

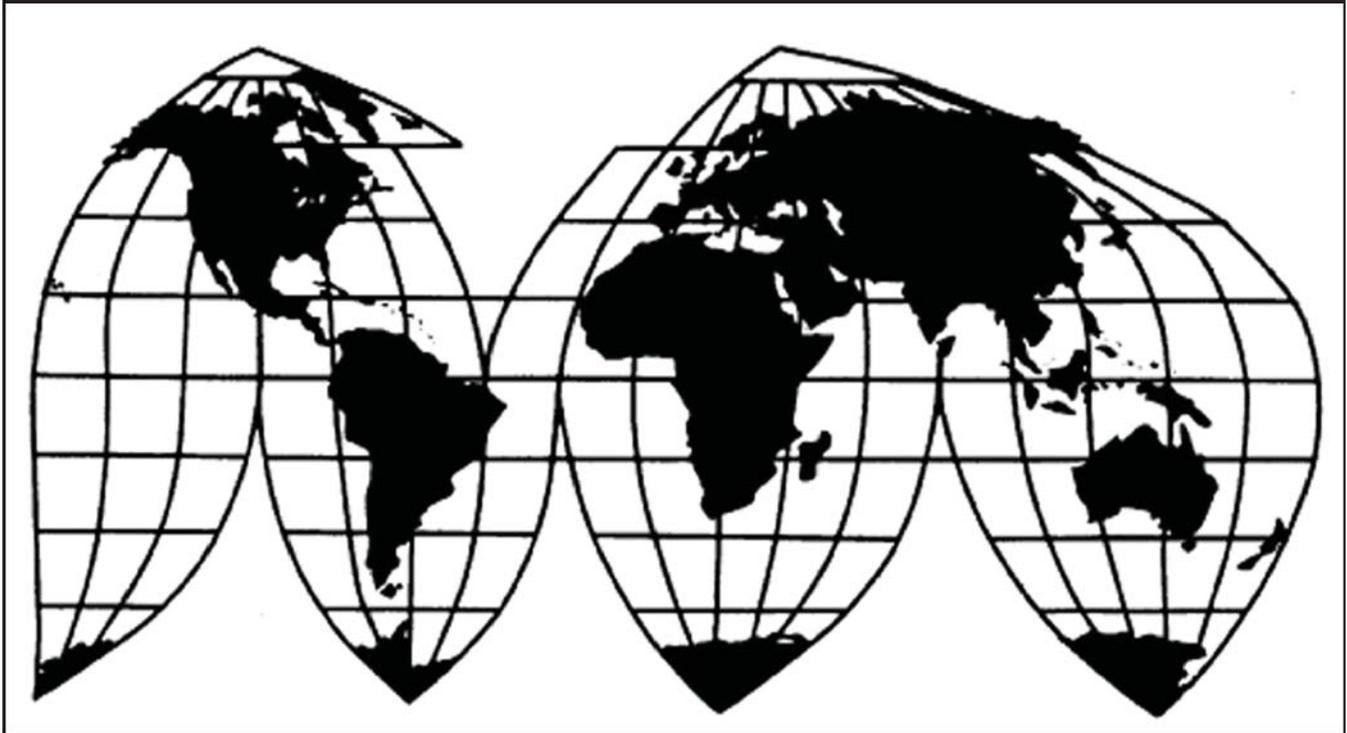
# Rubber Bands from China, Sri Lanka, and Thailand

Investigation Nos. 701-TA-598-600 and 731-TA-1408-1410 (Preliminary)

Publication 4770

March 2018

**U.S. International Trade Commission**



Washington, DC 20436

# U.S. International Trade Commission

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**UNITED STATES INTERNATIONAL TRADE COMMISSION**  
Investigation Nos. 701-TA-598-600 and 731-TA-1408-1410 (Preliminary)

Rubber Bands from China, Sri Lanka, and Thailand

**DETERMINATIONS**

On the basis of the record<sup>1</sup> developed in the subject investigations, the United States International Trade Commission (“Commission”) determines, pursuant to the Tariff Act of 1930 (“the Act”), that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of rubber bands from China and Thailand provided for in subheadings 4016.99.35 and 4016.99.60 (statistical reporting numbers 4016.99.3510 and 4016.99.6050) 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 to be subsidized by the governments of China and Thailand. The Commission further determines that imports of rubber bands from Sri Lanka that are alleged to be sold in the United States at LTFV and to be subsidized by the government of Sri Lanka are negligible pursuant to section 771(24) of the Act, and its antidumping and countervailing duty investigations with regard to rubber bands from this country are thereby terminated pursuant to section 703(a)(1) of the Act.

**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 regarding imports of rubber bands from China and Thailand. 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 U.S. Department of Commerce (“Commerce”) of affirmative preliminary determinations in the investigations under sections 703(b) or 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) or 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 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.

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

## **BACKGROUND**

On January 30, 2018, Alliance Rubber Co., Hot Springs, Arkansas filed petitions with the Commission and Commerce, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV and subsidized imports of rubber bands from China, Sri Lanka, and Thailand. Accordingly, effective January 30, 2018, the Commission, pursuant to sections 703(a) and 733(a) of the Act (19 U.S.C. 1671b(a) and 1673b(a)), instituted countervailing duty investigation Nos. 701-TA-598-600 and antidumping duty investigation Nos. 731-TA-1408-1410 (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 February 5, 2018 (83 FR 5143). The conference was held in Washington, DC, on February 20, 2018, 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 determine that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of rubber bands from China and Thailand that are allegedly sold in the United States at less than fair value (“LTFV”) and are allegedly subsidized by the governments of China and Thailand.<sup>1</sup> We also determine that imports of rubber bands from Sri Lanka that are allegedly sold in the United States at LTFV and are allegedly subsidized by the government of Sri Lanka are negligible and therefore terminate the antidumping and countervailing duty investigations on rubber bands from Sri Lanka.

### 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 or threatened with material injury, or that the establishment of an industry is materially retarded, by reason of the allegedly unfairly traded imports.<sup>2</sup> 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.”<sup>3</sup>

The U.S. Court of Appeals for the Federal Circuit (“Federal Circuit”) has stated that the purpose of preliminary determinations is to avoid the cost and disruption to trade caused by unnecessary investigations and that the “reasonable indication” standard requires more than a finding that there is a “possibility” of material injury.<sup>4</sup> It also has noted that, in a preliminary investigation, the “statute calls for a reasonable indication of injury, not a reasonable indication of need for further inquiry.”<sup>5</sup> Moreover, the U.S. Court of International Trade (“CIT”) has reaffirmed that, in applying the reasonable indication “standard for making a preliminary

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<sup>1</sup> Due to the Federal government weather-related closure on March 2, 2018, these investigations conducted under authority of Title VII of the Tariff Act of 1930 have been tolled by one day pursuant to 19 U.S.C. §§ 1671b(a)(2), 1673b(a)(2).

<sup>2</sup> 19 U.S.C. §§ 1671b(a), 1673b(a) (2000); *see also American Lamb Co. v. United States*, 785 F.2d 994, 1001-04 (Fed. Cir. 1986); *Aristech Chem. Corp. v. United States*, 20 CIT 353, 354-55 (1996). No party argues that the establishment of an industry in the United States is materially retarded by the allegedly unfairly traded imports.

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

<sup>4</sup> *American Lamb Co.*, 785 F.2d at 1002-1003.

<sup>5</sup> *Texas Crushed Stone Co.*, 35 F.3d at 1543.

determination regarding material injury or threat of material injury, the Commission may weigh all evidence before it and resolve conflicts in the evidence.”<sup>6</sup>

## II. Background

Alliance Rubber Company (“Alliance” or “petitioner”), a domestic producer of rubber bands, filed the petitions in these investigations on January 30, 2018. Alliance appeared at the staff conference and submitted a postconference brief.

Two respondent groups participated in the preliminary phase of these investigations. Representatives and counsel for Schermerhorn Bros. Co. (“Schermerhorn”) and Frank, Winne & Son, Inc. (“Winne”) (collectively, “respondents”), importers of subject merchandise from Thailand, appeared at the conference and submitted postconference briefs. Additionally, the Government of Sri Lanka submitted a statement. No producer or exporter of rubber bands in China, Sri Lanka, or Thailand, and no importer of rubber bands from China or Sri Lanka participated in these investigations.

**Data Coverage.** U.S. industry data are based on the questionnaire response of one producer, which is believed to have accounted for at least 90 percent of U.S. production of rubber bands in 2017.<sup>7</sup> U.S. imports from China and Thailand are based on proprietary \*\*\* import records, as adjusted to remove out-of-scope merchandise reported separately in questionnaire responses.<sup>8</sup> U.S. imports from Sri Lanka and all nonsubject countries are based on in-scope data provided in questionnaire responses.<sup>9</sup> The Commission received usable responses to its foreign producer questionnaires from one exporter of subject merchandise from China whose reported exports accounted for \*\*\* percent of U.S. imports of rubber bands from China in 2017,<sup>10</sup> and three producers of subject merchandise from Thailand, accounting for essentially all U.S. imports of rubber bands from Thailand in 2017.<sup>11</sup> It also received a usable foreign producer questionnaire response from one producer of rubber bands from Sri Lanka whose reported exports accounted for essentially all U.S. imports of the product from Sri Lanka in 2017.<sup>12</sup>

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<sup>6</sup> *Ranchers-Cattlemen Action Legal Foundation v. United States*, 74 F. Supp. 2d, 1353, 1368 (Ct. Int’l Trade 1999).

<sup>7</sup> Confidential Report, Memorandum INV-QQ-030 (Jan. 8, 2018) (“CR”) at I-6; Public Report, *Rubber Bands from China, Sri Lanka, and Thailand*, Inv. Nos. 701-TA-598-600 and 731-TA-1408-1410 (Preliminary), USITC Pub. 4770 at I-4 (March 2018) (“PR”).

<sup>8</sup> CR at I-6, PR at I-4. The Commission received usable questionnaire data accounting for \*\*\* percent of imports from China and \*\*\* percent of imports from Thailand. CR at I-6 and IV-1, PR I-4 and IV-I.

<sup>9</sup> CR at I-6, PR at I-4. The Commission received usable questionnaire data accounting for \*\*\* percent of imports from Sri Lanka and nonsubject countries. CR at I-6 and IV-1, PR I-4 and IV-I.

<sup>10</sup> CR at VII-3, PR at VII-3.

<sup>11</sup> CR at VII-9, PR at VII-5.

<sup>12</sup> CR at VII-4, PR at VII-3-4.

### III. Domestic Like Product

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.”<sup>13</sup> Section 771(4)(A) of the Tariff Act of 1930, as amended (“the Tariff Act”), defines the relevant domestic industry as the “producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.”<sup>14</sup> In turn, the Tariff Act defines “domestic like product” as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation.”<sup>15</sup>

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.<sup>16</sup> No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.<sup>17</sup> The Commission looks for clear dividing lines among possible like products and disregards minor variations.<sup>18</sup> Although the Commission must accept Commerce’s determination as to the scope of the imported merchandise that is subsidized and/or sold at LTFV,<sup>19</sup> the Commission determines what domestic product is like the imported

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<sup>13</sup> 19 U.S.C. § 1677(4)(A).

<sup>14</sup> 19 U.S.C. § 1677(4)(A).

<sup>15</sup> 19 U.S.C. § 1677(10).

<sup>16</sup> See, e.g., *Cleo Inc. v. United States*, 501 F.3d 1291, 1299 (Fed. Cir. 2007); *NEC Corp. v. Department of Commerce*, 36 F. Supp. 2d 380, 383 (Ct. Int’l Trade 1998); *Nippon Steel Corp. v. United States*, 19 CIT 450, 455 (1995); *Torrington Co. v. United States*, 747 F. Supp. 744, 749 n.3 (Ct. Int’l Trade 1990), *aff’d*, 938 F.2d 1278 (Fed. Cir. 1991) (“every like product determination ‘must be made on the particular record at issue’ and the ‘unique facts of each case’”). The Commission generally considers a number of factors including the following: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) common manufacturing facilities, production processes, and production employees; and, where appropriate, (6) price. See *Nippon*, 19 CIT at 455 n.4; *Timken Co. v. United States*, 913 F. Supp. 580, 584 (Ct. Int’l Trade 1996).

<sup>17</sup> See, e.g., S. Rep. No. 96-249 at 90-91 (1979).

<sup>18</sup> See, e.g., *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 industry adversely affected by the imports under consideration.”).

<sup>19</sup> See, e.g., *USEC, Inc. v. United States*, 34 Fed. App’x 725, 730 (Fed. Cir. 2002) (“The ITC may not modify the class or kind of imported merchandise examined by Commerce.”); *Algoma Steel Corp. v. United States*, 688 F. Supp. 639, 644 (Ct. Int’l Trade 1988), *aff’d*, 865 F.3d 240 (Fed. Cir.), *cert. denied*, 492 U.S. 919 (1989).

articles Commerce has identified.<sup>20</sup> The Commission may, where appropriate, include domestic articles in the domestic like product in addition to those described in the scope.<sup>21</sup>

In its notices of initiation, Commerce defined the imported merchandise within the scope of these investigations as:

. . . bands made of vulcanized rubber, with a flat length, as actually measured end-to-end by the band lying flat, no less than ½ inch and no greater than 10 inches; with a width, which measures the dimension perpendicular to the length, actually of at least 3/64 inch and no greater than 2 inches; and a wall thickness actually from 0.020 inch to 0.125 inch. Vulcanized rubber has been chemically processed into a more durable material by the addition of sulfur or other equivalent curatives or accelerators. Subject products are included regardless of color or inclusion of printed material on the rubber band's surface, including but not limited to, rubber bands with printing on them, such as a product name, advertising, or slogan, and printed material (e.g., a tag) fastened to the rubber band by an adhesive or another temporary type of connection. The scope includes vulcanized rubber bands which are contained or otherwise exist in various forms and packages, such as, without limitation, vulcanized rubber bands included within a desk accessory set or other type of set or package, and vulcanized rubber band balls. The scope excludes products that consist of an elastomer loop and durable tag all-in-one, and bands that are being used at the time of import to fasten an imported product. Merchandise covered by these investigations is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheading 4016.99.3510. Merchandise covered by the scope may also enter under HTSUS subheading 4016.99.6050. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigations is dispositive.<sup>22</sup>

Rubber bands are cylindrical tube-shaped elastic bands of vulcanized natural or synthetic rubber of various flat lengths, widths, thicknesses, colors, and rubber content.<sup>23</sup>

Rubber bands are designed to organize and hold objects together and have several main uses,

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<sup>20</sup> *Hosiden Corp. v. Advanced Display Mfrs.*, 85 F.3d 1561, 1568 (Fed. Cir. 1996) (the Commission may find a single like product corresponding to several different classes or kinds defined by Commerce); *Cleo*, 501 F.3d at 1298 n.1 (“Commerce’s {scope} finding does not control the Commission’s {like product} determination.”); *Torrington*, 747 F. Supp. at 748-52 (affirming the Commission’s determination defining six like products in investigations where Commerce found five classes or kinds).

<sup>21</sup> See, e.g., *Pure Magnesium from China and Israel*, Inv. Nos. 701-TA-403 and 731-TA-895-96 (Final), USITC Pub. 3467 at 8 n.34 (Nov. 2001); *Torrington*, 747 F. Supp. at 748-49 (holding that the Commission is not legally required to limit the domestic like product to the product advocated by the petitioner, co-extensive with the scope).

<sup>22</sup> *Rubber Bands from the People’s Republic of China, Sri Lanka, and Thailand*, 83 Fed. Reg. 8424, (Feb. 27, 2018) (initiation of less than fair value investigations); and *Rubber Bands from Thailand, the People’s Republic of China, and Sri Lanka*, 83 Fed. Reg. 8429 (Feb. 27, 2018) (initiation of countervailing duty investigations).

<sup>23</sup> CR at I-11, PR at I-8-9.

including stationery, industrial applications, newspapers, agricultural (produce and floral bands), retail, government and post office, military, commercial fishing (lobster, crab, clam, and oyster bands), and advertising specialties.<sup>24</sup>

#### **A. Arguments of the Parties**

Petitioner urges the Commission to find a single domestic like product that is coextensive with the scope of these investigations.<sup>25</sup> Respondents do not contest the domestic like product definition for purposes of the Commission's preliminary determinations.<sup>26</sup>

#### **B. Analysis**

Based on the record, we define a single domestic like product consisting of all rubber bands coextensive with the scope of the investigations.

*Physical Characteristics and Uses.* All rubber bands have identical physical characteristics and uses. Specifically, rubber bands utilize elasticity to hold multiple objects together, including papers, fruits and vegetables, and pieces of equipment.<sup>27</sup>

*Manufacturing Facilities, Production Processes and Employees.* All rubber bands are made using the same production processes and in the same manufacturing facilities. The rubber is first placed into an elevated machine in which it is cut, heated, and mixed with certain chemicals.<sup>28</sup> The rubber mixture is then dropped into a milling machine in which it is cooled, squeezed flat, and cut into strips. The strips are placed in an extruder, which shapes the rubber into long, hollow tubes that are then vulcanized and cut into rubber bands.<sup>29</sup>

*Channels of Distribution.* All rubber bands are typically sold to large wholesalers and retailers.<sup>30</sup> They are also sold to end users.<sup>31</sup>

*Interchangeability.* The limited record indicates that all rubber bands can be used for at least some end uses.<sup>32</sup> Rubber bands made from crude oil may be more suited to certain end uses, such as use by medical offices and schools for applications involving latex allergies.<sup>33</sup>

*Producer and Customer Perceptions.* Petitioner asserts that domestic producers and customers generally perceive all domestically produced rubber bands as comparable products.<sup>34</sup> There is no contrary information in the record.<sup>35</sup>

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<sup>24</sup> CR at I-12, PR at I-9; Petitions, Vol. I at 10; Conf. Tr. at 19 (Risner).

<sup>25</sup> Petitions, Vol. I at 20-24; Conf. Tr. at 19 (Risner).

<sup>26</sup> Conf. Tr. at 129 (Levinson).

<sup>27</sup> Alliance Postconf. Br. at 9; Conf. Tr. at 19 (Risner).

<sup>28</sup> Alliance Postconf. Br. at 7-8, 10, Ex. ALL-2 Attach. 1.

<sup>29</sup> Alliance Postconf. Br. at 7-8, 10, Ex. ALL-2 Attach. 1. According to petitioner, the rubber must be vulcanized to have the necessary elasticity to function as a rubber band. Conf. Tr. at 19 (Risner). Petitioner is unaware of domestically produced rubber bands that are not vulcanized. Conf. Tr. at 49-50 (Risner).

<sup>30</sup> Alliance Postconf. Br. at 10.

<sup>31</sup> CR/PR at Table II-1.

<sup>32</sup> Alliance Postconf. Br. at 9; Conf. Tr. at 32-33, 59 (Risner).

<sup>33</sup> Conf. Tr. at 59 (Risner); Alliance U.S. Producers' Questionnaire Response at V-1(b).

*Price.* The percentage of rubber contained in, and raw material composition of, rubber bands may affect the pricing of the product.<sup>36</sup>

*Conclusion.* The record indicates that all rubber bands share the same basic physical characteristics and end uses and are sold in comparable channels of distribution. Domestic producer Alliance reports that it manufactures all rubber band products in the same manufacturing facilities using the same production processes. The record also indicates a general interchangeability between products and overlap in at least some end uses. Although rubber bands with different rubber content and raw materials may be priced differently, the record does not indicate, nor has any party argued, that any clear dividing line exists between different rubber band products. In light of the foregoing, and in the absence of any contrary argument, we define the domestic like product to include all rubber bands coextensive with the scope.

#### IV. Domestic Industry

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.”<sup>37</sup> 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.

We must determine whether any producer of the domestic like product should be excluded from the domestic industry pursuant to section 771(4)(B) of the Tariff Act. This 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.<sup>38</sup> Exclusion of such a producer is within the Commission’s discretion based upon the facts presented in each investigation.<sup>39</sup>

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(...Continued)

<sup>34</sup> Alliance Postconf. Br. at 10; *see also* CR/PR at Table I-2.

<sup>35</sup> CR/PR at Table I-2.

<sup>36</sup> Conf. Tr. at 64 (Risner), 60 (Swayze); Alliance U.S. Producers’ Questionnaire Response at V-1(f); Schermerhorn Postconf. Br. at Ex. 5; Winne Postconf. Br. at 7.

<sup>37</sup> 19 U.S.C. § 1677(4)(A).

<sup>38</sup> *See 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); *Sandvik AB v. United States*, 721 F. Supp. 1322, 1331-32 (Ct. Int’l Trade 1989), *aff’d mem.*, 904 F.2d 46 (Fed. Cir. 1990); *Empire Plow Co. v. United States*, 675 F. Supp. 1348, 1352 (Ct. Int’l Trade 1987).

<sup>39</sup> The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude a related party include the following:

(1) the percentage of domestic production attributable to the importing producer;

(2) the reason the U.S. producer has decided to import the product subject to investigation

(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);

(Continued...)

Domestic producer Alliance is a related party because it imported subject merchandise from \*\*\*.<sup>40</sup> Alliance imported \*\*\* pounds of rubber bands from \*\*\* in 2015, \*\*\* pounds in 2016, and \*\*\* pounds in 2017, which was equivalent to less than \*\*\* percent of its production in each of those years.<sup>41</sup> Alliance states that its imports from \*\*\* consisted only of \*\*\*.<sup>42</sup>

Alliance is the petitioner in these proceedings and was the largest domestic producer during the January 2015-December 2017 period of investigation;<sup>43</sup> it was the only U.S. producer to respond to the U.S. producer questionnaire in these investigations.<sup>44</sup> The \*\*\*. Moreover, given that Alliance is the petitioner and single responding U.S. producer in these investigations, its exclusion would result in the lack of any domestic industry data. Also, no party has argued that Alliance be excluded from the definition of the domestic industry. Based on these considerations, we find that appropriate circumstances do not exist to exclude Alliance from the domestic industry.

Accordingly, we define the domestic industry as all U.S. producers of the domestic like product.

## V. Negligible Imports

Pursuant to Section 771(24) of the Tariff Act, imports from a subject country of merchandise corresponding to a domestic like product shall be deemed negligible if they account for less than three percent (or four percent in the case of a developing country in a countervailing duty investigation) 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.<sup>45</sup>

The statute further provides that subject imports from a single country which comprise less than 3 percent of such total imports of the product may not be considered negligible if there are several countries subject to investigation with negligible imports and the sum of such imports from all those countries collectively accounts for more than 7 percent of the volume of

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(...Continued)

(3) whether inclusion or exclusion of the related party will skew the data for the rest of the industry;

(4) the ratio of import shipments to U.S. production for the imported product; and

(5) whether the primary interest of the importing producer lies in domestic production or importation. *Changzou Trina Solar Energy Co. v. USITC*, 100 F. Supp. 3d 1314, 1329 (Ct. Int'l Trade 2015); see also *Torrington Co. v. United States*, 790 F. Supp. at 1168.

<sup>40</sup> CR/PR at Table III-5. Petitioner states that the Commission should define the domestic industry as all U.S. producers of rubber bands. Alliance Postconf. Br. at 11-12. None of the respondents address how the Commission should define the domestic industry.

<sup>41</sup> CR at III-8, PR at III-5; CR/PR at Table III-5.

<sup>42</sup> CR/PR at Table III-5.

<sup>43</sup> CR/PR at III-1.

<sup>44</sup> CR/PR at III-1.

<sup>45</sup> 19 U.S.C. §§ 1671b(a), 1673b(a), 1677(24)(A)(i), 1677(24)(B); see also 15 C.F.R. § 2013.1 (developing countries for purposes of 19 U.S.C. § 1677(36)).

all such merchandise imported into the United States.<sup>46</sup> In the case of countervailing duty investigations involving developing countries (as designated by the United States Trade Representative (“USTR”)), the statute indicates that the negligibility limits are 4 percent and 9 percent, rather than 3 percent and 7 percent.<sup>47</sup>

Additionally, even if subject imports are found to be negligible for purposes of present material injury, they shall not be treated as negligible for purposes of a threat analysis should the Commission determine that there is a potential that subject imports from the country concerned will imminently account for more than 3 percent (4 percent for countervailing duty investigations of developing countries) of all such merchandise imported into the United States.<sup>48</sup> The Commission also assesses whether there is a potential that the aggregate volumes of subject imports from all countries with currently negligible imports will imminently exceed 7 percent of all such merchandise imported into the United States.<sup>49</sup> The threshold is 9 percent for developing countries.

Subject imports from China and Thailand are clearly above the applicable negligibility thresholds. Specifically, depending on the method used to calculate import data,<sup>50</sup> subject imports from China accounted for \*\*\* of total U.S. imports and subject imports from Thailand accounted for \*\*\* of total U.S. imports during January 2017 through December 2017, the most recent 12-month period preceding the petitions’ filing for which data are currently available.<sup>51</sup> Because subject imports from China and Thailand exceed the applicable negligibility thresholds (3 percent for China and Thailand in the antidumping duty investigations and China in the countervailing duty investigation, and 4 percent for Thailand in the countervailing duty investigation),<sup>52</sup> we find that subject imports from China and Thailand are not negligible.

Subject imports from Sri Lanka are below the applicable negligibility thresholds. Specifically, subject imports from Sri Lanka accounted for \*\*\* of total U.S. imports during January 2017 through December 2017, which is below the applicable negligibility thresholds (3 percent for the antidumping duty investigation and 4 percent for the countervailing duty

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<sup>46</sup> 19 U.S.C. § 1677(24)(A)(ii).

<sup>47</sup> 19 U.S.C. § 1677(24)(B).

<sup>48</sup> 19 U.S.C. § 1677(24)(A)(iv).

<sup>49</sup> 19 U.S.C. § 1677(24)(A)(iv).

<sup>50</sup> Staff calculated import data using the following three methods (there were no material differences among the three results): (1) proprietary \*\*\* import statistics, adjusted to remove certain out-of-scope imports reported separately in the questionnaire responses and to remove firms that provided certifications that they did not import rubber bands, for imports from China and Thailand, and import data from questionnaire responses for imports from Sri Lanka and nonsubject countries; (2) unadjusted proprietary \*\*\* import statistics for imports from all countries, except for the use of importer questionnaire data for \*\*\*; and (3) adjusted proprietary \*\*\* import statistics for imports from China and Thailand, importer questionnaire responses for imports from nonsubject countries, and foreign producer questionnaire data for exports to the United States \*\*\* for imports from Sri Lanka. CR at IV-9, PR at IV-5.

<sup>51</sup> CR at IV-10, PR at IV-5; CR/PR at Table IV-3.

<sup>52</sup> USTR has designated Thailand to be a “developing country.” 15 C.F.R. § 2013.1 (1-1-16 edition); 19 U.S.C. § 1677(24)(B).

investigation).<sup>53</sup> There are no subject imports from any other country either subject to an antidumping investigation or to a countervailing duty investigation that are eligible to be aggregated with those from Sri Lanka for purposes of the 7 percent statutory threshold applicable to antidumping duty investigations and the 9 percent statutory threshold applicable to countervailing duty investigations involving developing countries.<sup>54</sup> We consequently determine that subject imports from Sri Lanka are negligible for our present material injury analysis in the antidumping and countervailing duty investigations.

We next consider whether subject imports from Sri Lanka are negligible for purposes of a threat analysis. We find that subject imports from Sri Lanka do not have the potential to imminently exceed the 3 percent negligibility threshold in the antidumping duty investigation and the 4 percent negligibility threshold in the countervailing duty investigation.

We observe that subject imports from Sri Lanka were consistently below the negligibility thresholds in each full year of the period of investigation. Specifically, their share of total imports was \*\*\* percent in 2015, \*\*\* percent in 2016, and \*\*\* percent in 2017.<sup>55</sup> That subject imports from Sri Lanka fluctuated between each full year of the period of investigation and consistently remained at low levels supports the finding that they are unlikely to increase by a substantial amount in the imminent future.<sup>56</sup> Other information in the record supports this conclusion as well. In the first quarter of 2018, U.S. importers' arranged imports from Sri Lanka account for only \*\*\* percent of all such arranged imports for that quarter. U.S. importers have not arranged for the importation of any additional subject imports from Sri Lanka in the second, third, or fourth quarters of 2018.<sup>57</sup> Moreover, the end-of-period inventories held by Jafferjee Brother Exports (Pvt) Ltd. ("Jafferjee"), the primary exporter of rubber bands in Sri Lanka, remained at low levels throughout the period of investigation and are not expected to increase significantly in the imminent future.<sup>58</sup> Jafferjee projects that its exports to the United States in

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<sup>53</sup> CR at IV-10, PR at IV-5; CR/PR at Table IV-3. USTR has designated Sri Lanka to be a "least developed country." 15 C.F.R. § 2013.1 (1-1-16 edition); 19 U.S.C. § 1677(24)(B).

<sup>54</sup> As discussed above, subject imports from China and Thailand both individually exceed the applicable individual country negligibility thresholds.

<sup>55</sup> CR/PR at Table IV-2. Table IV-2 presents the data for each full year of the period of investigation using one method, adjusted proprietary \*\*\* records to account for imports from China and Thailand and importer questionnaire responses to account for imports from Sri Lanka and nonsubject countries. As discussed above, the data using the three different methods indicated that imports from Sri Lanka accounted for \*\*\* of total U.S. imports in 2017. CR/PR at Table IV-3. We note that the percentage of imports from Sri Lanka in 2015 and 2016 set forth in Table IV-2 are below all three methods for the percentage of imports from Sri Lanka in 2017 set forth in Table IV-3. However, our analysis would lead to the same result even if we used a different method for calculating import data.

<sup>56</sup> Monthly data based on proprietary \*\*\* records, which include merchandise outside the scope of these investigations, do not show an increasing trend in the volume of subject imports from Sri Lanka from 2015 to 2017. CR/PR at Table IV-7.

<sup>57</sup> CR/PR at Table VII-11.

<sup>58</sup> CR/PR at Table VII-4.

2018 and 2019 will increase somewhat but the projected volumes are still small in relation to total U.S. import volumes.<sup>59</sup>

We further find that it is not likely that evidence leading to a contrary result will arise in any final phase of these investigations. As discussed above, our analysis of the imports from Sri Lanka in the twelve months preceding the filing of the petition uses three sets of import data (Table IV-3) that are based on different combinations of adjusted and unadjusted official import statistics and questionnaire data, with no resulting material differences among the three. Moreover, any further adjustments to data for either subject imports from Sri Lanka or total imports in any final phase of these investigations would likely be minor. Given the low level of subject imports from Sri Lanka relative to total U.S. imports, it is unlikely that any minor changes in any final phase of these investigations would affect the negligibility analysis and lead to a contrary result. Accordingly, we find it unlikely that contrary evidence will arise in any final phase of these investigations concerning the level of subject imports from Sri Lanka such that they would affect the negligibility analysis.

In light of the foregoing, we determine that allegedly dumped and allegedly subsidized imports from Sri Lanka are negligible and terminate the antidumping and countervailing duty investigations on rubber bands from Sri Lanka.

## **VI. Cumulation**

Because our determinations involve the issue of threat of material injury by reason of subject imports from multiple countries, we must consider whether to cumulate subject imports for purposes of our threat analysis. In contrast to cumulation for material injury, cumulation for a threat analysis is discretionary. Under section 771(7)(H) of the Tariff Act, the Commission may “to the extent practicable” cumulatively assess the volume and price effects of subject imports from all countries as to which petitions were filed and/or investigations self-initiated by Commerce on the same day, if such imports compete with each other and with the domestic like product in the U.S. market and the statutory exceptions to cumulation do not apply.<sup>60</sup>

In these investigations, the threshold criterion is satisfied because petitioner filed the antidumping and countervailing duty petitions with respect to China and Thailand on the same day, January 30, 2018. Subject imports from China and Thailand are therefore eligible for cumulation. We consequently examine whether there is a reasonable overlap of competition between subject imports from each country, as well as between subject imports and the

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<sup>59</sup> CR at VII-6, PR at VII-4-5. Jafferjee’s production capacity \*\*\* in each full year of the period of investigation and is expected to remain the same in 2018 and 2019. Its capacity utilization declined from \*\*\* percent in 2015 to \*\*\* percent in 2017 and is expected to be \*\*\* percent in 2018 and \*\*\* percent in 2019. While Jafferjee projects a small increase in the volume of exports to the United States in 2018 and 2019, its exports to the United States as a share of its total shipments are estimated to be \*\*\* percent in 2018 and 2019 compared to \*\*\* percent in 2017. CR/PR at Table VII-4. Jafferjee projects total exports of rubber bands to the United States of \*\*\* pounds in 2018 and \*\*\* pounds in 2019, while total U.S. imports in 2017 were \*\*\* pounds of rubber bands. CR/PR at Tables VII-4 and IV-2.

<sup>60</sup> 19 U.S.C. § 1677(7)(H); *see also* 19 U.S.C. §§ 1677(7)(G)(ii).

domestic like product. We then discuss whether it is appropriate to exercise our discretion to cumulate subject imports for purposes of our threat analysis.

#### **A. Reasonable Overlap of Competition**

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

- (1) the degree of fungibility between subject imports from different countries and between subject 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.<sup>61</sup>

While no single factor is necessarily determinative, and the list of factors is not exclusive, these factors are intended to provide the Commission with a framework for determining whether the subject imports compete with each other and with the domestic like product.<sup>62</sup> Only a “reasonable overlap” of competition is required.<sup>63</sup>

#### **1. Arguments of the Parties**

*Petitioner.* Petitioner contends that the record demonstrates a reasonable overlap in competition between and among the imports from the subject countries and the domestic like product.<sup>64</sup> Specifically, petitioner claims that subject imports from all sources are fungible, are

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<sup>61</sup> See *Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea, and Taiwan*, Inv. Nos. 731-TA-278-80 (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).

<sup>62</sup> See, e.g., *Wieland Werke, AG v. United States*, 718 F. Supp. 50 (Ct. Int'l Trade 1989).

<sup>63</sup> The Statement of Administrative Action (SAA) to the Uruguay Round Agreements Act (URAA), expressly states that “the new section will not affect current Commission practice under which the statutory requirement is satisfied if there is a reasonable overlap of competition.” H.R. Rep. No. 103-316, Vol. I at 848 (1994) (*citing Fundicao Tupy*, 678 F. Supp. at 902); 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.”).

<sup>64</sup> Alliance Postconf. Br. at 32-35.

sold throughout the United States using the same channels of distribution, and have been simultaneously present in the U.S. market during the period of investigation.<sup>65</sup>

*Respondents.* Respondents contend that the domestic like product and rubber bands from each subject country are not fungible due to differences in quality, which they claim is largely dependent upon rubber content.<sup>66</sup> Moreover, respondents (which imported subject merchandise from Thailand) assert that they did not encounter any competition from subject imports from China during the period of investigation and questioned their presence in the U.S. market.<sup>67</sup>

## 2. Analysis and Conclusion

*Fungibility.* We find that rubber bands are generally interchangeable, regardless of source. All domestic producers and most responding importers reported that imports from the individual subject countries are always or frequently interchangeable with each other and with the domestic like product.<sup>68</sup>

Additionally, U.S. importers generally imported the same types of rubber bands as the domestic like product. In 2017, the domestic industry shipped appreciable volumes of rubber bands with a width of 1/16 inch (\*\*\*) percent of total U.S. shipments) and rubber bands with a width of 1/8 inch (\*\*\*) percent).<sup>69</sup> Roughly \*\*\* of importers' U.S. shipments of rubber bands from China and Thailand fell within these same widths.<sup>70</sup> Hence, there is an overlap in the size ranges of the domestic like product and imports of subject merchandise from China and Thailand.<sup>71</sup>

The record also shows that there is overlap in the rubber content of the domestic like product and the imported rubber bands from China and Thailand. Although the rubber content of the domestic like product and imported rubber bands from each subject country varies to some extent, rubber bands from all sources are generally available with similar ranges of rubber content.<sup>72</sup> Specifically, in 2017, there was an overlap of shipments of the domestic like product and rubber bands from China and Thailand containing rubber in all percentile ranges except for

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<sup>65</sup> Alliance Postconf. Br. at 34.

<sup>66</sup> Conf. Tr. at 96 (Aversano), 111, 122-23, 134-35 (Jordan). Respondents state that the rubber content in rubber bands generally ranges from about 55 percent to 95 percent. Conf. Tr. at 112, 114 (Jordan), 126 (Adelizzi).

<sup>67</sup> Conf. Tr. at 118 (Aversano, Jordan), 158 (Levinson).

<sup>68</sup> CR/PR at Table II-5.

<sup>69</sup> CR/PR at Table IV-5.

<sup>70</sup> CR/PR at Table IV-5. Rubber bands with a width of 1/16 inch constituted \*\*\* percent of importers' U.S. shipments of rubber bands from China and \*\*\* percent of importers' U.S. shipments of rubber bands from Thailand. Rubber bands with a width of 1/8 inch constituted \*\*\* percent of importers' U.S. shipments of rubber bands from China and \*\*\* percent of importers' U.S. shipments of rubber bands from Thailand. *See id.*

<sup>71</sup> CR/PR at Table IV-5.

<sup>72</sup> CR/PR at Table IV-4.

rubber bands containing rubber of less than 50 percent and rubber bands containing rubber of greater than 95 percent.<sup>73</sup>

Consequently, although the record indicates varying degrees of overlap in product mix, on balance, the record indicates an appreciable level of fungibility between and among the domestic like product and rubber bands from China and Thailand.

*Channels of Distribution.* Domestic producers and importers sold rubber bands to distributors, retailers, and end users. In 2017, appreciable proportions of commercial shipments of the domestic like product (\*\*\*) and of subject imports from Thailand (\*\*\*) were sold to distributors.<sup>74</sup> Appreciable proportions of commercial shipments of the domestic like product (\*\*\*) and of subject imports from Thailand (\*\*\*) percent), as well as a substantial proportion of commercial shipments of subject imports from China (\*\*\*) were sold to retailers.<sup>75</sup> Appreciable proportions of shipments of the domestic like product (\*\*\*) percent) and of subject imports from Thailand (\*\*\*) percent) were sold to end users.<sup>76</sup>

*Geographic Overlap.* Domestically produced rubber bands and subject imports from China and Thailand are sold in all regions in the United States.<sup>77</sup>

*Simultaneous Presence in Market.* The domestic like product and subject imports from China and Thailand were present in the U.S. market in every month from January 2015 to December 2017.<sup>78</sup>

*Conclusion.* The record indicates that rubber bands from each subject country are generally fungible with the domestic like product and each other, that subject imports from each subject country and the domestic like product are sold in similar channels of distribution and in similar geographic markets, and have been simultaneously present in the U.S. market throughout the period of investigation. We consequently conclude that there is a reasonable overlap of competition between the domestic like product and imports from each subject country and between imports from each subject country.

## **B. Cumulation for Purposes of Threat Analysis**

As discussed above, there is a reasonable overlap of competition between subject imports from China and Thailand and between subject imports from each country and the domestic like product. There is no information on the record to suggest that this reasonable overlap of competition that now exists will not continue into the imminent future. In addition, subject imports from China and Thailand demonstrated similar trends in volume and market share from 2015 to 2017.<sup>79</sup> The record of the preliminary phase of these investigations does

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<sup>73</sup> CR/PR at Table IV-4.

<sup>74</sup> CR/PR at Table II-1.

<sup>75</sup> CR/PR at Table II-1.

<sup>76</sup> CR/PR at Table II-1.

<sup>77</sup> CR/PR at Table II-2; *see also* CR/PR at Table IV-6 (based on customs border of entry data, \*\*\* of subject merchandise from China and Thailand entered in the East and West Borders, with \*\*\* entering through the North and South borders in 2017).

<sup>78</sup> CR/PR at Table IV-7, Tables V-3-8.

<sup>79</sup> CR/PR at Table C-1.

not indicate that there would likely be any significant difference in the conditions of competition between subject imports from China and Thailand. We recognize that there are some differences in the product mix of imports from each subject country and that some potential differences exist between the industries in these subject countries, but find that they do not warrant a determination to not cumulate subject imports from China and Thailand. For these reasons, we conclude that it is appropriate to exercise our discretion to cumulate subject imports from China and Thailand in the preliminary phase of these investigations for our analysis of whether there is a reasonable indication of a threat of material injury to the domestic industry.

## **VII. Reasonable Indication of Threat of Material Injury by Reason of Cumulated Subject Imports**

### **A. Legal Standard**

#### **1. In General**

In the preliminary phase of antidumping and countervailing duty investigations, the Commission determines whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of the imports under investigation.<sup>80</sup> 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.<sup>81</sup> The statute defines “material injury” as “harm which is not inconsequential, immaterial, or unimportant.”<sup>82</sup> 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 state of the industry in the United States.<sup>83</sup> 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.”<sup>84</sup>

Although the statute requires the Commission to determine whether there is a reasonable indication that the domestic industry is “materially injured by reason of” unfairly traded imports,<sup>85</sup> it does not define the phrase “by reason of,” indicating that this aspect of the

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<sup>80</sup> 19 U.S.C. §§ 1671b(a), 1673b(a). The Trade Preferences Extension Act of 2015, Pub. L. 114-27, amended the provisions of the Tariff Act pertaining to Commission determinations of reasonable indication of material injury and threat of material injury by reason of subject imports in certain respects. We have applied these amendments here.

<sup>81</sup> 19 U.S.C. § 1677(7)(B). 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).

<sup>82</sup> 19 U.S.C. § 1677(7)(A).

<sup>83</sup> 19 U.S.C. § 1677(7)(C)(iii).

<sup>84</sup> 19 U.S.C. § 1677(7)(C)(iii).

<sup>85</sup> 19 U.S.C. §§ 1671b(a), 1673b(a).

injury analysis is left to the Commission's reasonable exercise of its discretion.<sup>86</sup> In identifying a causal link, if any, between subject imports and material injury to the domestic industry, the Commission examines the facts of record that relate to the significance of the volume and price effects of the subject imports and any impact of those imports on the condition of the domestic industry. This evaluation under the "by reason of" standard must ensure that subject imports are more than a minimal or tangential cause of injury and that there is a sufficient causal, not merely a temporal, nexus between subject imports and material injury.<sup>87</sup>

In many investigations, there are other economic factors at work, some or all of which may also be having adverse effects on the domestic industry. Such economic factors might include nonsubject imports; changes in technology, demand, or consumer tastes; competition among domestic producers; or management decisions by domestic producers. The legislative history explains that the Commission must examine factors other than subject imports to ensure that it is not attributing injury from other factors to the subject imports, thereby inflating an otherwise tangential cause of injury into one that satisfies the statutory material injury threshold.<sup>88</sup> In performing its examination, however, the Commission need not isolate the injury caused by other factors from injury caused by unfairly traded imports.<sup>89</sup> Nor does

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<sup>86</sup> *Angus Chemical Co. v. United States*, 140 F.3d 1478, 1484-85 (Fed. Cir. 1998) ("the statute does not 'compel the commissioners' to employ {a particular methodology}.",) *aff'g* 944 F. Supp. 943, 951 (Ct. Int'l Trade 1996).

<sup>87</sup> The Federal Circuit, in addressing the causation standard of the statute, has observed that "{a}s long as its effects are not merely incidental, tangential, or trivial, the foreign product sold at less than fair value meets the causation requirement." *Nippon Steel Corp. v. USITC*, 345 F.3d 1379, 1384 (Fed. Cir. 2003). This was re-affirmed in *Mittal Steel Point Lisas Ltd. v. United States*, 542 F.3d 867, 873 (Fed. Cir. 2008), in which the Federal Circuit, quoting *Gerald Metals, Inc. v. United States*, 132 F.3d 716, 722 (Fed. Cir. 1997), stated that "this court requires evidence in the record 'to show that the harm occurred "by reason of" the LTFV imports, not by reason of a minimal or tangential contribution to material harm caused by LTFV goods.'" See also *Nippon Steel Corp. v. United States*, 458 F.3d 1345, 1357 (Fed. Cir. 2006); *Taiwan Semiconductor Industry Ass'n v. USITC*, 266 F.3d 1339, 1345 (Fed. Cir. 2001).

<sup>88</sup> SAA, H.R. Rep. 103-316, Vol. I at 851-52 (1994) ("the Commission must examine other factors to ensure that it is not attributing injury from other sources to the subject imports."); S. Rep. 96-249 at 75 (1979) (the Commission "will consider information which indicates that harm is caused by factors other than less-than-fair-value imports."); H.R. Rep. 96-317 at 47 (1979) ("in examining the overall injury being experienced by a domestic industry, the ITC will take into account evidence presented to it which demonstrates that the harm attributed by the petitioner to the subsidized or dumped imports is attributable to such other factors;" those factors include "the volume and prices of nonsubsidized imports or imports sold at fair value, contraction in demand or changes in patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and productivity of the domestic industry"); accord *Mittal Steel*, 542 F.3d at 877.

<sup>89</sup> SAA at 851-52 ("the Commission need not isolate the injury caused by other factors from injury caused by unfair imports."); *Taiwan Semiconductor Industry Ass'n*, 266 F.3d at 1345. ("the Commission need not isolate the injury caused by other factors from injury caused by unfair imports ... . Rather, the Commission must examine other factors to ensure that it is not attributing injury from other (Continued...)

the “by reason of” standard require that unfairly traded imports be the “principal” cause of injury or contemplate that injury from unfairly traded imports be weighed against other factors, such as nonsubject imports, which may be contributing to overall injury to an industry.<sup>90</sup> It is clear that the existence of injury caused by other factors does not compel a negative determination.<sup>91</sup>

Assessment of whether material injury to the domestic industry is “by reason of” subject imports “does not require the Commission to address the causation issue in any particular way” as long as “the injury to the domestic industry can reasonably be attributed to the subject imports” and the Commission “ensure{s} that it is not attributing injury from other sources to the subject imports.”<sup>92</sup> Indeed, the Federal Circuit has examined and affirmed various Commission methodologies and has disavowed “rigid adherence to a specific formula.”<sup>93</sup>

The Federal Circuit’s decisions in *Gerald Metals*, *Bratsk*, and *Mittal Steel* all involved cases in which the relevant “other factor” was the presence in the market of significant volumes of price-competitive nonsubject imports. The Commission interpreted the Federal Circuit’s guidance in *Bratsk* as requiring it to apply a particular additional methodology following its finding of material injury in cases involving commodity products and a significant market presence of price-competitive nonsubject imports.<sup>94</sup> The additional

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(...Continued)

sources to the subject imports.” (emphasis in original)); *Asociacion de Productores de Salmon y Trucha de Chile AG v. United States*, 180 F. Supp. 2d 1360, 1375 (Ct. Int’l Trade 2002) (“{t}he Commission is not required to isolate the effects of subject imports from other factors contributing to injury” or make “bright-line distinctions” between the effects of subject imports and other causes.); *see also Softwood Lumber from Canada*, Inv. Nos. 701-TA-414 and 731-TA-928 (Remand), USITC Pub. 3658 at 100-01 (Dec. 2003) (Commission recognized that “{i}f an alleged other factor is found not to have or threaten to have injurious effects to the domestic industry, *i.e.*, it is not an ‘other causal factor,’ then there is nothing to further examine regarding attribution to injury”), *citing Gerald Metals*, 132 F.3d at 722 (the statute “does not suggest that an importer of LTFV goods can escape countervailing duties by finding some tangential or minor cause unrelated to the LTFV goods that contributed to the harmful effects on domestic market prices.”).

<sup>90</sup> S. Rep. 96-249 at 74-75; H.R. Rep. 96-317 at 47.

<sup>91</sup> *See Nippon*, 345 F.3d at 1381 (“an affirmative material-injury determination under the statute requires no more than a substantial-factor showing. That is, the ‘dumping’ need not be the sole or principal cause of injury.”).

<sup>92</sup> *Mittal Steel*, 542 F.3d at 877-78; *see also id.* at 873 (“While the Commission may not enter an affirmative determination unless it finds that a domestic industry is materially injured ‘by reason of’ subject imports, the Commission is not required to follow a single methodology for making that determination ... {and has} broad discretion with respect to its choice of methodology.”) *citing United States Steel Group v. United States*, 96 F.3d 1352, 1362 (Fed. Cir. 1996) and S. Rep. 96-249 at 75. In its decision in *Swiff-Train v. United States*, 793 F.3d 1355 (Fed. Cir. 2015), the Federal Circuit affirmed the Commission’s causation analysis as comporting with the Court’s guidance in *Mittal*.

<sup>93</sup> *Nucor Corp. v. United States*, 414 F.3d 1331, 1336, 1341 (Fed. Cir. 2005); *see also Mittal Steel*, 542 F.3d at 879 (“*Bratsk* did not read into the antidumping statute a Procrustean formula for determining whether a domestic injury was ‘by reason’ of subject imports.”).

<sup>94</sup> *Mittal Steel*, 542 F.3d at 875-79.

“replacement/benefit” test looked at whether nonsubject imports might have replaced subject imports without any benefit to the U.S. industry. The Commission applied that specific additional test in subsequent cases, including the *Carbon and Certain Alloy Steel Wire Rod from Trinidad and Tobago* determination that underlies the *Mittal Steel* litigation.

*Mittal Steel* clarifies that the Commission’s interpretation of *Bratsk* was too rigid and makes clear that the Federal Circuit does not require the Commission to apply an additional test nor any one specific methodology; instead, the court requires the Commission to have “evidence in the record ‘to show that the harm occurred ‘by reason of’ the LTFV imports,’” and requires that the Commission not attribute injury from nonsubject imports or other factors to subject imports.<sup>95</sup> Accordingly, we do not consider ourselves required to apply the replacement/benefit test that was included in Commission opinions subsequent to *Bratsk*.

The progression of *Gerald Metals*, *Bratsk*, and *Mittal Steel* clarifies that, in cases involving commodity products where price-competitive nonsubject imports are a significant factor in the U.S. market, the Court will require the Commission to give full consideration, with adequate explanation, to non-attribution issues when it performs its causation analysis.<sup>96</sup>

The question of whether the material injury threshold for subject imports is satisfied notwithstanding any injury from other factors is factual, subject to review under the substantial evidence standard.<sup>97</sup> Congress has delegated this factual finding to the Commission because of the agency’s institutional expertise in resolving injury issues.<sup>98</sup>

## 2. Threat of Material Injury Factors

Section 771(7)(F) of the Tariff Act directs the Commission to determine whether the U.S. industry is threatened with material injury by reason of the subject imports by analyzing whether “further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is

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<sup>95</sup> *Mittal Steel*, 542 F.3d at 873 (quoting from *Gerald Metals*, 132 F.3d at 722), 875-79 & n.2 (recognizing the Commission’s alternative interpretation of *Bratsk* as a reminder to conduct a non-attribution analysis).

<sup>96</sup> To that end, after the Federal Circuit issued its decision in *Bratsk*, the Commission began to present published information or send out information requests in the final phase of investigations to producers in nonsubject countries that accounted for substantial shares of U.S. imports of subject merchandise (if, in fact, there were large nonsubject import suppliers). In order to provide a more complete record for the Commission’s causation analysis, these requests typically seek information on capacity, production, and shipments of the product under investigation in the major source countries that export to the United States. The Commission plans to continue utilizing published or requested information in the final phase of investigations in which there are substantial levels of nonsubject imports.

<sup>97</sup> We provide in our discussions below, a full analysis of other factors alleged to have caused any threat of material injury experienced by the domestic industry.

<sup>98</sup> *Mittal Steel*, 542 F.3d at 873; *Nippon Steel Corp.*, 458 F.3d at 1350, citing *U.S. Steel Group*, 96 F.3d at 1357; S. Rep. 96-249 at 75 (“The determination of the ITC with respect to causation is ... complex and difficult, and is a matter for the judgment of the ITC.”).

accepted.”<sup>99</sup> 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.<sup>100</sup> In making our determination, we consider all statutory threat factors that are relevant to these investigations.<sup>101</sup>

## **B. Conditions of Competition and the Business Cycle**

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

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<sup>99</sup> 19 U.S.C. § 1677(7)(F)(ii).

<sup>100</sup> 19 U.S.C. § 1677(7)(F)(ii).

<sup>101</sup> These factors are as follows:

(I) if a countervailable subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the countervailable subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement) and whether imports of the subject merchandise are likely to increase,

(II) any existing unused production capacity or imminent, substantial increase in production capacity in the exporting country indicating the likelihood of substantially increased imports of the subject merchandise into the United States, taking into account the availability of other export markets to absorb any additional exports,

(III) a significant rate of increase of the volume or market penetration of imports of the subject merchandise indicating the likelihood of substantially increased imports,

(IV) whether imports of the subject merchandise are entering at prices that are likely to have a significant depressing or suppressing effect on domestic prices and are likely to increase demand for further imports,

(V) inventories of the subject merchandise,

(VI) the potential for product-shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products,

...

(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).

19 U.S.C. § 1677(7)(F)(i). To organize our analysis, we discuss the applicable statutory threat factors using the same volume/price/impact framework that applies to our material injury analysis. Statutory threat factors (I), (II), (III), (V), and (VI) are discussed in the analysis of subject import volume. Statutory threat factor (IV) is discussed in the analysis of subject import price effects. Statutory factors (VIII) and (IX) are discussed in the analysis of impact. Statutory factor (VII) concerning agricultural products is inapplicable to these investigations.

## 1. Demand Conditions

U.S. demand for rubber bands depends on a wide range of end uses, including the bundling of office, agricultural, and industrial products, and retail sale.<sup>102</sup>

Petitioner states that demand for rubber bands in the United States declined during the period of investigation.<sup>103</sup> Schermerhorn states specifically that demand for rubber bands in the newspaper and agricultural industries declined,<sup>104</sup> while Winne states that its rubber band sales increased from 2015 to 2016 but declined sharply from 2016 to 2017 due to the substantial increase in the cost of rubber bands produced in Thailand during that time.<sup>105</sup> A plurality of importers reported that U.S. demand for rubber bands has not changed since January 1, 2015.<sup>106</sup>

Apparent U.S. consumption decreased by \*\*\* percent from 2015 to 2017, falling from \*\*\* pounds in 2015 to \*\*\* pounds in 2016 and \*\*\* pounds in 2017.<sup>107</sup>

## 2. Supply Conditions

The domestic industry and cumulated subject imports were the two main sources of supply to the U.S. market during the period of investigation.<sup>108</sup>

The domestic industry's share of apparent U.S. consumption increased from \*\*\* percent in 2015 to \*\*\* percent in 2016 and \*\*\* percent in 2017.<sup>109</sup> The domestic industry produces three different grades of rubber bands based on rubber content and supplies a wide range of rubber bands to seven different industries: (1) stationery, (2) paper and packaging, (3) newspapers, (4) agricultural, (5) retail, (6) government and post office, and (7) advertising specialty.<sup>110</sup> According to petitioner, it is able to satisfy all customer specifications and has ample capacity to meet demand for rubber bands in the U.S. market.<sup>111</sup>

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<sup>102</sup> CR at II-8, PR at II-5-6.

<sup>103</sup> Alliance Postconf. Br. at Ex. ALL-3.

<sup>104</sup> Conf. Tr. at 116 (Jordan).

<sup>105</sup> Winne Postconf. Br. at 5; Conf. Tr. at 116-117 (Aversano). In 2016-2017, weather related issues caused a supply disruption in raw rubber in Thailand. Conf. Tr. at 139-40 (Aversano).

<sup>106</sup> CR/PR at Table II-4.

<sup>107</sup> CR/PR at Tables IV-10, C-1. Apparent U.S. consumption and market shares were calculated using proprietary \*\*\* records for HTS statistical reporting number 4016.99.35.10 (rubber bands of natural rubber) and questionnaire responses. CR/PR at Table IV-10 Source; *see also* CR at IV-3, PR at IV-1 and IV-3. Non-latex or synthetic rubber bands account for a relatively minor share of U.S. imports because latex rubber bands are normally available at lower costs. Conf. Tr. at 131 (Aversano), 132 (Jordan), 42 (Risner). Only one responding U.S. importer (\*\*\* ) reported imports of non-latex rubber bands and these imports occurred only during 2017. These imports, from China, amounted to \*\*\* pounds (\$\*\*\*). CR/PR at IV-3 n.4.

<sup>108</sup> CR/PR at Table IV-10.

<sup>109</sup> CR/PR at Tables IV-10, C-1.

<sup>110</sup> Alliance Postconf. Br. at 5, Ex. ALL-2. Petitioner produces the following three grades of rubber bands: (1) Pale Crepe, which has a rubber content of \*\*\* percent; (2) Crepe Sterling, which has a  
(Continued...)

Cumulated subject imports' share of apparent U.S. consumption decreased from \*\*\* percent in 2015 to \*\*\* percent in 2016 and \*\*\* percent in 2017.<sup>112</sup> Nonsubject imports' share of apparent U.S. consumption was \*\*\* percent in 2015, \*\*\* percent in 2016, and \*\*\* percent in 2017.<sup>113</sup>

### 3. Substitutability

As previously stated, the U.S. producer and most responding importers reported that imports from the individual subject countries are always or frequently interchangeable with each other and with the domestic like product.<sup>114</sup> Additionally, U.S. importers generally imported the same types of rubber bands from China and Thailand that the domestic industry produces.<sup>115</sup> Respondents argue that rubber bands manufactured by each individual producer are not interchangeable due to differences in quality, which they claim is largely affected by rubber content.<sup>116</sup> The record indicates, however, that rubber bands from all three sources are available with rubber content in overlapping ranges.<sup>117</sup>

The record also indicates that price is an important consideration for purchasers of rubber bands. The U.S. producer reported that differences other than price were sometimes significant between all country pairs while most importers reported that differences other than price were sometimes or never significant between all country pairs with one exception (when comparing rubber bands produced in China and Thailand, the majority of importers reported that differences other than price were always significant).<sup>118</sup>

We consequently find that subject imports and the domestically produced product are highly substitutable and that price plays an important role in purchasing decisions.<sup>119</sup>

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(...Continued)

rubber content of \*\*\* percent; and (3) Advantage Crepe, which has a rubber content of \*\*\* percent. *See id.* at Ex. ALL-2. \*\*\*. *See id.*

<sup>111</sup> Conf. Tr. at 8 (Goldberg), 30 (Risner), 60 (Risner, Goldberg).

<sup>112</sup> CR/PR at Table IV-10, C-1. The market share of subject imports from China declined by \*\*\* percentage points from 2015 to 2017 and subject imports from Thailand declined by \*\*\* percentage points. CR/PR at Table C-1.

<sup>113</sup> CR/PR at Table IV-10.

<sup>114</sup> CR/PR at Table II-5.

<sup>115</sup> CR/PR at Table IV-5.

<sup>116</sup> Winne Postconf. Br. at 4; Schermerhorn Postconf. Br. at 3; Conf. Tr. at 96 (Aversano), 103 (Jordan), 107-108 (Jordan, Aversano), 111 (Jordan), 113 (Aversano), 122-23, 134-35 (Jordan). According to respondents, rubber bands with higher rubber content have better elasticity, strength, and durability than those with lower rubber content. Conf. Tr. at 111 (Jordan).

<sup>117</sup> CR/PR at Table IV-4.

<sup>118</sup> CR/PR at Table II-6.

<sup>119</sup> CR at II-10, PR at II-7.

#### 4. Other Conditions

Raw material costs accounted for a substantial portion of the domestic industry's cost of goods sold ("COGS") during the period of investigation, falling somewhat from \*\*\* percent in 2015 to \*\*\* percent in 2017.<sup>120</sup> Rubber is the primary raw material input in the production of latex rubber bands and crude oil is the primary input in the production of synthetic rubber bands.<sup>121</sup> Prices of natural and synthetic rubber fluctuated between January 2015 and September 2016, increased through early 2017, and then fell to near January 2015 levels in late 2017.<sup>122</sup>

Respondents state that rubber content is the single largest determinant of the price of rubber bands.<sup>123</sup> Petitioner states that its prices are indexed to the price of rubber, but stresses that because a large proportion of its rubber bands are sold through fixed price contracts, any fluctuations in the price of rubber may impact its profitability.<sup>124</sup>

U.S. purchasers of rubber bands are wholesalers, retailers, and end users; leading purchasers based on lost sales and lost revenue responses include \*\*\*.<sup>125</sup>

#### C. Likely Volume of Cumulated Subject Imports

During the period of investigation, the volume of cumulated subject imports was significant but declining. It fell by \*\*\* percent, decreasing from \*\*\* pounds in 2015 to \*\*\* pounds in 2016 and \*\*\* pounds in 2017.<sup>126</sup> The share of apparent U.S. consumption held by cumulated subject imports declined by \*\*\* percentage points from 2015 to 2017; it decreased from \*\*\* percent in 2015 to \*\*\* percent in 2016 and \*\*\* percent in 2017.<sup>127</sup>

Notwithstanding these declines during the period of investigation, we find a reasonable indication that cumulated subject imports will likely increase substantially in the imminent future in light of petitioner's loss of a major account to subject imports in 2017. In 2015, Staples had awarded its private label rubber band business to petitioner because Alliance was at that time offering rubber bands at a lower price than Staples' prior supplier from Thailand.<sup>128</sup> From July 2016 through 2017, petitioner shipped a substantial volume of Staples-branded

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<sup>120</sup> CR/PR at Table VI-1.

<sup>121</sup> CR/PR at V-1.

<sup>122</sup> CR/PR at V-1, Figure V-1.

<sup>123</sup> Conf. Tr. at 93 (Aversano), 134-35 (Aversano, Jordan).

<sup>124</sup> Conf. Tr. at 66-67, 82 (Risner). Petitioner states that there are no publicly available rubber price indices; rather, it tracks historical rubber prices and consults with its rubber brokers. Conf. Tr. at 66-67 (Risner).

<sup>125</sup> CR at I-5, PR at I-4.

<sup>126</sup> CR/PR at Tables IV-2, C-1.

<sup>127</sup> CR/PR at Tables IV-10, C-1.

<sup>128</sup> Staples U.S. Purchaser Questionnaire Response at 7 (Feb. 13. 2018) (\*\*\*). Petitioner maintains that it acquired Staples' private label business through aggressive pricing. Alliance Postconf. Br. at 28.

product.<sup>129</sup> As Staples shifted its purchasing requirements to petitioner, its imports of subject merchandise from Thailand decreased from \*\*\* pounds in 2015 to \*\*\* pounds in 2016 and \*\*\* pounds in 2017.<sup>130</sup> In April 2017, however, Staples decided to shift its 2018 purchasing requirements for its private label business from petitioner back to subject imports from Thailand, which were reportedly being offered at half the price (per pound) than those offered by petitioner.<sup>131</sup> The record indicates that Staples imported \*\*\* pounds of rubber bands from Thailand in November 2017 and has arranged for \*\*\* pounds of subject imports from Thailand in the first quarter of 2018.<sup>132</sup>

Moreover, rubber band operations in the subject countries are large. The limited information on the record concerning the rubber band industry in China indicates that the annual capacity to produce rubber bands in China is at least 9.1 million pounds.<sup>133</sup> Responding producers in Thailand report their annual capacity to produce rubber bands to be \*\*\* pounds.<sup>134</sup> Additionally, responding subject producers in Thailand report substantial unused capacity of \*\*\* pounds in 2017.<sup>135</sup> This figure is equivalent to \*\*\* of apparent U.S. consumption in 2017.<sup>136</sup>

In addition to having substantial production capacity and substantial excess capacity, subject producers in Thailand are highly export oriented. They reported export shipments of \*\*\* pounds in 2015, \*\*\* pounds in 2016, and \*\*\* pounds in 2017.<sup>137</sup> The Thai producers project that they will increase their export shipments to \*\*\* pounds in 2018 and \*\*\* pounds in

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<sup>129</sup> Alliance reported in this respect that, from July 2016 through December 2016, Alliance shipped \*\*\* Staples-branded rubber bands for \$\*\*\* and in 2017, it shipped \*\*\* pounds of QUILL branded rubber bands and \*\*\* pounds of Staples-branded rubber bands for \$\*\*\*. Alliance Postconf. Br. at 27.

<sup>130</sup> Staples U.S. Importer Questionnaire Response at II-7a (Feb. 13, 2018).

<sup>131</sup> Alliance Postconf. Br. at 29, Exs. GEN-4-7 & GEN-10. Specifically, in an April 2017 letter, Staples informed petitioner that it would not be awarded Staples' private label business. *See id.* at Ex. GEN-7. In a subsequent conference call, Staples informed petitioner that import prices were half of petitioner's prices and that if petitioner were willing to meet import prices, petitioner could retain Staples' private label business. *See id.* at 29. In response, petitioner informed Staples that the "pricing & delivered cost" of Staples' new supplier from Thailand did not make "sense." *See id.* at Ex. GEN-6.

<sup>132</sup> Alliance Postconf. Br. at 3-4, 18-20, 27-31; Staples U.S. Importer Questionnaire Response at II-3 (Feb. 13, 2018). We further observe that U.S. importers' combined arranged subject imports from Thailand total \*\*\* pounds in the first half of 2018. Their combined arranged subject imports from China total \*\*\* pounds. CR/PR at Table VII-11.

<sup>133</sup> Alliance Postconf. Br. at 38, Exs. at CH-1-6.

<sup>134</sup> CR/PR at Table VII-7.

<sup>135</sup> CR/PR at Table VII-7.

<sup>136</sup> *Compare* CR/PR at Table VII-7 with CR/PR at Table IV-10.

<sup>137</sup> CR/PR at Table VII-7.

2019.<sup>138</sup> They also project their export shipments to the United States will be \*\*\* pounds in 2018 and \*\*\* pounds in 2019.<sup>139</sup>

The record also shows that there are substantial volumes of subject imports that are available to be shipped to the U.S. market. Responding subject producers in Thailand reported that their end-of-period inventories of rubber bands increased from \*\*\* pounds in 2015 to \*\*\* pounds in 2017.<sup>140</sup> Their inventory levels as a ratio of total shipments increased from \*\*\* percent in 2015 to \*\*\* percent in 2017.<sup>141</sup> U.S. importers' combined inventories of subject imports decreased from \*\*\* pounds in 2015 to \*\*\* pounds in 2017.<sup>142</sup> The inventory levels as a ratio of total shipments, however, increased from \*\*\* percent in 2015 to \*\*\* percent in 2017.<sup>143</sup>

In light of petitioner's loss of Staples' private label business to subject imports from Thailand, as well as the substantial cumulated capacity and excess capacity of the subject industries, subject producers' export orientation, and existing inventories of subject rubber bands, we find, for the purposes of the preliminary phase of these investigations, that there is a likelihood of substantially increased cumulated subject imports in the imminent future.<sup>144</sup>

#### **D. Price Effects of the Cumulated Subject Imports**

As addressed in section IV.B.3 above, the record indicates a high degree of substitutability among subject imports and the domestically produced product, and that price is an important consideration in purchasing decisions.

The Commission collected quarterly data for the total quantity and f.o.b. value of six pricing products shipped to unrelated U.S. customers between January 2015 and December

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<sup>138</sup> CR/PR at Table VII-7.

<sup>139</sup> CR/PR at Table VII-7. According to Global Trade Atlas ("GTA") data, which include rubber bands outside the scope of these investigations, the United States was the top destination market for rubber bands from Thailand in each full year of the period of investigation. CR/PR at Table VII-8.

<sup>140</sup> CR/PR at Table VII-7.

<sup>141</sup> CR/PR at Table VII-7.

<sup>142</sup> CR/PR at Table C-1.

<sup>143</sup> CR/PR at Table C-1.

<sup>144</sup> We have also considered other factors in our analysis of likely volume. Commerce has initiated countervailing duty investigations on: 15 alleged subsidy programs in China, including one preferential lending program, three export credits and guarantees programs, one export credit subsidies program, and one export assistance grant program that appear to be directed to exports; and ten alleged subsidy programs in Thailand, including at least two programs (the IPA Section 36 Export promotion program and tax coupons for exported goods program) that appear to be directed to exports. CR/PR at I-7-9, PR at I-5-7. With respect to the potential for product shifting, all responding subject producers in Thailand reported that they did not produce out-of-scope products on the same equipment and machinery used to produce subject rubber bands. CR at VII-9, PR at VII-6. There are no known antidumping or countervailing duty measures on rubber bands in third country markets. CR at VII-18, PR at VII-11.

2017.<sup>145</sup> One U.S. producer and seven importers provided usable pricing data for sales of the requested products, although not all firms reported pricing data for all products for all quarters.<sup>146</sup>

Cumulated subject imports undersold the domestic like product in \*\*\* out of \*\*\* quarterly comparisons at underselling margins that ranged from \*\*\* percent to \*\*\* percent. Cumulated subject imports oversold the domestic like product in the remaining \*\*\* quarterly comparisons by \*\*\* percent to \*\*\* percent.<sup>147</sup> The quarters in which cumulated subject imports oversold the domestic like product involved \*\*\* pounds of subject imports, while the quarters in which cumulated subject imports undersold the domestic product involved \*\*\* pounds of subject imports. Thus, the pricing data show predominant overselling.<sup>148</sup>

However, the preliminary phase of these investigations raises several questions regarding how to collect and assess pricing data in this market. Respondents assert that because the pricing products do not specify rubber content (the single largest determinant of price), the prices gathered by the Commission reflect the average prices of a mix of rubber bands with different rubber content levels, and thus do not accurately provide an apples-to-apples comparison.<sup>149</sup> Moreover, two substantial U.S. importers (\*\*\*) reported direct imports for internal use, suggesting that purchase cost data should be collected in these investigations, consistent with the Commission's past practice in cases involving substantial volumes of direct

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<sup>145</sup> CR at V-4 to V-5; PR at V-3 to V-4. The pricing products are: (1) Size #32 rubber bands (3" x 1/8"), natural/latex, sold in 1 pound poly bags; (2) Size #33 rubber bands (3 1/2" x 1/8"), natural/latex, sold in 1 pound poly bags; (3) Size #64 rubber bands (3 1/2" x 1/4"), natural/latex, sold in 1 pound poly bags; (4) Size #18 rubber bands (3" x 1/16"), newspaper size, natural/latex, sold in 1 pound poly bags; (5) Size #14 rubber bands (2" x 1/16"), agricultural size, natural/latex, sold in 1 pound poly bags; and (6) Size #16 rubber bands (2 1/2" x 1/16"), agricultural size, natural/latex, sold in 1 pound poly bags. CR at V-6, PR at V-5.

<sup>146</sup> CR at V-6; PR at V-5. The pricing data accounted for approximately \*\*\* percent of the domestic industry's U.S. shipments and 36.5 percent of shipments of subject imports from Thailand in 2017. CR at V-7, PR at V-6. No useable data were received for shipments of subject imports from China. *See id.*

<sup>147</sup> Derived from CR/PR at Tables V-3-8.

<sup>148</sup> Derived from CR/PR at Tables V-3-8. However, lost sales information indicates that cumulated subject imports were often priced lower than subject imports. In the preliminary lost sales/lost revenue survey, \*\*\* five responding purchasers reported that they had purchased subject imports from Thailand and \*\*\* reported that they had purchased subject imports from China instead of the domestic like product during the period of investigation. \*\*\* of these purchasers reported that subject import prices were lower than prices of the domestically produced product and that price was a primary reason for the decision to purchase subject imports rather than domestic rubber bands. These \*\*\* purchasers estimated that they purchased \*\*\* pounds to \*\*\* pounds of rubber bands from the subject countries instead of the domestically produced product. CR/PR at Table V-13. While we have considered the lost sales data, we also observe that the domestic industry did not lose market share to subject imports during the period of investigation. CR/PR at Table IV-10.

<sup>149</sup> Winne Postconf. Br. at 3-4; Conf. Tr. at 11 (Levinson), 93-95 (Aversano).

imports.<sup>150</sup> In addition, no useable pricing data were received for rubber bands from China.<sup>151</sup> We invite the parties in any final phase questionnaires to comment on how pricing information should be collected to improve the pricing product comparisons and to increase pricing coverage of subject imports from China.

We observe that prices of rubber bands generally declined overall during the period of investigation for both subject imports and the domestic like product. Decreases in prices for subject imports ranged from \*\*\* percent to \*\*\* percent, while declines for five of the six domestic products ranged from \*\*\* percent to \*\*\* percent, with the price of one product increasing by \*\*\* percent.<sup>152</sup> However, while prices declined over the period of investigation, apparent U.S. consumption and the domestic industry's unit costs also fell overall from 2015 to 2017.<sup>153</sup>

Nevertheless, as discussed above, in 2017, petitioner lost Staples' substantial private label business to subject imports from Thailand after having been awarded this business in 2015.<sup>154</sup> Evidence on the record of the preliminary phase of these investigations indicates that these sales were lost due to the low prices offered by subject imports.<sup>155</sup> Consequently, we find that that low prices will likely increase demand for further cumulated subject imports in the imminent future, which will likely cause a reduction in the domestic industry's market share.

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<sup>150</sup> See, e.g., *Tool Chests and Cabinets from China*, 701-TA-575 (Final), USITC Pub. 4753 (Jan. 2018) and *Fine Denier Polyester Staple Fiber from China and India*, 701-TA-579-580 (Final), USITC Pub. 4765 (March 2017).

<sup>151</sup> CR at V-6 n.12, V-7, PR at V-6 n.12, V-6.

<sup>152</sup> CR at V-20; PR at V-7. For product 1, decreases in weighted average prices were \*\*\* percent for subject imports and \*\*\* percent for the domestic like product. For product 2, decreases in weighted average prices were \*\*\* percent for subject imports and \*\*\* percent for the domestic like product. For product 3, decreases in weighted average prices were \*\*\* percent for subject imports and \*\*\* percent for the domestic like product. For product 4, weighted average prices decreased by \*\*\* percent for subject imports and increased by \*\*\* percent for the domestic like product. For product 5, weighted average prices increased by \*\*\* percent for subject imports and decreased by \*\*\* percent for the domestic like product. For product 6, decreases in weighted average prices were \*\*\* percent for subject imports and \*\*\* percent for the domestic like product. CR/PR at Table V-9.

<sup>153</sup> CR/PR at Table IV-10, Table VI-1. The domestic industry's COGS to net sales ratio declined from \*\*\* percent in 2015 to \*\*\* percent in 2016, then rose to \*\*\* percent in 2017. CR/PR at Table VI-1. Unit costs decreased from \$\*\*\* per pound in 2015 to \$\*\*\* per pound in 2016 and \$\*\*\* per pound in 2017. See *id.*

<sup>154</sup> Alliance Postconf. Br. at Ex. GEN-4.

<sup>155</sup> Alliance Postconf. Br. at 3-4, 28-29, Exs. GEN 5-7; Conf. Tr. at 99, 132-33 (Jordan).

### E. Likely Impact of the Cumulated Subject Imports<sup>156</sup>

The domestic industry's performance improved during the period of investigation, and its trade and financial indicia generally showed increases between 2015 and 2017.

From 2015 to 2017, the domestic industry increased its production and capacity utilization, while its capacity remained stable. Production increased by \*\*\* percent from 2015 to 2017, from \*\*\* pounds in 2015 to \*\*\* pounds in 2016 and \*\*\* pounds in 2017.<sup>157</sup> The domestic industry's capacity remained constant at \*\*\* pounds from 2015 to 2017.<sup>158</sup> Capacity utilization increased from \*\*\* percent in 2015 to \*\*\* percent in 2016 and \*\*\* percent in 2017.<sup>159</sup>

The domestic industry's net sales quantity,<sup>160</sup> U.S. shipments,<sup>161</sup> and market share<sup>162</sup> all increased between 2015 and 2017. The domestic industry's share of apparent U.S. consumption increased from \*\*\* percent in 2015 to \*\*\* percent in 2016 and \*\*\* percent in 2017.<sup>163</sup> Ending inventories increased by \*\*\* percent from 2015 to 2017, from \*\*\* pounds in 2015 to \*\*\* pounds in 2016 and \*\*\* pounds in 2017.<sup>164</sup>

The domestic industry's hours worked,<sup>165</sup> wages paid,<sup>166</sup> and productivity<sup>167</sup> also increased between 2015 and 2017. Employment was stable from 2014 to 2016, increasing from

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<sup>156</sup> In its notice initiating the antidumping duty investigations on imports from China and Thailand, Commerce reported estimated antidumping duty margins of 27.27 percent for imports from China and 28.92 to 78.36 percent for imports from Thailand. *Rubber Bands from the People's Republic of China, Sri Lanka, and Thailand*, 83 Fed. Reg. at 8427.

<sup>157</sup> CR/PR at Tables III-2, C-1.

<sup>158</sup> CR/PR at Table III-2. Although petitioner calculated its nameplate capacity to be \*\*\* for each full year of the period of investigation, the Commission found it appropriate, in the preliminary phase of these investigations, to adjust this figure to reflect petitioner's average production capacity based on its current operations of \*\*\*. Staff multiplied petitioner's reported capacity by \*\*\*. CR at III-3-4 n.10, PR at III-2-3 n.10.

<sup>159</sup> CR/PR at Table III-4.

<sup>160</sup> Net sales quantity increased by \*\*\* percent from 2015 to 2017, from \*\*\* pounds in 2015 to \*\*\* pounds in 2016 and \*\*\* pounds in 2017. CR/PR at Tables VI-1, C-1.

<sup>161</sup> U.S. shipments increased by \*\*\* percent from 2015 to 2017, from \*\*\* pounds in 2015 to \*\*\* pounds in 2016 and \*\*\* pounds in 2017. CR/PR at Tables III-3, C-1.

<sup>162</sup> The domestic industry's market share increased by \*\*\* percentage points from 2015 to 2017. CR/PR at Tables IV-10, C-1.

<sup>163</sup> CR/PR at Tables IV-10, C-1.

<sup>164</sup> CR/PR at Tables III-4, C-1.

<sup>165</sup> Hours worked increased by \*\*\* percent from 2015 to 2017, from \*\*\* hours in 2015 to \*\*\* hours in 2016 and 2017. CR/PR at Tables III-6, C-1.

<sup>166</sup> Wages paid increased by \*\*\* percent from 2015 to 2017, from \$\*\*\* in 2015 to \$\*\*\* in 2016 and 2017. CR/PR at Tables III-6, C-1.

<sup>167</sup> Productivity (in 1,000 pounds per hour) increased overall by \*\*\* percent from 2015 to 2017, decreasing from \*\*\* in 2015 to \*\*\* in 2016, and then increasing to \*\*\* in 2017. CR/PR at Tables III-6, C-1.

\*\*\* production-related workers (PRWs) in 2015 to \*\*\* PRWs in 2016 and then returning to \*\*\* PRWs in 2017.<sup>168</sup>

Similar to the trends in the trade indicia, the domestic industry's financial indicators improved during the period of investigation, with its net sales,<sup>169</sup> gross profit,<sup>170</sup> operating income,<sup>171</sup> operating income margin,<sup>172</sup> net income,<sup>173</sup> and net income margin<sup>174</sup> all increasing between 2015 and 2017.

Capital expenditures fell overall by \*\*\* percent between 2014 and 2016, declining from \$\*\*\* in 2015 to \$\*\*\* in 2016, and then increasing to \$\*\*\* in 2017.<sup>175</sup> The domestic industry also reported negative effects on investment and on growth and development due to subject imports.<sup>176</sup>

The record of the preliminary phase of the investigations shows that a substantial increase in cumulated subject import volume is likely imminent, particularly in light of petitioner's loss of Staples' private label business to low-priced subject imports from Thailand.<sup>177</sup> The likely increase in volume of cumulated subject imports will likely cause the domestic industry to lose market share, which will lead to adverse effects on the domestic industry's revenue and financial performance.

We have also considered factors other than subject imports to ensure that we are not attributing any threat of material injury from other such factors to the cumulated subject imports. The volume of nonsubject imports was consistently small throughout the period of

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<sup>168</sup> CR/PR at Tables III-6.

<sup>169</sup> The domestic industry's net sales revenues increased by \*\*\* percent from 2015 to 2017, from \$\*\*\* in 2015 to \$\*\*\* in 2016 and \$\*\*\* in 2017. CR/PR at Tables VI-1, C-1.

<sup>170</sup> The domestic industry's gross profit increased by \*\*\* percent from 2015 to 2017, from \$\*\*\* in 2015 to \$\*\*\* in 2016 and \$\*\*\* in 2017. CR/PR at Tables VI-1, C-1.

<sup>171</sup> The domestic industry's operating income increased overall by \*\*\* percent from 2015 to 2017, increasing from \$\*\*\* in 2015 to \$\*\*\* in 2016, and then declining to \$\*\*\* in 2017. CR/PR at Tables VI-1, C-1.

<sup>172</sup> The domestic industry's operating income as a share of net sales increased overall by \*\*\* percentage points from 2015 to 2017, increasing from \*\*\* percent in 2015 to \*\*\* percent in 2016, and then declining to \*\*\* percent in 2017. CR/PR at Tables VI-1, C-1.

<sup>173</sup> The domestic industry's net income increased by \*\*\* percent, from \$\*\*\* in 2015 to \$\*\*\* in 2016 and \$\*\*\* in 2017. CR/PR at Tables VI-1, C-1.

<sup>174</sup> The domestic industry's net income as a share of net sales increased by \*\*\* percentage point from 2015 to 2017, from \*\*\* percent in 2015 to \*\*\* percent in 2016 and \*\*\* percent in 2017. CR/PR at Table VI-1, C-1.

<sup>175</sup> CR/PR at Tables VI-4, C-1. The domestic industry's research and development expenses decreased from \$\*\*\* in 2015 to \$\*\*\* in 2016, and then increased to \$\*\*\* in 2017. CR/PR at Table VI-4.

<sup>176</sup> CR/PR at Tables VI-6-7.

<sup>177</sup> We observe that Staples had indicated to petitioner that it "decided not to award Alliance the {private label business} due to cost and {its} impression of the product quality." Alliance Postconf. Br. at Ex. GEN-7. In any final phase of these investigations, we will explore whether there were factors other than price involved in Staples' decision not to award petitioner the private label business. Additionally, we will seek additional information concerning Staples' supply agreements, including how price is negotiated.

investigation, accounting for \*\*\* percent of apparent U.S. consumption in 2015, \*\*\* percent in 2016, and \*\*\* percent in 2017.<sup>178</sup> Given our finding that the market share of cumulated subject imports is likely to increase substantially, we find the likely adverse effects of cumulated subject imports would be distinct from any effects attributable to nonsubject imports.

We therefore conclude that, for purposes of the preliminary determinations, further cumulated subject imports are imminent and that material injury by reason of cumulated subject imports will occur unless orders are issued on cumulated subject imports. Accordingly, we have made affirmative determinations of a reasonable indication of threat of material injury in the antidumping and countervailing duty investigations on rubber bands from China and Thailand.

## **VIII. Conclusion**

For the reasons stated above, we determine that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of subject imports from China and Thailand that are allegedly sold in the United States at LTFV and are allegedly subsidized by the governments of China and Thailand. We also determine that subject imports from Sri Lanka that are allegedly sold in the United States at LTFV and are allegedly subsidized by the government of Sri Lanka are negligible and therefore terminate the antidumping and countervailing duty investigations on rubber bands from Sri Lanka.

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<sup>178</sup> CR/PR at Table IV-10.

## PART I: INTRODUCTION

### BACKGROUND

These investigations result from petitions filed with the U.S. Department of Commerce (“Commerce”) and the U.S. International Trade Commission (“USITC” or “Commission”) by Alliance Rubber Co. (“Alliance”), Hot Springs, Arkansas, on January 30, 2018, alleging that an industry in the United States is materially injured and threatened with material injury by reason of subsidized and less-than-fair-value (“LTFV”) imports of rubber bands<sup>1</sup> from China, Sri Lanka, and Thailand. The following tabulation provides information relating to the background of these investigations.<sup>2 3</sup>

Effective date	Action
January 30, 2018	Petitions filed with Commerce and the Commission; institution of Commission investigations (83 FR 5143, February 5, 2018)
February 20, 2018	Commission’s conference
February 27, 2018	Commerce’s notice of initiation of antidumping duty investigations (83 FR 8424); Commerce’s notice of initiation of countervailing duty investigations (83 FR 8429)
March 15, 2018	Commission’s vote
March 19, 2018	Commission’s determinations
March 26, 2018	Commission’s views

### STATUTORY CRITERIA AND ORGANIZATION OF THE REPORT

#### Statutory criteria

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

*shall consider (I) the volume of imports of the subject merchandise, (II) the effect of imports of that merchandise on prices in the United States for domestic like products, and (III) the impact of imports of such*

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<sup>1</sup> See the section entitled “The Subject Merchandise” in *Part I* of this report for a complete description of the merchandise subject in this proceeding.

<sup>2</sup> Pertinent *Federal Register* notices are referenced in appendix A, and may be found at the Commission’s website ([www.usitc.gov](http://www.usitc.gov)).

<sup>3</sup> A list of witnesses appearing at the conference is presented in appendix B of this report.

*merchandise on domestic producers of domestic like products, but only in the context of production operations within the United States; and. . . may consider such other economic factors as are relevant to the determination regarding whether there is material injury by reason of imports.*

Section 771(7)(C) of the Act (19 U.S.C. § 1677(7)(C)) further provides that--<sup>4</sup>

*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 decline in output, sales, market share, gross profits, operating profits, net profits, ability to service debt, productivity, return on investments, return on assets, 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.*

In addition, Section 771(7)(J) of the Act (19 U.S.C. § 1677(7)(J)) provides that—<sup>5</sup>

*(J) EFFECT OF PROFITABILITY.—The Commission may not determine that there is no material injury or threat of material injury to an industry in the*

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<sup>4</sup> Amended by PL 114-27 (as signed, June 29, 2015), Trade Preferences Extension Act of 2015.

<sup>5</sup> Amended by PL 114-27 (as signed, June 29, 2015), Trade Preferences Extension Act of 2015.

*United States merely because that industry is profitable or because the performance of that industry has recently improved.*

### **Organization of report**

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

### **MARKET SUMMARY**

Rubber bands are commonly used to hold multiple objects together, including papers, fruits and vegetables, pieces of equipment, and other items. Rubber bands are sold in many industry segments, including the following: stationery, paper and packaging, newspaper, agricultural, retail, government, post office, and advertising.<sup>6</sup> The leading U.S. producer of rubber bands is the petitioner, Alliance,<sup>7</sup> while identified producers or exporters of rubber bands outside the United States include the following: (1) Advantus, Corp. ("Advantus") in China,<sup>8</sup> (2) Jafferjee Brothers Exports (Pvt) Ltd. ("Jafferjee") in Sri Lanka, and (3) Liang Hah Heng International Rubber Co., Ltd. ("Liang Hah Heng"), Progress Inter Rubber Co., Ltd. ("Progress Rubber"), and Srithepthai Rubber and Products Co., Ltd. ("Srithepthai") in Thailand.<sup>9</sup> The leading U.S. importers of in-scope rubber bands from China during 2017 were \*\*\*, while the leading importers of in-scope rubber bands from Thailand during 2017 were \*\*\*. Only \*\*\* firms \*\*\* reported imports of in-scope rubber bands from Sri Lanka. Imports of in-scope rubber bands from Malaysia (nonsubject country) were reported by \*\*\*.<sup>10</sup> No firms reported U.S.

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<sup>6</sup> Petitions, p. 10.

<sup>7</sup> Petitions, pp. 21-22 and 25. Petitioner Alliance identified two firms other than itself that are possible U.S. producers of rubber bands in the United States.

<sup>8</sup> Advantus is an exporter/reseller of rubber bands in China. Responding importers identified the following producers of rubber bands in China: \*\*\*. These firms did not provide a response to the Commission's foreign producer questionnaire in this proceeding.

<sup>9</sup> The only in-scope rubber band producer in a nonsubject country identified in these investigations \*\*\* is Central Elastic Corp. ("Central Elastic") in Malaysia.

<sup>10</sup> Imports from Malaysia were reported by \*\*\* during 2015 and by \*\*\* during 2015 and 2016. There were no reported U.S. imports of rubber bands from Malaysia during 2017.

imports of in-scope rubber bands from nonsubject countries other than Malaysia during 2015-17.<sup>11</sup> U.S. purchasers of rubber bands are wholesalers, retailers, and end users in office stationery, newspaper, agricultural, and other industries; leading purchasers based on lost sales and lost revenue responses include \*\*\*.

Apparent U.S. consumption of rubber bands totaled approximately \*\*\* pounds (\$\*\*\*) in 2017. U.S. producers' U.S. shipments of rubber bands totaled \*\*\* pounds (\$\*\*\*) in 2017, and accounted for \*\*\* percent of apparent U.S. consumption by quantity and \*\*\* percent by value. U.S. imports from all three subject sources combined totaled \*\*\* (\$\*\*\*) in 2017 and accounted for \*\*\* percent of apparent U.S. consumption by quantity and \*\*\* percent by value. There were no reported U.S. imports from nonsubject sources in 2017.<sup>12</sup>

### 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 the questionnaire response of one firm that is believed to have accounted for at least 90 percent of U.S. production of rubber bands during 2017.<sup>13</sup> U.S. imports from Sri Lanka and nonsubject countries are based on in-scope rubber band data provided in questionnaire responses because these data are believed to represent \*\*\* of total imports of in-scope rubber bands from these sources. Because of the comparatively lower level of questionnaire responses from importers of rubber bands from China and Thailand (\*\*\*), U.S. imports from China and Thailand are based on \*\*\* import records, as adjusted to remove out-of-scope merchandise that was reported separately in questionnaire responses. Usable responses to the Commission's foreign producer questionnaire were received from one exporter from China (Advantus), whose exports to the United States accounted for \*\*\* percent of U.S. imports of rubber bands from China in 2017, one producer in Sri Lanka (Jafferjee), whose exports to the United States accounted for essentially all U.S. imports of rubber bands from Sri Lanka in 2017, and three producers in Thailand (Liang Hah Heng, Progress Rubber, and Srithepthai), whose exports to the United States accounted for essentially all U.S. imports of rubber bands from Thailand in 2017.

### PREVIOUS AND RELATED INVESTIGATIONS

Rubber bands have not been the subject of any prior antidumping or countervailing duty investigations in the United States.<sup>14</sup>

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<sup>11</sup> The following firms reported U.S. imports of rubber bands that are specifically excluded from the scope based on size: \*\*\*.

<sup>12</sup> U.S. imports from nonsubject sources totaled \*\*\* pounds (\$\*\*\*) and \*\*\* pounds (\$\*\*\*) in 2015 and 2016, respectively, and accounted for \*\*\* percent of apparent U.S. consumption by quantity and \*\*\* by value.

<sup>13</sup> Conference transcript, p. 31 (Risner).

<sup>14</sup> Petitions, p. 7; conference transcript, p. 44 (Goldberg).

## NATURE AND EXTENT OF ALLEGED SUBSIDIES AND SALES AT LTFV

### Alleged subsidies

On February 27, 2018, Commerce published a notice in the *Federal Register* of the initiation of its countervailing duty investigation on rubber bands from China, Sri Lanka, and Thailand.<sup>15</sup>

#### China

Commerce identified the following government programs in China:<sup>16</sup>

- Preferential Lending
  - Export Loans from Chinese State-Owned Banks
- Export Credits and Guarantees from Export-Import Bank of China
  - Export Seller's Credit Program
  - Export Credit Guarantees
  - Export Buyer's Credit
- Export Credit Insurance Subsidies
- Provision of Goods and Services for Less than Adequate Remuneration ("LTAR")
  - Provision of Natural Rubber for LTAR
  - Provision of Land-Use Rights in Industrial and Other Special Economic Zones for LTAR
  - Provision of Electricity for LTAR
- Tax Programs
  - Income Tax Deductions for Research and Development Expenses Under the Enterprise Income Tax Law ("EITL")
- Indirect Tax Programs
  - Import Tariff and Value Added Tax Reductions to Foreign-Invested Enterprises and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries
- Grant Programs
  - Government of China and Sub-Central Government Subsidies for the Development of Famous Brands and China World Top Brands
  - Special Fund for Energy Savings Technology Reform

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<sup>15</sup> *Rubber Bands from Thailand, the People's Republic of China, and Sri Lanka: Initiation of Countervailing Duty Investigations*, 83 FR 8429, February 27, 2018.

<sup>16</sup> *Rubber Bands from the People's Republic of China (China), Enforcement and Compliance, Office of AD/CVD Operations, Countervailing Duty Investigation Initiation Checklist*, February 20, 2018.

- Small and Medium-Sized Enterprises (“SME”) International Market Exploration/Development Fund
- SME Technology Innovation Fund
- Export Assistance Grants

## **Sri Lanka**

Commerce identified the following government programs in Sri Lanka:<sup>17</sup>

- Export Development Reward Scheme
- Tax Concessions for Specified Undertakings
- Tax Concessions for Exporters of Non-Traditional Products
- Incentives for Producers and Suppliers of Exporters
- Incentives for New Undertakings
- Incentives for Certain New Undertakings in Certain Areas
- Incentives for New Undertakings in Any Lagging Region
- Incentives for Certain Undertakings with High Investments
- Port and Airport Levy Preferences
- Tax Incentives from the Board of Investment of Sri Lanka
- Exemptions/Concessions for Fiscal Levies on Capital Goods and Equipment
- Export Processing Zones
- Sri Lanka Export Development Board Assistance
- Export Credit Guarantees from the Sri Lanka Export Credit Insurance Corporation
- Guaranteed Price Scheme for Rubber
- Planting and Replanting Subsidies for Natural Rubber Producers
- Developing New Farming Clusters (Nucleus/Plasma) by the Private Sector
- Expanding the Extent of Rubber in the Estates Managed by Regional Plantation Company, Janatha Estates Development Board, and Sri Lanka State Plantation Corporation
- Adoption of New Technologies and Good Management Practices in Rubber Production

## **Thailand**

Commerce identified the following government programs in Thailand:<sup>18</sup>

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<sup>17</sup> *Rubber Bands from Sri Lanka, Enforcement and Compliance, Office of AD/CVD Operations, Countervailing Duty Investigation Initiation Checklist, February 20, 2018.*

<sup>18</sup> *Rubber Bands from Thailand, Enforcement and Compliance, Office of AD/CVD Operations, Countervailing Duty Investigation Initiation Checklist, February 20, 2018.*

- Investment Promotion Act (“IPA”) Section 28 Exemption from Payment of Import Duties on Machinery
- IPA Section 30 Import Duty Reduction on Raw or Essential Materials Used in Promoted Production Activity
- IPA Section 31 Income Tax Exemption on Net Profit from Promoted Activity
- IPA Section 35 Income Tax Reductions and Rate Reductions in Special Locations or Zones
- IPA Section 36 Export Promotion Programs
- Measures to Promote Improvement of Production Efficiency
- Emergency “Soft” Loans to Rubber Industry
- Grants for Electricity Generation from Biogas and Biomass
- Tax Coupons for Exported Goods
- Industrial Estate Tax Privileges

### **Alleged sales at LTFV**

On February 27, 2018, Commerce published a notice in the *Federal Register* of the initiation of its antidumping duty investigations on rubber bands from China, Sri Lanka, and Thailand.<sup>19</sup> Commerce has initiated antidumping duty investigations based on estimated dumping margins of 27.27 percent for rubber bands from China, 56.54 to 133.13 percent for rubber bands from Sri Lanka, and 28.92 to 78.36 percent for rubber bands from Thailand.<sup>20</sup>

### **THE SUBJECT MERCHANDISE**

#### **Commerce’s scope**

In the current proceeding, Commerce has defined the scope as follows:<sup>21</sup>

*The products subject to these investigations are bands made of vulcanized rubber, with a flat length, as actually measured end-to-end by the band lying flat, no less than ½ inch and no greater than 10 inches; with a width, which measures the dimension perpendicular to the length, actually of at least 3/64 inch and no greater than 2 inches; and a wall thickness actually from 0.020 inch to 0.125 inch. Vulcanized rubber has been chemically processed into a more durable material by*

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<sup>19</sup> *Rubber Bands from the People’s Republic of China, Sri Lanka, and Thailand: Initiation of Less-Than-Fair-Value Investigations*, 83 FR 8424, February 27, 2018.

<sup>20</sup> *Ibid.*

<sup>21</sup> The definition of the scope of the merchandise in the petitions varied somewhat from that defined by Commerce in its initiation of the investigations. Alliance testified that such changes, however, were minor and do not affect the relevancy of the data collected in the Commission questionnaires. Conference transcript, pp. 42-43 (Goldberg).

*the addition of sulfur or other equivalent curatives or accelerators. Subject products are included regardless of color or inclusion of printed material on the rubber band's surface, including but not limited to, rubber bands with printing on them, such as a product name, advertising, or slogan, and printed material (e.g., a tag) fastened to the rubber band by an adhesive or another temporary type of connection. The scope includes vulcanized rubber bands which are contained or otherwise exist in various forms and packages, such as, without limitation, vulcanized rubber bands included within a desk accessory set or other type of set or package, and vulcanized rubber band balls. The scope excludes products that consist of an elastomer loop and durable tag all-in-one, and bands that are being used at the time of import to fasten an imported product. Merchandise covered by these investigations is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheading 4016.99.3510. Merchandise covered by the scope may also enter under HTSUS subheading 4016.99.6050. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigations is dispositive.<sup>22</sup>*

### **Tariff treatment**

Based on the scope set forth by the Department of Commerce, information available to the Commission indicates that the merchandise subject to these investigations are imported under the following provisions of the Harmonized Tariff Schedule of the United States ("HTS"): HTS statistical reporting number 4016.99.35.10 (rubber bands made of vulcanized rubber, except Hard Rubber, of natural rubber). Merchandise covered by the scope may also be imported under HTS statistical reporting number 4016.99.6050 (a residual or "basket" line that may include not only rubber bands other than natural rubber, but also other items that are outside the scope of these investigations). The 2017 general rate of duty is free for HTS subheading 4016.99.35 and is 2.5 percent *ad valorem* for HTS subheading 4016.99.60. Decisions on the tariff classification and treatment of imported goods are within the authority of U.S. Customs and Border Protection.

## **THE PRODUCT**

### **Description and applications**

Rubber bands subject to these investigations are cylindrical tube-shaped elastic bands of vulcanized natural and synthetic rubbers of various lengths, widths, thicknesses, colors, and

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<sup>22</sup> *Rubber Bands from the People's Republic of China, Sri Lanka, and Thailand: Initiation of Less-Than-Fair-Value Investigations*, 83 FR 8424, February 27, 2018; and *Rubber Bands from Thailand, the People's Republic of China, and Sri Lanka: Initiation of Countervailing Duty Investigations*, 83 FR 8429, February 27, 2018.

rubber content, each type having similar characteristics.<sup>23</sup> Since its invention in the mid-1800s in England,<sup>24</sup> natural rubber bands have been the predominant type produced and used worldwide for a multitude of consumer and industrial applications owing to its somewhat lower cost, together with excellent binding and organizational properties associated with superior elasticity, stretch strength, grip, and tear resistance.<sup>25</sup> Natural rubber raw materials used for rubber band production are sourced principally in solid compressed bales produced from the liquid polyisoprene latex derivatives of rubber trees that grow in tropical areas near the equator, particularly in Southeast Asia (Thailand, Indonesia, Vietnam and Malaysia), while synthetic rubbers, e.g., synthetic polyisoprene rubber, are petroleum derivatives.<sup>26</sup> According to petitioner, not as much competition is seen in synthetic rubber bands because of their higher cost, but they are interchangeable.<sup>27 28</sup> However, non-latex synthetic bands, principally produced from synthetic polyisoprene and ethylene-propylene diene monomer (“EPDM”), have hypoallergenic properties that natural rubber does not have. Additionally, EPDM provides superior UV resistance, heat, cold (freezer), ozone, weather, and aging resistance.<sup>29</sup>

Rubber bands are sold in several basic categories, including stationery, paper and packaging for home, office, school, and industrial applications, newspapers, agricultural (produce and floral bands), retail, government and post office, military, commercial fishing (lobster, crab, clam and oyster bands), advertising specialties, and many more.<sup>30 31</sup> Rubber bands are typically sold in the United States to large wholesalers and retailers in plastic packaging and bulk forms.<sup>32</sup>

A variety of assorted general purpose and high quality rubber bands is shown in the following diagrams (figure I-1).

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<sup>23</sup> Petitions, p. 22.

<sup>24</sup> Petitions, p. 10.

<sup>25</sup> <http://www.keenerrubber.com/Glossary.htm> , retrieved February 23, 2018.

<sup>26</sup> Petitions, pp. 12-13.

<sup>27</sup> Conference transcript, p. 42 (Risner).

<sup>28</sup> “Material Safety Data Sheets, Keener Rubber Company,”

[http://www.keenerrubber.com/natural\\_rubber.htm](http://www.keenerrubber.com/natural_rubber.htm);

[http://www.keenerrubber.com/synthetic\\_rubber.htm](http://www.keenerrubber.com/synthetic_rubber.htm) , retrieved February 26, 2018.

<sup>29</sup> Alliance Rubber Company, <http://www.rubberband.com>, retrieved February 27, 2018.

<sup>30</sup> Petitions, pp. 7-25.

<sup>31</sup> Alliance Rubber Company, <http://www.rubberband.com>, retrieved February 26, 2018.

<sup>32</sup> Petitions, p. 22.

**Figure I-1**  
**Rubber bands: Assorted colors and sizes**



Source: Staff Photo Archive.

Rubber bands' sizes are generally standardized by producers into a specified numbering system series detailing lengths and widths, beginning with the series of smaller numbered widths, while the relatively smaller thicknesses, e.g. 0.020 inch to 0.125 inch, may or may not be addressed. Length is always specified as the "lay flat" length, as measured with the cylindrical band flattened on its side as shown in the following diagram (figure I-2).

**Figure I-2**  
**Rubber bands: Standardized dimensions**



Source: Staff Photo Archive.

The rubber band size chart presented in table I-1 details the petitioner's three standard natural rubber band sizes and grades used for a variety of stationery and other applications. Principal band widths and accompanying lay flat lengths are sequentially numbered based on band width sizes principally of 1/16, 1/8, 1/4 and 1/2 inch widths, with lengths ranging from 7/8 inches to 3 1/2 inches or more. Bands of similar widths numbered above 100 are longer and may range up to 10 inches in length or more. According to the petitioner's material safety data sheet ("MSDS") for standard bands of natural rubber, the rubber content may range between

**Table I-1**  
**Rubber bands: Rubber band size chart**

Size <sup>1</sup>	Length in inches	Width in inches	Approximate rubber band count per pound		
			Pale Crepe Gold®	Sterling®	Advantage®
8	7/8	1/16	7455	7100	5200
10	1 1/4	1/16	5300	5000	3700
12	1 3/4	1/16	3850	3400	2500
14	2	1/16	3380	3100	2250
16	2 1/2	1/16	2675	2300	1800
18	3	1/16	2205	1900	1480
19	3 1/2	1/16	1890	1700	1250
27	1 1/4	1/8	NA	2400	NA
30	2	1/8	1770	1500	1150
31	2 1/2	1/8	1330	1200	850
32	3	1/8	1100	950	700
33	3 1/2	1/8	970	850	600
54	Assorted		NA	NA	NA
57	1 3/4	1/4	NA	750	NA
62	2 1/2	1/4	720	600	450
63	3	1/4	600	NA	380
64	3 1/2	1/4	490	425	320
73	3	3/8	360	320	240
74	3 1/2	3/8	320	275	200
82	2 1/2	1/2	320	300	230
84	3 1/2	1/2	240	210	150
94	3 1/2	3/4	NA	140	NA
105	5	5/8	95	70	60
107	7	5/8	60	50	40
117A	7	1/16	600	500	400
117B	7	1/8	300	250	200
Ultimate elongation			775%	750%	700%
Permanent set <sup>2</sup>			7%	10%	13%
Specific gravity			0.99	1.12	1.26
Durometer			35	42	45

<sup>1</sup> Certain respondent standards may vary somewhat from that of U.S. standards, e.g., to include open diameter dimensions as opposed to U.S. lay flat length standards.

<sup>2</sup> The percentage of additional permanent length experienced following an initial band stretch.

Source: Alliance Rubber Company, [www.rubberband.com](http://www.rubberband.com).

45 to 85 percent, with fillers and other additives ranging between 15 to 55 percent.<sup>33</sup> The Pale Crepe Gold® band is reportedly a premium product with the highest rubber content \*\*\*<sup>34</sup> and price,<sup>35</sup> maximum elongation when stretched (775 percent), lowest density (0.99), and best softness (35), and highest band count per pound compared to the Sterling® and Advantage® brands which have progressively lower rubber contents, \*\*\*, lower prices, and higher filler loadings, density, and hardness. The higher filler loadings and densities also lead to a lower maximum elongation and stretch, a stiffer pull, and lower band count per pound. Still, each band grade has its own unique set of properties that best fulfill the requirements of individual purchasers.

### **Manufacturing processes**

Rubber band production begins with raw materials procurement, including various solid forms of purified natural polyisoprene rubber for the intended application, such as the following: ribbed smoked sheet (“RSS”), a darker smoked rubber; technically specified rubber (“TSR”), usually a medium to light colored rubber; and “crepe rubber” a typically more expensive lighter-colored grade of natural rubber. Synthetic rubbers of polyisoprene and ethylene-propylene diene monomer (“EPDM”) are used in the production of synthetic rubber bands, principally by the petitioner. An array of additives must also be procured to process the rubber, including pigments and dyes, mineral fillers, processing oils and associated additives, sulfur for vulcanization and associated curing agents, and antioxidants and various lubricants used in rubber processing and extrusion.<sup>36 37</sup>

The initial basic steps in manufacturing involve mixing the rubber and various additives recipes in a Banbury mixer containing large sigma-shaped blades and a hydraulic ram designed to break down the rubber into a doughy consistency and blend it with the various additives. The homogenous doughy mixture is next dropped onto a rotating mill of two large rotating drums to sheet out the rubber and cut it into narrow strips in preparation for extrusion.<sup>38</sup> Much of the preparation of the various additive recipes is \*\*\*.<sup>39</sup>

The narrow strip rubber recipes are fed continuously into an extruder feed hopper down into the interior of the extruder barrel in which the rubber compound is conveyed by auger-type screws and subjected to shear, becomes plasticized, builds up heat and high pressure, and exits through a die configured to produce a hollow rubber tube of the desired diameter and thickness of the rubber band dimensions being produced.

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<sup>33</sup> Alliance MSDS Datasheet, <http://sds.staples.com/msds/808634.pdf>, retrieved February 1, 2018.

<sup>34</sup> Responses to Commission Staff Questions, Petitioner’s postconference brief, pp. 1-2.

<sup>35</sup> Conference transcript, p. 52 (Risner).

<sup>36</sup> Petitions, pp. 12-14.

<sup>37</sup> Krishna C. Barnwal and Stephens Howard L., “Basic Elastomer Technology,” first edition, Rubber Division, American Chemical Society, 2001.

<sup>38</sup> Petitioner’s postconference brief, pp. 7-8.

<sup>39</sup> Petitioner’s postconference brief, Attachment I, p. 1.

The subsequent tube curing and finishing processes of petitioner and certain subject foreign producers are different.<sup>40</sup> The petitioner's tube cure method is based on a continuous process whereby the extruded hollow tube is \*\*\* as it is fed to a \*\*\*.<sup>41</sup> This results in a crosslinking of sulfur and other curing agents with the natural polyisoprene rubber or synthetic rubbers resulting in a thermoset rubber compound possessing all of the superior properties of a finished rubber band. After exiting the \*\*\*.<sup>42</sup> The lubricious cured tube is next fed to a high speed rotary cutting machine where it is cut into rubber bands of specified width, and then fed to \*\*\*.<sup>43</sup> The finished product is then completed with packaging, labeling, and printing, and is palletized and warehoused for shipment to customers. Each container is manufactured from purchased plastic film or flats of cardboard.<sup>44</sup>

The rubber tube curing processes employed by certain subject foreign producers consist of a number of manual and other processes.<sup>45</sup> As the tube exits the extruder, it is injected internally with talc as a lubricant. The extruded tubes are next manually slid by hand onto a series of long aluminum tubes or poles, known as mandrels, of the given diameter of the tubes and placed on a series of racks in a horizontally positioned high pressure-temperature steam autoclave for curing. The autoclave is closed and curing is effected for a given time period. Following curing, the cured rubber tubes are discharged from the autoclave, cooled, and manually removed (or pulled) from the mandrels. This is followed by manually washing off the talc from the tubes in large water pools. The wet tubes are next flattened and fed through a rotating cutting machine to the desired width of the finished rubber bands. The finished rubber bands are weighed and packaged for shipment.<sup>46 47</sup> A one-pound, heat-sealed plastic bag of size 31 (2 1/2 x 1/8 inch) natural rubber bands of Thailand origin was displayed during the staff conference.<sup>48</sup>

### DOMESTIC LIKE PRODUCT ISSUES

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

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<sup>40</sup> Petitions, p. 12.

<sup>41</sup> Petitioner's postconference brief, Attachment I, p. 3.

<sup>42</sup> Petitioner's postconference brief, Attachment I, p. 4.

<sup>43</sup> Petitioner's postconference brief, Attachment I, pp. 4-5.

<sup>44</sup> Petitions, pp. 13-14.

<sup>45</sup> Respondent Winne's postconference brief and Respondent Schermerhorn's postconference brief, Exhibits 4 and I ("Production Process Flowchart").

<sup>46</sup> Petitions, pp. 12-13 and 23-24.

<sup>47</sup> "How its made, rubber bands." <https://www.wimp.com/how-its-made-rubber-bands/>, retrieved February 1, 2018.

<sup>48</sup> Conference transcript, p. 97 (Jordan).

is coextensive with Commerce’s scope.<sup>49</sup> Respondents Schermerhorn and Winne agree with the petitioner’s definition of the domestic like product for purposes of the preliminary phase of these investigations.<sup>50</sup>

Information regarding the six domestic like product factors was gathered in the Commission questionnaires for the following items: (1) rubber bands excluded from the scope based on size<sup>51</sup> versus in-scope rubber bands; (2) Bedford Elastitag® rubber bands excluded from the petitioner’s scope (as originally filed on January 30, 2018)<sup>52</sup> versus in-scope rubber bands; and (3) in-scope rubber bands made of non-latex versus natural rubber. U.S. producers and importers were asked whether the items were fully comparable or the same, mostly comparable or similar, somewhat comparable or similar, or never or not-at-all comparable or similar for each of the six domestic like product factors. These data are presented in table I-2. Several responding firms provided additional comments concerning comparability of the items. These comments are presented in table I-3.

**Table I-2**

**Rubber bands: Comparability of certain rubber band items, by domestic like product factor**

\* \* \* \* \*

**Table I-3**

**Rubber bands: Comments on comparability of certain rubber band items**

\* \* \* \* \*

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<sup>49</sup> Petitions, p. 20; Petitioner’s postconference brief, p. 8; and conference transcript, p. 45 (Goldberg).

<sup>50</sup> Conference transcript, p. 129 (Levinson).

<sup>51</sup> Rubber bands excluded based on size are as follows: flat length less than 1/2" or greater than 10", a width less than 3/64" or greater than 2", and a wall thickness less than 0.020" or greater than 0.125".

<sup>52</sup> The scope language in the petitions, as originally filed on January 30, 2018, excluded Bedford Elastitag® rubber bands from the subject imported merchandise. The petitioner explains that Bedford Elastitag® rubber bands are colorful elastomer loops and durable tags all-in-one (<http://www.elastitag.com/products/elastitag>) that are produced in the United States by Bedford Industries, Inc. of Worthington, Minnesota. Petitions, p. 8. Subsequent to the filing of the petitions, certain revisions to the scope language at Commerce were made by the petitioner with respect to the original language concerning this exclusion. That is, instead of specifically naming the item, the following physical description of the item was made: “The scope excludes products that consist of an elastomer loop and durable tag all-in-one, . . .” *Rubber Bands from the People’s Republic of China, Sri Lanka, and Thailand: Initiation of Less-Than-Fair-Value Investigations*, 83 FR 8424, February 27, 2018; and *Rubber Bands from Thailand, the People’s Republic of China, and Sri Lanka: Initiation of Countervailing Duty Investigations*, 83 FR 8429, February 27, 2018.

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

### U.S. MARKET CHARACTERISTICS

Rubber bands are used to bundle objects together and are typically sold to large wholesalers and retailers in a wide range of industries including retail, office stationery, newspaper, agricultural, military, and industrial industries.<sup>1 2</sup> Most rubber bands are produced from natural rubber (latex), but synthetic (non-latex) rubber bands are used for medical applications and school applications in which latex allergies are a concern and are preferred for imprinting.<sup>3</sup>

Apparent U.S. consumption of rubber bands decreased by \*\*\* percent during 2015-17.

### CHANNELS OF DISTRIBUTION

The responding U.S. producers' commercial shipments were \*\*\* while subject importers sold mainly to distributors and retailers, although a large share of subject imports were sold to end users as well, as shown in table II-1. Chinese rubber bands were sold almost exclusively to \*\*\*, Sri Lankan rubber bands were sold \*\*\*. Thai rubber bands were sold primarily to distributors, although large shares of Thai commercial shipments were to retailers and end users.

**Table II-1**

**Rubber bands: U.S. producers' and importers' total U.S. shipments, by sources and channels of distribution, 2015-17**

\* \* \* \* \*

### GEOGRAPHIC DISTRIBUTION

The responding U.S. producer reported selling rubber bands to \*\*\* and subject importers reported selling rubber bands to all regions in the contiguous United States (table II-2). For the responding U.S. producer, \*\*\* percent of sales were within 100 miles of their production facility, \*\*\* percent were between 101 and 1,000 miles, and \*\*\* percent were over 1,000 miles. Importers sold 44 percent within 100 miles of their U.S. point of shipment, 43 percent between 101 and 1,000 miles, and 14 percent over 1,000 miles.<sup>4</sup>

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<sup>1</sup> Petitions, pp. 4, 22; Conference transcript, p. 20 (Risner); Petitioner's postconference brief, p. 5.

<sup>2</sup> Conference transcript, p. 19 (Risner).

<sup>3</sup> Conference transcript, p. 36 (Risner).

<sup>4</sup> Shares do not sum up to 100 percent due to rounding.

**Table II-2**  
**Rubber bands: Geographic market areas in the United States served by U.S. producers and importers**

Region	U.S. producers	China	Sri Lanka	Thailand	Subject
Northeast	***	12	***	14	23
Midwest	***	12	***	14	23
Southeast	***	12	***	14	23
Central Southwest	***	12	***	15	24
Mountains	***	12	***	14	23
Pacific Coast	***	14	***	15	26
Other <sup>1</sup>	***	8	***	10	16
All regions (except Other)	***	12	***	14	23
Reporting firms	1	14	2	15	26

<sup>1</sup> All other U.S. markets, including AK, HI, PR, and VI.

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

## SUPPLY AND DEMAND CONSIDERATIONS

### U.S. supply

#### Domestic production

Based on available information, U.S. producers of rubber bands have the ability to respond to changes in demand with moderate-to-large changes in the quantity of shipments of U.S.-produced rubber bands to the U.S. market. The main contributing factor to this degree of responsiveness of supply is the availability of unused capacity. Factors mitigating responsiveness of supply include a limited ability to shift shipments from alternate markets and inventories, and a limited ability to shift production to or from alternate products.

#### Industry capacity

Domestic capacity utilization based on average production capacity<sup>5</sup> increased from \*\*\* percent in 2015 to \*\*\* percent in 2017. However, when based on the U.S. producer's nameplate capacity increased from \*\*\* percent in 2015 to \*\*\* percent in 2017. This moderately high level of capacity utilization suggests that U.S. producers may have some ability to increase production of rubber bands in response to an increase in prices.

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<sup>5</sup> For more information, see Part III.

### ***Alternative markets***

U.S. producers' exports, as a percentage of total shipments, decreased from \*\*\* percent in 2015 to \*\*\* percent in 2017. U.S. producers may have some ability to shift shipments between the U.S. market and other markets in response to price changes.

### ***Inventory levels***

U.S. producers' inventories fluctuated, but increased overall. Relative to total shipments, U.S. producers' inventory levels increased from \*\*\* percent in 2015 to \*\*\* percent in 2017. These inventory levels suggest that U.S. producers may have limited ability to respond to changes in demand with changes in the quantity shipped from inventories.

### ***Production alternatives***

The responding U.S. producer stated \*\*\* switch production from rubber bands to other products.

### **Subject imports<sup>6</sup>**

Table II-3 provides a summary of supply-related data for subject countries.

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<sup>6</sup> For data on the number of responding foreign firms and their share of U.S. imports from China, Sri Lanka, and Thailand, please refer to Part I, "Summary Data and Data Sources."

**Table II-3**

**Rubber bands: U.S. and foreign industry factors that affect ability to increase shipments to the United States**

Item	Capacity (1,000 pounds)		Capacity utilization (percent)		Inventories as a ratio to total shipments (percent)		Ability to shift to alternate product (number of firms)	Home market shipments as a share of total shipments in 2017 (percent)	Exports to markets other than the US as a share of total shipments in 2017 (percent)
	2015	2017	2015	2017	2015	2017			
United States <sup>1</sup>	***	***	***	***	***	***	0	***	***
China <sup>2</sup>	9,100	9,100	***	***	***	***	0	***	***
Sri Lanka	***	***	***	***	***	***	0	***	***
Thailand	***	***	***	***	***	***	0	***	***
Subject	***	***	***	***	***	***	0	***	***

<sup>1</sup> Capacity and capacity utilization are based on average production capacity.

<sup>2</sup> Based on petitioner's estimates. For more information, see Part VII.

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

**Subject imports from China**

Based on available information,<sup>7</sup> producers of rubber bands from China have the ability to respond to changes in demand with moderate changes in the quantity of shipments of rubber bands to the U.S. market.

**Subject imports from Sri Lanka**

Based on available information, producers of rubber bands from Sri Lanka have the ability to respond to changes in demand with moderate changes in the quantity of shipments of rubber bands to the U.S. market. The main contributing factors to this degree of responsiveness of supply are the availability of unused capacity and an ability to shift shipments from alternate markets. Factors mitigating responsiveness of supply include a limited ability to shift shipments from inventories or to shift production to or from alternate products and relatively small capacity.

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<sup>7</sup> Data on the rubber band industry in China are limited. The Commission received one questionnaire from a Chinese exporter that accounted for \*\*\* percent of U.S. imports of rubber bands from China in 2017, and the petitioner provided estimated capacity based on online marketing from six producers in China. For more information, see Part VII.

## **Subject imports from Thailand**

Based on available information, producers of rubber bands from Thailand have the ability to respond to changes in demand with large changes in the quantity of shipments of rubber bands to the U.S. market. The main contributing factors to this degree of responsiveness of supply are the availability of unused capacity and an ability to shift shipments from alternate markets. Factors mitigating responsiveness of supply include an inability to shift production to or from alternate products.

## **Imports from nonsubject sources**

Nonsubject imports accounted for virtually zero percent of total U.S. imports in 2017.<sup>8</sup>

## **Supply constraints**

The vast majority of firms reported that they did not experience any supply constraints. Two importers (\*\*\*) reported supply constraints. \*\*\* reported that the supply shortages were due to harbor strikes and over-booked vessels. Respondent Winne indicated that bad weather in Thailand caused a shortage of raw rubber and that raw rubber producers prioritize other industries, such as the tire industry, over rubber band producers because those other industries are more profitable, thus causing a shortage of rubber for rubber band production during periods of high auto demand.<sup>9</sup> Respondent Winne stated that Alliance refused to sell rubber bands to it in February 2017 because, \*\*\*.<sup>10</sup>

## **U.S. demand**

Based on available information, the overall demand for rubber bands is likely to experience small changes in response to changes in price. The main contributing factors to this responsiveness are the limited range of substitute products and the small cost share of rubber bands in end uses.

## **End uses and cost share**

U.S. demand for rubber bands depends on the demand for rubber bands in a wide range of end uses. Reported end uses include the bundling of office products, agricultural products, industrial products, and retail sale. Petitioner and respondents did not indicate major drivers of demand, although respondent Schermerhorn stated that demand from the newspaper industry

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<sup>8</sup> Based on questionnaire data. For more information, see Part IV.

<sup>9</sup> Conference transcript, p. 140 (Aversano).

<sup>10</sup> Respondent Winne's postconference brief, p. 3 and Exh. 2.

is declining, and that weather affects the demand for rubber bands from the agricultural sectors.<sup>11</sup>

Rubber bands are an end use in and of themselves, and account for a small share of the total cost of a bundle of goods for which they are used.<sup>12</sup>

### Business cycles

Most firms (\*\*\*) 18 of 26 importers) indicated that the market was not subject to business cycles or conditions of competition. Seven importers reported that the rubber band market is subject to business cycles, including seasonality of produce, fisheries, and floral products and the weather effects on these industries. Importer \*\*\* reported that the decline of the newspaper industry has led to a decline in demand from that sector, and importer \*\*\* reported that the fad for bracelet-making crafts declined since 2015 and that \*\*\*.

### Demand trends

A plurality of firms reported constant U.S. demand for rubber bands since January 1, 2015 (table II-4). Eight of 24 responding importers \*\*\* reported fluctuating demand.

**Table II-4**  
**Rubber bands: Firms' responses regarding U.S. demand and demand outside the United States**

Item	Number of firms reporting			
	Increase	No change	Decrease	Fluctuate
Demand inside the United States:				
U.S. producers	***	***	***	***
Importers	---	12	4	8
Demand outside the United States:				
U.S. producers	***	***	***	***
Importers	---	9	1	4

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

Respondent Winne reported that it experienced a sharp decrease in demand for rubber bands from 2016 to 2017 due to a large increase in the cost of its rubber bands from Thailand.<sup>13</sup>

<sup>11</sup> Conference transcript, p. 116 (Jordan).

<sup>12</sup> Rubber bands used in egg dye and tie-dye kits reportedly accounted for 5 percent of the total cost. Importer \*\*\* reported that rubber bands accounted for 15 percent of the total cost of floral products, and 30 percent of newspaper and produce products. Importer \*\*\* reported that rubber bands sold in tubs or packages account for \*\*\* percent of the total cost and rubber bands sold in kits account for about \*\*\* percent of the total cost.

<sup>13</sup> Respondent Winne's postconference brief, p. 5.

## **Substitute products**

Substitutes for rubber bands are limited. Most firms \*\*\* reported that there are no substitutes for rubber bands. Five importers reported substitutes including Plasti-bands, twist ties for bundling lumber or produce, elastic bands or polyplastic for hair ties, and plastic bags to bundle newspapers, and indicated that these substitutes do not affect the price of rubber bands.

## **SUBSTITUTABILITY ISSUES**

The degree of substitution between domestic and imported rubber bands depends upon such factors as relative prices, quality (e.g., grade standards, defect rates, etc.), and conditions of sale (e.g., price discounts/rebates, lead times between order and delivery dates, reliability of supply, product services, etc.). Based on available data, staff believes that there is high degree of substitutability between domestically produced rubber bands and rubber bands imported from subject sources.

### **Lead times**

Rubber bands are primarily sold from U.S. inventories. The responding U.S. producer reported that \*\*\* percent of their commercial shipments were sold from inventories, with lead times averaging \*\*\* days. The remaining \*\*\* percent of their commercial shipments were produced to order, with lead times averaging \*\*\* days. Responding importers reported that about 81 percent of their commercial shipments are sold from inventories with lead times averaging 4 days. Importers reported that about 18 percent of their shipments were produced to order with lead times averaging over 108 days, and that the remaining 2 percent of shipments were sold from foreign inventories with average lead times of 90 days.

### **Factors affecting purchasing decisions**

Purchasers responding to lost sales and lost revenue allegations<sup>14</sup> were asked to identify the main purchasing factors their firm considered in their purchasing decisions for rubber bands. The major purchasing factors identified by firms include price (5 purchasers), quality (4), assortment (2), service (2), loyalty to the supplier and customer demand (1 each).

The petitioner stated that colored rubber bands, rubber bands with imprinting, and odorless rubber bands are some additional characteristics that could lead to higher pricing.<sup>15</sup> According to respondents, purchasers' quality considerations include rubber content, count per

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<sup>14</sup> This information is compiled from responses by purchasers identified by Petitioners to the lost sales lost revenue allegations. See Part V for additional information.

<sup>15</sup> Conference transcript, p. 63 (Risner).

pound, freshness, consistency of dimension, elasticity, durability and strength, packaging, and performance.<sup>16</sup>

### **Rubber content and grades**

Petitioners and respondents highlighted the importance of rubber content in determining the quality and price of rubber bands. Rubber content can range from 50 percent to 95 percent.<sup>17</sup> Higher rubber content amounts increase elasticity, longevity, memory, and the softness of the stretch, and decrease weight.<sup>18</sup> Additionally, higher rubber content increases the count per pound as they weigh less than rubber bands with lower rubber content, and may have a cost advantage when purchased on the basis of weight.<sup>19</sup>

There is no industry standard that defines grades of rubber content.<sup>20</sup> U.S. producer Alliance produces three different grades of rubber bands based on rubber content, and Alliance stated that imported rubber bands from China, Sri Lanka, and Thailand are comparable to grades of U.S.-produced rubber bands.<sup>21</sup> Respondent Schermerhorn reported offering two grades, crepe (high rubber content) and compound (low rubber content), and indicated that it can compete with all grades of U.S.-produced rubber bands.<sup>23</sup>

The petitioner stated that offices and banks may prefer rubber bands with higher rubber content so as to not crinkle the paper and to protect workers' hands and wrists, while industrial and agricultural end users may prefer lower rubber content.<sup>24</sup> Respondent Schermerhorn stated that rubber bands sold through retailers such as Staples and Walmart generally have lower rubber content, which is sufficient for a casual end user that likely prioritizes price, while large operations require premium quality in terms of rubber content.<sup>25</sup>

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<sup>16</sup> Conference transcript, p. 101 (Jordan) and Respondent Schermerhorn's postconference brief, p. 3.

<sup>17</sup> Conference transcript, pp. 51, 54 (Risner) and 112 (Jordan).

<sup>18</sup> Conference transcript, pp. 31-32 (Risner) and 101 (Jordan).

<sup>19</sup> For more information on the effects of rubber content on rubber band prices, see part V.

<sup>20</sup> Conference transcript, pp. 32 (Risner) and 113 (Aversano).

<sup>21</sup> Conference transcript, p. 50 (Risner).

<sup>22</sup> Alliance reported its rubber content as follows: Pale Crepe (\*\*\*) percent), Crepe Sterling (\*\*\*) percent), and Advantage Crepe (\*\*\*) percent). Alliance stated that it can also make \*\*\*. Petitioner's postconference brief, Exh. ALL-2, pp. 1-2.

Respondent Schermerhorn reported importing rubber bands with rubber content of \*\*\* percent and \*\*\* percent. Schermerhorn's postconference brief, p. 4. Respondent Winne reported that it stocks rubber bands with rubber content of \*\*\* percent, \*\*\* percent, \*\*\* percent, and \*\*\* percent. Winne's postconference brief, p. 5.

For additional information regarding U.S. shipments of rubber bands by rubber content, see Part IV.

<sup>23</sup> Conference transcript, pp. 112 and 121 (Jordan).

<sup>24</sup> Conference transcript, pp. 52-54 (Risner and Swayze).

<sup>25</sup> Conference transcript, pp. 101, 123, 135 (Jordan) and 94, 137 (Aversano).

## Private labeling

U.S. producer Alliance produces private label brands in addition to its own, and estimated that \*\*\*.<sup>26</sup> In mid-2016, Staples first contracted with Alliance for its private label business but returned its private label business to Thai suppliers in 2017.<sup>27</sup> The petitioner stated that SP Richards purchases its Sparco brand from Alliance and imports its BSN brand.<sup>28</sup> Alliance stated that it also ships ponytail hair bands to repackaging companies to be later sold in small hair care product packs.<sup>29</sup>

Respondent Winne stated that it primarily imports its own brand and has very little private labeling business due to long lead times and high minimum orders.<sup>30</sup> Respondent Schermerhorn stated that it sells its own brand, Beacon, but does not provide private labeling for its customers.<sup>31</sup>

## Bundling and kits

Most firms did not report bundling their rubber bands with other products into kits. Six of 26 importers \*\*\* reported selling kits that included rubber bands and reported their shares of bundled sales. Three importers reported that about 1 percent of their sales of rubber bands were bundled with other products. \*\*\*. Importer \*\*\* reported that \*\*\* percent of its sales of rubber bands were included in sets with push pins, paper clips, and other desk accessories. Importer \*\*\* reported that \*\*\* percent of its rubber band sales were included in hair accessory kits, and importer \*\*\* reported that \*\*\* percent of its rubber band sales were included in kits. Importer \*\*\* estimated that \*\*\* percent of its rubber bands were sold in \*\*\* reported that Thai- and U.S.-produced rubber bands could be interchangeable, depending on the rubber content of the rubber band.

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<sup>26</sup> Petitioner's postconference brief, Exh. ALL-2, p. 3.

<sup>27</sup> Conference transcript, pp. 24-26 (Risner). Alliance confirmed that Staples had purchased imports from Thailand for their private label account prior to 2016. Conference transcript, p. 39 (Risner).

<sup>28</sup> Conference transcript, p. 27 (Risner).

<sup>29</sup> Conference transcript, p. 81 (Swayze).

<sup>30</sup> Conference transcript, p. 138 (Aversano) and Respondent Winne's postconference brief, p. 7.

<sup>31</sup> Conference transcript, p. 139 (Jordan).

**Table II-5**

**Rubber bands: Interchangeability between rubber bands produced in the United States and in other countries, by country pair**

Country pair	U.S. producers				U.S. importers			
	A	F	S	N	A	F	S	N
United States vs. China	***	***	***	***	7	6	---	---
United States vs. Sri Lanka	***	***	***	***	3	1	---	---
United States vs. Thailand	***	***	***	***	6	4	1	1
China vs. Sri Lanka	***	***	***	***	1	1	---	---
China vs. Thailand	***	***	***	***	3	1	1	---
Sri Lanka vs. Thailand	***	***	***	***	2	1	---	---
United States vs. Other	***	***	***	***	1	1	---	---
China vs. Other	***	***	***	***	1	1	---	---
Sri Lanka vs. Other	***	***	***	***	1	1	---	---
Thailand vs. Other	***	***	***	***	1	1	---	---

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

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

In addition, producers and importers were asked to assess how often differences other than price were significant in sales of rubber bands from the United States, subject, or nonsubject countries. As seen in table II-6, most firms reported that factors other than price are sometimes or never significant in purchasing decisions.

**Table II-6**

**Rubber bands: Significance of differences other than price between rubber bands produced in the United States and in other countries, by country pair**

Country pair	U.S. producers				U.S. importers			
	A	F	S	N	A	F	S	N
United States vs. China	***	***	***	***	1	1	5	4
United States vs. Sri Lanka	***	***	***	***	---	---	2	1
United States vs. Thailand	***	***	***	***	3	---	6	2
China vs. Sri Lanka	***	***	***	***	---	---	1	---
China vs. Thailand	***	***	***	***	2	---	1	---
Sri Lanka vs. Thailand	***	***	***	***	1	---	1	1
United States vs. Other	***	***	***	***	---	---	1	---
China vs. Other	***	***	***	***	---	---	1	---
Sri Lanka vs. Other	***	***	***	***	---	---	1	---
Thailand vs. Other	***	***	***	***	---	---	1	---

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

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

Three importers (\*\*\*) reported that non-price differences between U.S.-produced rubber bands and Thai rubber bands were always significant. Importer \*\*\* reported that it purchases \*\*\* from Thailand so that it \*\*\*. Importer \*\*\* reported that the “world’s best” rubber bands come from Thailand and that it has \*\*\*. Importer \*\*\* reported that quality is always a differentiating factor between product from Thailand compared to product from the United States or from China.

Two importers (\*\*\*) reported that non-price differences between U.S.-produced rubber bands and Chinese rubber bands were always or frequently significant. \*\*\* reported that it imports Chinese rubber bands as part of a finished kit, and \*\*\* reported that it was unable to get U.S.-produced rubber bands packaged domestically, and that it prefers the colors and quality of Chinese rubber bands.



## PART III: U.S. PRODUCER’S PRODUCTION, SHIPMENTS, AND EMPLOYMENT

The Commission analyzes a number of factors in making injury determinations (see 19 U.S.C. §§ 1677(7)(B) and 1677(7)(C)). Information on the subsidies and dumping margins was presented in *Part I* of this report and information on the volume and pricing of imports of the subject merchandise is presented in *Part IV* and *Part V*. Information on the other factors specified is presented in this section and/or *Part VI* and (except as noted) is based on the questionnaire response of one firm that accounted for at least 90 percent of U.S. production of rubber bands during 2017.<sup>1</sup>

### U.S. PRODUCERS

The Commission issued U.S. producer questionnaires to eight firms based on information contained in the petitions. One firm, petitioner Alliance, provided usable data on its production operations.<sup>2</sup> Staff believes that this response represents at least 90 percent of U.S. production of rubber bands.<sup>3</sup> Table III-1 presents the responding U.S. producer of rubber bands, its production locations, position on the petitions, and share of total in-scope rubber band production.

**Table III-1**  
**Rubber bands: U.S. producer, its position on the petitions, location of production, and share of reported production, 2017**

Firm	Position on petitions	Production locations	Share of production (percent)
Alliance	Support	Hot Springs, AR Salinas, CA	100.0
Total			100.0

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

<sup>1</sup> Conference transcript, p. 31 (Risner).

<sup>2</sup> A second firm, \*\*\*, submitted a letter to the Commission confirming it produces rubber bands within the scope of these investigations and declining to complete the U.S. producer questionnaire. In the letter, the firm states \*\*\*. Another firm, \*\*\*, confirmed via email that it does not produce natural rubber bands, but it produces only a small amount of synthetic rubber bands that are of sizes outside the scope of these investigations. This firm also noted that \*\*\*. Additionally, one firm, \*\*\*, submitted a “NO” response to the U.S. producer questionnaire. Letter from \*\*\*, February 12, 2018; email from \*\*\*, February 22, 2018; and \*\*\* U.S. producer questionnaire.

<sup>3</sup> Conference transcript, p. 31 (Risner). In response to staff questions regarding domestic production, \*\*\* reported production of approximately \*\*\* pounds of in-scope and out-of-scope rubber bands in 2017. The firm would not estimate the share of in-scope production. Total rubber bands produced by \*\*\* were approximately \*\*\* percent of Alliance’s reported in-scope domestic production in 2017. In its letter to the Commission, the firm stated \*\*\*. Email from \*\*\*, February 13, 2018 and letter from \*\*\*, February 12, 2018.

Alliance reported it was not related to or affiliated with any foreign producers of rubber bands or U.S. importers of rubber bands. Nonetheless, as discussed in greater detail below, Alliance directly imported rubber bands from \*\*\* during 2015-17.

Alliance reported \*\*\* change in operations since January 1, 2015. In 2017, Alliance built a \$1.3 million, 20,000 square foot warehouse to store 90 loads of crude rubber purchased by the firm in order to produce rubber bands for the private label contract it signed with Staples in 2015.<sup>4</sup> The petitioner reported that the commitment to the Staples contract required them to take possession and store rubber in order to secure a set, low price for the raw material input.<sup>5</sup> In 2017, Staples did not renew its contract with Alliance,<sup>6</sup> but instead sourced its private label rubber bands from a producer in Thailand that offered a price half that of the petitioner.<sup>7</sup> The firm states, “because Alliance no longer provides the Staples private label bands, 80 percent of the new warehouse space is now empty.”<sup>8</sup>

### **U.S. PRODUCTION, CAPACITY, AND CAPACITY UTILIZATION**

Table III-2 and figure III-1 present the U.S. producer’s production, capacity, and capacity utilization. Total reported or “nameplate capacity” was \*\*\* pounds in 2015-17.<sup>9</sup> Staff estimates “average production capacity” to be \*\*\* pounds over the period.<sup>10</sup> Production of rubber bands

---

<sup>4</sup> According to the petitions, prior to 2015 Staples purchased its private label rubber bands from O B Srithepthal Rubber & Products Co. of Thailand. Alliance secured the private label account with Staples in 2015 as a result of “aggressive pricing.” Due to production time lags, Alliance did not begin fulfilling orders for the contract until mid-2016. Staples is a current and long-time customer of Alliance’s branded rubber bands. Petitions, pp. 33-34 and conference transcript, p. 37 (Risner).

<sup>5</sup> In response to staff questions about industry practices of building warehouses for 1-2 year contracts, witnesses for the petitioner testified that “if you don’t have access to the rubber that you bought at a set price, then the price of rubber could fluctuate during the term of that contract and you would be stuck with a loss.” The petitioner stated they are not aware of a market for hedging the price of rubber. Furthermore, the petitioner stated “had Alliance not built the warehouse it risked losing the Staples business because it did not have adequate inventory of rubber on site to fill the large Staples order.” Conference transcript, pp. 38 and 82 (Risner) and Petitioner’s postconference brief, p. 4.

<sup>6</sup> Witnesses for the petitioner testified that contracts for large customers are at least 12 months but can vary up to 24 or 36 months, depending on the customer. Conference transcript, p. 39 (Risner).

<sup>7</sup> The loss of the Staples private label business precipitated Alliance’s petitions for import relief. Although Staples decided not to renew the contract in the spring of 2017, Alliance continued to service Staples’ private label rubber bands throughout 2017 due to production and importing time lags. The petitioner contends that the lost sales will materially injure Alliance beginning in 2018. Conference transcript, pp. 37-39 (Risner); Petitioner’s postconference brief, p. 19.

<sup>8</sup> Petitions, p. 37

<sup>9</sup> Alliance calculated nameplate capacity based on \*\*\*. Witnesses for the petitioner testified that in 1999 Alliance ran three full-time shifts, producing 25.5 million pounds of rubber bands a year, and that Alliance could “easily handle 30 million pounds a year” on existing equipment. Alliance’s U.S. producer questionnaire, p. 7 and conference transcript, pp. 77-78 (Swayze).

<sup>10</sup> Alliance reported \*\*\*. Alliance’s postconference brief, p. 31. Based on Alliance’s current operations, staff estimates reported capacity is above what the firm could reasonably have expected to

*(continued...)*

increased every year since 2015 and was \*\*\* percent higher in 2017 compared with 2015. The petitioner stated the increase in production is “strictly due to the Staples private label business. Without that, {Alliance} would have seen a slight decrease.”<sup>11</sup> Nameplate capacity utilization has increased by \*\*\* percent since 2015 to \*\*\* percent in 2017. Capacity utilization based on average production capacity increased from \*\*\* percent in 2015 to \*\*\* percent in 2016 and was \*\*\* percent in 2017. Because Staples did not renew the private label contract, Alliance expects to experience a negative impact from the loss of that business beginning in 2018 and argues that additional customers may also switch to foreign-produced rubber bands.<sup>12</sup>

**Table III-2**

**Rubber bands: U.S. producer’s capacity, production, and capacity utilization, 2015-17**

\* \* \* \* \*

**Figure III-1**

**Rubber bands: U.S. producer’s capacity, production, and capacity utilization, 2015-17**

\* \* \* \* \*

**Alternative products**

Alliance testified that the firm does not produce rubber bands outside of the scope of these investigations.<sup>13</sup> In addition, Alliance reported being unaware of any U.S. production of out-of-scope rubber bands.<sup>14</sup>

**U.S. PRODUCER’S U.S. SHIPMENTS AND EXPORTS**

The U.S. producer’s U.S. shipments of rubber bands account for approximately \*\*\* percent of total shipments by quantity and by value, and the share of U.S. shipments relative to exports has increased since 2015. Total shipments by quantity increased by \*\*\* percent from 2015 to 2017, as the \*\*\* percent decrease in exports was offset by the \*\*\* percent increase in U.S. shipments. Similarly, total shipments by value increased by \*\*\* percent from 2015 to 2017, as the \*\*\* percent decrease in exports was offset by the \*\*\* percent increase in U.S. shipments. The average unit value (dollars per pound) of total shipments of rubber bands was constant from 2015 to 2016 but declined by \$\*\*\* in 2017, mirroring the trend in the average

*(...continued)*

attain during the specified period. Estimated average production capacity is based on nameplate capacity multiplied by \*\*\*.

<sup>11</sup> Conference transcript, p. 33 (Risner).

<sup>12</sup> Petitions, pp. 1-2 and 37-40.

<sup>13</sup> Conference transcript, pp. 45-46 (Risner).

<sup>14</sup> U.S. producer \*\*\* verified via email that it produces out-of-scope rubber bands but did not specify how much of its production was outside the scope of these investigations. Additionally, U.S. producer \*\*\* confirmed via email that it produces a small amount of out-of-scope, custom-sized, hand cut, synthetic rubber bands, noting \*\*\*. Email from \*\*\*, February 13, 2018; email from \*\*\*, February 22, 2018; and telephone interview with \*\*\*, February 22, 2018.

unit value of U.S. shipments. The average unit value of export shipments of rubber bands fell every year since 2015. The average unit value of U.S. shipments was \$\*\*\*, \$\*\*\*, and \$\*\*\* \*\*\* than export shipments in 2015, 2016, and 2017, respectively. Table III-3 presents the U.S. producer’s U.S. shipments, export shipments, and total shipments.

**Table III-3**  
**Rubber bands: U.S. producer’s U.S. shipments, export shipments, and total shipments, 2015-17**

\* \* \* \* \*

### Shipments by product type

Alliance reported U.S. shipments of rubber bands with rubber content ranging from \*\*\* percent to \*\*\* percent in 2017. \*\*\* of U.S. shipments in 2017 had rubber content above or equal to 50 percent and less than 65 percent. By width, in 2017 Alliance reported \*\*\* percent of U.S. shipments had a width of 1/16 inch,<sup>15</sup> \*\*\* percent had a width of 1/8 inch,<sup>16</sup> and \*\*\* percent had other widths. Further analysis of U.S. shipments by product type is presented in the “Fungibility” section of Part IV.

### U.S. PRODUCER’S INVENTORIES

End-of-period inventories of rubber bands increased by \*\*\* percent from 2015 to 2016 and then declined by \*\*\* percent in 2017. Inventories accounted for between \*\*\* percent and \*\*\* percent of U.S. production, U.S. shipments, and total shipments between 2015 and 2017, and the trend of these ratios since 2015 followed a similar pattern as the quantity of end-of-period inventories. Table III-4 presents the U.S. producer’s end-of-period inventories and the ratio of these inventories to the U.S. producer’s production, U.S. shipments, and total shipments.

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<sup>15</sup> Includes common industry sizes 8 through 19 and 117-A, which have a width of 1/16”. Lengths are as follows: size 8—7/8”, size 10—1 ¼”, size 12—1 ¾”, size 14—2”, size 16—2 ½”, size 18—3”, size 19—3 ½”, and size 117-A—7”.

<sup>16</sup> Includes common industry sizes 27 through 33 and 117-B, which have a width of 1/8”. Lengths are as follows: size 27—1 ¼”, size 30—2”, size 31—2 ½”, size 32—3”, size 33—3 ½”, and size 117-B—7”.

**Table III-4**  
**Rubber bands: U.S. producer’s inventories, 2015-17**

\* \* \* \* \*

In addition, Alliance reported stockpiling inventory of crude rubber to meet production requirements and projections, such as the 90 barrels of purchased rubber for the private label Staples contract, and noted that if there were not adequate inventory of rubber on site to fill customer orders, Alliance would risk losing business.<sup>17</sup>

**U.S. PRODUCER’S IMPORTS AND PURCHASES**

The U.S. producer’s imports and purchases of rubber bands are presented in table III-5. Alliance reported importing approximately \*\*\* pounds of rubber bands from Thailand during 2015-17. Alliance’s imports of in-scope \*\*\* from \*\*\* increased from \*\*\* pounds in 2015 to \*\*\* pounds in 2016 and then declined to \*\*\* pounds in 2017. As a ratio of imports to U.S. production, Alliance’s imports accounted for \*\*\* percent over the period.

**Table III-5**  
**Rubber bands: U.S. producer’s direct imports, 2015-17**

\* \* \* \* \*

**U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY**

Table III-6 shows U.S. producers’ employment-related data. Alliance employed \*\*\* production and related workers (“PRWs”) in 2017 and has maintained a near-constant size workforce since 2015.<sup>18</sup> Total hours worked increased by \*\*\* percent from 2015 to \*\*\* hours in 2016 and held steady in 2017. Total wages paid increased by \*\*\* percent from 2015 to 2016 and were flat in 2017, while hourly wages fluctuated within \*\*\* between 2015 and 2017. Productivity, as measured by pounds produced per hour, increased by \*\*\* percent from 2015 to 2017.<sup>19</sup>

**Table III-6**  
**Rubber bands: U.S. producer’s employment related data, 2015-17**

\* \* \* \* \*

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<sup>17</sup> Conference transcript, p. 34 (Risner); petitions, p. 37; and Petitioner’s postconference brief, p. 4.

<sup>18</sup> When producing full time on three shifts in 1999, Alliance employed 250 people. Conference transcript, p. 77 (Swayze).

<sup>19</sup> Alliance testified to investing in automation over the years. According to witnesses for the petitioner, “if you were to look at {Alliance’s} production facility versus a facility overseas, you would find a lot more automation, a lot more packaging capabilities.” Conference transcript, p. 34 (Risner).



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

### **U.S. IMPORTERS**

The Commission issued importer questionnaires to 89 firms identified as possible importers of rubber bands, as well as to all firms identified as possible U.S. producers of rubber bands.<sup>1</sup> The Commission received questionnaire responses from 26 companies, representing \*\*\* percent of U.S. imports from China, \*\*\* percent of U.S. imports from Sri Lanka, and \*\*\* percent of U.S. imports from Thailand during 2017 under HTS statistical reporting number 4016.99.3510.<sup>2</sup> Table IV-1 lists all responding U.S. importers of rubber bands, their locations, and their shares of reported U.S. imports in 2017.

### **U.S. IMPORTS**

Table IV-2 and figure IV-1 present data for U.S. imports of rubber bands from China, Sri Lanka, Thailand, and all other sources. Import data presented for Sri Lanka and nonsubject countries (i.e., Malaysia) were compiled from Commission importer questionnaire responses because these data are believed to represent \*\*\* of total imports of in-scope rubber bands from these sources.<sup>3</sup> Because of the comparatively lower level of questionnaire responses from importers of rubber bands from China and Thailand (\*\*\*), import data presented for these two subject countries were compiled using adjusted \*\*\* import records. \*\*\* data are presented in this report instead of public official Commerce import statistics because U.S. imports on the basis of quantity are not available from public records for HTS statistical reporting number

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<sup>1</sup> The Commission issued questionnaires to those firms identified in the petitions, along with firms that, based on a review of data provided by U.S. Customs and Border Protection (“Customs”), may have accounted for more than one percent of total imports under HTS statistical reporting number 4016.99.3510 during 2015-17.

<sup>2</sup> The coverage figures were calculated from \*\*\* data, as adjusted to remove data of firms that certified they did not import in-scope rubber bands.

<sup>3</sup> \*\*\* import records are believed to be overstated for imports of in-scope rubber bands from nonsubject sources. Conference transcript, p. 118 (Aversano and Jordan) and p. 44 (Goldberg) (“And then the other countries are just tiny percentages.”).

**Table IV-1**  
**Rubber bands: U.S. importers, their headquarters, and share of total imports by source, 2017**

Firm	Headquarters	Share of imports by source (percent)					
		China	Sri Lanka	Thailand	Subject sources	Nonsubject sources	All import sources
99 cents only	Commerce, CA	***	***	***	***	***	***
ACCO	Lake Zurich, IL	***	***	***	***	***	***
Aero Rubber <sup>1</sup>	Tinley Park, IL	***	***	***	***	***	***
Alliance <sup>2</sup>	Hot Springs, AR	***	***	***	***	***	***
Band-It Rubber	Corona, CA	***	***	***	***	***	***
Buick	Hope Valley, RI	***	***	***	***	***	***
Continental	San Leandro, CA	***	***	***	***	***	***
Dollar Tree	Chesapeake, VA	***	***	***	***	***	***
Duncan	Fresno, CA	***	***	***	***	***	***
Essendant	Deerfield, IL	***	***	***	***	***	***
Family Dollar <sup>3</sup>	Matthews, NC	***	***	***	***	***	***
Great Southern <sup>4</sup>	Memphis, TN	***	***	***	***	***	***
Michaels	Irving, TX	***	***	***	***	***	***
Officemate	Edison, NJ	***	***	***	***	***	***
Rubber Development <sup>5</sup>	Waverly, IA	***	***	***	***	***	***
Schermerhorn <sup>6</sup>	Lombard, IL	***	***	***	***	***	***
Shalom	Dayton, NJ	***	***	***	***	***	***
SP Richards	Smyrna, GA	***	***	***	***	***	***
Staples	Framingham, MA	***	***	***	***	***	***
Target <sup>7</sup>	Minneapolis, MN	***	***	***	***	***	***
Tytan <sup>8</sup>	Lenexa, KS	***	***	***	***	***	***
United Global	Vernon, CA	***	***	***	***	***	***
Unlimited Beauty	Vernon, CA	***	***	***	***	***	***
Walgreen	Deerfield, IL	***	***	***	***	***	***
Walmart	Bentonville, AR	***	***	***	***	***	***
Winne <sup>9</sup>	Mt. Laurel, NJ	***	***	***	***	***	***
Total		***	***	***	***	*** <sup>10</sup>	***

<sup>1</sup> \*\*\*.

<sup>2</sup> \*\*\*.

<sup>3</sup> \*\*\*.

<sup>4</sup> \*\*\*.

<sup>5</sup> \*\*\*.

<sup>6</sup> \*\*\*.

<sup>7</sup> \*\*\*.

<sup>8</sup> \*\*\*.

<sup>9</sup> \*\*\*.

<sup>10</sup> \*\*\*.

<sup>10</sup> Imports of in-scope rubber bands from nonsubject countries (i.e., Malaysia) were reported \*\*\*.

Note.--Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent.

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

**Table IV-2**  
**Rubber bands: U.S. imports by source, 2015-17**

\* \* \* \* \*

**Figure IV-1**  
**Rubber bands: U.S. import volumes and average unit values, 2015-17**

\* \* \* \* \*

4016.99.35.10 (rubber bands of natural rubber).<sup>4</sup> Quantity data compiled from \*\*\* import records are based on shipping weight, which also includes the weight of packaging.<sup>5</sup>

Imports of rubber bands from all three subject sources combined decreased by \*\*\* percent from 2015 to 2017 in terms of quantity and by \*\*\* percent in terms of value. The average unit values of subject imports decreased from \$\*\*\* per pound in 2015 to \$\*\*\* per pound in 2016, before increasing to \$\*\*\* per pound in 2017. Imports of rubber bands for China and Thailand combined (i.e., subject sources minus Sri Lanka) followed the same general trends. The ratio of subject import quantity to U.S. production decreased from \*\*\* percent in 2015 to \*\*\* percent in 2017.

Imports of rubber bands from nonsubject countries (i.e., Malaysia) accounted for \*\*\* during 2015-17. These imports of in-scope rubber bands from Malaysia were reported \*\*\*. \*\*\* noted that it imports \*\*\* from producer Central Elastic in Malaysia and that it \*\*\*. \*\*\* imports of rubber bands from nonsubject sources during 2017. The average unit values of nonsubject imports increased from \$\*\*\* per pound in 2015 to \$\*\*\* per pound in 2016.

Thailand was the largest source for U.S. imports of rubber bands, accounting for \*\*\* percent of the total quantity and \*\*\* percent of the total value of U.S. imports of rubber bands in 2017. U.S. imports from Thailand fell by \*\*\* percent from 2015 to 2017 in terms of quantity and by \*\*\* percent in terms of value. The average unit values of U.S. imports from Thailand, which were the lowest of the three subject countries, remained at \$\*\*\* per pound in 2015 and 2016, but increased to \$\*\*\* per pound in 2017.

China was the second largest source of U.S. imports of rubber bands, accounting for \*\*\* percent of the total quantity and \*\*\* percent of the total value of U.S. imports of rubber bands

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<sup>4</sup> Non-latex or synthetic rubber bands account for a relatively minor share of U.S. imports because rubber bands of natural rubber are normally available at lower costs. Petitions, p. 13; conference testimony, p. 131 (Aversano), p. 132 (Jordan), and p. 42 (Risner) (“we don’t see a lot of competition in the synthetic rubber bands simply due to the fact that the raw material is more costly.”). Only one responding importer (\*\*\*) reported imports of non-latex rubber bands and these imports occurred only during 2017. These imports from China amounted to \*\*\* pounds (\$\*\*\*) during 2017.

<sup>5</sup> Unless otherwise noted, \*\*\* import data presented in this report have been adjusted to remove certain out-of-scope imports reported separately in questionnaire responses (see section IV-2 of the importer questionnaires) and to remove data from the following firms that provided certifications that they did not import rubber bands: \*\*\*.

in 2017. U.S. imports from China (based on quantity) fell by \*\*\* percent from 2015 to 2016, before increasing in 2017 to a level that was \*\*\*-percent lower than that reported in 2015. Imports from China based on value showed a similar trend. The average unit values of U.S. imports from China, which were the highest of the three subject countries in 2015 and 2017, declined from \$\*\*\* per pound in 2015 to \$\*\*\* per pound in 2017.

Sri Lanka was the smallest subject source of imported rubber bands, accounting for \*\*\* percent of the total quantity and \*\*\* percent of the total value of U.S. imports in 2017.<sup>6</sup> U.S. imports from Sri Lanka fell by \*\*\* percent from \*\*\* pounds in 2015 to \*\*\* pounds in 2016, before rising by \*\*\* percent to \*\*\* pounds in 2017, a level that was \*\*\* percent higher than that reported in 2015. A similar trend was reported in terms of value. The average unit values of U.S. imports from Sri Lanka, which was the highest of the three subject countries in 2016, increased from \$\*\*\* per pound in 2015 to \$\*\*\* per pound in 2016, before declining to \$\*\*\* per pound in 2017.

### NEGLIGENCE

The statute requires that an investigation be terminated without an injury determination if imports of the subject merchandise are found to be negligible.<sup>7</sup> Negligible imports are generally defined in the Act, as amended, as imports from a country of merchandise corresponding to a domestic like product where such imports account for less than 3 percent of the volume of all such merchandise imported into the United States in the most recent 12-month period for which data are available that precedes the filing of the petition or the initiation of the investigation. However, if there are imports of such merchandise from a number of countries subject to investigations initiated on the same day that individually account for less than 3 percent of the total volume of the subject merchandise, and if the imports from those countries collectively account for more than 7 percent of the volume of all such merchandise imported into the United States during the applicable 12-month period, then imports from such countries are deemed not to be negligible.<sup>8</sup>

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<sup>6</sup> Respondent testimony indicates that Sri Lanka does not have a major presence in the U.S. market. Conference transcript, p. 118 (Aversano) (“My firm has never really run into an in-scope rubber band made in Sri Lanka. . .”) and p. 118 (Jordan) (“I have a memory of competing against Sri Lankan bands years and years ago. But to my knowledge, neither Sri Lanka nor China is any kind of a factor in the U.S. rubber band market.”).

<sup>7</sup> Sections 703(a)(1), 705(b)(1), 733(a)(1), and 735(b)(1) of the Act (19 U.S.C. §§ 1671b(a)(1), 1671d(b)(1), 1673b(a)(1), and 1673d(b)(1)).

<sup>8</sup> Section 771 (24) of the Act (19 U.S.C § 1677(24)).

Table IV-3 presents data on U.S. imports of rubber bands during the 12-month period preceding the filing of the petitions for which data are available. Three separate sets of import data are presented for comparison purposes: (1) import data for China and Thailand compiled from adjusted \*\*\* import statistics<sup>9</sup> and import data for Sri Lanka and nonsubject countries compiled from Commission importer questionnaire responses (equivalent to table IV-2), (2) import data for all countries compiled from unadjusted \*\*\* import statistics, except for the use of importer questionnaire data submitted by importer \*\*\*, as a large portion of its imports from Sri Lanka are confirmed out-of-scope imports, and (3) import data compiled from adjusted \*\*\* import statistics for China and Thailand and from importer questionnaire responses for nonsubject country imports (equivalent to table IV-2), but using foreign producer questionnaire data for exports to the United States \*\*\* in lieu of either importer questionnaire responses or \*\*\* records for imports from Sri Lanka.

**Table IV-3**  
**Rubber bands: U.S. imports in the twelve months preceding the filing of the petitions**

\* \* \* \* \*

All three sets of data show that reported imports from Sri Lanka individually accounted for less than 3 percent of the total volume of the imported subject merchandise during the most recent 12-month period for which data are available that precedes the filing of the petitions. Depending on the methodology, imports from Sri Lanka accounted for \*\*\* percent of the total volume of subject imports in 2017, China accounted for \*\*\* percent of the total, and imports from Thailand accounted for \*\*\* percent of the total.

### CUMULATION CONSIDERATIONS

In assessing whether imports should be cumulated, the Commission determines whether U.S. imports from the subject countries compete with each other and with the domestic like product and has generally considered four factors: (1) fungibility, (2) presence of sales or offers to sell in the same geographical markets, (3) common or similar channels of distribution, and (4) simultaneous presence in the market. Information regarding channels of distribution, market areas, and interchangeability appear in Part II. Additional information concerning fungibility, geographical markets, and simultaneous presence in the market is presented below.

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<sup>9</sup> \*\*\* import data are adjusted to remove certain out-of-scope imports reported separately in questionnaire responses (see section IV-2 of the importer questionnaires) and to remove firms that provided certifications that they did not import rubber bands.

## Fungibility

### Rubber content

Respondents' arguments concerning rubber content of rubber bands made from natural rubber were first introduced into the record of this proceeding at the staff conference on February 20, 2018. Up to three levels of rubber bands graded by rubber content were broadly discussed at the conference (e.g., Alliance's Pale Crepe Gold<sup>®</sup>, Sterling<sup>®</sup>, and Advantage<sup>®</sup> rubber bands and Schermerhorn's Crepe and Compound rubber bands), but the range of rubber content for each grade was not clearly defined at that point due to the sensitive nature of company information.<sup>10</sup> Generally, the higher the rubber content, the better the attributes of the rubber band, including increased elasticity, longevity, memory, and modulus, as well as a softer stretch.<sup>11</sup> Parties testified that the rubber content of rubber bands made from natural rubber generally ranges from about 50 percent on the low end to 95 percent on the high end.<sup>12</sup>

Based on conference testimony concerning the levels of rubber content for which it was most appropriate to gather information, Commission staff sent an additional request to questionnaire recipients to provide data breakouts for their U.S. shipments based on five levels of rubber content.<sup>13</sup> The sole responding U.S. producer and 17 of 25 responding U.S. importers provided data in response to the additional staff request. One importer from China (\*\*\*) indicated that it did not know the rubber content of the rubber bands it imported.

Data concerning the U.S. producer's and U.S. importers' U.S. shipments of rubber bands, by rubber content, are presented in table IV-4. These data may be affected somewhat by inconsistent methods of rubber content calculation and/or certain misperceptions of rubber content. There is no industry standard for the calculation of rubber content in that some firms include rubber oil as part of the rubber content and some do not.<sup>14</sup> In addition, there may be general industry misperceptions and/or false portrayals concerning rubber content, as some firms may falsely advertise a more desirable, higher rubber content product.<sup>15</sup>

**Table IV-4**

**Rubber bands: Shares of U.S. producer's and importers' U.S. shipments, by rubber content, 2017**

\* \* \* \* \*

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<sup>10</sup> Conference transcript, pp. 31-32 (Risner) and pp. 112-114 (Jordan).

<sup>11</sup> Conference transcript, pp. 31-32 (Risner).

<sup>12</sup> Conference transcript, pp. 54-55 (Risner), p. 114 (Jordan), and p. 126 (Adelizzi).

<sup>13</sup> Conference transcript, p. 129 (Levinson) ("as long as you draw the lines at the same places for everybody {then} you'll have a meaningful comparison").

<sup>14</sup> Email from \*\*\*, February 23, 2018 ("\*\*\*"). Alliance states that "\*\*\*." Alliance Rubber Co.'s Response to February 20, 2018 Follow-Up Questions \*\*\*, February 22, 2018.

<sup>15</sup> Conference transcript, p. 54 (Risner) ("I have seen quotes come through from Thailand that would say 100 percent rubber. . . But it would be impossible to create a rubber band with 100 percent rubber") and Email from \*\*\*, February 21, 2018 ("\*\*\*").

\*\*\* of the U.S. producer's U.S. shipments of rubber bands and \*\*\* of Thai importers' U.S. shipments were low-grade rubber bands (i.e., at least 50 percent but less than 65 percent rubber content). \*\*\* U.S. producer's U.S. shipments were mid-grade rubber bands (i.e., at least 65 percent but less than 80 percent rubber content), whereas \*\*\* of the Thai importers' U.S. shipments were mid-grade rubber bands. \*\*\* of the Thai importers' U.S. shipments were high-grade rubber bands (i.e., at least 80 percent but less than 95 percent rubber content) and \*\*\* of the U.S. producer's U.S. shipments were high-grade rubber bands. Mid-grade and high-grade rubber bands accounted for \*\*\* of U.S. shipments of imports from China, whereas \*\*\* were rubber bands with a rubber content of \*\*\*. \*\*\* of the Sri Lankan importers' U.S. shipments were \*\*\*-grade rubber bands with \*\*\* percent rubber content.

### Rubber band types

Petitioner Alliance detailed several major groupings of standard natural rubber band sizes that are used for a variety of stationery and other applications (figure IV-2).<sup>16</sup> Data on three major groupings, as well as data on rubber band balls, were requested by the Commission in its questionnaires in this proceeding.

Data concerning U.S. producer and importers' U.S. shipments of rubber bands, by type are presented in table IV-5. These data show that during 2017, \*\*\* percent of all U.S. shipments of rubber band balls were imports from Thailand.<sup>17</sup> U.S. shipments of common rubber band sizes with a width of 1/16" were comprised of \*\*\* percent Thai product, \*\*\* percent U.S. product, and \*\*\* percent Chinese product. U.S. shipments of common rubber band sizes with a width of 1/8" were comprised of \*\*\* percent U.S. product, \*\*\* percent Thai product, and \*\*\* percent Chinese product. U.S. shipments of other rubber band sizes were comprised of \*\*\* percent U.S. product,<sup>18</sup> \*\*\* percent Thai product,<sup>19</sup> and \*\*\* percent Chinese product.<sup>20</sup> \*\*\* of the U.S. producer's U.S. shipments of rubber bands and \*\*\* of Thai importers' U.S. shipments of rubber bands were of the "other" sizes, whereas \*\*\* of the Chinese importers' U.S. shipments of rubber bands were of certain rubber band sizes with a width of 1/16". \*\*\* of the Sri Lankan importers' U.S. shipments of rubber bands were of the "other" sizes.<sup>21</sup>

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<sup>16</sup> Petitions, p. 12.

<sup>17</sup> \*\*\*.

<sup>18</sup> \*\*\*.

<sup>19</sup> \*\*\*.

<sup>20</sup> \*\*\*.

<sup>21</sup> \*\*\*.

**Figure IV-2**

**Rubber bands: Major groupings of standard natural rubber band sizes**



Source: Petitions, Exhibit GEN-1.

**Table IV-5**

**Rubber bands: U.S. producer's and importers' U.S. shipments, by product type, 2017**

\* \* \* \* \*

## Geographical markets

U.S. imports of rubber bands from China and Thailand entered the United States in all four broad regions of the contiguous United States, whereas in-scope U.S. imports of rubber bands from Sri Lanka entered the United States through mostly the North border (table IV-6). \*\*\* of U.S. imports from China and Thailand entered the United States in Customs districts on the East and West borders of the United States with \*\*\* having entered the United States from the North and South borders.

**Table IV-6**  
**Rubber bands: U.S. imports, by border of entry, 2017**

\* \* \* \* \*

## Presence in the market

Table IV-7 and figures IV-3 and IV-4 present monthly U.S. imports during 2015-17. These data show that imports of rubber bands from the subject countries were present in the U.S. market in almost every month from January 2015 to December 2017. Note, however, that the data presented for Sri Lanka are overstated by the amount of out-of-scope merchandise imported \*\*\*.

**Table IV-7**  
**Rubber bands: U.S. imports by month and source, 2015-17**

\* \* \* \* \*

**Figure IV-3**  
**Rubber bands: U.S. imports by month of entry and source for subject countries, January 2015 through December 2017**

\* \* \* \* \*

**Figure IV-4**  
**Rubber bands: U.S. imports by month of entry and source for total subject and nonsubject countries, January 2015 through December 2017**

\* \* \* \* \*

## APPARENT U.S. CONSUMPTION

Table IV-8 and figure IV-5 present data on apparent U.S. consumption of rubber bands. These data show that apparent consumption quantity declined by \*\*\* percent from 2015 to 2017 in terms of quantity and declined by \*\*\* percent in terms of value. The demand for rubber bands depends on the demand in a wide range of end uses, including in the following market sectors: retailers, office supplies, newspapers, agriculture/produce, industrial, beauty products, stationery, paper and packaging, government and Post Office, and ad specialty.<sup>22</sup> The parties noted a decline in use in the newspaper sector with declining newspaper sales and a decline in use in the agriculture sector with the weather-related decline in production of agricultural products associated with the drought in California and hurricane activity in Florida.<sup>23</sup>

**Table IV-8**  
**Rubber bands: Apparent U.S. consumption, 2015-17**

\* \* \* \* \*

**Figure IV-5**  
**Rubber bands: Apparent U.S. consumption, 2015-17**

\* \* \* \* \*

## U.S. MARKET SHARES

U.S. market share data are presented in table IV-10. Market share data based on quantity show that the U.S. producer's market share increased by \*\*\* percentage points from 2015 to 2017 and that the market share held by the subject sources decreased by the same amount.

**Table IV-10**  
**Rubber bands: Market shares, 2015-17**

\* \* \* \* \*

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<sup>22</sup> Conference transcript, p. 7 (Goldberg), p. 13 (Levinson), and p. 15 (Swayze); and petitions, p. 10.

<sup>23</sup> Conference transcript, p. 33 (Risner), p. 116 (Jordan).

## PART V: PRICING DATA

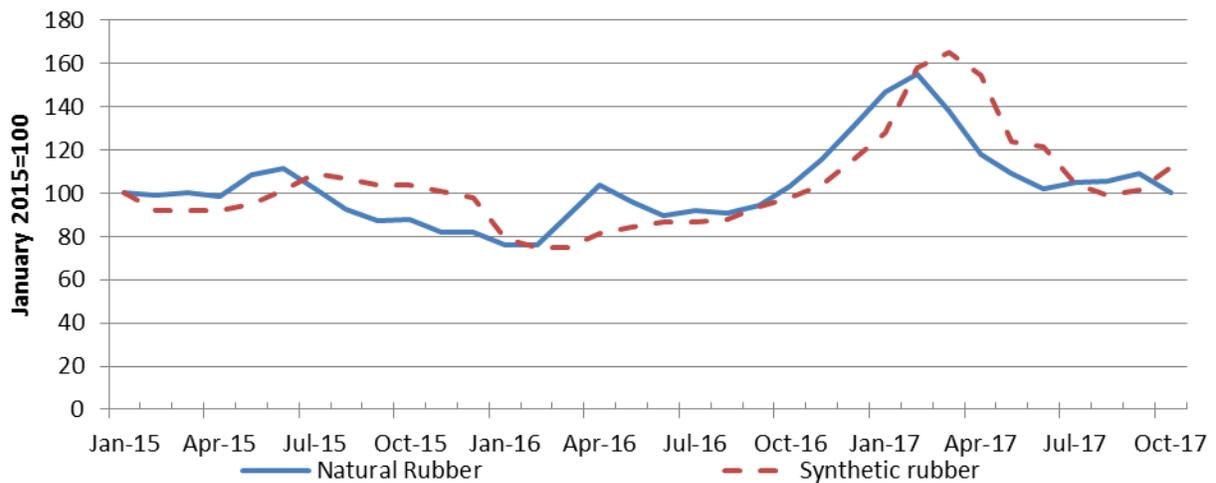
### FACTORS AFFECTING PRICES

#### Raw material costs

The primary raw material in the production of natural (latex) rubber bands is rubber and the primary raw material in the production of synthetic (non-latex) rubber bands is crude oil, which is generally more expensive than rubber.<sup>1</sup> The U.S. producer Alliance reported that it buys larger quantities of rubber when the prices are low, and will delay purchasing rubber when the prices are high.<sup>2</sup> Prices of natural and synthetic rubber fluctuated during January 2015-September 2016, increased through early 2017, and fell to near January 2015 levels in late 2017 (figure V-1).

Figure V-1

Rubber prices: Monthly prices of natural rubber and synthetic rubber, indexed, January 2015=100



Source: Rubber Statistical Bulletin, October-December 2016 and 2017.

Eleven importers reported that raw material costs had not changed since 2015. Nine importers \*\*\* reported that raw material costs had fluctuated.

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<sup>1</sup> Conference transcript, pp. 36, 42, 52 (Risner) and 60 (Swayze). Petitioner stated that it does not face much competition in the synthetic rubber band market because the raw material is more costly, while natural and synthetic rubber bands are, for the most part, interchangeable.

<sup>2</sup> Conference transcript, p. 82 (Risner).

## U.S. inland transportation costs

Most responding firms \*\*\* reported that they typically arrange transportation to their customers. The U.S. producer reported that its U.S. inland transportation costs \*\*\*,<sup>3</sup> while most responding importers reported costs of 1 to 21 percent.

## Rubber content

Rubber content is the largest cost and can affect pricing of rubber bands in multiple ways.<sup>4</sup> Higher rubber content lends itself to higher quality rubber bands that will receive a higher price for the added quality. Alliance stated that price differences between the low rubber content and high rubber content can range from 25 percent to 50 percent<sup>5</sup> and respondent Winne estimated a price difference of \*\*\* percent between rubber bands with its highest and lowest offered rubber content.<sup>6</sup> Respondent Schermerhorn estimated that price differences for rubber bands with rubber content within a \*\*\*-percent rubber-content spread can range from \*\*\* percent to \*\*\* percent, and respondent Winne stated that a \*\*\*-percent difference in rubber content is accompanied by a price difference of about \*\*\* percent.<sup>7</sup> However, higher rubber content lends itself to lighter and more elastic rubber bands, thereby enabling purchasers to purchase smaller sizes that weigh less, and may end up costing less on a per-piece basis.<sup>8</sup>

Respondent Schermerhorn stated that term sheet prices for Thai rubber bands with 50-percent and 55-percent rubber content increased by \*\*\* to \*\*\* percent from the end of 2014 to late 2017, and that rubber bands with rubber content of 75 percent increased by \*\*\* to \*\*\* percent.<sup>9</sup>

Respondent Winne stated that U.S. producer Alliance's rubber bands are generally higher in rubber content than imported rubber bands from Thailand, and that the higher rubber content in U.S. product contributes to the higher prices.<sup>10</sup>

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<sup>3</sup> See U.S. producer \*\*\* questionnaire revision, February 19, 2018.

<sup>4</sup> Conference transcript, pp. 93, 134 (Aversano) and Respondent Winne's postconference brief, p. 3.

<sup>5</sup> Conference transcript, p. 64 (Risner).

<sup>6</sup> Respondent Winne's postconference brief, p. 7.

<sup>7</sup> Respondent Schermerhorn's postconference brief, Exh. 5 and respondent Winne's postconference brief, p. 7.

<sup>8</sup> Conference transcript, pp. 63 (Risner) and 95 (Aversano). U.S. producer Alliance's rubber bands "typically stretch further enabling {purchasers} to drop back a size. Bands are bought by the pound, but used by the piece so a lot of times the high cost of the Pale Crepe Gold could actually be cheaper on a per piece basis." Conference transcript, pp. 53, 65 (Swayze).

Respondent Schermerhorn stated that "your price may go up 20 percent due to the higher grade, but you get 25 more bands in the bag." Conference transcript, p. 111 (Jordan).

<sup>9</sup> Respondent Schermerhorn's postconference brief, p. 4.

<sup>10</sup> Conference transcript, p. 93 (Aversano).

## PRICING PRACTICES

### Pricing methods

U.S. producers and importers reported using transaction-by-transaction negotiations, contracts, price lists, and other methods. As presented in table V-1, the responding U.S. producer \*\*\* and importers sell primarily on a transaction-by-transaction basis.

**Table V-1**  
**Rubber band: U.S. producer's and importers' reported price setting methods, by number of responding firms<sup>1</sup>**

Method	U.S. producer	U.S. importers
Transaction-by-transaction	***	13
Contract	***	7
Set price list	***	9
Other	***	6
Responding firms	1	25

<sup>1</sup> The sum of responses down may not add up to the total number of responding firms as each firm was instructed to check all applicable price setting methods employed.

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

The responding U.S. producer reported selling \*\*\* of its rubber bands under short-term contracts, while importers reported selling half of their shipments on the spot market and a sizeable share under short-term contracts. As shown in table V-2, the U.S. producer and importers reported their 2017 U.S. commercial shipments of rubber bands by type of sale.

**Table V-2**  
**Rubber bands: U.S. producer's and importers' shares of U.S. commercial shipments by type of sale, 2017**

Item	U.S. producer	Subject U.S. importers
Share (percent)		
Share of commercial U.S. shipments.--		
Long-term contracts	***	***
Annual contract	***	***
Short-term contracts	***	***
Spot sales	***	***

Note.--Because of rounding, figures may not add to the totals shown.

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

U.S. producer Alliance reported that it typically bids on an annual basis for higher volume sales.<sup>11</sup> Alliance reported that \*\*\*. \*\*\* most of responding importers that sell through contracts reported that their short-term contracts fix price and quantity, do not allow for price renegotiation, and do not provide meet-or-release provisions.

Purchasers provided a general description of their firms' method of purchase for rubber bands. Three purchasers reported using primarily individual purchase orders and two purchasers reported purchasing via contracts and bids.

#### **Sales terms and discounts**

The responding U.S. producer typically quotes prices on \*\*\* basis and importers typically quote prices on an f.o.b. basis. The responding U.S. producer reported \*\*\* and importers reported offering a variety of discounts while some reported having no discount policy. Importer \*\*\* reported that its pricing is established via contract or price lists, but that it does offer a prompt payment discount and importer \*\*\* reported that it offers a cash discount. Importers \*\*\* reported that discounts depend on the channel of \*\*\* sale, and that they will also offer ad and coupon discounts.

Responding U.S. producer Alliance reported that it offers \*\*\*. Thirteen of 24 importers reported sales terms of net 30 days, and 10 importers reported offering terms ranging from 1 percent 10 net 30 through net 120 days, depending on the customer. Several importers reported selling directly through retail.

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<sup>11</sup> Petitions, p. 12.

## PRICE DATA

The Commission requested U.S. producers and importers to provide quarterly data for the total quantity and f.o.b. value of the following rubber band products shipped to unrelated U.S. customers during January 2015-December 2017.<sup>12</sup>

**Product 1.**--Size #32 rubber bands (3" x 1/8"), natural/latex, sold in 1 lb. poly bags

**Product 2.**--Size #33 rubber bands (3 1/2" x 1/8"), natural/latex, sold in 1 lb. poly bags

**Product 3.**--Size #64 rubber bands (3 1/2" x 1/4"), natural/latex, sold in 1 lb. poly bags

**Product 4.**--Size #18 rubber bands (3" x 1/16"), newspaper size, natural/latex, sold in 1 lb. poly bags

**Product 5.**--Size #14 rubber bands (2" x 1/16"), agricultural size, natural/latex, sold in 1 lb. poly bags

**Product 6.**--Size #16, rubber bands (2 1/2" x 1/16"), agricultural size, natural /latex, sold in 1 lb. poly bags

One U.S. producer and seven importers provided usable pricing data for sales of the requested products, although not all firms reported pricing for all products for all quarters.<sup>13 14</sup> Pricing data reported by these firms accounted for approximately \*\*\* percent of U.S. producers' commercial shipments of rubber bands, \*\*\* percent of shipments of subject imports

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<sup>12</sup> Only two importers \*\*\* that reported imports for internal use or for retail sale indicated that they had imported any of these six pricing products. The remaining eight importers that had imported rubber bands for internal use or retail sale imported other products including small rubber bands for bracelet making.

Importers \*\*\* reported that they imported some rubber bands that fit some of the pricing product definitions but for the 1 lb. bag qualification. Importer \*\*\* reported that it sells rubber bands in \*\*\*. Importer \*\*\* reported that its top rubber band products included \*\*\*.

<sup>13</sup> Per-unit pricing data are calculated from total quantity and total value data provided by U.S. producers and importers. The precision and variation of these figures may be affected by rounding, limited quantities, and producer or importer estimates.

<sup>14</sup> Staff excluded pricing data for product 1 from Thailand that was reported by \*\*\* because it was unable to obtain a revision. See staff email with \*\*\*, February 21, 2018. This importer accounted for about \*\*\* percent of Thai imports in 2017. Its reported AUVs were also \*\*\* and ranged from \*\*\*.

Staff revised quantity data reported by importer \*\*\* for pricing product 6 from Thailand during Q3 2017 because there appeared to be a typo and it was unable to obtain a timely revision. See staff email with \*\*\*, February 23, 2018.

from Sri Lanka,<sup>15</sup> and 36.5 percent of U.S. shipments of subject imports from Thailand in 2017. No useable data were received for rubber bands produced in China.<sup>16</sup>

Rubber content was not included in the pricing definitions, but may affect price levels by 25 percent to 50 percent. Respondents stated that the pricing data do not appropriately account for the rubber content differences, and do not provide comparable pricing data across firms.<sup>17</sup>

Price data for products 1-6 are presented in tables V-3 to V-8 and figures V-2 to V-7.

**Table V-3**

**Rubber bands: Weighted-average f.o.b. prices and quantities of domestic and imported product 1 and margins of underselling/(overselling), by quarters, January 2015-December 2017**

\* \* \* \* \*

**Table V-4**

**Rubber bands: Weighted-average f.o.b. prices and quantities of domestic and imported product 2 and margins of underselling/(overselling), by quarters, January 2015-December 2017**

\* \* \* \* \*

**Table V-5**

**Rubber bands: Weighted-average f.o.b. prices and quantities of domestic and imported product 3 and margins of underselling/(overselling), by quarters, January 2015-December 2017**

\* \* \* \* \*

**Table V-6**

**Rubber bands: Weighted-average f.o.b. prices and quantities of domestic and imported product 4 and margins of underselling/(overselling), by quarters, January 2015-December 2017**

\* \* \* \* \*

**Table V-7**

**Rubber bands: Weighted-average f.o.b. prices and quantities of domestic and imported product 5 and margins of underselling/(overselling), by quarters, January 2015-December 2017**

\* \* \* \* \*

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<sup>15</sup> Importer \*\*\* provided pricing data for pricing products \*\*\*. Staff has excluded the pricing data reported for pricing product \*\*\* due to a lack of comparability to other products for which pricing data were reported. \*\*\*. See staff email with \*\*\*, March 5, 2018.

<sup>16</sup> Importer \*\*\* was the \*\*\*, but reported anomalous data for \*\*\* that did not clearly fall into the pricing product definitions, \*\*\*. Staff interview with \*\*\*, February 15, 2018. For these reasons, staff has excluded the pricing data from the analysis. \*\*\*.

<sup>17</sup> Conference transcript, p. 125 (Aversano).

**Table V-8**

**Rubber bands: Weighted-average f.o.b. prices and quantities of domestic and imported product 6 and margins of underselling/(overselling), by quarters, January 2015-December 2017**

\* \* \* \* \*

**Figure V-2**

**Rubber bands: Weighted-average prices and quantities of domestic and imported product 1, by quarters, January 2015-December 2017**

\* \* \* \* \*

**Figure V-3**

**Rubber bands: Weighted-average prices and quantities of domestic and imported product 2, by quarters, January 2015-December 2017**

\* \* \* \* \*

**Figure V-4**

**Rubber bands: Weighted-average prices and quantities of domestic and imported product 3, by quarters, January 2015-December 2017**

\* \* \* \* \*

**Figure V-5**

**Rubber bands: Weighted-average prices and quantities of domestic and imported product 4, by quarters, January 2015-December 2017**

\* \* \* \* \*

**Figure V-6**

**Rubber bands: Weighted-average prices and quantities of domestic and imported product 5, by quarters, January 2015-December 2017**

\* \* \* \* \*

**Figure V-7**

**Rubber bands: Weighted-average prices and quantities of domestic and imported product 6, by quarters, January 2015-December 2017**

\* \* \* \* \*

**Price trends**

In general, prices decreased during January 2015-December 2017. Table V-9 summarizes the price trends, by country and by product. As shown in the table, domestic price decreases ranged from \*\*\* percent to \*\*\* percent during January 2015-December 2017 while import price decreases ranged from 2.7 to 41.6 percent. Domestic prices increased by \*\*\* for pricing product \*\*\*, and prices for Thai pricing product 5 increased by 4.5 percent.

**Table V-9**  
**Rubber bands: Summary of weighted-average f.o.b. prices for products 1-6 from the United States and China, Sri Lanka, and Thailand**

Item	Number of quarters	Low price (dollars per pound)	High price (dollars per pound)	Change in price over period (percent)
Product 1: United States	12	***	***	***
Thailand	12	***	***	***
Product 2: United States	12	***	***	***
Thailand	12	***	***	***
Product 3: United States	12	***	***	***
Sri Lanka	12	***	***	***
Thailand	12	***	***	***
Product 4: United States	12	***	***	***
Thailand	12	***	***	***
Product 5: United States	12	***	***	***
Thailand	12	***	***	***
Product 6: United States	12	***	***	***
Thailand	12	***	***	***

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

### Price comparisons

As shown in table V-10, prices for product imported from subject countries were above those for U.S.-produced product in 64 of 84 instances (\*\* pounds); margins of overselling ranged from \*\* percent to \*\* percent. In the remaining 20 instances (\*\* pounds), prices for product from subject countries were between \*\* and \*\* percent below prices for the domestic product.

**Table V-10**  
**Rubber bands: Instances of underselling/overselling and the range and average of margins, by product from subject sources, January 2015-December 2017**

Source	Underselling				
	Number of quarters	Quantity (pounds)	Average margin (percent)	Margin range (percent)	
				Min	Max
Product 1	0	0	---	---	---
Product 2	4	***	***	***	***
Product 3	3	***	***	***	***
Product 4	1	***	***	***	***
Product 5	12	***	***	***	***
Product 6	0	0	---	---	---
Total, underselling	20	***	***	***	***
Source	(Overselling)				
	Number of quarters	Quantity (pounds)	Average margin (percent)	Margin range (percent)	
				Min	Max
Product 1	12	***	***	***	***
Product 2	8	***	***	***	***
Product 3	21	***	***	***	***
Product 4	11	***	***	***	***
Product 5	0	0	---	---	---
Product 6	12	***	***	***	***
Total, overselling	64	***	***	***	***

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

### LOST SALES AND LOST REVENUE

The Commission requested that U.S. producers of rubber bands report purchasers where they experienced instances of lost sales or revenue due to competition from imports of rubber bands from China, Sri Lanka, and Thailand during January 2015-December 2017. The sole responding U.S. producer reported that it had to reduce prices and that it had lost sales; it submitted both lost sale and lost revenue allegations to the Commission.

The U.S. producer identified \*\*\* firms where it lost sales or revenue (all \*\*\* consisting of both types of allegations) due to imports of rubber bands \*\*\*, \*\*\*, \*\*\* of its lost sale and lost revenue allegations occurred exclusively during 2017, and most sales were \*\*\*, \*\*\* allegations included lost sales and revenues of \*\*\*. Other rubber bands involved in these allegations include \*\*\*.

Staff contacted \*\*\* purchasers and received responses from five purchasers. Responding purchasers reported purchasing \*\*\* pounds of rubber bands since 2015.<sup>18</sup> During 2017, responding purchasers sourced \*\*\* percent from U.S. producers, \*\*\* percent from

<sup>18</sup> Some purchasers \*\*\* pounds since 2015.

Thailand, and \*\*\* percent from unknown sources (table V-11). No purchasers reported purchasing from Chinese or Sri Lankan sources during January 2015-December 2017.

**Table V-11**  
**Rubber bands: Purchasers’ responses to purchasing patterns**

\* \* \* \* \*

Purchasers reported a variety of changes in their purchasing patterns (table V-12).

**Table V-12**  
**Rubber bands: Changes in purchase patterns from the United States, subject, and nonsubject countries**

Source of purchases	Did not purchase	Decreased	Increased	Constant	Fluctuated
United States	---	1	2	---	2
China	---	---	1	1	---
Sri Lanka	2	---	---	---	---
Thailand	---	2	1	1	1
All other sources	2	---	---	---	---
Sources unknown	2	---	---	---	---

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

Two purchasers reported increased purchases of U.S.-produced rubber bands, while two reported fluctuating purchases. Purchaser \*\*\* reported that it shifted its \*\*\*. Of the purchasers reporting fluctuating purchase patterns, \*\*\* reported that its purchases from U.S. producers were at “close-out” prices, and \*\*\* reported that its purchases of \*\*\* rubber bands are largely dependent on its customers’ demands. Purchaser \*\*\* reported decreased purchases from U.S. producers due to price and quality.

One purchaser each reported increased or constant purchases of Chinese rubber bands.<sup>19</sup> Two responding purchasers reported that they did not purchase rubber bands from Sri Lanka. Two purchasers reported decreasing purchases of rubber bands from Thailand while one purchaser each reported increased, constant, or fluctuating purchases of rubber bands from Thailand.

Of the five responding purchasers, \*\*\* reported that, since 2015, they had purchased imported rubber bands from Thailand instead of U.S.-produced rubber bands, and \*\*\* reported that they had purchased rubber bands from China instead of U.S.-produced rubber bands. \*\*\* of these purchasers reported that subject import prices were lower than U.S.-produced rubber bands and that price was a primary reason for the decision to purchase imported product rather than U.S.-produced product. These \*\*\* purchasers estimated the quantity of rubber bands from subject countries purchased instead of domestic product; quantities ranged from \*\*\* pounds to \*\*\* pounds (table V-13).

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<sup>19</sup> Purchaser \*\*\* reported increasing purchases of Chinese rubber bands because it had consolidated its suppliers to a single source.

In responding to the lost sales and lost revenue survey, purchaser \*\*\* reported that during \*\*\*.

**Table V-13**  
**Rubber bands: Purchasers' responses to purchasing subject imports instead of domestic product**

\* \* \* \* \*

No purchaser reported that U.S. producers had reduced prices in order to compete with lower priced imports from subject countries (table V-14; two reported that they did not know).

**Table V-14**  
**Rubber bands: Purchasers' responses to U.S. producer price reductions**

\* \* \* \* \*



## PART VI: FINANCIAL EXPERIENCE OF U.S. PRODUCERS

### BACKGROUND

One U.S. producer, Alliance, reported its financial results on rubber bands.<sup>1</sup> These data are believed to account for the majority of U.S. production of rubber bands from January 2015 to December 2017.<sup>2</sup> Alliance did not report internal consumption, transfers to related firms, or tolling.

### OPERATIONS ON RUBBER BANDS

Table VI-1 presents the U.S. producer's operations on rubber bands during 2015-17, and table VI-2 presents changes in average unit values ("AUVs") during the same period.

#### Net sales

As shown in table VI-1, Alliance's total net sales quantity steadily rose from \*\*\* and its value steadily rose from \*\*\*.<sup>3</sup>

On a per-pound basis, Alliance's total net sales unit value remained the same from 2015 to 2016 at \$\*\*\* and decreased to \$\*\*\* in 2017.

**Table VI-1**  
**Rubber bands: Results of operations of Alliance, 2015-17**

\* \* \* \* \*

**Table VI-2**  
**Rubber bands: Changes in AUVs, between calendar years**

\* \* \* \* \*

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<sup>1</sup> \*\*\* reported its financial results on a calendar-year basis.

<sup>2</sup> "There are three remaining U.S. manufacturers of rubber bands. Forty years ago there were 14, Alliance alleges these rubber band manufacturers have exited the business due to Asian sourced imports." Conference transcript, pp. 16-17 (Swayze).

<sup>3</sup> In 2018, Alliance will be losing its account with Staples to supply private label rubber bands. Alliance testimony alleges that the loss of its Staples account will have a very significant negative impact on its financial performance. Conference transcript, pp. 24-25 (Risner).

## Cost of goods sold and gross profit

As shown in table VI-1, raw materials represented the largest component of Alliance's COGS, accounting for \*\*\* percent (2015), \*\*\* percent (2016) and \*\*\* (2017) percent of total COGS. The per-pound unit value of raw materials declined from \$\*\*\* in 2015 to \$\*\*\* in 2016 to \$\*\*\* in 2017.<sup>4</sup>

Other factory costs were the second largest component of COGS, representing \*\*\* percent in 2015, \*\*\* percent in 2016 percent and \*\*\* percent in 2017. On a per-unit basis, other factory costs were \$\*\*\* (2015), \$\*\*\* (2016) and \$\*\*\* (2017).

As shown in table VI-1, the per-unit direct labor costs were the smallest component of COGS, accounting for \*\*\* to \*\*\* percent of total COGS during 2015-17. On a per-unit basis, direct labor costs showed an irregular decline during this period from \$\*\*\* (2015) to \$\*\*\* (2016) to \$\*\*\* (2017).

Alliance's total COGS irregularly increased from \$\*\*\* (2015) to \$\*\*\* (2016) and \$\*\*\* (2017). As a ratio to net sales, total COGS generally declined from \*\*\* percent (2015) to \*\*\* percent (2016) to \*\*\* percent (2017).

Alliance's gross profits increased from \$\*\*\* in 2015 to \$\*\*\* in 2016 to \$\*\*\* in 2017. As a ratio to net sales, gross profit generally increased from \*\*\* percent (2015) to \*\*\* percent (2016) to \*\*\* percent (2017).

## Selling general and administrative expenses and operating profit

As shown in table VI-1, Alliance's selling, general, and administrative ("SG&A") expenses ratio (i.e., total SG&A expenses divided by total revenue) moved within a relatively narrow range from \*\*\* percent in 2015 to \*\*\* percent in 2016 and \*\*\* in 2017. On a per-pound basis, Alliance's SG&A expenses were fairly consistent from \$\*\*\* (2015) to \$\*\*\* (2016) and returning to \$\*\*\* (2017).

Alliance reported an irregular increase in operating income during the period. Operating income increased from \$\*\*\* (2015) to \$\*\*\* (2016) and modestly declined to \$\*\*\* (2017). As a ratio to net sales, Alliance's operating income irregularly increased from \*\*\* percent (2015) to \*\*\* percent (2016) to \*\*\* percent (2017).

## All other expenses and net income or (loss)

Alliance reported an increase in interest expense from \$\*\*\* (2015) to \$\*\*\* (2016) and a decrease to \$\*\*\* (2017).<sup>5</sup> Alliance's all other expenses showed a similar pattern with an increase from \$\*\*\* (2015) to \$\*\*\* (2016) to \*\*\* in 2017.<sup>6</sup>

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<sup>4</sup> The firm's raw material costs primarily reflect \*\*\*. \*\*\*, email to Commission staff, February 15, 2018.

<sup>5</sup> \*\*\*. \*\*\*, email to Commission staff, February 15, 2018.

<sup>6</sup> \*\*\*. Ibid.

Alliance’s net income steadily increased during the period of investigation from \$\*\*\* (2015) to \$\*\*\* (2016) and \$\*\*\* (2017). As a ratio to net sales, Alliance’s net income followed the same pattern; increasing from \*\*\* percent (2015) to \*\*\* percent (2016) to \*\*\* percent (2017).

**Variance analysis**

A variance analysis is shown in table VI-3.

**Table VI-3**  
**Rubber bands: Variance analysis for Alliance, between calendar years**

\* \* \* \* \*

**CAPITAL EXPENDITURES AND RESEARCH AND DEVELOPMENT EXPENSES**

Table VI-4 presents Alliance’s capital expenditures and research and development expenses. Alliance reported a large decrease in capital expenditures from 2015 to 2016 and then an increase in 2017 to similar (but lower) levels than in 2015. The firm’s research and development expenses showed a similar pattern from 2015 to 2017.<sup>7 8</sup>

**Table VI-4**  
**Rubber bands: Capital expenditures and research development of Alliance, 2015-17**

\* \* \* \* \*

**ASSETS AND RETURN ON ASSETS**

Table VI-5 presents data on the U.S. producer’s total assets and their return on assets (“ROA”). Alliance’s total assets steadily increased from 2015 to 2017. The firm’s ROA increased from \*\*\* percent in 2015 to \*\*\* percent in 2016 and declined to \*\*\* percent in 2017.

**Table VI-5**  
**Rubber bands: Total assets and ROA for \*\*\*, 2015-17**

\* \* \* \* \*

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<sup>7</sup> Capital expenditures primarily reflect \*\*\*, while research and development expenses \*\*\*. U.S. producer’s questionnaire response, question III-13. \*\*\*.

<sup>8</sup> Alliance testified that the primary reason it built an additional 20,000 square foot warehouse room was to house rubber to be used in the manufacturing of Staples’ rubber bands. Alliance reportedly lost the Staples account to a manufacturer in Thailand. Conference transcript, p. 27 (Risner).

## CAPITAL AND INVESTMENT

The Commission requested U.S. producers of rubber bands to describe any actual or potential negative effects of imports of rubber bands from Thailand, China and Sri Lanka on the firms' growth, investment, ability to raise capital, development and production efforts, or the scale of capital investments. Table VI-6 presents Alliance's responses in a tabulated format and table VI-7 provides the narrative responses.

### Table VI-6

**Rubber bands: Actual and anticipated negative effects of imports on investment, growth, and development**

\* \* \* \* \*

### Table VI-7

**Rubber bands: Narratives relating to the actual and anticipated negative effects of imports on investment, growth, and development, since January 1, 2015**

\* \* \* \* \*

## PART VII: THREAT CONSIDERATIONS AND INFORMATION ON NONSUBJECT COUNTRIES

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 factors<sup>1</sup>--*

- (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,*

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<sup>1</sup> 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.”

- (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),*
- (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).<sup>2</sup>*

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.

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<sup>2</sup> 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."

## THE INDUSTRY IN CHINA

The Commission issued foreign producers' or exporters' questionnaires to 39 firms believed to produce and/or export rubber bands from China.<sup>3</sup> A usable response to the Commission's questionnaire was received from one exporter: Advantus. This firm's exports to the United States accounted for \*\*\* percent of U.S. imports of rubber bands from China in 2017. Advantus reported reselling rubber bands produced by \*\*\* of China.<sup>4</sup>

### Operations on rubber bands

Data on the rubber band industry in China are limited. The petitioner estimates annual capacity in China to be at least 9.1 million pounds.<sup>5</sup> Table VII-1 presents information on rubber band resales exported to the United States by the responding firm in China. Advantus reported \*\*\* pounds and \*\*\* pounds of resales of Chinese rubber bands exported to the United States in 2016 and 2017, respectively, and projected \*\*\* pounds in 2018. Advantus did not report any changes in operations during 2015-17.

**Table VII-1**  
**Rubber bands: Advantus resales exported from China to the United States, 2015-17 and projections for calendar years 2018 and 2019**

\* \* \* \* \*

## THE INDUSTRY IN SRI LANKA

The Commission issued foreign producers' or exporters' questionnaires to six firms believed to produce and/or export rubber bands from Sri Lanka.<sup>6</sup> A usable response to the Commission's questionnaire was received from one firm: Jafferjee.<sup>7</sup> This firm's exports to the

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<sup>3</sup> These firms were identified through a review of information submitted in the petition and contained in \*\*\* records.

<sup>4</sup> According to \*\*\* data, Advantus was the \*\*\* largest foreign producer/exporter in China from 2015 to 2017 and accounted for \*\*\* percent of imports of rubber bands from China over the period. Foreign producer \*\*\* accounted for \*\*\* percent of imports from China during 2015-17, according to \*\*\* data. \*\*\*. In response to staff's questions about exports and production in China, \*\*\*, \*\*\* U.S. importer questionnaire, question II-5a and email from \*\*\*, February 22, 2018.

<sup>5</sup> Petitioner capacity estimate is based on online marketing information from six producers in China. Alliance's postconference brief, p. 38.

<sup>6</sup> These firms were identified through a review of information submitted in the petitions and contained in \*\*\* records.

<sup>7</sup> Another firm, \*\*\*, reported exporting rubber bands produced by Jafferjee of Sri Lanka to the United States during 2015-17. Data provided by this foreign exporter were not included in the aggregate presentation of data in this report so as to avoid double counting.

United States accounted for essentially all U.S. imports of rubber bands from Sri Lanka in 2017.<sup>8</sup> According to the estimate requested of the responding Sri Lankan producer, the production of rubber bands in Sri Lanka reported in questionnaires accounts for less than \*\*\* percent of overall production of rubber bands in Sri Lanka. Table VII- 2 presents information on the rubber band operations of the responding producer in Sri Lanka.

**Table VII-2**  
**Rubber bands: Summary data on Sri Lankan producer Jafferjee, 2017**

\* \* \* \* \*

**Changes in operations**

As presented in table VII-3 Jafferjee reported \*\*\* since January 1, 2015.

**Table VII-3**  
**Rubber bands: Reported changes in operations by Sri Lankan producer Jafferjee, since January 1, 2015**

\* \* \* \* \*

**Operations on rubber bands**

Jafferjee reported stable capacity since 2015 of \*\*\* pounds of rubber bands annually, and the firm does not project an increase in capacity in 2018-19. Capacity utilization has declined since 2015, falling by \*\*\* percentage points from 2015 to \*\*\* percent utilization in 2017. Reported production of in-scope rubber bands was relatively stable in 2015-16 (decreasing only \*\*\* percent year-over-year) and then fell by \*\*\* percent from 2016 to 2017, driven by the decline in exports to other markets (including \*\*\*) of \*\*\* percent year-over-year in 2017.<sup>9</sup> Jafferjee reported exports of \*\*\* pounds of rubber bands to the United States in 2017, \*\*\* percent higher than 2016 but \*\*\* percent lower than 2015. Exports to the U.S. account for an increasing share of Jafferjee’s total shipments, rising from \*\*\* percent in 2015 to \*\*\* percent in 2017, as declines in home market shipments and exports to other markets outweighed the declines in exports to the United States.

Jafferjee projected total shipments would increase by approximately \*\*\* percent each year in 2018 and 2019, with exports to the United States increasing \*\*\* percent from 2017 to 2018 and \*\*\* percent from 2018 to 2019. The firm commented, “\*\*\*\*.” Table VII-4 presents information on the rubber band operations of the responding producer in Sri Lanka.

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<sup>8</sup> Estimation based on comparison between Jafferjee’s reported production and responses to the U.S. importer questionnaire, as well as proprietary \*\*\* data. Jafferjee estimated that it accounted for \*\*\* percent of total Sri Lankan exports of rubber bands to the United States in 2017.

<sup>9</sup> Jafferjee reported \*\*\*. Inventories as a share of production and total shipments were less than \*\*\* percent for all years 2015-17.

**Table VII-4**  
**Rubber bands: Data on industry reported by Sri Lankan producer Jafferjee, 2015-17 and projections for calendar years 2018 and 2019**

\* \* \* \* \*

### Alternative products

As shown in table VII-5, Jafferjee produced other products on the same equipment and machinery used to produce in-scope rubber bands, primarily \*\*\*. Overall capacity utilization declined each year, falling \*\*\* percentage points from 2015 to \*\*\* percent in 2017. In-scope rubber bands accounted for approximately \*\*\* percent to \*\*\* percent of overall production on the same machinery since 2015.<sup>10</sup>

**Table VII-5**  
**Rubber bands: Overall capacity and production on the same equipment as in-scope production by Sri Lankan producer Jafferjee, 2015-17**

\* \* \* \* \*

### THE INDUSTRY IN THAILAND

The Commission issued foreign producers’ or exporters’ questionnaires to 29 firms believed to produce and/or export rubber bands from Thailand.<sup>11</sup> Usable responses to the Commission’s questionnaire were received from three firms: Liang Hah Heng, Progress Rubber, and Srithepthai.<sup>12</sup> These firms’ exports to the United States accounted for essentially all U.S. imports of rubber bands from Thailand in 2017.<sup>13</sup> According to estimates requested of the responding Thai producers, the production of rubber bands in Thailand reported in questionnaires accounts for approximately two-thirds of overall production of rubber bands in Thailand.<sup>14</sup> All of the responding producers in Thailand reported that they did not produce out-

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<sup>10</sup> Jafferjee’s in-scope production includes arrow tab or eyelet bands, which have a tab on one end used to secure a bundle of goods. Approximately \*\*\* percent of Jafferjee’s annual exports to the United States were tab bands in the years 2015-16, and the firm projects the share to be approximately \*\*\* percent in 2018-19. \*\*\*. Email from \*\*\*, February 27, 2018; email from \*\*\*, February 22, 2018; and [http://www.jafrubber.com/products/rb\\_tab\\_bands.php](http://www.jafrubber.com/products/rb_tab_bands.php), retrieved March 1, 2018.

<sup>11</sup> These firms were identified through a review of information submitted in the petition and contained in \*\*\* records.

<sup>12</sup> Another firm, \*\*\*, reported exporting rubber bands produced by Liang Hah Heng of Thailand to the United States during 2015-17. Data provided by this foreign exporter were not included in the aggregate presentation of data in this report so as to avoid double counting.

<sup>13</sup> Estimation based on comparison between Thai producers’ reported production and responses to the U.S. importer questionnaire, as well as proprietary \*\*\* data.

<sup>14</sup> \*\*\* estimated their production to be \*\*\* percent of total rubber band production in Thailand. \*\*\* combined produce approximately \*\*\* the amount of rubber bands as \*\*\*. Staff adjusted \*\*\* estimation  
*(continued...)*

of-scope products on the same equipment and machinery used to produce in-scope rubber bands. Table VII-6 presents information on the rubber band operations of the responding producers and exporters in Thailand.

**Table VII-6**  
**Rubber bands: Summary data on firms in Thailand, 2017**

\* \* \* \* \*

### Operations on rubber bands

All trends in data between 2015 and 2017 are reflective of reported increases or decreases at \*\*\*, \*\*\* reported constant capacity, production, shipment, and inventory data and \*\*\* did not provide data for 2015 or 2016 so staff estimated capacity, production, shipment, and inventory data for those years to be equal to data reported for 2017.

Capacity in Thailand remained stable in 2015-17 and is not projected to change through 2018, as none of the responding producers in Thailand reported any operational and organizational change since January 1, 2015. Total capacity utilization was \*\*\* percent in 2017. \*\*\* reported capacity utilization of \*\*\* percent in 2017, \*\*\* percentage points \*\*\* 2016, and \*\*\* and \*\*\* capacity utilization rates were \*\*\* percent and \*\*\* percent in 2017, respectively. Responding producers in Thailand reported producing \*\*\* pounds of rubber bands in 2017. \*\*\* produced \*\*\* percent \*\*\* pounds of rubber bands in 2017 compared with 2016.

Exports to the United States were \*\*\* pounds or \*\*\* percent of total shipments in 2017. Foreign producer \*\*\* accounted for \*\*\* percent of exports in 2017 from Thailand to the United States despite accounting for \*\*\* percent of reported total shipments in Thailand. Foreign producer inventories as a share of exports from Thailand to the United States were \*\*\* percent in 2017, with \*\*\* reporting a ratio of \*\*\* percent, \*\*\* reporting \*\*\* percent, and \*\*\* reporting \*\*\* percent.

Production of rubber bands in Thailand is estimated to increase by \*\*\* percent from 2017 to 2018 and \*\*\* percent from 2018 to 2019. \*\*\* based its projections on estimated \*\*\* in production of \*\*\* percent,<sup>15</sup> \*\*\* based its projections on annual \*\*\* in production of \*\*\* percent, and \*\*\* estimated projections to equal 2017 data. Exports to the United States are projected to increase by \*\*\* percent from 2017 to 2018 and by \*\*\* percent from 2018 to 2019. Table VII-7 presents information on the rubber band operations of the responding producers and exporters in Thailand.

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(...continued)

by \*\*\* to arrive at the share of production in Thailand reported by responding foreign producers in Thailand.

<sup>15</sup> \*\*\* estimated growth in total production, but did not specify the amount of quantity increases for home market shipments and exports. Staff used the firm's reported growth rate to increase market shipments and exports from 2017 to 2018 and estimated the quantities to remain constant in 2019.

**Table VII-7**  
**Rubber bands: Data on industry in Thailand, 2015-17 and projections for calendar years 2018 and 2019**

\* \* \* \* \*

### **Exports**

According to Global Trade Atlas (“GTA”), the leading export markets for all sizes of vulcanized rubber bands from Thailand are the United States and Europe (table VII-8).<sup>16</sup> During 2015-17, the United States was the top export market for all sizes of vulcanized rubber bands from Thailand, accounting for 15.2 percent in 2017, followed by Italy, accounting for 6.2 percent.

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<sup>16</sup> GTA data are not provided for China and Sri Lanka because rubber bands are reported in a large basket category that is not indicative of trends in the rubber band industry.

**Table VII-8****All sizes of vulcanized rubber bands: Exports from Thailand by destination market, 2015-17**

Destination market	Calendar year		
	2015	2016	2017
	<b>Quantity (1,000 pounds)</b>		
Thailand exports to the United States	12,310	11,108	10,785
Thailand exports to other major destination markets.--			
Italy	3,515	3,877	4,366
Spain	2,944	3,245	3,172
Turkey	2,552	3,303	3,064
Netherlands	2,687	2,921	2,950
Poland	2,416	2,807	2,730
France	2,735	2,702	2,648
United Kingdom	2,345	2,291	2,558
Canada	2,802	2,709	2,557
All other destination markets	35,948	35,928	35,998
Total Thailand exports	70,252	70,891	70,830
	<b>Value (1,000 dollars)</b>		
Thailand exports to the United States	13,224	10,547	11,750
Thailand exports to other major destination markets.--			
Italy	3,119	3,214	4,521
Spain	2,320	2,550	3,045
Turkey	2,217	2,615	3,130
Netherlands	2,336	2,384	3,022
Poland	1,773	1,908	2,184
France	2,987	2,665	3,148
United Kingdom	2,215	1,952	2,638
Canada	2,846	2,538	2,729
All other destination markets	32,874	30,360	36,303
Total Thailand exports	65,911	60,733	72,469

Table continued on next page.

**Table VII-8--Continued**

**All sizes of vulcanized rubber bands: Exports from Thailand by destination market, 2015-17**

Destination market	Calendar year		
	2015	2016	2017
	<b>Unit value (dollars per pound)</b>		
Thailand exports to the United States	1.07	0.95	1.09
Thailand exports to other major destination markets.--			
Italy	0.89	0.83	1.04
Spain	0.79	0.79	0.96
Turkey	0.87	0.79	1.02
Netherlands	0.87	0.82	1.02
Poland	0.73	0.68	0.80
France	1.09	0.99	1.19
United Kingdom	0.94	0.85	1.03
Canada	1.02	0.94	1.07
All other destination markets	0.91	0.85	1.01
Total Thailand exports	0.94	0.86	1.02
	<b>Share of quantity (percent)</b>		
Thailand exports to the United States	17.5	15.7	15.2
Thailand exports to other major destination markets.--			
Italy	5.0	5.5	6.2
Spain	4.2	4.6	4.5
Turkey	3.6	4.7	4.3
Netherlands	3.8	4.1	4.2
Poland	3.4	4.0	3.9
France	3.9	3.8	3.7
United Kingdom	3.3	3.2	3.6
Canada	4.0	3.8	3.6
All other destination markets	51.2	50.7	50.8
Total Thailand exports	100.0	100.0	100.0

Source: Official exports statistics under HS statistical reporting number 4016.9930.000 as reported by Thai Customs in the IHS/GTA database, accessed February 15, 2016.

### INDUSTRIES IN SUBJECT COUNTRIES

Table VII-9 presents information on the rubber band operations of the responding producers in China, Sri Lanka, and Thailand, combined.

**Table VII-9**

**Rubber bands: Data on industry in subject countries combined, 2015-17 and projections for calendar years 2018 and 2019**

\* \* \* \* \*

## U.S. INVENTORIES OF IMPORTED MERCHANDISE

Table VII-10 presents data on U.S. importers' reported inventories of rubber bands since 2015. U.S. importers reported end-of-period inventories of between \*\*\* pounds and \*\*\* pounds of rubber bands from China, less than \*\*\* pounds of rubber bands from Sri Lanka, and more than \*\*\* pounds of rubber bands from Thailand during 2015-17.<sup>17</sup> In-scope Thai rubber bands accounted for \*\*\* percent of all U.S. inventories of in-scope imported rubber bands during 2017. Inventories were relatively stable from 2015 to 2017, declining by \*\*\* percent from \*\*\* pounds in 2015 to \*\*\* pounds in 2016, but increasing in 2017 to a level \*\*\* percent lower than that reported in 2015. Inventories of rubber bands from China as a share of imports, U.S. shipments, and total shipments were lower in 2017 compared with 2015, while inventories of rubber bands from both Sri Lanka and Thailand as a share of imports, U.S. shipments, and total shipments were higher in 2017 compared with 2015. Inventories from subject sources as a share of imports, U.S. shipments, and total shipments ranged from \*\*\* percent to \*\*\* percent during 2015-17.

**Table VII-10**

**Rubber bands: U.S. importers' end-of-period inventories of imports by source, 2015-17**

\* \* \* \* \*

## U.S. IMPORTERS' OUTSTANDING ORDERS

The Commission requested importers to indicate whether they imported or arranged for the importation of rubber bands from China, Sri Lanka, and Thailand during 2018. Table VII-11 presents data on arranged imports. The \*\*\* (\*\*\*) percent) of arranged imports in 2018 are sourced from Thailand.

**Table VII-11**

**Rubber bands: Arranged imports, January 2018 through December 2018**

\* \* \* \* \*

## ANTIDUMPING OR COUNTERVAILING DUTY ORDERS IN THIRD-COUNTRY MARKETS

There are no known trade remedy actions on rubber bands in third-country markets. None of the foreign producers provided information on any antidumping or countervailing duty orders in third country markets in their questionnaire responses. The petitioner noted that it is not aware of any trade remedy actions on rubber bands.<sup>18</sup>

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<sup>17</sup> Respondent Schermerhorn reported investing in "large inventories" of rubber bands to meet customer orders. Conference transcript, p. 116 (Jordan).

<sup>18</sup> Conference transcript, p. 44 (Goldberg).

**APPENDIX A**

***FEDERAL REGISTER* NOTICES**



The Commission makes available notices relevant to its investigations and reviews on its website, [www.usitc.gov](http://www.usitc.gov). In addition, the following tabulation presents, in chronological order, *Federal Register* notices issued by the Commission and Commerce during the current proceeding.

Citation	Title	Link
83 FR 5143 January 30, 2018	<i>Rubber Bands From China, Sri Lanka, and Thailand; Institution of Antidumping and Countervailing Duty Investigations and Scheduling of Preliminary Phase Investigations</i>	<a href="https://www.gpo.gov/fdsys/pkg/FR-2018-02-05/pdf/2018-02176.pdf">https://www.gpo.gov/fdsys/pkg/FR-2018-02-05/pdf/2018-02176.pdf</a>
83 FR 8424 February 20, 2018	<i>Rubber Bands From the People's Republic of China, Sri Lanka, and Thailand: Initiation of Less-Than-Fair-Value Investigations</i>	<a href="https://www.gpo.gov/fdsys/pkg/FR-2018-02-27/pdf/2018-03923.pdf">https://www.gpo.gov/fdsys/pkg/FR-2018-02-27/pdf/2018-03923.pdf</a>
83 FR 8429 February 20, 2018	<i>Rubber Bands From Thailand, the People's Republic of China, and Sri Lanka: Initiation of Countervailing Duty Investigations</i>	<a href="https://www.gpo.gov/fdsys/pkg/FR-2018-02-27/pdf/2018-03922.pdf">https://www.gpo.gov/fdsys/pkg/FR-2018-02-27/pdf/2018-03922.pdf</a>



**APPENDIX B**

**LIST OF STAFF CONFERENCE WITNESSES**



**CALENDAR OF PUBLIC PRELIMINARY CONFERENCE**

Those listed below appeared as witnesses at the United States International Trade Commission’s preliminary conference:

**Subject:** Rubber Bands from China, Sri Lanka, and Thailand  
**Inv. Nos.:** 701-TA-598-600 and 731-TA-1408-1410 (Preliminary)  
**Date and Time:** February 20, 2018 - 9:30 a.m.

Sessions were held in connection with these preliminary phase investigations in the Main Hearing Room (Room 101), 500 E Street, SW., Washington, DC.

**OPENING REMARKS:**

In Support of Imposition (**Roy Goldberg**, Stinson Leonard Street, LLP)  
In Opposition to Imposition (**Lizbeth R. Levinson**, Fox Rothschild LLP)

**In Support of the Imposition of**  
**Antidumping and Countervailing Duty Orders:**

Stinson Leonard Street, LLP  
Washington, DC  
on behalf of

Alliance Rubber Co.

**Bonnie Swayze**, President, Alliance Rubber Co.

**Jason Risner**, Director of Sales and Marketing, Alliance Rubber Co.

**Roy Goldberg** )  
 ) – OF COUNSEL  
**Denyse Zosa** )

**In Opposition to the Imposition of  
Antidumping and Countervailing Duty Orders:**

Fox Rothschild LLP  
Washington, DC  
on behalf of

Schermerhorn Bros. Co.  
Frank Winne & Sons, Inc.

**Kevin J. Jordan**, President, Schermerhorn Bros. Co.

**Robert P. Adelizzi**, Co-President, Frank Winne & Sons, Inc.

**Michael P. Aversano**, Co-President, Frank Winne & Sons, Inc.

**Nicholas R. Adelizzi**, Import Manager, Frank Winne & Sons, Inc.

**Lizbeth R. Levinson** ) – OF COUNSEL

**REBUTTAL/CLOSING REMARKS:**

In Support of Imposition (**Roy Goldberg**, Stinson Leonard Street, LLP)  
In Opposition to Imposition (**Lizbeth R. Levinson**, Fox Rothschild LLP)

**APPENDIX C**  
**SUMMARY DATA**



**Table C-1**  
**Rubber bands: Summary data concerning the U.S. market, 2015-17**

\* \* \* \* \*

