

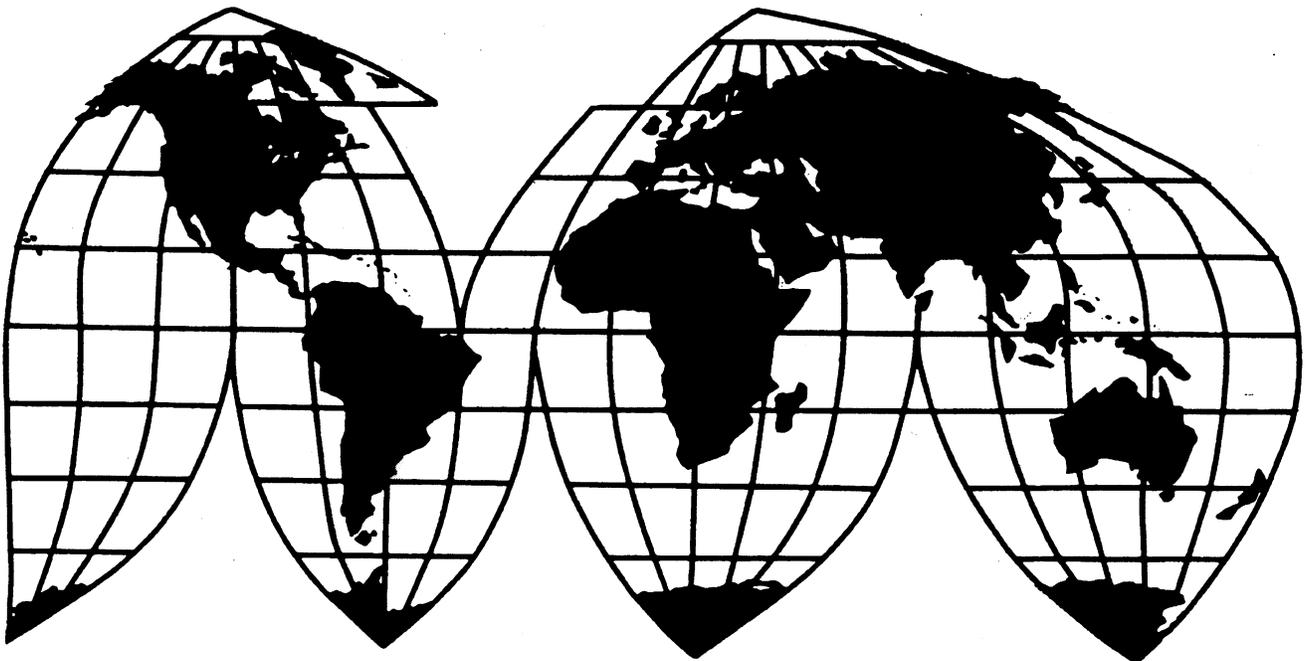
# **Polyethylene Terephthalate (PET) Film From Korea**

Investigation No. 731-TA-459 (Review)

**Publication 3278**

**February 2000**

**U.S. International Trade Commission**



Washington, DC 20436

# U.S. International Trade Commission

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## CONTENTS

	<i>Page</i>
Determination .....	1
Views of the Commission .....	3
Dissenting Views of Commissioner Thelma J. Askey .....	17
Information obtained in the review .....	I-1
Introduction .....	I-3
The original investigation .....	I-3
Commerce's final results of expedited sunset review .....	I-4
The product .....	I-4
Scope .....	I-4
Description and uses .....	I-5
The industry in the United States .....	I-6
U.S. producers .....	I-6
U.S. production, capacity, and shipments .....	I-8
U.S. imports and consumption .....	I-9
U.S. imports .....	I-9
Apparent U.S. consumption .....	I-9
The industry in Korea .....	I-12
 <b>Appendix</b>	
A. <i>Federal Register</i> notices .....	A-1
B. Statement on adequacy .....	B-1
 <b>Figure</b>	
I-1. PET film: U.S. imports from Korea, by quantity, 1987-98 .....	I-10
 <b>Tables</b>	
I-1. PET film: U.S. producers' capacity, production, and U.S. shipments, 1987-90 and 1998 ..	I-8
I-2. PET film: U.S. imports from Korea, 1987-90 and 1998 .....	I-11
I-3. PET film: U.S. producers' U.S. shipments, U.S. imports, and apparent U.S. consumption, on the basis of quantity, 1987-90 and 1998 .....	I-12
I-4. PET film: Korea's capacity, production, and shipments, 1987-90 and 1998 .....	I-14

Note.—Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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.

## GLOSSARY

3M .....	Minnesota Mining and Manufacturing Co.
Cheil .....	Cheil Synthetics, Inc.
Commerce .....	U.S. Department of Commerce
Commission .....	U.S. International Trade Commission
COP .....	Cost of production
Customs .....	U.S. Customs Service
DuPont .....	E.I. DuPont de Nemours & Co.
Eastman Kodak .....	Eastman Kodak Co.
FMV .....	Foreign market value
F.R. ....	<i>Federal Register</i>
Hoechst .....	Hoechst Celanese Corp.
HTS .....	Harmonized Tariff Schedule of the United States
ICI .....	ICI Americas Inc.
Kolon .....	Kolon Industries, Inc.
MFA .....	Mitsubishi Polyester Film, LLC
PET .....	Polyethylene terephthalate
<i>Response</i> .....	Response to the Commission's Notice of Institution
Rhone-Poulenc .....	Rhone-Poulenc Inc.
Saehan .....	Saehan Industries, Inc.
SKC .....	SKC Co., Ltd.
STC .....	STC Corp.
USP .....	United States Price

# UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-459 (Review)

## POLYETHYLENE TEREPHTHALATE (PET) FILM FROM KOREA

### DETERMINATION

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

### BACKGROUND

The Commission instituted this review on July 1, 1999 (64 F.R. 35685) and determined on October 1, 1999, that it would conduct an expedited review (64 F.R. 55958, October 15, 1999). The Commission transmitted its determination in this review to the Secretary of Commerce on February 16, 2000.

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

<sup>2</sup> Commissioner Thelma J. Askey dissenting.



## VIEWS OF THE COMMISSION

Based on the record in this five-year review, we determine under section 751(c) of the Tariff Act of 1930, as amended (“the Act”), that revocation of the antidumping duty order covering polyethylene terephthalate (“PET”) film from Korea would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.<sup>1</sup>

### I. BACKGROUND

In May 1991, the Commission determined that an industry in the United States was being materially injured by reason of imports of PET film from Korea that were being sold at less than fair value.<sup>2</sup> On June 5, 1991, the Department of Commerce (“Commerce”) issued an antidumping duty order on imports of PET film from Korea.<sup>3</sup> On July 1, 1999, the Commission instituted this review pursuant to section 751(c) of the Act to determine whether revocation of the antidumping duty order on PET film would likely lead to continuation or recurrence of material injury.<sup>4</sup>

In five-year reviews, the Commission initially determines whether to conduct a full review (which would include a public hearing, the issuance of questionnaires, and other procedures) or an expedited review, as follows. First, the Commission determines whether individual responses of interested parties to the notice of institution are adequate. Second, based on those responses deemed individually adequate, the Commission determines whether the collective responses submitted by two groups of interested parties - domestic interested parties (producers, unions, trade associations, or worker groups) and respondent interested parties (importers, exporters, foreign producers, trade associations, or subject country governments) - demonstrate a sufficient willingness among each group to participate and provide information requested in a full review.<sup>5</sup> If the Commission finds the responses from either group of interested parties to be inadequate, the Commission may determine, pursuant to section 751(c)(3)(B) of the Act, to conduct an expedited review unless it finds that other circumstances warrant a full review.

In this review, the Commission received a joint response to the notice of institution from domestic producers E.I. DuPont de Nemours & Company (“DuPont”) and Mitsubishi Polyester Film,

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<sup>1</sup> Commissioner Askey dissenting. Commissioner Askey determines that revocation of the antidumping duty order covering polyethylene terephthalate film from Korea would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. See Dissenting Views of Commissioner Thelma J. Askey. She joins in section I - III.B of these views.

<sup>2</sup> Polyethylene Terephthalate Film, Sheet, and Strip from Japan and the Republic of Korea, Invs. Nos. 731-TA-458-459 (Final) USITC Pub. 2383 at 1 (May 1991) (“Original Determination”). Commerce revoked the order on PET film from Japan in 1995 after concluding that requirements for revocation based on changed circumstances (i.e., the order no longer was of interest to interested parties) were met. 60 Fed. Reg. 52366, 52367 (Oct. 6, 1995).

<sup>3</sup> 56 Fed. Reg. 25669 (June 5, 1991) (antidumping duty order, amended 62 Fed. Reg. 50557 (Sept. 26, 1997)). Amendment to Order only involved changes to dumping margins and not scope.

<sup>4</sup> 64 Fed. Reg. 35685 (July 1, 1999).

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

LLC (“MFA”).<sup>6</sup> The joint response contained company-specific information. No foreign producer, exporter, or U.S. importer of PET film from Korea filed a response to the notice of institution.<sup>7</sup>

On October 1, 1999, the Commission determined that the domestic interested party group response to its notice of institution was adequate but that the respondent interested party group response was inadequate.<sup>8</sup> The Commission did not find any circumstances that would warrant conducting a full review. Pursuant to section 751(c)(3)(B) of the Act,<sup>9</sup> the Commission voted to conduct an expedited review of this antidumping duty order.

## II. DOMESTIC LIKE PRODUCT AND INDUSTRY

### A. Domestic Like Product

In making its determination under section 751(c), the Commission defines “the domestic like product” and the “industry.”<sup>10</sup> The Act defines “domestic like product” as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle.”<sup>11</sup>

In its final five-year review determination, Commerce defined the subject merchandise as: all gauges of raw, pretreated, or primed polyethylene terephthalate film, sheet, and strip, whether extruded or coextruded. The films excluded from this antidumping duty order are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer of more than 0.00001 inches (0.254 micrometers) thick. Roller transport cleaning film which has at least one of its surfaces modified by application of 0.5 micrometers of SBR latex has also been ruled as not within the scope of the order. PET film is currently classifiable under Harmonized Tariff Schedule (“HTS”) item number 3920.62.00. The HTS item number is provided for convenience and U.S. Customs purposes. The written description remains dispositive.<sup>12</sup>

PET film is a high performance, clear, flexible, transparent, or translucent material produced from PET polymer, a linear, thermoplastic polyester resin.<sup>13</sup> It generally is more expensive than other

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<sup>6</sup> DuPont and MFA’s predecessor firm, Hoechst -- as well as ICI -- were petitioners in the original investigation. ICI’s PET film operations were purchased by DuPont in 1997.

<sup>7</sup> Nor did any other person file a submission under Commission Rule 207.61(d).

<sup>8</sup> See Explanation of Commission Determination on Adequacy in Polyethylene Terephthalate Film from Korea (October 6, 1999). See also 64 Fed. Reg. 55958 (Oct. 15, 1999).

<sup>9</sup> 19 U.S.C. § 1675(c)(3)(B).

<sup>10</sup> 19 U.S.C. § 1677(4)(A).

<sup>11</sup> 19 U.S.C. § 1677(10). See NEC Corp. v. Department of Commerce, Slip Op. 98-164 at 8 (Ct. Int’l Trade, Dec. 15, 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Torrington Co. v. United States, 747 F. Supp. 744, 749 n.3 (Ct. Int’l Trade 1990), aff’d, 938 F.2d 1278 (Fed. Cir. 1991). See also S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

<sup>12</sup> 65 Fed. Reg. 5592 (Feb. 4, 2000). See also Commerce’s website ([http://www.ita.doc.gov/import\\_admin/records/sunset](http://www.ita.doc.gov/import_admin/records/sunset)) at Case History and Scope Information.

<sup>13</sup> See Confidential Report (“CR”) at I-5 - I-7; Public Report (“PR”) at I-4 - I-6.

plastic films and therefore is used only for applications that require its unique properties. These properties include high tensile strength, low moisture absorption, good retention of physical properties over a fairly wide temperature range, excellent electrical properties, durability, heat resistance, good gas barrier properties, excellent dimensional stability, chemical inertness, and good optical clarity. PET film is produced in a range of widths, thicknesses, and properties depending upon the needs of end users. The broad range of chemical, physical, and thermal properties available in PET film permits this product to be used in a wide range of applications. The highest volume PET film markets are the photographic applications market, the magnetic media market, and the packaging market.<sup>14</sup>

In the original investigation, the Commission defined the domestic like product as all PET film, including equivalent PET film.<sup>15</sup> DuPont and MFA state that they agree with the Commission's previous like product and industry definitions.<sup>16</sup> We find that there is no evidence on the record of this five-year review that would suggest a reason for revisiting the Commission's original determination of the domestic like product and domestic industry. Accordingly, we define the domestic like product as all PET film, including equivalent PET film.

## **B. Domestic Industry**

Section 771(4)(A) of the Act defines the relevant industry as the "domestic 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."<sup>17</sup> In accordance with our domestic like product determination, we find one domestic industry, consisting of all domestic producers of PET film, including equivalent PET film.<sup>18</sup>

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<sup>14</sup> PET film also is used in numerous other applications including electrical/electronics, release films, reprographics, and labels/decals.

<sup>15</sup> Original Determination, USITC Pub. 2383 at 8. By defining the domestic like product to include equivalent PET film, or PET film with at least one surface coated with a resinous layer more than 0.00001 inches thick, the Commission expanded its definition beyond Commerce's scope of the subject merchandise. USITC Pub. 2383 at 15. Equivalent PET film, which is PET film that is thickly coated during the production process (e.g., Cronar® and Estar®), is used primarily for photographic applications. One Commissioner defined the domestic like product differently. *Id.* at 31 and 32.

<sup>16</sup> Response of DuPont and MFA to the Notice of Institution ("DuPont/MFA Response") at 13 (Aug. 20, 1999).

<sup>17</sup> 19 U.S.C. § 1677(4)(A).

<sup>18</sup> In this review, one domestic producer is related to a Korean producer. Korean PET film producer SKC Co., Ltd. has begun production of PET film at its U.S. subsidiary SKC America. CR at I-8; PR at I-7; DuPont/MFA Supplemental Response to Notice of Institution at 1 (Aug. 30, 1999). However, since no data regarding SKC America's domestic production were obtained in this review, the related party issue is moot.

### III. REVOCATION OF THE ANTIDUMPING DUTY ORDER ON POLYETHYLENE TEREPHTHALATE FILM WOULD LIKELY LEAD TO CONTINUATION OR RECURRENCE OF MATERIAL INJURY WITHIN A REASONABLY FORESEEABLE TIME

#### A. Legal Standard

In a five-year review conducted under section 751(c) of the Act, Commerce will revoke a countervailing or antidumping duty order unless: (1) it makes a determination that dumping is likely to continue or recur, and (2) the Commission makes a determination that revocation of an order “would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.”<sup>19</sup> The SAA states that “under the likelihood standard, the Commission will engage in a counter-factual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo – the revocation [of the order] . . . and the elimination of its restraining effects on volumes and prices of imports.”<sup>20</sup> Thus, the likelihood standard is prospective in nature.<sup>21</sup> The statute states that “the Commission shall consider that the effects of revocation . . . may not be imminent, but may manifest themselves only over a longer period of time.”<sup>22</sup> According to the SAA, a “‘reasonably foreseeable time’ will vary from case-to-case, but normally will exceed the ‘imminent’ time frame applicable in a threat of injury analysis [in antidumping and countervailing duty investigations].”<sup>23 24</sup>

Although the standard in five-year reviews is not the same as the standard applied in original antidumping or countervailing duty investigations, it contains some of the same fundamental elements.

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<sup>19</sup> 19 U.S.C. § 1675a(a).

<sup>20</sup> SAA, H.R. Rep. No. 103-316, vol. I, at 883-84 (1994). The SAA states that “[t]he likelihood of injury standard applies regardless of the nature of the Commission’s original determination (material injury, threat of material injury, or material retardation of an industry).” SAA at 883.

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

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

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

<sup>24</sup> In analyzing what constitutes a reasonably foreseeable time, Commissioner Koplan examines all the current and likely conditions of competition in the relevant industry. He defines “reasonably foreseeable time” as the length of time it is likely to take for the market to adjust to a revocation. In making this assessment, he considers all factors that may accelerate or delay the market adjustment process including any lags in response by foreign producers, importers, consumers, domestic producers, or others due to: lead times; methods of contracting; the need to establish channels of distribution; product differentiation; and any other factors that may only manifest themselves in the longer term. In other words, this analysis seeks to define “reasonably foreseeable time” by reference to current and likely conditions of competition, but also seeks to avoid unwarranted speculation that may occur in predicting events into the more distant future.

The statute provides that the Commission is to “consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the order is revoked.”<sup>25</sup> It directs the Commission to take into account its prior injury determination, whether any improvement in the state of the industry is related to the order under review, and whether the industry is vulnerable to material injury if the order is revoked.<sup>26 27</sup>

Section 751(c)(3) of the Act and the Commission’s regulations provide that in an expedited five-year review the Commission may issue a final determination “based on the facts available, in accordance with section 776.”<sup>28</sup> We note that the statute authorizes the Commission to take adverse inferences in five-year reviews, but such authorization does not relieve the Commission of its obligation to consider the record evidence as a whole in making its determination. We generally give credence to the facts supplied by the participating parties and certified by them as true, but base our decision on the evidence as a whole, and do not automatically accept the participating parties’ suggested interpretation of the record evidence. Regardless of the level of participation and the interpretations urged by participating parties, the Commission is obligated to consider all evidence relating to each of the statutory factors and may not draw adverse inferences that render such analysis superfluous. “In general, the Commission makes determinations by weighing all of the available evidence regarding a multiplicity of factors relating to the domestic industry as a whole and by drawing reasonable inferences from the evidence it finds most persuasive.”<sup>29</sup> As noted above, no respondent interested party responded to the Commission’s notice of institution. Accordingly, we have relied on the facts available in this review, which consist primarily of the evidence in the record from the Commission’s original investigation on PET film, limited information collected by the Commission since the institution of this review, and information submitted by the domestic producers.<sup>30</sup>

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<sup>25</sup> 19 U.S.C. § 1675a(a)(1).

<sup>26</sup> 19 U.S.C. § 1675a(a)(1). The statute further provides that the presence or absence of any factor that the Commission is required to consider shall not necessarily give decisive guidance with respect to the Commission’s determination. 19 U.S.C. § 1675a(a)(5). While the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886.

<sup>27</sup> Section 752(a)(1)(D) of the Act directs the Commission to take into account in five-year reviews involving antidumping proceedings “the findings of the administrative authority regarding duty absorption.” 19 U.S.C. § 1675a(a)(1)(D). Commerce stated in its expedited five-year review determination that it has not issued any duty absorption finding in this case. 65 Fed. Reg. 5592 (Feb. 4, 2000).

<sup>28</sup> 19 U.S.C. § 1675(c)(3)(B); 19 C.F.R. § 207.62(e). Section 776 of the Act, in turn, authorizes the Commission to “use the facts otherwise available” in reaching a determination when: (1) necessary information is not available on the record or (2) an interested party or any other person withholds information requested by the agency, fails to provide such information in the time or in the form or manner requested, significantly impedes a proceeding, or provides information that cannot be verified pursuant to section 782(i) of the Act. 19 U.S.C. § 1677e(a). The statute permits the Commission to use adverse inferences in selecting from among the facts otherwise available when an interested party has failed to cooperate by acting to the best of its ability to comply with a request for information. 19 U.S.C. § 1677e(b). Such adverse inferences may include selecting from information from the record of our original determination and any other information placed on the record. *Id.*

<sup>29</sup> SAA at 869.

<sup>30</sup> In this review, the Commission also has some information on the domestic industry from the \*\*\*, which is in addition to that received from DuPont and MFA.

For the reasons stated below, we determine that revocation of the antidumping duty order on PET film from Korea would be likely to lead to continuation or recurrence of material injury to the domestic injury within a reasonably foreseeable time.<sup>31</sup>

## B. Conditions of Competition

In evaluating the likely impact of the subject imports on the domestic industry, the statute directs the Commission to consider all relevant economic factors “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”<sup>32</sup>

The current conditions of competition are similar in some respects to those existing at the time of the original investigation. First, overall demand for PET film is derived from demand for its primary end-use applications, which include photographic film, magnetic media, and packaging.<sup>33</sup> Apparent U.S. consumption of PET film, which has increased by \*\*\* since the time of the original investigation, is expected to increase by an average of \*\*\* in the merchant market during 1998-2002.<sup>34</sup> A substantial share (approximately \*\*\*) of total U.S. capacity to produce PET film remains devoted to the merchant market. PET film produced for captive consumption primarily is converted to photographic films and magnetic media.<sup>35</sup> \*\*\*<sup>36</sup> \*\*\*<sup>37</sup>

The domestic industry consisted of nine domestic producers during the original investigation, and today consists of ten domestic producers.<sup>38</sup> While the number of producers is similar, there have been some changes in the composition of the domestic industry since the original investigations, including acquisitions and new entries to the industry.<sup>39</sup> DuPont and MFA are the two largest domestic

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<sup>31</sup> Commissioner Askey determines that revocation of the antidumping duty order covering polyethylene terephthalate film from Korea would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. See Dissenting Views of Commissioner Thelma J. Askey.

<sup>32</sup> 19 U.S.C. § 1675a(a)(4).

<sup>33</sup> In 1998, domestic consumption of PET film was distributed as follows: photographic applications accounted for \*\*\*, magnetic media applications accounted for \*\*\*, packaging applications accounted for \*\*\*, and other applications accounted for \*\*\*. CR at I-6; PR at I-5 and I-6.

<sup>34</sup> CR at I-11 and Table I-3; PR at I-9 and Table I-3. Domestic capacity to produce PET film increased by \*\*\* from 1990 to 1998, while domestic production increased by \*\*\* for the same period. Calculated from CR/PR at Table I-1.

<sup>35</sup> CR at I-8 and I-9; PR at I-7. Eastman Kodak and 3M are the largest captive producers of PET film, representing \*\*\* of total domestic capacity to produce PET film in 1998. Id.

<sup>36</sup> \*\*\*.

<sup>37</sup> \*\*\*.

<sup>38</sup> CR at I-7 and I-8; PR at I-6.

<sup>39</sup> For example, in 1997 DuPont purchased ICI's PET film operations. In 1998, Mitsubishi Chemical Corporation purchased the remaining shares of Hoechst in the Diafoil Hoechst joint venture companies and currently operates as MFA; and Rhone-Poulenc was acquired and became Terephane. Sterling Diagnostic Imaging, which formerly was DuPont Diagnostic Imaging, was formed in April 1996 by a group of private investors. SKC America, whose parent corporation is Korean producer SKC, reportedly commenced U.S. production of PET film in 1999. CR at I-8; PR at I-7; and \*\*\*.

producers of PET film, together accounting for \*\*\* of U.S. production in 1998 and \*\*\* of annual domestic capacity to produce PET film in 1998.<sup>40</sup>

The industry remains capital intensive.<sup>41</sup> The high fixed costs associated with operating and maintaining a PET film plant require manufacturers to sustain high capacity utilization rates to stay profitable.<sup>42</sup> Domestic producers indicate that capacity utilization rates of about \*\*\* are the global industry norm to ensure viable operations.<sup>43</sup> U.S. capacity utilization was \*\*\* in 1998, which is lower than the capacity utilization rates reported in the original investigation.<sup>44</sup>

There also have been changes to the Korean PET film industry since the original investigation. The Korean industry which consisted of four producers, today has expanded to six PET film producers.<sup>45</sup> Three of these subject producers, H.S. Industries, Hyosung Living Industry, and Kohap Ltd., initiated production of PET film in 1997. More importantly, Korean capacity to produce PET film has grown rapidly since the original investigation from 235 million pounds per year in 1990 to \*\*\* in 1998.<sup>46</sup> In addition to the new capacity brought on line by the three start-up firms, SKC, the largest and oldest Korean producer, expanded its capacity from \*\*\* in 1997.<sup>47</sup> In contrast, U.S. producers' production capacity was \*\*\* and total U.S. apparent consumption was \*\*\* in 1998.<sup>48</sup>

Finally, nonsubject imports have increased both in volume and market share terms since the original investigation. In 1990, nonsubject imports totaled \*\*\*, or \*\*\* of total apparent consumption.<sup>49</sup> By 1998, nonsubject imports had increased to \*\*\*, or \*\*\* of total apparent domestic consumption.<sup>50</sup>

Based on the record evidence, we find that these conditions of competition in the U.S. PET film market are not likely to change significantly in the reasonably foreseeable future. Accordingly, we find that current conditions in the U.S. PET film market provide us with a basis upon which to assess the likely effects of revocation of the antidumping duty order within a reasonably foreseeable future.

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<sup>40</sup> CR at I-9; PR at I-7. In the original investigation, DuPont, Hoechst (predecessor to MFA), and ICI (purchased by DuPont in 1997) accounted for \*\*\* of annual U.S. capacity to produce PET film. CR at I-7; PR at I-6.

<sup>41</sup> Original Determination at 30 and \*\*\*. The total greenfield investment for a PET film operation is likely to be in the range of \*\*\*. Moreover, it may take up to three years to achieve optimal running conditions on a new film line. \*\*\*.

<sup>42</sup> \*\*\*. In order to achieve adequate economies of scale, major manufacturers find it necessary to operate at least three PET film lines at one location. *Id.*

<sup>43</sup> DuPont/MFA Response at 4 and 5. Accord \*\*\*.

<sup>44</sup> CR/PR at Table I-1.

<sup>45</sup> We note that the antidumping duty order has been revoked with respect to two of these producers -- Saehan (formerly Cheil) and Kolon. Saehan was recently acquired by Toray Industries, a Japanese producer of PET film, that reportedly intends to commit Saehan's PET film production to the U.S. market. CR at I-15 and I-16; PR at I-13; and DuPont/MFA Response at Appendix A (article from The Daily Industry, dated Aug. 10, 1999).

<sup>46</sup> CR at I-16; PR at I-13.

<sup>47</sup> CR at I-15; PR at I-13.

<sup>48</sup> CR/PR at Table I-1 and I-3.

<sup>49</sup> CR/PR at Table I-3.

<sup>50</sup> CR/PR at Table I-3.

### C. Likely Volume of Subject Imports

In evaluating the likely volume of imports of subject merchandise if the order under review is revoked, the Commission is directed to consider whether the likely volume of subject imports would be significant either in absolute terms or relative to the production or consumption in the United States.<sup>51</sup> In doing so, the Commission must consider “all relevant economic factors,” including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) the potential for product-shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.<sup>52</sup>

During the period of the original investigation, U.S. imports of PET film from Korea more than doubled. Specifically, from 1987 to 1990, subject imports from Korea increased from 11.8 million pounds to 28.9 million pounds.<sup>53</sup> U.S. market penetration by subject imports from Korea increased from \*\*\* in 1987 to \*\*\* in 1990.<sup>54</sup> Since imposition of the antidumping duty order in 1991, imports from Korea of PET film have continued to increase.<sup>55</sup> By 1998, imports of PET film from Korea had increased to \*\*\*, or \*\*\* of total apparent domestic consumption.<sup>56</sup> In 1998, Korea was the largest exporter of PET film to the United States, accounting for 35 percent of total U.S. imports of the product.<sup>57</sup>

Several factors support the conclusion that subject import volume is likely to be significant if the order is revoked. First, overall Korean capacity to produce PET film has grown rapidly since the original investigation which has resulted in considerable excess capacity. There has been a substantial increase in Korean capacity even when only the current capacity of those Korean producers still subject to the order is considered. Subject Korean capacity to produce PET film has increased by \*\*\* from \*\*\* in 1990 to \*\*\* in 1998.<sup>58</sup> Moreover, since Korean production and shipments have not increased at a similar rate to that of capacity, overall Korean capacity utilization rates have declined substantially from \*\*\* in 1998.<sup>59</sup> The evidence further indicates an oversupply of PET film in the Korean home market.<sup>60</sup>

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<sup>51</sup> 19 U.S.C. §1675a(a)(2).

<sup>52</sup> 19 U.S.C. § 1675(a)(2)(A)-(D).

<sup>53</sup> Original Determination -- Staff Report at A-60, Table 19; see also CR/PR at Table I-2.

<sup>54</sup> CR/PR at Table I-3, derived from Original Determination -- Staff Report at A-30, A-60, and B-45.

<sup>55</sup> CR at I-11; PR at I-9. The Commission’s import data for 1991 to 1998 are based on official import statistics, which include import data for two Korean PET film producers whose orders were revoked by Commerce in 1996. Therefore, official import statistics may include imports from these Korean producers not subject to the order and thus overstate the amount of subject merchandise imported. CR at I-11, n.28; PR at I-9, n.28..

<sup>56</sup> CR/PR at Table I-3. Conversely, the domestic industry’s U.S. market share declined from \*\*\* in 1998. Id.

<sup>57</sup> CR at I-11; PR at I-9.

<sup>58</sup> Calculated from CR at I-15 and Table I-4; PR at I-13 and Table I-4. Conversely, the U.S. capacity to produce PET film increased by \*\*\* from 1990 to 1998. Calculated from CR/PR at Table I-1.

<sup>59</sup> CR/PR at Table I-4. Because no information on capacity utilization rates for subject Korean producers was submitted or available, we have relied on capacity utilization rates for the Korean PET film industry as a whole as a proxy for those of subject producers.

<sup>60</sup> \*\*\*.

Given the high fixed costs associated with PET film production, there is an incentive to maximize utilization of available capacity. Thus, there is a significant incentive for the Korean producers with excess capacity to increase exports to the relatively large U.S. market if the order is revoked. The United States is the largest market for Korean exports accounting for \*\*\* of Korean PET film exports in 1998.<sup>61</sup> While Korean producers have shifted their emphasis from home market shipments to export shipments during the 1990-1998 period,<sup>62</sup> the imposition of the antidumping duty order appears to have limited their focus on the U.S. market. Korean export shipments to the United States as a share of total Korean shipments (including home market and export shipments) remained at the same level of about \*\*\* since imposition of the antidumping duty order, despite increases in absolute volume, while Korean export shipments to markets other than the U.S. market increased from 27.5 percent of total Korean shipments of PET film in 1990 to \*\*\* in 1998.<sup>63</sup> Further, there is evidence of oversupply in some of the Korean industry's other major export markets, in addition to that in its home market.<sup>64</sup>

Without the discipline of the antidumping duty order, Korean producers have an incentive to redirect the large PET film oversupply in the Korean market, as well as its exports to oversupplied third countries, to the U.S. market. Moreover, there is evidence that three subject PET film producers in Korea, H.S. Industries, Hyosung Living Industry, and Kohap, all of which initiated production in 1997, have been facing severe economic conditions since 1998.<sup>65</sup> The strength of the U.S. market would be particularly attractive to these three subject producers and, thus, these companies would have a strong incentive to increase significantly their exports to the U.S. market if the order was revoked in order to raise their capacity utilization rates and improve their operating performance. Finally, while SKC commenced PET film operations in the United States in 1999, this operation is not expected to be fully operational until 2002.<sup>66 67</sup> Moreover, the substantial excess capacity in Korea indicates that exports from Korea are likely to increase, despite the start-up of this U.S. operation.

For the foregoing reasons, we find that subject imports would likely increase to a significant level if the discipline of the antidumping duty order is removed.

#### **F. Likely Price Effects**

In evaluating the likely price effects of subject imports if the order is revoked, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared with domestic like products and whether the subject imports are likely to enter the United

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<sup>61</sup> CR at I-16; PR at I-14.

<sup>62</sup> Home market shipments as a share of total Korean shipments of PET film declined from \*\*\* in 1998. Conversely, total exports shipments of Korean PET film as a share of total Korean shipments increased from \*\*\* in 1998. Calculated from CR/PR at Table I-4.

<sup>63</sup> Calculated from CR/PR at Table I-4.

<sup>64</sup> \*\*\*.

<sup>65</sup> \*\*\*.

<sup>66</sup> Evidence in the record indicates that up to three years are needed to achieve optimal running conditions on a new PET film line and up to four years can be required after start-up before full capacity can be attained. \*\*\*.

<sup>67</sup> Chairman Bragg thus infers that SKC America will likely import subject merchandise to augment its U.S. PET film inventories prior to full production in 2002.

States at prices that would have a significant depressing or suppressing effect on the price of domestic like products.<sup>68</sup>

In the original determination, the Commission found that prices of subject imports had adversely affected prices of domestic PET film. The evidence showed that imports of PET film from Korea undersold the comparable domestic product in 81 quarters out of 94 quarters of price comparisons reported by producers and importers, and in 52 quarters out of 62 quarters of price comparisons reported by purchasers.<sup>69</sup> The Commission concluded that there was significant underselling by subject imports.<sup>70</sup> The Commission also found that subject imports had a price depressing effect on the prices of PET film in the United States based on evidence that domestic prices of PET film generally fell during the latter part of the investigation.<sup>71</sup>

The record indicates that U.S. prices already are at low levels. For example, U.S. prices for general-purpose PET film generally were lower in 1998, ranging from \*\*\* depending on the transparency and gauge of the material, compared with 1995, ranging from \*\*\*.<sup>72</sup> In addition, DuPont and MFA indicate that "PET film prices in the U.S. market are \*\*\*."<sup>73</sup> They maintain that, "when PET film prices are compared on a grade-specific basis, such prices \*\*\*."<sup>74</sup>

In 1998, world prices reportedly were significantly weakened as a result of excess capacity, which became evident in 1997, largely as a result of the Asian market turmoil.<sup>75</sup> Film prices in the Asia-Pacific region, where the largest (Japan) and third largest (Korea) PET film producing countries are located, are expected to be the lowest globally.<sup>76</sup> There is evidence that U.S. producers already have had to respond aggressively to imports from the Asia-Pacific region, and thus effectively eliminate margins and in some cases sell at a loss.<sup>77</sup>

There is relatively little information in the record regarding prices of subject imports. However, the available information supports the conclusion that subject imports would be likely to have significant price effects if the order is revoked.<sup>78</sup> In 1998, landed duty paid unit values for imports from Korea of PET film were significantly lower than the average unit values for other, nonsubject imports of PET

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<sup>68</sup> 19 U.S.C. § 1675a(a)(3). The SAA states that "[c]onsistent with its practice in investigations, in considering the likely price effects of imports in the event of revocation and termination, the Commission may rely on circumstantial, as well as direct, evidence of the adverse effects of unfairly traded imports on domestic prices." SAA at 886.

<sup>69</sup> Original Determination -- Report at A-77, A-84, and Tables 25, 27, and 28.

<sup>70</sup> Original Determination at 28.

<sup>71</sup> Original Determination at 28.

<sup>72</sup> CR at I-9; PR at I-8; and \*\*\*. PET film imported from Korea is believed to be general-purpose film. \*\*\*.

<sup>73</sup> DuPont/MFA Response at 9.

<sup>74</sup> DuPont/MFA Comments at 3.

<sup>75</sup> \*\*\*.

<sup>76</sup> \*\*\*. In 1998, producers in Asia accounted for approximately \*\*\* of film imported into the United States. Id. at \*\*\*.

<sup>77</sup> \*\*\*.

<sup>78</sup> CR at I-11; PR at I-9. As discussed above, official import statistics may include imports from Korean firms not subject to the order and, therefore, the import unit value data may be affected by the inclusion of imports from these firms.

film.<sup>79 80</sup> Moreover, unit values for Korean imports of PET film were substantially lower in 1998 than in 1990.<sup>81</sup> Conversely, the average unit value of U.S. shipments by U.S. producers has risen since the original investigation.<sup>82 83</sup>

Given these conditions, without the discipline of the antidumping duty order, the subject Korean producers, including the three struggling new producers, would have an incentive to export their excess capacity of PET film to the United States at prices that would be likely to undersell their domestic competition in order to increase market share. With market prices already low, this additional supply of low-priced product would be likely to have significant adverse price effects.<sup>84</sup> In particular, Korean producers H.S. Industries, Hyosung Living Industry, and Kohap have an incentive to price their product aggressively if the order is revoked, in order to gain market share in the United States, increase capacity utilization, and thereby justify and preserve their recent investments. For the foregoing reasons, we find that revocation of the antidumping duty order would be likely to lead to significant underselling by the subject imports of the domestic like product, as well as significant price depression and suppression, within a reasonably foreseeable time.

### G. Likely Impact

In evaluating the likely impact of imports of subject merchandise if the order is revoked, the Commission is directed to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including but not limited to: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.<sup>85</sup> All relevant economic factors are to be considered within the context of the business cycle and the conditions of competition that are distinctive to the industry.<sup>86</sup> As instructed by the statute, we have considered the

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<sup>79</sup> Average unit values from different sources may not be directly comparable due to variations in value resulting from different product mixes and the inclusion of the two Korean exporters not subject to the order. Also, import unit values are not directly comparable to domestic prices because they are at different levels of trade. Nevertheless, the import unit values provide some indication of likely prices trends.

<sup>80</sup> CR/PR at Table I-2. The landed duty-paid average unit value for other, nonsubject imports of PET film was \$1.83 per pound in 1998 compared to \$1.09 per pound for imports from Korea. *Id.* The primary sources of other, nonsubject imports were China, India, Japan, and the United Kingdom. *Id.* at Table I-2, n. 2.

<sup>81</sup> CR/PR at Table I-2. The landed duty-paid average unit value for imports from Korea of PET film was \$1.32 per pound in 1990 compared with \$1.09 per pound in 1998.

<sup>82</sup> CR/PR at Table I-1. The average unit value of U.S. shipments was \*\*\* in 1990 compared with \*\*\* in 1998.

<sup>83</sup> DuPont and MFA “submit that the increase in average unit values of the U.S. PET film shipments between 1990 and 1998 can be explained by changes in product mix. . . [and] may have increased as a result of the decreased need to match sales of Korean off-grade PET film.” DuPont/MFA Comments at 3.

<sup>84</sup> Accord \*\*\*.

<sup>85</sup> 19 U.S.C. § 1675a(a)(4).

<sup>86</sup> 19 U.S.C. § 1675a(a)(4). Section 752(a)(6) of the Act states that “the Commission may consider the magnitude of the margin of dumping” in making its determination in a five-year review investigation. 19 U.S.C. § 1675a(a)(6). The statute defines the “magnitude of the margin of dumping” to be used by the Commission in five-year review investigations as “the dumping margin or margins determined by the administering authority under

extent to which any improvement in the state of the domestic industry is related to the antidumping duty order at issue and whether the industry is vulnerable to material injury if the order is revoked.<sup>87</sup>

In the original investigation, the Commission found that the increases in market share and declines in prices of subject imports depressed prices and caused the domestic industry to lose market share in the overall U.S. PET film market and, particularly, in the commercial shipments market.<sup>88</sup> The Commission found that subject imports had prevented the domestic industry from increasing prices to cover increases in its unit costs.<sup>89</sup> These conditions had an adverse impact on the domestic industry in the form of declining operating income and operating margins.<sup>90</sup> Specifically, the Commission found that “the PET film industry is capital intensive, and as such requires high operating margins in order to sustain its competitiveness. The record indicates that the decline in profitability, as a result of the subject imports, caused the domestic industry to significantly decrease its capital expenditures.”<sup>91</sup>

The limited information in this review does not permit a determination on whether the domestic industry is vulnerable to injury if the order is revoked.<sup>92</sup> However, as the Commission found in the original investigation, the PET film industry is capital intensive, and as such requires high capacity utilization levels and operating margins in order to sustain its competitiveness and profitability. Thus, it does not take large increases in the volume of imports to have an impact on the domestic industry’s profitability.

As discussed above, revocation of the antidumping duty order would likely lead to significant increases in the volume of subject imports at prices that likely would undersell the domestic product and significantly depress U.S. prices. In addition, the volume and price effects of subject imports would likely cause the domestic industry to lose further market share. This loss in market share and subsequent decrease in capacity utilization would be particularly harmful in this capital intensive industry.

The price and volume declines would likely have a significant adverse impact on the production, shipment, sales, and revenue levels of the domestic industry. This reduction in the industry’s production, sales, and revenue levels would have a direct adverse impact on the industry’s profitability as well as its ability to raise capital and make and maintain necessary capital investments. Accordingly, based on the limited record in this review, we conclude that, if the antidumping duty order was revoked, subject imports from Korea would be likely to have a significant adverse impact on the domestic industry within a reasonably foreseeable time.

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section 1675a(c)(3) of this title.” 19 U.S.C. § 1677(35)(C)(iv). See also SAA at 887. In its expedited review, Commerce found that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the following margins: SKC Limited and SKC America, Inc. at 13.92 percent; and All Others at 21.50 percent. 65 Fed. Reg. at 5594 (Feb. 4, 2000).

<sup>87</sup> The SAA states that in assessing whether the domestic industry is vulnerable to injury if the order is revoked, the Commission “considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they may also demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.” SAA at 885.

<sup>88</sup> Original Determination at 29.

<sup>89</sup> Original Determination at 29.

<sup>90</sup> Original Determination at 29.

<sup>91</sup> Original Determination at 30.

<sup>92</sup> Based on the limited record in this review, Chairman Bragg does not find that the domestic industry is currently in a weakened state, as contemplated by the vulnerability criterion of the statute.

## **CONCLUSION**

For the foregoing reasons, we determine that revocation of the antidumping duty order on imports of PET film from Korea would be likely to lead to continuation or recurrence of material injury to the U.S. PET film industry within a reasonably foreseeable time.



## DISSENTING VIEWS OF COMMISSIONER THELMA J. ASKEY

Section 751(d) requires that the Department of Commerce (“Commerce”) revoke a countervailing duty or an antidumping duty order in a five-year (“sunset”) review unless Commerce determines that dumping or a countervailable subsidy would be likely to continue or recur and the Commission determines that material injury would be likely to continue or recur within a reasonably foreseeable time.<sup>1</sup> In this review of the order on polyethylene terephthalate (“PET”) film from Korea, I find that material injury is not likely to continue or recur within a reasonably foreseeable time if the order is revoked.

I join my colleagues in their discussion regarding domestic like product and domestic industry and in their explanation of the relevant legal standard. I also join in their discussion of the relevant conditions of competition.

As a preliminary matter, I note that E.I. DuPont de Nemours & Company (“DuPont”) and Mitsubishi Polyester Film, LLC (“MFA”), which represent \*\*\* of the domestic industry, were the only interested parties who responded to the Commission’s notice of institution; no respondent interested parties chose to participate in the review. Therefore, the Commission has a limited record to review in determining whether revocation of the order will likely lead to continuation or recurrence of material injury within a reasonably foreseeable time.<sup>2</sup> In a case such as this, where only domestic interested parties participate in an investigation or review, those parties have an advantage in terms of being able to present information to the Commission without rebuttal from the other side. However, irrespective of the source of information on the record, the statute obligates the Commission both to investigate the matters at issue and to evaluate the data before it in terms of the statutory criteria.<sup>3</sup> The Commission cannot properly accept participating parties’ information and characterizations thereof without question and without evaluating other available information,<sup>4</sup> specifically information contained in the \*\*\*.

I am further constrained in this review by the fact that the data in this review covers all Korean PET film imports, and, thus, may include a substantial portion of nonsubject imports. Thus, because the data on Korean imports does not differentiate subject and nonsubject imports, the actual amount of imported product that is subject to the order is not readily apparent. However, the data gathered in the current investigation shows nonsubject Korean producers representing \*\*\* percent of Korean production capacity.

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

<sup>2</sup> Congress and the Administration anticipated that the record in expedited sunset reviews would likely be more limited than that in full reviews and accordingly provided that the Commission’s determination would be upheld unless it was “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 19 U.S.C. § 1516a(b)(1)(b)(ii). Nevertheless, even under a more relaxed standard of review, the Commission must ensure that its decision is based on some evidence in the record. See Genentech Inc. v. United States Int’l Trade Comm’n, 122 F.3d 1409, 1415 (Fed. Cir. 1997) (discussing the Commission’s decision on sanctions).

<sup>3</sup> 19 U.S.C. § 1675a(a).

<sup>4</sup> See, e.g., Alberta Pork Producers’ Mktg. Bd. v. United States, 669 F. Supp. 445, 459 (Ct. Int’l Trade 1987) (“Commission properly exercised its discretion in electing not to draw an adverse inference from the low response rate to questionnaires by the domestic swine growers since the fundamental purpose of the rule to ensure production of relevant information is satisfied by the existence of the reliable secondary data.”).

## A. General Considerations

The statute directs the Commission to take into account several general considerations.<sup>5</sup> I have taken into account the Commission's prior injury determination, including the volume, price effects, and impact of the subject imports on the industry before the order was issued.<sup>6</sup> In examining the current marketplace for PET film, I note that several facts point to the existence of a different market than existed in 1990 at the end of the original period of investigation.

Since 1990, market shares have been redistributed. During the original 1987-1990 period of investigation, Korean imports increased more than 145 percent by volume, while Korean imports' share of the U.S. market increased from \*\*\* percent in 1987 to \*\*\* percent in 1990.<sup>7</sup> Subject imports from Korea were 11.7 million pounds in 1987, 22.3 million pounds in 1988, 21.0 million pounds in 1989 and 28.9 million pounds in 1990. Imports from nonsubject countries were 58.7 million pounds in 1987, 65.4 million pounds in 1988, 66.0 million pounds in 1989, and 73.4 million pounds in 1990.<sup>8</sup> By comparison, in 1998 Korean imports, which include both subject and nonsubject imports from Korea,<sup>9</sup> reached 64.4 million pounds and nonsubject imports from other countries reached 118.6 million pounds, while domestic producers' shipments were \*\*\* pounds. The market share of Korean imports in 1998 increased to approximately \*\*\* percent of the domestic market since 1990 while nonsubject imports from countries other than Korea have also increased to \*\*\* percent. Again, I note that \*\*\* percent of Korean production capacity is no longer subject to the antidumping duty order after Commerce found them to have three consecutive years of no less-than-fair-value sales. Therefore, subject import volumes would be substantially less than \*\*\* percent of the domestic market. Further, the largest Korean firm, SKC, which accounts for approximately \*\*\* percent of Korean production capacity, has maintained an antidumping duty margin of less than one percent since 1994, further mitigating any detrimental effects on the domestic industry from unfairly traded imports.

The domestic industry did not argue that it is in a vulnerable state, and I do not find that the record reflects vulnerability.

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<sup>5</sup> 19 U.S.C. § 1675a(a)(1). We are to take into account the Commission's prior injury determinations, consider whether any improvement in the state of the industry is related to the order, consider whether the industry is vulnerable to material injury in the event of revocation, and consider any duty absorption orders made by Commerce. *Id.* Commerce has not issued a duty absorption finding, so it is not an issue in this review. *See* 65 Fed. Reg. 5592 (February 4, 2000). The statute also provides that the Commission may consider the margin of dumping when making its determination. 19 U.S.C. § 1675a(a)(6). Commerce has determined that "absent argument or evidence to the contrary," the margins from the original investigation are the ones most likely to prevail if the order were revoked. 65 Fed. Reg. at 5594. Thus, the margins of dumping that will occur if the order is revoked are 13-92 percent for SKC Limited and SKC America and an "all other" rate of 21.5 percent. The orders with respect to Saehan (61 F.R. 35177, July 5, 1996) and Kolon Industries (61 F.R. 58374, November 14, 1996) are revoked.

<sup>6</sup> 19 U.S.C. § 1675a(a)(1)(A). According to the Statement of Administrative Action ("SAA") to the Uruguay Round Agreements Act, if pre-order conditions are likely to recur, it is reasonable to conclude that there is a likelihood of continuation or recurrence of injury. H. R. Rep. No. 103-316, vol. I, at 884 (1994).

<sup>7</sup> CR and PR at Table I-3.

<sup>8</sup> CR and PR at Table I-3.

<sup>9</sup> CR and PR at Table I-3, fn1.

## B. Volume

The Commission is to consider whether the likely volume of subject imports if the order under review is revoked would be significant either in absolute terms or relative to production or consumption in the United States.<sup>10</sup> In so doing, the Commission shall consider “all relevant economic factors,” including four enumerated in the statute: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise in countries other than the United States; and (4) the potential for product shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.<sup>11</sup>

The focus in a sunset review is whether subject import volume is likely to be significant within a reasonably foreseeable time if the antidumping duty order is revoked. The available data suggest that the existing antidumping duty order in this review has not substantially affected the market penetration of subject and nonsubject imports, and, therefore, that current U.S. producer market share is not likely to be adversely affected if the order is revoked. The value of subject Korean imports reviewed by Customs has continually decreased from 1996 to 1998,<sup>12</sup> which corresponds with Commerce’s finding that two companies, Kolon and Saehan, no longer sell PET film at LTFV. The revocation of the orders on Kolon and Saehan and the fact that SKC, the largest Korean producer, has maintained a margin below one percent since 1994, minimizes any possible volume effects in the event of revocation given these three companies collectively represent \*\*\* percent of Korean capacity. Further, SKC’s low margin has allowed almost unfettered access into the domestic market thereby decreasing the likelihood that SKC will aggressively price its imports in order to build a sufficient U.S. customer base upon revocation. Additionally, \*\*\* percent of domestic production is captively consumed, which further insulates the domestic industry from any adverse effects of an increase in Korean imports.

In the spring of 1999, SKC opened up a greenfields facility in the United States with production capacity of \*\*\* pounds,<sup>13</sup> further lessening the likelihood of large volumes of subject imports upon revocation of the order. According to the Commission staff report, SKC America is expected to further increase capacity to \*\*\* pounds by \*\*\*.<sup>14</sup> Moreover, the three new producers in the Korean industry, H.S. Industries Co., Ltd., Hyosung Living Industry Co., Ltd., and Kohap Ltd., which represent \*\*\* percent of Korean production capacity, are reportedly considering exiting the PET film market.<sup>15</sup> Even if these three producers were to remain in business and ramp up production to increase their capacity

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<sup>10</sup> 19 U.S.C. § 1675a(a)(2).

<sup>11</sup> 19 U.S.C. § 1675a(a)(2)(A)-(D). The SAA indicates that the statutory factors specified for analysis of volume, price, and impact are a combination of those used to determine both material injury by reason of subject imports and threat of material injury in original antidumping and countervailing duty investigations. See SAA at 886.

<sup>12</sup> CR and PR at Table I-2.

<sup>13</sup> \*\*\*.

<sup>14</sup> CR at I-15.

<sup>15</sup> CR at I-16.

utilization from the Korean average of \*\*\* percent to 100 percent, they could collectively export the equivalent of only \*\*\* percent of apparent U.S. consumption.<sup>16</sup>

In addition, the domestic producers rely heavily on statements by Toray that after acquisition of Saehan they intend to commit Saehan's PET film production to the U.S. market as part of a plan to "increase its share" of the domestic market. Although compelling at face value, the possibility that Saehan may in fact increase its presence in the domestic market is moot since Saehan has been found to no longer dump its PET film in the United States and is, therefore, no longer a subject producer.

Although total Korean exports increased between 1990 and 1998 (the latest years for which we have information), most of those exports were directed to markets other than the United States. Korean exports to the United States increased by 38.9 million pounds from 1990 to 1998, but by \*\*\* pounds to other countries.<sup>17</sup> Thus, although Korean suppliers have established distribution channels in the United States, that fact alone does not lead to the conclusion that Korean import volumes would rise significantly if the order is revoked given other outlets for Korean PET film. In fact, \*\*\* reports that due to SKC's new U.S. production facility, \*\*\*.<sup>18</sup> Further, although the European Communities were conducting an antidumping investigation involving subject imports from Korea during the original U.S. investigation, there currently are no outstanding orders on PET film produced in Korea other than in the United States.

### C. Price

In evaluating the likely price effects of the subject merchandise in the event of revocation, the Commission shall consider (1) whether imports are likely to be sold at a significantly lower price than the domestic like product, and (2) whether imports are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of domestic like product.<sup>19</sup>

The record in this review contains very limited pricing data and what pricing data the Commission has are not comparable. However, even if subject imports were to enter the United States at prices that undersold the domestic like product following revocation of the order, I conclude that the likely volume of those imports would be too minimal to have any discernable impact on prices in the U.S. market. Again, I note, the largest Korean producer opened a domestic production facility in 1999 and Japan is reportedly the target market for Korean exports, not the United States. Thus, given the finding that subject import volume is not likely to increase significantly, imports of PET film from Korea are not likely to have a price suppressing or depressing effect within a reasonable foreseeable time in the event of revocation.

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<sup>16</sup> This scenario would require the three new companies, who are considering exiting the market altogether, to compete with established Korean producers, which it appears they have been unable to do to date.

<sup>17</sup> CR and PR at Table I-4.

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

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

#### **D. Impact**

When considering the likely impact of subject imports, the Commission is to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more enhanced version of the domestic like product.<sup>20</sup>

Because I have found that imports of subject Korean PET film are unlikely to increase in significant quantity and that consequently subject Korean imports would be unlikely to suppress or depress U.S. prices, I therefore find that subject imports are unlikely to have a significant impact on the domestic market if the order is revoked. I also observe that nonsubject non-Korean imports hold a significant share of the market -- \*\*\* percent in 1998, compared to Korea's \*\*\* percent.<sup>21 22</sup> Thus, even assuming that subject Korean imports would increase in volume and capture a greater share of the United States market if the order is revoked, at least some portion of that increase is likely to come at the expense of the nonsubject imports, not at the expense of the U.S. industry.

Furthermore, although Korean producers have increased the amount of their exports in recent years, those increased exports have been predominantly directed at markets other than the United States, suggesting that Korean producers have existing markets to which they can send their merchandise. Thus, despite existing distribution channels that Korean exports could use to increase their penetration of the U.S. market, the record contains evidence that Korean producers intend to increase exports to Japan and would not necessarily target the U.S. market.

Consequently, I find that subject imports would not be likely to have a significant impact on the domestic PET film producers' cash flow, inventories, employment, wages, growth, ability to raise capital, or investment within a reasonably foreseeable time in the even the order is revoked. In conjunction with my conclusion regarding likely volume and price effects, I find that revocation is not likely to lead to a significant reduction in U.S. producers' output, sales, market share, profits, productivity, ability to raise capital, or return on investments within a reasonably foreseeable time.

#### **E. Conclusion**

In conclusion, I determine that subject imports are not likely to have adverse volume or price effects in the event of revocation, and are, therefore, not likely to have a negative impact on the domestic industry. Accordingly, I determine that revocation of the order on PET film from Korea would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

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<sup>20</sup> 19 U.S.C. § 1675a(a)(4).

<sup>21</sup> CR and PR at Table I-3.

<sup>22</sup> Again, Korea's market share includes both subject and nonsubject imports and, therefore, total nonsubject market share may be substantially higher than reported.



**INFORMATION OBTAINED IN THE REVIEW**



## INTRODUCTION

On July 1, 1999, the Commission gave notice that it had instituted a review to determine whether revocation of the antidumping duty order on polyethylene terephthalate (PET) film from Korea would be likely to lead to a continuation or recurrence of material injury within a reasonably foreseeable time.<sup>1</sup> On October 1, 1999, the Commission determined that the domestic interested party response to its notice of institution was adequate;<sup>2</sup> the Commission also determined that the respondent interested party response was inadequate.<sup>3</sup> The Commission found no other circumstances that would warrant a full review. Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)(3)).<sup>4</sup> The Commission voted on this review on February 9, 2000, and notified Commerce of its determination on February 16, 2000.

### The Original Investigation

The original investigation resulted from a petition filed on behalf of DuPont, Hoechst,<sup>5</sup> and ICI<sup>6</sup> on April 27, 1990. The Commission completed the original investigation in May 1991, determining that an industry in the United States was materially injured by reason of imports of PET film from Korea that were sold at less than fair value. The Commission defined the domestic like product as PET film, including equivalent PET film,<sup>7</sup> and found the relevant domestic industry to consist of producers of the domestic like product.<sup>8</sup> After receipt of the Commission's determination, Commerce issued an antidumping duty order on imports of PET film from Korea.<sup>9</sup> Commerce has subsequently conducted

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<sup>1</sup> 64 F.R. 35685, July 1, 1999. All interested parties were requested to respond to this notice by submitting the information requested by the Commission.

<sup>2</sup> A single response to the Commission's notice was filed on behalf of DuPont and MFA, domestic producers of PET film.

<sup>3</sup> No respondent interested party response to the Commission's notice of institution was received in this review.

<sup>4</sup> 64 F.R. 55958, October 15, 1999. Subsequently, Commerce extended the date for its final results in the expedited review from October 29, 1999 to January 27, 2000. The Commission, therefore, revised its schedule to conform with Commerce's new schedule (64 F.R. 67323, December 1, 1999). The Commission's notices of expedited review and revised schedule appear in app. A. See the Commission's web site (<http://www.usitc.gov>) for Commissioner votes on whether to conduct an expedited or full review. The Commission's statement on adequacy is presented in app. B.

<sup>5</sup> Hoechst is the predecessor firm to MFA.

<sup>6</sup> ICI's PET film operations were purchased by DuPont in 1997.

<sup>7</sup> "Equivalent PET film" is PET film that is thickly coated during the production process (e.g., Cronar® and Estar®). By defining the domestic like product to include equivalent PET film, or PET film with at least one surface coated with a resinous layer more than 0.00001 inches thick, the Commission expanded its definition beyond Commerce's scope.

<sup>8</sup> DuPont and MFA stated that they do not object to the Commission's definitions of the domestic like product and domestic industry. *Response of DuPont and MFA*, p. 13.

<sup>9</sup> 56 F.R. 25669, June 5, 1991. This original order (amended pursuant to final court decision on September 26, 1997 (62 F.R. 50557)) required the posting of a cash deposit equal to the estimated weighted-average antidumping duty margins. In determining its weighted-average antidumping duty margin, Commerce compared the U.S. price

(continued...)

annual administrative reviews from 1992 to 1997 for periods ending May 31. Commerce's final amended weighted-average antidumping duty margin findings of the original 1991 order and subsequent administrative reviews are presented in the following tabulation (in percent):<sup>10</sup>

Firm	1991	1992	1993	1994	1995	1996	1997
	<b>Margin (percent)</b>						
Cheil	36.33	0.07	0.00	0.01 <sup>11</sup>			
Kolon		0.60	0.11	0.12	0.14 <sup>12</sup>		
SKC	13.92	0.11	5.89	0.52	0.70	0.45	0.36
STC		11.41	0.47	0.93	1.68	0.37	
All others	21.50	4.82	4.82	4.82	4.82	21.50	21.50

### Commerce's Final Results of Expedited Sunset Review

Commerce published its "Final Results of Expedited Sunset Review" concerning PET film from Korea in the *Federal Register* on February 4, 2000. Information from Commerce on whether dumping is likely to continue or recur if the antidumping duty orders from these countries are revoked is provided in appendix A.

## THE PRODUCT

### Scope

Commerce defined the scope of the subject merchandise as follows:

shipments of all gauges of raw, pretreated, or primed polyethylene terephthalate film, sheet, and strip, whether extruded or coextruded. The films excluded from this order are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer of more than 0.00001 inches (0.254

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<sup>9</sup> (...continued)

(USP) with the foreign market value (FMV). The USP was based on purchase price where sales were made directly to unrelated parties prior to importation into the United States. Where sales to the first unrelated purchaser took place after importation into the United States, USP was based on the exporter's sales price. For Korean firms with sales of over 90 percent at prices above the cost of production (COP), the FMV was based on the firm's total home market sales. For Korean firms with sales of between 10 percent and 90 percent at prices above the COP, the FMV was based on home market sales minus the below-cost sales. For Korean firms with sales of more than 90 percent at prices below the COP, the FMV was based on a constructed value.

<sup>10</sup> See Commerce's web site ([http://www.ita.doc.gov/import\\_admin/records/sunset](http://www.ita.doc.gov/import_admin/records/sunset)) at *Case History and Scope Information*.

<sup>11</sup> The order was revoked with respect to Cheil (61 F.R. 35177, July 5, 1996).

<sup>12</sup> The order was revoked with respect to Kolon (61 F.R. 58374, November 14, 1996).

micrometers) thick. Roller transport cleaning film which has at least one of its surfaces modified by the application of 0.5 micrometers of SBR latex has also been ruled as not within the scope of the order. PET film is currently classifiable under HTS subheading 3920.62.00.<sup>13</sup>

### Description and Uses<sup>14</sup>

PET film is a high-performance, clear, flexible, transparent or translucent material produced from PET polymer, a linear, thermoplastic polyester resin. It is generally more expensive than other plastic films and is only used when its unique properties are required. PET film has certain inherent desirable qualities such as high tensile strength, low moisture absorption, good retention of physical properties over a fairly wide temperature range, excellent electrical properties, durability, heat resistance, good gas-barrier properties, excellent dimensional stability, chemical inertness, and good optical clarity.

PET film is available commercially in a range of widths, thicknesses, and properties depending upon the needs of end users. It can be made as a single layer or can be coextruded with other polymers into a multilayer film encompassing the desired characteristics of each material. PET film is available from the production line in widths generally ranging from about 20 inches up to about 400 inches, and in thicknesses reportedly ranging from about 2 gauge up to about 1,400 gauge (i.e., 0.00002 to 0.014 inches).

The broad range of chemical, physical, and thermal properties available in PET film permits this product to enter a wide range of markets. In the original investigation, the petitioners reported that there were over 150 different areas of application for PET film in the United States. The highest volume PET film markets are the photographic applications market (e.g., X-ray film, graphic arts film, professional still film, etc.); the magnetic media market (e.g., videotape, audiotape, computer tape and cartridges, and floppy disks, etc.); and the packaging market (e.g., snack foods, boil-in-bag pouches, cheese wrap, meat wrap, peelable lid film, etc.).<sup>15</sup> PET film is also consumed for numerous other uses, including electrical/electronics, release films, reprographics, and labels/decals. The U.S. PET film markets and their shares of domestic consumption in 1994 and 1998 are presented in the following tabulation (in percent).

Market	1994	1998
	Share of domestic consumption ( <i>percent</i> )	
Photographic applications	***	***
Magnetic media	***	***
Packaging	***	***
Other	***	***

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<sup>13</sup> See Commerce's web site ([http://www.ita.doc.gov/import\\_admin/records/sunset](http://www.ita.doc.gov/import_admin/records/sunset)) at *Case History and Scope Information*. The general duty rate is bound at the present level, 4.2 percent ad valorem.

<sup>14</sup> Information presented in this section is from the following sources: *Staff Report of May 13, 1991*, pp. A-5 through A-11, A-25 through A-28, A-66 through A-80, and B-42 through B-44; \*\*\*.

<sup>15</sup> Equivalent PET film primarily is used for photographic applications.

The photographic applications market is the largest and most mature market for PET film, representing about \*\*\* of the domestic consumption of PET film. Magnetic media applications, which represented almost \*\*\* percent of total domestic consumption during 1998, were an area of growth prior to 1994, primarily because of the videotape and floppy disk market. However, magnetic media are now being replaced by competing technologies. Representing approximately \*\*\* percent of total domestic consumption, packaging applications are \*\*\*.

Domestic and imported PET films are generally employed in the same range of end uses; however, the specific end-use markets where PET film is shipped may differ somewhat depending on the producer and the country of origin. Most PET film, domestic and foreign, is produced in response to orders, or anticipated orders, and is shipped directly from the producer to the end user. A smaller percentage is sold to distributors, or shipped initially to producer-owned warehouses. The majority of U.S.-produced and imported PET film is sold on a contract basis, although smaller volumes of surplus and second-grade film are sold on a spot basis. Most of the contracts have meet-or-release clauses which allow price changes to occur because of market conditions. Average lead times for warehouse sales of U.S.-produced and imported PET film are between 1 and 3 days. Lead times for domestic made-to-order PET film range from 10 to 45 days, whereas imported made-to-order sales require longer lead times of between 45 and 120 days.

## **THE INDUSTRY IN THE UNITED STATES**

### **U.S. Producers**

During the original investigation, the Commission identified the following nine domestic producers of PET film: (1) Bemis Co. Inc. (Curwood); (2) DuPont; (3) Eastman Kodak; (4) Hoechst; (5) ICI; (6) 3M; (7) Rhone-Poulenc; (8) Toray Plastics (America); and (9) General Binding Corp. At that time, the three original petitioning firms (DuPont, Hoechst (predecessor to MFA), and ICI (purchased by DuPont in 1997)) accounted for \*\*\* percent of annual U.S. capacity to produce PET film.<sup>16</sup>

Today, there are 10 producers of PET film in the United States with annual effective capacities totaling approximately \*\*\* pounds. Presented in the following tabulation are the domestic producers and their annual capacity to produce PET film.<sup>17</sup>

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<sup>16</sup> *Staff Report of May 13, 1991*, pp. A-22 through A-24.

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

Company	Annual capacity as of May 1, 1998 (1,000 pounds)	
	Merchant	Captive
Bemis Converter Film	***	***
DuPont <sup>18</sup>	***	***
Eastman Kodak	***	***
3M	***	***
MFA <sup>19</sup>	***	***
SKC (America) <sup>20</sup>	NA	NA
Sterling Diagnostic Imaging, Inc. <sup>21</sup>	***	***
Teijin-Dupont Films L.P.	***	***
Terphane Inc. <sup>22</sup>	***	***
Toray Plastics (America), Inc.	***	***
Total	***	***

Approximately \*\*\* percent of the total U.S. capacity to produce PET film is devoted to the merchant market; the remainder is captively converted primarily to photographic films and magnetic media. DuPont is the largest U.S. PET film producer, accounting for \*\*\* percent of total capacity and \*\*\* percent of merchant capacity. Eastman Kodak and 3M are the largest captive producers of PET film, representing \*\*\* percent of total domestic capacity of PET film. The two producers responding to the Commission's notice of institution in this review, DuPont and MFA, are the two largest domestic producers of PET film, together accounting for \*\*\* percent of 1998 U.S. production of PET film and \*\*\* percent of annual 1998 domestic capacity to produce PET film.

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<sup>18</sup> DuPont purchased ICI's PET film operation at Hopewell, VA in 1997.

<sup>19</sup> In 1998, Mitsubishi Chemical Corp. purchased the remaining shares of Hoechst in the Diafoil Hoechst joint venture companies. The firm currently operates as MFA.

<sup>20</sup> SKC America, whose parent corporation is a Korean PET film producer, has recently started U.S. production of PET film. This firm is reportedly the only U.S. producer that is related to an exporter of the subject merchandise. *Supplemental Response of DuPont and MFA*, p. 1; \*\*\*.

<sup>21</sup> Formerly DuPont Diagnostic Imaging, Sterling Diagnostic Imaging, Inc. was formed in April 1996 by a group of private investors, the Sterling Group, Inc.

<sup>22</sup> Formerly Rhone-Poulenc, Terphane is wholly owned by Rhone Capital LLC.

## U.S. Production, Capacity, and Shipments

Data concerning U.S. production, capacity, and shipments by domestic PET film producers during 1987-90 and 1998 are presented in table I-1. Higher levels of domestic production, capacity, and shipments of PET film were reported for 1998 than during 1987-90; however, domestic capacity utilization in 1998 was lower than that reported in the original investigation. Also, the average unit value of U.S. shipments made by U.S. producers in 1998 was higher than that reported in the original investigation, although DuPont and MFA describe PET film prices in the U.S. market as being at \*\*\*.<sup>23</sup> According to information gathered by \*\*\*, U.S. prices for general-purpose PET film during 1998 ranged from \*\*\* to \*\*\* per pound depending on the transparency and gauge of the material.<sup>24</sup>

<b>Table I-1</b>					
<b>PET Film: U.S. producers' capacity, production, and U.S. shipments, 1987-90 and 1998</b>					
<b>Item</b>	<b>1987</b>	<b>1988</b>	<b>1989</b>	<b>1990</b>	<b>1998</b>
Production (1,000 pounds)	***	***	***	***	***
Capacity (1,000 pounds)	***	***	***	***	***
Capacity utilization (percent)	***	***	***	***	***
U.S. shipments:					
Quantity (1,000 pounds)	***	***	***	***	***
Value (1,000 dollars)	***	***	***	***	***
Unit value (dollars per pound)	***	***	***	***	***
Source: <i>Staff Report of May 13, 1991</i> , pp. A-29, A-30, and B-45 for 1987-90 data; *** for 1998 production, capacity, and capacity utilization data; and 1998 shipment data derived using data provided in <i>Response of DuPont and MFA</i> , p. 11 and ***.					

<sup>23</sup> *Response of DuPont and MFA*, p. 9.

<sup>24</sup> \*\*\*.

## U.S. IMPORTS AND CONSUMPTION

### U.S. Imports

During the original investigation, the Commission identified \*\*\* importers of Japanese and Korean PET film, representing over \*\*\* percent of subject imports from these two countries combined.<sup>25</sup> In its response to the Commission's notice of institution in this review, DuPont and MFA identified 15 firms that imported PET film from Korea into the United States from 1990 to the present.<sup>26</sup>

Imports of Korean PET film, which are believed to be general-purpose PET film, are consumed in the United States primarily in magnetic tape, photographic, and videotape markets.<sup>27</sup> As shown in figure I-1 and table I-2, U.S. imports of PET film from Korea more than doubled from 1987 to 1990 and continued to increase following the imposition of the antidumping duty order in 1991.<sup>28</sup> In 1998, Korea was the largest exporter of PET film to the United States, accounting for 35 percent of total U.S. imports of the product. Other major countries of origin for U.S. imports include India, Japan, China, and the United Kingdom.

The only pricing data available for the Korean merchandise are import unit values, based on official Commerce statistics. The unit values of imports of PET film from Korea in 1998 were much lower than they were in 1990. The average unit value of PET film imported from Korea during 1998 was \$1.09 per pound, compared with \$1.32 per pound in 1990.

### Apparent U.S. Consumption

Apparent U.S. consumption of PET film has increased by \*\*\* percent since the time of the original investigation (table I-3). Further, overall growth in PET film consumption in the United States is expected to average \*\*\* percent during 1998-2002. \*\*\*.

As shown in table I-3, U.S. producers' domestic shipments and their market share fell during the original investigation, and dropped further from 1990 to 1998. Imports from Korea and their market

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<sup>25</sup> The original investigations on PET film included both Japan and Korea. Information concerning importers from Korea was not presented separately in the staff report; however, the Commission indicated in its report that at least \*\*\* of the \*\*\* importers identified by the Commission imported PET film from Korea. *Staff Report of May 13, 1991*, pp. A-24, A-25, and A-50.

<sup>26</sup> *Response of DuPont and MFA*, p. 10.

<sup>27</sup> \*\*\*.

<sup>28</sup> Data for U.S. imports of PET film from Korea during 1987-90 are from the Commission's staff report in the original investigation and are for the subject Korean merchandise. Data for 1991-98 are from official Commerce import statistics. The description of merchandise entering the United States under HTS subheading 3920.62.00 is similar to Commerce's definition of the scope of the subject Korean merchandise; however, the order was revoked by Commerce with respect to two Korean PET film manufacturers in 1996. Therefore, U.S. import data presented for subject imports during 1996-98 may be overstated by the amount of merchandise shipped by these two revoked Korean firms. These two firms accounted for \*\*\* percent of the Korean annual capacity to produce PET film, as of February 1, 1999.

Figure I-1  
PET film: U.S. imports from Korea, by quantity, 1987-98



Source: *Staff Report of May 13, 1991*, p. A-60 for 1987-90 data (which were from questionnaire responses), and official Commerce import statistics for 1991-98.

**Table I-2**  
**PET film: U.S. imports from Korea, 1987-90 and 1998**

Item	1987	1988	1989	1990	1998 <sup>1</sup>
	<b>Quantity (1,000 pounds)</b>				
Korea	11,767	22,338	21,086	28,899	64,419
Other sources <sup>2</sup>	58,734	65,434	66,075	73,406	118,560
Total	70,501	87,772	87,161	102,305	182,979
	<b>Landed duty-paid value (1,000 dollars)</b>				
Korea	14,933	28,910	30,786	38,220	70,493
Other sources <sup>2</sup>	117,338	145,002	146,582	151,480	217,488
Total	132,271	173,912	177,368	189,700	287,981
	<b>Landed duty-paid unit value (per pound)</b>				
Korea	\$1.27	\$1.29	\$1.46	\$1.32	\$1.09
Other sources <sup>2</sup>	2.00	2.22	2.22	2.06	1.83
Total	1.88	1.98	2.03	1.85	1.57

<sup>1</sup> Data concerning U.S. imports from Korea during 1998 include PET film produced by two Korean firms that were excluded from the order by Commerce. These two firms accounted for \*\*\* percent of the Korean annual capacity to produce PET film, as of February 1, 1999.

<sup>2</sup> The primary other sources during 1989-90 were France, Japan, and the United Kingdom. The primary other sources during 1998 were China, India, Japan, and the United Kingdom.

Note.—Data on the value of annual imports reviewed by Customs that are subject to the antidumping duty order are as follows: \$52,120,268 for FY 1993, \$45,435,925 for FY 1994, \$68,602,788 for FY 1995, \$81,357,637 for FY 1996, \$75,101,308 for FY 1997, and \$45,818,869 for FY 1998.

*Antidumping/Countervailing Duty Annual Report.*

Source: *Staff Report of May 13, 1991*, p. A-60 for 1987-90 data (which were from questionnaire responses); official Commerce import statistics (HTS 3920.62.00) for 1998 data. Note that landed, duty-paid values do not include any antidumping duty.

**Table I-3****PET film: U.S. producers' U.S. shipments, U.S. imports, and apparent U.S. consumption, on the basis of quantity, 1987-90 and 1998**

Item	1987	1988	1989	1990	1998 <sup>1</sup>
	<b>Quantity (1,000 pounds)</b>				
U.S. producers' U.S. shipments	***	***	***	***	***
U.S. imports:					
Korea	11,767	22,338	21,086	28,899	64,419
Other sources	58,734	65,434	66,075	73,406	118,560
Total	70,501	87,772	87,161	102,305	182,979
Apparent U.S. consumption	***	***	***	***	***
	<b>Share of consumption (percent)</b>				
U.S. producers' U.S. shipments	***	***	***	***	***
U.S. imports:					
Korea	***	***	***	***	***
Other sources	***	***	***	***	***
Total	***	***	***	***	***

<sup>1</sup> Data concerning U.S. imports from Korea during 1998 include PET film produced by two Korean firms that were excluded from the order by Commerce. These two firms accounted for \*\*\* percent of the Korean annual capacity to produce PET film, as of February 1, 1999.

Source: *Staff Report of May 13, 1991*, pp. A-29, A-30, and B-45 for 1987-90 shipment data; 1998 shipment data derived using data provided in *Response of DuPont and MFA*, p. 11 and \*\*\*; *Staff Report of May 13, 1991*, p. A-60 for 1987-90 import data (which were from questionnaire responses); official Commerce import statistics (HTS 3920.62.00) for 1998 import data.

share increased during the original investigation, then rose further from 1990 to 1998. The market share of U.S. imports from countries other than Korea also rose in 1998 compared with 1990.

### THE INDUSTRY IN KOREA<sup>29</sup>

During the original investigation, the Commission identified four Korean producers of the subject merchandise. Today, there are six manufacturers of PET film in Korea. Presented in the following tabulation are the Korean producers and their annual capacity to produce PET film, as of February 1, 1999.

<sup>29</sup> Unless otherwise indicated, the information in this section is from \*\*\*.

Company	Annual capacity (1,000 pounds)
H.S. Industries Co., Ltd.	***
Hyosung Living Industry Co., Ltd.	***
Kohap Ltd.	***
Kolon	***
Saehan	***
SKC	***
Total	***

SKC, the largest Korean PET film producer, was the first commercial producer of PET film in Korea. Beginning PET film production in 1978, the company expanded its capacity from \*\*\* pounds to \*\*\* pounds in 1997. In addition to commercial production, SKC captively consumes PET film, primarily for the production of magnetic media, including videotape and audiotape. During 1999, the company reportedly began PET film production in the United States and it is expected to scale up U.S. production capacity to \*\*\* pounds by \*\*\*.

Saehan (formerly known as Cheil) began expanding its capacity to produce PET film in January 1996.<sup>30</sup> Currently the company has a \*\*\* pounds-per-year capacity. Toray Industries Inc. (a Japanese producer of PET film) recently acquired Saehan and according to an article published in the *Daily Industry*, Toray intends to commit Saehan's PET film production to the U.S. market as part of Toray's plan to "increase its share."<sup>31</sup>

Kolon also expanded its annual capacity from \*\*\* pounds to \*\*\* pounds during 1995-97.<sup>32</sup> In addition to these expansions by existing manufacturers, H.S. Industries, Hyosung Living Industry, and Kohap Ltd. initiated production of PET film in 1997. The only recent closure reported was at the end of 1996 when STC closed its \*\*\* pounds-per-year facility; however, the newcomers to the PET film industry have reportedly faced severe economic conditions since 1998 and are considering exiting the PET film market.

Total Korean capacity, production, and shipment data for 1987-90 and 1998 are presented in table I-4. Capacity for PET film has grown rapidly in Korea since the original investigation, from 235 million pounds per year in 1990 to \*\*\* pounds per year in 1998. Production of PET film in Korea has also increased; however, capacity utilization has fallen from 91 percent in 1990 to \*\*\* percent in 1998. This excess capacity in Korea is \*\*\*. Although Korean consumption of PET film grew from 1990 to 1998, due to primarily the growth in magnetic tape applications, exports of Korean PET film grew much more rapidly during this period.

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<sup>30</sup> Commerce revoked the order with respect to Cheil effective July 5, 1996.

<sup>31</sup> *Response of DuPont and MFA*, p. 7.

<sup>32</sup> Commerce revoked the order with respect to Kolon effective November 14, 1996.

**Table I-4  
PET film: Korea's capacity, production, and shipments, 1987-90 and 1998**

Item	1987	1988	1989	1990	1998 <sup>1</sup>
	<b>Quantity (1,000 pounds)</b>				
Capacity	***	170,550	203,700	234,663	***
Production	***	153,135	194,830	213,147	***
Capacity utilization	***	89.8	95.6	90.8	***
Shipments:					
Home market	***	80,744	108,298	127,555	***
Exports:					
United States	***	25,104	26,815	25,474	64,419
Other	***	43,189	49,741	58,171	***
Total exports	***	68,293	76,556	83,645	***
Total shipments	***	149,037	184,854	211,200	***

<sup>1</sup> Included in the data for 1998 are two Korean firms that were excluded from the order by Commerce. These two firms accounted for \*\*\* percent of the Korean annual capacity to produce PET film, as of February 1, 1999.

Source: *Staff Report of May 13, 1991*, p. A-55 for 1987-90 data (which were from questionnaire responses of SKC, Cheil, Kolon, and STC); \*\*\* for 1998 Korean capacity, production, and capacity utilization. 1998 shipment data derived using official Commerce import statistics and \*\*\*.

The United States has been the major destination for Korean exports of PET film, accounting for \*\*\* percent of Korean PET film exports during 1998. Germany, Hong Kong, and Japan are other major destinations for Korean PET film exports. Exports of PET film and downstream products are \*\*\*. However, since SKC reportedly began PET film operations at its U.S. plant in 1999 and since Korean producers have a large oversupply to the home market, Japan is \*\*\*.

At the time the Commission's staff report in the original investigation was written, the European Communities (EC) were conducting a dumping investigation concerning thin PET film originating in Korea; however, there appears to be no outstanding orders currently on PET film produced in Korea.<sup>33</sup>

<sup>33</sup> The most current investigation was conducted by the EC on Korean PET video film. This investigation was initiated in June 1995, but was terminated in July 1996. See the World Trade Organization website at [www.wto.org](http://www.wto.org).

**APPENDIX A**  
***FEDERAL REGISTER NOTICES***



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**INTERNATIONAL TRADE  
COMMISSION****[Investigation No. 731-TA-459 (Review)]****Polyethylene Terephthalate (PET) Film  
From Korea****AGENCY:** United States International  
Trade Commission.**ACTION:** Scheduling of an expedited five-  
year review concerning the antidumping  
duty order on polyethylene  
terephthalate (PET) film from Korea.

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**SUMMARY:** The Commission hereby gives  
notice of the scheduling of an expedited  
review pursuant to section 751(c)(3) of  
the Tariff Act of 1930 (19 U.S.C.  
1675(c)(3)) (the Act) to determine  
whether revocation of the antidumping  
duty order on polyethylene  
terephthalate (PET) film from Korea  
would be likely to lead to continuation  
or recurrence of material injury within  
a reasonably foreseeable time. For  
further information concerning the  
conduct of this review 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, D, E, and F (19 CFR part  
207). Recent amendments to the Rules  
of Practice and Procedure pertinent to  
five-year reviews, including the text of  
subpart F of part 207, are published at  
63 FR 30599, June 5, 1998, and may be  
downloaded from the Commission's  
World Wide Web site at [http://  
www.usitc.gov/rules.htm](http://www.usitc.gov/rules.htm).**EFFECTIVE DATE:** October 1, 1999.**FOR FURTHER INFORMATION CONTACT:**  
Mary Messer (202-205-3193), 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](http://www.usitc.gov)).**SUPPLEMENTARY INFORMATION:**

### Background

On October 1, 1999, the Commission determined that the domestic interested party group response to its notice of institution (64 FR 35685, July 1, 1999) was adequate and the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting a full review.<sup>1</sup> Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Act.

### Staff Report

A staff report containing information concerning the subject matter of the review will be placed in the nonpublic record on December 8, 1999, and made available to persons on the Administrative Protective Order service list for this review. A public version will be issued thereafter, pursuant to section 207.62(d)(4) of the Commission's rules.

### Written Submissions

As provided in section 207.62(d) of the Commission's rules, interested parties that are parties to the review and that have provided individually adequate responses to the notice of institution,<sup>2</sup> and any party other than an interested party to the review may file written comments with the Secretary on what determination the Commission should reach in the review. Comments are due on or before December 13, 1999, and may not contain new factual information. Any person that is neither a party to the five-year review nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the review by December 13, 1999. If comments contain business proprietary information (BPI), they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the review must be served on all other parties to the review (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.

### Determination

The Commission has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. § 1675(c)(5)(B).

**Authority:** This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: October 8, 1999.

By order of the Commission.

**Donna R. Koehnke,**

*Secretary.*

[FR Doc. 99-26906 Filed 10-14-99; 8:45 am]

BILLING CODE 7020-02-P

<sup>1</sup> A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's web site.

<sup>2</sup> The Commission has found the responses submitted by E.I. DuPont de Nemours & Co. and Mitsubishi Polyester Film, LLC to be individually adequate. Comments from other interested parties will not be accepted (see 19 CFR 207.62(d)(2)).

Commerce's final results is January 31, 2000; and the deadline for brief written statements (which shall not contain new factual information) pertinent to the review by any person that is neither a party to the five-year review nor an interested party is January 31, 2000.

For further information concerning this five-year review, 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 F (19 CFR part 207).

**Authority:** This five-year review is being conducted under authority of title VII of the Tariff Act of 1930; the Commission is using its authority under 19 U.S.C. 1675(c)(5)(B) to extend the deadline for this review. Further, this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: November 24, 1999

By order of the Commission.

**Donna R. Koehnke,**  
*Secretary.*

[FR Doc. 99-31196 Filed 11-30-99; 8:45 am]

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## **INTERNATIONAL TRADE COMMISSION**

[Investigation No. 731-TA-459 (Review)]

### **Polyethylene Terephthalate (PET) Film From Korea**

**AGENCY:** United States International  
Trade Commission.

**ACTION:** Revised schedule for the subject  
five-year review.

**EFFECTIVE DATE:** November 23, 1999.

**FOR FURTHER INFORMATION CONTACT:**  
Mary Messer (202-205-3193), 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](http://www.usitc.gov)).

**SUPPLEMENTARY INFORMATION:** On  
October 1, 1999, the Commission  
established a schedule for the conduct  
of this expedited five-year review (64 FR  
55958, October 15, 1999). Subsequently,  
the Department of Commerce extended  
the date for its final results in the  
expedited review from October 29, 1999  
to January 27, 2000. In order to have the  
benefit of the Department of  
Commerce's findings, the Commission,  
therefore, is revising its schedule to  
conform with Commerce's new  
schedule.

The Commission's new schedule for  
the five-year review is as follows: the  
staff report will be placed in the  
nonpublic record on January 4, 2000;  
the deadline for interested party  
comments (which may not contain new  
factual information) on the staff report  
is January 7, 2000; the deadline for  
interested party comments (which may  
not contain new factual information) on

## DEPARTMENT OF COMMERCE

## International Trade Administration

[A-580-807]

**Final Results of Expedited Sunset Review: Polyethylene Terephthalate Film From Korea**

**AGENCY:** Import Administration, International Trade Administration, U.S. Department of Commerce.

**ACTION:** Notice of Final Result of Expedited Sunset Review: Polyethylene Terephthalate Film from Korea.

**SUMMARY:** On July 1, 1999, the Department of Commerce ("the Department") initiated a sunset review of the antidumping duty order on polyethylene terephthalate ("PET") film from Korea pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"). On the basis of a notice of intent to participate and adequate substantive response filed on behalf of a domestic interested party, and inadequate response from respondent interested parties, the Department determined to conduct an expedited sunset review. As a result of this review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Final Results of Review section of this notice.

**FOR FURTHER INFORMATION CONTACT:** Martha V. Douthitt or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th St. & Constitution Ave., NW, Washington, DC 20230; telephone (202) 482-5050 or (202) 482-1560, respectively.

**EFFECTIVE DATE:** February 4, 2000.

**SUPPLEMENTARY INFORMATION:****Statute and Regulations**

This review was conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth

in *Procedures for Conducting Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders* 63 FR 13516 (March 20, 1998) ("*Sunset Regulations*") and 19 CFR part 351 (1999) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin* 63 FR 18871 (April 16, 1998) ("*Sunset Policy Bulletin*").

**Scope**

The merchandise covered by this antidumping duty order includes all gauges of raw pre-treated, or primed polyethylene terephthalate film, sheet, and strip, whether extruded or co-extruded. The films excluded from this antidumping duty order are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer of more than 0.00001 inches (0.254 micrometers) thick. Roller transport cleaning film which has at least one of its surfaces modified by the application of 0.5 micrometers of SBR latex has also been ruled as not within the scope of the order. PET film is currently classifiable under Harmonized Tariff Schedule ("HTS") item number 3920.62.00.00. The HTS item number is provided for convenience and U.S. Customs purposes. The written description remains dispositive.

**History of the Order**

On June 5, 1991, the Department published the antidumping duty order and amended final determination of sales at less than fair value ("LTFV") on PET film from Korea. See *Antidumping Duty Order and Amendment to Final Determination of Sales at Less Than Fair Value: Polyethylene Terephthalate Film, Sheet, and Strip from the Republic of Korea* as amended (56 FR 25669, June 5, 1991). On September 26, 1997 (62 FR 50557) the Department published *Polyethylene Terephthalate Film, Sheet, and Strip from the Republic of Korea; Notice of Final Court Decision and Amended Final Determination of Antidumping Duty Investigation*. In the notice of final court decision and amended final determination of the antidumping duty LTFV investigation, based on our determination on remand, SKC Limited and SKC America, Inc. (collectively "SKC") was assigned a margin of 13.92 percent ad valorem, Cheil Synthetics Incorporated ("Cheil"),

a margin of 36.33 percent ad valorem, and the "all others" margin was 21.5 percent.

The Department has completed six administrative reviews of PET film since the issuance of the antidumping duty order.<sup>1</sup> On September 26, 1997, the Department issued the *Final Results of Changed Circumstances Antidumping Duty Administration Review* 63 FR 3703 (January 26, 1998), in which the Department determined that Saehan Industries, Inc. ("Saehan") was the successor firm to Cheil. The Department has not found duty absorption with respect to this order.

The order remains in effect for all producers and exporters of PET film from Korea, except for Cheil and Kolon, for which the Department revoked the antidumping duty order.<sup>2</sup>

**Background**

On July 1, 1999, the Department initiated a sunset review of the antidumping duty order on PET film from Korea (64 FR 35588) pursuant to section 751(c) of the Act. On July 15, 1999, the Department received a Notice

<sup>1</sup> See 1.a. *Polyethylene Terephthalate Film, Sheet, and Strip From the Republic of Korea; Final Results of Antidumping Duty Administrative Review*, 60 FR 42835 (August 17, 1995), as amended *Polyethylene Terephthalate Film, Sheet, and Strip From the Republic of Korea; Amended Final Results of Antidumping Duty Administrative Review*, 61 FR 53997 (February 12, 1996).

2.b. *Polyethylene Terephthalate Film, Sheet, and Strip From the Republic of Korea; Final Results of Antidumping Duty Administrative Reviews and Notice of Revocation in Part*, 61 FR 35177 (July 5, 1996).

3.c. *Polyethylene Terephthalate Film, Sheet, and Strip From the Republic of Korea; Final Results of Antidumping Duty Administrative Review and Notice of Revocation in Part*, 61 FR 58374 (November 14, 1996), as amended 62 FR 1735 (January 13, 1997).

4.d. *Polyethylene Terephthalate Film, Sheet, and Strip From the Republic of Korea; Final Results of Antidumping Duty Administrative Review*, 62 FR 38064 (July 16, 1997), as amended 62 FR 45222 (August 26, 1997).

5.e. *Polyethylene Terephthalate Film, Sheet, and Strip From the Republic of Korea; Final Results of Antidumping Duty Administrative Review*, 63 FR 87334 (July 10, 1998), and *Polyethylene Terephthalate Film, Sheet, and Strip From the Republic of Korea; Notice of Final Court Decision and Amended Final Results of Antidumping Duty Administrative Review*, 63 FR 52241 (September 30, 1998).

6.f. *Polyethylene Terephthalate Film, Sheet, and Strip From the Republic of Korea; Final Results of Antidumping Duty Administrative Review: Final Results of Antidumping Duty Administrative Review and Notice of Intent Not To Revoke in Part*; 64 FR 62648 (November 17, 1999).

<sup>2</sup> See *Polyethylene Terephthalate Film, Sheet, and Strip from the Republic of Korea; Final Results of Antidumping Duty Administrative Reviews and Notice of Revocation in Part*, 61 FR 35177 (July 5, 1996), and *Polyethylene Terephthalate Film, Sheet, and Strip from the Republic of Korea; Final Results of Antidumping Duty Administrative Review and Notice of Revocation in Part*, 61 FR 58374 (November 14, 1996).

of Intent to Participate on behalf of E.I. Dupont de Nemours & Company ("DuPont"), and Mitsubishi Polyester Film, LLC ("MFA"), (collectively "the domestic interested parties"), within the deadline specified in § 351.218(d)(1)(i) of the *Sunset Regulations* On August 2, 1999, we received a complete substantive response to the notice of initiation from the domestic interested parties within the deadline specified in § 351.218(d)(3)(i) of the *Sunset Regulations*. The domestic interested parties claimed interested party status under section 771(9)(C) of the Act as U.S. producers of a domestic like product. Dupont states that it was the petitioner in the original investigation and has been a participant in all completed administrative reviews of this antidumping duty order. MFA states that it purchased U.S. PET film operations from the Hoechst Celanese Corporation. Hoechst Celanese Corporation was also a petitioner in the original investigation and an active participant in prior administrative reviews.

Although we did not receive a substantive response from any respondent interested party, on August 2, 1999, we received a waiver of participation from SKC. Co., Ltd. and SKC America, Inc. (collectively "SKC"). Pursuant to 19 CFR 351.218(e)(1)(ii)(C), we determined to conduct an expedited sunset review of this order.

In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order (*i.e.*, an order in effect on January 1, 1995). Therefore, on November 16, 1999, the Department determined that the sunset review of the antidumping duty order on PET film from Korea is extraordinarily complicated and extended the time limit for completion of the final results of this review until not later than January 27, 2000, in accordance with section 751(c)(5)(B) of the Act.<sup>3</sup> Although the deadline for this determination was originally January 27, 2000, due to the Federal Government shutdown on January 25 and 26, 2000, resulting from inclement weather, the time-frame for issuing this determination has been extended by two days.

#### Determination

In accordance with section 751(c)(1) of the Act, the Department conducted this review to determine whether

revocation of the antidumping order would be likely to lead to continuation or recurrence of dumping. Section 752(c)(1) of the Act provides that, in making this determination, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping order. Pursuant to section 752(c)(3) of the Act, the Department shall provide to the International Trade Commission ("the Commission") the magnitude of the margin of dumping likely to prevail if the order is revoked.

The Department's determinations concerning continuation or recurrence of dumping and the magnitude of the margin are discussed below. In addition, the petitioners' comments with respect to the continuation or recurrence of dumping and the magnitude of the margin are addressed within the respective sections below.

#### Continuation or Recurrence of Dumping

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act ("URAA"), specifically the Statement of Administrative Action ("the SAA"), H.R. Doc. No. 103-316, vol. 1 (1994), the House Report, H.R. Rep. No. 103-826, pt. 1 (1994), and the Senate Report, S. Rep. No. 103-412 (1994), the Department issued its *Sunset Policy Bulletin* providing guidance on methodological and analytical issues, including the basis for likelihood determinations. The Department clarified that determinations of likelihood will be made on an order-wide basis (*see* section II.A.2 of the *Sunset Policy Bulletin*). Additionally, the Department normally will determine that revocation of an antidumping order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above *de minimis* after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly (*see* section II.A.3 of the *Sunset Policy Bulletin*).

In addition to consideration of the guidance on likelihood cited above, section 751(c)(4)(B) of the Act provides that the Department shall determine that revocation of an order is likely to lead to continuation or recurrence of dumping where a respondent interested

party waives its participation in the sunset review. The Department received a waiver of participation from SKC. In addition, the Department did not receive a substantive response from any respondent interested party. Pursuant to § 351.218(d)(2)(iii) of the *Sunset Regulations*, lack of substantive response from respondent interested parties also constitutes a waiver of participation.

The petitioners argue that revocation of the antidumping duty order would likely lead to continuation of dumping by producers and exporters of PET film from Korea based on the continuation of dumping since the original investigation. The petitioners assert that from 1990 to 1995 dumping margins remained above *de minimis* (*see* the petitioners August 2, 1999, Substantive Response at 6). Additionally, although in some instances (between 1996 and 1998) dumping margins fell below *de minimis*, these *de minimis* dumping margins do not establish that producers and exporters of the subject merchandise have ceased dumping. Instead, petitioners argue that the most recent preliminary results of administrative review provide a strong indication that one producer, has resumed dumping (FR 41380 (July 30, 1999)). Further petitioners assert that the other producer that was assessed *de minimis* dumping margins in the past, STC, did not make any sales or shipments during the subsequent two reviews. Petitioners argue that this suggests that STC is unable to remain competitive in the U.S. market with the discipline of the order in place.

With respect to import volume, the domestic interested parties assert that, based on the Department's *Sunset Policy Bulletin*, an examination of import volumes by the Department is not necessary to make a likelihood determination given that dumping continues. However, the petitioners state that should the Department examine import statistics, the Department will find that import volumes are highly inconclusive. Using official import statistics for HTS subheading 3920.62.00.00, the petitioners argue that prior to the issuance of the antidumping duty order (between 1989 and 1990) the quantity of imports of the subject merchandise to the United States grew by 1,265.15 percent (*see* the petitioners August 2, 1999, Substantive Response at 7, and Exhibit 2). The petitioners note that after the imposition of the antidumping duty order, the level of import growth dropped. The petitioners maintain that, although between 1991 and 1992 import volume increased, the increase was only

<sup>3</sup> See *Extension of Time Limit for Final Results of Five-Year Reviews*, 64 FR 62167 (November 16, 1999).

by 62.93 percent, compared to the 1,265.15 percent increase between 1989 and 1990. In addition, by 1998, imports declined by 5.57 percent. Further, the petitioners assert that over the history of the order, absolute import volumes have fluctuated significantly. See the petitioners August 2, 1999 Substantive Response at 7 & 8, and Exhibit 1.

The petitioners, also argue that the exchange rate movements (won/\$) can be relevant to a determination of likelihood of future dumping because the movement in the exchange rate can mask the extent of dumping and affect the Department's dumping margin calculations. See the domestic interested parties Substantive Response at 8. Moreover, petitioners argue that the Department should consider the change in producer and importers behavior when making its likelihood determination. Petitioners assert that a major portion of the margins calculated in the original investigation was attributable to certain types of PET film products, such as off-grade film. Petitioners contend that producers and importers decreased their shipments of off-grade material in order to obtain lower dumping margins. Once the order is removed petitioners argue that producers and importers can resume easily their shipment of off-grade material which would result in dumping at a significant level.

As discussed above in section II.A.3 of the *Sunset Policy Bulletin*, the SAA at 890, and the House Report at 63-64, if companies continue dumping with the discipline of an order in place, the Department may reasonably infer that dumping would continue if the discipline were removed.

After examining the history of this antidumping duty order, we find that dumping margins above *de minimis* levels continue to exist for at least some producers. Given that dumping margins continue to exist, respondent interested parties waived their right to participate in the instant review, and absent argument and evidence to the contrary, the Department determines that dumping would likely continue or recur if the order on PET film from Korea were revoked. Because we based our determination on continuation of dumping margins above *de minimis* we did not consider import volumes and the other factors cited by the petitioners.

**Magnitude of the Margin**

In the *Sunset Policy Bulletin* the Department stated that, consistent with the SAA and House Report, the Department will provide to the Commission the company-specific margins from the investigation because

that is the only calculated rate that reflects the behavior of exporters without the discipline of an order. Further, for companies not specifically investigated, or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the all others rate from the investigation. (See section II.B.1 of the *Sunset Policy Bulletin*.) Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. (See sections II.B.2 and 3 of the *Sunset Policy Bulletin*.)

The petitioners argue that, consistent with the SAA, the Department should report to the Commission the rates from the original investigation as the magnitude of the margin likely to prevail if the antidumping duty order is revoked, because they are the only calculated rates that reflect the behavior of exporters without the discipline of the order in place. In addition, for companies that did not participate in the investigation, or for companies that did not begin shipping until after the order was issued, the petitioners argue that the Department should use the "all others" rate from the investigation.

We agree with the petitioners that the dumping margins from the original investigation are representative of Korean producers and exporters behavior should the order be revoked because they reflect the behavior of producers and exporters without the discipline of the order. Therefore, absent argument or evidence to the contrary, we will report to the Commission margins contained in the Final Results of Review of this notice.

**Final Results of Review**

As a result of this review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the levels indicated below.

Manufacturer/exporter	Margin (percent)
SKC Limited and SKC America, Inc.(SKC).	13.92.
Saehan (formerly Cheil Synthetics, Inc.).	Revoked.
Kohn Industries. (Kohn) ...	Revoked.
All others .....	21.50.

This notice serves as the only reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely

notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This five-year ("sunset") review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: January 31, 2000.

**Holly Kuga,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 00-2590 Filed 2-3-00; 8:45 am]

BILLING CODE 3510-DS-P

**APPENDIX B**  
**STATEMENT ON ADEQUACY**



## EXPLANATION OF COMMISSION DETERMINATION ON ADEQUACY

in

### *Polyethylene Terephthalate (PET) Film From Korea* Inv. No. 731-TA-459 (Review)

On October 1, 1999, the Commission determined that it should proceed to an expedited review in the subject five-year review pursuant to section 751(c)(3)(B) of the Tariff Act of 1930, as amended, 19 U.S.C. § 1675(c)(3)(B).

The Commission determined that the domestic interested party group response to its notice of institution was adequate. In this regard, the Commission received responses from two domestic producers of polyethylene terephthalate film, who together account for the majority of U.S. production of the domestic like product.

The Commission did not receive a response from any respondent interested party. Consequently, the Commission determined that the respondent interested party group response was inadequate.

The Commission did not find any circumstances that would warrant conducting a full review. The Commission, therefore, determined to conduct an expedited review.



