

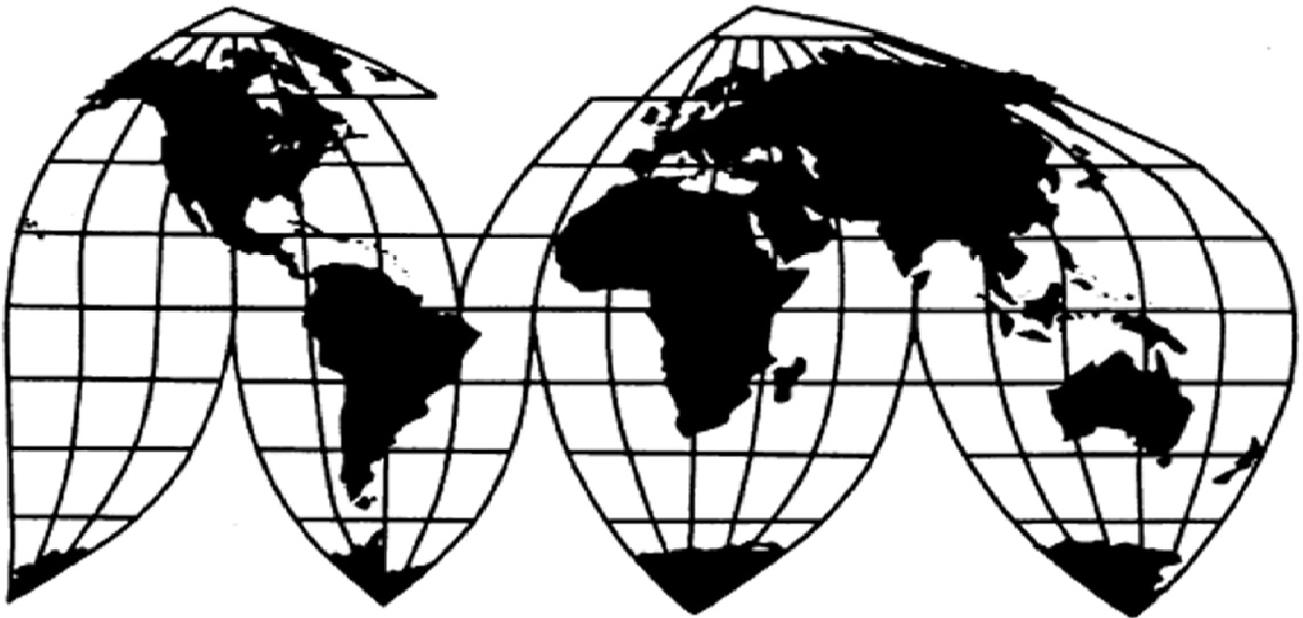
Coated Free Sheet Paper From China, Indonesia, and Korea

Investigation Nos. 701-TA-444-446 (Final) and
731-TA-1107-1109 (Final)

Publication 3965

December 2007

U.S. International Trade Commission



Washington, DC 20436

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Note.—Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation Nos. 701-TA-444-446 (Final) and 731-TA-1107-1109 (Final)

COATED FREE SHEET PAPER FROM CHINA, INDONESIA, AND KOREA

DETERMINATIONS

On the basis of the record¹ developed in the subject investigations, the United States International Trade Commission (Commission) determines, pursuant to sections 705(b) and 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1671d(b) and 1673d(b)) (the Act), that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded,² by reason of imports from China, Indonesia, and Korea of coated free sheet paper, provided for in subheadings 4810.13.19, 4810.13.20, 4810.13.50, 4810.13.70, 4810.14.19, 4810.14.20, 4810.14.50, 4810.14.70, 4810.19.19, and 4810.19.20 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce (Commerce) to be subsidized by the Governments of China, Indonesia, and Korea and to be sold in the United States at less than fair value (LTFV).

BACKGROUND

The Commission instituted these investigations effective October 31, 2006, following receipt of a petition filed with the Commission and Commerce by NewPage Corp., Dayton, OH. The final phase of the investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of coated free sheet paper from China, Indonesia, and Korea were being subsidized within the meaning of section 703(b) of the Act (19 U.S.C. § 1671b(b)) and were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. § 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of July 5, 2007 (72 FR 36719). The hearing was held in Washington, DC, on October 18, 2007, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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

² Commissioner Charlotte R. Lane dissenting.

VIEWS OF THE COMMISSION

Based on the record in these investigations, we determine that an industry in the United States is not materially injured or threatened with material injury by reason of imports of coated free sheet paper (“CFSP”) from China, Indonesia, and Korea that have been found by the Department of Commerce (“Commerce”) to be subsidized and sold in the United States at less than fair value (“LTFV”).^{1 2}

I. BACKGROUND

CFSP is a type of graphic paper (i.e., paper or paperboard intended for writing, printing, or other graphic purposes). CFSP contains no more than 10 percent by weight mechanical or combined chemical/mechanical fibers; that is, it is made from a minimum of 90 percent chemical pulp.³ The coating on CFSP usually consists of kaolin, although a variety of other substances may also be used.⁴ CFSP typically is used to print materials with high-gloss pages, such as annual reports, high-end catalogues and magazines, high-impact direct mail, posters, signage, playing cards, and packaging.⁵ CFSP is sold in two principal forms: web rolls and sheets (the latter encompassing sheeted rolls).⁶

The petition in these investigations was filed on October 31, 2006, by NewPage Corporation of Dayton, Ohio (“Petitioner” or “NewPage”), a domestic producer of CFSP.⁷ The following respondents participated in the hearing and filed briefs: (1) a group of producers and exporters of subject merchandise from Korea (“Korean Respondents”);⁸ (2) two producers and exporters of subject merchandise from Indonesia (“Indonesian Respondents”);⁹ and (3) two producers and exporters of subject merchandise from China, along with two importers of CFSP from China, Global Paper Solutions, Inc. and Unisource Worldwide, Inc. (“Chinese Respondents”).¹⁰

II. DOMESTIC LIKE PRODUCT

In determining whether an industry in the United States is materially injured or threatened with material injury by reason of imports of the subject merchandise, the Commission first defines the

¹ Commissioner Lane dissents from this determination but joins in Sections I through IV of these views.

² The material retardation of the establishment of an industry in the United States is not an issue in these investigations.

³ Transcript of Staff Conference at 19-21 (Tyrone, NewPage) and CR at I-10, PR at I-2. Chemical pulp is produced by cooking wood chips in a chemical solution, while mechanical pulp is obtained through mechanical means, by grinding wood. Confidential Report (“CR”) at I-10 and I-14 n.37, Public Report (“PR”) at I-8 and I-10 n.37.

⁴ CR at I-19, PR at I-16.

⁵ CR at I-17, PR at I-13.

⁶ CR at I-22 and Table I-8, PR at I-17 and Table I-8.

⁷ In addition to New Page, the domestic industry currently consists of nine other producers of CFSP that operate plants in 10 states. CR/PR at Table III-1. Most of the other domestic producers ***. CR/PR at Table III-1.

⁸ Korean Respondents are the Korea Paper Manufacturers’ Association and its members EN Paper; Hankuk Paper Mfg. Co., Ltd.; Hongwon Paper Mfg. Co., Ltd.; Kyesung Paper Co., Ltd.; and Namhan Paper Co., Ltd.

⁹ Indonesian Respondents are PT. Pindo Deli Pulp and Paper Mills, and PT. Pabrik Kertas Tjimi Kimia T.B.K..

¹⁰ The Chinese producers/exporters are Gold East Paper (Jiangsu) Co., Ltd. and Gold Huasheng Paper (Suzhou Industry Park) Co., Ltd.

“domestic like product” and the “industry.”¹¹ 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.”¹² In turn, the Act defines “domestic like product” as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation”¹³

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.¹⁴ No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.¹⁵ The Commission looks for clear dividing lines among possible like products and disregards minor variations.¹⁶ Although the Commission must accept the determination of Commerce as to the scope of the imported merchandise allegedly sold at LTFV, the Commission determines what domestic product is like the imported articles Commerce has identified.¹⁷

In its final determinations, Commerce defined the imported merchandise within the scope of investigation as:

coated free sheet paper and paperboard of a kind used for writing, printing or other graphic purposes. Coated free sheet paper is produced from not more than 10 percent by weight mechanical or combined chemical/mechanical fibers. Coated free sheet paper is coated with kaolin (China clay) or other inorganic substances, with or without a binder, and with no other coating. Coated free sheet paper may be surface-colored, surface-decorated, printed (except as described below), embossed, or perforated. The subject merchandise includes single- and double-side-coated free sheet paper; coated free sheet paper in both sheet or roll form; and is inclusive of all weights, brightness levels, and finishes. The terms “wood free” or “art” paper may also be used to describe the imported product.

¹¹ 19 U.S.C. § 1677(4)(A) (2000).

¹² 19 U.S.C. § 1677(4)(A).

¹³ 19 U.S.C. § 1677(10).

¹⁴ 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).

¹⁵ See, e.g., S. Rep. No. 96-249 at 90-91 (1979).

¹⁶ 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.”).

¹⁷ Hosiden Corp. v. Advanced Display Mfrs., 85 F.3d 1561, 1568 (Fed. Cir. 1996) (Commission may find single like product corresponding to several different classes or kinds defined by Commerce); Torrington, 747 F. Supp. at 748-752 (affirming Commission determination of six like products in investigations where Commerce found five classes or kinds).

Excluded from the scope are: (1) coated free sheet paper that is imported printed with final content printed text or graphics; (2) base paper to be sensitized for use in photography; and (3) paper containing by weight 25 percent or more cotton fiber.¹⁸

CFSP is sold in two basic forms: as web rolls that are used in web-fed presses and as sheets or sheeter rolls (referred to collectively as “sheet”) that are used in sheet-fed presses. Web-fed presses tend to be used for larger commercial printing runs, while sheet-fed presses tend to be used for smaller, higher-quality printing jobs.¹⁹

No party in these investigations has advocated defining the domestic like product other than as a single like product coextensive with the scope. As discussed in our preliminary determinations, the record reflects clear dividing lines – primarily in terms of physical characteristics and uses, interchangeability, customer and producer perceptions, and price – that distinguish CFSP from other forms of graphic papers.²⁰ Accordingly, we find that there is a single domestic like product consisting of CFSP coextensive with the scope of these investigations.

III. DOMESTIC INDUSTRY

The domestic industry is defined as the “producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.”²¹ 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.²² Based on our finding that the domestic like product is CFSP, we find that the domestic industry consists of all known domestic producers of this product.²³ The industry currently consists of NewPage and nine other producers.

¹⁸ Commerce stated that subject merchandise is imported under subheadings 4810.13.1900, 4810.13.2010, 4810.13.2090, 4810.13.5000, 4810.13.7040, 4810.14.1900, 4810.14.2010, 4810.14.2090, 4810.14.5000, 4810.14.7040, 4810.19.1900, 4810.19.2010, and 4810.19.2090 of the Harmonized Tariff Schedule of the United States (“HTSUS”). E.g., Notice of Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the Republic of Korea, 72 Fed. Reg. 60630, 60631 (Oct. 25, 2007). Commerce rejected a request from Petitioner that it “clarify” that the scope of the investigations includes CFSP containing hardwood bleached chemi-thermo-mechanical pulp (“BCTMP”). CR at I-10-11, PR at I-9-10.

¹⁹ CR at II-16, PR at II-11.

²⁰ Coated Free Sheet Paper From China, Indonesia, and Korea, Inv. Nos. 701-TA-444-446 and 731-TA-1109 (Preliminary), USITC Pub. 3900 at 6-7 (Dec. 2006).

²¹ 19 U.S.C. § 1677(4)(A).

²² 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).

²³ 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. One domestic producer, ***, may qualify as a “related party,” as it imported CFSP from Korea. It is not clear, however, whether it obtained these imports from a subject or a non-subject Korean producer. CR/PR at Table III-2 note on p. III-6. *** accounted for a very small share – *** percent – of domestic CFSP production in 2006. CR/PR at Table III-1. It imports *** tons per year of CFSP – the exact amounts are unknown. CR/PR at Table III-2 note on p. III-6. To the extent that *** imported subject merchandise and qualifies as a related party, we find that appropriate circumstances do not exist to exclude the company from the domestic industry because it accounts for a very small portion of U.S. production and the ***.

In the preliminary phase of these investigations we found that two other producers – *** – also qualified as (continued...)

IV. 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.²⁴ 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.²⁵ In countervailing duty investigations involving developing countries, the statute further provides that the negligibility thresholds are 4 percent and 9 percent, rather than 3 percent and 7 percent.²⁶ The statute defines “developing country” as any country so designated by the U.S. Trade Representative (“USTR”).²⁷ Of the three subject countries with allegedly subsidized imports, Indonesia has been designated by the USTR as a developing country.²⁸

By operation of law, a finding of negligibility terminates the Commission’s investigation with respect to such imports.²⁹ The Commission is authorized to make “reasonable estimates on the basis of available statistics” of pertinent import levels for purposes of deciding negligibility.³⁰

LTFV subject imports from China, Indonesia, and Korea are not negligible under 19 U.S.C. § 1677(24)(A)(I) because imports from each country accounted for more than 3 percent of the volume of CFSP imported into the United States in the most recent 12-month period for which data are available preceding the filing of the petition. In the period from October 1, 2005, through September 30, 2006, subject imports as a percentage of total imports of CFSP by quantity were *** percent for China, *** percent for Korea, and 4.2 percent for Indonesia.³¹

In the case of the countervailing duty investigations, imports from China and Korea are not negligible, because, as noted above, they exceeded the applicable 3 percent threshold, and imports from Indonesia are not negligible because they exceeded the applicable 4 percent threshold.

The Indonesian Respondents maintain that there are a number of flaws in the Commission’s negligibility calculation for imports from Indonesia. First, they argue that the Commission’s calculation is flawed because the numerator is based on Indonesian exports to the United States. According to the Indonesian Respondents, the statute directs the Commission to examine imports, and not exports or

²³ (...continued)

“related parties” because they imported subject merchandise during the period of investigation. *** imports were from a ***. Accordingly, *** is not “an importer of the subject merchandise,” within the meaning of 19 U.S.C. § 1677(4)(B)(I), and is thus not a related party. The record shows that *** also is not a related party, as it did not directly import the subject merchandise.

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

²⁵ 19 U.S.C. § 1677(24)(A)(i)-(ii).

²⁶ 19 U.S.C. § 1677(24)(B).

²⁷ 19 U.S.C. § 1677(36)(A).

²⁸ 15 C.F.R. § 2013.1 (2005).

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

³⁰ 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”).

³¹ CR/PR at Table IV-4. (The petition in these investigations was filed on October 31, 2006.)

exports as a surrogate for imports. They argue that it is standard Commission practice to rely on official import statistics, and to adjust these statistics where necessary.³²

We do not agree with Indonesian Respondents' contention that the statute only permits the Commission to use import data, no matter how flawed, and precludes the Commission from ever using export data in its negligibility calculation. Both sources of data on imports from Indonesia – official import statistics and data from importer questionnaire responses – *** imports of the subject merchandise. This is apparent because aggregate exports reported in the foreign producer questionnaire responses of the two Indonesian producers *** the amounts reflected in the import data from both sources.³³ The statute makes clear that “the Commission may make reasonable estimates on the basis of available statistics” in calculating negligibility.³⁴ In our view, this includes using export data as a surrogate for import data, where, as here, the export data are likely to capture the actual imports more accurately than the import data.

Second, Indonesian Respondents argue that the Commission improperly relied upon a mix of export and import data in calculating the negligibility ratio for Indonesia.³⁵ Indonesian Respondents' argument is unpersuasive. The negligibility ratio consists of a numerator based on Indonesian export data (lagged by one month to account for shipping time) and a denominator based on Korean subject and non-subject merchandise export data (similarly lagged by one month) plus import data based on official import statistics for imports from all other sources.³⁶ The Staff Report used the most accurate data available for the various components of the negligibility calculation. For Indonesia, as noted above, export data were used because import data are likely ***. For subject and non-subject imports from Korea, export data were used because official import data do not distinguish between subject and non-subject merchandise. There is no evidence that the mix of export and import data in the negligibility calculation is inherently distortive.

Indonesian Respondents' third argument is that for several reasons the “total imports” denominator in the negligibility calculation is understated. First, they argue that estimates of Chinese and Korean import volume are likely incorrect because there may be other exporters of subject merchandise in these countries. Second, they contend that total imports from other countries should be adjusted because official import statistics allegedly are understated because of mis-classification of imports. They argue that, because the record shows extensive mis-classification to have occurred with respect to imports from China and Indonesia, the Commission should assume that similar mis-classification occurred with respect to imports from other sources.³⁷

Indonesian Respondents' argument with respect to China is moot, as the final version of the Staff Report uses official import statistics (and not exports from individual companies, as did the prehearing report). The argument with respect to subject imports from Korea is unpersuasive because there is no evidence that the data used in the Staff Report do not cover all Korean exporters of subject CFSP. The second part of Indonesian Respondents' argument is also unpersuasive. It rests on the assumption that import statistics systematically undercount CFSP, i.e., that there will be more instances of CFSP classified

³² Indonesian Respondents' Prehearing Brief at 4-5.

³³ CR/PR at Table IV-3. The reasons why *** sources of import data *** actual imports are discussed in the “Indonesia” note to Table IV-3.

³⁴ 19 U.S.C. § 1677(24)(C).

³⁵ Indonesian Respondents' Prehearing Brief at 6.

³⁶ CR/PR at Table IV-4, notes 2-6.

³⁷ Indonesian Respondents' Prehearing Brief at 9-12.

under the HTSUS reporting numbers not listed in the scope than there are of products other than CFSP being classified under within-scope reporting numbers. We find that this assumption lacks support.³⁸

Finally, in their posthearing brief Indonesian Respondents for the first time urged the Commission to collect value data with respect to all foreign producers' exports during the negligibility period and to use the value data "as a benchmark to evaluate the reliability of the adjustments made to the quantity data."³⁹ Quite apart from the lateness of this request, we see no reason to analyze value data. The negligibility calculation in the Staff Report (described above) does not include any adjustments that would need to be evaluated for reliability. Moreover, the Commission generally avoids measuring import volume on the basis of value. The variations in the product mix in the scope of this case do not warrant a departure from our normal practice.⁴⁰

Hence, we find that imports from Indonesia are not negligible for purposes of the countervailing duty investigation.

V. 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 with domestic like products in the U.S. market.⁴¹ 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.⁴²

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

³⁸ See CR/PR at App. D.

³⁹ Indonesian Respondents' Prehearing Brief at 7-9.

⁴⁰ See, e.g., Certain Lined Paper School Supplies from India, Inv. Nos. 701-TA-442 and 731-TA-1096 (Final), USITC Pub. 3884 at 19 n.144 (Sept., 2006).

⁴¹ 19 U.S.C. § 1677(7)(G)(i).

⁴² See Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea, and Taiwan, Inv. Nos. 731-TA-278-280 (Final), USITC Pub. 1845 (May 1986), aff'd, Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898 (Ct. Int'l Trade), aff'd, 859 F.2d 915 (Fed. Cir. 1988).

imports compete with each other and with the domestic like product.⁴³ Only a “reasonable overlap” of competition is required.⁴⁴

B. Analysis

Petitioner argues that, under the facts in this record, the Commission is required to cumulate imports from the three subject countries. No respondent has argued that imports from the three subject countries should not be cumulated for purposes of our present injury analysis. Based on the discussion that follows, we cumulate subject imports from China, Indonesia, and Korea for purposes of our present material injury analysis.

The threshold requirement for cumulation is satisfied because Petitioner filed a petition with respect to each of the three subject countries on the same day. None of the statutory exceptions to cumulation is applicable.⁴⁵ We next examine the four factors that the Commission customarily considers in determining whether there is a reasonable overlap of competition.

With regard to the fungibility of the products, domestically produced CFSP and the subject imports in the same form (*i.e.*, web rolls or sheets) from all three countries are substitutable. Subject imports are generally used for the same purpose as the domestic product, that is, for high-end printing applications. The majority of responding U.S. producers and producers/importers reported that the subject imports and the domestic product are “always” used interchangeably, and the rest reported that the products are “frequently” used interchangeably. Also, over two-thirds of responding importers and purchasers reported that the subject imports and the domestic product are at least “frequently” used interchangeably.⁴⁶

U.S. producers concentrate on the production of CFSP in web roll form.⁴⁷ Subject imports, on the other hand, consist almost entirely of CFSP in sheet form.⁴⁸ The two types of CFSP are used in different kinds of printing presses, and, as discussed below, the record generally shows that there is only limited substitution between the two types of CFSP (this substitution consists of using sheeted web roll instead of sheet in sheet-fed presses).⁴⁹ There is competition between the subject merchandise and the domestic like product in that approximately 20 percent of domestic production is devoted to sheet,⁵⁰ where there is head-to-head competition with subject imports, and the U.S. production of web rolls is subject to limited competition from imported sheet. This competition is sufficient for us to find a reasonable overlap of

⁴³ See, e.g., Wieland Werke, AG v. United States, 718 F. Supp. 50 (Ct. Int'l Trade 1989).

⁴⁴ The SAA (at 848) expressly states that “the new section will not affect current Commission practice under which the statutory requirement is satisfied if there is a reasonable overlap of competition.” 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.”).

⁴⁵ See 19 U.S.C. § 1677(7)(G) (ii).

⁴⁶ CR/PR at Table II-3.

⁴⁷ In the 2004-2006 period, between 77.7 percent and 79.1 percent of U.S. shipments of domestic CFSP were in web roll form, between *** percent were in sheet roll form, and between *** percent were in sheet form. CR/PR at Table I-8.

⁴⁸ China was the only subject country from which there were some imports in web roll form, and these constituted only a small proportion of subject imports from China. CR/PR at Table I-8.

⁴⁹ We discuss the limited substitutability of web roll for sheet in sheet-fed presses in more detail in our analysis of conditions of competition below.

⁵⁰ CR/PR at Table I-8.

competition for purposes of cumulation, though we find the differences in product mix to be important in our analysis of causation below.

With regard to whether subject imports and U.S. production are sold in the same geographic markets, U.S. producers of CFSP are mostly located east of the Rocky Mountains, although one producer is located in Oregon.⁵¹ Respondents maintain that subject imports are concentrated in the Western United States and that domestic producers are sometimes reluctant to ship west of the Rocky Mountains.⁵² The data in the record show that, in 2006, there were significant imports from each of the subject countries in each of the other three regions of the United States and almost *** percent of the domestic industry's total shipments were to the Western region.⁵³ This degree of overlap is sufficient for us to find that subject imports and the domestic like product are sold in the same geographic markets, though we find the difference in geographic markets to be relevant in our analysis of causation below.

Imports from each of the subject countries have been present in the U.S. market throughout the period examined.⁵⁴ Finally, the domestic like product and subject imports are sold through common channels of distribution, that is, through distributors (known as "merchants") and to end users. The domestic like product and the subject imports from China and Korea are sold predominantly through merchants, but also to end users. Subject imports from Indonesia are sold predominantly to end users, but also to distributors.⁵⁵

Accordingly, based on our consideration of the four criteria discussed above, we find that there is a reasonable overlap of competition among the subject imports and the domestic like product, and we cumulate subject imports from China, Indonesia, and Korea for purposes of our present material injury analysis.

VI. NO MATERIAL INJURY BY REASON OF THE SUBJECT IMPORTS

In the final phase of antidumping duty or countervailing duty investigations, the Commission determines whether an industry in the United States is materially injured by reason of the imports under investigation.⁵⁶ In making this determination, the Commission must consider the volume of imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.⁵⁷ The statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant."⁵⁸ In assessing whether the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.⁵⁹ 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."⁶⁰

⁵¹ CR/PR at Table III-1.

⁵² CR at II-1, PR at II-1.

⁵³ CR/PR at Table F-1.

⁵⁴ CR/PR at Table IV-4.

⁵⁵ CR at II-1, PR at II-1.

⁵⁶ 19 U.S.C. §§ 1671b(a) and 1673d(b).

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

⁵⁸ 19 U.S.C. § 1677(7)(A).

⁵⁹ 19 U.S.C. § 1677(7)(C)(iii).

⁶⁰ Id.

For the reasons stated below, we determine that the domestic industry producing CFSP is not materially injured by reason of subject imports from China, Indonesia, and Korea.

A. Conditions of Competition and the Business Cycle

The following conditions of competition inform our analysis.

1. Demand Conditions

CFSP typically is used to print materials with high-gloss pages, such as annual reports, high-end catalogues and magazines, high-impact direct mail, posters, signage, playing cards, and packaging.⁶¹ CFSP is sold in two principal forms: web rolls and sheets, which are used, respectively, in web-fed and sheet-fed offset lithographic presses.⁶² In addition, a relatively small amount of CFSP is sold as “sheeter roll,” which is intended for customers that operate their own sheeters.⁶³ The web roll segment of the CFSP market is considerably larger than the sheet segment; almost 80 percent of U.S. consumption of CFSP is in the form of web rolls.⁶⁴

Apparent U.S. consumption of CFSP was almost at the same level in 2006 as it was at the beginning of the period examined, in 2004.⁶⁵ Apparent U.S. consumption declined somewhat when comparing the interim periods.⁶⁶

2. Supply Conditions

In 2006, 10 U.S. firms accounted for all U.S. production of CFSP.⁶⁷ Of these, *** producers, ***, accounted for *** percent of domestic production.⁶⁸ Domestic producers were the principal suppliers of CFSP in the U.S. market throughout the period examined, with a market share on a quantity basis that ranged from *** percent to *** percent in the 2004-2006 period.⁶⁹ The next largest share of the U.S. market was supplied by producers in nonsubject countries, whose market share ranged from *** percent to *** percent in the 2004-2006 period. The remaining share of the U.S. market was supplied by subject imports, whose market share ranged from *** percent to *** percent in the 2004-2006 period.⁷⁰

During the period examined, there were a number of changes in the domestic industry’s organization and production operations, including a significant amount of restructuring. This has

⁶¹ CR at I-17, PR at I-13.

⁶² CR at I-20, PR at I-16.

⁶³ CR at I-20 n.44, PR at I-16 n.44.

⁶⁴ CR/PR at Table I-8.

⁶⁵ Apparent U.S. consumption declined from *** short tons in 2004 to *** short tons in 2005, and then rose to *** short tons in 2006. CR/PR at Table IV-5.

⁶⁶ Apparent U.S. consumption was (*** short tons) in interim 2006 and (*** short tons) in interim 2007. CR/PR at Table IV-5.

⁶⁷ CR/PR at Table III-1.

⁶⁸ Id.

⁶⁹ CR/PR at Table IV-5.

⁷⁰ Id.

included several acquisitions,⁷¹ the shutdown of several paper machines,⁷² the closure of one plant,⁷³ and the commencement of production operations by a new firm.⁷⁴ Debt financing has played a significant role in this restructuring.⁷⁵ Despite the plant closure and equipment shutdowns, the domestic industry's overall capacity to produce CFSP was almost unchanged throughout the period examined.⁷⁶ In addition, in September 2007, NewPage announced that it had entered into an agreement to purchase Stora Enso North America, Inc., a transaction that is expected to close in early 2008. This acquisition will result in the merger of ***, creating an entity that will control approximately *** percent of domestic production capacity⁷⁷ and *** percent of domestic production in 2006.⁷⁸

3. Other Considerations

As noted above, CFSP is sold in two principal forms: web rolls and sheets (including sheeter rolls). *** subject imports during the period examined consisted of CFSP in sheet form,⁷⁹ while most domestically produced CFSP (approximately 80 percent) was in web roll form.

Petitioner argues that subject imports (in sheet form) compete to a significant degree with the domestic industry's sales of web roll CFSP, maintaining that there is some substitution between web roll and sheet. Petitioner argues that the differences between sheet and web roll are narrowing, and "costs will determine which form the printer uses."⁸⁰ In support thereof, Petitioner first claims that web rolls can be, and are sometimes, made into sheets.⁸¹ Petitioner's second claim is that many U.S. printers have both sheet-fed and web-fed presses ("dual capability"), and that many jobs can be done on either type of press.⁸²

We disagree with Petitioner and find that there is limited competition between web roll and sheet products, and that the limitations on competition show no signs of disappearing. It is clear that sheet cannot be used in web-fed presses.⁸³ Further, although the evidence on the record is mixed with regard to competition between imported sheet and domestically produced web rolls, we find that the weight of the evidence does not support Petitioner's contentions. First, although web roll is sometimes sheeted and

⁷¹ In 2006, Glatfelter acquired the Chillicothe, Ohio paper mill from NewPage, and CMP Holdings acquired most of International Paper's coated and supercalendered papers business. CR at III-7-8, PR at III-4.

⁷² CR at III-9, PR at III-5

⁷³ Pasadena Paper Co. ceased its operations in September 2005. CR at III-4-5, PR at III-3.

⁷⁴ ***. CR at III-8, PR at III-4.

⁷⁵ The domestic industry's interest expenses more than doubled from 2004 to 2006, rising from \$90.2 million in 2004 to \$210.3 million in 2006. CR/PR at Table VI-1. See also, Petitioner's Prehearing Brief at 26-28.

⁷⁶ The domestic industry's capacity was 5.275 million short tons in 2004, 5.351 million short tons in 2005, and 5.244 million short tons in 2006. It was 2.664 million short tons in interim 2006, and 2.660 million short tons in interim 2007. CR/PR at Table III-5.

⁷⁷ See CR/PR at Table III-5.

⁷⁸ See CR/PR at Table III-1. Among the purposes of this merger are cost reductions as a result of synergies between the two firms, and an acceleration of the improvements in NewPage's financial results. See Remarks of Mark Suwyn, Chairman and CEO of NewPage, September 21, 2007 conference call with securities analysts (copy of transcript in Korean Respondents' Prehearing Brief at Exhibit 20).

⁷⁹ In the 2004-2006 period, shipments of sheet (including sheeter roll) accounted for between *** percent and *** percent of total annual U.S. shipments of all subject imports on a quantity basis. CR/PR at Table I-8.

⁸⁰ Petitioner's Posthearing Brief at 15.

⁸¹ Petitioner's Prehearing Brief at 36.

⁸² Petitioner's Prehearing Brief at 36-37.

⁸³ Hearing Transcript at 226 (Davis).

then run in sheet-fed presses, this appears to be the exception to the rule,⁸⁴ as evidenced by the fact that CFSP producers do not provide warranty coverage for web rolls used in sheet-fed presses.⁸⁵ Second, only a minority of U.S. printers have dual capability,⁸⁶ and thus any practice of using sheet and web roll interchangeably would not be indicative of overall conditions in the U.S. CFSP market. Even among printers with dual capability, technical factors such as volume and the length of a print run were cited more often than the cost of the paper as entering into the decision of which type of press to run.⁸⁷ In other words, at printers with dual capability, sheet does not compete with web roll mainly or substantially on the basis of price.

Moreover, the record reflects limited competition between subject imports and the domestic like product in the Western region⁸⁸ of the United States. In 2006, for example, only *** percent of U.S. shipments of the domestic like product were sheet products sent to the Western region of the United States. In contrast, respectively, *** percent, *** percent, and *** percent of the U.S. importer shipments of subject imports from China, Indonesia, and Korea were sheet products sent to the Western region.⁸⁹

In sum, because (1) subject imports are largely confined to the smaller sheet segment of the CFSP market, (2) the substitutability of web roll for sheet is limited, and (3) there is limited competition between subject imports and the domestic like product in the Western region of the United States, we find that the overall degree of competition between subject imports and the domestic like product is limited.

⁸⁴ Only four of the 18 purchasers responding to the Commission's questionnaire that reported using sheet-fed presses indicated that they use web roll on their sheet-fed presses. CR at II-17, PR at II-11.

⁸⁵ E.g., Hearing Transcript at 187 (Gallagher).

⁸⁶ Of the 24 purchasers that responded to this section of the Commission's questionnaire, only nine reported using both sheet- and web-fed presses (although these nine printers accounted for 55 percent of the total volume purchased by the 24 responding printers). CR at II-16, PR at II-9. Of the nine responding purchasers that reported using both sheet- and web-fed presses, four reported no overlap in their jobs run using sheet- and web-fed presses. Three reported some overlap. Only two of the nine purchasers reported running the same type of jobs on sheet- and web-fed presses. CR at II-16, PR at II-9. The representative of the Printing Industries of America ("PIA") testified at the Commission's hearing that "[o]f the approximately 39,000 printing plants in the U.S., certainly a very small percentage have both. The printing plants in the U.S. are predominantly sheet fed or web fed." Hearing Transcript at 353 (Davis). In a ***. Korean Respondents' Posthearing Brief at Attachment 16. Although there is some evidence on the record of imports of sheet competing with domestically produced web roll (Hearing Transcript at 56, Testimony of Rick Reindl, Reindl Printing, Inc.), this evidence does not lead us to conclude that subject imports in sheet form compete to a significant degree with the domestic industry's sales of web roll CFSP, given purchaser data to the contrary.

⁸⁷ CR at II-16, PR at II-9.

⁸⁸ The Western region consists of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

⁸⁹ CR/PR at Table F-1. These figures include both sheet and sheeter rolls.

B. Volume of Subject Imports

Section 771(7)(C)(I) of the Act provides that the “Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant.”⁹⁰

The volume of cumulated subject imports declined from 2004 to 2005, from *** short tons to *** short tons, but then rose to *** short tons in 2006, for an overall increase from 2004 to 2006 of *** percent.⁹¹ The volume of cumulated subject imports was lower, *** in interim 2007, compared with *** in interim 2006.⁹² Cumulated subject imports’ share of U.S. apparent consumption declined from *** percent in 2004, to *** percent in 2005, but then rose to *** percent in 2006. The market share of subject imports was lower, *** percent in interim 2007, compared with *** percent in interim 2006.⁹³ The ratio of subject imports to domestic production followed a similar trend.⁹⁴

The subject imports’ gain in market share during the 2004-2006 period came largely at the expense of non-subject imports, the market share of which declined from *** percent in 2004 to *** percent in 2006, while the market share of the domestic industry remained fairly constant (at *** percent in 2004 and *** percent in 2006).⁹⁵ When the interim periods are compared, the domestic industry gained market share at the expense of both subject and non-subject imports.⁹⁶

⁹⁰ 19 U.S.C. § 1677(7)(C)(i).

⁹¹ We note that a significant proportion of the imports of CFSP from Korea – *** – was from producers which are not subject to Commerce’s antidumping and countervailing duty determinations. See CR/PR at Table IV-3.

⁹² CR/PR at Table IV-3. We give less weight to data pertaining to interim 2007, as the decline in subject imports in interim 2007 was likely related to the pendency of these investigations. See 19 U.S.C. § 1677(7)(I). Although we give less weight to the interim 2007 data, we have considered them and cite them in this opinion.

Petitioner urged the Commission to reject the interim 2007 data provided by Chinese and Indonesian respondents, arguing that these respondents under-reported their exports of subject merchandise to the United States in this period by reclassifying them as coated groundwood paper. Specifically, Petitioner alleges that some CFSP producers in these countries have increased the levels of hardwood BCTMP in their CFSP to a point where it could be classified as coated groundwood paper, and that these firms simply reclassified their shipments as coated groundwood paper in interim 2007. We note that Petitioner asked Commerce to “clarify” the scope of these investigations and confirm that CFSP containing BCTMP (*i.e.*, regardless of whether the BCTMP level exceeds 10 percent of the weight of the fibers in the paper) falls within the scope. Commerce declined to do so. E.g., 72 Fed. Reg. 60639, 60640 (Oct. 26, 2007). Therefore, CFSP containing BCTMP in excess of 10 percent of the weight of the fibers in the paper is not within the scope of these investigations. Accordingly, we are not discounting interim 2007 data on the basis requested by Petitioner.

⁹³ CR/PR at Table IV-5.

⁹⁴ The ratio of subject imports to domestic production declined from *** percent in 2004 to *** percent in 2005, and then rose to *** percent in 2006. This ratio was *** percent of domestic production in interim 2006, and *** percent in interim 2007. CR/PR at Table IV-6.

⁹⁵ CR/PR at Table IV-5.

⁹⁶ In interim 2007, the domestic industry’s market share was *** percent of domestic consumption on a quantity basis, compared with *** percent in interim 2006. By contrast, in interim 2007, the quantity-based market shares of subject and non-subject imports were *** and *** percent, respectively, compared with *** and *** percent, respectively, in interim 2006. CR/PR at Table IV-5. NewPage argues that subject imports were significant because they captured *** percentage points of share in the sheet portion of the market. Petitioner’s Prehearing Brief at 46. While subject imports did increase share in the sheet part of the market, this increase was not significant with respect to the CFS paper market as a whole given that sheet products represent a relatively small portion of the overall market. The domestic industry maintained its share in the overall CFS paper market over the period examined.

Both the volume of subject imports and the increase in those imports were modest. Moreover, as discussed supra, the limited degree of competition between subject imports and the domestic like product further limits the significance of subject import volume. Accordingly, we find that neither the volume of subject imports nor the increase in that volume (whether measured in absolute terms, or relative to consumption or production), is significant.

C. Price Effects of the Subject Imports

Section 771(C)(ii) of the Act provides that, in evaluating the price effects of subject imports, the Commission shall consider whether – (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.⁹⁷

As explained above, domestically produced CFSP and the subject imports in the same form (i.e., web rolls or sheets) are substitutable.⁹⁸

The Commission sought quarterly pricing data for seven types of CFSP. It collected separate data for these products for sales to merchants and for sales to end users. The Commission received usable pricing data from eight U.S. producers and 16 importers of subject merchandise.⁹⁹ In these quarterly price comparisons, the subject imports undersold the domestic like product in 149 of 197 possible comparisons, at margins ranging from 0.2 percent to 50.9 percent.¹⁰⁰ The margins of underselling were generally higher for sheet products than for web roll products.¹⁰¹

The weighted-average prices of most U.S.-produced products increased over the period examined.¹⁰² The prices for sheet products (where most of the subject imports were concentrated) rose to a lesser degree than those for web roll products.¹⁰³

On the basis of these data, we find significant price underselling by the subject imports, but we do not find that these imports have depressed or suppressed prices for the domestic like product to a significant degree. The prices of virtually all the domestic pricing products were steadily rising,¹⁰⁴ which

⁹⁷ 19 U.S.C. § 1677(7)(C)(ii).

⁹⁸ CR/PR at Table II-1.

⁹⁹ The reported pricing data accounted for *** percent of U.S. producers' U.S. shipments of CFSP, *** percent of U.S. subject imports from China, *** percent of U.S. subject imports from Indonesia, and *** percent of U.S. subject imports from Korea. CR at V-7-9, PR at V-5-6.

¹⁰⁰ CR at V-37, PR at V-13.

¹⁰¹ CR/PR at Tables V-1 through V-7.

¹⁰² CR/PR at Tables V-15 and V-16.

¹⁰³ For sheet products sold to merchants/distributors, domestic prices declined by *** percent for one pricing product, and rose by between *** percent and *** percent for the other products. For the two web roll products sold to merchants/distributors, domestic prices rose by *** and *** percent. For sheet products sold to end users, domestic prices declined by *** percent for one pricing product, and rose by between *** percent and *** percent for the other products. For the two web roll products sold to end users, domestic prices rose by *** and *** percent. CR/PR at Tables V-15 and V-16.

¹⁰⁴ The only product for which U.S. producers' prices declined over the period examined is Product 3, for which there was a *** percent decline for sales to merchants/distributors and a *** percent decline for sales to end users. We note that for this product there was extensive underselling at significant quantities by subject imports and non-subject imports. CR/PR at Tables V-5 and V-6. We note that the *** percent price decline for Product 3 to end

(continued...)

negates any claims that subject imports were depressing U.S. prices. Some evidence of price suppression, however, is present for some of the sheet pricing products, in that sheet prices generally rose less than web roll prices and there was meaningful subject import competition for sheets and not for web rolls. On the other hand, as noted above, sheet accounts for only a relatively small proportion of the domestic industry's sales.

Further evidence of the absence of significant adverse price effects on account of the subject imports can be seen in the domestic industry's improving ratio of its cost of goods sold ("COGS") to net sales.¹⁰⁵ This ratio improved substantially, declining from 99.1 percent in fiscal year 2004, to 89.7 percent in fiscal year 2006.¹⁰⁶ This improvement was largely attributable to an increase in the unit value of net sales, rather than a decline in costs.¹⁰⁷ Thus, regardless of any effects of imports on sheet prices, the imports were not creating a cost-price squeeze with respect to the industry as a whole.

As already discussed, subject import volume (and the increase in that volume) was modest over the period examined. Moreover, overall competition between subject imports and the domestic like product is limited. The low volumes of subject imports and the limited competition between the domestic like product and subject imports further support our conclusion that subject imports did not have significant adverse price effects.

¹⁰⁴ (...continued)

users appears to be based on an aberrationally high quarterly price in the first quarter of 2004. Moreover, there were no subject imports of Product 3 sold to end users.

¹⁰⁵ Petitioner urged the Commission, in evaluating this ratio, to focus on a comparison of raw material costs with net sales. E.g., Petitioner's Posthearing Brief, Exhibit 1 at 59. Such a focus on only one element of a producer's costs would, in our view, be inappropriate. Raw material costs are only one element of a firm's COGS, and there is no reason why they would be qualitatively more significant than other components of COGS or overall COGS. The Commission's reviewing courts have on several occasions approved the Commission's established practice of comparing prices with total COGS. E.g., Nippon Steel Corp. v. United States, 350 F. Supp. 2d 1186, 1198 (Ct. Int'l Trade 2004). See also Nippon Steel Corp. v. United States, — F. 3d—, Slip Op. 05-1404 (Fed. Cir. August 10, 2006) at 13, n. 4 ("When cost of goods sold ('COGS') exceeds price, the producer is unable to sell the product for more than what it costs to produce the product; if the producer is unable to raise prices, the industry finds itself in what is referred to as a cost-price squeeze," citing the 2004 Nippon CIT opinion above, at 1198); and Nitrogen Solutions Fair Trade Committee v. United States, 358 F. Supp. 2d 1314, 1326-27 (Ct. Int'l Trade 2005) (affirming Commission finding of no significant price suppression based on larger rises in net sales unit values than unit COGS).

We do not view an application of our traditional approach of examining overall COGS as "penalizing" the domestic industry for making efficiency improvements that resulted in reduced unit labor and other factory costs, as argued by Petitioner. Petitioner's Posthearing Brief, Exh. 1 at 19-20. All elements of COGS are relevant to a consideration of whether an industry is experiencing a cost-price squeeze that is indicative of price suppression. Even assuming that the record would reflect an increasing COGS/sales ratio absent cost improvements, the record would still not demonstrate that prices were lower than they would have been but for the subject imports because demand for CFSP was not increasing during the period examined. Consequently, we would not expect that producers would be able to pass on cost increases in the form of ever-higher prices during a time of flat demand and we have no evidence on the record to indicate otherwise. Moreover, the ratio of raw material costs to net sales for the domestic industry increased by only 1 percent over the period examined, which is hardly indicative of significant price suppression. See CR/PR at Tables VI-1 and VI-4.

¹⁰⁶ CR/PR at Table VI-1.

¹⁰⁷ The unit value of net sales rose from \$820 per short ton in fiscal year 2004 to \$894 per short ton in fiscal year 2006. Over the same period, the COGS unit values declined from \$813 to \$802 per short ton. CR/PR at Table VI-1.

Commission staff were unable to confirm most of the lost sales and lost revenue allegations made by Petitioner.¹⁰⁸ ***¹⁰⁹ Of Petitioner's lost revenue allegations, three (involving substantial amounts) were confirmed, and 10 could not be confirmed.¹¹⁰ *** and the three confirmed lost revenue allegations do not outweigh the other evidence of a lack of price depression or suppression discussed above.

In sum, we find that, although there was significant price underselling by the subject imports, these imports have not had significant adverse effects on the prices of the domestic like product.

D. Impact of the Subject Imports¹¹¹

Section 771(7)(C)(iii) provides that the Commission, in examining the impact of the subject imports on the domestic industry, "shall evaluate all relevant economic factors which have a bearing on the state of the industry."¹¹² 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."¹¹³

The record shows that the domestic industry either maintained or improved its condition in most respects over the period examined. U.S. producers' production of CFSP increased in each year of the period examined, and was higher in interim 2007 than in interim 2006.¹¹⁴ U.S. producers' shipments declined from 2004 to 2005, and then rose in 2006, almost to the level of 2004. Shipments were slightly

¹⁰⁸ CR/PR at Tables V-18 and V-19.

¹⁰⁹ See CR at V-39 -V-41. This purchaser initially stated that ***.

¹¹⁰ Some of the lost revenue allegations, and one lost sales allegation, evidently involved a purchaser switching from one foreign supplier to another, rather than from a domestic producer to a subject foreign supplier. CR at V-39 and V-42, PR at V-14. We note that all of the lost revenue allegations took place in 2005 or 2006 while the domestic industry's sales were increasing, measured in both quantity and value. CR/PR at Table VI-1.

¹¹¹ The statute instructs the Commission to consider the "magnitude of the dumping margin" in an antidumping proceeding as part of its consideration of the impact of imports. 19 U.S.C. § 1677(7)(C)(iii)(V). In its final determinations Commerce found the following dumping margins for imports from the three subject countries: China – Gold East Collapsed Entity 21.12 %, Yanzhou Tianzhang Paper Industry Co., Ltd. 21.12%, and China-wide Entity/all others 99.65% (72 Fed. Reg. 60632, 60635 (Oct. 25, 2007)); Indonesia – all manufacturers/exporters 8.63% (72 Fed. Reg. 60636, 60637 (Oct. 25, 2007)); and Korea – Hansol Paper Co., Ltd. 0.97% (*de minimis*), Hankuk Paper Mfg. Co., Ltd. 0.47% (*de minimis*), Moorim Paper Co., Ltd. 1.05% (*de minimis*); EN Paper Mfg. Co., Ltd. 12.31%, Kyesung Paper Co. Ltd. 31.55%, and all others 18.70% (72 Fed. Reg. 60630, 60631 (Oct. 25, 2007)).

¹¹² 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.

¹¹³ 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).

¹¹⁴ Production increased from 4.840 million short tons in 2004 to 4.927 million short tons in 2005 and to 4.973 million short tons in 2006. Production was higher in interim 2007 (2.501 million short tons) than in interim 2006 (2.477 million short tons). CR/PR at Table C-1.

lower in interim 2007 than in interim 2006.¹¹⁵ End-of-period inventories remained fairly constant.¹¹⁶ Overall industry capacity rose from 2004 to 2005, and then declined somewhat in 2006. Capacity was almost unchanged between interim 2006 and interim 2007.¹¹⁷ One paper mill was closed during the period examined, and several paper machines were shut down. At least some of these paper machines were quite old.¹¹⁸ There is little contemporaneous evidence, however, that these events are attributable to the effects of subject imports.¹¹⁹ Capacity utilization rose throughout the period examined.¹²⁰

Some employment indicators were negative over the period examined. The average number of production-related workers and wages paid fell during the period.¹²¹ Hours worked also declined from 2004 to 2006, but showed a small improvement in interim 2007 over interim 2006.¹²² However, productivity increased throughout the period examined.¹²³ Given the improvements in many of the indicators for the domestic industry, the declines in employment indicators seem to reflect the restructuring and modernization efforts of the domestic industry, as shown by the substantial increase in productivity, not the impact of the subject imports.

¹¹⁵ U.S. shipments declined from 4.631 million short tons in 2004 to 4.585 million short tons in 2005, and increased to 4.628 million short tons in 2006. U.S. shipments were slightly lower (2.276 million short tons) in interim 2007 than in interim 2006 (2.282 million short tons). CR/PR at Table C-1.

¹¹⁶ End-of-period inventories rose from 613,937 short tons in 2004, to 631,606 short tons in 2005, and fell to 615,487 short tons in 2006. End-of-period inventories were 651,033 short tons in interim 2006 and 660,679 short tons in interim 2007. CR/PR at Table C-1.

¹¹⁷ Domestic production capacity increased from 5.275 million short tons in 2004 to 5.351 million short tons in 2005, and declined to 5.244 million short tons in 2006. Capacity was 2.664 million short tons in interim 2006 and 2.660 million short tons in interim 2007. CR/PR at Table C-1.

¹¹⁸ CR at III-9-11, PR at III-5-6. For example, NewPage's Machine Number 7 was originally installed in ***, and Sappi's Machine Number 4 was originally installed in ***. CR/PR at Table III-3.

¹¹⁹ Subject imports were rarely cited as a cause of any closure or paper machine shutdown until after the petition in these investigations was filed. See, e.g., Chinese Respondents' Posthearing Brief at Exh. 22.

¹²⁰ Capacity utilization was 91.7 percent in 2004, 92.1 percent in 2005, 94.8 percent in 2006, 93.0 percent in interim 2006 and 94.0 percent in interim 2007. CR/PR at Table C-1.

¹²¹ The average number of production workers decreased from 8,110 in 2004, to 7,199 in 2005, and to 6,666 in 2007. The average number of workers was lower in interim 2007 (6,641) than in interim 2006 (6,777). CR/PR at Table C-1. Wages paid were \$508.0 million in 2004, \$404.8 million in 2005, and \$361.5 million in 2006. Wages paid during the interim periods were \$181.7 million in interim 2006 and \$181.0 million in interim 2007. CR/PR at Table C-1.

¹²² Hours worked decreased from 17.1 million in 2004 to 15.2 million in 2005, and to 14.2 million in 2006. Hours worked were slightly higher in interim 2007 (7.2 million) than in interim 2006 (7.1 million). CR/PR at Table C-1.

¹²³ Productivity increased from 282.9 tons/1,000 hours in 2004 to 323.5 tons/1,000 hours in 2005, and to 351.0 tons/1,000 hours in 2006. Productivity was slightly higher in interim 2007 (348.2 tons/1,000 hours worked) than in interim 2006 (347.6 tons/1,000 hours worked). CR/PR at Table C-1. Productivity increased by 24.0 percent from 2004 to 2006, versus a decline in the number of workers of 17.8 percent and a decline in hours worked of 17.2 percent over the same period.

Operating income rose throughout the period examined,¹²⁴ and the domestic industry's ratio of operating income to sales followed a similar pattern.¹²⁵ COGS as a ratio to sales declined from 2004 to 2005, and from 2005 to 2006, and was unchanged in interim 2007 as compared with interim 2006.¹²⁶

We find it to be particularly significant that there is an inverse correlation between the increase in subject imports from 2005 to 2006, and the improvements in the financial condition of the domestic industry during this period. From 2005 to 2006, subject imports increased from *** short tons to *** short tons, an increase of *** percent. As the market share of subject imports rose from *** percent in 2005 to *** percent in 2006, the domestic industry's operating income rose from \$76.1 million in 2005 to \$167.0 million in 2006, and its operating margin improved from 1.8 percent to 3.8 percent.^{127 128 129}

We have considered Petitioner's argument that subject imports, almost all of which are comprised of sheet, are injuring the domestic industry by increasingly driving the industry into the less profitable web roll segment of the market.¹³⁰ We find this argument to be unpersuasive. Although there was a modest decline in the domestic industry's shipments of sheet during the period examined, and a modest

¹²⁴ Operating income rose from a loss of \$243.0 million in 2004 to income of \$76.1 million in 2005 and \$167.0 million in 2006. Operating income was higher in interim 2007 (\$74.9 million) than in interim 2006 (\$59.9 million). CR/PR at Table C-1.

¹²⁵ Operating margins increased from negative 6.3 percent in 2004 to 1.8 percent in 2005, and further increased to 3.8 percent in 2006. In interim 2007, operating margins were 3.4 percent, compared with 2.7 percent in interim 2006. CR/PR at Table C-1.

¹²⁶ COGS was 99.1 percent of sales in 2004, 91.8 percent of sales in 2005, and 89.7 percent of sales in 2006. The ratio of COGS to sales in interim 2006 and interim 2007 was 90.6 percent in each period. CR/PR at Table C-1.

¹²⁷ Petitioner argues that because the domestic industry has largely relied on debt financing for its restructuring (leading to sharply higher interest expenses), the Commission should, in evaluating industry profitability, focus more on the industry's net income rather than on operating income. E.g., Petitioner's Prehearing Brief at 26-28. We decline to follow this suggestion. It has been the Commission's consistent practice in assessing an industry's financial performance to focus primarily on its operating income. Any exceptions to this practice generally have occurred in investigations of agricultural products, where producers often do not calculate operating income in their financial statements. A firm's operating income more accurately reflects the results of its production operations than does its net income, which may be dependent on decisions regarding the form of financing that the firm undertakes and on its "other" income and expenses. Further, the form of financing that the firm undertakes could be affected by factors unrelated to production operations (including any restructuring to which the firm might attribute its borrowing costs). In any event, even the domestic industry's net income improved dramatically over the period examined. See CR/PR at Table VI-1. In this regard, Petitioner testified that the choice of using debt financing as opposed to equity financing was examined and that the decision to use debt financing had benefits for the Petitioner. Hearing Transcript at 114 (Suwyn).

¹²⁸ We recognize that the domestic industry's capital expenditures declined throughout the period examined. Capital expenditures were \$274.7 million in 2004, \$183.8 million in 2005, \$144.6 million in 2006, \$65.2 million in interim 2006, and \$48.7 million in interim 2007. CR/PR at Table VI-5. This decline could simply reflect the fact that plant modernization expenses were incurred early in the period examined. Capital expenditures might also have been deferred by producers intending to engage in acquisitions. In any event, this factor does not outweigh the generally positive trends in the industry's performance. Finally, the industry's research and development expenditures increased modestly. Research and development expenditures were \$20.0 million in 2004, \$19.0 million in 2005, and \$20.2 million in 2006, and were \$9.3 million in interim 2006, and \$9.5 million in interim 2007. CR/PR at Table VI-5.

¹²⁹ CR/PR at Table C-1.

¹³⁰ E.g., Petitioner's Prehearing Brief at 81-87 and Posthearing Brief at 11-12.

increase in its shipments of web roll,¹³¹ this slight shift in product mix did not lead to a deterioration in the domestic industry's financial performance, which improved substantially.^{132 133} Furthermore, there is no evidence in the record that this shift in the domestic industry's product mix was caused by subject imports or that sheet is necessarily a higher margin product than web roll.¹³⁴

In light of the improvements in many of the factors having a bearing on the state of the domestic industry's condition, and the absence of any correlation between the modest increase in subject import volume levels and the industry's performance, we conclude that subject imports did not have an adverse impact on the condition of the domestic industry during the period examined. Accordingly, we determine that an industry in the United States is not materially injured by reason of subject imports of CFSP from China, Indonesia, and Korea.

VIII. NO THREAT OF MATERIAL INJURY BY REASON OF SUBJECT IMPORTS

Section 771(7)(F) of the Act directs the Commission to determine whether an industry in the United States is threatened with material injury by reason of the subject imports by analyzing whether "further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted."¹³⁵ The Commission may not make such a determination "on the basis of mere conjecture or supposition," and considers the threat factors "as a whole."¹³⁶ In making our determination, we have considered all factors that are relevant to

¹³¹ The industry's shipments of sheet declined from *** short tons in 2004 to *** short tons in 2006, while its shipments of web roll increased from 3,458,358 short tons to 3,661,976 short tons. CR/PR at Table I-8.

¹³² Cf. Artists' Canvas From China, Inv. No. 731-TA-1091 (Final), USITC Pub. 3853 (May 2006) (domestic producers forced to shift from selling higher value product to lower value product, with attendant deterioration in financial condition).

¹³³ Petitioner claims that the subject imports injured the domestic industry by preventing it from earning operating profits at least equaling its cost of capital. Hearing Transcript at 61 (Button). We note that the Petitioner submitted only its own cost of capital and did not request that the Commission collect this information from the rest of the industry. Petitioner's Posthearing Brief, Exh. 1 at 44. Even if Petitioner's cost of capital was indicative of the industry as a whole, the fact that the industry's operating income was below this threshold is not a sign of material injury caused by subject imports. The domestic CFSP industry's operating profit ratio grew by 10 percentage points from 2004 to 2006, at a time when subject imports were growing. There is no basis to conclude that an even steeper financial improvement would have occurred were it not for the subject imports. Moreover, we note that Petitioner testified that the soon-to-be-completed merger between NewPage and Stora Enso, as two of the largest domestic producers, would "lower [NewPage's] overall costs and accelerate [NewPage's] ability to achieve financial returns above [its] cost of capital." Hearing Transcript at 36 (Suwyn). As discussed above, the record does not demonstrate a link between the subject imports and any adverse effects to the domestic industry.

¹³⁴ Petitioner simply asserts that "[g]iven its significantly higher price level, sheets are the highest margin product amongst the three CFS products," (Petitioner's Prehearing Brief at 83) but there is no evidence in the record to support this assertion. The record does not include separate cost data on domestic production of web rolls and sheets.

¹³⁵ 19 U.S.C. § 1677d(b) and 1677(7)(F)(ii).

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

this investigation.¹³⁷ For the reasons discussed below, we determine that the domestic industry is not threatened with material injury by reason of cumulated subject imports from China and Indonesia, or by imports from Korea.¹³⁸

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

- (I) if a countervailable subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy particularly as to whether the countervailable subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement and whether imports of the subject merchandise are likely to increase,
- (II) any existing unused production capacity or imminent, substantial increase in production capacity in the exporting country indicating the likelihood of substantially increased imports of the subject merchandise into the United States, taking into account the availability of other export markets to absorb any additional exports,
- (III) a significant rate of increase of the volume or market penetration of imports of the subject merchandise indicating the likelihood of substantially increased imports,
- (IV) whether imports of the subject merchandise are entering at prices that are likely to have a significant depressing or suppressing effect on domestic prices and are likely to increase demand for further imports,
- (V) inventories of the subject merchandise,
- (VI) the potential for product-shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products,
- (VII) in any investigation under this subtitle which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv)) and any product processed from such raw agricultural product, the likelihood that there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission under section 1671d(b)(1) or 1673d(b)(1) of this title with respect to either the raw agricultural product or the processed agricultural product (but not both),
- (VIII) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and
- (IX) any other demonstrable adverse trends that indicate the probability that there is likely to be material injury by reason of imports (or sale for importation) of the subject merchandise (whether or not it is actually being imported at the time).

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

Factor VII is inapplicable to these investigations.

¹³⁸ We have considered the parties’ arguments concerning the period of time that is “imminent” under the statute. See Petitioner’s Posthearing Brief, Exh. 1 at 87-88; Korean Respondents’ Posthearing Brief, Exh. A at 57-58; and Chinese Respondents’ Posthearing Brief, Responses to Questions at 13-14. We note that the Statement of Administrative Action to the Uruguay Round Agreements Act indicates that “imminent” normally encompasses a shorter period of time than the “reasonably foreseeable time” applicable to five-year reviews. Uruguay Round Agreements Act Statement of Administrative Action, H.R. No. 103-316 at 887.

In evaluating what is “imminent,” the Commission has considered the nature of the production process and market for the product at issue. E.g., Carbon and Certain Alloy Steel Wire Rod From Egypt, South Africa, and Venezuela, Inv. Nos. 731-TA-955, 960, and 963 (Preliminary) (Second Remand), USITC Pub. 3796 (Sept. 2005) at 10. CFSP can be produced and shipped in a matter of weeks. Most sales of domestic and subject CFS paper are made using spot sales or short-term contracts. These market attributes suggest a relatively short period for what is “imminent.”

A. Cumulation

Section 771(7)(H) of the Tariff Act of 1930 provides as follows:

(H) Cumulation for determining threat of material injury – To the extent practicable and subject to subparagraph (g)(ii), for purposes of clause (i)(III) and (IV) of subparagraph (F), the Commission may cumulatively assess the volume and price effects of imports of the subject merchandise from all countries with respect to which –

- (i) petitions were filed under section 1671a(b) or 1673a(b) of this title on the same day.
- (ii) investigations were initiated under section 1671a(a) or 1673a(a) of this title on the same day, or
- (iii) petitions were filed under section 1671a(b) or 1673a(b) of this title and investigations were initiated under section 1671a(a) or 1673a(a) of this title on the same day,

if such imports compete with each other and with domestic like products in the United States market.¹³⁹

As noted above, we cumulated subject imports for purposes of our negative material injury determinations, and we note here that we are not precluded from considering subject imports from the three countries as candidates for cumulation for our assessment of threat of material injury. However, in evaluating threat of injury, the statute does not require cumulation but instead grants the Commission discretion to cumulate. In exercising that discretion, we typically consider factors such as (1) whether the imports are increasing at similar rates in the same markets, (2) whether the imports have similar margins of underselling, and (3) the probability that imports will enter the United States at prices that would have a depressing or suppressing effect on domestic prices of that merchandise.¹⁴⁰ In these investigations, examination of these factors, as well as other factors discussed below, lead us to conclude that we should cumulate imports from China and Indonesia, and consider imports from Korea separately.

Subject imports from Korea are not increasing at similar rates in the U.S. market as subject imports from China and Indonesia. Subject imports from Korea declined from 2004 to 2006, while imports from China and Indonesia rose on a percentage basis in that period.¹⁴¹ The divergent trend in the volume of subject imports from Korea suggests that we should not cumulate those imports with subject imports from the other two subject countries.

With respect to underselling, and import prices that are likely to depress or suppress U.S. prices, imports from all three subject countries undersold domestic prices in a majority of price comparisons

¹³⁹ 19 U.S.C. 1677(7)(H) (emphasis added).

¹⁴⁰ See Torrington Co. v. United States, 790 F. Supp. at 1172 (affirming Commission's determination not to cumulate for purposes of threat analysis when pricing and volume trends among subject countries were not uniform and import penetration was extremely low for most of the subject countries); Metallverken Nederland B.V. v. United States, 728 F. Supp. 730, 741-42 (Ct. Int'l Trade 1989); Asociacion Colombiana de Exportadores de Flores v. United States, 704 F. Supp. 1068, 1072 (Ct. Int'l Trade 1988).

¹⁴¹ Subject imports from Korea declined from *** short tons in 2004 to *** short tons in 2006, or by *** percent. Subject imports from China rose from 160,668 short tons in 2004 to 267,746 short tons in 2006, or by 66.6 percent. Subject imports from Indonesia rose from *** short tons in 2004 to *** short tons in 2006, or by *** percent. CR/PR at Table IV-3. As noted above, we discount the weight that we give to the volume of subject imports in interim 2007, due to the pendency of these investigations.

from January 2004 to June 2007. The percentage of comparisons showing underselling was lower for Korea (61 percent of comparisons) than for China (85 percent) or Indonesia (76 percent).¹⁴²

We note also different trends in capacity for the Chinese and Indonesian industries, on the one hand, and for Korean industry on the other. Toward the end of the period examined, one Korean facility closed and another shut down one of its coating machines, resulting in a decline in the capacity of the Korean industry when comparing the interim periods. No similar reductions occurred in the Chinese and Indonesian industries, either during the period examined or when the interim periods are compared. In addition, the production capacity of the subject Korean CFSP industry is projected to continue to decline, while that of the Chinese and Indonesian industries is projected to continue to increase.¹⁴³

Moreover, the two subject producers in Indonesia, and the largest producer and *** in China (Gold East) are under the common control of Asia Pulp and Paper,¹⁴⁴ while there is no such overlap in control with any producer in Korea. This difference suggests that the Chinese/Indonesian industries would operate under similar competitive conditions in the U.S. market, which is not necessarily the case for the Korean industry.¹⁴⁵ For example, the common control means that Asia Pulp and Paper could reallocate resources to ship more CFS paper to the United States from Indonesia if an antidumping or CVD order were imposed only on China, or from China if an order were imposed only on Indonesia.

On balance, therefore, in determining whether an industry in the United States is threatened with material injury by reason of subject imports, we only cumulate imports from China and Indonesia.

B. Imports from China and Indonesia

We find that neither the modest increase in the volume and market share of subject imports from China and Indonesia over the period of investigation, nor the existing unused production capacity, which is limited, nor imminent increases in production capacity in China and Indonesia, which are limited, indicate a likelihood of substantially increased imports into the U.S. market.

The volume of cumulated subject imports from China and Indonesia fluctuated but increased overall from 2004 to 2006, and was lower in interim 2007 than in interim 2006. The volume of cumulated subject imports from China and Indonesia declined from *** short tons in 2004 to *** short tons in 2005, and then rose to *** short tons in 2006. The volume of cumulated subject imports was *** in interim 2007 as compared with *** in interim 2006.¹⁴⁶ The U.S. market share of cumulated subject imports from China and Indonesia rose from *** percent in 2004, to *** percent in 2005, and to *** percent in 2006; it was *** percent in interim 2007 as compared with *** percent in interim 2006. Market share in interim 2007 was lower than interim 2006 levels, and only slightly above levels in full year 2004 and 2005.¹⁴⁷

We find that these increases are relatively modest and do not indicate an imminent injurious increase. Moreover, neither reporting Chinese nor Indonesian producers, which represented ***

¹⁴² CR/PR at Table V-17.

¹⁴³ CR/PR at Table VII-13 (Korea) and CR at VII-11, PR-VII-5 (China) and CR at VII-21, PR at VII-9 (Indonesia).

¹⁴⁴ CR at VII-20, PR at VII-9.

¹⁴⁵ Commissioner Pinkert does not join this sentence, but agrees with his colleagues that due to this common control, Asia Pulp and Paper could reallocate resources to ship more CFSP to the United States from Indonesia if an antidumping or CVD order were imposed only on China, or from China if an order were imposed only on Indonesia.

¹⁴⁶ See CR/PR at Table IV-3.

¹⁴⁷ As noted above, we discount the weight we give to the interim 2007 data due to the pendency of these investigations.

exporters from their respective countries, projected increases in exports to the U.S. market in 2007 and 2008.¹⁴⁸

The Chinese CFSP producers that responded to the Commission's questionnaire accounted for *** exports of CFSP to the United States, and are estimated to account for well over *** of total production in China of the subject merchandise.¹⁴⁹ These producers and exporters reported *** percent in 2004, *** percent in 2005, *** percent in 2006, *** percent in interim 2006 and *** percent in interim 2007.¹⁵⁰ In other words, U.S. exporters of subject merchandise from China reported *** existing unused capacity. Not all Chinese CFSP producers responded to the Commission's questionnaire, but other data sources indicate that capacity utilization of all CFSP producers in China was high over the period examined, demonstrating that there was limited existing unused production capacity in China.¹⁵¹

Responding Chinese CFSP producers projected *** future increases in their production capacity. The Chinese producers and exporters that responded to the Commission's questionnaire reported that their capacity is projected to increase from *** metric tons in 2006 to *** metric tons in 2007, and to *** in 2008.¹⁵² We recognize that a published source projects that overall production capacity in China will increase in the imminent future.¹⁵³ There is no indication, however, that other Chinese companies which do not currently export CFSP to the United States will begin to do so in that imminent time frame. There is evidence on the record that the Chinese home market for CFSP is growing – one estimate is that the home market is consuming about 500,000 additional tons of CFSP each year¹⁵⁴ – and the home market was the predominant market for the three Chinese producers that accounted for the majority of shipments of CFSP to the United States.¹⁵⁵ Further, although the United States was China's largest export market, Chinese CFSP producers also exported significant volumes to other countries.¹⁵⁶

The capacity utilization of CFSP producers in Indonesia was not as high as that of those in China, indicating that there was some existing unused production capacity in Indonesia. Such capacity would be relatively small in absolute terms, however, given the relatively small size of the Indonesian industry.¹⁵⁷

¹⁴⁸ See CR/PR at Table VII-5 (China), Table VII-9 (Indonesia).

¹⁴⁹ CR at VII-12, VII-14, PR at VII-7.

¹⁵⁰ CR/PR at Table VII-5.

¹⁵¹ Based on data from ***, capacity utilization in the Chinese industry was *** percent in 2004, *** percent in 2005, and *** percent in 2006. CR at VII-11, PR at VII-5.

¹⁵² CR/PR at Table VII-5. We note that these data do not include ***. CR at VII-15, PR at VII-7 and ***.

¹⁵³ Based on *** data, the Chinese industry's production capacity is projected to increase from *** metric tons in 2006 to *** metric tons in 2007, and to *** metric tons in 2008. CR at VII-11, PR at VII-5. We note that some of the capacity increases cited by Petitioner are not scheduled to come on-line until 2009, 2010 and beyond. See CR at VII-12 n. 12, PR at VII-5 n.12. We consider these developments to be beyond the "imminent" time frame.

Petitioner maintains that both Respondents and Petitioner agree that two CFS production lines are currently under construction in China: 1) a Ningxia line that will have 60,000 tons capacity; and 2) a Shandong Huatai Paper line that will have 450,000 tons of capacity. Petitioner Posthearing Brief, Answers to Commissioner Questions at 101-02. Given the estimates of projected annual increases in consumption in the Chinese home market, the existence of other important Chinese export markets, and the innate uncertainty as to whether these lines will be completed on schedule – and whether their production will come to the United States, particularly given that these producers ***, we do not find that these planned capacity increases indicate a likelihood of substantially increased imports from China into the U.S. market in the imminent future.

¹⁵⁴ CR at VII-12 n. 12, PR at VII-5 n. 12.

¹⁵⁵ CR at VII-17, PR at VII-9.

¹⁵⁶ See CR/PR at Table VII-4.

¹⁵⁷ Based on *** data, capacity utilization in the Indonesian industry was *** percent in 2004, *** percent in 2005, and *** percent in 2006. CR at VII-21, PR at VII-9. The capacity utilization reported to the Commission by

(continued...)

Production capacity is projected to increase only very modestly in Indonesia.¹⁵⁸ The Indonesian CFSP industry exports to a number of countries, and the United States is not among its top three export markets.¹⁵⁹

Overall, considering the industries in China and Indonesia together, there appears to be little existing unused production capacity. There are some projected increases in total production capacity for the two countries, but we find that they are not of such magnitudes as to suggest substantially increased imports of the subject merchandise into the United States in the imminent future.

The significance of any increase in imports to the United States would be lessened by the fact that imports from China and Indonesia are largely concentrated in sheet products, which represent a relatively small part of the U.S. CFSP market. Although Chinese and Indonesian industries each produce web roll CFSP, this product has accounted for a tiny, albeit growing, share of U.S. importers' shipments from these countries (**% percent in 2006).¹⁶⁰ Web roll products also represent a minor share of total production by the Chinese and Indonesian industries.¹⁶¹ Accordingly, we do not find that there will be an imminent substantial increase in imports of web-roll CFSP from China and Indonesia.

There does not appear to be any significant potential for the industry in China or Indonesia to shift from making other products to making more CFSP using shared equipment. Capacity to produce CFSP is constrained by producers' paper coating capacity.

End-of-period inventories held in China and Indonesia, as a percentage of shipments, were generally modest.¹⁶² U.S. importers held relatively small amounts of CFSP in inventory from China and Indonesia.^{163 164}

¹⁵⁷ (...continued)

the Indonesian producers and exporters was *** percent in 2004, *** percent in 2005, *** percent in 2006, *** percent in interim 2006 and *** percent in interim 2007. CR/PR at Table VII-9. We note that the capacity utilization data reported by the Indonesian producers and exporters was conservatively calculated, and likely understates actual capacity utilization. For example, the Indonesian Respondents included in their reported capacity ***. CR/PR at Table VII-9 n. 1.

¹⁵⁸ Based on *** data, the Indonesian industry's production capacity is projected to increase from *** metric tons in 2006 to *** metric tons in 2007, and to *** metric tons in 2008. CR at VII-21, PR at VII-9. The Indonesian producers and exporters reported that their capacity ***. CR/PR at Table VII-9.

¹⁵⁹ See CR/PR at Table VII-8.

¹⁶⁰ CR/PR at Tables E-2 and E-3.

¹⁶¹ CR/PR at Tables VII-7 and VII-11.

¹⁶² Inventories as a percentage of shipments in China were *** percent in 2004, *** percent in 2005, *** percent in 2006, *** percent in interim 2006, and *** percent in interim 2007. CR/PR at Table VII-5. Inventories as a percentage of shipments in Indonesia were *** percent in 2004, *** percent in 2005, *** percent in 2006, *** percent in interim 2006, and *** percent in interim 2007. CR/PR at Table VII-9.

¹⁶³ In 2006, U.S. importers held inventories of *** short tons from China and *** short tons from Indonesia. CR/PR at Table VII-18. We recognize that inventories of imports from Indonesia are likely understated, because one importer was unable to report data on its inventory levels to the Commission. Id. at n.1

¹⁶⁴ We have also considered the nature of the countervailable subsidies involved. For China, Commerce found countervailable subsidies of 7.40 percent ad valorem and 44.25 percent ad valorem for the two producers/exporters with individual rates, and a country-wide rate of 7.40 percent ad valorem. CR at I-5, PR at I-4. For Indonesia, Commerce found a countervailable subsidy of 22.48 percent ad valorem for the two cross-owned producers/exporters with individual rates, and a country-wide rate of 22.48 percent ad valorem. CR at I-5, PR at I-4. For both countries, the subsidies found appear to be subsidies described in Article 6.1 of the Subsidies Agreement, but not export subsidies described in Article 3 of the Subsidies Agreement. For both China and Indonesia, the total ad valorem subsidization of CFSP exports exceeded 5 per cent. Also, some of the subsidies in Indonesia may involve the direct forgiveness of debt. CR/PR at Tables I-2 and I-3. Nonetheless, given the other facts described in

(continued...)

We find that any limited additional volume of subject imports from China and Indonesia is not likely to have a significant depressing or suppressing effect on domestic prices, and that such subject imports will not enter the U.S. market at prices that are likely to increase demand for further imports. As explained above, although these imports undersold the domestic product extensively during the period examined, we have found that they did not depress or suppress domestic prices to a significant degree. There is nothing in the record to suggest that this will change in the imminent future. Further, we do not find that the prices of subject imports from China and Indonesia are likely to increase demand for further imports in the imminent future. Competition is limited between subject imports and the domestic product, which lessens the impact of any underselling.

There is also no evidence that these imports have had, or have the potential to have, negative effects on the existing development and production efforts of the domestic industry. As noted above, only after the filing of the petitions were subject imports identified as a cause for the shuttering of U.S. CFSP capacity. Moreover, the domestic industry's overall production capacity was little changed over the period examined,¹⁶⁵ and NewPage has not been deterred from embarking on the major acquisition of Stora Enso.

Finally, we do not find the domestic industry to be vulnerable to future injury. The financial condition of the domestic industry improved steadily over the period examined, as a number of domestic CFSP producers restructured their operations, closed inefficient and antiquated equipment, and thereby reduced their costs. The industry's capacity utilization improved throughout the period examined, as did productivity. In addition, although debt carry remains an issue for NewPage in light of its plan to acquire Stora Enso's North American paper operations, we view further consolidation of the industry as a positive development.¹⁶⁶ While some other indicia of the industry's condition (most notably employment indicators other than productivity) declined,¹⁶⁷ and its profitability, though improving substantially, was not strong in absolute terms, on balance we find the domestic industry not to be vulnerable.

Given the modest imminent increase in production capacity in China and Indonesia, the absence of any potential for product shifting, the lack of evidence of significant price effects from these imports during the period examined, the moderate inventories of the subject merchandise, the absence of negative effects of the subject imports on the development and production efforts of the domestic industry, and our conclusion that the domestic industry is not vulnerable, we find that material injury by reason of subject imports will not occur absent issuance of antidumping and countervailing duty orders against subject imports from China and Indonesia. We therefore conclude that the domestic CFSP industry is not threatened with material injury by reason of imports from China and Indonesia.

¹⁶⁴ (...continued)

this section, we do not find these subsidies are likely to generate substantial additional subject imports from China and Indonesia in the imminent future.

¹⁶⁵ CR/PR at Table C-1.

¹⁶⁶ As a NewPage executive explained to securities analysts when the acquisition was announced, NewPage anticipates substantial cost synergies from this acquisition, and views it as accelerating its path to economic returns equal to or greater than its cost of capital. Remarks of Mark Suwyn, Chairman and CEO of NewPage, September 21, 2007 conference call with securities analysts (copy of transcript in Korean Respondents' Prehearing Brief at Exhibit 20).

¹⁶⁷ As previously stated, we find that the declines in employment indicators other than productivity appear to be related to the restructuring of the industry rather than competition from subject imports.

C. Imports from Korea

The capacity utilization of subject CFSP producers in Korea was quite high over the period examined, indicating that there was little, if any, existing unused production capacity.¹⁶⁸ Moreover, no increase in production capacity is imminent; indeed, the capacity of subject Korean producers is projected to decline by *** percent in 2008 as compared with 2006, on account of the closing of one producer's plant and the shutdown of part of the coating capacity at another firm.¹⁶⁹ Even if there were an increase in imports of subject merchandise from Korea to the United States, any effects would be muted by the fact that imports from Korea during the period examined have consisted only of sheet (which represents a small part of U.S. consumption) and not of web roll, despite Korean production of web rolls throughout the period examined, indicating that most if not all of any increase in imports from Korea would be of sheet. There was no significant increase in the volume or market share of subject imports from Korea during the period examined that would suggest a likelihood of substantially increased imports.^{170 171}

Further, there does not appear to be any significant potential for the Korean industry to shift from making other products to making more CFSP on shared equipment. Capacity to produce CFSP is constrained by producers' paper coating capacity. End-of-period inventories held in Korea, as a percentage of shipments, were modest,¹⁷² and U.S. importers held relatively small amounts of CFSP in inventory from subject producers in Korea.¹⁷³ We note also that the imposition by China of dumping duties on imports from Korea in 2003 has not diverted Korean shipments to the United States, and we have no reason to believe that such diversion will occur in the imminent future.¹⁷⁴

We find that subject imports from Korea are not likely to have a significant depressing or suppressing effect on domestic prices and that they are not likely to increase demand for further imports. As explained above, although these imports undersold the domestic product extensively during the period examined, we have found that they did not depress or suppress domestic prices to a significant degree. There is nothing in the record to suggest that this will change.

¹⁶⁸ Based on *** data, capacity utilization in the Korean industry (including subject and non-subject producers) was *** percent in 2004, *** percent in 2005, and *** percent in 2006. CR at VII-28, PR at VII-12. The capacity utilization reported by subject Korean producers was *** percent in 2004, *** percent in 2005, *** percent in 2006, *** percent in interim 2006 and *** percent in interim 2007. CR/PR at Table VII-13.

¹⁶⁹ Subject Korean producers reported that their capacity is projected to decline from *** short tons in 2006 to *** short tons in 2007, and to *** short tons in 2008. CR/PR at Table VII-13.

¹⁷⁰ The volume of subject imports from Korea declined from *** short tons in 2004 to *** short tons in 2005, and rose to *** short tons in 2006. The volume of Korean subject imports was *** short tons in interim 2007, compared with *** short tons in interim 2006. CR/PR at Table IV-3. The market share of subject imports from Korea declined from *** percent in 2004, to *** percent in 2005, and rose to *** percent in 2006. The market share of these subject imports was *** percent in interim 2007, compared with *** percent in interim 2006. CR/PR at Table IV-5. The ratio of subject imports from Korea to domestic production declined from *** percent in 2004 to *** percent in 2005, and then rose to *** percent in 2006. This ratio was *** percent in interim 2007, compared with *** percent in interim 2006. CR/PR at Table IV-6.

¹⁷¹ We note that a significant proportion of the imports of CFSP from Korea – *** – was from producers that are not subject to Commerce's antidumping and countervailing duty determinations. See CR/PR at Table IV-3.

¹⁷² Inventories as a percentage of shipments in Korea were *** percent in 2004, *** percent in 2005, *** percent in 2006, *** percent in interim 2006, and *** percent in interim 2007. CR/PR at Table VII-13.

¹⁷³ In 2006, U.S. importers held inventories of *** short tons from Korea. CR/PR at Table VII-18.

¹⁷⁴ We have also considered the nature of the countervailable subsidies involved. For the subject producer in Korea, Commerce found a countervailable subsidy of 1.46 percent ad valorem, and a country-wide rate of 1.46 percent ad valorem. CR at I-5, PR at I-4. The subsidies found do not appear to be subsidies described in Articles 3 or 6.1 of the Subsidies Agreement. See CR/PR at Table I-4.

There is also no evidence that these imports have had, or have the potential to have, negative effects on the existing development and production efforts of the domestic industry. As noted above, only after the filing of the petitions were subject imports identified as a cause for the shuttering of U.S. CFSP capacity. Finally, as explained above in our discussion of imports from China and Indonesia, we do not find the domestic industry to be vulnerable to future injury.

Given the actual and projected decline in production capacity in Korea, the absence of any potential for product shifting, the lack of evidence of significant price effects from these imports during the period examined, the moderate inventories of the subject merchandise, the absence of negative effects by the subject imports on the development and production efforts of the domestic industry, and our conclusion that the domestic industry is not vulnerable, we find that material injury by reason of subject imports will not occur absent issuance of antidumping and countervailing duty orders against subject imports from Korea. We therefore conclude that the domestic CFSP industry is not threatened with material injury by reason of imports from Korea.

CONCLUSION

For the reasons stated above, we determine that an industry in the United States is not materially injured or threatened with material injury by reason of imports of coated free sheet paper from China, Indonesia, and Korea that have been found by the Department of Commerce to be subsidized and sold in the United States at less than fair value.

DISSENTING VIEWS OF COMMISSIONER CHARLOTTE R. LANE

Based on the record in the final phase of these investigations, I find that an industry in the United States is materially injured by reason of imports of coated free sheet paper (CFSP) from China, Indonesia and Korea that have been found by the Department of Commerce to be subsidized and sold in the United States at less than fair value.

I join with the majority Commission views with regard to: I. Background, II. Domestic Like Product, III. Domestic Industry, and IV. Negligible Imports. I write separately, however, with regard to cumulation and material injury by reason of subject imports.

V. 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* (emphasis added) with each other and the domestic like product in the U.S. market.¹ 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.²

No single factor is necessarily determinative, and the list of factors is not exclusive. These factors have historically been used by the Commission simply to provide a consistent framework for determining whether the subject imports compete with each other and with the domestic like product.³ Moreover, only a “reasonable overlap” of competition is required.⁴ Thus, this framework may be modified or expanded depending on the nature of the product being examined. Importantly, it must be recognized that the analytical framework and factors devised by the Commission are tools for answering

¹ 19 U.S.C. 0 1677(7)(G)(i).

² See Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea, and Taiwan, Inv. Nos. 73 1-TA-278-280 (Final), USITC Pub. 1845 (May 1986), affd, Fundicao Tupy S.A. v. United States, 678 F. Supp. 898 (Ct. Int'l Trade), affd, 859 F.2d 915 (Fed. Cir. 1988).

³ See, e.g. Wieland Werke, AG v. United States, 718 F. Supp. 50 (Ct. Int'l Trade 1989).

⁴ 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)), affd 859 F.2d 915 (Fed. Cir. 1988); See Wieland Werke, AG, 718 F. Supp. at 52 ("Completely overlapping markets are not required.").

the primary statutory question of whether subject imports “compete with each other and the domestic like product in the U.S. market.”

B. Analysis

The threshold requirement for cumulation is satisfied because Petitioner filed a petition with respect to each of the subject countries on the same day and none of the statutory exceptions to cumulation is applicable.⁵ Therefore if subject imports from China, Indonesia and Korea compete with each other and the domestic like product cumulation is required. I examine the record in light of the factors that the Commission customarily considers in determining whether there is a reasonable overlap of competition.

With regard to the fungibility factor, I do not agree with an analysis that requires such similarity of products that a perfectly symmetrical fungibility is necessary.⁶ I find that the fungibility factor might be better described as an analysis of whether subject imports from each country and the domestic like product could be substituted for each other. The parties agree that CFSP is a commodity product. The domestic CFSP and subject imports are generally interchangeable and serve the same end purpose, that being the production of high-quality print products. There is some question in this case regarding limited fungibility since much of the domestic product is sold as web rolls while the bulk of subject imports are sheets. Based on the record, I do not find that this is a relevant distinction that could lead to a conclusion that these products do not compete with each other. Clearly, the subject imports in sheet form compete with each other and domestic sheeted CFSP. However, the record also indicates that end users representing a large portion of domestic consumption of CFSP have dual capability to use either sheets or web rolls to produce their products. The record further indicates that the added cost of cutting rolls to sheet sizes is not minor and is reflected either in the price of sheets or is internal to end users that use web rolls and cut their product to size at their own facilities. Thus, end users that use lower priced web rolls will ultimately incur costs related to cutting printed material after printing it. While other factors, such as the volume of a print job and the speed of printing will enter into purchasing decisions, the availability of low cost sheets must also enter into decisions to use web rolls or sheets for a particular job. This ability to produce the same printed material with either web rolls or sheets creates competition between web rolls, sheeter rolls and sheets. Thus, I find that there is a significant overlap of competition not only in roll to roll products, but also in sheet to roll products.

With regard to geographic overlap, the domestic like product and subject imports from all three countries are marketed, at least to some extent, throughout the United States. The distribution channel for most CFSP produced in the United States and subject imports are similar. The *** majority of CFSP is sold to merchants who resell the product to end users. Very small quantities of both domestic production and subject imports are sold directly to end users. Finally, the record indicates that domestic production and subject imports were simultaneously present in the market throughout the POI.

I find that imports from China, Indonesia and Korea compete with each other and with the domestic like product and that all of the requirements for mandatory cumulation have been met.

⁵ See 19 U.S.C. 0 1677(7)(G)(ii).

⁶ 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").

VI. MATERIAL INJURY BY REASON OF THE SUBJECT IMPORTS

In the final phase of antidumping and countervailing duty investigations, the Commission determines whether an industry in the United States is materially injured by reason of the imports under investigation. The statute defines material injury as "harm which is not inconsequential, immaterial, or unimportant." In making this determination, the Commission must consider the volume of subject imports, the effect of subject imports on prices for the domestic like product, and the impact of subject imports on U.S. operations of domestic producers of the domestic like product. 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 domestic industry."⁷

For the reasons stated below, I determine that the domestic CFSP industry is materially injured by reason of subject imports from China, Indonesia, and Korea.

A. Conditions of Competition

The following conditions of competition are pertinent to my analysis of the impact of subject CFSP on the domestic industry.

1. Supply Conditions

In 2006, 10 U.S. firms accounted for all U.S. production of CFSP. The *** largest of these firms, ***, accounted for approximately *** percent of domestic production. The capacity of domestic producers remained relatively stable from 2004 to 2006 at approximately 5.3 million tons.⁸ Domestic capacity represented about *** percent of total domestic consumption in 2006 and domestic production shipped into the U.S. market represented *** percent of total domestic consumption. Non-subject imports declined somewhat from 2004 to 2006, dropping from *** tons to *** tons. In 2006, non-subject imports accounted for *** percent of total domestic consumption. Subject imports made up the balance of domestic consumption, accounting for *** percent in 2006.

Since 2004, there have been a number of organizational changes in the domestic industry. One relatively large producer located in Texas ceased operations in September 2005, shutting down *** tons of capacity. The paper machines at that plant have been sold off as parts. Other significant supply changes in the domestic industry included shut downs of paper machines rather than the closure of whole mills. These shut downs were *** tons in Westbrook, Maine, *** tons in Hamilton, Ohio, *** tons in Muskegon, Michigan, *** tons in Luke, Maryland, and *** tons at Stevens Point, Wisconsin. These supply reductions were offset by a capacity expansion from the rebuilding of machines at Kimberly, Wisconsin *** and Wisconsin Rapids, Wisconsin ***. In addition, *** tons of CFSP capacity was added from conversion of a coated groundwood machine at Kimberly, Wisconsin and *** from the conversion of an uncoated free sheet machine.

The domestic industry has undergone corporate restructuring and several inter-corporate sales and acquisitions of CFSP capacity. A large portion of the restructuring and acquisitions involved debt financing which raised the debt leverage ratios of the domestic industry and have contributed to significant increases in its interest expense. On September 21, 2007, Stora Enso Oyj announced that it was selling its U.S. subsidiary to NewPage. This transaction, which is expected to close in the first quarter of 2008, will combine Stora Enso's *** tons of CFSP output in 2006 and NewPage's *** tons.

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

⁸ CR/PR at Table C-1.

The combined production of these two producers represented *** percent of the domestic industry's total 2006 production quantities.

CFSP is produced in rolls for web presses and in rolls intended to be cut into sheets before being printed. These "sheeter" rolls are then either slit into sheets by the producer of the rolls, or sold, as is, for later conversion to sheets by a converter or end user. From 2004 through 2006, U.S. producers have sold a fairly consistent 78 to 79 percent of their product as web rolls, *** percent as sheeter rolls, and *** to *** percent as sheets. During the same period, the mix of cumulated subject imports of web rolls increased from less than *** percent to *** percent while sheeter rolls remained a fairly constant *** percent and sheets dropped from *** percent to *** percent.⁹

2. Demand Conditions

CFSP is used by print shops to print high quality materials requiring high-gloss pages. These materials include books, catalogues, magazines, direct mail advertising material, posters, signage, playing cards, and annual reports. Apparent U.S. consumption of CFSP was relatively flat between 2004 and 2006. Apparent U.S. consumption declined somewhat when comparing the interim periods. The level of apparent U.S. consumption is calculated based on reported subject import data, which may be understated due to misclassification of CFSP as coated groundwood paper, in which case the 2006 and interim 2007 calculated domestic consumption should be higher than the annual consumption levels reflected in the Final Commission Report. Although the data collected reflects relatively flat demand, in their questionnaire responses all responding U.S. producers, 14 of 24 responding importers and 1 of 3 responding producer/importers opined that demand was increasing. Most responses attributed changes in demand to the U.S. economy and Petitioner states that the CFSP industry is cyclical, following the U.S. economy as a whole.¹⁰

There are limited substitutes for CFSP, including coated groundwood paper, and uncoated free sheet paper. However, the characteristics of these products are different, making them less desirable than CFSP for most jobs. Petitioner indicated that once a recurring publication begins using CFSP it is reluctant to change to a different paper.

The paper cost component of products that are printed on CFSP is relatively high, ranging from 14 percent to 40 percent of the total cost of commercial printing, from 20 percent to 55 percent of the total cost of magazine production and from 30 percent to 100 percent of the total cost of catalogues.¹¹

The evidence shows that some U.S. printers have both sheet printing presses and web roll printing presses and that many jobs can be done on either type of press. The testimony indicates that all of the printed material brought to the hearing by the Petitioner as examples of uses of CFSP could be printed on either web-roll presses or sheet presses. Although the extent of printers having both sheet presses and web roll presses was contested, the record indicates that printers having such capability represent over 50 percent of the current market for CFSP. Moreover, there was testimony that the historic difference between web rolls and sheeter rolls has become blurred and that some purchasers will

⁹ All of the subject import web rolls during the period of investigation were from China. From 2004 to 2006, web rolls went from less than *** percent of the Chinese subject imports to approximately *** percent.

¹⁰ CR at II-5-II-6; PR at II-3-II-4.

¹¹ CR at II-8; PR at II-5.

opt to buy web rolls for sheeting even though CFSP producers do not provide warranty coverage for web roll paper that is used in sheet presses.

B. Volume of Subject Imports

Section 771(7)(C)(i) of the Act provides that the “Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant.” I find that subject import volume was significant during the period examined both in absolute terms and relative to consumption and production in the United States, and that the increase in volume was also significant.

The volume of cumulated subject imports from China, Indonesia, and Korea increased irregularly from 2004 to 2006, going from *** tons in 2004 to *** tons in 2006, an increase of *** percent in two years.¹² The volume of subject imports dropped in interim 2007; however, this decrease occurred after the filing of the petition for this proceeding in late 2006. Subject imports equaled *** percent of U.S. producers’ U.S. shipments in 2004. This percentage declined slightly in 2005 before increasing to *** percent in 2006. The share of U.S. apparent consumption represented by cumulated subject imports increased from *** percent in 2004 to *** percent in 2006. This increasing market share trend reversed in interim 2007 when cumulated market share dropped back to *** percent.

NewPage argues that subject imports reflected in the Commission’s data are understated beginning in late 2006 due to changes in HTS classifications by importers. NewPage presented data showing a significant increase in reported imports of coated groundwood paper from China. The data presented indicates that merchandise classified as coated groundwood paper more than doubled in 2006 as compared to 2005. However, this increase in 2006 was but the tip of an impending deluge of reported coated groundwood paper imports in 2007 as merchandise classified as coated groundwood increased from 433 metric tons in the first six months of 2006 to 48,175 metric tons in the first six months of 2007. The huge increase in reported imports of coated groundwood paper occurring after the filing of this case, and after preliminary bonding on imports of coated free sheet paper was implemented, appears to be more than an unusual coincidence. The Final Commission Report calculates apparent U.S. consumption based on the level of U.S. shipments of U.S. production plus the level of reported imports. If the surge in reported coated groundwood imports represents misclassification, as NewPage argues, then both the U.S. apparent consumption and the volume of subject imports reflected in the Commission Report should be higher in interim 2007. In such case, the market share for subject imports would be higher than the *** percent reflected in the Report and the market share for domestic production would be lower. The drop in subject imports in interim 2007 does not appear to represent a shift in trade that is independent of this proceeding. Therefore, it is appropriate to focus more on the 2004 through 2006 data to evaluate the conditions of competition and impact of subject imports on the domestic industry.

The parties agree that CFSP is a commodity product and that the purchasing decisions of buyers depend heavily on price. Even a relatively small volume of low priced subject imports in a commodity market, or even the anticipation of potential volumes, can have relatively large impacts on prices and magnified effects on a domestic industry. I find that the volume, and the increase in volume, of subject imports are significant both in absolute terms and relative to consumption and production in the United States.

¹² CR/PR at Table C-1.

B. Price Effects of 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.¹³

The Commission gathered pricing information on seven different products. Pricing products 1, 2 and 3 were two-sided coated sheets of varying weights and brightness and product 7 described one-sided coated sheets. Pricing products 4 and 5 were two-sided coated web rolls with different weight and brightness characteristics and product 6 described two-sided coated sheeter rolls.¹⁴

In addition to describing different characteristics of the CFSP, the pricing data were also divided between sales to merchants and direct sales to end users. The pricing comparisons differed markedly for the direct sales to end users with overselling by subject imports being reported in a large number of instances. However, the relative volume of both domestic producer sales and subject import sales directly to end users was very small. Thus, on a weighted basis, the overselling in the direct sales market would have little impact on the average margins of underselling. Moreover, the prices reported reflect that domestic producers sold directly to end users at lower prices than prices charged to merchants for those pricing products that made up the bulk of such direct sales. This is not a usual pattern since merchants who resell to end users generally require a lower purchase price which they can then mark-up to cover their costs and profit margins. The subject imports sold directly to end users exhibited the expected price premium over similar sales to merchants. Given the relatively small volume of domestic production being sold directly to end users, the even smaller volume of subject imports being sold directly to end users, and the uncharacteristic lower prices reported by domestic producers for their direct sales to end users, the price comparisons require a more detailed analysis than a simple tally of instances of underselling and overselling for both merchant sales and direct sales to end users. I have analyzed both merchant sales data and direct sales data and I find the merchant sales data to be more probative with regard to the effect of prices of subject imports on the prices of the domestic like product.

In 104 quarterly pricing comparison between domestic and subject imports prices for sheet products 1, 2, 3, and 7 sold to merchants there was pervasive, and substantial, underselling in 103 comparisons. The weighted average margins of underselling by subject imports for calendar years 2004, 2005, and 2006 ranged from *** percent to *** percent. In the two quarters of 2007 for which pricing data was reported, even though the domestic prices of products 2 and 3 declined, subject import margins of underselling remained high, averaging *** percent, *** percent, *** percent and *** percent for products 1, 2, 3, and 7 respectively.¹⁵

The pricing comparisons for web rolls (products 4 and 5) and sheeter rolls (product 6) shows lower volumes of subject imports, both on an absolute basis and relative to domestic producers' sales. Underselling, while still pervasive, is at lower margins. For the two web roll products the subject imports undersold the domestic like product in 21 out of 21 quarterly price comparisons. Margins of underselling ranged from *** percent to *** percent. For the sheeter roll product, out of 28 quarterly pricing

¹³ 19 U.S.C. §1677(7)(C)(ii).

¹⁴ CR at V-7; PR at V-5.

¹⁵ CR/PR. Weighted average underselling margins for merchant sales of subject imports are derived from the quarterly data contained in Tables V-1 through V-13.

comparisons subject imports undersold domestic like product in 11 quarters and oversold domestic prices in 17 quarters. The underselling was generally in the *** percent to *** percent range while overselling ranged from *** percent to *** percent. These comparisons involve relatively small amounts of domestic production, generally in the range of *** to *** tons per quarter and the subject imports tend to be very small, with most of the overselling involving subject import volumes of around *** tons per quarter.

Although the bulk of direct comparisons for the largest volumes of subject imports are in the sheet products, a comparison of prices for web and/or sheeter rolls and sheets shows that the domestic industry generally adds an increment of \$*** to \$*** per ton over web products for sheets of comparable weight and brightness.¹⁶ This represents a premium of approximately *** percent for sheets as compared to the price charged for roll products. However, subject imports tend to charge almost the same price for roll products and sheets. Thus, a purchaser that might otherwise choose to use domestic rolls rather than sheets because of the price premium for domestic sheets could purchase subject import sheets for close to the same price per ton as domestic web and/or sheeter rolls. Thus, decisions to purchase domestic web rolls may be affected by the low price of imported sheets, setting up competition between roll product and sheet product.

The record demonstrates that the underselling by subject imports is significant. Not only is there underselling in most products, the underselling margins are very high. Quality is an important, but not a negative factor, for decisions to purchase subject imports since most purchasers found the quality of subject imports to be acceptable. Therefore, price is the most important significantly variable factor in purchasing decisions and the high margins of underselling are placing significant pressure on the ability of domestic producers to raise prices.

The respondents argue that the mere presence of underselling does not, in and of itself, demonstrate that subject imports have depressed domestic prices or have prevented price increases that otherwise would have occurred. Respondents point to the fact that domestic prices have generally increased over the POI as evidence that prices have not been depressed.

Respondents also argue that the traditional Commission cost/price squeeze analysis indicates that there has been no suppression of needed price increases since prices have increased more than the increases in cost of goods sold. The respondents also question the accuracy of the domestic industry's argument that its increased levels of operating income have been positively influenced by significant reductions in costs related to the industry's restructuring and efficiency measures. Respondents go so far as to argue that the domestic industry's statements are factually incorrect. To demonstrate that point, respondents argue that the Commission's variance analysis demonstrates that from 2004 to 2006 ninety (90) percent of the over \$400 million improvement in the industry's operating profits was related to increasing prices. They further argue that the Commission's variance analysis shows that the improvement in operating income attributable to cost decreases was inconsequential. The respondents are either missing the point or are purposely painting a broad picture that does not specifically address the point that is being made by the domestic industry. The respondents are looking at the total expenses reflected in the variance analysis rather than the categories of expenses which are being addressed in the domestic industry's argument. The domestic industry, on the other hand, is arguing that it is experiencing increases in cost categories over which it has little control, but is offsetting those cost increases through its management practices, including restructuring. The domestic industry is arguing that under these circumstances, the ratio of cost of goods sold to sales revenue does not fully disclose the internal structural changes that tend to reduce the ratio of cost of goods sold to sales, does not fully

¹⁶ CR/PR. Derived from pricing data contained in Tables V-1 to V-12.

disclose the costs that make the structural changes possible and, therefore does not fully disclose the extent to which prices are being suppressed.

The variance analysis that is adopted by the respondents in their argument is contained in Table VI-5 of the Final Commission Report.¹⁷ Boiled down to its basic summary, the analysis is as follows:

Item	2004-06 (\$1,000)
Price variance	367.939
Net cost/expense variance	56.566
Net volume variance	(14.434)
Total net operating income variance	410.071

Addressing only this cumulated data, the respondents characterize the \$56,566,000 net cost/expense reductions as “inconsequential”.

However, breaking the data into its component parts, the variance analysis is as follows:

Item	2004-06 (\$1,000)
Price variance	367.939
Net cost/expense variance:	
Increased raw material costs	(236.058)
Reduced labor costs	79.656
Reduced other factory costs	207.551
Subtotal reduced COGS	51.149
Reduced SG&A	5.417
Total net cost/expense variance	56.566
Net volume variance	(14.434)
Total net operating income variance	410.071

Although the net reduction in COGS is only \$51,149,000, this is comprised of an increase in the cost of raw materials of \$236,058,000, offset by reductions in labor costs of \$79,656,000 and reductions in other factory overheads of \$207,551,000. Thus, instead of being “inconsequential”, the reductions in the cost of goods sold controlled by domestic industry management and restructuring equal \$287 million, or 70 percent of the total improvement in net operating income from 2004 to 2006. While the domestic industry was able to increase prices by more than the increase in its raw materials costs, the ratio of cost of goods sold to net sales would not have dropped nearly as dramatically if it were not for the reduced costs attributable to reduced labor and reduced other factory costs. Moreover, traditional accounting does not include interest expense as part of the cost of goods sold, or in operating expenses at all, even though

¹⁷ Although the construction of the variance table in the Final Report could be reconfigured, such reconfiguration would have only slight changes on the numbers. Moreover the variance data is cited by the respondents, so they appear to have accepted this construction of a variance analysis.

the interest is related to debt that supports the property, plant and equipment directly employed in the production process. Thus, even though the effects of cost reductions are reflected in the COGS/Net sales calculation, the significantly increased interest expenses that are associated with those cost reductions are not reflected in the calculation.

The record indicates that subject imports and the domestic like product possess a relatively high degree of interchangeability. Purchasers reported that subject imports and the domestic like product were generally comparable with respect to a majority of product attributes. The only major deviations from general comparability came in price and availability related items. Subject imports were generally perceived as offering lower prices by a clear majority of purchasers while the domestic like product was perceived as being superior with regard to availability and delivery time.¹⁸ Most of the producers, importers, and purchasers that responded to the Commission's question on interchangeability reported that subject imports and the domestic like product are either always interchangeable (50 questionnaire responses) or frequently interchangeable (60 responses). Twenty three responses indicated that the products were seldom interchangeable and only 4 indicated that they were never interchangeable.¹⁹

The record also indicates that price is an important factor for purchasers of CFSP. Forty of 45 purchasers indicated that price was a very important factor in their purchasing decisions and the remaining 5 indicated that it was somewhat important. Price, quality and availability were named as the factors that ranked highest in purchasing decisions. Price ranked number one with 13 purchasers and number two with 11 purchasers. Quality ranked number one with 13 purchasers and number two with 10 purchasers. Availability ranked number one with 9 purchasers and number 2 with 12 purchasers. Price was listed as either the number one, two or three purchasing decision factor by 40 purchasers as compared to 31 purchasers listing quality as a number one, two or three factor and 28 purchasers listing availability. Other purchasing decisions factors ranked far below price in importance to purchasers.²⁰ Twenty three of 45 responding purchasers indicated that the lowest price product would either always or usually win the sale. Nineteen reported that the lowest price product would win a sale "sometimes".²¹

With regard to lost sales or lost revenues attributable to competition from subject imports, NewPage noted that because CFS paper is sold predominantly by way of merchants, it can be difficult to identify and quantify specific instances of lost sales. Nevertheless, six of eight U.S. producers responded that they had lost sales or revenues due to subject imports. U.S. producers provided *** lost sales allegations totaling \$*** and *** lost revenue allegations totaling \$***. Staff attempted to contact the purchasers named in the allegations and received responses from some. Staff received no response regarding *** lost sales allegations. For the remaining allegations of lost sales, the purchasers partially confirmed *** allegation and neither agrees nor disagreed with the remaining allegations. Staff received no response regarding *** lost revenue allegation. *** responses confirmed the largest lost revenue

¹⁸ CR/PR at Table II-5.

¹⁹ CR/PR at Table II-3.

²⁰ CR/PR at Tables II-1 and II-2.

²¹ CR at II-9; PR at II-6.

allegations. The remaining responses could not verify the specific transactions cited, but disagreed with a portion of the allegations based on the location of the purported transactions.²²

This data must be considered in light of an industry that is suffering from severely depressed net operating income. The industry should be able to raise prices to not only cover the increased cost of its raw materials, but also to improve its net operating income to a level that at least covers its interest expense. As will be discussed later in the impact section of these views, I find the net operating income of the industry, although improved, is still too low. This indicates that the industry suffers from a squeeze on its profit levels since it is prevented from raising prices to levels needed to produce at least a minimum reasonable net operating income. This inability to raise prices is related to the increased subject imports at severely reduced prices that undersell the domestic industry in a large percentage of pricing products examined. Therefore, I find that the domestic industry's prices are being suppressed by the subject imports.

C. Impact of Subject Imports on the Domestic Industry

The statute requires that the Commission, in examining the impact of the subject imports on the domestic industry, evaluate all relevant economic factors which have a bearing on the state of the industry. 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."

The domestic industry's output, sales and financial performance have not improved commensurate with the relatively stable market for CFSP and the reasonably strong U.S. economy. Output increased by 133,719 tons, or 2.8 percent, from 2004 to 2006, however, this increase can not be attributed to increased sales in the U.S. market. U.S. shipments by the domestic industry decreased by 3,022 tons from 2004 to 2006 and inventories increased slightly. The data in the Final Commission Report indicates that the market share of the domestic industry increased very slightly from 2004 to 2006, going from *** percent to *** percent. Moreover, the Report indicates that the domestic market share increased in interim 2007 to *** percent. However, as explained earlier, the market share calculation is based on the apparent U.S. consumption quantities which, NewPage has argued, are understated due to misclassification of subject imports. Subject imports market share grew from *** percent in 2004 to *** percent in 2006. During this period, the NewPage data indicates that the potential misclassification of subject imports is relatively small. However, the misclassification could be significantly understating subject import's absolute level and market share for interim 2007, when the reported data show that subject imports declined by *** percent from interim 2006 and their market share dropped back down to 2004 levels.

During the POI, the domestic industry lost employees and productivity improved significantly, going from 282.9 tons per 1,000 hours worked in 2004 to 351.0 tons per 1,000 hours worked in 2006. However, productivity gains were not accompanied by any increased wages to production workers that remained employed. The number of production workers dropped from 8,110 in 2004 to 6,666 in 2006 and continued to decline into interim 2007 where the number of production workers was reported to be 6,641. This 17.8 percent reduction in workers from 2004 to 2006 was matched by a 17.2 percent reduction in hours worked. However, wages paid dropped even more precipitously by a total of 28.8 percent from 2004 to 2006. This drop in wages reflected not only the reduction in work force, but also a

²² CR at V-37 to V-42; PR at V-13 to V-14.

drop in average wages from \$29.70 per hour to \$25.51 per hour, a decrease in hourly wages of 14.1 percent.

In examining the impact of subject imports on the domestic industry, along with negative effects on profits, cash flow and return on investment, the list of statutory factors that the Commission is required to consider includes negative effects on employment and wages. It is important to note that negative effects on employment and wages translate into positive effects on the domestic industry's profits, cash flow and return on investment. Thus, to the extent that the domestic industry props up profits through reductions in work force and reduction in wages, the negative effects on the domestic workers are masked if the analysis of impact focuses solely on the financial statements of producers of the domestic like product. In this case, the workers in the domestic industry have been injured as evidenced by lost jobs, lost wages and a decline per hour wage rates. The domestic industry provided testimony that the reductions in work force were directly related to the unfair competition from subject imports.²³ Mr. Tyrone, Newpage Vice President of Sales and Marketing, testified that, while it was true that shutdowns involve the least productive machines, and the number 7 machine at the Luke, Maryland mill ran with relatively low productivity, it was "undeniably true" that were it not for the level of subject imports the Luke number 7 machine "would be running today".²⁴

While some reductions in work force, particularly when accompanied by restructuring, rationalization or modernization, may occur, it is not usual for the workers that remain to see significant reductions in hourly wages. When asked about this injury to the domestic workers that are still employed, Mr. LaCrosse, representing the United Steel Workers Union responded that:

In some cases, people have been asked to take a reduction in wages because we're being told at the facilities when we're in the collective-bargaining process that the employers are saying: We just can no longer compete and pay these wages if we're going to continue to run these facilities. So we're really faced with two choices: We either reduce their labor costs through the collective-bargaining process, or we see our membership declining even further because they're going to shut the machinery down.

Improvements in productivity should not have to come at the expense of lost jobs. Productivity should be a partnership between employers and employees. Increased investment by employers, coupled with work force dedication to improve productivity, should lead to shared benefits as reduced costs allow businesses to compete more effectively for market share and employees can retain their jobs as production levels increase. This is not happening in the CFSP industry. The productivity gains in the CFSP industry have allowed some, but not enough, improvement in the industry's bottom line while employees are suffering layoffs and reduced wages.

The data available to the Commission indicate that the actual negative impact on domestic workers is huge. From 2004 to 2006, 1,444 production and related workers have been eliminated from CFSP operations. The total hours of employment in CFSP operations have declined by 17.2 percent, or 2,935,000 hours. This reduction in work force and hours worked represents \$87,170,000 in lost wages based on the 2004 average hourly wage rate of \$29.70. Then, in addition to this injury to workers that have lost their jobs, the remaining workers have experienced a reduction in hourly wages of 14.1 percent, or \$4.19 per hour. This represents an additional \$59,368,000 in lost wages.

Through a combination of price increases that exceeded the increases in the cost of raw materials and massive cost cutting measures the domestic industry was able to climb out of a net operating loss position and move its net operating income into the black. The domestic industry had an operating loss of \$243,037,000 in 2004. In 2005 and 2006 the industry generated an operating profit, reaching

²³ Hearing transcript, pp. 36, 76, 81, 86, 99-100.

²⁴ Hearing transcript, p. 103.

\$167,034,000 in 2006. The 2006 net operating income represented a ratio to net sales revenue of 3.8 percent. A significant factor contributing to the improved operating income of the domestic industry was an increase in its average unit value of net sales. The net sales AUV increased from \$820 in 2004 to \$894 in 2006, an increase of 9.0 percent. However, this increase in the AUV of net sales cannot account for all of the improvement in net operating income of the domestic industry. In addition, the industry was able to reduce its labor costs, factory overheads (factory costs other than labor and raw materials²⁵) and SG&A expenses by over \$292 million.

Respondents point to the improved net operating income of the domestic industry as evidence that it has not been materially injured. I do not agree with the Respondents. While the domestic industry has been able to increase some of its prices and has been able, with the help of these price increases and cost cutting measures, to move its ratio of operating income from a negative in 2004 to 3.8 percent in 2006, the 3.8 percent operating income is clearly insufficient. Although the industry might be able to raise its prices at a greater rate than its costs are increasing, if that increase in prices is not sufficient to produce a reasonable operating income, then the industry is facing a profit squeeze from somewhere. In this case, with relatively strong demand, massive restructuring with associated cost reductions and greatly improved productivity, there is no evidence that points to any reason for the inability of the domestic industry to generate at least a bare bones reasonable profit other than the existence of unfairly traded subject imports. Absent unusual levels of non-operating income, it is clear that net operating income that does not cover interest expense will lead to net income losses. This makes the domestic CFSP industry particularly vulnerable to injury from subject imports.

While I do not want to get into the arena of determining what would or would not be a reasonable profit level for the industry, the record shows that the 2006 net operating income is not reasonable. This is clear when the level of net operating income is compared to interest expense of the domestic industry. Although the domestic industry was able to increase its net operating income to \$167 million in 2006, its interest expense was \$210 million. The respondents seem to argue that the Commission should disregard interest expense since it is not accounted for as an operating expense and it does not enter into any of the traditional measures that the Commission has used to describe relative profitability, such as the ratio of net operating income to net sales. Although the domestic industry argued that the 2006 operating income equates to a return on investment of 3.1 percent, which is woefully short of its cost of capital, and I agree with that argument, it is not necessary to evaluate the overall cost of capital to determine that the industry's improved operating income is still unreasonably low and that its inability to cover its interest expense will lead inevitably to its demise. While determining a reasonable target for the industry's operating income may be an arguably subjective exercise, there is nothing subjective about comparing the industry's net operating income to its interest expense that supports the debt capital which is employed in the financing of CFSP production assets.

C. The Application of *Bratsk*

The Federal Circuit in *Bratsk Aluminum Smelter v. United States* requires that we undertake an additional analysis of non-subject imports in certain circumstances. Specifically, the Court has directed that:

[w]here commodity products are at issue and fairly traded, price competitive, non-subject imports are in the market, the Commission must explain why the elimination of subject imports would benefit the domestic industry instead of resulting in the non-subject

²⁵ The line item for "raw materials" in the variance analysis in the Final Staff Report includes oil and natural gas costs. (See CR at p. V-1).

imports' replacement of the subject imports' market share without any beneficial impact on the domestic producers.²⁶

I perform the analysis required as part of my consideration of factors other than subject imports which may be injuring the domestic industry to assure that the material injury presently incurred by the domestic industry is "by reason of" subject imports. However, I note, as explained below, that a mandatory finding of either benefits to the domestic industry or elimination of subject imports upon the imposition of an Order is not required, or even consistent, with the statute.

There is no statutory provision that would allow the Commission or the Department of Commerce to dispense with relief on any grounds once subject imports have been found to be causing present injury. Furthermore, there is no statutory requirement that a duty imposed as a result of an affirmative determination result in removal of subject imports from the U.S. market or eliminate the injury incurred by the domestic industry. In fact, the statute recognizes that an industry may remain injured even after an order is issued. The purpose of antidumping and countervailing duty orders is not to "eliminate" the subject merchandise from the domestic market but rather to impose remedial duties to ensure that the subject merchandise is sold at fairly traded prices. It is not unusual for substantial volumes of the subject merchandise to continue to enter the United States following the imposition of an antidumping or countervailing duty order.²⁷

Notwithstanding my disagreement with the basic "elimination of subject imports" and "benefit" presumptions of the Court's decision, I have applied the Court's directive to the facts of this case.

Under Bratsk and Caribbean Ispat, the obligation to apply the "replacement/benefits" analysis "is triggered whenever the antidumping investigation is centered on a commodity product, and price competitive non-subject imports are a significant factor in the market." While CFSP can exhibit varying characteristics of thickness and brightness, all CFSP is used for high quality printing. The record is clear that price is the most important differentiating factor in purchasing decisions and all parties agree that CFSP is a commodity product. In these investigations, non-subject imports represented a larger volume of the total imports entering the U.S. market during the POI than did the subject imports. Non-subject imports accounted for between *** percent and *** percent of total imports (on a quantity basis), over this period.²⁸ Non-subject imports exceed the volume of subject imports, which I have found to be significant. There are no outstanding anti-dumping or countervailing duty orders on non-subject imports and no evidence that they are unfairly traded. Finally, with regard to being price competitive, CFSP is a commodity product and commodity products are price competitive by definition. Thus, the Bratsk triggering factors are satisfied.

Since I find that both triggers of the Bratsk test are satisfied, I must now determine whether non-subject imports would have fully replaced subject imports, without a benefit to the domestic industry during the POI.

An examination of major non-subject supplying countries indicates that they were not likely to have fully replaced subject imports. Non-subject producers in Korea were operating at *** to *** percent of their capacity during the POI. Their unused capacity was less than *** tons throughout the POI. Moreover, Korean non-subject imports would not have entered the U.S. at sufficiently low prices to prevent U.S. producers from capturing some of the market vacated by subject imports. The AUV of non-subject Korean imports *** the U.S. producers' total AUVs *** and were *** the AUV's of subject imports throughout the POI.

²⁶ Caribbean Ispat, 450 F.3d at 1341, quoting Bratsk, 444 F.3d at 1373.

²⁷ Consequently, the counterfactual analysis that underpins the Federal Circuit's analysis in Bratsk – the complete absence of the subject merchandise from the domestic market – is neither the purpose or, frequently, the effect of the antidumping and countervailing duty statutes.

²⁸ CR/PR at Table IV-3.

Canada, a formerly significant exporter of CFSP to the U.S. market, now has a very insignificant amount of CFSP capacity production left. During the POI, Canada's total exports (and exports to the U.S.) fell by almost 50 percent, and Canada was a substantial net importer of CFSP.²⁹ Canadian unused capacity equaled only *** tons in 2006.

Unlike subject imports, imports from Finland increased only slightly during the POI. Finnish production capacity remained stable over the POI and is projected to increase only slightly in 2007 and 2008. The Finnish CFSP industry is export oriented; however, in 2006, U.S. imports of CFSP from Finland accounted for just 10.2 percent of total Finnish exports.³⁰ Thus, the United States, which is not among Finland's top three export markets, has not been a target for any significant increase in imports from Finland. Data gathered by the Commission which included non-subject products indicated relatively low prices for imports from Finland. However, data gathered specific to CFSP indicated that the exports of subject product to the United States from Finland were at AUV's that *** the AUV's of subject imports throughout the POI.

Germany's exports to the United States fell by 15 percent over the POI. In 2006, U.S. imports of CFSP from Germany accounted for only *** percent of total U.S. imports and 7.6 percent of total German exports. Germany's production capacity remained stable over the POI and is projected to increase only slightly in 2007 and 2008, and its capacity utilization rate rose from *** percent in 2004 to *** percent in 2006.³¹ Import values specific to CFSP obtained by the Commission indicated AUV's that were *** either subject imports or domestic shipments.

The Commission also received information on production and exports of CFSP on Ahistrom's plants in France and Italy and Sappi's plants in Austria, Belgium, Germany, Netherlands and the United Kingdom. Exports from those companies carried AUV's that *** the AUV's of subject imports and domestic shipments throughout the POI.

The devaluation of the U.S. dollar relative to the Euro and the Canadian dollar during the POI also constrained European suppliers from entering the U.S. market in significantly increased volumes. As noted by Petitioner, from November 2005 to September 2007, the Euro appreciated by 18 percent against the U.S. dollar.³² A weaker U.S. dollar tends to make exporting to the United States from countries with relatively strong currencies less attractive for producers in those countries.

Moreover, even it was possible for non-subject imports to completely replace subject imports, U.S. producers would still have benefitted from such replacement because non-subject imports were generally sold at higher prices than subject imports. Thus, the replacement of low priced subject imports with higher priced non-subject imports would have relieved the downward pressure on U.S. producers' prices from the lower priced subject imports, thereby benefitting the domestic industry.

For these reasons I find that the elimination of subject imports from the U.S. market would not have resulted in replacement by non-subject imports with no benefit to the domestic industry.

D. Conclusion

The record in this proceeding indicates that the domestic CFSP industry is vulnerable and is suffering material injury. There is substantial evidence the subject imports are causing this injury due to their volume and price effects which prohibit the domestic industry from earning sufficient income from its operations to even cover its interest expense. Moreover, employment in the domestic industry has suffered significant declines both in the absolute level of jobs and wages, but also in average wages for the employees that continue to work in the industry. No other factors, including the existence of non-

²⁹ CR/PR at Table VII-19.

³⁰ CR/PR at VII-46.

³¹ CR/PR at VII-49.

³² Petitioner's Posthearing Brief, Questions & Answers at 50.

subject imports, can explain the injury to the domestic industry while the causal effect of subject imports in reducing domestic profits and employment is clear. Accordingly, I find that the CFSP industry in the United States is materially injured by reason of subject imports from China, Indonesia and Korea.

PART I: INTRODUCTION

BACKGROUND

These investigations result from a petition filed by NewPage Corp. (“NewPage”), Dayton, OH,¹ on October 31, 2006, alleging that an industry in the United States is materially injured and threatened with material injury by reason of subsidized and less-than-fair-value (“LTFV”) imports of coated free sheet (“CFS”) paper² from China, Indonesia, and Korea. Information relating to the background of the investigations is provided below.³

Effective date	Action
October 31, 2006	Petition filed with Commerce and the Commission; institution of Commission investigations (71 FR 64983, November 6, 2006)
November 27, 2006	Commerce’s notices of initiation of the countervailing duty and antidumping investigations (71 FR 68546 and 71 FR 68537, respectively)
December 22, 2006	Commission’s preliminary determinations (71 FR 78464, December 29, 2006)
April 9, 2007	Commerce’s preliminary countervailing duty determinations for China, amended (72 FR 17484); Indonesia (72 FR 17498); and Korea (72 FR 17507, amended 72 FR 26074, May 8, 2007)
May 2, 2007	Alignment of the final countervailing duty determinations for China, Indonesia, and Korea with the final antidumping duty determinations (72 FR 24277)
May 8, 2007	Commerce’s amended preliminary countervailing duty determination for Korea (72 FR 26074)
June 4, 2007	Commerce’s preliminary antidumping duty determinations for China (72 FR 30758), Indonesia (72 FR 30753), and Korea (72 FR 30766)
June 4, 2007	Scheduling of final phase of Commission’s investigations (72 FR 36719, July 5, 2007)
October 17, 2007	Commerce’s final antidumping and countervailing duty determinations: letter from Commerce received October 23, 2007; <i>Federal Register</i> notices of October 25, 2007: countervailing duty determinations for China (72 FR 60645), Indonesia (72 FR 60642), and Korea (72 FR 60639) and Commerce’s final antidumping duty determinations for China (72 FR 60632, October 25, 2007), Indonesia (72 FR 60636,), and Korea (72 FR 60630)
October 18, 2007	Commission’s hearing ¹
November 20, 2007	Commission’s vote
December 6, 2007	Commission’s views transmitted to Commerce

¹ A list of witnesses that appeared at the Commission’s hearing is presented in app. B.

¹ NewPage began operating as an independent company on May 2, 2005. Its operations consist of the former Printing and Writing Papers Business of MeadWestvaco Corp. Petition, p. 2, n. 1.

² A complete description of the imported products subject to these investigations is presented in the *Subject Product* section of this part of the report.

³ *Federal Register* notices cited in the tabulation since the Commission’s preliminary determinations are presented in app. A.

STATUTORY CRITERIA AND ORGANIZATION OF THE REPORT

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

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

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

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

. . .

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

. . .

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

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

obtained for use in the Commission's consideration of the question of threat of material injury are presented in *Part VII*.

THE U.S. COATED FREE SHEET PAPER MARKET

Petitioner NewPage is one of several producers of CFS paper in the United States. CFS paper represents *** percent of NewPage's annual sales in the facilities where it manufactures CFS paper. The subject merchandise is imported by a number of mill agents, independent brokers, and paper merchants. Some of the importers (mill agents, in particular) are related to subject manufacturers of CFS paper.

Approximately 40 producers manufacture CFS in China, although the majority do not export subject merchandise to the United States. The Indonesian industry, in comparison, is much smaller, consisting of only two related producers of substantial size. Several companies manufacture CFS paper in Korea; *** reported exporting subject merchandise to the United States during the period examined.

Most sales of both domestically produced and imported CFS paper are made to paper merchants. Paper merchants, in turn, typically sell directly to end users, a substantial portion of which are commercial printers. Leading markets for CFS paper are direct mail, catalogues, books, magazines, and labels and wraps.

SUMMARY DATA

A summary of data collected in these investigations for the CFS paper market in the United States is presented in appendix C. The period examined during the final phase of the investigations is January 2004 through June 2007. U.S. industry data are based on questionnaire responses of 11 firms that accounted for virtually all U.S. production of CFS paper during 2006. U.S. imports are calculated from both questionnaire responses (for China, in part, Indonesia and Korea) and from official Commerce data (for China, in part, and all other sources).

PREVIOUS AND RELATED INVESTIGATIONS

The Commission has not previously conducted an import injury investigation concerning CFS paper. During 1991, the Commission conducted antidumping duty investigations on coated groundwood paper⁴ from Austria, Belgium, Finland, France, Germany, Italy, the Netherlands, Sweden, and the United Kingdom (Inv. Nos. 731-TA-486-494). The Commission determined that the subject imports did not injure the domestic coated groundwood paper industry.⁵

⁴ The product subject to investigation was defined by Commerce as "paper coated on both sides with kaolin (China clay) or other inorganic substances (e.g., calcium carbonate), of which more than ten percent by weight of the total fiber content consists of fibers obtained by mechanical process, regardless of (1) basis weight (e.g., pounds per ream or grams per one square meter sheet); (2) GE brightness; or (3) the form in which it is sold (e.g., reels, sheets, or other forms)." Paperboard was excluded from the scope of the investigations. See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Coated Groundwood Paper from Germany*, 56 FR 56385, November 4, 1991.

⁵ *Coated Groundwood Paper from Austria, Belgium, Finland, France, Germany, Italy, the Netherlands, Sweden, and the United Kingdom (Inv. Nos. 731-TA-486-494 (Preliminary))*, USITC Publication 2359, February 1991, p. 3; and *Coated Groundwood Paper from Belgium, Finland, France, Germany, and the United Kingdom (Inv. Nos. 731-TA-487-490 and 494 (Final))*, USITC Publication 2467, December 1991, p. 3.

NATURE AND EXTENT OF SUBSIDIES AND SALES AT LTFV

On October 25, 2007, Commerce published notices in the *Federal Register* of its final determinations that countervailable subsidies are being provided to certain producers and exporters of CFS paper in China, Indonesia, and Korea. A summary of the net countervailable subsidy rates (in percent *ad valorem*) are presented in table I-1. The country-specific programs investigated by Commerce, along with net subsidy rates for those programs found to be countervailable, by firms, are identified and presented in tables I-2-I-4.

Table I-1
CFS paper: Summary of Commerce's net countervailable subsidy rates

Country	Firm	Net subsidy rate (percent <i>ad valorem</i>)
China ¹	Gold East Paper (Jiangsu) Co., Ltd.	7.40
	Shandong Chenming Paper Holdings Ltd.	44.25
	All others	7.40
Indonesia	PT. Pabrik Kertas Tjiwi Kimia Tbk and PT. Pindo Deli Pulp and Paper Mills	22.48
	All others	22.48
Korea	EN Paper Mfg., Ltd.	0.04 (<i>de minimis</i>)
	Hansol Paper Co., Ltd.	0.17 (<i>de minimis</i>)
	Kyesung Paper Co., Ltd. (and its affiliate Namhan Paper Co., Ltd.)	1.46
	Moorim Paper Co. Ltd. (and its affiliate Moorim SP Co., Ltd.)	0.00
	All others	1.46

¹ On June 13, 2007, Shandong Chenming Paper Holdings, Ltd. withdrew its participation in Commerce's investigation. The firm also withdrew its previously submitted business proprietary information from Commerce's record.

Source: *Coated Free Sheet Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 72 FR 60645, October 25, 2007; *Coated Free Sheet Paper from Indonesia: Final Affirmative Countervailing Duty Determination*, 72 FR 60642, October 25, 2007; and *Coated Free Sheet Paper from the Republic of Korea: Notice of Final Affirmative Countervailing Duty Determination*, 72 FR 60639, October 25, 2007.

Table I-2
CFS paper: Subsidy programs in China investigated by Commerce and rates for those found to be countervailable, by firms

	Subsidy program	Type	Net subsidy rate (percent ad valorem)	
			Gold East	Chenming
1	"Other subsidies" for Chenming	Grants	(¹)	4.11
2	State Key Technology Renovation Project Fund	Grants	(²¹)	4.11
3	Clean Technology Production Fund	Grants	(²¹)	4.11
4	Famous Brands	Grants	(²)	4.11
5	Policy loans	Government-provided loans	4.11	4.11
6	"Two Free/Three Half" program	Income tax	0.76	0.76
7	Income tax exemptions programs for FIEs based on location	Income tax	0.76	0.76
8	Local income tax exemption and reduction program	Income tax	0.15	0.76
9	Income tax credits on purchases of domestically produced	Income tax	(²)	0.76
10	VAT rebates on purchases of domestically produced equipment	VAT	0.08	1.51
11	VAT and tariff exemptions on imported equipment	VAT	1.51	1.51
12	Domestic VAT refunds (for companies located in Hainan Economic Development Zone)	VAT	0.04	1.51
13	Direction adjustment tax on fixed assets	Income tax	(²)	0.76
14	Income tax exemption program for export-oriented FIEs	Income tax	(²)	0.76
15	Corporate income tax refund program for reinvestment of FIE	Income tax	(²)	0.76
16	Preferential tax policies for FIEs engaged in forestry and	Income tax	(¹)	0.76
17	Preferential tax policies for enterprises engaged in forestry	Income tax	(¹)	0.76
18	Special Fund for Projects for the Protection of Natural Forestry	Grants	(¹)	4.11
19	Compensation Fund for Forestry Ecological Benefits	Grants	(¹)	4.11
20	Discounted loans for export-oriented enterprises	Government-provided loans	(²)	4.11
21	Subsidies to input suppliers	(¹)	(²)	(¹)
22	Debt-to-equity swap for APP China	(¹)	(³)	(¹)
23	Exemption from payment of staff and worker benefits for export-oriented enterprises	(¹)	(⁴)	(⁴)
	Total net subsidy rate		7.41	44.25

¹ Not applicable/available.

² Programs determined not to have been used or not to have provided benefits for Gold East.

³ Programs determined to be not countervailable for Gold East.

⁴ Program determined to be terminated.

Source: "Commerce CVD Issues and Decision Memorandum" for China, October 17, 2007, pp. 3-16.

Table I-3
CFS paper: Subsidy programs in Indonesia investigated by Commerce and rates for those found to be countervailable, for TK/PD

	Subsidy program	Net subsidy rate for TK/PD (percent ad valorem)
1	Government of Indonesia ("GOI") provision of standing timber for less than adequate remuneration	14.21
2	GOI's log export ban	3.11
3	Subsidized funding for reforestation (Hutan Tanaman Industria or HTI Program): "Zero Interest" rate loans	0.01
4	Debt forgiveness through the GOI's acceptance of instruments that had no market value	0.75
5	Debt forgiveness through SMG/APP's buyback of its own debt from GOI	4.40
6	Subsidized funding for reforestation (Hutan Tanaman Industria or HTI Program): Government Capital Infusions Into Joint Venture Forest Plantation	(¹)
7	Subsidized funding for reforestation (Hutan Tanaman Industria or HTI Program): Commercial rate loans	(²)
	Total net subsidy rate	22.48
¹ Program determined to be not countervailable. ² Program determined to be not used.		
Source: "Commerce CVD Issues and Decision Memorandum" for Indonesia, October 17, 2007, pp. 18-47.		

Table I-4
CFS paper: Subsidy programs in Korea investigated by Commerce and rates for those found to be countervailable, by firms

	Subsidy program	Net subsidy rate (percent ad valorem)			
		Kyesung	Hansol	Moorim	EN Paper
1	Poongman restructuring	0.88	(¹)	(¹)	(¹)
2	Export and Import Credit Financing from KEXIM	(¹)	0.11	(¹)	(¹)
3	Sale of pulp for less than adequate remuneration	0.09	0.06	0.00	0.04
4	Sales of pulp from raw material reserve for less than adequate remuneration	(¹)	(¹)	0.005	(¹)
5	Reduction to taxes for operation in regional and national industrial complexes	0.005	(¹)	(¹)	(¹)
6	Duty drawback on non-physically incorporated items and excess loss rate	0.35	(¹)	(¹)	(¹)
7	Loans under the industrial base fund	0.14	(¹)	(¹)	(¹)
8	Export loans by commercial banks under KEXIM's Trade Bill Rediscouting Program	(¹)	0.00	0.00	(²)
9	D/A loans issued by the KDB and other government-owned banks	(¹)	0.00	0.00	(¹)
10	Long-term lending provided by the KDB and other GOK-owned institutions	(³)	(³)	(³)	(³)
11	Direction of credit to the pulp and paper industry	(³)	(³)	(³)	(³)
12	Usance loans issued by the KDB and other government-owned banks	(³)	(³)	(³)	(³)
13	Shinho restructuring	(³)	(³)	(³)	(³)
14	Trade financing under the ACCL Program	(⁴)	(⁴)	(⁴)	(⁴)
15	Commercial paper loans under the ACCL Program	(⁵)	(⁵)	(⁵)	(⁵)
16	Corporate procurement loans under the ACCL Program	(⁵)	(⁵)	(⁵)	(⁵)
17	Electronically processed secured receivable loans	(⁶)	(⁶)	(⁶)	(⁶)
18	Funds for production of basic materials or parts	(⁶)	(⁶)	(⁶)	(⁶)
19	Loans under the KDB's Rediscount Program	(⁷)	(⁷)	(⁷)	(⁷)
	Total net subsidy rate	1.46	0.17	0.00	0.04

¹ Not applicable.

² No benefit to the company because the the benchmark interest rate is lower than the interest rates that the company actually paid.

³ Programs determined to be not countervailable.

⁴ Program did not constitute countervailable trade financing.

⁵ Programs are not measurable and do not require a countervailable finding.

⁶ Programs not used by respondents.

⁷ Program determined to be terminated.

Source: "Commerce CVD Issues and Decision Memorandum" for Korea, October 17, 2007, pp. 8-28.

On October 25, 2007, Commerce published notices in the *Federal Register* of its final determinations of sales at LTFV for China, Indonesia, and Korea. The weighted-average antidumping duty margins are presented in table I-5.⁶

**Table I-5
CFS paper: Summary of Commerce's antidumping duty margins**

Country	Firm	Weight average antidumping duty margins (percent ad valorem)
China ¹	GE's Collapsed Entity ²	21.12
	Yanzhou Tianzhang Paper Industry Co., Ltd.	21.12
	PRC-wide rate	99.65
Indonesia	PT. Pabrik Kertas Tjiwi Kimia Tbk, PT. Pindo Deli Pulp and Paper Mills, and PT. Indah Kiat Pulp and Paper Tbk	8.63
	All others	8.63
Korea	EN Paper Mfg., Ltd.	12.31
	Hankuk Paper Mfg. Co., Ltd.	0.47 (<i>de minimis</i>)
	Hansol Paper Co., Ltd.	0.97 (<i>de minimis</i>)
	Kyesung Paper Co., Ltd.	31.55
	Moorim Paper Co. Ltd. and Moorim SP Co., Ltd.	1.05 (<i>de minimis</i>)
	All others	18.70
<p>¹ On June 11, 2007, Shandong Chenming Paper Holdings, Ltd. withdrew its participation in Commerce's investigation. The firm also withdrew its previously submitted business proprietary information from Commerce's record.</p> <p>² Gold East Paper (Jiangsu) Co., Ltd.-Gold Hua Sheng Paper (Suzhou Industry Park) Co., Ltd.-China Union (Macao Commercial Offshore) Company Ltd. China Union is not a producer of CFS paper but is an affiliate to Gold East Paper and Gold Hua Sheng. 72 FR 30761, June 4, 2007.</p>		

As shown in the table, Commerce determined that four firms (Hankuk, Hansol, Moorim Paper, and Moorim SP) were not selling CFS paper at LTFV.⁷

⁶ *Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the People's Republic of China*, 72 FR 60632, October 25, 2007; *Notice of Final Determination of Sales at Less than Fair Value: Coated Free Sheet Paper from Indonesia*, 72 FR 60636, October 25, 2007; and *Notice of Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the Republic of Korea*, 72 FR 60630, October 25, 2007. Commerce published an "Issues and Decision Memorandum for Final Determination" for its LTFV investigations concerning China, Indonesia, and Korea; each memorandum has been placed on the Commission's record of these investigations.

⁷ Hankuk is, however, subject to the Korea "all others" subsidy margin and is, accordingly, classified as a manufacturer of subject product for the purpose of these investigations. For convenience, throughout this report the term "nonsubject" with respect to Korea is used to refer to CFS paper manufactured by Hansol, Moorim Paper and Moorim SP and the term "subject" is used to refer to merchandise manufactured by all other Korean producers.

THE SUBJECT PRODUCT

Commerce has defined the imported merchandise subject to investigation as:⁸

The merchandise covered by each of these investigations includes coated free sheet paper and paperboard of a kind used for writing, printing or other graphic purposes. Coated free sheet paper is produced from not-more-than 10 percent by weight mechanical or combined chemical/mechanical fibers. Coated free sheet paper is coated with kaolin (China clay) or other inorganic substances, with or without a binder, and with no other coating. Coated free sheet paper may be surface-colored, surface-decorated, printed (except as described below), embossed, or perforated. The subject merchandise includes single- and double-side-coated free sheet paper; coated free sheet paper in both sheet or roll form; and is inclusive of all weights, brightness levels, and finishes. The terms "wood free"⁹ or "art"¹⁰ paper may also be used to describe the imported product.

Excluded from the scope are: (1) coated free sheet paper that is imported printed with final content printed text or graphics; (2) base paper to be sensitized for use in photography; and (3) paper containing by weight 25 percent or more cotton fiber.¹¹

During these final phase investigations, petitioner filed a request for scope clarification with Commerce, requesting that Commerce clarify that the scope of the investigation includes CFS paper

⁸ *Coated Free Sheet Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 72 FR 60645, October 25, 2007; *Coated Free Sheet Paper from Indonesia: Final Affirmative Countervailing Duty Determination*, 72 FR 60642, October 25, 2007; *Coated Free Sheet Paper from the Republic of Korea: Notice of Final Affirmative Countervailing Duty Determination*. 72 FR 60639, October 25, 2007; *Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the People's Republic of China*, 72 FR 60632, October 25, 2007; *Notice of Final Determination of Sales at Less than Fair Value: Coated Free Sheet Paper from Indonesia*, 72 FR 60636, October 25, 2007; and *Notice of Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the Republic of Korea*, 72 FR 60630, October 25, 2007.

⁹ The term, wood free, which is used in other countries such as Canada, is synonymous with free sheet and denotes a paper that has been made principally from chemical pulp.

¹⁰ In this context, art paper is a highly finished coated paper designed to be printed with halftones. Halftones are photo-engraved printing plates that typically are reproductions of photographs or other objects having a gradation of tones. *The Dictionary of Paper*, 4th ed.

¹¹ Respondents from Indonesia requested that Commerce exclude from the scope of its investigations cast-coated free sheet paper. Commerce determined that it was not appropriate to exclude cast-coated free sheet paper from the scope of its investigations. 72 FR 30754, June 4, 2007. Cast coating is a process where additional coating is added to web rolls which are then cast against polished drums resulting in a glass-like, ultra smooth surfaced used in high definition printing, labels, and digital imaging. The process was reported to have been developed by a predecessor firm to Smart Papers LL, a U.S. manufacturer; the technology is available in a limited number of mills on a worldwide base. Hearing transcript, pp. 43-44 (Needham). Indonesian manufacturers produce cast coated CFS paper; China does not. Indonesian respondents' posthearing brief, p. 13.

containing hardwood bleached chemi-thermo-mechanical pulp (“BCTMP”).¹² Petitioner argued that while the scope of the investigation defines CFS paper as “produced from not-more-than 10 percent by weight mechanical or combined chemical/mechanical fibers,” this language is “definitional rather than exclusionary—that is, it defines what is normally considered to be coated free sheet, but it does not by its terms exclude coated free sheet that contains more than 10 percent semi-chemical pulp.”¹³ (BCTMP is considered to be a semi-chemical pulp.) Petitioner asserted that clarification of the scope is necessary in order to prevent circumvention of possible antidumping and countervailing duty orders.¹⁴ Commerce determined not to make the clarification requested by the petitioner.^{15 16} Counsel for the Chinese manufacturers argues that the result of the Commerce ruling is to classify imports of coated free sheet paper containing more than 10 percent BCTMP as nonsubject merchandise.¹⁷

U.S. Tariff Treatment

CFS paper is generally imported under the Harmonized Tariff Schedule of the United States (“HTS”) statistical reporting numbers 4810.13.1900, 4810.13.2010, 4810.13.2090, 4810.13.5000, 4810.13.7040, 4810.14.1900, 4810.14.2010, 4810.14.2090, 4810.14.5000, 4810.14.7040, 4810.19.1900, 4810.19.2010, and 4810.19.2090, and is free of duty under the general duty rate.¹⁸ Table I-6 shows selected provisions of the HTS that itemize the classification of CFS paper. These categories require that the merchandise be “paper and paperboard of a kind used for writing, printing or other graphic purposes.” Because such end-use descriptions may cause confusion for some users, some subject imports may be incorrectly entered under other HTS subheadings (e.g., 4810.31, 4810.32, which apply to coated kraft paper). CFS paper was also shown to be misclassified by importers under other HTS subheadings (particularly, 4811.59.20 and/or 4811.90.80, which apply to plastic-coated paper and other specialty

¹² King & Spalding submission, September 11, 2007, p. 2. The request for clarification of the scope was originally filed with Commerce on August 20, 2007. Commerce rejected the filing because it contained new factual information and was filed after the deadline for submitting such information. The filing was resubmitted on September 10, 2007, with new factual information deleted.

¹³ *Ibid.*, p. 8.

¹⁴ *Ibid.*, p. 5.

¹⁵ 72 FR 60645, October 25, 2007; 72 FR 60642, October 25, 2007; 72 FR 60639, October 25, 2007; 72 FR 60632, October 25, 2007; 72 FR 60636, October 25, 2007; and 72 FR 60630, October 25, 2007. For further information *see* Commerce’s “Scope Memorandum” (October 17, 2007 memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration entitled “Scope Clarification Request: NewPage Corporation”) which is appended to Commerce’s October 17, 2007, “Issues and Decision Memorandum” for its subsidy investigation concerning China.

¹⁶ In its Scope Memorandum Commerce cited two reasons for its determination to not clarify the scope at this time: (1) “the scope language draws a clear line at ‘not more than 10 percent by weight mechanical or combined chemical/mechanical fibers,’” and Commerce “read the language ‘bleached chemithermomechanical’ pulp literally;” and (2) “the request for clarification was not filed until August 20, 2007, less than two months before the deadlines” for the final determinations and Commerce “could not accept new factual information submitted in support of or in opposition to the clarification request.” Scope Memorandum, p. 9.

¹⁷ Hearing transcript, p. 320 (Morgan).

¹⁸ Although the HTS subheadings are provided for convenience and customs purposes, the written description of the scope of these investigations is dispositive.

**Table I-6
Coated free sheet paper: Tariff rates, 2007**

Selected HTS provisions	Article description	Col. 1 General ¹	Col. 2 Special	Col. 2 ²
		Rates (percent ad valorem)		
4810	Paper and paperboard, coated on one or both sides with kaolin (China clay) or other inorganic substances, with or without a binder, and with no other coating, whether or not surface-colored, surface-decorated or printed, in rolls or rectangular (including square) sheets, of any size:			
4810.13	Paper and paperboard of a kind used for writing, printing or other graphic purposes, not containing fibers obtained by a mechanical or chemi-mechanical process or of which not more than 10 percent by weight of the total fiber content consists of such fibers: In rolls: Of a width exceeding 15 cm: Weighing not more than 150 g/m ² :			
4810.13.1900	Other	Free		37%
4810.13.20	Weighing more than 150 g/m ² . .	Free		42%
4810.13.2010	Coated on one side only. . . .			
4810.13.2090	Other			
4810.13.50.00	Other: Printed, embossed or perforated.	Free		30%
4810.13.70	Other	Free		30%
4810.13.7040	Other			
4810.14	In sheets with one side not exceeding 435 mm and the other side not exceeding 297 mm in the unfolded state: With one side exceeding 360 mm and the other side exceeding 150 mm in the unfolded state: Weighing not more than 150 g/m ²			
4810.14.1900	Other	Free		37%
4810.14.20	Weighing more than 150 g/m ² . .	Free		42%
4810.14.2010	Coated on one side only. . . .			
4810.14.2090	Other			
4810.14.5000	Other Printed, embossed or perforated	Free		30%
4810.14.70	Other	Free		30%
4810.14.7040	Other			
4810.19	Other: Weighing not more than 150 g/m ² :			
4810.19.1900	Other	Free		37%
4810.19.20	Weighing more than 150 g/m ² . .	Free		42%
4810.19.2010	Coated on one side only			
4810.19.2090	Other			

¹ Normal trade relations, formerly known as the most-favored-nation duty rate.
² Applies to imports from a small number of countries that do not enjoy normal trade relations duty status.

Source: Harmonized Tariff Schedule of the United States (2007).

papers) during the period examined (January 2004-June 2007).¹⁹ See appendix D of this report for additional discussion of the misclassification of U.S. imports of CFS paper.

THE DOMESTIC LIKE PRODUCT

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

Petitioner contended during the preliminary phase of the investigations that the domestic like product is coextensive with the scope of the subject merchandise as defined by Commerce, which includes both single-side-coated (or C1S) and double-side-coated (or C2S) CFS paper in "both sheet and roll form" regardless of the weight, brightness level, and/or finish.²⁰ Respondents stated at the Commission's conference that they did not contest the definition of the domestic like product for the purpose of the Commission's preliminary investigations.²¹ In its preliminary views, the Commission found that there is a single domestic like product coextensive with the scope of these investigations.²² Petitioner indicated in its prehearing brief that there is no new information on the record that would suggest a different like domestic product finding.²³ Chinese and Korean respondents likewise contend that a single domestic like product is appropriate.²⁴

Physical Characteristics and Uses

As noted in the scope, the imports subject to these investigations are paper or paperboard of a kind intended for writing, printing, or other graphic purposes. Earlier investigations by the Commission found paper to be a "highly ubiquitous commodity with many applications and nearly as many varieties."²⁵ According to the report of the earlier investigations, graphic papers are differentiated by the surface characteristics of the paper and the processes by which their wood fibers are obtained, and the

¹⁹ Other possible HTS statistical reporting numbers where product may be misclassified are the groundwood paper categories (4810.29.1000, 4810.29.7040, and 4810.99.1000). Petitioner's posthearing brief, app. 1, p. 23. Indonesian respondents also suggest that importers could misclassify subject merchandise under the HTS statistical reporting numbers used for packaging applications (4810.92.1200). Indonesian respondents' posthearing brief, p. Q-11.

²⁰ Petitioner's postconference brief, p. 6.

²¹ Conference transcript, pp. 185-186 (Morgan and Cameron).

²² *Coated Free Sheet Paper from China, Indonesia, and Korea (Inv. Nos. 701-444-446 (Preliminary) and 731-TA-1107-1109 (Preliminary))*, USITC Publication 3900, December 2006, pp. 7 and 23 (n. 3). Information gathered during the preliminary phase of these investigations regarding differences and similarities between the subject products, and coated groundwood and uncoated free sheet, are presented in the *Domestic Like Product Issues* section of the Commission's preliminary report. Both products are categories within the hierarchy of graphics papers identified above that are in certain respects similar to CFS paper. *Ibid.*, pp. I-10-I-14.

²³ Petitioner's posthearing brief, pp. 5-8.

²⁴ Chinese respondents and Unisource's posthearing brief, *Responses to Questions from the Commission*, pp. 1-3, and Korean respondents' postconference brief, app. A, p. 1. Korean respondents note that no party has argued that CFS web rolls and sheets (forms of CFS paper) are separate domestic like products within the scope. *Ibid.*

²⁵ *Coated Groundwood Paper from Belgium, Finland, France, Germany, and the United Kingdom*, Inv. Nos. 731-TA-487-490 and 494 (Final), USITC Publication 2467, December 1991, p. A-4.

industry segments graphic papers based on these characteristics.²⁶ This fundamental hierarchy for graphic papers, which is shown below, remains unchanged.

Coated free sheet– clay coated paper predominately composed of chemically obtained fibers (90 percent or more by weight), used primarily for permanent and higher priced publications such as premium magazines, gift books, and art reproductions.

Uncoated free sheet– similar in composition to coated freesheet but without coating and used primarily for xerographic paper, printing, drawing, and writing paper (e.g., letterhead, stationery).

Coated groundwood– clay coated paper made with substantial proportions of mechanically derived pulp, generally used for multi-colored publications that remain in use from several days to a month – primarily magazines, merchandising catalogues, and better quality newspaper inserts.

Uncoated groundwood– similar in composition to coated groundwood but without the coating, used primarily for directory stock, lesser quality drawing and writing paper, black and white publications, and relatively short-lived color publications, such as newspaper inserts.

Newsprint– a low quality uncoated groundwood paper designed exclusively for newspapers and similar publications commonly disposed of within a day.²⁷

Table I-7 presents recent U.S. production statistics for various grades of coated and uncoated paper.

²⁶ *Coated Groundwood Paper from Belgium, Finland, France, Germany, and the United Kingdom*, Inv. Nos. 731-TA-487-490 and 494 (Final), USITC Publication 2467, December 1991, p. A-4. These terms are general industry usage, not found in the HTS.

²⁷ *Ibid.*, p. A-6.

**Table I-7
Paper and paperboard: U.S. production of various grades, 2004-06**

Item	2004	2005	2006
Production (1,000 short tons)			
Coated paper:			
Free sheet	4,652	4,626	4,968
Groundwood	4,737	4,704	4,517
Total	9,389	9,330	9,485
Coated bristols ¹ (paperboard)	687	616	612
Uncoated free sheet paper:			
Bond and writing	5,171	5,143	5,265
Forms bond	1,103	1,041	1,002
Offset	3,049	2,875	2,933
Envelope	1,318	1,256	1,271
Other	1,914	1,701	1,833
Total	12,555	12,016	12,304
¹ The term, "bristol", is a general term for solid or laminated heavyweight printing paper which is 6 points (.006 inch) or more in thickness although industry sources indicate that the U.S. market usually requires a caliper of ten points (.010 inch). Source: AF&PA Statistics, 2007.			

CFS paper is still the highest quality segment of the five major types of graphic paper. All coated paper, whether groundwood or free sheet, is used for printing purposes as the clay coating provides an exceptionally smooth, bright surface for printing. Smoothness, opacity, brightness, printability, and finish²⁸ are important performance specifications for CFS paper. End-use products/markets for CFS paper reportedly include the following:

End use	Shares (percent)
Commercial printing	***
Catalogues	***
Books	***
Magazines	***
Labels and wraps	***
Other ¹	***
¹ Includes annual and other financial reports; color copy paper; base stock for gift wrap and greeting cards; other advertising materials (inserts, flyers, coupons); other business products; and some comic books. Source: ***, as presented in petitioner's postconference brief, exh. 1, p. 20.	

²⁸ ***. Staff field trip report, NewPage, November 17, 2006, p. 1.

Manufacturing Processes

CFS paper is manufactured in basis weights ranging from *** (500 sheets measuring 25" x 38") or *** grams per square meter.²⁹ Reportedly, the minimum basis weight for CFS paper is about *** pounds because below that weight CFS paper would lack the necessary opacity.³⁰ The weight of the coating adds at least 6.5 pounds per side and typically 8 to 9 pounds per side to the basis weight of CFS paper, and the total coating weight can be as much as 30 to 40 pounds for premium C2S products.³¹

The principle upstream product of CFS paper is wood pulp. Hardwood pulp is the predominant component of CFS paper,³² as the shorter hardwood fibers are necessary for adequate smoothness. However, some softwood fiber, which is generally longer than hardwood fiber, is necessary to maintain the strength of the sheet during production.³³

In a typical operation, pulpwood, once debarked, enters a chipper which chips it into uniformly sized chips.³⁴ Next, digesters cook the wood chips in a chemical solution, which separates the cellulose fibers from lignin and other non-cellulosic substances.³⁵ The resulting wood pulp is then washed, bleached, and refined in preparation for papermaking operations.

CFS paper is typically made on conventional fourdrinier paper machines.³⁶ A highly diluted solution of wood pulp is pumped through the machine's headbox³⁷ and onto the wire. Water drains by gravity through the wire and/or by suction from the top as the wire advances, forming a web or sheet on the wire. At the end of the wire, the web is picked off the wire by revolving nylon felts, which deliver it to the press section. The press section consists of as many as four sets of closely spaced steel rollers which press water out of the web as it passes through the nip between each set of rollers. Upon exiting the press, the web of paper, which is now able to support itself, enters the dryer section.³⁸ The steam-heated cylinders of the dryer remove the remaining moisture from the paper as it laps over and under successive cylinders.

²⁹ Basis weight is a traditional industry measure of the weight of paper, expressed as the weight in pounds of a ream of paper (traditionally 500 sheets) of a given size (the basis). ***. Metric paper weights are always expressed in terms of grams per square meter. ***.

³⁰ Staff field trip report, NewPage, November 17, 2006, p. 1.

³¹ Staff field trip report, NewPage, November 17, 2006, p. 1.

³² ***.

³³ *Industry & Trade Summary – Wood Pulp and Waste Paper*, USITC Publication 3490, 2002, p. 4.

³⁴ Staff field trip report, NewPage, November 17, 2006, p. 1.

³⁵ The term kraft denotes the chemical process by which the wood fiber is pulped in a solution of caustic soda and sodium sulfide. Because the kraft (a.k.a. sulfate) process produces a very strong pulp, it is the most important chemical pulping process. It is noted for its high quality and strength and is a primary component of many grades of paper.

³⁶ Named for the French man who helped popularize the design, all fourdrinier machines have a continuous loop of bronze mesh screen, the "wire." Typically, the wire is oriented horizontally and looped around rollers at both ends. As the wire revolves, a diluted solution of pulp is spread across the surface of the wire at one end. Water drains through the wire as it advances, thereby forming the sheet. In this fashion, a continuous sheet of paper can be formed.

³⁷ The head box extends across the wire and delivers the pulp to the wire through many small openings, orifices, or nozzles.

³⁸ Conventional dryers consist of a number of steam-heated cylinders (30 to 60 inches in diameter) arranged in two or more tiers. The wet paper typically passes over and under successive cylinders.

At this stage, the paper is ready to be coated and, if necessary, calendered.³⁹ Coating equipment may be installed in line with the paper machine (i.e., on-machine) or completely separate from the paper machine (i.e., off-machine). If on-machine equipment is used, the paper enters the coating equipment as it exits the dryer section. If not, the paper is wound onto large reels as it comes out of the dryers on the paper machine and is subsequently delivered to off-machine coaters. In either case, the essential elements of the coating and calendering processes are the same. The principal component of the coating is often kaolin clay, but other elements such as different clays, calcium carbonate, titanium dioxide, latex, starches, dyes, lubricants, thickeners, plastic pigments, cast release agents, rheological control agents, pH control agents, optical brighteners, and biocides may be included.⁴⁰ Coatings are mixed in coating preparation equipment in a mill's coating "kitchen" and pumped directly to the appropriate paper machine or off-machine coater.

Next, as the web of paper advances through the coater, a thin even coat is applied to one side,⁴¹ after which the web continues through a large gas-fired convection dryer to dry the coating. If a C2S product is being made, the sheet continues looping in such a manner as to position the other side of the paper for coating in a second coater identical in all respects to the first. For C1S products, the web of paper is simply routed to bypass the second coater. Exiting the coater, the paper is rewound on large reels.

Once coated, CFS paper may be calendered with the amount of calendering used dependent on the requirements of the product being made. Gloss grades are calendered the most, satin grades are calendered some, and matte grades are not calendered at all. The calenders, which are stacked, alternating hard (steel) and soft (plastic) rollers are used to increase the density, smoothness, and gloss of the paper. The combination of coating formulation and calendering regimen control the finish of the final sheet of paper.⁴²

After coating and calendering, the reels of CFS paper are hoisted by large, overhead cranes to a rewinder which unwinds each reel, slits the web to the appropriate widths, and rewinds the resulting narrow webs onto paperboard cores. Rolls are produced in a wide range of widths depending on the width of the presses for which the paper is intended.⁴³ In the U.S. market, CFS paper is sold both in sheet form and roll form, because commercial printers use both sheet-fed and web-fed offset lithographic presses.⁴⁴ If the CFS paper is to be sold in roll form, the rolls are delivered from the rewinder to the roll finishing area where they are wrapped and labeled for transport.

If the CFS paper is to be sold in sheet form, production entails one additional step. CFS rolls from the rewinder are delivered to a sheeter, which converts the paper from rolls to sheets. A CFS roll is mounted on a roll stand at the upstream end of the sheeter. As the roll advances through the sheeter, rotary knives cut the roll at regular intervals perpendicular to the direction of travel, thereby creating sheets. Large (i.e., wide) sheeters may also slit the roll longitudinally in addition to the perpendicular cuts being made by the rotary knives. The output from a sheeter is automatically stacked and counted in ream quantities on pallets. It is estimated that approximately 25 to 30 percent of the U.S. CFS paper

³⁹ A calender is a set or "stack" of hardened rolls typically resting one on the other in a vertical stack. Paper is passed between some or all of the rolls to increase the smoothness and gloss of its surface. *The Dictionary of Paper*, 4th ed. s.v. "calender."

⁴⁰ Actual coating formulations may be closely guarded proprietary trade secrets. ***, *** producers' questionnaire response, p. 7, and *** response, p. 6.

⁴¹ ***, *** producers' questionnaire response, p. 7; and *The Dictionary of Paper*, 4th ed.

⁴² Staff field trip report, NewPage, November 17, 2006, p. 1.

⁴³ ***.

⁴⁴ ***.

output is destined for sheet-fed presses.⁴⁵ CFS paper intended for sale to commercial printers using web-fed presses is somewhat different than that intended for sheet-fed presses. Rolls for the web offset market have higher heat resistance, lower moisture content, and different coating formulations in order to withstand the heat from the web offset printing process. Sheets made for sheet-fed presses generally have a higher moisture content than do web rolls.⁴⁶

DATA ON TYPES OF CFS PAPER

Respondents raised the issue during the preliminary phase of the investigations as to whether competition between U.S.-produced CFS paper and imports of subject merchandise is attenuated. *See*, for example, the Chinese manufacturers and Unisource's postconference brief where they assert that web rolls constitute a "distinct market segment," and the Korean respondents' postconference brief where they contend that the domestic industry does not face what they label as "significant competition" from subject imports within the web roll "segment" of the U.S. market.⁴⁷ Petitioner emphasized that CFS paper is a commodity product and that respondents "offer no evidence" that "they {the respondents} are actually blocked from competing for sales of web rolls."⁴⁸ The Commission in its preliminary views indicated that it intended to more fully examine the question of attenuated competition between the subject imports and the domestic like product.⁴⁹

Petitioner continues in the final phase of these investigations to label CFS paper as a commodity product⁵⁰ and argue that competition between subject imports and domestic production is not attenuated. It points out that there are various types of CFS paper with product available in differing brightness levels (or grades) and in a range of basis weights. Further, CFS paper may be coated with a variety of formulations on either one or two (both) sides.⁵¹ Respondents again point to the forms in which CFS paper is produced and sold (i.e., as web rolls, sheeter rolls, or sheets) and disparities in shares of quantity shipped by form among sources.

Table I-8 presents data on domestically produced and imported CFS paper web rolls, sheeter rolls, and sheets. As shown, about three-quarters of U.S. shipments of CFS paper produced in the United States is in the form of web rolls while most offshore CFS paper is imported as a sheet. Sheeter rolls accounted for a minor share of shipments from any source. With respect to subject merchandise, no web rolls were imported from either the Indonesian or the subject Korean manufacturers; web rolls accounted for less than *** percent of U.S. importers' shipments from China. Web rolls were, however, imported in relatively higher volumes from nonsubject sources other than Korea.⁵² Data on U.S. importers'

⁴⁵ Conference transcript, p. 13 (Cameron), and staff field trip report, NewPage, November 17, 2006, p. 2.

⁴⁶ Hearing transcript, p. 133 (Reindl), p. 187 (Gallagher), p. 188 (Reindl), and pp. 225 and 227 (Davis).

⁴⁷ Chinese manufacturers and Unisource's postconference brief, pp. 4-10; and Korean respondents' postconference brief, pp. 8-11 and app. A (pp. 2-5). Chinese manufacturers and Unisource further asserted that there are additional factors that differentiate subject imports from domestically produced CFS paper. Chinese manufacturers and Unisource's postconference brief, pp. 10-13.

⁴⁸ Petitioners' postconference brief, pp. 7, 37-41, and exh. 1 (pp. 21-37).

⁴⁹ *Coated Free Sheet Paper from China, Indonesia, and Korea (Inv. Nos. 701-444-446 (Preliminary) and 731-TA-1107-1109 (Preliminary))*, USITC Publication 3900, December 2006, pp. 7 and p. 23 (n. 3).

⁵⁰ Petitioner's prehearing brief, p. 29.

⁵¹ Data on U.S. shipments of both domestically produced and imported CFS paper coated on one side (C1S) and on two sides (C2S) are available in app. E.

⁵² One distributor indicated at the Commission's hearing that most CFS paper from Europe is imported in web form using break bulk shipping vessels specifically designed to transport web rolls. Hearing transcript, p. 275 (Hedrick) and pp. 332-334 (Hedrick and Aronica). Japanese CFS paper is also produced in web form. Hearing (continued...)

Table I-8
Coated free sheet paper: U.S. shipments, by source and by product type, 2004-06, January-June 2006, and January-June 2007

Item	Calendar years			January-June	
	2004	2005	2006	2006	2007
Quantity (short tons)					
U.S. shipments of domestic production:¹					
Web rolls	3,458,358	3,468,994	3,661,976	1,785,685	1,772,561
Sheeter rolls	***	***	***	***	***
Sheets	***	***	***	***	***
Total	4,448,468	4,452,976	4,627,631	2,281,839	2,275,591
U.S. shipments of imports from China:					
Web rolls	***	***	***	***	***
Sheeter rolls	***	***	***	***	***
Sheets	***	***	***	***	***
Total	***	***	***	***	***
U.S. shipments of imports from Indonesia:					
Web rolls	***	***	***	***	***
Sheeter rolls	***	***	***	***	***
Sheets	***	***	***	***	***
Total	***	***	***	***	***
U.S. shipments of imports from Korea (subject):					
Web rolls	***	***	***	***	***
Sheeter rolls	***	***	***	***	***
Sheets	***	***	***	***	***
Total	***	***	***	***	***
Subtotal for imports from all subject sources:					
Web rolls	***	***	***	***	***
Sheeter rolls	***	***	***	***	***
Sheets	***	***	***	***	***
Total	***	***	***	***	***

Table continued on next page.

⁵² (...continued)

transcript, p. 323 (Hunley). Nonsubject manufacturers in Korea did not report the export of any web rolls during the period examined.

Table I-8--Continued

Coated free sheet paper: U.S. shipments, by source and by product type, 2004-06, January-June 2006, and January-June 2007

Item	Calendar years			January-June	
	2004	2005	2006	2006	2007
Quantity (short tons)					
U.S. shipments of imports from Korea (nonsubject):					
Web rolls	***	***	***	***	***
Sheeter rolls	***	***	***	***	***
Sheets	***	***	***	***	***
Total	***	***	***	***	***
U.S. shipments of imports from all other nonsubject sources:					
Web rolls	***	***	***	***	***
Sheeter rolls	***	***	***	***	***
Sheets	***	***	***	***	***
Total	***	***	***	***	***
Subtotal for imports from all nonsubject sources:					
Web rolls	***	***	***	***	***
Sheeter rolls	***	***	***	***	***
Sheets	***	***	***	***	***
Total	***	***	***	***	***
Total for imports from all sources:					
Web rolls	***	***	***	***	***
Sheeter rolls	***	***	***	***	***
Sheets	***	***	***	***	***
Total	***	***	***	***	***
Share of quantity (percent)					
U.S. shipments of domestic production:¹					
Web rolls	77.7	77.9	79.1	78.3	77.9
Sheeter rolls	***	***	***	***	***
Sheets	***	***	***	***	***
Total	100.0	100.0	100.0	100.0	100.0

Table continued on next page.

Table I-8--Continued

Coated free sheet paper: U.S. shipments, by source and by product type, 2004-06, January-June 2006, and January-June 2007

Item	Calendar years			January-June	
	2004	2005	2006	2006	2007
Share of quantity (percent)					
U.S. shipments of imports from China:					
Web rolls	***	***	***	***	***
Sheeter rolls	***	***	***	***	***
Sheets	***	***	***	***	***
Total	100.0	100.0	100.0	100.0	100.0
U.S. shipments of imports from Indonesia:					
Web rolls	***	***	***	***	***
Sheeter rolls	***	***	***	***	***
Sheets	***	***	***	***	***
Total	100.0	100.0	100.0	100.0	100.0
U.S. shipments of imports from Korea (subject):					
Web rolls	***	***	***	***	***
Sheeter rolls	***	***	***	***	***
Sheets	***	***	***	***	***
Total	100.0	100.0	100.0	100.0	100.0
Subtotal for imports from all subject sources:					
Web rolls	***	***	***	***	***
Sheeter rolls	***	***	***	***	***
Sheets	***	***	***	***	***
Total	100.0	100.0	100.0	100.0	100.0
U.S. shipments of imports from Korea (nonsubject):					
Web rolls	***	***	***	***	***
Sheeter rolls	***	***	***	***	***
Sheets	***	***	***	***	***
Total	100.0	100.0	100.0	100.0	100.0

Table continued on next page.

Table I-8--Continued

Coated free sheet paper: U.S. shipments, by source and by product type, 2004-06, January-June 2006, and January-June 2007

Item	Calendar years			January-June	
	2004	2005	2006	2006	2007
Share of quantity (percent)					
U.S. shipments of imports from all other nonsubject sources:					
Web rolls	***	***	***	***	***
Sheeter rolls	***	***	***	***	***
Sheets	***	***	***	***	***
Total	100.0	100.0	100.0	100.0	100.0
Subtotal for imports from all nonsubject sources:					
Web rolls	***	***	***	***	***
Sheeter rolls	***	***	***	***	***
Sheets	***	***	***	***	***
Total	100.0	100.0	100.0	100.0	100.0
Total for imports from all sources:					
Web rolls	***	***	***	***	***
Sheeter rolls	***	***	***	***	***
Sheets	***	***	***	***	***
Total	100.0	100.0	100.0	100.0	100.0
¹ Does not include data for Pasadena. Source: Compiled from responses to Commission questionnaires.					

shipments, by product type, including value and unit value data, are presented in appendix E. Data on exports to the United States, by product type, reported by foreign producers are available in *Part VII* of this report.

Petitioner argues that subject imports of CFS paper in sheet form “compete directly or indirectly” with web roll (whether domestically produced or imported).⁵³ Korean respondents continue to argue that there are “significant differences” between CFS web rolls and sheets that “make it virtually impossible” to use web rolls on sheet-fed presses. Further, according to Korean respondents, commercial web presses “simply cannot” use sheets.⁵⁴ Chinese respondents concur, stating that “{c}ompetition between web rolls and sheets is effectively non-existent because the volume of subject rolls has been and will continue to be

⁵³ Petitioner’s prehearing brief, pp. 32-33. See also petitioner’s prehearing brief, pp. 36-40 for their assessment of the flexibility in input paper and type of presses used.

⁵⁴ Korean respondents’ prehearing brief, pp. 13-17. Testimony by respondents concerning the number of printing plants that maintain both sheet fed and web presses was presented at the Commission’s hearing. Hearing transcript, pp. 353-356 (Dragone and Davis).

insignificant. The type of printing press an end-user has - not price - determines whether they can use web rolls or sheets.”⁵⁵ *See Part II* for a discussion based upon responses to Commission questionnaires of the extent to which printers can use CFS in multiple forms in both web-fed and sheet-fed printing presses.

⁵⁵ Chinese respondents and Unisource's prehearing brief, p. 5.

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

U.S. MARKET SEGMENTS/CHANNELS OF DISTRIBUTION

Shipments to distributors by U.S. producers increased from *** percent of U.S. producers' U.S. shipments in 2004 to *** percent of U.S. producers' U.S. shipments in 2006. Shipments to distributors of imports from China increased from *** percent of U.S. shipments of those imports in 2004 to *** percent of such shipments in 2006. Shipments to distributors of imports from Indonesia decreased from *** percent of U.S. shipments of those imports in 2004 to *** percent of such shipments in 2006. Shipments to distributors of subject imports from Korea decreased from *** percent of U.S. shipments of those imports in 2004 to *** percent of such shipments in 2006. One importer (Unisource) reported that there may also be a paper broker that arranges for a direct sale from a foreign manufacturer to an end user or from a manufacturer to a paper merchant.¹

Petitioner claims that both the domestic product and the subject imports are sold to distributors and end users for the same types of applications.² There is some overlap of customers of U.S. producers and subject importers. *** . Among importers from the subject countries, *** were all listed as customers. There was a wide variety of smaller printers also listed as customers by importers from each of the subject countries, but there was no clear overlap of these customers.

Paperlinx indicates that Korean producers are more competitive on the West Coast because U.S. producers are reluctant to ship product west of the Rockies.³ Responding U.S. producers reported that in 2006, 81.1 percent of their shipments of CFS paper were to the eastern and Midwest regions and 9.6 percent of their shipments to the western region, ranging from 5.3 percent of their shipments of sheeter roll to 9.5 percent of their shipments of sheets. Responding importers reported that in 2006, about ***.

SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

Domestic Production

The supply response of CFS paper producers to changes in price depends on such factors as the level of excess capacity, the availability of alternate markets for U.S.-produced CFS paper, inventory levels, and the ability to shift to the manufacture of other products. Based on available information, U.S. CFS paper producers are likely to respond to changes in demand with moderate changes in the quantity shipped to the U.S. market. Supply responsiveness is enhanced by the production alternatives and availability of some inventories and constrained by a limited ability to use alternative markets and the unavailability of unused capacity.

Industry capacity

U.S. producers' capacity utilization increased from 91.7 percent in 2004 to 94.8 percent in 2006. This level of capacity utilization indicates that U.S. producers have little, if any, unused capacity with which they could increase production of CFS paper in the event of a price change.

¹ Conference transcript, p. 144 (Dragone).

² Conference transcript, p. 48 (Jones).

³ Conference transcript, p. 100 (Anderson).

Alternative markets

Exports by U.S. producers, as a share of total shipments, increased from 5.8 percent in 2004 to 7.0 percent in 2006. These data indicate that U.S. producers have a limited ability to divert shipments to or from alternative markets in response to changes in the price of CFS paper.

Inventory levels

The ratio of end-of-period inventories to U.S. total shipments decreased from 12.5 percent in 2004 to 12.4 percent in 2006. These data indicate that U.S. producers have some inventories they could use as a means of increasing shipments of CFS paper to the U.S. market.

Production alternatives

Eight of ten responding U.S. producers reported using the actual machinery and equipment used to make CFS paper in the production of other products, including uncoated free sheet paper, coated and uncoated groundwood paper, and kraft paper.

Subject Imports

The responsiveness of supply of imports from China, Indonesia, and subject Korean producers to changes in price in the U.S. market is affected by such factors as capacity utilization rates and the existence of home markets and other export markets. Based on available information, producers in China, Indonesia, and Korea are likely to respond to changes in demand with moderate changes in the quantity of shipments of CFS paper to the U.S. market. Supply responsiveness is enhanced by the production alternatives, availability of some inventories, and some ability to shift shipments from alternative markets and constrained by a limited ability to use inventories and the unavailability of unused capacity .

Industry capacity

During the period of investigation, the capacity utilization rate for Chinese producers of CFS paper decreased from *** percent in 2004 to *** percent in 2006. The capacity utilization rate for producers in Indonesia increased from *** percent in 2004 to *** percent in 2006. The capacity utilization rate for subject producers in Korea decreased from *** percent in 2004 to *** percent in 2006. These levels of capacity utilization indicate that subject producers have very little, if any, unused capacity with which they could increase production of CFS paper in the event of a price change, except for *** producers which has some unused capacity.⁴

Alternative markets

Shipments of CFS paper from China to the markets other than the United States decreased from approximately *** percent of total shipments in 2004 to *** percent in 2006. Shipments of CFS paper from Indonesia to the markets other than the United States decreased from approximately *** percent of total shipments in 2004 to *** percent in 2006. Shipments of CFS paper from subject Korean producers to markets other than the United States increased from approximately *** percent of total shipments in

⁴ Note that Indonesian producers reported total capacity while Chinese and subject Korean producers allocated capacity for CFS paper. Therefore some of the Indonesians' ability to use available capacity depends on demand for other products produced on the same equipment.

2004 to *** percent in 2006. Available data indicate that subject producers in China, Indonesia, and Korea have some ability to divert shipments to or from alternative markets in response to changes in the price of CFS paper.

Production alternatives

Subject foreign producers also reported using the actual machinery and equipment used to make CFS paper in the production of other products, including uncoated free sheet paper, and coated and uncoated groundwood paper.

Inventory levels

Inventories of subject producers in China, as a share of their total shipments, increased from *** percent in 2004 to *** percent in 2006. Inventories of subject producers in Indonesia, as a share of total shipments, increased from *** percent in 2004 to *** percent in 2006. Inventories of subject producers in Korea, as a share of their total shipments, increased from *** percent in 2004 to *** percent in 2006. These data indicate that foreign producers have a very limited ability to use inventories as a means of increasing shipments of CFS paper to the U.S. market.

U.S. Demand

Based on the available information it is likely that changes in the price level of CFS paper will result in a moderate change in the quantity of CFS paper demanded. The main contributing factors to the small degree of responsiveness of demand is the moderate, but limited substitutability of other products for coated free sheet and the moderate to high cost share of CFS paper in its end uses.

Demand Characteristics

CFS paper is sold in three forms: web rolls, sheet rolls, and sheets. The product is sold to be used in printed materials requiring high-gloss pages, including books, catalogues, magazines, posters, signage, playing cards, and packaging. Petitioner reported that approximately 40 percent of its business is accounted for by commercial printing, which includes annual reports and direct mail.⁵

When asked how overall demand for CFS paper has changed since January 2004, all five responding U.S. producers, 14 of 24 responding importers, and one of three responding producer/importers⁶ stated that demand has increased.⁷ The increase in demand was most commonly attributed to economic growth and its effect on advertising and the publication of corporate financial reports. Also, petitioner indicates that CFS paper industry is a cyclical industry whose cycle generally follows the macro economy as a whole.⁸ However, one importer (Unisource) indicated that although there used to be a very close correlation between paper consumption and GDP, paper consumption

⁵ Conference transcript, p. 92 (Tyrone).

⁶ “Producer/importer” refers to responses to general questions regarding the U.S. market for CFS paper by three firms (***) that responded to both the producer and importer questionnaire.

⁷ Seven responding importers and one responding producer/importer reported that demand was unchanged and two responding importers and one responding producer/importer reported that it has decreased. One responding producer/importer reported that demand had both increased and decreased.

⁸ Petitioner’s posthearing brief, exh. 1, Questions from Commissioners.

disconnected from GDP about 12 years ago.⁹ A representative from Printing Industries of America indicated that this disconnect mainly occurred because of increased use of the internet.¹⁰ He indicated that while some targeted advertising mail, direct mail using coated free sheet has benefitted from combined internet marketing with direct mail. Demand has, however, declined for book publishing and financial publishing.¹¹ Unisource added that the coated free sheet side of the business has shown better than average growth because of the growing demand for direct mail catalogs.¹²

Figure II-1 compares nominal and real annual RISI prices for No. 1 sheet and No. 3 roll with real GDP growth. In the past 12 years (1995 to 2006), the correlation coefficient between both real and nominal RISI prices and GDP growth ranged from 0.21 to 0.29. Between 2004 and 2006 the correlation coefficient between the real No. 1 sheet price and GDP growth was 0.99 while the correlation coefficient between the nominal and real No. 3 sheet prices and GDP growth was -1.00 in both cases.¹³

Fourteen of 33 responding purchasers indicated that demand for their firm's final products incorporating CFS paper has been unchanged since 2004. Twelve responding purchasers indicated that demand had increased for their final products incorporating CFS paper and the remaining seven responding purchasers indicated that demand for these products had decreased.

Petitioner indicates that in its opinion, commercial printing makes up a very large portion of the industry's end use for coated free sheet and that the fastest-growing subsegment within commercial printing is direct mail.¹⁴ Unisource also indicated that demand may be shifting more towards coated free sheet in web roll form, as roll production becomes more efficient.¹⁵

Substitute Products

All responding U.S. producers and producer/importers, 12 of 19 responding importers, and 22 of 33 responding purchasers indicated that there were at least some substitutes for CFS paper. Coated groundwood paper and uncoated free sheet paper were named most often; other possible substitutes named included high-yield board, super-calendared papers, plastic, coated bristols, electronic media, fine art paper, and film for packaging.

However, some market participants reported that this substitutability is limited. Petitioner indicated that once a recurring publication has launched, it is reluctant to switch from using CFS paper and in instances when a change is made it is usually done slowly.¹⁶ One importer (Unisource) reported that substitutability between coated free sheet and coated groundwood paper is limited because coated groundwood paper is not readily available in sheet form.¹⁷ One purchaser (***) indicated that coated groundwood paper can be substituted, but the product reverts or yellows over a period of time.

⁹ Hearing transcript, p. 269-270 (Dragone).

¹⁰ Hearing transcript, p. 270 (Davis).

¹¹ Hearing transcript, p. 271 (Davis).

¹² Hearing transcript, p. 271 (Dragone).

¹³ There is no correlation coefficient for nominal No.1 sheet price and GDP growth between 2004 and 2006 since there is no variation in the nominal No. 1 sheet price during that period.

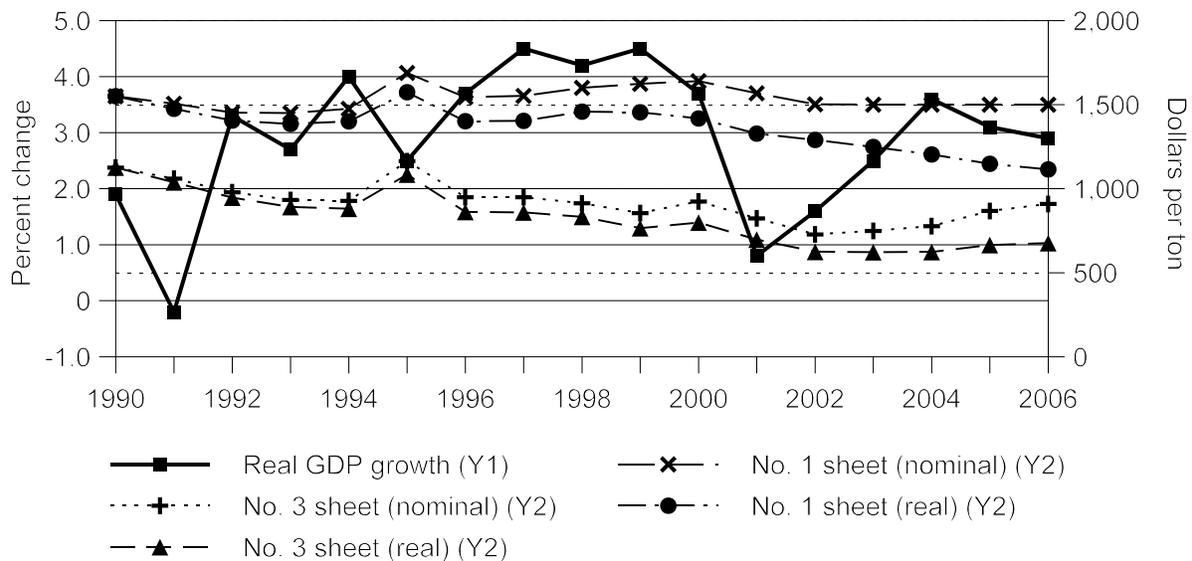
¹⁴ Conference transcript, p. 75 (Tyrone).

¹⁵ Conference transcript, p. 162 (Dragone).

¹⁶ Conference transcript, p. 75 (Tyrone).

¹⁷ Conference transcript, p. 164 (Dragone).

Figure II-1
Coated free sheet paper: RISI price data and GDP growth



Sources: U.S. Bureau of Economic Analysis, Bureau of Labor Statistics, and RISI (from exhibit 14 of Petitioner’s posthearing brief).

Three of 6 responding U.S. producers, 2 of 3 responding producer/importers, 4 of 18 responding importers, and 8 of 29 responding purchasers reported that the price of substitutes can affect prices of CFS paper, citing time lags of up to three months. In particular, one producer, two importers and one purchaser specifically reported that groundnut-coated grades affect the price of CFS paper. One producer, one importer, and two purchasers indicated that prices between CFS paper and its substitutes tend to move together. Two importers reported that price increases of substitutes will have the strongest impact on the lower end of the market.

Cost Share

The reported share of total cost of end uses made up of CFS paper varied by end uses, but was in the moderate to high range for most end uses. Various purchasers indicated that the CFS paper makes up about 14 percent to 40 percent of the total cost of commercial printing, from 20 percent to 55 percent of the total cost of magazine production and from 30 percent to 100 percent of the total cost of catalogues.

SUBSTITUTABILITY ISSUES

The degree of substitution between domestic and imported CFS paper depends upon such factors as relative prices, quality (e.g., grade standards, reliability of supply, defect rates, etc.), and conditions of sale (e.g., price discounts/rebates, lead times between order and delivery dates, payment terms, product services, etc.). Based on available data, staff believes that there is a moderate degree of substitutability between domestically produced CFS paper and CFS paper produced by subject sources.

Factors Affecting Purchasing Decisions

Purchasers were asked a variety of questions to determine what factors influence their decisions when buying CFS paper. Information obtained from their responses indicates that both quality and price are important factors.

As indicated in table II-1, price was named by 13 of 45 responding purchasers as the number one factor generally considered in deciding from whom to purchase CFS paper, and as the number two factor by 11 purchasers and the number three factor by 16 other responding purchasers. Also, as indicated in tables II-2 and II-3, all but five of the responding purchasers (***) indicated that price was a “very important” factor in their purchase decisions for CFS paper.¹⁸ Twenty responding purchasers indicated that the lowest-priced CFS paper “usually” will win a sale, 19 reported “sometimes,” seven reported “never,” and three reported “always.”¹⁹

Quality was named by 13 of the 45 responding purchasers as the number one factor generally considered in deciding from whom to purchase CFS paper, as the number two factor by 10 purchasers, and the number three factor by eight other responding purchasers. All but three responding purchasers (***) indicated that quality meeting industry standards was a “very important” factor in their purchasing decision for CFS paper. Also, 12 of 45 responding purchasers indicated that quality exceeding industry standards was a “very important” factor. Twenty-four of 44 responding purchasers reported that they require their suppliers to become certified or pre-qualified for at least some of their purchases. Five of 43 responding purchasers indicated that since 2004 some domestic or foreign producers failed in their attempts to certify or qualify their CFS paper or have lost their approved status. Two purchasers (***) named Chenming, two purchasers (***) named Asia Pulp and Paper, and one purchaser named NewPage. One purchaser (***) named NewPage as a supplier who failed in its attempts to certify or qualify their CFS paper.

All but four responding purchasers indicated that availability was a “very important” factor in their purchasing decisions of CFS paper. Nine of 45 responding purchasers reported that availability was the highest factor in their purchasing decisions, 12 purchasers reported it as the number two factor, and 7 responding purchasers reported it as the number three factor. Reliability of supply was named as a “very important” factor by all but three responding purchasers and reliability was named as either the number two or number three factor used in purchasing decisions by eight purchasers. All but one responding purchaser indicated that product consistency was a “very important” factor in their purchasing decisions of CFS paper, although only two purchasers reported it as one of its top three factors used in purchasing decisions (reported under “other”).

Petitioner indicates that branding plays a role in purchasers’ decisions to buy CFS paper.²⁰ However, petitioner also stated that producing private label brands for merchants is not necessarily a good option for producers because the private label brand competes with the manufacturer’s own brand, and often at a lower price.²¹ Two importers reported that the opportunity for brand development is an important factor. One importer reported that many customers only use one brand of CFS paper.²² This

¹⁸ However, two of these purchasers (***) and (***) indicated that price was the number two factor generally considered in deciding from whom to purchase CFS paper and two of these purchasers (***) and (***) indicated that price was the number three factor. The other remaining purchaser (***) indicated that price becomes relevant if a supplier can satisfy its top three purchasing factors which were “quality and consistency;” “reliability;” and “branding potential.”

¹⁹ *** and *** were the two purchasers that responded “never.”

²⁰ Conference transcript, p. 76 (Tyrone).

²¹ Petitioner’s postconference brief, exh. 1, p. 4.

²² Conference transcript, p. 158 (Anderson).

Table II-1
Coated free sheet paper: Ranking of factors used in purchasing decisions, as reported by U.S. purchasers

Factor	Number of firms reporting		
	Number one factor	Number two factor	Number three factor
Price	13	11	16
Quality	13	10	8
Availability	9	12	7
Prearranged contracts	4	1	2
Traditional supplier	2	0	1
Delivery time	1	0	1
Reliability	0	5	3
Performance	0	2	1
Other	3	4	4

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

Table II-2
Coated free sheet paper: Importance of factors used in purchasing decisions, as reported by U.S. purchasers

Factor	Number of firms reporting		
	Very important	Somewhat important	Not important
Product consistency	44	1	0
Reliability of supply	42	2	1
Quality meets industry standards	41	3	1
Availability	41	2	2
Price	40	5	0
Delivery time	36	7	2
Basis weight	30	13	2
Delivery terms	25	17	3
Brightness	24	20	1
Strength or stiffness	24	20	1
Moisture	24	18	3
Technical support	23	20	2
Coating formulations	21	22	2
Discounts/rebates	21	17	5
US transportation costs	20	20	5
Product range	17	19	8
Extension of credit	15	20	10
Packaging	13	25	7
Quality exceeds industry standards	12	25	8
Branding potential	8	21	16
Minimum quantity requirements	7	24	14

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

importer also indicated that U.S. producers provide superior marketing support.²³ However, another importer reported that U.S. producers were unwilling to work together in developing a private brand and that it then turned to the subject producers to source this product.²⁴ Eight of 45 responding purchasers reported that branding potential was a “very important” factor in their purchasing decisions and 21 reporting purchasers reported it as a “somewhat important” factor. Only one purchaser (***) reported branding potential as one of the top three factors in the purchase decisions that it makes (reported under “other”). This purchaser indicated that if orders are imposed that limit the availability of imports from China, Indonesia, and/or Korea in the U.S. market, it will not increase purchases from U.S. producers because of limited availability and concerns that U.S. producers will not support a nationally branded product.

Three of nine responding producers and four of 27 responding importers indicated they have either placed customers on allocation or been unable to supply all of their customers’ needs or observed shortages in their market areas since 2004.

Twelve of 45 responding purchasers reported either being placed on allocation, being unable to purchase all of their needs from U.S. producers, importers, or distributors, or observing shortages in their market areas since 2004. Many of these instances were for periods of time less than one year and for specific products. However, one purchaser (***) indicated that it cannot buy from all U.S. producers since they limit to whom they sell. Another purchaser (***) indicated that its major domestic suppliers have been unwilling to support its growth in new markets and in 2002 were forced to seek support from offshore suppliers. Another purchaser, (Unisource), reported that it was placed on “soft allocation,” or a reservation system, by U.S. producers in 2004 for web rolls, sometimes of a certain basis weight.²⁵ ***.²⁶ Petitioner reports that ***.²⁷ Petitioner also reported that sometimes a mere perception that supplies are tightening will induce customers to place orders in excess of what they actually require and suppliers may respond by using a reservation system to avoid disruptions in the supply chain.²⁸

U.S. producers NewPage and West Lynn paper indicate that their firms limits the number of merchants it sells its product through within a geographic area.²⁹ NewPage also indicates it is their understanding that other mills follow a similar approach.³⁰

Comparison of Domestic Product and Subject Imports

As indicated in table II-3, over one-half of responding U.S. producers and producer/importers indicated that CFS paper produced in the United States and imported from subject sources is “always” used interchangeably. Over two-thirds of responding importers and responding purchasers indicated that CFS paper produced in the United States and imported from subject sources were at least “frequently” used interchangeably.

Nine purchasers reported using only a sheet-fed press, six purchasers reported using only a web-fed press and nine purchasers reported using both sheet and web fed presses. Of the nine responding

²³ Conference transcript, p. 106 (Anderson).

²⁴ Conference transcript, pp. 115-116 and 154-157 (Dragone).

²⁵ Conference transcript, pp. 112-113 (Dragone).

²⁶ Chinese respondents’ postconference brief, p. 16, exh. 1, and exh. 3. ***.

²⁷ Petitioner’s postconference brief, exh. 1, p. 39.

²⁸ Petitioner’s postconference brief, exh. 1, pp. 38-39.

²⁹ Hearing transcript, pp. 124-127 (Tyrone and Gallagher).

³⁰ Hearing transcript, pp. 126-127 (Tyrone).

Table II-3

Coated free sheet paper: Perceived degree of interchangeability of product produced in the United States and in other countries

Country comparison	Number of U.S. producers reporting				Number of U.S. importers reporting				Number of U.S. producer/importers reporting				Number of U.S. purchasers reporting			
	A	F	S	N	A	F	S	N	A	F	S	N	A	F	S	A
U.S. vs. China	3	2	0	0	4	8	4	0	2	1	0	0	8	13	7	2
U.S. vs. Indonesia	3	2	0	0	5	7	3	0	2	0	0	0	7	7	3	1
U.S. vs. Subject Korea	3	2	0	0	5	7	3	0	2	1	0	0	6	10	3	1
U.S. vs. Nonsubject Korea	3	1	0	0	2	7	3	0	2	1	0	0	9	14	1	1
U.S. vs. Nonsubject	1	1	0	0	1	9	1	0	2	1	0	0	6	10	8	0
China vs. Indonesia	2	0	0	0	6	6	2	0	2	0	0	0	8	8	0	0
China vs. Subject Korea	2	0	0	0	4	8	2	0	2	1	0	0	6	11	3	0
China vs. Nonsubject Korea	2	0	0	0	2	8	2	0	2	1	0	0	7	12	1	0
China vs. Nonsubject	1	0	0	0	0	7	2	0	2	1	0	0	4	9	2	0
Indonesia vs. Subject Korea	2	0	0	0	4	7	3	0	2	0	0	0	6	9	1	0
Indonesia vs. Nonsubject Korea	2	0	0	0	2	7	3	0	2	0	0	0	7	10	0	0
Indonesia vs. Nonsubject	1	0	0	0	0	6	3	0	2	0	0	0	5	7	2	0
Subject Korea vs. Nonsubject Korea	2	0	0	0	5	7	1	0	2	1	0	0	10	7	0	0
Subject Korea vs. Nonsubject	1	0	0	0	0	7	2	0	2	1	0	0	4	7	2	0
Nonsubject Korea vs. Nonsubject	1	0	0	0	0	6	2	0	2	1	0	0	4	9	3	0

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

Note.--“A” = Always, “F” = Frequently, “S” = Sometimes, “N” = Never.

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

purchasers that reported using both sheet and web fed presses, four of nine responding purchasers reported no overlap in their jobs run using sheet and web fed presses, two of nine responding purchasers reported running exactly the types of jobs using sheet and web fed presses, and the remaining three responding purchasers reported some overlap in their jobs run on sheet and web fed presses.

*** reported producing playing cards on both sheet and web fed presses, while *** reported producing “commercial and color process” on both types of presses. Two purchasers (*** and *** reported producing annual reports on both sheet and web fed presses, while two other purchasers (*** and ***) reported producing annual reports only on sheet fed presses. Four purchasers reported producing magazines on only web fed presses, while one purchaser (***) reported producing magazines on both sheet and web fed presses. Two purchasers reported producing catalogs on only web fed presses while one purchaser (***) reported producing catalogs on both sheet and web fed presses.

When asked to describe the factors considered when deciding which type of press (web-fed or sheet-fed) and/or form of paper (web roll, sheeter roll, or sheet) to use, seven of nine responding purchasers specifically reported that volume, quantity, or length of run was a factor, five responding purchasers indicated that costs were a factor, five purchasers indicated that quality or type of product was a factor, and four responding purchasers indicated that production time or schedule was a factor. One purchaser (***) indicated that it uses its web press for runs of 10,000 to 60,000 for multiple page magazines and newspaper inserts and uses its sheet fed press for short runs or jobs that can’t be finished in-line on web or when paper type is not available in rolls. Another purchaser (***) indicated that lightweight paper tends to print on a web-fed press. Graphic Paper and Unisource indicates they only use sheeter rolls for emergency situations when a particular sheets size is out of stock.³¹

Twelve of 33 responding purchasers indicated that they have the capability of converting web rolls into sheets. Four of 18 purchasers that reported using sheet-fed presses indicated that they use web roll on their sheet fed-press. *** reported that reported that 80 percent of their web roll purchases were used on a sheet-fed press and *** reported that 2 percent of their web roll purchases were used on a sheet-fed press. *** and *** were the other two purchasers that reported using web roll on their sheet-fed press.

Two of 15 responding purchasers that reported using web-fed presses reported using sheeter rolls on their web press. *** reported that reported that 20 percent of their sheeter roll purchases were used on a web press and *** reported that 3 percent of their sheeter roll purchases where used on a web press. None of the 15 responding purchasers that reported using web-fed presses indicated that they use sheets on their web-fed press.

Four importers reported that coated free sheet rolls are not interchangeable with coated free sheet in sheet form and that U.S. producers concentrate on web roll production while subject import suppliers concentrate on sheet production. Respondent importers reported that CFS paper in sheet form is often used for small-volume, high-end applications, whereas web rolls are used in high-volume applications.³² Petitioner and respondent importers both reported that end users typically have either a printer for web rolls or a sheet-fed press, but not both.³³ However, petitioner reports that there is no significant difference in physical characteristics or applications between web rolls, sheeter rolls, and sheet, stating that it produces some CFS paper that is certified for use in both sheet-fed presses and web roll printers.³⁴ Petitioner also identified several customers that have both kinds of presses, as well as

³¹ Hearing testimony, pp. 309-311 (Aronica and Dragone).

³² Korean respondents’ postconference brief, p. 9.

³³ Conference transcript, p. 91 (Tyrone). Chinese respondents’ postconference brief, p. 8.

³⁴ Petitioner’s postconference brief, p. 38.

customers that are capable of converting a roll product into a sheet product.³⁵ Petitioner also reported that it is not very costly for customers to establish converting operations.³⁶

As indicated in table II-4, at least one-half of responding producers indicated that differences other than price between CFS paper produced in the United States and imported from subject sources were “frequently” a significant factor in their firm’s sales of the products. At least one-half of responding importers indicated that differences other than price between CFS paper produced in the United States and imported from subject sources were at most “frequently” a significant factor in their firm’s sales of the products. All responding producer/importers indicated that differences other than price between CFS paper produced in the United States and imported from subject sources were “sometimes” a significant factor in their firm’s sales of the products. Purchasers were also asked to compare CFS paper produced in the United States and imported subject countries on the basis of different purchasing factors (see table II-5).

Petitioner noted that customers may request custom sizes in an attempt to save money by not paying for excess paper; but because of the premium charged for custom sizes, customers often find that the imported paper is still the better alternative for them from a price standpoint.³⁷ One U.S. producer (***) reported that custom sizing is only available from U.S. sources. This producer also reported that their technical support, availability, and product range is superior to those provided by the subject import suppliers, in part due to their geographic proximity to customers which allows speedier delivery and response time. Similarly, another producer (***) reported that regarding fast-coated papers, domestic supplier advantages include speed to market, local sales reputation, after-sales follow up, service.

One distributor (Paperlinx) cited these higher inventory costs as the reason why subject import suppliers do not offer coated free sheet in web roll form in the U.S. market; namely, because the inventory costs can be offset by the higher profit margins realized on CFS paper in sheet form, but not on coated free sheet in web-roll form, which is lower priced than sheets and bears lower profit margins.³⁸ One importer (Unisource) also reported that Asian suppliers generally do not produce lightweight coated product.³⁹

One importer (Global Paper Solutions) reported that U.S. producers take advantage of the fact that subject imports do not offer web rolls in the United States by requiring customers to buy the U.S. producers’ full product line rather than just buying web rolls.⁴⁰ Three importers, Global Paper Solutions, Unisource, and Paperlinx reported that paper merchants prefer to offer their customers a wider range of quality and prices and therefore carry U.S.-produced CFS paper as well as subject imports and possibly European product as well.⁴¹ Global Paper Solutions also indicates that imports of CFS paper from Indonesia are of a different quality level and not as reliable as imports of CFS paper from China.⁴²

³⁵ Petitioner named *** customers that have both sheet-fed presses and web roll printers and *** customers that are capable of converting a web roll into sheet. Petitioner’s postconference brief, exh. 1, pp. 18-19 and attach. C.

³⁶ Petitioner’s postconference brief, exh. 1, p. 19.

³⁷ Conference transcript, p. 77 (Tyrone).

³⁸ Conference transcript, p. 140 (Anderson).

³⁹ Conference transcript, p. 146 (Dragone).

⁴⁰ Conference transcript, pp. 121-122 (Hunley).

⁴¹ Conference transcript, pp. 99-100 (Anderson), 112 (Dragone), and 118 (Hunley). Chinese respondents’ postconference brief, p. 19.

⁴² Hearing transcript, p. 339 (Hunley).

Table II-4

Coated free sheet paper: Differences other than price between products from different sources¹

Country comparison	Number of U.S. producers reporting				Number of U.S. importers reporting				Number of U.S. producer/importers reporting			
	A	F	S	N	A	F	S	N	A	F	S	N
U.S. vs. China	0	3	1	1	7	4	3	2	0	0	3	0
U.S. vs. Indonesia	0	2	1	1	5	4	5	2	0	0	2	0
U.S. vs. Subject Korea	0	2	1	1	5	4	4	2	0	0	3	0
U.S. vs. Nonsubject Korea	0	1	1	1	3	3	4	2	0	0	3	0
U.S. vs. Nonsubject	0	1	0	1	4	2	4	0	0	0	3	0
China vs. Indonesia	0	0	0	1	5	1	5	3	0	0	1	0
China vs. Subject Korea	0	0	0	1	5	2	4	2	0	0	2	0
China vs. Nonsubject Korea	0	0	0	1	3	2	4	2	0	0	2	0
China vs. Nonsubject	0	0	0	1	5	2	1	1	0	0	3	0
Indonesia vs. Subject Korea	0	0	0	1	5	2	3	2	0	0	1	0
Indonesia vs. Nonsubject Korea	0	0	0	1	3	2	3	2	0	0	1	0
Indonesia vs. Nonsubject	0	0	0	1	4	2	1	1	0	0	1	0
Subject Korea vs. Nonsubject Korea	0	0	0	1	3	2	3	2	0	0	2	0
Subject Korea vs. Nonsubject	0	0	0	1	4	2	1	1	0	0	2	0
Nonsubject Korea vs. Nonsubject	0	0	0	1	3	2	1	1	0	0	2	0

¹ Producers and importers were asked if differences other than price between CFS paper produced in the United States and in other countries are a significant factor in their firms' sales of CFS paper.

Note.--"A" = Always, "F" = Frequently, "S" = Sometimes, "N" = Never.

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

Table II-5
Coated free sheet paper: Purchasers' comparisons of domestic and subject products

Factor	U.S. vs. China			U.S. vs. Indonesia			U.S. vs. Subject Korea		
	S	C	I	S	C	I	S	C	I
Availability	8	5	2	7	1	0	8	1	3
Basis weight	0	15	0	0	8	0	0	11	1
Branding	1	10	3	2	4	2	1	9	2
Brightness	1	12	2	1	5	2	0	8	4
Coating	2	12	1	0	8	0	0	11	1
Delivery terms	5	8	2	3	5	0	3	7	2
Delivery time	10	3	1	6	2	0	7	4	1
Discounts	4	10	1	1	6	1	1	10	1
Extension of credit	4	9	1	2	4	2	2	10	0
Lower price	0	4	11	0	2	6	0	3	9
Lower transport costs	2	12	1	2	5	1	4	7	2
Minimum quantity requirements	6	7	1	5	3	0	4	7	0
Moisture	0	14	1	1	7	0	0	11	1
Packaging	1	13	1	2	6	0	1	11	0
Product consistency	3	11	1	1	7	0	1	8	3
Product range	6	9	0	5	3	0	3	9	0
Quality exceeds industry standards	2	11	2	1	7	0	1	7	3
Quality meets industry standards	2	11	2	1	7	0	0	10	1
Reliability of supply	7	6	2	3	5	0	4	7	1
Strength	3	10	2	1	5	2	4	5	3
Technical support/service	8	5	2	4	4	0	6	6	0
Note.—S = domestic product superior, C = domestic product comparable, I = domestic product inferior.									
Source: Compiled from data submitted in response to Commission questionnaires.									

Comparison of Domestic Product and Nonsubject Imports

As indicated in table II-3, all or all but one responding U.S. producers and all or all but one responding producer/importers indicated that CFS paper produced in the United States and imported from nonsubject sources is “always” used interchangeably. Over two-thirds of responding importers and responding purchasers indicated that CFS paper produced in the United States and imported from nonsubject sources were at least “frequently” used interchangeably.

As indicated in table II-4, all responding producer indicated that differences other than price between CFS paper produced in the United States and imported from nonsubject sources were at most “frequently” a significant factor in its firm’s sales of CFS paper. At least one-half of responding importers indicated that differences other than price between CFS paper produced in the United States and imported from nonsubject sources were at most “frequently” a significant factor in their firm’s sales of CFS paper. All responding producer/importers indicated that differences other than price between CFS paper produced in the United States and imported from nonsubject sources were “sometimes” a significant factor in their firm’s sales of CFS paper .

One importer (Moorim) reported that imports from European countries are competitive in the web roll segment.⁴³ One importer (Unisource) reported that European suppliers, like domestic producers, offer lower basis weights.⁴⁴ Unisource also reported that the European CFS paper has the best surface quality, consisting of very fine fiber which is more receptive to coatings.⁴⁵ Paperlinx reported that imports from Europe are mostly sold in the eastern part of the United States.⁴⁶

Comparison of Subject Imports and Nonsubject Imports

As indicated in table II-3, all responding U.S. producers and all or all but one responding producer/importers indicated that subject and nonsubject imports of CFS paper are “always” used interchangeably. Over two-thirds of responding importers and responding purchasers indicated that subject and nonsubject imports of CFS paper were at least “frequently” used interchangeably.

As indicated in table II-4, the only responding producer indicated that differences other than price between subject and nonsubject imports of CFS paper were “never” a significant factor in their firm’s sales CFS paper. At least one-half of responding importers indicated that differences other than price between subject and nonsubject imports of CFS paper were at most “frequently” a significant factor in their firm’s sales of CFS paper. All responding producer/importers indicated that differences other than price between subject and nonsubject imports of CFS paper were “sometimes” a significant factor in their firm’s sales of CFS paper.

⁴³ Conference transcript, p. 108 (Cho).

⁴⁴ Conference transcript, p. 146 (Dragone).

⁴⁵ Unisource sources web roll product from Germany and sheet product from Italy. Conference transcript, pp. 150 and 182 (Dragone).

⁴⁶ Conference transcript, p. 183-184 (Anderson).

ELASTICITY ESTIMATES

This section discusses the elasticity estimates; parties were encouraged to comment and information is addressed where appropriate.

U.S. Supply Elasticity

The domestic supply elasticity for CFS paper measures the sensitivity of the quantity supplied by U.S. producers to a change in the U.S. market price of CFS paper. The elasticity of domestic supply depends on several factors, including the level of excess capacity, the ease with which producers can alter capacity, producers' ability to shift to the production of other products, the existence of inventories, and the availability of alternative markets for U.S.-produced CFS paper.⁴⁷ Analysis of these factors earlier indicates that the U.S. industry has a moderate ability to increase or decrease shipments to the U.S. market given a change in price levels. Staff estimates that the supply elasticity is between 3 and 6 for CFS paper.

U.S. Demand Elasticity

The U.S. demand elasticity for CFS paper measures the sensitivity of the overall quantity demanded to a change in the U.S. market price of CFS paper. This estimate depends on factors discussed earlier such as the existence, availability, and commercial viability of substitute products, as well as the component share of CFS paper in the production of downstream products. Based on available information, the demand elasticity for CFS paper is likely to be in the range of -0.75 to -1.25 for CFS paper.

Substitution Elasticity

The elasticity of substitution depends upon the extent of product differentiation between the domestic and imported products.⁴⁸ Product differentiation, in turn, depends upon such factors as quality (e.g., chemistry, surfaces, coil sizes) and conditions of sale (e.g., service, availability, delivery). Based on this and other available information, the elasticity of substitution between U.S.-produced CFS paper and subject imported CFS paper is likely to be in the range of 2 to 4 for CFS paper.⁴⁹

⁴⁷ Domestic supply response is assumed to be symmetrical for both an increase and a decrease in demand for the domestic product. Therefore, factors affecting increased quantity supplied to the U.S. market also affect decreased quantity supplied to the same extent.

⁴⁸ The substitution elasticity measures the responsiveness of the relative U.S. consumption levels of the subject imports and U.S. domestic like products to changes in their relative prices. This reflects how easily purchasers switch from the U.S. product to the subject product (or vice versa) when prices change.

⁴⁹ Additionally, the elasticities of substitution between U.S.-produced CFS paper and nonsubject imports and between subject imports and nonsubject imports are likely to be in the same range.

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

Information presented in this section of the report is based on the questionnaire responses of 11 firms that accounted for virtually all U.S. production of CFS paper during the period examined. The petitioner also identified Bowater, Inc. (Greenville, SC) and Wausau Paper Corp. (Mosinee, WI) as manufacturers of CFS paper.¹ ***.² Wausau Paper Corp. (Wausau) responded that it does not produce the subject merchandise.³

U.S. PRODUCERS

The U.S. industry primarily consists of the following firms, each of which provided a response to the Commission's producer questionnaire: Appleton Coated LLC (Appleton), Kimberly, WI; P.H. Glatfelter Co. (Glatfelter), York, PA; International Paper Co. (International Paper), Memphis, TN; Mohawk Fine Papers, Inc. (Mohawk), Cohoes, NY; NewPage Corp. (NewPage), Dayton, OH; Pasadena Paper Company LP (Pasadena), Pasadena, TX; S.D. Warren Co., d/b/a Sappi Fine Paper NA (Sappi), Boston, MA; Smart Papers LLC (Smart Paper), Hamilton, OH; Stora Enso North America Corp. (Stora Enso), Wisconsin Rapids, WI; Verso Paper Holdings LLC (Verso), Memphis, TN; and West Linn Paper Co. (West Linn), West Linn, OR. Responding firms' positions on the petition, plant locations, and their production and shares of CFS paper production in 2006 are listed in table III-1. As shown, manufacturing plants primarily are located in the north central part of the United States and in Maine, although there is also CFS production in the south (in Alabama) with a relatively *** volume produced on the West Coast (in Oregon). See appendix F for U.S. shipments of domestically produced CFS paper by geographical region. Petitioner NewPage accounted for *** of U.S. production of CFS paper in 2006. *** accounted for *** (table I-1).⁴

¹ Petition, exh. I-1. The Commission sent an additional 11 questionnaires to other paper manufacturers during both the preliminary and final phases of its investigations; with the exception of Fraser Papers Ltd. (Fraser), none of the firms that responded (Boise White Paper, Crocker Technical Papers, Dunn Paper, FiberMark North America, Hollingsworth & Vose, Little Rapids, Monandonock Paper Mills, and Shawno Specialty Papers) reported producing CFS paper. Fraser indicated that CFS paper accounted for about *** to *** percent of its total paper production but that the firm could not derive accurate allocations for its CFS production. Fraser produced about *** tons in 2005. Staff telephone interview with ***, Fraser, November 9, 2006. ***.

² ***.

³ See Wausau's negative response to producer questionnaire issued during the preliminary phase of the investigations and staff telephone interview with ***, Wausau, November 8, 2006. According to its website, the firm manufactures uncoated printing and writing papers, technical specialty papers, and towel and tissue products. It also manufactures "specialty" release liners that are coated. See www.wausaumosinee.com and www.wpcoatedproducts.com, retrieved November 16, 2006. Petitioner NewPage states that ***. Letter from counsel for NewPage, September 18, 2007. ***. E-mail from ***, July 23, 2007.

⁴ The share of U.S. production accounted for by *** was reported to be somewhat less than *** percent during the preliminary phase of the investigations. See INV-DD-163 (December 8, 2006), p. III-3. ***. See Commission staff e-mail to ***, July 24, 2007.

Commission staff also provided to *** staff's assessment that "****." Ibid. According to petitioner NewPage, "****." NewPage also indicated that ***. Letter from counsel for NewPage, September 18, 2007.

Table III-1

Coated free sheet paper: U.S. producers, positions on the petition, plant location(s), production, and shares of U.S. production in 2006

Firm	Position on the petition	Plant location(s)	Production (short tons)	Share of production (percent)
Appleton Coated LLC ¹	***	Combined Locks, WI	***	***
P.H. Glatfelter Co. ²	***	Spring Grove, PA; Chillicothe, OH	***	***
International Paper Co. ³	***	Courtland, AL	***	***
Mohawk Fine Papers, Inc. ⁴	***	Cohoes, NY; Waterford, NY Hamilton, OH	***	***
NewPage Corp. ⁵	Petitioner	Escanaba, MI; Luke, MD; Rumford, ME; Wickliffe, KY	***	***
Pasadena Paper Co. LP ⁶	Support	Pasadena, TX	0	-
S.D. Warren Co., d/b/a Sappi Fine Paper NA ⁷	***	Cloquet, MN; Muskegon, MI; Skouhegan (Somerset), ME; Westbrook, ME	***	***
Smart Papers LLC ⁸	Support	Hamilton, OH	***	***
Stora Enso North America Corp. ⁹	***	Kimberly, WI; Wisconsin Rapids, WI; Stevens Point, WI	***	***
Verso Paper Holdings LLC ¹⁰	***	Quinneseec, MI; Jay, ME	***	***
Belgravia Investments, Inc., d/b/a/ West Linn Paper Co. ¹¹	***	West Linn, OR	***	***
Total	--	--	4,973,370	100.0

¹ Appleton is ***-percent owned by Arjo Wiggins S.A.S. (France), a manufacturer of CFS paper. ***.

² Glatfelter's common stock is traded on the New York stock exchange.

³ International Paper is not owned by any other firm. ***.

⁴ Mohawk is not owned by any other firm. Mohawk acquired its Hamilton, OH facility from International Paper on May 1, 2005. Staff telephone interview with ***, Mohawk, December 13, 2006.

⁵ NewPage is ***-percent owned by ***.

⁶ Pasadena closed its operations on September 21, 2005. The firm was *** and was a former affiliate of the U.S. producer West Linn.

⁷ Sappi is ***-percent owned by Sappi Ltd. (South Africa). A division of Sappi Ltd. manufactures CFS paper in Europe (Sappi Fine Paper Europe).

⁸ Smart Papers is ***-percent owned by ***. At the time the petition was filed, Smart Papers was owned by ***. Petitioner notes that Smart Papers filed for Chapter 11 bankruptcy in 2006 and was subsequently purchased by a private equity firm. Petitioner's prehearing brief, p. 24.

⁹ Stora Enso is ***-percent owned by Stora Enso Oyi (Finland), a manufacturer of CFS paper. Subsidiaries of Stora Enso Oyi also manufacture CFS paper in China (Stora Enso Suzhou Paper Co., Ltd) and Germany (Stora Enso Uetersen GmbH & Co. KG). Stora Enso stated in its questionnaire response during the preliminary phase of the investigations that ***.

¹⁰ Verso is ***-percent owned by ***.

¹¹ West Linn is ***-percent owned by ***.

Note.—Does not include data for Fraser. Fraser produced *** tons of CFS paper in 2004 and *** tons in 2005. Production figures for the firm are not available for either 2006 or 2007.

Source: Compiled from data submitted in response to Commission questionnaires, except as noted.

Related Party Considerations

Several U.S. producers are owned by holding companies (NewPage, Smart Papers, Verso, and West Linn) or by offshore manufacturers (Appleton, Sappi, and Stora Enso). International Paper and Mohawk are not owned by other entities, whereas Glatfelter's stock is traded on the New York stock exchange. As shown in the notes to table III-1, none of the foreign-owned firms are owned by entities headquartered in the subject countries, although the parent company of Stora Enso also operates a CFS paper facility in China.⁵ Imports and purchases by producing firms are shown in table III-2. ***. ***.

Table III-2

Coated free sheet paper: U.S. producers' U.S. production, imports, and purchases, by firm, 2004-06, January-June 2006, and January-June 2007

* * * * *

Organizational Changes Within the Domestic CFS Paper Industry

There have been a number of organization changes within the domestic CFS paper industry since 2004. As shown in the notes to table III-1, Pasadena Paper Co. (Pasadena), which was an independent company owned by the Canadian-based Belgravia Paper Co., shut down operations in September 2005. Pasadena produced both one-sided CFS (or C1S) for use in labels and privately branded two-sided web and sheets. Both the petitioner and respondents attached to their postconference briefs press reports describing what was initially thought to be a temporary shutdown prior to the landfall of Hurricane Rita in September 2005. Petitioner also included in its postconference brief a press report from The Citizen (for Pasadena), dated October 10, 2005, that quotes a letter sent to the 315 employees that were terminated. The letter reportedly attributes the closing to "the continued increase in the prices of electricity and natural gas which have been exacerbated by the recent hurricanes, as well as the loss of business to foreign competitors" (*quotes* refer directly to the employee letter).⁶ Chinese respondents and Unisource attached additional articles to their postconference brief (exhibit 22) that refer to the high energy costs but make no mention of import competition.⁷ The plant was not damaged by the hurricane. The former President and Sales for Marketing at Pasadena (Tom Gallagher, now President and Sales for Marketing at West Linn) testified at the Commission's hearing that subject imported related price declines in two-sided coated sheets, which constituted the major part of its production, had, by mid-2005, led management to "assess the viability of continued operations" at Pasadena. Mr. Gallagher indicated that, following the September 2005 hurricane, "{o}ur analysis over the next few weeks showed that Pasadena Paper had suffered too much financial damage from imports to ride out the increased energy cost that followed the storm."⁸ The paper machines at the Pasadena plant have been disassembled for sale as parts.⁹

Other organizational changes within the industry include Glatfelter's acquisition of the Chillicothe, OH paper mill from NewPage on April 3, 2006. The Chillicothe operation consists of a ***

⁵ NewPage stated in its postconference brief that ***. Petitioner's postconference brief, p. 36, n. 86.

⁶ Petitioner's postconference brief, exh. 12.

⁷ Paperloop.com (dated September 30, 2005 and October 10, 2005); and Associated Press (dated October 7, 2005).

⁸ Hearing transcript, p. 40 (Gallagher). Pasadena's questionnaire response by submitted by ***. *** indicated that "****." E-mail from ***, Stern Partners, October 23, 2007. *See also* Pasadena's response to question III-15 of the producer questionnaire presented in app. G.

⁹ Hearing transcript, p. 78 (Gallagher).

ton-per-year paper making facility in Chillicothe, OH, and ***.¹⁰ In addition, International Paper sold *** its coated and supercalendered papers business to ***.¹¹ Then, on September 21, 2007, Stora Enso Oyj announced that it has signed “a definitive agreement” to sell its U.S. subsidiary Stora Enso North America, Inc. to NewPage. Included in the sale are Stora Enso’s CFS paper and coated groundwood operations.¹² The transaction is subject to customary regulatory approvals and, according to NewPage’s press release, is expected to close during the first quarter of 2008.¹³ NewPage testified at the Commission’s hearing that the merger will result in lower costs for the combined operations.¹⁴

***.¹⁵ ***.¹⁶

Domestic CFS Paper Industry Capacity Changes and Issues in Calculating Capacity

Capacity changes¹⁷ within the domestic CFS paper industry are shown in the following tabulation.

¹⁰ Glatfelter’s producer questionnaire response, question II-2b. The firm indicated that ***. Staff telephone interview with ***, Glatfelter, November 27, 2006. (The firm primarily based the CFS paper capacity figures that it reported to the Commission’s on the ***. Glatfelter’s producer questionnaire response, question II-11b.)

¹¹ The new entity is reported within this staff report as Verso Paper Holdings LLC (or Verso). ***. International Paper’s producer questionnaire response (preliminary) and e-mails from ***, International Paper, November 28, 2006 and November 29, 2006. ***. Staff telephone interviews with ***, ***, November 30, 2006 and August 16, 2007.

¹² See “Stora Enso divests its North American paper operations to NewPage to create a North American paper industry leader” at http://www.storaenso.com/CDAvgn/main/0,,1_EN-8658-18189-,00.html, retrieved September 21, 2007.

¹³ See <http://ir.newpagecorp.com/phoenix.zhtml?c=193188&p=irol-newsArticle&ID=1054144&highlight=>, retrieved September 21, 2007. Mark A. Suwyn, Chairman and Chief Executive Officer of NewPage, indicated in the company news release that NewPage is “excited about the acquisition as it is clearly part of our strategic vision to lower our overall cost and accelerate our ability to achieve sustainable financial returns above our cost of capital.” Further, “{t}his is also important in order to help us compete with illegally dumped and subsidized foreign imports.” Ibid.

¹⁴ Hearing transcript, p. 36 (Suwyn). See also the hearing transcript (pp. 69-78) for further testimony by Mr. Suwyn addressing the rationalization of production among the NewPage’s and Stora Enso’s existing operations and the use of productivity programs to lower costs.

¹⁵ ***.

¹⁶ Petitioner’s postconference brief, exh. 16.

¹⁷ Petitioner stated during the preliminary phase of the investigations that entire paper machines need to be installed to increase capacity and, conversely, shut down to decrease it. It added that the need to run machines continuously makes it difficult to adjust capacity on an incremental basis. Petitioner’s postconference brief, pp. 9-10. Petitioner further stated that “once a machine has been shut down for several months it becomes very expensive to reactivate it. Thus, capacity that is shut down tends to stay shut down.” Ibid. Capacity to produce CFS paper can also be measured in terms of coating capability and, as will be discussed later in this section, firms reported being able to boost capacity by coating off-line. ***.

Firm	Date	Machine location	Annual capacity change
Stora Enso	2003-04	PM #96 swing to CFS paper from coated groundwood in Kimberly, WI	***
Stora Enso ¹	2004	PM rebuild in Kimberly, WI	***
Stora Enso ¹	2004	PM rebuild in Wisconsin Rapids, WI	***
Sappi	January 2004	PM #14 in Westbrook, ME	***
Smart Papers	April 2004	PM shutdown in Hamilton, OH	***
Appleton	2004-05	PM rebuild/shift from uncoated free sheet	***
Sappi	September 2005	PM #4 in Muskegon, MI	***
Pasadena	October 2005	Mill closure in Pasadena, TX (PM #21)	***
NewPage	Announced in November 2006	PM #7 in Luke, MD	***
Stora Enso	2006	PM # 31 shutdown in Stevens Point	***
<p>¹ ***.</p> <p>Note.–The term “paper machine” (or PM) refers to an entire paper production system that represents a significant capital investment on the part of the producer.</p> <p>Source: Petitioner’s postconference brief, p. 31, citing ***; Korean respondents’ postconference brief, exh. 18 (***; and *** and ***’s producer questionnaire response). (***. E-mail from ***, November 29, 2006.)</p>			

As shown, substantial shutdowns of domestic capacity to produce CFS paper have involved the Pasadena facility (addressed above) and the NewPage closure of one of its Luke, MD machines as well as machine closures at Sappi. With reference to the Luke shutdown, NewPage announced the permanent closure of PM #7 at the plant on November 2, 2006. It reported the sales value of the production volume on the machine to be approximately \$***. Employment associated with this system was approximately ***. ***.¹⁸ NewPage included in its producer questionnaire in the preliminary phase of the investigations ***.¹⁹ Korean manufacturers include in their prehearing brief (pp. 25-26 and exhibit 9) news articles that discuss the Sappi closures of their Westbrook, ME plant (in January 2004) and Muskegon, MI mill (in October 2005) emphasizing the inefficiencies of the closed capacity.

Parties differ in their assessment of the capacity shutdowns, with petitioner attributing the closures to foreign competition²⁰ while Chinese respondents and Unisource labeled them as an overdue but positive move for the industry.²¹ Korean respondents stated that “these capacity closures are in fact

¹⁸ ***.

¹⁹ NewPage’s producer questionnaire response (preliminary), question II-2. Petitioner provides additional contemporaneous documentation concerning the Luke shutdown in its posthearing brief, exh. 1, pp. 39-40.

²⁰ In support of its position, NewPage cited the “numerous successful” petitions for Trade Adjustment Assistance. Petitioner’s postconference brief, p. 6 and exh. 2.

²¹ Chinese respondents and Unisource’s postconference brief, p. 29. Unisource testified at the conference that the industry consolidations and rationalizations were to take “antiquated production off-line in order to increase the operating rates for their more cost-effective equipment and increase their overall profitability.” Conference transcript, p. 114 (Dragone).

entirely consistent with similar elimination of less efficient capacity taking place world-wide and in other paper segments (e.g., uncoated free sheet), and are actually a sign of the domestic industry’s improved competitive position.”²² Korean respondents also point out that the capacity of domestic mills to produce CFS increased an overall basis during the period examined, which they argue reflects “continued investment in more efficient mills, even as older capacity was closed.”²³ Chinese respondents likewise state that “the improved financial performance of the U.S. industry is the pay off for long overdue shutdowns of antiquated equipment and machinery.”²⁴ Petitioner argues in its prehearing brief (p. 24) that “[a]lthough these actions, individually for some firms and collectively for the industry as a whole, have reduced per-unit costs of CFS production, they are symptomatic of injury, not health.” NewPage indicated at the Commission’s hearing that the least efficient equipment requiring proportionately more labor is the first to be shut-down. It also stated that, absent the pricing pressure from imports, the shut-downs would not have occurred.²⁵

Table III-3 lists firm capacity to produce CFS paper that is currently in place in the United States, by machine. Included in table III-3 are the dates of the original installation and most recent re-build of each machine. Table III-3 also includes columns indicating whether the free sheet base is coated on-line or on off-line coating drums. One producer commented in its response to the questionnaire during the preliminary phase of the investigations that any measure of capacity is "not as simple" as separately calculating a coating capacity and uncoated capacity figure since firms maintain separate coating capacity and can coat off-line. In addition to coating off-line, it is possible to move a coating drum to one of the uncoated machines on a temporary basis.²⁶ Another factor affecting the calculation of capacity is what petitioner labels as “capacity creep,” which consist of minor machine modifications to increase speeds or production mix changes involving longer individual product runs reducing downtime.²⁷ Finally, the frequent production of CFS paper in mills and on machines also utilized to produce other papers, including uncoated free sheet and coated groundwood, required that firms allocate their total capacity by product line.²⁸ Table III-4 provides data on the products produced by domestic manufacturers on the same machinery and equipment used in the production of CFS paper.

**Table III-3
Coated free sheet paper: U.S. producers’ capacity, by firm and by paper machine, 2006**

* * * * *

²² Korea respondents’ postconference brief, pp. 2, 15.

²³ Korean respondents’ prehearing brief, pp. 26-27. The numerical basis of their characterization is the data presented in the prehearing report (INV-EE-145, October 2, 2007), which at table III-5 showed an increase of 150,000 short tons from 2004 to 2006 but declining capacity from January-June 2006 to January-June 2007. The data in this final staff report, revised to include the ***, indicate a *** drop in capacity from 2004 to 2006.

²⁴ Chinese respondents and Unisource’s prehearing brief, p. 3.

²⁵ Hearing transcript, pp. 102-104 (Suwyn and Tyrone).

²⁶ *** producer questionnaire response (preliminary).

²⁷ Petitioner’s posthearing brief, app. 1, p. 2.

²⁸ Most firms reported in their questionnaire responses that they calculated subject capacity by allocating on the basis of either production or sales.

Table III-4

Coated free sheet paper: Products produced by domestic manufacturers on the same machinery and equipment used in the production of CFS paper, 2004-06

Item	Calendar years		
	2004	2005	2006
Quantity (short tons)			
Annual capacity for all products	6,646,583	6,590,013	6,382,943
Production of:			
Subject product ¹	***	***	***
Uncoated free sheet paper ¹	***	***	***
Other	***	***	***
All products	5,991,037	6,042,171	6,115,332
Capacity utilization (percent)			
All products	90.1	91.7	95.8
<p>¹ Overlap recorded if the only substantial difference between the two products (in equipment utilized) is that uncoated paper is not subject to the application of kaolin or a similar coating.</p> <p>The following firms reported producing uncoated free sheet paper on the same equipment and machinery used in the production of CFS paper: ***. *** also manufactured coated and uncoated groundwood and both *** and *** produced coated groundwood on common equipment. In addition, *** used common equipment to produce kraft paper. Finally, *** manufactured a *** volume of "specialty paper" that it described as "converting product with an entirely different market." Neither *** nor *** produce nonsubject product on the same equipment and machinery used in the production of CFS. See INV-DD-163 (December 8, 2006), p. III-9, for the shares, by firm, of paper products manufactured on common equipment reported during the preliminary phase of the investigations.</p> <p>Source: Compiled from data submitted in response to Commission questionnaires.</p>			

U.S. PRODUCERS' CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION

Data concerning U.S. producers' CFS paper capacity, production, and capacity utilization are shown in table III-5. Capacity to produce the subject product in the United States remained relatively stable during the period examined but was below apparent U.S. consumption in each year and period examined. Production of CFS paper rose on an overall basis by 2.8 percent from 2004 to 2006 and then increased very slightly by 1.0 percent from January-June 2006 to January-June 2007. U.S. producers' capacity utilization was above 90 percent throughout the period. Petitioner NewPage indicates that "practical full capacity" is at 95 to 97 percent.²⁹

²⁹ Petitioner's posthearing brief, appendix 1, p. 13. NewPage further indicates that, due to their high operating costs, a paper mill "requires very high capacity utilization to achieve profitability and an adequate return on investment." Petitioner's postconference brief, p. 9.

Table III-5
Coated free sheet paper: Capacity, production, and capacity utilization, by firm, 2004-06,
January-June 2006, and January-June 2007

Firm	Calendar year			January-June	
	2004	2005	2006	2006	2007
Capacity (short tons)					
Appleton	***	***	***	***	***
Glatfelter	***	***	***	***	***
International Paper ¹	***	***	***	***	***
Mohawk	***	***	***	***	***
NewPage	***	***	***	***	***
Pasadena	***	***	***	***	***
Sappi	***	***	***	***	***
Smart Papers	***	***	***	***	***
Stora Enso ²	***	***	***	***	***
Verso ³	***	***	***	***	***
West Linn	***	***	***	***	***
Total	5,275,160	5,351,395	5,244,121	2,663,621	2,660,303
Production (short tons)					
Appleton	***	***	***	***	***
Glatfelter	***	***	***	***	***
International Paper ¹	***	***	***	***	***
Mohawk	***	***	***	***	***
NewPage	***	***	***	***	***
Pasadena	***	***	***	***	***
Sappi	***	***	***	***	***
Smart Papers	***	***	***	***	***
Stora Enso	***	***	***	***	***
Verso ³	***	***	***	***	***
West Linn	***	***	***	***	***
Total	4,839,651	4,926,891	4,973,370	2,477,182	2,500,813

Table continued on next page.

**Table III-5
Coated free sheet paper: Capacity, production, and capacity utilization, by firm, 2004-06,
January-June 2006, and January-June 2007**

Firm	Calendar year			January-June	
	2004	2005	2006	2006	2007
Capacity utilization (percent)					
Appleton	***	***	***	***	***
Glatfelter	***	***	***	***	***
International Paper ¹	***	***	***	***	***
Mohawk	***	***	***	***	***
NewPage	***	***	***	***	***
Pasadena	***	***	***	***	***
Sappi	***	***	***	***	***
Smart Papers	***	***	***	***	***
Stora Enso ²	***	***	***	***	***
Verso ³	***	***	***	***	***
West Linn	***	***	***	***	***
Average	91.7	92.1	94.8	93.0	94.0

1 ***.

2 ***.

3 ***. Staff telephone interview with ***, *** Verso, November 30, 2006. ***. See e-mail from ***, International Paper, November 28, 2006, and staff telephone interview with ***, *** Verso, November 30, 2006. ***.

Appleton.-***.

Glatfelter.-***.

International Paper/Verso.-***.

NewPage.-***.

Sappi.-***.

Smart Papers.-***.

Stora Enso.-***.

NewPage indicated in its questionnaire response that ***. NewPage's producer questionnaire response, question II-2a.

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

The Chinese respondents and Unisource contend that the U.S. industry does not have sufficient capacity to meet demand.³⁰ Korean respondents likewise argue that “NewPage cannot point to any recent period in which domestic supply of CFS was able to fully satisfy U.S. demand.” They cite to petitioner statements at the conference (noted earlier in this section) that capacity once closed “tends to stay shut down.”³¹ Petitioner asserts that lost capacity could be brought back on line “if adequate relief were imposed as a result of these investigations.”³² NewPage provided additional testimony at the Commission’s hearing addressing the interim stages that would precede any final shutdown of papermaking capacity.³³ As shown in table III-4, overall capacity utilization on the machinery and equipment used in the production of CFS paper was 90 percent or greater for 2004-06.³⁴

Allocations or “reservations” have been imposed within the CFS paper industry during the period examined, although parties disagree as to their extent and impact. Unisource testified at the Commission’s conference that it was placed on allocation by “a number” of its CFS paper suppliers. In its case, the actual allocations depended upon the mill and product (i.e., web, web within a range of specific basis weights and/or sheets).³⁵ Chinese respondents itemize in their prehearing brief (pp. 13-15) reports of purchasers’ responses to a question in the purchasers’ questionnaire inquiring about allocations. NewPage testified at the Commission’s hearing that an actual allocation (referred to in the industry as a “hard” allocation) was used during the period examined for only a brief period early in 2004. The firm did establish an allocation process in 2006 (termed a “soft” allocation) following the Pasadena shutdown but did not need to implement it.³⁶ Attached as exhibits 1 and 3 to Chinese respondents and Unisource's postconference brief were ***.³⁷

U.S. PRODUCERS' SHIPMENTS

U.S. producers’ shipments of CFS paper are presented in table III-6. As shown, the quantity of U.S. producers’ commercial shipments followed a trend comparable to that shown in table III-5 for production. There was no reported captive consumption of CFS paper. Export shipments accounted for 6 to 7 percent of total shipments throughout the period examined. The unit values of commercial shipments rose by \$66 per short ton from 2004 to 2005 and by \$11 per short ton from 2005 to 2006. Commercial unit values were \$5 higher per short ton higher in January-June 2007 than in January-June 2006.

³⁰ Chinese respondents and Unisource’s postconference brief, p. 13.

³¹ Korean respondents’ prehearing brief, p. 10.

³² Petitioner’s postconference brief, exh. 1, p. 16. It added that NewPage “could shift production from coated groundwood paper to coated free sheet at its Escanaba, Michigan and Rumford, Maine plants if market conditions improved.” Ibid.

³³ Specifically, NewPage identified its ability to, among several options (1) continue to produce pulp but to sell it on the open market, (2) “lift” the coaters and produce and sell uncoated paper, and/or (3) shut down and maintain machine operability but briefly start machines up as part of a maintenance program. Hearing transcript, pp. 80-84 (Suwyn). Shut-down machines can be maintained for several years and restarted for commercial production in a matter of months. Hearing transcript, p. 85 (Needham).

³⁴ This figure does not, however, take into account or measure capacity in mills or on paper machines where CFS paper was not produced during the period examined (i.e., from January 2004 onward).

³⁵ Conference transcript, pp. 112 and 146-147 (Dragone). Petitioner stated in its postconference brief that it “***.” Petitioner's postconference brief, p. 39.

³⁶ Hearing transcript, pp. 47-48 and 129 (Tyrone).

³⁷ Chinese respondents and Unisource's postconference brief, pp. 15-17. ***.

Table III-6
Coated free sheet paper: U.S. producers' shipments, by type of shipments, 2004-06,
January-June 2006, and January-June 2007

Item	Calendar year			January-June	
	2004	2005	2006	2006	2007
Quantity (short tons)					
Commercial shipments	4,630,831	4,585,403	4,627,631	2,281,789	2,275,591
Export shipments	284,537	334,424	347,559	155,780	174,949
Total shipments	4,915,368	4,919,827	4,975,190	2,437,569	2,450,540
Value (\$1,000)					
Commercial shipments	3,803,852	4,066,115	4,154,576	2,049,324	2,053,968
Export shipments	222,892	280,359	302,108	133,953	145,031
Total shipments	4,026,744	4,346,474	4,456,684	2,183,277	2,198,999
Unit value (per short ton)					
Commercial shipments	\$821	\$887	\$898	\$898	\$903
Export shipments	783	838	869	860	829
Average	819	883	896	896	897
Share of shipment quantity (percent)					
Commercial shipments	94.2	93.2	93.0	93.6	92.9
Export shipments	5.8	6.8	7.0	6.4	7.1
Total shipments	100.0	100.0	100.0	100.0	100.0
¹ No firm reported internal consumption or transfers to related firms.					
Source: Compiled from data submitted in response to Commission questionnaires.					

U.S. PRODUCERS' INVENTORIES

Inventories held within the domestic industry are reported in table III-7. As shown, inventories increased by 7.6 percent from December 31, 2004 to June 30, 2007. U.S. mills typically maintain inventories of finished products at the mill, or in nearby warehouses, and provide just-in-time delivery to their customers.³⁸ The ratio of domestic inventories to firm production/shipments was in the range of 12 to 14 percent throughout the period.

³⁸ Letter from ***, November 14, 2006.

**Table III-7
Coated free sheet paper: U.S. end-of-period inventories, 2004-06, January-June 2006, and
January-June 2007**

Item	Calendar year			January-June ¹	
	2004	2005	2006	2006	2007
Inventories (<i>short tons</i>)	613,937	631,606	615,487	651,033	660,679
Ratio to production (<i>percent</i>)	12.7	12.8	12.4	13.1	13.2
Ratio to U.S. shipments (<i>percent</i>)	13.3	13.8	13.3	14.3	14.5
Ratio to total shipments (<i>percent</i>)	12.5	12.8	12.4	13.4	13.5
¹ January-June ratios are based on annualized production and shipment data.					
Note.—***.					
Source: Compiled from data submitted in response to Commission questionnaires.					

U.S. PRODUCERS' EMPLOYMENT, WAGES, AND PRODUCTIVITY

The average number of production and related workers (PRWs) producing CFS paper fell consistently from 8,110 workers in 2004 to 6,641 workers in January-June 2007 (table III-8). Hours worked, wages paid, and hourly wages also declined from 2004 and 2006 and then stabilized somewhat during the interim periods. The annual declines were substantial with hours worked, wages paid, and hourly wages falling by 17.2 percent, 28.8 percent, and 14.1 percent, respectively, from 2004 to 2006. The magnitude of the decline is largely due to figures reported by *** although other firms, in particular ***,³⁹ also reported workforce reductions and Pasadena shut down its entire mill.⁴⁰ ***.⁴¹ Hourly wages paid to PRWs by *** declined from \$*** per hour in 2004 to \$*** per hour in 2006. In contrast, hourly wages paid to PRWs by *** increased from \$*** per hour in 2004 to \$*** per hour in 2006 while those paid by *** rose from \$*** to \$*** over the same three-year period.⁴² A representative of the USW testified at the Commission's hearing that there have been reductions in wages for current employees as part of collective-bargaining processes.⁴³ Productivity for the combined CFS paper industry rose steadily throughout the 2004-06 period while unit labor costs fell.⁴⁴ Both productivity and unit labor costs were relatively stable in the interim periods.

³⁹ As indicated earlier, the *** shutdown of *** resulted in the lay-off of approximately *** employees.

⁴⁰ The Pasadena closure, according to its questionnaire response, resulted in loss of *** manufacturing jobs.

⁴¹ E-mail from ***, September 6, 2007.

⁴² Calculated from ***'s producer questionnaire responses, question II-10.

⁴³ Hearing transcript, p. 100 (LaCosse).

⁴⁴ Productivity has increased as a result of the shutdown in less efficient machinery (or restructuring). Petitioner's postconference brief, ex. 1, p. 67. NewPage also points out that any shift in the relative shares of roll and sheet production will impact productivity. Sheet production requires additional labor hours compared to web roll manufacturing. Ibid., ex. 1, p. 67. In 2004, *** percent of the U.S. industry's CFS paper was manufactured as a web roll and *** was in sheeter roll form; in 2006, the respective shares were *** percent and *** percent (table D-1). The shares of sheets, accordingly, fell from *** percent in 2004 to *** percent in 2006. Ibid.

Table III-8
Coated free sheet paper: Employment-related indicators, 2004-06, January-June 2006, and
January-June 2007

Item	Calendar year			January-June	
	2004	2005	2006	2006	2007
Production and related workers (PRWs)	8,110	7,199	6,666	6,777	6,641
Hours worked by PRWs (1,000 hours)	17,104	15,231	14,169	7,126	7,182
Wages paid to PRWs (1,000 dollars)	508,029	404,836	361,513	181,652	180,983
Hours worked per worker (1,000 hours)	2,109	2,116	2,126	1,052	1,081
Hourly wages	\$29.70	\$26.58	\$25.51	\$25.49	\$25.20
Productivity (short tons produced per 1,000 hours)	282.9	323.5	351.0	347.6	348.2
Unit labor costs (per short ton)	\$104.97	\$82.17	\$72.69	\$73.33	\$72.37
Source: Compiled from data submitted in response to Commission questionnaires. (***)					

NewPage noted during the preliminary phase of the investigations that plant closures have resulted in the layoffs of over 1,000 workers and that many of them have met the certification requirements for Trade Adjustment Assistance benefits.⁴⁵ Workers were certified at 16 CFS paper mills since January 1, 2003.⁴⁶ The United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial, and Service Workers International Union, AFL-CIO-CLC (or USW) filed a letter, dated October 27, 2006, in support of the petition. The USW represents the following mills: Appleton (Combined Locks, WI); Fraser Papers (Madawaska, ME); Gladfelter (Spring Grove, PA); International Paper (Courtland, AL); Mohawk (Cohoes, NY); NewPage (Escanaba, MI; Luke, MD; Rumford, ME; and Wickliffe, KY), Sappi (Cloquet, MN; Hinckley, ME; Muskegon, MI; and Westbrook, ME); Smart Papers (Hamilton, OH); and Stora Enso (Kimberly, WI; Wisconsin Rapids, WI; and Stevens Point, WI); and Verso (Jay, ME). Representatives of the USW testified at the both the Commission's conference and hearing that 95 percent of the CFS paper capacity in the United States is in unionized mills and that the USW represents over 90 percent of the workers.⁴⁷

⁴⁵ Petitioner's postconference brief, p. 3.

⁴⁶ Petitioner's postconference brief, exh. 2. One of the mills listed in the exhibit (Wausau Paper Corp.) is not believed to produce paper that meets the definition of the subject merchandise.

⁴⁷ Conference transcript, pp. 33-34 (Hart) and hearing transcript (Lacosse), pp. 49-50.

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

U.S. IMPORTERS

The subject product is imported by a variety of mill agents, independent brokers, and paper merchants. In some instances, trading companies sell subject paper to paper merchants that are themselves importers, resulting in the potential for the double-counting of reported imports.¹ Importer questionnaires were sent to 83 firms identified in proprietary Customs documents under the HTS reporting numbers identified in the petition (and subsequently in Commerce's initiation notices and notices of its preliminary determinations) as having imported CFS paper from any source from January 2004 through April 2007.² Of these firms, data for 33 importers were accounted for in completed importer questionnaires,³ 34 importers did not respond,⁴ and 12 firms indicated that they did not, in fact, import CFS paper.^{5 6} Table IV-1 identifies responding importers.

Table IV-1

Coated free sheet paper: U.S. importers' reported subject U.S. imports in 2006, shares of the quantity of reported subject U.S. imports, parent firm(s), and identified foreign manufacturer(s), by source

* * * * *

As shown both in proprietary Customs documents and in table IV-1, a relatively small number of importers accounted for the majority of U.S. imports of CFS paper from China, Indonesia, and Korea. The most substantial U.S. importers of subject merchandise from China during January 2004 to April

¹ ***, for example, stated in its importer questionnaire response (question I-7) during the preliminary phase of the investigations that it was "not able to determine whether its purchasers were the consignee {in Customs documents} on some or all of the transactions during the period in question." See also INV-DD-163 (December 8, 2006), p. IV-5, for additional discussion. Commission staff modified the importer questionnaire (see questions I-7a and I-7b) and worked with respondents during the final phase of the investigations to address and largely eliminate the double-counting of data.

² At the time the mailing list was compiled, proprietary Customs documents were available only through April 2007. Importer questionnaires were also sent to all U.S. producers of CFS paper.

³ The number of responding firms (33) will not equal the number of firms shown in table IV-1 (31) since to simplify reporting and minimize double-counting responding importer/consignees, in certain instances, included data for their customers that had also been listed in proprietary Customs documents as the importer/consignee for some imports at some point during the period examined.

⁴ Of the non-responding importers, one-half imported CFS paper from China, Indonesia, and/or Korea and one-half imported from all other countries. With the exception of ***, an importer from Indonesia (whose questionnaire response was, per telephone interviews with Commission staff, to include data for *** and *** and another Indonesian importer ***), non-responding firms accounted for a relatively minor share of total imports from China, Indonesia, and Korea.

⁵ These firms consisted of ***. Information on the actual products imported is provided (for most of these firms) in app. D. (***) is a freight forwarder of merchandise from Italy. E-mail from ***, July 17, 2007).

⁶ In addition, four firms that had been identified in the petition (but not in proprietary Customs documents) as possible importers that had not responded to the importer questionnaire issued in the preliminary phase of the investigations again did not respond to the importer questionnaire in the final phase.

2007 were: ***.⁷ *** are related to the Chinese manufacturers from which they import. ***⁸ accounted for the bulk of U.S. subject imports from Indonesia during the period examined.⁹ As discussed in the notes to table IV-1, most subject merchandise from Indonesia was imported by ***¹⁰ until ***; from *** onward subject merchandise was almost entirely sold in the U.S. market through ***. The most substantial U.S. importers of CFS paper from Korea during the period examined in terms of volume of subject merchandise were ***. ***. Global Fibres, Moorim USA and Shinho USA are related to Korean CFS paper manufacturers.

COMPARISON OF AVAILABLE DATA MEASURING U.S. IMPORTS

Table IV-2 presents data measuring the flow of CFS paper from the subject sources as reported in Commerce statistics and in response to Commission importer and foreign producer questionnaires. Notes to the table identify and discuss discrepancies among the various datasets. For the purposes of this report, U.S. imports of CFS paper are compiled from the following sources:

(1) China.—Data are compiled from U.S. imports reported in importer questionnaires. Official Commerce statistics for the HTS numbers identified in the scope language substantially understate imports of the subject merchandise in 2004 and 2005; official Commerce statistics that include 4811.59.2000 and 4811.90.8000 include ***.¹¹ Further, U.S. imports of product manufactured by one Chinese firm (Gold Hua Sheng Paper (Suzhou Industrial Paper) Co., Ltd.) *** consists of merchandise now reported to not meet the definition of CFS paper.¹²

It should be noted that the use of importer questionnaire data to measure imports may *** distort the trends shown for imports of subject merchandise from China. U.S. imports of CFS paper reported in the importer questionnaires declined from 2004 to 2005 while exports to the United States reported by the Chinese manufacturers were generally level. Further, the magnitude of the rise in Chinese imports reported in importer questionnaire responses from 2004 to 2006 (66.1 percent) is *** than the increase in Chinese-manufactured exports to the United States (*** percent).^{13 14}

⁷ ***. ***'s importer questionnaire response, questions I-2, I-4, and II-5.

⁸ ***.

⁹ See also submission from counsel for the Indonesian respondents (September 24, 2007) providing 2006 export sales of subject merchandise to the United States, by customer.

¹⁰ ***.

¹¹ Although “***,” once certain U.S. importers stopped misclassifying subject merchandise under HTS reporting numbers 4811.59.2000 and 4811.90.8000 (which apparently occurred sometime in ***) the remaining entries under those reporting numbers are, by definition, nonsubject merchandise. See app. D. for a discussion of the misclassification of CFS paper in these HTS statistical reporting numbers.

¹² See Chinese respondents and Unisource’s posthearing brief, *Answers to Commissioner Questions*, p. 30.

¹³ Commission staff worked with counsel for the Chinese manufacturers to reconcile U.S. import data (in particular, that reported by ***) to Commerce data. See e-mail, dated August 16, 2007, to counsel for Chinese manufacturers. ***. ***, August 31, 2007.

¹⁴ U.S. imports from China classified in official Commerce statistics for the HTS statistical reporting numbers identified in the scope plus HTS numbers 4811.59.2000 and 4811.90.8000 increased by 119.8 percent from 2004 to 2006; at least a portion of this increase is due to ***.

Table IV-2

Coated free sheet paper: Comparison of Commerce import statistics to data on U.S. imports and exports to the United States reported in Commission importer and foreign producer questionnaires, by source, 2004-06, January-June 2006 and January-June 2007

Data source	2004	2005	2006	January-June	
				2006	2007
Quantity (short tons)					
China					
Commerce statistics for HTS numbers listed in Commerce's initiation notices	32,277	109,328	291,035	144,323	72,728
Above Commerce statistics plus HTS reporting numbers 4811.59.2000 and 4811.90.8000 ¹	145,112	175,548	318,956	153,829	80,252
U.S. imports reported in importer questionnaires	160,668	142,831	267,746	125,803	77,367
Exports to the United States reported in the foreign producer questionnaires	***	***	***	***	***
Indonesia					
Commerce statistics for HTS numbers listed in Commerce's initiation notices	33,319	29,418	54,969	33,053	8,399
Above Commerce statistics plus HTS reporting numbers 4811.59.2000 and 4811.90.8000 ²	36,128	32,461	61,746	35,263	12,266
U.S. imports reported in importer questionnaires	***	***	***	***	***
Exports to the United States reported in the foreign producer questionnaires	***	***	***	***	***

Table continued on next page.

Table IV-2--Continued

Coated free sheet paper: Comparison of Commerce import statistics to data on U.S. imports and exports to the United States reported in Commission importer and foreign producer questionnaires, by subject source, 2004-06, January-June 2006, and January-June 2007

Data source	2004	2005	2006	January-June	
				2006	2007
Quantity (short tons)					
Korea					
Commerce statistics for HTS numbers listed in Commerce's initiation notices ³	430,444	417,113	471,215	240,713	228,260
Subject sources: U.S. imports reported in importer questionnaires (subject sources)	***	***	***	***	***
Exports to the United States reported in the foreign producer questionnaires	***	***	***	***	***
Nonsubject sources: U.S. imports reported in importer questionnaires (subject sources)	***	***	***	***	***
Exports to the United States reported in the foreign producer questionnaires	***	***	***	***	***
Total: U.S. imports reported in importer questionnaires (subject sources)	455,918	420,013	433,840	217,735	216,564
Exports to the United States reported in the foreign producer questionnaires	466,446	417,086	465,757	240,969	222,766
All other sources					
Commerce statistics for HTS numbers listed in Commerce's initiation notices	1,076,558	944,088	914,535	491,941	349,590
U.S. imports reported in importer questionnaires	442,680	350,648	375,629	156,058	182,732
Exports to the United States reported in the foreign producer questionnaires	***	***	***	***	***
<p>¹ Additional information on the misclassification of CFS paper under these HTS reporting numbers is provided in app. D.</p> <p>² The volume of U.S. imports from Indonesia entered under HTS numbers 4811.59.2000 and 4811.90.8000 is relatively small. ***. In addition, *** reported importing subject merchandise from Indonesia under yet a different HTS number (4802.57.1000). ***'s importer questionnaire response, question II-8.</p> <p>³ Data are not presented for official Commerce statistics including HTS numbers 4811.59.2000 and 4811.90.8000 since the volume of U.S. imports from Korea under these numbers is relatively small. Moreover, there is no information on the record concerning any misclassifications of Korean-manufactured product in these items. See INV-DD-163 (December 8, 2006), p. IV-7, for data on U.S. imports from Korea entered under HTS numbers 4811.59.2000 and 4811.90.8000.</p>					
Notes continued on next page.					

Continuation.

Note.—There are the following identified discrepancies in data sources:

China.—There are relatively minor variations between U.S. imports reported in importer questionnaire data and exports to the United States reported in foreign producer questionnaires.

Indonesia.—(A) Exports to the United States reported in Pindo Deli & Tjiwa Kimia's foreign producer questionnaire *** U.S. imports reported in importer questionnaires for ***. ***. See submission by counsel for Indonesian manufacturers, September 24, 2007. Commission staff has the following observations. The data provided by the Indonesian manufacturers generally *** to importer questionnaire data submitted to the Commission and proprietary Customs documents ***.

(B) Exports to the United States reported in Pindo Deli & Tjiwa Kimia's foreign producer questionnaire *** official Commerce data (imports) for *** onward. This is believed to be due to the relatively substantial misclassification of subject merchandise in HTS numbers other than those identified in Commerce's scope primarily by ***.

Korea (subject).—Reported exports to the United States are generally comparable to questionnaire data for U.S. imports, although there is some discrepancy for ***.

Korean (nonsubject).—Reported exports to the United States are generally comparable to questionnaire data for U.S. imports, although there is some discrepancy for ***.

All other sources.—Exports to the United States reported in foreign producer questionnaires will not equal imports to the United States reported in importer questionnaires since responses were received from various (and differing) countries.

Source: Compiled from official Commerce statistics, proprietary Customs data, and from data submitted in response to Commission questionnaires, unless otherwise noted.

(2) **Indonesia.**—Data are compiled from exports to the United States reported by the foreign manufacturers. Official Commerce statistics for the HTS numbers identified in the scope language substantially understate imports of the subject merchandise (particularly from ***); imports reported in response to the importer questionnaires are also believed to be *** in ***.

3) **Korea.**—Data are compiled from exports to the United States reported by the subject and nonsubject manufacturers. Official Commerce statistics do not provide a breakout by manufacturer required to separate subject merchandise from nonsubject merchandise; imports reported in response to the importer questionnaires are believed to be *** in ***.

(4) **All other countries.**—Data are compiled from official Commerce statistics. All other data sources are understated.

U.S. IMPORTS

Table IV-3 presents data on U.S. imports of CFS paper. The quantity of aggregated U.S. imports from China, Indonesia, and Korea (subject) declined from 2004 to 2005 and then rose in 2006 for an overall increase of *** percent. By country, U.S. imports from both China and Korea (subject)¹⁵ fell

¹⁵ NewPage also claimed during the preliminary phase of the investigations that “the temporary leveling off of U.S. imports from Korea in 2005 was widely understood to be the result of competition from China.” Petitioner’s postconference brief, p. 42. As discussed earlier, the 2004–05 trend for U.S. imports of CFS paper from China calculated during the final phase of the investigations differed from that presented during the preliminary phase.

Table IV-3
Coated free sheet paper: 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 (short tons)					
China	160,668	142,831	267,746	125,803	77,367
Indonesia	***	***	***	***	***
Korea (subject)	***	***	***	***	***
Subtotal subject	***	***	***	***	***
Korea (nonsubject)	***	***	***	***	***
Canada	295,016	299,302	158,249	103,464	49,023
Finland	218,296	185,486	224,267	109,155	96,297
Germany	160,034	108,414	136,031	74,019	58,323
All other sources	403,211	350,886	395,989	205,303	145,946
Subtotal nonsubject	***	***	***	***	***
Total	***	***	***	***	***
Value (1,000 dollars)¹					
China	130,058	118,991	223,767	105,794	63,484
Indonesia	***	***	***	***	***
Korea (subject)	***	***	***	***	***
Subtotal subject	***	***	***	***	***
Korea (nonsubject)	***	***	***	***	***
Canada	259,462	273,042	139,434	92,424	42,205
Finland	171,936	150,171	182,597	88,675	86,194
Germany	147,829	110,904	137,177	73,873	60,670
All other sources	425,014	423,612	461,121	232,944	183,354
Subtotal nonsubject	***	***	***	***	***
Total	***	***	***	***	***
Unit value (per short ton)¹					
China	\$809	\$833	\$836	\$841	\$821
Indonesia	***	***	***	***	***
Korea (subject) ²	***	***	***	***	***
Average subject	***	***	***	***	***

Table continued on next page.

Table IV-3
Coated free sheet paper: 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 short ton)¹					
Korea (nonsubject)	\$***	\$***	\$***	\$***	\$***
Canada	879	912	881	893	861
Finland	788	810	814	812	895
Germany	924	1,023	1,008	998	1,040
All other sources	1,054	1,207	1,164	1,135	1,256
Subtotal nonsubject	***	***	***	***	***
Total	***	***	***	***	***
Share of quantity (percent)					
China	***	***	***	***	***
Indonesia	***	***	***	***	***
Korea (subject)	***	***	***	***	***
Subtotal subject	***	***	***	***	***
Korea (nonsubject)	***	***	***	***	***
Canada	***	***	***	***	***
Finland	***	***	***	***	***
Germany	***	***	***	***	***
All other sources	***	***	***	***	***
Subtotal nonsubject	***	***	***	***	***
Total	100.0	100.0	100.0	100.0	100.0
Share of value (percent)					
China	***	***	***	***	***
Indonesia	***	***	***	***	***
Korea (subject) ²	***	***	***	***	***
Subtotal subject	***	***	***	***	***
Korea (nonsubject)	***	***	***	***	***
Canada	***	***	***	***	***
Finland	***	***	***	***	***
Germany	***	***	***	***	***
All other sources	***	***	***	***	***
Subtotal nonsubject	***	***	***	***	***
Total	100.0	100.0	100.0	100.0	100.0

Notes on next page.

Continuation.

¹ Landed, duty-paid.

² Korean manufacturers note that the average unit value data in the staff report “appears to be distorted due to product mix issues” and point out that the unit values indicate different prices and trends than the actual pricing data. They note that Korea’s pricing data are consistently above those for China but the average unit values show the opposite relationship. Korean respondents’ prehearing report, p. 54, n. 180. The revision of data in the staff report to include U.S. imports of product manufactured by the now-subject manufacturer Hankuk somewhat *** the range in unit values between Korea (subject) and China.

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

from 2004 to 2005, while U.S. imports from Indonesia increased steadily from 2004 to 2006.¹⁶ As noted earlier, the 2004-05 decline in imports from China may be a reporting artifice. Imports from each subject source declined from January-June 2006 to January-June 2007 for a combined decrease of *** percent.¹⁷ The quantity of aggregated U.S. imports of CFS paper from nonsubject sources fell steadily by *** percent from 2004 to 2006 and by *** percent from January-June 2006 to January-June 2007. Canada, Finland, and Germany were the largest sources of product from nonsubject countries during the period examined. Both petitioner and Korean respondents point to the reduction in CFS paper manufacturing capacity in Canada as resulting in a decline in U.S. imports of Canadian-manufactured product.¹⁸ A portion of the nonsubject imports are acquired by U.S. producers (*see* the section of this report entitled

¹⁶ NewPage attributed what it labeled as the “surge” of U.S. imports of Indonesian-produced CFS to a “displacement” of Indonesia’s exports to China as the Chinese expanded their domestic production capability. Petitioner’s postconference brief, p. 17. It provided a tabulation showing the percent change in imports of CFS into China from Indonesia for January-August 2005 to January-August 2006. *Id.* Indonesian respondents argued that the “allegation” should be rejected since petitioner’s figures are based on aggregating data into both China and Hong Kong. Indonesian respondents’ postconference brief, pp. 15-16.

¹⁷ Petitioner states that “[i]mport levels from China and Indonesia during the interim 2007 period have not decreased at all, and may, in fact, have increased slightly, due to misreporting and circumvention of the suspension of liquidation in these cases.” It asserts that subject manufacturers in both China and Indonesia have started to enter product using the HTS statistical reporting numbers for groundwood instead of entering it as CFS paper. In support of their assertion they cite the volumes of coated freesheet and coated groundwood imported from China and Indonesia, by month, from January 2007 to June 2007. ***. Petitioner notes that Gold Hua Sheng identified itself as a producer of subject merchandise during the preliminary phase of the investigations. Petitioner’s prehearing brief, pp. 47-56.

The Chinese respondents reply that: “[t]he APP China producers have always produced both coated free sheet paper (with 10 percent or less mechanical pulp) and certain coated groundwood products (with over 10 percent mechanical pulp). The increase in imports of coated groundwood products shown in Petitioner’s chart {shown in their prehearing brief at 49} results from two factors: 1) properly classifying coated groundwood products (***); and 2) ***.” Chinese respondents and Unisource’s posthearing brief, *Responses to Questions from the Commission*, p. 30. Respondents’ brief implies but does not explicitly state ***. According to respondents, Gold Hua Sheng only exported paper to the United States containing more than 10 percent mechanical pulp. ***. *Ibid.*

As indicated in *Part I* of this report, Commerce determined not to adopt the scope clarification requested by NewPage to include “coated free sheet” that contains more than 10 percent semi-chemical pulp (which would otherwise be classified a coated groundwood).

¹⁸ Petitioner’s postconference brief, p. 10. Korean manufacturers point out that the reduction in nonsubject imports is “accounted for almost entirely” by the drop-off in imports from Canada and is the direct result of the plant closures.

“U.S. Producers’ Imports and Purchases”). ***.¹⁹ ***.²⁰ See table III-2 for a complete listing of U.S. producer imports and purchases.

CUMULATION CONSIDERATIONS

In assessing whether imports compete with each other and with the domestic like product, the Commission has generally considered four factors: (1) fungibility, (2) presence of sales or offers to sell in the same geographical market, (3) common or similar channels of distribution, and (4) simultaneous presence in the market. Issues concerning fungibility and channels of distribution are addressed in *Part II* of this report. Data on geographical markets are shown in appendix F;²¹ a review of monthly official Commerce statistics that were placed on the record during the preliminary phase of the investigations indicated that imports of CFS paper from each of the subject countries entered into the United States during every month in the January 2003-September 2006 period for which data were then available.

THE QUESTION OF NEGLIGIBLE IMPORTS

The statute (section 771(24)(A)(i) of the Act) provides that imports from a subject country corresponding to the domestic like product are negligible if such imports account for less than 3 percent of the volume of all such merchandise imported into the United States in the most recent 12-month period for which data are available that precedes the filing of the petition - in this case October 2005 through September 2006.²² The statute (section 771(24)(B) of the Act) further provides that in an investigation under section 701, imports of subject merchandise from developing countries are negligible if such imports account for less than 4 percent of the volume of all such merchandise imported into the United States in the specified 12-month period. In accordance with section 771(B) of the Act, the United States Trade Representative has designated Indonesia as a developing country under the countervailing duty law.^{23 24}

Table IV-4 presents data on U.S. imports (that is based, in part, on surrogate export data) of CFS paper for the 12-month period October 2005 through September 2006. As indicated in the table notes, data for China and nonsubject sources other than Korea consists of official Commerce statistics for U.S. imports. Data for Indonesia and Korea (both subject and nonsubject) are compiled from information

¹⁹ ***’s producer questionnaire response, question II-16.

²⁰ ***’s importer questionnaire response, question II-5.

²¹ As shown in table F-1, merchandise from each subject source is shipped to each individual U.S. geographical area, although there were *** U.S. imports of Indonesian-manufactured CFS paper in the *** region of the United States. U.S. producers likewise served each region of the United States. West Linn is the only U.S. manufacturer located on the West coast (table III-1); *** (West Linn’s producer questionnaire response, question II-15). ***. Ibid. The *** portion of the domestically produced CFS paper shipped to or within the western region shown in table F-1 (***) is manufactured by ***.

²² Also, section 771(24)(A)(iv) of the Act provides that the Commission shall not treat imports as negligible if it determines that there is a potential that imports found to be negligible will imminently account for more than 3(4) percent of total subject imports.

²³ 15 CFR § 2013.1.

²⁴ Petitioner points out that Asia Pulp & Paper maintains CFS plants in both Indonesia and China and argues that any termination of the subsidy investigation involving Indonesia “would likely divert production for its U.S. customers from its Chinese mills to its Indonesian mills.” Petition, p. 19. See ex. I-15 of the petition for ***. Asia Pulp and Paper is identified in that exhibit as ***.

Table IV-4

Coated free sheet paper: U.S. imports, by sources and by month,¹ October 2005-September 2006

Period	China ²	Indonesia ^{3 4}	Korea (subject) ^{3 5}	Korea (non-subject) ^{3 5}	All other ⁶	Total
Quantity (<i>short tons</i>)						
2005:						
October	7,822	***	***	***	91,623	***
November	12,620	***	***	***	87,615	***
December	12,504	***	***	***	85,576	***
2006:						
January	20,686	***	***	***	81,121	***
February	14,379	***	***	***	68,128	***
March	24,161	***	***	***	93,267	***
April	28,420	***	***	***	89,344	***
May	25,311	***	***	***	84,296	***
June	31,365	***	***	***	75,785	***
July	22,212	***	***	***	73,891	***
August	27,682	***	***	***	71,220	***
September	25,199	***	***	***	72,035	***
Total	252,361	***	***	***	973,900	***
Shares (<i>percent</i>)	***	4.2	***	***	***	100.0
<p>¹ Data are presented in order to allow for a month-to-month comparison.</p> <p>² Figures are official Commerce statistics for the HTS reporting numbers identified in the scope. Data will be <u>understated</u> where CFS paper is misclassified in HTS reporting numbers other than those identified in the scope. Data will be <u>overstated</u> where product other than CFS paper is entered under the "scope" HTS reporting numbers (e.g., ***).</p> <p>³ Figures are lagged by one month to account for shipping time. According to the Korean manufacturers, shipping time from Asia to the United States is "about a month." Korean respondents' posthearing brief, app. A., p. 59.</p> <p>⁴ Figures are Indonesian manufacturers' reported exports to the United States (for September 2005 to August 2006). Pindo Deli and Tjiwa Kimia's foreign producer questionnaire response, question II-14, and e-mail from counsel for the Indonesian manufacturers, October 30, 2007.</p> <p>⁵ Figures are Korean manufacturers' reported exports to the United States (for September 2005 to August 2006). Submission from counsel for the Korean respondents, September 17, 2007.</p> <p>⁶ Figures are official Commerce statistics for the HTS reporting numbers identified in the scope. Data will be <u>understated</u> where CFS paper is misclassified in HTS reporting numbers other than those identified in the scope. Data will be <u>overstated</u> where product other than CFS paper is entered under the "scope" HTS reporting numbers.</p>						
Notes continued on next page.						

Continuation.

Note.—As indicated earlier, there are misclassifications of product both “within” (i.e., nonsubject product being erroneously included) and “outside” (i.e., CFS paper not being properly classified) the HTS reporting numbers identified in the scope). See app. D for a further discussion of the implications of the identified misclassifications and the comments of Indonesian respondents.

Source: Compiled from official Commerce statistics (China and nonsubject sources other than Korea) and foreign producer questionnaires and party submissions presenting U.S. exports to the United States (Indonesian and Korea, both subject and nonsubject).

submitted by the counsels for the manufacturers in those countries and measure the volume of their exports to the United States. As shown, imports of CFS paper from China accounted for *** percent of total U.S. imports, imports from Indonesia accounted for 4.2 percent, and imports from Korea manufactured by the subject firms accounted for *** percent of total U.S. imports. The data measuring negligibility presented in the staff report are comparable to those presented in the prehearing report (INV-EE-145, October 2, 2007 (table IV-5)) with the following exceptions:

(1) Official Commerce statistics (imports) were used to measure China. Data for China in the Commission’s prehearing report were compiled from information submitted in Gold East’s foreign producer questionnaire response while data for the two other identified exporters of CFS paper to the United States (Chenming Paper and Shandong Sun, but not including ***) were compiled from proprietary Customs data.²⁵

(2) Data for Indonesia were lagged to adjust for the (estimated) month difference between the export of a shipment from an Asian country and its being entered into the United States (and counted as an U.S. import by Census).²⁶

²⁵ The net impact of this adjustment was to lower the Chinese negligibility totals from *** short tons (prehearing report) to 252,361 short tons (final report) with no impact on the negligibility share for Indonesia (4.2 percent). Official Commerce statistics were not used to measure U.S. imports elsewhere in this report (and initially not used in the prehearing report for the negligibility calculation) due to the various misclassification errors for U.S. imports from China at differing times during the period examined. However, as shown in table IV-2 and in an examination of the individual importer questionnaire responses for China (addressed in app. D), the misclassification of Chinese-manufactured CFS paper under HTS reporting numbers 4811.59.2000 and 4811.90.8000 was not an identifiable issue for 2006 (the calendar year most relevant to the negligibility period of October 2005-September 2006). Indeed, official import statistics for the HTS statistical reporting numbers identified in the scope did not understate importer questionnaire responses and exports to the United States reported by Chinese manufacturers in 2006-- as was the case in 2004 and 2005-- but instead overstated it.

²⁶ The net impact of this adjustment was to increase the Indonesian negligibility totals from *** short tons (prehearing report) to *** short tons (final report) resulting in a negligibility share for Indonesia of 4.2 percent (specifically, *** percent). (The unlagged prehearing report figure of *** short tons used with the revised staff report total import figure of *** short tons would result in a negligibility share of *** percent for Indonesia). Lagging exports from Indonesia resulted in replacing a “*** month” (September 2006 when *** short tons were exported) with a “*** month” (September 2005 when *** short tons were exported).

(3) Data for Korea (subject and nonsubject) were lagged and were further adjusted to reflect Commerce's final determination that Hankuk-manufactured CFS paper is subject merchandise.²⁷

APPARENT U.S. CONSUMPTION, U.S. MARKET SHARES, AND RATIO OF IMPORTS TO U.S. PRODUCTION

Table IV-5 presents the apparent U.S. consumption and market shares of CFS paper for the period examined (i.e., 2004-06, January-June 2006, and January-June 2007) while table IV-6 presents the ratio of U.S. imports to production. The quantity of U.S. consumption was relatively level during 2004-06 with a period low of *** short tons of CFS paper in 2005. Consumption declined from *** short tons in January-June 2006 to *** short tons in January-June 2007 for a decline of *** percent.²⁸ From 2004 to 2006, U.S. producers' market shares in terms of quantity were relatively stable gaining *** percentage point on an overall basis. Imports of CFS paper from subject sources increased *** percentage points in market share. The rise was primarily due to the increase in U.S. imports from China (*** percentage points; the Indonesian share of the U.S. market rose by *** percentage point²⁹ while the share of subject Korean imports fell by *** percentage point). With respect to the interim periods, the domestic industry's market share rose by *** percentage points while the share of subject imports declined by *** points and the share of nonsubject imports fell by *** percentage points. The only source, other than the domestic producers, to increase its share of the U.S. market during the January-June 2006 to January-June 2007 interim period was Korea (nonsubject), whose market share increased by ***.

²⁷ The net impact of these adjustments were to lower the Korean (subject and nonsubject combined) negligibility totals from 461,951 short tons (prehearing report) to *** short tons (final report) with no impact on the negligibility share for Indonesia (4.2 percent).

²⁸ Petitioner contends that interim comparisons are unreliable due to what it calls the substantial understatement of what it labels as "subject" imports from China. Petitioner's posthearing brief, pp. 26-27. It states that "questionnaire responses have highlighted no such decline in coated free sheet demand; rather, the parties and questionnaire responses uniformly reported increased demand for coated free sheet over the period examined." Ibid, p. 27.

²⁹ The Indonesian respondents state that what they label as the "slight" increase in the market share for U.S. imports from Indonesia was due to the "one time" stocking requirements for a particular customer. Indonesian respondents' prehearing brief, p. 18.

Table IV-5
Coated free sheet paper: U.S. consumption and market shares, by sources, 2004-06,
January-June 2006, and January-June 2007

Item	Calendar year			January-June	
	2004	2005	2006	2006	2007
Quantity (short tons)					
U.S. producers' U.S. shipments	4,630,831	4,585,403	4,627,631	2,281,789	2,275,591
Total U.S. imports	***	***	***	***	***
U.S. consumption	***	***	***	***	***
Value (1,000 dollars)					
U.S. producers' U.S. shipments	3,803,852	4,066,115	4,154,576	2,049,324	2,053,968
Total U.S. imports	***	***	***	***	***
U.S. consumption	***	***	***	***	***
Share of quantity (percent)					
U.S. producers' U.S. shipments	***	***	***	***	***
U.S. imports from--					
China	***	***	***	***	***
Indonesia	***	***	***	***	***
Korea (subject)	***	***	***	***	***
Subtotal subject	***	***	***	***	***
Korea (nonsubject)	***	***	***	***	***
Canada	***	***	***	***	***
Finland	***	***	***	***	***
Germany	***	***	***	***	***
All other sources	***	***	***	***	***
Subtotal nonsubject	***	***	***	***	***
Total	***	***	***	***	***

Table continued on next page.

Table IV-5

Coated free sheet paper: U.S. consumption and market shares, by sources, 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	***	***	***	***	***
U.S. imports from--					
China	***	***	***	***	***
Indonesia	***	***	***	***	***
Korea (subject)	***	***	***	***	***
Subtotal subject	***	***	***	***	***
Korea (nonsubject)	***	***	***	***	***
Canada	***	***	***	***	***
Finland	***	***	***	***	***
Germany	***	***	***	***	***
All other sources	***	***	***	***	***
Subtotal nonsubject	***	***	***	***	***
Total	***	***	***	***	***
Source: Compiled from data submitted in response to Commission questionnaires and from official Commerce statistics.					

Table IV-6

Coated free sheet paper: U.S. production, imports, and ratios of imports to U.S. production, 2004-06, January-June 2006, and January-June 2007

Item	Calendar year			January-June	
	2004	2005	2006	2006	2007
Quantity (short tons)					
U.S. production	4,839,651	4,926,891	4,973,370	2,477,182	2,500,813
Subject U.S. imports from--					
China	160,668	142,831	267,746	125,803	77,367
Indonesia	***	***	***	***	***
Korea (subject)	***	***	***	***	***
Subtotal subject	***	***	***	***	***
Korea (nonsubject)	***	***	***	***	***
Canada	295,016	299,302	158,249	103,464	49,023
Finland	218,296	185,486	224,267	109,155	96,297
Germany	160,034	108,414	136,031	74,019	58,323
All other sources	403,211	350,886	395,989	205,303	145,946
Subtotal nonsubject	***	***	***	***	***
Total	***	***	***	***	***
Ratio to production (percent)					
Subject U.S. imports from--					
China	3.3	2.9	5.4	5.1	3.1
Indonesia	***	***	***	***	***
Korea (subject)	***	***	***	***	***
Subtotal subject	***	***	***	***	***
Korea (nonsubject)	***	***	***	***	***
Canada	6.1	6.1	3.2	4.2	2.0
Finland	4.5	3.8	4.5	4.4	3.9
Germany	3.3	2.2	2.7	3.0	2.3
All other sources	8.3	7.1	8.0	8.3	5.8
Subtotal nonsubject	***	***	***	***	***
Total	***	***	***	***	***
Source: Compiled from data submitted in response to Commission questionnaires and from official Commerce statistics.					

PART V: PRICING AND RELATED INFORMATION

FACTORS AFFECTING PRICES

Raw Material Costs

Raw materials as a share of cost of goods sold for domestic producers of CFS paper increased between 2004 and 2006, increasing from 47 percent of the cost of goods sold in 2004 to 52 percent in 2006. The raw material costs for producing CFS paper are pulp, oil, and natural gas. Raw material costs per short ton increased by about 12 percent between 2004 and 2006. Petitioner indicates that the long-term outlook for fundamental costs of their raw materials depends on the outlook for prices of oil and natural gas and expects that in near future, their raw material costs will increase proportionally to any further increase in these prices.¹

Transportation Costs to the U.S. Market

Transportation costs for CFS paper shipped from China to the United States averaged 16.6 percent of the customs value during 2006. Transportation costs for CFS paper shipped from Indonesia to the United States averaged 16.5 percent of the customs value during 2006. Transportation costs for CFS paper shipped from Korea to the United States averaged 15.0 percent of the customs value during 2006. These estimates are derived from official Commerce statistics.²

U.S. Inland Transportation Costs

Transportation costs on U.S. inland shipments of CFS paper generally account for a small-to-moderate share of the delivered price of these products. For U.S. producers, reported costs ranged from 1 percent to 12 percent of the delivered price for paper in sheet form and from 8 percent to 12 percent of the delivered price in web roll form. For importers the costs ranged from 1 percent to 12 percent of the delivered price for paper in sheet form and over 3 percent to 28 percent of the delivered price in web roll form.³

Exchange Rates

Nominal and real exchange rate data for China, Indonesia, and Korea are shown in figure V-1.⁴

¹ Hearing transcript, pp. 150-151 (Button).

² The estimated cost was obtained by subtracting the customs value from the c.i.f. value of the imports for 2006 and then dividing by the customs value. This calculation used import data for the following HTS reporting numbers 4810.13.2010; 4810.13.2090; 4810.13.5000; 4810.13.7040; 4810.14.1900; 4810.14.2010; 4810.14.2090; 4810.14.5000; 4810.14.7040; 4810.19.1900; 4810.19.2010; and 4810.19.2090.

³ The importer that reported 28 percent was ***. The second-highest reported transportation cost by importers for web roll was 11 percent.

⁴ Real exchange rates are calculated by adjusting the nominal rates for movements in producer prices in the United States and each of the subject countries.

Figure V-1
Exchange rates: Indices of the nominal and real exchange rates of the subject countries' currencies relative to the U.S. dollar, by quarters, January 2004-June 2007

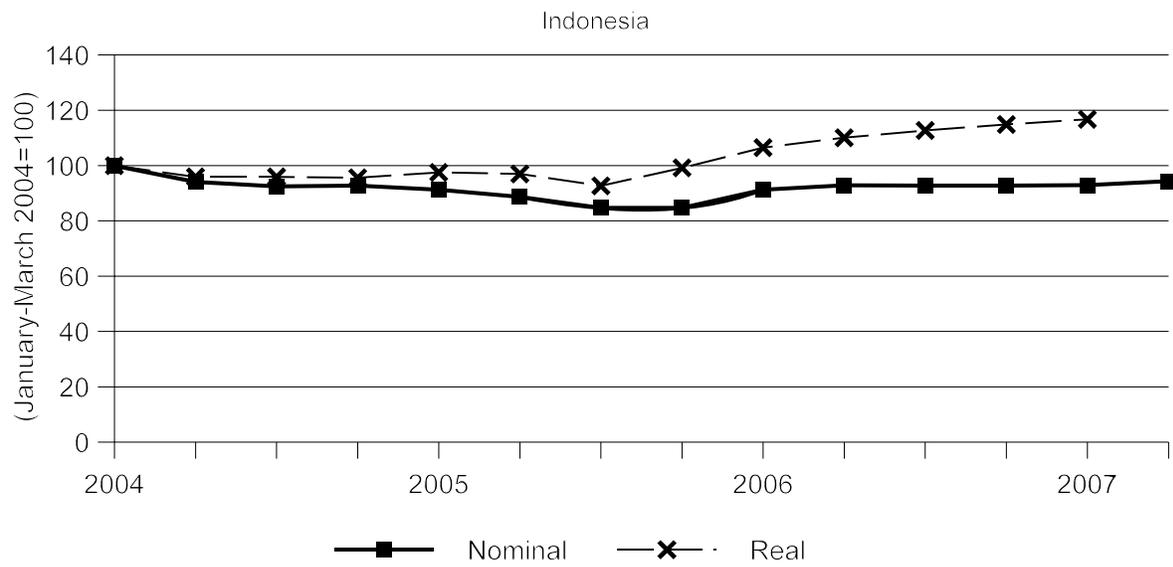
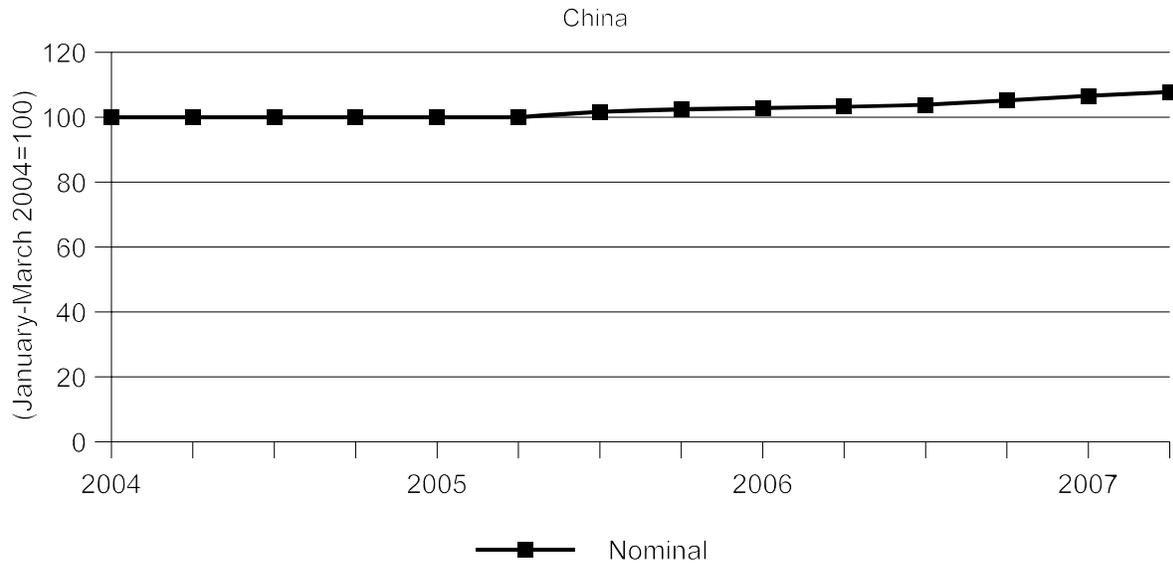
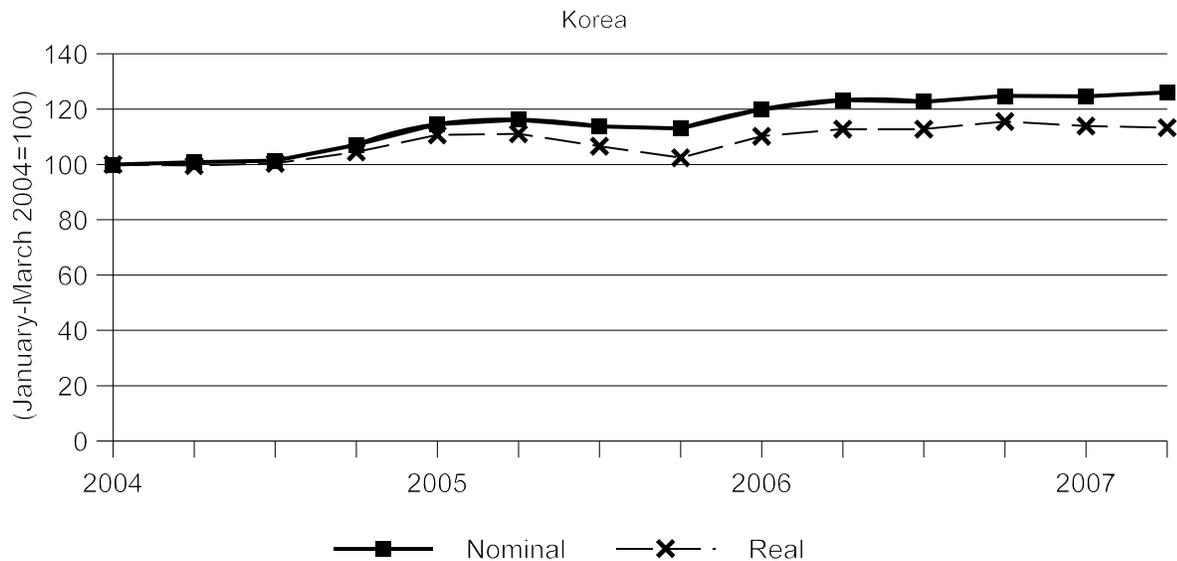


Figure continued on next page.

Figure V-1--Continued

Exchange rates: Indices of the nominal and real exchange rates of the subject countries' currencies relative to the U.S. dollar, by quarters, January 2004-June 2007



Source: International Monetary Fund, *International Financial Statistics* online, <http://imfstatistics.org/imf>, retrieved September 4, 2007.

PRICING PRACTICES

Pricing Methods

When U.S. producers were asked how they determined the prices that they charge for CFS paper, responses were varied. Transaction-by-transaction negotiations and set price lists were cited most often. Most responding importers reported the use of transaction-by-transaction negotiations, price lists, or prices that reflect market conditions.

U.S. producers reported that they quote prices of CFS paper both on an f.o.b. basis and on a delivered basis.⁵ Virtually all responding importers reported that they quote on a delivered basis.

Petitioner also reported that shipping CFS in web-roll form is more efficient than shipping sheets because web rolls are easier to stack.⁶ Respondent importers, on the other hand, reported that shipping web rolls is less efficient than shipping sheets because they cannot be containerized, resulting in more unused space in the shipping vessel, and that transportation costs per ton are higher for web rolls.⁷

One-half of responding U.S. producers reported that the majority of their sales are made from inventory, with the remainder reporting that the majority of sales are produced to order. Lead times for

⁵ Four U.S. producers reported quoting on an f.o.b. basis and three reported quoting on a delivered basis.

⁶ Petitioner's postconference brief, exh. 1, p. 11.

⁷ Conference transcript, pp. 103-104 (Anderson), 120 (Dragone), and 167 (Hunley). Korean respondents' postconference brief, p. 10. Chinese respondents' postconference brief, p. 7.

delivery of CFS paper for U.S. producers ranged from to one day to four weeks on sales from inventory and ranged from 10 days to 30 days on sales produced to order. For importers, nine of 23 responding importers reported that the majority of their sales are made from inventory. Lead times for delivery of CFS paper for importers ranged from to one day to 9 months on sales from inventory and ranged from three weeks to six months on sales produced to order. Respondent importers reported that due to the longer lead times associated with the imported product, merchants buying imports must hold them in inventory and thus face additional handling costs.⁸

Twenty-eight responding purchasers indicated that there are price leaders in the U.S. market for CFS paper.⁹ Among the companies most mentioned were domestic producers NewPage, which was named by 14 purchasers, Sappi, which was named by 12 purchasers, and Storo which was named by 10 purchasers. Petitioners claim that domestic suppliers are ***.¹⁰ However, while subject suppliers that were identified as price leaders were more frequently characterized as exhibiting "downward" or "competitive" price leadership, subject suppliers were less frequently named by purchasers as price leaders than domestic producers. Subject supplier identified as price leaders include Gold East which was named by four purchasers, Unisource which was named by 2 purchasers, and APP, Bradner/Hankuk, Chenming, and Spicer Paper which were each named by one purchaser.

Sales Terms and Discounts

U.S. producers and importers of CFS paper from China, Indonesia, and Korea were asked what shares of their sales were on a (1) long-term contract basis (multiple deliveries for more than 12 months), (2) short-term contract basis, and (3) spot sales basis (for a single delivery) in 2005. Most responding producers and importers reported the use of short-term contracts or spot sales.¹¹ Among producers, five reported that at least half of their sales are on a short-term contract basis, three reported that they sell nearly exclusively on a spot sales basis, and one reported that it sells mostly on a long-term contract basis. Among responding importers, 15 reported that they sell nearly exclusively on a spot sales basis, six reported that they sell exclusively on a short-term contract basis, two reported that at least half of their sales were on a short-term contract basis, and one reported that they sell mostly on a long-term contract basis.

For U.S. producers selling on a contract basis, provisions varied from company to company. Short-term contracts are typically for periods of one month to up to one year, while long-term contracts are for periods of one to three years. For both long- and short-term contracts, quantity, price, or both quantity and price were fixed, depending on the firm. All but one responding producer reported that price can be renegotiated at least sometimes in both their short- and long-term contracts during the contract period. Although three of six responding producers indicated that their short-term contracts had a meet-or-release provision, none of four responding producers indicated that their long-term contracts had these provisions. In the case of importers, short-term contracts are typically for periods of one month to up to one year. Seven of 14 responding importers reported that price can be renegotiated for their short-term contracts during the contract period. These importer contracts typically do not contain meet-or-release provisions.

Discount policies on sales of CFS paper vary widely. Six responding U.S. producers reported the use of volume discounts. Fourteen of 25 responding importers reported use of some type of discounts,

⁸ Conference transcript, pp. 106, 140 (Anderson) and p. 109 (Cho).

⁹ In addition, seven purchasers responded that there were no price leaders.

¹⁰ Petitioner's prehearing brief, p. 44.

¹¹ Petitioner contends that the predominance of short-term contracts, as opposed to long-term contracts, allows customers to switch suppliers fairly easily. Petitioner's postconference brief, p. 8.

with 10 importers reporting the use of quantity discounts. Respondent importers contend that importers' sales to merchants must incorporate a discount to offset the additional costs of handling imports and the capital expenditures needed to maintain large inventories typically associated with import shipments.¹²

PRICE DATA

The Commission requested U.S. producers and importers of CFS paper to provide quarterly data for the total quantity and f.o.b. value of selected products that were shipped to unrelated merchants and directly to end users in the U.S. market.¹³ Data were requested for the period January 2004-June 2007. The products for which pricing data were requested are as follows:

***Product 1.*—Coated free sheet, two-side coated sheets, 70-100 pounds text basis weights, brightness levels 86-89.**

***Product 2.*—Coated free sheet, two-side coated sheets, 70-100 pounds text basis weights, brightness levels 90-91.**

***Product 3.*—Coated free sheet, two-side coated sheets, 70-100 pounds text basis weights, brightness levels 92-95.**

***Product 4.*—Coated free sheet, two-side coated web rolls, 60-69 pounds text basis weights, brightness levels 86-91.**

***Product 5.*—Coated free sheet, two-side coated web rolls, 70-100 pounds text basis weights, brightness levels 87 and above.**

***Product 6.*—Coated free sheet, two-side coated sheeter rolls, 70-100 pounds text basis weights, brightness levels 87 and above.**

***Product 7.*—Coated free sheet, one-side coated sheets, 70-100 pounds text basis weights, brightness levels 83 and above.**

The Commission received usable pricing data for sales of the requested products from eight U.S. producers (***),¹⁴ ten importers of CFS paper from China (***), three importers of product from Indonesia (***),¹⁵ and eight importers of subject product from Korea (***), although not all firms reported pricing for all products for all quarters. Merchant sales and direct sales pricing data reported by these firms accounted for *** percent of U.S. producers' U.S. shipments of CFS paper during 2006 *** and *** percent of U.S. imports from China, *** percent of U.S. imports from Indonesia, *** percent of U.S. imports from subject Korean sources, and *** percent of imports from nonsubject sources.

Price Trends

Weighted-average prices of CFS paper are presented in tables V-1 through V-14 and figure V-2. The CFS paper market exhibits seasonality, as prices increase in the third, and possibly fourth, quarters in anticipation of increased demand for books and catalogs associated with holiday shopping.¹⁶ Weighted-average sales prices for most U.S.-produced products increased between the first quarter of 2004 and the

¹² Conference transcript, pp. 106 (Anderson) and 109 (Cho). Korean respondents' postconference brief, p. 30.

¹³ Petitioner states that the merchant sales prices carry more weight, as they account for *** percent of domestic producers' shipments and *** percent of subject import shipments.

¹⁴ Price data submitted by U.S. producer ***.

¹⁵ Importer *** could not identify whether its sales values were on an f.o.b. basis or on a delivered basis and is therefore not represented here.

¹⁶ Petitioner's postconference brief, p. 8.

second quarter of 2007 by amounts up to *** percent (see tables V-15 and V-16). The weighted-average sales price for product 3 decreased by *** percent and *** percent for direct sales and merchant sales respectively.

Table V-1

Coated free sheet paper: Weighted-average f.o.b. prices and quantities of domestic and imported product 1¹ sold to merchants/distributors and margins of underselling/(overselling), by quarters, January 2004-June 2007

* * * * *

Period	Merchant Sales							
	United States		Korea (subject)			Nonsubject sources		
	Price (per short ton)	Quantity (short tons)	Price (per short ton)	Quantity (short tons)	Margin (percent)	Price (per short ton)	Quantity (short tons)	Margin (percent)
2004:								
Jan.-Mar.	***	***	***	***	***	\$888	32,085	***
Apr.-June	***	***	***	***	***	870	36,879	***
July-Sept.	***	***	***	***	***	898	30,928	***
Oct.-Dec.	***	***	***	***	***	916	34,784	***
2005:								
Jan.-Mar.	***	***	***	***	***	888	32,806	***
Apr.-June	***	***	***	***	***	916	30,662	***
July-Sept.	***	***	***	***	***	923	25,715	***
Oct.-Dec.	***	***	***	***	***	911	24,936	***
2006:								
Jan.-Mar.	***	***	***	***	***	897	29,887	***
Apr.-June	***	***	***	***	***	907	34,483	***
July-Sept.	***	***	***	***	***	953	36,358	***
Oct.-Dec.	***	***	***	***	***	952	26,197	***
2007:								
Jan.-Mar.	***	***	***	***	***	940	25,243	***
Apr.-June	***	***	***	***	***	952	35,904	***
¹ Coated free sheet, two-side coated sheets, 70-100 pounds text basis weights, brightness levels 86-89.								
Source: Compiled from data submitted in response to Commission questionnaires.								

Table V-2

Coated free sheet paper: Weighted-average f.o.b. prices and quantities of domestic and imported product 1 sold directly to end users and margins of underselling/(overselling), by quarters, January 2004-June 2007

* * * * *

Table V-3

Coated free sheet paper: Weighted-average f.o.b. prices and quantities of domestic and imported product 2¹ sold to merchants/distributors and margins of underselling/(overselling), by quarters, January 2004-June 2007

Period	Merchant Sales							
	United States		China			Indonesia		
	Price (per short ton)	Quantity (short tons)	Price (per short ton)	Quantity (short tons)	Margin (percent)	Price (per short ton)	Quantity (short tons)	Margin (percent)
2004:								
Jan.-Mar.	\$1,288	32,919	-	-	-	-	-	-
Apr.-June	1,264	32,469	-	-	-	-	-	-
July-Sept.	1,299	30,059	***	***	***	***	***	***
Oct.-Dec.	1,313	27,033	***	***	***	***	***	***
2005:								
Jan.-Mar.	1,315	31,896	***	***	***	***	***	***
Apr.-June	1,297	29,852	-	-	-	***	***	***
July-Sept.	1,319	28,484	-	-	-	***	***	***
Oct.-Dec.	1,338	26,424	-	-	-	***	***	***
2006:								
Jan.-Mar.	1,332	26,749	-	-	-	***	***	***
Apr.-June	1,305	30,120	-	-	-	***	***	***
July-Sept.	1,327	30,475	-	-	-	***	***	***
Oct.-Dec.	1,312	30,111	-	-	-	***	***	***
2007:								
Jan.-Mar.	1,286	29,911	-	-	-	***	***	***
Apr.-June	1,301	30,985	-	-	-	-	-	-

Table continued on next page.

Table V-3--Continued

Coated free sheet paper: Weighted-average f.o.b. prices and quantities of domestic and imported product 2¹ sold to merchants/distributors and margins of underselling/(overselling), by quarters, January 2004-June 2007

Period	Merchant Sales							
	United States		Korea (subject)			Nonsubject sources		
	Price (per short ton)	Quantity (short tons)	Price (per short ton)	Quantity (short tons)	Margin (percent)	Price (per short ton)	Quantity (short tons)	Margin (percent)
2004:								
Jan.-Mar.	\$1,288	32,919	***	***	***	***	***	***
Apr.-June	1,264	32,469	***	***	***	***	***	***
July-Sept.	1,299	30,059	***	***	***	***	***	***
Oct.-Dec.	1,313	27,033	***	***	***	***	***	***
2005:								
Jan.-Mar.	1,315	31,896	***	***	***	***	***	***
Apr.-June	1,297	29,852	***	***	***	***	***	***
July-Sept.	1,319	28,484	***	***	***	***	***	***
Oct.-Dec.	1,338	26,424	***	***	***	***	***	***
2006:								
Jan.-Mar.	1,332	26,749	***	***	***	***	***	***
Apr.-June	1,305	30,120	***	***	***	***	***	***
July-Sept.	1,327	30,475	***	***	***	***	***	***
Oct.-Dec.	1,312	30,111	***	***	***	***	***	***
2007:								
Jan.-Mar.	1,286	29,911	***	***	***	***	***	***
Apr.-June	1,301	30,985	***	***	***	***	***	***
¹ Coated free sheet, two-side coated sheets, 70-100 pounds text basis weights, brightness levels 90-91. Source: Compiled from data submitted in response to Commission questionnaires.								

Table V-4

Coated free sheet paper: Weighted-average f.o.b. prices and quantities of domestic and imported product 2 sold directly to end users and margins of underselling/(overselling), by quarters, January 2004-June 2007

* * * * *

Table V-5

Coated free sheet paper: Weighted-average f.o.b. prices and quantities of domestic and imported product 3 sold to merchants/distributors and margins of underselling/(overselling), by quarters, January 2004-June 2007

* * * * *

Table V-6

Coated free sheet paper: Weighted-average f.o.b. prices and quantities of domestic and imported product 3 sold directly to end users and margins of underselling/(overselling), by quarters, January 2004-June 2007

* * * * *

Table V-7

Coated free sheet paper: Weighted-average f.o.b. prices and quantities of domestic and imported product 4¹ sold to merchants/distributors and margins of underselling/(overselling), by quarters, January 2004-June 2007

Period	Merchant Sales							
	United States		China			Nonsubject sources		
	Price (per short ton)	Quantity (short tons)	Price (per short ton)	Quantity (short tons)	Margin (percent)	Price (per short ton)	Quantity (short tons)	Margin (percent)
2004:								
Jan.-Mar.	\$724	143,107	-	-	-	***	***	***
Apr.-June	725	156,614	-	-	-	***	***	***
July-Sept.	769	149,552	-	-	-	***	***	***
Oct.-Dec.	807	145,151	***	***	***	***	***	***
2005:								
Jan.-Mar.	819	142,636	***	***	***	***	***	***
Apr.-June	852	130,234	***	***	***	***	***	***
July-Sept.	856	146,905	***	***	***	***	***	***
Oct.-Dec.	843	150,175	***	***	***	***	***	***
2006:								
Jan.-Mar.	839	149,773	***	***	***	***	***	***
Apr.-June	852	144,190	***	***	***	***	***	***
July-Sept.	865	162,911	***	***	***	***	***	***
Oct.-Dec.	856	144,195	***	***	***	***	***	***
2007:								
Jan.-Mar.	841	133,594	***	***	***	***	***	***
Apr.-June	831	138,414	***	***	***	***	***	***
¹ Coated free sheet, two-side coated web rolls, 60-69 pounds text basis weights, brightness levels 86-91. Source: Compiled from data submitted in response to Commission questionnaires.								

Table V-8

Coated free sheet paper: Weighted-average f.o.b. prices and quantities of domestic and imported product 4 sold directly to end users and margins of underselling/(overselling), by quarters, January 2004-June 2007

* * * * *

Table V-9

Coated free sheet paper: Weighted-average f.o.b. prices and quantities of domestic and imported product 5¹ sold to merchants/distributors and margins of underselling/(overselling), by quarters, January 2004-June 2007

Period	Merchant Sales							
	United States		China			Nonsubject sources		
	Price (per short ton)	Quantity (short tons)	Price (per short ton)	Quantity (short tons)	Margin (percent)	Price (per short ton)	Quantity (short tons)	Margin (percent)
2004:								
Jan.-Mar.	\$715	203,421	-	-	-	***	***	***
Apr.-June	713	206,239	-	-	-	***	***	***
July-Sept.	771	228,666	-	-	-	***	***	***
Oct.-Dec.	810	216,635	***	***	***	***	***	***
2005:								
Jan.-Mar.	824	203,929	***	***	***	***	***	***
Apr.-June	849	175,383	***	***	***	***	***	***
July-Sept.	828	252,800	***	***	***	***	***	***
Oct.-Dec.	831	227,482	***	***	***	***	***	***
2006:								
Jan.-Mar.	847	218,764	***	***	***	***	***	***
Apr.-June	874	200,390	***	***	***	***	***	***
July-Sept.	879	239,338	***	***	***	***	***	***
Oct.-Dec.	855	219,562	***	***	***	***	***	***
2007:								
Jan.-Mar.	852	208,479	***	***	***	***	***	***
Apr.-June	837	197,619	-	-	-			

¹ Coated free sheet, two-side coated web rolls, 70-100 pounds text basis weights, brightness levels 87 and above.

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

Table V-10

Coated free sheet paper: Weighted-average f.o.b. prices and quantities of domestic and imported product 5 sold directly to end users and margins of underselling/(overselling), by quarters, January 2004-June 2007

* * * * *

Table V-11

Coated free sheet paper: Weighted-average f.o.b. prices and quantities of domestic and imported product 6 sold to merchants/distributors and margins of underselling/(overselling), by quarters, January 2004-June 2007

* * * * *

Table V-12

Coated free sheet paper: Weighted-average f.o.b. prices and quantities of domestic product 6 sold directly to end users, by quarters, January 2004-June 2007

* * * * *

Table V-13

Coated free sheet paper: Weighted-average f.o.b. prices and quantities of domestic and imported product 7 sold to merchants/distributors and margins of underselling/(overselling), by quarters, January 2004-June 2007

* * * * *

Table V-14

Coated free sheet paper: Weighted-average f.o.b. prices and quantities of domestic product 7 sold directly to end users, by quarters, January 2004-June 2007

* * * * *

Figure V-2

Coated free sheet paper: Weighted-average f.o.b prices of domestic and imported products 1-7, January 2004-June 2007

* * * * *

Table V-15

Coated free sheet paper: Summary of weighted-average f.o.b. prices for products 1 through 7 sold to merchants/distributors, by country, January 2004-June 2007

Product/Country	Number of quarters	Lowest price (per short ton)	Highest price (per short ton)	Change in price: ¹ (percent)
Product 1				
U.S.	***	***	***	***
China	***	***	***	***
Indonesia	***	***	***	***
Subject Korea	***	***	***	***
Nonsubject	14	870	953	7.2
Product 2				
U.S.	14	1,264	1,338	1.0
China	***	***	***	***
Indonesia	***	***	***	***
Subject Korea	***	***	***	***
Nonsubject	***	***	***	***
Product 3				
U.S.	***	***	***	***
China	***	***	***	***
Nonsubject	***	***	***	***
Product 4				
U.S.	14	724	865	14.8
China	***	***	***	***
Nonsubject	***	***	***	***
Product 5				
U.S.	14	713	879	17.1
China	***	***	***	***
Nonsubject	***	***	***	***
Product 6				
U.S.	***	***	***	***
China	***	***	***	***
Subject Korea	***	***	***	***
Nonsubject	***	***	***	***
Product 7				
U.S.	***	***	***	***
China	***	***	***	***
Subject Korea	***	***	***	***
Nonsubject	***	***	***	***
¹ Percentage change from the first quarter in which price data were available to the last quarter in which price data were available, based on unrounded data.				
Source: Compiled from data submitted in response to Commission questionnaires.				

Table V-16

Coated free sheet paper: Summary of weighted-average f.o.b. prices for products 1 through 7 sold directly to end users, by country, January 2004-June 2007

* * * * *

Price Comparisons

Overall there were 197 instances where prices for domestic CFS paper and subject imports of CFS paper could be compared. Of these 197 comparisons, there were 149 instances (76 percent) where the subject imported product was priced below the domestic product (table V-17). Margins of underselling averaged 20.6 percent, ranging from 0.2 percent to 50.9 percent. In 48 instances, the subject imported product was priced above the comparable domestic product. Margins of overselling averaged 17.4 percent, ranging from 0.1 percent to 57.0 percent.

LOST SALES AND LOST REVENUES

The Commission requested U.S. producers of CFS paper to report any instances of lost sales or revenues they experienced due to competition from imports of CFS paper from China, Indonesia, and/or Korea since January 2003. Six of eight responding U.S. producers reported that they had lost sales or revenues due to subject imports. One of these U.S. producers, however, reported that it could not document individual transactions.¹⁷ Another U.S. producer reported that subject imports are highly competitive, but did not cite specific lost sales or lost revenues. U.S. producers provided *** lost sales allegations and *** lost revenue allegations.¹⁸ The *** lost sales allegations totaled \$ *** and the *** lost revenue allegations totaled \$***. Staff contacted the *** purchasers cited in the allegations; *** responded. The results are summarized in tables V-18 and V-19 and are discussed below.

*** was named in a lost sales allegation valued at \$*** allegedly occurring in ***. It could not respond to the specific allegation cited; however, it reported that it bases its purchasing decisions on a combination of price and availability and purchases both domestic product and subject imports.

*** was named in a lost sales allegation valued at \$ *** allegedly occurring in ***. While *** could not respond to the specific transaction cited, it reported that it has not switched purchases away from domestic product to subject imports, but rather has switched purchases away from Korean product to Chinese product and that its overall import purchases have been flat since 2003. Regarding the lost sales allegation of *** short tons in ***, *** initially indicated that it can neither agree nor disagree with the allegations unless they are provided with the *** division/location and customer name involved in each of the allegations.¹⁹

*** was named in a lost revenue allegation valued at \$ *** allegedly occurring in ***. It agreed with the allegation, stating that the price of the product from China was *** percent less than the comparable domestic product, and that the price of the product from Korea was *** percent less.

*** was named in *** valued at \$ *** allegedly occurring in ***. It agreed with the allegations, stating that any printer that orders standard sheet sizes and is shopping for the best price will purchase from the subject countries. Furthermore, it stated that *** has made it clear that it plans to grow its business worldwide.

¹⁷ Petitioner NewPage notes that because CFS paper is sold predominantly via paper distributors or "merchants," it can be difficult to identify and quantify specific instances of lost sales and that in such instances the Commission should consider a more general lost sales and revenue inquiry. Petitioner's prehearing brief, p. 65, fn. 174.

¹⁸ ***.

¹⁹ Letter from ***. Petitioner's prehearing brief, p. 65, fn. 174. ***.

Table V-17

Coated free sheet paper: Instances of underselling/overselling and the range and average of margins for products 1-7, January 2004-June 2007

Country	Underselling			Overselling		
	Number of instances	Range (percent)	Average margin (percent)	Number of instances	Range (percent)	Average margin (percent)
By country:						
China	89	0.2 to 50.9	19.5	16	0.1 to 57.0	20.5
Indonesia	19	8.0 to 33.0	22.4	6	5.2 to 24.0	15.3
Subject Korea	41	1.1 to 35.2	22.3	26	0.5 to 51.3	15.9
Total¹	149	0.2 to 50.9	20.6	48	0.1 to 57.0	17.4
¹ Total number of instances for all cited products, range of margins for all cited products, and average margin for all cited products. Source: Compiled from data submitted in response to Commission questionnaires.						

Table V-18

Coated free sheet paper: U.S. producers' lost sales allegations

* * * * *

Table V-19

Coated free sheet paper: U.S. producers' lost revenue allegations

* * * * *

*** was named in, ***, valued at \$***, allegedly occurring in *** and including CFS paper in both sheet form and web-rolls. *** could not verify the specific transactions cited. However, it disagreed with at least the portion of the allegations allegedly occurring at ***, stating that those divisions do not purchase CFS paper in *** from Asia. The portion of the lost revenues allegations attributed to those *** are valued at \$***. *** also reported that it has worked with U.S. producers *** to develop lower-priced brands to be more competitive with subject imports. It also maintained that it has not switched purchases away from domestic product to subject imports, but rather has switched purchases away from Korean product to Chinese product and that its overall import purchases have been flat since 2003.

NewPage notes that because CFS paper is sold predominantly via paper distributors or “merchants,” it can be difficult to identify and quantify specific instances of lost sales and that in such instances the Commission should consider a more general lost sales and revenue inquiry.

PART VI: FINANCIAL CONDITION OF U.S. PRODUCERS

BACKGROUND

Ten producers¹ provided financial results for their operations on coated free sheet paper. The responding producers are believed to represent the substantial majority of U.S. production. None of the sales of coated free sheet paper were either internally consumed or transferred to related companies.

The questionnaire data of NewPage were verified with company records at its corporate facilities. The verification adjustments were incorporated into this report. The financial data of NewPage were changed to ***.

OPERATIONS ON COATED FREE SHEET PAPER

Results of operations of the U.S. producers on their coated free sheet paper operations are presented in table VI-1 which includes data on a per-short ton basis as well as operating income (loss) to net sales ratios.² The quantity and value sold increased continuously between 2004 and 2006 and the two interim periods. The operating income and per-unit sales values also increased continuously during the same period. The operating loss became a profit in 2005 as per-unit sales values increased measurably while per-unit total cost decreased slightly during this period. Sales quantity and value both increased from 2005 to 2006 and operating income increased further, as average unit sales values again increased (from \$885 to \$894 per short ton) while average unit total cost decreased (from \$870 to \$861). Sales quantity and value both increased slightly from interim 2006 to interim 2007 and operating income increased moderately between the two interim periods, as average unit sales values increased slightly (from \$895 to \$897 per short ton) while average unit total cost decreased somewhat (from \$870 to \$867). The operating income margin increased continually from 2004 to 2006, and the operating income margin for interim 2007 was approximately 3.4 percent, compared to the ratio for interim 2006 which was 2.7 percent.

As explained in footnote 1 in this section, an additional producer, Pasadena, submitted limited financial information. The combined financial data, including major financial indicators, when Pasadena's limited financial data were integrated with the results of operations of the other ten U.S. producers on coated free sheet paper operations (table VI-1), are presented in table VI-2. Table VI-2 in conjunction with table VI-1 can be used to analyze the trend of financial and operations results of a total of eleven producers (including Pasadena) over the entire period examined. The trend of financial results in table VI-2 was the same as the trend of financial results of ten producers shown in table VI-1.

¹ The producers with a fiscal year ending other than December 31 are ***. Another producer, Pasadena, was insolvent and no longer in business and its inventory and other assets were liquidated and closed on October 2, 2005. Pasadena's sole paper machine was permanently shut down on September 21, 2005. Pasadena's limited data for 2004 and 2005 were received on October 23, 2007 and major financial indicators of the domestic producers with Pasadena's limited financial data integrated are presented in table VI-2.

² ***.

Table VI-1
CFS paper: Results of operations of U.S. producers, fiscal years 2004-06, January-June 2006, and January-June 2007

Item	Fiscal year			January-June	
	2004	2005	2006	2006	2007
	Quantity (short tons)				
Net sales	4,694,703	4,795,925	4,973,519	2,437,839	2,449,969
	Value (\$1,000)				
Net sales	3,851,630	4,246,492	4,448,315	2,181,981	2,198,622
COGS	3,815,252	3,897,570	3,990,689	1,977,827	1,992,995
Gross profit	36,378	348,922	457,626	204,154	205,627
SG&A expenses	279,415	272,798	290,592	144,304	130,749
Operating income (loss)	(243,037)	76,124	167,034	59,850	74,878
Interest expense	90,297	167,728	210,280	95,124	104,906
Other expense	205,229	398,769	68,516	46,253	20,271
Other income	53,838	824	55,957	41,620	26,008
Net income (loss)	(484,725)	(489,549)	(55,805)	(39,907)	(24,291)
Depreciation/amortization	414,279	392,970	347,837	170,841	157,655
Cash flow	(70,446)	(96,579)	292,032	130,934	133,364
	Unit value (per short ton)				
Net sales	\$820	\$885	\$894	\$895	\$897
COGS	813	813	802	811	813
Gross profit	8	73	92	84	84
SG&A expenses	60	57	58	59	53
Operating income (loss)	(52)	16	34	25	31
	Ratio to net sales (percent)				
COGS	99.1	91.8	89.7	90.6	90.6
Gross profit	0.9	8.2	10.3	9.4	9.4
SG&A expenses	7.3	6.4	6.5	6.6	5.9
Operating income (loss)	(6.3)	1.8	3.8	2.7	3.4
Net income (loss)	(12.6)	(11.5)	(1.3)	(1.8)	(1.1)
	Number of firms reporting				
Operating losses	5	4	2	4	4
Data	9	10	10	10	10
Source: Compiled from data submitted in response to Commission questionnaires.					

Table VI-2

CFS paper: Results of operations of U.S. producers with Pasadena's limited financial data, fiscal years 2004-05

* * * * *

Selected financial data, by firm, are presented in table VI-3. In the recent periods, from 2005 to 2006 and from interim 2006 to interim 2007, the operating results of *** producers improved somewhat, because of either reduced unit costs (***),^{3 4} or increased selling prices (***). During the same periods, the operating results of ***^{5 6} deteriorated, largely because of increased unit costs. ***. While ***,⁷ ***.

Table VI-3

CFS paper: Results of operations of U.S. producers, by firm, fiscal years 2004-06, January-June 2006, and January-June 2007

* * * * *

When International Paper divested its coated papers division and sold it to Apollo Management, L.P. to create Verso Paper Holdings, LLC in August 2006, Verso incurred ***. Even though Verso's average sales values ***.

When comparing interim 2006 results to interim 2007 results, four of the ten producers reported improved profitability (in terms of both operating income and margin ratio-- *** reported increased operating income and *** reported improved operating margins), while the remaining *** producers reported deteriorating operations results between the two interim periods.^{8 9} Average operating income margins increased continuously from 2004 to 2006 and also increased from interim 2006 to interim 2007, even though the operating income margin remained below 4 percent for each year of the entire period examined. Interest and other expenses, by firm, are also shown in table VI-3 because some firms, ***, incurred substantial amounts of these expenses, either due to debt-financing resulting from the formation of a new firm, or to associated expenses related to the shutdown or write-down of the assets.

Selected aggregate per-short ton cost data of the producers on their operations, i.e., COGS and SG&A expenses, are presented in table VI-4. Overall per-short ton COGS and total cost (which includes SG&A expenses) decreased slightly from 2004 to 2005, despite increased raw material costs, due primarily to decreased conversion costs. Average total cost decreased even further from 2005 to 2006, again due to decreased conversion cost, in spite of further increased raw material costs. The same pattern continued between interim 2006 and interim 2007 which was again attributable to the same causes aforementioned.

³ ***.

⁴ ***.

⁵ ***.

⁶ ***.

⁷ ***.

⁸ NewPage was formed and acquired the MeadWestvaco CFS business in May 2005. ***.

⁹ ***.

Table VI-4
CFS paper: Average unit costs of U.S. producers, fiscal years 2004-06, January-June 2006, and January-June 2007

Item	Fiscal year			January-June	
	2004	2005	2006	2006	2007
COGS:	Value (per short ton)				
Raw materials	\$408	\$441	\$456	\$443	\$462
Direct labor	133	127	117	117	113
Factory overhead	272	244	230	251	238
Total COGS	813	813	802	811	813
SG&A expenses	60	57	58	59	53
Total cost	872	870	861	870	867
Source: Compiled from data submitted in response to Commission questionnaires.					

A variance analysis showing the effects of prices and volume on the producers' sales of coated free sheet paper, and of costs and volume on their total cost, is shown in table VI-5. The analysis is summarized at the bottom of the table. The analysis indicates that the increase in operating income (\$410.1 million) between 2004 and 2006 was attributable mainly to the positive effects of increased price (\$367.9 million). Between the two interim periods, it indicates that an increased operating income of \$15.0 million mainly resulted from the positive effects of increased price combined with decreased cost and expenses.

Table VI-5**CFS paper: Variance analysis of operations of U.S. producers, 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)			
Net sales:				
Price variance	367,939	311,817	44,575	5,784
Volume variance	228,746	83,045	157,248	10,857
Total net sales variance	596,685	394,862	201,823	16,641
Cost of sales:				
Cost variance	51,149	(58)	51,209	(5,327)
Volume variance	(226,586)	(82,260)	(144,328)	(9,841)
Total cost variance	(175,437)	(82,318)	(93,119)	(15,168)
Gross profit variance	421,248	312,544	108,704	1,473
SG&A expenses:				
Expense variance	5,417	12,641	(7,692)	14,273
Volume variance	(16,594)	(6,024)	(10,102)	(718)
Total SG&A variance	(11,177)	6,617	(17,794)	13,555
Operating income variance	410,071	319,161	90,910	15,028
Summarized as:				
Price variance	367,939	311,817	44,575	5,784
Net cost/expense variance	56,566	12,584	43,517	8,946
Net volume variance	(14,434)	(5,240)	2,819	298
Note.--Unfavorable variances are shown in parentheses; all others are favorable. The data are comparable to changes in operating income as presented in table VI-1.				
Source: Compiled from data submitted in response to Commission questionnaires.				

CAPITAL EXPENDITURES AND RESEARCH AND DEVELOPMENT EXPENSES

The responding firms' aggregate data on capital expenditures and research and development ("R&D") expenses are presented in table VI-6. All producers reported capital expenditures during the

Table VI-6
CFS paper: Capital expenditures and R&D expenses by U.S. producers, fiscal years 2004-06, January-June 2006, and January-June 2007

Item	Fiscal year			January-June	
	2004	2005	2006	2006	2007
	Value (\$1,000)				
Capital expenditures ¹	274,706	183,792	144,565	65,158	48,685
R&D expenses ²	***	***	***	***	***
¹ All companies reported capital expenditures. ² Five producers, *** reported R&D expenses. Source: Compiled from data submitted in response to Commission questionnaires.					

period, with ***,¹⁰ ***,¹¹ ***,¹² and ***¹³ reporting substantial capital expenditures. Five producers, ***, reported R&D expenses. However, *** accounted for the majority of R&D expenses for the period examined. Capital expenditures, by firm, are presented in table VI-7. Capital expenditures decreased continuously from 2004 to 2006 and then decreased again from interim 2006 to interim 2007. Overall, total R&D expenses remained at relatively the same level, approximately \$*** annually.

Table VI-7
CFS paper: Capital expenditures by U.S. producers, by firms, fiscal years 2004-06, January-June 2006, and January-June 2007

* * * * *

ASSETS AND RETURN ON INVESTMENT

U.S. producers were requested to provide data on their assets used in the production and sales of coated free sheet paper during the period for which data were collected to assess their return on investment (“ROI”). Although ROI can be computed in different ways, a commonly used method is income earned during the period divided by the total assets utilized for the operations. Therefore, staff calculated ROI as operating income divided by total assets used in the production and sales of coated free sheet paper. Data on the U.S. producers’ total assets and their ROI are presented in table VI-8.

The value of total assets, especially the original cost and net book value of property, plant, and equipment (“PPE”) decreased substantially from 2004 to 2005, due primarily to ***. The value of total assets, especially the original cost and net book value of PPE, further decreased from 2005 to 2006 because ***. The return on investment increased from 2004 to 2005 to become slightly positive (a small

¹⁰ ***.
¹¹ ***.
¹² ***.
¹³ ***.

Table VI-8
CFS paper: Value of assets and return on investment of U.S. producers, fiscal years 2004-06

Item	Fiscal year		
	2004	2005	2006
Value of assets	Value (\$1,000)		
1. Current assets:			
A. Cash and equivalents	45,843	41,239	104,338
B. Trade receivables (net)	331,372	384,720	360,097
C. Inventories	699,595	753,371	754,635
D. All other current	40,777	43,457	46,720
Total current	1,117,587	1,222,787	1,265,790
2. Non-current assets:			
A. Productive facilities ¹	7,625,286	6,632,716	6,072,105
B. Productive facilities ²	4,358,031	3,717,386	3,443,313
C. Other non-current	833,794	876,238	752,625
Total non-current	5,191,825	4,593,624	4,195,938
Total assets	6,309,412	5,816,411	5,461,728
	Value (\$1,000)		
Operating income	(243,037)	76,124	167,034
	Ratio of operating income to total assets (percent)		
Return on investment	(3.9)	1.3	3.1
¹ Original cost of property, plant, and equipment (PPE). ² Net book value of PPE (original cost less accumulated depreciation).			
Source: Compiled from data submitted in response to Commission questionnaires.			

operating income margin) and further increased in 2006, but still remained below 4 percent. The trend of ROI over the period was the same as the trend of the operating income margin shown in table VI-1.

CAPITAL AND INVESTMENT

The Commission requested U.S. producers to describe any actual negative effects on their return on investment, or their growth, investment, ability to raise capital, existing development and production efforts, or the scale of capital investments as a result of imports of coated free sheet paper from China, Indonesia, and/or Korea. The producers' comments are presented in appendix G.

PART VII: THREAT CONSIDERATIONS AND BRATSK INFORMATION

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

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

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

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

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

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

(V) inventories of the subject merchandise,

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

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

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

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

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

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

Information on the nature of the subsidies was presented earlier in this report; 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.

OVERVIEW OF DATA COLLECTION

The Commission sent foreign producer questionnaires to companies in China (56 firms),³ Indonesia (2 related firms), and Korea (13 firms) that were identified in the petition, Customs documents, and/or public sources as possibly producing CFS paper. During the final phase of its investigations, the Commission also sent foreign producer questionnaires to firms manufacturing in the three countries (Canada, Finland, and Germany) that accounted for substantial volumes of U.S. imports of nonsubject CFS paper.⁴ Canada, Finland, and Germany combined accounted for more than *** percent of nonsubject imports; U.S. imports of product manufactured by the nonsubject Korean firms and in Canada, Finland, and Germany accounted for *** percent of nonsubject imports (table IV-4).

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

³ During the preliminary phase of the investigations, the Commission arranged for counsel for the Chinese manufacturers to transmit questionnaires to those companies that it could not contact directly. During the final phase of the investigations, the Commission requested that the U.S. Embassy in Beijing contact Chinese firms for data on their CFS paper operations. State Department telegram 00105528 (July 2007).

⁴ Foreign producer questionnaires were sent to 6 companies in Canada, to 6 firms in Finland, and to 19 German producers. The Commission also requested that the U.S. embassies in these countries contact each of the identified firms for data on their CFS paper operations and, also, to provide any available industry-wide information. See State Department telegram 00105530 (July 2007) to the U.S. Embassy in Ottawa; State Department telegram 00105640 (July 2007) to the U.S. Embassy in Helsinki; and State Department telegram 00105641 (July 2007) to the U.S. Embassy in Berlin. Only the embassy in Berlin provided a response to the telegram.

Export data derived from the Global Trade Atlas are also presented in this part of the report. The data are compiled at the 6-digit HTS level and include nonsubject products.^{5 6} In comparing official U.S. import statistics of subject products (compiled at the 10-digit HTS level) to GTS export data, the ratios of subject U.S. imports to exports to the United States for 2006 are as follows:

Country	U.S. imports (10-digit HTS level)	Exports to the United States (6-digit HTS level)	Ratio
	Quantity (1,000 short tons)		(Percent)
China ¹	291,035	334,685	87.0
Indonesia	54,969	(²)	(²)
Korea ³	471,215	516,632	91.2
Canada	158,249	159,784	99.0
Finland	224,267	223,942	100.1
Germany	136,031	186,108	73.1
<p>¹ Comparison based on HTS numbers within the HTS heading 4810 (and do not include U.S. imports for HTS reporting numbers 4811.59.2000 and 4811.90.8000). ² Not available. ³ Includes data for companies that have been determined to have both <i>de minimis</i> subsidy and antidumping margins.</p> <p>Source: Compiled from the Global Trade Atlas database and official Commerce statistics.</p>			

SUMMARY OF DATA PROVIDED AND OVERALL FIRM OPERATIONS

Reporting manufacturers are listed in table VII-1 along with each firm's reported capacity, production, total exports, and exports to the United States in 2006.⁷ Table VII-2 provides information on the structure of the foreign producer' CFS paper operations and projected changes to those operations

⁵ The included nonsubject merchandise consists of coated free sheet base paper sensitized for use in photography and coated free sheet papers containing by weight 25 percent or more cotton fiber. Both products were specifically excluded by petitioners and Commerce from the scope of the investigations.

⁶ Korean manufacturers present in their prehearing brief (exhibit 24) an analysis of Census import data at the 10-digit HTS level that compares the average unit values of nonsubject U.S. imports to that of subject imports entering the United States.

⁷ Chinese firms that were identified in the petition as CFS producers but which did not provide a response to the foreign producer questionnaire in either the preliminary or final phases of the investigations include: Dandong Kaite Yalujiang Paper Commerce, Inc.; Jiangnan Papermaking Plant; Mudanjiang Daewoo Paper Co., Ltd.; Ningxia Meili Paper Industry Co., Ltd.; Shandong Huatai Paper Co., Ltd.; Shandong Kaili Paper Co.; Shandong Taishan Paper Mill; Shandong Tralin Paper Co. (Shandong Quanlin Paper Industry Co., Ltd.); Shandong Wanhao Paper Group Co. Ltd.; and UPM-Kymmene (Suzhou) Paper Industry Co. Ltd. Petition, exh. I-5. Each of the three Chinese firms that are believed to account for virtually all exports of subject merchandise to the United States responded. Further, both of the Indonesian firms identified as subject producers in the petition provided responses as did each of the identified Korean manufacturers. Petition, exh. I-6 and exh. I-7.

Table VII-1
Coated free sheet paper: Foreign producers' capacity, production, total exports, and exports to the United States in 2006, by firm

* * * * *

Table VII-2
Coated free sheet paper: Structure of foreign producers' operations and identified projected changes in operations, by source and by firm

* * * * *

that were identified in responses to the Commission's foreign producer questionnaire. *** reported any plans to add, expand, curtail, or shut down CFS paper capacity or production. As shown in table VII-2, CFS paper constituted a *** share of the total sales of most of the companies. The majority also produced other products, most often uncoated free sheet, on the machinery and equipment used to produce the subject merchandise. Accordingly, to address the possibility of product shifting, the Commission gathered from each manufacturer overall capacity and itemized production data for products manufactured on the same equipment and machinery used in the production of CFS paper. Those data are presented in table VII-3.⁸

Table VII-3
Coated free sheet paper: Products produced by manufacturers on the same equipment and machinery used in the production of coated free sheet paper, 2004-06

* * * * *

Data on subject manufacturers' capacity, production, shipments, and inventories of CFS paper for 2004-06, January-June 2006, January-June 2007, projected 2007, and projected 2008 are presented in the following sections. The issue of whether competition between subject imports and domestic production is attenuated was raised during the preliminary phase of the investigations.⁹ Petitioner argues that respondents in each of the subject countries have the "capability" to export web roll to the United States.¹⁰ Data on firm production and exports to the United States of CFS paper in web roll, sheeter roll, and sheet form are also provided separately, by country, within each of the following industry sections.

⁸ Korean manufacturers state that "{m}achinery used to produce non-CFS products cannot be easily or cheaply shifted over to the production of subject CFS. In order to do so, the subject Korean producers would need to invest substantial sums of money in the machinery to add coating machines, rewinders, and supercalenders. It takes at least two months to install these machines and four months to adjust the machines to produce high quality CFS paper products." Korean respondents' prehearing brief, pp. 66-67.

⁹ *See Parts I and II* of this report for a more complete discussion.

¹⁰ Petitioner's prehearing brief, p. 36. Chinese respondents addressed the factors limiting the export of web rolls to the United States in their posthearing brief, *Responses to Questions from the Commission*, pp. 4-8 and 15-16. Also, Korean respondents' summarized the factors preventing the export CFS web to the United States in their posthearing brief, app. A, pp. 43-46.

THE INDUSTRY IN CHINA

Petitioner estimates that there are about 42 manufacturers of CFS paper in China.¹¹ Available industry-wide data on the production of CFS paper by these firms is presented in the following tabulation:

* * * * *

The *** estimates shown above indicate that CFS capacity should expand in China by *** metric tons (*** short tons) from 2006 to 2008. Petitioner's prehearing brief includes, however, cites from industry publications referring to the addition of new Chinese capacity in far greater volumes.¹² Export statistics derived from the *Global Trade Atlas* for Chinese-manufactured coated free sheet paper are shown, by destination, in table VII-4.¹³ CFS paper exported by the Chinese manufacturers was reported not to be subject to antidumping findings or remedies in any WTO-member countries.¹⁴ Each of the three Chinese manufacturers that export more than minimal volumes of subject merchandise to the United States

¹¹ NewPage included an excerpt from the *** in its petition that lists *** producers of "graphic paper" in China. Petition, exh. 15. In addition to the subject merchandise, *** is defined to include uncoated free sheet, uncoated mechanical, coated mechanical, and newsprint. The listing, however, appears to include only CFS paper manufacturers. *Compare* ***. Petitioner includes information on the expansion of CFS production capacity by non-reporting firms in its prehearing brief (pp. 94-95).

¹² Petitioner's prehearing brief pp. 94-95. It presents a tabulation identifying 60,000 tons of capacity at Ningxia Meili Paper Industry Co. (2007); 450,000 tons at Shandong Huatai Paper Industry Co. (2008); 800,000 tons at Jiangsu Oji Paper Co. (2008); and 1.6 million tons at Hainan Jinhai Pulp & Paper Industry Co., Ltd. (2008) for a total of 2.9 millions tons. *Ibid.*, p. 95. Petitioner also includes as exh. 21 to its posthearing brief a release by the German equipment manufacturer (Voith) describing the installation of the paper machine at Hainan Jinhai as an "online coating machine." Respondents testified at the Commission's hearing that "at last notice" the Hainan Jinhai operation was to manufacture uncoated paper and that, further, the Chinese home market is consuming about 500,000 additional tons of CFS paper on an annual basis. Hearing transcript, p. 214-215 (Hunley). Respondents further state that *** at the Hainan Jinhai facility. The owner of the facility, Asia Pulp & Paper, has received ***. ***. The Voight {sic} press release referred to by petitioner pertains to ***. ***. Chinese respondents and Unisource's posthearing brief, *Responses to Questions from the Commission*, pp. 10-11, citing exh. 15 through exh. 17. Chinese respondents also indicate that the Jiangsu Oji mill is to not start manufacturing until 2010 (not 2008). Chinese respondents and Unisource's posthearing brief, *Responses to Questions from the Commission*, p. 9.

¹³ NewPage points out that the United States is the single largest market for CFS paper exported from China. Petitioner's prehearing brief, p. 97.

¹⁴ Chinese manufacturers' foreign producer questionnaire responses (preliminary), question II-6, and ***'s foreign producer questionnaire response, question II-6.

Table VII-4

Coated free sheet paper: China's exports and average unit values, 2004-06

Destination	Calendar year		
	2004	2005	2006
Quantity (short tons)			
United States	146,373	175,869	334,685
Top export markets:			
Hong Kong	144,804	208,470	161,173
Japan	93,116	109,933	66,822
Canada	5,523	12,301	55,535
World	423,179	692,598	1,025,965
Unit value (per short ton)			
United States	\$638	\$664	\$671
Top export markets:			
Hong Kong	629	662	665
Japan	638	667	670
Canada	637	667	663
World average	639	666	667
Share of total (percent)			
United States	34.6	25.4	32.6
Top export markets:			
Hong Kong	34.2	30.1	15.7
Japan	22.0	15.9	6.5
Canada	1.3	1.8	5.4
Total	92.1	73.2	60.2
Note.—Export and import figures are quantities reported at the 6-digit level for HTS subheadings 4810.13, 4810.14, and 4810.19, which include nonsubject products.			
Source: Compiled from Global Trade Atlas database.			

responded to the foreign producer questionnaire.¹⁵ The following tabulation, calculated from data provided in table VII-1 and the above tabulation, shows the estimated shares, in 2006, of total production of CFS paper in China accounted for by Chenming Paper, Gold East, and Shandong Sun.

* * * * *

As shown, the responding firms are estimated to account for well over *** of total Chinese production of the subject merchandise. Global Solutions, which is the related U.S. importer for Gold East, testified at the Commission’s hearing that Gold East is the largest producer in China of both CFS paper and other papers.¹⁶ Counsel for the Chinese manufacturers indicated that Gold East, Chenming, and Shandong Sun accounted for all subject exports from China to the United States at the time of the preliminary determination.¹⁷ The posthearing brief for the Indonesian manufacturers indicated that UPM Kymmene (Changshu) Paper Industry Co., Ltd. had, however, submitted a quantity and value response and a separate rates application to Commerce.¹⁸

Gold Hua Sheng, which responded as a CFS paper manufacturer during the preliminary phase, did not provide a response to the questionnaire issued in the final phase of the investigations, indicating that ***.¹⁹ ***.²⁰ The firm projected its total production of what it then labeled as subject CFS paper at *** short tons in 2006.²¹ ***.

Data reported by the Chinese manufacturers are presented in table VII-5. Reported capacity to produce subject merchandise in China rose continuously during 2004-06 period²² but is not projected to increase in 2007 or 2008.²³ CFS paper production kept pace with the expansion of capacity, with capacity utilization ratios remaining above *** percent throughout the period examined (including projected 2007 and 2008). Table VII-6 lists capacity to produce the subject merchandise, by machine.²⁴ Chenming Paper installed *** in ***. Gold East installed the *** of the paper machines it uses to produce the subject merchandise in ***. Its affiliated importer indicated at the hearing that the Gold East factories contain technologically advanced equipment largely purchased in Europe.²⁵ Shandong Sun began operations in 2005.

**Table VII-5
Coated free sheet paper: Chinese manufacturers’ production capacity, production, shipments, and inventories, 2004-06, January-June 2006, January-June 2007, and projected 2007-08**

* * * * *

¹⁵ ***. See e-mail correspondence (dated August 17, 2007, August 27, 2007, and September 4, 2007) between Commission staff and ***.

¹⁶ Hearing transcript, p. 294 (Hunley).

¹⁷ Hearing transcript, p. 294 (Morgan).

¹⁸ Indonesian respondent’s posthearing brief, p. 5. As shown in table IV-1, ***. ***.

¹⁹ E-mail from counsel for the Chinese manufacturers, August 14, 2007.

²⁰ E-mail from counsel for the Chinese manufacturers, November 30, 2006.

²¹ Gold Hua Sheng’s foreign producer questionnaire response (preliminary), question II-8.

²² ***. Gold East’s foreign producer questionnaire response, question II-9.

²³ The *** increase in projected capacity shown in 2007 and 2008 results from ***. As indicated earlier, ***.

²⁴ ***.

²⁵ Hearing transcript, p. 321 (Hunley).

Table VII-6
Coated free sheet paper: Chinese producers' capacity, by firm and by machine, 2006

* * * * *

The home market in China was the *** destination of CFS paper manufactured by the three firms throughout the period examined, accounting for well over *** of the firms' total shipments (table VII-5).^{26 27} Exports, however, rose continuously from less than *** percent of total shipments in 2004 to a little less than *** percent in 2006. Total exports are projected to fall in 2007 and 2008 in both absolute volume and relative to total shipments. Exports of CFS paper to the United States, as a share of total shipments, fell from *** percent in 2004 to *** percent in 2005 and then increased again to *** percent in 2006. This share pattern reflects the *** rise in the absolute volume of CFS paper exported to the United States from 2004 to 2005 although exports increased by *** percent on an overall basis from 2004 to 2006.²⁸ The quantity of exports to the United States in 2008 is projected to decline to *** short tons—about *** the volume exported in 2004.²⁹ Chinese respondents argued during the preliminary phase of the investigations that the volume of exports to the United States was temporarily stimulated by the phase-out period for a rebate.³⁰ As noted in table IV-1, a *** portion of the CFS paper imported from China is marketed by U.S. importers related to the Chinese manufacturers. Specifically, Chenming Paper sells CFS paper ***³¹ and Gold East distributes subject merchandise ***.³² Shandong Sun is ***. With

²⁶ The shares of total shipments accounted for by the home market for the three Chinese exporters to the United States including Chenming Paper (and the now non-subject producer Gold Hua Sheng) reported during the preliminary phase of the investigations were: *** percent in 2004 and *** percent in 2005. INV-DD-163 (December 8, 2006), table VII-3.

²⁷ Chinese respondents state that home market demand will continue to grow over the next several years. The summer Olympics will be located in Beijing in 2008 and the World Expo will take place in Shanghai in 2010. Chinese respondents and Unisource's prehearing brief, p. 40. Respondents attach demand forecasts for coated free sheet paper at exhibit 10 of their brief.

²⁸ The data reported during the preliminary investigations, which include Chenming Paper (and Gold Hua Sheng), do not show a fall-off in exports from 2004 to 2005. INV-DD-163 (December 8, 2006), p. VII-7.

²⁹ ***.

³⁰ They state: "Effective November 2006, exports of CFS paper are no longer eligible to receive a VAT rebate. Removal of the VAT rebate will increase the cost of Chinese CFS exports by approximately 13%. The slight relative increase in the ratio of Chinese exports to the U.S. in the interim comparison {of the preliminary investigative phase} is largely, if not entirely, attributable to the fact that revocation of the VAT rebate had a transition period." Chinese respondents and Unisource's postconference brief, pp. 31-33. ***. A trade press article dated April 11, 2007 indicates, however, that "{t}he Chinese government has decided to reintroduce tax rebates on paper and board exports that use imported market pulp as furnish. The new regulation will take effect from April 26. The rebates on exports made from imported logs, woodchips and market pulp were abolished on January 1 last year." Further, "{t}he resumption of tax rebates will come as a welcome relief to Chinese fine paper producers in particular. Coated fine paper exports from China to the USA are expected to drop off this year with more tonnage ... forced to stay at home, exacerbating the overcapacity problem in the domestic market. The move will significantly reduce Chinese producers' export costs and strengthen the competitiveness of their products in other major export markets, such as Europe, the Middle East and other Asian countries." Finally, the article noted that there was an ambiguity in the wording of the new policy leaving it unclear whether paper and board products made from a mix of imported and domestically produced pulp would be covered. See "China to resume tax rebates on P & B exports made from imported pulp," *RISI*, April 11, 2007 at <http://risiinfo.com>, retrieved April 11, 2007.

³¹ ***'s importer questionnaire responses, question I-4.

³² ***'s foreign producer questionnaire response, question I-5.

respect to manufacturers' inventories, Chinese respondents state that inventories held at the mills are "of limited relevance" since product sold to the U.S. market is largely made-to-order.³³

Table VII-7 provides data on Chinese production and exports to the United States by type of product. ***³⁴ ***.

**Table VII-7
Coated free sheet paper: Gold East (Jiangsu) Co., Ltd.'s and Shandong Sun Paper Joint Stock Co.'s production and exports to the United States, by product, 2004-06, January-June 2006-07, and projected 2007-08**

* * * * *

THE INDUSTRY IN INDONESIA

Pindo Deli and Tjiwi Kimia account for virtually all the capacity to produce CFS paper in Indonesia.³⁵ Both mills are owned by Asia Pulp and Paper and, as shown in table VII-1, provided a joint-response to the foreign producer questionnaire.³⁶ Data on the Indonesian industry are presented in the following tabulation:

* * * * *

Export statistics for Indonesian-manufactured coated free sheet paper are shown in table VII-8.³⁷ CFS paper exported by the Indonesian manufacturers was reported not to be subject to antidumping findings or remedies in any WTO-member countries.³⁸

³³ Chinese respondents and Unisource's prehearing brief, p. 41.

³⁴ Gold East's and Shandong Sun's foreign producer questionnaire responses, question II-13.

³⁵ Petition, exh. 15 (***). ***. Counsel for the Indonesian manufacturers states that ***. E-mail from counsel for Indonesian manufacturers, August 16, 2007.

³⁶ Asia Pulp and Paper is also the parent company of Gold East. Petitioner's prehearing brief, p. 98.

³⁷ Petitioner asserts that "China has historically been Indonesia's largest export market for CFS. However, due to the rapid build-up of production capacity in China, exports to China from Indonesia have slowed." Petitioner's prehearing brief, p. 97.

³⁸ ***.

Table VII-8
Coated free sheet paper: Indonesian exports, 2004-06

Destination	Calendar year		
	2004	2005	2006
Quantity (metric tons)			
United States	35,876	48,089	80,116
Top export markets:			
China	147,307	114,616	93,508
Malaysia	90,863	96,728	90,840
Vietnam	42,112	56,807	63,765
World	732,113	759,005	813,663
Quantity (short tons)			
United States	39,535	52,994	88,288
Top export markets:			
China	162,332	126,307	103,046
Malaysia	100,131	106,594	100,106
Vietnam	46,407	62,601	70,269
World	806,789	836,424	896,657
Share of total (percent)			
United States	4.9	6.3	9.8
Top export markets:			
China	20.1	15.1	11.5
Malaysia	12.4	12.7	11.2
Vietnam	5.8	7.5	7.8
Total	43.2	41.6	40.3
<p>Note.—Export figures are quantities reported for HTS subheadings 4810.11.200, 4810.11.900, and 4810.12, which include nonsubject products.</p> <p>Source: Compiled from <i>World Trade Atlas, Statistics Indonesia</i>, included as exhibit 39 to the petitioner's prehearing brief.</p>			

Data on the CFS paper operations provided to the Commission in the foreign producer questionnaire responses of Pindo Deli and Tjiwa Kimia are provided in table VII-9. Capacity for the firms increased by about *** short tons from 2005 to 2006 and has since remained level with ***

Table VII-9
Coated free sheet paper: Indonesia’s production capacity, production, shipments, and inventories, 2004-06, January-June 2006-07, and projected 2007-08

* * * * *

projected increases in either 2007 or 2008.³⁹ Production increased by *** percent from 2004 to 2006, resulting in a ***-percentage point rise in capacity utilization. Production also rose *** in January-June 2007 compared to January-June 2006 while capacity utilization fell ***. *** increase in CFS paper production is projected in 2007 compared to 2006 while projected 2008 production figures should rise by *** percent compared to 2006.⁴⁰ Capacity utilization will remain below *** percent in projected 2007 and 2008. *** provided by the Indonesian firms during the final phase of the investigations *** those reported during the preliminary phase.⁴¹ Table VII-10 lists the Indonesian manufacturers’ capacity to produce CFS paper, by machine.

Table VII-10
Coated free sheet paper: Indonesian producers’ capacity, by firm and by machine, 2006

* * * * *

As shown above, the Indonesian industry based its reported production capacity on ability to coat paper. It indicated in its prehearing brief that “{c}oating capacity sets a firm and immovable upward limit on a CFS paper producer’s capacity to manufacture additional CFS paper,” leading to a limited potential for product shifting by the Indonesian industry.⁴²

The data provided by the Indonesian manufacturers show that the home market consistently consumed about a *** of total CFS paper production with internal consumption/transfers accounting for *** percent (table VII-9). Exports as a share of total shipments accounted for *** percent of total shipments from 2004 through June 2007. The export share of total shipments is projected at *** percent in 2007 and 2008. The share of total shipments accounted for by exports to the United States is, however, projected to decline from *** percent in 2006 to *** and *** percent, respectively, in full-year 2007 and 2008. The absolute volume of projected exports to the United States in 2008 (*** short tons) is *** than that actually exported in 2004 (*** short tons).⁴³

³⁹ ***.

⁴⁰ Projections are reported to be based on ***. Pindo Deli and Tjiwa Kimia’s foreign producer questionnaire response, question II-7.

⁴¹ Compare table VII-8 above to table VII-6 in INV-DD-163 (December 8, 2006). ***, reported *** are *** in the final phase response than the preliminary. In response to a staff request (*see* e-mail from Commission staff to counsel for Indonesian manufacturers, August 14, 2007), the firms indicated that “***.” Letter from counsel for Indonesian manufacturers, August 24, 2007. In an e-mail dated October 30, 2007 counsel for the Indonesian manufacturers further explained that ***.

⁴² Indonesian respondents’ prehearing brief, p. 36.

⁴³ The Indonesian manufacturers state that “***.” Pindo Deli and Tjiwa Kimia’s foreign producer questionnaire response, question II-7.

Table VII-9 also presents data on CFS paper inventories maintained at Pindo Deli and Tjiwa Kimia. The Indonesian manufacturers note that CFS paper is usually produced to order and is not typically exported out of inventory.⁴⁴

Table VII-11 provides data on Indonesian production and exports to the United States by type of product. As shown, *** with no web roll exports to the United States during the period examined.

Table VII-11

Coated free sheet paper: Indonesia's production and exports to the United States, by product, 2004-06, January-June 2006-07, and projected 2007-08

* * * * *

THE INDUSTRY IN KOREA (SUBJECT)

As indicated earlier, Commerce determined both the subsidy and antidumping margins of Hansol, Moorim Paper and Moorim SP to be *de minimis*.⁴⁵ The remaining subject manufacturers accounted for *** percent of Korean CFS paper production and *** percent of exports to the United States in 2006.⁴⁶ Industry-wide data on the CFS industry is presented in the following tabulation:

* * * * *

Except where otherwise noted, the information in the remainder of this section of the report focuses on the operations of the subject CFS industry in Korea; data reported in response to the foreign producer questionnaire by the nonsubject manufacturers is shown in the section entitled "The Industry in Korea (Nonsubject)."⁴⁷ Export statistics derived from the *Global Trade Atlas* for Korean-manufactured coated free sheet paper including CFS paper are shown for the entire industry, by destination, in table VII-12.⁴⁸ CFS paper exported by the Korean manufacturers is subject to an August 2003 antidumping order in China.⁴⁹ Petitioner argues that the imposition of the antidumping duty order has resulted in the diversion to the United States of Korean product that otherwise would have been shipped to China.⁵⁰ In its prehearing brief submitted during the final phase of the investigation, petitioner further links the timing

⁴⁴ Indonesian respondents' prehearing brief, p. 22, n. 58. They accordingly argue that the Commission should, therefore, not consider inventory levels when determining whether Indonesian imports have the potential to "imminently account for" more than 4 percent of total imports. Ibid.

⁴⁵ See the section of this report entitled "Nature and Extent of Subsidies and Sales at LTFV" for the calculated margins, by firm.

⁴⁶ Calculated from table VII-1.

⁴⁷ Eight Korean manufacturers of CFS paper provided data in response to the foreign producer questionnaire (table VII-1). The firms reported aggregated capacity of 2.5 million short tons in 2006 with production of 2.3 million short tons. These figures actually exceed those reported in the *** data presented above; the eight reporting manufacturers are thus believed to account for virtually the entire Korean industry. Korean respondents characterized their involvement in the U.S. market during the preliminary phase of the investigations as "long-term" and stated that they are not new market participants. Korean respondents' postconference brief, p. 35.

⁴⁸ NewPage points out that the United States is the single largest market for CFS paper exported from Korea. Petitioner's prehearing brief, p. 97.

⁴⁹ Korean manufacturers' foreign producer questionnaire responses, question II-6. Korean respondents provided the antidumping margins for three manufacturers in their postconference brief (p. 42, n. 168).

⁵⁰ Petitioner's postconference brief, p. 47, and prehearing brief, p. 103.

Table VII-12

Coated free sheet paper: Korea's exports and average unit values, 2004-06

Destination	Calendar year		
	2004	2005	2006
Quantity (short tons)			
United States	480,727	452,480	516,632
Top export markets:			
China	449,966	328,441	242,568
Iran	125,318	113,081	168,693
Japan	152,040	143,940	135,641
Australia	112,219	114,529	114,128
World	1,996,580	1,964,615	1,868,395
Unit value (per short ton)			
United States	\$749	\$773	\$789
Top export markets:			
China	478	459	493
Iran	534	508	547
Japan	763	594	511
Australia	741	767	748
World average	612	614	637
Share of total (percent)			
United States	24.1	23.0	27.7
Top export markets:			
China	22.5	16.7	13.0
Iran	6.3	5.8	9.0
Japan	7.6	7.3	7.3
Australia	5.6	5.8	6.1
Total	66.1	58.6	63.1
Note.—Export and import figures are quantities reported at the 6-digit level for HTS subheadings 4810.13, 4810.14, and 4810.19, which include nonsubject products and foreign manufacturers.			
Source: Compiled from Global Trade Atlas database.			

of the order against Korean (and Japanese) CFS paper to the increase in production capacity in China and subsequent rise in export volumes.⁵¹

Data for the Korean firms determined to be exporting CFS paper to the United States that is sold at LTFV are presented in table VII-13. Capacity to produce CFS paper by the subject firms increased by *** percent from 2004 to 2006 but then fell by *** percent from January-June 2006 to January-June 2007 and is projected to fall by *** percent in 2008 compared to 2006 with the closing of the Kyesung facility in April 2007 and the shutdown of coating capacity at EN. Kyesung reports that it made the decision to close its Osan mill in March 2006 “as part of self-restructuring;” the Osan plant was reported to be a high cost and inefficient facility. Kyesung will consolidate its CFS operations into its related Namhan mills; the land where the Osan facility was located has been sold.⁵² EN shut down a coating machine at its #2 Jinju factory in June 2007 as part of an effort to reduce production costs and increase efficiency. Its decision to shut down the capacity was made as part of a restructuring decision planned in January 2006.⁵³ The Kyesung closure resulted in a reduction of 79,000 short tons of capacity; the EN shutdown cut its capacity by 91,000 short tons annually.⁵⁴ Counsel for the Korean manufacturers state that “{t}hese capacity reductions were planned to eliminate obsolete capacity, which contributed to the dumping margins of Kyesung and EN Paper during 2006.”⁵⁵

Table VII-13

Coated free sheet paper: Korea’s (subject) production capacity, production, shipments, and inventories, 2004-06, January-June 2006, January-June 2007, and projected 2007-08

* * * * *

Production by the subject manufacturers remained level from 2004 to 2006 and then declined by *** percent from January-June 2006 to January-June 2007 resulting in a *** percentage point decline in capacity utilization from 2004 to 2006 and a *** percentage point decline in the interim periods. A post-closure capacity utilization rate of near *** percent is projected for 2008. Table VII-14 lists the subject manufacturers’ capacity to produce CFS paper, by machine.

Table VII-14

Coated free sheet paper: Subject Korean producers’ capacity, by firm and by machine, 2006

* * * * *

Total shipments by the subject Korean CFS paper manufacturers had, like production, been relatively level in the three-year period prior to the capacity reductions. Home market shipments have consistently accounted for about *** of subject Korean CFS production while exports to the United States have accounted for less than *** of production with exports to all other markets accounting for the remaining (***) share. With the closures, shipments of CFS paper in 2008 are projected to be *** percent below the volume shipped in 2006 (table VII-13). Total exports in 2008 are projected to be *** percent

⁵¹ Petitioner’s prehearing brief, p. 93.

⁵² Kyesung’s foreign producer questionnaire response, question II-9; hearing transcript, p. 235 (Lee); and Korean respondent’s posthearing brief, p. 13.

⁵³ EN’s foreign producer questionnaire response, question II-9; hearing transcript, pp. 233-34 (Choi); and Korean respondent’s postconference brief, p. 13.

⁵⁴ EN and Kyesung’s foreign producer questionnaire responses, question II-8, and hearing transcript, pp. 234-235 (Choi and Lee).

⁵⁵ Korean respondents’ prehearing brief, p. 57, n. 196.

less than the volume shipped in 2006 while exports to the United States are projected to fall by *** percent from 2006 to 2008. The Korean respondents indicate that the projected decrease in exports to the United States is due, in part, to Korean home market demand expanding in 2007 as a result of the Presidential election.⁵⁶

Data on Korean production and exports to the United States by type of product for the subject firms are presented in table VII-15. As shown, *** are manufactured by the firms; however, the *** majority of CFS paper production is in sheet form. According to respondents' postconference brief, "{t}he Korean market does not consume many web rolls because there are few large end-users with production runs large enough to support the use of web rolls and most end-users operate on a small production scale using sheets." Those not consumed domestically are primarily shipped to Japan.⁵⁷ No web rolls were exported to the United States during the period examined.⁵⁸ Korean respondents point out in their prehearing brief that "web printing is less common in Asia and other world markets than in the United States, causing producers in the subject countries to concentrate on sheet production."⁵⁹

Table VII-15
Coated free sheet paper: Korea's (subject) production and exports to the United States, by product, 2004-06, January-June 2006-07, and projected 2007-08

* * * * *

AGGREGATED DATA ON THE INDUSTRIES IN SUBJECT COUNTRIES

Table VII-16 presents CFS paper capacity, production, total exports, and exports to the United States for each subject source in 2006. As shown, CFS paper manufactured in China accounts for well over *** of the production of paper in the three sources combined. Each of the sources exports a substantial portion of their output. *** of the CFS paper exported from subject Korean manufacturers is shipped to the United States than are the exports by the producers in China and Indonesia. Capacity utilization ratios varied somewhat among sources, although the ratio for Indonesia is, as is discussed in the section of the report covering Indonesia, based in part on *** in the capacity figures. Table VII-17 presents data on the combined industries for 2004-06, January-June 2006, January-June 2007, projected 2007, and projected 2008.

Table VII-16
Coated free sheet paper: Subject foreign producers' capacity, production, total exports, and exports to the United States in 2006, by source

* * * * *

⁵⁶ Korean respondents' prehearing brief, p. 64 and n. 239, citing testimony by Mr. Cho at the conference during the preliminary phase of the investigations.

⁵⁷ Korean respondents' postconference brief, exh. A, p. 6. and Korean respondents' prehearing brief, p. 17.

⁵⁸ A small volume (*** short tons) of web was exported to the United States in 2003. The Korean manufacturers stated during the preliminary phase of the investigations that the 2003 shipments were on a "trial basis" ... "which did not succeed" and that "future efforts were abandoned." Korean respondents' postconference brief, exh. A, p. 5.

⁵⁹ Korean respondents' prehearing brief, pp. 17-18.

Table VII-17

Coated free sheet paper: Aggregated data for reporting subject producers in China, Indonesia, and Korea, 2004-06, January-June 2006, January-June 2007, and projected 2007-08

* * * * *

U.S. IMPORTERS' INVENTORIES

Reported inventories held by U.S. importers of subject merchandise from China, Indonesia, and Korea and inventories from all other sources are shown in table VII-18.⁶⁰ Inventories of imports from China and Korea (subject) generally were a smaller share of imports and shipments of imports than was CFS paper inventoried from Indonesia and nonsubject sources. Referring to China, Global Paper Solutions testified at the hearing that neither it nor the mills it represents maintain a U.S.-based inventory.⁶¹ Korean respondents' note that "because of the long lead time between shipment from Asia and delivery in the United States, imports must be marketed through distributors who can carry sufficient inventory to provide the full range of paper sizes and types needed by end-users."⁶²

Table VII-18

Coated free sheet paper: U.S. importers' end-of-period inventories of imports, by sources, 2004-06, January-June 2006, and January-June 2007

* * * * *

Testimony at the conference indicated that inventories were most likely to be maintained by the "paper merchant" who has established warehouses where it maintains an inventory level. Both mill agents (which may be independent of or function as the local sales offices of offshore manufacturers) and/or paper brokers usually arrange for sales by the manufacturers to either paper merchants or end users. Mill agents or paper brokers do not, however, typically take possession of the product in the United States or maintain inventories.⁶³ As discussed earlier, importer questionnaires were sent to and completed (*see* table IV-1) by firms that were listed as consignees (and/or importers of record) on Customs documents. These firms consisted of a mix of mill agents, paper brokers, and paper merchants; mill agents were more typically the importer of record for China and Korea while, with the ***,⁶⁴ distributors began the direct import of subject merchandise from Indonesia.^{65 66}

⁶⁰ Figure as reported in table VII-18 differ substantially (i.e., are much lower) compared to those calculated during the preliminary phase of the investigations (*see* INV-DD-163 (December 8, 2006), table VII-14). As discussed in the preliminary staff report, one reason for the relatively large inventories reported for Korea is that they included data for ***. Similarly, *** of the inventories reported for China during the preliminary phase were ***. INV-DD-163 (December 8, 2006, p. VII-22, n. 30). ***.

⁶¹ Hearing transcript, p. 216 (Hunley).

⁶² Korean respondents' prehearing brief, p. 22.

⁶³ Conference transcript, pp. 141-146 (Anderson, Dragone, and Cameron).

⁶⁴ *See* note 4 to table IV-1.

⁶⁵ Printers usually do not purchase directly from the Asian mills. Hearing transcript, p. 216 (Hunley).

⁶⁶ With respect to Korea, ***. E-mail from counsel for the Korean manufacturers, October 23, 2007. Counsel also confirmed that ***. *Ibid*.

As indicated above, the majority of the subject inventories reported were of CFS paper imported from ***. Inventories of Indonesian-produced CFS paper fluctuated throughout the period examined but were at a period high in *** before falling in ***.⁶⁷

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:^{68 69}

undertake an “additional causation inquiry” whenever certain triggering factors are met: “whenever the antidumping investigation is centered on a commodity product, and price competitive non-subject imports are a significant factor in the market.” The additional inquiry required by the Court, which we refer to as the Bratsk replacement/benefit test, is “whether non-subject imports would have replaced the subject imports without any beneficial effect on domestic producers.”

In its preliminary determinations in these investigations, the Commission noted that “[i]n any final phase investigations, we will seek information on the role of nonsubject imports of CFSP in the U.S. market” and invited parties to comment on the applicability of the *Bratsk* decision to the facts of this investigation.⁷⁰ Parties restricted the comments provided to the collection of data in the Commission’s questionnaires relevant to *Bratsk* considerations.⁷¹

The Industry in Korea (nonsubject)

The following Korean producers were determined by Commerce to have both *de minimis* subsidy and dumping margins: Hansol, and Moorim Paper and Moorim SP. Data for the nonsubject manufacturers are shown in appendix table H-1.

⁶⁷ ***.

⁶⁸ *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.

⁶⁹ In the silicon metal remand, Chairman Pearson noted “consistent with his views in *Lined Paper School Supplies From China, India, and Indonesia, Inv. Nos. 701-TA-442-443 and 731-TA-1095-1097 (Final)*, USITC Pub. 3884 (Sept. 2006) at 51, that while he agrees with the Commission that the Federal Circuit’s opinion suggests a replacement/benefit test, he also finds that the Federal Circuit’s opinion could be read, not as requiring a new test, but rather as a reminder that the Commission, before it makes an affirmative determination, must satisfy itself that it has not attributed material injury to factors other than subject imports.” *Silicon Metal from Russia, Inv. No. 731-TA-991 (Second Remand)*, USITC Publication 3910, March 2007, p. 2, fn. 17. Commissioner Okun joined in those separate and dissenting views in *Lined Paper*.

⁷⁰ *Coated Free Sheet Paper From China, Indonesia, and Korea, Investigation Nos. 701-TA-444-446 (Preliminary) and 731-TA-1107-1109 (Preliminary)*, USITC Publication 3900, December 2006, p. 17 (n. 115).

⁷¹ See Petitioner New Page’s comments on the draft questionnaires, June 21, 2007, p. 2.; Chinese respondents’ comments on the draft questionnaires, June 21, 2007, pp. 2-3, with concurrence by the Indonesian respondents, June 21, 2007; and Korean respondents’ comments on the draft questionnaires, June 21, 2007, p. 9.

The Industry in Canada

In 2006, U.S. imports of CFS paper from Canada totaled 158,249 short tons, representing *** percent of total U.S. imports of CFS paper (table IV-4) . Foreign producer questionnaires were sent to six companies⁷² in Canada believed to produce CFS paper. No responses were received from five of these companies; one company, Domtar, provided partial data. ***.⁷³ As mentioned above, a telegram was sent to the U.S. embassy in Ottawa asking for information on Canadian CFS paper producers. No response was received to the telegram.

Available data for the CFS paper industry in Canada are shown in the following tabulation:

* * * * *

Table VII-19 presents data on Canadian exports and imports of CFS paper, and table VII-20 shows data for Canadian exports and average unit values of exports of CFS paper. The United States accounted for more than 96 percent of total Canadian exports of CFS paper during 2004-06.

Table VII-19
Coated free sheet paper: Canada's exports and imports, 2004-06

Destination	Calendar year		
	2004	2005	2006
Quantity (short tons)			
Exports	314,284	310,061	165,538
Imports	481,144	486,067	492,825
Net exports	(166,860)	(176,006)	(327,287)
Note.—Export and import figures are quantities reported at the 6-digit level for HTS subheadings 4810.13, 4810.14, and 4810.19, which include nonsubject products. Source: Compiled from Global Trade Atlas database.			

⁷² Foreign producer questionnaire were sent to the following firms: Abitibi-Consolidated, Inc.; Cascade Fine Papers Group, Inc.; Domtar, Inc.; Schifffenhau Canada, Inc.; SureCut Converting; and Tembec, Inc.

⁷³ Accompanying letter and attachment to Domtar's importer questionnaire response.

Table VII-20

Coated free sheet paper: Canada's exports and average unit values, 2004-06

Destination	Calendar year		
	2004	2005	2006
Quantity (short tons)			
United States	303,728	301,898	159,784
Top export markets:			
India	1,115	1,586	1,686
Turkey	2,840	165	987
World	314,284	310,061	165,538
Unit value (per short ton)			
United States	\$885	\$914	\$880
Top export markets:			
India	348	359	326
Turkey	394	458	381
World average	871	904	870
Share of total (percent)			
United States	96.6	97.4	96.5
Top export markets:			
India	0.4	0.5	1.0
Turkey	0.9	0.1	0.6
Total	97.9	98.0	98.1
<p>Note.—Export and import figures are quantities reported at the 6-digit level for HTS subheadings 4810.13, 4810.14, and 4810.19, which include nonsubject products.</p> <p>Source: Compiled from Global Trade Atlas database.</p>			

The Industry in Finland

In 2006, U.S. imports of CFS paper from Finland totaled 224,267 short tons, representing *** percent of total U.S. imports of CFS paper (table IV-4). Foreign producer questionnaires were sent to six companies in Finland believed to produce CFS paper.⁷⁴ Two Finnish producers, Ahlstrom Corp. and Stora Enso Oyj,⁷⁵ provided questionnaire responses; no responses were received from the other producers.⁷⁶ Data provided by Stora Enso Oyj are shown in appendix table H-2.⁷⁷ The firm estimated that its production of CFS paper in Finland in 2006 accounted for *** percent of total Finnish production in 2006.⁷⁸ Available data for the entire CFS paper industry in Finland are shown in the following tabulation:

* * * * *

Table VII-21 presents data on Finland's exports and imports of CFS paper, and table VII-22 provides data for Finland's exports and average unit values of exports of CFS paper. Finland exports large volumes of CFS paper to multiple countries. In 2006, exports of CFS paper to the United States accounted for only 10.2 percent of total Finnish exports of this product. Other significant markets for Finnish CFS paper included Germany, the United Kingdom, Belgium, and Russia.

Table VII-21
Coated free sheet paper: Finland's exports and imports, 2004-06

Destination	Calendar year		
	2004	2005	2006
Quantity (short tons)			
Exports	2,161,777	1,854,843	2,192,669
Imports	31,915	48,771	41,416
Net exports	2,129,862	1,806,072	2,151,253
Note.—Export and import figures are quantities reported at the 6-digit level for HTS subheadings 4810.13, 4810.14, and 4810.19, which include nonsubject products. Source: Compiled from Global Trade Atlas database.			

⁷⁴ Foreign producer questionnaires were sent to the following firms: Ahlstrom Corp., M-real Corp., Stora Enso Oyj, Stromsdal Ltd., Tervakoski Oy, and UPM-Kymmene Corp.

⁷⁵ ***. Stora Enso Oyj was the parent company of CFS paper manufacturers in the United States (Stora Enso North America, Corp.), China (Stora Enso Suzhou Paper Co., Ltd.), and Germany (Stora Enso Uetersen GmbH & Co., KG) during the period examined. As noted earlier, Stora Enso Oyj announced on September 21, 2007 that it has signed a definitive agreement to sell Stora Enso North America, Inc. to NewPage, the petitioning firm in these investigations.

⁷⁶ As mentioned earlier, a telegram was also sent to the U.S. embassy in Helsinki asking for information on Finnish CFS paper producers. No response was received to the telegram.

⁷⁷ Data for Ahlstrom's Kautiva plant are not included in app. table H-2. The firm sold its operations in *** to ***. E-mail from ***, September 13, 2007. Ahlstrom manufactured *** short tons of CFS paper in Finland in 2004 and *** short tons in 2005. Ahlstrom's foreign producer questionnaire response (Finland), question II-8.

⁷⁸ Stora Enso Oyj's foreign producer questionnaire response, question II-8. A *** share is obtained from comparing the production figure for 2006 in their questionnaire response (table H-2) to the *** production data for the entire Finnish industry shown in this section.

Table VII-22

Coated free sheet paper: Finland's exports and average unit values, 2004-06

Destination	Calendar year		
	2004	2005	2006
Quantity (short tons)			
United States	235,536	168,281	223,942
Top export markets:			
Germany	262,255	312,277	387,504
United Kingdom	319,177	267,233	281,030
Belgium	248,527	222,565	242,890
Russia	96,191	90,864	108,562
World	2,161,777	1,854,843	2,192,669
Unit value (per short ton)			
United States	\$720	\$754	\$741
Top export markets:			
Germany	787	714	725
United Kingdom	832	805	821
Belgium	625	618	617
Russia	836	840	857
World average	752	752	749
Share of total (percent)			
United States	10.9	9.1	10.2
Top export markets:			
Germany	12.1	16.8	17.7
United Kingdom	14.8	14.4	12.8
Belgium	11.5	12.0	11.1
Russia	4.4	4.9	5.0
Total	53.7	57.2	56.8
Note.—Export and import figures are quantities reported at the 6-digit level for HTS subheadings 4810.13, 4810.14, and 4810.19, which include nonsubject products.			
Source: Compiled from Global Trade Atlas database.			

The Industry in Germany

In 2006, U.S. imports of CFS paper from Germany totaled 136,031 short tons, representing *** percent of total U.S. imports of CFS paper (table IV-4). Foreign producer questionnaires were sent to 19 companies in Germany believed to produce CFS paper.⁷⁹ Two German producers, Ahlstrom Corp. and Stora Enso Uetersen GmbH & Co KG, provided questionnaire responses.⁸⁰ Another firm, Sappi Fine Paper Europe (SFPE) c/o Sappi Europe S.A., provided aggregated questionnaire data for all seven of its paper mills that produce CFS paper in the European Union. Two of these mills are in Germany, 2 are in the Netherlands, one is in the United Kingdom, one is in Austria, and one is in Belgium. None of the other German producers responded to the questionnaire.⁸¹

Data for Ahlstrom and Stora Enso Uetersen are shown in appendix table H-3. The firms' production of CFS paper in Germany in 2006 accounted for an estimated *** percent of total German production.⁸² Data for Sappi Fine Paper Europe (SFPE) c/o Sappi Europe S.A. EU operations, including their mills in Germany, are shown in appendix table H-4 along with Ahlstrom's operations in France and Italy. Both Sappi and Stora Enso are related to U.S. manufacturers of CFS paper (table III-1). Available data for the entire CFS paper industry in Germany are provided in the following tabulation:

* * * * *

Table VII-23 presents data on German exports and imports of CFS paper, and table VII-24 gives data for German exports and average unit values of exports of CFS paper. Germany also exports large volumes of CFS paper to numerous countries. In 2006, exports of CFS paper to the United States accounted for only 7.6 percent of total German exports of this product. Other large markets for German exports of CFS paper included the United Kingdom, France, Italy, the Netherlands, and Belgium.

⁷⁹ Foreign producer questionnaires were sent to the following firms: Brucher, Pappen und Papierfabrik Verpackungen GmbH, Buttenpapierfabrik Gmund, Buttenpapierfabrik Hahnemuhle, Cordier Spezialpapier GmbH, Papierfabrik Schleipen, Felix Schoeller Jr., Karl Kurz GmbH, Koehler Kehl GmbH, M-real Zanders Gohrsmuhle, Nordland Papier GmbH, Papierfabrik August Koehler AG, Papierfabrik Ostermohe R. Wunderlich & Sohn KB, Papierfabrik Rieger GmbH, Papierfabrik Salach GmbH, Papierfabrik Scheufelen GmbH, Papierfabrik Zerkall Renker & Sohne GmbH, Papierfabrik Schoellershammer, Sappi Alfeld AG, Steinbeis Temming Papier GmbH, and Stora Enso Fine Paper Uetersen.

⁸⁰ The Ahlstrom mill is located in Osnabruck, Germany; it is owned by Ahstrom Corp. (Helsinki, Finland). The Stora Enso mill is located in Uetersen, Germany; it is owned by Stora Enso Oyj (Helsinki, Finland).

⁸¹ As mentioned earlier, a telegram was sent to the U.S. embassy in Berlin asking for information on German CFS paper producers. The embassy provided industry-wide production figures that were generally comparable to the ***-data presented in this section. With respect to individual company data, the embassy indicated that "overall, companies did not see an advantage in supplying the data requested in a dispute that does not involve them, the country where they produce, or any other aspect of their strategic interests." P 210535Z Sep 07.

⁸² *Calculated* by dividing reported production for Ahlstrom and Stora Enso for 2006 (table H-3) by the *** production data for the entire German industry shown in this section.

Table VII-23**Coated free sheet paper: Germany's exports and imports, 2004-06**

Destination	Calendar year		
	2004	2005	2006
Quantity (<i>short tons</i>)			
Exports	2,405,124	2,463,698	2,444,163
Imports	1,477,587	1,510,396	1,442,574
Net exports	927,537	953,302	1,001,589
Note.—Export and import figures are quantities reported at the 6-digit level for HTS subheadings 4810.13, 4810.14, and 4810.19, which include nonsubject products.			
Source: Compiled from Global Trade Atlas database.			

Table VII-24
Coated free sheet paper: Germany's exports and average unit values, 2004-06

Destination	Calendar year		
	2004	2005	2006
Quantity (short tons)			
United States	209,754	146,822	186,108
Top export markets:			
United Kingdom	306,727	319,626	290,725
France	242,760	266,516	262,921
Italy	129,611	137,043	145,397
Netherlands	91,924	112,411	119,451
Belgium	111,421	109,690	115,530
World	2,405,124	2,463,698	2,444,163
Unit value (per short ton)			
United States	\$862	\$821	\$843
Top export markets:			
United Kingdom	896	913	929
France	956	1,020	963
Italy	992	981	962
Netherlands	1,072	1,031	979
Belgium	914	895	898
World average	886	904	892
Share of total (percent)			
United States	8.7	6.0	7.6
Top export markets:			
United Kingdom	12.8	13.0	11.9
France	10.1	10.8	10.8
Italy	5.4	5.6	5.9
Netherlands	3.8	4.6	4.9
Belgium	4.6	4.5	4.7
Total	45.4	44.5	45.8
<p>Note.—Export and import figures are quantities reported at the 6-digit level for HTS subheadings 4810.13, 4810.14, and 4810.19, which include nonsubject products.</p> <p>Source: Compiled from Global Trade Atlas database.</p>			

APPENDIX A
***FEDERAL REGISTER* NOTICES**

value imports from China, Indonesia, and Korea of coated free sheet paper, provided for in subheadings 4810.13.19, 4810.13.20, 4810.13.50, 4810.13.70, 4810.14.19, 4810.14.20, 4810.14.50, 4810.14.70, 4810.19.19, and 4810.19.20 of the Harmonized Tariff Schedule of the United States.¹

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

DATES: *Effective Date:* June 4, 2007.

FOR FURTHER INFORMATION CONTACT:

Debra Baker (202-205-3180), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000.

General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background. The final phase of these investigations is being scheduled as a result of affirmative preliminary determinations by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in China, Indonesia, and Korea of coated

free sheet paper, and that such products are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigations were requested in a petition filed on October 31, 2006, by NewPage Corporation, Dayton, OH.

Participation in the investigations and public service list. Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list. Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report. The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on October 2, 2007, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing. The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on October 18, 2007, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before October 10, 2007. A nonparty who has testimony that may aid the

INTERNATIONAL TRADE COMMISSION

Investigation Nos. 701-TA-444-446 (Final) and 731-TA-1107-1109 (Final)

Coated Free Sheet Paper From China, Indonesia, and Korea

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of countervailing duty and antidumping investigations.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of countervailing duty investigation Nos. 701-TA-444-446 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) (the Act) and the final phase of antidumping investigation Nos. 731-TA-1107-1109 (Final) under section 735(b) of the Act (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of subsidized and less-than-fair-

¹For purposes of these investigations, the Department of Commerce has defined the subject merchandise as coated free sheet paper and paperboard of a kind used for writing, printing or other graphic purposes. Coated free sheet paper is produced from not-more-than 10 percent by weight mechanical or combined chemical/mechanical fibers. Coated free sheet paper is coated with kaolin (China clay) or other inorganic substances, with or without a binder, and with no other coating. Coated free sheet paper may be surface-colored, surface-decorated, printed (except as described below), embossed, or perforated. The subject merchandise includes single- and double-side-coated free sheet paper; coated free sheet paper in both sheet or roll form; and is inclusive of all weights, brightness levels, and finishes. The terms "wood free" or "art" paper may also be used to describe the imported product. Excluded from the scope are (1) coated free sheet paper that is imported printed with final content printed text or graphics; (2) base paper to be sensitized for use in photography; and (3) paper containing by weight 25 percent or more cotton fiber.

Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on October 12, 2007, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony in camera no later than 7 business days prior to the date of the hearing.

Written submissions. Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is October 9, 2007. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is October 25, 2007; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before October 25, 2007. On November 13, 2007, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before November 15, 2007, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 Fed. Reg. 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also

be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: June 8, 2007.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7-12987 Filed 7-3-07; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF COMMERCE
International Trade Administration

[A-580-856]

Notice of Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the Republic of Korea

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

SUMMARY: We determine that imports of coated free sheet paper ("CFS paper") are being, or are likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 735 of the Tariff Act of 1930, as amended ("the Act"). The estimated margins of sales at LTFV are shown in the "Final Determination" section of this notice.

EFFECTIVE DATE: October 25, 2007.

FOR FURTHER INFORMATION CONTACT:

Stephanie Moore (Moorim Paper Co., Ltd. Moorim SP Co., Ltd. and Moorim USA Inc. (collectively, "Moorim"); Dennis McClure (EN Paper Mfg. Co., Ltd. and Shinoho USA, Inc. (collectively "EN Paper"); and (Kyesung Paper Co., Ltd. and Namhan Paper Co. Ltd. (collectively "Kyesung")); or Joy Zhang (Hankuk Paper Mfg. Co., Ltd.) ("Hankuk"), and Hansol Paper Co., Ltd.) ("Hansol"), AD/CVD Operations, Office 3, Import Administration—Room B-099, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-3692, (202) 482-5973, or (202) 482-1168, respectively.

SUPPLEMENTARY INFORMATION:**Background**

On June 4, 2007, the Department published in the **Federal Register** the

preliminary determination of sales at LTFV in the antidumping duty investigation of CFS paper from the Republic of Korea. See *Coated Free Sheet Paper from the Republic of Korea: Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 72 FR 30766 (June 4, 2007) ("Preliminary Determination"). Since the *Preliminary Determination*, the following events have occurred. From July 9, 2007, through August 15, 2007, we verified the sales and cost questionnaire responses of Moorim, EN Paper, Hansol, Hankuk, and Kyesung (hereafter collectively referred to as "the Korean respondents"). On August 15, 27, 28, 30, and 31, and September 4, 2007, the Department issued its verification reports. We provided the interested parties an opportunity to comment on the *Preliminary Determination* and the Department's verification findings.

On June 29, 2007, the petitioner¹ requested a hearing, and from July 2 through 9, 2007, the Korean respondents also requested a hearing to discuss issues addressed in their case and rebuttal briefs.

On August 28, 2007, the petitioner requested that the Department clarify the scope of the investigation of CFS paper from Korea and placed on the record of this review information to support its request.

On September 10, 2007, the Department responded to the petitioner's targeting allegations that were filed on April 26, 2007. The petitioner alleged that Hansol targeted sales into a region and Moorim and Hankuk targeted specific customers. In the *Preliminary Determination*, the Department stated that although petitioner's allegations were timely, the Department did not have sufficient time to fully analyze them for purposes of the preliminary determination. The Department also stated that it would fully consider this issue for purposes of the final determination. See *Preliminary Determination* 72 FR 30766, 30767. Therefore, these allegations were addressed after the preliminary determination. See Memorandum to David M. Spooner, Assistant Secretary for Import Administration, from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, regarding *Antidumping Duty Investigation of Coated Free Sheet Paper from South Korea - Post-Preliminary Analysis on Targeting* ("Post-Preliminary Determination"), dated

September 10, 2007, which is on file in the Central Records Unit ("CRU"), room B-099 of the main Department building. We provided the interested parties an opportunity to comment on the Department's *Post-Preliminary Determination*. See also "Targeted Dumping" discussion infra.

On September 12, 2007, the petitioner filed its case brief on the scope clarification issue. On September 14, 2007, the Korean respondents filed a rebuttal brief on this issue. A scope hearing was held on September 26, 2007. The hearing comprised a public session, a closed session for the antidumping investigation from Korea, and a closed session for the countervailing duty investigation from the People's Republic of China.

On September 17, 2007, the petitioner and the Korean respondents submitted case briefs. On September 24, 2007, both the petitioner and the Korean respondents submitted rebuttal briefs. On September 25, 2007, a closed hearing was held at the Department.

Targeted Dumping

We find that there is a pattern of export prices for comparable merchandise that differs significantly among purchasers and regions; moreover, such differences cannot be taken into account using the average-to-average comparison methodology. See section 777A(d)(1)(B) of the Tariff Act of 1930, as amended (the Act). Accordingly, we used the transaction-to-average methodology for these sales.

In the *Post-Preliminary Determination*, the Department employed the average-to-average comparison methodology used in the *Preliminary Determination* for non-targeted sales. See *Post-Preliminary Determination*; see also, *Preliminary Determination*, 72 FR 30766, 30768. As required by section 777A(d)(1)(B) of the Act, we determined that the pattern of price differences could not be taken into account using the average-to-average comparison methodology for targeted sales because that methodology, by averaging the high prices with the low prices, has the effect of masking the extent of sales at LTFV. Thus, consistent with 19 CFR 351.414(f)(2), we limited our application of the average-to-transaction methodology to the targeted sales under 19 CFR 351.414(f)(1).

When calculating a respondent's specific weighted-average margin, we combined the margin calculated for the targeted sales using the average-to-transaction methodology with the margin calculated for the non-targeted sales using the average-to-average methodology. In combining the margins

¹ The petitioner in this investigation is NewPage Corporation.

for the targeted and non-targeted U.S. sales databases, we have not offset any margins found among the targeted U.S. sales. We have adopted the methodology established in the *Post-Preliminary Determination* for purposes of our final determination.

Period of Investigation

The period of investigation (“POI”) is October 1, 2005, through September 30, 2006. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs submitted by the parties to this investigation are addressed in the “Issues and Decision Memorandum” (“*Decision Memo*”) from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, dated October 17, 2007, which is hereby adopted by this notice. A list of the issues that parties have raised and to which we have responded, all of which are in the *Decision Memo*, is attached to this notice as an appendix. Parties can find a complete discussion of all issues raised in this investigation, and the corresponding recommendations in this public memorandum, on file in the CRU. In addition, a complete version of the *Decision Memo* can be accessed directly on the Web at <http://ia.ita.doc.gov/frn>. The paper copy and electronic version of the *Decision Memo* are identical in content.

Scope of Investigation

The merchandise covered by this investigation includes coated free sheet paper and paperboard of a kind used for writing, printing or other graphic purposes. Coated free sheet paper is produced from not-more-than 10 percent by weight mechanical or combined chemical/mechanical fibers. Coated free sheet paper is coated with kaolin (China clay) or other inorganic substances, with or without a binder, and with no other coating. Coated free sheet paper may be surface-colored, surface-decorated, printed (except as described below), embossed, or perforated. The subject merchandise includes single- and double-side-coated free sheet paper; coated free sheet paper in both sheet or roll form; and is inclusive of all weights, brightness levels, and finishes. The terms “wood free” or “art” paper may also be used to describe the imported product.

Excluded from the scope are: (1) coated free sheet paper that is imported

printed with final content printed text or graphics; (2) base paper to be sensitized for use in photography; and (3) paper containing by weight 25 percent or more cotton fiber.

Coated free sheet paper is classifiable under subheadings 4810.13.1900, 4810.13.2010, 4810.13.2090, 4810.13.5000, 4810.13.7040, 4810.14.1900, 4810.14.2010, 4810.14.2090, 4810.14.5000, 4810.14.7040, 4810.19.1900, 4810.19.2010, and 4810.19.2090 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 this investigation is dispositive.

Scope Comments

On August 20, August 28, and September 10, 2007, the petitioner requested that the Department clarify the scope of the antidumping and countervailing duty investigations of CFS paper from Indonesia, Korea and the People’s Republic of China. Specifically, the petitioner asked the Department to “clarify that the scope of the investigation includes coated free sheet paper containing hardwood BCTMP.”

Because this was a general issue pertaining to all six investigations, the Department set up a general issues file to handle this scope request. After considering the comments submitted by the parties to these investigations, we have determined not to adopt the scope clarification sought by the petitioner. See Memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, entitled “Scope Clarification Request: NewPage Corporation” dated concurrently with this notice, which is appended to “Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Coated Free Sheet Paper from the People’s Republic of China.”

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we have made certain changes to the margin calculations for the Korean Respondents. For a discussion of these changes, see the “Margin Calculations” section of the *Decision Memo*.

Verification

As provided in section 782(i) of the Act, we verified the sales and cost information submitted by the Korean respondents for use in our final

determination. We used standard verification procedures including an examination of relevant accounting and production records, and original source documents provided by the Korean respondents. Our sales and cost verification results are outlined in separate verification reports. See August 27, 28, and 31, 2007, and September 4, 2007, cost verification reports, and August 15, 30, and 31, 2007, sales verification reports for the Korean respondents.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing U.S. Customs and Border Protection (“CBP”) to continue to suspend liquidation of all imports of subject merchandise with the exception of those exported by Hansol, Moorim, and Hankuk, that are entered or withdrawn from warehouse, for consumption on or after June 4, 2007, the date of publication of the preliminary determination in the **Federal Register**. We will instruct CBP to continue to require a cash deposit or the posting of a bond for all companies for which we have calculated an above *de minimis* margin based on the estimated weighted-average dumping margins shown below. The suspension of liquidation instructions will remain in effect until further notice.

Final Determination Margins

We determine that the following weighted-average dumping margins exist for the period October 1, 2005, through September 30, 2006:

Manufacturer/Exporter	Weighted Average Margin (percent)
Hansol	0.97 (<i>de minimis</i>)
Hankuk	0.47 (<i>de minimis</i>)
Moorim	1.05 (<i>de minimis</i>)
EN Paper	12.31
Kyesung	31.55
All Others	18.70

Section 735(c)(5)(A) of the Act provides that the estimated “All Others” rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in

this proceeding in accordance with 19 CFR 351.224(b).

International Trade Commission (ITC) Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our final determination. As our final determination is affirmative, the ITC will determine within 45 days whether imports of the subject merchandise are causing material injury, or threat of material injury, to the industry in the United States. If the ITC determines that material injury or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Return or Destruction of Proprietary Information

This notice will serve as the only reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation. We are issuing and publishing this determination and notice in accordance with sections 735(d) and 777(i) of the Act.

Dated: October 17, 2007.

David M. Spooner,
Assistant Secretary for Import Administration.

Appendix—Issues in Decision Memo Comments

A. General Comments

Targeting

Comment 1: Standard and Appropriate Statistical Techniques

Comment 2: Validity of Certain Pasta from Italy

Comment 3: Statistical Significance Requirement

Comment 4: Whether the Average-to-Average Method Can Account for Targeted Dumping

Comment 5: Statutory Application of Transaction-to-Transaction Methodology

Comment 6: Discretionary Application of Transaction-to-Transaction Methodology

Comment 7: Margin Calculation of Targeted and Non-Targeted Sales

Comment 8: Proposed Transaction-to-Transaction Margin Program

Cost of Production

Comment 9: Application of Partial Facts Available to Hansol, Moorim, and Hankuk's Total Cost of Manufacture

Comment 10: Differences in Merchandise Were Not Verified

B. Company-Specific Comments

Hansol

Comment 1: Treatment of Constructed Export Price (CEP) Offset

Comment 2: Treatment of Indirect Selling Expenses Incurred in Korea (DINDIRSU)

Comment 3: Treatment of Missing U.S. Payment Dates

Comment 4: Treatment of U.S. Repacking

Comment 5: Adjustment of Hansol's Reported U.S. Rebates

Comment 6: Production Quantities Were Not Verified

Comment 7: General and Administrative Expense Rate

Comment 8: Financial Expense Rate

Kyesung

Comment 9: Price Adjustment Related to the U.S. Price

Comment 10: Request to Apply Partial Adverse Facts Available

Moorim

Comment 11: Moorim's Pulp Costs Remain Unexplained

Hankuk

Comment 12: Timeliness of Targeted Dumping Allegation concerning Hankuk Paper

Comment 13: Standard Costs for Hankuk

EN Paper

Comment 14: Credit Balance for Bad Debt Allowance
[FR Doc. E7-21035 Filed 10-24-07; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

A-570-906

Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the People's Republic of China

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

EFFECTIVE DATE: October 25, 2007.

SUMMARY: On June 4, 2007, the Department of Commerce (the "Department") published its preliminary determination of sales at less than fair value ("LTFV") in the antidumping investigation of coated free sheet paper ("CFS") from the People's Republic of China ("PRC"). The period of investigation ("POI") is April 1, 2006, through September 30, 2006. We invited interested parties to comment on our preliminary determination of sales at LTFV. Based on our analysis of the comments we received, we have made changes to our calculations for the mandatory respondents. The final dumping margins for this investigation are listed in the "Final Determination Margins" section below.

FOR FURTHER INFORMATION CONTACT: Magd Zalok or Drew Jackson, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4162 and 482-4406, respectively.

Final Determination

We determine that CFS from the PRC is being, or is likely to be, sold in the United States at LTFV as provided in section 735 of the Tariff Act of 1930, as amended ("the Act"). The estimated margins of sales at LTFV are shown in the "Final Determination Margins" section of this notice.

SUPPLEMENTARY INFORMATION:

Background

The Department published its preliminary determination of sales at LTFV on June 4, 2007. See *Preliminary Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the People's Republic of China*, 72 FR 30758 (June 4, 2007) ("*Preliminary Determination*"). Between June 18, 2007, and July 13, 2007, the Department conducted verifications of the collapsed entity Gold East Co. Ltd. (Gold East Paper (Jiangsu) Co. Ltd., Gold Hua Sheng Paper (Suzhou Industry Park) Co. Ltd., and China Union (Macao

Commercial Offshore) Company Ltd.) (collectively "Gold East") and its U.S. affiliate, and separate rates applicant Yanzhou Tianzhang Paper Industry Co. Ltd. ("Yanzhou Tianzhang"), and its U.S. importer. See the "Verification" section below for additional information.

We invited parties to comment on the Preliminary Determination. On August 31, 2007, petitioner,¹ the Bureau of Fair Trade, Ministry of Commerce, People's Republic of China ("BOFT"), Yanzhou Tianzhang, and Gold East filed case briefs. Petitioner and Gold East filed rebuttal briefs on September 7, 2007. Additionally, on September 12, 2007, petitioner, Gold East, Yanzhou Tianzhang, and BOFT, along with other interested parties in concurrent CFS investigations, submitted comments regarding the scope of the instant investigation. These parties filed rebuttal scope comments on September 20, 2007. In response to requests from interested parties, the Department held a hearing on the scope of the investigation on September 26, 2007.

Analysis of Comments Received

With the exception of the scope issue, all issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the "Investigation of Coated Free Sheet Paper from the People's Republic of China: Issues and Decision Memorandum," dated October 17, 2007, which is hereby adopted by this notice ("Issues and Decision Memorandum"). The scope issue is addressed in a separate memorandum. See "Scope Comments" section, below. A list of the issues which parties raised and to which we respond in the Issues and Decision Memorandum is attached to this notice as an Appendix. The Issue and Decision Memorandum is a public document and is on file in the Central Records Unit ("CRU"), Main Commerce Building, Room B-099, and is accessible on the Web at <http://ia.ita.doc.gov/frn>. The paper copy and electronic version of the memorandum are identical in content. Additionally, because some of the issues that parties raised and to which we respond contain proprietary information, there is a separate proprietary version of the Issues and Decision Memorandum. See "Investigation of Coated Free Sheet Paper from the People's Republic of China: Issues and Decision Memorandum, Comments and Department of Commerce's Positions Containing Proprietary Information," dated October 17, 2007.

Changes Since the Preliminary Determination

Based on our analysis of the comments received, we have changed the margin calculation for Gold East. Those changes include the following:

1. We revised our calculation of the per-unit cost of Gold East's self-produced electricity and did not value steam used in production.
2. Based on verification findings, (a) we revised the average market-economy price reported for a type of pulp; (b) recalculated the net unit price of constructed export price ("CEP") sales to account for unreported selling expenses; (c) reclassified one export price sale as a CEP sale and adjusted the sale's price to reflect CEP expenses; and (d) based the dumping margin of one unreported sale on adverse facts available ("AFA").
3. We did not value certain reported factors based on our finding that these factors are used in the maintenance of machines, and are properly classified as overhead items.
4. We revised surrogate values for certain factors of production.
5. We valued certain inputs used by Gold East to treat water.
6. We revised the surrogate values for factory overhead, selling, general and administrative ("SG&A"), and profit.
7. We corrected a ministerial error involving one of Gold East's self-produced inputs.

For a detailed analysis of Gold East's margin calculation, see "Final Determination in the Investigation of Coated Free Sheet Paper from the People's Republic of China: Analysis Memorandum for Gold East", dated October 17, 2007.

We assigned separate rates applicant Yanzhou Tianzhang the revised final margin calculated for Gold East, the only mandatory respondent to fully participate in this investigation.

We assigned the PRC-wide rate, as total AFA, to Shandong Chenming Paper Holdings Limited ("Chenming"), because it ceased participating in this investigation prior to the scheduled verification and, consequently, did not demonstrate its entitlement to a separate rate.

Scope of Investigation

The merchandise covered by this investigation includes coated free sheet paper and paperboard of a kind used for writing, printing or other graphic purposes. Coated free sheet paper is produced from not-more-than 10

percent by weight mechanical or combined chemical/mechanical fibers. Coated free sheet paper is coated with kaolin (China clay) or other inorganic substances, with or without a binder, and with no other coating. Coated free sheet paper may be surface-colored, surface-decorated, printed (except as described below), embossed, or perforated. The subject merchandise includes single- and double-side-coated free sheet paper; coated free sheet paper in both sheet or roll form; and is inclusive of all weights, brightness levels, and finishes. The terms "wood free" or "art" paper may also be used to describe the imported product.

Excluded from the scope are: (1) Coated free sheet paper that is imported printed with final content printed text or graphics; (2) base paper to be sensitized for use in photography; and (3) paper containing by weight 25 percent or more cotton fiber. Coated free sheet paper is classifiable under subheadings 4810.13.1900, 4810.13.2010, 4810.13.2090, 4810.13.5000, 4810.13.7040, 4810.14.1900, 4810.14.2010, 4810.14.2090, 4810.14.5000, 4810.14.7040, 4810.19.1900, 4810.19.2010, and 4810.19.2090 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 this investigation is dispositive.

Scope Comments

On August 20, August 28, and September 10, 2007, the petitioner requested that the Department clarify the scope of the antidumping and countervailing duty investigations of CFS paper from Indonesia, Korea and the People's Republic of China. Specifically, the petitioner asked the Department to "clarify that the scope of the investigation includes coated free sheet paper containing hardwood BCTMP."

Because this was a general issue pertaining to all six investigations, the Department set up a general issues file to handle this scope request. A hearing on the scope request was held on September 26, 2007. The hearing comprised a public session, a closed session for the antidumping investigation from Korea, and a closed session for the countervailing duty investigation from the PRC. After considering the comments submitted by the parties to these investigations, we have determined not to adopt the scope clarification sought by the petitioner. See Memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import

¹ Petitioner in this investigation is NewPage Corporation.

Administration, entitled "Scope Clarification Request: NewPage Corporation" dated concurrently with this notice, which is appended to "Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Coated Free Sheet Paper from the People's Republic of China."

Adverse Facts Available

Section 776(a)(2) of the Act provides that, if an interested party (A) withholds information requested by the Department, (B) fails to provide such information by the deadline, or in the form or manner requested, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified, the Department shall use, subject to sections 782(d) and (e) of the Act, facts otherwise available in reaching the applicable determination.

Pursuant to section 782(e) of the Act, the Department shall not decline to consider submitted information if all of the following requirements are met: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

On June 7, 2007, six days before the commencement of verification, counsel for Chenming informed Department officials that Chenming would not continue its participation in the instant investigation. See Memorandum to the File through Howard Smith, Program Manager, Office 4, concerning "Telephone Conversation with Counsel for Shandong Chenming Paper Holdings Co., Ltd.," dated June 7, 2007; see also Chenming's letter to the Department, concerning, "Coated Free Sheet Paper from the People's Republic of China; Withdrawal of Shandong Chenming Paper Holdings Limited and Withdrawal of Consent to Access Proprietary Information," dated June 11, 2007.

Because Chenming ceased participation in the instant investigation, the Department was not able to conduct its scheduled verification of Chenming's responses. Verification is integral to the Department's analysis because it allows the Department to satisfy itself that it is relying upon accurate information and calculating dumping margins as accurately as possible. By failing to participate in verification, Chenming prevented the Department from verifying its reported information, including separate rates information,

and significantly impeded the proceeding. Moreover, by not permitting verification, Chenming failed to prove that it is free of government control and entitled to a separate rate. Additionally, Chenming's refusal to participate in verification demonstrates that it failed to cooperate by not acting to the best of its ability to comply with a request from the Department. Section 776(b) of the Act authorizes the Department to use an adverse inference with respect to an interested party if the Department finds that the party failed to cooperate by not acting to the best of its ability to comply with a request for information. See, e.g., *Certain Welded Carbon Steel Pipes and Tubes From Thailand: Final Results of Antidumping Duty Administrative Review*, 62 FR 53808, 53819–20 (October 16, 1997); see also *Crawfish Processors Alliance v. United States*, 343 F. Supp.2d 1242 (CIT 2004) (approving use of AFA when respondent refused to participate in verification). Therefore, pursuant to sections 776(a)(2)(C) and (D) and 776(b) of the Act, we have, as AFA, treated Chenming as part of the PRC-wide entity and assigned Chenming the PRC-wide rate of 99.65 percent. See the sections entitled "The PRC-Wide Rate" and "Corroboration," below, for a discussion of the selection and corroboration of the PRC-Wide rate.

Verification

As provided in section 782(i) of the Act, we conducted verifications in the PRC and the United States of the information submitted by the respondent and the separate rate applicant for use in our final determination. See the Department's verification reports on the record of this investigation in the CRU with respect to Gold East and Yanzhou Tianzhang. For all verified companies, we used standard verification procedures, including examination of relevant accounting and production records, as well as original source documents provided by respondents.

Surrogate Country

In the *Preliminary Determination*, we stated that we had selected India as the appropriate surrogate country to use in this investigation for the following reasons: (1) it is a significant producer of comparable merchandise; (2) it is at a similar level of economic development pursuant to 773(c)(4) of the Act; and (3) we have reliable data from India that we can use to value the factors of production. See *Preliminary Determination*. For the final determination, we received no comments and made no changes to our

findings with respect to the selection of a surrogate country.

Separate Rates

In proceedings involving non-market-economy ("NME") countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to an investigation in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. See *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) ("Sparklers"), as amplified by *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) ("Silicon Carbide"), and Section 351.107(d) of the Department's regulations.

In the *Preliminary Determination*, we found that Gold East and the separate rate applicant, Yanzhou Tianzhang, demonstrated their eligibility for separate-rate status. No party has commented on the eligibility of Gold East or Yanzhou Tianzhang for separate-rate status. For the final determination, we continue to find that the evidence placed on the record of this investigation by Gold East and Yanzhou Tianzhang demonstrate both a *de jure* and *de facto* absence of government control, with respect to their respective exports of the merchandise under investigation and thus are eligible for separate rate status.

The PRC-Wide Rate

In the *Preliminary Determination*, the Department found that certain companies and the PRC-wide entity did not respond to our requests for information. In the *Preliminary Determination*, we treated these PRC producers/exporters as part of the PRC-wide entity because they did not demonstrate that they operate free of government control over their export activities. No additional information has been placed on the record with respect to these entities after the **Preliminary Determination**. The PRC-wide entity has not provided the Department with the requested information; therefore, pursuant to section 776(a)(2)(A) of the Act, the Department continues to find that the use of facts available is appropriate to determine the PRC-wide rate. Section 776(b) of the Act provides that, in selecting from among the facts

otherwise available, the Department may employ an adverse inference if an interested party fails to cooperate by not acting to the best of its ability to comply with requests for information. See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation*, 65 FR 5510, 5518 (February 4, 2000). See also, "Statement of Administrative Action" accompanying the URAA, H.R. Rep. No. 103-316, vol. 1, at 870 (1994). We determine that because the PRC-wide entity has failed to cooperate to the best of its ability because it did not respond to our request for information. Therefore, the Department finds that, in selecting from among the facts otherwise available, an adverse inference is appropriate for the PRC-wide entity.

Because we begin with the presumption that all companies within a NME country are subject to government control and because only the companies listed under the "Final Determination Margins" section below have overcome that presumption, we are applying a single antidumping rate - the PRC-wide rate - to all other exporters of subject merchandise from the PRC. Such companies did not demonstrate entitlement to a separate rate. See, e.g., *Synthetic Indigo from the People's Republic of China: Notice of Final Determination of Sales at Less Than Fair Value*, 65 FR 25706 (May 3, 2000). The PRC-wide rate applies to all entries of subject merchandise except for entries from the respondents which are listed in the "Final Determination Margins" section below (except as noted).

Corroboration

At the *Preliminary Determination*, we corroborated our AFA margin by comparing the range of control number-specific dumping margins calculated for the preliminary determination to the dumping margin alleged in the petition. For the final determination, we conducted a similar analysis and continue to find that the margin of 99.65 percent has probative value. See Memorandum to the File: "Corroboration of the PRC-Wide Facts Available Rate for the Final Determination in the Antidumping Duty Investigation of Coated Free Sheet Paper from the People's Republic of China", dated October 17, 2007. In addition, no party to this investigation has commented on our selection of this rate as AFA. Accordingly, we find that the rate of 99.65 percent is corroborated within the meaning of section 776(c) of the Act.

Final Determination Margins

We determine that the following weighted-average dumping margins exist for the period April 1, 2006, through September 30, 2006:

Manufacturer/Exporter	Weighted Average Margin (percent)
GE's Collapsed Entity: (Gold East Paper (Jiangsu) Co. Ltd.-Gold Hua Sheng Paper. (Suzhou Industry Park) Co. Ltd.-China Union. (Macao Commercial Offshore) Company Ltd. Yanzhou Tianzhang Paper Industry Co. Ltd.	21.12
PRC-Wide Rate	99.65

Disclosure

We will disclose to parties the calculations performed within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing U.S. Customs and Border Protection ("CBP") to continue to suspend liquidation of all imports of subject merchandise that are entered or withdrawn from warehouse, for consumption on or after June 4, 2007, the date of publication of the preliminary determination in the **Federal Register**. We will instruct CBP to continue to require a cash deposit or the posting of a bond for all companies based on the estimated weighted-average dumping margins shown above. The suspension of liquidation instructions will remain in effect until further notice.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission ("ITC") of our final determination of sales at LTFV. As our final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will determine whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of the subject merchandise within 45 days of this final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury

does exist, the Department will issue an antidumping duty order directing CBP to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding APO

This notice also serves as a reminder to the parties subject to administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation. This determination and notice are issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: October 17, 2007.

David M. Spooner,
Assistant Secretary for Import Administration.

Appendix I

Parties' Comments

Comment 1: Whether to Reconsider China's Non-Market Economy (NME) Status and Whether to Treat Certain PRC Companies as Market Oriented Enterprises
Comment 2: Alleged Double Remedy in Concurrent NME AD and CVD Proceedings
Comment 3: The Appropriate Surrogate Financial Statements to use to Calculate Financial Ratios
Comment 4: Whether to Adjust the Financial Ratios by Allocating Wages and Salaries Between Non-manufacturing and Manufacturing Expenses
Comment 5: Whether to Adjust the Financial Ratios by Allocating "Stores and Spares" Expenses Between Direct Material Costs and Overhead Expenses
Comment 6: Whether to Value Certain Materials Claimed to be Overhead Expenses
Comment 7: Whether to Value Self-Produced Electricity Used to Produce Electricity
Comment 8: Whether to Value Steam That is a By-Product of Self-Produced Electricity
Comment 9: Whether to Value Certain Inputs used in Treating Water
Comment 10: Whether GE Incorrectly Reported the Unit Price of Certain Purchases
Comment 11: Whether the Department Erred in Calculating the Value of a Self-Produced Input

Comment 12: Whether Certain Pulp Purchases Should be Treated as Market-Economy Purchases

Comment 13: Whether it is Appropriate to Value Labor Using the Expected Wage Rate Calculated by the Department

Comment 14: The Appropriate Surrogate Value For A Ground Calcium Carbonate Input

Comments 15: The Appropriate Surrogate Value for a Proprietary Material

Comment 16: The Appropriate Surrogate Value for a Proprietary Material

Comment 17: The Appropriate Surrogate Value for Hydrochloric Acid

Comment 18: The Appropriate Surrogate Values For Other Paper Chemicals

Comment 19: The Appropriate Surrogate Value For Steam Coal

Comment 20: The Appropriate Surrogate Value for Certain PET Packing Materials

Comment 21: The Appropriate Surrogate Value for a Proprietary Material

Comment 22: How to Account for Certain Unreported Expenses

Comment 23: Whether the Department Should Base the Dumping Margin for One Unreported Sale on Total Adverse Facts Available

Comment 24: Whether to Reclassify One Sale as a CEP Sale

Comment 25: Whether to Adjust the Market-Economy Purchase Price of NBKP

[FR Doc. E7-21041 Filed 10-24-07; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

A-560-820

Notice of Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from Indonesia

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

SUMMARY: We determine that imports of coated free sheet paper ("CFS paper") are being, or are likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 735 of the Tariff Act of 1930, as amended ("the Act"). The estimated margins of sales at LTFV are shown in the "Final Determination" section of this notice.

EFFECTIVE DATE: October 25, 2007.

FOR FURTHER INFORMATION CONTACT: Brian C. Smith or Gemal Brangman, AD/CVD Operations, Office 2, Import

Administration—Room B-099, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-1766 or (202) 482-3773, respectively.

SUPPLEMENTARY INFORMATION:

Background

On June 4, 2007, the Department published in the **Federal Register** the *Preliminary Determination* of sales at LTFV in the antidumping duty investigation of CFS paper from Indonesia. See *Coated Free Sheet Paper from Indonesia: Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 72 FR 30753 (June 4, 2007) ("*Preliminary Determination*").

On June 13, 2007,¹ PT. Pindo Deli Pulp & Paper Mills ("PD"), PT. Pabrik Kertas Tjiwi Kimia, Tbk ("TK"), and their affiliates PT. Cakrawala Mega Indah ("CMI"), PT Indah Kiat Pulp & Paper Tbk ("IK"), PT. Lontar Papyrus Pulp & Paper Industries ("Lontar"), PT Arara Abadi ("AA") and PT. Wirakarya Sakti ("WKS") (hereafter collectively referred to as "the Indonesian Respondents")² submitted a revised cost of production ("COP") database for TK which incorporated corrections found prior to the start of verification. On June 27, 2007, the Indonesian Respondents submitted a revised COP database for PD which incorporated corrections submitted at the start of PD's cost verification on June 22, 2007.

From June 20 through July 20, 2007, we verified the sales and cost questionnaire responses of the Indonesian Respondents. On August 20, 27, and 28, 2007, the Department issued its verification reports. We provided the interested parties an opportunity to comment on the *Preliminary Determination* and the Department's verification findings.

On June 29, 2007, the petitioner³ requested a hearing to discuss issues addressed by the interested parties in their case and rebuttal briefs.

On August 28, 2007, the petitioner requested that the Department clarify the scope of the investigation of CFS paper from Indonesia and placed on the record of this review information to support its request.

¹ June 13, 2007, is seven days prior to the start of the cost verification.

² PD and TK are CFS paper producers, whereas CMI is a reseller of paper products produced by PD and TK. IK and Lontar are pulp producers, whereas AA and WKS are forestry companies.

³ The petitioner in this investigation is NewPage Corporation.

On September 5, 2007, the petitioner and the Indonesian Respondents submitted case briefs. On September 6, 2007, the petitioner withdrew its request for a hearing. Because the petitioner was the only interested party to request a hearing and it subsequently withdrew its request, no hearing was held on issues raised in the September 5, 2007, case briefs. On September 10, 2007, both the petitioner and the Indonesian Respondents submitted rebuttal briefs.

Also on September 10, 2007, the Department rejected the petitioner's August 28, 2007, scope clarification submission because it contained untimely filed new factual information. The petitioner refiled its submission with the new factual information redacted on September 10, 2007.

On September 12, 2007, the petitioner and Indonesian Respondents filed case briefs on the scope issue. On September 14, 2007, the Department rejected the Indonesian Respondents' case brief on the scope issue because it contained untimely filed new factual information. The Indonesian Respondents refiled this case brief with the new factual information redacted on September 17, 2007.

On September 17, 2007, the Department rejected the Indonesian Respondents' September 10, 2007, rebuttal brief because it contained untimely filed new argument. The Indonesian Respondents refiled their rebuttal brief with the new argument redacted on September 18, 2007.

On September 20, 2007, the petitioner and Indonesian Respondents filed rebuttal briefs on the scope issue. A hearing on the scope issue was held on September 26, 2007.

Period of Investigation

The period of investigation is October 1, 2005, through September 30, 2006. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs submitted by the parties to this investigation are addressed in the "Issues and Decision Memorandum" ("*Decision Memo*") from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, dated October 17, 2007, which is hereby adopted by this notice. A list of the issues that parties have raised and to which we have responded, all of which are in the *Decision Memo*, is attached to this notice as an appendix. Parties can find a complete

discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, room B-099 of the main Department building. In addition, a complete version of the *Decision Memo* can be accessed directly on the Web at <http://ia.ita.doc.gov/frn>. The paper copy and electronic version of the *Decision Memo* are identical in content.

Scope of Investigation

The merchandise covered by this investigation includes coated free sheet paper and paperboard of a kind used for writing, printing or other graphic purposes. Coated free sheet paper is produced from not-more-than 10 percent by weight mechanical or combined chemical/mechanical fibers. Coated free sheet paper is coated with kaolin (China clay) or other inorganic substances, with or without a binder, and with no other coating. Coated free sheet paper may be surface-colored, surface-decorated, printed (except as described below), embossed, or perforated. The subject merchandise includes single- and double-side-coated free sheet paper; coated free sheet paper in both sheet or roll form; and is inclusive of all weights, brightness levels, and finishes. The terms "wood free" or "art" paper may also be used to describe the imported product.

Excluded from the scope are: (1) coated free sheet paper that is imported printed with final content printed text or graphics; (2) base paper to be sensitized for use in photography; and (3) paper containing by weight 25 percent or more cotton fiber.

Coated free sheet paper is classifiable under subheadings 4810.13.1900, 4810.13.2010, 4810.13.2090, 4810.13.5000, 4810.13.7040, 4810.14.1900, 4810.14.2010, 4810.14.2090, 4810.14.5000, 4810.14.7040, 4810.19.1900, 4810.19.2010, and 4810.19.2090 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 this investigation is dispositive.

Scope Comments

On August 20, August 28, and September 10, 2007, the petitioner requested that the Department clarify the scope of the antidumping and countervailing duty investigations of CFS paper from Indonesia, Korea and the People's Republic of China. Specifically, the petitioner asked the Department to "clarify that the scope of the investigation includes coated free

sheet paper containing hardwood BCTMP."

Because this was a general issue pertaining to all six investigations, the Department set up a general issues file to handle this scope request. A hearing on the scope request was held on September 26, 2007. The hearing comprised a public session, a closed session for the antidumping investigation from Korea, and a closed session for the countervailing duty investigation from the PRC. After considering the comments submitted by the parties to these investigations, we have determined not to adopt the scope clarification sought by the petitioner. See Memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, entitled "Scope Clarification Request: NewPage Corporation" dated concurrently with this notice, which is appended to "Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Coated Free Sheet Paper from the People's Republic of China."

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we have made certain changes to the margin calculations for the Indonesian Respondents. For a discussion of these changes, see the "Margin Calculations" section of the *Decision Memo*.

Verification

As provided in section 782(i) of the Act, we verified the sales and cost information submitted by the Indonesian Respondents for use in our final determination. We used standard verification procedures including an examination of relevant accounting and production records, and original source documents provided by the Indonesian Respondents. Our sales and cost verification results are outlined in separate verification reports. See August 20, 2007, cost verification report, and August 27 and 28, 2007, sales verification reports for the Indonesian Respondents.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing U.S. Customs and Border Protection ("CBP") to continue to suspend liquidation of all imports of subject merchandise that are entered or withdrawn from warehouse, for consumption on or after June 4, 2007, the date of publication of the

Preliminary Determination in the **Federal Register**. We will instruct CBP to continue to require a cash deposit or the posting of a bond for all companies based on the estimated weighted-average dumping margins shown below. The suspension of liquidation instructions will remain in effect until further notice.

Final Determination Margins

We determine that the following weighted-average dumping margins exist for the period October 1, 2005, through September 30, 2006:

Manufacturer/Exporter	Weighted Average Margin (percent)
PT. Pabrik Kertas Tjiwi Kimia Tbk, PT. Pindo Deli Pulp and Paper Mills, and PT. Indah Kiat Pulp and Paper Tbk (collectively, PD/TK/IK)	8.63
All Others	8.63

Section 735(c)(5)(A) of the Act provides that the estimated "All Others" rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and de minimis margins, and any margins determined entirely under section 776 of the Act. The collapsed entity PD/TK/IK⁴ is the only respondent in this investigation for which the Department has calculated a company-specific rate. Therefore, for purposes of determining the "All Others" rate and pursuant to section 735(c)(5)(A) of the Act, we are using the weighted-average dumping margin calculated for PD/TK/IK, as referenced above.

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

⁴In the *Preliminary Determination*, we determined it appropriate to treat PD, TK and IK as one entity for margin calculation purposes because they met the regulatory criteria for collapsing. See May 29, 2007, Memorandum from the Team to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, entitled "Treatment of Data Reported by Affiliated Parties in the Antidumping Duty Investigation of Coated Free Sheet Paper from Indonesia." No party commented on this preliminary determination and we found nothing at verification that would otherwise compel us to reverse this determination. Therefore, we have continued to treat these affiliated companies as one entity in the final determination.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our final determination. As our final determination is affirmative, the ITC will determine within 45 days whether imports of the subject merchandise are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Return or Destruction of Proprietary Information

This notice will serve as the only reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this determination and notice in accordance with sections 735(d) and 777(i) of the Act.

Dated: October 17, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

Appendix—Issues in Decision Memo**Comments**

Issue 1: *Whether to Adjust Export Price for Amounts Paid by TK to an Unaffiliated Company*

Issue 2: *Application of Major Input Rule to Logs Used to Produce Pulp by IK*

Issue 3: *Application of Major Input Rule to Pulp Produced by Lontar*

Issue 4: *Selection of Market Price Used for Testing of Purchases of Pulp from Lontar*

Issue 5: *Application of Transactions Disregarded Rule for Purchases of Electricity*

Issue 6: *Treatment of Miscellaneous Expenses in Financial Expense Calculation*

[FR Doc. E7-21042 Filed 10-24-07; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

(C-580-857)

**Coated Free Sheet Paper from the
Republic of Korea: Notice of Final
Affirmative Countervailing Duty
Determination**

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

SUMMARY: We determine that
countervailable subsidies are being
provided to producers and exporters of
coated free sheet paper from the
Republic of Korea. For information on
the estimated subsidy rates, see the

“Suspension of Liquidation” section of this notice.

EFFECTIVE DATE: October 25, 2007.

FOR FURTHER INFORMATION CONTACT: Robert Copyak, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; Telephone: 202-482-2209.

SUPPLEMENTARY INFORMATION:

Background

This investigation covers 19 programs and the following manufacturer/exporters: EN Paper Mfg. Co., Ltd. (EN Paper) (formerly Shinho Paper Co., Ltd. (Shinho Paper)), Kyesung Paper Co., Ltd. and its affiliate Namhan Paper Co., Ltd. (collectively, Kyesung), Moorim Paper Co. Ltd. (formerly Shinmoorim Paper Mfg. Co., Ltd.) and its affiliate Moorim SP (collectively, Moorim), and Hansol Paper Co., Ltd. (Hansol) (collectively, respondents).

On April 9, 2007, the Department of Commerce (the Department) published in the **Federal Register** its preliminary affirmative determination in the countervailing duty investigation of coated free sheet paper from the Republic of Korea. *See Coated Free Paper from the Republic of Korea: Preliminary Affirmative Countervailing Duty Determination*, 72 FR 17507, 17520 (April 9, 2007) (*Preliminary Determination*).

On May 8, 2007, the Department published in the **Federal Register** the *Notice of Amended Preliminary Countervailing Duty Determination: Coated Free Sheet Paper from the Republic of Korea*, 72 FR 26074 (May 8, 2007) (*Amended Preliminary Determination*). From June 11 through June 29, 2007, we conducted verification of the questionnaire responses submitted by the Government of Korea and respondents.

In the *Preliminary Determination*, we found that we required additional information in order to determine whether respondents' short-term financing from GOK-owned banks and commercial banks conferred countervailable benefits. Similarly, regarding the Industrial Base Fund (IBF), we found that we required additional information in order to determine whether the program conferred a countervailable subsidy. On September 6, 2007, we issued our preliminary findings regarding these programs. *See Memorandum* to David M. Spooner, Assistant Secretary for Import Administration, through Stephen J. Claeys, Deputy Assistant Secretary for

Import Administration (Preliminary Decision Memorandum).

We invited interested parties to comment on the *Preliminary Determination* and Preliminary Decision Memorandum. We received case and rebuttal briefs from petitioner and respondents regarding the *Preliminary Determination* on August 13 and August 22, 2007, respectively.¹ On September 14 and September 19, 2007, we received case and rebuttal briefs from petitioner and respondents regarding the Preliminary Decision Memorandum.

Period of Investigation

The period of investigation (POI) is January 1, 2005, through December 31, 2005.

Scope of Investigation

The merchandise covered by this investigation includes coated free sheet paper and paperboard of a kind used for writing, printing or other graphic purposes. Coated free sheet paper is produced from not-more-than 10 percent by weight mechanical or combined chemical/mechanical fibers. Coated free sheet paper is coated with kaolin (China clay) or other inorganic substances, with or without a binder, and with no other coating. Coated free sheet paper may be surface-colored, surface-decorated, printed (except as described below), embossed, or perforated. The subject merchandise includes single- and double-side-coated free sheet paper; coated free sheet paper in both sheet or roll form; and is inclusive of all weights, brightness levels, and finishes. The terms “wood free” or “art” paper may also be used to describe the imported product.

Excluded from the scope are: (1) coated free sheet paper that is imported printed with final content printed text or graphics; (2) base paper to be sensitized for use in photography; and (3) paper containing by weight 25 percent or more cotton fiber.

Coated free sheet paper is classifiable under subheadings 4810.13.1900, 4810.13.2010, 4810.13.2090, 4810.13.5000, 4810.13.7040, 4810.14.1900, 4810.14.2010, 4810.14.2090, 4810.14.5000, 4810.14.7040, 4810.19.1900, 4810.19.2010, and 4810.19.2090 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 this investigation is dispositive.

¹ Petitioner is the New Page Corporation.

Scope Comments

On August 20, August 28, and September 10, 2007, the petitioner requested that the Department clarify the scope of the antidumping and countervailing duty investigations of CFS paper from Indonesia, Korea and the People's Republic of China. Specifically, the petitioner asked the Department to “clarify that the scope of the investigation includes coated free sheet paper containing hardwood BCTMP.”

Because this was a general issue pertaining to all six investigations, the Department set up a general issues file to handle this scope request. A hearing on the scope request was held on September 26, 2007. The hearing comprised a public session, a closed session for the antidumping investigation from Korea, and a closed session for the countervailing duty investigation from the PRC. After considering the comments submitted by the parties to these investigations, we have determined not to adopt the scope clarification sought by the petitioner. *See Memorandum* to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, entitled “Scope Clarification Request: NewPage Corporation” dated concurrently with this notice, which is appended to “Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Coated Free Sheet Paper from the People's Republic of China.”

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the “Issues and Decision Memorandum” (Decision Memorandum) dated October 17, 2007, which is hereby adopted by this notice. A list of issues that parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as Appendix I. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit. In addition, a complete version of the Decision Memorandum can be accessed directly on the World Wide Web at <http://ia.ita.doc.gov/frn>. The paper copy and electronic version of the Decision Memorandum are identical in content.

Suspension of Liquidation

In accordance with section 705(c)(1)(B)(i)(I) of the Tariff Act of 1930 (as amended) (the Act), we have

calculated individual rates for the companies under investigation. For the period January 1, 2005, through December 31, 2005, we determine the net subsidy rates for the investigated companies are as follows:

Producer/Exporter	Net Subsidy Rate
EN Paper Mfg. Co., Ltd. (EN Paper)	0.04 percent (<i>de minimis</i>)
Kyesung Paper Co., Ltd. and its affiliate Namhan Paper Co., Ltd. (collectively, Kyesung)	1.46 percent <i>ad valorem</i>
Moorim Paper Co. Ltd. and its affiliate Moorim SP (collec- tively, Moorim)	0.00 percent
Hansol Paper Co., Ltd. (Hansol)	0.17 percent (<i>de minimis</i>)
All Others Rate	1.46 percent <i>ad valorem</i>

Under section 705(c)(5)(A) of the Act, the "All Others" rate is equal to the weight-averaged countervailable subsidy rates established for exporters and producers individually investigated, excluding any zero and *de minimis* countervailable subsidy rates and any rates determined under section 776 of the Act. In this investigation, the "All Others" rate is equal to the countervailable net subsidy rate calculated for Kyesung, the only individually investigated respondent with an affirmative net subsidy rate.

In accordance with our *Amended Preliminary Determination*, we instructed U.S. Customs and Border Protection (CBP) to terminate suspension of liquidation of all entries of subject merchandise from Korea on or after April 9, 2007, the date of the publication of our *Preliminary Determination* in the **Federal Register**.

We will reinstate suspension of liquidation under sections 705(c)(1)(C) and 703(d)(2) of the Act for all entries of subject merchandise other than those produced and exported by EN Paper, Hansol, and Moorim and will require a cash deposit or posting of a bond equal to estimated countervailing duties in the amounts indicated above, effective the publication date of our final determination in the **Federal Register**.

If the International Trade Commission (ITC) determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled. If however, the ITC determines that such injury does

exist, we will issue a countervailing duty order.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided that the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Import Administration.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply is a violation of the APO.

This determination is published pursuant to sections 705(d) and 777(i) of the Act.

Dated: October 17, 2007.

David M. Spooner,
Assistant Secretary for Import Administration.

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XIII. RECOMMENDATION

[FR Doc. E7–21036 Filed 10–24–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

C–560–821

Coated Free Sheet Paper from Indonesia: Final Affirmative Countervailing Duty Determination

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

SUMMARY: The Department of Commerce (the Department) has reached a final

determination that countervailable subsidies are being provided to producers and exporters of coated free sheet paper (CFS) from Indonesia. For information on the countervailable subsidy rates, please see the “Final Determination” section of this notice.

EFFECTIVE DATE: October 25, 2007.

FOR FURTHER INFORMATION CONTACT:

Sean Carey, Nicholas Czajkowski, or Gene Calvert, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–3964, (202) 482–1395, or (202) 482–3586, respectively.

SUPPLEMENTARY INFORMATION:

Case History

On April 9, 2007, the Department published *Coated Free Sheet Paper from Indonesia: Notice of Preliminary Affirmative Countervailing Duty Determination*, 72 FR 17498 (April 9, 2007) (*Preliminary Determination*). Since the issuance of the *Preliminary Determination*, the following events have occurred. On April 10 and May 18, 2007, the Department issued supplemental questionnaires to the Government of Indonesia (GOI) and to PT. Pabrik Kertas Tjiwi Kimia Tbk. (TK) and Pindo Deli Pulp and Paper Mills (PD) (the respondent companies). On April 20 and May 24, 2007, the Department issued initial and supplemental questionnaires to the GOI and to the respondent companies regarding the petitioner’s December 15, 2007 additional allegations concerning debt forgiveness. Both parties submitted timely responses to all of the Department’s questionnaires and supplemental questionnaires.

On May 2, 2007, the Department aligned the final determination in this countervailing duty investigation with the final determination in the companion antidumping duty investigation. See *Coated Free Sheet Paper from Indonesia, the People’s Republic of China, and the Republic of Korea: Alignment of Final Countervailing Duty Determinations with Final Antidumping Duty Determinations*, 72 FR 24277 (May 2, 2007). On May 10, 2007, NewPage Corporation (the petitioner) requested a hearing pursuant to 19 CFR 351.310(c) and the Department’s *Preliminary Determination*.

On June 18 and June 19, 2007, the petitioner and the respondent companies submitted new factual information concerning the Department’s investigation of the “GOI

Provision of Standing Timber for Less than Adequate Remuneration,” or “stumpage.” On June 28, 2007, the petitioner submitted rebuttal comments regarding the respondent companies’ new factual information submission.

From June 25 through July 13, 2007, the Department conducted verification of the questionnaire responses provided by the GOI and the respondent companies. On July 13, 2007, the petitioner filed an upstream subsidy allegation, claiming, in accordance with section 771A(a) of the Tariff Act of 1930, as amended, (the Act), that (1) a subsidy, other than an export subsidy, has been paid or bestowed on an input product that is used in the manufacture or production of merchandise subject to a countervailing duty proceeding; (2) the subsidy bestows a competitive benefit on the merchandise; and (3) the subsidy has a significant effect on the cost of manufacturing or producing the merchandise. On July 23, 2007, the respondent companies filed rebuttal comments, and on August 10, 2007, the petitioner filed surrebuttal comments on this allegation.

The Department issued verification reports on August 24, 2007: see Memoranda to the File, *Countervailing Duty Investigation of Coated Free Sheet (CFS) Paper from Indonesia: Verification of the Questionnaire Responses Submitted by Ministry of Forestry and the Ministry of Finance; Countervailing Duty Investigation of Coated Free Sheet Paper from Indonesia: Verification of Cross–Ownership and Debt Restructuring for the Asia Pulp and Paper/Sinar Mas Group; Countervailing Duty Investigation of Coated Free Sheet Paper from Indonesia: Verification of PT Pindo Deli Pulp & Paper Mills and PT. Pabrik Kertas Tjiwi Kimia (Paper Producers/ Exports) and PT Cakrawala Mega Indah (trading company); Countervailing Duty Investigation of Coated Free Sheet (CFS) Paper from Indonesia: Verification of the Questionnaire Responses Submitted by Pulp Producers PT. Lontar Papyrus Pulp and Paper and Indah Kiat Pulp and Paper Tbk.; and, Countervailing Duty Investigation of Coated Free Sheet (CFS) Paper from Indonesia: Verification of the Questionnaire Responses Submitted by Forestry Companies PT. Arara Abadi, PT. Wirakarya Sakti, PT. Finnantara Intiga, and PT. Riau Abadi Lestari.*

On September 5 and September 6, 2007, the petitioner, the GOI, the respondent companies, and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO, CLC

(USW), a domestic interested party to this proceeding, timely filed case briefs regarding our *Preliminary Determination*. On September 11, 2007, the petitioner, the GOI, the respondent companies, and the USW each filed rebuttal comments regarding our *Preliminary Determination*. At the Department's request, the petitioner, the GOI, and the respondent companies removed what the Department determined to be new factual information from their comments and rebuttal comments regarding the Department's *Preliminary Determination*, and resubmitted those comments to the Department on September 18 and September 19, 2007.

On September 7, 2007, the Department issued the interim analysis of two additional subsidy allegations. We explained in the *Preliminary Determination* that because we had only recently initiated investigations of these two programs, there was not sufficient time to gather information and analyze the countervailability of the programs for the purposes of the *Preliminary Determination*. See the Memorandum to David M. Spooner, Assistant Secretary for Import Administration from Barbara E. Tillman, Director, Office 6, AD/CVD Operations, *Countervailing Duty Investigation: Coated Free Sheet Paper from Indonesia; Post-Preliminary Analysis of Two New Subsidy Allegations (Post-Preliminary Analysis)*. The Department set a separate briefing schedule for parties to file comments and rebuttal comments on our *Post-Preliminary Analysis*. On September 18, 2007, such comments were filed by the GOI and the respondent companies. The petitioner filed rebuttal comments regarding the Department's *Post-Preliminary Analysis* on September 25, 2007. The petitioner withdrew its request for a hearing on September 10, 2007.

Period of Investigation

The period of investigation (POI) for which we are measuring subsidies is January 1, 2005 through December 31, 2005, which corresponds to the most recently completed fiscal year for the respondent companies. See 19 CFR 351.204(b)(2).

Scope of the Investigation

The merchandise covered by this investigation includes coated free sheet paper and paperboard of a kind used for writing, printing or other graphic purposes. Coated free sheet paper is produced from not-more-than 10 percent by weight mechanical or combined chemical/mechanical fibers. Coated free sheet paper is coated with

kaolin (China clay) or other inorganic substances, with or without a binder, and with no other coating. Coated free sheet paper may be surface-colored, surface-decorated, printed (except as described below), embossed, or perforated. The subject merchandise includes single- and double-side-coated free sheet paper; coated free sheet paper in both sheet or roll form; and is inclusive of all weights, brightness levels, and finishes. The terms "wood free" or "art" paper may also be used to describe the imported product.

Excluded from the scope are: (1) Coated free sheet paper that is imported printed with final content printed text or graphics; (2) base paper to be sensitized for use in photography; and, (3) paper containing by weight 25 percent or more cotton fiber.

Coated free sheet paper is classifiable under subheadings 4810.13.1900, 4810.13.2010, 4810.13.2090, 4810.13.5000, 4810.13.7040, 4810.14.1900, 4810.14.2010, 4810.14.2090, 4810.14.5000, 4810.14.7040, 4810.19.1900, 4810.19.2010, and 4810.19.2090 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 this investigation is dispositive.

Scope Comments

On January 12, 2007, the respondent companies filed a request to exclude cast-coated free sheet paper from the scope of the investigations of CFS from Indonesia, Korea, and the People's Republic of China. The petitioner submitted comments on the respondent companies' request on January 19, 2007. The Department analyzed both parties' comments and denied the respondent companies' request to exclude cast-coated free sheet paper from the scope of these investigations. See the Memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, *Request to Exclude Cast-Coated Free Sheet Paper from the Antidumping Duty and Countervailing Duty Investigations on Coated Free Sheet Paper*, dated March 22, 2007, which is on file in the Central Records Unit (CRU), Room B099 of the main Commerce building.

On August 20, August 28, and September 10, 2007, the petitioner requested that the Department clarify the scope of the antidumping and countervailing duty investigations of CFS paper from Indonesia, Korea and the People's Republic of China (PRC). Specifically, the petitioner asked the Department to "clarify that the scope of

the investigation includes coated free sheet paper containing hardwood BCTMP."

Because this was a general issue pertaining to all six investigations, the Department set up a general issues file to handle this scope request. A hearing on the scope request was held on September 26, 2007. The hearing comprised a public session, a closed session for the antidumping investigation from Korea, and a closed session for the countervailing duty investigation from the PRC. After considering the comments submitted by the parties to these investigations, we have determined not to adopt the scope clarification sought by the petitioner. See Memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, entitled "Scope Clarification Request: NewPage Corporation" dated concurrently with this notice, which is appended to "Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Coated Free Sheet Paper from the People's Republic of China."

Initiation and Deferral of Upstream Subsidy Investigation

On July 13, 2007, the petitioner filed an upstream subsidy allegation, claiming, in accordance with section 771A(a) of the Act, that (1) a subsidy, other than an export subsidy, has been paid or bestowed on an input product, *i.e.*, pulpwood, that is used in the manufacture or production of merchandise subject to a countervailing duty proceeding, *i.e.*, CFS paper; (2) the subsidy bestows a competitive benefit on the merchandise; and (3) the subsidy has a significant effect on the cost of manufacturing or producing the merchandise. See 19 CFR 351.523. The respondent companies filed rebuttal arguments on July 23, 2007, and the petitioner filed additional comments and clarifications of its allegation on August 13, 2007.

After fully considering all of these submissions, we have determined that the threshold requirements set forth in the Act and the Department's regulations for initiation of an upstream subsidy investigation have been met. However, we have simultaneously decided to defer the conduct of the upstream subsidy investigation until the first administrative review, if a countervailing duty order is issued and such a review is requested. See section 703(g)(2)(B)(i) of the Act. A complete discussion of our decisions to both initiate an upstream investigation and defer the conduct of such investigation can be found in the "Issues and

Decision Memorandum” from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, dated concurrently with this notice (*Decision Memorandum*) and hereby adopted by this notice.

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised by interested parties in their case briefs and rebuttal briefs on the *Preliminary Determination* and the *Post-Preliminary Analysis*, are discussed in the *Decision Memorandum*. A list of the subsidy programs and of the issues which parties have raised is attached to this notice as Appendix I. Parties can find a complete discussion of all of the subsidy programs, and issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in the CRU. A complete version of the *Decision Memorandum* is available at <http://www.trade.gov/ia> under the heading “**Federal Register** Notices.” The paper copy and the electronic version of the *Decision Memorandum* are identical in content.

Final Determination

In accordance with section 705(c)(1)(B)(i) of the Act, we have determined a single subsidy rate for the two cross-owned producers/exporters of the subject merchandise. We determine the total countervailable subsidy rate to be:

Producer/Exporter	Rate
PT. Pabrik Kertas Tjiwi Kimia Tbk./PT. Pindo Deli Pulp and Paper Mills	22.48%
All Others	22.48%

In accordance with sections 703(d) and 705(c)(5)(A) of the Act, we have set the all- others rate as the rate for TK/PD because it was the only producer/exporter under investigation.

Suspension of Liquidation

In accordance with our affirmative *Preliminary Determination*, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of CFS from Indonesia, which were entered or withdrawn from warehouse, for consumption on or after April 9, 2007, the date of the publication of our *Preliminary Determination* in the **Federal Register**. In accordance with section 703(d) of the Act, we instructed CBP to discontinue

the suspension of liquidation for merchandise entered on or after August 7, 2007, but to continue the suspension of liquidation of entries made on or after April 9, 2007 and before August 7, 2007.

If the International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a countervailing duty order, reinstate suspension of liquidation under section 706(a) of the Act for all entries, and require a cash deposit of estimated countervailing duties for such entries of merchandise at the rates indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Import Administration.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with section 351.305(a)(3) of the Department’s regulations. Failure to comply is a violation of the APO.

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act.

Dated: October 17, 2007.

David M. Spooner,
Assistant Secretary for Import Administration.

Appendix I: Issues and Decision Memorandum

I. Summary

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- B. Attribution of Subsidies Provided to Cross-Owned Input Suppliers
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- Comment 1:* Whether the Department Should Find that SMG/APP Received Upstream Subsidies on Purchases of Timber from Non-Cross Owned Entities and Consider the Legality Under which This Timber was Harvested
- Comment 2:* Whether the Department’s Cross-Ownership Regulations Provide for the Attribution of Upstream Subsidies to Cross-Owned Companies
- Comment 3:* Cross-Ownership of AA and WKS with IK, Lontar, TK and PD
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- Comment 6:* Cross-Ownership Between WKS and Purinusa
- Comment 7:* Cross-Ownership Between AA and Purinusa
- Comment 8:* Cross-Ownership of Certain Additional Companies That Were Preliminarily Found to be Cross-Owned with Companies in the APP/SMG CFS Group
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Comment 29: Benefit from IBRA's Acceptance of COEs as Settlement of Debt
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Comment 33: Procedural Abnormalities in IBRA's Sale of the SMG/APP Debt and Specificity
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VIII. Recommendation

[FR Doc. E7-21040 Filed 10-24-07; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-907]

Coated Free Sheet Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination

AGENCY: Import Administration, International Trade Administration, Department of Commerce.
SUMMARY: The Department of Commerce (Department) has made a final determination that countervailable subsidies are being provided to producers and exporters of coated free sheet (CFS) paper from the People's Republic of China. For information on the estimated countervailing duty rates, please see the "Suspension of Liquidation" section, below.

EFFECTIVE DATE: October 25, 2007.

FOR FURTHER INFORMATION CONTACT: David Layton or David Neubacher, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0371 or (202) 482-5823, respectively.

SUPPLEMENTARY INFORMATION:

Petitioner

The petitioner in this investigation is the NewPage Corporation (petitioner).

Period of Investigation

The period for which we are measuring subsidies, or period of investigation, is January 1, 2005, through December 31, 2005.

Case History

The following events have occurred since the announcement of the preliminary determination on March 30, 2007, and subsequent publication in the **Federal Register** on April 9, 2007. See *Coated Free Sheet Paper from the People's Republic of China: Amended Affirmative Preliminary Countervailing Duty Determination*, 72 FR 17484 (April 9, 2007) (*Preliminary Determination*).

On April 9, 2007, Gold East Paper (Jiangsu) Co., Ltd. (GE) and the petitioner submitted ministerial error allegations relating to the *Preliminary*

Determination. We addressed these ministerial error allegations in a May 11, 2007, memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, entitled *Ministerial Error Allegations*, which is on file in the Central Records Unit (CRU), Room B-099 of the main Department building.

On April 12, 2007, the Department requested that GE amend the bracketing and resubmit its March 9, 2007, supplemental questionnaire response, which GE did on April 17, 2007.

We issued a supplemental questionnaire to the Government of the People's Republic of China (GOC) on April 23, 2007, and to GE and Shandong Chenming Paper Holdings Ltd. (Shandong Chenming) on April 20, 2007. We received the GOC's supplemental questionnaire response on May 13, 2007, Shandong Chenming's supplemental questionnaire response on May 18, 2007, and GE's supplemental response on May 25, 2007. On May 25, 2007, we issued a supplemental questionnaire to Shandong Chenming, but did not receive a response. The GOC, GE, the petitioner, and interested parties also submitted factual information, comments, and arguments at numerous instances prior to the final determination based on various deadlines for submissions of factual information and/or arguments established by the Department subsequent to the *Preliminary Determination*.

On May 2, 2007, the Department published notification of alignment of the final determinations in the antidumping and countervailing duty investigations of CFS paper from the People's Republic of China (PRC). See *Coated Free Sheet Paper from Indonesia, the People's Republic of China, and the Republic of Korea: Alignment of Final Countervailing Duty Determinations with Final Antidumping Duty Determinations*, 72 FR 24277 (May 2, 2007). The Department subsequently postponed the final determinations for the antidumping and countervailing investigations of CFS paper from the PRC. See *Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Coated Free Sheet Paper from the People's Republic of China*, 72 FR 30758 (June 4, 2007).

On June 13, 2007, we received a letter from Shandong Chenming withdrawing its participation in the investigation and requesting that all of its business proprietary information be removed from the record and destroyed. On June 27, 2007, the Department notified Shandong Chenming that it had

removed and destroyed the company's submitted proprietary information from the record of this investigation and would direct all interested parties under the Administrative Protective Order (APO) to certify its destruction. All interested parties certified destruction of Shandong Chenming's proprietary information.

From July 11 to July 28, 2007, we conducted verification of the questionnaire responses submitted by the GOC and GE.

On August 30, 2007, we issued our preliminary determination regarding the creditworthiness of GE and its cross-owned companies. We addressed our preliminary findings in a August 30, 2007, memorandum to David M. Spooner, Assistant Secretary for Import Administration, entitled *Preliminary Creditworthiness Determination for Gold East Paper (Jiangsu) Co., Ltd. and its Cross-Owned Companies*, which is on file in the CRU.

We received case briefs from the GOC; GE; the petitioner; and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO-CLC on September 7, 2007. The same parties submitted rebuttal briefs on September 12, 2007. We held a hearing for this investigation on September 18, 2007.

Scope of the Investigation

The merchandise covered by this investigation includes coated free sheet paper and paperboard of a kind used for writing, printing or other graphic purposes. Coated free sheet paper is produced from not-more-than 10 percent by weight mechanical or combined chemical/mechanical fibers. Coated free sheet paper is coated with kaolin (China clay) or other inorganic substances, with or without a binder, and with no other coating. Coated free sheet paper may be surface-colored, surface-decorated, printed (except as described below), embossed, or perforated. The subject merchandise includes single- and double-side-coated free sheet paper; coated free sheet paper in both sheet or roll form; and is inclusive of all weights, brightness levels, and finishes. The terms "wood free" or "art" paper may also be used to describe the imported product.

Excluded from the scope are: (1) coated free sheet paper that is imported printed with final content printed text or graphics; (2) base paper to be sensitized for use in photography; and (3) paper containing by weight 25 percent or more cotton fiber.

Coated free sheet paper is classifiable under subheadings 4810.13.1900,

4810.13.2010, 4810.13.2090, 4810.13.5000, 4810.13.7040, 4810.14.1900, 4810.14.2010, 4810.14.2090, 4810.14.5000, 4810.14.7040, 4810.19.1900, 4810.19.2010, and 4810.19.2090 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.

Scope Comments

On August 20, August 28, and September 10, 2007, the petitioner requested that the Department clarify the scope of the antidumping and countervailing duty investigations of CFS paper from Indonesia, Korea and the People's Republic of China. Specifically, the petitioner asked the Department to "clarify that the scope of the investigation includes coated free sheet paper containing hardwood BCTMP."

Because this was a general issue pertaining to all six investigations, the Department set up a general issues file to handle this scope request. A hearing on the scope request was held on September 26, 2007. The hearing comprised a public session, a closed session for the antidumping investigation from Korea, and a closed session for the countervailing duty investigation from the PRC. After considering the comments submitted by the parties to these investigations, we have determined not to adopt the scope clarification sought by the petitioner. See Memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, entitled "Scope Clarification Request: NewPage Corporation," dated concurrently with this notice, which is appended to the "Issues and Decision Memorandum for Final Determination" from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, dated October 17, 2007 (*Decision Memorandum*).

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the *Decision Memorandum*, which is hereby adopted by this notice. Attached to this notice as an Appendix is a list of the issues that parties have raised and to which we have responded in the *Decision Memorandum*. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in

the CRU. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Internet at <http://ia.ita.doc.gov/frn/>. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Use of Adverse Facts Available

Sections 776(a)(1) and (2) of the Act provide that the Department shall apply "facts otherwise available" if, *inter alia*, necessary information is not on the record or an interested party or any other person: (A) withholds information that has been requested; (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding; or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party the opportunity to remedy or explain the deficiency. If the party fails to remedy the deficiency within the applicable time limits and subject to section 782(e) of the Act, the Department may disregard all or part of the original and subsequent responses, as appropriate. Section 782(e) of the Act provides that the Department "shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all applicable requirements established by the administering authority" if the information is timely, can be verified, is not so incomplete that it cannot be used, and if the interested party acted to the best of its ability in providing the information. Where all of these conditions are met, the statute requires the Department to use the information if it can do so without undue difficulties.

Section 776(b) of the Act further provides that the Department may use an adverse inference in applying the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Section 776(b) of the Act also authorizes the Department to use as adverse facts available (AFA) information derived from the petition, the final determination, a previous administrative review, or other information placed on the record.

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined as “[i]nformation derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.” See *Statement of Administrative Action* (SAA) accompanying the Uruguay Round Agreements Act, H. Doc. No. 316, 103d Cong., 2d Session at 870 (1994). Corroborate means that the Department will satisfy itself that the secondary information to be used has probative value. See SAA at 870. To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. The SAA emphasizes, however, that the Department need not prove that the selected facts available are the best alternative information. See SAA at 869.

The Department has concluded that it is appropriate to base the final determination for Shandong Chenming on facts otherwise available. Shandong Chenming failed to respond fully to the Department’s questionnaires and did not respond at all to one questionnaire. Also, on June 13, 2007, Shandong Chenming withdrew its proprietary information from the record. Thus, Shandong Chenming withheld information requested by the Department. Consequently, the use of facts otherwise available is warranted under section 776(a)(2)(A) of the Act.

In selecting from among the facts available, the Department has determined that an adverse inference is warranted, pursuant to section 776(b) of the Act because, in addition to not fully responding to all of our requests for information, as of June 13, 2007, Shandong Chenming withdrew from all participation in the investigation and did not provide the Department with the opportunity to verify the information it did submit. Thus, Shandong Chenming failed to cooperate by not acting to the best of its ability, and our final determination is based on total AFA.

Selection of the Adverse Facts Available Rate

In deciding which facts to use as AFA, section 776(b) of the Act and 19 CFR 351.308(c)(1) authorize the Department to rely on information derived from (1) the petition, (2) a final

determination in the investigation, (3) any previous review or determination, or (4) any information placed on the record. It is the Department’s practice to select, as AFA, the highest calculated rate in any segment of the proceeding. See, e.g., *Certain In-shell Roasted Pistachios from the Islamic Republic of Iran: Final Results of Countervailing Duty Administrative Review*, 71 FR 66165 (November 13, 2006), and accompanying Issues and Decision Memorandum at “Analysis of Programs.”

The Department’s practice when selecting an adverse rate from among the possible sources of information is to ensure that the margin is sufficiently adverse “as to effectuate the purpose of the facts available role to induce respondents to provide the Department with complete and accurate information in a timely manner.” See *Notice of Final Determination of Sales at Less than Fair Value: Static Random Access Memory Semiconductors From Taiwan*; 63 FR 8909, 8932 (February 23, 1998). The Department’s practice also ensures “that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.” See SAA at 870. In choosing the appropriate balance between providing a respondent with an incentive to respond accurately and imposing a rate that is reasonably related to the respondent’s prior commercial activity, selecting the highest prior margin “reflects a common sense inference that the highest prior margin is the most probative evidence of current margins, because, if it were not so, the importer, knowing of the rule, would have produced current information showing the margin to be less.” See *Rhone Poulenc, Inc. v. United States*, 899 F. 2d 1185, 1190 (Fed. Cir. 1990).

For these reasons the Department is relying on the highest calculated final subsidy rates for income tax, VAT, and policy lending programs of the other producer/exporter of the subject merchandise in this investigation, GE, to calculate the AFA rate for Shandong Chenming. We do not need to corroborate these rates because they are not considered secondary information as they are based on information obtained in the course of this investigation, pursuant to section 776(c) of the Act.

Suspension of Liquidation

In accordance with section 705(c)(1)(B)(i)(I) of the Act, we have calculated an individual rate for the companies under investigation, GE and Shandong Chenming. According to section 705(c)(5)(A)(i) of the Act, the

Department excludes any rates determined entirely under section 776 of the Act. As Shandong Chenming’s rate was calculated under section 776 of the Act, we have used the rate for GE as the “all others” rate.

Exporter/Manufacturer	Net Subsidy Rate
Gold East Paper (Jiangsu) Co., Ltd.	7.40 %
Shandong Chenming Paper Holdings Ltd.	44.25 %
All Others	7.40 %

As a result of our *Preliminary Determination* and pursuant to section 703(d) of the Act, we instructed the U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of coated free sheet paper from the PRC which were entered or withdrawn from warehouse, for consumption on or after April 9, 2007, the date of the publication of the *Preliminary Determination* in the **Federal Register**. In accordance with section 703(d) of the Act, we instructed CBP to discontinue the suspension of liquidation for countervailing duty purposes for subject merchandise entered on or after August 7, 2007, but to continue the suspension of liquidation of entries made from April 9, 2007, through August 7, 2007.

We will issue a countervailing duty order and reinstate the suspension of liquidation under section 706(a) of the Act if the International Trade Commission (ITC) issues a final affirmative injury determination, and will require a cash deposit of estimated countervailing duties for such entries of merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an APO, without the written consent of the Assistant Secretary for Import Administration.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This determination is published pursuant to sections 705(d) and 777(i) of the Act.

Dated: October 17, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

Appendix

List of Comments and Issues in the Decision Memorandum

- Comment 1: Applicability of the CVD Law to China
- Comment 2: The Administrative Procedures Act (APA) Claim
- Comment 3: The Department's Justification for its Change in Practice from *Sulfanilic Acid from Hungary*
- Comment 4: China's WTO Accession Protocol
- Comment 5: Retroactive Application of the CVD Law to China
- Comment 6: Comparison of the Department's Findings in the *Georgetown Memo* and the *August 30 Market Economy Status Memo*
- Comment 7: Application of Adverse Facts Available to the GOC
- Comment 8: Policy Lending
- Comment 9: Countervailability of Foreign-denominated Loans
- Comment 10: Benchmark for Policy Lending
- Comment 11: Adjustment for Long-term Interest Rate Benchmark
- Comment 12: Creditworthiness of GE and its Cross-owned Companies
- Comment 13: Application of a Risk Premium to the Short-term Loan Benchmark
- Comment 14: Specificity of Programs for FIEs
- Comment 15: Over-calculation of the Two Free/Three Half Benefit
- Comment 16: Specificity of VAT Programs
- Comment 17: Attribution of GHS' Subsidies to GE

Comment 18: Attribution of Subsidies Bestowed on Input Suppliers

Comment 19: Whether the Department's Cross-ownership Regulations Provide for the Attribution of Upstream Subsidies to Cross-owned Companies

Comment 20: Attribution of Subsidies Bestowed on the Forestry Companies to CFS

Comment 21: Rate Adjustment for GE's *Ad Valorem* Subsidy Rate

Comment 22: Subsidies to Forestry Companies Discovered After the Preliminary Determination

Comment 23: Correction to GE's Domestic Sales Value

Comment 24: Application of Adverse Facts Available to Chenming

Comment 25: Certification of Non-Reimbursement of Duties

[FR Doc. E7-21046 Filed 10-24-07; 8:45 am]

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APPENDIX B
HEARING WITNESSES

CALENDAR OF PUBLIC HEARING

Those listed below appeared as witnesses at the United States International Trade Commission's hearing:

Subject: Coated Free Sheet Paper from China, Indonesia, and Korea
Inv. Nos.: 701-TA-444-446 and 731-TA-1107-1109 (Final)
Date and Time: October 18, 2007 - 9:30 a.m.

Sessions were held in connection with these investigations in the Main Hearing Room (room 101), 500 E Street, S.W., Washington, DC.

CONGRESSIONAL WITNESSES:

The Honorable Susan M. Collins, United States Senator, United States Senate, State of Maine

The Honorable Bart Stupak, U.S. Congressman, U.S. House of Representatives, 1st District, State of Michigan

OPENING REMARKS:

Petitioner (**Gilbert B. Kaplan**, King & Spalding LLP)
Respondents (**Donald B. Cameron**, Troutman Sanders LLP)

In Support of the Imposition of Antidumping and Countervailing Duties:

King & Spalding LLP
Washington, DC
on behalf of

NewPage Corporation

Mark A. Suwyn, Chairman and CEO, NewPage Corporation

James C. Tyrone, Senior Vice President, Sales and Marketing, NewPage Corporation

Timothy E. Needham, President and CEO, Smart Papers LLC

**In Support of the Imposition of
Antidumping and Countervailing Duties (continued):**

King & Spalding LLP
Washington, DC
on behalf of

NewPage Corporation

Tom Gallagher, President, Sales and Marketing,
West Linn Paper

Richard LaCosse, International Vice President,
United Steelworkers

Rick Reindl, Owner, Reindl Printing, Inc.

Bonnie B. Byers, Consultant, King & Spalding LLP

Rebecca L. Woodings, Consultant, King & Spalding LLP

Kenneth R. Button, Ph.D., Consultant, Economic
Consulting Services LLC

Gregory Hogan, Consultant, Economic Consulting
Services LLC

Gilbert B. Kaplan)
) – OF COUNSEL
Stephen A. Jones)

**In Opposition to the Imposition of
Antidumping and Countervailing Duties:**

White & Case LLP
Washington, DC
on behalf of

Gold East Paper (Jiangsu) Co., Ltd. (“Gold East”)
Gold Huasheng Paper Co., Ltd. (“GHS”)

Allan R. Dragone, Chief Executive Officer, Unisource
Worldwide, Inc.

Terry E. Hunley, External Advisor, Global Paper
Solutions, Inc.

Jeff Hederick, Vice President, Sourcing – Paper,
Unisource Worldwide, Inc.

Walter J. Spak)
William J. Clinton)
Frank Schweitzer) – OF COUNSEL
Kristina Zissis)
Frank H. Morgan)

White & Case LLP
Washington, DC
on behalf of

PT Pindo Deli Pulp and Paper Mills (“Piindo Deli”)
PT Pabrik Kertas Tjimi Kimia Tbk. (“Tjimi Kimia”)

David Bond)
Scott S. Lincicome) – OF COUNSEL
Adams Lee)

**In Opposition to the Imposition of
Antidumping and Countervailing Duties (continued):**

Troutman Sanders LLP
Washington, DC
on behalf of

Korea Paper Manufacturers' Association ("KPMA")
and its members

Woo-Sik Choi, President, EN Paper Co., Ltd.

Don Kim, Team Manager, Overseas Business Team,
EN Paper Co., Ltd.

S.B. Lee, Director, Overseas Sales Development,
Kyesung Paper Co., Ltd.

Leonard Aronica, CEO, Graphic Paper

Ron Davis, Economist, Printing Industries of America

Daniel W. Klett, Principal, Capital Trade, Inc.

Julie C. Mendoza)
Donald B. Cameron) – OF COUNSEL
R. Will Planert)

REBUTTAL/CLOSING REMARKS:

Petitioners (**Gilbert B. Kaplan**, King & Spalding LLP)
Respondents (**Donald B. Cameron**, Troutman Sanders LLP)

APPENDIX C
SUMMARY DATA

Table C-1

Coated free sheet paper: Summary data concerning the U.S. market, 2004-06, January-June 2006, and January-June 2007

(Quantity=short tons, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per short ton; 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	***	***	***	***	***	***	***	***	***
Producers' share (1)	***	***	***	***	***	***	***	***	***
Importers' share (1):									
China	***	***	***	***	***	***	***	***	***
Indonesia	***	***	***	***	***	***	***	***	***
Korea (subject)	***	***	***	***	***	***	***	***	***
Subtotal (subject)	***	***	***	***	***	***	***	***	***
Korea (nonsubject)	***	***	***	***	***	***	***	***	***
All other sources	***	***	***	***	***	***	***	***	***
Subtotal (nonsubject)	***	***	***	***	***	***	***	***	***
Total imports	***	***	***	***	***	***	***	***	***
U.S. consumption value:									
Amount	***	***	***	***	***	***	***	***	***
Producers' share (1)	***	***	***	***	***	***	***	***	***
Importers' share (1):									
China	***	***	***	***	***	***	***	***	***
Indonesia	***	***	***	***	***	***	***	***	***
Korea (subject)	***	***	***	***	***	***	***	***	***
Subtotal (subject)	***	***	***	***	***	***	***	***	***
Korea (nonsubject)	***	***	***	***	***	***	***	***	***
All other sources	***	***	***	***	***	***	***	***	***
Subtotal (nonsubject)	***	***	***	***	***	***	***	***	***
Total imports	***	***	***	***	***	***	***	***	***
U.S. imports from:									
China:									
Quantity	160,668	142,831	267,746	125,803	77,367	66.6	-11.1	87.5	-38.5
Value	130,058	118,991	223,767	105,794	63,484	72.1	-8.5	88.1	-40.0
Unit value	\$809	\$833	\$836	\$841	\$821	3.2	2.9	0.3	-2.4
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Indonesia:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Korea (subject):									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Subtotal (subject):									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Korea (nonsubject):									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
All other sources:									
Quantity	1,076,558	944,088	914,535	491,941	349,590	-15.1	-12.3	-3.1	-28.9
Value	1,004,241	957,728	920,328	487,916	372,423	-8.4	-4.6	-3.9	-23.7
Unit value	\$933	\$1,014	\$1,006	\$992	\$1,065	7.9	8.8	-0.8	7.4
Ending inventory quantity	64,913	47,748	34,692	53,004	43,053	-46.6	-26.4	-27.3	-18.8
Subtotal (nonsubject):									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
All sources:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***

Table continued on next page.

Table C-1--Continued

Coated free sheet paper: Summary data concerning the U.S. market, 2004-06, January-June 2006, and January-June 2007

(Quantity=short tons, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per short ton;
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	5,275,160	5,351,395	5,244,121	2,663,621	2,660,303	-0.6	1.4	-2.0	-0.1
Production quantity	4,839,651	4,926,891	4,973,370	2,477,182	2,500,813	2.8	1.8	0.9	1.0
Capacity utilization (1)	91.7	92.1	94.8	93.0	94.0	3.1	0.3	2.8	1.0
U.S. shipments:									
Quantity	4,630,831	4,585,403	4,627,631	2,281,789	2,275,591	-0.1	-1.0	0.9	-0.3
Value	3,803,852	4,066,115	4,154,576	2,049,324	2,053,968	9.2	6.9	2.2	0.2
Unit value	\$821	\$887	\$898	\$898	\$903	9.3	8.0	1.2	0.5
Export shipments:									
Quantity	284,537	334,424	347,559	155,780	174,949	22.1	17.5	3.9	12.3
Value	222,892	280,359	302,108	133,953	145,031	35.5	25.8	7.8	8.3
Unit value	\$783	\$838	\$869	\$860	\$829	11.0	7.0	3.7	-3.6
Ending inventory quantity	613,937	631,606	615,487	651,033	660,679	0.3	2.9	-2.6	1.5
Inventories/total shipments (1)	12.5	12.8	12.4	13.4	13.5	-0.1	0.3	-0.5	0.1
Production workers	8,110	7,199	6,666	6,777	6,641	-17.8	-11.2	-7.4	-2.0
Hours worked (1,000s)	17,104	15,231	14,169	7,126	7,182	-17.2	-11.0	-7.0	0.8
Wages paid (\$1,000s)	508,029	404,836	361,513	181,652	180,983	-28.8	-20.3	-10.7	-0.4
Hourly wages	\$29.70	\$26.58	\$25.51	\$25.49	\$25.20	-14.1	-10.5	-4.0	-1.1
Productivity (tons/1,000 hours)	282.9	323.5	351.0	347.6	348.2	24.0	14.3	8.5	0.2
Unit labor costs	\$104.97	\$82.17	\$72.69	\$73.33	\$72.37	-30.8	-21.7	-11.5	-1.3
Net sales:									
Quantity	4,694,703	4,795,925	4,973,519	2,437,839	2,449,969	5.9	2.2	3.7	0.5
Value	3,851,630	4,246,492	4,448,315	2,181,981	2,198,622	15.5	10.3	4.8	0.8
Unit value	\$820	\$885	\$894	\$895	\$897	9.0	7.9	1.0	0.3
Cost of goods sold (COGS)	3,815,252	3,897,570	3,990,689	1,977,827	1,992,995	4.6	2.2	2.4	0.8
Gross profit or (loss)	36,378	348,922	457,626	204,154	205,627	1,158.0	859.2	31.2	0.7
SG&A expenses	279,415	272,798	290,592	144,304	130,749	4.0	-2.4	6.5	-9.4
Operating income or (loss)	(243,037)	76,124	167,034	59,850	74,878	(3)	(3)	119.4	25.1
Capital expenditures	274,706	183,792	144,565	65,158	48,685	-47.4	-33.1	-21.3	-25.3
Unit COGS	\$813	\$813	\$802	\$811	\$813	-1.3	0.0	-1.3	0.3
Unit SG&A expenses	\$60	\$57	\$58	\$59	\$53	-1.8	-4.4	2.7	-9.8
Unit operating income or (loss)	(\$52)	\$16	\$34	\$25	\$31	(3)	(3)	111.6	24.5
COGS/sales (1)	99.1	91.8	89.7	90.6	90.6	-9.3	-7.3	-2.1	0.0
Operating income or (loss)/ sales (1)	(6.3)	1.8	3.8	2.7	3.4	10.1	8.1	2.0	0.7

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

(2) Not applicable.

(3) Undefined.

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

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

APPENDIX D
MISCLASSIFICATION OF CFS PAPER

The Misclassification of CFS Paper in Official Commerce Statistics

As discussed in *Part I*¹ and *Part IV*² of this report, CFS paper has been entered under a variety of HTS numbers other than those identified in Commerce's scope.³ The misclassification of CFS paper "outside" the pertinent HTS numbers would result in the understatement of the measurement of U.S. imports of CFS paper. In a separate, but related, issue petitioner asserted during the course of the final phase of the investigations that product otherwise considered to be coated free sheet but containing more than 10 percent semi-chemical pulp had been entered prior to the filing of the petition under the HTS numbers for CFS paper. Petitioner further asserted that producers in China and Indonesia began to reclassify their exports to the United States as coated groundwood in increasing volumes following Commerce's preliminary affirmative countervailing duty determinations.⁴ Commerce has determined that product containing more than 10 percent semi-chemical pulp is, in fact, nonsubject merchandise and determined not to adopt the scope clarification requested by petitioner.⁵ Any entry of nonsubject (per Commerce's ruling) paper during the period examined containing more than 10 percent mechanical or combined chemical/mechanical fibers under the HTS statistical reporting numbers applying to CFS paper would result in the overstatement of total U.S. imports of CFS paper as would entries of any other nonsubject papers.⁶

Implications of Misclassification for the Negligibility Calculation

As addressed in *Part IV*⁷ and *Part VII*⁸ of this report, the measurement of subject merchandise CFS paper in this report is based on a high coverage rate of questionnaire responses (referring to the importer questionnaire data used to measure U.S. imports from China and the foreign producer questionnaire data used to measure exports to the United States from Indonesia and Korea (subject and nonsubject)). Official Commerce statistics (for the HTS reporting numbers identified in Commerce's

¹ CFS paper has been entered under HTS statistical reporting numbers that include those applying to coated kraft paper and plastic-coated and other specialty papers (p. I-11). The Indonesian respondents also suggest that importers could misclassify subject merchandise under the HTS statistical reporting numbers used for packaging applications. *Ibid.*, n. 19.

² See pp. IV-6-IV-9. (***) indicated that it imported CFS paper under the HTS subheading for uncoated paper table IV-3, n. 5).

³ HTS reporting nos. 4810.13.1900; 4810.13.2010; 4810.13.2090; 4810.13.5000; 4810.13.7040; 4810.14.1900; 4810.14.2010; 4810.14.2090; 4810.14.5000; 4810.14.7040; 4810.19.1900; 4810.19.2010; and 4810.19.2090. *See Coated Free Sheet Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 72 FR 60645, October 25, 2007; *Coated Free Sheet Paper from Indonesia: Final Affirmative Countervailing Duty Determination*, 72 FR 60642, October 25, 2007; *Coated Free Sheet Paper from the Republic of Korea: Notice of Final Affirmative Countervailing Duty Determination*, 72 FR 60639, October 25, 2007; *Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the People's Republic of China*, 72 FR 60632, October 25, 2007; *Notice of Final Determination of Sales at Less than Fair Value: Coated Free Sheet Paper from Indonesia*, 72 FR 60636, October 25, 2007; and *Notice of Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the Republic of Korea*, 72 FR 60630, October 25, 2007.

⁴ Petitioner's prehearing brief, pp. 48-49.

⁵ For further information on the scope clarification requested by petitioner *see Part I*, pp. I-8-I-9.

⁶ See Chinese respondents' statements discussing the *** in *Part IV* (p. IV-10).

⁷ See table IV-2.

⁸ See pp. VII-4, n. 7, and VII-14.

scope) were used to measure nonsubject imports from countries other than Korea.⁹ The misclassification of data in official Commerce statistics for nonsubject sources is of particular concern in these investigations since, as discussed in *Part IV*, Commission staff has measured the share of total U.S. imports of CFS paper accounted for by imports from Indonesia at 4.2 percent. Imports of subject merchandise from developing countries are negligible in a subsidy investigation if such imports account for less than 4 percent of the volume of all such merchandise imported into the United States in the most recent 12-month period for which data are available prior to the filing of the petition.¹⁰

Misclassification in the Preliminary Phase of the Investigations

The possible misclassification of merchandise was first identified during the preliminary phase of these investigations.¹¹ As addressed in the staff report for the preliminary phase,¹² U.S. imports of subject merchandise from China reported in importer questionnaires and exports to the United States of subject merchandise reported in the foreign producer questionnaires were substantially greater in volume than reported in official Commerce statistics (for the HTS statistical reporting numbers identified in Commerce's scope). In response to a request for assistance in resolving the seeming discrepancy, counsel for the Chinese respondents indicated that U.S. imports of CFS paper from China were believed to be entering under two HTS statistical reporting numbers (4811.59.2000 and 4811.90.8000) in addition to those identified in Commerce's initiation notices. Counsel further stated that "this appears to be an issue that is unique to China, with only a small volume of imports from Indonesia and Korea having been reported under those headings. We have no reason to believe that the small quantity of imports from Indonesia or Korea that entered under HTS headings 4811.59.2000 and 4811.90.8000 is subject merchandise."¹³ Also placed on the record during the preliminary phase of the investigations is the statement by Indonesian respondents that: "{i}t does appear that a small quantity of imports from Indonesia entered under HTS headings 4811.59.2000 and 4811.90.8000 during the period. It is not clear that imports from Indonesia that enter under those HTS headings is subject merchandise . . . Should the case proceed to a final, the Indonesian respondents reserve the right to examine whether subject merchandise from other countries is entering under HTS headings beyond those listed in the petition and the definitions, and thus, is properly included in the denominator of the negligibility calculation."¹⁴

Data for Korea and all other sources were compiled from official Commerce statistics using the HTS statistical reporting numbers identified in the scope; because of the misclassifications identified for China during the preliminary phase, the official Commerce statistics used for China also included U.S.

⁹ As discussed in *Part IV*, official Commerce statistics were also used in the negligibility calculation to measure imports for China.

¹⁰ Commerce made a final subsidy determination of 22.48 percent for Indonesia. 72 FR 60642, October 25, 2007. The final antidumping margins were 8.63 percent for Pindo Deli and Tijwi Kimia and 12.31 percent for all others. 72 FR 60636, October 25, 2007.

¹¹ NewPage stated in its petition that CFS paper from China previously had been misclassified under HTSUS subheading 4811.90 (in particular, under reporting numbers 4811.90.8000 and 4811.90.9000 which were basket categories in existence during 2003-05). Petitioner also indicated that it understood that the misclassification was "not a continuing problem." Petition, pp. 4-5 and n. 3.

¹² INV-DD-163, December 8, 2006, p. IV-7.

¹³ E-mail from counsel to the Chinese manufacturers, November 29, 2006.

¹⁴ E-mail from counsel for Pindo Deli and Tjiwi Kimia, November 29, 2006.

imports reported under HTS statistical numbers 4811.59.2000 and 4811.90.8000. Data for Indonesia were exports to the United States submitted by counsel for the Indonesian industry.¹⁵

Response of Commission Staff to Misclassification Issues in the Final Phase of the Investigations

In order to address misclassification issues during the final phase of the investigations, Commission staff expanded the list of firms receiving importer questionnaires (as described in *Part IV*) to include 22 firms importing more than minimal amounts under HTS reporting numbers 4811.59.2000 and/or 4811.90.8000¹⁶ from China;¹⁷ questionnaires were also sent to 6 firms importing from nonsubject sources (in large part, Germany and Japan).¹⁸ A total of 20 firms responded. Data for *** are included in ***'s importer questionnaire response; each of the other 18 responding firms indicated that they did not import CFS paper (in other words, were not misclassifying the subject merchandise).

It should be noted, however, that questionnaires would not have been received by any firms misclassifying CFS paper under HTS reporting numbers other than 4811.59.2000 and/or 4811.90.8000. An assessment of the degree of "outside" misclassification for the subject sources can be made by comparing exports to the United States reported by the subject manufacturers (for which data are believed to be virtually complete) to official Commerce statistics for the HTS reporting numbers identified in the scope. As shown in table IV-2 for 2006 (the calendar year closest to the negligibility period), (1) official Commerce statistics for China actually appear to overstate subject merchandise (possibly due, in part, to ***);^{19 20} (2) official Commerce statistics for Indonesia *** subject merchandise (*see* discussion in the notes to table IV-2),²¹ and (3) official Commerce statistics for Korea are comparable to subject merchandise. The issue raised by Indonesian respondents concerns, however, the extent of any inaccuracies in official Commerce statistics for nonsubject countries (other than Korea).

To address misclassification, Commission staff also modified the importer questionnaire to solicit information on the HTS reporting numbers where reported CFS paper imports were classified.²² The

¹⁵ INV-DD-163 (December 8, 2006), table IV-2 (U.S. imports for 2003-05, January-September 2005, and January-September 2006) and table IV-4 (U.S. imports for October 2005-September 2006).

¹⁶ As of 2007, HTS statistical reporting number 4811.90.8000 was further divided into 4811.90.8020 and 4811.90.8040.

¹⁷ *** imports from China under HTS reporting numbers 4811.59.2000 and 4811.90.8000 were by ***. *See* proprietary Customs documents.

¹⁸ *See* official Commerce statistics for HTS reporting numbers 4811.59.2000 and 4811.90.8000.

¹⁹ ***. Chinese respondents' and Unisource's posthearing brief, *Answers to Commissioner Questions*, p. 30, n. 100.

²⁰ In contrast to calendar year 2006, official Commerce statistics understate exports of CFS paper to the United States (and reported imports) in 2004 and, to a lesser extent, in 2005. This is due to the above-described ***. The entry of CFS paper manufactured by *** appeared to be generally accurate. (*Compare* ***'s foreign producer questionnaire response, question II-8, to proprietary Customs data for the foreign manufacturers (referencing entries by ***). As indicated earlier, proprietary Customs documents can variously list the manufacturer, exporter, or U.S. importer under "firm name" which can make it difficult to accurately trace shipments and compare data sources. Shandong Sun did not begin shipments to the United States until 2006.

²¹ In contrast, official Commerce statistics were an accurate measurement of exports of CFS paper to the United States (and imports reported in questionnaires) in *** although not in ***. ***. Also, as indicated earlier in the report (table IV-1, n. 4), ***. ***.

²² The options provided in the questionnaire were (1) entry either entirely or in part under the HTS statistical reporting numbers identified in the instruction booklet (i.e., under 4810.13.1900; 4810.13.2010; 4810.13.2090; 4810.13.5000; 4810.13.7040; 4810.14.1900; 4810.14.2010; 4810.14.2090; 4810.14.5000; 4810.14.7040;

(continued...)

questionnaire modification did not, however, identify the entry of products that are not, in fact, CFS paper imported under the HTS reporting numbers identified in the scope. To address any such “inside” misclassification of subject merchandise, Commission staff compared importer questionnaire responses to proprietary Customs data and, where there was a discrepancy, contacted firms. Identified misclassifications are shown in table D-1. As shown in table D-1, there is some volume of misclassification of product other than CFS paper in the HTS numbers listed in Commerce’s scope both by a number of additional firms importing from Indonesia as well as those importing from nonsubject sources (Finland and Italy).

Table D-1
Itemization of misclassified merchandise, by firm

* * * * *

Compilation of U.S. Import Data in the Final Phase of the Investigations

With reference to U.S. imports for 2004-06, January-June 2006, and January-June 2007, data were compiled from the following sources in the prehearing report: (1) China (importer questionnaire responses), (2) Indonesia, Korea (subject), and Korea (nonsubject) (foreign producer questionnaire responses), and (3) all other nonsubject sources (official Commerce statistics).²³ In this final staff report, official Commerce statistics are used instead in the negligibility calculation for China.²⁴ Prior to presenting the import data in this final report, staff explored a number of options. *See*, for example, e-mail exchanges with counsel for the Chinese manufacturers (September 7, 2007, September 10, 2007, September 11, 2007, and September 12, 2007). Staff determined, however, to use official Commerce statistics for China without any further adjustments and, likewise, to use unadjusted official Commerce statistics for nonsubject sources other than Korea, to avoid the use of what would at best be incomplete adjustments to what is, albeit with known imperfections, an “official” data source.²⁵

With reference to the negligibility period, official Commerce statistics for China, while problematic earlier in the period examined, appear for calendar year 2006 (the period closest in time to the October 2005-September 2006 negligibility period) to be relatively accurate. *See* table IV-2 and the tabulation below identifying the volume of misclassified merchandise from China, by importer, for 2006:

* * * * *

As shown in the tabulation above, the entry errors are not systematic (i.e., reported to some degree by all importers) but instead reflect errors made by individual importers. Further, as discussed earlier, the

²² (...continued)
 4810.19.1900; 4810.19.2010; and/or 4810.19.2090); (2) entry either entirely or in part under HTS statistical reporting numbers 4811.59.2000 and/or 4811.90.8000; or (3) entry either entirely or in part under HTS statistical reporting numbers other than those identified above. Importers’ questionnaire, question II-8. Depending on firms’ handling of the entry process and record maintenance, this information may or may not be known to the importers.

²³ INV-EE-145 (October 2, 2007), pp. IV-10-IV-14. For the negligibility calculation, exports to the United States by Gold East (reported in its foreign producer questionnaire) and the other exporting manufacturers (reported in proprietary Customs documents) were used. *Ibid.*, table IV-5. Foreign producer questionnaires responses had not yet been submitted to the Commission by Chenming Paper and Shandong Sun.

²⁴ *See Part IV*, pp. IV-14-IV-17.

²⁵ Official Commerce statistics were not used for Korea in order to calculate separate data for the manufacturers that were and were not subject to the subsidy or antidumping investigations. There is virtually no difference in the volume of U.S. imports shown in official Commerce statistics for Korea in 2006 and exports to the United States reported by the Korean manufacturers (table IV-3).

misclassification errors also are not confined to one or two HTS statistical reporting numbers, which would imply a common misunderstanding, but instead affect a wide range of HTS subheadings.

There appear to be few, if any errors, in misclassifications for Korea (table IV-2).²⁶ In any comparison of the misclassification rate for Korea with those for China and Indonesia, it may be relevant that Korean producers point to their “stable” and long-term presence in the U.S. market.²⁷

Other things being equal, use of consistent data sources is desirable in compiling data sets.²⁸ However, official Commerce data for Indonesia are more problematic than that for China and Korea particularly from *** onward and certainly including the negligibility period. Exports to the United States of CFS paper manufactured in Indonesia were reported to the Commission directly by the Indonesian respondents.²⁹ If official Commerce statistics were also used for Indonesia, such imports would account for 3.2 percent of total U.S. imports for the 12-month period.

Position of the Indonesian Respondents

As indicated above, Indonesian respondents appear to no longer dispute the accuracy of the numerator used to calculate the negligibility share.³⁰ Their arguments concern possible inaccuracies in the denominator, particularly with respect to nonsubject sources other than Korea, where there is limited record information. Indonesian respondents argue that “there is nothing unique about the imports from China and Indonesia to suggest that systematic misclassification occurred only with respect to those countries.” They further argue that the Commission should make an adjustment to the denominator of the negligibility ratio for nonsubject countries other than Korea.³¹ There would need to be a net change (i.e., CFS paper misclassified outside the covered HTS statistical reporting numbers offset by the misclassification of paper not coated free sheet within the relevant numbers) of more than *** short tons for the negligibility share for Indonesia to reach less than 4.0 percent.³²

Indonesian respondents propose an alternative set of calculations in their prehearing brief that result in a negligibility ratio of 3.704 percent for Indonesia.³³ The methodology employed by respondents

²⁶ One firm, ***, indicated importing a product other than CFS paper under the scope HTS reporting numbers (table D-1).

²⁷ Korean respondents’ prehearing brief, p. 65.

²⁸ Indonesian respondents state that “using uniform data from the same ‘flawed’ source is more neutral than reliance upon a hodgepodge of possibly flawed import data and export data from various sources across different, unsubstantiated, time periods.” Indonesian respondents’ posthearing brief, p. 4.

²⁹ Further, the data reported to the Commission for October 2005-September 2006 were also provided to Commerce since Commerce’s period of investigation matched the negligibility period. E-mail from counsel for Indonesian respondents, October 30, 2007.

³⁰ The Commission’s staff raised the issue in its prehearing report of possible inaccuracy in the numerator due to reporting by ***. As indicated in note 4 to table D-1, the issue appears to have been resolved.

³¹ Indonesian respondents’ prehearing brief, pp. 10-11.

³² *Calculated* by dividing *** short tons (lagged Indonesian exports of CFS paper to the United States for the negligibility period as shown in table IV-4) by 0.04 for a total of *** short tons (the volume at which the negligibility ratio would reach 4.0 percent). The difference between *** short tons and *** short tons (total U.S. imports as reported in table IV-4) is *** short tons. The volume of nonsubject imports (other than Korea) included in the total U.S. import figure for October 2005-September 2006 is *** short tons (the “all others” column in table IV-4).

³³ Indonesian respondents’ prehearing brief, p. 13. In this calculation, however, U.S. imports by *** are classified as nonsubject product and subtracted from the numerator. As indicated in table D-1, Indonesian respondents subsequently confirmed that the merchandise imported to the United States by *** is, in fact, subject
(continued...)

is presented in exhibit 1 of their prehearing brief (subsequent cites in the remainder of this appendix to the Indonesian respondents' arguments are to exhibit 1, unless otherwise noted). Respondents' first step is to assume that the variance between official Commerce statistics and the data sources relied on by the Commission is a proxy for misclassification error (which, they argue, is generally "reasonable") and that the variance found in the examined subject imports (and nonsubject imports, in the case of Korea) applies to all other nonsubject imports. More specifically, they argue that the Commission staff's presumed assumption that there is no variance in the other nonsubject imports is not reasonable (exhibit 1, p. 1). To illustrate their point, respondents calculate the percentage differences between official Commerce statistics and the data used by Commission staff in the prehearing report as a measure of U.S. imports for each of the subject countries for 2004, 2005, 2006, January-June 2006, and January-June 2007 (table 1 and annex 1). However, as shown in both table IV-2 and in respondents' presentations, the amount of misclassification error varies distinctly among time periods and sources. Referring to calendar year 2006 (the period closest to the 12-month negligibility period), their calculated variance is 8.0 percent for China, *** percent for Indonesia, and 1.2 percent for Korea (table 1). Moreover, as discussed above, misclassification error is created, not for or by a country as an entity, but by the classification decisions made by individual importers of record (and the brokers they employ) entering merchandise from that country. As shown in the staff tabulation for China above, only 2 of the 10 importers of subject merchandise from China actually misclassified CFS "outside" the scope HTS numbers in 2006, resulting in a measurement of error of 4.8 percent.^{34 35} Most of this error is due to a misclassification decision by one firm, ***.

Respondents next average the percentage discrepancies (annex 2) for China, Indonesia, and Korea as a simple average and use that average to estimate discrepancies in all other imports (table 3). When using a "sample" average (i.e., the percentage discrepancy for China, Indonesia, and Korea) to estimate a "population total" (i.e., the percentage discrepancy for all other countries) respondents are correct that it is then necessary to present the confidence interval (95 percent) and limits within which there is 95 percent confidence that the "true", but ultimately unknown, value is located. Respondents state that, even when considering the upper and lower limits of the expected discrepancy, the result (i.e., a share for Indonesia below 4 percent) does not change (annex 3).

Commission staff makes the following observations on the methodology and calculations used by respondents:

³³ (...continued)

product. Using respondents' methodology but including data for *** results in a ratio of *** percent. Ibid., exh. 1 (table 3).

³⁴ Staff notes as a caveat that all "variance" is not necessarily misclassification error "outside" the scope. For example, the larger 8 percent misclassification error for China in 2006 presented by respondents in their prehearing exhibit 1 (table 1) includes any "error" created by questionnaire non-response (i.e., the difference between official Commerce statistics and imports reported in response to questionnaires) and the ***. Also, as shown in table D-1, at least two firms (***) also reported importing product other than CFS paper under the covered HTS numbers (i.e., introducing measurement error "within" the scope).

³⁵ Respondents do not actually base their negligibility calculation on data for 2004-06 but instead use a percentage error of 3 percent for China calculated from a comparison for the negligibility period of official Commerce statistics to exports to the United States estimated by Commission staff (annex 2). For the purposes of the prehearing report, staff estimated exports using the questionnaire response for Gold East and proprietary Customs documents for the remaining two Chinese exporters (Chenming Paper and Shandong Sun, for which data were then not available). Commission staff notes that a portion of any variance is actually a measure of the ability of Commission staff to correctly identify the exports of Chenming Paper and Shandong Sun in the proprietary Customs documents which, in turn, form the basis for official Commerce statistics.

(1) Use of simple average compared with a weighted average.--Respondents present a set of alternate calculations using a weighted average of the percentage discrepancies for China, Indonesia, and Korea and describe the use of a weighted average to be the “more conservative estimate” but state that the results “remain unchanged” (i.e., below 4 percent). The issue is not a matter of being conservative but rather one of mathematical appropriateness. Commission staff suggests that the use of a simple average is less appropriate when there is wide variability among the measurements and weights (i.e., the percentage error differences and the volumes exported). In other words, the variation contributed by percentage error differences for Indonesia (where there is *** misclassification error during the negligibility period) is *** than that contributed by measurements for China and Korea (*see* annex 2). Further, U.S. imports from China and Korea are each higher in volume than U.S. imports from Indonesia. But each source is accorded an equal “weight” with the use of a simple average. Respondents present the more “conservative” weighted average calculations at annex 4. Results are 3.962 percent (uncorrected for ***) and 4.059 percent (corrected by Commission staff for ***).

(2) Calculation of the upper and lower limits and determination of sample size.--A 95 percent confidence level implies a relatively high degree of “confidence” that the correct statistical inference (in this case, the negligibility share for Indonesia) is within the upper and lower limits. As shown in the formula presented by respondents (exhibit 1, p. 6), the calculated limits will depend, in part, upon the standard deviation (amount of variability in the sample measurements) and the size of the sample. Numerically smaller standard deviations and larger sample sizes result in a narrower range in limits at a set confidence level; higher standard deviations and lower sample sizes result in a wider range in limits at a set confidence level. The “sample” used by respondents is shown in their annex 2. An initial observation is that there is no variation for one-third of the 36 “sample measurements.” Percentage differences were not available on a monthly basis for China for the 12-month negligibility period; respondents accordingly assigned the annual average of 3.0 percent to each month.

More relevant to any consideration of respondents’ analysis is the creation of a sample consisting of the three countries multiplied by the 12 months in the negligibility period for a total of 36 measurements (or sample size of 36). Commission staff observes that errors in official Commerce statistics are created by the inaccurate completion of Customs documents (Form 7501s). A sampling of the Form 7501s would provide a reasonable basis upon which to calculate overall error rates. Likewise, since an importer (or its broker) might presumably make the same series of mistakes for a certain time period before the error was detected and corrected, a sample might logically be constructed by measuring the error rate for individual importers had there been enough importers misclassifying product to create an adequate sample size. It could be further extrapolated that error rates could be calculated for individual countries, which is, in essence, what respondents have done. The observation of Commission staff is that doing this effectively provides for a sample size of 3, consisting of the sum of China (1), Indonesia (1), and Korea (1) not 36. The use of the 12-month period is relevant from a statutory but not a statistical standpoint (i.e., as a device to provide for a reasonable sample size consisting of 36 leading to a narrowing in the range of the limits).

APPENDIX E

QUESTIONNAIRE DATA ON U.S. SHIPMENTS BY PRODUCT TYPE

Table E-1

Coated free sheet paper: U.S. producers' shipments, by product type, 2004-06, January-June 2006, and January-June 2007

* * * * *

Table E-2

Coated free sheet paper: U.S. importers' shipments from China, by product type, 2004-06, January-June 2006, and January-June 2007

* * * * *

Table E-3

Coated free sheet paper: U.S. importers' shipments from Indonesia, by product type, 2004-06, January-June 2006, and January-June 2007

* * * * *

Table E-4

Coated free sheet paper: U.S. importers' shipments from Korea (subject sources), by product type, 2004-06, January-June 2006, and January-June 2007

* * * * *

Table E-5

Coated free sheet paper: U.S. importers' shipments from all subject sources, by product type, 2004-06, January-June 2006, and January-June 2007

* * * * *

Table E-6

Coated free sheet paper: U.S. importers' shipments from Korea (nonsubject sources), by product type, 2004-06, January-June 2006, and January-June 2007

* * * * *

Table E-7

Coated free sheet paper: U.S. importers' shipments from all other nonsubject sources, by product type, 2004-06, January-June 2006, and January-June 2007

* * * * *

Table E-8

Coated free sheet paper: U.S. importers' shipments from all non subject sources, by product type, 2004-06, January-June 2006, and January-June 2007

* * * * *

Table E-9
Coated free sheet paper: U.S. importers' shipments from all sources, by product type, 2004-06,
January-June 2006, and January-June 2007

* * * * *

APPENDIX F

**QUESTIONNAIRE DATA ON U.S. SHIPMENTS
BY GEOGRAPHICAL REGION**

Table F-1
Coated free sheet paper: U.S. shipments, by product type and geographical region, 2006

* * * * *

APPENDIX G

**ALLEGED EFFECTS OF SUBJECT IMPORTS ON U.S. PRODUCERS'
EXISTING DEVELOPMENT AND PRODUCTION EFFORTS,
GROWTH, INVESTMENT, AND ABILITY TO RAISE CAPITAL**

Responses of U.S. producers to the following questions:

1. Since January 1, 2004 has your firm experienced any actual negative effects on its return on investment or its growth, investment, ability to raise capital, existing development and production efforts (including efforts to develop a derivative or more advanced version of the product), or the scale of capital investments as a result of imports of coated free sheet paper from China, Indonesia, and/or Korea?

Responses of the producers are:

Appleton	***
Glatfelter	***
International Paper	***
Mohawk	***
NewPage	***
Sappi	***
Smart Papers	***
Stora Enso	***
Verso	***
West Linn	***

2. Does your firm anticipate any negative impact of imports of coated free sheet paper from China, Indonesia, and/or Korea?

Responses of the producers are:

Appleton	***
Glatfelter	***
International Paper	***
Mohawk	***
NewPage	***
Sappi	***
Smart Papers	***
Stora Enso	***
Verso	***
West Linn	***

APPENDIX H

**QUESTIONNAIRE DATA ON THE NONSUBJECT INDUSTRIES IN KOREA,
CANADA, FINLAND, GERMANY, AND OTHER EU COUNTRIES**

Table H-1

Coated free sheet paper: Korean (nonsubject) production capacity, production, shipments, and inventories, 2004-06, January-June 2006, January-June 2007, and projected 2007-08

* * * * *

Table H-2

Coated free sheet paper: Stora Enso Oyj production capacity, production, shipments, and inventories in Finland, 2004-06, January-June 2006, January-June 2007, and projected 2007-08

* * * * *

Table H-3

Coated free sheet paper: Ahlstrom Corp. and Stora Enso Uetersen GmbH & Co. KG's production capacity, production, shipments, and inventories in Germany, 2004-06, January-June 2006, January-June 2007, and projected 2007-08

* * * * *

Table H-4

Coated free sheet paper: Ahlstrom Corp. and Sappi Fine Paper Europe's production capacity, production, shipments, and inventories in Germany, 2004-06, January-June 2006, January-June 2007, and projected 2007-08

* * * * *

