0	--	***	***	***
July-Sept.	1.13	1,995,273	--	0	--	--	0	--	***	***	***
Oct.-Dec.	1.14	3,832,193	--	0	--	--	0	--	***	***	***
2009:											
Jan.-Mar.	0.88	1,793,349	***	***	***	--	0	--	***	***	***
Apr.-June	0.76	1,976,185	***	***	***	--	0	--	1.00	48,225	(31.1)
July-Sept.	0.73	2,923,558	***	***	***	--	0	--	***	***	***

[1] "T-shirt sack"-style bag with (a) dimensions 15-16" width x 7-9" side x 27-30" length, (b) 20-24 microns film thickness, (c) side gussets, and (d) printed with one or two colors on at least one side (5-30 percent ink coverage for entire bag). Typically, these PRCBs weigh between 21.8 and 33.4 pounds per 1,000 bags. It should be noted, however, that the majority of domestically produced product 4 was reported for bags that were thinner than the requested 20-24 micron thickness.

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

Table V-6
PRCBs: Weighted-average f.o.b. prices and quantities of domestic and imported product 5, and margins of (overselling)/underselling, by quarters, January 2006-September 2009

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Table V-7
PRCBs: Weighted-average f.o.b. prices and quantities of domestic and imported product 6, and margins of (overselling)/underselling, by quarters, January 2006-September 2009

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Table V-8
PRCBs: Weighted-average f.o.b. prices and quantities of domestic and imported product 7, and margins of (overselling)/underselling, by quarters, January 2006-September 2009

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Table V-9
PRCBs: Weighted-average f.o.b. prices and quantities of domestic and imported product 8,[1] and margins of (overselling)/underselling, by quarters, January 2006-September 2009

Period	United States		Indonesia			Taiwan			Vietnam		
	Price (*per pound*)	Quantity (*pounds*)	Price (*per pound*)	Quantity (*pounds*)	Margin (*percent*)	Price (*per pound*)	Quantity (*pounds*)	Margin (*percent*)	Price (*per pound*)	Quantity (*pounds*)	Margin (*percent*)
2006:											
Jan.-Mar.	$***	***	$***	***	***	$***	***	***	$***	***	***
Apr.-June	***	***	***	***	***	***	***	***	***	***	***
July-Sept.	***	***	1.27	71,052	***	***	***	***	***	***	***
Oct.-Dec.	***	***	***	***	***	***	***	***	***	***	***
2007:											
Jan.-Mar.	***	***	***	***	***	--	0	--	***	***	***
Apr.-June	***	***	1.18	102,252	***	***	***	***	***	***	***
July-Sept.	***	***	***	***	***	--	0	--	***	***	***
Oct.-Dec.	***	***	***	***	***	--	0	--	***	***	***
2008:											
Jan.-Mar.	2.92	291,843	1.04	262,660	64.4	--	0	--	***	***	***
Apr.-June	***	***	1.40	228,955	***	--	0	--	***	***	***
July-Sept.	***	***	1.15	316,968	***	--	0	--	***	***	***
Oct.-Dec.	***	***	1.11	268,488	***	--	0	--	***	***	***
2009:											
Jan.-Mar.	***	***	1.14	279,247	***	--	0	--	***	***	***
Apr.-June	2.21	113,475	***	***	***	--	0	--	***	***	***
July-Sept.	1.68	81,797	1.30	223,199	22.6	--	0	--	***	***	***

[1] Heat-sealed, square-bottomed merchandise or carry-out bag with or without a bottom cardboard insert, having (a) dimensions 11-18" width x 4-8" side x 12-20" length (with or without side gusset, (b) 50-150 microns film thickness, (d) separately applied flat flexible plastic handle, and (e) print with 1-6 colors on up to 5 sides (5-100 percent ink coverage for entire bag).

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

Figure V-2
PRCBs: Weighted-average f.o.b. selling prices and quantities of product 1 as reported by U.S. producers and importers, by quarters, January 2006-September 2009

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Figure V-3
PRCBs: Weighted-average f.o.b. selling prices and quantities of product 2 as reported by U.S. producers and importers, by quarters, January 2006-September 2009

* * * * * * *

Figure V-4
PRCBs: Weighted-average f.o.b. selling prices and quantities of product 3 as reported by U.S. producers and importers, by quarters, January 2006-September 2009

* * * * * * *

Figure V-5
PRCBs: Weighted-average f.o.b. selling prices and quantities of product 4 as reported by U.S. producers and importers, by quarters, January 2006-September 2009

* * * * * * *

Figure V-6
PRCBs: Weighted-average f.o.b. selling prices and quantities of product 5 as reported by U.S. producers and importers, by quarters, January 2006-September 2009

* * * * * * *

Figure V-7
PRCBs: Weighted-average f.o.b. selling prices and quantities of product 6 as reported by U.S. producers and importers, by quarters, January 2006-September 2009

* * * * * * *

Figure V-8
PRCBs: Weighted-average f.o.b. selling prices and quantities of product 7 as reported by U.S. producers and importers, by quarters, January 2006-September 2009

* * * * * * *

Figure V-9
PRCBs: Weighted-average f.o.b. selling prices and quantities of product 8 as reported by U.S. producers and importers, by quarters, January 2006-September 2009

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Price Trends

Prices of U.S.-produced PRCBs generally decreased from the first quarter of 2006 until the first or second quarter of 2007. Prices then generally increased for most pricing products until the third quarter or fourth quarter of 2008. Prices in general declined during the first nine months of 2009 for domestically produced PRCBs, with the exception of prices for product 7, which remained at relatively high levels. Prices for six of the eight pricing products were lower in the third quarter of 2009 than in the first quarter of 2006 (see table V-10). These trends followed the price of polyethylene resin presented in figure V-1.

Trends are more difficult to characterize for the prices of products imported from Indonesia, Taiwan, and Vietnam during the period under examination. Prices for all three subject countries did not tend to move consistently in conjunction with other subject import prices, with domestic prices, or with the price of polyethylene resin. The exceptions to this are that prices of imported products 2 and 3 (which are responsible for the vast majority of pricing product sales in pounds) from all three subject countries changed in a manner similar to that of domestically produced PRCBs and polyethylene resin, as did prices for PRCBs imported from Vietnam, with the exception of a few quarters marked by very low quantities. Further detail regarding the number of quarters for which data were received, the minimum price, maximum price, and price change between the first and last quarters for which data were received are presented in table V-10.

Table V-10
PRCBs: Summary of weighted-average f.o.b. prices for products 1-8 from the United States, Indonesia, Taiwan, and Vietnam

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Price Comparisons

Imports of PRCBs from Indonesia, Taiwan, and Vietnam undersold the U.S. product in 150 of 257 quarterly comparisons, with margins of underselling ranging from 0.1 to 64.4 percent and averaging 25.7 percent. Of note is that subject imports undersold domestically produced PRCBs in every quarterly comparison for product 8 and in every quarter but one for product 7. Conversely, imports of PRCBs from Indonesia, Taiwan, and Vietnam oversold the U.S. product in 107 of 258 quarterly comparisons, with margins of overselling ranging from 0.4 to 168.4 percent and averaging 15.1 percent. A summary of margins of underselling and overselling is presented in table V-11.

Appendix E presents data regarding U.S. importers direct imports for their own use from subject and nonsubject countries. When comparing these prices from the subject countries to importers' f.o.b. sales prices of PRCBs from those countries, prices were generally lower for direct imports. The largest volumes of these imports occurred in product 3, a t-shirt style bag.[25]

[25] This result would be expected due to the relatively large size of the quantities that were imported directly. Petitioners submitted an analysis comparing these prices in appendix 14 of their prehearing brief. Prices for these direct imports should not be compared to prices for domestic sales to the first arms-length customer in an apples-to-apples fashion, as they are not at the same level of trade as domestic sales or sales made by importers that re-sell the PRCBs. As noted by Mr. Morgan at the hearing, they do not include profit that importers would include in their sales. Hearing transcript, pp. 193-194 (Morgan). They do, however, include inland freight for these direct imports, whereas sales data from importers and producers were requested on an f.o.b. basis.

Table V-11
PRCBs: Number of quarters of underselling and overselling and highest and lowest margins of underselling and (overselling), by product number

Product	Number of quarters of underselling	Number of quarters of (overselling)	Margins of underselling			Margins of (overselling)		
			Average (*percent*)	Range (*percent*)		Average (*percent*)	Range (*percent*)	
				Min	Max		Min	Max
1	27	9	18.5	2.5	45.1	(15.9)	(0.4)	(65.1)
2	4	38	10.6	0.9	25.9	(10.9)	(0.5)	(32.5)
3	21	24	7.0	0.1	16.2	(13.2)	(1.0)	(36.3)
4[1]	6	17	15.6	10.3	20.6	(30.6)	(0.8)	(168.4)
5[2]	7	15	7.1	0.2	13.8	(10.4)	(1.7)	(33.8)
6	28	3	25.8	10.9	39.2	(16.6)	(3.4)	(34.6)
7	22	1	30.0	4.4	47.6	(10.7)	(10.7)	(10.7)
8	35	0	47.0	19.0	64.4	--	--	--
Total	150	107	25.7	0.1	64.4	(15.1)	(0.4)	(168.4)

[1] ***.
[2] ***.

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

LOST SALES AND LOST REVENUES

In both the preliminary and final phases of these investigations, the Commission requested that U.S. producers of PRCBs report any instances of lost sales and lost revenues experienced due to competition from imports from Indonesia, Taiwan, and Vietnam since January 1, 2006 which were not reported in the antidumping and countervailing duty petition. Eight of the 14 responding producers reported that they had reduced prices and three had rolled back announced price increases, allegedly due to imports from Indonesia, Taiwan, and Vietnam. Eight of the 14 producers also alleged that they had lost sales to imports from Indonesia, Taiwan, and Vietnam. Lost sale and lost revenue allegations are presented in tables V-12 and V-13 and are discussed in more detail below. Staff was able to contact 42 of the 55 listed purchasers.[26] There were *** lost sales allegations totaling $*** and *** lost revenue allegations totaling $***.[27] Three of the lost sale allegations and one of the lost revenue allegations were confirmed, at least partially, totaling $*** and $***, respectively. Additional information, where relevant, is summarized in the individual responses below.

[26] The Commission was not supplied with sufficient information to investigate lost sales and lost revenues allegations with respect to ***.

[27] The lost revenue and lost sales allegations were made by ***. Producers *** reported that they had neither lost sales nor revenues since January 1, 2006.

Table V-12
PRCBs: U.S. producers' lost sales allegations

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Table V-13
PRCBs: U.S. producers' lost revenue allegations

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[28] Telephone interview with ***.

[29] Telephone interview with ***.

[30] Fax from ***.

[31] Based on this, the lost sale allegation would be for *** cases valued at $***. Telephone interview with ***.

[32] Telephone interview with ***.

[33] Telephone interview with ***.

[34] Fax from ***.

[35] Telephone interview with ***.

[36] Petitioners' prehearing brief, p. 43.

[37] Fax from ***.

[38] Telephone interview with ***.

[39] Telephone interview with ***.

[40] Telephone interview with ***.

[41] Letter from ***.

***.[42]
***.

Other Comments

In addition, in the preliminary phase of these investigations, purchasers responding to lost sales and lost revenues allegations also were asked whether they shifted their purchases of PRCBs from U.S. producers to suppliers of PRCBs from Indonesia, Taiwan, and Vietnam since January 2006. Two of the 27 responding purchasers (***) reported that they had shifted purchases of PRCBs from U.S. producers to subject imports since January 1, 2006; one of these purchasers (***) reported that price was the reason for the shift. Purchaser *** stated that ***.

During the preliminary phase, two of 23 purchasers (***) reported that since January 1, 2006, U.S. producers reduced their prices in order to compete with the prices of subject imports as well. Additionally, though, ***.[43] Two purchasers responding that domestic producers had not reduced prices stated why they responded in the negative: *** reported that "***"[44] and *** reported that its "***."[45] Purchaser *** noted that its current supplier has stopped purchasing PRCBs from Vietnam as of January 2009, so that "there was no impact to current pricing."[46]

[42] Telephone interview with ***.

[43] Fax from ***.

[44] Fax from ***.

[45] Fax from ***.

[46] Fax from ***.

PART VI: FINANCIAL EXPERIENCE OF U.S. PRODUCERS

BACKGROUND

Thirteen U.S. firms provided usable financial data on their operations producing PRCBs.[1] These reported data are believed to represent the vast majority of U.S. PRCB production in the period for which data were gathered.

OPERATIONS ON PRCBs

Income-and-loss data for the reporting U.S. producers are presented in table VI-1 and are briefly summarized here.[2]

- Net sales quantity declined irregularly between 2006 and 2008, while sales value rose irregularly over the same period due to changes in the average unit value of sales. Net sales quantity was higher in interim 2009 compared with interim 2008 but the value of net sales was lower because unit values were sharply lower in interim 2009.

- Between 2006 and 2008, the increase in the cost of goods sold ("COGS") was greater than the increase in sales whether measured by value ($40.3 million versus $12.4 million) or on a per-unit basis ($0.89 versus $0.51 per 1,000 bags). The ratio of COGS to net sales also rose by 2.9 percentage points from 2006 to 2008. The increase in COGS, which was driven by raw material costs and offset a decline in other factory costs and an increase in sales value, resulted in gross profit being lower in 2008 than in 2007. Both sales and COGS were lower in interim 2009 compared with interim 2008, but gross profit was higher in interim 2009 because the fall in the value of COGS (led by a decline in the value of raw materials) was greater than that of sales.

- Total selling, general, and administrative ("SG&A") expenses also rose irregularly from 2006 to 2008,[3] and the reporting firms collectively recorded an operating loss in 2008 after reporting small levels of profit in 2006 and 2007. SG&A expenses were lower in interim 2009 than interim 2008 and the reporting firms together recorded an operating profit in interim 2009.

- Net income before taxes was negative in each of the three years for which data were gathered, but cash flow, which increased from 2006 to 2008, was positive because depreciation expenses were higher than the negative net income figure in each year. The reporting firms recorded positive net income and cash flow in each of the interim periods.

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[1] The firms are: Ampac; API; Bemis; Command; Durabag; Genpak; Hilex; Inteplast; Omega; Poly-Pak; Roplast; Superbag; and Unistar. Except for ***, each of the reporting firms has a fiscal year that ends on or about December 31; this includes ***. Differences between data reported in the trade and financial sections of the Commission's producers' questionnaire primarily are attributable to year-end timing differences of ***. The data also differ from those of the preliminary phase investigations; ***. Commission staff verified the questionnaire response of ***. EDIS document 420526.

[2] Six firms provided combined data on their domestic operations and imports of subject PRCBs. These financial data are shown in app. G.

[3] Adding to the reporting firms' recorded operating loss in 2008, ***.

Table VI-1
PRCBs: Results of operations of U.S. producers, fiscal years 2006-08, January-September 2008, and January-September 2009

Item	Fiscal year			January-September	
	2006	2007	2008	2008	2009
	Quantity (*1,000 bags)*				
Net sales[1]	68,728,820	72,926,211	67,241,013	49,874,583	51,209,397
	Value (*1,000 dollars*)				
Net sales	996,078	971,203	1,008,444	747,447	580,137
COGS					
Raw materials	603,814	594,481	663,009	494,505	316,945
Direct labor	97,505	100,853	99,589	73,124	66,949
Other factory costs	195,592	178,700	174,615	121,680	118,575
Total COGS	896,911	874,034	937,213	689,309	502,469
Gross profit	99,167	97,169	71,231	58,138	77,668
SG&A expenses[2]	94,307	90,407	103,228	62,737	53,070
Operating income or (loss)[2]	4,860	6,762	(31,997)	(4,599)	24,598
Interest expense	***	***	***	***	***
Other expense	***	***	***	***	***
Other income[3]	***	***	***	***	***
Net income or (loss)	(26,536)	(32,001)	(16,982)	15,925	14,755
Depreciation	64,153	63,516	66,012	37,049	41,813
Cash flow	37,617	31,515	49,030	52,974	56,568
	Number of firms reporting				
Operating losses[4]	3	4	5	3	4
Data	13	13	13	13	13

Table continued on following page.

Table VI-1--*Continued*
PRCBs: Results of operations of U.S. producers, fiscal years 2006-08, January-September 2008, and January-September 2009

Item	Fiscal year			January-September	
	2006	2007	2008	2008	2009
	Ratio to net sales (*percent*)				
COGS:					
Raw materials	60.6	61.2	65.7	66.2	54.6
Direct labor	9.8	10.4	9.9	9.8	11.5
Other factory costs	19.6	18.4	17.3	16.3	20.4
Average COGS	90.0	90.0	92.9	92.2	86.6
Gross profit	10.0	10.0	7.1	7.8	13.4
SG&A expenses[2]	9.5	9.3	10.2	8.4	9.1
Operating income or (loss)[2]	0.5	0.7	(3.2)	(0.6)	4.2
	Unit value (*per 1,000 bags*)				
Total net sales	$14.49	$13.32	$15.00	$14.99	$11.33
COGS:					
Raw materials	8.79	8.15	9.86	9.92	6.19
Direct labor	1.42	1.38	1.48	1.47	1.31
Other factory costs	2.85	2.45	2.60	2.44	2.32
Total COGS	13.05	11.99	13.94	13.82	9.81
Gross profit	1.44	1.33	1.06	1.17	1.52
SG&A expenses[2]	1.37	1.24	1.54	1.26	1.04
Operating income or (loss)[2]	0.07	0.09	(0.48)	(0.09)	0.48

[1] As noted earlier, there are *** differences between the data reported in the trade section of the responses to the Commission's questionnaire and these data due to timing differences.
[2] In 2008, ***. If this were not included, the total operating loss of the reporting firms together would be a negative $***; the ratio of the reporting firms' operating loss to their total sales would be *** percent instead of (3.2) percent, while the average unit value of the operating loss would be a negative $*** per 1,000 bags instead of the negative $*** per 1000 bags. *** recognized expenses of $*** in 2006, $*** in 2007, and $*** in 2008, classified in its SG&A expenses in those years. These expenses related to fixed asset disposal and restructuring for the *** in 2006; the *** in 2007; and the *** in 2008. *** recognized $*** and $*** in interim 2008 and interim 2009, respectively. If these amounts were not included, the total operating results of the reporting firms would be increased, but would still be negative in 2008.
[3] Reflects the ***.
[4] ***. See table VI-2 for interim period results by firm.

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

Raw material costs, which are primarily composed of polyethylene resin and color concentrates, rose in absolute value and as a percentage of net sales during 2006-08, as noted earlier. Raw material costs also increased as a share of total COGS, from 67 percent in 2006 to 71 percent in 2008. Raw material costs ranged from $*** per 1,000 bags to $*** per 1,000 bags in 2008, depending upon the firm. Nearly all reporting firms' ratios of raw material costs to total net sales are roughly similar; the unit value

of raw material costs of $9.86 per 1,000 bags in 2008 reflects the large-scale production of lightweight bags by several U.S. firms. The relationship between raw material costs and sales value is shown in the following tabulation:

* * * * * * *

Table VI-2 presents the results of operations on a company-by-company basis, while table VI-3 presents operating data for the 13 firms sorted into three industry segments according to sales value in 2008.

Table VI-2
PRCBs: Results of operations of U.S. producers, by firms, fiscal years 2006-08, January-September 2008, and January-September 2009

* * * * * * *

Table VI-3 presents operating data on domestic producers grouped into segments by sales in 2008. The company-by-company data were sorted into three groups by sales, over $100 million (comprised of ***), between $25 million and $99.9 million (comprised of ***), and less than $25 million (the remaining firms). Within the first group, ***;[4] sales of ***. Overall for Group 1, sales value increased *** while the operating *** from 2006 to 2008; sales were lower but the three firms together recorded an operating profit in January-September 2009 compared with a loss in January-September 2008. Within Group 2, *** during 2006-08; the value of sales and operating profits were lower in January-September 2009 than in the same period in 2008. The operating profitability of Group 3 is led by the results of ***. Overall for the third group, sales declined and this group's operating income in 2006 became an operating loss in 2008. Sales were lower and this group recorded an operating loss in January-September 2009 compared with an operating profit it recorded in January-September 2008.

Table VI-3
PRCBs: Results of operations of U.S. producers, grouped by net sales value, fiscal years 2006-08, January-September 2008, and January-September 2009

* * * * * * *

A variance analysis for U.S. producers is presented in table VI-4, and is derived from the information presented in table VI-1. The variance analysis provides an assessment of changes in profitability as related to changes in pricing, cost, and volume. This analysis is more effective when the product involved is a homogeneous product with no variation in product mix.[5] In table VI-4, between

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[4] Hilex reported ***. Also, Hilex filed for relief under Chapter 11 of the U.S. Bankruptcy Code on May 6, 2008. "Plastic bag manufacturer Hilex Poly files bankruptcy petition, seeks approval of prepack," posted 8:23 am on May 9, 2008 by Thomas Horan, Morris James LLC, found at http://bankruptcy.morrisjames.com/2008/05/articles, retrieved on May 7, 2009. According to a press release issued by Hilex, the voluntary filing was to significantly reduce its overall debt and strengthen its balance sheet while continuing to operate. Hilex press release dated May 6, 2008, found at http://hilexpoly.com, retrieved on May 7, 2009. Hilex's petition for financial reorganization and emergence from Chapter 11 was approved on June 26, 2008. Company press release, "Hilex emerges from Chapter 11," dated July 9, 2008, found at http://hilexpoly.com, retrieved on May 7, 2009.

[5] In the 2003-2004 investigations on PRCBs, producers and respondents commented on changes in

(continued...)

2006 and 2008, the unfavorable operating income variance of $36.8 million was attributable primarily to a unfavorable net cost/expense variance (unit costs increased) that overwhelmed a favorable variance on price (unit prices increased); there was a small unfavorable net volume variance.[6] The mix of favorable and unfavorable variances changed during the period and the price variance was unfavorable between 2006 and 2007 (unit prices fell) while the net cost/expense variance was favorable (unit costs declined) in that period. Between 2007 and 2008, the favorable price variance was again overwhelmed by an unfavorable net cost/expense variance. Between the two interim periods, sales volume was higher and unit costs were lower, which lead to a favorable cost variance that was greater than the unfavorable price variance (unit sales values were much lower in interim 2009 than in interim 2008).

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[5] (...continued)
product mix. See footnote 4, p. VI-4 in *Polyethylene Retail Carrier Bags from China, Malaysia, and Thailand*, Invs. Nos. 731-TA-1043-1045 (Preliminary), USITC Publication 3618 (August 2003), for producer and respondent comments received in the preliminary phase of those investigations with regard to changes in product mix. In addition, the ratios of most firms' per-unit costs to per-unit sales (tables VI-2 and VI-3 of this report) appear to be relatively consistent in each period, which may offset changes in product mix of a single producer.

[6] A variance analysis is calculated in three parts, sales variance, cost of sales variance, and SG&A expense variance. Each part consists of a price variance (in the case of the sales variance) or a cost or expense (cost/expense) variance (in the case of the cost of sales and SG&A expense variance), and a volume variance. The sales or cost/expense variance is calculated as the change in unit price or per-unit cost/expense times the new volume, while the volume variance is calculated as the change in volume times the old unit price or per-unit cost/expense. Summarized at the bottom of the table, the price variance is from sales; the cost/expense variance is the sum of those items from COGS and SG&A variances, respectively, and the volume variance is the sum of the volume components of the net sales, COGS, and SG&A expense variances. The overall volume component of the variance analysis is generally small.

Table VI-4
PRCBs: Variance analysis on results of operations of domestic producers, fiscal years 2006-08 and January-September 2008-09

Item	Between fiscal years			Jan.-Sept.
	2006-2008	2006-2007	2007-2008	2008-09
	Value (*1,000 dollars*)			
Total net sales:				
Price variance	33,929	(85,707)	112,954	(187,314)
Volume variance	(21,563)	60,832	(75,713)	20,004
Total net sales variance[1]	12,366	(24,875)	37,241	(167,310)
Cost of goods sold:				
Cost variance	(59,718)	77,653	(131,317)	205,288
Volume variance	19,416	(54,776)	68,138	(18,448)
Total cost of goods variance	(40,302)	22,877	(63,179)	186,840
Gross profit variance	(27,936)	(1,998)	(25,938)	19,530
SG&A expenses:				
Expense variance	(10,963)	9,659	(19,869)	11,346
Volume variance	2,042	(5,759)	7,048	(1,679)
Total SG&A variance	(8,921)	3,900	(12,821)	9,667
Operating income variance	(36,857)	1,902	(38,759)	29,197
Summarized as:				
Price variance	33,929	(85,707)	112,954	(187,314)
Net cost/expense variance	(70,680)	87,312	(151,186)	216,634
Net volume variance	(105)	297	(527)	(123)

Note.--Unfavorable variances are shown in parenthesis; all others are favorable. The data are comparable to changes in operating income as presented in table VI-1.

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

CAPITAL EXPENDITURES, RESEARCH AND DEVELOPMENT EXPENSES, AND INVESTMENT IN PRODUCTIVE FACILITIES

The responding firms' data on capital expenditures and research and development ("R&D") expenses are shown in table VI-5.

Table VI-5
PRCBs: Value of capital expenditures and R&D expenses of U.S. producers, by firms, fiscal years 2006-08

Item	Fiscal year			January-September	
	2006	2007	2008	2008	2009
	Value *(1,000 dollars*)				
Capital expenditures:					
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
Total	38,799	17,643	14,548	10,300	6,044
R&D expenses:					
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
Total	1,687	1,732	1,235	1,005	696

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

The Commission's questionnaire requested firms to describe the nature or focus of their capital expenditures and R&D expenses. The responses are tabulated as follows:

* * * * * * *

ASSETS AND RETURN ON INVESTMENT

The Commission's questionnaire requested data on assets used in the production, warehousing, and sale of PRCBs to compute return on investment ("ROI") for 2006 to 2008. The data for operating income are from table VI-1. Operating income was divided by total assets, resulting in the asset turnover

ratio. ROI fell irregularly from 0.8 percent in 2006 to a negative 4.9 percent in 2008. These data and calculations are shown in table VI-6.

Table VI-6
PRCBs: The value of assets and return on investment of U.S. producers, fiscal years 2006–08

Item	2006	2007	2008
	Value (*1,000 dollars*)		
Current assets:			
Cash and equivalents	93,889	15,541	17,017
Accounts receivable, net	131,026	142,509	120,251
Finished goods inventories	49,557	59,737	36,700
Raw materials and work-in-process inventories	47,020	82,450	41,924
Other current assets[1]	16,340	17,040	45,708
Subtotal current assets	337,833	317,276	261,600
Noncurrent assets:			
Original cost of property, plant, and equipment	444,178	496,640	435,917
Accumulated depreciation	251,696	301,892	234,598
Book value of property, plant, and equipment	192,483	194,749	201,319
Other noncurrent assets[2]	115,798	110,715	75,796
Total assets	646,113	622,739	538,715
	Ratio of operating income to total assets (*percent*)		
Return on investment	0.8	1.1	(5.9)

[1] Includes such items as other receivables, prepaid expenses, company loans, and short-term investments.
[2] Includes such items as goodwill, patents, or intangible assets, investments, life insurance, or other non-current assets.

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

The original cost of fixed assets increased between 2006 and 2007 in response to both capital expenditures and acquisitions, but fell from 2007 and 2008 in response to closures and asset writeoffs. Other noncurrent assets declined from 2007 to 2008 because of ***.

CAPITAL AND INVESTMENT

The Commission requested U.S. producers to describe any actual or potential negative effects of imports of PRCBs from Indonesia, Taiwan, and Vietnam on their firms' growth, investment, and ability to raise capital or development and production efforts (including efforts to develop a derivative or more advanced version of the product). Their responses are shown in appendix H.

PART VII: THREAT CONSIDERATIONS AND INFORMATION ON NONSUBJECT COUNTRIES

The Commission analyzes a number of factors in making threat determinations (see 19 U.S.C. § 1677(7)(F)(i)). Information on the nature of the subsidies was presented earlier in this report; information on the volume of imports of the subject merchandise is presented in *Part IV*; information regarding pricing of domestic and imported subject merchandise is presented in *Part V*; and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts is presented in *Part VI*. Information on inventories of the subject merchandise; foreign producers' operations, including the potential for "product-shifting;" any other threat indicators, if applicable; and any dumping in third-country markets, follows. Also presented in this section of the report is information obtained for consideration by the Commission on nonsubject countries.

THE INDUSTRY IN INDONESIA

The Commission requested data from 14 firms in Indonesia believed to be possible producers of PRCBs. Of these firms, three (***) provided questionnaire responses containing useable data and 11 did not provide responses.[1] The three responding firms estimated that in 2008 they accounted for *** percent of production of PRCBs in Indonesia and *** percent of exports of PRCBs from Indonesia to the United States. Reported exports of PRCBs to the United States by these firms in 2008 were equivalent to *** percent of the quantity of U.S. imports of PRCBs from Indonesia in that year based on official Commerce statistics.

During the 2006-08 period, reported capacity, production, and total shipments made by Indonesian producers decreased. In the 2009 interim period, capacity, production, and total shipments decreased relative to the same period in 2008. Reported exports to the United States also decreased during 2006-08 and between the interim periods. These decreases can be attributed in part to decreases in capacity, production, shipments, and exports of ***, which attributed the changes to a fall in demand resulting from a switch to reusable polypropylene bags from PRCBs. Table VII-1 presents data for reported production and shipments of PRCBs in Indonesia.

Table VII-1
PRCBs: Indonesia's reported production capacity, production, shipments, and inventories, 2006-08, January-September 2008, January-September 2009, and projections for 2009 and 2010

* * * * * * *

THE INDUSTRY IN TAIWAN

The Commission requested data from 23 firms in Taiwan believed to be possible producers or exporters of PRCBs. Of these firms, three producers (***) and one exporter[2] provided questionnaire responses containing useable production or export data and the remaining 19 firms did not provide responses.[3] Three responding firms estimated that in 2008 they accounted for *** percent of production

[1] One additional Indonesian foreign producer, ***, provided data during the preliminary phase investigations but did not do so in the final phase.

[2] This exporter is ***. *** identified *** as the company that produced the PRCBs in Taiwan. E-mail from ***, May 4, 2009.

[3] According to representatives of ***. E-mails from ***, February 22, 2010.

of PRCBs in Taiwan and *** percent of exports of PRCBs from Taiwan to the United States.[4] Reported exports of PRCBs to the United States by these firms in 2008 were equivalent to *** percent of the quantity of U.S. imports of PRCBs from Taiwan in that year based on official Commerce statistics.

Table VII-2 presents data for reported production and shipments of PRCBs in Taiwan. Capacity, production, total shipments, and exports to the United States of PRCBs all increased during 2006-08. Capacity and production were mostly unchanged during the 2009 interim period relative to the same period in 2008, while U.S. exports and total shipments decreased. The increases during the calendar year periods can be attributed to ***. For the interim periods, *** cited the filing of the petitions for these investigations as a reason for these declines. The petitions were also cited by these same producers as a reason for lower projected production and exports in 2009 and 2010.

Table VII-2
PRCBs: Taiwan's reported production capacity, production, shipments, and inventories, 2006-08, January-September 2008, January-September 2009, and projections for 2009 and 2010

* * * * * * *

THE INDUSTRY IN VIETNAM

The Commission requested data from 78 firms in Vietnam believed to be possible producers or exporters of PRCBs. Of these firms, 7 producers *** provided questionnaire responses containing useable production and/or export data and the remaining 71 did not provide responses.[5] Responding firms estimated that in 2008 they accounted for *** percent of production of PRCBs in Vietnam and *** percent of exports of PRCBs from Vietnam to the United States.[6] Reported exports of PRCBs to the United States by these firms in 2008 were equivalent to *** percent of the quantity of U.S. imports of PRCBs from Vietnam in that year based on official Commerce statistics.

During the period for which data were collected, capacity, production, inventories, and shipments all increased by large amounts, due to the fact that most responding producers only began producing PRCBs at some point after the beginning of 2006[7] and due to ***. The projected decreases in capacity and production from 2009 to 2010 reflect ***'s closing down its facility in December 2009, *** planning to shut down its facility in early 2010, and *** planning to switch to non-PRCB production in 2010.

Three of the responding firms, ***, reported producing other products in addition to PRCBs using the same resources.[8] Table VII-3 presents data for reported production and shipments of PRCBs in Vietnam.

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[4] *** did not provide useable data in response to questions on either the percentage of production or the percentage of exports represented by the company's PRCB operations.

[5] One large Vietnamese foreign producer, ***, provided data during the preliminary phase investigations but did not do so in the final phase. ***. Calendar year 2006-08 data for the Vietnamese industry including this company can be found in the preliminary phase staff report at Table VII-3.

[6] Out of the seven responding firms, only *** provided useable data in response to questions on both the percentage of production and the percentage of exports represented by the companies' PRCB operations. *** did not provide production data but did provide export share estimates. Two other companies, *** and ***, were unable to provide estimates.

[7] Of the responding firms, only *** reported existing PRCB production or capacity in 2006.

[8] ***. ***. ***.

Table VII-3
PRCBs: Vietnam's reported production capacity, production, shipments, and inventories, 2006-08, January-September 2008, January-September 2009, and projections for 2009 and 2010

* * * * * * *

THE INDUSTRIES IN THE SUBJECT COUNTRIES COMBINED

Table VII-4 presents aggregate data for the reporting producers of PRCBs in Indonesia, Taiwan, and Vietnam.

Table VII-4
PRCBs: Subject countries' combined reported production capacity, production, shipments, and inventories, 2006-08, January-September 2008, January-September 2009, and projections for 2009 and 2010

* * * * * * *

U.S. IMPORTERS' INVENTORIES

Reported inventories held by U.S. importers of subject merchandise from Indonesia, Taiwan, and Vietnam are shown in table VII-5.

Table VII-5
PRCBs: U.S. importers' end-of-period inventories for all imports, by source, 2006-08, January-September 2008, January-September 2009

Source	Calendar year			January-September	
	2006	2007	2008	2008	2009
Imports from Indonesia:					
Inventories (*1,000 bags*)	***	***	***	***	***
Ratio to imports (*percent)*	***	***	***	***	***
Ratio to U.S. shipments of imports (*percent*)	***	***	***	***	***
Imports from Taiwan:					
Inventories (*1,000 bags*)	***	***	***	***	***
Ratio to imports (*percent)*	***	***	***	***	***
Ratio to U.S. shipments of imports (*percent*)	***	***	***	***	***

Table continued on following page.

Table VII-5--*Continued*
PRCBs: U.S. importers' end-of-period inventories for all imports, by source, 2006-08, January-September 2008, January-September 2009

Source	Calendar year			January-September	
	2006	2007	2008	2008	2009
Imports from Vietnam:					
Inventories (*1,000 bags*)	***	***	***	***	***
Ratio to imports (*percent)*	***	***	***	***	***
Ratio to U.S. shipments of imports (*percent*)	***	***	***	***	***
Imports from subject sources:					
Inventories (*1,000 bags*)	668,553	1,184,206	1,485,017	1,615,175	1,584,666
Ratio to imports (*percent)*	12.5	10.7	14.6	19.3	18.3
Ratio to U.S. shipments of imports (*percent*)	14.0	14.4	18.9	22.3	22.1
Imports from all other sources:					
Inventories (*1,000 bags*)	1,525,185	2,500,051	2,575,341	2,552,718	2,480,862
Ratio to imports (*percent)*	13.4	27.8	24.4	25.9	26.8
Ratio to U.S. shipments of imports (*percent*)	14.1	31.6	26.8	27.2	29.1
Imports from all sources:					
Inventories (*1,000 bags*)	2,193,738	3,684,257	4,060,358	4,167,894	4,065,528
Ratio to imports (*percent)*	13.1	18.3	19.6	22.9	22.7
Ratio to U.S. shipments of imports (*percent*)	14.1	22.9	23.2	25.1	25.9

Note.– Ratios were calculated using data from firms providing information on both inventories and imports or U.S. shipments of imports. Partial-year ratios are based on annualized import/shipment data.

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

U.S. IMPORTERS' CURRENT ORDERS

The Commission requested importers to indicate whether they imported or arranged for the importation of PRCBs from Indonesia, Taiwan, and/or Vietnam for various periods after September 30, 2009. The decrease in current orders after March 2010 is accounted for in part by importers ***, ***, and ***, which did not report any orders of PRCBs beyond that month.

Table VII-6
PRCBs: U.S. importers' current orders, by source, imported or arranged for importation after September 30, 2009

Source	Oct.-Dec. 2009	Jan.-March 2010	April-June 2010	After June 2010
		Quantity (*1,000 bags)*		
Indonesia	15,913	5,614	0	0
Taiwan	50,872	0	0	0
Vietnam	170,494	14,036	15,989	0
All other sources	2,316,365	2,083,833	116,832	2,376
Total	2,553,644	2,103,483	132,821	2,376

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

INVESTIGATIONS IN THIRD-COUNTRY MARKETS

There are no known antidumping or countervailing duty investigations on PRCBs from Indonesia, Taiwan, or Vietnam reported in third-country markets. The only known trade remedy case related to plastic bags conducted outside of the United States was the antidumping duty investigations conducted by the European Union in 2005-06. These investigations involved the importation of bags from China, Malaysia, and Thailand, and antidumping duty orders were put into place in September 2006 on plastic bags from China and Thailand.[9] These orders remain in place.

INFORMATION ON NONSUBJECT COUNTRIES

In assessing whether the domestic industry is materially injured or threatened with material injury "by reason of subject imports," the legislative history states "that the Commission must examine all relevant evidence, including any known factors, other than the dumped or subsidized imports, that may be injuring the domestic industry, and that the Commission must examine those other factors (including non-subject imports) 'to ensure that it is not attributing injury from other sources to the subject imports.'"[10]

There is limited publicly available information regarding international production or exports of PRCBs during the period for which data were collected. Countries other than Indonesia, Taiwan, and Vietnam known to be large producers of PRCBs include China, Malaysia, and Thailand. Other countries believed to be producing PRCBs on a smaller scale include Canada, Korea, Japan, and Turkey.[11] Data on the PRCB industries in China, Malaysia, and Thailand are being obtained pursuant to the current reviews of antidumping duty orders on PRCBs from those countries.

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[9] Council Regulation (EC) No. 1425/2006.

[10] Mittal Steel Point Lisas Ltd. v. United States, Slip Op. 2007-1552 at 17 (Fed. Cir., Sept. 18, 2008), quoting from Statement of Administrative Action on Uruguay Round Agreements Act, H.R. Rep. 103-316, Vol. I at 851-52; see also Bratsk Aluminum Smelter v. United States, 444 F.3d 1369 (Fed. Cir. 2006).

[11] Conference transcript, pp. 51-52 (Dorn).

APPENDIX A

FEDERAL REGISTER NOTICES

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–462 (Final) and 731–TA–1156–1158 (Final)]

Polyethylene Retail Carrier Bags From Indonesia, Taiwan, and Vietnam

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of countervailing duty and antidumping investigations.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of countervailing duty investigation No. 701–TA–462 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) (the Act) and the final phase of antidumping investigations Nos. 731–TA–1156–1158 (Final) under section 735(b) of the Act (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of subsidized imports of polyethylene retail carrier bags (''PRCBs'') from Vietnam and less-than-fair-value imports of PRCBs from Indonesia, Taiwan, and Vietnam, provided for in subheading 3923.21.00 of the Harmonized Tariff Schedule of the United States.[1]

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

DATES: *Effective Date:* October 27, 2009.

FOR FURTHER INFORMATION CONTACT: Joshua Kaplan (202–205–3184), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—The final phase of these investigations is being scheduled as a result of affirmative preliminary determinations by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in Vietnam of PRCBs, and that such products from Indonesia, Taiwan, and Vietnam are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigations were requested in petitions filed on March 31, 2009, by Hilex Poly Co., LLC, Hartsville, SC and Superbag Corp., Houston, TX.

Participation in the investigations and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the

[1] For purposes of these investigations, the Department of Commerce has defined the subject merchandise as non-sealable sacks and bags with handles (including drawstrings), without zippers or integral extruded closures, with or without gussets, with or without printing, of polyethylene film having a thickness no greater than 0.035 inch (0.889 mm) and no less than 0.00035 inch (0.00889 mm), and with no length or width shorter than 6 inches (15.24 cm) or longer than 40 inches (101.6 cm). The depth of the bag may be shorter than 6 inches but not longer than 40 inches (101.6 cm). PRCBs are typically provided without any consumer packaging and free of charge by retail establishments, e.g., grocery, drug, convenience, department, specialty retail, discount stores, and restaurants to their customers to package and carry their purchased products. The scope of these investigations excludes (1) polyethylene bags that are not printed with logos or store names and that are closeable with drawstrings made of polyethylene film and (2) polyethylene bags that are packed in consumer packaging with printing that refers to specific end-uses other than packaging and carrying merchandise from retail establishments, *e.g.,* garbage bags, lawn bags, trash-can liners.

Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on March 2, 2010, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on March 16, 2010, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before March 12, 2010. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on March 11, 2010, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is March 9, 2010. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is March 23, 2010; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petitions, on or before March 23, 2010. On April 7, 2010, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before April 9, 2010, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in section II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

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

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

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: November 30, 2009.

William R. Bishop,

Acting Secretary to the Commission.

[FR Doc. E9–28853 Filed 12–2–09; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–843]

Polyethylene Retail Carrier Bags from Taiwan: Final Determination of Sales at Less Than Fair Value

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

SUMMARY: The Department of Commerce (the Department) has determined that imports of polyethylene retail carrier bags (PRCBs) from Taiwan are being, or are likely to be, sold in the United States at less than fair value (LFTV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales at LTFV are listed in the "Continuation of Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: March 26, 2010.

FOR FURTHER INFORMATION CONTACT: Dmitry Vladimirov or Minoo Hatten, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–0665 or (202) 482–1690, respectively.

SUPPLEMENTARY INFORMATION:

Case History

On October 27, 2009, the Department published in the **Federal Register** its preliminary determination in the antidumping duty investigation of PRCBs from Taiwan. *See Polyethylene Retail Carrier Bags From Taiwan: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 74 FR 55183 (October 27, 2009) (*Preliminary Determination*).

As explained in the memorandum from the Deputy Assistant Secretary for Import Administration, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from February 5, through February 12, 2010. Thus, all deadlines in this investigation have been extended by seven days. The revised deadline for the final determination in this investigation is now March 18, 2010. See Memorandum to the Record from Ronald Lorentzen, DAS for Import Administration, regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During the Recent Snowstorm," dated February 12, 2010.

As provided in section 782(i) of the Act, we conducted sales and cost verifications of the questionnaire responses submitted by the sole participating respondent, TCI Plastic Co., Ltd. (TCI). We used standard verification procedures, including examination of relevant accounting and production records, as well as original source documents provided by TCI. See Memorandum to the File entitled "Verification of the U.S. Sales Response of Interplast Group in the Antidumping Investigation of Polyethylene Retail Carrier Bags from Taiwan," dated December 22, 2009, Memorandum to the File entitled "Verification of the Home–Market and Export–Price Sales Responses of TCI Plastic Co., Ltd., in the Antidumping Investigation of Polyethylene Retail Carrier Bags from Taiwan," dated December 23, 2009, and Memorandum to the File entitled "Verification of the Cost Response of Tis Dis International Co. Ltd. in the Antidumping Investigation of Polyethylene Retail Carrier Bags from Taiwan," dated January 11, 2010. All verification reports are on file and available in the Central Records Unit (CRU), Room 1117, of the main Department of Commerce building.

We received case briefs submitted by Hilex Poly Co., LLC, and Superbag Corporation (hereinafter, the petitioners) and TCI on January 21, 2010. The petitioners and TCI submitted rebuttal comments on January 26, 2010. Although a hearing was requested, the request was withdrawn and we did not hold a hearing.

Period of Investigation

The period of investigation is January 1, 2008, through December 31, 2008. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition, March 2009. See 19 CFR 351.204(b)(1).

Scope of the Investigation

The merchandise subject to this investigation is PRCBs, which also may be referred to as t–shirt sacks, merchandise bags, grocery bags, or checkout bags. The subject merchandise is defined as non–sealable sacks and bags with handles (including drawstrings), without zippers or integral extruded closures, with or without gussets, with or without printing, of polyethylene film having a thickness no greater than 0.035 inch (0.889 mm) and no less than 0.00035 inch (0.00889 mm), and with no length or width shorter than 6 inches (15.24 cm) or longer than 40 inches (101.6 cm). The depth of the bag may be shorter than 6 inches but not longer than 40 inches (101.6 cm).

PRCBs are typically provided without any consumer packaging and free of charge by retail establishments, *e.g.*, grocery, drug, convenience, department, specialty retail, discount stores, and restaurants to their customers to package and carry their purchased products. The scope of this investigation excludes (1) polyethylene bags that are not printed with logos or store names and that are closeable with drawstrings made of polyethylene film and (2) polyethylene bags that are packed in consumer packaging with printing that refers to specific end–uses other than packaging and carrying merchandise from retail establishments, *e.g.*, garbage bags, lawn bags, trash–can liners.

Imports of merchandise included within the scope of this investigation are currently classifiable under statistical category 3923.21.0085 of the Harmonized Tariff Schedule of the United States (HTSUS). This subheading may also cover products that are outside the scope of this investigation. Furthermore, although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Adverse Facts Available

For the final determination, we continue to find that, by failing to provide information we requested, Ipsido Corporation (Ipsido), a respondent selected for individual examination in this investigation, did not act to the best of its ability. Thus, we continue to find that the use of adverse facts available is warranted for this company under sections 776(a)(2) and (b) of the Act. See *Preliminary Determination*, 74 FR at 55185–55186.

As we explained in the *Preliminary Determination*, the rate of 95.81 percent we selected as the adverse facts–available rate for Ipsido is the highest margin alleged in the petition (see the Petition for the Imposition of Antidumping and Countervailing Duties on Polyethylene Retail Carrier Bags from Indonesia, Taiwan, and the Socialist Republic of Vietnam, dated March 31, 2009). See also *Polyethylene Retail Carrier Bags From Indonesia, Taiwan, and the Socialist Republic of Vietnam: Initiation of Antidumping Duty Investigations*, 74 FR 19049, 19054 (April 27, 2009). Further, as discussed in the Preliminary Determination, we corroborated the adverse facts–available rate pursuant to section 776(c) of the Act. See *Preliminary Determination*, 74 FR at 55186.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this antidumping investigation are addressed in the "Issues and Decision Memorandum for the Antidumping Investigation of Polyethylene Retail Carrier Bags from Taiwan" (Decision Memorandum) from John M. Andersen, Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Deputy Assistant Secretary for Import Administration, dated March 18, 2010, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as an appendix. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in the Decision Memorandum which is on file in the CRU. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at http://ia.ita.doc.gov/frn/index.html. The paper copy and electronic version of the Decision Memorandum are identical in content.

Targeted Dumping

In the *Preliminary Determination*, we followed the methodology we adopted in *Certain Steel Nails from the United Arab Emirates: Notice of Final Determination of Sales at Not Less Than Fair Value*, 73 FR 33985 (June 16, 2008), and *Certain Steel Nails from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances*, 73 FR 33977 (June 16, 2008) (collectively, *Nails*), used most recently in *Certain New Pneumatic Off–The-Road Tires from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances*, 73 FR 40485 (July 15, 2008). See *Preliminary Determination*, 74 FR at 55187–55188. Based on the targeted–dumping test that we applied in the *Preliminary Determination*, we found a pattern of export prices and constructed export prices for comparable merchandise that differs significantly among certain customers, regions, and time periods. *Id.* As a result, following the methodology in *Nails*, we applied the average–to-transaction comparison methodology to TCI's targeted sales and the average–to-average comparison methodology to TCI's non–targeted sales; in calculating TCI's weighted–average margin, we combined the margin calculated for the targeted sales with the margin calculated for the non–targeted sales and did not offset any margins found among the targeted sales. See *Preliminary Determination*, 74 FR at 55188.

In the *Preliminary Determination* we announced that, given the now–withdrawn regulations that guided our practice in *Nails*, we would consider various options regarding the specific group of sales to which we apply the average–to-transaction methodology (the withdrawn targeted–dumping regulation would have limited such application to just the targeted sales). See *id.* We offered the following three options: 1) apply the average–to-transaction methodology just to sales found to be targeted as the withdrawn regulation directed and, consistent with our average–to-transaction practice, not offset any margins found on these transactions; 2) apply the average–to-transaction methodology to all sales to the customer, region, or time period found to be targeted (not just those specific sales found to be targeted) and, consistent with our average–to transaction practice, not offset any margins found on these transactions; and 3) apply the average–to-transaction methodology to all sales by TCI and, consistent with our average–to transaction practice, not offset any margins found on these transactions. See *id.*

As in the *Preliminary Determination*, we continue to find a pattern of export prices and constructed export prices for comparable merchandise that differs significantly among customers, regions, or by time period. See Memorandum to the File entitled "Final Determination of Sales at Less Than Fair Value in the Antidumping Duty Investigation of Polyethylene Retail Carrier Bags from Taiwan - Analysis Memorandum for TCI Plastic Co., Ltd.," dated March 18, 2010. We continue to find, pursuant to section 777A(d)(1)(B) of the Act, that application of the average–to-average comparison method does not account for such price differences and results in the masking of dumping that would be unmasked by the application of the average–to-transaction comparison method to all sales. Accordingly, for this final determination we have applied the average–to-transaction methodology to all U.S. sales that TCI reported. For a complete discussion, see the Decision Memorandum at Comment 1.

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verifications, we have made certain changes to the margin calculation for TCI. For a discussion of these changes, see Memorandum to the File entitled "Final Determination of Sales at Less Than Fair Value in the Antidumping Duty Investigation of Polyethylene Retail Carrier Bags from Taiwan - Analysis Memorandum for TCI Plastic Co., Ltd.," dated March 18, 2010, and Memorandum to Neal Halper entitled "Cost of Production and Constructed Value Calculation Adjustments for the Final Determination TCI Plastic Co. Ltd. and Tis Dis International Co. Ltd.," dated March 18, 2010.

Cost of Production

As explained in the *Preliminary Determination* (74 FR at 55190), we conducted an investigation concerning sales at prices below the cost of production in the home market. We found that, for certain specific products, more than 20 percent of TCI's home–market sales were at prices less than the cost of production and, in addition, such sales did not provide for the recovery of costs within a reasonable period of time. Therefore, we disregarded these sales and used the

remaining sales as the basis for determining normal value in accordance with section 773(b)(1) of the Act. Based on this test, for this final determination we have disregarded below–cost sales by TCI.

Continuation of Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of PRCBs from Taiwan which were entered, or withdrawn from warehouse, for consumption on or after October 27, 2009,

The date of publication of the *Preliminary Determination*. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted–average margins, as indicated below, as follows: (1) the rates for TCI and Ipsido will be the rates we have determined in this final determination; (2) if the exporter is not a firm identified in this investigation but the producer is, the rate will be the rate established for the producer of the subject merchandise; (3) the rate for all other producers or exporters will be 36.54 percent, as discussed in the "All–Others Rate" section, below. These suspension–of-liquidation instructions will remain in effect until further notice.

Manufacturer/Exporter	Weighted–Average Margin (Percent)
Ipsido Corporation	95.81
TCI Plastic Co., Ltd.	36.54

All–Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated all–others rate shall be an amount equal to the weighted average of the estimated weighted–average dumping margins established for exporters and producers individually investigated excluding any zero or *de minimis* margins and any margins determined entirely under section 776 of the Act. TCI is the only respondent in this investigation for which the Department has calculated a company–specific rate. Therefore, for purposes of determining the all–others rate and pursuant to section 735(c)(5)(A) of the Act, we are using the weighted–average dumping margin calculated for TCI, 36.54 percent. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils From Italy*, 64 FR 30750, 30755 (June 8, 1999), and *Coated Free Sheet Paper from Indonesia: Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 72 FR 30753, 30757 (June 4, 2007) (unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from Indonesia*, 72 FR 60636 (October 25, 2007)).

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our final determination. As our final determination is affirmative and in accordance with section 735(b)(2) of the Act, the ITC will determine, within 45 days, whether

The domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of the subject merchandise. If the ITC determines that such injury does exist, the Department will issue

An antidumping duty order directing CBP to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding APO

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: March 18, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

Appendix -- Issues in Decision Memorandum

1. Targeted Dumping
2. Sales Outside the Ordinary Course of Trade
3. Home–Market Warranty Expenses
4. Direct Material Costs
5. Variable Overhead Costs for Outside Processing Services
6. Unreconciled Costs
7. Financial Expense
8. U.S. Indirect Selling Expenses
9. Miscellaneous Issues

[FR Doc. 2010–6807 Filed 3–25–10; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[C–552–805]

Polyethylene Retail Carrier Bags from the Socialist Republic of Vietnam: Final Affirmative Countervailing Duty Determination

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

SUMMARY: The Department of Commerce (Department) has determined that countervailable subsidies are being provided to producers and exporters of polyethylene retail carrier bags (PRCBs) from the Socialist Republic of Vietnam (Vietnam). For information on the estimated countervailing duty rates, please see the "Suspension of Liquidation" section, below.

DATES: *Effective Date:* April 1, 2010.

FOR FURTHER INFORMATION CONTACT: Gene Calvert or Jun Jack Zhao, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–3586 and (202) 482–1396, respectively.

Case History

The following events have occurred since the announcement of the preliminary determination, which was published in the **Federal Register** on September 4, 2009. *See Polyethylene Retail Carrier Bags from the Socialist Republic of Vietnam: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with*

Final Antidumping Duty Determination, 74 FR 45811 (September 4, 2009) (*Preliminary Determination*).

The Department issued a second supplemental questionnaire to the government of Vietnam (GOV), Advance Polybag Co., Ltd. (API), Chin Sheng Company, Ltd. (Chin Sheng), and Fotai Vietnam Enterprise Corporation and Fotai Enterprise Corporation (collectively, Fotai). The Department received responses to these questionnaires on October 7, 2009 from API, on October 14 from Chin Sheng and the GOV, and on October 16 from Fotai. A third supplemental questionnaire was subsequently issued to the GOV only. The GOV submitted a response on October 26. Public versions of the questionnaires and responses, as well as the various memoranda cited below, are available at the Department's Central Records Unit (Room 1117 in the HCHB Building) (hereafter referred to as "CRU"). Also on October 26, new factual information was submitted by Hilex Poly Co., LLC and Suberbag Corporation (collectively, Petitioners), the GOV, and Fotai. On October 21, 2009, the Department was informed by API that it was no longer participating in the investigation. *See* the October 21, 2009 Letter to the Secretary of Commerce, "Countervailing Duty Investigation Involving Polyethylene Retail Carrier Bags from Vietnam."

From November 2 through November 18, 2009, we conducted verification of the questionnaire responses submitted by the GOV, Chin Sheng and Fotai. We issued verification reports on January 4, 2010. *See* Memorandum to the File, "Verification of the Questionnaire Responses Submitted by the Government of Vietnam," and Memoranda to Mark Hoadley, Program Manager, AD/CVD Operations, Office 6, "Verification of the Questionnaire Responses Submitted by Chin Sheng Company, Ltd.," and "Verification of the Questionnaire Responses Submitted by Fotai Vietnam Enterprise Corporation." On January 11, 2010, we issued a report regarding discussions held with third party experts concerning banking in Vietnam. *See* Memorandum to Barbara E. Tillman, Director, AD/CVD Operations, Office 6, "Private Experts Meeting on Vietnam's Banking Sector."

We received case briefs from Petitioners, the GOV, Chin Sheng and Fotai on January 25, 2010, and rebuttal briefs from Petitioners, the GOV, and Fotai on February 1, 2010. On January 27, 2010, Petitioners withdrew their request for a hearing, submitted on October 5, 2009.

On February 12, 2010, the Department exercised its discretion to toll Import Administration deadlines for the duration of the closure of the Federal Government from February 5 through February 12, 2010. Thus, all deadlines in this segment of the proceeding were extended by seven days. *See* Memorandum to the Record from Ronald Lorentzen, Deputy Assistant Secretary for Import Administration, regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During the Recent Snowstorm," dated February 12, 2010." Based on this memorandum, the deadline for this final determination was changed from March 18, 2010 to March 25, 2010.

Scope of the Investigation

The scope of this investigation covers polyethylene retail carrier bags, which also may be referred to as t–shirt sacks, merchandise bags, grocery bags, or checkout bags. The subject merchandise is defined as non–sealable sacks and bags with handles (including drawstrings), without zippers or integral extruded closures, with or without gussets, with or without printing, of polyethylene film having a thickness no greater than 0.035 inch (0.889 mm) and no less than 0.00035 inch (0.00889 mm), and with no length or width shorter than 6 inches (15.24 cm) or longer than 40 inches (101.6 cm). The depth of the bag may be shorter than 6 inches but not longer than 40 inches (101.6 cm).

PRCBs are typically provided without any consumer packaging and free of charge by retail establishments, *e.g.*, grocery, drug, convenience, department, specialty retail, discount stores, and restaurants to their customers to package and carry their purchased products. The scope of this investigation excludes (1) polyethylene bags that are not printed with logos or store names and that are closeable with drawstrings made of polyethylene film and (2) polyethylene bags that are packed in consumer packaging with printing that refers to specific end–uses other than packaging and carrying merchandise from retail establishments, *e.g.*, garbage bags, lawn bags, trash–can liners.

Imports of merchandise included within the scope of this investigation are currently classifiable under statistical category 3923.21.0085 of the Harmonized Tariff Schedule of the United States (HTSUS). This subheading may also cover products that are outside the scope of this investigation. Furthermore, although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Injury Test

Because Vietnam is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Tariff Act of 1930, as amended (the Act), the International Trade Commission (ITC) is required to determine pursuant to section 701(a)(2) of the Act whether imports of the subject merchandise from Vietnam materially injure, or threaten material injury to, a United States industry. On May 29, 2009, the ITC published its preliminary determination that there is a reasonable indication that an industry in the United States is materially injured by reason of allegedly subsidized imports from Vietnam of subject merchandise. *See Polyethylene Retail Carrier Bags From Indonesia, Taiwan, and Vietnam; Determinations*, 74 FR 25771 (May 29, 2009); and *Polyethylene Retail Carrier Bags From Indonesia, Taiwan, and Vietnam* (*Preliminary*), USITC Pub. 4080, Inv. Nos. 701–TA–462 and 731–TA–1156–1158 (May 2009).

Period of Investigation

The period for which we are measuring subsidies, *i.e.*, the period of investigation (POI), is January 1, 2008 through December 31, 2008.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs submitted by Petitioners, the GOC, Chin Sheng and Fotai are addressed in the Memorandum to Ronald K. Lorentzen, Deputy Assistant Secretary for Import Administration, "*Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Polyethylene Retail Carrier Bags from the Socialist Republic of Vietnam*" (March 25, 2010) (hereafter referred to as the "*Decision Memorandum*"), which is hereby adopted by this notice. Attached to this notice as an Appendix is a list of the issues that parties have raised and to which we have responded in the *Decision Memorandum*. Parties can find this public memorandum in the Department's CRU. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the internet at *http://ia.ita.doc.gov/ia–highlights-and–news.html* or *http://ia.ita.doc.gov/frn/*. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Application of Adverse Facts Available

For purposes of this final determination, we relied on adverse facts available (AFA) in accordance with sections 776(a) and (b) of the Act to determine the total countervailable subsidy rate for API. We also relied on

AFA to determine the countervailable subsidy rate for Fotai for one of the programs under investigation. A full discussion of our decision to apply AFA is presented in the *Decision Memorandum* in the section "Application of Facts Otherwise Available and AFA to API and Fotai."

Suspension of Liquidation

In accordance with section 705(c)(1)(B)(i)(I) of the Act, we have calculated an individual rate for Chin Sheng and Fotai, and assigned an AFA rate to API. Section 705(c)(5)(A)(i) of the Act states that for companies not investigated, we will determine an all others rate equal to the weighted average countervailable subsidy rates established for exporters and producers individually investigated, excluding any zero and *de minimis* countervailable subsidy rates, and any rates based entirely on AFA under section 776 of the Act. Since API's rate is based entirely on AFA and since Chin Sheng's rate is *de minimis*, the all others rate is the rate calculated for Fotai.

Producer/Exporter	Net Subsidy Rate
Advance Polybag Co., Ltd. ...	52.56%
Chin Sheng Company, Ltd. ..	0.44% (*de minimis*)
Fotai Vietnam Enterprise Corp. And Fotai Enterprise Corporation	5.28%
All Others	5.28%

Although suspension of liquidation was required on the date of publication of the *Preliminary Determination*, we subsequently instructed U.S. Customs and Border Protection, pursuant to section 703(d) of the Act, to discontinue the suspension of liquidation for countervailing duty purposes for subject merchandise entered on or after January 2, 2010, but to continue the suspension of liquidation of entries made on or after September 4, 2009 through January 1, 2010.

If the ITC issues a final affirmative injury determination, we will issue a countervailing duty order and reinstate the suspension of liquidation under section 706(a) of the Act. We will then require a cash deposit of estimated countervailing duties for entries of subject merchandise in the amounts indicated above, except for Chin Sheng, which would be excluded from an order because it has a *de minimis* rate. This exclusion will apply only to subject merchandise both produced and exported by Chin Sheng. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non–privileged and non–proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an Administrative Protective Order (APO), without the written consent of the Assistant Secretary for Import Administration.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act.

Dated: March 25, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

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VIII. Recommendation

[FR Doc. 2010–7395 Filed 3–31–10; 8:45 am]
BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–560–822]

Polyethylene Retail Carrier Bags From Indonesia: Final Determination of Sales at Less Than Fair Value

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

SUMMARY: The Department of Commerce (the Department) has determined that imports of polyethylene retail carrier bags (PRCBs) from Indonesia are being, or are likely to be, sold in the United States at less than fair value (LFTV) as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales at LTFV are listed in the "Continuation of Suspension of Liquidation" section of this notice.

DATES: *Effective Date:* April 1, 2010.

FOR FURTHER INFORMATION CONTACT: Thomas Schauer or Yang Jin Chun, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–0410 or (202) 482–5760, respectively.

SUPPLEMENTARY INFORMATION:

Background

On November 3, 2009, the Department published *Polyethylene Retail Carrier Bags from Indonesia: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination,* 74 FR 56807 (November 3, 2009), as amended in *Polyethylene Retail Carrier Bags From Indonesia: Amended Preliminary Determination of Sales at Less Than Fair Value,* 74 FR 63720 (December 4, 2009) (collectively, *Preliminary Determination*), in the *Federal Register.* We selected the following companies for individual examination: P.T. Super Exim Sari Ltd. and P.T. Super Makmur (collectively, SESSM);[1] P.T. Sido Bangun (SBI). *See Preliminary Determination,* 74 FR at 56808.

On November 16, 2009, SBI informed the Department that it would not participate in the verification of its information and withdrew from the investigation. *See* SBI's withdrawal letter to the Department dated November 16, 2009. SBI requested that the Department remove all of its submissions from the administrative record and certify the destruction of the submissions that are in the possession of interested parties to the investigation. *Id.* We have decided to retain all of SBI's submissions in the administrative record of this investigation because this information serves as the basis for SBI's margin. *See* Memorandum to Laurie Parkhill entitled "Polyethylene Retail Carrier Bags from Indonesia—PT Sido Bangun's Request That Its Submissions Be Removed from the Administrative Record" dated March 25, 2010, incorporated herein by reference.

As provided in section 782(i) of the Act, we conducted sales and cost verifications of the questionnaire responses submitted by SESSM. We used standard verification procedures, including examination of relevant accounting and production records, as well as original source documents provided by SESSM. *See* Memoranda to the File entitled "Polyethylene Retail Carrier Bags from Indonesia: Sales Verification of P.T. Super Exim Sari Ltd. and P.T. Super Makmur" and "Verification of the Cost Response of P.T. Super Exim Sari Ltd. and P.T. Super Makmur in the Antidumping Duty Investigation of Polyethylene Retail Carrier Bags from Indonesia" dated January 11, 2010, and January 12, 2010, respectively. All verification reports are on file and available in the Central Records Unit, Room 1117, of the main Department of Commerce building.

On December 29, 2009, SESSM submitted the sales and cost databases with revisions that reflect SESSM's minor corrections before the verifications and the Department's findings of SESSM's reporting errors during the verifications. *See* SESSM's December 29, 2009, submission of the sales and cost databases.

SESSM and the petitioners[2] filed their case briefs with the Department on January 22, 2010, and rebuttal briefs on January 27, 2010. At the petitioners' request, we held a hearing, including a closed session where parties discussed business-proprietary information, on January 29, 2010.

We used SESSM's December 29, 2009, sales and cost databases to calculate SESSM's antidumping duty margin. No parties have objected to the use of these databases.

As explained in the memorandum from the Deputy Assistant Secretary for Import Administration, we have exercised our discretion to toll deadlines for the duration of the closure of the Federal Government from February 5 through February 12, 2010. Thus, all deadlines in this investigation have been extended by seven days. The revised deadline for the final determination of this investigation is now March 25, 2010. *See* Memorandum to the Record from Ronald Lorentzen, DAS for Import Administration, regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During the Recent Snowstorm," dated February 12, 2010.

Period of Investigation

The period of investigation is January 1, 2008, through December 31, 2008. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition, March 2009. *See* 19 CFR 351.204(b)(1).

Scope of the Investigation

The merchandise subject to this investigation is PRCBs, which also may be referred to as t-shirt sacks, merchandise bags, grocery bags, or checkout bags. The subject merchandise is defined as non-sealable sacks and bags with handles (including drawstrings), without zippers or integral extruded closures, with or without gussets, with or without printing, of polyethylene film having a thickness no greater than 0.035 inch (0.889 mm) and no less than 0.00035 inch (0.00889 mm), and with no length or width shorter than 6 inches (15.24 cm) or longer than 40 inches (101.6 cm). The depth of the bag may be shorter than 6 inches (15.24 cm) but not longer than 40 inches (101.6 cm).

[1] Because these two companies function as one common corporate entity that share common sales and production facilities, we have treated SESSM as one company.

[2] The petitioners in this investigation are Hilex Poly Co. LLC and Superbag Corporation.

PRCBs are typically provided without any consumer packaging and free of charge by retail establishments, *e.g.,* grocery, drug, convenience, department, specialty retail, discount stores, and restaurants to their customers to package and carry their purchased products. The scope of this investigation excludes (1) polyethylene bags that are not printed with logos or store names and that are closeable with drawstrings made of polyethylene film and (2) polyethylene bags that are packed in consumer packaging with printing that refers to specific end-uses other than packaging and carrying merchandise from retail establishments, *e.g.,* garbage bags, lawn bags, trash-can liners.

Imports of merchandise included within the scope of this investigation are currently classifiable under statistical category 3923.21.0085 of the Harmonized Tariff Schedule of the United States (HTSUS). This subheading may also cover products that are outside the scope of this investigation. Furthermore, although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this antidumping duty investigation are addressed in the "Issues and Decision Memorandum for the Antidumping Duty Investigation of Polyethylene Retail Carrier Bags from Indonesia" (Decision Memorandum) from Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations John M. Andersen to Deputy Assistant Secretary for Import Administration Ronald K. Lorentzen dated March 25, 2010, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as an appendix. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in the Decision Memorandum which is on file in the Central Records Unit of the main Department of Commerce building, Room 1117, and is accessible on the Web at *http://ia.ita.doc.gov/frn/index.html*. The paper copy and electronic version of the Decision Memorandum are identical in content.

Targeted Dumping

In the *Preliminary Determination,* we followed the methodology we adopted in *Certain Steel Nails from the United Arab Emirates: Notice of Final Determination of Sales at Not Less Than Fair Value,* 73 FR 33985 (June 16, 2008), and *Certain Steel Nails from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances,* 73 FR 33977 (June 16, 2008) (collectively, *Nails*), used most recently in *Certain New Pneumatic Off-The-Road Tires from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances,* 73 FR 40485 (July 15, 2008). *See Preliminary Determination,* 74 FR at 56808–09. Based on the targeted-dumping test that we applied in the *Preliminary Determination,* we found a pattern of export prices for comparable merchandise that differ significantly among certain time periods. *Id.* As a result and following the methodology in *Nails,* in the *Preliminary Determination* we applied the average-to-transaction comparison methodology to SESSM's targeted sales and the average-to-average comparison methodology to SESSM's non-targeted sales. In calculating SESSM's weighted-average margin, we combined the margin we calculated for the targeted sales with the margin we calculated for the non-targeted sales and did not offset any margins found among the targeted sales. *See Preliminary Determination,* 74 FR at 56809.

In the *Preliminary Determination* we announced that, given the withdrawal of the regulations that guided our practice in *Nails,* we would consider various options regarding the specific group of sales to which we apply the average-to-transaction methodology (the withdrawn targeted-dumping regulation would have limited such application to just the targeted sales). *Id.* We requested comments on the following three options: (1) Apply the average-to-transaction methodology just to sales found to be targeted as the withdrawn regulation directed and, consistent with our average-to-transaction practice, not offset any margins found on these transactions; (2) apply the average-to-transaction methodology to all sales to the time period found to be targeted (not just those specific sales found to be targeted) and, consistent with our average-to transaction practice, not offset any margins found on these transactions; (3) apply the average-to-transaction methodology to all sales by SESSM and, consistent with our average-to-transaction practice, not offset any margins found on these transactions. *Id.*

For the final determination, we find that, in this investigation, the result using the standard average-to-average methodology is not substantially different from that using the alternative average-to-transaction methodology. Accordingly, for this final determination we have applied the standard average-to-average methodology to all U.S. sales that SESSM reported. For a complete discussion, *see* the Decision Memorandum at Comment 1.

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we have made certain changes to the margin calculation for SESSM. For a discussion of these changes, *see* the Decision Memorandum and "Final Determination of Sales at Less Than Fair Value in the Antidumping Duty Investigation of Polyethylene Retail Carrier Bags from Indonesia—Analysis Memorandum for P.T. Super Exim Sari Ltd. and P.T. Super Makmur" dated March 25, 2010, and "Cost of Production and Constructed Value Calculation Adjustments for the Final Determination—P.T. Super Exim Sari, Ltd. and P.T. Super Makmur" dated March 25, 2010. For SBI, we applied adverse facts available in accordance with section 776(a)(2)(D) of the Act. *See* the "Use of Facts Otherwise Available" section below and the Decision Memorandum at Comment 6.

Cost of Production

As explained in the *Preliminary Determination,* we conducted an investigation concerning sales at prices below the cost of production in the home market. We found that, for certain specific products, more than 20 percent of SESSM's home-market sales were at prices less than the cost of production and, in addition, such sales did not provide for the recovery of costs within a reasonable period of time. Therefore, we disregarded these sales and used the remaining sales as the basis for determining normal value in accordance with section 773(b)(1) of the Act. Based on this test, for this final determination we have disregarded below-cost sales by SESSM.

Use of Facts Otherwise Available

Section 776(a)(2) of the Act provides that, if an interested party withholds information that has been requested by the Department, fails to provide such information in a timely manner or in the form or manner requested, significantly

impedes a proceeding under the antidumping statute, or provides such information but the information cannot be verified, the Department shall, subject to sections 782(d) and (e) of the Act, use facts otherwise available in reaching the applicable determination.

Section 776(a)(2)(D) of the Act requires the Department to use facts available when a party provides information but that information cannot be verified. In addition, section 776(b) of the Act provides that, if the Department finds that an interested party "has failed to cooperate by not acting to the best of its ability to comply with a request for information," the Department may use information that is adverse to the interests of that party as facts otherwise available.

As explained above, after the publication of the *Preliminary Determination,* SBI notified the Department that it would no longer participate in this antidumping investigation and that it would not participate in any verification. *See* letter from SBI dated November 16, 2009. Pursuant to section 776(a) of the Act, in reaching our final determination we have used total facts available for SBI because we could not verify SBI's data. Also, because SBI refused to participate in the verification of its responses, we find that SBI has failed to cooperate to the best of its ability. Therefore, pursuant to section 776(b) of the Act, we have used an adverse inference in selecting from the facts available for the margin for SBI. We have assigned 85.17 percent as the margin. This was the highest control-number-specific margin we found for SBI for the *Preliminary Determination. See* page 54 of the margin program output attached to "Preliminary Determination of Sales at Less Than Fair Value in the Antidumping Duty Investigation of Polyethylene Retail Carrier Bags from Indonesia—Analysis Memorandum for PT Sido Bangun Indonesia" dated October 27, 2009. *See* the Decision Memorandum at Comment 6 for further discussion.

Continuation of Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of subject merchandise from Indonesia entered, or withdrawn from warehouse, for consumption on or after November 3, 2009, the date of the publication of the *Preliminary Determination.* We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average margin, as indicated below, as follows: (1) The rates for SESSM and SBI will be the rates we have determined in this final determination; (2) if the exporter is not a firm identified in this investigation but the producer is, the rate will be the rate established for the producer of the subject merchandise; (3) the rate for all other producers or exporters will be 69.64 percent as discussed in the "All-Others Rate" section below. These suspension-of-liquidation instructions will remain in effect until further notice.

Final Determination

The final antidumping duty margins are as follows:

Manufacturer/exporter	Weighted-average margin (percent)
P.T. Sido Bangun Indonesia	85.17
P.T. Super Exim Sari Ltd. and P.T. Super Makmur	69.64

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated all-others rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for producers and exporters individually investigated excluding any zero or *de minimis* margins and any margins determined entirely under section 776 of the Act. SESSM is the only respondent in this investigation for which we have calculated a company-specific rate. Therefore, for purposes of determining the all-others rate and pursuant to section 735(c)(5)(A) of the Act, we are using the weighted-average dumping margin calculated for SESSM which is 69.64 percent. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils From Italy,* 64 FR 30750, 30755 (June 8, 1999), and *Coated Free Sheet Paper from Indonesia: Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination,* 72 FR 30753, 30757 (June 4, 2007) (unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from Indonesia,* 72 FR 60636 (October 25, 2007)).

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our final determination. As our final determination is affirmative, the ITC will determine within 45 days whether imports of the subject merchandise are causing material injury or threat of material injury to an industry in the United States. If the ITC determines that material injury or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, we will issue an antidumping duty order directing CBP to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Destruction of Proprietary Information

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO as explained in the APO itself. *See* 19 CFR 351.305(a)(3). Timely written notification of the destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

We are issuing and publishing this determination and notice in accordance with sections 735(d) and 777(i) of the Act.

Dated: March 25, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

Appendix

List of Issues in the Issues and Decision Memorandum

1. Targeted Dumping.
2. Level of Trade.
3. Adverse Facts Available.
4. Home-Market Credit Expenses.
5. General and Administrative Expenses.

[FR Doc. 2010–7392 Filed 3–31–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–552–806]

Polyethylene Retail Carrier Bags From the Socialist Republic of Vietnam: Final Determination of Sales at Less Than Fair Value

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

DATES: *Effective Date:* April 1, 2010.

SUMMARY: The Department of Commerce (the "Department") has determined that polyethylene retail carrier bags ("PRCBs") from the Socialist Republic of Vietnam ("Vietnam") are being, or are likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 735 of the Tariff Act of 1930, as amended (the "Act"). The final dumping margins for this investigation are listed in the *Final Determination Margins* section of this notice.

FOR FURTHER INFORMATION CONTACT: Zev Primor or Shawn Higgins, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; *telephone:* (202) 482–4114 and (202) 482–0679, respectively.

SUPPLEMENTARY INFORMATION:

Case History

On November 3, 2009, the Department published in the **Federal Register** its preliminary determination that PRCBs from Vietnam are being, or are likely to be, sold in the United States at LTFV, as provided in the Act. *See Polyethylene Retail Carrier Bags From the Socialist Republic of Vietnam: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination,* 74 FR 56813 (November 3, 2009) ("*Preliminary Determination*"). For the *Preliminary Determination,* the Department assigned a 76.11 percent dumping margin to the Vietnam-wide entity—including mandatory respondents Advance Polybag Co., Ltd. ("API") and Fotai Vietnam Enterprise Corp. ("Fotai Vietnam")—and a 52.30 percent dumping margin to 16 separate rate applicants. Because no interested party submitted case or rebuttal briefs, it was not necessary to prepare an accompanying Issues and Decision Memorandum. As a further consequence of no submissions, a hearing was not held.

As explained in the memorandum from the Deputy Assistant Secretary for Import Administration, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from February 5, through February 12, 2010. Thus, all deadlines in this segment of the proceeding have been extended by seven days. The revised deadline for the final determination of this investigation is now March 25, 2010. *See* Memorandum to the Record from Ronald Lorentzen, DAS for Import Administration, regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During the Recent Snowstorm," dated February 12, 2010.

Period of Investigation

The period of investigation is July 1, 2008, through December 31, 2008. This period corresponds to the two most recent fiscal quarters prior to the month in which the petition was filed (*i.e.,* March 2009). *See* 19 CFR 351.204(b)(1).

Scope of the Investigation

The merchandise subject to this investigation is polyethylene retail carrier bags, which also may be referred to as t-shirt sacks, merchandise bags, grocery bags, or checkout bags. The subject merchandise is defined as non-sealable sacks and bags with handles (including drawstrings), without zippers or integral extruded closures, with or without gussets, with or without printing, of polyethylene film having a thickness no greater than 0.035 inch (0.889 mm) and no less than 0.00035 inch (0.00889 mm), and with no length or width shorter than 6 inches (15.24 cm) or longer than 40 inches (101.6 cm). The depth of the bag may be shorter than 6 inches but not longer than 40 inches (101.6 cm).

PRCBs are typically provided without any consumer packaging and free of charge by retail establishments, *e.g.,* grocery, drug, convenience, department, specialty retail, discount stores, and restaurants to their customers to package and carry their purchased products. The scope of this investigation excludes (1) polyethylene bags that are not printed with logos or store names and that are closeable with drawstrings made of polyethylene film and (2) polyethylene bags that are packed in consumer packaging with printing that refers to specific end-uses other than packaging and carrying merchandise from retail establishments, *e.g.,* garbage bags, lawn bags, trash-can liners.

Imports of merchandise included within the scope of this investigation are currently classifiable under statistical category 3923.21.0085 of the Harmonized Tariff Schedule of the United States ("HTSUS"). This subheading may also cover products that are outside the scope of this investigation. Furthermore, although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Changes Since the Preliminary Determination

Because no party submitted case briefs and there are no other circumstances which warrant the revision of the *Preliminary Determination,* the Department has not made changes to its analysis, or the dumping margins calculated, with respect to the *Preliminary Determination.* For further details of the issues addressed in this proceeding, see the *Preliminary Determination.*

Combination Rates

In the initiation notice, the Department stated that it would calculate combination rates for respondents that are eligible for a separate rate in this investigation. *See Polyethylene Retail Carrier Bags From Indonesia, Taiwan, and the Socialist Republic of Vietnam: Initiation of Antidumping Duty Investigations,* 74 FR 19049 (April 27, 2009). This change in practice is described in *Separate Rates and Combination Rates in Antidumping Investigations involving Non-Market Economy Countries,* 70 FR 17233 (April 5, 2005) which states:

> {w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its {non-market economy} investigations will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms

receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of "combination rates" because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation.

Final Determination Margins

The Department determines that the following dumping margins exist for the period July 1, 2008, through December 31, 2008: [1]

Manufacturer	Exporter	Antidumping duty percent margin
Alpha Plastics (Vietnam) Co., Ltd.^	Alpha Plastics (Vietnam) Co., Ltd.^	52.30
Alta Company°	Alta Company°	52.30
Ampac Packaging Vietnam Ltd.^	Ampac Packaging Vietnam Ltd.^	52.30
BITAHACO*	BITAHACO *	52.30
Chin Sheng Co., Ltd.*	Chin Sheng Co., Ltd.*	52.30
Chung Va (Vietnam) Plastic Packaging Co., Ltd.^	Chung Va Century Macao Commercial Offshore Limited^	52.30
Hanoi 27–7 Packaging Company Limited, aka Hanoi 27–7 Packing Company Limited, aka HAPACK Co. Ltd, aka HAPACK°.	Hanoi 27–7 Packaging Company Limited, aka Hanoi 27–7 Packing Company Limited, aka HAPACK°.	52.30
Hoi Hung Company Limited^	Kong Wai Polybag Printing Company^	52.30
Kinsplastic Vietnam Ltd. Co.^	Kinsplastic Vietnam Ltd. Co.^	52.30
Loc Cuong Trading Producing Company Limited, aka Loc Cuong Trading Producing Company, aka Loc Cuong Trading Producing Co. Ltd.*.	Loc Cuong Trading Producing Company Limited, aka Loc Cuong Trading Producing Company, aka Loc Cuong Trading Producing Co. Ltd.*.	52.30
Ontrue Plastics Co., Ltd. (Vietnam)^	Ontrue Plastics Co., Ltd. (Vietnam)^	52.30
Richway Plastics Vietnam Co., Ltd.^	Richway Plastics Vietnam Co., Ltd.^	52.30
RKW Lotus Limited Co., Ltd., aka RKW Lotus Limited, aka RKW Lotus Ltd.^.	RKW Lotus Limited Co., Ltd., aka RKW Lotus Limited, aka RKW Lotus Ltd.^.	52.30
VINAPACKINK Co., Ltd.*	VINAPACKINK Co., Ltd.*	52.30
VN K's International Polybags Joint Stock Company*	K's International Polybags MFG Ltd*	52.30
VN Plastic Industries Co. Ltd^	VN Plastic Industries Co. Ltd^	52.30
Vietnam-Wide Entity [2]		76.11

Disclosure

The Department will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, the Department will instruct U.S. Customs and Border Protection ("CBP") to continue to suspend liquidation of all entries of PRCBs from Vietnam, as described in the *Scope of the Investigation* section, entered, or withdrawn from warehouse, for consumption on or after November 3, 2009, the date of publication of the *Preliminary Determination* in the **Federal Register.** The Department will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average dumping margin amount by which the normal value exceeds U.S. price, as follows: (1) The rate for the exporter/producer combinations listed in the chart above will be the rate the Department has determined in this final determination; (2) for all Vietnamese exporters of subject merchandise which have not received their own rate, the cash-deposit rate will be the Vietnam-wide entity rate; and (3) for all non-Vietnamese exporters of subject merchandise which have not received their own rate, the cash-deposit rate will be the rate applicable to the Vietnamese exporter/producer combination that supplied that non-Vietnamese exporter. These suspension-of-liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, the Department notified the International Trade Commission ("ITC") of its final determination of sales at LTFV. As the Department's final determination is affirmative, in accordance with section 735(b)(2) of the Act, within 45 days the ITC will determine whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of the subject merchandise. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess, upon further instruction by the Department, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding APO

This notice also serves as a reminder to the parties subject to administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

[1] "^" designates companies as foreign-owned separate rate recipients, "*" designates companies as Vietnamese separate rate recipients, and "°" designates companies as state-owned separate rate recipients.

[2] API, Fotai Vietnam, Green Care Packaging Industrial (Vietnam) Co., Creative Pak Industrial Co., Ltd., An Phat Plastic and Packing Joint Stock Co., Genius Development Ltd., and J.K.C. Vina Co., Ltd. are all part of the Vietnam-wide entity.

Dated: March 25, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 2010–7410 Filed 3–31–10; 8:45 am]

BILLING CODE 3510–DS–P

APPENDIX B

HEARING WITNESSES

CALENDAR OF PUBLIC HEARING

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

Subject: Polyethylene Retail Carrier Bags from Indonesia, Taiwan, and Vietnam

Inv. Nos.: 701-TA-462 and 731-TA-1156-1158 (Final)

Date and Time: March 16, 2010 - 9:30 a.m.

Sessions were held in connection with these investigations in the Main Hearing Room (room 101), 500 E Street, S.W., Washington, DC.

OPENING REMARKS:

Petitioners (**Joseph W. Dorn**, King & Spalding LLP)
Respondents (**Adams C. Lee**, White & Case LLP)

In Support of the Imposition of
Antidumping and Countervailing Duty Orders:

King & Spalding LLP
Washington, DC
on behalf of

Hilex Poly Co., LLC
Superbag Corporation

Isaac Bazbaz, Director, Superbag Corporation

Mark Daniels, Vice President of Marketing and Environmental Affairs, Hilex Poly Co., LLC

Anthony Rizzo, Vice President of Sales, Hilex Poly Co., LLC

Joseph W. Dorn)
) – OF COUNSEL
Brian E. McGill)

In Opposition to the Imposition of
Antidumping and Countervailing Duty Orders:

White & Case LLP
Washington, DC
on behalf of

P.T. Super Exim Sari Ltd. ("Super Exim")
P.T. Super Makmur ("Super Makmur")

Faye Lin, Marketing Executive, Super Exim

Ted Downing, Vice President, Packaging Concepts International

Deirdre Maloney, Senior International Trade Advisor, White & Case LLP

Adams C. Lee)
) – OF COUNSEL
Frank H. Morgan)

REBUTTAL/CLOSING REMARKS:

Petitioners (**Joseph W. Dorn**, King & Spalding LLP)
Respondents (**Frank H. Morgan**, White & Case LLP)

APPENDIX C

SUMMARY DATA

Table C-1
All PRCBs: Summary data concerning the U.S. market, 2006-08, January-September 2008, and January-September 2009

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

	Reported data					Period changes			
				January-September					Jan.-Sept.
Item	2006	2007	2008	2008	2009	2006-08	2006-07	2007-08	2008-09
U.S. consumption quantity:									
Amount	108,266,796	105,303,892	101,449,633	74,422,263	74,546,715	-6.3	-2.7	-3.7	0.2
Producers' share (1)	61.7	66.3	64.2	64.9	66.8	2.5	4.6	-2.1	1.9
Importers' share (1):									
Indonesia	1.5	3.2	2.8	3.2	2.0	1.3	1.8	-0.4	-1.2
Taiwan	2.0	3.8	4.5	4.8	3.0	2.5	1.8	0.7	-1.8
Vietnam	2.8	6.9	7.1	6.8	7.8	4.3	4.1	0.2	1.0
Subtotal	6.3	13.9	14.4	14.8	12.7	8.1	7.6	0.4	-2.0
China. Malaysia, and Thailand	26.9	15.3	18.6	17.4	16.6	-8.3	-11.6	3.3	-0.7
All other sources	5.1	4.5	2.9	3.0	3.8	-2.2	-0.6	-1.6	0.8
Total imports	38.3	33.7	35.8	35.1	33.2	-2.5	-4.6	2.1	-1.9
U.S. consumption value:									
Amount	1,294,816	1,389,493	1,487,404	1,085,214	793,447	14.9	7.3	7.0	-26.9
Producers' share (1)	74.0	66.4	66.1	66.9	71.1	-8.0	-7.6	-0.3	4.2
Importers' share (1):									
Indonesia	2.0	3.3	2.8	3.0	1.6	0.8	1.3	-0.5	-1.4
Taiwan	1.5	3.0	3.8	4.0	2.5	2.3	1.5	0.8	-1.4
Vietnam	1.5	5.3	5.9	5.5	5.6	4.4	3.8	0.6	0.1
Subtotal	5.0	11.7	12.5	12.5	9.7	7.5	6.7	0.9	-2.8
China. Malaysia, and Thailand	17.0	16.4	17.2	16.4	14.2	0.2	-0.6	0.7	-2.2
All other sources	4.0	5.5	4.2	4.2	5.0	0.2	1.5	-1.3	0.8
Total imports	26.0	33.6	33.9	33.1	28.9	8.0	7.6	0.3	-4.2
U.S. imports from:									
Indonesia:									
Quantity	1,592,965	3,396,505	2,819,569	2,365,162	1,469,854	77.0	113.2	-17.0	-37.9
Value	25,400	45,808	40,948	33,005	12,998	61.2	80.3	-10.6	-60.6
Unit value	$15.95	$13.49	$14.52	$13.95	$8.84	-8.9	-15.4	7.7	-36.6
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Taiwan:									
Quantity	2,171,587	3,988,867	4,575,499	3,561,990	2,215,669	110.7	83.7	14.7	-37.8
Value	19,454	42,318	56,848	42,993	20,008	192.2	117.5	34.3	-53.5
Unit value	$8.96	$10.61	$12.42	$12.07	$9.03	38.7	18.4	17.1	-25.2
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Vietnam:									
Quantity	3,061,998	7,288,037	7,192,325	5,055,117	5,811,440	134.9	138.0	-1.3	15.0
Value	19,734	73,757	88,189	59,982	44,323	346.9	273.8	19.6	-26.1
Unit value	$6.44	$10.12	$12.26	$11.87	$7.63	90.3	57.0	21.2	-35.7
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Subtotal:									
Quantity	6,826,550	14,673,409	14,587,393	10,982,269	9,496,963	113.7	114.9	-0.6	-13.5
Value	64,588	161,884	185,986	135,980	77,328	188.0	150.6	14.9	-43.1
Unit value	$9.46	$11.03	$12.75	$12.38	$8.14	34.8	16.6	15.6	-34.2
Ending inventory quantity	668,553	1,184,206	1,485,017	1,615,175	1,584,666	122.1	77.1	25.4	-1.9
China. Malaysia, and Thailand:									
Quantity	29,079,228	16,114,332	18,833,894	12,928,070	12,408,875	-35.2	-44.6	16.9	-4.0
Value	219,763	228,082	255,232	177,532	112,403	16.1	3.8	11.9	-36.7
Unit value	$7.56	$14.15	$13.55	$13.73	$9.06	79.3	87.3	-4.3	-34.0
Ending inventory quantity	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
All other sources:									
Quantity	5,575,003	4,748,210	2,942,934	2,212,148	2,829,145	-47.2	-14.8	-38.0	27.9
Value	51,774	76,586	63,180	46,116	39,907	22.0	47.9	-17.5	-13.5
Unit value	$9.29	$16.13	$21.47	$20.85	$14.11	131.2	73.7	33.1	-32.3
Ending inventory quantity	1,525,185	2,500,051	2,575,341	2,552,719	2,480,862	68.9	63.9	3.0	-2.8
All sources:									
Quantity	41,480,781	35,535,951	36,364,221	26,122,487	24,734,983	-12.3	-14.3	2.3	-5.3
Value	336,125	466,552	504,398	359,628	229,639	50.1	38.8	8.1	-36.1
Unit value	$8.10	$13.13	$13.87	$13.77	$9.28	71.2	62.0	5.6	-32.6
Ending inventory quantity	2,193,738	3,684,257	4,060,358	4,167,894	4,065,528	85.1	67.9	10.2	-2.5

Table continued on next page.

Table C-1--Continued
All PRCBs: Summary data concerning the U.S. market, 2006-08, January-September 2008, and January-September 2009

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

	Reported data					Period changes			
				January-September					Jan.-Sept.
Item	2006	2007	2008	2008	2009	2006-08	2006-07	2007-08	2008-09
U.S. producers':									
Average capacity quantity	83,182,701	83,232,332	79,737,217	60,936,535	67,365,922	-4.1	0.1	-4.2	10.6
Production quantity	70,212,269	72,320,872	66,276,349	51,085,031	51,516,891	-5.6	3.0	-8.4	0.8
Capacity utilization (1)	84.4	86.9	83.1	83.8	76.5	-1.3	2.5	-3.8	-7.4
U.S. shipments:									
Quantity	66,786,015	69,767,941	65,085,412	48,299,776	49,811,732	-2.5	4.5	-6.7	3.1
Value	958,691	922,941	983,006	725,586	563,808	2.5	-3.7	6.5	-22.3
Unit value	$14.35	$13.23	$15.10	$15.02	$11.32	5.2	-7.8	14.2	-24.7
Export shipments:									
Quantity	2,207,673	2,351,519	2,209,901	1,574,534	1,400,301	0.1	6.5	-6.0	-11.1
Value	37,645	38,575	30,330	21,908	16,549	-19.4	2.5	-21.4	-24.5
Unit value	$17.05	$16.40	$13.72	$13.91	$11.82	-19.5	-3.8	-16.3	-15.1
Ending inventory quantity	3,800,923	3,995,589	2,976,270	5,202,339	3,350,997	-21.7	5.1	-25.5	-35.6
Inventories/total shipments (1)	5.5	5.5	4.4	7.8	4.9	-1.1	0.0	-1.1	-2.9
Production workers	3,495	3,160	2,971	3,011	2,874	-15.0	-9.6	-6.0	-4.5
Hours worked (1,000s)	7,597	7,154	6,903	5,108	4,903	-9.1	-5.8	-3.5	-4.0
Wages paid ($1,000s)	95,452	105,602	103,881	80,564	75,528	8.8	10.6	-1.6	-6.3
Hourly wages	$12.56	$14.76	$15.05	$15.77	$15.41	19.8	17.5	1.9	-2.3
Productivity (bags per hour)	9,242	10,109	9,601	10,001	10,508	3.9	9.4	-5.0	5.1
Unit labor costs	$1.36	$1.46	$1.57	$1.58	$1.47	15.3	7.4	7.3	-7.0
Net sales:									
Quantity	68,728,820	72,926,211	67,241,013	49,874,583	51,209,397	-2.2	6.1	-7.8	2.7
Value	996,078	971,203	1,008,444	747,446	580,137	1.2	-2.5	3.8	-22.4
Unit value	$14.49	$13.32	$15.00	$14.99	$11.33	3.5	-8.1	12.6	-24.4
Cost of goods sold (COGS)	896,911	874,034	937,213	689,309	502,469	4.5	-2.6	7.2	-27.1
Gross profit or (loss)	99,167	97,169	71,231	58,137	77,668	-28.2	-2.0	-26.7	33.6
SG&A expenses	94,307	90,407	103,228	62,737	53,070	9.5	-4.1	14.2	-15.4
Operating income or (loss)	4,860	6,762	(31,997)	(4,600)	24,598	(2)	39.1	(2)	(2)
Capital expenditures	38,799	17,643	14,548	10,300	6,044	-62.5	-54.5	-17.5	-41.3
Unit COGS	$13.05	$11.99	$13.94	$13.82	$9.81	6.8	-8.2	16.3	-29.0
Unit SG&A expenses	$1.37	$1.24	$1.54	$1.26	$1.04	11.9	-9.7	23.8	-17.6
Unit operating income or (loss)	$0.07	$0.09	($0.48)	($0.09)	$0.48	(2)	31.1	(2)	(2)
COGS/sales (1)	90.0	90.0	92.9	92.2	86.6	2.9	-0.0	2.9	-5.6
Operating income or (loss)/ sales (1)	0.5	0.7	-3.2	-0.6	4.2	-3.7	0.2	-3.9	4.9

(1) "Reported data" are in percent and "period changes" are in percentage points.
(2) Not available/not applicable.

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

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

Table C-2
High-end PRCBs: Summary data concerning the U.S. market, 2006-08, January-September 2008, and January-September 2009

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

	Reported data					Period changes			
				January-September					Jan.-Sept.
Item	2006	2007	2008	2008	2009	2006-08	2006-07	2007-08	2008-09
U.S. consumption quantity:									
Amount	165,025	169,269	165,432	122,436	96,915	0.2	2.6	-2.3	-20.8
Producers' share (1)	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Importers' share (1):									
Indonesia	7.2	14.7	23.5	22.6	24.9	16.3	7.6	8.7	2.3
Taiwan	19.3	6.3	1.1	1.4	0.7	-18.3	-13.0	-5.3	-0.8
Vietnam	19.1	26.2	31.6	31.3	18.6	12.4	7.0	5.4	-12.7
Subtotal	45.6	47.3	56.1	55.3	44.2	10.5	1.6	8.8	-11.2
All other sources	54.4	52.7	43.9	44.7	55.8	-10.5	-1.6	-8.8	11.2
Total imports	100.0	100.0	100.0	100.0	100.0	0.0	0.0	0.0	0.0
U.S. consumption value:									
Amount	17,007	17,933	17,366	12,817	9,910	2.1	5.4	-3.2	-22.7
Producers' share (1)	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Importers' share (1):									
Indonesia	11.3	20.9	30.7	29.5	33.2	19.3	9.6	9.8	3.8
Taiwan	10.6	3.9	1.5	2.1	1.2	-9.1	-6.7	-2.3	-0.9
Vietnam	11.1	15.5	18.3	17.5	10.8	7.2	4.4	2.8	-6.7
Subtotal	33.1	40.3	50.5	49.1	45.2	17.4	7.2	10.2	-3.9
All other sources	66.9	59.7	49.5	50.9	54.8	-17.4	-7.2	-10.2	3.9
Total imports	100.0	100.0	100.0	100.0	100.0	0.0	0.0	0.0	0.0
U.S. imports from:									
Indonesia:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Taiwan:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Vietnam:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Subtotal:									
Quantity	75,307	79,998	92,817	67,743	42,793	23.3	6.2	16.0	-36.8
Value	5,622	7,228	8,771	6,288	4,480	56.0	28.6	21.3	-28.7
Unit value	$74.66	$90.35	$94.49	$92.82	$104.69	26.6	21.0	4.6	12.8
Ending inventory quantity	7,872	13,000	9,272	11,140	7,686	17.8	65.1	-28.7	-31.0
All other sources:									
Quantity	89,718	89,271	72,615	54,693	54,122	-19.1	-0.5	-18.7	-1.0
Value	11,385	10,705	8,595	6,529	5,430	-24.5	-6.0	-19.7	-16.8
Unit value	$126.90	$119.92	$118.36	$119.38	$100.33	-6.7	-5.5	-1.3	-16.0
Ending inventory quantity	17,181	19,945	18,605	24,088	15,298	8.3	16.1	-6.7	-36.5
All sources:									
Quantity	165,025	169,269	165,432	122,436	96,915	0.2	2.6	-2.3	-20.8
Value	17,007	17,933	17,366	12,817	9,910	2.1	5.4	-3.2	-22.7
Unit value	$103.06	$105.94	$104.97	$104.68	$102.26	1.9	2.8	-0.9	-2.3
Ending inventory quantity	25,053	32,945	27,877	35,228	22,984	11.3	31.5	-15.4	-34.8

(1) "Reported data" are in percent and "period changes" are in percentage points.

Note.-- Although *** produces high-end PRCBs in the United States, it did not provide any trade data on such PRCBs.

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

Table C-3
All PRCBs excluding Inteplast: Summary data concerning the U.S. market, 2006-08, January-September 2008, and January-September 2009

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

	Reported data					Period changes			
				January-September					Jan.-Sept.
Item	2006	2007	2008	2008	2009	2006-08	2006-07	2007-08	2008-09
U.S. consumption quantity:									
Amount	108,266,796	105,303,892	101,449,633	74,422,263	74,546,715	-6.3	-2.7	-3.7	0.2
Producers' share (1)									
All producers excluding Inteplast	***	***	***	***	***	***	***	***	***
Inteplast	***	***	***	***	***	***	***	***	***
Total	***	***	***	***	***	***	***	***	***
Importers' share (1):									
Indonesia	1.5	3.2	2.8	3.2	2.0	1.3	1.8	-0.4	-1.2
Taiwan	2.0	3.8	4.5	4.8	3.0	2.5	1.8	0.7	-1.8
Vietnam	2.8	6.9	7.1	6.8	7.8	4.3	4.1	0.2	1.0
Subtotal	6.3	13.9	14.4	14.8	12.7	8.1	7.6	0.4	-2.0
China. Malaysia, and Thailand	26.9	15.3	18.6	17.4	16.6	-8.3	-11.6	3.3	-0.7
All other sources	5.1	4.5	2.9	3.0	3.8	-2.2	-0.6	-1.6	0.8
Total imports	38.3	33.7	35.8	35.1	33.2	-2.5	-4.6	2.1	-1.9
U.S. consumption value:									
Amount	1,294,816	1,389,493	1,487,404	1,085,214	793,447	14.9	7.3	7.0	-26.9
Producers' share (1)									
All producers excluding Inteplast	***	***	***	***	***	***	***	***	***
Inteplast	***	***	***	***	***	***	***	***	***
Total	***	***	***	***	***	***	***	***	***
Importers' share (1):									
Indonesia	2.0	3.3	2.8	3.0	1.6	0.8	1.3	-0.5	-1.4
Taiwan	1.5	3.0	3.8	4.0	2.5	2.3	1.5	0.8	-1.4
Vietnam	1.5	5.3	5.9	5.5	5.6	4.4	3.8	0.6	0.1
Subtotal	5.0	11.7	12.5	12.5	9.7	7.5	6.7	0.9	-2.8
China. Malaysia, and Thailand	17.0	16.4	17.2	16.4	14.2	0.2	-0.6	0.7	-2.2
All other sources	4.0	5.5	4.2	4.2	5.0	0.2	1.5	-1.3	0.8
Total imports	26.0	33.6	33.9	33.1	28.9	8.0	7.6	0.3	-4.2
U.S. imports from:									
Indonesia:									
Quantity	1,592,965	3,396,505	2,819,569	2,365,162	1,469,854	77.0	113.2	-17.0	-37.9
Value	25,400	45,808	40,948	33,005	12,998	61.2	80.3	-10.6	-60.6
Unit value	$15.95	$13.49	$14.52	$13.95	$8.84	-8.9	-15.4	7.7	-36.6
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Taiwan:									
Quantity	2,171,587	3,988,867	4,575,499	3,561,990	2,215,669	110.7	83.7	14.7	-37.8
Value	19,454	42,318	56,848	42,993	20,008	192.2	117.5	34.3	-53.5
Unit value	$8.96	$10.61	$12.42	$12.07	$9.03	38.7	18.4	17.1	-25.2
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Vietnam:									
Quantity	3,061,998	7,288,037	7,192,325	5,055,117	5,811,440	134.9	138.0	-1.3	15.0
Value	19,734	73,757	88,189	59,982	44,323	346.9	273.8	19.6	-26.1
Unit value	$6.44	$10.12	$12.26	$11.87	$7.63	90.3	57.0	21.2	-35.7
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Subtotal:									
Quantity	6,826,550	14,673,409	14,587,393	10,982,269	9,496,963	113.7	114.9	-0.6	-13.5
Value	64,588	161,884	185,986	135,980	77,328	188.0	150.6	14.9	-43.1
Unit value	$9.46	$11.03	$12.75	$12.38	$8.14	34.8	16.6	15.6	-34.2
Ending inventory quantity	668,553	1,184,206	1,485,017	1,615,175	1,584,666	122.1	77.1	25.4	-1.9
China. Malaysia, and Thailand:									
Quantity	29,079,228	16,114,332	18,833,894	12,928,070	12,408,875	-35.2	-44.6	16.9	-4.0
Value	219,763	228,082	255,232	177,532	112,403	16.1	3.8	11.9	-36.7
Unit value	$7.56	$14.15	$13.55	$13.73	$9.06	79.3	87.3	-4.3	-34.0
Ending inventory quantity	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
All other sources:									
Quantity	5,575,003	4,748,210	2,942,934	2,212,148	2,829,145	-47.2	-14.8	-38.0	27.9
Value	51,774	76,586	63,180	46,116	39,907	22.0	47.9	-17.5	-13.5
Unit value	$9.29	$16.13	$21.47	$20.85	$14.11	131.2	73.7	33.1	-32.3
Ending inventory quantity	1,525,185	2,500,051	2,575,341	2,552,719	2,480,862	68.9	63.9	3.0	-2.8
All sources:									
Quantity	41,480,781	35,535,951	36,364,221	26,122,487	24,734,983	-12.3	-14.3	2.3	-5.3
Value	336,125	466,552	504,398	359,628	229,639	50.1	38.8	8.1	-36.1
Unit value	$8.10	$13.13	$13.87	$13.77	$9.28	71.2	62.0	5.6	-32.6
Ending inventory quantity	2,193,738	3,684,257	4,060,358	4,167,894	4,065,528	85.1	67.9	10.2	-2.5

Table continued on next page.

Table C-3--Continued
All PRCBs excluding Inteplast: Summary data concerning the U.S. market, 2006-08, January-September 2008, and January-September 2009

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

	Reported data					Period changes			
				January-September					Jan.-Sept.
Item	2006	2007	2008	2008	2009	2006-08	2006-07	2007-08	2008-09
U.S. producers':									
Average capacity quantity	***	***	***	***	***	***	***	***	***
Production quantity	***	***	***	***	***	***	***	***	***
Capacity utilization (1)	***	***	***	***	***	***	***	***	***
U.S. shipments:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Export shipments:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Inventories/total shipments (1)	***	***	***	***	***	***	***	***	***
Production workers	***	***	***	***	***	***	***	***	***
Hours worked (1,000s)	***	***	***	***	***	***	***	***	***
Wages paid ($1,000s)	***	***	***	***	***	***	***	***	***
Hourly wages	***	***	***	***	***	***	***	***	***
Productivity (bags per hour)	***	***	***	***	***	***	***	***	***
Unit labor costs	***	***	***	***	***	***	***	***	***
Net sales:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Cost of goods sold (COGS)	***	***	***	***	***	***	***	***	***
Gross profit or (loss)	***	***	***	***	***	***	***	***	***
SG&A expenses	***	***	***	***	***	***	***	***	***
Operating income or (loss)	***	***	***	***	***	***	***	***	***
Capital expenditures	***	***	***	***	***	***	***	***	***
Unit COGS	***	***	***	***	***	***	***	***	***
Unit SG&A expenses	***	***	***	***	***	***	***	***	***
Unit operating income or (loss)	***	***	***	***	***	***	***	***	***
COGS/sales (1)	***	***	***	***	***	***	***	***	***
Operating income or (loss)/ sales (1)	***	***	***	***	***	***	***	***	***
Inteplast:									
U.S. shipments:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***

(1) "Reported data" are in percent and "period changes" are in percentage points.
(2) Not available/not applicable.

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

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

Table C-4
All PRCBs: Summary data concerning the U.S. market (including * revisions), 2006-08, January-September 2008, and January-September 2009**

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

	Reported data					Period changes			
				January-September					Jan.-Sept.
Item	2006	2007	2008	2008	2009	2006-08	2006-07	2007-08	2008-09
U.S. consumption quantity:									
Amount	108,723,360	105,303,892	101,449,633	74,422,263	74,546,715	-6.7	-3.1	-3.7	0.2
Producers' share (1)	61.4	66.3	64.2	64.9	66.8	2.7	4.8	-2.1	1.9
Importers' share (1):									
Indonesia	1.9	3.2	2.8	3.2	2.0	0.9	1.3	-0.4	-1.2
Taiwan	2.0	3.8	4.5	4.8	3.0	2.5	1.8	0.7	-1.8
Vietnam	2.8	6.9	7.1	6.8	7.8	4.3	4.1	0.2	1.0
Subtotal	6.7	13.9	14.4	14.8	12.7	7.7	7.2	0.4	-2.0
China. Malaysia, and Thailand	26.7	15.3	18.6	17.4	16.6	-8.2	-11.4	3.3	-0.7
All other sources	5.1	4.5	2.9	3.0	3.8	-2.2	-0.6	-1.6	0.8
Total imports	38.6	33.7	35.8	35.1	33.2	-2.7	-4.8	2.1	-1.9
U.S. consumption value:									
Amount	1,308,586	1,389,493	1,487,404	1,085,214	793,447	13.7	6.2	7.0	-26.9
Producers' share (1)	73.3	66.4	66.1	66.9	71.1	-7.2	-6.8	-0.3	4.2
Importers' share (1):									
Indonesia	3.0	3.3	2.8	3.0	1.6	-0.2	0.3	-0.5	-1.4
Taiwan	1.5	3.0	3.8	4.0	2.5	2.3	1.6	0.8	-1.4
Vietnam	1.5	5.3	5.9	5.5	5.6	4.4	3.8	0.6	0.1
Subtotal	6.0	11.7	12.5	12.5	9.7	6.5	5.7	0.9	-2.8
China. Malaysia, and Thailand	16.8	16.4	17.2	16.4	14.2	0.4	-0.4	0.7	-2.2
All other sources	4.0	5.5	4.2	4.2	5.0	0.3	1.6	-1.3	0.8
Total imports	26.7	33.6	33.9	33.1	28.9	7.2	6.8	0.3	-4.2
U.S. imports from:									
Indonesia:									
Quantity	2,049,529	3,396,505	2,819,569	2,365,162	1,469,854	37.6	65.7	-17.0	-37.9
Value	39,170	45,808	40,948	33,005	12,998	4.5	16.9	-10.6	-60.6
Unit value	$19.11	$13.49	$14.52	$13.95	$8.84	-24.0	-29.4	7.7	-36.6
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Taiwan:									
Quantity	2,171,587	3,988,867	4,575,499	3,561,990	2,215,669	110.7	83.7	14.7	-37.8
Value	19,454	42,318	56,848	42,993	20,008	192.2	117.5	34.3	-53.5
Unit value	$8.96	$10.61	$12.42	$12.07	$9.03	38.7	18.4	17.1	-25.2
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Vietnam:									
Quantity	3,061,998	7,288,037	7,192,325	5,055,117	5,811,440	134.9	138.0	-1.3	15.0
Value	19,734	73,757	88,189	59,982	44,323	346.9	273.8	19.6	-26.1
Unit value	$6.44	$10.12	$12.26	$11.87	$7.63	90.3	57.0	21.2	-35.7
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Subtotal:									
Quantity	7,283,114	14,673,409	14,587,393	10,982,269	9,496,963	100.3	101.5	-0.6	-13.5
Value	78,358	161,884	185,986	135,980	77,328	137.4	106.6	14.9	-43.1
Unit value	$10.76	$11.03	$12.75	$12.38	$8.14	18.5	2.5	15.6	-34.2
Ending inventory quantity	668,553	1,184,206	1,485,017	1,615,175	1,584,666	122.1	77.1	25.4	-1.9
China. Malaysia, and Thailand:									
Quantity	29,079,228	16,114,332	18,833,894	12,928,070	12,408,875	-35.2	-44.6	16.9	-4.0
Value	219,763	228,082	255,232	177,532	112,403	16.1	3.8	11.9	-36.7
Unit value	$7.56	$14.15	$13.55	$13.73	$9.06	79.3	87.3	-4.3	-34.0
Ending inventory quantity	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
All other sources:									
Quantity	5,575,003	4,748,210	2,942,934	2,212,148	2,829,145	-47.2	-14.8	-38.0	27.9
Value	51,774	76,586	63,180	46,116	39,907	22.0	47.9	-17.5	-13.5
Unit value	$9.29	$16.13	$21.47	$20.85	$14.11	131.2	73.7	33.1	-32.3
Ending inventory quantity	1,525,185	2,500,051	2,575,341	2,552,719	2,480,862	68.9	63.9	3.0	-2.8
All sources:									
Quantity	41,937,345	35,535,951	36,364,221	26,122,487	24,734,983	-13.3	-15.3	2.3	-5.3
Value	349,895	466,552	504,398	359,628	229,639	44.2	33.3	8.1	-36.1
Unit value	$8.34	$13.13	$13.87	$13.77	$9.28	66.3	57.4	5.6	-32.6
Ending inventory quantity	2,193,738	3,684,257	4,060,358	4,167,894	4,065,528	85.1	67.9	10.2	-2.5

Table continued on next page.

Table C-4--Continued
All PRCBs: Summary data concerning the U.S. market (including * revisions), 2006-08, January-September 2008, and January-September 2009**

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

	Reported data					Period changes			
				January-September					Jan.-Sept.
Item	2006	2007	2008	2008	2009	2006-08	2006-07	2007-08	2008-09
U.S. producers':									
Average capacity quantity	83,182,701	83,232,332	79,737,217	60,936,535	67,365,922	-4.1	0.1	-4.2	10.6
Production quantity	70,212,269	72,320,872	66,276,349	51,085,031	51,516,891	-5.6	3.0	-8.4	0.8
Capacity utilization (1)	84.4	86.9	83.1	83.8	76.5	-1.3	2.5	-3.8	-7.4
U.S. shipments:									
Quantity	66,786,015	69,767,941	65,085,412	48,299,776	49,811,732	-2.5	4.5	-6.7	3.1
Value	958,691	922,941	983,006	725,586	563,808	2.5	-3.7	6.5	-22.3
Unit value	$14.35	$13.23	$15.10	$15.02	$11.32	5.2	-7.8	14.2	-24.7
Export shipments:									
Quantity	2,207,673	2,351,519	2,209,901	1,574,534	1,400,301	0.1	6.5	-6.0	-11.1
Value	37,645	38,575	30,330	21,908	16,549	-19.4	2.5	-21.4	-24.5
Unit value	$17.05	$16.40	$13.72	$13.91	$11.82	-19.5	-3.8	-16.3	-15.1
Ending inventory quantity	3,800,923	3,995,589	2,976,270	5,202,339	3,350,997	-21.7	5.1	-25.5	-35.6
Inventories/total shipments (1)	5.5	5.5	4.4	7.8	4.9	-1.1	0.0	-1.1	-2.9
Production workers	3,495	3,160	2,971	3,011	2,874	-15.0	-9.6	-6.0	-4.5
Hours worked (1,000s)	7,597	7,154	6,903	5,108	4,903	-9.1	-5.8	-3.5	-4.0
Wages paid ($1,000s)	95,452	105,602	103,881	80,564	75,528	8.8	10.6	-1.6	-6.3
Hourly wages	$12.56	$14.76	$15.05	$15.77	$15.41	19.8	17.5	1.9	-2.3
Productivity (bags per hour)	9,242	10,109	9,601	10,001	10,508	3.9	9.4	-5.0	5.1
Unit labor costs	$1.36	$1.46	$1.57	$1.58	$1.47	15.3	7.4	7.3	-7.0
Net sales:									
Quantity	68,728,820	72,926,211	67,241,013	49,874,583	51,209,397	-2.2	6.1	-7.8	2.7
Value	996,078	971,203	1,008,444	747,446	580,137	1.2	-2.5	3.8	-22.4
Unit value	$14.49	$13.32	$15.00	$14.99	$11.33	3.5	-8.1	12.6	-24.4
Cost of goods sold (COGS)	896,911	874,034	937,213	689,309	502,469	4.5	-2.6	7.2	-27.1
Gross profit or (loss)	99,167	97,169	71,231	58,137	77,668	-28.2	-2.0	-26.7	33.6
SG&A expenses	94,307	90,407	103,228	62,737	53,070	9.5	-4.1	14.2	-15.4
Operating income or (loss)	4,860	6,762	(31,997)	(4,600)	24,598	(2)	39.1	(2)	(2)
Capital expenditures	38,799	17,643	14,548	10,300	6,044	-62.5	-54.5	-17.5	-41.3
Unit COGS	$13.05	$11.99	$13.94	$13.82	$9.81	6.8	-8.2	16.3	-29.0
Unit SG&A expenses	$1.37	$1.24	$1.54	$1.26	$1.04	11.9	-9.7	23.8	-17.6
Unit operating income or (loss)	$0.07	$0.09	($0.48)	($0.09)	$0.48	(2)	31.1	(2)	(2)
COGS/sales (1)	90.0	90.0	92.9	92.2	86.6	2.9	-0.0	2.9	-5.6
Operating income or (loss)/ sales (1)	0.5	0.7	-3.2	-0.6	4.2	-3.7	0.2	-3.9	4.9

(1) "Reported data" are in percent and "period changes" are in percentage points.
(2) Not available/not applicable.

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

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

APPENDIX D

PRICE DATA REGARDING PRCBs
IN UNITS OF 1,000 BAGS

Table D-1
PRCBs: Weighted-average f.o.b. prices and quantities of domestic and subject imported product 1, and margins of (overselling)/underselling, by quarters, January 2006-September 2009

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Table D-2
PRCBs: Weighted-average f.o.b. prices and quantities of domestic and subject imported product 2, and margins of (overselling)/underselling, by quarters, January 2006-September 2009

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Table D-3
PRCBs: Weighted-average f.o.b. prices and quantities of domestic and subject imported product 3, and margins of (overselling)/underselling, by quarters, January 2006-September 2009

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Table D-4
PRCBs: Weighted-average f.o.b. prices and quantities of domestic and subject imported product 4, and margins of (overselling)/underselling, by quarters, January 2006-September 2009

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Table D-5
PRCBs: Weighted-average f.o.b. prices and quantities of domestic and subject imported product 5, and margins of (overselling)/underselling, by quarters, January 2006-September 2009

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Table D-6
PRCBs: Weighted-average f.o.b. prices and quantities of domestic and subject imported product 6, and margins of (overselling)/underselling, by quarters, January 2006-September 2009

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Table D-7
PRCBs: Weighted-average f.o.b. prices and quantities of domestic and subject imported product 7, and margins of (overselling)/underselling, by quarters, January 2006-September 2009

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Table D-8
PRCBs: Weighted-average f.o.b. prices and quantities of domestic and subject imported product 8, and margins of (overselling)/underselling, by quarters, January 2006-September 2009

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Figure D-1
PRCBs: Weighted-average f.o.b. prices and quantities of domestic and imported product 1, by quarters, January 2006-September 2009

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Figure D-2
PRCBs: Weighted-average f.o.b. prices and quantities of domestic and imported product 2, by quarters, January 2006-September 2009

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Figure D-3
PRCBs: Weighted-average f.o.b. prices and quantities of domestic and imported product 3, by quarters, January 2006-September 2009

* * * * * * *

Figure D-4
PRCBs: Weighted-average f.o.b. prices and quantities of domestic and imported product 4, by quarters, January 2006-September 2009

* * * * * * *

Figure D-5
PRCBs: Weighted-average f.o.b. prices and quantities of domestic and imported product 5, by quarters, January 2006-September 2009

* * * * * * *

Figure D-6
PRCBs: Weighted-average f.o.b. prices and quantities of domestic and imported product 6, by quarters, January 2006-September 2009

* * * * * * *

Figure D-7
PRCBs: Weighted-average f.o.b. prices and quantities of domestic and imported product 7, by quarters, January 2006-September 2009

* * * * * * *

Figure D-8
PRCBs: Weighted-average f.o.b. prices and quantities of domestic and imported product 8, by quarters, January 2006-September 2009

* * * * * * *

APPENDIX E

PER-POUND DELIVERED PRICES OF PRCBs IMPORTED DIRECTLY BY PURCHASERS

Table E-1
PRCBs: Weighted-average delivered purchase prices and quantities of imported product 2, by quarters, January 2006-September 2009

* * * * * * *

Table E-2
PRCBs: Weighted-average delivered purchase prices and quantities of imported product 3, by quarters, January 2006-September 2009

* * * * * * *

Table E-3
PRCBs: Weighted-average delivered purchase prices and quantities of imported product 5, by quarters, January 2006-September 2009

* * * * * * *

APPENDIX F

PER-POUND PRICES AND QUANTITIES OF PRCBs FROM THE UNITED STATES, SUBJECT, AND NONSUBJECT COUNTRIES

Nonsubject Price Comparisons

Presented graphically below in figures F-1 through F-8 are quarterly pricing and quantity data for PRCBs from the United States, Indonesia, Taiwan, Vietnam, and nonsubject countries China and Thailand. Data were also requested for nonsubject country Malaysia, but none were received from importers ***.

When comparing domestic pricing data to pricing data from all nonsubject countries, there were 196 possible pricing comparisons, of which domestic PRCBs were priced higher in more than half of the comparisons (111). When comparing Indonesian pricing data to pricing data from all nonsubject countries, there were 134 possible pricing comparisons, with Indonesian PRCB prices lower than nonsubject-country prices in 84 comparisons. For PRCBs imported from Taiwan, the subject product was priced lower than nonsubject-country PRCBs in 54 of 101 possible comparisons. Lastly, PRCBs from Vietnam were price lower than nonsubject-country PRCBs in 121 of 194 possible quarterly comparisons.

Figure F-1
PRCBs: Weighted-average f.o.b. selling prices and quantities of product 1 as reported by U.S. producers and importers, on a per-pound basis, by quarters, January 2006-September 2009

* * * * * * *

Figure F-2
PRCBs: Weighted-average f.o.b. selling prices and quantities of product 2 as reported by U.S. producers and importers, on a per-pound basis, by quarters, January 2006-September 2009

* * * * * * *

Figure F-3
PRCBs: Weighted-average f.o.b. selling prices and quantities of product 3 as reported by U.S. producers and importers, on a per-pound basis, by quarters, January 2006-September 2009

* * * * * * *

Figure F-4
PRCBs: Weighted-average f.o.b. selling prices and quantities of product 4 as reported by U.S. producers and importers, on a per-pound basis, by quarters, January 2006-September 2009

* * * * * * *

Figure F-5
PRCBs: Weighted-average f.o.b. selling prices and quantities of product 5 as reported by U.S. producers and importers, on a per-pound basis, by quarters, January 2006-September 2009

* * * * * * *

Figure F-6
PRCBs: Weighted-average f.o.b. selling prices and quantities of product 6 as reported by U.S. producers and importers, on a per-pound basis, by quarters, January 2006-September 2009

* * * * * * *

Figure F-7
PRCBs: Weighted-average f.o.b. selling prices and quantities of product 7 as reported by U.S. producers and importers, on a per-pound basis, by quarters, January 2006-September 2009

* * * * * * *

Figure F-8
PRCBs: Weighted-average f.o.b. selling prices and quantities of product 8 as reported by U.S. producers and importers, on a per-pound basis, by quarters, January 2006-September 2009

* * * * * * *

APPENDIX G

FINANCIAL RESULTS OF U.S. PRODUCERS ON THEIR COMBINED DOMESTIC OPERATIONS AND IMPORTS OF SUBJECT PRCBs

The Commission's questionnaire requested U.S. producers to provide combined data on their domestic operations on PRCBs with their imports or purchases of PRCBs from Indonesia, Taiwan, and Vietnam. Six U.S. producers provided usable data,[1] which are presented in table G-1.

Table G-1
PRCBs: Results of domestic and subject import/purchase operations of U.S. producers, fiscal years 2006-08, January-September 2008, and January-September 2009

* * * * * * *

The six reporting firms combined here had operating losses in 2006 and 2007 compared with operating profits for the 13 reporting firms shown in table VI-1, but the operating loss here in 2008 was *** lower than in table VI-1. ***. On the other hand, imports in 2008 by ***[2] ***. Comparing the ratio of operating income to total net sales for these six firms on their domestic operations (shown in table VI-2) with their reported results in question V-1 of the questionnaire on results of combined operations shows mixed results: in 2008, the average ratio for the combined operations in table G-1 represented ***.

The results of operations on the imported or purchased subject PRCBs by the six reporting firms together are shown in table G-2. These data were calculated by subtracting the domestic operations of each of the six reporting firms (table VI-2) from their combined domestic and subject import/purchase operations (as reported in the firm's questionnaire responses and shown in table G-1). Comparing tables VI-1 with table G-1 and VI-2 with G-2, indicates that in general, the subject imports are sold for lower unit values than the firms' domestic PRCBs, but sales of the imported or purchased subject product are more profitable than sales of domestically produced product alone.

Table G-2
PRCBs: Results of subject import/purchase operations of U.S. producers, fiscal years 2006-08, January-September 2008, and January-September 2009

* * * * * * *

Table G-3 presents sales, COGS, and operating results of subject import/purchase operations of U.S. producers on a firm-by-firm basis as well as these firms' imports or purchases of subject PRCBs. Like the data in table G-2, these data were calculated by subtracting the domestic operations of each of the six reporting firms (shown in table VI-2) from their combined domestic and subject import/purchase operations. The data in tables G-2 and G-3 are comparable. Differences between total imports or purchases of subject PRCBs and total sales of subject PRCBs reflect changes in inventory.

Table G-3
PRCBs: Results of subject import or purchase operations of U.S. producers, by firms, fiscal years 2006-08, January-September 2008, and January-September 2009

* * * * * * *

[1] These firms were: ***. There are no timing differences between the financial and trade data reported in response to question V-1 of the Commission's U.S. producers' questionnaire, from which these data were obtained.

[2] ***.

APPENDIX H

ALLEGED EFFECTS OF SUBJECT IMPORTS ON PRODUCERS' EXISTING DEVELOPMENT AND PRODUCTION EFFORTS, GROWTH, INVESTMENT, AND ABILITY TO RAISE CAPITAL

Presented below are the responses of U.S. producers to the following question: Since January 1, 2006, has your firm experienced any actual negative effects on its return on investment or its growth, investment, ability to raise capital, existing development and production efforts (including efforts to develop a derivative or more advanced version of the product), or the scale of capital investments as a result of imports of PRCBs from Indonesia, Taiwan, and Vietnam?

***

> "Yes. The cancellation, postponement, or rejection of expansion projects. Other–We have experienced extreme pressure and have been unable to increase the amount of our line of credit. This response does not differ by country."

***

> "Yes. The cancellation, postponement, or rejection of expansion projects; denial or rejection of investment proposal; a reduction in the size of capital investments. Other–subject imports have had a negative impact on our profitability."

***

> "Yes. Lowering of credit limits by suppliers {of such inputs as} resin."

***

> "Yes. The cancellation, postponement, or rejection of expansion projects; reduction in the size of capital investments. Other–We have been negatively affected by pricing pressures and loss of customers to lower priced imports from these countries. These imports limit our ability to grow the business and to engage in long-term planning. Unfair imports have resulted in the loss of American manufacturing jobs."

***

> "Yes. Other–impaired growth/loss of margin/reduced income and ROIC. Response does not differ by country."

***

> "Yes. The cancellation or rejection of expansion projects; denial or rejection of investment proposals; and reduction in the size of capital investments. Other–The plant was originally set up *** to supply PRCBs. As a result of the surge in imports of PRCBs from Asia, which started in the mid 1990s, we have switched capacity as far as possible to industrial products. It is not possible to convert some *** of capacity from PRCBs since the equipment on which it is made is specialized. The flood of imported PRCBs from Asia was stemmed after the anti-dumping action versus China, Malaysia,and Thailand, but the PRCBs are now reappearing from Indonesia, Taiwan, and Vietnam. We currently have an open capital expenditures request for $*** to convert equipment to the production of PRCBs. Leveling the playing field between imports and domestic manufacture is a key factor in moving ahead with this."

***

"Yes. Other–other parts of *** have performed better than the US PRCB production division. As such, most capital investment has been diverted to the higher growth divisions."

***

"No."

***

"Yes. A reduction in the size of capital investments. Other–suffered lost sales, price and margin compression, and a sharp decline in profits specifically due to imports from Vietnam, Taiwan, and Indonesia. These imports were a major contributor to ***."

***

"No."

***

"No."

***

"No."

***

"Yes. The cancellation, postponement, or rejection of expansion projects; reduction in the size of capital investments. Other–Imports from Indonesia, Taiwan, and Vietnam have grabbed market share from ***. To compete with these dumped and subsidized imports, *** has had to drop prices substantially, yet we have still lost a large volume of sales. Consequently, *** has run at lower capacity utilization rates which has increased unit costs. The combination of lower prices and higher unit costs has caused profits to decrease. Certain of these {lost} sales have been especially damaging. For example, we lost business at *** beginning at the the beginning of the 3rd quarter of 2008 through the 2nd quarter of 2009. This resulted in a drop in production ***, and we were, therefore, forced to lay off workers. Our payroll records show that the number of employees dropped significantly in late May and early June 2008 with a continual decline through mid-September 2008 with approximately *** employees being laid off. We were able to win back some of this business in the 3rd quarter of 2009 due to the filing of the petition. This response applies to all countries and all products."

Presented below are the responses of U.S. producers to the following question: Does your firm anticipate any negative impact of imports of high-end PRCBs from Indonesia, Taiwan, and Vietnam?

***

"Yes. The availability of imported high-end PRCBs takes away from the total market. This takes away from our sales volume potential and adds price pressure. Moreover, *** has a plan in place to ***. This investment would not be a success if relief is not granted from imports of high-end PRCBs. This response does not differ by country."

***

"No."

***

"Yes."

***

"Yes. All imports of PRCBs from these countries negatively impact U.S. producers."

***

"Yes. All of the answers to the previous question apply. In addition two of *** PRCBs' offerings compete directly with high-end bags because their use is 100% interchangeable."

***

"Yes. With the antidumping duties on t-shirt bags and merchandise bags, customers can look into possibilities to purchase high-end PRCBs if pricing is low from these countries."

***

"No. Our firm does not think there is any negative impact of imports of high-end PRCBs from Indonesia, Taiwan, and Vietnam."

***

"We do not recognize a category of PRCBs that you refer to as high-end. All imports from these countries negatively impact sales by American producers. Imported PRCBs compete unfairly with American PRCBs for sales."

***

"None."

***

"Yes. We compete head-to-head with these products and anticipate continued and increasingly impaired growth, reduced income, and reduced ROIC. Our *** product is a high quality PRCB. Unfair dumped prices of imported high-end PRCBs can take sales and prevent profit realization on our high quality products. Response does not differ by country."

***

"Yes. There is only so much demand in the market. When imported high-end PRCBs take premium business, *** and other domestic producers are forced to compete for other, highly price-sensitive customers. This response does not differ by country."

***

"No."

***

"We produce PRCBs that do not meet the Commission's definition of high-end bags but do compete directly with them. We lose sales of our bags to unfairly traded high-end PRCBs from these countries. We will continue to lose sales until the imports cease being unfairly dumped and subsidized."

Presented below are the responses of U.S. producers to the following question: Does your firm anticipate any negative impact of imports of PRCBs other than high-end from Indonesia, Taiwan, and Vietnam?

***

"No."

***

"Yes. An even greater reduction in margins, lost sales, inability to pass along cost of raw material increases, reduction in production including shutting down lines and/or shutting down equipment with substantial layoffs. Our financial results would have been substantially worse during January-September 2009 had *** this petition. The *** petition and the imposition of preliminary duties have allowed *** to increase sales and achieve higher margins. In particular, the petition *** allowed us to regain substantial *** business lost to subject imports in 2008. If the Commission reaches a negative final determination and the duties are eliminated, we are very likely to lose the *** business again, to lose other customers, and to suffer lower margins and negative profits. This would force us to lay off employees and place our continued operation at serious risk. This is true for all countries."

***

"Yes, we expect a negative impact from low priced imports from all three countries."

***

"Yes. Large amounts of PRCBs are already imported from these countries with low cost and take over a large market share. A lot of importers are turning to these countries to secure cheap products and damaging U.S. manufacturers. Due to antidumping imposed on China and others, some factories had moved to these countries and make even cheaper bags to compete in the United States."

***

"No. Our firm does not think there is any negative impact of imports of PRCBs other than high-end from Indonesia, Taiwan, and Vietnam."

***

"No."

***

"Yes. Price erosion, loss of business, lower profits, reduced growth, reduction of U.S. employees, cancellation of expansion projects, reduction in the size of manufacturing facility or possible plant closure."

***

"Yes. On-going pricing pressure will continue to constrain our production scale and our ability to finance equpment and material purchases. This response does not differ by country."

***

"No. Our firm does not anticipate any negative impact of imports of PRCBs from Indonesia, Taiwan, and/or Vietnam. We actually anticipate positive impacts from imports. In the past, imports of PRCBs from China had a negative impact in the U.S. market due to unfair competition. At the time, the selling price was lower than variable cost (PE resin plus conversion plus ocean freight plus inland freight), and ***. These same issues are not present for imports from Taiwan and Vietnam. We *** and fulfill customer demand. Furthermore, imports help *** in fulfilling customers' contracts in almost all of the special design carry out bags such as soft loop handle, patched handle, rigid handle round die cut handle, rope handle, square bottom, etc., as well as bags with complicated printing (more than 4 color print) and process print for which U.S. producers cannot meet demand. Therefore, *** Taiwan and Vietnam. However, ***."

***

"Yes. The imports from Indonesia are the worst by far. We see no impact from Taiwan and very little from Vietnam."

***

"Yes. If unfair trade is not stopped by this case, we will certainly suffer even more price erosion and lost sales due to growth of imports from these countries. This will also reduce investment and employment at ***."

***

"Yes. An even greater reduction in margins, lost sales, inability to pass cost of raw material increases, reduction in production including shutting down lines and/or shutting down equipment with substantial layoffs."

***

"Yes. We compete head-to-head with these products and anticipate continued and increasingly impaired growth, reduced income, and reduced ROIC. Response does not differ by country."

***

"Yes. If unfair trading of imports from Vietnam, Taiwan, and Indonesia were to continue, *** will suffer additional lost sales, its prices will continue to compress and profitability will continue to deteriorate. Under such circumstances, *** will be forced to close *** and to cut *** manufacturing and support staff jobs. Fortunately, *** performance has improved since the filing of the petition. Customers have been reluctant to source imports due to the risk of high duties from the pending petition. In fact, numerous customers formerly sourcing imports have contacted us for new business. The reluctance of customers to source subject imports also has had positive effects and contributed to higher margins in 2009, which flowed through to our bottom line. If final duties are not imposed, however, we will lose these recent benefits of the petition and suffer the negative profits and other adverse effects from unfairly priced imports that we experienced prior to the petition. Response does not vary by country."

***

"We anticipate that without relief from unfair imports from these countries we will continue to lose volume and prices will continue to be negatively affected. Lost sales volume will reduce employment. Poor returns on sales will limit capital investment and preclude investment planning."