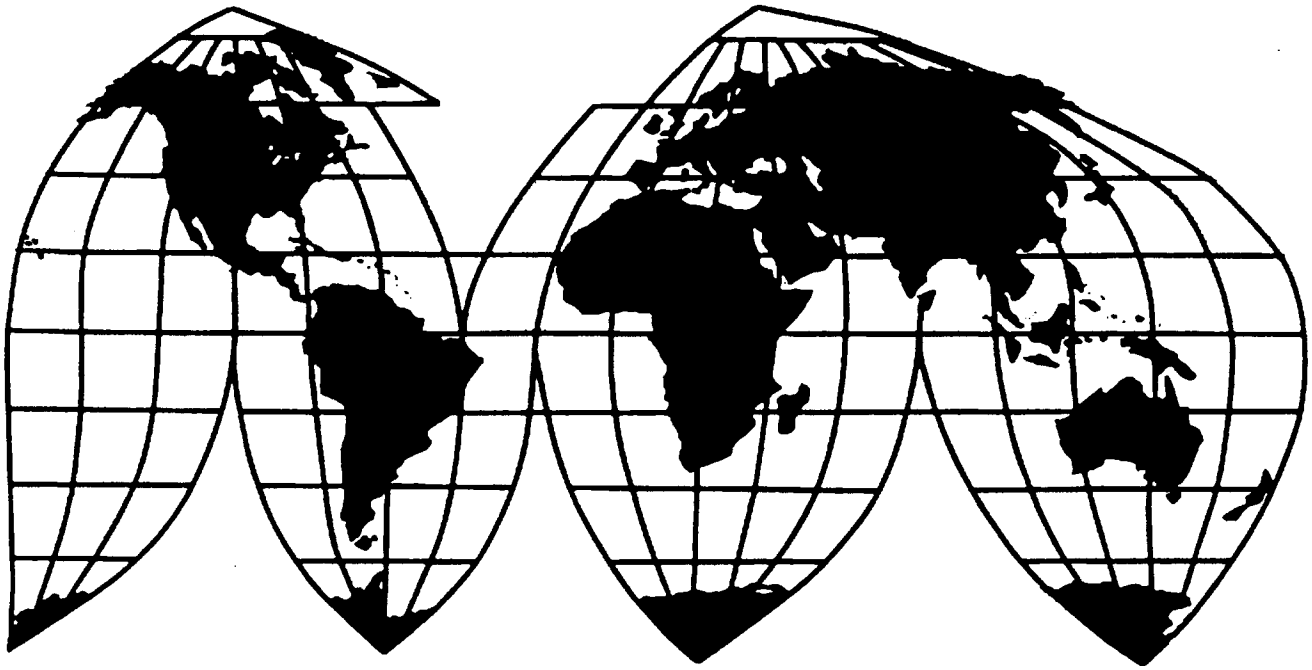
Certain Wax and Wax/Resin Thermal Transfer Ribbons From France and Japan

Investigations Nos. 731-TA-1039-1040 (Final)

Publication 3683 **April 2004**

U.S. International Trade Commission



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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

Glossary of Firm Names

All Write	All Write Ribbon, Inc.
Armor	Armor USA, Inc.
Armor France	Armor, S.A.
BMW Imaging	BMW Imaging Products, Inc.
Dai Nippon	Dai Nippon Printing Co., Ltd.
DNP	Dai Nippon IMS (America) Corp.
Dynic	Dynic USA Corp.
Dynic Japan	Dynic Corp.
Fujicopian	Fujicopian USA, Inc.
Fujicopian Japan	Fujicopian Co., Ltd.
General	General Co., Ltd.
IIMAK	International Imaging Materials, Inc.
ITW	ITW Thermal Films (Division of Illinois Tool Works, Inc.)
ITW Korea	ITW Specialty Films Co., Ltd.
NCR	NCR Corp.
Nu-kote	Nu-kote International, Inc.
Paxar	Paxar Corp.
Ricoh	Ricoh Corp.
RSI	RSI ID Technologies, Inc.
Sony	Sony Chemicals Corp. of America
Sony Japan	Sony Chemicals Corp.
Union	Union Chemicar America, Inc.
Union Chemicar	Union Chemicar Co., Ltd.

UNITED STATES INTERNATIONAL TRADE COMMISSION

CERTAIN WAX AND WAX/RESIN THERMAL TRANSFER RIBBONS FROM FRANCE AND JAPAN

Investigations Nos. 731-TA-1039-1040 (Final)

DETERMINATIONS

On the basis of the record[1] developed in the subject investigations, the United States International Trade Commission (Commission) determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act), that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports from France and Japan of certain wax and wax/resin thermal transfer ribbons, provided for in heading 3702 and subheadings 3921.90.40, 9612.10.90, 3204.90, 3506.99, 3919.90, 3920.62, 3920.99, and 3926.90 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce (Commerce) to be sold in the United States at less than fair value (LTFV).[2]

BACKGROUND

The Commission instituted these investigations effective May 30, 2003, following receipt of a petition filed with the Commission and Commerce by International Imaging Materials, Inc. (IIMAK), Amherst, NY. The final phase of these investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of certain wax and wax/resin thermal transfer ribbons from France and Japan were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. § 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of January 8, 2004 (69 FR 1302). The hearing was held in Washington, DC, on March 9, 2004, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on April 19, 2004. The views of the Commission are contained in USITC Publication 3683 (April 2004), entitled *Certain Wax and Wax/Resin Thermal Transfer Ribbons from France and Japan:* Investigations Nos. 731-TA-1039-1040 (Final).

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

[2] On April 6, 2004, the Commission terminated its investigation with regard to Korea (Inv. No. 731-TA-1041) as a result of Commerce's final negative determination of LTFV sales of subject imports from Korea (69 FR 17645, April 5, 2004).

VIEWS OF THE COMMISSION

Based on the record in these investigations, we determine that an industry in the United States is not materially injured or threatened with material injury by reason of imports of certain wax and wax/resin thermal transfer ribbons ("TTR") from France and Japan that are sold in the United States at less than fair value ("LTFV").[1] [2]

I. BACKGROUND

Certain TTR are thin, ink-covered strips of polyethylene terephthalate ("PET") film that are wound on plastic or cardboard cores and used in a variety of thermal transfer printing devices, principally bar code printers. Applications for certain TTR include general purpose labeling, plant and lumber tags, pharmaceutical and healthcare labels, automotive labels, shipping labels, and retail pack labels.[3] Certain TTR are manufactured in four primary stages: (1) ink-making, (2) coating, (3) slitting, and (4) packaging.[4] The domestic industry is divided into companies that engage in all four manufacturing stages (we refer to these companies as "coaters") and companies that import or purchase on the U.S. market semifinished jumbo rolls that they then slit and package into a finished product (we refer to these companies as "converters").[5] The majority of domestic production was sold to distributors, with the bulk of the remainder sold to original equipment manufacturers ("OEMs"). A small portion of domestic production was also sold in unfinished jumbo roll form to converters in the United States.[6]

The petition was filed by International Imaging Materials, Inc. ("IIMAK") of Amherst, NY.[7] In the United States, there are 6 firms that have established coating operations[8] and 9 firms that have established converting operations at which they slit imported or domestic jumbo rolls into finished TTR.[9]

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[1] Whether the establishment of an industry is materially retarded is not an issue in these investigations.

[2] We also conducted a final phase investigation with respect to subject imports from Korea. The U.S. Department of Commerce (Commerce) published its final determination with regard to Korea on April 5, 2004 finding that wax and wax/resin thermal transfer ribbons from Korea (TTR) "are not being, nor are likely to be sold in the United States at less than fair value (LTFV)." Commerce found a country-wide *de minimis* antidumping margin of 1.65 percent for Korea. 69 Fed. Reg. 17645 (April 5), 2004. The Commission published a notice of termination of investigation with respect to imports from Korea on April 12, 2004. 69 Fed. Reg. 19237 (April 12, 2004).

[3] Confidential Staff Report ("CR") at I-6-8, II-3; Public Staff Report ("PR") at I-5 - I-6 (Pub. No. 3683, April 2004).

[4] CR at I-8; PR at I-6.

[5] During these investigations, parties often used the terms "slitters" and "converters" interchangeably. To the extent we cite to record evidence referencing "slitters" and "slitting operations," we note that these terms are synonymous with "converters" and "converting operations." Similarly, we refer to TTR that is slit and packaged as "finished TTR" but note that parties often used the terms "slit" or "slitted" synonymously with "finished."

[6] CR I-12; PR at I-10.

[7] CR at I-1; PR at I-1.

[8] These firms include: (1) Dynic USA Corp. ("Dynic"); (2) International Imaging Materials, Inc. ("IIMAK"); (3) ITW Thermal Films, a division of Illinois Tool Works, Inc. ("ITW"); (4) NCR, Inc. ("NCR"); (5) Paxar Americas, Inc. ("Paxar"); and (6) Sony Chemicals Corporation of America ("Sony"). CR and PR Table III-1.

[9] These firms include: (1) All Write; (2) Armor USA, Inc. ("Armor"); (3) DNP IMS America Corp. ("DNP"); (4) Dynic; (5) Fujicopian USA, Inc. ("Fujicopian"); (6) ITW; (7) Paxar; (8) Sony; and (9) Union Chemicar America, Inc. ("Union"). ITW, Paxar, and Sony also have U.S. coating operations. CR and PR Table III-2.

II. DOMESTIC LIKE PRODUCT AND INDUSTRY

A. In General

In determining whether an industry in the United States is materially injured or threatened with material injury by reason of imports of the subject merchandise, the Commission first defines the "domestic like product" and the "industry."[10] Section 771(4)(A) of the Tariff Act of 1930, as amended ("the Act"), defines the relevant domestic industry as the "producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."[11] In turn, the Act defines "domestic like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation ... ."[12]

The decision regarding the appropriate domestic like product(s) in an investigation is a factual determination, and the Commission has applied the statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis.[13] No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.[14] The Commission looks for clear dividing lines among possible like products and disregards minor variations.[15] Although the Commission must accept the determination of Commerce as to the scope of the imported merchandise that has been found to be sold at less than fair value, the Commission determines what domestic product is like the imported articles Commerce has identified.[16]

B. Product Description

Commerce's notice of final determination defined the imported merchandise within the scope of these investigations as:

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[10] 19 U.S.C. § 1677(4)(A).

[11] 19 U.S.C. § 1677(4)(A).

[12] 19 U.S.C. § 1677(10).

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

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

[15] Nippon, 19 CIT at 455; Torrington, 747 F. Supp. at 748-49; see also S. Rep. No. 96-249 at 90-91 (1979) (Congress has indicated that the like product standard should not be interpreted in "such a narrow fashion as to permit minor differences in physical characteristics or uses to lead to the conclusion that the product and article are not 'like' each other, nor should the definition of 'like product' be interpreted in such a fashion as to prevent consideration of an industry adversely affected by the imports under consideration.").

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

> These investigations cover wax and wax/resin thermal transfer ribbons (TTR), in slit or unslit ("jumbo") form originating from France, Japan or South Korea, with a total wax (natural or synthetic) content of all the image side layers, that transfer in whole or in part, of equal to or greater than 20 percent by weight and a wax content of the colorant layer of equal to or greater than 10 percent by weight, and a black color as defined by industry standards by the CIELAB (International Commission on Illumination) color specification such that L*<35, -20<a*<35 and -40<b*<31, and black and near-black TTR. TTR is typically used in printers generating alphanumeric and machine-readable characters, such as bar codes and facsimile machines.
>
> The petition does not cover resin TTR, and finished thermal transfer ribbons with a width greater than 212 millimeters (mm), but not greater than 220 mm (or 8.35 to 8.66 inches) and a length of 230 meters (m) or less (i.e., slit fax TTR, including cassetted TTR), and ribbons with a magnetic content of greater than or equal to 45 percent, by weight, in the colorant layer.
>
> The merchandise subject to these investigations may be classified in the Harmonized Tariff Schedule of the United States (HTSUS) at heading 3702 and subheadings 3921.90.4025 (sic), 9612.10.9030, 3204.90, 3506.99, 3919.90, 3920.62, 3920.99, and 3926.90.[17] The tariff classifications are provided for convenience and Customs and Border Protection ("CBP") purposes; however, the written description of the scope of the investigations is dispositive.[18]

We refer to all TTR defined by the scope as "certain TTR."

In thermal transfer printing, heat is applied to the ribbon through a print head, causing the ink layer to transfer a printed image onto the receiving media (e.g., a paper label). The back coat protects both the print head and the ribbon during this process.[19] TTR are made by producers in the form of jumbo rolls, which are ultimately slit into smaller widths and rolled into smaller rolls based on the end use.[20] TTR are categorized based on the type of ink used: wax, wax/resin, and resin.[21]

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[17] These subheadings have normal trade relations tariff rates in 2004 ranging from 2.1 percent to 7.9 percent *ad valorem*, applicable to imports from France, Japan, and Korea. Staff notes that the goods of subheading 3204.90 are synthetic organic coloring matter; those of 3506.90 are bulk glues and adhesives; those of 3919.90, 3920.62, and 3920.99 are plastic film, tape, etc.; and those of 3926.90 are miscellaneous articles of plastics. The subject goods would not properly fall into those provisions. In 2003, statistical reporting number 3921.90.4025 ceased to exist. CR at I-6 n.11; PR at I-5 n.11.

[18] Commerce determined that slitting jumbo rolls does not constitute substantial transformation, and as such, jumbo rolls originating in subject countries but slit in a third country would be subject to antidumping duties imposed on subject merchandise should such an antidumping duty order be issued. Notice of Final Determination, 69 Fed. Reg. 10674, March 8, 2004 (France); Notice of Final Determination 69 Fed. Reg. 11834, March 12, 2004 (Japan).

[19] ***. CR at I-7; PR at I-6.

[20] Jumbo rolls are roughly 2 to 3 feet wide, 65,000 feet long, 20 inches in diameter and weigh approximately 350 pounds. Slit rolls measure roughly 1 to 10 inches wide, 164 to almost 3,000 feet long, 1.3 to 4 inches in diameter, and can weigh from 2 to 55 pounds. CR at I-7; PR at I-6.

[21] Resin TTR are not included in the scope of these investigations. CR at I-6; PR at I-5.

Wax TTR are the least costly to produce.[22] The ink formulation on wax ribbons consists primarily of different waxes that have low melt points, resulting in low levels of energy required to transfer the wax onto the receiving media.[23] Wax TTR do not offer long-lasting print images due to their high wax content and are not as robust as resin TTR. Wax TTR are used for applications such as shipping labels, warehousing labels, retail tags and labels, and compliance labeling.[24] Wax TTR reportedly account for *** percent of the total U.S. TTR market by volume.[25] Fax TTR fall under the wax category.

Wax/resin TTR contain a higher percentage of resinous materials than wax TTR, which contributes to a higher melting point for the ribbons.[26] As a result, a higher heat level is required for printing from wax/resin TTR than wax TTR. Also, the higher resin content of wax/resin TTR affords greater durability. Applications for this form of TTR include general purpose labeling, plant and lumber tags, pharmaceutical and healthcare labels, automotive labels, shipping labels, and retail pack labels.[27] Wax/resin TTR are estimated to account for *** percent of the U.S. TTR market.[28]

C. Domestic Like Product

The scope includes jumbo rolls of wax TTR that are used in facsimile and multifunction thermal transfer printing devices ("jumbo fax TTR"), jumbo rolls of wax and wax/resin TTR that are used in bar code printing devices ("jumbo bar code TTR"), and rolls of bar code TTR that have been slit and finished for use in specific printing devices ("finished TTR").[29] The scope, however, excludes rolls of fax TTR that have been slit and finished for use in other specific printing devices ("finished fax TTR").[30]

In the preliminary phase of these investigations petitioner advocated a like product definition coextensive with the scope. Respondents advocated expanding the like product to include finished fax TTR, pure resin TTR, and color TTR. One respondent, DNP, advocated two separate like products consisting of semifinished jumbo rolls on the one hand, and finished TTR on the other.

The Commission found one like product consisting of semifinished and finished TTR and included fax TTR but not pure resin or color TTR in the like product definition.[31] First, the Commission used a semifinished product analysis and concluded that semifinished jumbo rolls and finished TTR were a single like product. In support of this finding, the Commission cited the apparent dedication of domestically-produced jumbo TTR to the production of finished TTR; the common physical

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[22] CR at I-7; PR at I-6.

[23] CR at I-7; PR at I-6.

[24] CR at I-7; PR at I-6.

[25] CR at I-7; PR at I-6.

[26] CR at I-7; PR at I-6.

[27] CR at I-8; PR at I-6.

[28] CR at I-8; PR at I-6. The remainder of the TTR market consists of other products such as color and pure resin TTR.

[29] CR at I-5 - I-6; PR at I-5.

[30] CR at I-6; PR at I-5. The exclusion in the scope is set forth as a narrow range of sizes: a width between 212 and 220 mm, and a length of 230 m or less. All finished fax TTR is excluded from the scope because there are no finished fax TTR products that are wider, narrower, or longer than the dimensions specified in the petition. This is because the width of finished fax TTR is largely dictated by the size of the print medium (i.e., letter paper) used in fax machines.

[31] Commissioner Miller did not include finished fax TTR in the domestic like product in her preliminary determination. In this final phase she joins the majority views.

characteristics of the semifinished and finished products, *i.e.*, imparting wax-based ink to PET film for use in thermal printing devices; the fact that jumbo TTR accounted for the majority of the finished product's cost; and the relatively less extensive nature of the finishing process.[32]

With regard to the expansion of the domestic like product to include finished fax TTR, the Commission applied its traditional six factor analysis. The Commission found that the physical characteristics, end uses, interchangeability, and common manufacturing facilities and processes were factors that all weighed strongly in favor of including finished fax TTR in the domestic like product. Moreover, the Commission also found that many of the differences between finished fax TTR and certain TTR (such as customer perceptions and practical interchangeability) also exist between types of certain TTR included within the scope since each individual finished TTR product is made to fit only one type or brand of printing machine.[33]

With regard to the inclusion of color TTR and resin TTR in the domestic like product, the Commission found the lack of similar physical characteristics and end uses, the limited interchangeability, manufacturing differences, different perceptions of customers and producers, and the significant differences in price indicated that there was a clear dividing line between color TTR and resin TTR on the one hand and black wax and wax/resin TTR on the other. Therefore, the Commission did not include pure resin TTR or color TTR in the domestic like product.[34]

In the final phase of these investigations no party has advocated expanding the like product definition to include pure resin or color TTR, and no party has argued that semifinished jumbo rolls and finished TTR are two separate like products. No new evidence has been obtained that would call into question the Commission's reasoning in the preliminary determination.[35] Consequently, we reaffirm the finding in the preliminary determination that semifinished and finished TTR constitute a single like product and that neither finished resin nor finished color TTR should be included in the definition of the domestic like product.

The only like product issue disputed by the parties in this final phase is whether the definition of the like product should be expanded beyond the scope to include finished fax TTR. Petitioner continues to advocate a single like product coextensive with the scope of these investigations while respondents argue that finished fax TTR should be part of the like product definition. Petitioner argues that the Commission should undertake a semifinished product analysis to determine whether to include finished fax TTR in the like product, and in the alternative, use its traditional six-factor like product analysis.[36]

Respondent ITW claims that the semifinished product analysis is not applicable to this investigation and that the six-factor test mandates the expansion of the like product to include finished fax TTR.[37] Respondent Armor claims that both the semifinished and six factor tests justify including finished fax TTR in the domestic like product.[38]

The Commission generally uses a semifinished product analysis in cases where an issue is presented as to whether articles at different stages of processing should be included in the same like

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[32] Confidential Preliminary Determination at 8; Public Preliminary Determination at 6.

[33] Confidential Preliminary Determination at 12; Public Preliminary Determination at 10.

[34] Confidential Preliminary Determination at 17; Public Preliminary Determination at 13.

[35] Record evidence further affirms the Commission's preliminary findings.

[36] Petitioner Prehearing Br. at 67-71. Respondent DNP did not take a position on domestic like product, but pointed out some distinctions between finished certain TTR and finished fax TTR. DNP Posthearing Br., Exhibit B at 2.

[37] ITW Posthearing Br. at 3-6.

[38] Armor Prehearing Br. at 3-10.

product.[39] In this case, while the like product includes upstream products (jumbo rolls), it also includes downstream products (such as finished bar code TTR) which are at the same level of processing as finished fax TTR. Therefore, we resolve the issue of whether finished fax should be part of the domestic like product by applying our traditional six-factor analysis.[40]

Physical characteristics and uses. The physical characteristics of finished fax TTR and certain TTR included in the scope are similar, in that both are strips of PET film coated with a wax-based ink. A range of wax types are used for fax ribbons, and a range of wax and wax/resin types are used for certain TTR. Petitioner concedes that there is some overlap in the range of wax types used in finished fax TTR and certain TTR.[41] Moreover, just as jumbo bar code TTR imparts to finished bar code TTR (both products within the scope) the finished product's essential physical and chemical characteristics, so does jumbo fax TTR (another product in the scope) impart to finished fax TTR that finished product's essential physical and chemical characteristics.

Finished fax TTR is cut to a specific range of dimensions primarily dictated by the size of the medium on which it is intended to print, *i.e.*, letter paper. Certain TTR is produced in a range of widths, some narrower than finished fax and some wider.[42] Thus, since finished fax TTR has virtually the same physical properties as certain finished TTR, once it is slit, it is in effect part of a continuum of sizes of certain wax TTR. Finished fax TTR is often loaded into cassettes designed to fit a specific make and model fax machine. However, a significant proportion of finished fax TTR is not placed in cassettes,[43] and, in addition, a limited portion of other certain TTR is packaged in cassettes.[44]

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[39] See, e.g., Certain Preserved Mushrooms from Chile, China, India, and Indonesia, Inv. Nos. 731-TA-776-779 (Preliminary), USITC Pub. 3086, at 5-8; Beryllium Metal and High-Beryllium Alloys from Kazakhstan, Inv. No. 731-TA-746 (Preliminary), USITC Pub. 2959, at 5-8; Canned Pineapple Fruit from Thailand, Inv. No. 731-TA-706 (Final), USITC Pub. 2907 (July 1995).

[40] The Commission's decision regarding the appropriate domestic like product(s) in an investigation is a factual determination, and the Commission has applied the statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis. The Commission generally considers a number of factors including: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) common manufacturing facilities, production processes and production employees; (5) customer or producer perceptions; and, when appropriate, (6) price.

[41] Hearing Tr. at 71-72 (Marshall); see also, IIMAK Posthearing Br. Appendix at 14 ("IIMAK produced *** different ink formulations for subject merchandise. Of these *** formulations, *** were wax formulations, *** were wax/resin formulations, and *** could be considered fax formulations (though these 'fax' formulations also could be used in barcode applications.")).

[42] ITW Prehearing Br. at 7.

[43] IIMAK placed *** percent of its finished fax TTR in cassettes. IIMAK Posthearing Br. Appendix at 15. Petitioner argues that finished fax TTR is "typically" cut to a smaller size and is "normally" wound on a smaller core than finished bar code TTR; is more likely than bar code TTR to have a secondary take-up core added; may, unlike bar code TTR, have an optical trigger or "silver stripe" painted on it; may, unlike bar code TTR, be subject to environmental controls during slitting; requires, "in some cases," dust-proof packaging that is not "typically" required for finished bar code TTR; and "typically" has retail packaging that is not required for bar code TTR. We do not find that these differences outweigh similarities between the products, particularly given petitioner's admission that the differences are typically present but are not uniformly or necessarily present.

[44] While petitioner asserts that placing fax TTR in cassettes is a further processing step that is not performed in finishing bar code TTR, petitioner acknowledged that a limited portion of bar code TTR products are loaded into cassettes and that a significant portion of fax TTR products are not loaded into cassettes. Petition at 26; IIMAK Posthearing Br. Appendix at 15. IIMAK placed *** percent of its finished fax TTR in cassettes. IIMAK Posthearing Br. Appendix at 15.

We further find that, in a general sense, the end use of certain finished TTR and that of finished fax TTR is the same: thermal transfer printing.[45] Indeed, the scope of these investigations specifically identifies end uses of certain TTR to include facsimile machines.[46] The primary difference in end use is the difference between the image produced by a facsimile printer (in the case of fax TTR) and the image produced by a bar code printer (in the case of certain bar code TTR). A bar code image and a facsimile image have similar characteristics when a wax formulation is used for both applications; if a wax/resin formulation is used for a bar code application, the image will be more durable than a facsimile image produced with a wax formulation.[47]

Thus, the evidence under the first factor of the traditional like product criteria indicates that the finished fax TTR and certain TTR share common physical characteristics and uses.

Interchangeability. Certain TTR and finished fax TTR are not entirely interchangeable in the sense that different printing machines take ribbons that are cut to different dimensions or are loaded into different types of cartridges. However, even within the category of certain TTR, different widths and chemistries of merchandise are themselves not interchangeable because they are designed for different machines and a variety of uses. Similarly, although petitioner argues that the cassette placed on most finished fax TTR limits interchangeability with other types of TTR, the cassette also limits the interchangeability of different types of finished fax TTR with each other.

Certain TTR and finished fax TTR are interchangeable in the sense that they are both used for the same general application (thermal transfer printing), and in that a jumbo roll may be converted to a variety of products, so that there is a degree of interchangeability in end use applications prior to slitting and finishing.[48]

Channels of distribution.[49] Petitioner asserts that finished fax TTR, but not certain TTR, is primarily sold to end users through retail outlets such as office superstores, and that finished fax TTR therefore requires more expensive retail packaging than certain TTR.[50] IIMAK submitted data indicating that its finished fax TTR are more concentrated in sales to retail customers, as compared to its finished certain TTR which are more concentrated in sales to distributor customers.[51] However, there are some sales of finished fax TTR to distributors as well as OEMs. Moreover, IIMAK acknowledges in its prehearing brief that "fax TTR is sold to distributors who in turn sell to office product/business supplies

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[45] CR at I-5; PR at I-5.

[46] CR at I-6; PR at I-5.

[47] CR at I-6; PR at I-6.

[48] As stated earlier, petitioner stated that fax jumbo rolls could be used in certain bar code applications. IIMAK Posthearing Br. Appendix at 14

[49] There are three primary categories of customers of TTR: OEMs, distributors, and converters. OEMs buy TTR slit and cut to their specifications, which may be in cassettes and have custom logo leaders. The OEM integrates the cassettes in equipment that is sold to distributors or end users, or resells the cassettes directly to end users. Petition at 30-31. OEMs purchase TTR from producers, converters, or distributors and sell their TTR and branded printing equipment to end users. CR at II-1; PR at II-1. Petitioner estimates that OEMs account for *** percent of end user sales, directly or through distributors. CR at I-12; PR at I-9. Distributors purchase slit, cut, and packaged TTR from producers, importers, or converters, and sell TTR to other distributors and to end users. CR at II-1; PR at II-1; Petition at 31. Petitioner estimates that distributors account for *** percent of direct sales, and an additional *** percent of sales where a master distributor sells through a small distributor. CR at I-12 - I-13; PR at I-9. Converters buy jumbo rolls and often also buy generic slit rolls. Converters sell to distributors and OEMs. Petitioner estimates that independent converters account for *** percent of sales, including sales to end users through distributors.

[50] Conference Tr. at 55; Petition at 27.

[51] IIMAK Prehearing Br. at 81. We note that the other large producer of finished fax TTR, ***, indicated that its sales of finished fax TTR were made to distributors. *** Questionnaire Response at 10.

dealers and retail stores."[52] While IIMAK tries to draw a distinction between the types of customers to whom distributors ultimately sell their finished TTR fax products, the record reflects that a substantial portion of both finished fax and certain TTR are sold by producers to distributors.[53] Finally, evidence indicates that certain finished TTR are sold through the same mass retailers as finished fax TTR.[54] Thus, although there are differences in channels of distribution, there is also a significant degree of overlap.

Customer and producer perceptions. Finished certain TTR and finished fax TTR are perceived differently in that they have different specific applications. As a general matter, however, some customers perceive both finished TTR and finished fax TTR to be "the same product technology."[55] In this regard, the record reflects that some of ITW's customers perceive finished fax and certain finished TTR to be in the same product line and market them as such.[56] Likewise, testimony indicated that retail office supply stores sell finished bar code TTR and finished fax TTR in the same product category.[57] This testimony by respondents ITW and Armor reinforces our finding in the preliminary phase that "because there is a continuum of 80 to 100 finished TTR products tailored to meet the requirements of individual models of specialized printing devices, specific format distinctions between the spool or cassette required for each device may be more relevant to consumer or producer perceptions than any categorical distinction between finished fax TTR as a whole and finished certain TTR as a whole."[58]

We have also considered contrary opinions expressed by both petitioner and respondent DNP. DNP indicated that, while purchasers expect all TTR to be of high quality, the different applications of finished bar code and finished fax TTR create different performance expectations and product perceptions.[59]

Manufacturing facilities, production processes, and production employees. Finished certain TTR and finished fax TTR are produced using the same machines and production employees.[60] In addition, finished certain TTR and finished fax TTR undergo similar "finishing" processes. Some finished fax TTR products undergo additional finishing steps (such as the addition of take-up spools and cassettes, environmental controls, and specialty packaging and labeling). The record indicates that these additional steps are not required for all finished fax ribbons (*** percent of IIMAK's finished fax ribbons are placed in cassettes), and that these steps do not require a fundamental alteration of the facilities, processes, and employees utilized to produce finished fax TTR, as compared to finished certain TTR.[61]

Price. The record indicates that finished fax TTR is more expensive than finished certain TTR. According to petitioner, higher prices for finished fax TTR results in part from patented and proprietary cassettes into which much finished fax TTR is incorporated.[62] However, we note that there is evidence

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[52] IIMAK Prehearing Br. at 81.

[53] ITW noted that IIMAK advertising materials market fax and bar code TTR together. ITW Prehearing Br. at 9.

[54] Armor Prehearing Br. at 8 ("typing the words thermal transfer ribbons into the search function on the Staples website yields a mix of bar code and fax ribbon."). Hearing Tr. at 277-278 (Walker).

[55] See Importer Questionnaire of *** at II-9; see also, Armor Prehearing Br. at 8 ("typing the words thermal transfer ribbons into the search function on the Staples website yields a mix of bar code and fax ribbon.")

[56] Hearing Tr. at 277 (Gallette).

[57] Hearing Tr. at 278 (Walker).

[58] Confidential Preliminary Determination at 11-12.

[59] DNP Posthearing Br., Exhibit B at 2.

[60] Hearing Tr. at 81 (Dowell) "Vice Chairman Hillman: You do, you do use the same slitting machines to produce fax product and bar code product? Mr. Dowell (of IIMAK): Yes, we do."

[61] IIMAK Posthearing Br. at 15.

[62] Petitioner Prehearing Br. at 86.

that on the continuum of finished TTR products, finished fax TTR is not the most expensive product – several wax/resin products are more expensive.[63]

In sum, we find that physical characteristics, end uses, interchangeability, and common manufacturing facilities and processes weigh in favor of finding that finished fax TTR is part of a continuum of finished wax and wax/resin TTR products. The record on other factors – such as channels of distribution, consumer and producer perceptions, and price – is more mixed. On balance, we determine to include finished fax TTR in the domestic like product.

In addition, although we do not formally apply the semifinished product analysis to the issue of finished fax TTR, we have taken into account that jumbo rolls for both finished certain TTR and finished fax TTR are within the scope and are within the like product definitions proposed by all parties. The fact that even petitioner proposes treating jumbo rolls for fax and bar code uses as the same product lends support to the conclusion that the downstream products produced from those rolls are also part of a single product.

D. Domestic Industry and Related Parties

The domestic industry is defined as "the producers as a [w]hole of a domestic like product. . . ."[64] In defining the domestic industry, the Commission generally includes in the industry all domestic production of the like product, whether toll produced, captively consumed, or sold in the domestic merchant market.[65] Based on our definition of the domestic like product and for the reasons stated below, we define the domestic industry to include all producers of jumbo rolls of wax and wax/resin bar code TTR, and fax TTR, including domestic operations that solely slit and package jumbo rolls of TTR ("converters"). In addition, we exclude domestic converters Armor, Fujicopian, DNP, and Union as related parties for the reasons presented below.

1. Converters' production related activities

In deciding whether a firm qualifies as a domestic producer, the Commission generally has analyzed the overall nature of a firm's production-related activities in the United States, recognizing that production-related activity at minimum levels may be insufficient to constitute domestic production. The Commission generally considers six factors:

(1) source and extent of the firm's capital investment;
(2) technical expertise involved in U.S. production activities;
(3) value added to the product in the United States;
(4) employment levels;
(5) quantity and type of parts sourced in the United States; and
(6) any other costs and activities in the United States directly leading to production of the like product.

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[63] See ITW Prehearing Br. at Exhibit 19.

[64] 19 U.S.C. § 1677 (4)(A).

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

No single factor is determinative and the Commission may consider any other factors it deems relevant in light of the specific facts of an investigation.[66]

Converters are companies that import directly from foreign parent companies, or otherwise purchase, jumbo rolls of TTR which they slit to dimension and then package for sale. Petitioner opposed inclusion of converters in the domestic industry because it claimed that converters "merely perform low-level further processing to in-scope LTFV product" and that the data in these investigations "demonstrate that slitters had better financial performance than coaters due mainly to decreased per-unit costs."[67] Respondents ITW and Armor argued in favor of inclusion of converters in the domestic industry.[68] As we discuss below, the value added by converting operations to the end-product, the number and technical expertise of workers employed by converters, and their significant capital expenditures all indicate that these companies do not merely engage in low-level processing as petitioner alleges.

Source and extent of capital investment. The record indicates that the primary cost in converting jumbo rolls into finished TTR is not capital investment, but the direct cost of labor.[69] Nevertheless, converters' capital investment was significant. In 2003 the value of converters' productive facilities was $*** (original cost) and $*** (book value), and their capital expenditures totaled $***.[70] While petitioner IIMAK argued that initial capital investment in slitting operations can be as low as $100,000, testimonial evidence by several converters indicated that the initial capital investment necessary to compete effectively in the U.S. market was significant.[71] These witnesses pointed out that petitioner's argument is premised on the purchase of a single second-hand slitting machine but that converters in the U.S. market necessarily must invest in multiple machines to produce the sizes and quantities required by large purchasers and that new machines cost approximately $350,000 per unit.[72] We note that Vince Dowell, Chief Operations Officer for IIMAK, testified that IIMAK's own slitting machines can cost

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[66] See DRAMs and DRAM Modules from Korea, Inv. No. 701-TA-431 (Preliminary), USITC Pub. 3569 (December 2002) at 7-11(casing activities are production); Greenhouse Tomatoes from Canada, Inv. No. 731-TA-925 (Final), USITC Pub. 3499 (April 2002) at 10-11 (packers included in the industry along with growers); Certain Cut-to-Length Steel Plate from France, India, Indonesia, Italy, Japan, and Korea, Inv. Nos. 701-TA-387-391, 731-TA-816-821 (Final), USITC Pub. 3273 at 9 (Jan. 2000). See also Large Newspaper Printing Presses from Germany and Japan, Inv. Nos. 731-TA-736-737 (Final) USITC Pub. 2988 at 7-8 (Aug. 1996). Commission practice has not clearly established a specific level of U.S. value added, or product finished value, required to qualify a company as a domestic producer.

[67] IIMAK Prehearing Br. at 5.

[68] ITW Prehearing Br. at 12-21; Armor Posthearing Br. at 3.

[69] See Department of Commerce Issues and Decision Memorandum for the Antidumping Duty Investigation of Wax and Wax/Resin Thermal Transfer Ribbons from Japan (March 1, 2004). See also, hearing testimony of Dick Marshall stating that a producer's formulating and coating facilities may be limited to one location, while cutting and slitting operations have to be sited closer to the end-user market:

"A little explanation on that is if you look at the production planning models of a business like ours that coats and then slits, it's an inverted pyramid when you look at part numbers. You start with a relative few in chemicals that make up inks, and then it gets coated onto a polyester film, and you end up with the number of jumbo rolls that have different characteristics because of the ink and the width and the length of the jumbo rolls. When you slit, you can convert a jumbo roll into many, many, many SKUs, and so the primary reason you regionalize slitting is to provide better customer service without having scads of inventory of finished SKU that you are trying to forecast that's very difficult to do." Hearing Tr. at 80-81 (Marshall).

[70] CR and PR Table VI-11.

[71] Hearing Tr. at 254 (Malashevich), 255 (Landry), and 256 (Walker).

[72] Hearing Tr. at 254 (Malashevich), 255 (Landry), and 256 (Walker).

$800,000 apiece.[73] Converters also pointed out, using petitioner's logic, that "limited use" second hand coating machines could be purchased for as little as $200,000.[74]

While capital expenditures for coating operations are greater than capital expenditures for converting operations, the record indicates that converters' capital expenditures are significant given the nature of converting operations in the United States.[75] Over the period 2001 to 2003, converters made $*** in capital investments.[76] Over the same period, coater/converters made $*** in capital investments; however, nearly half of this amount was spent on these firms' converting operations.[77] Converting operations generally require multiple slitting machines, many of which cost several hundred thousand dollars apiece. To this end, ITW indicated that it has made capital investments of $*** for its converting operations.[78] Thus, we find that converting operations require significant levels of capital expenditures.

Technical expertise involved in U.S. production activities. The record indicates more than a minimal level of technical expertise is required in converting operations. ITW contends that converting facilities customize TTR to purchasers' needs, including with respect to heat resistance and abrasion resistence, and have laboratories to test products against customers' machinery; that supervisors *** and that most machine operators ***.[79] Christopher Walker of Armor testified that it takes Armor eight months to properly train an employee to operate slitting machines, and Peter Gallette of ITW said it takes at least six months.[80] Thus, we find that the level of expertise required for slitting operations is not insignificant.

Value added to the product in the United States. Data submitted in response to Commission questionnaires by six U.S. converters indicates that slitting and packaging operations account for an average of 30 percent (ranging from *** percent) of the total cost of the end product.[81] We find that this percentage of value added by converting operations is significant.[82]

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[73] Hearing Tr. at 23 (Dowell).

[74] Hearing Tr. at 257 (Walker).

[75] Petitioner argued that "on a per msi basis, coaters spent approximately *** what slitters spent." IIMAK Prehearing Br. at 11. Petitioner claimed that in past cases the Commission has found that these types of discrepancies serve as a basis for a decision not to include simple processors, such as converters, in the domestic industry. IIMAK Prehearing Br. at 12. Petitioner cites as an example of just such an analysis the Commission's opinion in Synthetic Indigo from China, Inv. No. 731-TA-851 (Preliminary), USITC Pub. 3222 (August 1999). However, we note that the discrepancy in capital investment in Synthetic Indigo was in a magnitude of *** times ($*** compared to $***), whereas the discrepancy between capital investments in coating operations versus slitting operations highlighted by petitioner in this investigation is at most approximately four times greater. See Synthetic Indigo USITC Pub. 3222 at 10-11.

[76] CR and PR Table VI-11.

[77] CR and PR Table VI-5.

[78] ITW Prehearing Br. at 17.

[79] ITW Prehearing Br. at 17.

[80] Hearing Tr. at 248-249 (Gallett).

[81] CR and PR Table VI-10.

[82] Petitioner argues that the total cost of foreign inputs reported to the Commission is distorted downward (and the U.S. value added is overstated) "in light of the fact that imported jumbo rolls are entering the United States at dumped prices." IIMAK Prehearing Br. at 16. However, we note that the value data reported by domestic coaters, like IIMAK, track closely the value added data submitted by converters that import subject jumbo rolls. See preliminary phase Confidential Staff Report at I-11; Public Staff Report at I-8. (slitting/packaging constitutes an average of 34 percent of total cost of producing finished TTR). We find that the data submitted by coaters as well as

(continued...)

Employment levels. All parties to these investigations agree that slitting and packaging operations are labor intensive, and as such employ substantial numbers of employees. In 2003, converters employed *** employees; in the same year, coaters used *** employees in coating operations, compared to *** employees in converting operations.[83] Moreover, Mr. Marshall of IIMAK stated that on a per unit basis there is more labor devoted to slitting than there is to coating "because the key performance functions of the coder [i.e., coater] are designed into the automation of the machine."[84]

Thus, we find employment levels of converting operations to be significant.

Quantity and type of parts sourced in the United States. The record indicates that converters source cores, leaders, and packaging materials (additional raw materials) in the United States.[85] These additional raw materials account for *** percent of the total cost of the end product.

Therefore we conclude that, on balance, the record in these investigations indicates that converters engage in sufficient production related activities in the United States to be considered part of the domestic industry.

2. Related Parties

We must further determine whether any producer of the domestic like product should be excluded from the domestic industry pursuant to 19 U.S.C. § 1677(4)(B). That provision of the statute allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry producers that are related to an exporter or importer of subject merchandise or which are themselves importers.[86] Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each case.[87] Because we found that converters engage in sufficient production related activities to be included in the domestic industry we must determine whether certain coaters as well as certain converters should be excluded as related parties. In this case, because subject imports consisted entirely of jumbo rolls that were finished in the United States, we paid particular attention to the extent to

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[82] (...continued)
those submitted by converters indicate that slitting operations add significant value to the end product. Petitioner also argues that because converters reported a wide range of value added data (***), these "inconsistencies in the information provided by foreign producers" showed that the data were "highly suspect." IIMAK Prehearing Br. at 16. Petitioner's own value added data were within the range of data submitted by converters and coaters, and thus we find that the record does not support petitioner's allegation.

[83] CR and PR Table III-9.

[84] Hearing Tr. at 23 (Marshall).

[85] CR and PR Table VI-10.

[86] 19 U.S.C. § 1677(4)(B).

[87] Sandvik AB v. United States, 721 F. Supp. 1322, 1331-32 (Ct. Int'l Trade 1989), aff'd without opinion, 904 F.2d 46 (Fed. Cir. 1990); Empire Plow Co. v. United States, 675 F. Supp. 1348, 1352 (Ct. Int'l Trade 1987). The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude the related parties include: (1) the percentage of domestic production attributable to the importing producer; (2) the reason the U.S. producer has decided to import the product subject to investigation, i.e., whether the firm benefits from the LTFV sales or subsidies or whether the firm must import in order to enable it to continue production and compete in the U.S. market; and (3) the position of the related producers vis-a-vis the rest of the industry, i.e., whether inclusion or exclusion of the related party will skew the data for the rest of the industry. See, e.g., Torrington Co. v. United States, 790 F. Supp. 1161, 1168 (Ct. Int'l Trade 1992), aff'd without opinion, 991 F.2d 809 (Fed. Cir. 1993). The Commission has also considered the ratio of import shipments to U.S. production for related producers and whether the primary interests of the related producers lie in domestic production or in importation. See, e.g., Melamine Institutional Dinnerware from China, Indonesia, and Taiwan, Inv. Nos. 731-TA-741-743 (Final), USITC Pub. 3016 (Feb. 1997) at 14, n.81.

which the operations of domestic producers – both coaters and converters – were dependent on subject imports. The degree of dependence may indicate the extent to which the producers derived benefits from the subject imports.

a. Coaters

U.S. producers Dynic and Sony imported subject merchandise during the period of investigation and as such are related parties.[88] We find that appropriate circumstances do not exist to exclude them from the domestic industry.

Dynic increased its domestic production of TTR significantly from *** msi in 2001 to *** msi in 2003.[89] Dynic imported and purchased from Japan *** msi in 2001 and *** msi in 2003, corresponding to *** percent and *** percent of Dynic's domestic production in 2001 and 2003 respectively.[90] Dynic's parent is a Japanese corporation that produces TTR in Japan.[91] Dynic ***. Even though Dynic is owned by a Japanese producer of subject merchandise, its domestic converting operations are almost entirely dependent on domestically produced jumbo rolls.[92] For these reasons, we do not exclude Dynic from the domestic industry.

Sony's domestic production was *** msi in 2001 and *** msi in 2003. It is a major domestic producer of the like product. Sony's imports and purchases from Japan were *** msi in 2001 and *** msi in 2003, representing *** percent and *** percent of domestic production in 2001 and 2003 respectively.[93] Thus, the vast majority of Sony's domestic production was based on domestically produced jumbo rolls. Sony's parent company is a Japanese producer of subject merchandise, although Sony reported that it *** produce in its U.S. facilities.[94] Sony ***.[95] Based on these facts we do not exclude Sony from the domestic industry since it did not derive significant benefit from the importation of subject imports.

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[88] Domestic coaters IIMAK, Paxar, ITW, and domestic converter All Write, did not import subject merchandise and are not affiliated with a foreign producer of subject merchandise. Each purchased some subject imports for use in their domestic operations. CR and PR Tables III-6 and III-7. Because none of these companies accounted for a substantial share of any importer's subject imports, and their purchases were small relative to total subject imports, we do not find them to be related parties. See, e.g., Foundry Coke from China, Inv. No. 731-TA-891 (Final), USITC Pub. 3449 (Sept. 2001) at 8-9.

[89] CR and PR Table III-6.

[90] CR and PR Table III-6.

[91] We note that Dynic Japan accounted for *** of exports of subject merchandise from Japan to the United States. Thus it is unlikely that Dynic's relationship with its Japanese parent has shielded Dynic's U.S. operations from the effects of subject imports.

[92] CR and PR Table VI-2. Dynic *** during the period of investigation.

[93] CR and PR Table III-6.

[94] We note that Sony Japan accounted for just over *** percent of exports of subject merchandise from Japan to the United States. Thus it is unlikely Sony's relationship with its Japanese parent has shielded Sony's U.S. operations from the effects of subject imports to a significant degree.

[95] CR and PR Table VI-2. Sony's *** during the period of investigation. ***.

b. Converters

Converters Armor, DNP, Fujicopian, and Union all import subject merchandise and thus, are related parties.[96] Armor, DNP, Fujicopian, and Union are all wholly-owned subsidiaries of producers of subject merchandise and are importers of record for such merchandise. Each firm's imports of subject merchandise are *** its domestic production.[97] Each ***.[98] These firms' U.S. operations are entirely dependent upon using subject imports of jumbo rolls as their primary input. Thus, we exclude Armor, DNP, Fujicopian, and Union from the domestic industry.

III. NEGLIGIBLE IMPORTS

The provision defining "negligibility," 19 U.S.C. § 1677(24), provides that imports from a subject country that are less than three percent of the volume of all such merchandise imported into the United States in the most recent 12-month period for which data are available that precedes the filing of the petition shall be deemed negligible.

Respondent Armor argues that "subject imports from France are negligible and that this investigation should be terminated, as a matter of law."[99] Armor claims that subject imports from France were *** percent of all imports in the most recent 12-month period for which data are available.[100] Armor derives this percentage from a novel interpretation of the negligibility provision. Armor points out that the statutory language states that imports from a subject country corresponding to a domestic like product shall be deemed negligible if such imports account for less than 3 percent of the volume of all such merchandise imported into the United States in the most recent 12-month period preceding the filing of the petition.[101] Armor interprets the "corresponding to a domestic like product" language to mean that in cases where the Commission expands the domestic like product beyond the scope of the investigation (as we did in these investigations to include finished fax TTR), the Commission should calculate negligibility in relation to all imports of merchandise that correspond to the domestic like product.[102]

We do not agree with Armor's interpretation of the statute. We interpret the statute to require us to calculate negligibility by dividing the volume of subject imports from each of the subject countries by the volume of all imports of merchandise defined by the scope (not the domestic like product). It is true that subparagraph (A) of the negligible imports provision states that negligibility decisions are to be made with respect to subject imports "corresponding to a domestic like product identified by the Commission."[103] However, when all sub-sections of the negligibility provision (A-D) are read together,

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[96] *Compare* CR and PR Tables IV-1 and D-2.

[97] *See* CR and PR Tables IV-1 and D-2.

[98] CR and PR Table III-2. We note that the operations of each of these four firms is less profitable than the average for all U.S. converters. CR and PR Tables IV-1 and D-2.

[99] Armor Prehearing Br. at 15.

[100] Armor Prehearing Br. at 15.

[101] 19 U.S.C. §1677(24).

[102] Armor Prehearing Br. at 11-15; Armor Posthearing Br. at Exhibit 1, answer to question by Chairman Okun.

[103] 19 U.S.C. § 1677(24)(A)(I). We interpret the reference to imports "corresponding to a domestic like product" to apply to a situation in which the Commission finds more than one like product corresponding to a given scope of subject merchandise. In that situation the Commission would determine negligibility by comparing the imports of subject merchandise that correspond to the particular like product within (but smaller than) the scope with all imports corresponding to that same like product.

we interpret the statute as directing the Commission to calculate negligibility using the volume of all imports as defined by the scope.

For instance, subsection (B) provides special circumstances for measuring negligibility in countervailing duty investigations. That subsection states that "subparagraph (A) shall be applied to imports of subject merchandise from developing countries by substituting '4 percent' for '3 percent' in subparagraph (A)(ii)." Thus, the language of subsection (B) interprets the phrase "merchandise corresponding to a domestic like product" in subsection (A) as "subject merchandise." Subsection (D) provides clearer guidance on this issue. That subsection provides that, in regional industry investigations, the Commission's examination under subsection (A) and (B) shall be based on the volume of subject merchandise exported for sale in the regional market in lieu of all subject merchandise imported into the United States.[104] This provision makes clear that this special regional analysis substitutes for one where measurement is made based on the level of all subject imports. In other words, Congress intended the word "merchandise" in the phrase "merchandise corresponding to a domestic like product" to mean imports subject to investigation, *i.e.*, within the definition of the scope.

Moreover, nothing in the SAA or legislative history indicates that Congress intended for the Commission to evaluate the volume of imports that are outside the scope of the investigation. Such an evaluation might intrude on the exclusive authority of Commerce to define the imported merchandise subject to investigation.

Subject imports from France were *** percent of all imports defined by the scope from June 2002 to May 2003.[105] Subject imports from Japan were *** percent of total imports from June 2002 to May 2003.[106] Therefore we find that imports from neither of the subject countries in these investigations are negligible under the statutory provision.[107]

IV. CUMULATION

A. In General[108]

For purposes of evaluating the volume and price effects for a material injury determination, section 771(7)(G)(I) of the Act requires the Commission to cumulate subject imports from all countries as to which petitions were filed and/or investigations self-initiated by Commerce on the same day, if such imports compete with each other and with domestic like products in the United States market.[109] In assessing whether subject imports compete with each other and with the domestic like product,[110] the Commission has generally considered four factors, including:

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[104] 19 U.S.C. § 1677(24)(D) (emphasis added).

[105] CR and PR Table IV-5.

[106] CR and PR Table IV-5.

[107] 19 U.S.C. §1677(24).

[108] As noted earlier, Commerce determined that imports from Korea were not being sold in the U.S. market at less than fair value. Therefore, we terminated the investigation with regard to Korea. 69 Fed. Reg. 19237 (April 12, 2004). Because we terminated the investigation with regard to Korea, imports from that country are not eligible for cumulation. 19 U.S.C. § 1677(7)(G)(ii)(I).

[109] 19 U.S.C. § 1677(7)(G)(I). There are four exceptions to the cumulation provision, none of which applies to these investigations with respect to France and Japan. See id. at 1677(7)(G)(ii).

[110] The SAA (at 848) expressly states that "the new section will not affect current Commission practice under which the statutory requirement is satisfied if there is a reasonable overlap of competition." Citing Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898, 902 (Ct. Int'l Trade 1988), aff'd 859 F.2d 915 (Fed. Cir. 1988).

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

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

(3) the existence of common or similar channels of distribution for subject imports from different countries and the domestic like product; and

(4) whether the subject imports are simultaneously present in the market.[111]

While no single factor is necessarily determinative, and the list of factors is not exclusive, these factors are intended to provide the Commission with a framework for determining whether the subject imports compete with each other and with the domestic like product.[112] Only a "reasonable overlap" of competition is required.[113]

Petitioner argues that the Commission should cumulate imports from the subject countries because there is a significant overlap of competition among TTR from all subject countries, as well as between these countries and domestic producers. French respondent Armor argues that subject imports from France should not be cumulated with subject imports from Japan because imports from France do not compete with any other type of TTR (domestic or foreign) in the U.S. market.

B. Analysis

Petitions covering subject imports from Japan and France were filed on the same day; thus imports from the two countries are eligible for cumulation.

Subject imports of TTR from France and Japan are largely interchangeable with each other and with the domestic like product.[114] Although Armor argues that TTR from France are not interchangeable with domestic or imported TTR products, questionnaire responses indicate the contrary. Producers, importers, and purchasers were asked to assess how interchangeable certain TTR from the United States were with certain TTR from subject countries and nonsubject countries.[115] Four out of six responding domestic producers reported that imports from France were either always or frequently interchangeable with the domestic like product and with subject imports from Japan.[116] In addition, all responding importers (except Armor) and purchasers reported that subject imports from all subject countries were either frequently or sometimes interchangeable with each other and with the domestic like product.[117] A

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

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

[113] See Goss Graphic Sys., Inc. v. United States, 33 Fed. Supp. 2d 1082, 1087-88 (Ct. Int'l Trade 1988) ("[C]umulation does not require two products to be highly fungible" (quoting BIC Corp. v. United States, 964 F. Supp. 391, 400 (Ct. Int'l Trade 1997))); Mukand Ltd., 937 F. Supp. at 916; Wieland Werke, AG, 718 F. Supp. at 52 ("Completely overlapping markets are not required.").

[114] CR and PR Tables II-6 and II-7.

[115] Their answers are summarized in tables II-6 and II-7 of the Staff Report.

[116] CR and PR Table II-6.

[117] CR and PR Table II-7.

majority of purchasers reported that the domestic like product and imports from each of the subject countries are comparable in the majority of product characteristics.[118]

Armor argues that its imports consist entirely of high-quality niche merchandise and thus do not directly compete with imported or domestic TTR. Pricing data, however, indicate the existence (and growing volume) of sales of appreciable quantities of general purpose finished TTR made from jumbo rolls from France.[119] These pricing categories represent common wax and wax/resin products that are not used in "niche" or specialty applications. Thus, we conclude that pricing data for finished TTR indicate that significant quantities of subject imports of jumbo rolls from France were necessarily of the same common wax and wax/resin composition as those marketed by the domestic industry and the sellers of the Japanese product.

With respect to channels of distribution, the record information is mixed. Most French product is sold via contracts to OEM customers, whereas most U.S. and Japanese product is sold via spot sales to distributors. Nevertheless, a more-than-minor percentage *** of shipments of French TTR is sold via spot sales. Moreover, several purchasers, including those listed by Armor as OEM contract purchasers, reported that they also purchased from Japanese and U.S. suppliers.[120] In addition, we note that purchasers that testified on behalf of Armor during the Commission's preliminary conference (one an OEM and the other a distributor) stated that they purchase subject TTR from France as well as domestic TTR and other subject TTR.[121]

Subject imports and the domestic like product compete in the same geographic markets and were simultaneously present in the U.S. market throughout the period examined.[122]

Therefore, we find that there is a reasonable overlap of competition between subject imports from France and Japan and the domestic like product. We cumulatively assess the volume and effects of the subject imports for those countries.

V. NO MATERIAL INJURY BY REASON OF CUMULATED LESS THAN FAIR VALUE IMPORTS

In the final phase of an antidumping duty investigation, the Commission determines whether an industry in the United States is materially injured by reason of the imports under investigation.[123] In making this determination, the Commission must consider the volume of imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.[124] The statute defines "material injury" as "harm

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[118] CR and PR Table II-3. A standard TTR industry compatibility matrix lists numerous Armor USA products that correspond to products produced by all the major U.S. and Japanese producers. See Avery Dennison, Thermal Transfer Ribbon Compatibility Matrix.

[119] CR and PR Table V-1.

[120] For instance, purchaser *** percent of its TTR products from ***, *** percent from ***, *** percent from ***, *** percent from ***, and *** percent from ***. *** Purchaser Questionnaire at 17.

[121] Conference Tr. at 143-45, 163-64.

[122] CR at II-3; PR at II-2

[123] 19 U.S.C. § 1673d(b).

[124] 19 U.S.C. § 1677(7)(B)(i). The Commission "may consider such other economic factors as are relevant to the determination" but shall "identify each [such] factor . . . [a]nd explain in full its relevance to the determination." 19 U.S.C. § 1677(7)(B); see also Angus Chemical Co. v. United States, 140 F.3d 1478 (Fed. Cir. 1998).

which is not inconsequential, immaterial, or unimportant."[125] In assessing whether the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.[126] No single factor is dispositive, and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[127] For the reasons discussed below, we determine that the domestic industry producing TTR is not materially injured by reason of imports from France and Japan found to be sold at less than fair value.

A. Conditions of Competition

Several conditions of competition are pertinent to our analysis.

Demand, as measured by apparent U.S. consumption quantity, increased in every year of the period of investigation, from *** msi in 2001 to *** msi in 2002, and *** msi in 2003, for an overall period increase of ***.[128] In terms of value, consumption declined *** percent from 2001 to 2003.

The three largest U.S. producers account for the bulk of U.S. production of TTR. These three are IIMAK, an independent U.S. producer; Dynic, a U.S. producer owned by Dynic Corp. of Japan; and Sony, a U.S. producer owned by Sony Chemicals Corp. of Japan. IIMAK stated that it was the only U.S. corporate entity for which TTR production provides its main source of revenue.[129] The trends in the financial performance of the coaters varied over the period examined.

IIMAK was founded in 1984 and was granted a license from Fujicopian that included patent rights and TTR manufacturing know-how in exchange for royalty payments from IIMAK.[130] The licensing agreement, scheduled to run through 2008, also granted IIMAK territorial exclusivity to sell TTR in North America. French respondent Armor was also under a similar licensing agreement with Fujicopian Japan that included territorial exclusivity provisions with regard to Europe. Thus Armor France, Fujicopian Japan, and IIMAK had their respective local markets protected from competition from one another due to licensing agreements.[131] According to the petitioner, the Fujicopian/Armor agreement ended in 1998, giving Armor complete access to the U.S. market, and the Fujicopian/IIMAK agreement was modified in 2000 to allow a licensed affiliate to sell Fujicopian products in the United States.[132] Fujicopian testified that IIMAK initiated the license modification to reduce its royalty obligations and to obtain access to the Asian TTR market.[133]

According to respondents, Paxar acquired IIMAK in 1997 and sold it in March 2000 to IIMAK management in a highly leveraged buyout. Respondents allege that IIMAK management has made numerous failed investments since then, including capital investments emphasizing color and specialty

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[125] 19 U.S.C. § 1677(7)(A).

[126] 19 U.S.C. § 1677(7)(C)(iii).

[127] 19 U.S.C. § 1677(7)(C)(iii).

[128] CR and PR Table C-3.

[129] CR at II-4; PR at II-3.

[130] CR at III-3; PR at III-3.

[131] CR at III-2 - III-3; PR at III-3. IIMAK contends that the territorial exclusivity provisions were important to the agreements because all three companies sold identical or nearly identical products. Petition at 75.

[132] Petition at 75.

[133] Conference Tr. at 117-18.

TTR.[134] IIMAK claimed that its debt load was not unusually large and that it was not the cause of its financial troubles.[135]

During the period examined domestic production capacity greatly exceeded domestic consumption.[136] Domestic producers' capacity increased *** percent during the period of investigation from *** msi in 2001 to 3.16 billion msi in 2003.[137] Projections in the late 1990s into 2000 led both U.S. coaters and U.S. converters to increase capacity but demand has not been as strong as some had projected.[138]

Different producers of TTR have proprietary formulas for the ink-making and coating portions of their production processes; however, each producer generally produces a branded category (formulation) of TTR that will work in the most common printers in the industry, and customers have cross-reference guides to help them compare one brand to another within a particular formulation. The record indicates that within any one of the most common formulations, TTR is generally a commodity product for which price is an important factor in a sale.[139] Out of 32 responding purchasers, 26 identified price as a very important factor in purchasing decisions. Thus, TTR is sold primarily on the basis of price although non-price factors such as compatibility, quality, and after market services are important considerations for purchasers.[140]

Direct competition between subject imports and the U.S. product is limited owing to the distinct processing stages at which each generally enters the U.S. market. Imports of subject merchandise consist entirely of jumbo rolls (the semifinished product), for which there exists only a small domestic merchant market.[141] Imports largely are consumed by the importers themselves to produce finished TTR. U.S. producers sell the vast majority of their TTR in finished form, the downstream product. Consequently, only a small share of domestically produced jumbo rolls are sold on the merchant market; U.S. producers' U.S. shipments of jumbo rolls as a share of total U.S. shipments ranged from *** percent during *** to *** percent in 2003.[142] Therefore, we find that the vast majority of merchant market competition in the industry occurs at the level of finished TTR.[143]

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[134] Conference Tr. at 104-107.

[135] IIMAK Posthearing Br. Appendix at 48-49.

[136] CR and PR Table C-3.

[137] CR and PR Table C-3. With respect to IIMAK's reported capacity to produce certain TTR, the Commission notes that the reference to IIMAK's overstated capacity in Part II of the staff report should reflect the fact that the firm restated its capacity figures to remove idle capacity related to old machines. CR at II-5, n.20; PR at II-3, n.20; Petitioner's Posthearing Br., Appendix at 52. The capacity figures presented in the staff report reflect the restated data for IIMAK. CR and PR at II-5 n. 27.

[138] CR at II-7-8; PR at II-4.

[139] See e.g., testimony of Dick Marshall, Chief Executive Officer and Chairman of the Board of IIMAK: "As the industry got smarter and clever and as the printers got more robust, we could design inks that could be used in anybody's printers, so an after market developed and that is where the largest part of the distribution is today." Hearing Tr. at 112-113 (Marshall).

[140] We note that while factors other than price are important, there are no consistent differences in these factors between subject imports and the domestic product. CR and PR Table II-3.

[141] CR at IV-3; PR at IV-2..

[142] CR and PR Table II-4A.

[143] Both petitioner and respondents asserted that competition in the market for TTR primarily occurs at the finished stage. Hearing Tr. at 11 (Cunningham), at 35 (Klett), at 52-53 (Goluob), 204-205 (Malashevich). Given our finding that U.S. converters are part of the domestic industry, finished TTR made from imported jumbo rolls are considered to be domestic production.

In contrast with the limited competition between subject imports and the domestic product, competition among domestic producers is significant. All parties to these investigations described competition in the U.S. market for finished TTR as very aggressive, with several industry witnesses testifying that domestic producers had been engaged in a "price war" during the period of investigation.[144] This evidence of aggressive price competition between domestic companies was corroborated by trade articles submitted by the parties. For instance, one article reported that "price wars have come to be the norm in the TTR industry . . . Sony Chemical Corporation of America (SCAA) Director and EVP of Sales and Marketing Michael Oliverio openly stated that, 'through aggressive pricing, we believe we can cut our competition numbers from 19 or 20 down to five.'"[145]

The majority of imports of TTR within the scope of the investigation are from subject countries. Virtually all responding producers, importers, and purchasers reported that imports from each subject country were always, frequently or sometimes substitutable with the domestic like product and with each other.[146] Nonsubject imports of certain TTR from Korea accounted for *** percent of apparent domestic consumption in 2003, and non-subject finished fax TTR accounted for *** percent of apparent domestic consumption in 2003.[147] Moreover, respondent Armor imports subject jumbo rolls from France, slits them in the United States, and exports a significant portion of the finished product to countries in Latin America.[148]

B. Volume of Subject Imports

Section 771(7)(C)(i) of the Act provides that the "Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant."[149]

Subject import volume increased over the period examined, from 295 million msi in 2001 to 373 million msi in 2003, an increase of 26 percent; shipments of subject imports rose 18 percent over the same period.[150] Subject imports accounted for *** percent of apparent U.S. consumption (by quantity) in 2001, *** percent in 2002, and *** percent in 2003.[151] Thus, subject imports' share of the U.S. market increased less than *** over the period of investigation.[152] As a percentage of domestic production, subject imports were *** percent (by quantity) in 2001, 19.7 percent in 2002, and 13.5 percent in 2003.[153] Thus, subject imports, measured as a share of domestic production, actually declined over the period of investigation.

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[144] Conference Tr. at 128 (Cameron), 172 (Wechsler); Hearing Tr. 161 (Klett).

[145] ITW Prehearing Br. at Exhibit 2 (Dec. 27, 2002 article in SCAN: The Data Capture Report). In the same article Mr. Oliverio is also quoted as stating: "We didn't start these price wars, but we're going to finish them." We note that while Sony did not participate in these investigations, it did file a letter with the Commission that indicated that, at the time of the article, Mr. Oliverio was a consultant for Sony, and became a Sony official in January 2003.

[146] CR and PR Tables II-6 and II-7.

[147] CR and PR Table C-3.

[148] Armor Posthearing Br. at 10-11. During the period of investigation converters that imported subject jumbo rolls exported *** msi in 2001, *** msi in 2002, and *** msi in 2003. CR and PR Table D-2.

[149] 19 U.S.C. § 1677(7)(C)(i).

[150] CR and PR Tables IV-2 and C-3.

[151] CR and PR Table C-3.

[152] CR and PR Table C-3.

[153] CR and PR Tables IV-2 and C-3.

In contrast, the domestic industry's market share increased significantly over the period of investigation. The domestic industry's share of apparent U.S. consumption was *** percent in 2001, *** percent in 2002, and *** percent in 2003, for a period-wide increase of *** percentage points.[154] Coinciding with this increase in domestic market share, nonsubject imports' market share declined by *** percentage points over the same period.[155] Thus the domestic industry gained market share at the expense of nonsubject imports during the period of investigation.[156]

While the increase in the absolute quantity of subject imports could be viewed as significant, subject imports grew only slightly relative to domestic consumption and decreased relative to domestic production. Given this fact, and the conditions of competition outlined above, we do not find subject import volume overall to be significant.

Petitioner argues that the Commission should measure shipments and market share of subject imports using the shipments of finished TTR made by domestic converters from subject imported jumbo rolls.[157] However, our finding that the activities of domestic converters are domestic production means that their shipments are domestic shipments. The fact that Commerce determined that slitting/conversion would not constitute a substantial transformation for purposes of applying antidumping duties does not change this result.[158] Commerce's finding that imported finished TTR would be considered subject imports if the jumbo rolls were produced in one of the two subject countries and further processed in a third country does not control our treatment of finished TTR converted from jumbo rolls, from whatever source, as domestic articles due to the evidence on this agency's record concerning the significant production related activities that occur in converting jumbo rolls in the United States.

C. Price Effects of the Subject Imports

Section 771(C)(ii) of the Act[159] provides that, in evaluating the price effects of subject imports,

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[154] CR and PR Table C-3.

[155] CR and PR Table C-3.

[156] We note that the market share of domestic producers that we excluded from the domestic industry because they are related parties declined by *** percentage points over the period of investigation. CR and PR Table C-3.

[157] IIMAK Posthearing Br. at 29. Petitioner argues that in two different Commission opinions, Dynamic Random Access Memory Semiconductos of One Megabit and Above ("DRAMS") from Korea, Inv. No. 701-TA-431 (Final) USITC Pub. No. 3616 (August 2003) and DRAMS from Taiwan, Inv. No. 731-TA-811 (Final), USITC Pub. 3256 (December 1999), the Commission undertook the type of market share and price effects analysis advocated here, and that the Commission should extend the rationale of those cases to the current investigations. We note that in neither case were subject imports finished in the United States a significant factor in the market. By contrast, in this case, all subject imports are imported in semifinished form and are finished in the United States. To the extent that the DRAMs cases reflect a different approach than the one we have applied here, we decline to follow that approach.

[158] Notices of final determination regarding France and Japan, 69 Fed. Reg. 10674, March 8 2004 (France); 69 Fed. Reg. 11834, March 12, 2004 (Japan); see also, Issues and Decision Memorandum for the Antidumping Duty Investigation of Wax and Wax/Resin Thermal Transfer Ribbons from Japan (March 1, 2004). We note that, as one basis for its decision, Commerce cited our conclusion in the preliminary phase that slitters/converters were not part of the domestic industry. The Commission indicated at the time that this question was a close call and that it would re-examine it in any final phase investigations.

In any event, shipments by converters made from subject imports declined slightly from 2001 to 2003; thus, using those shipments to measure subject imports would arguably render them less significant than using subject imports of jumbo rolls, as the Commission has done. See, e.g., CR and PR Table C-2A (shipments by converters of finished TTR made from imported jumbo rolls declined *** percent from 2001 to 2003).

[159] 19 U.S.C. § 1677(7)(C)(ii).

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

The Commission requested that U.S. coaters, converters, and importers of TTR provide quarterly pricing data for the total quantity and value of certain TTR that was shipped to unrelated customers in the U.S. market.[160] The Commission gathered data on three products. However, products 1 and 3 included as "subject imports" finished TTR that was produced in the United States from subject jumbo rolls.[161] As we have determined to treat imports that were finished in the United States as domestic products, these price comparisons do not reflect underselling by subject imports, but rather comparisons of prices of domestic articles, albeit made from imported subject inputs.[162]

Thus, we primarily rely on the pricing data of semifinished jumbo rolls of a common type of black wax ribbon (product 2). Pricing data for open market sales of jumbo rolls represent much lower volumes than the data for finished products, given the small merchant market for jumbo rolls.[163] These data indicate that while domestic prices declined over the period of investigation, subject import prices were consistently higher than those of the domestic like product during the period of investigation.[164] Subject imports oversold the domestic like product by margins ranging from *** percent to *** percent in 9 out of twelve quarters.[165]

These limited data are corroborated by the comparisons of average unit value data for jumbo rolls. While we acknowledge that there are some limitations to average unit values due to product mix issues, we note that subject import unit values were higher than the unit values of shipments of domestic jumbo rolls in every year of the period of investigation.[166] Average unit values for domestically produced jumbo rolls were $*** per msi in 2001, $*** per msi in 2002, and $*** per msi in 2003.[167] Average unit values for jumbo rolls from subject countries were $*** per msi in 2001, $*** per msi in 2002, and $*** per msi in 2003.[168] Thus, domestic prices declined despite the fact that subject imports were priced higher in the same period. Consequently, we find no significant underselling by subject imports during the period of investigation.

The pricing data for all three products reflect a downward trend for domestic prices during the period of investigation. This trend was the same at the jumbo roll stage of processing and at the finished stage. We find that the movement of domestic prices (upward and downward) was largely unrelated to the price of imported merchandise.[169] The pricing of jumbo rolls is particularly probative on this issue

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

[161] CR at V-5; PR at V-4

[162] Thus, the statement at page V-9 of the Confidential Staff Report that "there was consistent underselling by subject imports for products 1 and 3" does not reflect the Commission's determination given that the pricing data for those product categories only represent domestic prices, not subject imports.

[163] CR and PR Table V-4.

[164] CR and PR Table V-4.

[165] CR and PR Table V-4.

[166] Compare CR and PR Tables III-4A and IV-2.

[167] CR and PR Table III-4-A.

[168] CR and PR Table IV-2. In addition, a majority of purchasers rated subject imports as comparably priced to domestic TTR. CR and PR Table II-3.

[169] We note that pricing for product 3 to OEMS generally increased over the period of investigation. CR and PR Table V-6.

given that domestic prices declined despite the fact that subject import prices were consistently higher than domestic prices.

Petitioner argued that converters benefitted from dumped import pricing of jumbo rolls to drive prices of finished TTR down.[170] As noted above, the evidence suggests otherwise. The pricing and average unit value data indicate that subject jumbo rolls were priced higher than domestic jumbo rolls, and as such converters did not have a raw material cost advantage over domestic coaters. Our conclusion is also supported by the fact that the financial performance of converters that were most dependent on imported jumbo rolls was no better than that of domestic coaters.[171] Thus, we find that importation of jumbo rolls did not confer a competitive advantage to converters over coaters with respect to the production of finished TTR products.[172]

There were no lost sales or lost revenue allegations regarding subject imports of jumbo rolls during the period of investigation. Although petitioner alleges lost sales and revenues associated with sales of finished TTR, these sales appear to have been lost to domestic products produced by converters, not subject imports. Only some of the allegations were agreed to in any event.[173]

Although petitioner urges the Commission to focus on prices for finished TTR made from imported jumbo rolls, the significant domestic operations performed on the imported jumbo rolls renders the prices of the downstream products of only limited usefulness as a proxy for subject import prices. Thus, even if we were to find that the data indicate some impact of subject imports on domestic prices, we would not conclude that the impact was significant. The fact that other factors have placed substantial downward pressure on domestic prices reinforces this view.

Several other market factors appear to have helped push domestic prices down over the period examined. As noted above, the domestic industry significantly increased its capacity, which was already well above U.S. consumption levels. Intra-industry competition appears to have been severe.[174] In this regard, we note that Table E-1 of the staff report indicates that domestic producer Sony increasingly lowered its prices below those of *** during the period of investigation and, as a result of this aggressive pricing, gained larger volume sales.[175] Consistent with this data, responding purchasers increasingly reported Sony as being a price leader in the industry.[176] The domestic industry's raw material costs declined significantly over the period of investigation combined with significant increases in productivity. Declining costs and increased productivity would also be expected to contribute to the price declines, as companies would be able to reduce prices and still remain profitable.

For these reasons we find that subject imports did not suppress or depress domestic prices to any significant degree.

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[170] "The relative raw material cost advantage of coated rely on lower cost LTFV jumbo rolls has increased over the POI relative to coders (i.e., coaters)." Hearing Tr. at 35(Klett)

[171] Compare CR and PR Table C-3 with Table C-5.

[172] CR and PR Table D-4. In this regard, we note that several domestic coaters had profitable coating operations. For example,*** coating operations were profitable while its slitting operations lost money during the period of investigation. Compare CR and PR Tables D-3 and D-4.

[173] Others pertained wholly or partially to non-subject imports.

[174] See Nasty Times Ahead for TTR Industry: Price Wars May Force Many Thermal Transfer Ribbon (TTR) Players Out of Business, Scan: the Data Capture Report, Dec. 27, 2002, at 1-2 (quoting Sony Executive Vice President Michael Oliverio), attached as Exhibit 13 to ITW's Postconference Brief.

[175] CR and PR Table E-1.

[176] Seven out of 14 purchaser responses identified Sony as a price leader in 2001 whereas 18 out of 22 purchaser responses identified Sony as a price leader in 2003. CR and PR Table II-4.

D. Impact of the Subject Imports[177]

Section 771(7)(C)(iii) provides that the Commission, in examining the impact of the subject imports on the domestic industry, "shall evaluate all relevant economic factors which have a bearing on the state of the industry."[178] These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, research and development, and factors affecting domestic prices. No single factor is dispositive and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[179]

We find that cumulated subject imports of TTR from France and Japan have not had a significant negative impact on the condition of the domestic industry during the period examined. As discussed above, we find both the volume of subject imports and price effects of the subject imports not to be significant.

The domestic industry's volume-based indicia, *i.e.*, production, shipments, and market share, showed a positive trend over the period examined. Production quantity increased from *** msi in 2001, to 1.59 billion msi in 2002, to 1.74 billion msi in 2003.[180] Shipment quantity increased from *** msi in 2001, to 1.14 billion msi in 2002, to 1.21 billion msi in 2003.[181] Domestic industry market share, as a percentage of apparent U.S. consumption, increased from *** percent in 2001, to *** percent in 2002, to *** percent in 2003.[182]

The domestic industry's labor and non-labor costs declined substantially during the period examined. Hourly wages increased by *** percent and unit labor costs declined by *** percent during the period of investigation.[183] In addition, cost of goods sold ("COGS") per msi declined by *** percent and selling, general, and administrative ("SG&A") expenses per msi declined by *** percent from 2001 to 2003.[184]

Operating income declined slightly by *** percent but remained positive from 2001 to 2003. Operating income was *** in 2001 and $14.68 million in 2003.[185] Operating income as a percentage of net sales declined marginally but remained strong, decreasing from *** percent in 2001 to 7.5 percent in

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[177] In its notices of final determination, Commerce found dumping margins for imports of subject merchandise from France to be 44.93 to 60.60 percent and it found dumping margins for imports of subject merchandise from Japan to be 106.60 to 147.30 percent. 69 Fed. Reg. 10674, March 8 2004 (France); 69 Fed. Reg. 11834, March 12, 2004 (Japan).

[178] 19 U.S.C. § 1677(7)(C)(iii); see also SAA at 851 and 885 ("in material injury determinations, the Commission considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they also may demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.") SAA at 885.

[179] 19 U.S.C. § 1677(7)(C)(iii); see also SAA at 851, 885; Live Cattle from Canada and Mexico, Inv. Nos. 701-TA-386, 731-TA-812-813 (Preliminary), USITC Pub. 3155 at 25 n.148 (Feb. 1999).

[180] CR and PR Table C-3.

[181] CR and PR Table C-3.

[182] CR and PR Table C-3.

[183] CR and PR Table C-3.

[184] CR and PR Table C-3.

[185] CR and PR Table C-3.

2003.[186] Capital expenditures declined from *** to *** between 2001 and 2003.[187] Research and development expenses rose from $*** in 2001, to $*** in 2002, and to $*** in 2003.[188]

Thus, the domestic industry operated profitably during the period of investigation. Any adverse effects caused by declining prices were largely offset by significant gains in productivity, declining costs, and increases in production, shipments, and market share. To this end, we note that while unit sales values declined during the period of investigation, these declines were matched by equally declining costs.[189]

Therefore, we find that the domestic industry's performance indicators do not show that subject imports had any significant effect on the performance of the domestic industry.

For the reasons stated above, we determine that an industry in the United States is not materially injured by reason of subject imports of TTR from France and Japan sold in the United States at less than fair value.

VI. NO THREAT OF MATERIAL INJURY BY REASON OF CUMULATED LESS THAN FAIR VALUE IMPORTS

Section 771(7)(F) of the Act directs the Commission to determine whether an industry in the United States is threatened with material injury by reason of the subject imports by analyzing whether "further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted."[190] The Commission may not make such a determination "on the basis of mere conjecture or supposition," and considers the threat factors "as a whole."[191] In making our determination, we have considered all factors that are relevant to this investigation.[192] Based on an evaluation of the relevant statutory factors, we find that the TTR

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[186] CR and PR Table C-3.

[187] CR and PR Table C-3.

[188] CR and PR Table VI-5.

[189] CR and PR Table D-1. While we evaluate the condition of the industry as a whole, we note that individual company results varied greatly during the period of investigation. For instance, *** in 2003 while *** in 2003. CR and PR Table D-3.

[190] 19 U.S.C. § 1677d(b) and 1677(7)(F)(ii).

[191] 19 U.S.C. § 1677(7)(F)(ii). An affirmative threat determination must be based upon "positive evidence tending to show an intention to increase the levels of importation." Metallverken Nederland B.V. v. United States, 744 F. Supp. 281, 287 (Ct. Int'l Trade 1990), citing American Spring Wire Corp. v. United States, 590 F. Supp. 1273, 1280 (Ct. Int'l Trade 1984); see also Calabrian Corp. v. United States, 794 F. Supp. 377, 387-88 (Ct. Int'l Trade 1992), citing H.R. Rep. No. 98-1156 at 174 (1984).

[192] 19 U.S.C. § 1677(7)(F). The Commission must consider, in addition to other relevant economic factors, the following statutory factors in its threat analysis:

> (I) if a countervailable subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy particularly as to whether the countervailable subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement and whether imports of the subject merchandise are likely to increase,
>
> (II) any existing unused production capacity or imminent, substantial increase in production capacity in the exporting country indicating the likelihood of substantially increased imports of the subject merchandise into the United States, taking into account the availability of other export markets to absorb any additional exports,
>
> (III) a significant rate of increase of the volume or market penetration of imports of the subject merchandise indicating the likelihood of substantially increased imports,

(continued...)

industry in the United States is not threatened with material injury by reason of imports of TTR from France and Japan that are sold in the United States at LTFV. We have evaluated subject imports from France and Japan on a cumulative basis. As found above, there is a reasonable overlap of competition between the subject imports and with the domestic like product. In addition, the volume and price trends for both countries are similar in that the absolute volume of subject imports from France and Japan both increased over the period examined, and the AUVs of subject imports from each country decreased.

As an initial matter, we find that the domestic industry is not vulnerable to a threat of material injury by reason of the subject imports from France and Japan. As discussed above, the industry's performance remained positive and relatively steady during the period of investigation, with the industry enjoying positive operating income and positive operating income ratios during each of the three years of the period of investigation.[193] The domestic industry's production, capacity utilization, and shipments all increased during the period of investigation, despite the presence of subject imports.[194] The domestic industry's market share increased by *** percentage points from 2001 to 2003.[195]

We find that the increase in the volume and market share of the subject imports does not indicate a likelihood of substantially increased imports. Subject imports increased only slightly relative to U.S. consumption and decreased relative to U.S. production. Subject import volumes had little direct impact, if any, on the domestic industry, and there is no evidence that conditions of competition would change in such a way that any increases in the imminent future would have an adverse impact on the domestic industry. The most recent trends in subject import volumes do not indicate that it is likely that there will be substantially increased imports of subject merchandise in the imminent future.[196]

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[192] (...continued)

(IV) whether imports of the subject merchandise are entering at prices that are likely to have a significant depressing or suppressing effect on domestic prices and are likely to increase demand for further imports,
(V) inventories of the subject merchandise,
(VI) the potential for product-shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products,
(VII) in any investigation under this subtitle which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv)) and any product processed from such raw agricultural product, the likelihood that there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission under section 1671d(b)(1) or 1673d(b)(1) of this title with respect to either the raw agricultural product or the processed agricultural product (but not both),
(VIII) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and
(IX) any other demonstrable adverse trends that indicate the probability that there is likely to be material injury by reason of imports (or sale for importation) of the subject merchandise (whether or not it is actually being imported at the time).

Moreover, the Commission shall consider the threat factors "as a whole" in making its determination "whether further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur" unless an order issues. In addition, the Commission must consider whether dumping findings or antidumping remedies in markets of foreign countries against the same class of merchandise suggest a threat of material injury to the domestic industry.

Factors I and VII are inapplicable to these investigations.

[193] CR and PR Table C-3.

[194] CR and PR Table C-3.

[195] CR and PR Table C-3.

[196] Importers reported only modest quantities of subject imports imported or arranged for importation after December 31, 2003. CR at VII-9, PR at VII-4.

We also find that there is no indication that unused production capacity or any imminent increases in production capacity in France and Japan likely will lead to substantially increased imports in the imminent future. While the record indicates that the subject producers of TTR had substantial unused capacity, this unused capacity existed from the beginning of the period of investigation and did not result in significant increases in export volumes to the United States.[197]

Contrary to petitioner's argument, the evidence indicates that markets outside the United States are not closed to products from subject countries. Subject producers' exports were large and increasing over the period of investigation.[198] There are no known dumping findings or investigations on TTR in other markets that might impede exports from France and Japan to those markets.[199] Inventories held by subject foreign producers grew only modestly over the period.[200] Thus, we do not find that unused foreign producer capacity or inventories will result in substantially increased imports to the U.S. market.

There is no potential for product shifting by subject producers given that no substitute products can be made using equipment and facilities used to make TTR.[201]

We also find it unlikely that subject imports will enter the U.S. market at prices likely to suppress or depress domestic prices to any significant degree or to increase demand for subject imports. As discussed above, the record evidence indicates that subject import prices have had no significant adverse effects on domestic prices. Moreover, the limited evidence available indicates that subject imports largely oversold the domestic like product during the period of investigation. We see nothing in the record that indicates that conditions of competition in the industry will change so significantly in the imminent future that domestic prices will likely be adversely affected to a significant degree by subject import prices.

We also find that subject imports are not likely to have an actual or potential negative effect on the domestic industry's existing development and production efforts.[202] Finally, there is no evidence of any other demonstrable adverse trends that indicate a probability that the subject imports will materially injure the domestic industry.[203] On the contrary, the industry's performance has been positive, and supports our finding that the industry is not threatened with material injury by reason of the subject imports. Accordingly, we find that the domestic industry producing TTR is not threatened with material injury by reason of subject imports from France and Japan.

CONCLUSION

For the reasons stated above, we determine that an industry in the United States is not materially injured or threatened with material injury by reason of imports of certain wax and wax/resin thermal transfer ribbons from France and Japan that are sold in the United States at less than fair value.

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[197] CR and PR Table VII-3.

[198] CR and PR Table VII-3. The domestic industry's exports were also significant, and grew from 2001 to 2003. CR and PR Table C-3.

[199] CR and PR at VII-9.

[200] Inventories grew 8 percent over the period of investigation. CR and PR Table VII-3. Similarly, importer inventories of subject imports grew by an amount equal to only *** percent of U.S. apparent consumption in 2003. CR and PR Table VII-5.

[201] CR at VII-1 - VII-3; PR at VII-1 - VII-2.

[202] As described above, industry capital expenditures declined from 2001 to 2003, whereas R&D expenses rose somewhat. CR and PR at Tables VI-5, VI-11 and VI-12.

[203] 19 U.S.C. § 1677(7)(F)(I)(IX).

PART I: INTRODUCTION

BACKGROUND

These investigations result from a petition filed on May 30, 2003, by IIMAK International Imaging Materials, Inc. ("IIMAK") of Amherst, NY, alleging that an industry in the United States is materially injured and threatened with further material injury by reason of less-than-fair-value ("LTFV") imports of certain wax and wax/resin thermal transfer ribbons ("certain TTR")[1] from France, Japan, and Korea. On April 6, 2004, the Commission terminated its investigation regarding Korea (Inv. No. 731-TA-1041 (Final)) as a result of Commerce's final negative determination of LTFV sales of subject imports from Korea. Notwithstanding the termination, this report contains information gathered during the final phase investigations regarding imports of certain TTR from Korea, as they were subject to investigation until March 29, 2004. Information relating to the background of these investigations is provided below.[2]

Effective date	Action	*Federal Register* citation
May 30, 2003	Petitions filed with Commerce and the Commission; Commission institutes investigations	68 FR 34642, June 10, 2003
June 27, 2003	Initiation of investigations by Commerce	68 FR 38305, June 27, 2003
July 14, 2003	Commission's preliminary determinations	68 FR 42759, July 18, 2003
December 22, 2003	Commerce's preliminary determinations	68 FR 71068, December 22, 2003
December 22, 2003	Commission's scheduling of its final phase investigations	69 FR 1302, January 8, 2004
March 5, 2004	Commerce's final affirmative determinations with respect to France and Japan	69 FR 10674, March 8, 2004 (France); 69 FR 11834, March 12, 2004 (Japan)
March 9, 2004	Commission's hearing[1]	NA
March 29, 2004	Commerce's final negative determination with respect to Korea	69 FR 17645, April 5, 2004
April 6, 2004	Commission's termination of its investigation with respect to Korea	69 FR 19237, April 12, 2004
April 7, 2004	Commission's vote	NA
April 19, 2004	Commission's determinations to Commerce	NA

[1] A list of witnesses that appeared at the hearing is presented in app. B.

[1] The products covered by these investigations are wax and wax/resin thermal transfer ribbons, in slit or unslit form. A complete description of the imported products subject to these investigations is presented in *The Product* section of this part of the report.

[2] *Federal Register* notices cited in the tabulation since Commerce's preliminary determinations are presented in app. A.

ORGANIZATION OF REPORT

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

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

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

> *In evaluating the volume of imports of merchandise, the Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States is significant.*
> . . .
> *In evaluating the effect of imports of such merchandise on prices, the Commission shall consider whether. . .(I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.*
> . . .
> *In examining the impact required to be considered under subparagraph (B)(i)(III), the Commission shall evaluate (within the context of the business cycle and conditions of competition that are distinctive to the affected industry) all relevant economic factors which have a bearing on the state of the industry in the United States, including, but not limited to*
> *. . . (I) actual and potential decline in output, sales, market share, profits, productivity, return on investments, and utilization of capacity, (II) factors affecting domestic prices, (III) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, (IV) actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced*

version of the domestic like product, and (V) in {an antidumping investigation}, the magnitude of the margin of dumping.

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

MAJOR FIRMS INVOLVED IN THE U.S. CERTAIN TTR MARKET

Apparent U.S. consumption of certain TTR was *** msi and valued at *** in 2003.[3] The U.S. certain TTR market consists of both integrated producers that coat and slit certain TTR and slitter/converters that import or purchase jumbo rolls of certain TTR and slit them to various dimensions. There are six U.S. coaters of certain TTR: (1) Dynic USA Corp. ("Dynic"); (2) International Imaging Materials, Inc. ("IIMAK"); (3) ITW Thermal Films, a division of Illinois Tool Works, Inc. ("ITW"); (4) NCR, Inc. ("NCR"); (5) Paxar Americas, Inc. ("Paxar"); and (6) Sony Chemicals Corporation of America ("Sony"). The major U.S. slitter/converters that responded to the Commission's questionnaire are: (1) Armor USA, Inc. ("Armor"); (2) DNP IMS America Corp. ("DNP"); (3) Fujicopian USA, Inc. ("Fujicopian"); (4) ITW; and (5) Union Chemicar America, Inc. ("Union"). Major U.S. importers include U.S. subsidiaries of many of the foreign producers in the subject countries, such as Dynic, Sony, Armor, DNP, Fujicopian, and Union.[4] In addition, ITW imports the subject product from its wholly owned subsidiary in Korea.

SUMMARY DATA

In the preliminary phase of these investigations, the Commission concluded that the domestic product "like" the subject merchandise included certain TTR and slitted fax TTR produced by U.S. coaters and excluded U.S. production by U.S. slitter/converters for lack of substantial production related activities.[5] Therefore, in the body of this report (and in appendix C, table C-1) unless otherwise noted, staff has presented data regarding the U.S. industry to reflect the majority views' determination as to the domestic like product.[6] The Commission also preliminarily determined that as a related party, ITW's

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[3] This U.S. consumption figure includes certain TTR coated and slitted in the United States and slitted fax TTR coated in the United States. TTR volumes are measured by area in thousand square inches ("msi"). Petition, p. 4, fn. 3.

[4] *See* p. IV-1 for information regarding the U.S. importers.

[5] *Certain Wax and Wax/Resin Thermal Transfer Ribbons from France, Japan, and Korea,* Invs. Nos. 731-TA-1039-1041 (Preliminary), USITC Pub. 3613 (July 2003), pp. 7 and 15.

[6] In the preliminary phase of these investigations, Commissioner Miller dissented and found that the domestic like product was coextensive with Commerce's scope, which did not include slitted fax TTR. She also concluded that U.S. slitters/converters did provide sufficient production activities in the United States to warrant inclusion in the U.S. industry. Finally, she concluded that appropriate circumstances existed to exclude from the domestic industry as related parties the following U.S. slitter/converters, Armor, DNP, Fujicopian, ITW, and ***. *Id.* at 30 and 35.

U.S. coating activities should be excluded from the domestic industry.[7] However, as a result of Commerce's final negative determination with regard to Korea, ITW's relatively small U.S. coating operations are included in the U.S. industry data. Data regarding U.S. slitters/converters are also displayed separately in the body of the report when possible. In appendix C, summary data are also presented for a number of alternative scenarios.

U.S. producer data are based on questionnaire responses of six U.S. coating firms that accounted for virtually all U.S. coating production between 2001 and 2003. Nine firms that have U.S. slitting/converting operations also submitted questionnaire data to the Commission. U.S. import data were compiled using the questionnaire responses of nine firms that imported the subject product from subject countries during the period 2001-2003.

PREVIOUS AND RELATED INVESTIGATIONS

Certain TTR have not been the subject of prior antidumping investigations in the United States.

NATURE AND EXTENT OF SALES AT LTFV

On March 8, 2004, Commerce published a notice in the *Federal Register* setting forth its final determination with regard to the antidumping investigation on certain TTR from France and published a notice on March 12, 2004 setting forth its final determination with regard to Japan. Commerce determined that imports from France and Japan are being sold, or are likely to be sold, in the United States at less than fair value. On April 5, 2004, Commerce published a notice in the Federal Register setting forth its final determination with regard to the antidumping investigation on certain TTR from Korea. Commerce determined that imports from Korea, which were assigned a *de minimus* margin, are not being sold, nor likely to be sold in the United States at less than fair value.[8] The weighted-average dumping margins (in percent *ad valorem*), as reported by Commerce, are presented in the following tabulation.[9]

Country	Range of margins (*percent ad valorem*)
France[1]	44.93 to 60.60
Japan[2]	106.60 to 147.30
Korea[3]	1.65

[1] Armor, S.A. received a dumping margin of 60.60 percent. The "all others" dumping margin was 44.93 percent.
[2] Union Chemicar Co., Ltd. and Dai Nippon Printing Co., Ltd. received dumping margins of 147.30 percent. The "all others" dumping margin was 106.60 percent.
[3] The dumping margin assigned to both Illinois Tool Works, Inc. and "all others" was 1.65 percent. This margin is under 2 percent, and is therefore *de minimus*.

[7] *Id.* at 17.

[8] *Notice of Final Determination of Sales at Less than Fair Value: Wax and Wax/Resin Thermal Transfer Ribbons from the Republic of Korea*, 69 FR 17645, April 5, 2004.

[9] *Notice of Final Determination of Sales at Less than Fair Value: Wax and Wax/Resin Thermal Transfer Ribbons*; France, 69 FR 10674, March 8, 2004; Japan, 69 FR 11834, March 12, 2004. Commerce's final weighted-average dumping margins are unchanged from its preliminary determinations.

THE SUBJECT PRODUCT

Commerce has defined the scope of these investigations as follows:[10]

> These investigations cover wax and wax/resin thermal transfer ribbons (TTR), in slit or unslit ("jumbo") form originating from France, Japan or South Korea, with a total wax (natural or synthetic) content of all the image side layers, that transfer in whole or in part, of equal to or greater than 20 percent by weight and a wax content of the colorant layer of equal to or greater than 10 percent by weight, and a black color as defined by industry standards by the CIELAB (International Commission on Illumination) color specification such that L*<35, -20<a*<35 and -40<b*<31, and black and near-black TTR. TTR is typically used in printers generating alphanumeric and machine-readable characters, such as bar codes and facsimile machines.
>
> The petition does not cover resin TTR, and finished thermal transfer ribbons with a width greater than 212 millimeters (mm), but not greater than 220 mm (or 8.35 to 8.66 inches) and a length of 230 meters (m) or less (i.e., slit fax TTR, including cassetted TTR), and ribbons with a magnetic content of greater than or equal to 45 percent, by weight, in the colorant layer.
>
> The merchandise subject to these investigations may be classified in the Harmonized Tariff Schedule of the United States (HTSUS) at heading 3702 and subheadings 3921.90.4025 (sic), 9612.10.9030, 3204.90, 3506.99, 3919.90, 3920.62, 3920.99, and 3926.90.[11] The tariff classifications are provided for convenience and Customs and Border Protection ("CBP") purposes; however, the written description of the scope of the investigations is dispositive.

THE DOMESTIC LIKE PRODUCT

The Commission's determination regarding the appropriate domestic product that is "like" the subject imported product is based on a number of factors including: (1) physical characteristics and uses; (2) common manufacturing facilities and production employees; (3) interchangeability; (4) customer and producer perceptions; (5) channels of distribution; and (6) price. Information on these factors relating to domestic and imported certain TTR is set forth below.

Physical Characteristics and Uses

Thermal transfer ribbons are thin, ink-covered strips of plastic film wound on plastic or cardboard cores that are used in a variety of thermal transfer printing devices (principally bar code printers and facsimile machines).[12] The basic composition of TTR involves a base of thin-film polyethylene terephthalate ("PET") with a single coating on the back side (back coat) and up to three other layers on the face-side. These three layers are: an undercoat or release layer, an intermediate or

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[10] *Id.*

[11] These subheadings have normal trade relations tariff rates in 2004 ranging from 2.1 percent to 7.9 percent *ad valorem*, applicable to imports from France, Japan, and Korea. Staff notes that the goods of subheading 3204.90 are synthetic organic coloring matter; those of 3506.99 are bulk glues and adhesives; those of 3919.90, 3920.62, and 3920.99 are plastic film, tape, etc.; and those of 3926.90 are miscellaneous articles of plastics. The subject goods would not properly fall in those provisions. In 2003, statistical reporting number 3921.90.4025 ceased to exist.

[12] Petition, p. 6.

adhesive layer, and an imaging or ink layer.[13] In thermal transfer printing, heat is applied to the ribbon through a print head, causing the ink layer to transfer a printed image onto the receiving media (e.g., a paper label). The back coat protects both the print head and the ribbon during this process.[14] TTR are made by producers in the form of jumbo rolls, which are ultimately slit into smaller widths and rolled into smaller rolls based on the end use.[15] TTR are categorized based on the type of ink used: wax, wax/resin, and resin.[16]

Wax TTR are considered the least costly to produce.[17] The ink formulation on wax ribbons consists primarily of different waxes that have low melt points, resulting in low levels of energy required to transfer the wax onto the receiving media.[18] Wax TTR do not offer long-lasting print images due to their high wax content and are not as robust as resin TTR. Wax TTR are used for applications such as shipping labels, warehousing labels, retail tags and labels, and compliance labeling.[19] Wax TTR reportedly account for *** percent of the total U.S. TTR market by volume.[20] Fax TTR fall under the wax category.

Wax/resin TTR contain a higher percentage of resinous materials than wax TTR, which contributes to a higher melting point for the ribbons.[21] As a result, a higher heat level is required for printing from wax/resin TTR than wax TTR. Also, the higher resin content of wax/resin TTR affords greater durability. Applications for this form of TTR include general purpose labeling, plant and lumber tags, pharmaceutical and healthcare labels, automotive labels, shipping labels, and retail pack labels.[22] Wax/resin TTR are estimated to account for *** percent of the U.S. TTR market.[23]

Manufacturing Processes, Facilities, and Employees[24]

Certain TTR are manufactured in four primary stages: (1) ink-making, (2) coating, (3) slitting, and (4) packaging (see figure I-1). The four stages are described below.

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[13] *Id* at 13.

[14] ***. Staff Field Trip Report, IIMAK, January 29, 2004.

[15] Jumbo rolls are roughly 2 to 3 feet wide, 65,000 feet long, 20 inches in diameter and weigh approximately 350 pounds. Slit rolls measure roughly 1 to 10 inches wide, 164 to almost 3,000 feet long, 1.3 to 4 inches in diameter, and can weigh from 2 to 55 pounds. Petition, p. 7.

[16] As noted earlier, resin TTR are not included in the scope of these investigations.

[17] IdentiGraphics, Inc., "Thermal Transfer," found at http://www.identigraphics.com/thermal2.htm, on June 18, 2003.

[18] Petition, p. 17.

[19] Thermal Ribbon Supply Inc., "Information," found at http://www.thermalribbonsupply.com/new/Info/measure/measure.html, on June 19, 2003.

[20] Petitioner's postconference brief, exh. 1.

[21] IIMAK Website, "About Thermal Transfer," found at http://www.iimak.com/compatibility.htm, on June 18, 2003.

[22] Petition, p. 18.

[23] Petitioner's postconference brief, exh. 1.

[24] Information in this section is generally taken from the petition, pp. 20-25.

Ink-making

The first step, ink-making,[25] involves the use of two heated tanks and either an attritor or small media mill. In the heated tanks, ingredients[26] are melted or dissolved and then blended together. The ingredients and pigments are then milled and separated to achieve the desired particle size.[27] This process may take up to several hours before the ingredients meet the required specifications of the TTR ink.[28] During the ink-making stage, a central computer control system regulates key factors such as temperature, mixing speed, and flow rates.

Figure I-1
Certain TTR: Product cross sections

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Coating

The second step, coating, involves the use of multi-station coating machines to coat the jumbo rolls of PET film. The film is unwound and processed through the stations while each coating is applied. Depending on the form of ink (i.e., wax, resin, or a combination), either a hot melt or solvent-ink process or both will be used. In the case of hot-melt inks, they are coated onto the film in a hot-liquid state and then solidified as the film is run over large diameter chilling rollers. The hot-melt ink process can be used for wax TTR production due to its low melting point while resin TTR production typically utilizes the solvent-ink process because of its chemical composition and high melting point. In a solvent-ink process, the film is passed through heated ovens immediately after the ink is applied to the film. This provides a controlled curing of the inks.

A number of coating technologies are used in the coating process. They include, but are not limited to; the direct gravure, the offset/indirect gravure, and the flowtube/Mayer rod techniques.[29] The direct gravure process involves a roller that has an engraved textured surface that is dipped into the ink and then brought into contact with the PET film. The film is squeezed between the inked roller and another rubber roller, resulting in the transfer of ink to the film.[30] In the offset/indirect gravure process, the ink is coated onto one roller then transferred to another roller before it is applied to the film.[31] The flow tube/Mayer rod process involves pushing ink through a tube to cover the surface of the PET film. The film is dragged over a Mayer rod, which uses a grooved surface to remove excess ink from the wet

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[25] Prior to the ink-making process, manufacturers perform research and development ("R&D") to create specific ink formulations for their product lines. The petitioner states that the products produced by their R&D department must undergo a qualification process to establish final product performance requirements, which may take several months to complete. Once ink formulations have achieved the final product performance requirements and have undergone testing, they are added to the product line. Staff Field Trip Report, IIMAK, January 29, 2004.

[26] These ingredients may include items such as waxes, resins, and other materials. The formulas of these inks are considered proprietary to TTR producers.

[27] Items such as ball bearings are placed into the tanks to assist in achieving the desired particle size of the mixture. Staff Field Trip Report, IIMAK, January 29, 2004.

[28] *Id.*

[29] U.S. producer questionnaire response of ***, app., p. 18.

[30] *Id.*

[31] *Id.*

film. The depth and frequency of the Mayer rod's grooved surface determines the amount of ink that stays on the film.[32]

At the end of the coating process, the product is wound onto the jumbo roll, resulting in a TTR master roll. During this step of the manufacturing process, many conditions, particularly environmental controls and special safety procedures, are monitored carefully due to the hazardous chemicals used and to maintain product consistency.

Slitting

The third step, slitting, involves the cutting of the jumbo rolls to specific sizes that designate its end use. There are manual, semi-automated, and fully automated machines that can be utilized in the slitting process. In the case of the semi-automated machine, the jumbo roll is placed on the unwind station, run through the leader/trailer splice table, slit, and then run through the rewind station as slitted rolls.[33] The operator ensures that the leader and trailer are properly placed on the TTR and replaces the cores once the machine finishes slitting the required length of the roll. The fully automated machine performs the same functions as the semi-automated machine, except that it does not require the operator to replace the cores for the slitted rolls.[34] In this case, the operator's role is to ensure that the machine is performing to company standards. The jumbo roll producer can perform this process, or sell the jumbo roll to others known as slitters/converters. The slitting process affects the price of the finished product depending on the different lengths, widths, and configurations of ribbon.

*** indicates that considerable expertise and skilled labor are required to operate and maintain slitting machines. This expertise is employed toward maximizing the highest possible usage (yield) of the jumbo roll TTR while producing the least amount of scrap.[35] *** contends that many considerations are taken into account during the slitting process. For example, factors such as the type of core, the ribbon size, the need for take-up cores and notches, the hardness of the ribbon, and the trailer are all considered in addressing customer needs and the pursuit of maximum efficiency and minimum yield loss.[36]

Packaging

The fourth step, packaging, has the finished ribbons being placed in sealed bags or plastic wrap along with labels for distribution to the ultimate customer.

Interchangeability and Customer and Producer Perceptions

Based on questionnaire responses, domestic certain TTR and subject imports are fully interchangeable, depending on their ink characteristics.[37] To an extent, certain TTR in different categories are also interchangeable with each other, such as wax and wax/resin TTR. The petitioner states that "manufacturers have worked to expand the scope and versatility of their wax ribbons to mimic

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[32] *Id.*

[33] Staff Field Trip Report, IIMAK, January 29, 2004.

[34] *Id.*

[35] U.S. producer's questionnaire response of ***, p. 10.

[36] U.S. producer's questionnaire response of ***, p. 8.

[37] Interchangeability of the domestic and imported subject product is discussed further in *Part II* (Substitutability Issues) of this report.

the performance of wax/resin ribbons."[38] Similar end-use applications of the wax and wax/resin TTR and enhanced durability have contributed to the increased interchangeability.[39]

Channels of Distribution

The petitioner and respondents indicated that the major channels of distribution for certain TTR are sales to original equipment manufacturers ("OEMs"), sales of jumbo rolls to slitter/converters, and sales of finished product to distributers or resellers. The petitioner estimates that sales to distributors account for approximately *** percent of the sales to end users in the U.S. market, sales of jumbo rolls to independent slitter/converters account for *** percent of sales, sales to OEMs account for *** percent of U.S. end user sales,[40] and the remaining *** percent of sales in the U.S. market reach the end user through both a master distributor and a small distributor.[41]

Price

The price of certain TTR is generally dependent on a number of factors, the most important being the ink type of the ribbon. Wax ribbons typically are the less expensive form of certain TTR, while wax/resin TTR are more expensive. Other factors that can impact the price of TTR include the size that the TTR are slit to for end use, and other value-added components that are needed for the product, such as custom logo leaders. Available data regarding average unit values of U.S. shipments of certain TTR during 2003 are presented below (more detailed information on prices is presented in *Part V* of this report).

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[38] Petition, p. 34.

[39] Both petitioners and respondents indicate that there are other products which might be substituted for certain TTR. These include but are not limited to: direct thermal printing on plain paper labels, inkjet printing, laser printing, dot matrix impact printing, and radio frequency identification ("RFID") technology. In the direct thermal printing process, the print head burns dots onto coated paper, resulting in an image without the use of ribbons. Ink jet printing involves the use of ink stored in cartridges, in which the printer uses its print head to spray ink through small nozzles onto the receiving medium to produce images. Laser printing uses toners that contain fine powdered ink. The media then go through heated rollers, which fuse the toner onto it. Dot matrix printing involves a moving printhead that consists of one or more vertical rows of hammers, which strike an ink-covered ribbon as it passes over it. RFID technology offers similar identification services as labels printed from TTR, but at a higher cost due to characteristics such as tracking abilities. Whatis.com, "Thermal transfer printer," found at http://whatis.techtarget.com/definition/0%2C%2Csid9_gci214446%2C00.html on June 25, 2003; About Network, "Inkjet," found at http://desktoppub.about.com/library/glossary/bldef-inkjet.htm on June 25, 2003; and About Network, "Laser," found at http://desktoppub.about.com/library/glossary/bldef-laser.htm on June 25, 2003. The petitioner and respondents agree that these products and technologies are poor substitutes for TTR because they are not as cost-effective or durable as TTR.

[40] Respondent Armor, however, reported that approximately *** percent of its sales are directly to OEMs. Armor's posthearing brief, exh. 1, p. 6.

[41] Petition, *pp.* 31-32; Questionnaire data regarding whether firms shipped to distributors or end users proved unreliable because most firms did not answer this portion of the questionnaire. Some firms may have found it difficult to answer this portion of the questionnaire because they have overlapping functions in the channels of distribution (e.g., a producer drop-shipping certain TTR to an end user with packaging and a return address from a distributor or OEM).

INTERMEDIATE PRODUCTS

When the subject product includes both an upstream and a downstream article and there is a domestic like-product issue concerning whether the two articles should be treated as one or two domestic like products, the Commission has employed a five-factor "semifinished/finished products" test.[42] In these investigations, the issue is whether jumbo rolls of TTR and finished slitted TTR constitute a single like product. Using the semifinished products test, the Commission preliminarily determined that jumbo rolls of TTR and slitted TTR constitute a single domestic like product.[43]

In this case, slitted (finished) certain TTR are downstream products, and certain TTR in jumbo rolls (unfinished) are the upstream or intermediate product. During the preliminary phase of these investigations, the Commission determined that certain TTR in jumbo form has no use but the production of slitted certain TTR. Slitted certain TTR are clearly different from unslitted (jumbo) certain TTR in physical characteristics insofar as they are slitted. Slitted certain TTR are more costly to manufacture than unfinished certain TTR, due to the additional operations required to produce them. The cost of these additional operations is reflected in the higher prices and higher value of the slitted product. Parties agreed that the ink-making and coating processes are capital-intensive, while slitting and packaging are more labor-intensive processes. The ink-making and coating process can utilize the same employees and machinery during the production process, while the slitting and packaging of TTR can be done by either the producer or converter in the same or different facilities. In general, the various types of TTR share common manufacturing facilities and employees.[44]

Value Added

The Commission's questionnaires in the final phase of these investigations requested information on the domestic value added for certain TTR. Data submitted in response to the questionnaire by eight U.S. slitter/converters indicates that slitting and packaging operations account for nearly 31 percent of the cost of goods sold, and nearly 39 percent of the cost of goods sold plus selling, general, and administrative expenses.[45] Respondents argue that this level of value added clearly requires that the slitter/converters of certain TTR be considered part of the U.S. industry.[46]

Country of Origin Determination by Commerce

During Commerce's final investigations, petitioner requested that Commerce determine whether certain TTR jumbo rolls produced in Japan and subsequently slit in a third country would change the

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[42] The five factors that the Commission has considered in analyzing semifinished products include: (1) uses (Is the upstream product dedicated to the production of the downstream product or does it have independent uses?); (2) markets (are there separate markets for the upstream and downstream products?); (3) characteristics and functions (are there differences in the physical characteristics and functions of the upstream and downstream products?); (4) value (are there differences in the production costs and/or sales values (transfer values or market prices as appropriate) of the upstream and downstream products?); and (5) transformation processes (what is the significance and extent of the processes used to transform the upstream product into the downstream product?).

[43] *Certain Wax and Wax/Resin Thermal Transfer Ribbons from France, Japan, and Korea*, Invs. Nos. 731-TA-1039-1041 (Preliminary), USITC Pub. 3613 (July 2003), pp. 7 and 30.

[44] *Id.* at pp. 6-7.

[45] *See* part VI, table VI-10 and accompanying text for an analysis of the domestic value added for certain TTR.

[46] ITW posthearing brief, pp. 9-10; Armor posthearing brief, exh. 1, p. 12.

country of origin of the final slitted TTR product for antidumping purposes.[47] Commerce considered the following factors in determining whether slitting operations constituted substantial transformation and therefore changed the origin of the final slitted product: (1) value added to the slitted product; (2) the sophistication of the third country processing; (3) possibility of using the third-country processing as a low cost means of circumvention; and (4) whether the processed product fell into a different class or kind of product when compared to the downstream product.[48] After considering the above factors, citing the Commission's investigation on DRAMs and DRAM modules from Korea,[49] as well as the Commission's preliminary determination regarding this issue, Commerce determined that the jumbo roll of TTR is the "essential" component of the product and therefore performing subsequent slitting operations on the jumbo rolls in a third country does not constitute "substantial transformation" and thus does not change the country of origin of the final product.[50] In short, Commerce determined that for antidumping purposes the country of origin of the jumbo roll would be the country of origin of the final product regardless of where it was slit.

DOMESTIC LIKE PRODUCT ISSUES

During the preliminary phase of these investigations, several respondents raised issues with regard to the domestic like product. ITW and Dai Nippon argued that TTR products exist along a continuum of related products with no clear dividing lines and, therefore, all forms of TTR should be included in the domestic like product, including slitted fax, resin, and color TTR.[51] Armor argued that slitted fax TTR should be included in the domestic like product.[52] Petitioners argued that slitted fax TTR, resin TTR, and color TTR all have different physical characteristics and end uses and are not

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[47] *Issues and Decision Memorandum for the Antidumping Duty Investigation of Wax and Wax/Resin Thermal Transfer Ribbons from Japan*, March 1, 2004, p. 2.

[48] *Id.* at 3.

[49] *See DRAMs and DRAM Modules from Korea*, Inv. No. 731-TA-431 (Final), Pub. 3616 (August 2003).

[50] *Id.* at 3-6.

[51] *Certain Wax and Wax/Resin Thermal Transfer Ribbons from France, Japan, and Korea*, Invs. Nos. 731-TA-1039-1041 (Preliminary), USITC Pub. 3613 (July 2003), p. 10.

[52] *Id.* at pp. 7-8.

interchangeable with certain TTR.[53] Estimates of the U.S. market for all TTR products, and average unit values, are presented in the following tabulation:[54]

* * * * * * *

In the preliminary phase of these investigations, the Commission expanded the domestic like product beyond the scope of Commerce's investigations and determined that the domestic like product included certain TTR and slitted fax TTR, but did not include resin TTR and color TTR.[55]

Slitted Fax TTR

Slitted fax TTR are TTR products used in facsimile machines to print incoming faxes. Before fax TTR can be sold to the end user, it must be converted from jumbo rolls.[56] Jumbo rolls are slit and rolled into smaller cores. The resulting ribbon is then encased in a cassette, typically made of plastic.[57] Other items such as anti-rotation devices, labels, silver stripes to indicate the end of a roll, or additional parts can also be added during this process. In the preliminary phase of these investigations, the petitioner argued that slitted fax TTR is fundamentally different from certain TTR because of: (1) the

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[53] *Id.* at pp. 6-13. In its preliminary determination, the Commission determined that resin and color TTR should not be included in the domestic like product. It determined that "the lack of similar physical characteristics and end uses, the limited interchangeability, manufacturing differences, the perceptions of customers and producers, and the significant differences in price indicate that there is a clear dividing line between color and resin TTR on the one hand and black wax and wax/resin TTR on the other." *Certain Wax and Wax/Resin Thermal Transfer Ribbons from France, Japan, and Korea*, Invs. Nos. 731-TA-1039-1041 (Preliminary), USITC Pub. 3613 (July 2003), p. 13.

Resin TTR is a ribbon containing ink with a majority of resinous materials. Because of the higher resin content, printing with these ribbons takes place at a slower speed, requires more energy, and can be done on a wider variety of surface media. Resin TTR are often used for applications that require high levels of resistance and durability against heat, weather, and certain chemicals. End uses for resin TTR include industrial and automotive applications, chemical drum labeling, and medical and pharmaceutical labeling.

Color TTR is any form of TTR with the addition of color pigmentation during the ink making phase of production. The addition of certain color pigmentations could raise the price of the color TTR substantially. Color TTR is generally not used in the barcode and labeling markets because black ink is best read by the barcode scanners and the addition of color could make scanning more difficult. Generally, color TTR is used in specialty end uses such as the manufacture of signage.

[54] Petitioner's postconference brief, exh. 1.

[55] *Certain Wax and Wax/Resin Thermal Transfer Ribbons from France, Japan, and Korea*, Invs. Nos. 731-TA-1039-1041 (Preliminary), USITC Pub. 3613 (July 2003), pp. 7 and 10. In the preliminary phase, Commissioner Miller dissented and defined the domestic like product coextensively with the scope of Commerce's investigations, which excluded slitted fax TTR, resin TTR, and color TTR. *Id.* at 30.

[56] When still in jumbo form, the rolls are within the scope of these investigations. The defining factor that places slitted fax TTR outside the scope is the slitting to a specific width. Petitioner, however, stated that a very small quantity of slitted TTR exists in the market at the excluded width (width greater than 212 mm and less than 220 mm and a length of 230 m or less) that is not used in fax machines but rather bar code printing. Hearing transcript, pp. 125-126 (Kingdon). Petitioner reported that slitted TTR at this width used in bar code applications accounted for *** of IIMAK's sales of certain TTR during the period of investigation (ranging from *** msi in 2001 to *** msi in 2003). Petitioner's posthearing brief, app., p. 51.

[57] Petitioner reported that in 2003, approximately *** percent of its sales by volume of its slitted fax products were "cassetted," and the remaining slitted fax products were incorporated into hubs, gears, and the rotational devices required by fax machines. Petitioner also reported that during the same period it had no sales of barcode TTR that was "cassetted." Petitioner's posthearing brief, app., p. 15.

smaller one-half inch cores used in slitted fax TTR as opposed to one inch cores for certain TTR, (2) the addition of a secondary or "take up core" used in slitted fax TTR, (3) further assembly process to place slitted fax TTR into a cassette, (4) the placement of a silver stripe on the end of a slitted fax TTR roll, (5) the fact that some fax rolls require special atmospheric conditions with regard to temperature and humidity during slitting, and (6) the addition of specialty packaging for slitted fax TTR.[58] In the resulting end product, TTR is only a component. Respondents argued that the Commission should not include some slitted TTR products and exclude others purely based on an arbitrary width.[59] Respondents argued that slitted fax TTR have only minor variations from certain TTR and there is no clear dividing line between products.[60] Slitted fax TTR is estimated to account for *** percent of the TTR market by volume, with an average unit value of $*** per msi.[61]

[58] Petition, pp. 25-27. In its preliminary views, the Commission rejected this argument and determined that certain TTR and slitted fax TTR have "virtually the same physical properties" and are "in effect part of a continuum of sizes of wax TTR." *Certain Wax and Wax/Resin Thermal Transfer Ribbons from France, Japan, and Korea,* Invs. Nos. 731-TA-1039-1041 (Preliminary), USITC Pub. 3613 (July 2003), p. 8.

[59] *Id.* at pp. 7-10.

[60] *Id.* Respondent ITW advances its argument by stating that: (1) there exists some TTR at the exclusion width used in barcode and not fax applications; (2) not all slitted fax products are cassetted; (3) the addition of a "silver strip" applied to slitted fax rolls is "not significant"; (4) that many printers, barcode and fax alike, require distinct width and core requirements; (5) certain TTR and slitted fax TTR are sold through similar channels of distribution; (6) certain slitted TTR and slitted fax TTR are slit on the same slitting machines; and (7) prices for both certain TTR and slitted fax TTR are well within the continuum of slit TTR products. ITW posthearing brief, pp. 5-7.

Respondent DNP, a significant producer of slitted fax, reported that: ***. DNP posthearing brief, exh. B; see also hearing transcript, pp. 225-226 (Loeb). Respondent Armor ***. Armor posthearing brief, exh 1, p. 1.

[61] Petitioner's postconference brief, exh. 1.

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

U.S. MARKET SEGMENTS

Certain TTR are PET film coated with wax (approximately 42 percent of the total TTR market), resin (approximately 5 percent), or a wax/resin combination (approximately 11 percent).[1] Petitioner stated that wax and wax/resin certain TTR are interchangeable, with chemical improvements permitting wax TTR to compete with wax/resin TTR, which before had more properties that wax TTR. Wax/resin TTR are more expensive than wax TTR, and resin TTR and color TTR are considered to be more expensive specialty products.[2]

Inkmakers/coaters manufacture TTR in large jumbo rolls that are then slit into smaller rolls. The slit TTR can be used for labeling or fax printing. Although fax TTR in jumbo form are included in Commerce's scope, slit-fax TTR (described in Part I of this report) are not.

CHANNELS OF DISTRIBUTION

OEMs buy certain TTR to install in their branded equipment (printers, etc.) or to sell as replacement consumables. In turn, the OEMs sell their branded equipment (with TTR installed) to the ultimate end users, for use in printing bar code labels. Certain TTR may be slit by the coaters or importers and sold to OEMs directly or sold in jumbo roll form to slitter/converters who slit the TTR, and then sell slit certain TTR to distributors or to OEMs.[3] Slit certain TTR may also be sold to distributors, either by a slitter or directly by the certain TTR producer or importer who have slit the TTR. Some master distributors, in turn sell to smaller distributors. Petitioners estimate that *** percent of TTR sold in U.S. markets are sold to distributors, *** percent to master distributors, *** percent to OEMs, and *** percent to slitters/converters.[4] IIMAK reported that purchases of certain TTR are concentrated among a relatively small share of the purchasers, with 20 percent of the purchasers purchasing 80 percent of the product.[5] In addition, IIMAK reported that distributors "have learned that the most economically advantageous approach is to split their TTR sourcing between several suppliers"... distributors "can then orchestrate iterative price negotiations" to reduce prices.[6]

Thirty-three purchasers responded to the Commission's purchasers' questionnaire[7] and described their role in the distribution of certain TTR. Six purchasers were OEMs, ten were slitters, 22 were

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[1] Other types of TTR products are shown in the tabulation on page I-12 of this report.

[2] The scope of these investigations covers only black and near-black TTR.

[3] IIMAK reports that at least one OEM also has slitting capacity. Hearing transcript, p. 26 (Kingdon). In addition, some slitters reported in their questionnaires that they were also distributors.

[4] Importers and producers were asked to provide information by channel of distribution but they were unable to do so because the channels of distribution overlap. IIMAK also said that in the past, prices for different customer types had varied substantially, but that subject imports had eroded producers' ability to exercise such pricing power. It added that consignment sales, previously reserved for larger purchasers, were now demanded by smaller purchasers as well. This section is drawn from petition, pp. 17, 19, 25-27, and 30-32, and conference transcript, pp. 28-30 (Kingdon).

[5] Hearing transcript, p. 2 (Kingdon).

[6] Hearing transcript, pp. 29-30 (Kingdon).

[7] Purchasers include *** who also answered producer or importer questionnaires. The answers of these firms are included with the other purchasers' answers.

distributors, and three were "others" including end user, retailer, and a non-equipment private label. Eight purchasers reported more than one role in distribution.

IIMAK stated that in the past, more certain TTR had been sold directly to OEMs, but that volume had shifted from OEM sales to distributor sales.[8] Distributors are a diverse group that include forms suppliers, label converters, inventory control companies, and some companies who specialize in certain TTR and little else.[9] Distributors will sell certain TTR from multiple sources and to a variety of end users, and may not even take possession of the certain TTR but rather arrange the sale through "drop-ship" delivery.[10] According to IIMAK, converters and distributors sometimes compete with each other, leading to instability in the certain TTR distribution network.[11] IIMAK also noted that while in the past re-sellers would exchange some purchaser loyalty for services, re-sellers now expect the same services without any guarantee of loyalty.[12]

U.S. importers[13] allege that domestic producers have tried to shift the channels of distribution. *** stated that NCR has been increasing its emphasis on direct sales instead of sales to distribution, but the results of this shift were not yet apparent. Fujicopian stated that Zebra's supplier, IIMAK, had tried to sell directly to Zebra's customers, and that in response to this Zebra had looked to Fujicopian as a new source.[14] ***.

Geographic Markets

All five responding producers and five of six responding importers reported shipping to the entire United States, or the continental United States. The remaining importer reported selling to a number of regions.

SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

Domestic Production[15]

There are six U.S. producers (coaters) of certain TTR; however, the three largest account for the bulk of U.S. production. These three are IIMAK, an independent U.S. producer; Dynic, a U.S. producer

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[8] Conference transcript, p. 82 (Marshall).

[9] Conference transcript, p. 78 (Kingdon).

[10] Petition, p. 32.

[11] IIMAK also said that distributors tended to be less loyal customers than OEMs, especially with regard to purchasing across an entire product line. It further added that certain TTR distribution has low barriers to entry, and that the growing number of distributors has been facilitated by the growth in subject imports. Conference transcript, pp. 28-29, 72, 77-79, 178 (Kingdon, Marshall, and Gallete).

[12] Conference transcript, pp. 30-31 (Kingdon).

[13] Of the eight responding importers, five *** were affiliated with slitter/converters or were coaters and filled out both producer and importer questionnaires. Responses of ***, have been included with the producers, while responses of *** have been included with the importers. ***.

[14] Conference transcript, pp. 119-120 (Groh).

[15] Unless otherwise noted, information in this section is compiled from responses to Commission questionnaires and data are presented in part III (U.S. industry) and part VII (foreign industry) of this report.

owned by Dynic Japan; and Sony, a U.S. producer owned by Sony Japan. IIMAK stated that it was the only U.S. producer for which certain TTR was its main source of revenue.[16]

IIMAK was founded in 1984 as the exclusive U.S. producer of certain TTR using a license from Fujicopian Japan. Thus, IIMAK's certain TTR matches the specifications of Fujicopian's fairly closely. According to respondents, Paxar acquired IIMAK in 1997 and sold it to IIMAK management in a "highly" leveraged buyout in March 2000. Respondents allege that IIMAK management has made numerous failed investments since then, including emphasizing color and specialty certain TTR.[17] However IIMAK reported that these investments were successful and reduced IIMAK's cost of production.[18]

IIMAK described itself as introducing numerous new products in recent years, with *** noting that several of its wax ribbons have improved quality to the point of being more competitive with wax/resin TTR. (Importer *** also noted this trend.) On the other hand, *** stated that domestic producers have attempted changes in product range and marketing, with little success so far. It described IIMAK as having invested in the color and specialty TTR markets without success. It added that producers now seem to be focusing on meeting demand with relatively fewer product offerings. In addition, *** and others noted that aggressive price based competition from Sony began in late 2002.[19]

Industry capacity and inventory levels

Capacity utilization rates of both coaters and slitters was relatively low and relatively unchanged between 2001 and 2003. U.S. coaters' capacity utilization remained low throughout the period rates falling from 52.7 percent in 2001 to 51.6 percent in 2002, and then rising to 55.7 percent in 2003. IIMAK reported that its reported capacity may be overstated because it included machines that are no longer economic to run.[20] IIMAK's investment in machines that increased capacity was designed to reduce its costs more than to increase its capacity.[21] Slitter capacity utilization rates rose from 45.5 percent in 2001 to 47.5 percent in 2002 and then fell slightly to 46.6 percent in 2003. Inventories tend to be relatively low. U.S. coaters' inventories fell from *** percent of total shipments in 2001 to *** percent in 2002 and *** percent in 2003, while slitters' inventories rose from *** percent of total shipments in 2001 to *** percent in 2002 before falling to *** percent in 2003.

Alternative markets

Export shipments account for an important share of domestic coaters' production. Such shipments declined from *** percent of total shipments in 2001 to *** percent in 2002 then rose slightly to *** percent in 2003. Slitters/converters' exports, in contrast, started relatively low but increased steadily from *** percent in 2001 to *** percent in 2003. *** stated that foreign producers are effectively shut out of the Japanese and Korean markets, by vertical integration among Japanese firms in Japan and

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[16] Conference transcript, pp. 13-14 (Marshall).

[17] Conference transcript, pp. 104-107 (Landry).

[18] Hearing transcript, pp. 43-44 (Marshall).

[19] Conference transcript, pp. 104, 128, 133-134, 144 (Landry, Cameron, Wechsler, and Cox) and "Price wars may force many thermal transfer ribbon (TTR) players out of business," in Scan: The Data Capture Report, Dec. 27, 2002.

[20] IIMAK's posthearing brief, appendix, pp. 52-53.

[21] Hearing transcript, pp. 43-44 (Marshall).

by high tariffs in Korea.[22] It added that Armor's majority position in Europe made market entry there difficult. It said that it believed demand was growing in China and Eastern Europe but was steady in Western Europe and Latin America.[23] *** estimated that the European Union (EU) market for certain TTR would grow by *** percent annually and the Chinese market by about of *** percent.[24] Armor reported that the market outside the United States is growing more rapidly that the U.S. market, with faster demand growth in Europe, Eastern Europe, Asia, and Latin America.[25]

Production alternatives

IIMAK stated that it, much like other certain TTR producers, can produce resin, color, and slitted fax TTR on the newer equipment it uses for certain TTR. However, some of the equipment it uses for resin TTR (a small portion of overall TTR capacity) is usable only for resin TTR production.[26]

Subject Imports

The U.S. certain TTR industry saw a rise in slitting capacity in the late 1990s and early 2000s, with much of that new slitting capacity intended for certain TTR produced in subject countries. Over 1998-2000, licensing agreements between Armor France, Fujicopian Japan, and IIMAK ended, and Armor France and Fujicopian Japan began exporting certain TTR to the U.S. market. In 1999, ITW purchased a film processing operation in Korea and began importing to its already-established distribution arm in the United States.[27] In July 2000, ITW purchased Advent, a slitter for Dai Nippon's TTR. Dai Nippon was already suffering losses from slowing demand for fax TTR (its specialty),[28] and had built its own slitting and converting plant (DNP) in the United States.

IIMAK stated that while it is fundamentally dependent on TTR, many of the producers/importers of the subject imports are large, multinational conglomerates for which certain TTR are a relatively small interest. IIMAK also stated that producers of subject imports are operating with spare capacity.[29]

France

The sole French producer of certain TTR, Armor France, has increased capacity from *** in 2001 to *** in 2003. Capacity utilization fell from *** in 2001 to *** in 2003. Its exports to the United States

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[22] ITW reported that the Korean market is not closed to imports as IIMAK reported. ITW's share of the Korean maker has decreased from 75 percent to 50 percent in the last two years with the balance served by imports. Hearing transcript, p. 195 (Landry).

[23] *** questionnaire.

[24] *** questionnaire.

[25] Hearing transcript, p. 213 (Walker).

[26] IIMAK explained that its older machines that coat only with a "hot melt" technology could not produce resin TTR, which requires a solvent coating technology. Its newer machines have solvent coating technology that allows production of both certain TTR and resin TTR. Conference transcript, pp. 51-52 (Marshall).

[27] See petition pp. 74-76, and conference transcript, pp. 11, 15-17 (Marshall). Respondents allege that IIMAK initiated the termination of the licensing agreement, which had been set to expire in 2008. Conference transcript, pp. 117-118 (Groh).

[28] ITW says this purchase occurred in July 2000. Conference transcript, p. 109 (Landry).

[29] Petition, pp. 102-103.

also increased from *** in 2001 to *** in 2003. Nonetheless, it ships *** to other markets (especially the EU), and shipments to the United States remained a *** part of its overall production. In its questionnaire response, Armor stated that it ***. Armor stated that it produces specialty products in small quantities for the U.S. market, and that it sells directly to large, established OEMs on global contracts where service is a major selling point.[30] Armor reported that it has been slitting subject TTR in the United States for export to Latin America; however, in 2004, it will start slitting in Brazil for the Latin American market. This will result in less imports into the United States.[31]

Japan

Japanese production rose from *** msi in 2001 to *** msi in 2002 and then fell to *** msi in 2003. Capacity utilization rose from *** percent in 2001 to *** percent in 2003. Japanese internal consumption and home market sales fell from *** percent of Japanese shipments in 2001 to *** percent in 2003. Exports to the United States fell from *** percent of shipments in 2001 to *** percent in 2002 and then rose to *** percent in 2003. Japanese certain TTR is sold in Japan as well and throughout the world. IIMAK stated that Japanese producers, especially Dai Nippon, are switching production from slitted fax TTR to certain TTR as demand for slitted fax TTR drops. IIMAK described Dai Nippon as the world leader in slitted fax TTR production.[32]

Korea

Korean capacity was unchanged between 2001 and 2003 at *** msi while capacity utilization rose from *** percent in 2001 to *** percent in 2003. The share of Korean exports (relative to total Korean shipments) remained close to *** percent throughout the 2001 to 2003 period. The share of total shipments to the United States rose from *** percent in 2001 to *** percent in 2002 and then fell to *** percent in 2003.

Nonsubject Imports

Counsel for the petitioner testified that there are almost no imports of certain TTR from nonsubject countries and that the petitioner did not know of any coating facilities outside the U.S. and subject countries.[33] IIMAK reported that some of the respondents are shipping jumbo rolls into China for slitting.[34] Purchasers reported that they knew of imports from China, India, and Italy although it is not clear from their answers if this refers to TTR slit in these countries or if the purchasers thought that there were coating facilities in these countries.

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[30] Hearing transcript, pp. 210-211 (Walker) and conference transcript, pp. 136-139 (Walker). Purchaser stated that they preferred Armor because of their service and shorter lead times compared to IIMAK. Conference transcript, pp. 140-143, and 149 (Landry, and Cox).

[31] Hearing transcript, pp. 212-213 (Walker).

[32] Conference transcript, pp. 11, 15 (Cunningham and Marshall).

[33] Hearing transcript, p. 135 (Kimble).

[34] Conference transcript, pp. 85, 93 (Marshall).

U.S. Demand

Demand Characteristics

In the thermal transfer process, certain TTR can print on a wide variety of receivers, and thus is appropriate for bar code labeling across several sectors, including manufacturing, retail, and inventory control. Purchasers reported a wide variety of end uses including; industrial, manufacturing, distribution logistic supply chains, retail, electrical parts, forest products, horticultural products, automotive, food, beverage, beauty products, pharmaceuticals, medical devises, long term care facilities, nursing homes, and hospitals. Purchasers were asked if there had been significant changes in their purchasing patterns in the last three years. Eleven of the 32 responding purchasers reported changes: six of these reported changing suppliers; two reported increased demand from increased installed base; one reported reduced sales due to lost business; one reported that more drop shipments allowed it to keep less inventories; one reported that it had increased its order size; and one reported changes in purchases were due to changes in applications.

According to petitioner, end uses for certain TTR in bar code labeling include retail tags, inventory and receiving labels, flexible packaging, and asset tracking.[35] Thus, demand is related to the use of these kinds of identification technologies in retail stores, factories, and shipping.[36] IIMAK described the U.S. certain TTR market as the largest in the world, representing *** percent of the global requirements for certain TTR.[37]

Different producers of certain TTR have proprietary formulas for the ink-making and coating; however, each producer will generally produce a branded category (formulation) of certain TTR that will work in the most common printers in the industry, and customers have cross-reference guides to help them compare one brand to another within a particular formulation.[38] Petitioners said that there are three to five common formulations of certain TTR that account for the bulk of demand, and most certain TTR suppliers have a brand that fits into these formulations and is marketed as interchangeable with other brands. For each of these three to five more general formulations, there are different applications and different purchasers. (For more specific applications, certain TTR suppliers may have a custom or higher-end certain TTR.)[39] IIMAK stated that within any one of the most common formulations, certain TTR are basically commodity products where price is the most important factor in a sale. Furthermore, according to IIMAK, OEMs may sell different brands of certain TTR under the same OEM brand name.[40]

Both producers and importers described themselves as one step removed from the ultimate end users, meaning that the certain TTR suppliers may not always have a clear idea of new demand trends. The ultimate end user may be more likely to complain to the printer manufacturer (the certain TTR suppliers' purchaser) rather than the certain TTR supplier itself.[41]

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[35] Petition, p. 29.

[36] End users often have an installed base of thermal printers that use certain TTR. Conference transcript, pp. 121-122 (Groh).

[37] IIMAK producer's questionnaire.

[38] See, e.g. exhibit 7 of IIMAK's posthearing brief.

[39] Conference transcript, pp. 80-81, 120, 183 (Kingdon, Groh, and Gallete). In addition, ITW stated that the bulk of demand is in the black wax categories. Conference transcript, p. 106 (Landry). *** submitted a price list that showed its products classified by which typical OEM printer type they fit, and *** submitted a price list that showed its certain TTR's comparability to other brands' certain TTR.

[40] Conference transcript, pp. 27-28, 42-45 (Kingdon and Marshall).

[41] Conference transcript, pp. 80-81 (Kingdon).

Demand Trends

In general, demand for certain TTR rose steadily throughout the 1990s as more customers adopted thermal transfer barcode labeling technology. Once a customer has adopted thermal transfer labeling technology, its demand for more certain TTR will depend on its financial health. Thus, as growth in the number of companies switching to thermal transfer printing has slowed, the demand for certain TTR has tracked the wider economy more closely.[42]

Market participants had varied descriptions of recent trends in demand for certain TTR. Among U.S. producers, IIMAK reported that demand closely tracked the wider U.S. economy, but noted that demand growth recently has also been connected with falling prices, in that U.S. consumption is up when measured in pounds or msi, but down when measured in dollars.[43] *** stated that demand had flattened due to the slowing U.S. economy with an average growth rate of 3 percent. *** stated that demand increased by about 5 percent per year with the growing use of bar codes. *** saw no change in demand recently; *** reported demand growth of 1 to 3 percent per year; and *** reported demand growth of 10 to 20 percent caused by new uses.

Purchasers were asked to report changes in demand for their end use products; 13 firms responded. One reported demand was increasing; eight reported that demand was unchanged; and four reported demand had fallen. Three reported that demand for their TTR had fallen because the firm had lost an account or because the end users were moving from a particular type of printer.

Substitute Products

There are few direct, drop-in substitutes for certain TTR. Nonetheless, since certain TTR is used in thermal transfer labeling, ultimate end users can substitute competing labeling technologies that do not use certain TTR. These technologies include ink jet printing, laser printing, direct thermal printing,[44] and pre-printed flexo bar coding. Purchasers were asked to list the top three substitutes for the subject product; seven reported that there were no substitutes, while 18 reported substitutes including direct thermal labels, nonsubject TTR, ink jet, matrix bar code ribbons, ion depositions, laser technologies, impact printing, hot stamp, offset printing, and nonprint technologies such as RFID and bluetooth. Most of the responding purchasers, 13 out of 21,[45] reported that changes in the price of these substitutes had not affected demand for certain TTR. Three of the purchasers indicated that reductions in the price of direct label technology helped drive the price of certain TTR down, while the others reported generally competitive markets, imports, or price pressures driving the price of certain TTR down. Finally, some purchasers reported that Wal-Mart and the Department of Defense were driving a move away from printed labels altogether.

*** reported that there were no substitutes for certain TTR. IIMAK stated that alternative technologies generally have significant drawbacks when compared to thermal transfer using certain

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[42] Conference transcript, pp. 81-84 (Marshall).

[43] Petition, p. 78.

[44] ITW reported that direct thermal paper is the closest substitute for TTR because it can be used in the same printers as TTR and that reductions in the price of direct thermal paper had contributed to the decline in the price of subject TTR. ITW's posthearing brief, responses to Commissioners hearing questions, pp. 8-9.

[45] One purchaser answered both yes and no for this question. It reporting that the falling cost of nonprint technology was important, but that changes to this nonprint technology was mainly driven by Wal-Mart and the Defense Department's mandating this new technology from their suppliers in the future.

TTR.[46] Conversely, *** reported direct thermal; *** reported a variety of printed forms; *** reported matrix bar code ribbons; and *** saw non-printing technology like RFID as substitutes for certain TTR in the U.S. market.

Cost Share

End user cost is a nebulous concept in the certain TTR industry since certain TTR is used to produce bar code labels produced by printers. Purchasers had difficulty reporting the share of the total cost of end products accounted for by the cost of the certain TTR. Only six gave clear answers for the share of ribbon in labels. The cost of the ribbons ranged from 3 to 40 percent of the cost of the labels, with four of these purchasers reporting costs ranging from 25 to 33 percent of labels.

Petitioner described certain TTR as a small part of the costs for the ultimate end user, and said that purchasers regard certain TTR as a supply, rather than material, item.[47] However, at the level of a printed label, importer *** said that certain TTR were approximately 40 percent of the cost, and *** said that they were 25 percent.

SUBSTITUTABILITY ISSUES

Factors Affecting Purchasing Decisions

Purchasers were asked to identify the three major factors considered by their firm in deciding from whom to purchase certain TTR (table II-1). Nineteen of the 32 responding firms reported that quality was the most important factor; the most commonly cited second factor was price, reported by 11 firms; and the most commonly cited third factor was availability/reliability of deliveries/lead time, reported by 12 purchasers.

Purchasers were asked what factors determined the quality of certain TTR. The factors mentioned included: performance at end user application; smudge, smear, abrasion, flake, rub, water and chemical resistance; quality, appearance, and durability of the impression; image darkness, linewrites, coverage, density, and bar code scanability; print speed; thermal setting; printability on flood coated substrata; ribbon consistency, static resistance, minimal wrinkling, and no breakage; meeting OEM specifications; and ability to print in extreme environments.

Purchasers were asked if they always, usually, sometimes, or never purchased the lowest priced material. One purchaser reported always purchasing the lowest priced material; eight usually purchased the lowest priced material; 12 sometimes purchased the lowest priced material; and 12 reported that they never purchased the lowest priced material. Purchasers were also asked if they purchased certain TTR from one source although a comparable product was available at a lower price from another source. Four of the 29 responding purchasers reported that they did not; in addition, four reported that there was no other source for the TTR product that they purchased. The remaining 21 purchasers provided reasons for purchasing more expensive product including: lead times, availability, service, minimum order requirements, customer specification of a certain ribbon; different programs or relationships with suppliers such as product range, drop shipment programs, purchasing on a global basis, purchasing on

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[46] Direct thermal does not yet have the performance of thermal transfer, and laser and inkjet printed labels are not as robust as thermal transfer printed labels under more difficult conditions (heat, pressure, etc.). Conference transcript, p. 74 (Kingdon).

[47] Conference transcript, p. 76 (Marshall).

Table II-1
Certain TTR: Most important factors in selecting a TTR supplier as reported by U.S. purchasers

Factor	First	Second	Third	Fourth and lesser importance [1]
Quality[2]	19	9	0	0
Contract/traditional supplier	6	2	0	0
Price	3	11	9	0
Availability/reliability of deliveries/ lead time	1	5	12	5
Ability to meet customer requirement/applications	1	2	0	0
Product line/range of product line	1	1	2	2
Service/ease of dealing with company	0	1	4	1
Other [3]	1	2	5	4

[1] Eleven purchasers reported one or more factors as fourth or less important.
[2] Quality includes print quality on printers, quality on diverse label materials, quality exceeding OEM standards, quality meets standards, and product performance.
[3] Other includes: for first factor versatility; for second factor, clear OEM distribution channel, flexibility in manufacturing; for third factor, meet or exceed industry standards, technical support/marketing, skill/inventiveness, contracted global pricing, drop ship delivery, customer satisfaction; factors reported fourth or lesser importance include new product development, private label, flexible packaging, suppliers were chosen after extensive product testing to prove the product was acceptable, specific formulations, willingness to supply low SKU products, and matching the ribbon to the needs of the customers.

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

contract, having supply relationship, and supplier not competing with the distributor; ability of suppliers to slit and wind product properly; loyalty; and difficulty changing producers because of differences in product that require testing before changing, cost of conversion between vendors, quality, time and resources required in order to change suppliers.

Purchasers were asked to rate the importance of 15 factors in their purchasing decisions (table II-2). All 32 responding purchasers rated product consistency and reliability of supply as very important. Other factors frequently listed as very important by almost all purchasers were availability (30 purchasers), price, delivery time, and quality meets industry standard (26 purchasers). Purchasers were asked for a country-by-country comparison on the same 15 factors (table II-3). The most frequently reported factors where U.S. product was superior to French product were technical support (six purchasers), availability and delivery time (four purchasers), and for delivery terms, minimum quantity requirements, and reliability of supply (three purchasers). French product was rated superior to U.S. for discounts offered, lower price, product consistency, and product range (three purchasers). U.S. product was rated as superior to Japanese product for availability and delivery time (six purchasers), delivery terms, minimum quantity requirements, and technical support (five purchasers), and for product range and reliability of supply (four purchasers). Japanese product was rated as superior to U.S. product for lower price (seven purchasers) and minimum quantity requirement, product consistency, quality meets industry standards, product range, quality exceeds industry standards, and reliability of supply (three purchasers). U.S. product was rated as superior to Korean product for product range (eight purchasers), technical support (six purchasers), and availability (four purchasers). Korean product was superior to U.S. product in lower price (seven purchasers).

Purchasers were asked if certain grades, types or sizes of certain TTR were available from a single source. Eighteen reported that they were not while 14 reported that they were. Three of these firms

Table II-2
Certain TTR: Importance of purchase factors, as reported by purchasers

Factor	Very important	Somewhat important	Not important
	Number of firms responding		
Availability	30	2	0
Delivery terms	16	14	2
Delivery time	26	5	1
Discounts offered	8	18	6
Extension of credit	12	10	10
Price	26	6	0
Minimum quantity requirements	5	19	8
Packaging	6	16	10
Product consistency	32	0	0
Quality meets industry standards	26	6	0
Quality exceeds industry standards	18	13	2
Product range	15	13	4
Reliability of supply	32	0	0
Technical support/service	15	13	4
U.S. transportation costs	8	17	7
Other[1]	11	1	0

[1] The number of firms reporting one or more other factors. Other factors reported to be very important by more than one purchaser include customer service (four purchasers), global distribution and research and development (three purchasers each). Factors reported as very important by one purchaser include OEM distribution policy, quality reputation, performance, coop marketing program, return policy, drop ship delivery, customer satisfaction, four up splitting, and unique formulations. One firm reported two other factors were somewhat important; these were lead generation and private labeling.

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

Table II-3
Certain TTR: Comparisons of product by source country, as reported by purchasers[1]

Factor	U.S. vs France			U.S. vs Japan			U.S. vs Korea			France vs Japan			France vs Korea			Japan vs Korea		
	S	C	I	S	C	I	S	C	I	S	C	I	S	C	I	S	C	I
	Number of firms responding																	
Availability	4	5	2	6	15	1	4	9	0	1	3	1	0	3	1	1	8	0
Delivery terms	3	7	0	5	16	0	3	9	0	0	5	0	0	3	1	1	8	0
Delivery time	4	5	2	6	16	0	3	10	0	1	4	0	0	4	0	2	7	0
Discounts offered	2	6	3	3	15	2	1	10	1	0	5	0	0	4	0	0	9	0
Extension of credit	1	9	1	0	20	1	0	12	0	1	4	0	0	4	0	0	9	0
Lower price[2]	0	8	3	3	12	7	0	6	7	0	4	1	0	4	0	1	7	1
Minimum quantity requirements	3	7	1	5	14	3	2	10	1	0	4	1	0	3	1	1	8	0
Packaging	1	8	2	3	18	1	1	11	0	0	4	1	0	4	0	1	8	0
Product consistency	0	8	3	0	19	3	1	12	0	1	4	0	0	4	0	0	9	0
Quality meets industry standards	0	9	2	0	19	3	1	11	1	0	5	0	0	4	0	0	9	0
Quality exceeds industry standards	0	9	2	0	18	3	2	9	2	0	5	0	0	4	0	0	9	0
Product range	2	6	3	4	15	3	8	4	1	1	4	0	3	1	0	5	4	0
Reliability of supply	3	6	2	4	15	3	3	10	0	0	5	0	0	4	0	0	9	0
Technical support/ service	6	3	2	5	17	0	6	6	1	2	1	2	0	4	0	3	6	0
U.S. transportation costs	0	11	0	2	19	1	0	12	1	0	5	0	0	4	0	0	9	0

[1] In addition, two purchasers compared Japanese product with product from nonsubject countries and one purchaser each compared U.S., French, and Korean product to product from nonsubject countries.
[2] A rating of superior means that the price of the country listed first is lower than the price of the country listed second.

Note.--S=first listed country's product is superior; C=both countries' products are comparable; I=first listed country's product is inferior.

Note.–Not all companies gave responses for all factors.

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

reported that the French product was different; two reported that each company used different formulations and were different; one reported that certain high quality wax/resin items are only available from Japanese suppliers; one firm reported that different ribbons were more or less effective on different substrata; and six reported that specific types of ribbons were only available from specific purchasers.[48]

Petitioner and respondents disagreed about the importance of price in purchasing decisions. Petitioner contends that price is the most important factor because quality is a given in the TTR business.[49] At the hearing IIMAK presented its evaluations of a number of ink formulations from different makers a number of which were identical or very similar in terms of performance characteristics.[50]

Respondents contend that price is one among many important factors, including such additional factors as compatibility with existing printers, services (including private labeling and drop-ship delivery), lead times, and technical assistance. DNP explained that before purchasing certain TTR, some purchasers will conduct extensive tests, checking alternative ribbons to determine whether they produce labels that scan well. The scanning is graded A-F and plays a large role in purchasing decisions, according to DNP.[51] Other respondents added that quality, compatibility, and on-time or just-in-time delivery, were more important than price.[52]

Purchasers were asked if they required certification or prequalification for certain TTR. Twelve of the 33 responding purchasers did not require certification/prequalification. Of those requiring it, 16 required it for all their purchases; four required it for all their purchases in 2003; and one required it for less than 10 percent of their purchases. Certification/qualification could either be done by the purchaser (typically an OEM or distributor), by the end user, or by both. Nine purchasers reported qualification times which ranged from less than a day to 6 months. The most important question for qualification is if the ribbons worked in the machines at the end user's location without requiring any adjustments in the printer. A number of purchasers reported that product had worked in their plant but not in their customers locations and, as a result, it had not been qualified. Purchasers were asked what factors they considered when qualifying a new supplier, with 30 purchasers reporting factors they considered.[53] Factors considered included quality, price, availability, range of product line, services, ISO certification, supply chain management, reliable manufacturing process, company history, whether the new supplier can provide a product the current supplier cannot, and ability of the product to work on a large range of label types.

Purchasers were asked if any coaters had failed to qualify their product or lost their approved status. Thirteen of 33 responding firms reported that coaters had failed to qualify. Many producers/importers, including Armor, DNP, Fujicopia, General Imaging, IIMAK, ITW, NCR, Ricoh, Sony, and Union were reported as not approved by some purchasers for some products.

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[48] One of these purchasers reported that certain colors were only available from IIMAK, however these color ribbons would not be subject product.

[49] Hearing transcript, p. 29 (Kingdon).

[50] Hearing transcript, IIMAK's power point presentation, p. 14.

[51] Conference transcript, pp. 124-126 (Cameron).

[52] Conference transcript, pp. 148-149, 152, 173-175 (Landry, Cox, Gallete, and Cameron).

[53] In addition, one purchaser responded that this did not apply, one reported it purchased only from Sony, and one only from IIMAK.

Lead Times

Lead times ranged from one day to two weeks, with most importers and producers reporting lead times of one week or less. Lead times typically depend on whether a product is in stock or not, and for ***, whether it is a jumbo roll (one week) or already slit (two weeks). Among coaters, ***.[54] ***.

Price Leadership

Purchasers were asked to report the price leaders in each of the years 2001 through 2003. They reported a large number of different price leaders in each of the years, and some firms reported more than one price leader in any particular year (table II-4). All purchasers that reported the direction of price changes caused by price leadership, reported that prices fell.

Table II-4
Certain TTR: Number of purchasers reporting specific producers, importers, or distributors as price leaders

Category/company	2001	2002	2003
U.S. coaters:			
Dynic	2	2	1
IIMAK	5	6	3
Sony	7	11	18
Importers, slitters, distributors:			
Armor	1	1	0
DNP	3	4	4
ITW	6	7	1
Union	0	5	4
Other[1]	2	1	4

[1] Other includes: in 2001, Advant, and Fujicopian; in 2002, Advant; in 2003, NCR, Japanese imports, Korean imports, and all sellers.

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

Comparisons of Domestic Products, Subject Imports, and Nonsubject Imports

Purchasers were asked to report how frequently subject TTR from different countries were used in the same applications (table II-5). If purchasers reported that products from different counties were not always used in the same application they were asked to explain why. Reasons for products not being interchangeable included differences in print quality, production line speed, printing head life, operational costs, different jumbo roll lengths and widths, rare ribbon types that only a few producers can produce, and no acceptable U.S. source. One firm reported that U.S. and Japanese products were sometime s

[54] ***.

Table II-5
Certain TTR: U.S. purchasers' perceived degree of interchangeability of products produced in the United States and other countries

Country	France				Japan				Korea				Nonsubject			
	A	F	S [1]	N [1]	A	F	S	N	A	F	S	N	A	F	S	N
United States	4	6	5	1	9	11	6	1	4	12	4	0	1	1	2	0
France	--	--	--	--	4	6	3	0	2	6	3	1	1	1	2	0
Japan	--	--	--	--	--	--	--	--	4	9	4	0	1	1	2	0
Korea	--	--	--	--	--	--	--	--	--	--	--	--	1	1	1	0

[1] One firm reported both sometimes and never in response to this country pair, and its responses have been included in both columns.

Note.–A=always; F=frequently; S=sometimes; N=never.

Source: Compiled from responses to Commission questionnaires.

interchangeable; it stated that interchangeability depends on application, and the Japanese products it sold were not substitutes for general wax products. Another firm reported that wax/resin items from Japan are very versatile and in most instances not interchangeable with U.S. product. One firm reported that Korean and U.S. products were sometimes interchangeable, depending on the speeds used, burn temperature, and specialized applications. One firm reported that Japanese and Korean products were sometimes interchangeable depending on application, however the high-end Japanese product was not interchangeable with the general product from Korea. One purchaser reported that U.S. and French products were only sometimes or never interchangeable because the French product differs technically from the U.S.-produced product and as a result it has not been uniformly successful in the United States.

Purchasers were asked if they or their customers ever specifically requested TTR from a single country. Eight of the 24 responding purchasers reported that their customers did sometimes order certain TTR from specific countries. Two reported that Japanese products was sometimes specified, with one of these reporting that this was because of the quality of the Japanese product.[55] Two purchasers reported a preference for French products because of volume leverage, global distribution, consistent product quality, relationship with the French producer, and its unique formulations. One purchaser reported preference for Korean products because of less breakage and less smearing than U.S. product. Two reported preferences for U.S. products because they had the best offerings, logistics availability, and technical support. One purchaser reported that there were isolated cases in which purchasers preferred subject products from a specific country.

Fourteen of the 32 responding purchasers reported that certain types of TTR were available from only a single source. Three of these reported that some product was only available from France. Ten reported that ribbon specifications were manufacturer specific and that this made a difference in their applications or that specific types of TTR were available from only one source.[56]

[55] One of these purchasers identified Sony as the Japanese producer, however the majority of Sony's U.S. sales volume is produced in the United States.

[56] One reported that certain colors were only available from IIMAK, however this is not a subject product.

Producers and importers were asked to assess how interchangeable certain TTR from the United States were with certain TTR from subject countries and nonsubject countries. Their answers are summarized in tables II-6 and II-7. Among producers, *** provided any reasons why the domestic and imported TTR were not "always" interchangeable. It reported that a wide range of products is produced and some customers require ribbon for a particular application in which another will not do. Importers cited quality, durability, and optimum design for a specific application as reasons why certain TTR might not be always interchangeable. *** stated that it produces niche products of certain TTR, and hence its products are not highly interchangeable with U.S. certain TTR.

Table II-6
Certain TTR: U.S. producers' perceived degree of interchangeability of product produced in the United States and other countries

Country	France				Japan				Korea				Nonsubject			
	A	F	S	N	A	F	S	N	A	F	S	N	A	F	S	N
United States	2	2	1	1	2	2	1	0	1	3	1	0	1	1	2	0
France	--	--	--	--	2	2	1	0	1	3	1	0	1	1	2	0
Japan	--	--	--	--	--	--	--	--	1	4	1	0	1	1	2	0
Korea	--	--	--	--	--	--	--	--	--	--	--	--	1	1	1	0

Note.–A=always; F=frequently; S=sometimes; N=never.

Source: Compiled from responses to Commission questionnaires.

Table II-7
Certain TTR: U.S. importers' perceived degree of interchangeability of product produced in the United States and other countries

Country	France				Japan				Korea				Nonsubject			
	A	F	S[1]	N[1]	A	F	S	N	A	F	S	N	A	F	S	N
United States	0	2	4	1	0	2	3	0	0	2	3	0	0	1	2	0
France	--	--	--	--	0	2	2	0	0	2	2	0	0	1	1	0
Japan	--	--	--	--	--	--	--	--	0	2	2	0	0	1	1	0
Korea	--	--	--	--	--	--	--	--	--	--	--	--	0	1	1	0

[1] One firm, ***, reported both sometimes and never in response to this country pair, and its responses have been included in both columns.

Note.–A=always; F=frequently; S=sometimes; N=never.

Source: Compiled from responses to Commission questionnaires.

Producers and importers were asked to assess how often differences other than price were significant in sales of certain TTR from the United States, subject countries, or nonsubject countries. Producers' and importers' answers are summarized in tables II-8 and II-9. *** reported that subject imports tend to be less durable, products from Japan and France were less consistent, and Japanese products had longer lead times. However, importers such as *** felt that purchasers often considered

product range, service, consistency, technical support, and ease of doing business along with, or before, price.

Table II-8
Certain TTR: U.S. producers' perceived importance of factors other than price in sales of product produced in the United States and other countries

Country	France				Japan				Korea				Nonsubject			
	A	F	S	N	A	F	S	N	A	F	S	N	A	F	S	N
United States	1	0	2	2	1	0	2	2	1	0	3	1	0	0	2	1
France	--	--	--	--	1	0	2	2	1	0	3	1	0	0	2	1
Japan	--	--	--	--	--	--	--	--	1	0	3	1	0	0	2	1
Korea	--	--	--	--	--	--	--	--	--	--	--	--	0	0	2	1

Note.–A=always; F=frequently; S=sometimes; N=never.

Source: Compiled from responses to Commission questionnaires.

Table II-9
Certain TTR: U.S. importers' perceived importance of factors other than price in sales of product produced in the United States and other countries

Country	France				Japan				Korea				Nonsubject			
	A	F	S	N	A	F	S	N	A	F	S	N	A	F	S	N
United States	1	3	0	0	1	3	0	1	0	3	0	0	0	1	0	0
France	--	--	--	--	1	2	0	0	0	2	0	0	0	1	0	0
Japan	--	--	--	--	--	--	--	--	1	2	0	0	0	1	0	0
Korea	--	--	--	--	--	--	--	--	--	--	--	--	0	1	0	0

Note.–A=always; F=frequently; S=sometimes; N=never.

Source: Compiled from responses to Commission questionnaires.

ELASTICITY ESTIMATES

This section discusses elasticity estimates. Parties did not provide comments in their prehearing or posthearing briefs.

U.S. Supply Elasticity[57]

The domestic supply elasticity for certain TTR measures the sensitivity of the quantity supplied by U.S. producers to changes in the U.S. market price of certain TTR. The elasticity of domestic supply depends on several factors including the level of excess capacity, the ease with which producers can alter capacity, producers' ability to shift to production of other products, the existence of inventories, and the availability of alternate markets for U.S.-produced certain TTR. Earlier analysis of these factors indicates that the U.S. industry is likely to be able to increase or decrease shipments to the U.S. market; an estimate in the range of 3 to 6 is suggested.

U.S. Demand Elasticity

The U.S. demand elasticity for certain TTR measures the sensitivity of the overall quantity demanded to a change in the U.S. market price of certain TTR. This estimate depends on factors discussed earlier such as the existence, availability, and commercial viability of substitute products, as well as the component share of the certain TTR in the production of any downstream products. Based on the available information, the aggregate demand elasticity for certain TTR is likely to be in a range of -0.5 to -0.9.

Substitution Elasticity

The elasticity of substitution depends upon the extent of product differentiation between the domestic and imported products.[58] Product differentiation, in turn, depends upon such factors as quality (e.g., chemistry, appearance, etc.) and conditions of sale (availability, sales terms/discounts/promotions, etc.). Staff estimates that the elasticity of substitution between U.S.-produced certain TTR and imported certain TTR is likely in the range of 2 to 4.

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[57] A supply function is not defined in the case of a non-competitive market.

[58] The substitution elasticity measures the responsiveness of the relative U.S. consumption levels of the subject imports and the domestic like products to changes in their relative prices. This reflects how easily purchasers switch from the U.S. product to the subject products (or vice versa) when prices change.

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

In the United States, there are both integrated firms that coat and slit their product into finished TTR and slitted fax TTR, as well as firms that purchase or import jumbo rolls of coated TTR and solely slit or convert these rolls into finished TTR and slitted fax TTR. Information presented in this section of the report is based on (except as noted) the questionnaire responses of six firms that both coat and slit TTR and three firms that produce slitted fax TTR in the United States. These firms are believed to account for the vast majority of the U.S. production of certain TTR and slitted fax TTR during the period 2001-2003.

The Commission concluded in the preliminary phase of these investigations that the domestic like product included certain TTR and slitted fax TTR produced by U.S. coaters, and excluded U.S. production by U.S. slitters/converters for lack of substantial production-related activities.[1] Therefore, in this section of the report, unless otherwise noted, staff has presented data regarding the domestic industry in a manner consistent with the Commission's findings, but also has displayed data regarding U.S. slitters/converters when possible. The Commission also found ITW to be a related party and concluded that appropriate circumstances existed to exclude ITW's U.S.-based coating operation from the domestic industry.[2]

U.S. COATERS

The Commission sent producers' questionnaires to seven firms identified as U.S. producers of certain TTR in the petition as well as to all U.S. importers.[3] Table III-1 lists the U.S. firms that have coating and slitting operations and produce certain TTR in the United States, with each company's production location(s), share of U.S. production in 2003, and position on the petition.

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[1] *Certain Wax and Wax/Resin Thermal Transfer Ribbons from France, Japan, and Korea*, Invs. Nos. 731-TA-1039-1041 (Preliminary), USITC Pub. 3613 (July 2003), pp. 7 and 15. Commissioner Miller dissented and found that the domestic like product was coextensive with Commerce's scope, which did not include slitted fax TTR. She also concluded that U.S. slitters/converters did provide sufficient production activities in the United States to warrant inclusion in the U.S. industry. Finally, she concluded that appropriate circumstances existed to exclude from the domestic industry as related parties the following U.S. slitter/converters: Armor, DNP, Fujicopian, ITW, and ***. *Id.* at 30 and 35.

[2] The data concerning ITW's relatively small U.S. coating operations have been included in this section because Commerce preliminarily determined that U.S. imports from Korea are not being sold, nor are likely to be sold, at less than fair value.

[3] The following firms received a producers' questionnaire: *** and all importers listed in table IV-1 of this report. The Commission received questionnaire responses from those U.S. coaters listed in table III-1 and those U.S. slitters/converters listed in table III-2. The Commission also received a U.S. producers' questionnaire from ***. The following U.S. coating firms reported that they also produce slitted fax TTR: ***. The following U.S. slitting/converting firms reported that they also produce slitted fax TTR: ***.

Table III-1
Certain TTR and slitted fax TTR: U.S. coaters, U.S. production locations, shares of U.S. production in 2003, and positions on the petition

Firm	Production location(s)	Share of production of certain TTR (*percent*)	Share of production of certain TTR and slitted fax TTR (*percent*)	Position on the petition
Certain TTR:				
Dynic[1]	Hillsboro, OR	***	***	***
IIMAK[2]	Amherst, NY	***	***	Petitioner
ITW[3]	Kalkaska, MI Romeo, MI	***	***	***
NCR[4]	Dayton, OH	***	***	Support
Paxar	White Plains, NY	***	***	***
Sony[5]	Mt. Pleasant, PA	***	***	Support
Slitted fax TTR:		**Share of production of slitted fax TTR (percent)[6]**		
IIMAK	Amherst, NY	***	***	Petitioner
Nu-kote	Rochester, NY	***	***	***
NCR	Dayton, OH	***	***	Support

1 ***.
2 ***.
3 ***.
4 ***.
5 ***.
6 ***.

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

Company Profiles

Dynic

Dynic Japan was founded in 1919 and is presently a global company producing a wide range of products such as computer ribbons, film, carpets, wallpapers, nonwoven fabric, materials for automobile interiors, various bags made from simulated leather, business card and postcard printers, aluminum foils, and composite film for foods. Its U.S. subsidiary, Dynic USA, was established in 1988 to serve as a manufacturing center for impact printer ribbons, which are most commonly used in consumer and business impact or dot matrix computer printers. In 1991, Dynic expanded its U.S. operations to include the production of TTR and coated textiles and fabrics.[4] Dynic reported that certain TTR accounted for *** percent of its net sales in its most recent fiscal year while net sales of *** accounted for *** percent.[5]

[4] Dynic's corporate website at http://www.dynic.com/about.html.

[5] Producer's questionnaire of Dynic, p. 13.

IIMAK

IIMAK was formed in 1984 and was granted a license from Fujicopian Japan that included patent rights and TTR manufacturing technical knowledge in exchange for royalty payments from IIMAK.[6] The licensing agreement, scheduled to run through 2008, also granted IIMAK the territorial exclusivity to sell TTR in North America (thus Fujicopian Japan agreed not to sell its TTR in North America in exchange for royalty payments from IIMAK). Armor, S.A., in France, was also under a similar licensing agreement with Fujicopian Japan that included territorial exclusivity provisions with regard to sales in Europe (while disallowing Armor France sales of TTR into North America or Asia).[7] Thus, these licensing agreements effectively prohibited competition between Armor France, Fujicopian Japan, and IIMAK in their respective local markets.[8] The licensing agreement between Armor France and Fujicopian Japan ended in 1998, thereby granting Armor France access to the U.S. TTR market.[9] On January 1, 2000, IIMAK and Fujicopian Japan modified their licensing agreement and agreed to reduce IIMAK's royalty payment to Fujicopian Japan, grant IIMAK access to the TTR market in Asia, and eliminate IIMAK's exclusivity on the North American TTR market.[10] Thus, IIMAK was free to pursue the Asian market while Fujicopian Japan now had access to the North American TTR market. Fujicopian began importing jumbo rolls for slitting/converting into the United States in ***.

During this period, Paxar acquired IIMAK and sold it in 2000 for a gain to IIMAK's management in a leveraged buyout. Currently, IIMAK is a privately held company owned by ***.[11]

In 2003, certain TTR accounted for *** percent of IIMAK's total production while other products such as *** accounted for *** percent.

ITW

Founded in 1910, Illinois Tool Works, Inc. is presently a diversified manufacturing company and global producer of engineered fasteners, components, equipment, tools, and specialty products. Illinois Tool Works, Inc. has approximately 600 decentralized business units in 44 countries that employ nearly 49,000 people.[12] One of these divisions is its thermal films division, which produces certain TTR. In 2003, ITW's production of certain TTR accounted for nearly all of its total production while ***.[13]

NCR

Founded in 1884 as the National Cash Register Company, NCR presently operates through five business segments: (1) financial self-service which provides services to retail banking such as automated teller machines; (2) data warehousing which provides hardware, software, professional consulting, customer support services; (3) retail store automation which provides point-of-sale terminals and other

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[6] Conference transcript, p. 117 (Groh).

[7] Petition, p. 75.

[8] Petitioner argues that the territorial exclusivity provisions were important to the agreements because all three companies sold identical or near identical products. *Id* at 75.

[9] ***.

[10] Conference transcript, pp. 117-118 (Groh).

[11] Producer's questionnaire of ***, app., p. 1; Respondents argue that IIMAK's *** is a major cause of its current financial problems and not LTFV imports. ITW's posthearing brief, app., pp. 11-12.

[12] Illinois Tool Works, Inc. corporate website at http://www.itwinc.com/about_home.html.

[13] Producer's questionnaire of ITW.

products to the retailing industry; (4) Systemedia which develops, produces, and sells consumable media products including certain TTR; and (5) payment and imaging which provides digital imaging and storing of checks for the financial services industry.[14] The Systemedia division, which includes certain TTR production, also includes paper rolls for ATMs and point of sale terminals, labels, business forms, and other office supplies and accounted for $6 million or 3.2 percent of NCR's total $189 million 2002 operating income.[15] NCR reported that in the same facilities it produces certain TTR it also produces ***.[16]

Paxar

Paxar's principal business is the production of bar code systems, fabric labels, graphic tags, paper and fabric substrates, and inks (including certain TTR) for tag and label printing for manufacturers, distributors, and retailers in the apparel industry. Paxar has locations in Asia, Mexico, and Europe to service the global apparel and textile industries and exports a substantial quantity of its U.S. production to service textile manufactures located abroad.[17] Although the company produces a wide variety of products for the apparel industry, from bar code printers to fabric labels, it reported that in its certain TTR manufacturing facilities, it ***.[18]

Sony

Sony Corp. of Japan is a diversified global corporation with business activities in consumer electronics, which accounted for 61 percent of its fiscal 2003 revenues; video games, which accounted for 12 percent; music, which accounted for 8 percent; motion pictures, which accounted for 10 percent; financial services, which accounted for 6 percent, and other ventures, which accounted for 3 percent.[19] Among these other ventures is Sony's production of certain TTR in the United States and Japan. In the same manufacturing facilities in which it produces certain TTR, Sony also produces ***.[20]

Others

Also, one independent U.S. producer of TTR, Chemicraft, Inc, exited the TTR industry in the fall of 2001. In 2000-2001, NCR closed a small coating facility in the United States and consolidated its TTR operations.[21]

U.S. SLITTERS/CONVERTERS

U.S. firms that do not perform coating operations in the United States, but rather solely slit/convert imported or purchased jumbo rolls of certain TTR into finished TTR, also submitted industry data to the Commission. These responding slitter/converters include: (1) All Write, (2) Armor, (3) DNP,

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[14] NCR's corporate website at http://www.ncr.com/about_ncr/aboutncr.htm.

[15] NCR 2002 annual report, pp. 7 and 10.

[16] Producer's questionnaire response of NCR, p. 12.

[17] Paxar's corporate website at http://www.paxar.com/cgi-bin/start.exe/home.html.

[18] Producer's questionnaire response of Paxar, p. 12.

[19] Sony's 2003 annual report, p. 69.

[20] Sony reported that ***.

[21] Petition, p. 80.

(4) Fujicopian, and (5) Union.[22] Table III-2 presents the responding slitter/converters, the locations of their slitting operations, their shares of 2003 total production, and positions on the petition.

Table III-2
Certain TTR and slitted fax TTR: Selected data for U.S. slitters/converters that slit purchased or imported jumbo rolls, 2003

Firm	Location(s) of slitting operations	Share of production of certain TTR (*percent*)	Share of production of certain TTR and slitted fax TTR (*percent*)	Position on the petition
Certain TTR:				
All Write[1]	Amelia, OH	***	***	Support
Armor[2]	Hebron, KY	***	***	***
DNP[3]	Concord, NC	***	***	***
Dynic	Hillsboro, OR	***	***	***
Fujicopian[4]	Winnsboro, SC	***	***	***
ITW[5]	Kalkaska, MI Romeo, MI	***	***	***
Paxar[6]	White Plains, NY	***	***	***
Sony[7]	Mt. Pleasant, PA	***	***	Support
Union[8]	Lake Forest, CA	***	***	***
Slitted fax TTR:		**Share of production of slitted fax TTR (percent)**		
DNP	Concord, NC	***	***	***
Fujicopian	Winnsboro, SC	***	***	***
Nu-kote	Rochester, NY	***	***	***
Union	Lake Forest, CA	***	***	***

1 ***.
2 ***.
3 ***.
4 ***.
5 ***.
6 ***.
7 ***.
8 ***.

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

[22] ***.

Company Profiles

All Write

All Write offers a diversified line of ribbon products, which includes, but is not limited to: mainframe printer ribbons, network printer ribbons, cartridge ribbons, thermal fax ribbons, thermal transfer barcode ribbons, and other specialty ribbons. According to All Write, they market ribbons exclusively through dealers and distributors.[23] All Write is the only independent U.S. slitter (not affiliated with a foreign producer of certain TTR) that provided the Commission with data in these investigations.

DNP

DNP's parent corporation, Dai Nippon Printing, was founded in 1876 and presently has overseas offices and affiliates throughout the world. DNP operates through seven business divisions: (1) Publication Division; (2) Commercial Printing Division; (3) Business Forms Division; (4) Packaging Division; (5) Decorative Materials Division; (6) Electronic Components Division; and (7) Information Media Supply (IMS) Division. The DNP IMS division, which is responsible for the production of certain TTR, is also responsible for the design, development, and marketing of printing systems for ID cards, photo ID cards, and photo-stickers using various printing materials.[24]

Fujicopian

Founded in 1950, Fujicopian is a producer of carbon paper, inked ribbons, ink rolls, logo stamps, correction tapes, glue tapes, lettering ribbons, and compatible word processor ribbons. Fujicopian's overseas network of companies includes Fujicopian (U.S.A.) Inc., Fujicopian (U.K.) LTD., Fujicopian (H.K) LTD., and Summit Imaging Technologies SDN, BHD, Malaysia. Its corporate headquarters is located in Osaka, Japan.[25]

Union

Union was founded in 1905 and has certain TTR slitting/converting operations in Japan, the United Kingdom, the Netherlands, China, and the United States. Union's corporate headquarters are located in Osaka, Japan. Union offers products in the printer ribbon consumable market for use in typewriters, computer printers, barcode printers, and fax machines.[26]

U.S. CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION

Data on U.S. capacity, production, and capacity utilization are presented in table III-3. Total U.S. coaters' capacity increased from 2001 to 2003 by 15.4 percent. Total U.S. coaters' production of certain TTR increased by 22.0 percent from 2001 to 2003. Capacity utilization of U.S. coaters' operations increased by 3.0 percentage points from 2001 to 2003. Total U.S. slitter/converters' capacity increased from 2001 to 2003 by 13.7 percent. Total U.S. slitter/converters' production of certain TTR

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[23] All Write Ribbon's corporate website at http://www.allwriteribbon.com.
[24] DNP's corporate website at http://www.dnpribbons.com.
[25] Fujicopian's corporate website at http://www.fujicopian.com.
[26] Union Chemicar America's corporate website at http://www.ucaribbons.com.

Table III-3
Certain TTR and slitted fax TTR: U.S. capacity, production, and capacity utilization, 2001-2003

Item	Calendar year		
	2001	2002	2003
U.S. coaters:			
Jumbo form:			
Capacity *(1,000 msi)*	1,599,148	1,771,466	1,891,986
Production *(1,000 msi)*	1,095,754	1,154,876	1,309,517
Capacity utilization *(percent)*	68.5	65.2	69.2
Yield loss *(1,000 msi)*	8,521	6,189	11,705
Slitted form:			
Capacity *(1,000 msi)*	2,316,810	2,552,654	2,673,174
Production *(1,000 msi)*	1,220,569	1,318,091	1,488,980
Capacity utilization *(percent)*	52.7	51.6	55.7
U.S. slitter/converters:			
Capacity *(1,000 msi)*	891,298	1,031,595	1,013,907
Production *(1,000 msi)*	405,148	490,386	472,137
Capacity utilization *(percent)*	45.5	47.5	46.6
Source: Compiled from data submitted in response to Commission questionnaires.			

increased by 16.5 percent from 2001 to 2003, and capacity utilization of U.S. slitter/converters increased by 1.1 percentage point.

During the 2001-2003 period for which data were collected, four of the six U.S. coaters reported increases in capacity. *** reported an increase in capacity of *** percent from 2001 to 2003. *** reported an increase of *** percent during the period, *** of U.S. coating operations. *** reported an increase of *** percent while *** reported steady capacity throughout the period examined.

*** reported that during the period examined it increased its capacity by *** percent as a result of ***.[27] Specifically, it reported that it ***.[28] ***.[29]

***.[30]

The domestic industry reported *** U.S. production of certain TTR in U.S. foreign trade zones. ***.

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[27] Petitioner's capacity data (both capacity to produce jumbo rolls and final slitted TTR capacity) were updated to reflect the removal of old coating machines and the resulting idle capacity after it replaced them with the state-of-the-art coating machines. The idle capacity removed amounted to *** msi in 2001, *** msi in 2002, and *** msi in 2003. Petitioner's posthearing brief, app., p. 52.

[28] ***. ***'s U.S. producer questionnaire response, app., p. 2.

[29] *Id.* ***.

[30] U.S. producer questionnaire responses of ***.

U.S. SHIPMENTS AND EXPORT SHIPMENTS

As detailed in table III-4 and table III-4A, the quantity of U.S. shipments by U.S. producers that both coat and slit certain TTR rose by 26.6 percent from 2001 to 2003. The value of their U.S. shipments increased by 6.6 percent during the same time period. U.S. coaters reported increasing U.S. commercial shipments of jumbo rolls during the period examined, rising to *** percent of total U.S. shipments in 2003.[31] The quantity of export shipments made by U.S. producers increased by 6.3 percent between 2001 and 2003, while the value of those export shipments decreased by 8.7 percent during the same period. *** reported export shipments, which were made to ***.

Data regarding U.S. slitter/converters' shipments are presented in tables III-5 and III-5A.

[31] *** U.S. coaters reported selling jumbo rolls of certain TTR on the merchant market. ***.

Table III-4
Certain TTR and slitted fax TTR: U.S. coaters' shipments, by type, 2001-2003

Item	Calendar year		
	2001	2002	2003
		Quantity (*1,000 msi*)	
Commercial shipments	735,948	824,807	898,420
Internal consumption	***	***	***
Transfers to related firms	***	***	***
U.S. shipments	792,580	908,238	1,003,233
Export shipments	365,692	310,286	388,622
Total shipments	1,158,272	1,218,524	1,391,855
		Value (*$1,000*)	
Commercial shipments	110,218	110,863	116,975
Internal consumption	***	***	***
Transfers to related firms	***	***	***
U.S. shipments	119,450	120,763	127,282
Export shipments	34,710	26,665	31,686
Total shipments	154,160	147,427	158,968
		Unit value (*per msi*)	
Commercial shipments	$0.150	$0.134	$0.130
Internal consumption	***	***	***
Transfers to related firms	***	***	***
U.S. shipments	0.151	0.133	0.127
Export shipments	0.095	0.086	0.082
Average	0.133	0.121	0.114
		Share of total quantity (*percent*)	
Commercial shipments	63.5	67.7	64.5
Internal consumption	***	***	***
Transfers to related firms	***	***	***
U.S. shipments	68.4	74.5	72.1
Export shipments	31.6	25.5	27.9
Total shipments	100.0	100.0	100.0

[1] Not applicable.

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

Table III-4A
Certain TTR and slitted fax TTR: U.S. coaters' U.S. commercial shipments, by type, 2001-2003

Item	Calendar year		
	2001	2002	2003
		Quantity (*1,000 msi*)	
Jumbo rolls	***	***	***
Certain slitted TTR	585,842	600,654	582,838
Slitted fax TTR	***	***	***
Total U.S. commercial shipments	735,948	824,807	898,420
		Value (*$1,000*)	
Jumbo rolls	***	***	***
Certain slitted TTR	81,659	75,419	65,653
Slitted fax TTR	***	***	***
Total U.S. commercial shipments	110,218	110,863	116,975
		Unit value (*per msi*)	
Jumbo rolls	***	***	***
Certain slitted TTR	$0.139	$0.126	$0.113
Slitted fax TTR	***	***	***
Average, U.S. commercial shipments	0.150	0.134	0.130
		Share of total quantity (*percent*)	
Jumbo rolls	***	***	***
Certain slitted TTR	79.6	72.8	64.9
Slitted fax TTR	***	***	***
Total U.S. commercial shipments	100.0	100.0	100.0

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

Table III-5
Certain TTR and slitted fax TTR: U.S. slitter/converters' shipments, by type, 2001-2003

Item	Calendar year		
	2001	2002	2003
	Quantity (*1,000 msi*)		
Commercial shipments	375,136	411,932	370,268
Internal consumption	***	***	***
Transfers to related firms	***	***	***
U.S. shipments	378,583	428,259	386,814
Export shipments	33,549	50,945	71,561
Total shipments	412,132	479,204	458,375
	Value (*$1,000*)		
Commercial shipments	58,035	59,962	49,225
Internal consumption	***	***	***
Transfers to related firms	***	***	***
U.S. shipments	58,469	61,716	50,828
Export shipments	4,484	7,857	12,186
Total shipments	62,953	69,573	63,014
	Unit value (*per msi*)		
Commercial shipments	$0.155	$0.146	$0.133
Internal consumption	***	***	***
Transfers to related firms	***	***	***
U.S. shipments	0.154	0.144	0.131
Export shipments	0.134	0.154	0.170
Average	0.153	0.145	0.137
	Share of total quantity (*percent*)		
Commercial shipments	91.0	86.0	80.8
Internal consumption	***	***	***
Transfers to related firms	***	***	***
U.S. shipments	91.9	89.4	84.4
Export shipments	8.1	10.6	15.6
Total shipments	100.0	100.0	100.0

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

Table III-5A
Certain TTR and slitted fax TTR: U.S. slitter/converters' U.S. commercial shipments, by type, 2001-2003

Item	Calendar year		
	2001	2002	2003
	Quantity (*1,000 msi*)		
Certain slitted TTR	***	***	***
Slitted fax TTR	***	***	***
Total U.S. commercial shipments	375,136	411,932	370,268
	Value (*$1,000*)		
Certain slitted TTR	***	***	***
Slitted fax TTR	***	***	***
Total U.S. commercial shipments	58,035	59,962	49,225
	Unit value (*per msi*)		
Certain slitted TTR	***	***	***
Slitted fax TTR	***	***	***
Average, U.S. commercial shipments	$0.155	$0.146	$0.133
	Share of total quantity (*percent*)		
Certain slitted TTR	***	***	***
Slitted fax TTR	***	***	***
Total U.S. commercial shipments	100.0	100.0	100.0

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

U.S. COATERS' AND SLITTER/CONVERTERS' IMPORTS AND PURCHASES OF IMPORTS

Table III-6 presents direct imports and purchases of imports by U.S. producers that have coating operations in the United States, along with their U.S. production. ***. *** all import jumbo rolls from *** to be slit/converted in the United States. *** reported that they purchased certain TTR from domestic producers during the period 2001-2003.[32]

Table III-6
Certain TTR: U.S. coaters' production, imports, and purchases of imports, 2001-2003

* * * * * * *

Table III-7 presents direct imports and purchases of imports by U.S. firms that perform only slitting/converting operations. *** reported the importation of jumbo rolls from their respective parent corporations. *** reported purchasing a *** of certain TTR from *** during the period examined.

Table III-7
Certain TTR: U.S. slitters/converters' production, imports, and purchases of imports, 2001-2003

* * * * * * *

***, both a U.S. coater and converter of slitted fax TTR, reported coating operations in the United States and purchasing jumbo rolls of TTR from ***. ***.[33]

U.S. INVENTORIES

Data on end-of-period inventories of certain TTR and slitted fax TTR for the period of investigation are presented in table III-8. Data are presented separately for U.S. coaters and U.S. slitters/converters.

Table III-8
Certain TTR and slitted fax TTR: U.S. end-of-period inventories, 2001-2003

Item	Calendar year		
	2001	2002	2003
U.S. coaters			
Inventories (*1,000 msi*)	88,440	89,744	98,627
Ratio to production (*percent*)	7.2	6.8	6.6
Ratio to U.S. shipments (*percent*)	11.2	9.9	9.8
Ratio to total shipments (*percent*)	7.6	7.4	7.1
U.S. slitters/converters			
Inventories (*1,000 msi*)	30,924	41,782	35,469
Ratio to production (*percent*)	7.6	8.5	7.5
Ratio to U.S. shipments (*percent*)	8.2	9.8	9.2
Ratio to total shipments (*percent*)	7.5	8.7	7.7
Source: Compiled from data submitted in response to Commission questionnaires.			

[32] ***.
[33] ***.

U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY

Data provided by U.S. firms on the number of production and related workers ("PRWs") engaged in the production of certain TTR and slitted fax TTR, the total hours worked by such workers, and wages paid to such PRWs during 2001-2003 are presented in table III-9. ***.[34] Respondent *** reported that on December 1, 2003, it discontinued its U.S. slitting operations due to these investigations and terminated *** PRWs.

Table III-9
Certain TTR and slitted fax TTR: Average number of production and related workers producing certain TTR and slitted fax TTR, hours worked, wages paid to such employees, and hourly wages, productivity, and unit labor costs, 2001-2003

Item	Calendar year		
	2001	2002	2003
U.S. coaters:			
Certain TTR:			
PRWs (*number*):			
Jumbo rolls[1]	***	***	***
Slitted TTR	***	***	***
U.S. coaters' certain TTR PRWs	***	***	***
Hours worked (*1,000*)	***	***	***
Wages paid (*$1,000*)	***	***	***
Hourly wages	***	***	***
Productivity (*msi per hour*)	***	***	***
Unit labor costs (*per msi*)	***	***	***
Slitted fax TTR:			
PRWs (*number*)	***	***	***
Hours worked (*1,000*)	***	***	***
Wages paid (*$1,000*)	***	***	***
Hourly wages	***	***	***
Productivity (*msi per hour*)	***	***	***
Unit labor costs (*per msi*)	***	***	***

Table continued on next page

[34] U.S. producer questionnaire of ***, app., p. 2; petition, p. 68.

Table III-9--*Continued*
Certain TTR and slitted fax TTR: Average number of production and related workers producing certain TTR and slitted fax TTR, hours worked, wages paid to such employees, and hourly wages, productivity, and unit labor costs, 2001-2003

Item	Calendar year		
	2001	2002	2003
Total certain and slitted fax TTR:			
PRWs (*number*)	536	501	514
Hours worked (*1,000*)	1,225	1,129	1,167
Wages paid (*$1,000*)	19,883	19,718	19,928
Hourly wages	$16.23	$17.46	$17.07
Productivity (*msi per hour*)	996.1	1,167.5	1,275.5
Unit labor costs (*per msi*)	$0.016	$0.015	$0.013
U.S. slitters/ converters:			
Certain TTR:			
PRWs (*number*)	***	***	***
Hours worked (*1,000*)	***	***	***
Wages paid (*$1,000*)	***	***	***
Hourly wages	***	***	***
Productivity (*msi per hour*)	***	***	***
Unit labor costs (*per msi*)	***	***	***
Slitted fax TTR:			
PRWs (*number*)	***	***	***
Hours worked (*1,000*)	***	***	***
Wages paid (*$1,000*)	***	***	***
Hourly wages	***	***	***
Productivity (*msi per hour*)	***	***	***
Unit labor costs (*per msi*)	***	***	***
Total certain and slitted fax TTR:			
PRWs (*number*)	255	282	246
Hours worked (*1,000*)	300	370	311
Wages paid (*$1,000*)	4,714	5,254	4,638
Hourly wages	$15.71	$14.20	$14.90
Productivity (*msi per hour*)	1,329.2	1,325.0	1,517.0
Unit labor costs (*per msi*)	$0.012	$0.011	$0.010

[1] The number of PRWs was the only employment data for jumbo rolls requested in the Commission's producers' questionnaire.
*** did not provide data regarding its PRWs dedicated to jumbo roll production.

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

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

U.S. IMPORTERS

The Commission sent importer questionnaires to 14 firms believed to be importers of certain TTR,[1] as well as to all U.S. producers.[2] Questionnaire responses were received from 11 companies that are believed to account for the vast majority of U.S. imports of certain TTR and slitted fax TTR.[3] Questionnaire respondents were located in California (2), Connecticut, Kentucky, Michigan, New Jersey, North Carolina, Oregon, Pennsylvania, South Carolina, and Texas. All responding U.S. importers of certain TTR have affiliated companies that produce certain TTR in one of the subject countries. U.S. import data set forth in this section are a compilation of these firms' reported imports from subject countries.[4] Imports of certain TTR from nonsubject countries appear to be an extremely small portion of the market.[5] Table IV-1 lists all responding U.S. importers of certain TTR and their quantity of imports, by source, in 2003.

Table IV-1
Certain TTR and slitted fax TTR: Reported U.S. imports, by importer and by source of imports, 2003

* * * * * * *

With the exception of ***, no U.S. importers entered the subject product into or withdrew it from foreign trade zones or bonded warehouses.

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[1] In the preliminary phase of these investigations, the Commission concluded that the domestic like product included slitted fax TTR. Imports of slitted fax TTR are included in tables IV-4 and IV-5 of this section (apparent U.S. consumption and market shares), but are not included in table IV-2 (U.S. imports).

[2] These firms included: ***.

[3] *** reported that they do import slitted fax TTR but not certain TTR. ***. *** also reported that it imported slitted fax TTR in addition to certain TTR.

[4] Classification of entries into the United States of the subject product under the HTS appears to be inconsistent. Petitioner stated in the petition that it believes certain TTR should be classified under heading 3702, and statistical reporting numbers 3921.90.4025 (this statistical reporting number ceased to exist on July, 1, 2003) and 9612.10.9030, but also had reason to believe that some imports were entering the United States under subheadings 3204.90, 3506.99, 3919.90, 3920.62, 3920.99, and 3926.90. *See* petition, pp. 10-12. All of these HTS categories contain products outside the scope of the investigations and many are "basket" categories. Therefore, it would appear that questionnaire data of reporting U.S. importers would be more reliable than import statistics compiled by Commerce.

[5] During the preliminary phase of these investigations, the industry agreed that the volume of imports from nonsubject countries was small to nonexistent. ***. No other importer reported imports of certain TTR from nonsubject countries. *** reported a small quantity of U.S. imports of slitted fax TTR from ***.

U.S. IMPORTS

Table IV-2 shows that the quantity of U.S. imports of certain TTR from France and Japan increased by *** percent from 2001 to 2003.[6] U.S. imports of certain TTR from the subject countries principally consisted of jumbo rolls for captive consumption for further processing into slitted certain TTR in the United States. The quantity of U.S. imports from France increased from 2001 to 2003 by *** percent. The quantity of U.S. imports from Japan increased by *** percent from 2001 to 2003. The quantity of imports from nonsubject countries was *** during the period examined.

[6] Commerce preliminarily determined that U.S. imports from Korea are not being sold, nor are likely to be sold, in the United States at less than fair value and assigned Korea a *de minimus* margin rate of 1.27 percent *ad valorem*. Therefore, in this section of the report, data concerning U.S. imports from Korea are presented separately from those of France and Japan.

Table IV-2
Certain TTR: U.S. imports, by source, 2001-2003

Source	Calendar year		
	2001	2002	2003
	Quantity (*1,000 msi*)		
France	***	***	***
Japan[1]	***	***	***
Subtotal	295,395	312,604	373,423
Korea[2]	***	***	***
All others	***	***	***
Total	***	***	***
	Value (*$1,000*)[3]		
France	***	***	***
Japan[1]	***	***	***
Subtotal	24,644	21,349	23,575
Korea[2]	***	***	***
All others	***	***	***
Total	***	***	***
	Unit value (*per msi*)		
France	***	***	***
Japan[1]	***	***	***
Subtotal	$0.083	$0.068	$0.063
Korea[2]	***	***	***
All others	***	***	***
Average	***	***	***
	Share of quantity (*percent*)		
France	***	***	***
Japan[1]	***	***	***
Subtotal	62.6	60.5	68.1
Korea[2]	***	***	***
All others	***	***	***
Total	100.0	100.0	100.0

Table continued on next page

Table IV-2--*Continued*
Certain TTR: U.S. imports, by source, 2001-2003

Source	Calendar year		
	2001	2002	2003
	Share of value (*percent*)		
France	***	***	***
Japan[1]	***	***	***
Subtotal	64.5	59.8	66.8
Korea[2]	***	***	***
All others	***	***	***
Total	100.0	100.0	100.0

[1] ***.
[2] Commerce has preliminary determined that U.S. imports from Korea are not being sold, nor are likely to be sold, in the United States at less than fair value and assigned Korea a *de minimus* margin rate of 1.27 percent *ad valorem*. Therefore, in this section of the report, data concerning U.S. imports from Korea are presented separately from those of France and Japan.
[3] Landed, duty-paid.
[4] Not applicable.

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

Table IV-3 presents quantity, value, and unit value of reported U.S. imports of slitted fax TTR.

Table IV-3
Slitted fax TTR: U.S. imports, 2001-2003

* * * * * * *

Table IV-4 presents data regarding shipments of imports by source and type during the period examined.

Table IV-4
Certain TTR: Shipments of imports, by source and type, 2001-2003

* * * * * * *

NEGLIGIBILITY

The Act provides for the termination of an investigation if imports, corresponding to a domestic like product, from a country are less than 3 percent of total imports, or, if there is more than one such country, their combined share is less than or equal to 7 percent of total imports, during the most recent 12 months for which data are available preceding the filing of the petition–in this case June 2002 through May 2003. The shares (in *percent*) of the total quantity of U.S. imports of certain TTR and alternatively, the combination of certain TTR and slitted fax TTR, for each of the subject countries for the period of

June 2002 through May 2003 are presented in table IV-5. As shown in table IV-5, imports from France are less than 3 percent of total imports when slitted fax TTR are included in the domestic like product.

Table IV-5
Certain TTR and slitted fax TTR: U.S. imports and shares of total imports, by source, June 2002-May 2003

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CUMULATION CONSIDERATIONS

In assessing whether imports compete with each other and with the domestic like product, the Commission has generally considered four factors: (1) fungibility, (2) presence of sales or offers to sell in the same geographic market, (3) common or similar channels of distribution, and (4) simultaneous presence in the market. Issues concerning fungibility are addressed in Part II of this report and channels of distribution are discussed in Parts I and II. With regard to geographic markets and presence in the market, the petitioner argued that imported certain TTR from all subject countries compete for the same end users without regard to geographic location in the United States and that these imports have been simultaneously present in the U.S. market throughout the period examined.[7] In the preliminary phase of these investigations, no geographic market segmentation in the United States was reported by the parties to these investigations.

During the preliminary phase of these investigations, respondent Armor was the only party to argue that its imports from France should not be cumulated with other imports due to its product uniqueness and niche market.[8] Armor argued that its products are high-quality niche TTR products that are not interchangeable with other certain TTR products and that its primary channel of distribution is to sell its TTR directly to the OEM as opposed to through a distributor as much of the TTR industry does. The Commission, in its preliminary determination, rejected this argument noting that Armor submitted pricing data showing sales by Armor of common general purpose black wax finished TTR.[9]

In the final phase of these investigations, Armor argued that there is no overlap of competition in the United States between Armor's TTR products and other producers of certain TTR. Armor stated that this lack of overlap of competition is a result of the fact that: (1) Armor exports approximately *** percent of the certain TTR it slits in the United States to other markets, including South America, thus not competing in the U.S. market; (2) Armor's channels of distribution are significantly different from those of other certain TTR producers (it stated that *** percent of its sales were direct to OEMs pursuant to global sales contracts);[10] and (3) Armor's share of domestic consumption has remained small and

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[7] Petition, pp. 72-73 ("complete overlap in competition among subject imports from the three respondent countries and between all of those imports and domestic product.").

[8] *Certain Wax and Wax/Resin Thermal Transfer Ribbons from France, Japan, and Korea*, Invs. Nos. 731-TA-1039-1041 (Preliminary), USITC Pub. 3613 (July 2003), p. 19.

[9] *Id.* In the final phase of these investigations, Armor argues that products 1 and 3 of the Commission's requested pricing products are so broad in definition as to capture both its niche products and more common products. Armor's posthearing brief, exh. 1, p. 5.

[10] Armor's posthearing brief, exh. 1, pp. 6-9. In contrast, petitioner estimated that ***. *See* p. II-1 of this report and hearing transcript, p. 30 (Kingdon).

stable over the period of investigation, thus disallowing its depressing or suppressing effects on price in the U.S. market.[11]

Petitioner argues that there is a reasonable overlap of competition between Armor's TTR products and other producers' products in the United States for imports from France to be cumulated with imports from Japan and Korea.[12] Petitioner states that there is no new evidence on the record since the Commission made its determination in the preliminary phase of these investigations in which it rejected Armor's argument. Petitioner reiterates that imports from France are fungible with other subject imports and with the domestic like product by citing that some purchasers had indicated that certain TTR from France was interchangeable with other product.[13] Petitioner also cites Armor's pricing data, which it states shows ***.[14] Finally, petitioner argues that Armor competes in the same channels of distribution as all producers of certain TTR, *e.g.*, selling certain TTR through distributors as well as OEMs.[15]

APPARENT U.S. CONSUMPTION

Data on apparent U.S. consumption of certain TTR and slitted fax TTR are presented in table IV-6 and are based on U.S. coaters' shipments as reported in the Commission's questionnaires and U.S. imports as reported by U.S. importers in response to the Commission's questionnaires.

[11] Armor's posthearing brief, exh. 1, p. 9.

[12] Petitioner's posthearing brief, app., p. 18.

[13] *Id.* at app., pp. 18-19.

[14] *Id.* at app., pp. 19-20.

[15] *Id.* at app., pp. 20-21.

Table IV-6
Certain TTR and slitted fax TTR: U.S. shipments of domestic product, U.S. imports by source, and apparent U.S. consumption, 2001-2003

Item	Calendar year		
	2001	2002	2003
	Quantity (*1,000 msi*)		
U.S. coaters' U.S. shipments	792,580	908,238	1,003,233
U.S. shipments of imports[1] from--			
France	***	***	***
Japan	***	***	***
Subtotal	268,031	311,450	315,848
Korea	***	***	***
All other imports[2]	***	***	***
Total imports	***	***	***
Apparent U.S. consumption	***	***	***
	Value (*$1,000*)		
U.S. coaters' U.S. shipments	119,450	120,763	127,282
U.S. shipments of imports[1] from--			
France	***	***	***
Japan	***	***	***
Subtotal	24,677	25,417	25,642
Korea	***	***	***
All other imports[2]	***	***	***
Total imports	***	***	***
Apparent U.S. consumption	***	***	***

[1] Apparent consumption based on U.S. shipments of slitted TTR by U.S. slitters/converters (U.S. import shipments of slitter converters are presented using U.S. shipments from their producers' questionnaire as opposed to U.S. shipments of imports from their importers' questionnaire) is presented in table C-1A, app. C.
[2] Consists of U.S. imports of nonsubject slitted fax TTR.

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

U.S. MARKET SHARES

Data on market shares in the total U.S. market for certain TTR and slitted fax TTR are presented in table IV-7.

Table IV-7
Certain TTR and slitted fax TTR: Apparent U.S. consumption and market shares, 2001-2003

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RATIO OF SUBJECT IMPORTS TO U.S. PRODUCTION

Data on ratio of imports of certain TTR to total U.S. production of certain TTR and slitted fax TTR are presented in table IV-8.

Table IV-8
Certain TTR: U.S. production, U.S. imports, and ratios of imports to production, 2001-2003

Item	Calendar year		
	2001	2002	2003
	Quantity (*1,000 msi*)		
U.S. coaters' production	1,220,569	1,318,091	1,488,980
U.S. imports from--			
France	***	***	***
Japan	***	***	***
Subtotal	295,395	312,604	373,423
Korea	***	***	***
All other countries	***	***	***
Total imports	***	***	***
	Ratio of imports to U.S. production (*percent*)		
U.S. imports from--			
France	***	***	***
Japan	***	***	***
Subtotal	24.2	23.7	25.1
Korea	***	***	***
All other countries	***	***	***
Total imports	***	***	***

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

CRITICAL CIRCUMSTANCES

In its final affirmative determination of LTFV sales of the subject product from Japan, Commerce found that critical circumstances exist for imports of wax and wax/resin thermal transfer ribbons from Japan. In particular, Commerce determined that critical circumstances exist for imports from DNP and Union, while critical circumstances do not exist for imports from producers/exporters in the "all other" category.[16]

If the Commission determines that an industry in the United States is materially injured by reason of LTFV imports of certain TTR from Japan, it must further determine "whether the imports subject to the affirmative {Commerce critical circumstances} determination . . . are likely to undermine seriously the remedial effect of the antidumping duty order to be issued."[17] The statute further provides that in making this determination, the Commission shall consider:

> (I) the timing and the volume of the imports,
> (II) a rapid increase in inventories of the imports, and
> (III) any other circumstances indicating that the remedial effect of the antidumping order will be seriously undermined.[18]

Monthly import data and end-of-period inventories of imports of certain TTR by DNP[19] and Union, for the period before and after the filing of the petition (November 2002-May 2003 and June 2003-December 2003), are presented in table IV-9, and figures IV-1 and IV-2.

Table IV-9
Certain TTR: U.S. imports and end-of-period inventories for DNP and Union, November 2002-December 2003

* * * * * * *

Figure IV-1
Certain TTR: Monthly imports for DNP and Union, November 2002-December 2003

* * * * * * *

Figure IV-2
Certain TTR: Monthly end-of-period inventories for DNP and Union, November 2002-December 2003

* * * * * * *

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[16] *Notice of Preliminary Determination of Sales at Less than Fair Value: Wax and Wax/Resin Thermal Transfer Ribbons from Japan*, 68 FR 71077, Dec. 22, 2003; and *Notice of Final Determination of Sales at Less than Fair Value: Wax and Wax/Resin Thermal Transfer Ribbons from Japan*, 69 FR 11834, March 12, 2004. Commerce based its determinations for DNP and Union on "facts available" and made an "adverse inference" in selecting facts available because of the firms' lack of cooperation in responding to Commerce's questionnaires. *Id.*

[17] Section 735(b)(4)(A)(i) of the Act (19 U.S.C. § 1673d(b)(4)(A)(i)).

[18] Section 735(b)(4)(A)Iii) of the Act (19 U.S.C. § 1673d(b)(4)(A)(ii)).

[19] At the March 9, 2004 hearing, petitioner stated that after further review of the data, it would attempt to withdraw its critical circumstances allegations against DNP at Commerce. However, petitioner stated in its posthearing brief that there is no recognizable post-final determination procedure for withdrawing its critical circumstances allegations against DNP at Commerce. Petitioner's posthearing brief, app., p. 2.

PART V: PRICING AND RELATED INFORMATION

FACTORS AFFECTING PRICES

Transportation Costs to the U.S. Market

Transportation costs for certain TTR from subject countries to the United States (excluding U.S. inland costs) are estimated to be approximately 2.1 percent of the total cost for certain TTR from France, 2.1 percent of the total cost for certain TTR from Japan, and 8.6 percent of the total cost for certain TTR from Korea. These estimates are derived from official import data and represent the transportation and other charges on imports valued on a c.i.f. basis, as compared with customs value.[1]

U.S. Inland Transportation Costs

Transportation costs were generally zero to five percent for both producers and importers. However, while *** reported that they arranged transportation, *** reported that their purchasers arrange transportation. Most importers and producers shipped the majority of their sales at least 100 miles to their customers.

Exchange Rates

Quarterly data reported by the International Monetary Fund indicate that the nominal value of the euro, the yen, and the won all appreciated over January 2001 through December 2003. Both nominal and real values of the currencies are presented in figure V-1.

[1] These estimates are based on HTS statistical reporting numbers 3702.44.00.60, 3921.90.40.25, and 9612.10.90.30. While these statistical reporting numbers may not be accurate estimates of certain TTR imported into the United States (see petition pp. 10-11), staff believes they are adequate for estimating the cost of transporting certain TTR or similar types of coated films.

Figure V-1
Exchange rates: Indices of the nominal and real exchange rates between the French, Japanese, and Korean currencies and the U.S. dollar, by quarters, January 2001-December 2003

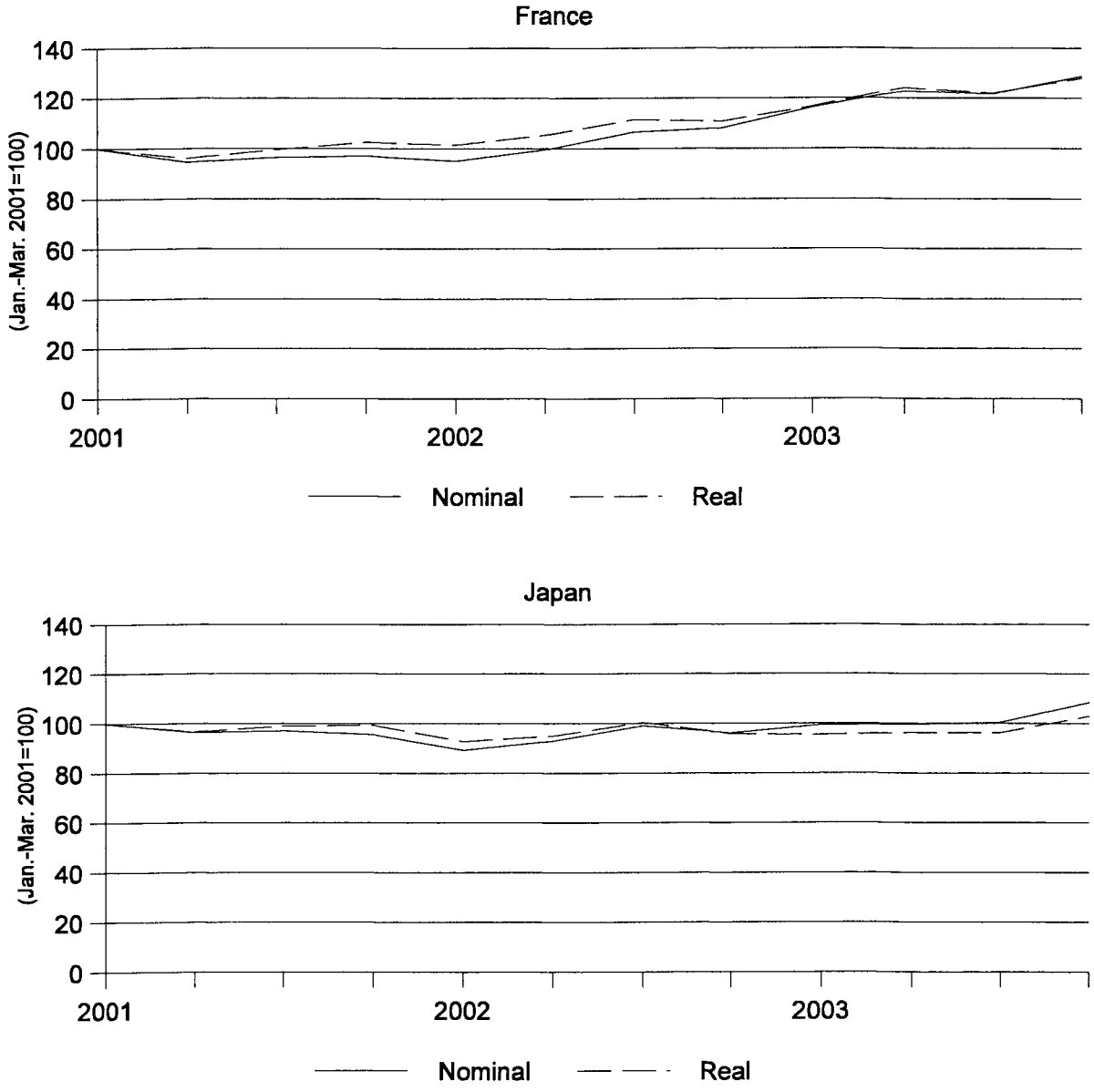
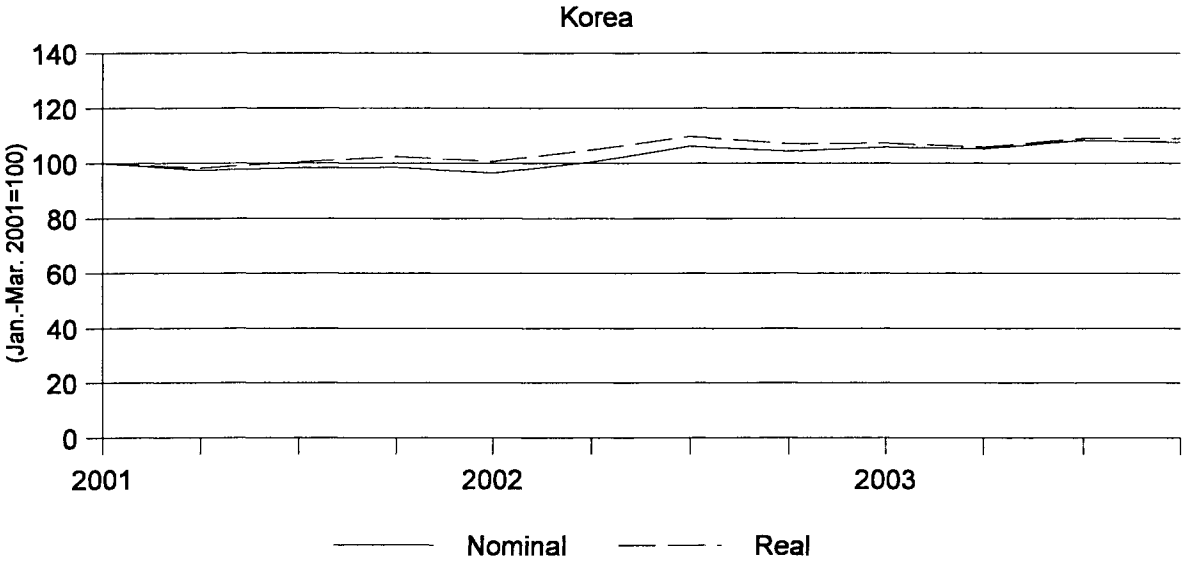


Figure continued on next page.

Figure V-1--*Continued.*
Exchange rates: Indices of the nominal and real exchange rates between the French, Japanese, and Korean currencies and the U.S. dollar, by quarters, January 2001-December 2003



Source: International Monetary Fund, *International Financial Statistics*, February 2004.

PRICING PRACTICES

Pricing Methods

Most producers and importers stated that contracts are rare for certain TTR; instead, most transactions involve a one-time delivery of a specific quantity of certain TTR.[2] Certain TTR are sold on the basis of ribbon area, in dollars (or cents) per msi.[3] All producers and all importers reported that pricing is generally set on an f.o.b. warehouse or plant basis and terms are typically net 30 days.

Sellers of certain TTR generally reported that prices were set through a variety of methods, including price lists, transaction by transaction negotiation, and request for quotes. However, pricing methods did not tend to vary by seller; rather, each seller reported a variety of methods depending on the type of customer it had (custom order, distributor, etc.).

Among U.S. coaters, ***.[4] ***.

[2] See also petition p. 32.

[3] Conference transcript, p. 29 (Kingdon).

[4] Several companies (including ***) submitted price lists that showed discounts for larger volume purchases.

Among importers and their affiliated slitters/converters,[5] there was also a tendency toward the use of price lists for some customers and transaction by transaction negotiation for others.[6] ***.

Among U.S. coaters, ***. *** stated that the certain TTR market has been moving toward more spot sales due to purchaser reluctance to commit long-term in an atmosphere of falling prices. Among importers and slitters/converters, five of the seven responding firms reported 80 percent or more of their sales were spot sales. However, ***. U.S. producers generally reported contracts of one to two years, but with a variety of different conditions (e.g., setting price or quantity, having meet or release clauses, etc.). Among importers and slitters/converters, contracts were less common. ***.

PRICE DATA

The Commission requested U.S. coaters, slitters, and importers of certain TTR to provide quarterly data for the total quantity and value of certain TTR that was/were shipped to unrelated customers in the U.S. market.[7] Data were requested for the period January 2001 to December 2003. The products for which pricing data were requested are as follows:

> ***Product 1***.–**Slit form of the following wax and resin-enhanced wax products: IIMAK - I10, I11, I21, I28, I35, I45, GP725; Armor - AWX-100, AWR-210, AWR-470, AWX-500; ITW - W90; DNP - W110, W137; Sony - 4085 Plus; Fujicopian - FTX100, FTX111, FTX128, FTX135; Dynic - S2; Union Chemicar - UN250; General - KTX-4; NCR- Ultra Wax, Ultra V.**[8]
>
> ***Product 2***.--**Jumbo form of the wax and resin-enhanced wax products specified in the definition of product 1.**
>
> ***Product 3***.--**Slit form of the following wax/resin products: IIMAK - PM255, PM350, R2Prime; Armor - APR 4, APR 5, APR 503; ITW- M95; DNP - M250; Sony - 4065, 4080, 5080, TRX-55; Fujicopian - FTX201, FTX202, FTX203, FTX205; Dynic - L3, S3, HR12; Union Chemicar - UN500; General - XGR, SD622-5, SR590; NCR - Pace Setter.**[9]

Three U.S. coaters,[10] four importers of certain TTR from Japan, one importer of certain TTR from Korea, and one importer of certain TTR from France provided usable pricing data for sales of the requested products,[11] although not all firms reported pricing for all products for all quarters. By quantity, pricing data reported by these firms accounted for approximately *** percent of U.S. coaters' shipments of certain TTR, *** percent of U.S. shipments of subject imports from France, *** percent of U.S.

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[5] Of the 11 responding importers, seven were affiliated with slitter/converters and filled out both producer and importer questionnaires. For the purposes of this chapter, their answers will be counted once.

[6] At the conference, DNP described the process for large sales as involving bids based on meeting customer standards, especially those related to compatibility with other company's ribbons the customer may already be using. Conference transcript, pp. 123-128 (Cameron).

[7] Producers and importers were asked to report separately for sales to distributors/resellers, to OEM and to slitters/converters.

[8] ***.

[9] ***.

[10] ***.

[11] For purposes of this report, sales of imports of certain TTR that are slit and packaged in the United States are treated as imports in the analysis of pricing data.

shipments of subject imports from Japan, and *** percent of U.S. shipments from Korea. Price and quantity data for individual U.S. producers and importers of Japanese coated product are provided in appendix E, tables E-1 through E-7; since there is only one importer of French and Korean product, their data is in the pricing tables V-1 through V-7.[12] Appendix E also includes price and quantity data by ink formula for sales of slit TTR to distributors and OEMs for those firms who provided pricing data broken down by ink formula. These data in tables E-8 through E-11 also include prices for firms which had only one ink formula in their pricing products.

These products were chosen in order to have pricing products that were comparable among the countries with relatively high levels of coverage. ITW, however, asserted that these pricing products were biased because they include a range of products by Sony and IIMAK, some of which were higher priced, while it included only one low-priced product for ITW. Thus, according to ITW, imported prices tended to be biased down. ITW requested that pricing be collected by individual product.[13] ITW compared its prices to data it had on quarterly prices of other producers products broken down by ink formula, length, and width of the tape.[14] These data (reflecting information available to ITW), show that most producers' prices did not typically vary by length and width of the tape and showed that *** prices tended to be the *** between the second quarter of 2002 and the last quarter of 2003.[15] ***.[16]

On the other hand, one of IIMAK's witnesses at the hearing reported a comparison between the price of four of the ink formulas in pricing product 1, I28, I35, I45, and GP725.[17] He reported that these pricing products accounted for *** percent of the volume of IIMAK's sales of product 1 to distributors. He reported that there was little variation in these prices and their price was similar to the price of pricing product 1 reported by IIMAK as were the margins of underselling. ***.[18]

Some purchasers reported that the individual products used to define products 1 and 3 were interchangeable.[19] Interchangeability, however, does not necessarily mean that the products have the same price. For example, respondents reported that one of the reasons that prices fell over the period was that the producers were trying to increase production efficiency by reducing the number of products that they produced and one of the ways in which they were able to get purchasers to switch products was to offer the new consolidated product at a lower price.[20] Thus, according to the respondents, firms had to offer lower prices for interchangeable products in order to get purchasers to shift to new products. Differences in prices for the pricing products between the U.S. and subject countries also may also reflect price differences for interchangeable products or differences in the products, or marketing of these products.

Product 1 is a common slitted form of wax- and resin-enhanced-wax TTR. The major brands all have a version of this ribbon, and it is featured prominently in pricing and product lists supplied in their questionnaires, as well as their websites. Among coaters, three supplied data, and among importers, one

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[12] ***. Firm-specific pricing data appear in appendix E.

[13] ITW prehearing brief, pp. 28-29.

[14] ITW prehearing brief, exhibit 3.

[15] ITW prehearing brief, exhibit 3, and ITW clarifications March 12, 2004. ***.

[16] ITW prehearing brief, exhibit 3, and ITW clarifications March 12, 2004. In making these comparisons, ITW used the lowest price from each source rather than the average price. ***. It is unclear how representative these data are as no quantity is provided for these sales prices.

[17] Hearing transcript, pp. 37-38 (Klett). He later reported that he had used these four products rather than all IIMAK's products because ***. Staff notes, March 12, 2004.

[18] Hearing transcript, pp. 37-38 (Klett) and staff notes, March 12, 2004.

[19] See Thermal Transfer Ribbon Compatibility Matrix by Avery Dennison.

[20] Hearing transcript, pp. 271-273 (Landry).

supplied data for French certain TTR, two supplied data for Japanese certain TTR, and one supplied data for Korean certain TTR.

Product 2 is a jumbo roll product that would typically be sold to slitters/converters.[21] Among coaters, three supplied data, and among importers two supplied data for Japanese certain TTR and one provided data for Korean certain TTR.

Product 3 is a common slitted form of wax-resin TTR. The major suppliers all have a version of this ribbon, and it is featured prominently in pricing and product lists supplied in their questionnaires, as well as their websites. Among coaters, two supplied data, and among importers, one supplied data for French certain TTR, three supplied data for Japanese certain TTR, and one supplied data for Korean certain TTR.

Price Trends

Prices for certain TTR clearly fell over the period January 2001 through December 2003, although ***.[22] IIMAK attributes this fall in large part to subject import pricing. Respondents attribute the price declines to a number of factors including: rising capacity combined with lower-than-expected demand; competitive technologies, including direct thermal, for which prices have also fallen;[23] improved efficiency and reduced costs;[24] increased competition by more firms selling to distributors; and an aggressive strategy by Sony USA to reduce the number of certain TTR suppliers.[25] ITW also reports that prices began to fall in the late 1990s because of over capacity.[26] IIMAK described a market where the increasing prominence of distributors who buy and sell certain TTR only on price had been aided by the high volume of low-priced subject imports.[27] The high and low price and change in price over the period by country, product, and channel of distribution are presented in table V-8. Between January 2001 and December 2003, prices fell for all products sales through all channels of distribution for which data was available except for U.S. product 3 sold to OEMs.

Price Comparisons

Overall, there was consistent underselling by subject imports for products 1 and 3 (for all channels of distribution). For sales of product 2, prices of subject imports were generally higher than those for domestic products. Pricing data are presented in tables V-1 - V-8 and figures V-2 - V-15. The number of quarters of overselling and underselling and the simple and weighted average margins of underselling/overselling are provided in table V-9.

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[21] *** reporting selling jumbo rolls to an OEM which had some slitting capacity. This has been included in the sales to slitters.

[22] See ***.

[23] ITW reports that ***, and that demand for direct thermal has grown faster than TTR demand and at the expense of TTR. ITW's post hearing brief, p. 8.

[24] IIMAK reports that some of the reduced cost was due to reduced cost of inputs, *** percent, and increased efficiency but much of it was deferral of expenses that could jeopardize the long-term competitiveness of the industry.

[25] Hearing transcript, pp. 264-273 (Landry, Walker). The petitioners, however, report that Sony is not the price leader in the TTR market and that Sony's price cuts are in response to low-priced imports. IIMAK's posthearing brief, the appendix, pp. 58-60.

[26] ITW's posthearing brief, p. 7.

[27] Conference transcript, p. 77 (Kingdon).

With respect to the variability of prices for individual items within the major pricing products, the Commission requested supplemental quarterly quantity and value data for sales to distributors/ resellers and to OEMs for products 1 and 3. These data are provided in Appendix E.

Table V-1
Certain TTR: Weighted-average f.o.b. prices and quantities of domestic and imported product 1 sold to distributors/resellers and margins of underselling/(overselling), by quarters, January 2001-December 2003

* * * * * * *

Table V-2
Certain TTR: Weighted-average f.o.b. prices and quantities of domestic and imported product 1 sold to OEMs and margins of underselling/(overselling), by quarters, January 2001-December 2003

* * * * * * *

Table V-3
Certain TTR: Weighted-average f.o.b. prices and quantities of domestic and imported product 1 sold to slitter/converters, by quarters, January 2001-December 2003

* * * * * * *

Table V-4
Certain TTR: Weighted-average f.o.b. prices and quantities of domestic and imported product 2 sold to slitter/converters and margins of underselling/(overselling), by quarters, January 2001-December 2003

* * * * * * *

Table V-5
Certain TTR: Weighted-average f.o.b. prices and quantities of domestic and imported product 3 sold to distributors/resellers and margins of underselling/(overselling), by quarters, January 2001-December 2003

* * * * * * *

Table V-6
Certain TTR: Weighted-average f.o.b. prices and quantities of domestic and imported product 3 sold to OEMs and margins of underselling/(overselling), by quarters, January 2001-December 2003

* * * * * * *

Table V-7
Certain TTR: Weighted-average f.o.b. prices and quantities of domestic and imported product 3 sold to slitter/converters, by quarters, January 2001-December 2003

* * * * * * *

Table V-8
Certain TTR: Summary of weighted-average f.o.b. prices for products 1 through 3 by channels of distribution and by country

* * * * * * *

Table V-9
Certain TTR: Summary of underselling/overselling by country

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Figure V-2
Certain TTR: Weighted-average selling prices to distributors/resellers, as reported by U.S. producers and importers of product 1, by quarters, January 2001-December 2003

* * * * * * *

Figure V-3
Certain TTR: Quantities sold to distributors/resellers as reported by U.S. producers and importers of product 1, by quarters, January 2001-December 2003

* * * * * * *

Figure V-4
Certain TTR: Weighted-average selling prices to OEMs, as reported by U.S. producers and importers of product 1, by quarters, January 2001-December 2003

* * * * * * *

Figure V-5
Certain TTR: Quantities sold to OEMs as reported by U.S. producers and importers of product 1, by quarters, January 2001-December 2003

* * * * * * *

Figure V-6
Certain TTR: Weighted-average selling prices to slitters/converters, as reported by U.S. producers and importers of product 1, by quarters, January 2001-December 2003

* * * * * * *

Figure V-7
Certain TTR: Quantities sold to slitters/converters as reported by U.S. producers and importers of product 1, by quarters, January 2001-December 2003

* * * * * * *

Figure V-8
Certain TTR: Weighted-average selling prices to slitters/converters, as reported by U.S. producers and importers of product 2, by quarters, January 2001-December 2003

* * * * * * *

Figure V-9
Certain TTR: Quantities sold to slitters/converters as reported by U.S. producers and importers of product 2, by quarters, January 2001-December 2003

* * * * * * *

Figure V-10
Certain TTR: Weighted-average selling prices to distributor/resellers, as reported by U.S. producers and importers of product 3, by quarters, January 2001-December 2003

* * * * * * *

Figure V-11
Certain TTR: Quantities sold to distributors/resellers as reported by U.S. producers and importers of product 3, by quarters, January 2001-December 2003

* * * * * * *

Figure V-12
Certain TTR: Weighted-average selling prices to OEMs, as reported by U.S. producers and importers of product 3, by quarters, January 2001-December 2003

* * * * * * *

Figure V-13
Certain TTR: Quantities sold to OEMs as reported by U.S. producers and importers of product 3, by quarters, January 2001-December 2003

* * * * * * *

Figure V-14
Certain TTR: Weighted-average selling prices to slitters/converters, as reported by U.S. producers and importers of product 3, by quarters, January 2001-December 2003

* * * * * * *

Figure V-15
Certain TTR: Quantities sold to slitters/converters as reported by U.S. producers and importers of product 3, by quarters, January 2001-December 2003

* * * * * * *

LOST SALES AND LOST REVENUES

The Commission requested that U.S. producers of certain TTR report any instances of lost sales and lost revenues they experienced due to competition from imports from France, Japan, and Korea since January 1, 2001. All the lost sales and lost revenue allegations are presented in tables V-10 and V-11. There were *** lost sales allegations totaling over *** and involving over *** msi of certain TTR for January 2001 through December 2003. Additionally, there were *** lost revenue allegations totaling over *** and involving over *** msi of certain TTR. In addition to summary information provided in tables V-10 and V-11, more detailed descriptions of the allegations follow and the responses of the purchasers are given below.[28]

* * * * * * *[29] [30] [31]

Table V-10
Certain TTR: U.S. producers' lost sales allegations

* * * * * * *

Table V-11
Certain TTR: U.S. producers' lost revenue allegations

* * * * * * *

[28] For more details on the allegations with Korean imports excluded, see petitioner's posthearing brief, app., pp. 37-44.

[29] ***.

[30] ***.

[31] ***.

PART VI: FINANCIAL EXPERIENCE OF U.S. PRODUCERS

BACKGROUND

Seven producers, which together accounted for the majority of U.S. commercial shipments and internal consumption and/or transfers to related companies of certain TTR as coaters during 2001-2003, supplied financial data on their certain TTR operations.[1] Three producers[2] (representing approximately *** percent of 2003 total sales value) reported internal consumption, and five producers[3] (representing *** percent of 2003 total sales value) reported transfers of certain TTR to related firms. Five producers[4] also reported financial data on their certain TTR converting/slitting operations and three producers[5] reported financial data on their operations on slitted fax TTR. Slitted fax TTR accounted for *** percent of total sales value in 2003.

The questionnaire data of IIMAK were verified with its company records at its corporate facilities. The verification adjustments were incorporated into the staff report. The financial data of IIMAK were changed to ***. The adjustments for IIMAK resulted in ***.

OPERATIONS OF U.S. COATERS

The aggregate results of the U.S. producers' operations on certain TTR[6] and slitted fax TTR are presented in table VI-1. Total sales quantity and value decreased from 2001 to 2002. However, net sales quantity and value increased from 2002 to 2003. Operating income decreased from 2001 to 2002 but increased from 2002 to 2003. The per-unit sales value and per-unit total cost (combined unit cost of goods sold (COGS) and unit SG&A expenses) both decreased continuously over the period. Per-unit operating income decreased from 2001 to 2002. It increased from 2002 to 2003, however, as per-unit total cost decreased slightly more than the decrease in the average unit selling price in 2003.

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[1] The producers with fiscal year ends other than December 31 are ***. ***.

[2] They are ***.

[3] They are ***.

[4] They are ***.

[5] They are ***.

[6] All of the producers' questionnaire responses contain either discrepancies between data submitted in the trade section and in the financial section and/or inconsistencies between data submitted for the final phase of these investigations and their data submitted for the preliminary phase of the investigations for 2001 and 2002. ***.

Table VI-1
Certain TTR and slitted fax TTR: Results of operations of U.S. coaters, fiscal years 2001-2003

Item	Fiscal year		
	2001	2002	2003
	Quantity (*1,000 msi*)		
Commercial sales	883,708	865,260	997,974
Internal consumption	***	***	***
Related company transfers	***	***	***
Total net sales	1,136,353	1,115,724	1,313,465
	Value (*$1,000*)		
Commercial sales	130,294	120,601	130,538
Internal consumption	***	***	***
Related company transfers	***	***	***
Total net sales	157,060	144,145	157,005
COGS	115,375	106,792	118,779
Gross profit	41,685	37,353	38,226
SG&A expenses	30,710	29,149	27,828
Operating income	10,975	8,204	10,398
Interest expense	7,623	6,459	6,584
Other expense	1,257	1,869	3,668
Other income	1,266	512	680
Net income	3,361	388	826
Depreciation/amortization	14,532	13,858	11,818
Cash flow	17,893	14,246	12,644
	Ratio to net sales (*percent*)		
COGS	73.5	74.1	75.7
Gross profit	26.5	25.9	24.3
SG&A expenses	19.6	20.2	17.7
Operating income	7.0	5.7	6.6
	Number of firms reporting		
Operating losses	2	3	3
Data	7	7	7

Table continued on next page.

Table VI-1--*Continued*
Certain TTR and slitted fax TTR: Results of operations of U.S. coaters, fiscal years 2001-2003

Item	Fiscal year		
	2001	2002	2003
	Unit value (*per msi*)		
Net sales	$0.138	$0.129	$0.120
COGS	0.102	0.096	0.090
Gross profit	0.037	0.033	0.029
SG&A expenses	0.027	0.026	0.021
Operating income	0.010	0.007	0.008
Source: Compiled from data submitted in response to Commission questionnaires.			

The results of operations by individual firms are presented in table VI-2. The table presents selected financial data on a company-by-company basis for net sales (quantity and value), operating income/(loss), the ratio of operating income/(loss) to net sales value, and average unit sales values and COGS. *** experienced operating income for the entire period[7] while *** experienced operating losses for the entire period. Per-unit sales value differed substantially among *** in 2003.

Table VI-2
Certain TTR and slitted fax TTR: Results of operations of U.S. coaters, by firms, fiscal years 2001-2003

* * * * * * *

Selected aggregate per-unit cost data of the producers on their operations, i.e., unit COGS and unit SG&A expenses, are presented in table VI-3. Total unit cost decreased overall over the period, mainly due to a decrease in raw materials, factory overhead and SG&A expenses.

[7] ***.

Table VI-3
Certain TTR and slitted fax TTR: Unit costs *(per msi)* of U.S. coaters, fiscal years 2001-2003

Item	Fiscal year		
	2001	2002	2003
COGS:			
Raw materials	$0.056	$0.055	$0.052
Direct labor	0.012	0.012	0.011
Factory overhead	0.033	0.029	0.027
Total COGS	0.102	0.096	0.090
SG&A expenses:			
Selling expenses	0.012	0.012	0.010
G&A expenses	0.015	0.015	0.011
Total SG&A expenses	0.027	0.026	0.021
Total cost	0.129	0.122	0.112

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

A variance analysis showing the effects of prices and volume on the producers' sales of certain TTR and slitted fax TTR, and of costs and volume on their total cost, is shown in table VI-4. The analysis is summarized at the bottom of the table. The analysis indicates that the decrease in operating income ($0.6 million) between 2001 and 2003 was attributable mainly to the negative effects of decreased sales prices ($24.5 million), combined with the positive effects of decreased costs and expenses ($22.2 million) and increased sales volume ($1.7 million).

Table VI-4
Certain TTR and slitted fax TTR: Variance analysis of operations of U.S. coaters, fiscal years 2001-2003

Item	Between fiscal years		
	2001-03	2001-02	2002-03
	Value (*$1,000*)		
Net sales:			
Price variance	(24,534)	(10,064)	(12,687)
Volume variance	24,479	(2,851)	25,547
Total net sales variance	(55)	(12,915)	12,860
Cost of sales:			
Cost variance	14,578	6,489	6,940
Volume variance	(17,982)	2,094	(18,927)
Total cost variance	(3,404)	8,583	(11,987)
Gross profit variance	(3,459)	(4,332)	873
SG&A expenses:			
Expense variance	7,668	1,004	6,487
Volume variance	(4,786)	557	(5,166)
Total SG&A variance	2,882	1,561	1,321
Operating income variance	(577)	(2,771)	2,194
Summarized as:			
Price variance	(24,534)	(10,064)	(12,687)
Net cost/expense variance	22,247	7,492	13,427
Net volume variance	1,711	(199)	1,454

Note.--Unfavorable variances are shown in parentheses; all others are favorable.

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

Capital Expenditures, R&D Expenses, and Investment in Productive Facilities

U.S. coaters' capital expenditures and research and development (R&D) expenses, together with the value of their fixed assets, are presented in table VI-5. Capital expenditures decreased continuously over the period, mainly due to decreased capital spending by ***. Capital expenditures by individual firms are presented in table VI-6.

Table VI-5
Certain TTR and slitted fax TTR: Capital expenditures, R&D expenses, and assets utilized by U.S. coaters, fiscal years 2001-2003

Item	Fiscal year		
	2001	2002	2003
	Value (*$1,000*)		
Capital expenditures:			
Ink-making/coating	***	***	***
Conversion/slitting	***	***	***
Total	***	***	***
R&D expenses:			
Ink-making/coating	***	***	***
Conversion/slitting	***	***	***
Total	***	***	***
Productive facilities:			
Original cost	144,735	152,375	165,229
Book value	68,043	65,216	65,040
Source: Compiled from data submitted in response to Commission questionnaires.			

Table VI-6
Certain TTR and slitted fax TTR: Capital expenditures by U.S. coaters, by firms, fiscal years 2001-2003

* * * * * * *

Aggregated R&D expenses increased slightly over the period. Only *** reported R&D expenses.[8] The original cost of fixed assets increased steadily over the period, while net book value of productive facilities decreased continually for the same period.

[8] ***.

OPERATIONS OF U.S. SLITTERS/CONVERTERS

Nine firms, which together accounted for the majority of U.S. commercial shipments and internal consumption and/or transfers to related companies of certain TTR and slitted fax TTR as slitters/converters during 2001-2003, supplied financial data on their TTR operations.[9] Five firms[10] reported transfers of certain TTR and/or slitted fax TTR to related firms (representing *** percent of 2003 total sales value). Financial data on slitted fax TTR accounted for *** percent of total sales value in 2003. The aggregate results of the U.S. operations of converters/slitters on certain TTR and slitted fax TTR are presented in table VI-7. Total sales quantity and value increased from 2001 to 2002 and decreased somewhat from 2002 to 2003. Operating income increased from 2001 to 2002 and then decreased substantially from 2002 to 2003. Both per-unit sales value and per-unit total cost decreased continuously from 2001 through 2003. Per-unit selling prices decreased more than the decrease of per-unit total cost from 2002 to 2003, which resulted in a decreased per-unit profitability in 2003.

[9] The firms with fiscal years ending other than December 31 are ***. ***. *** did not submit responses in the final phase of these investigations, even though they submitted responses in the preliminary phase of the investigations. *** response has not been used due to incomplete data.

[10] They are ***.

Table VI-7
Certain TTR and slitted fax TTR: Results of operations of U.S. slitters/converters, fiscal years 2001-2003

Item	Fiscal year		
	2001	2002	2003
	Quantity (*1,000 msi*)		
Commercial sales	394,248	432,067	406,470
Internal consumption	***	***	***
Related company transfers	***	***	***
Total net sales	401,638	465,573	459,310
	Value (*$1,000*)		
Commercial sales	60,807	62,305	52,691
Internal consumption	***	***	***
Related company transfers	***	***	***
Total net sales	61,869	67,893	62,778
COGS	51,657	54,004	53,004
Gross profit	10,212	13,889	9,774
SG&A expenses	6,992	7,726	6,890
Operating income	3,220	6,163	2,884
Interest expense	226	84	12
Other expense	63	79	345
Other income	534	212	176
Net income	3,465	6,212	2,703
Depreciation/amortization	2,235	1,809	1,218
Cash flow	5,700	8,021	3,921
	Ratio to net sales (*percent*)		
COGS	83.5	79.5	84.4
Gross profit	16.5	20.5	15.6
SG&A expenses	11.3	11.4	11.0
Operating income	5.2	9.1	4.6
	Number of firms reporting		
Operating losses	3	3	5
Data	8	9	9

Table continued on next page.

Table VI-7--*Continued*
Certain TTR and slitted fax TTR: Results of operations of U.S. slitters/converters, fiscal years 2001-2003

Item	Fiscal year		
	2001	2002	2003
	Unit value (*per msi*)		
Net sales	$0.154	$0.146	$0.137
COGS	0.129	0.116	0.115
Gross profit	0.025	0.030	0.021
SG&A expenses	0.017	0.017	0.015
Operating income	0.008	0.013	0.006
Source: Compiled from data submitted in response to Commission questionnaires.			

The results of operations by individual firms are presented in appendix D, table D-4. The table presents selected financial data on a company-by-company basis for net sales (quantity and value), operating income/(loss), and the ratio of operating income/(loss) to net sales value.

Selected aggregate per-unit cost data of the firms on their operations, i.e., unit COGS and unit SG&A expenses, are presented in table VI-8. Total unit cost decreased overall over the period, mainly due to a decrease in raw materials, factory overhead, and SG&A expenses.

Table VI-8
Certain TTR and slitted fax TTR: Unit costs *(per msi)* of U.S. slitter/converters, fiscal years 2001-2003

Item	Fiscal year		
	2001	2002	2003
COGS:			
Raw materials	$0.094	$0.085	$0.085
Direct labor	0.011	0.010	0.010
Factory overhead	0.023	0.021	0.021
Total COGS	0.129	0.116	0.115
SG&A expenses:			
Selling expenses	0.009	0.010	0.008
G&A expenses	0.008	0.007	0.007
Total SG&A expenses	0.017	0.017	0.015
Total cost	0.146	0.133	0.130
Source: Compiled from data submitted in response to Commission questionnaires.			

A variance analysis showing the effects of prices and volume on the firms' sales of certain TTR and slitted fax TTR as slitters/converters, and of costs and volume on their total cost, is shown in table VI-9. The analysis is summarized at the bottom of the table. The analysis indicates that the decrease in operating income ($0.3 million) between 2001 and 2003 was attributable to the negative effect of decreased sales prices ($8.0 million) offsetting the positive effects of decreased costs and expenses ($7.2 million) and increased sales volume ($0.5 million).

Table VI-9
Certain TTR and slitted fax TTR: Variance analysis of operations of U.S. slitters/converters, fiscal years 2001-2003

Item	Between fiscal years		
	2001-03	2001-02	2002-03
	Value (*$1,000*)		
Net sales:			
Price variance	(7,975)	(3,825)	(4,202)
Volume variance	8,884	9,849	(913)
Total net sales variance	909	6,024	(5,115)
Cost of sales:			
Cost variance	6,071	5,876	274
Volume variance	(7,418)	(8,223)	726
Total cost variance	(1,347)	(2,347)	1,000
Gross profit variance	(438)	3,677	(4,115)
SG&A expenses:			
Expense variance	1,106	379	732
Volume variance	(1,004)	(1,113)	104
Total SG&A variance	102	(734)	836
Operating income variance	(336)	2,943	(3,279)
Summarized as:			
Price variance	(7,975)	(3,825)	(4,202)
Net cost/expense variance	7,177	6,255	1,006
Net volume variance	462	513	(83)

Note.--Unfavorable variances are shown in parentheses; all others are favorable.

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

Domestic Value Added

The domestic value added by individual slitters/converters as a percent of total processing costs is presented in table VI-10. The analysis of valued added shows two ratios: (A) a ratio of additional raw materials used in the United States and the sum of direct labor and factory overhead (conversion costs) to COGS; and (B) a ratio of additional raw materials and conversion costs plus SG&A expenses to the sum of COGS and SG&A expenses.[11]

Table VI-10
Certain TTR and slitted fax TTR: The domestic value added by U.S. slitters/converters, by firms

* * * * * * *

Capital Expenditures, R&D Expenses, And Investment in Productive Facilities

U.S. slitters/converters' capital expenditures and R&D expenses, together with the value of their fixed assets, are presented in table VI-11. Capital expenditures increased continuously between 2001 and 2003 due to additional spending by *** in 2002 and 2003, in spite of decreased capital spending by *** for the period.[12] Capital expenditures by individual firms are presented in table VI-12.

Table VI-11
Certain TTR and slitted fax TTR: Capital expenditures, R&D expenses, and assets utilized by U.S. slitters/converters, fiscal years 2001-2003

Item	Fiscal year		
	2001	2002	2003
	Value (*$1,000*)		
Capital expenditures	825	977	1,447
R&D expenses	***	***	***
Productive facilities:			
Original cost	22,887	23,592	24,665
Book value	10,472	8,374	7,097
Source: Compiled from data submitted in response to Commission questionnaires.			

Table VI-12
Certain TTR and slitted fax TTR: Capital expenditures by U.S. slitters/converters, by firms, fiscal years 2001-2003

* * * * * * *

[11] ***.

[12] ***.

Aggregated R&D expenses reported were minimal for the entire period, and *** producers reporting R&D expenses. The original cost of fixed assets increased continuously from 2001 through 2003, while net book value of productive facilities decreased continually over the period.[13]

CAPITAL AND INVESTMENT

The Commission requested U.S. coaters and slitters/converters to describe any actual negative effects on their return on investment, or their growth, investment, ability to raise capital, existing development and production efforts, or the scale of capital investments as a result of imports of certain TTR from France, Japan, and Korea. The firms' comments are presented in appendix F.

[13] ***.

PART VII: THREAT CONSIDERATIONS

This part of the report contains information on foreign producers' operations, including the potential for "product-shifting;" any other threat indicators, if applicable; and any dumping in third-country markets.

THE INDUSTRY IN FRANCE

Table VII-1 presents data for reported production and shipments of certain TTR in France. The Commission requested and received data from the *** producer of certain TTR in France, Armor, S.A., which accounted for *** percent of France's exports of certain TTR to the United States during the period examined.

Armor reported that *** percent of its total sales in the most recent fiscal year were sales of certain TTR. In 2003, *** percent of Armor's total shipments were exported to the United States. Approximately *** percent of its shipments of certain TTR go to other export markets such as ***. From 2001 to 2003, Armor's volume of shipments exported to the United States increased by *** percent, and its volume of shipments exported to other world markets decreased by *** percent. Armor's capacity increased from 2001 to 2003 by *** percent due to the addition of ***[1] and is projected to remain relatively steady in 2004 and 2005.[2] Its production increased from 2001 to 2003 by *** percent and is projected to further increase slightly in 2004 by *** percent. *** is Armor's *** U.S. importer of certain TTR.

Table VII-1
Certain TTR: France's reported production capacity, production, shipments, and inventories, 2001-2003, and projections for 2004 and 2005

* * * * * * *

THE INDUSTRY IN JAPAN

Table VII-2 presents data for reported production and shipments of certain TTR in Japan. The Commission requested data from seven firms[3] that were listed in the petition. The Commission received questionnaire responses from all seven firms, which are believed to account for all certain TTR production in Japan.

In 2003, *** percent of total shipments of certain TTR from Japan were exported to the United States.[4] Producers of certain TTR in Japan reported that in 2003, *** percent of their shipments of certain TTR were to other export markets, ***.[5] From 2001 to 2003, Japanese TTR producers' volume of shipments exported to the United States decreased by *** percent while their volume of shipments exported to other world markets increased by *** percent. Producers' capacity in Japan decreased from 2001 to 2003 by *** percent and is projected to remain steady in 2004 and 2005.[6] Their production

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[1] ***.

[2] ***.

[3] These firms include: ***.

[4] ***.

[5] ***.

[6] ***.

decreased from 2001 to 2003 by *** percent and is projected to further decline by *** percent from 2003 to 2004. *** producers of certain TTR in Japan have U.S. subsidiaries that import certain TTR into the United States. *** have coating operations at their U.S. manufacturing facilities. The *** producers of certain TTR in Japan export jumbo rolls, which they produce in Japan, to their U.S. subsidiaries for slitting and packaging.

Table VII-2
Certain TTR: Japan's reported production capacity, production, shipments, and inventories, 2001-2003, and projections for 2004 and 2005

* * * * * * *

COMBINED OPERATIONS IN FRANCE AND JAPAN

Table VII-3 presents the combined data for operations in France and Japan.

Table VII-3
Certain TTR: France and Japan's reported production capacity, production, shipments, and inventories, 2001-2003, and projections for 2004 and 2005

Item	Actual experience			Projections	
	2001	2002	2003	2004	2005
			Quantity (*1,000 msi*)		
Capacity	3,862,382	3,955,682	3,576,226	3,542,407	3,542,407
Production	2,496,864	2,675,037	2,471,399	2,181,000	2,182,243
End of period inventories	168,885	148,635	181,972	175,541	165,127
Shipments:					
Internal consumption	***	***	***	***	***
Home market	***	***	***	***	***
Exports to--					
The United States	306,550	323,361	310,185	23,293	23,293
All other markets	747,270	843,137	867,953	972,027	1,029,456
Total exports	1,053,820	1,166,498	1,178,138	995,320	1,052,749
Total shipments	2,496,181	2,688,644	2,433,292	2,174,642	2,157,007
			Value *($1,000)*		
Exports to the United States	23,688	22,722	19,259	1,350	1,410
			Unit value *(per msi)*		
Exports to the United States	$0.077	$0.070	$0.062	$0.058	$0.061
			Ratios and shares (*percent*)		
Capacity utilization	64.6	67.6	69.1	61.6	61.6
Inventories to production	6.8	5.6	7.4	8.0	7.6
Inventories to total shipments	6.8	5.5	7.5	8.1	7.7
Shares of total quantity of shipments:					
Internal consumption	***	***	***	***	***
Home market	***	***	***	***	***
Exports to--					
The United States	12.3	12.0	12.7	1.1	1.1
All other markets	29.9	31.4	35.7	44.7	47.7
Total exports	42.2	43.4	48.4	45.8	48.8

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

THE INDUSTRY IN KOREA

Table VII-4 presents data for reported production and shipments of certain TTR for Korea. The Commission requested data from one firm, ITW Specialty Films Co., Ltd, which was listed in the petition and accounted for all certain TTR production in Korea during the period examined. ITW Korea is a wholly owned subsidiary of ITW.

ITW Korea reported that *** percent of its total sales in the most recent fiscal year were sales of certain TTR. In 2003, *** percent of ITW Korea's total shipments were exported to the United States. It reported that *** percent of its shipments of certain TTR were to other export markets such as ***. From 2001 to 2003, ITW Korea's volume of shipments exported to the United States increased by *** percent, and its volume of shipments exported to other world markets rose by *** percent. ITW Korea's capacity *** from 2001 to 2003 and is projected to remain steady in 2004 and 2005. Its production increased from 2001 to 2003 by *** percent and is projected to remain steady in 2004 and 2005.[7] *** is ITW Korea's *** U.S. importer of certain TTR.

Table VII-4
Certain TTR: Korea's reported production capacity, production, shipments, and inventories, 2001-2003, and projections for 2004 and 2005

* * * * * * *

U.S. IMPORTERS' INVENTORIES

Reported inventories held by U.S. importers of subject merchandise from France, Japan, and Korea are shown in table VII-5.

Table VII-5
Certain TTR: U.S. importers' end-of-period inventories of subject imports, by source, 2001-2003

* * * * * * *

U.S. IMPORTERS' IMPORTS SUBSEQUENT TO DECEMBER 31, 2003

The Commission requested importers to indicate whether they imported or arranged for the importation of certain TTR from France, Japan, or Korea after December 31, 2003. *** U.S. importers reported that they had imported certain TTR from a subject country subsequent to December 31, 2003.[8] The tabulation below shows the importer, the quantity of certain TTR imported subsequent to December 31, 2003, and the country of origin of the imports.

* * * * * * *

[7] ***.

[8] *** reported that they had not imported or arranged to import certain TTR subsequent to December 31, 2003.

DUMPING IN THIRD-COUNTRY MARKETS

There is no indication that certain TTR from France, Japan, or Korea has been the subject of any other import relief investigations in any other countries.[9]

[9] Petitioner argues that tariffs on foreign certain TTR entering Korea are sufficiently high to constitute a barrier to entry, and that the distribution system in Japan which is heavily dependent on vertical relationships, similarly stifles entry into that market. Finally, it argues that Armor France has a majority market position in the European TTR market which makes it difficult for other manufacturers to sell there effectively. Petition, p. 79.

APPENDIX A

FEDERAL REGISTER NOTICES

filed on December 31, 2003, by the Ad Hoc Shrimp Trade Action Committee, Washington, DC.

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

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

Conference—The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on January 21, 2004, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Jim McClure (202–205–3191) not later than January 15, 2004, to arrange for their appearance. Parties in support of the imposition of antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before January 26, 2004, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002).

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

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

By order of the Commission.

Issued: January 2, 2004.

Marilyn R. Abbott,

Secretary.

[FR Doc. 04–355 Filed 1–7–04; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–1039–1041 (Final)]

Certain Wax and Wax/Resin Thermal Transfer Ribbons From France, Japan, and Korea

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of antidumping investigations.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping investigations Nos. 731–TA–1039–1041 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of less-than-fair-value imports from France, Japan, and Korea of certain wax and wax/resin thermal transfer ribbons.[1]

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

EFFECTIVE DATE: December 22, 2003.

FOR FURTHER INFORMATION CONTACT: Christopher Cassise (202) 708–5408, Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION:

Background. The final phase of these investigations is being scheduled as a result of affirmative preliminary determinations by the Department of Commerce that imports of certain wax and wax/resin thermal transfer ribbons from France and Japan are being sold in the United States at less than fair value

[1] For purposes of these investigations, the Department of Commerce has defined the subject merchandise as wax and wax/resin thermal transfer ribbons (TTR) in slit or unslit ("jumbo") form with a total wax (natural or synthetic) content of all the image side layers, that transfer in whole or in part, of equal to or greater than 20 percent by weight and a wax content of the colorant layer of equal to or greater than 10 percent by weight, and a black color as defined by industry standards by the CIELAB (International Commission on Illumination) color specification such that $L^* < 35$, $-20 < a^* < 35$, and $-40 < b^* < 31$, and black and near-black TTR. TTR is typically used in printers generating alphanumeric and machine-readable characters, such as bar codes and facsimile machines.

Excluded from product coverage are: (1) Resin TTR; (2) finished thermal transfer ribbons with a width equal to or greater than 212 millimeters (mm), but not greater than 220 mm (or 8.35 inches and 8.66 inches) and a length of 230 meters (m) or less (*i.e.*, slit fax TTR, including cassetted TTR; and (3) ribbons with a magnetic content of greater than 45 percent, by weight, in the colorant layer.

The imported products are provided for in heading 3702 and subheadings 3921.90.40 and 9612.10.90 (imported under statistical reporting numbers 3921.90.4025 and 9612.10.9030) of the Harmonized Tariff Schedule of the United States (HTS). The tariff classifications are provided for convenience and Customs and Border Protection (CBP) purposes; however, the written description of the products subject to investigation is dispositive.

within the meaning of section 733 of the Act (19 U.S.C. § 1673b). The investigations were requested in a petition filed on May 30, 2003, by International Imaging Materials, Inc. (IIMAK), Amherst, NY.

Although the Department of Commerce has preliminarily determined that imports of certain wax and wax/resin thermal transfer ribbons from Korea are not being and are not likely to be sold in the United States at less than fair value, for purposes of efficiency the Commission hereby waives rule 207.21(b)[2] so that the final phase of the investigations may proceed concurrently in the event that Commerce makes a final affirmative determination with respect to such imports.

Participation in the investigations and public service list. Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list. Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report. The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on February 24, 2004, and a public version will be issued thereafter, pursuant to § 207.22 of the Commission's rules.

Hearing. The Commission will hold a hearing in connection with the final phase of this investigation beginning at 9:30 a.m. on March 9, 2004, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before March 2, 2004. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on March 4, 2004, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by §§ 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written submissions. Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of § 207.23 of the Commission's rules; the deadline for filing is March 2, 2004. Parties may also file written testimony in connection with their presentation at the hearing, as provided in § 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of § 207.25 of the Commission's rules. The deadline for filing posthearing briefs is March 16, 2004; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before March 16, 2004. On March 31, 2004, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before April 2, 2004, but such final comments must not contain new factual information and must otherwise comply with § 207.30 of the Commission's rules. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by § 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002).

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

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

By order of the Commission.

Issued: January 6, 2004.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 04–443 Filed 1–7–04; 8:45 am]

BILLING CODE 7020–02–P

[2] Section 207.21(b) of the Commission's rules provides that, where the Department of Commerce has issued a negative preliminary determination, the Commission will publish a Final Phase Notice of Scheduling upon receipt of an affirmative final determination from Commerce.

INTERNATIONAL TRADE COMMISSION

[USITC SE–04–001]

Sunshine Act Meeting

AGENCY: United States International Trade Commission.

TIME AND DATE: January 14, 2004 at 11 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meetings: none.
2. Minutes.
3. Ratification List.
4. Inv. No. 731–TA–1062 (Preliminary) (Kosher Chicken from Canada)—briefing and vote. (The Commission is currently scheduled to transmit its determination to the Secretary of Commerce on or before January 15, 2004; Commissioners' opinions are currently scheduled to be transmitted to the Secretary of Commerce on or before January 23, 2004.)
5. Outstanding action jackets: none.

In accordance with Commission policy, subject matter listed above, not

market with indirect selling expenses incurred in the U.S. market by the lesser of the commission or the indirect selling expense.

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A(a) of the Act based on the exchange rates in effect on the dates of the U.S. sales as reported by the Federal Reserve Bank.

Preliminary Results of Review

We preliminarily find the following weighted-average dumping margins:

Manufacturer/producer/exporter	Weighted-average margin percentage
Chandan Steel Limited	21.02
Isibars Limited	21.02
Jyoti Steel Industries	21.02
Venus Wire Industries Limited	0.06
Viraj Group, Ltd.	0.00

Because we are preliminarily revoking the order with respect to Viraj's exports of subject merchandise, if these results are unchanged in the final results of review, we will order CBP to terminate the suspension of liquidation for exports of such merchandise entered, or withdrawn from warehouse, for consumption on or after February 1, 2003, and to refund all cash deposits collected.

The Department will disclose to parties the calculations performed in connection with these preliminary results within five days of the date of publication of this notice. Interested parties may request a hearing within 30 days of publication. Any hearing, if requested, will be held two days after the date rebuttal briefs are filed. Pursuant to 19 CFR 351.309, interested parties may submit cases briefs not later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication of this notice. The Department will issue the final results of the administrative review, including the results of its analysis of issues raised in any such written comments, within 120 days of publication of these preliminary results.

Upon completion of the administrative review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b)(1), for Venus and Viraj, for those sales with a reported entered value, we have calculated importer-specific assessment rates based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of those sales.

Regarding certain of Venus's sales, for assessment purposes, we do not have the information to calculate entered value because Venus was not the importer of record for the subject merchandise. Accordingly, we have calculated importer-specific assessment rates for the merchandise in question by aggregating the dumping margins calculated for all U.S. sales to each importer and dividing this amount by the total quantity of those sales. To determine whether the duty assessment rates were *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we calculated importer-specific *ad valorem* ratios based on the CEPs and/or EPs. Pursuant to 19 CFR 351.106(c)(2), we will instruct CBP to liquidate without regard to antidumping duties any entries for which the assessment rate is *de minimis* (*i.e.*, less than 0.50 percent). The Department will issue appraisement instructions directly to CBP.

Further, the following deposit requirements will be effective for all shipments of SSB from India, except those made by Viraj, entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided for by section 751(a)(2)(C) of the Act: (1) The cash deposit rates for the reviewed companies will be the rates established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106, the cash deposit will be zero; (2) for previously investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, or the LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 12.45 percent, the "All Others" rate established in the LTFV investigation. *See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar from India*, 59 FR 66915, 66921 (Dec. 28, 1994).

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing these results of review in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: March 1, 2004.

James Jochum,

Assistant Secretary for Import Administration.

[FR Doc. 04–5135 Filed 3–5–04; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–427–825]

Notice of Final Determination of Sales at Less Than Fair Value: Wax and Wax/Resin Thermal Transfer Ribbons from France

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

EFFECTIVE DATE: March 8, 2004.

SUMMARY: We determine that wax and wax/resin thermal transfer ribbons (TTR) from France are being sold, or are likely to be sold, in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales at LTFV are shown in the *Continuation of Suspension of Liquidation* section of this notice.

FOR FURTHER INFORMATION CONTACT: Mark Hoadley or Sally Gannon at (202) 482–3148 and (202) 482–0162, respectively; Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Case History

The preliminary determination in this investigation was issued on December 16, 2003. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Wax and Wax/Resin Thermal Transfer Ribbons From France*, 68 FR 71068 (December 22, 2003) (*Preliminary Determination*). Since the publication of the preliminary determination, the following events have occurred. On January 5 and

January 16, 2004, petitioner, International Imaging Materials, Inc. (IIMAK), submitted additional comments regarding (1) its allegation that respondents in the three concurrent investigations of TTR (France, Japan, and South Korea) would attempt to circumvent the order by slitting jumbo rolls in third countries, and (2) its request that the Department therefore determine that slitting does not change the country of origin of TTR for antidumping purposes. On January 9, 2004, Armor, S.A. (Armor), the sole respondent in the French investigation, submitted additional comments on the country–of-origin issue. DigiPrint International (DigiPrint), a U.S. importer of TTR slit in India, submitted comments on January 2, 2004, on the country–of-origin issue. Refer to *Preliminary Determination* for a history of all previous comments submitted on this issue.

Scope of Investigation

This investigation covers wax and wax/resin thermal transfer ribbons (TTR), in slit or unslit ("jumbo") form originating from France with a total wax (natural or synthetic) content of all the image side layers, that transfer in whole or in part, of equal to or greater than 20 percent by weight and a wax content of the colorant layer of equal to or greater than 10 percent by weight, and a black color as defined by industry standards by the CIELAB (International Commission on Illumination) color specification such that $L^*<35$, $-20<a^*<35$, and $-40<b^*<31$, and black and near–black TTR. TTR is typically used in printers generating alphanumeric and machine–readable characters, such as bar codes and facsimile machines.

The petition does not cover resin TTR, and finished thermal transfer ribbons with a width greater than 212 millimeters (mm), but not greater than 220 mm (or 8.35 to 8.66 inches) and a length of 230 meters (m) or less (*i.e.*, slit fax TTR, including cassetted TTR), and ribbons with a magnetic content of greater than or equal to 45 percent, by weight, in the colorant layer.

The merchandise subject to this investigation may be classified in the Harmonized Tariff Schedule of the United States (HTSUS) at heading 3702 and subheadings 3921.90.40.25, 9612.10.90.30, 3204.90, 3506.99, 3919.90, 3920.62, 3920.99 and 3926.90. The tariff classifications are provided for convenience and Customs and Border Protection (CBP) purposes; however, the written description of the scope of the investigation is dispositive.

Country of Origin

As noted above, petitioner has requested that the Department determine that TTR produced in France (in jumbo roll, i.e., unslit form) that is slit in a third country does not change the country of origin for antidumping purposes. According to petitioner, because slitting does not constitute a "substantial transformation," French jumbo rolls slit in a third country should be classified as French TTR for antidumping purposes, and, therefore, within the scope of this investigation and any resulting order. Petitioner submitted comments on this request on October 28, 2003, December 5, 2003, January 5 and January 16, 2004. According to petitioner, substantial transformation does not take place because: 1) both slit and jumbo rolls have the same essential physical characteristics (*e.g.*, both have the same chemical properties that make them suitable for thermal transfer printing); 2) large capital investments are required for coating and ink–making (production stages prior to slitting), but not for slitting; 3) coating and ink–making require significantly more skill, expertise, and research and development; and, 4) the majority of costs and value comes from coating and ink–making. Petitioner states that, for purposes of this issue, slitting and packaging do not account for a substantial amount of the total cost of finished TTR (depending on the degree of automation and whether new or secondhand equipment is involved); and that a slitting operation requires a small amount of capital, compared with a large amount of capital required for a coating and ink–making operation.

Armor, the sole respondent in this investigation, argues that slitting does constitute substantial transformation, and, therefore, that the Department should determine that French jumbo rolls slit in a third country should be considered to have originated in that third country for antidumping purposes. Armor submitted comments on November 26, 2003, December 12, 2003, and January 9, 2004. Armor argues that substantial transformation does take place because: 1) slitting, and the repackaging that necessarily goes along with it, involves transforming the product into its final end–use dimensions, the insertion of one or two cores (for loading the ribbons into printers), and the addition of leaders, bridges, and trailers, which result in a new product, with a new name, new character, and new purpose; 2) petitioner excluded TTR slit to fax proportions, acknowledging the importance of slitting; and, 3) U.S. Customs and Border Protection (CBP) and the Court of International Trade (CIT) have determined that slitting and repackaging amount to substantial transformation. DigiPrint, in comments received on January 2, 2004, argues that the record of this investigation indicates that slitting and packaging account for a large amount (34%) of total cost, indicating substantial transformation.

The Department has considered several factors in determining whether a substantial transformation has taken place, thereby changing a product's country of origin. These have included: the value added to the product; the sophistication of the third–country processing; the possibility of using the third–country processing as a low cost means of circumvention; and, most prominently, whether the processed product falls into a different class or kind of product when compared to the downstream product. While all of these factors have been considered by the Department in the past, it is the last factor which is consistently examined and emphasized.[1] When the upstream and processed products fall into different classes or kinds of merchandise, the Department generally finds that this is indicative of substantial transformation. *See, e.g., Cold–Rolled 1993*, 58 FR at 37066.

Accordingly, the Department has generally found that substantial transformation has taken place when the upstream and downstream products fall within two different "classes or kinds" of merchandise: (*see, e.g.*, steel slabs converted to hot–rolled band; wire rod converted through cold–drawing to wire; cold–rolled steel converted to corrosion resistant steel; flowers arranged into bouquets; automobile chassis converted to limousines).[2] Conversely, the Department almost

[1] *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold- Rolled Carbon Steel Flat Products From Argentina*, 58 FR 37062, 37066 (July 9, 1993) (Cold-Rolled 1993); *Final Determination of Sales at Less Than Fair Value; Limousines From Canada*, 55 FR 11036, 11040, comment 10 (March 26, 1990) (*Limousines*); *Erasable Programmable Read Only Memories (EPROMs) From Japan; Final Determination of Sales at Less than Fair Value*, 51 FR 39680, 39692, comment 28 (October 30, 1986) (*EPROMs*); and, *Cold-Rolled 1993*, 58 FR at 37066; respectively.

[2] *Notice of Final Determination of Sales at Less Than Fair Value; Stainless Steel Sheet and Strip in Coils From the United Kingdom*, 64 FR 30688, 30703, comment 13 (June 8, 1999); *Notice of Final Determination of Sales at Less Than Fair Value-Stainless Steel Round Wire from Canada*, 64 FR 17324, 17325, comment 1 (April 9, 1999); *Cold-Rolled 1993*, 58 FR at 37066; *Certain Fresh Cut Flowers From Colombia; Final Results of Antidumping Duty Administrative Review*, 55 FR 20491, 20499, comment 49 (May 17, 1990); and, *Limousines*, 55 FR 11040; respectively.

invariably determines substantial transformation has not taken place when both products are within the same "class or kind" of merchandise: (*see, e.g.*, computer memory components assembled and tested; hot–rolled coils pickled and trimmed; cold–rolled coils converted into cold–rolled strip coils; rusty pipe fittings converted to rust free, painted pipe fittings; green rod cleaned, coated, and heat treated into wire rod).[3] In this case, both jumbo and slit TTR are within the same class or kind of merchandise, as defined in the Department's initiation and as defined for this final determination.

While slitting and packaging might account for 34 percent of the total cost of production,[4] the processes and equipment involved do not amount to substantial transformation of the jumbo TTR for antidumping purposes. According to information submitted by petitioner, and not rebutted by any party to this investigation, a slitting operation requires only a fraction of the capital investment required for a coating and ink–making operation.[5] Moreover, the ITC noted in this investigation that the "slitting and packaging process is not particularly complex, especially as compared to the jumbo TTR production process." *ITC Report*, at 7. The ITC also noted that the primary cost involved in a slitting and packaging operation is not capital cost, but direct labor cost, which, we note, might be hired cheaply in a third country. *Id.* at 14. Thus, it appears that a slitting operation could be established in a third country for circumvention purposes with far greater ease than a coating and ink–making operation.

Finally, the ITC concluded that, while slit and jumbo TTR are like products, U.S. slitting and packaging operations (or "converters") were not part of the domestic industry for purposes of this investigation, "for lack of sufficient production related activities." *Id.* at 13. The implication of the ITC's conclusion, based on its extensive multi–pronged analysis, is that TTR is the product of coating and ink–making, not slitting and packaging: "The production related activities of converters are insufficient for such firms to be deemed producers of the domestic like product." *Id.* While we are not bound by the ITC's decisions, the ITC's determination is important to consider in this particular instance because it is based on the full participation of respondents and petitioner, whereas respondent withdrew its information from our investigation.

As the Department has stated on numerous occasions, CBP decisions regarding substantial transformation and customs regulations, referred to by respondent, are not binding on the Department, because we make these decisions with different aims in mind (*e.g.*, anticircumvention). *See, e.g., DRAMs*, 67 FR at 70928. The Department's independent authority to determine the scope of its investigations has been upheld by the CIT. *Diversified Products Corp. v. United States*, 572 F. Supp. 883, 887 (CIT 1983). Presumably, a CIT decision interpreting substantial transformation in the context of CBP regulations, also cited by respondent, also is not binding on the Department.

While the other facts noted by respondent are not necessarily irrelevant to this determination, they do not overcome the conclusion indicated by the fact that the slitting and packaging of jumbo rolls into slit TTR does not create a "new and different article." In other words, the totality of the circumstances indicates that slitting does not constitute substantial transformation for antidumping purposes. Even accepting, *arguendo*, DigiPrint's statement regarding the amount of total cost accounted for by slitting and packaging, and respondent's statements regarding how slitting and packaging transform the product into its final end–use form, the product still has not changed sufficiently to fall outside the class or kind of merchandise defined in this investigation. Jumbo rolls are intermediate products, and slit rolls are final, end–use products, but the transformation of an upstream product into a downstream product does not necessarily constitute "substantial transformation" and, in this case, does not, given the considerations listed above.

Similarly, in *DRAMs*, we decided that wafers shipped to a third country to be used in the assembly of DRAMs (subject merchandise) did not amount to substantial transformation because the wafers were the "essential" component in the product. In this case, the ITC report notes petitioner's statement, unrefuted by respondents, that "the essential characteristic of finished TTR, like that of jumbo TTR, is that of a strip of PET film coated with ink." We agree and note that the essential characteristic is contained in the jumbo TTR imported into the third country.

Therefore, in light of this fact and the facts discussed below, we determine that slitting jumbo rolls does not constitute substantial transformation. Jumbo rolls originating in France but slit in a third country will be subject to any antidumping duties imposed on French TTR, if an antidumping duty order on such products is issued.

Period of Investigation

The period of investigation (POI) is April 1, 2002, through March 31, 2003.

Facts Available

In the preliminary determination, we based the dumping margin for the mandatory respondent, Armor, on adverse facts available pursuant to sections 776(a) and 776(b) of the Act. The use of adverse facts available was warranted in this investigation because Armor withdrew its questionnaire responses from the record. *See Preliminary Determination*, 68 FR at 71069. The withdrawal of such information significantly impeded this proceeding because the Department cannot determine a margin without responses to our questionnaires. In addition, we found that Armor failed to cooperate to the best of its ability. We assigned Armor the highest margin listed in the notice of initiation. *See Notice of Initiation of Antidumping Duty Investigation: Thermal Transfer Ribbons From France, Japan and the Republic of Korea*, 68 FR 38305 (June

[3] *Notice of Initiation of Countervailing Duty Investigation: Dynamic Random Access Memory Semiconductors from the Republic of Korea*, 67 FR 70927, 70928 (November 27, 2002) (*DRAMs*); *EPROMs*, 51 FR at 39692; *Dynamic Random Access Memory Semiconductors of 256 Kilobits and Above from Japan; Suspension of Investigation and Amendment of Preliminary Determination*, 51 FR 28396, 28397 (August 7, 1986); *Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products From the People's Republic of China*, 66 FR 22183, 22186 (May 3, 2001); *Memorandum to Troy H. Cribb, Acting Assistant Secretary, from Holly Kuga, Acting Deputy Assistant Secretary, Issues and Decision Memorandum for the Investigation of Certain Cold-Rolled Flat-Rolled Carbon Quality Steel Products from Taiwan*, comment 1 (May 22, 2000); *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Steel Wire Rod From Canada*, 62 FR 51572, 51573 (October 1, 1997); *Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Butt-Weld Pipe Fittings From India*, 60 FR 10545, 10546 (February 27, 1995); respectively.

[4] The ITC report states that "[s]ix U.S. producers indicate that slitting and packaging accounts for an average of 34 percent of the cost of finished bar code TTR." Certain Wax and Wax/Resin Thermal Transfer Ribbons from France, Japan, and Korea, Investigations Nos. 731-TA-1039-1041 (Preliminary), (July 2003) (ITC Report), at 7. DigiPrint apparently is referring to this figure, when it refers to 34 percent in its January 2, 2004 submission. Figures placed on the record by petitioner related to this issue are proprietary, but indicate that the relevant figure might be significantly less than 34 percent, depending on the country in which the slitter is located, the type of equipment used, the degree of automation involved, and whether the process relies more on labor than capital.

[5] These figures agree with statements made by DNP, a respondent in the Japanese TTR investigation, recorded in the preliminary report by the U.S. International Trade Commission (ITC), that capital investment in a slitting operation was "generally very small" ($100,000 to $300,000). *Id.* at 14.

27, 2003). A complete explanation of the selection, corroboration, and application of adverse facts available can be found in the preliminary determination. *See Preliminary Determination*, 68 FR at 71070–71.Nothing has changed since the preliminary determination was issued that would affect the Department's selection and application of facts available. No interested parties commented on any aspect of our application of adverse facts available. Accordingly, for the final determination, we continue to use the highest margin stated in the notice of initiation for Armor. The "All Others" rate remains unchanged as well.

Analysis of Comments Received

We received no comments from interested parties in response to our preliminary determination in this investigation, except for the comments on the country–of-origin issue, which are fully addressed above. We received no case briefs or rebuttal briefs. We did not hold a hearing because none was requested.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing CBP to continue to suspend liquidation of all entries of TTR exported from France that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of the preliminary determination. CBP shall continue to require a cash deposit or the posting of a bond based on the estimated dumping margins shown below. The suspension of liquidation instructions will remain in effect until further notice.We determine that the following dumping margins exist:

Manufacturer/exporter	Margin (percent)
Armor S.A.	60.60
All Others	44.93

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. The ITC will determine, within 45 days, whether imports of subject merchandise from France are materially injuring, or threatening material injury to, an industry in the United States. If the ITC determines that material injury or threat of injury does not exist, this proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse for consumption on or after the effective date of the suspension of liquidation.

This notice also serves as a reminder to parties subject to APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. 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 determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: March 1, 2004.

James J. Jochum,

Assistant Secretary for Import Administration.

[FR Doc. 04–5163 Filed 3–5–04; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Notice of Jointly Owned Invention Available for Licensing

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of jointly owned invention available for licensing.

SUMMARY: The invention listed below is jointly owned by the U.S. Government, as represented by the Department of Commerce, and the University of Maryland. The Department of Commerce's interest in the invention is available for licensing in accordance with 35 U.S.C. 207 and 37 CFR part 404 to achieve expeditious commercialization of results of federally funded research and development.

FOR FURTHER INFORMATION CONTACT: Technical and licensing information on this invention may be obtained by writing to: National Institute of Standards and Technology, Office of Technology Partnerships, Attn: Mary Clague, Building 820, Room 213, Gaithersburg, MD 20899. Information is also available via telephone: 301–975–4188 , fax 301–869–2751, or e-mail: *mary.clague@nist.gov*. Any request for information should include the NIST Docket number and title for the invention as indicated below.

SUPPLEMENTARY INFORMATION: NIST may enter into a Cooperative Research and Development Agreement ("CRADA") with the licensee to perform further research on the invention for purposes of commercialization. The invention available for licensing is:

NIST Docket Number: 01–004.

Title: Method For Producing Metal Particles by Spray Pyrolysis Using a Co-solvent and Apparatus Therefore.

Abstract: Gas-to-particle conversion processes have been used to produce various micro and nanoscale metal powders because of their convenient process characteristics. Recently, hydrogen gas approaches for reducing metal oxides made from metal precursor aerosols in gas-to-particle conversion processes were developed by several research groups. However, aerosol decomposition reactions may be very dangerous at high temperatures due to the explosive potential of hydrogen at high concentrations in the presence of oxygen. This invention is a novel process based on the use of a co-solvent for preparing pure metal nanoparticles under safe conditions in a high-temperature aerosol decomposition reactor. The resulting copper nanoparticles prepared from copper nitrate using a nitrogen carrier gas at 600° C with a 3.3 second resident time are pure. X-ray diffraction is used for measuring particle composition and a transmission electron microscope (TEM) is used for imaging to determine particle morphology.

Dated: March 1, 2004.

Hratch G. Semerjian,

Deputy Director.

[FR Doc. 04–5166 Filed 3–5–04; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Announcing a Meeting of the Information Security and Privacy Advisory Board

AGENCY: National Institute of Standards and Technology.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App., notice is hereby given that the Information Security and Privacy Advisory Board (ISPAB) will meet Tuesday, March 16, 2004, from 8:30 a.m. until 5 p.m., Wednesday, March 17, 2004, from 8:30 a.m. until 5 p.m. and Thursday, March 18, 2004, from 8:30 a.m. until 1 p.m. All sessions will be open to the public. The Advisory Board

comment and provide surrogate value information based on the revised surrogate country selection memorandum, it is not practicable to complete this review within the time limit mandated by section 751(a)(3)(A) of the Act. Therefore, in accordance with section 751(a)(3)(A) of the Act, we have fully extended the deadline until July 30, 2004.

Dated: March 8, 2004.

Jeffrey May,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 04–5656 Filed 3–11–04; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

(A–588–863)

Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Wax and Wax/Resin Thermal Transfer Ribbons from Japan

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

ACTION: Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Wax and Wax/Resin Thermal Transfer Ribbons (TTR) from Japan.

EFFECTIVE DATE: March 12, 2004.

FOR FURTHER INFORMATION CONTACT: James Doyle at (202) 482–0159 or Paul Walker at (202) 482–0413; Office of AD/CVD Enforcement IX, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Case History

The preliminary determination in this investigation was published on December 22, 2003. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Wax and Wax/Resin Thermal Transfer Ribbons From France*, 68 FR 71068 (December 22, 2003) (*Preliminary Determination*). Since the publication of the *Preliminary Determination*, the following events have occurred. On December 24, 2003 Union Chemicar Company Limited (UC) submitted critical circumstances information. On January 5 and January 16, 2004, petitioner, International Imaging Materials, Inc. (IIMAK), submitted additional comments regarding its allegation that respondents in the three investigations of TTR (France, Japan, and South Korea) would attempt to circumvent the order by slitting jumbo rolls in third countries, and its request that the Department therefore determine that slitting does not change the country of origin of TTR for antidumping purposes. On January 9, 2004, Armor, S.A. (Armor), the sole respondent in the French investigation, submitted additional comments on the country–of-origin issue. On January 16, 2004 Dai Nippon Printing Company Limited (DNP) submitted a request for a hearing. On February 9, 2004 the Department rejected the critical circumstances submissions made by both DNP and UC. On February 10, 2004 DNP and the Petitioner submitted case briefs. Additionally, on February 10, 2004 the Department rejected DNP's case brief because it contained the proprietary critical circumstances data which the Department had rejected on February 9, 2004. On February 13, 2004 DNP resubmitted its case brief. On February 17, 2004 DNP, UC and the Petitioner submitted rebuttal briefs. On February 20, 2004 we held a hearing on TTR from Japan. Additionally, on February 20, 2004, Ricoh Company Limited and Ricoh Electronics Inc. (collectively, Ricoh) submitted critical circumstances data. On February 23, 2004, the Department rejected Ricoh's critical circumstances data. On February 27, 2004, Fujicopian Company Limited submitted arguments supporting Ricoh's critical circumstances arguments. Please see the *Preliminary Determination* for a history of all previous comments submitted in this case.

Scope of Investigation

This investigation covers wax and wax/resin thermal transfer ribbons (TTR), in slit or unslit ("jumbo") form originating from Japan with a total wax (natural or synthetic) content of all the image side layers, that transfer in whole or in part, of equal to or greater than 20 percent by weight and a wax content of the colorant layer of equal to or greater than 10 percent by weight, and a black color as defined by industry standards by the CIELAB (International Commission on Illumination) color specification such that $L^* < 35$, $-20 < a^* < 35$, and $-40 < b^* < 31$, and black and near–black TTR. TTR is typically used in printers generating alphanumeric and machine–readable characters, such as bar codes and facsimile machines.

The petition does not cover resin TTR, and finished thermal transfer ribbons with a width greater than 212 millimeters (mm), but not greater than 220 mm (or 8.35 to 8.66 inches) and a length of 230 meters (m) or less (*i.e.*, slit fax TTR, including cassetted TTR), and ribbons with a magnetic content of greater than or equal to 45 percent, by weight, in the colorant layer.

Please see the Issues and Decision Memorandum which accompanies this **Federal Register** notice regarding the country of origin for TTR from Japan.

The merchandise subject to this investigation may be classified in the Harmonized Tariff Schedule of the United States (HTSUS) at heading 3702 and subheadings 3921.90.40.25, 9612.10.90.30, 3204.90, 3506.99, 3919.90, 3920.62, 3920.99 and 3926.90. The tariff classifications are provided for convenience and U.S. Customs and Border Protection (CBP) purposes; however, the written description of the scope of the investigation is dispositive.

Period of Investigation (POI)

The POI is April 1, 2002, through March 31, 2003. This period corresponds to the four most recent fiscal quarters prior to the month of filing of the petition (*i.e.*, June 2003) involving imports from a market economy, in accordance with our regulations. *See* 19 CFR § 351.204(b)(1).

Facts Available

In the *Preliminary Determination*, we based the dumping margin for the mandatory respondents, DNP and UC, on adverse facts available pursuant to sections 776(a) and 776(b) of the Act. The use of adverse facts available was warranted in this investigation because DNP withdrew its questionnaire responses from the record and UC failed to respond to any part of the antidumping duty questionnaire issued by the Department. *See Preliminary Determination*, 68 FR at 42386. The withdrawal of such information significantly impeded this proceeding because the Department could not accurately determine a margin without responses to our questionnaires. In addition, we found that DNP and UC failed to cooperate to the best of their ability. We assigned DNP and UC the highest margin stated in the notice of initiation. *See Notice of Initiation of Antidumping Duty Investigation: Thermal Transfer Ribbons From France, Japan and the Republic of Korea*, 68 FR 38305 (June 27, 2003). A complete explanation of the selection, corroboration, and application of adverse facts available can be found in the *Preliminary Determination*. *See Preliminary Determination*, 68 FR at 71070–71.

Since the publication of the *Preliminary Determination*, no interested parties have commented on our application of adverse facts available with respect to the LTFV determination. Accordingly, for the final determination, we continue to use the highest margin stated in the notice of initiation for DNP and UC. The "All Others" rate remains unchanged as well.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the "Issues and Decision Memorandum for the Final Results of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Wax and Wax/Resin Thermal Transfer Ribbons from Japan" from Joseph Spetrini to James J. Jochum (March 1, 2004) (Decision Memo), which is hereby adopted by this notice. A list of the issues which parties raised and to which we respond in the Decision Memo is attached to this notice as an Appendix. The Decision Memo is a public document and is on file in the Central Records Unit, Main Commerce Building, Room B–099, and is accessible on the Web at *www.ia.ita.doc.gov.*

Final Critical Circumstances Determination

On November 26, 2003 the petitioner in this investigation, International Imaging Materials Inc. (IIMAK), submitted an allegation of critical circumstances with respect to imports of wax and wax/resin thermal transfer ribbons from Japan. On December 22, 2003, the Department issued its *Preliminary Determination* that it had reason to believe or suspect critical circumstances exist with respect to imports of TTR from Japan. *See Preliminary Determination*, 68 FR at 71074–76. We now find that critical circumstances exist for imports of wax and wax/resin thermal transfer ribbons from Japan. *See* Decision Memo at Comment 2.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing CBP to continue to suspend liquidation of all entries of subject merchandise from Japan, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of the *Preliminary Determination* for "all other" Japanese exporters. The Department will direct CBP to suspend liquidation of all entries of TTR from Japan that are entered, or withdrawn from warehouse, on or after 90 days before the date of publication of the *Preliminary Determination* for DNP and UC. CBP shall continue to require a cash deposit or posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. This suspension of liquidation instructions will remain in effect until further notice.

We determine that the following dumping margins exist for the POI:

Manufacturer/exporter	Margin (percent)
DNP	147.30
UC	147.30
All Others	106.60

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. The ITC will determine, within 45 days, whether imports of subject merchandise from Japan are causing material injury, or threaten material injury, to an industry in the United States. If the ITC determines that material injury or threat of injury does not exist, this proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse for consumption on or after the effective date of the suspension of liquidation.

This notice also serves as a reminder to parties subject to APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. 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 determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: March 1, 2004.

James J. Jochum,

Assistant Secretary for Import Administration.

APPENDIX

List of Issues

1. Country of Origin
2. Critical Circumstances

[FR Doc. 04–5655 Filed 3–11–04; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of issuance of an Export Trade Certificate of Review, Application No. 03–00008.

SUMMARY: The Department of Commerce has issued an Export Trade Certificate of Review to the California Pistachio Export Council, LLC ("CPEC"). This notice summarizes the conduct for which certification has been granted.

FOR FURTHER INFORMATION CONTACT: Jeffrey C. Anspacher, Director, Office of Export Trading Company Affairs, International Trade Administration, by telephone at (202) 482–5131 (this is not a toll-free number), or by E-mail at *oetca@ita.doc.gov.*

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR part 325 (2003).

The Office of Export Trading Company Affairs ("OETCA") is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of the certification in the **Federal Register**. Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct

Export Trade

1. Products

California in-shell and shelled pistachios, raw and roasted, in all forms.

2. Export Trade Facilitation Services (as They Relate to the Export of Products)

All export trade-related facilitation services, including but not limited to: Development of trade strategy; sales, marketing, and distribution; foreign market development; promotion; and all aspects of foreign sales transactions, including export brokerage, freight forwarding, transportation, insurance, billing, collection, trade documentation, and foreign exchange; customs, duties, and taxes; and inspection and quality control.

EFFECTIVE DATE: April 5, 2004.

FOR FURTHER INFORMATION CONTACT: Drew Jackson or John Conniff, AD/CVD Enforcement, Office 4, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–4406 or (202) 482–1009, respectively.

Background

On August 22, 2003, the Department published a notice of initiation of an administrative review of the antidumping duty order on certain polyethylene terephthalate film, sheet and strip from India, covering the period December 21, 2001 through June 30, 2003. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 68 FR 50750. The preliminary results of review are currently due no later than April 1, 2004.

Statutory Time Limits

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to make a preliminary determination within 245 days after the last day of the anniversary month of an order or finding for which a review is requested and a final determination within 120 days after the date on which the preliminary determination is published. However, if it is not practicable to complete the review within these time periods, section 751(a)(3)(A) of the Act allows the Department to extend the 245–day time limit for the preliminary determination to a maximum of 365 days and the time limit for the final determination to 180 days (or 300 days if the Department does not extend the time limit for the preliminary determination) from the date of publication of the preliminary determination.

Extension of Time Limit for Preliminary Results of Review

We determine that it is not practicable to complete the preliminary results of this review within the original time limit. See Decision Memorandum from Thomas F. Futtner, Acting Office Director to Holly A. Kuga, Acting Deputy Assistant Secretary for Import Administration, Group II, dated concurrently with this notice, which is on file in the Central Records Unit, room B–099 of the Department's main building. The Department is therefore extending the time limit for the completion of the preliminary results by 120 days. We intend to issue the preliminary results no later than July 30, 2004.

This notice is published in accordance with section 751(a)(3)(A) of the Act.

Dated: March 22, 2004.

Holly A. Kuga,

Acting Deputy Assistant Secretary for Import Administration, Group II.

[FR Doc. 04–7527 Filed 4–2–04; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–853]

Notice of Final Determination of Sales at Not Less Than Fair Value: Wax and Wax/Resin Thermal Transfer Ribbon from the Republic of Korea

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

ACTION: Notice of Final Determination of Sales at Not Less Than Fair Value.

EFFECTIVE DATE: April 5, 2004.

FOR FURTHER INFORMATION CONTACT: Fred Baker, Mike Heaney, or Robert James, AD/CVD Enforcement, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 482–2924, (202) 482–4475, or (202) 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Final Determination

We determine that wax and wax/resin thermal transfer ribbons (TTR) are not being, nor are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended (the Tariff Act).

Case History

The Department published the preliminary determination of sales at not less–than-fair–value on December 22, 2003. *See Notice of Determination of Sales at Not Less Than Fair Value: Wax and Wax/Resin Thermal Transfer Ribbons from the Republic of Korea*, 68 FR 71078 (December 22, 2003) (Preliminary Determination). Since then the following events have occurred.

On December 22, 2003 respondent Illinois Tool Works, Inc. (the only known producer/exporter of TTR from Korea to the United States (ITW)) submitted its response to the Department's November 28, 2003 supplemental questionnaire regarding the section E further manufacturing response of ITW's U.S. affiliate ITW Thermal Films (ITWTF). Also on December 22, 2003 ITW submitted its response to the Department's sections A, B, and C supplemental questionnaire, issued on December 1, 2003.

On December 23, 2003 DigiPrint International, a U.S. importer of TTR slit in India, submitted comments on substantial transformation and country of origin.These comments were made part of the TTR from Korea investigation as an attachment to a memorandum to the file dated January 9, 2004. *See* memorandum from Cheryl Werner to the file dated January 9, 2004 on file in room B–099 of the Department of Commerce building.

On January 5, 2004 ITW submitted its response to the Department's December 18, 2003 section D supplemental questionnaire. Also on January 5, 2004 the Department issued another section E supplemental questionnaire.

On January 5, 2004 and January 16, 2004, International Imaging Materials, Inc. (petitioner) submitted comments regarding (1) its allegation that respondents in the three concurrent investigations of TTR (France, Japan, and South Korea) would attempt to circumvent the order by slitting jumbo rolls in third countries, and (2) its request that the Department therefore determine that slitting does not change the country of origin of TTR for antidumping purposes.

On January 6, 2004 petitioner submitted comments on the upcoming cost of production (COP) verification.

On January 9, 2004 Armor S.A. (the sole respondent in the antidumping investigation of TTR from France) submitted a response to petitioner's January 5, 2004 comments on country of origin.

On January 12, 2004 ITW submitted its response to the Department's January 5, 2004 section E supplemental questionnaire.

From January 12 through January 16, 2004 Department officials verified the cost of production response of ITW Specialty Films Co., Ltd. (ITWSFK) in Seoul, Korea. See February 5, 2004 cost verification report. This and all other memoranda cited herein are on file in the Central Records Unit, room B–099 of the Department of Commerce building.

From January 16 through January 19, 2004 Department officials verified the sales response of ITWSFK in Seoul, Korea. *See* February 17, 2004 sales verification report.

On January 20, 2004 petitioner met with Department officials to discuss their concerns about some of the information on the record. *See* Memorandum from Fred Baker to the File, dated January 22, 2004.

On January 21, 2004 petitioner requested a hearing.

On January 22, 2004, petitioner submitted pre–verification comments for the upcoming further manufacturing verification in Romeo, Michigan.

On January 23, 2004 ITW requested to participate in the hearing. Also on January 23, 2004 petitioner submitted comments on ITW's sections supplemental A, B, and C responses and the submissions by three of ITW's affiliated U.S. resellers. Also on January 23, 2004 petitioner requested that the Department postpone the final determination until March 22, 2004.

From January 26 through January 28, 2004 Department officials verified the further manufacturing response of ITW Thermal Films (ITWTF) in Romeo, Michigan. See February 5, 2004 further–manufacturing verification report. From January 28 through January 30, 2004 Department officials verified the sales response of ITWTF in Romeo, Michigan. See February 18, 2004 CEP verification report.

On February 9, 2004 petitioner met with Department officials to discuss various aspects of the distribution process for TTR in both the United States and Korea. See Memorandum from Robert James to the File dated February 9, 2004. On February 11, 2004 petitioner made a submission in follow–up to the February 9, 2004 meeting with Department officials.

On February 12, 2004 the Department extended the deadline for issuing the final determination. *See Notice of Postponement of Final Antidumping Duty Determination: Wax and Wax/ Resin Thermal Transfer Ribbons from the Republic of Korea*, 69 FR 6941 (February 12, 2004).

On February 18, 2004 the Department issued a "post–preliminary analysis" of ITW's submitted data in response to the below–COP allegation made by petitioner. We initiated the below–cost sales investigation on November 19, 2003. The "post–preliminary analysis" consisted of a recalculation of ITW's dumping margin based on all the information on the record to date, including cost data and verification findings. *See* Memorandum from Fred Baker to the File dated February 18, 2004.

On February 26, 2004 ITW and petitioner submitted case briefs.

On February 27, 2004 petitioner withdrew its request for a hearing.

On March 2, 2004 ITW and petitioner submitted rebuttal briefs.

On March 3, 2004 petitioner met with Department officials to discuss issues raised in the case briefs. *See* Memorandum to the File dated March 4, 2004.

On March 10, 2004 ITW held a meeting with Department officials to discuss issues raised in the case briefs. *See* memorandum to the file dated March 10, 2004.

On March 25, 2004 the Department again extended the deadline for issuing the final determination. *See Notice of Postponement of Final Antidumping Duty Determination: Wax and Wax/ Resin Thermal Transfer Ribbons from the Republic of Korea*, 69 FR 15298 (March 25, 2004).

On March 22, 2004 Department officials met with counsel for petitioners. *See* Memorandum to the File dated March 23, 2004. The following day Department officials met with counsel for ITW. See Memorandum to the File dated March 23, 2004.

Period of Investigation

The period of investigation is April 1, 2002 through March 31, 2003.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this antidumping investigation are addressed in the "Issues and Decision Memorandum" (Decision Memorandum) from Joseph A. Spetrini, Deputy Assistant Secretary, Import Administration, to James J. Jochum, Assistant Secretary for Import Administration, dated March 29, 2004, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as an appendix. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, room B–099 of the main Department of Commerce building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at http://ia.ita.doc.gov/. The paper copy and electronic version of the Decision Memorandum are identical in content.

Scope of Investigation

This investigation covers wax and wax/resin thermal transfer ribbons (TTR), in slit or unslit ("jumbo") form originating from Korea with a total wax (natural or synthetic) content of all the image side layers, that transfer in whole or in part, of equal to or greater than 20 percent by weight and a wax content of the colorant layer of equal to or greater than 10 percent by weight, and a black color as defined by industry standards by the CIELAB (International Commission on Illumination) color specification such that L<*35, -20<a*<35 and -40<b*<31, and black and near–black TTR. TTR is typically used in printers generating alphanumeric and machine–readable characters, such as bar codes and facsimile machines.

The petition does not cover pure resin TTR, and finished thermal transfer ribbons with a width greater than 212 millimeters (mm), but not greater than 220 mm (or 8.35 to 8.66 inches) and a length of 230 meters (m) or less (*i.e.*, slit fax TTR, including cassetted TTR), and ribbons with a magnetic content of greater than or equal to 45 percent, by weight, in the colorant layer.

The merchandise subject to this investigation may be classified in the Harmonized Tariff Schedule of the United States (HTSUS) at heading 3702 and subheadings 3921.90.40.25, 9612.10.90.30, 3204.90, 3506.99, 3919.90, 3920.62, 3920.99 and 3926.90. The tariff classifications are provided for convenience and Customs and Border Protection (CBP) purposes; however, the written description of the scope of the investigation is dispositive.

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A(a) of the Tariff Act based on exchange rates in effect on the dates of the United States sales, as provided by the *Dow Jones Business Information Services*.

Verification

As provided in section 782(i) of the Tariff Act, we verified the information submitted by the respondent for use in our final determination. We used standard verification procedures, including examination of relevant accounting and production records, as well as original source documents provided by the respondent.

Affiliation Issues

Petitioner alleges in its February 26, 2004 Case Brief that ITW is affiliated to SKC Corporation, a Korean film producer which sold its TTR and specialty film mill to ITW in April 1999. Petitioner also accuses ITW of misreporting home market sales be concealing its affiliation with a certain home market customer. ITW denies both allegations in its March 2, 2004 Rebuttal Brief. A complete discussion of theses issues, necessitating extensive references to business proprietary information, is found in a memorandum to Joseph A. Spetrini, "Antidumping

Duty Investigation on Wax and Wax/Resin Thermal Transfer Ribbons from South Korea: Affiliation Issues Concerning Respondent Illinois Tool Works, Inc.," dated March 25, 2004. *See also*, the Decision Memorandum.

Country of Origin

As noted above, petitioner has requested that the Department determine that TTR produced in Korea (in jumbo roll, i.e., unslit form) that is slit in a third country does not change the country of origin for antidumping purposes. According to petitioner, because slitting does not constitute a "substantial transformation," Korean jumbo rolls slit in a third country should be classified as Korean TTR for antidumping purposes, and, therefore, within the scope of this investigation and any resulting order. Petitioner submitted comments on this request on October 28, 2003, December 5, 2003, January 5 and January 16, 2004. According to petitioner, substantial transformation does not take place because: 1) both slit and jumbo rolls have the same essential physical characteristics (*e.g.*, both have the same chemical properties that make them suitable for thermal transfer printing); 2) large capital investments are required for coating and ink–making (production stages prior to slitting), but not for slitting; 3) coating and ink–making require significantly more skill, expertise, and research and development; and, 4) the majority of costs and value comes from coating and ink–making. Petitioner states that, for purposes of this issue, slitting and packaging do not account for a substantial amount of the total cost of finished TTR (depending on the degree of automation and whether new or secondhand equipment is involved); and that a slitting operation requires a small amount of capital, compared with a large amount of capital required for a coating and ink–making operation.

Armor, the sole respondent in the investigation of TTR from France, argues that slitting does constitute substantial transformation, and, therefore, that the Department should determine that French jumbo rolls slit in a third country should be considered to have originated in that third country for antidumping purposes. Armor submitted comments on November 26, 2003, December 12, 2003, and January 9, 2004. Armor argues that substantial transformation does take place because: 1) slitting, and the repackaging that necessarily goes along with it, involves transforming the product into its final end–use dimensions, the insertion of one or two cores (for loading the ribbons into printers), and the addition of leaders, bridges, and trailers, which result in a new product, with a new name, new character, and new purpose; 2) petitioner excluded TTR slit to fax proportions, acknowledging the importance of slitting; and, 3) U.S. Customs and Border Protection (CBP) and the Court of International Trade (CIT) have determined that slitting and repackaging amount to substantial transformation. DigiPrint, in comments received on January 2, 2004, argues that the record of this investigation indicates that slitting and packaging account for a large amount (34%) of total cost, indicating substantial transformation.

The Department has considered several factors in determining whether a substantial transformation has taken place, thereby changing a product's country of origin. These have included: the value added to the product; the sophistication of the third–country processing; the possibility of using the third–country processing as a low cost means of circumvention; and, most prominently, whether the processed product falls into a different class or kind of product when compared to the downstream product. While all of these factors have been considered by the Department in the past, it is the last factor which is consistently examined and emphasized.[1] When the upstream and processed products fall into different classes or kinds of merchandise, the Department generally finds that this is indicative of substantial transformation. *See, e.g.*, Cold–Rolled 1993, 58 FR at 37066.

Accordingly, the Department has generally found that substantial transformation has taken place when the upstream and downstream products fall within two different "classes or kinds" of merchandise: (*see, e.g.*, steel slabs converted to hot–rolled band; wire rod converted through cold–drawing to wire; cold–rolled steel converted to corrosion resistant steel; flowers arranged into bouquets; automobile chassis converted to limousines).[2] Conversely, the Department almost invariably determines substantial transformation has not taken place when both products are within the same "class or kind" of merchandise: (*see, e.g.*, computer memory components assembled and tested; hot–rolled coils pickled and trimmed; cold–rolled coils converted into cold–rolled strip coils; rusty pipe fittings converted to rust free, painted pipe fittings; green rod cleaned, coated, and heat treated into wire rod).[3] In this case, both jumbo and slit TTR are within the same class or kind of merchandise, as defined in the Department's initiation and as defined for this final determination.

While slitting and packaging might account for 34 percent of the total cost of production,[4] the processes and equipment involved do not amount to substantial transformation of the jumbo TTR for antidumping purposes. According to information submitted by petitioner, and not rebutted by any party to this investigation, a slitting operation requires only a fraction of the capital investment required for a coating and

[1] *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold- Rolled Carbon Steel Flat Products From Argentina*, 58 FR 37062, 37066 (July 9, 1993) (Cold-Rolled 1993); *Final Determination of Sales at Less Than Fair Value; Limousines From Canada*, 55 FR 11036, 11040, comment 10 (March 26, 1990) (*Limousines*); *Erasable Programmable Read Only Memories (EPROMs) From Japan; Final Determination of Sales at Less than Fair Value*, 51 FR 39680, 39692, comment 28 (October 30, 1986) (*EPROMs*); and, *Cold-Rolled 1993*, 58 FR at 37066; respectively.

[2] *Notice of Final Determination of Sales at Less Than Fair Value; Stainless Steel Sheet and Strip in Coils From the United Kingdom*, 64 FR 30688, 30703, comment 13 (June 8, 1999); *Notice of Final Determination of Sales at Less Than Fair Value-Stainless Steel Round Wire from Canada*, 64 FR 17324, 17325, comment 1 (April 9, 1999); *Cold-Rolled 1993*, 58 FR at 37066; *Certain Fresh Cut Flowers From Colombia; Final Results of Antidumping Duty Administrative Review*, 55 FR 20491, 20499, comment 49 (May 17, 1990); and, Limousines, 55 FR 11040; respectively.

[3] *Notice of Initiation of Countervailing Duty Investigation: Dynamic Random Access Memory Semiconductors from the Republic of Korea*, 67 FR 70927, 70928 (November 27, 2002) (*DRAMs*); *EPROMs*, 51 FR at 39692; *Dynamic Random Access Memory Semiconductors of 256 Kilobits and Above from Japan; Suspension of Investigation and Amendment of Preliminary Determination*, 51 FR 28396, 28397 (August 7, 1986); *Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products From the People's Republic of China*, 66 FR 22183, 22186 (May 3, 2001); *Memorandum to Troy H. Cribb, Acting Assistant Secretary, from Holly Kuga, Acting Deputy Assistant Secretary, Issues and Decision Memorandum for the Investigation of Certain Cold-Rolled Flat-Rolled Carbon Quality Steel Products from Taiwan*, comment 1 (May 22, 2000); *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Steel Wire Rod From Canada*, 62 FR 51572, 51573 (October 1, 1997); *Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Butt-Weld Pipe Fittings From India*, 60 FR 10545, 10546 (February 27, 1995); respectively.

[4] The ITC report states that "[s]ix U.S. producers indicate that slitting and packaging accounts for an average of 34 percent of the cost of finished bar code TTR." *Certain Wax and Wax/Resin Thermal Transfer Ribbons from France, Japan, and Korea, Investigations Nos. 731-TA-1039-1041 (Preliminary)*, (July 2003) (*ITC Report*), at 7. DigiPrint apparently is referring to this figure, when it refers to 34 percent in its January 2, 2004 submission. Figures placed on the record by petitioner related to this issue are proprietary, but indicate that the relevant figure might be significantly less than 34 percent, depending on the country in which the slitter is located, the type of equipment used, the degree of automation involved, and whether the process relies more on labor than capital.

ink–making operation.[5] Moreover, the ITC noted in this investigation that the "slitting and packaging process is not particularly complex, especially as compared to the jumbo TTR production process." *ITC Report*, at 7. The ITC also noted that the primary cost involved in a slitting and packaging operation is not capital cost, but direct labor cost, which, we note, might be hired cheaply in a third country. *Id.* at 14. Thus, it appears that a slitting operation could be established in a third country for circumvention purposes with far greater ease than a coating and ink–making operation.

Finally, the ITC concluded that, while slit and jumbo TTR are like products, U.S. slitting and packaging operations (or "converters") were not part of the domestic industry for purposes of this investigation, "for lack of sufficient production related activities." *Id.* at 13. The implication of the ITC's conclusion, based on its extensive multi–pronged analysis, is that TTR is the product of coating and ink–making, not slitting and packaging: "The production related activities of converters are insufficient for such firms to be deemed producers of the domestic like product." *Id.* While we are not bound by the ITC's decisions, the ITC's determination is important to consider in this particular instance because it is based on the full participation of respondents and petitioner, whereas respondent withdrew its information from our investigation.

As the Department has stated on numerous occasions, CBP decisions regarding substantial transformation and customs regulations, referred to by respondent, are not binding on the Department, because we make these decisions with different aims in mind (*e.g.*, anticircumvention). *See, e.g.*, DRAMs, 67 FR at 70928. The Department's independent authority to determine the scope of its investigations has been upheld by the CIT. *See Diversified Products Corp. v. United States*, 572 F. Supp. 883, 887 (CIT 1983). Presumably, a CIT decision interpreting substantial transformation in the context of CBP regulations, also cited by respondent, also is not binding on the Department.

While the other facts noted by respondent are not necessarily irrelevant to this determination, they do not overcome the conclusion indicated by the fact that the slitting and packaging of jumbo rolls into slit TTR does not create a "new and different article." In other words, the totality of the circumstances indicates that slitting does not constitute substantial transformation for antidumping purposes. Even accepting, *arguendo*, DigiPrint's statement regarding the amount of total cost accounted for by slitting and packaging, and respondent's statements regarding how slitting and packaging transform the product into its final end–use form, the product still has not changed sufficiently to fall outside the class or kind of merchandise defined in this investigation. Jumbo rolls are intermediate products, and slit rolls are final, end–use products, but the transformation of an upstream product into a downstream product does not necessarily constitute "substantial transformation" and, in this case, does not, given the considerations listed above.

Similarly, in *DRAMs*, we decided that wafers shipped to a third country to be used in the assembly of DRAMs (subject merchandise) did not amount to substantial transformation because the wafers were the "essential" component in the product. In this case, the ITC report notes petitioner's statement, unrefuted by respondents, that "the essential characteristic of finished TTR, like that of jumbo TTR, is that of a strip of PET film coated with ink." We agree and note that the essential characteristic is contained in the jumbo TTR imported into the third country.

Therefore, in light of this fact and the facts discussed below, we determine that slitting jumbo rolls does not constitute substantial transformation. Jumbo rolls originating in Korea but slit in a third country will be subject to any antidumping duties imposed on Korean TTR, if an antidumping duty order on such products is issued.

Changes Since the Preliminary Results

Based on our findings at verification and our analysis of comments received, we have made adjustments to the preliminary determination calculation methodology and post–preliminary analysis methodology in calculating the final margin for ITW. These adjustments are discussed in the Decision Memorandum for this investigation.

Suspension of Liquidation

Because the estimated weight–averaged dumping margin for the investigated company is 1.65 percent (*de minimis*), we are not directing the CBP to suspend liquidation of entries of TTR from Korea.

Final Determination Margin

We determine that the following percentage weighted–average margin exists:

Exporter/manufacturer	Margin (percent)
ITW	1.65

ITC Notification

In accordance with section 735(d) of the Tariff Act, we have notified the International Trade Commission (ITC) of our determination.

This notice also serves as a reminder to parties subject to administrative protective orders (APOs) or their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This determination is issued and published pursuant to section 735(d) and 777(i)(1) of the Tariff Act.

Dated: March 29, 2004.

James J. Jochum,

Assistant Secretary for Import Administration.

Appendix 1 Issues in the Decision Memorandum

Comment 1: Affiliation Between ITW and SKC
Comment 2: Alleged Affiliation with Customer
Comment 3: Costs of Connums Sold in the United States
Comment 4: Allocation Indices
Comment 5: Low Costs of Type 2 Wax With Some Resin Jumbo Rolls
Comment 6: Film Cost
Comment 7: Ink–Making Costs
Comment 8: Coating Index
Comment 9: Korean Slitting Cost
Comment 10: Alleged Incorrectly–Reported U.S. Further–Manufacturing Costs
Comment 11: Use of Adverse Facts Available
Comment 12: Allocation of Goodwill Expenses
Comment 13: Royalty Expenses
Comment 14: Non–Operating Income
Comment 15: Averaging Groups for U.S. Sales
Comment 16: Treatment of Non–Dumped Sales
Comment 17: Clerical Errors

[FR Doc. 04–7643 Filed 4–2–04; 8:45 am]
BILLING CODE 3510–25–S

[5] These figures agree with statements made by DNP, a respondent in the Japanese TTR investigation, recorded in the preliminary report by the U.S. International Trade Commission (ITC), that capital investment in a slitting operation was "generally very small" ($100,000 to $300,000). *Id.* at 14.

owned property is to be exchanged: Tract Number 02–213 is a 32.14-acre upland tract in the southern portion of Cumberland Island National Seashore. This tract includes a life estate (15.1 acres, with dwelling) and is located immediately to the north of, and contiguous to, a private tract of 206.13 acres owned by Greyfield Land Corp. In exchange for the foregoing lands, the United States of America will acquire a 52.2-acre tract (NPS Tract No. 02–212) containing 21 acres of upland. This tract is owned by Greyfield Ltd. and lies within an area designated by Congress as potential wilderness.

The terms of the exchange are set forth in a contract by and among Greyfield Ltd., The Nature Conservancy, and the National Park Service. The parties agreed to the exchange in order to resolve a dispute that arose during the sale of the former Greyfield North tract to The Nature Conservancy for eventual conveyance to the National Park Service. As a result of the exchange agreement, the parties completed the final phases of the Greyfield North transaction in 1999, with the understanding that the land exchange was to be completed by July 1, 2004.

An archeological survey completed in 2003 revealed that the exchange tract contains potentially significant archeological resources that may be eligible for listing in the National Register of Historic Places. The National Park Service has determined that the proposed exchange would have an adverse effect on these resources. Accordingly, the National Park Service proposes to mitigate this adverse effect by conducting extensive data recovery from the site, with curation, prior to the exchange.

The value of the properties to be exchanged shall be determined by a current fair market appraisal and if they are not appropriately equal, the values shall be equalized by payment of cash as circumstances require.

Interested parties may submit written comments to the address listed in the **ADDRESSES** paragraph. Adverse comments will be evaluated and this action may be modified or vacated accordingly. In the absence of any action to modify or vacate, this realty action will become the final determination of the Department of the Interior.

Dated: January 5, 2004.

Patricia A. Hooks,

Acting Regional Director, Southeast Region.

[FR Doc. 04–8167 Filed 4–9–04; 8:45 am]

BILLING CODE 4310–L6–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1041 (Final)]

Certain Wax and Wax/Resin Thermal Transfer Ribbons From Korea

AGENCY: International Trade Commission.

ACTION: Termination of investigation.

SUMMARY: On April 5, 2004, the Department of Commerce published notice in the **Federal Register** of a negative final determination of sales at less than fair value in connection with the subject investigation (69 FR 17645). Accordingly, pursuant to section 207.40(a) of the Commission's Rules of Practice and Procedure (19 CFR 207.40(a)), the antidumping investigation concerning certain wax and wax/resin thermal transfer ribbons from Korea (investigation No. 731–TA–1041 (Final)) is terminated.

EFFECTIVE DATE: April 6, 2004.

FOR FURTHER INFORMATION CONTACT: Christopher Cassise (202–708–5408), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

Authority: This investigation is being terminated under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 201.10 of the Commission's rules (19 CFR 201.10).

Issued: April 7, 2004.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 04–8200 Filed 4–9–04; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Parole Commission

Sunshine Act Meeting; Public Announcement Pursuant to the Government in the Sunshine Act (Pub. L. 94–409) (5 U.S.C. 552b)

AGENCY HOLDING MEETING: Department of Justice, United States Parole Commission.

TIME AND DATE: 9:30 a.m., Tuesday, April 13, 2004.

PLACE: 5550 Friendship Blvd., Fourth Floor, Chevy Chase, MD 20815.

STATUS: Open.

MATTERS TO BE CONSIDERED: The following matters have been placed on the agenda for the open Parole Commission meeting:

1. Approval of Minutes of Previous Commission Meeting.
2. Reports from the Chairman, Commissioners, Legal, Chief of Staff, Case Operations, and Administrative Sections.
3. Approval of Revised Parole Form F–2.
4. Approval of Rules and Procedures Memorandum 2003–01.
5. Discussion of Proposal to Amend 28 CFR 2.12(a).

AGENCY CONTACT: Thomas W. Hutchison, Chief of Staff, United States Parole Commission, (301) 492–5990.

Dated: April 7, 2004.

Rockne Chickinell,

General Counsel, U.S. Parole Commission.

[FR Doc. 04–8288 Filed 4–8–04; 9:54 am]

BILLING CODE 4410–31–M

DEPARTMENT OF JUSTICE

Parole Commission

Sunshine Act Meeting; Public Announcement Pursuant to the Government in the Sunshine Act (Pub. L. 94–409) (5 U.S.C. 552b)

AGENCY HOLDING MEETING: Department of Justice, United States Parole Commission.

DATE AND TIME: 10:30 a.m., Tuesday, April 13, 2004.

PLACE: U.S. Parole Commission, 5550 Friendship Blvd., Fourth Floor, Chevy Chase, MD 20815.

STATUS: Closed—Meeting.

MATTERS TO BE CONSIDERED: The following matter will be considered during the closed portion of the Commission's Business Meeting:

Appeals to the Commission involving approximately two cases decided by the

APPENDIX B

HEARING WITNESSES

CALENDAR OF PUBLIC HEARING

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

Subject:	Certain Wax and Wax/Resin Thermal Transfer Ribbons from France, Japan, and Korea
Inv. Nos.:	731-TA-1039-1041 (Final)
Date and Time:	March 9, 2004 - 9:30 a.m.

Sessions were held in connection with these investigations in the Main Hearing Room (room 101), 500 E Street, S.W., Washington, D.C.

OPENING REMARKS:

Petitioners (**Richard O. Cunningham**, Steptoe & Johnson LLP)
Respondents (**David J. Levine**, McDermott, Will & Emery)

In Support of the Imposition of Antidumping Duties:

Steptoe & Johnson LLP
Washington, D.C.
on behalf of

International Imaging Materials, Inc. ("IIMAK")

David Golub, Consultant, Centre Partners Management LLC

Richard Marshall, Chief Executive Officer and Chairman of the Board, IIMAK

Richard O. Kingdon, President, IIMAK

Vince Dowell, Chief Operations Officer, IIMAK

In Support of the Imposition
of Antidumping Duties (continued):

John M. Heimback, Senior Marketing Analyst, IIMAK

Louis Baez, Employee, IIMAK

Lance Boehnke, Employee, IIMAK

Inell Watkins, Employee, IIMAK

Daniel W. Klett, Consultant, Capital Trade, Inc.

Richard O. Cunningham)
Thomas J. Trendl)
) – OF COUNSEL
Tina Potuto Kimble)
Rikard Lundberg)

Davis & Leiman P.C.
Washington, D.C.
on behalf of

IIMAK

Karmi Leiman, Consultant, Davis & Leiman P.C

In Opposition to the Imposition
of Antidumping Duties:

McDermott, Will & Emery
Washington, D.C.
on behalf of

Illinois Tool Works Inc.
ITW Specialty Films Co., Ltd.

Philip S. Dallosto, Associate General Counsel,
Illinois Tool Works Inc.

Jim Landry, Vice President and General Manager
ITWTF

In Opposition to the Imposition of Antidumping Duties (continued):

Peter Gallette, General Manager, ITWTF

Bruce Malashevich, President, Economic Consulting Services, LLC

Jennifer Lutz, Senior Economist, Economic Consulting Services, LLC

David J. Levine) – OF COUNSEL

Wiley Rein & Fielding LLP
Washington, D.C.
on behalf of

Armor, S.A.

Chris Walker, Vice President and General Manager, ARMOR USA, Inc.

Alan H. Price)
) – OF COUNSEL
Daniel B. Pickard)

Paul, Hastings, Janofsky & Walker LLP
Washington, D.C.
on behalf of

Dai Nippon Printing Co., Ltd.
DNP IMS America Corp.

Hamilton Loeb)
) – OF COUNSEL
Alexander W. Koff)

Squire, Sanders & Dempsey L.L.P.
Washington, D.C.
on behalf of

Union Chemicar Co., Ltd.
Union Chemicar America

Ritchie T. Thomas) – OF COUNSEL

REBUTTAL/CLOSING REMARKS

Petitioners (**Richard O. Cunningham**, Steptoe & Johnson LLP)
Respondents (**Alan H. Price**, Wiley Rein & Fielding LLP; *and*
David J. Levine, McDermott, Will & Emery)

APPENDIX C

SUMMARY DATA

Description of Summary Tables		
Table	**Data from U.S. operations included**	**Data from U.S. operations excluded**
C-1[1]	-Certain TTR of U.S. coaters[2] -Slitted fax of U.S. coaters	-Certain TTR of U.S. slitters/converters
C-1A[3]	-Certain TTR of U.S. coaters[2] -Slitted fax of U.S. coaters	-Certain TTR of U.S. slitters/converters
C-2[4]	-Certain TTR of U.S. coaters[2] -Certain TTR of U.S. slitters/converters	-All slitted fax of U.S. coaters and slitters/converters -Certain TTR of Armor, DNP, Fujicopian, and Union as related parties
C-2A[3]	-Certain TTR of U.S. coaters[2] -Certain TTR of U.S. slitters/converters	-All slitted fax of U.S. coaters and slitters/converters -Certain TTR of Armor, DNP, Fujicopian, and Union as related parties
C-3	-Certain TTR of U.S. coaters[2] -Certain TTR of U.S. slitters/converters -All slitted fax of U.S. coaters and slitters/converters	-Certain TTR of Armor, DNP, Fujicopian, and Union as related parties
C-4	-All slitted fax of U.S. coaters and slitters/converters	
C-5	-Certain TTR and slitted fax TTR of all slitters/converters which may potentially be related parties (Armor, DNP, Fujicopian, and Union)	

[1] The Commission determined this to be the definition of the domestic like product and the U.S. industry in the preliminary phase of these investigations. *Certain Wax and Wax/Resin Thermal Transfer Ribbons from France, Japan, and Korea*, Invs. Nos. 731-TA-1039-1041 (Final), USITC Pub. 3613 (July 2003), pp. 7, 15, and 17.

[2] Although the Commission determined to remove the U.S. coating operations of ITW as a related party in the preliminary phase of these investigations, those data appear in this table because Commerce determined that U.S. imports from Korea were not being sold nor likely to be sold at less than fair value.

[3] Tables C-1A and C-2A correspond to tables C-1 and C-2 except in calculating apparent U.S. consumption and market shares, slitters/converters' shipments of slitted product were used as opposed to their reported import shipments of jumbo rolls.

[4] This definition of the domestic like product and the U.S. industry was used by Commissioner Miller in her dissenting views in the preliminary phase of these investigations. *Id.* at pp. 30, 33, and 35. As in table C-1, U.S. operations of ITW are being included. In table C-2, both the U.S. coating and slitting operations of ITW are included.

Table C-1
Certain TTR and slitted fax TTR: Summary data concerning the U.S. market, 2001-2003

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Table C-1--*Continued*
Certain TTR and slitted fax TTR: Summary data concerning the U.S. market, 2001-03

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

Item	Calendar year			Period changes		
	2001	2002	2003	2001-2003	2001-2002	2002-2003
U.S. producers'--						
Capacity quantity	2,316,810	2,552,654	2,673,174	15.4	10.2	4.7
Production quantity	1,220,569	1,318,091	1,488,980	22.0	8.0	13.0
Capacity utilization[1]	52.7	51.6	55.7	3.0	-1.0	4.1
U.S. shipments:						
Quantity	792,580	908,238	1,003,233	26.6	14.6	10.5
Value	119,450	120,763	127,282	6.6	1.1	5.4
Unit value	$0.151	$0.133	$0.127	-15.8	-11.8	-4.6
Export shipments:						
Quantity	365,692	310,286	388,622	6.3	-15.2	25.2
Value	34,710	26,665	31,686	-8.7	-23.2	18.8
Unit value	$0.095	$0.086	$0.082	-14.1	-9.5	-5.1
Ending inventory quantity	88,440	89,744	98,627	11.5	1.5	9.9
Inventories/total shipments[1]	7.6	7.4	7.1	-0.6	-0.3	-0.3
Production workers	536	501	514	-4.3	-6.6	2.5
Hours worked (*1,000 hours*)	1,225	1,129	1,167	-4.7	-7.9	3.4
Wages paid (*1,000 dollars*)	19,883	19,718	19,928	0.2	-0.8	1.1
Hourly wages	$16.23	$17.46	$17.07	5.2	7.6	-2.3
Productivity (*msi per hour*)	996.1	1,167.5	1,275.5	28.1	17.2	9.2
Unit labor costs	$0.016	$0.015	$0.013	-17.8	-8.2	-10.5
Net sales:						
Quantity	1,136,353	1,115,724	1,313,465	15.6	-1.8	17.7
Value	157,060	144,145	157,005	0.0	-8.2	8.9
Unit value	$0.138	$0.129	$0.120	-13.5	-6.5	-7.5
COGS	115,375	106,792	118,779	3.0	-7.4	11.2
Gross profit or (loss)	41,685	37,353	38,226	-8.3	-10.4	2.3
SG&A expenses	30,710	29,149	27,828	-9.4	-5.1	-4.5
Operating income or (loss)	10,975	8,204	10,398	-5.3	-25.2	26.7
Capital expenditures	***	***	***	***	***	***
Unit COGS	$0.102	$0.096	$0.090	-10.9	-5.7	-5.5
Unit SG&A expenses	$0.027	$0.026	$0.021	-21.6	-3.3	-18.9
Unit operating income or (loss)	$0.010	$0.007	$0.008	-18.0	-23.9	7.7
COGS/sales[1]	73.5	74.1	75.7	2.2	0.6	1.6
Operating income or (loss)/sales[1]	7.0	5.7	6.6	-0.4	-1.3	0.9

[1] "Reported data" are in percent and "period changes" are in percentage points.
[2] Not applicable.
[3] Shipments and inventories of imports of slitted fax TTR from all sources are included within "All other" import shipments.

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

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

Table C-1A
Certain TTR and slitted fax TTR: Summary data concerning the U.S. market, 2001-2003

* * * * * * *

Table C-2
Certain TTR: Summary data concerning the U.S. market, 2001-2003

* * * * * * *

Table C-2A
Certain TTR: Summary data concerning the U.S. market, 2001-2003

* * * * * * *

Table C-3
Certain TTR and slitted fax TTR: Summary data concerning the U.S. market (U.S. coaters and converters), 2001-2003

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

Item	Calendar year			Period changes		
	2001	2002	2003	2001-2003	2001-2002	2002-2003
U.S. consumption quantity:	***	***	***	***	***	***
Producers' share:[1]						
U.S. producers	***	***	***	***	***	***
Excluded related parties	***	***	***	***	***	***
Total U.S. producers	***	***	***	***	***	***
Importers' share:[1]						
France	***	***	***	***	***	***
Japan	***	***	***	***	***	***
Subtotal	***	***	***	***	***	***
Korea	***	***	***	***	***	***
Other sources	***	***	***	***	***	***
Total	***	***	***	***	***	***
U.S. consumption value:	***	***	***	***	***	***
Producers' share:[1]						
U.S. producers	***	***	***	***	***	***
Excluded related parties	***	***	***	***	***	***
Total U.S. producers	***	***	***	***	***	***
Importers' share:[1]						
France	***	***	***	***	***	***
Japan	***	***	***	***	***	***
Subtotal	***	***	***	***	***	***
Korea	***	***	***	***	***	***
Other sources	***	***	***	***	***	***
Total	***	***	***	***	***	***
U.S. imports from--						
France:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory	***	***	***	***	***	***
Japan:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory	***	***	***	***	***	***
Subtotal:						
Quantity	268,031	311,450	315,848	17.8	16.2	1.4
Value	24,677	25,417	25,642	3.9	3.0	0.9
Unit value	$0.092	$0.082	$0.081	-11.8	-11.4	-0.5
Ending inventory	63,897	53,249	96,225	50.6	-16.7	80.7
Korea:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory	***	***	***	***	***	***
Other sources:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory	***	***	***	***	***	***
All sources:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	
Unit value	***	***	***	***	***	***
Ending inventory	***	***	***	***	***	***

Table continued on next page.

Table C-3--*Continued*
Certain TTR and slitted fax TTR: Summary data concerning the U.S. market (U.S. coaters and converters), 2001-2003

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

Item	Calendar year			Period changes		
	2001	2002	2003	2001-2003	2001-2002	2002-2003
U.S. producers'[3]--						
Average capacity quantity	***	3,079,158	3,156,220	***	***	2.5
Production quantity	***	1,588,107	1,742,478	***	***	9.7
Capacity utilization[1]	***	51.6	55.2	***	***	3.6
U.S. shipments:						
Quantity	***	1,140,132	1,205,893	***	***	5.8
Value	***	156,911	156,856	***	***	0.0
Unit value	***	$0.138	$0.130	***	***	-5.5
Export shipments:						
Quantity	***	342,855	442,783	***	***	29.1
Value	***	32,433	42,221	***	***	30.2
Unit value	***	$0.095	$0.095	***	***	0.8
Ending inventory quantity	***	105,770	111,337	***	***	5.3
Inventories/total shipments[1]	***	7.1	6.8	***	***	-0.4
Production workers	***	654	645	***	***	-1.4
Hours worked (*1,000 hours*)	***	1,398	1,380	***	***	-1.3
Wages paid (*1,000 dollars*)	***	22,877	22,460	***	***	-1.8
Hourly wages	***	$16.36	$16.27	***	***	-0.5
Productivity (*msi per hour*)	***	1,135.8	1,262.6	***	***	11.2
Unit labor costs	***	$0.014	$0.013	***	***	-10.5
Net sales:						
Quantity	***	1,366,541	1,558,861	***	***	14.1
Value	***	184,380	195,758	***	***	6.2
Unit value	***	$0.135	$0.126	***	***	-6.9
COGS	***	138,671	149,525	***	***	7.8
Gross profit or (loss)	***	45,709	46,233	***	***	1.1
SG&A expenses	***	33,488	31,557	***	***	-5.8
Operating income or (loss)	***	12,221	14,676	***	***	20.1
Capital expenditures	***	***	***	***	***	***
Unit COGS	***	$0.101	$0.096	***	***	-5.5
Unit SG&A expenses	***	$0.025	$0.020	***	***	-17.4
Unit operating income or (loss)	***	$0.009	$0.009	***	***	5.3
COGS/sales[1]	***	75.2	76.4	***	***	1.2
Operating income or (loss)/sales[1]	***	6.6	7.5	***	***	0.9
Excluded related parties:						
U.S. shipments:						
Quantity	***	196,364	184,155	***	***	-6.2
Value	***	25,568	21,254	***	***	-16.9
Unit value	***	$0.130	$0.115	***	***	-11.4

[1] "Reported data" are in percent and "period changes" are in percentage points.
[2] Not applicable.
[3] Excluding data for related parties: Armor, Fujicopian, DNP, and Union.

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

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

Table C-4
Slitted fax TTR: Summary data concerning the U.S. market (U.S. coaters and converters), 2001-2003

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Table C-5
Certain TTR and slitted fax TTR: Summary data concerning the U.S. related parties, 2001-2003

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APPENDIX D

U.S. PRODUCER INDIVIDUAL FIRM DATA

Table D-1
Certain TTR and slitted fax TTR: U.S. coaters' trade and employment comparisons, by firms, 2001-2003

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Table D-2
Certain TTR and slitted fax TTR: U.S. converters' trade and employment comparisons, by firms, 2001-2003

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Table D-3
Certain TTR and slitted fax TTR: U.S. coaters' financial comparisons, by firms, 2001-2003

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Table D-4
Certain TTR and slitted fax TTR: U.S. converters' financial comparisons, by firms, 2001-2003

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APPENDIX E

PRICING DATA BY SUPPLIER FOR PRODUCTS 1, 2, AND 3 BY CHANNELS OF DISTRIBUTION; AND PRODUCTS 1 AND 3 BY INK FORMULA SOLD TO DISTRIBUTORS AND OEMS

Table E-1
Certain TTR: Weighted-average f.o.b. prices and quantities of domestic and imported product 1 sold to distributors/resellers, by company, by quarters, January 2001-December 2003

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Table E-2
Certain TTR: Weighted-average f.o.b. prices and quantities of domestic and imported product 1 sold to OEMs, by company, by quarters, January 2001-December 2003

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Table E-3
Certain TTR: Weighted-average f.o.b. prices and quantities of domestic and imported product 1 sold to slitter/converters, by company, by quarters, January 2001-December 2003

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Table E-4
Certain TTR: Weighted-average f.o.b. prices and quantities of domestic and imported product 2 sold to slitter/converters, by company, by quarters, January 2001-December 2003

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Table E-5
Certain TTR: Weighted-average f.o.b. prices and quantities of domestic and imported product 3 sold to distributors/resellers, by company, by quarters, January 2001-December 2003

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Table E-6
Certain TTR: Weighted-average f.o.b. prices and quantities of domestic and imported product 3 sold to OEMs, by company, by quarters, January 2001-December 2003

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Table E-7
Certain TTR: Weighted-average f.o.b. prices and quantities of domestic and imported product 3 sold to slitter/converters, by company, by quarters, January 2001-December 2003

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Table E-8
Certain TTR: Weighted-average f.o.b. prices and quantities of domestic and imported product 1 sold to distributors/resellers, by ink formula, by quarters, January 2001-December 2003

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Table E-9
Certain TTR: Weighted-average f.o.b. prices and quantities of domestic and imported product 1 sold to OEM, by ink formula, by quarters, January 2001-December 2003

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Table E-10
Certain TTR: Weighted-average f.o.b. prices and quantities of domestic and imported product 3 sold to distributors/resellers, by ink formula, by quarters, January 2001-December 2003

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Table E-11
Certain TTR: Weighted-average f.o.b. prices and quantities of domestic and imported product 3 sold to OEM, by ink formula, by quarters, January 2001-December 2003

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APPENDIX F

ALLEGED EFFECTS OF SUBJECT IMPORTS ON U.S. FIRMS' EXISTING DEVELOPMENT AND PRODUCTION EFFORTS, GROWTH, INVESTMENT, AND ABILITY TO RAISE CAPITAL

The Commission requested U.S. producers to describe any actual or potential negative effects on their return on investment, growth, investment, ability to raise capital, existing development and production efforts (including efforts to develop a derivative or more advanced version of the product), or the scale of capital investments as a result of imports of certain TTR from France, Japan, or Korea. (Questions III-9 and III-10). Their responses are as follows:

Actual Negative Effects

(Coaters)

Dynic ***

IIMAK ***

ITW ***

NCR ***

Nu-kote ***

Paxar ***

Sony ***

(Slitters/converters)

Dynic, ITW, Nu-Kote, Paxar, and Sony are also converters/slitters.

Armor ***

DNP ***

Fujicopian ***

Union ***

Anticipated Negative Effects

(Coaters)

Dynic ***

IIMAK ***

ITW ***

NCR ***

Nu-kote ***

Paxar ***

Sony ***

(Slitters/converters)

Dynic, ITW, Nu-Kote, Paxar, and Sony are also converters/slitters.

Armor ***

DNP ***

Fujicopian ***

Union ***