

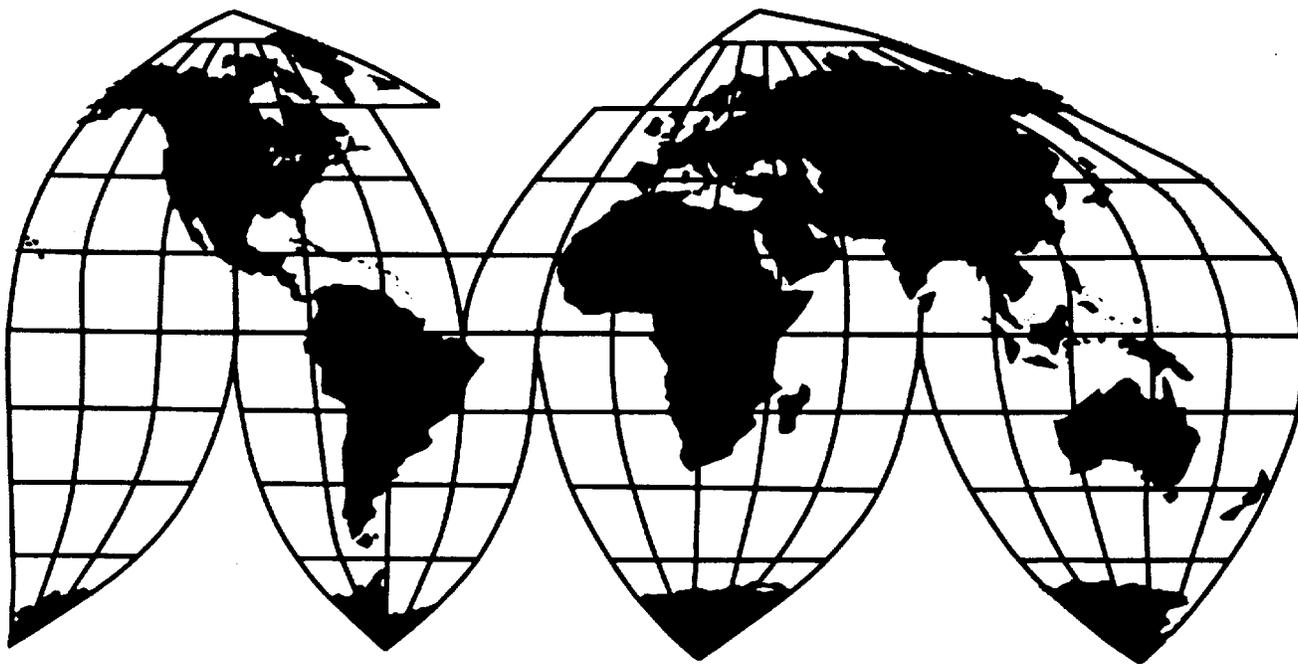
Polyethylene Terephthalate Film, Sheet, and Strip From Brazil, China, Thailand, and the United Arab Emirates

Investigation Nos. 731-TA-1131-1134 (Preliminary)

Publication 3962

November 2007

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

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CONTENTS

	<i>Page</i>
Determinations	1
Views of the Commission	3
Part I: Introduction	I-1
Background	I-1
Summary data	I-1
Previous Commission investigations	I-2
The subject product	I-3
Physical characteristics and uses	I-3
Manufacturing facilities and production employees	I-5
Interchangeability and customer and producer perceptions	I-7
Channels of distribution	I-7
Price	I-8
Domestic like product and the domestic industry	I-8
Part II: Conditions of competition in the U.S. market	II-1
U.S. market conditions and characteristics	II-1
Channels of distribution	II-2
Supply and demand considerations	II-4
U.S. supply	II-4
U.S. demand	II-7
Substitutability issues	II-8
Comparisons of domestic products and subject imports	II-9
Comparisons of domestic products and nonsubject imports	II-12
Comparisons of subject imports and nonsubject imports	II-12
Comparisons of subject products from the subject countries	II-12
Part III: U.S. producers' production, shipments, and employment	III-1
U.S. producers	III-1
U.S. producers' capacity, production, capacity utilization, shipment, inventory, and employment data	III-3
U.S. producers' imports	III-6
Part IV: U.S. imports, apparent consumption, and market shares	IV-1
U.S. importers	IV-1
U.S. imports	IV-1
Negligibility	IV-7
Apparent U.S. consumption	IV-8
U.S. market shares	IV-11
Ratio of subject imports to U.S. production	IV-16
Cumulation considerations	IV-16
Geographical markets	IV-16
Simultaneous presence in the market	IV-18

CONTENTS—Continued

	<i>Page</i>
Part V: Pricing and related information	V-1
Factors affecting prices	V-1
Raw materials	V-1
Transportation costs to the U.S. market	V-2
U.S. inland transportation costs	V-2
Exchange rates	V-3
Pricing practices	V-5
Pricing methods	V-5
Price data	V-6
Price trends	V-6
Price comparisons	V-22
Lost sales and lost revenues	V-23
Part VI: Financial experience of U.S. producers	VI-1
Background	VI-1
Operations on PET film	VI-1
Capital expenditures and research and development expenses	VI-6
Assets and return on investment	VI-7
Capital and investment	VI-8
Part VII: Threat considerations and <i>Bratsk</i> information	VII-1
The industry in Brazil	VII-1
The industry in China	VII-1
The industry in Thailand	VII-3
The industry in the UAE	VII-3
U.S. importers' inventories	VII-4
Imports subsequent to June 30, 2007	VII-5
Antidumping duty orders in third-country markets	VII-5
Information on nonsubject sources	VII-5
"Bratsk" considerations	VII-5
Nonsubject source information	VII-5
 Appendixes	
A. <i>Federal Register</i> notices	A-1
B. Conference witnesses	B-1
C. Summary data	C-1
D. Producer and importer comments regarding differences and similarities between PET film and equivalent PET film	D-1

Note.—Information that would reveal confidential information of individual concerns may not be published and, therefore, has been identified by the use of asterisks.

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation Nos. 731-TA-1131-1134 (Preliminary)

POLYETHYLENE TEREPHTHALATE FILM, SHEET, AND STRIP FROM BRAZIL, CHINA, THAILAND, AND THE UNITED ARAB EMIRATES

DETERMINATIONS

On the basis of the record¹ developed in the subject investigations, the United States International Trade Commission (Commission) determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)) (the Act), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Brazil, China, Thailand, and the United Arab Emirates of polyethylene terephthalate film, sheet, and strip provided for in subheading 3920.62.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).

COMMENCEMENT OF FINAL PHASE INVESTIGATIONS

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling, which will be published in the *Federal Register* as provided in section 207.21 of the Commission's rules, upon notice from the Department of Commerce (Commerce) of affirmative preliminary determinations in the investigations under section 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in the investigations under section 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

BACKGROUND

On September 28, 2007, a petition was filed with the Commission and Commerce by DuPont Teijin Films, Hopewell, VA; Mitsubishi Polyester Film of America, Greer, SC; SKC America, Inc., Covington, GA; and Toray Plastics (America), Inc., North Kingston, RI, alleging that an industry in the United States is materially injured and threatened with further material injury by reason of LTFV imports of polyethylene terephthalate film, sheet, and strip from Brazil, China, Thailand, and the United Arab Emirates. Accordingly, effective September 28, 2007, the Commission instituted antidumping duty investigation Nos. 731-TA-1131-1134 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register*

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

of October 5, 2007 (72 FR 57068). The conference was held in Washington, DC, on October 19, 2007, and all persons who requested the opportunity were permitted to appear in person or by counsel.

VIEWS OF THE COMMISSION

Based on the record in the preliminary phase of these investigations, we find a reasonable indication that an industry in the United States is materially injured by reason of imports of polyethylene terephthalate film, sheet, and strip (PET film) from Brazil, China, Thailand, and the United Arab Emirates (UAE) that are allegedly sold in the United States at less than fair value (LTFV).

I. THE LEGAL STANDARD FOR PRELIMINARY DETERMINATIONS

The legal standard for preliminary antidumping and countervailing duty determinations requires the Commission to determine, based upon the information available at the time of the preliminary determination, whether there is a reasonable indication that a domestic industry is materially injured, threatened with material injury, or whether the establishment of an industry is materially retarded, by reason of the allegedly unfairly traded imports.¹ In applying this standard, the Commission weighs the evidence before it and determines whether “(1) the record as a whole contains clear and convincing evidence that there is no material injury or threat of such injury; and (2) no likelihood exists that contrary evidence will arise in a final investigation.”²

II. BACKGROUND

A. In General

DuPont Teijin Films; Mitsubishi Polyester Film, Inc.; SKC, Inc.; and Toray Plastics (America), Inc. (petitioners) filed a petition on behalf of the domestic industry on September 28, 2007. Representatives for petitioners appeared at the conference and filed a postconference brief, as did representatives for Terphane Holding Corporation, a U.S. corporation that produces PET film and is a subsidiary of Terphane Ltda. (Terphane), which produces PET film in Brazil, and representatives for Flex Middle East and Flex America Inc. (Flex), which are the sole producer/exporter and U.S. importer, respectively, of subject merchandise from the UAE. A representative of CJI Group Limited, an importer of subject merchandise from China, appeared at the conference, but did not submit a postconference brief. No producer or exporter of the subject merchandise from Thailand appeared at the conference or submitted a postconference brief.

¹ 19 U.S.C. § 1673b(a); see, e.g., Co-Steel Raritan, Inc. v. United States, 357 F.3d 1294 (Fed. Cir. 2004); American Lamb Co. v. United States, 785 F.2d 994, 1001-04 (Fed. Cir. 1986); Aristech Chemical Corp. v. United States, 20 CIT 353, 354 (1996). No party argued that the establishment of an industry is materially retarded by reason of the allegedly unfairly traded imports.

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

B. Previous and Related Investigations³

In 1990, the U.S. PET film industry filed for relief from LTFV imports of PET film from Korea, Japan and Taiwan. The Commission made a negative determination with respect to Taiwan in the preliminary investigations. Antidumping duty orders covering subject imports from Japan and Korea were issued in 1991. Commerce revoked the order on PET film from Japan in 1995, after concluding that the order was no longer of interest to interested parties.⁴

On July 1, 1999, Commerce and the Commission conducted five-year reviews of the order covering subject imports from Korea. Commerce determined that dumping would likely continue or recur if the order were revoked, and the Commission determined that revocation of the order would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. As a result, Commerce continued the order effective March 7, 2000. Pursuant to expedited second reviews conducted by Commerce and the Commission, the order was again continued, effective October 20, 2005. Commerce is currently conducting a changed circumstances review of the order that could lead to the reinstatement of Kolon Industries, Inc., a Korean producer of PET film, under the order.⁵

In 2001, the U.S. PET film industry filed for relief from LTFV imports of PET film from India and Taiwan as well as subsidized imports from India. After Commerce and the Commission reached affirmative determinations, antidumping and countervailing duty orders covering subject imports were issued in July 2002. On June 1, 2007, Commerce and the Commission initiated five-year reviews of the orders. On September 14, 2007, the Commission determined to conduct full reviews, which are now ongoing.⁶

III. DOMESTIC LIKE PRODUCT

A. In General

In determining whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of the subject merchandise, the Commission first defines the “domestic like product” and the “industry.”⁷ 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.”⁸ In turn, the Act defines

³ Each antidumping or countervailing duty investigation is *sui generis*, presenting unique interactions of the economic variables the Commission considers, and therefore is not binding on the Commission in subsequent investigations, even when the same subject country and merchandise are at issue. *E.g., Nucor Corp. v. United States*, 414 F.3d 1331, 1340 (Fed. Cir. 2005); *Ugine-Savoie Imphy v. United States*, 248 F. Supp. 2d 1208, 1220 (Ct. Int'l Trade 2002).

⁴ Confidential Report (CR) at I-2 - I-3, Public Report (PR) at I-2. All citations to the staff report in these views refer to memorandum INV-EE-159 (Nov. 5, 2007), as revised by memoranda INV-EE-162 (Nov. 7, 2007) and INV-EE-164 (Nov. 7, 2007).

⁵ CR at I-3, PR at I-2 - I-3.

⁶ CR at I-3 - I-4 & n.21, PR at I-3 & n.21.

⁷ 19 U.S.C. § 1677(4)(A).

⁸ 19 U.S.C. § 1677(4)(A).

“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.”⁹

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.¹⁰ No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.¹¹ The Commission looks for clear dividing lines among possible like products and disregards minor variations.¹² Although the Commission must accept the determination of Commerce as to the scope of the imported merchandise allegedly sold at LTFV,¹³ the Commission determines what domestic product is like the imported articles Commerce has identified.¹⁴ The Commission must base its domestic like product determination on the record in these investigations. The Commission is not bound by prior determinations, even those pertaining to the same imported products, but may draw upon previous determinations in addressing pertinent like product issues.¹⁵

B. Product Description

Commerce’s notice of initiation defines the imported merchandise within the scope of these investigations as follows –

all gauges of raw, pre-treated, or primed PET Film, whether extruded or co-extruded. Excluded are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer more than 0.00001

⁹ 19 U.S.C. § 1677(10).

¹⁰ 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).

¹¹ See, e.g., S. Rep. No. 96-249 at 90-91 (1979).

¹² 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.”).

¹³ See, e.g., USEC, Inc. v. United States, Slip Op. 01-1421 (Fed. Cir. April 25, 2002) at 9 (“The ITC may not modify the class or kind of imported merchandise examined by Commerce.”); Algoma Steel Corp. v. United States, 688 F. Supp. 639, 644 (Ct. Int’l Trade 1988), aff’d, 865 F.3d 240 (Fed. Cir.), cert. denied, 492 U.S. 919 (1989).

¹⁴ Hosiden Corp. v. Advanced Display Mfrs., 85 F.3d 1561, 1568 (Fed. Cir. 1996) (Commission may find a single like product corresponding to several different classes or kinds defined by Commerce); Torrington, 747 F. Supp. at 748-52 (affirming Commission determination of six like products in investigations where Commerce found five classes or kinds).

¹⁵ Acciai Speciali Terni S.p.A. v. United States, 118 F. Supp. 2d 1298, 1304-05 (Ct. Int’l Trade 2000); Nippon Steel Corp. v. United States, 19 CIT at 455; Asociacion Colombiana de Exportadores de Flores v. United States, 693 F. Supp. 1165, 1169 n.5 (Ct. Int’l Trade 1988) (particularly addressing like product determination); Citrosuco Paulista, S.A. v. United States, 704 F. Supp. 1075, 1087-88 (Ct. Int’l Trade 1988).

inches thick. Also excluded is Roller transport cleaning film which has at least one of its surfaces modified by application of 0.5 micrometers of SBR latex. Tracing and drafting film is also excluded. PET Film is classifiable under subheading 3920.62.00.90 of the Harmonized Tariff Schedule of the United States (HTSUS). While HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope of these investigations is dispositive.¹⁶

Petitioners argue that the Commission should define a single domestic like product coextensive with the scope of the investigations and not include a product known as “equivalent PET film.”¹⁷ For the purposes of the preliminary phase of these investigations, the respondents do not oppose that definition.¹⁸

PET film is a high-performance, flexible, and transparent or translucent material that is produced from PET polymer, a linear, thermoplastic polyester resin. It is generally more expensive than other plastic films and is typically used only when its unique properties are required. Special properties imparted to PET film during the manufacturing process are integral to its use in a myriad of downstream applications.¹⁹ There are five subject PET film end-use categories generally recognized by the industry: industrial, packaging, magnetic media, electrical, and imaging. PET film is produced and sold for a variety of end uses in two major categories: general purpose commodity-grade films (representing approximately 65 percent of the market), and specialty-grade films (representing approximately 35 percent of the market) that command a price premium relative to the commodity grades. Commodity-grade films are generally viewed by the industry as large-volume bulk films used principally in the packaging and industrial sectors in which competition from subject imports is reportedly more intense.²⁰

Examples of industrial commodity-grade end use markets include hot stamping foil, pressure sensitive labels (thermally/chemically resistant), release films (pull away labels), photo resist films, metallic yarns, adhesive tapes, plastic cards (including “smart” cards), labels, lamination films, solar/safety window films, and medical test strips. Typical uses for packaging commodity-grade films include flexible pouches and peelable seals (microwave tray film) for foods, snack food and pet food packaging, barrier films to keep moisture away from foods, industrial packaging, can laminations, and vacuum insulation panels.²¹

Magnetic media and electrical and imaging applications are generally associated with more specialized markets than are the commodity-grade industrial and packaging applications. Magnetic media, including VCR and audio tapes and floppy disks, have been in decline for many years. However, there has been growth in high-density storage media for computer backups.²² Electrical applications include brightness-enhancing display films (for computer monitors and wide-screen TVs), motor wire and cable, cable wrap and insulation, transformer insulation films, capacitors, thermal printing tapes, touch screens and membrane touch switches for computer and calculator keyboards, as well as microwave oven and other touch screens, and electrical laminates such as flexible printed circuit board films.²³ Imaging applications are reportedly declining. This category includes microfilm, which is being replaced by computer storage; x-ray films and instant photos, which are being replaced by digital

¹⁶ 72 Fed. Reg. 60,802 (Oct. 26, 2007).

¹⁷ Petition at 9; Petitioners’ Postconference Brief at 10.

¹⁸ Transcript of Oct. 19, 2007 Conference (“Tr.”) at 92-93 (Mr. Koenig).

¹⁹ CR at I-4, PR at I-3.

²⁰ CR at I-5, PR at I-4.

²¹ CR at I-6, PR at I-5.

²² CR at I-6, PR at I-5.

²³ CR at I-7, PR at I-5.

imaging; printing processes, such as magazine advertisements; drafting films, which are being replaced by computer-aided design; and overhead transparencies, which are being replaced by projection.²⁴

In the 1990 investigations resulting in orders covering PET film from Japan and Korea, the Commission found PET film to be a single like product, based on the general similarity in physical characteristics among the types of PET film, the general similarity in production processes and facilities, the perceptions of U.S. producers of a single PET film product, and similar channels of distribution. The Commission found PET film to be “a continuum product without clear dividing lines.”²⁵ The Commission also determined to expand the like product to include equivalent PET film. Equivalent PET film differs from PET film in that the former has at least one surface coated with a performance-enhancing resinous or inorganic layer of more than 0.00001 inch (0.254 micrometer or one gauge) in thickness.²⁶ In the 2000 five-year review of the order covering subject imports from Korea, the Commission found that there was no basis for revisiting its original like product definition.²⁷

In the 2001 investigations of PET film from India and Taiwan, the Commission again found a single domestic like product. However, it declined to include equivalent PET film in the definition of the domestic like product, finding that the evidence regarding physical characteristics and uses, channels of distribution, manufacturing facilities, customer and producer perceptions, and pricing weighed in favor of not including equivalent PET film in the like product definition.²⁸

With respect to whether all PET film comprises a range of products without clear dividing lines, there is no indication that the data applicable to the six factors the Commission analyzes in making its domestic like product finding have changed since the earlier investigations. In view of this fact, the lack of argument to the contrary by the parties, and the limited evidence on the record in these preliminary phase investigations – which in any event indicate (1) general similarity in physical characteristics, (2) general similarity in production processes and facilities, (3) perception of a single product by U.S. customers and producers, (4) similar channels of distribution, and (5) a general similarity of prices – we find that the various types of PET film comprise a single domestic like product.

As to whether we should include equivalent PET film in the definition of the domestic like product, the Commission in the investigations of PET film from India and Taiwan declined to define the domestic like product to include equivalent PET film, which was excluded from the scope of the investigations. Equivalent PET film is again excluded from the scope of the current investigations.²⁹ As a result, Commission staff did not collect extensive data on equivalent PET film. Petitioners and respondents have presented little information regarding equivalent PET film and no party has argued that the Commission should include equivalent PET film in the definition of the domestic like product.

²⁴ CR at I-7, PR at I-5.

²⁵ Polyethylene Terephthalate (PET) Film, Sheet, and Strip from Japan and the Republic of Korea, Inv. Nos. 731-TA-458-459 (Final), USITC Pub. 2383 (May 1991), at 8-14.

²⁶ See 72 Fed. Reg. at 60,802 (Commerce’s scope).

²⁷ Polyethylene Terephthalate Film, Sheet, and Strip from Korea, Inv. Nos. 731-TA-459 (Review), USITC Pub. 3278 (Feb. 2000), at 5. The order covering subject imports from Japan was revoked in 1995.

²⁸ Polyethylene Terephthalate Film, Sheet, and Strip from India and Taiwan, Inv. Nos. 701-TA-415 and 731-TA-933-934 (Final), USITC Pub. 3518 (June 2002), at 6.

²⁹ We note that Roller transport cleaning film that has at least one of its surfaces modified by the application of 0.5 micrometers of SBR latex, as well as tracing and drafting film, are excluded from the scope of the investigations. 72 Fed. Reg. at 60,802. These products were not included in the proposed scope in the petition. See Petition, vol. I at 9. Because the Commission did not receive Commerce’s notice of initiation until after the Commission had concluded its conference, Commission staff obtained no information or data specifically regarding Roller transport cleaning film or tracing and drafting film. In view of the lack of information and argument by the parties on this issue, we do not include domestically produced Roller transport cleaning film and tracing and drafting film in the definition of the domestic like product.

Given the limited evidence on the record in the preliminary phase of these investigations and the lack of any argument to the contrary, we do not include equivalent PET film in the definition of the domestic like product. Accordingly, for purposes of this preliminary phase, we find a single domestic like product, coextensive with the scope of the investigations.

IV. 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.”³⁰ 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.³¹ Based on our finding of a single domestic like product, coextensive with the scope of the investigations, we find that the domestic industry consists of all domestic PET film producers.

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), which 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. Exclusion of such a producer is within the Commission’s discretion based upon the facts presented in each investigation. As discussed below, four domestic producers imported subject merchandise during the period of investigation, two of which were affiliated with foreign producers of the subject merchandise.^{32 33}

DuPont Teijin. Petitioner DuPont Teijin imported subject merchandise *** during the period of investigation, the volume of which was equivalent to *** percent of its production in 2006.³⁴ DuPont Teijin also maintains production facilities in China as a result of a joint venture formed in 2000 between E.I. du Pont de Nemours & Co. and Teijin Holdings USA, Inc.³⁵ There is no record evidence indicating the extent to which DuPont Teijin’s Chinese affiliate exercises direct or indirect control over the domestic producer or the extent to which petitioner DuPont Teijin exerts direct or indirect control over its affiliate, other than the evidence that the firm is ***-percent owned by Teijin Holdings USA, Inc. and ***-percent owned by E.I. du Pont de Nemours & Co.³⁶

³⁰ 19 U.S.C. § 1677(4)(A).

³¹ *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).

³² We note that a third domestic producer, Toray, has a joint venture with a Chinese producer and supplies only the Chinese market with PET film manufactured in the Chinese plant. Tr. at 68-69 (Mr. Eckles). The record in the preliminary phase of these investigations contains no other information regarding the nature of the relationship. On the basis of this very limited information, we do not find that circumstances are appropriate to exclude Toray from the domestic industry as a related party.

³³ Consistent with her practice in past investigations and reviews, Vice Chairman Shara L. 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.

³⁴ CR/PR at Table IV-1 n.2.

³⁵ CR/PR at III-1.

³⁶ CR/PR at III-1.

DuPont Teijin, reportedly *** U.S. PET film producer, was responsible for *** percent of U.S. PET film production in 2006.³⁷ It reported that it imports subject merchandise ***.³⁸

DuPont Teijin does not appear to be benefitting from its affiliation with a subject producer. It experienced *** in 2006. In fact, it was the only reporting domestic producer to ***.³⁹ Further, it does not appear to be shielded from injury by virtue of its relationship with a Chinese producer or because of its subject imports, and it imports a relatively small amount of subject merchandise relative to its production. In view of these facts, we find that appropriate circumstances do not exist to exclude DuPont Teijin from the domestic industry in the preliminary phase of these investigations.

Terphane.^{40 41} Terphane, the *** of the reporting producers, is a subsidiary of Terphane Ltda. in Brazil. There is no evidence in the record of the preliminary phase of these investigations indicating the extent to which Terphane's Brazilian parent exercises direct or indirect control over the domestic producer. Terphane also imported subject merchandise. Its imports from Brazil *** amounted to ***

³⁷ CR/PR at Table III-1.

³⁸ CR/PR at Table III-3 n.1.

³⁹ For purposes of these preliminary investigations, Commissioner Pinkert does not rely upon related parties' financial performance as a factor in determining whether there are appropriate circumstances to exclude them from the domestic industry and relies instead on other information relevant to this issue. The present record is not sufficient to infer from the related parties' profitability on U.S. operations that they have derived a specific benefit from importing or from their relationships to foreign producers. See *Allied Mineral Products, Inc. v. United States*, Slip Op. 04-139 (Ct. Int'l Trade Nov. 12, 2004), at 8. For the final investigations, Commissioner Pinkert invites the parties to provide any information they may have with respect to whether related parties are benefitting financially from their status as related parties.

⁴⁰ Vice Chairman Aranoff and Commissioner Okun do not join in the discussion regarding Terphane, but agree with their colleagues that Terphane is a related party and that appropriate circumstances do not exist to exclude it from the domestic industry. Terphane is a related party by virtue of its importation of subject merchandise from Brazil ***. The volume of subject merchandise imported by Terphane was *** percent of the volume of its domestic production in 2004, *** percent in 2005 and *** percent in 2006. CR/PR at Table III-3. While Terphane imported increasing volumes of subject merchandise, it increased domestic production from *** pounds in 2004 to *** pounds in 2006. Terphane's Domestic Producer Questionnaire Response. While Terphane reports that it imported subject merchandise *** there is little additional evidence as to the relationship of subject imports to Terphane's production process. CR/PR at Table III-3 n.4. The company ***. CR/PR at Table III-1 & n.4. Terphane accounted for *** percent of domestic production in 2006. CR/PR at Table III-1. That a producer has imported a large and increasing volume of subject imports relative to its domestic production, and ***, would ordinarily indicate that its primary interest is shifting from domestic production to importation. Here, however, Terphane's domestic production more than *** from 2004 to 2006. Given that increase, and that there is only limited information on how Terphane's imports of subject merchandise figure in its domestic production process, Vice Chairman Aranoff and Commissioner Okun determine that there is insufficient evidence to support the exclusion of Terphane from the domestic industry for purposes of these preliminary determinations. They will reconsider this issue based on a more fully developed record in any final phase of these investigations.

⁴¹ Commissioner Pinkert does not join in the discussion regarding Terphane. He determines for purposes of this preliminary phase of these investigations that the circumstances are appropriate to exclude Terphane from the domestic industry. Terphane is affiliated with the sole Brazilian producer and exporter of subject merchandise. Terphane's imports from *** in each year of the period covered by the investigations. CR/PR at Table III-3. In 2006, Terphane's subject imports equaled *** percent of its domestic production. The ratio of Terphane's subject imports to production was *** percent in interim 2006 and an *** percent in interim 2007. *Id.* According to Terphane, it imported subject merchandise ***. *Id.*, n. 4. Thus, the record indicates that Terphane's interests lie predominantly *** in importation as opposed to the production of the domestic like product. Commissioner Pinkert notes that the trends in the trade data for the industry excluding Terphane are not meaningfully different from those for the industry as a whole, and thus he joins the Commission's views in these investigations subject to his determination regarding the exclusion of Terphane.

percent of its U.S. production in 2006.⁴² It reported that it imports subject merchandise *** is not available from domestic producers.⁴³ Terphane ***⁴⁴ and was responsible for *** percent of U.S. production of PET film in 2006.⁴⁵

Petitioners argue that Terphane should not be excluded as a related party because it has not accrued a significant benefit from its relationship with its Brazilian parent and, because Terphane's production is such a *** of the domestic market, its inclusion will not skew the data for the rest of the industry.⁴⁶ Terphane also argues that it should be considered part of the domestic industry.⁴⁷

Terphane's net sales of domestically produced PET film increased over the period of investigation, from *** pounds in 2004 to *** pounds in 2006. Its net sales were *** pounds in January-June 2006 and *** pounds in January-June 2007.⁴⁸ Terphane's operating income *** in 2006. Its operating income totaled \$*** in January-June 2007.⁴⁹

Terphane's interests may be changing from those of a domestic producer to an importer, as discussed above it is the *** reporting domestic producer. However, petitioners argue that there is no indication that Terphane imports subject merchandise to benefit from unfair trade practices.⁵⁰ In view of the foregoing, it appears that inclusion of Terphane in the domestic industry will not skew the data. There is no clear indication that Terphane is shielded from injury as compared to the other domestic producers by virtue of its relationship with a Brazilian producer. Nor does Terphane appear to be clearly shielded from injury by subject imports. It does, however, import *** subject product relative to its domestic production.⁵¹ We find that appropriate circumstances do not exist to exclude Terphane from the domestic industry in the preliminary phase of these investigations. We intend to explore this issue further in any final phase of these investigations.

*** is the *** largest domestic producer. It was responsible for *** percent of domestic PET film production in 2006.⁵² *** subject imports from *** amounted to *** percent of its U.S. production in 2006.⁵³ It reported that it imported *** subject merchandise ***.⁵⁴ *** operating income decreased from \$*** in 2004 to \$*** in 2006, and was \$*** in January-June 2007 as compared to \$*** in January-

⁴² CR/PR at Table IV-1 n.9.

⁴³ CR/PR at Table III-3 n.4; see Terphane's Postconference Brief at 11. We intend to explore further in any final phase of these investigations the nature and purpose of Terphane's subject imports.

⁴⁴ CR/PR at Table III-1. Terphane ***. CR/PR at Table III-1 n.4.

⁴⁵ CR/PR at Table III-1.

⁴⁶ Petitioners' Postconference Brief, Responses to Commission Questions at 6-7.

⁴⁷ Terphane's Postconference Brief at 11.

⁴⁸ CR/PR at Table VI-2.

⁴⁹ CR/PR at Table VI-2.

⁵⁰ Petitioners' Postconference Brief, Responses to Commission Questions at 6-7.

⁵¹ However, while Terphane increased its subject imports over the period, from *** pounds in 2004 to *** pounds in 2006 (and its subject imports were *** pounds in January-June 2007 as compared to *** pounds in January-June 2006), CR/PR at Table III-3, its domestic production also increased. Terphane's production increased from *** pounds in 2004 to *** pounds in 2006, and was *** pounds in January-June 2007 as compared to *** pounds in January-June 2006. Terphane's Domestic Producer Questionnaire Response.

⁵² CR/PR at Table III-1.

⁵³ CR/PR at Table IV-1 n.6.

⁵⁴ CR/PR at Table III-3 n.2.

June 2006.⁵⁵ ⁵⁶ In view of the fact that *** imported only *** of subject merchandise and does not appear to be shielded from injury by virtue of its subject imports, for purposes of the preliminary phase of these investigations we find that appropriate circumstances do not exist to exclude *** from the domestic industry.

*** on the petition and accounted for *** percent of domestic PET film production in 2006.⁵⁷ *** subject imports from *** amounted to *** percent of its U.S. production in 2006.⁵⁸ It reported that it imports subject merchandise in order to ***.⁵⁹ Its very small level of imports compared to its domestic production indicates that its primary interest is in domestic production. In addition, it is the *** of the reporting domestic producers and, as such, its inclusion in the domestic industry will not skew the data. Accordingly, for purposes of the preliminary phase of these investigations, we find that appropriate circumstances do not exist to exclude *** from the domestic industry.

In view of the foregoing and consistent with our recommendation concerning the definition of the domestic like product, for the purposes of the preliminary phase of these investigations we find a single domestic industry consisting of all U.S. producers of the subject merchandise.

V. NEGLIGIBLE IMPORTS

A. In General

Pursuant to Section 771(24) of the Act, imports from a subject country of merchandise corresponding to a domestic like product that account for less than 3 percent of all such merchandise imported into the United States during the most recent 12 months for which data are available preceding the filing of the petition shall be deemed negligible.⁶⁰ Imports that are individually negligible may not be negligible if the aggregate volumes of imports from several countries with negligible imports exceeds 7 percent of all such merchandise imported into the United States in the statutory period for assessing negligibility referenced above.⁶¹

By operation of law, a finding of negligibility terminates the Commission's investigation with respect to such imports.⁶² For purposes of deciding negligibility, the Commission is authorized to make "reasonable estimates on the basis of available statistics" of pertinent import levels.⁶³

No party argues that allegedly LTFV subject imports from China and Thailand are negligible under 19 U.S.C. § 1677(24)(A)(i). Imports from each country accounted for more than 3 percent of the volume of PET film imported into the United States in the most recent 12-month period for which data are available preceding the filing of the petition. Based on official, unadjusted Commerce statistics, subject imports as a percentage of total imports of PET film by quantity were 19.0 percent for China and

⁵⁵ CR/PR at Table VI-2.

⁵⁶ See Commissioner Pinkert's views regarding reliance on financial performance data in footnote 39.

⁵⁷ CR/PR at Table III-1.

⁵⁸ CR/PR at Table IV-1 n.11.

⁵⁹ CR/PR at Table III-3 n.5.

⁶⁰ 19 U.S.C. §§ 1671b(a), 1673b(a), 1677(24)(A)(I)(I).

⁶¹ 19 U.S.C. § 1677(24)(A)(i)-(ii).

⁶² 19 U.S.C. §§ 1671b(a)(1), 1673b(a)(1).

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

5.6 percent for Thailand from September 2006 through August 2007.⁶⁴ If the statistics are adjusted to allow for misclassified imports, as discussed below, these percentages are higher.⁶⁵

While no party contests that subject imports from China and Thailand exceed the negligibility threshold, the issue is disputed as to subject imports from Brazil and the UAE. In particular, several of the parties argue that the Commerce statistics used to calculate import shares should be adjusted because they include merchandise improperly classified as PET film. Terphane asserts that the official data for imports of PET film from Brazil are significantly overstated due to coding errors and contends that the Commission should instead use import figures reported in its questionnaire response.⁶⁶ Petitioners argue that nonsubject imports from Canada and Oman were improperly classified as PET film, and thus should not be included in the negligibility calculation. They believe that Omani imports are of nonsubject amorphous PET film (APET) and that Canadian imports are of APET, shrink films and downstream products made from PET film.⁶⁷ Petitioners contend that these imports should be excluded when determining the volume of total PET film imports, which is used in calculating the import shares accounted for by the subject merchandise from the four countries in question. Terphane and Flex dispute petitioners' claim as it applies to Canada, maintaining that most of the volumes imported into the United States from that country are properly regarded as PET film.⁶⁸ We find that the record supports each of the adjustments sought by the parties.

With respect to subject imports from Brazil, evidence in the record indicates that a significant portion of what has been classified as subject imports throughout the period of investigation has been misclassified. ***⁶⁹

Evidence in the record also supports the conclusion that nonsubject imports from Oman and Canada have been misclassified as PET film. Commission staff have been informed of APET production in Oman and of imports of Omani APET into the United States, which have been misclassified as PET film.⁷⁰ It also appears that the Canadian firm Klockner ***, where it is misclassified as subject merchandise.⁷¹ Commission staff have corroborated the claim that subject PET film is *** by Canadian producer Scott, then ***. The films are also believed to be ***.⁷² It appears, then, that this merchandise is misclassified as subject product.

In view of the foregoing, we determine that it is appropriate to adjust the official statistics to exclude reported imports of PET film from Canada and Oman and to use the Brazilian importer questionnaire data in lieu of official import data in determining whether subject imports are negligible.

⁶⁴ CR/PR at Table IV-3.

⁶⁵ Adjusting the statistics to exclude Canada and Oman and using importer questionnaire data for Brazil, the figures are *** percent for China and *** percent for Thailand. CR/PR at Table IV-4.

⁶⁶ See Terphane's Postconference Brief at 3-4 & Exh. 1, CR at IV-10, PR at IV-7.

⁶⁷ Petitioners' Postconference Brief at 4-5.

⁶⁸ Terphane's Postconference Brief at 3-4 & Exh. 1, Flex's Postconference Brief at 5. We note that, contrary to the assertions of Terphane and Flex, the most recent 12-month period for which data are available prior to the filing of the petition is September 2006 to August 2007. The petition was filed on September 28, 2007. See Carbon and Certain Alloy Steel Wire Rod from Brazil, Canada, Egypt, Germany, Indonesia, Mexico, Moldova, South Africa, Trinidad and Tobago, Turkey, Ukraine, and Venezuela, Inv. Nos. 701-TA-417-421 (Preliminary) and 731-TA-953-963 (Preliminary), USITC Pub. 3456 (October 2001) at 8 n.37 and Hydraulic Magnetic Circuit Breakers from South Africa, Inv. No. 731-TA-1033 (Preliminary), USITC Pub. 3600 (June 2003) at 9 n.43.

⁶⁹ Terphane submission (Nov. 1, 2007) concerning monthly imports, September 2006-August 2007, as revised (Nov. 4, 2007).

⁷⁰ See CR at IV-4 - IV-5, PR at IV-2 - IV-3.

⁷¹ See CR at IV-5 - IV-6, PR at IV-3.

⁷² CR at IV-6, PR at IV-3.

Accordingly, using the adjusted data for the period September 2006 through August 2007, we find that subject imports from Brazil constitute *** percent of total imports of PET film and subject imports from the UAE constitute *** percent of total imports. In addition, we find that subject imports from China constitute *** percent of total imports, and those from Thailand constitute *** percent.⁷³ Thus, no country's imports fall within the negligibility exception.

VI. CUMULATION

A. In General

For purposes of evaluating the volume and price effects for a determination of material injury by reason of the subject imports, section 771(7)(G)(i) of the Act requires the Commission to cumulate subject imports from all countries as to which petitions were filed and/or investigations self-initiated by Commerce on the same day, if such imports compete with each other and the domestic like product in the U.S. market.⁷⁴ In assessing whether subject imports compete with each other and with the domestic like product, the Commission has generally considered four factors, including:

- (1) the degree of fungibility between the subject imports from different countries and between imports and the domestic like product, including consideration of specific customer requirements and other quality related questions;
- (2) the presence of sales or offers to sell in the same geographic markets of subject imports from different countries and the domestic like product;
- (3) the existence of common or similar channels of distribution for subject imports from different countries and the domestic like product; and
- (4) whether the subject imports are simultaneously present in the market.⁷⁵

While no single factor is necessarily determinative, and the list of factors is not exclusive, these factors are intended to provide the Commission with a framework for determining whether the subject imports compete with each other and with the domestic like product.⁷⁶ Only a "reasonable overlap" of competition is required.⁷⁷

⁷³ CR/PR at Table IV-4.

⁷⁴ 19 U.S.C. § 1677(7)(G)(i).

⁷⁵ See Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea, and Taiwan, Inv. Nos. 731-TA-278-280 (Final), USITC Pub. 1845 (May 1986), aff'd, Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898 (Ct. Int'l Trade), aff'd, 859 F.2d 915 (Fed. Cir. 1988).

⁷⁶ See, e.g., Wieland Werke, AG v. United States, 718 F. Supp. 50 (Ct. Int'l Trade 1989).

⁷⁷ The SAA states that "the new section will not affect current Commission practice under which the statutory requirement is satisfied if there is a reasonable overlap of competition." SAA at 848 (citing Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898, 902 (Ct. Int'l Trade 1988)), aff'd 859 F.2d 915 (Fed. Cir. 1988). See Goss Graphic Sys., Inc. v. United States, 33 F. Supp. 2d 1082,1087 (Ct. Int'l Trade 1998) ("cumulation does not require two products to be highly fungible"); Wieland Werke, AG, 718 F. Supp. at 52 ("Completely overlapping markets are not required.").

B. Analysis

The simultaneous filing date requirement for cumulation was satisfied when a single petition covering PET film imports from Brazil, China, Thailand, and the UAE was filed on September 28, 2007. None of the statutory exceptions to cumulation is applicable.⁷⁸

With regard to the four factors that the Commission customarily considers in determining whether there is a reasonable overlap of competition, all responding U.S. producers reported that commodity-type PET film products (*i.e.* those that are corona-treated, thermal laminated or hot stamped) are fully interchangeable. These producers stated that there are only limited circumstances in which the products are not fully interchangeable, such as when chemically treated for the packaging market. In fact, all responding U.S. producers and importers indicated that the U.S. products and subject products are always, frequently or sometimes interchangeable.⁷⁹

Domestic PET film is shipped nationwide. Subject imports enter specific customs districts, then are generally sold in multiple regions or nationwide. Brazilian product entered through 10 districts, while the Chinese product entered through 31 districts, the Thai product entered through 15 districts and the UAE product entered through 14 districts.⁸⁰

During the period of investigation, the majority of U.S. producers' domestic shipments were to end users and to processors,⁸¹ although shipments were also made to distributors. *** percent of U.S. shipments by importers of subject merchandise from Brazil went to processors during the period. U.S. importers of subject merchandise from China shipped most of their merchandise to end users, but also shipped merchandise to processors and distributors. U.S. importers of subject merchandise from Thailand shipped the majority of their merchandise to end users and shipped some to distributors, but shipped none to processors during the period. U.S. importers of subject merchandise from the UAE shipped *** of their merchandise to processors and distributors during the period and *** to end users.⁸²

Thus, there appears to be a reasonable overlap in terms of channels of distribution between the subject imports and the domestic like product, as the domestic producers sell through all three channels. There is likewise a reasonable overlap between subject imports from China and other subject countries for the same reason. However, there appears to be *** overlap with respect to channels of distribution between subject imports from Brazil and Thailand, as the Brazilian industry ships *** of its subject merchandise to processors and the Thai industry ships none of its product to processors. There is reasonable overlap in terms of channels of distribution between subject imports from the UAE and the other countries.⁸³

Imports from each of the subject countries have been present in the U.S. market throughout the period of investigation. Specifically, subject imports from China and Thailand were recorded in every month of the period of investigation. Subject imports from Brazil were present in all but four months of the period, and subject imports from the UAE were present in all but three months of the period.⁸⁴

⁷⁸ See 19 U.S.C. § 1677(7)(G)(ii).

⁷⁹ CR at II-14, II-16, PR at II-10; CR/PR at Table II-3.

⁸⁰ CR at IV-30, PR at IV-19; CR/PR at Table IV-14.

⁸¹ Processors add additional coatings or treatments to PET film before selling it to the end user. CR at II-4, PR at II-2.

⁸² CR/PR at Table II-2.

⁸³ CR/PR at Table II-2.

⁸⁴ CR/PR at Table IV-15.

In view of the foregoing, it appears that there is at least a substantial degree of fungibility between domestic PET film and the subject imports, as well as among the various subject imports.⁸⁵ The criterion regarding geographic markets is satisfied, as is that for simultaneous presence. In terms of channels of distribution, it appears that there is overlap between the domestic product and the subject imports, as well as among the subject imports, with the exception of subject imports from Brazil compared to subject imports from Thailand. There need not be an overlap in terms of every factor and every country comparison, however, as no single factor or comparison is necessarily determinative.⁸⁶

Accordingly, we find that the subject imports from Brazil, China, Thailand, and the UAE compete with each other and with the domestic like product. Thus, for purposes of the preliminary phase of these investigations, we assess cumulatively the volume and effects of subject imports in determining whether there is a reasonable indication of material injury by reason of subject imports.

VII. REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF SUBJECT IMPORTS

In the preliminary phase of antidumping or countervailing duty investigations, the Commission determines whether there is a reasonable indication that an industry in the United States is materially injured by reason of the imports under investigation.⁸⁷ In making this determination, the Commission must consider the volume of subject 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.⁸⁸ The statute defines “material injury” as “harm which is not inconsequential, immaterial, or unimportant.”⁸⁹ In assessing whether there is a reasonable indication that 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.⁹⁰ 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.”⁹¹

For the reasons stated below, we determine that there is a reasonable indication that the domestic industry producing PET film is materially injured by reason of subject imports from Brazil, China, Thailand, and the UAE.

⁸⁵ CR at II-14, PR at II-10. This appears not to have changed since the Commission reached its determinations with respect to PET film from India and Taiwan. See USITC 3518 at 7-8.

⁸⁶ See Wieland Werke, AG v. United States, 718 F. Supp. 50 (Ct. Int’l Trade 1989). But see Spring Table Grapes from Chile and Mexico, Inv. Nos. 731-TA-926-927, USITC Pub. 3432 (June 2001) (Commission declined to find a reasonable overlap of competition because of lack of simultaneous presence in market).

⁸⁷ 19 U.S.C. §1673b(a).

⁸⁸ 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, e.g., Angus Chem. Co. v. United States, 140 F.3d 1478 (Fed. Cir. 1998).

⁸⁹ 19 U.S.C. § 1677(7)(A).

⁹⁰ 19 U.S.C. § 1677(7)(C)(iii).

⁹¹ 19 U.S.C. § 1677(7)(C)(iii).

A. Conditions of Competition and the Business Cycle

The following conditions of competition inform our analysis of whether there is a reasonable indication of material injury by reason of the subject imports.

1. Captive Production⁹²

The domestic industry consumes a significant portion of its PET film production in the manufacture of a number of downstream products. We have considered whether the captive production provision requires primary focus on the merchant market when assessing market share and factors affecting the financial performance of the domestic industry. We find that a significant amount of domestic production of PET film is both captively consumed and sold on the merchant market,⁹³ and thus the threshold requirement is met.

However, the record in the preliminary phase of these investigations indicates that the second criterion has not been met, *i.e.* whether the domestic like product is the predominant material input in the production of the downstream article. As noted above, PET film is used to make a large number of downstream products. In terms of cost, it appears that it represents only approximately 30 percent of the total cost of producing the downstream articles.⁹⁴ Thus, we find that the statutory captive production provision is not met in these investigations. We intend to explore this issue further in any final phase investigations. However, for the purposes of the preliminary phase of these investigations, we consider as a condition of competition that a significant portion of domestic production is captively consumed,⁹⁵

⁹² As amended by the URAA, the statute contains a provision on captive production at section 19 U.S.C. § 1677(7)(C)(iv), which provides:

- (iv) CAPTIVE PRODUCTION -- If domestic producers internally transfer significant production of the domestic like product for the production of a downstream article and sell significant production of the domestic like product in the merchant market, and the Commission finds that –
- (I) the domestic like product produced that is internally transferred for processing into that downstream article does not enter the merchant market for the domestic like product,
 - (II) the domestic like product is the predominant material input in the production of that downstream article, and
 - (III) the production of the domestic like product sold in the merchant market is not generally used in the production of that downstream article,

then the Commission, in determining market share and the factors affecting financial performance set forth in clause (iii), shall focus primarily on the merchant market for the domestic like product. 19 U.S.C. § 1677(7)(C)(iv). The SAA indicates that where a domestic like product is transferred internally for the production of another article coming within the definition of the domestic like product, such transfers do not constitute *internal transfers for the production of a “downstream article”* for purposes of the captive production provision. SAA at 853.

⁹³ Internal consumption to produce downstream products represented *** percent of domestic shipments in 2006, and *** percent of domestic shipments were to the merchant market. CR/PR at Table III-2.

⁹⁴ See Nov. 6, 2007 e-mail to John Ascienzo from ***; Nov. 2, 2007 e-mail from *** to John Ascienzo; and Nov. 8, 2007 and Nov. 12, 2007 e-mails from *** to John Ascienzo. We note that neither the statute nor the legislative history specifies whether the second criterion should be analyzed in terms of the relative cost, weight or volume of the material inputs used in producing the downstream products. The Commission has, however, traditionally conducted the analysis in terms of costs. See, e.g., Pure Magnesium from China, Israel and Russia, Inv. Nos. 701-TA-403 and 731-TA-895-897 (Final), USITC Pub. 3467 (Nov. 2001), at 16; Beryllium Metal and High-Beryllium Alloys from Kazakstan, Inv. No. 731-TA-476 (Final), USITC Pub. 3019 (Feb. 1997), at 8-9.

⁹⁵ In the India and Taiwan investigations, the Commission also considered as a significant condition of competition the fact that a substantial portion of domestic production was captively consumed. USITC Pub. 3518 at

(continued...)

and thus we examine merchant market data, as well as data for the total U.S. market, in making our injury determination.

2. Product Interchangeability

Purchasers require certification or qualification of their suppliers. Evidence in the record suggests that insofar as commodity-grade PET film is concerned, the procedure appears not to be difficult.⁹⁶ The complexity of the final product determines the length of the process, which can take from three to 18 months. Each customer has its own system of qualifying vendors.⁹⁷ A strong majority of U.S. producers and importers familiar with the products reported that the domestic product and subject imports are always or frequently interchangeable.⁹⁸

3. Demand Conditions

Demand for PET film generally is dependent upon demand in its five main end-use market segments. Domestic producers maintain that demand is generally cyclical, although there are different underlying trends in the various market components.⁹⁹ Evidence in the record indicates that demand in the packaging and industrial markets has increased, as has demand in the electrical and imaging markets. Four of the 10 responding importers reported that overall U.S. demand has declined.¹⁰⁰

Total apparent U.S. consumption increased significantly by both quantity and value.¹⁰¹ An examination of the merchant market alone indicates even larger increases by quantity and value between 2004 and 2006.¹⁰²

4. Supply Conditions

The domestic industry supplied the substantial majority of PET film to the U.S. market throughout the period of investigation.¹⁰³ However, the domestic industry's total market and merchant market shipments decreased between 2004 and 2006, although such shipments increased between the

⁹⁵ (...continued)

11.

⁹⁶ Petition at 72, Petitioners' Postconference Brief at 11.

⁹⁷ Tr. at 95-96 (Mr. Roy).

⁹⁸ CR/PR at Table II-3.

⁹⁹ Petition at 73.

¹⁰⁰ CR at II-13, PR at II-9.

¹⁰¹ Measured by quantity, total U.S. consumption increased from *** pounds in 2004 to *** pounds in 2006. It was *** pounds in January-June 2006 and *** pounds in January-June 2007. Measured by value, total U.S. consumption increased from \$*** in 2004 to \$*** in 2006. It was \$*** in January-June 2006 and \$*** in January-June 2007. CR/PR at Table IV-10.

¹⁰² Measured by quantity, open market U.S. consumption increased from *** pounds in 2004 to *** pounds in 2006. It was *** pounds in January-June 2006 and *** pounds in January-June 2007. Measured by value, open market U.S. consumption increased from \$*** in 2004 to \$*** in 2006. It was \$*** in January-June 2006 and \$*** in January-June 2007. CR/PR at Table IV-9.

¹⁰³ The domestic industry's share of the total U.S. market fell from *** percent in 2004 to *** percent in 2006. It was *** percent in January-June 2006 and *** percent in January-June 2007. CR/PR at Table IV-10. The domestic industry's share of the open market was *** percent in 2004 and declined to *** percent in 2006. It was *** percent in January-June 2006 and *** percent in January-June 2007. CR/PR at Table IV-9.

interim periods.¹⁰⁴ At the same time, subject import market share rose,¹⁰⁵ as did nonsubject import market share, except when the interim periods are compared.¹⁰⁶

5. Other Considerations

The basic raw materials for making PET film are dimethyl terephthalate (DMT) or purified terephthalic acid (PTA) and ethylene glycol, which come from xylene and ethylene, respectively. These chemicals are petroleum-based and are subject to fluctuations in global prices for oil and natural gas. Thus, as world oil prices rise, so do the prices for chemicals and the cost of polyester film. Energy costs are also an important factor in PET film production. U.S. producers reported that raw material costs increased significantly between January 2004 and June 2007. For the full years between 2004 and 2006, natural gas prices were highest in 2005, and petroleum prices were highest in 2006.¹⁰⁷

The manufacture of PET film is capital-intensive and, to remain profitable, plants must run at relatively high capacity utilization rates for sustained periods. Most plants operate on a 24-hour per day, 7-day per week basis, with downtime for maintenance and repairs. Each production line costs between \$50 million and \$100 million and can produce 10,000 to 20,000 tons of PET film per year.¹⁰⁸

Although producers perceive the market in terms of the thickness of the various types of PET film, end users' perceptions are governed by reference to the specific segments, such as packaging, industrial, electrical, magnetic, and imaging.¹⁰⁹ Commodity-grade PET film reportedly comprises approximately 65 percent of the U.S. market, while higher-grade specialty products comprise the remaining 35 percent.¹¹⁰ The pricing of the commodity-grade products is allegedly the benchmark for pricing of all PET film.¹¹¹

PET film is sold on both a contract and spot basis. Both U.S. producers and importers determine prices on a transaction-by-transaction basis, based on negotiations and market conditions. The percentage of spot sales as compared to contract sales varies widely for both U.S. producers and importers, although both had significant sales of each type.¹¹² Contracts range from three months to two years in duration, but rarely exceed one year. They typically fix price and quantity, and both U.S.

¹⁰⁴ The domestic industry's total U.S. shipments decreased from *** pounds in 2004 to *** pounds in 2006. They were *** pounds in January-June 2006 and *** pounds in January-June 2007. The domestic industry's open market shipments declined from *** pounds in 2004 to *** pounds in 2006. They were *** pounds in January-June 2006 and *** pounds in January-June 2007. CR/PR at Table C-3.

¹⁰⁵ Subject import market share for the total market rose from *** percent in 2004 to *** percent in 2006. It was *** percent in January-June 2006 and January-June 2007. CR/PR at Table IV-10. Subject import market share for the open market increased from *** percent in 2004 to *** percent in 2006. It was *** percent in January-June 2006 and *** percent in January-June 2007. CR/PR at Table IV-9.

¹⁰⁶ Nonsubject import market share for the total market increased from *** percent in 2004 to *** percent in 2006. It was *** percent in January-June 2006 and *** percent in January-June 2007. CR/PR at Table IV-10. Nonsubject import market share for the open market rose from *** percent in 2004 to *** percent in 2006. It was *** percent in January-June 2006 and *** percent in January-June 2007. CR/PR at Table IV-9.

¹⁰⁷ CR at V-1 - V-2, PR at V-1.

¹⁰⁸ CR at I-7, PR at I-6.

¹⁰⁹ Petition at 72.

¹¹⁰ Petitioners' Postconference Brief at 10.

¹¹¹ Tr. at 47 (Mr. Trice).

¹¹² CR/PR at V-5 - V-6.

producers and importers offer meet-or-release provisions. Some U.S. producers and importers invoke standard minimum quantities or price premiums for substandard volume shipments.¹¹³

B. Volume of Subject Imports¹¹⁴

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.”¹¹⁵

The volume of cumulated subject imports increased from 2004 to 2006, but decreased when the interim periods are compared.¹¹⁶ Subject imports’ market share *** between 2004 to 2006, although the increase started from the relatively low level observed at the beginning of the period of investigation; the share of the total market *** between interim periods, and the share of the open market increased *** when the interim periods are compared.¹¹⁷ The ratio of cumulated subject imports to U.S. production *** between 2004 to 2006, but was slightly lower in interim 2007 compared to interim 2007.¹¹⁸

¹¹³ CR/PR at V-6.

¹¹⁴ As explained above, we have determined to use adjusted import data in assessing whether there is a reasonable indication of material injury by reason of subject imports.

¹¹⁵ 19 U.S.C. § 1677(7)(C)(i).

¹¹⁶ The volume of cumulated subject imports increased from *** pounds in 2004 to *** pounds in 2006. Cumulated subject import volume was *** pounds in January-June 2006 and *** pounds in January-June 2007. CR/PR at Table C-3.

¹¹⁷ Subject imports’ share of total apparent U.S. consumption rose from *** percent in 2004 to *** percent in 2006, and was *** percent in both January-June 2006 and January-June 2007. CR/PR at Table IV-10. Subject imports’ share of open market apparent U.S. consumption increased from *** percent in 2004 to *** percent in 2006. It was *** percent in January-June 2006 and *** percent in January-June 2007. CR/PR at Table IV-9.

¹¹⁸ The ratio of cumulated subject imports to U.S. production was *** percent in 2004 and increased to *** percent in 2006. It was *** percent in January-June 2006 and *** percent in January-June 2007. Calculated from CR/PR at Tables C-1 and C-3.

Nonsubject imports also increased between 2004 to 2006, although at a lesser rate than did subject imports.¹¹⁹ Nonsubject imports' market share also increased between 2004 and 2006, and remained substantially higher than subject imports' market share in interim 2007.^{120 121 122}

¹¹⁹ Nonsubject imports climbed from *** pounds in 2004 to *** pounds in 2006 and totaled *** pounds in January-June 2007 as compared with *** in January-June 2006. CR/PR at Table C-3. While subject imports *** in market share, nonsubject imports increased from *** percent in 2004 to *** percent in 2006. CR/PR at Table IV-10.

¹²⁰ Nonsubject imports' share of total apparent U.S. consumption rose from *** percent in 2004 to *** percent in 2006, and was *** percent in January-June 2007 compared with *** percent in January-June 2006. CR/PR at Table IV-10. Nonsubject imports' share of open market apparent U.S. consumption climbed from *** percent in 2004 to *** percent in 2006, and was *** percent in January-June 2007 compared with *** percent in January-June 2006. CR/PR at Table IV-9.

¹²¹ In any final phase investigations, we will seek information on the role of nonsubject imports of PET film in the U.S. market. We invite parties to comment in any final phase investigations on whether Bratsk Aluminium Smelter v. United States, 444 F.3d 1369 (Fed. Cir. 2006), is applicable to the facts of these investigations. Among other things, parties are encouraged to focus on whether the first triggering factor under Bratsk (whether PET film is a commodity product) is met. The Commission also invites 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, as well as to identify which of the various nonsubject sources should be the focus of additional information gathering by the Commission in any final phase investigations.

¹²² Chairman Pearson and Commissioner Okun do not join the preceding footnote. They note that the record is unclear as to whether the predicates of the *Bratsk* test are satisfied. While the record indicates that PET film is considered by the industry to be divided into so-called "commodity" and "specialty" products, the record is relatively undeveloped as to the differences between these products other than end use. The record supports the conclusion that PET film of the same type is broadly interchangeable for the same uses regardless of where it is produced. A substantial majority of producers and importers reported that the domestic, subject and nonsubject products were always or frequently interchangeable. CR at II-15, PR at II-10. U.S. producers and most importers reported that the U.S. product, the subject imports, and non-subject imports are frequently or always comparable. While the characteristics, thickness and coating type may limit the interchangeability of a specific product for a particular end use, this limitation applies whether it is a U.S. product, subject import, or non-subject import. In any final phase of these investigations, we intend to examine closely whether and to what extent the product mix offered by market participants and the differences between the "specialty" and "commodity" types of PET film affect the commodity nature of the product.

With respect to whether nonsubject imports are price competitive, in its importers' questionnaires the Commission requested product-specific price data from nonsubject countries. These data show mixed underselling and overselling of the domestic like product by nonsubject imports. The prices of nonsubject imports showed some underselling compared with prices of subject imports, particularly with regard to pricing products 4 and 5. CR/PR at Tables V-1-V-5. On balance, it appears that nonsubject imports are price-competitive with the domestic like product.

As to whether price-competitive nonsubject imports are a significant factor in the U.S. market, the record in the preliminary phase of these investigations suggests that nonsubject imports were a significant factor. Nonsubject imports were present throughout the period examined. They accounted for *** percent of total imports (on a quantity basis) in 2004, *** percent in 2005, and *** percent in 2006. Nonsubject imports accounted for *** percent of total imports in interim 2006 and *** percent in interim 2007. CR/PR at Table C-3. The U.S. market share of nonsubject imports ranged from 14.5 percent in 2004 to 20.0 percent in 2005 and 20.8 percent in 2006. The U.S. market share of nonsubject imports was 22.7 percent in interim 2006 and 18.2 percent in interim 2007. CR/PR at Table IV-8. For purposes of the preliminary phase of these investigations, and assuming the product is a commodity, we find the second *Bratsk* triggering factor is met.

Assuming that the *Bratsk* test is triggered for purposes of the preliminary phase of these investigations, we now consider whether nonsubject imports are likely to replace subject imports and continue to cause injury to the domestic industry. One of the relevant factors we must examine in assessing this issue is the size of the nonsubject supplier industries and the amount of excess capacity in those industries. The Commission sent foreign producer questionnaires to all significant nonsubject PET film suppliers, but received no response. Consequently, there is no

(continued...)

Notwithstanding the increase in nonsubject import volumes, the increase in subject import market share contributed significantly to the loss of market share of the domestic industry.¹²³

For the foregoing reasons, we find for the purposes of the preliminary phase of these investigations that both the volume and increase in volume of cumulated subject imports are significant, both in absolute terms and relative to consumption and production in the United States.

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.¹²⁴

As noted above, the domestic like product and subject imports appear to be substantially interchangeable. In addition, as also noted, price is an important factor in purchasing decisions.

¹²² (...continued)

information on the record concerning the capacity of non-subject suppliers, or their capacity utilization rates. Accordingly, we cannot determine whether nonsubject imports would be likely to have sufficient capacity to replace subject imports if antidumping duty orders were to be imposed.

We note, however, that trends in the U.S. market share for subject and nonsubject imports relative to U.S. producers' market share during the period examined may provide some indication of the likely import pattern if subject imports were not in the U.S. market. Apparent U.S. consumption of PET film increased *** percent from 2004 to 2006, and declined by *** percent in interim 2007 compared with the same period in 2006. CR/PR at Table C-3. The market share of subject U.S. imports rose from *** percent in 2004 to *** percent in 2006. Subject import market share was *** percent in both interim periods. The market share of U.S. imports of nonsubject PET film increased from *** percent in 2004 to *** percent in 2006, and was *** percent in interim 2007 compared with *** percent in 2006. The record thus indicates that both subject and nonsubject imports were taking market share from the domestic industry during most of the period examined. We note, however, that domestic producers are affiliated with nonsubject producers and were responsible for some of the nonsubject imports during the period of investigation. In any final phase of these investigations, in order to complete our analysis under *Bratsk*, we will again attempt to seek information on production capacity of major nonsubject producers of PET film, and the extent that nonsubject imports by domestic producers would be impacted if orders are imposed. For purposes of these preliminary determinations, we determine that non-subject imports would not negate any benefit to the domestic industry from the imposition of the orders.

For a complete statement of Chairman Pearson's and Commissioner Okun's interpretation of *Bratsk* in a preliminary investigation, 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 (Apr. 2007) at 19-25. In any final phase of these investigations, any party holding a contrary view should so indicate, and provide a basis for its view, at the time written comments on the draft questionnaires are submitted.

¹²³ The domestic industry's share of total apparent U.S. consumption was *** percent in 2004 and fell to *** percent in 2006. It was *** percent in January-June 2007 compared with *** percent in January-June 2006. CR/PR at Table IV-10. The domestic industry's share of open market apparent U.S. consumption fell from *** percent in 2004 to *** percent in 2006 and was *** percent in January-June 2007 compared with *** percent in January-June 2006. CR/PR at Table IV-9.

¹²⁴ 19 U.S.C. § 1677(7)(C)(ii).

Contracts are important in the PET film industry as well, as both producers and importers have significant contract sales.¹²⁵

Underselling was extensive during the period of investigation, occurring in 126 of 156 instances (81 percent) in which comparisons are possible, with margins ranging from 1.0 to 43.5 percent.¹²⁶ This significant underselling appears to have led to the domestic producers' loss of market share, given that the domestic producers' shipments are in decline, that such declines occurred primarily in the merchant market,¹²⁷ and that there are several instances of confirmed lost sales and lost revenues.¹²⁸ We find the underselling significant for purposes of these preliminary investigations.

Trends in the domestic pricing data are mixed, however. Domestic prices for all five domestic pricing products increased over the period,¹²⁹ generally indicating that prices were not depressed, although there were some declines towards the end of the period for some products.¹³⁰ On the other hand, there is some indication of price suppression. Data for all operations combined show some evidence of a cost-price squeeze over the period of investigation. The ratio of cost of goods sold (COGS) to net sales for all operations increased from 80.2 percent in 2004 to 83.4 percent in 2006 and was 83.1 percent in January-June 2006 as compared to 83.5 percent in January-June 2007.¹³¹ Thus, although prices for PET film products increased, the industry's costs increased more rapidly, indicating that the industry was unable to pass through a portion of its rising costs to customers. Data for merchant market sales do not, however, show a similar increase. The ratio of COGS to net sales for merchant market sales decreased from 87.2 percent in 2004 to 86.9 percent in 2006 and was 86.3 percent in January-June 2006 as compared to 88.4 percent in January-June 2007.¹³² The merchant market sales data are unexpected when compared to the data for all operations, because subject imports would normally have a greater impact in suppressing prices on merchant market sales than on internal transfers. We intend to explore this issue further in any final phase investigations. We conclude that the record does not clearly establish that underselling has resulted in price depression or suppression, but that underselling was significant nevertheless because it allowed subject imports to displace the domestic product in terms of both U.S. shipment volumes and market share.

D. Impact of the Subject Imports¹³³

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

¹²⁵ CR/PR at V-5.

¹²⁶ CR at V-25, PR at V-22.

¹²⁷ Domestic producers' open market U.S. shipments decreased from 435.7 million pounds in 2004 to 408.1 million pounds in 2006 and were 207.4 million pounds in January-June 2007 compared with 203.0 million pounds in January-June 2007. Domestic producers' total U.S. shipments fell from 641.2 million pounds in 2004 to 604.6 million pounds in 2006 and were 302.6 million pounds in January-June 2007 compared with 298.7 million pounds in January-June 2006. CR/PR at Table C-3.

¹²⁸ See CR/PR at Tables V-6 - V-7.

¹²⁹ See CR/PR at Tables V-1 - V-5.

¹³⁰ See CR/PR at Tables V-2 - V-5.

¹³¹ CR/PR at Table VI-1.

¹³² CR/PR at Table VI-3.

¹³³ In its notice of initiation, Commerce estimated the dumping margin for subject imports from Brazil to range from 13.08 percent to 44.36 percent, for subject imports from China to be 76.72 percent, for subject imports from Thailand to be 80.24 percent, and for subject imports from the UAE to range from 35.44 percent to 73.23 percent. 72 Fed. Reg. at 60,806.

the state of the industry.”¹³⁴ These factors include: output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, research and development, and factors affecting domestic prices. No single factor is dispositive and all relevant factors are considered “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”¹³⁵

The condition of the domestic industry is mixed, although various indicators show declines.¹³⁶ Capacity decreased over the period of investigation,¹³⁷ as did production.¹³⁸ Capacity utilization fell between 2004 and 2006 as well.¹³⁹ Despite these declines in capacity, unsold inventories rose over the entire period.¹⁴⁰

Employment factors also demonstrate the industry’s declining condition. The number of production and related workers decreased over the period,¹⁴¹ as did their total wages.¹⁴² Hours worked fell between 2004 and 2006.¹⁴³

In terms of financial indicators, net sales for all operations combined decreased as measured by quantity, but increased when measured by value, although comparison of the interim periods shows some declines for the latter.¹⁴⁴ Operating income fell,¹⁴⁵ while the ratio of COGS to net sales increased.¹⁴⁶

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

¹³⁵ 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).

¹³⁶ We note that, for certain indicators, particularly trade data such as production, capacity and employment, the record does not contain separate data for captive production and merchant market production.

¹³⁷ Capacity declined from 754.2 million pounds in 2004 to 745.8 million pounds in 2006 and was 376.8 million pounds in January-June 2007 compared with 392.1 million pounds in January-June 2006. CR/PR at Table III-2.

¹³⁸ Production fell from 671.0 million pounds in 2004 to 650.5 million pounds in 2006 and was 319.7 million pounds in January-June 2007 compared with 322.5 million pounds in January-June 2006. CR/PR at Table III-2.

¹³⁹ Capacity utilization decreased from 89.0 percent in 2004 to 87.2 percent in 2006 and was 84.9 percent in January-June 2007 compared with 82.2 percent in January-June 2006. CR/PR at Table III-2.

¹⁴⁰ Inventories rose from 50.3 million pounds in 2004 to 58.9 million pounds in 2006 and were 56.8 million pounds in January-June 2007 compared with 53.6 million pounds in January-June 2006. CR/PR at Table III-2.

¹⁴¹ The number of production and related workers fell from 2,664 in 2004 to 2,317 in 2006 and was 2,307 in January-June 2007 compared with 2,318 in January-June 2006. CR/PR at Table III-2.

¹⁴² Wages paid decreased from \$146.6 million in 2004 to \$132.4 million in 2006 and were \$65.7 million in January-June 2007 compared with \$66.3 million in January-June 2006. CR/PR at Table III-2.

¹⁴³ Hours worked declined from 5.2 million hours in 2004 to 4.5 million hours in 2006, and were 2.29 million in January-June 2007 compared with 2.27 million in January-June 2006. CR/PR at Table III-2.

¹⁴⁴ The quantities of net sales for all operations decreased from 681.9 million pounds in 2004 to 642.8 million in 2005, then to 638.8 million pounds in 2006. They were 316.1 million pounds in January-June 2007 compared with 316.2 million pounds in January-June 2006. The value of net sales for all operations increased from \$1.21 billion in 2004 to \$1.23 billion in 2005, then to \$1.24 billion in 2006. It was \$606.3 million in January-June 2007 compared with \$611.5 million in January-June 2006. CR/PR at Table VI-2.

¹⁴⁵ Operating income for all operations fell from \$74.7 million in 2004 to \$63.3 million in 2005, then to \$45.9 million in 2006. It was \$21.8 million in January-June 2007 compared with \$23.5 million in January-June 2006. CR/PR at Table VI-2.

¹⁴⁶ For all operations, the ratio of COGS to net sales rose from 80.2 percent in 2004 to 81.8 percent in 2005, then to 83.4 percent in 2006. It was 83.5 percent in January-June 2007 compared with 83.1 percent in January-June 2006. CR/PR at Table VI-2.

Shipments declined between 2004 and 2006 as measured by quantity, but rose as measured by value.¹⁴⁷ Capital expenditures increased,¹⁴⁸ while research and development expenditures decreased.¹⁴⁹ We note that the largest declines in financial indicators occurred between 2005 and 2006, when domestic prices declined.

With regard to merchant market operations, the trends were somewhat more positive. Although net sales fell between 2004 and 2006 as measured by quantity, they increased when measured by value.¹⁵⁰ Operating income also increased between 2004 and 2006,¹⁵¹ and the ratio of COGS to net sales fell ***.¹⁵² Shipments as measured by quantity declined between 2004 and 2006, but rose as measured by value.¹⁵³

For the purposes of the preliminary phase of these investigations, we find a reasonable indication that cumulated subject imports had a significant negative impact on the condition of the domestic industry during the period of investigation. As discussed above, the absolute and relative volumes of subject imports are significant, and their underselling was significant, leading subject imports to gain market share at the expense of the domestic industry. From 2004 to 2006, the domestic industry lost market share and the volume of U.S. shipments fell, primarily in the merchant market. Subject imports had an adverse impact on the condition of the domestic industry, as seen in such indicators as increasing inventories and declining production and capacity utilization. While the trends were somewhat better for the merchant market indicators, the decline in the condition of the domestic industry is evident with respect to both the total market and the merchant market. We therefore find, for purposes of these preliminary investigations, that subject imports had a significant negative impact on the performance of the domestic industry during the period examined.

¹⁴⁷ Total U.S. shipments decreased from 641.2 million pounds in 2004 to 606.2 million pounds in 2005, then to 604.6 million pounds in 2006. They were 302.6 million pounds in January-June 2007 compared with 298.7 million pounds in January-June 2006. The value of total U.S. shipments increased from \$1.16 billion in 2004 to \$1.17 billion in 2005, then to \$1.18 billion in 2006. It was \$578.7 million in January-June 2007 compared with \$584.0 million in January-June 2006. CR/PR at Table III-2.

¹⁴⁸ Capital expenditures increased from \$30.6 million in 2004 to \$37.1 million in 2005, then to \$43.0 million in 2006. They were \$37.5 million in January-June 2007 compared with \$19.2 million in January-June 2006. CR/PR at Table VI-6.

¹⁴⁹ Research and development expenditures decreased from \$*** in 2004 to \$*** in 2005, then to \$*** in 2006. They were \$*** in January-June 2007 compared with \$*** in January-June 2006. CR/PR at Table VI-6.

¹⁵⁰ For merchant market sales, net sales quantities declined from 482.4 million pounds in 2004 to 449.6 million pounds in 2005, then to 445.9 million pounds in 2006. They were 222.5 million pounds in January-June 2007 compared with 221.9 million pounds in January-June 2006. The value of net sales for merchant market sales rose from \$757.5 million in 2004 to \$788.7 million in 2005, then to \$800.4 million in 2006. It was \$394.8 million in January-June 2007 compared with \$397.4 million in January-June 2006. CR/PR at Table VI-3.

¹⁵¹ Operating income for merchant market sales increased from \$17.1 million in 2004 to \$28.7 million in 2005, then decreased to \$28.2 million. It was \$8.1 million in January-June 2007 compared with \$15.4 million in January-June 2006. CR/PR at Table VI-3.

¹⁵² For merchant market sales, the ratio of COGS to net sales fell from 87.2 percent in 2004 to 86.4 percent in 2005, then rose slightly to 86.9 percent in 2006. It was 88.4 percent in January-June 2007 compared with 86.3 percent in January-June 2006. CR/PR at Table VI-3.

¹⁵³ For merchant market sales, the quantity of domestic shipments decreased from 435.7 million pounds in 2004 to 409.8 million pounds in 2005, then to 408.1 million pounds in 2006. It was 207.4 million pounds in January-June 2007 compared with 203.0 million pounds in January-June 2006. The value of shipments for merchant market sales increased from \$698.5 million in 2004 to \$720.9 million in 2005, then to \$738.8 million in 2006. It was \$366.1 million in January-June 2007 compared with \$368.2 million in January-June 2006. CR/PR at Table III-2.

CONCLUSION

For the reasons stated above, we determine that there is a reasonable indication that an industry in the United States is materially injured by reason of subject imports of PET film from Brazil, China, Thailand, and the UAE that are allegedly sold in the United States at less than fair value.

PART I: INTRODUCTION

BACKGROUND

These investigations result from a petition filed by counsel on behalf of DuPont Teijin Films (DuPont Teijin), Hopewell, VA; Mitsubishi Polyester Film of America (Mitsubishi), Greer, SC; SKC America, Inc. (SKC), Covington, GA; and Toray Plastics (America), Inc. (Toray), North Kingston, RI, on September 28, 2007, alleging that an industry in the United States is materially injured and threatened with further material injury by reason of imports of polyethylene terephthalate film, sheet, and strip (PET film)¹ from Brazil, China, Thailand, and the United Arab Emirates (UAE) that are alleged to be sold in the United States at less than fair value (LTFV). Information relating to the background of the investigations is provided below.²

<i>Date</i>	<i>Action</i>
September 28, 2007	. Petition filed with Commerce and the Commission; ³ institution of Commission investigations (72 FR 57068, October 5, 2007)
October 19, 2007	. . . Commission's conference ⁴
October 26, 2007	. . . Commerce's notice of initiation (72 FR 60801)
November 9, 2007	. . . Commission's vote
November 13, 2007	. Commission determinations transmitted to Commerce
November 20, 2007	. Commission views transmitted to Commerce

SUMMARY DATA

A summary of data collected in the investigations is presented in appendix C. Except as noted, U.S. industry data on PET film are based on questionnaire responses of seven firms--six firms that

¹ In its notice of initiation, Commerce defined the subject product as follows: "*All gauges of raw, pre-treated, or primed PET Film, whether extruded or co-extruded. Excluded are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer more than 0.00001 inches thick. Also excluded is Roller transport cleaning film which has at least one of its surfaces modified by application of 0.5 micrometers of SBR latex. Tracing and drafting film is also excluded.*"

PET film is classifiable under Harmonized Tariff Schedule of the United States (HTS) statistical reporting number 3920.62.00.90 with the general duty rate of 4.2 percent *ad valorem*.

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

³ The LTFV margins alleged in the petition, as recalculated by Commerce, range from 13.08 to 44.36 percent for Brazil, are 76.72 percent for China and 80.24 percent for Thailand, and range from 35.44 to 73.23 percent for the UAE. 72 FR 60806, October 26, 2007.

⁴ A list of witnesses appearing at the conference is presented in app. B.

accounted for all known production during 2006 of PET film for commercial sale plus one firm⁵ that consumed all of its PET film internally to produce downstream products.⁶ U.S. imports are based on official Commerce statistics.⁷

PREVIOUS COMMISSION INVESTIGATIONS

In 1990, the U.S. PET film industry filed for relief from LTFV imports of PET film from Korea, Japan, and Taiwan.⁸ The Commission made a negative determination with respect to Taiwan in the preliminary investigations.⁹ The Commission published its affirmative final determinations on imports of PET film¹⁰ from Japan and Korea in May 1991.¹¹ Antidumping duty orders covering imports of PET film from Japan and Korea¹² were issued in 1991. Commerce revoked the order on PET film from Japan in 1995, after concluding that requirements for revocation based on changed circumstances (i.e., the order no longer was of interest to interested parties) were met.¹³

On July 1, 1999, Commerce initiated a five-year "sunset" review of the antidumping duty order on PET film from Korea. Commerce subsequently determined that dumping would likely continue or recur if the order were revoked and the Commission determined that revocation of the order would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.¹⁴ As a result, Commerce continued the order on PET film from Korea effective March 7, 2000.¹⁵ In 2005, pursuant to expedited second reviews conducted by Commerce and the Commission, the order on PET film from Korea was again continued, effective October 20, 2005.¹⁶

⁵ Kodak provided separate data on its PET film operations. All of Kodak's PET film is consumed internally by the firm to produce downstream products.

⁶ An eighth producer, Curwood (Bemis Converter Film) of Oskosh, WI, did not respond to the Commission's request for information through producer and importer questionnaires. Curwood is believed to produce approximately ***.

⁷ The subject PET film is imported into the United States mainly under HTS statistical reporting number 3920.62.0090.

⁸ DuPont, Hoechst, and ICI were the petitioners.

⁹ *Polyethylene Terephthalate Film, Sheet, and Strip From Japan, the Republic of Korea, and Taiwan*, Inv. Nos. 731-TA-458 through 460 (Preliminary), USITC Publication 2292, June 1990.

¹⁰ In its 1991 determinations, the Commission defined the domestic like product to include equivalent PET film. Equivalent PET film is PET film that is thickly coated during the production process with a resinous layer more than 0.00001 inch thick (e.g., Cronar® and Estar®).

¹¹ *Polyethylene Terephthalate Film, Sheet, and Strip From Japan and the Republic of Korea*, Invs. Nos. 731-TA-458 and 459 (Final), USITC Publication 2383, May 1991.

¹² After conducting administrative reviews, Commerce revoked the antidumping duty order with respect to product produced/exported by Korean firms Saehan (formerly Cheil Synthetics, Inc.), Kolon Industries, and H.S. Industries (61 FR 35177, July 5, 1996; 61 FR 58374, November 14, 1996; and 66 FR 57417, November 15, 2001, respectively).

¹³ 60 FR 52366, October 6, 1995.

¹⁴ See *Polyethylene Terephthalate (PET) Film From Korea*, Inv. No. 731-TA-459 (Review), USITC Publication 3278, February 2000.

¹⁵ 65 FR 11984.

¹⁶ See *Polyethylene Terephthalate (PET) Film From Korea*, Inv. No. 731-TA-459 (Second Review), USITC Publication 3800, September 2005, and 70 FR 61118, October 20, 2005.

Commerce is currently conducting a changed circumstances review to reinstate Kolon Industries, Inc., a Korean producer of PET film, under this order.¹⁷

In 2001, the U.S. PET film industry filed for relief from LTFV imports of PET film from India and Taiwan and subsidized imports from India.¹⁸ The Commission published its affirmative final determinations on imports of PET film from India and Taiwan in June 2002.¹⁹ Antidumping and countervailing duty orders covering imports of PET film from India and Taiwan were issued in July 2002.²⁰ On June 1, 2007, Commerce and the Commission initiated five-year “sunset” reviews of the orders on India and Taiwan.²¹

THE SUBJECT PRODUCT

PET film is a high-performance, clear, flexible, and transparent or translucent material that is produced from PET polymer, a linear, thermoplastic polyester resin. It is generally more expensive than other plastic films and is used typically only when its unique properties are required. Special properties imparted to PET film during the manufacturing process are integral to its use in a myriad of downstream applications.

Physical Characteristics and Uses

PET film has certain inherent desirable qualities such as high tensile strength, good flexibility, and retention of physical properties over a fairly wide temperature range, excellent electrical insulation properties, durability, heat resistance, good gas-barrier properties, excellent dimensional stability, chemical inertness, good optical clarity, and relatively low moisture absorption.^{22 23} It is available commercially in a range of widths, thicknesses, and properties depending upon the need of end users, and is generally more expensive than other plastic films.²⁴ PET film can be made as a single layer or can be coextruded with other polyester polymers, blended with pigments, and coated inline with applied polymer and other agents into a multilayer film encompassing the desired characteristics. The end

¹⁷ 72 FR 527, January 5, 2007.

¹⁸ DuPont Teijin, Mitsubishi, and Toray were the petitioners.

¹⁹ In its 2002 determinations, the Commission defined the domestic like product as PET film and chose to exclude equivalent PET film. In this regard, the Commission stated:

“We conclude that the definition of the domestic like product is all PET film, not including equivalent PET film. We find that the record in these investigations, including the evidence on physical characteristics and uses, channels of distribution, manufacturing facilities, customer and producer perceptions, and pricing, considered together, weighs in favor of not including equivalent PET film in the definition of the domestic like product.”

Polyethylene Terephthalate Film, Sheet, and Strip from India and Taiwan, Inv. Nos. 701-TA-415 and 731-TA-933-934 (Final), USITC Publication 3518, June 2002, p. 6.

²⁰ 67 FR 44174-44175 and 67 FR 44179, respectively.

²¹ 72 FR 30544 72 and FR 30627, respectively. On September 14, 2007, the Commission determined to conduct full reviews. 72 FR 52582.

²² PET film has the widest service temperature range of any competing material (-70°C to 150°C); the highest tensile and tear strength, and electrical insulation breakdown properties; together with superior dimensional stability, oxygen barrier properties, and dielectric constant (electrical resistivity).

²³ Conference transcript, p. 16 (Kasoff).

²⁴ *Ibid.*

product typically comes off the production line in widths of 12 and 24 feet, and in thicknesses reportedly ranging from about 2 microns (8 gauge) to 350 microns (1,400 gauge).²⁵ PET film is typically slit into rolls ranging from 2 inches to 11 feet wide and 500 to 200,000 feet in length, and sold to downstream converters who apply various thicker substrates to the film for ultimate nonsubject end-use requirements.²⁶ DuPont Teijin also converts subject base PET film offline into nonsubject “equivalent PET film” having coatings exceeding 0.254 microns (0.00001 inch; ca. 1 gauge) and sells the value added film to downstream end users.²⁷ Certain films may also be sold to distributors, directly to end-use consumers, or exported.²⁸

There are five subject PET film end-use categories generally recognized by the industry: industrial, packaging, magnetic media, electrical, and imaging. PET film is produced and sold for a myriad of end-uses in two major categories: general purpose commodity-grade films, and specialty-grade films which command a price premium relative to the commodity grades. The volume split is estimated to be about 65 percent commodity grade to 35 percent specialty grade.²⁹ Subject U.S. PET film demand overall is estimated to be growing at about 3 percent annually, with commodity grades growing faster.^{30 31} Commodity-grade films are generally viewed by the industry as large-volume bulk films used principally in the packaging and industrial sectors, where pressure from subject imports is reportedly more intense.³² Commodity-grade films are described as thin films³³ which generally fall in the 48 to 92 gauge range,^{34 35} with the popular 48 gauge corona-treated film³⁶ typically used as the baseline for pricing.^{37 38}

Examples of industrial and allied commodity-grade end-use markets include hot stamping foil, pressure sensitive labels (thermally/chemically resistant), release films (pull away labels), photo resist films, metallic yarns, adhesive tapes, plastic cards (including “smart” cards), labels, lamination films, solar/safety window films, medical test strips, and other miscellaneous uses. Packaging commodity markets are growing rapidly in certain end-use areas due to technology and changing customer tastes, such as convenient cook-in bags. Typical uses include food packaging: flexible pouches, peelable seals (microwave tray film); snack foods (chips and pretzels, etc.) and barrier films to keep moisture out; pet

²⁵ Film gauge increases with film thickness: 1 micron = 3.937 gauge = 0.0001 cm = 0.00004 inch.

²⁶ Conference transcript, p. 16 (Kasoff).

²⁷ *Ibid.*, pp. 24-25 (Kasoff).

²⁸ Staff field trip report, DuPont Teijin Films, Hopewell, VA, June 4, 2001.

²⁹ Conference transcript, p. 47 (Trice).

³⁰ *Ibid.*, p. 28 (Trice).

³¹ *Ibid.*, p. 24 (Kasoff).

³² *Ibid.*, p. 6 (Greenwald).

³³ Terphane, Inc. (Terphane), a U.S. and Brazilian producer, considers ***.

³⁴ Conference transcript, p. 68 (Kasoff).

³⁵ DuPont Teijin reported experiencing healthy demand for all their PET film products, the demand for their thin films of 48-92 gauge for packaging and industrial being exceptionally strong and forecast to remain so for the foreseeable future. DuPont Teijin Press Release, July 15, 2007, <http://usa.dupontteijinfilms.com/>, retrieved October 18, 2007.

³⁶ Corona-treated film is produced by exposing the base film surface to a highly active electric field to modify its surface energy, which is especially important to downstream printing and coating applications.

³⁷ Conference transcript, p. 18 (Kasoff).

³⁸ Toray reported that its thin films range up to 200 gauge. Conference transcript, p. 74 (Eckles).

food packaging, industrial packaging; can laminations, and vacuum insulation panels.^{39 40} Mitsubishi also produces subject PET film shrink film.⁴¹

Magnetic media, electrical, and imaging applications, in general, are more specialized markets compared to commodity-grade industrial and packaging. Magnetic media includes VCR, audio, and floppy disk tapes which have been on the decline for many years; however, advanced high-density computer storage media for computer backups has been a significantly high growth area in this market. Electrical applications include brightness-enhancing display films (computer monitors and wide-screen TVs), motor wire and cable, cable wrap and insulation, transformer insulation films, capacitors, thermal printing tapes, touch screens and membrane touch switches (computer and calculator keyboards, and microwave oven and other touch screens), and electrical laminates (flexible printed circuit board films for example). Some growth areas are reportedly in the areas of display films, touch screens and membrane touch switches, and electrical laminates, while declining uses are reportedly wire and cable wrap and motor films. Imaging applications are reportedly declining in general. This end-use category includes microfilm, which is being replaced by computer storage, a growing PET film end-use; X-ray films and instant photo which are moving into digital imaging; printing processes (magazine ads, etc.); drafting films which are moving to computer-aided design; and overhead transparencies which are moving towards projection.

Manufacturing Facilities and Production Employees

The basic PET film “sequential draw” production process is fundamentally standard across the industry.⁴² PET film operations are capital-intensive, dictating that plants be run at relatively high capacity utilization rates for sustainable periods to remain profitable. Most plants operate on a 24 hour-per-day, 7 day-per-week basis, with some allotted downtime for maintenance and repairs. Each production line could cost anywhere between \$50 million and \$100 million to produce 10,000 to 20,000 tons per year.⁴³ The PET film production process is conducted in a “clean room” environment to protect the finished film from microscopic airborne contamination. Sturdy equipment and vibratory control are essential to the production of PET films of uniform thickness and surface features. The major producers of PET film do not normally run other types of film on their PET film production lines unless necessary owing to the intricacies of the process, and, therefore, do not normally employ production workers for other purposes.^{44 45} Also, most PET film production lines are geared to the production of products within specified gauge ranges (thin, intermediate, or thick) across end-use groups because of the exacting requirements of the process and variability in PET polymer processing characteristics. Therefore, the larger producers with more lines and sophisticated surface modification and other technologies, together with the capability to generally produce multiple polymer grades, tend to have the capability to provide a wider range of products to each end-use sector.⁴⁶

³⁹ Conference transcript, pp. 18-19 (Kasoff).

⁴⁰ The Global Association of Manufacturers of Polyester Film (AMPEF), <http://www.ampef.com/>, retrieved October 18, 2007.

⁴¹ Conference transcript, p. 65 (Trice).

⁴² Conference transcript, p. 12 (Meltzer).

⁴³ *Ibid.*, pp. 21-23 (Kasoff).

⁴⁴ *Ibid.* (Kasoff).

⁴⁵ Staff field trip report, DuPont Teijin, Hopewell, VA, June 4, 2001.

⁴⁶ *Ibid.*

Most PET film manufacturers produce their own PET polymer using the batch polymerization or continuous polymerization process, or a combination thereof.⁴⁷ The batch process allows the film producer to custom-tailor PET polymer for specific end-use applications. PET polymer may also be produced by a continuous process, but this process may be less flexible in the types of end-use films that can be manufactured. PET film grade polymer can be manufactured from either purified terephthalic acid (PTA) or dimethyl terephthalate (DMT) in combination with ethylene glycol. Producers tend to produce PET film grade polymer from either PTA or DMT depending upon process design and end product property/quality perceptions.⁴⁸ Newer plants are believed to be more heavily weighted towards PTA because of advantageous process economics.⁴⁹

A typical PET film production scheme is shown in the process flow diagram of figure I-1. The basic process steps are polymerization, film casting, drawing and biaxial orientation, crystallization, cooling, winding, and finishing. Sophisticated scanners and control systems maintain optimal process conditions. Many value added in-line film treatments may also be applied to modify the film⁵⁰ during routine processing, including antistatic agents applied by running the film over microporous liquid coating drums, other chemical treatments, co-extrusion of other polyester substrates onto one or both sides of the film via melt phase lamination processes to promote adhesion, introduction of fillers and pigments into the PET polymer melt via masterbatch systems, and corona treatment for downstream converter requirements.^{51 52}

In the sequential draw process, molten PET polymer is extruded under pressure through a narrow slotted die which may vary from 18 inches to 6 feet in length. The molten material exits the die directly onto an ultra smooth casting drum which cools the melt and forms an amorphous polymeric film. From there, the film is stretched (drawn) in a longitudinal direction over a series of precision motorized rollers. The stretched film next enters a long heated chamber called a stenter (or tenter) oven, where it is subjected to a transverse stretch (sideways draw) to complete biaxial orientation. Biaxial orientation aligns the polymeric chains into a uniform structure which imparts strength, toughness, clarity, and all the other value-added properties characteristic of PET film. The finished film of the desired width and gauge (nominally 2 microns (8 gauge) to 350 microns (1,400 gauge)) is wound into rolls for shipment to the customer.^{53 54} PET film is typically slit into rolls ranging from 2 inches to 11 feet wide and 500 to 200,000 feet in length, and sold to downstream converters who apply various thicker substrates to the film for ultimate nonsubject end-use requirements.⁵⁵

⁴⁷ Conference transcript, pp. 62-63 (Eckles, Trice, and Kasoff).

⁴⁸ DuPont Teijin, Mitsubishi, Toray, and SKC purchase feedstock for PET polymerization on the open market; SKC reportedly imports some resin from its parent company in Korea. Conference transcript, pp. 56-58 (Trice, Kasoff, Greenwald, and Gray).

⁴⁹ Staff field trip report, DuPont Teijin, Hopewell, VA, June 4, 2001.

⁵⁰ Kodak ***. Staff field trip report, Kodak, May 14, 2002.

⁵¹ Conference transcript, pp. 23-24 (Kasoff).

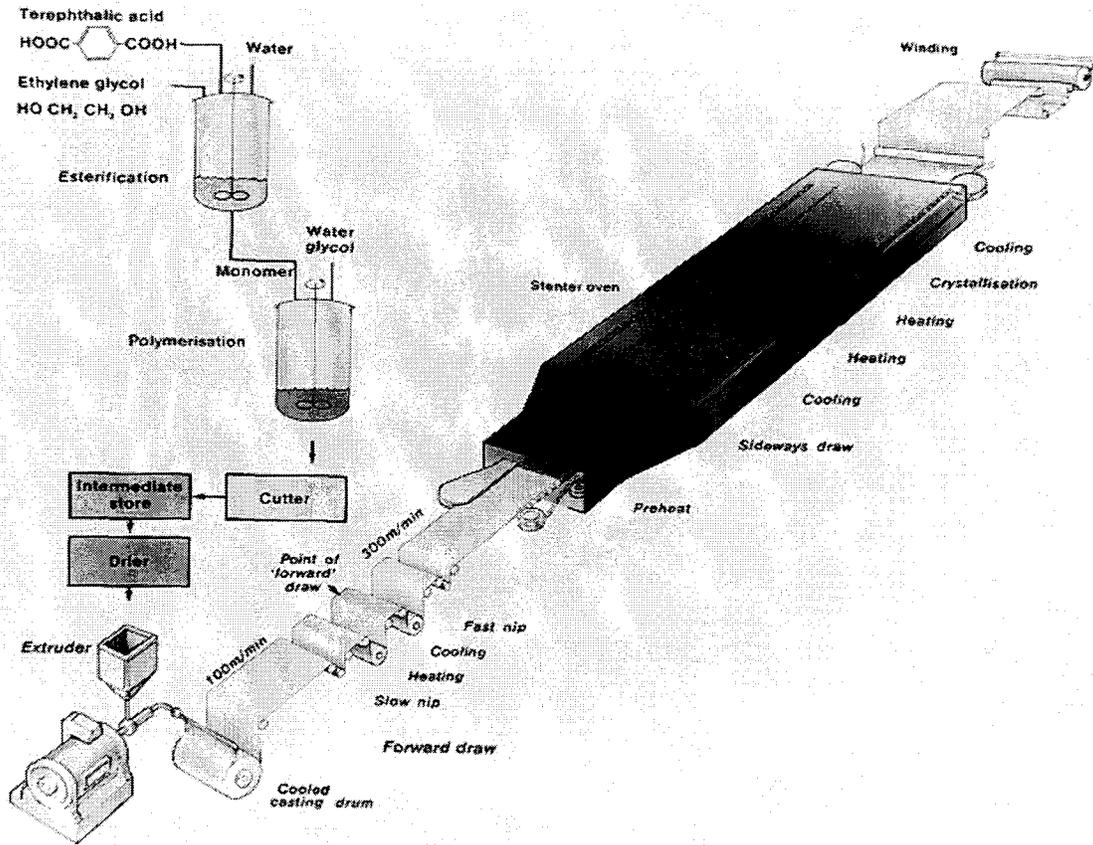
⁵² Corona treatment is the act of exposing the surface of a material to a highly active electric field to modify its surface energy.

⁵³ Conference transcript, pp. 21-23 (Kasoff).

⁵⁴ The Global Association of Manufacturers of Polyester Film (AMPEF), <http://www.ampef.com/>, retrieved October 18, 2007.

⁵⁵ Conference transcript, p. 16 (Kasoff).

Figure I-1
Process flow chart for PET film production



Source: Obtained online at <http://www.ampef.com/technology2.html>.

Interchangeability and Customer and Producer Perceptions

U.S. producer and importer questionnaire respondents reported that there was general interchangeability between U.S.-produced, Brazilian, Chinese, Thai, and UAE PET film. U.S. producers and most responding importers cited few alternatives to the use of PET film. With respect to customer and producer perceptions, questionnaire respondents reported that U.S.-produced and imported PET film were viewed as essentially the same. More detailed information on interchangeability and customer and producer perceptions can be found in Part II of this report, *Conditions of Competition in the U.S. Market*.

Channels of Distribution

For the most part, during the period examined in these investigations, shipments of PET film by U.S. producers went to either end users and processors, with distributors receiving a small portion of shipments. For the four subject countries, the majority of shipments went to end users, while processors

received the majority of shipments from importers of nonsubject product.⁵⁶ More detailed information on channels of distribution can be found in Part II of this report, *Conditions of Competition in the U.S. Market*.

Price

Information with regard to prices of PET film is presented in Part V of this report, *Pricing and Related Information*.

DOMESTIC LIKE PRODUCT AND THE DOMESTIC INDUSTRY

No like product issues have been raised in these investigations. Petitioners have proposed a domestic like product coextensive with the scope of the investigations, which was discussed earlier in this section. At the staff conference in these investigations, participants were asked to discuss the domestic like product using the six factors the Commission generally examines in determining domestic like product. In particular, parties were asked to discuss the aforementioned issue as it related to petitioners' exclusion of "equivalent PET film" from the domestic like product definition.⁵⁷ In its postconference submission, petitioners stated that PET film with equivalent PET film excluded is "consistent with the Commission's 'like product' decision in *PET Film from India and Taiwan*."⁵⁸ In their six-factor discussion, petitioners stated:

"The Commission generally defines the domestic like product with reference to six factors: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions; (5) common manufacturing facilities, production processes, and production employees; and, when appropriate, (6) price. Under this analysis, PET film and equivalent PET film are separate products, and the latter is not included in the definition of the domestic like product. The Commission itself made this conclusion in an earlier matter involving PET Film.

Physical Characteristics and Uses. PET film and equivalent PET film have different physical characteristics and uses. According to ***, equivalent PET film differs from PET film due to its "thick functional coating on one or both sides," which alters the product's "surface physical properties." The Commission has defined equivalent PET film as PET film to which has been applied a coating of more than 0.00001 inch thick. Due to these enhanced physical properties, such as barrier and heat sealability, producers sell equivalent PET film for more specific applications as compared to the more general uses of PET film.

⁵⁶ In the latter instance, most of the nonsubject product was brought in by U.S. producers of PET film.

⁵⁷ In its questionnaires in these investigations, in view of the fact that "equivalent PET film" had been part of the domestic like product in some of its previous investigations, the Commission asked producers and importers to comment with regard to the comparability of PET film and equivalent PET film. Those responses are presented in app. D.

⁵⁸ Petitioners' postconference brief, Part I, p. 10 and Part II, pp. 1-4 (response to question of Rhonda Hughes, Attorney-Advisor, USITC).

Interchangeability. There is little, if any, interchangeability between PET film and equivalent PET film. According to ***, equivalent PET films have “specific maker-unique coatings ... {that are} specifically designed for particular end-use applications” so that the film types are not interchangeable. *** agreed, stating that “once a functional coating is applied the equivalent PET film becomes specific to a certain application.”

Channels of Distribution. The channels of distribution differ markedly between these two types of film. Equivalent PET film is sold more to end users than most PET film. As a result, the distribution network differs, as equivalent PET film may be distributed using “technically advanced distributors who add value through identifying the special treatment requirements for end markets” while PET film is distributed typically through more general distributors.

Customer and Producer Perceptions. Both customers and producers alike perceive significant differences between equivalent film and PET film. Both *** agree that customers and producers view equivalent PET film as a specialty film with a higher “value” than PET film. The Commission earlier concluded that “producers and purchasers of PET film perceive film with thicker and thinner coatings (with one gauge as the dividing line) as separate products.

Common Manufacturing Facilities, Production Processes and Production Employees. The Producers’ Questionnaire responses demonstrate that the manufacturing processes involved in PET film and equivalent film production differ dramatically, and thus confirm that these are separate products under the Commission’s like-product analysis. *** responded that equivalent PET film makers have their “own coating stations, treatment stations and process control stations” in order to impart the different qualities found in equivalent PET film. *** stated that two major types of equivalent PET film, “laminated” and “metallized,” are both produced using special off-line machines. *** produces its equivalent PET film on “dedicated assets” located off-site from the machines used to produce PET film and cannot be used to manufacture the latter. Finally, explaining that the coating process may cause “contamination,” *** either uses “dedicated” film lines or uses a “secondary” off-line coating procedure to make equivalent PET film.

Pricing. The price of PET film and equivalent PET film is not comparable. Several of the producers agree that, due to its special properties and specific uses, equivalent PET film commands a premium price as compared to PET film.”

With respect to respondents’ views on like product, counsel for the Brazilian respondent responded:

“On the six factor test or the like product I don’t think we’re going to take a position on the petition, the current definition that they’re proposing.”⁵⁹

⁵⁹ Conference transcript, pp. 92-93 (Koenig).

The Brazilian respondent offered no additional views on the subject in its postconference submission. Likewise, representatives for the UAE industry offered no views on domestic like product in their postconference presentation.

While not raised as a domestic like product issue, Commission staff asked parties to explain “exactly what specialty film is compared to the other film that’s in the market segments” for PET film.⁶⁰ Petitioners, in their postconference brief, responded:⁶¹

“As noted in the Conference, subject PET film consists of both commodity-grade and specialty-grade films. The simplest types of PET film are untreated base film or base film with very simple coatings, such as corona-treated. These are generally used throughout the packaging and industrial markets. Specialized films involve more advanced, specialized coatings applied to the base treatments of the film. These coatings and treatments add unique properties such as chemical resistance or adhesion, and may be used in a number of end-use applications such as optical, labels, and graphics. Producers and customers view these basic and more advanced products as products along the same continuum. They all involve the same base PET film containing the same essential product characteristics, as well as coatings that are less than 0.00001 inches in thickness.”⁶²

⁶⁰ Conference transcript, p. 39 (Hughes).

⁶¹ Neither the Brazilian respondent nor the representatives for the UAE industry responded to this question.

⁶² Petitioners’ postconference brief, Part II, p. 5 (response to question of Rhonda Hughes, Attorney-Advisor, USITC).

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

U.S. MARKET CONDITIONS AND CHARACTERISTICS

PET film is produced for five main end-use segments (packaging, industrial, electrical, imaging, and magnetics). Within each of those larger segments, there are numerous sub-segments. Each sub-segment consists of a particular type of PET film (defined by gauge, coatings, and other specifications) that is often (though not always) produced for that particular sub-segment and sold to purchasers who participate primarily in that sub-segment. Different producers also have different specialties and emphases across segments and sub-segments.

The eight responding U.S. PET film producers fall into two categories: producers primarily for the merchant market (DuPont, Mitsubishi, SKC, Terphane, and Toray) and producers solely for captive consumption (Curwood, Kodak, and 3M). The producers which captively consume the product tend to be concentrated in large end-use markets such as photography and X-rays; these are markets into which the merchant-market producers rarely sell.

Producers and importers were asked to estimate the percentage of their sales that occurred within certain distance ranges. The five U.S. producers and 5 U.S. importers of PET film that primarily sold in the merchant market generally sold their film throughout the United States. Ten of the 15 responding U.S. importers reported serving only regional markets, primarily the East Coast (see table II-1). On average, U.S. producers sold 8.6 percent of their PET film within 101 miles of their storage or production facilities, 46.4 percent between 101 and 1,000 miles, and 45.0 percent beyond 1,000 miles. On average, U.S. importers of PET film sold 44.9 percent of their PET film within 100 miles of their storage or production facilities, 33.4 percent between 101 and 1,000 miles, and 20.6 percent over 1,000 miles.

Table II-1
PET film: Geographic market areas in the United States served by domestic producers and importers

Region	Producers	Importers
National	5	5
Northeast	0	6
Mid-Atlantic	0	2
Midwest	0	4
Southeast	0	4
Southwest	0	0
Rocky Mountains	0	0
West Coast	0	2
Northwest	2	1

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

CHANNELS OF DISTRIBUTION

Although there is a wide array of end uses for PET film, distribution tends to be similar across the different end uses. U.S. producers of PET film and U.S. importers of PET film from subject and nonsubject countries reported their shipments of PET film to different sources (table II-2). During the period January 2004-June 2007, a majority of U.S. producers' U.S. shipments of PET film was shipped to end users (between 45.5 and 51.6 percent) and to processors (between 39.4 and 45.0 percent). For importers of PET film from Brazil, *** U.S. shipments were to end users during the period January 2004-June 2007. U.S. importers of PET film from China reported that between 68.6 and 86.7 percent of their U.S. shipments of PET film were to end users; shipments of Chinese PET film made to distributors declined fairly steadily over the period, dropping from 24.4 percent in 2004 to 8.5 percent in January-June 2007. For importers of PET film from Thailand, the vast majority (between 88.1 and 99.3 percent) of their U.S. shipments were to end users. U.S. shipments of PET film imported from the UAE were ***. For nonsubject imports of PET film, shipments mainly went to processors (between 68.3 and 77.8 percent) and to end users (between 15.8 and 29.1 percent).

In general, producers and importers often sell to processors, who take the PET film and add additional coatings or treatments before selling it to an ultimate user. Processors specialize in converting film for a particular ultimate end use. However, besides sales to processors, there are also some sales to a small distribution network and sales direct to ultimate end users. Sales to the distribution network tend to be for lower-priced, more common-grade film that can be sold into multiple end-use markets. Some coatings for PET film are applied at the producer's plant and others at the processors. Whether or not a coating is applied at the producer's plant or at the processor's plant is determined by whether the coating can be applied continuously on a large line, in which case it will usually be done at the producer's plant, or whether it is a highly specific coating more appropriate for a smaller line, in which case it will usually be performed by a processor. One U.S. producer reported that it is sometimes asked by its customers to in-line coat (pre-treat) films.

The reported lead times for delivery of U.S.-produced and imported PET film from subject and nonsubject countries varies. In the case of U.S. producers, if the item is held in inventory, delivery times range from one to three days. For non-inventoried orders, which account for the majority of U.S. producer sales, lead times range from 30 days to 60 days. For responding importers of PET film from the subject countries, non-inventory orders (which constitute the bulk of sales) have lead times ranging from 35 to 90 days.

Table II-2

PET film: U.S. producers' and importers' shares of reported U.S. shipments, by sources and channels of distribution, 2004-06, January-June 2006, January-June 2007

Item	Calendar year			January-June	
	2004	2005	2006	2006	2007
Share of reported shipments (percent)					
Domestic producers' shipments of PET film:					
To processors	44.6	45.0	42.6	43.7	39.4
To end users	45.5	47.0	49.9	49.0	51.6
To distributions	9.9	8.0	7.5	7.2	9.0
Shipments of imports from Brazil:					
To processors	***	***	***	***	***
To end users	***	***	***	***	***
To distributions	***	***	***	***	***
Shipments of imports from China:					
To processors	4.9	10.2	7.3	11.7	4.9
To end users	70.6	71.0	78.6	68.6	86.7
To distributors	24.4	18.8	14.1	19.7	8.5
Shipments of imports from Thailand:					
To processors	0.0	0.0	0.0	0.0	0.0
To end users	88.1	96.8	94.7	89.6	99.3
To distributors	11.9	3.2	5.3	10.4	0.7
Shipments of imports from the UAE:					
To processors	(¹)	***	***	***	***
To end users	(¹)	***	***	***	***
To distributors	(¹)	***	***	***	***
Shipments of imports from nonsubject sources:					
To processors	75.2	76.2	73.6	68.3	77.8
To end users	15.8	18.2	21.2	29.1	17.7
To distributors	9.0	5.6	5.3	2.6	4.5
¹ Not available.					
Source: Compiled from data submitted in response to Commission questionnaires.					

SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

Domestic production

Based on available information, staff believes that U.S. producers of PET film are likely to respond to changes in demand with moderate shipments of PET film to the U.S. market. The main contributing factors to the moderate degree of responsiveness of supply are the existence of some unused capacity and moderate inventories; however, supply responsiveness may be constrained by an inability to produce alternate products. Factors contributing to this degree of responsiveness of supply are discussed below.

Industry capacity

Total U.S. capacity to produce PET film fell irregularly from approximately 754 million pounds in 2004 to approximately 746 million pounds in 2006; capacity continued to decrease during the interim periods, falling from approximately 392 million pounds in January-June 2006 to approximately 377 million pounds in January-June 2007.¹ U.S. producers' reported capacity utilization for PET film declined from 89.0 percent in 2004 to 87.2 percent in 2006; interim data show an increase from 82.2 percent in January-June 2006 to 84.9 percent in January-June 2007. Overall, the level of capacity utilization indicates that U.S. producers of PET film have some available capacity with which they could increase production of PET film in the event of a price change.

Alternative markets

U.S. producers' export shipments, as a percentage of total shipments, declined from 6.8 percent in 2004 to 5.9 percent in 2006. Exports also decreased in the interim periods, falling from 6.0 percent in January-June 2006 to 4.8 percent in the corresponding period of 2007.² The relatively low level of exports during the period of investigation indicates that domestic PET film producers may be somewhat constrained in their ability to shift shipments between the United States and other markets in the short run in response to price changes.

Inventory levels

End-of-period inventories for U.S. producers accounted for 7.3 percent of U.S. producers' total shipments in 2004, but then increased to 9.2 percent in 2006. U.S. producers' end-of-period inventories also increased from 8.4 percent in January-June 2006 to 8.9 percent in January-June 2007.³ These levels of inventory suggest that U.S. producers have some ability to use inventories to respond to price changes in the short term.

¹ See Table C-1.

² Ibid.

³ See Table C-1.

Production alternatives

Four U.S. producers *** reported that they did not produce other products using the same equipment or machinery and/or production employees that were used to produce PET film. One producer stated that it manufactured shrink PEG film, polyester resin, and olefin elastomers using the same machinery, but reported that it employed only *** percent of its workforce to produce PEG film and polyester resin and *** percent to produce olefin elastomers.

Supply of Subject Imports

Based on available information, producers in Brazil, China, Thailand, and the UAE are likely to respond to changes in demand with moderate changes in the quantity of shipments of PET film to the U.S. market.⁴ The main contributing factors are the availability of unused capacity and the existence of alternative markets.⁵

Brazil

Terphane is the sole Brazilian producer, exporter, and U.S. importer of PET film.⁶ Terphane's Brazilian and U.S. operations are tightly integrated and PET film imported into the United States from Brazil consists of unfinished products that are further processed by the company in the United States before sale to the customer.⁷ ***.

Reported capacity utilization of PET film by Terphane remained constant at *** percent during January 2004-June 2007; capacity and production of PET film reported by Terphane both increased over the period and capacity equaled production in each reporting period. This level of capacity utilization indicates that the Brazilian producer of PET film *** in the short run in the event of a price change.⁸

The Brazilian producer's end-of-period inventories (as a percent of total shipments) increased from *** percent in 2004 to *** percent in 2006. Data for the interim periods indicate that reported end-of-period inventories as a share of shipments decreased from *** percent during January-June 2006 to *** percent in January-June 2007.⁹

Terphane reported that its products were shipped principally to *** (***) percent in 2006), secondarily to *** (***) percent in 2006), and thirdly to *** (***) percent in 2006).¹⁰ Although total shipment quantities to all of Terphane's markets increased during January 2004-June 2007, the share of total shipments to the third-country markets declined from *** percent in 2004 to *** percent in 2006. In the interim periods, however, shipments to third-country markets increased from *** percent in January-June 2006 to *** percent in the corresponding period of 2007. Shipments to the United States declined from *** percent of total shipments in January-June 2006 to *** percent during January-June 2007. These data for alternative markets indicate that Terphane has a strong home market and other non-U.S. export markets from which it could shift shipments of PET film to the United States in the short term in the event of a price change in the U.S. market.

⁴ According to petitioners, imports are concentrated in the bulk commodity part of the market, especially in the packaging and industrial segments, and most imports from the subject countries are low-priced commodity products with lower average unit value. Conference transcript, p. 6 (Greenwald) and petitioners' postconference brief, p. 18.

⁵ ***. ***. ***.

⁶ Terphane's postconference brief, p. 2.

⁷ Ibid.

⁸ Projected data for 2007 and 2008 show capacity utilization rates at *** in both years.

⁹ Projected data for 2007 and 2008 estimate end-of-period inventories (as a percent of total shipments) at *** levels (***) percent in 2007 and (***) percent in 2008).

¹⁰ The balance was internally consumed.

China

Responding Chinese producers reported that capacity utilization for PET film decreased irregularly from 86.4 percent in 2004 to 80.9 percent in 2006; Chinese producers' capacity utilization was 84.7 percent during January-June 2007 compared to 74.0 percent during the same period of 2006. These levels of capacity utilization indicate that Chinese producers of PET film have some available capacity with which they could increase production of PET film in the short run in the event of a price change.

Chinese producers' end-of-period inventories (as a share of total shipments) increased from 4.9 percent in 2004 to 12.3 percent in 2006. Reported end-of-period inventories (as a share of total shipments) increased from 11.4 percent in January-June 2006 to 12.6 percent in the same period of 2007.

The responding Chinese producers of PET film reported that their products were shipped principally to their home market (81.6 percent in 2006), secondarily to third-country markets (9.9 percent in 2006), and thirdly to the U.S. market (8.0 percent in 2006).¹¹ Although Chinese producers' shipments to all of their markets increased substantially from 2004 to 2006, the share of total shipments to the home market decreased from 87.1 percent to 81.6 percent. The shares of Chinese producers' shipments to the U.S. market and to third-country markets increased from 2004 to 2006. These data for alternative markets indicate that Chinese PET film producers have a strong home market and other non-U.S. export markets from which they could shift shipments of PET film to the United States in the short term in the event of a price change in the U.S. market.

Thailand

Responding Thai producers' reported capacity utilization for PET film increased steadily from *** percent in 2004 to *** percent in 2006, as capacity remained constant and production increased during that time. Thai producers' capacity utilization was *** percent during January-June 2007 compared to *** percent during January-June 2006. These levels of capacity utilization indicate that Thai producers of PET film may have some available capacity with which they could increase production of PET film in the short run in the event of a price change, although ***.

Thai producers' end-of-period inventories (as a percent of total shipments) increased from *** percent in 2004 to *** percent in 2005, and decreased to *** percent in 2006. Reported end-of-period inventories (as a share of total shipments) decreased from *** percent during January-June 2006 to *** percent in January-June 2007.

The responding Thai producers of PET film reported that their products were shipped principally to third-country markets (*** percent in 2006), secondarily to their home market (*** percent in 2006), and thirdly to the U.S. market (*** percent in 2006).¹² From 2004 to 2006, the share of Thai producers' shipments made to their home market (relative to total shipments) increased from *** to *** percent, while the share of shipments to the U.S. market declined from *** percent to *** and the share of shipments to other export markets declined from *** to *** percent. Data for the interim periods indicate a higher share of shipments going to non-U.S. export markets and less going to the Thai home market and to the U.S. market. These data indicate that Thai PET film producers have a fairly strong home market and other non-U.S. export markets from which they could shift shipments of PET film to the United States in the short term in the event of a price change in the U.S. market.

¹¹ The balance of shipments was internally consumed.

¹² The balance of shipments was internally consumed.

The UAE

Uflex Limited Flex Middle East (FME) is the sole producer/exporter of PET film in the UAE and its American subsidiary, Flex America (FAM), is the sole U.S. importer of PET film from the UAE.¹³ FME began operations in March 2005 and was established to produce PET film primarily for the Middle East and African markets.¹⁴ Since that time, Flex America has supplied between *** and *** metric tons of PET film (on average) per month to the U.S. market.

Capacity utilization rates reported by FME increased from *** percent in 2005 to *** percent in 2006, as both capacity and production of PET film increased during this time with production ***. The capacity utilization rate for FME was *** percent during January-June 2007 compared to *** percent during January-June 2006. These levels of capacity utilization indicate that FME has *** capacity with which it could increase production in the short run in the event of a price change.

End-of-period inventories for FME (as a share of total shipments) were *** percent in 2005 and *** percent in 2006. Reported end-of-period inventories declined to *** percent of total shipments during January-June 2007 from *** percent in January-June 2006. These data indicate that FME is ***.

FME reported that its products were shipped principally to *** (***) percent in 2006), secondarily to *** (***) percent in 2006), and thirdly to *** (***) percent in 2006).¹⁵ Data for the interim periods indicate that the share of total shipments to the United States increased from *** percent during January-June 2006 to *** percent in January-June 2007; the share of shipments to the UAE home market increased during this time while that to non-U.S. export markets declined. The ***.

All other sources

Imported PET film from nonsubject countries increased by 56.9 percent from 115.1 million pounds in 2004 to 180.6 million pounds in 2006, before declining by 23.8 percent between the interim periods.¹⁶ Imported PET film from nonsubject countries accounted for 76.2 percent of total U.S. PET film imports during 2004, 68.3 percent in 2006, and 64.3 percent in January-June 2007.

U.S. Demand

Based on available information, U.S. consumers of PET film are likely to respond to changes in the price of PET film with moderate changes in their purchases of PET film. The main contributing factors to the relatively small degree of responsiveness of demand are the lack of substitutability of other products for PET film and the fact that PET film represents a moderate share of overall product costs.

Demand Characteristics

PET film is produced for five main end-use segments and these categories and their applications are summarized in the following tabulation:¹⁷

* * * * *

¹³ *** are subsidiaries of *** of India. Flex has announced plans to construct a PET film plant in ***. ***. *** postconference brief, p. 10, 12.

¹⁴ Conference transcript, p. 83 (Kasturia).

¹⁵ The balance of shipments was internally consumed.

¹⁶ Petitioners note that imports from nonsubject countries generally consist of a higher portion of value-added PET film with higher average unit values than those of subject imports. For example, ***. Petitioners' postconference brief, Answers to Commission questions, p. 18.

¹⁷ Petitioners' postconference brief, Answers to Commission questions, pp. 10-11.

Available data indicate that total apparent U.S. consumption¹⁸ of PET film increased from 792.2 million pounds in 2004 to 869.1 million pounds in 2006, or by 9.7 percent. Apparent consumption of PET film fell between the interim periods, from 445.9 million pounds in interim 2006 to 422.5 million pounds in 2007, or by 5.2 percent. When asked if demand for PET film had changed since January 1, 2004, two of the three responding U.S. producers reported that U.S. demand had increased between 2 to 5 percent per year and that global demand had grown by approximately 5 to 6 percent per year.

Producers reported that demand for PET film in the packaging and industrial markets had increased as it had in the emerging electrical and imaging markets.¹⁹ Four of the responding importers reported that U.S. demand had grown and four responded that U.S. demand had declined. Importers reporting a growth in U.S. demand attributed this growth to an increase in GDP growth; importers reporting declining U.S. demand attributed it to the emergence of new digital technologies that has eroded the demand for PET film and they noted the downsizing of the U.S. housing market.

Substitute Products

All responding U.S. producers and eight of 10 responding importers reported that there are no direct substitutes for PET film due to its high thermal and tensile strengths, excellent chemical resistance, lay flat characteristics, and printability. In certain cases, depending on expectations of performance and quality, a customer may choose to change from PET film to another substance such as OPP (oriented polypropylene) and PVC in packaging. However, if customers are willing to accept performance sacrifices, including the requirement of additional downstream coatings, possible substitutes include BOPP (Bi-axially oriented polypropylene) films, BPOA (Bi-axially oriented polyamide) films, and paper.

Cost Share

Producers and importers were asked to provide information on the cost share of certain PET film relative to the end product in which it is used. Because PET film is used in a wide variety of end use products (which are themselves often used in other downstream products), the percent of the final cost that is accounted for by PET film also varies widely across and within end uses. Producers estimated that PET film accounts for 30 to 60 percent for industrial end uses; 10 percent for flexible packaging end uses; 60 percent for imaging end uses; 2 to 50 percent for electrical end uses; 40 to 70 percent for thermal lamination end uses; 70 percent for release liner end uses; 15 percent for dry film photo resist end uses; 40 to 80 percent for hot stamping foil end uses; 40 percent for medical X-ray film end uses; and 6 to 40 percent for solar window film end uses.

SUBSTITUTABILITY ISSUES

The degree of substitution between domestic and imported PET film depends upon such factors as relative prices, quality, and conditions of sale (such as lead times between order and delivery, payment terms, product services, etc.). Based on available data, it is likely that there is at least a moderate degree of substitution between imported and domestic PET film.

¹⁸ Total U.S. consumption includes internally consumed (captive) shipments of domestic producers, whereas open-market consumption does not.

¹⁹ When asked if there had been any changes in the product range, product mix, or marketing of PET film, 6 U.S. producers and 5 of the 19 responding importers responded affirmatively. *** reported that its product mix is constantly under improvement and that new products have been developed for new applications such as electronic displays, digital printing, packaging lidding, solar control, and electronic applications. *** reported that demand in the magnetic media, health imaging, graphic signage, and photographic imaging markets has dramatically declined in recent years.

Comparisons of Domestic Products and Subject Imports

In order to determine whether U.S.-produced PET film can generally be used in the same applications as imports from Brazil, China, Thailand, and the UAE, producers and importers were asked whether the product can “always,” “frequently,” “sometimes,” or “never” be used interchangeably (table II-3).

Five of the U.S. producers that compared U.S. PET film with that from Brazil reported that the PET film from Brazil can always or frequently be used interchangeably, with one firm reporting that the products are only sometimes interchangeable. While the majority of the importers reported that they had no familiarity with the interchangeability of products, five reported that the products can always or frequently be used interchangeably, and one reported that the product is only sometimes interchangeable.

Six producers that compared the U.S. products with imports from China reported that products from China can always or frequently be used interchangeably, and eleven U.S. importers reported that products from China can always or frequently be used interchangeably. Five producers that compared U.S. product with those from Thailand and the UAE reported that products from these countries can always or frequently be used interchangeably and one reported that the products are only sometimes interchangeable. Six importers reported that products from Thailand and the UAE can always or frequently be used interchangeably, and two reported that the products are only sometimes interchangeable; seven importers reported having no familiarity with the interchangeability of these products from these two countries.

One responding U.S. producer that compared the domestic products and subject imports with respect to interchangeability made additional comments. The U.S. producer stated that price was the sole driving factor, whereas all responding U.S. producers indicated that commodity-type PET film products (corona-treated, thermal lamination, hot-stamping) were fully interchangeable and only in limited instances were they not fully interchangeable (some chemically treated products for the packaging market). Four of the 19 responding importers reported that the primary factor affecting purchasing decisions was price, that underselling by subject imports increases the importance of price in purchasing, and that all other factors are secondary buying factors. One importer reported that factors like quality, availability, transportation network, and technical support were also important.

Producers and importers were also asked to compare U.S.-produced products with imports from each of the subject countries in terms of product differences other than price such as quality, availability, product range, and technical support. Again, firms were asked whether these product differences are always, frequently, sometimes, or never significant (table II-4). Of the U.S. producers that compared the U.S. product with that from Brazil, four reported that the differences are sometimes significant and three reported that they are never significant. Likewise for products from China, four U.S. producers reported that the differences are sometimes significant and three reported that they are never significant. Of the producers that compared the U.S. product with that from Thailand, one reported that the differences are frequently significant, three reported that they are sometimes significant, and three reported that they are never significant. Of the producers that compared the U.S. product with that from the UAE, three reported that the differences are sometimes significant and three reported that they are never significant. Among importers that compared the U.S. product with that from Brazil, four reported that differences other than price are sometimes significant and four reported that they are never significant. Five importers reported that differences other than price between the U.S. and Chinese products are always or frequently significant, four reported that they are sometimes significant, and five reported that they were never significant. Three importers reported that differences other than price between the U.S. and Thai products are always or frequently significant, four reported that they are sometimes significant, and three reported that they are never significant. Two importers reported that differences other than price between the U.S. and products from the UAE are always or frequently significant, three reported that they are never significant, and four reported that they are never significant.

Table II-3
PET film: Interchangeability of product from different sources¹

Country comparison	U.S. producers					U.S. importers				
	A	F	S	N	O	A	F	S	N	O
U.S. vs. Brazil	3	2	1	0	1	3	2	1	0	9
U.S. vs. China	4	2	0	0	1	6	5	0	0	5
U.S. vs. Thailand	3	2	1	0	1	3	3	2	0	7
U.S. vs. UAE	3	2	1	0	1	3	3	2	0	7
U.S. vs. nonsubject	4	2	1	0	0	5	3	1	0	6
Brazil vs. China	4	1	1	0	1	4	2	1	0	9
Brazil vs. Thailand	5	1	0	0	1	5	2	0	0	8
Brazil vs. UAE	5	1	0	0	1	5	1	1	0	8
Brazil vs. nonsubject	3	2	1	0	1	3	2	1	0	9
China vs. Thailand	4	1	1	0	1	4	2	1	0	8
China vs. UAE	4	1	1	0	1	4	2	2	0	7
China vs. nonsubject	4	2	0	0	1	4	2	0	0	9
Thailand vs. UAE	5	1	0	0	1	5	2	1	0	7
Thailand vs. nonsubject	3	2	1	0	1	3	3	1	0	8
UAE vs. nonsubject	3	2	1	0	1	3	2	2	0	8

¹ Producers and importers were asked if PET film produced in the United States and in other countries are used interchangeably.

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

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

Table II-4

PET film: Differences other than price between products from different sources¹

Country comparison	U.S. producers					U.S. importers				
	A	F	S	N	O	A	F	S	N	O
U.S. vs. Brazil	0	0	4	3	1	0	0	4	4	8
U.S. vs. China	0	0	4	3	1	4	1	4	5	5
U.S. vs. Thailand	0	1	3	3	0	2	1	4	3	6
U.S. vs. UAE	0	0	3	3	2	1	1	3	4	9
U.S. vs. nonsubject	0	0	5	3	0	1	0	6	3	4
Brazil vs. China	0	0	2	4	2	1	1	2	4	9
Brazil vs. Thailand	0	0	1	4	3	0	1	2	4	9
Brazil vs. UAE	0	0	1	4	3	0	2	1	4	10
Brazil vs. nonsubject	0	0	4	2	2	0	0	4	2	8
China vs. Thailand	0	0	2	4	2	0	0	4	4	8
China vs. UAE	0	0	2	4	2	0	1	3	4	9
China vs. nonsubject	0	0	4	2	2	0	0	4	2	8
Thailand vs. UAE	0	0	1	4	3	0	1	2	6	9
Thailand vs. nonsubject	0	0	3	2	3	0	0	4	2	8
UAE vs. nonsubject	0	0	2	3	3	0	1	3	2	9

¹ Producers and importers were asked if differences other than price between PET film produced in the United States and in other countries are significant factors in their firm's sales of PET film.

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

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

Comparison of Domestic Products and Nonsubject Imports

Producers and importers from all sources were also asked to compare U.S.-produced PET film with nonsubject imports both in terms of interchangeability and differences other than price. Six of the U.S. producers that compared U.S. products with those from nonsubject countries reported that the products are always or frequently interchangeable. For responding importers, five firms reported that domestic and nonsubject PET film is always interchangeable while three reported that they are frequently interchangeable.

Comparisons of Subject Imports and Nonsubject Imports

U.S. producers and importers of PET film from all sources were also asked to separately compare imports from Brazil, China, Thailand, and the UAE with nonsubject imports, both in terms of interchangeability and differences other than price. Five producers and five importers that compared imports from Brazil with nonsubject imports in terms of interchangeability reported that the products are always or frequently interchangeable; one producer and one importer reported that they are sometimes interchangeable. Six producers and six importers that compared imports from China with nonsubject imports in terms of interchangeability reported that they are always or frequently interchangeable. Five producers and six importers that compared imports from Thailand with nonsubject imports in terms of interchangeability reported that the products are always or frequently interchangeable; one producer and one importer reported that they are sometimes interchangeable. Five producers and five importers that compared imports from the UAE with nonsubject imports in terms of interchangeability reported that they are either always or frequently interchangeable and one producer and two importers reported that they are sometimes interchangeable.

Comparisons of Subject Products from the Subject Countries

U.S. producers and importers of PET film from all sources were also asked to compare imports from Brazil, China, Thailand, and the UAE both in terms of interchangeability and differences other than price. In general, a majority of U.S. producers (at least 4 of 6) reported that PET film from the subject countries are always interchangeable with one another. Of the importers that had familiarity with PET film from the subject countries, the majority found the products to be always or frequently interchangeable. With regard to factors other than price, the majority of U.S. producers reported that these differences are never a significant factor in their sales of subject PET film products. Of those importers that reported having familiarity with the subject imports, most firms reported that differences other than price were never a factor. The one exception was with comparisons between China and the other subject imports; a number of firms did note that differences other than price were at least sometimes a factor.

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

The Commission analyzes a number of factors in making injury determinations (see 19 U.S.C. §§ 1677(7)(B) and 1677(7)(C)). Information on the alleged margins of dumping were presented earlier in this report and information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V. Information on the other factors specified is presented in this section and/or Part VI and (except as noted) is based on the questionnaire responses of seven firms that accounted for virtually all of U.S. production of PET film during 2006.

U.S. PRODUCERS

The Commission sent questionnaires to the eight firms cited in the petition. Responses were received from seven firms,¹ which provided usable data on their production of PET film.² Producers of PET film, their position with respect to the petition, and information on their production of PET film are shown in table III-1.

The majority of responding U.S. producers have foreign affiliations and/or production facilities.³ DuPont is *** owned by Teijin Holdings USA, Inc., New York, NY and *** owned by E.I. du Pont de Nemours & Co., Wilmington, DE. Effective January 1, 2000, DuPont formed a joint venture with the Japanese producer Teijin and now maintains joint production facilities in Luxembourg, the United Kingdom, Japan, Indonesia, and China. Mitsubishi is wholly owned by Mitsubishi Polyester Film Corp., Tokyo, Japan, with related firms that produce PET film in Japan, Germany, and Indonesia. Toray is owned by the Japanese firm, Toray Industries, and maintains production sites in France, Korea, and Malaysia. Terphane is related to Terphane Ltd. in Brazil and SKC is owned by SKC Co., Ltd. of Seoul, Korea.

¹ The eight firms cited in the petition were: (1) 3M, (2) Curwood, (3) DuPont Teijin, (4) Kodak, (5) Mitsubishi, (6) SKC, (7) Terphane, and (8) Toray. Questionnaire responses were received from all but Curwood, which was the case in the 2001-02 investigations. Kodak consumes all of its PET film and equivalent PET film to produce ***.

² Of the seven, four (***) internally consumed a portion of their PET film production in the production of equivalent PET film.

³ ***.

Table III-1

PET film: U.S. producers, locations, position on the petition, and production and shares of production in 2006

Firm	Plant location(s)	Position	Reported production of PET film in 2006	
			Quantity (1,000 pounds)	Share (percent)
Curwood ¹	Oshkosh, WI	-	-	-
DuPont Teijin	Fayetteville, NC Circleville, OH Florence, SC Hopewell, VA	Petitioner	***	***
Kodak ²	Rochester, NY	***	***	***
Mitsubishi	Greer, SC	Petitioner	***	***
SKC ³	Covington, GA	Petitioner	***	***
Terphane ⁴	Bloomfield, NY	***	***	***
3M	St. Paul, MN	***	***	***
Toray	North Kingston, RI	Petitioner	***	***

¹ ***

² Kodak, a producer of PET film and equivalent PET film that is all captively consumed for use in *** provided data on the production of its PET film. The data shown for its production of PET film do not include the PET film that is produced and consumed in the *** production of equivalent PET film.

³ SKC opened a new facility in Covington, GA, in 1999, with announced plans to expand to 10 lines. To date, SKC has opened 3 film lines and testified that further expansion has been stalled by unfair import competition. Conference transcript, pp. 27-28 (Trice).

⁴ Terphane ***.

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

**U.S. PRODUCERS' CAPACITY, PRODUCTION, CAPACITY UTILIZATION,
SHIPMENT, INVENTORY, AND EMPLOYMENT DATA**

Table III-2 presents U.S. producers' capacity, production, capacity utilization, shipment, inventory, and employment data for PET film. As noted earlier, certain of the U.S. producers consume all or a portion of their production captively. In this regard, staff noted that the Commission examined captive production in the 2001-02 investigation and asked parties in the current investigations to comment on how that issue should be approached in these investigations. In its postconference submission, petitioners stated:

“Petitioners estimate that approximately *** pounds of domestic production of PET film were internally transferred, making captive production *** percent of the total U.S. market in 2006. As stated in the Petition, U.S. captive production of PET film meets the three statutory requirements that enable the Commission to focus primarily on the merchant market in making its injury determination. Those requirements are:

- the domestic like product that is internally transferred does not enter the merchant market for the domestic like product;
- the domestic like product is the predominant material input in the downstream product;
- the domestic like product sold in the merchant market is generally not used in the production of the downstream article manufactured from the captive production.

Petitioners believe that the captive production of the domestic producers is primarily used to produce x-ray and photographic products, and does not enter the merchant market for the domestic like product. PET film is the predominant material input in x-ray and photographic film, and PET film sold in the merchant market is generally not used to produce these products. The major segments for the merchant market are packaging, industrial, graphics and magnetic media. Given the above, the Commission should focus its injury analysis on the merchant market.”⁴

In these investigations, U.S. producers' internal consumption to produce equivalent PET film and “other” internal consumption accounted for *** percent of total U.S. producers' U.S. shipments in 2004, *** percent in 2005, and *** percent in 2006.⁵

⁴ Petitioners' postconference brief, Part II, pp. 9-10.

⁵ No transfers to related firms were reported.

Table III-2

PET film: U.S. capacity, production, capacity utilization, shipments, by type, end-of-period inventories, and employment-related indicators, 2004-06, January-June 2006, and January-June 2007

Item	Calendar year			January-June	
	2004	2005	2006	2006	2007
Capacity (1,000 pounds)	754,175	753,613	745,802	392,098	376,790
Production (1,000 pounds)	670,957	657,368	650,486	322,479	319,715
Capacity utilization (percent)	89.0	87.2	87.2	82.2	84.9
Commercial shipments:					
Quantity (1,000 pounds)	435,734	409,774	408,144	202,959	207,385
Value (1,000 dollars)	698,497	720,916	738,848	368,243	366,074
Unit value (per pound)	\$1.60	\$1.76	\$1.81	\$1.81	\$1.77
Share of quantity (percent)	63.3	63.4	63.5	63.9	65.3
Internal consumption to produce equivalent PET film:					
Quantity (1,000 pounds)	***	***	***	***	***
Value (1,000 dollars)	***	***	***	***	***
Unit value (per pound)	***	***	***	***	***
Share of quantity (percent)	***	***	***	***	***
Other internal consumption:					
Quantity (1,000 pounds)	***	***	***	***	***
Value (1,000 dollars)	***	***	***	***	***
Unit value (per pound)	***	***	***	***	***
Share of quantity (percent)	***	***	***	***	***
Transfers to related firms:					
Quantity (1,000 pounds)	0	0	0	0	0
Value (1,000 dollars)	0	0	0	0	0
Unit value (per pound)	-	-	-	-	-
Share of quantity (percent)	-	-	-	-	-
Total U.S. shipments:					
Quantity (1,000 pounds)	641,150	606,250	604,552	298,692	302,625
Value (1,000 dollars)	1,164,886	1,167,789	1,179,280	584,021	578,678
Unit value (per pound)	\$1.82	\$1.93	\$1.95	\$1.96	\$1.91
Share of quantity (percent)	93.2	93.8	94.1	94.0	95.2

Table continued on the next page.

Table III-2

PET film: U.S. capacity, production, capacity utilization, shipments, by type, end-of-period inventories, and employment-related indicators, 2004-06, January-June 2006, and January-June 2007

Item	Calendar year			January-June	
	2004	2005	2006	2006	2007
Exports: ¹					
Quantity (1,000 pounds)	46,782	39,843	37,752	18,972	15,153
Value (1,000 dollars)	59,171	68,160	61,911	29,356	29,015
Unit value (per pound)	\$1.26	\$1.71	\$1.64	\$1.55	\$1.91
Share of quantity (percent)	6.8	6.2	5.9	6.0	4.8
Total shipments:					
Quantity (1,000 pounds)	687,932	646,093	642,304	317,664	317,778
Value (1,000 dollars)	1,224,057	1,235,949	1,241,191	613,377	607,693
Average (per pound)	\$1.78	\$1.91	\$1.93	\$1.93	\$1.91
Share of quantity (percent)	100.0	100.0	100.0	100.0	100.0
Inventories (1,000 pounds) ²	50,323	55,700	58,926	53,626	56,806
Ratio of inventories to total shipments (percent)	7.3	8.6	9.2	8.4	8.9
Production and related workers (PRWs)	2,664	2,494	2,317	2,318	2,307
Hours worked by PRWs (1,000 hours)	5,165	4,850	4,534	2,268	2,286
Hours worked per PRW	1,939	1,945	1,957	978	991
Wages paid to PRWs (1,000 dollars)	146,646	140,795	132,438	66,320	65,729
Hourly wages	\$28.39	\$29.03	\$29.21	\$29.24	\$28.75
Productivity (pounds produced per hour)	129.9	135.5	143.5	142.2	139.8
Unit labor costs (per pound)	\$0.22	\$0.21	\$0.20	\$0.21	\$0.21
¹ With the exception of ***, all U.S. producers of PET film reported exports; Brazil, Canada, Mexico, China, Korea, Europe, Japan, and Central and South America were the markets reported by producers. ² Inventories do not reconcile for the following reason: ***.					
Note.—Because of rounding, figures may not add to the totals shown.					
Source: Compiled from data submitted in response to Commission questionnaires.					

U.S. PRODUCERS' IMPORTS

Four of the seven U.S. producers, ***, reported that they imported PET film from countries subject to these investigations as well as nonsubject sources.⁶ The other three producers ***.⁷ At the staff conference in these investigations, participants were asked to comment on whether Terphane should be excluded from the domestic industry on the basis of being a related party.⁸ In this regard, petitioners stated:

"The Commission should include Terphane, Inc. in the domestic industry. A producer may be excluded, 'in appropriate circumstances,' from the industry if the exporter or importer are related parties, or if the producer is also itself an importer of the subject products. The decision to exclude is wholly within the discretion of the Commission. As Terphane's ***. Terphane should not be excluded from the market because the 'appropriate circumstances' do not exist for the exclusion . . . The facts here demonstrate that Terphane has not accrued a significant benefit from its relationship with its Brazilian affiliate. There is no indication that Terphane imports PET film from Brazil to benefit from unfair trade practices. In an earlier case, the Commission's decision to exclude a domestic producer was upheld where the producer used the subject imports as raw materials to create cheaper processed products. Here, Terphane does not appear to use the imported subject PET film to create a 'competitive advantage' in domestic production. Because Terphane's production is such a *** of the domestic market, its inclusion will not skew the data for the rest of the industry."⁹

Counsel for Terphane responded:

"Yes, Terphane Inc. does not import for purposes of benefitting from dumped imports. Rather, it imports to facilitate its U.S. production, including further U.S. manufacturing operations as to imported Brazil PET film. The imported Brazil PET film feedstock is not available from domestic producers, who will not supply it. Under Commission precedent, Terphane Inc. should be considered part of the domestic industry given its commitment to U.S. production."¹⁰

⁶ ***.

⁷ ***.

⁸ With respect to U.S. producers other than Terphane, petitioners state that "the volumes of subject PET film imported by petitioning companies was in each case a small fraction of its U.S. production. The overriding interests of each petitioning company in this case is as a domestic producer . . . there are no grounds to exclude any one of them from the domestic industry for purposes of the Commission's injury analysis." Petitioners' postconference brief, p. 10. Neither the Brazilian respondent or the representatives from the UAE offered any comment regarding the exclusion of the petitioning firms.

⁹ Petitioners' postconference brief, Part II, pp. 6-7.

¹⁰ Brazilian respondent's postconference brief, p. 11.

Table III-3 presents U.S. producers' direct imports of PET films from subject sources. *** reported importing PET film from nonsubject countries since 2004. These imports were from Canada, Germany, Indonesia, Italy, Japan, Korea, Luxembourg, Mexico, Taiwan, and the United Kingdom.

Table III-3
PET film: U.S. producers' imports from subject countries, 2004-06, January-June 2006, and January-June 2007

* * * * *

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

U.S. IMPORTERS

The Commission sent questionnaires to 40 firms believed to be importers of PET film, based on information provided in the petition and information provided by U.S. Customs and Border Protection. In addition, importer questionnaires were sent to the eight firms that received producer questionnaires. As a share of official statistics, questionnaire responses were received from companies that in 2006 accounted for *** percent of U.S. imports from Brazil,¹ 43.5 percent from China, more than 100 percent from Thailand, *** percent from the UAE, and 33.6 percent from nonsubject sources. Table IV-1 presents a list of the 20 firms responding to the Commission's importer questionnaire and the countries from which they imported during 2004-June 2007.

Table IV-1

PET film: U.S. importers and sources of their imports, 2004-June 2007

* * * * *

U.S. IMPORTS

As these investigations have developed, there has been much debate over the import numbers the Commission should consider in its analysis of import volumes. While parties agree that official statistics should be used, they have proposed various modifications of those numbers largely based on their belief that the data from certain sources (Brazil, Canada, and Oman) may include nonsubject product (i.e., merchandise that is not PET film). The issue is of consequence due to the fact that both Brazil and the UAE have argued that their investigations should be terminated owing to their belief that their imports were less than 3 percent of total imports during the 12 months preceding the filing of the petition in these investigations. Depending on the denominator (import statistics) used, different outcomes may be possible with respect to the issue of negligibility. In short, the petitioners argue that imports from Canada and Oman are not subject product and should be removed from the official statistics. The Brazilian respondent argues that *** of the official statistics for Brazil include PET film that is not subject and, therefore, data reported in its questionnaire are a better measure of subject imports from Brazil. Additionally, the Brazilian respondent argues that imports from Canada should be included in the import statistics.² Finally, representatives of the UAE producer/importer, stated that "there is no justified reason to believe or suspect that the imports from Canada are not indeed imports of subject merchandise." A discussion of the reasoning behind the various imports scenarios proposed by the parties follows.

¹ The lone importer of product from Brazil, Terphane, a U.S. producer and importer, accounted for *** imports of Brazil; however, the numbers reported by Terphane (*** pounds as opposed to official statistics of 14.7 million pounds in 2006 and similar lower data compared with official statistics in other years and periods) reflect the firm's belief that many of its imports, although classified under HTS statistical reporting number 3920.62.0090, are not properly classified and, therefore, are nonsubject product. See the discussion of U.S. imports and negligibility later in this section of the report for a more detailed discussion of this and other import data issues.

² Terphane's postconference brief, pp. 2-4. Flex Middle East (FME)/Flex America (FAM) offered no comment with regard to the proposed exclusion of imports from Oman or the use of Brazilian importer questionnaire numbers in lieu of official statistics for Brazil.

Imports of PET film enter the United States under HTS statistical reporting number 3920.62.00.90. According to petitioners, the category “was established in July 2003 to accurately capture imports of PET film.”³ Petitioners further state that it “appears that entries under this import category include certain nonsubject films (e.g., amorphous PET (APET) film) and, therefore, overstate total imports within the scope of the petition.”⁴ In particular, petitioners believe that certain entries from Canada and Oman under HTS statistical reporting number 3920.62.00.90 appear to be nonsubject products—e.g., APET and, therefore, would overstate total imports within the scope of the petition.⁵ Petitioners know of no known production of PET film in either Canada or Oman.⁶ Petitioners note that at the staff conference in these investigations both petitioners and the Brazilian respondent agreed that there was no PET film production in Canada.⁷ Further regarding their argument concerning imports from Canada, petitioners claim that the unit values declared at certain U.S. ports are far too high to be subject PET film.⁸ The Brazilian respondent, Terphane, in its postconference brief, argues that it “is confident that most of the U.S. import volumes from Canada are of foreign volumes of subject PET film imported into Canada from Asia and shipped across the border to the U.S.” and, therefore, should be included in the total subject imports figure for purposes of determining negligibility.⁹

With respect to imports from Oman, petitioners state that they have reason to believe that such imports under the given HTS statistical reporting number are APET, which is purported to be a nonsubject product.^{10 11} In this regard, petitioners stated:

“In the case of Oman, petitioners’ counsel met with the Customs specialist responsible for PET film imports on July 31, 2007 to determine whether the imports from that country were, in fact, PET film. Based on the meeting and on further research of Omani manufacturing capabilities, we believe that imports from Oman, which year-to-date have been 13,451,157 pounds, are, in fact, imports of amorphous polyethylene terephthalate (or APET), a nonsubject product. Recent information confirms this conclusion. Imports from Oman under HTSUS statistical reporting number 3920.62.00.90 first appear in the data in 2007. The October 23, 2007 edition of the Times of Oman (attached at *Exhibit 1*) reports that Octal Petroleum, an APET producer, began production in Oman’s Salalah Free Zone in December 2006, with the United States among its target markets. Although we do not have access to the import documents available to Customs, we are confident that those documents will confirm that the imports from Oman entered under HTSUS statistical reporting number 3920.62.00.90 are nonsubject APET. Exclusion of imports from Oman from imports of subject PET film during the period September 1, 2006-

³ Petitioners’ postconference brief, p. 3. Petitioners note that for purposes of the petition, they based their analysis of the volume of imports from each of the subject countries on official data under this statistical reporting number.

⁴ Ibid.

⁵ Petitioners’ postconference brief, pp. 3-4.

⁶ Ibid, p. 4.

⁷ Ibid. Conference transcript, p. 8 (Meltzer), pp. 36-38 (Trice, Meltzer), p. 104 (Roy).

⁸ Ibid, p. 5. The ports named are Pembina, ND; Seattle, WA; New Orleans, LA; and Cleveland, OH.

⁹ Terphane’s postconference brief, p. 4.

¹⁰ Petitioners’ postconference brief, pp. 3-4.

¹¹ Ibid., exhibit 1.

August 31, 2007 reduces the total volume (*i.e.*, the denominator for a negligibility claim) from 240,714,410 pounds to 227,263,253 pounds."¹²

Representatives of ***.¹³

With respect to imports from Canada, petitioners report that although the exact nature of the Canadian import entries under HTS statistical reporting number 3920.62.00.90 is not clear-cut, both Klockner and Scott Office Systems (Scott) in Canada purchase PET film from U.S. producers and produce nonsubject merchandise from it—APET and shrink films in the case of Klockner; downstream products made from PET film in the case of Scott.¹⁴ According to information obtained by staff, ***.^{15 16} Petitioners contend that APET film alone is not subject product because it is not drawn (stretched) subsequent to casting; however, it is considered to be a part of subject PET film product when coextruded onto base PET film as it goes through the die, then cast and biaxially oriented, serving as a heat seal in ovenable food packaging.¹⁷

SKC and Mitsubishi testified that they assumed other petitioners sell base PET film to Scott Office Systems in Canada which, in turn, brings it back into the United States in sheet and roll form for the production of office supplies, index tabs, protectors for documents, etc.^{18 19} Staff has subsequently ***.²⁰

Imports of PET film based on official statistics as reported under HTS statistical reporting number 3920.62.00.90 are presented in table IV-2.

¹² Petitioners' postconference brief, p. 4.

¹³ Staff interview with ***, October 26, 2007.

¹⁴ Petitioner's postconference brief, pp. 4-5.

¹⁵ Staff interview with ***, October 26, 2007.

¹⁶ Staff e-mail correspondence from ***, October 22-25, 2007.

¹⁷ Conference transcript, pp. 38, 64 (Kasoff).

¹⁸ Conference transcript, pp. 71-72 (Gray, Trice).

¹⁹ *Ibid.*, p. 37 (Trice).

²⁰ Staff interview with ***, October 22, 2007.

Table IV-2

PET film: U.S. imports, by sources, 2004-06, January-June 2006, and January-June 2007

Source	Calendar year			January-June	
	2004	2005	2006	2006	2007
Quantity (1,000 pounds)					
Brazil	55	2,378	14,718	7,224	7,364
China	18,110	35,002	47,382	27,897	24,983
Thailand	17,682	20,901	15,271	7,657	6,721
UAE	41	2,971	6,541	3,310	3,783
Subtotal, subject sources	35,888	61,253	83,912	46,088	42,852
Canada	23,339	31,898	33,122	18,044	14,745
Korea	35,017	62,508	65,014	32,388	26,384
India	3,749	4,388	4,172	2,125	2,148
Taiwan	7,467	10,740	14,034	5,712	8,999
Oman	0	0	0	0	8,019
Other sources	45,551	57,464	64,246	42,849	16,725
Subtotal, nonsubject sources	115,123	166,997	180,588	101,119	77,022
Total	151,011	228,250	264,500	147,206	119,874
Value (1,000 dollars)¹					
Brazil	71	2,695	13,470	6,826	6,616
China	17,726	32,973	41,782	23,796	24,264
Thailand	16,904	21,625	14,208	7,106	6,543
UAE	45	3,018	6,503	3,315	3,703
Subtotal, subject sources	34,747	60,311	75,964	41,044	41,125
Canada	21,084	33,330	37,622	21,118	17,896
Korea	43,901	76,911	76,381	36,784	32,439
India	3,985	4,515	4,620	2,428	2,614
Taiwan	8,074	12,537	14,661	5,899	9,837
Oman	0	0	0	0	5,678
Other sources	122,023	153,069	146,809	86,371	47,909
Subtotal, nonsubject sources	199,067	280,362	280,093	152,600	116,373
Total	233,814	340,672	356,056	193,643	157,498
Table continued on next page.					

Table IV-2

PET film: U.S. imports, by sources, 2004-06, January-June 2006, and January-June 2007

Source	Calendar year			January-June	
	2004	2005	2006	2006	2007
Unit value (per pound)¹					
Brazil	\$1.31	\$1.13	\$0.92	\$0.94	\$0.90
China	0.98	0.94	0.88	0.85	0.97
Thailand	0.96	1.03	0.93	0.93	0.97
UAE	1.09	1.02	0.99	1.00	0.98
Subtotal, subject sources	0.97	0.98	0.91	0.89	0.96
Canada	0.90	1.04	1.14	1.17	1.21
Korea	1.25	1.23	1.17	1.14	1.23
India	1.06	1.03	1.11	1.14	1.22
Taiwan	1.08	1.17	1.04	1.03	1.09
Oman	-	-	-	-	0.71
Other sources	2.68	2.66	2.29	2.02	2.86
Subtotal, nonsubject sources	1.73	1.68	1.55	1.51	1.51
Average	1.55	1.49	1.35	1.32	1.31
Share of quantity (percent)					
Brazil	0.0	1.0	5.6	4.9	6.1
China	12.0	15.3	17.9	19.0	20.8
Thailand	11.7	9.2	5.8	5.2	5.6
UAE	0.0	1.3	2.5	2.2	3.2
Subtotal, subject sources	23.8	26.8	31.7	31.3	35.7
Canada	15.5	14.0	12.5	12.3	12.3
Korea	23.2	27.4	24.6	22.0	22.0
India	2.5	1.9	1.6	1.4	1.8
Taiwan	4.9	4.7	5.3	3.9	7.5
Oman	0.0	0.0	0.0	0.0	6.7
Other sources	30.2	25.2	24.3	29.1	14.0
Subtotal, nonsubject sources	76.2	73.2	68.3	68.7	64.3
Total	100.0	100	100.0	100.0	100.0
Table continued on next page.					

Table IV-2

PET film: U.S. imports, by sources, 2004-06, January-June 2006, and January-June 2007

Source	Calendar year			January-June	
	2004	2005	2006	2006	2007
Share of value (percent)					
Brazil	(²)	0.8	3.8	3.5	4.2
China	7.6	9.7	11.7	12.3	15.4
Thailand	7.2	6.3	4.0	3.7	4.2
UAE	(²)	0.9	1.8	1.7	2.4
Subtotal, subject sources	14.9	17.7	21.3	21.2	26.1
Canada	9.0	9.8	10.6	10.9	11.4
Korea	18.8	22.6	21.5	19.0	20.6
India	1.7	1.3	1.3	1.3	1.7
Taiwan	3.5	3.7	4.1	3.0	6.2
Oman	0.0	0.0	0.0	0.0	3.6
Other sources	52.2	44.9	41.2	44.6	30.4
Subtotal, nonsubject sources	85.1	82.3	78.7	78.8	73.9
Total	100.0	100.0	100.0	100.0	100
¹ Landed, duty-paid. ² Less than 0.05 percent.					
Note.—Because of rounding, figures may not add to the totals shown.					
Source: Compiled from official Commerce statistics.					

NEGLIGENCE

The Tariff Act provides for the termination of an investigation if imports of the subject product from a country are less than 3 percent of total imports, or, if there is more than one such country, their combined share is less than or equal to 7 percent of total imports, during the most recent 12 months for which data are available preceding the filing of the petition – in this case September 2006 to August 2007.

As noted earlier in this section, petitioners and respondents have presented a number of scenarios for the adjustment of official statistics to aid the Commission in its analysis of import volume as it relates to the issue of negligibility. Depending on the denominator (import statistics) used, different outcomes may be possible with respect to this issue.

Tables IV-3, IV-4, and IV-5 present the various scenarios showing the shares (in *percent*) of the total quantity of U.S. imports, by sources. Table IV-3 presents the shares according to official statistics with no adjustments. Table IV-4 presents the shares according to official statistics with the exclusion of Canada and Oman (as proposed by petitioners) and adjusted Brazilian imports (using Terphane's questionnaire data in lieu of official statistics for Brazil).^{21 22} Table IV-5 presents the shares according to official statistics with the only adjustment being the use of Terphane's questionnaire data in lieu of official statistics for Brazil.

²¹ Petitioners, while not agreeing with the proposed adjustment to the Brazilian numbers, stated that "if there is to be an adjustment to Terphane's data to exclude nonsubject imports from Brazil, the data for other countries must similarly be adjusted. In this regard, for the reasons already explained, the data must be reduced by the imports ascribed to both Canada and Oman." Petitioners' postconference brief, p. 8.

²² Although representatives of the FME/FAM proposed the use of FAM's (** lower) importer questionnaire numbers in lieu of official statistics for the UAE, they made no allegation concerning any nonsubject product being included in the official statistics concerning the UAE. FME/FAM postconference brief, pp. 3-4. Therefore, the use of official statistics for the UAE is believed to be the best data for the purposes of the Commission's analysis.

Table IV-3**PET film: U.S. imports, by sources, based on official Commerce statistics, and shares of total imports (in percent), September 2006-August 2007**

Source	Imports (1,000 pounds)	Share of total imports (percent)
Brazil	15,375	6.4
China	45,776	19.0
Thailand	13,530	5.6
UAE	7,678	3.2
Other sources	158,356	65.8
Total	240,715	100.0

Note.--Because of rounding, figures may not add to the totals shown.
Source: Compiled from official Commerce statistics.

Table IV-4**PET film: U.S. imports, by sources, based on official Commerce statistics (excluding Canada and Oman and using importer questionnaire data for Brazil), and shares of total imports (in percent), September 2006-August 2007**

* * * * *

Table IV-5**PET film: U.S. imports, by sources, based on official Commerce statistics and using importer questionnaire data for Brazil and shares of total imports (in percent), September 2006-August 2007**

* * * * *

APPARENT U.S. CONSUMPTION

Table IV-6 shows data on total apparent U.S. consumption and open-market consumption for PET film using unadjusted official import statistics for all countries. Total apparent U.S. consumption²³ of PET film increased by 9.7 percent on a quantity basis and 9.8 percent on a value basis during 2004-06. U.S. producers' market share, based on quantity, decreased from 80.9 percent in 2004 to 69.6 percent in 2006. The market share of the subject countries, based on quantity, increased from 4.5 percent in 2004 to 9.7 percent in 2006. With the exception of Thailand (whose share dropped irregularly), the market share of each of the subject countries increased over the same period.

Open-market apparent U.S. consumption²⁴ of PET film increased by 14.6 percent on a quantity basis and 17.4 percent on a value basis during 2004-06. U.S. producers' market share, based on quantity, decreased from 74.3 percent in 2004 to 60.7 percent in 2006. The market share of the subject countries, based on quantity, increased from 6.1 percent in 2004 to 12.5 percent in 2006. With the exception of Thailand (whose share dropped irregularly), the market share of each of the subject countries increased over the same period.

²³ Includes internally consumed (captive) shipments of domestic producers.

²⁴ Does not include internally consumed (captive) shipments of domestic producers.

Table IV-6

PET film: U.S. producers' U.S. shipments, by types, U.S. imports, by sources, and open-market and total U.S. consumption (open market and total), 2004-06, January-June 2006, and January-June 2007

Item	Calendar year			January-June	
	2004	2005	2006	2006	2007
<i>Quantity (1,000 pounds)</i>					
U.S. producers' U.S. shipments: Commercial (open-market)	435,734	409,774	408,144	202,959	207,385
Internal consumption and company transfers	205,416	196,476	196,408	95,733	95,240
U.S. producers' total U.S. shipments	641,150	606,250	604,552	298,692	302,625
U.S. imports from--					
Brazil	55	2,378	14,718	7,224	7,364
China	18,110	35,002	47,382	27,897	24,983
Thailand	17,682	20,901	15,271	7,657	6,721
UAE	41	2,971	6,541	3,310	3,783
All subject countries	35,888	61,253	83,912	46,088	42,852
Canada	23,339	31,898	33,122	18,044	14,745
Korea	35,017	62,508	65,014	32,388	26,384
India	3,749	4,388	4,172	2,125	2,148
Taiwan	7,467	10,740	14,034	5,712	8,999
Oman	0	0	0	0	8,019
Other nonsubject sources	45,551	57,464	64,246	42,849	16,725
Subtotal, nonsubject sources	115,123	166,997	180,588	101,119	77,022
Total	151,011	228,250	264,500	147,206	119,874
Open-market U.S. consumption	586,745	638,024	672,644	350,165	327,259
Total U.S. consumption	792,161	834,500	869,052	445,898	422,499
Table continued on next page.					

Table IV-6

PET film: U.S. producers' U.S. shipments, by types, U.S. imports, by sources, and open-market and total U.S. consumption (open market and total), 2004-06, January-June 2006, and January-June 2007

Item	Calendar year			January-June	
	2004	2005	2006	2006	2007
<i>Value (1,000 dollars)¹</i>					
U.S. producers' U.S. shipments: Commercial (open-market)	698,497	720,916	738,848	368,243	366,074
Internal consumption and company transfers	466,389	446,873	440,432	215,778	212,604
U.S. producers' total U.S. shipments	1,164,886	1,167,789	1,179,280	584,021	578,678
U.S. imports from--					
Brazil	71	2,695	13,470	6,826	6,616
China	17,726	32,973	41,782	23,796	24,264
Thailand	16,904	21,625	14,208	7,106	6,543
UAE	45	3,018	6,503	3,315	3,703
All subject countries	34,747	60,311	75,964	41,044	41,125
Canada	21,084	33,330	37,622	21,118	17,896
Korea	43,901	76,911	76,381	36,784	32,439
India	3,985	4,515	4,620	2,428	2,614
Taiwan	8,074	12,537	14,661	5,899	9,837
Oman	0	0	0	0	5,678
Other nonsubject sources	122,023	153,069	146,809	86,371	47,909
Subtotal, nonsubject sources	199,067	280,362	280,093	152,600	116,373
Total	233,814	340,672	356,056	193,643	157,498
Open-market U.S. consumption	932,311	1,061,588	1,094,904	561,886	523,572
Total U.S. consumption	1,398,700	1,508,461	1,535,336	777,664	736,176
¹ Landed, duty-paid.					
Note.—Because of rounding, figures may not add to the totals shown.					
Source: Compiled from data submitted in response to Commission questionnaires and from unadjusted official Commerce statistics.					

U.S. MARKET SHARES

U.S. market shares (using unadjusted official import statistics) for open-market consumption and total consumption are presented in tables IV-7 and IV-8, respectively. Tables IV-9 and IV-10 present the shares for open-market consumption and total consumption according to official statistics with the exclusion of Canada and Oman (as proposed by petitioners) and adjusted Brazilian imports (using Terphane's questionnaire data in lieu of official statistics for Brazil). Tables IV-11 and IV-12 present the shares for open-market consumption and total consumption according to official statistics with the only adjustment being the use of Terphane's questionnaire data in lieu of official statistics for Brazil.

Table IV-7
PET film: Open-market U.S. consumption¹ and market shares, 2004-06, January-June 2006, and January-June 2007

Item	Calendar year			January-June	
	2004	2005	2006	2006	2007
<i>Quantity (1,000 pounds)</i>					
Open-market U.S. consumption ¹	586,745	638,024	672,644	350,165	327,259
<i>Value (1,000 dollars)</i>					
Open-market U.S. consumption ¹	932,311	1,061,588	1,094,904	561,886	523,572
U.S. producers' open-market U.S. shipments	74.3	64.2	60.7	58.0	63.4
U.S. imports from--					
Brazil	0.0	0.4	2.2	2.1	2.3
China	3.1	5.5	7.0	8.0	7.6
Thailand	3.0	3.3	2.3	2.2	2.1
UAE	0.0	0.5	1.0	0.9	1.2
All subject countries	6.1	9.6	12.5	13.2	13.1
Canada	4.0	5.0	4.9	5.2	4.5
Korea	6.0	9.8	9.7	9.2	8.1
India	0.6	0.7	0.6	0.6	0.7
Taiwan	1.3	1.7	2.1	1.6	2.7
Oman	0.0	0.0	0.0	0.0	2.5
Other nonsubject countries	7.8	9.0	9.6	12.2	5.1
Subtotal, nonsubject countries	19.6	26.2	26.8	28.9	23.5
Total	25.7	35.8	39.3	42.0	36.6
Table continued on next page.					

Table IV-7
PET film: Open-market U.S. consumption¹ and market shares, 2004-06, January-June 2006, and January-June 2007

Item	Calendar year			January-June	
	2004	2005	2006	2006	2007
Share of value (percent)					
U.S. producers' open-market U.S. shipments	74.9	67.9	67.5	65.5	69.9
U.S. imports from--					
Brazil	0.0	0.3	1.2	1.2	1.3
China	1.9	3.1	3.8	4.2	4.6
Thailand	1.8	2.0	1.3	1.3	1.2
UAE	0.0	0.3	0.6	0.6	0.7
All subject countries	3.7	5.7	6.9	7.3	7.9
Canada	2.3	3.1	3.4	3.8	3.4
Korea	4.7	7.2	7.0	6.5	6.2
India	0.4	0.4	0.4	0.4	0.5
Taiwan	0.9	1.2	1.3	1.0	1.9
Oman	0.0	0.0	0.0	0.0	1.1
Other nonsubject countries	13.1	14.4	13.4	15.4	9.2
Subtotal, nonsubject countries	21.4	26.4	25.6	27.2	22.2
Total	25.1	32.1	32.5	34.5	30.1
<p>¹ Does not include internally consumed (captive) shipments of domestic producers.</p> <p>Note.—Because of rounding, figures may not add to the totals shown.</p> <p>Source: Compiled from data submitted in response to Commission questionnaires and from unadjusted official Commerce statistics.</p>					

Table IV-8
PET film: Total U.S. consumption¹ and market shares, 2004-06, January-June 2006, and January-June 2007

Item	Calendar year			January-June	
	2004	2005	2006	2006	2007
Quantity (1,000 pounds)					
Total U.S. consumption	792,161	834,500	869,052	445,898	422,499
Value (1,000 dollars)					
Total U.S. consumption	1,398,700	1,508,461	1,535,336	777,664	736,176
U.S. producers' U.S. shipments	80.9	72.6	69.6	67.0	71.6
U.S. imports from--					
Brazil	0.0	0.3	1.7	1.6	1.7
China	2.3	4.2	5.5	6.3	5.9
Thailand	2.2	2.5	1.8	1.7	1.6
UAE	0.0	0.4	0.8	0.7	0.9
All subject countries	4.5	7.3	9.7	10.3	10.1
Canada	2.9	3.8	3.8	4.0	3.5
Korea	4.4	7.5	7.5	7.3	6.2
India	0.5	0.5	0.5	0.5	0.5
Taiwan	0.9	1.3	1.6	1.3	2.1
Oman	0.0	0.0	0.0	0.0	1.9
Other nonsubject countries	5.8	6.9	7.4	9.6	4.0
Subtotal, nonsubject countries	14.5	20.0	20.8	22.7	18.2
Total	19.1	27.4	30.4	33.0	28.4
Table continued on next page.					

Table IV-8**PET film: Total U.S. consumption¹ and market shares, 2004-06, January-June 2006, and January-June 2007**

Item	Calendar year			January-June	
	2004	2005	2006	2006	2007
Share of value (percent)					
U.S. producers' U.S. shipments	83.3	77.4	76.8	75.1	78.6
U.S. imports from--					
Brazil	0.0	0.2	0.9	0.9	0.9
China	1.3	2.2	2.7	3.1	3.3
Thailand	1.2	1.4	0.9	0.9	0.9
UAE	0.0	0.2	0.4	0.4	0.5
All subject countries	2.5	4.0	4.9	5.3	5.6
Canada	1.5	2.2	2.5	2.7	2.4
Korea	3.1	5.1	5.0	4.7	4.4
India	0.3	0.3	0.3	0.3	0.4
Taiwan	0.6	0.8	1.0	0.8	1.3
Oman	0.0	0.0	0.0	0.0	0.8
Other nonsubject countries	8.7	10.1	9.6	11.1	6.5
Subtotal, nonsubject countries	14.2	18.6	18.2	19.6	15.8
Total	16.7	22.6	23.2	24.9	21.4
¹ Includes internally consumed (captive) shipments of domestic producers. Note.—Because of rounding, figures may not add to the totals shown. Source: Compiled from data submitted in response to Commission questionnaires and from unadjusted official Commerce statistics.					

Table IV-9

PET film: Open-market U.S. consumption and market shares, based on official Commerce statistics (excluding Canada and Oman and using importer questionnaire data for Brazil), 2004-06, January-June 2006, and January-June 2007

* * * * *

Table IV-10

PET film: Total U.S. consumption and market shares, based on official Commerce statistics (excluding Canada and Oman and using importer questionnaire data for Brazil), 2004-06, January-June 2006, and January-June 2007

* * * * *

Table IV-11

PET film: Open-market U.S. consumption and market shares, based on official Commerce statistics and using importer questionnaire data for Brazil, 2004-06, January-June 2006, and January-June 2007

* * * * *

Table IV-12

PET film: Total U.S. consumption and market shares, based on official Commerce statistics and using importer questionnaire data for Brazil, 2004-06, January-June 2006, and January-June 2007

* * * * *

RATIO OF IMPORTS TO U.S. PRODUCTION

Information concerning the ratio of imports to U.S. production of PET film is presented in table IV-13.

Table IV-13
PET film: Ratio of U.S. imports to U.S. production, by sources, 2004-06, January-June 2006, and January-June 2007

Item	Calendar year			January-June	
	2004	2005	2006	2006	2007
Ratio of U.S. imports to domestic production (percent)					
Brazil	0.0	0.4	2.3	2.2	2.3
China	2.7	5.3	7.3	8.7	7.8
Thailand	2.6	3.2	2.3	2.4	2.1
UAE	0.0	0.5	1.0	1.0	1.2
All subject countries	5.3	9.3	12.9	14.3	13.4
Canada	3.5	4.9	5.1	5.6	4.6
Korea	5.2	9.5	10.0	10.0	8.3
India	0.6	0.7	0.6	0.7	0.7
Taiwan	1.1	1.6	2.2	1.8	2.8
Oman	0.0	0.0	0.0	0.0	2.5
All other countries	6.8	8.7	9.9	13.3	5.2
All nonsubject countries	17.2	25.4	27.8	31.4	24.1
All countries	22.5	34.7	40.7	45.6	37.5

Source: Compiled from official Commerce statistics and Commission questionnaires.

CUMULATION CONSIDERATIONS

In assessing whether subject imports compete with each other and with the domestic like product, the Commission has generally considered four factors: (1) the degree of fungibility, including specific customer requirements and other quality related questions; (2) presence of sales or offers to sell in the same geographical markets; (3) common channels of distribution; and (4) simultaneous presence in the market. Degree of fungibility and channels of distribution are discussed in Parts I and II of this report; geographical markets and presence in the market are discussed below.

Geographical Markets

PET film produced in the United States is shipped nationwide. While imports of PET film from the subject countries may enter specific Customs districts, the product is then generally sold in multiple regions or nationwide. Brazilian product entered through 10 districts; Chinese product entered through 31 districts; Thai product entered through 15 districts; and UAE product entered through 14 districts. Table IV-14, based on Commerce statistics for the period 2004-06 and January-June 2007, presents U.S. import quantities of PET film, by each subject country, according to the Customs districts.

Table IV-14

PET film: U.S. imports, by subject countries and by customs districts, 2004-06 and January-June 2007

Customs district	Brazil				China			
	2004	2005	2006	Jan.-June 2007	2004	2005	2006	Jan.-June 2007
	Quantity (1,000 pounds)							
Anchorage, AK	0	0	0	0	0	0	2	1
Baltimore, MD	51	51	0	0	211	0	40	2
Boston, MA	0	0	0	0	0	317	592	1,164
Buffalo, NY	0	0	2	0	26	1	61	101
Charleston, SC	0	309	202	0	32	8,264	11,294	1,814
Charlotte, NC	0	0	1	0	1	316	447	238
Chicago, IL	4	0	0	0	7,722	11,381	13,603	7,623
Cleveland, OH	0	0	0	0	43	96	389	451
Columbia-Snake, OR	0	0	0	0	0	0	79	0
Dallas-Fort Worth, TX	0	0	0	0	0	42	528	0
Detroit, MI	0	0	0	5	11	158	158	39
Great Falls, MT	0	0	0	0	0	411	471	170
Honolulu, HI	0	0	0	0	0	1	0	0
Houston-Galveston, TX	0	0	0	0	88	264	2,769	2,473
Laredo, TX	0	0	0	5	0	3	2	0
Los Angeles, CA	0	0	0	0	3,074	4,404	3,865	1,176
Miami, FL	0	0	0	0	65	20	0	2
Milwaukee, WI	0	0	0	0	0	2	2	0
Minneapolis, MN	0	0	0	0	683	678	1,951	2,067
New Orleans, LA	0	0	0	0	0	772	830	51
New York, NY	0	1,917	14,446	7,359	1,518	3,759	5,934	5,279
Nogales, AZ	0	0	0	0	0	0	86	41
Norfolk, VA	0	101	0	0	2,956	840	88	257
Ogdensburg, NY	0	0	0	0	16	73	50	0
Pembina, ND	0	0	0	0	0	0	4	0
Philadelphia, PA	0	0	0	0	0	0	0	0
San Francisco, CA	0	0	0	0	1,018	1,253	1,520	941
San Juan, PR	0	0	0	0	0	0	31	0
Savannah, GA	0	0	67	0	251	851	1,969	1,020
Seattle, WA	0	0	0	0	395	1,091	243	72
St. Louis, MO	0	0	0	0	1	0	375	0
Tampa, FL	0	0	0	0	0	8	1	0
Total	55	2,378	14,718	7,364	18,110	35,002	47,382	24,983

Table continued on next page.

Table IV-14

PET film: U.S. imports, by subject countries and by customs districts, 2004-06 and January-June 2007

Customs district	Thailand				UAE			
	2004	2005	2006	Jan.-June 2007	2004	2005	2006	Jan.-June 2007
	<i>Quantity (1,000 pounds)</i>							
Boston, MA	0	115	39	0	0	3	0	0
Charleston, SC	1,311	160	2,377	1,191	0	872	4,454	2,471
Charlotte, NC	0	2	2	0	0	730	0	0
Chicago, IL	1,508	214	235	66	0	477	79	116
Cleveland, OH	43	0	1	0	0	51	1	40
Dallas-Fort Worth, TX	5,371	9,466	2,569	1,432	0	0	0	0
Houston-Galveston, TX	0	0	0	0	0	0	78	7
Laredo, TX	0	0	77	0	0	0	0	0
Los Angeles, CA	6,775	8,214	4,494	1,775	0	42	0	0
Miami, FL	0	1	0	0	0	0	0	0
Minneapolis, MN	0	0	0	0	0	0	1	0
New Orleans, LA	1	0	0	0	0	163	80	0
New York, NY	1,702	1,376	196	0	41	130	581	987
Norfolk, VA	0	0	39	0	0	423	1,265	160
Philadelphia, PA	0	0	0	0	0	0	2	1
San Francisco, CA	0	1	0	0	0	0	0	0
Savannah, GA	661	304	117	76	0	40	0	0
Seattle, WA	309	1,048	5,125	2,181	0	0	0	0
St. Louis, MO	0	0	0	0	0	40	0	0
Total	17,682	20,901	15,271	6,721	41	2,971	6,541	3,783

Source: Compiled from unadjusted official Commerce statistics.

Simultaneous Presence in the Market

PET film produced in the United States was present in the market throughout the period for which data were collected. Table IV-15 presents monthly U.S. imports of PET film during January 2005-June 2007. Based on official U.S. import statistics, there were U.S. imports of PET film from each of the subject countries in each month during January 2005-June 2007 save for six months during 2005. During March, May, July, and August 2005 there were no imports from Brazil and during January, February, and March 2005 there were no imports from the UAE.

Table IV-15
 PET film: U.S. imports, by source and month, January 2005-June 2007

Month	Brazil	China	Thailand	UAE	All other sources	Total
<i>Quantity (1,000 pounds)</i>						
January 2005	116	2,401	1,762	0	13,686	17,964
February 2005	37	2,583	1,966	0	11,334	15,919
March 2005	0	2,099	1,473	0	15,422	18,995
April 2005	156	1,718	2,196	2	14,347	18,418
May 2005	0	3,429	2,367	335	17,475	23,606
June 2005	169	3,585	2,056	334	12,819	18,963
July 2005	0	3,007	1,623	164	15,278	20,072
August 2005	0	1,713	1,755	277	13,946	17,691
September 2005	50	3,359	1,754	388	12,003	17,554
October 2005	216	4,085	1,082	388	12,321	18,093
November 2005	1,237	3,719	1,452	470	14,610	21,488
December 2005	398	3,304	1,414	614	13,757	19,488
January 2007	1,119	5,861	977	675	15,404	24,036
February 2006	1,342	3,197	665	677	21,260	27,141
March 2006	952	5,536	1,870	441	16,801	25,600
April 2006	1,544	4,384	1,113	285	16,005	23,331
May 2006	1,178	4,761	1,353	641	16,221	24,154
June 2006	1,088	4,157	1,681	591	15,428	22,945
July 2006	1,407	4,054	1,161	531	15,822	22,975
August 2006	1,164	3,236	1,789	396	13,166	19,751
September 2006	1,227	2,041	1,249	307	12,892	17,716
October 2006	1,217	3,807	1,064	536	13,979	20,602
November 2006	1,269	3,053	1,007	684	11,595	17,607
December 2006	1,211	3,295	1,345	776	12,016	18,642
January 2007	1,343	3,315	1,277	887	13,551	20,372
February 2007	1,511	3,300	964	722	11,073	17,570
March 2007	1,354	3,802	1,142	519	14,700	21,517
April 2007	1,546	4,595	1,167	535	11,720	19,563
May 2007	1,065	4,337	1,285	556	13,434	20,678
June 2007	545	5,634	886	564	12,544	20,174
Source: Compiled from unadjusted official Commerce statistics.						

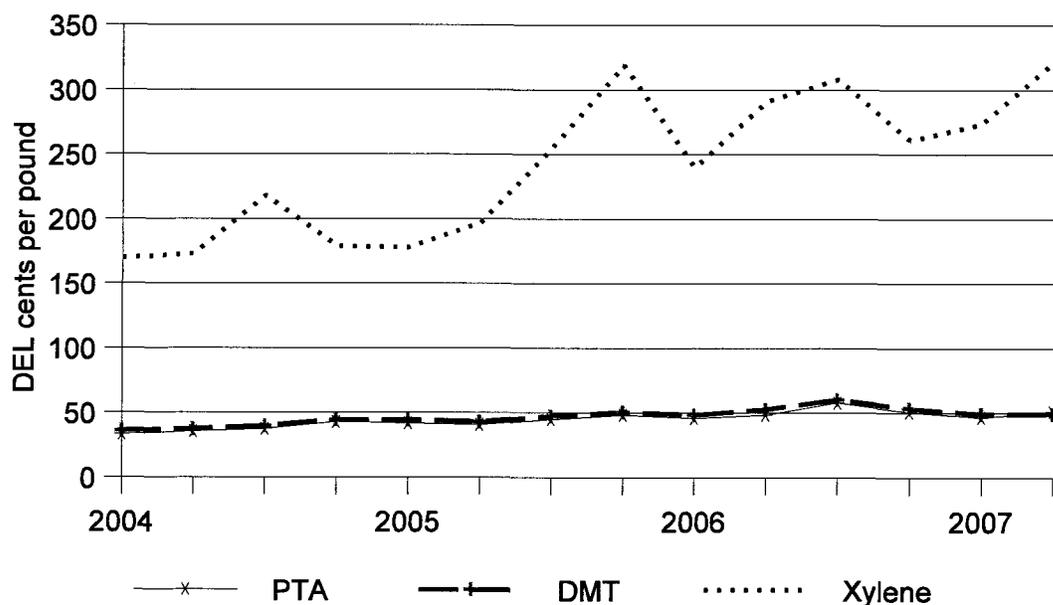
PART V: PRICING AND RELATED INFORMATION

FACTORS AFFECTING PRICES

Raw Materials

The basic raw materials for making PET film are dimethyl terephthalate (DMT) and purified terephthalic acid (PTA) and ethylene glycol, which come from ethylene and xylene, respectively. These chemicals are petroleum-based and are subject to the global oil price fluctuations, so as world oil prices rise so do the prices for chemicals and the cost of polyester film.¹ Ethylene usually is manufactured from natural gas while xylene is a byproduct from oil refineries. During January 2004-June 2007, U.S. producers reported that raw material costs increased significantly (figure V-1).²

Figure V-1
PET film: Raw material costs, as reported by U.S. producers, January 2004-June 2007



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

¹ Conference transcript, p. 17 (Kasoff).

² Conference transcript, p. 10 (Greenwald).

Energy costs are another important factor in the production of PET film. Petroleum prices were higher in 2006 than in any of the full years between 2000 and 2006, as shown in the following tabulation:

Item	2000	2001	2002	2003	2004	2005	2006
U.S. natural gas industrial price ¹	\$4.45	\$5.24	\$4.02	\$5.81	\$6.41	\$8.67	\$7.83
U.S. petroleum price ²	\$26.79	\$21.60	\$22.82	\$26.57	\$34.19	\$47.93	\$58.56
¹ In dollars per thousand cubic feet. ² U.S. spot price FOB (In dollars per barrel). Source: U.S. Energy Information Administration, http://www.eia.doe.gov . Sept. 27, 2007.							

Transportation Costs to the U.S. Market

Transportation costs for PET film from Brazil, China, Thailand, and the UAE to the United States (excluding U.S. inland costs) are estimated for 2006 in the tabulation that follows. These estimates are derived from official import data and represent the transportation and other charges on imports valued on a c.i.f. basis, as compared with customs value.³

Country	Estimated shipping cost in 2006 (percent)
Brazil	5.1
China	10.5
Thailand	12.7
UAE	11.5

U.S. Inland Transportation Costs

U.S. inland transportation costs, as a percent of the total delivered cost for PET film, were reported by four U.S. producers to be 4 percent or 5 percent, with two responding U.S. producers reporting transportation costs of 4 percent of the delivered price and the remaining two U.S. producers reporting 5 percent. On average, U.S. producers responded that 13.8 percent of their sales occurred within 100 miles, 62.5 percent between 101 and 1,000 miles, and 23.8 percent more than 1,000 miles. On average, U.S. importers of PET film sold 44.9 percent of their PET film within 100 miles of their storage or production facilities, 33.4 percent between 101 and 1,000 miles, and 20.6 percent over 1,000 miles.

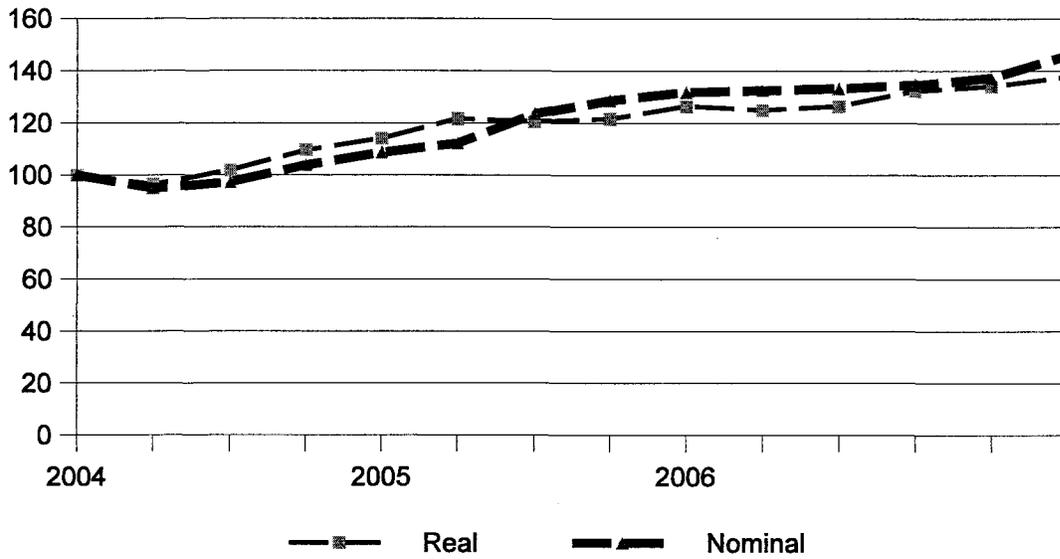
³ These estimates are based on HTS subheading 3920.62.00.

Exchange Rates

Nominal and real exchange rates for the currencies of Brazil, China, Thailand, and the UAE in relation to the U.S. dollar on a quarterly basis for the period 2004-June 2007 are presented in figures V-2 through V-4. Quarterly data reported by the International Monetary Fund for the Brazilian real and the Thai baht show that the nominal and real values of these currencies appreciated relative to the U.S. dollar during the 2004-June 2007 period. From January 2004 to June 2005, the Chinese currency was pegged at 8.28 yuan per U.S. dollar. There was a small revaluation in the third quarter of 2005, raising the value of the Chinese yuan to 8.14 yuan per dollar after which the yuan was moved to a partial float against the dollar. The yuan appreciated further in the fourth quarter of 2005, averaging 8.08 yuan per dollar. The yuan continued to appreciate in 2006, averaging 7.97 yuan per dollar. Figure V-3 shows the quarterly nominal exchange rate index of the Chinese yuan relative to the U.S. dollar during January 2004-March 2007. The nominal exchange rate for the Chinese yuan vis-a-vis the U.S. dollar remained stable during January 2004-June 2005, with some appreciation (6.6 percent) of the Chinese yuan against the U.S. dollar by January-March 2007. Throughout the period for which data were collected, the UAE currency was pegged to the U.S. dollar at a fixed rate of 3.67 dirham per U.S. dollar.⁴

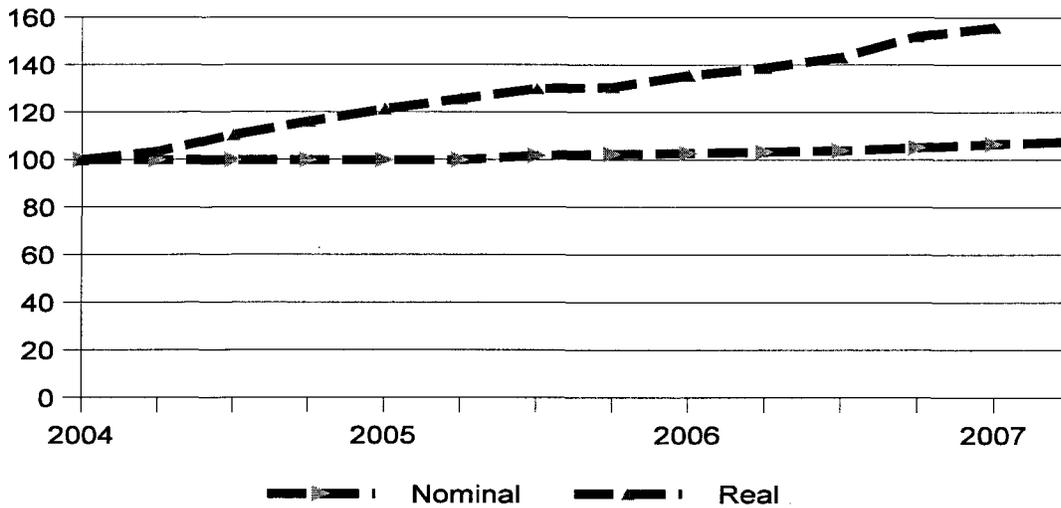
⁴ No producer price data were available for the UAE; therefore, no graph is shown.

Figure V-2
Exchange rates: Indices of the nominal and real exchange rates of the currency of Brazil relative to the U.S. dollar, by quarters, January 2004-March 2007



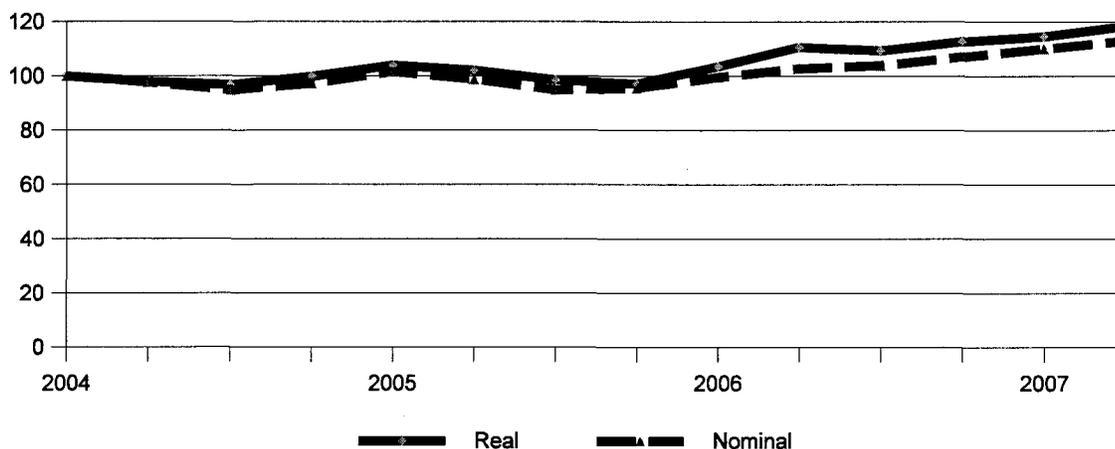
Source: IMF International Financial Statistics.

Figure V-3
Exchange rates: Indices of the nominal and real exchange rates of the currency of China relative to the U.S. dollar, by quarters, January 2004-March 2007



Source: IMF International Financial Statistics.

Figure V-4
Exchange rates: Indices of the nominal and real exchange rates of the currency of Thailand relative to the U.S. dollar, by quarters, January 2004-March 2007



Source: IMF International Financial Statistics.

PRICING PRACTICES

Pricing Methods

U.S. producers and importers reported selling PET film on both a contract and spot sales basis. All U.S. producers reported using transaction-by-transaction negotiations for both spot and contract sales, with price lists used as a guide, if at all. Importers also stated that their prices are determined on a transaction-by-transaction basis, based on negotiations and market conditions. The percentages of sales divided among contract and spot varied widely for both producers and importers, though both had significant sales on both contract and spot bases. For example, one of the seven responding U.S. producers indicated that approximately 40 percent of its business was handled under formal contract with the remaining 60 percent being spot. For some customers, a price is agreed to and a contract is signed to set the price over the contract period. In the case of “spot” business, pricing is established on a transaction-by-transaction basis based on market pricing and competitive pricing situations.⁵ Contract pricing is based on market pricing and competitive price offers, but is typically negotiated only once per year unless a meet-or-release clause is invoked. *** has guidelines for pricing; each contract is negotiated separately based on volume, terms of sale, and contract specifications. Approximately 60 percent of *** and 100 percent *** sales are made on a “spot” basis. *** establishes contracts that frequently include meet-or release clauses. Even in cases where a contract does not include meet-or-release clauses, *** reports that customers still approach it with competitive offers and expect *** to meet those prices. *** reported that its sales are evenly split between contract and spot.

Producers and importers reported some discount policies. These discounts were usually confined to special cases such as large accounts, annual contracts, multiple shipments, and rebates upon reaching volume thresholds. Eight importers reported offering no discount policy. Producers and importers reported contracts ranging from three months to two years, but rarely exceeding one year. While contracts usually fix price and quantity, both producers and importers offered meet-or-release

⁵ Petitioners’ postconference brief, pp. 10-12.

provisions. There were some producers and importers who had standard minimum quantity requirements or price premiums for sub-standard volume shipments.

PRICE DATA

The Commission requested U.S. producers and importers of PET film to provide quarterly data for the total quantity and f.o.b (U.S. point of shipment) value of PET film that was shipped to unrelated customers in the U.S. market. Data were requested for the period January 2004 to June 2007. The products for which pricing data were requested are defined as follows:

Product 1. - 48 gauge Plain film (for packaging/industrial markets)

Product 2. - 48 gauge Corona-treated film (for packaging/industrial markets)

Product 3. - 48 gauge Chemically-treated film (for packaging/industrial markets)

Product 4. - 43 gauge Balance Shrink film (for thermal lamination)

Product 5. - 45-92 gauge Shrink Stable film (for hot-stamping applications)

Seven U.S. producers, as well as 19 importers of PET film, provided usable pricing data for sales of the requested products, although not all firms reported pricing for all quarters. This section discusses selling prices (f.o.b., U.S. point of shipment) to unrelated customers for the five products defined above which were produced and sold in the United States, as well as for products produced in subject and nonsubject countries and sold in the United States. By quantity, pricing data provided by responding firms accounted for 63.5 percent of U.S. commercial shipments of U.S.-produced PET film in 2006 and 65.4 percent in January-June 2007; and *** percent of reported U.S. commercial shipments of Brazilian-produced PET film, 19.5 percent of Chinese PET film, 11.9 percent of Thai PET film, and *** percent of UAE PET film in 2006.

Price Trends

The weighted-average quarterly selling price of PET film produced domestically and imported from Brazil, China, Thailand, and the UAE fluctuated during 2004-June 2007 (tables V-1 through V-5 and figures V-5 through V-9). Quarterly selling prices of U.S.-produced product 1 increased by 42.8 percent, while prices of product 1 imported from China increased by 57.1 percent and by *** percent for imports from the UAE. Selling prices of U.S.-produced product 2 increased by 1 percent. Prices of product 2 imported from Brazil decreased by *** percent; increased by 1 percent for imports from China; decreased by 26.5 percent for imports from Thailand; and decreased by *** percent for imports from the UAE. Prices of domestic product 3 increased by 3.3 percent, while prices for imports from Brazil and Thailand increased by *** and 6.1 percent, respectively. On the other hand, prices for imports of product 3 from the UAE decreased by *** percent. Prices for domestic product 4 increased by 5.7 percent over the period for which data were collected in the investigations, while prices of product 4 imported from China and Thailand increased by 3.4 and 12.9 percent, respectively. Prices for imports from the UAE declined by *** percent. Weighted-average selling prices for U.S.-produced product 5 increased by 14 percent, while prices for product 5 imported from Brazil, China, and Thailand declined by ***, 23.9, and 9 percent, respectively.

Table V-1

PET film: Weighted-average f.o.b. prices and quantities of domestic and imported product 1 and margins of underselling/(overselling), by quarters, January-June 2007

Period	United States		Brazil			China		
	Price	Quantity	Price	Quantity	Margin	Price	Quantity	Margin
	\$/lb.	1,000 lbs.	\$/lb.	1,000 lbs.	Percent	\$/lb.	1,000 lbs.	Percent
2004:								
January-March	1.19	11,998	-	-	-	-	-	-
April - June	1.31	8,003	-	-	-	1.05	119	19.8
July-September	1.36	5,352	-	-	-	1.17	444	14.0
October- December	1.33	9,585	-	-	-	1.20	1,770	9.8
2005:								
January-March	1.36	10,600	-	-	-	1.17	1,044	14.0
April-June	1.55	9,165	-	-	-	1.15	1,483	25.8
July-September	1.40	7,714	-	-	-	1.12	1,526	20.0
October-December	1.40	8,184	-	-	-	1.08	1,690	22.9
2006:								
January-March	1.46	6,427	-	-	-	1.05	2,200	28.1
April-June	1.56	4,579	-	-	-	1.03	1,632	34.0
July-September	1.55	4,251	-	-	-	0.99	8,888	36.1
October-December	1.61	4,190	-	-	-	1.14	7,333	29.2
2007:								
January-March	1.70	5,291	-	-	-	1.14	6,015	32.9
April-June	1.70	4,817	***	***	***	1.11	1,456	34.7
Table continued on the following page.								

Table V-1-- *Continued*

PET film: Weighted-average f.o.b. prices and quantities of domestic and imported product 1 and margins of underselling/(overselling), by quarters, January-June 2007

Period	United States		Thailand			UAE		
	Price	Quantity	Price	Quantity	Margin	Price	Quantity	Margin
	\$/lb.	1,000 lbs.	\$/lb.	1,000 lbs.	Percent	\$/lb.	1,000 lbs.	Percent
2004:								
January-March	1.19	11,998	-	-	-	-	-	-
April - June	1.31	8,003	-	-	-	-	-	-
July-September	1.36	5,352	-	-	-	-	-	-
October- December	1.33	9,585	-	-	-	-	-	-
2005:								
January-March	1.36	10,600	-	-	-	-	-	-
April-June	1.55	9,165	-	-	-	-	-	-
July-September	1.40	7,714	-	-	-	***	***	***
October-December	1.40	8,184	-	-	-	***	***	***
2006:								
January-March	1.46	6,427	-	-	-	***	***	***
April-June	1.56	4,579	-	-	-	***	***	***
July-September	1.55	4,251	-	-	-	***	***	***
October- December	1.61	4,190	-	-	-	***	***	***
2007:								
January-March	1.70	5,291	-	-	-	***	***	***
April-June	1.70	4,817	-	-	-	***	***	***
Table continued on the following page.								

Table V-1 – Continued

PET film: Weighted-average f.o.b. prices and quantities of domestic and imported product 1 and margins of underselling/(overselling), by quarters, January-June 2007

Period	United States		All subject countries			Other countries		
	Price	Quantity	Price	Quantity	Margin	Price	Quantity	Margin
	\$/lb.	1,000 lbs.	\$/lb.	1,000 lbs.	Percent	\$/lb.	1,000 lbs.	Percent
2004:								
January-March	1.19	11,998	-	-	-	-	-	-
April - June	1.31	8,003	***	***	***	-	-	-
July-September	1.36	5,352	***	***	***	1.12	40	17.6
October- December	1.33	9,585	***	***	***	1.14	80	13.0
2005:								
January-March	1.36	10,600	***	***	***	-	-	-
April-June	1.55	9,165	***	***	***	-	-	-
July-September	1.40	7,714	***	***	***	-	-	-
October-December	1.40	8,184	***	***	***	-	-	-
2006:								
January-March	1.46	6,427	***	***	***	-	-	-
April-June	1.56	4,579	***	***	***	-	-	-
July-September	1.55	4,251	***	***	***	-	-	-
October-December	1.61	4,190	***	***	***	-	-	-
2007:								
January-March	1.70	5,291	***	***	***	-	-	-
April-June	1.70	4,817	***	***	***	-	-	-
Source: Compiled from data submitted in response to Commission questionnaires.								

Table V-2

PET Film: Weighted-average f.o.b. prices and quantities of domestic and imported product 2 and margins of underselling/(overselling), by quarters, January-June 2007

Period	United States		Brazil			China		
	Price	Quantity	Price	Quantity	Margin	Price	Quantity	Margin
	\$/lb.	1,000 lbs.	\$/lb.	1,000 lbs.	Percent	\$/lb.	1,000 lbs.	Percent
2004:								
January-March	1.07	10,584	***	***	***	1.05	1,707	1.9
April - June	1.09	10,546	-	-	-	1.11	1,512	(1.8)
July-September	1.14	7,336	***	***	***	1.20	1,646	(5.3)
October- December	1.20	10,058	***	***	***	1.12	3,322	6.7
2005:								
January-March	1.27	5,533	***	***	***	1.16	3,050	8.7
April-June	1.30	7,186	***	***	***	1.12	3,502	13.8
July-September	1.23	8,516	***	***	***	1.10	2,484	10.6
October-December	1.20	9,855	***	***	***	1.05	2,927	12.5
2006:								
January-March	1.12	8,387	***	***	***	1.07	3,956	4.5
April-June	1.10	7,713	***	***	***	1.05	2,722	4.5
July-September	1.11	7,524	***	***	***	1.01	2,223	9.0
October-December	1.13	7,353	***	***	***	1.03	2,025	8.9
2007:								
January-March	1.11	7,149	***	***	***	1.06	1,931	4.5
April-June	1.08	7,094	***	***	***	1.06	2,537	1.9
Table continued on the following page.								

Table V-2 – Continued

PET Film: Weighted-average f.o.b. prices and quantities of domestic and imported product 2 and margins of underselling/(overselling), by quarters, January-June 2007

Period	United States		Thailand			UAE		
	Price	Quantity	Price	Quantity	Margin	Price	Quantity	Margin
	\$/lb.	1,000 lbs.	\$/lb.	1,000 lbs.	Percent	\$/lb.	1,000 lbs.	Percent
2004:								
January-March	1.07	10,584	0.98	1,183	8.4	-	-	-
April - June	1.09	10,546	1.07	1,319	1.8	-	-	-
July-September	1.14	7,336	1.09	1,006	4.4	-	-	-
October- December	1.20	10,058	1.18	1,156	1.7	-	-	-
2005:								
January-March	1.27	5,533	1.22	724	3.9	-	-	-
April-June	1.30	7,186	1.21	570	6.9	***	***	***
July-September	1.23	8,516	1.10	39	10.6	***	***	***
October-December	1.20	9,855	1.06	246	11.7	***	***	***
2006:								
January-March	1.12	8,387	1.08	419	3.6	***	***	***
April-June	1.10	7,713	0.98	587	10.9	***	***	***
July-September	1.11	7,524	0.93	680	16.2	***	***	***
October- December	1.13	7,353	1.04	527	8.0	***	***	***
2007:								
January-March	1.11	7,149	1.03	309	7.2	***	***	***
April-June	1.08	7,094	0.72	603	33.3	***	***	***
Table continued on the following page.								

Table V-2 – Continued

PET film: Weighted-average f.o.b. prices and quantities of domestic and imported product 2 and margins of underselling/(overselling), by quarters, January-June 2007

Period	United States		All subject countries			Other countries		
	Price	Quantity	Price	Quantity	Margin	Price	Quantity	Margin
	\$/lb.	1,000 lbs.	\$/lb.	1,000 lbs.	Percent	\$/lb.	1,000 lbs.	Percent
2004:								
January-March	1.07	10,584	***	***	***	1.19	1,778	(11.2)
April - June	1.09	10,546	***	***	***	1.20	1,977	(10.1)
July-September	1.14	7,336	***	***	***	1.21	1,786	(6.1)
October- December	1.20	10,058	***	***	***	1.20	1,111	0
2005:								
January-March	1.27	5,533	***	***	***	1.23	1,889	3.2
April-June	1.30	7,186	***	***	***	1.25	1,805	3.8
July-September	1.23	8,516	***	***	***	1.28	1,251	(4.1)
October-December	1.20	9,855	***	***	***	1.24	762	(3.3)
2006:								
January-March	1.12	8,387	***	***	***	1.13	1,000	(1.0)
April-June	1.10	7,713	***	***	***	1.12	1,115	(1.8)
July-September	1.11	7,524	***	***	***	1.07	948	3.6
October-December	1.13	7,353	***	***	***	1.06	804	6.2
2007:								
January-March	1.11	7,149	***	***	***	1.14	824	(2.7)
April-June	1.08	7,094	***	***	***	0.96	1,015	11.1
Source: Compiled from data submitted in response to Commission questionnaires.								

Table V-3

PET film: Weighted-average f.o.b. prices and quantities of domestic and imported product 3 and margins of underselling/(overselling), by quarters, January-June 2007

Period	United States		Brazil			China		
	Price	Quantity	Price	Quantity	Margin	Price	Quantity	Margin
	\$/lb.	1,000 lbs.	\$/lb.	1,000 lbs.	Percent	\$/lb.	1,000 lbs.	Percent
2004:								
January-March	1.22	12,291	-	-	-	1.11	3	9.0
April - June	1.22	12,585	-	-	-	1.11	43	9.0
July-September	1.25	12,978	-	-	-	-	-	-
October- December	1.27	12,024	-	-	-	-	-	-
2005:								
January-March	1.38	10,850	-	-	-	-	-	-
April-June	1.39	11,321	-	-	-	-	-	-
July-September	1.37	10,852	***	***	***	-	-	-
October-December	1.36	12,149	***	***	***	-	-	-
2006:								
January-March	1.29	11,159	***	***	***	-	-	-
April-June	1.30	10,403	***	***	***	-	-	-
July-September	1.27	10,681	***	***	***	-	-	-
October-December	1.32	9,832	***	***	***	-	-	-
2007:								
January-March	1.24	9,236	***	***	***	-	-	-
April-June	1.26	8,878	***	***	***	-	-	-

Table continued on the following page.

Table V-3 – Continued

PET film: Weighted-average f.o.b. prices and quantities of domestic and imported product 3 and margins of underselling/(overselling), by quarters, January-June 2007

Period	United States		Thailand			UAE		
	Price	Quantity	Price	Quantity	Margin	Price	Quantity	Margin
	\$/lb.	1,000 lbs.	\$/lb.	1,000 lbs.	Percent	\$/lb.	1,000 lbs.	Percent
2004:								
January-March	1.22	12,291	1.15	307	5.7	-	-	-
April - June	1.22	12,585	1.23	476	(1.0)	-	-	-
July-September	1.25	12,978	1.36	218	(8.8)	-	-	-
October- December	1.27	12,024	1.27	166	0	-	-	-
2005:								
January-March	1.38	10,850	1.40	177	(1.4)	-	-	-
April-June	1.39	11,321	1.40	154	(1.0)	-	-	-
July-September	1.37	10,852	1.40	132	(2.2)	***	***	***
October-December	1.36	12,149	1.30	129	4.4	***	***	***
2006:								
January-March	1.29	11,159	1.28	83	1.0	***	***	***
April-June	1.30	10,403	1.21	200	6.9	***	***	***
July-September	1.27	10,681	1.21	130	4.7	***	***	***
October- December	1.32	9,832	1.16	51	12.1	***	***	***
2007:								
January-March	1.24	9,236	1.17	29	5.6	***	***	***
April-June	1.26	8,878	1.22	152	3.2	***	***	***
Table continued on the following page.								

Table V-3 – Continued

PET film: Weighted-average f.o.b. prices and quantities of domestic and imported product 3 and margins of underselling/(overselling), by quarters, January-June 2007

Period	United States		All subject countries			Other countries		
	Price	Quantity	Price	Quantity	Margin	Price	Quantity	Margin
	\$/lb.	1,000 lbs.	\$/lb.	1,000 lbs.	Percent	\$/lb.	1,000 lbs.	Percent
2004:								
January-March	1.22	12,291	***	***	***	\$1.49	383	(22.1)
April - June	1.22	12,585	***	***	***	1.54	437	(26.2)
July-September	1.25	12,978	***	***	***	1.42	344	(13.6)
October- December	1.27	12,024	***	***	***	1.58	205	(24.4)
2005:								
January-March	1.38	10,850	***	***	***	1.47	137	(6.5)
April-June	1.39	11,321	***	***	***	1.74	156	(25.2)
July-September	1.37	10,852	***	***	***	1.74	122	(27.0)
October-December	1.36	12,149	***	***	***	1.47	73	(8.1)
2006:								
January-March	1.29	11,159	***	***	***	1.65	30	(27.9)
April-June	1.30	10,403	***	***	***	1.30	37	0
July-September	1.27	10,681	***	***	***	-	-	-
October-December	1.32	9,832	***	***	***	-	-	-
2007:								
January-March	1.24	9,236	***	***	***	1.30	14	(4.8)
April-June	1.26	8,878	***	***	***	-	-	-
Source: Compiled from data submitted in response to Commission questionnaires.								

Table V-4

PET film: Weighted-average f.o.b. prices and quantities of domestic and imported product 4 and margins of underselling/(overselling), by quarters, January-June 2007

Period	United States		Brazil			China		
	Price	Quantity	Price	Quantity	Margin	Price	Quantity	Margin
	\$/lb.	1,000 lbs.	\$/lb.	1,000 lbs.	Percent	\$/lb.	1,000 lbs.	Percent
2004:								
January-March	1.05	782	-	-	-	-	-	-
April - June	1.12	426	-	-	-	-	-	-
July-September	1.24	583	-	-	-	-	-	-
October- December	1.33	235	-	-	-	1.17	3	12.0
2005:								
January-March	1.35	322	-	-	-	1.17	8	13.3
April-June	1.39	143	-	-	-	1.17	8	15.8
July-September	1.09	650	-	-	-	1.16	57	(6.4)
October-December	1.21	383	-	-	-	1.15	14	5.0
2006:								
January-March	1.05	369	-	-	-	-	-	-
April-June	1.05	243	-	-	-	-	-	-
July-September	1.15	157	-	-	-	-	-	-
October-December	1.12	394	-	-	-	1.14	6	(1.8)
2007:								
January-March	1.10	378	-	-	-	1.13	3	(2.7)
April-June	1.11	217	-	-	-	-	-	-
Table continued on the following page.								

Table V-4 – Continued

PET film: Weighted-average f.o.b. prices and quantities of domestic and imported product 4 and margins of underselling/(overselling), by quarters, January-June 2007

Period	United States		Thailand			UAE		
	Price	Quantity	Price	Quantity	Margin	Price	Quantity	Margin
	\$/lb.	1,000 lbs.	\$/lb.	1,000 lbs.	Percent	\$/lb.	1,000 lbs.	Percent
2004:								
January-March	1.05	782	1.01	1,015	3.8	-	-	-
April - June	1.12	426	1.04	963	7.1	-	-	-
July-September	1.24	583	1.12	1,414	9.7	-	-	-
October- December	1.33	235	1.15	1,617	13.5	-	-	-
2005:								
January-March	1.35	322	1.22	981	9.6	-	-	-
April-June	1.39	143	1.21	1,167	13.0	***	***	***
July-September	1.09	650	1.16	1,824	(6.4)	***	***	***
October-December	1.21	383	1.12	939	7.4	***	***	***
2006:								
January-March	1.05	369	1.13	627	(7.6)	***	***	***
April-June	1.05	243	1.12	758	(6.7)	***	***	***
July-September	1.15	157	1.12	991	2.6	***	***	***
October- December	1.12	394	1.13	936	(1.0)	***	***	***
2007:								
January-March	1.10	378	1.17	161	(6.4)	***	***	***
April-June	1.11	217	1.14	340	(2.7)	***	***	***
Table continued on the following page.								

Table V-4 – Continued

PET film: Weighted-average f.o.b. prices and quantities of domestic and imported product 4 and margins of underselling/(overselling), by quarters, January-June 2007

Period	United States		All subject countries			Other countries		
	Price	Quantity	Price	Quantity	Margin	Price	Quantity	Margin
	\$/lb.	1,000 lbs.	\$/lb.	1,000 lbs.	Percent	\$/lb.	1,000 lbs.	Percent
2004:								
January-March	1.05	782	1.01	1,015	3.8	1.09	241	(3.8)
April - June	1.12	426	1.04	963	7.1	1.08	313	3.6
July-September	1.24	583	1.12	1,414	9.7	1.10	204	11.3
October- December	1.33	235	1.16	1,620	12.8	1.14	149	14.3
2005:								
January-March	1.35	322	1.20	989	11.1	1.20	92	11.1
April-June	1.39	143	***	***	***	1.20	42	13.7
July-September	1.09	650	***	***	***	1.20	4	(10.1)
October-December	1.21	383	***	***	***	1.20	840	1.0
2006:								
January-March	1.05	369	***	***	***	-	-	-
April-June	1.05	243	***	***	***	-	-	-
July-September	1.15	157	***	***	***	-	-	-
October-December	1.12	394	***	***	***	-	-	-
2007:								
January-March	1.10	378	***	***	***	-	-	-
April-June	1.11	217	***	***	***	-	-	-
Source: Compiled from data submitted in response to Commission questionnaires.								

Table V-5

PET film: Weighted-average f.o.b. prices and quantities of domestic and imported product 5 and margins of underselling/(overselling), by quarters, January-June 2007

Period	United States		Brazil			China		
	Price	Quantity	Price	Quantity	Margin	Price	Quantity	Margin
	\$/lb.	1,000 lbs.	\$/lb.	1,000 lbs.	Percent	\$/lb.	1,000 lbs.	Percent
2004:								
January-March	1.00	6,447	-	-	-	-	-	-
April - June	1.02	6,706	-	-	-	-	-	-
July-September	1.05	6,756	-	-	-	-	-	-
October- December	1.15	6,592	***	***	***	-	-	-
2005:								
January-March	1.27	3,692	***	***	***	1.34	43	(5.5)
April-June	1.27	3,526	-	-	-	-	-	-
July-September	1.20	3,153	-	-	-	1.15	187	4.2
October-December	1.16	3,779	-	-	-	1.15	260	1.0
2006:								
January-March	1.14	2,405	***	***	***	1.05	333	7.1
April-June	1.13	2,563	-	-	-	1.05	443	7.9
July-September	1.14	2,470	***	***	***	0.96	337	15.8
October-December	1.17	2,395	-	-	-	0.98	183	16.2
2007:								
January-March	1.17	2,639	-	-	-	1.02	146	12.8
April-June	1.14	2,462	-	-	-	1.02	508	10.5
Table continued on the following page.								

Table V-5 – Continued

PET film: Weighted-average f.o.b. prices and quantities of domestic and imported product 5 and margins of underselling/(overselling), by quarters, January-June 2007

Period	United States		Thailand			UAE		
	Price	Quantity	Price	Quantity	Margin	Price	Quantity	Margin
	\$/lb.	1,000 lbs.	\$/lb.	1,000 lbs.	Percent	\$/lb.	1,000 lbs.	Percent
2004:								
January-March	1.00	6,447	-	-	-	-	-	-
April - June	1.02	6,706	-	-	-	-	-	-
July-September	1.05	6,756	-	-	-	-	-	-
October- December	1.15	6,592	1.10	114	4.3	-	-	-
2005:								
January-March	1.27	3,692	1.20	191	5.5	-	-	-
April-June	1.27	3,526	1.20	345	5.5	-	-	-
July-September	1.20	3,153	1.09	227	9.2	-	-	-
October-December	1.16	3,779	1.09	78	6.0	-	-	-
2006:								
January-March	1.14	2,405	0.94	151	17.5	-	-	-
April-June	1.13	2,563	0.98	76	13.3	-	-	-
July-September	1.14	2,470	0.94	151	17.5	-	-	-
October- December	1.17	2,395	0.97	200	17.1	***	***	***
2007:								
January-March	1.17	2,639	-	-	-	***	***	***
April-June	1.14	2,462	1.00	78	12.3	-	-	-
Table continued on the following page.								

Table V-5 – Continued

PET film: Weighted-average f.o.b. prices and quantities of domestic and imported product 5 and margins of underselling/(overselling), by quarters, January-June 2007

Period	United States		All subject countries			Other countries		
	Price	Quantity	Price	Quantity	Margin	Price	Quantity	Margin
	\$/lb.	1,000 lbs.	\$/lb.	1,000 lbs.	Percent	\$/lb.	1,000 lbs.	Percent
2004:								
January-March	1.00	6,447	-	-	-	1.08	200	(8.0)
April - June	1.02	6,706	-	-	-	1.08	343	(5.9)
July-September	1.05	6,756	-	-	-	1.08	100	(2.9)
October- December	1.15	6,592	***	***	***	1.65	81	(43.5)
2005:								
January-March	1.27	3,692	***	***	***	1.15	726	9.5
April-June	1.27	3,526	1.20	345	5.5	1.15	830	9.5
July-September	1.20	3,153	1.15	759	4.2	1.15	649	4.2
October-December	1.16	3,779	1.12	338	3.4	1.15	389	1.0
2006:								
January-March	1.14	2,405	***	***	***	1.04	1,201	8.8
April-June	1.13	2,563	1.02	519	9.7	1.04	1,372	8.0
July-September	1.14	2,470	***	***	***	1.04	1,072	8.8
October-December	1.17	2,395	***	***	***	1.04	643	11.1
2007:								
January-March	1.17	2,639	***	***	***	1.12	784	4.3
April-June	1.14	2,462	1.01	586	11.4	1.12	921	1.8
Source: Compiled from data submitted in response to Commission questionnaires.								

Figure V-5

PET film: Weighted-average prices of domestic and imported product 1, by quarters, January 2004-June 2007

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Figure V-6

PET film: Weighted-average prices of domestic and imported product 2, by quarters, January 2004-June 2007

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Figure V-7

PET film: Weighted-average prices of domestic and imported product 3, by quarters, January 2004-June 2007

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Figure V-8

PET film: Weighted-average prices of domestic and imported product 4, by quarters, January 2004-June 2007

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Figure V-9

PET film: Weighted-average prices of domestic and imported product 5, by quarters, January 2004-June 2007

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Price Comparisons

Prices of PET film imported from subject sources were lower than reported prices of U.S. products in 81 percent (126 of 156 quarters) of the instances where comparisons were possible. A summary of the margins of underselling/overselling is displayed in the following tabulation.

Country	Underselling		Overselling	
	Instances	Margins	Instances	Margins
Brazil ¹	17	1.0 to 31.2	7	1.6 to 12.2
China	39	1.0 to 36.1	6	1.8 to 6.4
Thailand ¹	40	1.0 to 33.3	11	1.0 to 8.8
UAE	30	1.8 to 43.5	6	1.0 to 5.5
Total subject countries	126	1.0 to 43.5	30	1.0 to 12.2

¹ There were two quarters where the U.S. price and the Brazilian price were the same and one quarter where the U.S. price and the Thai price were the same.

LOST SALES AND LOST REVENUES

Petitioners provided a list of 35 lost sales allegations due to competition with imports from Brazil, China, Thailand, and the UAE since January 2004; petitioners also made 15 lost revenue allegations. The lost sales allegations totaled \$64.85 million and involved approximately 81.4 million pounds of PET film while the lost revenues allegations totaled approximately \$1.22 million and involved approximately 6.3 million pounds of PET film. Staff attempted to contact the customers named in the lost sales and lost revenues allegations. Information obtained from the companies named in these allegations is presented in tables V-6 and V-7 and is discussed below.

Table V-6

PET film: U.S. producers' lost sales allegations

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Table V-7

PET film: U.S. producers' lost revenue allegations

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PART VI: FINANCIAL EXPERIENCE OF U.S. PRODUCERS

BACKGROUND

All seven producers that provided trade data also provided useable financial data. These producers all had fiscal years ending December 31. In addition to commercial sales, *** of the firms (***)¹ reported financial data on their internal consumption and *** firm (***) reported *** amounts of related party transfers in 2004 and 2005. On a quantity basis, internal consumption accounted for *** percent of net sales in 2006.

Operations on PET Film

Aggregate income-and-loss data for the producers on their total operations producing PET film (commercial sales, internal consumption, and related party transfers) are presented in table VI-1. In sum, the financial results of the domestic industry slowly drifted downwards from 2004 through the first half of 2007. Between the full-year periods, there were moderate decreases in net sales quantities and even more moderate increases in net sales values; between the interim periods, net sales quantities were essentially flat while net sales values decreased minimally. From 2004 to 2006, the average unit net sales value increased by \$0.16 per pound, which was less than the \$0.19 increase in unit costs of goods sold; from interim 2006 to interim 2007, unit sales values and unit cost of goods sold both decreased by \$0.01. Thus, from 2004 through 2006 and again from January-June 2006 to January-June 2007, almost every measure of profitability – gross profits, operating profits, net income, and cash flow – decreased almost continuously from period to period, and decreased by all measures (absolute value, unit value, and as a percentage of net sales value). Three of the producers reported operating losses during the interim 2007 period as opposed to 1 to 2 during the full-year periods (and none during interim 2006).

¹ *** reported relatively small quantities and values (***) or less in the full-year periods) of internal consumption in its trade data but not in its financial data.

Table VI-1

PET film: Results of producers on their trade, transfer, and internal consumption operations,¹
 fiscal years 2004-06, January-June 2006, and January-June 2007

Item	Fiscal year			January-June	
	2004	2005	2006	2006	2007
	Quantity (1,000 pounds)				
Net sales quantities:					
Commercial sales	482,411	449,600	445,896	221,931	222,538
Internal consumption	***	***	***	***	***
Transfers to related parties	***	***	***	***	***
Total net sales quantities	681,867	642,842	638,826	316,190	316,098
	Value (1,000 dollars)				
Net sales values:					
Commercial sales	757,488	788,709	800,395	397,431	394,816
Internal consumption	***	***	***	***	***
Transfers to related parties	***	***	***	***	***
Total net sales values	1,213,224	1,230,205	1,237,028	611,476	606,317
Cost of goods sold:					
Raw materials	467,705	503,696	529,096	261,758	261,239
Direct labor	184,928	177,158	166,377	84,807	79,712
Other factory costs	320,647	325,321	336,365	161,508	165,528
Total cost of goods sold	973,280	1,006,175	1,031,838	508,073	506,479
Gross profit	239,944	224,030	205,190	103,403	99,838
SG&A expenses	165,237	160,685	159,314	79,888	77,995
Operating income	74,707	63,345	45,876	23,515	21,843
Other expenses or (income)					
Interest expense	25,395	33,071	39,377	18,999	18,606
All other expenses	12,284	13,725	9,670	5,976	5,465
All other income	7,631	6,677	8,413	2,015	3,385
Other expense/(income), net	30,048	40,119	40,634	22,960	20,686
Net income before taxes	44,659	23,226	5,242	555	1,157
Depreciation/amortization	90,501	89,065	88,931	45,148	45,050
Cash flow	135,160	112,291	94,173	45,703	46,207
	Number of firms reporting				
Operating losses	2	2	***	***	3
Data	7	7	7	7	7

Table continued on next page

Table VI-1--Continued

PET film: Results of producers on their trade, transfer, and internal consumption operations,¹ fiscal years 2004-06, January-June 2006, and January-June 2007

Item	Fiscal year			January-June	
	2004	2005	2006	2006	2007
	<i>Unit value (per pound)</i>				
Net sales values					
Commercial sales	\$1.57	\$1.75	\$1.80	\$1.79	\$1.77
Internal consumption	***	***	***	***	***
Transfers to related parties	***	***	***	***	***
Total net sales values	1.78	1.91	1.94	1.93	1.92
Cost of goods sold:					
Raw materials	0.69	0.78	0.83	0.83	0.83
Direct labor	0.27	0.28	0.26	0.27	0.25
Other factory costs	0.47	0.51	0.53	0.51	0.52
Total cost of goods sold	1.43	1.57	1.62	1.61	1.60
Gross profit	0.35	0.35	0.32	0.33	0.32
SG&A expenses	0.24	0.25	0.25	0.25	0.25
Operating income	0.11	0.10	0.07	0.07	0.07
	<i>Ratio to net sales (percent)</i>				
Cost of goods sold:					
Raw materials	38.6	40.9	42.8	42.8	43.1
Direct labor	15.2	14.4	13.5	13.9	13.1
Other factory costs	26.4	26.4	27.2	26.4	27.3
Total cost of goods sold	80.2	81.8	83.4	83.1	83.5
Gross profit	19.8	18.2	16.6	16.9	16.5
SG&A expenses	13.6	13.1	12.9	13.1	12.9
Operating income	6.2	5.1	3.7	3.8	3.6
¹ The producers are ***.					
Source: Compiled from data submitted in response to Commission questionnaires.					

Selected company-by-company data are presented in table VI-2. DuPont Teijin, *** every period. In an effort to ***, the company *** of PET film related employees and incurred *** every full-year period.² On a quantity basis, DuPont Teijin *** of its PET film every period.

Kodak, the *** producer, internally consumed all of its PET film to produce ***. The company reported decreasing *** in every full-year period.

Mitsubishi, *** producer, reported that it has reduced the number of its employees, ***.³ At least in the short term, Mitsubishi's efforts to ***. ***.⁴

*** both alternated between profits and losses in almost every period. *** reported increasing unit sales values and unit cost of goods sold in every period, while *** reported decreasing unit sales values and unit cost of goods sold.

Aggregate income-and-loss data for the trade-only (commercial) sales of the producers are presented in table VI-3. Net sales quantities declined, while net sales values increased from 2004 to 2006; both were virtually flat between the interim periods. Gross profits and operating profits both increased between the full-year periods before declining from interim 2006 to interim 2007.

Aggregate income-and-loss data for the internal consumption and related party transfer sales of the producers are presented in table VI-4. Net sales quantities and values decreased between every period. Operating income decreased *** from 2004 to 2006 before increasing *** in January-June 2007 compared to January-June 2006 (although this increased operating income was still well short of 2004 levels). Unit sales values were essentially flat from 2004 on, while unit cost of goods sold increased during the full-year periods before decreasing in interim 2007.

The variance analysis showing the effects of prices and volume on the producers' trade, transfer, and internal consumption operations, and of costs and volume on their total cost, is shown in table VI-5. The analysis illustrates that from 2004 to 2006 profitability decreased as the per-unit operating costs (net cost/expense variance) increased by a wider margin than did per-unit revenues (price variance) (in other words, unit costs increased more than unit revenues did). When comparing January-June 2006 to January-June 2007, profitability again declined, this time because per-unit revenues (price variance) declined faster than did per-unit operating costs (net cost/expense variance).

Table VI-2

PET film: Selected financial data of producers on their trade, transfer, and internal consumption operations, fiscal years 2004-06, January-June 2006, and January-June 2007

* * * * *

Table VI-3

PET film: Results of producers on their commercial (trade sale) only operations, fiscal years 2004-06, January-June 2006, and January-June 2007

* * * * *

Table VI-4

PET film: Results of producers on their internal consumption and related party transfer operations, fiscal years 2004-06, January-June 2006, and January-June 2007

* * * * *

² DuPont Teijin's producer questionnaire at 14 (question III-10) and 9 (question II-21).

³ Producer questionnaire at 4-5 (question II-2(A)).

⁴ Producer questionnaire at 7 (question II-13).

Table VI-5

PET film: Variance analysis of producers on their trade, transfer, and internal consumption operations, fiscal years 2004-06, January-June 2006, and January-June 2007

Item	Between fiscal years			January-June
	2004-06	2004-05	2005-06	2006-07
Value (1,000 dollars)				
Net sales:				
Commercial sales:				
Price variance	100,243	82,741	18,184	(3,702)
Volume variance	(57,336)	(51,520)	(6,498)	1,087
Total variance	42,907	31,221	11,686	(2,615)
Internal consumption and transfers to related parties:				
Price variance	(4,189)	(42)	(4,148)	(957)
Volume variance	(14,914)	(14,198)	(715)	(1,587)
Total variance	(19,103)	(14,240)	(4,863)	(2,544)
Total net sales:				
Price variance	100,387	86,417	14,510	(4,981)
Volume variance	(76,583)	(69,436)	(7,687)	(178)
Total variance	23,804	16,981	6,823	(5,159)
Cost of goods sold (COGS):				
Cost variance	(119,995)	(88,598)	(31,950)	1,446
Volume variance	61,437	55,703	6,287	148
Total COGS variance	(58,558)	(32,895)	(25,663)	1,594
Gross profit variance	(34,754)	(15,914)	(18,840)	(3,565)
SG&A expense variance:				
Expense variance	(4,507)	(4,905)	367	1,870
Volume variance	10,430	9,457	1,004	23
Total SG&A variance	5,923	4,552	1,371	1,893
Operating income variance	(28,831)	(11,362)	(17,469)	(1,672)
Summarized as:				
Price variance	100,387	86,417	14,510	(4,981)
Net cost/expense variance	(124,502)	(93,503)	(31,583)	3,316
Net volume variance	(4,716)	(4,276)	(396)	(7)
Source: Compiled from data submitted in response to Commission questionnaires.				

CAPITAL EXPENDITURES AND RESEARCH AND DEVELOPMENT EXPENSES

Domestic PET film producers' capital expenditures and research and development (R&D) expenses are presented in table VI-6. *** dominated the expenditures. *** reported R&D expenses.

Table VI-6

PET film: U.S producers' capital expenditures and research and development expenditures, fiscal years 2004-06, January-June 2006, and January-June 2007

Item	Fiscal year			January-June	
	2004	2005	2006	2006	2007
<i>Value (1,000 dollars)</i>					
Capital expenditures:					
DuPont Teijin	***	***	***	***	***
Eastman Kodak	***	***	***	***	***
Mitsubishi	***	***	***	***	***
SKC	***	***	***	***	***
Terphane	***	***	***	***	***
Toray	***	***	***	***	***
3M	***	***	***	***	***
Total	30,618	37,058	43,046	19,164	37,455
Research and development expenditures:					
DuPont Teijin	***	***	***	***	***
Eastman Kodak	***	***	***	***	***
Mitsubishi	***	***	***	***	***
SKC	***	***	***	***	***
Terphane	***	***	***	***	***
Toray	***	***	***	***	***
3M	***	***	***	***	***
Total	***	***	***	***	***
Source: Compiled from data submitted in response to Commission questionnaires.					

ASSETS AND RETURN ON INVESTMENT

Data on the domestic PET film producers' assets and their return on investment (defined as operating income divided by total assets) are presented in table VI-7. The value of total assets decreased irregularly from 2004 to 2006, while operating income and the return on investment steadily increased.

Table VI-7

PET film: U.S producers' value of assets and return on investment, fiscal years 2004-06

Item	Fiscal year		
	2004	2005	2006
	Value (1,000 dollars)		
Total assets:			
Current assets:			
Cash	24,856	10,862	29,931
Accounts receivable	149,207	129,263	131,781
Inventories (total)	116,823	122,781	136,944
All other current assets	19,696	20,159	33,570
Total current assets	310,582	283,065	332,226
Non-current assets:			
Property, plant, and equipment at cost	1,400,829	1,436,564	1,523,015
Less: accumulated depreciation	552,712	640,500	728,649
Equals: book value	848,117	796,064	794,366
Other non-current assets	94,663	89,388	84,450
Total non-current assets	942,780	885,452	878,816
Total assets	1,253,362	1,168,517	1,211,042
Operating income ¹	***	***	***
	Ratio of operating income to total assets (percent)		
Return on investment	***	***	***
¹ Operating income in this table differs from the operating income in tables VI-1 and VI-2 because *** did not provide asset data and so its operating income is not included in the return on asset calculation.			
Source: Compiled from data submitted in response to Commission questionnaires.			

CAPITAL AND INVESTMENT

The Commission requested U.S. producers to describe any actual 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 PET film from Brazil, China, Thailand, and the United Arab Emirates. Their responses are as follows:

* * * * *

The Commission also requested U.S. producers to describe any anticipated negative impact of imports of PET film from Brazil, China, Thailand, and the United Arab Emirates. Their responses are as follows:

* * * * *

PART VII: THREAT CONSIDERATIONS AND BRATSK INFORMATION

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

THE INDUSTRY IN BRAZIL

As noted earlier in this report, Terphane is the only producer/exporter of PET film in Brazil. Data provided by Terphane are presented in table VII-1. According to counsel for Terphane, PET film imports from Brazil will not increase in the future and, if anything, will decline for "many reasons."¹ Among the reasons cited for this possibility are: (1) Terphane is operating at full production capacity; (2) ***; (3) Terphane has also been shifting its limited production capacity to nonsubject PET film;² and (4) trade remedies in Brazil are *** opportunities in Brazil.^{3 4}

Table VII-1

PET film: Brazil's production capacity, production, shipments, and inventories, 2004-06, January-June 2006, January-June 2007, and projected 2007-08

* * * * *

THE INDUSTRY IN CHINA

The petition listed 53 Chinese firms believed to be producing PET film. Foreign producer/questionnaires were sent to 41 of the firms via fax and/or e-mail. Nine of the firms provided useable responses and those data are presented in table VII-2. The exports to the United States of these firms were equivalent to 71.9 percent of PET film U.S. imports from China in 2006 reported in official statistics. China's share of shipments going to the home market dropped from 87.1 percent in 2004 to

¹ Terphane's postconference brief, p. 4.

² Metallized and other higher value-added nonsubject PET film. *Ibid.*, pp. 6-7.

³ Terphane's postconference brief, pp. 4-8.

⁴ In this regard, counsel notes:

"In 2006, Terphane filed anti-dumping and anti-subsidy petitions with the Brazilian government against Indian PET film imports. Brazilian authorities initiated an investigation in late February 2007. As indicated above, the investigation has already had an impact on the Brazilian PET film market, with Terphane's share of the market ***. The investigation is scheduled to be completed by the end of 2007 or the beginning of 2008, at which point Terphane expects significant antidumping and countervailing duties to be imposed on Indian PET film, similar to what occurred in the U.S. and Europe further *** Terphane's opportunities in the Brazilian market, and concomitantly ***.

Table VII-2

PET film: China's production capacity, production, shipments, and inventories, 2004-06, January-June 2006, January-June 2007, and projected 2007-08

Item	Actual experience					Projections	
	2004	2005	2006	January-June		2007	2008
				2006	2007		
Quantity (units)							
Capacity	228,144	376,055	532,105	252,675	328,546	656,703	659,111
Production	198,564	330,015	430,269	186,929	278,361	540,898	548,749
End of period inventories	9,429	47,504	52,166	43,460	67,134	54,199	54,922
Shipments:							
Internal consumption	1,115	2,644	2,065	966	835	1,095	1,095
Home market	167,186	249,885	347,268	155,090	202,431	442,558	455,505
Exports to--							
The United States	13,120	22,233	34,044	19,299	20,348	30,193	26,632
All other markets	10,522	18,578	42,230	14,840	41,761	67,002	66,555
Total exports	23,642	40,811	76,273	34,138	62,109	97,195	93,187
Total shipments	191,943	293,341	425,606	190,194	265,375	540,848	549,787
Ratios and shares (percent)							
Capacity utilization	86.4	87.8	80.9	74.0	84.7	82.4	83.3
Inventories to production	4.7	14.4	12.1	11.6	12.1	10.0	10.0
Inventories to total shipments	4.9	16.2	12.3	11.4	12.6	10.0	10.0
Share of total quantity of shipments:							
Internal consumption	0.6	0.9	0.5	0.5	0.3	0.2	0.2
Home market	87.1	85.2	81.6	81.5	76.3	81.8	82.9
Exports to--							
The United States	6.8	7.6	8.0	10.1	7.7	5.6	4.8
All other markets	5.5	6.3	9.9	7.8	15.7	12.4	12.1
All export markets	12.3	13.9	17.9	17.9	23.4	18.0	16.9
Note.--Because of rounding, figures may not add to the totals shown.							
Source: Compiled from data submitted in response to Commission questionnaires.							

81.6 percent in 2006. Over the same period, the share of Chinese shipments to the United States increased from 6.8 to 8.0 percent while the share of shipments going to all other export markets rose from 5.5 to 9.9 percent.

THE INDUSTRY IN THAILAND

The petition listed three Thai firms believed to be producing PET film. All three firms provided useable responses and those data are presented in table VII-3. The exports to the United States of these firms were equivalent to *** percent of PET film U.S. imports from Thailand in 2006 reported in official statistics. ***.⁵ The Thai PET film industry is export oriented with more than *** of its shipments having gone to the export market during 2004-06. ***.

Table VII-3

PET film: Thailand's production capacity, production, shipments, and inventories, 2004-06, January-June 2006, January-June 2007, and projected 2007-08

* * * * *

THE INDUSTRY IN THE UAE

As noted earlier in this report, Flex Middle East (FME) is the only producer/exporter of PET film in the UAE. All of FME's product is imported into the United States by its related company, Flex Americas (FAM). Data provided by FME are presented in table VII-4. FME's parent company, Uflex, Ltd., is a PET film producer in India and is subject to antidumping duties in the United States as a result of the Commission's 2001-02 investigations. FME's reported exports to the United States were equivalent to *** percent of PET film U.S. imports from the UAE. At the staff conference, representatives from FME/FAM stated that the UAE facility was designed to primarily serve markets in the Middle East and Europe with a smaller share of its production going to the United States.⁶ Additionally, FME/FAM noted that its parent, Flex, Ltd. planned to construct a PET film facility in Mexico. In this regard FME/FAM stated:

"We are now planning to construct, it's already announced, a PET film manufacturing plant in Mexico. This was announced and approved by board of directors well before this petition was filed. It is to supply the local Mexican market, which is quite a big market in Latin America, South America, as well as North and South America. The Mexico plant is good for U.S. market because of less transit time and being closer to the customers. The Mexico plant will be able to supply the U.S. customers within five days generally by rail or road. In contrast, it takes four to five weeks for PET film to arrive into U.S. from UAE plant."⁷

Table VII-4

PET film: The UAE's production capacity, production, shipments, and inventories, 2004-06, January-June 2006, January-June 2007, and projected 2007-08

* * * * *

⁵ Polyplex Corp., Ltd. (India) is subject to antidumping duties in the United States. Additionally, the Government of Brazil is currently conducting antidumping investigations with respect to imports of PET film from India, Korea, and Thailand.

⁶ Conference transcript, pp. 83-85 (Katsuria).

⁷ Ibid., pp. 85-86 (Katsuria).

U.S. IMPORTERS' INVENTORIES

Inventories of PET film as reported by U.S. importers are presented in table VII-5.

Table VII-5

PET film: U.S. importers' end-of-period inventories of imports, 2004-06, January-June 2006, and January-June 2007

Item	Calendar year			January-June	
	2004	2005	2006	2006	2007
Imports from Brazil:					
Inventories (1,000 pounds)	***	***	***	***	***
Ratio to imports (percent)	***	***	***	***	***
Ratio to U.S. shipments of imports (percent)	***	***	***	***	***
Imports from China:					
Inventories (1,000 pounds)	***	***	***	***	***
Ratio to imports (percent)	***	***	***	***	***
Ratio to U.S. shipments of imports (percent)	***	***	***	***	***
Imports from Thailand:					
Inventories (1,000 pounds)	***	***	***	***	***
Ratio to imports (percent)	***	***	***	***	***
Ratio to U.S. shipments of imports (percent)	***	***	***	***	***
Imports from the UAE:					
Inventories (1,000 pounds)	***	***	***	***	***
Ratio to imports (percent)	***	***	***	***	***
Ratio to U.S. shipments of imports (percent)	***	***	***	***	***
Imports from subject sources:					
Inventories (1,000 pounds)	2,206	3,446	4,572	4,460	5,305
Ratio to imports (percent)	8.5	10.0	10.2	10.6	10.8
Ratio to U.S. shipments of imports (percent)	8.5	10.9	11.2	12.2	12.9
Imports from all other sources:					
Inventories (1,000 pounds)	9,380	7,658	6,919	6,317	7,420
Ratio to imports (percent)	16.4	13.5	11.4	10.1	15.8
Ratio to U.S. shipments of imports (percent)	17.4	13.4	11.5	9.8	16.6
Imports from all sources:					
Inventories (1,000 pounds)	11,586	11,104	11,490	10,777	12,725
Ratio to imports (percent)	13.9	12.2	10.9	10.3	13.3
Ratio to U.S. shipments of imports (percent)	14.5	12.5	11.3	10.7	14.8
Note.--Ratios are based on firms that provided both inventory data and import and/or shipment data. January-June ratios are based on annualized import and shipment data.					
Source: Compiled from data submitted in response to Commission questionnaires.					

IMPORTS SUBSEQUENT TO JUNE 30, 2007

Importer questionnaire respondents reported that there were more than ***.

ANTIDUMPING DUTY ORDERS IN THIRD-COUNTRY MARKETS

In 2005-06, the EU, after conducting its own sunset reviews, continued to impose antidumping duties on PET film from Thailand and a number of other countries.⁸ In March 2007, the Government of Brazil initiated antidumping investigations against PET film imports from India, Korea, and Thailand. The outcome of the investigations is expected in late 2007 or early 2008.

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:

*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.”*⁹

Nonsubject Source Information

In 2006, nonsubject imports accounted for 68.3 percent of total U.S. PET film imports for consumption by quantity as reported under HTS statistical reporting number 3920.62.00.90.¹⁰ The majority of U.S. imports of PET film from nonsubject sources under this statistical reporting number during the period examined in these investigations was from Korea, Canada, the United Kingdom, Thailand, Taiwan, and Japan, which, in the aggregate, accounted for about 88 percent of all nonsubject imports in 2006. For purposes of these investigations, the Commission chose to examine countries under existing antidumping duty orders (Korea, Taiwan, and India)^{11 12} plus Canada and Oman, where PET film

⁸ India (antidumping and countervailing duties), Indonesia, Korea, Malaysia, and Taiwan (antidumping duties). Additionally, South Africa and Turkey currently impose antidumping duties on Indian producers.

⁹ *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.

¹⁰ This statistical reporting number may include certain PET film, sheet, and strip imports not subject to the investigations, including out-of-scope PET film having coatings greater than 0.254 microns (“Equivalent PET film”), PET copolymers, and possibly other products in question as out of scope, including amorphous PET (APET), crystallized PET (CPET), and other miscellaneous PET products.

¹¹ *Polyethylene Terephthalate (PET) Film from Korea, Inv. No. 731-TA-459 (Second Review)*, USITC Publication 3800, September 2005.

¹² *Polyethylene Terephthalate Film, Sheet, and Strip from India and Taiwan, Inv. Nos. 701-TA-415 and 731-TA-933-934 (Final)*, USITC Publication 3518, June 2002.

production and the origin of reported imports have been subject to question by the Commission staff, petitioners, and one respondent, Terphane.¹³

The largest PET film producers and consumers in recent years include the United States, China, Japan, Korea, and Western Europe.¹⁴ Of these producers, Western Europe, Korea, and Taiwan were significant exporters.¹⁵ In 2004, Western Europe exported a little more than *** percent of its production; Korea, also about *** percent; Taiwan about ***, and China about *** percent.¹⁶ The demand for PET film overall continues to grow worldwide because of its unique properties and myriad end uses. Its broad range of chemical, physical, and thermal properties permits it to be used in a number of market segments, including packaging, industrial, electronics, graphics, magnetic media, and imaging applications.

In response to a question posed by staff on petitioners' views of the Bratsk considerations,¹⁷ it was reported that the nonsubject PET film, for the most part, can be categorized into four basic groups: imports that are already subject to antidumping duty measures (e.g., Korea, India and Taiwan); fairly-traded imports that are produced abroad by affiliates of the domestic producers ***; imports from certain developing countries that have an insignificant presence in the U.S. market (e.g., Indonesia); and fairly traded imports that are high-priced (e.g., Italy). The fairly-traded nonsubject imports are reportedly not *** with the domestic industry or the subject imports; for example, the unit value of imports from the U.K. was relatively *** during the first half of 2007. Petitioners concluded that the Commission should ***.¹⁸

During the preliminary phase of these investigations, the Commission sought PET film industry data from foreign producers through foreign producer/producer questionnaires (for Canada, India, Korea, and Taiwan) as well as public data sources. No producer/exporters from the aforementioned countries responded to the Commission's request for data.

The following data presented are derived from Global Trade Atlas (GTS) statistics, which are based on best available data at the 6-digit HTS level, and may include certain quantities of nonsubject products (i.e., metallized PET films, other PET films having coatings of more than 0.254 microns, copolyester films, and miscellaneous polyester films). Nonsubject country imports by volume obtained from official U.S. import statistics at the 10 digit HTS level are shown as a percentage of GTS export data at the 6-digit level in the tabulation below for 2006.¹⁹

¹³ Staff conference, October 19, 2007, together with petitioners and Terphane's postconference briefs.

¹⁴ ***.

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ Conference transcript, p. 53 (Hughes).

¹⁸ Petitioners' postconference brief, pp. 13-14.

¹⁹ There were no imports of subject product from Oman during 2006.

Country	Ratio (percent)
Canada	90.3
India	99.5
Korea	87.2
Taiwan	322.2 ¹
¹ Taiwan's reported PET film export shipments appear to be potentially understated when compared to U.S. import statistics; otherwise there may be misclassifications or other statistical discrepancies. Source: Compiled from the Global Trade Atlas database and official Commerce statistics. The Global Trade Atlas database includes nonsubject products (all types of PET films).	

Canada

Canadian PET film export and import statistics are reported in Table VII-6. Two Canadian companies ***.²⁰ In 2006, Canadian imports from the United States as a percentage of total Canadian imports by volume were *** 70 percent at the 6-digit level.²¹ As noted earlier in this report, ***²² ***²³ Table VII-6 presents data on Canadian exports and imports of PET film.

Table VII-6
Canada's PET film exports and imports, 2005-06, January-August 2006, and January-August 2007

Item	Calendar year		January-August	
	2005	2006	2006	2007
Quantity (1,000 pounds)				
Exports	35,156	37,968	26,691	26,199
Imports	56,357	58,922	39,748	40,462
Net exports/(Imports)	(21,201)	(20,957)	(13,057)	(14,263)
Note.—Export and import figures are quantities reported at the 6-digit level for HTS subheading 3920.62 and may include nonsubject products, including metallized PET films; PET films having performance enhancing coatings exceeding 0.254 microns; copolyester films; and possibly APET and CPET films, unless otherwise defined. Source: Compiled from the Global Trade Atlas database.				

²⁰ Proprietary Customs data, October 12, 2007.

²¹ Global Trade Atlas data.

²² Staff interview with ***, October 26, 2007.

²³ Staff e-mail correspondence from ***, October 22-25, 2007.

India ²⁴

Table VII-7 presents data on India's exports and imports of PET film. The U.S. accounted for about 5 percent of India's export shipment volume in 2005, and 4 percent in 2006. Indian shipments of PET film to the United States are currently subject to antidumping duty orders as previously reported. In 2005, there were believed to be seven principal producers of PET film in India: ***. Most producers reportedly produce PET film from ***, mainly for *** use. In 2004, total consumption in India was estimated to be about ***, with exports of 82 million pounds,²⁵ or about ***, according to available data.

Table VII-7
India's PET Film exports and imports, 2005-06, January-March 2006, January-March 2007

Item	Calendar year		January-March	
	2005	2006	2006	2007
Quantity (1,000 pounds)				
Exports	112,741	95,725	20,855	35,692
Imports	1,547	7,131	185	7,333
Net exports	111,194	88,594	20,670	28,359
<p>Note.—Export and import figures are quantities reported at the 6-digit level for HTS subheading 3920.62 and may include nonsubject products, including metallized PET films; PET films having performance enhancing coatings exceeding 0.254 microns; copolyester films; and possibly APET and CPET films, unless otherwise defined.</p> <p>Source: Compiled from the Global Trade Atlas database.</p>				

Korea ²⁶

Table VII-8 presents data on Korean exports and imports of PET film. Korean export shipment volume to the United States accounted for about 23 percent of its total export shipments during the 2005-06 period; the United States ranked as Korea's second leading export market, close to Japan.²⁷ Korean shipments of PET film to the United States are currently subject to antidumping duty orders as previously reported.²⁸ Korea is one of the world's major PET film producers, with a production capability of about ***. As of September 2005, there were *** principal producers of PET film in Korea; the largest are ***²⁹ ***³⁰ ***.

²⁴ ***.

²⁵ Global Trade Atlas statistics.

²⁶ ***, unless otherwise indicated.

²⁷ Global Trade Atlas statistics.

²⁸ Petitioners reported that a rise in Korean PET film shipments to the United States has now been brought under the discipline of the U.S. antidumping statute as a result of a separate "changed circumstances" proceeding. Petitioners believe that the rise in imports from Korea is overwhelmingly attributable to a single company, Kolon, that had been excluded from the antidumping order, but has preliminarily been brought back under the order as a result of a changed circumstances review. Petitioners' postconference brief, p. 15.

²⁹ ***.

³⁰ ***.

Table VII-8

Korea's PET film exports and imports, 2005-06, January-August 2006, and January-August 2007

Item	Calendar year		January-August	
	2005	2006	2006	2007
Quantity (1,000 pounds)				
Exports	309,688	337,130	221,494	209,303
Imports	27,239	29,466	18,509	28,508
Net exports	282,449	307,664	202,985	180,795
Note.—Export and import figures are quantities reported at the 6-digit level for HTS subheading 3920.62, and may include nonsubject products, including metallized PET films; PET films having performance enhancing coatings exceeding 0.254 microns; copolyester films; and possibly APET and CPET films, unless otherwise defined.				
Source: Compiled from the Global Trade Atlas database.				

Taiwan

Table VII-9, on the following page, presents data on Taiwanese exports and imports of PET film. Taiwan's trade surplus was 3 million pounds in 2005, and declined to a trade deficit of 5 million pounds in 2006. Although the United States accounted for 16-17 percent of Taiwan's export shipments during the 2005-06 period, Taiwan actually reportedly experienced a small trade deficit with the United States during the same period according to Global Trade Atlas data.³¹ Taiwan's imports from the United States accounted for 18-20 percent of its reported total imports during the 2005-06 period.³² Taiwan's PET film shipments to the United States are subject to antidumping duty orders as previously noted. There are reportedly ***.³³

Table VII-9

Taiwan's PET film exports and imports, 2005-06, January-August 2006, and January-August 2007

Item	Calendar year		January-August	
	2005	2006	2006	2007
Quantity (1,000 pounds)				
Exports	26,813	25,234	15,732	21,064
Imports	23,616	30,275	20,101	26,636
Net exports/(imports)	3,197	(5,041)	(4,369)	(5,572)
Note.—Export and import figures are quantities reported at the 6-digit level for HTS subheading 3920.62, and may include nonsubject products, including metallized PET films; PET films having performance enhancing coatings exceeding 0.254 microns; copolyester films; and possibly APET and CPET films, unless otherwise defined.				
Source: Compiled from the Global Trade Atlas database.				

³¹ Taiwan's export shipments to the United States appear to be potentially understated when compared to official U.S. import statistics.

³² Global Trade Atlas statistics.

³³ ***.

Oman

In December 2006, Octal Holding Company (Octal) commenced operations of a 20,000 metric ton per year APET resin and sheet plant in Oman, which was expanded by another 10,000 annual tons in September 2007. The merchant-oriented plant, the first of its kind in Oman, is situated at Salalah port in the Salalah Free Zone, and initially targeted markets in the United States, the United Kingdom, and other Western European countries. Octal's clear, rigid APET sheet is produced and shipped downstream in rolls to customers who thermoform the product into rigid containers used for food packaging and industrial applications. The United States commenced imports of APET sheet from Oman in January 2007, and year-to-date through August has imported 6,100 tons, or about 30 percent of Octal's initial 20,000 tons of capacity. Octal's U.S. imports of rigid APET sheet were entered under HTS 3920.62.0090, the same HTS statistical reporting number as that of subject PET film. The landed value averaged \$0.67 per pound on a duty-free basis as prescribed under the U.S.-Oman Free Trade Agreement signed on January 19, 2006.^{34 35}

By April 2008, the \$300 million project is expected to be completed with the addition of a 300,000 annual ton integrated complex which will produce both APET resin and APET rigid sheet. At this stage, Octal believes it will be the largest global producer of APET sheet, with a 20-percent share of the \$2.25 billion global market. Plans are to further expand capacity as needed. Octal's parent company, Chemlink Capital Limited and Pound Capital Limited, both U.S.-based private investment firms, provided the initial funding along with others in Oman, Saudi Arabia, and Kuwait. Octal's sales to the United States are reportedly benefitted through the recently signed U.S.-Oman FTA; the United States is expected to account for about 50 percent of Octal's output. Octal reportedly has product quality and control advantages by tailoring its products to specific gauges and tight gauge tolerances which enhance customer production efficiencies. The firm has reportedly found a way to take an existing process and make it better. Octal's APET sheet reportedly provides the customer with higher yield and better thermoformed rigid tray quality at a lower cost.³⁶

³⁴ "United States and Oman Sign Free Trade Agreement," Office of the United States Trade Representative, Executive Office of the President, Washington, D.C., January 19, 2006. <http://www.ustr.gov>, retrieved, November 5, 2007.

³⁵ <http://dataweb.usitc.gov>, retrieved November 2-5, 2007.

³⁶ Petitioners' postconference brief, exhibit 1, October 24, 2007.

APPENDIX A
FEDERAL REGISTER NOTICES

1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Brazil, China, Thailand, and the United Arab Emirates of polyethylene terephthalate film, sheet, and strip provided for in subheading 3920.62.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to section 732(c)(1)(B) of the Act (19 U.S.C. 1673a(c)(1)(B)), the Commission must reach preliminary determinations in antidumping duty investigations in 45 days, or in this case by November 13, 2007. The Commission's views are due at Commerce within five business days thereafter, or by November 20, 2007.

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

DATES: *Effective Date:* September 28, 2007.

FOR FURTHER INFORMATION CONTACT: Jim McClure (202-205-3191), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background. These investigations are being instituted in response to a petition filed on September 28, 2007, by DuPont Teijin Films, Hopewell, VA; Mitsubishi Polyester Film of America, Greer, SC; SKC America, Inc., Covington, GA; and Toray Plastics (America), Inc., North Kingston, RI.

Participation in the investigations and public service list. Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary

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

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

Conference.—The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on October 19, 2007, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Jim McClure (202-205-3191) not later than October 16, 2007, to arrange for their appearance. Parties in support of the imposition of antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions. As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before October 24, 2007, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI,

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731-TA-1131-1134 (Preliminary)]

Polyethylene Terephthalate Film, Sheet, and Strip From Brazil, China, Thailand, and the United Arab Emirates

AGENCY: United States International Trade Commission.

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

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping duty investigations Nos. 731-TA-1131-1134 (Preliminary) under section 733(a) (19 U.S.C.

they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). 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).

In accordance with sections 201.16(c) and 207.3 of the 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: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

Issued: October 1, 2007.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7-19683 Filed 10-4-07; 8:45 am]

BILLING CODE 7020-02-P

imports of PET Film from Brazil, the People's Republic of China (PRC), Thailand, and the United Arab Emirates (UAE) (petitions) filed in proper form by Dupont Teijin Films, Mitsubishi Polyester Film Inc., SKC Inc., and Toray Plastics (America) Inc., (collectively, petitioners). See *Antidumping Duty Petition: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from Brazil, Republic of China, Thailand, and the United Arab Emirates* (September 28, 2007). On October 3, 2007, the Department issued a request for additional information and clarification of certain areas of the petitions. Based on the Department's request, petitioners filed supplements to the petitions for all countries on October 9, 2007, and October 10, 2007. See *Supplemental Questionnaire Response: Petition for the Imposition of Antidumping Duties: Polyethylene Terephthalate Film, Sheet, and Strip from the United Arab Emirates*. On October 12, 2007, and October 15, 2007, the Department requested further clarifications from petitioners by phone. See *Memorandum to the File: Telephone Call to Petitioners Regarding the Antidumping Petition on Polyethylene Terephthalate Film, Sheet, and Strip from Brazil, the People's Republic of China, Thailand, and the United Arab Emirates*, dated October 12, 2007; see also *Memorandum to the File: Telephone conversation with Petitioners' counsel in connection with the Petitions on Polyethylene Terephthalate Film, Sheet, and Strip from Brazil, the People's Republic of China (the PRC), Thailand, and the United Arab Emirates (the UAE)*, dated October 15, 2007. On October 15, 2007, petitioners submitted additional supplements to the Petitions. See *Second Supplemental Questionnaire Response: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from Brazil, the People's Republic of China, Thailand, and the United Arab Emirates*, dated October 15, 2007. On October 15, 2007, Ms. Meredith Rutherford of the Department's Office of Policy, telephoned petitioners to request that they submit relevant pages from the International Trade Commission publication concerning the domestic like product. See *Memorandum to the File: Telephone conversation with Petitioners' counsel in connection with the Petitioners on Polyethylene Terephthalate Film, Sheet, and Strip from Brazil, the People's Republic of China (the PRC), Thailand, and the United Arab Emirates (the UAE)*, dated October 15, 2007. On October 16, 2007, petitioners submitted addendums to their October 15, 2007 supplements. See

Additional Exhibits to the Second Supplemental Questionnaire Response: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from Thailand, and the United Arab Emirates, dated October 16, 2007; see also *Supplement to the Petition Regarding Domestic-Like Product*, dated October 16, 2007. On October 16, 2007, the Department telephoned petitioners requesting further information for Brazil, Thailand, and the UAE to which petitioners submitted responses on October 17, 2007, and October 18, 2007. See *Memorandum to the File: Telephone Call to Petitioners Regarding the Antidumping Petition and October 16, 2007, Supplement to the Petition on Polyethylene Terephthalate Film, Sheet, and Strip from Thailand and the United Arab Emirates*, dated October 17, 2007; see also *Memorandum to the File: Polyethylene Terephthalate Film, Sheet and Strip from Brazil; Telecon with Counsel for Petitioners; Date of Home Market Prices*, dated October 16, 2007; Supplement to the Petition, dated October 17, 2007, at Exhibit 1; and Supplement to the Petition, dated October 18, 2007, at Exhibit 1. On October 17, 2007, the Department telephoned petitioners regarding their responses to our October 16, 2007, inquires for Brazil, Thailand, and the UAE. See *Memorandum to the File: Telephone Call to Petitioners Regarding Submission of Information in the Antidumping Petition on Polyethylene Terephthalate Film, Sheet, and Strip from Thailand, Brazil, and the United Arab Emirates*, dated October 17, 2007. On October 18, 2007, the Department telephoned petitioners requesting additional clarification of its October 17, 2007, filings for Thailand and the UAE. See *Memorandum to the File: Telephone Call to Petitioners Regarding the Antidumping Petition on Polyethylene Terephthalate Film, Sheet, and Strip from Thailand and the United Arab Emirates*, dated October 18, 2007.

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

The Department finds that petitioners filed these petitions on behalf of the domestic industry because petitioners are an interested party as defined in section 771(9)(C) of the Act, and petitioners have demonstrated sufficient industry support with respect to the

DEPARTMENT OF COMMERCE

International Trade Administration

[A-351-841/Brazil]
[A-570-924/People's Republic of China]
[A-549-825/Thailand]
[A-520-803/The United Arab Emirates]

Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from Brazil, the People's Republic of China, Thailand, and the United Arab Emirates: Initiation of Antidumping Duty Investigations

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

EFFECTIVE DATE: October 26, 2007.

FOR FURTHER INFORMATION CONTACT: Mike Heaney (Brazil), AD/CVD Operations, Office 7, Erin Begnal (the People's Republic of China) AD/CVD Operations, Office 9, Stephen Bailey (Thailand), AD/CVD Operations, Office 7, Douglas Kirby (the United Arab Emirates), AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4475, (202) 482-1442, (202) 482-0193, and (202) 482-3782, respectively.

SUPPLEMENTARY INFORMATION:

The Petitions

On September 28, 2007, the Department of Commerce (the Department) received petitions on

investigations that petitioners are requesting the Department to initiate (see "Determination of Industry Support for the Petitions" below).

Scope of Investigations

The products covered by these investigations are all gauges of raw, pre-treated, or primed PET Film, whether extruded or co-extruded. Excluded are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer more than 0.00001 inches thick. Also excluded is Roller transport cleaning film which has at least one of its surfaces modified by application of 0.5 micrometers of SBR latex. Tracing and drafting film is also excluded. PET Film is classifiable under subheading 3920.62.00.90 of the Harmonized Tariff Schedule of the United States (HTSUS). While HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope of these investigations is dispositive.

Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers who support the petition account for (i) at least 25 percent of the total production of the domestic like product and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers accounting for more than 50 percent of the total production of the domestic like product, the Department shall (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A) or (ii) determine industry support using a statistically valid sampling method if there is a large number of producers in the industry.

Section 771(4)(A) of the Act defines the "industry" as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether "the domestic industry" has been injured, must also

determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information because the Department determines industry support at the time of initiation. Although this may result in different definitions of the domestic like product, such differences do not render the decision of either agency contrary to law. See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001); see also *Algoma Steel Corp. Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989), *cert. denied* 492 U.S. 919 (1989).

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

With regard to the domestic like product, petitioners do not offer a definition of domestic like product distinct from the scope of the investigations. Based on our analysis of the information submitted on the record, we have determined that PET Film constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product. For a discussion of the domestic like-product analysis in these cases, see the *Antidumping Duty Investigation Initiation Checklist: Polyethylene Terephthalate Film, Sheet, and Strip from Brazil (Brazil Initiation Checklist)* at Attachment II (Analysis of Industry Support), *Antidumping Duty Investigation Initiation Checklist: Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China (PRC) (PRC Initiation Checklist)* at Attachment II (Analysis of Industry Support), *Antidumping Duty Investigation Initiation Checklist: Polyethylene Terephthalate Film, Sheet, and Strip from Thailand (Thailand Initiation Checklist)* at Attachment II (Analysis of Industry Support), and the *Antidumping Duty Investigation Initiation Checklist: Polyethylene Terephthalate Film, Sheet, and Strip from the United Arab Emirates (UAE) (UAE Initiation Checklist)* at Attachment

II (Analysis of Industry Support), on file in the Central Records Unit, Room B-099 of the main Department of Commerce building.

In determining whether petitioners have standing (*i.e.*, those domestic workers and producers supporting the petition account for (i) at least 25 percent of the total production of the domestic like product and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition), we considered the industry support data contained in the petition with reference to the domestic like product as defined in Attachment I, (Scope of these petitions), to the *Brazil Initiation Checklist*, *PRC Initiation Checklist*, *Thailand Initiation Checklist*, and *UAE Initiation Checklist*. To establish industry support, petitioners provided their production of the domestic like product for the year 2006, and compared that to production of the domestic like product for the industry. For further discussion, see the *Brazil Initiation Checklist*, *PRC Initiation Checklist*, *Thailand Initiation Checklist*, and *UAE Initiation Checklist* at Attachment II.

Our review of the data provided in these petitions, supplemental submissions, and other information readily available to the Department indicates that petitioners have established industry support. First, these petitions established support from domestic producers accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.*, polling). See section 732(c)(4)(D) of the Act. Second, the domestic producers have met the statutory criteria for industry support under section 732(c)(4)(A)(i) because the domestic producers who support these petitions account for at least 25 percent of the total production of the domestic like product. Finally, the domestic producers have met the statutory criteria for industry support under 732(c)(4)(A)(ii) because the domestic producers who support these petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, these petitions. Accordingly, the Department determines that these petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act. See the *Brazil Initiation Checklist*, *PRC Initiation Checklist*, *Thailand Initiation*

Checklist, and UAE Initiation Checklist at Attachment II.

The Department finds that petitioners filed these petitions on behalf of the domestic industry in accordance with section 732(c)(4)(A) of the Act. Petitioners are an interested party as defined in section 771(9)(C) of the Act and have demonstrated sufficient industry support in favor of the initiation of the antidumping duty investigations. See *Brazil Initiation Checklist, PRC Initiation Checklist, Thailand Initiation Checklist, and UAE Initiation Checklist* at Attachment II.

Allegations and Evidence of Material Injury and Causation

Petitioners allege that the U.S. industry producing the domestic like product is being materially injured by reason of the imports of the subject merchandise sold at less than normal value. While the imports from the UAE do not meet the statutory requirement for cumulation on a volume basis, in its analysis for threat, petitioners allege that imports from the UAE will imminently account for more than three percent of all imports of the subject merchandise by volume and, therefore, they are not negligible. In addition, petitioners have demonstrated that imports from the UAE for the first half of 2007 do meet the statutory requirement for cumulation on a volume basis. See section 771(24)(A)(iv) of the Act; see also *Brazil Initiation Checklist, PRC Initiation Checklist, Thailand Initiation Checklist, and UAE Initiation Checklist* at Attachment III. Petitioners contend that the industry's injured condition is illustrated by reduced market share, lost revenue and sales, reduced production and capacity utilization, reduced shipments, underselling and price depressing and suppressing effects, reduced employment, and decline in financial performance. We have assessed the allegations and supporting evidence regarding material injury and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. See *Brazil Initiation Checklist, PRC Initiation Checklist, Thailand Initiation Checklist, and UAE Initiation Checklist* at Attachment III.

Periods of Investigation

For Brazil, Thailand, and the UAE, in accordance with section 351.204(b) of the Department's regulations, because these petitions were filed on September 28, 2007, the anticipated period of investigation (POI) is July 1, 2006 through June 30, 2007. For the PRC, the

anticipated POI is January 1, 2007, through June 30, 2007.

Allegations of Sales at Less Than Fair Value

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

Alleged U.S. Price and Normal Value: Brazil

Petitioners state that Brazilian producer Terphane Ltda.'s U.S. affiliate, Terphane Inc., was the importer of record for PET Film imports from Brazil during the POI. Petitioners calculated constructed export price (CEP) using information regarding a representative sale of 48-gauge packaging film made through Terphane Inc. to an unaffiliated customer in the United States. Petitioners deducted from U.S. price a mark-up based on the expenses and profit rate of a U.S. importer of PET Film. We adjusted petitioners' mark-up value to exclude certain expenses covered in separate deductions (*i.e.*, inland freight from the U.S. port to the distribution warehouse and brokerage charges). Petitioners also deducted from U.S. price an amount for international freight and insurance, U.S. customs duties, inland freight from the U.S. warehouse to the customer and credit expense. See *Brazil Initiation Checklist*. International freight and insurance were calculated as the difference between the value of PET Film imports from Brazil on a CIF basis, and the value of PET Film imports from Brazil on a custom's value basis as reported on the ITC's "DataWeb" <http://usitc.gov/tata/hts/other/dataweb>. In calculating U.S. customs duties, petitioners applied U.S. duty rates to the customs value AUV for import data for the POI. U.S. inland freight was based on the freight expenses of a U.S. producer to the same customer. Petitioners calculated credit using the average U.S. prime rates available for the POI, and used what petitioners describe as the standard thirty-day credit period between shipment and payment for PET Film sales.

Petitioners based normal value on a sale of 48-gauge packaging film by Terphane Ltda. to one of its home market customers in Brazil during the POI. Petitioners deducted credit and packing expenses. Petitioners calculated credit using the standard thirty-day period between shipment and payment dates for PET Film sales consistent with other countries subject to these petitions, and used average prime rates available for Brazil for the POI. Petitioners maintain packing costs in Brazil and the United States are equivalent and therefore based packing expenses on those of one petitioning firm. See *Brazil Initiation Checklist*. Petitioners made no deduction for inland freight in calculating NV, claiming the terms of sale were essentially ex-factory. See Supplement to the Brazil Petition, dated October 16, 2007, at Exhibit 4.

Petitioners also allege Terphane Ltda.'s home market sale is below its cost of production. Petitioners therefore calculated constructed value for 48-gauge packaging film, basing Terphane Ltda.'s cost of production on that of a U.S. producer's experience during the POI, adjusted for known differences between the United States and Brazil. See "Cost of Production and Constructed Value" section, *infra*.

Alleged U.S. Price and Normal Value: The People's Republic of China

For U.S. price, petitioners relied on price information of a representative sale of Chinese PET Film sold by a U.S. distributor to a U.S. customer in early 2007, based on the experience of a salesperson at one of the petitioning firms. See PRC Petition at Exhibit 12; Supplemental Response, dated October 10, 2007, at Exhibit 1 ("October 10, 2007 Supplemental Response"); and Supplemental Response, dated October 15, 2007, at Exhibit 2 ("October 15, 2007 Supplemental Response"). The price information supplied by petitioners was for 48 gauge packaging film, which falls within the scope of these petitions. Petitioners deducted from the price the costs associated with exporting and delivering the product, including a distributor mark-up fee, ocean freight and insurance charges, U.S. duty, port and wharfage fees, and U.S. inland freight. We adjusted petitioners' mark-up value to exclude certain expenses covered in separate deductions (*i.e.*, inland freight and brokerage charges). See *PRC Initiation Checklist* at Attachment V.

Because the Department considers the PRC to be a non-market-economy country (NME), petitioners constructed normal value based on the factors-of-

production methodology pursuant to section 773(c) of the Act. Recently, the Department examined the PRC's market status and determined that NME status should continue for the PRC. See *Memorandum from the Office of Policy to David M. Spooner, Assistant Secretary for Import Administration, Regarding the People's Republic of China Status as a Non-Market Economy*, dated August 30, 2006. (This document is available online at <http://ia.ita.doc.gov/download/prc-nme-status/prc-lined-paper-memo-08302006.pdf>). In addition, in two recent investigations, the Department also determined that the PRC is an NME country. See *Final Determination of Sales at Less Than Fair Value: Certain Activated Carbon from the People's Republic of China*, 72 FR 9508 (March 2, 2007), and *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). In accordance with section 771(18)(C)(i) of the Act, the NME status remains in effect until revoked by the Department. The presumption of the NME status of the PRC has not been revoked by the Department and, therefore, remains in effect for purposes of the initiation of this investigation. Accordingly, the normal value of the product is based appropriately on factors of production valued in a surrogate market-economy country in accordance with section 773(c) of the Act. During the course of this investigation, all parties will have the opportunity to provide relevant information related to the issues of the PRC's NME status and the granting of separate rates to individual exporters.

Petitioners assert that India is the appropriate surrogate country for valuing the factors of production for the PRC because India is: (1) a significant producer of identical merchandise; and (2) at a level of economic development comparable to that of the PRC. See PRC Petition at 41. Based on the information provided by petitioners, we believe that petitioners' use of India as a surrogate country is appropriate for purposes of initiating this investigation. After the initiation of the investigation, we will solicit comments regarding surrogate country selection. Also, pursuant to 19 CFR 351.301(c)(3)(i), interested parties will be provided an opportunity to submit publicly available information to value factors of production within 40 days of the date of publication of the preliminary determination.

Petitioners provided dumping-margin calculations using the Department's

NME methodology as required by 19 CFR 351.202(b)(7)(i)(C) and 19 CFR 351.408. Petitioners calculated normal value for the U.S. price discussed above based on U.S. industry experience for producing PET Film, which they state is consistent with standard PET Film production methodology. Petitioners also state that Chinese producers use substantially the same material inputs and production processes as U.S. producers. See PRC Petition at 41–42 and Exhibit 15. Petitioners state that the primary materials used to produce PET Film are monoethylene glycol ("MEG"), terephthalic acid ("PTA"), and/or dimethyl terephthalate ("DMT"), although they believe that PRC producers utilize PTA rather than DMT. See PRC Petition at 42 and October 10, 2007 Supplemental Response at 7.

For the normal-value calculations, pursuant to section 773(c)(4) of the Act, petitioners used surrogate values from a variety of sources, including the *ASFI Monthly Bulletin*, published by the Association of Synthetic Fibre Industry of India, Indian import statistics from the *World Trade Atlas*, the International Energy Agency's ("IEA") *Energy Prices & Taxes 2007 (First Quarter)* edition, the Department's NME Wage Rate for the PRC, and publicly available financial statements, to value the factors of production (FOP). See PRC Petition at 42–43 and Exhibits 16–20; October 10, 2007 Supplemental Response at Exhibits 5, 6, 7 and 9; and October 15, 2007 Supplemental Response at Exhibit 4. Petitioners converted the inputs valued in Indian rupees to U.S. dollars based on the average rupee/U.S. dollar exchange rate for the POI, as reported on the Department's website at <http://ia.ita.doc.gov/exchange/index.html>.

For PTA and MEG, the main raw materials in the production of PET Film, petitioners provided surrogate values based on the *ASFI Monthly Bulletin* from 2006, inflated to the POI using a Wholesale Price Index ("WPI") inflator. See PRC Petition at 42 and Exhibit 16 and October 15, 2007 Supplemental Response at Exhibit 4. In addition, petitioners state that the production of PET Film utilizes very small amounts of fillers, which petitioners did not include in the normal value calculation. Petitioners state that they were unable to determine the correct tariff numbers in order to value these inputs, and not including them in the normal value calculation is a conservative approach. See PRC Petition at 42 and October 10, 2007 Supplemental Response at 8. With regard to energy (electricity), petitioners provided a surrogate value using the IEA's *Energy Prices & Taxes 2007 (First Quarter)* edition, which petitioners

inflated to the POI, as the electricity value is based on the price paid by industrial users in India in 2000. See PRC Petition at 42 and Exhibits 17–18 and October 10, 2007 Supplemental Response at 8–9 and Exhibit 6. For labor, petitioners submitted a labor usage rate which was valued using the Department's NME Wage Rate for the PRC. For packing inputs, petitioners valued flanges, two-by-fours, and cores using Indian import statistics obtained through the *World Trade Atlas* from which they excluded data pertaining to NME and subsidy countries. See October 10, 2007 Supplemental Response at 10 and Exhibits 8 and 9; and October 15, 2007 Supplemental Response at 3. Petitioners asserted that pallets were utilized as a packing factor of production, but stated in their October 15, 2007 Supplemental Response that since they did not know the average weight of the pallets that form the basis of this HTS number in the Indian import statistics (as the surrogate value from the *World Trade Atlas* is based on rupees per piece), they removed the pallet expense. However, in their October 10, 2007 Supplemental Response at Exhibit 8, petitioners listed the weight of a typical pallet used to pack PET Film. We have applied this weight to the pallet surrogate value to derive a rupees per kilogram value and added this expense to normal value. See *PRC Initiation Checklist* at Attachment V for a revised pallet surrogate value.

For the normal-value calculations, petitioners derived the figures for factory overhead, selling, general, and administrative expenses, and profit from the financial ratios of three large Indian producers of PET Film: Flex Industries, Garware Polyester Limited, and Polyplex Corporation. The financial statements that petitioners provided covered the period of April 2005 to March 2006. Additionally, petitioners calculated a simple average of the three companies' financial ratios for purposes of the petition. See PRC Petition at 43 and Exhibit 20 and October 10, 2007 Supplemental Response at Exhibit 7. We did not make any other adjustments to the NV as calculated by the petitioners, other than the inclusion of pallets as a packing input. See Attachment V for the revised NV calculation.

Separate Rates for the Antidumping Investigation of Imports of PET Film from the PRC

In 2005, the Department modified the process by which exporters and producers may obtain separate-rate status in NME investigations. The Department's practice is discussed further in *Policy Bulletin 05.1*:

Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations Involving Non-Market Economy Countries (April 5, 2005) ("*Separate Rates and Combination Rates Bulletin*"), available on the Department's website at <http://ia.ita.doc.gov/policy/bull05-1.pdf>. The process now requires the submission of a separate-rate status application. Based on our experience in processing the separate-rate applications in antidumping duty investigations, we have modified the application for this investigation to make it more administrable and easier for applicants to complete. See, e.g., *Initiation of Antidumping Duty Investigation: Certain New Pneumatic Off-the-Road Tires from the People's Republic of China*, 72 FR 43591, 43594-95 (August 6, 2007) ("*Tires from the PRC*"). The specific requirements for submitting the separate-rate application in this investigation are outlined in detail in the application itself, which will be available on the Department's website at <http://ia.ita.doc.gov/ia-highlights-and-news.html> on the date of publication of this initiation notice in the **Federal Register**. The separate-rate application is due no later than December 17, 2007.

Alleged U.S. Price and Normal Value: Thailand

For U.S. price, petitioners relied on a representative sale of Thai PET Film sold to a U.S. customer during the proposed POI. See Thailand Petition at Exhibit 22; Supplemental Response, dated October 9, 2007, at Exhibit 3. The price information supplied by petitioners was for 48 gauge packaging film, which falls within the scope of the petitions. Petitioners deducted from the price the costs associated with exporting and delivering the product, including a distributor mark-up (based on Flex America's financial statements), ocean freight and insurance charges, U.S. duty, port and wharfage fees, and U.S. inland freight. Additionally, petitioners deducted imputed credit expenses. We have adjusted the CEP price by recalculating the claimed distributor mark-up submitted by petitioners to eliminate line items which are being deducted separately from U.S. price. See *Thailand Initiation Checklist*.

For normal value, petitioners submitted price information for a home market sale obtained by an employee of a Thai PET Film reseller. See Thailand Petition at Exhibit 23; Supplemental Response, dated October 16, 2007, at Exhibit 4; and Supplemental Response, dated October 17, 2007, at Exhibit 1. However, complete information with respect to certain home market

expense(s) were not reasonably available to the petitioners. As such, adequate home market prices were not reasonably available to petitioners; therefore, we have relied on petitioners' information for constructed value to calculate normal value. We are not initiating a sales below cost investigation because there are no home/comparison market sales. According to 19 CFR 351.301(d)(2)(i)(A), this will not preclude petitioners from filing a cost allegation once information becomes available.

Petitioners calculated constructed value for 48-gauge packaging film. With exception of FOH, SG&A expense, interest expense and profit rates, which were based on PTL's experience, petitioners calculated constructed value using PTL's cost of production using the experience of a U.S. producer of PET Film, adjusted for known differences between costs in Thailand and the United States. We recalculated petitioners' price-to-CV margin calculation to include an amount for packing. See *Thailand Initiation Checklist* for a detailed discussion on petitioners' calculation of CV.

Alleged U.S. Price and Normal Value: UAE

Petitioners calculated both a CEP and an export price (EP). Petitioners based CEP on a sale made by Flex UAE's U.S. affiliate, Flex America, to an unaffiliated customer during the proposed POI. The PET Film at issue is 92-gauge packaging film which, Petitioners explain, is a common and representative type of PET Film sold in the U.S. market and was sold on a "Delivered, Duty Paid" basis with 30 day payment terms. Petitioners deducted a distributor mark-up (based on Flex America's financial statements), international freight, U.S. Duty, U.S. inland freight, and U.S. credit. We have adjusted the CEP price by recalculating the claimed distributor mark-up submitted by petitioners to eliminate line items which are being deducted separately from U.S. price (i.e., inland freight from the U.S. port to the distribution warehouse and brokerage charges).

Petitioners calculated EP on the POI weighted-average AUV customs value for PET Film imports from the UAE into the U.S. for subheading number 3920.62.00.90 of the Harmonized Tariff Schedule of the United States (HTS) based on Customs Value data collected from the USITC. See *UAE Initiation Checklist*.

For normal value, petitioners submitted price information for a home market sale which took place during the POI. However, complete information

with respect to certain home market expense(s) were not reasonably available to the petitioners. As such, adequate home market prices were not reasonably available to petitioners; therefore, we have relied on petitioners' information for constructed value to calculate normal value. See *UAE Initiation Checklist* for a detailed discussion on petitioners' calculation of CV. We are not initiating a sales below cost investigation because there are no home/comparison market sales. According to 19 CFR 351.301(d)(2)(i)(A), this will not preclude petitioners from filing a cost allegation once information becomes available.

Petitioners calculated COM (except direct materials and fixed overhead) and packing expenses based on a U.S. producer's cost experience adjusted for known differences to manufacture PET Film in the UAE, using publicly-available data. See IEA publication, *Energy Prices and Taxes for 2007: UAE's Regulation and Supervision Bureau* publication of UAE energy costs from Industrial/Commercial rates for 2004. To calculate direct material, fixed overhead, SG&A and financial expense rates, petitioners relied on the most contemporaneous financial statements to the POI for a PET Film producer in the UAE. See *UAE Initiation Checklist*.

Petitioners valued raw materials using the per pound value of purchased polyester chips divided by the production quantity reported in FY 2006 financial statements of Flex UAE, a PET Film producer in the UAE. These were the most recent statement available. See, e.g., the Supplement to the Petition, October 10, 2007, at page 8 and Exhibit 7.

Petitioners determined energy costs using the cost experience of a U.S. PET Film producer to manufacture one pound of PET Film, adjusted by the ratio of energy costs in UAE to that in the United States. Petitioners obtained the annual UAE energy costs for 2004 from the Industrial/Commercial rate published by the UAE's Regulation and Supervision Bureau and the annual U.S. energy costs for 2004 from the International Energy Agency publication, *Energy Prices and Taxes for 2006*. See, e.g., the UAE Petition at page 65 and 66, and Exhibits 33 and 34.

To calculate labor, fixed overhead, SG&A expense, interest expense and profit, petitioners relied on the financial statements of Flex UAE for the fiscal year end December 31, 2006. We recalculated petitioners' price-to-CV margin calculation to include an amount for packing. See, e.g., the UAE Petition at Exhibit 35, the supplement to the Petition, dated October 10, 2007, at

pages 10 and 11, and Exhibit 7 and Supplement to the Petition, dated October 15, 2007, at page 3 and Exhibit 5.

Respondent Selection and Quantity and Value Questionnaire for the PRC

In prior NME investigations, it has been the Department's practice to request quantity and value information from all known exporters identified in the PRC Petition. *See, e.g., Initiation of Antidumping Duty Investigation: Certain New Pneumatic Off-the-Road Tires From the People's Republic of China*, 72 FR 43591 (August 6, 2007). For this investigation, because the HTSUS number 3920.62.00.90, as discussed above in the "Scope of the Investigation," provides comprehensive coverage of imports of PET Film, the Department expects to select respondents in this investigation based on U.S. Customs and Border Protection (CBP) data of U.S. imports under HTSUS number 3920.62.00.90 during the POI.

Use of Combination Rates in an NME Investigation

The Department will calculate combination rates for certain respondents that are eligible for a separate rate in this investigation, pursuant to 19 CFR 351.107(b)(1). The *Separate Rates and Combination Rates Bulletin*, at 6, describes that, while 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 POI. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the POI. 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 POI.

Fair-Value Comparisons

Based on the data provided by petitioners, there is reason to believe that imports of PET Film from Brazil, Thailand, the UAE, and the PRC are being, or are likely to be, sold in the

United States at less than fair value. Based on comparisons of export price/constructed export price to normal value that we revised as discussed above and calculated in accordance with section 773(c) of the Act, these are the estimated dumping margins for PET Film: 1) the estimated dumping margins for Brazil range from 13.08 percent (price-to-price) to 44.36 percent (price to CV); 2) the estimated dumping margin for the PRC is 76.72 percent; 3) the estimated dumping margin for Thailand is 80.24 percent (price-to-CV); and 4) the UAE's estimated dumping margins range from 35.44 percent (EP-to-CV) to 73.23 percent (CEP-to-CV).

Initiation of Antidumping Investigations

Based upon the examination of the petitions on PET Film from Brazil, the PRC, Thailand, and the UAE and other information reasonably available to the Department, the Department finds that these petitions meet the requirements of section 732 of the Act. Therefore, we are initiating antidumping duty investigations to determine whether imports of PET Film from Brazil, the PRC, Thailand, and the UAE are being, or are likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Act, unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

Sales Below Cost Allegation

Petitioners have provided information demonstrating reasonable grounds to believe or suspect that sales of PET Film in Brazil were made at prices below the fully absorbed cost of production (COP), within the meaning of section 773(b) of the Act, and requested that the Department conduct a sales-below-costs investigation. We note that because petitioners were unable to provide adequate home market prices for Thailand or the UAE, we are not initiating country-wide cost investigations for those countries at this time. According to 19 CFR 351.301(d)(2)(i)(A), petitioners are not precluded from filing a cost allegation once the information becomes available.

An allegation of sales below COP need not be specific to individual exporters or producers. *See, e.g., Statement of Administrative Action accompanying the Uruguay Round Agreements Act*, H.R. Doc. No. 103-316, Vol. 1 (1994) at 833. Thus, Commerce will consider allegations of below-cost sales in the aggregate for a foreign country. *Id.* Further, section 773(b)(2)(A) of the Act requires that the

Department have "reasonable grounds to believe or suspect" that below-cost sales have occurred before initiating such an investigation. Reasonable grounds exist when an interested party provides specific factual information on costs and prices, observed or constructed, indicating that sales in the foreign market in question are at below-cost prices.

As described in the section below on "Cost of Production and Constructed Value," the Department calculated a country-specific COP for a certain gauge of PET Film for Brazil. Based upon a comparison of the prices of the foreign-like product in the home market to the calculated COP of the product, we find reasonable grounds to believe or suspect that sales of the foreign like product were made below the COP, within the meaning of section 773(b)(2)(A)(i) of the Act. Accordingly, the Department is initiating a country-wide cost investigation with regard to Brazil. We note, however, that if we determine that the Brazilian home market is not viable, our initiation of a country-wide cost investigation with respect to sales in the home market will be rendered moot. *See Brazil Initiation Checklist.*

Cost of Production and Constructed Value (CV)

Pursuant to section 773(a)(4) of the Act, COP consists of the cost of manufacturing ("COM"); selling, general and administrative (SG&A) expenses; financial expenses; and packing.

Pursuant to section 773(a)(4) of the Act, petitioners calculated a single CV as the basis for normal value (NV). Petitioners calculated CV using the COM; SG&A expenses; financial expenses. Petitioners then added the average profit rate based on the most recent financial statements of a PET Film producer. *See Brazil Initiation Checklist, Thailand Initiation Checklist, and UAE Initiation Checklist.*

Brazil

Petitioners calculated COM and packing based on a U.S. producer's cost experience, adjusted for known differences (e.g., energy and labor) to manufacture PET Film in Brazil using publicly-available data. To calculate SG&A and financial expense rates, petitioners relied on the financial statements most contemporaneous to the proposed POI for a thermoplastic resins (including PET Film) producer in Brazil, Braskem Ltda. *See Brazilian Initiation Checklist.* Petitioners determined the cost of terephthalic acid (PTA) and mono-ethylene glycol (MEG) based on the quantities used to manufacture one pound of PET Film as

experienced by a U.S. PET Film producer. See Volume I of the Brazil Petition at page 32 and Volume II of the Brazil Petition at Exhibit 5. Petitioners stated the cost of the required raw material in Brazil were similar to that incurred by the U.S. PET Film producer and provided an affidavit in the Supplement to the Petition, dated October 10, 2007, at Exhibit 6 as support.

Petitioners determined labor costs using the labor cost experience of a U.S. PET Film producer to manufacture one pound of PET Film, adjusted by the ratio of labor costs in Brazil to those of the United States. Petitioners obtained the annual Brazilian and U.S. labor costs from the Department's "Expected Wage Calculation: 2003," found at <http://ia.ita.doc.gov/wages/03wages/110805-2003-Tables> for Brazil and the United States. See Supplement to the Petition, dated October 10, 2007, at pages 9-10 and Exhibit 7.

Petitioners determined energy costs using the cost experience of a U.S. PET Film producer to manufacture one pound of PET Film, adjusted by the ratio of energy costs in Brazil to that of the United States. Petitioners obtained the annual Brazilian and U.S. energy costs from the International Energy Agency publication, *Energy Prices and Taxes for 2004*. See Volume I of the Petition at page 33 and Volume II of the Petition at Exhibits 5 and 9.

Petitioners determined the fixed overhead costs (exclusive of energy and labor) using the cost experience of a U.S. PET Film producer to manufacture one pound of PET Film. Petitioners' stated this was reasonable because the one producer of PET Film in Brazil does not publish its financial statements. See Volume I of the Brazil Petition at pages 33 and 34 and Supplement to the Petition, dated October 10, 2007, at page 8.

To calculate SG&A expense, interest expense and profit, petitioners relied on the financial statements of Braskem Ltda. for the fiscal year ended December 31, 2005, the most recent financial statements available. See Volume II of the Petition at Exhibit 10.

We recalculated fixed overhead costs based on the financial statements of Braskem Ltda. for the fiscal year ended December 31, 2005, as this best reflects the cost experience in Brazil. See Volume II of the Petition at Exhibit 10. To calculate a price-to-CV margin, we added packing to this revised CV. See *Brazil Initiation Checklist*.

Distribution of Copies of the Petitions

In accordance with section 732(b)(3)(A) of the Act, a copy of the

public version of these petitions have been provided to the representatives of the Governments of Brazil, the PRC, Thailand, and the UAE. We will attempt to provide a copy of the public version of the petitions to the foreign producers/exporters named in the petitions.

International Trade Commission Notification

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

Preliminary Determination by the International Trade Commission

The ITC will preliminarily determine, no later than November 12, 2007, whether there is a reasonable indication that imports of PET Film from Brazil, the PRC, Thailand, and the UAE materially injure, or threaten material injury to, a U.S. industry. A negative ITC determination covering all classes or kinds of merchandise covered by the petitions would result in the investigations being terminated. Otherwise, these investigations will proceed according to statutory and regulatory time limits.

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

Dated: October 18, 2007.

David M. Spooner,
Assistant Secretary for Import Administration.

[FR Doc. E7-21120 Filed 10-25-07; 8:45 am]

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APPENDIX B
CONFERENCE WITNESSES

CALENDAR OF THE PUBLIC CONFERENCE

Those listed below appeared as witnesses at the United States International Trade Commission's conference held in connection with the following investigations:

Subject: Polyethylene Terephthalate Film, Sheet, and Strip from Brazil, China, Thailand, and the United Arab Emirates

Inv. Nos: 731-TA-1131-1134 (Preliminary)

Date and Time: October 19, 2007 - 9:30 a.m.

The conference was held in Room 101 (Main Hearing Room) of the United States International Trade Commission Building, 500 E Street, SW, Washington, DC.

In Support of the Imposition of Antidumping Duties:

WilmerHale
Washington, DC
on behalf of

DuPont Teijin Films
Mitsubishi Polyester Film, Inc.
SKC, Inc.
Toray Plastics (America), Inc.

Todd Eckles, Director of Market Development, Toray Plastics (America), Inc.
Dennis Trice, President and Chief Operating Officer, Mitsubishi Polyester Film, Inc.
Carlton Winn, Manager, Strategic Planning and Raw Materials, Mitsubishi Polyester Film, Inc.
Ronald Kasoff, Sales and Operations Planning Manager, Dupont Teijin Films
Elaine M. Olsen, International Trade Specialist, Dupont Teijin Films
Thomas Gray, Sales Manager, SKC, Inc.
Deirdre Maloney, International Trade Consultant, WilmerHale

John D. Greenwald)
Ronald Meltzer)- OF COUNSEL

In Opposition to the Imposition of Antidumping Duties:

Miller Chevalier
Washington, DC
on behalf of

Terphane, Ltda.
Terphane, Inc.

Dan Roy, General Manager, Terphane, Inc.

Peter Koenig)
Jim Altman)- OF COUNSEL

Flex Middle East FZE and Flex America, Inc.

Sanjay Tiku, General Manager, Flex Middle East FZE
Pankaj Kasturia, Country Manager, Flex America Inc.

CJI Group Ltd.

Charles Jing, President

APPENDIX C
SUMMARY DATA

Table C-1

PET film: Summary data concerning the U.S. market, 2004-06, January-June 2006, and January-June 2007

(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	January-June		2004-06	2004-05	2005-06	Jan.-June 2006-07
				2006	2007				
U.S. consumption quantity:									
Amount	792,161	834,500	869,052	445,898	422,499	9.7	5.3	4.1	-5.2
Producers' share (1)	80.9	72.6	69.6	67.0	71.6	-11.4	-8.3	-3.1	4.6
Importers' share (1):									
Brazil	0.0	0.3	1.7	1.6	1.7	1.7	0.3	1.4	0.1
China	2.3	4.2	5.5	6.3	5.9	3.2	1.9	1.3	-0.3
Thailand	2.2	2.5	1.8	1.7	1.6	-0.5	0.3	-0.7	-0.1
UAE	0.0	0.4	0.8	0.7	0.9	0.7	0.4	0.4	0.2
Subtotal	4.5	7.3	9.7	10.3	10.1	5.1	2.8	2.3	-0.2
Other sources	14.5	20.0	20.8	22.7	18.2	6.2	5.5	0.8	-4.4
Total imports	19.1	27.4	30.4	33.0	28.4	11.4	8.3	3.1	-4.6
U.S. consumption value:									
Amount	1,398,700	1,508,461	1,535,336	777,664	736,176	9.8	7.8	1.8	-5.3
Producers' share (1)	83.3	77.4	76.8	75.1	78.6	-6.5	-5.9	-0.6	3.5
Importers' share (1):									
Brazil	0.0	0.2	0.9	0.9	0.9	0.9	0.2	0.7	0.0
China	1.3	2.2	2.7	3.1	3.3	1.5	0.9	0.5	0.2
Thailand	1.2	1.4	0.9	0.9	0.9	-0.3	0.2	-0.5	-0.0
UAE	0.0	0.2	0.4	0.4	0.5	0.4	0.2	0.2	0.1
Subtotal	2.5	4.0	4.9	5.3	5.6	2.5	1.5	0.9	0.3
Other sources	14.2	18.6	18.2	19.6	15.8	4.0	4.4	-0.3	-3.8
Total imports	16.7	22.6	23.2	24.9	21.4	6.5	5.9	0.6	-3.5
U.S. imports from:									
Brazil:									
Quantity	55	2,378	14,718	7,224	7,364	26,890.5	4,261.5	518.8	1.9
Value	71	2,695	13,470	6,826	6,616	18,782.2	3,677.2	399.9	-3.1
Unit value	\$1.31	\$1.13	\$0.92	\$0.94	\$0.90	-30.0	-13.4	-19.2	-4.9
Ending inventory quantity	***	***	***	***	***	***	***	***	***
China:									
Quantity	18,110	35,002	47,382	27,897	24,983	161.6	93.3	35.4	-10.4
Value	17,726	32,973	41,782	23,796	24,264	135.7	86.0	26.7	2.0
Unit value	\$0.98	\$0.94	\$0.88	\$0.85	\$0.97	-9.9	-3.8	-6.4	13.9
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Thailand:									
Quantity	17,682	20,901	15,271	7,657	6,721	-13.6	18.2	-26.9	-12.2
Value	16,904	21,625	14,208	7,106	6,543	-15.9	27.9	-34.3	-7.9
Unit value	\$0.96	\$1.03	\$0.93	\$0.93	\$0.97	-2.7	8.2	-10.1	4.9
Ending inventory quantity	***	***	***	***	***	***	***	***	***
UAE:									
Quantity	41	2,971	6,541	3,310	3,783	15,871.3	7,155.6	120.1	14.3
Value	45	3,018	6,503	3,315	3,703	14,429.0	6,642.4	115.5	11.7
Unit value	\$1.09	\$1.02	\$0.99	\$1.00	\$0.98	-9.0	-7.1	-2.1	-2.3
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Subtotal (subject):									
Quantity	35,888	61,253	83,912	46,088	42,852	133.8	70.7	37.0	-7.0
Value	34,747	60,311	75,964	41,044	41,125	118.6	73.6	26.0	0.2
Unit value	\$0.97	\$0.98	\$0.91	\$0.89	\$0.96	-6.5	1.7	-8.1	7.8
Ending inventory quantity	2,206	3,446	4,572	4,460	5,305	107.2	56.2	32.7	18.9
All other sources:									
Quantity	115,123	166,997	180,588	101,119	77,022	56.9	45.1	8.1	-23.8
Value	199,067	280,362	280,093	152,600	116,373	40.7	40.8	-0.1	-23.7
Unit value	\$1.73	\$1.68	\$1.55	\$1.51	\$1.51	-10.3	-2.9	-7.6	0.1
Ending inventory quantity	9,380	7,658	6,919	6,317	7,420	-26.2	-18.4	-9.7	17.5
All sources:									
Quantity	151,011	228,250	264,500	147,206	119,874	75.2	51.1	15.9	-18.6
Value	233,814	340,672	356,056	193,643	157,498	52.3	45.7	4.5	-18.7
Unit value	\$1.55	\$1.49	\$1.35	\$1.32	\$1.31	-13.1	-3.6	-9.8	-0.1
Ending inventory quantity	11,586	11,104	11,491	10,777	12,725	-0.8	-4.2	3.5	18.1

Table continued on next page.

Table C-1--Continued

PET film: Summary data concerning the U.S. market, 2004-06, January-June 2006, and January-June 2007

(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	January-June		2004-06	2004-05	2005-06	Jan.-June 2006-07
				2006	2007				
U.S. producers:									
Average capacity quantity	754,175	753,613	745,802	392,098	376,790	-1.1	-0.1	-1.0	-3.9
Production quantity	670,957	657,368	650,486	322,479	319,715	-3.1	-2.0	-1.0	-0.9
Capacity utilization (1)	89.0	87.2	87.2	82.2	84.9	-1.7	-1.7	-0.0	2.6
U.S. shipments:									
Quantity	641,150	606,250	604,552	298,692	302,625	-5.7	-5.4	-0.3	1.3
Value	1,164,886	1,167,789	1,179,280	584,021	578,678	1.2	0.2	1.0	-0.9
Unit value	\$1.82	\$1.93	\$1.95	\$1.96	\$1.91	7.4	6.0	1.3	-2.2
Export shipments:									
Quantity	46,782	39,843	37,752	18,972	15,153	-19.3	-14.8	-5.2	-20.1
Value	59,171	68,160	61,911	29,356	29,015	4.6	15.2	-9.2	-1.2
Unit value	\$1.26	\$1.71	\$1.64	\$1.55	\$1.91	29.7	35.3	-4.1	23.7
Ending inventory quantity	50,323	55,700	58,926	53,626	56,806	17.1	10.7	5.8	5.9
Inventories/total shipments (1)	7.3	8.6	9.2	8.4	8.9	1.9	1.3	0.6	0.5
Production workers	2,664	2,494	2,317	2,318	2,307	-13.0	-6.4	-7.1	-0.5
Hours worked (1,000s)	5,165	4,850	4,534	2,268	2,286	-12.2	-6.1	-6.5	0.8
Wages paid (\$1,000s)	146,646	140,795	132,438	66,320	65,729	-9.7	-4.0	-5.9	-0.9
Hourly wages	\$28.39	\$29.03	\$29.21	\$29.24	\$28.75	2.9	2.2	0.6	-1.7
Productivity (pounds per hour)	129.9	135.5	143.5	142.2	139.8	10.4	4.3	5.9	-1.6
Unit labor costs	\$0.22	\$0.21	\$0.20	\$0.21	\$0.21	-6.8	-2.0	-4.9	-0.0
Net sales:									
Quantity	681,867	642,842	638,825	316,190	316,098	-6.3	-5.7	-0.6	-0.0
Value	1,213,224	1,230,205	1,237,028	611,476	606,317	2.0	1.4	0.6	-0.8
Unit value	\$1.78	\$1.91	\$1.94	\$1.93	\$1.92	8.8	7.6	1.2	-0.8
Cost of goods sold (COGS)	973,280	1,006,175	1,031,838	508,073	506,479	6.0	3.4	2.6	-0.3
Gross profit or (loss)	239,944	224,030	205,190	103,403	99,838	-14.5	-6.6	-8.4	-3.4
SG&A expenses	165,237	160,685	159,314	79,888	77,995	-3.6	-2.8	-0.9	-2.4
Operating income or (loss)	74,707	63,345	45,876	23,515	21,843	-38.6	-15.2	-27.6	-7.1
Capital expenditures	30,618	37,058	43,046	19,164	37,455	40.6	21.0	16.2	95.4
Unit COGS	\$1.43	\$1.57	\$1.62	\$1.61	\$1.60	13.2	9.7	3.2	-0.3
Unit SG&A expenses	\$0.24	\$0.25	\$0.25	\$0.25	\$0.25	2.9	3.1	-0.2	-2.3
Unit operating income or (loss)	\$0.11	\$0.10	\$0.07	\$0.07	\$0.07	-34.5	-10.1	-27.1	-7.1
COGS/sales (1)	80.2	81.8	83.4	83.1	83.5	3.2	1.6	1.6	0.4
Operating income or (loss)/ sales (1)	6.2	5.1	3.7	3.8	3.6	-2.4	-1.0	-1.4	-0.2

(1) "Reported data" are in percent and "period changes" are in percentage points.

(2) Not applicable.

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

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

Table C-2

PET film: Summary data concerning the U.S. open market, 2004-06, January-June 2006, and January-June 2007

(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	January-June		2004-06	2004-05	2005-06	Jan.-June 2006-07
				2006	2007				
U.S. consumption quantity:									
Amount	586,745	638,024	672,644	350,165	327,259	14.6	8.7	5.4	-6.5
Producers' share (1)	74.3	64.2	60.7	58.0	63.4	-13.6	-10.0	-3.5	5.4
Importers' share (1):									
Brazil	0.0	0.4	2.2	2.1	2.3	2.2	0.4	1.8	0.2
China	3.1	5.5	7.0	8.0	7.6	4.0	2.4	1.6	-0.3
Thailand	3.0	3.3	2.3	2.2	2.1	-0.7	0.3	-1.0	-0.1
UAE	0.0	0.5	1.0	0.9	1.2	1.0	0.5	0.5	0.2
Subtotal	6.1	9.6	12.5	13.2	13.1	6.4	3.5	2.9	-0.1
Other sources	19.6	26.2	26.8	28.9	23.5	7.2	6.6	0.7	-5.3
Total imports	25.7	35.8	39.3	42.0	36.6	13.6	10.0	3.5	-5.4
U.S. consumption value:									
Amount	932,311	1,061,588	1,094,904	561,886	523,572	17.4	13.9	3.1	-6.8
Producers' share (1)	74.9	67.9	67.5	65.5	69.9	-7.4	-7.0	-0.4	4.4
Importers' share (1):									
Brazil	0.0	0.3	1.2	1.2	1.3	1.2	0.2	1.0	0.0
China	1.9	3.1	3.8	4.2	4.6	1.9	1.2	0.7	0.4
Thailand	1.8	2.0	1.3	1.3	1.2	-0.5	0.2	-0.7	-0.0
UAE	0.0	0.3	0.6	0.6	0.7	0.6	0.3	0.3	0.1
Subtotal	3.7	5.7	6.9	7.3	7.9	3.2	2.0	1.3	0.6
Other sources	21.4	26.4	25.6	27.2	22.2	4.2	5.1	-0.8	-4.9
Total imports	25.1	32.1	32.5	34.5	30.1	7.4	7.0	0.4	-4.4
U.S. imports from:									
Brazil:									
Quantity	55	2,378	14,718	7,224	7,364	26,890.5	4,261.5	518.8	1.9
Value	71	2,695	13,470	6,826	6,616	18,782.2	3,677.2	399.9	-3.1
Unit value	\$1.31	\$1.13	\$0.92	\$0.94	\$0.90	-30.0	-13.4	-19.2	-4.9
Ending inventory quantity	***	***	***	***	***	***	***	***	***
China:									
Quantity	18,110	35,002	47,382	27,897	24,983	161.6	93.3	35.4	-10.4
Value	17,726	32,973	41,782	23,796	24,264	135.7	86.0	26.7	2.0
Unit value	\$0.98	\$0.94	\$0.88	\$0.85	\$0.97	-9.9	-3.8	-6.4	13.9
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Thailand:									
Quantity	17,682	20,901	15,271	7,657	6,721	-13.6	18.2	-26.9	-12.2
Value	16,904	21,625	14,208	7,106	6,543	-15.9	27.9	-34.3	-7.9
Unit value	\$0.96	\$1.03	\$0.93	\$0.93	\$0.97	-2.7	8.2	-10.1	4.9
Ending inventory quantity	***	***	***	***	***	***	***	***	***
UAE:									
Quantity	41	2,971	6,541	3,310	3,783	15,871.3	7,155.6	120.1	14.3
Value	45	3,018	6,503	3,315	3,703	14,429.0	6,642.4	115.5	11.7
Unit value	\$1.09	\$1.02	\$0.99	\$1.00	\$0.98	-9.0	-7.1	-2.1	-2.3
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Subtotal (subject):									
Quantity	35,888	61,253	83,912	46,088	42,852	133.8	70.7	37.0	-7.0
Value	34,747	60,311	75,964	41,044	41,125	118.6	73.6	26.0	0.2
Unit value	\$0.97	\$0.98	\$0.91	\$0.89	\$0.96	-6.5	1.7	-8.1	7.8
Ending inventory quantity	2,206	3,446	4,572	4,460	5,305	107.2	56.2	32.7	18.9
All other sources:									
Quantity	115,123	166,997	180,588	101,119	77,022	56.9	45.1	8.1	-23.8
Value	199,067	280,362	280,093	152,600	116,373	40.7	40.8	-0.1	-23.7
Unit value	\$1.73	\$1.68	\$1.55	\$1.51	\$1.51	-10.3	-2.9	-7.6	0.1
Ending inventory quantity	9,380	7,658	6,919	6,317	7,420	-26.2	-18.4	-9.7	17.5
All sources:									
Quantity	151,011	228,250	264,500	147,206	119,874	75.2	51.1	15.9	-18.6
Value	233,814	340,672	356,056	193,643	157,498	52.3	45.7	4.5	-18.7
Unit value	\$1.55	\$1.49	\$1.35	\$1.32	\$1.31	-13.1	-3.6	-9.8	-0.1
Ending inventory quantity	11,586	11,104	11,491	10,777	12,725	-0.8	-4.2	3.5	18.1

Table continued on next page.

Table C-2--Continued

PET film: Summary data concerning the U.S. open market, 2004-06, January-June 2006, and January-June 2007

(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	January-June		2004-06	2004-05	2005-06	Jan.-June 2006-07
				2006	2007				
U.S. producers':									
U.S. open-market shipments:									
Quantity	435,734	409,774	408,144	202,959	207,385	-6.3	-6.0	-0.4	2.2
Value	698,497	720,916	738,848	368,243	366,074	5.8	3.2	2.5	-0.6
Unit value	\$1.60	\$1.76	\$1.81	\$1.81	\$1.77	12.9	9.7	2.9	-2.7
Net commercial sales:									
Quantity	482,411	449,600	445,896	221,931	222,538	-7.6	-6.8	-0.8	0.3
Value	757,488	788,709	800,395	397,431	394,816	5.7	4.1	1.5	-0.7
Unit value	\$1.57	\$1.75	\$1.80	\$1.79	\$1.77	14.3	11.7	2.3	-0.9
Cost of goods sold (COGS)	660,582	681,585	695,780	342,860	349,171	5.3	3.2	2.1	1.8
Gross profit or (loss)	96,906	107,124	104,615	54,571	45,645	8.0	10.5	-2.3	-16.4
SG&A expenses	79,759	78,394	76,428	39,214	37,514	-4.2	-1.7	-2.5	-4.3
Operating income or (loss)	17,147	28,730	28,187	15,357	8,131	64.4	67.6	-1.9	-47.1
Unit COGS	\$1.37	\$1.52	\$1.56	\$1.54	\$1.57	14.0	10.7	2.9	1.6
Unit SG&A expenses	\$0.17	\$0.17	\$0.17	\$0.18	\$0.17	3.7	5.5	-1.7	-4.6
Unit operating income or (loss)	\$0.04	\$0.06	\$0.06	\$0.07	\$0.04	77.8	79.8	-1.1	-47.2
COGS/sales (1)	87.2	86.4	86.9	86.3	88.4	-0.3	-0.8	0.5	2.2
Operating income or (loss)/ sales (1)	2.3	3.6	3.5	3.9	2.1	1.3	1.4	-0.1	-1.8

(1) "Reported data" are in percent and "period changes" are in percentage points.

(2) Not applicable.

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

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

Table C-3

PET film: U.S. producers' U.S. shipments, by types, U.S. imports, by sources, based on official Commerce statistics (excluding Canada and Oman and using importer questionnaire data for Brazil), and open-market and total U.S. consumption (open market and total), 2004-06, January-June 2006, and January-June 2007

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Table C-4

PET film: U.S. producers' U.S. shipments, by types, U.S. imports, by sources, based on official Commerce statistics and using importer questionnaire data for Brazil, and open-market and total U.S. consumption (open market and total), 2004-06, January-June 2006, and January-June 2007

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APPENDIX D

**PRODUCER AND IMPORTER COMMENTS REGARDING
DIFFERENCES AND SIMILARITIES BETWEEN
PET FILM AND EQUIVALENT PET FILM**

The Commission requested producers and importers to describe the differences and similarities between subject PET film and equivalent PET film with respect to: characteristics and uses; interchangeability; manufacturing processes; channels of distribution; customer and producer perceptions; and price. The responses follow:

Characteristics and Uses

* * * * *

Interchangeability

* * * * *

Manufacturing Processes

* * * * *

Channels of Distribution

* * * * *

Customer and Producer Perceptions

* * * * *

Price

* * * * *

