

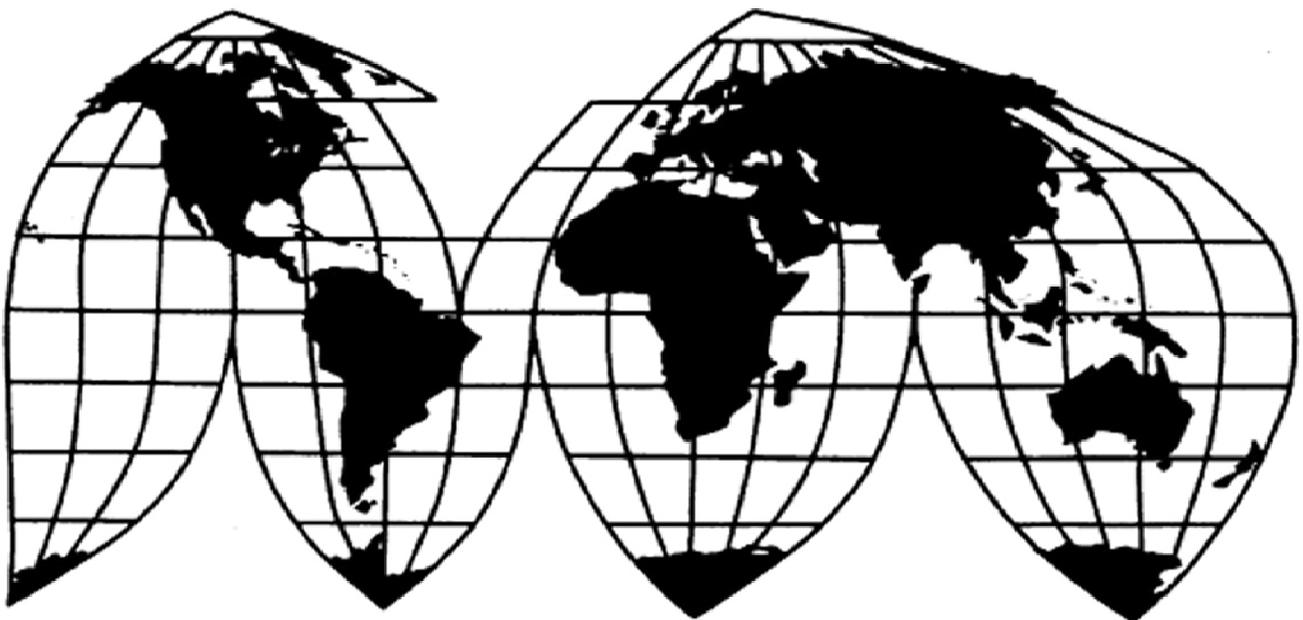
Certain Lightweight Thermal Paper From China, Germany, and Korea

Investigation Nos. 701-TA-451 and 731-TA-1126-1128
(Preliminary)

Publication 3964

November 2007

U.S. International Trade Commission



Washington, DC 20436

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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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 Nos. 701-TA-451 and 731-TA-1126-1128 (Preliminary)

CERTAIN LIGHTWEIGHT THERMAL PAPER FROM CHINA, GERMANY, AND KOREA

DETERMINATIONS

On the basis of the record¹ developed in the subject investigations, the United States International Trade Commission (Commission) determines, pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. §§ 1671b(a) and 1673b(a)) (the Act), that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports from China of certain lightweight thermal paper,² provided for in subheadings 4811.90.80 and 4811.90.90 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) and subsidized by the Government of China.³ The Commission determines that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of certain lightweight thermal paper from Germany that are alleged to be sold in the United States at LTFV.⁴ The Commission also determines that imports of certain lightweight thermal paper from Korea are negligible, and therefore, terminates its investigation with regard to Korea.

COMMENCEMENT OF FINAL PHASE INVESTIGATIONS

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations concerning certain lightweight thermal paper from China and Germany. The Commission will issue a final phase notice of scheduling, which will be published in the *Federal Register* as provided in section 207.21 of the Commission's rules, upon notice from the Department of Commerce (Commerce) of affirmative preliminary determinations in the investigations under sections 703(b) and 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under sections 705(a) and 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the

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 "Certain lightweight thermal paper" is thermal paper with a basis weight of 70 grams per square meter ("g/m²") (with a tolerance of ± 4.0 g/m²) or less; irrespective of dimensions; with or without a base coat on one or both sides; with thermal active coating(s) on one or both sides that is a mixture of the dye and the developer that react and form an image when heat is applied; with or without a top coat; and without an adhesive backing. Certain lightweight thermal paper is typically (but not exclusively) used in point-of-sale applications such as ATM receipts, credit card receipts, gas pump receipts, and retail store receipts.

³ Commissioner Charlotte R. Lane determines that there is a reasonable indication that an industry in the United States is materially injured by reason of subject imports of lightweight thermal paper from China that are alleged to be sold at LTFV and subsidized.

⁴ Chairman Daniel R. Pearson, Vice Chairman Shara L. Aranoff, and Commissioner Deanna Tanner Okun dissenting. Commissioners Charlotte R. Lane and Dean A. Pinkert's determinations are on the basis of reasonable indication of material injury. Commissioner Irving A. Williamson's determination is on the basis of reasonable indication of threat of material injury.

right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

BACKGROUND

On September 19, 2007, a petition was filed with the Commission and Commerce by Appleton Papers, Inc., Appleton, WI, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of certain lightweight thermal paper from China, Germany, and Korea and by reason of subsidized imports from China. Accordingly, effective September 19, 2007, the Commission instituted antidumping and countervailing duty investigation Nos. 701-TA-451 and 731-TA-1126-1128 (Preliminary).

Notice of the institution of the Commission's investigations 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 27, 2007 (72 FR 54926). The conference was held in Washington, DC, on October 10, 2007, and all persons who requested the opportunity were permitted to appear in person or by counsel.

VIEWS OF THE COMMISSION

Based on the record in the preliminary phase of these investigations, 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 certain lightweight thermal paper (“LWTP”) from China that are allegedly sold in the United States at less than fair value (LTFV) and are allegedly subsidized by the Government of China.¹ We find that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of LWTP from Germany that are allegedly sold in the United States at LTFV.^{2 3 4} We find that imports of LWTP from Korea that are allegedly sold in the United States at LTFV are negligible and terminate the investigation with respect to these imports.

I. THE LEGAL STANDARD FOR PRELIMINARY DETERMINATIONS

The legal standard for preliminary antidumping and countervailing duty determinations requires the U.S. International Trade Commission (“Commission”) to determine, based upon the information available at the time of the preliminary determinations, whether there is a reasonable indication that a domestic industry is materially injured, threatened with material injury, or whether the establishment of an industry is materially retarded, by reason of the allegedly unfairly traded imports.⁵ 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.”⁶

II. BACKGROUND

Appleton Papers, Inc. (“Appleton”), a domestic producer of LWTP, filed the petition in these investigations on September 19, 2007. Representatives of Appleton appeared at the conference, and Appleton filed a postconference brief.

¹ Commissioner Lane finds that there is a reasonable indication that an industry in the United States is materially injured by reason of allegedly LTFV and subsidized imports of LWTP from China. See Separate Views of Commissioner Charlotte R. Lane. She joins sections I-V and VII of this opinion.

² Commissioner Lane and Commissioner Pinkert have each prepared separate views explaining their determinations concerning subject imports from Germany. See Separate Views of Commissioner Charlotte R. Lane; Separate Views of Commissioner Dean A. Pinkert.

³ Commissioner Williamson finds that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of allegedly LTFV imports of LWTP from Germany. See Separate Views of Commissioner Irving A. Williamson.

⁴ Chairman Pearson, Vice Chairman Aranoff, and Commissioner Okun find that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of allegedly LTFV imports of LWTP from Germany. See Dissenting Views of Chairman Daniel R. Pearson, Vice Chairman Shara L. Aranoff, and Commissioner Deanna Tanner Okun Concerning Germany.

⁵ 19 U.S.C. §§ 1671b(a), 1673b(a); see also, e.g., Co-Steel Raritan, Inc. v. United States, 357 F.3d 1294 (Fed. Cir. 2004); American Lamb Co. v. United States, 785 F.2d 994, 1001-04 (Fed. Cir. 1986); Aristech Chemical Corp. v. United States, 20 CIT 353, 354 (1996).

⁶ American Lamb, 785 F.2d at 1001; see also Texas Crushed Stone Co. v. United States, 35 F.3d 1535, 1543 (Fed. Cir. 1994).

There are respondents from each subject country. Papierfabrik August Koehler AG (“Koehler AG”) and Koehler America, Inc (“Koehler Inc.”) are respectively a producer and importer of subject merchandise from Germany. Mitsubishi HiTec Paper Flensburg GmbH and Mitsubishi HiTec Paper Bielefeld GmbH (jointly “Mitsubishi GmbH”) are producers of subject merchandise from Germany and Mitsubishi International Corp. (“Mitsubishi Corp.”) is an importer of subject merchandise from Germany. The Koehler and Mitsubishi parties appeared at the conference, represented by separate counsel. They jointly filed a postconference brief.

Paper Resources, LLC (“Paper Resources”) is an importer of subject merchandise from China. Paper Resources appeared at the conference and filed a postconference brief.

Hansol Paper Co. (“Hansol”) and Global Fibres, Inc. (jointly “Korean Respondents”) are respectively a producer and importer of subject merchandise from Korea. Korean Respondents did not appear at the conference, but did file a postconference brief.

III. DOMESTIC LIKE PRODUCT

A. In General

In determining whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of the subject merchandise, the Commission first defines the “domestic like product” and the “industry.”⁷ Section 771(4)(A) of the Tariff Act of 1930, as amended (“the Act”), defines the relevant domestic industry as the “producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.”⁸ 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”⁹

The decision regarding the appropriate domestic like product(s) in an investigation is a factual determination, and the Commission has applied the statutory standard of “like” or “most similar in characteristics and uses” on a case-by-case basis.¹⁰ No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.¹¹ The Commission looks for clear dividing lines among possible like products and disregards minor variations.¹²

⁷ 19 U.S.C. § 1677(4)(A).

⁸ 19 U.S.C. § 1677(4)(A).

⁹ 19 U.S.C. § 1677(10).

¹⁰ See, e.g., NEC Corp. v. Department of Commerce, 36 F. Supp. 2d 380, 383 (Ct. Int’l Trade 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Torrington Co. v. United States, 747 F. Supp. 744, 749 n.3 (Ct. Int’l Trade 1990), aff’d, 938 F.2d 1278 (Fed. Cir. 1991) (“every like product determination ‘must be made on the particular record at issue’ and the ‘unique facts of each case’”). The Commission generally considers a number of factors including: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) common manufacturing facilities, production processes, and production employees; and, where appropriate, (6) price. See Nippon, 19 CIT at 455 n.4; Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int’l Trade 1996).

¹¹ See, e.g., S. Rep. No. 96-249 at 90-91 (1979).

¹² Nippon, 19 CIT at 455; Torrington, 747 F. Supp. at 748-49; see also S. Rep. No. 96-249 at 90-91 (Congress has indicated that the like product standard should not be interpreted in “such a narrow fashion as to permit minor differences in physical characteristics or uses to lead to the conclusion that the product and article are not ‘like’ each other, nor should the definition of ‘like product’ be interpreted in such a fashion as to prevent consideration of an

(continued...)

Although the Commission must accept the determination of the U.S. Department of Commerce (“Commerce”) as to the scope of the imported merchandise that is allegedly subsidized and sold at less than fair value,¹³ the Commission determines what domestic product is like the imported articles Commerce has identified.¹⁴ The Commission must base its domestic like product determination on the record in these investigations. The Commission is not bound by prior determinations, even those pertaining to the same imported products, but may draw upon previous determinations in addressing pertinent like product issues.¹⁵

B. Product Description

In its notices of initiation, Commerce defined the imported merchandise subject to these investigations as follows:

certain lightweight thermal paper, which is thermal paper with a basis weight of 70 grams per square meter (g/m²) (with a tolerance of ± 4.0 g/m²) or less; irrespective of dimensions; with or without a base coat on one or both sides; with thermal active coating(s) on one or both sides that is a mixture of the dye and the developer that react and form an image when heat is applied; with or without a top coat; and without an adhesive backing. Certain lightweight thermal paper is typically (but not exclusively) used in point-of-sale applications such as ATM receipts, credit card receipts, gas pump receipts, and retail store receipts. The merchandise subject to these investigations may be classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheading 4811.90.8040 and 4811.90.9090.¹⁶

Thermal papers have a thermal active coating which reacts to form an image when heat is applied. Thermal papers are specifically intended to be used in printers containing thermal print heads. The

¹² (...continued)

industry adversely affected by the imports under consideration.”).

¹³ See, e.g., USEC, Inc. v. United States, 34 Fed. Appx. 725, 730 (Fed. Cir. 2002) (unpublished opinion) (“The ITC may not modify the class or kind of imported merchandise examined by Commerce.”); Algoma Steel Corp. v. United States, 688 F. Supp. 639, 644 (Ct. Int’l Trade 1988), aff’d, 865 F.3d 240 (Fed. Cir.), cert. denied, 492 U.S. 919 (1989).

¹⁴ Hosiden Corp. v. Advanced Display Mfrs., 85 F.3d 1561, 1568 (Fed. Cir. 1996) (Commission may find a single like product corresponding to several different classes or kinds defined by Commerce); Torrington, 747 F. Supp. at 748-52 (affirming the Commission’s determination of six like products in investigations where Commerce found five classes or kinds).

¹⁵ See, e.g., Acciai Speciali Terni S.p.A. v. United States, 118 F. Supp. 2d 1298, 1304-05 (Ct. Int’l Trade 2000); Nippon, 19 CIT at 455; Asociacion Colombiana de Exportadores de Flores v. United States, 693 F. Supp. 1165, 1169 n.5 (Ct. Int’l Trade 1988); Citrosuco Paulista, S.A. v. United States, 704 F. Supp. 1075, 1087-88 (Ct. Int’l Trade 1988).

¹⁶ 72 Fed. Reg. 62209, 62209-10 (Nov. 2, 2007) (CVD investigation), 72 Fed. Reg. 62430, 62431 (Nov. 5, 2007) (antidumping investigations). The footnotes to the scope determinations, which were omitted from the quotation in the text, indicate, inter alia, that “[b]oth jumbo rolls and converted rolls (as well as LWTP in any other forms, presentations, or dimensions) are covered by the scope of these investigations.” Id.

thermal print heads consist of arrays of tiny heating elements, which act to form images on the paper without the need for toner or inks.¹⁷

C. Analysis

1. Whether Jumbo Rolls and Slit Rolls Should Be Included in the Same Domestic Like Product

The scope definition encompasses both slit rolls, the finished product that end users purchase, and jumbo rolls, a semifinished product. We consequently use the Commission's "semifinished product" like product analysis to analyze whether slit rolls and jumbo rolls should be included in the same domestic like product.¹⁸ Appleton contends that jumbo rolls and slit rolls should be included in the same domestic like product. No respondent has taken a position on this issue.

Dedication to Production of Downstream Article. It is undisputed that all jumbo rolls of thermal paper produced by U.S. coaters are converted into slit rolls. In their questionnaire responses, the two U.S. coaters of LWTP¹⁹ and numerous U.S. converters²⁰ indicated that there was no use for jumbo rolls other than conversion into slit rolls.

Separate Markets for Upstream and Downstream Products. Historically, coaters of thermal papers have not engaged in conversion operations.²¹ Consequently, there is one market for the upstream product, jumbo rolls, which coaters sell to converters. There is a distinct market for the downstream product, slit rolls, which converters sell to distributors or end users.²²

Differences in Physical Characteristics and Functions. The principal difference between jumbo rolls and slit rolls is size. Jumbo rolls are typically approximately 53 inches wide and weigh over a ton. By contrast, a slit roll of thermal paper is typically three and one-eighths inch wide and weighs less than a pound.²³ Slit rolls may also be printed.²⁴ The characteristics of thermal paper that enable it to form an image when exposed to heat are imparted by the coating process and are not affected by the conversion process.²⁵

¹⁷ Confidential Report (CR) at I-8, Public Report (PR) at I-7.

¹⁸ In a semifinished product analysis, the Commission examines: (1) whether the upstream article is dedicated to the production of the downstream article or has independent uses; (2) whether there are perceived to be separate markets for the upstream and downstream articles; (3) differences in the physical characteristics and functions of the upstream and downstream articles; (4) differences in the costs or value of the vertically differentiated articles; and (5) significance and extent of the processes used to transform the upstream into the downstream articles. See, e.g., Certain Frozen Fish Fillets from Vietnam, Inv. No. 731-TA-1012 (Preliminary), USITC Pub. 3533 at 7 (Aug. 2002).

¹⁹ See *** Producers Questionnaires.

²⁰ See, e.g., *** Producer Questionnaires.

²¹ Tr. at 91 (Hatfield). See also *** Producers Questionnaire, Response to Question II-12(a) (***).

²² Tr. at 143 (Granholm).

²³ See *** Producers Questionnaires, Response to Question II-12(c).

²⁴ Tr. at 143-44 (Granholm), 149 (Sandt), 152 (Endsley).

²⁵ Tr. at 18-20 (Schonfeld); see also *** Producers Questionnaires, Response to Question II-12(c).

Differences in Cost and Value. The data responding converters provided in their questionnaires indicate that the average value added by converters of LWTP (exclusive of selling, general and administrative expenses) is 15.1 percent.²⁶

Processes Used to Transform Article. The process of converting jumbo rolls of thermal paper into slit rolls encompasses three basic steps. First, in some instances, jumbo rolls are printed and rewound.²⁷ Next, the jumbo rolls are fed into a slitter/rewinder machine, where they are cut to the proper size and then rewound around the specific core required for the finished product.²⁸ Finally, the product is packaged for sale to distributors or end users.²⁹

Conclusion. Application of the semifinished products like product analysis supports the conclusion that jumbo rolls and slit rolls should be included in the same domestic like product. All jumbo rolls are converted, as end users can use only slit rolls. While the conversion process can add moderate value to the product, the process does not change the chemical characteristics of thermal paper. It is the coating process, not the converting process, that imparts to thermal paper its ability to display images when heated by a thermal printer. By contrast, the conversion process largely resizes the product in a format appropriate for end use. Consequently, we include jumbo rolls and slit rolls in the same like product.

2. Whether the Domestic Like Product Should Be Limited to LWTP

The scope of investigation includes only lightweight thermal paper – defined as paper with a basis weight of 70 grams or less.³⁰ Appleton contends that the domestic like product should be limited to LWTP. While no respondent has argued that the Commission should define the domestic like product more broadly for purposes of the preliminary determinations, Paper Resources maintains that the record would support including all thermal paper in the domestic like product. We examine this issue below, using the traditional like product analysis.

Physical Characteristics and Uses. By definition, LWTP is distinguished from other thermal paper by its lighter weight. Because of its lighter weight, LWTP retains images for shorter periods than other thermal papers.³¹ Heavier papers also provide greater strength, environmental resistance, and durability than does LWTP.³²

It is undisputed that the principal use of LWTP is for point of sale (POS) applications, such as cash register or ATM receipts.³³ The record additionally indicates that the principal uses of heavier weight thermal papers are in applications other than POS – most notably, labeling and ticketing

²⁶ CR/PR, Table VI-6.

²⁷ German Respondents Postconference Brief, Response to Staff Questions at 12-13.

²⁸ See German Respondents Postconference Brief, ex. 2, Response to Staff Questions at 13.

²⁹ German Respondents Postconference Brief, Response to Staff Questions at 12-14.

³⁰ Technically, basis weight is framed in terms of grams per square meter. For purposes of conciseness, we will henceforth reference basis weight in terms of “grams.”

³¹ Tr. at 26-27 (Hatfield).

³² Tr. at 26 (Hatfield). Appleton additionally indicates that LWTP is distinguished from other thermal papers because it generally lacks a top coating, while substantially all heavier weight thermal papers have a top coating. Appleton Postconference Brief, ex. 1 at 3.

³³ Tr. at 25-26 (Hatfield), 133 (Greene), 142 (Granholt), 152 (Endsley).

applications.³⁴ Nevertheless, the two domestic coaters of LWTP -- Appleton and Kanzaki Specialty Papers ("Kanzaki") -- sell papers for POS applications that have a basis weight of over 70 grams.³⁵ A small proportion of overall POS applications use products of over 70 grams basis weight. The questionnaire responses indicate that POS thermal papers of over 70 grams basis weight accounted for *** percent of Appleton's and *** percent of Kanzaki's 2006 production of all POS thermal papers.³⁶ Witnesses testified that end users of thermal papers of over 70 grams basis weight for POS applications tend to be luxury or niche retailers that perceive heavier paper to convey a quality image.³⁷ Appleton additionally sells products for applications other than point of sale of less than 70 grams basis weight.³⁸

Interchangeability. In their questionnaire responses and testimony, coaters reported some degree of interchangeability between LWTP and heavier weight thermal papers. On the one hand, heavier thermal papers can be used for POS applications in the sense that some thermal printers that typically use LWTP can also use heavier papers.³⁹ Such interchangeability is limited, however. An examination of specifications for popular models of thermal printers produced by IBM and Epson indicates that the thickness of grades certified for use in the printers varied between 2.2 and 3.1 mils.⁴⁰ All of the POS products offered by Appleton and Kanzaki that are above 70 grams basis weight are also thicker than 3.1 mils.⁴¹ Consequently, the heavier weight POS products are not certified for use in at least some popular models of thermal printers.

To the extent that lightweight and heavier weight POS products are interchangeable for use in a particular application, it is more cost effective for a retailer to use LWTP, because a roll of LWTP will have more register tape than a roll of heavier weight paper, and consequently will need to be changed less

³⁴ Tr. at 26 (Hatfield); *** Producer Questionnaire Responses.

³⁵ Of the 12 POS products that Appleton lists on its website, three have basis weights of over 70 grams (ranging from 77.7 grams to 80.7 grams). Appleton's product list as of June 21, 2007 appears on the company's website and was visited and printed on October 9, 2007. It will be cited as "Appleton Product List." See http://www.appletonideas.com/Appleton/en_US/01/pdf/PointofSale%20Catalogue.pdf Of the nine POS products that Kanzaki lists on its website, four have basis weights of over 70 grams (ranging from 76.5 to 105 grams). http://kanzakiusa.com/pro_pos.html (visited and printed Oct. 29, 2007) ("Kanzaki Product List").

³⁶ More precisely, these percentages are of the sum of each coater's 2006 production of: (1) LWTP and (2) POS thermal papers of over 70 grams basis weight. CR/PR, Table III-3. Converters who testified on behalf of respondents similarly indicated that the great majority of thermal paper they convert for POS applications is of basis weight of 55 grams or less. Tr. at 207-08 (Schwartz) (about 90 percent), 209 (Granholm) ("vast majority" of thermal paper converted is under 70 grams basis weight, and paper over 70 grams basis weight is not used for POS applications), 209 (Sandt) (about 90-95 percent).

³⁷ Tr. at 65-66 (Hatfield), 208 (Schwartz), 209 (Sandt).

³⁸ Appleton's product catalog also lists: (1) 15 label products, all of which are over 55 grams basis weight and 13 of which are over 70 grams basis weight; (2) six gaming products, all of which are over 70 grams basis weight; (3) 13 "entertainment and transportation" products, all of which are over 55 grams basis weight and 11 of which are over 70 grams basis weight; and (4) 10 scientific and office products, of which four are over 70 grams basis weight and three of the remaining six that are 55 grams or less basis weight are also listed as POS products. Appleton Product List. Appleton states that while LWTP can be used for facsimile paper, this is no longer a common application. Petition, vol. I at 5 n.2.

³⁹ See *** Producer Questionnaire Response, Response to Question II-13a(b).

⁴⁰ See <http://www-1.ibm.com/support/docview.wss?rs=219&uid=pos1R1002033> (visited and printed October 31, 2007); Epson Product Brochures.

⁴¹ See Appleton Product List; Kanzaki Product List.

frequently.⁴² Use of LWTP for ticketing or labeling applications would be limited by the poorer image quality and strength of LWTP.⁴³

Channels of Distribution. As previously stated, all jumbo rolls of thermal paper must be converted to a size appropriate for end use applications. Because the two U.S. coaters of LWTP also coat heavier weights of thermal paper, and do not operate their own conversion operations,⁴⁴ they sell to converters all weights of thermal paper that they coat. Nevertheless, the information in the record indicates that the overwhelming majority of converters of LWTP convert no or very small percentages of heavier weight thermal paper using the same machinery and equipment. Eleven of 18 responding converters indicated that all thermal paper they converted on such equipment was LWTP, and five additional converters indicated that LWTP accounted for over 90 percent of the thermal paper they converted on such equipment.⁴⁵

Manufacturing Facilities, Production Processes, and Production Employees. The two U.S. coaters of LWTP also coat heavier weight thermal papers at the same coating facilities.⁴⁶ There are additionally two coaters of heavier weight thermal papers that do not coat LWTP.⁴⁷

Appleton states that because LWTP, in contrast to heavier weight thermal paper, typically does not have a top coat and thus generally only requires *** coatings, one of its four coating machines, which can only apply *** coatings, is dedicated to LWTP. It states that a second machine is *** percent devoted to production of LWTP, and that LWTP accounts for *** on its remaining two machines.⁴⁸ Production employees are assigned to particular coating machines. Thus, those workers assigned to the coating machine used exclusively to coat LWTP are dedicated to production of that product, but other production workers are not.⁴⁹ The other U.S. coater of LWTP, Kanzaki, characterizes the manufacturing processes of LWTP and other thermal papers as ***.⁵⁰

As previously stated, the majority of converters that provided information to the Commission on the issue reported that the equipment they use to convert LWTP is not used to convert other thermal papers. Those converters that convert heavier weight thermal papers in addition to LWTP indicate that the conversion process is generally the same, regardless of basis weight.⁵¹

Customer and Producer Perceptions. The two U.S. coaters of LWTP organize their product offerings by end use, rather than by basis weight. Appleton and Kanzaki each identify POS products as a distinct product line.⁵² As discussed in connection with end use, although there is not a perfect correlation between LWTP and POS applications, POS applications are the predominant application associated with LWTP and the thermal papers used for POS applications are overwhelmingly lightweight. The customers of LWTP coaters are converters. As discussed in connection with channels of distribution, the vast majority of LWTP converters either do not convert heavier weight thermal papers or do so only to a limited extent on the same equipment.

⁴² *** Producers Questionnaire Response.

⁴³ Tr. at 26 (Hatfield).

⁴⁴ See *** Producer Questionnaires.

⁴⁵ CR/PR, Table III-5.

⁴⁶ See Petition, vol. I at 12; <http://kankaziusa.com/about.html> (visited and printed October 29, 2007).

⁴⁷ Petition, vol. I at 3 n.1; Tr. at 210 (Granholm).

⁴⁸ Appleton Postconference Brief, ex. 1 at 3-4.

⁴⁹ See Appleton Postconference Brief, ex. 1 at 4.

⁵⁰ *** Producers Questionnaire, Response to Question II-13b(d).

⁵¹ See *** Producers Questionnaires, response to question II-13b(c).

⁵² See Appleton Product List; Kanzaki Product List.

A worldwide study of the thermal paper market not prepared in association with this proceeding identifies three major categories of thermal paper depending on basis weight: (1) fax/POS grades, with average basis weight of 58 grams, (2) label and ticket grades, with average basis weight of 80 grams, and (3) heavy ticket grades, with average basis weight of 120 grams.⁵³ This would tend to support the view that LWTP is associated with POS applications and perceived to be a distinct product category.

Price. The questionnaires indicate general agreement among market participants that heavier weight thermal papers are more expensive than LWTP.⁵⁴ Appleton states that a heavyweight POS product it offers is priced *** percent above a premium LWTP product and *** percent above its standard LWTP product.⁵⁵

Conclusion. For purposes of the preliminary determinations, we do not include thermal paper other than LWTP in the domestic like product. The most popular LWTP product lines – those with basis weight of 48 or 55 grams – are used almost exclusively for POS applications and appear to be perceived as products distinct from heavier weight forms of thermal paper. Although LWTP and heavier weight thermal paper appear to be at least somewhat interchangeable in theory, the preliminary phase record contains little information that they are actually substituted to any significant degree in practice. To the contrary, the information in the record indicates: (1) that thermal paper of basis weight over 70 grams for POS applications accounts for *** of all POS thermal paper; (2) that the converters of LWTP generally either do not coat heavier weight thermal paper or coat it only in very limited quantities on the same equipment; and (3) that POS products over 70 grams basis weight offered by domestic coaters are too thick to be used in at least some popular thermal printers. This would support the conclusion that there is little actual interchangeability between LWTP and heavier weights of thermal paper.⁵⁶ The fact that converters of LWTP tend to focus on that product so heavily also demonstrates distinctions in channels of distribution. There are also distinctions in price between LWTP and heavier weight grades of thermal paper. Consequently, for purposes of these preliminary determinations, we define a single domestic like product in the same manner as the scope definition. This like product encompasses LWTP in both jumbo rolls and slit rolls.

⁵³ Petition, vol. V, ex. 1 at 23.

⁵⁴ See, e.g., *** Producers Questionnaire (heavier weights about *** percent more expensive than LWTP); *** Producers Questionnaire (the *** gram jumbo roll product the firm purchases is about *** percent more expensive than LWTP); *** Producers Questionnaire (heavier weights about *** percent more expensive than LWTP).

⁵⁵ Appleton Producer Questionnaire, Response to Question II-13b(f).

⁵⁶ Moreover, the products Appleton and Kanzaki offer between 55 grams and 80 grams basis weight do not appear to be commercially significant. (As previously explained, 80 gram products are generally used for labels and are used in POS applications very infrequently.) Appleton testified that its POS products heavier than 55 grams were used in only “very isolated cases.” Tr. at 65 (Hatfield). The converters who appeared at the conference were asked whether they processed any products between 55 and 80 grams basis weight. Three stated that they did not. Tr. at 239 (Schwartz, Endsley), 240 (Sandt). The other converter subsequently stated that it processes ***. German Respondents Postconference Brief at 14.

IV. DOMESTIC INDUSTRY

A. In General

The domestic industry is defined as the domestic “producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.”⁵⁷ 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.

These investigations raise two sets of domestic industry issues. The first concerns whether converters engage in sufficient production-related activities to be considered domestic producers. The second concerns whether appropriate circumstances exist to exclude from the domestic industry one converter that imports subject merchandise.

B. Whether Converters Are Members of the Domestic Industry

We first determine whether U.S. converters of LWTP engage in sufficient production-related activities to be considered producers of the domestic like product. Appleton argues that the domestic industry should be limited to coaters, because conversion requires insufficient capital equipment and technical expertise, and adds too little value to the finished product to be considered domestic production. German Respondents argue that converters should be included within the domestic industry. We consequently examine whether converters engage in sufficient production-related activity in the United States to qualify as domestic producers.⁵⁸

Capital Investment. At the conclusion of 2006, the value of assets of those converters that responded to the Commission’s producer questionnaire was ***.⁵⁹ Converters’ annual capital expenditures ranged from ***.⁶⁰

⁵⁷ 19 U.S.C. § 1677(4)(A).

⁵⁸ To determine whether a firm is engaged in sufficient production-related activities to be considered a domestic producer of the like product, the Commission generally considers six factors: (1) source and extent of the firm's capital investment; (2) technical expertise involved in U.S. production activities; (3) value added to the product in the United States; (4) employment levels; (5) quantity and type of parts sourced in the United States; and (6) any other costs and activities in the United States directly leading to production of the like product. No single factor is determinative and the Commission may consider any other factors it deems relevant in light of the specific facts of any investigation. See, e.g., Diamond Sawblades and Parts Thereof from China and Korea, Inv. Nos. 731-TA-1092-1093 (Final), USITC Pub. 3862 at 11 (July 2006); Outboard Engines from Japan, Inv. No. 731-TA-1069 (Preliminary), USITC Pub. 3673 at 10-12 (Mar. 2004).

⁵⁹ CR/PR, Table VI-8. Reporting converters represented approximately 46 percent of 2006 estimated U.S. production of slit rolls of LWTP. CR at III-1, PR at III-1. We hope to achieve more complete converter coverage in any final phase investigations.

Because the questionnaire data represent all domestic production of jumbo rolls, but slightly less than half of domestic production of slit rolls, we have exercised caution in comparing aggregate data of coaters and converters. With this caveat in mind, we observe that the total asset value of the two U.S. coaters at the conclusion of 2006 was ***. *Id.*

⁶⁰ CR/PR, Table VI-7. By contrast, annual capital expenditures of the two U.S. coaters ranged from ***. *Id.* Of the 18 converters that responded to the Commission questionnaire, only *** reported ownership by a company based outside the United States. CR/PR, Table III-1.

The approximate cost of an individual slitting machine that a converter of LWTP would use is \$750,000.⁶¹ One converter witness estimated that his company's new headquarters facility will cost \$7 million as planned and would have cost \$10 to \$12 million if furnished with new equipment.⁶²

Technical Expertise. The technical expertise required in conversion depends on the type of equipment used. Employees can be trained to operate an older, manual slitting machine in three to four weeks.⁶³ New printers and slitter/rewinders are highly sophisticated, computerized machines that require expertise at both the operator and supervisory levels.⁶⁴ One converter requires employees to undergo six months of training before operating a slitting machine.⁶⁵ One witness testified that his company required that employees have three years of experience before operating a state of the art slitter/rewinder, and five years of experience for printing machines.⁶⁶

Value Added. The Commission Report provides two ratios of value added by U.S. converters in relation to total processing costs: a ratio of reported conversion costs to reported total costs excluding selling, general and administrative (SG&A) expenses, and a ratio of reported conversion costs to reported total costs including SG&A expenses. The 2006 average value added ratio for converters was 15.1 percent without SG&A and 27.6 percent including SG&A. Individual ratios varied considerably between converters; the ratio excluding SG&A ranged from a low of *** percent to a high of *** percent.⁶⁷ By contrast, the value added by coaters in 2006 was *** percent excluding SG&A, and *** percent including SG&A.⁶⁸ Here again individual ratios varied, with *** value added ratio being considerably higher than ***. Seven of the 13 converters reported a higher value added excluding SG&A than the *** percent ratio reported by ***.⁶⁹

Employment Levels. Reporting converters employed *** production and related workers in 2006. This is *** production and related workers that U.S. coaters employed in 2006.⁷⁰

Sourcing of Inputs. The principal input used in the conversion of slit rolls is jumbo rolls.⁷¹ The record permits two different methods of calculating what percentage of jumbo rolls converted in the United States is domestically sourced. One is simply the percentage of apparent U.S. consumption of jumbo rolls supplied by the two domestic coaters. In 2006, this percentage was *** percent.⁷² The

⁶¹ Tr. at 196 (Greene).

⁶² Tr. at 157, 193 (Schwartz). By contrast, Appleton has announced it will spend \$100 million in capital investments to construct a new coating facility at its West Carrollton, Ohio plant. CR at III-3, PR at III-3.

⁶³ Tr. at 194 (Schwartz).

⁶⁴ CR at I-15, PR at I-12.

⁶⁵ Tr. at 153 (Endsley).

⁶⁶ Tr. at 193-95 (Schwartz). See also Tr. at 153 (Endsley) (also stating that printers require five years' prior experience)

Several years' prior experience is also required for coating machine operators, who must master technical aspects of coating formulation and application. CR at I-13, PR at I-10.

⁶⁷ CR/PR, Table VI-6.

⁶⁸ CR at VI-10 n.7, PR at VI-4 n.7.

⁶⁹ CR at VI-10 n.7, PR at VI-4 n.7; CR/PR, Table VI-6.

⁷⁰ CR/PR, Table III-10.

⁷¹ Converters also use packaging materials as an input into the production of slit rolls. Converters did not provide meaningful responses to those questions in the questionnaire seeking information about the sourcing of packaging materials.

⁷² CR/PR, Table C-1. This percentage is understated because the apparent U.S. consumption figure in Table C-1 (continued...)

second is the percentage of slit rolls that responding U.S. converters reported that they converted from jumbo rolls produced in the United States. In 2006 this percentage was *** percent.⁷³ It should be observed that U.S. conversion capacity for LWTP greatly exceeds U.S. coating capacity.⁷⁴

Conclusion. We find that converters engage in sufficient production-related activity to be included in the domestic industry. Reporting converters employ substantial numbers of personnel – far more than the two coaters. Capital expenditures of reporting converters, while not at the level of the coaters, in our view are still substantial. Large converters use sophisticated, computerized slitting and printing equipment which requires significant technical expertise to operate. Converters source a significant proportion of their jumbo rolls from U.S. coaters.

Appleton’s position that the capital investment and technological expertise involved in conversion are “low” or “minimal” is unsupported by the record.⁷⁵ Appleton also argues that converters add too little value to the product to be considered part of the domestic industry. We find this argument unpersuasive. While the value converters add (exclusive of SG&A) to the finished product is modest to moderate, it is comparable to ***.⁷⁶ Accordingly, we conclude that conversion of LWTP constitutes sufficient activity to be considered domestic production.

C. Related Parties

We next consider whether any producer of the domestic like product should be excluded from the domestic industry pursuant to 19 U.S.C. § 1677(4)(B). That provision allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry producers that are related to an exporter or importer of subject merchandise or which are themselves importers.⁷⁷ Of the U.S. coaters and converters of LWTP that provided usable data to the Commission, one converter, ***, indicated that it

⁷² (...continued)
includes slit rolls imported from China.

⁷³ CR/PR, Table III-4.

⁷⁴ CR/PR, Tables III-2, III-4.

⁷⁵ See Appleton Postconference Brief at 8, 10. The Commission received additional questionnaire responses from U.S. converters after Appleton filed its brief.

⁷⁶ Appleton argues that the low percentage of value added by converters distinguishes these investigations from Certain Wax and Wax/Resin Thermal Transfer Ribbons from France and Japan, Inv. Nos. 731-TA-1039-1040 (Final), USITC Pub. 3683 at 12-14 (April 2004) (“TTR Final”). The TTR investigations addressed conversion of jumbo rolls of transfer ribbons to slit rolls – a process reminiscent in some ways, but different in others, from the conversion process at issue here. The Commission found that converters were domestic producers. Because analysis of whether a particular activity constitutes domestic production is highly fact- and product-specific, the results of prior investigations involving different products are of limited analytical value. Moreover, while the value added by converters in TTR was greater than the value added by the converters here, converters’ equipment costs and employee training programs in TTR were equivalent to those of converters in these investigations.

Other investigations cited by Appleton are similarly inapposite. The slitting activity found not to constitute domestic production in Dry Film Photoresist from Japan, Inv. No. 731-TA-622 (Preliminary), USITC Pub. 2555 at 15 (Aug. 1992), involved fairly modest capital expenditures and low employment. The plastic coating activity found not to constitute domestic production in Prestressed Concrete Steel Wire Strand from Brazil, India, Korea, Mexico, and Thailand, Inv. Nos. 701-TA-432, 731-TA-1024-1028 (Final), USITC Pub. 3663 at 11-12 (Jan. 2004), involved minimal capital investment levels, low technical expertise, and low employment levels. By contrast, LWTP conversion requires at least moderate capital expenditures and technical expertise, and employs substantial numbers of workers.

⁷⁷ 19 U.S.C. § 1677(4)(B).

imported subject merchandise during the period of investigation.⁷⁸ As an importer of subject merchandise, *** is a “related party” subject to exclusion from the domestic industry under 19 U.S.C. § 1677(4)(B).

We next examine whether appropriate circumstances exist to exclude *** from the domestic industry.⁷⁹ In terms of both 2006 production and 2006 production capacity, *** is the *** largest of the reporting converters.⁸⁰ The record indicates that *** importation is fairly minor in comparison with its domestic conversion activities.⁸¹

*** states that it imports subject merchandise because ***.⁸² *** position on the petition ***.⁸³ *** reported an operating *** during every calendar year and interim period of the period of

⁷⁸ CR/PR, Table III-8. *** also imported very small quantities of subject merchandise from China in 2007; however, its producer questionnaire response did not contain usable empirical information and hence there are no data concerning *** subject to exclusion. CR/PR at III-1 n.4, Table IV-1.

Table III-8 of the Commission Report indicates that 16 converters reported purchases of subject imports. The Commission considers purchasers of subject imports related parties only if they control large amounts of subject imports. Control exists when the domestic producer was responsible for a predominant proportion of an importer’s purchases and the importer’s purchases were substantial. *See, e.g., Foundry Coke from China*, Inv. No. 731-TA-891 (Final), USITC Pub. 3449 at 8-9 (Sept. 2001). While several converters did report substantial purchases of subject imports from Germany, no individual purchaser accounted for more than *** percent of Koehler Inc.’s or *** percent of Mitsubishi Corp.’s 2006 U.S. sales of LWTP. CR at III-11 n.11, PR at III-5 n.11. Because the record indicates that no individual converter is responsible for a “predominant” proportion of the imports of Koehler Inc. or Mitsubishi Corp., we find that no converter controls either of the importers of subject merchandise from Germany. Consequently, none of the converters that purchases subject merchandise is subject to exclusion from the domestic industry pursuant to the related parties provision.

⁷⁹ *Sandvik AB v. United States*, 721 F. Supp. 1322, 1331-32 (Ct. Int’l Trade 1989), *aff’d without opinion*, 904 F.2d 46 (Fed. Cir. 1990); *Empire Plow Co. v. United States*, 675 F. Supp. 1348, 1352 (Ct. Int’l Trade 1987). The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude the related parties 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 producers 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 the ratio of import shipments to U.S. production for related producers and whether the primary interests of the related producers lie in domestic production or in importation. *See, e.g., Melamine Institutional Dinnerware from China, Indonesia, and Taiwan*, Inv. Nos. 731-TA-741-743 (Final), USITC Pub. 3016 (Feb. 1997) at 14 n.81.

⁸⁰ CR/PR, Table III-5.

⁸¹ *** imported *** from China in 2006 and *** from China in interim 2007. *** domestically converted *** short tons of LWTP in 2006 and *** short tons in interim 2007. Its ratio of imports to domestic conversion was *** percent in 2006 and *** percent in interim 2007. While the latter figure is high, and could give reason to question *** commitment to domestic production, the record indicates that *** conversion activities appear to be highly seasonal. In 2006, *** percent of *** domestic conversion took place in the second half of the year. CR/PR, Table III-8. Moreover, *** purchases from U.S. coaters greatly exceeded its subject imports from China during both 2006 and interim 2007. Compare CR/PR, Table III-8 with *** Producers Questionnaire, response to question II-11 (indicating that in interim 2007 ***).

⁸² *** Importers Questionnaire, Response to Question II-4. *** conversion facilities are located in ***. *** Producers Questionnaire, Response to Question I-2.

⁸³ *** Producers Questionnaire, Response to Question I-3.

investigation.⁸⁴ By contrast, converters as a whole reported positive operating margins of *** percent during the period of investigation.⁸⁵ Consequently, although *** has imported subject merchandise at least in part for price reasons, its financial results do not indicate that it has benefitted from importation.⁸⁶ Moreover, the record evidence as a whole indicates that *** is committed to domestic production.⁸⁷

In light of the foregoing, we conclude that appropriate circumstances do not exist to exclude *** from the domestic industry pursuant to the related parties provision. Accordingly, we define the domestic industry for purposes of these preliminary determinations to encompass all coaters and converters of LWTP.

V. NEGLIGIBLE IMPORTS

A. In General

Pursuant to Section 771(24) of the Act, imports from a subject country of merchandise corresponding to a domestic like product that account for less than 3 percent of all such merchandise imported into the United States during the most recent 12 months for which data are available preceding the filing of the petition shall be deemed negligible.⁸⁸ Imports that are individually negligible may not be negligible if the aggregate volumes of imports from several countries with negligible imports exceeds 7 percent of all such merchandise imported into the United States in the statutory period for assessing negligibility referenced above.

By operation of law, a finding of negligibility terminates the Commission's investigation with respect to such imports.⁸⁹ The Commission is authorized to make "reasonable estimates on the basis of available statistics" of pertinent import levels for purposes of deciding negligibility.⁹⁰

B. Negligibility for Analysis of Current Material Injury

Because the pertinent categories in the Harmonized Tariff Schedule include substantial quantities of merchandise outside the scope definition, the Commission obtained data from importers concerning quantities of LWTP imported during the 12 months preceding the filing of the petition – the period from

⁸⁴ *** Producers Questionnaire, Response to Question III-11 (revision).

⁸⁵ CR/PR, Table VI-2.

⁸⁶ In these investigations, Vice Chairman Aranoff does not rely on individual company operating income margins in assessing whether particular related parties benefit from importation of subject merchandise. Rather, she has based her determination regarding whether to exclude related parties principally on their ratios of subject imports to domestic shipments and on whether their primary interests lie in domestic production or importation.

⁸⁷ For purposes of these preliminary investigations, Commissioner Pinkert does not rely upon *** financial performance as a factor in determining whether there are appropriate circumstances to exclude it from the domestic industry and relies instead on other information relevant to this issue. The present record is not sufficient to infer from *** financial performance on U.S. operations whether it has derived a specific benefit from importing. See Allied Mineral Products, Inc. v. United States, 27 I.T.R.D. (BNA) 1010, 1012-13 (Ct. Int'l Trade 2004). For the final investigations, Commissioner Pinkert invites the parties to provide any information they may have with respect to whether this company is benefitting financially from its status as a related party.

⁸⁸ 19 U.S.C. §§ 1671b(a), 1673b(a), 1677(24)(A)(i)(I).

⁸⁹ 19 U.S.C. §§ 1671b(a)(1), 1673b(a)(1).

⁹⁰ 19 U.S.C. § 1677(24)(C); see also Uruguay Round Agreements Act, Statement of Administrative Action, H.R. Rep. 103-316, Vol. 1 at 856 (1994) ("SAA").

September 2006 to August 2007. The data collected in these preliminary phase investigations represent all known subject imports from Germany and Korea, and a substantial proportion – but less than all – of known subject imports from China.⁹¹ There are no known sources of significant nonsubject imports.⁹²

There is no dispute that subject imports from China and Germany are not negligible. During the 12 months prior to filing of the petition, subject imports from China accounted for *** percent and subject imports from Germany accounted for *** percent of total imports.⁹³ These figures exceed the 3 percent statutory threshold.

By contrast, there is an issue concerning whether subject imports from Korea are negligible. Subject imports from Korea accounted for *** percent of the quantity of imports from all sources during the September 2006-August 2007 period.⁹⁴ This is below the 3 percent statutory negligibility threshold.

The legislative history of the negligible imports provision indicates that the Commission should not terminate an investigation in the preliminary stage for negligibility if there is “a reasonable indication that imports are not negligible.”⁹⁵ It provides two circumstances where termination of an investigation at the preliminary state for negligibility would not be appropriate notwithstanding failure to satisfy the 3 percent statutory threshold.

The first circumstance is where “the Commission is uncertain regarding appropriate like product designations and corresponding import volumes are not negligible with respect to one of the arguably appropriate designations.”⁹⁶ This exception is inapplicable in these investigations.⁹⁷

The second circumstance is when “imports are extremely close to the relevant quantitative thresholds and there is a reasonable indication that data obtained in a final investigation will establish that imports exceed the quantitative thresholds.”⁹⁸ While the *** percent figure cited in the Commission Report is fairly close to the 3 percent statutory threshold, we conclude that there is not a reasonable indication that any additional data obtained in any final phase investigations will establish that subject imports from Korea exceed the statutory threshold. First, the *** percent figure is based on the most recent 12-month period the statute authorizes the Commission to consider in analyzing negligibility. Second, the record clearly indicates that Hansol is the sole exporter, and Global Fibres, its affiliate, is the sole importer, of subject merchandise from Korea.⁹⁹ Consequently, there is no indication that additional information gathered in final phase investigations would cause the numerator of the negligibility computation to increase. Third, although in any final phase investigations the Commission may obtain information about additional subject imports from China or about additional nonsubject imports, the addition of these imports would merely increase the denominator in the negligibility computation, which

⁹¹ CR at IV-7 & n.13, PR at IV-4 & n.13.

⁹² CR/PR, Table IV-1.

⁹³ CR/PR, Table IV-3.

⁹⁴ CR/PR, Table IV-3. By value, subject imports from Korea accounted for *** percent of the value of all imports. *Id.*

⁹⁵ SAA at 857.

⁹⁶ SAA at 857.

⁹⁷ No party made or indicated an intention to make an argument that the Commission should define multiple like products. Moreover, even assuming arguendo that the domestic like product could be defined more broadly than the scope, this would not affect the calculation of either subject or total imports for purposes of the negligible imports analysis. See TTR Final, USITC Pub. 3683 at 16-17 (even when domestic like product defined more broadly than scope, negligibility analysis is limited to imported products within scope).

⁹⁸ SAA at 857.

⁹⁹ See CR at IV-1, IV-7, PR at IV-1, IV-4.

would have the function of reducing, rather than increasing, the percentage of total imports that are from Korea.

Consequently, neither of the circumstances the legislative history describes as militating against a finding of negligible imports in a preliminary determination is applicable here. We therefore determine that subject imports from Korea are negligible for purposes of a material injury analysis.

C. Negligibility for Threat Analysis

Once we have concluded that subject imports from Korea do not meet the 3 percent statutory negligibility threshold, the statute directs us next to consider whether “there is a potential that imports . . . will imminently account for more than 3 percent of the volume of all such merchandise imported in the United States.” If we answer this question in the affirmative, subject imports from Korea may be analyzed only for purposes of determining threat of material injury.¹⁰⁰ If we answer this question in the negative, the imports are negligible and the corresponding investigation must be terminated. The legislative history observes that “[i]mport volumes at the conclusion of the 12-month period examined for purposes of considering negligibility may be below the negligibility threshold, but increasing at a rate that indicates that they are likely to imminently exceed that threshold during the period the Commission examines in conducting its threat analysis.”¹⁰¹

Subject imports from Korea were decreasing, rather than increasing, at the conclusion of the 12-month negligibility period. Although monthly import volumes varied from *** short tons during the first six months of the period, they never exceeded *** short tons for any month during the final six months of the period, and there were *** imports from Korea during the final two months of the period.¹⁰²

The material in the record indicates that, while subject imports from Korea are not likely to cease in the imminent future, they are likely to enter the U.S. market at lower volumes than they did during the period of investigation. Hansol, the sole Korean exporter of subject merchandise, reported LWTP exports to the United States of ***, ***, and *** short tons in 2004, 2005, and 2006 respectively. It projects *** short tons of LWTP exports to the United States in 2007 and *** short tons in 2008.¹⁰³ By contrast, subject imports from Korea were *** short tons in the 12 month negligibility period.¹⁰⁴ Hansol’s projections of reduced volumes of subject imports in 2007 and 2008 are corroborated both by the monthly import data in the record and by information indicating that U.S. importers’ orders of subject imports from Korea for delivery after June 30, 2007 were minimal.¹⁰⁵ Other information submitted by Hansol indicates that it has operated at *** capacity since 2004, that its capacity ***, that it has a *** home market that accounted for over *** percent of its shipments in 2006, January-June (interim) 2006, and interim 2007, and that it has substantial export markets outside the United States that accounted for at least *** percent of its total shipments during each calendar year or interim period within the period of

¹⁰⁰ 19 U.S.C. § 1677(24)(A)(iv).

¹⁰¹ SAA at 856.

¹⁰² CR/PR, Table IV-3.

¹⁰³ CR/PR, Table VII-3.

¹⁰⁴ CR/PR, Table IV-3.

¹⁰⁵ CR/PR, Tables IV-3, VII-4.

investigation.¹⁰⁶ In light of these considerations, we find Hansol's projections indicating that its exports to the United States are likely to decline in 2007 and 2008 to be reasonable.

While subject imports from Korea are likely to decline in the imminent future, subject imports from China and Germany are likely to increase or remain close to current levels. We determine below that subject imports from China are likely to increase in the imminent future. Even using the very conservative projections of exports to the United States submitted by the foreign producers in China and Germany, projected subject imports from Korea in 2008 are equal to *** percent of the sum of projected subject imports from China, Germany, and Korea for that year.¹⁰⁷ This figure is well below the 3 percent statutory negligibility threshold. In light of this, we conclude that there is not a potential that subject imports from Korea will imminently exceed the 3 percent statutory negligibility threshold. We therefore conclude that subject imports from Korea are negligible for purposes of a threat analysis. Accordingly, we terminate the investigation with respect to subject imports from Korea.

VI. CUMULATION¹⁰⁸

A. In General

For purposes of evaluating the volume and price effects for a determination of material injury by reason of the subject imports, section 771(7)(G)(I) of the Act requires the Commission to cumulate subject imports from all countries as to which petitions were filed and/or investigations self-initiated by Commerce on the same day, if such imports compete with each other and the domestic like product in the U.S. market.¹⁰⁹ In assessing whether subject imports compete with each other and with the domestic like product, the Commission has generally considered four factors, including:

- (1) the degree of fungibility between the subject imports from different countries and between imports and the domestic like product, including consideration of specific customer requirements and other quality related questions;
- (2) the presence of sales or offers to sell in the same geographic markets of subject imports from different countries and the domestic like product;
- (3) the existence of common or similar channels of distribution for subject imports from different countries and the domestic like product; and
- (4) whether the subject imports are simultaneously present in the market.¹¹⁰

While no single factor is necessarily determinative, and the list of factors is not exclusive, these factors are intended to provide the Commission with a framework for determining whether the subject

¹⁰⁶ Exports of LWTP from Korea to the United States were *** percent of the Korean industry's total shipments in full year 2006 and *** percent in interim 2006, but only *** percent of its total shipments in interim 2007. CR/PR, Table VII-3. Although the data Hansol has submitted indicate that it has shifted exports between different markets, we believe that any imminent shift of exports from other markets to the United States is unlikely in light of the recent declines in subject imports from Korea and the lack of current orders for such imports.

¹⁰⁷ CR/PR, Tables VII-1-3.

¹⁰⁸ Commissioner Lane does not join this section of the opinion. See Separate Views of Commissioner Charlotte R. Lane.

¹⁰⁹ 19 U.S.C. § 1677(7)(G)(i).

¹¹⁰ See Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea, and Taiwan, Inv. Nos. 731-TA-278-280 (Final), USITC Pub. 1845 (May 1986), aff'd, Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898 (Ct. Int'l Trade), aff'd, 859 F.2d 915 (Fed. Cir. 1988).

imports compete with each other and with the domestic like product.¹¹¹ Only a “reasonable overlap” of competition is required.¹¹²

Subject imports from China and Germany are eligible for cumulation because the petition concerning these subject countries was filed on the same day and none of the statutory exceptions to cumulation are applicable. Because we have terminated the investigation with respect to subject imports from Korea, subject imports from Korea are not eligible for cumulation with imports from any other subject country.¹¹³

B. Analysis

Appleton argues that the Commission should cumulate all subject imports. German Respondents argue that the Commission should not cumulate subject imports from China with any other subject imports because subject imports from China are not fungible with imports from the other subject countries, are distributed in different channels, and have not been present in the U.S. market for the entire period of investigation. We analyze below whether there is a reasonable overlap of competition among the domestic like product, subject imports from China, and subject imports from Germany.

Fungibility. The domestic like product is produced in both jumbo roll and slit roll forms.¹¹⁴ During 2004, 2005, and 2006, 100 percent of subject imports from Germany consisted of jumbo rolls. During 2005 and 2006, 100 percent of subject imports from China consisted of slit rolls.¹¹⁵ During interim 2007, 100 percent of subject imports from Germany were jumbo rolls and *** percent of subject imports from China were slit rolls.¹¹⁶ Thus, during the period of investigation all subject imports from Germany were jumbo rolls, and essentially all subject imports from China were slit rolls. As discussed above, slit rolls of LWTP are in a form ready for use by the end user and do not require further processing.

¹¹¹ See, e.g., Wieland Werke, AG v. United States, 718 F. Supp. 50 (Ct. Int'l Trade 1989).

¹¹² The SAA states that “the new section will not affect current Commission practice under which the statutory requirement is satisfied if there is a reasonable overlap of competition.” SAA at 848 (citing Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898, 902 (Ct. Int'l Trade 1988)), aff'd, 859 F.2d 915 (Fed. Cir. 1988). See Goss Graphic Sys., Inc. v. United States, 33 F. Supp. 2d 1082, 1087 (Ct. Int'l Trade 1998) (“cumulation does not require two products to be highly fungible”); Wieland Werke, AG, 718 F. Supp. at 52 (“Completely overlapping markets are not required.”).

¹¹³ See 19 U.S.C. § 1677(7)(G)(ii)(II).

¹¹⁴ CR/PR, Table III-1.

¹¹⁵ CR at IV-2, PR at IV-1. There were no subject imports from China in 2004. CR/PR, Table IV-2.

¹¹⁶ CR at IV-2 n.5, PR at IV-1 n.5; CR/PR, Table IV-2.

It is not disputed that slit rolls and jumbo rolls are not interchangeable in any application.¹¹⁷ As discussed in section III.C.1. above, U.S. coaters and converters agree that jumbo rolls can be used in end-use applications only if slit. All responding importers agreed with this proposition as well.¹¹⁸

Geographic Overlap. The domestic like product and imports from each subject country are marketed nationally.¹¹⁹

Channels of Distribution. Because jumbo rolls must be slit before they can be used, all production of U.S. coaters and all subject imports from Germany are sold to converters for conversion into slit rolls. Although virtually all subject imports from China are slit, the record indicates that the great majority of these imports are initially sold to converters. Converters resell or distribute the Chinese slit rolls rather than processing them further.¹²⁰

Simultaneous Presence in Market. Subject imports from China and Germany and the domestic like product have been simultaneously present in the U.S. market since 2005.¹²¹

Analysis. Because the subject imports from China are slit rolls that are not interchangeable with the jumbo rolls imported from Germany, we find that the subject imports are not fungible and that there is no reasonable overlap of competition between subject imports from China and subject imports from Germany. Subject imports from Germany require further processing for end use, while subject imports from China do not. We have previously concluded that conversion activities constitute production of the domestic like product. Consequently, the only head-to-head competition that subject imports from China face are from the domestic like product – in other words, domestically converted slit rolls produced from jumbo rolls produced in Germany, Korea, or the United States. There is no head-to-head competition between subject imports from China and subject imports from Germany.^{122 123}

¹¹⁷ Commissioner Pinkert finds in these circumstances that two products are fungible for purposes of the cumulation analysis, *i.e.*, fungible from the point of view of the dominant U.S. purchasers, where (1) they are physically interchangeable or (2) the purchaser has no economic incentive to prefer one over the other where cost (adjusted for differences in processing) is comparable.

Here, he finds it is undisputed that the two products are not physically interchangeable, and the evidence available for purposes of the preliminary phase suggests that, at comparable cost, the dominant U.S. purchasers prefer jumbo rolls to slit rolls. The dominant U.S. purchasers are converters. They have made substantial investments in slitting machinery and thus apparently believe that it is in their interests to run that machinery rather than buying slit rolls and reselling them. It is also noteworthy in this regard that ***. Consequently, Commissioner Pinkert concludes that jumbo rolls and slit rolls are not fungible for purposes of the cumulation analysis. He invites the parties to comment on his analysis in any final investigations.

¹¹⁸ CR at I-16, PR at I-12. The questionnaires asked market participants whether LWTP from domestic, subject, and nonsubject sources was interchangeable in the sense that they can physically be used in the same applications. It is reasonable to interpret the questionnaire as asking whether LWTP having the same degree of processing can be used in the same applications. Indeed, responses citing lack of interchangeability tended to focus on differences in product quality and range rather than on the forms in which the products were sold. See CR at II-12, PR at II-7-8. In light of this, we do not believe that the questionnaire responses indicating that a majority of market participants found subject imports from China at least somewhat interchangeable with subject imports from Germany, CR/PR, Table II-1, can support the proposition that jumbo rolls from Germany and slit rolls from China are interchangeable. We further observe that several converters and importers reported that the quality of LWTP from China was poor. CR at II-14, PR at II-8. There were no comparable reports of quality problems of LWTP made from jumbo rolls from Germany.

¹¹⁹ CR at II-1-2, PR at II-1.

¹²⁰ See Paper Resources Postconference Brief, ex. 5; CR/PR, Table IV-1; Tr. at 177-78 (Burns).

¹²¹ CR/PR, Tables IV-2, C-3.

¹²² In other situations where there was no or highly limited interchangeability between imported products from
(continued...)

Under the criteria the Commission typically uses to determine fungibility for cumulation, relating to interchangeability, the subject imports from China are not fungible with imports from other subject sources. Because of this lack of fungibility, we find that there is not a reasonable overlap of competition between subject imports from China and subject imports from Germany, notwithstanding overlaps in channels of distribution, geographic markets, and simultaneous presence.

VII. CONDITIONS OF COMPETITION

The following conditions of competition inform our analysis of whether there is a reasonable indication of material injury or threat of material injury by reason of the subject imports.

Demand Conditions. LWTP is predominantly used in POS applications such as ATM receipts, coupons, credit card receipts, gas pump receipts, kiosk receipts, parking receipts, portable printer receipts, retail store receipts, and prescription receipts.¹²⁴ Apparent U.S. consumption of LWTP rose throughout the period of investigation, which encompasses the period from January 1, 2004 through June 30, 2007. Apparent U.S. consumption increased from *** short tons in 2004 to *** short tons in 2005 and then to *** short tons in 2006. The *** short tons of apparent U.S. consumption in interim 2007 exceeded the *** short tons in interim 2006.¹²⁵ Market participants attributed the increase in consumption to a shift

¹²² (...continued)

different subject sources, the Commission has refused to cumulate on grounds of lack of fungibility. Compare Static Random Access Memory Semiconductors from the Republic of Korea and Taiwan, Inv. Nos. 731-TA-761-762 (Final), USITC Pub. 3098 at 7, 15 (April 1998) (although distinctions between “fast” and “slow” SRAMs insufficient to justify separate like products, insufficient fungibility to support cumulation when nearly all Korean imports “slow” DRAMs, nearly all Taiwanese imports “fast” DRAMs, and interchangeability between the “fast” and “slow” products limited); Grain-Oriented Silicon Electrical Steel from Italy and Japan, Inv. Nos. 701-TA-355, 731-TA-660 (Final), USITC Pub. 2778 at I-7-8, I-13-14 (May 1994) (although all GOES grades within single domestic like product, substitution “very unlikely” between Italian imports, virtually all of which were concentrated in lowest grade, and Japanese imports, which were concentrated in higher grades; insufficient fungibility to support cumulation).

Indeed, Appleton does not argue that slit rolls and jumbo rolls are physically interchangeable. Its argument is that competition exists between the subject imports from China, on the one hand, and subject imports from Germany and Korea, on the other hand, because the pricing of slit rolls from China may affect the pricing of jumbo rolls produced in the United States, Germany, or Korea, and because the pricing of slit rolls from China may affect a converter’s decision whether to purchase a roll already slit from China in lieu of purchasing a jumbo roll for conversion. However, the Commission’s fungibility analysis for purposes of cumulation focuses on interchangeability, not economic effects. Appleton’s proffered “economic effects” test is also not one the Commission has ever used to determine the domestic like product, even though there is a lower threshold of fungibility for domestic like product definitions than for cumulation findings. See Bic Corp. v. United States, 964 F. Supp. 391, 399 (Ct. Int’l Trade 1997). Indeed, the sole investigation Appleton cited in its brief to support its cumulation argument, Carbazole Violet Pigment 23 from China and India, Inv. Nos. 701-TA-437, 731-TA-1060-1061 (Final), USITC Pub. 3744 at 11-12 (Dec. 2004), stands merely for the proposition that if there is an overlap of imports from different subject sources in some product segments, there need not be an overlap in all product segments to establish fungibility. It does not endorse the “economic effects” analysis that Appleton has advocated.

¹²³ Commissioner Pinkert notes that, if jumbo rolls and slit rolls are fungible from the point of view of the dominant U.S. purchasers, they might be considered to be engaged in head-to-head competition.

¹²⁴ CR at I-11, PR at I-8.

¹²⁵ CR/PR, Table C-3. Because we have determined that conversion activity constitutes domestic production, in computing apparent consumption and domestic shipment data, we have used the combined U.S. shipments of domestic coaters and converters. See TTR Final, USITC Pub. 3683 at 23, aff’d on this issue, International Imaging (continued...)

from carbonless and bond papers to LWTP for use in POS applications. Thermal printers are faster, quieter, and more efficient than printers that use carbonless or bond papers.¹²⁶

The parties also agree that there is some seasonality in demand for LWTP, with increases late in the year when retailers have peak sales.¹²⁷ The parties also agree that there was a particular spike in U.S. demand during the fourth quarter of 2006.¹²⁸ Appleton testified that during this period it extended lead times but did not put customers on allocation or refuse to make sales.¹²⁹ One converter stated, however, that Appleton refused to take orders from new customers during this period.¹³⁰ Both parties supporting and opposing the petition testified at the conference that the spike in demand led to some degree of overpurchasing.¹³¹ Inventories of both U.S. coaters and converters were considerably higher in interim 2007 than they were during interim 2006.¹³²

Supply Conditions. There are two U.S. coaters of LWTP – Appleton and Kanzaki. Each of these firms responded to the Commission’s producer questionnaire. It is not disputed that the domestic industry currently has insufficient coating capacity to satisfy U.S. demand for jumbo rolls of LWTP.¹³³ Appleton approved in late 2006 and publicly announced in January 2007 a \$100 million expansion of its West Carrollton mill to install a state of the art coater. Appleton states that once this new coater starts operation in August 2008, it will produce primarily LWTP.¹³⁴

The Commission received questionnaire responses from 18 converters, which are estimated to account for 46 percent of 2006 U.S. production of slit rolls of LWTP.¹³⁵ The capacity reported by the responding converters substantially exceeds the capacity of the two U.S. coaters.¹³⁶

Germany is the largest source of subject imports. As previously discussed, all subject imports from Germany are jumbo rolls. All three German producers of LWTP submitted questionnaire responses.¹³⁷ The two German producers that exported LWTP to the United States during the period of investigation, Koehler AG and Mitsubishi GmbH, have actively participated as parties in these investigations.

¹²⁵ (...continued)

Materials, Inc. v. USITC, Slip Op. 06-11 at 16-18 (Ct. Int’l Trade Jan. 23, 2006). We acknowledge that this method results in double counting of slit rolls converted from U.S.-produced jumbo rolls, and consequently overstates both the U.S. shipments of the domestic industry and the domestic industry’s market share. By the same token, the market penetration of imports is understated.

¹²⁶ CR at II-8, PR at II-5.

¹²⁷ Appleton Postconference Brief at 14 n.53; Tr. at 204-05 (Granholm).

¹²⁸ Tr. at 82 (Schonfeld), 204-05 (Granholm).

¹²⁹ Tr. at 82 (Schonfeld).

¹³⁰ Tr. at 155 (Endsley). Other market participants reported difficulties obtaining supplies from Appleton at earlier or subsequent periods. CR at II-4-5, PR at II-3.

¹³¹ Tr. at 83-84 (Schonfeld), 202-03 (Burns), 203 (Schwartz).

¹³² CR/PR, Table III-9.

¹³³ Tr. at 85 (Schonfeld); German Respondents Postconference Brief at 13.

¹³⁴ Tr. at 21 (Schonfeld).

¹³⁵ CR at III-1, PR at III-1.

¹³⁶ In 2006, the capacity of the two U.S. coaters was *** short tons. CR/PR, Table III-2. The capacity of the reporting converters was *** short tons. CR/PR, Table III-4.

¹³⁷ CR at VII-5, PR at VII-3.

The other source of subject imports still subject to investigation is China. Virtually all Chinese imports during the period of investigation were slit rolls.¹³⁸ The Commission received questionnaire responses from three producers of subject merchandise in China that are estimated to account for between *** percent of Chinese production of LWTP and between *** percent of exports to the United States.¹³⁹ Consequently, the Chinese industry data cited in this opinion are significantly understated. The Commission also received responses from three importers of subject merchandise from China.¹⁴⁰ Paper Resources, the sole Chinese respondent to participate in this phase of these investigations as a party, accounted for the *** share of the reported imports from China.¹⁴¹

There are no known significant sources of supply of LWTP aside from the domestic like product, subject imports from China, and subject imports from Germany. As explained above, subject imports from Korea are negligible. There were reports of *** volumes of LWTP from other sources.¹⁴²

Interchangeability. The two principal basis weights of thermal paper sold for POS applications, regardless of source, are 48 and 55 grams.^{143 144} Subject imports from Germany have been available in the 55 gram weight throughout the period of investigation and in the 48 gram weight since at least April 2005.¹⁴⁵ Producers in China reportedly do not produce 48 gram basis weight product.¹⁴⁶ U.S. coater Appleton introduced a 45 gram product in 2004, discontinued it in 2006, and introduced a new 48 gram product in *** 2007.¹⁴⁷ U.S. coater Kanzaki ***.¹⁴⁸

There has been increasing standardization of the size of slit rolls of LWTP used for POS applications. Slit rolls of LWTP, regardless of source, are typically sold to end users in a standard width of three and one-eighth inches. There are a limited number of standard slit roll lengths.^{149 150}

¹³⁸ CR/PR, Table IV-1.

¹³⁹ CR at VII-2 & n.4, PR at VII-2 & n.4.

¹⁴⁰ CR/PR, Table IV-1.

¹⁴¹ CR at IV-3 n.6, PR at IV-3 n.6.

¹⁴² CR at IV-1, PR at IV-1. The parties agree that there is no significant nonsubject source of LWTP. Appleton Postconference Brief at 20; German Respondents Postconference Brief, Response to Staff Questions at 15.

¹⁴³ Tr. at 64 (Hatfield), 206 (Greene). The parties dispute the relative importance of the 48 gram and 55 gram products in the U.S. market. German Respondents contend that the 48 gram weight is increasingly attractive to end users, but Appleton disagrees. In any final phase investigations, we will request additional information on 48 gram and 55 gram products.

¹⁴⁴ Chairman Pearson, Vice Chairman Aranoff and Commissioner Okun do not join the previous footnote. Rather, the increase in volume of 48 gram product from 2005 to present indicates that this product is increasingly attractive to end users. See CR/PR, Table V-2.

¹⁴⁵ CR/PR, Table V-1; CR at II-9, PR at II-6; Tr. at 133 (Greene).

¹⁴⁶ CR at II-9, PR at II-6.

¹⁴⁷ Tr. at 108-09 (Hatfield), CR at II-9, PR at II-6.

¹⁴⁸ See CR at IV-3 n.7, PR at IV-3 n.7.

¹⁴⁹ Appleton Postconference Brief at 18; Tr. at 176-77 (Burns), 187-88 (Granholm), 188 (Schwartz).

¹⁵⁰ Commissioner Lane does not join the remainder of this opinion. See Separate Views of Commissioner Charlotte R. Lane.

VIII. REASONABLE INDICATION OF THREAT OF MATERIAL INJURY BY REASON OF SUBJECT IMPORTS FROM CHINA

A. General Legal Standards

Section 771(7)(F) of the Act directs the Commission to determine whether the U.S. industry is threatened with material injury by reason of the subject imports by analyzing whether “further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted.”¹⁵¹ The Commission may not make such a determination “on the basis of mere conjecture or supposition,” and considers the threat factors “as a whole” in making its determination whether dumped or subsidized imports are imminent and whether material injury by reason of subject imports would occur unless an order is issued.¹⁵² In making our determination, we consider all statutory threat factors that are relevant to these investigations.¹⁵³ Based on our evaluation of the record compiled in this preliminary phase of these investigations, we have determined that there is a reasonable indication that the domestic LWTP industry is threatened with material injury by reason of subject imports from China.

B. Cumulation for Threat Analysis

For purposes of determining if a threat of material injury exists, cumulation is discretionary. Under section 771(7)(H) of the Act, the Commission may “to the extent practicable” cumulatively assess the volume and price effects of subject imports from all countries as to which petitions were filed on the same day if the requirements for cumulation for material injury analysis are satisfied.¹⁵⁴ Consequently, the only subject imports eligible for cumulation for threat are those that may be cumulated for an analysis of material injury by reason of subject imports.

In section V above we terminated the investigation with respect to subject imports from Korea because subject imports from Korea are negligible. Hence, subject imports from Korea are not eligible for cumulation for threat analysis with any other subject imports.¹⁵⁵

In section VI.B. above, we found that subject imports from China do not compete with subject imports from Germany because virtually all subject imports from China are slit rolls and all subject imports from Germany are jumbo rolls. We therefore do not cumulate subject imports from China and subject imports from Germany for purposes of our threat analysis. Consequently, for purposes of our determination of reasonable indication of threat of material injury by reason of subject imports from China, we consider only subject imports from China.

¹⁵¹ 19 U.S.C. § 1677(7)(F)(ii).

¹⁵² 19 U.S.C. § 1677(7)(F)(ii).

¹⁵³ 19 U.S.C. § 1677(7)(F)(i). Statutory threat factor (VII) is inapplicable, as no imports of agricultural products are involved. *Id.*

In its notice of initiation, Commerce calculated estimated alleged dumping margins for China of 108.25 percent. 72 Fed. Reg. at 62434.

In its notice of initiation of the countervailing duty investigation, Commerce identified 19 programs alleged in the petition to have provided countervailable subsidies to producers and exporters of LWTP in China. Three programs involve preferential lending; nine involve income tax programs; two are indirect tax and tariff programs; one is a grant program; three are provincial subsidy programs; and one involves currency retention. 72 Fed. Reg. at 62211.

¹⁵⁴ 19 U.S.C. § 1677(7)(H).

¹⁵⁵ 19 U.S.C. §§ 1677(7)(H), 1677(7)(G)(ii)(II).

C. Analysis of Statutory Threat Factors

Subject imports from China entered the U.S. market in small quantities in 2005 and have increased rapidly thereafter. Subject imports from China increased from *** short tons in 2005 to *** short tons in 2006. The *** short tons of subject imports from China in interim 2007 greatly exceeded the *** short tons in interim 2006.¹⁵⁶ Market penetration, while still at low levels, has also increased dramatically. As a share of the quantity of apparent U.S. consumption, subject imports from China increased from zero in 2004 and 2005 to *** percent in 2006. The interim 2007 market penetration of *** percent far exceeded interim 2006 market penetration of *** percent.¹⁵⁷ These figures understate actual Chinese import penetration because the Commission did not receive questionnaire responses concerning all subject imports from China. Moreover, the apparent consumption data we are using double-counts some U.S. shipments (in particular, U.S.-produced jumbo rolls converted in the United States) and thereby understates import penetration.

Several considerations support our finding that the rapid increase in subject import volume and market penetration observed during the latter portion of the period of investigation will continue in the imminent future. First, the capacity of reporting Chinese producers of subject merchandise increased dramatically during the period of investigation. Reported Chinese capacity increased from *** short tons in 2004 to *** short tons in 2006. Projected Chinese capacity for 2007 and 2008 is above the 2006 level.¹⁵⁸ Second, there is ample unused capacity in the Chinese industry. Reported capacity utilization was *** percent in 2006, *** percent in interim 2006, and *** percent in interim 2007. While Chinese producers project higher capacity utilization levels in 2007 and 2008, the quantity of projected unused capacity greatly exceeds these producers' reported or projected export volumes to the United States.¹⁵⁹

Third, the United States is currently China's largest export market. Indeed, in interim 2007, the reporting Chinese producers' exports to the United States exceeded both their home market shipments and their shipments to other export markets.¹⁶⁰ The current importance of the U.S. market indicates that a significant share of the Chinese industry's projected increases in shipments will be directed to the United States.¹⁶¹

We have considered pricing developments during the period of investigation and likely developments in the imminent future. The testimony and information from purchasers in the record indicates that price appears to be at least a moderately important factor in purchasing decisions.¹⁶² Subject imports from China appear to be sufficient substitutes with slit rolls converted in the United

¹⁵⁶ CR/PR, Table IV-2.

¹⁵⁷ CR/PR, Table C-3.

¹⁵⁸ CR/PR, Table VII-1. While we do not rely on product shifting as a basis for our affirmative threat determination, we observe that one reporting producer indicated that it produced ***. CR at VII-3 n.5, PR at VII-2 n.5.

¹⁵⁹ CR/PR, Table VII-1.

¹⁶⁰ CR/PR, Table VII-1.

¹⁶¹ The Chinese producers' projections of much more modest increases in U.S. exports are not consistent with the record. Indeed, the sum of the reporting producers' exports to the United States during interim 2007 and the outstanding orders by U.S. importers of subject imports from China for delivery after June 30, 2007 exceeds the projection for total 2007 exports to the United States. CR/PR, Tables VII-1, VII-4. We have also examined inventories of the subject merchandise. Inventories in China of the subject merchandise increased on both an absolute and relative basis from 2004 to 2006, but were lower in interim 2007 than in interim 2006. CR/PR, Table VII-1. No inventories were reported by U.S. importers. CR at VII-10, PR at VII-5.

¹⁶² Tr. at 145-46 (Granholm), 160 (Schwartz); CR at V-28, V-30-33, V-35, PR at V-10-13.

States. On the one hand, market participants reported at least some degree of interchangeability between the domestic like product and subject imports from China. U.S. coaters reported that the products were always interchangeable, a majority of U.S. converters reported that the products were at least frequently interchangeable, and a majority of U.S. importers reported that the products were at least somewhat interchangeable.¹⁶³ On the other hand, several converters and importers reported that the product quality of the subject imports from China was poor.¹⁶⁴ A *** of the subject imports from China are not certified for use in thermal printers manufactured by two leading brands, IBM and Epson.¹⁶⁵

Pursuant to its usual practice in preliminary phase investigations, the Commission collected pricing data from U.S. producers and importers on an f.o.b. basis. In its postconference brief, Appleton for the first time raised a question whether the pricing data were representative. It asserted that because virtually all LWTP sales are made on a delivered price basis, the Commission should examine underselling on that basis as well.¹⁶⁶ Because Appleton raised this issue late in this phase of the investigations, Commission staff's ability to obtain delivered price data was limited.¹⁶⁷ Consequently, Commission staff constructed an estimate of pricing data on a delivered price basis by adding to the reported f.o.b. price each reporting firm's U.S. inland freight cost as a percentage of its total delivered price.¹⁶⁸ Because the freight costs used to construct the estimated delivered price are an average for the entire period of investigation, the constructed costs do not necessarily measure actual delivered costs for each reported quarterly pricing observation. In any final phase investigations, we will collect pricing data from purchasers on a delivered price basis as well as f.o.b. pricing data.

For purposes of our preliminary determinations, we examined both the actual f.o.b. pricing data and the estimated delivered pricing data. The subject imports from China pervasively undersold the domestic like product in both data sets. The subject imports from China undersold the domestic like product in 12 out of 13 quarterly comparisons based on the actual f.o.b. price data,¹⁶⁹ and in 12 out of 13 comparisons based on the estimated delivered price data.¹⁷⁰ The average margins of underselling were quite substantial – 26.0 percent for the f.o.b. comparison and 29.0 percent for the constructed delivered price comparison.¹⁷¹ Additionally, there was one confirmed lost sale allegation and two confirmed lost revenue allegations concerning subject imports from China.¹⁷²

We find that the pervasive underselling of subject imports from China observed during the period of investigation will likely continue absent issuance of antidumping and countervailing duty orders. Given the importance of price in purchasing decisions, and the information in the current record indicating some degree of substitutability between the subject imports from China and the domestic like product, continued underselling by the subject imports from China is likely to increase demand for these imports. Moreover, at increasing volumes, subject imports from China are likely to require U.S. producers of slit rolls to either cut prices or reduce conversion activities; the latter option would have the

¹⁶³ CR/PR, Table II-1.

¹⁶⁴ CR at II-12, II-14, PR at II-7-8.

¹⁶⁵ CR at II-12, VII-2, VII-3 n.6, PR at II-7, VII-2, VII-3 n.6.

¹⁶⁶ Appleton Postconference Brief at 34.

¹⁶⁷ Indeed, Appleton raised the issue too late to enable the Commission staff to obtain usable information on Appleton's own actual delivered prices.

¹⁶⁸ CR/PR, Tables D-1-4.

¹⁶⁹ CR/PR, Table V-6.

¹⁷⁰ CR/PR, Table D-5.

¹⁷¹ CR/PR, Tables V-6, D-5.

¹⁷² CR/PR, Tables V-7-8.

result of reducing demand for U.S.-produced jumbo rolls. As a result, the increasing volumes of subject imports from China will have likely significant price-depressing or -suppressing effects.¹⁷³

Indicators of domestic industry performance displayed disparate trends during the period of investigation. Output-related measures generally rose from 2004 to 2006, but were lower in interim 2007 than in interim 2006.¹⁷⁴ These include the domestic industry's capacity,¹⁷⁵ its production,¹⁷⁶ and its domestic shipments.¹⁷⁷ Capacity utilization also increased from 2004 to 2006, but was lower in interim 2007 than in interim 2006.¹⁷⁸ The capacity utilization rates of coaters were much higher than those of converters.¹⁷⁹ End-of period inventories rose sharply in 2006, and were appreciably higher in interim

¹⁷³ The Commission collected prices on two slit roll products. Prices for the domestically converted product fluctuated at generally increasing levels from 2004 to 2006, with one product reaching its peak price in the third quarter of 2006 and the other product reaching its peak price in the first quarter of 2006. For both products, prices declined during each of the first two quarters in 2007. Peaks and trends were the same on either an f.o.b. or estimated delivered price basis. CR/PR, Tables V-3-4, D-3-4.

For one of the slit roll products, subject imports from China entered the U.S. market in the fourth quarter of 2005. Prices fluctuated at increasing levels thereafter, with the peak price observed during the first quarter of 2007. CR/PR, Tables V-3, D-3. For the other slit roll product, subject imports from China entered the market in the second quarter of 2006. Prices fluctuated within a fairly narrow range through the end of the period of investigation, with the peak price observed during the second quarter of 2007. CR/PR, Tables V-4, D-4. Again, peaks and trends were the same on either an f.o.b. or estimated delivered price basis.

¹⁷⁴ Chairman Pearson, Vice Chairman Aranoff and Commissioner Okun give less weight to interim data as there is some seasonality in demand for LWTP, with greater demand occurring late in the year when retailers have peak sales. Appleton Postconference Brief at 14 n.53; Tr. at 204-05 (Granholm). Seasonality may affect performance and may not be indicative of expected annual rates.

¹⁷⁵ The domestic industry's capacity increased from 239,653 short tons in 2004 to 252,727 short tons in 2005 and then to 256,176 short tons in 2006. The interim 2007 capacity of 134,704 short tons was less than the interim 2006 capacity of 134,998 short tons. CR/PR, Table C-3. Coaters' capacity increased each year from 2004 to 2006, and was lower in interim 2007 than in interim 2006. CR/PR, Table III-2. Converters' capacity increased each year from 2004 to 2006, and was higher in interim 2007 than in interim 2006. CR/PR, Table III-4.

¹⁷⁶ The domestic industry's production increased from 145,688 short tons in 2004 to 155,717 short tons in 2005 and then to 167,580 short tons in 2006. The interim 2007 production of 71,847 short tons was less than the interim 2006 production of 75,060 short tons. CR/PR, Table C-3. Coaters' production increased each year from 2004 to 2006, and was lower in interim 2007 than in interim 2006. CR/PR, Table III-2. Converters' production increased each year from 2004 to 2006, and was higher in interim 2007 than in interim 2006. CR/PR, Table III-4.

¹⁷⁷ The domestic industry's U.S. shipments increased from 130,176 short tons in 2004 to 138,420 short tons in 2005 and then to 147,433 short tons in 2006. Interim 2007 U.S. shipments of 67,954 short tons were less than the interim 2006 U.S. shipments of 70,872 short tons. CR/PR, Table C-3. Coaters' U.S. shipments increased each year from 2004 to 2006, and were lower in interim 2007 than in interim 2006. CR/PR, Table III-6. Converters' U.S. shipments increased each year from 2004 to 2006, and were higher in interim 2007 than in interim 2006. CR/PR, Table III-7.

¹⁷⁸ The domestic industry's capacity utilization increased from 60.8 percent in 2004 to 61.6 percent in 2005 and then to 65.4 percent in 2006. The interim 2007 capacity utilization of 53.3 percent was lower than the interim 2006 capacity utilization of 55.6 percent. CR/PR, Table C-3.

¹⁷⁹ Coaters' capacity utilization rates were *** percent in 2004, *** percent in 2005, *** percent in 2006, *** percent in interim 2006, and *** percent in interim 2007. CR/PR, Table III-2. Converters' capacity utilization rates were *** percent in 2004, *** percent in 2005, *** percent in 2006, *** percent in interim 2006, and *** percent in interim 2007. CR/PR, Table III-2.

2007 than in interim 2006.¹⁸⁰ As discussed in connection with conditions of competition, the inventory increases during the latter portion of the period of investigation appear to be a result of excessive purchases of U.S.-coated jumbo rolls during the fourth quarter of 2006.

The domestic industry's market share fell throughout the period of investigation, declining from *** percent in 2004 to *** percent in 2005 and then to *** percent in 2006. The domestic industry's interim 2007 market share of *** percent was lower than its interim 2006 market share of *** percent.¹⁸¹

Employment-related measures generally rose, although some measures showed declines in interim 2007. The number of production workers increased throughout the period of investigation.¹⁸² Hourly wages increased from 2004 to 2006, but were lower in interim 2007 than in interim 2006.¹⁸³ Productivity followed trends similar to hourly wages; however, productivity for each of the interim periods was appreciably lower than productivity for any full calendar year.¹⁸⁴

The domestic industry's financial performance fluctuated during the period of investigation. The industry's sales revenues and costs of goods sold (COGS) each increased from 2004 to 2006 and were lower in interim 2007 than in interim 2006. The ratio of COGS to net sales fluctuated within a fairly narrow range, declining from 87.7 percent in 2004 to 87.5 percent in 2005, and increasing to 88.7 percent in 2006; the 90.4 percent ratio in interim 2007 was greater than the 88.8 percent ratio in interim 2006.¹⁸⁵ The industry operated profitably in 2005 and at a loss during all other reporting periods. The operating margin was negative 0.2 percent in 2004, 0.6 percent in 2005, negative 0.1 percent in 2006, negative 0.4 percent in interim 2006, and negative 2.3 percent in interim 2007.¹⁸⁶ Converters operated profitably during all reporting periods.¹⁸⁷ By contrast, coaters operated at a loss during all reporting periods.¹⁸⁸ Capital expenditures and research and development expenditures each fluctuated during the period of investigation.¹⁸⁹

¹⁸⁰ The domestic industry's inventories increased from 9,198 short tons in 2004 to 9,229 short tons in 2005 and then to 12,864 short tons in 2006. Interim 2007 U.S. inventories of 13,976 short tons were greater than the interim 2006 U.S. inventories of 9,557 short tons. CR/PR, Table C-3. The inventories of both coaters and converters increased in 2006 and interim 2007. CR/PR, Table III-9.

¹⁸¹ CR/PR, Table C-3.

¹⁸² The number of production and related workers increased from 784 in 2004 to 809 in 2005 and then to 828 in 2006. The 827 workers in interim 2007 exceeded the 816 workers in interim 2006. CR/PR, Table C-3. Converters employ the bulk of the domestic industry's production and related workers. The trends for the industry are attributable to the converters; coaters' employment fluctuated within a very narrow range throughout the period of investigation. CR/PR, Table III-10.

¹⁸³ Hourly wages were \$17.02 in 2004, \$17.45 in 2005, \$18.02 in 2006, \$16.84 in interim 2006, and \$16.16 in interim 2007. CR/PR, Table C-3. The trends for the industry are attributable to the converters; coaters' hourly wages were higher in interim 2007 than in interim 2006. CR/PR, Table III-10.

¹⁸⁴ Productivity, in terms of tons per thousand hours, was 92.3 in 2004, 95.6 in 2005, 99.0 in 2006, 81.8 in interim 2006, and 77.0 in interim 2007. CR/PR, Table C-3. The trends in the industry were attributable to the coaters; converters' productivity declined from 2005 to 2006, and was higher in interim 2007 than in interim 2006. CR/PR, Table III-10.

¹⁸⁵ CR/PR, Table VI-3.

¹⁸⁶ CR/PR, Table VI-3.

¹⁸⁷ CR/PR, Table VI-2.

¹⁸⁸ CR/PR, Table VI-1.

¹⁸⁹ Capital expenditures increased from \$8.2 million in 2004 to \$23.2 million in 2005 and then declined to \$12.2 million in 2006. Interim 2007 capital expenditures of \$8.8 million exceeded interim 2006 capital expenditures of

(continued...)

As previously stated, absent issuance of antidumping and countervailing duty orders, subject imports from China will continue the rapid increase in volume and will likely continue the pervasive underselling observed during the period of investigation. The combined volume and price effects of these additional imports would cause declines in the domestic industry's output, shipments, employment, market share, and prices. These declines, in turn, would lead to further deterioration in the domestic industry's financial performance, which was already unprofitable in 2006 and interim 2007. Accordingly, based on the record in these preliminary phase investigations, we determine that there is a reasonable indication that the domestic LWTP industry is threatened with material injury by reason of subject imports from China.¹⁹⁰

CONCLUSION

For the foregoing reasons, we have determined that there is a reasonable indication that the domestic LWTP industry is threatened with material injury by reason of subject imports from China. We determine that subject imports from Korea are negligible, and consequently have terminated the investigation concerning these imports.

¹⁸⁹ (...continued)

\$1.4 million. The fluctuations were attributable to the coaters; converters' capital expenditures increased throughout the period of investigation. CR/PR, Table VI-7.

Research and development expenditures, which were largely made by coaters, increased from *** in 2004 to *** in 2005 and then declined to *** in 2006. Interim 2007 research and development expenditures of *** exceeded interim 2006 expenditures of ***. CR/PR, Table VI-7.

¹⁹⁰ Chairman Pearson and Commissioner Okun note that the petitioner states that LWTP is a commodity product. See, e.g., Appleton Postconference Brief at 16. While they intend to revisit this in any final phase investigations given their finding on fungibility, in the preliminary phase, they assume that LWTP is a commodity product, and, therefore, one of the predicates of the test provided for in Bratsk Aluminium Smelter v. United States, 444 F.3d 1369 (Fed. Cir. 2006) is satisfied. The second predicate of the Bratsk test requires that nonsubject imports are price competitive and a significant factor in the U.S. market. The record indicates that there are no known significant sources of supply of LWTP imports from countries other than China, Germany and Korea. CR/PR at Table IV-2. While the Commission has made a negligibility finding concerning subject imports from Korea, that investigation has not yet terminated under the statute. Accordingly, we continue to recognize Korea as a supply source subject to these investigations. Thus, nonsubject imports are not a significant factor in the U.S. market and for purposes of the preliminary phase of these investigations, Chairman Pearson and Commissioner Okun find the second Bratsk triggering factor is not satisfied. They will revisit this in any final phase investigations. For a complete statement of Chairman Pearson's and Commissioner Okun's interpretation of Bratsk in a preliminary investigation, see Separate and Additional Views of Chairman Daniel R. Pearson and Commissioner Deanna Tanner Okun Concerning Bratsk Aluminum v. United States in Sodium Hexametaphosphate from China, Inv. No. 731-TA-1110 (Preliminary), USITC Pub. 3912 at 19-25 (Apr. 2007).

SEPARATE VIEWS OF COMMISSIONER CHARLOTTE R. LANE

Based on the record in the preliminary phase of these investigations, I find that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of light weight thermal paper (LWTP) from China and Germany that are allegedly sold in the United States at less than fair value and imports of LWTP from China that are allegedly subsidized by the Government of China.

I join with the majority Commission views with regard to: I. The Legal Standard for Preliminary Determinations; II. Background; III. Domestic Like Product; IV. Domestic Industry; V. Negligible imports from Korea; and VII. Conditions of Competition. I write separately, however, with regard to Cumulation and Material Injury By Reason of Subject Imports.

VI. CUMULATION

A. In General

For purposes of evaluating the volume and price effects for a determination of material injury by reason of the subject imports, section 771(7)(G)(i) of the Act requires the Commission to cumulate subject imports from all countries as to which petitions were filed and/or investigations self-initiated by Commerce on the same day, if such imports *compete* (emphasis added) with each other and the domestic like product in the U.S. market.¹ In assessing whether subject imports compete with each other and with the domestic like product, the Commission has generally considered four factors, including:

- (1) the degree of fungibility between the subject imports from different countries and between imports and the domestic like product, including consideration of specific customer requirements and other quality related questions;
- (2) the presence of sales or offers to sell in the same geographic markets of subject imports from different countries and the domestic like product;
- (3) the existence of common or similar channels of distribution for subject imports from different countries and the domestic like product; and
- (4) whether the subject imports are simultaneously present in the market.²

No single factor is necessarily determinative, and the list of factors is not exclusive. These factors have historically been used by the Commission simply to provide a consistent framework for determining whether the subject imports compete with each other and with the domestic like product.³ Moreover, only a “reasonable overlap” of competition is required.⁴ Thus, this framework may be modified or expanded depending on the nature of the product being examined. Importantly, it must be recognized that the analytical framework and factors devised by the Commission are tools for answering

¹ 19 U.S.C. 0 1677(7)(G)(i).

² See Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea, and Taiwan, Inv. Nos. 73 1-TA-278-280 (Final), USITC Pub. 1845 (May 1986), affd, Fundicao Tupy S.A. v. United States, 678 F. Supp. 898 (Ct. Int'l Trade), affd, 859 F.2d 915 (Fed. Cir. 1988).

³ See, e.g. Wieland Werke, AG v. United States, 718 F. Supp. 50 (Ct. Int'l Trade 1989).

⁴ The SAA states that "the new section will not affect current Commission practice under which the statutory requirement is satisfied if there is a reasonable overlap of competition." SAA at 848 (citing Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898,902 (Ct. Int'l Trade 1988)), affd 859 F.2d 915 (Fed. Cir. 1988); See Wieland Werke, AG, 718 F. Supp. at 52 ("Completely overlapping markets are not required.").

the primary statutory question of whether subject imports “compete with each other and the domestic like product in the U.S. market.”

B. Analysis

The threshold requirement for cumulation is satisfied because Petitioner filed a petition with respect to each of the subject countries on the same day and none of the statutory exceptions to cumulation is applicable.^{5 6} Therefore, if subject imports from China and Germany compete with each other and the domestic like product, cumulation is required. I examine the record in light of the factors that the Commission customarily considers in determining whether there is a reasonable overlap of competition.

The fungibility factor has received the most attention of the parties to this proceeding and it is argued by respondents that the imports from China and Germany are not fungible. I shall discuss that factor last.

With regard to geographic overlap, the domestic like product and subject imports from all three countries are marketed throughout the United States. All U.S. coaters and 11 of 17 U.S. converters reported that their product is sold nationally. Those converters that indicated geographic areas rather than national coverage indicate sales in various geographic regions of the country. Six of eight importers of Chinese LWTP reported national sales coverage as did importers of LWTP from Germany.⁷

The distribution channel for most LWTP produced in the United States and imports from both China and Germany are similar. Jumbo roll product must go to converters to be slit to sizes usable by thermal printing devices. Converters may also print advertising and other information on the LWTP before selling the product to distributors or end users. If printing is required, it is accomplished with web flexographic or web offset printing presses before the jumbo rolls are slit.⁸ In addition, the converters purchase pre-slit rolls from China for resale. Although the processing and handling of jumbo rolls is different than the processing and handling of smaller rolls, the record indicates an overlap in channels of distribution for LWTP produced in the United States and all subject imports, including slit rolls imported from China.

There was no LWTP in the market from China in 2004. However, imports from China grew significantly in 2005, 2006 and in interim 2007.⁹ Thus, after 2004 there has been continued simultaneous presence in the market for domestic like product and subject imports from both China and Germany.

The record indicates that domestic LWTP and subject imports from China and Germany meet the traditional tests regarding geographic overlap, channels of distribution and simultaneous presence in the market to find that there is an overlap in competition between the subject imports from China and Germany as well as an overlap in competition between all subject imports and the domestic like product.

Turning to the fungibility factor, I do not agree with an analysis that requires such similarity of products that a perfectly symmetrical fungibility is necessary.¹⁰ I find that the fungibility factor might be better described as an analysis of whether subject imports from each country and the domestic like product could be substituted for each other. Moreover, mere physical differences in the size or packaging

⁵ See 19 U.S.C. 0 1677(7)(G)(ii).

⁶ The Commission has terminated the investigation with respect to subject imports from Korea. Therefore, my cumulation analysis is limited to subject imports from China and Germany.

⁷ CR at II-1-2, PR at II-1.

⁸ CR at I-12, PR at I-10.

⁹ CR/PR at Table IV-2.

¹⁰ See Goss Graphic Sys Inc., v. United States, 33 F. Supp. 2d 1082,1087 (Ct. Int'l Trade 1998) ("cumulation does not require two products to be highly fungible").

of a product which may require different handling, resizing or repackaging do not make products that are otherwise identical in characteristics and uses unsubstitutable.

A majority of all industry participants indicate that LWTP from China and Germany are either always or frequently interchangeable.¹¹ Domestic coaters indicated that LWTP from China and Germany were always interchangeable. Four domestic converters indicated that LWTP from China and Germany were always interchangeable and three indicated that they were sometimes interchangeable. Three U.S. importers indicated that LWTP from China and Germany were always interchangeable, one indicated that they were frequently interchangeable, three indicated that they were sometimes interchangeable and only two indicated that they were never interchangeable. Thus, out of eighteen responses regarding perceived interchangeability, ten indicated that the products were either always or frequently interchangeable and six indicated that they were sometimes interchangeable. These responses indicate that the imports from China and Germany are more than moderately substitutable for each other.

Although the imports from China and Germany were considered to be interchangeable by a majority of the market participants responding to the Commission's questionnaires, respondents argue that LWTP from Germany does not compete with LWTP from China because the imports from Germany are jumbo rolls that must be slit to consumer sizes while virtually all of the imports from China are small slit rolls.¹² Thus, disregarding the substitutability of the paper itself, respondents argue that there is no competition between German and Chinese LWTP because jumbo rolls are not directly interchangeable with slit rolls.

The record indicates that the subject light weight thermal paper imported from China and Germany serves the same end uses and is the same basic product except for the size of the imported rolls. Clearly, this similarity led a majority of market participants to conclude that the Chinese and German LWTP was interchangeable. The record also indicates that imports from Germany are jumbo rolls that must be slit before they can be sold for use in thermal printers while imports from China have already been slit to thermal printer sizes. While this is a difference, it cannot lead to a conclusion, based on the limited record at this preliminary stage, that imports from China do not compete with imports from Germany.

The domestic industry testified that the jumbo rolls and converted rolls are so intertwined in the market that converted rolls compete with both jumbo rolls and converted rolls. Appleton's representative further argued that some converters purchase converted rolls rather than buying jumbo rolls and converting them. They further argue that the German suppliers have lowered their prices in response to prices of the Chinese imports. This is competition between the German imports and the Chinese imports. There may be conflicting evidence that rebuts the assertions of Appleton that could be gathered in a final proceeding. However, at this time there is no such rebuttal on the record. This argument of Appleton goes to the heart of the question of competition between jumbo and slit rolls and it requires more detailed analyses, a public hearing before the Commission, and briefing from the parties before it could be determined that the slit rolls from China do not compete against the jumbo rolls from Germany.

Respondents argue that the lack of certification of Chinese LWTP by Epson and IBM and the lower quality of the Chinese LWTP are sufficient reasons to find that there is no competition between LWTP from Germany and LWTP from China. However the record is mixed as to the extent of the quality differences. While some importers indicated that there were quality differences between LWTP

¹¹ There is no question that jumbo rolls cannot be used in printing machines without being slit. The record also indicates that all LWTP imported from Germany are jumbo rolls and the vast majority of LWTP imported from China are slit to smaller sizes. Therefore the responses regarding interchangeability could not have meant that jumbo rolls can be interchanged for a slit roll in a printing machine. Instead, the responses recognize that the products have the same functional use and properly sized can be substituted for each other.

¹² Until 2007, it appears that 100% of the imports from China were smaller rolls. However, in 2007 a relatively small quantity of imports from China did enter the United States in jumbo roll form.

from China and Germany, other importers reported that they had not received any complaints regarding LWTP imported from China and that the quality of the Chinese imports was improving. Moreover, although Epson and IBM certify the use of LWTP from Germany but not from China, the evidence indicates that other manufacturers of thermal printers certify all certain LWTP.

The subject imports from China and Germany and domestic like product all exhibit an extensive overlap with regard to their simultaneous presence in the total United States market. The record is clear that the uses of the paper imported from China and Germany are the same. The physical characteristics of imports from China and Germany, other than size of rolls, are also the same. A majority of market participants believe that LWTP from China can be substituted for LWTP from Germany. This evidence points to a reasonable overlap of competition between imports from China and Germany and competition of all subject imports with U.S. domestic product.

The statute requires cumulation absent strong and convincing evidence that there is no overlap of competition. At this preliminary stage of this proceeding the weight of the evidence indicates that subject imports from China and Germany compete with each other and with the domestic like product and that all of the requirements for mandatory cumulation have been met.

IX. REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF SUBJECT IMPORTS FROM CHINA AND GERMANY

In the preliminary phase of an investigation, the Commission determines whether there is a reasonable indication that an industry in the United States is materially injured by reason of the subject imports.¹³ The statute defines material injury as "harm which is not inconsequential, immaterial, or unimportant." In making its determination, the Commission considers the volume of subject imports, the effect of subject imports on prices for the domestic like product, and the impact of subject imports on U.S. operations of domestic producers of the domestic like product. 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 domestic industry."

For the reasons stated below, I determine that there is a reasonable indication that the domestic LWTP industry is materially injured by reason of subject imports from China and Germany.

A. Volume of Subject Imports

The volume and market share of cumulated subject imports from China and Germany rose throughout the period of investigation ("POI"). The quantity of cumulated subject imports increased each year of the POI, going from from *** tons in 2004 to *** tons in 2006, an increase of *** percent in two years. The interim 2007 imports increased at an even greater annual rate, increasing by *** percent from *** tons in interim 2006 to *** tons in interim 2007. The share of U.S. apparent consumption represented by cumulated subject imports increased from *** percent in 2004 to *** percent in 2006. This increasing market share trend continued into interim 2007 where cumulated market share reached *** percent.¹⁴

I find that the volume of cumulated subject imports, as well as the increase in that volume, is significant both in absolute terms and relative to total U.S. consumption.

¹³ 19 U.S.C. §1673b(a).

¹⁴ Derived from CR/PR, Table C-3.

B. Price Effects of Subject Imports

The statute provides that, in evaluating the price effects of subject imports:

the Commission shall consider whether – (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.¹⁵

The testimony and information from purchasers in the record indicates that price appears to be an important factor in purchasing decisions. Moreover, a clear majority of market participants indicated that the subject imports were either always or frequently interchangeable with the domestic like product and most of the remaining responses indicated that they were sometimes interchangeable.¹⁶ Although the data vary somewhat between the importance of price for products from China and products from Germany, overall the record indicates that price is an important factor in purchasing decisions.¹⁷

Turning to the pricing data, on an f.o.b. basis, cumulated subject imports undersold the domestic like product in 17 of 40 quarterly comparisons. However, on a delivered price basis, cumulated subject imports undersold the domestic like product in 34 of 40 quarterly comparisons. Considering this mixed data regarding f.o.b. versus delivered prices, in the final phase of these investigations the parties should address the use of a delivered price to evaluate underselling by subject imports.

With regard to China and Germany, the record contains *** lost sales allegations and *** lost revenue allegations representing combined revenue losses of *** million.¹⁸ Out of the *** allegations, the Commission received clear disagreements in *** instances and clear confirmations *** instances. There was a partial disagreement regarding *** of the allegations and no response regarding the balance of the allegations.

The above data present a somewhat mixed picture, but one which indicates underselling and significant price competition. Moreover, the domestic industry has been unable to significantly reduce its high ratio of cost of goods sold to net sales values. The domestic industry's unit cost of goods sold increased by \$76 per ton from 2004 to 2006 while the average unit value of net sales increased by only \$64 per ton. In interim 2007, the average unit cost of goods sold increased by \$14 a ton over interim 2006 while the average unit value of net sales decreased by \$21 per ton.¹⁹ These data indicate a cost/price squeeze on the domestic industry as the ratio of cost of goods sold to revenue increased from 87.7 percent in 2004 to 88.7 percent in 2006 and to 90.4 percent in interim 2007.

Considering the underselling, the confirmed and unanswered lost sales and lost revenue allegations and the cost price squeeze on the domestic industry, the record demonstrates that the subject imports have had both a suppressing and depressing effect on domestic prices.

C. Impact of Subject Imports on the Domestic Industry

The statute requires that the Commission, in examining the impact of the subject imports on the domestic industry, evaluate all relevant economic factors which have a bearing on the state of the

¹⁵ 19 U.S.C. §1677(7)(C)(ii).

¹⁶ CR/PR, Table II-1.

¹⁷ CR/PR, Table II-2, CR at V-28-35, PR at V-10-13.

¹⁸ CR/PR, Tables V-7 and V-8.

¹⁹ CR/PR, Table C-3.

industry. These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, research and development, and factors affecting domestic prices. No single factor is dispositive and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."

The domestic industry's output, sales and financial performance have not improved commensurate with the increases in U.S. demand for LWTP. Apparent U.S. consumption of LWTP increased throughout the period of investigation, as domestic industry market share declined and the domestic industry incurred operating income losses in 2004, 2006, interim 2006 and interim 2007. In interim 2007, the domestic industry's operating income percentage to net sales declined to its lowest level of the POI and production and shipments were lower in interim 2007 than in interim 2006. This decline in operating income in interim 2007 accompanied a decline in output and sales by the domestic industry while subject imports continued to increase.

The domestic industry's output increased steadily from 145,688 tons in 2004 to 167,580 tons in 2006.²⁰ However, this increase of approximately 22,000 tons represented only *** percent of the growth in domestic consumption. Although domestic consumption increased by *** percent from 2004 to 2006, the domestic industry's production increase was only 15 percent. Also, a portion of the increased production went to increased inventories which rose from 9,198 tons in 2004 to 12,864 tons in 2006 and further increased to 13,976 tons by June of 2007. The domestic industry's capacity utilization increased during the period of investigation; however, it dropped in interim 2007 as compared to interim 2006.

U.S. shipments by the domestic industry increased from 130,176 tons in 2004 to 147,433 tons in 2006.²¹ This trend reversed in interim 2007 as shipments decreased to 67,954 tons as compared to 70,872 tons in interim 2006. This increase in U.S. shipments from 2004 to 2006 represented an increase of 13.3 percent as compared to the increase in domestic consumption of 23.1 percent over the same period. The domestic industry's market share declined steadily throughout the period of investigation, declining from *** percent in 2004 to *** percent in 2006. In interim 2007, the domestic industry's market share fell to *** percent as compared to an interim 2006 market share of *** percent.

The domestic industry's financial performance was less than robust throughout the period of investigation and declined to its lowest level in interim 2007.²² Net operating income was negative \$464,000 in 2004, improved to a relatively small positive \$1,816,000 in 2005 and dropped to a negative \$243,000 in 2006. In interim 2007, net operating income was a loss of \$3,180,000, compared to a loss of \$599,000 in interim 2006. As a percentage of net sales, net operating income was negative 0.2 percent in 2004, 0.6 percent in 2005 and negative 0.1 percent in 2006. The percentage of net operating income to net sales fell to negative 2.3 percent in interim 2007 compared to negative 0.4 percent in interim 2006.

The domestic industry's financial data indicate a cost price squeeze that is contributing to its poor financial performance. Although the industry was able to increase its average unit value of net sales over the POI, that increase was less than the increase in the average unit value of its cost of goods sold. In interim 2007 the cost of goods sold continued to increase while the average unit value of sales declined. The record supports a finding that the poor financial performance of the domestic industry is attributable to the increasing volume of subject imports and the price suppressing and depressing effects of subject imports. Accordingly, I find that there is a reasonable indication that the domestic industry producing LWTP is materially injured by reason of cumulated subject imports from China and Germany.

²⁰ CR/PR, Table C-3.

²¹ Id.

²² Id.

SEPARATE VIEWS OF COMMISSIONER IRVING A. WILLIAMSON REGARDING THREAT OF MATERIAL INJURY WITH RESPECT TO GERMANY¹

The volume and market penetration of the subject imports from Germany increased during the period of investigation (“POI”) and between interim periods, indicating the likelihood of substantially increased imports in the imminent future. Subject import volume rose from *** tons in 2004 to *** tons in 2005 and *** tons in 2006; it was *** tons in interim 2007 compared to *** tons in interim 2006.² Subject imports have had a large and growing share of the U.S. market throughout the POI. Subject imports’ share of the total market was *** percent in 2004, *** percent in 2005, *** percent in 2007, *** percent in interim 2006, and *** percent in interim 2007.³ Subject imports’ share of the jumbo roll market rose from *** percent in 2004 to *** percent in 2005, then fell to *** percent in 2006; it was *** percent in interim 2007 compared to *** percent in interim 2006.^{4 5}

Several factors indicate that this increase in subject import volume and market penetration will continue in the imminent future. The German industry has increased its capacity and production throughout the POI. Capacity grew from *** tons in 2004 to *** tons in 2006, and from *** tons in interim 2006 to *** tons in interim 2007. Production rose from *** tons in 2004 to *** tons in 2006, and from *** tons in interim 2006 to *** tons in interim 2007. The industry is projecting further increases in capacity, to *** tons in 2007 and *** tons in 2008, and increases in production, to *** tons in 2007 and *** tons in 2008.⁶

The German industry is highly export-oriented, with exports accounting for about *** percent of shipments throughout the POI, and this level of export orientation is forecast to continue. The industry’s exports increased over the POI, from *** tons in 2004 to *** tons in 2005 and *** tons in 2006. Exports increased further between interim periods, from *** tons in interim 2006 to *** tons in interim 2007. The United States was an important market for the German industry, accounting for slightly over *** percent of all shipments throughout the POI.⁷ Finally, U.S. importers reported that they already had orders for *** short tons of German product for the period subsequent to June 30, 2007.^{8 9}

¹ As discussed above in the Views of the Commission, I do not cumulate subject imports from China and Germany due to lack of a reasonable overlap of competition. In its notice of initiation, Commerce estimated ad valorem weighted-average dumping margins for imports of certain lightweight thermal paper from Germany ranging from 29.79 to 75.36 percent. 72 FR 62430, November 5, 2007.

² CR/PR at Table IV-4.

³ CR/PR at Table C-3.

⁴ CR/PR at Table C-1. I note that if the market share for the jumbo roll market is calculated without including subject imports from China (which are almost entirely slit rolls) in total apparent consumption, Germany’s market share rose from *** percent in 2004 to *** percent in 2005 and *** percent in 2006, and was *** percent in interim 2007 compared to *** percent in interim 2006.

⁵ I note that at least some of the increase in subject imports from Germany is attributable to 48 gram paper, which may not have been available from domestic producers in adequate volumes or quality to serve market demand. See, e.g., CR at II-12, PR at II-7-8. In any final phase investigations, I intend to further investigate issues related to 48 gram paper.

⁶ CR/PR at Table VII-2.

⁷ CR/PR at Table VII-2.

⁸ CR/PR at Table VII-4.

⁹ I have also examined inventories of the subject merchandise. From 2004 to 2006, inventories in Germany of the subject merchandise rose both absolutely and as a share of both the German industry’s production and its total

(continued...)

With respect to pricing developments, as discussed in the Commission's views with respect to China, the record indicates that price is at least a moderately important factor in purchasing decisions. The record indicates that jumbo rolls from Germany are generally interchangeable with jumbo rolls produced in the United States.¹⁰ However, there is also some indication that quality distinctions may reduce the degree of substitutability.¹¹

As discussed earlier, relatively late in these investigations, Appleton argued that the Commission should compare product prices on a delivered, rather than f.o.b., basis. Consequently, I have examined both the f.o.b. price data collected by the Commission as well as the estimated delivered price data constructed by Commission staff. The f.o.b. data show subject imports from Germany overselling domestic product in 22 of 27 quarterly comparisons.¹² However, the margins of overselling were generally low, indicating a high degree of price competitiveness between domestic product and subject imports. The constructed delivered price data indicate that subject imports undersold the domestic like product in 22 of 27 quarterly comparisons, but again by relatively small margins.¹³

While I recognize that Appleton raised the issue of pricing basis late in the investigation, I nonetheless cannot conclude, on this record, that I should consider only the f.o.b. data. Thus, the record may indicate some underselling over the period of investigation. The record also contains two confirmed lost sales allegations involving subject imports from Germany and ten confirmed lost revenue allegations involving subject imports from Germany in whole or in part.¹⁴

The record contains pricing data on one 48 gram jumbo roll product and one 55 gram jumbo roll product. Prices for both the domestic like product and the subject imports from Germany fluctuated at increasing levels from 2004 to 2006, reaching period peaks in the fourth quarter of 2006. Prices for both the domestic like product and the subject imports from Germany declined during each of the first two quarters of 2007.¹⁵ These decreased domestic prices in interim 2007 correlate to increases in subject imports from Germany in interim 2007 as compared to interim 2006. Moreover, during the first two quarters of 2007, as prices declined, combined shipment volumes for subject imports from Germany of the two jumbo roll pricing products were higher than in the comparable quarters of 2006, while combined shipment volumes of the U.S.-produced jumbo roll products were lower.¹⁶ The record also contains some indication of price suppression, as the total industry's COGS/sales ratio rose from 87.7 percent in 2004 to 88.7 percent in 2006, and was 90.4 percent in interim 2007 as compared to 88.8 percent in interim 2006.¹⁷

In light of: (a) the importance of price in purchasing decisions, (b) evidence of at least a moderate degree of interchangeability between the domestic like product and subject imports from

⁹ (...continued)

shipments; inventories in Germany also were higher by all those measures in interim 2007 compared to interim 2006. CR/PR at Table VII-2. No inventories were reported by U.S. importers. CR at VII-10, PR at VII-5. While I do not rely on product shifting as a basis for my affirmative threat determination, I note that *** reporting producers in Germany indicated that they produced ***. CR at VII-6 nn.11&13; PR at VII-3-4 nn.11&13.

¹⁰ CR/PR at Table II-1.

¹¹ CR at II-13-14, PR at II-8. In any final phase investigations, I intend to closely examine the issue of quality differences between subject imports from Germany and domestic product.

¹² CR/PR at Table V-6.

¹³ CR/PR at Tables D-1 and D-2.

¹⁴ CR/PR at Tables V-7 and V-8.

¹⁵ CR/PR at Tables V-1, V-2, D-1, and D-2.

¹⁶ CR/PR at Tables V-1 and V-2.

¹⁷ CR/PR at Table VI-3. For the coaters alone, who compete most directly with subject imports from Germany, the ratio rose from *** percent in 2004 to *** percent in 2006, and was *** percent in interim 2007 as compared to *** percent in interim 2006. CR/PR at Table VI-1.

Germany, (c) the narrow band of prices in which domestic prices and subject imports from Germany compete, (d) a mixed record on underselling based on two sets of pricing data, (e) decreasing domestic prices in 2007 corresponding to increased subject imports, and (f) some confirmed lost sales and revenues, I find, for purposes of this preliminary investigation, that the subject imports will enter the U.S. market at prices that are likely to increase demand for these imports and have significant adverse price effects.

As discussed above in the Commission's views with respect to China, the overall domestic industry's performance was mixed from 2004 to 2006, but then declined between interim periods. The domestic industry's declining performance occurred as subject imports steadily increased. In particular, between interim periods, subject imports' share of the total market rose from *** percent to *** percent, and the domestic industry's operating income ratio fell from negative 0.4 percent to negative 2.3 percent. I have also examined the jumbo roll segment of the market, where the competition between subject imports and the domestic industry is most direct.¹⁸ In this segment, subject import market share increased from *** percent in 2004 to *** percent in 2006, and from *** percent in interim 2006 to *** percent in interim 2007.¹⁹ The operating income ratio of the jumbo roll producers was *** percent in 2004, *** in 2005, and *** in 2006. Between interim periods, it *** at the same time that subject import market share ***. The decline in the domestic industry's condition in interim 2007 (both for the industry as a whole and for the jumbo roll producers) occurred as subject imports increased sharply.²⁰

As previously stated, absent issuance of antidumping and countervailing duty orders, subject imports from Germany will likely continue to increase in volume and market share, and compete closely on price with domestic product. This in turn would cause declines in the domestic industry's output, shipments, employment, market share, and prices. These declines, in turn, would lead to further deterioration in the domestic industry's financial performance, which was already unprofitable in 2006 and interim 2007.

I recognize that there are a number of factors that may indicate that subject imports from Germany do not pose a threat of material injury to the domestic industry. For example, there is some evidence that, at some points in the POI, customers experienced problems with domestic producers, particularly Appleton.²¹ There is also evidence that *** in the jumbo roll market, as ***.²² There is also evidence that, at least during most of the POI, the domestic industry could not compete effectively with the 48 gram product being offered by the German producers.²³ There is also only limited correlation between subject import volumes and the condition of the domestic industry. In addition, the condition of the domestic industry toward the end of the POI contrasts with the decision by Appleton to make a huge investment to expand its West Carrollton mill. I intend to examine these issues and others relating to causation closely in any final phase investigation.

¹⁸ While I analyze the domestic industry as a whole as directed by the statute, 19 U.S.C. §1677(4)(A), I note the *** and intend to further examine issues related to this disparity in any final phase investigations.

¹⁹ CR/PR at Table IV-5. As noted earlier, if subject imports from China (which are almost entirely slit rolls) are removed from the calculation, subject imports from Germany have an even greater share of the jumbo roll market.

²⁰ As previously discussed in Conditions of Competition, the record indicates that the market for LWTP is somewhat seasonal, with demand increasing toward the end of the calendar year. Thus, the data for the interim periods (January-June) may not be fully indicative of trends between full year periods. In any final phase investigations, I intend to more closely examine the issue of seasonality in this market.

²¹ CR at II-4-6; PR at II-3-4.

²² Domestic Producer and Importer Questionnaire Responses. Some market participants stated that ***. CR at V-9 n.19; PR at V-6 n.19.

²³ CR at II-9-10, PR at II-6.

However, based on the current record, and in light of the standard for preliminary determinations, I find a reasonable indication that the domestic LWTP industry is threatened with material injury by reason of subject imports from Germany.

SEPARATE VIEWS OF COMMISSIONER DEAN A. PINKERT ON REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF SUBJECT IMPORTS FROM GERMANY

As set forth in the Commission's Views, I join my colleagues in their findings regarding domestic like product, domestic industry, negligibility, cumulation, and conditions of competition, except as noted. In section V of the Commission's Views, I join my colleagues in making a negligible determination with respect to subject imports from Korea. Consequently, the investigation regarding subject imports from Korea has been terminated, and those imports are no longer eligible for cumulation. In section VI. of the Commission's Views, I join the majority of my colleagues in finding no reasonable overlap of competition between subject imports from China and subject imports from Germany. Therefore, I have not cumulated subject imports from China with subject imports from Germany. In these Separate Views, I set forth the legal standard for preliminary determinations and my reasons for finding in the preliminary phase of these investigations that there is a reasonable indication of material injury by reason of subject imports from Germany.¹

In the preliminary phase of antidumping or countervailing duty investigations, the Commission determines whether there is a reasonable indication that an industry in the United States is materially injured by reason of the imports under investigation.² In making this determination, the Commission must consider the volume of subject imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.³ The statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant."⁴ In assessing whether there is a reasonable indication that the domestic industry is materially injured by reason of subject imports, the Commission considers all relevant economic factors that bear on the state of the industry in the United States.⁵ 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."⁶

For the reasons stated below, I determine that there is a reasonable indication that the domestic LWTP industry is materially injured by reason of subject imports from Germany.

¹ As set forth in section VIII. of the Commission's Views, I have joined the majority of my colleagues in making an affirmative determination that there is a reasonable indication of threat of material injury by reason of subject imports from China.

² 19 U.S.C. § 1673b(a).

³ 19 U.S.C. § 1677(7)(B)(i). The Commission "may consider such other economic factors as are relevant to the determination" but shall "identify each [such] factor . . . [a]nd explain in full its relevance to the determination." 19 U.S.C. § 1677(7)(B); see also, e.g., Angus Chem. Co. v. United States, 140 F.3d 1478 (Fed. Cir. 1998).

⁴ 19 U.S.C. § 1677(7)(A).

⁵ 19 U.S.C. § 1677(7)(C)(iii).

⁶ 19 U.S.C. § 1677(7)(C)(iii).

A. Volume of Subject Imports

Section 771(7)(C)(I) of the Act provides that the “Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant.”⁷

As previously stated, Germany is the largest source of subject imports. The volume and market penetration of subject imports from Germany rose throughout the period of investigation. The quantity of subject imports from Germany increased by *** percent from 2004 to 2006, rising from *** short tons in 2004 to *** short tons in 2005 and then to *** short tons in 2006. The *** short tons of subject imports from Germany in interim 2007 exceeded the *** short tons in interim 2006 by *** percent.⁸ The share of apparent U.S. consumption represented by subject imports from Germany increased from *** percent in 2004 to *** percent in 2005 and then to *** percent in 2006. The *** percent interim 2007 market penetration of subject imports from Germany exceeded the *** percent market penetration in interim 2006.⁹ As subject imports from Germany increased their share of the U.S. market over the period of investigation, the share of the U.S. market held by the domestic industry steadily decreased.

For purposes of this preliminary determination, I find the volume of subject imports from Germany, and the increase in that volume, in absolute terms and relative to apparent U.S. consumption, to be significant.¹⁰

B. Price Effects of Subject Imports

Section 771(C)(ii) of the Act provides that, in evaluating the price effects of subject imports:

the Commission shall consider whether – (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.¹¹

The testimony and information from purchasers in the record indicates that price appears to be at least a moderately important factor in purchasing decisions.¹² Majorities of all market participants found the domestic like product and subject imports from Germany at least frequently interchangeable.¹³

⁷ 19 U.S.C. § 1677(7)(C)(i).

⁸ CR/PR, Table IV-2.

⁹ CR/PR, Table C-3.

¹⁰ German Respondents have argued that increases in subject import volume from Germany since 2005 have been attributable to products that the domestic industry does not produce in commercial quantities. German Respondent’s Postconference Brief at 19-21. The current record is insufficient to permit me to evaluate this argument comprehensively.

In any final phase investigations, I will explore further the extent to which the increases in subject import volume from Germany are attributable to products, such as 48 gram basis weight products, that are either not offered or have not been available on a consistent basis from the domestic industry.

¹¹ 19 U.S.C. § 1677(7)(C)(ii).

¹² Tr. at 146-47 (Granholm), 156, 159-60 (Schwartz); CR at V-28, V-30-33, V-35, PR at V-10-13.

¹³ CR/PR, Table II-1.

Quality distinctions between the subject imports from Germany and U.S.-produced jumbo rolls may, however, serve to reduce the degree of substitutability between the products.¹⁴

In my analysis of underselling, I have examined both the pricing data reported by producers and importers on an f.o.b. basis and the data on a delivered basis constructed by Commission staff. These two sets of pricing data reflect disparate trends with respect to price underselling by subject imports from Germany. On an f.o.b. basis, subject imports from Germany oversold the domestic like product in 22 of 27 quarterly comparisons.¹⁵ On a delivered price basis, subject imports from Germany undersold the domestic like product in 22 of 27 quarterly comparisons.¹⁶ I note that the report indicates that inland U.S. freight charges for domestic producers were reported to be generally higher than those for subject German producers. Such charges were factored into the pricing data on a delivered basis, but not the pricing data on a f.o.b. basis.¹⁷ On either basis, both the overselling and underselling margins were small in magnitude,¹⁸ implying a high degree of price competitiveness between subject imports from Germany and the domestic like product.

It is not my view on this record that I should limit my examination to the f.o.b. data. Nevertheless, I recognize that the delivered price estimates do not, for the most part, represent actual prices paid by purchasers. For this reason, I find that the delivered pricing data do not provide authoritative evidence of significant underselling. I note also that the record contains two confirmed lost sales allegations involving subject imports from Germany and ten confirmed lost revenue allegations involving subject imports from Germany in whole or in part.¹⁹

I conclude that the record is mixed regarding the significance of underselling by subject imports from Germany. I invite parties to comment on whether f.o.b. pricing data or delivered pricing data are more representative of pricing in this industry in any final phase investigations.

The questionnaires requested pricing data on one 48 gram jumbo roll product and one 55 gram jumbo roll product. Prices for both the domestic like product and the subject imports from Germany fluctuated at increasing levels from 2004 to 2006, reaching period peaks in the fourth quarter of 2006. Prices for both the domestic like product and the subject imports from Germany declined during each of the first two quarters of 2007.²⁰ During the first two quarters of 2007, as prices declined, combined shipment volumes for subject imports from Germany of the two jumbo roll pricing products increased from the levels of the comparable quarters of 2006, while combined shipment volumes of the U.S.-produced jumbo roll products declined.²¹ I note that the decreased domestic prices in 2007 correlated to increases in subject imports from Germany in interim 2007 as compared to interim 2006.

In light of the importance of price in purchasing decisions, evidence of interchangeability between the domestic like product and subject imports from Germany, the narrow band of prices in which domestic prices and subject imports from Germany compete, a mixed record on underselling based on two sets of pricing data, decreasing domestic prices in 2007 which corresponded to higher levels of subject imports from Germany, and some confirmed lost sales and revenues, I find a reasonable indication

¹⁴ Five converters characterized the subject imports from Germany as superior in quality to jumbo rolls produced by Appleton. CR at II-13-14, PR at II-8. Additional information in any final phase investigations may enable me to examine whether perceptions of quality differences between the subject imports from Germany and domestically produced jumbo rolls are widespread.

¹⁵ CR/PR, Table V-6.

¹⁶ CR/PR, Table D-5.

¹⁷ CR/PR, Table D-1-2.

¹⁸ CR/PR, Tables V-6, D-5.

¹⁹ CR/PR, Tables V-7-8.

²⁰ CR/PR, Tables V-1-2, D-1-2.

²¹ CR/PR, Tables V-1-2.

of price depression of domestic prices by subject imports from Germany. Therefore, I find, for purposes of this preliminary investigation, that subject imports have had adverse price effects on domestic prices.

C. Impact of Subject Imports on the Domestic Industry

Section 771(7)(C)(iii) provides that the Commission, in examining the impact of the subject imports on the domestic industry, “shall evaluate all relevant economic factors which have a bearing on the state of the industry.”²² These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, research and development, and factors affecting domestic prices. No single factor is dispositive and all relevant factors are considered “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”²³

Output-related measures of domestic industry performance generally rose from 2004 to 2006, but were lower in interim 2007 than in interim 2006. These include the domestic industry’s capacity,²⁴ its production,²⁵ and its domestic shipments.²⁶ Capacity utilization also increased from 2004 to 2006, but was lower in interim 2007 than in interim 2006.²⁷ The capacity utilization rates of coaters were much higher than those of converters.²⁸ End-of period inventories rose sharply in 2006 and were appreciably

²² 19 U.S.C. § 1677(7)(C)(iii); see also SAA at 851 and 885 (“In material injury determinations, the Commission considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they also may demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.”) SAA at 885.

In its notice of initiation, Commerce calculated estimated alleged dumping margins for Germany ranging from 29.79 to 75.36 percent. 72 Fed. Reg. at 62434.

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

²⁴ The domestic industry’s capacity increased from 239,653 short tons in 2004 to 252,727 short tons in 2005 and then to 256,176 short tons in 2006. The interim 2007 capacity of 134,704 short tons was less than the interim 2006 capacity of 134,998 short tons. CR/PR, Table C-3. Coaters’ capacity increased each year from 2004 to 2006, and was lower in interim 2007 than in interim 2006. CR/PR, Table III-2. Converters’ capacity increased each year from 2004 to 2006, and was higher in interim 2007 than in interim 2006. CR/PR, Table III-4.

²⁵ The domestic industry’s production increased from 145,688 short tons in 2004 to 155,717 short tons in 2005 and then to 167,580 short tons in 2006. The interim 2007 production of 71,847 short tons was less than the interim 2006 production of 75,060 short tons. CR/PR, Table C-3. Coaters’ production increased each year from 2004 to 2006, and was lower in interim 2007 than in interim 2006. CR/PR, Table III-2. Converters’ production increased each year from 2004 to 2006, and was higher in interim 2007 than in interim 2006. CR/PR, Table III-4.

²⁶ The domestic industry’s U.S. shipments increased from 130,176 short tons in 2004 to 138,420 short tons in 2005 and then to 147,433 short tons in 2006. Interim 2007 U.S. shipments of 67,954 short tons were less than the interim 2006 U.S. shipments of 70,872 short tons. CR/PR, Table C-3. Coaters’ U.S. shipments increased each year from 2004 to 2006, and were lower in interim 2007 than in interim 2006. CR/PR, Table III-6. Converters’ U.S. shipments increased each year from 2004 to 2006, and were higher in interim 2007 than in interim 2006. CR/PR, Table III-7.

²⁷ The domestic industry’s capacity utilization increased from 60.8 percent in 2004 to 61.6 percent in 2005 and then to 65.4 percent in 2006. The interim 2007 capacity utilization of 53.3 percent was lower than the interim 2006 capacity utilization of 55.6 percent. CR/PR, Table C-3.

²⁸ Coaters’ capacity utilization rates were *** percent in 2004, *** percent in 2005, *** percent in 2006, *** percent in interim 2006, and *** percent in interim 2007. CR/PR, Table III-2. Converters’ capacity utilization rates were *** percent in 2004, *** percent in 2005, *** percent in 2006, *** percent in interim 2006, and *** percent in interim 2007. CR/PR, Table III-2.

higher in interim 2007 than in interim 2006.²⁹ As discussed in connection with conditions of competition, the inventory increases during the latter portion of the period of investigation appear to be a result of increased purchases of U.S.-coated jumbo rolls during the fourth quarter of 2006.

The domestic industry's market share fell throughout the period of investigation, declining from *** percent in 2004 to *** percent in 2005 and then to *** percent in 2006. The domestic industry's interim 2007 market share of *** percent was lower than its interim 2006 market share of *** percent.³⁰

Employment-related measures generally rose, although some measures showed declines in interim 2007. The number of production workers increased throughout the period of investigation.³¹ Hourly wages increased from 2004 to 2006, but were lower in interim 2007 than in interim 2006.³² Productivity followed trends similar to hourly wages; however, productivity for each of the interim periods was appreciably lower than productivity for any full calendar year.³³

While the domestic industry's financial performance fluctuated during the period of investigation, the industry operated at a loss during all but one reporting period. In its one profitable year, 2005, its operating margin was extremely low. The industry's sales revenues and costs of goods sold (COGS) each increased from 2004 to 2006 and were lower in interim 2007 than in interim 2006. The ratio of COGS to net sales fluctuated within a fairly narrow range, declining from 87.7 percent in 2004 to 87.5 percent in 2005, and increasing to 88.7 percent in 2006; the 90.4 percent ratio in interim 2007 was greater than the 88.8 percent ratio in interim 2006.³⁴ The domestic industry's operating margin was negative 0.2 percent in 2004, 0.6 percent in 2005, negative 0.1 percent in 2006, negative 0.4 percent in interim 2006, and negative 2.3 percent in interim 2007.³⁵ Converters operated profitably during all reporting periods.³⁶ By contrast, coaters operated at a loss during all reporting periods.³⁷ Capital expenditures and research and development expenditures each fluctuated during the period of investigation.³⁸

²⁹ The domestic industry's inventories increased from 9,198 short tons in 2004 to 9,229 short tons in 2005 and then to 12,864 short tons in 2006. Interim 2007 U.S. inventories of 13,976 short tons were greater than the interim 2006 U.S. inventories of 9,557 short tons. CR/PR, Table C-3. The inventories of both coaters and converters increased in 2006 and interim 2007. CR/PR, Table III-9.

³⁰ CR/PR, Table C-3.

³¹ The number of production and related workers increased from 784 in 2004 to 809 in 2005 and then to 828 in 2006. The 827 workers in interim 2007 exceeded the 816 workers in interim 2006. CR/PR, Table C-3. Converters employ the bulk of the domestic industry's production and related workers. The trends for the industry are attributable to the converters; coaters' employment fluctuated within a very narrow range throughout the period of investigation. CR/PR, Table III-10.

³² Hourly wages were \$17.02 in 2004, \$17.45 in 2005, \$18.02 in 2006, \$16.84 in interim 2006, and \$16.16 in interim 2007. CR/PR, Table C-3. The trends for the industry are attributable to the converters; coaters' hourly wages were higher in interim 2007 than in interim 2006. CR/PR, Table III-10.

³³ Productivity, in terms of tons per thousand hours, was 92.3 in 2004, 95.6 in 2005, 99.0 in 2006, 81.8 in interim 2006, and 77.0 in interim 2007. CR/PR, Table III-2. The trends in the industry were attributable to the coaters; converters' productivity declined from 2005 to 2006, and was higher in interim 2007 than in interim 2006. CR/PR, Table III-10.

³⁴ CR/PR, Table VI-3.

³⁵ CR/PR, Table VI-3.

³⁶ CR/PR, Table VI-2.

³⁷ CR/PR, Table VI-1.

³⁸ Capital expenditures increased from \$8.2 million in 2004 to \$23.2 million in 2005 and then declined to \$12.2 million in 2006. Interim 2007 capital expenditures of \$8.8 million exceeded interim 2006 capital expenditures of \$1.4 million. The fluctuations were attributable to the coaters; converters' capital expenditures increased throughout the period of investigation. CR/PR, Table VI-7.

(continued...)

The record indicates that the domestic industry has not been able to benefit financially from the increases in U.S. demand for LWTP. Indeed, while apparent U.S. consumption of LWTP increased throughout the period of investigation, industry performance fluctuated and the industry incurred operating losses during most of the period. Moreover, during interim 2007, industry declines were not limited to operating performance. Instead, production and shipments were lower in interim 2007 than in interim 2006. I do not find these declines to be a function solely of the inventory buildup that resulted from the increased purchasing which occurred during the latter portion of 2006. Notwithstanding the increase in inventories in interim 2007, apparent U.S. consumption continued to increase.³⁹ Moreover, the domestic industry's decline in output was not matched by a decline in subject imports from Germany. To the contrary, the volume of subject imports from Germany was higher on both an absolute and relative basis in interim 2007 than in interim 2006.⁴⁰ I find there is a reasonable indication that increasing volumes of subject imports from Germany have competed closely on a price basis against the domestic like product, resulting in downward pressure on prices late in the period of investigation, which in turn resulted in losses of sales and market share to subject imports from Germany as well as lower financial performance. This occurred notwithstanding increased apparent U.S. consumption. For purposes of this preliminary investigation, I conclude that subject imports from Germany have had an adverse impact on the domestic industry producing LWTP during the period of investigation.

Accordingly, consistent with the legal standard applicable to preliminary determinations, I determine that there is a reasonable indication that the domestic industry producing LWTP is materially injured by reason of subject imports from Germany.

³⁸ (...continued)

Research and development expenditures, which were largely made by coaters, increased from *** in 2004 to *** in 2005 and then declined to *** in 2006. Interim 2007 research and development expenditures of *** exceeded interim 2006 expenditures of ***. CR/PR, Table VI-7.

³⁹ CR/PR, Table C-3.

⁴⁰ CR/PR, Table C-3.

DISSENTING VIEWS OF CHAIRMAN DANIEL R. PEARSON, VICE CHAIRMAN SHARA L. ARANOFF AND COMMISSIONER DEANNA TANNER OKUN CONCERNING GERMANY

Based on the record in this preliminary phase investigation, we find that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of certain lightweight thermal paper from Germany that are allegedly sold in the United States at less than fair value (“LTFV”).

I. THE LEGAL STANDARD FOR PRELIMINARY DETERMINATIONS

The legal standard for preliminary antidumping and countervailing duty determinations requires the Commission to determine, based upon the information available at the time of the preliminary determinations, whether there is a reasonable indication that a domestic industry is materially injured by or threatened with material injury, or that the establishment of an industry is materially retarded, by reason of the allegedly unfairly traded imports.¹ 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.”²

II. NO REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF THE SUBJECT IMPORTS FROM GERMANY³

In the preliminary phase of antidumping or countervailing duty investigations, the Commission determines whether there is a reasonable indication that an industry in the United States is materially injured by reason of the imports under investigation.⁴ In making this determination, the Commission must consider the volume of subject imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.⁵ The statute defines “material injury” as “harm which is not inconsequential, immaterial, or unimportant.”⁶ In assessing whether there is a reasonable indication that the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the

¹ 19 U.S.C. § 1673b(a); see also American Lamb Co. v. United States, 785 F.2d 994, 1001-04 (Fed Cir. 1986); Ranchers-Cattlemen Action Legal Foundation v. United States, 74 F.Supp.2d 1353, 1368-69 (CIT 1999); Aristech Chemical Corp. v. United States, 20 CIT 353, 354-55 (1996).

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

³ We adopt as our own the discussion of domestic like product, domestic industry, cumulation, and conditions of competition as presented in the Commission’s Views. 19 U.S.C. § 1677(24)(A)(I)(I). In this investigation, subject imports from Germany accounted for more than three percent of the volume of certain lightweight thermal paper imported into the United States from all sources in the most recent 12-month period for which data are available preceding the filing of the petition. As such, we find that subject imports are not negligible under 19 U.S.C. § 1677(24).

⁴ 19 U.S.C. §§ 1671b(a) and 1673b(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 “identify each [such] factor . . . [a]nd explain in full its relevance to the determination.” 19 U.S.C. § 1677(7)(B). See also Angus Chemical Co. v. United States, 140 F.3d 1478 (Fed. Cir. 1998).

⁶ 19 U.S.C. § 1677(7)(A).

state of the industry in the United States.⁷ 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.”⁸

For the reasons discussed below, we find that there is not a reasonable indication that the domestic industry producing certain lightweight thermal paper is materially injured by reason of subject imports from Germany.

A. Volume of the Subject Imports

Section 771(7)(C)(i) of the Act provides that the “Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant.”⁹

The volume of subject imports from Germany of LWTP increased by *** percent between 2004 and 2006, from *** short tons in 2004 to *** short tons in 2006. Subject import volume from Germany in interim 2007 was *** percent higher than in interim 2006. It was *** short tons in interim 2007 as compared to *** short tons in interim 2006.¹⁰

We note that apparent U.S. consumption also increased significantly over the period of investigation. Apparent U.S. consumption increased from *** short tons in 2004 to *** short tons in 2006, for an overall increase of *** percent. Apparent U.S. consumption was *** percent higher in interim 2007 as compared to interim 2006. It was *** short tons in interim 2007 compared to *** short tons in interim 2006.¹¹

In relative terms, therefore, the increase in the volume of subject imports from Germany was more modest. The U.S. market share held by subject imports from Germany was relatively stable, increasing only *** percentage points over the period of investigation as consumption increased. Total market share held by subject imports from Germany increased from *** percent of apparent U.S. consumption in 2004 to *** percent in 2006, and was *** percent in interim 2007 as compared to *** percent in interim 2006.¹² As discussed more fully below, the larger increase in interim 2007 occurred during a period in which the domestic industry experienced production and supply difficulties.¹³ The U.S. market share held by the domestic industry decreased by *** percentage points measured from 2004 to 2006. Subject imports from China and Korea accounted for the remaining portion of U.S. market share. Their market share increased by *** percentage points.¹⁴

We find the absolute volume of subject imports from Germany to be significant, and we find the volume of subject imports to be significant in relation to consumption and production when reviewed in isolation. However, the conditions of competition for this industry reduce the apparent significance of the subject import volume.

⁷ 19 U.S.C. § 1677(7)(C)(iii).

⁸ 19 U.S.C. § 1677(7)(C)(iii).

⁹ 19 U.S.C. § 1677(7)(C)(i).

¹⁰ CR/PR at Table C-3. Subject imports from Germany were equivalent to *** percent of domestic production of LWTP in 2004 and *** percent in 2006. Subject imports from Germany of LWTP were the equivalent of *** percent of domestic production of LWTP in interim 2007 and *** percent in interim 2006. CR/PR at Table IV-6.

¹¹ CR/PR at Table C-3.

¹² CR/PR at Table C-3.

¹³ CR at II-4-II-5, PR at II-3-II-4.

¹⁴ CR/PR at Table C-3.

First, Germany is the largest single source of imports into the U.S. market and German product has consistently supplied an important share of the market.¹⁵ While the market share data on the record could be interpreted as showing a modest gain in market share by subject imports from Germany at the expense of the domestic industry, we view it as a minor variation in the historical market presence of the German product. The significance of this apparent shift in market share is similarly minimized by the fact that it occurred at a time of rising demand in the U.S. market.

Second, imports from Germany consist of jumbo rolls, which we find are necessary as domestic producers of jumbo rolls lack the capacity to satisfy U.S. apparent consumption of this product.¹⁶ The only other available source of jumbo rolls is Korea. The Korean industry has little excess capacity and its exports to the United States have been declining in the past year, forcing U.S. converters to purchase jumbo rolls from Germany to satisfy U.S. demand.^{17 18}

Third, imports of LWTP from Germany have been increasingly focused on a product that was not produced in the United States until the end of the period of investigation. In early 2005, German producer Koehler introduced 48 gram thermal paper, which is thinner than the traditional 55 gram product. Such paper can be used to make a longer finished roll with the same diameter, allowing end users to reduce the frequency of roll changes in their equipment and offering a freight advantage because of its reduced weight.¹⁹ U.S. coater Appleton introduced a 45 gram product in 2004, discontinued it in 2006, and introduced a new 48 gram product in *** 2007.²⁰ U.S. coater Kanzaki ***.²¹ Thus, the domestic industry had not had any meaningful shipments of 48 gram product until the ***.²² Given the perceived differences in the products,²³ competition between the subject imports from Germany of 48 gram product and the domestic industry's 55 gram products was attenuated. The entire increase in subject import volume from Germany from 2005 to 2006 and from interim 2006 to interim 2007 was attributable to increased shipments of the 48 gram product.²⁴ At the same time, subject imports from Germany of the traditional 55 gram product have declined since 2005.²⁵

¹⁵ CR/PR at Table C-3. See also Tr. at 137 (Greene), stating that Koehler has done business in the United States for 19 years.

¹⁶ CR/PR at Table C-1. See also CR at II-5, PR at II-3. U.S. producers of jumbo rolls *** percent of apparent U.S. consumption in 2006. CR/PR at Table C-1.

¹⁷ CR/PR at Tables VII-3 and IV-3.

¹⁸ The record also contains evidence that U.S. producers of jumbo rolls had difficulty supplying the market during the period of investigation. Several converters and purchasers reported that they experienced availability problems with a U.S. coater during the period of investigation, particularly from mid-2006 to August 2007. Reportedly, domestic producer *** experienced a manufacturing disruption in ***. See CR at II-4-II-5, PR at II-3; Tr. at 155 (Sandt).

¹⁹ CR at I-10, PR at I-8; Tr. at 133 (Greene).

²⁰ Tr. at 108-09 (Hatfield), CR at II-9, PR at II-6. German Respondents note that Appleton's 45 gram product is not comparable to the 48 gram product because it is a ***. CR at V-10 n. 20, PR at V-6 n. 20.

²¹ See CR at IV-3 n. 7, PR at IV-3 n. 7. For example, converter Sandt Products reported that in August 2007, it was unable to purchase 48 gram product from Appleton after having repeatedly expressed an interest in the product. Tr. at 151 (Sandt).

²² See CR/PR at Table V-2.

²³ The majority of converters (7 of 11) reported that the introduction of 48 gram product was a significant change in product ranges or marketing over the period of investigation. CR at II-9, PR at II-5.

²⁴ See CR/PR at Tables V-1 and V-2 (the pricing data account for *** percent of U.S. imports from Germany. CR at V-9, PR at V-5); German Respondents Postconference Brief at 19.

²⁵ See CR/PR at Table V-1.

In sum, we find that these market factors mitigate the significance of the volume and market share of subject imports and the increases in volume and market share during the period of investigation.

B. Price Effects of the Subject Imports

Section 771(C)(ii) of the Act provides that, in evaluating the price effects of subject imports,

the Commission shall consider whether – (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.²⁶

Product-specific pricing data were gathered on four LWTP products, two of which were for jumbo rolls and two of which were for slit rolls. This product-specific data covered a significant portion of domestic shipments and *** percent of subject imports from Germany.²⁷

The testimony and information from purchasers in the record indicates that price appears to be at least a moderately important factor in purchasing decisions.²⁸ Subject imports from Germany appear to be sufficient substitutes with jumbo rolls produced in the United States. On the one hand, market participants reported at least some degree of interchangeability between the domestic like product and subject imports from Germany. Majorities of all market participants found the domestic like product and subject imports from Germany at least frequently interchangeable.²⁹ On the other hand, quality distinctions between the subject imports from Germany and U.S.-produced jumbo rolls may serve to reduce the degree of substitutability between the products. Five converters characterized the subject imports from Germany as superior in quality to jumbo rolls produced by domestic producer Appleton.³⁰ Moreover, two converters and three importers reported that the limited availability of 48 gram thermal paper from U.S. producers is a factor that limited the interchangeability of the domestic product with German LWTP that is more readily available in a 48 gram basis weight.³¹

In our analysis of underselling, we have examined both the pricing data reported by producers and importers on an f.o.b. basis and the data on a delivered basis constructed by Commission staff in response to Appleton's arguments that LWTP sales are virtually all made on a delivered price basis.³² These two sets of pricing data reflect similar, but distinct patterns with respect to price overselling/underselling by subject imports from Germany. On an f.o.b. basis, subject imports from

²⁶ 19 U.S.C. § 1677(7)(C)(ii).

²⁷ CR at V-8-V-9, PR at V-4-V-5.

²⁸ Tr. at 145-46 (Granholm), 180 (Schwartz); CR at V-28, V-30-33, V-35, PR at V-10-13.

²⁹ CR/PR at Table II-1.

³⁰ CR at II-13-14, PR at II-8.

³¹ CR at II-12, PR at II-8.

³² While the Commission's usual practice in preliminary phase investigations is to collect and examine pricing data from U.S. producers and importers on an f.o.b. basis, Commission staff were able to construct data on a delivered basis by adding to the reported f.o.b. price each reporting firm's U.S. inland freight cost as a percentage of its total delivered price. CR/PR at Tables D-1-4. We note that Appleton raised this issue late in these investigations in its postconference brief. Appleton Postconference Brief at 34. Indeed, Appleton raised the issue too late to enable the Commission staff to obtain usable information on Appleton's own actual delivered prices. We find, however, that the Commission staff's estimates likely are representative of the freight costs.

Germany oversold the domestic like product in 22 of 27 quarterly comparisons.³³ On a delivered price basis, subject imports from Germany undersold the domestic like product in 22 of 27 quarterly comparisons.³⁴ On either basis, however, both the overselling and underselling margins were negligible in magnitude.³⁵ Consequently, we conclude that the record is mixed regarding the significance of overselling/underselling by subject imports from Germany.

The record also does not indicate that subject imports from Germany have caused any significant price suppression or depression. The questionnaires requested pricing data on one 48 gram jumbo roll product and one 55 gram jumbo roll product. Prices for both the domestic like product and the subject imports from Germany fluctuated at increasing levels from 2004 to 2006, reaching period highs in the fourth quarter of 2006. Prices for both the domestic like product and the subject imports from Germany declined during the first two quarters of 2007.³⁶ We note, however, that as prices for the 55 gram LWTP product (pricing product 1) declined, shipment volumes for subject imports from Germany decreased from the levels of the comparable quarters of 2006.³⁷ Thus, the decreased domestic prices in 2007 do not correlate to increased subject import volumes from Germany either in 2006 or in interim 2007. While prices also declined in interim 2007 for the 48 gram product (pricing product 2), the domestic industry had negligible volumes of sales during this period for this product.³⁸ Moreover, the data for the domestic industry includes data for ***.³⁹ In addition, questionnaire data indicate that the market participant offering the lowest prices for jumbo rolls of LWTP is ***.⁴⁰ Finally, the domestic industry did not experience any significant cost/price squeeze through 2006. Even though the data show that domestic production costs were rising modestly (average COGs increased by *** percent), average per-unit sales value increased by *** percent.⁴¹ While costs increased in interim 2007 as prices declined, these price declines, as discussed above, cannot be attributed to subject imports from Germany.

The record thus shows marginal overselling or underselling of subject imports from Germany. It also indicates that subject import prices from Germany neither suppressed nor depressed prices for the domestic like product. We therefore find that subject imports from Germany did not have significant adverse price effects on the domestic industry.

³³ CR/PR at Table V-6.

³⁴ CR/PR at Table D-5.

³⁵ CR/PR at Tables V-6, D-5 (The margins of overselling or underselling averaged *** percent, respectively).

³⁶ CR/PR at Tables V-1-2, D-1-2. See also Tr. at 138 (Greene), “second, in the first quarter of this year (2007) Kanzaki lowered prices by three to five percent, seeking new business; and Appleton, Mitsubishi and Koehler were forced to follow;” Tr. at 160-161 (Schwartz).

³⁷ CR/PR at Table V-1.

³⁸ CR/PR at Table V-2.

³⁹ CR at V-10 n. 20, PR at V-6 n. 20.

⁴⁰ See Staff Worksheet comparing weighted-average f.o.b. prices of domestic product 1 for ***; German Respondents Postconference Brief at 24-25.

⁴¹ CR/PR at Table VI-1. While we have defined the domestic industry to include both coaters and converters, we focus here on the production costs of the coaters as they produce jumbo rolls which compete directly with subject imports from Germany. Moreover, the data for coaters, while generally exhibiting the same trends as data for coaters and converters combined, reflect a more negative level of performance than the combined data for coaters and converters.

C. Impact of the Subject Imports⁴²

Section 771(7)(C)(iii) provides that the Commission, in examining the impact of the subject imports on the domestic industry, “shall evaluate all relevant economic factors which have a bearing on the state of the industry.”⁴³ These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, research and development, and factors affecting domestic prices. No single factor is dispositive and all relevant factors are considered “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”⁴⁴

Output-related measures of the domestic industry indicate that the industry performed well from 2004 to 2006, but showed some declines in interim 2007 as compared to interim 2006. These include the domestic industry’s capacity,⁴⁵ its production,⁴⁶ and its domestic shipments.⁴⁷ Capacity utilization also increased from 2004 to 2006, but was lower in interim 2007 than in interim 2006.⁴⁸ The capacity utilization rates of coaters were much higher.⁴⁹ End-of period inventories rose sharply in 2006, and were higher in interim 2007 than in interim 2006.⁵⁰ The inventory increases during the latter portion of the period of investigation appear to be a result of a particular spike in U.S. demand for jumbo rolls during the fourth quarter of 2006.⁵¹ Appleton testified that during this period it extended lead times but did not

⁴² In its notice of initiation, Commerce calculated estimated alleged dumping margins for Germany ranging from 29.79 percent to 75.36 percent. 72 Fed. Reg. 62430, 62434.

⁴³ 19 U.S.C. § 1677(7)(C)(iii); see also SAA at 851 and 885 (“In material injury determinations, the Commission considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they also may demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.”) SAA at 885.

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

⁴⁵ The domestic industry’s capacity increased from 239,653 short tons in 2004 to 252,727 short tons in 2005 and then to 256,176 short tons in 2006. The interim 2007 capacity of 134,704 short tons was less than the interim 2006 capacity of 134,998 short tons. CR/PR at Table C-3. Coaters’ capacity increased each year from 2004 to 2006 (***) , but was lower in interim 2007 than in interim 2006 (***) . CR/PR at Table III-2.

⁴⁶ The domestic industry’s production increased from 145,688 short tons in 2004 to 155,717 short tons in 2005 and then to 167,580 short tons in 2006. The interim 2007 production of 71,847 short tons was less than the interim 2006 production of 75,060 short tons. CR/PR at Table C-3. Coaters’ production increased each year from 2004 to 2006 (***) , and was lower in interim 2007 than in interim 2006 (***) . CR/PR at Table III-2.

⁴⁷ The domestic industry’s U.S. shipments increased from 130,176 short tons in 2004 to 138,420 short tons in 2005 and then to 147,433 short tons in 2006. Interim 2007 U.S. shipments of 67,954 short tons were less than the interim 2006 U.S. shipments of 70,872 short tons. CR/PR at Table C-3. Coaters’ U.S. shipments increased each year from 2004 to 2006 (***) , and were lower in interim 2007 than in interim 2006 (***) . CR/PR at Table III-6.

⁴⁸ The domestic industry’s capacity utilization increased from 60.8 percent in 2004 to 65.4 percent in 2006. The interim 2007 capacity utilization of 53.3 percent was lower than the interim 2006 capacity utilization of 55.6 percent. CR/PR at Table C-3.

⁴⁹ Coaters’ capacity utilization rates were *** percent in 2004, *** percent in 2005, *** percent in 2006, *** percent in interim 2006, and *** percent in interim 2007. CR/PR at Table III-2.

⁵⁰ The domestic industry’s inventories increased from 9,198 short tons in 2004 to 9,229 short tons in 2005 and then to 12,864 short tons in 2006. Interim 2007 U.S. inventories of 13,976 short tons were greater than the interim 2006 U.S. inventories of 9,557 short tons. CR/PR at Table C-3. The inventories of coaters increased in 2006 and interim 2007. CR/PR at Table III-9.

⁵¹ Tr. at 82 (Schonfeld), 204-05 (Granholm).

put customers on allocation or refuse to make sales.⁵² One converter stated, however, that Appleton refused to take orders from new customers during this period.⁵³ Both parties supporting and opposing the petition testified at the conference that the spike in demand led to some degree of overpurchasing and a consequent perception of shortage in the market.⁵⁴

The domestic industry's market share fell throughout the period of investigation, declining from *** percent in 2004 to *** percent in 2005 and then to *** percent in 2006. The domestic industry's interim 2007 market share of *** percent was lower than its interim 2006 market share of *** percent.⁵⁵

Employment-related measures generally rose, although some measures showed declines in interim 2007. The number of production workers increased throughout the period of investigation.⁵⁶ Hourly wages increased from 2004 to 2006, but were lower in interim 2007 than in interim 2006.⁵⁷ Productivity followed trends similar to hourly wages; however, productivity for each of the interim periods was appreciably lower than productivity for any full calendar year.⁵⁸

Despite the many positive output-related indicators, the industry's financial performance was, at best, anemic between 2004 and 2006. The domestic industry's operating margin was negative 0.2 percent in 2004, 0.6 percent in 2005, negative 0.1 percent in 2006, negative 0.4 percent in interim 2006, and negative 2.3 percent in interim 2007.⁵⁹ Considered alone, the coaters operated at a loss during all reporting periods and their trends were slightly worse.⁶⁰ Capital expenditures and research and development expenditures each fluctuated during the period of investigation.⁶¹ We note, however, that

⁵² Tr. at 82 (Schonfeld).

⁵³ Tr. at 155 (Endsley). Other market participants reported difficulties obtaining supplies from Appleton at earlier or subsequent periods. CR at II-4-5, PR at II-3.

⁵⁴ Tr. at 83-84 (Schonfeld), 202-03 (Burns), 203 (Schwartz).

⁵⁵ CR/PR at Table C-3. Similar trends exist for coaters. The market share held by domestic coaters declined from *** percent in 2004 to *** percent in 2005 and then to *** percent in 2006. The coater's interim 2007 market share of *** percent was lower than its interim 2006 market share of *** percent. CR/PR at Table C-1.

⁵⁶ The number of production and related workers increased from 784 in 2004 to 809 in 2005 and then to 828 in 2006. The 827 workers in interim 2007 exceeded the 816 workers in interim 2006. CR/PR at Table C-3. Converters employ the bulk of the domestic industry's production and related workers. The trends for the industry are attributable to the converters; coaters' employment fluctuated within a very narrow range throughout the period of investigation. CR/PR at Table III-10. We note that the number of production workers for coaters increased in interim 2007 and that productivity for coaters had been increasing throughout the period until interim 2007 when the coaters increased their employment. Id.

⁵⁷ Hourly wages were \$17.02 in 2004, \$17.45 in 2005, \$18.02 in 2006, \$16.84 in interim 2006, and \$16.16 in interim 2007. CR/PR at Table C-3. The trends for the industry are attributable to the converters; coaters' hourly wages were higher in interim 2007 than in interim 2006. CR/PR at Table III-10.

⁵⁸ Productivity, in terms of tons per thousand hours, was 92.3 in 2004, 95.6 in 2005, 99.0 in 2006, 81.8 in interim 2006, and 77.0 in interim 2007. CR/PR at Table III-2. The trends in the industry were attributable to the coaters; converters' productivity declined from 2005 to 2006, and was higher in interim 2007 than in interim 2006. CR/PR at Table III-10.

⁵⁹ CR/PR at Table VI-3.

⁶⁰ The coaters' operating margin was negative *** percent in 2004, negative *** percent in 2005, negative *** percent in 2006, negative *** percent in interim 2006, and negative *** percent in interim 2007. CR/PR at Table VI-1.

⁶¹ Capital expenditures increased from \$8.2 million in 2004 to \$23.2 million in 2005 and then declined to \$12.2 million in 2006. Interim 2007 capital expenditures of \$8.8 million exceeded interim 2006 capital expenditures of \$1.4 million. The fluctuations were attributable to the coaters; converters' capital expenditures increased throughout the period of investigation. CR/PR at Table VI-7.

(continued...)

Appleton approved in late 2006 and publicly announced in January 2007 a \$100 million expansion of its West Carrollton mill to install a state-of-the-art coater. Appleton states that once this new coater starts operation in August 2008, it will produce primarily LWTP.⁶²

As noted above, subject imports from Germany had little effect on the domestic industry's output-related performance during most of the period examined. Nor does this record indicate that subject imports from Germany had significant effects on the prices received for the domestic like product. The record also suggests no connection between the presence, volume, or pricing of subject imports from Germany and the domestic industry's financial performance and suggests that capacity the industry characterizes as under-utilized is in fact antiquated and not available for production on a commercial basis. While the industry generally operated at a loss during the period examined, its capacity, production and shipments increased each year through 2006. Despite these recorded losses, the industry was able to make significant capital expenditures over the period of investigation and its R&D expenditures increased over the period.⁶³ Indeed, domestic producer Appleton recently approved and has begun to invest in a \$100 million expansion program. This expansion indicates that the industry has the financial wherewithal to obtain the necessary financing to make such a large investment. While the domestic industry's production and shipments were lower in interim 2007 than in interim 2006, we find that these declines are attributable largely to the inventory buildup resulting from the excess purchasing that occurred during the latter portion of 2006 and the rapidly increasing volumes of subject imports from China.⁶⁴

We therefore find no reasonable indication that subject imports from Germany had a significant impact on the domestic industry.

III. NO REASONABLE INDICATION OF THREAT OF MATERIAL INJURY BY REASON OF THE SUBJECT IMPORTS FROM GERMANY

We likewise determine that there is no reasonable indication that the domestic LWTP industry is threatened with material injury by reason of subject imports from Germany.

A. Legal Standards

Section 771(7)(F) of the Act directs the Commission to determine whether the U.S. industry is threatened with material injury by reason of the subject imports by analyzing whether "further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or suspension agreement is accepted."⁶⁵ The Commission may not make such a determination "on the basis of mere conjecture or supposition," and considers the threat factors "as a whole" in making its determination whether dumped or subsidized imports are imminent and whether

⁶¹ (...continued)

Research and development expenditures, which were largely made by coaters, increased from *** in 2004 to *** in 2005 and then declined to *** in 2006. Interim 2007 research and development expenditures of *** exceeded interim 2006 expenditures of ***. CR/PR at Table VI-7.

⁶² Tr. at 21 (Schonfeld).

⁶³ CR/PR at Table VI-7.

⁶⁴ We also observe that there is some seasonality in demand for LWTP, with greater demand occurring late in the year when retailers have peak sales. Appleton Postconference Brief at 14 n. 53; Tr. at 204-05 (Granholm).

⁶⁵ 19 U.S.C. §1677(7)(F)(ii).

material injury by reason of subject imports would occur unless an order is issued.⁶⁶ In making our determination, we consider all statutory threat factors that are relevant to this investigation.⁶⁷

B. Cumulation

For purposes of determining if a threat of material injury exists, cumulation is discretionary. Under section 771(7)(H) of the Act, the Commission may “to the extent practicable” cumulatively assess the volume and price effects of subject imports from all countries as to which petitions were filed on the same day if the requirements for cumulation for material injury analysis are satisfied.⁶⁸ Consequently, the only subject imports eligible for cumulation for threat are those that may be cumulated for an analysis of material injury by reason of subject imports.

In section V of the Commission’s views, we terminated the investigation with respect to subject imports from Korea because subject imports from Korea are negligible. Hence, subject imports from Korea are not eligible for cumulation for threat analysis with any other subject imports.⁶⁹

In section VI.B. of the Commission’s views, we found that subject imports from China do not compete with subject imports from Germany because virtually all subject imports from China are slit rolls and all subject imports from Germany are jumbo rolls. We therefore do not cumulate subject imports from China and subject imports from Germany for purposes of our threat analysis. Consequently, for purposes of our determination of reasonable indication of threat of material injury by reason of subject imports from Germany, we consider only subject imports from Germany.

C. Analysis of Statutory Threat Factors

The volume and market penetration of the German LWTP, as discussed above, increased over the period of investigation, and such increases are likely to continue, to a certain degree, in the imminent future. Subject import volume in interim 2007 was higher than that in interim 2006, at *** short tons, compared to *** short tons, respectively. German producers project modest increases in exports to the United States in 2007, *** short tons, but a decline in 2008 ***.⁷⁰

U.S. apparent consumption of certain LWTP increased throughout the period of investigation, and is projected to continue to increase as applications for its use continue to replace other POS products. Demand for the jumbo rolls increased strongly as well, growing by almost *** percent in 2004-06, and continuing to increase in the interim period. As noted above, subject imports from Germany have been a long-standing and important presence in the U.S. market, as the U.S. industry has not been able to meet U.S. demand. Further, the subject imports from Germany maintained a relatively stable share of the U.S. market throughout the period of investigation, increasing most notably in interim 2007, a period during which the domestic industry experienced production and supply difficulties.^{71 72}

⁶⁶ 19 U.S.C. §1677(7)(F)(ii).

⁶⁷ 19 U.S.C. §1677(7)(F)(ii). Statutory threat factors (I) and (VII) are inapplicable, as no countervailable subsidies are alleged with respect to Germany, and no imports of agricultural factors are involved. Id.

⁶⁸ 19 U.S.C. § 1677(7)(H).

⁶⁹ 19 U.S.C. §§ 1677(7)(H), 1677(7)(G)(ii)(II).

⁷⁰ CR/PR at Table VII-2.

⁷¹ CR at II-4-II-5, PR at II-3-II-4.

⁷² Further, while Appleton notes that German producers are export dependent, the record confirms that the share of German production destined for the U.S. market, as a percent of overall shipments, has varied within a very small range during the period of investigation and is projected to fall by 2008. Appleton Postconference Brief at 47 and (continued...)

Capacity to produce LWTP in Germany, which has increased throughout the period of investigation, is projected to be higher in interim 2007 compared to interim 2006, by about *** percent, and continue to increase for full year 2007 and 2008, by *** percent over 2006 levels.⁷³ Production increases, however, are projected to at least keep pace with the capacity increases, thus keeping capacity utilization rates for the German industry near *** percent or higher, as has been the case throughout the period. Further, as discussed above, much of the capacity increases and subsequent increases in U.S. imports of the subject German product have been for the 48 gram product, for which we find attenuated competition with domestic LWTP. And, while the domestic industry has entered the market with a 48 gram product during interim 2007, no indication exists that the subject imports will prevent the domestic industry from successfully marketing this product.

Appleton observed that Koehler AG's capacity utilization in interim 2007 was at its lowest point during the period of investigation.⁷⁴ We give this information little weight, however, for several reasons. First, the capacity utilization rate for the German industry as a whole was *** in interim 2007. Moreover, the interim period (January-June) covers the portion of the year when seasonality may affect performance (*i.e.*, the "off" season) and may not be indicative of expected annual rates. We note that the full year 2006 capacity utilization rate for the German industry was several percentage points above the interim rates: *** percent for full year 2006 compared to *** percent in interim 2006.⁷⁵

Despite some indications of an imminent increase in the volume and market penetration of the subject imports from Germany, we do not find that these trends indicate the likelihood of substantially increased imports in the imminent future threatening the U.S. industry with material injury. As we concluded in our discussion of no reasonable indication of present material injury, we find that several market factors including the German industry's product mix and its role as a consistent and needed supplier of jumbo rolls, mitigate the significance of the likely volume and market share of the subject imports in the imminent future.

In analyzing the likely price effects during the period of investigation and in the imminent future, we note that some overselling is evident by the German subject product, when prices are considered on an f.o.b basis, and that different trends are seen in a comparison of constructed prices on a delivered basis. However, as we found in our analysis of price effects for purposes of whether there existed a reasonable indication of material injury, on either basis, the underselling and overselling margins were negligible in magnitude.⁷⁶ Thus, we concluded that the record was mixed regarding the significance of the underselling and overselling by the subject imports from Germany.

Nor do we find that the subject imports will be likely to cause price suppression or depression in the imminent future. Interim data show some price declines for both the domestic like product and subject imports, after prices peaked in the fourth quarter of 2006, but that the German LWTP was priced above the domestic like product in *** comparisons and showed *** margins of underselling in the other two comparisons.⁷⁷ Further, we reiterate that the other suppliers, *** generally offered jumbo rolls of LWTP at lower prices.⁷⁸

⁷² (...continued)
CR/PR at Table VII-2.

⁷³ CR/PR at Table VII-2.

⁷⁴ Appleton Postconference Brief at 44-46.

⁷⁵ CR/PR at Table VII-2.

⁷⁶ CR/PR at Tables V-6, D-5.

⁷⁷ CR/PR at Tables V-1-2, D-1-2.

⁷⁸ See Staff Worksheet comparing weighted-average f.o.b. prices of domestic product 1 for ***; CR/PR at Table V-1; German Respondents Postconference Brief at 24-25.

Appleton's arguments as to likely price effects for a threat analysis are predicated on the investment it has undertaken to expand and modernize its production facilities. It is investing \$100 million in the project and argues that U.S. market prices have declined since it made the decision to undertake the project, but that its investment ***.⁷⁹ However, subject imports from Germany did not have a significant effect on domestic prices during the period of investigation. Appleton offers no evidence that the prices for the LWTP from Germany will have a significant effect on domestic prices in the near future.

Finally, Appleton asserts that additional subject imports will have a negative effect on the domestic industry's development and production efforts, contending as indicated above that it will rely on raising prices to cover increased costs to succeed with its expansion and modernization project. We find that while interim 2007 data suggest some negative performance trends for the domestic industry when compared to performance in interim 2006,⁸⁰ such as lower production, shipments, net sales, and profitability, industry actions may have contributed to such results.

Accordingly, based on the record in this preliminary phase investigation, we determine that there is no reasonable indication that the domestic LWTP industry is threatened with material injury by reason of subject imports from Germany.

IV. CONCLUSION

For the reasons stated above, we do not find a reasonable indication that the domestic industry producing certain lightweight thermal paper is materially injured or threatened with material injury by reason of subject imports from Germany.

⁷⁹ Appleton Postconference Brief at 49-50.

⁸⁰ CR/PR at Table C-3.

PART I: INTRODUCTION

BACKGROUND

These investigations result from a petition filed on September 19, 2007, by Appleton Papers, Inc. (“Appleton”), alleging that an industry in the United States is materially injured or is threatened with material injury, by reason of imports from China, Germany, and Korea of certain lightweight thermal paper (“certain LW thermal paper”)¹ that are allegedly sold in the United States at less-than-fair-value (“LTFV”) and subsidized by the government of China. Information relating to the background of these investigations is provided below.²

Effective date	Action
September 19, 2007	Petition filed with Commerce and the Commission; Commission institutes investigation (72 FR 54926, September 27, 2007)
October 9, 2007	Postponement of the initiation of investigations by Commerce (72 FR 58639, October 16, 2007) ²
October 10, 2007	Commission's conference ¹
October 17, 2007	Revision of Commission's schedule due to Commerce's postponement (72 FR 58884)
October 29, 2007	Initiation of investigations by Commerce (72 FR 62209, November 2, 2007 and 72 FR 62430, November 5, 2007)
November 16, 2007	Commission's vote
November 27, 2007	Commission's determinations transmitted to Commerce
December 4, 2007	Commission's views transmitted to Commerce

¹ A list of witnesses that appeared at the conference is presented in app. B.
² Commerce extended its deadline to institute its investigations by 20 days in order to determine industry support for the petition.

ORGANIZATION OF REPORT

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

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

¹ A complete description of the imported product subject to these investigations is presented in *The Subject Product* section located in Part I of this report.

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

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

In evaluating the volume of imports of merchandise, the Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States is significant.

. . .

In evaluating the effect of imports of such merchandise on prices, the Commission shall consider whether . . . (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.

. . .

In examining the impact required to be considered under subparagraph (B)(i)(III), the Commission shall evaluate (within the context of the business cycle and conditions of competition that are distinctive to the affected industry) all relevant economic factors which have a bearing on the state of the industry in the United States, including, but not limited to

. . .

(I) actual and potential declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity, (II) factors affecting domestic prices, (III) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, (IV) actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and (V) in {an antidumping investigation}, the magnitude of the margin of dumping.

Information on the subject merchandise, alleged margins of dumping and subsidies, and domestic like product is presented in *Part I*. Information on conditions of competition and other relevant economic factors is presented in *Part II*. *Part III* presents information on the condition of the U.S. industry, including data on capacity, production, shipments, inventories, and employment. The volume and pricing of imports of the subject merchandise are presented in *Parts IV and V*, respectively. *Part VI* presents information on the financial experience of U.S. producers. Information obtained for use in the Commission's consideration of the question of threat of material injury is presented in *Part VII*.

U.S. MARKET SUMMARY

The U.S. market for certain LW thermal paper totaled approximately \$*** and *** short tons in 2006. Currently, two firms produce jumbo rolls of certain LW thermal paper in the United States, Appleton and Kanzaki Specialty Papers, Inc. (“Kanzaki”), which accounted for all U.S. production of jumbo rolls in 2006.³ At least 20 firms have imported certain LW thermal paper from subject countries since 2004. Two firms, Koehler America, Inc. (“Koehler”) and Mitsubishi International Corp. (“Mitsubishi”), accounted for all the imports of certain LW thermal paper from Germany. One firm, Global Fibres, Inc. (“Global Fibres”) accounted for all the imports from Korea during the period of investigation.

U.S. producers’ U.S. shipments of certain LW thermal paper totaled *** short tons valued at *** in 2006, and accounted for *** percent of apparent U.S. consumption by quantity (*** percent by value). U.S. imports from China totaled *** short tons in 2006, and accounted for *** percent of apparent U.S. consumption by quantity (*** percent by value), while U.S. imports from Germany totaled *** short tons, and accounted for *** percent of apparent consumption by quantity (*** percent by value), and U.S. imports from Korea totaled *** short tons, and accounted for *** percent of apparent consumption by quantity (*** percent by value). U.S. imports from all other sources combined were nominal. Certain LW thermal paper is generally used in point-of-sale (“POS”) applications such as ATM receipts, credit card receipts, gas pump receipts, and retail store receipts.

SUMMARY DATA AND DATA SOURCES

A summary of data collected in these investigations is presented in appendix C, table C-1. Except as noted, U.S. industry data are based on questionnaire responses of the two U.S. coaters that accounted for all of U.S. production of jumbo rolls of certain LW thermal paper during the period of investigation. U.S. import and foreign industry data are based on responses to the Commission’s U.S. importer and foreign producer’s questionnaires. Appendix C, table C-2 presents data provided by 18 U.S. converters along with U.S. consumption and market shares shown at the U.S. converter level of trade. Appendix C, table C-3 presents combined data for U.S. coaters and U.S. converters.

PREVIOUS AND RELATED INVESTIGATIONS

Certain LW thermal paper has not been the subject of any prior antidumping or countervailing duty investigations in the United States.

NATURE AND EXTENT OF ALLEGED SALES AT LTFV

On November 5, 2007, Commerce published a notice in the *Federal Register* of the initiation of its antidumping investigation on certain LW thermal paper from China, Germany, and Korea.⁴ The alleged estimated weighted-average dumping margins (in percent *ad valorem*), as reported by Commerce are summarized in the tabulation below:

³ U.S. market participants also include U.S. converters, which purchase jumbo rolls in order to slit the jumbo rolls into smaller rolls and package them into a finished product. Throughout this report, firms that engage in the production of jumbo rolls are called “coaters” while those that slit and finish are called “converters.”

⁴ *Lightweight Thermal Paper from Germany, the Republic of Korea, and the People’s Republic of China: Initiation of Antidumping Duty Investigations*; 72 FR 62430, November 5, 2007.

Country	Estimated margins (<i>percent ad valorem</i>)	
	Based on price to price comparisons	Based on price to constructed value comparisons
China	(1)	108.25
Germany	29.79	59.80 to 75.36
Korea	40.30	65.63
¹ Not provided.		

NATURE OF ALLEGED COUNTERAVAILABLE SUBSIDIES

On November 2, 2007, Commerce published a notice in the *Federal Register* of the initiation of its countervailing duty investigation on certain LW thermal paper from China.⁵ In its notice, Commerce listed the following programs alleged in the petition to have provided countervailable subsidies to producers of certain LW thermal paper in China:⁶

Preferential Lending

1. Government Policy Lending Program
2. Loans provided pursuant to the Northeast Revitalization Program
3. Loan guarantees from government-owned and controlled banks

Income Tax Programs

4. "Two Free, Three Half" program
5. Income tax exemption program for export-oriented foreign investment enterprises ("FIEs")
6. Corporate income tax refund program for reinvestment of FIE profits in export-oriented enterprises
7. Local income tax exemption and reduction program for "productive" FIEs
8. Reduced income tax rates for FIEs based on location
9. Reduced income tax rate for knowledge or technology intensive FIEs
10. Reduced income tax rate for high or new technology FIEs
11. Preferential tax policies for research and development at FIEs
12. Income tax credits on purchases of domestically produced equipment by domestically-owned companies

Indirect Tax Programs and Import Tariff Program

13. Export payments characterized as VAT rebates

⁵ Commerce has recently determined that the current nature of the economy in China does not create obstacles to applying the necessary criteria in the countervailing duty law and has consequently initiated countervailing duty investigations against China. See *Coated Free Sheet Paper from the People's Republic of China: Amended Preliminary Affirmative Countervailing Duty Determination*, 72 FR 17484, 17486 (April 9, 2007).

⁶ *Lightweight Thermal Paper from the People's Republic of China: Initiation of Countervailing Duty Investigation*; 72 FR 62209, November 2, 2007.

14. VAT and tariff exemptions on imported equipment

Grant Programs

15. State Key Technology Renovation Program Fund

Provincial Subsidy Programs

16. Funds for “outward expansion” of industries in Guangdong Province

17. Export interest subsidy funds for enterprises located in Shenzhen City or Zhejiang Province

18. Loans and interest subsidies pursuant to the Liaoning Province's five-year framework

Currency Programs

19. Currency retention

THE SUBJECT PRODUCT

Commerce’s Scope

Commerce has defined the scope of these investigations as follows:

Thermal paper with a basis weight of 70 grams per square meter (“g/m²”) (with a tolerance of ± 4.0 g/m²) or less; irrespective of dimensions;⁷ with or without a base coat⁸ on one or both sides; with thermal active coating(s)⁹ on one or both sides that is a mixture of the dye and the developer that react and form an image when heat is applied; with or without a top coat;¹⁰ and without an adhesive backing. Certain lightweight thermal paper is typically (but not exclusively) used in point-of-sale applications such as ATM receipts, credit card receipts, gas pump receipts, and retail store receipts.

The merchandise subject to these investigations is provided for in the Harmonized Tariff Schedule of the United States (“HTSUS”) under subheadings 4811.90.8040 and

⁷ Certain LW thermal paper is typically produced in jumbo rolls that are slit to the specifications of the converting equipment and then converted into finished slit rolls. Both jumbo rolls and converted rolls (as well as certain LW thermal paper in any other forms, presentations, or dimensions) are covered by the scope of these investigations.

⁸ A base coat, when applied, is typically made of clay and/or latex and like materials and is intended to cover the rough surface of the paper substrate and to provide insulating value.

⁹ A thermal active coating is typically made of sensitizer, dye, and co-reactant.

¹⁰ A top coat, when applied, is typically made of polyvinyl acetone, polyvinyl alcohol, and/or like materials and is intended to provide environmental protection, an improved surface for press printing, and/or wear protection for the thermal print head.

4811.90.9090.¹¹ Although HTSUS numbers are provided for convenience and customs purposes, the written description of the scope of these investigations is dispositive.

Tariff Treatment

Certain LW thermal paper is classifiable in the Harmonized Tariff Schedule of the United States (“HTSUS”) under statistical reporting numbers 4811.90.8040 and 4811.90.90.¹² Prior to January 1, 2007, certain LW thermal paper was classifiable in statistical reporting numbers 4811.90.8000 and 4811.90.9000.¹³ All four of these statistical reporting numbers are “basket” categories and contain many other products besides certain LW thermal paper. Table I-1 depicts the statistical reporting numbers in the HTSUS under which certain LW thermal paper are currently classified and their tariff treatment.

**Table I-1
Certain LW thermal paper: Tariff treatment, 2007**

HTS provision	Article description	General ¹	Special ²	Column 2 ³
		Rates (percent ad valorem)		
4811	Paper, paperboard, cellulose wadding and webs of cellulose fibers, coated, impregnated, covered, surface-colored, surface-decorated or printed, in rolls or rectangular (including square) sheets, of any size, other than goods of the kind described in heading 4803, 4809, or 4810: In strips or rolls of a width exceeding 15 cm or in rectangular (including square) sheets with one side exceeding 36 cm and the other side exceeding 15 cm in the unfolded state:			
4811.90.80	Weighing over 30 g/m ²	Free	(4)	18.5%
20	Gift wrap (other than tissue).....			
40	Other.....			
4811.90.90	Other.....	Free	(4)	35%
10	Tissue papers having a basis weight not exceeding 29 g/m ² , in sheets.....			
90	Other.....			

¹ Normal trade relations, formerly known as the most-favored-nation duty rate.
² Special rates not applicable when General rate is free.
³ Applies to imports from a small number of countries that do not enjoy normal trade relations duty status.
⁴ Certain nonsubject countries qualify for duty free rates either within the U.S. Generalized System of Preferences (“GSP”) program or as negotiated in a free trade agreement with the United States.

Source: Harmonized Tariff Schedule of the United States (2007).

¹¹ HTSUS subheading 4811.90.8000 was a classification used for certain LW thermal paper until January 1, 2007. Effective that date, subheading 4811.90.8000 was replaced with 4811.90.8020 (for gift wrap, a non-subject product) and 4811.90.8040 (for “other,” including certain LW thermal paper). HTSUS subheading 4811.90.9000 was a classification for certain LW thermal paper until July 1, 2005. Effective that date, subheading 4811.90.9000 was replaced with 4811.90.9010 (for tissue paper, a nonsubject product) and 4811.90.9090 (for “other,” including certain LW thermal paper). Petitioner indicated that, from time to time, certain LW thermal paper also may have been entered under HTSUS subheading 3703.90, HTSUS heading 4805, and perhaps other subheadings of the HTSUS.

¹² ***.

¹³ As of January 1, 2007, statistical reporting numbers 4811.90.8020 and 4811.90.9010 were created to delineate imports of gift wrap and tissue paper, respectively, leaving certain LW thermal paper in the basket “other” statistical reporting numbers of 4811.90.8040 and 4811.90.9090.

THE DOMESTIC LIKE PRODUCT

The Commission's decision regarding the appropriate domestic products that are "like" the subject imported products is based on a number of factors including: (1) physical characteristics and uses; (2) common manufacturing facilities and production employees; (3) interchangeability; (4) customer and producer perceptions; (5) channels of distribution; and (6) price. Information regarding interchangeability, customer and producer perceptions, and channels of distribution is presented in *Part II* of this report. Information regarding price is presented in *Part V* of this report. Information regarding the physical characteristics and uses, and the manufacturing process of certain LW thermal paper is presented below.

Physical Characteristics and Uses

Certain LW thermal paper and other thermal papers have a thermal active coating on one or both sides. The chemicals are a mixture of dye and developer, which react to form an image when heat is applied. Thermal papers are specifically intended to be used in printers containing thermal print heads. Thermal print heads consist of arrays of tiny heating elements that alternately heat up and cool down during printing, and as the paper passes between the print head and the platen roll, the alternating heating and cooling of the elements in the head form images on the paper.¹⁴ Like dot matrix printers,¹⁵ thermal printers function without consumables other than the paper (i.e., toner, liquid ink, or solid ink).

Thermal paper was not commercially viable until Japanese firms successfully introduced fax machines and heat sensitive papers to replace telex machines, and those firms held a predominant position in thermal paper technology until the late 1980s.¹⁶ Thermal papers are used for a wide range of end uses, and usage is reportedly growing at the expense of carbonless paper due its cost advantage and the technical advantages of thermal printers relative to other types of printers.¹⁷ Global consumption of thermal paper is projected to grow at an annual rate of *** over the course of the next few years.¹⁸ The weight of thermal paper reportedly ranges widely, from about 48 g/m² to over 200 g/m² with or without topcoat and/or base coat.¹⁹ A recent industry analysis segmented thermal paper usage into ***.²⁰ That analysis estimated that in 2005, ***.²¹

Although certain LW thermal paper is defined as any thermal paper having a basis weight of less than 70 g/m², the principal basis weights in the U.S. market are 55 g/m² and 48 g/m.² The weight of the coating accounts for *** of the total weight of a 55 g/m² sheet.²² The 55 g/m² product has been the industry standard and accounts for approximately 75 percent of the U.S. market.²³ The caliper (i.e.,

¹⁴ Petition, p. 4.

¹⁵ Dot matrix printers are impact printers that print multi-part documents typically using carbonless copy paper (sheets coated on the bottom and/or top with micro-encapsulated dye and a clay, which react to form the image). Found at http://www.appletonideas.com/pdf/Appleton_Marks_50_Years_of_Making_Carbonless_Papers.pdf retrieved on October 22, 2007.

¹⁶ ***. Petitioner's postconference brief, exh. 13, pp. 2, 27.

¹⁷ Advantages of direct thermal printing include reliability and low maintenance, low energy consumption, high speed printing, clean and quiet printing, and improved durability/archivability. Petitioner's postconference brief, p. 46, exh. 13, p. 23.

¹⁸ Petitioner's postconference brief, exh. 13, p. 3.

¹⁹ Ibid., p. 23.

²⁰ Ibid.

²¹ Ibid., p. 25.

²² Ibid., exh. 1, p. 12.

²³ Conference transcript, p. 64 (Hatfield).

thickness) of certain LW thermal paper is also an important specification. The standard caliper of 55 g/m² paper is 2.3 mils and that of 48 g/m² is 2.1 mils.²⁴

According to Appleton, paper markets have, in general, been gravitating toward lighter basis weight products, and in recent years, certain LW thermal paper weighing 48 g/m² has been introduced into the U.S. market at a discount to the 55 g/m² product, which makes it appealing to some converters.²⁵ However, Appleton contends that there hasn't been a big push by end users for lighter basis weights and that market acceptance of the 48 g/m² product has been limited because of certain disadvantages (e.g., thinner paper more prone to breaking during converting, smaller converted rolls, and the need to inventory more types of packaging).²⁶ On the other hand, Koehler, which introduced its 48 g/m² certain LW thermal paper to the U.S. market in 2005, sees an advantage in the thinner paper in that it can be used to make a longer finished roll with the same diameter meaning less time spent by the end user changing rolls. Koehler also notes that the product has a freight advantage for converters because they can ship 10 percent more footage at the same shipping weight, and the firm expects sales of the 48 g/m² product to continue growing.²⁷ The German respondents contend that ***.²⁸

Both U.S. coaters of certain LW thermal paper reported that they *** 48 g/m² certain LW thermal paper. ***.²⁹ ***.³⁰ Several converters also *** 48 g/m² paper. Sandt Products noted that it purchased 48 g/m² paper exclusively, primarily from Koehler.³¹ ***.³² ***.³³ ***,³⁴ and ***.³⁵

Certain LW thermal paper is typically (but not exclusively) used in point-of-sale (“POS”) applications such as ATM receipts, coupons, credit card receipts, gas pump receipts, kiosk receipts, parking receipts, portable printer receipts, retail store receipts, and prescription receipts.³⁶ Heavier weight thermal paper, often with a basis weight of 80 g/m², is reportedly used for label products (e.g., shipping labels, deli labels) and ticket products (e.g., event tickets, lottery tickets, boarding passes).³⁷

Manufacturing Facilities and Manufacturing Processes

There are three primary steps in the production of certain LW thermal paper: (1) manufacturing the base paper, (2) coating, and (3) converting. The three stages are described below.

²⁴ Ibid., p. 133 (Greene).

²⁵ Ibid., pp. 105-107 (Hatfield).

²⁶ Because in the U.S. market converted rolls are typically run to a footage rather than a diameter, using lighter weight means a smaller converted roll, which leads to the perception among some customers that they are not getting the same amount of paper, conference transcript pp. 105-107 (Hatfield), and petitioners postconference brief, p. 16.

²⁷ Conference transcript, p. 221(Greene).

²⁸ German respondents postconference brief, p. 19.

²⁹ *** U.S. producer's questionnaire, question II-16.

³⁰ *** U.S. producer's questionnaire, question II-16.

³¹ Conference transcript, p. 149 (Sandt).

³² *** U.S. producer's questionnaire, question II-16.

³³ Ibid.

³⁴ Ibid.

³⁵ *** U.S. producer's questionnaire, question II-16.

³⁶ Petition, p. 5.

³⁷ Petition, p. 10.

Manufacturing the Base Paper

In a typical paper manufacturing operation, pulpwood, once debarked, enters a chipper, which chips the wood into uniformly sized chips. Next, digesters cook the chips in a chemical solution to separate the cellulose fibers from lignin and other non-cellulosic substances. The resulting wood pulp is then washed, bleached, and refined in preparation for papermaking operations. Most paper is made on fourdrinier paper machines³⁸ in which a diluted solution of wood pulp is pumped through a headbox³⁹ and onto a revolving bronze wire. Water drains by gravity through the wire and/or by suction from the top as the wire advances, forming a web or sheet on the wire. At the end of the wire, the web is picked off by revolving nylon felts and delivered to the press section. The press section consists of closely spaced steel rollers which press water out of the web as it passes through the nip between each set of rollers. Exiting the press, the web of paper, which is now able to support itself, enters the dryer section.⁴⁰ The steam-heated cylinders of the dryer remove the remaining moisture from the paper as it laps over and under successive cylinders. High water hold-out (i.e. prevention of rapid absorption) and low porosity are reported to be important factors for certain LW thermal paper base paper.⁴¹

One U.S. producer of certain LW thermal paper, Appleton, manufactures base paper for certain LW thermal paper on ***.⁴² The functional expertise required to make paper suitable for certain LW thermal paper includes knowledge of paper recycling, coating formulation and application, stock preparation (pulp), paper making, rewinding, and support functions (e.g., quality control, electrical control, process control, and mechanical engineering).⁴³ Technical expertise consists of engineers and chemists with education levels ranging from bachelors degrees to PhD and experience levels up to decades.⁴⁴ Appleton also maintains ***.⁴⁵

Coating

In the first step in the coating process, the coatings are blended from both solid and liquid raw materials. Next, the coating is pumped directly to an off-machine coater,⁴⁶ and reels of the base paper are also delivered to the coater, which applies one or more different coatings to the paper.⁴⁷ In a continuous process, the web of paper is unwound and the coatings are applied in series, with the first coating being dried in a flotation oven prior to application of subsequent coatings. Water is applied to the back of the

³⁸ Named for the Frenchman who helped popularize the design, Fourdriniers have a continuous loop of bronze mesh screen, the “wire.” Typically, the wire is oriented horizontally and looped around rollers at both ends.

³⁹ The head box extends across the wire and delivers the pulp to the wire through many small openings, orifices, or nozzles.

⁴⁰ Conventional dryers consist of a number of steam-heated cylinders (30 to 60 inches in diameter) arranged in two or more tiers. The wet paper typically passes over and under successive cylinders.

⁴¹ Petitioner’s postconference brief, p. 12.

⁴² ***’s U.S. producer’s questionnaire response, section II-15.

⁴³ Ibid.

⁴⁴ Ibid.

⁴⁵ Ibid.

⁴⁶ Unlike an on-machine coater, an off-machine coater is one not physically attached to the back-end of a paper machine. Petition, pp. 5-6.

⁴⁷ In addition to the thermal layer (the coating of heat-sensitive chemicals), a pre-coat or base coat may be applied to provide an insulating layer to improve the thermal sensitivity and/or increase hold-out to prevent rapid absorption of the thermal layer into the base paper. Also, a top coat may be applied to protect against abrasion, environmental influences and certain chemicals. *** U.S. producer’s questionnaire, response to question II-15 and “Thermal Paper Technology” found at http://www.cibasc.com/ind-pap-eff-cct-thermal_paper_technology.htm and retrieved on October 22, 2007.

paper to minimize curl, and the sheet is dried once more. After coating, the paper is calendered⁴⁸ and passed through a pressurized nip (i.e., press) to control the smoothness and thickness of the sheet. The paper is rewound on a reel and delivered to a rewinder, which produces jumbo rolls by unwinding the reel, slitting the web to the appropriate widths, and rewinding the resulting narrow webs onto paperboard cores. Finally, the jumbo rolls are wrapped in preparation for shipment.⁴⁹ The principal component of thermal coatings are color formers, developers, sensitizers, and various non-active ingredients.⁵⁰

The functional expertise for coating paper includes knowledge of coating formulation and application as well as support functions (e.g., quality control, electrical control, and process control).⁵¹ An integrated producer, Appleton, contends that the levels of education and technical expertise necessary for coating operations are similar to those which are necessary for paper manufacturing.⁵² Hourly workers are required to master the technical concepts associated with their functions. While on the job, they must balance operating parameters, troubleshoot the production process, and perform quality control testing.⁵³ Attaining the necessary level of experience takes at least several years.⁵⁴ ***.⁵⁵

Converting

The conversion process starts with jumbo rolls of certain LW thermal paper and results in small rolls of certain LW thermal paper packaged and ready for use in consumers' POS equipment. Although the details and equipment may differ slightly from one plant to the next, the basic operations of the process are the same and include printing, slitting, and packaging. The equipment to be used to fulfill a particular order depends on the type of printing required and the size and volume of the rolls to be produced.⁵⁶ If printing is required, it is accomplished with single or multicolor web flexographic or web offset presses⁵⁷ before the jumbo rolls are slit.⁵⁸ Set-up for the slitting process involves the following steps. The jumbo roll is mounted on the upstream roll stand of a slitter-rewinder in the correct position to ensure proper unwinding, depending on whether the coated surface is wound in or out. As the roll is being mounted, a series of circular knives are set in the proper position across the width of the machine to slit the web of paper to the correct width for the rolls to be produced.⁵⁹ Various other adjustments are made such as the placement of the "end or roll" warning stripe printer/inker. Paper is threaded into the slitter through a series of rollers and adjusted to remove all wrinkles, and the web engages the circular knives. The slit webs are aligned with a rewind arbor, which is loaded with cores. Either manually or mechanically depending on the slitter, the loose ends are reverse tucked around the cores to secure them. The rewind arbor is sandwiched between two bed rollers on the bottom and an upper roller, the top rider roll. In operation the upper and lower rollers spin in opposite directions, and the top roller moves up as the diameter of the converted rolls increases.⁶⁰ Once set-up is complete, the slitter starts, unwinding paper

⁴⁸ Calenders are stacked, alternating hard (steel) and soft (plastic) rollers through which the paper is passed to control the density, smoothness, and finish of the paper.

⁴⁹ *Petition*, p. 6.

⁵⁰ Petitioner's postconference brief, exhibit 13, p. 27.

⁵¹ Conference transcript, pp. 75-78 (Sitter); Appleton U.S. producer's questionnaire response, question II-15.

⁵² *Ibid.*

⁵³ *Ibid.*

⁵⁴ *Ibid.*

⁵⁵ *Ibid.*

⁵⁶ German respondents' postconference brief, answers to staff questions, p. 12.

⁵⁷ Conference transcript, p. 237 (Endsley, Scharwitz).

⁵⁸ German respondents' postconference brief, answers to staff questions, p. 13.

⁵⁹ ***'s U.S. producer's questionnaire response, question II-15.

⁶⁰ German respondents' postconference brief, answers to staff questions, p. 13.

to pre-programmed length or roll diameter.⁶¹ Next, the rewind arbor is removed from the bed rollers and placed on glue rollers, where the tails of the completed rolls are secured with tape, glued or pre-gummed tabs. Finished rolls are conveyed to a “break-a-part,” which separates the individual rolls. The individual rolls are flipped on their sides and passed through a hydraulic press that presses both core and paper flush. Then the rolls proceed to a packing station, where they are packed in corrugated shipping containers and assembled on pallets.⁶²

Trained workers operate specific equipment (e.g., printing presses, slitters).⁶³ The functional expertise required for converting operations includes a broad knowledge about paper, particularly the runability of purchased paper in printing presses and slitter-rewinders as well as OEM requirements for POS printers.⁶⁴ Although older manually operated slitters require little or no expertise, new printing presses and slitter-rewinders are highly sophisticated, computerized machines that require much greater technical expertise at both the operator and supervisory levels.⁶⁵ ***.⁶⁶

INTERMEDIATE PRODUCTS

When the subject product is also an intermediate product and there is a domestic like-product issue concerning the downstream product, the Commission has employed a five-factor “semifinished/finished products” analysis. The five factors that the Commission has considered in analyzing semifinished products include: (1) uses (is the upstream product dedicated to the production of the downstream product or does it have independent uses?); (2) markets (are there separate markets for the upstream and downstream products?); (3) characteristics and functions (are there differences in the physical characteristics and functions of the upstream and downstream products?); (4) value (are there differences in the production costs and/or sales values (transfer values or market prices as appropriate) of the upstream and downstream products?); and (5) transformation processes (what is the significance and extent of the processes used to transform the upstream product into the downstream product?).

In these investigations, slitted (finished) certain LW thermal paper rolls are downstream products and certain LW thermal paper in jumbo rolls (unfinished) are the upstream or intermediate product.

Whether the Upstream Product is Dedicated to the Production of the Downstream Product

Market participants agreed that certain LW thermal paper in jumbo roll form has no use but in the production of slitted certain LW thermal paper. *** reported that all jumbo rolls are dedicated to the downstream slitted product and that there exists no secondary jumbo roll market in the United States. Fifteen out of 15 responding U.S. converters also stated that 100 percent of their purchased jumbo rolls are dedicated to the production of finished slitted products. Eight out of eight responding U.S. importers stated that they believed 100 percent of imported jumbo rolls are dedicated to production of the downstream product.

⁶¹ Ibid.

⁶² Ibid.

⁶³ ***’s U.S. producer’s questionnaire response, question II-15.

⁶⁴ ***’s U.S. producer’s questionnaire response, question II-15.

⁶⁵ ***’s U.S. producer’s questionnaire response, question II-15 and German respondents’ postconference brief, p. 5.

⁶⁶ ***’s U.S. producer’s questionnaire response, question II-15.

Whether There are Separate Markets for the Upstream and Downstream Products

Petitioner argued that because all jumbo rolls are converted, both the upstream and downstream products serve the same market, which is ultimately the end users such as retailers, banks, and gas stations. German respondents argued that there is a clear dividing line between the market for certain LW thermal paper in jumbo roll form and the finished slitted product.⁶⁷ Twelve of 15 reporting U.S. converters and five out of seven reporting U.S. importers stated that they also perceived the market for jumbo rolls, which are sold to converters, and the market for slitted rolls, which are sold to distributors and end users, to be two separate markets.

Whether There are Differences in the Physical Characteristics and Functions of the Upstream and Downstream Products

Petitioner argued that aside from slitting and packaging, there are no differences in physical characteristics between the jumbo and slitted rolls. It maintained that the chemical thermal coating imparts both products with its essential physical characteristics and this remains unchanged from jumbo form until finished slitted product.⁶⁸ Three out of 15 reporting U.S. converters and one out of eight reporting U.S. importers concurred and stated they believed that there exists no difference in the physical characteristics between the two products. Twelve out of 15 reporting U.S. converters and seven out of eight reporting U.S. importers stated that they believed conversion activities changed the physical characteristics of the jumbo rolls by altering the size, adding customer-requested printing, and adding final packaging.

Value Added by U.S. Converters

Slitted certain LW thermal paper rolls are more costly to manufacture than merely the unfinished jumbo rolls, due to the additional operations required to produce them. The cost of these additional operations is reflected in the higher prices and higher value of slitted product. The Commission requested information from U.S. converters on the value added of their U.S. converting operations. Data submitted in response to the questionnaire by 14 U.S. converters indicates that converting operations accounted for an average 15.1 percent (ranging from *** percent) of the cost to produce certain LW thermal paper excluding selling, general, and administrative costs. With the inclusion of selling, general, and administrative costs, U.S. converters reported that converting operations accounted for an average of 27.6 percent (ranging from *** percent) of the total cost to produce the product (*see Part VI, table VI-6*).⁶⁹

DOMESTIC LIKE PRODUCT ISSUES

The petitioner contends that the Commission should find one domestic like product that is co-extensive with the scope of the investigations as identified by Commerce.⁷⁰ German and Korean respondents did not raise any domestic like product issues.⁷¹ Chinese respondent, however, argued that in

⁶⁷ German respondents' postconference brief, p. 13.

⁶⁸ Petitioner's postconference brief, pp. 3-4.

⁶⁹ In 2006, the average unit value of U.S. shipments of jumbo rolls to converters was *** while the average unit value of U.S. shipments of slitted rolls to distributors or end users was ***, or a premium of *** percent. Value added computed in this manner also reflects the profit margins of U.S. converters.

⁷⁰ Petitioners' postconference brief, p. 3.

⁷¹ Conference transcript, p. 221 (Silverman).

the event that the Commission determines to conduct final phase investigations⁷² it should define the domestic like product as all thermal paper by expanding the currently proposed definition to include thermal paper over 70 g/m².⁷³ With regard to physical characteristics and uses, Chinese respondent contended that the chemical composition and the end uses of the two product categories are the same and differ only as to weight and thickness.⁷⁴ Counsel further maintained that the two product categories are interchangeable at all but the highest and lowest grades and weights,⁷⁵ that the channels of distribution are the same, and that the same manufacturing facilities and employees are used in its production.⁷⁶ Chinese respondent, however, observed that consumers generally perceive higher weighted thermal papers as of higher quality and thus command higher prices.⁷⁷

Petitioner argued that certain LW thermal paper is not like other thermal paper because heavier thermal paper would not function with POS printers. Further, petitioner contended that heavier thermal papers are used for differing end uses such as label products, ticket products, airline boarding passes, and baggage tags which require greater strength, resistance, and durability than certain LW thermal paper, which is generally used for POS receipts. Petitioner argued that given these vast differences between the products' physical characteristics, the two products are: (1) not interchangeable; (2) customers perceive them differently; (3) the manufacturing processes differ; and (4) there exists a price premium on the heavier weight thermal paper.⁷⁸

⁷² Chinese respondent argued that the Commission has a sufficient record in the preliminary phase of these investigations to come to a negative determination, but desired to reserve the right to advocate for an expansion of the domestic like product in any final phase investigations the Commission may conduct. Conference transcript, p. 220 (Jeong).

⁷³ Chinese respondent's postconference brief, p. 10; conference transcript, p. 220 (Jeong).

⁷⁴ Nine out of nine responding U.S. converters and seven out of ten responding U.S. importers stated that they believed a dividing line did exist between lighter and heavier thermal paper products and that the end uses of those product categories differed.

⁷⁵ Converters' perceptions of interchangeability between certain LW thermal paper and heavier weight thermal papers are mixed. Three converters stated that the certain LW thermal paper and heavier weight products were or were usually interchangeable, four said the products were sometimes interchangeable, and five said the products were not or were seldom interchangeable. Six out of ten responding U.S. importers stated that they believed that lightweight thermal paper was not interchangeable with heavier weight thermal paper. Many of the remaining firms stated that there existed some overlap in end uses but the use of the heavier weight thermal paper in lightweight thermal paper applications would be cost prohibitive.

⁷⁶ U.S. converters and importers generally reported that there exists overlap in the manufacturing processes and channels of distribution between the two product categories. A number of firms, however, reported that the manufacture of labels and the addition of an adhesive backing are quite distinct manufacturing processes. Further, they stated that the channels of distribution for labels may differ from certain LW thermal paper.

⁷⁷ Chinese respondent's postconference brief, pp. 10-12. Six out of six responding U.S. converters and seven out of nine responding U.S. importers reported that they believed customers perceive higher weight paper to be of higher quality. Ten out of ten responding U.S. converters and eight out of nine responding U.S. importers stated that the price of the higher weight paper is higher than certain LW thermal paper.

⁷⁸ Petitioner's postconference brief, pp. 5-8.

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

U.S. MARKET SEGMENTS/CHANNELS OF DISTRIBUTION

Certain LW thermal paper is sold in two forms: jumbo rolls and slit, or converted, rolls. The product is sold to be used mostly in point-of-sale POS printers for receipts in retail establishments, banking applications such as ATMs, credit card transactions, and self-service kiosks. *** of U.S. coaters' U.S. shipments of certain LW thermal paper jumbo rolls go to converters that slit the rolls into narrower rolls, typically 3¹/₈" wide, to be used as receipts.¹ *** of U.S. imports of certain LW thermal paper imported from China go to distributors and converters acting as distributors.² *** of U.S. imports of certain LW thermal paper jumbo rolls from Germany go to converters. *** of U.S. imports of certain LW thermal paper imported from Korea go to converters. Converters and distributors then sell to end users.

U.S. coater Appleton reported that *** customers purchase certain LW thermal paper only from Appleton, indicating that customers purchase from various sources and that *** customer overlap exists across suppliers from all subject countries and domestic suppliers.³

When firms were asked to list market areas in the United States where they sell certain LW thermal paper, the responses showed that the market areas tended to be nationwide. *** U.S. coaters reported and 11 of 17 responding U.S. converters reported that they sell nationally. The others listed specific geographic regions, including the Northeast, the Southeast, the Midwest, the Southwest, the Rocky Mountains, and the west coast. Among responding importers of certain LW thermal paper from China, 6 of 8 reported that they sold nationally. The others listed the Northeast, the Southeast, and the Southwest. *** responding importers of certain LW thermal paper from Germany and *** responding importer of product from Korea reported that they sold nationally.

U.S. inland shipping distances for U.S.-processed certain LW thermal paper were compared with those for imports from China, Germany, and Korea. For U.S. coaters, approximately *** percent of their U.S. sales occur within 100 miles of their storage or production facility, approximately *** percent were within distances of 101 to 1,000 miles, and approximately *** percent were at distances of over 1,000 miles from their facilities. For imports from China, approximately *** percent of sales occurred within 100 miles of importers' storage facilities, *** percent were within 101 to 1,000 miles, and *** percent were over 1,000 miles. For imports from Germany, approximately *** percent were within 101 to 1,000 miles and *** were over 1,000 miles. For imports from Korea, *** percent were over 1,000 miles.

U.S. coater *** reported that *** of its sales are made from inventory, while U.S. coater *** reported that about *** of its sales are made from inventory and *** are produced to order. Lead times for delivery of certain LW thermal paper for U.S. coaters ranged from 1 to 3 days on sales from inventory and ranged from 23 days to 8 weeks on sales produced to order. For converters, 15 of 17 responding firms reported that the majority of their sales are made from inventory. Lead times for delivery of certain LW thermal paper for converters ranged from immediate delivery to 7 days on sales from inventory and ranged from 2 days to 45 days on sales produced to order. For importers, 3 of 8 firms reported that the majority of their sales are made from inventory, while 5 reported that the majority of their sales are produced to order. Lead times for delivery of certain LW thermal paper for importers ranged from immediate delivery to 7 days on sales from inventory and ranged from 2 days to 3.5 months on sales produced to order.

¹ Conference transcript, pp. 71-72 (Hatfield).

² Conference transcript, p. 217 (Ferrin). *See also* pricing data reported on Chinese imports in part V of this report.

³ Petitioner's postconference brief, exh. 1, p. 16.

SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

Domestic Production

The supply response of certain LW thermal paper coaters to changes in price depends on such factors as the level of excess capacity, the availability of alternate markets for U.S.-produced certain LW thermal paper, inventory levels, and the ability to shift to the manufacture of other products. The evidence indicates that the U.S. supply is likely to be slightly inelastic, due primarily to limited available unused capacity and limited inventories combined with the existence of export markets and production alternatives.

Industry capacity

U.S. coaters' annual capacity utilization increased from *** percent in 2004 to *** percent in 2006. This level of capacity utilization indicates that U.S. coaters have limited unused capacity with which they could increase production of certain LW thermal paper in the event of a price change. U.S. coaters' capacity utilization may change in mid-2008 when Appleton's planned \$100 million expansion to its production capacity is scheduled for completion.⁴

Alternative markets

Total exports by U.S. coaters, as a share of total shipments, remained relatively flat at approximately *** percent from 2004 to 2006. These data indicate that U.S. coaters have the ability to divert shipments to or from alternative markets in response to changes in the price of certain LW thermal paper.

Inventory levels

The ratio of end-of-period inventories to total shipments increased from *** percent in 2004 to *** percent in 2006. These data indicate that U.S. coaters have a moderate ability to use inventories as a means of increasing shipments of certain LW thermal paper to the U.S. market.

Production alternatives

*** U.S. coaters reported using the actual machinery and equipment used to make certain LW thermal paper in the production of other products, including "other thermal paper" and thermal paper that is above a basis weight of 70 grams and outside the scope of this investigation.

⁴ *Resource Information Systems, Inc.* "Appleton announces expansion program for its thermal production capacity", January 26, 2007.

Allegations of Supply Shortages

Five converters and two purchasers reported that they experienced availability problems with U.S. coater Appleton over the period of investigation.⁵ Two of these firms specifically reported being put on allocation by U.S. coater ***.⁶ Six importers stated that they were aware that U.S. coater Appleton experienced availability problems over the period of investigation.⁷ Four firms cited a specific time period for such supply problems, extending from *** to August 2007. In particular, converter Sandt Products reported that in August 2007, it was unable to purchase 48 gram certain LW thermal paper from Appleton after having repeatedly expressed an interest in the product.⁸ Importer *** reported that *** discontinued production of its 48 gram thermal paper from ***.⁹ Additionally, converter *** reported that *** experienced a manufacturing disruption in ***.¹⁰ One other converter, ***, reported that U.S. coater *** was not always able to supply the quantity it ordered.¹¹ Koehler and importer Paper Resources reported that Appleton received a large order from a lottery company in late 2006 and diverted much of its production away from certain LW thermal paper to heavier thermal paper for lottery ticket applications.¹² Mitsubishi also reported that Appleton has sought to purchase certain LW thermal paper from it in 2006 and 2007 to be sold under the Appleton brand.¹³

U.S. coater Appleton reported that while it cannot supply 100 percent of the U.S. market, it has never put any customers on allocation or turned away any customers.¹⁴ It reports that there was a “spike” in demand throughout the industry that affected many manufacturers in September through early December of 2006 during which it extended lead times to customers from its normal two days to a few weeks. Appleton further stated that it added new capacity and the situation was resolved by January 2007.¹⁵

No responding converters or importers reported experiencing supply shortages from other suppliers, other than one mention of *** described above. One converter also reported that there was not a spike in demand at the end of 2006, but rather a normal seasonal trend upward in anticipation of the busy holiday retail season.¹⁶ Another converter reported that the increased demand at the end of 2006

⁵ Purchaser *** reported its comments in response to a lost sales allegation, as presented in more detail in part V of this report. An additional converter, Register Tape, stated that U.S. coater Appleton put it on allocation “about ten years ago,” which is prior to the period of investigation. Conference transcript, p. 154 (Endsley).

⁶ These two firms include U.S. converter Sandt Products and purchaser ***. Conference transcript, p. 150 (Sandt).

⁷ Conference transcript, p. 137 (Greene).

⁸ Conference transcript, p. 151 (Sandt). Sandt Products also reported that Appleton put it on allocation at the end of 2003 for its 2004 purchases.

⁹ ***’s importer questionnaire response, section III-B-30.

¹⁰ ***’s response to lost revenue allegations. *See* part V.

¹¹ ***’s response to lost sales and lost revenues allegations. *See* part V.

¹² Conference transcript, p. 203 (Greene, Burns).

¹³ Conference transcript, pp. 163-164 (Jahns).

¹⁴ Conference transcript, pp. 82, 85 (Schonfeld).

¹⁵ Conference transcript, pp. 82-84 (Schonfeld). *** also notes that demand may appear to have decreased in the first half of 2007 as converters reduced their inventories from the spike at the end of 2006, but that demand actually increased continually over the period of investigation. Petitioner’s postconference brief, p. 14.

¹⁶ Conference transcript, pp. 204-205 (Granholm).

was most likely a combination of seasonal factors and an announced price increase.¹⁷ Another importer reported that there was a general perception in the market at the time that there was a shortage of certain LW thermal paper.¹⁸

Subject Imports

The responsiveness of supply of imports from China, Germany, and Korea to changes in price in the U.S. market is affected by such factors as capacity utilization rates, the availability of home markets and other export markets, and inventories. Based on available information, producers in China are likely to respond to changes in demand with relatively large changes in the quantity of shipments of certain LW thermal paper to the U.S. market. The main contributing factors to this degree of responsiveness of supply in the case of China are its high levels of available unused capacity and strong home market sales. Producers in Germany and Korea are likely to respond to changes in demand with moderate changes in the quantity of shipments of certain LW thermal paper to the U.S. market, which is mostly attributable to their existence of export markets other than the United States.

Industry capacity

During the period of investigation, the capacity utilization rate for Chinese producers of certain LW thermal paper decreased from *** percent in 2004 to *** percent in 2006; it is projected to reach *** percent in 2007. The capacity utilization rate for German producers of certain LW thermal paper decreased from *** percent in 2004 to *** percent in 2006; it is projected to be *** percent in 2007. During the period of investigation, the capacity utilization rate for Korean producers of certain LW thermal paper increased from *** percent in 2004 to *** percent in 2006; it is projected to be *** percent in 2007.

Alternative markets

Available data indicate that producers in China, Germany, and Korea each have the ability to divert shipments to or from alternative markets in response to changes in the price of certain LW thermal paper. Shipments of certain LW thermal paper from China to the United States increased from *** in 2004 to *** percent of its total shipments in 2006; they are projected to reach *** percent in 2007. The share of China's shipments to export markets other than the United States decreased from *** percent in 2004 to *** percent in 2006. Shipments of certain LW thermal paper from Germany to the United States remained relatively constant over the period, increasing slightly from *** percent of total shipments in 2004 to *** percent in 2006; they are projected to be *** percent in 2007. The share of Germany's shipments to export markets other than the United States decreased slightly from *** percent in 2004 to *** percent in 2006. Shipments of certain LW thermal paper from Korea to the United States increased from *** percent of total shipments in 2004 to *** percent in 2006; they are projected to be *** percent in 2007. The share of Korea's shipments to export markets other than the United States decreased from *** percent in 2004 to *** percent in 2006.

Inventory levels

Chinese producers' inventories, as a share of total shipments, increased from *** percent in 2004 to *** percent in 2006 and are projected to be *** percent in 2007. German producers' inventories, as a

¹⁷ Conference transcript, pp. 202-203 (Schwartz).

¹⁸ Conference transcript, p. 199 (Burns).

share of total shipments, increased from *** percent in 2004 to *** percent in 2006 and are projected to be *** in 2007. Korean producers' inventories, as a share of total shipments, increased from *** percent in 2004 to *** percent in 2006 and are projected to be *** percent in 2007. These data indicate that foreign producers have some ability to use inventories as a means of increasing shipments of certain LW thermal paper to the U.S. market.

Nonsubject Imports

Based on data submitted in response to Commission questionnaires, U.S. imports of certain LW thermal paper from nonsubject sources accounted for *** percent of the quantity of total U.S. imports in 2006.

U.S. Demand

Demand Characteristics

The evidence discussed below indicates that the demand for this product is likely to be relatively price inelastic. U.S. apparent consumption increased by *** percent from 2004 to 2006. When asked how the overall demand for certain LW thermal paper has changed since January 2004, *** U.S. coaters, 16 of 17 responding U.S. converters, and 9 of 10 responding importers stated that the demand has increased. The increase in demand was most frequently attributed to a technology shift away from POS printers of bond paper and carbonless paper to printers that use certain LW thermal paper, mostly because newer thermal printers are faster than older printers using different papers, are more cost efficient, and are quieter. Some firms also cited the growth in retail business requiring ever increasing amounts of receipt paper.

Substitute Products

When asked whether there are substitutes for certain LW thermal paper, *** of the U.S. coaters cited alternatives. Five of 17 responding U.S. converters and 7 of 11 responding importers cited one or more alternatives. Heavier-weight thermal paper (with a basis weight greater than 70 g/m²) that is outside the scope of these investigations was named most often; other possible substitutes named included bond paper and carbonless paper. Several firms noted that heavier-weight thermal paper is interchangeable with certain LW thermal paper in POS receipt printers, has better archiving and image quality than certain LW thermal paper, and may appeal to more high-end, image-conscious end users.¹⁹ One importer, however, also reported that using heavier-weight thermal paper would be cost-prohibitive for many end users. No responding firms reported that the price of substitutes can affect prices of certain LW thermal paper.

Product Range

*** U.S. coater reported significant changes in product ranges or marketing over the period of investigation. Eleven of 17 responding converters reported that there have been significant changes, most of which (7 of 11) cited the introduction of certain LW thermal paper with a basis weight of 48 grams. Other changes cited included the emergence of converted thermal paper rolls from China, the increasing

¹⁹ Conference transcript, pp. 55-56 (Hatfield).

standardization of roll sizes, and dual-sided thermal paper.²⁰ Seven of 10 responding importers reported that there have been significant changes in product ranges or marketing, most often citing the introduction of 48 gram certain LW thermal paper and the standardization of rolls sizes.

One importer, ***, reported that it introduced 48 gram thermal paper in *** and it now constitutes about *** percent of its sales. It further reported that 48 gram thermal paper is popular with retailers because the rolls are longer, which requires less frequent changing of rolls and reduced freight costs, because reportedly *** percent more square feet of paper can be shipped with the same weight compared to 55 gram thermal paper.²¹ Importer Koehler has reported that Appleton's 48 gram thermal paper is only currently available on a special-order basis and converter Sandt Product reported experiencing difficulty in obtaining the product from Appleton in August 2007.²² Producers in China and Korea reportedly do not produce 48 gram certain LW thermal paper.

*** reportedly began selling 48 gram thermal paper in ***. It maintains that the POS market is still dominated by 55 gram thermal paper.²³ In particular, *** has cited the ***.²⁴ Additionally, *** has reported that converters are *** for many reasons that include ***. Moreover, *** reports that ***.²⁵ U.S. coater *** reported that 48 gram and 55 gram thermal paper are sold interchangeably on the market.²⁶

U.S. coater *** also reported that there is a difference between certain LW thermal paper of different sensitivity levels.²⁷ It reported that "higher sensitivity" thermal paper requires less heat from a thermal printer to create an image, thereby increasing the lifetime of the thermal printer. It also noted that *** typically purchases higher sensitivity certain LW thermal paper because it requires more durable receipts as it scans them when customers return merchandise.

SUBSTITUTABILITY ISSUES

The degree of substitutability between domestic products and subject and nonsubject imports and between subject and nonsubject imports is examined in this section. The discussion is based upon the results of questionnaire responses from coaters and importers.

Comparison of Domestic Product and Subject Imports

In order to determine whether U.S.-processed certain LW thermal paper can generally be used in the same applications as imports from China, Germany, and Korea, coaters, converters, and importers were asked whether the products can "always," "frequently," "sometimes," or "never" be used interchangeably. The *** U.S. coaters that compared certain LW thermal paper from China, Germany, Korea, and nonsubject countries with the product from the United States reported that they are always interchangeable, as shown in table II-1. The majority of U.S. converters reported that the U.S. product is always comparable with certain LW thermal paper from the subject countries. In a few comparisons, a

²⁰ NCR offers a patented dual-sided thermal paper technology which Appleton licensed in January 2007. *RISI*, "Appleton licenses NCR's two-sided thermal-paper technology", January 4, 2007.

²¹ ***'s importer questionnaire response, section III-16. Conference transcript, pp. 227-228 (Greene).

²² Conference transcript, p. 135 (Greene) and p. 151 (Sandt).

²³ Conference transcript, p. 65 (Hatfield).

²⁴ ***'s total reported volume of pricing product 2 (48 gram certain LW thermal paper) accounted for *** percent of its total volume reported for all pricing products over the period of investigation. See part V.

²⁵ Petitioner's postconference brief, p. 16.

²⁶ E-mail from ***, October 16, 2007.

²⁷ Staff telephone interview with ***, October 16, 2007.

relatively high number of converters reported that the products were only sometimes comparable, including the comparisons of U.S.-produced certain LW thermal paper and imports from China, U.S. product and imports from Germany, and in the comparison of Chinese imports with German imports. A roughly equal number of importers reported that the products from various sources are always comparable, with the other half reporting sometimes. In the comparison of U.S. product and imports from China, a plurality of responding importers reported that they are only sometimes interchangeable.

**Table II-1
Certain LW thermal paper: Perceived degree of interchangeability of product produced in the United States and in other countries**

Country comparison	U.S. coaters				U.S. converters				U.S. importers ¹			
	A	F	S	N	A	F	S	N	A	F	S	N
U.S. vs. China	2	0	0	0	5	1	3	1	2	2	5	1
U.S. vs. Germany	2	0	0	0	10	4	1	1	5	1	4	0
U.S. vs. Korea	2	0	0	0	7	0	2	1	4	1	3	0
U.S. vs. Nonsubject	1	0	0	0	2	1	0	0	2	0	3	0
China vs. Germany	2	0	0	0	4	0	3	0	3	1	3	2
China vs. Korea	2	0	0	0	4	0	2	0	3	1	2	1
China vs. Nonsubject	1	0	0	0	1	0	0	0	2	0	2	1
Germany vs. Korea	2	0	0	0	5	1	1	0	3	1	4	0
Germany vs. Nonsubject	1	0	0	0	1	1	0	0	2	0	3	0
Korea vs. Nonsubject	1	0	0	0	1	0	0	0	2	0	3	0

¹ One responding firm included in this column is a purchaser of jumbo rolls imported from *** and ***.

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

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

Certain LW thermal paper is certified by the four to five major thermal printer manufacturers, including IBM and Epson.²⁸ *** U.S. coaters and virtually all responding converters reported that their certain LW thermal paper is certified by both IBM and Epson printers. Converted certain LW thermal paper rolls imported from China are not approved by these printers.²⁹ Two responding converters reported that approval is a key factor in determining which papers may damage the print life of thermal printers. Two additional converter and four importers reported that the quality of Chinese certain LW thermal paper is poor. In particular, one converter reported that it considered Chinese certain LW thermal paper in *** too abrasive and damages thermal printers and has problems with image stability; however, it also reported that recently the quality of the Chinese product has seemed to improve.³⁰ Additionally, one importer reported that ***, it has received complaints from customers that the quality of the thermal

²⁸ Conference transcript, pp. 67, 70 (Hatfield).

²⁹ Conference transcript, p. 217 (Ferrin).

³⁰ ***'s producer questionnaire response, section IV-B-21.

imagining on the front is compromised.³¹ Paper Resources, a large importer of certain LW thermal paper from China, reported that it has not received complaints regarding the quality of its imports from China.³²

Two converters and three importers reported that the limited availability of 48 gram thermal paper from U.S., Chinese, and Korean producers is a factor that limits the interchangeability of these products with German certain LW thermal paper that is more readily available in a 48 gram basis weight.

One converter reported that Chinese producers of converted certain LW thermal paper rolls do not offer custom printing. Fourteen of 16 responding converters reported that they offer custom printing to at least some of their customers.

At least three converters reported that they ship converted rolls of certain LW thermal paper produced with jumbo rolls from various countries of origin together, at the same price, indicating that the product is very interchangeable. These converters also noted that they keep records on the source of each product and can track customer complaints regarding quality to a specific manufacturer.³³

As indicated in table II-2, the *** U.S. coaters that compared the United States with China, Germany, and Korea stated that differences other than price are sometimes or never significant. The majority of U.S. converters that compared imports from one subject country with another subject country reported that differences other than price are frequently or sometimes significant. In one instance, for the comparison of U.S. product and imports from Germany, a majority of responding converters reported that differences other than price are never significant. Moreover, three converters reported that differences between the U.S. product and imports from China and Germany are always significant. The majority of responding importers stated that differences other than price between certain LW thermal paper produced in the United States compared to certain LW thermal paper produced in the subject countries are frequently or sometimes significant. Four importers reported that differences other than price between the U.S. product and imports from China, as well as between imports from China and imports from Germany, were always significant.

Five converters reported quality problems with certain LW thermal paper produced by Appleton, mostly citing that the German product is of superior quality. In particular, Rite-Made reported that it has had image quality problems with the product produced by Appleton as well as slitting problems beginning in May 2005 that continued through the fall of 2006.³⁴ Appleton responded that the quality problems cited by Rite-Made were isolated and possibly are attributable to Rite-Made's equipment.³⁵ Converter *** also reported quality problems with the product from ***. Nashua reported that the German product reportedly runs more efficiently on its equipment. Moreover, converters Nashua and *** expressed a problem with ***'s trim requirements (requiring the customer to purchase various sizes of rolls in order to reduce ***'s trim waste).³⁶

One converter reported that U.S. suppliers can be more flexible regarding freight and delivery than other suppliers. Another converter reported that the product ranges offered by U.S. and German suppliers are superior to those offered by suppliers in other countries.

Two converters and four importers reported that the quality of certain LW thermal paper from China was poor, with several stating that it can damage the print life of thermal printers. Another converter reported that Chinese suppliers have an inferior transportation network relative to domestic suppliers and a more limited product range.

³¹ ***'s importer questionnaire response, section III-B-30.

³² Conference transcript, p. 199 (Burns).

³³ Conference transcript, pp. 229-23, (Schwartz, Granholm, and Sandt).

³⁴ Conference transcript, p. 158 (Schwartz).

³⁵ Conference transcript, p. 247 (Dorn).

³⁶ Conference transcript, p. 146 (Granholm).

Table II-2

Certain LW thermal paper: Differences other than price between products from different sources¹

Country comparison	U.S. coaters				U.S. converters				U.S. importers			
	A	F	S	N	A	F	S	N	A	F	S	N
U.S. vs. China	0	0	2	0	3	3	1	1	4	1	3	1
U.S. vs. Germany	0	0	1	1	3	2	4	6	0	2	3	3
U.S. vs. Korea	0	0	1	1	1	3	2	3	0	1	4	1
U.S. vs. Nonsubject	0	0	1	0	0	1	1	0	0	2	2	0
China vs. Germany	0	0	2	0	0	2	1	1	4	1	3	0
China vs. Korea	0	0	2	0	0	2	2	1	0	3	1	3
China vs. Nonsubject	0	0	1	0	0	0	0	0	1	1	1	0
Germany vs. Korea	0	0	1	1	0	2	1	3	1	1	4	1
Germany vs. Nonsubject	0	0	1	0	0	1	0	0	0	2	1	0
Korea vs. Nonsubject	0	0	1	0	0	0	0	0	0	2	1	0

¹ Coaters, converters, and importers were asked if differences other than price between certain LW thermal paper produced in the United States and in other countries are a significant factor in their firms' sales of certain LW thermal paper.

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

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

German importer *** reported that it receives customer feedback that its quality is superior to that of U.S. producers. This importer also reported that Korean suppliers have a slow delivery time.

Other Country Comparisons

In addition to comparisons between the U.S. product and imports from the subject countries, U.S. coater, converter, and importer comparisons between the United States and imports from nonsubject countries and between subject imports and nonsubject imports are also shown in tables II-1 and II-2. Importer *** reported that certain LW thermal paper produced in Japan, in both jumbo and converted roll form, is more expensive, highly specialized, and is typically used in medical applications requiring extremely long durability. This importer noted that interchangeability between the Japanese product with the product from the United States and the subject countries is cost prohibitive.

PART III: U.S. PRODUCERS' PRODUCTION, SHIPMENTS, AND EMPLOYMENT

Information presented in this section of the report is based on (except as noted) the questionnaire responses of two firms which are believed to account for all U.S. production of coated jumbo rolls of certain LW thermal paper in 2006 and 18 U.S. converters, which are estimated to account for approximately 46 percent of U.S. conversion activities in 2006.¹

U.S. PRODUCERS

The Commission sent producers' questionnaires to two firms, Appleton and Kanzaki, identified in the petition as U.S. producers of coated jumbo rolls of certain LW thermal paper. Both firms submitted responses. Petitioner contended that Appleton and Kanzaki are the only U.S. producers of the subject product. German respondents, however, argued that firms that engage in conversion activities in the United States should also be included as members of the U.S. industry.² Therefore, the Commission sent producers' questionnaires to 69 companies believed to be U.S. converters of certain LW thermal paper that were identified in the petition and by respondents as potential converters of the product.³ Eighteen firms submitted responses containing usable data.⁴ Table III-1 presents the list of reporting U.S. coaters and converters with each company's U.S. production location, share of U.S. jumbo roll production or converting production in 2006, and position on the petition.

¹ Assuming that in 2006, U.S. converters converted all of the domestic and imported jumbo rolls in the U.S. market then the volume of jumbo rolls to be converted numbered *** short tons. The Commission received U.S. producer's questionnaires from U.S. converters reporting a total of *** short tons of conversion production in 2006, or approximately 46 percent of estimated total U.S. conversion production.

² German respondent's postconference brief, pp. 2-7. Neither Appleton nor Kanzaki engage in conversion operations in the United States. ***. Appleton's postconference brief, exh. 1, p. 16.

³ Petitioner maintained that U.S. converters do not engage in sufficient production related activities in the United States, and therefore, should not be considered U.S. producers by the Commission. Petitioner's postconference brief, pp. 8-13.

⁴ Fourteen firms reported that they did not convert certain LW thermal paper. They included: ***.

Three U.S. converters submitted responses with incomplete or unusable data. These firms included: ***.

Table III-1
Certain LW thermal paper: U.S. coaters and converters, U.S. production locations, shares of U.S. production in 2006, and positions on the petition

Firm	Production location	Share of reported production (percent)	Position on the petition		
			China	Germany	Korea
U.S. Coaters					
Appleton ¹	Appleton, WI	***	Petitioner	Petitioner	Petitioner
Kanzaki ²	Ware, MA	***	***	***	***
U.S. Converters					
Bluegrass	Brandenburg, KY	***	***	***	***
Colorkraft	Martinsville, IL	***	***	***	***
Fay Paper	Norwood, MA	***	No position	No position	No position
Greenleaf	Phoenix, AZ	***	Support	Oppose	Oppose
Integrity Printing	Clare, MI	***	***	***	***
Liberty	Phoenix, AZ	***	***	***	***
Nakagawa ³	Hayward, CA	***	***	***	***
Nashua	Jefferson City, TN	***	***	***	***
National Checking	St. Paul, MN	***	***	***	***
NCR ⁴	Morristown, TN Viroqua, WI	***	***	***	***
Northeast Converters	Palm Beach, FL	***	Support	Oppose	No position
Paper Solutions	Knoxville, TN	***	***	***	***
PMCO	Cincinnati, OH	***	***	***	***
Rite-Made	Kansas City, MO	***	Support	Oppose	No position
Sandt	Lancaster, PA	***	***	***	***
Specialty Roll	Meridian, MS	***	***	***	***
Tufco	Newton, NC	***	***	***	***
Workflow One	Dayton, OH	***	Support	Support	Support
<p>¹ Appleton is wholly owned by the Paperweight Development Trust Corp., an employee stock ownership trust. ² ***. ³ ***. ⁴ NCR operates wholly owned subsidiaries in Canada, Chile, Dubai, France, New Zealand, and the United Kingdom that engage in the production of certain LW thermal paper.</p>					
Source: Compiled from data submitted in response to Commission questionnaires.					

U.S. CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION

U.S. Coaters

Data on U.S. coaters’ capacity, production, and capacity utilization are presented in table III-2. Total U.S. capacity increased from 2004 to 2006 by *** percent but decreased by *** percent between January-June 2006 and January-June 2007. ***.⁵ In January 2007, Appleton announced that it planned to install a new coating operation and other enhancements totaling \$100 million in capital investment at its West Carrollton, OH facility to be completed and operational by mid-2008. This planned expansion will exclusively produce certain LW thermal paper and increase petitioner’s capacity to produce the subject product by *** short tons annually.⁶ U.S. capacity volume accounted for only *** percent of apparent U.S. consumption of certain LW thermal paper in 2006. Total U.S. production of certain LW thermal paper increased by *** percent from 2004 to 2006, but decreased *** percent between January-June 2006 and January-June 2007.⁷ Annual capacity utilization ranged from *** percent in 2005 to *** percent in 2006.⁸

**Table III-2
Certain LW thermal paper: U.S. coaters’ capacity, production, and capacity utilization, 2004-06,
January-June 2006, and January-June 2007**

* * * * *

Both Appleton and Kanzaki reported producing other products using the same manufacturing equipment and/or production employees that were used to produce certain LW thermal paper. Table III-3 shows overall U.S. capacity for these producers as well as the other products for which they have allocated capacity.

**Table III-3
Thermal paper and other products: Overall capacity of U.S. coaters, and production by firms and
products, 2006**

* * * * *

⁵ ***.

⁶ Petitioner’s postconference brief, p., 49 and exh. 1, p. 2. Exhibits 11 and 12 of petitioner’s postconference brief contain documents drafted in the normal course of business regarding petitioner’s planning of the expansion.

⁷ *** U.S. coater reported toll agreements or U.S. production of certain LW thermal paper in U.S. foreign trade zones. Petitioner reported that in its production of certain LW thermal paper, it obtained ***. Petition, p. 5, n.3. Kanzaki ***. Kanzaki’s U.S. producer questionnaire response, section II-18.

⁸ The January-June interim periods may show artificially low capacity utilization rates due to the seasonal nature of this industry, which mirrors the retail industry where demand peaks in the third and fourth quarters. German respondents argue that because of this seasonality, the Commission should place little value on reported low capacity utilization rates of the U.S. industry in the interim periods and should instead examine the relatively high annual capacity utilization rates. German respondents further argue that the petitioner’s excess capacity claim lacks credibility and provided an August 2006, letter from Appleton to Mitsubishi Germany that requested supply of 10,000 metric tons annually of certain LW thermal paper from the German firm. German respondents’ postconference brief, exh. 10. Petitioner stated that ***. Petitioner’s postconference brief, exh. 1, p. 3.

U.S. Converters

Data on U.S. converters' capacity, production, and capacity utilization are presented in table III-4. Total U.S. capacity increased from 2004 to 2006 by *** percent and by *** percent between January-June 2006 and January-June 2007. Total U.S. conversion production of certain LW thermal paper increased by *** percent from 2004 to 2006 and by *** percent between January-June 2006 and January-June 2007.⁹ Annual capacity utilization ranged from 42.9 percent in 2004 to 46.5 percent in 2006.¹⁰

Table III-4

Certain LW thermal paper: U.S. converters' capacity, production, and capacity utilization, 2004-06, January-June 2006, and January-June 2007

* * * * *

Fifteen of the 18 reporting U.S. converters reported producing other products using the same manufacturing equipment and/or production employees that were used to produce certain LW thermal paper. Only *** reported not producing other products. Table III-5 shows overall U.S. capacity for U.S. converters as well as the other products for which they have allocated capacity.

Table III-5

Thermal paper and other products: Overall capacity of U.S. converters, and production by firms and products, 2006

* * * * *

U.S. COATERS' AND CONVERTERS' U.S. SHIPMENTS AND EXPORT SHIPMENTS

U.S. Coaters

As detailed in table III-6, the volume of U.S. coaters' U.S. shipments of certain LW thermal paper (defined as jumbo rolls shipped to U.S. converters) increased by *** percent from 2004 to 2006, but decreased *** percent between January-June 2006 and January-June 2007. The value of U.S. shipments also increased by *** percent, but decreased *** percent, respectively, during the same time periods. None of the U.S. producers reported internal consumption or transfers to related firms of certain LW thermal paper. *** reported export shipments ***.

Table III-6

Certain LW thermal paper: U.S. coaters' shipments of jumbo rolls, by types, 2004-06, January-June 2006, and January-June 2007

* * * * *

⁹ *** U.S. converter reported toll agreements or U.S. production of certain LW thermal paper in U.S. foreign trade zones.

¹⁰ German respondents argued that U.S. converters intentionally build excess capacity in order to: (1) prepare for the seasonal fourth quarter demand increase, and (2) be prepared for large new orders to attract new customers while retaining current ones. German respondents' postconference brief, pp. 22-23 and exh. 13.

U.S. Converters

As shown in table III-7, the volume of U.S. converters' U.S. shipments of certain LW thermal paper (defined as finished, already slitted rolls shipped to distributors or end users) increased by 13.3 percent from 2004 to 2006 and 9.4 percent between January-June 2006 and January-June 2007. The value of U.S. shipments also increased by 18.4 percent and 6.3 percent, respectively, during the same time periods. None of the U.S. producers reported internal consumption or transfers to related firms of certain LW thermal paper. *** reported export shipments to ***.

Table III-7

Certain LW thermal paper: U.S. converters' shipments of slitted rolls, by types, 2004-06, January-June 2006, and January-June 2007

* * * * *

U.S. PRODUCERS' IMPORTS AND PURCHASES OF IMPORTS

*** import or purchase U.S. imports of certain LW thermal paper during the period of investigation. Sixteen of the 18 U.S. converters, however, reported that they directly imported or purchased from U.S. importers the subject product from China, Germany, or Korea during the period of investigation.¹¹ *** reported purchasing certain LW thermal paper in jumbo form solely from U.S. coaters. Table III-8 presents converters' direct imports and purchases of certain LW thermal paper from China, Germany, and Korea, their U.S. conversion production, and the ratio of their U.S. imports and purchases to their U.S. conversion production.

Table III-8

Certain LW thermal paper: U.S. converters' subject imports and purchases of subject imports, 2004-06, January-June 2006, and January-June 2007

* * * * *

U.S. PRODUCERS' INVENTORIES

Data on end-of-period inventories of certain LW thermal paper for the period of investigation are presented in table III-9.

Table III-9

Certain LW thermal paper: U.S. coaters' and converters' end-of-period inventories, 2004-06, January-June 2006, and January-June 2007

* * * * *

¹¹ German respondents contend that although many of the U.S. converters purchase U.S. imports from Germany, the purchases are widely dispersed among converters; and therefore, none of the U.S. converters controls a significant portion of U.S. imports from Germany. Thus, they argue that none of the U.S. converters should be excluded from the U.S. industry as a related party. For example, Koehler stated that its largest U.S. purchaser, ***, accounted for *** percent of its 2006 sales. German respondents' postconference brief, answers to staff questions, pp. 2-3. Mitsubishi's largest U.S. purchaser, ***, accounted for *** percent of Mitsubishi's 2006 sales. Mitsubishi's U.S. importer's questionnaire response, section III-20.

U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY

Data provided by U.S. producers on the number of production and related workers (“PRWs”) engaged in the coating of jumbo rolls of certain LW thermal paper and the conversion of the jumbo rolls into finished product, the total hours worked by such workers, and wages paid to such PRWs during the period for which data were collected in these investigations are presented in table III-10.

Table III-10

Certain LW thermal paper: Average number of production and related workers producing certain LW thermal paper, hours worked, wages paid to such employees, and hourly wages, productivity, and unit labor costs, 2004-06, January-June 2006, and January-June 2007

Item	Calendar year			January-June	
	2004	2005	2006	2006	2007
U.S. coaters					
PRWs (<i>number</i>)	***	***	***	***	***
Hours worked (<i>1,000</i>)	***	***	***	***	***
Wages paid (<i>\$1,000</i>)	***	***	***	***	***
Hourly wages	***	***	***	***	***
Productivity (<i>short tons per hour</i>)	***	***	***	***	***
Unit labor costs (<i>per short ton</i>)	***	***	***	***	***
U.S. converters					
PRWs (<i>number</i>)	***	***	***	***	***
Hours worked (<i>1,000</i>)	***	***	***	***	***
Wages paid (<i>\$1,000</i>)	***	***	***	***	***
Hourly wages	***	***	***	***	***
Productivity (<i>short tons per hour</i>)	***	***	***	***	***
Unit labor costs (<i>per short ton</i>)	***	***	***	***	***
U.S. coaters and converters					
PRWs (<i>number</i>)	784	809	828	816	827
Hours worked (<i>1,000</i>)	1,579	1,629	1,694	917	933
Wages paid (<i>\$1,000</i>)	26,875	28,420	30,524	15,449	15,078
Hourly wages	\$17.02	\$17.45	\$18.02	\$16.84	\$16.16
Productivity (<i>short tons per hour</i>)	92.3	95.6	99.0	81.8	77.0
Unit labor costs (<i>per short ton</i>)	\$184.47	\$182.51	\$182.14	\$205.83	\$209.86
Source: Compiled from data submitted in response to Commission questionnaires.					

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

U.S. IMPORTERS

The Commission sent importer questionnaires to 73 firms believed to be U.S. importers of certain LW thermal paper, as well as to all U.S. producers.¹ Questionnaire responses containing usable data were received from 12 firms² and accounted for all U.S. imports of certain LW thermal paper from Germany and Korea and the majority of U.S. imports from China.

Koehler America and Mitsubishi accounted for 100 percent of U.S. imports of certain LW thermal paper from Germany during the period of investigation.³ Both companies are the exclusive U.S. importer from their respective related producer in Germany. Similarly, Global Fibres is the sole U.S. importer of certain LW thermal paper from Korea. Hansol Paper Co., Ltd., Global Fibres' parent company, reported that it accounted for 100 percent of Korean exports to the United States during the period of investigation. Paper Resources is *** U.S. importer of certain LW thermal paper from China during the period of investigation, along with a number of U.S. importers importing small volumes of product from China commencing in 2007. Both petitioner and respondents stated that they were unaware of the existence of U.S. imports from nonsubject countries during the period of investigation.⁴ *** reported *** during the period.

U.S. imports from Germany and Korea generally consist of jumbo rolls of certain LW thermal paper while U.S. imports from China are of the already downstream slitted product.⁵

Table IV-1 lists all responding U.S. importers of certain LW thermal paper from China, Germany, and Korea, their U.S. locations, and their quantities of imports, by source, in 2006.

¹ The Commission sent questionnaires to those firms identified in the petition, along with firms that, based on a review of data provided by the U.S. Customs and Border Protection ("Customs"), may have imported certain LW thermal paper since 2004.

² In addition to the 12 usable responses (those U.S. importers are shown in table IV-1), the Commission received U.S. importer questionnaire responses from six firms that after further inquiry were determined to be U.S. purchasers from U.S. importers rather than direct U.S. importers themselves. Therefore, their reported imports were not included in U.S. import data reported in this report. These firms include: ***.

The Commission also received responses from 45 firms that reported that they did not import certain LW thermal paper during the period. Two responses from *** reported unusable and incomplete data.

³ Conference transcript, p. 180 (Greene).

⁴ Conference transcript, p. 181 (Cassise).

⁵ Two exceptions included: ***. *** importer's questionnaire response, section II-5g.

Table IV-1

Certain LW thermal paper: Reported U.S. imports, by importers and by sources of imports, 2006

Importer	U.S. location	Quantity (short tons)				
		China (slitted)	Germany (jumbo)	Korea (jumbo)	Nonsubject countries	Total
Apex ¹	Stamford, CT	***	***	***	***	***
B&D ²	Phoenix, AZ	***	***	***	***	***
FMW ³	Valencia, CA	***	***	***	***	***
Global Fibres ⁴	Fort Lee, NJ	***	***	***	***	***
JRMI	Flower Mound, TX	***	***	***	***	***
Koehler America ⁵	Great Neck, NY	***	***	***	***	***
Maxwell ⁶	Dallas, TX	***	***	***	***	***
Mitsubishi ⁷	New York, NY	***	***	***	***	***
NCR	Dayton, OH	***	***	***	***	***
Paper Resources	Norwalk, CT	***	***	***	***	***
Ricoh ⁸	Tustin, CA	***	***	***	***	***
Tufco ⁹	Newton, NC	***	***	***	***	***
Total		***	***	***	***	***

¹***.
²***.
³***.
⁴Global Fibres, Inc. ("Global Fibres") is a wholly owned subsidiary of Hansol Paper Co., Ltd. of Seoul, Korea, a producer of certain LW thermal paper. Hansol reported that it accounts for 100 percent of U.S. imports from Korea and Global Fibres is its exclusive U.S. importer. Global Fibres also reported ***.
⁵Koehler America, Inc. ("Koehler America") is a wholly owned subsidiary of Papierfabrik August Koehler AG, a producer of certain LW thermal paper in Germany. Koehler America is its parent company's exclusive U.S. importer of its product.
⁶***.
⁷Mitsubishi International Corp. ("Mitsubishi") is a wholly owned subsidiary of Mitsubishi Corp. of Tokyo, Japan, ***. Mitsubishi is Mitsubishi HiTec's exclusive U.S. importer of its product.
⁸RICOH Electronics, Inc. ("Ricoh") is a wholly owned subsidiary of RICOH Co., Ltd. of Tokyo, Japan.
⁹***.

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

U.S. IMPORTS

Table IV-2 presents data for U.S. imports of certain LW thermal paper from China, Germany, and Korea.⁶ As shown, the appearance of U.S. imports from China in the U.S. market commenced in 2005 and increased by *** percent from 2005 to 2006 and *** percent from January-June 2006 to January-June 2007. The volume of U.S. imports from Germany increased by *** percent from 2004 to 2006 and *** percent between January-June 2006 and January-June 2007.⁷ The volume of U.S. imports from Korea, which were ***, increased by *** percent from 2005 to 2006, but decreased by *** percent between January-June 2006 and January-June 2007. U.S. imports from nonsubject countries were ***.

Table IV-2
Certain LW thermal paper: U.S. imports, by sources, 2004-06, January-June 2006, and January-June 2007

* * * * *

CUMULATION CONSIDERATIONS

In assessing whether imports compete with each other and with the domestic like product, the Commission has generally considered four factors: (1) fungibility, (2) presence of sales or offers to sell in the same geographical market, (3) common or similar channels of distribution, and (4) simultaneous presence in the market. Issues concerning fungibility and channels of distribution are addressed in *Part II* of this report. With regard to geographical markets and presence in the market, the petitioner argued that imported certain LW thermal paper from all subject countries competes without regard to geographical location in the United States and that these imports have been simultaneously present in the U.S. market during the period of investigation.⁸

German respondents argued that U.S. imports from China should not be cumulated with imports from Germany and Korea.⁹ German respondents argued that U.S. imports from China were not present in the market until 2006, and therefore, not simultaneously present in the market for the vast majority of the period of investigation. They also argued that U.S. imports from China are not fungible because as slitted rolls, Chinese product is not interchangeable with the jumbo rolls from Germany and Korea and are sold

⁶ In table IV-2, U.S. imports from China are believed to be understated. The largest reporting Chinese producer, Handong, stated that it accounted for *** percent of all exports from China to the United States in 2006 and that *** percent of its exports were imported by Paper Resources. Paper Resources accounted for *** percent of reported U.S. imports from China in 2006. U.S. import data from Germany and Korea are believed to be complete. Koehler and Mitsubishi stated that together they accounted for 100 percent of U.S. imports from Germany. Both have submitted data to the Commission. Global Fibres reported that it accounted for all the U.S. imports from Korea during the period of investigation. It has submitted data to the Commission.

⁷ Koehler argued that the increased volume of U.S. imports from Germany resulted from its development of a superior product, which was not available from U.S. coaters during much of the period of investigation, and not LTFV pricing. Specifically, Koehler contends that its 48 g/m² product is superior to the common domestic 55 g/m² product by virtue of its thinner caliber which allows converters to: (1) produce longer finished rolls with the same diameter (thereby requiring the end user to change rolls less frequently) and (2) ship approximately 10 percent more footage at the same freight cost. Koehler's postconference brief, p. 19. Appleton reported ***. Appleton's U.S. producer questionnaire response, section II-16. Kanzaki reported that ***. Kanzaki's U.S. producer questionnaire response, section II-16.

⁸ Petition, p. 14; petitioner's postconference brief, pp. 23-25.

⁹ German respondent's postconference brief, pp. 7-12.

through different channels of distribution as the slitted rolls from China are sold to distributors and end users while the jumbo rolls from Germany and Korea are sold to U.S. converters.¹⁰

NEGLIGENCE

The Tariff Act of 1930 provides for the termination of an investigation if imports of the subject product from a country are less than 3 percent of total imports, or, if there is more than one such country, their combined share is less than or equal to 7 percent of total imports, during the most recent 12 months for which data are available preceding the filing of the petition.¹¹ No party disputes that the share of the total quantity of U.S. imports from China and Germany surpassed the requisite negligibility threshold during the period. With regard to U.S. imports from Korea, however, Korean respondent argues that U.S. imports from Korea during the period of September 2006 to August 2007 were below the negligibility threshold of 3 percent.¹² Data collected by the Commission show U.S. imports from Korea during the period accounted for *** percent of total U.S. imports based on quantity and *** percent based on value.¹³ Table IV-3 below presents monthly U.S. import data from September 2006 to August 2007.

Table IV-3
Certain LW thermal paper: Monthly U.S. imports, by importers and by sources of imports, September 2006-August 2007

* * * * *

APPARENT U.S. CONSUMPTION AND MARKET SHARES

Data on apparent U.S. consumption of certain LW thermal paper are presented in table IV-4.¹⁴ From 2004 to 2006, the quantity of apparent U.S. consumption of certain LW thermal paper increased by *** percent and by *** percent between January-June 2006 and January-June 2007. From 2004 to 2006,

¹⁰ Ibid. German respondents argued further that slitted product from China may include printing and is generally not certified for use in IBM or Epson POS machines, thus further decreasing the interchangeability of the products. Chinese respondent also attested to its non certification by IBM and Epson and to general quality issues with some product from China. Chinese respondent's postconference brief, p. 9 and exh. 9.

¹¹ 19 U.S.C. § 1677(24)(A)(ii).

¹² Korean respondent's postconference brief, pp. 1-8.

¹³ In table IV-3, U.S. imports from China are believed to be understated. Chinese producer, Handong, reported that it accounted for *** percent of all exports from China to the United States in 2006 and that *** percent of its exports were imported by Paper Resources. Paper Resources accounted for *** percent of reported U.S. imports from China in 2006. ***, which accounted for *** percent of U.S. imports from China in 2006, also submitted supplemental data. U.S. import data from Germany and Korea are believed to be complete. Koehler and Mitsubishi stated that together they accounted for 100 percent of U.S. imports from Germany. Both have submitted supplemental data to the Commission. Global Fibres reported that it accounted for all the U.S. imports from Korea during the period. It has also submitted supplemental data to the Commission.

Because U.S. imports from China may be understated, the shares of U.S. imports from Korea shown in table IV-3 may be overstated as the denominator would increase if additional U.S. import data from China were available.

¹⁴ Tables IV-4 and IV-5 and appendix C, table C-1 compute U.S. consumption and market shares using U.S. coaters' shipments of jumbo rolls to U.S. converters. Appendix C, table C-2 computes U.S. consumption and market shares using U.S. slitters' shipments to distributors and end users. Table C-3 computes U.S. consumption and market shares using U.S. coaters and slitters combined U.S. shipments.

the value of apparent U.S. consumption increased by *** percent and by *** percent between the interim periods.

Data on U.S. market shares for certain LW thermal paper are presented in table IV-5. From 2004 to 2006, U.S. producers lost *** percentage points of market share based on quantity and *** percentage points based on value. Between January-June 2006 and January-June 2007, U.S. producers lost an additional *** percentage points of U.S. market share based on volume and *** percentage points based on value. U.S. imports from China gained *** percentage points of U.S. market share during 2004-06 based on quantity and *** percentage points based on value. Between the interim periods, U.S. imports from China gained *** percentage points of U.S. market share based on quantity and *** percentage points based on value. U.S. imports from Germany gained *** percentage points of U.S. market share during 2004-06 based on quantity and *** percentage points based on value. Between the interim periods, U.S. imports from Germany gained *** percentage points of U.S. market share based on quantity and *** percentage points based on value. U.S. imports from Korea gained *** percentage points of U.S. market share during 2004-06 based on quantity and *** percentage points based on value. Between the interim periods, U.S. imports from Korea lost *** percentage points of U.S. market share based on quantity and *** percentage points based on value. The market share of U.S. imports from nonsubject countries has not exceeded *** percent by quantity during the period of investigation.

Table IV-4
Certain LW thermal paper: U.S. shipments of domestic product, U.S. imports by sources, and apparent U.S. consumption, 2004-06, January-June 2006, and January-June 2007

* * * * *

Table IV-5
Certain LW thermal paper: Apparent U.S. consumption and market shares, 2004-06, January-June 2006, and January-June 2007

* * * * *

RATIO OF IMPORTS TO U.S. PRODUCTION

Data on the ratio of imports to U.S. production of certain LW thermal paper are presented in table IV-6.

Table IV-6
Certain LW thermal paper: U.S. production, U.S. imports, and ratios of imports to production, 2004-06, January-June 2006, and January-June 2007

* * * * *

PART V: PRICING AND RELATED INFORMATION

FACTORS AFFECTING PRICES

Raw Material Costs

The raw materials used to produce certain LW thermal paper includes the paper base stock, which reportedly accounts for *** percent of total raw material costs for U.S. coater ***. Other raw materials include the active top coat, accounting for *** percent of ***'s total raw materials costs for the product, and the base coat, which accounts for *** percent.¹ Further information on coaters' raw material costs over the period of investigation is provided in part VI.

Transportation Costs to the U.S. Market

Transportation costs for certain LW thermal paper shipped from China to the United States averaged 10.8 percent of the customs value during 2006; transportation costs for certain LW thermal paper shipped from Germany to the United States averaged 9.3 percent of the customs value during 2006; and transportation costs for certain LW thermal paper shipped from Korea to the United States averaged 5.1 percent of the customs value during 2006. These estimates are derived from official import data.²

U.S. Inland Transportation Costs

U.S. coater *** reported that *** percent of its shipments are made from its distribution centers and that approximately *** percent of its delivered price is accounted for by transportation from its production facility to the distribution centers and *** percent is accounted for by transportation from the distribution center to its customers.³ U.S. coater *** reported that its U.S. inland freight costs are *** percent of its delivered price. For U.S. converters, the reported costs ranged from 3 percent to 10 percent of the delivered price. For importers of subject product from China, the costs ranged from 0.7 percent to 10 percent of the delivered price, with the largest responding importer reporting *** percent. For importers of subject product from Germany, *** reported that U.S. inland freight costs *** are *** percent of its delivered price and *** reported that its inland freight costs are *** percent. *** of subject product from Korea, reported that U.S. inland freight costs are *** percent of its delivered price.

Koehler also reported that it is less costly per unit to ship certain LW thermal paper of lower basis weights because more square feet of paper can be shipped with the same weight as heavier thermal paper. For example, the freight costs of shipping a given weight of 48 gram thermal paper are reportedly *** to 15 percent less than the freight costs of shipping an equivalent weight of 55 gram thermal paper.⁴

***, the *** responding importer of subject product from China, reported that the availability of subject imports has allowed converters and distributors to expand the regions to which they can affordably ship certain LW thermal paper. For example, a converter on the east coast can sell to

¹ Petitioner's postconference brief, exh. 1, p. 10.

² The estimated cost was obtained by subtracting the customs value from the c.i.f. value of the imports for 2006 and then dividing by the customs value. This calculation used import data on HTS subheadings 4810.13, 4810.14, and 4810.19.

³ E-mail from ***, October 26, 2007.

⁴ ***'s importer questionnaire response, section III-16. Conference transcript, pp. 227-228 (Greene).

customers on the west coast by importing the product from China directly to a port on the west coast, thereby reducing U.S. inland freight costs and delivery time.⁵

Exchange Rates

Nominal and real exchange rate data for China, Germany, and Korea are presented on a quarterly basis in figure V-1.⁶ While the nominal exchange rate for the Chinese yuan was pegged to the U.S. dollar during the first half of the period of investigation, the dollar depreciated by 7.8 percent relative to the yuan in nominal terms from the third quarter of 2005 to the second quarter of 2007. The nominal and real exchange rates of the U.S. dollar relative to the euro depreciated over the period, with the nominal value depreciating by 7.8 percent and the real value depreciating by 1.1 percent. The nominal and real exchange rates of the U.S. dollar relative to the Korean won also depreciated over the period, with the nominal value depreciating by 26.1 percent and the real value depreciating by 13.3 percent.

Petitioner has stated that the depreciation of the U.S. dollar should have raised the relative price of subject imports in dollars but that subject producers have not increased prices in the United States in line with the rates of depreciation.⁷ German producer Koehler reported that it is committed to supply its customers, but that it does consider exchange rates in its overall business strategy, stating that there are times when its earnings are better than others.⁸ German producer Mitsubishi reported that, until the beginning of 2007, it had successfully been able to raise its U.S. prices in response to movements in the exchange rate.⁹

Figure V-1
Exchange rates: Indices of the nominal and real exchange rates of the Chinese, German, and Korean currencies relative to the U.S. dollar, by quarters, January 2004-June 2007

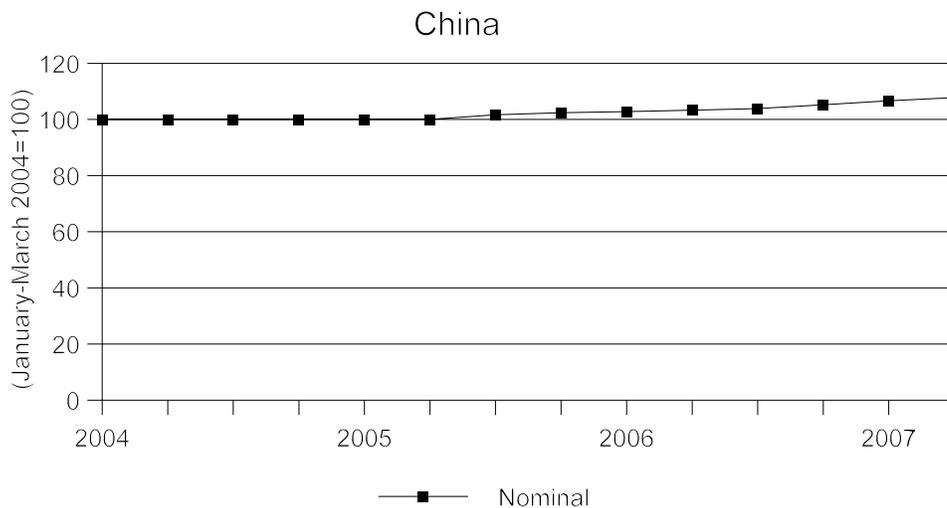


Figure continued on next page.

⁵ ***'s importer questionnaire response, section III-B-31. Chinese respondent's postconference brief, pp. 7-8.

⁶ A real value is unavailable for China. Real exchange rates are calculated by adjusting the nominal rates for movements in producer prices in the United States and each of the subject countries.

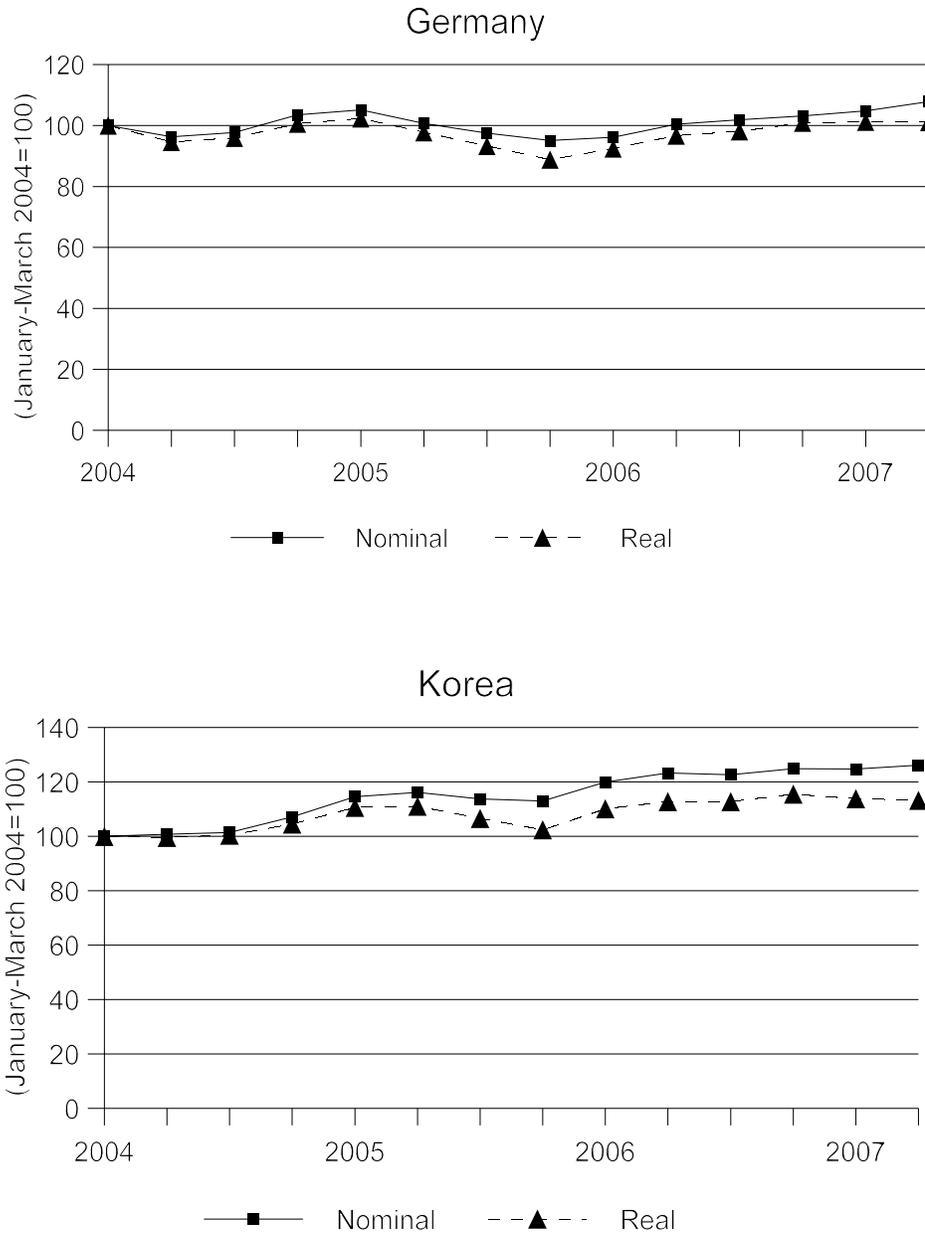
⁷ Petitioner's postconference brief, p. 21.

⁸ Conference transcript, p. 228 (Frueh).

⁹ Conference transcript, pp. 227-228 (Jahns).

Figure V-1--Continued

Exchange rates: Indices of the nominal and real exchange rates of the German and Korean currencies relative to the U.S. dollar, by quarters, January 2004-June 2007



Source: International Monetary Fund, International Financial Statistics, October 25, 2007.

PRICING PRACTICES

Pricing Methods

When U.S. coaters were asked how they determined the prices that they charge for certain LW thermal paper, they *** reported the use of ***. Most responding converters reported the use of transaction-by-transaction negotiations, price lists, or prices that reflect market conditions. Most responding importers reported the use of transaction-by-transaction negotiations.

U.S. coaters reported that they quote prices of certain LW thermal paper on a delivered basis. Nine of 17 responding converters reported that they quoted prices on a delivered basis, while 3 reported that they quote on both a delivered and on an f.o.b. basis, two firms reported that 70-75 percent of their sales are on a delivered basis, and another two reported that it varies. Eight of 10 responding importers reported that they quote on a delivered basis, while the other two reported that they quote on an f.o.b. basis.

Due to the fact that a large majority of sales in the certain LW thermal paper industry is on a delivered basis, ***.¹⁰ Moreover, it states that, given the location of domestic mills and importers' ports of entry, suppliers that have a relatively high price on an f.o.b. basis may have a lower price on a delivered basis relative to other suppliers if their U.S.-inland freight costs are lower. As described earlier, the largest importers reported lower U.S. inland transportation costs than U.S. coaters, with the importers reporting that these costs are *** percent of its delivered price and U.S. coaters reporting that they are *** percent.

Sales Terms and Discounts

U.S. coaters, converters, and importers of certain LW thermal paper from China, Germany, and Korea were asked what the share of their sales were that were on a (1) long-term contract basis (multiple deliveries for more than 12 months), (2) short-term contract basis, and (3) spot sales basis (for a single delivery) in 2006. U.S. coater *** reported that *** of its sales are made on ***. U.S. coater *** reported that about *** of its sales are on a *** basis while *** is on a *** basis. Nine of 15 responding converters reported that a majority of their sales are on a spot basis, while four reported mostly short-term contracts, and the remaining two reported mostly long-term contracts. Five of 11 responding importers reported that a majority of their sales are on a spot basis, while four reported mostly short-term contracts, and the remaining two reported mostly short-term contracts.

For U.S. coaters selling on a contract basis, short-term contracts are typically for periods of *** months to up to ***, while long-term contracts are for periods of *** years. For both long- and short-term contracts, approximate quantities, but not typically price, are fixed during the contract period.¹¹ These coater contracts have a meet-or-release provision. In the case of converters, short-term contracts are typically for periods of 90 days to up to one year, while long-term contracts are for periods of 1 to 2 years. About half of responding converters reported that price can usually be renegotiated during the contract period while the other half reported that price is usually fixed. These converter contracts typically do not contain meet-or-release provisions. In the case of importers, short-term contracts are typically for periods of 3 months to up to one year, while long-term contracts are for periods of 2 years. Most responding importers reported that price is usually fixed during the contract period. These importer contracts typically contain meet-or-release provisions.

¹⁰ Petitioner's postconference brief, p. 34.

¹¹ U.S. coater ***'s contracts require a *** advance notice before a price increase is enacted.

One converter, Rite-Made, reported that the cost of certain LW thermal paper jumbo rolls is passed through to its customers.¹² This pass-through may be limited if the converter uses fixed-price contracts.¹³

Discount policies on sales of certain LW thermal paper are typically based on volume. U.S. coater *** reported that it *** discounts, but that it *** and U.S. coater *** reported the use volume discounts. Twelve of 17 responding converters reported the use of discounts, mostly citing volume discounts or freight allowances. Five importers reported the use of volume discounts, while *** reported that it also offers a *** percent rebate for early payments ***.

PRICE DATA

The Commission requested U.S. coaters, converters, and importers of certain LW thermal paper to provide quarterly data for the total quantity and f.o.b. value of selected products that were shipped to distributors, end users, and converters.¹⁴ Data were requested for the period January 2004-June 2007. The products for which pricing data were requested are as follows:

Product 1.--Thermal paper in jumbo rolls, with a basis weight of 55 g/m² (+/- 2 g/m²), not top-coated. Brands Appleton Alpha 400-2.3; Hansol HSK-55; Kanzaki P300; Koehler KT55F20; Mitsubishi F5041; or equivalent.

Product 2.--Thermal paper in jumbo rolls, with a basis weight of 48 g/m² (+/- 2 g/m²), not top coated. Brands Alpha 400-2.1; Hansol HSK-48; Koehler KT-48; Mitsubishi P5045; or equivalent.

Product 3.--Thermal paper in slit rolls, with a basis weight of 55 g/m² (+/- 2 g/m²), not top-coated, measuring 3-1/8 inch by 230 feet.

Product 4.--Thermal paper in slit rolls, with a basis weight of 55 g/m² (+/- 2 g/m²), not top-coated, measuring 3-1/8 inch by 273 feet.

¹² Conference transcript, p. 160 (Schwartz).

¹³ Conference transcript, p. 232 (Schwartz).

¹⁴ The trends of prices sold through the three different channels of distribution tracked very closely. The pricing data presented here is a combined total of reported sales to the three channels. In accordance with standard Commission practice, pricing data were collected on an f.o.b. basis. ***. Petitioner has since argued that ***. Moreover, petitioner states that, given the ***. Petitioner's postconference brief, p. 34. Further analysis of the pricing data for products 1-4, as presented in app. D, indicates that pricing comparison which include estimated U.S.-inland freight charges in the sales values reported by the responding firms show more instances of underselling for Germany and Korea. For Germany, underselling would occur in *** percent of the comparisons, whereas underselling only occurs in *** percent of the comparisons involving Germany presented here using f.o.b. prices. The average margins in each case, however, are ***. For Korea, using prices on a delivered basis, underselling would occur in *** instances, or *** percent of the comparisons with an average margin of *** percent. Underselling only occurs in *** percent of the comparisons involving Korea presented here using f.o.b. prices, where the sole underselling margin is *** percent. The pricing comparisons involving China in app. D are *** as those presented here.

The Commission received usable pricing data for sales of the requested products from *** U.S. coaters (***)¹⁵ **), 16 converters, 7 importers of certain LW thermal paper from China, *** importers (***)¹⁶ **) of product from Germany, and *** of product from Korea, although not all firms reported pricing for all products for all quarters. U.S. coaters only produce jumbo rolls and therefore only provided pricing data for products 1 and 2. Converters reported pricing data for products 3 and 4.¹⁷ Imports from China are virtually all converted rolls and included in products 3 and 4, whereas imports from Germany are all included in products 1 and 2 and imports from Korea are **. Pricing data reported by these firms accounted for *** percent of U.S. coaters' U.S. shipments of certain LW thermal paper during January 2004-June 2007, *** percent of converters' U.S. shipments, *** percent of U.S. imports from China, *** percent of U.S. imports from Germany, and *** percent of U.S. imports from Korea over the same period.

Price Trends

Seasonality reportedly exists in the certain LW thermal paper market, with a strong fourth quarter as retailers increase purchases of receipt paper in anticipation of the holidays. The demand in the fourth quarter can reportedly be as much as 25 percent greater than demand in the first quarter.¹⁸

Weighted-average prices reported by U.S. coaters and importers are presented in tables V-1 through V-4 and in figures V-2 through V-5 on a quarterly basis during January 2004-June 2007. The sales prices of products 1 and 2 generally increased over the period, while the prices of products 3 and 4 fluctuated and remained relatively flat from the first quarter of 2004 to the second quarter of 2007. The weighted-average sales prices of all the products decreased in the first two quarters of 2007 after generally peaking in the fourth quarter of 2006, with the exception of product 4, which peaked in the first quarter of 2006.¹⁹

The weighted-average sales price of U.S.-produced product 1 increased by *** percent from the first quarter of 2004 to the second quarter of 2007. There was only *** quarter of reported pricing data of product 1 imported from China. The weighted-average sales price of product 1 imported from Germany increased by *** percent from the first quarter of 2004 to the second quarter of 2007. The weighted-average sales price of product 1 imported from Korea increased by *** percent from the second quarter of 2005 to the second quarter of 2007.

¹⁵ U.S. coater *** submitted several sets of revisions to its pricing data. One set of revisions received on *** included sales of additional products for products 1 and 2 that *** had previously excluded, some of which were **. The revision also included products *** in product 1 that are reportedly "equivalent" to other products in the product definition, stating that in its original data submission it had failed to include products that did not exactly meet the product specifications but are competitive with **, as is requested in the questionnaire. E-mail from ***, October 30, 2007. The data were also revised to deduct freight **. Moreover, petitioner argued that importer *** had **. Petitioner's postconference brief, p. 34. The data reported by *** presented here are those that **. App. D presents pricing data on an estimated delivered basis for all firms that provided usable pricing data.

¹⁶ Importer *** revised its pricing data *** in its original submission. **.

¹⁷ Converters produce slitted rolls using jumbo rolls from various countries of origin. Therefore, the pricing comparisons presented here involving products 3 and 4 compare products that were converted in the United States using a mixture of U.S., German, and Korean jumbo rolls with slit rolls that were produced in China. Three converters reported that they ship converted rolls produced with jumbo rolls from various countries of origin together, at the same price. Conference transcript, pp. 229-23, (Schwartz, Granholm, and Sandt).

¹⁸ Conference transcript, p. 204 (Granholm).

¹⁹ The relatively high prices in the fourth quarter of 2006 may be partly indicative of seasonality, as well as the reported spike in demand described in part II of this report. Regarding the price decline in 2007, importer *** and converters *** reported that U.S. coater *** led these price decreases, with two of these firms reporting that **. See ***' responses to lost sales and lost revenues allegations presented later in this section.

The weighted-average sales price of U.S.-produced product 2 increased throughout most of the period, increasing by *** percent from the first quarter of 2004 to the fourth quarter of 2006.²⁰ However, the second quarter of 2007 shows a decline of *** percent from the fourth quarter of 2006. The weighted-average sales price of product 2 imported from Germany increased by *** percent from the first quarter of 2004 to the second quarter of 2007. There were no reported sales of product 2 imported from China or Korea.

The weighted-average sales price of U.S.-converted product 3 slightly decreased by 1.4 percent from the first quarter of 2004 to the second quarter of 2007.²¹ The weighted-average sales price of product 3 imported from China increased by *** percent from the fourth quarter of 2005 to the second quarter of 2007. There was only *** quarter of reported sales of product 3 imported from Korea.

The weighted-average sales price of U.S.-converted product 4 remained relatively flat, slightly increasing by 0.4 percent from the first quarter of 2004 to the second quarter of 2007.²² The weighted-average sales price of product 4 imported from China slightly increased by *** percent from the second quarter of 2006 to the second quarter of 2007.

Table V-1

Certain LW thermal paper: Weighted-average f.o.b. prices and quantities of domestic and imported product 1 and margins of underselling/(overselling), by quarters, January 2004-June 2007

* * * * *

Table V-2

Certain LW thermal paper: Weighted-average f.o.b. prices and quantities of domestic and imported product 2 and margins of underselling/(overselling), by quarters, January 2004-June 2007

* * * * *

²⁰ U.S. coater *** reported prices of its product *** for *** and reported sales prices of *** for only the second quarter of ***, when it reportedly started selling that product. Petitioner reported that *** has product attributes that are highly competitive with the other products specified in the product definition. German respondents have stated that *** is not comparable to *** because it is a *** than ***. E-mail from ***, September 20, 2007. If the *** product was excluded from the pricing data for ***, there would be fewer quarterly comparisons of U.S. and German prices, but the overall pattern of underselling would remain virtually the same as those presented here.

²¹ Pricing data on U.S.-converted product 3 as reported by *** were unusable, as it only provided ***. *** quarters of pricing data of product 3 reported by U.S. converter *** was excluded because the reported values were *** percent higher than its other quarters of reported values and *** percent higher than the weighted-average sales price of the other responding firms for that quarter.

²² Pricing data on U.S.-converted product 4 as reported by *** were unusable, as it only provided ***. *** quarters of pricing data of product 4 reported by U.S. converter *** was excluded because the reported values were *** percent higher than its other quarters of reported values and *** percent higher than the weighted-average sales price of the other responding firms for that quarter. Pricing data as reported by U.S. converter *** were unusable because they included ***.

Table V-3

Certain LW thermal paper: Weighted-average f.o.b. prices and quantities of domestic and imported product 3¹ and margins of underselling/(overselling), by quarters, January 2004-June 2007

	United States		China			Korea		
	Price (per m.s.f.)	Quantity (m.s.f.)	Price (per m.s.f.)	Quantity (m.s.f.)	Margin (percent)	Price (per m.s.f.)	Quantity (m.s.f.)	Margin (percent)
2004:								
Jan.-Mar.	\$13.10	785,046	***	***	***	***	***	***
Apr.-June	13.16	897,752	***	***	***	***	***	***
July-Sept.	13.09	918,790	***	***	***	***	***	***
Oct.-Dec.	13.18	938,652	***	***	***	***	***	***
2005:								
Jan.-Mar.	12.77	956,636	***	***	***	***	***	***
Apr.-June	13.03	1,079,701	***	***	***	***	***	***
July-Sept.	13.07	1,066,278	***	***	***	***	***	***
Oct.-Dec.	13.03	1,050,333	***	***	***	***	***	***
2006:								
Jan.-Mar.	14.30	920,339	***	***	***	***	***	***
Apr.-June	14.36	979,595	***	***	***	***	***	***
July-Sept.	14.41	981,183	***	***	***	***	***	***
Oct.-Dec.	13.53	993,445	***	***	***	***	***	***
2007:								
Jan.-Mar.	13.20	904,606	***	***	***	***	***	***
Apr.-June	12.92	942,964	***	***	***	***	***	***
<p>¹ Thermal paper in slit rolls, with a basis weight of 55 g/m² (+/- 2 g/m²), not top-coated, measuring 3-1/8 inch by 230 feet.</p> <p>Note.--Price and quantity data were reported on the basis of thousands of square feet ("m.s.f.").</p> <p>Source: Compiled from data submitted in response to Commission questionnaires.</p>								

Table V-4

Certain LW thermal paper: Weighted-average f.o.b. prices and quantities of domestic and imported product 4¹ and margins of underselling/(overselling), by quarters, January 2004-June 2007

	United States		China		
	Price (per m.s.f.)	Quantity (m.s.f.)	Price (per m.s.f.)	Quantity (m.s.f.)	Margin (percent)
2004:					
Jan.-Mar.	\$13.08	475,355	***	***	***
Apr.-June	13.06	593,644	***	***	***
July-Sept.	12.89	627,870	***	***	***
Oct.-Dec.	13.11	649,950	***	***	***
2005:					
Jan.-Mar.	13.06	574,151	***	***	***
Apr.-June	13.04	728,260	***	***	***
July-Sept.	13.35	739,916	***	***	***
Oct.-Dec.	13.46	745,924	***	***	***
2006:					
Jan.-Mar.	13.83	548,076	***	***	***
Apr.-June	13.59	655,343	***	***	***
July-Sept.	13.58	717,915	***	***	***
Oct.-Dec.	13.40	776,844	***	***	***
2007:					
Jan.-Mar.	13.33	541,097	***	***	***
Apr.-June	13.13	585,841	***	***	***

¹ Thermal paper in slit rolls, with a basis weight of 55 g/m² (+/- 2 g/m²), not top-coated, measuring 3-1/8 inch by 273 feet.

Note.--Price and quantity data were reported on the basis of thousands of square feet ("m.s.f.).

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

Figure V-2
Certain LW thermal paper: Weighted-average f.o.b prices and quantities of domestic and imported product 1, by quarters, January 2004-June 2007

* * * * *

Figure V-3
Certain LW thermal paper: Weighted-average f.o.b prices and quantities of domestic and imported product 2, by quarters, January 2004-June 2007

* * * * *

Figure V-4
Certain LW thermal paper: Weighted-average f.o.b prices and quantities of domestic and imported product 3, by quarters, January 2004-June 2007

* * * * *

Figure V-5
Certain LW thermal paper: Weighted-average f.o.b prices and quantities of domestic and imported product 4, by quarters, January 2004-June 2007

* * * * *

Price Comparisons

Margins of underselling and overselling for the period are presented by product category in tables V-5 and V-6 below.

Table V-5
Certain LW thermal paper: Margins of underselling/(overselling) by product and by country, on quarterly sales, January 2004-June 2007

* * * * *

Table V-6
Certain LW thermal paper: Instances of underselling/overselling and the range and average of margins for products 1-4, January 2004-June 2007

* * * * *

LOST SALES AND LOST REVENUES

The Commission requested U.S. coaters and converters of certain LW thermal paper to report any instances of lost sales or revenues they experienced due to competition from imports of certain LW thermal paper from China, Germany, and Korea from January 2004 to June 2007. U.S. coaters provided *** lost sales allegations and *** lost revenues allegations involving certain LW thermal paper jumbo rolls imported from Germany and Korea. Converters provided *** lost sales allegations and *** lost revenues allegations involving converted certain LW thermal paper converted rolls imported from China. The *** lost sales allegations totaled \$*** and the *** lost revenue allegations totaled \$***. Staff contacted the *** purchasers cited in the allegations; *** responded. *** out of the *** purchasers

agreed with the allegations, confirming \$*** in lost sales and \$*** in lost revenues. The results are summarized in tables V-7 and V-8 and are discussed below.

Table V-7

Certain LW thermal paper: U.S. coaters' and converters' lost sales allegations

* * * * *

Table V-8

Certain LW thermal paper: U.S. coaters' and converters' lost revenue allegations

* * * * *

*** was named in *** lost sales allegations valued at \$*** allegedly occurring in *** and ***, respectively, and *** lost revenue allegations valued at \$*** allegedly occurring in *** and ***, involving thermal paper jumbo rolls imported from Germany. It reported that it could not recall one of the lost sales transactions cited valued at \$***, but that it probably purchased the specified quantity from a German supplier. It disagreed with *** of the other allegations, stating that it purchased thermal paper from U.S. producer ***. It stated that it started its business using thermal paper from Germany due to higher quality and better availability of preferred roll sizes, but that it has used U.S. suppliers whenever possible. Moreover, it also reported that U.S. producers *** and *** and German supplier *** were all offering standard thermal paper at similar pricing in ***. It noted, however, that it considers U.S. producer ***'s product *** a substandard product to thermal paper offered by other suppliers and that *** was not always able to provide the quantity needed. It also reported that it is probable that U.S. producers have lowered their prices in response to imports from the subject countries in order to compete globally.

*** was named in a lost sales allegation involving *** m.s.f. allegedly occurring in *** and a lost revenue allegation valued at \$*** allegedly occurring in *** involving converted thermal paper from China. It disagreed with both allegations, stating that some of the product that U.S. converter *** quoted to it was 48 gram thermal paper, whereas *** only buys 55 gram thermal paper. Moreover, it stated that it purchased 55 gram thermal paper from *** valued at \$***.

*** was named in a lost sales allegation valued at \$*** allegedly occurring in ***. It disagreed with the allegation, stating that it has never purchased thermal paper at a price as low as the low price cited in the allegation. It did report, however, that it has switched its purchases from U.S. producers to Chinese suppliers, stating that price is an important factor for them and that the price it pays for thermal rolls has decreased since January 2004. Moreover, it stated that there have been availability problems with U.S. producers of thermal paper, including periods of allocation.

*** was named in two lost sales allegations valued at \$*** allegedly occurring *** involving thermal paper jumbo rolls imported from Germany. It agreed to one of the allegations, stating that it switched to a *** source only partly due to price, but also because it preferred the quality of the German product. It disagreed with the other allegation, stating that it never received the price quote specified from any supplier and that it has not purchased the cited product produced by U.S. producer *** in years. *** also reported that converted thermal paper rolls from China are its main source of competition.

*** was named in a lost sales allegation valued at \$*** allegedly occurring in *** involving thermal paper jumbo rolls imported from Germany. It disagreed with the allegation, stating that, to the best of its knowledge, its purchases of thermal paper are produced in the United States from various U.S. converters.

*** was named in one lost sales allegation valued at \$*** allegedly occurring in *** and *** lost revenue allegations valued at \$*** involving thermal paper jumbo rolls imported from Germany. It agreed with the allegations, stating that it needed to put price pressure on its supplier in order to compete

with low-priced converted thermal rolls from China. It also reported that price was only a partial reason for the switch; it also reported that it ***.

*** was named in *** lost sales allegations valued at \$*** allegedly occurring in *** involving converted thermal paper imported from China. It disagreed with the allegations, stating that it switched suppliers based on availability and product quality, not for price. Moreover, in response to one of the lost sales allegations, it stated that its decision to change vendors was mostly affected its purchases of bond paper rather than thermal paper. It did state, however, that it changed vendors in order to save money and reduce delivery time.

*** was named in a lost revenue allegation valued at \$*** allegedly occurring in *** involving thermal paper jumbo rolls imported from Germany. It disagreed with the allegation, stating that it had received a price quote from U.S. producer *** which was lower than the current price quote from German supplier ***; *** then adjusted its price below ***'s price. *** reported that it purchased the U.S. product from *** at a *** percent premium, but experienced quality problems with the *** product. In particular, it experienced *** with the *** product and reported that ***. Moreover, *** reported that U.S. producer *** applied a surcharge of *** percent for ***. As a result of these problems, *** switched *** of its purchases from U.S. producer *** to German supplier *** and the remaining *** to U.S. producer ***, although the product from *** was a lower grade that caused problems in its manufacturing process. *** reported that it is willing to pay a premium for domestic product, even though it considers the quality of the *** superior, mostly due to the logistical problems with importing from ***, including longer lead times and irregular delivery.

*** was named in *** lost revenue allegations valued at \$*** allegedly occurring *** involving thermal paper jumbo rolls imported from Germany. It agreed to *** allegations valued at \$***, stating that German supplier *** has set the market price for thermal paper for more than five years, causing U.S. producers to reduce prices.

*** was named in *** lost revenue allegations valued at \$*** allegedly occurring in ***, respectively, involving thermal paper jumbo rolls imported from Germany. It agreed with the allegations, stating that it switched its purchases from U.S. suppliers to *** suppliers, in part due to price. It also reported that U.S. producers have lowered their prices to meet competition.

*** was named in a lost sales allegation valued at \$*** allegedly occurring in *** and *** lost revenue allegations valued at \$*** allegedly occurring *** involving thermal paper imported from Korea. It agreed with all of the allegations. It reported that imports were able to enter the U.S. market when U.S. producers faced capacity limitations over the period. Moreover, *** reported that it experienced quality problems with U.S. producer ***, which forced it to switch suppliers. *** also noted that Chinese converted thermal rolls were cheaper than U.S. product.

*** was named in *** lost sales allegations valued at \$*** allegedly occurring in *** involving thermal paper jumbo rolls imported from Germany. It disagreed with the allegations, stating it continued to purchase from U.S. producer *** during the time periods cited. It also reported that multiple factors enter into its purchasing decisions, including ***. It further reported that U.S. producers were, at times, ***.

*** was named in *** lost sales allegations valued at \$*** and *** lost revenue allegations valued at \$*** allegedly occurring throughout *** involving thermal paper jumbo rolls imported from Germany. It disagreed with the allegations, stating that its purchases from U.S. producer *** were not reduced during the cited time period.

*** was named in a lost sales allegation valued at \$*** allegedly occurring in *** involving converted thermal paper imported from China. It disagreed with the allegation, stating that it purchases from various sources that use jumbo rolls produced by U.S. producers and German supplier *** to arrive at the best price. It also reported that its suppliers have reduced their prices to be more competitive.

*** was named in *** lost revenue allegations valued at \$*** allegedly occurring in *** involving thermal paper jumbo rolls imported from Germany. It could neither confirm nor deny the

allegations. However, it stated that U.S. producer *** experienced a manufacturing disruption in ***, which forced it to buy from German supplier ***. It also reported that U.S. producer *** refused to supply it with thermal paper from *** to *** and that in *** *** lost a major customer and began to seek new customers and reduced its price. *** then switched to ***.

*** was named in *** lost sales allegations valued at \$*** allegedly occurring in *** and one lost revenue allegation valued at \$*** allegedly occurring in ***, respectively, involving thermal paper jumbo rolls imported from Germany. It disagreed with the lost sales allegations, stating that it switched suppliers from U.S. producer *** to U.S. producer *** as of ***. *** also reported that its main source of competition is from low-priced Chinese converted thermal paper rolls and that it is forced to ask its suppliers of jumbo rolls to lower their prices in order to better compete with the Chinese prices. It also stated that it has received reduced price quotes from both domestic and foreign sources and that it continues to purchase from both domestic and *** sources. It also noted that it has historically been willing to pay a higher price to U.S. producer *** because of ***'s service and ***. *** also reported that it experienced quality problems with U.S. producer ***'s product in *** which caused it to switch to other suppliers.

*** was named in a lost revenues allegation valued at \$*** allegedly occurring in *** involving thermal paper jumbo rolls imported from Germany. It disagreed with the allegation, stating it continued purchasing from U.S. producer *** in the transaction cited. It further reported that availability and quality issues force it to seek new suppliers and that U.S. suppliers have reduced prices in the face of competition from converted thermal rolls imported from China.

*** was named in a lost sales allegation valued at \$*** allegedly occurring in *** involving converted thermal paper imported from China. It agreed with the allegation, stating that it switched suppliers for one of its products to a Chinese supplier because of its lower price and lower freight costs.

*** was named in *** lost sales allegations, with *** involving thermal paper jumbo rolls imported from Germany valued at \$*** allegedly occurring ***, and *** involving converted thermal paper imported from China valued at \$*** allegedly occurring in ***. It disagreed with two allegations involving imports from Germany, while it stated that it could neither confirm nor deny the other allegations involving imports from Germany. It disagreed with the allegation involving imports from China, stating that it purchased U.S.-produced thermal paper for the transaction cited. *** was also named in *** lost revenue allegations valued at \$*** allegedly occurring in *** and ***, respectively, involving imports from Germany and China. It disagreed with *** of the allegations involving imports from Germany, stating that it purchased U.S.-produced product for the transaction cited, while it agreed with the *** allegation involving imports from China and Germany. It further reported that price is just one factor it considers when purchasing. It also considers ***.

*** was named in a lost sales allegation valued at \$*** allegedly occurring in *** involving converted thermal paper imported from China. It disagreed with the allegation, stating that it only purchases thermal paper from ***.

*** was named *** lost sales allegations valued at \$*** allegedly occurring in *** involving thermal paper jumbo rolls imported from Germany. While it did not respond to these specific allegations, it reported that it purchases from German supplier *** because of its superior quality and because *** does not always agree to supply it, citing 2006 in particular.²³

*** was named in a lost revenue allegation valued at \$*** allegedly occurring in *** involving converted thermal paper from China. It agreed with the allegation, although it also noted that it did not know definitively whether the product it purchased was produced in China or not.

*** was named in *** lost sales allegations valued at \$*** allegedly occurring throughout *** and *** lost revenues allegations valued at \$*** allegedly occurring in ***, respectively, involving thermal paper jumbo rolls imported from Germany. It neither confirmed nor denied the allegations as it ***, but stated that the cited price quotes are ***. It also reported that U.S. producer *** did offer one of

²³ ***.

the price quotes listed ***, but that this price was *** percent below the average market price offered at the time by U.S. producer *** and by German suppliers. Furthermore, *** reported that the market price tended to decrease in the **. Moreover, *** reported that it switched suppliers *** since 2004 and price was the reason in one case. **. *** also reported that 48 gram thermal paper, which was only produced by German supplier Koehler prior to 2007, carries a lower price relative to 55 gram thermal paper and therefore, sales of 48 gram thermal paper reportedly had a price-depressing effect in 2007.

*** was named in a lost sales allegation valued at \$*** allegedly occurring in *** involving thermal paper jumbo rolls imported from Germany. It disagreed with the allegation, stating that it had no record of the transaction cited. *** was also named in a lost revenue allegation valued at \$*** allegedly occurring in **. It could neither confirm nor deny the allegation, but it stated that it only purchases *** thermal and **. More specifically, it reported that prior to the period of investigation, it purchased exclusively 55 gram merchandise from *** but that *** put it on allocation at the end of 2003 and would not meet its 2004 volume requirements. At that point, *** reportedly switched to purchasing 48 gram thermal paper from **, but reported that it still purchases some 55 gram thermal paper from ** in times of critical need.²⁴

*** was named in *** lost sales allegations valued at \$*** allegedly occurring in *** and **, respectively, involving imports from Germany and Korea.. *** was also named in *** lost revenue allegations valued at \$*** allegedly occurring in *** and **, respectively, involving imports from Germany and Korea. It disagreed with *** of the allegations, stating that it only purchases from *** for reasons including quality and availability, as well as price.

*** was named in one lost sales allegation valued at \$*** allegedly occurring in *** involving imports from Korea and *** lost revenues allegations valued at \$*** involving thermal paper imported from Germany. It agreed with the allegations. It also stated that price was not the only reason that it switched suppliers; it also cited quality problems with product from U.S. producer ***.

*** was named in a lost revenue allegation valued at \$***, but no specific quantities were cited. It disagreed with the allegation, stating that, to its knowledge, all of its purchases since *** have been produced in the United States.

*** imports in the summer of 2007, stating that Koehler increased its price at that time. Furthermore, it states that U.S. producers Kanzaki and Appleton initially matched Koehler's price increase and later withdrew them and reduced their prices.²⁵

²⁴ ***.

²⁵ *** postconference brief, pp. 30-31. Conference transcript, pp. 137-138 (Greene).

PART VI: FINANCIAL CONDITION OF U.S. PRODUCERS

BACKGROUND

Two U.S. producers of jumbo rolls (Appleton and Kanzaki) and 13 U.S. converters provided usable financial data on their operations on certain LW thermal paper.¹ These data are believed to account for the large majority of U.S. production and conversion of certain LW thermal paper in 2006. No firms reported internal consumption, transfers to related firms, or toll production.

OPERATIONS ON CERTAIN LW THERMAL PAPER

Income-and-loss data for U.S. producers of jumbo rolls of certain LW thermal paper are presented in table VI-1, income-and-loss data for U.S. converters of certain LW thermal paper are presented in table VI-2, and income-and-loss data on the combined operations of U.S. producers of jumbo rolls and converters are presented in table VI-3. Selected company-specific financial data are presented in table VI-4. The reported net sales quantities and values for both U.S. producers of jumbo rolls and converters increased from 2004 to 2006. Converters also reported an increase in net sales quantity and value between the interim periods, while U.S. producers of jumbo rolls reported a decline in both net sales quantity and value during this time frame. U.S. producers of jumbo rolls experienced operating losses in all of the five periods for which data were requested, with the absolute level of operating loss more than doubling between the interim periods.² In contrast, converters experienced positive, stable, operating income (albeit at low levels) during the period of investigation.³

For U.S. producers of jumbo rolls, per-unit net sales values irregularly increased by *** from 2004 to 2006, while combined per-unit cost of goods sold (“COGS”) and selling, general, and administrative (“SG&A”) expenses increased by *** during this time frame, which ***. Between the interim periods, per-unit net sales values declined by ***, while per-unit costs and expenses increased by ***, which ***.

For U.S. converters, per-unit net sales values increased by *** from 2004 to 2006, while combined per-unit COGS and SG&A expenses increased by *** during this time frame, which ***. Between the interim periods, per-unit net sales values declined by ***, while combined per-unit costs and expenses declined by ***, which increased the ***.

For both U.S. producers of jumbo rolls and converters, raw material costs represented the largest component of overall COGS during the period of investigation, and generally increased on a per-unit basis and as a percentage of sales during this time frame.^{4 5}

¹ The firms (and their fiscal year ends if other than December 31) are: Appleton, Fay Paper, Greenleaf, Integrity Printing (August 31), Kanzaki, Nakagawa (March 31), Nashua, NCR, National Checking (March 31), Northeast Converters, PMCO, Paper Solutions, Rite-Made, Tufco (September 30), and Workflow One. Converters that only provided data on assets, capital expenditures, and/or value added without any corresponding profit data were excluded from the data set, as were converters who did not provide profitability data for all requested time periods.

² ***.

³ Appleton stated that ***.

⁴ As a percent of total raw material costs for LW thermal paper, Appleton states that the paper base stock, base coat, and active coat account for ***, ***, and *** percent, respectively. Petitioners’ postconference brief, exh. 1, p.10.

⁵ ***.

Table VI-1

Certain LW thermal paper: Results of operations of U.S. producers of jumbo rolls, 2004-06, January-June 2006, and January-June 2007

* * * * *

Table VI-2

Certain LW thermal paper: Results of operations of U.S. converters, 2004-06, January-June 2006, and January-June 2007

* * * * *

Table VI-3

Certain LW thermal paper: Results of combined operations of U.S. producers of jumbo rolls and U.S. converters, 2004-06, January-June 2006, and January-June 2007

Item	Fiscal year			January-June	
	2004	2005	2006	2006	2007
Value (\$1,000)					
Total net sales	272,887	300,907	314,007	151,224	141,029
Cost of goods sold	239,375	263,282	278,593	134,243	127,456
Gross profit or (loss)	33,512	37,625	35,414	16,981	13,573
SG&A expense	33,976	35,810	35,657	17,579	16,753
Operating income or (loss)	(464)	1,816	(243)	(598)	(3,180)
Interest expense	4,131	3,999	4,039	1,950	1,755
Other income or (expense), net	(1,118)	(819)	(397)	(211)	(197)
Net income or (loss)	(5,713)	(3,002)	(4,679)	(2,759)	(5,132)
Depreciation	6,790	6,797	7,101	3,468	3,290
Cash flow	1,077	3,795	2,422	709	(1,842)
Ratio to net sales (percent)					
Cost of goods sold ¹	87.7	87.5	88.7	88.8	90.4
Gross profit or (loss)	12.3	12.5	11.3	11.2	9.6
SG&A expenses	12.5	11.9	11.4	11.6	11.9
Operating income or (loss)	(0.2)	0.6	(0.1)	(0.4)	(2.3)
Net income or (loss)	(2.1)	(1.0)	(1.5)	(1.8)	(3.6)
Number of companies reporting					
Operating losses	2	2	4	5	5
Data	15	15	15	15	14

Note.— For U.S. producers of jumbo rolls and U.S. converters, revenue, COGS, and operating expenses were combined. Quantity data are not included because of the likelihood of double counting. Although the same underlying product could be reported more than once using this approach (e.g., jumbo roll sales from a U.S. producer to a converter may also be reported as sales of LW thermal paper by a converter), the effect is reflected in both revenue and COGS and therefore results in a fair presentation of the industry's operations.

¹Some converters did not break out COGS between raw materials, direct labor, and other factory costs; therefore, ratios for the components of COGS are not presented in this table.

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

Table VI-4

Certain LW thermal paper: Selected results of operations of U.S. producers of jumbo rolls and U.S. converters, by firms, 2004-06, January-June 2006, and January-June 2007

* * * * *

For U.S. producers of jumbo rolls, per-unit SG&A expenses were relatively stable throughout the period of investigation. Similarly, per-unit SG&A expenses for converters were relatively stable from 2004 to 2006, but decreased between the interim periods. For U.S. producers and converters, such expenses represented an average 8.5 percent and 14.9 percent, respectively, of total operating costs and expenses during the period of investigation, and contributed substantially to the reported operating income or loss in all periods.

A variance analysis for the combined operations of U.S. producers of jumbo rolls and U.S. converters is presented in table VI-5. The information for this variance analysis is derived from table VI-3. The variance analysis provides an assessment of changes in profitability as it relates to changes in pricing, cost, and volume. The analysis shows that the modest reduction in the operating loss from 2004 to 2006 is attributable to the slightly higher favorable price variance despite the increased net cost/expense variance (i.e., prices rose somewhat higher than costs and expenses). Between the interim periods, both the price variance and the net cost/expense variance were unfavorable (i.e., prices declined while costs and expenses increased).

Table VI-5

Certain LW thermal paper: Variance analysis on the combined operations of U.S. producers of jumbo rolls and U.S. converters, 2004-06, January-June 2006 to January-June 2007

Item	Fiscal year			Jan.-June
	2004-06	2004-05	2005-06	2006-07
Value (\$1,000)				
Total net sales:				
Price variance	9,914	11,274	(1,923)	(1,432)
Volume variance	31,206	16,746	15,023	(8,763)
Total net sales variance	41,120	28,020	13,100	(10,195)
Cost of sales:				
Cost variance	(11,844)	(9,217)	(2,166)	(991)
Volume variance	(27,374)	(14,689)	(13,145)	7,779
Total cost variance	(39,218)	(23,906)	(15,311)	6,787
Gross profit variance	1,903	4,114	(2,211)	(3,408)
SG&A expenses:				
Expense variance	2,204	251	1,941	(192)
Volume variance	(3,885)	(2,085)	(1,788)	1,019
Total SG&A variance	(1,681)	(1,834)	153	826
Operating income variance	221	2,280	(2,058)	(2,581)
Summarized as:				
Price variance	9,914	11,274	(1,923)	(1,432)
Net cost/expense variance	(9,639)	(8,966)	(226)	(1,184)
Net volume variance	(53)	(28)	91	35
Note.--Unfavorable variances are shown in parenthesis; all others are favorable.				

VALUE ADDED

The value added by U.S. converters as a percent of total processing costs is presented in table VI-6. The analysis of value added shows two ratios: (A) a ratio of reported conversion costs (costs other than raw material costs, primarily labor and overhead) to reported total costs excluding SG&A expenses; and (B) a ratio of reported conversion costs to reported total costs including SG&A expenses.^{6 7}

Table VI-6
Certain LW thermal paper: Value added by U.S. converters, by firms

* * * * *

CAPITAL EXPENDITURES AND RESEARCH AND DEVELOPMENT EXPENSES

Capital expenditures and research and development (“R&D”) expenses are shown in table VI-7. Eleven firms (including ***) reported capital expenditures and three firms (including ***) reported R&D expenses during the period for which data were requested. Among U.S. producers of jumbo rolls, *** accounted for the majority of reported capital expenditures (with the exception of interim 2007, which primarily reflects ***),⁸ while *** accounted for the majority of reported R&D expenses. According to ***, its capital expenditures reflect ***. According to ***, its R&D expenses reflect ***.

Among U.S. converters, *** accounted for the majority of reported capital expenditures, while *** accounted for all reported R&D expenses. According to ***, capital expenditures reflect the purchase of ***, while its R&D expenses reflect ***. *** reported that its capital expenditures reflect the purchase of ***. *** reported that its capital expenditures reflect the purchase of ***, and *** reported that such expenditures reflect the purchase of ***.

Table VI-7
Certain LW thermal paper: Capital expenditures and research and development expenses of U.S. producers of jumbo rolls and U.S. converters, 2004-06, January-June 2006, and January-June 2007

Item	Fiscal year			January-June	
	2004	2005	2006	2006	2007
<i>Value (1,000 dollars)</i>					
Capital expenditures:					
U.S. producers of jumbo rolls	***	***	***	***	***
U.S. converters	***	***	***	***	***
Total	8,211	23,231	12,246	1,439	8,814
R&D expenses:					
U.S. producers of jumbo rolls	***	***	***	***	***
U.S. converters	***	***	***	***	***
Total	***	***	***	***	***
Source: Compiled from data submitted in response to Commission questionnaires.					

⁶ ***.

⁷ ***.

⁸ ***.

ASSETS AND RETURN ON INVESTMENT

Data on the U.S. producers' and U.S. converters' total assets and their return on investment ("ROI") are presented in table VI-8. For both U.S. producers of jumbo rolls and converters, the total assets utilized in the production, warehousing, and sale of certain LW thermal paper increased from 2004 to 2006, with the combined operations of U.S. producers and converters reflecting an increase from \$176.5 million in 2004 to \$186.4 million in 2006. The ROI for U.S. producers of jumbo rolls was ***, improving in 2005 before returning in 2006 to a level similar to 2004. ***, the ROI for U.S. converters was *** and fairly steady throughout the period of investigation. The ROI for the combined operations of U.S. producers and converters increased from negative 0.3 percent in 2004 to positive 1.0 percent in 2005, then declined to negative 0.1 percent in 2006. In all cases, the trend in the ROI was similar to the trend in operating income.

Table VI-8

Certain LW thermal paper: U.S. producers' of jumbo rolls and U.S. converters' total assets and return on investment, fiscal years 2004-06

Item	Fiscal year		
	2004	2005	2006
Value (\$1,000)			
Value of total assets:			
U.S. producers of jumbo rolls	***	***	***
U.S. converters	***	***	***
Total	176,548	178,919	186,414
Operating income or (loss):			
U.S. producers of jumbo rolls	***	***	***
U.S. converters	***	***	***
Total	(464)	1,816	(243)
Share (percent)			
Return on investment:			
U.S. producers of jumbo rolls	***	***	***
U.S. converters	***	***	***
Average	(0.3)	1.0	(0.1)
Source: Compiled from data submitted in response to Commission questionnaires.			

CAPITAL AND INVESTMENT

The Commission requested U.S. producers of jumbo rolls and U.S. converters to describe any actual or potential negative effects of imports of certain LW thermal paper from China, Germany, and/or Korea on their firms' growth, investment, ability to raise capital, development and production efforts, or the scale of capital investments. Their responses are shown in appendix E.

PART VII: THREAT CONSIDERATIONS

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

In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of the subject merchandise, the Commission shall consider, among other relevant economic factors¹--

(I) if a countervailable subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the countervailable subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement), and whether imports of the subject merchandise are likely to increase,

(II) any existing unused production capacity or imminent, substantial increase in production capacity in the exporting country indicating the likelihood of substantially increased imports of the subject merchandise into the United States, taking into account the availability of other export markets to absorb any additional exports,

(III) a significant rate of increase of the volume or market penetration of imports of the subject merchandise indicating the likelihood of substantially increased imports,

(IV) whether imports of the subject merchandise are entering at prices that are likely to have a significant depressing or suppressing effect on domestic prices, and are likely to increase demand for further imports,

(V) inventories of the subject merchandise,

(VI) the potential for product-shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products,

(VII) in any investigation under this title which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv)) and any product processed from such raw agricultural product, the likelihood that there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission under section 705(b)(1) or 735(b)(1) with respect to either the raw agricultural product or the processed agricultural product (but not both),

¹ Section 771(7)(F)(ii) of the Act (19 U.S.C. § 1677(7)(F)(ii)) provides that “The Commission shall consider [these factors] . . . as a whole in making a determination of whether further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted under this title. The presence or absence of any factor which the Commission is required to consider . . . shall not necessarily give decisive guidance with respect to the determination. Such a determination may not be made on the basis of mere conjecture or supposition.”

(VIII) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and

(IX) any other demonstrable adverse trends that indicate the probability that there is likely to be material injury by reason of imports (or sale for importation) of the subject merchandise (whether or not it is actually being imported at the time).²

Information on the nature of the alleged subsidies was presented earlier in this report; 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;" any other threat indicators, if applicable; and any dumping in third-country markets, follows.

THE INDUSTRY IN CHINA

The Commission requested data from 14 firms which were listed in the petition and believed to produce certain LW thermal paper in China during the period of investigation.³ The Commission received responses from three firms, the largest of which was Shanghai Hanhong Paper Co., Ltd. ("Hanhong"), which claimed to account for approximately *** percent of Chinese production of certain LW thermal paper and *** percent of exports to the United States.⁴

Hanhong reported that *** percent of its total sales in the most recent fiscal year were sales of certain LW thermal paper. It reported commencement of exports to the United States in 2006. In 2006, *** percent of Hanhong's total shipments of certain LW thermal paper were exported to the United States, *** percent of its shipments were to its home market, and *** percent of its shipments were to export markets such as ***. Hanhong's reported capacity ***, and is projected to *** in 2007 and 2008 from its reported 2006 level by *** percent. Its production increased by *** percent from 2004 to 2006, and is projected to further increase in 2007 and 2008 by an additional *** percent.⁵ Hanhong reported that its largest U.S. importer of certain LW thermal paper during the period of investigation was ***.⁶ Table VII-1 presents data for reported production and shipments of certain LW thermal paper for China.

² Section 771(7)(F)(iii) of the Act (19 U.S.C. § 1677(7)(F)(iii)) further provides that, in antidumping investigations, ". . . the Commission shall consider whether dumping in the markets of foreign countries (as evidenced by dumping findings or antidumping remedies in other WTO member markets against the same class or kind of merchandise manufactured or exported by the same party as under investigation) suggests a threat of material injury to the domestic industry."

³ Petition, exh. I-2.

⁴ Hanhong is a converter of jumbo rolls in China. The remaining two firms, both coaters, included: (1) Henan Nanbei Paper Co., Ltd. ("Henan"), which reported that it began production in 2006, and accounted for less than *** percent of Chinese production of certain LW thermal paper and approximately *** percent of exports to the United States; and (2) Qingdao Dingli Pulp & Paper Co., Ltd. ("Qingdao"), which reported that it also began production in 2006, and accounted for *** percent of Chinese production of certain LW thermal paper and approximately *** percent of exports to the United States. Qingdao did not provide usable trade data.

⁵ Hanhong also reported production of ***.

⁶ Hanhong reported that ***.

Table VII-1

Certain LW thermal paper: China's reported production capacity, production, shipments, and inventories, 2004-06, January-June 2006, January-June 2007, and projections for 2007 and 2008

* * * * *

THE INDUSTRY IN GERMANY

The Commission requested data from three firms which were listed in the petition and believed to produce certain LW thermal paper in Germany during the period of investigation.⁷ The Commission received responses from all three firms. The largest producer in Germany, Papierfabrik August Koehler AG ("Koehler Germany"), claimed to account for approximately *** percent of German production of certain LW thermal paper and together with German producer, Mitsubishi HiTec Paper GmbH ("Mitsubishi Germany"), accounted for all the exports to the United States during the period of investigation.^{8 9} The third producer in Germany, Kanzan Spezialpapiere GmbH ("Kanzan"), reported that it did not export the subject product to the United States during the period of investigation.¹⁰

Koehler Germany reported that *** percent of its total sales in the most recent fiscal year were sales of certain LW thermal paper. In 2006, *** percent of Koehler Germany's total shipments of certain LW thermal paper were exported to the United States, *** percent of its shipments were to its home market, and *** percent of its shipments were to other export markets such as ***. Koehler Germany's reported capacity *** and is projected to *** from 2006 to 2008 by *** percent. Its production increased by *** percent from 2004 to 2006, and is *** from 2006 to 2008 by an *** percent.¹¹ Koehler Germany reported that its sole U.S. importer of certain LW thermal paper during the period of investigation was Koehler America.¹²

Mitsubishi Germany reported that *** percent of its total sales in the most recent fiscal year were sales of certain LW thermal paper. In 2006, *** percent of Mitsubishi Germany's total shipments of certain LW thermal paper were exported to the United States, *** percent of its shipments were to its home market, and *** percent of its shipments were to other export markets such as ***. Mitsubishi Germany's reported capacity *** and is projected to *** from 2006 to 2008 by *** percent. Its production increased by *** percent from 2004 to 2006, and is *** from 2006 to 2008 by an additional *** percent.¹³ Mitsubishi Germany reported that its sole U.S. importer of certain LW thermal paper during the period of investigation was Mitsubishi International.¹⁴

Table VII-2 presents data for reported production and shipments of certain LW thermal paper for Germany.

⁷ Petition, exh. I-3.

⁸ Mitsubishi Germany is ***.

⁹ Both Koehler Germany and Mitsubishi Germany engage in jumbo roll coating operations.

¹⁰ Kanzan did not provide the Commission with a completed foreign producer's questionnaire, but reported that it did produce certain LW thermal paper and had an average annual production capacity of *** short tons during the period of investigation.

¹¹ Koehler Germany also reported production of ***.

¹² Koehler Germany reported that its products were certified by IBM or Epson, the two largest manufacturers of POS machines.

¹³ Mitsubishi Germany also reported production of ***.

¹⁴ Mitsubishi Germany reported that its products were certified by IBM or Epson, the two largest manufacturers of POS machines.

Table VII-2

Certain LW thermal paper: Germany's reported production capacity, production, shipments, and inventories, 2004-06, January-June 2006, January-June 2007, and projections for 2007 and 2008

* * * * *

THE INDUSTRY IN KOREA

The Commission requested data from three firms which were listed in the petition and believed to produce certain LW thermal paper in Korea during the period of investigation.¹⁵ The Commission received a response from two firms, one of which was Hansol Paper Co., Ltd. ("Hansol"), which reported that it accounted for approximately *** percent of production of certain LW thermal paper in Korea¹⁶ and *** exports to the United States during the period of investigation.¹⁷

Hansol reported that *** percent of its total sales in the most recent fiscal year were sales of certain LW thermal paper. In 2006, *** percent of Hansol's total shipments of certain LW thermal paper were exported to the United States, *** percent of its shipments were to its home market, and *** percent of its shipments were to other export markets such as ***. Hansol's reported capacity *** the period of investigation and is projected to *** from 2006 to 2008. Its production *** from 2004 to 2006, and is *** from 2006 to 2008 by *** percent.¹⁸ Hansol reported that its sole U.S. importer of certain LW thermal paper during the period of investigation was Global Fibres.¹⁹

Table VII-3 presents data for reported production and shipments of certain LW thermal paper for Korea.

Table VII-3

Certain LW thermal paper: Korea's reported production capacity, production, shipments, and inventories, 2004-06, January-June 2006, January-June 2007, and projections for 2007 and 2008

* * * * *

¹⁵ Petition, exh. I-4.

¹⁶ Hansol reported engaging in jumbo roll coating operations in Korea.

¹⁷ The Commission also received a response from Donghwa Industry Co., Ltd., which reported that it did not export certain LW thermal paper to the United States during the period of investigation.

¹⁸ Hansol also reported production of ***.

¹⁹ Hansol reported that its products were not certified by IBM or Epson, the two largest manufacturers of POS machines.

U.S. IMPORTERS' INVENTORIES

U.S. importers of subject merchandise from China, Germany, and Korea reported *** inventories during the period of investigation.²⁰ Many U.S. converters, however, which purchased U.S. imports of the subject product in jumbo roll form, did report inventories for the period of investigation (see table III-9).

U.S. IMPORTERS' CURRENT ORDERS

The Commission requested U.S. importers to indicate whether they imported or arranged for the importation of certain LW thermal paper after June 30, 2007. *** of the 12 reporting U.S. importers stated that they had imported or arranged for importation since June 30, 2007. Table VII-4 presents the U.S. importers which indicated that they had imported or arranged for the importation of the subject product from China, Germany, and Korea and the quantity of those U.S. imports.

Table VII-4

Certain LW thermal paper: U.S. importers' orders of subject imports from China, Germany, and Korea subsequent to June 30, 2007, by firm

* * * * *

ANTIDUMPING AND COUNTERVAILING DUTY ORDERS IN THIRD-COUNTRY MARKETS

The government of India has conducted three antidumping duty investigations on imports of thermal sensitive paper (a product with a definition broader than certain LW thermal paper). The first investigation, conducted in 2000, concerning imports from Japan, Germany, and the European Union, resulted in the imposition of antidumping duties that remained in place until 2004. The second (in 2002) and the third (in 2005) investigations concerned imports from China and Indonesia, Malaysia, and the UAE, respectively, and resulted in the imposition of duties.²¹ There is no indication that certain LW thermal paper from China, Germany, or Korea has been the subject of any import relief investigations in any other countries.

INFORMATION ON NONSUBJECT SOURCES

“Bratsk” Considerations

As a result of the Court of Appeals for the Federal Circuit (“CAFC”) decision in *Bratsk Aluminum Smelter v. United States* (“Bratsk”), the Commission is directed to:^{22 23}

²⁰ ***.

²¹ Petitioner’s postconference brief, exh. 1, pp. 16-18.

²² *Silicon Metal from Russia, Inv. No. 731-TA-991 (Second Remand)*, USITC Publication 3910, March 2007, p. 2; citing *Bratsk Aluminum Smelter v. United States*, 444 F.3d at 1375.

²³ In the silicon metal remand, Chairman Pearson noted “consistent with his views in *Lined Paper School Supplies From China, India, and Indonesia, Inv. Nos. 701-TA-442-443 and 731-TA-1095-1097 (Final)*, USITC Pub. 3884 (Sept. 2006) at 51, that while he agrees with the Commission that the Federal Circuit’s opinion suggests a replacement/benefit test, he also finds that the Federal Circuit’s opinion could be read, not as requiring a new test, but rather as a reminder that the Commission, before it makes an affirmative determination, must satisfy itself that it
(continued...)

undertake an “additional causation inquiry” whenever certain triggering factors are met: “whenever the antidumping investigation is centered on a commodity product, and price competitive non-subject imports are a significant factor in the market.” The additional inquiry required by the Court, which we refer to as the Bratsk replacement / benefit test, is “whether non-subject imports would have replaced the subject imports without any beneficial effect on domestic producers.”

Petitioner argued that *Bratsk* is inapplicable to these investigations because there exist virtually no U.S. imports of certain LW thermal paper from nonsubject countries and no evidence that nonsubject imports can replace the volume of subject imports at similar prices should duties be imposed.²⁴

German respondents concur that in this preliminary phase of the investigation, there appears little to warrant a *Bratsk* analysis as the volume of U.S. imports from nonsubject countries is virtually nonexistent.²⁵

Global Market

In 2005, there were approximately *** plants in the world that were engaged in coating thermal paper; those plants had a collective annual production capacity of *** metric tons. The capacity to coat thermal paper is ***.²⁶ Total global production of thermal paper reportedly amounted to *** metric tons in 2005.

Germany

Germany has a well-developed pulp and paper industry. In 2006, there were 185 paper mills in Germany,²⁷ and its total production of paper and paperboard was 22.7 million metric tons in 2006, four percent higher than 2005.²⁸ Producing 3.5 million metric tons of uncoated printing and writing paper (the sort typically used as base paper for the manufacture of certain LW thermal paper) in 2006, Germany exceeded all European countries except Finland.²⁹ Germany has *** plants that coat thermal paper. In 2005, those plants had a reported production capacity of *** metric tons, *** percent of global capacity.³⁰

²³ (...continued)

has not attributed material injury to factors other than subject imports.” *Silicon Metal from Russia, Inv. No. 731-TA-991 (Second Remand)*, USITC Publication 3910, March 2007, p. 2, fn. 17. Commissioner Okun joined in those separate and dissenting views in *Lined Paper*.

²⁴ Petitioner’s postconference brief, p. 20.

²⁵ Koehler’s postconference brief, answers to staff questions, p. 15.

²⁶ Petitioner’s postconference brief, exhibit 13, p. 2.

²⁷ 2006 PPI Annual Review found at <http://www.risiinfo.com/content-gateway/annualReview.html> and retrieved on October 24, 2007.

²⁸ “World Pulp, Paper, & Board Industry: Production and Trade in 2005/2006” found at <http://www.risiinfo.com/content-gateway/annualReview.html> and retrieved on October 24, 2007.

²⁹ In 2006, Finland also produced 3.5 million metric tons of uncoated printing and writing paper and only slightly more than Germany. “Uncoated Printing and Writing production in Europe in 2005 - 2006 by Country,” found at <http://www.risiinfo.com/content-gateway/annualReview.html> retrieved on October 24, 2007.

³⁰ Petitioner’s postconference brief, exhibit 13, p. 18.

China

There are estimated to be approximately 3,500 paper mills in China although a great number are very small.³¹ In 2006, its total production of paper and paperboard was reported to be 65 million metric tons, 16 percent higher than in 2005.³² Massive investments are being made in the Chinese pulp and paper industry, and it is estimated that 90 percent of new capacity in the global paper industry is being built in China.³³ In 2006, China produced over 12 million metric tons of uncoated printing and writing paper.³⁴ China has *** plants that coat thermal paper. In 2005, those plants had a reported production capacity of *** metric tons, *** percent of global capacity.³⁵

Korea

Korea has a well-developed pulp and paper industry. In 2006, there were 92 paper mills in Korea.³⁶ Korea's total production of paper and paperboard was 10.7 million metric tons in 2006, 1.5 percent higher than 2005.³⁷ In 2006, Korea produced 829 thousand metric tons of uncoated printing and writing paper, fourth highest in Asia behind China, Japan, and India.³⁸ Korea has *** plants that coat thermal paper. In 2005, those plants had a reported production capacity of *** metric tons, *** percent of global capacity.³⁹

³¹ 2006 PPI Annual Review found at <http://www.risiinfo.com/content-gateway/annualReview.html> and retrieved on October 24, 2007.

³² "World Pulp, Paper, & Board Industry: Production and Trade in 2005/2006" found at <http://www.risiinfo.com/content-gateway/annualReview.html> and retrieved on October 24, 2007.

³³ Oinonen, Hannu and Nie Xiaorong, "China on a Hot Streak with Larger Scale, New Mills," *Tappi and Pima Solutions*, Vol. 87, no. 3, (March 2004), pp. 24-27.

³⁴ "Uncoated Printing and Writing production in Asia in 2005 - 2006 by Country," found at <http://www.risiinfo.com/content-gateway/annualReview.html> and retrieved on October 24, 2007.

³⁵ Petitioner's postconference brief, exhibit 13, p. 19.

³⁶ 2006 PPI Annual Review found at <http://www.risiinfo.com/content-gateway/annualReview.html> and retrieved on October 24, 2007.

³⁷ "World Pulp, Paper, & Board Industry: Production and Trade in 2005/2006" found at <http://www.risiinfo.com/content-gateway/annualReview.html> and retrieved on October 24, 2007.

³⁸ "Uncoated Printing and Writing production in Asia in 2005 - 2006 by Country," found at <http://www.risiinfo.com/content-gateway/annualReview.html> and retrieved on October 24, 2007.

³⁹ Petitioner's postconference brief, exhibit 13, p. 19.

APPENDIX A

***FEDERAL REGISTER* NOTICES**

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701-TA-451 and 731-TA-1126-1128 (Preliminary)]

Certain Lightweight Thermal Paper From China, Germany, and Korea

AGENCY: United States International Trade Commission.

ACTION: Institution of antidumping and countervailing duty investigations and scheduling of preliminary phase investigations.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping and countervailing duty investigations No. 701-TA-451 and 731-TA-1126-1128 (Preliminary) under sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from China, Germany, and Korea of certain lightweight thermal paper,¹ provided for in subheadings 4811.90.8040 and 4811.90.9090 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value and subsidized by the Government of China. Unless the Department of Commerce extends the time for initiation pursuant to section 702(c)(1)(B) or 732(c)(1)(B) of the Act (19 U.S.C. 1671a(c)(1)(B) or 1673a(c)(1)(B)), the Commission must reach a preliminary determination in antidumping and countervailing duty investigations in 45 days, or in this case by November 5, 2007. The Commission's views are due at

¹ As defined in the petition, "certain lightweight thermal paper" is thermal paper with a basis weight of 70 grams per square meter ("g/m²") (with a tolerance of ± 4.0 g/m²) or less; irrespective of dimensions; with or without a base coat on one or both sides; with thermal active coating(s) on one or both sides that is a mixture of the dye and the developer that react and form an image when heat is applied; with or without a top coat; and without an adhesive backing. Certain lightweight thermal paper is typically (but not exclusively) used in point-of-sale applications such as ATM receipts, credit card receipts, gas pump receipts, and retail store receipts.

Commerce within five business days thereafter, or by November 13, 2007.

For further information concerning the conduct of these investigations 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).

DATES: *Effective Date:* September 19, 2007.

FOR FURTHER INFORMATION CONTACT:

Christopher J. Cassise (202-707-5408), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background. These investigations are being instituted in response to a petition filed on September 19, 2007, by Appleton Papers, Inc., Appleton, WI.

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 days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations 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 these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the

investigations under the APO issued in the investigations, provided that the application is made not later than seven 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 these investigations for 9:30 a.m. on October 10, 2007, at the U.S. International Trade Commission Building, 500 E Street, SW., Washington, DC. Parties wishing to participate in the conference should contact Christopher Cassise (202-708-5408) not later than October 5, 2007, to arrange for their appearance. Parties in support of the imposition of countervailing and/or antidumping duties in these investigations 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 15, 2007, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three 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. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

Issued: September 20, 2007.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7-19066 Filed 9-26-07; 8:45 am]

BILLING CODE 7020-02-P

received antidumping and countervailing duty petitions filed by Appleton Papers, Inc. (petitioner) on behalf of the domestic industry producing lightweight thermal paper. *See Antidumping Duty Petitions on Lightweight Thermal Paper from Germany, the Republic of Korea, and the People's Republic of China and Countervailing Duty Petition on Lightweight Thermal Paper from the People's Republic of China* (September 19, 2007) (Petitions).

Determination of Industry Support for the Petition

Section 732(b)(1) of the Tariff Act of 1930, as amended (the Act), requires that a petition be filed by or on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that the Department's industry support determination be based on whether a minimum percentage of the relevant industry supports the petition. A petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) 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. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A), or (ii) if there is a large number of producers, determine industry support using a statistically valid sampling method to poll the industry.

Extension of Time

Section 732(c)(1)(A)(ii) of the Act provides that within 20 days of the filing of an antidumping duty petition, the Department will determine, *inter alia*, whether the petition has been filed by or on behalf of the U.S. industry producing the domestic like product. Section 732(c)(1)(B) of the Act provides that the deadline for the initiation determination, in exceptional circumstances, may be extended by 20 days in any case in which the Department must "poll or otherwise determine support for the petition by the industry." Because it is not clear from the petition whether the industry support criteria have been met, the Department has determined to extend

the time for initiating an investigation in order to poll the domestic industry.

The Department will need additional time to analyze the domestic producers' responses to the Department's request for information. Therefore, it is necessary to extend the deadline determining the adequacy of the petition for a period not to exceed 40 days from the filing of the petition. As a result, the initiation determination will now be due no later than October 29, 2007.

International Trade Commission Notification

The Department will contact the International Trade Commission (ITC) and will make this extension notice available to the ITC.

Dated: October 09, 2007.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E7-20345 Filed 10-15-07; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

(A-428-840, A-580-860, A-570-920, C-570-921)

Notice of Extension of the Deadline for Determining the Adequacy of the Antidumping Duty Petitions: Lightweight Thermal Paper from Germany, the Republic of Korea, and the People's Republic of China; and the Countervailing Duty Petition: Lightweight Thermal Paper from the People's Republic of China

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

EFFECTIVE DATE: October 16, 2007.

FOR FURTHER INFORMATION CONTACT:

Minoo Hatten at (202) 482-1690 and Dmitry Vladimirov at (202) 482-0665 (Republic of Korea); Blanche Ziv at (202) 482-4207, Hallie Zink at (202) 482-6907, and Scott Holland at (202) 482-1279 (People's Republic of China), Victoria Cho at (202) 482-5075 and Christopher Hargett at (202) 482-4161 (Germany), AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

EXTENSION OF INITIATION OF INVESTIGATIONS

The Petitions

On September 19, 2007, the Department of Commerce (Department)

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).

DATES: *Effective Date:* October 17, 2007.

FOR FURTHER INFORMATION CONTACT:

Christopher J. Cassise (202-708-5408), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.12 of the Commission's rules.

By order of the Commission.

Issued: October 11, 2007.

William R. Bishop,

Acting Secretary to the Commission.

[FR Doc. E7-20397 Filed 10-16-07; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701-TA-451 and 731-TA-1126-1128 (Preliminary)]

Certain Lightweight Thermal Paper From China, Germany, and Korea

AGENCY: United States International Trade Commission.

ACTION: Revised schedule for the subject investigations.

SUMMARY: On September 19, 2007, the Commission established a schedule for the conduct of the subject investigations (72 FR 54926, September 27, 2007). Subsequently, the Department of Commerce extended the date for its initiation of the investigations from October 9 to October 29, 2007. The Commission, therefore, is revising its schedule to conform with Commerce's new schedule.

The Commission's new schedule for the investigations is as follows: The deadline for filing written briefs is October 18, 2007, the administrative deadline for transmitting determinations to Commerce is November 23, 2007, and the Commission's views are due to be transmitted to Commerce on November 30, 2007.

For further information concerning the conduct of these investigations and rules of general application, consult the

The Petition

On September 19, 2007, the Department of Commerce (the "Department") received a petition filed in proper form by Appleton Papers Inc. (the "petitioner") a domestic producer of lightweight thermal paper ("LWTP"). In response to the Department's requests, the petitioner provided timely information supplementing the petition on September 28, October 2, and October 23, 2007.

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended ("the Act"), the petitioner alleges that manufacturers, producers, or exporters of LWTP in the People's Republic of China (the "PRC"), receive countervailable subsidies within the meaning of section 701 of the Act and that such imports are materially injuring, or threatening material injury to, an industry in the United States.

The Department finds that the petitioner filed the petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and the petitioner has demonstrated sufficient industry support with respect to the countervailing duty investigation (*see* "Determination of Industry Support for the Petition" section below).

Period of Investigation

The period of investigation is January 1, 2006, through December 31, 2006.

Scope of the Investigation

The merchandise covered by each of this investigation includes certain lightweight thermal paper, which is thermal paper with a basis weight of 70 grams per square meter (" g/m^2 ") (with a tolerance of $\pm 4.0 \text{ g/m}^2$) or less; irrespective of dimensions;¹ with or without a base coat² on one or both sides; with thermal active coating(s)³ on one or both sides that is a mixture of the dye and the developer that react and form an image when heat is applied; with or without a top coat;⁴ and without

DEPARTMENT OF COMMERCE**International Trade Administration**

[C-570-921]

Notice of Initiation of Countervailing Duty Investigation: Lightweight Thermal Paper from the People's Republic of China

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

EFFECTIVE DATE: November 2, 2007.

FOR FURTHER INFORMATION CONTACT: Scott Holland or Nancy Decker, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1279 and (202) 482-0196, respectively.

SUPPLEMENTARY INFORMATION:

¹ LWTP is typically produced in jumbo rolls that are slit to the specifications of the converting equipment and then converted into finished slit rolls. Both jumbo rolls and converted rolls (as well as LWTP in any other forms, presentations, or dimensions) are covered by the scope of these investigations.

² A base coat, when applied, is typically made of clay and/or latex and like materials and is intended to cover the rough surface of the paper substrate and to provide insulating value.

³ A thermal active coating is typically made of sensitizer, dye, and co-reactant.

⁴ A top coat, when applied, is typically made of polyvinyl acetone, polyvinyl alcohol, and/or like materials and is intended to provide environmental protection, an improved surface for press printing, and/or wear protection for the thermal print head.

an adhesive backing. Certain lightweight thermal paper is typically (but not exclusively) used in point-of-sale applications such as ATM receipts, credit card receipts, gas pump receipts, and retail store receipts. The merchandise subject to these investigations may be classified in the Harmonized Tariff Schedule of the United States ("HTSUS") under subheadings 4811.90.8040 and 4811.90.9090.⁵ Although HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Comments on Scope of Investigation

During our review of the petition, we discussed the scope with the petitioner to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the regulations (*Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages all interested parties to submit such comments within 20 calendar days of the publication of this notice. Comments should be addressed to Import Administration's Central Records Unit ("CRU"), Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determinations.

Consultations

Pursuant to section 702(b)(4)(A)(ii) of the Act, the Department invited representatives of the Government of the PRC for consultations with respect to the countervailing duty petition. The Department held these consultations in Beijing, China, with representatives of the Government of the PRC on September 28, 2007. See the Memorandum to The File, entitled,

⁵ HTSUS subheading 4811.90.8000 was a classification used for LWTP until January 1, 2007. Effective that date, subheading 4811.90.8000 was replaced with 4811.90.8020 (for gift wrap, a non-subject product) and 4811.90.8040 (for "other," including LWTP). HTSUS subheading 4811.90.9000 was a classification for LWTP until July 1, 2005. Effective that date, subheading 4811.90.9000 was replaced with 4811.90.9010 (for tissue paper, a non-subject product) and 4811.90.9090 (for "other," including LWTP). Petitioner indicated that, from time to time, LWTP also may have been entered under HTSUS subheading 3703.90, HTSUS heading 4805, and perhaps other subheadings of the HTSUS.

"Consultations with Officials from the Government of the People's Republic of China" (September 28, 2007) on file in the CRU of the Department of Commerce, Room B-099.

Determination of Industry Support for the Petitions

Section 702(b)(1) of the Act requires that a petition be filed by or on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) 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. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A), or (ii) determine industry support using a statistically valid sampling method.

Section 771(4)(A) of the Act defines the "industry" as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law. See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001), citing *Algoma Steel Corp. Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989), *cert. denied* 492 U.S. 919 (1989).

Section 771(10) of the Act defines the 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 title." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation," (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted on the record, we have determined that lightweight thermal paper, both jumbo rolls and converted slit rolls, constitute a single domestic like product, which is defined further in the "Scope of the Investigation" section above, and we have analyzed industry support in terms of that domestic like product. For a discussion of the domestic like product analysis in this case, see the *Countervailing Duty Investigation Initiation Checklist: Lightweight Thermal Paper from the People's Republic of China (PRC Initiation Checklist)* at Attachment II, on file in the Central Records Unit, Room B-099 of the main Department of Commerce building.

On October 9, 2007, the Department extended the initiation deadline by 20 days to poll the domestic industry in accordance with section 702(c)(4)(D) of the Act, because it was "not clear from the petitions whether the industry support criteria have been met..." See *Notice of Extension of the Deadline for Determining the Adequacy of the Antidumping Duty Petitions: Lightweight Thermal Paper from Germany, the Republic of Korea, and the People's Republic of China; and the Countervailing Duty Petition: Lightweight Thermal Paper from the People's Republic of China*, 72 FR 58639 (October 16, 2007).

On October 12 and 15, 2007, we issued polling questionnaires to all known producers of jumbo rolls and converted slit rolls of lightweight thermal paper identified in the petitions, submissions from other interested parties, and by the ITC. The questionnaires are on file in the CRU in room B-099 of the main Department of Commerce building. We requested that each company complete the polling questionnaire, certify its response, and fax its response to the Department by the due date. For a detailed discussion of the responses received see *PRC Initiation Checklist* at Attachment II.

Our analysis of the data indicates that the domestic producers of lightweight thermal paper who support the petitions

account for at least 25 percent of the total production of the domestic like product and more than 50 percent of the production (by quantity and U.S. dollar sales value) of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. See *PRC Initiation Checklist* at Attachment II. Accordingly, the Department determines that the industry support requirements of section 702(c)(4)(A) of the Act have been met. Therefore, the Department determines that the petitioner filed the petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and it has demonstrated sufficient industry support with respect to the countervailing duty investigation that it is requesting the Department initiate. See *PRC Initiation Checklist* at Attachment II.

Injury Test

Because the PRC, is a “Subsidies Agreement Country” within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from the PRC materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the individual and cumulated subsidized imports of the subject merchandise. The petitioner contends that the industry’s injured condition is illustrated by reduced market share, increased inventories, lost sales, reduced production, reduced capacity and capacity utilization rate, reduced shipments, underselling and price depression or suppression, lost revenue, and a decline in financial performance. We have assessed the allegations and supporting evidence regarding material injury and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. See *PRC Initiation Checklist* at Attachment III (Injury).

Initiation of Countervailing Duty Investigation

Section 702(b) of the Act requires the Department to initiate a countervailing duty proceeding whenever an interested party files a petition on behalf of an industry that; (1) alleges the elements

necessary for an imposition of a duty under section 701(a) of the Act; and (2) is accompanied by information reasonably available to the petitioner(s) supporting the allegations. The Department has examined the countervailing duty petition on LWTP from the PRC and finds that it complies with the requirements of section 702(b) of the Act. Therefore, in accordance with section 702(b) of the Act, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters of LWTP in the PRC receive countervailable subsidies. For a discussion of evidence supporting our initiation determination, see *PRC Initiation Checklist*.

We are including in our investigation the following programs alleged in the petition to have provided countervailable subsidies to producers and exporters of the subject merchandise in the PRC:

Preferential Lending

1. Government Policy Lending Program

2. Loans provided pursuant to the Northeast Revitalization Program

3. Loan guarantees from government-owned and controlled banks

Income Tax Programs

4. “Two Free, Three Half” program

5. Income tax exemption program for export-oriented foreign investment enterprises (“FIEs”)

6. Corporate income tax refund program for reinvestment of FIE profits in export-oriented enterprises

7. Local income tax exemption and reduction program for “productive” FIEs

8. Reduced income tax rates for FIEs based on location

9. Reduced income tax rate for knowledge or technology intensive FIEs

10. Reduced income tax rate for high or new technology FIEs

11. Preferential tax policies for research and development at FIEs

12. Income tax credits on purchases of domestically produced equipment by domestically-owned companies

Indirect Tax Programs and Import Tariff Program

13. Export payments characterized as VAT rebates

14. VAT and tariff exemptions on imported equipment

Grant Programs

15. State Key Technology Renovation Program Fund

Provincial Subsidy Programs

16. Funds for “outward expansion” of

industries in Guangdong Province

17. Export interest subsidy funds for enterprises located in Shenzhen

City or Zhejiang Province

18. Loans and interest subsidies pursuant to the Liaoning Province’s five-year framework

Currency Programs

19. Currency retention

For further information explaining why the Department is investigating these programs, see *China Initiation Checklist*.

We are not including in our investigation the following programs alleged to benefit producers and exporters of the subject merchandise in the PRC:

A. Currency manipulation

Petitioner alleges that the PRC government’s policy of maintaining an undervalued RMB is an export subsidy that provides either a direct transfer of funds or the provision of a good or service at less than adequate remuneration. Petitioner has not sufficiently alleged the elements necessary for the imposition of a countervailing duty and did not support the allegation with reasonably available information. Therefore, we do not plan to investigate the currency manipulation program.

B. Provision Of Goods Or Services For Less Than Adequate Remuneration

1. Electricity and natural gas

2. Water

3. Papermaking chemicals

4. Land

Respondent Selection

For this investigation, the Department expects to select respondents based on U.S. Customs and Border Protection data for U.S. imports during the POI. We intend to make our decision regarding respondent selection within 20 days of publication of this **Federal Register** notice. The Department invites comments regarding the CBP data and respondent selection within seven calendar days of publication of this **Federal Register** notice.

Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A)(i) of the Act, a copy of the public version of the petition has been provided to the Government of the PRC. As soon as and to the extent practicable, we will attempt to provide a copy of the public version of the petition to each exporter named in the petition, consistent with 19 CFR 351.203(c)(2).

ITC Notification

We have notified the ITC of our initiation, as required by section 702(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 25 days after the date on which it receives notice of the initiation, whether there is a reasonable indication that imports of subsidized LWTP from the PRC are causing material injury, or threatening to cause material injury, to a U.S. industry. *See* section 703(a)(2) of the Act. 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 issued and published pursuant to section 777(i) of the Act.

Dated: October 29, 2007.

Stephen J. Claeys,

Acting Assistant Secretary for Import Administration.

[FR Doc. E7-21616 Filed 11-1-07; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE**International Trade Administration**

[A-428-840, A-580-860, A-570-920]

**Notice of Initiation of Antidumping
Duty Investigations: Lightweight
Thermal Paper from Germany, the
Republic of Korea, and the People's
Republic of China**

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

EFFECTIVE DATE: November 5, 2007.

FOR FURTHER INFORMATION CONTACT:
Dmitry Vladimirov at (202) 482-0665
(Republic of Korea), Blanche Ziv at
(202) 482-4207 or Hallie Zink at (202)
482-6907 (People's Republic of China),
Victoria Cho at (202) 482-5075 or
Christopher Hargett at (202) 482-4161
(Germany), Import Administration,
International Trade Administration,
U.S. Department of Commerce, 14th
Street and Constitution Avenue, NW,
Washington, DC 20230.

INITIATION OF INVESTIGATION**The Petition**

On September 19, 2007, the Department of Commerce (Department) received an antidumping petition concerning lightweight thermal paper from Germany, the Republic of Korea (Korea), and the People's Republic of China (PRC), filed by Appleton Papers, Inc. (the petitioner) on behalf of the domestic industry producing

lightweight thermal paper. *See* Antidumping Duty Petition on Lightweight Thermal Paper from Germany, the Republic of Korea, and the People's Republic of China and Countervailing Duty Petition on Lightweight Thermal Paper from the People's Republic of China (September 19, 2007) (Petition).

The petitioner is a domestic producer of lightweight thermal paper (LWTP). On September 24, 2007, the Department issued a request for additional information and clarification of certain areas of the Petition. On September 28, 2007, in response to the Department's request, the petitioner filed a supplement to the Petition. *See* Lightweight Thermal Paper from Germany, the Republic of Korea, and the People's Republic of China; Petitioner's Response to the Department's September 24, 2007 Request for Clarification of Certain Items Contained in the Petition (September 28, 2007) (Supplement to the Petition).

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of LWTP from Germany, Korea, and the PRC 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, an industry in the United States. The petitioner also alleges that sales of LWTP from Germany and Korea have been made at prices below the cost of production (COP).

The Department finds that the petitioner filed this Petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and has demonstrated sufficient industry support with respect to the initiation of the antidumping duty investigations that the petitioner is requesting. *See* the "Determination of Industry Support for the Petition" section below.

Period of Investigation

Because the Petition was filed on September 19, 2007, the anticipated period of investigation (POI) for Germany and Korea is July 1, 2006, through June 30, 2007. The anticipated POI for the PRC is January 1, 2007, through June 30, 2007. *See* 19 CFR 351.204(b).

Scope of the Investigations

The merchandise covered by each of these investigations includes certain lightweight thermal paper, which is thermal paper with a basis weight of 70 grams per square meter (g/m²) (with a

tolerance of ± 4.0 g/m²) or less; irrespective of dimensions;¹ with or without a base coat² on one or both sides; with thermal active coating(s)³ on one or both sides that is a mixture of the dye and the developer that react and form an image when heat is applied; with or without a top coat;⁴ and without an adhesive backing. Certain lightweight thermal paper is typically (but not exclusively) used in point-of-sale applications such as ATM receipts, credit card receipts, gas pump receipts, and retail store receipts. The merchandise subject to these investigations may be classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 4811.90.8040 and 4811.90.9090.⁵ Although HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of these investigations are dispositive.

Comments on Scope of Investigations

We are setting aside a period for interested parties to raise issues regarding product coverage. *See, e.g., Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997). The Department encourages all interested parties to submit such comments within 20 calendar days of signature of this notice. Comments should be addressed to Import Administration's Central Records Unit (CRU), Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. The period of scope consultations is intended to

¹ LWTP is typically produced in jumbo rolls that are slit to the specifications of the converting equipment and then converted into finished slit rolls. Both jumbo rolls and converted rolls (as well as LWTP in any other forms, presentations, or dimensions) are covered by the scope of these investigations.

² A base coat, when applied, is typically made of clay and/or latex and like materials and is intended to cover the rough surface of the paper substrate and to provide insulating value.

³ A thermal active coating is typically made of sensitizer, dye, and co-reactant.

⁴ A top coat, when applied, is typically made of polyvinyl acetone, polyvinyl alcohol, and/or like materials and is intended to provide environmental protection, an improved surface for press printing, and/or wear protection for the thermal print head.

⁵ HTSUS subheading 4811.90.8000 was a classification used for LWTP until January 1, 2007. Effective that date, subheading 4811.90.8000 was replaced with 4811.90.8020 (for gift wrap, a non-subject product) and 4811.90.8040 (for "other," including LWTP). HTSUS subheading 4811.90.9000 was a classification for LWTP until July 1, 2005. Effective that date, subheading 4811.90.9000 was replaced with 4811.90.9010 (for tissue paper, a non-subject product) and 4811.90.9090 (for "other," including LWTP). Petitioner indicated that, from time to time, LWTP also may have been entered under HTSUS subheading 3703.90, HTSUS heading 4805, and perhaps other subheadings of the HTSUS.

provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determinations.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed by or on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) 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. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A), or (ii) determine industry support using a statistically valid sampling method.

Section 771(4)(A) of the Act defines the "industry" as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law. *See* USEC, Inc. v. United States, 132 F. Supp. 2d 1, 8 (CIT 2001), citing Algoma Steel Corp. Ltd. v. United States, 688 F. Supp. 639, 644 (CIT 1988), aff'd 865 F.2d 240 (Fed. Cir. 1989), cert. denied 492 U.S. 919 (1989).

Section 771(10) of the Act defines the 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 title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation,” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of domestic like product distinct from the scope of the investigations. Based on our analysis of the information submitted on the record, we have determined that lightweight thermal paper, both jumbo rolls and converted slit rolls, constitute a single domestic like product, which is defined further in the “Scope of the Investigations” section above, and we have analyzed industry support in terms of that domestic like product. For a discussion of the domestic like product analysis in this case, see the Antidumping Duty Investigation Initiation Checklist: Lightweight Thermal Paper from Germany (Germany Initiation Checklist) at Attachment II, Antidumping Duty Investigation Initiation Checklist: Lightweight Thermal Paper from Korea (Korea Initiation Checklist) at Attachment II, and the Antidumping Duty Investigation Initiation Checklist: Lightweight Thermal Paper from the People’s Republic of China (PRC Initiation Checklist) at Attachment II, on file in the CRU, Room B-099 of the main Department of Commerce building.

On October 9, 2007, the Department extended the initiation deadline by 20 days to poll the domestic industry in accordance with section 702(c)(4)(D) of the Act, because it was “not clear from the petitions whether the industry support criteria have been met...” See *Notice of Extension of the Deadline for Determining the Adequacy of the Antidumping Duty Petitions: Lightweight Thermal Paper from Germany, the Republic of Korea, and the People’s Republic of China; and the Countervailing Duty Petition: Lightweight Thermal Paper from the People’s Republic of China*, 72 FR 58639 (October 16, 2007).

On October 12 and 15, 2007, we issued polling questionnaires to all known producers of jumbo rolls and converted slit rolls of lightweight thermal paper identified in the petitions, submissions from other interested parties, and by the ITC. The questionnaires are on file in the CRU in room B-099 of the main Department of Commerce building. We requested that each company complete the polling questionnaire and certify their

responses by faxing their responses to the Department by the due date. For a detailed discussion of the responses received see the Germany Initiation Checklist, Korea Initiation Checklist, and PRC Initiation Checklist (collectively, “Initiation Checklists”) at Attachment II.

Our analysis of the data indicates that the domestic producers of lightweight thermal paper who support the petitions account for at least 25 percent of the total production of the domestic like product and more than 50 percent of the production (by quantity and U.S. dollar sales value) of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petitions. See Initiation Checklists at Attachment II. Accordingly, the Department determines that the industry support requirements of section 732(c)(4)(A) of the Act have been met. Therefore, the Department determines that the petitioner filed these petitions on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and it has demonstrated sufficient industry support with respect to the antidumping investigations that it is requesting the Department initiate. See Initiation Checklists at Attachment II.

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the individual and cumulated imports of the subject merchandise sold at less than normal value (NV). The petitioner contends that the industry’s injured condition is illustrated by reduced market share, increased inventories, lost sales, reduced production, reduced capacity and capacity utilization rate, reduced shipments, underselling and price depression or suppression, lost revenue, and a decline in financial performance. We have assessed the allegations and supporting evidence regarding material injury and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. See Initiation Checklists at Attachment III (Injury).

Allegations of Sales at Less Than Fair Value

The following is a description of the allegations of sales at less than fair value upon which the Department based its decision to initiate these investigations on imports of LWTP from Germany,

Korea, and the PRC. The sources of data for the deductions and adjustments relating to the U.S. price as well as NV for Germany and Korea are discussed in greater detail in the Initiation Checklists. We corrected certain information in the petitioner’s margin calculations for the PRC. The corrections are provided in detail in the PRC Initiation Checklist. Should the need arise to use any of this information as facts available under section 776 of the Act in our preliminary or final determinations, we will re-examine the information and revise the margin calculations, if appropriate.

Alleged U.S. Price and Normal Value: Germany

The petitioner calculated export price (EP) using information from Koehler and Mitsubishi Hi-Tec, two manufacturers of LWTP in Germany. The price data are based on the same products used as the basis for the cost model, as well as the basis for NV. The petitioner’s calculation of EP starts with the gross price. The petitioner then calculated net price by deducting the amount for U.S. inland freight, ocean freight and insurance to arrive at an ex-factory price. See Petition Volume III at 9 and Exhibits 12, 13, 14, and 15. The petitioner did not deduct foreign inland freight because the manufacturer’s plants are located near waterways in Germany. However, the petitioner estimated U.S. inland freight charges by using freight charges from the most likely port of entry to the respective delivery points. See Petition, Volume III at Exhibit 15.

Normal Value: Germany

The petitioner was able to determine domestic German prices for LWTP by obtaining pricing data for Mitsubishi Hitec, through a market researcher. See memorandum entitled, “Telephone Call to Market Research Firm Regarding the Antidumping Petition on Lightweight Thermal Paper (LWTP) from Germany,” dated October 5, 2007. The petitioner deducted freight and other appropriate items from the gross price to obtain the NV. See Germany Petition, Volume III at page 2 and Exhibits 2–4. The petitioner then converted the Euro per metric ton (MT) amount to U.S. dollar per MT amount by applying the POI exchange rate.

Cost of Production: Germany

The petitioner has provided information demonstrating reasonable grounds to believe or suspect that sales of thermal paper in the home market were made at prices below the fully absorbed COP, within the meaning of

section 773(b) of the Act, and requested that the Department conduct a sales–below-cost investigation. Pursuant to section 773(b)(3) of the Act, COP consists of the cost of manufacturing (COM); selling, general and administrative (SG&A) expenses; financial expenses; and packing expenses. The petitioner calculated COM and packing expenses using input quantities based on the production experience of a U.S. LWTP manufacturer during the POI, multiplied by the costs incurred to manufacture LWTP in Germany using publicly available data. To calculate average factory overhead, SG&A and financial expense rates, petitioner relied on the 2006 financial statements of Koehler Holding GmbH & Co., KG.

Based upon a comparison of the prices of the foreign–like product in the home market to the calculated COP of the product, we find reasonable grounds to believe or suspect that sales of the foreign like product were made below the COP, within the meaning of section 773(b)(2)(A)(i) of the Act. Accordingly, the Department is initiating a country–wide cost investigation. If we determine during the course of the investigation that the home market (*i.e.*, Germany) is not viable, our initiation of a country–wide cost investigation with respect to sales in Germany will be rendered moot. See Germany Initiation Checklist.

Normal Value Based on Constructed Value: Germany

Pursuant to sections 773(a)(4), 773(b) and 773(e) of the Act, the petitioner calculated NV based on constructed value (CV). The petitioner calculated CV using the same average COM, SG&A, financial and packing figures used to compute the COP. The petitioner then added profit based on the profit rate calculated based on the 2006 financial statements of Koehler Holding GmbH & Co., KG. See Germany Initiation Checklist.

Alleged U.S. Price and Normal Value: Korea

The petitioner calculated export price using pricing data in the United States provided by a Korean manufacturer of the subject merchandise. The petitioner adjusted U.S. prices for international freight and insurance and U.S. inland freight. See Petition, Volume IV at pages 8–9.

Normal Value: Korea

The petitioner was able to determine domestic Korean prices for lightweight thermal paper by obtaining pricing data, through an economic consultant, from a Korean manufacturer of lightweight

thermal paper. See Memorandum entitled, “Telephone Call to Market Research Firm Regarding the Antidumping Petition on Lightweight Thermal Paper from Korea,” dated October 1, 2007. The pricing data did not identify specific sales and payment terms associated with it. The petitioner claims that a Korean manufacturer made it known to an economic consultant that, with one exception, all pricing data are on a delivered basis. The petitioner did not make an adjustment to home–market price for foreign inland freight because it did not make a similar adjustment to U.S. price. See Petition, Volume IV at pages 2–3.

Cost of Production: Korea

The petitioner has provided information demonstrating reasonable grounds to believe or suspect that sales of thermal paper in the home market were made at prices below the fully absorbed COP, within the meaning of section 773(b) of the Act, and requested that the Department conduct a sales–below-cost investigation. Pursuant to section 773(b)(3) of the Act, COP consists of the COM, SG&A expenses, financial expenses, and packing expenses. The petitioner calculated COM and packing expenses using input quantities based on the production experience of a U.S. LWTP producer during the POI, multiplied by the costs incurred to manufacture LWTP in Korea using publicly available data. To calculate average factory overhead, SG&A, and financial expense rates, the petitioner relied on the most current financial statements of Hansol, a thermal paper producer in Korea.

Based upon a comparison of the prices of the foreign–like product in the home market to the calculated COP of the product, we find reasonable grounds to believe or suspect that sales of the foreign like product were made below the COP, within the meaning of section 773(b)(2)(A)(I) of the Act. Accordingly, the Department is initiating a country–wide cost investigation. See Korea Initiation Checklist.

Normal Value Based on Constructed Value: Korea

Pursuant to sections 773(a)(4), 773(b) and 773(e) of the Act, the petitioner calculated NV based on CV. The petitioner calculated CV using the same average COM, SG&A, financial and packing figures used to compute the COP. The petitioner did not include profit because Hansol incurred a loss during 2006. See Korea Initiation Checklist.

Alleged U.S. Price and Normal Value: The People’s Republic of China

The petitioner calculated EP based upon an affidavit describing an actual offer for sale to the U.S. market of converted jumbo rolls from Shanghai Hanhong Paper Co., Ltd. (Hanhong), a non–integrated converter of jumbo rolls in the PRC. The petitioner then demonstrated, using Port Import Export Reporting Service (PIERS) data, that the overwhelming percentage of the imports of subject LWTP into the United States from the PRC were made by Hanhong. The petitioner notes that while approximately half of all shipments reported in the PIERS data set do not identify the producer or exporter of the merchandise, of the data set observations that do identify the exporters, almost 97 percent of such shipments were made by Hanhong. See Petition, Volume II at pages 4 and 8 and Exhibits 3, 10 and 11. See also Supplement to the Petition at page 3 and Exhibit 3. The petitioner adjusted the U.S. price to account for foreign brokerage and handling charges on a free on board (FOB) basis. The Department valued brokerage and handling charges using two sources: (1) data from the January 9, 2006, public version of the Section C questionnaire response from Kejriwal Paper Ltd. (Kejriwal);⁶ and (2) data from Agro Dutch Industries Ltd. for the period of review February 1, 2004, through January 31, 2005 (see *Certain Preserved Mushrooms From India: Final Results of Antidumping Duty Administrative Review*, 70 FR 37757 (June 30, 2005)). The Department used a simple average of the data adjusted for inflation. See PRC Initiation Checklist. The petitioner did not adjust export price for foreign inland freight charges because it could not determine the distance between Hanhong’s mill and the port of exit delivery location. See PRC AD Petition at page 8 and Exhibits II–11 and 12.

Because the Department considers the PRC to be a non–market economy (NME) country, the petitioner constructed NV based on the factors–of–production methodology pursuant to section 773(c) of the Act. Recently, the Department examined the PRC’s market status and determined that NME status should continue for the PRC. See

⁶ Kejriwal was a respondent in the certain lined paper products from India investigation for which the period of investigation was July 1, 2004, to June 30, 2005. See *Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances in Part: Certain Lined Paper Products From India*, 71 FR 19706 (April 17, 2006) (unchanged in final determination).

Memorandum from the Office of Policy to David M. Spooner, Assistant Secretary for Import Administration, Regarding the People's Republic of China Status as a Non-Market Economy, dated August 30, 2006. This document is available on-line at: <<http://ia.ita.doc.gov/download/prc-nme-status/prc-lined-paper-memo-08302006.pdf>>. In addition, in two recent investigations, the Department also determined that the PRC is an NME country. See *Final Determination of Sales at Less Than Fair Value: Certain Activated Carbon from the People's Republic of China*, 72 FR 9508 (March 2, 2007), and *Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China*, 72 FR 19690 (April 19, 2007). In accordance with section 771(18)(C)(i) of the Act, the NME status remains in effect until revoked by the Department. The presumption of the NME status of the PRC has not been revoked by the Department and, therefore, remains in effect for purposes of the initiation of this investigation. Accordingly, the NV of the product is based appropriately on factors of production valued in a surrogate market economy country in accordance with section 773(c) of the Act. During the course of this investigation, all parties will have the opportunity to provide relevant information related to the issues of the PRC's NME status and the granting of separate rates to individual exporters.

The petitioner asserts that India is the most appropriate surrogate country for the PRC because India is a significant producer of comparable merchandise and at a level of economic development comparable to the PRC. See Petition, Volume II at page 2. Based on the information provided by the petitioner, we believe that the petitioner's use of India as a surrogate country is appropriate for purposes of initiating this investigation. After the initiation of the investigation, we will solicit comments regarding surrogate-country selection. Also, pursuant to 19 CFR 351.301(c)(3)(i), interested parties will be provided an opportunity to submit publicly available information to value the factors of production within 40 calendar days after the date of publication of the preliminary determination.

The petitioner provided dumping margin calculations using the Department's NME methodology as required by 19 CFR 351.202(b)(7)(i)(C) and 19 CFR 351.408. The petitioner bases its estimates of antidumping

margins from the PRC on the CV and offers for sale to the U.S. market by Hanghong, a non-integrated converter of jumbo rolls. Therefore, the petitioner calculated NV based on a cost model specific to a non-integrated converter of subject LWTP. Specifically, the petitioner relied upon the consumption rates, for the period covering July 1, through December 31, 2006, of one of the largest non-integrated U.S. converters of subject LWTP, which the petitioner stated should be similar to the consumption rates of Hanhong. See Petition, Volume II at pages 4-5 and Exhibits II-3 and II-7. See also, Petitioner's Response to the Department's September 24, 2007 Request for Clarification of Certain Items Contained in the Petition: PRC (September 28, 2007) (Supplement to the Petition: PRC) at page 4. The petitioner stated that it did not make any adjustments to NV because no known material differences exist between the non-integrated U.S. converter's production experience and Hanhong's production experience. See Supplement to the Petition: PRC at pages 5-6. Thus, the petitioner has assumed, for purposes of the Petition, that Hanhong, a non-integrated converter of subject LWTP in the PRC, uses the same inputs in the same quantities as those used by one of the largest non-integrated converters of subject LWTP in the United States.

With respect to the calculation of NV, pursuant to section 773(c)(4) of the Act, the petitioner valued all direct materials using Indian import data obtained from the Monthly Statistics of the Foreign Trade of India (MSFTI), as published by the Directorate General of Commercial Intelligence and Statistics of the Ministry of Commerce and Industry, Government of India and used in the World Trade Atlas (WTA), available at: <<http://www.gtis.com/wta.htm>>, for August 1, 2006, through January 31, 2007. Because the Department was able to obtain more contemporaneous information from the WTA for the same inputs provided by the petitioner, *i.e.*, September 1, 2006, through February 28, 2007, we used this data where applicable in the NV calculations. The petitioner converted the inputs valued in Indian rupees to U.S. dollars based on the average rupee/U.S. dollar exchange rate for the POI, as reported on the Department's website at <<http://ia.ita.doc.gov/exchange/index.html>>. See PRC AD Petition at page 6 and Exhibit II-6. The petitioner relied upon the non-integrated U.S. converter's labor usage rates for production and packing and used the Department's

latest NME Wage Rate for the PRC, as reported on the Department's website at <<http://ia.ita.doc.gov/wages/index.html>>. *Id.* The petitioner did not include energy and other utility cost inputs in its calculated NV because the non-integrated U.S. converter did not allocate any energy costs to the specific product level. *Id.* at pages 5-6 and Exhibits II-6 and 7.

In regard to the NV calculations, the petitioner derived the figures for factory overhead (FOH), SG&A, and profit for the fiscal year ending March 31, 2006, from the financial statements of Parag Copigraph Pvt. Ltd. (Parag), a non-integrated Indian converter of subject LWTP. See PRC AD Petition at page 7 and Exhibits II-6 and PRC AD Supplemental Response at pages 6-7 and Exhibit 2. We did not make any other adjustment to the NV, as calculated by the petitioner. See PRC Initiation Checklist for further details on these calculations and the adjustments the Department made to these calculations.

Fair-Value Comparisons

Based on the data provided by petitioners, there is reason to believe that imports of LWTP from Germany, Korea, and the PRC are being, or are likely to be, sold in the United States at less than fair value. Based on comparisons of export price to NV that we revised with respect to the PRC, as discussed above, and calculated in accordance with section 773(c) of the Act, these are the estimated dumping margins for LWTP: 1) the estimated dumping margin for Germany based on a price-to-price comparison is 29.79 percent; the estimated dumping margins for Germany based on a price-to-CV comparison range from 59.80 percent to 75.36 percent; 2) the estimated dumping margin for Korea based on a price-to-price comparison is 40.30 percent; the estimated dumping margin for Korea based on a price-to-CV comparison is 65.63 percent; and 3) the estimated dumping margin for the PRC is 108.25 percent.

Initiation of Antidumping Investigations

Based upon the examination of the Petition on LWTP from Germany, Korea, and the PRC, we find that the Petition meet the requirements of section 732 of the Act. Therefore, we are initiating antidumping duty investigations to determine whether imports of LWTP from Germany, Korea, and the PRC are being, or are likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1),

unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

Separate Rates

The Department modified the process by which exporters and producers may obtain separate-rate status in NME investigations. See Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations Involving Non-Market Economy Countries (April 5, 2005) (Separate Rates and Combination Rates Bulletin), available on the Department's website at <<http://ia.ita.doc.gov/policy/bull05-1.pdf>>. The process requires the submission of a separate-rate status application. Based on our experience in processing the separate-rate applications in the following antidumping duty investigations, we have modified the application for this investigation to make it more administrable and easier for applicants to complete. See, e.g., *Initiation of Antidumping Duty Investigation: Certain New Pneumatic Off-the-Road Tires from the People's Republic of China*, 72 FR 43591, 43594-95 (August 6, 2007) (*Tires from the PRC*). The specific requirements for submitting the separate-rate application in this investigation are outlined in detail in the application itself, which will be available on the Department's website at <http://ia.ita.doc.gov/ia_highlights_and_news.html> on the date of publication of this initiation notice in the **Federal Register**. The separate-rate application is due no later than December 10, 2007.

Respondent Selection

For this investigation, the Department intends to select respondents based on CBP data for U.S. imports during the POI. We intend to make our decision regarding respondent selection within 20 days of publication of this **Federal Register** notice. The Department invites comments regarding the CBP data and respondent selection within seven calendar days of publication of this **Federal Register** notice.

Use of Combination Rates in an NME Investigation

The Department will calculate combination rates for certain respondents that are eligible for a separate rate in this investigation. The "Separate Rates and Combination Rates Bulletin" at page 6 explains that, while continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME investigations will be specific to those producers that

supplied the exporter during the POI. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the POI. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of "combination rates" because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the POI.

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of the Petition has been provided to representatives of the governments of Germany, Korea, and the PRC. We will attempt to provide a copy of the public version of the Petition to all exporters named in the Petition, as provided for in 19 CFR 351.203(c)(2).

ITC Notification

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

Preliminary Determinations by the ITC

The ITC will preliminarily determine no later than November 23, 2007, whether there is a reasonable indication that imports of LWTP from Germany, Korea, and the PRC are materially injuring or threatening material injury to a U.S. industry. A negative ITC determination for any country will result in the investigation being terminated with respect to that country; otherwise, these investigations will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: October 29, 2007.

Stephen J. Claeys,

Acting Assistant Secretary for Import Administration.

[FR Doc. E7-21710 Filed 11-2-07; 8:45 am]

BILLING CODE 3510-DS-S

APPENDIX B
LIST OF CONFERENCE WITNESSES

CALENDAR OF PUBLIC CONFERENCE

Those listed below appeared as witnesses at the United States International Trade Commission’s conference:

Subject: Certain Lightweight Thermal Paper from China, Germany, and Korea
Inv. Nos.: 701-TA-451 and 731-TA-1126-1128 (Preliminary)
Date and Time: October 10, 2007 - 9:30 a.m.

The conference was held in connection with these investigations in Court Room B, U.S. International Trade Commission, 500 E Street, S.W., Washington, DC.

OPENING STATEMENTS

Petitioner: **Joseph W. Dorn**, King & Spalding, LLC
Respondents: **William Silverman**, Hunton & Williams LLP

IN SUPPORT OF THE IMPOSITION OF ANTIDUMPING AND COUNTERVAILING DUTIES:

King & Spalding LLP
Washington, DC
on behalf of

Appleton Papers, Inc.

Walter Schonfeld, President, Technical Papers Division, Appleton Papers, Inc.

Karen Hatfield, Segment Director, Transaction Documents, Appleton Papers, Inc.

Michael Sitter, Vice President, Local 2-469, United Steel, Paper, and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union

Joseph W. Dorn)-OF COUNSEL
Paul W. Jameson)

**IN OPPOSITION TO THE IMPOSITION OF ANTIDUMPING AND
COUNTERVAILING DUTIES:**

Hunton & Williams LLP
Washington, DC
on behalf of

Papierfabrik August Koehler AG
Koehler America, Inc.

Willy Frueh, Director, Thermal Paper Division, Papierfabrik August Koehler AG

Richard M. Greene, Chief Operating Officer, Koehler America, Inc.

Donald Granholm, Vice President of Supply Chain Management, Nashua Corporation

Stephen K. Schwartz, President and Chief Executive Officer, Rite-Made Paper
Converters, Inc.

Doug Endsley, President, Register Tapes Unlimited, Inc.

Roger Sandt, Chief Executive Officer, Sandt Products, Inc.

James Dougan, Economic Consulting Services LLC

William Silverman)
Richard P. Ferrin)–OF COUNSEL
James R. Simoes)

Greenberg Traurig, LLP
Washington, DC
on behalf of

Paper Resources, LLC
Shanghai Hanhong Paper Co., Ltd.,

Christopher Burns, Managing Director, Paper Resources, LLC

Rosa Jeong)–OF COUNSEL
Philippe Bruno)

**IN OPPOSITION TO THE IMPOSITION OF ANTIDUMPING AND
COUNTERVAILING DUTIES** *Continued*

Step toe & Johnson LLP
Washington, DC
on behalf of

Mitsubishi HiTec Paper GmbH
Mitsubishi International Corp.

Falk Jahns, Sales Manager, Mitsubishi HiTec Paper GmbH

Eric Emerson

)-OF COUNSEL

CLOSING STATEMENTS

Petitioner: **Joseph W. Dorn**, King & Spalding, LLC

Respondents: **William Silverman**, Hunton & Williams LLP

APPENDIX C
SUMMARY DATA

Table C-1
Certain LW thermal paper: Summary data concerning the U.S. market (U.S. coaters), 2004-06, January-June 2006, and January-June 2007

* * * * *

Table C-2
Certain LW thermal paper: Summary data concerning the U.S. market (U.S. converters), 2004-06, January-June 2006, and January-June 2007

* * * * *

Table C-3

Certain LW thermal paper: Summary data concerning the U.S. market (U.S. coaters and converters), 2004-06, January-June 2006, and January-June 2007

(Quantity=short tons, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per short ton; period changes=percent, except where noted)

Item	Reported data					Period changes			
	2004	2005	2006	January-June		2004-06	2004-05	2005-06	Jan.-June 2006-07
				2006	2007				
U.S. consumption quantity:									
Amount	***	***	***	***	***	***	***	***	***
Producers' share (1)	***	***	***	***	***	***	***	***	***
Importers' share (1):									
China	***	***	***	***	***	***	***	***	***
Germany	***	***	***	***	***	***	***	***	***
Korea	***	***	***	***	***	***	***	***	***
Subtotal	***	***	***	***	***	***	***	***	***
All other sources	***	***	***	***	***	***	***	***	***
Total imports	***	***	***	***	***	***	***	***	***
U.S. consumption value:									
Amount	***	***	***	***	***	***	***	***	***
Producers' share (1)	***	***	***	***	***	***	***	***	***
Importers' share (1):									
China	***	***	***	***	***	***	***	***	***
Germany	***	***	***	***	***	***	***	***	***
Korea	***	***	***	***	***	***	***	***	***
Subtotal	***	***	***	***	***	***	***	***	***
All other sources	***	***	***	***	***	***	***	***	***
Total imports	***	***	***	***	***	***	***	***	***
U.S. imports from:									
China:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Germany:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Korea:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Subtotal:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
All other sources:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
All sources:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***

Table continued on next page.

Table C-3--Continued

Certain LW thermal paper: Summary data concerning the U.S. market (U.S. coaters and converters), 2004-06, January-June 2006, and January-June 2007

(Quantity=short tons, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per short ton; period changes=percent, except where noted)

Item	Reported data					Period changes			
	2004	2005	2006	January-June		2004-06	2004-05	2005-06	Jan.-June 2006-07
				2006	2007				
U.S. producers' converters:									
Average capacity quantity	239,653	252,727	256,176	134,998	134,704	6.9	5.5	1.4	-0.2
Production quantity	145,688	155,717	167,580	75,060	71,847	15.0	6.9	7.6	-4.3
Capacity utilization (1)	60.8	61.6	65.4	55.6	53.3	4.6	0.8	3.8	-2.3
U.S. shipments:									
Quantity	130,176	138,420	147,433	70,872	67,954	13.3	6.3	6.5	-4.1
Value	258,272	285,681	301,590	145,767	139,448	16.8	10.6	5.6	-4.3
Unit value	\$1,984	\$2,064	\$2,046	\$2,057	\$2,052	3.1	4.0	-0.9	-0.2
Export shipments:									
Quantity	14,852	16,457	16,494	7,847	6,985	11.1	10.8	0.2	-11.0
Value	25,090	29,009	28,026	14,090	11,313	11.7	15.6	-3.4	-19.7
Unit value	\$1,689	\$1,763	\$1,699	\$1,795	\$1,620	0.6	4.3	-3.6	-9.8
Ending inventory quantity	9,198	9,229	12,864	9,557	13,976	39.9	0.3	39.4	46.2
Inventories/total shipments (1)	6.3	6.0	7.8	6.1	9.3	1.5	-0.4	1.9	3.3
Production workers	784	809	828	816	827	5.6	3.2	2.3	1.3
Hours worked (1,000s)	1,579	1,629	1,694	917	933	7.3	3.2	4.0	1.7
Wages paid (\$1,000s)	26,875	28,420	30,524	15,449	15,078	13.6	5.7	7.4	-2.4
Hourly wages	\$17.02	\$17.45	\$18.02	\$16.84	\$16.16	5.9	2.5	3.3	-4.0
Productivity (tons/1,000 hours)	92.3	95.6	99.0	81.8	77.0	7.2	3.6	3.5	-5.9
Unit labor costs	\$184.47	\$182.51	\$182.14	\$205.83	\$209.86	-1.3	-1.1	-0.2	2.0
Net sales:									
Quantity	138,548	147,050	154,391	73,774	69,499	11.4	6.1	5.0	-5.8
Value	272,887	300,907	314,007	151,224	141,029	15.1	10.3	4.4	-6.7
Unit value	\$1,970	\$2,046	\$2,034	\$2,050	\$2,029	3.3	3.9	-0.6	-1.0
Cost of goods sold (COGS)	239,375	263,282	278,593	134,243	127,456	16.4	10.0	5.8	-5.1
Gross profit or (loss)	33,512	37,626	35,414	16,981	13,573	5.7	12.3	-5.9	-20.1
SG&A expenses	33,976	35,810	35,657	17,580	16,753	4.9	5.4	-0.4	-4.7
Operating income or (loss)	(464)	1,816	(243)	(599)	(3,180)	47.7	(3)	(3)	-431.1
Capital expenditures	8,211	23,231	12,246	1,439	8,814	49.1	182.9	-47.3	512.5
Unit COGS	\$1,728	\$1,790	\$1,804	\$1,820	\$1,834	4.4	3.6	0.8	0.8
Unit SG&A expenses	\$245	\$244	\$231	\$238	\$241	-5.8	-0.7	-5.2	1.2
Unit operating income or (loss)	(\$3)	\$12	(\$2)	(\$8)	(\$46)	53.1	(3)	(3)	-463.7
COGS/sales (1)	87.7	87.5	88.7	88.8	90.4	1.0	-0.2	1.2	1.6
Operating income or (loss)/ sales (1)	(0.2)	0.6	(0.1)	(0.4)	(2.3)	0.1	0.8	-0.7	-1.9

(1) "Reported data" are in percent and "period changes" are in percentage points.

(2) Not applicable.

(3) Undefined.

Note.--Financial data are reported on a fiscal year basis and may not necessarily be comparable to data reported on a calendar year basis. Because of rounding, figures may not add to the totals shown. Unit values and shares are calculated from the unrounded figures.

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

APPENDIX D

PRICING DATA PRESENTED ON AN ESTIMATED DELIVERED BASIS

Table D-1

Certain LW thermal paper: Weighted-average delivered prices and quantities of domestic and imported product 1 and margins of underselling/(overselling), by quarters, January 2004-June 2007

* * * * *

Table D-2

Certain LW thermal paper: Weighted-average delivered prices and quantities of domestic and imported product 2 and margins of underselling/(overselling), by quarters, January 2004-June 2007

* * * * *

Table D-3

Certain LW thermal paper: Weighted-average delivered prices and quantities of domestic and imported product 3 and margins of underselling/(overselling), by quarters, January 2004-June 2007

* * * * *

Table D-4

Certain LW thermal paper: Weighted-average delivered prices and quantities of domestic and imported product 4 and margins of underselling/(overselling), by quarters, January 2004-June 2007

* * * * *

Table D-5

Certain LW thermal paper: Instances of underselling/overselling and the range and average of margins for products 1-4, on a delivered basis, January 2004-June 2007

* * * * *

APPENDIX E

**ALLEGED EFFECTS OF SUBJECT IMPORTS ON U.S. PRODUCERS'
EXISTING DEVELOPMENT AND PRODUCTION EFFORTS,
GROWTH, INVESTMENT, AND ABILITY TO RAISE CAPITAL**

The Commission requested U.S. producers to describe any actual or potential negative effects since January 1, 2004, on their return on investment, growth, investment, ability to raise capital, existing development and production efforts, or the scale of capital investments as a result of imports of certain LW thermal paper from China, Germany and Korea. Their responses are as follows:

Actual Negative Effects

- *** “No.”
- *** “No.”
- *** “Yes. Cancellation, postponement, or rejection of expansion projects.”
- *** “Yes. Lower sales and operating income due to growing imports on slitted Chinese rolls.”
- *** “Yes. Rejection of bank loans, not a complete rejection but a downgrading of available capital. Lack of product and business *** in Q4 2006.”
- *** “No.”
- *** “No.”
- *** “No.”
- *** “No.”
- *** “Yes. Cancellation, postponement, or rejection of expansion projects. ***. See exhibit 1, attached. Since making that announcement, *** has suffered losses of sales, market share, and price erosion due to unfairly priced imports. *** can compete with any manufacturer when the playing field is level. However, the unfair pricing practices have degraded the market to one that is very unattractive for current investment. If underselling by imports persists, then *** will not achieve the pricing and volume levels on which *** were based.”
- *** “Yes. Cancellation, postponement, or rejection of expansion projects. Reduction in the size of capital investments.”
- *** “No.”
- *** “No.”
- *** “No.”
- *** “Yes. Denial or rejection of investment proposal. Rejection of bank loans. Lowering of credit rating. Facing bankruptcy or asset sale.”

*** “Yes. Loss of revenue and decreased profitability and shareholder value related to finished goods converted from LW thermal papers imported from China.”

*** “No.”

*** “No.”

*** “No.”

*** “Yes. Denial or rejection of investment proposal. Reduction in the size of capital investments. Lower than forecasted ROI.”

*** “Yes. Cancellation, postponement, or rejection of expansion projects. Denial or rejection of investment proposal. Reduction in the size of capital investments. Problem related to the issue of stocks or bonds.”

*** “No.”

Anticipated Negative Effects

*** “Yes - The impact on selling prices is significant. Purchase price of finished goods from China is at or below our material costs!”

*** “No, not from the importation of jumbo rolls. Jumbo rolls have been imported from some years with no adverse affect from ***’s perspective.”

*** “Not sure at this time.”

*** “We expect negative impact from sale of finished (converted) product coming in from China. The cost of these finished goods are often below our paper costs, not including converting costs and cost of other raw materials that make up the finished good. We anticipate this will significantly impact our sales once these Chinese rolls become readily available.”

*** “No.”

*** “No.”

*** “Chinese finished goods are causing some panic in the market place and US converters seem to be taking business at any price to keep market share. We lost our largest customer last week and the price dropped between 15 and 20%.”

- *** “Germany - no, Korea - no, China - yes -- the importation of finished goods - not jumbo rolls. In some instances the cost of finished goods coming in from China, landed in the U.S., is below my converted cost for the exact same product.”
- *** “We have already lost orders from our customers. We have seen prices for LW Thermal from China at or below our cost before freight; these Chinese manufactured P.O.S. rolls have to be loaded into a container, transported to the shipping dock, loaded onto an ocean container, then transported to the United States, and then shipped from the port to our customers - all of these operations at a price that is at our cost or lower.”
- *** “Imports of finished/slitted rolls from China - at low prices - continue to lower our sales and decrease our operating profits.”
- *** “Loss of revenue and decreased profitability related to export of converted LW thermal products from China.”
- *** “We do not anticipate any negative impact from imports from Germany or Korea. On the other hand, we fear that China may become a more substantial player in the market because of valuations of costly below market or more importantly, cost value. China exports finished goods at prices lower than our costs.”
- *** “Unknown.”
- *** “China.”
- *** “China yes. Certain of our competitors import slitted thermal rolls from China.”
- *** “Yes. Chinese imports of converted rolls are very inexpensive. We have received spam e-mails from Chinese companies advertising ridiculously low prices. Also, we have been unable to participate in the Burlington Coat Factory online sourcing events for thermal register rolls because the starting bid price was below our cost.”
- *** “Yes - we have had to lower our selling prices for slit rolls due to Chinese finished (slit) roll pricing. ***. We have lost customers due to Chinese finished rolls coming into the USA. Our company went from being profitable to a breakeven business. ***. Clarification: We actually went from profitable to unprofitable due to Chinese slit rolls and their very low prices. *** returned PM Company to a breakeven business.”
- *** “Yes - only China though German and Korean products have similar costs to U.S. manufactured products.”
- *** “A decline in sales due to the ability of distributors (who buy Chinese paper) to sell below what just the paper costs us.”
- *** “China but not Germany. China is sending finished roll product into the U.S.

below market conditions.”

“***.”

“Yes - China.”

