

UNITED STATES INTERNATIONAL TRADE COMMISSION

PRESSURE SENSITIVE PLASTIC TAPE FROM ITALY

Investigation No. AA1921-167 (Review)

DETERMINATION AND VIEWS OF THE COMMISSION

(USITC Publication No. 3157, February 1999)

# UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. AA1921-167 (Review)

## PRESSURE SENSITIVE PLASTIC TAPE FROM ITALY

### DETERMINATION

On the basis of the record<sup>1</sup> developed in the subject five-year review, the United States International Trade Commission determines,<sup>2</sup> pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)) (the Act), that revocation of the antidumping finding on pressure sensitive plastic tape from Italy would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

### BACKGROUND

The Commission instituted this review on September 1, 1998, (63 FR 46475) and determined on December 4, 1998, that it would conduct an expedited review (63 FR 70157, December 18, 1998). The views of the Commission are contained in USITC Publication 3157 (February 1999), entitled *Pressure Sensitive Plastic Tape from Italy: Investigation No. AA1921-167 (Review)*.

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

<sup>2</sup> Chairman Bragg and Commissioners Crawford and Askey dissenting.

## VIEWS OF THE COMMISSION

Based on the record in this five-year review, we determine under section 751(c) of the Tariff Act of 1930, as amended (“the Act”), that revocation of the antidumping finding concerning pressure sensitive plastic tape (“PSP tape”) from Italy would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.<sup>1</sup>

### I. BACKGROUND

In August 1977, the Commission determined that an industry in the United States was being or was likely to be injured by reason of dumped imports of PSP tape from Italy pursuant to the Antidumping Act, 1921.<sup>2</sup> Subsequently, the Department of Treasury issued an antidumping finding covering these imports.<sup>3</sup> On September 1, 1998, the Commission instituted a review pursuant to section 751(c) of the Act to determine whether revocation of the antidumping finding on PSP tape from Italy would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.<sup>4</sup>

In five-year reviews, the Commission first determines whether to conduct a full review (which would include a public hearing, the issuance of questionnaires, and other procedures) or an expedited review. Specifically, the Commission determines whether individual responses to the notice of institution are adequate and, based on these individually adequate responses, whether the collective responses submitted by two groups of interested parties -- domestic interested parties (such as producers, unions, trade associations, or worker groups) and respondent interested parties (such as importers, exporters, foreign producers, trade associations, or subject country governments) -- show a sufficient willingness among each group to participate and provide information requested in a full review, and if not, whether other circumstances warrant a full review.<sup>5</sup>

In this review the Commission received one individually adequate response to its notice of institution from Minnesota Mining & Manufacturing Company (“3M”), a domestic producer of PSP tape and the petitioner in the original investigation.<sup>6</sup> 3M also filed comments on adequacy, arguing that the review should be expedited because no Italian PSP tape producer responded to the Commission’s notice of institution.<sup>7</sup>

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<sup>1</sup> Chairman Bragg and Commissioners Crawford and Askey determined that revocation of the finding in this case would not be likely to lead to continuation or recurrence of material injury to an industry in the United States. See their dissenting views. They join in Sections I, II and III A. (but not the concluding paragraph of Section III A.) of these views.

<sup>2</sup> Pressure Sensitive Plastic Tape from Italy, Inv. No. AA1921-167, USITC Pub. 830 (Aug. 1977) (“Original Determination”). Of the three Commissioners voting in the affirmative, two found present injury and one found a likelihood of injury to the domestic industry. Shortly after issuing its determination in the Italian case, the Commission made a negative injury determination in Pressure Sensitive Plastic Tape from Germany, Inv. No. AA1921-168, USITC Pub. 831 (Sept. 1977). The staff report for both investigations is included in USITC Pub. 831. All references to the Original Determination Staff Report are to USITC Pub. 831.

<sup>3</sup> 42 Fed. Reg. 56110 (Oct. 21, 1977).

<sup>4</sup> 63 Fed. Reg. 46475 (Sept. 1, 1998).

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

<sup>6</sup> Vice Chairman Miller and Commissioners Hillman and Koplán concluded that 3M’s response constituted an adequate domestic interested party group response. Chairman Bragg and Commissioners Crawford and Askey concluded that 3M’s response did not constitute an adequate domestic interested party group response.

<sup>7</sup> See 19 C.F.R. § 207.62(b) (authorizing, *inter alia*, all interested parties that have responded to the notice of institution to file comments with the Commission on whether the Commission should conduct an expedited review). 63 Fed. Reg. 70157, 70158 (Dec. 18, 1998).

On December 4, 1998, the Commission found that the response from the respondent interested party group was inadequate because no respondent interested parties responded to the Commission's notice of initiation. Pursuant to Section 751(c)(3)(B) of the Act, the Commission voted to conduct an expedited review.<sup>8</sup> On January 13, 1999, 3M filed comments ("3M Comments") pursuant to 19 C.F.R. § 207.62(d) urging that the antidumping finding be continued. On January 12, 1999, the Pressure Sensitive Tape Council, a trade association that is neither a party to the review nor an interested party, also filed comments supporting a continuation of the finding.<sup>9</sup>

## II. DOMESTIC LIKE PRODUCT AND INDUSTRY

### A. Domestic Like Product

In making its determination under section 751(c), the Commission defines "the domestic like product" and the "industry."<sup>10</sup> The Act defines "domestic like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle."<sup>11</sup> In its final five-year review determination, the Department of Commerce ("Commerce") defined the imported product covered by the existing antidumping finding as "pressure sensitive plastic tape ('PSPT') measuring over 1-3/8 inches in width and not exceeding 4 mils in thickness."<sup>12</sup>

PSP tape is a plastic film-backed tape with an adhesive on one side that remains permanently tacky at room temperatures, which is used primarily to seal cartons or corrugated boxes.<sup>13</sup>

Under then applicable statutory provisions, the Commission did not make a like product determination *per se* in its original determination. Instead, the Commission "considered the U.S. industry to consist of the facilities in the United States devoted to the production of PSP tape."<sup>14</sup> Thus, the Commission essentially treated all PSP tape as a single product. 3M stated in its response to the Commission's notice of institution that it agrees with the definition of the domestic like product in the notice of institution, namely PSP tape measuring over 1-3/8 inches in width and not exceeding 4 mils in thickness.<sup>15</sup>

We find, based on the facts available, that the appropriate definition of the domestic like product in this expedited five-year review is the same as Commerce's scope: pressure sensitive plastic tape measuring over 1-3/8 inches in width and not exceeding 4 mils in thickness.

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<sup>8</sup> 19 U.S.C. § 1675(c)(3)(B); *see* 63 Fed. Reg. 70157 (Dec. 18, 1998).

<sup>9</sup> Commission rule 207.62(d)(2) provides that a brief written statement pertinent to the review may be filed by any person that is neither a party to the review nor an interested party. The Pressure Sensitive Tape Council is not a party to the review, and, based on its representations as to its membership, is not an interested party. The statute defines "interested party" to include "a trade or business association a majority of whose members manufacture, produce, or wholesale a domestic like product in the United States." 19 U.S.C. § 1677(9)(E). The Pressure Sensitive Tape Council states that a majority of its members do not manufacture, produce, or wholesale the domestic like product, but that its membership includes virtually all companies that produce the domestic like product in the United States.

<sup>10</sup> 19 U.S.C. § 1677(4)(A). 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." *Id.*

<sup>11</sup> 19 U.S.C. § 1677(10). *See* Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int'l Trade 1996); Torrington Co. v. United States, 747 F. Supp. 744, 748-49 (Ct. Int'l Trade 1990), *aff'd*, 938 F.2d 1278 (Fed. Cir. 1991). *See also* S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

<sup>12</sup> 64 Fed. Reg. 853, 854 (Jan. 6, 1999).

<sup>13</sup> Confidential Report ("CR") at I-5, Public Report ("PR") at I-4.

<sup>14</sup> Original Determination at 4.

<sup>15</sup> 3M Response (Oct. 21, 1998) at 7.

## **B. Domestic Industry**

Section 771(4)(A) of the Act defines the relevant industry as the “domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product.”<sup>16</sup> In defining the domestic industry in this review, we consider whether any producers of the domestic like product should be excluded from the domestic industry pursuant to the related parties provision in section 771(4)(B) of the Act.

At least one domestic producer, 3M, imported the subject merchandise from Italy.<sup>17</sup> Because 3M’s imports of the subject merchandise were not significant, relative to its domestic production, and because there is no evidence that the company derived any significant benefit from these imports, we find that appropriate circumstances do not exist to exclude 3M from the domestic industry.<sup>18</sup> Accordingly, we define the domestic industry to encompass all U.S. producers of PSP tape.

## **III. REVOCATION OF THE FINDING ON PSP TAPE IS LIKELY TO LEAD TO CONTINUATION OR RECURRENCE OF MATERIAL INJURY WITHIN A REASONABLY FORESEEABLE TIME**

### **A. Legal Standard**

In a five-year review conducted under section 751(c) of the Act, Commerce will revoke an antidumping duty order or finding unless it makes a determination that dumping is likely to continue or recur and the Commission makes a determination that material injury would be likely to continue or recur if the order or finding is revoked, as described in section 752(a).

Section 752(a) of the Act states that in a five-year review “the Commission shall determine whether revocation of an order [or finding], or termination of a suspended investigation, would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.”<sup>19</sup> The Uruguay Round Agreements Act (“URAA”) Statement of Administrative Action (“SAA”) indicates that “under the likelihood standard, the Commission will engage in a counter-factual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo -- the revocation [of the order or finding] . . . and the elimination of its restraining effects on volumes and prices of imports.”<sup>20</sup> Thus, the likelihood standard is prospective in nature.<sup>21</sup> The statute states that “the Commission shall consider that the effects of revocation . . . may not be imminent, but may manifest themselves only over a longer period of

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<sup>16</sup> 19 U.S.C. § 1677(4)(A). In defining the domestic industry, the Commission's general practice has been to include in the industry producers of all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market, provided that adequate production-related activity is conducted in the United States. See United States Steel Group v. United States, 873 F. Supp. 673, 682-83 (Ct. Int’l Trade 1994), *aff’d*, 96 F.3d 1352 (Fed. Cir. 1996).

<sup>17</sup> 3M imported \*\*\* square yards of PSP tape, valued at \$ \*\*\*, from its Italian subsidiary in 1997. CR at I-6-I-7, PR at I-5. 3M reported producing \*\*\* square yards of PSP tape in 1997. *Id.* Thus, the quantity of PSP tape which it imported from Italy in 1997 amounted to only \*\*\* percent of its domestic PSP tape production in that year.

<sup>18</sup> Commissioner Crawford finds that 3M’s primary interest clearly lies in domestic production, not importation, and thus appropriate circumstances do not exist to exclude it from the domestic industry.

<sup>19</sup> 19 U.S.C. § 1675a(a).

<sup>20</sup> URAA SAA, H.R. Rep. No. 316, 103d Cong., 2d Sess., vol. I at 883-84.

<sup>21</sup> While the SAA states that “a separate determination regarding current material injury is not necessary,” it indicates that “the Commission may consider relevant factors such as current and likely continued depressed shipment levels and current and likely continued prices for the domestic like product in the U.S. market in making its determination of the likelihood of continuation or recurrence of material injury if the order is revoked.” SAA at 884.

time.”<sup>22</sup> According to the SAA, a “‘reasonably foreseeable time’ will vary from case-to-case, but normally will exceed the ‘imminent’ timeframe applicable in a threat of injury analysis [in antidumping and countervailing duty determinations].”<sup>23</sup>

Although the standard in five-year reviews is not the same as the standard applied in original antidumping or countervailing duty investigations, it contains some of the same elements. The statute provides that the Commission is to “consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the order is revoked.” It directs the Commission to take into account its prior injury determination, whether any improvement in the state of the industry is related to the order under review, and whether the industry is vulnerable to material injury if the order is revoked.<sup>24 25</sup>

Section 751(c)(3) of the Act and the Commission’s regulations provide that in an expedited five-year review the Commission may issue a final determination “based on the facts available, in accordance with section 776.”<sup>26</sup> We have relied on the facts available in this review, which consist primarily of the record in the original investigation and information submitted by 3M.

For the reasons stated below, we determine that revocation of the antidumping finding on PSP tape from Italy would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.<sup>27</sup>

## **B. Conditions of Competition**

In evaluating the likely impact of the subject imports on the domestic industry if the finding is revoked, the statute directs the Commission to evaluate all relevant economic factors “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”<sup>28</sup> Conditions of competition relevant to the PSP tape industry are discussed below.

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<sup>22</sup> 19 U.S.C. § 1675a(a)(5).

<sup>23</sup> SAA at 887. Among the factors that the Commission should consider in this regard are “the fungibility or differentiation within the product in question, the level of substitutability between the imported and domestic products, the channels of distribution used, the methods of contracting (such as spot sales or long-term contracts), and lead times for delivery of goods, as well as other factors that may only manifest themselves in the longer term, such as planned investment and the shifting of production facilities.” *Id.*

<sup>24</sup> 19 U.S.C. § 1675a(a)(1). The statute further provides that the presence or absence of any factor that the Commission is required to consider shall not necessarily give decisive guidance with respect to the Commission's determination. 19 U.S.C. § 1675a(a)(5). While the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886.

<sup>25</sup> Section 752(a)(1)(D) of the Act directs the Commission to take into account in five-year reviews involving antidumping proceedings “the findings of the administrative authority regarding duty absorption.” 19 U.S.C. § 1675a(a)(1)(D). Commerce stated in its five-year review determination that it has not issued any duty absorption findings in this matter. 63 Fed. Reg. at 67649.

<sup>26</sup> 19 U.S.C. § 1675(c)(3)(B); 19 C.F.R. § 207.62(e). Section 776 of the Act, in turn, authorizes the Commission to “use the facts otherwise available” in reaching a determination when: (1) necessary information is not available on the record or (2) an interested party or any other person withholds information requested by the agency, fails to provide such information in the time or in the form or manner requested, significantly impedes a proceeding, or provides information that cannot be verified pursuant to section 782(i) of the Act. 19 U.S.C. § 1677e(a).

<sup>27</sup> Chairman Bragg and Commissioners Crawford and Askey make negative determinations and thus do not join in the remainder of this opinion. *See* their dissenting views.

<sup>28</sup> 19 U.S.C. § 1675a(a)(4).

It appears that the domestic industry has become \*\*\* since the time of the original investigation. Then, four domestic firms accounted for at least 80 percent of production and 3M was by far the largest U.S. manufacturer.<sup>29</sup> Today, in contrast, 3M's share of domestic production has \*\*\*.<sup>30</sup>

The domestic market for PSP tape has grown significantly since imposition of the original finding in 1977. Apparent U.S. consumption of PSP tape has increased from \*\*\* square yards in 1976,<sup>31</sup> to \*\*\* billion square yards in 1997.<sup>32</sup> At the same time, the market share held by imports has declined, from \*\*\* percent in 1976 to \*\*\* percent in 1997.<sup>33</sup>

Since most PSP tape is used to seal cartons or corrugated boxes, demand for PSP tape appears to be derived from the demand for cartons and boxes.<sup>34</sup> 3M asserts that there are no good commercial substitutes for the use of PSP tape in these applications, and that the tape accounts for only a small share of the value of the delivered cartons and boxes.<sup>35</sup> Accordingly, demand for PSP tape appears to be inelastic.

PSP tape appears to be a commodity-like product, with a high degree of substitutability between imported and domestic PSP tape. In the original investigation, most of the purchasers who were contacted by the Commission in connection with the domestic industry's lost sales allegations reported that price considerations were the determinative factor in their decisions to buy imported PSP tape.<sup>36</sup> Moreover, while three different types of plastic may be used as backing for PSP tape, the Commission staff report in the original investigation noted that "all three types of tape are used interchangeably for carton sealing applications and compete directly with each other in the market place of the carton sealing business."<sup>37</sup> 3M asserts that "domestically produced and imported pressure sensitive tape remain highly substitutable products where small changes in their relative prices have significant volume effects."<sup>38</sup> We have received no contrary information in this expedited review.

### C. Likely Volume of Subject Imports

In evaluating the likely volume of imports of subject merchandise if the finding under review is revoked, the Commission is directed to consider whether the likely volume of imports would be significant either in absolute terms or relative to production or consumption in the United States.<sup>39</sup> In doing so, the Commission must consider "all relevant economic factors," including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) the potential for product shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.<sup>40</sup>

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<sup>29</sup> Original Determination Staff Report at A-17.

<sup>30</sup> 3M Comments at 7.

<sup>31</sup> Original Determination Staff Report at A-22, table 2.

<sup>32</sup> CR at I-7, PR at I-6.

<sup>33</sup> Original Determination Staff Report at A-22, table 2; CR at I-8, PR at I-6.

<sup>34</sup> CR at I-5, PR at I-4.

<sup>35</sup> 3M Comments at 8.

<sup>36</sup> Original Determination Staff Report at A-60.

<sup>37</sup> *Id.* at A-9.

<sup>38</sup> 3M Comments at 7.

<sup>39</sup> 19 U.S.C. § 1675a(a)(2).

<sup>40</sup> 19 U.S.C. § 1675a(a)(2)(A)-(D).

As discussed below, we conclude from the limited facts available<sup>41</sup> that subject import volume is likely to increase significantly and would be significant if the finding is revoked. This conclusion is based largely on the record from the original investigation and the information submitted by the domestic industry in this review. We note in this regard that the statute permits the Commission to use adverse inferences in selecting from among the facts otherwise available when an interested party has failed to cooperate by acting to the best of its ability to comply with a request for information.<sup>42</sup> Such adverse inferences may include selecting from any information placed on the record and information from the record of our original determination.<sup>43</sup> As noted above, no respondent interested parties responded to the Commission's notice of institution. Accordingly, we conclude that it is appropriate to rely on the information submitted by the domestic industry.

We recognize that the volume of subject imports is currently at a low level relative to total consumption.<sup>44</sup> In a five-year review, however, our focus is on whether subject import volume is likely to be significant in the reasonably foreseeable future if the antidumping finding is revoked.

The record from the original investigation indicates that Italian PSP tape producers had the ability and willingness to establish a significant presence in the U.S. market. In the original investigation, the Commission found that Italian PSP tape producers were able to increase their shipments to the United States and gain market share rapidly. Imports from less-than-fair-value suppliers in Italy more than tripled in one year, rising from eight million square yards in 1975, to more than 26 million square yards in 1976.<sup>45</sup> In the same period, the share of the U.S. market held by these suppliers more than doubled, rising from \*\*\* percent in 1975 to \*\*\* percent in 1976.<sup>46</sup> In our view, absent contrary information, the current low market share of imports from Italy likely reflects the restraining effects of the antidumping finding, rather than an inability or unwillingness to ship significant volumes to the U.S. market.

PSP tape producers in Italy currently have substantial unused production capacity. The record indicates that their capacity utilization rate was only \*\*\* percent in 1997, and that they had excess capacity to produce \*\*\* billion square yards of PSP tape.<sup>47</sup> This excess capacity represents more than one-half of apparent U.S. consumption in 1997.<sup>48</sup> Moreover, the U.S. market was an attractive one for subject Italian producers before the antidumping finding was issued, and that attractiveness is now enhanced by the substantial growth of demand for PSP tape in the U.S. market, as well as the substantial excess capacity existing in Italy. We also note that PSP tape is a commodity product that competes on price. Given the apparent high substitutability between domestic and Italian PSP tape, relatively small changes in price can result in significant shifts in market share.

In these circumstances, 3M maintains that imports would surge if the finding is revoked. In the absence of contrary evidence or argument, we agree and conclude that the likely volume of imports of the subject merchandise would be significant if the finding is revoked.

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<sup>41</sup> See 19 U.S.C. § 1677e(a).

<sup>42</sup> 19 U.S.C. § 1677e(b).

<sup>43</sup> *Id.*

<sup>44</sup> The record shows that imports from Italy subject to the antidumping finding accounted for under \*\*\* percent of apparent U.S. consumption in 1997. CR at I-7, PR at I-6.

<sup>45</sup> Original Determination at 5.

<sup>46</sup> Original Determination Staff Report at A-53, Table 14.

<sup>47</sup> CR at I-8, PR at I-7 (based on data supplied by 3M).

<sup>48</sup> Apparent U.S. consumption of PSP tape was \*\*\* billion square yards in 1997. CR at I-7, PR at I-6.



#### **D. Likely Price Effects of Subject Imports**

In evaluating the likely price effects of subject imports if the antidumping finding is revoked, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared to domestic like products and if the subject imports are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of domestic like products.<sup>49</sup>

The record in this expedited review contains very little pricing data, and provides no information comparing current prices of the domestic like product and the subject imports in the U.S. market. Again, our conclusions are based primarily on the record of the original investigation and the information submitted by the domestic industry.

In the original determination, the Commission found that less than fair value imports from Italy consistently undersold U.S. producers and caused price depression in the U.S. market.<sup>50</sup> The domestic industry asserts that subject imports would again enter the U.S. market at prices that would have significant price depressing or suppressing effects if the order is revoked.<sup>51</sup> In the absence of contrary evidence or argument, we agree with this conclusion.

As noted above, PSP tape is a commodity product for which purchasing decisions appear to be based largely on the prices of competing suppliers. We think it is likely that subject Italian exporters would offer attractively low prices to U.S. purchasers in order to regain market share. The substantial excess capacity available to the Italian producers provides a strong incentive to engage in aggressive pricing behavior. Consequently, prices for domestically produced PSP tape in the United States would likely decline to a significant degree due to the effects of increased volumes of highly substitutable subject PSP tape offered at lower prices.

Accordingly, in the absence of contrary evidence or argument, we find that revocation of the antidumping finding would be likely to lead to significant price effects, including significant underselling by the subject imports of the domestic like product, as well as to significant price depression and suppression in the reasonably foreseeable future.

#### **E. Likely Impact of Subject Imports**

In evaluating the likely impact of imports of subject merchandise if the order is revoked, the Commission is directed to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including but not limited to: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.<sup>52</sup> All relevant economic factors are to be considered within the context of the business cycle and the conditions of competition that are distinctive to the industry.<sup>53</sup> As instructed by the statute, we have considered the extent to which any

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<sup>49</sup> 19 U.S.C. § 1675a(a)(3). The SAA states that “[c]onsistent with its practice in investigations, in considering the likely price effects of imports in the event of revocation and termination, the Commission may rely on circumstantial, as well as direct, evidence of the adverse effects of unfairly traded imports on domestic prices.” SAA at 886.

<sup>50</sup> Original Determination at 5-6.

<sup>51</sup> 3M Comments at 9-10.

<sup>52</sup> 19 U.S.C. § 1675a(a)(4).

<sup>53</sup> 19 U.S.C. § 1675a(a)(4). Section 752(a)(6) of the Act states that “the Commission may consider the

(continued...)

improvement in the state of the domestic industry is related to the antidumping finding at issue and whether the industry is vulnerable to material injury if the finding is revoked.<sup>54</sup>

In the original determination the Commission found that the significant increase in less-than-fair-value imports adversely affected the financial condition of the domestic industry. It found that the firms reporting financial data had gone from showing a substantial profit in 1974 to a substantial loss in 1976, and that these losses worsened over the interim periods.<sup>55</sup>

Since imposition of the finding, the domestic industry's market share increased as subject Italian imports virtually exited the market. There is little other information in the record on the current condition of the industry. 3M has not argued that the industry is currently in poor condition or that it is facing difficulty from other sources.<sup>56</sup>

However, 3M has argued that subject imports would have a significant adverse impact on the domestic industry if the finding is revoked, and that material injury is likely to recur.<sup>57</sup> In the absence of contrary evidence or argument, we agree with this conclusion. We have concluded that if the finding is revoked, the likely volume of subject imports would be significant and that these imports would have significant adverse price effects. These findings, in turn, indicate that the subject imports would likely have a significant adverse impact on the domestic industry if the finding is revoked.

Specifically, most PSP tape is used to seal cartons and boxes, and that tape represents only a small share of the value of the cartons and boxes. Thus, decreased prices for PSP tape would not stimulate additional demand, but would likely result in changes in market share of suppliers as purchasers switch to lower-priced subject imports of PSP tape. Even if some market share gained by the renewed subject imports comes at the expense of fairly traded imports and not only the domestic industry, given current market shares, a significant portion of the lost sales would be incurred by the domestic industry. This lost market share in turn would adversely impact industry revenues, production, capacity utilization, and employment, and result in significant adverse effects on the industry's financial condition. Accordingly, we conclude that if the antidumping finding is revoked, subject imports would be likely to have a significant adverse impact on the domestic industry within a reasonably foreseeable time.

## CONCLUSION

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<sup>53</sup>(...continued)

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

Commerce's expedited determination in its five-year review provided a likely margin of 10 percent for five specific PSP tape producers in Italy. The "all others" margin also is 10 percent. 64 Fed. Reg. at 856.

<sup>54</sup> The SAA states that in assessing whether the domestic industry is vulnerable to injury if the finding is revoked, the Commission "considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they may also demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports." SAA at 885.

<sup>55</sup> Original Determination at 6.

<sup>56</sup> *See*, 3M Response (Oct. 21, 1998) and 3M Comments.

<sup>57</sup> The Pressure Sensitive Tape Council, whose members include virtually all U.S. producers of PSP tape, endorsed the statements and conclusions made in 3M's response to the Commission. Specifically, the Council "agrees with 3M that removal of the Order would lead to a massive surge of dumped Italian imports at prices that would suppress and depress the prices of domestically produced tape, decrease domestic producers' shipments, create excessive domestic capacity, negatively affect domestic employment, and significantly diminish the financial performance of the U.S. industry." Letter from Pressure Sensitive Tape Council, dated January 12, 1999, at 1-2.

For the foregoing reasons, we determine that revocation of the antidumping finding on pressure sensitive plastic tape from Italy would be likely to lead to continuation or recurrence of material injury to the U.S. pressure sensitive plastic tape industry within a reasonably foreseeable time.

**DISSENTING VIEWS OF CHAIRMAN LYNN M. BRAGG, COMMISSIONER CAROL T. CRAWFORD, AND COMMISSIONER THELMA J. ASKEY**

Section 751(d) requires that Commerce revoke a countervailing duty or an antidumping finding in a five-year (“sunset”) review unless Commerce determines that dumping or a countervailable subsidy would be likely to continue or recur and the Commission determines that material injury would be likely to continue or recur within a reasonably foreseeable time.<sup>1</sup> In this review of the finding on pressure sensitive plastic tape (“PSP tape”) from Italy, we find that material injury is not likely to continue or recur in a reasonably foreseeable time if the finding is revoked.

We join our colleagues’ discussion regarding domestic like product and domestic industry and in their explanation of the relevant legal standard. As a preliminary matter, we note that just one domestic producer representing \*\*\* percent of the domestic industry responded to the Commission’s notice of institution; no respondent interested parties chose to participate in the review.<sup>2</sup> Publicly available data on the PSP tape industry are scarce. We therefore have a limited record to review, with most current data provided by the sole responding domestic producer, in determining whether revocation of the finding will likely lead to continuation or recurrence of material injury.<sup>3</sup>

**A. Conditions of Competition**

In evaluating the impact of subject imports on the domestic industry if the finding is revoked, the statute directs the Commission to evaluate all the relevant economic factors “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”<sup>4</sup> Discussed below are the conditions of competition that weigh significantly in our determination that revocation of the finding is not likely to lead to continuation or recurrence of material injury to the PSP tape industry within a reasonably foreseeable time.

Minnesota Mining & Manufacturing Company (“3M”), the only domestic interested party responding to the Commission’s notice of institution, argues that the conditions of competition that existed in the original 1976-77 investigation are unchanged or have changed in certain marginal ways that make the domestic industry more susceptible to injury by revocation of the finding.<sup>5</sup> We agree that the conditions of competition have changed, but find that these changes are substantial and render the domestic industry less susceptible to injury.

Since 1976, the domestic PSP tape industry has changed. In its response to the notice of institution, 3M identified itself and five other companies as current U.S. producers of PSP tape.<sup>6</sup> None of these current

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<sup>1</sup> 19 U.S.C. §§ 1675(d)(2), 1675a(a)(1) (1994).

<sup>2</sup> Confidential Report (“CR”) at I-6. Indeed, we found the domestic interested party group response to be inadequate. 63 Fed. Reg. 70157, 70158 (Dec. 18, 1998).

<sup>3</sup> Congress and the administration anticipated that the record in expedited sunset reviews would likely be more limited than that in full reviews and accordingly provided that the Commission’s determination would be upheld unless it was “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 19 U.S.C. § 1516a(b)(1)(b)(ii). Nevertheless, even under a more relaxed standard of review, the Commission must ensure that its decision is based on some evidence in the record. See *Genentech Inc. v. United States Int’l Trade Comm’n*, 122 F.3d 1409, 1415 (Fed. Cir. 1997) (discussing the Commission’s decision on sanctions). Chairman Bragg concurs that Congress and the Administration anticipated the record in sunset reviews would be more limited than in full reviews.

<sup>4</sup> 19 U.S.C. § 1675a(a)(4).

<sup>5</sup> 3M’s Response to the Notice of Institution, filed Oct. 21, 1998 (“3M Response”), at 6; 3M’s Comments Filed in Support of Continuation of Order, filed Jan. 13, 1999 (“3M Comments”), at 6-8.

<sup>6</sup> 3M Response at 3, identifying Intertape Polymer Group, Inc.; Central Products Co.; Bemis Co., Inc.; Sekisui TA Industries, Inc.; and Shurtape Technologies, Inc.

producers, aside from 3M, appears to be one of the eight original producers.<sup>7</sup> Moreover, none of these five companies, which accounted for \*\*\* percent of domestic production in 1997, responded to the Commission's notice of institution.<sup>8</sup>

Before the antidumping finding was imposed, in 1976 U.S. apparent consumption of PSP tape was \*\*\* square yards.<sup>9</sup> By 1997, U.S. apparent consumption had increased roughly 30 times to \*\*\* square yards.<sup>10</sup> Domestic production increased even more remarkably during the period, from \*\*\* square yards in 1976 to \*\*\* square yards in 1997 -- 60 times larger.<sup>11</sup>

In other words, U.S. production has increased at double the rate of U.S. consumption. Indeed, the increase in domestic production is illustrated by the domestic industry's significant increase in market share. In 1976, domestic producers accounted for just \*\*\* percent of total U.S. consumption of PSP tape. By 1997, the domestic share of consumption had grown to approximately \*\*\* percent.<sup>12</sup>

Not only has the domestic industry gained the bulk of the growing U.S. market, but the identity of foreign suppliers has also changed markedly since the original investigation. In 1976, when total imports accounted for more than \*\*\* of U.S. consumption, subject imports from Italy garnered nearly \*\*\* percent of the importers' market share.<sup>13</sup> In 1997, when total imports accounted for approximately \*\*\* percent of the market, imports from Italy accounted for only 4.0 percent of total imports, and subject imports accounted for considerably less than that.<sup>14</sup>

Although there has been substantial growth in domestic consumption of PSP tape, 3M acknowledges that there are no significant uses for the tape other than for sealing cartons and corrugated boxes.<sup>15</sup> In addition, 3M states that the price of PSP tape makes up a small portion of the cost of the final product.<sup>16</sup> Accordingly, the overall demand for PSP tape is a derived demand and is not very sensitive to changes in the price of PSP tape.

On the other hand, although changes in the price of PSP tape do not generally affect the overall level of PSP tape demanded, price changes may affect purchaser decisions to some degree. In the 1976 investigation, the Commission's staff report stated that both domestic and subject PSP tape were largely substitutable, commodity products.<sup>17</sup> As such, and as purchasers reported in that investigation, price was the determining factor in the decision to buy subject Italian PSP tape.<sup>18</sup>

The Commission's staff report in the original investigation stated that the different types of PSP tape were used largely interchangeably.<sup>19</sup> Nevertheless, all types of PSP tape were not identical because different types of film backings are applied to reinforce the tape. On an equal thickness basis, domestic tape had been

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<sup>7</sup> Four of the eight producers -- Johnson & Johnson, Permacel Division; Nashua Corp., Industrial Tape Division; Borden Co., Mystic Tape Division; and 3M -- accounted for approximately 80 percent of PSP tape production in 1976. CR at I-6.

<sup>8</sup> CR at I-6.

<sup>9</sup> Staff Report of Aug. 15, 1977 ("1977 Staff Report") at A-53.

<sup>10</sup> CR at I-7.

<sup>11</sup> *Id.* at I-6; 1977 Staff Report at A-24.

<sup>12</sup> 1977 Staff Report at A-54; CR at I-7.

<sup>13</sup> 1977 Staff Report at A-53.

<sup>14</sup> CR at I-7.

<sup>15</sup> 3M Comments at 6-7; Pressure Sensitive Plastic Tape from Italy, Inv. No. AA1921-167, USITC Pub. 830 (Aug. 1977) ("Original Determination") at 5.

<sup>16</sup> 3M Comments at 8.

<sup>17</sup> 1977 Staff Report at A-9.

<sup>18</sup> *Id.* at A-60.

<sup>19</sup> *Id.* at A-9.

shown to be considerably stronger than imported tape.<sup>20</sup> 3M's submission in this review investigation provides no information to the contrary.

## B. General Considerations

The statute directs us to take into account some general considerations.<sup>21</sup> We have taken into account the Commission's prior injury determination, including the volume, price effects, and impact of the subject imports on the industry before the finding was issued.<sup>22</sup> Based on the facts available, as recounted above, the industry appears to have changed and improved since the issuance of the finding. U.S. production is approximately 60 times larger, while consumption is 30 times larger. The prior determination concluded that imports more than trebled from eight million square yards ("msy") in 1975 to 26 msy in 1976, permitting Italian imports to double their share of the U.S. market in the same period of time.<sup>23</sup> Thus, by 1976, subject imports held approximately \*\*\* percent of the U.S. market for PSP tape.<sup>24</sup> By contrast, in 1997, subject merchandise held approximately \*\*\* percent of the market.<sup>25</sup> Also, 3M appears to be the only remaining domestic PSP tape producer identified in the original investigation that is still producing PSP tape. We therefore conclude that pre-finding conditions are unlikely to recur if the finding is revoked.

Although the domestic industry's performance has apparently improved during the many years the finding has been in effect, it does not necessarily follow that revocation of the finding will reverse or "undo" this improvement. Indeed, the record here suggests that changes in the domestic marketplace itself since the finding was imposed, including the significant increase in total consumption and the level of nonsubject imports, are perhaps more responsible for the industry's performance.<sup>26</sup> In fact, based on the industry's current performance as reflected in the record, we further conclude that the domestic industry does not appear to be vulnerable to material injury if the finding is lifted. Domestic producers dominate the market, and we have no information indicating vulnerability.<sup>27</sup>

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<sup>20</sup> CR at I-5; 1977 Staff Report at A-8.

<sup>21</sup> 19 U.S.C. § 1675a(a)(1). We are to take into account the Commission's prior injury determinations, consider whether any improvement in the state of the industry is related to the finding, consider whether the industry is vulnerable to material injury in the event of revocation, and consider any duty absorption findings made by Commerce. Id. Commerce has made no findings of duty absorption in this case. 64 Fed. Reg. 853, 855 (Jan. 6, 1999). The statute also provides that the Commission may consider the margin of dumping when making its determination. 19 U.S.C. § 1675a(a)(6). Commerce determined that the margin it would expect in the event of revocation for the six Italian producers that remain subject to the order to be ten percent; the all others rate would also be ten percent. 64 Fed. Reg. at 856. The order has been revoked as to three producers. Id.

<sup>22</sup> 19 U.S.C. § 1675a(a)(1)(A). According to the Statement of Administrative Action ("SAA") to the Uruguay Round Agreements Act, if pre-finding conditions are likely to recur, it is reasonable to conclude that there is a likelihood of continuation or recurrence of injury. H. R. Rep. No. 103-316, vol. 1 at 884 (1994).

<sup>23</sup> Original Determination at 5. The Commission also found that U.S. prices for PSP tape declined sharply during the last three quarters of 1975 and the first half of 1976, and the decline in prices occurred despite substantial increases in unit production costs incurred by domestic producers. Id. at 5-6. Net operating profit fell from a substantial profit in 1974 to a substantial loss in 1976, and losses worsened in the first quarter of 1977 as compared to the first quarter of 1976. Id. at 6.

<sup>24</sup> Id.

<sup>25</sup> CR at I-7. This market share is calculated by value because we have no information on the quantity of subject imports.

<sup>26</sup> Chairman Bragg notes that she has only considered the diminishing role of nonsubject imports in this marketplace as an indication of the strengthening of the domestic industry's performance.

<sup>27</sup> Commissioner Crawford finds that the magnitude of any adverse effects of revocation is likely to increase with the degree of vulnerability of the industry. She finds that the domestic industry in this review is not particularly vulnerable

(continued...)

### C. Volume

The Commission is to consider whether the likely volume of subject imports if the finding under review is revoked would be significant either in absolute terms or relative to production or consumption in the United States.<sup>28 29</sup> In so doing, the Commission shall consider “all relevant economic factors,” including four enumerated in the statute: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise in countries other than the United States; and (4) the potential for product shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.<sup>30</sup>

The record indicates that subject imports accounted for approximately \*\*\* percent of total Italian imports in 1997, while total imports from Italy accounted for only \*\*\* percent of apparent U.S. consumption of PSP tape.<sup>31</sup> Thus, subject import market share in 1997 was approximately \*\*\* percent.

Our focus in a sunset review is whether subject import volume is likely to be significant in the reasonably foreseeable future if the antidumping finding is revoked.<sup>32</sup> Although the available data suggest that the antidumping finding has had a significant impact on the market penetration of both subject and nonsubject Italian imports, the tremendous growth in consumption and the domestic industry’s share of this growth are not likely to lead to any adverse effect if the finding is revoked.<sup>33</sup> Domestic consumption has increased from \*\*\* square yards in 1976 to \*\*\* billion square yards in 1997.<sup>34</sup> U.S. producers now hold \*\*\* percent of the market, nonsubject imports hold \*\*\* percent, while subject imports hold an extremely small \*\*\* percent market share.<sup>35</sup> Thus, the U.S. market is dominated by domestic producers and nonsubject suppliers.<sup>36</sup> Though 3M’s submission states that Italian producers have excess production capacity

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<sup>27</sup> (...continued)

to injury if the finding is revoked.

<sup>28</sup> 19 U.S.C. § 1675a(a)(2).

<sup>29</sup> In analyzing whether revocation of a finding or order would be likely to lead to a continuation or recurrence of material injury within a reasonably foreseeable time, Commissioner Crawford takes as her starting point the date on which the revocation would actually take place. In this review, the finding would be revoked in January 2000. 19 U.S.C. § 1675(c)(6)(iv).

<sup>30</sup> 19 U.S.C. § 1675(a)(2)(A)-(D). The SAA indicates that the statutory factors specified for analysis of volume, price, and impact are a combination of those used to determine both material injury by reason of subject imports and threat of material injury in original antidumping and countervailing duty investigations. See SAA at 886.

<sup>31</sup> CR at I-7.

<sup>32</sup> In analyzing what constitutes a reasonably foreseeable time, Commissioner Crawford examines all the current and likely conditions of competition in the relevant industry. She defines “reasonably foreseeable time” as the length of time it is likely to take for the market to adjust to a revocation. In making this assessment, she considers all factors that may accelerate or delay the market adjustment process including any lags in response by foreign producers, importers, consumers, domestic producers, or others due to: lead times; methods of contracting; the need to establish channels of distribution; product differentiation; and any other factors that may only manifest themselves in the longer term. In other words, her analysis seeks to define “reasonably foreseeable time” by reference to current and likely conditions of competition, but also seeks to avoid unwarranted speculation that may occur in predicting events into the more distant future.

<sup>33</sup> Chairman Bragg reiterates her views as expressed in footnote 26.

<sup>34</sup> 1977 Staff Report at A-53; CR at I-7, 8.

<sup>35</sup> CR at I-7.

<sup>36</sup> Chairman Bragg reiterates her views as expressed in footnote 26.

equivalent to \*\*\* percent of their current capacity and \*\*\* percent of 1997 U.S. consumption,<sup>37</sup> we have no information concerning what percentage of the unused capacity is controlled by producers of subject imports.<sup>38</sup>

In addition, 3M stated in its Response to the Notice of Institution that “[t]he focus of 3M/Italy’s sales is the Italian and European market and its exports to the United States represent less than \*\*\* percent of 3M/Italy’s total production.”<sup>39</sup> The European market has changed significantly since 1976-77, and the pace of that change has increased dramatically in the 1990s. The European Union now comprises 15 member countries, including Italy, that have significantly integrated their economies with the EC 1992 initiative and with the recent adoption of a common currency, the euro. Given these changes and the minimal level of exports to the United States, it is likely that Italian producers will focus their efforts on a European market that is collectively larger than that of the United States.

Because the domestic market is dominated by U.S. and nonsubject suppliers, and 3M suggests that the focus of at least some Italian suppliers appears to be the EU market, we find that revocation of the antidumping finding is not likely to lead to an increase in the volume of subject imports such that the likely volume of subject imports would be significant.

#### **D. Price**

In evaluating the likely price effects of the subject merchandise in the event of revocation, the Commission shall consider (1) whether imports are likely to be sold at a significantly lower price than the domestic like product, and (2) whether imports are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of domestic like product.<sup>40</sup>

The record in this review contains no pricing data. We therefore have no information comparing current prices of the domestic like product and subject imports in the U.S. market. Consequently, our conclusions regarding the likely price effects if the finding is revoked are drawn largely from our conclusions on likely subject volumes and the pertinent known conditions of competition.

At current levels, imports of subject merchandise are too minimal to have discernible adverse price effects. Because demand for PSP tape is derived from the demand for packaging materials and the cost of tape is but a small portion of the cost of the final product, lowering the price of PSP tape would not likely result in an overall increase in demand for such tape. In addition, the 1976-77 record indicates that domestic tape is generally stronger than Italian tape of equal thickness, so changes in the price of Italian PSP tape are even less likely to lead to a large shift in demand away from domestic PSP tape in the event imports were to increase after revocation of the finding.<sup>41</sup> In light of this, and in light of the fact that we have determined that imports are not likely to increase significantly, we determine that imports of PSP tape from Italy are not likely to have a price suppressing or depressing effect within a reasonably foreseeable time in the event of revocation.

#### **E. Impact**

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<sup>37</sup> 3M Response at 2-3. \*\*\* 3M Comments at 8, 9.

<sup>38</sup> Commissioner Crawford notes that because nonsubject imports from Italy are nearly \*\*\* times the level of subject imports from Italy and the order has been revoked with respect to three producers, it is not reasonable to attribute the excess capacity of all producers to producers of the subject imports.

<sup>39</sup> 3M Response at 6.

<sup>40</sup> 19 U.S.C. § 1675a(3). The SAA states that “[c]onsistent with its practice in investigations, in considering the likely price effects of imports in the event of revocation or termination, the Commission may rely on circumstantial, as well as direct, evidence of the adverse effects of unfairly traded imports on domestic prices.” SAA at 886.

<sup>41</sup> Chairman Bragg notes that her determination to revoke the finding focused more on the lack of significant volume than on the relative substitutability of the subject imports and the domestic like product.



When considering the likely impact of subject imports, the Commission is to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more enhanced version of the domestic like product.<sup>42</sup>

Subject imports are not likely to have a significant adverse impact on the domestic PSP tape industry if the finding is revoked. Subject imports account for only \*\*\* percent of U.S. consumption.<sup>43</sup> The domestic industry accounts for a strong \*\*\* percent of apparent consumption; nonsubject imports hold the other \*\*\* percent of the market.<sup>44</sup> In light of the extremely small market share now held by subject imports, we find that revocation would not likely have an adverse impact on the domestic industry because subject imports would have to increase substantially in order to have any adverse volume or price effect. In fact, we have determined above that imports are not likely to increase to significant levels. Further, any increase in subject imports that would result from revocation would gain market share at least in part from nonsubject imports rather than at the expense of the U.S. industry, particularly since Italian and U.S. tape are imperfect substitutes.<sup>45</sup>

We therefore find that subject imports would not be likely to have a significant impact on domestic PSP tape producers' cash flow, inventories, employment, wages, growth, ability to raise capital, or investment within a reasonably foreseeable time in the event the finding is revoked. In conjunction with our conclusions regarding likely volume and price effects, we find that revocation is not likely to lead to a significant reduction in U.S. producers' output, sales, market share, profits, productivity, ability to raise capital, or return on investments within a reasonably foreseeable time. This conclusion is bolstered by the failure of other PSP tape producers, who represent \*\*\* percent of current domestic production, to respond to the notice of institution.<sup>46 47 48</sup> We therefore find that revocation is not likely to have a negative impact on the domestic industry in the reasonably foreseeable future.

### III. CONCLUSION

Subject imports are not likely to have adverse volume or price effects in the event of revocation, and are therefore not likely to have a negative impact on the domestic industry. Thus, we find that material injury

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<sup>42</sup> 19 U.S.C. § 1675a(a)(4).

<sup>43</sup> CR at I-7.

<sup>44</sup> Id.

<sup>45</sup> Chairman Bragg notes that she did not rely on the effect of revocation of the finding on nonsubject imports or nonsubject producers. She also notes that her determination is based more on the lack of significant volume effects than on substitutability.

<sup>46</sup> We note that the Pressure Sensitive Tape Council, which claims it represents "virtually all companies which produce in the United States the kind of pressure sensitive plastic tape described in this Order," stated that it supported continuation of the antidumping finding. Written Statement of the Pressure Sensitive Tape Council, filed Jan. 11, 1999. The majority of the Pressure Sensitive Tape Council's members, however, do not produce the subject merchandise. Id.

<sup>47</sup> Pursuant to the statute, Chairman Bragg infers that had the U.S. producers accounting for \*\*\* percent of production provided information in connection with this review, such information would further support her conclusion that revocation of the finding would not likely result in the continuation or recurrence of material injury to the domestic industry in a reasonably foreseeable time. 19 U.S.C. §§ 1675(c)(3)(B), 1677e(b).

<sup>48</sup> Commissioner Crawford notes that she gives little weight to the Pressure Sensitive Tape Council's support for maintaining the order because neither the Council nor any of its member producers (other than 3M) demonstrated sufficient interest in the order to respond to the Commission's notice of institution.

is not likely to continue or recur in the reasonably foreseeable future if the antidumping finding is revoked.