Polyethylene Retail Carrier Bags From China, Malaysia, and Thailand

Investigations Nos. 731-TA-1043-1045 (Preliminary)

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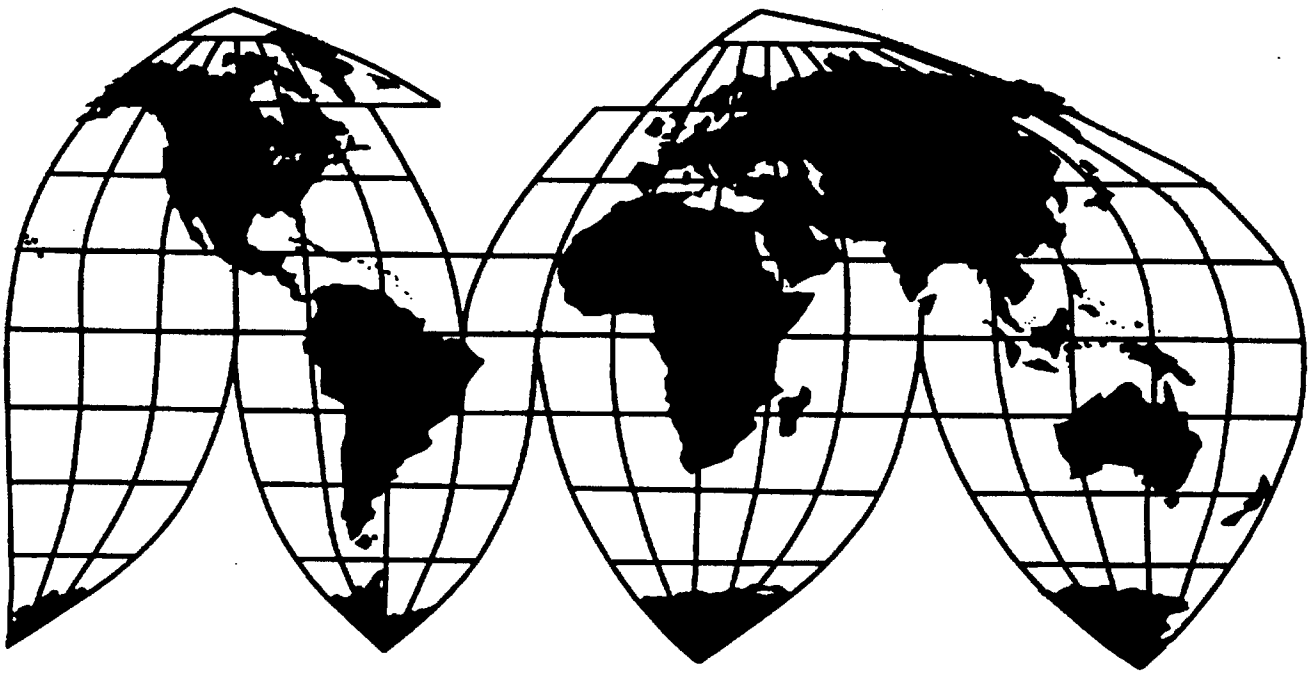
U.S. International Trade Commission



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CONTENTS

	Page
Determinations	1
Views of the Commission	3
Part I: Introduction	I-1
Background	I-1
Summary data	I-2
Petitioners' alleged dumping margins	I-2
The subject product	I-2
Physical characteristics and uses	I-2
The production process	I-3
Distribution and marketing	I-3
Domestic like product issues	I-4
Part II: Conditions of competition in the U.S. market	II-1
Channels of distribution	II-1
Lead times	II-1
Internet sales	II-1
Market segments	II-2
Market leadership	II-2
Supply and demand considerations	II-2
U.S. supply	II-2
U.S. demand	II-3
Cost share	II-4
Substitute products	II-4
Substitutability issues	II-4
Interchangeability	II-4
Non-price differences	II-6
Part III: U.S. producers' production, shipments, and employment	III-1
Part IV: U.S. imports, apparent consumption, and market shares	IV-1
Negligibility	IV-1
Part V: Pricing and related information	V-1
Factors affecting prices	V-1
Raw material costs	V-1
Transportation costs	V-1
Tariff rates	V-1
Exchange rates	V-1
Pricing practices	V-3
Pricing methods	V-3
Sales terms and discounts	V-4
Price data	V-5
Price trends	V-9
Price comparisons	V-10
Lost sales and lost revenues	V-10
Part VI: Financial experience of U.S. producers	VI-1
Background	VI-1
Operations on PRCBs	VI-1
Capital expenditures, research and development expenses, and investment in productive facilities	VI-5
Capital and investment	VI-6

CONTENTS

	Page
Part VII: Threat considerations	VII-1
The Chinese industry	VII-1
The Malaysian industry	VII-1
The Thai industry	VII-4
Remedies in third-country markets	VII-4
U.S. inventories of imported product	VII-4

Appendixes

A. *Federal Register* notices	A-1
B. Calendar of the Commission's conference	B-1
C. Summary data	C-1
D. Alleged effects of subject imports on producers' existing development and production efforts, growth, investment, and ability to raise capital	D-1

Note.–Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigations Nos. 731-TA-1043-1045 (Preliminary)

POLYETHYLENE RETAIL CARRIER BAGS FROM CHINA, MALAYSIA, AND THAILAND

DETERMINATIONS

On the basis of the record[1] developed in the subject investigations, the United States International Trade Commission (Commission) determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)) (the Act), that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports from China, Malaysia, and Thailand of polyethylene retail carrier bags, provided for in subheading 3923.21.00 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).

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. The Commission will issue a final phase notice of scheduling, which will be published in the *Federal Register* as provided in section 207.21 of the Commission's rules, upon notice from the Department of Commerce (Commerce) of affirmative preliminary determinations in the investigations under section 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under section 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.

BACKGROUND

On June 20, 2003, a petition was filed with the Commission and Commerce by the Polyethylene Retail Carrier Bag Committee, an ad hoc coalition of U.S. polyethylene retail carrier bag producers, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of polyethylene retail carrier bags from China, Malaysia, and Thailand. Accordingly, effective June 20, 2003, the Commission instituted antidumping duty investigations Nos. 731-TA-1043-1045 (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 June 27, 2003 (68 FR 38385). The conference was held in Washington, DC, on July 11, 2003, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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

VIEWS OF THE COMMISSION

Based on the record in these investigations, we find that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of polyethylene retail carrier bags (PRCBs) from China, Malaysia, and Thailand that are allegedly sold in the United States at less than fair value.

I. OVERVIEW

There are a wide variety of PRCBs covered by the scope of these investigations, with differing features such as size, shape, thickness of plastic, printing, and color combinations. PRCBs range from "t-shirt sacks" dispensed by grocery stores and discount department stores to so-called "high-end" PRCBs used by some upscale retailers. Domestic consumption of these PRCBs has increased over the POI, partly as a result of population growth, an increasing preference for plastic bags over paper bags, and growing retail sales. PRCB suppliers to this market include over a dozen domestic producers and numerous importers. Some domestic producers also import PRCBs and resell them to customers. Producers and importers sell PRCBs directly to large retailers while distributors buy PRCBs and re-sell smaller orders to retailers. Large retailers like Target Corporation have turned to internet auctions to fill their PRCB requirements, in which both subject import suppliers and domestic producers have participated.

Subject import volume has increased substantially over the period of investigation (POI). Subject imports have gained market share at the expense of the domestic industry, even as domestic PRCB consumption increased. Questionnaire responses indicate that price is an important factor in purchasing decisions and that domestic product and subject imports are substitutable. Subject imports have undersold domestic product in the majority of underselling comparisons, and both domestic and subject import prices have declined over the POI. As subject import volume increased and domestic prices fell, the domestic industry's production was flat, despite an increase in its production capacity (and domestic PRCB consumption). Although still profitable, the domestic industry's financial performance began to suffer declines in the latter part of the POI. Thus, the domestic industry has already been affected to some degree by subject imports and is vulnerable to the further adverse effects of subject imports.

The export-oriented PRCB industries in China, Malaysia, and Thailand have increased their capacity and production during the POI. Taken together, these subject foreign industries maintain substantial unused capacity and project further increases in capacity, production, and exports to the United States in the next two years. Subject import inventories held by importers and exporters have grown. These factors indicate that increasing subject import volumes at price-depressive levels are imminent.

II. 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.[1] In applying this standard, the Commission weighs the evidence

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[1] 19 U.S.C. § 1673b(a); see also American Lamb Co. v. United States, 785 F.2d 994, 1001-04 (Fed. Cir. 1986);

(continued...)

before it and determines whether "(1) the record as a whole contains clear and convincing evidence that there is no material injury or threat of such injury; and (2) no likelihood exists that contrary evidence will arise in a final investigation."[2] [3]

III. DOMESTIC LIKE PRODUCT

A. In General

To determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of the subject merchandise, the Commission first defines the "domestic like product" and the "industry."[4] Section 771(4)(A) of the Tariff Act of 1930, as amended (the Act), defines the relevant domestic industry as the "producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."[5] In turn, the Act defines "domestic like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation ... ."[6]

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.[7] No single factor is dispositive, and the Commission

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[1] (...continued)
Aristech Chemical Corp. v. United States, 20 CIT 353, 354-55 (1996). No party argued that the establishment of an industry is materially retarded by reason of the allegedly unfairly traded imports.

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

[3] In these investigations, petitioners are the Polyethylene Retail Carrier Bag Committee: Inteplast Group, Ltd. ("Inteplast"); PCL Packaging, Inc.; Sonoco Products Company ("Sonoco"); Superbag Corp ("Superbag"); and Vanguard Plastics, Inc. ("Vanguard") (hereinafter collectively called "petitioners"). Respondents are (1) the Thai Plastic Bag Industries Co., Ltd.; C.P. Packaging Industry Co., Ltd.; Thai Griptech Co., Ltd.; K. International Packaging Co., Ltd ("Thai respondents"); (2) Kal-Pac Corporation; Huang Jiang United Wah Plastic Bag Factory; Weifang Hongyuan Plastic Co., Ltd., Linqu Shunxing Plastic Co., Ltd., Shanghai Overseas International Trading Co., Ltd., Nantong Huasheng Plastic Co., Ltd., Rongcheng Huaxu Packing Material Co., Ltd., Suzhou Fanda Plastic Co., Ltd., Shanghai Glopack, Inc., Nanjing Zhenwang Plastic Co., Ltd., Shanghai New Ai Lian Import & Export Co., Ltd., Want Want Group, Beijing Lianbin Plastics & Printing Co. Ltd., Nanjing Yingtong Plastic & Rubber, Shanghai Yafu Plastic & Rubber Industrial Co., Ltd., Xiamen Egre Plastic Co., Ltd., Xiamen Mingbei Plastic & Rubber Co., Ltd., PDI Saneck, CPI Packaging, Progressive Sales, Elkay Plastics, MHI Group, and Glopack Inc. ("Chinese respondents); (3) Associated Merchandising Corporation ("AMC" or "Target"); and (4) the Malaysian Plastic Manufacturers Association ("Malaysian respondents").

[4] 19 U.S.C. § 1677(4)(A).

[5] Id.

[6] 19 U.S.C. § 1677(10).

[7] See, e.g., NEC Corp. v. Department of Commerce, 36 F. Supp.2d 380, 383 (Ct. Int'l Trade 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Torrington Co. v. United States, 747 F. Supp. 744, 749 n.3
(continued...)

may consider other factors it deems relevant based on the facts of a particular investigation.[8] The Commission looks for clear dividing lines among possible like products, and disregards minor variations.[9] Although the Commission must accept the determination of Commerce as to the scope of the imported merchandise allegedly subsidized or sold at LTFV, the Commission determines what domestic product is like the imported articles Commerce has identified.[10] The Commission must base its domestic like product determination on the record in these investigations. The Commission is not bound by prior determinations, pertaining even to the same imported products, but may draw upon previous determinations in addressing pertinent like product issues.[11]

B. Product Description

The scope of these investigations as defined by Commerce in its notice of initiation covers the following imported merchandise:

> [p]olyethylene retail carrier bags, which also may be referred to as t-shirt sacks, merchandise bags, grocery bags, or checkout bags. The subject merchandise is defined as non-sealable sacks and bags with handles (including drawstrings), without zippers or integral extruded closures, with or without gussets, with or without printing, of polyethylene film having a thickness no greater than .035 inch (0.889 mm) and no less than .00035 inch (0.00889 mm), and with no length or width shorter than 6 inches (15.24 cm) or longer than 40 inches (101.6 cm). The depth of the bag may be shorter than 6 inches but not longer than 40 inches (101.6 cm). Polyethylene retail carrier bags are typically provided without any consumer packaging and free of charge by retail establishments (e.g., grocery, drug, convenience, department, specialty retail, and

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[7] (...continued)
(Ct. Int'l Trade 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991) ("every like product determination 'must be made on the particular record at issue' and the 'unique facts of each case' "). The Commission generally considers a number of factors including: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) common manufacturing facilities, production processes, and production employees; and, where appropriate, (6) price. See Nippon, 19 CIT at 455 n.4; Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int'l Trade 1996).

[8] See, e.g., S. Rep. No. 249, 96th Cong., 1st Sess., at 90-91 (1979).

[9] Nippon Steel, 19 CIT at 455; Torrington, 747 F. Supp. at 748-49; see also S. Rep. No. 249 at 90-91 (Congress has indicated that the domestic 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.").

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

[11] See Acciai Speciali Terni S.p.A. v. United States, 118 F. Supp.2d 1298, 1304-05 (Ct. Int'l Trade 2000); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Asociacion Colombiana de Exportadores de Flores v. United States, 693 F. Supp. 1165, 1169 n.5 (Ct. Int'l Trade 1988) (particularly addressing like product determination); Citrosuco Paulista, S.A. v. United States, 704 F. Supp. 1075, 1087-88 (Ct. Int'l Trade 1988).

discount stores, and restaurants) to their customers to package and carry their purchased products. The scope of the petition excludes (1) polyethylene bags that are not printed with logos or store names and that are close-able with drawstrings made of polyethylene film; and (2) polyethylene bags that are packed in consumer packaging with printing that refers to specific end uses other than packaging and carrying merchandise from retail establishments (e.g., garbage bags, lawn bags, trash can liners). Imports of the subject merchandise are classified under statistical category 3923.21.0090 of the Harmonized Tariff Schedule of the United States. This subheading also covers products that are outside the scope of these investigations. Furthermore, although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of these investigations is dispositive.[12]

Retail establishments specify the dimensions, size, shape, strength, handle type, color, and printing of PRCBs as needed to serve their customers. PRCBs may be rectangular bags with an oval, round, or kidney-shaped die-cut handle; t-shirt sacks; drawstring bags; drawtape bags; patch handle bags; rigid handle bags; soft loop bags; sine wave bags; straight top bags; and strap handle bags. PRCBs may be made of either clear or colored polyethylene film and may have no printing or printing on one or both sides. Printing may be in one or more colors. PRCBs are made from high-density polyethylene film ("HDPE"), low-density polyethylene film ("LDPE"), linear low-density polyethylene film ("LLDPE"), or a combination thereof. They are sold to retail establishments in bulk packaging, since they are not intended for resale.[13] [14]

C. Domestic Like Product Issues

The wide variety of PRCBs produced in the United States and imported from China, Malaysia, and Thailand are similar, if not identical. However, the record evidence indicates that there are some subject PRCBs, particularly those requiring manual labor to finish, that are not made in the United States due to higher domestic production costs. These include PRCBs with cardboard inserts at the bottom or top and PRCBs with separately applied handles other than drawcords or those made of polyethylene ("high-end PRCBs").[15]

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[12] 68 Fed. Reg. 42002 (July 16, 2003).

[13] CR at I-3 to I-4; PR at I-2 to I-3; Petition at 3.

[14] The Commission has not previously conducted an investigation of polyethylene retail carrier bags under sections 701 or 731 of the Act. However, one petitioner, Superbag, filed for import relief against Thai Plastics Bags Industries Co., Ltd., Hmong Industries, Inc., Spectrum Plastics, Inc., and Pan Pacific Plastics Mfg., Inc., under section 337 of the Act, 19 U.S.C. § 1337, on April 2, 2003, with respect to certain subject merchandise covered by the scope of these investigations (Inv. No. 337-TA-492). CR at I-2; PR at I-1 to I-2. Superbag is defending the patent that it obtained in 1993 on tabless, self-opening bags, which are dispensed at check-out counters. As one bag is removed from the dispensing rack, the next bag is opened. Conference Tr. at 32-33 (Mr. Bazbaz). The scope of the 337 proceeding is narrower than the scope of these investigations.

[15] CR at I-3 to I-4; PR at I-2 to I-3. U.S. producers estimate that these high–end PRCBs comprise 5 percent or less of total PRCB domestic consumption. CR at I-4; PR at I-3; Petitioners' Postconference Brief at 11-12; Conference Tr. at 55 (Mr. Varn).

Chinese respondents argue that there are clear dividing lines between the "t-shirt" sack and the "high-end" PRCBs and that the Commission should find two separate like products on this basis.[16] In particular, Chinese respondents identify the cardboard insert in the high-end PRCB as the "bright line" between the two products.[17]

Petitioners assert that the Commission should define one domestic like product in these investigations consisting of all PRCBs coextensive with the scope as defined by Commerce.[18] Petitioners acknowledge that PRCBs with cardboard inserts are currently not produced in the United States. However, they dispute respondents' claims that these PRCBs cannot be produced in the United States due to prohibitive labor costs.[19] Petitioners also claim that they produce other bags that compete directly with PRCBs with cardboard inserts.[20]

Although the parties disagree as to whether high-end PRCBs can be produced domestically, the parties agree that high-end PRCBs (i.e., those with cardboard inserts or certain separately applied handles) are currently not produced in the United States.[21] High-end PRCBs are therefore not part of the domestic like product.[22] We next examine what domestically produced articles are "most similar" to the high-end PRCBs included in the scope.[23]

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[16] Chinese Respondents' Postconference Brief at 4-11.

[17] Conference Tr. at 127 (Mr. Creais).

[18] Petition at 16; Petitioners' Postconference Brief at 3.

[19] Petitioners' Postconference Brief at 11; Conference Tr. at 51, 54 (Mr. Dill).

[20] Conference Tr. at 63 (Mr. Dorn).

[21] While we refer to these particular bags as "high-end" PRCBs in these preliminary determinations, it is not clear that these are the only types of bags to which the term "high-end" (as commonly understood) could be applied (e.g., bags sold at higher price points or bags used by upscale merchandisers). Moreover, Chinese respondents identified several other attributes of "high-end" PRCBs: use of thicker gauge polyethylene, inclusion of "many" additional components, ability to stand upright, and more elaborate printing. Chinese Respondents' Postconference Brief at 5-6. It is not clear whether they are arguing that one or more of these other attributes must also be present for a bag to be considered "high end."

[22] See, e.g., Certain Cold-Rolled Steel Products from Argentina, Australia, Belgium, Brazil, China, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, Russia, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, Invs. Nos. 701-TA-422 to 425 (Prelim.) and 731-TA-964 to 983 (Prelim.), USITC Pub. 3471 at 5-6, n.21 (Nov. 2001); Silicomanganese from India, Kazakhstan, and Venezuela, Invs. Nos. 731-TA-929 to 931 (Prelim.), USITC Pub. 3427 at 4-5 & n.15 (May 2001); Extruded Rubber Thread from Malaysia, Inv. No. 753-TA-34 (Prelim.), USITC Pub. 3112 at 5 (June 1998) (Since domestic production of food-grade ERT product "d[id] not exist in any practical sense," the Commission concluded it could not be considered a domestic like product); Professional Electric Cutting and Sanding/Grinding Tools from Japan, Inv. No. 731-TA-571 (Prelim.), USITC Pub. 2536 at 17 (July 1992) ("The Commission has rejected 'the notion that a like product could be defined as a product not produced by a U.S. industry.' Such proposals ignore our obligation under the statute to determine which U.S.-made products are like or most similar to the imports under investigation.").

[23] See, e.g., Certain Frozen Fish Fillets from Vietnam, Inv. No. 731-TA-1012 (Preliminary), USITC Pub. 3533 at 5 to 7 (Aug. 2002) ("Where, as here, there is no domestic product that is 'like' the subject imports, the statute calls for the Commission to find the domestic product that is 'most similar' in characteristics and end uses."); Nepheline

(continued...)

Petitioners assert that there is a domestically-produced product that matches up and competes directly with an imported product all along the PRCB continuum.[24] According to petitioners, domestic producers like Ampac, Roplast, and Command Packaging manufacture products that compete with subject imports of high-end PRCBs.[25]

Chinese respondents argue, in the alternative, that the Commission should identify, as the domestic like product most similar to high-end PRCBs, high-end glossy paper shopping bags or high-end paper shopping bags that are produced in the United States, and should treat them as a separate like product.[26] For the reasons discussed below, we find that the domestic like product most similar to high-end PRCBs are other PRCBs produced domestically that correspond to product within the scope. We therefore reject respondents' argument to expand the like product beyond the scope or to find a separate like product.[27]

There are similarities in uses between high-end paper shopping bags (including glossy bags) and high-end PRCBs (both are used for carrying purchased merchandise from a store). The record indicates that some retailers use paper and plastic high-end bags interchangeably and that they are sold to retailers in similar price ranges. However, the characteristics of plastic and paper bags differ in that they are made of different raw materials. They are made by different producers presumably through a different production process.[28]

Based on the record in this preliminary phase, we do not find high-end paper shopping bags to be the product "most similar" in characteristics and uses to subject imports of high-end PRCBs. Petitioners have indicated that domestic producers Ampac, Roplast, and Command Packaging manufacture PRCBs that compete with subject imports of high-end PRCBs.[29] There is some evidence on the record, for example, that PRCBs with heat-sealed square bottoms that are within the scope and compete with high-end PRCBs are produced domestically.[30]

In cases where the domestically manufactured merchandise is comprised of a continuum of similar products, the Commission typically does not consider each item of merchandise to be a separate domestic like product that is only "like" its counterpart in the scope, but consider the continuum itself to

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[23] (...continued)
Syenite from Canada, Inv. No. 731-TA-525 (Final), USITC Pub. 2502 at 7 (Apr. 1992) (Since nepheline syenite was not produced in the United States, the Commission defined the domestic like product to include two similar products, feldspar and aplite), aff'd, Feldspar Corp. v. United States, 825 F.Supp. 1095 (Ct. Int'l Trade 1993).

[24] Conference Tr. at 9 (Mr. Dorn).

[25] Petitioners' Postconference Brief at 11, 19-20.

[26] Chinese Respondents' Postconference Brief at 13-14.

[27] Chinese Respondents' Postconference Brief at 14-15.

[28] Petitioners' Postconference Brief at 5; Conference Tr. at 17 (Mr. Dorn); Chinese Respondents' Postconference Brief at 7-8, 13-15.

[29] Petitioners' Postconference Brief at 11, 19-20.

[30] CR at I-4, n.4; PR at I-3, n.4.

constitute the domestic like product.[31] Therefore, we find one domestic like product consisting of the continuum of PRCBs, consistent with Commerce's scope. We intend to explore this issue more fully in any final phase investigations.

IV. DOMESTIC INDUSTRY AND RELATED PARTIES

A. Domestic Industry

The domestic industry is defined as the "producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."[32] In defining the domestic industry, the Commission's general practice has been to include in the industry all domestic production of the domestic like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.[33]

Based on our finding that the domestic like product is the continuum of PRCBs, consistent with the scope of these investigations, we find that the domestic industry consists of all domestic producers of PRCBs. In these investigations, the Commission received data from 14 firms believed to account for over 80 percent of all PRCBs produced in the United States.[34]

B. Related Parties

We must further determine whether any producer of the domestic like product should be excluded from the domestic industry pursuant to section 771(4)(B) of the Act. That provision of the statute 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.[35] Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each case.[36]

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[31] Certain Steel Wire Rod from Canada, Germany, Trinidad & Tobago, and Venezuela, Inv. Nos. 701-TA-368-371 (Final), USITC Pub. 3075 (November 1997) at 7.

[32] 19 U.S.C. § 1677(4)(A).

[33] See United States Steel Group v. United States, 873 F. Supp. 673, 681-84 (Ct. Int'l Trade 1994), aff'd, 96 F.3d 1352 (Fed. Cir. 1996).

[34] CR at II-4; PR at II-2; CR/PR at III-1.

[35] 19 U.S.C. § 1677(4)(B).

[36] Sandvik AB v. United States, 721 F. Supp. 1322, 1331-32 (Ct. Int'l Trade 1989), aff'd without opinion, 904 F.2d 46 (Fed. Cir. 1990); Empire Plow Co. v. United States, 675 F. Supp. 1348, 1352 (Ct. Int'l Trade 1987). The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude the related parties include: (1) the percentage of domestic production attributable to the importing producer; (2) the reason the U.S. producer has decided to import the product subject to investigation, i.e., whether the firm benefits from the LTFV sales or subsidies or whether the firm must import in order to enable it to continue production and compete in the U.S. market; and (3) the position of the related producers vis-a-vis the rest of the industry, i.e., whether inclusion or exclusion of the related party will skew the data for the rest of the industry. See, e.g., Torrington Co. v. United States, 790 F. Supp. 1161, 1168 (Ct. Int'l Trade 1992), aff'd without opinion, 991 F.2d 809 (continued...)

Petitioners argue that appropriate circumstances exist to exclude Advance Polybag, Inc. ("API") from the domestic industry as a related party.[37] Respondents make no specific arguments regarding this issue.

1. Advance Polybag, Inc.

API is a "related party" under the statute because it is affiliated with Universal Polybag Co., Ltd. ("Universal Polybag"), a Thai producer of subject imports, and it imports subject product from this firm.[38] API began importing the following quantities of PRCBs from Universal Polybag in ***. Comparatively, API's U.S. production of PRCBs was ***.[39] API's imports as a percentage of its domestic production increased during the POI, from *** percent in 2001 to *** percent in 2002, and was *** percent in interim 2002 compared with *** percent in interim 2003.[40] API's share of domestic production in 2002 was *** percent.[41]

For purposes of this preliminary phase, Chairman Okun and Commissioner Miller find that "appropriate circumstances" exist to exclude API from the domestic industry.[42] As noted above, API's imports of subject product relative to its domestic production increased *** over the POI, from *** percent in 2001 to *** percent in 2002 and *** percent in interim 2003, even as its domestic production increased. API's financial data *** the data of the other domestic producers and indicate that it is benefitting from its importation of subject product. Although API's operating income is *** than that of certain domestic producers, its income ***. API's highest operating income was in ***. API's imports as a share of domestic production have increased *** over the POI, especially during the interim periods.[43] In addition, API does ***.[44] Moreover, Universal Polybag's questionnaire response shows that it intends to ***.[45]

Vice Chairman Hillman and Commissioner Koplan do not exclude API from the domestic industry in these preliminary phase investigations. API's domestic production of PRCBs increased by

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[36] (...continued)
(Fed. Cir. 1993). The Commission has also considered the ratio of import shipments to U.S. production for related producers and whether the primary interests of the related producers lie in domestic production or in importation. See, e.g., Melamine Institutional Dinnerware from China, Indonesia, and Taiwan, Inv. Nos. 731-TA-741-743 (Final), USITC Pub. 3016 (Feb. 1997) at 14, n.81.

[37] Petitioners' Postconference Brief at 13; Conference Tr. at 57-58 (Mr. Jones).

[38] See 19 U.S.C. §1677(4)(B)(ii)(II).

[39] CR at III-5; PR at III-3.

[40] Derived from import and production data of API, CR at III-5; PR at III-3.

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

[42] See 19 U.S.C. §1677(4)(B).

[43] CR at III-5; PR at III-3.

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

[45] Questionnaire response of Universal Polybag, Co., Ltd.

*** percent from 2000 to 2002 and by another *** percent between interim periods.[46] API's sales of subject imports constituted *** percent of its total U.S. shipments over the POI. Although this share increased over the POI, especially in interim 2003, its primary interest nevertheless was in domestic production, not importation, over the POI as a whole.[47]

API's financial performance during the POI was *** that of other domestic producers. While API's pattern of annual operating income does not match the industry as a whole in every period, neither is it clearly related to imports from its Thai affiliate. While API's relative performance was *** than that of the domestic industry in 2002, it was *** in 2001 and *** in interim 2003.[48] API's imports from its Thai affiliate were *** across the POI, but there is no clear relationship between changes in API's operating income and its imports from its Thai affiliate. Vice Chairman Hillman and Commissioner Koplan intend to further explore this issue in any final phase investigations.

2. Other Domestic Producers

Seven other domestic producers, ***, are "related parties" under the statute because they directly controlled an exporter of subject imports and/or imported subject merchandise during the POI. However, we find that "appropriate circumstances" do not exist to exclude these domestic producers from the domestic industry. Their subject import quantities were minimal when compared to their domestic production and their financial data do not suggest that they derived a substantial benefit from the importation of subject product during the POI.[49]

A domestic producer that does not itself import subject merchandise or does not share a corporate relationship with an importer or exporter may nevertheless be deemed a related party if it controls large volumes of imports acquired by an importer.[50] Although these seven domestic producers as well as ***, another domestic producer, also purchased subject imports during the POI, the record does not indicate that any of them was responsible for a predominant portion of an importer's purchases of subject imports so as to be deemed to control the importer's imports.[51] We thus include these domestic producers in the domestic industry.

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[46] CR/PR at Table C-2, Memorandum INV-AA-112.

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

[48] Over the POI, API saw operating income *** percent in 2001, *** percent in 2002, and *** percent in interim 2003. CR/PR at Table VI-2. By comparison, the domestic industry's operating income rose by 109.7 percent in 2001, fell by 18.3 percent in 2002, and fell by 65.2 percent in interim 2003. CR/PR at Table VI-2.

[49] CR at III-5 to III-6; PR at III-3; CR/PR at Table VI-2.

[50] See, e.g., Foundry Coke from China, Inv. No. 731-TA-891 (Final), USITC Pub. 3449 (September 2001) at 8-9; Certain Cut-to-Length Steel Plate from the Czech Republic, France, India, Indonesia, Italy, Japan, Korea, and Macedonia, Inv. Nos. 701-TA-387-392 and 731-TA-815-822 (Preliminary), USITC Pub. 3181 at 12 (April 1999); Certain Brake Drums and Rotors from China, Inv. No. 731-TA-744 (Final), USITC Pub. 3035 at 10 n.50 (April 1997).

[51] CR at III-5 to III-6; PR at III-3.

V. NEGLIGIBLE IMPORTS

Imports from a subject country corresponding to a domestic like product that account for less than three percent of all such merchandise imported into the United States during the most recent 12 months for which data are available preceding the filing of the petition shall be deemed negligible.[52] By operation of law, a finding of negligibility terminates the Commission's investigations with respect to such imports.[53] The Commission is authorized to make "reasonable estimates on the basis of available statistics" of pertinent import levels for purposes of deciding negligibility.[54]

A threshold issue in this case concerns the data we should use to measure imports. While normally we would use questionnaire responses or HTS official statistics for import data, in this case the questionnaire responses yielded insufficient import coverage and the relevant HTS statistical reporting number (3923.32.0090) is a basket category that includes both imports described by the scope of the investigation as well as many products outside the scope.[55] Petitioners propose an approach for determining the shares of the basket category that are accounted for by carrier bags described by the scope of this investigation.[56] We used petitioners' import estimates as the best information available in these preliminary phase investigations owing to the absence of an alternative proposed methodology or supportable arguments by respondents to the contrary.[57]

Total imports of PRCBs for the 12 months preceding the filing of the petition were 41.25 billion units. Imports from China were 24.98 billion units while imports from Malaysia were 1.37 billion units, and imports from Thailand were 4.13 billion units. As a share of total imports in this period, imports from China, Malaysia, and Thailand were 60.6 percent, 3.3 percent, and 10.0 percent, respectively.[58] We thus do not find that subject imports from China, Thailand, or Malaysia[59] are negligible under 19 U.S.C. § 1677(24) because subject imports from each country accounted for more than three percent of the volume of all PRCBs imported into the United States in the most recent twelve-month period for which data are available preceding the filing of the petition.

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[52] 19 U.S.C. § 1677(24)(A)(I)(I).

[53] 19 U.S.C. § 1671b(a)(1), 19 U.S.C. § 1673b(a)(1).

[54] 19 U.S.C. § 1677(24)(C). See also The Uruguay Round Agreements Act, Statement of Administrative Action, H.R. Doc. No. 103-316, Vol. 1 at 186 (1994) ("SAA").

[55] CR/PR at IV-1.

[56] Petitioners estimate that 75 percent of the quantity and value reported under HTS statistical reporting number 3923.23.0090 for China, Malaysia, and Thailand and 10 percent of the reported data for Mexico and Canada are PRCBs. For other countries, petitioners estimate that 75 percent of total imports are PRCBs where the c.i.f. value per thousand units is $4.00 to $9.00 (i.e., comparable to imports from the subject countries) and 10 percent of total imports are PRCBs where the c.i.f. value per thousand units is less than $4.00 or greater than $9.00. CR at IV-1 to IV-4; PR at IV-1; Petition at 21-22, Exhibit 9.

[57] CR/PR at IV-1.

[58] CR at IV-4; PR at IV-1.

[59] The Malaysian respondents argued that their imports are negligible, but their argument was based on official import statistics that included the entire basket category of both subject and nonsubject merchandise. Malaysian Respondents' Postconference Brief at 1.

We will seek more comprehensive import data from foreign producers and importers in any final phase investigations.

VI. CONDITIONS OF COMPETITION

Several conditions of competition are pertinent to our analysis in the preliminary phase of these investigations.

PRCBs covered by Commerce's scope are made in a wide variety of shapes and sizes, with various gauges and types of polyethylene. They contain an equally wide variety of handles, gussets (pleats), color combinations, and printing, features which affect the price of the bag. In general, the thicker the polyethylene used, the larger the size, the more sophisticated the handle, the more colors, gussets, and printing used, and the more manual labor necessary for production, the higher the price charged to the retailer. Prices for PRCBs range from well under $10.00 per 1,000 bags to well over $300 per 1,000 bags.[60]

U.S. demand for PRCBs increased during the POI. By quantity, apparent domestic consumption of PRCBs increased from 88.1 billion bags in 2000 to 90.2 billion bags in 2001 and to 96.5 billion bags in 2002. Domestic consumption was 22.8 billion bags in interim 2003 compared with 21.0 billion bags in interim 2002.[61]

There were 14 producers of PRCBs in the United States during the POI that responded to Commission questionnaires.[62] Some of these domestic producers, as noted earlier, also import subject PRCBs.[63] Most imports are brought into the United States by PRCB distributors. Most PRCBs are sold directly to purchasers for large orders or through distributors for smaller orders. We intend to explore further the channels of distribution for the various types of PRCBs in any final phase investigations.[64]

The main raw material used to produce PRCBs is polyethylene resin. PRCBs are made out of either high density polyethylene (HDPE), low density polyethylene (LDPE), linear low density polyethylene (LLDPE), or a combination of the three. The record indicates that, because polyethylene

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[60] CR at I-3; PR at I-2. High-end PRCBs that require manual labor to finish are not produced in the United States due to non-competitive labor costs. These bags include PRCBs with cardboard inserts at the bottom or top and PRCBs with separately applied handles other than drawcords or those made of polyethylene. CR at I-3 to I-4; PR at I-2 to I-3. Petitioners have asserted that these high-end PRCBs comprise only five percent or less of total U.S. consumption and are not significant in relation to the data regarding other types of PRCB subject imports. CR at I-4; PR at I-3; Petitioners' Postconference Brief at 11-12; Conference Tr. at 55 (Mr. Varn). We intend to seek more data regarding high-end PRCBs in any final phase investigations.

[61] CR/PR at Table IV-1.

[62] CR at II-4; PR at II-2.

[63] Target, for instance, is affiliated with Associated Merchandising Company (AMC), which imports PRCBs for Target from Thailand. CR/PR at II-1.

[64] According to respondents, there are PRCB distributors that sell directly to retailers or food distributors as well as "mall" distributors who may have multiple PRCB customers within the same mall. CR/PR at II-1. According to Chinese respondents, the channels of distribution differ for t-shirt sacks and high-end PRCBs. T-shirt sacks are sold directly to large retailers, grocery chains, or food service distributors in bulk, with no middleman. Conversely, high-end PRCBs are sold in smaller quantities through specialized distributors that service high-end retailers. Conference Tr. at 102-103 (Mr. Gitlen); Chinese Respondents' Postconference Brief at 8.

resin is a crude oil derivative, PRCB prices are influenced by crude oil and ethylene prices.[65] Altogether, raw material costs accounted for over fifty percent of the domestic industry's cost of goods sold for PRCBs in 2002.[66]

Based on the record in these preliminary investigations, there appears to be a high degree of substitutability between subject imports and domestic product. The majority of domestic producers and importers reported that subject imports from China, Thailand, and Malaysia are always or frequently interchangeable with domestic product.[67] Petitioners assert that there is a high degree of substitutability between imported and domestically-produced PRCBs.[68] Thai respondents argue that their PRCBs are superior in quality to domestic product.[69]

The record evidence in these preliminary investigations indicates that non-price differences generally are not a significant factor in purchasing decisions. Only one out of 14 producers reported that non-price differences for subject imports from China, Malaysia, and Thailand, and domestic product are always a significant factor in their sales. As for importer responses, two out of 15 importers reported that non-price factors for domestic product and Chinese subject imports are always important, and one out of 13 importers reported the same for domestic product and imports from Thailand. A plurality of other reporting importers responded that non-price differences between subject imports and domestic product are never important.[70] According to petitioners, purchasing decisions for PRCBs are based primarily on price.[71] Conversely, Target, a purchaser, argues that quality, not price, is the principal basis for its purchasing decisions.[72]

Nine of 14 responding producers noted that they determined sales prices for PRCBs via transaction-by-transaction negotiation. For those importers that are not domestic producers, three use price lists, two use a cost basis, two negotiate on a transaction-by-transaction basis, and one uses reverse auctions.[73] Eleven of 14 domestic producers sold at least 60 percent of their PRCBs via contracts; they also made PRCB sales through a combination of spot market sales and contract sales.[74] Most importers

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[65] CR/PR at V-1.

[66] Without API, raw material costs accounted for approximately *** percent of the domestic industry's cost of goods sold for PRCBs in 2002. Calculated from Table VI-1A, Memorandum INV-AA-112.

With API, raw material costs accounted for approximately 55.5 percent of the domestic industry's cost of goods sold for PRCBs in 2002. CR/PR at V-1.

[67] CR/PR at Tables II-1 to II-2.

[68] Petitioners' Postconference Brief at 18-19.

[69] Conference Tr. at 122-123 (Mr. James).

[70] CR at II-9; PR at II-6; CR/PR at Tables II-3 to II-4.

[71] Petitioners' Postconference Brief at 20-22.

[72] Conference Tr. at 92-93 (Mr. Johnson).

[73] CR at V-4; PR at V-3.

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

reported that they sell more on the spot market, with a minority selling exclusively on a contract basis.[75] Eight of the 14 responding producers noted that contracts are typically one year in length, and that price and quantity are both fixed. ***, however, also include a provision that allows for escalation and de-escalation of the price based on resin costs.[76] Petitioners contend that they were previously able to pass along resin price increases to customers, but since imports became more predominant in 2001, customers have been using import prices to discourage domestic producers from implementing such price increases.[77] Eight responding producers also stated that they do not have a meet-or-release clause in any of their contracts.[78]

Sales of PRCBs via internet auctions increased during the POI. Nine of 14 domestic producers reported that they have participated in internet auctions. Domestic producers won some of the auctions; however, *** reported that they lost all of the auctions in which they participated. Five of 17 importers sold PRCBs over the internet in 2002. Three of these importers were petitioners ***. ***, an importer, noted that it won ***'s business in an *** internet auction.[79]

Nonsubject imports' market share, by quantity, declined from 11.8 percent in 2000 to 9.8 percent in 2002, and increased from 9.5 percent in interim 2002 to 10.9 percent in interim 2003. In absolute terms, nonsubject import volume decreased by 9.4 percent from 2000 to 2002, before increasing by 24.7 percent between interim periods.[80] Thus, nonsubject imports do not appear to be a dominant presence in the U.S. market.[81]

VII. REASONABLE INDICATION OF THREAT OF MATERIAL INJURY BY REASON OF ALLEGEDLY LESS THAN FAIR VALUE IMPORTS

Section 771(7)(F) of the Act directs the Commission to determine whether an industry in the United States is threatened with material injury by reason of the subject imports by analyzing whether "further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted."[82] The Commission may

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

[76] CR at V-5; PR at V-4.

[77] Conference Tr. at 80 (Mr. Bazbaz).

[78] CR at V-5; PR at V-4.

[79] CR at II-2; PR at II-1.

[80] CR/PR at Table C-1.

[81] Nonsubject import volume declined from 10.4 billion bags in 2000 to 8.8 billion bags in 2001, before increasing to 9.4 billion bags in 2002. Between interim periods 2002 and 2003, nonsubject imports increased from 2.0 billion bags to 2.5 billion bags. CR/PR at Table C-1. As with the volume of subject imports, we intend to revisit the issue of how to measure nonsubject imports in any final phase investigations.

[82] 19 U.S.C. § 1677d(b) and 1677(7)(F)(ii). The statutory threat factors that the Commission is to consider are: (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

(continued...)

not make such a determination "on the basis of mere conjecture or supposition," and considers the threat factors "as a whole."[83] In making our determination, we have considered all factors that are relevant to this investigation. Based on an evaluation of the entirety of the record, 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, Malaysia, and Thailand that allegedly are sold in the United States at less than fair value.

A. CUMULATION

1. In General

For purposes of evaluating the volume and price effects for a present material injury determination, Section 771(7)(G)(I) of the Act requires the Commission to cumulate subject imports from all countries as to which petitions were filed and/or investigations self-initiated by Commerce on the same day, if such imports compete with each other and with domestic like products in the United States market.[84] In assessing whether subject imports compete with each other and with the domestic like product,[85] the Commission has generally considered four factors, including:

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

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

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[82] (...continued)
increase of the volume or market penetration of subject imports indicating the likelihood of substantially increased imports; (IV) whether subject imports are entering at prices 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 effects 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 of the subject merchandise. 19 U.S.C. § 1677(7)(F)(i). Factors I (regarding countervailing subsidies) and VII (involving imports of both a raw agricultural product and any product processed from such raw agricultural product) are inapplicable in these antidumping duty investigations.

[83] 19 U.S.C. § 1677(7)(F)(ii). An affirmative threat determination must be based upon "positive evidence tending to show an intention to increase the levels of importation." Metallverken Nederland B.V. v. United States, 744 F. Supp. 281 (Ct. Int'l Trade 1990), citing American Spring Wire Corp. v. United States, 590 F. Supp. 1273, 1280 (Ct. Int'l Trade 1984); see also Calabrian Corp. v. United States, 794 F. Supp. 377, 387-88 (Ct. Int'l Trade 1992), citing H.R. Rep. No. 98-1156 at 174 (1984).

[84] 19 U.S.C. § 1677(7)(G)(I). There are four exceptions to the cumulation provision, none of which applies to these investigations. See id. at 1677(7)(G)(ii).

[85] The SAA (at 848) 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." Citing Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898, 902 (Ct. Int'l Trade 1988), aff'd 859 F.2d 915 (Fed. Cir. 1988).

(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.[86]

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.[87] Only a "reasonable overlap" of competition is required.[88]

For purposes of determining if a threat of material injury exists, cumulation is discretionary. Under section 771(7)(H) of the Act, the Commission may "to the extent practicable" cumulatively assess the volume and price effects of subject imports from all countries as to which petitions were filed on the same day if the requirements for cumulation for material injury analysis are satisfied.[89] In addition to considering the four cumulation factors described above, the Commission has considered other factors such as the similarity of trends in the volume and price of subject imports from the countries under investigation.[90]

Petitioners argue that the Commission should cumulate subject imports for purposes of its threat analysis.[91] Chinese respondents contend that cumulation for purposes of threat may not be appropriate here if the record indicates diverging trends in import volume and prices for imports from China, Malaysia, and Thailand.[92]

2. Analysis

a. Fungibility

As described in the section on conditions of competition, there appears to be a high degree of fungibility among subject imports from China, Malaysia, and Thailand, and between subject imports and

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

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

[88] See Goss Graphic System, Inc. v. United States, ___ CIT ___, slip op. 98-147 at 8 (Oct. 16, 1998) ("cumulation does not require two products to be highly fungible"); Mukand Ltd., 937 F. Supp. at 916; Wieland Werke, AG, 718 F. Supp. at 52 ("Completely overlapping markets are not required").

[89] 19 U.S.C. § 1677(7)(H).

[90] See Torrington Co. v. United States, 790 F. Supp. at 1172 (affirming Commission's determination not to cumulate for purposes of threat analysis when pricing and volume trends among subject countries were not uniform and import penetration was extremely low for most of the subject countries); Metallverken Nederland B.V. v. United States , 728 F. Supp. 730, 741-42 (Ct. Int'l Trade 1989); Asociacion Colombiana de Exportadores de Flores v. United States, 704 F. Supp. 1068, 1072 (Ct. Int'l Trade 1988).

[91] Conference Tr. at 38-39 (Mr. Jones).

[92] Chinese Respondents' Postconference Brief at 34-35.

domestic product. For example, most domestic producers and importers reported that subject imports from China, Thailand, and Malaysia are always or frequently interchangeable with each other and with domestic product.[93] Similarly, most domestic producers and a plurality of importers reported that non-price differences between PRCBs from China, Malaysia, and Thailand, and the United States are never a significant factor in their sales.[94]

b. Same Geographical Markets

The record indicates that subject imports from China, Malaysia, and Thailand and the domestic like product generally were sold throughout the United States during the POI. Thirteen of 14 producers and 11 of 15 responding importers sell PRCBs on a nationwide basis.[95]

c. Simultaneous Presence

Subject imports from all subject countries and the domestic product were present in the domestic market in 2000, 2001, 2002, and interim periods 2002 and 2003.[96]

d. Channels of Distribution

PRCB distributors bring in most of the PRCB imports that enter the U.S. market. Some imports are brought into the United States by domestic producers and resold to customers when the import price is below the U.S. producers' cost of production.[97] U.S. producers and importers sell most retailer-specific PRCBs directly to retailers, increasingly via internet auctions held by the retailer. Most generic PRCBs containing no company-specific design or printing are sold to distributors for general distribution.[98]

e. Conclusion on Reasonable Overlap of Competition

We find that there is a reasonable overlap of competition among subject imports and between the subject imports and the domestic like product. The record evidence indicates that subject imports and the domestic like product are generally fungible and are sold through similar channels of distribution. The record also shows that imports from each of the subject countries were simultaneously present in the

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[93] CR/PR at Table II-1. FDA regulations may not permit an end user to use non-approved imported PRCBs. CR at II-7 to II-8; PR at II-5. It is unclear whether there is a relevant product-mix issue concerning the high-end PRCBs not produced in the United States, as producers and importers were not asked the question of whether particular high-end PRCBs are interchangeable with domestically-produced PRCBs. We intend to seek this information in any final phase investigations.

[94] CR at II-9; PR at II-6; CR/PR at Tables II-3 to II-4.

[95] CR/PR at II-1.

[96] CR/PR at Tables III-2 and IV-1.

[97] CR/PR at II-1.

[98] CR at I-5; PR at I-3.

U.S. market during the POI and that both the domestic like product and the subject imports from all countries were sold in the same geographic markets.

f. Discretionary Factors

Imports from the subject countries exhibited similar volume and price trends during the period for which data were collected. From 2000 to 2002, the volume of subject imports from all three countries increased significantly.[99] Although pricing coverage for U.S. shipments of subject imports from China and Malaysia was low,[100] pricing data indicated similar pricing trends among the three subject countries.[101] Based on an examination of all of the factors discussed above, we exercise our discretion to assess cumulatively the volume and price effects of the subject imports from China, Malaysia, and Thailand for purposes of these preliminary determinations.

B. ANALYSIS OF THREAT OF MATERIAL INJURY

The volume and market penetration of the subject imports increased during the POI, indicating the likelihood of substantially increased imports in the imminent future. The quantity of subject imports increased overall by 45.4 percent from 2000 to 2002 and by 18.4 percent between interim periods.[102] Subject imports' U.S. market share, by quantity, followed a trend similar to absolute import levels: it increased by 7.0 percentage points, from 21.4 percent to 28.4 percent between 2000 and 2002, and by 2.4 percentage points from interim 2002 to interim 2003.[103] Given that domestic consumption increased by 9.5 percentage points from 2000 to 2002, it appears that subject imports captured most of the increased demand for PRCBs, at the expense of the domestic industry.[104]

Data on subject country capacity and production also indicate the likelihood of substantially increased imports in the imminent future. The foreign producer data that the Commission obtained from questionnaire responses, although somewhat limited in coverage,[105] show that all three subject countries registered significant increases in capacity and production during the POI, with further increases

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[99] CR/PR at Table C-1. From 2000 to 2002, Chinese subject import volume increased by 42.9 percent, Thai subject imports by 64.5 percent, and Malaysian subject imports by 39.6 percent.

[100] Pricing data reported by seven importers accounted for 1.8, 5.3, and 26.3 percent of U.S. shipments of subject imports from China, Malaysia, and Thailand, respectively. CR at V-8; PR at V-6.

[101] CR/PR at Tables V-1 to V-6. We have given less weight to subject import pricing data for products 4-6, which only included Chinese subject import prices.

[102] CR/PR at Table C-1. Subject imports increased from 18.8 billion units in 2000 to 21.8 billion units in 2001 to 27.4 billion units in 2002, and were 6.7 billion units in interim 2003 compared with 5.6 billion units in interim 2002. CR/PR at Table IV-1.

[103] CR/PR at Table C-1.

[104] CR/PR at Table C-1; CR/PR at Table C-2, Memorandum INV-AA-112.

[105] The data is particularly limited for the Chinese industry whose exports of subject product to the United States were by far the greatest of the three subject countries. Sixteen Chinese producers responded to Commission questionnaires; they account for only about 13 percent of estimated imports from China. CR/PR at VII-1.

projected for full-year 2003 and 2004.[106] The record also demonstrates that the PRCB industries in China, Malaysia, and Thailand are export-oriented and that the U.S. market has become an increasingly significant market for each subject country. The largest share of Chinese producers' total shipments were sent to markets outside of China, with the greatest share of those foreign shipments destined for the United States.[107] Like the Chinese foreign producers, Malaysian PRCB firms appear to be export-oriented, with about 60 percent of their total shipments exported during the POI.[108] Thai producers also are export-oriented, with well over 90 percent of their total PRCB shipments exported during the POI. An increasing share of Thai exports was sent to the U.S. market over the POI.[109] API's Thai affiliate, Universal Polybag, exports *** percent of its PRCB production to the United States and is projected to *** its production capacity and production in full-year 2003 and 2004.[110] In addition, each subject country has unused production capacity that easily could be used to increase shipments to the United States given the subject countries' export orientation.[111] Significantly, subject producers project that

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[106] Combined production capacity for all three subject countries increased from 27.9 billion bags in 2000 to 32.3 billion bags in 2001 and 39.1 billion bags in 2002, and was 10.4 billion bags in interim 2003 compared with 9.1 billion bags in interim 2002. Production capacity is projected to increase to 45.0 billion bags in full-year 2003 and 45.3 billion bags in 2004. Production increased from 24.7 billion bags in 2000 to 28.7 billion bags in 2001 and 34.7 billion bags in 2002, and was 8.8 billion bags in interim 2003 compared with 7.7 billion bags in interim 2002. Production is projected to increase to 37.1 billion bags in full-year 2003 and 37.3 billion bags in 2004. Foreign Producer Summation, Memorandum INV-AA-112.

[107] CR/PR at VII-1; CR/PR at Table VII-1. The percentage of China's total shipments of PRCBs exported to the United States was 42.8 percent in 2000, 42.6 percent in 2001, 45.4 percent in 2002, 37.9 percent in interim 2002, and 43.2 percent in interim 2003. The percentage of China's total shipments that were exported to all countries was 60.9 percent in 2000, 68.2 percent in 2001, 75.0 percent in 2002, 69.4 percent in interim 2002, and 76.2 percent in interim 2003. CR/PR at Table VII-1.

[108] CR at VII-3; PR at VII-1; CR/PR at Table VII-2. The percentage of Malaysia's total shipments of PRCBs exported to the United States was 22.3 percent in 2000, 19.3 percent in 2001, 21.4 percent in 2002, 19.7 percent in interim 2002, and 26.2 percent in interim 2003. The percentage of Malaysia's total PRCB shipments that were exported to all countries was 60.2 percent in 2000, 60.1 percent in 2001, 57.6 percent in 2002, 58.8 percent in interim 2002, and 57.3 percent in interim 2003. CR/PR at Table VII-2.

[109] CR at VII-3 to VII-6; PR at VII-4; CR/PR at Table VII-3. The percentage of Thailand's total shipments of PRCBs exported to the United States was 4.6 percent in 2000, 10.5 percent in 2001, 22.8 percent in 2002, 18.8 percent in interim 2002, and 31.4 percent in interim 2003. The percentage of Thailand's total PRCB shipments that were exported to all countries was 95.2 percent in 2000, 94.2 percent in 2001, 93.4 percent in 2002, 93.7 percent in interim 2002, and 93.0 percent in interim 2003. CR/PR at Table VII-3.

[110] Derived from questionnaire response of Universal Polybag.

[111] China's PRCB capacity utilization was 75.0 percent in 2000, 77.9 percent in 2001, 77.8 percent in 2002, 69.7 percent in interim 2002, and 71.7 percent in interim 2003; it is projected to be 59.8 percent in full-year 2003 and 59.5 percent in 2004. CR/PR at Table VII-1. Malaysia's PRCB capacity utilization was 92.2 percent in 2000, 91.5 percent in 2001, 92.5 percent in 2002, 85.7 percent in interim 2002, and 81.8 percent in interim 2003; it is projected to be 91.1 percent in full-year 2003 and 90.4 percent in 2004. CR/PR at Table VII-2. Thailand's PRCB capacity utilization was 91.4 percent in 2000, 91.3 percent in 2001, 91.2 percent in 2002, 89.8 percent in interim 2002, and 89.5 percent in interim 2003; it is projected to be 89.7 percent in full-year 2003 and 90.0 percent in 2004. CR/PR at Table VII-3.

their 2003 exports to the United States will be 21.7 percent higher than their exports in 2002.[112]

The record also shows importers' inventories of subject merchandise increasing toward the end of the period, another indication that subject import volumes will likely be substantial in the imminent future. U.S. importers' inventories of subject imports increased by 1,187.1 percent between 2000 and 2002, from 24.7 million units in 2000 to 317.9 million units in 2002. Between the interim periods, inventories rose by 334.5 percent, from 107.7 million units in interim 2002 to 467.9 million units in interim 2003.[113] End-of period inventories for foreign subject producers decreased from 732.8 million units in 2000 to 707.8 million units in 2001, but increased to 960.9 million units in 2002, and were 1.0 billion units in interim 2003 compared with 877.3 million units in interim 2002.[114] Thus, inventories of the subject product in the United States and in the subject countries increased substantially, albeit to levels that were still somewhat modest compared to apparent U.S. consumption.

We further find, based on the available data collected in these preliminary investigations, that subject imports are entering the United States at prices likely to have significant price depressive or suppressive effects on the domestic industry. Combined with an increase in volume, the adverse price effects of subject imports are likely to increase in the imminent future.

The Commission collected pricing data from producers and importers on six standard PRCB products.[115] Because of the wide variety of features available on PRCBs, deriving direct price comparisons in these investigations is challenging. While the data collected are believed to reflect comparable domestic and imported products, we intend to explore any issues of product mix in any final phase investigations.[116] Subject imports undersold domestic product in the substantial majority of quarterly comparisons during the POI, with margins ranging up to 59.0 percent.[117] Given the general substitutability of domestic and subject import products and the importance of price,[118] we find underselling to be significant in these investigations and that such underselling is likely to continue to be significant in the imminent future.

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[112] Foreign Producer Summation, Memorandum INV-AA-112.

[113] CR/PR at Table C-2, Memorandum INV-AA-112.

[114] Foreign Producer Summation, Memorandum INV-AA-112.

[115] The six products were: (1) small t-shirt sack; (2) medium "t-shirt sack"; (3) large "t-shirt sack"; (4) medium merchandise bag; (5) medium "patch handle"-style merchandise bag; and (6) medium "drawstring"-style merchandise bag. CR at V-7 to V-8; PR at V-5.

[116] The data include certain products identified by producers or importers as comparable but not identical to the product descriptions. CR at V-8; PR at V-5.

[117] Without API, subject imports undersold domestic product in 68 out of 90 quarterly comparisons during the POI. Margins of underselling ranged from 0.2 percent to 59.0 percent. CR/PR at Revised Tables V-1 to V-3, Memorandum INV-AA-112; CR/PR at Tables V-4 to V-6.

With API, subject imports undersold domestic product in 66 out of 90 quarterly comparisons during the POI. Margins of underselling ranged from 0.7 percent to 59.0 percent. CR at V-19; PR at V-10.

[118] CR at II-8 to II-10; PR at II-4 to II-6; CR/PR at Tables II-1 to II-4.

Although subject import pricing coverage, particularly for imports from China and Malaysia, was low,[119] we note that domestic prices for products 1 and 2, where the bulk of the pricing data, by quantity, was reported, declined, particularly in the latter part of the POI. Subject import prices showed more irregular fluctuations, but also exhibited downward trends.[120] Domestic prices for product 3 (large "t-shirt sack") did not show a consistent movement upward or downward. However, reported prices for imports from China and Malaysia indicated a clear downward trend.[121] For products 4-6, there was no consistent trend upward or downward for domestic PRCB prices. Reported pricing data for subject import prices of products 4-6 were limited to prices for modest quantities of PRCBs from China.[122]

The decline in both domestic and subject import prices at a time of increasing domestic consumption indicates that subject imports have depressed domestic prices to a significant degree and are likely to continue to do so in the near future. There are also a number of instances of confirmed lost sales and lost revenues.[123]

In addition, several producers indicated that the subject imports had actual and potential negative effects on their companies' development and production efforts. For example, ***. ***. ***. Other producers noted ***. Domestic producers ***.[124]

While the domestic industry's production capacity increased from 2000 to 2002, commensurate with the rise in apparent domestic consumption, domestic PRCB production lagged. As a result, domestic capacity utilization levels declined from 2000 to 2002, and were only slightly higher in interim 2003 compared with interim 2002.[125] The domestic industry also lost market share.[126] The domestic

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[119] Usable pricing data were received from 12 producers and seven importers. Pricing data reported by these firms accounted for 92.0 percent of U.S. producers' shipments of PRCBs and 1.8, 5.3, and 26.3 percent of U.S. shipments of subject imports from China, Malaysia, and Thailand, respectively, in 2002. CR at V-8; PR at V-6.

[120] CR/PR at Revised Table V-2, Memorandum INV-AA-112; CR/PR at Table V-2.

[121] CR/PR at Revised Table V-3, Memorandum INV-AA-112.

[122] CR/PR at Tables V-4 to V-6; CR/PR at Revised Tables V-4 to V-6, Memorandum INV-AA-112.

[123] CR at V-21 to V-22; PR at V-10 to V-11; CR/PR at Table V-7. In any final phase investigations, we intend to collect pricing data for PRCBs on both a per pound and per unit basis, as supported by petitioners and respondents. CR at V-8; PR at V-5 to V-6.

[124] See CR/PR at Appendix D for a description of negative effects on development and production efforts of the domestic industry.

[125] Without API, the domestic industry's production capacity increased by *** percent from 2000 to 2002 and declined by *** percent from interim 2002 to interim 2003. Domestic production of PRCBs declined by *** percent between 2000 and 2002 and fell by *** percent from interim 2002 to interim 2003. Domestic capacity utilization declined from *** percent in 2000 to *** percent in 2002, and was *** percent in interim 2002 versus *** percent in interim 2003. Comparatively, apparent domestic consumption increased by 9.5 percent from 2000 to 2002 and by 8.6 percent from interim 2002 to interim 2003. CR/PR at Table C-2, Memorandum INV-AA-112, which excludes data for related party API.

With API, the domestic industry's production capacity increased by 8.2 percent from 2000 to 2002 and declined by 1.8 percent from interim 2002 to interim 2003. Domestic production of PRCBs increased only by 1.7 percent between 2000 and 2002 and fell by 0.7 percent from interim 2002 to interim 2003. Domestic capacity utilization declined from 84.9 percent in 2000 to 79.8 percent in 2002, and was 79.8 percent in interim 2002 compared with 80.7 percent in interim 2003. Comparatively, apparent domestic consumption increased by 9.5

(continued...)

industry's profitability suffered declines in the latter part of the POI.[127] Consequently, we find that the domestic industry is vulnerable to a threat of material injury by reason of cumulated subject imports.

We thus find that, given the rapid increase in the volume and inventories of subject imports, their underselling and price depressive effects, the export-orientation of the subject PRCB industries, planned increases in foreign production capacity, production, and exports to the United States, and the weakened condition of the domestic industry, there is a reasonable indication that the domestic industry producing PRCBs is threatened with material injury by reason of the subject imports.

CONCLUSION

For the reasons stated above, we determine that there is a reasonable indication that the domestic industry producing PRCBs is threatened with material injury by reason of subject imports from China, Malaysia, and Thailand that are allegedly sold in the United States at less than fair value.

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[125] (...continued)
percent from 2000 to 2002 and by 8.6 percent from interim 2002 to interim 2003. CR/PR at Table C-1, which includes data for API.

[126] Without API, the domestic industry's market share, by quantity, was ***percent in 2000, *** percent in 2001, *** percent in 2002, *** percent in interim 2002, and *** percent in interim 2003. By value, the domestic industry's market share was *** percent in 2000, *** percent in 2001, *** percent in 2002, *** percent in interim 2002, and *** percent in interim 2003. CR/PR at Table C-2, Memorandum INV-AA-112.

With API, the domestic industry's market share, by quantity, was 66.8 percent in 2000, 66.1 percent in 2001, 61.8 percent in 2002, 63.8 percent in interim 2002, and 60.0 percent in interim 2003. By value, the domestic industry's market share was 79.8 percent in 2000, 78.1 percent in 2001, 73.9 percent in 2002, 74.8 percent in interim 2002, and 70.8 percent in interim 2003. CR/PR at Table C-1.

[127] Without API, the domestic industry's operating income was $*** in 2000, $*** in 2001, $*** in 2002, $*** in interim 2002, and $*** in interim 2003. The domestic industry's ratio of operating income to net sales was *** percent in 2000, *** percent in 2001, *** percent in 2002, *** percent in interim 2002, and *** percent in interim 2003. CR/PR at Table C-2, Memorandum INV-AA-112.

With API, the domestic industry's operating income was $22.4 million in 2000, $46.9 million in 2001, $38.3 million in 2002, $12.9 million in interim 2002, and $4.5 million in interim 2003. The domestic industry's ratio of operating income to net sales was 3.1 percent in 2000, 6.4 percent in 2001, 5.8 percent in 2002, 8.6 percent in interim 2002, and 3.1 percent in interim 2003. CR/PR at Table C-1.

PART I: INTRODUCTION

BACKGROUND

These investigations result from a petition filed with the Commission and the Department of Commerce (Commerce) on behalf of the Polyethylene Retail Carrier Bag Committee, an ad hoc coalition of U.S. polyethylene retail carrier bag producers (including PCL Packaging, Inc. (PCL), Barrie, Ontario; Sonoco Products Company (Sonoco), Hartsville, SC; Superbag Corp. (Superbag), Houston, TX; Vanguard Plastics, Inc. (Vanguard), Farmers Branch, TX; and Inteplast Group, Ltd. (Inteplast), Livingston, NJ) on June 20, 2003, alleging that an industry in the United States is materially injured and threatened with material injury by reason of less-than-fair-value (LTFV) imports of polyethylene retail carrier bags (PRCBs)[1] from China, Malaysia, and Thailand. Information relating to the background of these investigations is provided below.[2]

Effective Date	*Action*
June 20, 2003	Petition filed with Commerce and the Commission; institution of Commission investigations (68 FR 38385, June 27, 2003)
July 11, 2003	Commission's conference[3]
July 16, 2003	Commerce's notice of initiation (68 FR 42002)
August 4, 2003	Commission's vote
August 4, 2003	Commission's determinations transmitted to Commerce
August 11, 2003	Commission's views transmitted to Commerce

The product, as defined, has not been the subject of any other Commission investigations under sections 701 or 731 of the Act, under sections 201 or 301 of the Trade Act of 1974, or under section 232 of the Trade Expansion Act of 1962. However, one member of the Committee, Superbag, filed for import relief pursuant to section 337 of the Act, 19 U.S.C. 1337 on April 2, 2003, with respect to certain

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[1] For purposes of these investigations, PRCBs, which also may be variously referred to as t-shirt sacks, merchandise bags, grocery bags, or checkout bags, are non-sealable sacks and bags with handles (including drawstrings), without zippers or integral extruded closures, with or without gussets, with or without printing, of polyethylene film having a thickness no greater than .035 inch (0.889 mm) and no less than .00035 inch (0.00889 mm), and with no length or width shorter than 6 inches (15.24 cm) or longer than 40 inches (101.6 cm) (the depth of the bag may be shorter than 6 inches but not longer than 40 inches), excluding (1) polyethylene bags that are not printed with logos or store names and that are close-able with drawstrings made of polyethylene film and (2) polyethylene bags that are packed in consumer packaging with printing (on the packaging) that refers to specific end uses other than packaging and carrying merchandise from retail establishments (e.g., garbage bags, lawn bags, trash can liners, and sandwich bags). PRCBs are currently provided for by subheading 3923.21.00 of the Harmonized Tariff Schedule of the United States (HTS), a subheading for all sacks and bags of polyethylene, with a general duty rate, applicable to China and Malaysia, of 3 percent *ad valorem*, and a special rate, applicable to Thailand, that is duty-free. For statistical reporting purposes, PRCBs are included under HTS statistical reporting number 3923.21.0090 along with other polyethylene bags, except reclosable bags with integral extruded closures and those having no single side exceeding 75 mm (2.95 inches). For a more detailed description of the merchandise subject to these investigations, including the like product produced in the United States, see the subsection of Part I entitled, "The Subject Product."

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

[3] A list of witnesses appearing at the conference is presented in app. B.

merchandise that is included within the class or kind of merchandise that is the subject of these investigations.

SUMMARY DATA

A summary of data collected in the investigations is presented in appendix C. The data consist of imports and U.S. production of the subject product. U.S. industry data are based on questionnaire responses of 13 producers that are believed to account for at least 80 percent of U.S. production of this product in the period examined. U.S. imports are based on official statistics of Commerce, adjusted as noted.

PETITIONERS' ALLEGED DUMPING MARGINS

Deriving normal values for the Chinese product from production costs in India and export prices from actual quotations of two Chinese producers, petitioners arrived at alleged dumping margins on four Chinese products. The petitioners' margins on these products, as reviewed and approved by Commerce in its notice of initiation, range from 83.81 percent to 129.86 percent. For Malaysia and Thailand, petitioners compared a resident producer's home market prices with its export prices on two products and three products, respectively. The alleged dumping margins range from 81.55 percent to 101.74 percent for the Malaysian products and from 34.84 percent to 122.88 percent for the Thai products.

THE SUBJECT PRODUCT

Physical Characteristics and Uses

The limitations for PRCBs set forth in the product scope are designed to encompass all or nearly all bags that are normally provided free of charge by retail establishments to their customers as a means of packaging and conveying the customer's purchases from the store. Most PRCBs are made to the specifications of the retailer and are designed not only for the convenience of the retailer's customers but also to advertise the retailer's identity. Indeed, for higher-end retail establishments PRCBs are considered part of the firm's image and much consideration goes into the design of the bag. Other PRCBs, more generic in nature, are not company-specific and are generally used by local or small retailers such as neighborhood grocery stores and thrift shops. In keeping with individual retailers' specifications, PRCBs are made in a wide variety of shapes and sizes, with various gauges (thicknesses) and types of polyethylene, and come with an equally wide variety of handles, gussets (pleats), color combinations, and printing–all of which bear on the price of the bag. In general, the thicker the polyethylene used, the larger the size, the more sophisticated the handle, the more colors, gussets, and printing used, and the more manual labor necessary for production, the higher the price will be to the retailer. Prices range from well under $10 per 1,000 bags to over $300 per 1,000 bags. (For internal reporting and planning purposes, producers consider cost and price in terms of dollars per pound; however, when the bags are sold and invoiced, the price per pound is generally always translated into dollars per 1,000 bags).

Most PRCBs imported from China, Malaysia, and Thailand have similar, if not identical, counterparts produced in the United States; however, some PRCBs, particularly those that require manual labor to finish, are not available in the United States due to non-competitive labor costs. These include PRCBs with cardboard inserts at the bottom or top and PRCBs with separately applied handles other than

drawcords or those made of polyethylene.[4] Separately applied handles are generally loop handles extending from the top of the bag and are made from a variety of materials other than polyethylene, including PVC tubing and knotted rope, the latter including metal grommets that hold them to the bag. Most U.S.-produced and imported bags have handles that are either die cut out of the main body of the bag, with or without patches for reinforcement, or consist of a drawcord. What proportion of total PRCB consumption these non-U.S.-produced hand-finished products account for is unknown, but U.S. producers estimate they comprise 5 percent or less in terms of volume, and all are believed to be in the higher PRCB price range.

The Production Process

Polyethylene resin is the primary raw material for the production of PRCBs, and in the United States it is purchased from unrelated sources. Three types are used, either exclusively or in combination: high density (HDPE), low density (LDPE), and linear low density (LLDPE). HDPE is stronger than LDPE for a given gauge, but is less glossy and amenable to bold colors and sharp printing. LLDPE is less opaque than either HDPE or LDPE, but has better heat-sealing characteristics. To produce PRCBs in the United States, polyethylene resin is first liquified, mixed, and colored in a blending apparatus. The mixture is then injected into an extruder, which transforms the liquid into a continuous flat sheet or film of a certain gauge. Special processes solidify the film, after which it is wound into rolls and stored as work-in-process. The process of converting the polyethylene film into bags begins by unwinding the rolls and continuously printing the film with the appropriate text and design. The film is then cut to size, gusseted (pleated) if desired, and the sections heat-sealed together. Handles are either die cut into the sides or drawcords are heat-sealed into loops around the opening (polyethylene loop handles are heat-sealed to the top). The entire process is automated, with little or no manual labor required other than for the maintenance and adjustment of the machinery. The process in China, Malaysia, and Thailand is more labor intensive, particularly in the conversion stage for higher-end bags that require cardboard inserts, elaborate gussets, and applied handles.

In both the United States and abroad, other bags of polyethylene film can be and are made with the same equipment and employees used to produce PRCBs. For the most part these other bags consist of (1) consumer bags, i.e., bags without handles (other than polyethylene drawcords) and without printing that are generally sold through retailers to consumers for uses specified on the packaging, such as trash bags, garbage bags, and sandwich bags; (2) industrial bags, i.e., bags sold to manufacturers and food growers and processors to package products such as bread and bird seed for resale; and (3) produce bags, i.e., bags without handles and generally in continuous rolls that grocery stores and others provide to their customers for storing and separating the store's fruits, vegetables, and other bulk or unpackaged items while in the store.

Distribution and Marketing

Most retailer-specific PRCBs are sold directly from U.S. producers and importers to the appropriate retailers, often and increasingly by online auctions managed by the retailer. Most sales are contractual arrangements with quantities fixed and prices allowed to vary from month to month in line with the price of polyethylene resin. More generic PRCBs, i.e., those without company-specific design or printing, are sold to distributors for general distribution. Produce bags are distributed similarly. Consumer bags are sold to many of the same, but a more limited set, of retailers and are packaged for

[4] Respondents assert that PRCBs with heat-sealed square bottoms are also not produced in the United States; however, at least one producer, Genpak, Cedar Grove, NJ, produces them domestically.

resale to consumers, while industrial bags are sold directly to food growers and processors. PRCBs are shipped throughout the United States with little regard to the producer's or importer's location.

DOMESTIC LIKE PRODUCT ISSUES

The Commission must determine what domestic product is like, or in absence of like, most similar in characteristics and uses to, the imported articles as defined in Commerce's scope. The petitioners consider the domestic like product to be coextensive with the product scope, i.e., all PRCBs.[5] Respondents, on the other hand, contend that those PRCBs that are not produced in the United States, i.e., those requiring manual labor to finish, should be considered a separate like product, and therefore subject to a separate injury determination by the Commission. In reaching such a separate injury determination, respondents contend that the Commission should either (1) consider such PRCBs as a separate like product because there is no corresponding U.S. industry, (2) consider such PRCBs as a separate like product because of their dissimilarities to the U.S.-produced product, or (3) consider the most similar domestic like product to be high-end, glossy paper shopping bags.[6]

[5] Petitioners' postconference brief, pp. 3-12.

[6] Postconference brief of Garvey, Schubert, and Barer, pp. 1-15.

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

CHANNELS OF DISTRIBUTION

Thirteen of 14 producers and 11 of 15 responding importers sell PRCBs on a nationwide basis. Producer *** sells primarily to the West Coast. Of the four small importers that sell on a regional basis, ***. Most PRCBs are sold directly to purchasers for large orders or through distributors for smaller orders.[1] At the conference, respondents described different types of distributors: those that sell to retailers, those that sell to food distributors, and mall distributors which may have multiple customers in the same mall.[2]

Most imports are brought into the United States by PRCB distributors. Target Corp. (Target) is affiliated with Associated Merchandising Company (AMC), which imports PRCBs for Target from Thailand. Some imports are brought into the United States by the domestic industry and subsequently resold to customers when the price of the imports is less than the cost of domestic production.[3] Thai respondents allege that internet auctions have allowed subject importers direct access to domestic customers-displacing not U.S. production, but rather U.S. distribution, and the ensuing revenue from being a middleman.[4]

Lead Times

The average lead time for producers and importers in their delivery of PRCBs is quite variable. For producers, 3 of 14 have lead times of less than a week (including *** for its large, repeat customers). The remaining 12 (including new customers for ***) have lead times between 1 and 8 weeks. For importers, 6 of 16 have lead times of less than a week (including contract sales for *** and *** for its large, repeat customers). Six of 16 have lead times between 1 and 8 weeks (including *** spot sales customers and *** new customers). The remaining six noted longer lead times than this, averaging 12 weeks.

Internet Sales

Sales via internet auction have been increasing through the period of study. Nine of 14 domestic producers have participated in internet auctions. Domestic producers won some of the auctions, but *** have lost all the auctions in which they participated. Petitioners asserted that internet auctions demonstrate that price is the primary factor in a company's decision regarding its supplier of PRCBs.[5] Petitioners also alleged that the internet auction conducted by Target in October 2001 and won by subject imports increased the credibility of imports instantly and led to other large retailers conducting internet auctions.[6] Five of 17 importers sold over the internet in 2002. Three of these were petitioners ***. Of the other two, *** gave no further details, and AMC noted that it won Target's business in an October 2001 internet auction. However, AMC noted that the internet auction established non-price factors such as quality, financial stability, and insurance as elements in determining pre-qualification of companies to participate in this auction.[7] Petitioners noted that this means that once potential suppliers are pre-

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[1] Conference transcript (Mr. Verrier), p. 155.
[2] Conference transcript (Mr. Creais, Mr. Gitlen, and Mr. Verrier), pp. 129, 146-147, and 155.
[3] Conference transcript (Mr. Seanor), p. 49.
[4] Thai respondents' postconference brief, p. 9.
[5] Petition, p. 23.
[6] Petitioners' postconference brief, p. 26.
[7] AMC's postconference brief, p. 2, and conference transcript (Mr. Johnson), p. 95.

qualified, the only consideration is price.[8] AMC also noted that sometimes the winner of an auction is not the lowest price bidder.[9]

MARKET SEGMENTS

Petitioners alleged that the PRCB market is a continuum of products ranging from t-shirt sacks one may get at the grocery store to die-cut handle bags, patch handle bags, drawstring bags, and strap handle bags.[10] All are given out when one purchases products at any number of various retail establishments and are used to carry purchases. Chinese respondents disagreed, stating that high-end shopping bags are a different market segment than what the domestic manufacturers produce at the low end of the alleged continuum. They noted that these bags are more expensive, are dispensed differently, are sold in much lower volumes, include parts other than plastic, and have a separate end use as advertising (i.e., bagvertising) and status symbols, rather than just a means of conveying purchases to their final destination.[11]

Market Leadership

There is no clear market leader in the PRCB market. Chinese respondents alleged that many importers of PRCBs from China are small companies which follow petitioners lead in pricing.[12] Mr. Cannon of PDI Saneck International (PDI Saneck) testified that he feels that he walks away from a substantial amount of business because domestic producers set prices too low, and Mr. Guido of Progressive Sales (Progressive) alleged that Progressive does not follow the domestic industry down to the uncompetitive price levels which they typically set on t-shirt bags.[13] Petitioners, on the other hand, believe that it is the imported product underselling the domestic PRCBs that is driving market prices down.[14]

SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

There were 14 producers of PRCBs in the United States during the period examined that responded to the Commissions questionnaire. In the short term, PRCB producers are likely to respond to changes in price with small changes in the quantity shipped to the U.S. market. Supply responsiveness is inhibited by the customization of printing on the bags, low amount of exports, the difficulty in switching to producing other products, and the small quantity of inventory on hand, but is heightened by the moderate capacity utilization rate. The elasticity of domestic supply is likely to be in the range of 2 to 4.

U.S. producers' reported capacity to produce PRCBs increased by 8.2 percent from 2000 to 2002. Capacity dipped slightly from interim 2002 to interim 2003 by 1.8 percent, however. The industrys capacity utilization rate declined from 84.9 percent in 2000 to 79.8 percent in 2002, but rose

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[8] Petitioners' postconference brief, p. 20.

[9] AMC's postconference brief, pp. 2 and 15, and conference transcript (Mr. Seanor), p. 69, noting that the price offered was close to the lowest price, and conference transcript (Mr. Cannon), p. 109.

[10] Petition, p. 3 and conference transcript (Mr. Dorn), p. 155.

[11] Chinese respondents' postconference brief, pp. 6-11.

[12] Chinese respondents' postconference brief, p. 32, and conference transcript (Mr. Cannon), pp. 108-109.

[13] Conference transcript, pp. 109 and 116.

[14] Petitioner, p. 22.

to 80.7 percent in the most recent interim period.

U.S. producers' export shipments have been low but increasing compared to shipments to the U.S. market. On a quantity basis, the percentage of producers' export shipments relative to their total shipments rose to 1.6 percent in 2002 from 0.9 percent in 2000. Exports fell slightly in the interim periods from 1.7 to 1.5 percent of total shipments.

End-of-period inventories for U.S. producers of PRCBs, as a ratio to total shipments, increased between 2000 and 2002 from 5.1 percent to 5.5 percent. Inventories as a ratio to total shipments fell in the interim period, however, from 8.8 percent at the end of the first quarter of 2002 to 7.4 percent of shipments at the end of the first quarter of 2003.

U.S. Demand

According to the questionnaire respondents, demand in the United States for PRCBs has either been flat or has increased since 2001. *** estimated demand to have increased 6 percent since 2000 and *** estimated demand to be increasing at 5.8 percent per year. Petitioners stated that demand for PRCBs is dependent upon population growth and not the overall health of the economy.[15] Thai respondents disagreed, alleging that demand is dependent on the level of retail spending in the United States.[16] Petitioners submitted Census data showing that retail and food service sales increased by 3.6 percent from 2000 to 2001, 4.1 percent from 2001 to 2002, and 2.3 percent from interim 2002 to interim 2003.[17] In the responses to producer questionnaires, nine of 13 domestic producers described demand as growing, three stated it has been flat, and *** said it has been flat to slightly increasing. Four producers attributed this growth to population growth, three to a change in tastes from paper to plastic bags, two to growth in retail chains, supermarkets, and merchandising, and one to low import prices, availability, and oversupply. Eleven of 14 responding importers agreed that demand had been increasing, while three saw demand as being relatively flat. Reasons for the increase were mostly the same, but *** added that the increase is due to value added capabilities overseas; *** noted that improved technology and quality has changed demand from overseas producers; and *** attributed the increase to stores looking to advertise. Overall, though, apparent consumption increased from 88.1 billion units in 2000 to 96.5 billion units in 2002, and also in the interim period from 21.0 billion units in the first quarter of 2002 to 22.8 billion units in the first quarter of 2003. On a value basis, consumption followed similar trends.

Thai respondents alleged that demand is seasonal, with a peak in orders for exports from Thailand during the third quarter, in preparation for the holiday season, with imports peaking in the fourth quarter.[18] Petitioners disagree, however, noting that demand for PRCBs is relatively constant throughout the year.[19] Respondents also noted that bags have become thinner as retailers were not filling larger bags when loading purchased items into PCRBs. This precipitated less need for larger, heavier-gauge PRCBs.[20] Petitioners noted, however, that the market has been trending toward heavier-gauge bags.[21] Eight of 14 producers noted that there have not been any significant shifts in product range or marketing since 2000. Of the six that noted a shift, *** noted a general shift towards more graphics on the bags, *** stated that product differentiation has been reduced but the range of available products has grown due to import availability, and *** stated that selling methods have changed, either via the internet or direct buying.

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[15] Petitioners' postconference brief, p. 23.
[16] Thai respondents' postconference brief, p. 8
[17] Petitioners' postconference brief, app. G.
[18] Thai respondents' postconference brief, p. 8.
[19] Petitioners' postconference brief, p. 23.
[20] Conference transcript (Mr. Johnson), p. 94.
[21] Conference transcript (Mr. Varn and Mr. Seanor), pp. 76 and 77.

Petitioners stated that demand for PRCBs is inelastic. First, they alleged that there are no direct substitutes for PRCBs. Also, retailers must purchase bags to use in their stores. They noted that this product is a necessity for virtually all retailers, rather than a discretionary purchase.[22] Because of this, the elasticity of demand for PRCBs is likely in the range of -0.2 to -0.5.

Cost Share

PRCBs as an end-use good are usually given away free when a customer pays for his or her purchases. To the retailer/dispenser of the bag, the cost of PRCBs in relation to the total purchase amount is very small. Higher-end retail bags, however, will cost more than t-shirt style bags.

Substitute Products

There are few substitutes for PRCBs. Producers and importers were asked what other products may be substitutes for PRCBs. Eight of 14 producers and 11 of 16 responding importers replied that there are no direct substitutes for PRCBs. Producer *** noted that reinforced handle bags could be a substitute, and importers *** stated that varigauge bags and unprinted merchandise bags could be substitutes. However, the most probable substitute for a PRCB would be a paper bag. Five of 14 producers and three of 16 responding importers noted that paper bags could substitute for PRCBs, though *** noted that the substitutability is limited.

Domestic producers were asked to note any similarities and differences between PRCBs and paper bags, as well as those between PRCBs and other polyethylene bags. Producers focused almost exclusively on differences. In comparing PRCBs to paper bags, nine noted that costs are different (with paper bags being more costly than PRCBs), seven replied that PRCBs are moisture resistant, six pointed out that paper bags are harder to store and PRCBs are stronger and/or lighter, four stated that PRCBs have handles, and three noted that PRCBs are more environmentally friendly and are made on different manufacturing equipment. In comparing PRCBs to other plastic bags, the only common responses received were that the other plastic bags are designed for other uses and are sold instead of given away freely. Pointed out at the conference by respondents was the existence of polypropylene bags which could be substituted for high-end retail carrier bags.[23]

SUBSTITUTABILITY ISSUES

Interchangeability

Importers and producers of PRCBs were asked if U.S.-produced PRCBs and imported PRCBs are used interchangeably. Results are shown in tables II-1 and II-2.

Producer *** noted that PRCBs are very interchangeable with PRCBs made outside the United States, but stopped short of acknowledging they were direct substitutes. If the end user of the PRCB requires FDA approval for use, then *** acknowledges that bags made in the United States versus bags made in China, Malaysia, or Thailand are not interchangeable, due to regulations. *** also added that even though all bags produced domestically are by themselves interchangeable with bags imported from China, Malaysia, Thailand, and other countries, sometimes the customer will not accept different varieties. For example, it noted that a customer may not accept a hand-tied drawstring bag, the standard for bags in China, in lieu of the stapled drawstring bag that is standard in the United States. Customers

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[22] Petitioners' postconference brief, pp. 22-23.
[23] Conference transcript (Mr. Perry), p. 99.

Table II-1
PRCBs: Producer responses to interchangeability between country pairs

Country pairs	Always	Frequently	Sometimes	Never	No information
U.S. - China	10	2	1	0	1
U.S. - Malaysia	9	2	1	0	2
U.S. - Thailand	9	3	1	0	1
U.S. - Other	7	2	1	0	5
China - Malaysia	9	0	0	0	4
China - Thailand	9	0	0	0	4
Malaysia - Thailand	9	0	0	0	4
China - Other	6	0	0	0	7
Malaysia - Other	5	0	0	0	8
Thailand - Other	5	0	0	0	8

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

Table II-2
PRCBs: Importer responses to interchangeability between country pairs

Country pairs	Always	Frequently	Sometimes	Never	No information
U.S. - China	8	3	5	1	1
U.S. - Malaysia	7	1	2	0	7
U.S. - Thailand	7	3	4	0	4
U.S. - Other	7	1	2	0	6
China - Malaysia	6	1	1	0	8
China - Thailand	6	2	2	1	5
Malaysia - Thailand	6	1	1	0	8
China - Other	6	1	1	0	8
Malaysia - Other	5	1	1	0	9
Thailand - Other	5	1	1	0	9

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

may also not accept heat-sealed patch bags, again a product from China, in lieu of smooth patch bags made domestically. *** noted separately that all bags were interchangeable with bags produced abroad, and also noted that Turkey, Israel, and Germany are additional producers.

Non-Price Differences

Producers and importers were asked if differences other than price (i.e., quality, availability, transportation network, product range, etc.) between PRCBs produced in the United States and in other countries were a significant factor in their sales of the products. Results are shown in tables II-3 and II-4.

Table II-3
PRCBs: Producer responses to non-price differences between country pairs

Country pairs	Always	Frequently	Sometimes	Never	No information
U.S. - China	1	2	4	7	3
U.S. - Malaysia	1	2	3	7	4
U.S. - Thailand	1	3	3	7	4
U.S. - Other	1	0	3	2	8
China - Malaysia	1	0	1	6	7
China - Thailand	1	0	1	6	7
Malaysia - Thailand	1	0	1	6	7
China - Other	1	0	2	2	10
Malaysia - Other	1	0	1	2	11
Thailand - Other	1	0	1	2	11

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

Table II-4
PRCBs: Importer responses to non-price differences between country pairs

Country pairs	Always	Frequently	Sometimes	Never	No Information
U.S. - China	2	4	4	5	0
U.S. - Malaysia	0	2	2	6	5
U.S. - Thailand	1	3	3	6	3
U.S. - Other	0	2	3	4	5
China - Malaysia	0	2	1	6	5
China - Thailand	0	2	1	7	4
Malaysia - Thailand	0	1	1	6	5
China - Other	0	1	1	5	7
Malaysia - Other	0	1	1	5	7
Thailand - Other	0	1	1	5	7

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

Producer *** noted that price is usually the determining factor, but other factors such as lead time, training program, technical support, floor stock, and quality sometimes have the advantage over price. Importer *** added that production for a contract must meet minimum quality standards as well as the ability to deliver on time. Additionally, *** perceived quality as a factor when deciding between imports and domestic production, and stated that domestic producers did not meet quality expectations. Further, it stated price was not a factor when deciding to import, as products imported were different than goods produced domestically and did not meet the specifications it needed.

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

The Commission analyzes a number of factors in making injury determinations (see 19 U.S.C. §§ 1677(7)(B) and 1677(7)(C)). Information on the alleged margins of dumping was presented earlier in this report and information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V. Information on the other factors specified is presented in this section and/or Part VI and (except as noted) is based for the most part on the questionnaire responses of 13 firms that are believed to account for over 80 percent of all PRCBs produced in the United States in the period examined. Another U.S. producer that responded to the Commission's questionnaire, ***, was not incorporated into the aggregate data because of unresolved inconsistences and omissions in its reported data.[1]

Domestic producers' plant locations, positions on the petition, and individual shares of U.S. production in 2002 are presented in table III-1. Also included in table III-1 is the share of each firm's total shipments accounted for by the firm's imports and purchases of PRCBs from the subject countries. Nine of the 14 reporting firms import or purchase imports of PRCBs from China, Malaysia, and Thailand, although their U.S. production accounts for the overwhelming bulk of their sales. In the aggregate about 2 percent of U.S. producers' total shipments of PRCBs in the period examined were produced in the subject countries. Two producers, ***, have related producers in China and Thailand, respectively, from which they import the subject product. All of the producers importing or purchasing imports from the subject countries, however, including API, report that dealing in such imports has been necessary for the maintenance of their competitive position in the market. In order to compete with the price of PRCBs imported from these countries and retain their customer base, U.S. producers report that they have taken advantage of the cost benefits these imports present.

Most of the producers, including the largest, do not produce products other than PRCBs on the same equipment or with the same employees. The remainder, including ***, share their equipment and/or employee time with other polyethylene products such as consumer bags, industrial bags, and produce bags. Neither do all producers produce every variety of PRCB known. The higher-end bags, such as those with heat-sealed square bottoms and separately-applied polyethylene handles, tend to be produced by the smaller producers such as Genpak-Continental and Ampac.

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[1] Known U.S. producers that did not respond to the Commission's questionnaires include Orange Plastics, Inc., Compton, CA, which closed its plant in Crittenden, KY, in January 2003; Pac-Sac Industries, Inc., Sparta, MI; Plassein International, Willington, CT; Trinity Packaging Corp., Armonk, NY; Petoskey Plastics, Inc. Petoskey, MI; Wisconsin Film & Bag, Inc., Hartland, WI; and Regal Polytech, Melville, NY. (According to Mr. Peter Levy of the latter firm, Regal did not receive the Commission's producer questionnaire but Regal is nevertheless in support of the petition). Another domestic firm, Nexus Plastics, Inc., Hawthorne, NJ, makes a high-end retail bag for the same purpose as PRCBs, but the thickness of the polyethylene used place its bags outside the product scope. Most of the other "producers of polyethylene retail carrier bags" listed in exhibit 3 of the petition produce polyethylene sheet but not PRCBs. Polyethylene sheet is much thicker than the film used to produce PRCBs and is used to make products such as carton liners and aprons.

Table III-1
PRCBs: U.S. producers, locations of production facilities, positions with respect to the petition, shares of U.S. production, 2002, and U.S.-produced and subject-country-produced shares of total quantity of PRCBs sold, January 2000-March 2003

Company	Locations of production facilities	Position with respect to the petition	Production (*1,000* units)	Share of production (*percent*)	Percent of total quantity of PRCBs sold– U.S. produced	Percent of total quantity of PRCBs sold– Subject country produced[1]
Alpha[2]	Lyndhurst, NJ	Support	***	***	***	***
Ampac[3]	Cincinnati, OH	***	***	***	***	***
API[4]	Metairie, LA	***	***	***	***	***
Command Pkg[5]	Los Angeles, CA	Support	***	***	***	***
Durabag[6]	Tustin, CA	Support	***	***	***	***
Genpak[7]	Cedar Grove, NJ	Support	***	***	***	***
Genpak[8]	Bloomington, MN	Support	***	([9])	***	***
Inteplast[10]	Livingston, NJ	Petitioner	***	***	***	***
PCL Pkg[11]	Pueblo, CO North Dighton, MA	Petitioner	***	***	***	***
Roplast[12]	Oroville, CA	Support	***	***	***	***
Sonoco[13]	Hartsville, SC Santa Maria, CA	Petitioner	***	***	***	***
Superbag[14]	Houston, TX	Petitioner	***	***	***	***
Unistar[15]	Harahan, LA Houston, TX	Support	***	***	***	***
Vanguard[16]	Farmers Branch, TX; Carrollton, TX; Rancho Cucamonga, CA; Jacksonville, FL; Richmond, VA; St. Louis, MO	Petitioner	***	***	***	***
Total responding			***	100.0	97.9	2.1

[1] Imports and purchases of imports from China, Malaysia, and Thailand.
[2] Alpha is not owned, in whole or in part, by any other firm.
[3] Ampac is *** owned by Key Principal Partners, Greenwich, CT, and *** owned by Pouschine Cook Capital Management, LLC, New York, NY. ***.
[4] API includes API Enterprises, Inc.; Alpine Plastics, Inc.; and Advance Polybag. The firm is not owned, in whole or in part, by any other firm. ***.
[5] Command Packaging is not owned, in whole or in part, by any other firm.
[6] Durabag is not owned, in whole or in part, by any other firm.
[7] Genpak (Cedar Grove), formerly Continental Superbag, is *** owned by the Jim Pattison Group, Vancouver, BC.
[8] Genpak (Bloomington), formerly Strout Plastics, is *** owned by the Jim Pattison Group, Vancouver, BC.
[9] ***.
[10] Inteplast is *** owned by AmTopp, its general partner, and *** owned each by IBS, World-Pak, Nan Ya Plastics Corp. USA, and Formosa Plastics Corp. America PCA, its limited partners.
[11] PCL Packaging is not owned, in whole or in part, by any other firm.
[12] Roplast is not owned, in whole or in part, by any other firm.
[13] Sonoco is not owned, in whole or in part, by any other firm. The Santa Maria, CA, plant was closed in July 2001.
[14] Superbag is not owned, in whole or in part, by any other firm.
[15] Unistar is not owned, in whole or in part, by any other firm.
[16] Vanguard is *** owned by Mc Baird, Inc., Farmers Branch, TX.

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

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

Combined data for 13 of the 14 producers responding to the Commission's questionnaires are shown in table III-2. (The questionnaire response of one *** producer, ***, contained significant omissions and inconsistencies and was not incorporated into the aggregate data). Producers' overall capacity for the subject product increased by about 6 percent from 2000 to 2001 and slightly again in 2002 as some producers, including ***, added or improved equipment. (During the same period, Sonoco closed its Santa Maria, CA, plant, ***). During the same time, production changed only marginally, resulting in a decline in capacity utilization from 85 percent to 80 percent. Both production and capacity declined slightly in January-March 2003 from January-March 2002. The quantity of U.S. commercial shipments shifted only marginally during the period examined;[2] however, the value of these shipments declined noticeably after 2001. The effect was a 15-percent drop in unit value between 2001 and January-March 2003. If there were no significant changes in the mix of product sold by producers (as reported by some U.S. producers at the Commission's conference[3]), then the decline should reflect a corresponding trend in prices. Exports of PRCBs were minor, amounting to 1.3 percent of total shipments during the period examined. While end-of-period inventories increased somewhat from 2000 to 2002, employment declined. Both end-of-period inventories and employment declined in January-March 2003 from January-March 2002, as did productivity, which had improved from 2000 to 2002. (Note.–Because of production and shipping losses and a small quantity of outside purchases included in U.S. commercial shipments, the quantities of production, shipments, and inventories in table III-2 do not completely reconcile).

As indicated previously, nine U.S. producers reported that they had imported or purchased PRCBs from the subject countries during the period examined. Each firm's quantity (in 1,000 units) of such imports and/or purchases and their U.S. production are shown in the tabulation below:

* * * * * * *

[2] The U.S. commercial shipments reported in table III-2 contain a small quantity of U.S. producers' outside purchases, amounting to about 0.1 percent of commercial shipments in 2001 and less than 0.05 percent for all other periods.

[3] Conference transcript, pp. 76-77.

Table III-2
PRCBs: U.S. producers' production, average practical capacity, capacity utilization, domestic shipments, exports, end-of-period inventories, average number of U.S. production and related workers, and hours worked by and wages paid to such workers, 2000-2002, January-March 2002, and January-March 2003

(Quantity=*1,000 units*; value=*1,000 dollars*)

Item	2000	2001	2002	J-M 2002	J-M 2003
U.S. producers'-- Capacity quantity	70,312,717	74,699,855	76,045,393	18,993,572	18,647,822
Production quantity	59,696,927	60,736,302	60,719,549	15,151,689	15,043,016
Capacity utilization[1]	84.9	81.3	79.8	79.8	80.7
U.S. commercial shipments:[2]					
Quantity	58,867,171	59,688,081	59,629,156	13,429,892	13,705,887
Value	723,658	730,419	652,947	148,271	142,248
Unit value (*per 1,000 units*)	$12.29	$12.24	$10.95	$11.04	$10.38
Export shipments:					
Quantity	523,142	798,400	992,720	230,253	213,098
Value	5,707	8,531	10,371	2,268	2,169
Unit value (*per 1,000 units*)	$10.91	$10.69	$10.45	$9.85	$10.18
Total shipments:					
Quantity	59,390,313	60,486,481	60,621,876	13,660,145	13,918,985
Value	729,365	738,950	663,318	150,539	144,417
Unit value (*per 1,000 units*)	$12.28	$12.22	$10.94	$11.02	$10.38
Ending inventory quantity	3,024,706	3,251,565	3,330,588	4,824,626	4,092,379
Inventories/total shipments[1]	5.1	5.4	5.5	8.8[3]	7.4[3]
Production workers	3,533	3,448	3,273	3,364	3,193
Hours worked (*1,000 hours*)	7,541	7,505	7,056	1,620	1,671
Wages paid (*1,000 dollars*)	95,326	96,438	94,633	20,353	21,686
Hourly wages	$12.64	$12.85	$13.41	$12.56	$12.98
Productivity (*1,000 units per hour*)	7.9	8.1	8.6	9.4	9.0

[1] In *percent*.
[2] Includes small quantity (less than 0.1 percent) of U.S. producers' outside purchases.
[3] Based on annualized shipment data.

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

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

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

The total number of firms that imported PRCBs from China, Malaysia, and Thailand during the period examined is unknown. U.S. Customs' data list over 200 firms that imported product under HTS statistical reporting number 3923.21.0090 in 2002, but this number includes many products outside the scope of these investigations. Only 16 importers, representing 11 percent of subject-country exports of PRCBs to the United States, responded to the Commission's questionnaires with usable information, and half of these were also U.S. producers.[1] One of the former and two of the latter are related to subject-country producers.[2] There is no evidence that the imported product undergoes any further processing in the United States.

U.S. import data for China, Malaysia, Thailand, and other countries as a whole, in addition to U.S. consumption, are shown in table IV-1. In the absence of an alternative methodology proposal or supportable arguments to the contrary, other than the experience of two importers,[3] and with limited questionnaire data from importers and uncertain coverage of foreign producers (see Part VII), table IV-1 contains petitioners' estimates of imports as the best information available in the preliminary phase of these investigations. Petitioners contend that 75 percent of the quantity and value reported under HTS statistical reporting number 3923.23.0090 for China,[4] Malaysia, and Thailand and 10 percent of the reported data for Mexico and Canada (based on imports of two of the petitioners) are PRCBs. For other countries, petitioners estimated that 75 percent of total imports are PRCBs where the c.i.f. value per thousand units is $4.00 to $9.00 (i.e., comparable to imports from the subject countries) and 10 percent of total imports where the c.i.f. value per thousand units is less than $4.00 or greater than $9.00. (The c.i.f. values in table IV-1 have been revised to reflect landed, duty-paid values). The data show a large and increasing quantity of imports from the subject countries, dominated by China, with unit values about half those of U.S. producers' domestic shipments. Together, China, Malaysia, and Thailand accounted for more than 70 percent of the quantity of U.S. imports of PRCBs during the period examined. Imports from these countries also accounted for a large and increasing share of consumption during the period examined. While U.S. producers' share of consumption quantity fell from 67 percent in 2000 to 60 percent in January-March 2003, subject countries' share rose from over 21 percent to over 29 percent. Consumption quantity increased by over 9 percent from 2000 to 2002, and by almost 9 percent from January-March 2002 to January-March 2003.

NEGLIGIBILITY

The Tariff Act provides for the termination of an investigation if imports of the subject product from a country are less than 3 percent of total imports during the most recent 12 months for which data are available preceding the filing of the petition–in this case June 2002-May 2003. Using petitioners' method for the calculation of imports, total imports of PRCBs in this period were 41,254,214,450 units,

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[1] Those importers other than U.S. producers include ***.

[2] ***.

[3] See postconference brief of Garvey, Schubert, and Barer, pp. 19-21.

[4] Imports from China also include a relatively small quantity of imports from Hong Kong in accordance with the petitioners' contention that there are no producers of PRCBs in Hong Kong and, therefore, that product from Hong Kong must be Chinese in origin. Respondents contend that at least 2 firms are known to produce the subject product in Hong Kong, but the extent to which any Hong Kong producers may export to the United States and/or Chinese producers may transship through Hong Kong remains unknown.

Table IV-1
PRCBs: U.S. imports and apparent U.S. consumption,[1] 2000-2002, January-March 2002, and January-March 2003

(Quantity=*1,000 units*; value=*1,000 dollars*)

Item	2000	2001	2002	J-M 2002	J-M 2003
U.S. consumption quantity: Amount	88,137,171	90,233,081	96,475,156	21,043,892	22,845,887
Producers' share[2]	66.8	66.1	61.8	63.8	60.0
Importers' share: China[2]	17.4	19.5	22.7	20.8	24.4
Malaysia[2]	1.3	1.5	1.7	1.4	0.8
Thailand[2]	2.7	3.1	4.0	4.5	3.9
Total subject countries[2]	21.4	24.1	28.4	26.7	29.1
All other countries[2]	11.8	9.7	9.8	9.5	10.9
Total imports[2]	33.2	33.9	38.2	36.2	40.0
U.S. consumption value: Amount	906,567	934,856	883,339	198,233	200,971
Producers' share[2]	79.8	78.1	73.9	74.8	70.8
Importers' share: China[2]	10.2	12.1	14.2	13.2	15.6
Malaysia[2]	0.8	0.8	0.8	0.7	0.7
Thailand[2]	1.3	1.6	2.7	2.6	3.1
Total subject countries[2]	12.3	14.5	17.7	16.5	19.3
All other countries[2]	7.9	7.4	8.3	8.7	9.9
Total imports[2]	20.2	21.9	26.1	25.2	29.2
U.S. imports from-- China:					
Quantity	15,304,000	17,601,000	21,866,000	4,383,000	5,581,000
Share of total import quantity[2]	52.3	57.6	59.3	57.6	61.1
Value[3]	92,510	113,096	125,718	26,176	31,265
Share of total import value[2]	50.6	55.3	54.6	52.4	53.2
Value per 1,000 units	$6.04	$6.43	$5.75	$5.97	$5.60
Malaysia:					
Quantity	1,176,000	1,336,000	1,642,000	289,000	191,000
Share of total import quantity[2]	4.0	4.4	4.5	3.8	2.1
Value[3]	7,405	7,866	7,067	1,472	1,310
Share of total import value[2]	4.0	3.8	3.1	2.9	2.2
Continued on next page.					

Item	2000	2001	2002	J-M 2002	J-M 2003
Value per 1,000 units	$6.30	$5.89	$4.30	$5.09	$6.86
Thailand:					
Quantity	2,364,000	2,813,000	3,889,000	947,000	880,000
Share of total import quantity[2]	8.1	9.2	10.6	12.4	9.6
Value[3]	11,664	14,533	23,911	5,077	6,285
Share of total import value[2]	6.4	7.1	10.4	10.2	10.7
Value per 1,000 units	$4.93	$5.17	$6.15	$5.36	$7.14
Total subject countries:					
Quantity	18,844,000	21,750,000	27,397,000	5,619,000	6,652,000
Share of total import quantity[2]	64.4	71.2	74.4	73.8	72.8
Value[3]	111,579	135,495	156,696	32,725	38,860
Share of total import value[2]	61.0	66.3	68.0	65.5	66.2
Value per 1,000 units	$5.92	$6.23	$5.72	$5.82	$5.84
All other countries:					
Quantity	10,426,000	8,795,000	9,449,000	1,995,000	2,488,000
Share of total import quantity[2]	35.6	28.8	25.6	26.2	27.2
Value[3]	71,330	68,942	73,696	17,237	19,863
Share of total import value[2]	39.0	33.7	32.0	34.5	33.8
Value per 1,000 units	$6.84	$7.84	$7.80	$8.64	$7.98
All countries:					
Quantity	29,270,000	30,545,000	36,846,000	7,614,000	9,140,000
Value[3]	182,909	204,437	230,392	49,962	58,723
Value per 1,000 units	$6.25	$6.69	$6.25	$6.56	$6.42

[1] U.S. producers' domestic shipments plus imports.
[2] In *percent.*
[3] Landed, duty-paid.

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

Source: Compiled from official Commerce statistics and data submitted in response to Commission questionnaires.

imports from China were 24,975,187,500 units, imports from Malaysia were 1,370,967,750 units, and imports from Thailand were 4,129,091,250 units. As a share of total imports in this period, imports from China, Malaysia, and Thailand were 60.6 percent, 3.3 percent, and 10.0 percent, respectively.

PART V: PRICING AND RELATED INFORMATION

FACTORS AFFECTING PRICES

Raw Material Costs

The main raw material used to make PRCBs is polyethylene resin. PRCBs are made out of either high density polyethylene (HDPE), low density polyethylene (LDPE), linear low density polyethylene (LLDPE), or a combination of the types. Polyethylene resin is a crude oil derivative. Thai respondents and respondent AMC noted that the price of crude oil and ethylene are important factors in determining the price of PRCBs.[1] Domestic producers often index changes in price of their products to changes in price for polyethylene resin from an industry source such as *Chem Data.*[2] Altogether, raw material costs accounted for approximately 55.5 percent of the cost of goods sold in 2002.

Transportation Costs

Transportation costs for PRCBs from China, Malaysia, and Thailand to the United States (excluding U.S. inland costs) are estimated to be approximately 11.1, 14.3, and 11.7 percent of the total landed cost for PRCBs, respectively.[3] These estimates are derived from official import data and represent the transportation and other charges on imports valued on a c.i.f. basis, as compared with customs value.

The producers and importers of PRCBs were asked to estimate the cost of U.S. inland transportation of their products. Ten of the 13 producers responding to this question noted that transportation costs are between 2 and 5 percent of total cost. *** reported that transportation costs account for 10 percent of total cost and *** reported these to be much higher, at 34 percent. Importers' inland transportation costs varied considerably, with seven responding that transportation accounts for between 1 and 5 percent of the total delivered cost of the PRCBs they import, and eight estimating these costs to be higher, between 10 and 20 percent.

Tariff Rates

PRCBs subject to these investigations from China, Malaysia, and Thailand enter the United States under HTS subheading 3923.21.00. The normal trade relations tariff rate for these PRCBs is currently 3 percent, which applies to China and Malaysia. Thailand is eligible for GSP treatment, and its PRCBs enter the United States tariff-free.

Exchange Rates

Quarterly data reported by the International Monetary Fund indicate that the nominal value of the Chinese yuan remained stable relative to the U.S. dollar from January 2000 to March 2003 (figure V-1). The nominal value of the Malaysian ringgit also remained stable vis-a-vis the U.S. dollar between January 2000 and March 2003, whereas its real value depreciated until the fourth quarter of 2001 but has since gained back almost completely the real value it had lost (figure V-2). The currencies of China and Malaysia are both fixed relative to the U.S. dollar. The Thai baht followed a similar pattern in both

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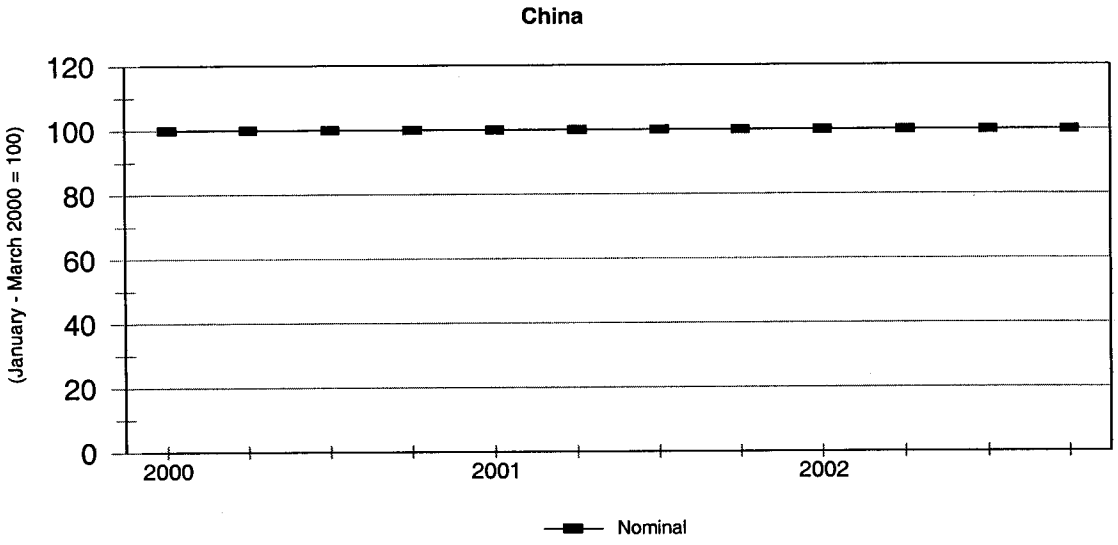
[1] Thai respondents' postconference brief, p. 7, and respondent AMC's postconference brief, p. 12.

[2] Conference transcript (Mr. Bazbaz), p. 82.

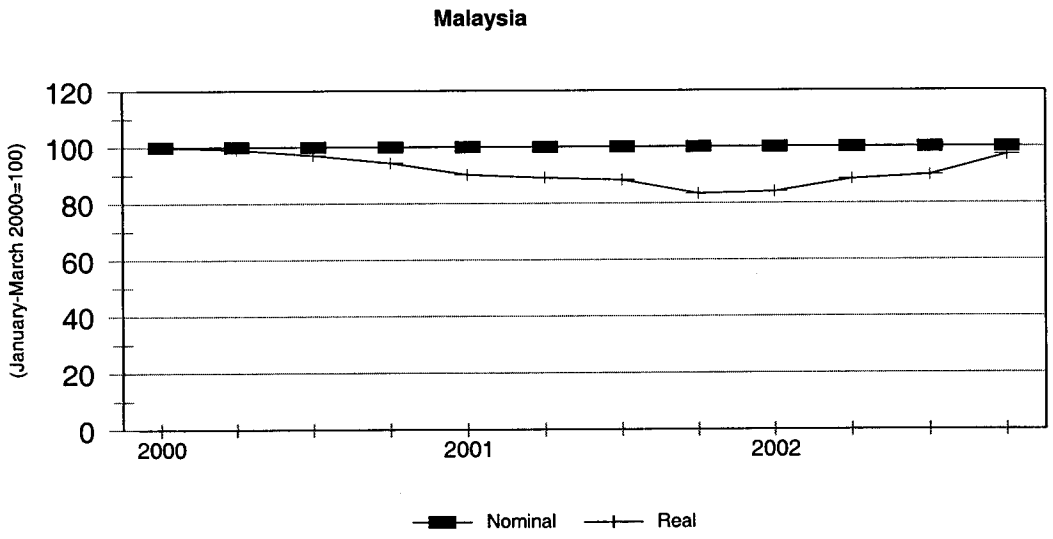
[3] Data are reported for all goods included in HTS statistical reporting number 3923.21.0090.

Figure V-1
Exchange rates: Index of the nominal exchange rate of the Chinese yuan relative to the U.S. dollar, by quarters, January 2000-March 2003



Source: International Monetary Fund, *International Financial Statistics*, April 2003.

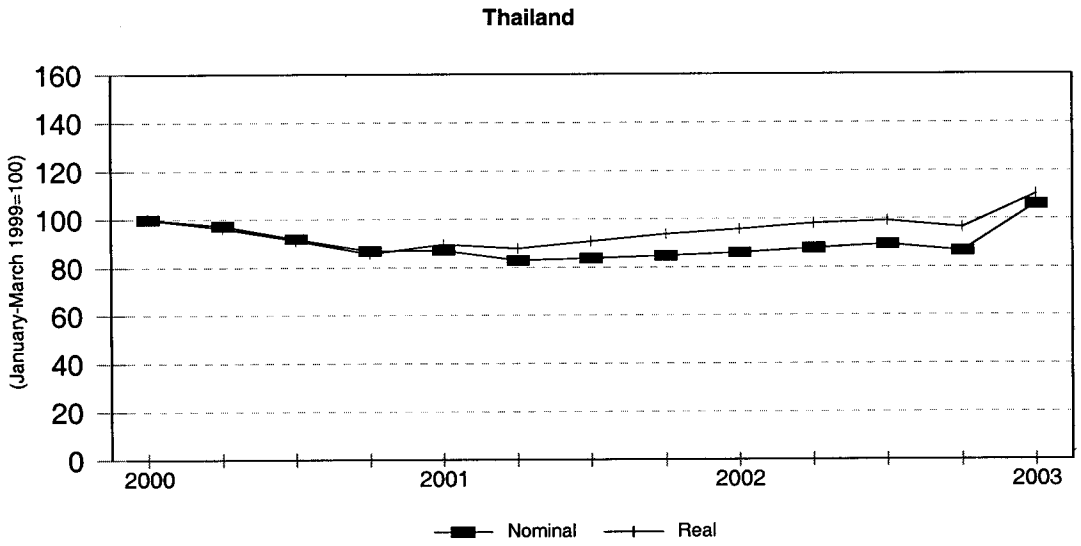
Figure V-2
Exchange rates: Indices of the nominal and real exchange rates of the Malaysian ringgit relative to the U.S. dollar, by quarters, January 2000-March 2003



Source: International Monetary Fund, *International Financial Statistics*, April 2003.

nominal and real value relative to the U.S. dollar, since it maintains a floating exchange rate system (figure V-3).

Figure V-3
Exchange rates: Indices of the nominal and real exchange rates of the Thai baht relative to the U.S. dollar, by quarters, January 2000-March 2003



Source: International Monetary Fund, *International Financial Statistics*, April 2003.

PRICING PRACTICES

Pricing Methods

Nine of the 14 responding producers noted that they determined price by transaction-by-transaction negotiation. Three of the producers (***) determine prices by contracts for multiple shipments. *** determines price via three methods: transaction-by-transaction negotiation, contracts for multiple shipments, and price lists. *** proposes a price to the potential customer who reviews competing offers. Prices may be fixed, depending on changes in the price of raw materials. *** determines prices depending on its cost of production and the selling price in the market. For the importers that are not domestic producers, three use price lists, two use a cost basis, two negotiate on a transaction-by transaction basis (only for large orders for importer ***), and one uses reverse auctions.

Eleven of the 14 producers sold at least 60 percent of their PRCBs via contracts. *** each noted that they made 100 percent of sales through contracts. Eleven of the 14 producers also sold via a combination of spot market sales and contract sales. Only *** noted that it sold 100 percent on the spot market. Importers, on the other hand, sell more on the spot market. Four of 14 responding importers *** reported that all sales are on a contract basis. Six of the 14 noted selling PRCBs through both contract sales and spot sales, with the percentage sold on contract ranging from 5 to 98 percent. Four of the 14 importers sold 100 percent on the spot market, *** did not respond to this question, but did fill in information regarding contracts in other questions.

Eight of the 14 responding producers noted that contracts are typically one year in length and negotiated. *** contracts ranged from 6 to 12 months, with contracts renegotiated upon expiration. *** all had contracts that were between one and three years, with *** renewing contracts every quarter and *** yearly rather than when they expire as *** do. Eight of the responding producers fixed both quantity and price, *** including a provision that allows for resin escalation and de-escalation. *** is *** the only responding producer that does not fix quantity or price in any of its contracts. Eight of 14 responding producers do not have a meet-or-release provision for contracts. *** stated that it has no meet-or-release provision in any contracts, but customers are increasingly asking to renegotiate contracts due to market erosion from offshore producers. Only four of the responding producers have contracts with meet-or-release provisions. Each producer had different standard requirements for contracts. *** require one full truckload, whereas *** requires a 240-case minimum and *** requires a 600-case minimum. Five producers have standard requirements that are based on customers' usage. For example, *** requires 2 to 12 week average usage minimum quantity and *** requires a minimum shipment to be a consumer's 60 to 90 days' worth of PRCBs. *** has the largest requirement, requesting a standard quantity requirement of one year's estimated volume typically per contract, unless the customer requests differently.

Importers not producing domestically vary a little more with their handling of contracts. One of these five importers which sell via contracts reported typical contracts lasting six months, one reported nine months to one year, two reported one-year contracts, and the fifth has one- to two-year contracts. For these importers, three fix prices, one fixes price with an approximate quantity, and one fixes both price and quantity. No importer besides *** has meet or release provisions. None of the five importers that do not produce domestically and sell via contracts has a minimum requirement.

Sales Terms and Discounts

Nine of the 14 producers offer a discount policy, although each varies somewhat. *** offer volume discounts on a case-by-case basis, but *** only offers this when it is necessary to lower price to meet the competition. *** offer discounts based on volume, with *** only offering this to the one customer that accounts for approximately *** of its sales. *** only offer discounts that are equivalent to their sales terms. The final five of the producers that responded do not offer any discounts to purchasers. Nine of the 17 importers do not offer a discount policy. Four of the remaining importers have a set discount policy, not including discounts for early payment. Discounts may be based on volume or when needed to meet the competition.

Shipping practices vary for both producers and importers. Eleven of the 14 producers quote their prices on a delivered basis, with two producers quoting prices on a f.o.b. warehouse basis, ***. *** also determines price quotes via f.o.b. destination and f.o.b. mill basis, depending on the customer. Sales terms for the 14 responding producers were generally 1 percent 10, net 30 days terms of payment, although *** had different sales terms. *** has sales terms of net 30 days, but with a 2-percent discount if paid within 10 days. *** stated its sales terms are variable. *** also varies its sales terms depending on the products being purchased; 1 percent within 10 days, net 30 terms of payment for t-shirt bags and 2 percent 10 net 30 terms of payment on merchandise bags. All responding producers with the exception of ***, which has the purchaser make arrangements for delivery of bags, arrange delivery for customers. Four of the 15 responding importers have sales terms of 1 percent 10 net 30 terms of payment, with three quoting the products as delivered, and *** quoting sales terms on both a delivered and f.o.b. port of entry basis. *** offers 1 percent 10 net 30 terms of payment as its sales terms for imported PRCBs. Seven of the importers have net 30 terms of payment as their sales policy. Two importers, ***, offer 2 percent 10 net 30 terms of payment, whereas *** does not have a fixed sales term but one that varies with each transaction, quoted as delivered. Eight of 13 responding importers quote on a delivered basis, three on an f.o.b. basis (either port or warehouse), and two quote on either a f.o.b. or delivered basis.

PRICE DATA

The Commission requested U.S. producers and importers of PRCBs to provide quarterly f.o.b. data for the total quantity and value of PRCBs that were shipped to unrelated purchasers in the U.S. market. Data were requested for the period January 2000 to March 2003. Pricing data were requested for the following six product categories:

Product 1.–**Small "t-shirt sack"-style bag, with (a) dimensions 9-12" x 5-7" x 16-18", (b) 12-14 microns (gauge) film thickness, (c) side gussets, (d) packed 1,000 bags per case in a dispenser carton, and (e) printed with one or two colors on one side (20-30 percent ink coverage)**

Product 2.–**Medium "t-shirt sack"-style bag, with (a) dimensions 12" x 7" x 20-22", (b) 12-18 microns (gauge) film thickness, (c) side gussets, (d) packed 1,000 bags per case in a dispenser carton, and (e) printed with one or two colors on one side (20-30 percent ink coverage)**

Product 3.–**Large "t-shirt sack"-style bag, with (a) dimensions 12" x 8" x 24-28", (b) 15-25 microns (gauge) film thickness, (c) side gussets, (d) packed 1,000 bags per case in a dispenser carton, and (e) printed with one or two colors on one side (20-30 percent ink coverage)**

Product 4.–**Medium merchandise bag, with (a) dimensions 16" x 4" x 20-24", (b) 12-18 microns (guage) film thickness, (c) kidney, oval, or circle die cut, (d) packed 500 bags per case, and (e) printed with four colors on two sides (20-30 percent ink coverage)**

Product 5.–**Medium "patch handle"-style merchandise bag, with (a) dimensions 16" x 4" x 18", (b) 30-40 microns (guage) film thickness, (c) kidney or oval die cut, (d) packed 500 bags per case, and (e) printed with four colors on two sides (100 percent ink coverage)**

Product 6.–**Medium "drawstring"-style merchandise bag, with (a) dimensions 17" x 4" x 18", (b) 30-40 microns (guage) film thickness, (c) packed 500 bags per case, and (d) printed with four colors on two sides (100 percent ink coverage)**

PRCBs come in many different sizes and configurations. Since there are many features that a PRCB may have, producers and importers were asked to include any products that were comparable with the stated product. As such, PRCBs which were included by producers and importers were mostly kept in the data set. If the bags described as included in the questionnaire pricing data varied greatly from the description given, those data were not used. As such, the pricing data received are sensitive to the questionnaire respondents' ideas about comparability and competitiveness with the stated products. This makes the data sensitive to the entry and exit of firms producing each of the particular products. One firm might be charging much more or less than its competitors for a product that is comparable, yet not exactly the same.

Petitioners originally requested that the Commission collect data on a per 1,000 unit (i.e., bag) basis. At the conference, however, both petitioners and respondents noted that the Commission should

consider collecting data on a per pound basis, rather than, or in addition to, a per 1,000 bags basis.[4] In all, usable pricing data were received from 12 producers and seven importers. Pricing data reported by these firms accounted for 92.0 percent of U.S. producers' shipments of PRCBs and 1.8, 5.3, and 26.3 percent of U.S. shipments of subject imports from China, Malaysia, and Thailand, respectively, in 2002. Pricing data for products 1 through 6 are shown in tables V-1 to V-6 and figure V-4.

Table V-1
PRCBs: Weighted-average quarterly f.o.b. prices, quantities, and margins of underselling/ (overselling) for domestic and imported product 1,[1] January 2000-March 2003

Period	United States[2]		China[3]			Malaysia[4]		
	Price (*per 1,000 units*)	Quantity (*1,000 units*)	Price (*per 1,000 units*)	Quantity (*1,000 units*)	Margin (*percent*)	Price (*per 1,000 units*)	Quantity (*1,000 units*)	Margin (*percent*)
2000:								
Jan.-Mar.	$9.14	287,363	$***	***	***	$***	***	***
Apr.-June	9.11	363,530	***	***	***	***	***	***
July-Sept.	9.22	429,300	***	***	***	***	***	***
Oct.-Dec.	8.96	427,930	***	***	***	***	***	***
2001:								
Jan.-Mar.	8.89	331,172	***	***	***	***	***	***
Apr.-June	9.09	412,574	***	***	***	***	***	***
July-Sept.	9.16	530,159	***	***	***	***	***	***
Oct.-Dec.	8.69	572,163	***	***	***	***	***	***
2002:								
Jan.-Mar.	8.26	478,979	***	***	***	***	***	***
Apr.-June	8.74	509,762	***	***	***	***	***	***
July-Sept.	8.50	532,372	***	***	***	***	***	***
Oct.-Dec.	8.37	546,402	***	***	***	(5)	(5)	(5)
2003:								
Jan.-Mar.	7.96	484,905	***	***	***	(5)	(5)	(5)

[1] Product 1 consists of a small "t-shirt sack"-style bag with (a) dimensions 9-12" x 5-7" x 16-18", (b) 12-14 microns (gauge) film thickness, (c) side gussets, (d) packed 1,000 bags per case in a dispenser carton, and (e) printed with one or two colors on one side (20-30 percent ink coverage)
[2] Relevant data submitted by ***.
[3] Relevant data submitted by ***.
[4] Relevant data submitted by ***.
[5] Not reported.

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

[4] Conference transcript (Mr. Dorn and Mr. Cannon), pp. 84 and 104-105.

Table V-2
PRCBs: Weighted-average quarterly f.o.b. prices, quantities, and margins of underselling/ (overselling) for domestic and imported product 2,[1] January 2000-March 2003

Period	United States[2]		China[3]			Malaysia[4]			Thailand[5]		
	Price (*per 1,000 units*)	Quantity (*1,000 units*)	Price (*per 1,000 units*)	Quantity (*1,000 units*)	Margin (*percent*)	Price (*per 1,000 units*)	Quantity (*1,000 units*)	Margin (*percent*)	Price (*per 1,000 units*)	Quantity (*1,000 units*)	Margin (*percent*)
2000:											
Jan.-Mar.	$10.83	10,906,563	$***	***	***	(6)	(6)	(6)	(6)	(6)	(6)
Apr.-Jun.	10.90	12,312,662	***	***	***	(6)	(6)	(6)	(6)	(6)	(6)
July-Sep.	11.27	12,814,016	***	***	***	(6)	(6)	(6)	(6)	(6)	(6)
Oct.-Dec.	11.03	13,190,342	***	***	***	(6)	(6)	(6)	(6)	(6)	(6)
2001:											
Jan.-Mar.	11.09	11,743,899	***	***	***	(6)	(6)	(6)	$***	***	***
Apr.-Jun.	11.35	12,562,250	***	***	***	$***	***	***	***	***	***
July-Sep.	11.21	12,915,925	***	***	***	***	***	***	***	***	***
Oct.-Dec.	10.63	13,180,528	***	***	***	***	***	***	***	***	***
2002:											
Jan.-Mar.	10.00	11,619,732	***	***	***	(6)	(6)	(6)	***	***	***
Apr.-Jun.	9.40	12,661,061	***	***	***	***	***	***	***	***	***
July-Sep.	9.42	13,553,530	***	***	***	(6)	(6)	(6)	***	***	***
Oct.-Dec.	9.45	13,210,440	***	***	***	(6)	(6)	(6)	***	***	***
2003:											
Jan.-Mar.	9.42	12,287,549	***	***	***	(6)	(6)	(6)	***	***	***

[1] Product 2 consists of a medium "t-shirt sack"-style bag with (a) dimensions 12" x 7" x 20-22", (b) 12-18 microns (gauge) film thickness, (c) side gussets, (d) packed 1,000 bags per case in a dispenser carton, and (e) printed with one or two colors on one side (20-30 percent ink coverage).
[2] Relevant data submitted by ***.
[3] Relevant data submitted by ***.
[4] Relevant data submitted by ***.
[5] Relevant data submitted by ***.
[6] Not reported.

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

Table V-3
PRCBs: Weighted-average quarterly f.o.b. prices, quantities, and margins of underselling/ (overselling) for domestic and imported product 3,[1] January 2000-March 2003

Period	United States[2]		China[3]			Malaysia[4]		
	Price (*per 1,000 units*)	Quantity (*1,000 units*)	Price (*per 1,000 units*)	Quantity (*1,000 units*)	Margin (*percent*)	Price (*per 1,000 units*)	Quantity (*1,000 units*)	Margin (*percent*)
2000: Jan.-Mar.	$18.69	92,375	$***	***	***	$***	***	***
Apr.-June	19.89	99,788	***	***	***	***	***	***
July-Sept.	21.07	150,538	***	***	***	***	***	***
Oct.-Dec.	21.79	181,110	***	***	***	***	***	***
2001: Jan.-Mar.	20.27	108,502	***	***	***	***	***	***
Apr.-June	19.60	109,818	***	***	***	***	***	***
July-Sept.	19.21	156,670	***	***	***	***	***	***
Oct.-Dec.	19.95	387,268	***	***	***	***	***	***
2002: Jan.-Mar.	19.16	167,572	***	***	***	***	***	***
Apr.-June	17.55	167,442	***	***	***	***	***	***
July-Sept.	17.89	151,594	***	***	***	***	***	***
Oct.-Dec.	20.18	388,904	***	***	***	***	***	***
2003: Jan.-Mar.	19.23	82,178	***	***	***	***	***	***

[1] Product 3 consists of a large "t-shirt"-sack style bag with (a) dimensions 12" x 8" x 24-28", (b) 15-25 microns (gauge) film thickness (c) side gussets, (d) packed 1,000 bags per case in a dispenser carton, and (e) printed with one or two colors on one side (20-30 percent ink coverage).
[2] Relevant data submitted by ***.
[3] Relevant data submitted by ***.
[4] Relevant data submitted by ***.

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

Table V-4
PRCBs: Weighted-average quarterly f.o.b. prices, quantities, and margins of underselling/ (overselling) for domestic and imported product 4, January 2000-March 2003

* * * * * * *

Table V-5
PRCBs: Weighted-average quarterly f.o.b. prices, quantities, and margins of underselling/ (overselling) for domestic and imported product 5, January 2000-March 2003

* * * * * * *

Table V-6
PRCBs: Weighted-average quarterly f.o.b. prices, quantities, and margins of underselling/ (overselling) for domestic and imported product 6, January 2000-March 2003

* * * * * * *

Figure V-4
PRCBs: Weighted-average f.o.b. prices of domestic and imported product, January 2000-March 2003

* * * * * * *

Price Trends

Domestic prices for product 1 fell gradually during the period of study from $9.14 to $7.96 per 1,000 bags. After staying constant through 2000, prices for imported Chinese PRCBs fell 22.4 percent in the first quarter of 2001, leveled off, then increased 12.1 percent in the first quarter of 2002.[5] Malaysian PRCB prices followed the same path as the Chinese PRCBs, but dropped further in the fourth quarter of 2002 when *** began importing PRCBs from Malaysia.

Prices for product 2 produced domestically gradually rose until the second quarter of 2001, then declined until the second quarter of 2002 where they have remained through the first quarter of 2003. Imported Chinese product 2 prices exhibited the same step-down pattern as in product 1 from 2000 to 2001. Prices then increased from the fourth quarter of 2001 until the second quarter of 2002, and have since declined. Malaysian product 2 prices dipped from the second quarter of 2001 to the fourth quarter of 2001, but then rose in the second quarter of 2002 to almost where they began. Prices for Thai product 2 rose from the first quarter of 2001 until the third quarter of the same year, decreased until the third quarter of 2002, and gradually rose through the most recent quarter.

Prices for domestically produced product 3 rose throughout 2000, and have exhibited a trend of having a small price jump in the fourth quarter and then having prices falling off through the first three quarters of the following year. Both Malaysian and Chinese prices for imported product 3 fell throughout the period of study, dropping a total of about 17 percent each.

After an initial drop, prices for domestic product 4 recovered in the third quarter of 2000, sagged until the second quarter of 2001, then dropped through the first quarter of 2002. Prices gradually rose through 2002, but dropped off again in the first quarter of 2003. Prices for Chinese product 4 were only available for 3 quarters near the end of the period, during which time prices fell and then rose to above what they were initially.

Cyclical price trends are also apparent in the prices for domestically produced product 5. However, unlike product 3, prices increase all year until reaching their peak in the fourth quarter, and then a large drop occurs in the first quarter of the following year. The drops have been getting smaller. In 2001, the drop was 22.1 percent, in 2002, 19.1 percent, and in 2003, 11.5 percent. Prices in the fourth quarter of 2002 reached the peak set in 2001. Pricing for Chinese product 5 in general increased from their first sale in the third quarter of 2001 to the fourth quarter of 2002. Then *** entered the import market with a large order and brought the Chinese imported product 5 down by *** percent.

Prices for product 6 sold by domestic producers increased during 2000 and the first quarter of 2001. They then dropped by 15.5 percent in the second quarter and remained relatively stable until the

[5] Data for the first quarter of 2003 is high because it includes ***. Telephone conversation with ***.

first quarter of 2003, when they increased by 18.0 percent. Prices for Chinese product 6 have been trending downward throughout the period examined.

Price Comparisons

The Chinese products undersold the domestic products in 33 of 53 quarters in which comparisons were possible. Margins of underselling ranged from 0.7 to 59.0 percent and margins of overselling ranged from 0.1 to 98.9 percent. Malaysian PRCBs undersold the domestic products in 24 of 28 quarters in which comparisons were possible. Margins of underselling ranged from 1.9 to 56.0 percent and margins of overselling ranged from 21.9 to 25.4 percent. Thai PRCBs undersold domestic PRCBs in all 9 quarters in which comparisons were possible. Margins of underselling ranged from 13.7 to 37.4 percent.

LOST SALES AND LOST REVENUES

The Commission requested U.S. producers of PRCBs to report any instances of lost sales or revenues they experienced due to competition from imports of PRCBs from China, Malaysia, or Thailand since January 2000. Thirty-seven lost sale and 14 lost revenue allegations were reported in the petition. An additional 58 lost sale and 21 lost revenue allegations were sent to the Commission in producer's questionnaire responses. Details of these allegations can be found in tables V-7 and V-8.

Table V-7
PRCBs: Purchaser responses to producer lost sale allegations

* * * * * * *

Table V-8
PRCBs: Purchaser responses to producer lost revenue allegations

* * * * * * *

Of the 13 firms that responded to the allegations of lost sales and lost revenues, only five purchasers agreed or partially agreed with the stated allegations. Most allegations were made in units of 1,000 bags, whereas one was quoted in tons. *** agreed to the lost revenue allegation with a quantity of ***, with a rejected price of $*** and an accepted price of $***. *** only partially agreed with the allegation of a lost sale in *** for *** units at a rejected price of $*** per 1,000 and an accepted importer price of $*** per 1,000 due to a contract promised to a lower bidder. *** disagreed with a second allegation of a lost sale, however. *** from *** partially agreed with the allegations, stating they did buy from a foreign producer but the decision was based on the opportunity to develop a relationship with a broad-based supplier, rather than on price alone. *** from *** agreed with an allegation made for a lost sale in ***, but disagreed with an allegation of a lost sale made in *** and explained that the cited product was not one that could be made in the United States. *** of *** also partially agreed with the allegation.

All other purchasers disagreed with the allegations of lost sales and revenues for various reasons. *** from *** disagreed with the allegation of a lost sale in *** of *** units for a rejected U.S. producer price of $*** per 1,000 for an importer price of $*** per 1,000 as *** requires that all PRCBs meet standard requirements and other specifications, which were not met by the domestic producer. *** disagreed with the allegation of a lost sale in *** for *** units where the U.S. producer price of $*** per 1,000 was rejected and the importer price of $*** per 1,000 was accepted for an importer because there was no record of any sale. *** disagreed with the allegation of a lost sale in *** for *** units with an importer price of $*** per 1,000 and a U.S. rejected price of $***. *** renewed its contract with a

foreign supplier without a request for outside bids, and even though a domestic producer submitted a lower bid, this was rejected. *** of *** disagreed with the lost sale allegations. The quoted prices for the domestic and imported products were wrong. *** also stated that the alleged producer was replaced with a domestic supplier, with respect to the lost sale of $*** per 1,000 in ***, and the lost sale allegation of $*** in *** was rejected due to an attempted price increase. *** from *** disagreed with the lost sale allegations from *** and *** due to inaccurate pricing information given; she could find no record of the alleged transactions. *** from *** disagreed with the allegations of lost sales and stated that all products are bought from domestic suppliers with all materials made in the United States. *** from *** disagreed with the allegation of lost revenue and stated that all products were bought from domestic producers. *** of *** noted that its products were purchased from vendors which were all domestic. *** from *** also disagreed, stating that domestic companies had numerous price increases while firms outside the United States had none.

PART VI: FINANCIAL EXPERIENCE OF U.S. PRODUCERS

BACKGROUND

Thirteen producers[1] provided usable financial data on their operations producing PRCBs.[2] These reported data are believed to represent over 80 percent of U.S. PRCB production in the period examined.

OPERATIONS ON PRCBs

Income and loss data for U.S. producers' PRCB operations are presented in table VI-1.[3] The quantity of total sales irregularly increased between 2000 and 2002 and again between January-March 2002 and January-March 2003, but total sales values irregularly fell between 2000 and 2002, and declined between January-March 2002 and the same period in the following year.

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[1] The firms and their corresponding fiscal year ends are: Ampac (***); API (***); Command (***); Durabag (***); Genpak-Continental (***); Genpak-Strout (***); Inteplast (***); PCL (***); Roplast (***); Sonoco (***); Superbag (***); Unistar (***); and Vanguard (***). Differences between data reported in the trade and financial sections of the Commission's producers' questionnaire are attributable to timing differences, and the inclusion of purchased finished goods (inventory) in shipments but not in sales.

[2] See part III of this report for other companies from whom the Commission did not receive a questionnaire response.

[3] Commission staff asked each reporting producer whether its financial data included purchased inventory. Several firms stated that no purchased inventory was included with sales of PRCBs, including *** (telephone conversation with ***, on July 15, 2003); ***, telephone conversation with *** on July 16, 2003; *** (email from ***, on July 10, 2003); and *** (email of July 10, 2002, ***). Generally, purchased inventory was not material to the results of the industry as a whole although it might represent a material amount for certain individual producers. Certain U.S. producers were able to extract the purchased inventory from their sales revenues and costs and resubmit the questionnaire pages, including *** which resubmitted its response on July 14, 2003 and ***, which revised its response on July 16, 2003. Others, such as ***, included purchase costs in other expense and sales in other income and some additional cost as a part of SG&A expenses (email from ***, on July 10 and July 14, 2003); these items have been adjusted. Staff have adjusted the totals for the industry to eliminate purchased inventory for *** (which stated they could not break out purchases from reported shipments and sales (telephone conversation with *** on July 16, 2003); for ***, which apparently included purchased PRCBs in its results in 2000 and 2001; and for ***. These U.S. producers reported purchasing *** bags with a reported cost of $*** from other U.S. producers, representing about *** percent of sales, by value, of the three firms in 2002. This adjustment was made in each of the producers' questionnaires to reduce sales quantity and value and the cost of raw materials to eliminate the reported quantity and cost. An additional firm, ***, stated it purchased ***, but did not provide a value, and no adjustment could be made. This purchase is small in relation to the firm's sales of *** in that same year and it is not clear that including ***.

Table VI-1
PRCBs: Results of operations of U.S. producers, fiscal years 2000-2002, January-March 2002, and January-March 2003

Item	Fiscal year			January-March	
	2000	2001	2002	2002	2003
	Quantity (*1,000 units*)				
Total net sales	59,115,268	60,138,471	59,896,961	13,599,513	13,901,808
	Value (*$1,000*)				
Total net sales	728,016	735,943	657,765	150,126	145,103
COGS					
Raw materials	388,083	358,793	307,505	64,823	74,612
Direct labor	97,425	96,889	94,445	22,192	21,404
Other factory costs	155,470	166,801	151,796	34,304	30,671
Total COGS	640,978	622,483	553,746	121,319	126,687
Gross profit	87,038	113,460	104,019	28,807	18,416
SG&A expenses	64,686	66,595	65,707	15,900	13,928
Operating income	22,352	46,865	38,312	12,907	4,488
Interest expense	16,443	14,552	11,424	3,072	2,639
Other expense	2,775	5,435	9,665	392	412
Other income	2,218	1,825	1,098	193	124
Net income	5,352	28,703	18,321	9,636	1,561
Depreciation	41,219	43,598	42,068	10,735	10,281
Cash flow	46,571	72,301	60,389	20,371	11,842
	Ratio to total net sales (*percent*)				
COGS:					
Raw materials	53.3	48.8	46.8	43.2	51.4
Direct labor	13.4	13.2	14.4	14.8	14.8
Other factory costs	21.4	22.7	23.1	22.9	21.1
Total COGS	88.0	84.6	84.2	80.8	87.3
Gross profit	12.0	15.4	15.8	19.2	12.7
SG&A expenses	8.9	9.0	10.0	10.6	9.6
Operating income	3.1	6.4	5.8	8.6	3.1
Net income	0.7	3.9	2.8	6.4	1.1

Table continued.

Table VI-1--*Continued*
PRCBs: Results of operations of U.S. producers, fiscal years 2000-2002, January-March 2002, and January-March 2003

Item	Fiscal year			January-March	
	2000	2001	2002	2002	2003
	Unit value of net sales (*per 1,000 units*)				
Total net sales	$12.32	$12.24	$10.98	$11.04	$10.44
COGS:					
Raw materials	6.56	5.97	5.13	4.77	5.37
Direct labor	1.65	1.61	1.58	1.63	1.54
Other factory costs	2.63	2.77	2.53	2.52	2.21
Total COGS	10.84	10.35	9.25	8.92	9.11
Gross profit	1.47	1.89	1.74	2.12	1.32
SG&A expenses	1.09	1.11	1.10	1.17	1.00
Operating income	0.38	0.78	0.64	0.95	0.32
Net income	0.09	0.48	0.31	0.71	0.11
	Number of firms reporting				
Operating losses	***	***	***	***	***
Data	13	13	13	13	13

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

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

Unit sales values fell in each of the periods investigated. The value and unit value of cost of goods sold (COGS) decreased between 2000 and 2002 but increased between the two interim periods because of increasing raw material costs (primarily resin costs, which are driven by the prices of ethylene and crude petroleum). The industry's operating income fluctuated considerably, irregularly increasing from $22.4 million in 2000 to $38.3 million in 2002, and then falling from $12.9 million in January-March 2002 to $4.5 million in the same period of 2003. The industry's net income fluctuated similarly, as did its cash flow. The ratios of operating income and net income to sales followed similar trends, each irregularly increasing by over 2 percentage points between 2000 and 2002, and decreasing by over 5 percentage points between the two interim periods. Table VI-2 presents data of total net sales, COGS, and operating income on a firm-by-firm basis.

Table VI-2
PRCBs: Results of operations of U.S. producers, by firm, fiscal years 2000-2002, January-March 2002, and January-March 2003

* * * * * * *

A variance analysis for the 13 U.S. producers is presented in table VI-3. The information for this variance analysis is derived from table VI-1. The variance analysis provides an assessment of changes in

profitability as related to changes in pricing, cost, and volume. This analysis is more effective when the product involved is a homogeneous product with no variation in product mix.[4]

Table VI-3
PRCBs: Variance analysis on results of operations of domestic producers, fiscal years 2000-2002, January-March 2002, and January-March 2003

Item	Fiscal years			January-March
	2000-02	2000-01	2001-02	2002-03
Total net sales:				
Price variance	(79,877)	(4,674)	(75,222)	(8,360)
Volume variance	9,627	12,601	(2,955)	3,337
Total net sales variance	(70,251)	7,927	(78,178)	(5,023)
Cost of goods sold:				
Cost variance	95,708	29,589	66,237	(2,671)
Volume variance	(8,476)	(11,094)	2,500	(2,697)
Total cost of goods variance	87,232	18,495	68,737	(5,368)
Gross profit variance	16,981	26,422	(9,441)	(10,391)
SG&A expenses:				
Expense variance	(166)	(789)	620	2,325
Volume variance	(855)	(1,120)	267	(353)
Total SG&A variance	(1,021)	(1,909)	888	1,972
Operating income variance	15,960	24,513	(8,553)	(8,419)
Summarized as:				
Price variance	(79,877)	(4,674)	(75,222)	(8,360)
Net cost/expense variance	95,542	28,800	66,857	(346)
Net volume variance	296	387	(188)	287

Note.--Unfavorable variances are shown in parenthesis; all others are favorable. The data are comparable to changes in operating income as presented in table VI-1.

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

[4] Two U.S. producers testified at the conference that there has not been a significant shift in their product mix and both stated that the only trend has been toward a slightly heavier gauge. Conference transcript, p. 76 (Mr. Varn, Division Vice President, Sonoco) and p. 77 (Mr. Seanor, Managing Partner, Vanguard). Another stated that the firm has been making the same type of bag, which accounts for 80 percent to 90 percent of its production, since 1993. Conference transcript, p. 77 (Mr. Bazbaz, Director, Superbag). And another witness stated that the only change in his firm's product mix has been a slight move from a drawstring to a patch handle. Conference transcript, p. 77 (Mr. Dill, CFO, Ampac). Although it does not contradict petitioners' comments regarding product mix, respondents stated that the trend in the grocery industry has been from heavier bags to smaller, thinner, and lighter bags. They indicated that these changes have decreased throughput rates and yield on machinery for producers of grocery bags, which would increase unit COGS. Respondents further stated that if domestic producers feel their average weight per case has increased, it may reflect a loss of the grocery bag business. Conference transcript, p. 110 (Mr. Cannon, President, PDI) and postconference brief of Garvey Schubert Barer, p. 31.

Between 2000 and 2002, the favorable operating income variance of $16.0 million was attributable primarily to a favorable variance on net cost/expense (and secondarily to a favorable net volume variance) that was greater than an unfavorable variance on price. The drop in operating income between 2001 and 2002 of $8.6 million was attributable to an unfavorable price variance that was greater than a favorable variance on net cost/expense, although the volume variance also was unfavorable. The decrease in operating income between January-March 2002 and the same period in 2003 was attributable to an unfavorable price variance (lower average prices on sales) and an unfavorable net cost/expense variance that were far greater than a favorable net volume variance.

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

The responding firms' data on capital expenditures, research and development ("R&D") expenses, and the value of their property, plant, and equipment used in the production of PRCBs are shown in table VI-4.

Table VI-4
PRCBs: Value of assets, capital expenditures, and R&D expenses of U.S. producers, fiscal years 2000-2002, January-March 2002, and January-March 2003

Item	Fiscal year			January-March	
	2000	2001	2002	2002	2003
	Value *($1,000)*				
Capital expenditures:					
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
Total	28,623	27,379	27,695	5,138	5,147
R&D expenses:					
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
Total	***	***	***	***	***
Table continued.					

Table VI-4--*Continued*
PRCBs: Value of assets, capital expenditures, and R&D expenses of U.S. producers, fiscal years 2000-2002, January-March 2002, and January-March 2003

Item	Fiscal year			January-March	
	2000	2001	2002	2002	2003
	Value *($1,000)*				
Property, plant, and equipment:					
Total–original cost	511,308	517,563	520,935	523,873	522,050
–book value	224,622	203,052	189,123	198,182	179,431
Source: Compiled from data submitted in response to Commission questionnaires.					

The original cost of fixed assets increased between 2000 and 2002 in response to capital expenditures made by the producers in their plant, property, and equipment to increase production capacity or to production efficiency.[5] At the same time, several plants were closed; closures and divestitures nearly offset the increase in original cost but, together with depreciation expenses taken on existing assets, resulted in a decrease in the industry's collective book value of fixed assets. Three of the responding firms reported R&D expenses during the periods investigated.

CAPITAL AND INVESTMENT

The Commission requested U.S. producers to describe any actual or potential negative effects of imports of PRCBs from China, Malaysia, and Thailand on their firms' growth, investment, and ability to raise capital or development and production efforts (including efforts to develop a derivative or more advanced version of the product). Their responses are shown in appendix D.

[5] Mr. Varn of Sonoco testified at the staff conference that his firm has invested over $15 million in 2001 and 2002 to automate and modernize its production facilities and reduce costs as did Mr. Dill of Ampac. Conference transcript, p. 27 (Mr. Varn, Division Vice President, Sonoco) and p. 37 (Mr. Dill, CFO, Ampac). Also, see petitioners' postconference brief, pp. 39-42, regarding delayed, deferred, or canceled investment.

PART VII: THREAT CONSIDERATIONS

The Commission analyzes a number of factors in making threat determinations (see 19 U.S.C. § 1677(7)(F)(i)). Information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V; and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts is presented in Part VI. Information on inventories of the subject merchandise; foreign producers' operations, including the potential for "product-shifting;" any other threat indicators, if applicable; and any dumping in third-country markets, follows.

THE CHINESE INDUSTRY

The total number of PRCB producers in China is unknown; however, twenty-one firms responded to the Commission's questionnaires. The combined data of sixteen of these firms, accounting for about 13 percent of estimated imports from China, are shown in table VII-1.[1] The data show noticeable increases in capacity and production during the period examined, with additional capacity and production projected for 2003 and 2004. The industry appears to be export oriented: by far the largest share of these firms' total PRCB shipments were sent to markets outside China and by far the largest share of these were sent to the United States. In addition to the United States, Chinese PRCBs are exported to Europe, Russia, Austrailia, New Zealand, Japan, and South America. More of these producers than in the United States produce polyethylene products other than PRCBs on the same equipment.

THE MALAYSIAN INDUSTRY

The Commission received questionnaires from fourteen Malaysian firms that produced PRCBs during the period examined, but only those that exported PRCBs to the United States during this period provided data on their operations.[2] The combined data for the latter are shown in table VII-2. With a total PRCB capacity of about 10 percent of that in the United States, most of these firms also produce other polyethylene products in addition to the subject product. Like the firms in China, these firms appear to be export oriented, with about 60 percent of their total shipments sent abroad during the period examined. While overall exports' share of total shipments declined throughout the period, the United States' share declined from 2000 to 2002 but increased from January-March 2002 to January-March 2003. Exports to the United States are projected to be less in 2003 and 2004 than in 2002. Capacity is projected to remain about the same. (Note.–Although distributed differently, Malaysian producers' total exports of PRCBs to the United States during the period examined match very closely petitioners' estimate of such imports from Malaysia in this period, as shown in table IV-1).

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[1] Of the remaining five firms, one, Shanghai New Ailian Import & Export Co., Ltd., is an exporter only; and another, Shi Jia Zhuang Tongxing Plastic Products Co., Ltd., reported that it did not produce the subject product during the period examined. The other three firms--including Nanjing Taiyan Plastic Industry Co., Ltd.; Zhongshan Kae-Horng Plastic Work Co. Ltd.; and King Lun Plastics (Xiamen) Co., Ltd.--provided no operational data.

[2] Those that did not provide the Commission with operational data include Lean Lee Trading Co., Sdn. Bhd.; Duro Plas-Pack Industries Sdn. Bhd.; Sinliplas Holding Co., Sdn. Bhd.; Europlastics (Malaysia) Sdn. Bhd.; Dengkil Plastics Sdn. Bhd.; Thong Guan Plastic & Paper Industries, Sdn. Bhd.; and Milypak Plastic Industries Sdn. Bhd.

Table VII-1
PRCBs: China's production capacity, production, shipments, and inventories, 2000-2002, January-March 2002, January-March 2003, and projections for 2003 and 2004[1]

Item	Calendar year			January-March		Projected	
	2000	2001	2002	2002	2003	2003	2004
	Quantity (*1,000 pounds*)						
Capacity	5,157,471	6,199,723	8,389,568	2,017,440	2,218,861	11,404,118	11,549,418
Production	3,865,572	4,832,592	6,523,928	1,405,390	1,591,189	6,819,549	6,877,611
End-of-period inventories	122,197	118,706	143,218	109,863	121,233	101,040	70,812
Shipments:							
Internal consumption/ intercompany transfers	67,708	75,856	97,798	15,551	13,908	97,340	97,360
Home market	1,430,462	1,462,274	1,525,764	420,436	379,023	1,509,376	1,531,610
Exports to--							
United States	1,640,426	2,059,298	2,948,283	539,078	712,765	2,791,694	2,832,783
All other markets	693,078	1,240,154	1,927,571	447,954	545,822	2,411,416	2,430,884
Total exports	2,333,504	3,299,452	4,875,854	987,032	1,258,587	5,203,110	5,263,667
Total shipments	3,831,674	4,837,582	6,499,416	1,423,019	1,651,518	6,809,826	6,892,637
	Ratios and shares (*percent*)						
Capacity utilization	75.0	77.9	77.8	69.7	71.7	59.8	59.5
Inventories/production	3.2	2.5	2.2	2.0	1.9	1.5	1.0
Inventories/shipments	3.2	2.5	2.2	1.9	1.8	1.5	1.0
Share of total shipments:							
Internal consumption/ intercompany transfers	1.8	1.6	1.5	1.1	0.8	1.4	1.4
Home market	37.3	30.2	23.5	29.5	22.9	22.2	22.2
Exports to--							
United States	42.8	42.6	45.4	37.9	43.2	41.0	41.1
All other markets	18.1	25.6	29.7	31.5	33.0	35.4	35.3
Total exports	60.9	68.2	75.0	69.4	76.2	76.4	76.4

[1] Data shown are for United Wah Packaging Co., Ltd.; Shanghai Overseas International Trading Co., Ltd.; Shanghai Minmetals Development Ltd.; Shanghai Light Industrial Products Import & Export Corp., Ltd.; Rain Continent Shanghai Co., Ltd.; Beijing Lianbin Plastics & Printing Co., Ltd.; Shanghai Glopack, Inc.; Sea Lake Polyethylene Co.; Xiamen Ming-Pak Plastics Co., Ltd; Weihai Weiquan Plastic and Rubber Products Co., Ltd.; Shanghai Huayue Packaging Products Co., Ltd.; Ningbo Huasen Plasthetics Co., Ltd.; Nantong Huasheng Plastic Products Co., Ltd.; Linqu Shunxing Plastic Products Co., Ltd.; Ningbo Fanrong Plastic Products Co., Ltd.; and Weigang Hongyuan Plastic Products Co., Ltd.

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

Table VII-2
PRCBs: Malaysia's production capacity, production, shipments, and inventories, 2000-2002, January-March 2002, January-March 2003, and projections for 2003 and 2004[1]

Item	Calendar year			January-March		Projected	
	2000	2001	2002	2002	2003	2003	2004
	Quantity (*1,000 pounds*)						
Capacity	6,289,448	7,146,464	7,222,933	1,740,666	1,728,110	7,291,933	7,192,933
Production	5,801,866	6,541,596	6,679,871	1,491,170	1,412,814	6,641,250	6,503,875
End-of-period inventories	356,501	300,566	339,227	325,522	262,981	852,369	299,366
Shipments:							
Internal consumption/ intercompany transfers	0	0	0	0	0	0	0
Home market	2,274,549	2,632,242	2,815,109	586,605	635,387	2,750,999	2,758,244
Exports to--							
United States	1,273,410	1,275,736	1,421,074	279,776	390,289	1,138,502	1,135,368
All other markets	2,166,271	2,689,554	2,405,035	556,193	463,413	2,738,856	2,664,520
Total exports	3,439,681	3,965,290	3,826,109	835,969	853,702	3,877,358	3,799,888
Total shipments	5,714,230	6,597,532	6,641,218	1,422,574	1,489,089	6,628,357	6,558,132
	Ratios and shares (*percent*)						
Capacity utilization	92.2	91.5	92.5	85.7	81.8	91.1	90.4
Inventories/production	6.1	4.6	5.1	5.5	4.7	12.8	4.6
Inventories/shipments	6.2	4.6	5.1	5.7	4.4	12.9	4.6
Share of total shipments:							
Internal consumption/ intercompany transfers	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Home market	39.8	39.9	42.4	41.2	42.7	41.5	42.1
Exports to--							
United States	22.3	19.3	21.4	19.7	26.2	17.2	17.3
All other markets	37.9	40.8	36.2	39.1	31.1	41.3	40.6
Total exports	60.2	60.1	57.6	58.8	57.3	58.5	57.9

[1] Data shown are for Poly Carriers Industries (Malaysia) Sdn. Bhd.; Bee Lian Plastic Industries; Sido Bangun (Malaysia) Sdn. Bhd.; Zhin Hin Plastic Manufacturer (Malaysia) Sdn. Bhd.; Sekoplas Industries Sdn. Bhd.; Hi-Pak Manufacturing Sdn. Bhd.; and Teong Chuan Plastics Timber Sdn. Bhd.

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

THE THAI INDUSTRY

The Commission received questionnaires from eleven Thai firms; however, one firm (Multibax Co., Ltd.) is an exporter only, another firm (TTB International Co., Ltd.) produced PRCBs only marginally, another firm (K. International Packaging Co., Ltd.) reported data in unknown quantities, and another (Thai Griptech Co., Ltd.) provided no operational data. The combined data for the seven remaining firms are shown in table VII-3.[3] Their combined capacity is about 30 percent of that in the United States and is projected to increase appreciably in 2003. Like PRCB producers in China and Malaysia, producers in Thailand appear to be export oriented. Exports of PRCBs by these firms were well over 90 percent of their total shipments during the period examined, with an increasing share to the United States. Exports of PRCBs to the United States are projected to further increase in 2003-4. All but one of these firms manufacture polyethylene products other than PRCBs. (Note.–Total U.S. imports from these firms for the period examined approximate that estimated by petitioners; however, the distribution of these imports according to the questionnaire data are more heavily biased toward the latter part of the period).

REMEDIES IN THIRD-COUNTRY MARKETS

Chinese, Malaysian, and Thai PRCBs have been exported to many countries all over the world; however, so far as it is known such exports are not subject to any antidumping orders or any other trade remedies to date.

U.S. INVENTORIES OF IMPORTED PRODUCT

Usable data the Commission received on U.S. importers' end-of-period inventories of the Chinese, Malaysian, and Thai product are shown in the tabulation below:

	2000	2001	2002	J-M 2002	J-M 2003
Inventories (*1,000 units*)	24,700	103,182	317,902	107,666	467,861
Ratio of inventories to imports (*percent*)	4.7	10.5	10.7	7.0	8.3

The data show an appreciable increase in U.S. importers' inventories from 2000 to 2002 and from January-March 2002 to January-March 2003; however, the data are from importers that represent only about 11 percent of the volume of subject imports in the period examined and may not be representative of importers as a whole.

[3] All of these firms provided operational data in metric tons, which were converted to pounds and then to units on the basis of U.S. producers' standard conversion of 1,000 bags per 10 pounds.

Table VII-3
PRCBs: Thailand's production capacity, production, shipments, and inventories, 2000-2002, January-March 2002, January-March 2003, and projections for 2003 and 2004[1]

Item	Calendar year			January-March		Projected	
	2000	2001	2002	2002	2003	2003	2004
	Quantity (*1,000 pounds*)						
Capacity	16,463,880	18,947,347	23,531,006	5,307,232	6,458,601	26,321,270	26,578,476
Production	15,040,316	17,301,620	21,466,739	4,765,709	5,780,651	23,602,415	23,913,400
End-of-period inventories	254,121	288,503	478,488	441,902	629,903	502,071	505,818
Shipments:							
Internal consumption/ intercompany transfers	0	0	0	0	0	0	0
Home market	716,079	998,412	1,397,997	291,148	393,193	1,656,306	1,706,998
Exports to--							
United States	696,684	1,807,280	4,856,073	865,951	1,770,473	7,299,648	6,669,304
All other markets	13,635,486	14,463,970	15,024,447	3,454,770	3,473,724	14,632,356	15,535,996
Total exports	14,332,171	16,271,250	19,880,520	4,320,721	5,244,197	21,932,004	22,205,300
Total shipments	15,048,250	17,269,662	21,278,518	4,611,870	5,637,391	23,588,310	23,912,298
	Ratios and shares (*percent*)						
Capacity utilization	91.4	91.3	91.2	89.8	89.5	89.7	90.0
Inventories/production	1.7	1.7	2.2	2.3	2.7	2.1	2.1
Inventories/shipments	1.7	1.7	2.2	2.4	2.8	2.1	2.1
Share of total shipments:							
Internal consumption/ intercompany transfers	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Home market	4.8	5.8	6.6	6.3	7.0	7.0	7.1
Exports to--							
United States	4.6	10.5	22.8	18.8	31.4	30.9	27.9
All other markets	90.6	83.8	70.6	74.9	61.6	62.0	65.0
Total exports	95.2	94.2	93.4	93.7	93.0	93.0	92.9

[1] Data shown are for C.P. Packaging Industry Co., Ltd.; Thai Plastic Bags Industries Co. Ltd.; Thantawan Industry Plc. Co., Ltd.; Apple Film Co., Ltd.; Lotus Plastics Co., Ltd.; Naraipak Company, Ltd., and Universal Polybag Co., Ltd.

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

APPENDIX A

FEDERAL REGISTER NOTICES

to appear at the hearing must be filed with the Secretary to the Commission not later than August 28, 2003; the prehearing conference will be held at the U.S. International Trade Commission Building at 9:30 a.m. on September 2, 2003; the prehearing staff report will be placed in the nonpublic record on August 21, 2003; the deadline for filing prehearing briefs is August 28, 2003; the hearing will be held at the U.S. International Trade Commission Building at 9:30 a.m. on September 4, 2003; the deadline for filing posthearing briefs is September 11, 2003; the Commission will make its final release of information on September 26; and final party comments are due on September 30.

For further information concerning these investigations see the Commission's notice cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

Issued: June 24, 2003. By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 03–16363 Filed 6–26–03; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–1043–1045 (Preliminary)]

Polyethylene Retail Carrier Bags From China, Malaysia, and Thailand

AGENCY: United States International Trade Commission.

ACTION: Institution of antidumping investigations and scheduling of preliminary phase investigations.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping investigations No. 731–TA–1043–1045 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from China, Malaysia, and Thailand of polyethylene retail carrier bags, provided for in subheading 3923.21.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to section 732(c)(1)(B) of the Act (19 U.S.C. 1673a(c)(1)(B)), the Commission must reach preliminary determinations in antidumping investigations in 45 days, or in this case by August 4, 2003. The Commission's views are due at Commerce within five business days thereafter, or by August 11, 2003.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

EFFECTIVE DATE: June 20, 2003.

FOR FURTHER INFORMATION CONTACT: Larry Reavis (202–205–3185), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background

These investigations are being instituted in response to a petition filed on June 20, 2003, by the Polyethylene Retail Carrier Bag Committee, an ad hoc coalition of U.S. polyethylene retail carrier bag producers, consisting of PCL Packaging, Inc., Barrie, Ontario, Canada; Sonoco Products Company, Hartsville, SC; Superbag Corp., Houston, TX; Vanguard Plastics, Inc., Farmers Branch, TX; and Inteplast Group, Ltd., Livingston, NJ.

Participation in the Investigations and Public Service List

Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in §§ 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference

The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on Friday, July 11, 2003, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Larry Reavis (202–205–3185) and provide a witness list for their appearance not later than Wednesday, July 9, 2003. Parties in support of the imposition of antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written Submissions

As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before July 16, 2003, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection

with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by § 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002).

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.12 of the Commission's rules.

Issued: June 24, 2003.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 03–16362 Filed 6–26–03; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–1015–1016 (Final)]

Polyvinyl Alcohol From Germany and Japan

Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission (Commission) determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act), that an industry in the United States is threatened with material injury [2] by reason of imports from Japan of polyvinyl alcohol ("PVA"),[3] provided for in subheading 3905.30.00 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce (Commerce) to be sold in the United States at less than fair value (LTFV).[4] The Commission also determines, pursuant to section 735(b) of the Act, that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports from Germany of PVA that have been found by Commerce to be sold in the United States at LTFV.

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

[2] Pursuant to section 735(b)(4)(B) of the Act (19 U.S.C. 1673d(b)(4)(B)), the Commission further determines that it would not have found material injury by reason of the subject imports from Japan but for any suspension of liquidation of entries of that merchandise.

[3] For purposes of these investigations, PVA is defined as all polyvinyl alcohol hydrolyzed in excess of 80 percent, whether or not mixed or diluted with commercial levels of defoamer or boric acid, except as excluded from the definition. The following forms of polyvinyl alcohol are excluded from the definition of PVA:

(1) PVA in fiber form;

(2) PVA with hydrolysis less than 83 mole percent and certified not for use in the production of textiles;

(3) PVA with hydrolysis greater than 85 percent and viscosity greater than or equal to 90 cps;

(4) PVA with a hydrolysis greater than 85 percent, viscosity greater than or equal to 80 cps but less than 90 cps, certified for use in an ink jet application;

(5) PVA for use in the manufacture of an excipient or as an excipient in the manufacture of film coating systems which are components of a drug or dietary supplement, and accompanied by an end-use certification;

(6) PVA covalently bonded with cationic monomer uniformly present on all polymer chains in a concentration equal to or greater than one mole percent;

(7) PVA covalently bonded with carboxylic acid uniformly present on all polymer chains in a concentration equal to or greater than two mole percent, certified for use in a paper application;

(8) PVA covalently bonded with thiol uniformly present on all polymer chains, certified for use in emulsion polymerization of non-vinyl acetic material;

(9) PVA covalently bonded with paraffin uniformly present on all polymer chains in a concentration equal to or greater than one mole percent;

(10) PVA covalently bonded with silan uniformly present on all polymer chains certified for use in paper coating applications;

(11) PVA covalently bonded with sulfonic acid uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent;

(12) PVA covalently bonded with acetoacetylate uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent;

(13) PVA covalently bonded with polyethylene oxide uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent;

(14) PVA covalently bonded with quaternary amine uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent; and

(15) PVA covalently bonded with diacetoneacrylamide uniformly present on all polymer chains in a concentration level greater than three mole percent certified for use in a paper application.

[4] Vice Chairman Jennifer A. Hillman made a negative determination with respect to Japan.

Background

The Commission instituted these investigations effective September 5, 2002, following receipt of a petition filed with the Commission and Commerce by Celanese, Ltd. of Dallas, TX and E.I. du Pont de Nemours & Co. of Wilmington, DE. The final phases of the investigations were scheduled by the Commission following notification of preliminary determinations by Commerce that imports of polyvinyl alcohol from Germany and Japan were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the final phases of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of March 7, 2003 (68 FR 11144). The hearing was held in Washington, DC, on May 8, 2003, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on June 18, 2003. The views of the Commission are contained in USITC Publication 3604 (June 2003), entitled Polyvinyl Alcohol from Germany and Japan: Investigations Nos. 1015–1016 (Final).

By order of the Commission.

Issued: June 23, 2003.

Marilyn R. Abbott,

Secretary.

[FR Doc. 03–16364 Filed 6–26–03; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

June 13, 2003.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation, contact Darrin King on 202–693–4129 (this is not a toll-free number) or E-Mail: *King.Darrin@dol.gov.*

Dated: July 9, 2003.

Barbara E. Tillman,

Acting Deputy Assistant Secretary for Import Administration, Group III.

[FR Doc. 03–18014 Filed 7–15–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–886, A–557–813, A–549–821]

Initiation of Antidumping Duty Investigations: Polyethylene Retail Carrier Bags from The People's Republic of China, Malaysia, and Thailand

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

EFFECTIVE DATE: July 16, 2003.

FOR FURTHER INFORMATION CONTACT: Fred W. Aziz, Thomas Schauer, or Richard Rimlinger, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–4023, (202) 482–0410 or (202) 482–4477, respectively.

SUPPLEMENTARY INFORMATION:

The Petition

On June 20, 2003, the Department of Commerce ("the Department") received a petition on imports of polyethylene retail carrier bags ("PRCBs") from The People's Republic of China ("the PRC"), Malaysia, and Thailand, filed in proper form by PCL Packaging, Inc., Sonoco Products Company, Superbag Corp., Vanguard Plastics, Inc., and Inteplast Group, Ltd. (referred to hereafter as "the petitioners"). On June 25, 2003, the Department requested additional information and clarification of certain areas of the petition. The petitioners filed supplements to the petition on June 30, 2003 and July 8, 2003.

In accordance with section 732(b) of the Tariff Act of 1930, as amended ("the Act"), the petitioners allege that imports of PRCBs from the PRC, Malaysia, and Thailand are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act and that such imports are materially injuring and threaten to injure an industry in the United States.

The Department finds that the petitioners filed this petition on behalf of the domestic industry because they are interested parties as defined in section 771(9)(c) of the Act. Furthermore, with respect to the antidumping duty investigations the petitioners are requesting the Department to initiate, they have demonstrated sufficient industry support (see "Determination of Industry Support for the Petition" below).

Scope of Investigation

The merchandise subject to this investigation is polyethylene retail carrier bags, which also may be referred to as t-shirt sacks, merchandise bags, grocery bags, or checkout bags. The subject merchandise is defined as non-sealable sacks and bags with handles (including drawstrings), without zippers or integral extruded closures, with or without gussets, with or without printing, of polyethylene film having a thickness no greater than .035 inch (0.889 mm) and no less than .00035 inch (0.00889 mm), and with no length or width shorter than 6 inches (15.24 cm) or longer than 40 inches (101.6 cm). The depth of the bag may be shorter than 6 inches but not longer than 40 inches (101.6 cm). Polyethylene retail carrier bags are typically provided without any consumer packaging and free of charge by retail establishments (*e.g.*, grocery, drug, convenience, department, specialty retail, and discount stores, and restaurants) to their customers to package and carry their purchased products. The scope of the petition excludes (1) polyethylene bags that are not printed with logos or store names and that are close-able with drawstrings made of polyethylene film and (2) polyethylene bags that are packed in consumer packaging with printing that refers to specific end uses other than packaging and carrying merchandise from retail establishments (*e.g.*, garbage bags, lawn bags, trash can liners). Imports of the subject merchandise are classified under statistical category 3923.21.0090 of the Harmonized Tariff Schedule of the United States. This subheading also covers products that are outside the scope of these investigations. Furthermore, although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of these investigations is dispositive.

During our review of the petition, we discussed the scope with the petitioners to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the regulations (62 FR 27296, 27323), we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages all interested parties to submit such comments within 20 calendar days of publication of this notice. Comments should be addressed to Import Administration's Central Records Unit at Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with parties prior to the issuance of the preliminary determination.Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (1) at least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition.

Section 771(4)(A) of the Act defines the "industry" as the producers as a whole of a domestic like product. Thus, to determine whether the petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While the Department and the ITC must apply the same statutory definition regarding the domestic like product (see section 771(10) of the Act), they do so for different purposes and pursuant to separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the domestic like product, such differences do not render the decision of either agency contrary to law.[1]

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation," *i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition.

[1] See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001), citing *Algoma Steel Corp. v. United States*, 688 F. Supp. 639, 642-44 (CIT 1988).

With regard to the definition of domestic like product, the petitioner does not offer a definition of domestic like product distinct from the scope of the investigation. Based on our analysis of the information presented by the petitioners, we have determined that there is a single domestic like product, plastic retail carrier bags, which is defined in the "Scope of Investigation" section above, and we have analyzed industry support in terms of the domestic like product.

The petitioners established industry support representing over 50 percent of total production of the domestic like product. Therefore, the domestic producers or workers who support the petition account for at least 25 percent of the total production of the domestic like product, and the requirements of section 732(c)(4)(A)(i) are met. Furthermore, because the Department received no opposition to the petition, the domestic producers or workers who support the petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for or opposition to the petition. Thus, the requirements of section 732(c)(4)(A)(ii) are also met.

Accordingly, the Department determines that the petition was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act. See Industry Support Attachment to the Initiation Checklist ("Initiation Checklist"), dated July 10, 2003, on file in the Central Records Unit in Room B-099 of the main Department of Commerce Building.

Period of Investigation

The anticipated period of investigation is April 1, 2002, through March 31, 2003, for the Malaysia and Thailand investigations and October 1, 2002, through March 31, 2003, for the PRC investigation.

Export Price and Normal Value

The following are descriptions of the allegations of sales at less than fair value upon which the Department based its decision to initiate these investigations. The sources of data for the deductions and adjustments relating to U.S. price and normal value are discussed in greater detail in the Initiation Checklist. Should the need arise to use any of this information as facts available under section 776 of the Act, we may reexamine the information and revise the margin calculations, if appropriate.

The petition identified 37 producers of PRCBs in the PRC (see June 20, 2003, petition, Exhibit 5), 14 producers in Malaysia (see June 20, 2003, petition, Exhibit 6), and 16 producers in Thailand (see June 20, 2003, petition, Exhibit 7).

Export Price and Normal Value - The PRC

The petitioners based export price on the price of the PRC-manufactured PRCBs from two Chinese exporters. We have examined the information provided regarding export price and have determined that it represents information reasonably available to the petitioners and have reviewed it for adequacy and accuracy. See Initiation Checklist.

The petitioners assert that the Department considers the PRC to be a non-market-economy ("NME") country and, therefore, they constructed normal value based on the factors-of-production methodology pursuant to section 773(c) of the Act. In previous cases, the Department has determined that the PRC is an NME country. *See e.g., Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from the People's Republic of China* (*Cold-Rolled Steel from China*), 65 FR 34660 (May 31, 2000). In accordance with section 771(18)(c)(i) of the Act, the NME status remains in effect until revoked by the Department. The NME status of the PRC has not been revoked by the Department and, therefore, remains in effect for purposes of the initiation of this investigation. Accordingly, the normal value of the product is based on factors of production valued in a surrogate market-economy country in accordance with section 773(c) of the Act. In the course of this investigation, all parties will have the opportunity to provide relevant information related to the issues of the PRC's NME status and the granting of separate rates to individual exporters. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585, 22586–87 (May 2, 1994).

As required by 19 CFR 351.202(b)(7)(i)(c), the petitioners provided dumping margin calculations using the Department's NME methodology described in 19 CFR 351.408. For the calculation of normal value, the petitioners based the factors of production, as defined by section 773(c)(3) of the Act (raw materials, labor, and overhead), for PRCBs on the quantities of inputs consumed by a U.S. producer of PRCBs. See Initiation Checklist.

The petitioners selected India as their surrogate country. The petitioners stated that India is comparable to the PRC in its level of economic development and is a significant producer of comparable merchandise. Based on the information provided by the petitioners, we believe that the petitioners' use of India as a surrogate country is reasonable for purposes of initiation of this investigation. See Initiation Checklist.

In accordance with section 773(c)(4) of the Act, the petitioners valued factors of production for PRCBs, where possible, on reasonably available, public surrogate-country data. To value raw materials, including color concentrate, printing ink, adhesive, and corrugated boxes, the petitioners used official Indian government import statistics. They used the most current information for wholesale price indices in India as published in the *International Financial Statistics* of the International Monetary Fund to determine the appropriate adjustments for inflation. The petitioners valued labor using the Department's regression-based wage rate for the PRC, in accordance with 19 CFR 351.408(c)(3). For factory overhead expenses, selling, general and administrative expenses and profit, the petitioners applied rates derived from the publicly available data reported for 2000–2001 for companies in the *Reserve Bank of India Bulletin (RBI Bulletin)* from December 2002. The *RBI Bulletin* covers data for 1,126 companies, including producers of plastics products.

Based on comparisons of export price to normal value, calculated in accordance with section 773(c) of the Act, the estimated dumping margins for PRCBs from the PRC range from 83.81 percent to 129.86 percent.

Export Price and Normal Value - Malaysia

The petitioners based export price on the price of Malay-manufactured PRCBs from a Malaysian producer. In order to obtain ex-factory prices, the petitioners deducted the appropriate inland freight from the sales value. We reviewed the information provided regarding export price and have determined that it represents information reasonably available to the petitioners and have reviewed it for adequacy and accuracy. See Initiation Checklist.

The petitioners based normal value on the price of Malay-manufactured PRCBs produced by the same company from which they obtained the export prices. In order to obtain ex-factory prices, the petitioners deducted inland freight, imputed credit, and value-added taxes from the sales value. The petitioners added charges for printing plates to the sales value. These charges were itemized separately in the price

quotation. The petitioners also made a packing adjustment and a difference-in-merchandise adjustment to normal value. We reviewed the normal value information provided and have determined that it represents information reasonably available to the petitioners and have reviewed it for adequacy and accuracy. See Initiation Checklist.

Based on comparisons of export price to normal value, the estimated dumping margins for PRCBs from Malaysia range from 81.55 percent to 101.74 percent.

Export Price and Normal Value - Thailand

The petitioners based export price on the price of Thai-manufactured PRCBs from a Thai producer. We reviewed the information provided regarding export price and have determined that it represents information reasonably available to the petitioners and have reviewed it for adequacy and accuracy. See Initiation Checklist.

The petitioners based normal value on the price of Thai-manufactured PRCBs produced by the same company from which they obtained the export prices. The petitioners made adjustments for imputed credit expenses, packing, and difference-in-merchandise to normal value. We reviewed the information provided regarding normal value and have determined that it represents information reasonably available to the petitioners and have reviewed it for adequacy and accuracy. See Initiation Checklist.

Based on comparisons of export price to normal value, the estimated dumping margins for PRCBs from Thailand range from 34.84 percent to 122.88 percent.

Fair-Value Comparison

Based on the data provided by the petitioners, there is reason to believe that imports of PRCBs from the PRC, Malaysia, and Thailand are being, or are likely to be, sold in the United States at less than fair value.

Allegations and Evidence of Material Injury and Causation

The petition alleges that the U.S. industry producing the domestic like product is being materially injured and is threatened with material injury by reason of the imports of the subject merchandise sold at less than normal value. The petitioners contend that the industry's injured condition is evidenced by declining trends in market share, pricing, production levels, profits, sales, and utilization of capacity. Furthermore, the petitioners contend that injury and threat of injury is evidenced by negative effects on its cash flow, ability to raise capital, and growth.

These allegations are supported by relevant evidence including import data, lost sales, lost revenue and pricing information. The Department assessed the allegations and supporting evidence regarding material injury and causation and determined that these allegations are supported by accurate and adequate evidence and meet the statutory requirements for initiation (see Initiation Checklist dated July 10, 2003, Re: Material Injury).

Initiation of Antidumping Investigations

Based upon the examination of the petition on PRCBs from the PRC, Malaysia, and Thailand, and other information reasonably available to the Department, we find that the petition meets the requirements of section 732 of the Act. Therefore, we are initiating antidumping duty investigations to determine whether imports of PRCBs from the PRC, Malaysia, and Thailand are being, or are likely to be, sold in the United States at less than fair value. Unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of the petition has been provided to the representatives of the governments of the PRC, Malaysia, and Thailand. We will attempt to provide a copy of the public version of the petition to each producer named in the petition, as appropriate.

International Trade Commission Notification

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

Preliminary Determination by the ITC

The ITC will preliminarily determine, no later than August 4, 2003, whether there is a reasonable indication that imports of PRCBs from the PRC, Malaysia, and Thailand are causing material injury, or threatening to cause material injury, to a U.S. industry. A negative ITC determination for any country will result in the investigation being terminated with respect to that country; otherwise, these investigations will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: July 10, 2003.

Jeffrey May,

Acting Assistant Secretary for Grant Aldonas, Under Secretary.

[FR Doc. 03–18017 Filed 7–15–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–814]

Pure Magnesium from Canada: NAFTA Panel Decision

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

ACTION: Notice of NAFTA Panel decision.

SUMMARY: On April 28, 2003, the North American Free Trade Agreement ("NAFTA") Panel remanded an affirmative determination by the Department of Commerce (the "Department") in the sunset review of the antidumping duty order on pure magnesium from Canada. *See Pure Magnesium from Canada*, Secretariat File No. USA-CDA-00–1904–06, as modified by the NAFTA Panel's June 24, 2003 Order[1] ("*Pure Magnesium from Canada, Third Remand*"). Consistent with the decision of the United States Court of Appeals for the Federal Circuit (Federal Circuit) in *Timken Co. V. United States*, 893 F.2d 337 (Fed. Cir. 1990) (Timken), the Department is notifying the public that *Pure Magnesium from Canada, Third Remand* and the NAFTA Panel's earlier opinions in this case, discussed below, were "not in harmony" with the Department's original results.

EFFECTIVE DATE: July 16, 2003.

FOR FURTHER INFORMATION CONTACT: Martha Douthit or Kelly Parkhill, Office of Policy, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW, Washington, D.C. 20230; telephone: (202) 482–5050 or (202) 482–3791, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 5, 2000, the Department published a notice of the final results of the sunset review of the antidumping duty order on pure magnesium from Canada. *See Pure Magnesium From Canada; Final Results of Full Sunset Review*, 65 FR 41436, July 5, 2000.

[1] *See Pure Magnesium from Canada*, Secretariat File No. USA-CDA-00-1904-06 (June 24, 2003).

APPENDIX B

CALENDAR OF THE COMMISSION'S CONFERENCE

CALENDAR OF PUBLIC CONFERENCE

Those listed below appeared as witnesses at the United States International Trade Commission's conference:

Subject:	Polyethylene Retail Carrier Bags from China, Malaysia, and Thailand
Invs. Nos.:	731-TA-1043-1045 (Preliminary)
Date and Time:	July 11, 2003 - 9:30 a.m.

Sessions were held in connection with these investigations in the Main Hearing Room (room 101), 500 E Street, SW, Washington, DC.

In Support of the Imposition of Antidumping Duties

King & Spalding LLP
Washington, DC
on behalf of

Polyethylene Retail Carrier Bag Committee and its individual members

William C. Seanor, Managing Partner, Vanguard Plastics
Rex E. Varn, Division Vice President and General Manager/High Density Film Products Division, Sonoco Product Co.
Isaac Bazbaz, Director, Superbag Corp.
Jonathan Dill, Chief Financial Officer, Ampac Packaging

Joseph W. Dorn – OF COUNSEL
Stephen A. Jones

In Opposition to the Imposition of Antidumping Duties

Garvey Schubert Barer
Washington, DC
on behalf of

Weifang Hongyuan Plastic Co., Ltd.; Lindqu Shunxing Plastic Co., Ltd.; Shanghai Overseas International Trading Co., Ltd.; Nantong Huasheng Plastic Co., Ltd.; Rongcheng Huaxu Packing Material Co., Ltd.; Ningbo Fanrong Plastic Products Co., Ltd.; Suzhou Fanda Plastic Co., Ltd.; Shanghai Glopack, Inc.; Nanjing Zhenwang Plastic Co., Ltd.; Shanghai New Ai Lian Import & Export Co., Ltd.; Want Want Group, Beijing Lianbin Plastics & Printing Co., Ltd; Nanjing Yingtong Plastic & Rubber; Shanghai Yafu Plastic & Rubber Industrial Co., Ltd.; Weihai Weiquan Plastic & Rubber Products Co., Ltd.; Shanghai Light Industrial Products Import & Export Co., Ltd.; Xiamen Egret Plastic Co., Ltd.; Xiamen Mingbei Plastic & Rubber Co., Ltd; PDI Sanek; CPI Packaging; Progressive Sales; Elkay Plastics; MHI Group; and Glopack, Inc.

Robert Guido, President, Progressive Sales
Steve Gitlen, Salesman, Glopack, Inc.

Irwin Abraham, President, CPI Packaging
Frank Cannon Jr., President, PDI Saneck International
Louis Chertkow, President and CEO, Elkay Plastics Co., Inc.
James Leu, Director of Operations, MHI Group

William E. Perry – OF COUNSEL
Ronald M. Wisla

Grunfeld, Desiderio, Lebowitz, Silverman & Klestadt LLP
Washington, DC
on behalf of

Kal-Pac Corp. and Huang Jiang United Wah Plastic Bag Factory

Alan W. Creais, President, Kal-Pac Corp.
Mamoru (Mike) Nozawa, CEO, Kal-Pac Corp.

Jeffery S. Grimson – OF COUNSEL

Cameron & Hornbostel LLP
Washington, DC
on behalf of

Thai Plastic Bag Industries Co. Ltd.; C.P. Packaging Industry Co., Ltd.; Thai Griptech Co., Ltd.; K. International Packaging Co., Ltd.; and all other members of the industry in Thailand

Dennis James – OF COUNSEL
Valerie Ellis

Neville Peterson LLP
Washington, DC
on behalf of

Associated Merchandising Corp. (AMC)

Jim Johnson, Procurement Sourcing Group Lead for Operating Supplies, Target Stores

Lawrence J. Bogard – OF COUNSEL
John M. Peterson

John J. Verrier Jr., Managing General Partner, Regal Import Packaging

APPENDIX C

SUMMARY DATA

Table C-1
PRCBs: Summary data concerning the U.S. market, 2000-2002, January-March 2002, and January-March 2003

(Quantity=1,000 units, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per 1,000 units; period changes=percent, except where noted)

Item	Reported data					Period changes			
				January-March					Jan.-Mar.
	2000	2001	2002	2002	2003	2000-2002	2000-2001	2001-2002	2002-2003
U.S. consumption quantity:									
Amount	88,137,171	90,233,081	96,475,156	21,043,892	22,845,887	9.5	2.4	6.9	8.6
Producers' share (1)	66.8	66.1	61.8	63.8	60.0	-5.0	-0.6	-4.3	-3.8
Importers' share (1):									
China	17.4	19.5	22.7	20.8	24.4	5.3	2.1	3.2	3.6
Malaysia	1.3	1.5	1.7	1.4	0.8	0.4	0.1	0.2	-0.5
Thailand	2.7	3.1	4.0	4.5	3.9	1.3	0.4	0.9	-0.6
Subtotal	21.4	24.1	28.4	26.7	29.1	7.0	2.7	4.3	2.4
Other sources	11.8	9.7	9.8	9.5	10.9	-2.0	-2.1	0.0	1.4
Total imports	33.2	33.9	38.2	36.2	40.0	5.0	0.6	4.3	3.8
U.S. consumption value:									
Amount	906,567	934,856	883,339	198,233	200,971	-2.6	3.1	-5.5	1.4
Producers' share (1)	79.8	78.1	73.9	74.8	70.8	-5.9	-1.7	-4.2	-4.0
Importers' share (1):									
China	10.2	12.1	14.2	13.2	15.6	4.0	1.9	2.1	2.4
Malaysia	0.8	0.8	0.8	0.7	0.7	-0.0	0.0	-0.0	-0.1
Thailand	1.3	1.6	2.7	2.6	3.1	1.4	0.3	1.2	0.6
Subtotal	12.3	14.5	17.7	16.5	19.3	5.4	2.2	3.2	2.8
Other sources	7.9	7.4	8.3	8.7	9.9	0.5	-0.5	1.0	1.2
Total imports	20.2	21.9	26.1	25.2	29.2	5.9	1.7	4.2	4.0
U.S imports from:									
China:									
Quantity	15,304,000	17,601,000	21,866,000	4,383,000	5,581,000	42.9	15.0	24.2	27.3
Value	92,510	113,096	125,718	26,176	31,265	35.9	22.3	11.2	19.4
Unit value	$6.04	$6.43	$5.75	$5.97	$5.60	-4.9	6.3	-10.5	-6.2
Ending inventory quantity	24,620	42,909	55,966	46,843	70,904	127.3	74.3	30.4	51.4
Malaysia:									
Quantity	1,176,000	1,336,000	1,642,000	289,000	191,000	39.6	13.6	22.9	-33.9
Value	7,405	7,866	7,067	1,472	1,310	-4.6	6.2	-10.2	-11.0
Unit value	$6.30	$5.89	$4.30	$5.09	$6.86	-31.6	-6.5	-26.9	34.7
Ending inventory quantity	0	20,200	100	9,700	100	(2)	(2)	-99.5	-99.0
Thailand:									
Quantity	2,364,000	2,813,000	3,889,000	947,000	880,000	64.5	19.0	38.3	-7.1
Value	11,664	14,533	23,911	5,077	6,285	105.0	24.6	64.5	23.8
Unit value	$4.93	$5.17	$6.15	$5.36	$7.14	24.6	4.7	19.0	33.2
Ending inventory quantity	80	40,073	261,836	51,123	396,857	327195.0	49991.3	553.4	676.3
Subtotal:									
Quantity	18,844,000	21,750,000	27,397,000	5,619,000	6,652,000	45.4	15.4	26.0	18.4
Value	111,579	135,495	156,696	32,725	38,860	40.4	21.4	15.6	18.7
Unit value	$5.92	$6.23	$5.72	$5.82	$5.84	-3.4	5.2	-8.2	0.3
Ending inventory quantity	24,700	103,182	317,902	107,666	467,861	1187.1	317.7	208.1	334.5
All other sources:									
Quantity	10,426,000	8,795,000	9,449,000	1,995,000	2,488,000	-9.4	-15.6	7.4	24.7
Value	71,330	68,942	73,696	17,237	19,863	3.3	-3.3	6.9	15.2
Unit value	$6.84	$7.84	$7.80	$8.64	$7.98	14.0	14.6	-0.5	-7.6
Ending inventory quantity	0	0	1,900	0	300	(2)	(2)	(2)	(2)
All sources:									
Quantity	29,270,000	30,545,000	36,846,000	7,614,000	9,140,000	25.9	4.4	20.6	20.0
Value	182,909	204,437	230,392	49,962	58,723	26.0	11.8	12.7	17.5
Unit value	$6.25	$6.69	$6.25	$6.56	$6.42	0.1	7.1	-6.6	-2.1
Ending inventory quantity	24,700	103,182	319,802	107,666	468,161	1194.7	317.7	209.9	334.8

Table continued on next page.

Table C-1--Continued
PRCBs: Summary data concerning the U.S. market, 2000-2002, January-March 2002, and January-March 2003

(Quantity=1,000 units, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per 1,000 units; period changes=percent, except where noted)

	Reported data					Period changes			
				January-March					Jan.-Mar.
Item	2000	2001	2002	2002	2003	2000-2002	2000-2001	2001-2002	2002-2003
U.S. producers':									
Average capacity quantity	70,312,717	74,699,855	76,045,393	18,993,572	18,647,822	8.2	6.2	1.8	-1.8
Production quantity	59,696,927	60,736,302	60,719,549	15,151,689	15,043,016	1.7	1.7	-0.0	-0.7
Capacity utilization (1)	84.9	81.3	79.8	79.8	80.7	-5.1	-3.6	-1.5	0.9
U.S. shipments:									
Quantity	58,867,171	59,688,081	59,629,156	13,429,892	13,705,887	1.3	1.4	-0.1	2.1
Value	723,658	730,419	652,947	148,271	142,248	-9.8	0.9	-10.6	-4.1
Unit value	$12.29	$12.24	$10.95	$11.04	$10.38	-10.9	-0.5	-10.5	-6.0
Export shipments:									
Quantity	523,142	798,400	992,720	230,253	213,098	89.8	52.6	24.3	-7.5
Value	5,707	8,531	10,371	2,268	2,169	81.7	49.5	21.6	-4.4
Unit value	$10.91	$10.69	$10.45	$9.85	$10.18	-4.2	-2.1	-2.2	3.3
Ending inventory quantity	3,024,706	3,251,565	3,330,588	4,824,626	4,092,379	10.1	7.5	2.4	-15.2
Inventories/total shipments (1)	5.1	5.4	5.5	8.8	7.4	0.4	0.3	0.1	-1.5
Production workers	3,533	3,448	3,273	3,364	3,193	-7.4	-2.4	-5.1	-5.1
Hours worked (1,000s)	7,541	7,505	7,056	1,620	1,671	-6.4	-0.5	-6.0	3.1
Wages paid ($1,000s)	95,326	96,438	94,633	20,353	21,686	-0.7	1.2	-1.9	6.5
Hourly wages	$12.64	$12.85	$13.41	$12.56	$12.98	6.1	1.7	4.4	3.3
Productivity (1,000 units/hour) (3	7.5	7.8	8.4	9.0	8.9	12.5	4.7	7.4	-0.9
Unit labor costs (3)	$1.70	$1.65	$1.60	$1.40	$1.46	-5.7	-2.9	-2.8	4.2
Net sales:									
Quantity	59,115,268	60,138,471	59,896,961	13,599,513	13,901,808	1.3	1.7	-0.4	2.2
Value	728,016	735,943	657,765	150,126	145,103	-9.6	1.1	-10.6	-3.3
Unit value	$12.32	$12.24	$10.98	$11.04	$10.44	-10.8	-0.6	-10.3	-5.4
Cost of goods sold (COGS)	640,978	622,483	553,746	121,319	126,687	-13.6	-2.9	-11.0	4.4
Gross profit or (loss)	87,038	113,460	104,019	28,807	18,416	19.5	30.4	-8.3	-36.1
SG&A expenses	64,686	66,595	65,707	15,900	13,928	1.6	3.0	-1.3	-12.4
Operating income or (loss)	22,352	46,865	38,312	12,907	4,488	71.4	109.7	-18.3	-65.2
Capital expenditures	28,623	27,379	27,695	5,138	5,147	-3.2	-4.3	1.2	0.2
Unit COGS	$10.84	$10.35	$9.24	$8.92	$9.11	-14.7	-4.5	-10.7	2.2
Unit SG&A expenses	$1.09	$1.11	$1.10	$1.17	$1.00	0.3	1.2	-0.9	-14.3
Unit operating income or (loss)	$0.38	$0.78	$0.64	$0.95	$0.32	69.2	106.1	-17.9	-66.0
COGS/sales (1)	88.0	84.6	84.2	80.8	87.3	-3.9	-3.5	-0.4	6.5
Operating income or (loss)/ sales (1)	3.1	6.4	5.8	8.6	3.1	2.8	3.3	-0.5	-5.5

(1) "Reported data" are in percent and "period changes" are in percentage points.
(2) Not applicable.
(3) Does not include ***.

Note.--Financial data are reported on a fiscal year basis and may not necessarily be comparable to data reported on a calendar year basis. Because of rounding, figures may not add to the totals shown. Unit values and shares are calculated from the unrounded figures.

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

APPENDIX D

ALLEGED EFFECTS OF SUBJECT IMPORTS ON PRODUCERS' EXISTING DEVELOPMENT AND PRODUCTION EFFORTS, GROWTH, INVESTMENT, AND ABILITY TO RAISE CAPITAL

Responses of U.S. producers to the following question: Since January 1, 2000 has your firm experienced any actual negative effects on its return on investment or its growth, investment, ability to raise capital, existing development and production efforts (including efforts to develop a derivative or more advanced version of the product), or the scale of capital investments as a result of imports of PRCBs from China, Malaysia, or Thailand?

* * * * * * *

Company responses to the following question: Does your firm anticipate any negative impact of imports of PRCBs from China, Malaysia, or Thailand?

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