

Certain Polyester Staple Fiber From China

Investigation No. 731-TA-1104 (Final)

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June 2007

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

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Note.—Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-1104 (Final)

CERTAIN POLYESTER STAPLE FIBER FROM CHINA

DETERMINATION

On the basis of the record¹ developed in the subject investigation, 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 materially injured by reason of imports from China of certain polyester staple fiber, provided for in subheading 5503.20.00 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). The Commission finds that critical circumstances do not exist with respect to subject imports from China.

BACKGROUND

The Commission instituted this investigation effective June 23, 2006, following receipt of a petition filed with the Commission and Commerce by DAK Americas, LLC, Charlotte, NC; Nan Ya Plastics Corporation, America, Lake City, SC; and Wellman, Inc., Shrewsbury, NJ. The final phase of the investigation was scheduled by the Commission following notification of a preliminary determination by Commerce that imports of certain polyester staple fiber from China were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. § 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigation 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* on January 11, 2007 (72 FR 1341). The hearing was held in Washington, DC, on March 13, 2007, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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

IEWS OF THE COMMISSION

Based on the record in this investigation, we determine that an industry in the United States is materially injured by reason of imports of certain polyester staple fiber (“certain PSF”) from China that have been found by the Department of Commerce (“Commerce”) to be sold in the United States at less than fair value (“LTFV”).¹

I. BACKGROUND

The petition in this investigation was filed on June 23, 2006 by DAK Americas, LLC (“DAK”), Nan Ya Plastics Corporation, America (“Nan Ya”), and Wellman, Inc. (“Wellman”) (together, “petitioners”). Respondents opposing the imposition of antidumping duties are Ashley Furniture Industries, Inc. (“Ashley”), Insituform Technologies, Inc. (“Insituform”), and Hollander Home Furnishings Corp. (“Hollander”) (“respondents”), which are all importers and consumers of subject merchandise.² No subject Chinese producer has made an appearance or provided any argument in this final investigation.

PSF is a man-made fiber that is similar in appearance to cotton or wool fiber when baled. Certain PSF is known in the industry as “fiber for fill,” as it is primarily used as polyester fiberfill. Certain PSF is generally used as stuffing in sleeping bags, mattresses, ski jackets, comforters, cushions, pillows, and furniture.³ Certain PSF used for fill can be produced in many variations for purposes of quality enhancement. For example, the subject fiber may be crimped or conjugated, giving the fiber “loft” for stuffing purposes. It may also be coated with a finish (usually silicone or oil-based), making the fiber smoother to the touch for certain high-end uses. The subject fiber may vary in shape and may be hollow or solid, depending on both the preference of the manufacturer and the end use of the fiber.⁴

Manufacturing of certain PSF may be divided into two discrete stages. The first stage of the process is polymer formation, a process that can vary depending on whether virgin (unprocessed chemicals) or recycled materials are being used. Polymer formation also varies depending on whether

¹ We find that critical circumstances do not exist with respect to subject imports from Far Eastern Industries (Shanghai) Ltd. (“Far Eastern”), an exporter of subject merchandise from China, for which Commerce issued an affirmative critical circumstances determination. We have disregarded new factual information in the Final Comments filed by respondents, see Memorandum INV-EE-050 (May 14, 2007), pursuant to the statute and our regulations. 19 U.S.C. § 1677m(g); 19 C.F.R. § 207.30(b).

² Respondent Consolidated Fibers, Inc. (“Consolidated”), an importer of subject merchandise from China, filed final comments on May 10, 2007, but did not otherwise participate in this final phase investigation.

³ Confidential Staff Report (“CR”) at I-7, Public Staff Report (“PR”) at I-6. Certain PSF is also used on a more limited basis in the production of ***. CR at I-8 n.18; PR at I-8 n.18.

⁴ Certain PSF is physically distinguishable from other types of polyester staple fiber not subject to this investigation, including carpet fiber and fine denier PSF for spinning into textile products, in terms of the product’s denier, length, and, in some cases, finish and “crimp.” While certain PSF is 3 denier or more in thickness and from 1 to 5 inches in length, fine denier PSF for textile applications is less than 3 denier in thickness and carpet fiber ranges from 10 to 18 denier in thickness cut into lengths of 6 to 8 inches. Unlike fine denier PSF or carpet fiber, certain PSF used as fiberfill is seldom visible after being incorporated into the finished product, generally making its appearance less important to purchasers than its performance in terms of loft, smoothness to the touch, and profile (i.e., hollow or solid). See, e.g., Certain Polyester Staple Fiber From Korea and Taiwan, Inv. Nos. 731-TA-825-826 (Review), USITC Pub. 3843 (Mar. 2006).

conjugate fiber is being produced. The second stage of the process, which is common to all certain PSF, is fiber formation, including stretching, cutting, and baling.⁵

II. 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.”⁶ 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.”⁷ 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”⁸

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.⁹ No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.¹⁰ The Commission looks for clear dividing lines among possible like products and disregards minor variations.¹¹ Although the Commission must accept the determination of Commerce as to the scope of the imported merchandise allegedly sold at LTFV, the Commission determines what domestic product is like the imported articles Commerce has identified.¹²

⁵ CR at I-9; PR at I-8.

⁶ 19 U.S.C. § 1677(4)(A) (2000).

⁷ 19 U.S.C. § 1677(4)(A).

⁸ 19 U.S.C. § 1677(10).

⁹ 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). No single factor is dispositive, and the Commission may consider other factors relevant to a particular investigation. The Commission looks for clear dividing lines among possible like products, and disregards minor variations. See, e.g., S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979); Torrington Co., 747 F. Supp. at 748-49.

¹⁰ See, e.g., S. Rep. No. 96-249 at 90-91 (1979).

¹¹ 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.”).

¹² Hosiden Corp. v. Advanced Display Mfrs., 85 F.3d 1561, 1568 (Fed. Cir. 1996) (Commission may find single like product corresponding to several different classes or kinds defined by Commerce); Torrington, 747 F. Supp. at (continued...)

B. Product Description

In its notice of final determination at less than fair value, Commerce defined the imported merchandise within the scope of the investigation as follows:

Synthetic staple fibers, not carded, combed or otherwise processed for spinning, of polyesters measuring 3.3 decitex (3 denier, inclusive) or more in diameter. This merchandise is cut to lengths varying from one inch (25 mm) to five inches (127 mm). The subject merchandise may be coated, usually with a silicon or other finish, or not coated. PSF is generally used as stuffing in sleeping bags, mattresses, ski jackets, comforters, cushions, pillows, and furniture.

The following products are excluded from the scope: (1) PSF of less than 3.3 decitex (less than 3 denier) currently classifiable in the Harmonized Tariff Schedule of the United States (“HTS”) at subheading 5503.20.0025 and known to the industry as PSF for spinning and generally used in woven and knit applications to produce textile and apparel products; (2) PSF of 10 to 18 denier that are cut to lengths of 6 to 8 inches and that are generally used in the manufacture of carpeting; and (3) low-melt PSF defined as a bi-component fiber with an outer, non-polyester sheath that melts at a significantly lower temperature than its inner polyester core (classified at HTSUS 5503.20.0015).¹³

The Commission has investigated certain PSF before, in response to an antidumping duty petition filed on April 2, 1999 alleging that a domestic industry was materially injured by reason of dumped imports of certain PSF from Korea and Taiwan.¹⁴ Following Commerce’s final affirmative dumping determinations, the Commission rendered affirmative injury determinations and Commerce issued antidumping duty orders with respect to certain PSF from Korea and Taiwan.¹⁵ On March 31, 2005, the Commission instituted its five-year review of the antidumping duty orders on certain PSF from Korea and Taiwan and, after Commerce determined that revocation of the orders would likely lead to continuation or recurrence of dumping, issued affirmative five-year review determinations on March 23, 2006.¹⁶

C. Domestic Like Product

In the preliminary phase investigation, the Commission defined the domestic like product as all certain PSF, coextensive with the scope of the investigation.¹⁷ No party raised a like product issue in the preliminary phase of the investigation.

In this final phase of the investigation, two respondents raised like product issues, for the first time, in their prehearing briefs: Ashley argues that the Commission should define conjugate PSF as a

¹² (...continued)
748-752 (affirming Commission determination of six like products in investigations where Commerce found five classes or kinds).

¹³ CR at I-6; PR at I-6.

¹⁴ CR at I-4; PR at I-3.

¹⁵ CR at I-4; PR at I-3.

¹⁶ CR at I-4; PR at I-3-4.

¹⁷ Polyester Staple Fiber from China, Inv. No. 731-TA-1104 (Preliminary), USITC Pub. No. 3878 (August 2006) (“Preliminary Determination”) at 7-8. The Commission noted that this definition of the domestic like product is consistent with the domestic like product definition with respect to the outstanding antidumping duty order on certain PSF from Korea and Taiwan. See id. at 8 n.19.

separate like product, and Insituform argues that the Commission should define PSF qualified for use in its cured in place pipe applications (“CIPP PSF”), as a separate like product.¹⁸ Petitioners argue that no new evidence has been collected in this final phase investigation that would warrant the Commission’s reconsideration of its like product determination from the preliminary phase investigation.

Based on the application of our six like product factors, we find a single domestic like product comprised of all certain PSF.

1. Whether Conjugate PSF Should Be Defined as a Separate Like Product

Physical characteristics and uses

Conjugate PSF and non-conjugate PSF are both man-made fibers that are similar in appearance to cotton or wool fiber when baled.¹⁹ PSF can be produced by reacting ethylene glycol with either terephthalic acid or its methyl ester, yielding virgin PSF; by recycling post-consumer or post-industrial waste, yielding regenerated or recycled PSF; or through a combination of the two processes.²⁰ Conjugate PSF can be produced from either virgin or regenerated fiber.²¹ Both conjugate and non-conjugate PSF may be coated with a finish, typically silicone, to make the fiber smoother to the touch for high-end uses.²²

Conjugate and non-conjugate PSF achieve varying degrees of loft, or fill capacity, in different ways. Conjugate PSF achieves greater loft and fill capacity than non-conjugate PSF through the twisting of two types of fiber into a three-dimensional spiral configuration, through either a chemical or a mechanical process, prior to crimping, which produces additional loft.²³ Non-conjugate PSF relies on crimping alone for its loft, yielding somewhat less fill capacity,²⁴ though Wellman testified at the hearing

¹⁸ Although not determinative on the like product issue, we note that the information necessary for performing separate injury analyses on respondents’ proposed like products was not collected because Ashley did not raise its like product argument in either the preliminary phase investigation or in comments on the draft questionnaires in this final phase investigation, and Insituform first raised its like product argument in its prehearing brief. See Letter from Mowry International Group LLC to the Honorable Marilyn R. Abbot, Certain PSF from China, Inv. No. 731-TA-1104 (Final) (Dec. 21, 2006) (In commenting on the draft questionnaires, Ashley did not indicate that it would be making a like product argument with respect to any specific PSF product, or request that the Commission collect the information that would be necessary to conduct a separate injury analysis with respect to conjugate PSF.). We remind parties that as a general matter, as our rules contemplate, arguments that would require data collection, such as those related to like product (and the consequent industry data corresponding to a newly proposed like product), should be made during the preliminary phase of the investigation, or at least no later than the written comments on draft questionnaires. See Notice of Final Rulemaking, 61 Fed. Reg. 37818, 37826 (July 22, 1996) (explaining the promulgation of rule 207.20(b)) (“It is often impracticable to satisfy new data collection requests made during the later stages of a final phase investigation, given the need to collect, verify, and analyze data, release data under APO, and receive comments from the parties concerning data before the record closes.”).

¹⁹ CR at I-8; PR at I-8.

²⁰ CR at I-9; PR at I-8-9. See also Transcript of the Commission’s March 13, 2007 hearing (“Hearing Tr.”) at 23-24 (Katz).

²¹ See CR/PR at Table III-6.

²² CR at I-9; PR at I-8.

²³ CR at I-8; PR at I-8.

²⁴ CR at I-8; PR at I-8. The greater the fill capacity of a PSF product, the lower the quantity required to fill a given volume.

that it has developed a 3-D high void non-conjugate PSF with physical characteristics comparable to that of conjugate PSF.²⁵

All PSF, both conjugate and non-conjugate, is generally used as stuffing in sleeping bags, mattresses, ski jackets, comforters, cushions, pillows, and furniture.

Interchangeability

A majority of producers, importers, and purchasers responding to the Commission's questionnaire (specifically 35 of 59 questionnaire respondents) reported that conjugate PSF and mechanically crimped non-conjugate PSF are "sometimes" interchangeable.²⁶ Of the balance, two producers reported that the products are "always" interchangeable; one importer reported that the products are "usually" interchangeable and three "never" interchangeable; two purchasers reported that the products are "usually" interchangeable; and 16 purchasers reported that the products are "never" interchangeable.²⁷

Wellman testified at the hearing that laboratory testing confirmed that its 3-D high void non-conjugate PSF is comparable to conjugate PSF, and hence interchangeable, in terms of loft, loft recovery, cross-section, and other tests.²⁸ In an e-mail exchange between Wellman and Ashley that took place prior to the petition's filing, however, Ashley indicated that Wellman's 3-D high void product appeared to offer 17 percent less fill power and less resiliency than the conjugate PSF that Ashley has been purchasing.²⁹ Ashley contends that the inferior fill power of non-conjugate PSF makes it an uneconomical substitute for conjugate PSF.³⁰ However, petitioners contend that the PSF Ashley purchases may not be conjugate PSF at all, but rather non-conjugate PSF similar to Wellman's 3-D high void product.³¹

Common manufacturing facilities, production processes, and production employees

PSF production is a two-stage process. The first stage varies depending upon whether virgin, regenerated, or conjugate PSF is being produced. Non-conjugate virgin or regenerated PSF first undergoes polymer formation before being extruded through a shower-head like spinneret and solidified with a blast of cold air.³² By contrast, the first stage of conjugate PSF production involves forcing two polymers of differing viscosities through a Y-shaped extruder before being blasted with cold air to make a single fiber.³³ Additionally, conjugate PSF requires a double spinning process as opposed to a single spinning process for non-conjugate PSF.³⁴

²⁵ Hearing Tr. at 24-25 (Katz); see also Petitioners' Posthearing Brief at Exhibit 12.

²⁶ CR/PR at Table II-4 (including two producers, 13 importers, and 20 purchasers).

²⁷ CR/PR at Table II-4.

²⁸ Hearing Tr. at 25 (Katz).

²⁹ Petitioners' Posthearing Brief at Exhibit 12.

³⁰ See Ashley Prehearing Brief at 9; Hearing Tr. at 183 (Plummer).

³¹ See Petitioners' Posthearing Brief at 3 n.2, Exhibit 1; Petitioners' Responses to Commissioner Questions at 46-47, Exhibit 3.

³² CR at I-10-11; PR at I-9-10.

³³ CR at I-11; PR at I-9.

³⁴ CR at I-11; PR at I-9.

The second stage of production is common to both conjugate and non-conjugate PSF.³⁵ So-called spun tow is coated with oil, sent over a creel and draw wheels to orient and strengthen the fibers, crimped by machine, and then heat-set in an oven.³⁶ Nan Ya, the sole domestic producer of conjugate PSF, reportedly uses the same employees to produce conjugate and non-conjugate PSF.³⁷

Channels of distribution

Ashley concedes that conjugate and non-conjugate PSF share similar channels of distribution.³⁸ Certain PSF, including conjugate and non-conjugate PSF, was sold primarily to end users, 81.7 percent of U.S. shipments in 2006, with the balance, 18.3 percent, sold to distributors.³⁹

Customer and producer perceptions

The record of this investigation and past Commission proceedings concerning certain PSF indicates that customers choose among different types of PSF using a total cost analysis.⁴⁰ Some customers are willing to pay more for PSF that offers higher fill capacity, such as conjugate PSF. Others prefer to purchase a larger quantity of PSF that costs less than conjugate PSF but has a lower fill capacity, such as mechanically crimped non-conjugate PSF.⁴¹ For example, Ashley testified at the hearing that it would have to purchase a greater quantity of non-conjugate PSF to fill the same volume as a smaller quantity of conjugate PSF.⁴² The fact that all producers reported that conjugate and non-conjugate PSF is either always or sometimes interchangeable, while a majority of importers and purchasers reported that the products are “sometimes” interchangeable, also suggests that customers and producers perceive the products to be interchangeable to a certain extent.⁴³

Price

Pricing product data indicates that prices for conjugate PSF were generally comparable to prices for non-conjugate PSF over the period of investigation.⁴⁴

³⁵ CR at I-11; PR at I-10; see also Petitioners’ Posthearing Brief at 3.

³⁶ CR at I-12; PR at I-10.

³⁷ Petitioners’ Posthearing Brief at 3; CR at I-11; PR at I-10.

³⁸ See Ashley Prehearing Brief at 10.

³⁹ CR at I-13; PR at I-11.

⁴⁰ CR at I-13; PR at I-11.

⁴¹ CR at I-13; PR at I-11; see also Hearing Tr. at 24-25 (Katz) (“Our mechanically crimped 3-D high void product is used for precisely the same end uses as a conjugate product.”).

⁴² Hearing Tr. at 183 (Plummer).

⁴³ CR/PR at Table II-4.

⁴⁴ Compare CR/PR at Table V-4 (non-conjugate virgin PSF, 12-15 denier, slick) with id. at Table V-5 (conjugate PSF, 12-15 denier, slick). U.S. producer prices for product 4 (non-conjugate PSF) were lower than for product 5 (conjugate PSF) from January-March 2004 through January-March 2005, and then higher thereafter. Subject import prices for product 4 were lower than prices for product 5 in five quarters, equal to prices for product 5 in one quarter, and higher than prices for product 5 in six quarters.

Conclusion

Conjugate PSF and non-conjugate PSF are both man-made polyester staple fibers that are similar in appearance and application, but have generally different structures, due to differences in the first stage, but not the second stage, of their production processes. Conjugate and non-conjugate PSF are used in the same applications, and share the same processes and equipment for the second stage of production. Further, they are produced using the same employees by the lone domestic producer of both types of PSF, Nan Ya; they share the same channels of distribution; and they are priced similarly. Most producers, importers, and purchasers report that conjugate and non-conjugate PSF are either always, usually, or sometimes interchangeable, though a substantial minority of purchasers and importers report that the products are never interchangeable. According to hearing and conference testimony, purchasers choose between conjugate and non-conjugate PSF based on the optimal combination of price and performance.⁴⁵ Thus, customers and producers appear to perceive the products as competitive to a certain degree.

We find that no clear dividing line separates conjugate PSF from non-conjugate PSF under the Commission's six like product factors. The similarities between conjugate and non-conjugate PSF in terms of physical characteristics, uses, interchangeability, production processes, employees and facilities, customer and producer perceptions, channels of distribution, and price all indicate that the products belong to a single like product, notwithstanding certain differences in terms of physical characteristics, production processes, and customer perceptions. We therefore conclude that conjugate and non-conjugate PSF belong to a single domestic like product.

3. Whether CIPP PSF Should Be Defined as a Separate Like Product

Physical characteristics and uses

Insituform claims that the CIPP PSF it requires possesses very particular performance characteristics, including 8-9 crimps per inch, tensile elongation of 38-45 percent, and 3g-5g tenacity per denier.⁴⁶ The fact that purchasers of PSF for other applications do not require the same performance characteristics, however, does not necessarily mean that the PSF they purchase is physically different from CIPP PSF.

Invista, Insituform's primary PSF supplier, reports that "the specifications for [CIPP PSF] and certain PSF, except for cut length, are exactly the same for *** of its products."⁴⁷ According to Invista,

⁴⁵ As a result, we find that Ashley's product comparisons and Wellman's response, detailed above, do not conflict with our finding on interchangeability and are each indications of the operation of the certain PSF market.

⁴⁶ Insituform Prehearing Brief at 6; CR at I-17 n.57; PR at I-13 n.57.

⁴⁷ Invista's Supplemental Questionnaire Response at Question V-1(a); see also CR at I-17-18; PR at I-14. Insituform argues that Invista "obfuscated" the unique physical characteristics and uses of CIPP PSF in its supplemental questionnaire response. Insituform Final Comments at 1-2; see also Insituform Prehearing Brief at 6. Specifically, Insituform observes that Invista treated PSF cut into one to four inch lengths as CIPP PSF, when all CIPP PSF must be cut in three to four inch lengths. Id. But Insituform itself stressed the importance of physical characteristics other than cut length, including crimp count, elasticity, elongation, finish, and shape, in arguing that CIPP PSF is a separate like product, see Insituform Prehearing Brief at 6-9; Insituform Posthearing Brief at 4-5; Hearing Tr. at 167-70 (Costa), and Invista reported that *** of its PSF shipments possess these same characteristics. Invista's Supplemental Questionnaire Response at Question V-1(a); see also CR at I-17-18; PR at I-14. Moreover, Invista's supplemental questionnaire response is consistent with ***, and there is no evidence that *** reported PSF in cut lengths other than three to four inches as CIPP PSF. We note that Insituform's like product argument with respect to cut length has been inconsistent, with its prehearing brief and hearing testimony citing a cut length of three to four inches and its posthearing brief citing a cut length of four to five inches. Compare Insituform's Prehearing
(continued...)

both CIPP PSF and other types of PSF “can be processed through the same processing technologies and equipment (like carding, needlepunching, blowing) and can serve a wide variety of end uses (like fiberfilling, []. . . insulation, filtration).”⁴⁸ Insituform’s Chinese supplier, ***, also reports that the same type of PSF supplied to Insituform is used by other customers in other applications, including non-wovens and fiberfill.⁴⁹

Interchangeability

Insituform claims that it cannot substitute any other type of PSF for the CIPP PSF it requires for CIPP applications and opines that CIPP PSF could not be used in pillows because it is uncoated.⁵⁰ But Invista reports that “it has sold [CIPP PSF] into applications besides CIPP, such as into traditional fiberfill and felt-type applications.”⁵¹ Indeed, Invista reportedly shipped *** percent of its CIPP PSF to customers other than Insituform in 2006.⁵² ***, too, reports that it sold CIPP PSF to customers other than Insituform for use in fiberfill applications.⁵³ When asked whether CIPP PSF was suitable for other applications at the hearing, Insituform was unable to give a definitive answer.⁵⁴

Manufacturing processes, employees, and facilities

Insituform concedes that the production processes are similar between CIPP PSF and other types of PSF, with a few exceptions. Invista confirms that CIPP PSF and other types of PSF are manufactured on the same equipment, using the same raw materials and standard operating conditions.

Channels of distribution

Insituform claims that all CIPP PSF is sold directly to end users, unlike other types of PSF. However, 81.7 percent of certain PSF shipments from U.S. producers, and the “vast majority” of subject import shipments, were to end users rather than distributors in 2006.⁵⁵

Customer and producer perceptions

Insituform clearly regards CIPP PSF as the only PSF product suitable for its end-use application. Notwithstanding an extensive search for alternative suppliers, Insituform has found only two producers able to satisfy its rigorous qualification process.⁵⁶ At least two domestic producers that unsuccessfully attempted to qualify as suppliers of CIPP PSF to Insituform, DAK and Wellman, would presumably perceive the product as distinct from the PSF products sold to other customers. On the other hand,

⁴⁷ (...continued)

Brief at 6; Hearing Tr. at 167 (Costa) with Insituform’s Posthearing Brief at 2.

⁴⁸ Invista’s Supplemental Questionnaire Response at Question V-1(a); CR at I-17; PR at I-14.

⁴⁹ CR at I-18; PR at I-14.

⁵⁰ Insituform Posthearing Brief at 7.

⁵¹ Invista’s Supplemental Questionnaire Response at Question V-1(b).

⁵² Invista’s Supplemental Questionnaire Response; CR/PR at Table I-3.

⁵³ CR at I-18; PR at I-14.

⁵⁴ See Hearing Tr. at 206 (Costa).

⁵⁵ CR at I-13; PR at I-11.

⁵⁶ See Hearing Tr. at 171 (Costa); Insituform Responses to Commissioner Questions at 1-3.

Invista, ***, and many of their customers reportedly perceive CIPP PSF and other types of PSF as interchangeable.⁵⁷

Price

Insituform's own pricing data belies its claim that CIPP PSF commands a substantial price premium over certain PSF, showing that the two products were priced comparably over the period of investigation.⁵⁸ Though Insituform claims that CIPP PSF previously commanded a *** percent price premium over other types of PSF before domestic competition for Insituform's business forced Invista to lower its prices, CIPP PSF commanded *** price premium over all certain PSF in 2004, before Insituform claims to have begun seeking out additional domestic suppliers in response to the 2005 hurricanes.⁵⁹

Conclusion

Insituform's suppliers of CIPP PSF, Invista and ***, report that the physical characteristics that make CIPP PSF uniquely suited for CIPP applications, with the possible exception of cut length, do not preclude the product's use in other, more prosaic applications. Invista reportedly ships *** of its CIPP PSF to customers other than Insituform for end uses other than CIPP and produces CIPP PSF in the same manner as other forms of certain PSF. *** reportedly sells CIPP PSF to customers other than Insituform for non-woven and fiberfill applications. In addition, CIPP PSF is sold directly to end users, like other forms of certain PSF, and was priced comparably to other types of certain PSF over the period of investigation.

The principal difference between CIPP PSF and other types of PSF is that only CIPP PSF is suitable for use in Insituform's CIPP applications. Consequently, Insituform and PSF producers that have unsuccessfully attempted to qualify their PSF for Insituform's CIPP applications would perceive CIPP PSF as separate and distinct from other PSF products.

We find no clear dividing line between CIPP PSF and other forms of certain PSF under our six like product factors. Though CIPP PSF may be uniquely suited for Insituform's CIPP application and may be perceived as such by Insituform and certain producers, products need not be perfectly interchangeable to be included within a single domestic like product.⁶⁰ CIPP PSF and other types of

⁵⁷ Invista's Supplemental Questionnaire Response at Question V-19(a) and (e).

⁵⁸ Compare Insituform Posthearing Brief at 9 with CR/PR at Table C-1. We find the additional pricing information provided by Insituform, in response to a question by Commissioner Deanna T. Okun at the hearing, to be of limited probative value. See Insituform Responses to Commissioner Questions at 4-5. The chart titled "2005 Fiber Price Compare" [sic] compares CIPP PSF prices to the prices of other PSF products that remain unspecified. See id. at 4. The chart indicates that the price Insituform paid for CIPP PSF from Invista in 2005 was comparable to the AUV of the domestic industry's U.S. shipments that year, \$0.71 per pound, as well as comparable to prices for domestic producer shipments of pricing products 1, 4, and 5. Compare id. with CR/PR at Tables V-1, 4-5, C-1. The table headed "Reference only pricing - FOB their dock" contains price quotes, rather than transaction prices, for several periods in 2004 and 2005, without further explanation for why these periods were chosen. Insituform Responses to Commissioner Questions at 5.

⁵⁹ Insituform Posthearing Brief at 10.

⁶⁰ See Nippon Steel v. United States, 19 CIT 450, 457 (1995) (citing R-M Indus., Inc. v. United States, 848 F.Supp. 204, 210 n.9 (Ct. Int'l Trade 1994)) (holding that "the Commission is not required to find that products must be completely interchangeable" to be defined as a single like product); see also Sodium Azide from Japan, Inv. No. 731-TA-740 (Preliminary), USITC Pub. 2948 (March 1996) at 5 n.28 (noting that "[t]he absence of complete interchangeability among the different end uses of sodium azide does not require the finding of separate domestic

(continued...)

certain PSF are reportedly interchangeable in other end uses and otherwise similar in terms of the Commission's like product factors. Accordingly, we conclude that CIPP PSF is part of a single like product encompassing all certain PSF products.

III. DOMESTIC INDUSTRY

The domestic industry is defined as the “producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.”⁶¹ In defining the domestic industry, the Commission's general practice has been to include in the industry all domestic production of the domestic like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.⁶² Based on our finding that the domestic like product is certain PSF, we find that the domestic industry consists of all known domestic producers of certain PSF. The eight firms that comprise the domestic industry are DAK; Formed Fiber Technologies, Inc.; Invista S.a.r.l.; Nan Ya; Palmetto Synthetics, LLC; United Synthetics, Inc.; U.S. Fibers; and Wellman.⁶³

A. Related Parties

We must determine whether any producer of the domestic like product should be excluded from the domestic industry pursuant to 19 U.S.C. § 1677(4)(B). Subsection 1677(4)(B) 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.⁶⁴ Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each investigation.

In our preliminary determination, we found that United Synthetics might qualify as a related party given its *** percent ownership by ***, the ***, but determined that circumstances did not warrant the exclusion of United Synthetics from the domestic industry.

In this final phase of the investigation, no party has argued that United Synthetics should be excluded from the domestic industry as a related party. Moreover, no new information has been placed on the record since the preliminary phase investigation relevant to whether United Synthetics is a related party. Upon this record, we again find that it is unclear whether the *** ownership of United Synthetics by *** renders it a related party.

Even if United Synthetics were a related party, we find that circumstances would not warrant its exclusion from the domestic industry. Over the period of investigation, United Synthetics demonstrated its commitment to domestic production by shipping a significant quantity of PSF, with sales quantity increasing from *** million pounds in 2004 to *** million pounds in 2006, and by importing no subject

⁶⁰ (...continued)

like products”); Polyethylene Terephthalate Film, Sheet, and Strip from Japan and the Republic of Korea, Inv. Nos. 731-TA-458-459 (Final), USITC Pub. 2383 (May 1991) at 8 (finding a single like product though “end use alone would argue for finding literally dozens of separate like products” given the “many distinct end uses for different types of PET film”), 11-12 (noting that “the Commission has never viewed complete interchangeability as a definitive requirement for the inclusion of multiple domestic products in a single like product”).

⁶¹ 19 U.S.C. § 1677(4)(A).

⁶² United States Steel Group v. United States, 873 F. Supp. 673, 681-84 (Ct. Int'l Trade 1994), aff'd, 96 F.3d 1352 (Fed. Cir. 1996).

⁶³ CR/PR at Table III-1.

⁶⁴ 19 U.S.C. § 1677(4)(B).

merchandise itself.⁶⁵ United Synthetic's financial performance trend was comparable to that of other domestic producers, though *** the industry average.^{66 67} No party has alleged that United Synthetics's relationship with *** has shielded it from subject import competition. Finally, including or excluding United Synthetics from the domestic industry would not significantly influence the Commission's analysis of domestic industry data, given that United Synthetics accounted for *** percent of domestic industry production in 2006.⁶⁸

We therefore define the domestic industry as all domestic producers of certain PSF, including United Synthetics.

IV. MATERIAL INJURY BY REASON OF LESS THAN FAIR VALUE IMPORTS FROM CHINA⁶⁹

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.⁷⁰ 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.⁷¹ The statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant."⁷² 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.⁷³ 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."⁷⁴

⁶⁵ CR/PR at Tables III-7 (*** imports of certain PSF from China were *** pounds in 2004, *** pounds in 2005, and *** pounds in 2006) and VI-2.

⁶⁶ See CR/PR at Table VI-2.

⁶⁷ Consistent with her practice in past investigations and reviews, Vice Chairman Aranoff does not rely on individual-company operating income margins in assessing whether a related party has benefitted from importation of subject merchandise. Rather, she determines whether to exclude a related party based principally on its ratio of subject imports to domestic shipments and whether its primary interests lie in domestic production or importation.

⁶⁸ CR/PR at Table III-1.

⁶⁹ In this investigation, subject imports accounted for more than 3 percent of the volume of certain PSF imported into the United States from all sources in the most recent 12-month period for which data are available preceding the filing of the petition. CR at IV-11; PR at IV-7. As such, we find that subject imports are not negligible under 19 U.S.C. § 1677(24).

⁷⁰ 19 U.S.C. § 1673d(b).

⁷¹ 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).

⁷² 19 U.S.C. § 1677(7)(A).

⁷³ 19 U.S.C. § 1677(7)(C)(iii).

⁷⁴ Id.

A. Conditions of Competition and the Business Cycle

The following conditions of competition are pertinent to our analysis of the impact of certain PSF imports from China on the domestic industry.

1. Demand Conditions

Demand for PSF generally is related to the amount of housing-related activity in the economy and demand for all end uses generally tracks overall economic activity.⁷⁵ Housing starts, used in the PSF industry as an indicator of furniture and bedding demand, grew from 2004 through early 2006, but then fell through the end of 2006.⁷⁶ U.S. apparent consumption of PSF declined 5.4 percent over the period of investigation, from 1.13 billion pounds in 2004 to 1.07 billion pounds in 2006, notwithstanding a 2.2 percent increase between 2004 and 2005.⁷⁷ Declining demand in 2006 resulted from a slump in the housing market, which depressed demand for bedding, pillows, and upholstered furniture,⁷⁸ and increased imports of products that contain certain PSF.⁷⁹

2. Supply Conditions

a. Domestic Industry Capacity

Even as domestic producers shed 115 million pounds of certain PSF capacity over the period of investigation, reportedly in an effort to bolster their flagging capacity utilization rates,⁸⁰ domestic industry capacity utilization declined from 82.5 percent in 2004 to 73.9 percent in 2006.⁸¹ Given their low rate of capacity utilization, domestic producers possessed unused capacity of 201.9 million pounds in 2006, equal to 18.9 percent of U.S. apparent consumption that year.⁸²

According to petitioners, domestic producers must operate at a high rate of capacity utilization in order to reduce their unit fixed costs to an economic level, given high capital and energy costs.⁸³ The domestic industry's declining capacity utilization rate increased the industry's fixed costs per unit as its relatively high capital and energy costs were spread over fewer units of production.⁸⁴ Moreover, low capacity utilization rates contributed to a dramatic decline in labor productivity, from 316.6 pounds per hour in 2004 to 268.6 pounds per hour in 2006,⁸⁵ as domestic producers were compelled to maintain

⁷⁵ CR at II-7; PR at II-5.

⁷⁶ CR at II-7; PR at II-5; CR/PR at Figure II-1.

⁷⁷ CR/PR at Table IV-5.

⁷⁸ See CR at II-7; PR at II-5; CR/PR at Figure II-1.

⁷⁹ See CR at II-8; PR at II-6; Hearing Tr. at 75 (Katz), 76-77 (McNaull). Petitioners claim that growth in imports containing certain PSF has been confined to upholstered furniture, as other products containing PSF, such as pillows and comforters, are too bulky to import economically. See Hearing Tr. at 77 (McNaull), 80 (Katz).

⁸⁰ Petitioners' Prehearing Brief at 9.

⁸¹ CR/PR at Table C-1.

⁸² CR/PR at Table III-2.

⁸³ Petitioners' Prehearing Brief at 9; Hearing Tr. at 18 (McNaull).

⁸⁴ See Petitioners' Prehearing Brief at 9; Hearing Tr. at 18 (McNaull).

⁸⁵ CR/PR at Table III-9.

minimum staffing levels even as production declined.⁸⁶ Direct labor and other factory costs increased by \$0.03 per pound, or 18 percent, over the period of investigation.⁸⁷

b. Impact of the 2005 Hurricanes

The record in this investigation is mixed on the impact of the 2005 hurricanes, Katrina and Rita, but it appears that they contributed to temporary supply disruptions in the U.S. market for certain PSF. Petitioners claim that the 2005 hurricanes had only a limited impact on the domestic industry's ability to serve its customers, increasing prices and disrupting PSF supplies over the last three months of 2005.⁸⁸ Thirty purchasers, however, reported various effects including price increases, temporary supply disruptions, energy surcharges, and increased demand for imported PSF.⁸⁹ *** reported that its *** facility was disrupted by the hurricanes for one to two months and *** declared force majeure under its supply contracts between the fall of 2005 and January 2006.⁹⁰ Only 12 of 33 purchasers responding to the Commission's question concerning changes in the availability of certain PSF over the period of investigation cited the hurricanes as a factor that had impacted the availability of certain PSF.⁹¹ Both Hollander and Insituform, however, claim that they first began purchasing subject imports after their supplies of domestic PSF had been disrupted by the hurricanes.⁹²

c. Substitutability

Competition in the certain PSF market is price based to a significant degree. Of the 38 purchasers responding to the Commission's questionnaires, representing 53.4 percent of U.S. PSF consumption in 2006, 26 listed price as the first or second most important factor in purchasing decisions and 33 reported that "price" is "very important" to purchasing decisions.⁹³ Most purchasers reported sometimes or usually purchasing the lowest-priced PSF.⁹⁴ Most producers and importers reported that factors other than price are either sometimes or never significant for purchasers choosing between subject imports and the

⁸⁶ Petitioners' Posthearing Brief at 8-9; Hearing Tr. at 84 (Chandl), 84-85 (McNaull), 86-87 (Katz). Petitioners testified that producers have little flexibility in reducing manpower on production lines that operate at less than full capacity as a technical matter, and that highly trained employees cannot be lightly laid off or easily re-hired. See id.

⁸⁷ CR/PR at Table VI-1.

⁸⁸ Petitioners' Prehearing Brief at 11. As additional confirmation of the hurricane's limited impact, petitioners cite respondent interested party testimony from the five-year reviews of the antidumping duty orders on PSF from Korea and Taiwan that PSF price hikes due to the hurricanes in August and September of 2005 were rescinded by November 2005. Petitioners' Prehearing Brief at 12 (citing Hearing Transcript, PSF from Korea and Taiwan, at 308, 310).

⁸⁹ CR at II-4; PR at II-3.

⁹⁰ Petitioners' Prehearing Brief at 11.

⁹¹ CR at II-3; PR at II-2. Similarly, two of six purchasers responding to the Commission's questions concerning problems with PSF supplies cited the hurricanes in 2005 as a source of such problems. Id.

⁹² Hollander Posthearing Brief at 9; Insituform Posthearing Brief at 10. At odds with Insituform's claim, however, is the fact that Invista, its only domestic supplier, did not report any ill-effects from the hurricanes, nor any disruption to its ability to serve customers over the period of investigation. See CR at II-3-4. Thus, Invista reported no disruption to its ability to supply customers that would have forced Insituform to seek out new suppliers.

⁹³ See CR at II-16; PR at II-11; CR/PR at Tables II-5-6.

⁹⁴ CR at II-16; PR at II-11 (When purchasers were asked how often they purchase the lowest priced PSF, 18 responded "sometimes," 13 responded "usually," five responded "never," and two responded "always.").

domestic like product, though a significant minority of importers reported that non-price factors are always or frequently significant.⁹⁵

Commission staff characterized the degree of interchangeability between subject imports and the domestic like product as “moderate-to-high.”⁹⁶ Substantiating that assessment, purchasers deemed U.S. and Chinese certain PSF comparable with respect to all factors but “lower price,” for which 7 of 15 purchasers deemed U.S. PSF inferior, and “delivery time” and “extension of credit,” for which 7 of 15 purchasers deemed U.S. PSF superior.⁹⁷ Most purchasers reported that both subject imports and the domestic like product either usually or always satisfied their minimum quality specifications.⁹⁸ Of 53 responses to the Commission’s question regarding the frequency that subject imports and the domestic like product can be used interchangeably, 26 questionnaire respondents, including domestic producers, importers, and purchasers, reported “sometimes,” 16 reported “frequently,” seven reported “always,” and only four reported “never.”⁹⁹

The prevalence of spot and short-term contract sales in the certain PSF market, as opposed to long-term contract sales, indicates that many purchasers could easily switch suppliers on the basis of price or other factors.¹⁰⁰ Indeed, 17 of 38 responding purchasers reported changing suppliers over the past three years, with six adding Chinese suppliers, four adding U.S. producers, and two dropping U.S. producers.¹⁰¹ As discussed below, the large shift in market share from domestic producers to subject imports over the period of investigation in an environment of relatively stable demand is further evidence that many purchasers switched from the domestic like product to subject imports.¹⁰²

⁹⁵ CR/PR at Table II-9.

⁹⁶ CR at II-11; PR at II-7-8. We recognize that Hollander and Ashley do not consider the domestic like product to be an acceptable substitute for subject imports. Hollander testified at the Commission’s hearing that it is willing to pay more for imported certain PSF, both subject and non-subject, because only imported PSF offers the runability and product attributes that Hollander needs to remain competitive in the global marketplace. See Hearing Tr. at 191, 196, 200, 245-248 (Epstein). Ashley testified that it increased purchases of subject imported conjugate PSF because domestic conjugate PSF cannot satisfy its high quality and yield requirements, and not because of price. See Hearing Tr. at 177-78, 182-83 (Plummer); see also Ashley Prehearing Brief at 11-13. Both Hollander and Ashley complained that domestic producers have been unresponsive to their needs. See Hearing Tr. at 184 (Plummer), 196-197 (Epstein); Hollander Posthearing Brief at 9; Ashley Prehearing Brief at 13. We have taken respondents’ views into account, but must base our analysis of substitutability on record information collected from a broad range of producers, importers, and purchasers. In addition, we note that Hollander’s and Ashley’s avowed concerns with the quality of domestic certain PSF did not prevent *** over the period of investigation. See Purchasers’ Questionnaire Responses of *** at Question II-1.

⁹⁷ CR/PR at Table II-7. Five purchasers reported in narrative questionnaire responses that they increased purchases of subject imports over the period of investigation due to price. See Purchasers’ Questionnaire Responses of ***.

⁹⁸ CR at II-22; PR at II-15.

⁹⁹ CR/PR at Table II-8.

¹⁰⁰ See CR at V-4-5; PR at V-4 (Of seven producers, five reported that 70 percent or more of their sales were on a spot basis, one reported that a majority of its sales were made on a long-term contract basis, and one reported that all of its sales were made pursuant to short-term contracts. Of 12 importers, six reported that 60 percent or more of their sales were made pursuant to short-term contracts and six reported that 75 percent or more of their sales were made on a spot basis.). Twenty-two purchasers reported the time required to qualify a new supplier, which ranged from one day to six months. CR at II-21; PR at II-14.

¹⁰¹ CR at II-22; PR at II-15.

¹⁰² See CR/PR at Table C-1. Between 2004 and 2006, subject imports gained *** percentage points of market share as domestic producers lost 13.3 percentage points of market share and non-subject imports lost *** of market

(continued...)

d. Non-subject imports

Non-subject import volume declined *** percent over the period of investigation, from *** million pounds in 2004, or *** percent of apparent consumption, to *** million pounds in 2006, or *** percent of apparent consumption.¹⁰³ The volume of non-subject imports from Korea and Taiwan, subject to antidumping duty orders, declined by an even larger amount, 26.5 percent, from 282.2 million pounds in 2004, or 25.0 percent of U.S. apparent consumption, to 207.3 million pounds in 2006, or 19.4 percent of U.S. apparent consumption.¹⁰⁴ The average unit value (“AUV”) of non-subject imports was significantly higher than the AUV of subject imports throughout the period of investigation.^{105 106}

B. Volume of Subject Imports

Section 771(7)(C)(i) of the Act provides that the “Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant.”¹⁰⁷

Both subject import volume and market share increased significantly over the period of investigation. Subject import volume increased *** percent, from *** million pounds in 2004, or *** percent of apparent consumption, to *** million pounds in 2005, or *** percent of apparent consumption, and to *** million pounds in 2006, or *** percent of apparent consumption.¹⁰⁸ That subject import volume increased by *** percent between 2005 and 2006 is particularly notable given the 7.4 percent decline in U.S. apparent consumption over the period.¹⁰⁹

The *** percentage points of market share that subject imports captured between 2004 and 2006 came at the expense of the domestic industry, which lost 13.3 percentage points, and to a lesser extent

¹⁰² (...continued)

share. *Id.* This large market share shift, against a backdrop of relatively stable demand, belies the argument, belatedly advanced by respondent Consolidated, that subject import competition was attenuated because regenerated PSF, comprising a majority of subject imports, does not compete with virgin PSF, comprising the majority of domestic producer shipments. Consolidated Final Comments at 3. In fact, the vast majority of producers, importers, and purchasers responding to the Commission’s questionnaires reported that regenerated PSF and virgin PSF products are at least “sometimes” used interchangeably. CR/PR at Table II-4. Wellman, the largest U.S. producer of regenerated PSF over the POI, testified at the hearing that its customers did not care whether the PSF they purchased was made from regenerated or virgin inputs. Hearing Tr. at 121 (Katz).

¹⁰³ CR/PR at Table C-1.

¹⁰⁴ CR/PR at Table IV-6.

¹⁰⁵ CR/PR at Table C-1 (non-subject import AUVs were \$*** in 2004, \$*** in 2005, and \$*** in 2006, while subject imports AUVs were \$*** in 2004, \$*** in 2005, and \$*** in 2006). We are mindful that AUVs may present product mix issues in that values may reflect different merchandise rather than differences in price. See Allegheny Ludlum Corp. v. United States, 287 F.3d 1365, 1373-74 (Fed. Cir. 2002).

¹⁰⁶ Pricing data on non-subject imports from India, Indonesia, Japan, Korea, Saudi Arabia, Taiwan, Thailand, and Vietnam show that non-subject imports generally undersold the domestic like product with respect to products 1-4, though not with the same frequency as subject imports, and generally oversold the domestic like product with respect to product 5. CR/PR at Appendix E.

¹⁰⁷ 19 U.S.C. § 1677(7)(I); Statement of Administration Action (“SAA”) at 854.

¹⁰⁸ CR/PR at Table C-1.

¹⁰⁹ CR/PR at Table IV-6.

non-subject imports, which lost ***.¹¹⁰ As subject imports displaced domestic certain PSF from the U.S. market, the ratio of subject imports to domestic production also increased significantly, from *** percent in 2004, to *** percent in 2005, and to *** percent in 2006.¹¹¹

We therefore find that subject import volume is significant, both in absolute terms and relative to consumption and production in the United States, and that the increase in subject import volume also is significant.

C. Price Effects of the Subject Imports

Section 771(C)(ii) of the Act provides that, in evaluating the price effects of 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.¹¹²

The record indicates that subject imports and the domestic like product possess a “moderate-to-high” degree of interchangeability, as detailed in the conditions of competition section above. Purchasers reported that subject imports and the domestic like product were generally comparable with respect to a list of product attributes, with subject imports offering lower prices and the domestic like product offering superior delivery times.¹¹³ Most of the 53 producers, importers, and purchasers that responded to the Commission’s question on interchangeability reported that subject imports and the domestic like product are interchangeable “sometimes” (26 questionnaire responses), “frequently” (16 responses), or “always” (seven responses).¹¹⁴

The record also indicates that price is an important factor for purchasers in selecting a certain PSF supplier. Most purchasers reported that price is “very important” to their purchasing decisions -- the first or second most important factor – and most reported sometimes or usually purchasing the lowest-priced certain PSF.¹¹⁵ Most producers and importers reported that factors other than price were either never, or only sometimes, significant to purchasers choosing between subject imports and the domestic like product.¹¹⁶ Moreover, the prevalence of spot sales and short-term contracts in the U.S. market for certain PSF indicates that many purchasers can easily switch suppliers due to price or other considerations.¹¹⁷

The Commission collected quarterly pricing data on five PSF products, and received usable data from seven producers, accounting for 74 percent of domestic producer shipments in 2006, and 14

¹¹⁰ CR/PR at Table C-1.

¹¹¹ CR/PR at Table IV-7.

¹¹² 19 U.S.C. § 1677(7)(C)(ii).

¹¹³ CR/PR at Table II-7.

¹¹⁴ CR/PR at Table II-8.

¹¹⁵ CR at II-16; PR at II-11; CR/PR at Tables II-5, II-6.

¹¹⁶ CR/PR at Table II-9. A significant minority of importers reported that factors other than price are frequently or always important to such purchasers. Id.

¹¹⁷ See CR at II-21, V-4-5.

importers, accounting for 17.1 percent of subject import shipments in 2006.¹¹⁸ These data indicate that subject imports generally undersold the domestic like product with respect to all five products throughout the period of investigation, but particularly in 2005 and 2006.

Between 2004 and 2006, subject imports undersold the domestic like product in 37 of 54 comparisons, or 68.5 percent of the time, at margins ranging from 0.8 percent to 43.4 percent.¹¹⁹ The frequency of subject import underselling and underselling margins generally increased in 2005 and 2006, with underselling occurring in 33 of 38 comparisons, or 86.8 percent of the time, at margins ranging from 0.8 percent to 43.4 percent.¹²⁰ We find subject import underselling to be significant.

Although domestic prices generally increased in 2005 and 2006, we find that subject imports suppressed domestic prices, preventing price increases that otherwise would have occurred due to escalating raw material costs.¹²¹ Prices for the raw material inputs for virgin PSF, petroleum-based monoethylene glycol (“MEG”) and purified terephthalic acid (“PTA”), and regenerated PSF, post-industrial and post-consumer waste, increased significantly in 2005 and 2006, largely as a result of increasing oil prices and the 2005 hurricanes.¹²²

The resulting increase in the domestic producers’ unit raw material costs, from \$0.49 per pound in 2005 to \$0.52 per pound in 2006, was partly responsible for the 7.5 percent increase in their unit cost of goods sold (“COGS”), from \$0.67 per pound in 2005 to \$0.72 per pound in 2006. Because the AUV of domestic industry net sales increased only 2.8 percent, from \$0.71 in 2005 to \$0.73 in 2006, the ratio of domestic industry COGS to net sales increased from 95.2 percent in 2005 to 98.4 percent in 2006, contributing to a decline in domestic industry operating income per unit from \$0.01 per pound in 2005 to -\$0.01 per pound in 2006.¹²³ We do acknowledge that the ratio of domestic industry COGS to net sales was higher in 2004, at 100.8 percent. On balance, however, we find that pricing pressure from subject

¹¹⁸ CR at V-5-6; PR at V-5.

¹¹⁹ CR/PR at Table V-6. Consolidated argues that underselling margins for products 1 and 2, which include both regenerated PSF and virgin PSF, were artificially inflated because most subject import shipments consisted of regenerated PSF, which they allege to be lower-priced due to the lower cost of regenerated inputs, and most domestic shipments consisted of virgin PSF, which they allege to be higher-priced due to the higher cost of virgin inputs. Consolidated Final Comments at 4-5. The statute, however, requires the Commission to assess whether imports are being sold by importers in the U.S. market at lower prices than the domestic like product, not to compare the cost of production of foreign producers with the cost of production in the United States. See 19 U.S.C. § 1677(7)(C)(ii). Further, Consolidated’s contention that regenerated PSF is cheaper to produce than virgin PSF is belied by the cost of inputs reported by domestic producers, which indicate that regenerated inputs may cost more or less than virgin inputs depending upon the ratio of MEG to PTA used to produce virgin PSF, and Wellman’s decision to close its dedicated regenerated PSF production facility in Johnsonville in late 2006. See CR at III-3 & n.13; PR at III-3 & n.13; CR/PR at Table VI-3. Indeed, the Commission collected separate pricing data on virgin PSF and regenerated PSF in the preliminary phase investigation, and found that the pattern of subject import underselling was similar whether the data were considered on an aggregated or dis-aggregated basis. See Preliminary Determination, Certain Polyester Staple Fiber from China, Inv. No. 731-TA-1104 (Preliminary), USITC Pub. 3878 (August 2006) at 11 n.54.

¹²⁰ See CR/PR at Tables V-1-5, Figures V-3-7.

¹²¹ We note that U.S. apparent consumption declined 7.4 percent later in the period of investigation, from 1.15 billion pounds in 2005 to 1.07 billion pounds in 2006, but as discussed earlier, subject import volume increased *** percent from 2005 to 2006, while demand was declining. See CR/PR at Table C-1.

¹²² See CR at V-1; PR at V-1; CR/PR at Figure V-1; see also id. at Table VI-3 (domestic producers reported that, between 2004 and 2006, their per pound cost of raw materials increased 32 percent with respect to MEG, 32 percent with respect to PTA, and 24 percent with respect to scrap).

¹²³ Petitioners’ Prehearing Brief at 21; see also Hearing Tr. at 71, 94 (McNaull); CR/PR at Table VI-1.

import underselling contributed to the domestic producers' inability to increase prices in tandem with raw material costs, particularly later in the period of investigation.¹²⁴

We note that the principal adverse impact of subject imports on the domestic industry was the 13.3 percentage point market share shift from domestic producers to subject imports over the period of investigation. Underselling by subject imports was a key factor in this shift in market share. As discussed earlier, there is a "moderate-to-high" degree of interchangeability between subject imports and the domestic like product, price is important to purchasing decisions, and spot and short-term contract sales are prevalent in the certain PSF market. Confirmed lost sales totaling *** million pounds, valued at *** million, provide additional support for our finding that subject imports have taken sales from U.S. producers and have suppressed prices.¹²⁵ Moreover, five purchaser questionnaire responses reported increased purchases of subject imports due to their low price.¹²⁶

For the foregoing reasons, we find that the subject imports have had significant adverse price effects on the domestic industry.

D. Impact of the Subject Imports¹²⁷

Section 771(7)(C)(iii) provides that the Commission, in examining the impact of the subject imports on the domestic industry, "shall evaluate all relevant economic factors which have a bearing on the state of the industry."¹²⁸ These factors include output, sales, inventories, capacity utilization, market

¹²⁴ Petitioners claimed that price hikes announced in 2004 had to be retracted due to subject import competition, Petitioners' Prehearing Brief at 23, and testified at the hearing that customers would not accept price hikes in 2006 even though they understood that the hikes would "strictly pass through" higher raw material costs. Hearing Tr. at 71, 94-95 (McNaull), 71 (Katz).

¹²⁵ See CR at Table V-7.

¹²⁶ See Purchasers' Questionnaire Responses of ***.

¹²⁷ In its final determination, Commerce found weighted-average dumping margins for specific Chinese exporters ranging from 3.47 to 4.86 percent, an all others rate of 4.44 percent, and a PRC wide rate of 44.30 percent. CR at I-5; PR at I-5; Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China, 72 Fed. Reg. 19693 (April 16, 2007). Consolidated and Insituform argue that the magnitude of the antidumping margins found by Commerce indicate that subject imports could not have materially injured the domestic industry. See Consolidated Final Comments at 1-2; Insituform's Comments Regarding Final Dumping Determination at 1, 5; Insituform's Posthearing Brief at 8. Consistent with the statute, the SAA, and court precedent, the Commission's practice is to "consider the impact of the subject imports and not the effect of the dumping or subsidies." See Softwood Lumber from Canada, Inv. Nos. 701-TA-414 and 731-TA-928 (Final), USITC Pub. 3509 (May 2002) at 30, also citing, at 21, Titanium Metal Corp. v. United States, 155 F.Supp.2d 750, 757 (Ct. Int'l Trade 2002) ("The statutory language does not require that ITC demonstrate the dumped imports, through the effects of particular margins of dumping, are causing injury. Rather, ITC must examine the effects of imports of a class or kind of merchandise which is found to be sold at LTFV and make its conclusion about causation accordingly.") (quoting Iwatsu Elec. Co. v. United States, 758 F.Supp. 1506, 1510 (Ct. Int'l Trade 1991)); see also Certain Frozen or Canned Warm water Shrimp and Prawns from Brazil, China, Ecuador, India, Thailand, and Vietnam, Inv. Nos. 731-TA-1063-68 (Final), USITC Pub. 3748 (January 2005) at 38-39 (citing to Algoma Steel Corp. v. United States, 688 F.Supp. 639, 645 (Ct. Int'l Trade 1988), *aff'd*, 865 F.2d 240 (Fed. Cir. 1989) ("Our reviewing court, however, has stated that 'Congress has not simply directed ITC to determine directly if dumping itself is causing injury.'") and also noting "the statutory directive" that the Commission ascertain the impact of the dumping imports). Accordingly, we have considered the magnitude of the dumping margins found by Commerce, but do not find them conclusive for our analysis of impact.

¹²⁸ 19 U.S.C. § 1677(7)(C)(iii); see also SAA at 851 and 885 ("In material injury determinations, the Commission considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in

(continued...)

share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, research and development, and factors affecting domestic prices. No single factor is dispositive and all relevant factors are considered “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”¹²⁹

We find that subject imports had a significant adverse impact on the condition of the domestic industry over the period of investigation. Subject import volume increased almost *** percent over the period of investigation to capture 13.3 percentage points of market share, out of a total market share gain of *** percentage points, at the domestic industry’s expense. By contrast, generally higher-priced non-subject imports lost *** percentage point of market share over the period, as non-subject import volume declined by *** percent.¹³⁰ Due to the domestic industry’s substantial loss of market share to subject imports, and secondarily to price suppression, the industry experienced declines in almost every statutory performance measure in 2006.

The domestic industry’s share of U.S. apparent consumption declined from 60.2 percent in 2004 to 52.3 percent in 2005, and to 46.9 percent in 2006, as U.S. shipments declined 26.4 percent during the period of investigation, from 679.8 million pounds in 2004 to 603.0 million pounds in 2005, and to 500.2 million pounds in 2006.¹³¹ The domestic industry’s net sales quantity declined by 24.0 percent over the period from 728.0 million pounds in 2004, to 642.8 million pounds in 2005, and to 553.3 million pounds in 2006.¹³²

As sales declined over the period, the domestic industry reduced its capacity by 12.9 percent, from 889.6 million pounds in 2004 to 843.6 million pounds in 2005, and to 774.9 million pounds in 2006.¹³³ In particular, *** ceased production of certain PSF at its *** and reduced certain PSF capacity by 33 percent at its ***, and Wellman removed 80 million pounds of capacity from its Johnsonville plant before closing the plant entirely in December 2006.¹³⁴ Nan Ya shut down its conjugate PSF line in June 2006, reportedly due to low-priced subject import competition, and only restarted it after the petition’s filing in June 2006.¹³⁵ Record information does not capture the full extent of domestic industry capacity

¹²⁸ (...continued)

some cases, may account for the injury to the domestic industry, they also may demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.”). SAA at 885.

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

¹³⁰ See CR/PR at Table IV-5, 6. We are unpersuaded by respondents’ argument that domestic producers, specifically ***, injured themselves by increasing their own imports of certain PSF from China and non-subject countries over the period of investigation. See Insituform Prehearing Brief at 14; Consolidated Final Comments at 9. Although Insituform attributes *** imports of certain PSF from China to *** due to ***, ***, not ***, was the importer of record and the extent to which *** controlled or benefitted from *** subject imports is unclear. See CR at III-14; PR at III-9. That *** supports the antidumping petition suggests that its interest in *** subject imports is negligible. See CR/PR at Table III-1. *** imports from non-subject countries, though substantial, accounted for only *** percent of non-subject import volume in 2006. See id. at Tables III-7 (***) non-subject imports totaled *** million pounds in 2006) and C-1 (non-subject import volume was 364.4 million pounds in 2006).

¹³¹ CR/PR at Tables VI-5-6.

¹³² CR/PR at Tables III-5, VI-1. Domestic industry inventories increased 19.2 percent over the period, from 35,984 pounds in 2004, or 4.9 percent of total shipments, to 36,520 pounds in 2005, or 5.6 percent of total shipments, and to 42,901 pounds in 2006, or 7.6 percent of total shipments. CR/PR at Table III-8.

¹³³ CR/PR at Table III-2.

¹³⁴ CR at III-3; PR at III-1-2. According to PCI, an industry publication, *** Petitioners’ Prehearing Brief at 26.

¹³⁵ CR at III-3; PR at III-1.

reductions, because *** declared bankruptcy in early 2006 and therefore did not complete a domestic producers' questionnaire.¹³⁶

Notwithstanding its efforts to bring capacity in line with falling sales,¹³⁷ the domestic industry suffered declining capacity utilization rates as production declined by an even greater 21.9 percent over the period of investigation, from 733.7 million pounds in 2004, to 657.1 million pounds in 2005, and to 573.1 million pounds in 2006.¹³⁸ Accordingly, the domestic industry's capacity utilization rate declined from 82.5 percent in 2004 to 77.9 percent in 2005, and to 73.9 percent in 2006.¹³⁹

The domestic industry's deteriorating capacity utilization rate drove up the industry's fixed costs per unit, given high capital and energy costs. Low capacity utilization also depressed the industry's labor productivity, which declined from 316.6 pounds per hour in 2004 to 294.1 pounds per hour in 2005, and to 268.6 pounds per hour in 2006, as domestic producers were compelled to maintain minimum staffing levels even as production declined.¹⁴⁰ As production declined 21.9 percent over the period of investigation, hours worked declined only 10.2 percent and the average number of domestic industry production related workers ("PRWs") declined only 12.5 percent, from 1,106 in 2004, to 1,001 in 2005, and to 968 in 2006, excluding *** presumed layoffs and Wellman's closure of its Johnsonville plant in December 2006, which resulted in 360 layoffs.¹⁴¹ Wages paid declined from \$40.0 million in 2004 to \$39.6 million in 2005, and to \$37.1 million in 2006.¹⁴²

The domestic industry's financial performance generally reflected its deteriorating operating performance, particularly in 2006. The domestic industry's net sales value increased 7.4 percent between 2004 and 2005, from \$422.8 million to \$454.1 million, before declining 11.0 percent between 2005 and 2006, to \$404.2 million, for an overall decline of 4.4 percent over the period.¹⁴³ Net sales value declined at a lower rate than net sales volume because the AUV of net sales increased throughout the period, from \$0.58 per pound in 2004 to \$0.71 per pound in 2005, and to \$0.73 per pound in 2006.¹⁴⁴ Because the AUV of domestic industry shipments increased faster than unit COGS between 2004 and 2005, the domestic industry's operating loss of \$15.3 million in 2004, or negative 3.6 percent of sales, turned into a slight operating profit of \$8.6 million in 2005, or 1.9 percent of sales.¹⁴⁵ The domestic industry's

¹³⁶ CR at III-1 n.4; PR at III-1 n.4.

¹³⁷ See, e.g., Hearing Tr. at 30 (Katz) ("Wellman has made a concerted effort to reduce its expenses and remain competitive through cost cutting measures, including a reduction in the levels of management, plant closings and employee layoffs.").

¹³⁸ CR/PR at Table III-2.

¹³⁹ CR/PR at Table III-2.

¹⁴⁰ Petitioners' Posthearing Brief at 8-9; Hearing Tr. at 84 (Chandrl), 84-85 (McNaull), 86-97 (Katz). Given the domestic industry's need to maintain minimum staffing levels, we are unconvinced by Insituform's argument that domestic producers injured themselves by allowing their labor productivity to deteriorate. Insituform Posthearing Brief at 14; Hearing Tr. at 13 (Shapiro). Domestic producers acted to restructure their operations over the period of investigation, reducing capacity by 12.9 percent, but were unable to compensate for their rapid loss of market share and production volume. CR/PR at Table III-2.

¹⁴¹ CR/PR at Table III-9; Hearing Tr. at 29, 87-88 (Katz) (Johnsonville's closure resulted in 360 layoffs).

¹⁴² CR/PR at Table III-9.

¹⁴³ CR/PR at Table VI-1.

¹⁴⁴ CR/PR at Table VI-1.

¹⁴⁵ CR/PR at Table VI-1.

improved results in 2005 partly reflected demand growth and a spike in certain PSF prices in the fourth quarter of 2005, which coincided with shortages caused by the hurricanes.¹⁴⁶

This situation was reversed in 2006, however, as the domestic industry was unable to increase its prices sufficiently to compensate for higher raw material costs, and its capacity utilization rate continued to decline. That year, the domestic industry suffered an operating loss of \$5.4 million, or negative 1.3 percent of sales.¹⁴⁷ We conclude from the evidence of record that subject imports had a causal connection to the injury experienced by the domestic industry, particularly in 2006. In particular, subject imports greatly increased their market share, at the domestic industry's expense, in an environment of declining demand, thereby depressing domestic industry sales, production, and capacity utilization.¹⁴⁸ The domestic industry's declining capacity utilization contributed to its \$*** per unit, or *** percent, increase in unit labor and other factory costs over the period of investigation, which reduced the industry's operating income by a commensurate amount.¹⁴⁹ In addition, there was price suppression by subject imports, particularly in 2006.

The domestic industry's return on investment tracked its profitability, increasing from -6.5 percent in 2004 to 4.1 percent in 2005, before declining to -3.4 percent in 2006. Domestic industry capital expenditures and research and development spending, however, were inversely related to profitability. Capital expenditures declined from \$2.0 million in 2004 to \$1.2 million in 2005, before rebounding to \$1.5 million in 2006, a level still 27.5 percent lower than in 2004.¹⁵⁰ Research and development spending declined from \$1.8 million in 2004 to \$*** million in 2005, but returned to \$1.8 million in 2006.¹⁵¹ In sum, the record shows that subject imports are having a negative impact on the condition of the domestic industry.

Non-subject imports were in the U.S. market throughout the period of investigation. However, non-subject import volume declined throughout the period of investigation.¹⁵² Likewise, the AUV and pricing data on the record show that the prices of the non-subject imports typically are higher than those for subject imports. The primary cause of material injury to the domestic industry was the loss of volume, in terms of U.S. shipments and market share, which was caused by the rapid increase in volume of low-priced subject imports. This is in contrast to non-subject imports, which decreased in volume and market share over the period of investigation.¹⁵³

¹⁴⁶ See CR/PR at Figures V-3-7.

¹⁴⁷ CR/PR at Table VI-1.

¹⁴⁸ We are unpersuaded by Insituform's argument that the domestic industry is not suffering present material injury, based upon the industry's positive gross profit in 2006 and narrowed operating loss between 2004 and 2006. Insituform Prehearing Brief at 13-14; Insituform Posthearing Brief at 11. The domestic PSF industry's weak operating profits in 2005 turned to operating losses in 2006. CR/PR at Table VI-1. Furthermore, our finding of present material injury is bolstered by the significant decline in most every other domestic industry operating and financial indicator over the period of investigation.

¹⁴⁹ See CR/PR at Table VI-1.

¹⁵⁰ CR/PR at Table VI-5.

¹⁵¹ CR/PR at Table VI-5.

¹⁵² CR/PR at Table C-1.

¹⁵³ Chairman Pearson and Commissioner Okun add that given that the primary cause of material injury to the domestic industry was the loss of volume caused by low-priced subject imports, this suggests that non-subject imports were not a factor affecting volume, and to a lesser degree were not a factor affecting prices. This pattern further indicates that subject imports were a significant factor in the domestic industry's declining production and sales over the period of investigation. Chairman Pearson and Commissioner Okun note that this finding is consistent with the Commission's vulnerability finding in the recent five-year reviews of the orders on Korea and Taiwan. In

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Based on the reasons stated above, we conclude that an industry in the United States is materially injured by reason of subject imports of certain PSF from China found to be sold in the United States at less than fair value.

V. Application of the *Bratsk Aluminum Smelter v. United States Replacement/Benefit Test*

Having reached an affirmative determination by application of the statutorily mandated factors, the Federal Circuit's decision in Bratsk Aluminum Smelter v. United States requires that we turn to an additional analysis which can, in some circumstances, negate an affirmative determination.¹⁵⁴ The Federal Circuit directed the Commission to undertake an "additional causation inquiry" whenever certain triggering factors are met: "whenever the antidumping investigation is centered on a commodity product, and price competitive non-subject imports are a significant factor in the market."¹⁵⁵ The additional inquiry required by the Bratsk panel, which we refer to as the Bratsk replacement/benefit test, is "whether non-subject imports would have replaced the subject imports without any beneficial effect on domestic producers."¹⁵⁶

We respectfully disagree with the Bratsk panel that the statute requires any analysis beyond that already included in our discussion of volume, price, and impact above.¹⁵⁷ The statutory scheme contemplates that an industry may be facing difficulties from a variety of sources, including non-subject imports and other factors, but the existence of injury caused by other factors does not compel a negative determination if the subject imports themselves are making more than a minimal or tangential contribution to material injury.¹⁵⁸ The legislative history further clarifies that the dumped imports need not be the "principal" cause of material injury and that the "by reason of" standard does not contemplate that injury from dumped imports be weighed against injury from other factors, such as non-subject imports, which may be contributing to overall injury to an industry.¹⁵⁹ Thus, once the Commission establishes the existence of a causal link between subject imports and material injury, the existence of other concurrent causes is legally irrelevant to its determination.

Similarly, the statute does not permit the Commission to reach a negative determination based on the likely ineffectiveness of an order. Indeed, the purpose of the statute is not to bar or eliminate subject imports from the U.S. market or award subject import market share to U.S. producers, but is meant

¹⁵³ (...continued)

those reviews, the Commission found that the domestic industry was vulnerable "by intensified competition from low-priced Chinese non-subject imports over the POR, . . ." Certain Polyester Staple Fiber From Korea and Taiwan, Inv. Nos. 731-TA-825-826 (Review), USITC Pub. 3843 at 31 (Mar. 2006).

¹⁵⁴ 444 F.3d at 1369 (Fed. Cir. 2006).

¹⁵⁵ Bratsk, 444 F.3d at 1375.

¹⁵⁶ Bratsk, 444 F.3d at 1375.

¹⁵⁷ For a full discussion of our views on the applicability of Bratsk, see our Views in the Remand Determination for Silicon Metal from Russia, Inv. No. 731-TA-991 (Final) (Second Remand), USITC Pub. 3910 (March 2007). For a full discussion of Chairman Pearson's views on the applicability of Bratsk, see his Separate and Additional Views in Silicon Metal from Russia. For a full discussion of Vice Chairman Aranoff's views on the applicability of Bratsk, see the Views of the Commission in Carbon and Certain Alloy Steel Wire Rod From Trinidad and Tobago, Inv. No. 731-TA-961 (Final) (Remand). For a full discussion of Commissioner Okun's views of the applicability of Bratsk, see her Separate and Dissenting Views in Certain Lined Paper School Supplies from China, India, and Indonesia, Inv. Nos. 701-TA-442-443, 731-TA-1095-1097 (Final), USITC Pub. 3884 (Sept. 2006).

¹⁵⁸ See SAA at 851-52, 885.

¹⁵⁹ H.R. Rep. No. 317, 96th Cong., 1st Sess. at 47 ("Any such requirement has the undesirable result of making relief more difficult to obtain for those industries facing difficulties from a variety of sources, precisely those industries that are most vulnerable to subsidized or dumped imports.").

instead to “level [] competitive conditions” by imposing a duty on subject imports and thus enabling the domestic industry to compete against fairly traded imports.¹⁶⁰ The statutory scheme in fact contemplates that subject imports may remain in the U.S. market after an order is imposed and even that the industry afterwards may continue to suffer material injury.¹⁶¹ As the Commission has previously explained,

[N]othing in the statute or case law requires (or allows) us to consider the likely effectiveness of a dumping order in making our injury determination. The possibility that non-subject imports will increase in the future after an antidumping order is imposed is ... not relevant to our analysis of whether subject imports are currently materially injuring the industry.¹⁶²

The Commission has a well established approach to addressing causation.¹⁶³ However, we apply the Bratsk replacement/benefit test to our analysis because the Federal Circuit has directed us to do so, notwithstanding that, in our considered view, this test is not required by, or consistent with, the statute.¹⁶⁴

The Bratsk analysis “is triggered whenever the antidumping investigation is centered on a commodity product, and price competitive non-subject imports are a significant factor in the market.”¹⁶⁵ As a threshold matter, Petitioners argue that the Bratsk replacement/benefit analysis is not required under the statute, and that Bratsk should be interpreted as an elaboration of the causation standard articulated under Gerald Metals.^{166 167} In the alternative, Petitioners argue that neither of the triggering factors are

¹⁶⁰ Huaiyin Foreign Trade Corp. v. United States, 322 F.3d 1369, 1380 (Fed. Cir. 2003)

¹⁶¹ SAA at 883-85, 889-90.

¹⁶² Wooden Bedroom Furniture From China, Inv. No. 731-TA-1058 (Final), USITC Pub. 3742 (Dec. 2004) at 27, n. 222.

¹⁶³ See Silicon Metal from Russia, Inv. No. 731-TA-991 (Second Remand), USITC Pub. 3910 (Mar. 2007), at 3-8 (articulating in detail the Commission’s long-standing interpretation of the “by reason of” causation standard).

¹⁶⁴ Chairman Pearson and Commissioner Okun discern two possible interpretations of the Bratsk opinion, which differ substantially. The so-called “replacement/benefit test” is noted above. The second one is that Bratsk is an elaboration of the causation analysis prescribed by Gerald Metals. Under this interpretation, the Bratsk decision stands to remind the Commission of its obligation under Gerald Metals that the Commission may not satisfy the “by reason of” causation requirement by showing that subject imports contributed only “minimally or tangentially to the material harm.” In other words, the Bratsk Court’s relatively short discussion of the underlying determination may not have established a new and rigid replacement/benefit test. Rather, the Court may have discussed the triggering factors as a reminder that the Commission, before it makes an affirmative determination, must satisfy itself that it has not attributed material injury to factors other than subject imports. See Separate and Additional Views of Chairman Daniel R. Pearson and Commissioner Deanna Tanner Okun Concerning Bratsk Aluminum v. United States in, Sodium Hexametaphosphate from China, Inv. No. 731-TA-1110 (Preliminary), USITC Pub. 3912 (April 2007). This analysis is included in the Commission’s affirmative causation analysis.

¹⁶⁵ Bratsk, 444 F.3d at 11.

¹⁶⁶ Vice Chairman Aranoff and Commissioner Williamson, having considered this argument during the course of other investigations, remain unpersuaded that the plain language of the Bratsk decision can be so interpreted. The Commission, addressing a similar contention by respondent Caribbean Ispat in the remand of Carbon and Certain Alloy Steel Wire Rod from Trinidad and Tobago, stated that:

a much broader reading is more consistent with the language employed by the Bratsk panel In light of the Federal Circuit’s express concern in Bratsk that the Commission was too narrowly interpreting the Court’s previous holding in Gerald Metals . . . we view it as prudent to take the Court at its word and not attempt to construe narrowly its intent.

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met. Petitioners state that certain PSF is not a commodity product because not all types of certain PSF are interchangeable or are sold solely on the basis of price,¹⁶⁸ and non-subject imports are not price competitive with subject imports given their generally higher prices and the existence of antidumping duty orders constraining non-subject imports from Korea and Taiwan.¹⁶⁹ No respondent addressed the question of whether the Bratsk triggers are met.

If both Bratsk triggering factors are satisfied, we apply the “replacement/benefit” test required under Bratsk to determine whether non-subject imports could replace subject imports with no benefit to the domestic industry. Petitioners argue that even if the Commission were to find the Bratsk triggering factors satisfied, non-subject imports could not replace subject imports, largely due to capacity limitations,¹⁷⁰ and the domestic industry would benefit from the imposition of an antidumping duty order on subject imports regardless, given the generally higher prices of non-subject imports.¹⁷¹ Ashley, the only respondent to address the replacement/benefit test, argues that non-subject imports would completely replace subject imports were an antidumping duty order imposed on PSF from China.¹⁷²

We find that both of the Bratsk triggers are satisfied here, and that non-subject imports would have replaced subject imports to a certain extent during the period of investigation. We also find, however, that the replacement, whether partial or complete, of subject imports by non-subject imports would have benefitted the domestic industry. The higher prices of most non-subject imports would likely have permitted domestic producers to raise their prices and gain market share.

¹⁶⁶ (...continued)

The Commission further stated:

We do not believe that the Federal Circuit’s remand in this case, nor Bratsk itself, can be read as narrowly as Caribbean Ispat suggests In this case, the Federal Circuit and the CIT have explicitly directed the Commission to “address whether [other LTFV imports and/or fairly traded imports] would have replaced [Trinidad and Tobago’s] imports without any beneficial effect on domestic producers.” Caribbean Ispat v. United States, Slip Op. 06-151 (Ct. Int’l Trade, Oct. 13, 2006) . . . at 1, quoting Caribbean Ispat, 450 F.3d at 1341 and Bratsk 444 F.3d at 1375. The CIT, moreover, has already remanded another case to the Commission on the basis that, while the Commission had met the Federal Circuit’s requirements under Gerald Metals . . . it had failed to apply the additional Bratsk replacement/benefit test. See Sichuan Changhong Electric Co. v. United States, Slip. Op. 06-168 (Ct. Int’l Trade Nov. 15, 2006) at 17-18, 23-26.

Carbon and Certain Alloy Steel Wire Rod from Trinidad and Tobago, Inv. No. 731-TA-961 (Final) (Remand), USITC Pub. 3903 (Jan. 2007), p. 14 and n.77. See Silicon Metal from Russia, Inv. No. 731-TA-991 (Second Remand), USITC Pub. 3910 (Mar. 2007); Certain Lined School Paper Supplies from China, India, and Indonesia, Inv. Nos. 701-TA-442-443 and 731-TA-1095-1097 (Final), USITC Pub. 3884 (September 2006).

¹⁶⁷ Commissioner Pinkert agrees with the preceding footnote to the extent that it rejects an interpretation of Bratsk that ignores the Bratsk panel’s direction to the Commission to address extra-statutory factors. See Bratsk, 444 F.3d at 1375.

¹⁶⁸ Petitioners’ Prehearing Brief at 32-34; Petitioners’ Posthearing Brief at 13; Responses to Commissioner Questions at 12. Petitioners also argue that the Commission should apply a stricter fungibility standard in the Bratsk context than in the causation context. Id.

¹⁶⁹ See Petitioners’ Prehearing Brief at 35-37; Petitioners’ Posthearing Brief at 13; Hearing Tr. at 54-55 (Cannon).

¹⁷⁰ See Petitioners’ Prehearing Brief at 37-43; Petitioners’ Posthearing Brief at 14; Petitioners’ Responses to Commissioner Questions at 32-34; Hearing Tr. at 55-57 (Cannon).

¹⁷¹ Petitioners’ Prehearing Brief at 43; Hearing Tr. at 57 (Cannon).

¹⁷² Ashley Posthearing Brief at 8. No other respondent in this final phase investigation addressed the Bratsk test. CR at VII-17; PR at VII-10.

A. The First Triggering Factor: Whether Certain PSF Is a Commodity Product

We find that certain PSF qualifies as a commodity product based upon the Bratsk panel’s definition of “commodity product” as “meaning that it is generally interchangeable regardless of its source.” Petitioners’ argument that the Commission should consider certain PSF a commodity product except for purposes of its Bratsk analysis is not supported by the evidence. There is “a moderate-to-high degree of substitution” between the domestic like product and subject imports and between the domestic like product and non-subject imports,¹⁷³ based on the record evidence detailed above. At the hearing, petitioners’ own economist testified that “the staff report’s finding of moderate-to-high substitutability is well grounded, even maybe a little bit understated.”¹⁷⁴ Petitioners cite respondents’ like product arguments as evidence that certain PSF is not a commodity product, yet argue that all certain PSF, including conjugate PSF and CIPP PSF, is generally substitutable.¹⁷⁵ Though not all types of certain PSF are perfectly substitutable, given the significant degree of substitutability among the most common types of certain PSF we find that for purposes of our Bratsk analysis certain PSF is a commodity product.¹⁷⁶

B. The Second Triggering Factor: Whether Price Competitive Non-subject Imports Are a Significant Factor in the Market

We find that price competitive non-subject imports are a significant factor in the market based on the significant market share held by non-subject imports, their moderate-to-high degree of substitutability with subject imports and the domestic like product, and their competitive prices in a price-sensitive market.

First, non-subject import market share remained significant, and higher than subject import market share, throughout the period of investigation. The share of U.S. apparent consumption comprised of non-subject imports was *** percent in 2004, *** percent in 2005, and *** percent in 2006, while the share comprised of subject imports was *** percent in 2004, *** percent in 2005, and *** percent in 2006.¹⁷⁷

Second, non-subject imports were generally substitutable with subject imports and the domestic like product.¹⁷⁸ One-half or more of purchasers reported that non-subject imports are comparable to the

¹⁷³ CR at II-11; PR at II-7-8.

¹⁷⁴ See Hearing Tr. at 39 (Magrath).

¹⁷⁵ See, e.g., Hearing Tr. at 50-52 (Cannon).

¹⁷⁶ We note that it is improper to assume that simply because goods are generally interchangeable for purposes of the “reasonable overlap of competition” analysis for cumulation, or are interchangeable for purposes of defining the domestic like product, that they are necessarily “commodities” for purposes of assessing causation, which is the function of the *Bratsk*-“test.” See *Silicon Metal from Russia*, USITC Pub. 3910 at 10-11 (footnotes omitted), citing *BIC Corp. v. United States*, 964 F. Supp. 391, 397, 399 (Ct. Int’l Trade 1997) ([L]ike product, cumulation and causation are functionally different inquiries because they serve different statutory purposes As a result, each inquiry requires a different level of fungibility. Hence the record may contain substantial evidence that two products are fungible enough to support a finding in one context (e.g., one like product), but not in another (e.g., cumulation or causation.”). In the remand for *Silicon Metal*, however, the Commission applied the Federal Circuit’s “apparent assumption” that the triggering factors were satisfied in that case. By contrast, in *Activated Carbon from China*, the Commission found that non-subject imported activated carbon made from coconut shells was not generally interchangeable with domestic and subject imported activated carbon, made from coal. Inv. No. 731-TA-1103, USITC Pub. 3913 (April 2007) at 26, n. 163.

¹⁷⁷ See CR/PR at Table IV-5, 6.

¹⁷⁸ CR at II-11; PR at II-7-8.

domestic like product with respect to 16 product attributes.¹⁷⁹ All producers, and a majority of importers and purchasers, reported that non-subject imports, subject imports, and the domestic like product are always, frequently, or sometimes interchangeable.¹⁸⁰

Finally, non-subject imports were priced competitively with respect to subject imports and the domestic like product in the U.S. market, and price is an important consideration for purchasers of certain PSF.¹⁸¹ Non-subject import average unit values, at \$*** in 2004, \$*** in 2005, and \$*** in 2006, were higher than those of subject imports, at \$*** in 2004, \$*** in 2005, and \$*** in 2006, but lower than those of the domestic like product, at \$0.58 in 2004, \$0.71 in 2005, and \$0.74 in 2006.¹⁸² Pricing data on non-subject imports from India, Indonesia, Japan, Korea, Saudi Arabia, Taiwan, Thailand, and Vietnam confirm that non-subject imports were priced competitively relative to the domestic like product.^{183 184}

We therefore conclude that non-subject imports are “price competitive” in the U.S. market and a significant presence in the U.S. market.

C. The Replacement/Benefit Test

Having found both Bratsk triggers satisfied, we consider whether non-subject imports would have replaced subject imports over the period of investigation without any benefit to the domestic industry.¹⁸⁵

¹⁷⁹ See CR at II-17-18; PR at II-12-13; CR/PR at Table II-7.

¹⁸⁰ See CR at II-23; PR at II-16; CR/PR at Table II-8.

¹⁸¹ When asked to identify the three major factors considered in selecting a certain PSF supplier, purchasers ranked price among their top three factors more than any other factor, though price was ranked as the most important factor only half as often as quality. CR at II-15-16; PR at II-10-11; CR/PR at Table II-5. Of 38 responding purchasers, 15 reported that they always or usually purchase the lowest-priced certain PSF, 18 purchasers reported sometimes purchasing the lowest-priced certain PSF, and 5 reported never purchasing the lowest-priced certain PSF. CR at II-16; PR at II-11.

¹⁸² CR/PR at Table C-1.

¹⁸³ See CR/PR at Appendix E. Non-subject imports generally undersold the domestic like product with respect to products 1-4, though not with the same frequency as subject imports, and generally oversold the domestic like product with respect to product 5. See *id.*

¹⁸⁴ In determining whether non-subject imports are price competitive in this investigation, Commissioner Pinkert has primarily analyzed whether non-subject imports are price competitive with the domestic like product, although he has also taken into account relative pricing levels for non-subject and subject imports.

¹⁸⁵ Chairman Pearson and Commissioner Okun note the exact formulation of the Bratsk Court’s test is not clear. According to one part of the Bratsk opinion:

{U}nder Gerald Metals, the Commission is required to make a specific causation determination and in that connection to directly address whether non-subject imports would have replaced the subject imports without any beneficial effect on domestic producers.

Bratsk, 444 F.3d at 1375. Stated this way, the test would require the Commission to analyze replacement/benefit during the period of investigation, *i.e.*, backward looking. The Court also has stated a different formulation that would require the Commission to analyze replacement/benefit in the future, *i.e.*, forward looking:

{T}he Commission has to explain, in a meaningful way, why the non-subject imports would not replace the subject imports and continue to cause injury to the domestic industry.

Bratsk, 444 F.3d at 1376. It therefore is unclear whether the Court intended to state the same test in different ways, or whether it contemplated that it was establishing two separate criteria. We conclude that Bratsk may require either
(continued...)

We find that although non-subject imports would have replaced subject imports to a certain extent, the domestic industry would still have benefitted from the elimination of subject imports from the U.S. market.

1. Whether Non-Subject Imports Would Have Replaced Subject Imports

Record information on foreign producers in non-subject countries suggests that non-subject producers could have increased their exports to the United States over the period of investigation to a certain extent had subject imports vanished from the U.S. market.¹⁸⁶ Of the largest non-subject industries for which data are available, the record suggests that the PSF industries in Taiwan and Thailand may have possessed excess capacity, though imports from Taiwan would have been constrained by the antidumping duty order imposed in 1999. The relatively large PSF industry in Korea and the non-subject PSF producer in China would have been constrained from increasing their exports to the United States by high capacity utilization rates and in the case of Korea, by an antidumping duty order imposed in 2000.

The record indicates that Taiwan producers may have possessed excess capacity. In the five-year review of the antidumping duty order on PSF from Taiwan, Taiwan producers reported that their capacity utilization rate for certain PSF declined from *** percent in the January-September 2004 period to *** percent in the January-September 2005 period, leaving unused capacity of *** million pounds.¹⁸⁷ The American Institute in Taiwan reports that Taiwan's production capacity for all PSF products declined from 2.0 billion pounds in 2004 to 1.89 billion pounds in 2006, as capacity utilization declined from 96 percent to 75 percent over the same period.¹⁸⁸ Record data in this investigation indicate that Taiwan producers are export oriented, with worldwide exports of 1.1 billion pounds in 2006 compared to an estimated 1.4 billion pounds of production that year,¹⁸⁹ although information with regard to Taiwan producers' historical shipment trends or long-term contractual obligations was not made available during the time frame of this investigation.

Other factors suggest that Taiwan producers would have had limited incentives or interest in increasing exports to the United States. Taiwan AUVs were significantly higher than those of subject

¹⁸⁵ (...continued)

a backward-looking or a forward-looking analysis depending on the facts (e.g., in the threat context). Thus, we join the Commission's backward-looking approach and note that we reach the same conclusions analyzing whether non-subject imports are likely to replace subject imports and continue to cause injury to the domestic industry.

¹⁸⁶ Absent comprehensive public data on non-subject certain PSF production, capacity, and prices, we must seek data relevant to the Bratsk replacement/benefit issues by requesting information directly from foreign producers and U.S. embassies in relevant countries. We sent questionnaires to 25 non-subject foreign producers in seven non-subject countries, accounting for 90 percent of non-subject imports in 2005. CR at VII-17; PR at VII-10-11. We note that Commission staff and U.S. embassies, to the extent that they had the resources to assist the Commission, encountered difficulties in obtaining information on the PSF industries in non-subject countries. Only six of the 25 foreign producers in non-subject countries that received questionnaires completed them. See CR at VII-17; PR at VII-10-11. Accordingly, we have limited information on the foreign producers of certain PSF in Germany, India, Indonesia, Mexico, and Thailand, and more detailed information on non-subject imports from China. In addition, certain information collected in the recent five-year reviews of the antidumping duty orders on certain PSF from Korea and Taiwan was placed on the record of this final phase investigation.

¹⁸⁷ CR/PR at Table VII-18. Taiwan producers reported capacity utilization of *** percent for full year 2004. Id.

¹⁸⁸ CR at VII-31; PR at VII-20. The Taiwan Man-made Fiber Industries Association projects continued declines in production, capacity, and supply volume in 2007 and 2008, and these trends are consistent with reports that Taiwan PSF producers are increasingly shifting their PSF production from Taiwan to other Asian countries. See id.

¹⁸⁹ CR at VII-31; PR at VII-20; CR/PR at Table VII-19. Export data were available only at the 6-digit level for our examination and therefore include non-subject product.

imports and of non-subject imports in the aggregate,¹⁹⁰ and non-subject import volume from Taiwan declined by almost one-half over the period of investigation.¹⁹¹ Moreover, the antidumping duty order on PSF from Taiwan would likely have limited the incentive of Taiwan producers to gain market share in the U.S. market.

As for Thailand, the Thai certain PSF industry, like the Taiwan certain PSF industry, reportedly possessed excess capacity with which it could have increased exports to the United States. Thai production capacity declined from 1.086 billion pounds in 2004 to 1.035 billion pounds in 2005, and to 839 million pounds in the January-September 2006 interim period, as the Thai industry's capacity utilization rate declined from 92.4 percent in 2004 to 77.2 percent in the January-September 2006 interim period.¹⁹² Record data in this investigation suggest that Thai producers are export oriented, with worldwide exports of all PSF products totaling 391 million pounds in 2006 compared to an estimated 864 million pounds of certain PSF production that year,¹⁹³ although information with regard to Thai producers' historical shipment trends or long-term contractual obligations was not made available during the time frame of this investigation.

On the other hand, one of the two largest Thai producers, ***, reportedly ceased production in September 2006,¹⁹⁴ and four additional Thai producers reportedly did not export certain PSF to the United States over the period of investigation.¹⁹⁵ ***, the *** Thai PSF producer and the *** Thai exporter of certain PSF to the United States, reported that its capacity utilization rate averaged *** percent in 2006, leaving unused capacity of *** million pounds, but anticipated that an antidumping duty order on imports from China in the U.S. market would result in higher export prices but not higher export volumes.¹⁹⁶ This response indicates that *** would likely have responded to the elimination of subject imports from the U.S. market with higher prices rather than higher export volumes.

The certain PSF industry in Korea, unlike the certain PSF industries in Taiwan and Thailand, would likely have been constrained in its ability to increase exports to the U.S. market by a relatively high capacity utilization rate toward the end of the period of investigation and the antidumping order on certain PSF from Korea imposed in 2000. In the five-year review of the antidumping duty order on PSF from Korea, Korean producers reported that their capacity utilization rate declined from *** percent in the January-September 2004 period to *** percent in the January-September 2005 period, leaving unused capacity of *** million pounds.¹⁹⁷ However, the Korea Chemical Fibers Association reported that the Korean industry producing all PSF products operated at approximately 90 percent of capacity in 2006,

¹⁹⁰ CR/PR at Table C-1 (the AUVs of non-subject imports from Taiwan were \$0.60 in 2004, \$0.68 in 2005, and \$0.66 in 2006).

¹⁹¹ CR/PR at Table IV-6 (non-subject import volume from Taiwan declined from 72.4 million pounds in 2004 to 37.5 million pounds in 2006, while Taiwan non-subject import market share declined from 6.4 percent to 3.5 percent).

¹⁹² CR at VII-35; PR at VII-22 (based on production of 1.003 billion pounds in 2004 and 648 million pounds in interim 2006).

¹⁹³ CR at VII-35; PR at VII-22; CR/PR at Table VII-22. Production data is estimated from reported information for the first nine months of 2006. Export data were available only at the 6-digit level for our examination and therefore include non-subject product.

¹⁹⁴ CR at VII-35; PR at VII-22.

¹⁹⁵ CR at VII-35; PR at VII-22.

¹⁹⁶ CR at VII-36; PR at VII-22.

¹⁹⁷ CR/PR at Table VII-13. Korean producers reported capacity utilization of *** percent for full year 2004. Id. The share of Korean production exported to the United States increased from *** percent in January-September 2004 to *** percent in January-September 2005. Id.

and projected that this utilization rate would be maintained in 2007 and 2008.¹⁹⁸ In addition, the record indicates that Korean non-subject import volume and market share declined throughout the period of investigation despite the fact that the AUV of Korean non-subject imports was lower than the AUV of subject imports in 2004 and 2006 and comparable to the AUV of subject imports in 2005.¹⁹⁹ This trend indicates that the Korean producers were constrained in their ability to increase exports to the United States, most likely by both capacity limitations and the antidumping duty order.²⁰⁰

Non-subject Chinese producer Cixi Jiangnan Chemical Co., Ltd. (“Cixi Jiangnan”) also possessed limited excess capacity over the period of investigation, given that its capacity utilization rate increased from *** percent in 2004 to *** percent in 2005, before declining slightly to *** percent in 2006.²⁰¹ Cixi Jiangnan anticipates a capacity utilization rate of *** percent in both 2007 and 2008, with unused capacity of *** million pounds in each year.²⁰²

Our information on certain PSF producers in other non-subject countries is more limited. Non-subject import volume from India and Indonesia increased over the period of investigation, and both countries appear to have sizeable certain PSF industries, but their respective shares of the U.S. market remain small and the excess capacity available in both countries is unknown.²⁰³ The only significant PSF producer and exporter in Mexico closed in July 2005.²⁰⁴ Non-subject import volume from Germany was

¹⁹⁸ CR at VII-25; PR at VII-16.

¹⁹⁹ See CR/PR at Tables IV-5 and C-1. Korean non-subject import volume declined 19.1 percent over the period of investigation, from 209.9 million pounds in 2004 to 169.9 million pounds in 2006, while Korean market share declined from 18.6 percent to 15.9 percent. Id. at Table IV-6.

²⁰⁰ Korean producers’ capacity restraints notwithstanding, record data in this investigation indicate that Korean producers may be export oriented, with worldwide exports of 1.2 billion pounds in 2006. CR/PR at Table VII-14 (reflecting export data only at the 6-digit level and therefore including non-subject product). Comparisons to Korean production are not possible, as the only data on the record is that provided during the recent five-year review of the order on certain PSF from Korea. That data reflect information on two Korean producers. CR/PR at Table VII-13. In addition, information with regard to Korean producers’ historical shipment trends or long-term contractual obligations was not made available during the time frame of this investigation.

²⁰¹ CR/PR at Table VII-8.

²⁰² CR/PR at Table VII-8.

²⁰³ The PSF industry in Indonesia reportedly possesses a production capacity of 1.102 billion pounds, yet exported only 19.0 million pounds of PSF to the United States in 2005. CR at VII-23; PR at VII-14. According to the Indonesian Ministry of Trade, two of the five Indonesian producers that represented 85 percent of Indonesian PSF exported to the U.S. market in 2005 no longer produce PSF. CR at VII-23; PR at VII-14. Nevertheless, non-subject import volume from Indonesia increased from 12.7 million pounds in 2004, or 1.1 percent of U.S. apparent consumption, to 43.4 million pounds in 2006, or 4.1 percent of U.S. apparent consumption. CR/PR at Table IV-6.

The Global Trade Atlas reported that Indian exports of PSF increased from 48.9 million pounds in 2004 to 138.4 million pounds in 2005, and from 109.7 million pounds in January-September 2005 to 129.2 million pounds in January-September 2006, suggesting that India possesses a sizeable PSF industry. Id. at Table VII-9. The volume of non-subject imports from India increased from 16.1 million pounds in 2004 to 21.1 million pounds in 2005, but declined to 20.9 million pounds in 2006, while Indian non-subject imports steadily increased their share of U.S. apparent consumption from 1.4 percent in 2004 to 1.8 percent in 2005, and to 2.0 percent in 2006. Id. at Table IV-6.

²⁰⁴ The Mexican company responsible for *** percent of all non-subject imports from Mexico in 2005, Polykron, ceased operations in July 2005, as confirmed by DAK, its corporate parent. CR at VII-29; PR at VII-18; Hearing Tr. at 157 (McNaull). Non-subject imports from Mexico declined from 9.7 million pounds in 2005 to 242,000 pounds in 2006, and the Global Trade Atlas reports that Mexican PSF exports declined from 51.6 million pounds in 2005 to 3.4 million pounds in 2006, suggesting that Polykron was the only significant Mexican exporter of PSF. CR/PR at Tables VII-16, C-1.

insignificant.²⁰⁵ Another factor suggesting that producers in non-subject countries were limited in their ability to increase exports to the United States is the fact that non-subject import volume declined by *** percent from 2004 to 2006, and non-subject import market share declined by ***, though non-subject imports generally carried lower prices than the domestic like product over the period, based on AUV and pricing product data.²⁰⁶

Taken together, the record with respect to production, unused production capacity, and the export orientation of the producers in the aggregate in the non-subject countries provides ample evidence that such producers could have, if so inclined, exported sufficient volumes to the United States during the period of investigation to replace subject imports to some extent, although not necessarily completely.²⁰⁷ Absent any evidence that these producers would not have acted in such a manner, we are unable to find that imports from such producers would not have replaced subject imports from China in the U.S. market to some extent, either by using unutilized capacity or by diverting exports from other markets.²⁰⁸

2. Whether the Domestic Industry Would Have Benefitted Notwithstanding Any Replacement of Subject Imports With Non-Subject Imports

With respect to the benefit to the domestic industry, the Court in Bratsk appears to focus primarily on price factors. The Bratsk opinion indicates that the price of the non-subject imports would be an important consideration: “it may well be that ... the price of the non-subject imports is sufficiently above the subject imports such that elimination of the subject imports would have benefitted the domestic industry.”²⁰⁹ We find that non-subject import prices were sufficiently higher than subject import prices that the domestic industry would have benefitted from the elimination of subject imports from the U.S. market over the period of investigation, even if non-subject imports had replaced some or even all of the subject imports.

In terms of AUVs, non-subject import AUVs, at \$*** in 2004, \$*** in 2005, and \$*** in 2006, were higher than subject import AUVs, at \$*** in 2004, \$*** in 2005, and \$*** in 2006, in each year of

²⁰⁵ The volume of non-subject imports from Germany was 4.1 million pounds in 2005, or 0.4 percent of U.S. apparent consumption that year, and 95 percent of this volume was from a single company. CR at VII-21; PR at VII-12; CR/PR at Table IV-6.

²⁰⁶ CR/PR at Table C-1 and Appendix E. As mentioned earlier, it is particularly noteworthy that Korean non-subject import volume and market share declined over the period of investigation notwithstanding the fact that Korean AUVs were among the lowest of any source. See id.

²⁰⁷ The Commission does not believe that simply because a foreign producer could divert certain PSF production shipments to the United States to “replace” subject imports from China means that they necessarily would. There is, in fact, no evidence on the record to suggest that such diversion would be likely here. However, there is inadequate information in the record of this investigation for the Commission to conclude that such diversion would not take place because of the significant lack of cooperation by non-subject producers.

²⁰⁸ In order to have fully replaced subject import volume over the period of investigation, for example, non-subject import volume would had to have been *** percent greater in 2004, *** percent greater in 2005, and *** percent greater in 2006. See CR/PR at Table C-1.

²⁰⁹ Bratsk, 444 F.3d at 1375.

the period of investigation.²¹⁰ The AUV of non-subject imports exceeded the AUV of subject imports by *** percent in 2004, *** percent in 2005, and *** percent in 2006.²¹¹

Non-subject import AUVs were lower than subject import AUVs only with respect to non-subject Chinese imports, non-subject Korean imports in 2004 and 2006, non-subject Indian imports in 2004, and non-subject Mexican imports in 2006.²¹² Yet, as addressed above, the non-subject Chinese producer and the Korean industry appear to have limited excess capacity, non-subject imports from Korea have been subject to an antidumping duty order since 1999, and the only significant Mexican producer ceased operations in 2005.

Product-specific pricing data on non-subject imports from China, India, Indonesia, Japan, Korea, Saudi Arabia, Taiwan, Thailand, and Vietnam indicate that non-subject underselling of the domestic like product was mixed in 2004 and less prevalent than subject import underselling in 2005 and 2006.²¹³ Non-subject imports undersold the domestic like product in 33 of 83 quarterly comparisons, or 39.8 percent of the time, in 2004; in 50 of 84 quarterly comparisons, or 59.5 percent of the time, in 2005; and in 58 of 84 comparisons, or 69.0 percent of the time, in 2006.²¹⁴ By comparison, subject imports undersold the domestic like product in 4 of 16 comparisons, or 25.0 percent of the time, in 2004; in 14 of 18 quarterly comparisons, or 77.8 of the time, in 2005; and in 19 of 20 comparisons, or 95 percent of the time, in 2006.²¹⁵ Non-subject import prices exceeded subject import prices in a majority (53.8 percent) of quarterly comparisons.²¹⁶

Anecdotal evidence on the record also indicates that domestic producer prices would likely have increased in the absence of subject imports, notwithstanding some replacement of subject imports with non-subject imports. Nan Ya testified at the Commission's hearing that it was forced to shut down its conjugate PSF production line in June 2006 due to low-priced subject import competition, but was able to restart the line at 50 percent capacity in September 2006, as subject import volume responded to the filing of the antidumping duty petition, and to operate the line at full capacity by January 2007, after the imposition of provisional antidumping duty measures.²¹⁷ Hollander testified at the hearing that prices for certain PSF from all sources would increase in the U.S. market were an antidumping duty order imposed on subject imports.²¹⁸ ***, the *** Thai producer of certain PSF and the *** Thai exporter of PSF to the United States, reported that an antidumping duty order on subject imports would result in higher prices offered to buyers in the U.S. market.²¹⁹

The record thus indicates that, to the extent that subject imports would have been replaced by non-subject imports, non-subject imports would have generally carried higher prices. Accordingly, we

²¹⁰ CR/PR at Table C-1. We again acknowledge that AUV comparisons across countries can be influenced by differences in product mix but note that the product-specific data on non-subject import prices that we collected are consistent in demonstrating that non-subject prices were higher. See infra.

²¹¹ See CR/PR at Table C-1.

²¹² CR/PR at Table C-1.

²¹³ See CR/PR at Appendix E.

²¹⁴ See CR/PR at Appendix E. With respect to product 5, non-subject imports oversold the domestic like product in *** of *** quarterly comparisons, or *** percent of the time. See id.

²¹⁵ See CR/PR at Tables V-1-5.

²¹⁶ See CR/PR at Appendix E and Tables V-1-5; staff table 2. Non-subject prices were equal to subject import prices in 3.4 percent of quarterly comparisons and were lower than subject import prices in 42.8 percent of comparisons. See id.

²¹⁷ See Hearing Tr. at 31-32 (Chandrl).

²¹⁸ Hearing Tr. at 249-50 (Epstein).

²¹⁹ CR at VII-36; PR at VII-22.

conclude that the domestic industry would likely have benefitted from the elimination of subject imports from the U.S. market over the period of investigation, both from higher prices and higher market share, even if non-subject imports would have partially or completely replaced subject imports. Our affirmative material injury determination, therefore, is consistent with the Court holding in Bratsk.

VI. CRITICAL CIRCUMSTANCES

In its final antidumping duty determinations concerning PSF from China, Commerce found that critical circumstances exist with respect to Far Eastern.²²⁰ Because we have determined that the domestic industry is materially injured by reason of subject imports from China, we must further determine “whether the imports subject to the affirmative [Commerce critical circumstances] determination . . . are likely to undermine seriously the remedial effect of the antidumping order to be issued.”²²¹ The Statement of Administrative Action (“SAA”) indicates that the Commission is to determine “whether, by massively increasing imports prior to the effective date of relief, the importers have seriously undermined the remedial effect of the order.”²²²

The statute further provides that in making this determination the Commission shall consider, among other factors it considers relevant –

- (I) the timing and the volume of the imports,
- (II) a rapid increase in inventories of the imports, and
- (III) any other circumstances indicating that the remedial effect of the antidumping order will be seriously undermined.²²³

In considering the timing and volume of subject imports, the Commission’s practice is to consider import quantities prior to the filing of the petition with those subsequent to the filing of the petition²²⁴ using monthly statistics on the record regarding those firms for which Commerce has made an affirmative critical circumstance determination.²²⁵

Petitioners argue that Commission should emulate Commerce and predicate its critical circumstances determination on import trends over the six-month periods before and after March 2006 because Commerce determined that Far Eastern knew or should have known that an antidumping duty petition on certain PSF from China was imminent as early as March 6, 2006.²²⁶ Petitioners claim that in past cases, the Commission has examined periods other than the six-month periods before and after a

²²⁰ Final Determination, 72 Fed. Reg. at 19692.

²²¹ 19 U.S.C. § 1673d(b)(4)(A)(i).

²²² SAA at 877.

²²³ 19 U.S.C. § 1673d(b)(4)(A)(ii).

²²⁴ The legislative history for the critical circumstances provision indicates that the provision was designed “to deter exporters whose merchandise is subject to an investigation from circumventing the intent of the law by increasing their exports to the United States during the period between initiation of an investigation and a preliminary determination by [Commerce].” ICC Industries, Inc. v. United States, 812 F.2s 694, 700 (Fed. Cir. 1987), quoting H.R. Rep. No. 317, 96th Cong., 1st Sess. 63 (1979).

²²⁵ See Certain Lined School Paper Supplies from China, India, and Indonesia, USITC Pub. 3884 at 47; Carbozole Violet Pigment from China and India, Inv. Nos. 701-TA-437 and 731-TA-1060 and 1061 (Final), USITC Pub. 3744 (December 2004) at 26; Certain Frozen Fish Fillets from Vietnam, Inv. No. 731-TA-1012 (Final), USITC Pub. 3617 (August 2003) at 20-22.

²²⁶ See Petitioners’ Prehearing Brief at 56; Petitioners’ Posthearing Brief at 15; Petitioners’ Responses to Commissioner Questions at 16-20.

petition's filing in considering the existence of critical circumstances, generally to factor seasonality into its analysis.²²⁷ They also note that the statute and the SAA are silent on the periods to be examined in the context of critical circumstances.²²⁸

We are not persuaded by petitioners' arguments that we should diverge from our normal practice in this final phase investigation. Petitioners cite cases in which the Commission has adjusted its comparison periods to account for seasonality but cite no case in which the Commission predicated a critical circumstances determination on import trends either partially or entirely predating a petition's filing.²²⁹ Indeed, our practice is to rely on data gathered from the periods immediately preceding and following the filing of the petition unless there is evidence the market for the product at issue is seasonal.²³⁰

Petitioners emphasize Commerce's logic for predicating its affirmative critical circumstances determination on an analysis of periods before and after March 2006: the finding that Far Eastern "knew or should have known" of the impending antidumping petition as of March 6, 2006. Yet, the critical circumstances provision contemplates that the Commission will make an independent consideration of the "timing and volume" of imports subject to the affirmative Commerce critical circumstances determination, while not disregarding Commerce's determination of "massive imports." We are not required to examine the same periods that Commerce examined in performing its critical circumstances analysis.²³¹

Based on a comparison of subject import volume and monthly inventories from Far Eastern over the six-month periods before and after the petition's filing in June 2006, we find no massive increase in either imports or inventories prior to the effective date of relief that could seriously undermine the remedial effect of the order. Based on proprietary Customs data, subject imports from Far Eastern declined *** percent between the January-June 2006 and July-December 2006 periods, from *** million pounds to *** million pounds.²³² Far Eastern's exports of subject merchandise to the United States, as reported to Commerce, declined a similar *** percent between the January-June 2006 and July-December 2006 periods, from *** million pounds to *** million pounds.²³³ Importers of subject merchandise from Far Eastern reported in their questionnaire responses that their subject imports from Far Eastern increased

²²⁷ See Petitioners' Responses to Commissioner Questions at 17-21. Petitioners can cite no case in which the Commission's latter comparison period was either party or entirely before the date of a petition's filing.

²²⁸ See Petitioners' Responses to Commissioner Questions at 17-21.

²²⁹ We note that even if we found that critical circumstances existed in this case, retroactive duties would not be placed on the "massive increase in imports of subject PSF from Far Eastern" alleged by Petitioners. Petitioners' Prehearing Brief at 56. Petitioners argument is that imports were *** during April-June 2006 than during January-March 2006. *Id.*

The petition in this investigation was filed on June 23, 2006, and Commerce's preliminary determination was on December 26, 2006. The statute permits retroactive imposition of duties for only 90 days prior to Commerce's preliminary determination, which itself is normally 140 days after the filing of a petition. See 19 U.S.C. §§ 1673b(b)(1), 1673d(c)(4). Thus, even if the Commission made an affirmative determination on critical circumstances in this case, duties would only be retroactively applied on unliquidated entries made from late September to late December 2006, a period of time considerably removed from June 2006.

²³⁰ Compare Certain Brake Drums and Rotors from China, Inv. No. 731-TA-744 (Final), USITC Pub. 3035 (April 1997) at 19 n.109 with Steel Concrete Reinforcing Bars from Turkey, Inv. Nos. 731-TA-745 (Final), USITC Pub. 3034 (April 1997) at 34.

²³¹ See Steel Concrete Reinforcing Bars from Turkey, Inv. No. 731-TA-745 (Final), USITC Pub. 3034 (April 1997) at 34.

²³² CR/PR at Table IV-4; see also CR/PR at Figure IV-3.

²³³ CR/PR at Table IV-4.

only *** percent between the January-June 2006 and July-December 2006 periods, from *** million pounds to *** million pounds.²³⁴ Regardless of the data set used, the record reflects no massive increase in subject import volume from Far Eastern subsequent to the petition's filing.

Inventory data confirms the lack of any massive increase in subject imports from Far Eastern that could seriously undermine the remedial effect of the order. Average monthly end-of-period inventories of subject merchandise imported from Far Eastern declined from *** million pounds over the January-June 2006 period to *** million pounds over the July-December 2006 period, or *** percent.²³⁵

We determine that critical circumstances do not exist with respect to the subject imports from Far Eastern covered by Commerce's affirmative critical circumstances determination, and therefore make a negative critical circumstances determination.

CONCLUSION

For the foregoing reasons, we determine that the domestic industry producing certain PSF is materially injured by reason of subject imports from China sold at less than fair value.

²³⁴ CR/PR at Table IV-4.

²³⁵ CR/PR at Table IV-4; see also CR/PR at Figure IV-4.

PART I: INTRODUCTION

BACKGROUND

This investigation results from a petition filed by DAK Americas, LLC, Charlotte, NC (“DAK”); Nan Ya Plastics Corporation, America, Lake City, SC (“Nan Ya”); and Wellman, Inc., Shrewsbury, NJ (“Wellman”), on June 23, 2006, alleging that an industry in the United States is materially injured and threatened with material injury by reason of less-than-fair-value (“LTFV”) imports of certain polyester staple fiber (“PSF”)¹ from China. Information relating to the background of the investigation is provided below.²

<i>Date</i>	<i>Action</i>
June 23, 2006	Petition filed with Commerce and the Commission; institution of Commission investigation (71 FR 37097, June 29, 2006)
July 13, 2006	Commerce’s initiation (71 FR 41201, July 20, 2006)
August 7, 2006	Commission’s preliminary determination (71 FR 46241, August 11, 2006)
December 5, 2006	Commerce’s postponement of preliminary determination (71 FR 70508)
December 26, 2006	Commerce’s preliminary determination (71 FR 77373)
December 26, 2006	Commission’s scheduling of final phase investigation (72 FR 1341, January 11, 2007)
February 9, 2007	Commerce’s postponement of final determination (72 FR 6201)
February 9, 2007	Commission’s revised scheduling of final phase investigation (72 FR 7676, February 16, 2007)
March 13, 2007	Commission’s hearing ¹
April 10, 2007	Commerce’s final determination (72 FR 19690)
May 15, 2007	Scheduled date for the Commission’s vote
May 24, 2007	Commission’s views due to Commerce

¹ A list of witnesses appearing at the hearing is presented in app B.

STATUTORY CRITERIA AND ORGANIZATION OF THE REPORT

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

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

¹ A complete description of the imported products subject to investigation is presented in *The Subject Product* section of this part of the report.

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

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

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

In evaluating the volume of imports of merchandise, the Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States is significant.

. . .

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

. . .

In examining the impact required to be considered under subparagraph (B)(i)(III), the Commission shall evaluate (within the context of the business cycle and conditions of competition that are distinctive to the affected industry) all relevant economic factors which have a bearing on the state of the industry in the United States, including, but not limited to . . . (I) actual and potential decline in output, sales, market share, profits, productivity, return on investments, and utilization of capacity, (II) factors affecting domestic prices, (III) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, (IV) actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and (V) in {an antidumping investigation}, the magnitude of the margin of dumping.

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

U.S. MARKET SUMMARY

The domestic industry producing certain polyester staple fiber consists of eight companies. The largest producer of subject PSF is ***, with *** percent of 2006 domestic production. *** producer of certain PSF, *** the imposition of antidumping duties on imports of certain PSF from China, and

accounts for *** percent of domestic production. *** producers, ***, reported imports of certain PSF from nonsubject sources during the period of investigation.

Twenty-one firms reported having imported certain PSF. Eighteen of these firms imported certain PSF from China, with four firms importing exclusively from China. Eleven firms reported imports from Korea and/or Taiwan. Twelve companies reported imports from India, Indonesia, Japan, Mexico, and/or Thailand. The largest importer of subject PSF from China in 2006 was ***, accounting for *** percent of imports of certain PSF from China and *** percent of imports from all sources.

In response to purchaser questionnaires issued by the Commission to 87 firms,³ 38 purchasers supplied usable data,⁴ and nine firms reported that they had not purchased the subject product during the period for which data were collected. U.S. purchasers, and their U.S. locations, sources, and types of firms, are shown in appendix D.

SUMMARY DATA

A summary of data collected in the investigation is presented in appendix C. Except as noted, U.S. industry data are based on questionnaire responses of eight firms that accounted for all known U.S. production of certain PSF during 2006. U.S. imports are based on official Commerce statistics and proprietary Customs data.

PREVIOUS AND RELATED INVESTIGATIONS

On April 2, 1999, a petition was filed with Commerce and the Commission alleging that an industry in the United States was materially injured by reason of dumped imports of certain PSF from Korea and Taiwan.⁵ Following Commerce's final affirmative dumping determinations, the Commission made affirmative injury determinations with respect to imports from Korea and Taiwan. Commerce issued antidumping duty orders with weighted-average margins of 7.91 to 14.10 percent *ad valorem* for imports from Korea, and 5.77 to 9.51 percent *ad valorem* for imports from Taiwan.⁶

On March 31, 2005, the Commission instituted its five-year reviews of the antidumping duty orders on imports of certain PSF from Korea and Taiwan. On August 5, 2005, Commerce determined that revocation of the antidumping duty orders would likely lead to continuation or recurrence of dumping at a weighted-average margin of 7.91 percent *ad valorem* for Korea, and a range of 3.79 to 11.50 percent *ad valorem* for Taiwan.⁷ On March 23, 2006, the Commission published its determinations in its full five-year reviews that revocation of the antidumping duty orders on imports of certain PSF from

³ Purchaser questionnaires also were sent with importer questionnaires.

⁴ *** submitted a purchaser questionnaire but does not purchase any certain PSF. It is an importer of certain PSF, and thus its purchaser questionnaire response was disregarded. Staff telephone interview with ***, February 6, 2007.

⁵ The petition was filed by E.I. Dupont de Nemours, Inc. ("DuPont"); Nan Ya Plastics Corp., America (originally a petitioner in the Korea investigation only); Arteva Specialties S.a.r.l., d/b/a KoSa; Wellman, Inc.; and Intercontinental Polymers, Inc. However, in a letter dated May 4, 1999, DuPont withdrew its support for the Taiwan case before the preliminary determination and Nan Ya withdrew its support for the Korea case, and thus was removed as a petitioner. *Certain Polyester Staple Fiber from Korea and Taiwan, Inv. Nos. 731-TA-825-826 (Review)*, USITC Publication 3843, March 2006, p. I-6.

⁶ *Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Polyester Staple Fiber from the Republic of Korea and Antidumping Duty Orders: Certain Polyester Staple Fiber From the Republic of Korea and Taiwan*, 65 FR 33807, May 25, 2000.

⁷ *Certain Polyester Staple Fiber from the Republic of Korea and Taiwan: Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders*, 70 FR 45368.

Korea and Taiwan would likely lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.⁸ Commerce published notice of continuation of the antidumping duty orders on imports of certain PSF from Korea and Taiwan on April 3, 2006.⁹

NATURE AND EXTENT OF SALES AT LTFV

Commerce determined that certain PSF from China is being, or is likely to be, sold in the United States at less than fair value,¹⁰ and that critical circumstances exist with respect to the subject merchandise exported from China by Far Eastern Industries (Shanghai) Ltd.¹¹ Commerce's margins are presented below.

⁸ *Certain Polyester Staple Fiber from the Republic of Korea and Taiwan: Determinations*, 71 FR 14721.

⁹ *Certain Polyester Staple Fiber from the Republic of Korea and Taiwan: Continuation of Antidumping Duty Orders*, 71 FR 16558.

¹⁰ An exception was Cixi Jiangnan, a manufacturer/exporter in China which was found to have a *de minimis* antidumping margin. See footnote 1 in the tabulation.

¹¹ Commerce determines that critical circumstances exist if there is a reasonable basis to believe or suspect that: (A)(i) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise; or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales; and (B) there have been massive imports of the subject merchandise over a relatively short period. Commerce issues and decision memorandum, April 10, 2007, p. 43.

Exporter/Producer	Weighted-average margin	
	Preliminary	Final
	<i>(percent ad valorem)</i>	
Cixi Jiangnan Chemical Co., Ltd.	15.30	<i>de minimis</i> ¹
Far Eastern Industries (Shanghai) Ltd.	10.45	3.47
Ningbo Dafa Chemical Fiber Co., Ltd.	4.39	4.86
Cixi Sansheng Chemical Fiber Co., Ltd.	9.25	4.44
Cixi Santai Chemical Fiber Co., Ltd.	9.25	4.44
Cixi Waysun Chemical Fiber Co., Ltd.	9.25	4.44
Hangzhou Best Chemical Fibre Co., Ltd.	9.25	4.44
Hangzhou Hanbang Chemical Fibre Co., Ltd.,	9.25	4.44
Hangzhou Huachuang Co., Ltd.	9.25	4.44
Hangzhou Sanxin Paper Co., Ltd.	9.25	4.44
Hangzhou Taifu Textile Fiber Co., Ltd.	9.25	4.44
Jiaxang Fuda Chemical Fibre Factory	9.25	4.44
Nantong Luolai Chemical Fiber Co. Ltd.	9.25	4.44
Nanyang Textile Co., Ltd.	9.25	4.44
Suzhou PolyFiber Co., Ltd.	9.25	4.44
Xiamen Xianglu Fiber Chemical Co.	9.25	4.44
Zhaoqing Tifo New Fiber Co., Ltd.	9.25	4.44
Zhejiang Anshun Pettechs Fibre Co., Ltd.	9.25	4.44
Zhejiang Waysun Chemical Fiber Co., Ltd..	9.25	4.44
PRC–Wide Rate	44.30	44.30
<p>¹ With respect to Cixi Jiangnan, Commerce will instruct U.S. Customs and Border Protection (“Customs”) not to suspend liquidation of any entries of such PSF from China, and will not require any cash deposit or posting of a bond by importers when the subject merchandise is produced and exported by Cixi Jiangnan. 72 FR 19693, April 16, 2007.</p> <p>Source: <i>Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China</i>, 72 FR 19693, April 16, 2007.</p>		

THE SUBJECT PRODUCT

Commerce has defined the imported merchandise within the scope of this investigation as follows:^{12 13}

Synthetic staple fibers, not carded, combed or otherwise processed for spinning, of polyesters measuring 3.3 decitex¹⁴ (3 denier¹⁵, inclusive) or more in diameter. This merchandise is cut to lengths varying from one inch (25 mm) to five inches (127 mm). The subject merchandise may be coated, usually with a silicon or other finish, or not coated. PSF is generally used as stuffing in sleeping bags, mattresses, ski jackets, comforters, cushions, pillows, and furniture.

The following products are excluded from the scope: (1) PSF of less than 3.3 decitex (less than 3 denier) currently classifiable in the Harmonized Tariff Schedule of the United States (“HTS”) at subheading 5503.20.0025¹⁶ and known to the industry as PSF for spinning and generally used in woven and knit applications to produce textile and apparel products; (2) PSF of 10 to 18 denier that are cut to lengths of 6 to 8 inches and that are generally used in the manufacture of carpeting; and (3) low-melt PSF defined as a bi-component fiber with an outer, non-polyester sheath that melts at a significantly lower temperature than its inner polyester core (classified at HTSUS 5503.20.0015).

Tariff Treatment

Certain PSF is imported under HTS subheading 5503.20.00 (statistical reporting numbers 5503.20.0045 and 5503.20.0065) and enters the United States at a column 1-general duty rate of 4.3 percent *ad valorem*. Table I-1 presents tariff rates for certain PSF in 2006. The tabulation following table I-1 presents dumping margins in effect during the period of investigation for imports of certain PSF from Korea and Taiwan that are subject to antidumping duty orders.

¹² *Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China*, 72 FR 19690, April 19, 2007.

¹³ The scope of the products subject to the current investigation concerning China is consistent with the scope of the outstanding antidumping duty orders concerning Korea and Taiwan. *Certain Polyester Staple Fiber from the Republic of Korea and Taiwan: Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders*, 70 FR 45368, August 5, 2005.

¹⁴ Decitex is the Canadian and European equivalent to denier and equals the total weight in grams of 10,000 meters. Antron Carpet Fiber website, found at http://www.antron.net/content/resources/styling_glossary/ant06_08_04.shtml, retrieved July 12, 2006.

¹⁵ Denier is a weight-per-unit-length measure of filament fibers or yarns. Denier is numerically equal to the weight in grams of 9,000 meters of fiber. Denier is a direct numbering system in which the lower numbers represent the finer sizes and the higher numbers the coarser sizes. In the U.S., the denier system is used for numbering filament yarns and man-made fiber staple tow, but not spun yarns. Antron Carpet Fiber website, found at http://www.antron.net/content/resources/styling_glossary/ant06_08_04.shtml, retrieved July 12, 2006. Denier is not a unit of measure commonly used in the Harmonized System tariff nomenclature.

¹⁶ The North American Industry Classification System code for the manufacture of PSF is 32522. The cited provision of the HTS is a non-legal statistical reporting number for PSF measuring less than 3.3 decitex.

Table I-1
Certain PSF: Tariff rates, 2007

HTS Provision	Article Description	Column 1		Column 2 ³
		General ¹	Special ²	
Rates (percent <i>ad valorem</i>)				
5503	Synthetic staple fibers, not carded, combed, or otherwise processed for spinning:	4.3 ⁴	Free ⁵	25.0
5503.20.00	Of polyesters			
5503.20.0045	Other: Measuring 3.3 decitex or more but less than 13.2 decitex			
5503.20.0065	Measuring 13.2 decitex or more			
¹ Normal trade relations, formerly known as the most-favored-nation duty rate, applicable to imports from China. ² General note 3(c)(i) lists the special tariff treatment programs indicated in this column. Goods must meet eligibility rules set forth in other general notes, and importers must properly claim such treatment. ³ Applies to imports from a small number of countries that do not enjoy normal trade relations duty status. ⁴ Goods covered under 9902.55.03 are free. These include "Bi-component staple fibers of elasterell-p, measuring less than 3.5 decitex (provided for in subheading 5503.20.00)." ⁵ Applies to eligible imports under free trade agreements from Australia (AU), Bahrain (BH), Canada (CA), Chile (CL), Israel (IL), Jordan (JO), Morocco (MA), Mexico (MX), Dominican Republic - Central America (P), and Singapore (SG).				
Source: 2007 Harmonized Tariff Schedule of the United States.				

Manufacturer/exporter	Weighted-average margin (percent <i>ad valorem</i>)
Korea:	
Daeyang Industrial Co., Ltd.	1.39
East Young Co., Ltd.	4.07
Huvis Corp.	5.87
Mijung Ind. Co., Ltd.	1.00
Saehan Industries, Inc.	2.13
Sam Young Synthetics Co.	0.75
Sunglim Co., Ltd.	0.61
All others	7.91
Taiwan:	
Far Eastern Textiles Ltd.	9.51
Nan Ya Plastics Corp., Ltd.	5.77
All others	7.53
Source: <i>Certain Polyester Staple Fiber from Korea and Taiwan, Inv. Nos. 731-TA-825-826 (Review)</i> , USITC Publication 3843, March 2006, p. I-6-I-8.	

THE PRODUCT

Physical Characteristics and Uses¹⁷

PSF is a man-made fiber that is similar in appearance to cotton or wool fiber when baled. Certain PSF is principally known in the industry as “fiber for fill,” as it is primarily used as polyester fiberfill.¹⁸ Certain PSF is generally used as stuffing in sleeping bags, mattresses, ski jackets, comforters, cushions, pillows, and furniture.¹⁹ Certain PSF has physical characteristics that distinguish it from other polyester staple fibers (such as carpet fiber and fiber for spinning), including the denier of the fiber, the length of the fiber, and in some cases the finish and “crimp” of the fiber. Most synthetic fiber is sold by quantity based on the denier of the fiber.

Because certain PSF is principally used as fiberfill, it is seldom visible.²⁰ Therefore, the appearance of certain PSF can be less important than its performance²¹ to customers. However, the appearance of certain PSF directly affects the look and perceived value of many end-products, such as mattresses, comforters, cushions, pillows, and furniture with less opaque upholstery.

Certain PSF used for fill can be produced in many variations for purposes of quality enhancement. For example, the subject fiber may be crimped or conjugated, giving the fiber “loft” for stuffing purposes. Conjugate PSF has a three-dimensional spiral twist in the fiber made from two types of fiber by either a chemical or mechanical process, designed to provide greater loft or fill capacity to the fiber. Non-conjugate fiber has a two-dimensional sawtooth crimp and provides somewhat less fill capacity.²² Certain PSF may also be coated with a finish (usually silicone or oil-based), making the fiber smoother to the touch for certain high-end uses.²³ The subject fiber may vary in shape and may be hollow or solid, depending on both the preference of the manufacturer and the end use of the fiber.

Raw materials used in the production of certain PSF may also vary. PSF can be made by reacting ethylene glycol with either terephthalic acid or its methyl ester; if so produced, it is termed virgin PSF. Virgin PSF is characterized by the purity of the whiteness of the fiber. PSF may also be made from recycled polyester, using either consumer waste, such as polyethylene terephthalate (“PET”) bottles, or industrial waste, such as polyester chips or spun tow.²⁴ Fiber made in this way is known as regenerated, or recycled, fiber, and does not contain virgin fiber. In the reviews of the antidumping duty orders on PSF from Korea and Taiwan, industry witnesses disagreed on whether regenerated and recycled PSF are different terms for the same product or are products distinguishable according to the quality of the

¹⁷ The following discussion generally is from the Commission’s five-year reviews of the antidumping duty orders on certain PSF from Korea and Taiwan. *Certain Polyester Staple Fiber from Korea and Taiwan, Inv. Nos. 731-TA-825 and 826 (Review)*, USITC Publication 3843, March 2006, pp. I-11-I-12.

¹⁸ Conference transcript, p. 17 (Bermish). PSF is also used on a more limited basis in the production of ***. Staff telephone interview with ***, July 5, 2006; see also *Certain Polyester Staple Fiber from Korea and Taiwan, Inv. Nos. 731-TA-825 and 826 (Review)*, USITC Publication 3843, March 2006, p. I-11.

¹⁹ Petition, p. 8. See also *Certain Polyester Staple Fiber from the Republic of Korea and Taiwan: Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders*, 70 FR 45368, August 5, 2005.

²⁰ Conference transcript, pp. 46-47 (Bermish).

²¹ “Performance” refers to the ability of the fiber to fulfill purchaser’s end uses, in loft, fill capacity, and durability.

²² Conference transcript, p. 23 (Barfield).

²³ A silicone finish is preferred for certain end uses such as pillows. When rubbed, fiber with a silicone finish will slide, lending the product a slightly slick feeling. *Certain Polyester Staple Fiber from Korea and Taiwan, Inv. Nos. 731-TA-825 and 826 (Review)*, USITC Publication 3843, March 2006, p. I-12.

²⁴ Conference transcript, p. 17 (Bermish).

recycled inputs.²⁵ Some producers of the subject fiber also manufacture a blend of virgin and recycled/regenerated materials by introducing polyester chips into the virgin production line. Finally, PSF may be produced in the form of a low-melt fiber. This is a bi-component fiber with an outer sheath that melts at a significantly lower temperature than its inner polyester core, for purposes of thermal bonding, and is not included within the scope of this investigation.²⁶

Petitioners argue that the type of input, whether virgin or regenerated, does not affect interchangeability, though all types of PSF (e.g. slick or dry, solid or hollow) are not completely interchangeable with one another.²⁷ Petitioners further emphasized at the preliminary conference that “customers care about the end product, not the raw material that goes into making that end product.”²⁸

Manufacturing Process²⁹

The manufacturing process for certain PSF may be divided into two discrete stages. The first stage of the process is polymer formation, which can vary depending on whether virgin (unprocessed chemicals) or recycled materials are being used. Polymer formation also varies depending on whether conjugate fiber or low-melt fiber is being produced. The second stage of the process, which is common to all certain PSF, is fiber formation, including stretching, cutting, and baling.

The manufacture of certain PSF from virgin materials begins by reacting ethylene glycol with either terephthalic acid or its methyl ester in the presence of an antimony catalyst. The reaction is carried out at a high temperature and in a vacuum to achieve the high molecular weights needed to form useful fiber. The mix is then sent through an esterification process before it is polymerized. Esterification is the chemical process of combining an acid with an alcohol to form an ester. If a virgin/recycled blend is to be produced, the recycled material (usually in the form of polyester chips) is introduced at the esterification stage.

After polymerization, the solid, molten plastic, which has a consistency similar to cold honey, must be heated and liquefied before it can be extruded. The liquid fiber-forming polymers are then extruded through tiny holes of a spinneret, a device similar in principle to a showerhead, to form continuous filaments of semi-solid polymer. The denier of the fiber is controlled by the size of the holes on the spinneret. After extrusion, the semi-solid fibers are blasted with cold air to form solid fibers. This process is known as continuous polymerization.³⁰

In the first stage of production, unlike non-conjugate PSF, which requires a single spinning process, conjugate PSF is produced using a double spinning process either by direct spinning or batch spinning.³¹ This process combines two polymers of differing viscosity into a Y-shaped spinneret.³² Conjugate and non-conjugate are normally made on separate manufacturing lines, and one line would not

²⁵ *Certain Polyester Staple Fiber from Korea and Taiwan, Inv. Nos. 731-TA-825 and 826 (Review)*, USITC Publication 3843, March 2006, p. I-15.

²⁶ Petition, p. 10.

²⁷ Petitioners’ prehearing brief, p. 33-34; petitioners’ posthearing brief, p. 13 and exh. 1, p. 13.; petitioners’ final comments, p. 11, fn.12; and hearing transcript, p. 54 (Cannon).

²⁸ Conference transcript, p. 48 (Rosenthal).

²⁹ The following discussion generally is from the Commission’s five-year reviews of the antidumping duty orders on certain PSF from Korea and Taiwan. *Certain Polyester Staple Fiber from Korea and Taiwan, Inv. Nos. 731-TA-825 and 826 (Review)*, USITC Publication 3843, March 2006, pp. I-12-I-14.

³⁰ Petition, p. 11; see also, conference transcript, p. 17 (Bermish).

³¹ *Certain Polyester Staple Fiber from Korea and Taiwan, Invs. Nos. 731-TA-825 and 826 (Final)*, USITC Publication 3300, May 2000, pp. I-14-15.

³² *Ibid.*, p. I-5.

ordinarily be switched from one PSF type to the other.³³ However, the same employees are used to produce conjugate PSF and other types of certain PSF.³⁴ After the conjugate PSF is extruded, the stretching, cutting, and baling of the conjugate PSF is identical to other types of certain PSF.³⁵

The manufacture of regenerated³⁶ certain PSF begins with the processing of the recycled materials. As reported in the petition, regenerated certain PSF inputs can consist of a variety of different types of materials including: virgin first quality chip, virgin off-spec chip, post-industrial (regenerated) pellet waste, post-industrial (regenerated) film waste, post-consumer bottles, post-consumer bottle flake, and miscellaneous post-industrial (regenerated) waste.³⁷ Depending on the materials used, the recycled product is cleaned and either chipped or pelletized before being sent to the extruder. The recycled material is then melted to form molten polymers and sent through the spinneret to form continuous filaments of semi-solid polymer. As with fiber from virgin materials, the polymer is then blasted with cold air to form solid fiber.³⁸

The second stage of production is common to fibers made from either virgin or recycled materials, including conjugate. The solid fiber is coated for the first time with an oil finish, usually only for internal use to facilitate further processing. The spun tow, as it is now known, is collected into a can to be stretched. The spun tow is sent over a creel and a series of “draw wheels” in order to orient the fiber molecules and strengthen the tow. Next, the tow is sent through a crimping machine, which gives the fiber tow a two-dimensional, saw-tooth shape.³⁹ The tow is then sent through an oven to heat-set the crimp. A second finish (usually silicone or some type of oil-based finish) may be added during this stage of the process, either before the fiber tow is crimped and heat-set or directly after, depending on the preference of the manufacturer. Finally, the fiber tow is cut to length and baled.⁴⁰

The manufacturing processes for nonsubject PSF are similar to those for certain PSF. Nonsubject PSF includes PSF of less than 3 denier, PSF for carpeting, and low-melt PSF, in addition to other products.⁴¹ These nonsubject forms of PSF may be manufactured on the same equipment and machinery used in the production of certain PSF.⁴² The production of PSF of less than 3 denier, commonly referred to as fine denier PSF, is controlled by the size of the holes on the spinneret. By using a spinneret with smaller holes, a production line can switch from heavier gauge PSF to finer denier; the other steps of the manufacturing process remain generally the same.⁴³ PSF for carpeting is a higher denier than certain PSF and is produced by using a spinneret with larger holes. To achieve carpet fibers with luster, a slightly

³³ Hearing transcript, p. 63 (Rosenthal).

³⁴ *Certain Polyester Staple Fiber from Korea and Taiwan, Inv. Nos. 731-TA-825 and 826 (Final)*, USITC Publication 3300, May 2000, p. 8.

³⁵ *Certain Polyester Staple Fiber from Korea and Taiwan, Inv. Nos. 731-TA-825 and 826 (Review)*, USITC Publication 3843, March 2006, p. I-15.

³⁶ “Regenerated certain PSF” refers to both regenerated and recycled PSF unless otherwise noted.

³⁷ Petition, p. 12; see also *Certain Polyester Staple Fiber from Korea and Taiwan, Inv. Nos. 731-TA-825 and 826 (Review)*, USITC Publication 3843, March 2006, p. I-13.

³⁸ Petition, p. 11.

³⁹ Conference transcript, p. 23 (Barfield).

⁴⁰ Petition, p. 12.

⁴¹ Petition, pp. 9-10; see also, *Certain Polyester Staple Fiber from the Republic of Korea and Taiwan: Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders*, 70 FR 45368, August 5, 2005.

⁴² *See* part III of this report.

⁴³ Petition, p. 11; see also, *Certain Polyester Staple Fiber from Korea and Taiwan, Inv. Nos. 731-TA-825 and 826 (Review)*, USITC Publication 3843, March 2006, p. I-14.

different mix of raw materials is used.⁴⁴ Low-melt fiber is produced in a very similar process to conjugate fiber. Like conjugate fiber, low-melt fiber can be produced by both a direct spinning system or a batch system. Component polymers are forced through a Y-shaped extruder to form a single fiber. A chemical ingredient is added to make the outer sheath polymer subject to a lower melting point. The fiber is then stretched, cut, and baled.⁴⁵

Interchangeability and Customer and Producer Perceptions

Petitioners argue that imports of certain PSF are largely interchangeable and compete for the same sales as U.S.-produced PSF.⁴⁶ When ordering certain PSF, customers conduct a type of total cost analysis that compares the cost of the fiber against its fill capacity. Some customers choose to pay more for better fill capacity or decide to purchase and use more fiber with a lesser fill capacity.⁴⁷ Petitioners argue that certain PSF is interchangeable regardless of input (i.e. virgin or regenerated), but that not all types of certain PSF are completely interchangeable with one another (e.g. slick or dry, solid or hollow).⁴⁸

Petitioners argue that the quality of certain PSF from China is comparable to the quality of U.S.-produced PSF. A witness for petitioner Nan Ya argued that “the imported Chinese fiber and their quality is very acceptable to meet {customer} requirements. In a lot of cases {the Chinese fiber} doesn’t surpass our quality, but {imports} are able to give the customer the quality they need to achieve their product performance... .”⁴⁹

Channels of Distribution

Certain PSF is transported via rail or truck in containers to distributors and end users; however, a majority of shipments go to end users. In 2006, 18.3 percent of shipments from U.S. producers were to distributors while 81.7 percent were to end users. Importers reported that the vast majority of all imports were shipped directly to end users.

Price

Information with regard to prices of certain polyester staple fiber is presented in Part V of this report, *Pricing and Related Information*.

DOMESTIC LIKE PRODUCT ISSUES

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 where appropriate, (6) price. For purposes of its preliminary determination, the Commission found that “certain PSF is a continuum of products, without

⁴⁴ *Certain Polyester Staple Fiber from Korea and Taiwan, Inv. Nos. 731-TA-825 and 826 (Review)*, USITC Publication 3843, March 2006, p. I-14.

⁴⁵ Conference transcript, p. 23 (Barfield); *see also*, *Certain Polyester Staple Fiber from Korea and Taiwan, Inv. Nos. 731-TA-825 and 826 (Review)*, USITC Publication 3843, March 2006, p. I-14.

⁴⁶ Conference transcript, p. 17 (Bermish).

⁴⁷ *Ibid.*, p. 24 (Barfield).

⁴⁸ Petitioners’ prehearing brief, p. 33-34; petitioners’ posthearing brief, p. 13 and exh. 1, p. 13.; petitioners’ final comments, p. 11 fn.12; and hearing transcript, p. 54 (Canon).

⁴⁹ Conference transcript, p. 71 (Barfield).

any clear distinctions among types, and therefore we define the domestic like product in this investigation as all certain PSF, coextensive with the scope of the investigation.”⁵⁰

Respondents did not take a position on the definition of the domestic like product during the preliminary phase of this investigation. In their prehearing briefs during this final phase, two respondent parties argued for separate like products: Ashley Furniture argues that conjugate PSF is a distinct separate product from other certain PSF,⁵¹ and Insituform Technologies argues that certain PSF used in cured-in-place pipe (“CIPP”) applications is a distinct separate product from other certain PSF.⁵²

In arguing for a single like product, petitioners contend that imports from China are directly competitive with U.S.-produced certain PSF, have no significant differences in physical characteristics and uses, are destined for the same end uses, are produced using the same basic manufacturing processes, and are sold through the same channels of distribution.⁵³

Conjugate PSF

Ashley Furniture maintains that conjugate PSF is produced through a unique double spinning production process that gives it different physical characteristics from other conventional PSF. Conjugate PSF has a three-dimensional spiral twist, while nonconjugate is two dimensional, providing less fill capacity. Ashley Furniture also argues that conjugate is more comparable to fine goose down than to conventional mechanically crimped PSF, and that producers and purchasers find conjugate PSF and mechanically crimped PSF interchangeable only some of the time.

Petitioners argue that conjugate PSF is not a separate like product, and is simply a part of a continuum of PSF products used for loft.⁵⁴ Petitioners contend that Wellman produces a mechanically crimped, 3-D, high-void PSF with similar characteristics, final production stages, channels of distribution, and price as conjugate PSF.⁵⁵ Furthermore, petitioners assert that purchasers can and do interchange 3-D, high-void PSF with conjugate PSF.⁵⁶

Table I-2 presents average unit values and shares of U.S. producers’ and U.S. importers’ U.S. shipments of conjugate, non-conjugate, and other certain PSF during the period 2004-06.

⁵⁰ *Certain Polyester Staple Fiber from China, Inv. No. 731-TA-1104 (Preliminary)*, USITC Pub. 3878, August 2006, p. 6. The Commission also noted that “(t)his definition of the domestic like product is consistent with the domestic like product definition with respect to the outstanding antidumping duty order on certain PSF from Korea and Taiwan.” *Ibid.*, footnote 19; see also, *Certain Polyester Staple Fiber From Korea and Taiwan, Inv. Nos. 731-TA-825-826 (Review)*, USITC Pub. 3843, March 2006, pp. 5-6.

⁵¹ Ashley’s prehearing brief, pp. 6-10. Counsel for Ashley did not request that the Commission gather information on like product factors regarding the issue of conjugate PSF as a separate like product in its comments on the Commission’s draft questionnaires. Rather, counsel requested that the Commission gather discrete production, trade, and pricing data for 16 separate products, including four types of conjugate certain PSF. Ashley’s comments on the Commission’s draft questionnaires, December 21, 2006, pp. 2-6.

⁵² Insituform’s prehearing brief, pp. 4-12. Insituform indicated that it did not provide comments on the Commission’s draft questionnaires and raise separate product arguments at that time, because it “joined the investigation after that.” Hearing transcript, p. 269 (Shapiro).

⁵³ Petitioners’ prehearing brief, pp. 4-6; hearing transcript, pp. 49-52 (Cannon); and petitioners’ posthearing brief, pp. 2-5.

⁵⁴ Petitioners’ posthearing brief, pp. 2-3.

⁵⁵ The 3-D, high void PSF is described as a “mechanically crimped product...{that} is a three-dimensional product with physical characteristics similar to a conjugate and is directly competitive with sales of conjugate PSF in the United States market.” Hearing transcript, p. 24 (Katz).

⁵⁶ Domestic producers Nan Ya and Wellman estimated that the combined domestic market share of conjugate PSF and high-void PSF is *** percent of the total PSF market. Petitioners’ posthearing brief, exh. 1 p. 23.

Table I-2
Certain PSF: U.S. producers' and U.S. importers' average unit values and shares of U.S. shipments, by product groups, 2004-06

Item	Calendar year		
	2004	2005	2006
Unit value (per pound)			
U.S. shipments of U.S.-produced product:			
Conjugate	\$0.61	\$0.73	\$0.76
Non-conjugate	0.56	0.70	0.72
Other	***	***	***
Average	0.58	0.70	0.70
U.S. shipments of imports from China (subject):			
Conjugate	0.55	0.61	0.59
Non-conjugate	0.49	0.53	0.49
Other	0.51	0.56	0.53
Average	0.50	0.56	0.54
Share of quantity (percent)			
U.S. shipments of U.S.-produced product:			
Conjugate	***	***	***
Non-conjugate	69.6	67.4	69.4
Other	***	***	***
Total	100.0	100.0	100.0
U.S. shipments of imports from China (subject):			
Conjugate	13.7	29.4	41.5
Non-conjugate	78.9	57.8	50.5
Other	7.4	12.8	8.0
Total	100.0	100.0	100.0
Source: Calculated from tables III-6 and IV-3.			

PSF for CIPP Applications

Respondent Insituform argues that the certain PSF used in its unique application, CIPP, must meet stringent physical characteristics, such as specific crimp count, elasticity, and tensile elongation.⁵⁷

⁵⁷ In its prehearing brief, Insituform described PSF used for CIPP applications as “non-coated high-quality solid PSF cut to 3-4 inch lengths that is not carded, combed or otherwise processed for spinning, measuring either 6 denier (continued...) ”

These characteristics are antithetical to fiberfill applications, and make the PSF used in CIPP applications more analogous to PSF excluded from the scope of the investigation, namely PSF for spinning and used for woven and knit applications.⁵⁸ Insituform also argues that these stringent criteria mean that PSF for CIPP applications is available from only two PSF producers worldwide,⁵⁹ and commands a price premium.

Petitioners argue that while Insituform’s use of PSF is unique and unusual, that does not mean that the PSF that Insituform purchases is itself unique. Furthermore, petitioners argue that certain PSF with the same specifications “is produced by a number of companies and is used for both nonwoven and fiberfill applications.”⁶⁰

Invista, Insituform’s sole provider of PSF for CIPP applications until 2006, reported that it sells PSF for CIPP applications to non-Insituform customers for applications beyond CIPP, including traditional fiberfill, as well as non-woven felt-type applications.⁶¹ Invista noted that except for the cut-length, the specifications of PSF used in CIPP are exactly the same as *** its products, and can be processed though the same processing technology and equipment.⁶² Invista reported that in its experience, the type of downstream equipment determines how PSF will behave in the downstream applications. For example, PSF for CIPP applications processed by garneting equipment will increase in volume, while the same PSF processed through needle punch equipment will become flatter and tighter.⁶³ Table I-3 presents average unit values and shares of Invista’s U.S. shipments of certain PSF to Insituform and all others during the period 2004-06.

**Table I-3
Certain PSF: Invista’s U.S. shipments of product with specifications identified for CIPP applications, 2004-06**

* * * * *

Insituform’s other supplier, Chinese producer ***, reported that it also sells PSF for CIPP applications to non-Insituform customers *** for applications beyond CIPP, including non-woven applications and fiberfill.⁶⁴

⁵⁷ (...continued)

or 15 denier (6.6 and 16.5 decitex), possessing 8-9 crimps per inch, hardened by high-temperature steam, a tensile elongation of between 38% and 45% and a tenacity of 3g - 5g per denier.” Insituform’s prehearing brief, p. 12, and hearing transcript, p. 167 (Costa). In its posthearing brief, Insituform elaborated on the definition and described the separate product as “uncoated solid polyester staple fiber, not carded or otherwise processed for spinning, measuring 6 to 15 denier (6.6 to 16.5 decitex) classified under HTSUS subheadings 5503.20.0045 and 5503.20.0065 containing 8-9 crimps formed under high temperature and steam per inch, having a tensile elongation of 38-45%, a tenacity of 3-5g per denier, cut to a length of 4-5 inches, and a finish that is compatible with polyolefin resin for use in the production of non-woven fabrics for cured in place pipe.” Insituform’s posthearing brief, p. 2.

⁵⁸ Hearing transcript, p. 166 (Costa).

⁵⁹ These are domestic producer Invista and Chinese producer ***.

⁶⁰ Hearing transcript, p. 26 (Katz).

⁶¹ Invista’s supplemental producers’ questionnaire response, March 28, 2007.

⁶² Invista estimated that if the definition was expanded to include cut lengths between one and four inches, this PSF would capture *** percent of Invista’s 2006 sales of certain PSF. Ibid.

⁶³ Invista’s supplemental producers’ questionnaire response, March 28, 2007.

⁶⁴ ***’s foreign producers’ questionnaire response.

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

U.S. MARKET SEGMENTS

Certain PSF is used primarily as fill or stuffing for furniture, cushions, pillows, sleeping bags, bedding, mattresses, car seats, pet beds, and ski jackets, although it also can be used in applications such as automotive insulation and filtration.¹ Other end users include manufacturers of non-woven batting, which is then sold to manufacturers of sleeping bags and comforters.

CHANNELS OF DISTRIBUTION

U.S. producers ship certain PSF primarily to end users, with some sales going to distributors (table II-1). On average during the period, U.S. producers shipped 80.9 percent of their certain PSF to end users, with 19.1 percent going to distributors. Importers of certain PSF from China and from nonsubject countries also shipped the vast majority of their PSF to end users during the period.

Table II-1

Certain PSF: Reported channels of distribution for domestic product and imports sold in the U.S. market (as a percent of total shipments), 2004-06

	2004	2005	2006
Share of quantity (percent)			
Domestic producers:			
Shipments to distributors	19.6	19.3	18.3
Shipments to end users	80.4	80.7	81.7
Imports from China (subject):			
Shipments to distributors	1.6	2.7	5.6
Shipments to end users	98.4	97.3	94.4
Imports from nonsubject sources:¹			
Shipments to distributors	***	***	***
Shipments to end users	***	***	***
¹ Nonsubject sources include India, Indonesia, Japan, Korea, Mexico, Taiwan, Thailand, Vietnam, and Cixi Jiangnan. Source: Compiled from data submitted in response to Commission questionnaires.			

Geographic Markets

U.S. producers and importers, as a whole, reported serving national markets, although some individual firms reported that their sales were concentrated in particular regions.² Generally, producers reported serving primarily the Northeast, Mid-Atlantic, Midwest, and Southeast, as well as the national

¹ ***.

² Many furniture and bedding manufacturers are located in the Southeast.

market, and importers reported serving the Northeast, Midwest, Southeast, and West Coast, as well as the national market (see table II-2). All six importers that reported nationwide sales import PSF from China.

Table II-2
Certain PSF: Geographic market areas in the United States served by domestic producers and importers of subject product

Region	Producers	Importers
National market	4	6
Northeast	3	3
Mid-Atlantic	3	1
Midwest	3	3
Southeast	3	4
Southwest	1	2
Rocky Mountains	1	0
West Coast	0	5
Northwest	1	2
<p>Note.—Seven producers and 12 importers responded to this question. Firms were not limited to the number of market areas that they could report.</p> <p>Source: Compiled from data submitted in response to Commission questionnaires.</p>		

SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

Domestic Production

When asked if there had been any changes in the product range, product mix, or marketing of certain PSF, only 2 producers and 3 of the 19 responding importers responded affirmatively. *** reported that there has been a reduction in the use of product branding when marketing certain PSF, and *** reported that there has been a trend toward smaller orders with more variety of product. *** reported that some Asian suppliers have developed a “high void” product that gives better fill power per pound, and *** reported that green fiber (recycled from bottles) has replaced 2-polymer and 1-polymer conjugate in many furniture applications.

Purchasers were asked if there have been changes in any factors that affected the availability of certain PSF in the U.S. market since 2004. Twenty-one of the 33 responding purchasers reported that there had been changes, with 12 purchasers citing effects from the hurricanes in 2005, which included raw material price increases and temporary shortages of PSF. Three purchasers reported that closures of domestic PSF facilities, specifically by Wellman and Invista, have affected PSF availability. *** reported that imports of certain PSF and imports of finished products that use PSF have affected the domestic supply of PSF.

Purchasers also were asked if they had experienced any short supplies or unavailability of certain products or if they had been placed on allocation since 2004. Six purchasers reported that there had been problems with supply during the period, with two specifically citing effects after the hurricanes of 2005. Other purchasers reported that Nan Ya, Invista, and KoSa had placed them on allocation or had postponed

shipments. *** reported that there were no major problems with supply during the period, but that it had purchased PSF imports from China to protect its position.

Three of the seven responding producers and only two importers reported having refused or declined orders for certain PSF or having been unable to supply certain PSF since 2004. *** reported that, due to the hurricanes in 2005, it temporarily reduced supply to some customers for one to two months. *** reported that it declared “force majeure” after the hurricanes and placed temporary surcharges on orders but that most conditions were back to normal by the end of January 2006. *** reported that it is currently *** and cannot accept any new customers. *** reported that high demand in Europe for Korean and Taiwan PSF forced it to turn to Chinese sources but did not report when during the period this occurred.³

When specifically asked about the effects of the hurricanes of 2005, 30 purchasers reported that there were price increases,⁴ temporary supply disruptions, energy surcharges, and increased demand for imported PSF. *** reported that *** claimed “force majeure” on existing orders and then imposed a *** per-pound increase through the end of 2005, forcing it to cancel orders. *** reported that it has a long-term partnership with its supplier so availability is not an issue, but that the price increase after the hurricanes affected its profitability. *** reported that the hurricanes interfered with the production of raw materials. *** reported that foreign suppliers increased prices for certain PSF during that time as well. Producers and importers reported that there were raw material shortages and price increases. Importers also reported that the situation led to an increased demand for imported certain PSF, due to allocation and short supplies from U.S. producers, and one importer reported that U.S. producers implemented raw material surcharges. *** reported that U.S. customers attempted to find replacement products at reasonable prices from producers in Asia.

The sensitivity of domestic supply of certain PSF to changes in price depends on such factors as the existence of excess capacity, the level of inventories in relation to sales, the ease of shifting production to other products, and the existence of export markets. Based on available information, U.S. certain PSF producers are likely to respond to changes in demand with moderate changes in the quantity of shipments of U.S.-produced certain PSF to the U.S. market. The main contributing factors to the moderate degree of responsiveness of supply are the availability of unused capacity, some export shipments, low levels of inventories, and some production alternatives.

Industry capacity

U.S. producers’ reported capacity utilization for certain PSF decreased from 82.5 percent in 2004 to 73.9 percent in 2006 (*see* table III-2).⁵ The levels of capacity utilization suggest that the industry has some ability to expand output in response to changes in price.

Alternative markets

U.S. producers’ export shipments, as a share of total shipments, increased from 6.9 percent in 2004 to 11.3 percent in 2006 (*see* table III-5), and this moderate level of exports during the period

³ *** also reported that siliconized hollow products are not available from Korean suppliers so it turned to Chinese suppliers for PSF with the qualities and production capabilities it needed to supply the market.

⁴ Purchasers reported certain PSF price increases that ranged from 3 to 20 percent.

⁵ Wellman reduced capacity in the second quarter of 2005 and Nan Ya shut down a conjugate PSF line in May 2006. Nan Ya then restarted its conjugate line in July 2006. Conference transcript, p. 25 (Barfield).

indicates that domestic producers may be able to shift shipments between the United States and other markets in response to price changes.⁶

Inventory levels

Inventories are a small portion of total shipments by U.S. producers; nonetheless, U.S. producers' inventories, as a share of total shipments, rose from 4.9 percent in 2004 to 7.6 percent in 2006 (*see* table III-8).

Production alternatives

Most U.S. producers are able to shift production from certain PSF to other products in response to changing market conditions. The machinery and equipment used in various stages of PSF production are also used to make other products. Additional products include polyester carpet fiber (typically 10-18 denier cut 6-8 inches in length), polyester staple fiber for spinning and textiles (typically less than 3 denier), and, to a lesser degree, nylon fibers and specialty fibers. Five of the seven responding producers reported that they produce other products on the same machinery and equipment or using the same production and related workers as used in the production of certain PSF.⁷

Subject Imports

Based on available information, producers in China are likely to respond to changes in demand with potentially large changes in the quantity of shipments of certain PSF to the U.S. market. The main contributing factors to the high degree of responsiveness of supply are the availability of unused capacity, the continued substantial growth in new capacity, and the existence of alternate markets.⁸

Industry capacity

Chinese producers' reported capacity utilization for certain PSF increased from *** percent in 2004 to *** percent in 2006 (*see* table VII-2).

Alternative markets

Chinese producers' export shipments, as a share of total shipments, increased from *** percent in 2004 to *** percent in 2006 (*see* table VII-2). A large percentage of Chinese producers' export shipments have been to the United States. Since March 2005, Chinese PSF has been subject to antidumping duties when exported to the EU.⁹

Inventory levels

Chinese producers' inventories of certain PSF, as a share of total shipments, increased from *** percent in 2004 to *** percent in 2005, before falling back to *** percent in 2006 (*see* table VII-2).

⁶ DAK reported that after it closed its related Polykron facility in Mexico in mid-2005, it has increased its exports from U.S. production facilities. Hearing transcript, p. 151 (McNaull).

⁷ Two U.S. producers reported that changing from one PSF product to another is relatively simple and not very time consuming. Hearing transcript, pp. 60-61 (Chandrl and Katz).

⁸ These data have been revised since the prehearing report to exclude ***.

⁹ Conference transcript, p. 26 (Barfield) and p. 43 (Magrath).

Nonsubject Imports

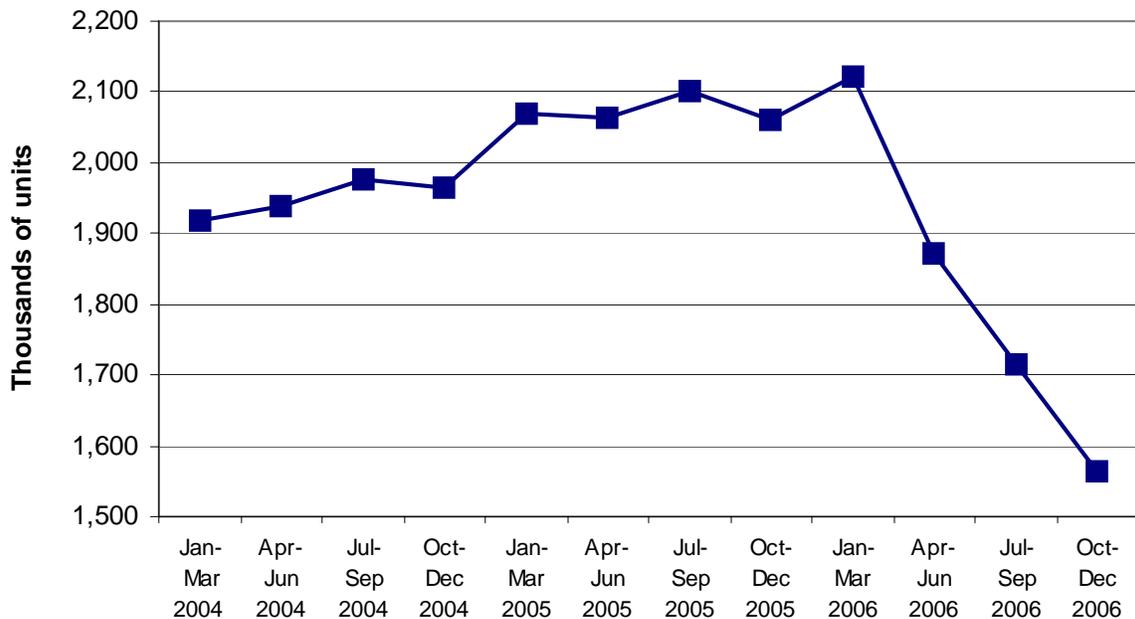
Imports of certain PSF are also available from Korea and Taiwan, and, to a lesser extent, India, Indonesia, Mexico, Thailand, and other countries. Imports from nonsubject countries decreased from 2004 to 2006.

U.S. Demand

Demand Characteristics

From 2004 to 2006, apparent U.S. consumption of certain PSF declined by 5.4 percent based on quantity and increased 10.1 percent based on value. The overall demand for certain PSF depends upon the demand for a variety of end-use applications. Certain PSF is used in the production of furniture (stuffing for couches and chairs), bedding (including mattress pads, pillows, comforters, sleeping bags, and pet beds), and insulation and filtration products. As a result, demand is generally related to the amount of housing-related activity in the economy, and demand for all end uses generally tracks overall economic activity. Housing starts, used in the PSF industry as an indicator of furniture and bedding demand, grew during 2004 through early 2006, but then fell through the end of 2006 (figure II-1).¹⁰

Figure II-1
Certain PSF: Quarterly averages of seasonally adjusted annual rates of housing starts, January 2004-December 2006



Source: U.S. Census Bureau data at www.census.gov/const/starts_cust.xls.

¹⁰ The National Association of Home Builders forecasts that housing starts will drop further in 2007 before rebounding somewhat in 2008. Petitioners' prehearing brief, exh. 1.

Producers, importers, and purchasers were asked how demand for certain PSF had changed since January 1, 2004. Two producers, 2 of the 17 responding importers, and 14 of the 28 responding purchasers¹¹ reported that demand for certain PSF had decreased in the last three years, with most citing the effects of increased imports of finished products that use PSF¹² and the decline of manufacturing activity in the United States. *** reported that flammability regulations for bedding has decreased demand for certain PSF.¹³

Two producers, nine importers, and nine purchasers reported that demand for certain PSF has increased since 2004, with one importer reporting that certain PSF has been used to replace foam in some cushions, and one importer reporting that PSF demand follows the growth in the home textiles and housing markets. One purchaser reported that the price of substitutes has caused increased demand for certain PSF, and another purchaser reported that demand has increased because applications for certain PSF have been marketed more effectively. *** reported that demand for certain PSF increases at approximately 1 to 2 percent per year, in line with such factors as housing starts and population growth, and *** reported that demand in the non-wovens industry grows at approximately 9 percent per year. *** reported that there have been improvements in product quality and the environmental manufacturing processes. One importer and two purchasers reported that demand increased in 2005 but then decreased in 2006.

Three producers, five importers, and three purchasers reported that demand has been largely unchanged since 2004. *** reported that the increased demand for products that use certain PSF has been met by increased imports of finished goods.

Twenty-two of 28 responding purchasers who are end users reported that the demand for their firms' final products that use certain PSF changed since 2004, with 12 citing increases in demand for their final products and 11 citing decreases in demand for their final products.

Purchasers were asked if the certain PSF market is subject to business cycles or conditions of competition distinctive to certain PSF. Thirteen purchasers reported that there are distinctive business cycles or conditions of competition, and 18 purchasers reported that there were not; the other 7 purchasers did not answer the question. Ten purchasers reported that the volatility of raw material pricing was a significant condition of competition; one purchaser reported that there are seasonal buying patterns for upholstered furniture; and one purchaser reported that the conversion of some PSF manufacturing lines and the shutdown of others has been a distinctive condition of competition. Thirteen purchasers reported that there had been changes in business cycles or conditions of competition for certain PSF since 2004, with three purchasers citing effects from the 2005 hurricanes, three citing the manufacturing decline in the United States, one citing the improvement in quality of Asian-based PSF producers, and one citing the antidumping actions initiated by domestic producers.

Eighteen of the 37 responding purchasers reported that they have made significant changes in their purchasing patterns in the last three years. Six purchasers reported increased use of imported PSF, with two reporting that the change was due to high U.S. prices. *** reported that it has started to work

¹¹ Seven purchasers reported that they did not know how demand within the U.S. market has changed, and three purchasers did not answer the question. *** reported that since September 2005, the market has been flooded with Chinese imported PSF but did not explain how demand has changed.

¹² It is likely that there have been increased imports of furniture, rather than high-loft pillows or comforters, due to shipping costs. Hearing transcript, pp. 76-77 (McNaull).

¹³ Both the U.S. Consumer Product Safety Commission ("CPSC") and the State of California have considered new flammability requirements for upholstered furniture, mattresses, and bedclothing. The CPSC approved a new flammability standard for mattresses in February 2006. CPSC press release found at <http://www.cpsc.gov/cpscpub/prerele/prhtml06/06091.html>, retrieved February 8, 2007. Insituform reported that flammability regulations have caused PSF users to switch to substitute products. Insituform's posthearing brief, p. 13 and ex. 2. DAK reported that it does not think that flammability regulations were a factor in any decline in apparent consumption. Hearing transcript, pp. 92-93 (McNaull).

directly with PSF manufacturers, rather than buying certain PSF through distributors; *** reported that it now carries more inventory; and *** reported that it bids monthly due to price fluctuations.

Purchasers were asked specifically whether their purchasing patterns for certain PSF from domestic, subject, and nonsubject sources had changed in the past three years. Thirteen purchasers reported that their purchases of U.S.-produced PSF have decreased, citing price, availability, and changes in demand trends as reasons for the decrease. Four purchasers reported that they have increased purchases from U.S. producers, citing shipping costs, increases in demand, and better quality as reasons for the increase. Sixteen purchasers reported increasing purchases of imports from China due to lower prices, availability, quality, a wider product range, a global sourcing strategy, a direct relationship with the suppliers, and the identification of new suppliers.¹⁴ Ten purchasers reported increased purchases of nonsubject imports, and eight purchasers reported decreased purchases of nonsubject imports.

Substitute Products

Although some substitutes for certain PSF exist, they come with limitations on their ability to supplant certain PSF in every application due to different relative prices and the characteristics demanded by end users. Substitute products for certain PSF cited by producers, importers, and purchasers include cotton, down, polyurethane foam, continuous filament tow, undetermined textile waste, rayon fiber, shoddy, coconut fiber and waste, PLA fiber, and FR viscose fiber. Two producers, 5 importers, and 15 purchasers reported that there are no substitutes for certain PSF. Only four purchasers and two importers reported that the price of these substitutes has affected the price of certain PSF.

Cost Share

Producers, importers, and purchasers were asked to provide information on the cost share of certain PSF relative to the end products in which it is used. Reported cost shares varied widely, some depending on the market segment; the range was from 13 to 65 percent for pillows; 2 to 80 percent for comforters and other bedding components; 8 to 60 percent for furniture; and 48 to 80 percent for batting. Importers and purchasers also reported that the cost share of PSF was 17 percent for sleeping bags, 25 to 30 percent for pet beds, and 25 percent for filters.

Demand Outside the United States

Purchasers were asked how demand for certain PSF outside the United States has changed since 2004. Thirteen purchasers reported that demand for certain PSF has increased in the rest of the world, with most citing increased manufacturing of finished products and general economic growth, specifically in Asia. Three purchasers reported that demand for certain PSF has been unchanged outside of the United States, 1 purchaser reported that it has decreased, and 18 purchasers reported that they did not know how demand has changed outside of the United States.

SUBSTITUTABILITY ISSUES

The degree of substitution between domestic and imported certain PSF depends upon such factors as relative prices, quality, and conditions of sale (e.g., price discounts/rebates, lead times between order and delivery dates, payment terms, product services, etc.). Based on available data, staff believes that

¹⁴ *** reported that there has been increased demand in the U.S. market for hollow recycled PSF, and so it has increased its purchases from China and decreased its purchases from Korea, where the primary type of PSF is solid recycled.

there may be some differences between domestic and imported certain PSF, but because they are generally used in the same end-use products, there is a moderate-to-high degree of substitution between PSF produced in the United States and China and between certain PSF produced in the United States and that which is produced in nonsubject countries.

This section is based primarily on the responses of 38 purchasers that accounted for approximately 53.4 percent of total consumption of certain PSF in 2006. Twenty-seven purchasers described themselves as end users, seven as distributors, three as processors, and one as an end user and a processor. The firms who distribute or resell certain PSF reported selling primarily to furniture and bedding manufacturers. Purchasers tended to purchase primarily from U.S. and nonsubject sources, although reported purchases of Chinese certain PSF increased substantially during the period (table II-3).

Table II-3
Certain PSF: Total reported U.S. purchases, by source, 2004-06¹

Country	2004	2005	2006
	Quantity (1,000 pounds)		
United States	306,600	291,205	242,138
China ²	14,966	56,692	130,260
Nonsubject	199,682	224,632	197,639

¹ Some purchasers listed foreign suppliers in section VI (supplier identification) of the purchaser questionnaire, and so the data in this table may include quantities of direct imports along with purchased quantities from importers. *** reported data but could not specify the country of origin, and so its data are not included in this table. Nonsubject countries include India, Indonesia, Korea, Saudi Arabia, Taiwan, and Thailand.

² These data may include purchases of imports from ***.

Note.--Not all purchasers reported data for each year.

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

Factors Affecting Purchasing Decisions

Certain PSF can be made from virgin materials or recycled/regenerated materials. In addition, certain PSF is available in different forms, including slick or dry, hollow or solid, and conjugate or non-conjugate. Petitioners reported that customers do not request virgin or recycled and that the various forms of PSF have similar characteristics and can be used for all end uses.¹⁵ In addition, certain PSF is also available in different colors. Petitioners reported that since certain PSF is used as fill, color is not an important characteristic.¹⁶ However, some importers and purchasers reported that differences in the input material (virgin or recycled/regenerated), as well as differences in fiber forms and color, can be significant, depending on the desired end use, price, and quality standards.

Producers, importers, and purchasers were asked about the interchangeability of different forms of certain PSF (table II-4). Three producers reported that virgin PSF and regenerated PSF are sometimes used interchangeably, and two reported that they are always used interchangeably. Twelve importers

¹⁵ Conference transcript, p. 17 (Bermish). However, petitioners reported that there is a difference between conjugate and non-conjugate, based on cost and fill capacity. Conference transcript, pp. 23-24 (Barfield). In addition, dry PSF carries a slight price premium because the dry market is smaller. Conference transcript, pp. 55-56 (Barfield). U.S. producers have characterized PSF as a continuum of product types, reporting that there may be differences among the types and that not all types of PSF are completely interchangeable. Petitioners' prehearing brief, pp. 33-34.

¹⁶ Conference transcript, pp. 47-48 (Bermish).

reported that virgin PSF and regenerated PSF are sometimes used interchangeably; four reported that they are never used interchangeably; and one reported that they are usually used interchangeably. Twenty-six purchasers reported that virgin PSF and regenerated PSF are sometimes used interchangeably; nine reported that they are never used interchangeably; two reported that they are usually used interchangeably; and one reported that they are always used interchangeably. Three purchasers reported that interchangeability depended on price and availability. *** reported that lower-end goods generally call for regenerated PSF, and higher-end goods generally call for virgin PSF. *** reported that virgin and regenerated PSF can be blended together to reduce the overall cost because regenerated tends to be less expensive but virgin performs better.

Table II-4
Certain PSF: U.S. producers', importers', and purchasers' perceived degree of interchangeability between various forms of certain PSF

Item	Always	Usually	Sometimes	Never
Virgin PSF vs. regenerated PSF:				
Producers	2	0	3	0
Importers	0	1	12	4
Purchasers	1	2	26	9
Solid PSF vs. hollow PSF:				
Producers	1	1	2	1
Importers	0	1	11	6
Purchasers	0	2	21	15
Slick PSF vs. dry PSF:				
Producers	0	2	2	2
Importers	0	1	3	14
Purchasers	0	2	9	27
Conjugate PSF vs. mechanically crimped PSF:				
Producers	2	0	2	0
Importers	0	1	13	3
Purchasers	0	2	20	16
White PSF vs. colored PSF:				
Producers	1	2	2	1
Importers	0	2	10	6
Purchasers	2	1	14	21
Note.--Not all producers, importers, or purchasers responded for each comparison.				
Source: Compiled from data submitted in response to Commission questionnaires.				

Two producers reported that solid PSF and hollow PSF are sometimes used interchangeably; one reported that they are always used interchangeably; one reported that they are usually used interchangeably; and one reported that they are never used interchangeably. Eleven importers reported that solid PSF and hollow PSF are sometimes used interchangeably; six reported that they are never used interchangeably; and one reported that they are usually used interchangeably. Twenty-one purchasers reported that solid PSF and hollow PSF are sometimes used interchangeably; 15 reported that they are never used interchangeably; and 2 reported that they are usually used interchangeably. One purchaser reported that solid PSF can be used only if hollow is not available, and one reported that this kind of interchangeability is uncommon.

Two producers reported that slick PSF and dry PSF are usually used interchangeably; two reported that they are sometimes used interchangeably; and two reported that they are never used interchangeably. Fourteen importers reported that slick PSF and dry PSF are never used interchangeably; three reported that they are sometimes used interchangeably; and one reported that they are usually used interchangeably. Twenty-seven purchasers reported that slick PSF and dry PSF are never used interchangeably; nine reported that they are sometimes used interchangeably; and two reported that they are usually used interchangeably. Five purchasers reported that differing quality standards or processability prohibit interchangeably. *** reported that end users use slick PSF when this slippery finish is required in order to process smoothly through machines and to achieve a particular smooth and soft touch in the finished product, and *** reported that in the furniture manufacturing industry, the machinery used is not equipped to substitute dry PSF for slick.

Two producers reported that conjugate PSF and mechanically crimped PSF are always used interchangeably, and two reported that they are sometimes used interchangeably.¹⁷ Thirteen importers reported that conjugate PSF and mechanically crimped PSF are sometimes used interchangeably; three reported that they are never used interchangeably; and one reported that they are usually used interchangeably.¹⁸ Twenty purchasers reported that conjugate PSF and mechanically crimped PSF are sometimes used interchangeably; 16 reported that they are never used interchangeably; and 2 reported that they are usually used interchangeably. Two purchasers reported that interchangeable use depends on the manufacturers' equipment. *** reported that conjugate PSF has higher quality, fill power, and performance and that it is also significantly more expensive than mechanically crimped PSF.

Two producers reported that white PSF and colored PSF are usually used interchangeably; two reported that they are sometimes used interchangeably; one reported that they are always used interchangeably; and one reported that they are never used interchangeably. Ten importers reported that white PSF and colored PSF are sometimes used interchangeably; six reported that they are never used interchangeably; and two reported that they are usually used interchangeably. Twenty-one purchasers reported that white PSF and colored PSF are never used interchangeably; 14 reported that they are sometimes used interchangeably; 1 reported that they are usually used interchangeably; and 2 reported that they are always used interchangeably. One purchaser reported that interchangeable use depends on the covering used, and one reported that a color range of white to gray may sometimes be acceptable.

Purchasers were asked to identify the three major factors considered by their firm in selecting suppliers of certain PSF (table II-5). Price was the most commonly cited factor overall, but 21 of the 38 responding purchasers reported that quality was the most important factor, compared to the 10 that reported that price was the most important factor.¹⁹ The next most commonly cited factor was

¹⁷ Wellman produces a 3-D high-void PSF product that is mechanically crimped and that is directly competitive with and used in the same end-use markets as conjugate PSF. Hearing transcript, pp. 24-25 (Katz).

¹⁸ Ashley Furniture reported that conjugate PSF is produced using separate production lines and workers than those used for production of non-conjugate PSF. Ashley Furniture's prehearing brief, p. 7.

¹⁹ *** reported that it has *** manufacturing plants and that the machinery that processes PSF differs from plant to plant as well as within each plant. It reported that quality and processability are more important than price in

(continued...)

availability. Other factors reported by more than one firm were delivery/service, consistency, and reliability.

Purchasers were asked to identify the factors that determined the quality of certain PSF. Factors cited include processability, performance, color, appearance, bulkiness, consistency, elongation, loft retention, and finish. Several purchasers cited the necessity of meeting the firm’s specifications and the importance of testing the PSF.

**Table II-5
Certain PSF: Most important factors in selecting a supplier, as reported by purchasers**

Factor	First	Second	Third
Quality	21	10	2
Price	10	16	9
Availability	4	5	14
Delivery/service	0	3	3
Consistency	0	1	2
Reliability	0	0	4
Other	3	3	3

Note.--Other category includes traditional supplier, the product meets technical specifications, yield, resiliency, willingness to adapt to the requirements, technical support, processability, terms, and contractual arrangements. When asked for other factors, two purchasers reported that technical support was an important factor in purchasing decisions, and two purchasers reported that delivery terms was an important factor.

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

Purchasers were asked if they always, usually, sometimes, or never purchased the lowest-priced certain PSF. Eighteen purchasers reported sometimes purchasing the lowest-priced product and 13 usually purchased the lowest-priced PSF. Five purchasers reported never purchasing the lowest-priced product, and two purchasers reported always purchasing the lowest-priced product. Purchasers also were asked if they purchased certain PSF from one source although a comparable product was available from another source at a lower price. Nineteen purchasers responded, reporting reasons why they purchased from a source that might be more expensive. Reasons provided included availability, quality, lead times, reliability, processability, consistency, and long-term relationships with suppliers. *** reported that price is not an issue if performance of a conjugate can improve its yield²⁰ and costed performance, and *** reported that it buys *** in the United States to keep supply lines flowing and inventory lower, even though the price is higher.²¹

In rating the importance of 19 factors in their purchasing decisions (table II-6), 37 of the 38 responding purchasers rated availability as very important; 35 reported that product consistency is very important; 33 reported that price is very important; 30 reported that reliability of supply is very important; 27 reported that quality meets industry standards is very important; and 26 reported that delivery time is very important.

¹⁹ (...continued)
determining where to source PSF. In addition, it reported that U.S. producers have failed to keep up with the product improvements made by foreign suppliers.

²⁰ *** reported that “yield” refers to the quality of the fiber; a high-yield fiber fills more space than a low-yield fiber.

²¹ *** reported that ***. *** also reported that it pays more for *** from Indonesia because comparable products from U.S. and other producers do not meet the specific high-fill power qualities.

Table II-6
Certain PSF: Importance of purchase factors, as reported by purchasers

Factor	Very important	Somewhat important	Not important
	<i>Number of firms responding</i>		
Availability	37	1	0
Color	13	23	2
Delivery terms	21	15	2
Delivery time	26	10	2
Discounts offered	8	20	10
Extension of credit	12	18	8
Minimum quantity requirements	5	16	17
Packaging	8	21	9
Price	33	5	0
Product consistency	35	3	0
Product range	6	24	8
Quality meets industry standards	27	9	2
Quality exceeds industry standards	11	19	7
Reliability of supply	30	8	0
Technical support/service	12	20	5
U.S. transportation costs	12	18	7
Whether bi-component or mechanical conjugated	14	15	8
Whether recycled or virgin	15	18	4
Whether solid or hollow	20	11	5
Note.--Not all purchasers responded for each factor. One purchaser reported that yield is very important, and one purchaser reported that resiliency is very important. Source: Compiled from data submitted in response to Commission questionnaires.			

Purchasers were asked for a country-by-country comparison using some of the same factors. Sixteen purchasers completed this comparison for the United States and China (table II-7), with three reporting that the U.S. and Chinese products were comparable in all categories. Half or more of the responding purchasers reported that the U.S. and Chinese products were comparable in most categories. Seven of the 15 purchasers reported that the U.S. product was superior for delivery time and extension of credit, and 7 reported that the Chinese product was superior for a lower price.

Nine purchasers completed the comparison for the United States and Korea, a nonsubject country, and 10 purchasers completed the comparison for the United States and other nonsubject countries. The majority of purchasers reported that the U.S. product and the Korean product were comparable in all product categories, with the exception of lower price, where five of the purchasers reported that the

Korean product was superior. Half or more of the responding purchasers reported that the U.S. product and the product from nonsubject countries were comparable in all product categories. Five purchasers reported that the U.S. product was superior for delivery terms, delivery time, extension of credit, product range, and technical support/service; and five purchasers reported that the nonsubject product was superior for a lower price.

Table II-7
Certain PSF: Comparisons of the U.S. and Chinese products and the U.S. and nonsubject products, as reported by purchasers

Factor	U.S. vs China			U.S. vs nonsubject (Korea)			U.S. vs all other nonsubject		
	S	C	I	S	C	I	S	C	I
	<i>Number of firms responding</i>								
Availability	4	8	4	1	6	2	4	6	0
Color	3	12	1	1	7	1	2	7	1
Delivery terms	4	10	2	1	6	2	5	5	0
Delivery time	7	7	2	3	5	1	5	5	0
Discounts offered	2	13	1	0	6	3	0	7	3
Extension of credit	7	8	1	2	5	2	5	5	0
Lower price	1	8	7	0	4	5	1	4	5
Lower U.S. transportation costs	5	11	0	2	7	0	1	9	0
Minimum quantity requirements	3	11	2	2	6	1	4	6	0
Packaging	3	13	0	0	9	0	2	8	0
Product consistency	4	8	4	3	5	1	4	5	1
Product range	1	11	4	1	6	2	5	5	0
Quality meets industry standards	2	10	4	1	7	1	4	5	1
Quality exceeds industry standards	2	10	4	2	7	0	4	6	0
Reliability of supply	4	9	3	1	7	1	4	6	0
Technical support/service	5	9	2	3	5	1	5	5	0
Note.--Not all purchasers responded for every factor. S=first-listed country's product is superior; C=both countries' products are comparable; I=first-listed country's product is inferior. One purchaser reported that the U.S. is inferior to China in terms of yield. All other nonsubject includes Taiwan, India, and Indonesia.									
Source: Compiled from data submitted in response to Commission questionnaires.									

Eleven of the 38 responding purchasers reported specifically ordering certain PSF from one country in particular over other possible sources of supply. Reasons cited for buying from a particular country included quality, price, availability, and yield. *** reported that China and Korea use the lowest-cost recycled resins, which are not available in the United States in any quantity, and *** reported that U.S.-made certain PSF facilitates the adjustment of product specifications. *** reported that *** is not produced in the United States. *** reported that its customers request recycled hollow siliconized PSF from China because the quality of that type of PSF is not available from other sources.

Purchasers also were asked if certain grades, types, or sizes of certain PSF were available from only a single source, and 11 purchasers responded in the affirmative. Two purchasers reported that certain types are only available from a U.S. producer,²² two reported that certain types are only available from nonsubject countries,²³ and two reported that certain types are only available from China.²⁴ In addition, *** reported that some types of PSF carry a brand and thus are only available from a single source, and *** reported that certain patented specialty polyesters, such as fire-retardant, anti-bacterial, special cross-section designs, and increased hollow fibers, are only available from a single source.

Purchasers were asked if they required certification or prequalification for suppliers of certain PSF. Twenty-one purchasers required it for all of their purchases; one reported that it is required for 80 percent of its purchases; one reported that it is required for 75 percent of its purchases; and one reported that it is required for 25 percent of its purchases. Purchasers reported that the certification or prequalification process may involve samples of the product, lab tests, trial runs, customer trials, site visits, or extensive testing.²⁵

Thirty-five purchasers reported factors considered in qualifying a new supplier, including quality, price, delivery, availability, reliability, consistency, testing, service, and shipping times. The time required to qualify a new supplier was reported by 22 purchasers and ranged from one day to six months.²⁶

Purchasers were asked if any suppliers had failed to qualify their product or lost their approved status. Ten of the 38 responding firms reported that suppliers had failed to qualify. Three purchasers cited Wellman as having failed to qualify; two cited Nan Ya; two cited BMT; two cited Stein; and three cited Chinese producers. Other purchasers reported that Superior Products, DAK, Bernet International, Faith Group, and suppliers from nonsubject countries had failed to qualify. The most commonly cited reasons for failure included poor or inconsistent quality and poor processability.²⁷

Purchasers were asked how often they are aware of the country of origin of the certain PSF they purchase, how often they know the manufacturer, and how often their buyers are interested in the country of origin of the goods they supply. Their responses are summarized in the following tabulation:

²² ***.

²³ *** reported that S10 is only available from producers in nonsubject countries, and *** reported that binder and conjugate are only available from producers in Taiwan.

²⁴ *** reported that siliconized PSF has not been offered to it by U.S. producers, only by producers in China, and *** reported that recycled hollow siliconized fiber above 7 denier in both mechanical crimp and conjugate has only been available in any volume from producers in China.

²⁵ *** reported that it maintains very stringent requirements and that the process for certification involves an evaluation of the ability of the supplier to meet unique technical specifications, a review of the technical data sheet, a site visit, obtaining samples, conducting field trials, and reviewing other selection criteria. It also reported that this process takes from 9 to 15 months.

²⁶ *** reported that it takes six to eight months to qualify a new supplier, *** reported that it takes over one year, *** reported that it takes 6 to 18 months, and *** reported that it takes 30 days if the PSF is in stock in the United States or 60 to 90 days if the PSF must be shipped from overseas.

²⁷ *** reported that certain PSF from *** have failed to meet technical specifications. In addition, it reported that PSF supplied by a Chinese producer and an Indian producer was not compatible with its machinery.

Factor	Always	Usually	Sometimes	Never
Aware of product's country of origin?	25	8	3	2
Know manufacturer of the product?	13	14	9	2
Buyers aware of/interested in product's country of origin?	9	7	11	10

Purchasers also were asked how often domestically produced, subject imports, and nonsubject imports of certain PSF meet minimum quality specifications. Their responses are summarized in the following tabulation:²⁸

Source	Always	Usually	Sometimes	Never
Domestically produced	10	21	3	1
Subject imports - China	8	16	4	0
Nonsubject imports - Korea	6	9	1	2
Nonsubject imports - Taiwan	3	4	1	1
Nonsubject imports - India	0	4	2	1
Nonsubject imports - Thailand	0	4	0	0

Most purchasers reported contacting anywhere from two to four suppliers before making a purchase. Six purchasers reported contacting only one supplier, and four purchasers reported contacting five or more suppliers. Seventeen of the 38 responding purchasers reported changing suppliers in the last three years. Six reported adding Chinese suppliers; four reported adding U.S. producers; and two reported dropping U.S. producers.

Most purchasers reported that they were unaware of new suppliers, either domestic or foreign, that entered the market in the last three years. Three reported that U.S. Fiber entered the market, one reported that a Chinese supplier entered the market, and one reported that an Indian supplier entered the market.

Lead Times

Among producers, three reported that 90 percent or more of their certain PSF sales were from inventories, with lead times ranging from one day to three weeks. Four producers reported that 70 percent or more of sales were produced to order, with lead times ranging from one to six weeks.

Eight of the 12 responding importers reported that half or more of their PSF sales were produced to order, with four importers reporting that 75 percent or more of sales were from inventory. Importers reported lead times of 1 day to 4 weeks for product sold from inventory and 4 to 12 weeks for product produced to order.²⁹

²⁸ ***.

²⁹ *** reported a lead time of eight weeks, regardless of whether the product is from inventory or produced to order.

Comparisons of Domestic Products, Subject Imports, and Nonsubject Imports

Producers, importers,³⁰ and purchasers were asked to assess how interchangeable certain PSF from the United States is with certain PSF from both subject and nonsubject countries. Their responses are summarized in table II-8. Most producers reported that PSF from the United States and from other countries is always or frequently interchangeable. The majority of importers reported that PSF from the United States and other countries is only sometimes interchangeable. Purchasers were divided, with some reporting that the products are always or frequently interchangeable, some reporting that the products are sometimes interchangeable, and a small minority reporting that they are never interchangeable.

Table II-8
Certain PSF: U.S. producers', importers', and purchasers' perceived degree of interchangeability of products produced in the United States and in other countries¹

Country comparison	U.S. producers					U.S. importers					U.S. purchasers				
	A	F	S	N	0	A	F	S	N	0	A	F	S	N	0
U.S. vs. China	2	3	2	0	0	2	4	10	2	1	3	9	14	2	4
U.S. vs. other countries	2	2	2	0	0	1	4	10	1	2	2	10	10	1	3
China vs. other countries	2	2	2	0	0	1	6	8	1	1	1	9	11	0	6

¹ Producers, importers, and purchasers were asked if PSF produced in the United States and in other countries is used interchangeably.

Note.--"A" = Always, "F" = Frequently, "S" = Sometimes, "N" = Never, and "0" = No familiarity.

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

Many firms reported factors that limit or preclude interchangeable use, with commonly cited factors including denier, crimp, color, finish, and processability. Among importers, three reported that the certain PSF that they purchase is not available from certain suppliers in the United States. Two importers reported that the necessity of meeting technical specifications or the overall quality of the PSF may limit interchangeable use. *** reported that most U.S. customers require either high-end fiber or an inexpensive grade of PSF, and that domestic certain PSF cannot be used in either case.

Among purchasers, *** reported that certification or qualification may preclude interchangeability. *** reported that the PSF it uses is rarely available from U.S. producers so that it must purchase imports. *** reported that it prefers to use U.S.-produced PSF. *** reported that PSF of a certain quality is not available from U.S. producers and that some PSF is not interchangeable, regardless of the country of origin. *** reported that U.S. producers have superior virgin PSF, Chinese producers have superior recycled fibers, and Korean producers have superior conjugate PSF. *** reported that certain PSF is not a commodity product and with so many sources producing PSF with different physical characteristics, quality, and colors, certain PSF from different sources is not easily interchangeable.³¹ *** reported that the majority of manufacturers in Eastern China are geared to serve the furniture manufacturing industry, and therefore, the level of knowledge and the quality of the PSF they produce has increased.

³⁰ Four importers, ***, reported that their original responses to these questions concerning interchangeability would not change with the exclusion of ***.

³¹ *** also reported that compatibility with the machinery used to process the PSF varies and thus performance of the machines vary with PSF from different sources.

Producers and importers were asked to assess how often differences other than price were significant in sales of certain PSF from the United States, subject countries, and nonsubject countries (table II-9). Generally, producers and importers reported that differences other than price were sometimes or never significant. A minority of importers reported that non-price factors were always or frequently significant. *** reported that there are longer lead times for imports of certain PSF. *** reported that U.S. producers do not have the availability and do not produce the colored types and fire-retardant types of certain PSF that its customers require. *** reported that the quality of the certain PSF and the support from suppliers in Asia is better than that of U.S. producers. *** reported that it matches a specific product with a specific customer need and that although the unit price may be a determining factor, the products are uniquely marketed based on customer demands and specifications.

Table II-9

Certain PSF: U.S. producers' and importers' perceived importance of factors other than price in sales of product produced in the United States and in other countries¹

Country comparison	U.S. producers					U.S. importers				
	A	F	S	N	0	A	F	S	N	0
U.S. vs. China	0	1	3	3	0	4	1	9	2	1
U.S. vs. other countries	0	0	3	3	0	4	1	7	2	2
China vs. other countries	0	0	3	3	0	4	1	9	1	1

¹ Producers and importers were asked if differences other than price between PSF produced in the United States and in other countries are a significant factor in their sales of the products.
 Note.--"A" = Always, "F" = Frequently, "S" = Sometimes, "N" = Never, and "0" = No familiarity.
 Source: Compiled from data submitted in response to Commission questionnaires.

ELASTICITY ESTIMATES³²

U.S. Supply Elasticity

The domestic supply elasticity for certain PSF measures the sensitivity of the quantity supplied by U.S. producers to changes in the U.S. market price of PSF. 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 PSF. Earlier analysis of these factors indicates that the U.S. industry is likely to be able to moderately increase or decrease shipments to the U.S. market; an estimate in the range of 3 to 5 is suggested.

U.S. Demand Elasticity

The U.S. demand elasticity for certain PSF measures the sensitivity of the overall quantity demanded to a change in the U.S. market price of PSF. This estimate depends on factors discussed earlier such as the existence, availability, and commercial viability of substitute products. Based on the available information, the aggregate demand elasticity for certain PSF is likely to be in a range of -0.5 to -1.5.

³² Parties were asked to provide comments on the elasticity estimates; no comments were received.

Substitution Elasticity

The elasticity of substitution depends upon the extent of product differentiation between the domestic and imported products.³³ Product differentiation, in turn, depends upon such factors as quality and conditions of sale. Based on available information, the elasticity of substitution between domestic and subject certain PSF is likely to be in the range of 2 to 4 for products from China.

³³ 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

Information in this part of the report is based on the questionnaire responses of eight firms that accounted for virtually all U.S. production of certain PSF during 2006.¹

U.S. PRODUCERS

The Commission sent producers' questionnaires to *** firms: seven firms identified in the petition² and two firms identified as possible additional producers of the subject product in a review of industry sources.³ Responses were received from *** firms. *** certified no production while eight certified production of certain PSF during the period of investigation. Since the original investigations on certain PSF from Korea and Taiwan, the domestic industry has contracted.⁴ The entire domestic industry is now comprised of eight companies. Details regarding each responding firm's production location(s), share of 2006 production, parent company, and position on the petition are presented in table III-1.

Petitioners collectively accounted for *** percent of domestic production in 2006. ***, the largest domestic producer, accounted for *** percent of domestic production of certain PSF in the United States in 2006. *** accounted for *** and *** percent of domestic production in 2006, respectively. ***, which ***, is the *** largest producer and accounted for *** percent of production in 2006.

The Commission asked domestic producers to describe any plant openings, relocations, expansions, acquisitions, consolidations, closures, and prolonged shutdowns. *** reported closing or reducing production lines of certain PSF.

*** indicated that "in November 2004 ***."⁵ DAK *** indicated that its facility located in Mexico was closed in July 2005 to re-balance and improve capacity utilization of U.S. facilities.⁶ *** indicated that its *** no longer produces certain PSF and capacity has been reduced by *** percent at its ***.⁷ At the hearing, Nan Ya explained that one of its highest margin products, its conjugate PSF production line, was shut down in June 2006 due to increased lower priced imports {of certain PSF} from China."⁸ Nan Ya reported a resumption of 50 percent of its conjugate production capacity in September 2006⁹ due to "renewed customer inquiries."¹⁰ Wellman reported that it "remov(ed) 80 out of . . . 240

¹ One small domestic producer, ***, did not provide a response to the final phase questionnaire. Its response to the preliminary phase questionnaire was used, and ***.

² The firms are DAK, Formed Fiber Technologies, Invista, Nan Ya, United Synthetics, U.S. Fibers, and Wellman.

³ The firms are ***.

⁴ As reported during the five-year reviews of certain PSF from Korea and Taiwan, *** entered *** (confidential staff report, INV-DD-022, February 15, 2006, p. I-20, fn. 48), and Intercontinental Polymers filed for bankruptcy in October 2003 and exited the certain PSF industry (*Certain Polyester Staple Fiber from Korea and Taiwan, Inv. Nos. 731-TA-825-826 (Review)*, USITC Publication 3843, March 2006, table I-2, fn. 1).

⁵ *** producers' questionnaire response, section II-2.

⁶ Conference transcript, p. 12 (McNaull).

⁷ *** producers' questionnaire response, section II-2.

⁸ Hearing transcript, p. 31 (Chandrl).

⁹ Conjugate production was increased to 100 percent capacity in 2007. Hearing transcript, p. 32 (Chandrl).

¹⁰ Conference transcript, p. 25 (Barfield).

Table III-1
Certain PSF: U.S. producers, positions on petition, plant locations, and shares of U.S. production in 2006

Firm Name	Position on petition	Plant locations	Parent company	Share of reported 2006 U.S. production (percent)
DAK Americas, LLC ("DAK")	Support (petitioner)	Charlotte, NC Leland, NC Moncks Corner, SC	***% Alfa S.A. de C.V. *** (Mexico) ***% Alpek S.A. de C.V. *** (Mexico)	***
Formed Fiber Tech. ("FFT") ¹	***	Sumter, SC	***% Morgenthaler Partners (U.S.)	***
Invista S.a.r.l. ("Invista")	***	Salisbury, NC Spartanburg, SC	***% Koch Industries (U.S.)	***
Nan Ya Plastics Corp., America	Support (petitioner)	Lake City, SC	***% Nan Ya Plastics (Taiwan)	***
Palmetto Synthetics, LLC ("Palmetto")	Support	Kings Tree, SC	***% Palmetto Synthetics	***
United Synthetics, Inc. ("United Synthetics")	***	Lafayette, GA	***% Korea Synthetics Fiber, Inc. (Korea) ² *** (U.S.) ³	***
U.S. Fibers ⁴	***	Laurens, SC Trenton, SC	***% U.S. Fibers (U.S.)	***
Wellman, Inc.	Support (petitioner)	Darlington, SC Johnsonville, SC (closed) Marion, SC (closed)	***% Wellman (U.S.)	***
<p>¹ ***.</p> <p>² Found at company website www.unitedsynthetics.com/about_USI.html, retrieved on February 9, 2007.</p> <p>³ ***.</p> <p>⁴ *** did not provide a response to the final phase questionnaire; data from its preliminary questionnaire response were used, with 2006 data estimated to equal 2005 data.</p> <p>Source: Compiled from data submitted in response to Commission questionnaires unless otherwise noted.</p>				

million pounds”¹¹ of production capacity at its Johnsonville plant in 2005, before permanently shutting down the facility in the December 2006.^{12 13} It explained that due to low margins, the equipment was “too costly to operate,”¹⁴ and that “this shutdown was a direct result of competition from lower priced imports from China.”¹⁵

Both *** declared force majeure (an unexpected or uncontrollable event) during the period of investigation. In September 2005, *** declared force majeure at its *** plant located in ***, due to raw material shortages, and reduced shipments to its customers. The force majeure lasted for about two months¹⁶. *** also declared force majeure due to shortage of critical raw material supplies following Hurricanes Katrina and Rita. Furthermore, *** instituted raw material surcharges due to the short-term elevated cost in raw materials.¹⁷

The Commission asked domestic producers to describe the constraints that limit production capacity. Most responded that equipment design and configuration limited capacity to produce certain PSF.¹⁸ However, *** indicated that production capacity is constrained by market demand. Currently, one production line at *** is shut down due to lack of market opportunity¹⁹. *** reported that its “production lines have been modified to produce certain polyester staple fiber, {and if they were to produce} other fibers on the same lines, conversion cost {would be} high.”²⁰

The Commission asked producers to identify related firms that import or produce certain PSF. *** and *** reported related production facilities in Mexico: ***²¹ and ***, respectively. Nan Ya reported at the conference that its parent company recently completed the construction of a polyester filament manufacturing facility in Kunshan, China.²² That facility will produce polyester filament yarn that is not related to certain PSF.²³

¹¹ Ibid, p. 67 (Bermish).

¹² Hearing transcript, p. 88 (Katz).

¹³ Wellman reported that this facility was the only PSF plant in the United States dedicated fully to the recycling of used, non-biodegradable plastic materials and other industrial waste into new polyester fibers. Petitioners’ prehearing brief, p. 28. Moreover, the facility manufactured certain PSF from regenerated and recycled inputs. Hearing transcript, p. 23 (Katz).

¹⁴ *** producers’ questionnaire preliminary phase response, section II-2.

¹⁵ Hearing transcript, p. 31 (Chandrl).

¹⁶ *** producers’ questionnaire response, section II-2.

¹⁷ *** producers’ questionnaire response, section II-2.

¹⁸ Producers’ questionnaire response, section II-4-A.

¹⁹ *** producers’ questionnaire response, section II-4-A.

²⁰ *** producers’ questionnaire preliminary phase response, section II-4.

²¹ Hearing transcript, p. 88 (Lane)

²² Conference transcript, p. 25 (Barfield).

²³ Polyester filament yarn is a textile polyester product that undergoes an entirely different production process, with separate engineering and equipment design resulting in completely distinct production models. Ibid, p. 62 (Barfield).

U.S. CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION

Data regarding U.S. producers' capacity, production, and capacity utilization of certain PSF are presented in table III-2. In its preliminary determination in this investigation, the Commission noted that "we intend...to explore further the bases for reporting industry capacity and unused capacity data."²⁴ Table III-2 has been adjusted to rationalize allocation of capacity and unused capacity among certain PSF and other products that can be produced on the same equipment and machinery. No domestic producer reported involvement in toll arrangements or production of certain PSF in a Foreign Trade Zone since January 2004.

Reported U.S. capacity to produce certain PSF decreased over the period of investigation. Overall, capacity decreased 12.9 percent between 2004 and 2006. Production followed the same pattern, decreasing by 21.9 percent during 2004-06. Capacity utilization was at its highest in 2004 at 82.5 percent, and its lowest in 2006 at 73.9 percent.

During the preliminary phase of this investigation, respondents argued that for certain U.S. producers that produce both subject and nonsubject PSF products on the same machinery and equipment, the capacity data for certain PSF as reported by those firms are unrealistic.²⁵ Specifically, respondents questioned the accuracy of the capacity allocations between subject and nonsubject PSF products. In response to the Commission's question regarding the methodology used to calculate production capacity, two companies, ***, reported that it was based on actual production capability of the machinery necessary to produce certain PSF. *** indicated that its production capacity calculation was based on "the ratio of sales of certain PSF to total sales at each manufacturing facility to total capacity at the facility."²⁶ Data regarding certain U.S. producers' capacity utilization for certain PSF, all other products, and all products as reported by the listed companies, without adjustments, are presented in table III-3.

*** firms (accounting for approximately *** percent of total reported U.S. production of the subject product during 2006) reportedly produce other products, such as fine denier PSF, PSF for carpeting, low-melt PSF, and other PSF products (e.g., nylon), on the same machinery and equipment used to produce the subject PSF. Their product mix is reportedly determined by market demand. Data on capacity and production for all such products by U.S. manufacturers are presented in table III-4. Production of alternative products decreased irregularly over the period of investigation. During 2004-06 overall production of nonsubject products decreased *** percent. Certain PSF accounted for a declining share of total production, to about *** during 2006, while PSF less than 3 denier accounted for slightly more than *** of production throughout the period of investigation. Collectively, PSF for carpeting, low-melt, and other PSF represented *** percent of production during 2006.

²⁴ *Certain Polyester Staple Fiber from China, Inv. No. 731-TA-1104 (Preliminary)*, USITC Publication 3878, August 2006, p. 19 and fn. 64.

²⁵ Respondents' postconference brief, pp. 2-3.

²⁶ *** producers' questionnaire response, section II-4-B.

Table III-3
Certain PSF and other products: U.S. capacity utilization, 2004-06

* * * * *

Table III-4
Certain PSF: U.S. producers' capacity, production, and share of total production for all products, 2004-06

Item	Calendar year		
	2004	2005	2006
Quantity (1,000 pounds)			
Annual capacity for all products ¹	2,056,000	1,996,000	1,944,000
Production of certain PSF	658,215	568,591	471,454
Production of nonsubject products:			
PSF of less than 3 denier ²	905,597	867,317	785,382
PSF for carpeting	***	***	***
Low-melt	***	***	***
Other ³	***	***	***
Subtotal, nonsubject	1,029,864	1,053,498	933,997
Total production	1,688,079	1,622,089	1,405,451
Share of total production (percent)			
Certain PSF	39.0	35.1	33.5
Nonsubject products:			
PSF of less than 3 denier ²	53.6	53.5	55.9
PSF for carpeting	***	***	***
Low-melt	***	***	***
Other ³	***	***	***
Total, nonsubject products	61.0	64.9	66.5
Capacity utilization (percent)			
All products	82.1	81.3	72.3
Certain PSF	82.5	77.9	73.9
<p>¹ *** revised its capacity of all products from *** pounds in the reviews to *** pounds in this investigation. *** indicated that "****" E-mails from ***, July 31, 2006.</p> <p>² *** increased its reported production of PSF less than 3 denier from *** pounds in the reviews to *** pounds in this investigation. See footnote 1.</p> <p>³ *** did not report production broken down by product group in the recent reviews on certain PSF from Korea and Taiwan.</p> <p>Note: Differences in data for 2004 when compared to corresponding tables in the Commission recent five-year reviews of certain PSF are attributable to ***.</p> <p>Source: Compiled from data submitted in response to Commission questionnaires.</p>			

U.S. PRODUCERS' DOMESTIC SHIPMENTS AND EXPORT SHIPMENTS

Data on the domestic industry's U.S. and export shipments of certain PSF are presented in table III-5. Between 2004 and 2006, the quantity and value of the industry's U.S. shipments decreased by 26.4 percent and 7.0 percent, respectively. One firm, ***, reported internal consumption of certain PSF and no firms reported transfers to related firms during the period of investigation.

U.S. shipments, as a share of total shipments, decreased during 2004-06 by 4.4 percentage points. Exports increased over the period of investigation from 6.9 percent of total shipments during 2004 to 11.3 percent of total shipments during 2006. Reported markets for U.S. producers' exports of certain PSF are Canada, Mexico, South America, and Europe. *** accounted for *** percent of all exports during 2006. The average unit value of exports was consistently lower than the average unit value of U.S. shipments, by approximately three to five percent.

Data on the U.S. industry's U.S. shipments by product type are presented in table III-6. *** producers reported shipments of virgin PSF. *** of these producers reported shipments of conjugate virgin PSF, and *** reported shipments of non-conjugate virgin PSF. Virgin PSF accounted for *** percent of U.S. shipments in 2006, while regenerated accounted for *** percent, and other *** percent. Shipments of virgin and regenerated decreased during 2004-06, while shipments of other PSF increased by *** percent. *** shipped *** pounds of non-conjugate virgin PSF in 2006, *** percent more non-conjugate virgin PSF and *** percent more total virgin PSF, than the next largest domestic producer, ***. *** was the *** domestic producer to report shipments of conjugate or non-conjugate regenerated PSF during the period of investigation. Of *** total 2006 shipments, shipments of regenerated PSF represented *** percent. *** reported shipments of other PSF during the period of investigation.

Table III-5
Certain PSF: U.S. producers' shipments, by type, 2004-06

Item	Calendar year		
	2004	2005	2006
Quantity (1,000 pounds)			
U.S. shipments: ¹			
Commercial shipments	***	***	***
Internal consumption	***	***	***
Total U.S. shipments	679,807	602,990	500,161
Export shipments	50,186	54,444	63,830
Total	729,993	657,434	563,991
Value (\$1,000)			
U.S. shipments: ¹			
Commercial shipments	***	***	***
Internal consumption	***	***	***
Total U.S. shipments	396,805	427,879	369,142
Export shipments	27,391	37,501	44,616
Total	424,196	465,380	413,758
Unit value (per pound)			
U.S. shipments: ¹			
Commercial shipments	\$***	\$***	\$***
Internal consumption	***	***	***
Total U.S. shipments	0.58	0.71	0.74
Export shipments	0.55	0.69	0.70
Average	0.58	0.71	0.73
Share of shipment quantity (percent)			
U.S. shipments: ¹			
Commercial shipments	***	***	***
Internal consumption	***	***	***
Total U.S. shipments	93.1	91.7	88.7
Export shipments	6.9	8.3	11.3
Total	100.0	100.0	100.0
<p>¹ *** reported internal consumption during the period of investigation. No firms reported transfers to related firms during the period of investigation.</p> <p>Note: Data for 2004 do not reconcile with the recent five-year reviews of certain PSF from Korea and Taiwan. ***.</p> <p>Source: Compiled from data submitted in response to Commission questionnaires.</p>			

Table III-6
Certain PSF: U.S. producers' U.S. shipments, by product groups, 2004-06

* * * * *

U.S. PRODUCERS' IMPORTS

Data on U.S. producers' imports of certain PSF from China and nonsubject sources are presented in table III-7. As shown, *** reported U.S. imports of certain PSF from nonsubject sources in order to fill out broad product lines. ***, with a *** percent ownership interest in ***, reported imports of certain PSF from China and nonsubject sources.

Table III-7
Certain PSF: U.S. producers' U.S. production, U.S. imports (including those from affiliated firms), and ratio of imports to production, 2004-06

* * * * *

Although no U.S. producer identified any related firms that import certain PSF from China into the United States or export certain PSF from China to the United States, *** reported that ***, an importer of certain PSF from China, was a part owner of the company.²⁷ Two companies, ***, reported that a related firm produces and imports certain PSF from countries other than China into the United States or exports certain PSF from countries other than China into the United States.²⁸

The Commission asked domestic producers if they had related firms, either domestic or foreign, engaged in the production of certain PSF. *** all reported having related firms that produce certain PSF. *** indicated that its manufacturing facility in ***, ***, produced PSF during the period of investigation, ***.

U.S. PRODUCERS' INVENTORIES

Domestic producers' end-of-period inventories of certain PSF are presented in table III-8. Inventories increased by 19.2 percent during 2004-06. Inventories as a share of production, U.S. shipments, and total shipments peaked in 2006.

Table III-8
Certain PSF: U.S. producers' end-of-period inventories, 2004-06

Item	Calendar year		
	2004	2005	2006
Inventories (1,000 pounds) ¹	35,984	36,520	42,901
Ratio of inventories to production (percent)	4.9	5.6	7.5
Ratio of inventories to U.S. shipments (percent)	5.3	6.1	8.6
Ratio of inventories to total shipments (percent)	4.9	5.6	7.6
¹ ***. E-mail from ***, July 26, 2006. Source: Compiled from data submitted in response to Commission questionnaires.			

²⁷ *** producers' questionnaire response, e-mail supplement.

²⁸ Producers' questionnaire response, sections I-5, I-6 and I-7.

U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY

U.S. producers' aggregate employment data for certain PSF are presented in table III-9. The number of production and related workers ("PRWs") employed by U.S. certain PSF producers decreased by 9.1 percent between 2004 and 2006, or by 101 workers. Over this period, hourly wages decreased by 0.4 percent while productivity decreased by 15.2 percent, resulting in a 38.8 percent increase in unit labor costs from 2004 to 2006. ***, the largest employer of certain PSF PRWs over the period of investigation, decreased PRWs by ***, while ***, the second largest employer of certain PSF PRWs, increased PRWs by ***.²⁹ At the hearing, Nan Ya noted that the apparent decline in productivity over the period of investigation is due to the nature of the industry which requires "equal or slightly fewer number of workers...regardless if {the production} is running 100% or 50%."³⁰ Wellman asserted, moreover, that employees required a certain amount of training, and that it was very expensive to hire, layoff, and rehire employees, so a basic level of employee staffing is kept that will "allow you to ride during some of the rough times, but will provide you with the service you need when you are running full."³¹ Wellman also noted that the layoff of over 360 employees at the Johnsonville plant that closed in December 2006, would not be reflected in the employment or productivity calculations.³²

Table III-9
Certain PSF: U.S. producers' employment-related indicators, 2004-06

Item	Calendar year		
	2004	2005	2006
Production and related workers (<i>PRWs</i>)	1,106	1,001	968
Hours worked by PRWs (<i>1,000 hours</i>)	2,314	2,185	2,079
Wages paid to PRWs (<i>\$1,000</i>) ¹	40,035	39,636	37,052
Hourly wages	\$17.30	\$18.14	\$17.82
Productivity (<i>pounds² produced per hour</i>)	316.6	294.1	268.6
Unit labor costs (<i>per pound</i>) ²	\$0.05	\$0.06	\$0.07
Hours worked per PRW	2,092	2,183	2,148

¹ ***. E-mail from ***, July 26, 2006.
² Productivity and unit labor costs are calculated using data from companies reporting both production and employment data. *** did not report employment data.

Note 1.--Data for 2004 do not reconcile with the recent five-year reviews of certain PSF from Korea and Taiwan. ***.

Note 2.--***.

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

The Commission asked domestic producers to describe their ability to use the same employees to produce other products on the same equipment and machinery used in the production of certain PSF. Two firms indicated that they are unable to produce alternative products on their machinery and equipment using the same employees.³³ *** indicated some ability to do so.³⁴

²⁹ *** producers' questionnaire response, section II-9.

³⁰ Hearing transcript, p. 84 (Chandrl).

³¹ Hearing transcript, pp. 86-87 (Katz).

³² Hearing transcript, pp. 21 and 88 (Katz).

³³ *** producers' questionnaire responses, sections II-3 & II-5.

³⁴ *** producers' questionnaire responses, sections II-3 & II-5.

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

U.S. IMPORTERS

Importer questionnaires were sent to 30 firms believed to be importers of subject PSF, as well as to all U.S. producers. Usable questionnaire responses were received from 21 companies which in 2006 accounted for 81.8 percent of subject U.S. imports of certain PSF from China (based on official Commerce statistics). Seven importers certified that they did not import certain PSF. Eighteen companies reported imports of certain PSF from China during 2004-06, while three reported imports exclusively from other sources. Four firms reported imports exclusively from China. The six largest responding importers of PSF from China in 2006 were ***, collectively accounting for 69.9 percent of reported imports of certain PSF from China in 2006. A list of U.S. importers of certain PSF, country sources, and shares of reported 2006 imports from China and other sources is presented in table IV-1.

Responding U.S. importers of certain PSF are concentrated in two major geographic areas: seven reported to be in the Carolinas and seven reported to be in the Mid-Atlantic region. The remaining responding importers are located throughout the continental United States, from Maine to California.

The Commission asked importers to describe any openings, relocations, expansions, acquisitions, consolidations, closures, and prolonged shutdowns. Of the 21 importers, three reported plant closures in their questionnaire responses: ***.¹ *** indicated that in 2004 its manufacturing division was closed due to cheap low-end imports of nonsubject product from China.²

The Commission asked importers to identify related firms that import or produce certain PSF. Three importers, ***, indicated that they have related firms that import certain PSF from China.³ In questionnaire responses, three firms, ***, identified related production facilities.⁴ *** identified *** as a related firm, while *** identified ***.

The largest importer of certain PSF in 2006 was ***. *** accounted for *** percent⁵ of all imports of certain PSF in 2006, with *** percent⁶ of their imports originating from China. By comparison, the next largest importer in terms of imported quantity in 2006 was ***, and it imported only one-third the amount *** imported. *** accounted for *** percent of all imports of certain PSF, with *** percent of their aggregated imports of certain PSF originating from China.

¹ Importers' questionnaire response, section II-2. Responses by DAK and Invista to this question are included in the "U.S. producers" section of Part III of this report.

² ***'s importers' questionnaire preliminary phase response, section II-2. ***.

³ Importers' questionnaire response, section I-4.

⁴ Importers' questionnaire response, section I-5.

⁵ Based on ***'s reported total imports compared to official Commerce statistics (importers' questionnaire response, section II-9).

⁶ ***'s reported imports from China compared to imports from all sources (importers' questionnaire response, section II-9).

Table IV-1

Certain PSF: U.S. importers, source(s) of imports, U.S. headquarters, parent companies, and shares of total imports in 2006

Firm	Source of imports	Head-quarters	Parent company	Share of imports (<i>percent</i>)		
				China (subject)	Other	Total
Arlee Home Fashions (“Arlee”)	***	***	***	***	***	***
Ashley Furniture	***	***	***	***	***	***
Bernet International (“Bernet”)	***	***	***	***	***	***
BMT Corporation (“BMT”)	***	***	***	***	***	***
Consolidated Fibers, Inc. (“Consolidated”)	***	***	***	***	***	***
DAK	***	***	***	***	***	***
Fibertex Corporation (“Fibertex”)	***	***	***	***	***	***
Honda Trading America Corporation (“Honda Trading”)	***	***	***	***	***	***
Insituform Technologies (“Insituform”)	***	***	***	***	***	***
Invista	***	***	***	***	***	***
Jeffco Fibres, Inc. (“Jeffco”)	***	***	***	***	***	***
Leigh Fibers, Inc. (“Leigh Fibers”)	***	***	***	***	***	***
PC Components, LLC	***	***	***	***	***	***
Polymer Group	***	***	***	***	***	***
Raytex Fabrics (“Raytex”)	***	***	***	***	***	***
Southwest Textiles	***	***	***	***	***	***
Springs Global US, Inc. (“Springs Global”)	***	***	***	***	***	***
Stein Fibers, Ltd. (“Stein”)	***	***	***	***	***	***
United Furniture Industries, Inc. (“United Furniture”)	***	***	***	***	***	***
VFT, Inc.	***	***	***	***	***	***
William Barnet & Son LLC (“William Barnet”)	***	***	***	***	***	***
All other (non-responses) ¹				18.3	8.2	11.8
Total				100.0	100.0	100.0

¹ Calculated as the difference between questionnaire response data and official Commerce statistics.

Note: *** responded to the preliminary phase questionnaire, but not to the final phase questionnaire.

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

U.S. IMPORTS

Imports of certain PSF from China and from all nonsubject sources for the period 2004-06 are presented in table IV-2. Commerce found *de minimis* margins for foreign producer, Cixi Jiangnan.⁷ Accordingly, imports of certain PSF from Cixi Jiangnan are treated in this report as nonsubject imports.⁸

U.S. imports of certain PSF from China (subject) increased over this period by *** percent. U.S. imports from nonsubject sources decreased by *** percent over the period. Among the largest nonsubject import sources, imports from Korea decreased 19.1 percent during 2004-06 while imports from Indonesia increased 242.7 percent over the same period. The total quantity of certain PSF imports from all sources increased from 2004 to 2006 by 26.3 percent.

China's (subject) share of total imports increased more than any other country's during 2004-06, rising from *** percent in 2004 to *** percent in 2006. Nonsubject imports accounted for a decreasing share of total U.S. imports during 2004-06.

The average unit value of certain PSF from China (subject) increased *** percent between 2004 and 2006. The unit value of nonsubject imports also followed this trend, increasing *** percent during 2004-06. Information regarding average unit values of certain PSF from China and nonsubject sources is presented in figures IV-1 and IV-2.⁹

Data on imports from China (subject) by product type are presented in table IV-3.¹⁰ Imports of certain PSF from China (subject) were present in all product groups, but primarily in regenerated product, specifically non-conjugate regenerated product.

⁷ See Part I of this report for information on Commerce's *de minimis* finding for Cixi Jiangnan.

⁸ During 2004, 2005, and 2006, U.S. imports of certain PSF from Cixi Jiangnan accounted for *** percent, by quantity, of total U.S. imports from China, respectively.

⁹ Data and graphic presentations regarding average unit values are based on official Commerce statistics, and include nonsubject certain PSF from Cixi Jiangnan.

¹⁰ Data in the table were revised following receipt of supplemental information from U.S. importers of certain PSF from Cixi Jiangnan: ***.

Table IV-2
Certain PSF: U.S. imports, by sources, 2004-06

Source	Calendar year		
	2004	2005	2006
Quantity (1,000 pounds)			
China (subject)	***	***	***
Other:			
Korea	209,856	184,832	169,865
Taiwan	72,376	54,139	37,471
Subtotal	282,232	238,971	207,336
China (nonsubject)	***	***	***
Thailand	41,848	43,475	33,177
Indonesia	12,657	24,830	43,378
India	16,147	21,090	20,914
Mexico	11,854	9,702	242
All other	12,549	16,743	23,990
Subtotal, nonsubject imports	***	***	***
Total imports	448,567	549,684	566,731
Landed, duty paid value (\$1,000)			
China (subject)	***	***	***
Other:			
Korea	100,920	108,549	93,297
Taiwan	43,262	36,971	24,549
Subtotal	14,181	145,521	117,847
China (nonsubject)	***	***	***
Thailand	26,694	31,598	23,282
Indonesia	6,722	15,438	27,199
India	7,654	12,205	12,199
Mexico	10,644	9,468	125
All other	8,694	16,753	22,901
Subtotal, nonsubject imports	***	***	***
Total imports	240,799	342,599	333,096

Table continued on next page.

Table IV-2 -- Continued
Certain PSF: U.S. imports, by sources, 2004-06

Source	Calendar year		
	2004	2005	2006
Unit value (per pound)			
China (subject)	\$***	\$***	\$***
Other:			
Korea	0.48	0.59	0.55
Taiwan	0.60	0.68	0.66
Subtotal	0.51	0.61	0.57
China (nonsubject)	***	***	***
Thailand	0.64	0.73	0.70
Indonesia	0.53	0.62	0.63
India	0.47	0.58	0.58
Mexico	0.90	0.98	0.52
All other	0.69	1.00	0.95
Subtotal, nonsubject imports	***	***	***
Total imports	0.54	0.62	0.59
Share of quantity (percent)			
China (subject)	***	***	***
Other:			
Korea	46.8	33.6	30.0
Taiwan	16.1	9.8	6.6
Subtotal	62.9	43.5	36.6
China (nonsubject)	***	***	***
Thailand	9.3	7.9	5.9
Indonesia	2.8	4.5	7.7
India	3.6	3.8	3.7
Mexico	2.6	1.8	0.0
All other	2.8	3.0	4.2
Subtotal, nonsubject imports	***	***	***
Total imports	100.0	100.0	100.0

Table continued on next page.

Table IV-2 -- Continued
Certain PSF: U.S. imports, by sources, 2004-06

Source	Calendar year		
	2004	2005	2006
Share of value (percent)			
China (subject)	***	***	***
Other:			
Korea	41.9	31.7	28.0
Taiwan	18.0	10.8	7.4
Subtotal	59.9	42.5	35.4
China (nonsubject)	***	***	***
Thailand	11.1	9.2	7.0
Indonesia	2.8	4.5	8.2
India	3.2	3.6	3.7
Mexico	4.4	2.8	0.0
All other	3.6	4.9	6.9
Subtotal, nonsubject imports	***	***	***
Total imports	100.0	100.0	100.0
Note: No firm reported imports via temporary import bonds, bonded warehouses, or foreign trade zones.			
Source: Compiled from official Commerce statistics and proprietary Customs data.			

Figure IV-1
Certain PSF: Quarterly import average unit values, by major source, January 2004-December 2006

* * * * *

Figure IV-2
Certain PSF: Quantity of imports, on the basis of average unit values, 2004-06

* * * * *

Table IV-3
Certain PSF: U.S. importers' U.S. shipments of imports from China (subject), by product groups, 2004-06

* * * * *

THE QUESTION OF NEGLIGIBLE IMPORTS

The statute (section 771(24)(A)(i) of the Act) provides that imports from a subject country corresponding to the domestic like product are negligible if such imports account for less than 3 percent of the volume of all such merchandise imported into the United States in the most recent 12-month period for which data are available that precedes the filing of the petition - in this case June 2005 through May 2006. Based on official Commerce statistics (adjusted to exclude imports from Cixi Jiangnan) for that 12-month period, imports of certain PSF from China (subject) accounted for *** percent of total U.S. imports as indicated in the tabulation below:

Source	Imports (1,000 pounds)	Share of total imports (percent)
China (subject)	***	***
Other sources	***	***
Total	612,418	100.0

Source: Compiled from official Commerce statistics and proprietary Customs data.

CRITICAL CIRCUMSTANCES

In its final affirmative determination of LTFV sales of the subject product from China, Commerce found that critical circumstances exist for certain imports of PSF from China. In particular, Commerce determined that critical circumstances exist for imports from Far Eastern Industries (Shanghai) Ltd. (“Far Eastern”), while critical circumstances do not exist for imports from producers/exporters Cixi Jiangnan and Ningbo Dafa, and producers/exporters in the Separate-Rates Applicants and the PRC-wide entity categories.¹¹

If the Commission determines that an industry in the United States is materially injured by reason of LTFV imports of certain PSF from China, it must further determine “whether the imports subject to the affirmative {Commerce critical circumstances} determination . . . are likely to undermine seriously the remedial effect of the antidumping duty order to be issued.”¹² The statute further provides that in making this determination, the Commission shall consider:

- (I) the timing and the volume of the imports,
- (II) a rapid increase in inventories of the imports, and
- (III) any other circumstances indicating that the remedial effect of the antidumping order will be seriously undermined.¹³

Monthly import data and end-of-period inventories of imports of certain PSF from Far Eastern, for the 6-month periods before and after the filing of the petition (January-June 2006 and July-December 2006), are presented in table IV-4, and figures IV-3 and IV-4. As indicated in the table, imports of certain

¹¹ *Notice of Final Determination of Sales at Less than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People’s Republic of China*, 72 FR 19690, April 19, 2007.

¹² Section 735(b)(4)(A)(i) of the Act (19 U.S.C. § 1673d(b)(4)(A)(i)).

¹³ Section 735(b)(4)(A)(ii) of the Act (19 U.S.C. § 1673d(b)(4)(A)(ii)).

PSF from Far Eastern during the six-month period after the filing of the petition decreased *** percent based on export data provided by Far Eastern, and *** percent based on proprietary import data from Customs, but increased *** percent based on the questionnaire responses of importers of certain PSF from Far Eastern.¹⁴

Table IV-4

Certain PSF: Exports to the U.S., U.S. imports, and end-of-period inventories of product from Far Eastern, January 2006-December 2006

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Figure IV-3

Certain PSF: Monthly U.S. imports from Far Eastern, January 2006-December 2006

* * * * *

Figure IV-4

Certain PSF: Monthly end-of-period inventories of imports from Far Eastern, January 2006-December 2006

* * * * *

APPARENT U.S. CONSUMPTION AND MARKET SHARES

Data on apparent U.S. consumption of certain PSF are presented in table IV-5. The quantity of apparent U.S. consumption increased 2.2 percent from 2004 to 2005, before decreasing 7.4 percent between 2005 and 2006. The value of apparent U.S. consumption followed a similar pattern, rising by 20.8 percent between 2004 and 2005, then falling by 8.9 percent between 2005 and 2006.

Shares of apparent U.S. consumption of certain PSF are presented in table IV-6. U.S. producers' share of apparent U.S. consumption quantity and value steadily declined during 2004-06 by 13.4 and 9.7 percentage points, respectively. Over the same period, imports from China (subject) gained *** percentage points of market share in terms of quantity. The share of apparent U.S. consumption of imports of certain PSF from nonsubject sources decreased from 2004 to 2006. The share of apparent U.S. consumption of imports of certain PSF from all sources increased from 2004 to 2006.

¹⁴ Based on petitioners' submissions, Commerce found that "some importers, exporters or producers of PSF from the PRC had knowledge that a proceeding was likely as of March 2006, and knew, or should have known, by March 2006, that their imports were likely to be subject to an antidumping duty investigation." Commerce's *Critical Circumstances Decision Memorandum*, April 10, 2007, p. 3. Therefore, Commerce made its final affirmative determination of critical circumstances with respect to Far Eastern, based, in part, on a comparison of data for the nine-month periods before and after "knowledge" of the petition; i.e., July 2005-March 2006 and April-December 2006. Based on these comparison periods, imports of certain PSF from Far Eastern increased by *** percent after Far Eastern knew or should have known of the impending antidumping duty petition, according to Commerce (see tabulation below).

* * * * *

Table IV-5
Certain PSF: U.S. shipments of domestic product, U.S. imports, and apparent U.S. consumption,
2004-06

Item	Calendar year		
	2004	2005	2006
Quantity (1,000 pounds)			
U.S. producers' U.S. shipments	679,807	602,990	500,161
U.S. imports from:			
China (subject)	***	***	***
Other:			
Korea	209,856	184,832	169,865
Taiwan	72,376	54,139	37,471
Subtotal	282,232	238,971	207,336
China (nonsubject)	***	***	***
Thailand	41,848	43,475	33,177
Indonesia	12,657	24,830	43,378
India	16,147	21,090	20,914
Mexico	11,854	9,702	242
All other	12,549	16,743	23,990
Subtotal, nonsubject imports	***	***	***
Total imports	448,568	549,684	566,730
Apparent U.S. consumption	1,128,375	1,152,674	1,066,891

Table continued on next page.

Table IV-5--Continued
Certain PSF: U.S. shipments of domestic product, U.S. imports, and apparent U.S. consumption, 2004-06

Item	Calendar year		
	2004	2005	2006
Value (\$1,000)			
U.S. producers' U.S. shipments	396,805	427,879	369,142
U.S. imports from:			
China (subject)	***	***	***
Other:			
Korea	100,920	108,549	93,297
Taiwan	43,262	36,971	24,549
Subtotal	144,181	145,521	117,847
China (nonsubject)	***	***	***
Thailand	26,694	31,598	23,282
Indonesia	6,722	15,438	27,199
India	7,654	12,205	12,199
Mexico	10,644	9,468	125
All other	8,694	16,753	22,901
Subtotal, nonsubject imports	***	***	***
Total imports	240,799	342,599	333,096
Apparent U.S. consumption	637,604	770,478	702,238
Source: Compiled from data submitted in response to Commission questionnaires, official Commerce statistics, and proprietary Customs data.			

Table IV-6
Certain PSF: U.S. market shares, 2004-06

Item	Calendar year		
	2004	2005	2006
Quantity (1,000 pounds)			
Apparent U.S. consumption	1,128,375	1,152,674	1,066,891
Value (\$1,000)			
Apparent U.S. consumption	637,604	770,478	702,238
Share of quantity (percent)			
U.S. producers' U.S. shipments	60.2	52.3	46.9
U.S. imports from:			
China (subject)	***	***	***
Other:			
Korea	18.6	16.0	15.9
Taiwan	6.4	4.7	3.5
Subtotal	25.0	20.7	19.4
China (nonsubject)	***	***	***
Thailand	3.7	3.8	3.1
Indonesia	1.1	2.2	4.1
India	1.4	1.8	2.0
Mexico	1.1	0.8	0.0
All other	1.1	1.5	2.2
Subtotal, nonsubject imports	***	***	***
Total imports	39.8	47.7	53.1

Table continued on next page.

Table IV-6--Continued
Certain PSF: U.S. market shares, 2004-06

Item	Calendar year		
	2004	2005	2006
Share of value (percent)			
U.S. producers' U.S. shipments	62.2	55.5	52.6
U.S. imports from:			
China (subject)	***	***	***
Other:			
Korea	15.8	14.1	13.3
Taiwan	6.8	4.8	3.5
Subtotal	22.6	18.9	16.8
China (nonsubject)	***	***	***
Thailand	4.2	4.1	3.3
Indonesia	1.1	2.0	3.9
India	1.2	1.6	1.7
Mexico	1.7	1.2	0.0
All other	1.4	2.2	3.3
Subtotal, nonsubject imports	***	***	***
Total imports	37.8	44.5	47.4
Source: Compiled from data submitted in response to Commission questionnaires, official Commerce statistics, and proprietary Customs data.			

RATIO OF SUBJECT IMPORTS TO U.S. PRODUCTION

Information concerning the ratio of subject imports to U.S. production of certain PSF is presented in table IV-7. U.S. imports from subject Chinese sources as a ratio to production increased sharply from 2004 to 2006. Imports from nonsubject sources as a ratio to production increased slightly from 2004 to 2006.

Table IV-7
Certain PSF: Ratio of import quantity to U.S. production, 2004-06

Source	Calendar year		
	2004	2005	2006
Quantity (1,000 pounds)			
U.S. production	733,677	657,064	573,068
Ratios to production (percent)			
U.S. imports from:			
China (subject)	***	***	***
Other:			
Korea	28.6	28.1	29.6
Taiwan	9.9	8.2	6.5
Subtotal	38.5	36.4	36.2
China (nonsubject)	***	***	***
Thailand	5.7	6.6	5.8
Indonesia	1.7	3.8	7.6
India	2.2	3.2	3.6
Mexico	1.6	1.5	0.0
All other	1.7	2.5	4.2
Subtotal, nonsubject imports	***	***	***
Total imports	61.1	83.7	98.9
Source: Compiled from data submitted in response to Commission questionnaires, official Commerce statistics, and proprietary Customs data.			

PART V: PRICING AND RELATED INFORMATION

FACTORS AFFECTING PRICES

Raw Materials

Two raw materials, monoethylene glycol (“MEG”) and purified terephthalic acid (“PTA”), together reportedly account for the majority of the cost of producing virgin PSF. Post-industrial and post-consumer waste materials, such as recycled PET bottles, fiber waste, filament waste, and popcorn chips, are used for producing non-virgin, or recycled, PSF.¹ Weighted-average purchase prices for MEG, PTA, and scrap, as reported by U.S. producers, are presented for 2004 through 2006 in figure V-1.² Prices for all raw materials have risen during the period.

In addition, as MEG and PTA are petroleum-derived, the significant increase in the price of crude oil during the period has increased the cost of producing virgin PSF.³ *** reported that increased prices for crude oil following the 2005 hurricanes affected the supply of PSF in the United States. *** also reported that certain PSF pricing has always been closely tied to the cost of crude oil.

Producers and importers were asked to describe any trends in the prices of raw materials used to produce certain PSF and whether they expect the trends to continue. All five responding producers reported that prices for raw materials have risen since 2004, and two of the producers reported that they expect this trend to continue.⁴ Most importers also reported that the price of raw materials has increased, and five importers reported that they expect to see flat or decreasing raw material prices in the near future. *** reported that it expects raw material prices to level off or maintain a slight continuous increase in relation to overall supply and demand.

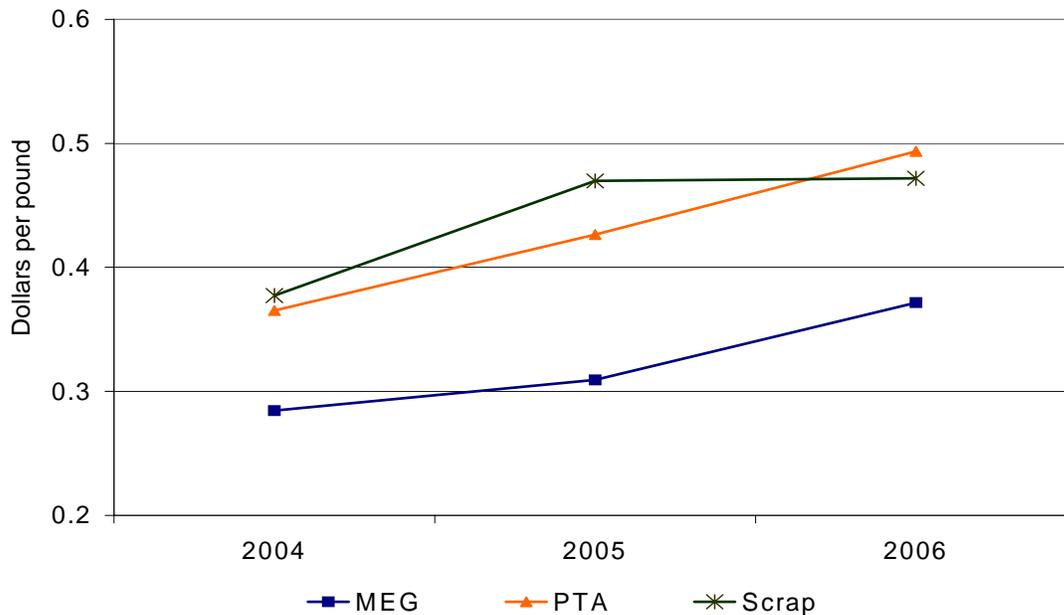
¹ Conference transcript, p. 17 (Bermish).

² Four U.S. producers ***, reported data on raw material costs.

³ At the end of 2006, crude oil prices were almost double what they were at the beginning of 2004 (found at <http://www.eia.doe.gov>, retrieved January 30, 2007).

⁴ Wellman reported that it uses long-term contracts to secure supply of MEG and that there is only one supplier, British Petroleum, of PTA in the United States. Hearing transcript, p. 105 (Katz). Nan Ya reported that it has its own supply of MEG and that it purchases PTA from British Petroleum. Hearing transcript, pp. 105-106 (Chandrl). DAK reported that it manufactures PTA and that it has strategic supply arrangements for supply of MEG. Hearing transcript, p. 106 (McNaull).

Figure V-1
Certain PSF: Weighted-average purchase prices reported by U.S. producers for MEG, PTA, and scrap, 2004-06



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

Transportation Costs to the United States

Transportation costs of imported certain PSF shipped from China to the United States (excluding U.S. inland costs) are estimated to be equivalent to 12.6 percent of customs values in 2006. This estimate is derived from official import data and represents the transportation and other charges on imports valued on a c.i.f. basis, as compared with customs value.

U.S. Inland Transportation Costs

Producers estimated that U.S. inland transportation costs represent up to 6 percent of their costs of certain PSF, and importers reported that transportation costs represent up to 15 percent of their total costs. Four producers reported that they arranged delivery and shipped the vast majority of their PSF to purchasers located between 101 and 1,000 miles away from their facilities throughout the United States.⁵ Three producers reported that purchasers arrange delivery. Among importers, 10 reported that they arranged delivery, and 2 reported that purchasers arranged delivery. Seven importers reported that they shipped 70 percent or more of their certain PSF to purchasers located 100 miles or less from their facilities; two reported that they ship 85 percent or more 101 to 1,000 miles; and three reported that they ship 40 percent or more over 1,000 miles.⁶

⁵ *** shipping a large percentage of its certain PSF over 1,000 miles.

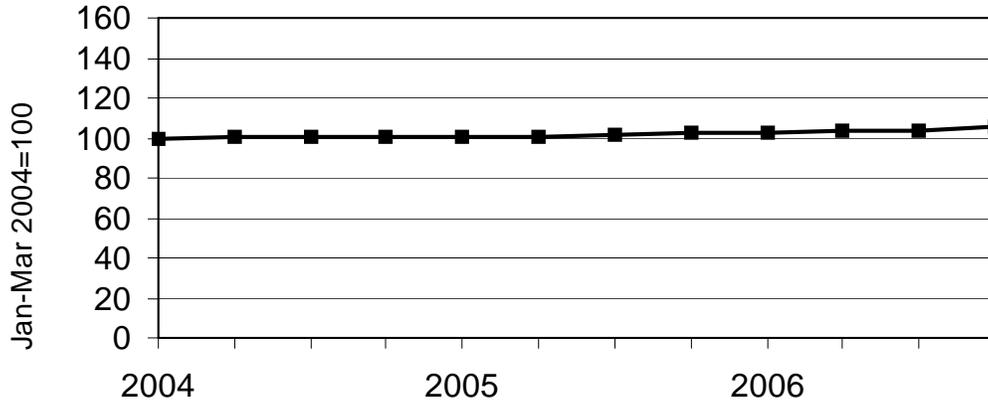
⁶ *** reported that it shipped *** percent of its certain PSF over 1,000 miles but reported that it only serves the *** geographic market, which is where its facility is located.

Exchange Rates

Nominal exchange rate data for China are presented on a quarterly basis in figure V-2. Real values for the Chinese yuan are not available.

Figure V-2

Exchange rate: Index of the nominal exchange rate of the Chinese currency relative to the U.S. dollar, by quarters, January 2004-December 2006



Source: International Monetary Fund, *International Financial Statistics*, retrieved from <http://ifs.apdi.net/imf/about.asp> on April 5, 2007.

PRICING PRACTICES

Pricing Methods

Producers and importers generally reported that pricing of certain PSF involves transaction-by-transaction negotiations based on prevailing market conditions.⁷ One producer reported that customers use import prices to negotiate, and one producer reported that it tries to meet its competitors' pricing. Four importers reported that they use contracts for multiple shipments, and one reported using price lists for some customers. *** reported that it attempts to make 6 to 10 percent profit, and *** reported that prices are determined by demand and that it will negotiate for open orders. *** reported that *** sets prices on conjugate PSF and that it attempts to price its imported PSF within *** cents per pound from that price.

Seven purchasers reported that there is no firm they consider a price leader in the certain PSF market. Of the 22 purchasers that reported firms as price leaders, 13 named U.S. producers, specifically Nan Ya (8), Wellman (7), Invista (5), and DAK (4). Nine purchasers named importers Stein (6) and BMT

⁷ U.S. producers reported that price increase announcements are for all staple fiber products, not specific to PSF, and are always followed by negotiations with individual purchasers so that the amount of the price increase may vary. Conference transcript, p. 19 (Bermish).

(3) as price leaders. In describing how the firms exhibited price leadership, purchasers reported that these firms generally were the first to give notice of price changes.⁸

Sales Terms and Discounts

Three producers and seven importers reported that they normally quote delivered prices; two producers and four importers commonly quote on an f.o.b. basis; and two producers and three importers reported doing both.⁹ Producers' and importers' sales terms are generally net 30 days.¹⁰ Five of seven responding producers reported that 70 percent or more of sales are on a spot basis, with one reporting that the majority of its sales are on a long-term contract basis. One producer reported that 100 percent of its sales are on a short-term contract basis. Among importers, six reported that 60 percent or more of sales are on a short-term contract basis, with six reporting that 75 percent or more are on a spot basis. No importer reported sales on a long-term contract basis.¹¹

The two producers that reported some sales on a long-term contract basis reported that long-term contracts are generally one to two years in length with no meet-or-release provisions. One producer reported that renegotiations are possible and one reported that they are not. One producer reported that quantity is fixed, and the other producer reported that neither price nor quantity is fixed. Producers reported that short-term contracts are generally up to 12 months in length,¹² with neither price nor quantity fixed, renegotiations possible, and no meet-or-release provisions.

Importers reported that short-term contracts are generally from one to six months in length, with both price and quantity fixed, no renegotiations, and no meet-or-release provisions.

Two producers and most importers reported no discounts, or at least no formal discount policy. One producer reported a quantity-based discount, one reported a discount for early payment, and one reported offering both. Three importers reported having customer-specific discounts, with one reporting that some customers have annual rebates and others have prompt-payment discounts.

PRICE DATA

The Commission requested U.S. producers and importers of certain PSF to provide quarterly data for the total quantity and f.o.b. value of PSF that was shipped to unrelated customers in the U.S. market. Data were requested for the period January 2004 to December 2006. The products for which pricing data were requested are as follows:

⁸ *** reported that U.S. producers generally announce price changes 15 to 30 days in advance.

⁹ *** reported that 30 percent of its sales are quoted on an f.o.b. basis and 70 percent on a delivered basis.

¹⁰ Three importers reported also having sales terms of net 45 or 60 days, and one importer reported sales terms of 1/10 net 30.

¹¹ *** reported information on long-term contract provisions, but it reported an average contract duration of *** months, and so the data are presented here as short-term contracts per the definitions, which specify long-term contracts as being more than 12 months in duration.

¹² *** reported that short-term contracts are less than one month in length.

Product 1.–Virgin and/or regenerated polyester staple fiber¹³–5-7 denier, solid, dry.¹⁴

Product 2.–Virgin and/or regenerated polyester staple fiber–5-7 denier, hollow, slick.

Product 3.–Virgin polyester staple fiber–12-15 denier, solid, dry.

Product 4.–Virgin polyester staple fiber–12-15 denier, hollow, slick.

Product 5.–Conjugate polyester staple fiber¹⁵–12-15 denier, hollow, slick.

Seven U.S. producers and 14 importers¹⁶ provided usable pricing data for sales of the requested products, although not all firms reported pricing for all products for all quarters.¹⁷ Pricing data reported by these firms, shown in tables V-1 to V-5 and figures V-3 to V-7, accounted for 74.0 percent of U.S. producers' shipments of PSF in 2006 and 17.1 percent of U.S. imports from subject manufacturers/exporters in China during 2006.

Price Trends

Among Commission pricing products, U.S. prices generally increased from January 2004 to December 2006. Over the same period, Chinese prices generally increased through the first half of 2005 before leveling off or declining.

¹³ “Virgin polyester staple fiber,” as used here, is single component, single crimp PSF that does not contain regenerated fibers. Virgin fibers are made directly from raw materials and are characterized by the purity of the whiteness of the fibers. “Regenerated polyester staple fiber,” as used here, is fiber that does not contain any virgin fibers but is made from recycled PET stock. Blended virgin and regenerated fiber products do not fall within this definition.

¹⁴ Petitioners reported that combining certain PSF from both virgin and regenerated raw materials is appropriate because there were similar patterns of underselling during the preliminary phase of the investigation (when data were collected for virgin separately from regenerated) whether the products were analyzed separately or combined. Petitioners' posthearing brief, app. 1, pp. 26-29. Ashley Furniture reported that there is a price difference between virgin PSF and regenerated PSF and that it *** imports virgin conjugate PSF. Ashley Furniture's posthearing brief, p. 9 and hearing transcript, p. 238 (Plummer).

¹⁵ “Conjugate polyester staple fiber,” as used here, is spiral/double crimp PSF made from two types of fiber (also known as bi-component fiber) by either a chemical or mechanical process.

¹⁶ Twelve of the 14 importers reported data for imports from China. Importers also reported data for imports from nonsubject countries, specifically India, Indonesia, Japan, Korea, Saudi Arabia, Taiwan, Thailand, and Vietnam, and these data are included in app. E. *** reported separate pricing data for their imports from ***, and these data are also included in app. E. *** reported that the original pricing data they submitted did not contain data for imports from ***.

¹⁷ *** reported delivered prices for its imports from China and imports from nonsubject countries.

Table V-1

Certain PSF: Weighted-average f.o.b. selling prices and quantities as reported by U.S. producers and importers of product 1,¹ and margins of underselling/(overselling), by quarters, January 2004-December 2006

Period	U.S. producers		Imports from China		
	Quantity	Price	Quantity	Price	Margin
	<i>1,000 pounds</i>	<i>Per pound</i>	<i>1,000 pounds</i>	<i>Per pound</i>	<i>Percent</i>
2004:					
Jan.-Mar.	55,427	\$0.57	***	***	***
Apr.-June	53,490	0.59	***	***	***
July-Sept.	58,989	0.61	***	***	***
Oct.-Dec.	57,494	0.63	***	***	***
2005:					
Jan.-Mar.	52,217	0.70	***	***	***
Apr.-June	51,226	0.72	***	***	***
July-Sept.	51,930	0.74	***	***	***
Oct.-Dec.	44,631	0.78	***	***	***
2006:					
Jan.-Mar.	45,635	0.75	***	***	***
Apr.-June	42,974	0.78	***	***	***
July-Sept.	43,412	0.79	***	***	***
Oct.-Dec.	42,801	0.78	***	***	***
<p>¹ *** reported price data for imports of product 1 from ***, and these data are included in app. E.</p> <p>Product 1.—Virgin and/or regenerated polyester staple fiber—5-7 denier, solid, dry.</p> <p>Source: Compiled from information submitted in response to Commission questionnaires.</p>					

Table V-2

Certain PSF: Weighted-average f.o.b. selling prices and quantities as reported by U.S. producers and importers of product 2,¹ and margins of underselling/(overselling), by quarters, January 2004-December 2006

Period	U.S. producers		Imports from China		
	Quantity	Price	Quantity	Price	Margin
	<i>1,000 pounds</i>	<i>Per pound</i>	<i>1,000 pounds</i>	<i>Per pound</i>	<i>Percent</i>
2004:					
Jan.-Mar.	12,469	\$0.52	***	***	***
Apr.-June	11,378	0.55	***	***	***
July-Sept.	18,474	0.57	***	***	***
Oct.-Dec.	23,585	0.62	***	***	***
2005:					
Jan.-Mar.	13,632	0.66	***	***	***
Apr.-June	17,289	0.68	***	***	***
July-Sept.	14,813	0.66	***	***	***
Oct.-Dec.	13,562	0.72	***	***	***
2006:					
Jan.-Mar.	7,726	0.67	***	***	***
Apr.-June	8,637	0.65	***	***	***
July-Sept.	16,354	0.70	***	***	***
Oct.-Dec.	12,016	0.70	***	***	***

¹ *** reported price data for imports of product 2 from ***, and these data are included in app. E.

Product 2.—Virgin and/or regenerated polyester staple fiber—5-7 denier, hollow, slick.

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

Table V-3

Certain PSF: Weighted-average f.o.b. selling prices and quantities as reported by U.S. producers and importers of product 3, and margins of underselling/(overselling), by quarters, January 2004-December 2006

Period	U.S. producers		Imports from China		
	Quantity	Price	Quantity	Price	Margin
	<i>1,000 pounds</i>	<i>Per pound</i>	<i>1,000 pounds</i>	<i>Per pound</i>	<i>Percent</i>
2004:					
Jan.-Mar.	17,649	\$0.53	--	--	--
Apr.-June	19,130	0.56	--	--	--
July-Sept.	20,071	0.58	--	--	--
Oct.-Dec.	24,101	0.60	--	--	--
2005:					
Jan.-Mar.	23,614	0.66	--	--	--
Apr.-June	24,818	0.67	***	***	***
July-Sept.	23,241	0.67	--	--	--
Oct.-Dec.	25,856	0.72	***	***	***
2006:					
Jan.-Mar.	26,257	0.68	***	***	***
Apr.-June	25,320	0.66	***	***	***
July-Sept.	20,900	0.69	***	***	***
Oct.-Dec.	19,893	0.70	***	***	***
Product 3.—Virgin polyester staple fiber—12-15 denier, solid, dry.					
Source: Compiled from information submitted in response to Commission questionnaires.					

Table V-4

Certain PSF: Weighted-average f.o.b. selling prices and quantities as reported by U.S. producers and importers of product 4, and margins of underselling/(overselling), by quarters, January 2004-December 2006

* * * * *

Table V-5

Certain PSF: Weighted-average f.o.b. selling prices and quantities as reported by U.S. producers and importers from China of product 5, and margins of underselling/(overselling), by quarters, January 2004-December 2006

* * * * *

Figure V-3

Certain PSF: Weighted-average f.o.b. selling prices per pound as reported by U.S. producers and importers of product 1, by quarters, January 2004-December 2006

* * * * *

Figure V-4

Certain PSF: Weighted-average f.o.b. selling prices per pound as reported by U.S. producers and importers of product 2, by quarters, January 2004-December 2006

* * * * *

Figure V-5

Certain PSF: Weighted-average f.o.b. selling prices per pound as reported by U.S. producers and importers of product 3, by quarters, January 2004-December 2006

* * * * *

Figure V-6

Certain PSF: Weighted-average f.o.b. selling prices per pound as reported by U.S. producers and importers of product 4, by quarters, January 2004-December 2006

* * * * *

Figure V-7

Certain PSF: Weighted-average f.o.b. selling prices per pound as reported by U.S. producers and importers of product 5, by quarters, January 2004-December 2006

* * * * *

Price Comparisons

As shown in table V-6, imports of all five products from China undersold the comparable U.S. product in 37 of 54 comparisons.

Imports from China undersold U.S. product 1 in 9 of 12 quarters where comparisons were possible, with margins of underselling ranging from 0.8 to 19.8 percent (table V-1). In the three quarters where the Chinese product oversold the U.S. product, margins ranged from 6.0 to 11.1 percent.

Imports from China undersold U.S. product 2 in 8 of the 12 quarters where comparisons were possible, with margins of underselling ranging from 0.8 to 15.3 percent (table V-2). In the four quarters where the product from China oversold the U.S. product, the margins ranged from 0.4 to 16.9 percent.

For product 3, imports from China undersold the U.S. product in all six quarters where comparisons were possible, with margins of underselling ranging from 10.8 to 25.1 percent (table V-3).

Imports from China undersold U.S. product 4 in 7 of the 12 quarters where comparisons were possible (table V-4). Margins of underselling ranged from 12.2 to 43.4 percent. In the five quarters where the Chinese product oversold the U.S. product, the margins ranged from 3.0 to 22.1 percent. All of the overselling was in 2004 and the first quarter of 2005.

For product 5, imports from China undersold the U.S. product in 7 of the 12 quarters where comparisons were possible, with margins of underselling ranging from 5.6 to 25.9 percent (table V-5). In the other quarters where the Chinese product oversold the U.S. product, the margins ranged from 0.3 to 4.1 percent.

Table V-6
Certain PSF: Instances of underselling/(overselling) and the range and average margins for products 1-5, January 2004-December 2006

Product	Underselling			Overselling		
	Number of instances	Range (percent)	Average margin (percent)	Number of instances	Range (percent)	Average margin (percent)
1	9	0.8 to 19.8	13.3	3	6.0 to 11.1	7.8
2	8	0.8 to 15.3	8.7	4	0.4 to 16.9	5.1
3	6	10.8 to 25.1	18.9	0	--	--
4	7	12.2 to 43.4	29.3	5	3.0 to 22.1	11.9
5	7	5.6 to 25.9	13.6	5	0.3 to 4.1	1.4

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

LOST SALES AND LOST REVENUES

The Commission requested U.S. producers of PSF to report any instances of lost sales and/or lost revenues they experienced due to competition from imports of certain PSF from China during January 2003 through December 2006. Of the seven responding U.S. producers,¹⁸ *** reported 17 lost sales allegations totaling *** and involving *** pounds of certain PSF and 4 lost revenues allegations totaling *** and involving *** pounds of PSF.¹⁹ Staff contacted the listed purchasers, and a summary of the information obtained is presented in tables V-7 and V-8 and is discussed in more detail below.

¹⁸ *** reported that it had both lost sales and lost revenues from ***, but it did not provide any additional information, including the product, date of quote, quantity involved, price involved, country of origin, or import price. Staff was unable to follow up on these allegations due to a lack of information.

¹⁹ U.S. producers reported that the reported lost sales and lost revenues allegations are generally based on information collected during telephone conversations with purchasers, and that documentation regarding the identified import source is not always available. U.S. producers' posthearing brief, exhibit 1, p. 6.

Table V-7
Certain PSF: U.S. producers' lost sales allegations

* * * * *

Table V-8
Certain PSF: U.S. producers' lost revenues allegations

* * * * *

*** disagreed with all of the lost sales allegations. He reported that his company did not purchase any of the product in question from China.²⁰

*** disagreed with the *** lost sales allegations brought by ***. *** reported that *** percent of its *** PSF was purchased from *** during the time frame in question, ***.²¹

*** agreed with the *** lost sales allegations brought by ***.

*** disagreed with the *** allegations. Concerning the lost sale ***, he reported that market forces caused the change and that the change was based on the lower price of regenerated fiber from all sources, not just China. In addition, he reported that lower prices for regenerated fiber are due to the lower raw material cost. Concerning the lost revenue allegations, *** reported that the reduction in price was in response to a move away from virgin fiber and that the reduction in price was due to pressure from mostly Korean regenerated fiber producers.

*** agreed to the *** lost sale allegation brought by ***, stating that prices for virgin fiber “comparable to ***” ranged from *** to *** per pound plus duty and freight. *** disagreed with the other *** allegations.

Concerning the *** allegation, he stated that the first shipment price came to *** per pound. For the allegation in *** tried some ***, but it did not work. *** returned to its previously ordered fiber at *** per pound final cost. Similarly, for the allegation from *** received some *** to try but remained with the *** per pound product as its primary fiber.

According to ***. He said that the poor quality of *** PSF caused *** pillows and chairs to go flat and *** customers to complain and/or return the goods. Furthermore, he said that ***, in addition to its alleged quality problems, also presented pricing problems, with *** trying to increase its prices. *** added that he had “given up” on *** and had then tried *** as a primary vendor until quality slipped and price increases were imposed without 30-days notice. Also, *** said that *** prices are delivered but that the Chinese prices must be increased by cost and freight from ***, delivery, and duty, making the prices of *** and Chinese PSF closer.

“The main difference is we get a consistent quality product from our China suppliers, and, in my opinion, for what it’s worth, it is due to updated, modern equipment. I can’t speak for ***, but I can say

²⁰ *** did not respond to the purchaser questionnaire it was sent for this investigation.

²¹ *** reported purchasing *** pounds of PSF imported from China in 2005. *** purchaser questionnaire, response to question II-1.

*** has very old equipment, and that has to play a part in not only price, but more so in consistent quality.”

*** disagreed with the *** lost sales allegations brought by ***. They had a “history with *** and evaluated its product but did not get the feel or the yield” that *** required. According to *** did not produce the “true conjugate virgin fiber” that *** desired. Moreover, *** reported several problems with *** as well, stating that the quality of its fiber did not meet the feel of plushness and comfort that *** customers wanted.

*** disagreed with all of the lost sales allegations brought by ***. He reported that he did not buy PSF from China, stating that “a U.S. supplier may have quoted me the above prices, but I did not buy competing fibers from China.”²²

²² *** reported purchasing PSF imported from China in all three years; specifically *** pounds of PSF imported from China in 2005. *** purchaser questionnaire, response to question II-1.

PART VI: FINANCIAL CONDITION OF U.S. PRODUCERS

BACKGROUND

Seven U.S. producers, ***, provided usable financial data on their operations on certain PSF.¹ These data account for nearly all U.S. production of certain PSF in 2006. No firms reported toll production or transfers to related firms within the United States; however, *** reported internal consumption that accounts for *** percent of total net sales (quantity and value) during the reporting period and is not shown separately in this section of the report.²

OPERATIONS ON CERTAIN PSF

Income-and-loss data for U.S. producers on their operations on certain PSF are presented in table VI-1. Selected financial data, by firm, are presented in table VI-2. The domestic industry reported an aggregate operating loss in 2004 and 2006, with reported aggregate operating income or loss improving by approximately \$23.9 million from 2004 to 2005, then declining by approximately \$14.0 million from 2005 to 2006. The quantity of net sales of certain PSF decreased by 24.0 percent from 2004 to 2006, while the value of net sales decreased by 4.4 percent during this time frame. While three of the largest U.S. producers (***) experienced the largest absolute increases in profitability from 2004 to 2005, the improvement in operating income was reflected in all reporting firms' financial data, with all seven firms reporting either increased profits or reduced losses. Similarly, three of the largest U.S. producers (***) experienced the largest absolute decreases in operating income from 2005 to 2006; however, the decline in operating income was reflected in most (six of seven) reporting firms' financial data.

The cost of goods sold ("COGS") per pound increased by 22.8 percent from 2004 to 2006. Raw material costs had the biggest impact on the overall COGS, representing 71.0 to 72.0 percent of total costs during the reporting period. Raw material costs per pound increased 25.2 percent from 2004 to 2006, while net sales value per pound similarly increased by 25.8 percent during this time frame. On a firm-by-firm basis, all seven reporting firms' financial data reflected increased raw material costs per pound from 2004 to 2006, and six of seven reporting firms' financial data reflected increased COGS from 2004 to 2006. Changes in COGS and net sales value per pound resulted in an overall improvement from an operating loss to an operating profit from 2004 to 2005, then back to an operating loss in 2006 as per-pound costs increased at a greater rate than per-pound revenue.

Table VI-3 contains domestic producers' quantity and value data on their purchases of MEG, PTA, and scrap used in the production of certain PSF for 2004-06. While numerically different from the absolute and per-unit raw material cost data in table VI-1, there are nonetheless similarities. In particular, both data sets indicate rising unit costs.

*** provided quantity and value data on purchases of MEG and PTA, while *** provided quantity and value data on purchases of scrap. Four firms (***) stated that raw material costs had been affected by Hurricanes Katrina and Rita. *** reported that from August to September 2005, PTA became more expensive and more difficult to obtain. Similarly, *** reported that in the fall of 2005 there was a tight supply of higher-priced critical raw materials in North America.

¹ All firms except *** reported a fiscal year end of December 31. *** reported a fiscal year end of September 30.

² ***.

Table VI-1
Certain PSF: Results of operations of U.S. producers, 2004-06

Item	Fiscal year		
	2004	2005	2006
	Quantity (1,000 pounds)		
Total net sales	727,996	642,785	553,253
	Value (\$1,000)		
Total net sales	422,770	454,139	404,209
Cost of goods sold	426,288	432,193	397,741
Gross profit or (loss)	(3,518)	21,946	6,468
SG&A expenses	11,758	13,342	11,912
Operating income or (loss)	(15,276)	8,603	(5,444)
Interest expense	7,326	9,444	11,984
Other income/(expense), net ¹	5,224	(6,616)	(48,567)
Net income or (loss)	(17,377)	(7,456)	(65,995)
Depreciation/amortization	14,951	12,148	11,569
Cash flow	(2,425)	4,692	(54,426)
	Ratio to net sales (percent)		
Cost of goods sold:			
Raw materials	71.0	68.9	70.7
Direct labor	7.3	6.7	6.7
Other factory costs	22.5	19.6	21.0
Total cost of goods sold	100.8	95.2	98.4
Gross profit or (loss)	(0.8)	4.8	1.6
SG&A expenses	2.8	2.9	2.9
Operating income or (loss)	(3.6)	1.9	(1.3)
Net income or (loss)	(4.1)	(1.6)	(16.3)
	Unit value (per pound)		
Total net sales	\$0.58	\$0.71	\$0.73
Cost of goods sold:			
Raw materials	0.41	0.49	0.52
Direct labor	0.04	0.05	0.05
Other factory costs	0.13	0.14	0.15
Total cost of goods sold	0.59	0.67	0.72
Gross profit or (loss)	(0.005)	0.03	0.01
SG&A expenses	0.02	0.02	0.02
Operating income or (loss)	(0.02)	0.01	(0.01)
Net income or (loss)	(0.02)	(0.01)	(0.12)
	Number of firms reporting		
Operating losses	5	2	3
Data	7	7	7
¹ The large decrease in "other income/(expense), net" in 2006 primarily reflects ***.			
Source: Compiled from data submitted in response to Commission questionnaires.			

Table VI-2
Certain PSF: Results of operations of U.S. producers, by firm, 2004-06

* * * * *

Table VI-3
Certain PSF: U.S. producers' purchases of MEG, PTA, and scrap, 2004-06

Item	Fiscal year		
	2004	2005	2006
	Quantity (1,000 pounds)		
Purchases of MEG	151,115	136,181	109,342
Purchases of PTA	405,841	367,612	284,063
Purchases of scrap	***	***	***
	Value (\$1,000)		
Purchases of MEG	42,987	44,555	40,621
Purchases of PTA	148,245	156,761	140,178
Purchases of scrap	***	***	***
	Unit value (per pound)		
Purchases of MEG	\$0.28	\$0.33	\$0.37
Purchases of PTA	0.37	0.43	0.49
Purchases of scrap	***	***	***
Source: Compiled from data submitted in response to Commission questionnaires.			

A variance analysis for certain PSF 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 it relates to changes in pricing, cost, and volume. The analysis shows that the favorable price variance from 2004 to 2006 was largely offset by an unfavorable cost/expense variance during this time frame.

Table VI-4
Certain PSF: Variance analysis on operations of U.S. producers, 2004-06

Item	Between fiscal years		
	2004-06	2004-05	2005-06
	Value (\$1,000)		
Total net sales:			
Price variance	82,918	80,854	13,326
Volume variance	(101,479)	(49,485)	(63,256)
Total net sales variance	(18,561)	31,369	(49,930)
Cost of sales:			
Cost variance	(73,776)	(55,802)	(25,747)
Volume variance	102,323	49,896	60,199
Total cost variance	28,547	(5,905)	34,452
Gross profit variance	9,986	25,464	(15,478)
SG&A expenses:			
Expense variance	(2,977)	(2,961)	(428)
Volume variance	2,822	1,376	1,858
Total SG&A variance	(154)	(1,585)	1,430
Operating income variance	9,831	23,879	(14,048)
Summarized as:			
Price variance	82,918	80,854	13,326
Net cost/expense variance	(76,753)	(58,763)	(26,175)
Net volume variance	3,667	1,788	(1,198)
Note.-- Unfavorable variances are shown in parentheses; all others are favorable. Source: Compiled from data submitted in response to Commission questionnaires.			

CAPITAL EXPENDITURES AND RESEARCH AND DEVELOPMENT EXPENSES

The responding firms' aggregate data on capital expenditures and research and development ("R&D") expenses are shown in table VI-5. Aggregate capital expenditures and R&D expenses irregularly decreased from 2004 to 2006. *** accounted for *** of reported capital expenditures and *** of reported R&D expenses during the period examined, and stated that its data primarily reflect ***.³

³ E-mail response from ***.

Table VI-5
Certain PSF: Capital expenditures and research and development expenses of U.S. producers, 2004-06

Item	Fiscal year		
	2004	2005	2006
	Value (\$1,000)		
Capital expenditures	2,021	1,157	1,466
R&D expenses	1,837	***	1,787
Source: Compiled from data submitted in response to Commission questionnaires.			

ASSETS AND RETURN ON INVESTMENT

The Commission's questionnaire requested data on assets used in the production, warehousing, and sale of certain PSF to compute return on investment ("ROI"). Although ROI can be computed in many different ways, a commonly used method is income divided by total assets. Therefore, ROI is calculated as operating income divided by total assets used in the production, warehousing, and sale of certain PSF.

Data on the U.S. certain PSF producers' total assets and their ROI are presented in table VI-6. The total assets utilized in the production, warehousing, and sale of certain PSF decreased from \$234.6 million in 2004 to \$160.9 million in 2006. The ROI was negative in 2004 and 2006, and ranged from negative 6.5 percent (in 2004) to positive 4.1 percent (in 2005). The trend in ROI was similar to the trend in the operating margin during the reporting period.

CAPITAL AND INVESTMENT

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

Table VI-6
Certain PSF: Value of assets and return on investment of U.S. producers, 2004-06

Item	Fiscal year		
	2004	2005	2006
Value of assets:	Value (\$1,000)		
Current assets:			
Cash and equivalents	159	791	363
Accounts receivable, net	46,886	44,928	46,780
Inventories	53,896	58,447	43,790
Other	2,146	1,683	1,071
Total current assets	103,088	105,849	92,003
Property, plant and equipment:			
Book value ¹	116,144	94,829	58,016
Other non-current assets	15,377	11,746	10,923
Total assets	234,608	212,424	160,942
Operating income or (loss)	(15,276)	8,603	(5,444)
	Percent		
Return on investment	(6.5)	4.1	(3.4)
<p>¹ *** only reported book value data for property, plant, and equipment; therefore, original cost and accumulated depreciation are not presented in this table. The decline in total assets from 2005 to 2006 primarily reflects ***.</p>			
<p>Source: Compiled from data submitted in response to Commission questionnaires.</p>			

PART VII: THREAT CONSIDERATIONS

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

In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of the subject merchandise, the Commission shall consider, among other relevant economic factors¹--

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

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

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

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

(V) inventories of the subject merchandise,

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

(VII) in any investigation under this title which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv)) and any product processed from such raw agricultural product, the likelihood that there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission

¹ Section 771(7)(F)(ii) of the Act (19 U.S.C. § 1677(7)(F)(ii)) provides that “The Commission shall consider {these factors} . . . as a whole in making a determination of whether further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted under this title. The presence or absence of any factor which the Commission is required to consider . . . shall not necessarily give decisive guidance with respect to the determination. Such a determination may not be made on the basis of mere conjecture or supposition.”

under section 705(b)(1) or 735(b)(1) with respect to either the raw agricultural product or the processed agricultural product (but not both),

(VIII) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and

(IX) any other demonstrable adverse trends that indicate the probability that there is likely to be material injury by reason of imports (or sale for importation) of the subject merchandise (whether or not it is actually being imported at the time).²

Subsidies are not relevant to this investigation; 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

Petitioners estimate that there are more than 150 manufacturers of PSF in China, most of which are regionally concentrated in the southeastern coastal provinces of Jiangsu and Zhejiang.³ These manufacturers range in size from small and medium enterprises to large national and global conglomerates⁴ with individual production capacities estimated to represent up to *** percent of China's national total.⁵ While ownership is significantly represented by private parties, state-owned enterprises

² Section 771(7)(F)(iii) of the Act (19 U.S.C. § 1677(7)(F)(iii)) further provides that, in antidumping investigations, ". . . the Commission shall consider whether dumping in the markets of foreign countries (as evidenced by dumping findings or antidumping remedies in other WTO member markets against the same class or kind of merchandise manufactured or exported by the same party as under investigation) suggests a threat of material injury to the domestic industry."

³ Petitioners identified 158 Chinese producers of PSF in the petition. Petition, general exh. 2, pp. 4-8.

⁴ Korean producer Huvis Corporation and Taiwanese producer Far Eastern Textiles, Ltd. both started Chinese production of PSF in September 2004 and March 2005, respectively. Petitioners' postconference brief, exh. 8.

⁵ The *** is estimated to have had the largest production capacity in 2004, with *** tons, which represented *** percent of total Chinese capacity ***. Paraxylene & Derivatives, World Supply & Demand Report 2005/06, PCI Xylenes & Polyesters Ltd., November 2005, pp. 403-407.

Counsel for foreign respondent firms Cixi Jiangnan Chemical Fiber Co., Ltd., Jiaying Fuda Chemical Fiber Co., Ltd., Ningbo Dafa Chemical Fiber Co., Ltd., and Xiamen Xianglu Chemical Fiber Co., Ltd. (hereafter referred to as "respondents") contend that the "majority of the companies listed...focus on the production of 1.5D fiber, which is used in textiles and non subject PSF." As a result, production capacities are overstated and the "Commission should not rely on {these} capacity figures reported by Petitioners." (Chinese respondents' postconference brief, pp. 12 and 15.) Petitioners concede that while the figures cover "PSF beyond the scope of this case, they are the only available surrogate for data on certain PSF." Petitioners also assert that "PCI is a well-known and respected source of data on the PSF and related industries." (Petitioners' postconference brief, p. 27.)

also maintain a considerable presence in the industry.⁶ For 2005, China's estimated PSF production, import, and export statistics are presented in the following tabulation:

Item	Quantity (1,000 pounds)
Production	10,699,695
Imports	781,098
Exports	462,530
Production plus imports ¹	11,480,793
Production plus imports minus exports ²	11,018,263
<p>¹ The figure for production plus imports is shown to represent increased resources of PSF.</p> <p>² This figure is shown to represent increased resources of PSF, net of exports, that can be used as an estimate of domestic demand.</p> <p>Source: http://www.gongkong.com/meiti/meiti/hangye_news.asp as presented in the Chinese respondents' postconference brief, exh. 1, p. 1.</p>	

China's total PSF industry (including nonsubject PSF product) has experienced rapid growth in its exports over the past few years. During 2004-06, China expanded its presence within the global PSF⁷ market as its share of worldwide PSF exports increased in quantity by 46.8 percentage points to 52 percent.⁸ Over the same period, China's quantity of PSF exports to the United States increased by 224.5 percent to 251.2 million pounds, more than doubling the U.S. share of China's total PSF exports (from 25.1 percent in 2004 to 40.7 percent in 2006).⁹

Petitioners argue that "China's PSF capacity far exceeds home market demand, and capacity will continue to significantly exceed demand in coming years."¹⁰ Counsel for respondents counters that although capacity for certain PSF "may have increased in China, China uses 42 percent of the world's

⁶ Two state-owned enterprises, PetroChina Company Limited and China Petroleum & Chemical Corporation, both own subsidiaries that operate in the PSF industry. PetroChina Company Limited's production capacity estimates for 2004 represented *** and China Petroleum & Chemical Corporation's represented *** of China's total capacity ***. Paraxylene & Derivatives, World Supply & Demand Report 2005/06, PCI Xylenes & Polyesters Ltd., November 2005, pp. 403-407 (presented in the petition, exh. General 2). PetroChina in response to the Commission staff's inquiries, stated that it ***. It also reported that ***.

⁷ Defined as "synthetic staple fibers, not carded, combed or otherwise processed for spinning, of polyesters," in HTS heading 5503.20. GTIS Global Trade Atlas Database, accessed February 13, 2006.

⁸ GTIS Global Trade Atlas Database, accessed February 13, 2007.

⁹ Ibid.

¹⁰ Petitioners' postconference brief, p. 30. Petitioners supplied industry sources that indicate a recent trend of overcapacity in the Chinese polyester industry, however these sources also estimate domestic Chinese demand for PSF to grow, as much as 16 percent in 2005. Petitioners' postconference brief, exhs. 10, 13, and 19.

polyester fiber.”¹¹ Furthermore, counsel for respondents argues that “China’s projected production increases will, in large part, supply the strong domestic demand.”¹²

CHINESE PRODUCERS’ CAPACITY, PRODUCTION, SHIPMENTS, AND INVENTORIES

The Commission sent foreign producer/exporter questionnaires to 60 firms identified in the petition as producers or exporters of certain PSF in China, for which contact information was publicly available. Seven firms provided responses to the Commission’s questionnaires.^{13 14} Two of the four Chinese firms that are parties to this investigation did not respond to the Commission’s questionnaire in this final phase of the investigation: Xiamen Xianglu Chemical Fiber Co., Ltd., and Jiaxing Fuda Chemical Fiber Co., Ltd. The names of the foreign firms along with shares of production and exports to the United States (by quantity) are presented in table VII-1. For 2006, these foreign firms estimated that they represented a total of 11.1 percent of domestic production in China.¹⁵

Capacity, production, inventories, and shipment data submitted by the responding seven firms are presented in table VII-2.¹⁶ During 2004-06, reported capacity to produce certain PSF in China increased by *** percent, while production increased by *** percent. Capacity utilization increased from *** percent in 2004, to *** percent in 2006, or by *** percentage points, and is projected to decrease to *** percent in 2007 and then increase to *** percent in 2008.

¹¹ It is important to note that “...world’s polyester fiber” includes both subject and nonsubject PSF as well as polyester filament yarn. Chinese respondents’ postconference brief, exh. 1, p. 1.

¹² The Chinese PSF industry analysis supplied by respondents in their postconference brief indicates that in fact, “the production capacity of polyester has increased too much, but not enough demand has increased” leading “some small polyester factories...to be eliminated, and some big factories {to} face loss{es}” (Chinese respondents’ postconference brief, exh. 1, p. 5.) Counsel for respondents cite a variety of public sources that document and project strong growth in the Chinese housing, furniture, and consumer goods markets which are argued to drive demand for certain PSF. Chinese respondents’ postconference brief, pp. 17-18 and exhs., 2-5.

¹³ Eleven firms in China provided responses to the Commission’s preliminary phase questionnaire. *See* the notes to table VII-1 for a description of the differences in responding firms when comparing the preliminary phase to the final phase of this investigation.

¹⁴ Cixi Jiangnan also provided a response, but was found by Commerce to have *de minimis* margins, and as such is treated as a nonsubject source in this report.

¹⁵ Foreign producers’ questionnaire response, section II-9 fn. 2.

¹⁶ *** reported that it established its factory in 2004 and began production of certain PSF in October 2004. Foreign respondent firms *** and *** began production of certain PSF in 2005, therefore no capacity and production data were reported for 2004. ***’s, ***’s, and ***’s foreign producer preliminary phase questionnaire responses, section II-5.

Table VII-1
Certain PSF: Manufacturers/exporters in China, and quantities and shares of reported production and exports to the United States, 2006

Foreign producer/exporter	Production		Exports to the United States	
	Quantity (1,000 lbs.)	Share (Percent)	Quantity (1,000 lbs.)	Share (Percent)
Cixi Sansheng Chemical Fiber Co., Ltd. ("Cixi Sansheng")	***	***	***	***
Cixi Santai Chemical Fiber Co., Ltd. ("Cixi Santai")	***	***	***	***
Cixi Waysun Chemical Fiber Co., Ltd. ("Cixi Waysun")	***	***	***	***
Hangzhou Huachuang Co., Ltd. ("Hangzhou Huachuang")	***	***	***	***
Nanyang Textile Co., Ltd. ("Nanyang Textile")	***	***	***	***
Ningbo Dafa Chemical Fiber Co., Ltd. ("Ningbo Dafa")	***	***	***	***
Zhejiang Anshun Pettechs Fibre Co., Ltd ("Zhejiang Anshun")	***	***	***	***
Zhejiang Waysun Chemical Fiber Co., Ltd. ("Zhejiang Waysun")	***	***	***	***
Subtotal	***	***	***	***
Cixi Jiangnan Chemical Fiber Co., Ltd. ("Cixi Jiangnan")	***	***	***	***
Total	***	100.0	***	100.0
Note 1.—***.				
Note 2.—***.				
Source: Compiled from data submitted in response to Commission questionnaires.				

Table VII-2
Certain PSF: China's (subject) capacity, production, inventories, and shipments, 2004-06, and projections for 2007 and 2008

* * * * *

Total exports accounted for *** percent of responding Chinese producers' total shipments in 2006, compared to *** percent in 2004. These producers' home-market shipments, which accounted for the greatest share of responding producers' total shipments, are projected to increase by *** percent from 2006-07 and *** percent from 2007-08. After home-market shipments, exports to the United States accounted for the second greatest share of responding producers' total shipments, but are projected to decrease by *** percentage points to *** percent of shipments from 2006-07, and decline another *** percentage point to *** percent of shipments from 2007-08. Counsel for respondents asserted that although there has been a recent expansion of Chinese PSF imports into the United States, "Chinese imports have generally replaced imports from Korea and Taiwan and have not materially injured the domestic industry."¹⁷ Table VII-3 presents data obtained from Global Trade Atlas for exports and average unit values of PSF from China.

¹⁷ Chinese respondents' postconference brief, p. 13.

Table VII-3
Certain PSF: China's exports and average unit values, 2004-06

Destination	Calendar year		
	2004	2005	2006
Quantity (1,000 pounds)			
United States	77,399	206,810	251,166
Top export markets:			
Turkey	26,330	48,957	60,871
Malaysia	3,474	23,967	38,341
Vietnam	2,483	2,095	22,931
Hong Kong	3,871	13,812	17,729
Taiwan	6,149	15,328	18,610
Russia	8,279	18,143	16,157
World	308,762	449,142	616,684
Unit value (per pound)			
United States	\$0.41	\$0.46	\$0.46
Top export markets:			
Turkey	0.43	0.52	0.51
Malaysia	0.41	0.55	0.54
Vietnam	0.44	0.52	0.54
Hong Kong	0.47	0.51	0.55
Taiwan	0.50	0.50	0.5
Russia	0.48	0.51	0.54
World average	0.45	0.48	0.49
Share of total (percent)			
United States	25.1	46	40.7
Top export markets:			
Turkey	8.5	10.9	9.9
Malaysia	1.1	5.3	6.2
Vietnam	0.8	0.5	3.7
Hong Kong	1.3	3.1	2.9
Taiwan	2	3.4	3
Russia	2.7	4	2.6
Total top markets	41.5	73.2	69
<p>Note.—Export and import figures are quantities reported at the 6-digit level for HTS subheading 5503.20, which includes nonsubject products and foreign producers.</p> <p>Source: Compiled from the Global Trade Atlas database.</p>			

The Commission asked producers in China whether they or any related firms have the capability to produce, or plans to produce certain PSF in the United States or other countries; all producers responded “no.”¹⁸ In addition, all but one of the foreign producers stated that they had no plans to add, expand, curtail, or shut down capacity and/or production¹⁹. *** reported that its new PSF plant with a capacity of 120,000 tons, located in ***, has been built and has had a test run.²⁰ Furthermore, *** foreign producers stated that their production capacities are restricted by machine capacity²¹, while one company, ***, also cited insufficient electric power as a constraint²². *** cited lack of access to capital and market demand as potential limitations.²³ In response to the Commission’s question asking foreign producers to report any imports or plans to import certain polyester staple fiber into the United States, all responded “No.”²⁴ Additionally, no foreign producers reported any inventories of certain PSF in the United States since 2004.²⁵

The Commission requested that foreign producers provide details on the composition of their shipments of certain PSF to the United States. The data collected on exports of subject PSF to the United States by product type are presented in table VII-4.²⁶ Chinese producers primarily reported exports of non-conjugated regenerated polyester staple fiber to the United States during the period of investigation. Exports of non-conjugated regenerated polyester staple fiber rose by *** percent over the 2004-06 period. No foreign producers reported exports of virgin or other PSF during the period of investigation.

**Table VII-4
Certain PSF: China’s (subject) export shipments to the United States, by product, 2004-06**

* * * * *

The Commission asked foreign producers for the percentage of their certain PSF sales in 2006 that was conducted over the internet, as well as the ratio of certain PSF sales to total sales. Foreign producers’ responses are presented in table VII-5. Petitioner DAK asserted, in describing foreign producers’ sales techniques, that the “worldwide web certainly is providing a lot of access at publicly listed very low pricing and capacity” of foreign producers.²⁷

**Table VII-5
Certain PSF: Chinese manufacturers/exporters’ shares of total sales, 2006**

* * * * *

¹⁸ Foreign producers’ questionnaire response, section I-4.

¹⁹ Foreign producers’ questionnaire response, section II-1.

²⁰ ***’s foreign producers’ questionnaire response, section II-1.

²¹ ***.

²² ***’s foreign producers’ questionnaire responses, section II-5.

²³ ***’s foreign producers’ questionnaire response, section II-5.

²⁴ Foreign producers’ questionnaire response, section I-5.

²⁵ Foreign producers’ questionnaire response, section II-6.

²⁶ Three foreign producers, *** responded.

²⁷ Conference transcript, p. 72 (Lane).

U.S. IMPORTERS' INVENTORIES

Table VII-6 presents U.S. importers' inventories of imports of certain PSF, as reported by firms responding to the Commission's importers' questionnaire. Inventories of subject imports from China increased by *** percent from 2004 to 2006. Relative to import quantity, inventories of certain PSF from China were *** percent in 2006, decreasing by *** percentage points since 2004. The ratio of subject imports from China to U.S. shipments of imports was highest in 2005 at *** percent, an increase of *** percentage points from 2004; however, it declined *** percentage points from 2005 to 2006.²⁸

Table VII-6
Certain PSF: U.S. importers' end-of-period inventories of imports, 2004-06

* * * * *

PRODUCT SHIFTING AND DUMPING IN THIRD-COUNTRY MARKETS

The Commission asked producers in China to report production of other products using the same production and related workers employed to produce certain PSF. Of the seven Chinese firms that responded to the Commission's questionnaire, three firms, ***, reported that they produce other products using the same production and related workers employed to produce certain PSF.²⁹

The Commission asked these responding foreign producers to report capacity for certain PSF and all other products as well as production of subject and nonsubject products. The reported data are presented in table VII-7. From 2004 to 2006, the production of subject products increased by *** percent, while the production of nonsubject products increased by *** percent over the same period.

Table VII-7
Certain PSF: Chinese (subject) producers' capacity, production, and capacity utilization for certain PSF and alternative products, by products, 2004-06

* * * * *

Currently, certain PSF from China is subject to antidumping duty orders in other WTO-member countries. On March 10, 2005, the European Union ("EU") imposed definitive antidumping duties on imports of "synthetic staple fibres of polyesters, not carded, combed or otherwise processed for spinning," from China.³⁰ Duties from China were established at rates ranging from 4.9 to 49.7 percent.³¹ Furthermore, petitioners cited Global Trade Atlas data and industry analysis reporting a decline in exports of PSF from China to the EU and Chinese efforts to consequently increase exports to the United States and other markets.³²

²⁸ This decline was largely due to large decreases in ending inventories by three importers, ***.

²⁹ ***, ***, and ***'s foreign producers' questionnaire responses, section II-3. ***.

³⁰ The EU antidumping duty order concerns products classifiable within HTS subheading 5503.20.00. Official Journal of the European Union, Council Regulation (EC) No. 428/2005 of 10 March 2005, as presented in petitioners' postconference brief, exh. 14.

³¹ Specific duty rates were set for four companies: Cixi Jiangnan Chemical Fiber Co. Ltd. (26.3 percent); Deqing An Shun Pettechs Fibre Industry Co. Ltd. (18.6 percent); Far Eastern Industries (Shanghai) Ltd. (4.9 percent); and Hangzhou An Shun Pettechs Fibre Industry Co. Ltd. (18.6 percent). All other companies are subject to a 49.7 percent rate of duty. *Ibid.*, p. 32.

³² Petitioners' posthearing brief, exhs. 8 and 9.

U.S. IMPORTS AFTER DECEMBER 31, 2006

The Commission asked U.S. importers to report their imports of certain PSF from China that were imported or arranged for importation after December 31, 2006. Of the 15 firms that provided data in response to the Commission's questionnaire, six reported imports after December 31, 2006. The aggregated quantity of these 15 importers' reported imports are presented in the following tabulation:

Period	Quantity (1,000 pounds)
2007: January-March	***
April-June	***
July-September	***
October-December (or beyond)	***
Total	10,900

INFORMATION ON NONSUBJECT SOURCES

“Bratsk” Considerations

As a result of the Court of Appeals for the Federal Circuit (“CAFC”) decision in *Bratsk Aluminum Smelter v. United States* (“Bratsk”), the Commission is directed to:^{33 34}

undertake an “additional causation inquiry” whenever certain triggering factors are met: “whenever the antidumping investigation is centered on a commodity product, and price competitive non-subject imports are a significant factor in the market.” The additional inquiry required by the Court, which we refer to as the Bratsk replacement/benefit test, is “whether non-subject imports would have replaced the subject imports without any beneficial effect on domestic producers.

In its preliminary determination in this investigation, the Commission noted that “(w)e intend to further explore the role of nonsubject imports in the U.S. market in any final phase of this investigation,” and invited parties to comment on the applicability of the Bratsk decision to the facts of this investigation.³⁵ Petitioners disagree with the CAFC’s holding and “its imposition of an extra-statutory

³³ *Silicon Metal from Russia, Inv. No. 731-TA-991 (Second Remand)*, USITC Publication 3910, March 2007, p. 2; citing *Bratsk Aluminum Smelter v. United States*, 444 F.3d at 1375.

³⁴ In the silicon metal remand, Chairman Pearson noted “consistent with his views in *Lined Paper School Supplies From China, India, and Indonesia, Inv. Nos. 701-TA-442-443 and 731-TA-1095-1097 (Final)*, USITC Pub. 3884 (Sept. 2006) at 51, that while he agrees with the Commission that the Federal Circuit’s opinion suggests a replacement/benefit test, he also finds that the Federal Circuit’s opinion could be read, not as requiring a new test, but rather as a reminder that the Commission, before it makes an affirmative determination, must satisfy itself that it has not attributed material injury to factors other than subject imports.” *Silicon Metal from Russia, Inv. No. 731-TA-991 (Second Remand)*, USITC Publication 3910, March 2007, p. 2, fn. 17. Commissioner Okun joined in those separate and dissenting views in *Lined Paper*.

³⁵ *Certain Polyester Staple Fiber from China, Inv. No. 731-TA-1104 (Preliminary)*, USITC Publication 3878, August 2006, p. 10 and fn. 50.

requirement.”³⁶ If the Commission were to consider Bratsk, counsel argue that Bratsk is not applicable in this investigation because (1) “although PSF produced by different sources is substitutable and competitive to a large degree, all PSF is not completely interchangeable with all other PSF from all sources,”³⁷ and arguments of the respondents do not support the conclusion that PSF is a commodity product;³⁸ and (2) the second triggering factor is also not met as “no other import source, including Korea, has prices that have been as low as China across the board on different types of PSF.”³⁹ Petitioners argue that even if the Commission were to find that the Bratsk test is met, nonsubject imports could not replace imports of certain PSF from China because (1) capacity in China, at extremely low prices, substantially exceeds that of nonsubject sources, and (2) the principal nonsubject imports in the PSF market, Korea and Taiwan, are both subject to pre-existing, outstanding antidumping duty orders that provide a check on these import sales.⁴⁰ During the preliminary phase of this investigation, Chinese respondents argued that the CAFC’s preconditions are met in this investigation in that: “(1) PSF is a commodity product; (2) non-subject imports from Korea and Taiwan are price competitive and have retained a strong presence in the market despite the antidumping orders; and (3) Korean and Taiwanese imports are subject to outstanding Antidumping Duty Orders, and, therefore, as a matter of law, are ‘fairly traded.’”⁴¹ Chinese respondents contended that imports of certain PSF from Korea and Taiwan decreased as subject imports from China increased, indicating that imports from Korea and Taiwan would replace Chinese imports if an antidumping duty order were imposed.⁴²

During the final phase of this investigation, only respondent Ashley Furniture provided comments on the relevance of Bratsk, indicating that there was ample evidence at the hearing that imports from nonsubject sources can take the place of imports from China.^{43 44}

Methodology for Selecting Nonsubject Countries and Firms

During the final phase of this investigation, the Commission sought industry data from seven nonsubject sources: Germany, India, Indonesia, Korea, Mexico, Taiwan, and Thailand. Cables were sent to the U.S. embassies in the seven countries, and foreign producer questionnaires were sent to 25 foreign

³⁶ Petitioners’ comments on draft questionnaires, December 21, 2006, p. 4; *see also*, conference transcript, p. 29 (Cannon). They argue that “(g)iven that a literal reading and application of the Court’s statement would result in a test that is inconsistent with law, we believe that the better interpretation of Bratsk is simply along the lines of the Gerald Metals holding;” i.e., a “non-attribution test.” Hearing transcript, p. 53 (Cannon) and petitioners’ prehearing brief, p. 28.

³⁷ Hearing transcript, p. 54 (Cannon) and petitioners’ prehearing brief, pp. 31-34.

³⁸ Petitioners’ posthearing brief, p. 13.

³⁹ *Ibid.*

⁴⁰ Petitioners’ prehearing brief, pp. 35-37; hearing transcript, p. 54 (Cannon); and petitioners’ posthearing brief, pp. 13 and 37-43. In addition, petitioners argue that as a nonsubject (*de minimis*) source of certain PSF from China Cixi Jiangnan ***. Petitioners’ comments on Commerce’s final determination, April 16, 2007, p. 4.

⁴¹ Chinese respondents’ postconference brief, p. 11.

⁴² *Ibid.*

⁴³ Ashley’s posthearing brief, p. 8.

⁴⁴ In its preliminary determination, the Commission invited parties to comment on what additional information the Commission should collect to address the issues raised by the Court and how that information should be collected, and to identify which of the various nonsubject sources should be the focus of additional information gathering by the Commission in any final phase investigation. *Certain Polyester Staple Fiber from China, Inv. No. 731-TA-1104 (Preliminary)*, USITC Publication 3878, August 2006, p. 10, fn. 50. In commenting on the draft questionnaires, no respondent party provided a response to the Commission’s query on data collection.

producers in those countries. The seven sources accounted for more than 90 percent of nonsubject U.S. imports during 2005 based on official U.S. import statistics. The 25 firms were selected from a universe of 93 producer/exporters of PSF in the seven nonsubject countries, and represent the vast majority of U.S. imports from nonsubject sources during 2005. In addition, data from the Commission's 2006 five-year reviews of the antidumping duty orders on imports from Korea and Taiwan were utilized to complete this record (limited to the periods 2004, January-September 2004, and January-September 2005). The information gathered during this final phase of the investigation regarding certain PSF industries in nonsubject countries is presented below.

Nonsubject Source Information

The data presented below are derived from Global Trade Atlas, which is based on best available data at the 6-digit HTS level, and includes nonsubject products. In comparing official U.S. import statistics of subject products (using 10 digit HTS level) to GTS export data, the ratios of subject U.S. imports to exports to the United States (including nonsubject PSF) for 2006 are presented in the tabulation below.

Country	Ratio (percent)
China	94.6
India ¹	72.3
Indonesia ¹	130.5
Korea	59.4
Mexico	33.8
Taiwan	38.8
Thailand	73.0
¹ Based on 2005 GTS export data (the latest full-year data available). Note: Germany does not report export statistics to GTS. Source: Compiled from the Global Trade Atlas database and official Commerce statistics.	

China (nonsubject)

Chinese producer, Cixi Jiangnan was found by Commerce to have *de minimis* dumping margins. Exports of certain PSF by Cixi Jiangnan accounted for *** percent of total imports of certain PSF from China in 2006. Cixi Jiangnan reported exporting *** PSF to the United States. It also reported that it ***. This accounted for *** percent of its total production in 2006. Capacity, production, inventories, and shipment data submitted by Cixi Jiangnan are presented in table VII-8.

Table VII-8
Certain PSF: China's (nonsubject) capacity, production, inventories, and shipments, 2004-06, and projections for 2007 and 2008

* * * * *

Germany

In 2005, U.S. imports of certain PSF from Germany were 4.1 million pounds, representing 0.7 percent of all certain PSF imports into the United States.⁴⁵ One company represented over 95 percent of these imports into the United States in 2005.⁴⁶ The Commission sent a telegram soliciting information concerning the PSF industry in Germany from the U.S. embassy in Berlin. No response was received.

India

In 2005 Indian companies exported 29.2 million pounds of PSF to the United States, representing 5.9 percent of all imports into the United States in 2005. Two companies represented almost 93 percent of these imports into the United States in 2005.⁴⁷ The Commission sent a telegram soliciting information concerning the PSF industry in India from the U.S. embassy in Delhi. No response was received.

Table VII-9 presents data on Indian exports and imports. Table VII-10 presents data obtained from Global Trade Atlas for exports and average unit values of PSF from India.

Table VII-9
Certain PSF: India's exports and imports, 2004-05, January-September 2005, and January-September 2006

Item	Calendar year		January-September	
	2004	2005	2005	2006
Quantity (1,000 pounds)				
Exports	48,947	138,357	109,653	129,161
Imports	22,041	22,185	17,570	19,096
Net exports	26,906	116,170	92,083	110,065
Note.—Export and import figures are quantities reported at the 6-digit level for HTS subheading 5503.20.				
Source: Compiled from the Global Trade Atlas database.				

⁴⁵ Germany does not report export statistics to Global Trade Atlas, but reported imports of 358.7 million pounds in 2004 and 372.0 million pounds in 2005.

⁴⁶ This company was ***.

⁴⁷ These companies were ***.

Table VII-10
Certain PSF: India's exports and average unit values, 2004-05, January-September 2005, and
January-September 2006

Destination	Calendar year		January-September	
	2004	2005	2005	2006
Quantity (1,000 pounds)				
United States	14,180	29,187	15,914	19,541
Top export markets:				
Indonesia	5,281	27,351	23,530	18,177
Syria	8,195	11,288	8,796	23,098
China	1,423	10,675	10,112	5,585
Egypt	2,051	10,367	8,359	11,368
Bangladesh	826	8,959	8,394	9,096
Philippines	308	5,533	5,533	3,228
Morocco	1,119	4,476	4,057	6,383
Total	48,947	138,357	109,653	129,161
Unit value (per pound)				
United States	\$0.48	\$0.52	\$0.52	\$0.53
Top export markets:				
Indonesia	0.57	0.53	0.53	0.54
Syria	0.57	0.54	0.54	0.52
China	0.34	0.48	0.49	0.47
Egypt	0.41	0.51	0.52	0.52
Bangladesh	0.60	0.53	0.53	0.55
Philippines	0.52	0.52	0.52	0.58
Morocco	0.52	0.52	0.52	0.54
Total	0.51	0.52	0.52	0.53
Share of total (percent)				
United States	29.0	21.1	14.5	15.1
Top export markets:				
Indonesia	10.8	19.8	21.5	14.1
Syria	16.7	8.2	8.0	17.9
China	2.9	7.7	9.2	4.3
Egypt	4.2	7.5	7.6	8.8
Bangladesh	1.7	6.5	7.7	7.0
Philippines	0.6	4.0	5.0	2.5
Morocco	2.3	3.2	3.7	4.9
Total	68.2	77.9	77.2	74.7
Note.—Export figures are quantities reported at the 6-digit level for HTS subheading 5503.20, which includes nonsubject products.				
Source: Compiled from the Global Trade Atlas database.				

Indonesia

In 2005, Indonesian companies exported 19.0 million pounds of PSF to the United States, representing 7 percent of all imports into the United States in 2005. Five companies represented over 85 percent of these imports into the United States in 2005.⁴⁸ According to the Indonesia Ministry of Trade (“MOT”), two of these companies, ***, have apparently ceased operations or are no longer producing PSF. The Indonesian Synthetic Fiber Production Association (“ISFPA”) reported that Indonesia has a total PSF production capacity of 1.102 billion pounds.⁴⁹

Table VII-11 presents data on Indonesian exports and imports. Table VII-12 presents data obtained from Global Trade Atlas for exports and average unit values of PSF from Indonesia.

Table VII-11
Certain PSF: Indonesia’s exports and imports, 2004-05

Item	2004	2005
Quantity (1,000 pounds)		
Exports	90,212	130,896
Imports	156,883	91,833
Net exports	(66,671)	39,063
Note.—Export and import figures are quantities reported at the 6-digit level for HTS subheading 5503.20. Data for 2006 are not available.		
Source: Compiled from the Global Trade Atlas database.		

⁴⁸ These companies were: ***

⁴⁹ U.S. Department of State, U.S. Embassy, Jakarta, unclassified, February 2007.

Table VII-12
Certain PSF: Indonesia's exports and average unit values, 2004-05

Destination	Calendar year	
	2004	2005
Quantity (1,000 pounds)		
United States	8,718	19,025
Top export markets:		
Pakistan	427	17,344
Turkey	12,818	12,287
Iran	7,407	11,108
Thailand	9,093	10,986
India	3,012	7,167
Egypt	7,493	6,489
Japan	3,282	5,738
World total	90,213	130,898
Unit value (per pound)		
United States	\$0.46	\$0.51
Top export markets:		
Pakistan	0.46	0.51
Turkey	0.55	0.57
Iran	0.48	0.54
Thailand	0.47	0.54
India	0.49	0.51
Egypt	0.44	0.51
Japan	0.54	0.55
World average	0.49	0.52
Share of total (percent)		
United States	9.7	14.5
Top export markets:		
Pakistan	0.5	13.3
Turkey	14.2	9.4
Iran	8.2	8.5
Thailand	10.1	8.4
India	3.3	5.5
Egypt	8.3	5.0
Japan	3.6	4.4
Total	57.9	68.9
<p>Note.—Export figures are quantities reported at the 6-digit level for HTS subheading 5503.20, which includes nonsubject products.</p> <p>Source: Compiled from the Global Trade Atlas database.</p>		

Korea

In 2005 Korean companies exported 184.8 million pounds to the United States, representing 52.1 percent of all imports into the United States in 2005.⁵⁰ Nine companies represented over 93 percent of these imports into the United States in 2005.⁵¹ The Korea Chemical Fibers Association (“KCFA”) reported that total exports from Korea was 1.327 billion pounds in 2004 and 1.115 billion pounds for January through November 2006. KCFA also reported the industry in Korea operated in 2006 at approximately 90 percent of capacity. Furthermore, KCFA stated that it did not expect exports to the United States and its other major markets, production, capacity, or capacity utilization to change in 2007 or 2008.⁵²

In the Commission’s five-year reviews of the antidumping duty orders on imports of certain PSF from Korea and Taiwan, two Korean producers, Huvis Corp. and Seahan Industries, Inc (“Seahan”), provided complete questionnaire responses. The data on these two companies’ PSF capacity, production, inventories, and shipments are presented in table VII-13. These firms were also reported by KCFA during this final phase of the investigation as the two primary producers of PSF in Korea.⁵³

Table VII-13

Certain PSF: Korea’s capacity, production, inventories, and shipments, 2004, January-September 2004, and January-September 2005

* * * * *

Table VII-14 presents data obtained from Global Trade Atlas for exports and average unit values of PSF from Korea. Table VII-15 presents data on Korean exports and imports.

⁵⁰ Petitioners assert that, to some extent, there has been a shift in production operations and exports by certain producers in Korea to China. They point to the reported construction of a plant in China by SichuanHuvis Poylester Co, a joint venture 95% owned by Huvis. Petitioners’ postconference brief, exh. 8.

⁵¹ These companies were: ***.

⁵² U.S. Department of State, U.S. Embassy, Seoul, unclassified, February 2007.

⁵³ Ibid.

Table VII-14
Certain PSF: Korea's exports and average unit values, 2004-06

Destination	Calendar year		
	2004	2005	2006
Quantity (1,000 pounds)			
United States	300,986	294,100	286,005
Top export markets:			
China	301,973	230,238	214,989
Germany	75,302	55,426	66,535
Russia	49,133	65,615	61,788
Iran	47,498	32,680	57,731
United Kingdom	51,868	46,380	51,854
Spain	41,084	33,933	36,686
Belgium	38,336	33,717	33,768
Canada	34,041	31,792	33,024
World	1,329,782	1,217,100	1,230,854
Unit value (per pound)			
United States	\$0.47	\$0.54	\$0.55
Top export markets:			
China	0.48	0.53	0.56
Germany	0.53	0.56	0.57
Russia	0.52	0.57	0.58
Iran	0.50	0.55	0.61
United Kingdom	0.50	0.54	0.52
Spain	0.55	0.59	0.57
Belgium	0.49	0.54	0.55
Canada	0.46	0.52	0.52
World average	0.49	0.55	0.57
Share of total (percent)			
United States	22.6	24.2	23.2
Top export markets:			
China	22.7	18.9	17.5
Germany	5.7	4.6	5.4
Russia	3.7	5.4	5.0
Iran	3.6	2.7	4.7
United Kingdom	3.9	3.8	4.2
Spain	3.1	2.8	3.0
Belgium	2.9	2.8	2.7
Canada	2.6	2.6	2.7
Total	70.7	67.7	68.4
<p>Note.—Export and import figures are quantities reported at the 6-digit level for HTS subheading 5503.20, which includes nonsubject products.</p> <p>Source: Compiled from the Global Trade Atlas database.</p>			

Table VII-15
Certain PSF: Korea's exports and imports, 2004-06

Item	2004	2005	2006
Quantity (1,000 pounds)			
Exports	1,329,782	1,217,100	1,230,854
Imports	5,123	6,112	7,421
Net exports	1,324,659	1,210,988	1,223,433
Note.—Export and import figures are quantities reported at the 6-digit level for HTS subheading 5503.20.			
Source: Compiled from the Global Trade Atlas database.			

Mexico

In 2005, U.S. imports of certain PSF from Mexico were 4.4 million pounds to the United States, representing 0.7 percent of all imports into the United States. One company, Polykron S.A. de C.V., represented almost *** percent of these imports into the United States in 2005. Polykron was a subsidiary of Alpek S.A. de C.V. which is also the parent company of DAK. In July 2005 Polykron closed its manufacturing facilities in Mexico, which had an annual capacity of 55,000 tons.⁵⁴ The Commission sent a telegram soliciting data concerning the PSF industry in Mexico from the U.S. embassy in Mexico City. No response was received. Table VII-16 presents data on Mexican exports and imports. Table VII-17 presents data obtained from Global Trade Atlas for exports and average unit values of PSF from Mexico.

Table VII-16
Certain PSF: Mexico's exports and imports, 2004-06

Item	2004	2005	2006
Quantity (1,000 pounds)			
Exports	73,997	51,614	3,359
Imports	158,174	182,943	228,676
Net exports	(84,176)	(131,329)	(225,317)
Note.—Export and import figures are quantities reported at the 6-digit level for HTS subheading 5503.20.			
Source: Compiled from the Global Trade Atlas database.			

⁵⁴ “Alpek to close polyester fiber facility in Monterrey”, found at <http://www.alfa.com.mx/ingles/sala/com-2005.htm#>, retrieved on February 7, 2007.

Table VII-17
Certain PSF: Mexico's exports and average unit values, 2004-06

Destination	Calendar year		
	2004	2005	2006
Quantity (1,000 pounds)			
United States	46,428	27,585	716
Top export markets:			
El Salvador	3,941	2,873	2,328
Colombia	145	3,759	240
Italy	98	3,491	48
Uruguay	332	268	24
Germany	156	513	3
Canada	6,426	1,029	0.02
World	73,997	51,614	3,359
Unit value (per pound)			
United States	\$0.63	\$0.75	\$0.63
Top export markets:			
El Salvador	0.60	0.67	0.75
Colombia	0.68	0.68	0.74
Italy	0.44	0.60	0.55
Uruguay	0.58	0.65	0.74
Germany	0.45	0.62	0.75
Canada	0.54	0.70	2.44
World average	0.60	0.70	0.72
Share of total (percent)			
United States	62.7	53.4	21.3
Top export markets:			
El Salvador	5.3	5.6	69.3
Colombia	0.2	7.3	7.1
Italy	0.1	6.8	1.4
Uruguay	0.4	0.5	0.7
Germany	0.2	1.0	0.1
Canada	8.7	2.0	0.001
Total	77.7	76.6	100.0
<p>Note.—Export figures are quantities reported at the 6-digit level for HTS subheading 5503.20, which includes nonsubject products.</p> <p>Source: Compiled from the Global Trade Atlas database.</p>			

Taiwan

According to the American Institute in Taiwan in Taipei, Taiwan's production of PSF peaked in 1997 at 2.205 billion pounds, and is currently estimated at about 1.4 billion pounds in 2006. Capacity fell from 2 billion pounds in 2004 to 1.89 billion pounds in 2006, with capacity utilization falling from 96 percent to 75 percent over the same period. The Taiwan Man-made Fiber Industries Association ("TMMFA") predicts that production, capacity and supply volume will continue to decline in 2007 and 2008. Taiwan PSF manufacturers, in response to increasing labor and land costs and a shrinking domestic spinning industry, have invested in production operations in other Asian countries. Domestic market share of shipments dropped from 37 percent in 2001 to 27 percent in 2005.⁵⁵ In 2005, Taiwan companies exported 54.1 million pounds to the United States, representing 15.3 percent of all imports into the United States in 2005.⁵⁶ Five companies represented over 96 percent of these imports into the United States in 2005.⁵⁷ A sixth manufacturer, ***, closed its factories in Taiwan in late 2006. TMMFA reported that another manufacturer will also close its domestic PSF production line in 2007.⁵⁸

In the Commission's five-year reviews of the antidumping duty orders on imports of certain PSF from Korea and Taiwan, two Taiwan producers, Nan Ya Plastics Corp. ("Nan Ya Taiwan") and Shinkong Synthetic Fiber Corp. ("Shinkong"), provided complete questionnaire responses. The data on these two companies' PSF capacity, production, inventories, and shipments are presented in table VII-18.

Table VII-18

Certain PSF: Taiwan's capacity, production, inventories, and shipments, 2004, January-September 2004, and January-September 2005

* * * * *

Table VII-19 presents data obtained from Global Trade Atlas for exports and average unit values of PSF from Taiwan. Table VII-20 presents data on Taiwan exports and imports.

⁵⁵ U.S. Department of State, U.S. Embassy, Taipei, unclassified, February 2007.

⁵⁶ Petitioners assert that, to some extent, there has been a shift in production operations and exports by certain producers in Taiwan to China. They point to the opening of a plant in China by Far Eastern Textile Shanghai, a subsidiary of Far Eastern Textile. The plant is reported to be used to supply feed stock to Far Eastern Textile Shanghai's PSF plant in Shanghai, with a reported PSF production capacity of 50,000 tons per year. Petitioners' postconference brief, exh. 8.

⁵⁷ These companies were: ***.

⁵⁸ U.S. Department of State, U.S. Embassy, Taipei, unclassified, February 2007.

Table VII-19
Certain PSF: Taiwan's exports and average unit values, 2004-06

Destination	Calendar year		
	2004	2005	2006
Quantity (1,000 pounds)			
United States	95,516	93,393	96,642
Top export markets:			
Vietnam	214,699	216,732	157,861
China	245,553	175,322	113,075
Italy	29,035	51,044	68,852
United Kingdom	37,130	52,883	61,428
Hong Kong	273,077	121,921	56,857
Germany	32,686	36,761	51,484
Israel	24,689	31,946	36,557
World	1,424,355	1,227,840	1,075,074
Unit value (per pound)			
United States	\$0.52	\$0.59	\$0.62
Top export markets:			
Vietnam	0.51	0.53	0.55
China	0.49	0.54	0.57
Hong Kong	0.52	0.57	0.58
United Kingdom	0.54	0.58	0.58
Italy	0.48	0.53	0.54
Germany	0.56	0.59	0.60
Indonesia	0.52	0.58	0.59
World average	0.50	0.56	0.58
Share of total (percent)			
United States	6.7	7.6	9.0
Top export markets:			
Vietnam	15.1	17.7	14.7
China	17.2	14.3	10.5
Hong Kong	2.0	4.2	6.4
United Kingdom	2.6	4.3	5.7
Italy	19.2	9.9	5.3
Germany	2.3	3.0	4.8
Indonesia	1.7	2.6	3.4
Total	66.9	63.5	59.8
Note.—Export figures are quantities reported at the 6-digit level for HTS subheading 5503.20, which includes nonsubject products.			
Source: Compiled from the Global Trade Atlas database.			

Table VII-20
Certain PSF: Taiwan's exports and imports, 2004-06

Item	2004	2005	2006
Quantity (1,000 pounds)			
Exports	1,424,355	1,227,840	1,075,074
Imports	15,530	14,407	7,750
Net exports	1,408,825	1,213,432	1,067,323
Note.—Export and import figures are quantities reported at the 6-digit level for HTS subheading 5503.20.			
Source: Compiled from the Global Trade Atlas database.			

Thailand

Production capacity of PSF in Thailand fell from 1,086 million pounds in 2004 to 1,035 million pounds in 2005 and to 839 million pounds in the interim period of January to September, 2006. Production of certain PSF followed a similar trend, decreasing from 1,003 million pounds to 978 million pounds between 2004 and 2005, and to 648 million pounds in the interim period of January to September, 2006.⁵⁹ In 2005 Thai companies exported 48.0 million pounds of PSF to the United States, representing 12.3 percent of all imports into the United States in 2005. Two companies represented over 98 percent of these imports into the United States in 2005.⁶⁰ According to the Thai Synthetic Fiber Manufacturers Association (“TSMA”), one of the companies, ***, ceased production in September 2006 due to financial difficulties caused by the low world price due to low-cost Chinese producers. TSMA reported that there were four other major producers of PSF in Thailand, but that none of these firms exported to the United States.⁶¹

*** is the *** producer of PSF in Thailand, with a PSF production capacity of *** million pounds and an average capacity utilization of *** percent. In 2006, the company produced *** million pounds, of which *** million pounds were exported, with *** percent of that quantity exported to the United States. *** reported that it had no plans to expand or contract production in the next two years. It noted that increased competition from China has reduced prices and profit margins. Furthermore, *** stated that while it did not expect duties on Chinese exports of PSF to the United States to increase the company’s exports, it did expect any duties to result in higher prices offered to buyers.

Table VII-21 presents data on Thai exports and imports. Table VII-22 presents data obtained from Global Trade Atlas for exports and average unit values of PSF from Thailand.

⁵⁹ U.S. Department of State, U.S. Embassy, Bangkok, unclassified, February 2007.

⁶⁰ The companies were: ***.

⁶¹ U.S. Department of State, U.S. Embassy, Bangkok, unclassified, February 2007.

Table VII-21
Certain PSF: Thailand's exports and imports, 2004-06

Item	2004	2005	2006
Quantity (1,000 pounds)			
Exports	571,365	516,279	390,659
Imports	65,602	74,879	80,099
Net exports	505,764	441,400	310,560
<p>Note.—Export and import figures are quantities reported at the 6-digit level for HTS subheading 5503.20.</p>			
<p>Source: Compiled from the Global Trade Atlas database.</p>			

Table VII-22
Certain PSF: Thailand's exports and average unit values, 2004-06

Destination	Calendar year		
	2004	2005	2006
Quantity (1,000 pounds)			
United States	53,344	47,992	45,447
Top export markets:			
Vietnam	45,527	65,234	69,847
China	108,061	96,906	45,427
Pakistan	1,683	46,050	43,609
Syria	28,914	48,041	32,429
Indonesia	79,704	60,763	31,666
Bangladesh	25,658	21,037	19,742
Iran	22,755	13,715	17,165
World	571,365	516,279	390,659
Unit value (per pound)			
United States	\$0.54	\$0.58	\$0.59
Top export markets:			
Vietnam	0.49	0.51	0.55
China	0.50	0.52	0.58
Pakistan	0.53	0.50	0.52
Syria	0.51	0.50	0.52
Indonesia	0.48	0.51	0.53
Bangladesh	0.49	0.51	0.55
Iran	0.49	0.49	0.60
World average	0.49	0.52	0.55
Share of total (percent)			
United States	9.3	9.3	11.6
Top export markets:			
Vietnam	8.0	12.6	17.9
China	18.9	18.8	11.6
Pakistan	0.3	8.9	11.2
Syria	5.1	9.3	8.3
Indonesia	14.0	11.8	8.1
Bangladesh	4.5	4.1	5.1
Iran	4.0	2.7	4.4
Total	64.0	77.4	78.2
Note.—Export figures are quantities reported at the 6-digit level for HTS subheading 5503.20, which includes nonsubject products. Source: Compiled from the Global Trade Atlas database.			

APPENDIX A
***FEDERAL REGISTER* NOTICES**

DEPARTMENT OF COMMERCE**International Trade Administration**

(A-570-905)

Preliminary Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China

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

EFFECTIVE DATE: December 26, 2006.

SUMMARY: We preliminarily determine that certain polyester staple fiber ("PSF") from the People's Republic of China ("PRC") is being, 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 "Preliminary Determination" section of this notice.

FOR FURTHER INFORMATION CONTACT: Michael Holton or Paul Walker, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone: (202) 482-1324 or 482-0413, respectively.

SUPPLEMENTARY INFORMATION:**Initiation**

On June 23, 2006, the Department of Commerce ("Department") received a petition on imports of PSF from the PRC filed in proper form by Dak Americas LLC., Nan Ya Plastics Corporation America, and Wellman, Inc. ("Petitioners") on behalf of the domestic industry and workers producing PSF. This investigation was initiated on July 13, 2006. See *Initiation of Antidumping Duty Investigation: Certain Polyester Staple Fiber from the People's Republic of China*, 71 FR 41201 (July 20, 2006) ("Initiation Notice"). Additionally, in the *Initiation Notice*, the Department notified parties of the application process by which exporters and producers may obtain separate-rate status in non-market economy ("NME") investigations. The new process requires exporters and producers to submit a separate-rate status application. See *Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations Involving Non-Market Economy Countries*, (April 5, 2005), ("Policy Bulletin 05.1") available at <http://ia.ita.doc.gov>. However, the

standard for eligibility for a separate rate (which is whether a firm can demonstrate an absence of both *de jure* and *de facto* governmental control over its export activities) has not changed.

On August 7, 2006, the United States International Trade Commission ("ITC") issued its affirmative preliminary determination that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports from the PRC of PSF. The ITC's determination was published in the **Federal Register** on August 11, 2006. See Investigation No. 731-TA-1104 (Preliminary), *Certain Polyester Staple Fiber from China*, 71 FR 46241 (August 11, 2006).

Scope Comments

The Department also set aside a 20-day period from the publication of the initiation for all interested parties to raise issues regarding product coverage. The Department did not receive any comments from interested parties regarding product coverage during the 20-day period and subsequently, did not change the scope in the *Initiation Notice*.

Quantity and Value

On July 19, 2006, the Department requested quantity and value ("Q&V") information from a total of 106 companies that Petitioners identified as potential producers or exporters of PSF from the PRC. Also, on July 19, 2006, the Department sent a letter requesting Q&V information to the China Bureau of Fair Trade for Imports & Exports ("BOFT") of the Ministry of Commerce ("MOFCOM") requesting that BOFT transmit the letter to all companies who manufacture and export subject merchandise to the United States, or produce the subject merchandise for the companies who were engaged in exporting the subject merchandise to the United States during the POI. For a complete list of all parties from which the Department requested Q&V information, see *Memorandum to James C. Doyle, Director, AD/CVD Operations, Office 9, from Michael Holton, Sr. International Trade Compliance Analyst, AD/CVD Operations, Office 9: Selection of Respondents for the Antidumping Investigation of Polyester Staple Fiber from the People's Republic of China*, dated September 18, 2006, ("Respondent Selection Memorandum"). Between August 8, 2006, and August 21, 2006, the Department received Q&V responses from 19 interested parties. The Department did not receive any type of communication from BOFT regarding its

request for Q&V information. *See Respondent Selection Memorandum at 1.*

On September 18, 2006, the Department selected Cixi Jiangnan Chemical Fiber Co., Ltd. (“Cixi Jiangnan”), Far Eastern Industries (Shanghai) Ltd. (“Far Eastern”) and Ningbo Dafa Chemical Fiber Co., Ltd. (“Ningbo Dafa”) as mandatory respondents in this investigation. *See Respondent Selection Memorandum at 4.*

Surrogate Country

On September 28, 2006, the Department determined that India, Indonesia, Sri Lanka, the Philippines, and Egypt are countries comparable to the PRC in terms of economic development. *See Memorandum from Ron Lorentzen, Director, Office of Policy, to Alex Villanueva, Program Manager, China/NME Group, Office 9: Antidumping Investigation of Certain Polyester Staple Fiber from the People's Republic of China (PRC): Request for a List of Surrogate Countries*, dated September 28, 2006.

On October 5, 2006, the Department requested comments on the surrogate country selection from the interested parties in these reviews. Petitioners submitted surrogate country comments on October 27, 2006. Far Eastern submitted surrogate country comments on November 9, 2006. On November 20, 2006, Petitioners submitted rebuttal surrogate country comments. No other interested parties commented on the selection of a surrogate country. For a detailed discussion of the selection of the surrogate country, *see* “Surrogate Country” section below, and the *Memorandum to the File through James C. Doyle, Director, AD/CVD Operations, Office 9, from Alex Villanueva, Program Manager, AD/CVD Operations, Office 9: Antidumping Duty Investigation of Polyester Staple Fiber from the People's Republic of China: Selection of a Surrogate Country*, dated December 15, 2006 (“*Surrogate Country Memorandum*”).

Separate Rates Applications

Between August 16, 2006, and August 21, 2006, we received separate-rate applications from seventeen companies, including the mandatory respondents: Cixi Jiangnan, Far Eastern and Ningbo Dafa. On September 13, 2006, and September 14, 2006, we received applications from Hangzhou Taifu Textile Fiber Co., Ltd. (“Hangzhou Taifu”) and Zhejiang Anshun Pettechs Fibre Co., Ltd., respectively.

Questionnaires

On September 6, 2006, the Department requested comments from all interested parties on proposed product characteristics and model match criteria to be used in the designation of control numbers (“CONNUMs”) to be assigned to the subject merchandise. The Department received comments from Cixi Jiangnan, Far Eastern, Springs Global US, Inc. (“Springs Global”) and Petitioners. The Department also received rebuttal comments from Ningbo Dafa. On September 20, 2006, the Department issued its sections A, C, D, and E, questionnaire with product characteristics and model match criteria used in the designation of CONNUMs and assigned to the merchandise under consideration. On November 27, 2006, the Department requested supplemental information from Hangzhou Taifu. The Department issued supplemental questionnaires to Cixi Jiangnan, Far Eastern, and Ningbo Dafa between October and November 2006, and received responses between October and December 2006. On December 7 and 8, 2006, Petitioners submitted Comments on Cixi Jiangnan's, Far Eastern's and Ningbo Dafa's December 4, 2006, supplemental questionnaires responses. On December 11, 2006, Cixi Jiangnan, Far Eastern and Ningbo Dafa responded to Petitioners' comments. The Department was unable to fully consider Petitioners' December 7 and 8, 2006, comments and respondents' December 11, 2006, comments because they were filed less than 10 days before the preliminary determination.

Surrogate Value Comments

On November 9, 2006, Petitioners, Far Eastern, Cixi Jiangnan and Ningbo Dafa submitted comments on surrogate information with which to value the factors of production in this proceeding. On November 20, 2006, Petitioners filed rebuttal comments on surrogate information with which to value the factors of production in this proceeding. On December 4, 2006, Ningbo Dafa submitted additional surrogate value comments.

Critical Circumstances

On September 29, 2006, Petitioners alleged that there is a reasonable basis to believe or suspect critical circumstances exist with respect to the antidumping investigation of PSF from the PRC. On October 5, 2006, the Department issued questionnaires requesting data for monthly exports to the United States from January 2003 through September 2006 from Cixi

Jiangnan, Far Eastern and Ningbo Dafa, and received responses on October. For a detailed discussion, please see the “Critical Circumstances” section below.

Postponement of Preliminary Determination

On November 16, 2006, the Department informed Petitioners, Cixi Jiangnan, Far Eastern, and Ningbo Dafa of our intent to postpone the preliminary determination pursuant to section 733(c)(1)(B)(i) of the Act by fifteen days to December 15, 2006. On December 5, 2006, the Department published a postponement of the preliminary antidumping duty determination on PSF from the PRC. *See Notice of Postponement of Preliminary Determination of Antidumping Duty Investigation: Certain Polyester Staple Fiber from the People's Republic of China*, 71 FR 70508 (December 5, 2006).

Period of Investigation

The period of investigation (“POI”) is October 1, 2006, through March 31, 2006. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the petition (June 23, 2006). *See* 19 CFR 351.204(b)(1).

Scope of Investigation

The merchandise subject to this proceeding is synthetic staple fibers, not carded, combed or otherwise processed for spinning, of polyesters measuring 3.3 decitex (3 denier, inclusive) or more in diameter. This merchandise is cut to lengths varying from one inch (25 mm) to five inches (127 mm). The subject merchandise may be coated, usually with a silicon or other finish, or not coated. PSF is generally used as stuffing in sleeping bags, mattresses, ski jackets, comforters, cushions, pillows, and furniture.

The following products are excluded from the scope: (1) PSF of less than 3.3 decitex (less than 3 denier) currently classifiable in the Harmonized Tariff Schedule of the United States (“HTSUS”) at subheading 5503.20.0025 and known to the industry as PSF for spinning and generally used in woven and knit applications to produce textile and apparel products; (2) PSF of 10 to 18 denier that are cut to lengths of 6 to 8 inches and that are generally used in the manufacture of carpeting; and (3) low-melt PSF defined as a bi-component fiber with an outer, non-polyester sheath that melts at a significantly lower temperature than its inner polyester core (classified at HTSUS 5503.20.0015).

Certain PSF is classifiable under the HTSUS subheadings 5503.20.0045 and

5503.20.0065. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under the orders is dispositive.

Non-Market-Economy Country

For purposes of initiation, Petitioners submitted LTFV analyses for the PRC as a non-market economy. See *Initiation Notice*, 71 FR at 41203. The Department considers the PRC to be a NME country. In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. See *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, ("TRBs") From the People's Republic of China: Preliminary Results 2001-2002 Administrative Review and Partial Rescission of Review*, 68 FR 7500 (February 14, 2003), unchanged in *Final Results of 2001-2002 Administrative Review: TRBs from the People's Republic of China*, 68 FR 70488 (December 18, 2003). No party has challenged the designation of the PRC as an NME country in this investigation. Therefore, we have treated the PRC as an NME country for purposes of this preliminary determination.

Surrogate Country

When the Department is investigating imports from an NME, section 773(c)(1) of the Act directs it to base normal value, in most circumstances, on the NME producer's factors of production valued in a surrogate market-economy country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing the factors of production, the Department shall utilize, to the extent possible, the prices or costs of factors of production in one or more market-economy countries that are at a level of economic development comparable to that of the NME country and are significant producers of comparable merchandise. The sources of the surrogate values we have used in this investigation are discussed under the normal value section below.

As detailed in the *Surrogate Country Memorandum*, the Department has preliminarily selected India as the surrogate country on the basis that: (1) it is a significant producer of comparable merchandise; (2) it is at a similar level of economic development pursuant to 733(c)(4) of the Act; and (3) we have reliable data from India that we can use to value the factors of production. Thus, we have calculated normal value using Indian prices when available and appropriate to value Cixi

Jiangnan's, Far Eastern's and Ningbo Dafa's factors of production. See *Memorandum to the File from Paul Walker, through Alex Villanueva, Program Manager, AD/CVD Operations, Office 9, and James C. Doyle, Director, AD/CVD Operations, Office 9: Certain Polyester Staple Fiber from the People's Republic of China: Surrogate Values for the Preliminary Determination*, dated December 15, 2006 ("*Factor Value Memorandum*").

In accordance with 19 CFR 351.301(c)(3)(i), for the final determination in an antidumping investigation, interested parties may submit publicly available information to value the factors of production within 40 days after the date of publication of the preliminary determination.

Affiliations

Based on the evidence on the record in this investigation and based on the evidence presented in Far Eastern's questionnaire responses, we preliminarily find that Far Eastern is affiliated with Far Eastern Polychem Industries ("FEPI"), WuHan Far Eastern Industrial Trading Ltd. ("WHFE"), Alberta & Orient Co., Ltd (Canada) ("A&O"), Yuang Ding Investment Co. Ltd. ("YDIC"), Everest Investment (Holding) Limited ("EIHL"), Everest Textile Co. Ltd. ("Everest Textile"), Far Eastern Industrial (Suzhou) Ltd. ("FEIZ"), Far Eastern Industrial (Wuxi) Ltd. ("FEIW") and Far Eastern Textiles (Taiwan) Ltd.'s ("FETL"), in addition to FETL's other related parties, pursuant to sections 771(33)(E), (F), and (G) of the Act. Additionally, based on the evidence on the record in this investigation and presented in Ningbo Dafa's questionnaire responses, we preliminarily find that Ningbo Dafa is affiliated with Cixi Dafa Chemical Fiber Co., Ltd., Ferry Fly Foreign Trade Co., Ltd. and Worthal Limited Partnership pursuant to sections 771(33)(E), (F), and (G) of the Act. We preliminarily find that it is not necessary to collapse Far Eastern or Ningbo Dafa with its affiliates because there is no record evidence demonstrating that there is significant potential for manipulation of price or production with its affiliates. We note that the Department normally considers three criteria for collapsing: (i) the level of common ownership; (ii) the extent to which managerial employees or board members of one firm sit on the board of directors of an affiliated firm; and (iii) whether operations are intertwined, such as through the sharing of sales information, involvement in production and pricing decisions, the sharing of facilities or employees, or significant transactions between the affiliated

producers. See 19 C.F.R. Sec. 351.401(f)(2).

Separate Rates

In proceedings involving NME countries, the Department has a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty rate. It is the Department's policy to assign all exporters of merchandise subject to investigation in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. Cixi Jiangnan, Far Eastern and Ningbo Dafa, and the Separate-Rate Applicants have provided company-specific information to demonstrate that they operate independently of *de jure* and *de facto* government control, and therefore satisfy the standards for the assignment of a separate rate.

We have considered whether each PRC company that submitted a complete application is eligible for 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. See *Notice of 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). 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, 61758 (November 19, 1997), and *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 (November 17, 1997).

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, the Department analyzes each entity exporting the subject merchandise under a test arising from the *Notice of Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) ("Sparklers"), as further developed in *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) ("*Silicon Carbide*"). In

accordance with the separate-rates criteria, the Department assigns separate rates in NME cases only if respondents can demonstrate the absence of both de jure and de facto governmental control over export activities.

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) other formal measures by the government decentralizing control of companies. See *Sparklers*, 56 FR at 20589.

The evidence provided by Cixi Jiangnan, Far Eastern, Ningbo Dafa and the Separate-Rate Applicants supports a preliminary finding of de jure absence of governmental control based on the following: 1) an absence of restrictive stipulations associated with the individual exporter's business and export licenses; 2) the applicable legislative enactments decentralizing control of the companies; and 3) any other formal measures by the government decentralizing control of companies. See *Memorandum to James C. Doyle, Director, AD/CVD Operations, Office 9, through Alex Villanueva, Program Manager, AD/CVD Operations, Office 9: Antidumping Duty Investigation of Certain Polyester Staple Fiber from the People's Republic of China: Separate Rates Memorandum*, dated December 15, 2006 ("*Separate Rates Memorandum*").

2. Absence of De Facto Control

Typically the Department 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 are subject to the approval of a governmental agency; (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 management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses. See *Silicon Carbide*, 59 FR at 22586-87; see also *Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995). 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.

We determine that, for Cixi Jiangnan, Far Eastern, Ningbo Dafa and the Separate-Rate Applicants, the evidence on the record supports a preliminary finding of *de facto* absence of governmental control based on record statements and supporting documentation showing the following: 1) each exporter sets its own export prices independent of the government and without the approval of a government authority; 2) each exporter retains the proceeds from its sales and makes independent decisions regarding disposition of profits or financing of losses; 3) each exporter has the authority to negotiate and sign contracts and other agreements; and 4) each exporter has autonomy from the government regarding the selection of management.

Therefore, the evidence placed on the record of this investigation by Cixi Jiangnan, Far Eastern, Ningbo Dafa and the Separate-Rate Applicants demonstrate an absence of *de jure* and *de facto* government control with respect to each of the exporter's exports of the merchandise under investigation, in accordance with the criteria identified in *Sparklers* and *Silicon Carbide*. As a result, for the purposes of this preliminary determination, we have granted separate company-specific rates to Cixi Jiangnan, Far Eastern and Ningbo Dafa. Additionally, we have granted the Separate-Rate Applicants a weighted-average margin for the purposes of this preliminary determination. See *Separate Rates Memorandum*.

The PRC-Wide Entity

The Department has data that indicates there were more exporters of PSF from the PRC than those indicated in the response to our request for Q&V information during the POI. See *Respondent Selection Memorandum*. We issued our request for Q&V information to 106 potential Chinese exporters of the subject merchandise, in addition to BOFT and MOFCOM.¹ We received only 19 Q&V responses and 3 Q&V responses that were improperly filed. See *Respondent Selection Memorandum* at 1-2. We did not receive Q&V responses from most of the companies to which we sent our request for Q&V information. See *Id.*

¹ For a list of companies to which the Department sent its request for Q&V information, see *Respondent Selection Memorandum* at 1.

Information on the record of this investigation indicates that there are numerous producers/exporters of PSF in the PRC. Based upon our knowledge of the volume of imports of subject merchandise from the PRC, the companies which responded to the Q&V questionnaire, the Separate-Rate Applicants, Cixi Jiangnan, Far Eastern, and Ningbo Dafa do not account for all imports into the United States. Although all exporters were given an opportunity to provide Q&V information, not all exporters provided a response to the Department's Q&V letter. Further, the Government of the PRC did not respond to the Department's questionnaire. Therefore, the Department determines preliminarily that there were PRC exporters of the subject merchandise during the POI from PRC producers/exporters that did not respond to the Department's request for information. We have treated these PRC producers/exporters as part of the PRC-wide entity because they did not qualify for a separate rate.

Section 776(a)(2) of the Act provides that, if an interested party (A) withholds information that has been requested by the Department, (B) fails to provide such information in a timely manner or in the form or manner requested, subject to subsections 782(c)(1) and (e) of the Act, (C) significantly impedes a proceeding under the antidumping statute, or (D) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination.

Information on the record of this investigation indicates that the PRC-wide entity was non-responsive. Certain companies did not respond to our request for Q&V information and did not respond to the Department's questionnaire. As a result, pursuant to section 776(a)(2)(A) of the Act, we find that the use of facts available is appropriate to determine the PRC-wide rate. See *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), unchanged in *Final Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam*, 68 FR 37116 (June 23, 2003).

Section 776(b) of the Act provides that, in selecting from among the facts

otherwise available, the Department may employ an adverse inference if an interested party fails to cooperate by not acting to the best of its ability to comply with requests for information. See *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); see also “Statement of Administrative Action,” accompanying the URAA, H.R. Rep. No. 103-316, 870 (1994) (“SAA”). We find that, because the PRC-wide entity did not respond to our request for information, it has failed to cooperate to the best of its ability. Therefore, the Department preliminarily finds that, in selecting from among the facts available, an adverse inference is appropriate.

Further, section 776(b) of the Act authorizes the Department to use as adverse facts available (“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. In selecting a rate for adverse facts available, the Department selects a rate that is sufficiently adverse “as to effectuate the purpose of the facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner.” See *Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors from Taiwan*, 63 FR 8909, 8932 (February 23, 1998). It is the Department’s practice to select, as AFA, the higher of the (a) highest margin alleged in the petition, or (b) the highest calculated rate of any respondent in the investigation. See *Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Quality Steel Products from the People’s Republic of China*, 65 FR 34660 (May 21, 2000) and accompanying Issues and Decision Memorandum, at “Facts Available.” In the instant investigation, as AFA, we have assigned to the PRC-wide entity a margin based on information in the petition, because the margin derived from the petition is higher than the calculated margins for the selected respondents. In this case, we have applied the petition rate of 44.30 percent.

Section 776(c) of the Act requires that, when the Department relies on secondary information rather than on information obtained in the course of an investigation as facts available, it must, to the extent practicable, corroborate that information from independent

sources reasonably at its disposal.² The SAA also states that the independent sources may include published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. See SAA at 870.

The SAA also clarifies that “corroborate” means that the Department will satisfy itself that the secondary information to be used has probative value. See SAA at 870. As noted in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996), unchanged in *Final Results of Antidumping Duty Administrative Reviews and Termination in Part: Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan*, 62 FR 11825 (March 13, 2005), to corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used.

Petitioners’ methodology for calculating the export price and normal value in the petition is discussed in the initiation notice. See *Initiation Notice* at 41203. To corroborate the AFA margin selected, we compared the U.S. price and normal values from the petition to the U.S. price and normal values for the respondents. See *Memorandum to the File through Alex Villanueva, Program Manager, AD/CVD Operations, Office 9: Corroboration of the PRC-Wide Facts Available Rate for the Preliminary Determination in the Antidumping Duty Investigation of PSF and parts thereof from the People’s Republic of China*, dated December 15, 2006, (“Corroboration Memorandum”). Accordingly, we find that the rate of 44.30 percent is corroborated within the meaning of section 776(c) of the Act. Consequently, we are applying 44.30 percent as the single antidumping rate to the PRC-wide entity. The PRC-wide rate applies to all entries of the merchandise under investigation except for entries from Cixi Jiangnan, Far

Eastern, Ningbo Dafa and the Separate-Rate Applicants.

Margin for the Separate Rate Applicants

The Department received timely and complete separate rates applications from the Separate Rates Applicants, who are all exporters of PSF from the PRC, which were not selected as mandatory respondents in this investigation. Through the evidence in their applications, these companies have demonstrated their eligibility for a separate rate, as discussed above in the “Separate Rates” section and in the *Separate Rates Memorandum*. Consistent with the Department’s practice, as the separate rate, we have established a weighted-average margin for the Separate Rates Applicants based on the rates we calculated for Ningbo Dafa, Cixi Jiangnan and Far Eastern, excluding any rates that are zero, *de minimis*, or based entirely on AFA. Companies receiving this rate are identified by name in the “Suspension of Liquidation” section of this notice.

Date of Sale

Section 351.401(i) of the Department’s regulations states that, “in identifying the date of sale of the subject merchandise or foreign like product, the Secretary normally will use the date of invoice, as recorded in the exporter or producer’s records kept in the normal course of business.” However, the Secretary may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale. See 19 CFR 351.401(i); See also *Allied Tube and Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090–1093 (CIT 2001) (“*Allied Tube*”). The date of sale is generally the date on which the parties agree upon all substantive terms of the sale. This normally includes the price, quantity, delivery terms and payment terms. In order to simplify the determination of date of sale for both the respondent and the Department and in accordance with 19 CFR 351.401(i), the date of sale will normally be the date of the invoice, as recorded in the exporter’s or producer’s records kept in the ordinary course of business, unless satisfactory evidence is presented that the exporter or producer establishes the material terms of sale on some other date. In other words, the date of the invoice is the presumptive date of sale, although this presumption may be overcome. For instance, in *Final Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol from Taiwan*, 61 FR 14067 (March 29, 1996),

² Secondary information is described in the SAA as “information derived from the petition that gave rise to the investigation or review, the final determination concerning subject merchandise, or any previous review under section 751 concerning the subject merchandise.” See SAA at 870.

the Department used the date of the purchase order as the date of sale because the terms of sale were established at that point.

After examining the questionnaire responses and the sales documentation that Cixi Jiangnan, Far Eastern and Ningbo Dafa placed on the record, we preliminarily determine that invoice date is the most appropriate date of sale for Cixi Jiangnan, Far Eastern and Ningbo Dafa. In its supplemental section A response, dated November 16, 2006, Far Eastern explained that it had incorrectly stated that it did not encounter any changes to the material terms of sale from its purchase orders. Instead, its original statement should have read that material terms of the sale from its commercial invoice had not changed during the POI. Additionally, Far Eastern provided several specific examples where it did encounter changes to the material terms of sale from its purchase orders. These examples included a cancellation of a sale and order changes that affected the price, quantity, product types and shipping destination.

Petitioners, however, claim that the purchase order date is the most appropriate date of sale because Far Eastern stated that it did not encounter any changes with respect to the material terms of the sale from its purchase orders in its original section A questionnaire response, dated October 12, 2006. Petitioners have requested that the Department use the purchase order date because Far Eastern stated that the terms of sale did not change after the purchase order was issued.

In *Allied Tube*, the Court of International Trade (“CIT”) found that a “party seeking to establish a date of sale other than invoice date bears the burden of producing sufficient evidence to ‘satisfy’ the Department that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.” *Allied Tube* 132 F. Supp. 2d at 1092.

Therefore, for this preliminary determination, the Department finds that based on the information on the record, Petitioners have failed to rebut the presumption that the invoice date is not the appropriate date of sale for Cixi Jiangnan, Far Eastern or Ningbo Dafa. Each respondent has provided various examples of material changes to their purchase orders during the POI. See *Preliminary Determination of Sales at Less Than Fair Value: Saccharin From the People’s Republic of China*, 67 FR 79054 (December 27, 2005).

Fair Value Comparisons

To determine whether sales of PSF to the United States by Cixi Jiangnan, Far Eastern and Ningbo Dafa were made at less than fair value, we compared the export price (“EP”) to normal value (“NV”), as described in the “U.S. Price,” and “Normal Value” sections of this notice. We compared NV to weighted-average EPs in accordance with section 777A(d)(1) of the Act.

U.S. Price

Export Price

For Cixi Jiangnan, Far Eastern and Ningbo Dafa, we based U.S. price on EP in accordance with section 772(a) of the Act, because the first sale to an unaffiliated purchaser was made prior to importation, and CEP was not otherwise warranted by the facts on the record. We calculated EP based on the packed price from the exporter to the first unaffiliated customer in the United States. Where applicable, we deducted foreign movement expenses, foreign brokerage and handling expenses, and international freight expenses from the starting price (gross unit price), in accordance with section 772(c) of the Act.

Where foreign movement or international ocean freight was provided by PRC service providers or paid for in Renminbi (“RMB”), we valued these services using surrogate values (see “Factors of Production” section below for further discussion).

For a complete discussion of specific respondent calculations of the U.S. price, see *Memorandum to the File from Michael Holton, Senior Case Analyst: Program Analysis for the Preliminary Determination of Antidumping Duty Investigation of Certain Polyester Staple Fiber from the People’s Republic of China: Cixi Jiangnan*, dated December 15, 2006 (“Cixi Jiangnan Analysis Memorandum”); *Memorandum to the File from Michael Holton, Senior Case Analyst: Program Analysis for the Preliminary Determination of Antidumping Duty Investigation of Certain Polyester Staple Fiber from the People’s Republic of China: Far Eastern*, dated December 15, 2006 (“Far Eastern Analysis Memorandum”); and *Memorandum to The File from Paul Walker, Senior Case Analyst, Investigation of Certain Polyester Staple Fiber from the People’s Republic of China: Analysis Memo for Ningbo Dafa Chemical Fiber Co., Ltd.*, dated December 15, 2006 (“Ningbo Dafa Analysis Memorandum”).

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the NV using a factors-of-production methodology if the merchandise is exported from an NME and the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. The Department bases NV on the FOP because the presence of government controls on various aspects of non-market economies renders price comparisons and the calculation of production costs invalid under the Department’s normal methodologies.

During the POI, Far Eastern did not have production of all types of merchandise for which it had POI sales. Consequently, Far Eastern reported in the factors of production database the most closely resembling CONNUM produced during the POI for the merchandise that was sold, but not produced during the POI. At the Department’s request, Far Eastern also submitted factors of production information covering the six-month period prior to the POI for the merchandise that was sold, but not produced during the POI, which included factors of production most closely resembling the CONNUM produced during the POI. Therefore, the Department has determined to use the additional six-month information provided by Far Eastern. See *Far Eastern Analysis Memorandum*.

In addition, Ningbo Dafa produced subject merchandise in more than one facility. Ningbo Dafa has stated that all subject merchandise sales to the United States and their respective CONNUMs may be tied to a single production facility. The Petitioners have argued that the Department should calculate normal value using factors of production from all of Ningbo Dafa’s production facilities. However, absent record information to the contrary, for this preliminary determination, the Department has only included the factors of production from this single facility in our calculation of normal value. See *Ningbo Dafa Analysis Memorandum* for a more complete explanation. The Department will continue to examine this issue for the final determination.

Critical Circumstances

On September 29, 2006, Petitioners alleged that there is a reasonable basis to believe or suspect critical circumstances exist with respect to the antidumping investigation of PSF from the PRC. On October 19, 2006, Cixi

Jiangnan, Far Eastern and Ningbo Dafa submitted information on their exports from January 2003 through September 2006 as requested by the Department. In accordance with 19 C.F.R.

§ 351.206(c)(2)(i), because Petitioners submitted critical circumstances allegations more than 20 days before the scheduled date of the preliminary determination, the Department must issue preliminary critical circumstances determinations not later than the date of the preliminary determination.

Section 733(e)(1) of the Act provides that the Department will preliminarily determine that critical circumstances exist if there is a reasonable basis to believe or suspect that: (A)(i) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise; or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales; and (B) there have been massive imports of the subject merchandise over a relatively short period. Section 351.206(h)(1) of the Department's regulations provides that, in determining whether imports of the subject merchandise have been "massive," the Department normally will examine: (i) the volume and value of the imports; (ii) seasonal trends; and (iii) the share of domestic consumption accounted for by the imports. In addition, section 351.206(h)(2) of the Department's regulations provides that an increase in imports of 15 percent during the "relatively short period" of time may be considered "massive." Section 351.206(i) of the Department's regulations defines "relatively short period" as normally being the period beginning on the date the proceeding begins (*i.e.*, the date the petition is filed) and ending at least three months later. The regulations also provide, however, that if the Department finds that importers, exporters, or producers had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely, the Department may consider a period of not less than three months from that earlier time.

In accordance with Section 733(e)(1)(A)(I) of the Act and as discussed in the *Critical Circumstances Memorandum*, the Department preliminarily finds that there is a history of dumping and material injury by reason of dumped imports in the United States and elsewhere of the subject merchandise based on the existence of foreign antidumping duty

orders of PSF, and the ITC's preliminary determination of material injury. See *Memorandum to Stephen Claeys, Deputy Assistant Secretary, AD/CVD Operations from James C. Doyle, Director, AD/CVD Operations, Office 9: Antidumping Duty Investigation of Certain Polyester Staple Fiber from the People's Republic of China: Preliminary Negative Determination of Critical Circumstances* ("Critical Circumstance Memorandum").

For the reasons set forth in the *Critical Circumstances Memorandum*, we find that there have been massive imports of the subject merchandise over a relatively short period for Far Eastern, but not for Ningbo Dafa, Cixi Jiangnan, the Separate Rates Applicants and the PRC-wide entity. See *Critical Circumstances Memorandum at Attachment 5-7*. We find that some importers, exporters, or producers knew or should have known an antidumping case was pending on PSF imports from the PRC in March of 2006 because there is record evidence that many of the Chinese producers begin planning the antidumping investigation. Therefore, we relied on a period of six months as the period, which is the maximum duration for the information we have available at this time, for comparison in preliminarily determining whether imports of the subject merchandise have been massive.

Therefore, given the analysis summarized above, and described in more detail in the *Critical Circumstances Memorandum*, we preliminarily determine that critical circumstances exist for imports of PSF from exist for Far Eastern, but do not exist for imports of PSF from Cixi Jiangnan, Far Eastern, Ningbo Dafa, the Separate-Rates Applicants and the PRC-wide entity.

We will make a final determination concerning critical circumstances for all producers/ exporters of subject merchandise from the PRC when we make our final dumping determination in this investigation, which is currently 75 days after the preliminary determination.

Factor Valuation Methodology

In accordance with section 773(c) of the Act, we calculated NV based on FOP data reported by respondents for the POI. To calculate NV, we multiplied the reported per-unit factor-consumption rates by publicly available surrogate values (except as discussed below). 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. Specifically, we added to Indian import surrogate values a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory where appropriate. This adjustment is in accordance with the Court of Appeals for the Federal Circuit's decision in *Sigma Corp. v. United States*, 117 F. 3d 1401, 1407-1408 (Fed. Cir. 1997). A detailed description of all surrogate values used for respondents can be found in the *Factor Value Memorandum* and company-specific analysis memorandum. Additionally, for detailed descriptions of all actual values used for market-economy inputs, see the company-specific analysis memoranda dated December 15, 2006. See *Cixi Jiangnan Analysis Memorandum; Far Eastern Analysis Memorandum; and Ningbo Dafa Analysis Memorandum*.

For this preliminary determination, the Department will use Far Eastern's reported market economy price of ethylene glycol from its unaffiliated supplier. However, the Department will continue to review whether Far Eastern is affiliated with its ethylene glycol supplier. If the Department finds that Far Eastern and its ethylene glycol supplier are affiliated, the Department will consider whether these purchases were made at arms-length in the final determination. See *Far Eastern Analysis Memorandum*.

For this preliminary determination, in accordance with the Department's practice, we used data from the Indian Import Statistics in order to calculate surrogate values for the mandatory respondents' material inputs. In selecting the best available information for valuing FOP in accordance with section 773(c)(1) of the Act, the Department's practice is to select, to the extent practicable, surrogate values which are non-export average values, most contemporaneous with the POI, product-specific, and tax-exclusive. See *e.g.*, *Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam*, 69 FR 42672, 42682 (July 16, 2004), unchanged in *Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam*, 69 FR 71005 (December 8, 2004). The record shows that data in the Indian Import Statistics represents import data that is

contemporaneous with the POI, product-specific, and tax-exclusive. Where we could not obtain publicly available information contemporaneous to the POI with which to value factors, we adjusted the surrogate values using, where appropriate, the Indian Wholesale Price Index ("WPI") as published in the *International Financial Statistics* of the International Monetary Fund.

Furthermore, with regard to the Indian import-based surrogate values, we have disregarded import prices that we have reason to believe or suspect may be subsidized. We have reason to believe or suspect that prices of inputs from Indonesia, South Korea, and Thailand may have been subsidized. We have found in other proceedings that these countries maintain broadly available, non-industry-specific export subsidies and, therefore, it is reasonable to infer that all exports to all markets from these countries may be subsidized. See *Amended Final Determination of Sales at Less than Fair Value: Automotive Replacement Glass Windshields from the People's Republic of China*, 67 FR 11670 (March 15, 2002); see also *Notice of Final Determination of Sales at Less than Fair Value and Negative Final Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of China*, 69 FR 20594 (April 16, 2004) ("CTVs from the PRC"). We are also directed by the legislative history not to conduct a formal investigation to ensure that such prices are not subsidized. See H.R. Rep. 100-576 at 590 (1988). Rather, Congress directed the Department to base its decision on information that is available to it at the time it makes its determination. Therefore, we have not used prices from these countries either in calculating the Indian import-based surrogate values or in calculating market-economy input values. In instances where a market-economy input was obtained solely from suppliers located in these countries, we used Indian import-based surrogate values to value the input. See *Final Determination of Sales at Less than Fair Value: Certain Automotive Replacement Glass Windshields From The People's Republic of China*, 67 FR 6482 (February 12, 2002), and accompanying Issues and Decision Memorandum at Comment 1.

For Cixi Jiangnan, Far Eastern, and Ningbo Dafa, certain inputs into the production of the merchandise under investigation were purchased from market economy suppliers and paid for in market economy currencies. For these inputs all purchases were made from a market economy supplier and paid in a

market economy currency, and the Department has therefore used the weighted-average POI price experienced by each respondent for these inputs. Therefore, we used the individual market economy prices experienced by Cixi Jiangnan, Far Eastern, and Ningbo Dafa when the inputs were obtained from a market economy, paid for in a market economy currency, and was a significant portion of the total purchases of that input.

The Department used the Indian Import Statistics to value the raw material and packing material inputs that Far Eastern, Cixi Jiangnan, and Ningbo Dafa used to produce the subject merchandise during the POI, except where listed below. Absent adequate information on the record to value PSF waste (fiber, "popcorn" and lump), for this preliminary determination, we are using an average of three Indian HTS numbers, 5503.20.00, 3915.90.42 and 3915.90.90, which represent values for raw PET bottles, finished PSF and plastic scrap, respectively. We note that the Department "need not prove that its methodology was the only way or even the best way to calculate surrogate values for factors of production, as long as it was a reasonable way." See *Coalition for the Pres. of Am. Brake Drum and Rotor Aftermakret Mfs. v. U.S.*, 23 CIT 88, 118, 44 F.Supp.2d 229, 258 (1999); *Shakeproof Assembly Components v. U.S.*, Slip-Op 06-129 (August 25, 2006). We find that, given the information on the record, that averaging HTS numbers 5503.20.00, 3915.90.42 and 3915.90.90 is the most reasonable way to value PSF waste. For a detailed description of PSF waste and all other surrogate values used for respondents, see *Factor Value Memorandum*.

To value electricity and diesel fuel, the Department used rates from *Key World Energy Statistics 2003*, published by the International Energy Agency. Because these data were not contemporaneous to the POI, we adjusted for inflation using WPI. See *Factor Value Memorandum*.

For natural gas, we applied a surrogate value obtained from the Gas Authority of India Ltd. website, a supplier of natural gas in India, covering the period January through June 2002. In addition, based on the February 1, 2005, article from *Chemical Weekly*, we note that the Petroleum Ministry had been considering raising the price but no action was taken. Therefore, consistent with the Department's recent determination in Polyvinyl Alcohol from the People's Republic of China, we took the average of the base and ceiling prices, added the transportation charge,

and inflated the calculated value using the appropriate WPI inflator. See Surrogate Value Memo and *Polyvinyl Alcohol From the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 71 FR 27991 (May 15, 2006), and accompanying Issues and Decision Memorandum at Comment 2.

The Department valued steam following the methodology used in the investigation of *Certain Tissue Paper Products and Certain Crepe Paper Products from the People's Republic of China*, but updated the natural gas price. See *Factor Value Memorandum and Notice of Preliminary Determinations of Sales at Less than Fair Value, Affirmative Preliminary Determination of Critical Circumstances and Postponement of Final Determination for Certain Tissue Paper Products*, 69 FR 56407 (September 21, 2004), unchanged in the final determination, *Notice of Final Determination of Sales at Less than Fair Value: Certain Tissue Paper Products from the People's Republic of China*, 70 FR 7475 (February 14, 2005).

For direct, indirect, and packing labor, consistent with 19 CFR 351.408(c)(3), we used the PRC regression-based wage rate as reported on Import Administration's home page, Import Library, Expected Wages of Selected NME Countries, revised in November 2005, <http://ia.ita.doc.gov/wages/index.html>. The source of these wage-rate data on the Import Administration's web site is the Yearbook of Labour Statistics 2002, ILO (Geneva: 2002), Chapter 5B: Wages in Manufacturing. Because this regression-based wage rate does not separate the labor rates into different skill levels or types of labor, we have applied the same wage rate to all skill levels and types of labor reported by the respondent. See *Factor Value Memorandum*.

Because water is essential to the production process of the subject merchandise, the Department considers water to be a direct material input, and not as overhead, and valued water with a surrogate value according to our practice. See *Final Determination of Sales at Less than Fair Value and Critical Circumstances: Certain Malleable Iron Pipe Fittings From the People's Republic of China*, 68 FR 61395 (October 28, 2003) and, accompanying Issue and Decision Memorandum at Comment 11. Although some suppliers have reported that they obtain water from a well, we find that whether the producer pays for water is irrelevant in determining whether it should be considered a direct material input. Further, there is no evidence on the

record that the Indian producer of polyester staple fiber from which we are obtaining an overhead financial ratio accounts for water as an overhead expense. The Department valued water using data from the Maharashtra Industrial Development Corporation (www.midcindia.org) since it includes a wide range of industrial water tariffs. This source provides 386 industrial water rates within the Maharashtra province from June 2003: 193 for the “inside industrial areas” usage category and 193 for the “outside industrial areas” usage category. Because the value was not contemporaneous with the POI, we adjusted the rate for inflation. See *Factor Value Memorandum*.

We used Indian transport information in order to value the freight-in cost of the raw materials. The Department determined the best available information for valuing truck freight to be from www.infreight.com. This source provides daily rates from six major points of origin to five destinations in India during the POI. The Department obtained a price quote on the first day of each month of the POI from each point of origin to each destination and averaged the data accordingly. See *Factor Value Memorandum*. Consistent with the calculation of inland truck freight, the Department used the same freight distances used in the calculation of inland truck freight, as reported by www.infreight.com to derive a value in Rupees per kilogram per kilometer. See *Factor Value Memorandum*.

The Department used two sources to calculate a surrogate value for domestic brokerage expenses. The Department averaged December 2003–November 2004 data contained in Essar Steel’s February 28, 2005, public version response submitted in the AD administrative review of Hot-Rolled Carbon Steel Flat Products from India

with October 2002–September 2003 data contained in Pidilite Industries’ March 9, 2004, public version response submitted in the AD investigation of Carbazole Violet Pigment 23 from India (see *Notice of Final Determination of Sales at Less Than Fair Value: Carbazole Violet Pigment 23 From India*, 69 FR 67306 (November 17, 2004)). The brokerage expense data reported by Essar Steel and Pidilite Industries in their public versions is ranged data. The Department first derived an average per-unit amount from each source. Then the Department adjusted each average rate for inflation. Finally, the Department averaged the two per-unit amounts to derive an overall average rate for the POI. See *Factor Value Memorandum*.

To value marine insurance, the Department obtained a price quote from <http://www.rjgconsultants.com/insurance.html>, a market-economy provider of marine insurance. See *Factor Value Memo Memorandum*. To value factory overhead, selling, general, and administrative expenses, and profit, we used the audited financial statements from Indo Rama’s 2005/2006 Annual Report and Reliance Industries Ltd.’s 2005/2006 Annual Report. See *Factor Value Memorandum*.

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)(1) of the Act, we intend to verify the information upon which we will rely in making our final determination.

Combination Rates

In the *Initiation Notice*, the Department stated that it would calculate combination rates for certain respondents that are eligible for a separate rate in this investigation. See *Initiation Notice*, 70 FR 35625, 35629. This change in practice is described in Policy Bulletin 05.1, available at <http://ia.ita.doc.gov/>. The Policy Bulletin 05.1, states:

“[w]hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME investigations will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of “combination rates” because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation.” See *Policy Bulletin 05.1* at 6.

Preliminary Determination

The weighted-average dumping margins are as follows:

PSF FROM THE PRC - WEIGHTED-AVERAGE DUMPING MARGINS

Exporter & Producer	Weighted-Average Deposit Rate
Cixi Jiangnan Chemical Co., Ltd.	15.30%
Far Eastern Industries (Shanghai) Ltd.	10.45%
Ningbo Dafa Chemical Fiber Co., Ltd.	4.39%
Cixi Sansheng Chemical Fiber Co., Ltd.	9.25%
Cixi Santai Chemical Fiber Co., Ltd.	9.25%
Cixi Waysun Chemical Fiber Co., Ltd.	9.25%
Hangzhou Best Chemical Fibre Co., Ltd.	9.25%
Hangzhou Hanbang Chemical Fibre Co., Ltd.,	9.25%
Hangzhou Huachuang Co., Ltd.	9.25%
Hangzhou Sanxin Paper Co., Ltd.	9.25%
Hangzhou Taifu Textile Fiber Co., Ltd.	9.25%
Jiaxang Fuda Chemical Fibre Factory	9.25%
Nantong Luolai Chemical Fiber Co. Ltd.	9.25%
Nanyang Textile Co., Ltd.	9.25%
Suzhou PolyFiber Co., Ltd.	9.25%
Xiamen Xianglu Fiber Chemical Co.	9.25%
Zhaoqing Tifo New Fiber Co., Ltd.	9.25%
Zhejiang Anshun Pettechs Fibre Co., Ltd.	9.25%

PSF FROM THE PRC - WEIGHTED-AVERAGE DUMPING MARGINS—Continued

Exporter & Producer	Weighted-Average Deposit Rate
Zhejiang Waysun Chemical Fiber Co., Ltd.	9.25%
PRC-Wide Rate	44.30%

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).

Suspension of Liquidation

In accordance with section 733(d) of the Act, we will instruct U.S. Customs and Border Protection ("CBP") to suspend liquidation of all entries of PSF from the PRC as described in the "Scope of Investigation" section, entered, or withdrawn from warehouse, for consumption from Ningbo Dafa, Cixi Jiangnan, the Separate Rate Applicants and the PRC-wide entity on or after the date of publication of this notice in the **Federal Register**. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the normal value exceeds U.S. price, as indicated above. For Far Eastern, we will direct CBP to suspend liquidation of any entries of PSF from the PRC as described in the "Scope of Investigation" section, that are entered, or withdrawn from warehouse, for consumption on or after 90 days prior to the date of publication in the **Federal Register** of our preliminary determination. The suspension of liquidation will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our preliminary affirmative determination of sales at less than fair value. Section 735(b)(2) of the Act requires the ITC to make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of PSF, or sales (or the likelihood of sales) for importation, of the subject merchandise within 45 days of our final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Import Administration no later than seven days after the date of the final verification report is issued in this proceeding and rebuttal briefs limited to issues raised in case briefs no later than five days after the deadline

date for case briefs. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes.

In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. If a request for a hearing is made, we intend to hold the hearing three days after the deadline of submission of rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Ave, NW, Washington, DC 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days after the date of publication of this notice. See 19 CFR 351.310(c). Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. At the hearing, each party may make an affirmative presentation only on issues raised in that party's case brief and may make rebuttal presentations only on arguments included in that party's rebuttal brief.

We will make our final determination no later than 75 days after the date of publication of this preliminary determination, pursuant to section 735(a) of the Act.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act.

Dated: December 15, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E6-22071 Filed 12-22-06; 8:45 am]

BILLING CODE 3510-DS-S

731-TA-1104 (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 of Certain Polyester Staple Fiber, provided for in subheading 5503.20.00 of the Harmonized Tariff Schedule of the United States.¹

For further information concerning the conduct of this phase of the investigation, 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).

DATES: *Effective Date:* December 26, 2006.

FOR FURTHER INFORMATION CONTACT:

Nathanael Comly (202-205-3174), 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 this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background. The final phase of this investigation is being scheduled as a result of an affirmative preliminary determination by the Department of Commerce that imports of Certain Polyester Staple Fiber from China 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 investigation was requested in a petition filed on June 23, 2006, by DAK Americas, LLC, Charlotte, NC; Nan Ya Plastics Corporation, America, Lake

City, SC; and Wellman, Inc., Shrewsbury, NJ.

Participation in the investigation 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 this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigation 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 investigation.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list. Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of this investigation available to authorized applicants under the APO issued in the investigation, 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 investigation. A party granted access to BPI in the preliminary phase of the investigation 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 this investigation will be placed in the nonpublic record on February 27, 2007, and a public version will be issued thereafter, pursuant to § 207.22 of the Commission's rules.

Hearing. The Commission will hold a hearing in connection with the final phase of this investigation beginning at 9:30 a.m. on March 13, 2007, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before March 2, 2007. 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

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-1104 (Final)]

Certain Polyester Staple Fiber From China

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of an antidumping investigation.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping investigation No.

¹For purposes of this investigation, the Department of Commerce has defined the subject merchandise as "synthetic staple fibers, not carded, combed or otherwise processed for spinning, of polyesters measuring 3.3 decitex (3 denier, inclusive) or more in diameter. This merchandise is cut to lengths varying from one inch (25 mm) to five inches (127mm). The subject merchandise may be coated, usually with a silicon or other finish, or not coated. PSF is generally used as stuffing in sleeping bags, mattresses, ski jackets, comforters, cushions, pillows, and furniture."

to be held at 9:30 a.m. on March 6, 2007, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by §§ 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business 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 March 6, 2007. Parties may also file written testimony in connection with their presentation at the hearing, as provided in § 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of § 207.25 of the Commission's rules. The deadline for filing posthearing briefs is March 20, 2007; 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 investigation may submit a written statement of information pertinent to the subject of the investigation, including statements of support or opposition to the petition, on or before March 20, 2007. On April 5, 2007, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before April 9, 2007, but such final comments must not contain new factual information and must otherwise comply with § 207.30 of the Commission's rules. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by § 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless

the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigation must be served on all other parties to the investigation (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: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.21 of the Commission's rules.

By order of the Commission.

Issued: January 8, 2007.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7-259 Filed 1-10-07; 8:45 am]

BILLING CODE 7020-02-P

Investigation: Certain Polyester Staple Fiber from the People's Republic of China, 71 FR 41201 (July 20, 2006) ("Initiation Notice"). On December 26, 2006, the Department published the *Preliminary Determination* in the antidumping duty investigation of certain polyester staple fiber from the People's Republic of China. See *Preliminary Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China*, 71 FR 77373 (December 26, 2006) ("Preliminary Determination"). The *Preliminary Determination* stated that the Department would make its final determination for this antidumping duty investigation no later than 75 days after the date of publication of the preliminary determination (*i.e.*, March 11, 2007).

Section 735(a)(2) of the Tariff Act of 1930 ("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 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 petitioner. In addition, 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. See 19 CFR 351.210(e)(2).

On January 10, 2007, several respondents¹ requested a 30-day extension of the final determination and extension of the provisional measures.² Thus, because our preliminary determination is affirmative, and the respondents requesting an extension of the final determination, and an extension of the provisional measures, account for a significant proportion of exports of the subject merchandise, and no compelling reasons for denial exist,

¹ These respondents are: Cixi Jiangnan Chemical Fiber Co., Ltd., Ningbo Dafa Chemical Fiber Co., Ltd., Cixi Sansheng Chemical Fiber Co., Ltd., Cixi Santai Chemical Fiber Co., Ltd., Hangzhou Sanxin Paper Co., Ltd., Suzhou PolyFiber Co., Ltd., Zhaoqing Tifo New Fiber Co., Ltd., Nantong Luolai Chemical Fiber Co. Ltd., Zhejiang Waysun Chemical Fiber Co., Ltd. and Cixi Waysun Chemical Fiber Co., Ltd.

² On January 12, 2007, Far Eastern Industries (Shanghai) Ltd. requested a 30 day extension of the final determination, but did not request an extension of the provisional measures.

we are extending the due date for the final determination by 30 days. For the reasons identified above, we are postponing the final determination until April 10, 2007.

This notice is issued and published pursuant to sections 777(i) of the Act and 19 CFR 351.205(f)(1).

Dated: February 1, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E7-2128 Filed 2-8-07; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

A-570-905

Postponement of Final Determination of Antidumping Duty Investigation: Certain Polyester Staple Fiber from the People's Republic of China

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

EFFECTIVE DATE: February 9, 2007.

FOR FURTHER INFORMATION CONTACT:

Michael Holton or Paul Walker, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1324 or (202) 482-0413, respectively.

SUPPLEMENTARY INFORMATION:

Postponement of Final Determination

On July 13, 2006, the Department of Commerce ("Department") initiated the antidumping duty investigation of certain polyester staple fiber from the People's Republic of China. See *Initiation of Antidumping Duty*

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 this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION: On January 8, 2007, the Commission established a schedule for the conduct of the final phase of the subject investigation (72 FR 1342, January 11, 2007). Subsequently, the Department of Commerce extended the date for its final determination in the investigation from March 12, 2007 to April 10, 2007 (72 FR 6201, February 9, 2007). The Commission, therefore, is revising its schedule to conform with Commerce's new schedule.

Revisions to the Commission's current schedule for the investigation are as follows: the deadline for filing posthearing briefs is changed from March 20 to March 22, 2007; the deadline for a non-party to file a statement of information pertinent to the subject of the investigation, including statements of support or opposition to the petition, is changed from March 20 to March 22, 2007; comments on Commerce's final determination of sales at less than fair value (not to exceed 5 pages) may be filed on or before April 16, 2007; the date for final release of information by the Commission is changed from April 5 to May 8, 2007; the deadline for filing final party comments is changed from April 9 to May 10, 2007. All written submissions shall conform to the filing requirements set forth in our scheduling notice issued January 8, 2007 (72 FR 1341, January 11, 2007).

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

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.21 of the Commission's rules.

Issued: February 13, 2007.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7-2818 Filed 2-15-07; 8:45 am]

BILLING CODE 7020-02-P

**INTERNATIONAL TRADE
COMMISSION**

[Investigation No. 731-TA-1104 (Final)]

**Certain Polyester Staple Fiber from
China**

AGENCY: International Trade
Commission.

ACTION: Revised schedule for the subject
investigation.

EFFECTIVE DATE: February 9, 2007.

FOR FURTHER INFORMATION CONTACT:
Nathanael Comly (202-205-3174),
Office of Investigations, U.S.
International Trade Commission, 500 E
Street SW., Washington, DC 20436.

DEPARTMENT OF COMMERCE**International Trade Administration**

A-570-905

Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China

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

EFFECTIVE DATE: April 19, 2007

SUMMARY: On December 26, 2006, the Department of Commerce (the "Department") published its preliminary determination of sales at less than fair value ("LTFV") in the antidumping investigation of certain polyester staple fiber ("PSF") from the People's Republic of China ("PRC"). The period of investigation ("POI") is October 1, 2005, to March 31, 2006. We invited interested parties to comment on our preliminary determination of sales at LTFV. Based on our analysis of the comments we received, we have made changes to our calculations for the mandatory respondents. The final dumping margins for this investigation are listed in the "Final Determination Margins" section below.

FOR FURTHER INFORMATION CONTACT: Michael Holton or Paul Walker, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1324 or (202) 482-0413, respectively.

Final Determination

We determine that PSF from the PRC is being, or is likely to be, sold in the United States at 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 "Final Determination Margins" section of this notice.

SUPPLEMENTARY INFORMATION:**Case History**

The Department published its preliminary determination of sales at LTFV on

December 26, 2006. *See Preliminary Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China*, 71 FR 77373 (December 26, 2006) ("Preliminary Determination"). Between January 8 and February 16, 2007, the Department conducted verifications of Cixi Jiangnan Chemical Fiber Co. Ltd. ("Cixi Jiangnan"), Far Eastern Industries (Shanghai) Ltd. ("Far Eastern"), Hangzhou Huachuang Co., Ltd. ("Hangzhou Huachuang"), Jiaying Fuda Chemical Fibre Factory ("Fuda"), Ningbo Dafa Chemical Fiber Co., Ltd. ("Ningbo Dafa") and Zhaoqing Tifo New Fiber Co., Ltd. ("Tifo"). *See the "Verification" section below for additional information.*

We invited parties to comment on the *Preliminary Determination*. On March 15, 2007, the Petitioners,¹ Insituform Technologies, Inc. ("ITI"), Ashley Furniture Industries, Inc. ("Ashley"), Fibertex Corporation ("Fibertex")², Far Eastern, Cixi Jiangnan and Ningbo Dafa filed case briefs. On March 20, 2007, the Petitioners, Far Eastern, Cixi Jiangnan and Ningbo Dafa filed rebuttal briefs. All parties that submitted a timely request for a hearing in this case withdrew those requests. Therefore, the Department did not hold a hearing.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the "Investigation of Certain Polyester Staple Fiber from the People's Republic of China: Issues and Decision Memorandum," dated April 10, 2007, which is hereby adopted by this notice ("Issues and Decision Memorandum"). A list of the issues which parties raised and to which we respond in the Issues and Decision Memorandum is attached to this notice as an Appendix. The Issue and Decision Memorandum is a public document and is on file in the Central Records Unit ("CRU"), Main Commerce Building, Room B-099, and is accessible on the Web at <http://www.trade.gov/ia>. The paper copy and electronic version of the memorandum are identical in content.

Changes Since the Preliminary Determination

Based on our analysis of comments received, we have made changes to the margin calculation for Cixi Jiangnan, Far Eastern and Ningbo Dafa as follows.

We have made the following changes to Cixi Jiangnan's margin calculation:

Other than the issues discussed below, we have determined to not include marine insurance from Cixi Jiangnan's CNF market economy purchases. At verification, Cixi Jiangnan provided information that it did not incur marine insurance. For a detailed analysis of Cixi Jiangnan's margin calculation, see Final Determination in the Investigation of Certain Polyester Staple Fiber from the People's Republic of China: Analysis Memorandum for Cixi Jiangnan Fiber Co. Ltd., dated April 10, 2007.

We have made the following changes to Far Eastern's margin calculation:

Other than the issues discussed below, we have determined to include the additional international freight expense that Far Eastern reported as a minor correction to its market economy international freight expense. Furthermore, we have also determined to make an adjustment to Far Eastern's reported scrap by-product by capping it at the level of scrap it actually produced during the POI. Finally, we have determined to use a surrogate value for Far Eastern's purchases of EG from its affiliated supplier. See below and Issues and Decision Memorandum at Comment 21. For a detailed analysis of Far Eastern's margin calculation, see Final Determination in the Investigation of Certain Polyester Staple Fiber from the People's Republic of China: Analysis Memorandum for Far Eastern Industries (Shanghai) Ltd., dated April 10, 2007.

We have made the following changes to Ningbo Dafa's margin calculation:

We have determined that it is appropriate to apply partial facts available to Ningbo Dafa. As noted below in the "Facts Available" Section, we are applying the color-specific market economy purchase prices of Ningbo Dafa's PET flake invoices to the surrogate value of PET flake, based on the CONNUM of the finished PSF. See below and Issues and Decision Memorandum at Comment 25. For a detailed analysis of Ningbo Dafa's margin calculation, see Final Determination in the Investigation of Certain Polyester Staple Fiber from the People's Republic of China: Analysis Memorandum for Ningbo Dafa Chemical Fiber Co., Ltd., dated April 10, 2007.

In addition, the Department has made changes to its calculation of the

brokerage and handling, PSF wastes and by-product surrogate values as described in the Issues and Decision Memorandum at Comments 5 through 9. Moreover, the Department has made changes to its calculation of surrogate financial ratios as described in the Issues and Decision Memorandum at Comment 12. The Department has also revised the surrogate value for labor to \$0.83, using a revised expected wage rate posted on the Department's website on February 2, 2007. Further, the Department determines that it is appropriate to apply the methodology described in the December 27, 2006, **Federal Register** Notice regarding the treatment of negative margin to this investigation. See Issues and Decision Memorandum at Comment 4 and *Final Modification; Calculation of the Weighted-Average Dumping Margin During an Antidumping Investigation*, 71 FR 77722 (December 27, 2006).

Scope of Investigation

The merchandise subject to this proceeding is synthetic staple fibers, not carded, combed or otherwise processed for spinning, of polyesters measuring 3.3 decitex (3 denier, inclusive) or more in diameter. This merchandise is cut to lengths varying from one inch (25 mm) to five inches (127 mm). The subject merchandise may be coated, usually with a silicon or other finish, or not coated. PSF is generally used as stuffing in sleeping bags, mattresses, ski jackets, comforters, cushions, pillows, and furniture.

The following products are excluded from the scope: (1) PSF of less than 3.3 decitex (less than 3 denier) currently classifiable in the Harmonized Tariff Schedule of the United States ("HTSUS") at subheading 5503.20.0025 and known to the industry as PSF for spinning and generally used in woven and knit applications to produce textile and apparel products; (2) PSF of 10 to 18 denier that are cut to lengths of 6 to 8 inches and that are generally used in the manufacture of carpeting; and (3) low-melt PSF defined as a bi-component fiber with an outer, non-polyester sheath that melts at a significantly lower temperature than its inner polyester core (classified at HTSUS 5503.20.0015).

Certain PSF is classifiable under the HTSUS subheadings 5503.20.0045 and 5503.20.0065. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under the orders is dispositive.

Scope Comments

We received scope comments from ITI. However, these scope comments contained untimely and new factual information and were rejected by the Department. See the Department's letter dated March 19, 2007. No other interested party submitted scope comments since the *Preliminary Determination*. Therefore, we have not changed the scope from the *Initiation Notice*. See *Initiation of Antidumping Duty Investigation: Certain Polyester Staple Fiber from the People's Republic of China*, 71 FR 41201 (July 20, 2006) ("Initiation Notice").

Facts Available

Section 776(a)(2) of the Act provides that if an interested party: (A) withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested, subject to subsections 782(c)(1) and (e) of the Act; (C) significantly impedes a determination under the antidumping statute; or (D) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination.

Section 782(c)(1) of the Act provides that, if an interested party promptly notifies the Department that it is unable to submit the information in the requested form and manner, together with a full explanation and suggested alternative forms in which such party is able to submit the information, the Department shall take into consideration the ability of the party to submit the information in the requested form and manner and may modify such requirements to the extent necessary to avoid imposing an unreasonable burden on that party.

For this final determination, in accordance with section 776(a)(2)(B) of the Act and 782(c)(1) of the Act, we have determined that the use of neutral facts available is appropriate for Ningbo Dafa's PET flake. See Issues and Decision Memorandum at Comment 20. As neutral facts available, we are applying the color-specific, market economy purchase prices of Ningbo Dafa's PET flake invoices to value PET flake, based on the CONNUM of the finished PSF. See Analysis for the Final Determination of Certain Polyester Staple Fiber from the People's Republic of China: Ningbo Dafa Chemical Fiber Co., Ltd., dated April 10, 2007.

Verification

As provided in section 782(i) of the Act, we verified the information

submitted by the respondents and three separate rate applicants for use in our final determination. See the Department's verification reports on the record of this investigation in the CRU with respect to Cixi Jiangnan, Far Eastern, Hangzhou Huachuang, Fuda, Ningbo Dafa and Tifo. For all verified companies, we used standard verification procedures, including examination of relevant accounting and production records, as well as original source documents provided by respondents.

Surrogate Country

In the *Preliminary Determination*, we stated that we had selected India as the appropriate surrogate country to use in this investigation for the following reasons: (1) It is a significant producer of comparable merchandise; (2) it is at a similar level of economic development pursuant to 773(c)(4) of the Act; and (3) we have reliable data from India that we can use to value the factors of production. See *Preliminary Determination*. For the final determination, we received no comments and made no changes to our findings with respect to the selection of a surrogate country.

Separate Rates

In proceedings involving non-market economy ("NME") countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to an investigation in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. See *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) ("*Sparklers*"), as amplified by *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) ("*Silicon Carbide*"), and Section 351.107(d) of the Department's regulations.

In the *Preliminary Determination*, we found that Cixi Jiangnan, Far Eastern and Ningbo Dafa, and the separate rate applicants who received a separate rate ("Separate Rate Applicants") in the *Preliminary Determination* demonstrated their eligibility for separate-rate status. For the final determination, we continue to find that the evidence placed on the record of this investigation by Cixi Jiangnan, Far

Eastern and Ningbo Dafa, and the Separate Rate Applicants demonstrate both a *de jure* and *de facto* absence of government control, with respect to their respective exports of the merchandise under investigation, and, thus are eligible for separate rate status.

The PRC-Wide Rate

In the *Preliminary Determination*, the Department found that certain companies and the PRC-wide entity did not respond to our requests information. In the *Preliminary Determination* we treated these PRC producers/exporters as part of the PRC-wide entity because they did not demonstrate that they operate free of government control over their export activities. No additional information has been placed on the record with respect to these entities after the *Preliminary Determination*. The PRC-wide entity has not provided the Department with the requested information; therefore, pursuant to section 776(a)(2)(A) of the Act, the Department continues to find that the use of facts available is appropriate to determine the PRC-wide rate. Section 776(b) of the Act provides that, in selecting from among the facts otherwise available, the Department may employ an adverse inference if an interested party fails to cooperate by not acting to the best of its ability to comply with requests for information. See *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). See also, "*Statement of Administrative Action*" accompanying the URAA, H.R. Rep. No. 103-316, vol. 1, at 870 (1994) ("*SAA*"). We determined that, because the PRC-wide entity did not respond to our request for information, it has failed to cooperate to the best of its ability. Therefore, the Department finds that, in selecting from among the facts otherwise available, an adverse inference is appropriate for the PRC-wide entity.

Because we begin with the presumption that all companies within a NME country are subject to government control and because only the companies listed under the "Final Determination Margins" section below have overcome that presumption, we are applying a single antidumping rate - the PRC-wide rate - to all other exporters of subject merchandise from the PRC. Such companies did not demonstrate entitlement to a separate rate. See, e.g., *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).

The PRC-wide rate applies to all entries of subject merchandise except for entries from the respondents which are listed in the "Final Determination Margins" section below (except as noted).

Critical Circumstances

In the *Preliminary Determination*, we found that there have been massive imports of the subject merchandise over a relatively short period for Far Eastern. In addition, we relied on a period of six months as the period, which was the maximum duration for the information we had available at that time, for comparison in preliminarily determining whether imports of the subject merchandise were massive.

For the final determination, however, we collected an additional three months of data from the respondents. After analyzing the additional data, we continue to find that Far Eastern had massive imports of PSF over a relatively short period of time. See Memorandum from James C. Doyle, Office Director, to Stephen J. Claeys, Deputy Assistant Secretary, Preliminary Affirmative Determination of Critical Circumstances, (December 15, 2006) at 2-3 ("*Critical Circumstances Memo*"), dated April 10, 2007. Moreover, we continue to find that Ningbo Dafa, Cixi Jiangnan, the Separate Rates Applicants and the PRC-wide entity did not have massive imports of PSF over a relatively short period of time. *Id.*

Corroboration

At the *Preliminary Determination*, in accordance with section 776(c) of the Act, we corroborated our adverse facts available ("AFA") margin by comparing the U.S. price and normal values from the petition to the U.S. price and normal values for the respondents. We continue to find that the margin of 44.30 percent has probative value. See Memorandum to the File: Corroboration of the PRC-Wide Facts Available Rate for the Final Determination in the Antidumping Duty Investigation of Certain Polyester Staple Fiber from the People's Republic of China, dated April 10, 2007 ("*Final Corroboration Memo*"). Accordingly, we find that the rate of 44.30 percent is corroborated within the meaning of section 776(c) of the Act.

Final Determination Margins

We determine that the following percentage weighted-average margins exist for the POI:

PSF FROM THE PRC - WEIGHTED—
AVERAGE DUMPING MARGINS

Exporter & Producer	Weighted—Average Deposit Rate
Cixi Jiangnan Chemical Co., Ltd.	de minimis
Far Eastern Industries (Shanghai) Ltd.	3.47%
Ningbo Dafa Chemical Fiber Co., Ltd.	4.86%
Cixi Sansheng Chemical Fiber Co., Ltd.	4.44%
Cixi Santai Chemical Fiber Co., Ltd.	4.44%
Cixi Waysun Chemical Fiber Co., Ltd.	4.44%
Hangzhou Best Chemical Fibre Co., Ltd.	4.44%
Hangzhou Hanbang Chemical Fibre Co., Ltd.	4.44%
Hangzhou Huachuang Co., Ltd.	4.44%
Hangzhou Sanxin Paper Co., Ltd.	4.44%
Hangzhou Taifu Textile Fiber Co., Ltd.	4.44%
Jiaxiang Fuda Chemical Fibre Factory	4.44%
Nantong Luolai Chemical Fiber Co. Ltd.	4.44%
Nanyang Textile Co., Ltd.	4.44%
Suzhou PolyFiber Co., Ltd.	4.44%
Xiamen Xianglu Fiber Chemical Co.	4.44%
Zhaoqing Tifo New Fiber Co., Ltd.	4.44%
Zhejiang Anshun Pettechs Fibre Co., Ltd.	4.44%
Zhejiang Waysun Chemical Fiber Co., Ltd.	4.44%
PRC—Wide Rate	44.30%

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).

Continuation of Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we will instruct U.S. Customs and Border Protection (“CBP”) to continue to suspend liquidation of all entries of subject merchandise from Ningbo Dafa, the Separate Rate Applicants and the PRC-wide entity entered, or withdrawn from warehouse, for consumption on or after December 26, 2006, the date of publication of the *Preliminary Determination*. CBP 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 above.

The Department continues to find that critical circumstances exist for Far Eastern therefore, the Department will direct the CBP suspend liquidation of any entries of PSF from the PRC as described in the “Scope of Investigation” section, that are entered, or withdrawn from warehouse, for consumption 90 days before the date of publication of this notice in the **Federal Register**. These suspension of liquidation instructions will remain in effect until further notice.

With respect to Cixi Jiangnan, the Department will instruct CBP not to suspend liquidation of any entries of PSF from the PRC as described in the “Scope of Investigation” section, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. The Department will not require any cash deposit or posting of a bond for Cixi Jiangnan when the subject merchandise is produced and exported by Cixi Jiangnan. These suspension of liquidation instructions will remain in effect until further notice.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (“ITC”) of our final determination of sales at LTFV. As our final determination is affirmative, in accordance with section 735(b)(2) of the Act, within 45 days the ITC will determine whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of the subject merchandise. 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 CBP 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 the 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 or 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 and notice are issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

This determination and notice are issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: April 10, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

Appendix I**Changes from the Preliminary Determination****General Comments:**

Comment 1: Zeroing/Targeted Dumping
Comment 2: Adjustments to Market Economy Purchases—Foreign Inland Freight

Comment 3: Adjustments to Market Economy Purchases—Foreign Brokerage & Handling

Comment 4: Adjustments to Market Economy Purchases—Application of PRC Duties

Surrogate Value Comments:

Comment 5: Surrogate Value for Brokerage & Handling

Comment 6: Surrogate Value for Waste Inputs

Comment 7: Surrogate Value for Polymer Polyester Staple Fiber Waste
Comment 8: Surrogate Value for Lump, Popcorn or X-ray Film

Comment 9: Surrogate Value for Scrap Waste By-Product

Comment 10: Surrogate Value for Labor
Comment 11: Surrogate Value for Alkali Flake

Comment 12: Calculation of Surrogate Financial Ratios

Comment 13: General Export Subsidy Countries and Market Economy Inputs

Company Specific Comments - Cixi Jiangnan:

Comment 14: Cixi Jiangnan’s Sales to Trading Companies

Comment 15: Cixi Jiangnan’s International Freight for Its U.S. Sales

Comment 16: Cixi Jiangnan’s Indirect Labor

Comment 17: Insurance for Cixi’s Market Economy Purchases

Company Specific Comments - Far Eastern:

Comment 18: Far Eastern’s Critical Circumstances

Comment 19: Far Eastern’s Reported Scrap Offsets

Comment 20: Far Eastern's Bank
Charges

Comment 21: Far Eastern's Market
Economy Price for Ethylene Glycol

Comment 22: Far Eastern's Market
Economy Price Adjustments for Purified
Terephthalic Acid ("PTA")

Comment 23: Far Eastern's Brokerage
and Handling Expenses

**Company Specific Comments - Ningbo
Dafa:**

Comment 24: Ningbo Dafa's
Consumption of Oils

Comment 25: Ningbo Dafa's Market
Economy Purchases and Factor Usage of
PET Flake

[FR Doc. E7-7386 Filed 4-18-07; 8:45 am]

BILLING CODE 3510-DS-S

APPENDIX B
HEARING WITNESSES

CALENDAR OF PUBLIC HEARING

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

Subject: Certain Polyester Staple Fiber from China

Inv. No.: 731-TA-1104 (Final)

Date and Time: March 13, 2007 - 9:30 a.m.

Sessions were held in connection with this investigation in the Main Hearing Room (room 101), 500 E Street, S.W., Washington, D.C.

OPENING REMARKS:

Petitioners (**Paul C. Rosenthal**, Kelley Drye Collier Shannon)

Respondents (**Robert A. Shapiro**, Thompson Coburn LLP)

In Support of the Imposition of Antidumping Duties:

Kelley Drye Collier Shannon
Washington, D.C.
on behalf of

DAK Americas LLC
Wellman, Inc.
Nan Ya Plastics Corp. Americas

Gisela Katz, Manager, Market Planning,
Wellman, Inc.

Joseph Chandrl, Account Manager, Nan Ya
Plastics Corp. Americas

Jon McNaull, Fibers Business Director, DAK
Americas LLC

Ricky Lane, Director, Public Affairs, Trade
Relations, and Corporate Communications,
DAK Americas LLC

**In Support of the Imposition of
Antidumping Duties (continued):**

Patrick Magrath, Director, Georgetown Economic
Services

Gina Beck, Economist, Georgetown Economic
Services

Paul C. Rosenthal
Kathleen W. Cannon)
- OF COUNSEL

**In Opposition to the Imposition of
Antidumping Duties:**

Mowry International Group, LLC
Bethesda, MD
on behalf of

Ashley Furniture Industries, Inc.

Jay Plummer, Corporate Vendor and Supply Chain
Manager, Ashley Furniture Industries, Inc.

Kristin H. Mowry
Jill A. Cramer)
- OF COUNSEL

Thompson Coburn LLP
Washington, D.C.
on behalf of

Insituform Technologies, Inc.

Kyle Costa, Director of Engineering, Insituform
Technologies

Weiping Wang, Engineering Manager, Insituform
Technologies

April Greer, Corporate Counsel, Insituform
Technologies

Robert A. Shapiro
Laura Martino)
- OF COUNSEL

**In Opposition to the Imposition of
Antidumping Duties (continued):**

Hollander Home Fashions Corp.
Boca Raton, FL

Rich Epstein, Consultant

REBUTTAL/CLOSING REMARKS:

Petitioners (**Paul C. Rosenthal**, Kelley Drye Collier Shannon)
Respondents (**Robert A. Shapiro**, Thompson Coburn LLP)

APPENDIX C
SUMMARY DATA

Table C-1
Certain PSF: Summary data concerning the U.S. market, 2004-06

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

Item	Reported data			Period changes		
	2004	2005	2006	2004-06	2004-05	2005-06
U.S. consumption quantity:						
Amount	1,128,375	1,152,674	1,066,891	-5.4	2.2	-7.4
Producers' share (1)	60.2	52.3	46.9	-13.4	-7.9	-5.4
Importers' share (1):						
China (subject)	***	***	***	***	***	***
Korea	18.6	16.0	15.9	-2.7	-2.6	-0.1
Taiwan	6.4	4.7	3.5	-2.9	-1.7	-1.2
Subtotal, Korea & Taiwan	25.0	20.7	19.4	-5.6	-4.3	-1.3
China (nonsubject)	***	***	***	***	***	***
Thailand	3.7	3.8	3.1	-0.6	0.1	-0.7
Indonesia	1.1	2.2	4.1	2.9	1.0	1.9
India	1.4	1.8	2.0	0.5	0.4	0.1
Mexico	1.1	0.8	0.0	-1.0	-0.2	-0.8
All other	1.1	1.5	2.2	1.1	0.3	0.8
Subtotal, nonsubject	***	***	***	***	***	***
Total imports	39.8	47.7	53.1	13.4	7.9	5.4
U.S. consumption value:						
Amount	637,604	770,478	702,238	10.1	20.8	-8.9
Producers' share (1)	62.2	55.5	52.6	-9.7	-6.7	-3.0
Importers' share (1):						
China (subject)	***	***	***	***	***	***
Korea	15.8	14.1	13.3	-2.5	-1.7	-0.8
Taiwan	6.8	4.8	3.5	-3.3	-2.0	-1.3
Subtotal, Korea & Taiwan	22.6	18.9	16.8	-5.8	-3.7	-2.1
China (nonsubject)	***	***	***	***	***	***
Thailand	4.2	4.1	3.3	-0.9	-0.1	-0.8
Indonesia	1.1	2.0	3.9	2.8	0.9	1.9
India	1.2	1.6	1.7	0.5	0.4	0.2
Mexico	1.7	1.2	0.0	-1.7	-0.4	-1.2
All other	1.4	2.2	3.3	1.9	0.8	1.1
Subtotal, nonsubject	***	***	***	***	***	***
Total imports	37.8	44.5	47.4	9.7	6.7	3.0
U.S. imports from:						
China (subject):						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***
Other--						
Korea:						
Quantity	209,856	184,832	169,865	-19.1	-11.9	-8.1
Value	100,920	108,549	93,297	-7.6	7.6	-14.1
Unit value	0.48	0.59	0.55	14.2	22.1	-6.5
Taiwan:						
Quantity	72,376	54,139	37,471	-48.2	-25.2	-30.8
Value	43,262	36,971	24,549	-43.3	-14.5	-33.6
Unit value	0.60	0.68	0.66	9.6	14.2	-4.1
Subtotal (Korea + Taiwan):						
Quantity	282,232	238,971	207,336	-26.5	-15.3	-13.2
Value	144,181	145,521	117,847	-18.3	0.9	-19.0
Unit value	\$0.51	\$0.61	\$0.57	11.3	19.2	-6.7

Table continued on next page.

Table C-1--continued

Certain PSF: Summary data concerning the U.S. market, 2004-06

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

Item	Reported data			Period changes		
	2004	2005	2006	2004-06	2004-05	2005-06
U.S. imports from:						
China (nonsubject):						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Thailand:						
Quantity	41,848	43,475	33,177	-20.7	3.9	-23.7
Value	26,694	31,598	23,282	-12.8	18.4	-26.3
Unit value	0.64	0.73	0.70	10.0	13.9	-3.4
Indonesia:						
Quantity	12,657	24,830	43,378	242.7	96.2	74.7
Value	6,722	15,438	27,199	304.6	129.7	76.2
Unit value	0.53	0.62	0.63	18.1	17.1	0.8
India:						
Quantity	16,147	21,090	20,914	29.5	30.6	-0.8
Value	7,654	12,205	12,199	59.4	59.5	-0.0
Unit value	0.47	0.58	0.58	23.1	22.1	0.8
Mexico:						
Quantity	11,854	9,702	242	-98.0	-18.2	-97.5
Value	10,644	9,468	125	-98.8	-11.1	-98.7
Unit value	0.90	0.98	0.52	-42.6	8.7	-47.1
All other sources:						
Quantity	12,549	16,743	23,990	91.2	33.4	43.3
Value	8,694	16,753	22,901	163.4	92.7	36.7
Unit value	0.69	1.00	0.95	37.8	44.4	-4.6
Subtotal (nonsubject imports)						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity (2)	***	***	***	***	***	***
All sources:						
Quantity	448,568	549,684	566,730	26.3	22.5	3.1
Value	240,799	342,599	333,096	38.3	42.3	-2.8
Unit value	\$0.54	\$0.62	\$0.59	9.5	16.1	-5.7
Ending inventory quantity	83,501	121,306	89,029	6.6	45.3	-26.6

Table continued on next page.

Table C-1--continued
Certain PSF: Summary data concerning the U.S. market, 2004-06

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

Item	Reported data			Period changes		
	2004	2005	2006	2004-06	2004-05	2005-06
U.S. producers:						
Average capacity quantity	889,565	843,607	774,942	-12.9	-5.2	-8.1
Production quantity	733,677	657,064	573,068	-21.9	-10.4	-12.8
Capacity utilization (1)	82.5	77.9	73.9	-8.5	-4.6	-3.9
U.S. shipments:						
Quantity	679,807	602,990	500,161	-26.4	-11.3	-17.1
Value	396,805	427,879	369,142	-7.0	7.8	-13.7
Unit value	\$0.58	\$0.71	\$0.74	26.4	21.6	4.0
Export shipments:						
Quantity	50,186	54,444	63,830	27.2	8.5	17.2
Value	27,391	37,501	44,616	62.9	36.9	19.0
Unit value	\$0.55	\$0.69	\$0.70	28.1	26.2	1.5
Ending inventory quantity	35,984	36,520	42,901	19.2	1.5	17.5
Inventories/total shipments (1)	4.9	5.6	7.6	2.7	0.6	2.1
Production workers	1,106	1,001	968	-12.5	-9.5	-3.3
Hours worked (1,000s)	2,314	2,185	2,079	-10.1	-5.6	-4.8
Wages paid (\$1,000)	40,035	39,636	37,052	-7.5	-1.0	-6.5
Hourly wages	\$17.30	\$18.14	\$17.82	3.0	4.8	-1.8
Productivity (pounds per hour)	316.6	294.1	268.6	-15.2	-7.1	-8.6
Unit labor costs	\$0.05	\$0.06	\$0.07	21.4	12.9	7.5
Net sales:						
Quantity	727,996	642,785	553,253	-24.0	-11.7	-13.9
Value	422,770	454,139	404,209	-4.4	7.4	-11.0
Unit value	\$0.58	\$0.71	\$0.73	25.8	21.7	3.4
Cost of goods sold (COGS)	426,288	432,193	397,741	-6.7	1.4	-8.0
Gross profit or (loss)	(3,518)	21,946	6,468	(3)	(3)	-70.5
SG&A expenses	11,758	13,342	11,912	1.3	13.5	-10.7
Operating income or (loss)	(15,276)	8,603	(5,444)	64.4	(3)	(3)
Capital expenditures	2,021	1,157	1,466	-27.5	-42.8	26.7
Unit COGS	\$0.59	\$0.67	\$0.72	22.8	14.8	6.9
Unit SG&A expenses	\$0.02	\$0.02	\$0.02	33.3	28.5	3.7
Unit operating income or (loss)	(\$0.02)	\$0.01	(\$0.01)	53.1	(3)	(3)
COGS/sales (1)	100.8	95.2	98.4	-2.4	-5.7	3.2
Operating income or (loss)/ sales (1)	(3.6)	1.9	(1.3)	2.3	5.5	-3.2

(1) "Reported data" are in percent and "period changes" are in percentage points.

(2) Includes inventories from all sources other than subject China.

(3) Undefined.

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

Source: Compiled from data submitted in response to Commission questionnaires and from official statistics of the U.S. Department of Commerce.

APPENDIX D
LIST OF PURCHASERS

Table D-1
Certain PSF: U.S. purchasers, their U.S. office locations, sources of purchases, types of firms, and shares of apparent consumption in 2006

* * * * *

APPENDIX E
NONSUBJECT SOURCES' PRICING DATA

Table E-1

Certain PSF: Weighted-average f.o.b. selling prices and quantities as reported by U.S. producers and importers of product 1, and margins of underselling/(overselling), by quarters, January 2004-December 2006

Period	U.S. producers		Imports from China (nonsubject) ¹			Imports from India			Imports from Indonesia ²			Imports from Korea		
	Quantity	Price	Quantity	Price	Margin	Quantity	Price	Margin	Quantity	Price	Margin	Quantity	Price	Margin
	1,000 pounds	Per pound	1,000 pounds	Per pound	Percent	1,000 pounds	Per pound	Percent	1,000 pounds	Per pound	Percent	1,000 pounds	Per pound	Percent
2004:														
Jan.-Mar.	55,427	\$0.57	--	--	--	***	***	***	***	***	***	***	***	***
Apr.-June	53,490	0.59	--	--	--	***	***	***	***	***	***	***	***	***
July-Sept.	58,989	0.61	--	--	--	***	***	***	***	***	***	***	***	***
Oct.-Dec.	57,494	0.63	--	--	--	***	***	***	***	***	***	***	***	***
2005:														
Jan.-Mar.	52,217	0.70			***	***	***	***	***	***	***	***	***	***
Apr.-June	51,226	0.72			***	***	***	***	***	***	***	***	***	***
July-Sept.	51,930	0.74			***	***	***	***	***	***	***	***	***	***
Oct.-Dec.	44,631	0.78			***	***	***	***	***	***	***	***	***	***
2006:														
Jan.-Mar.	45,635	0.75			***	***	***	***	***	***	***	***	***	***
Apr.-June	42,974	0.78			***	***	***	***	***	***	***	***	***	***
July-Sept.	43,412	0.79	--	--	--	***	***	***	***	***	***	***	***	***
Oct.-Dec.	42,801	0.78			***	***	***	***	***	***	***	***	***	***

Table continued on the next page.

Table E-1--Continued

Certain PSF: Weighted-average f.o.b. selling prices and quantities as reported by U.S. producers and importers of product 1, and margins of underselling/(overselling), by quarters, January 2004-December 2006

Period	Imports from Taiwan			Imports from Thailand			Imports from Vietnam		
	Quantity	Price	Margin	Quantity	Price	Margin	Quantity	Price	Margin
	1,000 pounds	Per pound	Percent	1,000 pounds	Per pound	Percent	1,000 pounds	Per pound	Percent
2004:									
Jan.-Mar.	***	***	***	***	***	***	--	--	--
Apr.-June	***	***	***	***	***	***	--	--	--
July-Sept.	***	***	***	***	***	***	--	--	--
Oct.-Dec.	***	***	***	***	***	***	--	--	--
2005:									
Jan.-Mar.	***	***	***	***	***	***	***	***	***
Apr.-June	***	***	***	***	***	***	***	***	***
July-Sept.	***	***	***	***	***	***	--	--	--
Oct.-Dec.	***	***	***	***	***	***	--	--	--
2006:									
Jan.-Mar.	***	***	***	***	***	***	***	***	***
Apr.-June	***	***	***	***	***	***	--	--	--
July-Sept.	***	***	***	***	***	***	***	***	***
Oct.-Dec.	***	***	***	***	***	***	--	--	--

¹ These data include imports from *** as reported by ***.

² *** reported data for imports of product 1 from Indonesia, where the product it imported had *** of the PSF and that made the imports a higher-value product. Staff telephone interview with ***.

Product 1.--Virgin and/or regenerated polyester staple fiber--5-7 denier, solid, dry.

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

Table E-2

Certain PSF: Weighted-average f.o.b. selling prices and quantities as reported by U.S. producers and importers of product 2, and margins of underselling/(overselling), by quarters, January 2004-December 2006

Period	U.S. producers		Imports from China (nonsubject) ¹			Imports from India			Imports from Indonesia			Imports from Japan		
	Quantity	Price	Quantity	Price	Margin	Quantity	Price	Margin	Quantity	Price	Margin	Quantity	Price	Margin
	1,000 pounds	Per pound	1,000 pounds	Per pound	Percent	1,000 pounds	Per pound	Percent	1,000 pounds	Per pound	Percent	1,000 pounds	Per pound	Percent
2004:														
Jan.-Mar.	12,469	\$0.52	***	***	***	--	--	--	***	***	***	--	--	--
Apr.-June	11,378	0.55	***	***	***	--	--	--	***	***	***	--	--	--
July-Sept.	18,474	0.57	***	***	***	***	***	***	--	--	--	***	***	***
Oct.-Dec.	23,585	0.62	***	***	***	***	***	***	***	***	***	--	--	--
2005:														
Jan.-Mar.	13,632	0.66	***	***	***	***	***	***	--	--	--	--	--	--
Apr.-June	17,289	0.68	***	***	***	***	***	***	***	***	***	--	--	--
July-Sept.	14,813	0.66	***	***	***	***	***	***	--	--	--	--	--	--
Oct.-Dec.	13,562	0.72	***	***	***	***	***	***	--	--	--	--	--	--
2006:														
Jan.-Mar.	7,726	0.67	***	***	***	***	***	***			***	--	--	--
Apr.-June	8,637	0.65	***	***	***	***	***	***	--	--	--	--	--	--
July-Sept.	16,354	0.70	***	***	***	***	***	***	***	***	***	--	--	--
Oct.-Dec.	12,016	0.70	***	***	***	***	***	***	***	***	***	--	--	--

Table continued on the next page.

Table E-2--Continued

Certain PSF: Weighted-average f.o.b. selling prices and quantities as reported by U.S. producers and importers of product 2, and margins of underselling/(overselling), by quarters, January 2004-December 2006

Period	Imports from Korea			Imports from Saudi Arabia			Imports from Taiwan			Imports from Thailand			Imports from Vietnam		
	Quantity	Price	Margin	Quantity	Price	Margin	Quantity	Price	Margin	Quantity	Price	Margin	Quantity	Price	Margin
	1,000 pounds	Per pound	Percent	1,000 pounds	Per pound	Percent	1,000 pounds	Per pound	Percent	1,000 pounds	Per pound	Percent	1,000 pounds	Per pound	Percent
2004:															
Jan.-Mar.	***	***	***	***	***	***	***	***	***	***	***	***	--	--	--
Apr.-June	***	***	***	***	***	***	***	***	***	***	***	***	--	--	--
July-Sept.	***	***	***	***	***	***	***	***	***	***	***	***	--	--	--
Oct.-Dec.	***	***	***	***	***	***	***	***	***	***	***	***	--	--	--
2005:															
Jan.-Mar.	***	***	***	--	--	--	***	***	***	***	***	***	--	--	--
Apr.-June	***	***	***	--	--	--	***	***	***	--	--	--	--	--	--
July-Sept.	***	***	***	--	--	--	***	***	***	--	--	--	--	--	--
Oct.-Dec.	***	***	***	--	--	--	***	***	***	--	--	--	--	--	--
2006:															
Jan.-Mar.	***	***	***	--	--	--	***	***	***	--	--	--	--	--	--
Apr.-June	***	***	***	--	--	--	***	***	***	--	--	--	--	--	--
July-Sept.	***	***	***	--	--	--	***	***	***	--	--	--	***	***	***
Oct.-Dec.	***	***	***	--	--	--	***	***	***	--	--	--	***	***	***

¹ These data include imports from *** as reported by ***.

Product 2.--Virgin and/or regenerated polyester staple fiber--5-7 denier, hollow, slick.

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

Table E-3

Certain PSF: Weighted-average f.o.b. selling prices and quantities as reported by U.S. producers and importers of product 3, and margins of underselling/(overselling), by quarters, January 2004-December 2006

Period	U.S. producers		Imports from India			Imports from Korea			Imports from Taiwan			Imports from Vietnam		
	Quantity	Price	Quantity	Price	Margin	Quantity	Price	Margin	Quantity	Price	Margin	Quantity	Price	Margin
	1,000 pounds	Per pound	1,000 pounds	Per pound	Percent	1,000 pounds	Per pound	Percent	1,000 pounds	Per pound	Percent	1,000 pounds	Per pound	Percent
2004:														
Jan.-Mar.	17,649	\$0.53	***	***	***	***	***	***	***	***	***	--	--	--
Apr.-June	19,130	0.56	***	***	***	***	***	***	***	***	***	--	--	--
July-Sept.	20,071	0.58	***	***	***	***	***	***	--	--	--	--	--	--
Oct.-Dec.	24,101	0.60	***	***	***	***	***	***	--	--	--	--	--	--
2005:														
Jan.-Mar.	23,614	0.66	***	***	***	***	***	***	--	--	--	--	--	--
Apr.-June	24,818	0.67	***	***	***	***	***	***	***	***	***	--	--	--
July-Sept.	23,241	0.67	***	***	***	***	***	***	***	***	***	--	--	--
Oct.-Dec.	25,856	0.72	***	***	***	***	***	***	--	--	--	--	--	--
2006:														
Jan.-Mar.	26,257	0.68	***	***	***	***	***	***	--	--	--	--	--	--
Apr.-June	25,320	0.66	***	***	***	***	***	***	--	--	--	--	--	--
July-Sept.	20,900	0.69	***	***	***	***	***	***	--	--	--	--	--	--
Oct.-Dec.	19,893	0.70	***	***	***	***	***	***	--	--	--	***	***	***
Product 3.—Virgin polyester staple fiber—12-15 denier, solid, dry.														
Source: Compiled from information submitted in response to Commission questionnaires.														

Table E-4

Certain PSF: Weighted-average f.o.b. selling prices and quantities as reported by U.S. producers and importers of product 4, and margins of underselling/(overselling), by quarters, January 2004-December 2006

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Table E-5

Certain PSF: Weighted-average f.o.b. selling prices and quantities as reported by U.S. producers and importers of product 5, and margins of underselling/(overselling), by quarters, January 2004-December 2006

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Figure E-1

Certain PSF: Weighted-average f.o.b. selling prices per pound as reported by U.S. producers and importers of product 1, by quarters, January 2004-December 2006

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Figure E-2

Certain PSF: Weighted-average f.o.b. selling prices per pound as reported by U.S. producers and importers of product 2, by quarters, January 2004-December 2006

* * * * *

Figure E-3

Certain PSF: Weighted-average f.o.b. selling prices per pound as reported by U.S. producers and importers of product 3, by quarters, January 2004-December 2006

* * * * *

Figure E-4

Certain PSF: Weighted-average f.o.b. selling prices per pound as reported by U.S. producers and importers of product 4, by quarters, January 2004-December 2006

* * * * *

Figure E-5

Certain PSF: Weighted-average f.o.b. selling prices per pound as reported by U.S. producers and importers of product 5, by quarters, January 2004-December 2006

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APPENDIX F

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

The Commission requested U.S. producers to describe any actual or potential negative effects since January 1, 2004, on their return on investment, growth, investment, ability to raise capital, existing development and production efforts (including efforts to develop a derivative or more advanced version of the product), or the scale of capital investments as a result of imports of certain polyester staple fiber from China. Their responses are as follows:

Actual Negative Effects

- *** “Yes. Denial or rejection of investment proposal.”
- *** “Yes. Cancellation, postponement, or rejection of expansion projects, denial or rejection of investment proposal, reduction in the size of capital investments, rejection of bank loans, lowering of credit rating, ***.”
- *** “No.”
- *** “Yes. ***.”
- *** “Yes. Cancellation, postponement, or rejection of expansion projects. ***.”
- *** “Yes. Cancellation, postponement, or rejection of expansion projects.”
- *** “No.”

Anticipated Negative Effects

- *** “Yes. *** anticipates significant negative impact and significant increases in imports from China. The low prices combined with the increased import volumes will cause ***’s market share in this category of products to decline along with U.S. shipments, revenues generated, and profitability. Given the current declining state of the textiles business in the U.S., alternative markets are not available which would yield a longer term response of partial or complete shutdown of production capacity and termination of employment for those employees supporting such capacity, this in turn would be compounded by significant financial deterioration for the company as a whole.”
- *** “Yes. Difficult to grow against imports.”
- *** “Yes. The trend we have seen, of declining prices and increased volumes of certain polyester staple fiber imported from China, will continue. This has, and will continue to put severe price pressure on domestically manufactured certain polyester staple fiber, resulting in depressed prices, volume losses, and reduced profitability. Imports of polyester staple fiber are the main reason that ***. If imports of certain PSF from China are not constrained, ***.”
- *** “No.”
- *** “Yes. ***.”
- *** “Yes. In order to compete against cheaper import fiber, we have to lower our selling price, resulting in loss of revenue, and loss of sales.”
- *** “No.”

