Polyvinyl Alcohol From Germany and Japan

Investigations Nos. 731-TA-1015-1016 (Final)

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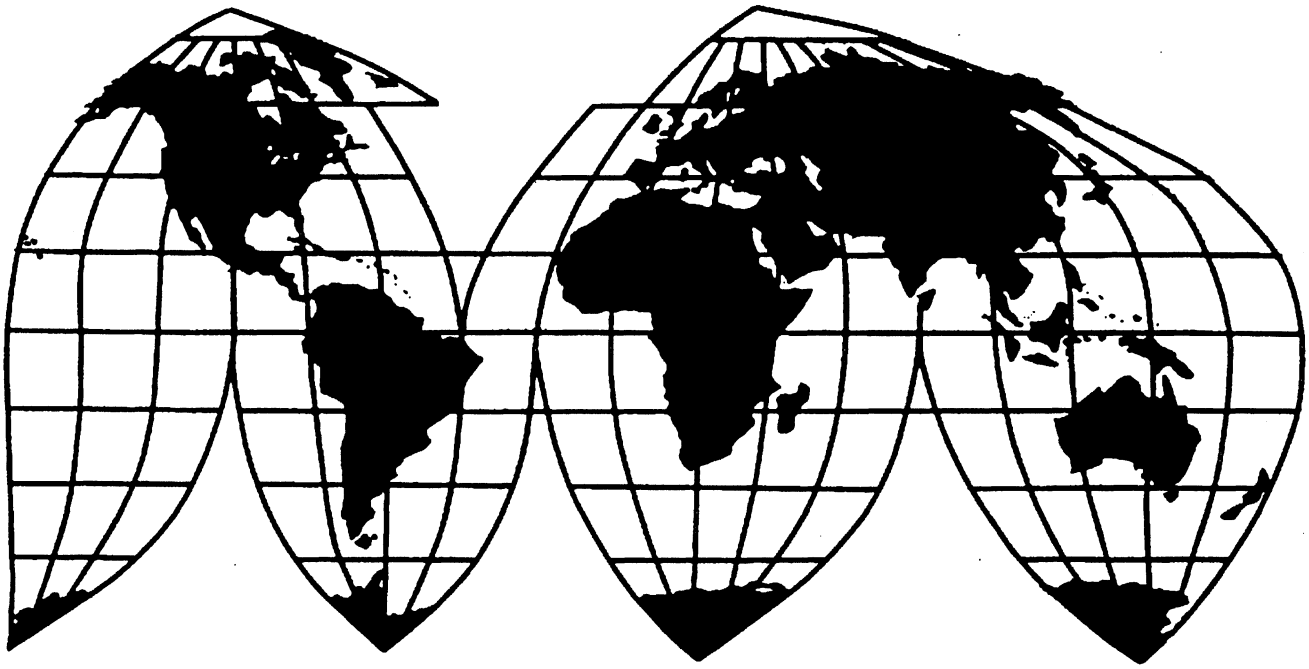

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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been identified by the use of *.**

GLOSSARY

ADA	Adverse facts available
Act	Tariff Act of 1930
Air Products	Air Products and Chemicals, Inc.
***	***
CEP	Constructed export price
CIF	Cost-insurance-freight
COGS	Cost of goods sold
Cps	Cycles per second
Celanese	Celanese, Ltd.
Chang Chun	Chang Chun Plastics Co., Ltd.
Clariant	Clariant Corp.
Commerce	Department of Commerce
Commission/USITC	U.S. International Trade Commission
Customs	Bureau of Customs and Border Protection
DC Chemical	DC Chemical Co., Ltd.
Denki	Denki Kagaku Kogyo Kabushiki
DuPont	E.I. DuPont de Nemours & Co.
EP	Export price
EPP	Emulsion polymerization
***	***
FOB	Free-on-board
FR	*Federal Register*
***	***
***	***
GAAP	Generally accepted accounting principles
***	***
***	***
HTS	Harmonized Tariff Schedule of the United States
***	***
***	***
Japan VAM	Japan VAM & Poval Co., Ltd.
Kuraray America	Kuraray America, Inc.
Kuraray Germany	Kuraray Specialties Europe GmbH
Kuraray Japan	Kuraray Co., Ltd.
LOT	Level of trade
LTFV	Less-than-fair-value
Marubeni	Marubeni America Corp.
***	***
Mole	Gram molecular weight
NME	Nonmarket economy
NV	Normal value
Nippon Gohsei	Nippon Synthetic Chemical Industry Co., Ltd.
OCI	OCI International, Inc.

PVA	Polyvinyl alcohol
PVB	Polyvinyl butyral
***	***
Poval	Poval Asia Pte., Ltd.
R&D	Research and development
SG&A	Selling, general, and administrative
***	***
Sichuan Vinylon	Sinopec Sichuan Vinylon Works
***	***
Solutia	Solutia, Inc.
***	***
***	***
VAM	Vinyl acetate monomer
Wego	Wego Chemical & Mineral Corp.
***	***

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigations Nos. 731-TA-1015-1016 (Final)

POLYVINYL ALCOHOL FROM GERMANY AND JAPAN

DETERMINATIONS

On the basis of the record[1] developed in the subject investigations, the United States International Trade Commission (Commission) determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act), that an industry in the United States is threatened with material injury[2] by reason of imports from Japan of polyvinyl alcohol ("PVA"),[3] provided for in subheading

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

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

(1) PVA in fiber form;
(2) PVA with hydrolysis less than 83 mole percent and certified not for use in the production of textiles;
(3) PVA with hydrolysis greater than 85 percent and viscosity greater than or equal to 90 cps;
(4) PVA with a hydrolysis greater than 85 percent, viscosity greater than or equal to 80 cps but less than 90 cps, certified for use in an ink jet application;
(5) PVA for use in the manufacture of an excipient or as an excipient in the manufacture of film coating systems which are components of a drug or dietary supplement, and accompanied by an end-use certification;
(6) PVA covalently bonded with cationic monomer uniformly present on all polymer chains in a concentration equal to or greater than one mole percent;
(7) PVA covalently bonded with carboxylic acid uniformly present on all polymer chains in a concentration equal to or greater than two mole percent, certified for use in a paper application;
(8) PVA covalently bonded with thiol uniformly present on all polymer chains, certified for use in emulsion polymerization of non-vinyl acetic material;
(9) PVA covalently bonded with paraffin uniformly present on all polymer chains in a concentration equal to or greater than one mole percent;
(10) PVA covalently bonded with silan uniformly present on all polymer chains certified for use in paper coating applications;
(11) PVA covalently bonded with sulfonic acid uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent;
(12) PVA covalently bonded with acetoacetylate uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent;
(13) PVA covalently bonded with polyethylene oxide uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent;
(14) PVA covalently bonded with quaternary amine uniformly present on all polymer chains in a

(continued...)

3905.30.00 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce (Commerce) to be sold in the United States at less than fair value (LTFV).[4] The Commission also determines, pursuant to section 735(b) of the Act, that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports from Germany of PVA that have been found by Commerce to be sold in the United States at LTFV.

BACKGROUND

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

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[3] (...continued)
concentration level equal to or greater than one mole percent; and
(15) PVA covalently bonded with diacetoneacrylamide uniformly present on all polymer chains in a concentration level greater than three mole percent certified for use in a paper application.

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

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 polyvinyl alcohol ("PVA") from Germany that are sold in the United States at less than fair value ("LTFV").[1] We determine that an industry in the United States is threatened with material injury by reason of imports of PVA from Japan that are sold in the United States at LTFV.[2] [3]

I. DOMESTIC LIKE PRODUCT

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."[4] Section 771(4)(A) of the Tariff Act of 1930, as amended ("the Act"), defines the relevant domestic industry as the "producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."[5] In turn, the Act defines "domestic like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation . . . ."[6]

The decision regarding the appropriate domestic like product(s) in an investigation is a factual determination, and the Commission has applied the statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis.[7] No single factor is dispositive, and the Commission

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[1] Material retardation is not an issue in these investigations.

[2] Vice Chairman Hillman has determined that an industry in the United States is neither materially injured nor threatened with material injury by reason of LTFV imports of PVA from Japan. See Additional and Dissenting Views of Vice Chairman Jennifer A. Hillman. She joins all sections of these Views except III.C., V.C., VI.B. (in part), and VI.C.

[3] Petitioners referred for the first time in their Final Comments to various publications pertaining to cost accounting. See Petitioners Final Comments at 5 & n.3. The referenced materials constitute new factual information which, under the Commission's Rules of Practice and Procedure, may not be included in Final Comments. 19 C.F.R. § 207.30. Pursuant to this rule, we have disregarded the petitioners' references to new factual material.

[4] 19 U.S.C. § 1677(4)(A).

[5] 19 U.S.C. § 1677(4)(A).

[6] 19 U.S.C. § 1677(10).

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

may consider other factors it deems relevant based on the facts of a particular investigation.[8] The Commission looks for clear dividing lines among possible like products and disregards minor variations.[9] Although the Commission must accept the determination of the Department of Commerce ("Commerce") as to the scope of the imported merchandise that has been found to be subsidized or sold at LTFV, the Commission determines what domestic product is like the imported articles Commerce has identified.[10]

B. Product Description

In its final determinations in its investigations of PVA from Germany and Japan, Commerce defined the imported merchandise within the scope of these investigations as:

> all PVA hydrolyzed in excess of 80 percent, whether or not mixed or diluted with commercial levels of defoamer or boric acid.[11]

Commerce specifically excluded 15 products from the scope of the investigations.[12]

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

[9] Nippon Steel, 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.").

[10] Hosiden Corp. v. Advanced Display Mfrs., 85 F.3d 1561, 1568 (Fed. Cir. 1996) (Commission may find a single like product corresponding to several different classes or kinds defined by Commerce); Torrington, 747 F. Supp. at 748-752 (affirming Commission determination of six like products in investigations where Commerce found five classes or kinds).

[11] 68 Fed. Reg. 19509 (Apr. 21, 2003) (Germany), 68 Fed. Reg. 19510, 19511 (Apr. 21, 2003) (Japan).

[12] The excluded products are:
(1) PVA in fiber form;
(2) PVA with hydrolysis less than 83 mole percent and certified not for use in the production of textiles;
(3) PVA with hydrolysis greater than 85 percent and viscosity greater than or equal to 90 cps;
(4) PVA with a hydrolysis greater than 85 percent, viscosity greater than or equal to 80 cps but less than 90 cps, certified for use in an ink jet application;
(5) PVA for use in the manufacture of an excipient or as an excipient in the manufacture of film coating systems which are components of a drug or dietary supplement, and accompanied by an end-use certification;
(6) PVA covalently bonded with cationic monomer uniformly present on all polymer chains in a concentration equal to or greater than one mole percent;
(7) PVA covalently bonded with carboxylic acid uniformly present on all polymer chains in a concentration equal to or greater than two mole percent, certified for use in a paper application;
(8) PVA covalently bonded with thiol uniformly present on all polymer chains, certified for use in emulsion polymerization of non-vinyl acetic material;
(9) PVA covalently bonded with paraffin uniformly present on all polymer chains in a concentration equal to or greater than one mole percent;
(10) PVA covalently bonded with silan uniformly present on all polymer chains certified for use in paper

(continued...)

PVA is a water-soluble synthetic polymer, often sold as a white granular solid or in powdered form. PVA is largely, but not exclusively, captively consumed or sold directly to end users for the production of polyvinyl butyral ("PVB"), and sold to end users for use in textile, adhesive/emulsifier, building, and paper applications.[13]

C. Whether PVB-Grade PVA Is a Separate Domestic Like Product

The only domestic like product issue in these final phase investigations is whether PVA formulated for use in the production of PVB ("PVB-grade PVA") is a separate domestic like product from the other types of PVA hydrolyzed in excess of 80 percent within Commerce's scope definition. PVB is a plastic laminate primarily used as an adhesive in the manufacture of automotive safety glass and load-resistant architectural glass.[14] Petitioners E.I. du Pont de Nemours & Co. ("DuPont") and Celanese, Ltd. ("Celanese"), both of which are U.S. producers of PVA, argue that the Commission should define a single domestic like product consisting of PVA produced domestically that meets the specifications described in Commerce's scope definition. Respondents Solutia, Inc., a U.S. producer of PVA that opposes the imposition of duties, and Clariant Corp., a U.S. importer of subject merchandise, argue that PVB-grade PVA is a separate domestic like product.

We considered and rejected in the preliminary determination Solutia's argument that PVB-grade PVA should be defined as a separate domestic like product. We observed that all PVA has a similar chemical composition, and that while PVB-grade PVA may have tighter and more specific parameters than other types of PVA, several other grades of PVA must meet specialized requirements of end users, including quality and safety requirements. We further found that while all grades of PVA are not completely interchangeable with other grades, more than one grade may be sold for a specific end-use application. Thus, while PVB-grade PVA is used primarily for optical applications such as windshields and architectural glass, it is also used for applications in which other types of PVA are used (although only PVB-grade PVA can be used to make PVB). In terms of channels of distribution, both PVB-grade PVA and other types of PVA are sold in the merchant market directly to end users. We also found that production processes, equipment, and employees were similar for both PVB-grade PVA and other types of PVA. While we observed that there were both differences and similarities between PVB-grade PVA, on the one hand, and other types of PVA, on the other, we concluded that "the differences do not warrant

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[12] (...continued)
coating applications;
(11) PVA covalently bonded with sulfonic acid uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent;
(12) PVA covalently bonded with acetoacetylate uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent;
(13) PVA covalently bonded with polyethylene oxide uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent;
(14) PVA covalently bonded with quaternary amine uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent; and
(15) PVA covalently bonded with diacetoneacrylamide uniformly present on all polymer chains in a concentration level greater than three mole percent, certified for use in a paper application.

68 Fed. Reg. at 19509-10 (Germany), 19511 (Japan).

[13] Confidential Report (CR) at I-7, I-10, Public Report (PR) at I-5-7.

[14] CR at I-7, PR at I-6.

treating PVB-grade PVA as a separate domestic like product instead of as a part of the continuum of PVA products."[15]

The record in these final phase investigations concerning the characteristics of PVB-grade PVA as compared to other types of PVA is essentially the same as that in the preliminary phase.[16] Solutia has submitted in the final phase investigations an affidavit from its Technology and Marketing Manager for Performance Films purporting to show that it has exacting specifications for the PVB-grade PVA it purchases.[17] This merely reiterates material Solutia submitted in the preliminary phase investigations. Indeed, in our preliminary determination, we acknowledged that PVB-grade PVA must meet specialized purchaser requirements but found that this characteristic does not distinguish PVB-grade PVA from other types of PVA.[18] There is no basis in the current record for us to deviate from either this prior finding or our conclusion that the distinctions between PVB-grade PVA and other types of PVA are insufficient to warrant treating PVB-grade PVA as a separate domestic like product.

Solutia argues, however, that we should make a different domestic like product finding because Commerce has changed the scope of the investigations to exclude several specific PVA products since our preliminary determination. Solutia argues that, when the scope has been defined or refined by end use or specific properties, the product "continuum" is significantly broken and there is no basis for the Commission to make a broad domestic like product definition.[19]

We find Solutia's argument unpersuasive. Commerce's scope exclusions, which principally concerned copolymers and specialty PVA products, did not break the "continuum" of domestically-produced product corresponding with the products within the scope. The products excluded from the scope are not produced and sold in the United States.[20] Consequently, the universe of domestically-produced products we are considering in this final determination is the same as the one we considered during the preliminary determination. It encompasses essentially all PVA hydrolyzed in excess of 80 percent produced domestically.

Accordingly, we conclude that our domestic like product analysis in the preliminary determination is applicable here. We consequently find that there is one domestic like product, encompassing all domestically produced PVA meeting the specifications stated in Commerce's scope definition.

II. DOMESTIC INDUSTRY AND RELATED PARTIES

The domestic industry is defined as "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."[21] In defining the domestic industry, the Commission's general practice has been to include in the industry all of the domestic production of the like product, whether

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[15] Polyvinyl Alcohol from China, Germany, Japan, Korea, and Singapore, Inv. Nos. 731-TA-1014-1018 (Preliminary), USITC Pub. 3553 at 8-9 (Oct. 2002) ("Preliminary Determination").

[16] See generally CR at I-7-10, PR at I-5-7.

[17] Solutia Prehearing Brief, ex. 1 at 2-3.

[18] Preliminary Determination, USITC Pub. 3553 at 8.

[19] Solutia Prehearing Brief at 13.

[20] Hearing Transcript ("Tr.") at 42 (Greenwald); see Petitioners Posthearing Brief, part II at 35.

[21] 19 U.S.C. § 1677(4)(A).

toll-produced, captively consumed, or sold in the domestic merchant market.[22] Based on our finding of a single domestic like product, we find that the domestic industry consists of all domestic PVA producers.

We must further determine whether any producer of the domestic like product should be excluded from the domestic industry pursuant to section 771(4)(B) of the Act. That provision of the statute allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry producers that are related to an exporter or importer of subject merchandise or which are themselves importers.[23] Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each case.[24]

The only domestic industry issue in the final phase of these investigations is whether appropriate circumstances exist to exclude Solutia from the domestic industry as a related party. Petitioners contend that Solutia should be excluded from the domestic industry as a related party; Solutia contends that there is no basis for its exclusion.

Solutia imported *** pounds of subject PVA from ***.[25] By definition, therefore, Solutia is a related party under the statute because it imported subject merchandise during the period of investigation.[26] Solutia produced *** pounds of PVA in the United States in 2002 and accounted for *** percent of domestic PVA production.[27] As a share of its PVA production, Solutia's subject imports are minuscule. Solutia opposes the imposition of antidumping duties on subject imports of PVA.[28] Its financial performance ***, but Solutia is not competing in the merchant market for PVA, because its PVA production is all captively consumed ***.[29] Based on these considerations, particularly the very small volume of Solutia's subject imports, it does not appear likely that Solutia's financial performance reflects a benefit from its subject imports and purchases of subject imports. Also, Solutia's primary

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

[23] 19 U.S.C. § 1677(4)(B).

[24] 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.

[25] CR/PR, Table III-4; see also Solutia Posthearing Brief, part II at 25.

[26] 19 U.S.C. § 1677(4)(B).

[27] CR/PR, Table III-4.

[28] CR/PR, Table III-1.

[29] CR/PR, Table VI-2.

interest appears to be in domestic production rather than importing.[30] We consequently conclude that appropriate circumstances do not exist to exclude Solutia from the domestic industry as a related party.

Accordingly, we find that the domestic industry consists of PVA producers DuPont, Celanese, and Solutia.

III. CUMULATION

A. In General

For purposes of evaluating the volume and price effects for a determination of material injury by reason of subject imports, section 771(7)(G)(i) of the Act requires the Commission to assess cumulatively the volume and effect of imports of the subject merchandise 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 U.S. market.[31] In assessing whether subject imports compete with each other and with the domestic like product,[32] the Commission has generally considered four factors, including:

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

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

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

(4) whether the subject imports are simultaneously present in the market.[33]

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

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[30] Petitioners' contention that Solutia's principal interest is in production of PVB, Petitioners Prehearing Brief at 9, incorrectly perceives the nature of our inquiry. This inquiry focuses on the nature of the producer's activities pertaining to production of the domestic like product as compared to the nature of its activities pertaining to importation of the subject merchandise.

[31] 19 U.S.C. § 1677(7)(G)(i).

[32] The Uruguay Round Agreements Act (URAA) Statement of Administrative Action (SAA) 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." SAA, H.R. Rep. 103-316, vol. I at 848 (1994), 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).

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

imports compete with each other and with the domestic like product.[34] Only a "reasonable overlap" of competition is required.[35]

B. Imports Eligible for Cumulation

We first consider which imports are eligible for cumulation under the statute. The petition in these investigations concerned PVA imports from China, Germany, Japan, Korea, and Singapore. The Commission terminated the investigation of imports from Singapore on the grounds that subject imports from Singapore were negligible.[36] Consequently, imports from Singapore are not eligible for cumulation.[37] Commerce has made a preliminary negative dumping determination with respect to imports from China produced and exported by Sinopec Sichuan Vinylon Works (SSVW), and has not yet made a final dumping determination in the China investigation. Consequently, as the parties do not dispute, imports from China produced and exported by SSVW are not eligible for cumulation.[38]

Subject imports from Germany, Japan, and Korea, and subject imports from China produced or exported by firms other than SSVW, are eligible for cumulation. We will examine these imports in determining whether there is a reasonable overlap of competition. Our discussion with respect to the four customary cumulation factors will focus primarily on imports from Germany, Japan, and Korea. There is very limited information available in the record concerning non-SSVW imports from China, as explained further below. Petitioners argue that imports from all eligible subject sources should be cumulated, because these imports all compete with each other and with the domestic like product. Respondents, by contrast, assert that neither imports from Germany nor imports from Japan are fungible with imports from any other subject country. They thus argue that there is no basis for cumulating either subject imports from Germany or subject imports from Japan with imports from any other source.

C. Reasonable Overlap of Competition[39]

We now examine the four factors pertinent to reasonable overlap of competition.

Fungibility. The record indicates that, on a broad level, there is some similarity in characteristics between the domestic like product, on the one hand, and subject imports from Germany, Japan, and Korea, on the other, and between subject imports from these sources. A majority of producers and importers found that U.S.-produced product was at least "sometimes" interchangeable with the subject imports from Germany, Japan, and Korea, and that imports from each of these countries were at least

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

[35] See Goss Graphic System, Inc. v. United States, 33 F. Supp. 2d 1082, 1087 (Ct. Int'l Trade 1998), aff'd, 216 F.3d 1357 (Fed. Cir. 2000) ("cumulation does not require two products to be highly fungible"); Mukand Ltd. v. United States, 937 F. Supp. 910, 916 (Ct. Int'l Trade 1996); Wieland Werke, 718 F. Supp. at 52 ("Completely overlapping markets are not required.").

[36] Preliminary Determination, USITC Pub. 3553 at 11-12.

[37] 19 U.S.C. § 1677(7)(G)(ii)(II).

[38] 19 U.S.C. § 1677(7)(G)(ii)(I).

[39] Vice Chairman Hillman cumulates subject imports from Germany, Japan, and Korea for purposes of her analysis of material injury by reason of subject imports, and does not join this section of the opinion. See Additional and Dissenting Views of Vice Chairman Jennifer A. Hillman.

sometimes interchangeable with each other. We observe, however, that, a significant minority of importers stated that imports from Germany were never interchangeable with imports from either Japan or Korea.[40]

To obtain more specific information about fungibility of PVA from different sources, we collected questionnaire data concerning the extent to which PVA from U.S. sources and the subject countries is used in particular applications. Data on end use are particularly pertinent to an analysis of competition in these investigations. The parties, in their hearing testimony and written submissions, consistently talked about competition in relation to specific end-use applications, rather than in terms of grades or hydrolysis levels.[41] Indeed, as discussed further below, prices for PVA in the U.S. market are a function of the intended end use of the product, rather than its grade.[42]

The questionnaire data indicate that building materials are the only end-use application where there has been participation by the United States, Germany, Japan, and Korea. The participation by the United States and Japan in this category has been minimal.[43] Another category, textiles, has been the *** end-use category for the United States and Korea, and the *** end-use category for Japan, but is one in which there has been no German participation. The end-use category of adhesives/emulsifiers also has had significant participation by the United States, Japan, and Korea, but no participation by Germany.[44] The end use category with the largest participation by imports from Germany, paper products, is one where there has been U.S. participation but no participation by imports from Korea and only *** participation by imports from Japan.[45]

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[40] CR/PR, Table II-10. *** found subject imports from Germany and Japan were always interchangeable with the domestic like product, and *** found these subject imports were never interchangeable with the domestic like product. *** found subject imports from Korea were always or frequently interchangeable with the domestic like product. The number of importers reporting that subject imports were at least "sometimes" interchangeable with the domestic like product was four of six for Germany, eight of ten for Japan, and five of five for Korea. Id.

*** found at least frequent interchangeability for the Germany/Japan, Germany/Korea, and Japan/Korea combinations. The number of importers reporting that subject import combinations were at least "sometimes" interchangeable was four of six for Germany/Japan, three of five for Germany/Korea, and four of four for Japan/Korea. Id.

[41] See, e.g., Tr. at 18-20 (Chanslor), 28-30 (McCord), 166-67 (Saeger); Petitioners Prehearing Brief at 23-24.

[42] CR at II-1, PR at II-1.

[43] CR/PR, Table II-1. United States participation in the building materials category in 2002 was *** of its total shipments and Japanese participation was *** of its total shipments. Id.

Petitioners claim that the residual category indicates participation by the United States, Germany, and Japan in PVC-grade PVA. Petitioners Posthearing Brief, ex. 3. Even using petitioners' data, the U.S. participation in this application was under ***. CR/PR, Table II-1. Moreover, petitioners' data concerning Japan are unreliable. Petitioners state that PVC-grade PVA was imported by ***. Petitioners' reported figure for PVC-grade PVA shipments from Japan, however, exceed total 2002 subject import shipments from Japan from these importers. Compare Petitioners Posthearing Brief, ex. 3 with CR/PR, Table IV-1. Moreover, we observe that petitioners themselves never identified PVC-grade PVA as a significant end use in the U.S. market. See Petitioners Prehearing Brief at 23; *** Producers Questionnaire Responses, Response to Question II-22.

[44] CR/PR, Table II-1. We have combined these end use categories because one *** importer reported that its adhesive and emulsifier uses are the same. Id.

[45] CR/PR, Table II-1. See also Tr. at 166 (Saeger).

The pricing data we collected confirms the overlap in textile and adhesive applications by domestically-produced product, subject imports from Japan, and subject imports from Korea. For one pricing product used in textile applications and two pricing products involving adhesive applications, data were available for PVA from each of these three sources, but not for PVA from Germany.[46] By contrast, for three pricing products involving paper applications and one pricing product involving resin applications, data were available for domestically-produced product and subject imports from Germany, but not for subject imports from Japan and Korea.[47]

Geographic Coincidence. The U.S. producers that sell PVA on the merchant market do so on a nationwide basis.[48] Subject imports from Germany and Korea enter the United States predominantly in the East region. Appreciable volumes of imports from Japan enter the United States in the East, Great Lakes, and Gulf Coast regions, while appreciable volumes of PVA from Japan and Korea enter the United States in the West region.[49]

Channels of Distribution. Of domestic producers' 2002 U.S. shipments of PVA, *** percent were internally consumed, principally for production of PVB.[50] The remaining shipments were sold on the merchant market, principally directly to end users. The subject imports (regardless of source) have generally been sold directly to end users.[51]

Simultaneous Presence in Market. Subject imports of PVA from Germany, Japan, and Korea were present in the U.S. market in 2000, 2001, and 2002.[52] The record indicates that there have been only infrequent imports of PVA from China exported by producers other than SSVW. These amounted to *** pounds in 2001 and *** pounds in 2002.[53]

Conclusion. With respect to three of the four cumulation factors, there is a reasonable overlap of subject imports from Germany, Japan, and Korea with each other and with the domestic like product. The domestic like product and subject imports from these three countries have been simultaneously present in the market, have significant presence in at least the East Region of the United States, and have been sold in substantial quantities directly to end users.

With respect to the remaining factor, fungibility, we acknowledge that the record does contain information that domestically-produced PVA and the subject imports from Germany, Japan, and Korea are interchangeable, at least as a theoretical matter. A careful review of the record, however, indicates that there is no major end-use category in which there is significant competition involving PVA from all four of these sources, or between imports from Germany on the one hand and imports from Japan or

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[46] CR/PR, Tables V-1, V-2, V-4.

[47] CR/PR, Tables V-3, V-5-7.

[48] CR at V-2, PR at V-1.

[49] CR/PR, Table IV-3. We observe that no subject imports from Germany during 2002 entered the West region of the United States. Id.

[50] CR at III-10, PR at III-4.

[51] CR at I-10, PR at I-7.

[52] CR/PR, Table IV-2.

[53] CR at IV-2 n.8, PR at IV-2 n.8. To put this data in context, we observe that imports of PVA from all sources in 2002 were 41.3 million pounds. CR/PR, Table IV-2.

Korea on the other.[54] As previously stated, the only end-use category (other than a catch-all residual category) indicating participation by U.S.-produced PVA and PVA from Germany, Japan, and Korea is one where both U.S. and Japanese participation is too small to indicate a reasonable overlap of competition.

By contrast, there are two large end-use categories (textiles and adhesives/emulsifers) in which there is significant participation from both domestically-produced product and subject imports from Japan and Korea. There are also individual products in these categories for which pricing data for domestically-produced, Japanese, and Korean product are available.[55]

Based on this record, we find that the data on overlap in certain end-use segments is sufficient to support a finding that the domestic like product, subject imports from Japan, and subject imports from Korea are fungible. Consequently, we conclude that there is a reasonable overlap of competition between subject imports from Japan, on the one hand, and the domestic like product and subject imports from Korea, on the other. The same data do not indicate, however, that subject imports from Germany are fungible either with subject imports from Japan or with subject imports from Korea. We therefore conclude that there is not a reasonable overlap of competition between subject imports from Germany and imports from the other subject sources.

The record also does not indicate that a reasonable overlap of competition between those imports from China eligible for cumulation (i.e., produced and exported by firms other than SSVW), on the one hand, and PVA from any other pertinent source, on the other. Indeed, the only questionnaire data that the Commission received concerning imports from China involved PVA produced by SSVW, which is not eligible for cumulation.[56] Thus, the information cited above concerning end use of imports does not include any non-SSVW imports from China and consequently cannot demonstrate an overlap of uses with either domestically-produced product or subject imports from Germany, Japan, and Korea. The available information on the record further indicates that non-SSVW imports from China are sporadic. During 2002, there were only *** shipments of PVA from China from exporters other than SSVW; during 2001, there appear to have been no more than *** such shipments.[57] Indeed, the available data concerning non-SSVW imports from China indicate that, during the bulk of the period from 2000 to 2002, these imports and imports from the other subject sources were not simultaneously present in the

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[54] In arguing that subject imports from Germany should be cumulated with imports from the other subject countries, petitioners appear to proceed from the premise that any overlap in end use is sufficient to establish fungibility. See, e.g., Petitioners Prehearing Brief at 13-14. Petitioners' standard misstates the applicable law. While it is true that a high degree of fungibility is not a prerequisite for cumulation, the pertinent standard is a reasonable overlap of competition – not merely any overlap. See Goss Graphics, 33 F. Supp.2d at 1087-88.

[55] Respondents Kuraray Specialties Europe GmbH ("Kuraray Germany"), a German producer of subject merchandise, and Kuraray Co., Ltd. ("Kuraray Japan"), a Japanese producer of subject merchandise (collectively "Kuraray"), in arguing that subject imports from Japan and Korea should not be cumulated, initially relied on the lack of Japanese participation in, inter alia, textile end uses. See Kuraray Prehearing Brief at 12. When later-produced data indicated that subject imports from Japan were in fact used for textile applications, Kuraray instead emphasized that there was *** of PVA from both Japan and Korea. See Kuraray Final Comments at 2. Common purchasers are not necessary, however, to support a finding of fungibility. See, e.g., Goss Graphics, 33 F. Supp.2d at 1087-88 (affirming finding of fungibility when products from different subject countries competed at initial, but not final, stage of bidding); Fundicao Tupy, 678 F. Supp. at 902 (offers to sell such as advertisements can be evidence of fungibility).

[56] CR at IV-2 n.8, PR at IV-2 n.8.

[57] CR at IV-2 n.8, PR at IV-2 n.8.

U.S. market. We consequently do not cumulate non-SSVW imports with China with either imports from Germany or imports from Japan for purposes of the determinations concerning Germany and Japan.[58]

Consequently, for our analysis of material injury by reason of subject imports in our determination concerning Germany, we consider only subject imports from Germany. For our analysis of material injury by reason of subject imports in our determination concerning Japan, we cumulate subject imports from Japan and Korea.

IV. CONDITIONS OF COMPETITION

A. Captive Production

We must determine whether the statutory captive production provision is applicable to these investigations.[59] In the preliminary determination, we found that the elements of the statutory captive production provision were satisfied but stated that we would re-examine the issue in the final phase investigations.[60] The record in these investigations consequently contains additional information pertinent to this issue. Petitioners argue that the Commission should apply the statutory captive

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[58] The volume of non-SSVW imports has been quite small. The quantity of such imports was *** pounds in 2001 and *** pounds in 2002. CR at IV-2 n.8, PR at IV-2 n.8. Moreover, there are no pricing data concerning these imports. The data we would use for our determinations concerning Germany and Japan consequently would essentially be the same whether or not we cumulated non-SSVW imports from China. We consequently would have made the same conclusions in both our Germany determination and our Japan determination had we cumulated non-SSVW imports from China.

[59] The captive production provision, 19 U.S.C. § 1677(7)(C)(iv), which was added to the statute by the URAA, provides:

> (iv) CAPTIVE PRODUCTION -- If domestic producers internally transfer significant production of the domestic like product for the production of a downstream article and sell significant production of the domestic like product in the merchant market, and the Commission finds that –
>
> (I) the domestic like product produced that is internally transferred for processing into that downstream article does not enter the merchant market for the domestic like product,
>
> (II) the domestic like product is the predominant material input in the production of that downstream article, and
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> (III) the production of the domestic like product sold in the merchant market is not generally used in the production of that downstream article,
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> then the Commission, in determining market share and the factors affecting financial performance set forth in clause (iii), shall focus primarily on the merchant market for the domestic like product.

The SAA issued in conjunction with the URAA indicates that where a domestic like product is transferred internally for the production of another article coming within the definition of the domestic like product, such transfers do not constitute internal transfers for the production of a "downstream article" for purposes of the captive production provision. SAA at 853.

[60] Preliminary Determination, USITC Pub. 3553 at 16-18.

production provision. Respondents argue that the Commission cannot apply the provision because the second and third statutory criteria are not satisfied.

We determine that the threshold criterion has been met because domestic producers internally transfer significant production of the domestic like product for captive consumption and sell significant production of the domestic like product in the merchant market. Internal transfers accounted for *** percent of the reported volume of U.S. producers' domestic shipments of PVA in 2002 and merchant market sales accounted for the remaining *** percent. A comparable percentage of domestic shipments was internally transferred in 2000 and 2001.[61]

We also determine that the first criterion has been met. This criterion focuses on whether any of the domestic like product that is transferred internally for further processing is in fact sold on the merchant market.[62] The record indicates that all internal transfers by domestic producers currently are made by ***.[63] These internal transfers are *** used in the production of PVB; *** have entered the merchant market.[64]

In applying the second statutory criterion, we generally consider whether the domestic like product is the predominant material input into a downstream product by referring to its share of the raw material cost of the downstream product.[65] The record indicates that *** of the PVA *** are used to produce PVB sheet.[66] ***.[67] PVA thus accounted for *** percent of Solutia's raw material costs in its production of PVB sheet in 2002.[68]

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[61] CR at III-10, PR at III-4.

[62] See Hot Rolled Steel Products from Argentina and South Africa, Inv. Nos. 701-TA-404, 731-TA-898, 905 (Final), USITC Pub. 3446 at 15-16 (Aug. 2001).

[63] ***. CR at III-10 nn.24, 25, PR at III-4 nn.24, 25.

[64] CR at III-11, PR at III-4-5.

[65] See generally Polyethylene Terephthalate Film, Sheet, and Strip from India and Taiwan, Inv. Nos. 701-TA-415, 731-TA-933-934 (Final), USITC Pub. 3518 at 11 & n.51 (June 2002). The parties here do not object to analysis based on raw material costs. See Petitioners Posthearing Brief, part II at 46; Solutia Prehearing Brief at 28.

Solutia's argument that PVB is a product of a chemical transformation, Solutia Prehearing Brief at 28-29, is in our view essentially irrelevant to the statutory inquiry, which concerns the "predominant material input" into the production of the downstream article. The second criterion of the statute does not focus, as Solutia appears to think, on how distinct the domestic like product and the downstream article are. Instead, it concerns what materials are used to make the downstream product. In this respect, it is beyond dispute that PVA is a "material input" used in the production of PVB.

[66] CR at III-11, PR at III-5. ***. Id.

[67] CR at III-11-12, PR at III-5.

[68] CR at III-11, PR at III-5. It is appropriate to aggregate Solutia's raw materials expenses relating to internally-consumed PVA with its expenses relating to purchased PVA. The statutory provision concerns whether "the domestic like product is the predominant material input in the production of that downstream article" and not whether "the domestic like product *that is internally consumed for processing* is the predominant material input in the production of that article." Consequently, an approach which aggregates all Solutia raw material costs relating to the domestic like product – PVA – is correct.

Solutia observes that PVA accounted for *** its raw material costs for PVB in 2002 than in 2000 or 2001. Solutia Prehearing Brief at 28. Solutia does not dispute, however, that PVA constituted *** in the production of PVB throughout this period.

Consequently, PVA accounts for a significant percentage of the total raw material costs for PVB – *** -- and is unquestionably larger than any other individual input. In these circumstances, we conclude that the second statutory criterion is satisfied.[69]

In applying the third statutory criterion, we inquire into whether the merchant market purchaser is generally using the domestic like product in the production of the same downstream article or articles as the integrated domestic producer.[70] The record in these investigations indicates that *** percent of U.S. commercial shipments of PVA in 2002 were used to produce PVB.[71] In prior investigations, we have found the like product was not "generally" used in the production of the downstream article when even higher percentages of commercial shipments of the domestic like product than the *** percent figure here were used to produce the relevant downstream products.[72] We accordingly conclude that the that the third statutory criterion is satisfied.

Because we conclude that all elements of the statutory captive production provision are met, we focus primarily on the merchant market for the domestic like product in determining market share and the factors affecting financial performance, although we analyze these factors with respect to the whole market as well.

B. Other Conditions of Competition

We find the following conditions of competition relevant to our inquiry of material injury by reason of subject imports and threat of material injury by reason of subject imports.

There is no dispute that market participants commonly perceive the PVA market by reference to the different applications for which it is sold. These include PVB, textiles, adhesives/emulsifiers, building materials, and paper products.[73] The highest-volume application in the United States has been PVB.[74] As stated above, this application has been supplied primarily by captive consumption. The two

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[69] We disagree with Solutia's argument that the statute compels the Commission to adopt a bright-line test, under which the second statutory criterion can be satisfied only if the domestic like product constitutes more than 50 percent of the raw material costs for the downstream product that is captively consumed. The statute states that the domestic like product must be the "predominant material input." 19 U.S.C. § 1677(7)(C)(iv)(II). The dictionary definition of "predominant" is "Constituting the main or strongest element; prevailing." 2 New Shorter Oxford English Dictionary 2329 (1993). In our view, this definition does not equate "predominant" with "majority," and it fully supports the result we have reached in these investigations. The same is true for the statement in the SAA that the second criterion will be satisfied when the domestic like product is "the primary material" in the downstream product. SAA at 853.

[70] See Certain Hot-Rolled Steel Products from Japan, Inv. No. 731-TA-807 (Final), USITC Pub. 3202 at 33-34, 37-38 (June 1999) (views of Commissioners Miller, Hillman, and Koplan).

[71] CR at III-12, PR at III-5.

[72] See Certain Cold-Rolled Steel Products from Australia, India, Japan, Sweden, and Thailand, Inv. Nos. 731-TA-965, 971-972, 979, and 981 (Final), USITC Pub. 3536 at 22-23 (Sept. 2002) (third criterion satisfied when overlap was 15.3 percent); Hot Rolled Steel Products from Argentina and South Africa, USITC Pub. 3446 at 16 (third criterion satisfied when overlap was between 2.6 and 22.4 percent); Certain Hot-Rolled Steel Products from Japan, USITC Pub. 3202 at 34 (third criterion satisfied when overlap was between 3.7 and 17.7 percent).

[73] See CR at II-1, PR at II-1.

[74] CR at II-1, PR at II-1.

next largest applications in the United States in 2002, which were supplied exclusively by sales in the merchant market, were textiles and adhesives/emulsifiers.[75]

Apparent U.S. consumption of PVA, whether measured in terms of the merchant market or the total market, declined from 2000 to 2001 and increased from 2001 to 2002, although the 2002 level was below that of 2000.[76] The parties agree that between 2000 and 2002, there was a significant decline in demand in the U.S. market for PVA for textile uses because of contraction within the U.S. textile industry.[77] The parties further agree that demand for PVB-grade PVA has remained strong.[78]

Purchasers generally must qualify PVA by any individual supplier for use in their products. Of 41 responding purchasers, 37 reported a prequalification requirement. The amount of time purchasers reported for qualification varied enormously, with the minimum period reported three days and the maximum period reported 60 months. Sixteen purchasers reported a qualification period of less than three months, 12 reported a period of three to six months, and 12 reported a period of over six months. Of the 37 purchasers that had qualification requirements, 12 listed only U.S. producers as qualified suppliers, six listed only importers and foreign producers as qualified suppliers, and 19 listed both U.S. producers and importers as qualified suppliers.[79]

As previously stated, the domestic industry consists of three PVA producers: DuPont, Celanese, and Solutia. Only DuPont and Celanese produce PVA for the merchant market.[80] Celanese acquired the PVA business – including U.S. production facilities – of former producer Air Products in September 2000.[81]

Petitioners characterize PVA production as highly capital intensive. They contend that because the production process involves high fixed costs, PVA producers strive to spread those costs among the largest possible quantity of production and strive for 100 percent capacity utilization. They state that this provides an incentive for U.S. producers to seek alternative markets in which to sell PVA.[82] We observe that the domestic industry's capacity in 2002 was *** greater than the largest amount of apparent U.S. consumption observed at any point between 2000 and 2002.[83]

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[75] CR/PR, Table II-1.

[76] For the merchant market, apparent U.S. consumption of PVA declined from *** pounds in 2000 to *** pounds in 2001, and then increased to *** pounds in 2002. CR/PR, Table IV-7. For the total market, apparent U.S. consumption of PVA declined from *** pounds in 2000 to *** pounds in 2001, and then increased to *** pounds in 2002. CR/PR, Table IV-6. Captive consumption declined from *** pounds in 2000 to *** pounds in 2001, and then increased to a period high of *** pounds in 2002. CR/PR, Table III-3.

[77] Petitioners Prehearing Brief at 24; Tr. at 48-49 (Chanslor); Clariant Prehearing Brief at 17; SSVW Prehearing Brief at 3-4.

[78] Petitioners Prehearing Brief at 24; Tr. at 50 (McCord); Tr. at 145 (Gold).

[79] CR at II-9, PR at II-5.

[80] CR at II-1, PR at II-1.

[81] CR/PR, Table III-1. According to Solutia, ***. Solutia Prehearing Brief, ex. 1 at 3.

[82] Petitioners Prehearing Brief at 23.

[83] Compare CR/PR, Table III-2 (indicating 2002 U.S. capacity of *** pounds) with CR/PR, Table IV-6 (indicating highest apparent consumption quantity, in 2000, was *** pounds). We observe that manufacturers of subject PVA in Germany, Japan, and Korea likewise maintain capacity *** in excess of the sum of their internal consumption and home market shipments. CR/PR, Tables VII-2-4.

The quantity of export shipments made by the domestic industry increased from *** pounds in 2000 to *** pounds in 2002.[84] Petitioners assert that the increase in export sales is to some extent a function of the textile industry moving out of the United States to other regions of the world, and to some extent a function of customers with multinational operations that want PVA supplied to facilities in various regions of the world.[85]

The U.S. PVA market is supplied principally by the domestic industry. In 2002, domestic producers accounted for *** percent of U.S. merchant market consumption and *** percent of total apparent U.S. consumption, measured by quantity. The next largest source of supply in 2002, accounting for *** percent of apparent U.S. merchant market consumption and *** percent of total apparent U.S. consumption, was nonsubject imports, which were principally from Taiwan.[86] Imports from Taiwan, as well as imports from China and Japan, were covered by an antidumping order from mid-1996 to May 14, 2001. Commerce revoked the antidumping orders in May 2001 because there was insufficient participation by the domestic industry in a five-year review of the orders.[87]

The next largest source of supply to the U.S. market in 2002 after nonsubject imports was Chinese exporter SSVW. As previously stated, Commerce reached a preliminary negative dumping determination on merchandise produced and exported by SSVW; however, these imports remain subject to investigation at Commerce, which may or may not ultimately find them to be sold at LTFV. Imports from SSVW accounted for *** percent of apparent U.S. merchant market consumption in 2002 and *** percent of total apparent U.S. consumption.[88] These were followed by cumulated subject imports from Japan and Korea, which in 2002 accounted for *** percent of apparent U.S. merchant market consumption and *** percent of total apparent U.S. consumption. Finally, in 2002 subject imports from Germany accounted for *** percent of apparent U.S. merchant market consumption and *** percent of total apparent U.S. consumption.[89]

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[84] CR/PR, Table III-3.

[85] Tr. at 79-80 (McCord), 80-81 (Chanslor). See also Petitioners Posthearing Brief, part II at 22-24 (listing export markets).

[86] CR/PR, Tables IV-6, IV-7.

[87] CR at I-2, PR at I-2.

[88] CR/PR, Tables IV-6-7.

[89] CR/PR, Tables IV-6-7.

V. NO MATERIAL INJURY BY REASON OF SUBJECT IMPORTS[90]

A. General Legal Standards

In the final phase of antidumping duty investigations, the Commission determines whether an industry in the United States is materially injured by reason of the imports under investigation.[91] 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.[92] The statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant."[93] 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.[94] 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."[95]

With respect to the volume of the subject imports, section 771(7)(C)(i) of the Act provides that the "Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant."[96]

With respect to the price effects of the subject imports, section 771(7)(C)(ii) of the Act provides that, in evaluating the price effects of the subject imports, the Commission shall consider whether –

> (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and
>
> (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.[97]

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[90] Subject imports from Germany and Japan are not negligible. During the 12 months prior to filing of the petition (September 2001 to August 2002), subject imports from Germany constituted 5.0 percent and subject imports from Japan constituted 7.5 percent of all imports. Memorandum OINV-AA-066 (June 5, 2003). (The underlying data in this memorandum were circulated to the parties under administrative protective order prior to the closing of the record and Commission staff invited the parties to comment on the data in their Final Comments. No party directed any comments to these data.) Each of these figures exceeds the 3 percent negligibility threshold specified in 19 U.S.C. § 1677(24)(A)(i).

[91] 19 U.S.C. § 1673d(b).

[92] 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).

[93] 19 U.S.C. § 1677(7)(A).

[94] 19 U.S.C. § 1677(7)(C)(iii).

[95] 19 U.S.C. § 1677(7)(C)(iii).

[96] 19 U.S.C. § 1677(7)(C)(i).

[97] 19 U.S.C. § 1677(7)(C)(ii).

In examining the impact of the subject imports on the domestic industry, we consider all relevant economic factors that bear on the state of the industry in the United States.[98] These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, and research and development. 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."[99]

B. Determination Concerning Japan

For the reasons discussed below, we determine that the domestic PVA industry is not materially injured by reason of LTFV imports from Japan.

1. Volume of the Subject Imports

The quantity of cumulated subject imports from Japan and Korea increased from 3.6 million pounds in 2000 to 5.0 million pounds in 2001 and then to 8.3 million pounds in 2002.[100] These imports' share of apparent U.S. merchant market consumption increased from *** percent in 2000 to *** percent in 2001, and then increased further to *** percent in 2002.[101] These imports' share of total apparent U.S. consumption increased from *** percent in 2000 to *** percent in 2001, and then increased further to *** percent in 2002.[102] [103]

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[98] 19 U.S.C. § 1677(7)(C)(iii). See also SAA at 851, 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." Id. at 885.).

[99] 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 (Feb. 1999) at 25 n.148.

[100] CR/PR, Table IV-2. Subject import data for Korea are based on official import statistics. Because official import statistics for Japan include a substantial quantity of product that Commerce has excluded from the scope of the investigations, subject import data for Japan are based on data from importers' questionnaires. This information is reliable because the Commission received questionnaire responses from importers accounting for virtually all subject PVA from Japan. Commission staff adjusted the official import statistics for several nonsubject countries to ensure that PVA products not within the scope were excluded from import totals. CR at IV-1 & n.2, PR at IV-1 & n.2.

[101] CR/PR, Table IV-7. As a ratio to U.S. production, cumulated subject imports from Japan and Korea increased from *** percent in 2000 to *** percent in 2001 and then to *** percent in 2002. CR/PR, Tables III-2, IV-2.

[102] CR/PR, Table IV-6.

[103] Vice Chairman Hillman notes that the quantity of cumulated subject imports from Germany, Japan, and Korea increased from 5.4 million pounds in 2000 to 7.8 million pounds in 2001 and then to 10.0 million pounds in 2002. CR/PR, Table IV-2. These imports' share of apparent U.S. merchant market consumption increased from *** percent in 2000 to *** percent in 2001, and then increased further to *** percent in 2002. CR/PR, Table IV-7. These imports' share of total apparent U.S. consumption increased from *** percent in 2000 to *** percent in 2001, and then increased further to *** percent in 2002. CR/PR, Table IV-6. As a ratio to domestic production, cumulated subject imports from Germany, Japan, and Korea increased from *** percent in 2000 to *** percent in 2001, and remained at *** percent in 2002. CR/PR, Tables III-2, IV-2. She finds that the conclusions stated in this

(continued...)

The absolute quantity of cumulated subject imports from Japan and Korea increased rapidly from 2000 to 2001, and again from 2001 to 2002. These imports' share of apparent U.S. consumption also increased rapidly on an annual basis. Despite this rapid growth, by 2002 the presence of these imports in the U.S. market was still small and their share relative to production or consumption in the United States was not a level we deem significant.

2. Price Effects of Subject Imports

a. Importance of Price in Purchasing Decisions

The record indicates that price is an important factor purchasers use in selecting suppliers. In questionnaire responses, 15 purchasers named lowest price as a "very important" purchasing factor, 18 as "somewhat important" and one as "not important."[104] Quality and the need for an approved supplier were the two factors purchasers most frequently named as the single most important factor in selecting a PVA supplier. Purchasers named price third most frequently as the most important factor, and price was tied with availability as the factor most frequently named as the second most important factor in selecting a supplier.[105] At the hearing, witnesses for petitioners testified that price was a very important factor in purchasing decisions; a representative of respondent Solutia also testified that it attempts to pit suppliers for the PVA it purchases against each other in an effort to obtain the best prices.[106]

Prices for PVA in the United States are based not on grade or physical characteristics, but on the value PVA adds to a particular application.[107] Industry witnesses testified that purchasers for paper applications generally pay the highest prices, followed by purchasers for construction applications, adhesives/emulsions, and PVB. Textile mills and textile compounders pay the lowest prices.[108]

b. Analysis of Pricing Data

The questionnaires asked purchasers whether PVA from different sources was used in the same applications. All responding purchasers stated that U.S.-produced and Korean products were used in the same applications. Purchasers provided mixed responses as to whether U.S.-produced and Japanese product could be used in the same applications, with three purchasers indicating that products from both sources were used in the same applications, and four purchasers indicating that they were not used in the same applications.[109]

The questionnaires also asked purchasers to compare domestically produced PVA with imports from several countries in 22 categories, two of which pertained to pricing. A majority of purchasers found the domestic like product and subject imports from Korea comparable in all but one of the

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[103] (...continued)
section are equally applicable to the volume of cumulated subject imports from Germany, Japan, and Korea, and to the share of these imports relative to U.S. production or consumption.

[104] CR/PR, Table II-5.

[105] CR/PR, Table II-3.

[106] See Tr. at 17 (Chanslor), 24 (McCord), 180 (Cannon).

[107] Tr. at 52-53 (Chanslor), 53 (McCord).

[108] Tr. at 64-65 (Laub), 67-68 (McCord), 68 (Welch).

[109] CR/PR, Table II-4.

remaining 20 categories, and in that category a plurality found the products comparable. A majority or plurality of purchasers found the domestic like product and subject imports from Japan comparable with respect to 13 of the 20 non-pricing categories; in many of the categories in which a plurality or minority found the products comparable, those purchasers that found the Japanese product superior to the domestic like product offset those that found the Japanese product inferior.[110] In light of these data, we find that cumulated subject imports from Japan and Korea are reasonably good substitutes for the domestic like product in applications in which both these subject imports and the domestic like product are used.

We collected pricing data concerning seven PVA products. For purposes of this discussion, our analysis will focus on the three products for which we received data on domestically produced PVA, subject imports from Japan, and subject imports from Korea.[111]

The first of these products, product 1, is a PVA product used in textile applications. It is also the largest volume product of the seven for which pricing data were collected. Reported imports from Korea of this product were present in the U.S. market during only the final quarter of 2001 and the four quarters of 2002. Reported imports from Japan of this product were present in the U.S. market for only the final three quarters of 2002. The subject imports undersold the domestic like product in all eight quarterly observations.[112]

The second product, product 2, is used in adhesive applications. Reported imports from Korea were only present in the U.S. market for this product during the first quarter of 2001. They undersold the domestic like product. Reported imports from Japan were present in the U.S. market during the second and third quarters of 2001 and the final two quarters of 2002. They oversold the domestic like product in three of four comparisons.[113]

The third product, product 4, is a product used in adhesive applications with a lower viscosity level than product 2. Reported imports from Korea of product 4 were present in the U.S. market intermittently during 2000 and 2001 and during each quarter of 2002. The subject imports from Korea undersold the domestic like product in four of eight quarterly comparisons. Reported imports from Japan of product 4 were present in the U.S. market only during the final two quarters of 2002, and undersold the domestic like product in each quarter.[114]

In total, cumulated subject imports from Japan and Korea undersold the domestic like product in 16 of 23 comparisons. In each of the ten quarterly comparisons where subject import volume exceeded 90,000 pounds, the subject imports undersold the domestic like product. In isolation, this frequency of underselling would seem significant. We observe, however, that the majority of the underselling did not occur until 2002, and six of the eight observations of underselling involving the largest quantity of subject imports occurred exclusively during the final two quarters of 2002, when reported imports from

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[110] CR/PR, Table II-6.

[111] There were no pricing observations for subject imports from either Japan or Korea with respect to the remaining four products used in paper or resin applications.

[112] CR/PR, Table V-1. The subject imports from Japan were sold ***. Id. The subject imports from Korea were sold ***. *** Importers Questionnaire Response. The domestically produced product was sold ***. *** Producers Questionnaire Responses; Purchasers Questionnaire Responses. Prices to compounders are usually lower than those to end users. CR/PR, Table V-1. In light of this information, we believe it is reasonable to conclude that the subject imports from Japan (sold *** to compounders) undersold the domestic like product (sold *** to compounders). We do not, however, place heavy reliance on the absolute margins of underselling.

[113] CR/PR, Table V-2.

[114] CR/PR, Table V-4.

Japan started entering the U.S. market for products 1 and 4 in relatively substantial quantities.[115] The record does not indicate that quarterly sales volumes for the domestic like product in products 1 and 4 fell in 2002 in response to the underselling that year by the cumulated subject imports from Japan and Korea.[116] Quarterly sales volumes for U.S.-produced product 1 in 2002 were comparable to those during the final three quarters of 2001. By contrast, quarterly volumes for U.S.-produced product 1 were *** higher for the first quarter of 2001 and all four quarters of 2000 than for the second quarter of 2001 and all subsequent quarters. This *** decline in quarterly sales volumes between the first and second quarters of 2001 preceded the entry of subject imports from Japan and Korea into the market for product 1.[117] Quarterly sales volume for U.S.-produced product 4 during the final two quarters of 2002 were comparable to those during the first two quarters of 2002, and above those for the comparable quarters in 2001.[118] Indeed, sales volumes for U.S.-produced product 4 generally reflected overall apparent U.S. consumption trends, with the 2002 sales volumes being above those for 2001 but below those for 2000. That the underselling by the subject imports did not cause significant declines in sales volumes for the competing U.S.-produced products during the period for which data are available diminishes somewhat the significance of the observed underselling.

We further conclude that cumulated subject imports from Japan and Korea did not have significant price-depressing or -suppressing effects on prices for the domestic like product. It is true that prices for domestically produced products 1 and 4 generally declined during 2002, when large quantities of cumulated subject imports from Japan and Korea entered the U.S. market and undersold the domestic like product.[119] We cannot, however, find a nexus between subject import competition and these price declines. While prices declined in 2002 for U.S.-produced products 1 (textiles) and 4 (adhesives), for which the U.S.-produced product was undersold by growing volumes of subject imports, they also declined for product 2 (adhesives), for which subject import volumes were far lower in relation to domestic sales volumes and there were large margins of overselling.[120] Because prices declined in 2002

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[115] We also note that the one confirmed lost sales allegation and one of the two confirmed lost revenues allegations involving imports from Japan and Korea involve quotes made *** or after the fourth quarter of 2002 and the remaining confirmed lost revenues allegation involves a quote made during the first quarter of 2002. CR/PR, Table V-10.

The record does not support petitioners' arguments that DuPont was forced to lower its prices to Solutia due in part to competition from subject imports from Japan. See Petitioners Prehearing Brief at 50-52; Tr. at 29-30 (McCord). The record appears to ***. *See* CR at V-27, PR at V-8; Solutia Posthearing Brief, exs. 1 and 2.

We have not included in the preceding characterization of lost sales and lost revenues the allegation of lost revenue on *** pounds of PVA sales in 2002 to ***, as that company asserted that it receives ***. CR at V-26, PR at V-8. We note, however, that *** is a "top ten" customer of ***. CR/PR, Table D-2. Neither have we included in the preceding characterization the allegation of a lost sale of *** pounds of PVA in 2001 to ***, which reported that import prices from *** were nearly *** percent lower than those offered by domestic producers at that time. CR at V-24, PR at V-7. We note, however, that *** increased its purchases of PVA from *** from *** pounds in 2000 to *** pounds in 2001 and to *** pounds in 2002, while reducing its purchases of PVA from U.S. producers from *** pounds in 2000 to *** pounds in 2001 and to *** pounds in 2002. CR/PR, Table D-2.

[116] For product 2 in 2002, the subject imports oversold the domestic like product. CR/PR, Table V-2.

[117] CR/PR, Table V-1.

[118] CR/PR, Table V-4.

[119] CR/PR, Tables V-1, V-4.

[120] Prices also declined in 2002 for the products on which there were not reported pricing data for subject

(continued...)

for all products, notwithstanding the end use application or the pricing characteristics of the subject imports from Japan and Korea, we conclude that factors in the market other than price competition from subject imports from Japan and Korea were responsible for price declines.[121] Additionally, in 2002, the domestic industry's input costs (i.e., those relating to raw materials and labor) declined on a per-unit basis and its per-unit cost of goods sold (COGS) declined ***.[122] The 2002 price decline across products is consistent with this decline in costs.

There is also no basis for a finding of price suppression. Examination of the domestic industry's ratio of COGS to net sales indicates that, in the merchant market, this ratio showed only a *** change from 2000 to 2002; for total operations, COGS accounted for a lower percentage of the industry's total revenues in 2002 than it did in 2000.[123] The record thus indicates that price competition by subject imports from Japan and Korea did not cause any cost-price squeeze.

Consequently, we find that cumulated subject imports from Japan and Korea do not currently have significant effects on prices for the domestic like product.[124] We emphasize that the data in the record that would tend to show price effects for these imports are largely limited to the final two quarters of 2002. There were, however, consistent reports of underselling by subject imports at growing volumes during the latter portion of 2002, which suggests that further underselling would be likely during subsequent periods.

3. Impact of the Subject Imports on the Domestic Industry

As discussed above in the section on conditions of competition, both total and merchant market apparent U.S. consumption of PVA declined from 2000 to 2001 and then rose in 2002 to a level less than that of 2000.[125] Several output-related indicators of U.S. industry performance followed the same

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[120] (...continued)
imports from Japan or Korea. CR/PR, Tables V-3, V-5-7.

[121] We also conclude that the price decline for product 1 in the fourth quarter of 2002 is of insufficient duration to support a finding of significant price depression.

[122] CR/PR, Tables VI-1 (total operations), VI-5 (merchant market operations). We discuss more fully the nature of the COGS and financial data on which we have relied in section V.B.3. below.

[123] CR/PR, Tables VI-1, VI-5.

[124] Vice Chairman Hillman has considered the price effects of cumulated subject imports from Germany, Japan, and Korea. She finds that subject imports from Germany are reasonably good substitutes for the domestic like product in applications in which both the subject imports and the domestic like product are used. She notes that cumulated subject imports from Germany, Japan, and Korea undersold the domestic like product in 21 of 40 comparisons (excluding products 5 and 6). She finds the conclusion that there is an absence of significant price effects to be equally applicable when considering subject imports from Germany together with subject imports from Japan and Korea. She adopts the analysis set out in section V.C.2.

[125] The statute instructs the Commission to consider the "magnitude of the margin of dumping" in an antidumping proceeding as part of its consideration of the impact of imports. 19 U.S.C. § 1677(7)(C)(iii)(V). In its final determination concerning Japan, Commerce assigned 144.16 percent dumping margins to four named manufacturer/exporters and an "all others" rate of 76.78 percent. 68 Fed. Reg. 19510, 19513 (Apr. 21, 2003). With respect to Korea, for which Commerce has not yet issued a final dumping determination, the statute directs the Commission to refer to the dumping margins in Commerce's preliminary determination. 19 U.S.C. § 1677(35)(C)(ii). In its preliminary determination concerning Korea, Commerce issued an 8.06 percent dumping
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pattern.[126] These included production,[127] commercial and total U.S. shipments,[128] and capacity utilization.[129] By contrast, the domestic industry's export shipments were higher in 2002 than in 2000.[130]

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[125] (...continued)
margin for all exporters. 68 Fed. Reg. 13681, 13685 (Mar. 20, 2003).

[126] We have not relied on the data petitioners submitted in their Posthearing Brief concerning the first quarter 2003 performance of DuPont and Celanese in any of our analyses of material injury or threat of material injury. Although we have considered this information, we find that it lacks probative value for several reasons. First, partial year data are only probative if compared to the similar segment for the previous calendar year. Petitioners submitted first quarter data for 2003 but not 2002. (Petitioners did not include in their comments on the questionnaires a request that the Commission collect quarterly data for either 2002 or 2003. See Letter from John-Alex Romano to Marilyn Abbott (Feb. 19, 2003). See also 61 Fed. Reg. 37818, 37826 (July 22, 1996) ("parties should make data collection requests in their questionnaire comments rather than later in the investigation")). Second, the information submitted by petitioners does not include any data for Solutia, so it does not encompass the entire domestic industry. Third, the financial information submitted by petitioners is unreliable because it does not include the adjustments, described below, that Commission accounting staff required to ensure compliance with generally accepted accounting principles.

[127] Production was at its period high of *** pounds in 2000. It then declined to *** pounds in 2001, and increased to *** pounds in 2002. CR/PR, Table III-2.

[128] The quantity of the domestic industry's commercial U.S. shipments declined from its period high of *** pounds in 2000 to *** pounds in 2001, and then increased to *** pounds in 2002. The value of these shipments declined from a period high of $*** in 2000 to $*** in 2001 and then increased to $*** in 2002. CR/PR, Table III-3.

The quantity of the domestic industry's total U.S. shipments declined from its period high of *** pounds in 2000 to *** pounds in 2001, and then increased to *** pounds in 2002. The value of these shipments declined from a period high of $*** in 2000 to $*** in 2001 and then increased to $*** in 2002. Id.

The quantity of the domestic industry's internal shipments declined from *** pounds in 2000 to *** pounds in 2001, and then increased to its period high of *** pounds in 2002. The value of these shipments declined from a period high of $*** in 2000 to $*** in 2001 and then increased to $*** in 2002. Id.

[129] Capacity utilization declined from its period high of *** percent in 2000 to *** percent in 2001, and then increased to *** percent in 2002. CR/PR, Table III-2.

[130] The quantity of the domestic industry's export shipments declined from *** pounds in 2000 to *** pounds in 2001, and then increased to a period high of *** pounds in 2002. The value of these shipments declined from $*** in 2000 to $*** in 2001 and then increased to a period high of $*** in 2002. CR/PR, Table III-3.

We disagree with respondent Solutia's argument that, as a matter of law, the Commission is required to exclude production for export markets from its consideration of impact when export sales are substantial and readily segregated. Neither of the two sections of the statute Solutia cites in support of its argument requires such segmentation. The first, the "product line" provision at 19 U.S.C. § 1677(4)(D), states that "[t]he effect of dumped imports or imports of merchandise benefiting from a countervailable subsidy shall be assessed in relation to *the United States production* of a domestic like product if available data permit the separate identification of production in terms of such criteria as the production process or the producer's profits" (emphasis added). Consequently, the statute refers to U.S. production; it contains no reference to where product produced in the United States is shipped or consumed. The legislative history of the second, the instruction at 19 U.S.C. § 1677(7)(B)(i)(III) that the Commission shall consider impact "only in the context of production operations within the United States," indicates that its purpose is to require the Commission to exclude from its consideration importation activities of the producer and the operations of any offshore production facilities the producer operates. S. Rep. 100-71 at 115 (1987). Neither the statutory language nor the legislative history of the provision supports the proposition that it requires the
(continued...)

Capacity increased throughout the 2000-2002 period.[131] Inventory levels, in contrast, declined throughout the period.[132]

The domestic industry's share of apparent U.S. merchant market consumption increased from *** percent in 2000 to *** percent in 2001, and then increased further to *** percent in 2002.[133] The domestic industry's share of total apparent U.S. consumption increased from *** percent in 2000 to *** percent in 2001, and then increased further to *** percent in 2002.[134]

Employment-related indicators fluctuated between 2000 and 2002. Employment and hours worked were lower in 2002 than in 2000.[135] Productivity, by contrast, was higher in 2002 than in 2000.[136]

The domestic industry's trends in financial performance largely mirrored those of apparent U.S. consumption. For merchant market operations, the industry's gross profit (sales revenues less COGS) reached a period low in 2001 and was nearly as high in 2002 as it was in 2000; for total operations, which showed the same overall trend, gross profit was higher in 2002 than in 2000.[137] The industry's

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[130] (...continued)
Commission to perform a segmented analysis of U.S. production for the domestic market and U.S. production for export markets. Indeed, the case law indicates that while the Commission has the discretion to engage in a segmented analysis (although its conclusions must be based on the domestic industry as a whole), it is not required to do so. BIC Corp. v. United States, 964 F. Supp. 391, 397 (Ct. Int'l Trade 1997).

Pursuant to legislative history, however, we have carefully considered the extent to which "the export performance . . . of the domestic industry" may be contributing to any injury experienced by the domestic industry. H.R. Rep. 96-317 at 47 (1979). We note that the domestic industry's exports sold in other markets are not in competition with subject imports sold in the U.S. market.

[131] The domestic industry's capacity increased from *** pounds in 2000 to *** pounds in 2001 and then to *** pounds in 2002. CR/PR, Table III-2.

[132] Inventories declined from *** pounds in 2000 to *** pounds in 2001 and then to *** pounds in 2002. Inventories also declined relative to production and shipments from 2000 to 2002. CR/PR, Table III-5.

[133] CR/PR, Table IV-7.

[134] CR/PR, Table IV-6.

[135] The number of production and employment workers increased from *** in 2000 to *** in 2001, and then declined to a period low of *** in 2002. Hours worked increased from *** in 2000 to *** in 2001, and then declined to a period low of *** in 2002. CR/PR, Table III-6.

[136] Productivity declined from *** lbs./hour in 2000 to *** lbs./hour in 2002, and then increased to a period high of *** lbs./hour in 2002. CR/PR, Table III-6.

[137] For merchant market sales, the domestic industry's gross profits declined from a period high of $*** in 2000 to *** in 2001, and then increased to $*** in 2002. As a ratio to sales, gross profit declined from a period high of *** percent in 2000 to *** percent in 2001, and then increased to *** percent in 2002. CR/PR, Table VI-5.

For total operations, the domestic industry's gross profits declined from a period high of $*** in 2000 to $*** in 2001, and then increased to $*** in 2002. As a ratio to sales, gross profit declined from *** percent in 2000 to *** percent in 2001, and then increased to a period high of *** percent in 2002. CR/PR, Table VI-1.

For internal transfers, the domestic industry's gross profits declined from $*** in 2000 to $*** in 2001, and then increased to a period high of $*** in 2002. CR/PR, Table C-3.

We also examined cash flow. For merchant market operations, cash flow declined from a period high of $*** in 2000 to $*** in 2001 and then increased to $*** in 2002. CR/PR, Table VI-5. For total operations, cash flow declined from a period high of $*** in 2000 to $*** in 2001 and then increased to $*** in 2002. CR/PR, Table VI-1.

(continued...)

operating income also reached a period low in 2001 and remained *** lower in 2002 than in 2000. For merchant market operations, the industry recorded operating *** in 2001 and 2002.[138] For total operations, the industry recorded *** operating income in 2000 and 2002 and *** in 2001.[139] The industry's capital and research and development expenditures were both higher in 2002 than in 2000.[140]

The record does not indicate that there is a causal nexus between the industry's declines in financial performance in 2001 and 2002 relative to 2000 and the cumulated subject imports from Japan and Korea. For the reasons stated above, there were not significant volumes of these imports in 2001, or even, despite rapid increases, in 2002. Moreover, because the subject imports did not have significant price-suppressing or -depressing effects, and because the underselling, which was concentrated during the latter portion of 2002, did not have significant adverse effects on domestic industry sales volumes by the end of 2002, we concluded that the price effects of the subject imports had not reached a significant level. Therefore, any failure of the domestic industry to obtain revenues which would have led to an improved level of financial performance cannot be attributed to subject imports from Japan and Korea. We also observe that there were several factors entirely unrelated to subject import competition that either served to depress the domestic industry's revenues or negatively impacted its financial performance. One is the decline in U.S. demand for PVA, particularly between 2000 and 2001, when the domestic industry experienced its worst financial performance.[141] A second factor that negatively affected the industry's revenues is a decline in unit values for export sales from 2001 to 2002 that was more severe than the decline in unit values for U.S. commercial sales during this period. Countervailing this was the increasing quantity of export sales from 2001 to 2002, which had a positive effect on the industry's revenues and provided a larger quantity of production over which the industry could spread its

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[137] (...continued)

In relying on the financial data provided in the Commission report, we reject petitioners' challenges to the Commission accounting staff's valuation of raw material costs for domestic producer ***. The accounting staff valued inputs to PVA production at cost and byproducts of the PVA production process at market value. *** did not use this method of valuation in its original questionnaire response, did not make the adjustments to its questionnaire data requested by staff until petitioners filed their posthearing submission, and continued to challenge these adjustments thereafter. See Petitioners Posthearing Brief at 6-7, ex. 5. Nevertheless, the valuation technique used by staff is consistent not only with generally accepted accounting principles, but also with the method *** itself uses in its internal accounting. CR/PR, Table VI-1 n.5. It is also the way ***. CR/PR, Table VI-1 n.4.

As stated in the introduction to these Views, we have not considered the materials which petitioners cited initially in their Final Comments to challenge staff's raw material cost valuations because these materials were cited in violation of Commission rule 207.30.

[138] The domestic industry's merchant market operating income declined from a period high of $*** in 2000 to *** in 2001, and then improved to *** in 2002. As a ratio to sales, operating income declined from a period high of *** percent in 2000 to *** percent in 2001, and then improved to *** percent in 2002. CR/PR, Table VI-5.

The domestic industry's operating income on internal transfers declined from $*** in 2000 to $*** in 2001, and then increased to a period high of $*** in 2002. CR/PR, Table C-3.

[139] The domestic industry's operating income declined from a period high of $*** in 2000 to *** in 2001, and then increased to $*** in 2002. As a ratio to sales, operating income declined from a period high of *** percent in 2000 to *** percent in 2001, and then increased to *** percent in 2002. CR/PR, Table VI-1.

[140] Capital expenditures increased from $*** in 2000 to a period high of $*** in 2001, and then declined to $*** in 2002. Research and development expenses declined from $*** in 2000 to $*** in 2001, and then increased to a period high of $*** in 2002. CR/PR, Table VI-7.

[141] CR/PR, Table C-3.

high fixed costs.[142] Additionally, one reason why operating income did not recover from 2001 to 2002 in the same manner as gross profit was because there was a *** increase in selling, general, and administrative (SG&A) expenses overall as well as expressed as a ratio to net sales.[143] This was principally due to the fact that ***.[144] Finally, we note the presence of other imports in the U.S. market at volumes substantially in excess of the volume of subject imports from Japan and Korea during 2000 and 2001.

For the foregoing reasons, we conclude that cumulated subject imports from Japan and Korea did not have a significant impact on the domestic PVA industry.[145] We consequently determine that the domestic PVA industry is not materially injured by reason of LTFV imports from Japan.

C. Determination Concerning Germany[146]

For the reasons discussed below, we determine that the domestic PVA industry is not materially injured by reason of LTFV imports from Germany.

1. Volume of the Subject Imports

The quantity of subject imports from Germany increased from 1.8 million pounds in 2000 to 2.8 million pounds in 2001 and then declined to 1.7 million pounds in 2002.[147] These imports' share of apparent U.S. merchant market consumption increased from *** percent in 2000 to *** percent in 2001, and then declined to *** percent in 2002.[148] These imports' share of total apparent U.S. consumption increased from *** percent in 2000 to *** percent in 2001, and then declined back to the 2000 level of *** percent in 2002.[149]

The quantity of subject imports from Germany was lower in 2002 than in 2000 or 2001, and these imports' share of apparent U.S. consumption showed almost no change from 2000 to 2002.[150] Moreover, whether measured against total U.S. consumption, U.S. merchant market consumption, or U.S. production, the relative participation of subject imports from Germany was at extremely low levels throughout the period from 2000 to 2002. We consequently find that the volume of subject imports from

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[142] CR/PR, Table III-3.

[143] CR/PR, Table VI-1.

[144] CR/PR, Table VI-2 n.3.

[145] Vice Chairman Hillman concludes that cumulated subject imports from Germany, Japan, and Korea did not have a significant impact on the domestic PVA industry, for the reasons stated above and in section V.C.3.

[146] Vice Chairman Hillman's analysis of material injury by reason of subject imports from Germany was provided in section V.B. above. She consequently does not join this section of the opinion, although she concurs with its reasoning.

[147] CR/PR, Table IV-2.

[148] CR/PR, Table IV-7. As a ratio to U.S. production, subject imports from Germany increased from *** percent in 2000 to *** percent in 2001 and then declined to *** percent in 2002. CR/PR, Tables III-2, IV-2.

[149] CR/PR, Table IV-6.

[150] No party contended that the filing of the petition served to reduce import volumes from any of the subject countries. To the contrary, petitioners emphasized that subject import volumes generally increased notwithstanding the filing of the petition. See Petitioners Prehearing Brief at 63.

Germany, whether measured in absolute terms or relative to production or consumption in the United States, is not significant.

2. Price Effects of the Subject Imports

We discussed above in section V.B.2.a. of these Views the importance of price in purchasing decisions. We incorporate that discussion by reference here.

The questionnaires asked purchasers whether PVA from different sources was used in the same applications. A majority of responding purchasers stated that U.S.-produced and German product were used in the same applications.[151]

The questionnaires also asked purchasers to compare domestically produced PVA with imports from several countries in 22 categories, two of which pertained to pricing. A majority of purchasers found the domestic like product and subject imports from Germany comparable in each of the remaining 20 categories.[152] In light of these data, we find that subject imports from Germany are reasonably good substitutes for the domestic like product in applications in which products from both sources are used.

We collected pricing data concerning seven PVA products. For purposes of this discussion, our analysis will focus on the four products for which we received data on both domestically produced PVA and subject imports from Germany.[153]

The first such product, product 3, is PVA used in paper applications with a range of hydrolysis between 95 and 100 percent and a viscosity between 20 and 35 centipois. There are pricing observations for German-produced product 3 for all quarters in 2001 and 2002. Subject imports from Germany oversold the domestic like product in seven of the eight quarterly comparisons.[154]

Product 7 is PVA used in paper applications with a range of hydrolysis between 95 and 100 percent and a viscosity between zero and 19 centipois. There are pricing observations for German-produced product 7 for all quarters in the period of investigation except the first three quarters of 2000. Subject imports from Germany oversold the domestic like product in five of nine quarterly comparisons.[155]

The remaining two products are Products 5 and 6. The former is used in art paper applications and the latter is used in resin applications. The Commission added these products to the questionnaires at respondents' request to increase pricing coverage for subject imports from Germany.[156] However, for each of these products both the number of quarterly pricing observations for imports from Germany and

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[151] CR/PR, Table II-4.

[152] CR/PR, Table II-6.

[153] There were no pricing observations for subject imports from Germany with respect to the remaining three products used in textile or adhesive applications.

[154] CR/PR, Table V-3.

[155] CR/PR, Table V-7. We have considered, but are not persuaded by, petitioners' argument that underselling by subject imports from Germany for product 7 in 2001 led to reduced domestic prices for that product in 2002. Petitioners Final Comments at 8. As discussed below, and in section V.B.2 on Japan, domestic PVA prices declined for nearly all pricing products regardless of the level of underselling or degree of competition from subject imports, which would indicate that factors other than the subject imports explain the declines.

[156] CR at V-6 n.2, PR at V-5 n.2.

the volume of imports covered by these observations is quite small.[157] Petitioners claim that the domestic products covered by the pricing data for products 5 and 6, which had much larger quarterly sales volumes than the subject imports from Germany, are not products comparable to the imports.[158] Respondents have not disputed this contention.[159] In light of the limited import coverage and the questionable comparability of the domestic and imported products covered by the data for products 5 and 6, we reduce the weight accorded to the universal overselling observations for these products.

Even focusing our analysis on products 3 and 7, there were far more quarterly observations of overselling than underselling. The subject imports from Germany oversold the domestic like product in 12 of 17 quarterly comparisons.[160] We have also, in response to petitioners' arguments, examined the volume of subject imports that were oversold with those that were undersold. Such an analysis indicates that the volume of subject imports from Germany in quarters where there was overselling exceeds the volume of subject imports from Germany where there was underselling.[161] In light of the data showing that prices for subject imports from Germany were generally above those for the domestic like product, we conclude that there is not significant underselling by subject imports from Germany. That there were no confirmed lost sales and only one instance of confirmed lost revenues for subject imports from Germany provides further support for this conclusion.[162]

We further conclude that subject imports from Germany do not have significant price-depressing or -suppressing effects on prices for the domestic like product. Prices for the domestic like product generally declined during the second half of 2001 and 2002 for those products in which there are pricing observations for both domestically-produced PVA and subject imports from Germany. Because these declines occurred for all products notwithstanding the pricing characteristics or nature of competition of the subject imports from Germany, we cannot conclude that the declines were to any significant degree a function of the imports. Prices for the domestic like product declined for product 3, where there was predominant overselling by the subject imports from Germany; product 7, where there was mixed overselling and underselling; and products 5 and 6, where competition between the domestic like product and the subject imports from Germany was attenuated.[163] This indicates that factors in the market other than price competition from subject imports from Germany were responsible for the price declines in these PVA products for paper and resin applications. Additionally, in 2002, the domestic industry's input costs (i.e., those relating to raw materials and labor) declined on a per-unit basis and its per-unit cost of goods sold (COGS) declined ***.[164] The 2002 price decline across products is consistent with this decline in costs.

There is also no basis for a finding of price suppression. Examination of the domestic industry's ratio of COGS to net sales indicates that, in the merchant market, this ratio showed only a *** change from 2000 to 2002; for total operations, COGS accounted for a lower percentage of the industry's total

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[157] CR/PR, Tables V-5, V-6. The subject imports from Germany oversold the domestic like product in all seven quarterly pricing comparisons for these two products.

[158] CR/PR, Tables V-5, V-6; see Petitioners Prehearing Brief at 42.

[159] See Clariant Posthearing Brief at 5-6; Tr. at 206-07 (McGrath).

[160] CR/PR, Tables V-3, V-7.

[161] The volume of subject imports involved in overselling observations for products 3 and 7 was *** pounds. The volume of subject imports involved in underselling observations was *** pounds. CR/PR, Tables V-3, V-7.

[162] CR/PR, Table V-10.

[163] CR/PR, Tables V-3, V-5-7.

[164] CR/PR, Tables VI-1 (total operations), VI-5 (merchant market operations).

revenues in 2002 than it did in 2000.[165] The record thus indicates that price competition by subject imports from Germany did not cause a cost-price squeeze.

In light of the foregoing, we conclude that the subject imports from Germany do not have a significant effect on prices for the domestic like product.

3. Impact of the Subject Imports

Domestic industry data pertinent to the statutory impact factors are analyzed in section V.B.3 above.[166] The record does not indicate that there is any causal nexus between the industry's declines in financial performance in 2001 and 2002 relative to 2000 and subject imports from Germany. Because, for the reasons stated above, there were not significant volumes of these imports, and they did not have significant price effects, any failure of the domestic industry to obtain revenues which would have led to an improved level of financial performance cannot be attributed to subject imports from Germany. Additionally, as discussed in the determination concerning Japan, several factors unrelated to subject import competition either served to depress the domestic industry's revenues or negatively impacted its financial performance.

For the foregoing reasons, we conclude that subject imports from Germany did not have a significant impact on the domestic PVA industry. We consequently determine that the domestic PVA industry is not materially injured by reason of LTFV imports from Germany.

VI. ANALYSIS OF THREAT OF MATERIAL INJURY BY REASON OF SUBJECT IMPORTS

A. General Legal Standards

Section 771(7)(F) of the Act directs the Commission to determine whether the U.S. industry is threatened with material injury by reason of the subject imports by analyzing whether "further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted."[167] The Commission may not make such a determination "on the basis of mere conjecture or supposition," and considers the threat factors "as a whole" in making its determination whether dumped or subsidized imports are imminent and whether material injury by reason of subject imports would occur unless an order is issued.[168] In making our determination, we consider all statutory threat factors that are relevant to these investigations.[169]

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[165] CR/PR, Tables VI-1, VI-5.

[166] The statute instructs the Commission to consider the "magnitude of the margin of dumping" in an antidumping proceeding as part of its consideration of the impact of imports. 19 U.S.C. § 1677(7)(C)(iii) (V). In its final determination concerning Germany, Commerce assigned 19.05 percent dumping margins to manufacturer/exporters Clariant GmbH and Kuraray Germany and an "all others" rate of 10.75 percent. 68 Fed. Reg. 19509, 19510 (Apr. 21, 2003).

[167] 19 U.S.C. § 1677(7)(F)(ii).

[168] 19 U.S.C. § 1677(7)(F)(ii).

[169] 19 U.S.C. § 1677(7)(F)(i). These factors include: any existing unused production capacity or imminent, substantial increase in production capacity in the exporting country; a significant rate of increase of the volume or market penetration of imports of the subject merchandise indicating the likelihood of substantially increased

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B. Cumulation for Purposes of Threat

Cumulation for threat is treated in section 771(7)(H) of the Act.[170] This provision permits the Commission, to the extent practicable, to assess cumulatively the volume and effect of imports for purposes of conducting its threat analysis.[171] The limitations concerning what imports are eligible for cumulation and the exceptions to cumulation are applicable to cumulation for threat as well as to cumulation for present material injury. As with cumulation for material injury, subject imports may be cumulated for threat analysis only if they compete with each other and with the domestic like product. In addition, the Commission also considers whether the imports are increasing at similar rates in the same markets, and whether the imports have similar margins of underselling.[172]

For the reasons discussed in section III.B. above, imports from China produced and exported by SSVW and imports from Singapore are ineligible for cumulation for threat.[173] For the reasons discussed in section III.C. above there is not a reasonable overlap of competition between subject imports from Germany and subject imports from Japan, Korea, or from Chinese exporters other than SSVW. Consequently, for purposes of our threat analysis, subject imports from Germany cannot be cumulated with any other subject imports.

We found above that there is a reasonable overlap of competition between subject imports from Japan and subject imports from Korea.[174] Hence these imports are eligible for cumulation for purposes of the threat determination concerning subject imports from Japan, and we have exercised our discretion to cumulate them. Subject imports from Japan and Korea have displayed similar volume trends. The quantity of imports from each country rose during each year of the period of investigation.[175] Prices for imports from each of the countries were at similar levels for the individual pricing product for which simultaneous pricing observations for substantial quantities of imports from both subject countries are

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[169] (...continued)
imports; whether imports of the subject merchandise are entering at prices that are likely to have a significant depressing or suppressing effect on the domestic prices and are likely to increase demand for further imports; inventories of the subject merchandise; the potential for product shifting; and the actual and potential negative effects on the existing development and production efforts of the domestic industry. 19 U.S.C. § 1677(7)(F)(i). Statutory threat factor (I) is inapplicable, as no countervailable subsidies are involved, and statutory threat factor (VII) is inapplicable, as no imports of agricultural products are involved. Id.

[170] 19 U.S.C. § 1677(7)(H).

[171] See Kern-Liebers v. United States, 19 CIT 87, 103-04 (1995).

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

[173] Vice Chairman Hillman does not join the remainder of this paragraph. She explains her decision not to cumulate subject imports with Germany with subject imports from other sources for purposes of threat analysis in the Additional and Dissenting Views of Vice Chairman Jennifer A. Hillman.

[174] We also found that there is not a reasonable overlap of competition between subject imports from Japan and those subject imports from China not produced or exported by SSVW. Hence, these imports also cannot be cumulated for purposes of threat.

[175] CR/PR, Table IV-2.

available.[176] Also, subject imports from both Japan and Korea undersold the domestic like product in the majority of pricing observations.[177]

C. Affirmative Determination for Subject Imports from Japan[178]

The domestic PVA industry's operating performance was *** worse in both 2001 and 2002 than it was in 2000. The data concerning the domestic industry's declining prices, increasing reliance on exports to sustain production volumes and reduce unit costs, and overall financial performance indicates that the domestic industry is vulnerable to material injury by additional volumes of subject imports.[179]

We find that there is a likelihood that cumulated subject imports from Japan and Korea will increase their volume and market penetration in the United States significantly. Both the quantity and market penetration (whether measured in terms of the entire market or the merchant market) of these imports more than doubled from 2000 to 2002, and increased in each annual comparison.[180] The consistent nature of these increases make further increases likely.

Further increases in subject imports from Japan and Korea are also likely given that, towards the latter portion of the period for which data were collected, imports from these sources began to participate in increasing quantities in end-use categories where there is substantial competition from domestically produced product. ***, a significant importer of PVA from Korea,[181] began to supply the textile market ***. It had not previously served that market ***.[182] Subject imports from Japan also began to serve the textile market in large quantities beginning in 2002.[183] As previously discussed, textiles are the highest-volume end use served by the U.S. merchant market for PVA. Moreover, there has been a significant change in the product mix of subject imports from Japan since the antidumping order on those imports was revoked in May 2001. In 2000, a year in which the antidumping order was in effect, *** percent of

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[176] CR/PR, Table V-1. Because pricing observations for subject imports from Japan are concentrated in the final two quarters of 2002, the record does not contain information of sufficient duration to enable us to make a conclusion on the similarity in pricing trends between subject imports from Japan and subject imports from Korea.

[177] CR/PR, Tables V-1-2, V-4. As previously discussed, we have concluded that, for product 1, subject imports from Japan undersold the domestic like product in all three quarterly observations.

[178] Vice Chairman Hillman makes a negative threat determination concerning Japan and does not join this section of the opinion. See Additional and Dissenting Views of Vice Chairman Jennifer A. Hillman.

[179] For the reasons discussed in section V.B.3. above, we have not relied on the first quarter 2003 data submitted by the petitioners in making this finding.

[180] CR/PR, Tables IV-2, IV-6, IV-7. We also note that the record contains official import data from the first quarter of 2003, which show considerable increases in reported imports from both Japan and Korea over the levels of the first quarter of 2002. See 2003 Dataweb Import Data. The trends reflected in the official import data are consistent with questionnaire data indicating that importers had imported or arranged to import substantial quantities of PVA from Japan and Korea after December 31, 2002. CR at VII-13, PR at VII-6. We have not, however, placed reliance on import data from the first quarter of 2003. As a general matter data from a single calendar quarter are of insufficient duration to provide reliable information concerning trends. Moreover, the official import statistics for Japan include substantial quantities of merchandise excluded from the scope of these investigations.

[181] See CR/PR, Table IV-1.

[182] *** Importers Questionnaire.

[183] CR/PR, Table V-1. ***. It contends, however, that these sales displaced nonsubject imports from Taiwan rather than domestically produced product. Kuraray Prehearing Brief at 20. We nonetheless observe that the customer for these imports from Japan, ***. CR/PR, Table D-1.

the imports from Japan were in a hydrolysis range between 80 and 85 percent. This is the only hydrolysis range within the scope definition (i.e., in excess of 80 percent) in which there is *** domestic production. During 2001 – a year when the antidumping order was in effect for slightly more than one-third of the year – the percentage of imports from Japan in the hydrolysis range between 80 and 85 percent had declined to *** percent. In 2002, this figure had dropped to *** percent.[184] Thus, during the latter portion of the period for which data were collected, subject imports from Japan sharply increased their presence in the U.S. markets both generally and in markets where they compete directly with the domestic like product.[185]

The availability of unused production capacity in the subject countries provides subject producers in Japan and Korea the capability to substantially increase their exports to the United States. Reported unused capacity in Japan and Korea during 2002 was more than *** pounds, and was projected to be in excess of *** pounds during 2003 and 2004.[186] The latter figure is more than *** the quantity of cumulated subject imports from Japan and Korea in 2002.[187]

Inventories in the United States of subject imports from Japan and Korea increased sharply from 2001 to 2002, both in absolute levels and relative to the (increased) quantity of imports.[188] The subject producers also maintain substantial quantities of inventories.[189] In light of the history of increased subject imports from Japan and Korea, the inventory data provides further support for an affirmative threat determination.

While we do not rely on product shifting as a basis for an affirmative threat determination, we observe that there are substantial quantities of exports from Japan of types of PVA outside the scope definition. At least one Japanese producer produces both subject PVA and nonsubject PVA.[190]

While we found that cumulated subject imports from Japan and Korea do not currently have significant effects on U.S. prices, we concluded that this was largely a result of the fact that imports from these countries entered only late in the period for which data were collected in end use markets where they compete in growing volumes with U.S.-produced product on the basis of price. For the reasons discussed above, we conclude that the volume of these imports entering the U.S. market in direct competition with domestically produced product likely will increase significantly. Based on the data from the latter portion of the period of investigation showing large volumes of subject imports from Japan and Korea consistently underselling domestic like product, we further conclude that underselling is likely to continue. Because subject imports from Japan and Korea are reasonably good substitutes for the domestic like product when they have a common end use, and price is important in PVA purchasing

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[184] CR/PR, Table II-2.

[185] This conclusion is further corroborated by information that ***. CR/PR, Table III-4 n.3; Solutia Posthearing Brief, ex. 3 at 1.

[186] CR/PR, Tables VII-3-4.

[187] We additionally note that PVA from Japan has been subject to antidumping duties in Korea since 1998. The Korean antidumping authorities are currently conducting a five-year review of this antidumping order. CR at VII-14, PR at VII-6; *http://www.ktc.go.kr/eng/docket/list.asp?code=AD* (printed May 28, 2003).

[188] These inventories increased from *** pounds in 2001 to *** pounds in 2002. The ratio of these inventories to imports increased from *** percent in 2001 to *** percent in 2002. CR/PR, Table VII-6.

[189] Inventories of subject PVA maintained in 2002 by subject producers in Japan and Korea were *** pounds. CR/PR, Tables VII-3-4.

[190] CR at VII-6, PR at VII-3.

decisions, continued underselling by these imports at increased quantities is likely to require domestic producers either to cut prices or run the risk of losing sales.

Based on our review of the statutory threat factors,[191] we conclude that further imports of cumulated subject imports from Japan and Korea are imminent and that, absent issuance of an antidumping order, the domestic PVA industry would sustain material injury by reason of subject imports. Accordingly, we make an affirmative threat determination concerning LTFV imports from Japan.[192]

D. Negative Determination for Subject Imports from Germany

The domestic PVA industry's operating performance was *** worse in both 2001 and 2002 than it was in 2000. The data concerning the domestic industry's declining prices, increasing reliance on exports to sustain production volumes and reduce unit costs, and overall financial performance indicates that the domestic industry is vulnerable to material injury by additional volumes of subject imports.[193] [194]

We do not conclude, however, that there is a likelihood of a significant rate of increase in the volume or market penetration of subject imports from Germany. Subject imports from Germany never held more than a *** percent share of apparent U.S. merchant market consumption, or more than a *** percent share of total apparent U.S. consumption, from 2000 to 2002. During 2002, subject imports from Germany were at their lowest quantity during the period of investigation and their market penetration was at or near period lows.[195] Because the record indicates that subject imports from Germany have an extremely small and declining presence in the U.S. market, we conclude there is not a likelihood that these imports will increase to a significant level in the imminent future.[196]

The sole German producer of PVA, Kuraray Germany, has little unused capacity available to increase its exports to the United States. Its capacity utilization was above *** throughout the period of

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[191] We also reviewed information in the record pertinent to the statutory threat factor concerning existing development and production efforts of the domestic industry. Petitioners did not submit any information specifically addressing the nature of their efforts to develop derivative or advanced versions of PVA.

[192] We also determine pursuant to 19 U.S.C. § 1673d(b)(4)(B) that we would not have made a determination of material injury by reason of subject imports but for suspension of liquidation of entries of the subject imports. Cumulated subject import volume from Japan and Korea increased sharply during the latter portion of the period of investigation notwithstanding the filing of the petition and suspension of liquidation of entries. Nevertheless, for the reasons stated in section V.B. above, during the period of investigation neither the volume of subject imports nor their price effects was significant.

[193] For the reasons discussed in section V.B.3. above, we have not relied on the first quarter 2003 data submitted by the petitioners in making this finding.

[194] As explained in her Additional and Dissenting Views, Vice Chairman Hillman finds that the information on the vulnerability of the domestic industry is mixed.

[195] CR/PR, Tables IV-2, IV-6, IV-7.

[196] We note that the record contains official import data from the first quarter of 2003, which show that the quantity of subject imports from Germany increased modestly as compared to the first quarter of 2002. See 2003 Dataweb Import Data. Even viewed in isolation the first quarter 2003 data do not support the proposition that subject imports from Germany are likely to increase sharply or to a significant level.

investigation.[197] It does not project any increases in capacity.[198] The record also indicates that Kuraray Germany has stable home market demand and well-established export markets elsewhere in Europe.[199] We consequently find that the available data on capacity do not indicate a likelihood that Kuraray Germany will substantially increase its exports to the United States.

The available data on inventories do not support an affirmative threat determination. The quantity of U.S. inventories of German PVA declined from 2001 to 2002, as did the quantity of inventories of subject merchandise held in Germany by Kuraray Germany.[200] Although the level of inventories of subject merchandise in Germany is high compared to the quantity of exports to the United States, the presence of even greater inventories during earlier portions of the period of investigation did not result in the importation of significant quantities of German PVA to the U.S. market.

In evaluating whether there is a likelihood of product shifting, we have considered that Kuraray Germany, the sole German producer of subject merchandise, and Kuraray Japan, one of three principal Japanese exporters of subject merchandise, have been under common ownership since Kuraray Japan's parent company acquired the German production facility in 2001.[201] We have also considered that, because of the Commission's determination on Japan, antidumping duties will be imposed on PVA from Japan. There is no basis for finding that the imposition of antidumping duties will cause Kuraray to shift substantial export production for the U.S. market from its Japanese facility to its German facility. The record does not indicate that there has been any shift in the product mix of subject imports from Germany, which are concentrated in building material and paper applications, since Kuraray's acquisition of the German facility. A business plan prepared independently of these investigations by Kuraray when it was considering purchase of the German facility ***.[202] Additionally, notwithstanding Kuraray's common ownership, its German and Japanese production facilities do not currently export PVA products that compete with each other in any end-use application where there is significant participation by U.S. producers.[203]

We concluded in section V.C.2. above that subject imports from Germany do not have significant price effects. Nor, in light of their predominant overselling, are subject imports from Germany priced at levels that increased demand for further imports. Because we do not believe that

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[197] CR/PR, Table VII-2. See also Kuraray Prehearing Brief at 60.

[198] Petitioners have introduced an October 2002 press report from Japan stating that Kuraray Germany plans to increase PVA capacity by 2004. Petitioners Prehearing Brief, ex. 13. The record contains no other material corroborating this report. Kuraray denies the report's accuracy and states that its management has not yet decided to invest in new capacity in Germany. Letter from Lawrence R. Walders to Marilyn R. Abbott (May 23, 2003); Tr. at 162-63 (Walders); see also CR/PR, Table VII-2. Moreover, Kuraray Germany's ***. Kuraray Posthearing Brief, ex. 6. We therefore do not accord probative value to the press report.

[199] Tr. at 163 (Walders); CR/PR, Table VII-2; CR at VII-4 n.10, PR at VII-3 n.10; Kuraray Posthearing Brief, ex. 6.

Petitioners assert that PVA prices are higher in the United States than elsewhere in the world. They argue that this pricing disparity provides subject producers with an incentive to shift exports from other markets to the United States. Because the record contains no information indicating that subject producers in Germany have shifted export markets based on the relative prices in different markets, we reject petitioners' argument, as it relates to subject imports from Germany, as conjectural.

[200] CR/PR, Tables VII-2, VII-6.

[201] CR at VII-4, VII-6, PR at VII-2-3; Tr. at 162 (Walders).

[202] Kuraray Posthearing Brief, ex. 6.

[203] See Section III.C. above. Vice Chairman Hillman does not join this sentence.

there is a likelihood of substantially increased import volumes, we conclude it is likely that subject imports from Germany will continue not to have price effects in the imminent future.

Based on our review of the statutory threat factors,[204] we conclude that significant levels of subject imports from Germany are not imminent. Because there is not a likelihood of such imports, we conclude that the domestic PVA industry would not be materially injured by reason of subject imports absent issuance of an antidumping order, notwithstanding its vulnerable condition. We therefore make a negative threat determination concerning LTFV imports from Germany.

CONCLUSION

For the foregoing reasons, we conclude that the domestic PVA industry is not materially injured or threatened with material injury by reason of LTFV imports from Germany. We conclude that the domestic PVA industry is threatened with material injury by reason of LTFV imports from Japan.[205]

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[204] We also reviewed information in the record pertinent to the statutory threat factor concerning existing development and production efforts of the domestic industry. Petitioners did not submit any information specifically addressing the nature of their efforts to develop derivative or advanced versions of PVA.

[205] Vice Chairman Hillman determines that the domestic PVA industry is not materially injured or threatened with material injury by reason of LTFV imports from Japan.

Additional and Dissenting Views of Vice Chairman Jennifer A. Hillman

I join most of the Views of my colleagues in these investigations. I write these dissenting views to explain my conclusions on cumulation with respect to Germany and my determination that cumulated subject imports of PVA from Japan and Korea do not pose a threat of imminent material injury to the domestic PVA industry.

I. Cumulation

A. Present material injury

The statute requires the Commission to cumulate the volume and effects of subject imports from eligible subject countries if those imports compete with each other and with domestic like products in the U.S. market.[1] As the Commission Views acknowledge, three of the four factors traditionally examined by the Commission support the finding of a reasonable overlap of competition between subject imports from Germany, Japan, and Korea. First, with respect to channels of distribution, domestically-produced PVA and PVA from Germany, Japan, and Korea are all sold mainly to end users. Second, subject imports from Germany, Japan, and Korea, and the domestic like product, were all present in the market during all quarters of the period of investigation (POI). Third, the majority of PVA imports from Germany and Korea, and a plurality of PVA imports from Japan, entered the United States in the East region; domestically-produced PVA was sold in all regions of the country.

The remaining factor, fungibility, is a closer call. PVA is used by different types of end users, such as those who make PVB, textiles, adhesives, paper, and building materials. The domestic industry sells into all pertinent segments, and there is significant overlap between PVA from Japan and Korea with respect to textiles, adhesives, and building materials end uses. The overlap is less significant between Germany, on the one hand, and Japan and Korea, on the other. Nevertheless, a significant share of PVA imports from Germany and Korea, and some PVA imports from Japan, were sold for building material uses.[2] Also, an appreciable volume of subject imports from both Germany and Japan was sold to make PVC.[3]

More generally, differences in specific end uses does not in my view equate to a lack of fungibility. Subject imports from Germany, Korea and Japan, and the domestic product, share similar physical characteristics, including the same basic chemistry and product form (powdered or granular). In 2002, all or nearly all of the domestic like product and subject imports from Germany, Japan, and Korea, consisted of PVA with viscosity greater than 85 percent.[4] The physical differences between the PVA sold to different types of end users are typically not substantial. DuPont and Celanese indicated that they often sell the same grade of PVA to users in several different end user segments.[5] PVA sold to different

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[1] 19 U.S.C. §1677(7)(G)(i).

[2] CR at Table II-1.

[3] Importer questionnaire responses of ***.

[4] CR at Table II-2.

[5] Hearing Transcript ("Tr.") at 38-41 (Chanslor, McCord).

types of users may differ somewhat in price, but these differences in most cases are not substantial.[6] Both reporting producers reported that PVA from Germany was always or frequently interchangeable with PVA from Japan and Korea, and a majority of importers reported that PVA from Germany was at least sometimes interchangeable with PVA from Japan and Korea.[7]

In sum, I find a solid overlap in three of the cumulation factors, and a mixed record on fungibility. I do not find the difference in end use categories to be sufficient to enable me to conclude that cumulation is inappropriate. Accordingly, I find that there is a reasonable overlap of competition between subject imports from Germany, Japan, and Korea, and between those imports and the domestic like product.[8]

B. Threat of material injury

I join my colleagues' Views with respect to cumulation of subject imports from Japan and Korea for purposes of determining threat of material injury. I also concur with the decision of my colleagues not to cumulate subject imports from Germany with subject imports from Japan and Korea in determining threat. Because I cumulated imports from Germany with imports from Japan and Korea in determining present material injury, the basis for my non-cumulation decision with respect to Germany differs from my colleagues' basis.

In determining whether to exercise discretion to cumulate imports in determining threat, the Commission also considers whether the imports are increasing at similar rates in the same markets and whether the imports have similar margins of underselling. PVA imports from Japan and Korea increased in each year of the POI, whereas imports from Germany increased from 2000 to 2001, then fell substantially in 2002 to a level slightly below the level in 2000.[9] PVA imports from Germany undersold domestic PVA in a much lower percentage of observations as compared to imports from Japan and Korea (5 of 17 versus 16 of 23 observations).[10] Accordingly, the volume and underselling patterns differ between Germany, on the one hand, and Japan and Korea, on the other.

I have also considered the fact that the *** known PVA producer in Japan, Kuraray, purchased the sole PVA producer in Germany in 2001. Although I found a reasonable overlap of competition between imports from Germany and imports from Japan and Korea, I also noted that the extent of sales to common end use segments was limited between imports from Germany and imports from Japan and Korea. Neither Kuraray's business plan in purchasing the German facility, nor its exports from Germany

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[6] CR at Tables V-1 to V-7. Witnesses for DuPont and Celanese testified that differences in price between end use categories were diminishing. Tr. at 67-68 (Welch, Chanslor).

[7] CR/PR at Table II-10. No purchasers provided comparisons of PVA from Germany with PVA from Japan or Korea.

[8] For the reasons stated in section III.C of the Commission Views, I decline to cumulate subject imports from China produced and exported by firms other than SSVW with subject imports from Germany, Japan and Korea.

[9] CR at Table IV-2.

[10] CR/PR Table V-1, V-9. If products 5 and 6 are included, subject imports from Germany undersold domestic PVA in only 5 of 24 comparisons. CR/PR at Tables V-5, V-6.

since the purchase, indicate that there is likely to be a significant shift in its exports from Germany to the United States that would justify cumulating imports from Germany with those from Japan.[11]

Accordingly, I have determined to exercise my discretion not to cumulate PVA imports from Germany with those from Japan and Korea for purposes of determining threat of material injury.

II. No threat of material injury regarding Japan

As discussed in the section on present injury, the volume of subject imports increased from 3.6 million pounds in 2000 to 8.3 million pounds in 2002. These imports' market share increased from *** percent in 2000 to *** percent in 2002.[12] Although the increase in subject imports over the period of investigation (POI) was large in percentage terms (over 100 percent), the increase was from an extremely low base. Subject import market share remained very low throughout the period. At all times the U.S. PVA market remained dominated by domestic producers, and to a lesser extent imports from Taiwan and China. In fact, U.S. market share increased, from *** percent in 2000 to *** percent in 2002, as imports from other sources fell.

The increasing trend in subject imports over the POI suggests that a further increase is likely in the short-term. However, given the modest presence of subject imports in the U.S. market to date, I find no basis to conclude that any increase in subject imports would be of such a magnitude, in the imminent future, to render those imports significant in the context of the overall U.S. market for PVA.[13]

The production capacity of Japanese and Korean PVA producers was relatively stable over the POI at between *** and *** million pounds.[14] Capacity is projected to *** in 2003 (to ***), before *** in 2004 (to ***). Capacity utilization by the subject foreign industries fell from *** percent in 2000 to *** percent in 2001, before rising to *** percent in 2002. Thus, there is available capacity to enable subject producers to increase production for export to United States, although utilization rates are high.[15]

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[11] Kuraray Posthearing Brief, ex. 6.

[12] Subject import share of the merchant market increased from *** percent in 2000 to *** percent in 2002. Domestic industry share of the merchant market increased from *** percent in 2000 to *** percent in 2002. INV-AA-066 at Table IV-7(a). 19 U.S.C. §1677(7)(F)(i)(III).

[13] I have considered, but have given little weight to, record data concerning imports from Japan and Korea during the first quarter of 2003. First, these data are official statistics, which include products excluded from the scope. For Japan, these exclusions are substantial. In 2002, subject imports from Japan were less than half of PVA imports from Japan tallied by the official statistics. *See* CR at Table IV-2 and IV-3. Second, there is little record information on consumption, domestic industry performance, or other market circumstances that would place any data on increased imports in context.

I have also considered orders for subject imports reported by importers, which pertained mainly to first-quarter 2003. I do not find that these figures indicate that imminent subject imports from Japan and Korea are likely to reach significant levels. CR at VII-13.

[14] INV-AA-066 at Table VII-5(c). 19 U.S.C. §1677(7)(F)(i)(II).

[15] The difference between subject producer capacity and production was *** million pounds in 2002, and was projected to *** to *** million pounds in 2003 and 2004. INV-AA-066 at Table VII-5(c). Subject producers ship the *** majority of their PVA for internal consumption, home market shipments, and exports to other markets. Between 2000 and 2002, internal and home market shipments declined, while exports to third countries increased.

With respect to product shifting, producers in Japan manufacture both subject and non-subject PVA.[16] However, there appears to be no incentive to shift to greater production and export to the United States of subject PVA. The U.S. industry does not make non-subject PVA[17] and thus sales of non-subject PVA face no domestic competition in the U.S. market.

I do not find that the record supports petitioners' argument that subject producers are likely to shift PVA shipments from other export markets to the United States to take advantage of higher U.S. prices.[18] There is little evidence that this has occurred to date; subject producer export shipments to other markets increased from 2000 to 2002.[19] Respondent Kuraray asserts, and petitioners do not contest, that recent exchange rate shifts have left PVA prices higher in Germany and Japan than in the United States.[20]

Inventories held by subject foreign producers, though substantial, fell over the POI from *** million pounds in 2000 to *** million pounds in 2002.[21] Importer inventories of subject PVA increased over the period, from *** million pounds to *** million pounds. This increase indicates that the market presence of subject imports is likely to increase in the imminent future as these inventories are drawn down. However, the growth of inventories of subject PVA over the POI was equivalent to only *** percent of the U.S. PVA market in 2002.

With regard to prices, the Commission found above that, despite underselling, the subject imports had no significant effects on domestic prices. With some increase in subject import volume likely in the imminent future, and given the pattern of underselling, I would expect to see some increase in the pressure subject imports exert on domestic prices. However, in the absence of a significant volume increase, I do not find that the subject imports would have significant price depressing or suppressing effects.[22] The Commission identified other market factors that helped explain falling domestic prices over the POI, including cost trends. I would expect other factors to continue to be driving forces on prices, when considered in the light of the relatively modest volumes of subject imports.

I have considered the fact that the composition of subject imports from Japan changed over the POI to include greater quantities of lower priced PVA for such sectors as textiles and adhesives. This is reflected in falling AUVs of imports from Japan over the POI.[23] While this shift has arguably increased the degree of price competition between Japanese and U.S. product, it has not resulted in significant price effects to date; nor in my estimation is it likely to do so in the impending future.

Moreover, there are significant limits to the ability of subject imports to affect domestic prices. Most domestic PVA is either used to make PVB or is exported. In 2002, PVB and export shipments

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[16] CR at VII-6; importer questionnaire response of ***. 19 U.S.C. §1677(7)(F)(i)(VI).

[17] Petitioners Posthearing Brief, part II at 35.

[18] Petitioners Posthearing Brief at 12-13.

[19] INV-AA-066 at Table VII-5(c).

[20] Kuraray Posthearing Brief at 13-14; Petitioners Final Comments at 4.

[21] These inventories do not appear abnormally high. As a ratio to production, subject producer inventories were lower than domestic producer inventories in 2000 and 2001, and comparable in 2002. INV-AA-066 at Table VII-5(c); CR at Table III-5. 19 U.S.C. §1677(7)(F)(i)(V).

[22] 19 U.S.C. §1677(7)(F)(i)(IV).

[23] CR at Table IV-2.

accounted for over *** percent of the shipments of the domestic industry.[24] These shipments are generally insulated from import competition and are likely to remain so in the imminent future. These limits take on added importance where the presence of subject imports is as modest as in this case.

I do not find that subject imports represent an imminent threat to domestic producers' sales to Solutia for the production of PVB. Solutia ***. Solutia ***.[25] Moreover, of the 30 other responding purchasers, only four reported that they are attempting to qualify PVA from subject producers.[26]

In the absence of significant import volume or price effects, I do not find that subject imports would have a significant negative impact on the domestic industry in the imminent future.

I find the information on whether the domestic industry is vulnerable to material injury to be mixed. Most performance indicators were steady or positive over the POI. Domestic production and shipments tracked apparent consumption, falling from 2000 to 2001, then rising in 2002 to levels near 2000.[27] Industry employment fell *** from 2000 to 2002, but was accompanied by an increase in productivity over the same period. Domestic industry market share rose steadily from *** percent to *** percent. The industry reduced *** its inventory levels from *** percent of total shipments in 2000 to *** percent of total shipments in 2002.

The main negative indicator was the industry's financial performance. The industry posted *** in 2001 and *** operating income in 2002.[28] Nevertheless, the industry increased its capital expenditures and R&D spending over the POI.[29] These increases do not support a finding that subject imports will have actual or potential 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.[30]

Finally, I note that Korea currently has in place an antidumping order on PVA from Japan. This order has been in place since 1998.[31] Because the order involves an action by one subject country against another, the impact of the order on overall exports of subject merchandise to the United States is not clear.

Based on the foregoing, I conclude that the domestic industry is not threatened with material injury by reason of subject imports of PVA from Japan and Korea.

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[24] CR at Table II-1 (*** million pounds shipped for PVB production), Table III-1 (*** million pounds exports, *** million pounds total shipments).

[25] CR at Table III-4 n.3.

[26] CR at II-9-10. Three of these four purchasers reported attempting to qualify non-subject sources as well.

[27] CR, PR at Table C-1.

[28] CR, PR at Table C-1. As noted in the present injury section, the industry's gross profit in 2002 exceeded its gross profit in 2000. Reported operating income was lower in 2002 than 2000 mainly because of ***.

[29] CR and PR at Table VI-7. The domestic industry claims that recent increases in natural gas prices, a significant input to PVA production, have increased its vulnerability. Petitioners Prehearing Brief at 61-62.

[30] 19 U.S.C. §1677(7)(F)(i)(VIII).

[31] CR at VII-14.

PART I: INTRODUCTION

BACKGROUND

These investigations result from a petition filed on September 5, 2002, by Celanese of Dallas, TX and DuPont of Wilmington, DE, alleging that an industry in the United States is materially injured and threatened with further material injury by reason of LTFV imports of PVA[1] from China, Germany, Japan, and Korea.[2] Information relating to the background of these investigations is provided below.[3]

Effective date	*Action*
September 5, 2002 ..	Petition filed with Commerce and the Commission; institution of Commission investigations
October 1, 2002	Commerce's notice of initiation
February 19, 2003 ..	Commerce's preliminary determination for Germany (68 FR 7980)
February 20, 2003 ..	Commerce's preliminary determination for Japan (68 FR 8203)
February 26, 2003 ..	Scheduling of the final phase of the Commission's investigations for Germany and Japan (68 FR 11144, March 7, 2003)
March 20, 2003	Commerce's preliminary determinations for China (68 FR 13674) and Korea (68 FR 13681); scheduling of the final phase of the Commission's investigations for China and Korea (68 FR 17964, April 14, 2003)
April 21, 2003	Commerce's final determinations for Germany (68 FR 19509, amended by 68 FR 22680, April 29, 2003) and Japan (68 FR 19510, amended by 68 FR 22681, April 29, 2003)
May 8, 2003	Commission's hearing[4]
June 5, 2003	Date of the Commission's vote for Germany and Japan
June 18, 2003	Commission determinations to Commerce for Germany and Japan
August 4, 2003	Scheduled date for Commerce's final determinations for China and Korea
August 19, 2003	Parties' final comments concerning Commerce's final determinations for China and Korea due to Commission
August 29, 2003	Scheduled date for the Commission's vote for China and Korea
September 17, 2003 .	Scheduled date for sending Commission determinations to Commerce for China and Korea

[1] For purposes of these investigations, PVA is defined as all polyvinyl alcohol hydrolyzed in excess of 80 percent, whether or not mixed or diluted with commercial levels of defoamer or boric acid, except as excluded from the definition. (*See* the section of this report entitled "The Product" for a list of the excluded forms of polyvinyl alcohol.) PVA is covered by subheading 3905.30.00 of the HTS with a general or normal trade relations tariff rate of 3.2 percent *ad valorem*. Although the HTS subheading is provided for convenience and Customs purposes, the written description of PVA subject to these investigations is dispositive.

[2] The petition also alleged threat of material injury by reason of U.S. imports of PVA from Singapore. The Commission, in response, instituted a preliminary investigation with respect to Singapore (investigation No. 731-TA-1018) but determined that subject imports from Singapore were negligible and terminated its investigation pursuant to section 733(a) of the Act. *See Polyvinyl Alcohol from China, Germany, Japan, Korea, and Singapore*, Invs. Nos. 731-TA-1014-1018 (Preliminary), USITC Pub. No. 3553, October 2002, p. 1.

[3] *Federal Register* notices cited in the tabulation are presented in appendix A.

[4] A list of witnesses appearing at the hearing is presented in appendix B.

SUMMARY DATA

A summary of data collected in these investigations for the total U.S. PVA market is presented in appendix C, table C-1. Table C-2 presents U.S. commercial market data. U.S. industry data are based on questionnaire responses of 3 firms which accounted for all U.S. production of PVA during the period 2000 through 2002, the period for which data were gathered in these final phase investigations. U.S. imports consist of official import statistics compiled by Commerce but adjusted using questionnaire data to subtract out excluded PVA products.

PREVIOUS INVESTIGATIONS

PVA has been the subject of prior antidumping investigations in the United States. On March 9, 1995, Air Products, the predecessor of Celanese, filed an antidumping petition alleging that an industry in the United States was materially injured and threatened with further material injury by reason of LTFV imports of PVA[5] from China, Japan, Korea, and Taiwan.[6] The Commission determined that an industry in the United States was threatened with material injury by LTFV imports from China, Japan, and Taiwan.[7] On April 2, 2001, Commerce initiated a sunset review of the antidumping orders (66 FR 17524, April 2, 2001). However, because of the lack of participation by domestic producers, the orders were subsequently revoked on May 14, 2001 (66 FR 22145, May 3, 2001).

*** that the earlier antidumping duty orders were largely ineffective in addressing the unfair pricing of imported PVA in the U.S. market; *** stated that the orders "***." *** pointed out that the antidumping duty orders did not cover U.S. imports from Germany or Korea. Likewise, Sichuan Vinylon, which subsequently became one of the largest Chinese manufacturers of PVA sold in the United States, was not covered by the antidumping duty order. *** also pointed out that Kuraray Japan received a reduction in its antidumping duty from 77 percent to 2 percent in October 2000 following an annual review.[8] *** stated that "***."[9]

A number of responding importers indicated in their questionnaire responses that the antidumping duty orders had no impact on their operations when they were in place (i.e., ***, which currently imports from ***; ***, which has imported from ***; ***, ***, and ***, which import from Japan; ***,[10] which imports from ***; ***, which imports primarily from ***; and ***, which had ***). In contrast, *** stated that it had been difficult to sell PVA when the order for Japan was in effect and *** indicated that the Japanese order had added to costs. ***, which imported from Japan, reported that its sales volumes remained "***." ***, which currently imports from China (***), stated that "{t}he

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[5] In the prior investigations, PVA was defined as PVA hydrolyzed in excess of 85 percent and excluded copolymers, more specifically described as: (1) PVA covalently bonded with acetoacetylate, carboxylic acid, or sulfonic acid uniformly present on all polymer chains in a concentration equal to or greater than two mole percent; and (2) PVA covalently bonded with silane uniformly present on all polymer chains in a concentration equal to or greater than one-tenth of one mole percent. PVA in fiber form was also excluded.

[6] The Commission subsequently found imports from Korea to be negligible.

[7] *See Polyvinyl Alcohol from China, Japan, and Taiwan*, Invs. Nos. 731-TA-726, 727, and 729 (Final), USITC Pub. No. 2960, May 1996, p. 1.

[8] ***.

[9] *Producer questionnaire* response of ***.

[10] *** stated "***." *Importer questionnaire* response of ***.

antidumping duty order resulted in a situation where PVA prices in the United States were the highest in the world . . . The high U.S. prices for PVA made our downstream products more expensive, compared to products produced by foreign competitors."[11] Nearly all responding purchasers indicated that the revocation of the antidumping duty orders on PVA from China, Japan, and Taiwan had no effect on their purchases, as discussed in the section entitled "Revocation of the Antidumping Duty Orders" in Part II of this report.

NATURE AND EXTENT OF SALES AT LTFV

On April 21, 2003, Commerce published notices in the *Federal Register* of its final determinations of sales at LTFV for Germany and Japan, respectively. On March 20, 2003, Commerce published notices in the *Federal Register* of its preliminary determinations of sales at LTFV for China and Korea. The weighted-average dumping margins (in percent *ad valorem*) are presented in the following tabulation.[12]

Country and firm	Margins
China:[1]	
Sichuan Vinylon	0.20 (*de minimis*)
All others	97.86
Germany:[2]	
Clariant	19.05
Kuraray Germany	19.05
All others	10.75
Japan:[3]	
Denki	144.16
Japan VAM	144.16
Kuraray Japan	144.16
Nippon Synthetic	144.16
All others	76.78
Korea:[4]	
DC Chemical	8.06
All others	8.06

[1] Commerce determined that Sichuan Vinylon met the criteria for the application of a separate rate. Commerce also determined that additional Chinese producers/exporters failed to respond to its questionnaires and used AFA to assign a China-wide rate that was the highest margin stated in its notice of initiation. For Sichuan Vinylon, Commerce compared the EP to NV. It used EP since Sichuan Vinylon sold the subject product directly to the first unaffiliated purchaser prior to importation. Commerce based EP on the packed FOB Chinese port or CIF U.S. port prices to unaffiliated purchasers in the United States, as appropriate. Commerce treated China as an NME country and based NV on factors of production. It determined that India was a significant producer of merchandise comparable to PVA and selected India as the surrogate country.

Continued on next page.

[11] *** stated that "***." *Importer questionnaire* response of ***.

[12] 68 FR 13674 (March 20, 2003), 68 FR 13681 (March 20, 2003), 68 FR 19509 (April 21, 2003), and 68 FR 19510 (April 21, 2003).

Continuation.

[2] Commerce used AFA with respect to Clariant and Kuraray Germany since neither firm responded to its questionnaires; it applied a margin rate that was the highest estimated dumping margin set forth in the notice of initiation.

[3] Commerce used AFA with respect to Denki, Japan VAM, and Kuraray Japan since these firms did not respond to its questionnaires; it also used AFA with respect to Nippon Synthetic since Nippon Synthetic withdrew the information that it had previously provided from the record for Commerce's investigation.

[4] Commerce compared the CEP to NV. Commerce based the CEP on the packed delivered prices of DC Chemical's sales to unaffiliated purchasers in the United States; it based NV on DC Chemical's sales in the home market. It found no differences in the LOT between the home market and U.S. market.

THE PRODUCT

Commerce has defined the scope of these investigations as follows: polyvinyl alcohol hydrolyzed in excess of 80 percent, whether or not mixed or diluted with commercial levels of defoamer or boric acid, except as excluded from the definition. The following forms of polyvinyl alcohol are excluded from the definition of PVA:

(1) PVA in fiber form;

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

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

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

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

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

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

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

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

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

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

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

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

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

(15) PVA covalently bonded with diacetoneacrylamide uniformly present on all polymer chains in a concentration level greater than three mole percent certified for use in a paper application.[13]

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. Domestic like-product arguments raised by parties are presented in the following section. Information on customer and producer perceptions can be found in Part II. Data on the price of PVA during the period examined can be found in Part V. Information regarding the physical characteristics and uses of PVA as well as manufacturing facilities and production employees, interchangeability, and channels of distribution of domestic and imported PVA is set forth below.

Physical Characteristics, Manufacturing Process, and Uses

PVA is a water-soluble synthetic polymer, often sold as a white granular solid or in powdered form. PVA can be categorized on the basis of the degree of hydrolysis, the viscosity of an aqueous solution, and the average molecular weight of the finished product. PVA is very stable in dry form. It is nontoxic and therefore considered safe to handle and relatively environmentally friendly. Care must be taken, however, to minimize airborne dust concentrations during shipping and storage to reduce the potential for dust explosions.

The degree of hydrolysis is determined by the percentage of acetate groups in the polyvinyl acetate feedstock that are replaced by hydroxyl groups in the finished PVA. Fully hydrolyzed PVA has a replacement percentage in excess of 98 percent. The viscosity (a function of mass) of an aqueous solution of PVA increases as the molecular weight of the PVA increases. The molecular weight is determined by the average length of the polymer chain in the finished product in terms of monomer

[13] The fifteenth exclusion currently applies only to PVA from Germany and Japan. On March 3, 2003, the petitioners agreed to revise the scope to exclude certain types of PVA covalently bonded with diacetoneacrylamide, pursuant to a request by Japan VAM.

units. Low-viscosity grades tend to have PVA chain lengths as low as 300 monomer units, with average molecular weights around 45,000 to 55,000, whereas high-viscosity, fully-hydrolyzed grades have PVA chain lengths up to 3,500 monomer units and average molecular weights around 200,000 to 225,000. The degree of hydrolysis of PVA affects a variety of PVA properties, such as solution interfacial tensions, compatibility, reaction kinetics, rheology, and water solubility.

PVA is used primarily as an intermediate in the production of PVB, which is an adhesive used in the manufacture of automotive safety glass and load-resistant architectural glass. PVA is also used in the textile and paper industries in sizing formulations; as a binder in adhesive and soil binding formulations; and as an emulsion or polymerization aid in colloidal suspensions, water-soluble films, cosmetics, and joint compounds.

For most applications, PVA is dissolved in an aqueous solution and its solubility behavior in water depends on several factors, including degree of polymerization, degree of hydrolysis, drying temperature, particle size, and molecular weight. PVA polymers are unique in that they possess unusual solubility properties, ranging from solubility in cold (room temperature) water to solubility in only hot water. For example, PVA of 88 percent hydrolysis is soluble in both cold and hot water, whereas 98 percent hydrolyzed PVA may be soluble only in hot water. All other characteristics being equal, the higher the degree of hydrolysis, the lower the solubility. By altering certain product characteristics, however, solubility can be changed. All standard grades of PVA, regardless of degree of hydrolysis, must be "cooked" to achieve complete solubility. PVA is a hard solid at the end of the saponification process[14] suitable for grinding into granular or powdered form.

Use of Common Manufacturing Facilities and Production Employees

PVA is generally manufactured by hydrolyzing the acetate groups of the VAM with methanol in the presence of anhydrous sodium methylate or aqueous sodium hydroxide at moderate temperatures and pressures. This is a continuous process in which the VAM is polymerized to polyvinyl acetate, which is then converted to PVA. The end-product is PVA hydrolyzed in excess of 80 percent. All of the U.S. producers and respondents use some form of a continuous manufacturing process to make PVA. ***.[15]

Interchangeability

PVA is sold in a variety of standard and specialty grades, each grade varying according to its molecular weight and the degree of hydrolysis. According to the petitioners, the degree of hydrolysis is commonly denoted as super (more than 99 percent hydrolyzed), fully (98-99 percent hydrolyzed), intermediate (90-98 percent hydrolyzed), and partial (85-89 percent hydrolyzed).[16]

The specific performance of various grades of PVA varies with the degree of hydrolysis and viscosity. For example, the greater the degree of hydrolysis, the better the water resistance. For this reason, in adhesive applications that require water resistance, a fully hydrolyzed grade of PVA is used. On the other hand, in adhesive applications that do not require water resistance, a partially hydrolyzed

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[14] Saponification is the chemical reaction in which an ester is heated with aqueous alkali to form an alcohol and the sodium salt of the acid corresponding to the ester.

[15] ***.

[16] The definitions of fully, intermediate, and partially hydrolyzed PVA in terms of degrees of hydrolysis vary somewhat within the industry. For example, in its product literature, DuPont has defined fully hydrolyzed PVA as 98 percent or greater and partially hydrolyzed as less than 98 percent hydrolyzed.

PVA may be used. Similarly, paper manufacturers select a specific grade of PVA depending on the property required for the paper. Grease and water resistance, ink receptivity, and other components of the size solution determine grade selection. In the textile market, where PVA is used as a warp sizing for yarns to prevent breakage during weaving, various grades of PVA are selected for use depending on the yarn, machine type, other components of the sizing solution (e.g., starch), required viscosity, abrasion resistance, and ease of solution removal after fabric weaving.

Although all grades of PVA are not completely interchangeable with other grades, more than one grade may be sold to specific end-use markets. For example, fully hydrolyzed PVA can be used in many of the same end uses in which intermediate or partially hydrolyzed PVA can be used, such as textiles, paper, and adhesives. The same grade of PVA is frequently sold for different commercial uses, and many end users are able to use a wide range of grades. Many applications have evolved using particular grades such that substitution, although possible, could involve some cost and time to reformulate, and end users tend to avoid changing the grade of PVA they use in their applications because their formulas and process parameters might have to be adjusted. Because it is a unique synthetic water soluble polymer with unique characteristics, PVA has few substitutes for most end-use applications.

Channels of Distribution

Based on responses to Commission questionnaires, the large majority of all PVA sold in the United States, whether domestically produced or imported, is either internally transferred or sold directly to end-user customers.[17] PVA sold on the open market is either delivered in bulk (railroad cars) or packed in bags. Distributors, while present in the U.S. market, have a very limited role.

In terms of end-use applications, *** percent[18] of U.S. producers' production of PVA in 2002 was for use in producing PVB, *** for internal domestic (captive) production of PVB. The textile industry was the next-largest market for PVA, followed by the paper and adhesives markets.[19]

Price

PVA prices for the same grade may vary according to the end-use market for which the product is sold. For more information concerning prices, see Part V of this report entitled, *Pricing and Related Information*.

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[17] In the U.S. commercial market for PVA, both U.S. producers and importers (with ***) from subject countries reported that *** of their U.S. commercial shipments went directly to end users. Wego, *** U.S. importer of Chinese-manufactured PVA, reported selling imported PVA to chemical distributors. Sichuan Vinylon's posthearing brief (pp. 2-3). According to Wego's questionnaire response, it ***. *Importer questionnaire* response of Wego. (***.)

[18] Figure does not include ***.

[19] *See* Part II, table II-1 for a detailed listing of the reported end-use applications of both U.S. producers' U.S. shipments and importers' U.S. shipments.

DOMESTIC LIKE PRODUCT ISSUES

At the public conference and in its postconference brief during the preliminary phase investigations, Solutia of St. Louis, MO, the sole non-petitioning U.S. producer of PVA,[20] raised a domestic like product issue, arguing that the Commission should find PVA produced for the subsequent production of PVB as a separate domestic like product. The Commission, however, concluded that PVB-grade PVA was part of the continuum of PVA products and, accordingly, defined a single domestic like product coextensive with the scope of the investigations.[21]

In the final phase investigations, Solutia again argues that PVB-grade PVA should be excluded from the domestic industry as a separate domestic like product.[22] Solutia contends that the grade of PVA used to produce PVB and the specifications required to achieve that grade are fundamentally different and not interchangeable with other grades of PVA used for other applications. It argues that the hydrolysis level and the viscosity are not the most significant differences that distinguish PVB-grade PVA. Rather, Solutia reports that PVB-grade PVA is distinguished from other grades of PVB by its low ash content (required since ash interferes with the ability of PVB to adhere to glass surfaces and prevent penetration during a vehicular collision) and low resin color (which allows for optical clarity). Standard grades of PVA allow for up to 1.2 percent of the final material to be ash (measured as equivalent to sodium oxide). For PVB grade PVA, ***, which requires a more time consuming and costly production process.[23] The color of the PVA resin also ***.[24] Moreover, the tight quality parameters require a lengthy and rigorous qualification process that includes manufacturing test PVB sheet and fabricating it into windshields, which then are subject to the automotive industry's pre-production approval process that can require up to two years of testing.[25] Solutia also contends that the end users and the channels of distribution of PVB-grade PVA are unique.[26]

Petitioners state that the Commission should rely on the same rationale it provided in the preliminary determinations to conclude that PVB-grade PVA is not a distinct domestic like product.[27]

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[20] The only two end users of PVB-grade PVA for the production of PVB in the United States are DuPont and Solutia. DuPont consumes internally *** PVB-grade PVA while Solutia must purchase a portion of its PVB-grade PVA on the merchant market.

[21] *See Polyvinyl Alcohol from China, Germany, Japan, Korea, and Singapore*, Invs. Nos. 731-TA-1014-1018 (Preliminary), USITC Pub. No. 3553, October 2002, pp. 7-9.

[22] Solutia's prehearing brief, pp. 6-9, and Mark Gold, Technology and Marketing Manger, Performance Films, Solutia, hearing transcript, pp. 139-143. Clariant indicates that it agrees with Solutia's domestic like product analysis (Clariant's posthearing brief, attachment 1, p. 2) and discusses the six domestic like product factors (posthearing brief, pp. 3-4) while petitioners and Sichuan Vinylon propose one domestic like product (petitioners' prehearing brief, p. 4; Sichuan Vinylon's prehearing brief, p. 1).

[23] Specifically, a producer must "perform additional ***."

[24] Solutia states: "***."

[25] Solutia's posthearing brief, pp. 6-9, and Mark Gold, Technology and Marketing Manager, Performance Films, Solutia, hearing transcript, pp. 139-143.

[26] Solutia's prehearing brief, pp. 10-11.

[27] Petitioners' prehearing brief, pp. 4-8.

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

MARKET SEGMENTS

PVA is used in a wide variety of end-use products. PVB is by far the highest-volume end use for PVA. Other high-volume end uses for PVA include textiles, paper, adhesives, and emulsion polymerization. PVA is also used in the manufacture of a wide variety of other products including building products, biodegradable health care products, ceramics, and film, and in oil drilling and PVC copolymerization. The U.S. producers report that the prices of the PVA they sell in the United States are based on the value that the PVA adds to a particular application; consequently, prices are typically higher in some segments than in others.[1] The highest prices are paid by the paper industry, followed by adhesives and emulsion polymerization, then textiles, with the lowest prices for product sold to textile compounders. PVA for PVB applications traditionally has been priced between textiles and adhesives applications.[2]

Only DuPont and Celanese produce PVA in the United States for sales on the open market. Solutia produces PVA for the production of PVB ***, but does not sell PVA in the open market.

DuPont and Celanese produce PVA for most major applications; in contrast, Solutia produces PVA only for PVB applications. Importers from the subject countries state that they tend to concentrate their sales in certain end-use products. Most importers import from only one country. The percentages of PVA produced in the United States and in each subject country that were sold in each major U.S. market segment during 2002 are shown in table II-1. Appendix D shows the quantities of PVA purchased by each purchaser, by industry and by country of origin for 2000 through 2002, and reports the ten largest customers reported by U.S. producers and importers. Table II-2 shows the amounts of PVA by hydrolysis range for the United States and each of the subject countries for 2000 through 2002. The Chinese data in tables II-1 and II-2 are for Sichuan Vinylon which received a preliminary *de minimis* margin of dumping.

Table II-1
PVA: Volumes and shares of U.S. production and imports, by country and by end uses, 2002

* * * * * * *

Table II-2
PVA: Volumes of U.S. production and imports, by country and by hydrolysis levels, 2000-02

* * * * * * *

Forty-four purchasers responded to the Commission's purchaser questionnaire; of these, 4 were distributors, 1 ***, 8 produced textile products, 7 produced paper products, 12 produced adhesive products, 8 produced emulsion polymerization products, 3 produced building products, 4 produced

[1] Fred Chanslor, Vice President, PVA, Celanese, hearing transcript, pp. 20, 21.

[2] Irving Laub, President of Perry Chemicals, hearing transcript, pp. 64-65; Kathryn Kamins McCord, PVA Business Manager, DuPont, p. 67; John Welch, Vice President, Vinyls Enterprise, DuPont, p. 68; and Fred Chanslor, Vice President, PVA, Celanese, p. 68.

pharmaceutical products,[3] and 13 produced other products.[4] A number of firms reported producing products in more than one of these categories.

SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

Based on available information, staff believes that U.S. producers would be somewhat constrained in their ability to respond to price changes with substantial changes in the quantity of PVA shipped to the U.S. market. A factor restricting supply responsiveness is the lack of ability to increase capacity in the short run. The existence of export markets and relatively high inventories enhance the ability to increase or decrease shipments to the U.S. market.

Industry Capacity

U.S. producers' capacity utilization fell from *** percent in 2000 to *** percent in 2001, and rose to *** percent in 2002. Because of the high fixed costs involved in the production of PVA, U.S. producers report that it is important to maintain a high capacity utilization rate.

Inventory Levels

U.S. producers' inventories of PVA, as a ratio to total shipments, fell from *** percent in 2000 to *** percent in 2001, and *** percent in 2002. U.S. producers report that ***-percent inventory level is the optimal level.

Export Markets

Exports accounted for *** percent of total shipments in 2000, *** percent in 2001, and *** percent in 2002. This export share provides some flexibility in shifting shipments between the U.S. market and other markets.

Subject Imports

Data provided by foreign producers' questionnaires suggest that PVA producers in the subject countries are operating at high levels of capacity utilization, with each of the countries generally reporting capacity utilization rates higher than those reported by the U.S. producers. This would restrict the foreign producers' ability to increase output to the U.S. market. Since foreign producers ship only a small-to-moderate percentage of their production to the United States, they may have the flexibility to shift shipments between other markets (including their home markets) and the U.S. market.

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[3] One of the firms producing pharmaceuticals reported that the PVA in this application was product excluded from the scope of these investigations.

[4] Other products include materials for printing, films, packing material, fertilizer spikes, resins, stoneware, agriculture seed coatings, paper tubes, and enzymes.

China

The largest Chinese firm, Sichuan Vinylon, received a preliminary *de minimis* margin of dumping; it represented virtually all the known imports from China. Customs also reports occasional PVA imports from other Chinese producers; these imports are discussed further in section IV.

Germany

Available information suggests that the German producer would have some flexibility to shift sales to or from the U.S. market due to *** exports to the United States, *** levels of exports to other countries, and *** inventories. However, the reported capacity utilization rates were *** (*** percent in 2000 and *** percent in 2002), which could limit the ability to increase shipments to the U.S. market.

The U.S. market accounted for *** percentage of the total quantity of German shipments of PVA, accounting for only *** percent in 2000 and *** percent in 2002. German home market sales and internal consumption combined accounted for about *** of German production, and shipments to third countries were ***. Inventories fell from *** percent of the German producer's total shipments to *** percent in 2002.

Japan

Available information suggests that Japanese producers would have some flexibility to shift sales to or from the U.S. market due to a very low share sold in the United States, relatively high exports to other countries, and high inventories. However, reported capacity utilization rates were high (*** percent in 2000 and *** percent in 2002), which could limit the ability to increase shipments to the U.S. market.

The U.S. market accounted for a small percentage of Japanese sales of PVA, accounting for *** percent of the total quantity of Japanese PVA shipments through 2002. Japan consumes most of its PVA in internal consumption and home market sales, which were close to *** percent of total PVA shipments throughout the period. Almost *** percent of Japanese PVA shipments are sold to countries other than the United States. Inventories were equivalent to about *** of Japanese producers' total shipments throughout the period.

Korea

Available information suggests that the Korean producer would have some flexibility to shift sales to or from the U.S. market due to a *** share of shipments to the United States, and a *** share of shipments to other countries; its relatively *** capacity utilization rates (*** percent in 2000 and *** percent in 2002) may moderate the supply response.

The U.S. market accounted for an increasing percentage of Korean shipments of PVA, *** percent in 2000 and *** percent in 2002. *** of shipments are internally consumed or shipped within the Korean home market. In addition, over *** of shipments are exported to countries other than the United States. Inventories were equivalent to *** percent of the Korean producer's total shipments in 2002.

U.S. Demand

Demand Characteristics

Overall demand for PVA in the United States has fallen since 2000. Much of the reduction in demand is reported to be the result of declines in the U.S. textile market, although the slowdown in the general economy is also reported to have reduced demand. However, consumption of PVA for the production of PVB and for some other applications has increased. *** five of the 13 responding importers stated that demand for PVA in the United States has fallen since January 1, 2000. *** six importers reported that demand had increased, one reported that demand was unchanged, and one reported that demand was determined in part by exports which depended on competitively-priced PVA.

Twenty-nine of the 42 purchasers reported changes in demand for their final product that incorporates PVA since January 2000; the other thirteen reported that demand had not changed. Of those reporting changes, 15 reported that demand had decreased, 12 reported that demand had increased, and 2 reported that demand for PVA fluctuated with demand in the downstream industry. Reasons demand had fallen included reductions in the textile industry or other industries; products becoming obsolete; reductions in overall economic demand; shifts in production offshore; sale of a unit that used PVA; increased sales of a lower-cost competitor; and reduced market share. Reasons demand increased included new products, growing product demand, purchase of new business, and increased market share.

Based on available information, the overall demand for PVA is unlikely to change significantly in response to changes in price. The main factors contributing to the low degree of price sensitivity are the limited range of substitute products and the small share of PVA in most of its end-use products. However, some factors increase the responsiveness of demand, including the large share of PVA in some intermediate products which potentially could be imported and the existence of some substitutes.

Substitute Products

*** 8 of the 14 responding importers reported that substitutes for PVA exist. Substitutes reported include starches, carboxy-methylated cellulose (CMC), proteins, latex adhesives, dextrin, sodium silicate, polyacrylamide, and polyvinyl acetate. The firms reporting these substitutes, however, typically stated that each substitute is limited to only certain applications or sacrifices performance. In addition, the firms report that substitutes provide a different set of characteristics than PVA, which may limit substitution. Ten of the 41 responding purchasers reported substitutes for PVA in specific uses, including starch, liquid acrylic binders, "Penflex," sodium silicate, "CMC," polyvinyl acetate, and powder resins. Although they were not asked, 3 firms reported that there were problems with these substitutes, including higher prices and environmental impact (e.g., starch, unlike PVA, cannot be reclaimed and reused).

Cost Share

PVA accounts for a small percentage of the final cost of the wide variety of products in which it is used, although for the intermediate products such as textile finishing or adhesive compounds, it often accounts for a large percentage. The 4 importers reporting cost shares for various intermediate products reported that the cost of PVA ranged from *** percent to *** percent.

Thirty purchasers reported that the cost share of PVA in their end products ranged from less than 1 percent to as high as 95 percent.[5] Fifteen reported products where the cost of PVA accounted for up to 2 percent of total cost, 12 reported products in which PVA accounted for 3 to 11 percent of the cost, 7 reported products in which PVA accounted for from 12 to 40 percent of the cost, and 6 reported that PVA accounted for 45 to 95 percent of the cost of the products they produced; a number reported shares for multiple products using different amounts of PVA. The share depended on the end-use product; however, PVA made up the largest share of intermediate products, particularly adhesives.

SUBSTITUTABILITY ISSUES

The degree of substitution between domestic and imported PVA depends upon such factors as relative prices, quality, conditions of sale, and forms of PVA available from the sources. Based on available data, where there are identical forms of PVA there is a high degree of substitution between domestic PVA and subject imports. However, product from different sources may not be identical even if the product is intended for the same use. As a result, most purchasers of PVA (37 of the 41 responding) required prequalification of PVA for use in their products. Thirty-three of the 35 responding purchasers required prequalification for all their purchases, and the other two required it for 80 and 3 percent of their purchases, respectively. Forty reported the time required for qualification to range from 3 days to 60 months, with 1 reporting 3 days, 15 reporting 1 to 3 months, 12 reporting 3 to 6 months, 4 reporting 6 to 12 months, 6 reporting 12 to 24 months, and 2 required 48 to 60 months. Purchasers were asked to list the companies that were prequalified; 12 listed U.S. producers as the only qualified suppliers, 19 had both U.S. producers and importers as qualified suppliers, and 6 listed only importers/foreign producers as qualified suppliers. While firms frequently listed multiple suppliers, they may be qualified for different types of PVA products. Only 12 purchasers reported that they were trying to qualify new suppliers; of these, 4 reported they were trying to qualify domestic suppliers and 8 *** were trying to qualify importer/foreign producers as new suppliers. Many of those trying to qualify foreign suppliers were trying to qualify more than one. ***.[6] ***.

Substitutability is also moderated by the fact that different forms of PVA impart different characteristics that are only appropriate for certain end uses, and not all types of PVA are available from all producers. Thirteen of 37 responding purchasers reported that some producers (either domestic or foreign) did not produce the product that they require. Of the 9 purchasers that reported country sources, 4 reported that at least one of the U.S. sources did not produce the product they require; 3 reported that both some U.S. source and some nonsubject source did not produce the product they require; 2 reported that subject countries did not produce the product they require; and 1 reported that only Japan produced PVA for pharmaceutical and dietary supplement applications.

Substitutability is also reflected to some extent in the frequency with which purchasers change suppliers. Forty-three purchasers responded to the question on how frequently they changed suppliers: 11 reported never changing suppliers; 20 reported that they changed suppliers infrequently; 2 reported they had not changed suppliers in the last 3 years; 1 reported not changing suppliers since 1995; and 2 reported changing suppliers as needed.[7]

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[5] In addition to these 30 purchasers, 11 misread the question and reported the shares of their total volume of PVA used in the various products that they produced.

[6] ***.

[7] In addition, 1 firm reported that PVA was a commodity; 1 reported that it took bids on PVA every 2 to 3 years; 1 reported that it had changed suppliers once in the last 3 years; 1 reported an annual purchase agreement; 1

(continued...)

DuPont is reported to only produce PVA with a hydrolysis between 97 and 100 percent. Celanese's product range is greater than DuPont's. Users prefer and frequently require specific forms of PVA. According to the respondents, imported product from the various subject countries tends to be used mainly in specific applications, reflecting a limited range of forms of PVA normally produced by or imported from certain countries.[8] In contrast, the petitioners report that differences between grades are small and require only fine tuning of the manufacturing process.[9] It is difficult to determine the extent of overlap between countries because even if purchasers buy PVA from more than one source, the products may not be used for the same purpose. Similarly, product used in the same industry may not be interchangeable. At the same time, the purchasers did not all report the same type of product in only one category; for example, some purchasers reported textile adhesives in the textiles category and another purchaser reported textile adhesives in the adhesives category.

Factors Affecting Purchasing Decisions

Purchasers were asked to identify the three major factors considered by their firm in deciding from whom to purchase PVA (see table II-3). The largest number of purchasers reported that quality was the most important factor. Contracted/approved/traditional supplier; price/cost/terms/price protection; and availability/supply security/delivery/short lead times were other important factors.

Purchasers were asked what factors determined the quality of PVA. Many firms reported a number of different factors used to determine quality. The most-commonly-mentioned factors were performance and meeting specifications. Other factors included consistency, purity, solubility, recoverability, film strength, grade availability, price, hydrolysis, foam, particle size, dust, solution shelf life, viscosity, PH, residual methanol, ash, color, narrow molecular weight range, and meeting standards including GMP, CPA, ISO, and Kosher standards.

Purchasers were asked to report if PVA from different countries was used in the same applications and if there were any differences in product characteristics or sales conditions (table II-4).

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[7] (...continued)
reported a contract covering 2000 through 2005; 1 changed suppliers due to price changes; 1 reported that though it occasionally takes bids it had not changed suppliers in many years; and 1 reported changing slowly based on quality, value, and service.

[8] Importer Wego Chemical & Mineral Corp. states that Chinese-produced PVA can only be used in low-end applications, such as textile and paper applications, because of limitations in the product relating to molecular redistribution and hydrolysis ranges (Wego's postconference brief, pp. 6-7, and exhibit 1). *** contends that there is limited competition between imports from Germany and domestic PVA and other imported PVA because German PVA is mostly high-priced, high-quality, specialty product with low ash and low 'dusting' tendencies for use in the high-quality and art paper market, in the building products market, and in various niche markets, e.g., cosmetics, inks, pharmaceuticals, and resins used in fiberglass (Clariant's postconference brief, pp. 2, 5-7, and Clariant's posthearing brief, p. 2). OCI International, a U.S. sales affiliate of the Korean producer of PVA, states that there is no reasonable overlap between the Korean product and the domestic and other imported PVA except for nonsubject imports from Spain and Taiwan because the Korean product has different physical characteristics and is sold to specialty niches, namely to the packing materials market and to manufacturers of specialized construction materials (OCI's postconference brief, pp. 7-8, 14-15). Marubeni Specialty Chemicals states that a large majority of imports from Japan are not fungible with other PVA because they are specialty products destined for end-use markets in which the domestic industry and other subject imports, with minor exceptions, don't compete (Marubeni Specialty Chemicals' postconference brief, p. 3, attachment A, and exhibit 3). (Marubeni's statement was in the preliminary phase of the investigation, when the scope when broader than the scope in the final phase).

[9] Fred Chanslor, Vice President, PVA, Celanese, hearing transcript, p. 17.

Table II-3
PVA: Most important factors in selecting a PVA supplier

Factor	First	Second	Third
Quality/quality meets our specifications/consistent quality	16	8	2
Contracted/approved/traditional supplier	9	5	5
Price/cost/terms/price protection	5	10	15
Performance/dependability/processability	4	1	2
Product specification	3	0	0
Availability/supply security/delivery/short lead times	0	10	8
Customer support/technical support	0	3	4
Other[1]	1	3	0

[1] Other includes product line (most important), and logistics, bulk shipments, and the unwillingness of U.S. producers to sell to this importer/purchaser at competitive prices (second most important).

Note.–One firm reported both availability and technical expertise as the second most important factor and one reported both availability and cost as the third most important factor. Both of these responses of these firms are included above. Not all firms reported 3 factors.

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

Table II-4
PVA: Use in the same applications and differences in product characteristics or sales conditions, as reported by purchasers

Countries	Used in same application		Differences in product characteristics or sales conditions
	Yes	No	
US/China	6	2	U.S. and China specifications are the same. Interchangeability depends on performance, quality in specific application, *** has chosen to use Chinese PVA.
US/Germany	5	3	U.S. and German specifications differ. U.S. grades not qualified in our process. U.S. has too much dust.
US/Japan	3	4	U.S. and Japan specifications differ. Kuraray is the only supplier of a viscosity grade. No Japanese PVA is approved for our formulations.
US/Korea	6	0	--
US/Taiwan	9	1	--
US/Singapore	1	0	--
China/Germany	1	0	--
China/Japan	1	0	--
China/Taiwan	1	0	--
Korea/Taiwan	3	0	--
Taiwan/Singapore	0	1	Material from Singapore ***, that from Taiwan ***.

Note: One firm reported that Celanese's product was interchangeable with product from Japan and Taiwan but DuPont's product was not because of dusting.

Source: Compiled from Commission questionnaire responses.

In addition to the firms recorded in the table, one firm reported that PVA from all sources can generally be used in the same applications presuming that the required grade is available, but that PVA from different countries may perform differently.

Purchasers that bought from one source when a less expensive product was available from another source were asked to explain why. Four of 42 responding firms reported that they always bought the least expensive product, 14 usually, 15 sometimes, and 9 never bought the least expensive product. In addition, one firm reported that this question did not apply to it because price does not affect its purchases, as it can use only one supplier.

Purchasers were asked to report the importance of 22 factors in their purchasing decisions (table II-5). The most important factors were: (1) product consistency, reported as very important by 33 of the 34 responding firms; (2) quality, reported by 32 of 34; and (3) availability and availability of preferred product type, reported by 31 of 34 responding purchasers. Purchasers were asked for country-by-country comparisons on the same 22 purchase factors (tables II-6 through II-8).

Twelve importers *** reported the importance of differences other than price for various country pairs (table II-9). Four mentioned the technical support of the imported product as being superior to that provided by the domestic producers; other reported differences included very consistent or high quality of the Japanese PVA (reported by three importers), product range (reported by two importers), unique customer needs met by imported product, better credit terms, differences in ash and color capabilities, and product being produced for different markets. *** reported that price was the most significant factor. *** reported that aggressive pricing of imports has reduced the importance of other factors including quality, technical support, and reliability, and because of low interest rates, importers can meet availability with inventory consignment. Importers and U.S. producers were asked to identify the nonsubject countries in these comparisons, but only importers did this.

Comparison of Domestic and Imported PVA

U.S. producers and importers were asked whether PVA from different countries is interchangeable. Three producers and 12 importers reported on the interchangeability of PVA from the United States, subject, and nonsubject countries (tables II-10). ***. ***. ***. In all other applications, *** considered PVA from all country sources interchangeable. ***. Twelve importers responded to this question ***. Three reported that U.S. producers do not make at least some of the PVA product imported from Japan, 1 reported that Chinese product was only interchangeable in low-end applications, 1 reported that the range of product produced in each country differed and that even when they were the same grade they performed differently, and 1 reported that pricing product 2 from other countries was seldom interchangeable with product from Japan.

REVOCATION OF THE ANTIDUMPING DUTY ORDERS

Purchasers were asked if their firm's purchases of PVA had changed as a result of the mid-2001 revocation of the antidumping duty orders on PVA from China, Japan, and Taiwan. Forty-one of the 44 responding purchasers reported that the revocation had no effect. Of the remaining three, one reported that the firm had increased purchases from Japan, one reported that the revocation had allowed a lower price and the firm now purchased slightly more imports, and one reported that Chinese and Taiwanese prices had become more competitive as had Japanese prices, although it has chosen not to purchase from Japan.

Table II-5
PVA: Importance of purchase factors, as reported by purchasers

Factors	Very important	Somewhat important	Not important
	Number of firms responding		
Availability	31	3	0
Availability of preferred type	31	3	0
Delivery terms	13	18	3
Delivery time	20	14	0
Discounts offered	11	**19**	3
Lower price	15	18	1
Minimum quantity requirements	7	15	11
Availability in bulk	8	7	**18**
Product consistency	**33**	1	0
Product quality	32	2	0
Hydrolysis	28	5	0
Viscosity	28	5	0
Ash content	13	16	4
Color/optical	14	13	6
Volatility	19	13	2
Particle size/dust	20	11	2
Supplier prequalification	24	9	1
Product range	11	18	5
Reliability of supply	30	4	0
Technical support/service	19	12	3
Transportation network	10	17	7
U.S. transportation costs	9	15	10

Note.–Some purchasers rated the importance of some, but not all, of the factors listed.

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

Table II-6
PVA: Comparisons of U.S. product with subject and nonsubject country product, as reported by purchasers

Factor	China			Germany			Japan			Korea			Taiwan			Singapore		
	S	C	I	S	C	I	S	C	I	S	C	I	S	C	I	S	C	I
	Number of firms responding																	
Availability	2	9	0	2	6	0	3	4	1	2	4	0	**4**	7	0	0	2	0
Availability of preferred type	2	8	0	1	5	2	3	3	2	0	5	0	3	8	0	0	2	0
Delivery terms	2	9	0	1	6	1	3	4	1	0	6	0	1	10	0	0	2	0
Delivery time	3	8	0	2	6	0	3	4	1	1	5	0	3	9	0	0	2	0
Discounts offered	0	8	1	1	7	0	0	5	2	0	4	0	0	9	2	0	2	0
Lower price [1]	0	6	**6**	2	6	0	2	3	2	1	1	4	0	7	**4**	0	2	0
Minimum quantity requirements	1	8	0	1	7	0	3	3	1	1	4	0	2	9	0	0	2	0
Availability in bulk	3	6	0	1	7	0	1	3	1	1	3	0	1	8	0	**1**	1	0
Product consistency	1	10	0	0	6	1	2	4	2	0	6	0	1	9	0	0	1	**1**
Product quality	1	**11**	0	0	6	1	2	4	2	0	6	0	0	10	0	0	2	0
Hydrolysis	1	9	1	0	**8**	0	1	**6**	1	0	5	0	0	**11**	0	0	1	0
Viscosity	1	10	0	2	5	1	1	5	2	0	5	0	1	10	0	0	2	0
Ash content	2	8	0	0	6	1	1	5	2	0	5	0	0	10	0	0	2	0
Color/optical	2	9	0	0	6	1	1	4	3	0	6	0	0	10	0	0	2	0
Volatility	1	8	0	0	6	1	1	5	2	0	6	0	0	10	0	0	2	0
Particle size/dust	2	7	3	1	6	1	1	3	**4**	0	4	2	0	8	1	0	2	0
Supplier prequalification	0	10	1	0	6	2	2	3	2	0	6	0	0	**11**	0	0	2	0
Product range	2	8	0	1	6	1	2	2	2	1	5	0	2	9	0	0	2	0
Reliability of supply	2	9	0	1	7	0	3	2	2	0	5	1	1	10	0	0	2	0
Technical support/service	**7**	5	0	2	6	0	**4**	3	1	1	3	2	4	7	0	0	2	0
Transportation network	5	7	0	1	6	0	2	4	1	0	5	0	2	8	0	0	2	0
U.S. transportation costs	1	6	0	1	5	1	2	4	0	0	5	0	1	9	0	0	2	0

[1] A rating of superior means that the price of the U.S. product is lower than the price of the imported product.

Note.--S=U.S.'s product is superior; C=both countries' products are comparable; I=U.S.'s product is inferior.
Note.–One firm answered both superior and comparable when comparing U.S. and Chinese PVA's technical support and transportation network.

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

Table II-7
PVA: Comparisons among countries, as reported by purchasers

Factor	Korea vs. China			Japan vs. China			Germany vs. China		
	S	C	I	S	C	I	S	C	I
	Number of firms responding								
Availability	1	0	0	0	1	1	0	1	0
Availability of preferred type	0	0	0	1	1	1	0	1	0
Delivery terms	0	1	0	1	2	0	1	0	0
Delivery time	1	0	0	1	1	1	0	0	1
Discounts offered	0	0	0	0	1	1	0	1	0
Lower price[1]	0	0	1	0	2	1	0	1	0
Minimum quantity requirements	0	1	0	1	2	0	0	1	0
Availability in bulk	0	0	0	0	1	0	0	1	0
Product consistency	1	0	0	0	3	0	0	1	0
Product quality	1	0	0	0	3	0	0	1	0
Hydrolysis	0	0	0	0	3	0	0	1	0
Viscosity	0	0	0	0	3	0	0	1	0
Ash content	0	0	0	0	3	0	0	1	0
Color/optical	0	1	0	1	2	0	0	1	0
Volatility	0	1	0	1	2	0	0	1	0
Particle size/dust	1	0	0	0	3	0	0	1	0
Supplier prequalification	1	0	0	0	2	0	0	1	0
Product range	0	0	1	0	2	0	0	1	0
Reliability of supply	1	0	0	0	2	1	0	0	1
Technical support/service	1	0	0	0	2	1	0	0	1
Transportation network	0	0	0	1	2	0	0	1	0
U.S. transportation costs	0	1	0	0	3	0	1	0	0

[1] A rating of superior means that the price of the first-listed country's PVA is lower than the price of the second-listed country's PVA.

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

Note.–Some purchasers compared some, but not all, of the factors listed.

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

Table II-8
PVA: Comparisons between products among countries, as reported by purchasers

Factor	China vs. Taiwan			Korea vs. Taiwan			Germany vs. Taiwan			Japan vs. Taiwan			Korea vs. Spain		
	S	C	I	S	C	I	S	C	I	S	C	I	S	C	I
	Number of firms responding														
Availability	0	2	1	0	4	0	0	1	0	0	1	0	0	1	0
Availability of preferred type	0	2	1	0	3	0	0	1	0	0	1	0	0	1	0
Delivery terms	0	1	**2**	0	3	0	0	1	0	0	1	0	0	1	0
Delivery time	0	1	**2**	0	4	0	0	1	0	0	1	0	0	1	0
Discounts offered	1	1	0	0	2	0	0	1	0	0	1	0	0	1	0
Lower price[1]	**3**	0	0	**2**	1	1	0	1	0	0	1	0	1	0	0
Minimum qty. requirements	0	1	1	0	2	1	0	1	0	0	1	0	0	1	0
Availability in bulk	0	1	**2**	0	1	1	0	1	0	0	0	0	0	1	0
Product consistency	0	3	0	0	4	0	0	0	0	0	1	0	0	1	0
Product quality	0	3	0	0	4	0	0	0	0	0	1	0	0	1	0
Hydrolysis	0	3	0	0	4	0	0	1	0	0	1	0	0	0	0
Viscosity	0	3	0	0	4	0	0	1	0	0	1	0	0	0	0
Ash content	0	3	0	0	4	0	0	0	0	0	1	0	0	0	0
Color/optical	0	3	0	0	4	0	0	0	0	0	1	0	0	0	0
Volatility	0	3	0	0	4	0	0	0	0	0	1	0	0	0	0
Particle size/dust	1	3	0	1	3	0	0	1	0	0	1	0	0	0	0
Supplier prequalification	0	3	0	0	4	0	0	1	0	0	1	0	0	1	0
Product range	0	3	0	0	3	1	0	1	0	0	1	0	0	0	0
Reliability of supply	0	3	0	1	3	0	0	1	0	0	1	0	0	1	0
Technical support/service	0	2	1	1	2	1	0	1	0	0	1	0	0	1	0
Transportation network	0	2	1	0	3	0	0	0	0	0	1	0	0	1	0
U.S. transportation costs	0	1	0	0	3	0	0	0	0	0	1	0	0	0	0

[1] A rating of superior means that the price of the first-listed country's PVA is lower than the price of the second-listed country's PVA.

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

Note.–Some purchasers compared some, but not all, of the factors listed.

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

Table II-9
PVA: Perceived importance of differences in factors other than price between PVA produced in the United States and in other countries in purchasing decisions for PVA in the U.S. market, by country pairs

Country pair	Number of U.S. producers reporting				Number of U.S. importers reporting			
	A	F	S	N	A	F	S	N
U.S. vs. China	***	***	***	***	1	1	5	2
U.S. vs. Germany	***	***	***	***	3	0	1	2
U.S. vs. Japan	***	***	***	***	2	4	3	1
U.S. vs. Korea	***	***	***	***	1	0	3	3
U.S. vs. Taiwan	***	***	***	***	0	0	2	2
U.S. vs. Singapore	***	***	***	***	0	1	0	0
U.S. vs. nonsubject not specified	***	***	***	***	1	1	0	1
China vs. Germany	***	***	***	***	2	0	2	1
China vs. Japan	***	***	***	***	1	1	2	2
China vs. Korea	***	***	***	***	1	1	2	2
China vs. Taiwan	***	***	***	***	1	0	2	1
China vs. nonsubject not specified	***	***	***	***	0	0	0	1
Germany vs. Japan	***	***	***	***	2	0	3	1
Germany vs. Korea	***	***	***	***	2	1	1	1
Germany vs. Taiwan	***	***	***	***	1	0	1	1
Germany vs. nonsubject not specified	***	***	***	***	1	0	0	0
Japan vs. Korea	***	***	***	***	1	1	2	1
Japan vs. Taiwan	***	***	***	***	0	0	2	1
Japan vs. Singapore	***	***	***	***	0	1	0	0
Japan vs. nonsubject not specified	***	***	***	***	0	0	1	0
Korea vs. Taiwan	***	***	***	***	0	1	2	1
Korea vs. nonsubject not specified	***	***	***	***	0	0	0	1

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

Note–All pairs for which data were given are reported.

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

Table II-10
PVA: Perceived degree of interchangeability of PVA produced in the United States and in other countries, by country pairs

Country pair	Number of U.S. producers reporting				Number of U.S. importers reporting			
	A	F	S	N	A	F	S	N
U.S. vs. China	***	***	***	***	1	3	4	1
U.S. vs. Germany	***	***	***	***	1	2	1	2
U.S. vs. Japan	***	***	***	***	1	2	5	2
U.S. vs. Korea	***	***	***	***	1	2	2	0
U.S. vs. Taiwan	***	***	***	***	2	3	0	0
U.S. vs. Singapore	***	***	***	***	0	1	0	0
China vs. Germany	***	***	***	***	1	2	1	2
China vs. Japan	***	***	***	***	1	2	4	0
China vs. Korea	***	***	***	***	2	2	2	0
China vs. Taiwan	***	***	***	***	2	2	1	0
China vs. nonsubject not specified	***	***	***	***	0	0	1	0
Germany vs. Japan	***	***	***	***	0	2	2	2
Germany vs. Korea	***	***	***	***	1	2	0	2
Germany vs. Taiwan	***	***	***	***	1	1	1	1
Japan vs. Korea	***	***	***	***	1	1	2	0
Japan vs. Taiwan	***	***	***	***	1	3	0	0
Japan vs. Singapore	***	***	***	***	0	0	1	0
Korea vs. Taiwan	***	***	***	***	2	1	1	0

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

Note–All pairs for which data were given are reported.

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

ELASTICITY ESTIMATES

This section discusses elasticity estimates. Parties were requested to provide comments in their prehearing briefs; no comments were provided.

U.S. Supply Elasticity[10]

The domestic supply elasticity for PVA measures the sensitivity of the quantity supplied by U.S. producers to changes in the U.S. market price of PVA. 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 PVA. Analysis of these factors earlier indicates that the U.S. industry is likely to be somewhat restricted in its ability to increase or decrease shipments to the U.S. market; an estimate in the range of 2 to 4 is suggested.

U.S. Demand Elasticity

The U.S. demand elasticity for PVA measures the sensitivity of the overall quantity demanded to a change in the U.S. market price of PVA. 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 PVA in the production of any downstream products. Based on the available information, the aggregate demand for PVA is likely to be in a range of -0.4 to -0.8.

Substitution Elasticity

The elasticity of substitution depends upon the extent of product differentiation between the domestic and imported products.[11] 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.). Based on available information, the elasticity of substitution between U.S.-produced PVA and imported PVA is likely to be in the range of 1 to 3.

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

[11] 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. PRODUCERS' PRODUCTION, SHIPMENTS, AND EMPLOYMENT

The Commission analyzes a number of factors in making injury determinations (see 19 U.S.C. §§ 1677(7)(B) and 1677(7)(C)). Information on the margins of dumping was presented earlier in this report and information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V. Information on the other factors specified is presented in this section and/or Part VI (except as noted) is based on the questionnaire responses of three firms that accounted for all of the U.S. production of PVA during the period examined.

U.S. PRODUCERS

The Commission sent producers' questionnaires to all three firms identified as U.S. producers of PVA in the petition. Table III-1 presents the list of U.S. producers, with each company's production location(s), share of U.S. production in 2002, and position on the petition. Solutia, the only non-petitioning U.S. producer, opposes the imposition of antidumping duties on PVA.[1]

Table III-1
PVA: U.S. producers, positions on the petition, shares of U.S. production in 2002, and U.S. production locations

Firm	Production locations	Shares of production (*percent*)	Positions on the petition
Celanese[1]	Calvert City, KY Pasadena, TX	***	Petitioner
DuPont[2]	La Porte, TX	***	Petitioner
Solutia[3]	Springfield, MA Trenton, MI	***	Oppose

[1] Celanese acquired the PVA business of Air Products on September 29, 2000. Celanese is the wholly-owned subsidiary of Celanese A.G. of Germany.
[2] DuPont is not owned, in whole or in part, by any other firm.
[3] Solutia is not owned, in whole or in part, by any other firm. Solutia has a wholly-owned subsidiary in Belgium, Solutia Europe S.A., ***.

Source: Compiled from data submitted in response to Commission questionnaires, and conference transcript, p. 61.

***.[2] ***. The domestic industry reported no U.S. production of PVA in U.S. foreign trade zones.

[1] Glenn Ruskin, Vice President of Public Affairs, Solutia, conference transcript, p. 61.

[2] ***.

*** reported plant openings, closures, or other changes in the character of their operations since January 1, 2000.[3] ***.[4] ***.[5] ***.[6] ***.[7] ***.[8]

U.S. CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION

Data on U.S. producers' capacity, production, and capacity utilization are presented in table III-2. Total U.S. capacity increased from 2000 to 2001 by *** percent and from 2001 to 2002 by *** percent.[9] Total U.S. production of PVA decreased by *** percent from 2000 to 2001 and then rose by *** percent from 2001 to 2002.[10] Capacity utilization fell by *** percentage points from 2000 to 2001 and then increased by *** percentage points from 2001 to 2002. As a result, capacity in 2002 was *** percent higher than that reported in 2000 while production and capacity utilization were *** percent and *** percentage points lower, respectively.

Table III-2
PVA: U.S. producers' capacity, production, and capacity utilization, 2000-02

* * * * * * *

Celanese manufactures PVA on ***.[11] According to the firm, ***.[12] DuPont operates ***.[13] The firm reported that ***.[14] Solutia produces PVA on ***.[15] No U.S. manufacturer reported the production of any PVA products excluded from the scope of these investigations.

---

[3] ***.

[4] The firm stated: "***."

[5] *** stated that it "***."

[6] ***.

[7] *Producer questionnaire* response of ***.

[8] *Producer questionnaire response* of ***. ***. *Id.*

[9] ***.

[10] Petitioners state that the rise in PVA production in 2002 is due to ***. Petitioners' prehearing brief, p. 29. Commercial shipments of PVA by *** rose by *** percent from *** pounds in 2001 to *** pounds in 2002 and its export shipments rose by *** percent from *** pounds in 2001 to *** pounds in 2002. Table III-3.

[11] ***.

[12] *Producer questionnaire response* of Celanese.

[13] ***.

[14] *Producer questionnaire* response of DuPont.

[15] *Producer questionnaire* response of Solutia.

U.S. PRODUCERS' U.S. SHIPMENTS, COMPANY TRANSFERS, AND EXPORT SHIPMENTS

As detailed in table III-3, the volume of U.S. producers' U.S. shipments fell by *** percent from 2000 to 2001[16] and then rose by *** percent from 2001 to 2002 for a net decrease of *** percent over the period examined. The value of their U.S. shipments also decreased irregularly, by *** percent, during the 2000-02 time period. The unit values of U.S. shipments fell steadily from $*** per pound in 2000 to $*** per pound in 2002.[17] Internal shipments ***.[18] [19] In 2000, internal consumption accounted for *** percent of total shipments, by quantity.

Table III-3
PVA: U.S. producers' shipments, by type, 2000-02

* * * * * * *

*** reported export shipments, which were made to ***. In 2002, exports accounted for *** percent of total shipments, by quantity. Official Commerce statistics for U.S. exports of polyvinyl alcohol (which include polyvinyl alcohol hydrolyzed at 80 percent or lower)[20] confirm that export shipments are made to numerous areas of the world. The following tabulation lists U.S. exports of polyvinyl alcohol during 2000-02, ranked by the top-3 destinations in 2002 (in *1,000 pounds*):[21]

Country	2000	2001	2002
China	1,475	2,099	20,071
Mexico	14,363	13,799	16,323
Netherlands	14,130	13,647	15,498
All others	58,367	54,521	70,183
Total	88,335	84,065	122,075

[16] Chinese respondents contended during the preliminary investigations that an important factor in the decrease in U.S. producers' U.S. shipments is the diminishing U.S. textile market, a segment in which Celanese and DuPont allegedly relied upon heavily for sales. Sichuan Vinylon's *postconference brief*, p. 2.

[17] *** attributes the drop in the unit values of commercial shipments from 2001 to 2002 to ***. Petitioners' prehearing brief, p. 30.

[18] *See* the following section entitled "Captive Consumption" for additional information regarding the internal consumption of ***.

[19] Transfers to related firms, ***.

[20] *** appears to be subject PVA. As shown in table III-3, the domestic industry reported exporting *** pounds of PVA in 2002; official Commerce statistics show 122.1 million pounds of polyvinyl alcohol exported in 2002.

[21] Other significant destinations for U.S. exports of polyvinyl alcohol (in order of volume in 2002) consist of India, Belgium, Italy, Finland, Brazil, Pakistan, Korea, Taiwan, and Canada.

Celanese indicated that it exported *** and that "***." ***.[22]

CAPTIVE CONSUMPTION

Section 771(7)(C)(iv) of the Act states that–

> *If domestic producers internally transfer significant production of the domestic like product for the production of a downstream article and sell significant production of the domestic like product in the merchant market, and the Commission finds that–*
>
> *(I) the domestic like product produced that is internally transferred for processing into that downstream article does not enter the merchant market for the domestic like product,*
>
> *(II) the domestic like product is the predominant material input in the production of that downstream article, and*
>
> *(III) the production of the domestic like product sold in the merchant market is not generally used in the production of that downstream article,*
>
> *then the Commission, in determining market share and the factors affecting financial performance . . ., shall focus primarily on the merchant market for the domestic like product.*[23]

In 2002, internal transfers accounted for *** percent of the reported volume of producers' U.S. shipments of PVA and commercial (merchant) shipments accounted for the remaining *** percent.[24] *** reported transfers to related firms. The percentage shares for internal transfers were *** percent in 2000 and *** percent in 2001. All internal transfers were reported by ***.[25]

The First Statutory Criterion

The first requirement for application of the captive consumption provision is that the domestic like product that is internally transferred for processing into that downstream article not enter the merchant market for the domestic like product. Both DuPont and Solutia captively produce PVB-grade

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[22] Petitioners' posthearing brief, "Answers to Commission Questions," pp. 23-24.

[23] 19 U.S.C. § 1677(7)(C)(iv).

[24] ***.

[25] ***.

PVA.[26] *** used in their production of PVB.[27] *** internal transfers of PVA entered the merchant market for PVA.[28]

The Second Statutory Criterion

The second criterion of the captive consumption provision concerns whether the domestic like product is the predominant material input in the production of the downstream article that is captively produced. Both of the captive producers use PVB-grade PVA to manufacture PVB sheet that is used as an interlayer in laminated safety glass for such applications as automotive safety glass and architectural safety glass. ***.[29] ***. The other raw material inputs for ***.[30] ***.[31] ***.[32]

The production processes for PVB sheet appear to be *** for DuPont and Solutia. ***.[33]

The Third Statutory Criterion

The third criterion of the captive consumption provision is that the production of the domestic like product sold in the merchant market is not generally used in the production of the downstream article produced from the domestic like product that is internally transferred for processing (captively produced). In 2002, *** percent of the volume of U.S. producers' U.S. commercial shipments of PVA was used for the production of PVB.[34]

U.S. PRODUCERS' IMPORTS AND PURCHASES

Table III-4 presents direct imports, purchases of imports, and purchases of PVA from other domestic producers by U.S. producers, along with their total shipments of U.S.-produced products. ***. As indicated in the notes to table III-4, ***. ***.[35] *** also reported that it purchased PVA from *** during the period examined and ***. *** neither purchased nor imported PVA.

Table III-4
PVA: U.S. producers' production, imports, and purchases of imports, 2000-02

* * * * * * *

---

[26] Solutia also purchases PVB-grade PVA from ***. *See* Solutia's postconference brief, pp. 2 and 4 and exhibit 1, pp. 4-5.

[27] DuPont's 7130-grade PVA, used internally to produce PVB, is also sold commercially in the paper and film markets. Kathryn Kamins McCord, PVA Business Manager, DuPont, hearing transcript, pp. 40, 41.

[28] *Producer questionnaire* responses of DuPont and Solutia.

[29] ***.

[30] ***. Solutia's prehearing brief, p. 28. ***. *Producer questionnaire response* of Solutia.

[31] *Producer questionnaire* response of ***.

[32] *Producer questionnaire* response of ***. ***. Petitioners' posthearing brief, "Answers to Commission Questions," p. 46, n. 99.

[33] *Producer questionnaire* responses by *** and *e-mail*, dated April 14, 2003, from ***.

[34] ***.

[35] ***.

U.S. PRODUCERS' INVENTORIES

Data on end-of-period inventories of PVA for the period examined are presented in table III-5.

Table III-5
PVA: U.S. producers' end-of-period inventories, 2000-02

* * * * * * *

U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY

Data provided by U.S. producers on the number of production and related workers ("PRWs") engaged in the production of PVA, the total hours worked by such workers, and wages paid to such PRWs during the period for which data were collected in these investigations are presented in table III-6.

Table III-6
PVA: Average number of production and related workers producing PVA, hours worked, wages paid to such employees, and hourly wages, productivity, and unit labor costs, 2000-02

* * * * * * *

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

U.S. IMPORTERS

The Commission sent importer questionnaires to 28 firms believed to be either importers of PVA from the subject countries or importers from significant nonsubject sources; in addition, each of the three U.S. producers received importer questionnaires.[1] Questionnaire responses were received from 16 companies.[2] U.S. import data are based on official import statistics for all sources except for Japan for which questionnaire data were utilized due to the relatively large amount of U.S. imports of nonsubject PVA from Japan.[3] [4] Official Commerce statistics for other sources (specifically, the United Kingdom) were adjusted to subtract PVA products hydrolyzed at 80 percent or lower and, in the case of Italy, to subtract ***. In addition, official Commerce statistics for *** were adjusted upward in *** to correct for an apparent misclassification of PVA ***.[5] No excluded PVA products were reported by U.S. importers from China, Germany, or Korea. Table IV-1 lists all responding U.S. importers and their quantity of imports, by source, in 2002.

Table IV-1
PVA: Reported U.S. imports, by importer and by source of imports, 2002

* * * * * * *

[1] The Commission sent questionnaires to those firms identified in the petition, along with firms that, based on a review of data provided by Customs, may have imported subject PVA since 2000.

[2] In addition to the 16 responses, *** and *** provided information on their U.S. imports of subject PVA from Japan. Staff conversation, May 19, 2003, with *** and e-mail, dated May 14, 2003, from ***.

*** and *** responded that their U.S. imports of PVA from Japan were almost entirely (or in the case of *** entirely) of nonsubject product equal to or less than 80 percent hydrolysis. E-mail, dated May 8, 2003, from *** and staff conversation, April 14, 2003, with ***. In addition, *** notified the Commission that it only imported PVA from Italy that was ***. Staff conversation, May 13, 2003, with ***. Finally, ***, ***, and *** indicated that their U.S. imports of PVA from the United Kingdom were equal to or less than 80 percent hydrolysis. Staff conversation, May 13, 2003, with ***; e-mail, dated May 16, 2003, from ***; and staff conversation, May 14, 2003, with ***.

Finally, 3 firms (***) responded that they did not import PVA and 1 firm (***) indicated that it did not import PVA from the United Kingdom during the period examined. *Importer questionnaire* responses of *** and ***; e-mail, dated May 14, 2003, from ***; and staff conversation, April 1, 2003, with ***.

[3] The HTS classification for PVA (HTS subheading 3905.30.00) includes both subject PVA and nonsubject PVA, the latter category consisting of the 14 forms (or, in the case of Germany and Japan, 15 forms) of PVA hydrolyzed in excess of 80 percent excluded by Commerce as well as all PVA hydrolyzed at 80 percent or lower.

[4] Questionnaire responses (or other information as indicated below) were received from all U.S. importers of PVA from Japan that received questionnaires with the exception of ***. *** imported *** pounds of PVA from Japan in 2000, *** pounds in 2001, and *** pounds in 2002.

[5] *See* e-mail, dated April 28, 2003, from ***.

Questionnaire respondents were located in California, Delaware, Minnesota, Missouri, New Jersey (2), New York (6), North Carolina, Ohio, Pennsylvania, and South Carolina. Fourteen firms reported imports of PVA from subject countries during 2000-2002 and *** firms, *** reported imports of PVA from ***.[6] Import data for 2002 categorized by end-use market segment are presented in table II-1. With the exception of ***, *** U.S. importers entered the subject product into or withdrew it from foreign trade zones or bonded warehouses.

U.S. IMPORTS

Table IV-2 shows that the volume of U.S. imports of PVA from Germany, Japan, and Korea combined increased by 86.2 percent from 2000 to 2002.[7] U.S. imports from China are presented separately in this table (and elsewhere in the report).[8] The volume of U.S. imports from China decreased from 2000 to 2001 by 32.2 percent and remained relatively stable in 2002 compared to 2001. The volume of U.S. imports from Germany increased by 58.1 percent from 2000 to 2001 and then fell in 2002 to a point comparable to 2000. The volume of U.S. imports from Japan were relatively stable from

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[6] ***.

[7] As indicated in the notes to tables IV-1 and IV-2, table IV-1 is compiled from questionnaire data whereas table IV-2 is, except for selected sources (i.e., Italy, Japan, Singapore, and the UK), based on Commerce statistics.

[8] As indicated earlier, Commerce preliminarily determined U.S. imports exported/manufactured by Sichuan Vinylon to be imported at fair value. U.S. exports of PVA reported by Sichuan Vinylon appear to account for *** imports of PVA of China. Sichuan Vinylon exported *** pounds of subject PVA in 2000, *** pounds in 2001, and *** pounds in 2002. *Foreign producer questionnaire* response of Sichuan Vinylon. Official Commerce statistics for U.S. imports of PVA from China (none of which were reported to be excluded product in responses to Commission importer questionnaires) show the quantity of imports to be 19.6 million pounds in 2000, 13.3 million pounds in 2001, and 13.4 million pounds in 2002 (which, in aggregate, *** Sichuan Vinylon's U.S. exports). Further, no responding U.S. importer to the Commission's questionnaires reported importing from any Chinese manufacturer other than Sichuan Vinylon.

However, some *** amounts of subject PVA from China may enter the United States. Commerce's preliminary LTFV determination for China established an "all others rate." Also, Customs records show occasional shipments of PVA from China from manufacturers other than Sichuan Vinylon. In 2002, there were *** such PVA shipments (for a total quantity of *** pounds) by ***. In addition, Customs records show an *** of *** pounds manufactured by ***. B.V. Rebes informed Commerce that it was a provider of logistics services and did not respond to Commerce's questionnaire. 68 FR 13674, March 20, 2003. Customs documents for 2002 additionally show *** possibly erroneous entries totaling *** manufactured by ***. Chang Chun informed Commerce on November 4, 2002, that its records did not show any exports of PRC-produced PVA to the United States during Commerce's period of investigation (i.e., January 1, 2002 through June 30, 2002). 68 FR 13674, March 20, 2003. In a response to the Commission's foreign producers' questionnaire, the firm indicated that ***. E-mail, dated May 13, 2003, from Chang Chun (***). Customs records show *** as having imported *** pounds of PVA from China in 2001. In addition, *** other manufacturers were reported to have imported *** pounds of PVA to the United States in 2001. Customs documents for U.S. imports for consumption for HTS subheading 3905.30.00.

Table IV-2
PVA: U.S. imports, by source, 2000-02

Source	Calendar year		
	2000	2001	2002
Quantity (*1,000 pounds*)			
Germany	1,774	2,804	1,713
Japan	1,007	1,173	4,154
Korea	2,584	3,789	4,122
Subtotal	5,365	7,766	9,988
China	19,588	13,287	13,400
Taiwan	21,410	15,640	14,076
All others[1]	2,708	4,347	3,829
Total	49,070	41,040	41,293
Value (*$1,000*)[2]			
Germany	1,897	2,664	1,611
Japan	1,714	1,553	2,974
Korea	1,986	3,215	3,116
Subtotal	5,596	7,432	7,701
China	11,968	10,227	8,375
Taiwan	16,318	13,359	9,988
All others[1]	2,804	4,140	3,489
Total	36,687	35,157	29,554
Unit value (*per pound*)			
Germany	$1.07	$0.95	$0.94
Japan	1.70	1.32	0.72
Korea	0.77	0.85	0.76
Average	1.04	0.96	0.77
China	0.61	0.77	0.63
Taiwan	0.76	0.85	0.71
All others[1]	1.04	0.95	0.91
Average	0.75	0.86	0.72

Continued on next page.

Table IV-2--*Continued*
PVA: U.S. imports, by source, 2000-02

Source	2000	2001	2002
Share of quantity (*percent*)			
Germany	3.6	6.8	4.1
Japan	2.1	2.9	10.1
Korea	5.3	9.2	10.0
Subtotal	10.9	18.9	24.2
China	39.9	32.4	32.5
Taiwan	43.6	38.1	34.1
All others	5.5	10.6	9.3
Total	100.0	100.0	100.0
Share of value (*percent*)			
Germany	5.2	7.6	5.5
Japan	4.7	4.4	10.1
Korea	5.4	9.1	10.5
Subtotal	15.3	21.1	26.1
China	32.6	29.1	28.3
Taiwan	44.5	38.0	33.8
All others	7.6	11.8	11.8
Total	100.0	100.0	100.0

Note.–Numerical data differences with table IV-1 for sources other than Japan are because of table IV-2's reliance on adjusted Commerce statistics as opposed to questionnaire data.

[1] As indicated earlier, official Commerce statistics include nonsubject PVA (i.e., the 15 forms of PVA hydrolyzed in excess of 80 percent excluded by Commerce as well as all PVA hydrolyzed at 80 percent or lower). With respect to nonsubject countries, petitioners alleged during the preliminary phase of the investigations that imports from United Kingdom and Italy (which collectively accounted for 10.0 percent of total polyvinyl alcohol imports in 2002) have a hydrolysis level of 80 percent or lower. Petitioners' postconference brief, p. 38, n. 105. The Commission was able to contact the largest U.S. importers of polyvinyl alcohol from the United Kingdom and *** of the *** significant U.S. importers from Italy and, based upon their information, adjusted Commerce statistics to exclude nonsubject PVA.

[2] Landed duty-paid.

Source: Compiled from Commerce statistics (adjusted, as described above) for all sources except for Japan for which questionnaire data were utilized.

2000 to 2001 and then rose more than threefold from 2001 to 2002.[9] The volume of U.S. imports from Korea increased steadily by 59.5 percent from 2000 to 2002. The volume of nonsubject imports from Taiwan fell steadily from 2000 to 2002, with a decrease of 34.3 percent. U.S. producers' imports or purchases of imports from subject countries accounted for *** of the volume of subject imports in 2002. ***.

CUMULATION CONSIDERATIONS

In assessing whether imports compete with each other and with the domestic like product, the Commission has generally considered four factors: (1) fungibility, (2) presence of sales or offers to sell in the same geographical market, (3) common or similar channels of distribution, and (4) simultaneous presence in the market. Issues concerning fungibility are addressed in Part II of this report and channels of distribution are discussed in Parts I and II. Geographical markets and presence in the market are discussed below.

Geographical Markets and Presence in the Market

Table IV-3 provides U.S. imports for all PVA (including the excluded forms and PVA hydrolyzed at 80 percent or lower) by month and by district of entry[10] into the United States in 2002.

APPARENT U.S. CONSUMPTION

Data on apparent U.S. consumption of PVA are based on U.S. producers' shipments as reported in the Commission's questionnaires and, with the exception of Japan for which questionnaire data were used, imports as recorded by the Department of Commerce (adjusted, where necessary, to subtract out nonsubject PVA). Data on total apparent U.S. consumption are presented in table IV-4. Data on only apparent U.S. consumption in the commercial market are presented in table IV-5.

U.S. MARKET SHARES

Data on market shares in the total U.S. market for PVA are presented in table IV-6. Data on U.S. commercial market shares only are presented in table IV-7.

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[9] ***. The firm states that "an analysis of ***." Kuraray's prehearing brief, p. 20. Petitioners (using the import statistics presented in the staff prehearing report) respond that ***. Petitioners' posthearing brief, "Answers to Commission Questions," p. 33.

[10] In table IV-3, the "East region" consists of the following customs districts: Baltimore, MD; Boston, MA; Charleston, SC; Charlotte, NC; New York, NY; Norfolk, VA; Philadelphia, PA; Portland, ME; Providence, RI; St. Albans, VT; Wilmington, NC; Savannah, GA; and Washington, DC. The "Great Lakes region" consists of the following customs districts: Buffalo, NY; Chicago, IL; Cleveland, OH; Detroit, MI; Duluth, MN; Milwaukee, WI; Minneapolis, MN; Ogdensburg, NY; Pembina, ND; and St. Louis, MO. The "Gulf Coast region" consists of the following customs districts: Dallas/Ft. Worth, TX; Houston/Galveston, TX; Laredo, TX; Miami, FL; Mobile, AL; New Orleans, LA; Port Arthur, TX; San Juan, PR; Tampa, FL; and Virgin Islands of the United States. The "West region" consists of the following customs districts: Anchorage, AK; Columbia/Snake, OR; El Paso, TX; Great Falls, MT; Los Angeles, CA; San Diego, CA; San Francisco, CA; Seattle, WA; Honolulu, HI; and Nogales, AZ.

Table IV-3
Polyvinyl alcohol: Selected U.S. imports, by month and region of entry, 2002

Country/region of importation	Jan.	Feb.	March	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Total
	Quantity (*1,000 pounds*)												
Germany:													
East region	34	86	333	157	76	147	6	87	165	43	148	68	1,349
Great Lakes region	22	43	0	0	0	0	0	0	0	0	0	0	65
Gulf Coast region	50	0	0	0	0	0	50	0	99	50	0	50	298
West region	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	105	129	333	157	76	147	55	87	264	93	148	118	1,713
Japan:													
East region	136	124	184	283	302	387	195	656	663	378	300	698	4,306
Great Lakes region	64	70	146	82	141	162	247	210	219	201	333	194	2,070
Gulf Coast region	321	192	242	343	213	430	363	358	418	223	404	362	3,868
West region	33	11	35	84	66	134	122	121	38	95	139	25	904
Total	554	397	607	792	722	1,113	927	1,345	1,338	896	1,117	1,279	11,148
Korea:													
East region	0	35	398	134	335	201	97	304	201	99	459	403	2,666
Great Lakes region	0	0	0	0	0	0	0	0	30	0	0	0	30
Gulf Coast region	0	0	0	0	0	0	0	0	0	0	0	35	35
West region	106	53	106	179	88	123	132	158	62	287	0	97	1,390
Total	106	88	504	313	423	324	229	462	292	386	459	536	4,122
Total of above	765	615	1,444	1,262	1,221	1,584	1,212	1,894	1,894	1,375	1,784	1,932	16,983

Continued on next page.

Table IV-3--*Continued*
Polyvinyl alcohol: Selected U.S. imports, by month and region of entry, 2002

Country/region of Importation	Jan.	Feb.	March	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Total
	Quantity (*1,000 pounds*)												
China:													
East region	596	935	525	1,366	1,175	1,088	822	225	1,164	635	1,312	636	10,479
Great Lakes region	37	0	0	0	0	0	0	0	0	0	0	0	37
Gulf Coast region	0	0	0	0	0	0	0	0	0	0	0	0	0
West region	262	300	150	225	150	412	337	262	226	262	187	109	2,884
Total	896	1,235	675	1,591	1,325	1,501	1,160	487	1,390	897	1,499	746	13,400
Taiwan:													
East region	378	681	332	889	453	371	452	716	529	680	380	1,055	6,915
Great Lakes region	191	38	158	83	38	141	76	0	38	0	79	0	842
Gulf Coast region	385	346	457	199	840	695	279	633	443	321	469	487	5,554
West region	114	78	38	0	0	142	119	38	38	25	99	74	765
Total	1,068	1,144	984	1,171	1,330	1,349	926	1,387	1,047	1,026	1,026	1,616	14,076

Source: Compiled from Commerce statistics for polyvinyl alcohol entered under HTS subheading 3905.30.00. Includes some product that is outside the scope of the investigations.

Table IV-4
PVA: U.S. shipments of domestic product, U.S. imports, by source, and apparent U.S. consumption, 2000-02

Item	Calendar year		
	2000	2001	2002
Quantity (*1,000 pounds*)			
U.S. producers' U.S. shipments	***	***	***
U.S. imports from--			
Germany	1,774	2,804	1,713
Japan[1]	979	1,079	2,974
Korea	2,584	3,789	4,122
Subtotal	5,337	7,672	8,809
China	19,588	13,287	13,400
Taiwan	21,410	15,640	14,076
All others	2,708	4,347	3,829
Total imports	49,042	40,946	40,114
Apparent U.S. consumption	***	***	***
Value (*$1,000*)			
U.S. producers' U.S. shipments	***	***	***
U.S. imports from--			
Germany	1,897	2,664	1,611
Japan[1]	1,858	1,577	2,530
Korea	1,986	3,215	3,116
Subtotal	5,740	7,456	7,257
China	11,968	10,227	8,375
Taiwan	16,318	13,359	9,988
All others	2,804	4,140	3,489
Total imports	36,831	35,181	29,109
Apparent U.S. consumption	***	***	***

[1] U.S. importers' U.S. shipments.

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

Table IV-5
PVA: U.S. commercial market shipments of domestic product, U.S. imports, by source, and apparent U.S. commercial market consumption, 2000-02

Item	Calendar year		
	2000	2001	2002
Quantity (*1,000 pounds*)			
U.S. producers' commercial shipments	***	***	***
U.S. imports from--			
Germany	1,774	2,804	1,713
Japan[1]	979	1,079	2,974
Korea	2,584	3,789	4,122
Subtotal	5,337	7,672	8,809
China	19,588	13,287	13,400
Taiwan	21,410	15,640	14,076
All others	2,708	4,347	3,829
Total imports	49,042	40,946	40,114
Apparent U.S. consumption	***	***	***
Value (*$1,000*)			
U.S. producers' commercial shipments	***	***	***
U.S. imports from--			
Germany	1,897	2,664	1,611
Japan[1]	1,858	1,577	2,530
Korea	1,986	3,215	3,116
Subtotal	5,740	7,456	7,257
China	11,968	10,227	8,375
Taiwan	16,318	13,359	9,988
All others	2,804	4,140	3,489
Total imports	36,831	35,181	29,109
Apparent U.S. consumption	***	***	***

[1] U.S. importers' U.S. shipments.

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

Table IV-6
PVA: Apparent U.S. consumption and market shares, 2000-02

* * * * * * *

Table IV-7
PVA: Apparent U.S. commercial market consumption and market shares, 2000-02

* * * * * * *

PART V: PRICING AND RELATED INFORMATION

FACTORS AFFECTING PRICES

Raw Material Costs

The main raw materials used in the production of PVA are ethylene, acetic acid, and methanol, or VAM and methanol. Ethylene and acetic acid are combined to produce VAM which is polymerized and combined with methanol to produce PVA. Raw material costs are discussed in Part VI. The petitioners reported that the costs of inputs decreased by $*** per pound between 2000 and 2002, largely because of the decreased cost of natural gas which is used to produce ethylene. Figure V-1 provides the monthly cost to industrial users of natural gas.

Figure V-1
Monthly natural gas prices to industrial users

Source: *Natural Gas Monthly,* March 2003, p. 8.

U.S. Inland Transportation Costs and Geographic Markets

Transportation costs from the subject countries to the U.S. market are estimated to be as follows: China–11.1 percent, Germany–6.0 percent, Japan–6.1 percent, and Korea–8.6 percent of the total landed U.S. value of PVA in 2002. U.S. producers reported that U.S. inland transportation costs accounted for 2 to 5 percent of the total delivered value of PVA. Eight importers reported U.S. inland transportation costs; three of these reported that they accounted for 0 percent of the delivered value of PVA, four reported that they accounted for 1 to 6 percent of the total delivered value of PVA, and one reported that transportation costs were 35 percent.

Two producers reported selling nationwide, and the other reported that its PVA was all for internal consumption. Of the 12 importers that provided usable responses to this question, four reported selling nationwide, while the others reported serving markets only in sections of the United States.

Producers and importers were also requested to provide estimates of the percentages of their shipments that were made within specified distance ranges. The U.S. producers reported that between *** and *** percent were shipped within 100 miles, *** and *** percent were shipped within 101 to 1,000 miles, and *** and *** percent were shipped over 1,000 miles. Of the 12 responding importers, six reported selling 60 to 100 percent of shipments within 100 miles, five reported selling 60 to 100 percent within 101 to 1,000 miles, and one reported selling 100 percent at distances over 1,000 miles.

Exchange Rates

Quarterly exchange rates reported by the International Monetary Fund for the four subject countries during the period January 2000-December 2002 are shown in figure V-2.

PRICING PRACTICES

Pricing Methods

Available information from the conference and questionnaires reveals that sales of PVA in the United States more frequently are contract rather than spot sales, although spot sales are common. Celanese reported that *** percent of its sales were contract sales and DuPont reported that *** percent of its sales were on contract. Contracts were typically ***, with quantities or the shares of purchases set. As prices tend to fluctuate, most contracts had meet-or-release provisions and truckload minimum orders. Ten importers reported how they sold PVA. Of these ten firms, four sold only by

Figure V-2
Exchange rates: Indices of the nominal and real exchange rates (when available) relative to the U.S. dollar, by quarters, January 2000-December 2002

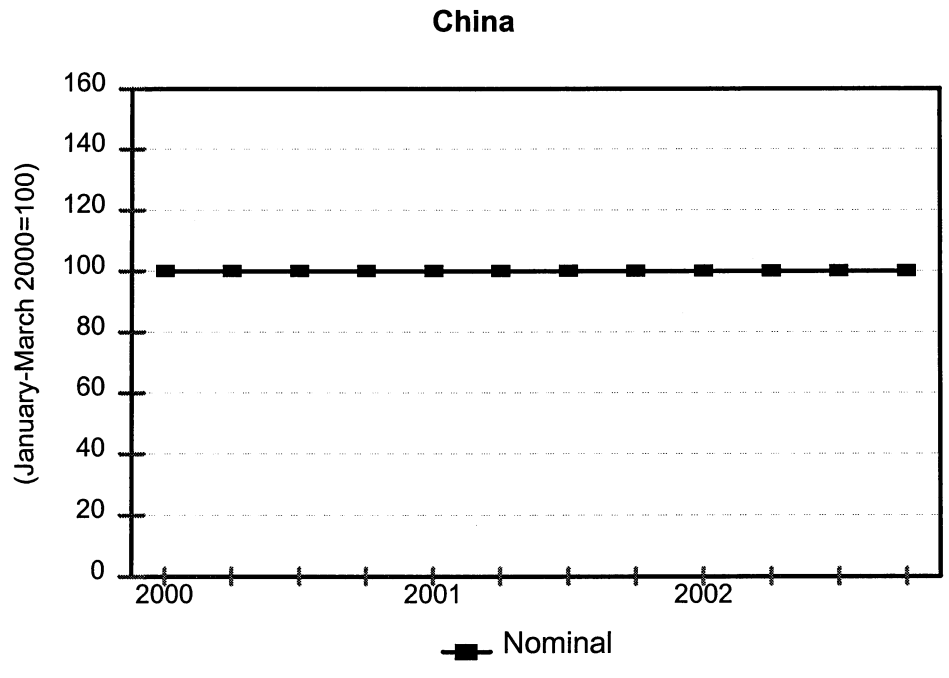
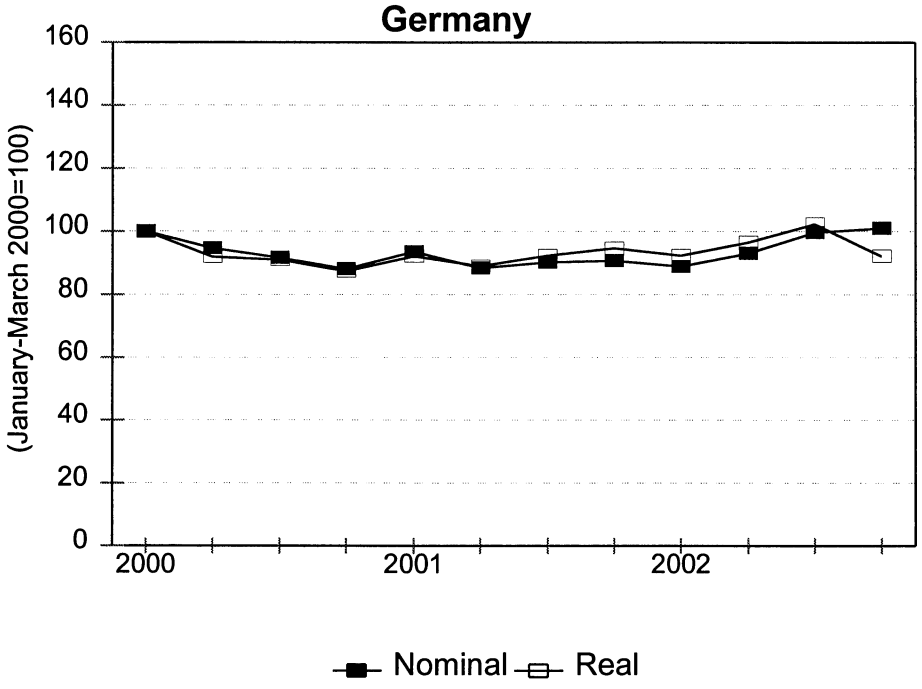


Figure continued on next page.

Figure V-2--Continued
Exchange rates: Indices of the nominal and real exchange rates (when available) relative to the U.S. dollar, by quarters, January 2000-December 2002



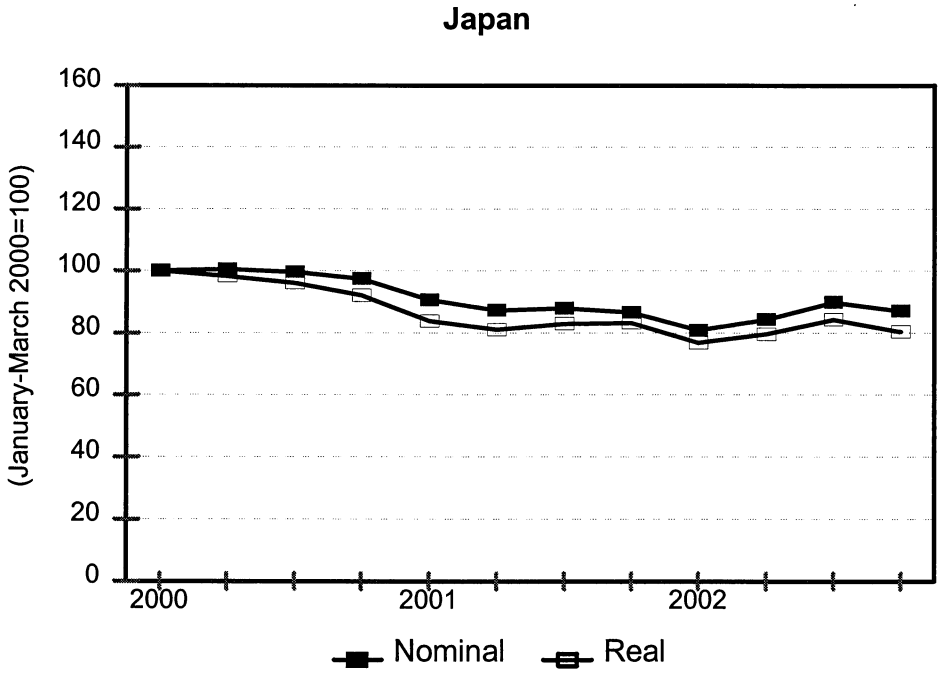
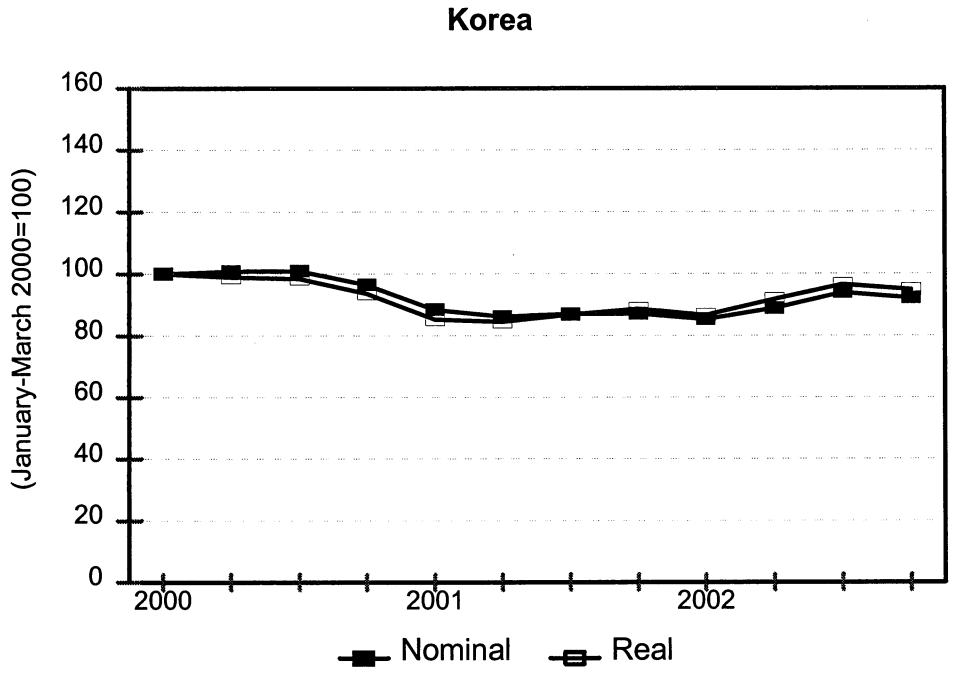


Figure continued on next page.

Figure V-2--Continued
Exchange rates: Indices of the nominal and real exchange rates (when available) relative to the U.S. dollar, by quarters, January 2000-December 2002



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

contract, with one firm selling 98 percent by contract and another 70 percent by contract. One sold only in the spot market, one sold 80 percent in the spot market, one sold 70 percent in the spot market, and one sold 53 percent in the spot market. Nine importers reported contract conditions. There was a wider range of contract durations than for the U.S. producers, with two reporting contracts of 3 months, three reporting contracts of 1 year, two reporting contracts of 2 years, one reporting 5-year contracts, and one reported an evergreen contract.[1] Two importers reported that both price and quantity were fixed in the contract, three reported fixed prices, one reported that price could be renegotiated, one reported that either price or quantity or both could be fixed, and 2 reported that neither were fixed. Only three of the nine responding importers had meet-or-release provisions in their contracts. *** five of the nine responding importers had minimum quantity requirements.

Sales Terms and Discounts

Celanese reported ***. DuPont reported ***. Twelve importers reported price-setting and discount policies. Seven reported negotiated pricing either for contracts or transaction-by-transaction pricing, three reported market pricing, one used a price list, and one reported that if the use were new, then the prices would be set by negotiations while an existing product's price was set by cost. Nine reported no discounts or no discount policy, two reported some quantity discounts, and one reported that it ***. Both producers and eight of 11 responding importers reported sales terms of net 30 days.

[1] An evergreen contract automatically renews itself unless one of the parties objects.

Celanese reported *** sales and DuPont reported *** sales; seven of the 12 responding importers sold delivered, two sold f.o.b., two sold delivered duty-paid, and one sold both f.o.b and delivered.

PRICE DATA

The Commission requested that U.S. producers and importers provide quarterly data for the total quantity and f.o.b. value of their U.S. commercial shipments to unrelated customers of seven specific PVA products.[2] Data were requested for the period January 2000 through December 2002. The products for which pricing data were requested are as follows:

***Product 1.*–PVA for use in textile applications with a range of hydrolysis between 95-100 (percent) and a viscosity between 20-35 (centipois)**

***Product 2.*--PVA for use in adhesive applications with a range of hydrolysis between 80-89 (percent) and a viscosity between 20-35 (centipois)**

***Product 3.*--PVA for use in paper applications with a range of hydrolysis between 95-100 (percent) and a viscosity between 20-35 (centipois)**

***Product 4.*–PVA for use in adhesives applications with a range of hydrolysis between 80-89 (percent) and a viscosity between 0-19 (centipois)**

***Product 5.*– PVA for use in art paper applications with a range of hydrolysis between 86-89 (percent) and a viscosity between 7-9 (centipois)**

***Product 6.*– PVA for use in resin applications with a range of hydrolysis between 86-89 (percent) and a viscosity between 16 and 20 (centipois)**

***Product 7.*– PVA for use in paper applications with a range of hydrolysis between 95-100 (percent) and a viscosity between 0 and 19 (centipois)**

Two U.S. producers and six importers of subject product provided usable pricing data for sales of the requested products in the U.S. market, although not all firms reported pricing data for all products for all quarters. Selling price data reported by the U.S. producers and importers accounted for *** percent of the quantity of U.S. producers' commercial shipments of PVA during 2000-2002, *** percent

[2] Products 5 and 6 were added in the final phase of the investigations in order to increase the pricing coverage for German PVA. These products were suggested by *** and he *** the U.S. products most similar to product 5 were Celanese *** and Dupont *** and for product 6 were Celanese *** and DuPont ***. He was not certain that these products were exactly comparable. ***. Celanese reported that its product *** was for use in the ***. It did not know if any user used these for ***. This is also one of Celanese's *** grades and it is more commonly used in ***. According to Celanese, the German grade closest to its *** is probably ***. *** reports that the use in the *** constrains the price *** for this product. Celanese believes that the German product meeting the definition of Product 5 is a ***. Finally, *** is more commonly used by its ***. Celanese reports that *** is sold to the ***. It does not know if it is used in ***. It is sold to ***. DuPont reports that the *** defined in products 5 and 6 make these ***. DuPont's *** is sold to ***. Staff requested that the German producers provide information *** on *** and ***. It provided pricing data ***. Product 7 was requested at the hearing. It was the product suggested by the petitioners to increase the pricing coverage of the German product.

of the imports from Germany, *** percent of the imports from Japan, and *** percent of imports from Korea.[3] Less Japanese pricing data were available in the final phase than in the preliminary because certain pricing products covered in the preliminary phase of the investigations were excluded from the scope in the final phase of the investigations.

Data on selling prices and quantities of products 1 through 7 sold by the U.S. producers and importers are presented in tables V-1 through V-7, and prices of products 1 through 4 and 7 are presented in figure V-3.[4] Table V-8 summarizes the pricing data and table V-9 summarizes the data on margins. All Chinese price data provided were for PVA produced by Sichuan Vinylon, which has a preliminary *de minimis* dumping margin. Data on selling prices and quantities of imports from China (preliminarily at fair value) and Taiwan (nonsubject) are shown in appendix E.

Table V-1
PVA: Weighted-average f.o.b. prices and quantities of domestic and imported product 1 and margins of underselling/(overselling), by quarters, 2000-02

* * * * * * *

Table V-2
PVA: Weighted-average f.o.b. prices and quantities of domestic and imported product 2 and margins of underselling/(overselling), by quarters, 2000-02

* * * * * * *

Table V-3
PVA: Weighted-average f.o.b. prices and quantities of domestic and imported product 3 and margins of underselling/(overselling), by quarters, 2000-02

* * * * * * *

Table V-4
PVA: Weighted-average f.o.b. prices and quantities of domestic and imported product 4 and margins of underselling/(overselling), by quarters, 2000-02

* * * * * * *

Table V-5
PVA: Weighted-average f.o.b. prices and quantities of domestic and imported product 5 and margins of underselling/(overselling), by quarters, 2000-02

* * * * * * *

Table V-6
PVA: Weighted-average f.o.b. prices and quantities of domestic and imported product 6 and margins of underselling/(overselling), by quarters, 2000-02

* * * * * * *

Table V-7
PVA: Weighted-average f.o.b. prices and quantities of domestic and imported product 7 and margins of underselling/(overselling), by quarters, 2000-02

* * * * * * *

[3] These coverage shares use Commerce statistics as the basis for imports.

[4] Products 5 and 6 were not presented in figures because it is unclear if the U.S. product was comparable to the German product.

Figure V-3
PVA: Prices of U.S.-produced and subject imported products, by product and by quarters, January 2000-December 2002

* * * * * * *

Table V-8
PVA: Summary of weighted-average f.o.b. prices for products 1 through 7, by countries

* * * * * * *

Table V-9
PVA: Summary of underselling/overselling

* * * * * * *

LOST SALES AND LOST REVENUES

Celanese and DuPont provided 10 allegations of lost sales and 24 allegations of lost revenues due to imports of PVA from China, Germany, Japan, and Korea.[3] However, given that the largest Chinese exporter, Sichuan Vinylon, has received a preliminary *de minimis* dumping margin, many of the alleged lost sales for Chinese product may not be for product sold at LTFV. Purchasers were contacted on all the allegations; responses were received for 9 lost sales and 19 lost revenue allegations, of which 4 lost sales and 4 lost revenue allegations were only against China. Four lost sales and 12 lost revenues allegations were denied by purchasers. Two purchasers neither agreed nor disagreed with two lost sales allegations and two purchasers neither agreed or disagreed with two lost revenues allegations. The reported allegations of lost sales totaled $***, of which $*** were against only China, and alleged lost revenues totaled $***, of which $*** were against only China. The lost sales and lost revenues allegations are reported in tables V-10 and V-11, respectively. Comments are provided if purchasers provided additional information.

Lost Sales Allegations

* * * * * * *

Table V-10
PVA: Lost sales allegations

* * * * * * *

Table V-11
PVA: Lost revenues allegations

* * * * * * *

[3] In addition to the specific lost sales and lost revenues allegations listed, the U.S. producers gave examples in which the information was not clear enough to check with the purchasers. One producer also reported some instances in which it was unable to implement an announced price increase. These examples and instances are not reported in this section.

Lost Revenues Allegations

* * * * * * *

PART VI: FINANCIAL CONDITION OF THE U.S. PRODUCERS

BACKGROUND

Two U.S. firms, Celanese and DuPont, provided financial data on their commercial operations on PVA as well as financial data covering PVA they consumed within their operations. A third firm, Solutia, provided financial data relating to its captive consumption of PVA.[1] These data accounted for all known U.S. production of PVA in 2002.

Celanese acquired the PVA business of Air Products on September 29, 2000.[2] DuPont has produced PVA for many years. Solutia was formed when Monsanto spun off its specialty chemical operations in 1997. Solutia produces and consumes its PVA for the production of PVB.

OPERATIONS ON PVA

The aggregated results of Celanese, DuPont, and Solutia with respect to their operations on PVA are presented in table VI-1.[3] *** transferring PVA to related parties, although each reported at least some internal consumption. The aggregate net sales quantity and value, operating income, and operating income margin decreased in 2001 compared to 2000, but increased between 2001 and 2002. Net sales value on a per-pound basis declined over the three-year period, but net unit sales value declined to the greatest extent between 2001 and 2002. The cost of goods sold per pound increased in 2001 compared to 2000, caused by an increase in the per-pound value of other factory costs partially offset by a decrease in the per-pound value of raw material costs. In 2001 there was *** per pound. In 2002, the cost of goods sold per pound decreased by more than the decrease in the combined per-pound value of sales and

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[1] Each of the three firms has a fiscal year end of December 31.

[2] Air Products sold its PVA business to Celanese for $326.0 million, realizing a gain of $126.8 million (Air Products' 2001 Annual Report, SEC Form 10-K, exhibit 13, pp. 32-33). Data for Air Products ***. With respect to the PVA operations of Celanese, the purchase price is reflected in the ***. Inventory, purchased from Air Products, was based on ***. The raw materials purchased in 2000 were based on ***. Raw materials costs ***. E-mail of April 16, 2003 and producers' questionnaire response of Celanese, p. 15.

[3] In order to achieve a full cost of production in accordance with long-standing Commission practice, U.S. producers were instructed to report product that they internally consumed at market value and transfers from related firms (raw materials such as VAM, for example) at cost. The intent of this instruction is to achieve a GAAP-based product line income statement, resulting in a fair presentation of the financial results of a firm. This usually differs from the way in which a firm accounts for operations to its management or reports the results of a business segment to management or for external reporting. Management accounting and segment reporting are not consistent with GAAP and not consistent with a consolidated financial statement in which profit is eliminated on intra-firm transfers. Late in this investigation, the accounting for byproducts that are reused in the production process rose as an issue. In accordance with accounting principles generally accepted in the United States for inventory valuation and the computation of cost of goods sold, byproducts are accounted for at fair market value and there is no attempt to assign actual costs, and the byproducts' value typically is deducted from the cost of producing the main product. It should be noted that the accounting is the same whether byproducts are sold or are reused in the production process. See Black, H.A. and Edwards, J.D. (eds.), *The Managerial and Cost Accountant's Handbook* (Homewood, IL: Dow Jones-Irwin, 1979), pp. 475-476 and 583-484; Burch, J.G., *Cost and Management Accounting: A Modern Approach* (St. Paul, MN: West Publishing Co, 1994), p. 246; and Horngren, C.T. and Foster, G., *Cost Accounting: A Managerial Emphasis* (Englewood Cliffs, NJ: Prentice-Hall, Inc., 1987), p. 493.

Table VI-1
PVA: Results of operations of Celanese, DuPont, and Solutia, 2000-02

* * * * * * *

SG&A expenses, compared with 2001, and there was *** in 2002. The net sales quantity increased in 2002 compared to 2001; however, the net sales value did not increase to the same extent because of a lower per-pound net sales value. The per-pound *** improved to *** in 2002 reflecting a decrease in the per-pound value of both raw material and other factory costs that was collectively greater than the decrease in the per-pound net sales value. The total value of raw materials decreased *** and the unit value of each of the three components of COGS decreased in 2002 compared with 2001, attributed to ***.[4] The gross profit of the three firms combined rose in 2002 to *** achieved in 2000. The value of SG&A expenses increased between 2001 and 2002 because of the greater sales volume and because ***.[5]

Table VI-2 presents sales and cost data on a firm-by-firm basis. Table VI-3 presents per-pound values on a firm-by-firm basis. The overall decrease in the net sales quantity and value in 2001 compared to 2000 is ***, but *** recorded increased sales between 2001 and 2002. *** incurred a decrease in their operating income margin in 2001 compared to 2000. During this period, ***. ***. ***.[6]

Table VI-2
PVA: Results of operations of Celanese, DuPont, and Solutia, by firm, 2000-02

* * * * * * *

Table VI-3
PVA: Per-pound values of Celanese, DuPont, and Solutia, by firm, 2000-02

* * * * * * *

A variance analysis for the operations of Celanese, DuPont, and Solutia is presented in table VI-4. The information for this variance analysis is derived from table VI-1. The variance analysis provides an assessment of changes in profitability as related to changes in pricing, cost, and volume. This analysis is more effective when the product involved is a homogeneous product with no variation in product mix. Overall, the decrease in operating income from 2000 to 2002 is due to an unfavorable price variance that was much greater than the favorable variances on net cost/expense and net volume, although the mix of favorable and unfavorable variances shifted between the three-year period. The decrease in operating income between 2000 and 2001 is due principally to an unfavorable net cost/expense variance, as well as

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[4] Producers' questionnaire response of ***, and e-mail of April 11, 2003. *** further states that "in 2003, energy and raw material costs have risen *** and have again put the PVA business ***." Spokesmen for both Celanese and DuPont stated at the hearing that prices of raw material inputs, such as natural gas and ethylene, have increased again during the fourth quarter of 2002 and 2003. Fred Chanslor, Vice President, PVA, Celanese and Kathryn Kamins McCord, PVA Business Manager, DuPont, hearing transcript, pp. 100-102. For additional information on the increased costs of raw materials, see petitioners' posthearing brief, part II, pp. 17-18 and exhibits 4 (Celanese) and 10 (DuPont); also, compare the data from *** for the *** in 2001, 2002, and first quarter of 2003 (e-mail of May 19, 2003).

[5] Producers' questionnaire response of ***, p. 15 and e-mail of April 16, 2003.

[6] E-mail from *** on April 21, 2003.

to unfavorable variances in price and volume. The increase in operating income between 2001 and 2002 is due to a favorable variance on net cost/expense that was greater than the unfavorable variances in price and volume.

Table VI-4
PVA: Variance analysis on results of operations of Celanese, DuPont, and Solutia, 2000-02

* * * * * * *

The combined results of open-market sales of Celanese and DuPont on their PVA operations are presented in table VI-5. The combined companies incurred *** in 2001, which was coincident with ***. The combined companies had ***.

Table VI-5
PVA: Results of open-market operations of Celanese and DuPont, 2000-02

* * * * * * *

Export shipments (accounting for *** percent of total shipment quantities in 2002) of Celanese were valued at a *** net sales value (*** cents per pound in 2002) than that of domestic shipments (*** cents per pound in 2002) throughout the period reviewed. ***, export shipments (accounting for *** percent of total shipment quantities in 2002) of DuPont were valued at a *** net sales value (*** cents per pound in 2002) than domestic shipments (*** cents per pound in 2002) throughout the period reviewed. Celanese stated in its questionnaire response that ***. Celanese also stated that it believes that it has less pricing control when its distributors handle such a higher percentage of sales, and that it is forced to meet the prices in Asia, where it believes that the end user market price is set by manufacturers with the greatest excess capacity and highest number of producers.[7] DuPont stated that its PVA business is primarily oriented to the U.S. market, but it must export in order to run its operations at full capacity to minimize unit costs, and that it must value export sales at the prevailing prices in various foreign markets. DuPont explained in its questionnaire response that ***. DuPont has the same average per-pound value of cost of goods sold for both domestic and export sales[8] although DuPont indicated that it does not sell its full line of PVA in the export market.[9] Celanese confirmed that its exports are generally in the same range of grades that it produces and sells in the U.S. market and that its average costs of exports are about the same as those of its domestic sales.[10]

Respondents on behalf of Kuraray and Solutia stated that the financial experience of Celanese and DuPont is skewed by these companies' exports (exports are included in total commercial sales in tables VI-1 and VI-5).[11] Respondents calculated industry financial data separately for U.S. domestic

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[7] Both companies stated that they are price followers in export markets. Fred Chanslor, Vice President, PVA, Celanese and Kathryn Kamins McCord, PVA Business Manager, DuPont, hearing transcript, pp. 82-83.

[8] *** and Kathryn Kamins McCord, DuPont, hearing transcript, p. 133.

[9] Kathryn Kamins McCord, DuPont, hearing transcript, p. 133.

[10] Fred Chanslor, Celanese, hearing transcript, pp. 132-133.

[11] Prehearing brief on behalf of Kuraray, app. B, and prehearing brief on behalf of Solutia, pp. 21-24 and exhibit
(continued...)

sales and exports; these calculations indicate that Celanese and DuPont together would have *** on their U.S. domestic commercial sales that ***.[12] Petitioners responded that neither exports nor PVA sold for PVB should be extracted from calculating financial performance of the domestic industry; they noted that the production process is capital intensive with high fixed costs and producers must maintain capacity utilization to spread those costs over as large a volume as possible.[13] Petitioners stated that "exports allow the domestic industry to maintain capacity utilization and thereby defray the high fixed costs incurred in the production process. The ability to spread out those costs is critical . . .".[14] Petitioners also noted that "PVA markets in Asia and Europe are lower priced than the U.S. market. . . " and cited the absence of an antidumping order and the U.S. value-in-use pricing structure (which does not exist in Europe or Asia) as reasons for price differences.[15]

A variance analysis for the open-market operations of Celanese and DuPont is presented in table VI-6. The information for this variance analysis is derived from table VI-5. The variance analysis provides an assessment of changes in profitability as related to changes in pricing, cost, and volume. This analysis is more effective when the product involved is a homogeneous product with no variation in product mix. The analysis shows that the ***.

Table VI-6
PVA: Variance analysis on results of open-market operations of Celanese and DuPont, 2000-02

* * * * * * *

[11](...continued)
2. Both calculated financial data separately for exports and internal consumption (PVA for PVB), although there are small differences between the calculation due to the way in which SG&A was allocated. Also, see posthearing brief of Solutia, pp. 13-14 and posthearing brief of Kuraray, pp. 11-12 and exhibit 8. See appendix C for financial data on U.S. producers' internal consumption.

[12] Kuraray's posthearing brief, p. 12, and exhibit 8. Also, see Solutia's posthearing brief, pp. 13-14. The segment calculations were made based on prehearing report data and assume that the product mix and production costs of exports and commercial sales are the same. Commission staff performed the same calculations with similar results. Respondents used total trade sales as the allocation base while staff compiled export and domestic sales financial data from the company-by-company data. On the basis of individual company data, the export segment would have *** while the domestic sales segment would show ***, compared with using total industry data. Respondents also allocated SG&A expenses based on a "SG&A rate" (total SG&A divided by total COGS times product segment COGS), although a sales dollar ratio (the ratio of export sales dollars to total sales dollars times total SG&A) could have been used. Allocating SG&A expenses based on a sales dollar ratio would result in *** and *** in exports and domestic sales in each year investigated, respectively.

[13] Petitioners' posthearing brief, part II, pp. 19-20.

[14] Petitioners' posthearing brief, part II, p. 24.

[15] Petitioners' posthearing brief, part II, pp. 25-26.

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

Capital expenditures, research and development (R&D) expenses, and the value of fixed assets, by firm, are shown in table VI-7. Capital expenditures increased between 2000 and 2001 and were at approximately the same level in 2002 as in 2001. R&D expenses increased irregularly between 2000 and 2002.

Table VI-7
PVA: Capital expenditures, research and development expenses, and value of assets of Celanese, DuPont, and Solutia, by firm, 2000-02

* * * * * * *

CAPITAL AND INVESTMENT

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

PART VII: THREAT CONSIDERATIONS

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

THE INDUSTRY IN CHINA

Industry participants testified at the Commission's hearing that there are approximately 13 manufacturers of PVA in mainland China. However, only one (i.e., Sichuan Vinylon) maintains "substantial" manufacturing capacity, with the other firms being much smaller in size and not manufacturing for export.[1] The Commission directly requested data from selected firms in China, namely (1) firms identified during the preliminary phase of the investigations, (2) firms identified in Customs documents as having exported PVA to the United States in 2001 and 2002,[2] and (3) other possibly significant manufacturers of PVA in China. Data were received during the final phase of the investigations from (1) Sichuan Vinylon and (2) ***. Two other firms, *** and ***, did not respond to the final phase questionnaires but did provide limited data during the preliminary phase of the investigations.[3] [4] One other firm (***) indicated that its only PVA manufacturing site was located in Taiwan.[5]

Table VII-1 presents data for reported production and shipments of PVA for China by Sichuan Vinylon. As indicated above, Sichuan Vinylon accounts for virtually all of China's reported exports of PVA to the United States.[6] Morever, Sichuan Vinylon stated during the preliminary phase of the investigations that because of quality issues associated with other Chinese producers, Sichuan Vinylon

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[1] Transcript of the Commission's hearing, p. 218 (testimony of Joseph Rabaglia).

[2] See the discussion in the section of this report entitled "U.S. Imports" for additional information on such firms.

[3] Other non-responding firms consist of: ***.

[4] Except for Sichuan Vinylon, no foreign manufacturer in China reported exporting PVA to the United States. *** manufactured *** pounds of PVA in 2002, *** of which was sold domestically; and *** produced *** pounds of PVA in 2001, with the *** again being directed to the home market. *Foreign Producer questionnaire* responses of ***. ***. According to Sichuan Vinylon, demand for PVA in China has increased in recent years and will continue to rise because of the creation and relocation of many textile producers to China. In addition, PVA has been approved in China for use as a replacement for asbestos in construction and building material applications. Sichuan Vinylon's prehearing brief, p. 4.

[5] E-mail, dated May 13, 2003, from ***.

[6] Wego, an importer of Chinese product, contended during the preliminary phase of the investigations that Chinese PVA can only be used for low-end applications such as paper and textiles. Wego's postconference brief, p. 4.

will account for 100 percent of exports to the United States from China for the foreseeable future.[7] Commerce preliminarily found *de minimis* dumping margins for Sichuan Vinylon.

Table VII-1
PVA: China's reported production capacity, production, shipments, and inventories, 2000-02, and projections for 2003 and 2004

* * * * * * *

Sichuan Vinylon reported that *** percent of its total sales in the most recent fiscal year were sales of PVA. From 2000 to 2002, Sichuan Vinylon's share of total shipments being exported to the United States decreased by *** percentage points. During this period its internal consumption of PVA increased by *** pounds. Sichuan Vinylon's capacity remained constant throughout the period examined and is projected to increase by *** percent in 2003 and another *** percent in 2004. Its production levels fluctuated around *** pounds in the 2000-02 period and are projected to *** in 2004. Capacity utilization levels were above *** percent during 2000-02 and are projected to remain above *** percent in 2003-04. Sichuan Vinylon states that it is expanding its capacity since its facility is currently operating at above "full-design production capacity." It argues that the increase in capacity will have no impact on the U.S. market since two-thirds of the increase is designated for internal consumption or transfers and the remaining one-third will be used to meet home market increases in demand.[8] *** have been Sichuan Vinylon's largest U.S. importers of PVA.

THE INDUSTRY IN GERMANY

Table VII-2 presents data for reported production and shipments of PVA for Germany. The Commission requested data from one firm, Kuraray Germany, which was listed in the petition and accounts for 100 percent of known PVA production in Germany. Kuraray Germany's PVA manufacturing facility is in Frankfurt, Germany. It is a related firm to Kuraray Japan, a PVA manufacturer headquartered in Osaka, Japan. ***.

Table VII-2
PVA: Germany's reported production capacity, production, shipments, and inventories, 2000-02, and projections for 2003 and 2004

* * * * * * *

[7] Other Chinese producers cannot meet the quality standards necessary to enter the U.S. market. Sichuan Vinylon's postconference brief, p. 4. *See* also Sichuan Vinylon's prehearing brief, p. 5. However, China has ample exports of PVA (all forms, not necessarily limited to PVA products in the scope) to markets other than the United States. In 2001, China exported about 41.5 million pounds (Information Center of Chinese Administration of Customs).

[8] Sichuan Vinylon's prehearing brief, p. 14.

Kuraray Germany reported that *** percent of its total sales in the most recent fiscal year were sales of PVA.[9] From 2000 to 2002, Kuraray Germany's share of total shipments being exported to the United States fluctuated from *** percent to *** percent; and its share of total shipments being exported to other world markets[10] fluctuated from *** percent to *** percent. Kuraray Germany's capacity increased by approximately *** pounds from 2000 to 2002,[11] with *** projected in 2004.[12] Its production increased steadily throughout 2000-02 and is projected to *** in 2004 compared to 2002. Capacity utilization levels were around *** percent throughout the period examined. During 2000-02, *** accounted for *** of U.S. imports of PVA from Germany.

THE INDUSTRY IN JAPAN

Table VII-3 presents data for reported production and shipments of PVA in Japan by Denki, Japan VAM, and Kuraray Japan. ***.[13] From 2000 to 2002, Japanese producers' share of total shipments being exported to the United States was relatively small.[14] [15] During this period, internal consumption remained basically constant while home market shipments fell by *** percentage points and total shipments to Asia and Europe increased by *** percentage points. Production declined steadily from 2000 to 2002, falling by *** percent, but is projected to increase in 2003 *** in 2004. Reported changes in capacity (including the projections) are due to scheduled maintenance shutdowns and *** changes in product mix by Kuraray Japan. *** are among the largest U.S. importers of Japanese PVA.

Table VII-3
PVA: Japan's reported production capacity, production, shipments, and inventories, 2000-02, and projections for 2003 and 2004

* * * * * * *

THE INDUSTRY IN KOREA

Table VII-4 presents data for reported production and shipments of PVA for Korea. The Commission requested data from one firm, DC Chemical, which was listed in the petition and accounts for 100 percent of PVA production in Korea. DC Chemical reported that *** percent of its total sales in

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[9] Kuraray Germany reported that of the PVA it produced in 2001, ***.

[10] Kuraray Germany's primary market is ***.

[11] The petition contained an October 2001 press clipping in which it is reported that Kuraray Germany's increases in capacity and production would be aimed at "target{ing} the market in North America." Petition, vol. II, app. G-1. Kuraray Germany responded that its intention is to produce and to supply to the U.S. market specialty-grade PVA that other PVA producers are not able to produce. Kuraray's postconference brief, app. 2, answers to questions from the staff, p. 3.

[12] ***.

[13] ***.

[14] As reported by Japanese producers, PVA manufactured in Japan was used for all of the end-use applications listed in the Commission's questionnaire (emulsion polymerization, paper, adhesives, textiles, PVB, and other).

[15] ***.

the most recent fiscal year were sales of PVA.[16] From 1999 to 2001, DC Chemical's share of total shipments being exported to the United States increased by *** percentage points; however, its share of total shipments being exported to other world markets[17] decreased irregularly by *** percentage points. DC Chemical's capacity remained constant during the 2000-2002 period, with *** projected for *** 2003 *** 2004. Capacity utilization fluctuated from *** percent to *** percent, except for a dip to *** percent in 2001.[18] *** are the major U.S. importers of Korean PVA.

Table VII-4
PVA: Korea's reported production capacity, production, shipments, and inventories, 2000-02, and projections for 2003 and 2004

* * * * * * *

THE INDUSTRIES IN GERMANY, JAPAN, AND KOREA COMBINED

Table VII-5 presents data for the PVA industries in Germany, Japan, and Korea combined. Reported data for China are not included in the table because the Chinese data are for Sichuan Vinylon, which has received preliminary *de minimis* margins by Commerce.

U.S. IMPORTERS' INVENTORIES

Reported inventories held by U.S. importers of subject merchandise from Germany, Japan, and Korea and inventories from China and other sources are shown in table VII-6. As shown, subject inventories rose from *** pounds in 2000 to *** pounds in 2001 to *** pounds in 2002. The rise in end-of-period inventories in 2002 compared to 2001 is primarily due to ***.

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[16] DC Chemical ***.

[17] DC Chemical's primary markets are ***.

[18] OCI International points out that Korea was a net importer of PVA during the entire period examined. OCI's postconference brief, p. 13.

Table VII-5
PVA: Aggregated data for reporting producers in Germany, Japan, and Korea, 2000-02, and projected for 2003 and 2004

Item	Calendar year			Projections	
	2000	2001	2002	2003	2004
			Quantity (*1,000 pounds*)		
Capacity	483,672	497,695	491,104	497,695	491,104
Production	464,848	458,817	459,490	470,999	464,429
End of period inventories	95,621	96,707	83,480	80,376	69,564
Shipments:					
Internal consumption	159,690	144,355	142,030	139,134	140,400
Home market	168,441	153,531	148,955	165,582	168,600
Exports to--					
The United States	4,516	6,645	10,198	8,646	8,941
All other markets	154,141	151,377	166,274	162,141	165,700
Total exports	158,657	158,022	176,472	170,787	174,641
Total shipments	486,788	455,908	467,457	475,503	483,641
			Ratios and shares (*percent*)		
Capacity utilization	96.1	92.2	93.6	94.6	94.6
Inventories to production	20.6	21.1	18.2	17.1	15.0
Inventories to total shipments	19.6	21.2	17.9	16.9	14.4
Shares of total quantity of shipments:					
Internal consumption	32.8	31.7	30.4	29.3	29.0
Home market	34.6	33.7	31.9	34.8	34.9
Exports to--					
The United States	0.9	1.5	2.2	1.8	1.8
All other markets	31.7	33.2	35.6	34.1	34.3
Total exports	32.6	34.7	37.8	35.9	36.1

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

Table VII-6
PVA: U.S. importers' end-of-period inventories of imports, by source, 2000-02

* * * * * * *

U.S. IMPORTERS' IMPORTS SUBSEQUENT TO DECEMBER 31, 2002

The Commission requested importers to indicate whether they imported or arranged for the importation of PVA from either China, Germany, Japan, or Korea for delivery after December 31, 2002. Eight of the responding importers reported in the affirmative. The tabulation below shows the importer, the quantity of PVA imported (or arranged to be imported) subsequent to December 31, 2002, and the country of origin of the imports.

Importer	Quantity of PVA *(1,000 pounds)*	Time period	Country of origin of imports
***	***	***	***
***	***	***	***
***	***	***	***
***	***	***	***
***	***	***	***
***	***	***	***
***	***	***	***
***	***	***	***
***	***	***	***[1]

[1] ***.

DUMPING IN THIRD-COUNTRY MARKETS

On August 18, 1998, Korea imposed antidumping duties ranging from 27.0 percent to 37.5 percent on PVA from Japan. The antidumping duties were imposed retroactively to become effective on April 10, 1998 and were scheduled to have a duration of 5 years. On December 14, 2002, the Korean Trade Commission initiated a review to determine whether there is a need for continued imposition of the antidumping duty on PVA from Japan. The review will be completed within six months of the date of initiation. The Korean Minister of Finance and Economy will decide whether or not to extend the antidumping duty within one month after receiving the results of the Korean Trade Commission's investigation.

APPENDIX A

FEDERAL REGISTER NOTICES

As requested by the USTR, in accordance with section 503(a)(1)(B), 503(e) and 131(a) of the Trade Act of 1974 (1974 Act), and under authority delegated by the President, delegated to the USTR by sections 4(c) and 8(c) of Executive Order 11846 of March 31, 1975, the Commission will provide advice as to the probable economic effect on U.S. industries producing like or directly competitive articles and on consumers of the elimination of U.S. import duties for countries designated as least-developed beneficiary developing countries in general note 4(b)(i) of the HTS for the following HTS subheadings: 8211.91.20, 8215.99.01, 8215.99.10, and 8215.99.30. In providing its advice on these articles, the USTR asked that the Commission assume that the benefits of the GSP would apply to imports that would be normally excluded from receiving such benefits by virtue of the competitive need limits specified in section 503(c)(2)(A) of the 1974 Act (an exemption from the application of the competitive need limits for the least-developed beneficiary developing countries is provided for in section 503(c)(2)(D) of the 1974 Act).

As requested under section 332(g) of the Tariff Act of 1930, the Commission will provide advice as to the probable economic effect on U.S. industries producing like or directly competitive articles and on consumers of the removal of Russia from eligibility for duty-free treatment under the GSP for HTS subheading 8108.90.60.

As requested under section 332(g) of the Tariff Act of 1930 and in accordance with section 503(d)(1)(A) of the 1974 Act, the Commission will provide advice on whether any industry in the United States is likely to be adversely affected by a waiver of the competitive need limits specified in section 503(c)(2)(A) of the 1974 Act for Argentina for 1508.10.00, 2009.31.6020, and 2009.39.6020; for Brazil for 2909.19.14, 7202.93.00, 8413.30.10, and 8708.99.67; for India for 7418.19.10, 7418.19.50, 9405.50.20, 9405.50.30, and 9405.50.40; for Kazakhstan for 7202.50.00 and 8108.20.0010; for Morocco for HTS subheadings 1604.13.20, 1604.13.30, and 2001.90.20; for Thailand for 8414.51.00 (pt.), 8528.12.28, and 8544.30.00; and for Turkey for 0813.10.00, and 7113.19.29.

With respect to the competitive need limit in section 503(c)(2)(A)(i)(I) of the 1974 Act, the Commission, as requested, will use the dollar value limit of $105,000,000.

As requested by the USTR, the Commission will seek to provide its advice not later than May 21, 2003.

EFFECTIVE DATE: February 27, 2003.

FOR FURTHER INFORMATION CONTACT: (1) Project Manager, Cynthia B. Foreso (202–205–3348 or foreso@usitc.gov).

(2) Deputy Project Manager, Eric Land (202–205–3349 or land@usitc.gov). The above persons are in the Commission's Office of Industries. For information on legal aspects of the investigation, contact William Gearhart of the Commission's Office of the General Counsel at 202–205–3091 or wgearhart@usitc.gov.

Public Hearing: A public hearing in connection with this investigation is scheduled to begin at 9:30 a.m. on April 8, 2003, at the U.S. International Trade Commission Building, 500 E Street, SW., Washington, DC. All persons have the right to appear by counsel or in person, to present information, and to be heard. Persons wishing to appear at the public hearing should file a letter with the Secretary, United States International Trade Commission, 500 E St., SW., Washington, DC 20436, not later than the close of business (5:15 p.m.) on March 17, 2003. In addition, persons appearing should file prehearing briefs (original and 14 copies) with the Secretary by the close of business on March 20, 2003. Posthearing briefs should be filed with the Secretary by the close of business on April 14, 2003. In the event that no requests to appear at the hearing are received by the close of business on March 19, 2003, the hearing will be canceled. Any person interested in attending the hearing as an observer or non-participant may call the Secretary to the Commission (202–205–1816) after March 19, 2003, to determine whether the hearing will be held.

Written Submissions: In lieu of or in addition to appearing at the public hearing, interested persons are invited to submit written statements concerning the investigation. Written statements should be received by the close of business on April 14, 2003. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. The Commission may include such confidential business information in the report it sends to USTR. All submissions should be addressed to the Secretary at the Commission's office in Washington, DC. 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 (Nov. 8, 2002). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 205–1810.

By order of the Commission.

Issued: March 3, 2003.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 03–5400 Filed 3–6–03; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

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

Polyvinyl Alcohol From Germany and Japan

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–1015–1016 (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 Germany and Japan of polyvinyl alcohol, provided for in subheading 3905.30.00 of the Harmonized Tariff Schedule of the United States.[1]

[1] For purposes of these investigations, the Department of Commerce has defined the subject merchandise as all polyvinyl alcohol ("PVA") hydrolyzed in excess of 80 percent, whether or not mixed or diluted with commercial levels of defoamer or boric acid, except as noted below.

The following products are specifically excluded from the scope of these investigations:

(1) PVA in fiber form

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

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

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

For further information concerning the conduct of this phase of these 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: February 26, 2003.

FOR FURTHER INFORMATION CONTACT: Debra Baker (202–205–3180), 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–ON–LINE) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

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

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

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

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

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

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

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

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

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

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

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 polyvinyl alcohol from Germany and Japan are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigations were requested in a petition filed on September 5, 2002, by Celanese Chemicals, Ltd. of Dallas, TX and E.I. du Pont de Nemours & Co. of Wilmington, DE.

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 section 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 section 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 April 24, 2003, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on May 8, 2003, 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 May 1, 2003. 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 May 5, 2003, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 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 section 207.23 of the Commission's rules; the deadline for filing is May 1, 2003. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is May 15, 2003; 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 May 15, 2003. On May 30, 2003, 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 June 3, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also 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 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 section 207.21 of the Commission's rules.

By order of the Commission.

Issued: March 3, 2003.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 03–5364 Filed 3–6–03; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–03–008]

Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: International Trade Commission.

TIME AND DATE: March 17, 2003, 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. Nos. 701–TA–423 and 731–TA–1024–1028 (Preliminary) (Prestressed Concrete Steel Wire Strand from Brazil, India, Korea, Mexico, and Thailand)—briefing and vote. (The Commission is currently scheduled to transmit its determination to the Secretary of Commerce on March 17, 2003; Commissioners' opinions are currently scheduled to be transmitted to the Secretary of Commerce on or before March 24, 2003.)
5. Outstanding action jackets: none.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: March 4, 2003.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 03–5599 Filed 3–5–03; 11:33 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Office of Community Oriented Policing Services; Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-day emergency notice of information collection under review: reinstatement, with change, of a previously approved collection for which approval has expired; COPS Making Officer Redeployment Effective ("MORE") Grant Program Application Kit.

The Department of Justice Office of Community Policing Services has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with emergency review procedures of the Paperwork Reduction Act of 1995. OMB approval has been requested by March 14, 2003. The proposed information collection is published to obtain comments from the public and affected agencies. If granted, the emergency approval is only valid for 180 days. Comments should be directed to OMB, Office of Information Regulation Affairs, Attention: Department of Justice Desk Officer (202) 395–6466, Washington, DC 20503.

During the first 60 days of this same review period, a regular review of this information collection is also being undertaken. Written comments and/or suggestions regarding additional information, including obtaining a copy of the proposed information collection instrument with instructions, should be directed to Gretchen DePasquale, 202–305–7780, Office of Community Oriented Policing Services, 1100 Vermont Avenue, NW., Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Reinstatement, with change, of a previously approved collection for which approval has expired.

(2) *Title of the Form/Collection:* COPS Making Officer Redeployment Effective ("MORE") Grant Program Application Kit.

(3) Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Department of Justice, Office of Community Oriented Policing Services (COPS) *Form Number:* N/A.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary State, local and Tribal law enforcement agencies. Other: University police, housing authorities, and school districts. Abstract: The information collected will be used by the COPS Office to determine whether law enforcement agencies are eligible for one year grants specifically targeted to provide funding for technology and equipment. The grants are meant to enhance law enforcement IT infrastructure and community policing efforts in these communities.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There will be an estimated 2,500 responses per year. The estimated amount of time required for the average respondent to respond is 26 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total number of annual burden hours associated with this collection is 65,000.

If additional information is required contact: Brenda Dyer, Deputy Clearance Officer, Information Management and Security Staff, Justice Management Division, United States Department of Justice, 601 D Street NW., Patrick Henry Building, Suite 1600, NW., Washington, DC 20530.

assessment rate and receive a refund of any excess deposits. *See Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From the United Kingdom: Final Results of Changed-Circumstances Antidumping and Countervailing Duty Administrative Reviews*, 64 FR 66880 (November 30, 1999). As a result, if these preliminary results are adopted in our final results of this changed circumstances review, we will instruct the Customs Service to suspend shipments of subject merchandise made by Solvay Solexis at Ausimont's cash deposit rate (*i.e.*, 12.08 percent). Until that time, the cash deposit rate assigned to Solvay Solexis' entries is the rate in effect at the time of entry (i.e., the "all others" rate).

Public Comment

Any interested party may request a hearing within 30 days of publication of this notice. *See* 19 CFR 351.310(c). Any hearing, if requested, will be held 44 days after the date of publication of this notice, or the first working day thereafter. Interested parties may submit case briefs and/or written comments not later than 30 days after the date of publication of this notice. Rebuttal briefs and rebuttals to written comments, which must be limited to issues raised in such briefs or comments, may be filed not later than 37 days after the date of publication of this notice. Parties who submit arguments are requested to submit with the argument (1) a statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities.

Consistent with section 351.216(e) of the Department's regulations, we will issue the final results of this changed circumstances review no later than 270 days after the date on which this review was initiated, or within 45 days if all parties agree to our preliminary finding.

We are issuing and publishing this finding and notice in accordance with sections 751(b)(1) and 777(i)(1) of the Act and section 351.216 of the Department's regulations.

March 13, 2003.

Joseph Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 03–6732 Filed 3–19–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–879]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Polyvinyl Alcohol From the People's Republic of China

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

ACTION: Notice of preliminary determination of sales at less than fair value.

SUMMARY: We preliminarily determine that polyvinyl alcohol from the People's Republic of China is being, or is likely to be, sold in the United States at less than fair value, as provided in section 733(b) of the Tariff Act of 1930, as amended.

Interested parties are invited to comment on this preliminary determination. We will make our final determination not later than 135 days after the date of publication of this preliminary determination.

EFFECTIVE DATE: March 20, 2003.

FOR FURTHER INFORMATION CONTACT: Elizabeth Eastwood or Alice Gibbons, Office of AD/CVD Enforcement, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3874 or (202) 482–0498, respectively.

Preliminary Determination

We preliminarily determine that polyvinyl alcohol (PVA) from the People's Republic of China (PRC) is being sold, or is likely to be sold, in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales at LTFV are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the initiation of this investigation (*Initiation of Antidumping Duty Investigations: Polyvinyl Alcohol from Germany, Japan, the People's Republic of China, the Republic of Korea, and Singapore*, 67 FR 61591 (Oct. 1, 2002)) (*Initiation Notice*), the following events have occurred:

On October 21, 2002, the United States International Trade Commission (ITC) preliminarily determined that there is reasonable indication that imports of PVA from the PRC are materially injuring the United States industry. *See* ITC Investigation Nos. 731-TA–1014–1018 (Publication No. 3553 *Polyvinyl Alcohol from Germany, Japan, the People's Republic of China, the Republic of Korea, and Singapore*, 67 FR 65597 (Oct. 25, 2002)).

Also on October 21, 2002, we issued an antidumping questionnaire to the Chinese Ministry of Foreign Trade and Economic Cooperation (MOFTEC) with a letter requesting that it forward the questionnaire to Chinese producers/exporters accounting for all known exports of subject merchandise from the PRC during the period of investigation (POI). The Department also sent courtesy copies of the antidumping questionnaire to the China Chamber of Commerce of Metals, Minerals, and Chemicals Importers and Exporters, to all companies identified in U.S. customs data as exporters of the subject merchandise during the POI with shipments in commercial quantities, and any additional companies identified in the petition as exporters of PVA. These companies included: B.V. Rebes, Chang Chun Plastics Co., Ltd. (Chang Chun),[1] Sichuan Mianyang International Trade Co., Ltd., Sinopec Maoming Refining & Chemical Co., Ltd., Sinopec Sichuan Vinylon Works (SVW), and Sichuan Weinilun Chang. For further discussion, see the November 7, 2002, memorandum from Alice Gibbons to the File entitled "Antidumping Duty Investigation of Polyvinyl Alcohol from the People's Republic of China—Selection of Respondents." The letters sent to MOFTEC and individual exporters provided deadlines for responses to the different sections of the questionnaire.

On October 28, 2002, B.V. Rebes informed us that it is merely a provider of logistics services and, therefore, it did not intend to respond to the Department's questionnaire in this investigation. For further discussion, see the October 28, 2002, memorandum from Elizabeth Eastwood to the File entitled "Response from B.V. Rebes to the Questionnaire in the Antidumping Duty Investigation of Polyvinyl Alcohol from the People's Republic of China." On November 4, 2002, Chang Chun informed us that its records did not reflect any exports of PRC-produced PVA to the United States during the POI. Chang Chun also requested additional U.S. customs information in order to ascertain the reason that it appeared as an exporter. See the February 19, 2003, memorandum from Alice Gibbons to the File entitled "Placing Information on the Record in

[1] Both B.V Rebes and Chang Chun appeared to be third country resellers.

the Antidumping Duty Investigation of Polyvinyl Alcohol from the People's Republic of China." On November 7, 2002, we informed Chang Chun that, due to the fact that the customs data in question was not public information, we were unable to provide it with this information. We received no further correspondence from Chang Chun.[2]

On November 6, 2002, Wego Chemical & Mineral Corporation (Wego), an importer of PVA from the PRC, notified the Department that it sold subject merchandise in the United States, and that these sales constituted "relevant sales" within the meaning of sections 772(a) and (b) of the Act. Based on these assertions, we informed Wego that it was eligible to participate as a voluntary respondent in this investigation and on November 7, 2002, we issued it a questionnaire. For further discussion, see the November 7, 2002, memorandum from Alice Gibbons to the File entitled "Issuance of Questionnaire to Wego Chemical & Mineral Corp. in the Antidumping Duty Investigation of Polyvinyl Alcohol from the People's Republic of China." On November 25, 2002, Wego informed us that it did not intend to submit a voluntary response in this proceeding.

On November 25, 2002, the Department invited interested parties to comment on surrogate country selection and to provide publicly available information for valuing the factors of production. We received a response from the petitioners on January 6, 2003, and from SVW on February 14, 2003.

During the period November 2002 through February 2003, the Department received responses to sections A, C, and D of the Department's original and supplemental questionnaires from SVW. We received no other responses to our questionnaire from any of the other exporters noted above.

On January 21, 2003, pursuant to 19 CFR 351.205(e), the petitioners[3] made a timely request to postpone the preliminary determination for 30 days. We granted this request and, on January 23, 2003, postponed the preliminary determination until no later than March 14, 2003. *See Postponement of Preliminary Determinations of Antidumping Duty Investigations: Polyvinyl Alcohol from the People's Republic of China and the Republic of Korea*, 68 FR 4763 (Jan. 30, 2003).

[2] We note, however, that we did not designate Chang Chun as a mandatory respondent in this investigation.

[3] The petitioners in this investigation are Celanese Chemicals Ltd. and E.I. Dupont de Nemours & Co. (collectively, "the petitioners").

Postponement of Final Determination

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. The Department's regulations, at 19 CFR 351.210(e)(2), require that requests by respondents for postponement of a final determination be accompanied by a request for extension of provisional measures from a four-month period to not more than six months.

On January 9, 2003, SVW requested that the Department postpone its final determination until 135 days after the publication of the preliminary determination. SVW also included a request to extend the provisional measures to not more than six months. Accordingly, since we have made an affirmative preliminary determination and no compelling reasons for denial exist, we have postponed the final determination until not later than 135 days after the publication of the preliminary determination.

Period of Investigation

Pursuant to 19 CFR 351.204(b)(1), the POI for an investigation involving merchandise from a non-market economy (NME) is the two most recent fiscal quarters prior to the month of the filing of the petition (*i.e.*, September 2002). Therefore, in this case, the POI is January 1, 2002, through June 30, 2002.

Scope Comments

In accordance with the preamble to our regulations (see Antidumping Duties; Countervailing Duties, 62 FR 27296, 27323 (May 19, 1997)), we set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 calendar days of publication of the initiation notice. *See* the *Initiation Notice*, 67 FR 61591. Although no comments on the scope of the investigation were received in this proceeding, scope comments were received in the companion Japanese case. Because these comments relate to PVA in general, we find that they are applicable to this proceeding. Accordingly, we have placed on the record of this proceeding all public scope comments as well as all public versions of the proprietary scope documents filed in the companion Japanese case, and we have modified the scope to conform to that set forth in the preliminary determination of that proceeding. *See* the "Scope Comments" section of the *Notice of Preliminary Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol from Japan*, 68 FR 8203, 8204–05 (Feb. 20, 2003).

Scope of Investigation

The merchandise covered by this investigation is PVA. This product consists of all PVA hydrolyzed in excess of 80 percent, whether or not mixed or diluted with commercial levels of defoamer or boric acid, except as noted below.

The following products are specifically excluded from the scope of this investigation:

(1) PVA in fiber form.

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

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

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

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

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

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

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

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

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

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

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

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

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

The merchandise under investigation is currently classifiable under subheading 3905.30.00 of the *Harmonized Tariff Schedule of the United States* ("HTSUS"). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Nonmarket Economy Country Status

The Department has treated the PRC as an NME country in all past antidumping investigations. *See, e.g., Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from the People's Republic of China*, 63 FR 72255, 72256 (December 31, 1998) (*Mushrooms*). A designation as an NME remains in effect until it is revoked by the Department. *See* section 771(18)(C) of the Act.

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs us to base normal value (NV) on the NME producer's factors of production, valued in a comparable market economy that is a significant producer of comparable merchandise. The sources of individual factor prices are discussed under the "Normal Value" section of the notice, below.

No party in this investigation has requested a revocation of the PRC's NME status. We have, therefore, preliminarily continued to treat the PRC as an NME.

Separate Rates

SVW is owned by "all the people" and has provided separate rates information in its November 22, 2002, section A response and in its January 9, January 13, and January 21, 2003, supplemental responses. SVW has stated that there is no element of government ownership or control and has requested a separate company-specific rate.

As stated in *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585, 25586 (May 2, 1994) (*Silicon Carbide*) and *Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the People's Republic of China*, 60 FR 22544, 25545 (May 8, 1995) (*Furfuryl Alcohol*), ownership of the company by "all the people" does not require the application of a single rate. Accordingly, SVW is eligible for consideration of a separate rate.

The Department's separate rate test is not concerned, in general, with macroeconomic/border-type controls (*e.g.*, export licenses, quotas, and minimum export prices), particularly if these controls are imposed to prevent dumping. The test focuses, rather, on controls over the investment, pricing, and output decision making process at the individual firm level. *See Certain Cut-to-Length Carbon Steel Plate from Ukraine: Final Determination of Sales at Less than Fair Value*, 62 FR 61754, 61757 (Nov. 19, 1997); *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 62 FR 61276, 61279 (Nov. 17, 1997); and *Honey from the People's Republic of China: Preliminary Determination of Sales at Less than Fair Value*, 60 FR 14725, 14726 (Mar. 20, 1995).

To establish whether a firm is sufficiently independent from government control to be entitled to a separate rate, the Department analyzes each exporting entity under a test arising out of the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588, 20589 (May 6, 1991), as modified by Silicon Carbide. Under the separate rates criteria, the Department assigns separate rates in NME cases only if the respondents can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities. *See Silicon Carbide* and *Furfuryl Alcohol*.

1. Absence of De Jure Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies.

SVW has placed on the record a number of documents to demonstrate absence of *de jure* control, including the "Law of the People's Republic of China on Industrial Enterprises Owned By the Whole People."

In prior cases, the Department has analyzed these laws and found that they establish an absence of *de jure* control. *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Partial-Extension Steel Drawer Slides With Rollers From the People's Republic of China*, 60 FR 29571, 29573 (June 5, 1995);[4] *Notice of Final Determination of Sales at Less Than Fair Value: Manganese Metal From the People's Republic of China*, 60 FR 56045, 56046 (Nov. 6, 1995). We have no new information in this proceeding which would cause us to reconsider this determination.

According to SVW, PVA exports are not affected by export licensing provisions or export quotas. SVW claims to have autonomy in setting the contract prices for sales of PVA through independent price negotiations with its foreign customers without interference from the PRC government. Based on the assertions of SVW, we preliminarily determine that there is an absence of *de jure* government control over the pricing and marketing decisions of SVW with respect to its PVA export sales.

2. Absence of De Facto Control

As stated in previous cases, there is some evidence that certain enactments of the PRC central government have not been implemented uniformly among different sectors and/or jurisdictions in the PRC. *See Mushrooms*, 63 FR 72257. Therefore, the Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

The Department typically considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) Whether the export prices are set by, or subject to, the approval of a governmental authority; (2) whether the respondent has authority to negotiate and sign contracts, and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of its management; and (4) whether the respondent retains the proceeds of its export sales and makes

[4] This was unchanged in the final determination. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Partial-Extension Steel Drawer Slides with Rollers from the People's Republic of China*, 60 FR 54472, 54474 (Oct. 24, 1995).

independent decisions regarding disposition of profits or financing of losses. *See Id.*

SVW has asserted the following: (1) It establishes its own export prices; (2) it negotiates contracts without guidance from any governmental entities or organizations; (3) it makes its own personnel decisions; and (4) it retains the proceeds of its export sales and uses profits according to its business needs. Additionally, SVW's questionnaire responses indicate that it does not coordinate with other exporters in setting prices or in determining which companies will sell to which markets. This information supports a preliminary finding that there is an absence of *de facto* governmental control of the export functions of these companies. Consequently, we preliminarily determine that SVW has met the criteria for the application of separate rates.

In addition to the above analysis, the Department further analyzed information provided by the petitioners in a submission dated December 11, 2002. In this submission, the petitioners provided documentation which indicated that SVW was part of a debt-equity conversion agreement in April 2000, mandated by the PRC government between Sinopec Group Company (a ministry-level enterprise) and certain PRC banks. However, because there is no evidence on the record that shows that Sinopec Group Company exercises any influence or control in the day-to-day operations of SVW, we preliminarily determine that SVW has met the criteria for the application of separate rates. For further discussion, see the memorandum entitled "Concurrence Memorandum for the Preliminary Determination in the Investigation of Polyvinyl Alcohol from the People's Republic of China," dated March 14, 2003 (the Concurrence Memorandum), on file in room B–099 of the Department's Central Records Unit (CRU).

PRC-Wide Rate and Use of Facts Otherwise Available

As in all NME cases, the Department implements a policy whereby there is a rebuttable presumption that all exporters or producers located in the NME comprise a single exporter under common government control, the "NME entity." The Department assigns a single NME rate to the NME entity unless an exporter can demonstrate eligibility for a separate rate.

Section 776(a)(2) of the Act provides that if an interested party or any other person (A) withholds information that has been requested by the administering authority; (B) fails to provide such information by the deadline, or in the form or manner requested, (C) significantly impedes a proceeding, or (D) provides such information that cannot be verified, the Department shall use, subject to sections 782(d) and (e) of the Act, facts otherwise available in reaching the applicable determination.

Pursuant to section 782(e) of the Act, the Department shall not decline to consider submitted information if all of the following requirements are met: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

Information on the record of this investigation indicates that there are numerous producers/exporters of the subject merchandise in the PRC. As noted in the "Case History" section above, all exporters were given the opportunity to respond to the Department's questionnaire. Based upon our knowledge of PRC exporters (including correspondence received in this proceeding) and the fact that U.S. import statistics show that the responding company did not account for all imports into the United States from the PRC, we have preliminarily determined that PRC exporters of PVA failed to respond to our questionnaire. As a result, use of facts available (FA), pursuant to section 776(a)(2)(A) of the Act, is appropriate.

In selecting among the facts otherwise available, section 776(b) of the Act authorizes the Department to use adverse facts available (AFA) if the Department finds that an interested party failed to cooperate by not acting to the best of its ability to comply with the request for information. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Bicycles from the People's Republic of China*, 61 FR 19026, 19028 (April 30, 1996); *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From the Russian Federation*, 65 FR 5510, 5518 (February 4, 2000). MOFTEC was notified in the Department's questionnaire that failure to submit the requested information by the date specified might result in use of FA. The producers/exporters that decided not to respond to the Department's questionnaire failed to act to the best of their ability in this investigation. Absent a response, we must presume government control of these companies. The Department has determined, therefore, that in selecting from among the facts otherwise available an adverse inference pursuant to section 776(b) of the Act is warranted.

In accordance with our standard practice, as AFA, we are assigning as the PRC-wide rate the higher of: (1) The highest margin stated in the notice of initiation (*i.e.*, the recalculated petition margin); or (2) the highest margin calculated for any respondent in this investigation. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Quality Steel Products from the People's Republic of China*, 64 FR 34660 (May 31, 2000) and accompanying decision memorandum at *Comment 1*. In this case, the preliminary AFA margin is 97.86 percent, which is the highest margin stated in the notice of initiation. *See Initiation Notice*, 67 FR 61594.

Corroboration of Information

Section 776(b) of the Act authorizes the Department to use AFA information derived from the petition, the final determination from the LTFV investigation, a previous administrative review, or any other information placed on the record.

Section 776(c) of the Act requires the Department to corroborate, to the extent practicable, secondary information used as FA. Secondary information is defined as "[i]nformation derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise." *See* Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 103–316 at 870 (1994) and 19 CFR 351.308(d). The SAA clarifies that "corroborate" means that the Department will satisfy itself that the secondary information to be used has probative value. *See* the SAA at 870. The SAA also states that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics, customs data, and information obtained from interested parties during the particular investigation. *See* the SAA at 870.

In order to determine the probative value of the margins in the petition for use as AFA for purposes of this determination, we examined evidence supporting the calculations in the petition. We reviewed the adequacy and accuracy of the information in the petition during our pre-initiation analysis of the petition, to the extent appropriate information was available

for this purpose. *See* the October 1, 2002, *Initiation Checklist*, on file in the CRU, Room B–099, of the Main Commerce Department building, for a discussion of the margin calculations in the petition. In accordance with section 776(c) of the Act, to the extent practicable, we examined the key elements of the export price (EP) and NV calculations on which the margins in the petition were based.

In order to corroborate the petition's EP calculations, we compared the prices in the petition for PVA to the prices submitted by SVW. In order to corroborate the petitioners' NV calculation, we compared the petitioners' factor consumption and/or surrogate value data for PVA to the data reported by SVW for the most significant factors—vinyl acetate monomer (VAM) and its by-product acetic acid, electricity, factory overhead, and selling, general, and administrative (SG&A) expenses, and profit—and to surrogate values selected by the Department for the preliminary determination, as discussed below.

As discussed in the March 14, 2003, memorandum from the team to the file entitled "Corroboration of Data Contained in the Petition for Assigning an Adverse Facts Available Rate," we found that the U.S. price and factors of production information in the petition to be reasonable and of probative value. As a number of the surrogate values selected for the preliminary determination differed from those used in the petition, we compared the petition margin calculations to the calculations based on the selected surrogate values wherever possible and found they were reasonably close. Therefore, we preliminarily determine that the petition information has probative value. Accordingly, we find that the highest margin stated in the notice of initiation, 97.86 percent, is corroborated within the meaning of section 776(c) of the Act. For further discussion, see the March 14, 2003, memorandum to the file from the team entitled "Corroboration of Data Contained in the Petition for Assigning an Adverse Facts Available Rate."

Fair Value Comparisons

To determine whether sales of PVA from the PRC were made at LTFV, we compared the EP to the NV, as described in the "Export Price," and "Normal Value" sections of this notice, below. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI-wide weighted-average EPs by product to the appropriate product-specific NV.

Export Price

In accordance with section 772(a) of the Act, we based our calculations on EP for SVW because the subject merchandise was sold by the producer/exporter directly to the first unaffiliated purchaser prior to importation. We based EP on the packed FOB PRC port or CIF U.S. port prices to unaffiliated purchasers in the United States, as appropriate. We made deductions for movement expenses, in accordance with 772(c)(2)(A) of the Act; these included, where appropriate, foreign inland freight (including truck, rail, and waterway), foreign brokerage and handling, ocean freight, and marine insurance. As certain of these movement services were provided by NME suppliers, we valued them using Indian or other market-economy rates. For further discussion of our use of surrogate data in an NME proceeding, as well as selection of India as the appropriate surrogate country, see the "Normal Value" section of this notice, below.

For foreign inland truck freight we used price quotes obtained by the Department from Indian truck freight companies. These price quotes were recently used in the 2000–2001 antidumping duty administrative review of persulfates from the PRC. *See Persulfates From the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review and Notice of Partial Rescission*, 67 FR 50866, 50867, 50869 (Aug. 6, 2002) [5] (*Persulfates*).

For foreign inland rail freight, we used per kilometer price quotes published in the July 2001 *Reserve Bank of India Bulletin*. These price quotes were used in the 2001–2002 antidumping duty investigation of non-malleable cast iron pipe from the PRC and in the 2001–2002 antidumping duty administrative review of synthetic indigo from the PRC. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China*, 67 FR 60214 (Sept. 25, 2002) [6] and *See Synthetic Indigo from the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review*, 68 FR 11371, 11372 (Mar. 10, 2003) (*Indigo from the PRC*).

For foreign inland waterway freight, we used an Indian domestic ship rate obtained in the 1999–2000 antidumping duty administrative review and used in the 2000–2001 antidumping duty administrative review of helical spring lock washers from the PRC. *See Certain Helical Spring Lock Washers From the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 67 FR 8520 and accompanying decision memorandum at Comment 5 (Feb. 25, 2002) and *Certain Helical Spring Lock Washers From the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review*, 67 FR 45702, 45704 (July 10, 2002).[7]

For foreign brokerage and handling expenses, we used brokerage and handling data obtained in the 1998–1999 antidumping duty investigation and used in the 2001–2002 antidumping duty administrative review of synthetic indigo from the PRC. *See Notice of Preliminary Determination of Sales at Less than Fair Value and Postponement of Final Determination: Synthetic Indigo from the People's Republic of China*, 64 FR 69723 (December 14, 1999) [8] and *Indigo from the PRC*, 68 FR 11372.

With respect to ocean freight, SVW asserted that it used market-economy suppliers for its shipments of PVA. However, based on the submitted information, we could not establish that the ocean freight expenses SVW paid reflect prices set by market-economy carriers. Specifically, SVW's questionnaire responses indicate that ocean freight was paid to a PRC company, not a market-economy supplier. Therefore, in accordance with our practice, we valued ocean freight using a surrogate value. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Non-Frozen Apple Juice Concentrate from the People's Republic of China*, 65 FR 19873 (April 13, 2000) and accompanying decision memorandum at *Comment 3*. Specifically, we valued ocean freight for SVW's CIF shipments using a price quote obtained in the 2001–2002 antidumping duty administrative review of synthetic indigo from the PRC. *See Indigo from the PRC*, 68 FR 11372.

[5] This was unchanged in the final determination. *See Persulfates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 68 FR 6712 (Feb. 10, 2003) (*Persulfates Final*).

[6] This was unchanged in the final determination. *See Notice of Final Determination of Sales at Less Than Fair Value: Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China*, 68 FR 7765 (Feb. 18, 2003).

[7] This was unchanged in the final determination. *See Certain Helical Spring Lock Washers From the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 67 FR 69717 (Nov. 19, 2002).

[8] This was unchanged in the final determination. *See Synthetic Indigo from the People's Republic of China: Notice of Final Determination of Sales at Less Than Fair Value*, 65 FR 25706 (May 3, 2000).

For marine insurance we used price quotes obtained by the Department from a market-economy provider and used in the 2000–2001 antidumping duty administrative review of persulfates from the PRC. *See Persulfates*, 67 FR 50867.

Where appropriate, we adjusted the values to reflect inflation up to the POI using the wholesale price indices (WPI) or the purchase price indices published by the International Monetary Fund (IMF), as appropriate.

Normal Value

A. Surrogate Country

Section 773(c)(4) of the Act requires the Department to value an NME producer's factors of production, to the extent possible, in one or more market economy countries that: (1) Are at a level of economic development comparable to that of the NME country, and (2) are significant producers of comparable merchandise. The Department has determined that India, Pakistan, Indonesia, Sri Lanka, and the Philippines are countries comparable to the PRC in terms of overall economic development. *See* the October 30, 2002, memorandum from Jeffrey May to Louis Apple entitled "Antidumping Duty Investigation on Polyvinyl Alcohol from the People's Republic of China (PRC)."

According to the available information on the record, we have determined that India is a significant producer of merchandise comparable to PVA (*i.e.*, polyvinyl acetate, the precursor polymer of fully-hydrolyzed PVA). For purposes of the preliminary determination, we have selected India as the surrogate country, based on the quality and contemporaneity of the currently available data. Accordingly, we have calculated NV using Indian values for the PRC producer's factors of production. We have obtained and relied upon publicly available information wherever possible.

B. Self-Produced Inputs

In accordance with section 773(c) of the Act, we calculated NV based on factors of production reported by SVW for the POI. As the basis for NV, SVW reported factors of production information for each separate stage of production, including the factors used in the production of all self-produced material and energy inputs, and by-products.[9]

Our general policy, consistent with section 773(c)(1)(B) of the Act, is to value the factors of production that a respondent uses to produce the subject merchandise. *See Notice of Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam*, 68 FR 4986 (January 31, 2003).

If the NME respondent is an integrated producer, we take into account the factors utilized in each stage of the production process. For example, in the case of preserved canned mushrooms produced by a fully integrated firm, the Department valued the factors used to grow the mushrooms, the factors used to further process and preserve the mushrooms, and any additional factors used to can and package the mushrooms, including any used to manufacture the cans (if produced in-house). If, on the other hand, the firm was not integrated, but simply a processor that bought fresh mushrooms to preserve and can, the Department valued the purchased mushrooms and not the factors used to grow them. *See* the final results valuation memorandum for *Final Results of First New Shipper Review and First Antidumping Duty Administrative Review: Certain Preserved Mushrooms From the People's Republic of China*, 66 FR 31204 (June 11, 2001). This policy has been applied to both agricultural and industrial products. *See, e.g., Persulfates Final and Notice of Final Determinations of Sales at Less Than Fair Value: Brake Drums and Brake Rotors From the People's Republic of China*; 62 FR 9160 (February 28, 1997). Accordingly, our standard NME questionnaire asks respondents to report the factors used in the various stages of production.

There are, however, two limited exceptions to this general rule. First, in some cases a respondent may report factors used to produce an intermediate input that accounts for a small or insignificant share of total output. The Department recognizes that, in those cases, the increased accuracy in our overall calculations that would result from valuing (separately) each of those factors may be so small so as to not justify the burden of doing so. Therefore, in those situations, the Department would value the intermediate input directly.

Second, in certain circumstances, it is clear that attempting to value the factors used in a production process yielding an intermediate product would lead to an inaccurate result because a significant element of cost would not be adequately accounted for in the overall factors buildup. For example, in a recent case, we addressed whether we should value the respondent's factors used in extracting iron ore—an input to its wire rod factory. The Department determined that, if it were to use those factors, it would not sufficiently account for the capital costs associated with the iron ore mining operation given that the surrogate used for valuing production overhead did not have mining operations. Therefore, because ignoring this important cost element would distort the calculation, the Department declined to value the inputs used in mining iron ore and valued the iron ore instead. *See Notice of Final Determination of Sales at Less Than Fair Value: Carbon and Certain Alloy Steel Wire Rod From Ukraine*, 67 FR 55785 (August 30, 2002); *Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products From the People's Republic of China*; 66 FR 49632 (September 28, 2001); *Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From the People's Republic of China*; 62 FR 61964 (November 20, 1997); and *Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China*; 60 FR 22544 (May 8, 1995).

The petitioners have argued that the Department's policy is inappropriate in this investigation because the surrogate producer from which the financial ratios are derived is at a level of integration which differs significantly from SVW's own. Given these circumstances, the petitioners conclude that valuing each component would understate factory overhead, SG&A expenses, and profit; instead, the petitioners request that the Department begin its valuation at either the ultimate or penultimate stage of the production process.

After analyzing this issue, we find that the facts on the record do not warrant a departure from our normal practice, because we find that SVW and the surrogate producer in question are at similar levels of vertical integration. Therefore, we have valued the factors reported for each self-produced input for purposes of the preliminary determination. For further discussion, see the March 14, 2003, memorandum

[9] In addition to its own factors of production, SVW reported the factors of production used by a joint venture to produce acetic acid. However, we did not value those factors when calculating NV in this investigation. Rather, we have valued the acetic acid purchased from the joint venture and consumed during the POI, accordance with our practice. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Ferrovanadium From the People's Republic of China*, 67 FR 45088, 45092 (July 8, 2002). For further discussion, see the Concurrence Memorandum.

from the team to Susan Kuhbach, Acting Deputy Assistant Secretary for Group 1, entitled "Treatment of Self-Produced Inputs in the Less Than Fair Investigation on Polyvinyl Alcohol from the People's Republic of China."

C. Factors of Production

For purposes of calculating NV, we valued PRC factors of production, in accordance with section 773(c)(1) of the Act. Factors of production include, but are not limited to: (1) Hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital cost, including depreciation. In examining surrogate values, we selected, where possible, the publicly available value which was: (1) An average non-export value; (2) representative of a range of prices within the POI or most contemporaneous with the POI; (3) product-specific; and (4) tax-exclusive. For a more detailed explanation of the methodology used in calculating various surrogate values, see the memorandum entitled "Preliminary Determination Factors Valuation Memorandum," dated March 14, 2003 (the Factors Memorandum), on file in the CRU.

In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices by including freight costs to make them delivered prices. We added to Indian surrogate values surrogate freight costs using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory. This adjustment is in accordance with the Court of Appeals for the Federal Circuit's decision in *Sigma Corporation* v. *United States*, 117 F. 3d 1401, 1407–08 (Fed. Cir. 1997). For a discussion of the valuation of SVW's freight costs, *see* the "Export Price" section of this notice, above.

We valued acetic acid, d-tartaric acid, solid sodium hydroxide, sodium hexametaphosphate, sodium nitrite, sulfuric acid, and zinc oxide using Indian domestic market prices reported in *Chemical Weekly* contemporaneous with the POI. We valued activated carbon,[10] antioxidant, azodiisobutyronitrile, bacteria killer, hydroquinone, liquid ammonia, liquid sodium hydroxide, monoethanolamine, n-butyl acetate, polyferric sulfate, and sodium carbonate using India import statistics as published by the *Monthly Statistics of Foreign Trade of India* covering the period April 2001 through January 2002.

We valued natural gas using a price obtained from the website of the Gas Authority of India Ltd., a supplier of natural gas in India, covering the period January through June 2002. For further discussion, see the Factors Memorandum.

To value paper bags and polyethylene plastic bags (*i.e.*, the packing materials reported by the respondent), we used import values from the *Monthly Statistics of Foreign Trade of India.*

Regarding the remaining raw material factors of production reported by SVW, we did not value these factors because: (1) Surrogate value information was not available; and (2) the materials were reported as used in very small amounts. Moreover, we did not value certain treatment chemicals used in treated water in our calculation of NV. Rather, we classified these treatment chemicals as part of factory overhead, in order to avoid the possibility of double counting them. *See* the Concurrence Memorandum.

Regarding electricity and steam, we valued each of the factors of production reported by SVW for which we were able to obtain surrogate value information (*i.e.*, direct labor, compressed air, and steam coal) using the regression-based wage rate from the Department's Import Administration website, the input factors provided by SVW, and the *Monthly Statistics of Foreign Trade of India*, respectively. We find that it is appropriate to value SVW's energy inputs in this manner given that the surrogate producer from which the factory overhead ratio is derived also produces its own electricity and steam. For further discussion on the valuation of electricity and steam, see the Concurrence Memorandum and the Factors Memorandum.

We valued labor based on a regression-based wage rate, in accordance with 19 CFR 351.408(c)(3).

To determine factory overhead, depreciation, SG&A expenses,[11] interest expenses, and profit for the finished product, we relied on rates derived from the financial statements of Jubilant Organosys Ltd. (formerly VAM Organic Chemical Ltd.), an Indian producer of comparable merchandise. We applied these ratios to SVW's costs (determined as noted above) for materials, labor, and energy, prior to the offset for the recovery of acetic acid. For further discussion, see the Factors Memorandum. *See also* the March 14, 2003, memorandum from the team to Susan Kuhbach entitled "Treatment of Self-Produced Inputs in the Less Than Fair Investigation on Polyvinyl Alcohol from the People's Republic of China."

Finally, SVW reported that it generated certain by-products as a result of the production of PVA or the inputs used to produce PVA.[12] Because either SVW did not provide sufficient information to permit the accurate valuation of these by-products or we were unable to obtain appropriate surrogate value data for them, we did not value these by-products for the preliminary determination. For further discussion, *see* the Concurrence Memorandum.

Verification

As provided in section 782(i) of the Act, we intend to verify all information relied upon in making our final determination.

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Because the estimated weighted-average preliminary dumping margin for SVW is *de minimis*, we are not directing the Customs Service to suspend liquidation of entries of merchandise produced and exported by SVW. We are also instructing the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average dumping margin for all entries of PVA from the PRC, except for entries of this merchandise produced and exported by SVW. These suspension of liquidation instructions will remain in effect until further notice.

The weighted-average dumping margins are as follows:

Manufacturer/exporter	Weighted-average margin (in percent)
Sinopec Sichuan Vinylon Works ..	0.20
PRC-wide	97.86

[10] *See* the Factors Memorandum for discussion of our selection of surrogate value data for activated carbon.

[11] Because we believe that SG&A labor is not classified as part of the SG&A costs reflected on Jubilant's financial statements, we have accounted for SG&A labor hours by calculating a dollar-per-MT labor hours amount and adding this amount to SG&A. For further discussion, see the March 14, 2003, memorandum from the Team, entitled "U.S. Price and Factors of Production Adjustments for the Preliminary Determination."

[12] These by-products included alkynes gas, methyl acetate, and PVA scrap.

The PRC-wide rate applies to all entries of the subject merchandise except for entries from exporters/producers that are identified individually above.

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. The deadline for that ITC determination would be the later of 120 days after the date of this preliminary determination or 45 days after the date of our final determination.

Public Comment

Case briefs for this investigation must be submitted no later than seven days after the date of the final verification report issued in this proceeding. Rebuttal briefs must be filed five days from the deadline date for case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. *See* 19 CFR 351.309.

Section 774 of the Act provides that the Department will hold a hearing to afford interested parties an opportunity to comment on arguments raised in case briefs, provided that such a hearing is requested by any interested party. If a request for a hearing is made in this investigation, the hearing will tentatively be held two days after the deadline for submission of the rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time. Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request within 30 days of the publication of this notice. Requests should specify the number of participants and provide a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. *See* 19 CFR 351.310.

We will make our final determination by 135 days after the date of this preliminary determination, pursuant to section 735(a)(2) of the Act.

This determination is published pursuant to sections 733(f) and 777(i) of the Act.

Dated: March 14, 2003.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 03–6735 Filed 3–19–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–850]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Polyvinyl Alcohol From the Republic of Korea

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

ACTION: Notice of preliminary determination of sales at less than fair value.

SUMMARY: We preliminarily determine that polyvinyl alcohol from the Republic of Korea is being, or is likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended.

Interested parties are invited to comment on this preliminary determination. We will make our final determination not later than 135 days after the date of publication of this preliminary determination.

EFFECTIVE DATE: March 20, 2003.

FOR FURTHER INFORMATION CONTACT: Irina Itkin, Office of AD/CVD Enforcement, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0656.

Preliminary Determination

The Department has conducted this antidumping investigation in accordance with section 733 of the Tariff Act of 1930, as amended (the Act). We preliminarily determine that polyvinyl alcohol (PVA) from the Republic of Korea (Korea) is being sold, or is likely to be sold, in the United States at less than fair value (LTFV), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the initiation of this investigation (*Initiation of Antidumping Duty Investigations: Polyvinyl Alcohol from Germany, Japan, the People's Republic of China, the Republic of Korea, and Singapore,* 67 FR 61591 (Oct. 1, 2002)) (*Initiation Notice*), the following events have occurred.

On October 11, 2002, the petitioners [1] and one Korean exporter of PVA, DC Chemical Company, Ltd. (DC CHEM), submitted comments on the model-matching criteria to be used by the Department. Two interested parties in the companion case on PVA from Japan, Kuraray Co., Ltd. (Kuraray) and Marubeni Specialty Chemicals, Inc. (Marubeni), also filed comments on the model-matching criteria to be used by the Department. On October 15, 2002, Marubeni submitted an amendment to its model-matching comments. On December 13, 2002, the petitioners and another Japanese exporter, the Nippon Synthetic Chemical Industry Co., Ltd. (Nippon Gohsei), submitted additional model-matching comments.[2]

On October 21, 2002, the United States International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that imports of PVA from Korea are materially injuring the United States industry. *See* ITC Investigation Nos. 731–TA–1014–1018 (Publication No. 3553, *Polyvinyl Alcohol from Germany, Japan, the People's Republic of China, the Republic of Korea, and Singapore,* 67 FR 65597 (Oct. 25, 2002)).

On October 22, 2002, we selected DC CHEM, the only known producer/exporter of PVA from Korea, as the mandatory respondent in this proceeding. For further discussion, see the memorandum to Louis Apple, Director, Office 2, from the Team entitled "Respondent Selection," dated October 22, 2002. We also issued the antidumping questionnaire to DC CHEM on October 22, 2002.

During the period November 2002 through February 2003, we received responses to the Department's original and supplemental questionnaires.

On January 21, 2003, pursuant to 19 CFR 351.205(e), the petitioners made a timely request to postpone the preliminary determination for 30 days. We granted this request and, on January 30, 2003, postponed the preliminary

[1] The petitioners in this investigation are Celanese Chemicals Ltd. and E.I. Dupont de Nemours & Co. (collectively, "the petitioners").

[2] Because the comments submitted by the parties in the companion investigation of PVA from Japan relate to this investigation, we placed them on the record of this case.

determination until no later than March 14, 2003. *See Postponement of Preliminary Determinations of Antidumping Duty Investigations: Polyvinyl Alcohol from the People's Republic of China and the Republic of Korea,* 68 FR 4763 (Jan. 30, 2003).

In March 2003, as provided in section 782(i)(3)(a) of the Act, we verified the constructed export price (CEP) sales data reported by DC CHEM. We used standard verification procedures, including examination of relevant sales and financial records. Because this verification was conducted immediately prior to the preliminary determination, we have had insufficient time to incorporate any verification findings into this determination. Therefore, we will consider any such findings in our final determination.

On March 12, 2003, DC CHEM requested that the Department revise the scope to exclude certain additional copolymers. Because there was insufficient time to properly consider DC CHEM's exclusion request, we will address it in the final determination.

Postponement of Final Determination

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. The Department's regulations, at 19 CFR 351.210(e)(2), require that requests by respondents for postponement of a final determination be accompanied by a request for extension of provisional measures from a four-month period to not more than six months.

Pursuant to section 735(a)(2) of the Act, on February 12, 2003, DC CHEM requested that the Department postpone its final determination until not later than 135 days after the date of the publication of the preliminary determination in the **Federal Register**. DC CHEM also included a request to extend the provisional measures to not more than six months. Accordingly, since we have made an affirmative preliminary determination and no compelling reasons for denial exist, we are granting DC CHEM's request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**.

Period of Investigation

The period of investigation (POI) is July 1, 2001, through June 30, 2002. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (*i.e.*, September 2002).

Scope Comments

In accordance with the preamble to our regulations (*see Antidumping Duties; Countervailing Duties,* 62 FR 27296, 27323 (May 19, 1997)), we set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 calendar days of publication of the initiation notice. *See* the *Initiation Notice,* 67 FR at 61591. Although no comments on the scope of the investigation were received in this proceeding, scope comments were received in the companion Japanese case. Because these comments relate to PVA in general, we find that they are applicable to this proceeding. Accordingly, we have placed on the record of this proceeding all public scope comments as well as all public versions of the proprietary scope documents filed in the companion Japanese case, and, for the reasons specified in that preliminary determination, we have modified the scope of this investigation based on these comments. *See* the "Scope Comments" section of the *Notice of Preliminary Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol from Japan,* 68 FR 8203, 8204–05 (Feb. 20, 2003).

Scope of Investigation

The merchandise covered by this investigation is PVA. This product consists of all PVA hydrolyzed in excess of 80 percent, whether or not mixed or diluted with commercial levels of defoamer or boric acid, except as noted below.

The following products are specifically excluded from the scope of this investigation:

(1) PVA in fiber form.

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

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

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

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

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

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

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

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

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

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

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

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

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

The merchandise under investigation is currently classifiable under subheading 3905.30.00 of the *Harmonized Tariff Schedule of the United States* ("HTSUS"). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Fair Value Comparisons

To determine whether sales of PVA from Korea to the United States were made at LTFV, we compared the CEP to the normal value (NV), as described in the "Constructed Export Price" and "Normal Value" sections of this notice, below. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI weighted-average CEPs to weighted-average NVs.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced and sold by DC CHEM in the home market during the POI that fit the description in the "Scope of Investigation" section of this notice to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI weighted-average CEPs to POI weighted-average NVs. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade.

In October 2002, DC CHEM, Kuraray, Marubeni, and the petitioners submitted comments on the model-matching criteria to be used by the Department.[3] Based on these comments, we proposed to match products sold in the United States to products sold in the home market in the ordinary course of trade that were identical with respect to the following hierarchy of characteristics: molecular structure, hydrolysis, viscosity, degree of modification, particle size, tackifier, defoamer, ash, color, volatiles, and visual impurities. We invited interested parties to submit additional comments on these criteria prior to the preliminary determination. In December, the petitioners and Nippon Gohsei submitted additional model-matching comments.[4]

After analyzing these comments, we have reconsidered the model-matching hierarchy and revised it as follows: (1) We added as the most important criterion whether the product is a homo- or a co-polymer; (2) we placed hydrolysis and viscosity before molecular structure (*i.e.*, the type of copolymer); and (3) we allowed the reporting of hydrolysis, viscosity, and degree of modification in ranges.[5] All other characteristics remain the same. For further discussion, see the memorandum entitled "Concurrence Memorandum for the Preliminary Determination in the Investigation of Polyvinyl Alcohol from Korea," dated March 14, 2003, (Concurrence Memo), on file in room B–099 of the Department's Central Records Unit.

Constructed Export Price

In accordance with section 772(b) of the Act, we calculated the CEP for those sales where the merchandise was sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter, or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter. In this case, we are treating all of DC CHEM's U.S. sales as CEP sales because they were made in the United States by DC CHEM's U.S. affiliate on behalf of DC CHEM, within the meaning of section 772(b) of the Act.

We based the CEP on the packed delivered prices to unaffiliated purchasers in the United States. We added duty drawback received on imported materials, where applicable, pursuant to section 772(c)(1)(B) of the Act. Where appropriate, we made adjustments for billing errors and discounts. We also made deductions for movement expenses, in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, foreign inland freight, foreign brokerage and handling, international freight, marine insurance, U.S. customs duties (including U.S. duties, harbor maintenance fees, and merchandise processing fees), U.S. customs brokerage charges, U.S. inland freight expenses (*i.e.*, freight from port to warehouse and freight from warehouse to the customer), and U.S. warehousing expenses. In accordance with section 772(d)(1) of the Act and 19 CFR 351.402(b), we deducted those selling expenses associated with economic activities occurring in the United States related to sales to an unaffiliated purchaser, including direct selling expenses (imputed credit costs and other direct selling expenses), and indirect selling expenses (including U.S. inventory carrying costs and other indirect selling expenses incurred in the United States).

Pursuant to section 772(d)(3) of the Act, we further reduced the starting price by an amount for profit to arrive at the CEP. In accordance with section 772(f) of the Act, we calculated the CEP profit rate using the expenses incurred by DC CHEM and its affiliates on their sales of the subject merchandise in the United States and the foreign like product in the home market and the profit associated with those sales.

Normal Value

A. Home Market Viability

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales), we compared the respondent's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Because the respondent's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that the home market was viable for the respondent.

B. Affiliated-Party Transactions and Arm's-Length Test

DC CHEM reported sales of the foreign like product to affiliated end-users. To test whether these sales to affiliated customers were made at arm's length, we compared the prices of sales to affiliated and unaffiliated customers, net of all movement charges, direct selling expenses, and packing. Where the price to the affiliated party was, on average, 99.5 percent or more of the price to unaffiliated parties, we determined that sales made to the affiliated party were at arm's length. *See* 19 CFR 351.403(c). Based on this analysis, we found that 100 percent of DC CHEM's sales to affiliates in the home market were made at arm's length.

C. Cost of Production Analysis

Based on our analysis of an allegation contained in the petition, we found that there were reasonable grounds to believe or suspect that sales of PVA in the home market were made at prices below their cost of production (COP). Accordingly, pursuant to section 773(b) of the Act, we initiated a country-wide sales-below-cost investigation to determine whether sales were made at prices below their respective COPs. *See Initiation Notice*, 67 at FR 61594.

1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the cost of materials and fabrication for the foreign like product, plus an amount for general and administrative expenses (G&A), including interest expenses. *See* the "Test of Home Market Sales Prices" section below for treatment of home market selling expenses. We relied on

[3] As noted in the "Case History" section of this notice, Kuraray and Marubeni submitted their comments for the record of the companion case on PVA from Japan. Because these comments are relevant in this proceeding, we have placed them on the record here as well.

[4] These comments were only placed on the record for the companion case on PVA from Japan. Because they are relevant to this proceeding, we have placed them on the record here as well.

[5] In the companion case of PVA from Japan, we also revised the particle size field to include PVA in standard, fine, pellet and liquid forms. Because DC CHEM sold PVA in only the two original size classifications, standard and fine, this revision is not relevant to this proceeding.

the COP data submitted by DC CHEM, except as noted below:

- We revised the calculation of the G&A expense ratio to: (1) Include losses from the impairment of goodwill, losses on the valuation of inventories, donations, losses on the disposal of non-current assets, losses on construction, and losses on the cancellation of contracts; (2) exclude the cost offsets taken for equity gains on investments, duty drawback, rental income of a training institute, and other non-operating income; and (3) exclude gains and losses from foreign currency transactions and translation; and
- We revised the financial expense ratio to only include the amounts for gains and losses on foreign currency exchange transactions and translation from the 2001 consolidated financial statements.

For further discussion, see the memorandum from James Balog to Neal Halper, Director, Office of Accounting, entitled "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination," dated March 14, 2003.

For this preliminary determination, we have implemented a change in practice regarding the treatment of foreign exchange gains and losses. The Department's previous practice was to have respondents identify the source of all foreign exchange gains and losses (*e.g.*, debt, accounts receivable, accounts payable, cash deposits) at both a consolidated and unconsolidated corporate level. At the consolidated level, the current portion of foreign exchange gains and losses generated by debt or cash deposits were included in the interest expense rate computation. At the unconsolidated producer level, foreign exchange gains and losses on accounts payable were either included in the G&A rate computation, or under certain circumstances, in the cost of manufacturing. Gains and losses on accounts receivable at both the consolidated and unconsolidated producer levels were excluded from the COP and CV calculations.

Instead of splitting apart the foreign exchange gains and losses as reported in an entity's financial statements, we will normally include in the interest expense computation all foreign exchange gains and losses. In doing so, we will no longer include a portion of foreign exchange gains and losses from two different financial statements (*i.e.*, consolidated and unconsolidated producer). Instead, we will only include the foreign exchange gains and losses reported in the financial statement of the same entity used to compute each respondent's net interest expense rate. This approach recognizes that the key measure is not necessarily what generated the exchange gain or loss, but rather how well the entity as a whole was able to manage its foreign currency exposure in any one currency. As such, for these preliminary results, we included all foreign exchange gains or losses in the interest expense rate computation. We note that there may be unusual circumstances in certain cases which may cause the Department to deviate from this general practice. We will address exceptions on a case-by-case basis.

As this is a change in practice, we invite the parties to the proceeding to comment on this issue.

2. Test of Home Market Sales Prices

On a product-specific basis, we compared the adjusted weighted-average COP to the home market sales of the foreign like product, as required under section 773(b) of the Act, in order to determine whether the sale prices were below the COP. The prices were exclusive of any applicable movement charges, rebates, and direct and indirect selling expenses. In determining whether to disregard home market sales made at prices less than their COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act, whether such sales were made: (1) Within an extended period of time in substantial quantities; and (2) at prices which permitted the recovery of all costs within a reasonable period of time.

3. Results of the COP Test

Pursuant to section 773(b)(2)(C), where less than 20 percent of the respondent's sales of a given product are at prices less than the COP, we do not disregard any below-cost sales of that product, because we determine that in such instances the below-cost sales were not made in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product during the POI are at prices less than the COP, we determine that in such instances the below-cost sales represent "substantial quantities" within an extended period of time, in accordance with section 773(b)(1)(A) of the Act. In such cases, we also determine whether such sales were made at prices which would not permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(1)(B) of the Act.

We found that, for certain specific products, more than 20 percent of DC CHEM's home market sales were at prices less than the COP and, in addition, such sales did not provide for the recovery of costs within a reasonable period of time. We therefore excluded these sales and used the remaining sales, if any, as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

D. Level of Trade

In accordance with section 773(a)(1)(B)(i), to the extent practicable, the Department will determine NV based on sales in the comparison market at the same level of trade (LOT) as the EP or CEP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent). *See* 19 CFR 351.412(c)(2). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing. *Id.; see also Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From South Africa,* 62 FR 61731, 61732 (Nov. 19, 1997) (Plate from South Africa). In order to determine whether the comparison sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (*i.e.*, the "chain of distribution"),[6] including selling functions, class of customer ("customer category"), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying levels of trade for EP and comparison market sales (*i.e.*, NV based on either home market or third country prices[7]), we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act. *See Micron Technology, Inc.* v. *United States,* Court Nos. 00–1058,–1060 (Fed. Cir. 2001).

When the Department is unable to find sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP or CEP sales at a different LOT in the comparison market, where available data make it

[6] The marketing process in the United States and comparison markets begins with the producer and extends to the sale to the final user or consumer. The chain of distribution between the two may have many or few links, and the respondent's sales occur somewhere along this chain. In performing this evaluation, we considered the narrative responses of the respondent to properly determine where in the chain of distribution the sale appears to occur.

[7] Where NV is based on constructed value (CV), we determine the NV LOT based on the LOT of the sales from which we derive selling, general, and administrative expenses, and profit for CV, where possible.

practicable, we make an LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if an NV LOT is more remote from the factory than the CEP LOT and there is no basis for determining whether the difference in LOTs between NV and CEP affected price comparability (*i.e.*, no LOT adjustment was practicable), the Department shall grant a CEP offset, as provided in section 773(a)(7)(B) of the Act. *See Plate from South Africa*, 62 FR at 61732.

We obtained information from DC CHEM regarding the marketing stages involved in making the reported home market and U.S. sales, including a description of the selling activities performed by DC CHEM and its affiliates for each channel of distribution. Regarding the home market, DC CHEM reported home market sales through only one channel of distribution: direct sales to end-users and distributors. We examined the chain of distribution and the selling activities associated with sales reported by DC CHEM to each of these customer categories. The information on the record demonstrates that DC CHEM performs the same selling functions across customer categories. *See* DC CHEM's response to the Department's questionnaire, dated December 9, 2001, at page B–22. Based on our analysis of this information, we find that only one LOT exists in the home market.[8]

In the U.S. market, DC CHEM reported CEP sales through three channels of distribution. DC CHEM also reported that it performed the same selling functions for all U.S. sales regardless of distribution channel. Because the selling functions performed for sales through each channel of distribution were essentially the same, a finding of separate LOTs is not warranted.[9] Therefore, we determine that DC CHEM made sales through only one LOT in the U.S. market.

In order to determine whether NV was established at an LOT which constituted a more advanced stage of distribution than the LOT of the CEP, we compared the selling functions performed for home market sales with those performed with respect to the CEP transaction, which excludes economic activities occurring in the United States. We found that DC CHEM performed essentially the same marketing functions when selling in both the home market and the United States. Therefore, we determine that these sales are at the same LOT and no LOT adjustment is warranted. Because we find that no difference in the LOT exists between markets, we have not granted a CEP offset to DC CHEM. For further discussion, see the Concurrence Memorandum.

E. Calculation of Normal Value Based on Comparison Market Prices

We calculated NV based on delivered prices to unaffiliated customers or prices to affiliated customers that we determined to be at arm's-length. In accordance with our practice, for DC CHEM's local export sales, we also made an addition to home market price for duty drawback. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar From Korea* 67 FR 3149, 3151 (Jan. 23, 2002). We made deductions for rebates, where appropriate. We also made deductions, where appropriate, for movement expenses, including inland freight (plant to distribution warehouse and plant/warehouse to customer) and warehousing under section 773(a)(6)(B)(ii) of the Act. Pursuant to section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410, we also made deductions for home market imputed credit expenses and commissions. In accordance with 19 CFR 351.410(e), we offset home market commissions by the lesser of the commission amount or the amount of U.S. indirect selling expenses because DC CHEM incurred commissions only in the home market.

Furthermore, we made adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We also deducted home market packing costs and added U.S. packing costs in accordance with section 773(a)(6)(A) and (B) of the Act.

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 certified by the Federal Reserve Bank.

Verification

As provided in section 782(i) of the Act, we will verify all information relied upon in making our final determination.

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise from Korea entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct the Customs Service to require a cash deposit or the posting of bond equal to the weighted-average amount by which the NV exceeds the CEP, as indicated in the chart below. These suspension of liquidation instructions will remain in effect until further notice.

The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percentage
DC Chemical Company, Ltd.	8.06
All Others	8.06

Disclosure

The Department will disclose calculations performed within five days of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final antidumping determination is affirmative, the ITC will determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. The deadline for that ITC determination would be the later of 120 days after the date of this preliminary determination or 45 days after the date of our final determination.

Public Comment

Case briefs for this investigation must be submitted no later than seven days after the date of the final verification report issued in this proceeding. Rebuttal briefs must be filed five days from the deadline date for case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. *See* 19 CFR 351.309.

Section 774 of the Act provides that the Department will hold a public hearing to afford interested parties an opportunity to comment on arguments raised in case briefs, provided that such a hearing is requested by any interested party. If a request for a hearing is made

[8] Because DC CHEM claimed business proprietary treatment for this information, we are unable to discuss it further here. For a description of the selling functions in question, *see* the Concurrence Memorandum.

[9] As noted above, because DC CHEM claimed business proprietary treatment for this information, we are unable to discuss it further here. For a description of these selling functions, *see* the Concurrence Memorandum.

in this investigation, the hearing will tentatively be held two days after the deadline for submission of the rebuttal briefs, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time. Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request within 10 days of the publication of this notice. Requests should specify the number of participants and provide a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. *See* 19 CFR 351.310.

We will make our final determination no later than 135 days after the date of publication of this preliminary determination, pursuant to section 735(a)(1) of the Act.

This determination is published pursuant to sections 733(f) and 777(i) of the Act.

Dated: March 14, 2003.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 03–6736 Filed 3–19–03; 8:45 am]

BILLING CODE 3510–05–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–822]

Notice of Amended Final Results of Antidumping Duty Administrative Review: Stainless Steel Sheet and Strip in Coils From Mexico

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

ACTION: Notice of amended final results of antidumping duty administrative review of stainless steel sheet and strip from Mexico.

EFFECTIVE DATE: March 20, 2003.

SUMMARY: On February 11, 2003, the Department of Commerce (the Department) published in the **Federal Register** its notice of final results of the antidumping duty administrative review of stainless steel sheet and strip in coils from Mexico for the period July 1, 2000 through June 30, 2001. *See Stainless Steel Sheet and Strip in Coils from Mexico; Final Results of Antidumping Duty Administrative Review,* 68 FR 6889 (February 11, 2003). We are amending our final determination to correct ministerial errors alleged by respondent and petitioners.

FOR FURTHER INFORMATION CONTACT: Deborah Scott or Robert James, AD/CVD Enforcement, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–2657 or (202) 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Review

For purposes of this administrative review, the products covered are certain stainless steel sheet and strip in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject sheet and strip is a flat-rolled product in coils that is greater than 9.5 mm in width and less than 4.75 mm in thickness, and that is annealed or otherwise heat treated and pickled or otherwise descaled. The subject sheet and strip may also be further processed (*e.g.*, cold-rolled, polished, aluminized, coated, etc.) provided that it maintains the specific dimensions of sheet and strip following such processing.

The merchandise subject to this order is classified in the Harmonized Tariff Schedule of the United States (HTS) at subheadings: 7219.13.00.31, 7219.13.00.51, 7219.13.00.71, 7219.13.00.81, 7219.14.00.30, 7219.14.00.65, 7219.14.00.90, 7219.32.00.05, 7219.32.00.20, 7219.32.00.25, 7219.32.00.35, 7219.32.00.36, 7219.32.00.38, 7219.32.00.42, 7219.32.00.44, 7219.33.00.05, 7219.33.00.20, 7219.33.00.25, 7219.33.00.35, 7219.33.00.36, 7219.33.00.38, 7219.33.00.42, 7219.33.00.44, 7219.34.00.05, 7219.34.00.20, 7219.34.00.25, 7219.34.00.30, 7219.34.00.35, 7219.35.00.05, 7219.35.00.15, 7219.35.00.30, 7219.35.00.35, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.12.10.00, 7220.12.50.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.20.70.05, 7220.20.70.10, 7220.20.70.15, 7220.20.70.60, 7220.20.70.80, 7220.20.80.00, 7220.20.90.30, 7220.20.90.60, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTS subheadings are provided for convenience and Customs purposes, the Department's written description of the merchandise under review is dispositive.

Excluded from the scope of this order are the following: (1) Sheet and strip that is not annealed or otherwise heat treated and pickled or otherwise descaled; (2) sheet and strip that is cut to length; (3) plate (*i.e.*, flat-rolled stainless steel products of a thickness of 4.75 mm or more); (4) flat wire (*i.e.*, cold-rolled sections, with a prepared edge, rectangular in shape, of a width of not more than 9.5 mm); and (5) razor blade steel. Razor blade steel is a flat-rolled product of stainless steel, not further worked than cold-rolled (cold-reduced), in coils, of a width of not more than 23 mm and a thickness of 0.266 mm or less, containing, by weight, 12.5 to 14.5 percent chromium, and certified at the time of entry to be used in the manufacture of razor blades. *See* Chapter 72 of the HTSUS, "Additional U.S. Note" 1(d).

In response to comments by interested parties the Department has determined that certain specialty stainless steel products are also excluded from the scope of this order. These excluded products are described below.

Flapper valve steel is defined as stainless steel strip in coils containing, by weight, between 0.37 and 0.43 percent carbon, between 1.15 and 1.35 percent molybdenum, and between 0.20 and 0.80 percent manganese. This steel also contains, by weight, phosphorus of 0.025 percent or less, silicon of between 0.20 and 0.50 percent, and sulfur of 0.020 percent or less. The product is manufactured by means of vacuum arc remelting, with inclusion controls for sulphide of no more than 0.04 percent and for oxide of no more than 0.05 percent. Flapper valve steel has a tensile strength of between 210 and 300 ksi, yield strength of between 170 and 270 ksi, plus or minus 8 ksi, and a hardness (Hv) of between 460 and 590. Flapper valve steel is most commonly used to produce specialty flapper valves for compressors.

Also excluded is a product referred to as suspension foil, a specialty steel product used in the manufacture of suspension assemblies for computer disk drives. Suspension foil is described as 302/304 grade or 202 grade stainless steel of a thickness between 14 and 127 microns, with a thickness tolerance of plus-or-minus 2.01 microns, and surface glossiness of 200 to 700 percent Gs. Suspension foil must be supplied in coil widths of not more than 407 mm, and with a mass of 225 kg or less. Roll marks may only be visible on one side, with no scratches of measurable depth. The material must exhibit residual stresses

2002 (67 FR 71588). The hearing was held in Washington, DC, on March 6, 2003, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on April 21, 2003. The views of the Commission are contained in USITC Publication 3593 (April 2003), entitled Ball Bearings from China: Investigation No. 731–TA–989 (Final).

By order of the Commission.

Issued: April 7, 2003.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 03–8967 Filed 4–11–03; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–491]

In the Matter of: Certain Display Controllers and Products Containing Same; Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on March 10, 2003, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Genesis Microchip (Delaware) Inc. of Alviso, California. A letter supplementing the complaint was filed on March 28, 2003. The complaint, as supplemented, alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain display controllers and products containing same by reason of infringement of claims 13 and 15 of U.S. Patent No. 6,078,361, claims 19–22 of U.S. Patent No. 5,953,074, and claims 1 and 9 of U.S. Patent No. 6,177,922. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, at the conclusion of the investigation, issue a permanent exclusion order and a permanent cease and desist order.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone 202–205–2000. 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 at *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*.

FOR FURTHER INFORMATION CONTACT: Anne Goalwin, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202–205–2574.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2002).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on April 7, 2003, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain display controllers or products containing same by reason of infringement of claims 13 or 15 of U.S. Patent No. 6,078,361, claims 19, 20, 21, or 22 of U.S. Patent No. 5,953,074, or claims 1 or 9 of U.S. Patent No. 6,177,922, and whether an industry in the United States exists as required by subsection (a)(2) of section 337.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Genesis Microchip (Delaware) Inc., 2150 Gold Street, Alviso, California 94002.

(b) The respondents are the following companies alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Media Reality Technologies, Inc., 107 Min Chuan East Road, Section 2, Taipei, Taiwan.

Media Reality Technologies, Inc., 767 North Mary Avenue, Sunnyvale, California 94086.

Trumpion Microelectronics, Inc., 11F, No. 17 Cheng-Teh Rd. Sec.1, Taipei City, Taiwan.

(c) Anne Goalwin, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Suite 401, Washington, DC 20436, who shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, the Honorable Delbert R. Terrill, Jr. is designated as the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with § 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d) and 210.13(a), such responses will be considered by the Commission if received no later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and to authorize the administrative law judge and the Commission, without further notice to that respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against that respondent.

By order of the Commission.

Issued: April 8, 2003.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 03–8970 Filed 4–11–03; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–1014 and 1017 (Final)]

Polyvinyl Alcohol From China and Korea

AGENCY: 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-1014 and 1017 (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 China and Korea of polyvinyl alcohol, provided for in subheading 3905.30.00 of the Harmonized Tariff Schedule of the United States.[1]

For further information concerning the conduct of this phase of these 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: March 20, 2003.

FOR FURTHER INFORMATION CONTACT: Debra Baker (202-205-3180), 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-ON-LINE) 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 polyvinyl alcohol from China and Korea are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigations were requested in a petition filed on September 5, 2002, by Celanese Chemicals, Ltd. of Dallas, TX and E.I. du Pont de Nemours & Co. of Wilmington, DE.

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 section 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 section 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 April 24, 2003, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on May 8, 2003, 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 May 1, 2003. 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 May 5, 2003, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 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 section 207.23 of the Commission's rules; the deadline for filing is May 1, 2003. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is May 15, 2003; witness testimony must be filed

[1] For purposes of these investigations, the Department of Commerce has defined the subject merchandise as all polyvinyl alcohol ("PVA") hydrolyzed in excess of 80 percent, whether or not mixed or diluted with commercial levels of defoamer or boric acid, except as noted below.

The following products are specifically excluded from the scope of these investigations:

(1) PVA in fiber form.

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

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

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

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

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

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

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

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

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

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

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

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

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

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 May 15, 2003. On May 30, 2003, 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 June 3, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. In addition, parties may submit comments concerning the Department of Commerce's final determinations on China and Korea only, on or before August 19, 2003. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also 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 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 section 207.21 of the Commission's rules.

By order of the Commission.

Issued: April 7, 2003.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 03–8968 Filed 4–11–03; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Meeting of the CJIS Advisory Policy Board

AGENCY: Federal Bureau of Investigation (FBI), Justice.

ACTION: Meeting notice.

SUMMARY: The purpose of this notice is to announce the meeting of the Criminal Justice Information Services (CJIS) Advisory Policy Board (APB). The CJIS APB is responsible for reviewing policy issues, uniform crime reports, and appropriate technical and operational issues related to the programs administered by the FBI's CJIS Division, and thereafter, make appropriate recommendations to the FBI Director. The programs administered by the FBI CJIS Division are: the Integrated Automated Fingerprint Identification System, the Interstate Identification Index, Law Enforcement Online, National Crime Information Center, the National Instant Criminal Background Check System, the National Incident-Based Reporting System, and Uniform Crime Reporting.

The meeting will be open to the public on a first-come, first-seated basis. Any member of the public wishing to file a written statement concerning the FBI's CJIS Division programs or wishing to address this session should notify the Designated Federal Employee, Mr. Roy G. Weise at (304) 625–2730, at least 24 hours prior to the start of the session.

The notification should contain the requester's name, corporate designation, and consumer affiliation or government designation along with a short statement describing the topic to be addressed and the time needed for the presentation. A requestor will ordinarily be allowed no more than 15 minutes to present a topic.

DATES: The APB will meet in open session from 9 a.m. until 5 p.m., on June 4–5, 2003.

ADDRESSES: The meeting will take place at the Renaissance Cleveland Hotel, 24 Public Square, Cleveland, Ohio, telephone (216) 696–5600.

FOR FURTHER INFORMATION CONTACT: Inquiries may be addressed to Mrs. Margery E. Broadwater, Management Analyst, Advisory Groups Management Unit, Programs Development Section, FBI CJIS Division, Module C3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306–0149, telephone (304) 625–2446, facsimile (304) 625–5090.

Dated: April 2, 2003.

Roy G. Weise,

Designated Federal Employee, Criminal Justice Information Services Division, Federal Bureau of Investigation.

[FR Doc. 03–9045 Filed 4–11–03; 8:45 am]

BILLING CODE 4410–02–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (03–041)]

NASA Advisory Council, Biological and Physical Research Advisory Committee, Commercial Advisory Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Biological and Physical Research Advisory Committee, Commercial Advisory Subcommittee (CAS).

DATES: Monday, April 28, 2003, 9 a.m. to 5 p.m.

ADDRESSES: NASA Ames Research Center, Moffet Field, California, the CEE Conference Room 261, Building 213, in the Systems Engineering Division.

FOR FURTHER INFORMATION CONTACT: Ms. Candace Livingston, Code US, National Aeronautics and Space Administration, Washington, DC 20546, (202) 358–0697.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. Advance notice of attendance to the Executive Secretary is requested. The agenda for the meeting will include the following topics:

—Introduction/Remarks
—Report from the Space Station Utilization Advisory Subcommittee
—Knowledge Mapping Activities
—Decision Rules
—Status of International Space Station Research Institute
—Legislative Issues/Research Re-planning Activities
—Commercial Participating in OBPR Strategic Road Mapping
—Committee Discussion
—Wrap-Up/Recommendations

Attendees will be requested to sign a register and to comply with NASA security requirements, including the presentation of a valid picture ID, before receiving an access badge. Foreign nationals attending this meeting will be required to provide the following information: Full name; gender; date/place of birth; citizenship; visa/greencard information (number, type, expiration date); passport information (number, country, expiration date); employer/affiliation information (name of institution, address, country, phone); title/position of attendee. To expedite

751(a)(2)(C) of the Act: (1) The cash deposit rate for the reviewed companies will be the rate established above; (2) for previously-reviewed PRC and non-PRC exporters with separate rates, the cash deposit rate will be the company-specific rate established for the most recent period; (3) for all other PRC exporters, the cash deposit rate will be the PRC-wide rate, 223.01 percent; and (4) for all other non-PRC exporters of the subject merchandise, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non-PRC exporter. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under section 351.402(f) of the Department's regulations 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 subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with section 351.305(a)(3) of the Department's regulations. 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 the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: April 14, 2003.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

APPENDIX

List of Issues

Comment 1: Valuation of the raw crawfish input
Comment 2: Cash deposit rates for producing and non-producing supplier combinations (Combination Rates)
Comment 3: Application of facts available to Qingdao Rirong Foodstuff Co., Ltd. (Qingdao Rirong) because it withheld information concerning its corporate affiliations
Comment 4: Application of facts available to Qingdao Rirong because it engaged in a pattern of noncompliance with regulations governing business proprietary information (BPI)
Comment 5: If Qingdao Rirong's margin is not based on adverse facts available, what should be used as partial facts available in calculating Qingdao Rirong's margin
Comment 6: Whether the Department improperly applied facts available to Yancheng Yaou Seafood Co., Ltd.
Comment 7: Application of Adverse Facts Available to China Kingdom Import & Export Co., Ltd. (China Kingdom)

[FR Doc. 03–9739 Filed 4–18–02; 8:45 am]
BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–428–836]

Notice of Final Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol from Germany

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

EFFECTIVE DATE: April 21, 2003.

FOR FURTHER INFORMATION CONTACT: Mike Strollo or Patrick Connolly at (202) 482–0629 or (202) 482–1779, respectively, Office of AD/CVD Enforcement, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

FINAL DETERMINATION:

We determine that polyvinyl alcohol (PVA) from Germany is being sold, or is 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 "Suspension of Liquidation" section of this notice.

Background

The preliminary determination in this investigation was issued on February 12, 2003. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol from Germany*, 68 FR 7980 (Feb. 19, 2003) (*Preliminary Determination*).

Since the preliminary determination, the following events have occurred. On March 3, 2003, the petitioners agreed to revise the scope of the companion case on PVA from Japan to exclude certain types of PVA covalently bonded with diacetoneacrylamide. The petitioners' submission was made in response to a request by Japan VAM and POVAL Co., Ltd., one of the mandatory respondents in the companion Japanese case.

Because these comments relate to PVA in general, we find that they are applicable to this proceeding. Accordingly, as we did in the preliminary determination, we have modified the scope to conform to that set forth in the companion Japanese proceeding, as described below. *See the Notice of Final Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol from Japan*, published in the **Federal Register** concurrently with this notice.

Scope of Investigation

The merchandise covered by this investigation is PVA. This product consists of all PVA hydrolyzed in excess of 80 percent, whether or not mixed or diluted with commercial levels of defoamer or boric acid, except as noted below.

The following products are specifically excluded from the scope of this investigation:

(1) PVA in fiber form.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The merchandise under investigation is currently classifiable under subheading 3905.30.00 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Period of Investigation

The POI is July 1, 2001, through June 30, 2002. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (*i.e.*, September 2002).

Facts Available

In the preliminary determination, we based the dumping margin for the two mandatory respondents in this case, Clariant GMBH (Clariant) and Kuraray Specialties Europe GMBH (Kuraray Europe), on adverse facts available pursuant to section 776(b) of the Act. The use of adverse facts available was warranted because Clariant and Kuraray Europe, as mandatory respondents, failed to supply the information requested in the antidumping duty questionnaires issued to them. Therefore, we found that Clariant and Kuraray Europe failed to cooperate by not acting to the best of their ability. As a result, pursuant to section 776(b) of the Act, we used an adverse inference in selecting from the facts available. Specifically, we assigned Clariant and Kuraray Europe the highest margin stated in the notice of initiation (*i.e.*, 19.05 percent). We continue to find this margin corroborated, pursuant to section 776(c) of the Act. A complete explanation of both the selection and application of facts available can be found in the *Preliminary Determination*, 68 FR at 7981–82.

No interested parties have commented on the use of adverse facts available for Clariant and Kuraray Europe in this investigation, or to the choice of the facts available margin. Accordingly, for the final determination, we are continuing to use the highest margin stated in the notice of initiation for both Clariant and Kuraray Europe. *See* the *Preliminary Determination*, 68 FR at 7983.

We have left unchanged from the preliminary determination the "All Others Rate" in this investigation. *See* the *Preliminary Determination*, 68 FR at 7983.

Analysis of Comments Received

We received no comments from interested parties in response to our preliminary determination. 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 the Customs Service to continue to suspend all entries of PVA from Germany, that are entered, or withdrawn from warehouse, for consumption on or after February 19, 2003, the date of publication of our preliminary determination. The Customs Service shall continue to require a cash deposit or the posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. These instructions suspending liquidation will remain in effect until further notice.

The dumping margins are provided below:

Manufacturer/exporter	Margin (percent)
Clariant GMBH	19.05
Kuraray Specialties Europe GMBH	19.05
All Others	10.75

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury or threat of material injury does not exist, the 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 the Customs Service 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.

Notification Regarding APO

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. 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 pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: April 14, 2003.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 03–9735 Filed 4–18–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-588–861]

Notice of Final Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol from Japan

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

EFFECTIVE DATE: April 21, 2003.

FOR FURTHER INFORMATION CONTACT: Mike Strollo or Gregory E. Kalbaugh at (202) 482–0629 or (202) 482–3693, respectively, Office of AD/CVD Enforcement, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

FINAL DETERMINATION:

We determine that polyvinyl alcohol (PVA) from Japan is being sold, or is 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 "Suspension of Liquidation" section of this notice.

Background

The preliminary determination in this investigation was issued on February 12, 2003. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol from Japan*, 68 FR 8203 (Feb. 20, 2003) (*Preliminary Determination*).

Since the preliminary determination, the following events have occurred. On February 21, 2003, the Nippon Synthetic Chemical Industry Co., Ltd. (Nippon Gohsei), one of the mandatory respondents in this investigation, notified the Department that it would no longer participate in this investigation, and it requested that the Department remove its business proprietary information from the record of this proceeding. On February 27, 2003, the Department destroyed Nippon Gohsei's submissions containing business proprietary information and notified Nippon Gohsei of this action. For further discussion, see the "Facts Available (FA)" section of this notice.

On March 3, 2003, the petitioners agreed to revise the scope to exclude certain types of PVA covalently bonded with diacetoneacrylamide, pursuant to a request by one of the mandatory respondents in this case, Japan VAM and POVAL Co., Ltd. (Japan VAM & POVAL). For a description of this merchandise, see the "Scope of the Investigation" section below. There were no case or rebuttal briefs submitted. A public hearing was not requested.[1]

Scope of Investigation

The merchandise covered by this investigation is PVA. This product consists of all PVA hydrolyzed in excess of 80 percent, whether or not mixed or diluted with commercial levels of defoamer or boric acid, except as noted below.

The following products are specifically excluded from the scope of this investigation:

(1) PVA in fiber form.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The merchandise under investigation is currently classifiable under subheading 3905.30.00 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Period of Investigation

The period of investigation (POI) is July 1, 2001, through June 30, 2002. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (*i.e.*, September 2002).

Facts Available (FA)

In the preliminary determination, we based the dumping margin for three of the four mandatory respondents in this case, Denki Kagaku Kogyo Kabushiki Kaisha (Denki Kagaku), Japan VAM & POVAL, and Kuraray Co., Ltd. (Kuraray), on adverse facts available pursuant to section 776(b) of the Act. The use of adverse facts available was warranted because Denki Kagaku, Japan VAM & POVAL, and Kuraray, as mandatory respondents, failed to supply the information requested in the antidumping duty questionnaires issued to them. Therefore, we found that Denki Kagaku, Japan VAM & POVAL, and Kuraray failed to cooperate by not acting to the best of their ability. As a result, pursuant to section 776(b) of the Act, we used an adverse inference in selecting from the facts available. Specifically, we assigned Denki Kagaku, Japan VAM & POVAL, and Kuraray the highest margin alleged in the notice of initiation. A complete explanation of both the selection and application of facts available can be found in the *Preliminary Determination*, 68 FR at 8205. We have done a new corroboration analysis which is discussed below.

No interested parties have commented on the use of adverse facts available for Denki Kagaku, Japan VAM & POVAL, and Kuraray in this investigation, or to the choice of the facts available margin. Accordingly, for the final determination, we are continuing to use the highest margin alleged in the notice of initiation for Denki Kagaku, Japan VAM & POVAL, and Kuraray. *See* the *Preliminary Determination*, 68 FR at 8209. Moreover, we continue to find that the data on which this margin is based has probative value, as discussed below in the "Corroboration of Information" section of this notice.

Regarding the fourth mandatory respondent, Nippon Gohsei, on February 21, 2003, this company notified the Department that it would no longer participate in the investigation. Section 776(a)(2) of the Act provides that, if an interested party (A) withholds information requested by the Department, (B) fails to provide such information by the deadline, or in the

[1] Normally, when the Department issues a final determination, the Federal Register notice is accompanied by a separate Issues and Decision Memorandum. Since no briefs were filed in this case, we have not issued a separate memorandum.

form or manner requested, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified, the Department shall use, subject to sections 782(d) and (e) of the Act, facts otherwise available in reaching the applicable determination. Because Nippon Gohsei provided information to the Department but subsequently withdrew that information from the record of this case, we have applied FA to calculate its dumping margin, pursuant to section 776(a)(2)(C) of the Act.

In selecting from among the facts otherwise available, section 776(b) of the Act authorizes the Department to use an adverse inference if the Department finds that an interested party failed to cooperate by not acting to the best of its ability to comply with a request for information. *See, e.g., Notice of Final Determination of Sales of Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil*, 67 FR 55792, 55794–96 (Aug. 30, 2002). Nippon Gohsei was notified in the Department's original and supplemental questionnaires that failure to submit the requested information by the dates specified might result in use of FA. After the Department issued its preliminary determination, Nippon Gohsei: 1) notified the Department that it would no longer participate in this investigation; and 2) withdrew its submissions containing business proprietary information from the record. Without Nippon Gohsei's data, we are unable to calculate a dumping margin for Nippon Gohsei. As a consequence, we find that Nippon Gohsei has failed to cooperate to the best of its ability. As Nippon Gohsei failed to cooperate to the best of its ability, we are applying an adverse inference pursuant to section 776(b) of the Act.

Corroboration of Information

Section 776(b) of the Act authorizes the Department to use as AFA information derived from the petition, the final determination from the LTFV investigation, a previous administrative review, or any other information placed on the record.

Section 776(c) of the Act requires the Department to corroborate, to the extent practicable, secondary information used as FA. Secondary information is defined as "{i}nformation derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise." *See* Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 103–316 at 870 (1994) and 19 CFR 351.308(d).

The SAA clarifies that "corroborate" means that the Department will satisfy itself that the secondary information to be used has probative value. *See* the SAA at 870. The SAA also states that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. *Id.*

In the preliminary determination, we corroborated the margins in the petition using information submitted by Nippon Gohsei. However, because Nippon Gohsei has withdrawn this information from the record of this case, we have re-examined the issue of corroboration for the final determination.

Therefore, in order to determine the probative value of the margins in the petition for use as AFA for purposes of this determination, we examined additional evidence supporting the calculations in the petition. We reviewed the adequacy and accuracy of the information in the petition during our pre-initiation analysis of the petition, to the extent appropriate information was available for this purpose (*see* the September 25, 2002, Initiation Checklist, on file in the Central Records Unit, Room B-099, of the Main Commerce Department building, for a discussion of the margin calculations in the petition). In accordance with section 776(c) of the Act, to the extent practicable, we examined the key elements of the export price (EP) and normal value (NV) calculations on which the margins in the petition were based.

Export Price

With respect to the margins in the petition, EP was based on POI price quotes for the sale of PVA produced by Kuraray to customers in the United States. The petitioners calculated net U.S. prices for PVA by deducting a distributor mark-up, where applicable, and certain movement charges.

For purposes of corroborating the price-to-price calculations in the petition, we compared these prices to U.S. customs data. Using U.S. customs data, we calculated the average U.S. price of imports from all mandatory respondents. We found that the petitioners' price quotes were comparable to the U.S. Customs information. Therefore, we find that the petitioners' information for U.S. price continues to have probative value.

For further discussion, see the April 28, 2003, memorandum to the file from the team entitled "Corroboration of Data Contained in the Petition for Assigning Facts Available Rates" (Corroboration Memo).

Normal Value

The petitioners based NV on home market price quotes from Kuraray for PVA of a comparable grade to the products exported to the United States. These price quotes were contemporaneous with the U.S. price quotes used as the basis for EP. In addition, the petitioners alleged that sales of PVA products in the home market were made at prices below the fully absorbed cost of production (COP), within the meaning of section 773(b) of the Act, and requested that the Department conduct a country-wide sales-below-cost investigation. Based upon a comparison of the prices of the foreign like product in the home market to the calculated COP of the product, we found reasonable grounds to believe or suspect that sales of the foreign like product were made below the COP, within the meaning of section 773(b)(2)(A)(i) of the Act. Accordingly, the Department initiated a country-wide cost investigation. Pursuant to section 773(b)(3) of the Act, COP consisted of the cost of manufacture (COM), selling, general and administrative (SG&A) expenses, and packing. The petitioners calculated COP based on the experience of a U.S. PVA producer during the 2001 fiscal year, adjusted for known differences between costs incurred to manufacture PVA in the United States and Japan.

Pursuant to sections 773(a)(4), 773(b) and 773(e) of the Act, the petitioners based NV for sales in Japan on constructed value (CV). The petitioners calculated CV using the same COM, SG&A and financial expense figures used to compute the COP. Consistent with section 773(e)(2) of the Act, the petitioners included in CV an amount for profit. For profit, the petitioners relied upon the amount reported in Kuraray's 2001 financial statements. The petitioners made a circumstance-of-sale adjustment for credit expenses.

The Department was provided with no useful information by the respondents or other interested parties and is aware of no other independent sources of information that would enable us to further corroborate the margin calculations in the petition. Specifically, we attempted to locate both home market prices through publicly available sources and U.S. producer costs upon which CV was

based, but we were unable to do so. *See* the Corroboration Memo.

It is worth noting that the implementing regulation for section 776 of the Act states, "(t)he fact that corroboration may not be practicable in a given circumstance will not prevent the Secretary from applying an adverse inference as appropriate and using secondary information in question. " *See* 19 CFR 351.308(d). Additionally, the SAA at 870 specifically states that where "corroboration may not be practicable in a given circumstance," the Department need not prove that the facts available are the best alternative information.

Therefore, based on our efforts, described above, to corroborate information contained in the petition, and in accordance with 776(c) of the Act, we consider the margins in the petition to be corroborated to the extent practicable for purposes of this final determination. *See* the Corroboration Memo.

Accordingly, in selecting AFA with respect to Denki Kagaku, Japan VAM & POVAL, Kuraray, and Nippon Gohsei, we have applied the margin rate of 144.16 percent, which is the highest estimated dumping margin set forth in the notice of initiation. *See* the *Initiation Notice*, 67 FR at 61593.

All Others

Section 735(c)(5)(B) of the Act provides that, where the estimated weighted-average dumping margins established for all exporters and producers individually investigated are zero or *de minimis*, or are determined entirely under section 776 of the Act, the Department may use any reasonable method to establish the estimated "All Others" rate for exporters and producers not individually investigated. This provision contemplates that we weight-average margins other than zero, *de minimis*, and FA margins to establish the "All Others" rate. Where the data do not permit weight-averaging such rates, the SAA provides that we may use other reasonable methods. *See* SAA at 873. Because the petition contained four estimated dumping margins, we have used these four estimated dumping margins, as adjusted per the notice of initiation, to create an "All Others" rate based on a simple average. Therefore, we have calculated the margin of 76.78 percent as the "All Others" rate. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value and Final Affirmative Finding of Critical Circumstances: Elastic Rubber Tape from India*, 64 FR 19123, 19124 (Apr. 19, 1999).

Analysis of Comments Received

We received no comments from interested parties in response to our preliminary determination. 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 the Customs Service to continue to suspend all entries of PVA from Japan, that are entered, or withdrawn from warehouse, for consumption on or after February 20, 2003, the date of publication of our preliminary determination. The Customs Service shall continue to require a cash deposit or the posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. These instructions suspending liquidation will remain in effect until further notice.

The dumping margins are provided below:

Manufacturer/exporter	Margin (percent)
Denki Kagaku Kogyo Kabushiki Kaisha	144.16
Japan VAM & POVAL Co., Ltd.	144.16
Kuraray Co., Ltd.	144.16
The Nippon Synthetic Chemical Industry Co., Ltd.	144.16
All Others	76.78

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury or threat of material injury does not exist, the 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 the Customs Service 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.

Notification Regarding APO

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. 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 pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: April 14, 2003.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 03-9738 Filed 4-18-03; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-557-809]

Stainless Steel Butt-Weld Pipe Fittings from Malaysia: Rescission of Antidumping Duty Administrative Review

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

ACTION: Notice of Rescission of the antidumping duty administrative review for the period February 1, 2002 through January 31, 2003.

SUMMARY: On March 25, 2003, in response to a request made by Schulz (Mfg.) Sdn. Bhd. ("Schulz"), a producer and exporter of the subject merchandise in Malaysia, the Department of Commerce ("Department") published a notice of initiation of an antidumping duty administrative review on stainless steel butt-weld pipe fittings ("SSBWPF") from Malaysia, for the period February 1, 2002 through January 31, 2003. Because Schulz has withdrawn its request for review, and there were no other requests for review for this time period, the Department is rescinding this review in accordance with 19 CFR 351.213(d)(1).

EFFECTIVE DATE: April 21, 2003.

FOR FURTHER INFORMATION CONTACT: James C. Doyle, Enforcement Group III, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, N.W., Washington, DC 20230; telephone: 202-482-0159.

SUPPLEMENTARY INFORMATION:

the issue. See *Fresh Garlic from the People's Republic of China: Final Results of Antidumping Administrative Review and Rescission of New Shipper Review*, 67 FR 11283 (March 13, 2002). Similarly, no information has been presented in the current review that calls into question the reliability of this information. Thus, the Department finds that the information is reliable.

With respect to the relevance aspect of corroboration, the Department stated in *TRBs* that it will "consider information reasonably at its disposal as to whether there are circumstances that would render a margin irrelevant. Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin." See *TRBs* at 61 FR 57392. See also *Fresh Cut Flowers from Mexico; Preliminary Results of Antidumping Duty Administrative Review*, 61 FR 6812, 6814 (February 22, 1996) (disregarding the highest margin in the case as best information available because the margin was based on another company's uncharacteristic business expense resulting in an extremely high margin). The rate used is the rate currently applicable to Hongda and all exporters subject to the PRC-wide rate. Further, there is no information on the administrative record of the current review that indicates the application of this rate would be inappropriate or that the margin is not relevant. Therefore, for all sales of subject merchandise exported by Hongda, we have applied, as adverse facts available, the 376.67 percent margin from a prior administrative review of this order and have satisfied the corroboration requirements under section 776(c) of the Act. See *Persulfates from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 66 FR 18439, 18441 (April 9, 2001) (employing a petition rate used as adverse facts available in a previous segment as adverse facts available in the current review).

Preliminary Results of the Review

As a result of the application of adverse facts available, we preliminarily determine that a dumping margin of 376.67 percent exists for the period November 1, 2001, through April 30, 2002, on Hongda's exports of fresh garlic.

An interested party may request a hearing within 30 days of publication of these preliminary results. Any hearing, if requested, will be held 37 days after the date of publication, or the first business day thereafter, unless the Department alters the date per 19 CFR 351.310(d). Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication of these preliminary results of review. Rebuttal briefs and rebuttals to written comments, limited to issues raised in the case briefs and comments, may be filed no later than 35 days after the date of publication of this notice. Parties who submit argument in this proceeding are requested to submit with the argument: (1) a statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities.

The Department will publish the final results of this new shipper review, including the results of its analysis of issues raised in any case or rebuttal brief, within 90 days of publication of this notice. See 19 CFR 351.214(i)(1).

Assessment Rates

Upon completion of this new shipper review, the Department will determine, and Customs shall assess, antidumping duties on all appropriate entries. The Department will issue appropriate assessment instructions directly to Customs upon completion of this review. If these preliminary results are adopted in our final results of review, we will direct Customs to assess the resulting rate against the entered customs value for the subject merchandise on each of Hongda's importer's/customer's entries during the POR.

Cash-Deposit Requirements

The following cash-deposit requirements will be effective upon publication of the final results of this new shipper review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) for subject merchandise grown by Hongda or Jin Xiang Jin Ma Fruit and Vegetable Products Co. Ltd. (Kima) and exported by Hongda, the cash-deposit rate will be that established in the final results of this review; (2) for all other subject merchandise exported by Hongda, the cash-deposit rate will be the PRC countrywide rate, which is 376.67 percent; (3) for all other PRC exporters which have not been found to be entitled to a separate rate, the cash-deposit rate will be the PRC countrywide rate; and (4) for all non-PRC exporters of subject merchandise, the cash-deposit rate will be the rate applicable to the PRC supplier of that exporter. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) 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 preliminary results of review in accordance with sections 751(a)(2)(B) and 777(i)(1) of the Act.

Dated: April 22, 2003.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 03–10553 Filed 4–28–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–428–836]

Notice of Amended Final Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol From Germany

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

Correction

In notice document 03–9735 beginning on page 19509 in the issue of Monday, April 21, 2003, make the following correction:

On page 19510, under the subheading *"ITC Notification,"* the second sentence should read, "As our final determination is affirmative, the ITC will, within 120 days from the date of the preliminary determination, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry."

Dated: April 23, 2003.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 03–10551 Filed 4–28–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–861]

Notice of Amended Final Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol From Japan

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

Correction

In notice document 03–9738 beginning on page 19510 in the issue of Monday, April 21, 2003, make the following correction:

On page 19513, under the subheading "*ITC Notification,*" the second sentence should read, "As our final determination is affirmative, the ITC will, within 120 days from the date of the preliminary determination, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry."

Dated: April 23, 2003.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 03–10552 Filed 4–28–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–821–818]

Notice of Termination of Suspension Agreement: Urea Ammonium Nitrate Solutions From the Russian Federation

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

ACTION: Notice of termination of suspension agreement.

EFFECTIVE DATE: April 29, 2003.

SUMMARY: On April 16, 2003, the United States International Trade Commission (ITC) published its negative final determination in this case. Therefore, in accordance with U.S. law, both the investigation and the agreement suspending the investigation, were terminated as of April 16, 2003.

FOR FURTHER INFORMATION CONTACT: Paige Rivas or Tom Futtner at (202) 482–0651 or (202) 482–3814, respectively; Office of AD/CVD Enforcement 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On May 9, 2002, the Department of Commerce (the Department) initiated antidumping duty investigations to determine whether imports of urea ammonium nitrate solutions (UANS) from Lithuania, Belarus, Russia, and Ukraine are being, or are likely to be, sold in the United States at less than fair value (LTFV). *See Initiation of Antidumping Investigations: Urea Ammonium Nitrate Solutions from Belarus, Lithuania, the Russian Federation, and Ukraine*, 67 FR 35492 (May 20, 2002). On June 4, 2002, the ITC preliminarily determined that there was a reasonable indication that an industry in the United States was materially injured or threatened with material injury by reason of imports of UANS from Belarus, Russia and Ukraine. *See Urea Ammonium Nitrate Solution from Belarus, Lithuania, the Russian Federation and Ukraine*, 67 FR 39439 (June 7, 2002). On October 3, 2002, the Department published its preliminary determination that UANS was being, or was likely to be, sold in the United States at LTFV. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Urea Ammonium Nitrate Solutions from the Russian Federation*, 67 FR 62008.

On February 19, 2003, the Department signed a suspension agreement with three producers accounting for substantially all of the U.S. imports of UANS from Russia (JSC Nevinnomysskij Azot, JSC Kuybyshevazot/Togliatti, and S.P. Novolon/Novomoskovsk). *See Suspension of Antidumping Duty Investigation: Urea Ammonium Nitrate Solutions From the Russian Federation*, 68 FR 9980 (March 3, 2003). On February 20, 2003, we received a request from the petitioner that we continue the investigation. On March 3, 2003, Department published its final determination that UANS was being, or was likely to be, sold in the United States at LTFV. *Notice of Final Determination of Sales at Less Than Fair Value: Urea Ammonium Nitrate Solutions from the Russian Federation*, 68 FR 9977.

Termination of Suspension Agreement

On April 10, 2003, the ITC notified the Department of its finding that the relevant U.S. industry was neither materially injured by, nor threatened with material injury by imports of UANS from Russia. On April 16, 2003, the ITC published its negative final determination in this case in the **Federal Register** (68 FR 18673). Therefore, in accordance with U.S. law, both the investigation and the agreement suspending the investigation, were terminated as of April 16, 2003. *See* 19 CFR 351.207(d) and (e).

Liquidation

The terms of the suspension agreement called for the liquidation of entries without regard to antidumping duties. The Department will advise the U.S. Bureau of Customs and Border Protection (BCBP) of the termination of the agreement and will instruct the BCBP to refund all estimated antidumping duties deposited on all unliquidated entries of UANS from Russia and release any bonds or other security.

We are issuing and publishing this notice in accordance with sections 734(f)(3)(A) and 735(c)(2)–(3) and (d) of the Tariff Act of 1930, as amended, and with 19 CFR 351.208(g) and (h).

Dated: April 23, 2003.

Holly A. Kuga,

Acting Deputy Assistant Secretary for Import Administration, Group II.

[FR Doc. 03–10550 Filed 4–28–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 011102267–3098–04; I.D. 042103C]

Financial Assistance for Marine Mammal Stranding Networks Through the John H. Prescott Marine Mammal Rescue Assistance Grant Program

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of deadline for correction of application deficiencies.

SUMMARY: The National Marine Fisheries Service (NMFS) (hereinafter "we" or "us") issues this document to notify eligible applicants for Federal assistance under the 2003/2004 John H. Prescott Marine Mammal Rescue Assistance Grant Program (Prescott Grant Program) of their opportunity to correct deficiencies in their applications. These corrections are limited to: including the correct and completed OMB forms (424, 424A for Categories A and B or 424D for Category C, and 424B for Categories A and B or 424C for Category C) signed and dated; ensuring that the 25–percent non-Federal cost share is reflected in both the 424 and 424A or 424C and the narrative budget justification and

APPENDIX B

LIST OF WITNESSES AT THE COMMISSION'S HEARING

CALENDAR OF PUBLIC HEARING

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

Subject: Polyvinyl Alcohol from China, Germany, Japan, and Korea

Invs. Nos.: 731-TA-1014-1017 (Final)

Date and Time: May 8, 2003 - 9:30 a.m.

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

In Support of the Imposition of Antidumping Duties:

Wilmer, Cutler & Pickering
Washington, DC
on behalf of

Celanese, Ltd. ("Celanese")
E.I. du Pont de Nemours & Co. ("DuPont")

Fred Chanslor, Vice President, Polyvinyl Alcohol, Celanese
Scott Neuheardt, Commercial Director, Celanese
Paul Zoeller, Chief Litigation Counsel, Celanese
William Mandrona, Marketing Manager, Celanese
John H. Welch, Vice President, Vinyls Enterprise, DuPont
Kathryn Kamins McCord, Polyvinyl Alcohol Business Manager, DuPont
Irving Laub, President, Perry Chemicals Corporation

John D. Greenwald – OF COUNSEL
Ronald I. Meltzer
John-Alex Romano

In Opposition to the Imposition of Antidumping Duties:

Williams Mullen
Washington, DC
on behalf of

Solutia Inc. ("Solutia")

Mark Gold, Technology and Marketing Manager, Performance Films, Solutia

James R. Cannon, Jr. – OF COUNSEL

Sidley Austin Brown & Wood LLP
Washington, DC
on behalf of

Kuraray Co., Ltd.
Kuraray Specialities Europe GmbH ("KSE")
Kuraray America, Inc.

Bruce Malashevich, President, Economic Consulting Services, Inc.
Sabina K. Neumann, Senior Economist, Economic Consulting Services, Inc.

Lawrence R. Walders – OF COUNSEL
Maria T. DiGiulian

Barnes, Richardson & Colburn
Washington, DC
on behalf of

Clariant Corporation

Jeff Saeger, Product Manager, Surface Chemicals, Clariant Corporation

Matthew T. McGrath – OF COUNSEL

Garvey Schubert Barer
Washington, DC
on behalf of

Sinopec Sichuan Vinylon Works ("SSVW")

Joseph Rabaglia, Sales Manager, Wego Chemical and Mineral Corp.

William E. Perry – OF COUNSEL

APPENDIX C

SUMMARY DATA

Table C-1
PVA: Summary data concerning the U.S. market, 2000-02

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Table C-2
PVA: Summary data concerning the U.S. commercial market, 2000-02

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Table C-3
PVA: Financial data on U.S. producers' internal consumption, 2000-02

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APPENDIX D

PURCHASERS' REPORTED QUANTITIES, BY END USE AND COUNTRY OF ORIGIN, 2000-02, AND TOP 10 PURCHASERS REPORTED BY U.S. PRODUCERS AND IMPORTERS FROM CHINA, GERMANY, JAPAN, AND KOREA

Table D-1
PVA: Purchases by purchasers, by type of product, and by country source, 2000-02

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Table D-2
PVA: Top 10 purchasers reported by U.S. producers and importers, the firms from which they purchase, and the purchasers listed by suppliers from more than one country

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APPENDIX E

PRICE DATA FOR IMPORTS FROM CHINA (SICHUAN VINYLON) AND TAIWAN

Table E-1
PVA: Weighted-average f.o.b. prices and quantities of product 1 imported from Sichuan Vinylon (China) and Taiwan, by quarters, 2000-02

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Table E-2
PVA: Weighted-average f.o.b. prices and quantities of product 2 imported from Sichuan Vinylon (China) and Taiwan, by quarters, 2000-02

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Table E-3
PVA: Weighted-average f.o.b. prices and quantities of product 3 imported from Sichuan Vinylon (China) and Taiwan, by quarters, 2000-02

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Table E-4
PVA: Weighted-average f.o.b. prices and quantities of product 4 imported from Sichuan Vinylon (China) and Taiwan, by quarters, 2000-02

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Table E-5
PVA: Weighted-average f.o.b. prices and quantities of product 7 imported from Taiwan, by quarters, 2000-02

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Table E-6
PVA: Summary of underselling/overselling

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APPENDIX F

EFFECTS OF IMPORTS ON U.S. PRODUCERS' EXISTING DEVELOPMENT AND PRODUCTION EFFORTS, GROWTH, INVESTMENT, AND ABILITY TO RAISE CAPITAL

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

Celanese	*	*	*	*	*	*	*
DuPont	*	*	*	*	*	*	*
Solutia	*	*	*	*	*	*	*

Responses of U.S. firms with respect to PVA to the following question: Does your firm anticipate any negative impact of imports of PVA from China, Germany, Japan, or Korea?

Celanese	*	*	*	*	*	*	*
DuPont	*	*	*	*	*	*	*
Solutia	*	*	*	*	*	*	*