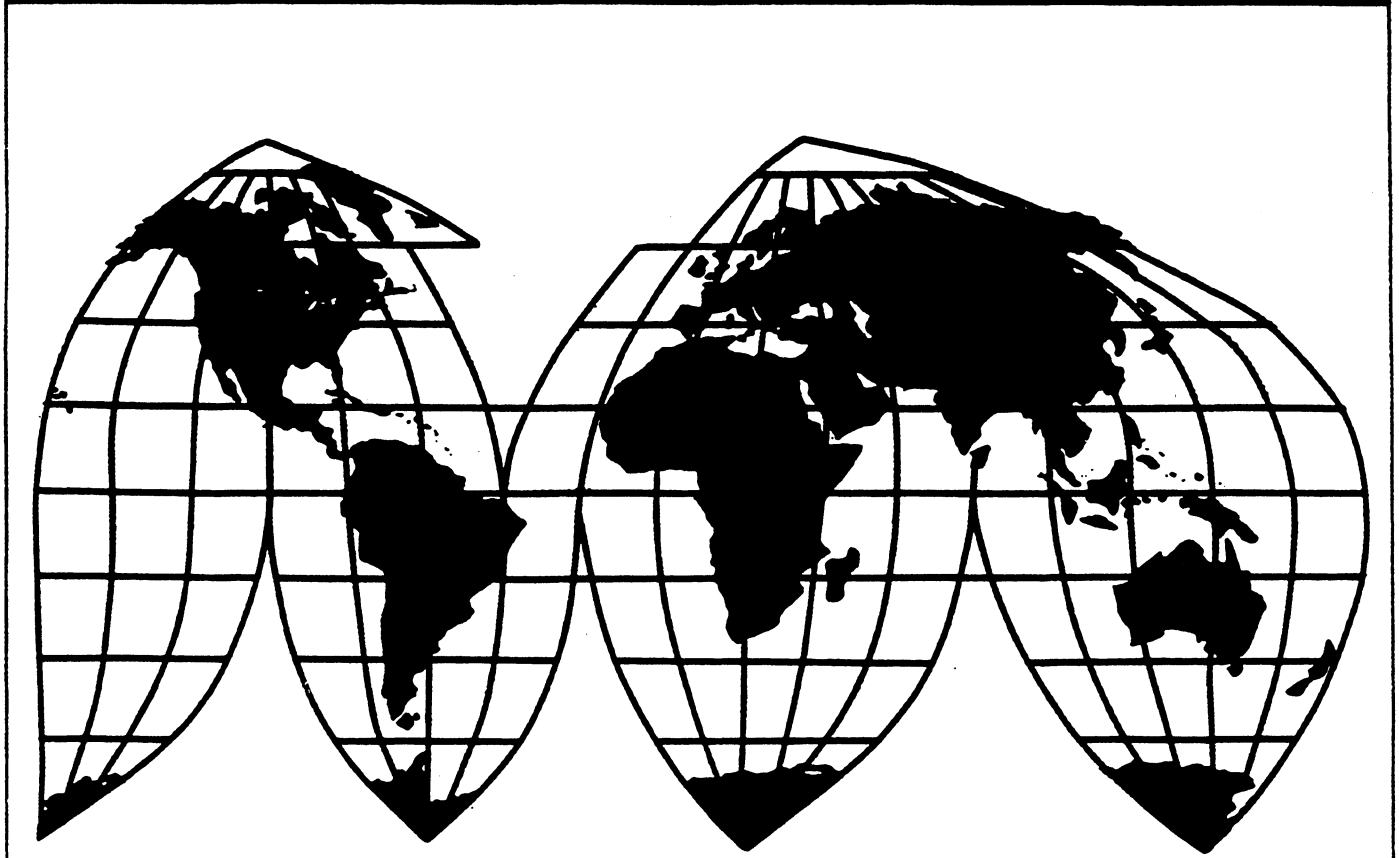
Foam Extruded PVC and Polystyrene Framing Stock from the United Kingdom

Investigation No. 731-TA-738 (Preliminary)

Publication 2930 **October 1995**

U.S. International Trade Commission



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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-738 (Preliminary)

FOAM EXTRUDED PVC AND POLYSTYRENE FRAMING STOCK FROM THE UNITED KINGDOM

Determination

On the basis of the record[1] developed in the subject investigation, the Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)), that there is a reasonable indication that an industry in the United States is threatened with material injury[2] by reason of imports from the United Kingdom of foam extruded PVC and polystyrene framing stock,[3] provided for in subheadings 3924.90.20, 3926.90.90, 3926.90.95, and 3926.90.98 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).

Background

On September 8, 1995, a petition was filed with the Commission and the Department of Commerce by Marley Mouldings, Inc., Marion, VA, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of foam extruded PVC and polystyrene framing stock from the United Kingdom. Accordingly, effective September 8, 1995, the Commission instituted antidumping investigation No. 731-TA-738 (Preliminary). The petition in this investigation was filed subsequent to the effective date of the Uruguay Round Agreements Act ("URRA"). This investigation, thus, is subject to the substantive and procedural rules of the law as modified by the URAA. See P.L. 103-465, approved Dec. 8, 1994, Stat 4809, at § 291.

Notice of the institution of the Commission's investigation and of a public conference 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 September 18, 1995 (60 F.R. 48167). The conference was held in Washington, DC, on September 29, 1995, 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] Commissioner Carol T. Crawford and Commissioner Lynn M. Bragg find that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from the United Kingdom of foam extruded PVC and polystyrene framing stock that are alleged to be sold in the United States at LTFV.

[3] For purposes of this investigation, the subject product consists of all extruded PVC and polystyrene framing stock regardless of color, finish, width or length. Finished frames assembled from foam extruded PVC and polystyrene framing stock are excluded.

VIEWS OF THE COMMISSION

Based on the record in this preliminary investigation, we find that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of foam extruded PVC and polystyrene ("PVC/polystyrene") framing stock from the United Kingdom that are allegedly sold in the United States at less than fair value ("LTFV").[1] [2] [3]

I. THE LEGAL STANDARD FOR PRELIMINARY DETERMINATIONS

The legal standard in preliminary antidumping investigations requires the Commission to determine, based upon the information available at the time of the preliminary determination, whether there is a reasonable indication that a domestic industry is materially injured, or threatened with material injury, by reason of the allegedly LTFV imports.[4] In applying this standard, the Commission weighs the evidence before it and determines whether "(1) the record as a whole contains clear and convincing evidence that there is no material injury or threat of such injury; and (2) no likelihood exists that contrary evidence will arise in a final investigation."[5]

II. DOMESTIC LIKE PRODUCT AND INDUSTRY

A. In General

To determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of the subject imports, the Commission first defines the "domestic like product" and the "industry."[6] Section 771(4)(A) of the Act defines the relevant industry as the "producers as a [w]hole 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."[7] In turn, the Act defines "domestic like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation. . . ."[8]

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[1] Commissioner Crawford and Commissioner Bragg find that there is a reasonable indication that the domestic industry is materially injured by reason of the subject imports. See Views of Commissioner Crawford and Views of Commissioner Bragg. They join in sections I, II, and III of this opinion.

[2] Whether there is a reasonable indication that the establishment of an industry in the United States is materially retarded is not an issue in this investigation.

[3] This investigation is subject to the Uruguay Round Agreements Act ("URAA") amendments to the Tariff Act of 1930 ("the Act"). P.L. 103-465, approved Dec. 8, 1994, 108 Stat. 4809. 19 U.S.C. § 1671 et seq., as amended.

[4] 19 U.S.C. § 1673b(a); see also American Lamb Co. v. United States, 785 F.2d 994 (Fed. Cir. 1986); Calabrian Corp. v. United States, 794 F.Supp. 377, 381 (Ct. Int'l Trade 1992).

[5] American Lamb 785 F.2d at 1001; see also Texas Crushed Stone Co. v. United States, 35 F.3rd 1535, 1543 (Fed. Cir. 1994).

[6] 19 U.S.C. § 1677(4)(A).

[7] 19 U.S.C. § 1677(4)(A).

[8] 19 U.S.C. § 1677(10).

Our decision regarding the appropriate domestic like product(s) in an investigation is a factual determination, and we apply the statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis.[9] No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.[10] The Commission looks for clear dividing lines among possible like products, and disregards minor variations.[11]

In its initiation notice, Commerce defined the imported subject merchandise as

> all extruded PVC and polystyrene framing stock regardless of color, finish, width or length. Finished frames assembled from foam extruded PVC and polystyrene framing stock are excluded.[12]

The subject merchandise is framing stock consisting of an extruded shape or "profile" on which finishes are applied to obtain a specific look.[13] Framing stock is used to manufacture frames for pictures and mirrors.[14]

B. Analysis of Domestic Like Product Issues

We considered three domestic like product issues[15] in this preliminary investigation: (1) whether PVC and polystyrene framing stock should be defined as a single domestic like product; (2) whether the domestic like product should be defined more broadly than the subject merchandise to include framing stock of wood, metal and other non-subject materials; and (3) whether the domestic like product should be defined more broadly than the subject merchandise to include the downstream product, finished frames. For the reasons discussed below, we find a single domestic like product consisting of PVC and polystyrene framing stock and do not broaden the definition of the domestic like product to include either framing stock of wood, metal, or other non-subject materials, or finished frames.

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[9] See, e.g., Nippon Steel Corp. v. United States, Slip Op. 95-57 at 11 (Ct. Int'l Trade, Apr. 3. 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'"). In analyzing domestic like product issues, the Commission generally considers a number of factors including: (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 Aramide Mattschappi, V.O.F. v. United States, Slip Op. 95-113 at 4 (Ct. Int'l Trade, June 19, 1995); Calabrian Corp. v. United States, 794 F. Supp. 377, 382 n.4 (Ct. Int'l Trade 1992).

[10] E.g., S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

[11] Torrington, 747 F. Supp. at 748-49.

[12] See Initiation of Antidumping Duty investigation: Foam Extruded PVC and Polystyrene Framing Stock from the United Kingdom, 60 Fed. Reg. 52370, 52371 (October 6, 1995). Confidential Report ("CR") at B-5, Public Report ("PR") at B-5.

[13] CR at I-3 and I-4. PR at I-2.

[14] CR at I-3, PR at I-2.

[15] Both petitioner and respondents agreed that there should be one domestic like product, consisting of foam extruded PVC and polystyrene framing stock, for purposes of this preliminary investigation. See Petitioner's Postconference Brief at 5-17. Transcript ("TR") at 164.

1. PVC and Polystyrene

PVC and polystyrene framing stock share the same essential physical characteristics,[16] although each is derived from a different chemical resin.[17] Both of these types of framing stock are produced in a wide variety of sizes or "profiles," with the same types of finishes applied to both PVC and polystyrene to obtain a specific look.[18] There is only one end use for both PVC and polystyrene framing stock -- to be cut and assembled into finished frames for pictures and mirrors.[19]

Available evidence suggests that producers and customers perceive these two types of framing stock to be a single product and that customers (frame manufacturers) use PVC and polystyrene framing stock interchangeably.[20] Moreover, customers of the finished frames produced from these two types of framing stock cannot distinguish between them.[21] PVC and polystyrene framing stock are sold through similar channels of distribution.[22] Most sales of both PVC and polystyrene framing stock are to ready-made manufacturers with *** portion being made to wholesale distributors that service the custom framing market.

PVC and polystyrene framing stock can be and generally are produced using the same or similar production processes, facilities and employees.[23] While PVC historically has been the more expensive of the two resins, the difference in manufacturing costs between the two materials is not clear and has not been addressed by either party as an important competitive factor.[24] For these reasons, we find one domestic like product in this preliminary investigation, encompassing both PVC and polystyrene framing stock.

2. Framing Stock of Wood, Metal and Other Non-Subject Materials

As noted earlier, the petitioner in this case argued for a domestic like product definition essentially identical to the scope of Commerce's investigation. The Commission may, however, define the domestic like product to be broader than the subject merchandise

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[16] It is difficult to distinguish one from the other on the basis of appearance, even when looking at a cross-section view of the profile.

[17] CR at I-4 and I-5, PR at I-3. PVC is made from a petroleum derivative; polystyrene is made from natural gas. Petitioner's Postconference Brief at 6, n.8.

[18] Finishes applied include foil wrap, glossy paints, prints, and floral finishes using a hot-stamp process, marble and granite finishes using a texture-embossing process, and compo or three-dimensional textured finishes made from adding a composition material to the surface of the framing stock. CR at I-4, PR at I-2.

[19] CR at I-4, PR at I-2 and I-3.

[20] Petitioner's Postconference Brief at 14.

[21] Petitioner's Postconference Brief at 8.

[22] CR at I-9, PR at I-5.

[23] CR at I-4 and I-5, PR at I-3. Marley produces subject framing stock using both PVC and polystyrene while all other domestic and subject foreign producers use only polystyrene. Marley uses the same employees and the same basic type of equipment to produce both types of framing stock, ***. CR at I-5, n.12. PR at I-3, n.12.

[24] CR at I-5, n.13, PR at I-3, n.13.

identified by Commerce, if the facts so warrant.[25] Accordingly, we examined whether the domestic like product should include wood and other non-subject framing materials. Notwithstanding similarities in uses,[26] some degree of interchangeability,[27] and shared channels of distribution,[28] we determine that the differences in physical characteristics,[29] customer perceptions,[30] production processes and facilities,[31] and prices[32] support not including framing stock of wood, metal and other non-subject materials in the like product.

3. Finished Frames

Commerce specifically excluded finished frames assembled from PVC and polystyrene framing stock from the scope of the investigation.[33] As discussed above, the Commission may define the domestic like product more broadly than the subject merchandise. However, the Commission generally does not include downstream articles in the domestic like product or use a semifinished or vertical product line analysis when the downstream imported product (i.e., finished frames) corresponding to the downstream

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[25] See, e.g., Certain Pasta from Italy and Turkey, Inv. Nos. 701-TA-365 and 366 and 731-TA-734 and 735 (Preliminary), USITC Pub. 2905 at I-7 - I-9 (July 1995); Certain Calcium Aluminate Cement and Cement Clinker from France, Inv. No. 731-TA-645 (Final), USITC Pub. 2772 at I-7, n.18 (May 1994).

[26] All framing stock is used for the same purpose, to be assembled into finished frames for pictures and mirrors.

[27] While all framing stock is functionally interchangeable, actual interchangeability may be limited somewhat by the different processes and equipment required to assemble each of these framing stocks into finished frames. For example, there is some evidence that tools used to cut wood moulding may melt plastic moulding unless modified. Petitioner's Postconference Brief at 7 and Attachment ("Plastic Mouldings: An Alternative to Wood?" at 2). PVC/polystyrene framing stock, due to advances in finishing techniques, recently has become more acceptable as a substitute for certain wood or metal framing stock. CR at I-8, I-9 and II-2, PR at I-5 and II-1. Respondents and purchasers repeatedly indicated that certain subject merchandise competes with wood framing stock. TR at 131, 132, 149, 156-158, 175 and 176.

[28] Because both of these framing stocks are an intermediate material used for the production of the same downstream article, they share the same or similar channels of distribution.

[29] PVC/polystyrene framing stock has different physical characteristics than framing stock of wood, metal or other non-subject materials, because the raw materials for each of these framing stocks are different. Wood, and to a lesser degree metal, framing stock is made from a natural material, whereas PVC and polystyrene are synthetic materials derived from a chemical process.

While rigid plastic framing stock and mica framing stock also are made from synthetic materials, they are produced from different chemicals that reportedly are five times less expensive than the chemicals used to produce the subject product. Rigid plastic is an extruded vinyl product which typically is used to form very thin borders on products such as mirrors. While PVC/polystyrene framing stock can be nailed, rigid plastic framing stock cannot. CR at I-6, n.16, PR at I-4, n.16.

[30] CR at I-9 and II-9, PR at I-5 and II-5; Petitioner's Postconference Brief at 15; TR at 131 and 132 (customers indicated that the subject product competes with less than 25-30 percent of wood framing stock market).

[31] There are no common production facilities and employees for PVC/polystyrene framing stock and either wood, metal, plastic, or mica framing stock. Petitioner's Postconference Brief at 13.

[32] Wood, metal, and mica framing stock generally are more expensive than PVC/polystyrene framing stock. CR at I-9, PR at I-5; Petitioner's Postconference Brief at 17.

[33] 60 Fed. Reg. 52370, 52371 (October 6, 1995).

domestic product is not within the scope of the investigation.[34] Therefore, we do not broaden the definition of the domestic like product to include finished frames.[35]

C. Domestic Industry[36]

In making its determination, the Commission is directed to consider the effect of the imports on the industry, defined as "the producers as a [w]hole of a domestic like product..."[37] Based on the definition of the domestic like product, the industry consists of all domestic producers of PVC and polystyrene framing stock.

The sole industry issue in this preliminary investigation concerns whether any of the producers of the domestic like product should be excluded from the industry as a related party.[38] If the Commission determines that a domestic producer satisfies the definition of a

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[34] Fresh Cut Roses from Colombia and Ecuador, Inv. Nos. 731-TA-684 and 685 (Final), USITC Pub. 2862 at I-7, n.22 (March 1995); Tungsten Ore Concentrates from the People's Republic of China, Inv. No. 731-TA-497 (Preliminary), USITC Pub. 2367 at 9-10 (March 1991).

[35] Moreover, none of the Commission's traditional six like product factors support inclusion of finished frames in the definition of the domestic like product. Framing stock and finished frames have different physical characteristics and different end-uses; framing stock is an extrusion which is used with other materials such as glass and matting board to be assembled into a frame, while a finished frame is used to hold a picture or mirror. They are not interchangeable and customers and producers perceive them to be different products with very different channels of distribution (e.g., framing stock is distributed to frame manufacturers and distributors for custom framing shops, whereas finished frames are distributed to retail stores for sales to end-use customers). Moreover, manufacturers of framing stock and finished frames do not use the same or similar production processes, facilities, or employees. Finally, prices are very different since framing stock is a component accounting for about 40 percent of the value of a finished frame. CR at I-6-I-9, PR at I-3-I-6; Petitioner's Postconference Brief at 6-16.

[36] Two firms are the primary manufacturers of foam extruded PVC and polystyrene framing stock in the United States: Marley Mouldings, Inc. ("Marley"), which sells all of its production on the commercial market; and National Picture & Frame Co. ("National"), a vertically integrated producer of finished frames that captively consumes all of its production of the domestic like product. There are also three domestic producers, Magee Co., Silvatrim, and Uniek Plastics, that recently began manufacturing the domestic like product; two of them are vertically integrated and one sells all of its production on the commercial market. These three firms only began production in ***, and provided limited data. CR at I-2, I-3 and III-1 - III-3, PR at I-2 and III-1 and III-2.

The Commission does not have complete financial data concerning domestic production of PVC/polystyrene framing stock. One of the two major U.S. producers, National, ***. CR at VI-1, PR at VI-1. We cannot use a product line analysis because the "narrowest group or range of products, which includes a domestic like product," 19 U.S.C. § 1677(4)(D), is finished frames for National, and the other significant domestic producer, Marley, does not produce finished frames. Marley was able to provide complete information on its production of framing stock.

[37] 19 U.S.C. § 1677(4)(A). In doing so, the Commission generally includes all domestic production, including tolling operations and captively consumed product, within the domestic industry. See United States Steel Group, et al. v. United States, 873 F. Supp. at (673) at 16 (Ct. Int'l Trade 1994), appeal docketed, No. 95-1245 (Fed. Cir. March 21, 1995).

[38] A domestic producer is a related party if it is either related to the exporters or importers of subject merchandise, or is itself an importer of the subject merchandise. Parties are considered to be related if one party directly or indirectly controls another party. Direct or indirect control exists when "the party is legally or operationally in a position to exercise restraint or direction over the other party." 19 U.S.C. § 1677(4)(B).

related party, the Commission may exclude such producer from the domestic industry if "appropriate circumstances" exist.[39] Exclusion of a related party is within the Commission's discretion based upon the facts presented in each case.[40]

In this investigation, two domestic producers, National and ***, have imported PVC/polystyrene framing stock from the United Kingdom during the period of investigation[41] and, therefore, are related parties.[42] Thus, the Commission must determine whether appropriate circumstances exist to exclude National and *** from the domestic industry.[43]

***, a recent entrant into the U.S. market ***, did not provide useable industry data in this preliminary investigation. It appears to have been a minor producer[44] to date, and its reasons for importation are not clear. Moreover, given the lack of data provided by ***,

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[39] 19 U.S.C. § 1677(4)(B). The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude a related party include:

(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, 1168 (Ct. Int'l Trade 1992), aff'd without opinion, 991 F.2d 809 (Fed. Cir. 1993). The Commission has also considered whether each company's books are kept separately from its "relations" and whether the primary interests of the related producers lie in domestic production or in importation. See, e.g., Certain Carbon Steel Butt-Weld Pipe Fittings from France, India, Israel, Malaysia, the Republic of Korea, Thailand, the United Kingdom, and Venezuela, Inv. Nos. 701-TA-360 and 361, 731-TA-688-695 (Final), USITC Pub. 2870 at I-18 (April 1995)("Butt-Weld Pipe Fittings from France et al.").

[40] Torrington v. United States, 790 F. Supp. at 1168 (Ct. Int'l Trade 1992); Empire Plow Co. v. United States, 675 F. Supp. 1348, 1352 (Ct. Int'l Trade 1987); 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").

[41] CR at III-3, PR at III-2 and importer questionnaire response by ***.

[42] One other U.S. producer, Silvatrim, arguably could be viewed as a related party. Silvatrim, a recent entrant into the U.S. market ***, reportedly has been a manufacturer's representative for Magnolia, a U.K. producer, for the last two years. CR at III-2 and III-3, PR at III-1 and III-2. It is not clear whether the relationship between Magnolia and Silvatrim is sufficient to warrant a conclusion that there is "control" of one over the other within the meaning of the statute. See 19 U.S.C. § 1677(4)(B). The issue is moot in this preliminary investigation because Silvatrim did not provide any industry data. We will further examine this issue in any final investigation.

[43] Respondent, Robobond, briefly argued in a footnote in its Postconference Brief that National should not be excluded as a related party. Respondent's (Robobond) Postconference Brief at 3, n.9. None of the other parties addressed this issue.

[44] In fact, ***. CR at III-2, n.3, PR at III-1, n.3.

there is no risk that inclusion or exclusion of its data would skew the industry data. We therefore do not exclude *** as a related party.

National accounts for a *** percentage of U.S. production. In 1994, National accounted for *** of domestic production of PVC/polystyrene framing stock.[45] In 1994, National accounted for *** of imports of PVC/polystyrene from the United Kingdom.[46] The ratio of National's 1994 imports of PVC/polystyrene framing stock from the United Kingdom to its total 1994 U.S. shipments of PVC/polystyrene framing stock was ***.[47] While National's reasons for importing PVC/polystyrene framing stock from the United Kingdom are not clear in the preliminary record,[48] the ratio of imports to domestic shipments suggests that its financial interests appear to lie in domestic production rather than in importation. Further, exclusion of National, which accounts for a *** share of domestic production, would *** skew the domestic industry data. Given National's *** share of domestic production and its apparent interest in domestic production rather than importation, we do not exclude National from the domestic industry as a related party for purposes of this preliminary investigation.

III. CONDITION OF THE DOMESTIC INDUSTRY

In assessing whether there is a reasonable indication that the domestic industry is materially injured or threatened with material injury by reason of allegedly LTFV imports, we consider all relevant economic factors that bear on the state of the industry in the United States.[49] These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, and research and development. 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."[50]

There are several conditions of competition pertinent to our analysis of the domestic PVC/polystyrene framing stock industry. First, National, which accounted for *** of the domestic production in 1994, internally transfers all of its production of PVC/polystyrene framing stock for the production of the downstream article, finished frames.[51] Accordingly,

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[45] Table III-1, CR at III-7, PR at III-3. *** of domestic production in 1993, *** in 1994, *** in interim period 1994, and *** in interim period 1995.

[46] CR at III-3 and Table IV-1 at IV-3, PR at III-2 and IV-1. *** of subject imports in 1992, *** in 1993, *** in 1994, *** in interim period 1994, and *** in interim period 1995.

[47] CR at III-3 and Table III-2 at III-8, PR at III-2 and III-4.

[48] CR at IV-4, PR at IV-2. ***.

[49] 19 U.S.C. § 1677(7)(C)(iii).

[50] 19 U.S.C. § 1677(7)(C)(iii).

[51] CR at I-2, PR at I-2. While three U.S. producers captively consume their production of PVC/polystyrene framing stock for the production of finished frames, only one, National, reported data for the period of investigation. CR at III-1 - III-3, PR at III-1 and III-2. The other two captive producers, ***, only recently entered the U.S. market and indicated that they had *** production during the period of investigation.

we considered the captive production provision of the statute, but determine that the criteria for applicability of the provision are not satisfied.[52]

The domestic PVC/polystyrene framing stock industry both internally consumes a significant portion of the production of the domestic like product and sells a significant portion of the production of the domestic like product in the merchant market.[53] The third statutory factor, however, which requires that "production of the domestic like product sold in the merchant market is not generally used in the production of that downstream article," is not satisfied here.[54] All of the domestic like product, whether captively consumed or sold in the merchant market, is used to produce the same downstream article, finished frames. Since one of the three required statutory factors is not satisfied, we need not consider the other factors.

While the captive production provision is not applicable here, nothing in the statute or the legislative history of the URAA precludes the Commission from considering a significant degree of captive production as a condition of competition. We have regularly recognized that subject imports may affect the merchant market operations of the industry differently than those operations involving captive production.[55] The domestic industry

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[52] 19 U.S.C. § 1677(7)(C)(iv) sets forth the conditions under which the Commission shall "focus primarily on the merchant market for the domestic like product" in examining market share and the domestic industry's financial condition. As a threshold matter, domestic producers must "internally transfer significant production of the domestic like product for the production of a downstream article and sell significant production of the domestic like product in the merchant market." Additionally, the Commission must find that:

> (I) the domestic like product produced that is internally transferred for processing into that downstream article does not enter the merchant market for the domestic like product,
>
> (II) the domestic like product is the predominant material input in the production of that downstream article, and
>
> (III) the production of the domestic like product sold in the merchant market is not generally used in the production of that downstream article . . .

19 U.S.C. § 1677(7)(C)(iv).

[53] Over the period of investigation, the domestic industry captively consumed for the production of finished frames *** of domestic production of PVC/polystyrene framing stock in 1993, *** in 1994, *** in interim period 1994, and *** in interim period 1995. Table III-1, CR at III-7, PR at III-3. Similarly, from *** of domestic production was sold to the merchant market over the period of investigation. Id.

[54] Commissioner Crawford concurs with her colleagues that the third statutory factor is not satisfied. However, she does not make a finding on whether domestic producers captively consume significant production or sell significant production to the merchant market.

[55] See generally, e.g., Certain Flat-Rolled Carbon Steel Products from Argentina, Australia, Austria, Belgium, Brazil, Canada, Finland, France, Germany, Italy, Japan, Korea, Mexico, the Netherlands, New Zealand, Poland, Romania, Spain, Sweden, and the United Kingdom, Inv. Nos. 701-TA-319-332, 334, 446-342, 344, and 347-353 (Final) and Inv. Nos. 731-TA-573-579, 581-592, 594-597, 599-609, and 612-619 (Final), USITC Pub. 2664 at 15, 17, 22 and 23 (August 1993), aff'd, U.S. Steel Group v. United States, 873 F. Supp 673 (Ct. Int'l Trade 1994). See also, Furfuryl Alcohol from the People's Republic of China and South Africa, Inv. Nos. 731-TA-703 and 704 (Final), USITC Pub. 2897 at I-7 (June 1995).

competes directly with subject imports in the merchant market.[56] Accordingly, we have examined data with respect to the merchant market as well as the overall domestic industry, where data availability permits.[57]

Second, while there are two primary channels of distribution for merchant market sales of framing stock, there are a wide variety of markets for the downstream product, finished frames.[58] Subject framing stock is sold primarily to ready-made manufacturers that assemble it into finished frames for pictures and mirrors.[59] The ready-made manufacturers, however, sell to various markets, including the mass market (or discount stores), department stores, home centers, accessory stores, furniture centers, greeting card and gift stores, catalog and home party outlets, the crafts market, and the brewery market.[60] The second channel of distribution, wholesale distributors that serve the custom framing market, primarily includes "high-end" framing stock. It is through these wholesale distributors that the subject product has recently become more widely accepted and where it tends to compete most directly with wood.[61]

Third, framing stock is produced in a wide variety of shapes, sizes, and finishes. Moreover, the types of PVC/polystyrene framing stock produced and offered for sale have evolved during the period of investigation.[62] Framing stock of more complex and sophisticated finishes and designs, particularly wood-like and "compo" products, recently has been produced as a result of advances in finishing techniques.[63] The evidence in this investigation suggests that any possible shift in product mix toward the more advanced

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[56] CR at II-6, PR at II-3 and II-4.

[57] As previously discussed, the *** for National limits consideration of financial performance to operations producing for the merchant market.

[58] While Commissioner Rohr and Commissioner Newquist do not dispute this observation, in their view, its relevance is limited since the Commission has determined for purposes of this preliminary investigation that finished frames are not part of the domestic like product.

[59] CR at I-9, PR at I-5 and I-6. Marley sold the majority, ***, of its product to ready-made manufacturers from 1992 to 1994; Robobond, the largest U.K. importer, sold *** of its subject imports to ready-made manufacturers in 1992, *** in 1993, *** in 1994, and *** in interim 1995. Id. and Respondent's (Robobond) Postconference Brief, Appendix 16 at 1.

[60] CR at I-10, PR at I-6. Marley reported that finished frames produced from its framing stock competed with those produced from Robobond's primarily in discount stores, department stores, home centers, crafts outlets, and greetings and gift stores. Id. National focuses its finished frame operations on the low end of the photo frame market serving the mass merchandisers (or discount stores) such as Walmart and Sam's. While the extent to which National's finished frames compete with frames produced by Robobond's customers for sales in the low end of the frame market is not clear, Acme Frame testified that it was able to enter and compete with National in the promotional part of the market due to its purchases of Robobond's framing stock. Moreover, National indicated that ***. CR at III-4 and III-5, PR at III-2 and III-3.

[61] CR at I-9, PR at I-5; TR at 149, 150, 175, and 176. ***. CR at I-9, n.26, PR at I-5, n.26. According to Robobond, *** of its sales were to the wholesale distributors in 1993, *** in 1994, and *** in interim 1995. Respondent's (Robobond) Postconference Brief, Appendix 16 at 1.

[62] Respondent Robobond contended that a "significant condition of competition unique to this industry is that customers have become increasingly sophisticated, requiring more complex finishes and ornate designs to replace traditional wood framing materials." Respondent's (Robobond) Postconference Brief at 10.

[63] CR at II-2 - II-7, PR at II-1 - II-4.

designs has occurred in the most recent period.[64] Subject imports appear to have been the leaders in providing these newer and more sophisticated types of framing stock.[65]

Fourth, demand for PVC/polystyrene framing stock is tied to demand for finished frames. The mass merchandise (or discount stores) market for finished frames reportedly has increased by 15 percent annually.[66] Demand for subject framing stock also is tied to its recent competition with framing stock of non-subject materials such as wood.[67] Evidence on the record suggests that PVC/polystyrene framing stock has captured a percentage of both the metal and wood framing stock markets in the ready-made manufacturing segment.[68]

The quantity and value of apparent U.S. consumption of PVC/polystyrene framing stock (including internal transfers) increased from 1993 to 1994, and was lower in interim period 1994 (January-June) compared to interim period 1995 (January-June).[69] The quantity and value of apparent U.S. consumption in the merchant market also increased from 1992 to 1994 and between interim periods, with the largest year-to-year increase occurring from 1993 to 1994.[70]

The domestic industry's total U.S. shipments (including internal transfers) of PVC/polystyrene framing stock *** during the period of investigation, but *** domestic consumption.[71] While the total value of the domestic industry's U.S. shipments followed the same pattern, the *** in volume outpaced the *** in value during the period of

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[64] Respondent and its purchasers indicated that the finishing advances in this industry have largely occurred in the wood-like and "compo" products. According to Robobond, compo framing stock ***. Respondent's (Robobond) Postconference Brief at 13 and n. 46.

Marley argued that its efforts to enter the high end of the domestic market have been impeded by ***. Petitioner's Postconference Brief at 39. *** indicated that in the last few years, Marley "has really tried to catch up" with Robobond's technology and product. CR at III-5, PR at III-2.

[65] CR at II-6 and II-7, PR at II-3 and II-4; TR at 81-82 and 87-89; and Respondent's (Robobond) Postconference Brief at 13-15.

[66] CR at III-4, PR at III-2. Robobond also cited an article indicating that U.S. retail sales of finished frames increased from $1.46 billion in 1992 to $1.6 billion in 1994. Respondent's (Robobond) Postconference Brief, Appendix 6A.

[67] Respondent Robobond alleged that its advancements in finishing "have propelled the plastic frame industry into new markets that previously did not exist." Respondent's (Robobond) Postconference Brief at 10.

[68] At the Commission's staff conference, Charles Gordon of Holson Burnes, a large photo frame manufacturer, stated: "our particular mix is a third wood, a third plastic and a third metal, where years ago it was 50 percent metal and 40 percent wood." TR at 63.

[69] Apparent U.S. consumption (including internal transfers) by quantity increased by *** from 1993 to 1994 and by *** from interim period 1994 to interim period 1995. Table A-2, CR at A-5, PR at A-3. The value of apparent U.S. consumption (including internal transfers) increased by *** from 1993 to 1994 and by *** from interim period 1994 to interim period 1995. Id.

[70] Table A-1, CR at A-3, PR at A-3. Apparent U.S. consumption by quantity in the merchant market increased by *** from 1992 to 1993, by *** from 1993 to 1994, and was *** higher in interim period 1995 compared with interim period 1994. The value of apparent U.S. consumption in the merchant market increased by *** from 1992 to 1993, and by *** from 1993 to 1994, and was *** higher in interim period 1995 compared with interim period 1994. Id.

[71] Table A-2, CR at A-5, PR at A-3. Domestic producers' total U.S. shipments by quantity *** from 1993 to 1994, and were *** in interim period 1995 compared with interim period 1994.

investigation.[72] The domestic industry's share of the total market for PVC/polystyrene framing stock *** from 1993 to 1994 and *** again between interim periods.[73]

The domestic industry's U.S. shipments to the merchant market fluctuated between years but declined over the period of investigation.[74] Declines in the volume of the industry's U.S. shipments to the merchant market outpaced declines in value during the period of investigation.[75] Declines in the domestic industry's share of the merchant market were *** in its share of the total U.S. market, with the largest declines in the merchant market share occurring from ***.[76]

U.S. producers' capacity to produce PVC/polystyrene framing stock (including captive production), production volume, and capacity utilization *** during the period of investigation.[77] The year-end inventories held by domestic producers (including captive production) *** from 1993 to 1994, and between interim periods; as a percentage of shipments, however, inventories *** from 1993 to 1994, before *** in the most recent interim period.[78]

U.S. producers' capacity to produce subject framing stock for the merchant market remained constant from 1992 to 1993 and between interim periods, and increased from 1993 to 1994.[79] Production volumes and capacity utilization fluctuated between years but declined

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[72] Table A-2, CR at A-5, PR at A-3. The value of the domestic producers' total U.S. shipments *** from 1993 to 1994, and was *** in interim period 1995 compared with interim period 1994.

[73] Table A-2, CR at A-5, PR at A-3. The domestic industry's share of total apparent consumption by quantity was *** in 1993, *** in 1994, *** in interim period 1994, and *** in interim period 1995, and by value was *** in 1993, *** in 1994, *** in interim period 1994, and *** in interim period 1995. Id.

[74] Table A-1, CR at A-3, PR at A-3. Domestic producers' U.S. shipments to the merchant market by quantity *** from 1992 to 1993, *** from 1993 to 1994, and showed an overall decline of *** from 1992 to 1994. These shipments were *** in interim period 1995 compared with interim period 1994. The value of the domestic producers' U.S. shipments to the merchant market *** from 1992 to 1993, *** from 1993 to 1994, and was *** in interim period 1995 compared with interim period 1994. Id.

[75] Table A-1, CR at A-3, PR at A-3. The unit value of domestic industry shipments in the merchant market fluctuated between years, but increased by *** from 1992 to 1994, and was *** in interim period 1995 compared to interim period 1994. Id.

[76] Table A-1, CR at A-3, PR at A-3. The domestic industry's share of apparent consumption in the merchant market by quantity was *** in 1992, *** in 1993, *** in 1994, *** in interim period 1994, and *** in interim period 1995, and by value was *** in 1992, *** in 1993, *** in 1994, *** in interim period 1994, and *** in interim period 1995. Id.

[77] Table A-2, CR at A-5, PR at A-3. Total PVC/polystyrene framing stock (including captive production) production capacity *** from 1993 to 1994 and was *** in interim period 1995 compared with interim period 1994. Production volumes *** in interim 1995 compared with interim 1994. Capacity utilization was *** in 1993, *** in 1994, *** in interim 1994, and *** in interim 1995. Id.

[78] Table A-2, CR at A-6, PR at A-3. Year-end inventories held by domestic producers (including captive production) *** from 1993 to 1994, and were *** in interim 1995 compared to interim 1994. Domestic inventories as a percentage of total U.S. shipments *** in 1994, but *** in interim 1995. Id.

[79] Table A-1, CR at A-4, PR at A-3. PVC/polystyrene framing stock production capacity for the merchant market increased by *** from 1993 to 1994.

from 1992 to 1993 and over the period of investigation.[80] The year-end inventories held by the reporting domestic producer for the merchant market remained constant from 1992 to 1994, but were *** higher in interim 1995 compared with interim 1994.[81] Inventories as a share of shipments for the merchant market fluctuated between years with a *** increase from 1992 to 1994 and a *** increase between interim periods.[82]

The number of production workers, hours worked, wages paid, hourly wages paid, and productivity for the domestic industry as a whole *** from 1993 to 1994 and, except for the number of production workers, also *** from interim 1994 to interim 1995.[83] *** the number of production workers, hours worked, and wages paid for merchant market operations declined during the period of investigation, with the largest part of the decline occurring from 1992 to 1993.[84] Productivity and hourly wages paid increased from 1992 to 1994, but productivity *** than it did for the domestic industry overall.[85]

Most of the financial performance indicators for the domestic PVC/polystyrene framing stock industry producing for the merchant market declined steadily, but the industry remained profitable, throughout the period of investigation.[86] The domestic industry's sales

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[80] Table A-1, CR at A-4, PR at A-3. Production volumes for the merchant market decreased by *** from 1992 to 1993, and rose by *** from 1993 to 1994, for an overall decline of *** from 1992 to 1994, and were *** in interim 1995 compared with interim 1994. Capacity utilization declined from *** in 1992 to *** in 1994, and declined from *** in interim 1994 to *** in interim 1995. Id.

[81] Table A-1, CR at A-4, PR at A-3.

[82] Table A-1, CR at A-4, PR at A-3. Domestic inventories as a percentage of U.S. shipments for the merchant market were *** in 1992, *** in 1993, and *** in 1994, but *** in interim 1995. Id. While PVC/polystyrene framing stock producers generally do not inventory framing stock items since they manufacture the bulk of their product to order, they appear to produce some basic designs and profiles for inventory. CR at II-3 and II-6, PR at II-2 and II-3; TR at 52.

[83] Table A-2, CR at A-6, PR at A-3. The number of production workers *** from 1993 to 1994, but was *** in interim 1995 compared with interim 1994. Hours worked *** from 1993 to 1994, and were *** in interim 1995 compared with interim 1994. Wages paid *** from 1993 to 1994, and were *** in interim 1995 compared with interim 1994. Hourly wages paid *** from 1993 to 1994, and were *** in interim 1995 compared with interim 1994. Productivity *** from 1993 to 1994, and was *** in interim 1995 compared with interim 1994. Id.

[84] Table A-1, CR at A-4, PR at A-3. The number of production workers employed in merchant market operations decreased by *** from 1992 to 1993 and increased by *** from 1993 to 1994, but was *** lower in interim 1995 compared with interim 1994. Hours worked decreased by *** from 1992 to 1993, by *** from 1993 to 1994, and by *** in interim 1995 compared with interim 1994. Wages paid decreased by *** from 1992 to 1993, increased by *** from 1993 to 1994, and were *** lower in interim 1995 compared with interim 1994. Id.

[85] Table A-1, CR at A-4, PR at A-3. Productivity for merchant operations increased by *** from 1992 to 1993, by *** from 1993 to 1994, and was *** in interim 1995 compared with interim 1994. Hourly wages paid increased by *** from 1992 to 1993 and by *** from 1993 to 1994, and were *** higher in interim 1995 compared with interim 1994. The *** appears to be due, at least in part, to differences in product mix (i.e., low end compared to high end). See CR at III-11, PR at III-4.

[86] As previously noted, we do not have complete financial data for the domestic industry overall and, thus, our discussion focuses on the financial information for the part of the domestic industry producing for the merchant market. See note 36 supra. We note that while the financial information provided by National shows that its ***, for purposes of this preliminary investigation, we do not draw direct conclusions about the condition of the framing stock industry from such *** data. Table D-1, CR at D-3, PR at D-3.

fluctuated between years, but the industry experienced overall declines in net sales to the merchant market from 1992 to 1994, in contrast to the substantial increase in U.S. merchant market consumption during the same period.[87] Gross profits and operating income of the domestic PVC/polystyrene framing stock industry producing for the merchant market decreased from 1992 to 1994, and from interim 1994 to interim 1995;[88] the industry, however, was profitable in each year of the period.[89] *** in production costs, ***,[90] *** in selling costs.[91] Moreover, ***.[92] Finally, capital expenditures by the domestic PVC/ polystyrene framing stock industry producing for the merchant market declined from 1992 to 1994.[93] [94] [95]

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[87] The domestic industry's net sales by value decreased by ***, from 1992 to 1994, whereas apparent U.S. consumption by value increased by *** in the same period. Net sales by value were *** lower in interim 1995 compared with interim 1994. Net sales by quantity outpaced net sales by value with a decrease of *** from 1992 to 1994, compared with an increase of *** in apparent U.S. consumption by quantity for the same period. Net sales by quantity were *** in interim 1995 compared with interim 1994. Table A-1, CR at A-4, PR at A-3.

[88] Table A-1, CR at A-4, PR at A-3. The domestic industry's gross profits decreased by *** from 1992 to 1993 and by *** from 1993 to 1994, for an overall decrease of *** from 1992 to 1994. The industry's gross profits were *** in interim 1995 compared with interim 1994. The domestic industry's operating income decreased by *** from 1992 to 1993, and by *** from 1993 to 1994, for an overall decrease of *** from 1992 to 1994. The industry's operating income was *** in interim 1995 compared with interim 1994.

[89] Gross profits for the domestic PVC/polystyrene framing stock industry for the merchant market as a share of net sales declined from *** in 1992 to *** in 1994, and from *** in interim 1994 to *** in interim 1995. Moreover, operating income for this industry as a share of net sales declined from *** in 1992 to *** in 1994, and from *** in interim 1994 to *** in interim 1995. Table VI-1, CR at VI-3, PR at VI-2.

[90] The domestic industry's raw material costs as a share of net sales *** in 1992 to *** in 1994, and *** in interim 1994 to *** in interim 1995. Table VI-1, CR at VI-3, PR at VI-2.

[91] Table VI-1, CR at VI-3, PR at VI-2. Thus, as a share of net sales, the domestic industry's cost of goods sold (COGS) *** while selling, general, and administrative (SG&A) expenses *** from 1992 to 1994. The domestic industry's COGS as a share of net sales was *** in 1992, *** in 1993, *** in 1994, *** in interim 1994, and *** in interim 1995. The domestic industry's SG&A expenses as a share of net sales were *** in 1992, *** in 1993, *** in 1994, *** in interim 1994, and *** in interim 1995.

[92] Table A-1, CR at A-3, PR at A-3. The domestic industry's unit COGS *** from 1992 to 1994, and was *** in interim 1995 compared with interim 1994. The domestic industry's unit sales value increased by *** from 1992 to 1994, and was *** in interim 1995 compared with interim 1994. The domestic industry's unit SG&A expenses *** from 1992 to 1994, and were *** in interim 1995 compared with interim 1994.

[93] Table A-1, CR at A-4, PR at A-3. Capital expenditures declined by *** from 1992 to 1993 and by *** from 1993 to 1994, for an overall decrease of *** from 1992 to 1994.

[94] Based on examination of the relevant statutory factors, Commissioner Rohr and Commissioner Newquist find that there is a reasonable indication that the domestic PVC/polystyrene framing stock industry is vulnerable to the continuing adverse effects of allegedly unfair imports. Accordingly, Commissioner Rohr and Commissioner Newquist proceed directly to a threat of material injury analysis.

[95] See Additional Views of Chairman Watson regarding no reasonable indication that the domestic industry is materially injured by reason of allegedly LTFV imports.

IV. REASONABLE INDICATION OF THREAT OF MATERIAL INJURY BY REASON OF ALLEGEDLY LTFV IMPORTS[96] [97]

Section 771(7)(F) of the Act directs the Commission to consider whether the U.S. industry is threatened with material injury by reason of the subject imports "on the basis of evidence that the threat of material injury is real and that actual injury is imminent."[98] The Commission may not make such a determination "on the basis of mere conjecture or supposition,"[99] and considers the threat factors "as a whole" in determining "whether further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued. . . ."[100] In making our determination, we have considered, in addition to other relevant economic factors,[101] all statutory factors[102] that are relevant to this investigation.[103]

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[96] As part of its consideration of the impact of imports, the statute as amended by the URAA now also specifies that the Commission is to consider in an antidumping proceeding, "the magnitude of the margin of dumping." 19 U.S.C. § 1677(7)(C)(iii)(V). The SAA indicates that the amendment "does not alter the requirement in current law that none of the factors which the Commission considers is necessarily dispositive in the Commission's material injury analysis." SAA at 180.

The statute, 19 U.S.C. § 1677(35)(C), defines the "magnitude of the margin of dumping" to be used by the Commission in a preliminary determination as "the dumping margin or margins published by the administering authority [Commerce] in its notice of initiation of the investigation." The dumping margins identified by the Commerce Department in its notice initiating this investigation fall within the range of 20.82 to 48.96 percent. 60 Fed. Reg. 52370, 52371 (October 6, 1995).

[97] Commissioner Crawford and Commissioner Bragg do not join in this section of the opinion. See their separate Views regarding reasonable indication of material injury by reason of allegedly LTFV imports of PVC/polystyrene framing stock from the United Kingdom.

[98] 19 U.S.C. §§ 1673b(a) and 1677(7)(F)(ii).

[99] 19 U.S.C. § 1677(7)(F)(ii). An affirmative threat determination must be based upon "positive evidence tending to show an intention to increase the levels of importation." Metallverken Nederland B.V. v. U.S., 744 F.Supp. 281, 287 (Ct. Int'l Trade 1990), citing American Spring Wire, 8 CIT at 28, 590 F.Supp. at 1280. See also Calabrian Corp. v. United States, 794 F. Supp. 377, 387 and 388(Ct. Int'l Trade 1992) (citing, H.R. Rep. No. 1156, 98th Cong., 2d Sess. 174 (1984)).

[100] While the language referring to imports being imminent (instead of "actual injury" being imminent and the threat being "real") is a change from the prior provision, the SAA indicates the "new language is fully consistent with the Commission's practice," the existing statutory language, "and judicial precedent interpreting the statute." SAA at 184.

[101] Suramerica de Aleaciones Laminadas, C.A. v. United States, 44 F.3rd 978 (Fed. Cir. 1994). The Federal Circuit held that 19 U.S.C. § 1677(7)(F)(i) requires the Commission to consider "all relevant factors" that might tend to make the existence of a threat of material injury more probable or less probable. The Commission cannot limit its analysis to the enumerated statutory criteria when there is other pertinent information in the record. Moreover, the court appears to require consideration of the present condition of the industry as among the "relevant economic factors." Id. at 984.

[102] The statutory factors have been amended to track more closely the language concerning threat of material injury in the Antidumping and Subsidies Agreements, although "[n]o substantive change in Commission threat analysis is required." SAA at 185.

[103] 19 U.S.C. § 1677(7)(F)(i). Two statutory threat factors have no relevance to this investigation and need not be discussed. Because there are no subsidy allegations, factor I is not applicable. Factor VII regarding raw and processed agriculture products is also inapplicable to the products at issue. Moreover, there are no outstanding dumping findings in third countries which were relevant to the Commission's consideration in this investigation. See 19 U.S.C. § 1677(7)(F)(iii)(I).

The information concerning British production capacity and capacity utilization[104] shows that a substantial increase in subject imports of PVC/polystyrene framing stock into the United States is likely. It is relatively easy and inexpensive to add capacity to produce PVC/polystyrene framing stock. This may be done by simply adding another extrusion machine when demand requires. Production capacity in the United Kingdom *** .[105] While capacity utilization levels in the United Kingdom were ***, they *** from 1992 to 1994.[106] Since the *** production in the United Kingdom has directly corresponded to increases in exports to the United States, substantial future increases in production and exports to the United States appear likely.

We also find evidence to indicate that there has been and will continue to be a major shift of British home market and third country shipments to the U.S. market.[107] While the volume of British shipments in its home market and third country markets have *** over the period of investigation, these shipments have been *** in British exports of subject merchandise to the U.S. market.[108] After 1992, the U.S. market *** for its PVC/polystyrene framing stock shipments.[109] For these reasons, we find that there is additional capacity to produce PVC/polystyrene in the United Kingdom and it is likely to result in substantial increased exports of PVC/polystyrene framing stock to the United States.

The volume of PVC/polystyrene framing stock imports from the United Kingdom into the United States increased throughout the period of investigation at a *** rate than increases in U.S. apparent consumption.[110] Market penetration by subject imports, which

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[104] The data on the industry in the United Kingdom is for two firms, Robobond and Ecoframe. Robobond is *** than Ecoframe, accounting for more than *** of their combined production and *** of their combined U.S. exports in 1994. Table VII-1, CR at VII-3, PR at VII-2. A third *** U.K. producer, Magnolia, *** and is not included in the compiled information. CR at VII-2, PR at VII-1.

[105] Table VII-1, CR at VII-3, PR at VII-2. Capacity to produce PVC/polystyrene in the United Kingdom *** from 1992 to 1993, by *** from 1993 to 1994, by *** from interim 1994 to interim 1995, and is projected to *** from 1994 to 1995. Id.

[106] Table VII-1, CR at VII-3, PR at VII-2. Capacity utilization levels for British PVC/polystyrene framing stock production were: *** in interim 1995. British production *** by *** from 1992 to 1994. Id.

[107] CR at VII-5, PR at VII-2.

[108] British shipments to the U.S. market *** from 1992 to 1994, and were *** in interim 1995 compared with interim 1994; its home market shipments *** from 1992 to 1994, and were *** in interim 1995 compared with interim 1994; and third country markets *** from 1992 to 1994, and were *** in interim 1995 compared with interim 1994. Table VII-1, CR at VII-3, PR at VII-2.

[109] Table VII-1, CR at VII-3, PR at VII-2. British home market shipments accounted for *** of total British shipments by quantity in 1992, *** in interim 1995. U.S. market shipments accounted for *** of total British shipments by quantity in 1992, *** in interim 1995. Third country market shipments accounted for *** of total British shipments by quantity in 1992, *** in interim 1995.

[110] The volume of subject imports into the United States *** from 1992 to 1994 and was *** in interim 1995 compared with interim 1994. Apparent consumption in the merchant U.S. market by quantity increased by *** from 1992 to 1994, and was *** higher in interim 1995 compared with interim 1994. Apparent consumption in the total U.S. market (including captive production) by quantity increased by *** from 1993 to 1994 and was *** in interim 1995 compared with interim 1994. Tables A-1 and A-2, CR at A-3 and A-5, PR at A-3.

increased throughout the period, is significant.[111] In fact, domestic producers' share of the merchant market in terms of quantity and value declined from *** at the beginning of investigation to a *** in the most recent period.[112] The most significant increase in merchant market penetration by subject imports, which occurred in the *** period, coincided with the largest decline in the domestic industry's U.S. shipments in the merchant market.[113] Moreover, there are indications that such market penetration will continue in the future.[114] We find that the increase in market penetration and evidence of future orders indicates a likelihood of substantially increased imports.

As previously noted, PVC/polystyrene producers in the United States and in the United Kingdom generally do not inventory stock items since they manufacture the bulk of their product to order.[115] However, inventories of subject merchandise *** in volume from 1992 to 1994, and as a share of British production and British shipments from 1992 to 1994.[116] Moreover, subject import inventories in the United States as a share of U.S. shipments of imports increased during the period of investigation.[117] The record thus indicates that the inventories of subject merchandise either in the United States or in the United Kingdom will have an adverse effect on the U.S. industry in light of our assessment of other threat factors.

There is evidence that suggests subject imports are entering the United States at prices that have a depressing or suppressing effect on domestic prices and that are likely to increase demand for further imports. Framing stock is not a commodity article. While most importer/purchasers responding to the Commission's questionnaire reported the U.S. and

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[111] The market share held by subject imports in the merchant market by quantity was: *** in interim 1995. Market share by value for subject imports in the merchant market followed a similar trend. Non-subject imports of PVC/polystyrene framing stock in the merchant market accounted for virtually none of the U.S. market share. Table A-1, CR at A-3, PR at A-3.

The market share held by subject imports in the total U.S. market by quantity was: *** in interim 1995. Market share by value for subject imports in the total U.S. market followed a similar trend. Non-subject imports of PVC/polystyrene framing stock in the total U.S. market accounted for virtually none of the U.S. market share. Table A-2, CR at A-5, PR at A-3.

[112] The U.S. merchant market share by quantity held by the domestic industry was: *** in interim 1995. The domestic industry's merchant market share by value followed a similar trend. Table A-1, CR at A-3, PR at A-3.

The total U.S. market share by quantity held by the domestic industry was: *** in interim 1995. The total domestic industry's market share by value followed a similar trend. Table A-2, CR at A-5, PR at A-3.

[113] The domestic industry's U.S. shipments in the merchant market decreased by *** from ***. Table A-1, CR at A-3, PR at A-3.

[114] Almost 80 percent of the importers/purchasers responding to the Commission's questionnaire indicated that their firm had imported or arranged for importation of subject merchandise for delivery after the period of investigation (June 30, 1995). CR at VII-5, PR at VII-2.

[115] CR at II-3, PR at II-2.

[116] Table VII-1, CR at VII-3, PR at VII-2. Year-end inventories as a share of British production *** in 1994, and as a share of British shipments *** in 1994.

[117] Year-end inventories of U.S. importers as a share of U.S. shipments of imports increased from 3.1 percent in 1992 to 47.7 percent in 1994. Table VII-3, CR at VII-6, PR at VII-2.

U.K. products to be comparable for most purchasing factors,[118] the large variety of shapes, sizes, and finishes for PVC/polystyrene framing stock may affect prices.[119] Product quality, range of product line, raw material costs, and responsiveness of the supplier also may determine prices.[120] Intangible characteristics such as artistic appeal, fashion, and innovation, can be determinants, to some degree, of the appeal of the subject framing stock.[121] Parties disagree as to the purchasers' acceptability of each firm's own framing stock.[122]

We view the price comparisons with caution due to some differences in raw materials, finishes, and aesthetics between the framing stock. Nevertheless, imports of PVC/polystyrene framing stock from the United Kingdom undersold the comparable domestic product *** price comparisons during the period of investigation.[123] Prices of both subject imports and domestic product *** during the period of investigation; the trends for import and domestic product prices varied, depending on the particular product examined.[124] Also, unit values for subject imports *** and unit values for the domestic product *** throughout the period of investigation.[125]

The record also indicates, however, that the domestic industry was not able to *** during the period of investigation. *** for domestic PVC/polystyrene framing stock were *** unit cost of goods sold for the 1992-1994 period.[126]

It appears that increased imports at lower prices are likely to have a significant adverse impact on the financial condition of the U.S. industry.[127] As discussed above, U.S. apparent consumption increased *** over the period of investigation.[128] This increase in demand for PVC/polystyrene framing stock, however, is not reflected in the significant

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[118] CR at II-11, PR at II-6. In total, factors affecting purchasing decisions identified as among the three most important were: quality (20 responses), price (17 responses), and range of supplier's product line (14 responses). CR at II-10, PR at II-6.

[119] CR at V-1, PR at V-1.

[120] CR at V-1, PR at V-1.

[121] CR at II-1, PR at II-1.

[122] CR at II-1, PR at II-1.

[123] Tables V-1 - V-5, CR at V-5 -V-9, PR at V-3. Price comparisons were available for subject imports and domestic product in 38 quarters, with *** by the subject imports reported in ***. The margins of underselling ranged between ***. Id.

[124] Tables V-1 - V-5, CR at V-5 -V-9, PR at V-3. Product 1: prices for imports and domestic product generally ***; Product 2: prices for both ***; Product 3: import prices generally ***, while domestic prices ***; Product 4: prices for both ***; and Product 5: prices for imports and domestic product initially ***. CR at V-12 and V-13, PR at V-4.

[125] The subject imports' unit values *** from 1992 to 1994, whereas the domestic industry's unit values for the merchant market increased by *** for the same period. Table A-1, CR at A-3, PR at A-3.

[126] The domestic industry's unit sales value for merchant sales increased by *** from 1992 to 1994, whereas the industry's unit cost of goods sold *** for the same period. The industry's unit SG&A expenses *** for the same period. Table A-1, CR at A-4, PR at A-3.

[127] We have considered the present condition of the domestic industry as among the "relevant economic factors" in our threat analysis.

[128] Apparent U.S. consumption by quantity increased by *** from 1992 to 1994 for the merchant market, and by *** from 1993 to 1994 for the total U.S. market. Tables A-1 and A-2, CR at A-3 and A-5, PR at A-3.

decreases in the domestic industry's indicators for the merchant market, with the industry's U.S. shipments decreasing *** and its financial performance indicators positive but declining from 1992 to 1994.[129] Moreover, there is some evidence that the underselling by the subject imports has suppressed domestic prices. The relationship between the imported and domestic prices, however, is not clear and, thus, we do not conclude that subject imports currently have significant adverse price effects. However, we find that the tenuous financial condition of the U.S. industry makes it likely that increased imports at lower prices will increase the demand for such imports and will have significant adverse price effects on the comparable U.S. product. We also find that *** in the subject foreign producers' production capacity, *** exports to the U.S. market, increases in market penetration and volume of imports, and evidence of future orders indicate the likelihood of substantially increased imports of subject merchandise into the United States.[130]

CONCLUSION

For the foregoing reasons, we determine there is a reasonable indication that the domestic PVC/polystyrene framing stock industry is threatened with material injury by reason of allegedly LTFV imports from the United Kingdom.

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[129] Table A-1, CR at A-3, PR at A-3.

[130] We find no "other demonstrable adverse trends" that indicate that subject imports will be the cause of actual injury, or any "actual and potential negative effects on existing development and production efforts of the domestic industry." See 19 U.S.C. §§ 1677(7)(F)(i)(VII) and (X).

ADDITIONAL VIEWS OF CHAIRMAN WATSON CONCERNING A REASONABLE INDICATION OF MATERIAL INJURY

In a preliminary antidumping investigation, the Commission must determine whether there is a reasonable indication that an industry in the United States is materially injured[1] or threatened with material injury[2] by reason of imports of subject merchandise. I join the majority in all parts of its opinion and find that the domestic injury is threatened with material injury by reason of the subject imports. However, it is my view that when the Commission makes such an affirmative threat determination, the reasons for finding no present injury should be examined as well.[3] Accordingly, I also find that there is no reasonable indication that the domestic industry producing foam extruded PVC and polystyrene framing stock is materially injured by reason of subject imports from the United Kingdom.

The statute defines "material injury" as "harm which is not inconsequential, immaterial or unimportant."[4] In making this determination, the Commission must consider the volume of 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.[5] Furthermore, in determining whether there is "material injury . . . by reason of" subject imports, the Commission may not weigh causes.[6]

Of the two principal domestic producers, National accounted for approximately *** to *** percent of combined production, and Marley accounted for approximately *** to *** percent of combined production over the period of investigation.[7] National focuses on the framing market and captively consumes all of its framing stock in the production of finished frames[8] it designs, manufactures, and distributes but Marley also produces door and window cabinetry components.[9] Marley sells all of its framing stock on the commercial market, i.e.,

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[1] 19 U.S.C. § 1673b(a)

[2] 19 U.S.C. § 1677(7)(F)

[3] Although the CIT has not held there to be such a requirement in the law, in R-M Industries, Inc. V. United States the CIT questioned whether the Commission should reach an affirmative threat determination without first addressing whether the domestic industry is presently injured by reason of subject imports. See 848 F. Supp. At 212.

[4] 19 U.S.C. § 1677(7)(A).

[5] 19 U.S.C. § 1677(7)(B)(i). The Commission "may consider such other economic factors as are relevant to the determination" but shall "explain in full its relevance to the determination." 19 U.S.C. § 1677(7)(B).

[6] See, e.g., Citrosuco Paulista S.A. v. United States, 704 F. Supp. 1075, 1101 (Ct. Int'l Trade 1988); Maine Potato Council v. United States, 613 F. Supp. 1237, 1243-44 (Ct. Int'l Trade 1985). "Current law does not . . . contemplate that the effects from the subsidized (or LTFV) imports be weighed against the effects associated with other factors (e.g. the volume and prices of 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) which may be contributing to overall injury to an industry." S. Rep. No. 249, 96th Cong., 1st Sess. 57 (1979); see also H.R. Rep. No. 317, 96th Cong., 1st Sess. 46-47 (1979).

[7] Table III-1, CR at III-7, PR at III-3.

[8] CR at I-2, PR at I-2.

[9] CR at III-2, PR at III-1.

to frame manufacturers and wholesale distributors[10] -- unlike National. Importantly, National could provide financial data only with respect to its overall establishment operations, but noted that ***.

It must be remembered that, since Marley is the only producer of the domestic like product selling in the merchant market, and represented *** of the production of the domestic like product in 1994, consideration of only the merchant market will necessarily skew data about the entire framing stock industry. Section 771(4)(A) of the Act, as amended, defines the relevant industry as the "*producers as a [w]hole* 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."[11] Although I do not draw any direct conclusions about the framing stock industry from National's reported *** on its overall establishment operations, I consider the information concerning the commercial market (i.e., excluding National's production) cognisant that such data ignore *** of the domestic industry producing the like product. In effect, to focus solely on the merchant market in this case would be to apply the captive production provision where it is inapplicable, since its third prong is not satisfied.[12]

Volume. Apparent consumption of the like product in the merchant market increased over the period of investigation from *** linear feet in 1992 to *** linear feet in 1994 -- an increase of *** percent. Imports of the like product from the subject country for sale in the merchant market increased accordingly, by quantity, from *** linear feet in 1992 to *** linear feet in 1994 -- an increase of *** percent. Between interim 1994 and interim 1995, apparent consumption in the merchant market increased by *** percent, while imports of the like product from the subject country increased by *** percent.[13] Market share of the subject product increased from *** percent in 1992 to *** percent in 1994, whereas Marley's market share declined from *** percent in 1992 to *** percent in 1994.[14]

However, I decline to treat these data as dispositive of the existence of a significantly adverse volume effect because ***. ***. To wit, apparent consumption rose from *** linear feet in 1993 to *** linear feet in 1994. Although domestic producers' share of the overall market *** from *** percent in 1993 to *** percent in 1994, it appears that this *** stems from ***. Subject imports' market share increased ***, from *** percent in 1993 to *** percent in 1994. Between interim 1994 and interim 1995, apparent consumption in the entire market increased *** percent.[15]

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[10] CR at I-3, PR at I-2.

[11] 19 U.S.C. § 1677(4)(A).

[12] 19 U.S.C. § 1677(7)(C)(iv)(III).

[13] I generally decline to ascribe significant weight to interim data. Interim data are often incomplete and cover periods as short as a quarter of a year. Moreover, interim data gathered after a petition is filed may be skewed by increased imports in anticipation of suspension of liquidation of duties. In addition, these data may not reflect normal seasonal and/or cyclical variations in the domestic industry over the course of an entire year. I also note that the CIT has consistently stated that the ITC is responsible for weighing the evidence and determining its probative value, see, e.g., Iwatsu Electric Co. v. United States, 758 F.Supp. 1506, 1517 (Ct. Int'l Trade 1991).

[14] Table A-1, CR at A-3, PR at A-3.

[15] Table A-2, CR at A-5, PR at A-3.

Based on the foregoing, I find the overall increases in volume and market share of subject imports have not had a significantly adverse volume effect.

Price Effects. Despite the obvious fact that all framing stock may be used to manufacture finished frames, any consideration of interchangeability -- and thus, price competition -- in this investigation is problematic. Because of the volatility of product lines,[16] the nebulous criteria of consumers (i.e., artistic appeal, fashion, innovation),[17] and the inability of staff to devise meaningful product categories to better measure interchangeability,[18] the probative value of pricing information is inherently suspect in this investigation. Furthermore, pricing data is for the commercial market and thus includes only those domestic prices reported by Marley.[19]

Products 1, 2, and 5 are almost exact matches between Marley's and Simons' products, while products 3 and 4 are merely similar; yet, all reported sales of these five products account for *** percent of Marley's sales by value in 1994.[20] As such, it is reasonable to conclude that they may not be indicative of the full range of product competition between Marley and respondents.[21]

Selling prices of product 1 generally *** over the period of investigation, while products 2 and 4 showed ***.[22] For products 3 and 5, Marley's prices *** over the period of investigation, but *** toward the end of the period, and in the case of product 3, even ended *** than at the beginning of the period despite *** in the price of the same product category from the subject country.[23] [24] Imported product 1 *** Marley's product 1 by an average of *** cents per linear foot, or *** percent ***, in the 11 quarters in common; imported product 2 *** Marley's product 2 by an average of *** cents per linear foot, or *** percent ***, in the 10 quarters in common; imported product 3 *** Marley's product 3 by an average of *** cents per linear foot, or *** percent ***, in 6 quarters in common; imported product 4 *** Marley's product 4 by *** cents per linear foot, or *** percent ***, in 2 quarters in common; and imported product 5 *** Marley's product 5 by an average of *** cents per linear foot, or *** percent ***, in 9 quarters in common.[25]

In light of the foregoing, and cognisant of the dearth of probative pricing information, I find there to be no significant price suppression or price depression attributable to the subject imports.

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[16] CR at II-2, PR at II-1.

[17] CR at II-1, PR at II-1.

[18] CR at II-3, PR at II-2.

[19] CR at V-4, PR at V-3.

[20] CR at V-4 and V-12, PR at V-4.

[21] CR at V-12, PR at V-4.

[22] CR at V-12 to V-13, PR at V-4.

[23] Id.

[24] Figure V-1, CR at V-10 to V-12, PR at V-3 and V-4.

[25] CR at V-13 to V-14, PR at V-4.

Impact.[26] There does not appear to be a significant adverse impact by subject imports on the domestic industry, ***. Average capacity in the commercial market increased from *** linear feet in 1992 to *** linear feet in 1994.[27] Production quantities fell *** from *** linear feet in 1992 to *** linear feet in 1994, with capacity utilization falling from *** percent in 1992 to *** percent in 1994.[28] Shipment and production data are ***; as such, shipments fell *** over the period of investigation. Unit values of U.S. shipments -- identical to unit sales values -- also rose from $*** per linear foot in 1992 to $*** per linear foot in 1994.[29] Throughout the period, Marley and, by necessity, the commercial market suffered no operating losses, yet profitability seems to have declined somewhat, although that may be attributed to a combination of an *** from $*** per linear foot in 1992 to $*** per linear foot in 1994, and a decrease in net sales quantities from *** linear feet in 1992 to *** linear feet in 1994.[30]

When one considers National's overall financial performance in tandem with that of Marley, the domestic industry ***. Even though National's financial data is for overall establishment operations and do not solely reflect operations producing the like product, it appears that a ***. National manufactures wood and metal framing stock in addition to the like product, which it captively consumes in its production of finished frames: in 1994, wood accounted for *** percent of its total production, and metal for *** percent, so that the remaining *** percent of all production was of the like product.[31] In light of the above fact, and ever mindful of drawing direct conclusions about the domestic industry in the absense of accurate financial data, I note that net *** for National's overall establishment operations *** from $*** in 1992 to $*** in 1994.[32] While these figures do not clearly indicate a lack of significant adverse impact of subject imports on the domestic industry, they offer some evidence of the financial condition of a significant portion of the domestic industry. The cost of goods manufactured, as divided among raw materials, labor, and other costs, *** over the period of investigation.[33] [34] Further, National's unit costs of goods manufactured were ***,[35] a fact National attributes to its vertical integration production of finished frames.[36]

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[26] The statute as amended by the URAA contains a new subclause (V) to 19 U.S.C. § 1677(7)(C)(iii) specifying that the Commission is to consider in an antidumping proceeding, "the magnitude of the margin of dumping." The statute, 19 U.S.C. § 1677(35)(C), defines the "magnitude of the margin of dumping" to be used by the Commission in a preliminary determination as "the dumping margin or margins published by the administering authority [Commerce] in its notice of initiation of the investigation." Calculated margins for the subject product ranged from 20.82 percent to 48.96 percent. CR at I-2, PR at ***.

[27] Table A-1, CR at A-3, PR at A-3.

[28] Ibid. The increase in average capacity quantity in 1994 resulted in a lower capacity utilization rate for that year.

[29] Ibid.

[30] Ibid.

[31] CR at I-3, PR at I-2.

[32] Table D-1, CR at D-3, PR at D-3.

[33] Ibid.

[34] It appears reasonable to assume that, since over *** percent of National's production of captively consumed framing stock is of the like product, ***.

[35] CR at VI-5, PR at VI-2.

[36] CR at VI-1 to VI-2, PR at VI-1.

In light of the foregoing, I find there to be no significant adverse impact of subject imports on the domestic industry, and thus, no present material injury to the domestic industry by reason of subject imports.

VIEWS OF COMMISSIONER CAROL T. CRAWFORD

On the basis of information obtained in this preliminary investigation, I determine that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of foam extruded PVC and polystyrene framing stock from the United Kingdom ("U.K.") that are allegedly sold in the United States at less-than-fair-value ("LTFV"). I concur in the conclusions of my colleagues regarding like product and domestic industry, and I join their discussion of the condition of industry. However, I determine that there is a reasonable indication that an industry in the United States is materially injured by reason of the allegedly LTFV imports of framing stock from the U.K. Because my injury determination in this investigation differs from my colleagues', my separate views follow.

I. ANALYTICAL FRAMEWORK

In determining whether there is a reasonable indication that a domestic industry is materially injured by reason of the alleged LTFV imports, the statute directs the Commission to consider:

> (I) the volume of imports of the merchandise which is the subject of the investigation,
> (II) the effect of imports of that merchandise on prices in the United States for like products, and
> (III) the impact of imports of such merchandise on domestic producers of like products, but only in the context of production operations within the United States....[1]

In making its determination, the Commission may consider "such other economic factors as are relevant to the determination."[2] In addition, the Commission "shall evaluate all relevant economic factors which have a bearing on the state of the industry ... within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[3]

The statute directs that we determine whether there is a reasonable indication of "material injury by reason of the dumped imports." Thus we are called upon to evaluate the effect of allegedly dumped imports on the domestic industry and determine if there is a reasonable indication that they are causing material injury. There may be, and often are, other "factors" that are causing injury. These factors may even be causing greater injury than the alleged dumping. However, the statute does not require us to weigh or prioritize the factors that are independently causing material injury. Rather, the Commission is to

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[1] 19 U.S.C. § 1677(7)(B)(I). As part of its consideration of the impact of imports, the statute as amended by the URAA now also specifies that the Commission is to consider in an antidumping proceeding, "the magnitude of the margin of dumping." 19 U.S.C. § 1677(7)(C)(iii)(V).

The statute, 19 U.S.C. § 1677(35)(C), defines the "magnitude of the margin of dumping" to be used by the Commission in a preliminary determination as "the dumping margin or margins published by the administering authority (Commerce) in its notice of initiation of the investigation." The calculated dumping margin, as identified by Commerce in its notice of initiation, ranges from 20.82 percent to 48.96 percent. 60 Fed. Reg. 52371 (October 6, 1995).

[2] 19 U.S.C.§ 1677(7)(B)(ii).

[3] 19 U.S.C. § 1677(7)(C)(iii).

determine whether there is a reasonable indication that any injury "by reason of" the allegedly dumped imports is material. That is, the Commission must determine if there is a reasonable indication that the subject imports are causing material injury to the domestic industry. "When determining the effects of imports on the domestic industry, the Commission must consider all relevant factors that can demonstrate if unfairly traded imports are materially injuring the domestic industry."[4] It is important, therefore, to assess the effects of the allegedly dumped imports in a way that distinguishes those effects from the effects of other factors unrelated to the dumping. To do this, I compare the current condition of the industry to the industry conditions that would have existed without the dumping, that is, had subject imports all been fairly priced. I then determine whether the change in conditions constitutes material injury. The Court of International Trade has held that the "statutory language fits very well" with my mode of analysis.[5]

In my analysis of material injury, I evaluate the effects of the alleged dumping on domestic prices, domestic sales, and domestic revenues. To evaluate the effects of the alleged dumping on domestic prices, I compare domestic prices that existed when the imports were allegedly dumped with what domestic prices would have been if the imports had been priced fairly. Similarly, to evaluate the effects of dumping on the quantity of domestic sales,[6] I compare the level of domestic sales that existed when imports were allegedly dumped with what domestic sales would have been if the imports had been priced fairly. The combined price and quantity effects translate into an overall domestic revenue impact. Understanding the impact on the domestic industry's prices, sales and overall revenues is critical to determining the state of the industry, because the impact on other industry indicators (e.g., employment, wages, etc.) is derived from the impact on the domestic industry's prices, sales, and revenues.

I then determine whether the price, sales and revenue effects of the alleged dumping, either separately or together, demonstrate that there is a reasonable indication that the domestic industry would have been materially better off if the imports had been priced fairly. If so, there is a reasonable indication that the domestic industry is materially injured by reason of the allegedly dumped imports.

For the reasons discussed below, I determine that there is a reasonable indication that the domestic industry producing foam extruded PVC and polystyrene framing stock is materially injured by reason of allegedly LTFV imports of framing stock from the U.K.

II. CONDITIONS OF COMPETITION

To understand how an industry is affected by unfair imports, we must examine the conditions of competition in the domestic market. The conditions of competition constitute the commercial environment in which the domestic industry competes with unfair imports, and thus form the foundation for a realistic assessment of the effects of the dumping. This

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[4] S. Rep. No. 71, 100th Cong., 1st Sess. 116 (1987)(emphasis added).

[5] U.S. Steel Group v. United States, 873 F.Supp. 673, 695 (Ct. Int'l Trade 1994), appeal docketed, No. 95-1245 (Fed. Cir. March 22, 1995).

[6] In examining the quantity sold, I take into account sales from both existing inventory and new production.

environment includes demand conditions, substitutability among and between products from different sources, and supply conditions in the market.

A. Demand Conditions

An analysis of demand conditions tells us what options are available to purchasers, and how they are likely to respond to changes in market conditions, for example an increase in the general level of prices in the market. Purchasers generally seek to avoid price increases, but their ability to do so varies with conditions in the market. The willingness of purchasers to pay a higher price will depend on the importance of the product to them (e.g., how large a cost factor), whether they have options that allow them to avoid the price increase, for example by switching to alternative products, or whether they can exercise buying power to negotiate a lower price. An analysis of these demand-side factors tells us whether demand for the product is elastic or inelastic, that is, whether purchasers will reduce the quantity of their purchases if the price of the product increases. For the reasons discussed below, I find that the overall elasticity of demand for framing stock is somewhat high.

Cost Factor. The first factor that measures the willingness of purchasers to pay higher prices is the importance of the product to purchasers. In the case of an intermediate product ("input"), the importance will depend on the significance of the input's cost relative to the total cost of the downstream products in which it is used. When the price of an input is a large portion of the total product cost, changes in the price of the input are more likely to alter demand by the downstream user and, by extension, the demand for the input.

Framing stock typically represents a large percentage, about 38 percent, of the cost of the downstream finished frame product.[7] Elasticity of demand for such high-cost share inputs is generally high. Demand for the input is also determined by the downstream customers' price sensitivity of demand.[8] Finished frames are a non-necessity durable good, suggesting that downstream customers would be sensitive to changes in price. All else equal, higher price sensitivity in the downstream market suggests a higher elasticity of demand for inputs.[9]

In addition, there appear to be some differences in the elasticity of demand across the major framing stock market sectors, the "ready-made manufacturers" sector and the custom frame sector.[10] The ready-made manufacturers sector is the largest U.S. market sector, accounting for the majority (*** percent) of Marley's shipments from 1992 to 1994 and *** of Robobond's framing stock.[11] Since the ready-made manufacturer sector sells mostly lower

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[7] CR at I-6, n. 15; PR at I-4, n. 15.

[8] Demand for this consumer product also depends on the level of general household income. In general, the higher the level of income, the more likely it is that consumers will purchase higher quality or greater quantities of framing stock.

[9] There is also evidence of an overall increase in demand for framing stock due to product innovation. Fourteen-of-twenty-one importers and purchasers of framing stock indicated that demand for their final products increased during the POI due to a wider range of designs and finishes becoming available at a reasonable price. CR at II-7; PR at II-4.

[10] CR at III-5; PR at III-2 - III-3.

[11] CR at I-9; PR at I-5 - I-6.

to middle-end framing stock to price conscious consumers,[12] demand in this market sector appears to be more sensitive to small changes in price. In the smaller custom framing stock market sector, demand appears to be somewhat less elastic. These retailers sell lower volume, higher quality, more costly framing stock with numerous frame and feature variations.

Alternative Products. A second important factor in determining whether purchasers would be willing to pay higher prices is the availability of viable alternative products. Often purchasers can avoid a price increase by switching to alternative products. If such an option exists, it can impose discipline on producer efforts to increase prices.

In this investigation the record suggests that alternative framing stock products, most frequently those made of wood, do compete with PVC or polystyrene framing stock.[13] The price of wood framing stock has reportedly increased recently, which would tend to reduce the relative attractiveness of such products.[14] I intend to closely examine competition with alternative products, especially wood framing stock, in any final investigation.[15]

I find that the high cost share of the product indicates an elastic demand for framing stock. The availability and apparent competitiveness of alternative products such as wood and metal framing stock further increases the price sensitivity of demand. Thus, I find that the overall elasticity of demand for framing stock appears to be somewhat high. That is, purchasers will reduce significantly the amount of framing stock they buy in response to a general increase in the price of framing stock.

B. Substitutability

Simply put, substitutability measures the similarity or dissimilarity of imported versus domestic products from the purchaser's perspective. Substitutability depends upon (1) the extent of product differentiation, measured by product attributes such as physical characteristics, suitability for intended use, design, convenience or difficulty of usage, quality, etc.; (2) differences in other non-price considerations such as reliability of delivery, technical support, and lead times; and (3) differences in terms and conditions of sale. Products are close substitutes and have high substitutability if product attributes, other non-price considerations and terms and conditions of sale are similar.

While price is nearly always important in purchasing decisions, non-price factors that differentiate products determine the value that purchasers receive for the price they pay. If products are close substitutes, their value to purchasers is similar, and thus purchasers will respond more readily to relative price changes. On the other hand, if products are not close substitutes, relative price changes are less important and are therefore less likely to induce purchasers to switch from one source to another.

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[12] CR at I-10; PR at II-6.

[13] CR at I-8; PR at I-4 - I-5. Wood framing stock is the most commonly sold framing stock. CR at I-7; PR at I-4.

[14] CR at II-9; PR at II-5.

[15] Another important demand factor is the possibility of buying power by the largest ready-made manufacturers. I intend to explore this issue further in any final investigation.

Because demand elasticity for PVC and polystyrene framing stock appears to be somewhat high, overall purchases will decline significantly if the overall prices of framing stock increase. However, purchasers can avoid price increases from one source by seeking other sources of framing stock. In addition to any changes in overall demand for framing stock, the demand for framing stock from different sources will decrease or increase depending on their relative prices and their substitutability. If framing stock from different sources are substitutable, purchasers are more likely to shift their demand when the price from one source (i.e., subject imports) increases. The magnitude of this shift in demand is determined by the degree of substitutability among the sources.

Purchasers have three potential sources of framing stock: domestically produced framing stock, subject imports, and nonsubject imports. Purchasers are more or less likely to switch from one source to another depending on the similarity, or substitutability, between and among them. I have evaluated the substitutability among framing stock from different sources as follows.

For purposes of this preliminary investigation, I have made the following determinations regarding substitutability. First, I find that subject imports of framing stock from the U.K. are moderately good substitutes for domestic framing stock. Second, I find that nonsubject imports are not available in sufficient quantities to be considered as a serious alternative. Thus, the shift in demand away from subject imports would increase demand for domestic framing stock.

Subject imports and domestic framing stock are sold through similar channels of distribution and are technically interchangeable in their basic application as decorative casings.[16] However, the record indicates that subject imports consist of a broader range of framing stock types, based on differences in size, materials, design, quality, durability, color, shape and other distinguishing characteristics. Sixteen-of-eighteen importer\purchasers indicated that the U.S. product range was inferior to subject imports.[17] Robobond claims it has driven the reported increase in domestic demand for framing stock by supplying products unavailable from domestic sources.[18] Fourteen-of-nineteen responding importer\purchasers indicate that they purchased the U.K. product because of its superior quality and diversity of product line.[19] Sixteen-of-eighteen importers and purchasers stated that the domestic product range was inferior to subject imports.[20] In particular, Robobond, the *** U.K. manufacturer, has been successful in marketing its new wood-like "compo" framing stock; sales have risen from virtually *** in 1992 to *** percent in interim 1995.[21] Such differences in quality and diversity tend to reduce substitutability. Substitutability is further reduced due to the *** percentage of domestic production that is captively consumed.[22] Subject imports do not compete directly with such domestic production. Nonetheless, there is evidence of overlap

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[16] CR at I-7 and I-9; PR at I-4 and I-5.

[17] CR at II-12; PR at II-7.

[18] CR at II-1 and II-6 - II-7; PR at II-1.

[19] CR at II-10 and II-11; PR at II-5. The majority of importers and purchasers stated that quality, not price, was the most important factor driving their purchases. CR at II-10 and V-3; PR at II-5 and V-2.

[20] Table II-1, CR at II-12; PR at II-7.

[21] Respondent's post-hearing brief at 13, n. 13.

[22] CR at III-1; PR at III-1.

between subject imports and domestic products in the U.S. market, at least in the early part of the period of investigation.[23] I find that on balance subject imports and domestic framing stock appear to be moderate substitutes.

Nonsubject imports account for a very small percentage of imports and of domestic consumption. Consequently, I conclude that nonsubject imports do not appear to be a significant factor in this market.

Therefore, based on the available information, I find that purchasers would have shifted a significant portion of their purchases to domestic framing stock had subject imports been fairly priced.

C. Supply Conditions

Supply conditions in the market are a third condition of competition. Supply conditions determine how producers would respond to an increase in demand for their product, and also affect whether producers are able to institute price increases and make them stick. Supply conditions include producers' capacity utilization, their ability to increase their capacity readily, the availability of inventories and products for export markets, production alternatives and the level of competition in the market. For the reasons discussed below, I find that the elasticity of supply of framing stock appears to be somewhat high.

Capacity Utilization and Capacity. Unused capacity can exercise discipline on prices, if there is a competitive market, as no individual producer could make a price increase stick. Any attempt at a price increase by any one producer would be beaten back by its competitors who have the available capacity and are willing to sell more at a lower price. The total domestic industry capacity *** by *** percent from 1993 to 1994. In 1994, *** percent of the domestic industry's capacity to produce framing stock was not used and therefore was available to increase production.[24] However, the total quantity of subject imports *** reported available domestic capacity in 1994.[25]

Inventories and Exports. The domestic industry had *** in inventories available at the end of 1994 which it could have shipped to the U.S. market.[26] The domestic industry did not *** any framing stock during the POI. Thus the domestic industry had some available inventories that could have filled the demand supplied by subject imports.

Level of Competition. The level of competition in the domestic market has a critical effect on producer responses to demand increases. A competitive market is one with a number of suppliers in which no one producer has the power to influence price significantly. The domestic PVC and polystyrene framing stock industry has been highly concentrated. One large merchant producer and one large captive producer have dominated

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[23] See manufacturers' exhibits before the Commission and CR at II-4 through II-6; PR at II-2 through II-3.

[24] Open market supplier Marley had *** percent of its capacity available for increasing production in 1994. CR at III-7, Table III-1; PR at III-3.

[25] CR at A-3, Table A-1; PR at A-3.

[26] CR at A-3, Table A-1; PR at A-3.

domestic production, accounting for nearly *** percent of reported production in 1994.[27] However, three new U.S. producers have entered the market in the past year, for which detailed information was not available. The record thus indicates that there is substantial available domestic capacity and at least some competition among domestic producers. However, the high differentiation of products in the market place and the dominant position of one merchant and one captive producer suggests the possibility of some market power.

III. MATERIAL INJURY BY REASON OF ALLEGEDLY LTFV IMPORTS OF FRAMING STOCK FROM THE U.K.

The statute requires us to consider the volume of subject imports, their effect on domestic prices, and their impact on the domestic industry. I consider each requirement in turn.

A. Volume of Subject Imports

Subject imports of polystyrene framing stock[28] increased from *** million linear feet in 1992, to *** million linear feet in 1993 and *** million linear feet in 1994. The value of subject imports was $*** million in 1992, $*** million in 1993, and $*** million in 1994.[29] By quantity, subject imports held a market share of *** percent in 1993 and *** percent in 1994. Their market share by value was *** percent in 1993 and *** percent in 1994.[30] While it is clear that the larger the volume of subject imports, the larger the effect they will have on the domestic industry, whether the volume is significant cannot be determined in a vacuum, but must be evaluated in the context of its price and volume effects. Based on the market share of subject imports and the conditions of competition in the domestic framing stock market, I find that the volume of subject imports is significant in light of its price and volume effects.

B. Effect of Subject Imports on Domestic Prices

To determine the effect of subject imports on domestic prices I examine whether the domestic industry could have increased its prices if the subject imports had not been dumped. As discussed, both demand and supply conditions in the framing stock market are relevant. Examining demand conditions helps us understand whether purchasers would have been willing to pay higher prices for the domestic product, or buy less of it, if subject imports had been sold at fairly traded prices. Examining supply conditions helps us understand whether available capacity and competition among suppliers to the market would have imposed discipline and prevented price increases for the domestic product, even if subject imports had not been unfairly priced.

If the subject imports had not been dumped, their prices in the U.S. market would have increased significantly. Thus, if subject imports had been fairly priced, they would have become more expensive relative to domestic PVC and polystyrene framing stock. In

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[27] CR at III-1 to III-3; PR at III-1 to III-2.

[28] There are no subject imports of PVC framing stock.

[29] CR at A-5, Table A-2; PR at A-3.

[30] CR at A-5, Table A-2; PR at A-3.

such a case, if the imported and domestic framing stock are substitutable, purchasers would have shifted towards the relatively less expensive products.

In this investigation, the alleged dumping margins for subject imports from the U.K. are somewhat large (20.8 to 49.0 percent), so that subject imports likely would have been priced significantly higher had they been fairly traded. Since subject imports and domestic framing stock are moderate substitutes, some but not all of the demand for subject imports would have shifted to domestic framing stock. It is likely that, at the higher, fairly traded prices, at least some of the subject imports from the United Kingdom would continue to have been sold in the U.S. market. Since subject imports held a significant market share of *** percent by quantity in 1994, such a shift in demand to domestic framing stock would have been substantial. However, the elasticity of demand indicates that any price increases by domestic suppliers in response to this shift in demand would have been resisted and therefore moderated.

In addition to demand conditions, supply-side conditions would have limited attempts by the domestic industry to increase prices. The domestic industry had significant production capacity as well as some inventories that would have allowed increased shipments to the U.S. market, but not enough to completely replace subject imports. Competition from new entrants into the U.S. market might also have occurred. On the other hand, direct price competition would have been limited somewhat by the differentiated nature of products in this industry. In these circumstances, domestic producers could have raised their prices somewhat, but not by large amounts. Any effort to raise prices substantially would have been resisted by competitors and customers.

Therefore, some effects on domestic prices can be attributed to the unfair pricing of subject imports. Consequently, I find that subject imports are having significant effects on prices for domestic framing stock.

C. Impact of Subject Imports on the Domestic Industry

To assess the impact of subject imports on the domestic industry, I consider output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, research and development and other relevant factors.[31] These factors together either encompass or reflect the volume and price effects of the dumped imports, and so I gauge the impact of the dumping through those effects.

As discussed above, the domestic industry would have been able to increase its prices somewhat if subject imports had been sold at fairly traded prices. In addition, dumped imports appear to have had an impact on the domestic industry's output and sales.

As discussed above, had subject imports not been dumped, the demand for subject imports from the U.K. would have declined and demand for the domestic product would have increased. Domestic producers, who had a *** percent market share by quantity, could easily have increased their production and sales, although not enough to completely replace subject imports (at least not in 1994 and interim 1995). For the reasons discussed above, the domestic industry likely would have captured some of the demand for subject imports. As a

[31] 19 U.S.C. § 1677(7)(C)(iii).

result, the domestic industry's output and sales, and therefore its revenues, would have increased significantly. I therefore find that, had subject imports not been dumped, the impact on the domestic industry's output and sales would have been significant.

Had subject imports not been dumped, the domestic industry would have been able to increase its prices, output and sales, and therefore its revenues, significantly. Consequently the domestic industry would have been materially better off if the subject imports had been fairly traded. Therefore, I find that there is a reasonable indication that the domestic industry producing foam extruded PVC and polystyrene framing stock is materially injured by reason of allegedly LTFV imports of foam extruded PVC and polystyrene framing stock from the United Kingdom.

IV. CONCLUSION

On the basis of the foregoing analysis, I determine that there is a reasonable indication that the domestic industry producing foam extruded PVC and polystyrene framing stock is materially injured by reason of allegedly LTFV imports of foam extruded PVC and polystyrene framing stock from the United Kingdom.

VIEWS OF COMMISSIONER BRAGG REGARDING A REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF ALLEGEDLY LTFV IMPORTS

In preliminary antidumping duty investigations, the Commission must determine, based on the information available to it at the time of the determination, whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of the subject imports that allegedly are sold at LTFV.[1] In my view, the question of whether there is a reasonable indication of material injury by reason of the subject imports should be resolved before addressing the question of threat. I find that there is a reasonable indication that the domestic industry producing foam extruded PVC and polystyrene framing stock is materially injured by reason of subject imports from the United Kingdom, and thus do not reach the question of whether a reasonable indication of threat of material injury exists.

In determining whether a reasonable indication of material injury exists, the statute requires the Commission to consider the volume of 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.[2] Although the Commission may consider alternative causes of injury to the industry other than the LTFV imports, it is not to weigh causes.[3]

As a preliminary matter, I note that in this investigation I have placed particular emphasis on data for the merchant market as the data most probative of a sufficient causal link between subject imports and declines in the domestic industry's fortunes. In particular, I note that the Commission is unable to analyze the impact of subject imports on the financial condition of *** U.S. producer, National, which produces only for internal consumption and ***. Thus, the financial data provided by Marley are the best evidence available to the Commission concerning the impact of subject imports on the financial condition of the domestic industry. While the Commission can consider National's financial picture for its overall establishment operations, such data are not necessarily indicative of what a separate breakdown for the domestic like product operations might show. For this reason, and because Marley's financial condition more directly reflects competition with subject imports[4]

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[1] 19 U.S.C. § 1673b(a)(1).

[2] 19 U.S.C. § 1677(7)(B)(i). The Commission also may consider "such other economic factors as are relevant to the determination." Id.

[3] See, e.g., Citrosuco Paulista, S.A. v. United States, 704 F. Supp. 1075, 1101 (Ct. Int'l Trade 1988). Alternative causes may include the following:

> [T]he volume and prices of 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. S. Rep. No. 249, 96th Cong., 1st Sess. 74 (1979). Similar language is contained in the House Report. H.R. Rep. No. 317, 96th Cong., 1st Sess. 46-47 (1979).

[4] I note that the extent to which subject imports compete with the domestic like product, even in the merchant market, is unclear. Respondent Robobond has argued that the U.K. product is superior to the U.S. product, and that the substitutability of the subject imports and the domestic like product is limited. I will examine this issue more closely in any final investigation. For purposes of this

(continued...)

(whereas any competition between National and subject imports is indirect, in the form of competition with downstream products produced from subject imports), I consider the financial data for the merchant market to be the most probative evidence currently available to the Commission concerning the financial condition of the domestic industry for purposes of analyzing the impact of subject imports. With respect to other industry factors, I have looked at both the overall market and the merchant market in assessing the impact of the allegedly LTFV imports, but have placed particular emphasis on data for the merchant market as reflecting more directly the competitive effects of subject imports.

I. Volume of the Subject Imports

The volume of subject imports increased *** during the period examined. By quantity, subject imports from the U.K. rose from *** linear feet in 1992, to *** linear feet in 1993, to *** linear feet in 1994, for a total increase of *** percent from 1992-94. Subject imports rose an additional *** percent between interim periods, increasing from *** to *** linear feet from interim 1994 to interim 1995. The value of subject imports followed a similar pattern.[5]

Although demand for PVC/polystyrene framing stock also increased throughout the period examined,[6] subject imports increased at a ***, resulting in *** gains in the market share held by these imports. Share gains by subject imports were *** in the merchant market: subject imports increased their share of the merchant market, by quantity, from *** percent in 1992, to *** percent in 1993, to *** percent in 1994, and reached *** percent in interim 1995, up from *** percent in interim 1994.[7] Subject imports also increased their share of the total market, however: subject imports' share of the total U.S. market rose from *** percent to *** percent from 1993-94, and from *** percent to *** percent between interim periods.[8]

As non-subject imports account for only a miniscule share of the U.S. market for PVC/polystyrene framing stock, these increases in the market share held by subject imports came directly at the expense of domestic producers. The domestic industry's share of the merchant market, on a quantity basis, decreased from *** percent in 1992 to *** percent in

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[4] (...continued)
preliminary determination, however, I find that there is sufficient evidence of direct competition between the subject imports and the domestic like product produced for the commercial market. See CR at II-6, II-10 - II-12, PR at II-3, II-5 - II-6.

[5] Table A-1, CR at A-3, PR at A-3. The value of subject imports rose from *** in 1992, to *** in 1993, to *** in 1994, for a total increase of *** percent from 1992-94, and from *** in interim 1994 to *** in interim 1994, a further increase of *** percent. Id.

[6] U.S. apparent consumption in the merchant market increased by *** percent on a quantity basis, and by *** percent on a value basis, between 1992 and 1994, and by *** percent by quantity and *** percent by value between interim periods. Table A-1, CR at A-3, PR at A-3. Apparent consumption in the total U.S. market (including captive production) increased by *** percent by quantity and *** percent by value between 1993 and 1994, and by *** percent by quantity and *** percent by value between interim periods. Table A-2, CR at A-5, PR at A-3.

[7] Table A-1, CR at A-3, PR at A-3. Subject imports' share of the merchant market by value followed a similar trend. Id.

[8] Table A-2, CR at A-5, PR at A-3. Subject imports' share of the total market by value followed a similar pattern. Id.

1993, then fell to *** percent in 1994, for a total loss of *** percentage points over this period. In interim 1995, the domestic industry's share of the merchant market declined further, to *** percent, compared with *** percent in interim 1994 -- a loss of *** percentage points.[9] Domestic producers' share of the total U.S. market, by quantity, fell from *** percent in 1993 to *** percent in 1994 (for a loss of *** percentage points), and from *** percent in interim 1994 to *** percent in interim 1995 (a loss of *** percentage points.[10]

Based on the foregoing, I find that both the volume and market share of subject imports, and the increases in that volume and market share over the period examined, are significant.

II. Price Effects of the Subject Imports

The pricing data collected by the Commission must be viewed with caution, for several reasons. Comparisons are difficult due to the enormous number of designs and finishes in the market.[11] The diversity of the subject product categories also makes it difficult to obtain extensive coverage.[12] The staff report notes that the pricing information collected by the Commission may not be indicative of the full range of product competition between the petitioner and respondent because of incomplete coverage of their product lines.[13] Moreover, as previously noted, the extent to which the domestic and imported product are good substitutes is unclear.

Nonetheless, the pricing data support the conclusion that subject imports are depressing and/or suppressing domestic prices. Indeed, prices for both the domestic and imported product *** over the period of investigation for *** of the five products reviewed, were *** for *** other products, and *** for ***.[14] Although prices *** toward the end of the period in some cases, ***, prices do not appear to have *** sufficiently to offset ***.[15] While other factors, such as quality and product range, clearly affect purchasing decisions, price appears to be a relatively important factor.[16] Thus, it is reasonable to conclude that

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[9] Table A-1, CR at A-3, PR at A-3. The domestic industry's share of the merchant market by value followed a similar trend. Id.

[10] Table A-2, CR at A-5, PR at A-3. Domestic producers' share of the total market by value followed a similar trend. Id.

[11] CR at V-4, PR at V-4. I note that many factors play a role in determining price, including product quality, product range, raw materials costs, and responsiveness of the supplier. CR at V-1, PR at V-1.

[12] CR at V-12, PR at V-4.

[13] Id.

[14] CR at V-10 - V-13, PR at V-3 - V-4.

[15] Unit cost of goods sold for U.S. commercial producers *** by *** percent from 1992-94, and by another *** percent between interim periods. Unit sales values, ***, increased by *** percent from 1992-94, and by *** percent between interim periods. Table A-1, CR at A-3, PR at A-3. I note that these trends may be affected by changes in product mix, and intend to examine this issue more closely in any final investigation.

[16] The customized nature of framing stock makes it difficult to evalute substitutability, or to assess precisely the role played by price, as opposed to other factors such as quality and product range, in purchasing decisions. I note, however, that the majority of importer/purchasers responding to Commission questionnaires included price among the top three factors used in selecting a supplier. CR (continued...)

increasing volumes of subject imports would have a depressing or suppressing effect on domestic prices. Moreover, the pricing data show underselling by subject imports in *** available price comparisons.[17] This evidence of *** further supports the conclusion that subject imports have had adverse effects on the prices of the domestic product.

III. Impact of the Subject Imports on the Domestic Industry[18]

Although the domestic industry was profitable throughout the period of investigation, a number of significant industry indicators, particularly the financial ones, declined *** as subject imports surged. This evidence of deterioration in the condition of the domestic industry, ***, indicates that subject imports have had an adverse impact on the domestic industry.

Although U.S. apparent consumption increased *** over the period of investigation, domestic producers did not benefit from this demand growth in the face of *** increases in subject imports. As described above, the domestic industry experienced losses in market share to subject imports in both the merchant and overall U.S. markets, with ***. The domestic industry producing for the merchant market also experienced *** declines in production, capacity utilization, shipments, net sales, gross profits, and operating income throughout the period of investigation, with the rate of decline for financial indicators *** in the most recent interim period.[19]

Based on the foregoing, I find a reasonable indication that the domestic industry producing PVC/polystyrene framing stock is materially injured by reason of allegedly LTFV imports from the United Kingdom.

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[16] (...continued)
at V-3, PR at V-2. Moreover, at least one purchaser that switched from domestic to U.K. product indicated that price was one of the factors that it considered in deciding to cease purchases of the domestic product. CR at V-18, PR at V-7. Most responding importers/purchasers also considered the U.S. and U.K. product comparable for most purchasing factors. CR at II-11 - II-12, PR at II-6 - II-7. I intend to examine the issue of substitutability, and the relationship between domestic and import prices, more closely in any final investigation.

[17] The subject imports undersold the domestic like product in *** of 38 possible price comparisons, by margins ranging from *** percent to *** percent. Tables V-1 - V-5, CR at V-5 - V-9, PR at V-3.

[18] The amendments made to the Commission's statute by the URAA require the Commission to consider the magnitude of the margin of dumping as one of the factors examined in assessing the impact of allegedly LTFV imports on the domestic industry. 19 U.S.C. 1677(7)(C)(iii)(V). The margins of dumping identified by the Commerce Department in its notice of initiation of this investigation (see 19 U.S.C. 1677(35)(C)(i)) range from 20.82 to 48.96 percent. I have considered all of the factors set forth in the statute, but have discussed herein only those factors relevant to my determination.

[19] Table A-1, CR at A-4, PR at A-3. Although, as previously noted, complete financial data are available only for U.S. merchant operations, I further note that ***. Further, at the Commission's conference, Acme Frame testified that its purchases of U.K. framing stock assisted it in entering the promotional level of the market where it competes for sales with National. CR at III-5, n.14, PR at III-2, n.14.

PART I: INTRODUCTION

BACKGROUND

This investigation results from a petition filed by counsel for Marley Mouldings, Inc., Marion, VA, on September 8, 1995, alleging that an industry in the United States is materially injured and threatened with material injury by reason of imports from the United Kingdom of foam extruded polyvinyl chloride (PVC) and polystyrene framing stock[1] that are alleged to be sold in the United States at less than fair value (LTFV).[2] Information relating to the background of the investigation is provided below:[3]

Date	*Action*
September 8, 1995	Petition filed with Commerce and the Commission; institution of Commission investigation (60 F.R. 48167, September 18, 1995)
September 29, 1995 . . .	Commission's conference[4]
October 6, 1995	Commerce's notice of initiation (60 F.R. 52370)
October 20, 1995	Commission's vote
October 23, 1995	Commission determination transmitted to Commerce
October 30, 1995	Commission views transmitted to Commerce.

ALLEGED SALES AT LTFV

Margin allegations presented in the petition focus on sales by Simons or Robobond Ltd.,[5] the *** manufacturer in the United Kingdom, to its U.S. customers. Based on comparisons of export price with normal value, the calculated dumping margins for the subject product ranged from 20.82

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[1] For purposes of this investigation, the subject product consists of all extruded PVC and polystyrene framing stock regardless of color, finish, width, or length. Finished frames assembled from foam extruded PVC and polystyrene framing stock are excluded. Foam extruded PVC and polystyrene framing stock is currently provided for in subheadings 3924.90.20 and 3926.90.98 of the *Harmonized Tariff Schedule of the United States* (*HTS*). The 1995 most-favored nation U.S. tariff rates, applicable to imports from the United Kingdom, are 3.4 percent ad valorem (picture frames of plastics, subheading 3724.90.20) or 5.3 percent ad valorem (nonenumerated articles of plastics and articles of other materials of headings 3901 to 3914, subheading 3926.90.98).

[2] A summary of the data collected in the investigation is presented in app. A. The Commission has not conducted any previous investigations on foam extruded PVC or polystyrene framing stock.

[3] *Federal Register* notices cited in the tabulation are presented in app. B.

[4] A list of witnesses appearing at the conference is presented in app. C.

[5] Robobond is often referred to by several names, including Emafyl Picture Frames (Emafyl) and D & J Simons & Sons Ltd. (Simons or SimonArt). Emafyl is the trading name for the corporate entity, Robobond Ltd. Its affiliated firm, Simons, is the largest distributor of wood mouldings in Europe. The other manufacturers in the United Kingdom consist of Ecoframe, Magnolia Group PLC, and Marley Extrusions, Ltd. Of these, only Ecoframe and Magnolia export to the United States; their exports are limited compared to those of Robobond. The manufacture of foam extruded PVC and polystyrene framing stock in the United Kingdom is discussed further in Part VII of this report.

percent to 48.96 percent.[6] The alleged LTFV margins reflect, first, the difference in delivery costs on sales to customers in the United States compared with those in the United Kingdom and, secondly, U.S. sales made below the published list price.

INDUSTRY PARTICIPANTS

Foam extruded PVC and polystyrene framing stock is manufactured in the United States primarily by two firms, Marley Mouldings, Inc. (Marion, VA) or Marley and National Picture & Frame Co. (Greenwood, MS) or National.[7] National is a vertically integrated producer of finished frames; all of its production of subject framing stock is used internally by the firm. In contrast, petitioner Marley sells all of its production on the commercial market, primarily to ready-made frame manufacturers and to wholesale distributors which, in turn, sell to custom frame shops.[8] Individual ready-made frame manufacturers and wholesalers also purchase foam extruded PVC and polystyrene framing stock from British manufacturers and are the importers of record.

In addition to the subject product, National manufactures wood and metal framing stock. In 1994, wood framing stock accounted for *** percent of its total production, metal for *** percent, and subject polystyrene for the remaining *** percent. Marley produces only foam extruded PVC and polystyrene framing stock. Additional information on industry participants and on the channels into which they sell product is presented in subsequent sections of this report.

THE PRODUCT

Description and Uses

The imported product subject to this investigation includes all foam extruded PVC and polystyrene framing stock regardless of color, finish, width, or length. The framing stock is used to manufacture frames for pictures and mirrors. Excluded are finished frames assembled from foam extruded PVC and polystyrene framing stock.

Framing stock consists of an extruded shape or "profile" on which finishes are applied to obtain a specific look. Finishes include foil wrap, glossy paints, prints, and floral finishes using a hot-stamp process, as well as marble and granite finishes using a texture-embossing process. Also, a composition material may be added to the top of the framing stock to create three-dimensional textured surfaces. Framing stock so treated is referred to as a "compo" or, sometimes, "pasta" product. Pieces of framing stock, along with such other products as glass and matting material, are

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[6] Petition, pp. 16-21. Robobond states that errors in the petitioner's calculations increased Robobond's unit freight and handling costs by approximately 100 percent. Robobond also objects to the exchange rate used by petitioner in calculating the dumping margins. Rogers & Wells, postconference brief submitted on behalf of Robobond, pp. 40-41 and note 128.

[7] In addition, three new domestic producers have recently entered the U.S. market.

[8] Ready-made frame manufacturers typically cut the framing stock with ordinary woodworking equipment and assemble the cut stock with glue, nails, staples, or other materials into finished frames. The term "ready-made"manufacturers" as used within this report is understood to include "contract" manufacturers. In addition to manufacturing frames, ready-made manufacturers also conceptualize and market the line of framing products. In contrast, "contract" manufacturers simply produce under contract for another firm that will distribute the product. In some cases, framing stock is sold to intermediate firms or "chop shops" that cut the product to size and sometimes assemble it for custom frame shops.

assembled into finished frames for pictures and mirrors. Downstream use in picture and mirror frames is the only end use for the subject product.

Production Processes

The subject product incorporates a type of foamed plastic formed by the expansion of gas bubbles in a liquid-phase resin during a foam extrusion process. Foam extrusion has been in use since the 1970s. In this process, a plastic resin is heated to a fluid state, injected with a gas,[9] forced through a die, and then cooled to keep the shape in which it was originally extruded. It is the design of the orifice in the die that creates the shape of the extruded product--or the "profile" of the framing stock.[10] By the end of the extrusion, the density of the input resin is decreased substantially by the presence of numerous cells dispersed throughout its mass. Such plastic, though classified as rigid, semirigid, or flexible, is actually a spectrum of thermoplastic or thermosetting materials ranging from stiff, to elastic, to limp. It is variable enough to substitute for metals, wood, fibers, or cloth. The finished product may not look much like foam--it may be barely distinguishable from wood; it may feel like velvet; or it could resemble a wire mesh.[11]

Although many resins can be foam extruded, only framing stock made of PVC and of polystyrene is included within the definition of the subject product. Marley produces subject framing stock by using both PVC and polystyrene; National and Robobond, the *** British manufacturer, use only polystyrene.[12] Historically, PVC has been the more expensive product of the two resins.[13]

Interchangeability

The framing stock considered in this investigation is, strictly speaking, an intermediate product, with the uncompounded resin being the upstream material and finished frames being the

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[9] The gas, or "blowing agent," may be a physical agent such as nitrogen, a low-boiling liquid such as heptane introduced into the liquid, or a powdered chemical that decomposes into gas at a specific temperature.

[10] There are numerous extruded and foamed extruded plastic products, including siding, home and industrial mouldings, pipe, computer housings, exterior insulation, single-service eating materials (cups and plates), and packing material. Most foamed plastics can be extruded with only minor modifications of conventional extruders into rods, tubes, pipes, trim, or sheet.

[11] Kirk-Othmer, "Foamed Plastics," *Encyclopedia of Chemical Technology*, 3rd edition, vol. 11, pp. 82-90 and "Plastic Foams: Options, Methods, and Materials," *Plastics Engineering*, Aug. 8, 1984, pp. 19-24.

[12] Marley uses the same basic type of equipment and the same employees to produce PVC and polystyrene framing stock, although some differences in the dies and in the cooling equipment exist, and some adaptation is needed to switch between PVC production and polystyrene production. ***. Transcript of the Commission's Sept. 29, 1995, conference ("TR"), pp. 42-43 and response by Marley and National to producers' questionnaire.

[13] Neither petitioner nor respondents have discussed whether the varying prices of these materials constitute an important competitive factor. It is theoretically possible to convert from the per-pound price of a resin to a per-foot price of framing stock to compare manufacturing costs of the two resins. However, there are certain factors that make this conversion difficult. For example, polystyrene has a density of 1.04 grams per cubic centimeter, whereas PVC has a density of 1.4 grams per cubic centimeter. Potentially, polystyrene could produce 40 percent more linear feet of framing stock than PVC. However, the production process parameters and desired strengths of the finished product can influence the length of an output generated from a pound of resin. Further, both of these products are compounded with proprietary chemical additives during the extrusion process. Without knowing the cost of these additives, the cost per linear foot cannot be determined. ***, conversation with Commission staff, Sept. 20, 1995.

downstream product.[14] Framing stock and frames are clearly perceived as different products with different uses, although the terms are frequently used synonymously. As discussed, framing stock has no function other than for use in the production of finished frames. On the other hand, finished frames enable the mounting and hanging of pictures and mirrors.[15]

Five major materials known to be used in making framing stock are wood, mica (that is, wood covered with a formica wrap), metal, rigid plastic (ready-made),[16] and foam extruded PVC or polystyrene.[17] In their January 1995 annual survey of the art and framing industries, *Decor* reported that among custom framers, 90 percent of framing stock is wood, 8 percent is metal, 1 percent is rigid plastic, and 1 percent is mica.[18] In the mass-framing market, plastics appear to have a larger market share. Marley reported that, for the total picture frame market, wood was still the dominant framing material, accounting for 42 percent of sales. Metal frames held a 15-percent share, and the remaining frames used "wood" or "metal" finishes or were "non-wood."[19]

Functionally, all types of frames and framing stock are technically interchangeable in that they are decorative casings that are assembled to hold a picture securely in a flat position. The frame may also hold other articles, such as matt board, glass, and a backing. Further, the frame may serve as a stand to hold a picture on a table or serve as a surface to hold screws for wire when hanging pictures on a wall. The functional interchangeability exists irrespective of country of origin or material of construction. Actual interchangeability in the marketplace is determined, in part, by the material being framed, the consumer's perception, changing fashion, and price. A recent trade magazine article states:

> "... the Visions line from Marley Mouldings, Marion, Va., can simulate metal, lacquer, woodgrain, and faux finishes. ... Visions frames are made of lightweight PVC extruded with a woodlike core and a very hard finish. ... The extruded polymer

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[14] Finished frames assembled from foam extruded PVC and polystyrene framing stock are specifically excluded from Commerce's scope of investigation.

[15] Finished frames made from the subject framing stock are necessarily more costly than the framing stock because labor and materials are expended in transforming the framing stock into finished frames. In response to the Commission's questionnaire, firms indicated that finishing steps comprised, on average, 62 percent of the value of a finished frame. The specific question asked was: "Please estimate the **average** value that your firm adds to the foam extruded PVC and polystyrene framing stock that it uses in the production of finished frames. Provide the (added) value as a percent of the total cost of goods sold of the finished frame, considering the manufacturing cost and/or purchase price of the framing stock, added components, added labor, and added factory costs (including depreciation and amortization)." Except for one firm, the responses of the ready-made manufacturers ranged from a low of 40 percent to a high of 88 percent. National reported a value added of *** percent.

[16] Rigid plastic is an extruded vinyl product that occupies a low-end market niche. (The input price of the raw material is substantially less than that of the subject product.) Unlike PVC and polystyrene, rigid plastic cannot be nailed. It is typically used to form very thin borders on such products as mirrors. Petitioner, conversation with Commission staff, Sept. 1995.

[17] There are two additional types of plastic frames: poured urethane and injection-moulded frames. These frames are moulded as a finished form and are not first constructed as framing stock and then joined. Poured urethane frames often have more relief than can be achieved with the subject product and are typically used for large-sized, upscale art. Injection moulded frames are usually manufactured using polyurethane in ovals and in such odd shapes as hearts. Petitioner, conversation with Commission staff, Sept. 1995.

[18] "Strong Economy Makes Framers Hopeful," *Decor, The Business Magazine of Fine Art and Framing*, Jan. 1995, p. 134.

[19] Petitioner, postconference brief, Response to staff questions, p. 8.

moldings share three other key characteristics with micas: They can be given almost any look from foil to burl; they are less expensive than similar wood or lacquer products; and they offer a uniformity of finish."[20]

The issue of comparability was addressed in the Commission's questionnaires. In response to the question "Does foam extruded PVC and polystyrene framing stock compete for sale with other types of framing stock used for pictures and/or mirrors?," almost 80 percent of the responding importer/purchasers stated that there was such competition, most frequently with wood framing stock. More specifically, one respondent wrote that "The consumer typically is looking to buy a specific look or finish in a ready-made or custom framed print purchase. This look may be available to them in either a plastic, wood, or metal frame composition. Plastics are increasingly competitive, and intended to compete with wood frames."[21] An article presented by Marley in its sales literature states that:

> "Plastic mouldings certainly have their advantages: they are free of flaws (such as knots); they can withstand more knocks, scratches, etc., in shipping than wood without becoming damaged; they are always straight; the lengths are extruded to the same tolerance; and they cost about one third the price of wood mouldings."[22]

Wood is perhaps 20 percent to 50 percent more expensive than a comparable PVC or polystyrene frame, while mica mouldings are priced in-between the comparable wood and foamed framed products.[23] Further, Marley stated in its postconference brief (p. 17) that metal was more expensive than were both wood and the subject materials.

Channels of Distribution

Framing stock, regardless of material, is typically distributed through the same channels of distribution. As noted earlier, the foam extruded PVC and polystyrene framing stock is distributed to ready-made manufacturers and to wholesale distributors that service the custom framing market.[24] The majority (*** percent) of Marley's product was sold to ready-made manufacturers from 1992 to

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[20] Sharon Shinn, "The Many Looks of Mica," *Decor*, Feb. 1993, p. 159.

[21] Staff notes that such statements should not necessarily be interpreted to mean that all plastic frames compete with all wood frames. *** stated in its response to the Commission's importers' questionnaire that "Foam extruded PVC can compete for sale with other media (i.e., wood). The areas where the foam extruded PVC can compete is with frames with square corners and repetitive patterns. This is not the total frame market nor does it replace the total wood market." At the Commission's conference, Charles Gordon, chairman and CEO of Holson Burnes, elaborated that plastic competes most directly with wood products that are finished with foils and compo; these products comprise approximately 25 to 30 percent of the total wood market. TR, pp. 131-132. Another importer commented that the subject product can compete with wood at the low end (i.e., with wood core covered with paper, vinyl, or a film) or, alternatively, at the high end (i.e., the gold leaf look), with minimal competition in the middle ranges. Response by *** to importer/purchasers' questionnaire.

[22] Laura Caiccia, "Plastic Mouldings: An Alternative to Wood?," p. 1.

[23] Officials of *** and of ***, conversations with Commission staff, Sept. 28, 1995, and Sept. 27, 1995, respectively.

[24] Access to these distribution channels is quite open. Every year, there is at least one national trade show and several regional trade shows that allow frame manufacturers and distributors to exhibit their stock. In addition, there are at least two trade magazines, *Picture Framing Magazine* and *Decor*, that print annual directories listing the names of major producers, distributors, and retailers of frame and art supplies. Framing stock producers use both in-house sales persons and customer representatives to market their products.

1994,[25] as was *** of Robobond's framing stock.[26] The ready-made manufacturers, in turn, position themselves within various market segments, including the mass market (or discount stores), department stores, home centers, accessory stores, furniture centers, greetings and gift stores, catalog and home party outlets, the crafts market, and the brewery market.[27] In its testimony, Marley reported that frames made from its framing stock competed against Robobond's primarily in discount stores, department stores, home centers, crafts outlets, and greetings and gift stores.[28]

[25] Response by Marley to producers' questionnaire.

[26] ***. *** Robobond's sales were to ready-made manufacturers in 1992, and *** percent of its sales were sold to this channel in 1994. Postconference brief, exhibit 16; Howard Simons, Robobond, conversation with Commission staff, Sept. 15, 1995.

[27] TR, pp. 25-26.

[28] TR, pp. 26-27.

PART II: CONDITIONS OF COMPETITION IN THE U.S. MARKET[1]

DISTINCTIVE INDUSTRY CHARACTERISTICS AND MARKET SEGMENTATION

The subject product is an intrinsic and visible part of a downstream product (the frame) whose very function or purpose is centered around the act of "display." As a consequence, attributes which are associated with "display" (that is, artistic appeal, fashion, innovation) can become, in some part, associated with and a measure of the appeal of the subject framing stock.[2] These characteristics are, of course, somewhat intangible and it is not surprising that Marley (the petitioner) and Robobond (the *** British manufacturer) hold somewhat different views as to the acceptability of each firm's own f raming stock to purchasers. Respondents contend that subject imports serve to satisfy a market segment that the domestic industry is unable to adequately supply. They state that

> "A significant condition of competition unique to this industry is that customers have become increasingly sophisticated, requiring more complex finishes and ornate designs that replace traditional wood framing materials. UK imports have not had an adverse volume impact on the domestic industry because Robobond has created numerous new designs and styles of products that cannot be supplied by the domestic industry."[3]

Marley appears to not dispute the first of the above two sentences.[4] That aside, additional issues include (1) the extent of the overlap between products offered by both Marley and Robobond (and by the other British manufacturers) and (2) the impact on the U.S. industry of alleged LTFV sales by Robobond (that is, the extent to which framing stock items unique to Robobond have, as respondents allege, expanded the U.S. market for framing stock and/or the extent to which unfair price competition from Robobond has hindered Marley's ability to improve its manufacturing capabilities and competitive position). Information gathered concerning the first issue (physical interchangeability of the domestically produced and the imported subject product) is, of course, relevant to any conclusions that may be drawn concerning the second set of questions, and the following discussion addresses that concern.

There are two immediate difficulties encountered in any attempt to assess or present information concerning interchangeability. First, as discussed above, the measure of interchangeability is somewhat nebulous for this particular product and, second, the product lines and resulting competitive positions of Marley and Robobond may have changed somewhat during the period examined by the Commission or since the beginning of 1992. (Marley asserts that the larger,

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[1] The following discussion refers to, and is in part based on, the responses of industry participants to Commission questionnaires. When necessary, references are made to data presented in other sections of the Commission's report. Data concerning the response rate to producer questionnaires are presented in Part III; the coverage obtained with respect to import data is presented in Part IV.

[2] This statement should be qualified in that there is a wide range of framing stock and that some subject products such as document and basic poster frames may primarily function as mounting and protective devices.

[3] Rogers & Wells, postconference brief, p. 23.

[4] TR, p. 36.

more ornate mouldings are new additions to Simons' product line;[5] Robobond notes that growth in the market has occured largely in the wood-like and "compo" products.[6])

Both firms offer a numerically wide range of framing stock products.[7] Likewise, both do not inventory stock items, but currently manufacture the bulk, if not all, of their product to order.[8] Robobond alleges that its products are not interchangeable with those of Marley for reasons of superior design, quality, and ability to duplicate the appearance of wood.[9] Marley, in contrast, reports that a "substantial majority of the competition" consists of a limited range of profiles and designs being sold by both firms within the discount store market segment.[10] Staff has explored whether meaningful product categories could be developed to better measure interchangeability, but has not succeeded in doing so.[11] However, available product information on the record permits some comparison by profile number and finish style.[12]

Unfinished profiles differ mainly in terms of size and shape. The window within which profiles of differing sizes and shape will compete has not been fully examined; however, Robobond states that size is important because "even slight differences between the width and height of a profile can result in a completely different frame design and appearance."[13] Marley has identified a number of its high volume profiles as directly competitive with Robobond products: ***. Sales of these profiles appear to account for about *** linear feet or a little less than *** of Marley's business. The petitioner also provided an exhibit at the Commission's conference showing allegedly comparable Marley and Robobond profiles. (Some differences between the two lists exist; the above-listed profiles that are marked with an asterisk were included in both Marley's conference exhibit and in its postconference brief.) In exhibit 16 of its postconference brief, Robobond assesses Marley's claim as to the comparability of the Marley-Robobond profiles identified at the conference. It maintains no "meaningful commercial overlap exists" between any of the exhibited profiles, in part because they are of different sizes. However, for the purposes of illustration, Robobond accepted Marley's contention that frame profile determines product comparability and examined its sales to the

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[5] Petitioner, postconference brief, Response to Staff Questions, p. 7.

[6] Rogers & Wells, postconference brief, p. 13.

[7] For example, Marley testified at the Commission's conference that it currently utilizes 1,227 foil finishes that can be applied to 99 different profiles. TR, p. 43.

[8] TR, p. 55. Rogers & Wells, postconference brief, p. 45.

[9] Rogers & Wells, postconference brief, pp. 10-12. Howard Simons testified that, to the best of his knowledge, "there are no virtual overlaps between the two ranges (i.e., between Robobond and Marley)." TR, p. 117.

[10] TR, p. 185.

[11] Staff discussed this issue with various purchasers throughout the course of the investigation. Individual purchasers (who were customers of Simons) could comment on specific product characteristics that were important to their respective firms (almost always in the context of indicating preference for Robobond framing stock), but did not appear to be familiar with the entire product ranges of the different framing stock manufacturers. Robobond, in response to the question of whether prices could be gathered by product categories rather than by profile number, thought not: "Unlike cases involving a chemical or other type of commodity, framing stock is not sold in standard shapes, designs, gauges, purity levels, etc. ... As a consequence, no logical basis exists on which the Commission might even attempt to group different individual framing styles for purposes of some type of "basket" price analysis." Rogers & Wells, postconference brief, p. 36.

[12] The profile "number" refers to the product number used by the manufacturing firm.

[13] Rogers & Wells, postconference brief, exhibit 16, p. 6.

United States for a subset of the profiles.[14] Under this scenario, Robobond estimates that, at most, *** (or *** percent of its exports) in 1994 and *** (or *** percent of its exports) in January-August 1995 compete. (When nonprice purchase reasons are taken into consideration, Robobond alleges that the potential competitive overlap dwindles further.)[15] However, these six profiles apparently accounted for a *** share--*** percent--of Robobond's exports to the United States in 1992. This suggests a possible shift in product competitiveness between Marley and Robobond throughout the period examined by the Commission.[16] However, staff notes that because this product (presumably including some profile shapes) is designed by manufacturers for individual customers and can go out of fashion quickly, assessing trends by profile number may be somewhat problematic.

Moving on to the second major product characteristic, or finish, respondent states that "frame profile is a poor measure of product comparability ... Significantly more important is the ability of the framing stock producer to supply innovative styles to finish the profile ..."[17] Robobond has the following types of finishes available:

> "painting with instant drying techniques, embossing, foiling, embossed foiling, lining, driftwooding, spotting, flecking, ultraviolet painting, spiderwebbing, washing and turning, line washing, pastel compo line, wrapping (including paper bills), linen, silks, jute and golds, fusing, printing, computer time-delayed spraying, panel spraying, car wash finishing, 18 colors of pastels, magnetic printing of logos and designs, and glue spreading."[18]

These finishes are believed not to be mere options, but to represent basic production capabilities.[19] Marley, in its postconference brief, indicated that it can utilize all of the above techniques, except for driftwooding, silks, and time-delayed spraying.[20]

As shown above, although parties' positions on the issue differ dramatically, information on the record seems to suggest, at minimum, the potential for competition. (However, not considered above are such factors as product quality[21] and manufacturer-specific techniques.)[22] Along with fashion-oriented products, frame manufacturers do appear to also offer basic designs and profiles.[23]

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[14] Petitioner listed 10 of its profiles as comparable to 13 of Robobond's in the conference exhibit. Robobond, after a quick review, says that about 6 (i.e., EMA 8/57, 16, 17, 23, 33, and 38) "are even arguably similar to the indicated Marley profiles." The data which follow (in the text) are based on sales of these six profiles. Robobond believes that no comparability exists for EMA 28 (due to size and shape); EMA 52 (due to shape); EMA 46-26 (due to size and inability, for that particular finish, to determine comparability from a sample); EMA 258-58 (due to size and finish, the Robobond product is a compo), EMA 41-39 (due to size, shape, and finish); and EMA 5 (due to size). Rogers & Wells, postconference brief, exhibit 16.

[15] Ibid., pp. 34-35.

[16] Ibid., exhibit 16, p. 11. Robobond reports that overlapping competition with Marley decreased during the period reviewed due to ***. Counsel for Robobond, conversation with Commission staff, Oct. 13, 1995.

[17] Rogers & Wells, postconference brief, pp. 33-35.

[18] TR, p. 93.

[19] Ibid., p. 114.

[20] Postconference brief, Response to Staff Questions, pp. 11-13.

[21] In exhibit 16 of its postconference brief, Robobond discusses quality differences between its product and that of Marley.

[22] For example, Robobond's composite manufacturing method is protected by patent and is presumably unique to that manufacturer. Rogers & Wells, postconference brief, p. 13, n. 44.

[23] TR, p. 25.

There are, as discussed, certain difficulties of measurement, and the Commission has also gathered information from purchasers (who, in this preliminary investigation, consist primarily of Robobond's customers).[24] At the Commission's conference, Robobond presented purchasers of the subject framing stock that contended that Robobond's framing stock is superior in design, innovation, and sophistication to that of Marley.[25] This viewpoint was also manifested in responses to a number of the importer/purchasers' questionnaires; such views are discussed further in the section of this report entitled "Substitutability Issues."

DEMAND FOR FOAM EXTRUDED PVC AND POLYSTYRENE FRAMING STOCK

As stated earlier, foam extruded PVC and polystyrene framing stock is used exclusively to make frames for pictures and mirrors. Thus, demand for the subject framing stock varies with demand for finished frames as well as with the extent to which the subject framing stock encroaches on the market for other types of framing stock, such as wood. Data presented in Part IV of this report indicate that U.S. demand for the subject product, as measured by its apparent consumption, increased substantially during the period for which data were collected in the investigation.

Fourteen importer/purchasers (frame manufacturers) out of the 21 who responded to the question in the Commission's questionnaire concerning demand changes reported that demand for their final product increased during the period for which data were collected.[26] The main reason cited for the increase was that a wider range of designs and finishes are now available at a reasonable price. Promotion and introduction of new product lines have led to increased purchases. One frame manufacturer reported that the introduction of polystyrene frames that rival the appearance of wood but are less expensive has allowed them to expand into new markets. Another stated reason for the increased demand is that the introduction of the subject framing stock has allowed a "perfect piece" of moulding to be introduced, allowing manufacturers to automate and sell at a lower price. One frame manufacturer reported that the imports are competitively priced and offer unique designs, and another stated that the ability to offer the final product at reasonable prices has led to increases in demand for framed pictures. These manufacturers, whose demand for finished picture frames has increased, have also increased their purchases of imported framing stock.

In direct contrast, 5 of the 21 manufacturers stated that demand for finished picture frames has decreased. Two frame manufacturers reported that they decreased purchases of the subject framing stock during the period for which data were collected and that they produced more frames out of wood in-house despite the fact that wood prices have increased. One frame manufacturer (***) reported losing volume to competitors who manufacture more exclusively from the imported polystyrene framing stock. One frame manufacturer attributed the drop in demand to the high cost of the subject framing stock. These companies have stopped or reduced purchases of the subject

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[24] This is not entirely the case as some of Robobond's customers purchase also from Marley and are in a position to evaluate both firms' offerings. Prints Plus, which believes itself to be Marley's largest customer, has submitted a history of its purchasing to support its position that Marley has not suffered lost sales or price suppression at Prints Plus. Gardner, Carton & Douglas, postconference brief submitted on behalf of Prints Plus, p. 1.

[25] Respondents' industry witnesses at the conference (Acme Frame, Chop, Delta, Holson Burnes, and Prints Plus) accounted for *** percent of Robobond's exports to the United States in 1994 and *** percent in January-August 1995. Rogers & Wells, postconference brief, p. 33, note 111.

[26] Rogers & Wells, postconference brief, exhibit 6, citing an article indicating that U.S. retail sales of frames increased from $1.46 billion in 1992 to $1.6 billion in 1994.

framing stock. Two companies stated that demand has not changed during the period of investigation.

SUBSTITUTABILITY ISSUES

This section is largely based on information obtained from Commission questionnaires that were completed by importer/purchasers. Because only purchasers that were importers were surveyed in the preliminary investigation, their comments may not represent all purchasers.

Substitute Products

Sixteen out of 27 importer/purchasers responding to the Commission's question regarding substitutes said that wood framing stock is a substitute product. In particular, wood framing stock finished with gold leaf or gold foil imported from Brazil, Mexico, or East Asia was mentioned as a substitute. Seven importer/purchasers stated that the subject framing stock from the United Kingdom can imitate the appearance of wood well. Another firm stated that competition between the two products was limited because plastic moulding was not as strong. Two importer/purchasers alleged that the relative appeal of plastic moulding over wood has increased because of environmental concerns over harvesting trees. Several firms noted that, although wood framing stock is technically a substitute, the use of wood is more expensive and would raise frame prices, thus decreasing the amount of frames that could be sold. Eleven firms stated that there are no substitutes for the PVC and polystyrene framing stock. Several of these admitted that wood is technically a substitute but that its high price prevents it from actually being a substitute product.

Three importer/purchasers said that metal framing stock is a substitute, and one said that, although polyurethane framing stock is a substitute, the tools needed to cut and assemble these materials are different.

Thirteen importer/purchasers responded to the question concerning the prices of alternative products. Eight importer/purchasers said that the price of wood had increased during the period for which data were collected; four said that it was stable, and one firm said that it had decreased. One manufacturer said that the cost of wood framing stock and the labor to assemble wood frames had increased dramatically during the period for which data were collected. Four manufacturers said that the price increases of wood framing stock had led to substitution toward the subject product.

Factors Affecting Purchasing Decisions

Besides demand for the final product and price, discussed above and again in Part V, importer/purchasers reported that purchasing decisions regarding the subject product are based on a number of factors. When asked to rank the most important factors in selecting a supplier, 11 out of 29 importer/purchasers ranked quality as the most important factor, and 6 ranked range of product line as most important. The most frequent responses to the second most important factor were quality (8 responses), price (6 responses), and product range (5 responses). The most frequent responses to the third most important factor were price (9 responses), availability (4 responses), and delivery time (4 responses). In total, factors identified as among the three most important were quality (20 responses), price (17 responses), and range of supplier's product line (14 responses).

Comparison of Domestic Products and Subject Imports

Importer/Purchaser Sourcing Patterns

When asked reasons for purchasing from only one country, ***, which imports the British product, stated that Robobond is the only good quality source of the product. *** said that the British firm was the only manufacturer producing a product that would sell in its market. *** said that the quality and selection offered by the British firm were far superior to those of the U.S. manufacturer. *** stated that Robobond has products that are unavailable from Marley. Fourteen of the 19 firms that responded to this question stated that superior quality and diversity of product line were the reasons for purchasing from Robobond.

*** reported that it would buy from the U.S. producer if quality were comparable. Several companies expressed a desire for more than one source of the subject product. In this regard, *** has tried at least one new producer a year for the past several years. Most firms reported changing suppliers infrequently or only when there was a reason. Three firms reported ceasing to purchase from Marley during the period of investigation. Reasons cited were unsatisfactory products and service, late shipments, inflexible credit terms, and poor product design.

Purchase Factors

As shown in table II-1, most importer/purchasers considered the U.S. and British products comparable for most purchase factors, although the U.S. product was cited by more as superior with respect to delivery time and the British product was cited by more as superior with respect to product range.

Comparison With Foam Extruded PVC and Polystyrene Framing Stock From Nonsubject Countries

The subject product is also manufactured in Italy, Australia, Korea, and China. Imports from these countries accounted for less than 1 percent of the U.S. market during the period for which data were collected, and hence subject products from different countries are not analyzed.

Table II-1
Purchaser comparisons of U.S. and U.K. foam extruded PVC and polystyrene framing stock

Factor	(*Number of responses*) U.S. product superior	U.S. & U.K. comparable	U.S. product inferior
Availability	3	10	5
Delivery terms	3	14	1
Delivery time	8	5	2
Discounts offered	2	8	3
Lowest price	1	10	4
Minimum quantity requirements	3	11	2
Packaging	2	14	0
Product consistency	1	10	3
Product quality	1	9	7
Product range	0	2	16
Supplier reliability	1	10	5
Technical support	1	7	7
Transport network	3	11	1
U.S. transport costs	2	11	1

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

PART III: CONDITION OF THE U.S. INDUSTRY

INFORMATION PRESENTED IN THIS SECTION

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 alleged margin of dumping was presented earlier in this report and information on the volume and pricing of imports of the subject merchandise is presented in Part IV entitled "U.S. Imports, Apparent Consumption, and Market Shares" and in Part V entitled "Pricing and Related Data," respectively. Information on the other factors specified is presented in this part and in Part VI and is based on the questionnaire responses of the two major U.S. producers, accounting for virtually all production of the subject product during the period for which data were collected in this investigation.

U.S. PRODUCERS

Description of U.S. Producers

Foam extruded PVC and polystyrene framing stock is primarily produced by two firms in the United States: Marley and National. In 1994, Marley manufactured *** linear feet (or *** percent of combined production) and National produced *** linear feet (or *** percent of combined production). The petitioner, Marley, is *** owned by Marley PLC, an international building materials company based in the United Kingdom.[1] The predecessor to Marley (DG Mouldings) was acquired by a subsidiary of Marley PLC in 1990. Marley's production plant is located in Marion, VA; warehouses are also maintained in California and Texas. Marley (or, at the time, DG Mouldings) acquired the ability to produce foam extruded PVC and polystyrene framing stock in the late 1970s. It also manufactures and sells door and window cabinetry components. In contrast, National focuses on the frame market; its corporate activities center on the design, manufacture, and distribution of various types of frames, mirrors, and framed art to mass merchandisers. National is located in Greenwood, MS. The firm, which is publicly owned, indicates that it *** the petition.[2] In 1992, National completed a leveraged buyout from the DWG Corporation and embarked on a program to expand its production and warehouse facilities and to reduce costs.

In addition, Magee Co. (Pocahontas, AR), Silvatrim (South Plainfield, NJ), and Uniek Plastics (Waunakee, WI) are recent entrants to the U.S. market. Magee produces framing stock that it uses to manufacture finished frames. It began what it labelled "***" sales in ***. Magee currently has *** extruders and is ***.[3] Production at Silvatrim began in ***; to date, *** linear feet have been manufactured. The firm maintains *** extruders, *** devoted to (polystyrene) foam extruded production of the subject product.[4] For the last 2 years, Silvatrim has been a manufacturers' representative for Magnolia, one of the British producers, and, ***.[5] Silvatrim noted

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[1] Marley PLC manufactures and sells foam extruded PVC and polystyrene framing stock in the United Kingdom; the firm does not export such product to the United States. TR, pp. 47-48.

[2] Response by National to producers' questionnaire.

[3] ***, conversation with Commission staff, Sept. 25, 1995, and Oct. 4, 1995. ***.

[4] The remaining extruders are currently used to manufacture decorative trim for such consumer items as refrigerators and automobiles. ***, Silvatrim, conversations with Commission staff, Sept. 22, 1995, and Oct. 5, 1995.

[5] ***.

to Commission staff that its ongoing attempt to develop customers ***.[6] Finally, Uniek is a plastics company that ***. ***. The firm has already invested $*** in the venture; current capacity is *** extruders with *** linear feet. Uniek started production operations in *** and has, to date, produced some *** linear feet.[7] Also, some end users reportedly have the in-house capability to extrude what are believed to be small amounts of the product.

Imports and Other Purchases by U.S. Producers

* * * * * * *[8]

Marley reports ***.[9] ***, the firm has apparently finished some "compo" product in Mexico.[10]

Positioning of U.S. Producers in the Market

The following sections of Part III present data concerning the manufacturing operations and sales of the two largest U.S. manufacturers, Marley and National. As will be shown, the degrees of success experienced by the two firms ***. Several factors may be relevant to any examination of ***. To begin, National focuses its operations on the low end of the photo frame market serving such mass-merchandisers (or discount stores) as Walmart and Sam's.[11] That market segment is reportedly growing by 15 percent annually.[12] Marley, however, is attempting to enter the upscale side of the market where it faces added competition with Robobond in an environment in which there may be a different set of price/design tradeoffs. ***.[13] Petitioner in its postconference brief (p. 39) argues that "*** will further impede Marley's efforts to develop the high end of the domestic market." The extent to which National's frames compete with frames produced and sold by Robobond's customers for sales in the low end of the frame market is unclear.[14] What is clearer is that *** the low-end segment of the frame market is extremely price competitive; National appears to ***. *** to its decision to vertically integrate. (Vertical integration as a policy began at National in the early 1970s.) Jesse Luxton, National's president, and John Garrard, a financial analyst for A.G. Edwards & Co., cite vertical integration as "one of National Picture's major advantages" in *The*

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[6] ***, Silvatrim, conversation with Commission staff, Oct. 5, 1995.

[7] ***, conversation with Commission staff, Sept. 26, 1995.

[8] Response by *** to producers' questionnaire.

[9] Response by Marley to producers' questionnaire.

[10] Response by *** to the importers' questionnaire (with attached letter dated Oct. 9, 1995) and Adduci, Mastriani & Schamberg letter dated Oct. 12, 1995. (*** found the quality of Marley's compo product to be unsatisfactory and labelled its attempt to purchase it a "nasty experience.")

[11] Observation made by *** during staff conversation on Sept. 19, 1995. Testimony by Kim Kiner, ACME Frames, at the Commission's conference, TR, pp. 106-107.

[12] *Mississippi Business Journal*, June 26-30, 1995, presented as exhibit 1 of Rogers & Wells' postconference brief.

[13] ***, conversation with Commission staff, Oct. 3, 1995.

[14] National reported in the Commission's producers' questionnaire that ***. ***. At the Commission's conference, Acme Frame testified that its purchases of Robobond-produced framing stock assisted it in entering the promotional level of the market where it competes for sales with National. TR, p. 106.

Mississippi Business Journal.[15] Likewise, the business plan for ***, a new vertically-integrated start-up producer, is based on its belief that it can produce framing stock at a cost much less than its purchase price and that vertically integrated firms will possess a decided advantage compared to producers such as Marley and Robobond.[16] Marley officials testified at the Commission's conference that they have considered, but decided against vertical integration because it would force them into competition with their own customers.[17]

U.S. PRODUCTION, CAPACITY, AND CAPACITY UTILIZATION

Data on the capacity to produce foam extruded PVC and polystyrene framing stock and utilization of that capacity by Marley and National are presented in table III-1. Capacity to produce consists both of the ability of a firm to extrude and its ability to finish the product.[18] As shown in table III-1, capacity to produce reported by ***. ***. *** in inventories maintained by National.

Table III-1
Foam extruded PVC and polystyrene framing stock: U.S. capacity, production, and capacity utilization, by firms, 1992-94, Jan.-June 1994, and Jan.-June 1995

* * * * * * *

U.S. PRODUCERS' SHIPMENTS AND INVENTORIES

Tables III-2 and III-3 present data concerning Marley's and National's U.S. shipments and inventories, respectively. The trends of the quantities shipped (or otherwise utilized) by the two firms ***. The unit value of shipments reported by National reflects its *** (all of its framing stock is used internally by the firm in the manufacture of finished frames). Marley's end-of-period inventories were ***.

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[15] *Mississippi Business Journal*, June 26-30, 1995, presented as exhibit 1 of Rogers & Wells' postconference brief. Mr. Garrard is quoted in the article as stating, "Because it's able to control its costs, because they're so attentive to their customer base, because they have quality management, and because of their improvements in production and shipping facilities--being able to ship their orders complete and on time--this company's revenues and earnings have continued to grow year after year." In addition to controlling costs, vertical integration reportedly assists National to change styles quickly, providing what is labeled "a significant advantage" in the fashion-sensitive frame manufacturing business. Research report from Morgan Keegan & Company, Inc., dated Mar. 18, 1994, presented as exhibit 14 to Rogers & Wells postconference brief.

[16] ***, conversation with Commission staff, ***.

[17] TR, pp. 56-57.

[18] Approximately *** percent of the value of Marley's total capital investment (machinery and equipment) is for extrusion lines; the remainder is accounted for by its finishing operations. Marley, postconference brief, Response to Staff Questions, p. 4. Marley's finishing capacity (for painting, mylar covering, and hot stamping) *** its extrusion capacity. Petition, p. 25.

Table III-2
Foam extruded PVC and polystyrene framing stock: U.S. producers' U.S. shipments, by firms, 1992-94, Jan.-June 1994, and Jan.-June 1995

* * * * * * *

Table III-3
Foam extruded PVC and polystyrene framing stock: End-of-period inventories of U.S. producers, by firms, 1992-94, Jan.-June 1994, and Jan.-June 1995

* * * * * * *

As shown in table III-2, Marley manufactures framing stock using both PVC and polystyrene. The firm's use of PVC has ***, with a *** in the production of polystyrene framing stock. In 1992, there was a *** split between shipments of PVC and polystyrene, respectively; by the first half of 1995, the division between the use of the two raw materials had changed to ***. Marley testified at the Commission's conference that its shift to polystyrene occured after 1992; all tooling and framing that have been developed since 1992 are for polystyrene stock.[19] National (as well as the British manufacturers Eco-frame, Magnolia, and Robobond) utilizes only polystyrene. Marley first started manufacturing with PVC because, in the early stages of plastic frame production, customers were accustomed to working with wood mouldings and the higher density of the PVC product simulated more closely the workability characteristics (that is, cutting, joining, nailing, and screw holding) of wood than did polystyrene. Throughout the period reviewed, polystyrene was priced lower than was PVC.[20] Marley has *** production lines set up for PVC framing stock and *** lines for the polystyrene product. As discussed earlier in this report, data on the record do not show clear differences in the manufacturing cost to Marley resulting from the use of PVC as opposed to polystyrene. Also, numerous other factors, in addition to raw material costs, are relevant for any assessment of total manufacturing costs.[21]

U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY

Employment data for Marley and National's operations are presented in table III-4. There is, as shown, a *** in productivity ***. (This *** is mirrored by *** which is discussed in Part VI of this report.) The *** are believed, at least in part, to be a result of ***. Finishing operations are, in comparison to extrusion of the profile, labor intensive, and National's products, in at least some contrast to Marley's, are believed to focus more directly on the less elaborately finished low end of the market.[22]

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[19] TR, pp. 24-25.

[20] Marley, postconference brief, Response to Staff Questions, p. 1. A *** attributed Marley's early use of PVC to the investment the firm has made in PVC for its building products. (Most of Marley's products are intended for use in construction and Federal fire regulations reportedly require the use of PVC (not polystyrene)). ***, conversation with Commission staff, Sept. 26, 1995.

[21] However, it is of interest to compare PVC and polystyrene pricing for an identical profile. Prints Plus reports purchasing Marley profile *** in *** for *** cents per linear foot. ***. Postconference brief (and sample) submitted by Gardner, Carton & Douglas on behalf of Prints Plus, app. 1.

[22] Staff conversation with counsel for petitioner, Oct. 11, 1995.

Table III-4
Average number of production and related workers producing foam extruded PVC and polystyrene framing stock, hours worked, wages paid to such employees, and hourly wages, productivity, and unit labor costs, by firms, 1992-94, Jan.-June 1994, and Jan.-June 1995

* * * * * * *

PART IV: U.S. IMPORTS, APPARENT CONSUMPTION, AND MARKET SHARES

U.S. IMPORTERS

Foam extruded PVC and polystyrene framing stock from the United Kingdom is imported by a comparatively large number of ready-made frame manufacturers and, to a *** extent, by wholesale distributors which are usually independently owned. Commission staff sent importers' questionnaires to those firms that were named as customers by two of the three U.K. manufacturers that export to the United States. (There are no official Commerce statistics covering the subject product; foam extruded PVC and polystyrene framing stock enters the United States under HTS subheadings that are "basket" categories and include a wide range of plastic articles.) Robobond reported sales to approximately *** firms since 1992 and Eco-frame to *** companies during the period reviewed.[1] A total of *** importers' questionnaires were distributed to importers. Of the firms receiving questionnaires, 29 returned completed responses and 7 indicated that they had not, in fact, imported the subject product. The remaining firms either could not be located or did not respond. Staff examined what are believed to be complete data on U.S. sales of foam extruded PVC and polystyrene framing stock reported by manufacturers in the United Kingdom to analyze import trends and calculate market penetration of the subject product into the U.S. market.[2]

U.S. IMPORTS

Data on U.S. imports of foam extruded PVC and polystyrene framing stock are presented in table IV-1. As shown, the quantity of imports from the United Kingdom increased *** during the period reviewed.[3] This rise in imports reflects both increased purchases during the period reviewed by specific importers and the decisions of other firms to begin purchasing the subject product. (The number of individual firms importing foam extruded PVC and polystyrene framing stock from the United Kingdom rose in each of the years reviewed.) Marley testified at the Commission's conference that it first became aware of Robobond's presence in the market in 1991.[4]

Table IV-1
Foam extruded PVC and polystyrene framing stock: U.S. imports, by sources, 1992-94, Jan.-June 1994, and Jan.-June 1995

* * * * * * *

[1] The third exporter, Magnolia, sold product and/or distributed samples to *** firms located in the United States. However, that information was not provided to the Commission in time for all of its customers to receive importers' questionnaires. (*** firms purchased from other British manufacturers during the period reviewed and did receive questionnaires.)

[2] Responding importers reported imports of 38.9 million linear feet of foam extruded PVC and polystyrene framing stock in 1994, or about *** percent of the *** million linear feet shown as shipped into the United States by British manufacturers.

[3] As discussed in a note to table IV-1, some caution should be used when evaluating data concerning the value of imports of the subject product into the United States.

[4] TR, p. 15.

The four largest importers of foam extruded PVC and polystyrene framing stock from the United Kingdom in 1994 consisted of ***.[5] Purchases by *** rose during the period reviewed. In response to a question in the Commission's importers' questionnaire, *** attributed its increased purchases to the incorporation of extruded plastic moulding into the firm's core and promotional offerings, and *** cited a shift from more expensive wood designs. The trends for the quantities of ***'s imports varied; the firm stated that "imports are erratic due to demand for different frames and domestic availability of mouldings to produce those frames."[6] Other reported reasons for increased (or new) imports of the subject product by additional importers included (1) decreasing in-house production, (2) introduction of new product line, (3) shift from paperwrap (wood) mouldings, (4) lower pricing by Robobond, (5) increased demand, and (6) ability of product to compete with nonsubject imports.

Imports of foam extruded PVC and polystyrene framing stock from countries other than the United Kingdom are also presented in table IV-1. Reported data may be somewhat understated as they consist only of purchases reported by firms already buying from the United Kingdom. However, imports of nonsubject product are not believed to be significant either in terms of absolute size or due to any increase in U.S. market share since 1992. According to purchasers, some foam extruded PVC and polystyrene product is exported into the United States from Italy, Israel, Brazil, and East Asia (Korea especially). (But the bulk of the product from East Asia is already formed into finished frames when imported.)[7]

APPARENT U.S. CONSUMPTION

Data delineating the size of the U.S. market for foam extruded PVC and polystyrene framing stock are presented in table IV-2.[8]

Table IV-2
Foam extruded PVC and polystyrene framing stock: U.S. shipments of domestic product, U.S. imports, by sources, and apparent U.S. consumption, 1992-94, Jan.-June 1994, and Jan.-June 1995

* * * * * * *

As shown, the amount of subject product consumed within the United States ***. If data for National were to be excluded, ***. The quantity of subject product shipped domestically that was produced by Marley and by the British foreign manufacturers (or "commercial consumption") increased from *** linear feet in 1992 to *** linear feet in 1994; likewise, such apparent consumption rose from *** linear feet in interim 1994 to *** linear feet in interim 1995.

The demand for foam extruded PVC and polystyrene framing stock in the United States has increased *** in recent years. The subject framing stock is marketed as "the framing of the future"

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[5] Rogers & Wells, postconference brief, exhibit 12.

[6] *** did not provide usable data on the quantity of its imports into the United States. Its sales, however, have apparently decreased.

[7] TR, pp. 182-183. ***, conversation with Commission staff, Sept. 19, 1995, and ***, Sept. 19, 1995.

[8] Data for the U.S. market excluding National (i.e., the "open" market) are presented in table A-1 (app. A).

whose use, unlike wood, does not require the cutting of trees.[9] The use of the plastics in place of wood has also been sparked by the rising price of wood in recent years. Further, U.S. buyers have reportedly reduced purchases of finished frames (primarily from East Asia) in favor of buying framing stock. This practice permits framers to readily meet a wider variety of customer orders, without delay or having to maintain an oversized inventory.[10] [11]

U.S. MARKET SHARES

As shown in table IV-3, *** in 1993. By interim 1995, ***. Similar *** shifts in market share are shown within the U.S. commercial market (table A-1). In 1992, Marley held *** of the market for subject framing stock; the remainder was filled by British imports. By the first half of 1995, British imports accounted for *** of the market (*** percent, in terms of quantity), with Marley *** (at *** percent, in terms of quantity).

Table IV-3
Foam extruded PVC and polystyrene framing stock: Apparent U.S. consumption and market shares, 1992-94, Jan.-June 1994, and Jan.-June 1995

* * * * * * *

[9] "Emafyl," as shown in exhibit 2 of the petition.

[10] ***, conversation with Commission staff, Sept. 11, 1995.

[11] Respondents argue that Robobond's Emafyl product-line stimulated growth of the plastic frame market by creating numerous new designs and styles. They maintain that, if anything, Robobond displaced wood and other products, rather than domestic PVC and polystyrene. Rogers & Wells, postconference brief, pp. 12-17. *** attributes the increase in the market to (1) continued economic expansion, (2) environmental concerns over the use of wood, (3) uncertainty of pricing in the wood market, (4) availability of new finishing materials and techniques, and (5) change in customer attitude on acceptance of the subject product. ***.

PART V: PRICING AND RELATED DATA

PRICES

Factors Affecting Price

PVC and polystyrene framing stock is sold in an extremely large variety of shapes, sizes, and finishes, all of which may affect prices. Product quality, range of product lines, raw material costs, and responsiveness of the supplier help also to determine price. This section presents U.S. producer price data that was obtained from Marley, the petitioner, through the Commission's questionnaire. National, the other major U.S. producer, does not sell its framing stock. Twenty-nine picture frame producers or distributors of framing stock, each of which purchases the imported subject framing stock from the United Kingdom, completed the price section of the questionnaire. Some of these importer/purchasers also purchase the subject framing stock from Marley.

Transportation Costs

Ocean freight from the United Kingdom to the east coast of the United States represents approximately 3.9 percent of the landed cost of the framing stock. The 12 importer/purchasers that provided the relevant data pay an average of 3 percent of total delivered cost for U.S. inland transportation.

Import Duties and Fees

Imports of PVC and polystyrene framing stock from the United Kingdom are subject to a 3.4-percent ad valorem duty or to a 5.3-percent ad valorem duty, depending on the HTS subheading under which they are imported. All except 1 of the 29 surveyed importers, including those that receive a delivered price, reported paying duty and customs brokerage.

Price Competition

Twenty frame manufacturers that import the subject product provided data in response to the Commission's questionnaire. These firms reported that prices are quoted by the British producers in a number of ways, for example as delivered prices, f.o.b. foreign port, and f.o.b. U.S. port of entry. In addition to the frame manufacturers, nine distributors that import the subject product provided responses. All distributors sell on a U.S. f.o.b. warehouse basis. Responding importer/purchasers to the question concerning spot sales versus contracts affirmed unanimously that all were spot sales.

Purchasers of framing stock generally place orders based on samples or from catalogs. Prices of the domestic and imported product vary per linear foot based on width and finish. Robobond, the British firm, also commonly gives out its price list, which is used in placing orders. Marley did not generally provide a price list, and price tended to be negotiated in each case. Two importers stated that they never saw a price list from Marley and that Marley's prices were variable. Several said that Marley does not have a price list, and that prices are negotiated in each instance.

The 17 importers that responded to the question on discounts said that they had not received any special discounts from Robobond. Three others reported receiving volume discounts. Of the 20 importers providing information on price changes, 15 stated that prices change infrequently or

yearly. One importer stated that Simons/Robobond had one increase, but that Marley's prices always varied. One purchaser stated that Marley's prices had increased approximately once a year for the past 4 years.

Twelve out of 25 importer/purchasers stated that they have placed custom orders. Prices for custom designs are based on the price of existing similar profiles and finishes. An important reason for making a custom order is to acquire designs to differentiate a company's finished picture frame line from the mass market and thus permit a higher price to be charged to the final consumers of picture frames. Often there is a premium for the development of a custom product, especially if expensive foils are used or if new tools are needed.

Representatives from *** and *** emphasized that framing stock is an intermediate product and that they must acquire framing stock within a relatively narrow price window in order to produce the final product at a price that customers will pay. Importers said that framing stock represents approximately 30 to 40 percent of the cost of a finished frame. Costs of backing and glass are very low; other than the framing stock the major additional cost is labor.

Only 2 out of 29 importer/purchasers said that they always accept the lowest price. Quality and design or style were mentioned most often as meriting primary consideration in their purchases. Also important are product range, lead times, product availability, service, and credit terms. When asked to list by order of importance the factors used in selecting a supplier, only 1 out of 29 importer/purchasers put price first; however, all but 9 included price among the top 3 factors.

In responding to the question of price leadership, one importer/purchaser stated that Simons was the price leader in the U.S. market, but, since there are so many custom designs, it is difficult to identify a price leader. Sometimes Simons maintained this leadership by offering convenient payment terms that included freight. One importer/purchaser said that Marley dominates the U.S. market, while another said that, before Simons, Marley was the only manufacturer to his knowledge.

Price Trends

In the questionnaire, prices and total quantities of sales were requested by quarters from January 1992 until June 1995 for shipments of the following products to ready-made frame manufacturers:

Product No. 1. 1.91 cm. x 2.54 cm. (Marley profile No. 6573 or Emafyl (Simons) profile No. EMA-033)

Product No. 2. 3.49 cm. x 4.92 cm. (Marley profile No. 6575 or Emafyl (Simons) profile No. EMA-016)

Product No. 3. 2.06 cm. x 2.54 cm. (Marley profile No. 7006 or Emafyl (Simons) profile No. EMA-052)

Product No. 4. 2.22 cm. x 3.33 cm. ((Marley profile No. 7052 or the closest substitute for that product manufactured by Emafyl (Simons))

Product No. 5. 1.59 cm. x 3.18 cm. (Marley profile No. 7094 or Emafyl (Simons) profile No. EMA-038)

The U.S. product prices consist of prices reported by Marley. Prices of the subject imports are based on questionnaire responses from 20 frame manufacturers that reported landed, duty-paid, U.S. port-of-entry purchase values, including ocean freight, and from 9 framing stock distributors that reported U.S. sales values f.o.b. the firms' U.S. sales locations. Price data are shown in tables V-1 through V-5 and in figure V-1.

Table V-1
Product 1: Weighted-average net U.S. f.o.b. selling prices reported by the sole responding U.S. producer and by importers, and margins of under/(over) selling, by quarters, Jan. 1992 - June 1995

* * * * * * *

Table V-2
Product 2: Weighted-average net U.S. f.o.b. selling prices reported by the sole responding U.S. producer and by importers, and margins of under/(over) selling, by quarters, Jan. 1992 - June 1995

* * * * * * *

Table V-3
Product 3: Weighted-average net U.S. f.o.b selling prices reported by the sole responding U.S. producer and by importers, and margins of under/(over) selling, by quarters, Jan. 1992 - June 1995

* * * * * * *

Table V-4
Product 4: Weighted-average net U.S. f.o.b selling prices reported by the sole responding U.S. producer and by importers, and margins of under/(over) selling, by quarters, Jan. 1992 - June 1995

* * * * * * *

Table V-5
Product 5: Weighted-average net U.S. f.o.b selling prices reported by the sole responding U.S. producer and by importers, and margins of under/(over) selling, by quarters, Jan. 1992 - June 1995

* * * * * * *

Figure V-1
Weighted-average net U.S. f.o.b. selling prices in U.S. dollars of the PVC and polystyrene framing stock produced in the United States and imported from the United Kingdom, by products and by quarters, Jan. 1992 - June 1995

* * * * * * *

The subject products include all foam extruded PVC and polystyrene framing stock. The enormous number of designs and finishes in the market makes comparisons difficult. Products 1, 2, and 5 are almost exact matches between Marley's and Simons' product lines. Product number 3 is similar but not identical for the two suppliers, and product number 4, Marley's profile No. 7052, is similar to Simons' EMA-066. These five specific products accounted for *** percent of Marley's sales by value in 1994. The information presented here may not be indicative of the full range of product competition between the petitioner and the respondent because of incomplete coverage of their product lines. The diversity of the subject product categories makes it difficult to obtain extensive coverage.

Selling prices of product number 1 *** throughout the period of investigation ***. Prices *** by approximately *** percent for the domestic product and by *** percent for the imported British product between January 1992 and June 1995. Prices for the final quarter of data (second quarter of 1995) were ***. For product number 2, prices *** throughout the period for which data were collected in the investigation. For product number 3, Robobond's prices ***, but the petitioner's prices, after *** for much of the period of investigation, *** in the final two quarters. Prices for product 4 *** for either the U.S. or the British producer during the period for which data were collected. Prices for the domestic and imported British product 5 *** initially but *** in the final quarter.

Price Comparisons

Marley and Robobond sold product 1 in 11 quarters in common and, during those periods, the foreign producer *** the domestic producer by an average of *** cents per linear foot or by *** percent. Both the foreign and domestic producers fabricate this product from polystyrene.

The domestic and foreign producers sold product 2 in 10 quarters in common and in all but one quarter the foreign producer sold its product at a *** price than the domestic producer. The imported British product was sold for an average of *** cents per linear foot or by *** percent *** than the domestic product. In a single quarter, the imported product was priced *** than the domestic product by *** cents per linear foot or by *** percent. Both the foreign and domestic producers fabricate this product from polystyrene.

The domestic and foreign producer sold product 3 in 6 quarters in common and in each of those quarters the foreign producer *** the domestic producer by an average of *** cents per linear foot or by *** percent. The foreign producer extrudes this product from polystyrene, and the domestic producer makes it from PVC. It is believed to be more expensive to produce moulding from PVC than from polystyrene. The differences in raw materials used by the domestic and foreign producers may result in price comparisons that *** by the foreign producer.

The domestic and foreign producers sold product 4 in only 2 quarters in common and in each case the foreign producer *** the domestic producer by *** cents per linear foot, or by *** percent. The foreign producer extrudes this product from polystyrene and the domestic producer makes it from PVC.

The domestic and foreign producers sold product 5 in 9 quarters in common and in each case the foreign producer *** the domestic producer by an average of *** cents per linear foot or by *** percent. The foreign producers extrude this product from polystyrene and the commercial domestic producer makes it partly from PVC.

EXCHANGE RATES

The U.S. dollar-British pound exchange rate was relatively stable during the period for which data were collected. Quarterly data from the International Monetary Fund indicate that during the first three quarters of 1992 the nominal value of the British pound appreciated relative to the U.S. dollar. It then depreciated to approximately 85 percent of the January 1992 value by the first quarter of 1993. Since then, it has been appreciating at a modest rate. When adjusted for movements in producer price indexes, the same trend is found, though slightly less pronounced (figure V-2).

LOST SALES AND LOST REVENUES

The Commission received five lost sale and four lost revenue allegations from the petitioner. Because Marley was unable to provide specific information on the quantities involved in these allegations, total dollar amounts cannot be determined. The staff was able to contact six of the nine purchasers cited.

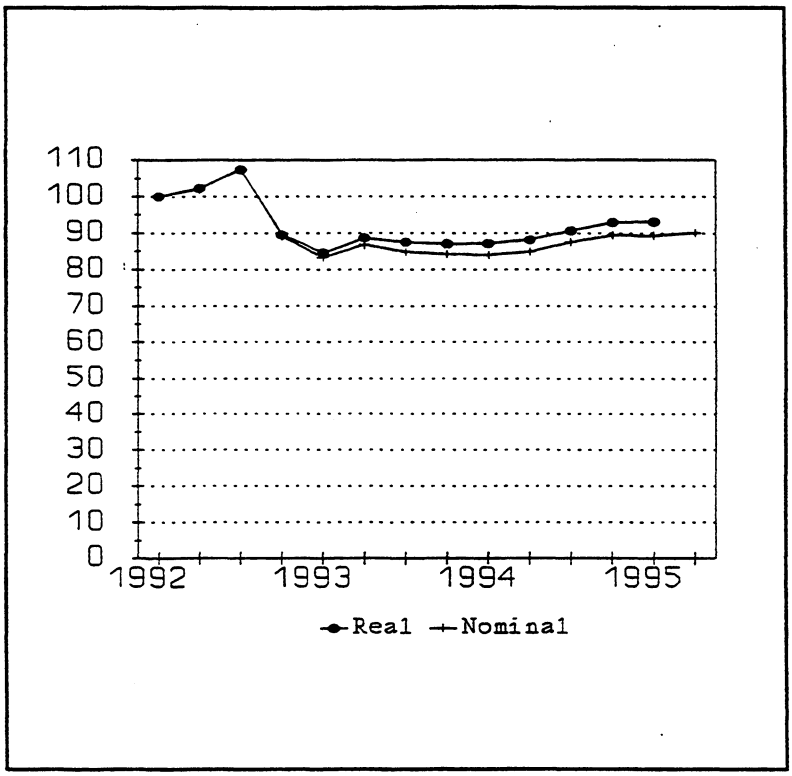
*** alleged that it lost revenues on a sale of foam extruded PVC and polystyrene framing stock to *** in the *** because of competition from imports from the United Kingdom. *** reported that it had to lower its price from $*** per linear foot to $*** per linear foot. *** reported that *** did not specifically use British prices to get *** to lower its prices. *** reported that it is a general business practice to tell suppliers that they "need a better price." According to ***, price is not the primary factor considered when deciding from whom to purchase the subject product; other factors, such as design and range of product line, are more important. *** reported that *** has expended a considerable amount of time and effort to encourage *** to produce the kinds of styles and designs that *** is interested in purchasing. According to ***, *** has not responded to ***'s efforts. *** also stated that *** prefers to purchase product from a U.S. source because delivery is easier and less expensive. Finally, *** reported that *** has actually ***.

*** alleged that it had to reduce prices on a sale to *** in *** because of competition from lower-priced imports from the United Kingdom. *** alleged that it tried to sell the subject product to *** for $*** per linear foot but was told that the price needed to be under $*** per linear foot; *** reported that it ***. *** reported that *** did not buy any plastic framing stock from any company at that time. *** explained that one of ***'s customers came to *** and asked about purchasing plastic framing stock.[1] ***. *** reported that *** did examine foam extruded PVC and polystyrene framing stock from both U.S. (that is, ***) and British sources. According to ***, the prices of the two products were similar, but the products were not the same; the pattern of the U.S. product was smaller and the product was heavier, both of which are disadvantages. *** also commented that the technology that Marley uses is not as good as that used by suppliers in the United Kingdom.

*** alleged that it lost a sale to *** because of competition from imports from the United Kingdom. *** denied the lost sale allegation and stated that *** never had any product that was acceptable.

[1] This customer had previously been purchasing framing stock from *** but told *** that it was having delivery problems.

Figure V-2
Exchange rates: Indexes of real and nominal exchange rates of the British pound relative to the U.S. dollar, by quarters, Jan. 1992 - June 1995[1]



[1] Jan.-Mar. 1992 = 100.

Source: International Monetary Fund, *International Financial Statistics*, August 1995.

*** alleged that it had to reduce the price of its product on a sale to *** because of competition from imports from the United Kingdom. *** did not respond to phone calls to verify this allegation but it did provide information in response to the Commission's questionnaire. In its response, *** reported that it had never bought the U.S. product. The company also reported that the lowest price offered for the subject framing stock will not always win a contract or sale; other factors, such as quality and availability, are also taken into account.

*** alleged that it lost a sale to *** in *** because of competition from imports from the United Kingdom. *** denied that *** purchased the subject product from the United Kingdom because of price. *** reported that *** purchases the subject framing stock from Simons, the British supplier, because it offers designs that are far superior.[2]

*** alleged that it lost a sale to *** due to competition from lower priced imports from the United Kingdom in ***. In its questionnaire response and in a phone interview, *** reported that price was only one of the factors considered when deciding to stop its purchases from ***. *** reported that it stopped purchasing from *** because ***'s products were no longer competitive, credit terms became inflexible and ***'s designs were not satisfactory. *** also added that the designs of the British supplier are much better than those of the U.S. supplier.

[2] In fact, *** stated that he believes that no one in the world, except perhaps suppliers in Australia, can duplicate the designs of the U.K. supplier Simons.

PART VI: FINANCIAL EXPERIENCE OF U.S. PRODUCERS

INTRODUCTION

Marley provided complete financial information on its foam extruded PVC and polystyrene framing stock operations. National ***.[1]

OVERALL ESTABLISHMENT OPERATIONS

In Marley's 1995 interim period, foam extruded PVC and polystyrene framing stock sales accounted for *** percent of overall establishment sales. Marley does not assemble the framing stock that it produces.

National became a public company 2 years ago (1993) after a leveraged buyout in 1992. It made structural improvements, including installing "a totally integrated manufacturing system devised by Andersen Consulting."[2] In its 1994 annual report, National stated--

> "Our ability to service these customers (mass merchants) is rooted in several areas. One is our commitment to controlling our own destiny through the **vertical integration** of the manufacturing process. Some 24 years ago, we became the first, and we remain the **largest, frame manufacturer to extrude** our own styrene (Enviro-Mold) mouldings. We control the entire process, from plastic pellets to the finished product. By controlling the production process, we are better **able to control costs**, and we are recognized as the **price/value leader** in the industry. This vertical integration of production gives us unique flexibility and capacity for unparalleled customer service. In an industry where 90 percent is the norm, **National ships orders 99 percent complete.** Additionally, vertical integration permits us to change styles quickly, a significant advantage in this fashion-sensitive business."[3]

National indicated that 1995 was a record year. "Sales and earnings were at an all-time high for the fifth consecutive year."[4] However, its profitability for the 3-month period ending July 31, 1995, was lower than for the comparable 1994 period.[5] National also makes finished frames out of materials other than the subject products. Respondents argue that National's financial performance should be included in evaluating the financial condition of the industry.[6]

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[1] National's financial data for its overall establishment and framing stock operations are shown in app. D.

[2] National's 1994 annual report, p. 3, letter to shareholders.

[3] National's 1994 annual report, pp. 5-6. Emphasis shown in the annual report.

[4] National's 1995 annual report, pp. 1-3, letter to shareholders. Its fiscal year ends April 30.

[5] National's form 10-Q, p. 2 (Condensed Consolidated Statements of Income).

[6] Rogers & Wells, postconference brief, pp. 2, 6-7.

OPERATIONS ON FOAM EXTRUDED PVC AND POLYSTYRENE FRAMING STOCK

Income-and-loss data on Marley's foam extruded PVC and polystyrene framing stock are shown in table VI-1. ***.

Table VI-1
Income-and-loss experience of Marley on its operations producing foam extruded PVC and polystyrene framing stock, fiscal years 1992-94, Jan.-June 1994, and Jan.-June 1995[1]

* * * * * * *

Marley's income-and-loss on a per linear-foot basis is shown in table VI-2. Although ***. During the period of investigation, Marley used both raw materials (PVC and polystyrene) to produce framing stock. In response to a staff question, Marley indicated that in any final investigation it would be able to provide separate data for foam extruded PVC framing stock operations and for foam extruded polystyrene framing stock operations.[7]

Table VI-2
Income-and-loss experience on a per-linear-foot basis of Marley on its operations producing foam extruded PVC and polystyrene framing stock, fiscal years 1992-94, Jan.-June 1994, and Jan.-June 1995

* * * * * * *

With respect to product mix, the proportion of Marley's shipments *** during the period of investigation. This shift is shown in the summary below (in percent based on sales of linear feet):

* * * * * * *

Although income-and-loss data for National are not available, its manufacturing cost *** can be obtained from its questionnaire submission. ***[8] as is shown in the following tabulation:

* * * * * * *

VARIANCE ANALYSIS

The variance analysis is shown in table VI-3. There were product-mix factors that made analysis of profitability changes difficult to interpret over the period of investigation. These changing product factors were size differences, raw material cost differences between PVC and polystyrene, and price differences (per linear foot) between the two types of framing stock. Because of the product-mix factors, the variance analysis may not provide a reasonable indication of the interaction of prices, costs, and volume on changes in profitability.

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[7] TR, pp. 42-43.

[8] Constructed from questionnaire responses of Marley and National, p. 5.

Table VI-3
Foam extruded PVC and polystyrene framing stock: Variances in net sales; cost of goods sold; gross profit; selling, general, and administrative expenses; and operating income due to changes in price, volume, costs, and/or expenses of Marley between the fiscal years 1992-94, 1992-93, 1993-94, and between the Jan.-June periods of 1994 and 1995

* * * * * * *

INVESTMENT IN PRODUCTIVE FACILITIES, CAPITAL EXPENDITURES, AND RESEARCH AND DEVELOPMENT EXPENSES

Marley's value of fixed assets (property, plant, and equipment) is shown in table VI-4, and its research and development expenses and capital expenditures are shown in table VI-5.

Table VI-4
Value of assets and return on assets of Marley on its operations producing foam extruded PVC and polystyrene framing stock, fiscal years 1992-94, Jan.-June 1994, and Jan.-June 1995

* * * * * * *

Table VI-5
Capital expenditures by and research and development expenses of Marley on its foam extruded PVC and polystyrene framing stock operations, fiscal years 1992-94, Jan.-June 1994, and Jan.-June 1995

* * * * * * *

CAPITAL AND INVESTMENT

The Commission requested U.S. producers to describe any actual or potential negative effects of imports of foam extruded PVC and polystyrene framing stock from the United Kingdom on their growth, investment, ability to raise capital, and product development efforts (including efforts to develop a derivative or more advanced version of the product). Their responses are shown below:

Actual Negative Effects

* * * * * * *

Anticipated Negative Impact

* * * * * * *

PART VII: THREAT CONSIDERATIONS

INFORMATION PRESENTED IN THIS SECTION

The Commission analyzes a number of factors in making threat determinations (see 19 U.S.C. § 1677(7)(F)(i)). Information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and 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;" and any other threat indicators, if applicable, follows. There is no indication that foam extruded PVC and polystyrene framing stock from the United Kingdom has been the subject of any other import relief investigations, including antidumping findings or antidumping remedies, in the United States or in any other countries.

THE INDUSTRY IN THE UNITED KINGDOM

The foam extruded PVC and polystyrene framing stock industry in the United Kingdom consists of four producers: Ecoframe, Magnolia, Marley PLC, and Robobond. In response to a staff request, the U.S. Embassy in London confirmed that there are no other manufacturers of the subject product in the United Kingdom.[1]

The Commission received full industry data concerning the operations of two British manufacturers, Ecoframe and Robobond. (Magnolia was able to provide data only for 1994 and for interim 1994-95; to date, Marley PLC has not responded to the Commission's request for information.) Ecoframe and Robobond[2] focus their operations on the manufacture of the subject framing stock; Magnolia produces a wide range of other products.

Robobond is, ***. The following tabulation present salient industry indicators for the full-year 1994 operations of the three responding firms:

* * * * * * *

As shown, the *** of U.S. exports of foam extruded PVC and polystyrene framing stock were manufactured by Robobond; that firm also exports a greater *** to the United States than any of the other British manufacturers. Robobond's capacity utilization data were *** than those reported for either Ecoframe or Magnolia.[3]

Table VII-1 presents combined data for the operations of Ecoframe and Robobond; data for Robobond, alone, are presented in table VII-2.

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[1] U.S. Dept. of State telegram No. P 281634 Z, Sept. 1995, prepared by the U.S. Embassy, London.

[2] Robobond has, over time, developed a series of what it labels unique processes to solve specific manufacturing problems and to achieve new fashion looks. Its production machinery is custom designed for the firm. Howard Simons, Robobond, Commission staff conversation, Sept. 15, 1995.

[3] Howard Simons, Robobond, testified at the Commission's conference that "I turn away more customers than I take." TR, p. 130.

Table VII-1
Foam extruded PVC and polystyrene framing stock: The United Kingdom's capacity, production, inventories, capacity utilization, and shipments, 1992-94, Jan.-June 1994, Jan.-June 1995, and projected 1995-96

* * * * * * *

Table VII-2
Foam extruded PVC and polystyrene framing stock: Robobond's capacity, production, inventories, capacity utilization, and shipments in the United Kingdom, 1992-94, Jan.-June 1994, Jan.-June 1995, and projected 1995-96

* * * * * * *

Although the capacity to produce at both Ecoframe and Robobond *** during the period reviewed, neither firm ***. Capacity utilization is ***;[4] *** inventories are maintained.[5] As the two firms *** their production during the period reviewed. *** shipments were reported to ***. However, a *** of the added shipments were directed to the United States, and the U.S. share of the total quantity of shipments *** from 1992 to interim 1995 (table VII-1).

U.S. IMPORTERS' INVENTORIES

Information on inventories of subject imports held by U.S. importers is presented in table VII-3. As shown, the quantities of inventories held and the ratio of such inventories to imports and to U.S. shipments increased dramatically since 1992. This rise is not known to reflect any stockpiling, per se, of subject product in the United States by specific firms. Rather, the majority of the importers reported relatively high inventories, with a number of new entrants inventorying product for the first time during the latter part of the period reviewed.

CURRENT AND FUTURE ORDERS

Of the 29 firms that provided responses to the Commission's importer/purchasers' questionnaire, 23 firms, or almost 80 percent, reported that they had imported or arranged for the importation of foam extruded PVC and polystyrene framing stock from the United Kingdom for delivery after June 30, 1995.

Table VII-3
Foam extruded PVC and polystyrene framing stock: End-of-period inventories of U.S. importers, by sources, 1992-94, Jan.-June 1994, and Jan.-June 1995

* * * * * * *

---

[4] Reported data for both Ecoframe and Robobond are based upon ***. Robobond notes that production capacity will vary depending on product mix and reports that the product mix for its framing operations has become progressively more complex, with ***. Effective production capacity drops as more complicated products, which are more time-consuming to produce, are added. Response by Robobond to the foreign producers' questionnaire.

[5] ***. Response by Robobond to the foreign producers' questionnaire.

APPENDIX A

SUMMARY DATA

Table A-1
Foam extruded PVC and polystyrene framing stock: Summary data concerning the U.S. commercial market (with "producer" data excluding National), 1992-94, Jan.-June 1994, and Jan.-June 1995

* * * * * * *

Table A-2
Foam extruded PVC and polystyrene framing stock: Summary data concerning the U.S. market, 1992-94, Jan.-June 1994, and Jan.-June 1995

* * * * * * *

Figure A-1
Foam extruded PVC and polystyrene framing stock: U.S. producers' shipments and U.S. imports, by sources, 1993, 1994, Jan.-June 1994, and Jan.-June 1995

* * * * * * *

Figure A-2
Foam extruded PVC and polystyrene framing stock: Summary data, 1993-94

* * * * * * *

Figure A-3
Foam extruded PVC and polystyrene framing stock: Data for Jan.-June 1994-95

* * * * * * *

APPENDIX B

FEDERAL REGISTER NOTICES

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–738 (Preliminary)]

Foam Extruded PVC and Polystyrene Framing Stock From the United Kingdom

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of a preliminary antidumping investigation.

SUMMARY: The Commission hereby gives notice of the institution of preliminary antidumping investigation No. 731–TA–738 (Preliminary) under section 733(a) of the Tariff Act of 1930, as amended by section 212(b) of the Uruguay Round Agreements Act (URAA), Public Law 103–465, 108 Stat. 4809 (1994) (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from the United Kingdom of foam extruded PVC and polystyrene framing stock, provided for in subheadings 3924.90.20 and 3926.90.98 of the Harmonized Tariff Schedule of the United States, that is alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to section 732(c)(1)(B), the Commission must complete preliminary antidumping investigations in 45 days, or in this case by October 23, 1995. The Commission's views are due at the Department of Commerce within 5 business days thereafter, or by October 30, 1995.

For further information concerning the conduct of this investigation 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 B (19 CFR part 207).

EFFECTIVE DATE: September 8, 1995.

FOR FURTHER INFORMATION CONTACT: Debra Baker (202–205–3180), 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. Information can also be obtained by calling the Office of Investigations' remote bulletin board system for personal computers at 202–205–1895 (N,8,1).

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted in response to a petition filed on September 8, 1995, by Marley Mouldings, Inc., Marion, VA.

Participation in the Investigation and Public Service List

Persons (other than petitioners) wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven (7) days after publication of this notice in the **Federal Register**. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

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 this preliminary investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than seven (7) days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference

The Commission's Director of Operations has scheduled a conference in connection with this investigation for 9:30 a.m. on September 29, 1995, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Debra Baker (202–205–3180) not later than September 26, 1995, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written Submissions

As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before October 4, 1995, a written brief containing information and arguments pertinent to the subject matter of the investigation. Parties may file written testimony in connection with their presentation at the conference no later than three (3) days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (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: This investigation is being conducted under authority of the Tariff Act of 1930, title VII, as amended by the URAA. This notice is published pursuant to section 207.12 of the Commission's rules.

Issued: September 13, 1995.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 95–23091 Filed 9–15–95; 8:45 am]

BILLING CODE 7020–02–P

[A-412-817]

Initiation of Antidumping Duty Investigation: Foam Extruded PVC and Polystyrene Framing Stock From the United Kingdom

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

EFFECTIVE DATE: October 6, 1995.

FOR FURTHER INFORMATION CONTACT: Ellen Grebasch at (202) 482-3773, Dorothy Tomaszewski at (202) 482-0631 or Erik Warga at (202) 482-0922, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230.

INITIATION OF INVESTIGATIONS:

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA).

The Petition

On September 8, 1995, the Department of Commerce (the Department) received a petition filed in proper form by Marley Mouldings, Inc. (the petitioner), a producer of foam extruded polyvinyl chloride (PVC) and polystyrene framing stock. A supplement to the petition was filed on September 22, 1995.

In accordance with section 732(b) of the Act, the petitioner alleges that imports of foam extruded PVC and polystyrene framing stock from the United Kingdom are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, a U.S. industry.

The petitioner states that they have standing to file the petition because they are interested parties, as defined under section 771(9)(C) of the Act.

Determination of Industry Support for the Petition

Section 732(c)(4)(A) of the Act requires the Department to determine, prior to the initiation of an investigation, that a minimum percentage of the domestic industry supports an antidumping petition. A petition meets these minimum requirements if (1) the domestic producers or workers who support the petition account for at least 25 percent of the total production of the domestic like product; and (2) the domestic producers or workers who support the petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition.

A review of the production data provided in the petition and other information readily available to the Department indicates that the petitioner accounts for more than 25 percent of the total production of the domestic like product and for more than 50 percent of that produced by companies expressing support for, or opposition to, the petition. The Department received no expressions of opposition to the petition from any interested party. Accordingly, the Department determines that the petition is supported by the domestic industry.

Scope of the Investigations

For purposes of these investigations, all extruded PVC and polystyrene framing stock regardless of color, finish, width or length. Finished frames assembled from foam extruded PVC and polystyrene framing stock are excluded. The merchandise under investigation is currently classifiable under HTS subheadings 3924.90.20.00; 3926.90.90.90; 3926.90.95.90; and 3926.90.98.90. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of these investigations is dispositive.

Export Price and Normal Value

Export price was based on a price list from a U.K. producer with the terms of sale on delivered basis. The petitioner made adjustments to the export prices for foreign inland freight, handling, ocean freight, marine insurance, U.S. brokerage, U.S. duties, and U.S. inland freight.

Normal value was based on the same price list, also with the terms of sale on a delivered basis. The petitioner made adjustments to the normal value for foreign inland freight.

Based on comparisons of export price to normal value, the calculated dumping margins for foam extruded PVC and polystyrene framing stock from the United Kingdom range from 20.82 percent to 48.96 percent.

Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of foam extruded PVC and polystyrene framing stock from the United Kingdom are being, or likely to be, sold at less than fair value.

Initiation of Investigations

We have examined the petition on foam extruded PVC and polystyrene framing stock and have found that it meets the requirements of section 732 of the Act, including the requirements concerning allegations of the material injury or threat of material injury to the domestic producers of a domestic like product by reason of the complained-of imports, allegedly sold at less than fair value. Therefore, we are initiating an antidumping duty investigation to determine whether imports of foam extruded PVC and polystyrene framing stock from the United Kingdom are being, or are likely to be, sold in the United States at less than fair value. Unless extended, we will make our preliminary determination by February 15, 1996.

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act, copies of the public versions of the petition have been provided to the representatives of the government of the United Kingdom. We will attempt to provide copies of the public versions of the petition to all the exporters named in the petition.

International Trade Commission (ITC) Notification

We have notified the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determination by the ITC

The ITC will determine by October 23, 1995, whether there is a reasonable indication that imports of foam extruded PVC and polystyrene framing stock from the United Kingdom are causing material injury, or threatening to cause material injury, to a U.S. industry. A negative ITC determination will result in the investigation being terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 732(c)(2) of the Act.

Dated: September 28, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95-24928 Filed 10-5-95; 8:45 am]

BILLING CODE 3510-DS-P

APPENDIX C

LIST OF WITNESSES APPEARING AT THE COMMISSION'S CONFERENCE

Investigation No. 731-TA-738 (Preliminary)

FOAM EXTRUDED PVC AND POLYSTYRENE FRAMING STOCK FROM THE UNITED KINGDOM

Those listed appeared at the United States International Trade Commission's conference was held in connection with the subject investigation on September 29, 1995, in the Main Hearing Room, at the USITC Building, 500 E Street, SW, Washington, DC.

In support of the imposition of antidumping duties

Adduci, Mastriani & Schaumberg, L.L.P.--Counsel
Washington, DC
on behalf of--

Marley Mouldings, Inc.

Art Ramey, Executive Vice President for Sales, Marketing, and Distribution, Marley Mouldings
Mike Sheppard, Chief Financial Officer, Marley Mouldings
Duane Hayes, National Sales Manager, Marley Mouldings
David Martin, Marketing Manager

John Reilly, Economic Consultant, Nathan Associates, Inc.

V. James Adduci, II, Esq.--OF COUNSEL
Louis Mastriani, Esq.--OF COUNSEL
Gregory Anthes, Esq.--OF COUNSEL

In opposition to the imposition of antidumping duties

Rogers & Wells
Washington, DC
on behalf of--

Robobond Ltd.

Howard Simons, Managing Director, Robobond
Kim Kiner, Director of Marketing and Product Development, ACME Frame Products, Inc.
James Roosa, Corporate Counsel, ACME Frame Products, Inc.
Charles Gordon, Chairman and CEO, The Holson Burnes Group
Alan Mandel, President, Delta Picture Frame Company
William Patton, President, Patton Picture Company

Daniel Klett, Economic Consultant, Capital Trade, Inc.

William Silverman, Esq.--OF COUNSEL
Ryan Trainer, Esq.--OF COUNSEL
Laurie Mathewson, Esq.--OF COUNSEL

In opposition to the imposition of antidumping duties--Continued

Gardner, Carton & Douglas
Washington, DC
on behalf of--

Prints Plus

Arthur Padovese, President, Prints Plus
Theodore Upland III, Senior Vice President (Administration & Control) and Chief Financial Officer, Prints Plus
Heather Kreeger, Manager-Purchasing, Prints Plus

W.N. Harrell Smith, IV, Esq.--OF COUNSEL
George Grammas, Esq.--OF COUNSEL

APPENDIX D

SUMMARY OF NATIONAL PICTURE FRAME'S FINANCIAL DATA FOR ITS ESTABLISHMENT AND FRAMING STOCK OPERATIONS

Table D-1
Income-and-loss experience of National on the overall operations of its establishment wherein foam extruded polystyrene framing stock is produced, fiscal years 1992-94, Jan.-June 1994, and Jan.-June 1995

* * * * * * *

Table D-2
Financial data of National on its operations producing and transferring polystyrene framing stock to its finished frame operations, fiscal years 1993-94, Jan.-June 1994, and Jan.-June 1995

* * * * * * *