

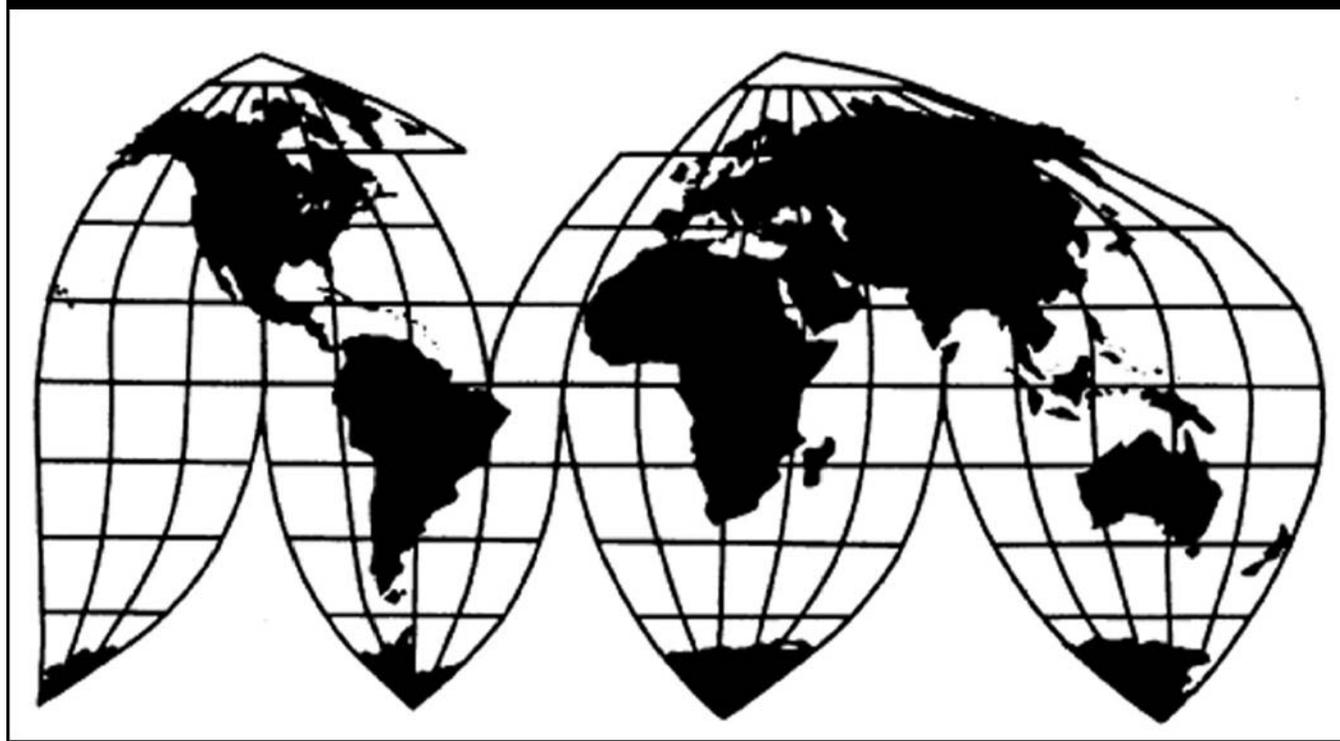
Certain Lightweight Thermal Paper from China and Germany

Investigation Nos. 701-TA-451 and 731-TA-1126-1127 (Final)

Publication 4043

November 2008

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation Nos. 701-TA-451 and 731-TA-1126-1127 (Final)

CERTAIN LIGHTWEIGHT THERMAL PAPER FROM CHINA AND GERMANY

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 threatened with material injury by reason of imports from China of certain lightweight thermal paper, which may be classified in subheadings 4811.90.80, 4811.90.90, 3703.10.60, 4811.59.20, 4820.10.20, and 4823.40.00 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce (Commerce) to be sold in the United States at less than fair value (LTFV) and to be subsidized by the Government of China. The Commission further determines, pursuant to section 735(b) of the Act, that an industry in the United States is threatened with material injury by reason of imports from Germany of certain lightweight thermal paper that have been found by Commerce to be sold in the United States at LTFV.² In addition, the Commission determines that it would not have found material injury but for the suspension of liquidation.

BACKGROUND

The Commission instituted these investigations effective September 19, 2007, following receipt of a petition filed with the Commission and Commerce by Appleton Papers, Inc., Appleton, WI. The final phase of these investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of certain lightweight thermal paper from China and Germany were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. § 1673b(b)) and that imports of certain lightweight thermal paper from China were being subsidized within the meaning of section 703(b) of the Act (19 U.S.C. § 1671b(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 June 16, 2008 (73 FR 34038). The hearing was held in Washington, DC, on October 2, 2008, 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 Chairman Shara L. Aranoff, Vice Chairman Daniel R. Pearson, and Commissioner Deanna Tanner Okun dissenting with regard to imports from Germany.

VIEWS OF THE COMMISSION

Based on the record in these investigations, we determine that an industry in the United States is threatened with material injury by reason of imports of lightweight thermal paper (“LWTP”) from China that the Department of Commerce (“Commerce”) has found are subsidized and sold in the United States at less than fair value (“LTFV”) and threatened with material injury by reason of imports of LWTP from Germany sold in the United States at LTFV.¹

I. BACKGROUND

Appleton Papers, Inc. (“Appleton”), a U.S. producer of LWTP, filed the petition in these investigations on September 19, 2007.² Appleton participated in the October 2, 2008 hearing. Kanzaki Specialty Papers, Inc. (“Kanzaki”), another U.S. producer of LWTP, also appeared at the hearing in support of imposition of duties. Appleton and Kanzaki (jointly “Domestic Coaters”) jointly filed prehearing and posthearing briefs, and separately filed Final Comments. Domestic Coaters account for all U.S. production of jumbo rolls of LWTP. The Commission also received responses from 20 U.S. firms that convert jumbo rolls of LWTP into slit rolls of the product.³ These 20 converters are estimated to account for 62.1 percent of U.S. conversion activities in 2007.⁴

Chinese Respondents are Paper Resources, LLC, an importer of subject merchandise from China, and Shanghai Hanhong Paper Co., Ltd., a producer and exporter of subject merchandise from China. Chinese Respondents appeared at the hearing and filed briefs. The Commission received questionnaire responses from four importers that are estimated to account for a majority of subject imports from China.⁵ The Commission received questionnaire responses from two Chinese producers of LWTP that estimate they account for *** percent of Chinese production of LWTP and *** percent of exports of subject merchandise to the United States.⁶

Papierfabrik August Koehler AG produces and exports subject merchandise from Germany, and Koehler America, Inc. (“Koehler Inc.”) imports subject merchandise from Germany. Mitsubishi HiTec Paper Flensburg GmbH and Mitsubishi HiTec Paper Bielefeld GmbH produce and export subject merchandise from Germany, and Mitsubishi International Corp. (“Mitsubishi Corp.”) imports subject merchandise from Germany. The Koehler companies and the Mitsubishi companies each appeared at the hearing, represented by separate counsel, jointly filed a prehearing brief and Final Comments, and separately filed posthearing briefs. The Koehler companies and Mitsubishi companies will be collectively referred to as “German Respondents.” Koehler Inc. and Mitsubishi Corp. accounted for all imports of subject merchandise from Germany during the Commission’s period of investigation, which encompasses

¹ Chairman Aranoff, Vice Chairman Pearson, and Commissioner Okun determine that an industry in the United States is neither materially injured nor threatened with material injury by reason of imports of LWTP from Germany sold in the United States at LTFV. See Dissenting Views of Chairman Aranoff, Vice Chairman Pearson, and Commissioner Okun. They join sections I-IV, V.A., V.B., and V.C.1. of these views.

² Confidential Report (CR) at I-1, Public Report (PR) at I-1.

³ CR at I-4, PR at I-3.

⁴ CR at III-1, PR at III-1.

⁵ CR/PR, Table IV-1; CR at IV-4 n.7, PR at IV-2 n.7.

⁶ CR at VII-2-3, PR at VII-2.

January 1, 2005 through June 30, 2008.⁷ The German production entities of Koehler and Mitsubishi, which accounted for all exports of subject LWTP from Germany during the period of investigation, also submitted foreign producers' questionnaires.⁸

II. DOMESTIC LIKE PRODUCT AND INDUSTRY

A. In General

In determining whether an industry in the United States is materially injured or threatened with material injury by reason of imports of the subject merchandise, the Commission first defines the "domestic like product" and the "industry."⁹ Section 771(4)(A) of the Tariff Act of 1930, as amended ("the Tariff 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."¹⁰ In turn, the Tariff 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"¹¹

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.¹² No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.¹³ The Commission looks for clear dividing lines among possible like products and disregards minor variations.¹⁴ Although the Commission must accept Commerce's determination as to the scope of the imported

⁷ CR at IV-1, PR at IV-1.

⁸ The Commission also received a *** questionnaire response from an additional German producer of LWTP that has not exported subject merchandise to the United States and does not plan to do so. CR at VII-6, PR at VII-3.

⁹ 19 U.S.C. § 1677(4)(A).

¹⁰ 19 U.S.C. § 1677(4)(A).

¹¹ 19 U.S.C. § 1677(10).

¹² See, e.g., Cleo, Inc. v. United States, 501 F.3d 1291, 1299 (Fed. Cir. 2007); 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).

¹³ See, e.g., S. Rep. No. 96-249 at 90-91 (1979).

¹⁴ Nippon, 19 CIT at 455; Torrington, 747 F. Supp. at 748-49; see also S. Rep. No. 96-249 at 90-91 (1979) (Congress has indicated that the like product standard should not be interpreted in "such a narrow fashion as to permit minor differences in physical characteristics or uses to lead to the conclusion that the product and article are not 'like' each other, nor should the definition of 'like product' be interpreted in such a fashion as to prevent consideration of an industry adversely affected by the imports under consideration.").

merchandise subsidized or sold at LTFV,¹⁵ the Commission determines what domestic product is like the imported articles Commerce has identified.¹⁶

B. Product Definition

Commerce has defined the scope of the imported merchandise under investigation as follows:

thermal paper with a basis weight of 70 grams per square meter (g/m₂) (with a tolerance of ± 4.0 g/m₂) or less; irrespective of dimensions; with or without a base coat on one or both sides; with thermal active coating(s) on one or both sides that is a mixture of the dye and the developer that react and form an image when heat is applied; with or without a top coat; and without an adhesive backing. Certain lightweight thermal paper is typically (but not exclusively) used in point-of-sale applications such as ATM receipts, credit card receipts, gas pump receipts, and retail store receipts.¹⁷

Thermal papers have a thermal active coating which reacts to form an image when heat is applied. Thermal papers are specifically intended to be used in printers containing thermal print heads. The thermal print heads consist of arrays of tiny heating elements, which act to form images on the paper without the need for toner or inks.¹⁸

C. Domestic Like Product Analysis

In the preliminary determinations, the Commission defined the domestic like product to encompass those types of LWTP described in the scope definition.¹⁹ The Commission considered two discrete domestic like product issues.

The first arose from the fact that the scope definition includes both jumbo rolls, a semifinished version of the product, and slit rolls, the form of LWTP suitable for end use. The Commission applied the “semifinished products” like product analysis to conclude that jumbo rolls and slit rolls of LWTP should both be included in the same domestic like product. It found that the semifinished form of the product was dedicated to production of the downstream article, as end users of LWTP can only use slit rolls. The Commission further emphasized that the characteristics of thermal paper that enable it to form an image when exposed to heat are imparted by the coating process and are not affected by the conversion

¹⁵ See, e.g., USEC, Inc. v. United States, 34 Fed. Appx. 725, 730 (Fed. Cir. 2002) (“The ITC may not modify the class or kind of imported merchandise examined by Commerce.”); Algoma Steel Corp. v. United States, 688 F. Supp. 639, 644 (Ct. Int’l Trade 1988), aff’d, 865 F.3d 240 (Fed. Cir.), cert. denied, 492 U.S. 919 (1989).

¹⁶ Hosiden Corp. v. Advanced Display Mfrs., 85 F.3d 1561, 1568 (Fed. Cir. 1996) (Commission may find a single like product corresponding to several different classes or kinds defined by Commerce); Cleo, 501 F.3d at 1298 n.1 (“Commerce’s {scope} finding does not control the Commission’s {like product} determination.”); Torrington, 747 F. Supp. at 748-52 (affirming Commission determination of six like products in investigations where Commerce found five classes or kinds).

¹⁷ 73 Fed. Reg. 57323, 57324 (Oct. 2, 2008) (China CVD determination); 73 Fed. Reg. 57326, 57327 (Oct. 2, 2008) (Germany AD determination); 73 Fed. Reg. 53279, 53730 (Oct. 2, 2008) (China AD determination) (footnotes omitted).

¹⁸ CR at I-8-9, PR at I-8.

¹⁹ Certain Lightweight Thermal Paper from China, Germany, and Korea, Inv. Nos. 701-TA-451, 731-TA-1126-1128 (Preliminary), USITC Pub. 3964 at 10 (Nov. 2007) (“Preliminary Determinations”).

process.²⁰ Instead, the conversion process largely resizes the product in a format appropriate for end use. Thus, although the Commission found that conversion added moderate value to the product and separate markets existed for jumbo rolls and slit rolls, it concluded that application of the semifinished products analysis overall supported treating jumbo rolls and slit rolls in the same like product.²¹

The second question the Commission considered concerned whether all thermal paper should be included in the domestic like product. Based primarily on the findings that there was little actual interchangeability between LWTP and heavier weights of thermal paper, that there were distinctions in channels of distribution because converters of LWTP tended to focus on that product, and distinctions in price between LWTP and heavier weight thermal papers, the Commission decided not to include thermal paper other than LWTP in the domestic like product.²² Accordingly, the Commission defined a single domestic like product coextensive with the scope.²³

The record pertinent to the definition of the domestic like product in these final phase investigations does not contain information that is materially different from the information generated in the preliminary phase investigations, and does not warrant revisiting the definition of the domestic like product.²⁴ Domestic Coaters agree with the like product finding the Commission made in the preliminary determinations, and no respondent has expressed contrary views.²⁵ Accordingly, we define a single domestic like product coextensive with the scope definition for the reasons stated in the preliminary determinations.

D. Domestic Industry

The domestic industry is defined as the domestic “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.”²⁶ In defining the domestic industry, the Commission’s general practice has been to include in the industry producers of all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.

1. Production-Related Activities

We first consider whether converters of LWTP that transform jumbo rolls into slit rolls engage in sufficient production-related activities to be considered domestic producers.²⁷ In the preliminary

²⁰ Preliminary Determinations, USITC Pub. 3964 at 6.

²¹ Preliminary Determinations, USITC Pub. 3964 at 7.

²² Preliminary Determinations, USITC Pub. 3964 at 7-10.

²³ Preliminary Determinations, USITC Pub. 3964 at 10.

²⁴ See generally CR at I-8-15, PR at I-13.

²⁵ Domestic Coaters Prehearing Brief at 6-8, ex. 3.

²⁶ 19 U.S.C. § 1677(4)(A).

²⁷ To determine whether a firm is engaged in sufficient production-related activities to be considered a domestic producer of the like product, the Commission generally considers six factors: (1) source and extent of the firm's capital investment; (2) technical expertise involved in U.S. production activities; (3) value added to the product in the United States; (4) employment levels; (5) quantity and type of parts sourced in the United States; and (6) any other costs and activities in the United States directly leading to production of the like product. No single factor is determinative and the Commission may consider any other factors it deems relevant in light of the specific facts of any investigation. See, e.g., Diamond Sawblades and Parts Thereof from China and Korea, Inv. Nos. 731-TA-1092-1093 (Final), USITC Pub. 3862 at 11 (July 2006); Outboard Engines from Japan, Inv. No. 731-TA-1069

(continued...)

determinations, the Commission concluded that conversion of LWTP constituted sufficient activity to be considered domestic production, notwithstanding Appleton's contrary arguments.²⁸ No party has asked the Commission to re-examine this conclusion in the final phase investigations.²⁹

The record in these final phase investigations supports the same findings which led the Commission in the preliminary determinations to include converters in the domestic industry. The Commission observed that the value of the assets of reporting converters, while not at the level of the coaters, was still substantial.³⁰ This continues to be correct. In 2007, the value of U.S. coaters' total assets was ***, while the value of reporting U.S. converters' total assets was ***.³¹

The Commission further found in the preliminary determinations that "[l]arge converters use sophisticated, computerized slitting and printing equipment which requires significant technical expertise to operate."³² The record with respect to this finding has not changed.³³

The Commission found that while the value converters added to the finished product was "modest to moderate," it was comparable to the value added ***.³⁴ During 2007, the average value added by converters was *** percent exclusive of selling, general and administrative (SG&A) expenses and *** percent including SG&A.³⁵

The Commission further found that the reporting converters' employment exceeded that of the coaters.³⁶ This continues to be true: in 2007, the converters had *** production and related workers, the coaters ***.³⁷

The Commission observed that "converters source a significant proportion of their jumbo rolls from U.S. coaters."³⁸ This continues to be correct, because domestic coaters supplied *** percent of the

²⁷(...continued)

(Preliminary), USITC Pub. 3673 at 10-12 (Mar. 2004).

²⁸ Preliminary Determinations, USITC Pub. 3964 at 13.

²⁹ Domestic Coaters state that although they disagree with the Commission's finding in the preliminary determinations that converters are domestic producers, "they will not reargue that issue in these final investigations." Domestic Coaters Prehearing Brief at 1 n.2. German Respondents contend that the factual considerations that led the Commission to include converters in the domestic industry in the preliminary determinations should dictate the same result in the final determinations. German Respondents Prehearing Brief at 9-11.

³⁰ Preliminary Determinations, USITC Pub. 3964 at 11.

³¹ CR/PR, Table VI-8. Because the reporting converters accounted for 62.1 percent of 2007 U.S. conversion activities, the questionnaire data understate the actual asset value and employment of converters. See CR at III-1, PR at III-1.

³² Preliminary Determinations, USITC Pub. 3964 at 13; see id. at 12.

³³ CR at I-14-15, PR at I-11-12.

³⁴ Preliminary Determinations, USITC Pub. 3964 at 13. In the preliminary determinations, the Commission found that the value added by coaters was *** percent exclusive of SG&A expenses and *** percent including SG&A. Confidential Preliminary Determinations, EDIS Doc. 287630 at 17.

³⁵ CR/PR, Table VI-6. Although these ratios of value added by converters are less than those evident in the preliminary determinations, the difference is not material for purposes of our analysis. The value added by converters continues to be modest to moderate.

³⁶ Preliminary Determinations, USITC Pub. 3964 at 12-13.

³⁷ CR/PR, Table III-12.

³⁸ Preliminary Determinations, USITC Pub. 3964 at 13.

jumbo rolls consumed in the U.S. market in 2007.³⁹ Additionally, U.S.-produced raw materials other than jumbo rolls accounted for an appreciable share of converters' raw materials costs.⁴⁰

Consequently, the evidence that supported a conclusion in the preliminary determinations that converters engaged in sufficient operations to be considered domestic producers supports the same conclusion here. In light of this and the failure of any party to assert an argument that conversion should not be considered domestic production, we again include converters in the domestic industry producing LWTP.

2. Related Parties

We next consider whether any producer of the domestic like product should be excluded from the domestic industry pursuant to 19 U.S.C. § 1677(4)(B). That provision allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry producers that are related to an exporter or importer of subject merchandise or which are themselves importers. Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each investigation.⁴¹

There are related parties issues concerning two converters. NCR directly imported subject merchandise from China during the period of investigation.⁴² It is thus subject to exclusion as a related party pursuant to section 771(4)(B)(i) of the Tariff Act.⁴³ *** did not directly import subject merchandise from China, but purchased subject imports of LWTP. The Commission has found that a domestic producer that does not itself import subject merchandise, or share a corporate affiliation with an importer, may nonetheless be deemed a related party if it was responsible for a predominant proportion of an importer's purchases and the importer's purchases were substantial.⁴⁴ *** accounted for the predominant

³⁹ CR/PR, Table C-1.

⁴⁰ CR at VI-9 n.6, PR at VI-3 n.6.

⁴¹ The factors the Commission has examined in deciding whether appropriate circumstances exist to exclude a related party include the following: (1) the percentage of domestic production attributable to the importing producer; (2) the reason the U.S. producer has decided to import the product subject to investigation, *i.e.*, whether the firm benefits from the LTFV sales or subsidies or whether the firm must import in order to enable it to continue production and compete in the U.S. market, and (3) the position of the related producer vis-a-vis the rest of the industry, *i.e.*, whether inclusion or exclusion of the related party will skew the data for the rest of the industry. *See, e.g., Torrington Co. v. United States*, 790 F. Supp. 1161 (Ct. Int'l Trade 1992), *aff'd without opinion*, 991 F.2d 809 (Fed. Cir. 1993). The Commission has also considered the ratio of import shipments to U.S. production for related producers and whether the primary interest of the related producer lies in domestic production or importation. These latter two considerations were cited as appropriate factors in *Allied Mineral Products, Inc. v. United States*, 28 CIT 1861, 1865 (2004) ("The most significant factor considered by the Commission in making the 'appropriate circumstances' determination is whether the domestic producer accrued a substantial benefit from its importation of the subject merchandise."); *USEC, Inc. v. United States*, 132 F. Supp.2d 1, 12 (Ct. Int'l Trade 2001) ("the provision's purpose is to exclude from the industry headcount domestic producers substantially benefitting from their relationships with foreign exporters."), *aff'd*, 34 Fed. Appx. 725 (Fed. Cir. 2002); S. Rep. No. 249, 96th Cong. 1st Sess. at 83 (1979) ("where a U.S. producer is related to a foreign exporter and the foreign exporter directs his exports to the United States so as not to compete with his related U.S. producer, this should be a case where the ITC would not consider the related U.S. producer to be a part of the domestic industry").

⁴² CR/PR, Table IV-1; Tr. at 242-43 (Kyriss).

⁴³ 19 U.S.C. § 1677(4)(B)(i).

⁴⁴ *See, e.g., Foundry Coke from China*, Inv. No. 731-TA-891 (Final), USITC Pub. 3449 at 8-9 (Sept. 2001); *Certain Cut-to-Length Steel Plate from the Czech Republic, France, India, Indonesia, Italy, Japan, Korea, and Macedonia*, Inv. Nos. 701-TA-387-392 and 731-TA-815-822 (Preliminary), USITC Pub. 3181 at 12 (April 1999);

(continued...)

share of subject imports from *** importer of subject merchandise from China and these imports were substantial in quantity. We consequently treat *** as a related party for purposes of the discussion below.⁴⁵

We do not find that appropriate circumstances exist to exclude either of the related parties from the domestic industry. NCR's principal interest is in domestic conversion, and its financial results do not indicate that it has benefitted from importation.^{46 47 48} While both *** quantity of purchases of slit rolls from China and the ratio of these purchases to U.S. conversion activities increased over the period of investigation, the firm converted *** product in 2007 than it did in 2005, when its Chinese purchases

⁴⁴(...continued)

Certain Brake Drums and Rotors from China, Inv. No. 731-TA-744 (Final), USITC Pub. 3035 at 10 n.50 (April 1997).

⁴⁵ *** indicates that it purchased subject imports from China from ***, the predominant U.S. importer of subject merchandise from China. *** Purchasers Questionnaire Response, response to question VI-1; CR/PR, Table IV-1. *** purchases of subject merchandise from China in 2007 represent *** percent of *** imports of subject merchandise from China that year and *** percent of all reported 2007 imports of subject merchandise from China. Derived from CR/PR, Tables III-10, IV-1.

Table III-10 of the Commission Report additionally indicates that three other converters reported purchases of subject imports from China and that 18 converters reported purchases of subject imports from Germany. None of these converters have sufficient control of an importer to warrant being treated as a related party. The three converters *** that purchased subject imports from China acquired only nominal quantities of slit rolls. CR/PR, Table III-10.

By contrast, several converters reported substantial purchases of subject imports from Germany. Nevertheless, the largest purchasers from importers Koehler Inc. and Mitsubishi Corp. (which collectively accounted for all subject imports from Germany) respectively accounted for *** of each firm's 2007 U.S. sales of LWTP. Importers Questionnaires, response to Question III-27. Because the record indicates that no individual converter is responsible for a "predominant" proportion of the imports of Koehler Inc. or Mitsubishi Corp., we find that none of the converters that purchase subject merchandise from Germany controls either Koehler Inc. or Mitsubishi Corp.

⁴⁶ In 2007, NCR was the *** of the reporting converters in terms of overall capacity and the *** converter in terms of LWTP conversion activities. CR/PR, Table III-5. NCR's imports of slit rolls from China amounted to *** short tons in 2006, *** short tons in 2007, and *** short tons in interim 2008. CR/PR, Table III-10. The quantity of LWTP that NCR converted domestically was *** short tons in 2006, *** short tons in 2007, and *** short tons in interim 2008. Its ratio of imports to domestic conversion was *** percent in 2006, *** percent in 2007, and *** percent in interim 2008. Id. Consequently, NCR's imports are *** in quantity than its domestic conversion activities.

NCR states that it imports subject merchandise because *** *** Producers Questionnaire, response to question II-11. A former NCR employee testified at the hearing that NCR obtained Chinese slit rolls to supply West Coast accounts it could not serve from its eastern U.S. conversion facilities because of high freight costs. Tr. at 245 (Kyriss). NCR *** position on the petition ***. CR/PR, Table III-1. NCR reported an operating *** during every calendar year and interim period during the period of investigation. *** Producers Questionnaire, response to question III-11. By contrast, converters as a whole reported positive operating margins of *** percent during the period of investigation. CR/PR, Table VI-2.

⁴⁷ Chairman Aranoff does not rely on individual company operating income margins in assessing whether particular related parties benefit from importation of subject merchandise. Rather, she has based her determination regarding whether to exclude related parties principally on their ratios of subject imports to domestic shipments and on whether their primary interests lie in domestic production or importation. She does not find that appropriate circumstances exist to exclude either company.

⁴⁸ Commissioner Pinkert does not rely in these investigations upon related party financial performance with respect to U.S. manufacturing operations as a factor in determining whether there are appropriate circumstances to exclude related parties from the domestic industry. He finds that the record is insufficient to establish a link between related party profitability and any specific benefit received from importation.

were ***. Moreover, conversion quantities *** the quantity of purchases from China throughout the period of investigation.⁴⁹ *** financial data do not indicate that the firm accrued a financial benefit from its purchases of slit rolls from China.⁵⁰

In light of the foregoing, we define a single domestic industry encompassing all converters and coaters of LWTP.

III. CUMULATION⁵¹

A. Background

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 Tariff 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.⁵² In assessing whether subject imports compete with each other and with the domestic like product, the Commission has generally considered four factors:

- (1) the degree of fungibility 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.^{53 54}

⁴⁹ In 2007, *** was the *** of the reporting converters in terms of overall capacity and the *** converter in terms of LWTP conversion activities. CR/PR, Table III-5. *** purchases of slit rolls from China amounted to *** short tons in 2005, *** short tons in 2006, *** short tons in 2007, and *** short tons in interim 2008. The quantity of LWTP that *** converted domestically was *** short tons in 2005, *** short tons in 2006, *** short tons in 2007, and *** short tons in interim 2008. Its ratio of imports to domestic conversion was *** percent in 2005, *** percent in 2006, *** percent in 2007, and *** percent in interim 2008. CR/PR, Table III-10. *** states that it purchased subject merchandise from China ***. *** position on the petition ***. CR/PR, Table III-1.

⁵⁰ *** reported operating margins throughout the period of investigation that were *** than the industry average. However, the firm's operating ratios were ***. *** Producers Questionnaire, response to question III-11b; CR/PR, Tables III-10, VI-2.

⁵¹ Negligibility under 19 U.S.C. § 1677(24) is not an issue in these investigations. During the most recent 12-month period prior to filing of the petition for which data are available, subject imports from Germany accounted for *** percent of total imports of LWTP and subject imports from China accounted for *** percent of total imports. CR at IV-11, PR at IV-4. Consequently, imports from each subject country exceed the 3 percent statutory negligibility threshold.

⁵² 19 U.S.C. § 1677(7)(G)(i).

⁵³ 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).

⁵⁴ Commissioner Lane notes with respect to the first factor that her analysis does not require such similarity of products that a perfectly symmetrical fungibility is required. See Separate Views of Commissioner Charlotte R. Lane, Certain Lightweight Thermal Paper from China, Germany, and Korea, Inv. Nos. 701-TA-451 and 731-TA-

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While no single factor is necessarily determinative, and the list of factors is not exclusive, these factors are intended to provide the Commission with a framework for determining whether the subject imports compete with each other and with the domestic like product.⁵⁵ Only a “reasonable overlap” of competition is required.⁵⁶

The statutory threshold for cumulation is satisfied in these investigations, because the petition encompassing all subject countries was filed on the same day (September 19, 2007), and all investigations were initiated on the same day (November 5, 2007).⁵⁷ None of the statutory exceptions to cumulation is applicable.

In the preliminary determinations, the Commission did not cumulate subject imports from China and Germany on the basis that there was no reasonable overlap of competition between the subject imports from China and the subject imports from Germany. It concluded that “[b]ecause the subject imports from China are slit rolls that are not interchangeable with the jumbo rolls imported from Germany, we find that the subject imports are not fungible. . . .”⁵⁸

Domestic Coaters argue that the Commission should cumulate subject imports from China and subject imports from Germany. They contend that, should it require physical interchangeability of products, the Commission would be acting in a manner contrary to the statutory directive that imports be cumulated whenever they “compete with” each other and the domestic like product.⁵⁹ Domestic Coaters argue that because all subject imports from Germany and the bulk of the subject imports from China are sold to converters, these imports compete with each other for the converters’ business.⁶⁰ They maintain that converters faced a “make or buy” decision: “converters were repeatedly placed in a position where they had to choose between buying [slit rolls from China] or buying jumbo rolls from producers in the United States and Germany for conversion into slit rolls.”⁶¹

Respondents argue that the Commission should not cumulate subject imports from China and subject imports from Germany. German Respondents maintain that the Commission’s finding in the preliminary determinations that slit rolls from China and jumbo rolls from Germany are not fungible is correct and should not be modified.⁶² Mitsubishi rebuts Domestic Coaters’ contention that the statutory word “compete” has a plain meaning. Mitsubishi contends that the Domestic Coaters’ contentions in this regard have been rejected by both the Commission in prior investigations and by the Court of

⁵⁴(...continued)
1126-1128 (Preliminary), USITC Pub. 3964 (Nov. 2007).

⁵⁵ See, e.g., Wieland Werke, AG v. United States, 718 F. Supp. 50 (Ct. Int’l Trade 1989).

⁵⁶ The Uruguay Round Agreements Act, Statement of Administrative Action, H.R. Doc. No. 103-316, Vol. 1 at 848 (1994) (“SAA”) expressly states that “the new section will not affect current Commission practice under which the statutory requirement is satisfied if there is a reasonable overlap of competition.” SAA 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.”).

⁵⁷ CR at I-1, PR at I-1; 72 Fed. Reg. 62430 (Nov. 5, 2007).

⁵⁸ Preliminary Determinations, USITC Pub. 3964 at 20.

⁵⁹ Domestic Coaters Prehearing Brief at 29-32; Domestic Coaters Posthearing Brief, ex. 1 at 32-33. According to Domestic Coaters, “the word ‘compete’ is in no way ambiguous.” They contend that “when imports are offered in the market, they ‘compete’ whenever they are offered to a customer who has a choice of either buying those imports or buying another product to meet their needs.” Domestic Coaters Posthearing Brief, ex. 1 at 33.

⁶⁰ Domestic Coaters Posthearing Brief, ex. 1 at 33.

⁶¹ Domestic Coaters Prehearing Brief at 26.

⁶² German Respondents Prehearing Brief, ex. 1 at 2-3. See also Chinese Respondents Prehearing Brief at 1.

International Trade.⁶³ It further argues that the record does not support Domestic Coaters' contention that U.S. converters faced decisions whether to convert jumbo rolls or purchase slit rolls from China.⁶⁴

B. Analysis

We examine below the four considerations applicable to determining whether there is a reasonable overlap of competition.

*Fungibility.*⁶⁵ As it did in the preliminary determinations, our fungibility analysis focuses on whether the domestic like product and subject imports from different countries are functionally interchangeable.⁶⁶ All subject imports from Germany during the period of investigation were jumbo rolls, and all subject imports from China during the period of investigation were slit rolls.⁶⁷ No party has disputed the Commission's finding in the preliminary determinations that "slit rolls and jumbo rolls are not interchangeable in any application."⁶⁸ The record in these investigations continues to indicate that all jumbo rolls of LWTP are used to produce slit rolls.⁶⁹ Consequently, while an end user can insert a slit roll of LWTP into a point of sale (POS) printer for the purpose of creating receipts, it cannot use a jumbo roll for this purpose.

We reject Domestic Coaters' argument that requiring products to be functionally interchangeable upon importation is inconsistent with the "plain language" of the statute. In fact, our reviewing courts have repeatedly held that the statutory term "competes with" does not have a plain meaning.⁷⁰ Consequently, many cases have upheld the Commission's use of fungibility as a factor in assessing competition.⁷¹ The Court of International Trade has specifically held that the Commission can reasonably

⁶³ Mitsubishi Posthearing Brief, att. A at 1-6.

⁶⁴ Mitsubishi Posthearing Brief, att. A at 10-12.

⁶⁵ Commissioner Lane does not join in the following discussion of fungibility. As she stated in the preliminary phase of these investigations, she does not agree with an analysis that requires such similarity of products that a perfectly symmetrical fungibility is necessary. To the extent that competition requires similarities of products, that similarity could be better described as an analysis of whether products could be substituted for each other. Mere physical differences in the size or packaging of a product which may require different handling, resizing or repackaging do not make products that are otherwise identical in characteristics and uses unsubsittutable. Commissioner Lane does not agree that it is reasonable to construe the competition language in the statutory cumulation provision to require that subject imports be interchangeable with each other at the time of importation. While that may be a factor to consider whether different forms of a product compete with each other, she finds that it is, at best, a starting point to consider whether one form of a product competes with another form.

⁶⁶ Commissioner Pinkert finds that the fungibility criterion is satisfied when the merchandise in question is (1) physically or functionally interchangeable or (2) commercially interchangeable in the sense that the U.S. purchaser is indifferent at comparable cost (including processing cost) as to whether to buy the finished product or make it from the semi-finished product.

⁶⁷ CR at IV-2, PR at IV-1.

⁶⁸ Preliminary Determinations, USITC Pub. 3964 at 20.

⁶⁹ CR at I-16, PR at I-12.

⁷⁰ See Chaparral Steel Co. v. United States, 901 F.2d 1097, 1101 (Fed. Cir. 1990); Steel Authority of India, Ltd. v. United States, 146 F. Supp. 2d 900, 906 (Ct. Int'l Trade 2001); Ranchers-Cattlemen Action Legal Foundation v. United States, 74 F. Supp.2d 1353, 1370 (Ct. Int'l Trade 1999) ("R-CALF").

⁷¹ The first decision upholding the Commission's examination of fungibility in its cumulation analysis was issued over 20 years ago and was affirmed by the Federal Circuit. Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898, 902 (Ct. Int'l Trade), aff'd, 859 F.2d 915 (Fed. Cir. 1988). See also R-CALF, 74 F. Supp.2d at 1371

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construe the competition language in the statutory cumulation provision to require that subject imports be interchangeable with each other at the time of importation.⁷² A finding that products that are not functionally interchangeable with each other are not “fungible” for purposes of the cumulation analysis is also consistent with our prior administrative practice.⁷³

Geographic Overlap. *** U.S. coaters and a majority of responding U.S. converters sell their products nationally. *** importers of subject merchandise from Germany sell their product nationally, as do two of five importers of subject merchandise from China.⁷⁴

Channels of Distribution. *** shipments of jumbo rolls of LWTP produced in the United States are sold to converters for conversion into slit rolls. A *** of subject imports from Germany are sold to converters for conversion into slit rolls.⁷⁵ During the period of investigation, a *** of subject imports from China were sold to converters for resale.⁷⁶ Thus, converters act as producers with respect to domestic jumbo rolls and subject imports from Germany that they purchase, but as resellers with respect to the subject imports from China that they purchase. Converters sell to end users and distributors.⁷⁷

Simultaneous Presence in Market. The domestic like product and imports from each subject country were present in the U.S. market throughout the period of investigation. Subject imports from China were present only in minimal quantities in 2005.⁷⁸

Conclusion. The geographic overlap and simultaneous presence criteria are satisfied in these investigations. With respect to channels of distribution, there is some similarity, as slit rolls from China, domestically produced jumbo rolls, and jumbo rolls from Germany are all sold to converters. The similarities are not exact, however, because the converters are acting at different levels of trade with respect to slit rolls and jumbo rolls. With respect to fungibility, the slit rolls that constitute the subject imports from China are not interchangeable with the jumbo rolls that constitute the subject imports from Germany. The slit rolls from China are suitable for end use but the jumbo rolls from Germany are not, unless converted. Moreover, as discussed in section II.D.1. above, the equipment, technical expertise, employment, and capital investment required for conversion are not insubstantial.

⁷¹(...continued)
(collecting cases).

⁷² R-CALF, 74 F. Supp.2d at 1370.

⁷³ This is true for products imported at different stages of the production process. See Live Cattle from Canada and Mexico, Inv. Nos. 701-TA-386, 731-TA-812-813 (Preliminary), USITC Pub. 3155 at 12-13 (Feb. 1999) (cattle imported at different stages of production not fungible); Certain 4,4'-Diamino-2,2-Stilbenedisulfonic Acid Chemistry from China, Germany, and Italy, Inv. Nos. 701-TA-435, 731-TA-1036-1038 (Preliminary), USITC Pub. 3608 at 11-12 (July 2003) (upstream and downstream forms of product under investigation not fungible). It is also true for distinct variations in products imported at the same stage of the production process. See Static Random Access Memory Semiconductors from the Republic of Korea and Taiwan, Inv. Nos. 731-TA-761-762 (Final), USITC Pub. 3098 at 15 (Apr. 1998) (subject imports not fungible with each other because virtually all subject imports from Korea were at a slower speed than virtually all subject imports from Taiwan, and interchangeability between SRAMs of different speeds limited); Oil Country Tubular Goods from Argentina, Austria, Italy, Japan, Korea, Mexico, and Spain, Inv. Nos. 701-TA-363-364, 731-TA-711-717 (Final), USITC Pub. 2911 at I-35 (Aug. 1995) (drill pipe imports from Japan not fungible with drill pipe imports from other subject countries because they consisted of a different form used for different applications).

⁷⁴ CR at II-2, PR at II-1.

⁷⁵ CR at II-1, PR at II-1.

⁷⁶ CR/PR, Tables III-10, IV-2.

⁷⁷ See CR at II-1, PR at II-1.

⁷⁸ CR/PR, Table IV-2.

The Commission is permitted to find no reasonable overlap of competition when all or virtually all subject imports enter the United States at different stages of the production process and are not functionally interchangeable at importation.⁷⁹ Because the record in these investigations indicates that the subject imports from China and Germany are not functionally interchangeable upon importation, we conclude that subject imports from China do not compete with subject imports from Germany. Accordingly, we do not cumulate the subject imports.⁸⁰

IV. CONDITIONS OF COMPETITION

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

Demand Conditions. Apparent U.S. consumption of LWTP increased throughout the period of investigation. Apparent U.S. consumption rose from 215.6 million short tons in 2005 to 244.3 million short tons in 2006, and then to 255.8 million short tons in 2007. The 133.0 million short tons of apparent U.S. consumption of LWTP during the first half of (“interim”) 2008 was higher than the 117.2 million short tons during interim 2007.⁸¹ The parties agree that because of its high image quality, resistance to

⁷⁹ Commissioner Pinkert finds that subject imports from Germany and China are not fungible with respect to one another. He reaches this conclusion because (1) jumbo rolls from Germany and slit rolls from China are not physically or functionally interchangeable at the time of importation and (2) several converters testified that they have a strong economic incentive to convert jumbo rolls rather than buy slit rolls from China.

In regard to the second point, Richard Jansen, President of Paper Solutions, stated that he was fully committed to remaining a converter. He has made substantial capital investments and expended a significant amount of time training personnel. Tr. at 311. Roger Sandt of Sandt Products stated that he would enter another business if the imported slit rolls made conversion too expensive. Tr. at 272. Ed Swadish of Discount Papers stated that he does not desire to mothball valuable machinery and lose skilled labor. Tr. at 273. Todd Kyriss, formerly of NCR, generally agreed with Mr. Swadish. He said, however, that NCR might buy the slit rolls if capacity were constrained or to facilitate entry into a new market. Tr. at 274. Mike Rapier of Liberty Papers testified that he was “forced” to buy slit rolls from China, Tr. at 94; however, his company bought only *** short tons of slitted LWTP from China over the POI (*** short tons in 2006 and *** in 2007), while his company’s conversion activity increased by *** short tons from 2006 to 2007. CR/PR, Table III-10. Commissioner Pinkert also notes that *** did not purchase slit rolls from China. *Id.*

The converters’ stance on this issue is underscored by the fact that, while they are purchasing Chinese slit rolls to obtain new customers on the West Coast, they continue to convert jumbo rolls. ***. *** Purchaser’s Questionnaire, response to question II-13; *** Producer’s Questionnaire, response to question II-11; Tr. at 244-45 (Kyriss). With the increase in demand over the POI, converter sales have increased. CR/PR, Table C-2.

⁸⁰ Commissioner Lane does not agree that functional interchangeability upon importation is required for products to compete with each other. She would determine that there was competition when the pricing of jumbo rolls was influenced by the pricing of slit rolls. During the preliminary phase of this investigation she found that although the record was mixed, there was evidence to indicate that there was competition between jumbo rolls and slit rolls. The record is now more developed and it continues to be mixed. However, she determines that there is not sufficient evidence of such price competition between jumbo rolls from Germany and slit rolls from China to determine that those products compete with each other. Therefore, she agrees with the conclusion, based on this record, that subject imports from China do not compete with subject imports from Germany.

⁸¹ CR/PR, Table IV-4. We have calculated apparent U.S. consumption of LWTP as the sum of domestic shipments of U.S. coaters, domestic shipments of U.S. converters, and imports. This method of calculating LWTP overstates both overall consumption and domestic shipments, because shipments of LWTP that are both coated and converted domestically are counted twice. For the same reason, this calculation overstates the domestic industry’s market share and understates the market penetration of imports. Nevertheless, to omit domestic shipments of converted product from the apparent consumption calculation, as Domestic Coaters and Chinese Respondents

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light, and cost-effectiveness, LWTP has largely displaced carbonless and impact paper as the paper of choice for POS applications such as receipts.⁸² The parties contend that purchasers will continue to develop new uses for LWTP in the future.⁸³ However, because thermal paper already accounts for approximately *** percent of the market for POS receipts,⁸⁴ LWTP demand is less likely to increase in the future due to end users switching from carbonless and impact papers to LWTP.

Demand for LWTP, which is used principally in POS applications, will typically reflect retail sales levels.⁸⁵ At the hearing, witnesses testified that likely economic conditions in the United States will serve to reduce retail sales, thus slowing the growth in demand for LWTP in the U.S. market in the imminent future.⁸⁶

LWTP's use in retail applications results in some seasonality in demand. End use of the product tends to increase during the latter portion of the year.⁸⁷ At least some converters maintain capacity to satisfy demand during peak periods.⁸⁸

Supply. There are two domestic coaters of LWTP: Appleton and Kanzaki. During the three calendar years within the period of investigation, their combined capacity ranged between *** short tons.⁸⁹ By contrast, apparent U.S. consumption of jumbo rolls of LWTP during this period ranged between *** short tons – demonstrably higher than U.S. coaters' capacity at the time.⁹⁰ Appleton opened a new coating facility in West Carrollton, Ohio, on August 6, 2008. Appleton estimates that the West Carrollton facility, which represents a \$125 million capital investment, will increase its LWTP coating capacity by *** short tons.⁹¹

The Commission received questionnaire responses from 20 U.S. converters, which are estimated to account for 62.1 percent of U.S. LWTP conversion activities in 2007.⁹² The largest individual converter accounted for *** percent of reported 2007 U.S. production of slit rolls of LWTP, and four of the 20 converters each accounted for at least 10 percent of reported 2007 U.S. production.⁹³ Between 2005 and 2007, the reporting converters' total capacity ranged between *** short tons.⁹⁴

⁸¹(...continued)

advocate, would be inconsistent with our finding that conversion activity constitutes production of the domestic like product. See Certain Wax and Wax/Resin Thermal Transfer Ribbons from France and Japan, Inv. Nos. 731-TA-1039-1040 (Final), USITC Pub. 3683 at 23 (Apr. 2004) (“TTR Final”), aff'd on this issue, International Imaging Materials, Inc. v. USITC, Slip Op. 06-11 at 16-18 (Ct. Int'l Trade Jan. 23, 2006).

⁸² Domestic Coaters Prehearing Brief at 9; Tr. at 61 (Hatfield); German Respondents Prehearing Brief at 5-6; Chinese Respondents Prehearing Brief at 3.

⁸³ Tr. at 61 (Hatfield), 139-40 (Hatfield), 140 (Hefner), 260 (Swadish), 261 (Kyriss).

⁸⁴ Domestic Coaters Posthearing Brief, ex. 1 at 25.

⁸⁵ See CR at I-11, II-5, PR at I-9, II-3.

⁸⁶ Tr. at 140 (Hefner), 142 (Hatfield), 143 (Rapier).

⁸⁷ CR at II-5, PR at II-3; see Domestic Coaters Posthearing Brief, ex. 1 at 6, 53.

⁸⁸ See CR at III-6, PR at III-4.

⁸⁹ CR/PR, Table III-2. These data reflect capacity during the period January 1, 2005 through June 30, 2008, and thus do not include the Appleton expansion discussed below.

⁹⁰ CR/PR, Table C-1.

⁹¹ CR at III-4, PR at III-3.

⁹² CR at III-1, PR at III-1.

⁹³ CR/PR, Table III-1.

⁹⁴ CR/PR, Table III-4.

During the period of investigation, the domestic industry and the subject imports supplied virtually the entire U.S. LWTP market. As previously stated, the domestic industry supplies both jumbo rolls and slit rolls of LWTP, subject imports from China are exclusively slit rolls, and subject imports from Germany are exclusively jumbo rolls. On an overall basis – which overstates the domestic industry’s share of the market – the domestic industry supplied the majority of apparent U.S. consumption.⁹⁵ Subject imports from Germany were responsible for the next largest share of the market on an overall basis.⁹⁶ However, in 2006, 2007, and both interim periods, the subject producers from Germany supplied more jumbo rolls to U.S. converters than U.S. coaters did.⁹⁷ The subject imports from China supplied a smaller share of the market than either the domestic industry or the subject imports from Germany.⁹⁸ Nonsubject imports supplied a very small share of the market, never accounting for more than *** percent of apparent U.S. consumption at any point during the period of investigation.⁹⁹ The bulk of nonsubject imports were jumbo rolls from Korea.¹⁰⁰

Other Conditions. LWTP is sold in a variety of basis weights. The bulk of LWTP sold in the United States is sold in basis weights of 48 grams per square meter or 55 grams per square meter.¹⁰¹ Appleton introduced a 45 gram product in 2004, discontinued it in 2006 because the product did not sell well, and introduced a new 48 gram product in 2007.¹⁰² Appleton’s 48 gram product was not widely available until the fall of 2007.¹⁰³ Appleton has also offered a 55 gram product.¹⁰⁴ Kanzaki has sold a high-sensitivity 48 gram product since 2004.¹⁰⁵ It also offers a standard sensitivity 53 gram product.¹⁰⁶ U.S. coaters’ shipments of 55 gram products far exceeded their shipments of 48 gram products throughout the period of investigation. The quantity of U.S. coaters’ 48 gram shipments was lower in 2007 than in 2005, and was *** between the interim periods. The quantity of U.S. coaters’ 55 gram shipments rose between 2005 and 2007, and was higher in interim 2008 than in interim 2007.¹⁰⁷

Koehler began to offer a 48 gram product in April 2005, and offered a 55 gram product until April 2008.¹⁰⁸ Mitsubishi has offered both 48 and 55 gram products.¹⁰⁹ The quantity of U.S. shipments of 55 gram products from Germany declined during the period of investigation, and the quantity of shipments

⁹⁵ CR/PR, Table IV-5.

⁹⁶ CR/PR, Table IV-5.

⁹⁷ CR/PR, Table C-1.

⁹⁸ CR/PR, Table IV-5.

⁹⁹ CR/PR, Table IV-5.

¹⁰⁰ CR at IV-1, PR at IV-1. While Korea was originally a subject country in these investigations, in the preliminary determination the Commission determined that subject imports from Korea were negligible, and terminated the investigation with respect to them. Preliminary Determinations, USITC Pub. 3964 at 15-18.

¹⁰¹ CR/PR, Tables III-6, III-7, III-9, IV-3, IV-4. Basis weight will hereinafter be referred to in “grams.”

¹⁰² CR at III-12, PR at III-5; Tr. at 205-06 (Hatfield); Preliminary Determinations, USITC Pub. 3964 at 23.

¹⁰³ Tr. at 235 (Greene).

¹⁰⁴ Tr. at 63-64 (Hatfield).

¹⁰⁵ Domestic Coaters Prehearing Brief, ex. 2 at 2; Tr. at 85 (Hefner). Higher sensitivity thermal papers require less heat from a thermal printer to create an image, thereby increasing the operating life of the printer. CR at II-12, PR at II-7.

¹⁰⁶ Tr. at 85 (Hefner); Domestic Coaters Prehearing Brief, ex. 12.

¹⁰⁷ CR/PR, Table III-9. Appleton’s former 45 gram product is included in the tabulation for 48 gram products. Kanzaki’s 53 gram product is included in the tabulation for 55 gram products.

¹⁰⁸ Tr. at 231, 234 (Greene).

¹⁰⁹ Tr. at 238 (Jahns).

of 48 gram products increased. The quantity of shipments of 55 gram products from Germany exceeded the quantity of shipments of 48 gram products in 2005, 2006, and 2007, but 48 gram shipments exceeded 55 gram shipments in interim 2008.¹¹⁰

Thirteen of the 20 reporting U.S. converters reported converting jumbo rolls with a 48 gram basis weight.¹¹¹ While U.S. shipments of domestically converted 55 gram slit rolls exceeded those for 48 gram slit rolls throughout the period of investigation, 48 gram shipments increased throughout the period of investigation, and 55 gram shipments declined irregularly.¹¹² Although small quantities of 48 gram slit rolls were imported from China in 2007 and interim 2008, the overwhelming majority of U.S. shipments of slit rolls from China during the period of investigation were of 55 gram product.¹¹³ Numerous importers reported the introduction of 48 gram paper as a significant change in product range during the period of investigation.¹¹⁴ Purchasers also cited the increasing standardization of roll sizes; most slit rolls of LWTP sold for use in POS applications are three and one-eighth inches in width.¹¹⁵

Jumbo rolls from Germany and slit rolls from China are generally physically interchangeable with domestically produced products of the same type. Majorities of U.S. coaters, converters, and purchasers and a plurality of importers stated that U.S.-produced jumbo rolls and the subject imports from Germany were always interchangeable.¹¹⁶ Majorities of U.S. coaters, converters, and purchasers stated that U.S.-produced slit rolls and the subject imports from China were at least frequently interchangeable, and a majority of importers said the products were at least sometimes interchangeable.¹¹⁷

Major printer manufacturers such as IBM and Epson certify the use of specific types of LWTP with their machines.¹¹⁸ Jumbo rolls of LWTP produced by both domestic coaters and in Germany, and slit rolls of LWTP produced by several U.S. converters, have received certification.¹¹⁹ Slit rolls of LWTP imported from China have not received certification.¹²⁰ A minority of purchasers of jumbo rolls, as well as some purchasers of slit rolls, indicate that certification is an important factor in purchasing decisions; numerous market participants report that certification is most likely to be important for large end users.¹²¹ Market participants provided widely disparate estimates of what percentage of purchasers require certified rolls, but even the witness giving the largest estimate of certified roll use indicated that 30 to 40 percent of the slit roll market would not require certified rolls.¹²²

¹¹⁰ CR/PR, Table IV-3.

¹¹¹ CR/PR, Table III-8.

¹¹² CR/PR, Table III-9.

¹¹³ CR/PR, Table IV-3.

¹¹⁴ CR at II-10, PR at II-6.

¹¹⁵ CR at II-1, II-10, PR at II-1, II-6.

¹¹⁶ CR/PR, Table II-3.

¹¹⁷ CR/PR, Table II-3.

¹¹⁸ CR at II-16, PR at II-10.

¹¹⁹ CR at II-16, PR at II-10; Domestic Coaters Posthearing Brief, ex. 12, att. 3, ex. 47; Tr. at 291-92 (Greene).

¹²⁰ CR at II-16, PR at II-10; see also Chinese Respondents Posthearing Brief at 13.

¹²¹ CR at II-16, PR at II-10.

¹²² Compare Tr. at 259 (Kyriss) with Tr. at 122 (Rapier).

V. MATERIAL INJURY AND THREAT OF MATERIAL INJURY BY REASON OF SUBJECT IMPORTS

A. Legal Standards

1. Material Injury by Reason of Subject Imports

In the final phase of antidumping or countervailing duty investigations, the Commission determines whether an industry in the United States is materially injured by reason of the imports under investigation.¹²³ In making this determination, the Commission must consider the volume of subject imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.¹²⁴ The statute defines “material injury” as “harm which is not inconsequential, immaterial, or unimportant.”¹²⁵ In assessing whether the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.¹²⁶ No single factor is dispositive, and all relevant factors are considered “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”¹²⁷

The statute requires the Commission to determine whether the domestic industry is “materially injured by reason of” the unfairly traded imports.¹²⁸ The statute, however, does not define the phrase “by reason of,” indicating that this aspect of the injury analysis is left to the Commission’s reasonable exercise of its discretion.¹²⁹ In identifying a causal link, if any, between subject imports and material injury to the domestic industry, the Commission examines the facts of record that relate to the significance of the volume and price effects of the subject imports and any impact of those imports on the condition of the domestic industry. This evaluation must ensure that subject imports are more than a minimal or tangential cause of material injury and that there is a sufficient causal nexus between subject imports and material injury.¹³⁰ Thus, the Commission interprets the “by reason of” language in a manner

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

¹²⁴ 19 U.S.C. § 1677(7)(B)(i). The Commission “may consider such other economic factors as are relevant to the determination” but shall “identify each [such] factor . . . [a]nd explain in full its relevance to the determination.” 19 U.S.C. § 1677(7)(B).

¹²⁵ 19 U.S.C. § 1677(7)(A).

¹²⁶ 19 U.S.C. § 1677(7)(C)(iii).

¹²⁷ 19 U.S.C. § 1677(7)(C)(iii).

¹²⁸ 19 U.S.C. § 1673d(b).

¹²⁹ Angus Chemical Co. v. United States, 140 F.3d 1478, 1484-85 (Fed. Cir. 1998) (“[T]he statute does not ‘compel the commissioners’ to employ [a particular methodology] . . . [however] regardless of what approach is used, whether it be the two-step or unitary approach or some other approach, the three mandatory factors must be considered in each case”), aff’d, 944 F. Supp. 943, 951 (Ct. Int’l Trade 1996).

¹³⁰ The Federal Circuit, in addressing the causation standard of the statute, observed that “[a]s long as its effects are not merely incidental, tangential, or trivial, the foreign product sold at less than fair value meets the causation requirement.” Nippon Steel Corp. v. USITC, 345 F.3d 1379, 1384 (Fed. Cir. 2003). This was further ratified in Nippon Steel Corp. v. United States, 458 F. 3d 1345, 1357 (Fed. Cir. 2006), where the court stated that the “causation requirement is met so long as the effects of dumping are not merely incidental, tangential, or trivial.” See also Taiwan Semiconductor Industry Ass’n v. USITC, 266 F.3d 1339, 1345 (Fed. Cir. 2001) (“to ensure that the subject imports are causing the injury, not simply contributing to the injury in a tangential or minimal way.”); Gerald Metals, Inc. v. United States, 132 F.3d 716, 722 (Fed. Cir. 1997) (“the statute requires adequate evidence to show

(continued...)

that implements the statutory requirement of finding a causal, not merely a temporal, link between the subject imports and the material injury to the domestic industry.

In most investigations, there are other economic factors that also may be causing injury to the domestic industry. The legislative history explains that the Commission must examine factors other than subject imports to ensure that it is not attributing injury from these sources to the subject imports, but does not require the Commission to isolate the injury caused by other factors from injury caused by unfair imports.¹³¹ The statutory scheme clearly contemplates that an industry may be facing difficulties from a variety of sources, including non-subject imports and other factors, but the existence of injury caused by other factors does not compel a negative determination if the subject imports themselves are making more than a minimal or tangential contribution to material injury.¹³² The legislative history further clarifies that dumped imports need not be the “principal” cause of material injury and that the “by reason of” standard does not contemplate that injury from dumped imports be weighed against other factors, such as non-subject imports, which may be contributing to overall injury to an industry.¹³³

Assessment of whether material injury to the domestic industry is “by reason of” subject imports “does not require the Commission to address the causation issue in any particular way” as long as “the injury to the domestic industry can reasonably be attributed to the subject imports” and the Commission

¹³⁰(...continued)

that the harm occurred ‘by reason of’ the LTFV imports, not by reason of a minimal or tangential contribution to material harm caused by LTFV goods.”); Mittal Steel Point Lisas Ltd. v. United States, Slip Op. 2007-1552 at 10 (Fed. Cir., Sept. 18, 2008).

¹³¹ Statement of Administrative Action (“SAA”) on Uruguay Round Agreements Act (URAA), H.R. Rep. 103-316, Vol. I at 851-52 (1994) (“[T]he Commission need not isolate the injury caused by other factors from injury caused by unfair imports. . . Rather, the Commission must examine other factors to ensure that it is not attributing injury from other sources to the subject imports.”); S. Rep. 96-249 at 75 (1979) (the Commission “will consider information which indicates that harm is caused by factors other than less-than-fair-value imports.”); H.R. Rep. 96-317 at 47 (1979) (“in examining the overall injury being experienced by a domestic industry, the ITC will take into account evidence presented to it which demonstrates that the harm attributed by the petitioner to the subsidized or dumped imports is attributable to such other factors;” those factors include “the volume and prices of nonsubsidized imports or imports sold at fair value, contraction in demand or changes in patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and productivity of the domestic industry”); accord Mittal Steel, Slip Op. 2007-1552 at 17.

The Federal Circuit has affirmed that: “[T]he Commission need not isolate the injury caused by other factors from injury caused by unfair imports. . . . Rather, the Commission must examine other factors to ensure that it is not attributing injury from other sources to the subject imports.” Taiwan Semiconductor Industry Ass’n v. USITC, 266 F.3d 1339, 1345 (Fed. Cir. 2001)(emphasis in original); Asociacion de Productores de Salmon y Trucha de Chile AG v. United States 180 F. Supp. 2d 1360, 1375 (Ct. Int’l Trade 2002) (“[t]he Commission is not required to isolate the effects of subject imports from other factors contributing to injury” or make “bright-line distinctions” between the effects of subject imports and other causes.). See also Softwood Lumber from Canada, Inv. Nos. 701-414 and 731-TA-928 (Remand), USITC Pub. 3658 at 100-01 (Dec. 2003) (Commission recognized that “[i]f an alleged other factor is found not to have or threaten to have injurious effects to the domestic industry, i.e. it is not an ‘other causal factor,’ then there is nothing to further examine regarding attribution to injury”), citing Gerald Metals, Inc. v. United States, 132 F.3d 716, 722 (Fed. Cir. 1997) (the statute “does not suggest that an importer of LTFV goods can escape countervailing duties by finding some tangential or minor cause unrelated to the LTFV goods that contributed to the harmful effects on domestic market prices.”).

¹³² See SAA at 851-52, 885.

¹³³ S. Rep. 96-249 at 74-75; H.R. Rep. 96-317 at 47; see also Nippon Steel Corp., 345 F.3d at 1381 (“[D]umping need not be the sole or principal cause of injury.”).

“ensure[s] that it is not attributing injury from other sources to the subject imports.”¹³⁴ Indeed, the Federal Circuit has examined and affirmed various Commission methodologies and has disavowed “rigid adherence to a specific formula.”¹³⁵ The Federal Circuit has provided guidance on the questions that it would raise and expect the Commission to have considered in its analysis “where commodity products are at issue and fairly traded, price competitive, non-subject imports are in the market.”^{136 137}

Nonetheless, the question of whether one out of several possible causes of injury exceeds the minimal or tangential threshold and is an independent cause of material injury to the domestic industry is left to the expertise of the Commission. The finding as to whether the threshold is satisfied is a factual one, subject to review under the substantial evidence standard. Congress has delegated these factual findings to the Commission because of the agency’s institutional expertise in resolving injury issues.¹³⁸

In evaluating the volume of subject imports, section 771(7)(C)(i) of the Tariff 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.”¹³⁹

In evaluating the price effects of the subject imports, section 771(7)(C)(ii) of the Tariff Act provides that 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

¹³⁴ Mittal Steel, Slip Op. 2007-1552 at 16-17; see also id at 9 (“While the Commission may not enter an affirmative determination unless it finds that a domestic industry is materially injured ‘by reason of’ subject imports, the Commission is not required to follow a single methodology for making that determination. . . . [and has] broad discretion with respect to its choice of methodology.”) citing United States Steel Group v. United States, 96 F.3d 1352, 1362 (Fed. Cir. 1996) and S. Rep. 96-249 at 75.

¹³⁵ Nucor Corp. v. United States, 414 F.3d 1331, 1336, 1341 (Fed. Cir. 2005). See also Mittal Steel, Slip Op. 2007-1552 at 20 (“Bratsk did not read into the antidumping statute a Procrustean formula for determining whether a domestic injury was ‘by reason’ of subject imports.”).

¹³⁶ Mittal Steel, Slip Op. 2007-1552 at 13-21.

¹³⁷ Commissioner Pinkert does not join in this sentence. He points out that the Federal Circuit, in Bratsk Aluminum Smelter v. United States, 444 F.2d 1369 (Fed. Cir. 2006) and Mittal Steel, held that the Commission is required, in certain circumstances, to undertake a particular kind of analysis of non-subject imports. Mittal Steel explains as follows:

What Bratsk held is that “where commodity products are at issue and fairly traded, price competitive, non-subject imports are in the market,” the Commission would not fulfill its obligation to consider an important aspect of the problem if it failed to consider whether non-subject or non-LTFV imports would have replaced LTFV subject imports during the period of investigation without a continuing benefit to the domestic industry. 444 F.3d at 1269. Under those circumstances, Bratsk requires the Commission to consider whether replacement of the LTFV subject imports might have occurred during the period of investigation, and it requires the Commission to provide an explanation of its conclusion with respect to that factor.

Slip Op. 2007-1552 at 20.

Commissioner Pinkert notes that such a counterfactual analysis is unnecessary here. He determines independently of that type of analysis that the domestic industry is not materially injured by reason of the subject imports.

¹³⁸ Mittal Steel, Slip Op. 2007-1552 at 9-10; Nippon Steel Corp., 458 F.3d at 1350, citing U.S. Steel Group, 96 F.3d at 1357; S. Rep. 96-249 at 75 (“The determination of the ITC with respect to causation is . . . complex and difficult, and is a matter for the judgment of the ITC.”).

¹³⁹ 19 U.S.C. § 1677(7)(C)(i).

(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.¹⁴⁰

In examining the impact of subject imports, section 771(7)(C)(iii) of the Tariff Act provides that the Commission “shall evaluate all relevant economic factors which have a bearing on the state of the industry.”¹⁴¹ These factors include output, sales, inventories, 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.”¹⁴²

2. Threat of Material Injury by Reason of Subject Imports

Section 771(7)(F) of the Tariff Act directs the Commission to determine whether the U.S. industry is threatened with material injury by reason of the subject imports by analyzing whether “further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted.”¹⁴³ The Commission may not make such a determination “on the basis of mere conjecture or supposition,” and considers the threat factors “as a whole” in making its determination whether dumped or subsidized imports are imminent and whether material injury by reason of subject imports would occur unless an order is issued.¹⁴⁴ In making our determination, we consider all statutory threat factors that are relevant to these investigations.¹⁴⁵

¹⁴⁰ 19 U.S.C. § 1677(7)(C)(ii).

¹⁴¹ 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.”).

¹⁴² 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).

¹⁴³ 19 U.S.C. § 1677(7)(F)(ii).

¹⁴⁴ 19 U.S.C. § 1677(7)(F)(ii).

¹⁴⁵ These factors are as follows:

(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,

(continued...)

B. Determinations on Subject Imports from China

1. No Material Injury by Reason of Subject Imports from China

a. Volume of Subject Imports

The quantity of subject imports from China increased from *** short tons in 2005 to *** short tons in 2006 and then to *** short tons in 2007.¹⁴⁶ As a share of the quantity of apparent U.S. consumption, subject imports from China increased from *** in 2005 to *** percent in 2006 and then to *** percent in 2007.¹⁴⁷

Although the volume and market penetration of subject imports from China increased rapidly during the period of investigation, that increase was from a base of essentially zero. Thus, notwithstanding the rapid rate of increase of subject imports from China, we find that the absolute quantities of these imports are not yet at a significant level.

¹⁴⁵(...continued)

(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;

(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).

19 U.S.C. § 1677(7)(F)(i). Threat factor (I) is pertinent only in the countervailing duty investigation concerning subject imports from China. These investigations do not involve an agricultural product, so statutory threat factor (VII) is not implicated. There is no contention that the domestic industry is attempting to develop derivative or more advanced versions of LWTP, so statutory threat factor (VIII) is not implicated.

¹⁴⁶ CR/PR, Table IV-2. These import data, which are believed to be understated, see CR at IV-4 n.7, PR at IV-2 n.7, reflect those imports from China subject to Commerce's final dumping determination. Following our normal practice, we have cross-cumulated imports subject to the Commerce dumping and countervailing duty determinations for China in assessing material injury and threat of material injury by reason of dumped and subsidized imports from China.

¹⁴⁷ CR/PR, Table IV-5. As previously discussed, the apparent consumption measurement we are using understates the market share of imports. Because all imports from China were slit rolls, we also examined the market share of subject imports from China counting only domestic converters' shipments as U.S. shipments. Under this approach, the share of the quantity of apparent U.S. consumption held by subject imports from China increased from *** in 2005 to *** percent in 2006 and then to *** percent in 2007. CR/PR, Table C-2.

Both the quantity and market penetration (no matter how measured) of subject imports from China were lower in interim 2008 than in interim 2007. CR/PR, Tables IV-2, IV-5, C-2. Commerce imposed provisional countervailing duties on certain subject imports from China on March 14, 2008. 73 Fed. Reg. 13850, 13861 (Mar. 14, 2008). Thus, for most of interim 2008, liquidation of entries was suspended for certain subject imports from China. One major purchaser of slit rolls from China indicated that it reduced its purchases *** during interim 2008 because of the imposition of provisional duties. See *** Purchaser's Questionnaire, response to question II-3; see also CR/PR, Table III-10; *** Purchaser's Questionnaire, response to question II-6. This information indicates that the imposition of provisional duties likely restrained subject import volume from China during interim 2008. In light of this, we have reduced the weight we accord to the post-petition data for interim 2008 for our determinations on China pursuant to 19 U.S.C. § 1677(7)(I). Consequently, our conclusion that subject import volume from China is not significant does not rely on the interim 2008 decline.

b. Price Effects of Subject Imports

Price is an important factor in purchasing decisions for LWTP. Price was identified as a “very important” factor in purchasing decisions by 45 out of 49 responding purchasers.¹⁴⁸ More purchasers named price as the “number one” factor in purchasing decisions for either jumbo rolls or slit rolls than any other factor.¹⁴⁹ The use of reverse internet auctions by some large end users, in which price is the determining factor in deciding who will obtain a sale, further illustrates the importance of price in purchasing decisions.¹⁵⁰

Majorities of purchasers found domestically converted slit rolls and the subject imports from China comparable in all non-price related factors except delivery time and product range, in which majorities deemed the U.S. product superior.¹⁵¹ Fewer purchasers found either of these factors very important to purchasing decisions than found price to be very important.¹⁵²

The Commission collected quarterly pricing data on five slit roll products. There were no pricing reports for subject imports from China with respect to one of the products and only four quarterly comparisons for two of the products.¹⁵³ The Commission collected data on both an f.o.b and a delivered price basis. Because LWTP prices ***, we have focused principally on the delivered price data.¹⁵⁴ The subject imports from China undersold the domestic like product in 26 of 28 quarterly comparisons.¹⁵⁵ Underselling margins frequently exceeded 20 percent.¹⁵⁶ We find this underselling to be significant.¹⁵⁷ There were also several instances of confirmed lost sales and revenues attributable to subject imports from China.¹⁵⁸

Prices for the domestically converted product generally fluctuated for the portion of the period of investigation when Chinese imports were present in the U.S. market. In 2006, prices for one of the domestically converted slit roll products facing competition throughout the year from Chinese slit rolls rose, and the other fell. The prices for the comparable imported Chinese products generally fell.¹⁵⁹ During 2007, prices for domestically converted products generally fell whether or not they faced

¹⁴⁸ CR/PR, Table II-2.

¹⁴⁹ CR/PR, Table II-1.

¹⁵⁰ See Domestic Coaters Posthearing Brief, ex. 1 at 2-4, ex. 5.

¹⁵¹ CR/PR, Table II-5.

¹⁵² CR/PR, Table II-2.

¹⁵³ CR/PR, Tables V-4, V-7, V-8.

¹⁵⁴ CR at V-7 n.19, PR at V-5 n.19. Nevertheless, we have examined the f.o.b. data as well. Pricing trends and the incidence and margins of underselling based on the f.o.b. data are not materially different from those based on the delivered price data. See CR/PR, Tables D-4-8.

¹⁵⁵ CR/PR, Table V-10.

¹⁵⁶ CR/PR, Table V-9.

¹⁵⁷ Chinese Respondents argue that the underselling simply reflects that the domestically converted product obtains a price premium because it is certified by printer manufacturers and slit rolls from China are not. As previously discussed, however, purchasers generally perceive the subject imports from China to be comparable to the domestically converted product, and a significant proportion of end users do not require certification, and, in fact, the record does not show that a price premium exists for certified product. Moreover, the principal U.S. importer of subject imports from China characterized the quality of the Chinese product as “fairly consistent” and “acceptable.” Tr. at 309 (Burns). In light of these considerations, we find that the underselling margins for the subject imports from China are too large simply to reflect differences in certification.

¹⁵⁸ CR/PR, Tables V-11-12.

¹⁵⁹ CR/PR, Tables V-5, V-6.

competition from subject imports from China. These price declines do not appear to be a function of the subject imports from China, the prices of which fluctuated in 2007 and rose for some products.¹⁶⁰ Instead, they seem to be a function of reduced unit costs for converters, whose ratio of cost of goods sold (COGS) to net sales declined during 2007.¹⁶¹ In other words, notwithstanding the price declines, U.S. converters' revenues fell in 2007 by less than their costs. Consequently, notwithstanding their pervasive underselling, the subject imports from China did not have significant price-suppressing or -depressing effects on U.S. converters during the period of investigation.

The record indicates, however, that subject imports from China were beginning to have price effects on U.S. coaters during the latter portion of the period of investigation. There are several anecdotal reports of converters citing the availability of low-priced slit rolls from China to obtain price concessions from U.S. coaters or to explain why their orders may be reduced.¹⁶² Nevertheless, in light of the small quantities of subject imports from China present in the U.S. market during the period of investigation, and the lack of significant price-suppressing or -depressing effects of these imports on converters, the principal U.S. competition for these imports, we conclude that the subject imports from China did not have significant price effects on the domestic industry as a whole.

c. Impact of Subject Imports¹⁶³

Notwithstanding the increasing quantities of subject imports from China, the domestic industry has increased its capacity since 2005 and increased its output during the period of investigation.¹⁶⁴ U.S. converters' capacity rose throughout the investigation, increasing from *** short tons in 2005 to *** short tons in 2006 and then to *** short tons in 2007.¹⁶⁵ The capacity of U.S. coaters showed minor fluctuations over the period of investigation, increasing from *** short tons in 2005 to *** short tons in

¹⁶⁰ CR/PR, Tables V-5-8. As discussed above, because of the effect of the imposition of provisional duties on subject imports from China, our analysis focuses on the period before the imposition of provisional duties. During the first quarter of 2008, when duties were imposed late in the quarter, there was no consistent pricing trend for the domestically converted slit roll products on which the Commission collected data. *Id.*

¹⁶¹ CR/PR, Table VI-2.

¹⁶² *See* Domestic Coaters Posthearing Brief, ex. 22 (***); *** Producers Questionnaire, app. 12 (***, app. 13 (***). The converters that raised the availability of slit rolls from China in negotiations with coaters nevertheless purchased *** slit rolls from China. CR/PR, Table III-10.

¹⁶³ The statute additionally instructs the Commission to consider the "magnitude of the dumping margin" in an antidumping investigation as part of its consideration of the impact of imports. 19 U.S.C. § 1677(7)(C)(iii)(V). In its antidumping investigation concerning subject imports from China, Commerce found a 115.29 percent dumping margin for Shanghai Hanhong, a 19.77 percent dumping margin for Guangdong Guanbao, and a 115.29 percent PRC-wide rate. 73 Fed. Reg. at 57332. In its countervailing duty investigation on subject imports from China, Commerce found a *de minimis* subsidy rate for Shanghai Hanhong, a 13.17 percent rate for Guangdong Guanbao, 123.65 percent rates for MDCN Technology Co. and Xiamen Anne Paper Co., a 137.25 percent rate for Shenzhen Yuanming Industrial Development Co., and a 13.17 percent rate for all others. 73 Fed. Reg. at 57326.

¹⁶⁴ Although our evaluation of impact is on the domestic industry as a whole, we have examined output-related performance indicia of coaters and converters separately. This reduces the problems associated with double counting LWTP that was both coated and converted in the United States. We observe that the parties agree – albeit for different reasons – that some segmented analysis of the industry for the purpose of examining impact is useful. Domestic Coaters Prehearing Brief at 25-26; German Respondents Prehearing Brief at 8; Chinese Respondents Posthearing Brief at 4-5, 7-8.

¹⁶⁵ Converters' interim 2008 capacity of *** short tons was higher than interim 2007 capacity of *** short tons. CR/PR, Table III-4.

2006, and then declining to *** short tons in 2007.¹⁶⁶ As previously discussed, domestic coating capacity increased substantially with the opening of Appleton's West Carrollton facility in August 2008.¹⁶⁷

Converters' production and U.S. shipments increased throughout the period of investigation roughly commensurately with apparent U.S. consumption.¹⁶⁸ Their capacity utilization rates also increased.¹⁶⁹ Coaters' production, capacity utilization, and U.S. shipments increased *** from 2005 to 2007.¹⁷⁰ While inventory levels fluctuated, both coaters and converters had relatively low ratios of inventories to production throughout the period of investigation.¹⁷¹

The domestic industry's share of the quantity of apparent U.S. consumption fell from *** percent in 2005 to *** percent in 2007.¹⁷² As subject imports from China decreased their presence in the U.S. market in interim 2008 due to the imposition of provisional duties, the domestic industry's market share rose. It was *** percent in interim 2008, as compared to *** percent in interim 2007.¹⁷³

Employment-related indicators showed minor changes during the period of investigation. The number of production and related workers (PRWs) for the industry overall increased slightly from 2005 to 2007 and was lower in interim 2008 than in interim 2007. Annual fluctuations in employment were

¹⁶⁶ Coaters' capacity of *** short tons in interim 2008 was higher than interim 2007 capacity of *** short tons. CR/PR, Table III-2.

¹⁶⁷ CR at III-4, PR at III-3.

¹⁶⁸ Production of slit rolls increased from *** short tons in 2005 to *** short tons in 2006, and then to *** short tons in 2007. Slit roll production of *** short tons in interim 2008 exceeded the *** short tons produced in interim 2007. CR/PR, Table III-4.

Converters' U.S. shipments increased from *** short tons in 2005 to *** short tons in 2006 and then to *** short tons in 2007. Converters' *** short tons of U.S. shipments in interim 2008 exceeded the *** short tons in interim 2007. CR/PR, Table III-7.

¹⁶⁹ Converters' capacity utilization rose from *** percent in 2005 to *** percent in 2006, and then fell to *** percent in 2007. Converters' capacity utilization was higher in interim 2008, when it was *** percent, than in interim 2007, when it was *** percent. CR/PR, Table III-4. We note that conversion operations involve relatively lower fixed and start-up costs than coating operations, and thus there are fewer costs involved in maintaining additional converter capacity to meet demand in peak periods. See CR at III-6, VI-6 n.2, PR at III-4, VI-1 n.2.

¹⁷⁰ Production of jumbo rolls increased from *** short tons in 2005 to *** short tons in 2006 and then declined to *** short tons in 2007. The *** short tons of jumbo rolls produced in interim 2008 exceeded the *** short tons produced in interim 2007. CR/PR, Table III-2.

Coaters' capacity utilization increased from *** percent in 2005 to *** percent in 2006 and then declined to *** percent in 2007. Capacity utilization of *** percent in interim 2008 was higher than the *** percent capacity utilization in interim 2007. Id.

Coaters' U.S. shipments increased from *** short tons in 2005 to *** short tons in 2006 and then declined to *** short tons in 2007. The *** short tons of U.S. shipments in interim 2008 exceeded the *** short tons in interim 2007. CR/PR, Table III-6.

¹⁷¹ Converters' inventories increased from *** short tons in 2005 to *** short tons in 2006, and then declined to *** short tons in 2007. The *** short tons of inventories in interim 2008 were greater than the *** short tons in interim 2007. The ratio of inventories to production for full years ranged from *** percent in 2005 to *** percent in 2006, and was lower in interim 2008 than in interim 2007. CR/PR, Table III-11.

Coaters' inventories increased from *** short tons in 2005 to *** short tons in 2006, and then declined to *** short tons in 2007. The *** short tons of inventories in interim 2008 were lower than the *** short tons in interim 2007. The ratio of inventories to production for full years ranged from *** percent in 2007 to *** percent in 2006, and was lower in interim 2008 than in interim 2007. Id.

¹⁷² CR/PR, Table IV-5.

¹⁷³ CR/PR, Table IV-5.

modest.¹⁷⁴ Hourly wages increased throughout the period of investigation, although some annual increases were ***.¹⁷⁵ Productivity also rose during the period of investigation.¹⁷⁶

Overall domestic industry financial performance declined from 2005 to 2007. The combined operating margin of coaters and converters was negative 0.3 percent in 2005. In 2006, despite increasing subject imports from China, the operating margin improved slightly, to negative 0.03 percent. The operating margin declined to negative 3.2 percent in 2007.¹⁷⁷ The financial performance of coaters was considerably worse than that of converters.¹⁷⁸ Indeed, although the slit rolls imported from China compete most directly with the slit rolls produced by U.S. converters, the financial performance of U.S. converters actually improved *** from 2005 to 2007.¹⁷⁹ This reflects that the low, albeit rapidly increasing, volume of subject imports from China was not yet large enough to have significant price or volume effects during the period of investigation. While coaters' financial performance deteriorated during the period of investigation, particularly in 2007, and their output increased at a lower rate than apparent consumption, the volume of subject imports from China during the period was too small, and their price effects on coaters not sufficient, to have a significant impact. We consequently conclude that the subject imports from China did not have a significant impact on the domestic industry as a whole during the period of investigation.

2. Threat of Material Injury by Reason of Subject Imports from China

a. Cumulation for Threat

For purposes of determining if a threat of material injury exists, cumulation is discretionary. Under section 771(7)(H) of the Tariff Act, the Commission may "to the extent practicable" cumulatively assess the volume and price effects of subject imports from all countries as to which petitions were filed on the same day if subject imports compete with each other and the domestic like product and the other requirements for cumulation for material injury analysis are satisfied.¹⁸⁰

¹⁷⁴ The number of PRWs in the industry increased from 942 in 2005 to 959 in 2006, and then declined to 949 in 2007. The 945 PRWs in interim 2008 were fewer than the 961 PRWs in interim 2007. Converters' PRW count rose by *** between 2005 and 2007 and was lower by *** in interim 2008 than in interim 2007. Coaters' PRW count declined by *** between 2005 and 2007 and was higher by *** in interim 2008 than interim 2007. CR/PR, Table III-12.

¹⁷⁵ Hourly wages rose for both coaters and converters. CR/PR, Table III-12.

¹⁷⁶ Productivity rose for both coaters and converters. CR/PR, Table III-12.

¹⁷⁷ CR/PR, Table VI-3. The operating margin was negative 2.2 percent in interim 2007 and negative 3.4 percent in interim 2008. *Id.*

We have also examined the industry's capital and research and development expenses. Capital expenses increased from \$19.4 million in 2005 to \$38.7 million in 2007, and were much higher in interim 2008, at \$60.3 million, than in interim 2007, when they were \$8.3 million. CR/PR, Table VI-7. The increases during 2007 and interim 2008 largely reflect ***. CR at VI-9, PR at VI-3. Research and development expenditures, which were much lower than capital expenses, declined irregularly during the period of investigation. CR/PR, Table VI-7.

¹⁷⁸ Coaters had negative operating margins of *** percent in 2005, *** percent in 2006, *** percent in 2007, *** percent in interim 2007, and *** percent in interim 2008. CR/PR, Table VI-1. Converters had positive operating margins of *** percent in 2005, *** percent in 2006, *** percent in 2007, *** percent in interim 2007, and *** percent in interim 2008. CR/PR, Table VI-2.

¹⁷⁹ CR/PR, Table VI-2.

¹⁸⁰ 19 U.S.C. § 1677(7)(H).

In section III.B. above, we found that subject imports from China do not compete with subject imports from Germany because the subject imports from China and Germany are not functionally interchangeable upon importation.¹⁸¹ We therefore do not cumulate subject imports from China and subject imports from Germany for purposes of our threat analysis. Consequently, for purposes of our determination of threat of material injury by reason of subject imports from China, we consider only subject imports from China.

b. Analysis of Statutory Threat Factors

In the absence of antidumping and countervailing duty orders, we find that substantially increased imports of the subject merchandise from China into the United States are imminent for a number of reasons. First, as previously stated, subject imports grew rapidly on both an absolute and relative basis before provisional duties were imposed in interim 2008.¹⁸² Second, the Chinese LWTP industry has substantial unused capacity. The two producers of subject merchandise in China that responded to the Commission's foreign producer questionnaire project that their unused capacity will exceed *** short tons in both 2008 and 2009.¹⁸³ Because the responding Chinese producers estimate that they collectively account for only approximately *** percent of Chinese LWTP production, we find on the basis of the information available that the actual unused capacity in China is considerably higher than the reported figure.¹⁸⁴ Even the reported unused capacity figure, however, is sufficient to permit a substantial increase in shipments of subject imports to the United States.¹⁸⁵

Additionally, the industry in China was increasingly export oriented during the period of investigation, with exports' share of total shipments rising from *** percent in 2005 to *** percent in 2006 and then to *** percent in 2007.¹⁸⁶ The United States was an increasingly important export market to the Chinese LWTP industry. Although the reporting Chinese producers shipped *** subject merchandise to the United States in 2005, by 2007 the United States was their largest single market.¹⁸⁷ In light of this historical pattern, the responding producers' projection that exports to the United States will

¹⁸¹ Commissioner Pinkert does not cumulate subject imports from China and Germany for his threat analysis for the same reasons he did not cumulate them for his material injury analysis.

¹⁸² CR/PR, Tables IV-2, IV-5. We found above that the decline in subject import volume from China in interim 2008 was attributable to the imposition of provisional countervailing duties in March 2008. We therefore do not give the interim 2008 volume decline weight in assessing likely volume trends.

¹⁸³ CR/PR, Table VII-1.

¹⁸⁴ CR at VII-2-3, PR at VII-2. Chinese LWTP producers that did not respond to the Commission's final phase questionnaire include Guangdong Guanho, which furnished data in the Commerce dumping and subsidy investigations, 73 Fed. Reg. at 57323, 57329, two producers that exported subject merchandise to the United States and responded to the Commission's preliminary phase questionnaire, INV-EE-160 at VII-2, and two additional Chinese producers listed as suppliers by U.S. purchasers or importers in their questionnaire responses. Domestic Coaters Prehearing Brief, ex. 29. We observe that the unused capacity projected by responding Chinese producers in the preliminary phase for 2007 and 2008 was over *** short tons, INV-EE-160, Table VII-1, which further supports our finding that the actual unused capacity by the Chinese industry considerably exceeds that reported by responding Chinese producers in the final phase.

¹⁸⁵ Because the record indicates there is substantial unused capacity in China, even if one accepts arguendo Chinese Respondents' assertion that new LWTP production facilities could not be opened in China in the imminent future, such facilities need not be constructed to permit a substantial increase in shipments of subject imports.

¹⁸⁶ CR/PR, Table VII-1. Exports' share of total shipments was *** percent in interim 2007 and *** percent in interim 2008. Id.

¹⁸⁷ CR/PR, Table VII-1.

*** by 2009 is not credible.¹⁸⁸ Indeed, Chinese Respondents' contention that growing home market demand for LWTP in China will absorb available production capacity is not corroborated by the data in the record, which indicated that between 2005 and 2007, home market shipments declined on both an absolute and relative basis for the reporting Chinese producers.¹⁸⁹

As discussed in section V.B.1.b. above, subject imports from China pervasively undersold the domestic like product during the period of investigation. We find that this pervasive underselling is likely to continue in the imminent future absent issuance of countervailing and antidumping duties. As the market penetration of subject imports from China increases and the rate of growth in U.S. demand for LWTP slows because of likely declines in U.S. retail activity, the additional quantities of low-priced subject imports from China will begin to take sales from U.S. converters. Thus, even though subject imports from China did not have significant adverse price effects on converters at their relatively modest volumes during the period of investigation, their increased volume and market penetration in the imminent future will cause such effects. In turn, converters finding increasing price competition from subject Chinese products will accelerate attempts to negotiate price concessions from coaters. These attempts, which as discussed above began during the latter portion of the period of investigation but did not have a significant effect during that time because of the low volumes of Chinese imports, will have significant effects on coaters' prices as Chinese import volumes continue to increase. Thus, the subject imports from China are likely to have significant depressing or suppressing effects on domestic prices, and are likely to increase demand for these imports.

In light of the consistently unprofitable financial performance of the domestic industry during the period of investigation, we find the industry to be vulnerable to the effects of additional subject imports. The additional subject imports from China that are likely absent imposition of duties will likely cause the domestic industry to lose further market share in an environment where demand growth will likely slow due to reduced retail activity. Because of their price effects, the additional subject imports from China will cause price suppression or depression to both coaters and converters and thereby reduce the industry's sales revenues. This will cause likely further declines in financial performance in the already unprofitable domestic industry.

We have also considered two arguments that Chinese Respondents have asserted in support of the proposition that any threat of material injury to the domestic industry cannot be by reason of subject imports from China. The first is that the subject imports from China and the domestic like product are poor substitutes because slit rolls from China, in contrast to those converted domestically, are not certified by printer manufacturers. This proposition is rebutted by the perceptions of purchasers that the subject imports from China and the domestically converted product are comparable in most characteristics,

¹⁸⁸ CR/PR, Table VII-1.

¹⁸⁹ CR/PR, Table VII-1. We also examined, but do not rely upon, several other factors in assessing the likely volume of subject imports from China. Inventories of subject merchandise in China declined during the latter portion of the period of investigation on both an absolute and relative basis. *Id.* Importers held *** inventories of subject merchandise from China in the United States. CR at VII-9, PR at VII-4. There is insufficient information available on Chinese producers to permit us to make a finding on likely product shifting.

In its final countervailing duty determination, Commerce found 15 countervailable subsidies, including five income tax programs, three tax exemption programs not concerning income tax, two government lending programs, a provincial expansion program, an export-related assistance program, an environmental subsidy program, an electric-rate subsidy program, and a land-use subsidy program. Commerce did not make a finding concerning whether any of the subsidy programs is a subsidy described in Article 3 or 6.1 of the WTO Agreement on Subsidies and Countervailing Measures. *See* CR at I-5-6, PR at I-5-6.

Since 2002, India has imposed antidumping duties on thermal sensitive paper (a product with a definition broader than LWTP) from China. CR at VII-10, PR at VII-5.

including product quality.¹⁹⁰ Moreover, it is not disputed that not all U.S. end users require a certified product. Even using the high estimate supplied by a witness for Chinese Respondents concerning the demand for certified product,¹⁹¹ a sufficient percentage of the U.S. market will accept an uncertified product to permit substantial growth of subject imports from China.¹⁹²

The second argument is that the subject imports from China have principally been used by converters to supply customers outside their usual geographic range. The record indicates that the two converters that purchased the bulk of slit rolls from China that entered the U.S. market during the period of investigation did so because they desired to expand their geographic range on a price-competitive basis.¹⁹³ Nevertheless, the quantity of slit rolls from China purchased by entities other than these two converters also increased during each year of the period of investigation.¹⁹⁴ As subject imports from China continue to increase, so will the quantities purchased by distributors or converters for price reasons. As previously explained, increased purchases for price reasons will likely create adverse price effects for converters and will likely cause the adverse price effects that coaters began to experience during the period of investigation to reach a significant level.

In light of these considerations, we conclude that additional dumped and subsidized imports are imminent and that material injury by reason of subject imports would occur unless antidumping and countervailing duty orders are issued. Accordingly, we determine that the domestic industry is threatened with material injury by reason of subject imports from China.

We further determine, pursuant to 19 U.S.C. §§ 1671d(b)(4)(B) and 1673d(b)(4)(B), that we would not have made material injury determinations but for Commerce's suspension of liquidation of subject imports. We have reduced the weight we have accorded to interim 2008 data because the suspension of liquidation in March 2008 reduced the volume of subject imports from China, and we find that we would not make determinations of material injury by reason of subject imports on the basis of the data available immediately prior to suspension of liquidation. Accordingly, the suspension of liquidation did not materially affect our material injury analysis.

C. Determination on Subject Imports from Germany

1. No Material Injury by Reason of Subject Imports from Germany

a. Volume of Subject Imports

The quantity of subject imports from Germany increased from *** short tons in 2005 to *** short tons in 2006 and then to *** short tons in 2007.¹⁹⁵ As a share of the quantity of apparent U.S.

¹⁹⁰ CR/PR, Table II-5.

¹⁹¹ This estimate was that certified product was required by 60 to 70 percent of the market. Tr. at 259 (Kyriss).

¹⁹² The standard IBM and Epson printer warranties do not require the use of LWTP that the printer manufacturer has certified. IBM merely lists coaters of LWTP that have received certification as "recommended" suppliers. Domestic Coaters Posthearing Brief, ex. 25; Chinese Respondents Posthearing Brief, ex. 12; see also Tr. at 164 (Hefner).

¹⁹³ See CR/PR, Tables III-10, IV-2; *** Producers' Questionnaire, response to question 11-11; *** Purchasers' Questionnaire, response to question II-3; Tr. at 244-45 (Kyriss).

¹⁹⁴ Derived from CR/PR, Tables III-10, IV-2.

¹⁹⁵ CR/PR, Table IV-2. The *** short tons of subject imports from Germany during interim 2008 exceeded the *** short tons during interim 2007. Id. Provisional duties were not imposed on subject imports from Germany until May 13, 2008, which was later than provisional countervailing duties were imposed on subject imports from China

(continued...)

consumption, subject imports from Germany declined from *** percent in 2005 to *** percent in 2006 and then increased to *** percent in 2007.¹⁹⁶

In absolute terms, the volume and market share of subject imports from Germany are significant. Nevertheless, several considerations mitigate the significance of these import volumes. First, although subject imports from Germany increased by *** percent in quantity from 2005 to 2007, U.S. apparent consumption of LWTP also grew significantly during this period.¹⁹⁷ Because of this, the increase in the market share of subject imports from Germany from 2005 to 2007 – no matter how measured – was not substantial. Second, the increase in subject import quantities was exclusively in the 48 gram product; U.S. shipments of 55 gram jumbo rolls from Germany declined from 2005 to 2007.^{198 199} The domestic industry did not produce comparable 48 gram jumbo rolls for the vast majority of the period of investigation; as discussed in section IV above, Kanzaki has never offered a standard-sensitivity 48 gram product, and Appleton did not offer a low basis weight product between the time it discontinued its unsuccessful 45 gram product in 2006 and it began widely offering its new 48 gram product in the fall of 2007.²⁰⁰ Thus, the increase in subject imports from Germany involved types of products not consistently

¹⁹⁵(...continued)

and near the end of interim 2008. The record does not indicate that the imposition of provisional duties affected the volume of subject imports from Germany during the period for which we collected data. We therefore have not reduced the weight we have accorded to interim 2008 data in our determination on subject imports from Germany.

¹⁹⁶ CR/PR, Table IV-5. The *** percent of apparent U.S. consumption held by subject imports from Germany in interim 2008 was less than the *** percent share in interim 2007. *Id.*

As previously discussed, the apparent consumption measurement we are using understates the market share of imports. Because all subject imports from Germany were jumbo rolls, we also examined the market share of subject imports from Germany counting only domestic coaters' shipments as U.S. shipments. Under this approach, the share of the quantity of apparent U.S. consumption held by subject imports from Germany was greater, but followed the same trends. Counting only U.S. coaters' domestic shipments, the market penetration of subject imports from Germany, measured by quantity, declined from *** percent in 2005 to *** percent in 2006 and then increased to *** percent in 2007. Market penetration of subject imports from Germany was lower in interim 2008, when it was *** percent, than it was in interim 2007, when it was *** percent. CR/PR, Table C-1.

Koehler contends that any measurement of subject import penetration should include shipments of the finished product – slit rolls – only, and that the market penetration of subject imports from Germany is consequently zero. It contends that such a methodology is consistent with the methodology the Commission used in Certain Wax and Wax/Resin Thermal Transfer Ribbons from France and Japan, Inv. Nos. 731-TA-1039-1040 (Final), USITC Pub. 3683 (Apr. 2004). Koehler's methodology is entirely irreconcilable with how the Commission determined subject import volume in those investigations. The Commission did not, as Koehler suggests, disregard subject jumbo roll imports of thermal transfer ribbons (TTR). Instead, the Commission report confirms that the subject imports "principally consisted of jumbo rolls for captive consumption for further processing into slitted certain TTR in the United States." See *id.* at 22, IV-2.

¹⁹⁷ Apparent consumption increased in the total market and in the jumbo roll segment of the market by 18.6 percent and *** percent respectively between 2005 and 2007. CR/PR, Tables IV-5, C-1.

¹⁹⁸ CR/PR, Table IV-3.

¹⁹⁹ While Commissioner Pinkert agrees that this is a mitigating factor with respect to the significance of the increased volumes of subject imports -- as some new purchasers may have a preference for the 48 gram product, and the 48 gram product was not consistently offered by the domestic industry over the POI -- he points out that the 48 gram and 55 gram jumbo rolls share many of the same characteristics.

²⁰⁰ According to Appleton, its 45 gram product was unsuccessful because it was not priced at a discount relative to the company's 55 gram product. Tr. at 206 (Hatfield).

offered by the domestic industry, although by interim 2008 the domestic industry was increasingly selling 48 gram jumbo rolls.²⁰¹

b. Price Effects of the Subject Imports

We incorporate by reference the discussion in section V.B.1.b. above concerning the importance of price in purchasing decisions for LWTP.

Majorities of purchasers found domestically produced jumbo rolls and the subject imports from Germany comparable in all non-price related factors except delivery time, product range, and technical support, in which majorities deemed the U.S. product superior, and product consistency, in which a majority judged the German product superior.²⁰² Substantial majorities of purchasers perceived delivery time and product consistency to be very important factors in their purchasing decisions.²⁰³ Thus, while the domestic and German jumbo roll product each has an important advantage over the other, these advantages largely countervail each other. We consequently find price is an important consideration in making purchasing decisions as between German and U.S.-produced jumbo rolls of the same specifications.

²⁰¹ CR/PR, Table V-2. We do not agree with German Respondents that the increase in shipments of 48 gram German jumbo rolls should be entirely disregarded on the basis that *** was not sold at LTFV. German Respondents argue that the Commission should take into account Commerce calculations they have submitted into the Commission record that they contend demonstrate that the *** product sold by Koehler, the only German producer that Commerce individually examined, was not sold at LTFV. They maintain that the Federal Circuit, in Algoma Steel Corp. v. United States, 865 F.2d 240 (Fed. Cir. 1989), authorized the Commission to consider in its analysis specific transactions that Commerce examined and found not to involve LTFV sales.

German Respondents mischaracterize Algoma, which did not compel or even authorize the Commission to examine individual sales or model transactions considered by Commerce. To the contrary, it affirmed a Commission decision not to consider such transactions. See id. at 242. Moreover, the Algoma decision was issued before the 1994 URAA amendments to the Tariff Act, which specify whether and under what circumstances the Commission is to consider dumping margin computations by Commerce. Under the statute, in final antidumping investigations such as these, “[t]he magnitude of the margin of dumping used by the Commission shall be . . . the dumping margin or margins most recently published by the administering authority prior to the closing of the Commission’s administrative record.” U.S.C. § 1677(35)(C)(ii). The SAA emphasizes that any dumping margins the Commission uses must be ones that Commerce has published: “In final injury determinations, the Commission will use the dumping margins most recently published by Commerce before the record in the Commission investigation has closed.” SAA at 849. The SAA also directs the Commission not to attempt to calculate its own dumping margins “[b]ecause Commerce has the expertise regarding identification and measurement of dumping and countervailable subsidies.” Id. at 887. Similar language exists in the Senate Report, which emphasizes that “it is the Commerce Department, and not the ITC, that determines the dumping margins.” S. Rep. 103-412 at 80 (1994).

It is undisputed that Commerce’s final Federal Register notice concerning its antidumping investigation concerning subject imports from Germany does not contain any published dumping margin concerning *** product. German Respondents are in effect requesting the Commission to compute a dumping margin based on worksheets prepared by Commerce. Such an action is directly contrary to the policy articulated in the SAA and the URAA legislative history. Accordingly, we have not examined any purported dumping margins other than those actually published by Commerce.

²⁰² CR/PR, Table II-5.

²⁰³ CR/PR, Table II-2. By contrast, majorities of purchasers considered product range and technical support somewhat important factors. Id.

The Commission collected quarterly pricing data on three jumbo roll products.²⁰⁴ Product 1 includes standard 53 and 55 gram jumbo roll products. This product involved substantial shipment quantities for both the domestically produced product and the subject imports from Germany. The subject imports from Germany oversold the domestic like product in *** quarterly comparisons.²⁰⁵

Product 2 includes standard 45 and 48 gram jumbo roll products. German shipment quantities were substantial, exceeding *** metric square feet (msf) in every quarter, and exceeding *** msf in every quarter after the second quarter of 2006. Domestic shipment quantities were far smaller, although both they and the German shipment quantities increased during the latter portion of the period. The highest domestic shipment quantity was less than the lowest German shipment quantity, and domestic shipment quantities exceeded *** msf in only four quarters. The subject imports undersold the domestically produced product in *** quarterly comparisons.²⁰⁶

Product 3 is a high sensitivity 53 or 55 gram product. Quarterly shipments of the domestically produced product were higher than those for product 2. German shipment quantities, by contrast, were very small, exceeding *** msf in only two quarters. The subject imports undersold the domestically produced product in *** quarterly comparisons.²⁰⁷

There is thus a mixed record of overselling and underselling. We acknowledge that underselling observations predominate under a simple mathematical tabulation of quarterly comparisons for the three pricing products. Nevertheless, we do not find the underselling to be significant because we do not give each product equal weight in our analysis. We give minimal weight to the results for product 3, given the very small quantities of import shipments reported. By contrast, we give principal weight to product 1, because 55 gram jumbo rolls had the largest shipments of both the domestic like product and the subject imports from Germany for each full calendar year within the period of investigation,²⁰⁸ and because the 55 gram pricing product was the sole jumbo roll pricing product with substantial shipments of both domestically produced product and subject imports. This was also the product where *** quarterly comparisons indicated overselling by subject imports.²⁰⁹

Prices for domestically produced products 1 and 2 fluctuated in 2005, rose in 2006, generally fell in 2007, and rose in interim 2008. The German products followed similar trends, except in 2005, where

²⁰⁴ As explained in section V.B.1.b. above, while we have focused on delivered price data in our underselling analysis, we have also examined f.o.b. pricing data. Use of f.o.b. data would not materially change any of our conclusions.

²⁰⁵ CR/PR, Table V-1. Domestic Coaters argue that we should compare German product 2 with domestic product 1 for purposes of the underselling analysis. We find that there is no justification for deviating from our standard practice in comparing domestically produced and imported pricing products meeting the same specifications. Furthermore, Domestic Coaters did not object to the manner in which pricing products 1 and 2 were defined until after the prehearing report was issued. In their comments on the questionnaires, Domestic Coaters proposed that the definitions of pricing products in the draft questionnaires be changed, and included over a page of specific proposed definitions for the pricing products. See Letter from Joseph W. Dorn and Gary N. Horlick to Marilyn R. Abbott at 8-9 (Apr. 28, 2008). The Commission made the requested changes for products 1 and 2, and also included an additional specification concerning paper color that the parties have not disputed. Thus, the definitions used for pricing products 1 and 2 are in all material respects the definitions requested by Domestic Coaters.

²⁰⁶ CR/PR, Table V-2.

²⁰⁷ CR/PR, Table V-3.

²⁰⁸ CR/PR, Tables III-9, IV-3.

²⁰⁹ We further acknowledge that the record contains numerous confirmed instances of lost sales and revenues due to subject imports from Germany. CR/PR, Tables V-11-12. Given that the record shows mixed underselling and overselling, the existence of confirmed lost sales and revenues is not surprising.

German product 1 fell and German product 2 rose.²¹⁰ Domestic Coaters contend that the falling prices for domestically produced products 1 and 2 in 2007 are the result of price depression or suppression by the subject imports from Germany. The subject imports, however, did not *** the domestically produced product 1, which was the largest selling jumbo roll product for both the domestic coaters and the importers of jumbo rolls from Germany throughout 2007. Instead, there was *** by the subject imports. The lowest prices for this product were consistently offered by domestic producer ***, which was the first coater to cut prices *** period, and which cut prices on product 1 while the prices offered by *** were still increasing.²¹¹ We acknowledge that the record contains evidence indicating that prices for 48 gram jumbo rolls affect prices for 55 gram jumbo rolls.²¹² Nevertheless, we find that any effects that pricing of the German 48 gram jumbo rolls had on the domestically produced 55 gram jumbo rolls during the period of investigation were insufficient to constitute significant price suppression or depression, particularly when the 48 gram jumbo roll product was not the dominant product in the U.S. market.

Additionally, some market participants reported supply problems or perceptions of short supply during the third and fourth quarters of 2006, and Appleton acknowledges that a demand spike occurred during that time.²¹³ In such circumstances, it would be typical to see price increases, *** during the latter portion of 2006 when Appleton acknowledges that demand peaked,²¹⁴ and price declines when demand conditions returned to normal. According to Appleton, the demand spike was resolved by January 2007.²¹⁵ Thus, competition between the two domestic coaters and demand fluctuations, rather than the subject imports from Germany, accounted for the 2007 price declines and U.S. coaters' rising COGS to sales ratios in 2007.²¹⁶

For the foregoing reasons, we conclude that the subject imports have not had significant price effects.

²¹⁰ CR/PR, Tables V-1-2. As stated above, we have given reduced weight to product 3 because of the very small quantity of German shipments for this product. For product 3, prices for the domestically produced product rose in 2005, and fell in 2006, 2007, and interim 2008. Prices for the subject imports from Germany fell during 2005, rose during 2006, and fell during 2007; there was only one observation during interim 2008. CR/PR, Table V-3.

²¹¹ CR/PR, Table V-1; *** Producers' Questionnaires. We further observe that ***. See CR/PR, Table VI-4.

²¹² There are several non-price differences between the 48 and 55 gram products which have led, and will likely continue to lead, to greater acceptance of 48 gram products by purchasers. The 48 gram product offers benefits to both converters and end users, including freight cost savings relative to 55 gram products and providing converters and end users the potential for fewer roll changes, permitting greater efficiencies. See Domestic Coaters Posthearing Brief, ex. 1 at 5; Koehler Posthearing Brief, ex.7 at 7; Tr. at 224-25 (Swadish), 227 (Jansen).

Nevertheless, we do not agree with the German Respondents' contention that 48 and 55 gram products are not competitive. Instead, we find 48 and 55 gram jumbo rolls to be at least moderate substitutes. Several purchasers indicated that they switched from 55 to 48 gram products for price reasons. See Domestic Coaters Posthearing Brief, ex. 13 (citing excerpts from purchasers' questionnaires). It is undisputed that both products are used for the same type of POS applications, and the record indicates that they can be used interchangeably by at least some end users. See Domestic Coaters Posthearing Brief, ex. 1 at 2-3, ex. 5 (references to end user internet auction solicitations specifying that LWTP can be 48, 53, or 55 grams). Because 48 and 55 gram products can be and are used in the same applications, price changes in 48 gram products will likely have some effect on pricing of 55 gram products, and vice versa. Indeed, Appleton acknowledges that the paper industry in general tends to gravitate towards lower basis weight products. Tr. at 207 (Hatfield).

²¹³ CR at II-5-7, PR at II-3-4.

²¹⁴ *** Producer's Questionnaire.

²¹⁵ CR at II-6-7, PR at II-3-4.

²¹⁶ See CR/PR, Table VI-1.

c. Impact of the Subject Imports on the Domestic Industry²¹⁷

Notwithstanding the increasing quantities of subject imports from Germany, the domestic industry has increased its capacity since 2005 and its output during the period of investigation.²¹⁸ The capacity of U.S. coaters showed minor fluctuations over the period of investigation, increasing from *** short tons in 2005 to *** short tons in 2006, and then declining to *** short tons in 2007.²¹⁹ As previously discussed, domestic coating capacity increased substantially with the opening of Appleton's West Carrollton facility in August 2008.²²⁰ U.S. converters' capacity rose throughout the investigation, increasing from *** short tons in 2005 to *** short tons in 2006 and then to *** short tons in 2007.²²¹

Coaters' production, capacity utilization, and U.S. shipments increased *** from 2005 to 2007.²²² Converters' capacity utilization rates also increased.²²³ While inventory levels fluctuated, both coaters and converters had relatively low ratios of inventories to production throughout the period of investigation.²²⁴

²¹⁷ The statute additionally instructs the Commission to consider the "magnitude of the dumping margin" in an antidumping investigation as part of its consideration of the impact of imports. 19 U.S.C. § 1677(7)(C)(iii)(V). In its antidumping investigation concerning subject imports from Germany, Commerce found a 6.50 percent antidumping margin for the named Koehler respondents and for all others. 73 Fed. Reg. at 57328.

²¹⁸ Although our evaluation of impact is on the domestic industry as a whole, we have examined output-related performance indicia of coaters and converters separately. This reduces the issues associated with double counting LWTP that was both coated and converted in the United States. We observe that the parties agree – albeit for different reasons – that some segmented analysis of the industry for the purpose of examining impact is useful. Domestic Coaters Prehearing Brief at 25-26; German Respondents Prehearing Brief at 8; Chinese Respondents Posthearing Brief at 4-5, 7-8.

²¹⁹ Coaters' capacity of *** short tons in interim 2008 was higher than interim 2007 capacity of *** short tons. CR/PR, Table III-2.

²²⁰ CR at III-4, PR at III-3.

²²¹ Converters' interim 2008 capacity of *** short tons was higher than interim 2007 capacity of *** short tons. CR/PR, Table III-4.

²²² Production of jumbo rolls increased from *** short tons in 2005 to *** short tons in 2006 and then declined to *** short tons in 2007. The *** short tons of jumbo rolls produced in interim 2008 exceeded the *** short tons produced in interim 2007. CR/PR, Table III-2.

Coaters' capacity utilization increased from *** percent in 2005 to *** percent in 2006 and then declined to *** percent in 2007. Capacity utilization of *** percent in interim 2008 was higher than the *** percent capacity utilization in interim 2007. *Id.*

Coaters' U.S. shipments increased from *** short tons in 2005 to *** short tons in 2006 and then declined to *** short tons in 2007. The *** short tons of U.S. shipments in interim 2008 exceeded the *** short tons in interim 2007. CR/PR, Table III-6.

²²³ Converters' capacity utilization rose from *** percent in 2005 to *** percent in 2006, and then fell to *** percent in 2007. Converters' capacity utilization was higher in interim 2008, when it was *** percent, than in interim 2007, when it was *** percent. CR/PR, Table III-4.

²²⁴ Coaters' inventories increased from *** short tons in 2005 to *** short tons in 2006, and then declined to *** short tons in 2007. The *** short tons of inventories in interim 2008 were lower than the *** short tons in interim 2007. The ratio of inventories to production for full years ranged from *** percent in 2007 to *** percent in 2006, and was lower in interim 2008 than in interim 2007. CR/PR, Table III-11.

Converters' inventories increased from *** short tons in 2005 to *** short tons in 2006, and then declined to *** short tons in 2007. The *** short tons of inventories in interim 2008 were greater than the *** short tons in interim 2007. The ratio of inventories to production for full years ranged from *** percent in 2005 to *** percent in 2006, and was higher in interim 2008 than in interim 2007. *Id.*

The domestic industry's share of the quantity of apparent U.S. consumption fell from *** percent in 2005 to *** percent in 2007. This *** percentage point decline in market share from 2005 to 2007 was greater than the *** percentage point increase in German market penetration during the same period. The domestic industry's *** percent market share in interim 2008 was higher than its *** percent market share in interim 2007, notwithstanding that the quantity of subject imports from Germany was higher in interim 2008 than in interim 2007.²²⁵

Employment-related indicators showed minor changes during the period of investigation. The number of PRWs for the industry overall increased slightly from 2005 to 2007 and was lower in interim 2008 than in interim 2007. Annual fluctuations in employment were modest.²²⁶ Hourly wages increased throughout the period of investigation, although some annual increases were ***.²²⁷ Productivity also rose during the period of investigation.²²⁸

Overall domestic industry financial performance declined from 2005 to 2007. The combined operating margin of coaters and converters was negative 0.3 percent in 2005. In 2006, the operating margin improved slightly, to negative 0.03 percent. The operating margin declined to negative 3.2 percent in 2007.²²⁹

The financial performance of coaters, the industry segment that competes most directly with subject imports from Germany, was considerably worse than that of converters. Coaters had negative operating margins of *** percent in 2005, *** percent in 2006, *** percent in 2007, *** percent in interim 2007, and *** percent in interim 2008.²³⁰ We cannot attribute the declines in 2007 financial performance to the increased quantities of subject imports from Germany, however, because the subject imports from Germany increased at a time of rising demand, did not capture significant additional market share, and did not have significant adverse price effects.²³¹ As discussed above, the price declines the domestic industry experienced in 2007 are not attributable to the subject imports from Germany. The only commercially significant product in which the subject imports from Germany *** the domestic like

²²⁵ CR/PR, Table IV-5. As we found above, the higher market share of the domestic industry in interim 2008 as compared to interim 2007 appears to be due at least in part to imposition of provisional countervailing duties on subject imports from China.

²²⁶ The number of PRWs in the industry increased from 942 in 2005 to 959 in 2006, and then declined to 949 in 2007. The 945 PRWs in interim 2008 were fewer than the 961 PRWs in interim 2007. Coaters' PRW count declined by *** between 2005 and 2007 and was higher by *** in interim 2008 than interim 2007. Converters' PRW count rose by *** between 2005 and 2007 and was lower by *** in interim 2008 than in interim 2007. CR/PR, Table III-12.

²²⁷ Hourly wages rose for both coaters and converters. CR/PR, Table III-12.

²²⁸ Productivity rose for both coaters and converters. CR/PR, Table III-12.

²²⁹ CR/PR, Table VI-3. The operating margin was negative 2.2 percent in interim 2007 and negative 3.4 percent in interim 2008. *Id.*

We have also examined the industry's capital and research and development expenses. Capital expenses increased from \$19.4 million in 2005 to \$38.7 million in 2007, and were much higher in interim 2008, at \$60.3 million, than in interim 2007, when they were \$8.3 million. CR/PR, Table VI-7. The increases during 2007 and interim 2008 largely reflect ***. CR at VI-9, PR at VI-3. Research and development expenditures, which were much lower than capital expenses, declined irregularly during the period of investigation. CR/PR, Table VI-7.

²³⁰ CR/PR, Table VI-1. By contrast, converters had positive operating margins of *** percent in 2005, *** percent in 2006, *** percent in 2007, *** percent in interim 2007, and *** percent in interim 2008. CR/PR, Table VI-2.

²³¹ There were further declines in operating performance during interim 2008. These occurred during a time when the market penetration of subject imports from Germany declined and the market share of both the domestic industry as a whole and the coater segment were higher than in interim 2007. CR, Tables IV-5, C-1.

product in 2007 was the 48 gram jumbo roll.²³² But this *** could not have taken significant sales or revenues from domestically produced 48 gram jumbo rolls throughout 2007, because Appleton did not offer such products during much of the year and Kanzaki did not offer a competitive standard sensitivity product. The *** by 48 gram jumbo rolls from Germany also did not take significant sales away from domestically produced 53 and 55 gram products for 2007 as a whole. Overall shipments of domestically produced 53 and 55 gram jumbo rolls declined *** during 2007.²³³ The coaters' declines in financial performance for 2007 as a whole were caused by a combination of ***,²³⁴ the domestic industry's inability to offer a competitive 48 gram product during much of the year, and some incipient price effects due to subject imports from China.²³⁵

We consequently conclude that the subject imports from Germany did not have a significant adverse impact on the domestic industry as a whole during the period of investigation.²³⁶

2. Threat of Material Injury by Reason of Subject Imports from Germany

For the reasons stated in section V.B.2.a. above, we do not cumulate subject imports with Germany with subject imports from China for purposes of our threat analysis.

We find that a continuation of the gradual increase in subject import volumes from Germany that occurred during the period of investigation is likely in the imminent future. During the period of investigation, the reporting German LWTP producers increased capacity and production each year. Capacity and production were also higher in interim 2008 than in interim 2007.²³⁷ While the German producers did not add any new LWTP production facilities during this period, they were able to increase capacity through a combination of achieving greater efficiencies and using capacity previously devoted to producing other products to produce LWTP instead.²³⁸ The record contains no indication that the German producers cannot continue to increase capacity through such means in the imminent future.²³⁹ To the contrary, in 2007, both Koehler and Mitsubishi reported production of ***. These *** accounted for *** and *** percent, respectively, of Koehler's and Mitsubishi's 2007 production volume.²⁴⁰ The shifting of production from other products to LWTP that occurred during the period of investigation is likely to continue, albeit at a reduced rate, in the imminent future. Thus, notwithstanding their consistently *** capacity utilization rates during the period of investigation, the German producers are likely to continue

²³² See CR/PR, Table V-2.

²³³ CR/PR, Table III-9.

²³⁴ ***. CR/PR, Table VI-4.

²³⁵ See CR/PR, Table VI-4. The incipient price effects of subject imports from China are discussed in section V.B.1.b. above.

²³⁶ Chairman Aranoff, Vice Chairman Pearson, and Commissioner Okun have made negative determinations on Germany and do not join the remainder of this opinion. See their dissenting views.

²³⁷ CR/PR, Table VII-2. The reporting German LWTP producers are the German production entities of Koehler and Mitsubishi, which accounted for all exports of subject merchandise during the period of investigation. While there is a third producer of LWTP in Germany, ***, this producer did not export subject merchandise to the United States during the period of investigation and states it has no plans to do so in the future. CR at VII-6, PR at VII-3.

²³⁸ CR at VII-6-7, PR at VII-4; see Koehler Posthearing Brief at 12.

²³⁹ Thus, notwithstanding Koehler's statement in a July 15, 2008, internal presentation that it had ***. We acknowledge that the Koehler ***. Koehler Business Plan at 28. The Koehler Business Plan is attachment 3 to the Koehler Foreign Producers Questionnaire.

²⁴⁰ CR at VII-7, PR at VII-4.

increasing LWTP production and capacity in the imminent future as they did during this period of investigation by product shifting and achieving increased efficiency.

As the German producers' capacity and shipments increased during the period of investigation, their exports to the United States increased roughly commensurately.²⁴¹ This is likely to continue in the imminent future. The German LWTP industry is highly export oriented.²⁴² The United States was a significant export market for the German producers during the period of investigation, and the German producers project it will remain so in the imminent future.²⁴³ Koehler plans to build a new coating facility in the United States, but this facility would not produce LWTP before 2010.²⁴⁴ This provides a further incentive for Koehler, the *** exporter of subject merchandise from Germany,²⁴⁵ to continue to increase its presence in the U.S. market in the imminent future while its projected U.S. facility is being planned and constructed.²⁴⁶ In light of these likely volume increases and the likely slowdown in the rate of growth of LWTP demand in the United States, subject imports from Germany will likely continue the relatively modest gains in market penetration observed during the period of investigation.²⁴⁷

The increased subject imports from Germany that are likely in the imminent future will have greater price effects than those observed during the period of investigation. While most of the subject imports from Germany during the period of investigation were 55 gram jumbo rolls, several considerations indicate that imports entering in the imminent future will be heavily concentrated in the 48 gram product. First, Koehler, which is the predominant exporter of subject merchandise from Germany, discontinued shipments of its principal 55 gram product to the United States in March 2008.²⁴⁸ Indeed, in interim 2008 U.S. shipments of subject German imports of 48 gram jumbo rolls exceeded those of 55 gram jumbo rolls for the first time.²⁴⁹ Moreover, the 48 gram product has seen increasing acceptance in the U.S. market. Thirteen of the 20 reporting converters report they now use the product; 10 of these 13 converters began converting the 48 gram product during the period of investigation, and one commenced after the conclusion of the period.²⁵⁰ The 48 gram product offers benefits to both converters and end

²⁴¹ CR/PR, Table VII-2.

²⁴² For each calendar year in the period of investigation, at least *** percent of the German producers' shipments were exported, and at least *** percent of total shipments were exported to countries outside the European Union. CR/PR, Table VII-2.

²⁴³ CR/PR, Table VII-2.

²⁴⁴ CR at VII-6, PR at VII-3. Koehler no longer plans to direct any new capital investments to its German LWTP coating operations. Koehler Posthearing Brief, ex. 7S.

²⁴⁵ See CR/PR, Table IV-1.

²⁴⁶ We note in this regard that *** was responsible for an *** share of the increase in subject import volume from Germany during the period of investigation. See CR/PR, Table IV-2; *** Importer's Questionnaire, response to question II-5b.

²⁴⁷ We also examined, but do not rely upon, several other factors in assessing the likely volume of subject imports from Germany in the imminent future. Inventories of subject merchandise in Germany remained relatively stable in relation to production or shipments during the period of investigation. CR/PR, Table VII-2. Importers held *** inventories of subject merchandise from Germany in the United States. CR at VII-9, PR at VII-5. There are no outstanding antidumping duty orders on LWTP from Germany. CR at VII-10, PR at VII-5.

²⁴⁸ Tr. at 222 (Swadish), 234 (Greene), 239 (Jahns). Mitsubishi states it also focuses its U.S. sales on 48 gram products. Tr. at 238 (Jahns).

²⁴⁹ CR/PR, Table IV-3.

²⁵⁰ CR/PR, Table III-8.

users. These include freight cost advantages relative to 55 gram products and also providing converters and end users the potential for fewer roll changes, permitting greater efficiencies.²⁵¹

As previously stated, Appleton began to market its 48 gram product widely in the fall of 2007, and it reports that it has seen more converters taken an interest in the product.²⁵² According to Koehler, IBM's certification of the Appleton 48 gram product in July 2008 should make that product more attractive to large end users.²⁵³ Appleton is able to produce the 48 gram product at its new West Carrollton facility,²⁵⁴ and it will be able to produce that product in ***.²⁵⁵ These considerations indicate that, while 55 gram jumbo rolls were the focus of competition between the domestic like product and the subject imports from Germany during the period of investigation, 48 gram jumbo rolls will increasingly be the focus of competition between them. Moreover, the increased lower-priced imports of 48 gram jumbo rolls from Germany that are likely in the imminent future, which will constitute an increasing share of subject imports from Germany, will begin to have significant price effects on domestically produced 55 gram jumbo rolls.

In light of these considerations, the *** by German 48 gram jumbo rolls observed during the period of investigation will have far greater significance in the imminent future. *** by German product 2 (i.e. the 48 gram jumbo roll) persisted during interim 2008 when a comparable domestically produced 48 gram product was shipped in commercially significant quantities.²⁵⁶ Because the record contains no evidence that the *** observed during the period of investigation with respect to product 2 is likely to change,²⁵⁷ we conclude that it will likely continue in the imminent future. In light of the importance of price in purchasing decisions, this *** will impede the domestic industry's attempts either to win back sales of converters that purchased imported 48 gram jumbo rolls during those portions of the period of investigation when the domestic industry did not offer a competitive 48 gram product, or to maintain sales to those converters that wish to switch from 55 gram jumbo rolls to 48 gram jumbo rolls. In the latter circumstance, the domestic industry will either lose sales or be required to cut prices, leading to likely price depression or suppression. Moreover, as 48 gram products become more important in the U.S. market, the low prices German producers offer on their 48 gram products will restrict the ability of domestic producers to adjust prices on 55 gram products commensurately with costs. Consequently, the

²⁵¹ Tr. at 224-25 (Swadish), 227 (Jansen). The parties agree that transportation costs for the 48 gram product are approximately 10 to 15 percent lower than transportation costs for the 55 gram product. See Domestic Coaters Posthearing Brief, ex. 1 at 5; Koehler Posthearing Brief, ex. 7 at 7. Appleton acknowledges the lower freight costs and longer roll lengths for the 48 gram product in its own promotional materials. See Domestic Coaters Prehearing Brief, ex. 8; see also Mitsubishi Posthearing Brief, ex.1 (Appleton promotional materials for its former 45 gram product).

²⁵² Tr. at 175 (Hatfield).

²⁵³ Tr. at 291 (Greene).

²⁵⁴ Tr. at 175 (Hatfield).

²⁵⁵ Appleton Business Plan at 45. The Appleton Business Plan is exhibit 1 to the Appleton Producer's Questionnaire.

²⁵⁶ CR/PR, Table V-2.

²⁵⁷ In this respect, we examined whether Appleton's August 2008 opening of the West Carrollton facility is likely to affect its pricing policies during the period on which we focus for our threat analysis. We conclude that it will not. We acknowledge that the West Carrollton facility *** than the Wisconsin facility it used exclusively during the period of investigation. Appleton's plans, however, do not call for ***. Appleton Business Plan at 45. Consequently, the changes in Appleton's overall cost structure in the imminent future ***. In any event, in light of the fact that Appleton ***, INV-FF-126 (Oct. 7, 2008), it appears that the West Carrollton facility was designed to ***. Indeed, Appleton's own plans ***. Appleton Business Plan at 43. However, the prices ***. CR/PR, Table V-2. Consequently, the opening of the West Carrollton facility would not provide Appleton with the basis to cut pricing, absent any need to meet competition from dumped imports.

underselling of the 48 gram product will be significant in the imminent future in a manner that it was not during the period of investigation, and it will likely increase demand for the subject imports from Germany.

In light of the consistently unprofitable financial performance of the domestic industry during the period of investigation, we find the industry to be vulnerable to the effects of additional subject imports.²⁵⁸ The additional subject imports from Germany that are likely absent imposition of duties will likely cause the domestic industry to lose further market share in an environment where demand growth will likely slow due to reduced retail activity. Significant underselling by these subject imports will likely cause the domestic industry to lose sales, revenues, or both. This will cause likely further declines in financial performance in the already vulnerable domestic industry, lead to losses of employment,²⁵⁹ and imperil Appleton's substantial investment in its new West Carrollton facility.²⁶⁰

We observe that the injurious effects we have found are likely in the imminent future from additional subject imports from Germany are distinct from those that are likely from additional subject imports from China. The threat of material injury from subject imports from Germany arises from increased imports of 48 gram jumbo rolls. These compete directly with the jumbo rolls produced by U.S. coaters, and consequently the price effect and impact of the additional subject rolls from Germany will be sustained principally by U.S. coaters as a result of this direct competition. By contrast, the threat of material injury from subject imports from China arises from a different product – 55 gram slit rolls -- and principally upon different direct competitors, the U.S. converters. While U.S. coaters will likely also experience adverse price effects and impact from the subject imports from China, these will be as a result of competition in the form of pricing pressure put on them from their customers – the converters – rather than as a result of direct competition.

In light of these considerations, we conclude that additional dumped imports are imminent and that material injury by reason of subject imports would occur unless an antidumping duty order is issued. Accordingly, we determine that the domestic industry is threatened with material injury by reason of subject imports from Germany.²⁶¹

We further determine, pursuant to 19 U.S.C. § 1673d(b)(4)(B), that we would not have a made material injury determination but for Commerce's suspension of liquidation of subject imports. Suspension of liquidation of subject imports from Germany did not occur until May 13, 2008,

²⁵⁸ German Respondents argue that Appleton's ability to obtain capital for the \$125 million West Carrollton facility militates against any finding of injury or vulnerability. This capital investment, however, was not financed from either retained earnings from LWTP operations or from capital market financing specific to that expansion. The financing instead came from a combination of a ***. Domestic Coaters Posthearing Brief, ex. 1 at 50-51. The nature of the financing of the West Carrollton facility does not support the proposition that Appleton's LWTP business is in robust financial condition.

²⁵⁹ We refer in this regard to employment reductions beyond those ***. See Appleton Business Plan at 44.

²⁶⁰ German Respondents question Appleton's business judgment in financing the West Carrollton expansion in light of the *** of Appleton's LWTP business. For the reasons discussed above, the expansion appears reasonable in light of Appleton's desire to *** for producing LWTP.

²⁶¹ In making this determination, we have taken into account, as urged by German Respondents, industry support for the petition as it pertains to subject imports from Germany. Both U.S. coaters support the petition: Appleton is the petitioner, and Kanzaki appeared at the hearing and submitted briefs in support of imposition of duties. We acknowledge that 12 out of 20 converters oppose, and only three support, the petition on Germany, CR/PR, Table III-1. This is not especially surprising, insofar as the subject producers supply, and do not compete with, the U.S. converters. In any event, the positions of domestic producers in support or opposition to the petition does not override our review of the trade, pricing, financial data, and other information in the record indicating whether the domestic industry is materially injured or threatened with material injury by reason of the subject imports. See Certain Orange Juice from Brazil, Inv. No. 731-TA-1089 (Final) (Remand), USITC Pub. 3930 at 14 (June 2007).

approximately six weeks prior to the conclusion of our period of investigation.²⁶² Consequently, the suspension of liquidation did not materially affect the data we examined in making our determination, and that data did not support a determination of material injury by reason of subject imports from Germany.

CONCLUSION

For the foregoing reasons, we determine that the domestic industry producing LWTP is threatened with material injury by reason of dumped and subsidized imports from China and dumped imports from Germany.²⁶³

²⁶² 73 Fed. Reg. 27498, 27503 (May 13, 2008)

²⁶³ Chairman Aranoff, Vice Chairman Pearson and Commissioner Okun dissenting with respect to Germany.

**DISSENTING VIEWS OF CHAIRMAN SHARA L. ARANOFF, VICE
CHAIRMAN DANIEL R. PEARSON, AND COMMISSIONER DEANNA
TANNER OKUN**

**NO THREAT OF MATERIAL INJURY BY REASON OF SUBJECT IMPORTS FROM
GERMANY**

A. Cumulation for Threat

For purposes of determining if a threat of material injury exists, cumulation is discretionary. Under section 771(7)(H) of the Tariff Act, the Commission may “to the extent practicable” cumulatively assess the volume and price effects of subject imports from all countries as to which petitions were filed on the same day if subject imports compete with each other and the domestic like product and the other requirements for cumulation for material injury analysis are satisfied.¹

We have found that subject imports from Germany do not compete with subject imports from China because the subject imports from Germany and China are not functionally interchangeable upon importation.² We therefore do not cumulate subject imports from Germany and subject imports from China for purposes of our threat analysis. Consequently, for purposes of our determination of threat of material injury by reason of subject imports from Germany, we consider only subject imports from Germany.

B. Analysis of Statutory Threat Factors

Subject imports from Germany did not enter the U.S. market during the period of investigation at such a significant rate of increase in volume or market share to indicate the likelihood of substantially increased imports. We have found that the volume and market share of subject imports from Germany are significant in absolute terms.³ But, as noted above, market conditions mitigate the significance of these import volumes. Subject imports from Germany did not rise from modest levels to become a significant presence in the U.S. market during the period of investigation. Rather, they have been a consistent presence in the U.S. market for a long time. Indeed, imports of jumbo rolls were necessary during the period of investigation, as domestic coaters lacked the capacity to supply fully converters’ demand for raw materials.⁴ The increase in the volume of subject imports from Germany, although not small when considered in absolute terms, was modest relative to the rise in overall demand during the period of investigation. Therefore, we view the modest increase in the share of the market accounted for by subject imports from Germany as a minor variation in the historical market presence of the German product.⁵

¹ 19 U.S.C. § 1677(7)(H).

² See section III.B. *infra*.

³ See section V.C.1.a. *infra*.

⁴ CR/PR at Table C-2.

⁵ CR/PR at Tables IV-5, C-1.

Moreover, all of the increase in volume was accounted for by the new 48 gram product, at a time when the domestic industry did not consistently offer a comparable 48 gram product.⁶ Although Petitioner Appleton initially argued that the introduction of German producers' 48 gram product into the U.S. market was merely a ploy to undersell the domestic product and take market share, it ultimately conceded that the market wants and is increasingly accepting lower basis weight products.⁷ The U.S. market has already begun, and likely will continue, to shift towards the thinner, lighter 48 gram product.⁸ Converters reported that 48 gram jumbo rolls are less costly to convert and deliver to purchasers, while purchasers reported increased efficiencies from using the product.⁹ Appleton introduced a 45 gram product in 2004, discontinued it in 2006 because the product did not sell well, and developed a new 48 gram product which was not widely available until the fall of 2007.¹⁰ To date, that product appears to be gaining market acceptance, putting the domestic industry in a better position to compete with imports of German 48 gram jumbo rolls in the future. Moreover, Appleton's new capacity at its West Carrollton facility indicates that the domestic industry will be able to increase significantly its shipments of the 48 gram product, and continue to serve customers who still prefer the 55 gram product.¹¹

Apparent U.S. consumption for lightweight thermal paper increased substantially throughout the period of investigation.¹² There is general agreement among the parties that demand is likely to continue to rise, although at a slower rate than seen from 2005 to 2007. Nonetheless, market opportunities will continue to exist for both domestic coaters and converters, and imports will continue to be necessary to meet converters' raw material needs while ***.

We recognize that the lightweight thermal paper industry in Germany is large and export-oriented. However, even as its shipments to the United States increased in volume over the period of investigation, shipments to the U.S. market as a share of total German shipments was relatively steady. Exports to the U.S. market accounted for ***.¹³ The record does not suggest that this will change significantly in the near future, for several reasons.¹⁴

First, producers of LWTP in Germany operated at high capacity utilization rates throughout the period of investigation and are likely to continue to do so.¹⁵ The industry does not

⁶ CR at IV-7, III-12-III-13, and Tables IV-3 and III-9; PR at IV-2, III-5-III-6, and Tables IV-3 and III-9.

⁷ Hearing Tr. at 63-64, 148-179, 174-175, and 205-207.

⁸ See CR/PR at Table III-8. The late-period increases in shipments of domestic and German product suggest that the 48 gram market will continue to expand. CR/PR at Table V-2.

⁹ CR at II-11 and II-12; PR at II-7.

¹⁰ CR at III-12, PR at III-5; Tr. at 205-06 and 235. Kanzaki has sold a high sensitivity 48 gram product since 2004 and offers a standard sensitivity 53 gram product. Domestic Coaters' Prehearing Brief at Exhibits 2 and 12; Hearing Tr. at 85.

¹¹ Hearing Tr. at 175.

¹² CR/PR at Table IV-5.

¹³ CR/PR at Table VII-2.

¹⁴ CR/PR at Table VII-2.

¹⁵ CR/PR at Table VII-2. The capacity utilization for LWTP producers in Germany was *** in interim 2008. Id.

have significant expansion plans.¹⁶ German LWTP producers manufacture other coated paper products on the same equipment, but the record indicates that LWTP production already accounts for a significant majority of producers' capacity and that little additional product-shifting is possible.¹⁷

Second, nothing in the record indicates that the industry in Germany would have motivation to divert shipments from other markets to the United States. Although German producers ship significant volumes of LWTP to other markets, the record indicates that these markets are likely to also experience significant increases in demand and at rates greater than those that will be seen in the U.S. market.¹⁸ Additionally, German producers have introduced the 48 gram product into other markets, particularly in the European Union. The record suggests that shipments of the newer 48 gram products to other EU markets are rising at a rate similar to the immediate post-introduction period in the U.S. market.¹⁹

Finally, importers of subject LWTP from Germany reported *** inventories on hand at the end of the period of investigation; end-of-period inventories held by producers in Germany increased over the period of investigation but were lower at the end of 2007 than at the end of 2005, and the increase in inventories over the period of investigation did not mirror the increase in shipments to the U.S. market.²⁰ Thus we find that the rate of increase in market penetration of subject imports is not significant, nor do we find that the industry in Germany has unused capacity or imminent, substantial increases in production capacity that indicate a likelihood of substantially increased imports.

We have found a mixed record of overselling and underselling by subject imports of LWTP from Germany and do not find significant price effects.²¹ We further find that the record does not suggest that significant price effects are likely. Subject imports from Germany were a stable presence in the U.S. market throughout the period of investigation and are likely to continue to be so. The market for all LWTP is likely to continue to grow, although at a slower rate, providing additional market opportunities for both domestic coaters and converters. Fifty-five gram product imported from Germany *** comparable domestic products, and these products represented a substantial majority of all domestic shipments of jumbo rolls over the period of investigation.²² Margins of underselling for other products were either *** or,

¹⁶ Questionnaire data suggest an increase in capacity of *** between 2007 and 2008. CR/PR at Table VII-2. ***. CR at VII-6, n. 14, PR at VII-3, n. 14.

¹⁷ CR at VII-7, nn.15 and 18, PR at VII-4, nn.15 and 18; Koehler Posthearing Brief at 11-12.

¹⁸ CR at VII-6-VII-7 and Table VII-2, PR at VII-3-VII-4 and Table VII-2.

¹⁹ Koehler posthearing brief at Answers, p. 11.

²⁰ CR at VII-9 and Table VII-2, PR at VII-4 and Table VII-2.

²¹ See section V.C.1.b *infra*.

²² CR/PR at Tables III-9, IV-3, and V-1. The evidence demonstrates that the lowest prices for the 55 gram product were consistently offered by domestic producer ***, which was the first coater to cut prices *** period, and which cut prices on the 55 gram product while the prices offered by *** were still increasing. CR/PR at Table V-1; *** Producers' Questionnaires. We recognize that several purchasers indicated that they switched from 55 to 48 gram products for price reasons. See CR at V-34-45 and Tables V-11 and V-12; Domestic Coaters Posthearing Brief at Exhibit 13. The evidence, however, indicates that several non-price differences between the 48 and 55 gram products (*e.g.*, freight cost savings and the greater efficiencies from fewer roll changes) have led to greater acceptance of 48 gram products by purchasers. See Domestic Coaters Posthearing Brief, Exhibit 1 at 51 Koehler Posthearing Brief, Exhibit 7 at

depending on the pricing basis, ***. The record does not indicate that these pricing patterns will change in such a way as to be adverse for the domestic industry. The domestic industry now has competitive 48 gram products and was able to increase significantly its shipments of this product late in the period of investigation, despite the presence of an increasing volume of subject imports,²³ and even before its new, *** production line at West Carrollton came on line.²⁴ As the new line ramps up in late 2008 and into 2009, it will enhance domestic coaters' ability to compete profitably for such sales.

As noted in our discussion of the threat posed by subject imports from China, we recognize that the domestic industry already has been unprofitable during the period of investigation.²⁵ Nonetheless, we do not find the industry to be threatened with material injury by reason of subject imports from Germany. We have already found the record to contain little evidence suggesting significant additional volume or price effects, and we agree with our fellow Commissioners in finding that the industry as a whole is not currently suffering material injury by reason of subject imports.²⁶

Domestic coaters have argued that they are particularly vulnerable to material injury because of Appleton's significant investments in new capacity at its West Carrollton facility, which will be fully operational in the near future. However, we find that the coaters' investments do not make the industry vulnerable to injury by reason of subject imports from Germany. Appleton's own investment plan, finalized late in 2006 and announced in January 2007,²⁷ ***.²⁸ The West Carrollton ***.

The significant market changes not anticipated at the time *** involve the rise of imported slit rolls from China which, as discussed above, we have determined threaten the domestic industry (both coater and converter segments) with imminent material injury. Subject imports from Germany, however, play relatively the same role in the U.S. market now as they did at the time of ***, and the role of subject imports from Germany is not likely to change in the immediate future. The competitive position of domestic coaters has already been improved by Appleton's successful production of 48 gram products. The ***.

In light of these considerations, we conclude that the domestic industry is not threatened with material injury by reason of subject imports from Germany.

7; Hearing Tr. at 224-25 and 227. Furthermore, the evidence also demonstrates that certain shifts in purchasing decisions involved shifts between products with different specifications and were not the result of pricing practices of subject imports from Germany (e.g., the change in suppliers of jumbo rolls of LWTP by converters for *** involve a shift from use of a *** product to a *** product). CR at V-44 and V-45.

²³ See CR/PR at Table V-2.

²⁴ Hearing Tr. at 175 and ***.

²⁵ See section V.B.2.b. *infra*.

²⁶ While our finding is based on the domestic industry as a whole, we note that the converter segment of the industry does not compete directly with the imports of jumbo rolls from Germany.

²⁷ Hearing Tr. at 109.

²⁸ See generally ***.

PART I: INTRODUCTION

BACKGROUND

These investigations result from a petition filed on September 19, 2007, by Appleton Papers, Inc. (“Appleton”), alleging that an industry in the United States is materially injured or is threatened with material injury, by reason of imports from China and Germany¹ of certain lightweight thermal paper (“certain LW thermal paper”)² that are allegedly sold in the United States at less-than-fair-value (“LTFV”) and subsidized by the government of China. Information relating to the background of these investigations is provided below.³

Effective date	Action
September 19, 2007	Petition filed with Commerce and the Commission; Commission institutes investigation (72 FR 54926, September 27, 2007)
December 5, 2007	Commission's preliminary determinations (72 FR 70344, December 11, 2007)
March 14, 2008	Commerce's preliminary countervailing duty determination (73 FR 13850)
May 13, 2008	Commerce's preliminary antidumping duty determinations (73 FR 27498, 27504)
June 11, 2008	Commission's scheduling of its final phase investigations (73 FR 34038, June 16, 2008)
October 2, 2008	Commerce's final antidumping and countervailing duty determinations (73 FR 57323; China CVD) (73 FR 57329; China AD) (73 FR 57326; Germany AD)
October 2, 2008	Commission's hearing ¹
October 30, 2008	Commission's vote
November 10, 2008	Commission's determinations and views transmitted to Commerce

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

ORGANIZATION OF REPORT

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

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

¹ The petition also alleged sales of certain LW thermal paper at less-than-fair-value from Korea. In the preliminary phase of these investigations, the Commission determined that imports from Korea were negligible, and therefore terminated its investigation with regard to Korea. *Certain Lightweight Thermal Paper From China, Germany, and Korea, Inv. nos. 701-TA-451 and 731-TA-1126-1128 (Preliminary)*, USITC Publication 3964, November 2007, p. 1.

² A complete description of the imported product subject to these investigations is presented in *The Subject Merchandise* section located in Part I of this report.

³ *Federal Register* notices since June 11, 2008 cited in the tabulation are presented in app. A.

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

U.S. MARKET SUMMARY

The U.S. market for certain LW thermal paper totaled approximately \$490 million and 256 short tons in 2007. Currently, two firms produce jumbo rolls of certain LW thermal paper in the United States, Appleton and Kanzaki Specialty Papers, Inc. ("Kanzaki"), which accounted for all U.S. production of

jumbo rolls in 2007.⁴ At least six firms have reported importing certain LW thermal paper from subject countries since 2005. Two firms, Koehler America, Inc. (“Koehler”) and Mitsubishi International Corp. (“Mitsubishi”), accounted for all the imports of certain LW thermal paper from Germany. Paper Resources, Inc. (“Paper Resources”) accounted for *** percent of reported U.S. imports from China in 2007.

U.S. producers’ U.S. shipments of certain LW thermal paper totaled 162,075 short tons valued at \$339 million in 2007, and accounted for *** percent of apparent U.S. consumption by quantity (** percent by value).⁵ U.S. imports from China totaled *** short tons in 2007, and accounted for *** percent of apparent U.S. consumption by quantity (** percent by value), while U.S. imports from Germany totaled *** short tons, and accounted for *** percent of apparent consumption by quantity (** percent by value). Reported U.S. imports from all other sources originated from ***. Certain LW thermal paper is generally used in point-of-sale (“POS”) applications such as ATM receipts, credit card receipts, gas pump receipts, and retail store receipts.

SUMMARY DATA AND DATA SOURCES

A summary of data collected in these investigations is presented in appendix C, table C-1. Except as noted, U.S. industry data are based on questionnaire responses of the two U.S. coaters that accounted for all of U.S. production of jumbo rolls of certain LW thermal paper during the period of investigation. U.S. import and foreign industry data are based on responses to the Commission’s U.S. importer and foreign producer’s questionnaires. Appendix C, table C-2 presents data provided by 20 U.S. converters along with U.S. consumption and market shares shown at the U.S. converter level of trade. Appendix C, table C-3 presents combined data for U.S. coaters and U.S. converters.

PREVIOUS AND RELATED INVESTIGATIONS

Certain LW thermal paper has not been the subject of any prior antidumping or countervailing duty investigations in the United States.

NATURE AND EXTENT OF SALES AT LTFV

On October 2, 2008, Commerce published notices in the *Federal Register* setting forth its final determinations with regard to its antidumping investigations on certain LW thermal paper from China⁶ and Germany.⁷ The estimated weighted-average dumping margins (in percent *ad valorem*), as reported by Commerce are summarized in the tabulation below:

⁴ U.S. market participants also include U.S. converters, which purchase jumbo rolls in order to slit the jumbo rolls into smaller rolls and package them into a finished product. Throughout this report, firms that engage in the production of jumbo rolls are called “coaters” while those that slit and finish are called “converters.”

⁵ Apparent U.S. consumption and market shares computations in this paragraph include U.S. shipments of converters.

⁶ *Lightweight Thermal Paper from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*; 73 FR 57329, October 2, 2008.

⁷ *Lightweight Thermal Paper from Germany: Final Determination of Sales at Less Than Fair Value*; 73 FR 57326, October 2, 2008.

Foreign producer/exporter	Final margin (percent ad valorem)
China	
Shanghai Hanhong Paper Co., Ltd. (Hanhong International Ltd.)	115.29
Guangdong Guanhao High-Tech Co., Ltd.	19.77
All other (PRC-Wide)	115.29
Germany	
Papierfabrik August Koehler AG and Koehler America, Inc.	6.50
All other	6.50

NATURE OF COUNTERAVAILABLE SUBSIDIES

On October 2, 2008, Commerce published a notice in the *Federal Register* setting forth its final determination with regard to its countervailing duty investigation on certain LW thermal paper from China.⁸ Commerce determined that the government of China is providing countervailable subsidies to Chinese producers of certain LW thermal paper. The countervailable subsidy rates (in percent *ad valorem*), as reported by Commerce, are presented in the following tabulation.⁹

Foreign producer/exporter	Final margin (percent ad valorem)
China	
Shanghai Hanhong Paper Co., Ltd. (Hanhong International Ltd.)	0.57 (<i>de minimis</i>)
Guangdong Guanhao High-Tech Co., Ltd.	13.17
Shenzhen Yuanming Industrial Development Co.	137.25
MDCN Technology Co., Ltd.	123.65
Xiamen Anne Paper Co., Ltd.	123.65
All other (PRC-Wide)	13.17

In its decision memorandum, Commerce made the following final determinations regarding specific programs of the government of China alleged in the petition to have provided countervailable subsidies to producers of certain LW thermal paper in China.

⁸ Commerce has determined that the current nature of the economy in China does not create obstacles to apply the necessary criteria in the countervailing duty law and initiated a countervailing duty investigation against China. See *Coated Free Sheet Paper from the People's Republic of China: Amended Preliminary Affirmative Countervailing Duty Determination*, 72 FR 17484, 17486 (April 9, 2007).

⁹ *Lightweight Thermal Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination*; 73 FR 57323, October 2, 2008.

I. Programs Determined to Be Countervailable

- A. Government Policy Lending Program
- B. Shareholder Loans
- C. Income Tax Reduction For High-Tech Industries in Guangdong Province
- D. Reduced Income Tax Rates for Foreign Invested Enterprises (“FIEs”) Based on Location
- E. Income Tax Exemptions/Reductions Under the “Two Free/Three Half” Program
- F. Local Income Tax Exemption and Reduction Program for “Productive” FIEs
- G. Reduced Income Tax Rates and Exemption from Local Tax Based on Location in Pudong New Area
- H. VAT and Tariff Exemptions on Imported Equipment
- I. Stamp Tax Exemption Under the Non-tradeable Share Reform Program
- J. Funds for Outward Expansion of Industries in Guangdong Province
- K. Zhanjiang Municipality and ZETDZ Export Related Assistance
- L. Environmental Subsidies to ZG
- M. Exemption from Land-Use Taxes and Fees
- N. Provision of Electricity for Less than Adequate Remuneration in Zhanjiang Economic and Technological Development Zone
- O. Provision of Land to GG in the ZETDZ for Less than Adequate Remuneration

II. Programs Determined Not To Be Countervailable

- A. Guangdong Province Intellectual Property “IP” Rights Grants
- B. VAT Rebates

III. Programs Determined Not To Have Been Used or Not To Have Provided Benefits During the POI

- A. Loans provided pursuant to the Northeast Revitalization Program
- B. Loan guarantees from government-owned and controlled banks
- C. Income tax exemption program for export-oriented foreign investment enterprises
- D. Corporate income tax refund program for reinvestment of FIE profits in export-oriented enterprises
- E. Reduced income tax rate for technology and knowledge intensive FIEs
- F. Reduced income tax rate for high or new technology FIEs
- G. Preferential tax policies for research and development at FIEs
- H. Income tax credits on purchases of domestically produced equipment by domestically owned companies
- I. State Key Technology Renovation Program Fund
- J. Export interest subsidy funds for enterprises located in Shenzhen City and Zhejiang Province
- K. Loans and interest subsidies pursuant to Liaoning Province's Five-year Framework
- L. Currency retention program
- M. Special fund for technology innovation projects in Guangdong Province
- N. Zhanjiang Municipality grants for patents

- O. Zhanjiang Municipality grants to “Famous Brand/Famous Trademark” enterprises
- P. Government interest discounts
- Q. “Enterprise Innovation Funds” grants
- R. Grants from the Zhanjiang Economic and Technology Development Zone for high and new technology enterprises
- S. Funding for construction of enterprise technology R&D centers from the Guangdong government
- T. Grants under the “Three Science and Technology Expenditure Fund”
- U. Research assistance from the local government to GG
- V. Provision of certain papermaking chemicals (DPE, BPS, and ODB2) for less than adequate remuneration

THE SUBJECT MERCHANDISE

Commerce’s Scope

Commerce has defined the scope of these investigations as follows:

Thermal paper with a basis weight of 70 grams per square meter (“g/m²”) (with a tolerance of ± 4.0 g/m²) or less; irrespective of dimensions;¹⁰ with or without a base coat¹¹ on one or both sides; with thermal active coating(s)¹² on one or both sides that is a mixture of the dye and the developer that react and form an image when heat is applied; with or without a top coat;¹³ and without an adhesive backing. Certain lightweight thermal paper is typically (but not exclusively) used in point-of-sale applications such as ATM receipts, credit card receipts, gas pump receipts, and retail store receipts.

The merchandise subject to these investigations may be classified in the Harmonized Tariff Schedule of the United States (“HTSUS”) under subheadings 4811.90.8040, 4811.90.9090, 3703.10.60, 4811.59.20, 4820.10.20, and 4823.40.00.¹⁴ Although HTSUS

¹⁰ Certain LW thermal paper is typically produced in jumbo rolls that are slit to the specifications of the converting equipment and then converted into finished slit rolls. Both jumbo rolls and converted rolls (as well as certain LW thermal paper in any other forms, presentations, or dimensions) are covered by the scope of these investigations.

¹¹ A base coat, when applied, is typically made of clay and/or latex and like materials and is intended to cover the rough surface of the paper substrate and to provide insulating value.

¹² A thermal active coating is typically made of sensitizer, dye, and co-reactant.

¹³ A top coat, when applied, is typically made of polyvinyl acetone, polyvinyl alcohol, and/or like materials and is intended to provide environmental protection, an improved surface for press printing, and/or wear protection for the thermal print head.

¹⁴ HTSUS subheading 4811.90.80 is a legal subheading covering certain LW thermal paper and other goods; as of January 1, 2007, it was annotated for data purposes. Effective that date, subheading 4811.90.8000 was subdivided into 4811.90.8020 (for gift wrap, a non-subject product) and 4811.90.8040 (for “other,” including certain LW thermal paper). HTSUS subheading 4811.90.90 covered certain LW thermal paper and other goods until July 1, 2005. Effective that date, subheading 4811.90.90 was annotated for data purposes with 4811.90.9010 (for tissue paper, a nonsubject product) and 4811.90.9090 (for “other,” including certain LW thermal paper). Petitioner indicated that, from time to time, certain LW thermal paper also may have been entered under HTSUS subheading 3703.90, HTSUS heading 4805, and perhaps other subheadings of the HTSUS, including HTSUS subheadings: 3703.10.60, 4811.59.20, 4820.10.20, and 4823.40.00.

numbers are provided for convenience and customs purposes, the written description of the scope of these investigations is dispositive.

Tariff Treatment

Certain LW thermal paper is classifiable in the HTSUS under statistical reporting numbers 4811.90.8040 and 4811.90.9090. Prior to January 1, 2007, certain LW thermal paper was classifiable in statistical reporting numbers 4811.90.8000 and 4811.90.9000.¹⁵ All four of these statistical reporting numbers are “basket” categories and contain many other products besides certain LW thermal paper. Table I-1 depicts the statistical reporting numbers in the HTSUS under which certain LW thermal paper is currently imported and their tariff treatment.

Table I-1
Certain LW thermal paper: Tariff treatment, 2008

HTS provision	Article description	General ¹	Special ²	Column 2 ³
		Rates (percent ad valorem)		
4811	Paper, paperboard, cellulose wadding and webs of cellulose fibers, coated, impregnated, covered, surface-colored, surface-decorated or printed, in rolls or rectangular (including square) sheets, of any size, other than goods of the kind described in heading 4803, 4809, or 4810:			
	In strips or rolls of a width exceeding 15 cm or in rectangular (including square) sheets with one side exceeding 36 cm and the other side exceeding 15 cm in the unfolded state:			
4811.90.80	Weighing over 30 g/m ²	Free		18.5%
20	Gift wrap (other than tissue).....			
40	Other.....			
4811.90.90	Other.....	Free		35%
10	Tissue papers having a basis weight not exceeding 29 g/m ² , in sheets.....			
90	Other.....			
¹ Normal trade relations, formerly known as the most-favored-nation duty rate. ² Special rates not applicable when General rate is free. ³ 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 (2008).				

¹⁵ As of January 1, 2007, statistical reporting numbers 4811.90.8020 and 4811.90.9010 were created to delineate imports of gift wrap and tissue paper, respectively, leaving certain LW thermal paper in the residual or “basket” statistical reporting numbers of 4811.90.8040 and 4811.90.9090.

THE PRODUCT

Physical Characteristics and Uses

Certain LW thermal paper and other thermal papers have a thermal active coating on one or both sides. The chemicals are a mixture of dye and developer, which react to form an image when heat is applied. Thermal papers are specifically intended to be used in printers containing thermal print heads. Thermal print heads consist of arrays of tiny heating elements that alternately heat up and cool down during printing, and as the paper passes between the print head and the platen roll, the alternating heating and cooling of the elements in the head form images on the paper.¹⁶ Like dot matrix printers,¹⁷ thermal printers function without consumables other than the paper (i.e., toner, liquid ink, or solid ink).

Thermal paper was not commercially viable until Japanese firms successfully introduced fax machines and heat sensitive papers to replace telex machines, and those firms held a predominant position in thermal paper technology until the late 1980s.¹⁸ Thermal papers are used for a wide range of end uses, and usage is reportedly growing at the expense of carbonless paper due to the cost advantage and the technical advantages of thermal printers relative to other types of printers.¹⁹ Global consumption of thermal paper is projected to grow at an annual rate of *** over the course of the next few years.²⁰ The weight of thermal paper reportedly ranges widely, from about 42 g/m² to over 200 g/m² with or without topcoat and/or base coat.²¹ A recent industry analysis segmented thermal paper usage into ***.²² That analysis estimated that in 2005, ***.²³

Although certain LW thermal paper is defined as any thermal paper having a basis weight of less than 70 g/m², the principal basis weights in the U.S. market are 55 g/m² and 48 g/m².²⁴ The weight of the coating accounts for *** of the total weight of a 55 g/m² sheet.²⁴ During the preliminary phase of these investigations, Appleton stated that the 55 g/m² product has been the industry standard and accounts for approximately 75 percent of the U.S. market.²⁵ Data submitted in the final phase of these investigations on U.S. shipments of 48 g/m² and 55 g/m² products are presented in Part III of this report. The caliper (i.e., thickness) of certain LW thermal paper is also an important specification. The standard caliper of 55 g/m² paper is 2.3 mils and that of 48 g/m² is 2.1 mils.²⁶

According to Appleton, paper markets have, in general, been gravitating toward lighter basis weight products, and in recent years, certain LW thermal paper weighing 48 g/m² has been introduced into the U.S. market at a discount to the 55 g/m² product, which makes it appealing to some converters.²⁷ However, Appleton contends that there hasn't been a big push by end users for lighter basis weights and

¹⁶ Petition, p. 4.

¹⁷ Dot matrix printers are impact printers that print multi-part documents typically using carbonless copy paper (sheets coated on the bottom and/or top with micro-encapsulated dye and a clay, which react to form the image). Found at http://www.appletonideas.com/pdf/Appleton_Marks_50_Years_of_Making_Carbonless_Papers.pdf retrieved on October 22, 2007.

¹⁸ ***. Petitioner's postconference brief, exh. 13, pp. 2, 27.

¹⁹ Advantages of direct thermal printing include reliability and low maintenance, low energy consumption, high speed printing, clean and quiet printing, and improved durability/archivability. Petitioner's postconference brief, p. 46, exh. 13, p. 23.

²⁰ Petitioner's postconference brief, exh. 13, p. 3.

²¹ Ibid., p. 23, and *** U.S. producer's questionnaire, response to question IV-22(b).

²² Ibid.

²³ Ibid., p. 25.

²⁴ Ibid., exh. 1, p. 12.

²⁵ Conference transcript, p. 64 (Hatfield).

²⁶ Ibid., p. 133 (Greene).

²⁷ Ibid., pp. 105-107 (Hatfield).

that market acceptance of the 48 g/m² product has been limited because of certain disadvantages (e.g., thinner paper more prone to breaking during converting, smaller converted rolls, and the need to inventory more types of packaging).²⁸ On the other hand, Koehler, which introduced its 48 g/m² certain LW thermal paper to the U.S. market in 2005, sees an advantage in the thinner paper in that it can be used to make a longer finished roll with the same diameter, meaning the end user spends less time changing rolls. Koehler also notes that the product has a freight advantage for converters because they can ship 10 percent more footage at the same shipping weight, and the firm expects sales of the 48 g/m² product to continue growing.²⁹

Both U.S. coaters of certain LW thermal paper reported that they *** 48 g/m² certain LW thermal paper. ***.³⁰ ***.³¹ Several converters also *** 48 g/m² paper (see table III-8).

Certain LW thermal paper is typically (but not exclusively) used in point-of-sale (“POS”) applications such as ATM receipts, coupons, credit card receipts, gas pump receipts, kiosk receipts, parking receipts, portable printer receipts, retail store receipts, and prescription receipts.³² Heavier weight thermal paper, often with a basis weight of 80 g/m², is reportedly used for label products (e.g., shipping labels, deli labels) and ticket products (e.g., event tickets, lottery tickets, boarding passes).³³

Manufacturing Facilities and Manufacturing Processes

There are three primary steps in the production of certain LW thermal paper: (1) manufacturing the base paper, (2) coating, and (3) converting. The three stages are described below.

Manufacturing the Base Paper

In a typical paper manufacturing operation, pulpwood, once debarked, enters a chipper, which chips the wood into uniformly sized chips. Next, digesters cook the chips in a chemical solution to separate the cellulose fibers from lignin and other non-cellulosic substances. The resulting wood pulp is then washed, bleached, and refined in preparation for papermaking operations. Most paper is made on fourdrinier paper machines³⁴ in which a diluted solution of wood pulp is pumped through a headbox³⁵ and onto a revolving bronze 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 by revolving nylon felts and delivered to the press section. The press section consists of closely spaced steel rollers which press water out of the web as it passes through the nip between each set of rollers. Exiting the press, the web of paper, which is now able to support itself, enters the dryer section.³⁶ The steam-heated cylinders of the dryer remove the remaining moisture from the paper as it laps over and under

²⁸ Because in the U.S. market converted rolls are typically run to a footage rather than a diameter, using lighter weight means a smaller converted roll, which leads to the perception among some customers that they are not getting the same amount of paper, conference transcript pp. 105-107 (Hatfield), and petitioners postconference brief, p. 16.

²⁹ Conference transcript, p. 221(Greene).

³⁰ *** U.S. producer’s questionnaire, response to question II-16.

³¹ *** U.S. producer’s questionnaire, response to question II-16.

³² Petition, p. 5.

³³ Petition, p. 10.

³⁴ Named for the Frenchman who helped popularize the design, Fourdriniers have a continuous loop of bronze mesh screen, the “wire.” Typically, the wire is oriented horizontally and looped around rollers at both ends.

³⁵ The headbox extends across the wire and delivers the pulp to the wire through many small openings, orifices, or nozzles.

³⁶ 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.

successive cylinders. High water hold-out (i.e. prevention of rapid absorption) and low porosity are reported to be important factors for certain LW thermal paper base paper.³⁷

One U.S. producer of certain LW thermal paper, Appleton, manufactures base paper for certain LW thermal paper on ***.³⁸ The functional expertise required to make paper suitable for certain LW thermal paper includes knowledge of paper recycling, coating formulation and application, stock preparation (pulp), paper making, rewinding, and support functions (e.g., quality control, electrical control, process control, and mechanical engineering).³⁹ Technical expertise consists of engineers and chemists with education levels ranging from bachelors degrees to PhD and experience levels up to decades.⁴⁰ Appleton also maintains ***.⁴¹

Coating

In the first step in the coating process, the coatings are blended from both solid and liquid raw materials. Next, the coating is pumped directly to an off-machine coater,⁴² and reels of the base paper are also delivered to the coater, which applies one or more different coatings to the paper.⁴³ In a continuous process, the web of paper is unwound and the coatings are applied in series, with the first coating being dried in a flotation oven prior to application of subsequent coatings. Water is applied to the back of the paper to minimize curl, and the sheet is dried once more. After coating, the paper is calendered⁴⁴ and passed through a pressurized nip (i.e., press) to control the smoothness and thickness of the sheet. The paper is rewound on a reel and delivered to a rewinder, which produces jumbo rolls by unwinding the reel, slitting the web to the appropriate widths, and rewinding the resulting narrow webs onto paperboard cores. Finally, the jumbo rolls are wrapped in preparation for shipment.⁴⁵ The principal components of thermal coatings are color formers, developers, sensitizers, and various non-active ingredients.⁴⁶

The functional expertise for coating paper includes knowledge of coating formulation and application as well as support functions (e.g., quality control, electrical control, and process control).⁴⁷ An integrated producer, Appleton, contends that the levels of education and technical expertise necessary for coating operations are similar to those which are necessary for paper manufacturing.⁴⁸ Hourly workers are required to master the technical concepts associated with their functions. While on the job,

³⁷ Petitioner's postconference brief, p. 12.

³⁸ *** U.S. producer's questionnaire response, pp. 17-18.

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ Ibid.

⁴² Unlike an on-machine coater, an off-machine coater is one not physically attached to the back-end of a paper machine. Petition, pp. 5-6.

⁴³ In addition to the thermal layer (the coating of heat-sensitive chemicals), a pre-coat or base coat may be applied to provide an insulating layer to improve the thermal sensitivity and/or increase hold-out to prevent rapid absorption of the thermal layer into the base paper. Also, a top coat may be applied to protect against abrasion, environmental influences and certain chemicals. *** U.S. producer's questionnaire, response to question II-15 and "Thermal Paper Technology" found at http://www.cibasc.com/ind-pap-eff-cct-thermal_paper_technology.htm and retrieved on October 22, 2007.

⁴⁴ Calenders are stacked, alternating hard (steel) and soft (plastic) rollers through which the paper is passed to control the density, smoothness, and finish of the paper.

⁴⁵ *Petition*, p. 6.

⁴⁶ Petitioner's postconference brief, exhibit 13, p. 27.

⁴⁷ Conference transcript, pp. 75-78 (Sitter); Appleton U.S. producer's questionnaire, p. 18.

⁴⁸ Ibid.

they must balance operating parameters, troubleshoot the production process, and perform quality control testing.⁴⁹ Attaining the necessary level of experience takes at least several years.⁵⁰ ***.⁵¹

Converting

The conversion process starts with jumbo rolls of certain LW thermal paper and results in small rolls of certain LW thermal paper packaged and ready for use in the end-users' POS equipment. Although the details and equipment may differ slightly from one plant to the next, the basic operations of the process are the same and include printing, slitting, and packaging. The equipment to be used to fulfill a particular order depends on the type of printing required and the size and volume of the rolls to be produced.⁵² If printing is required, it is accomplished with single or multicolor web flexographic or web offset presses⁵³ before the jumbo rolls are slit.⁵⁴ Set-up for the slitting process involves the following steps. The jumbo roll is mounted on the upstream roll stand of a slitter-rewinder in the correct position to ensure proper unwinding, depending on whether the coated surface is wound in or out. As the roll is being mounted, a series of circular knives are set in the proper position across the width of the machine to slit the web of paper to the correct width for the rolls to be produced.⁵⁵ Various other adjustments are made such as the placement of the "end of roll" warning stripe printer/inker. Paper is threaded into the slitter through a series of rollers and adjusted to remove all wrinkles, and the web engages the circular knives. The slit webs are aligned with a rewind arbor, which is loaded with cores. Either manually or mechanically depending on the slitter, the loose ends are reverse tucked around the cores to secure them. The rewind arbor is sandwiched between two bed rollers on the bottom and an upper roller, the top rider roll. In operation the upper and lower rollers spin in opposite directions, and the top roller moves up as the diameter of the converted rolls increases.⁵⁶ Once set-up is complete, the slitter starts, unwinding paper to pre-programmed length or roll diameter.⁵⁷ Next, the rewind arbor is removed from the bed rollers and placed on glue rollers, where the tails of the completed rolls are secured with tape, glued or pre-gummed tabs. Finished rolls are conveyed to a "break-apart," which separates the individual rolls. The individual rolls are flipped on their sides and passed through a hydraulic press that presses both core and paper flush. Then the rolls proceed to a packing station, where they are packed in corrugated shipping containers and assembled on pallets.⁵⁸

Trained workers operate specific equipment (e.g., printing presses, slitters). The functional expertise required for converting operations includes a broad knowledge about paper, particularly the runability of purchased paper in printing presses and slitter-rewinders, OEM requirements for POS printers, markets for LW thermal paper, and logistics (e.g., packaging and labeling, shipping, and warehousing).⁵⁹ Workers require mechanical and electrical knowledge,⁶⁰ and although older manually operated slitters require little or no expertise, new printing presses and slitter-rewinders are highly

⁴⁹ Ibid.

⁵⁰ Ibid.

⁵¹ Ibid.

⁵² German respondents' postconference brief, answers to staff questions, p. 12.

⁵³ Conference transcript, p. 237 (Endsley, Scharwtz).

⁵⁴ German respondents' postconference brief, answers to staff questions, p. 13.

⁵⁵ *** U.S. producer's questionnaire, response to question II-14.

⁵⁶ German respondents' postconference brief, answers to staff questions, p. 13.

⁵⁷ Ibid.

⁵⁸ Ibid.

⁵⁹ *** U.S. producer's questionnaire, responses to question II-14.

⁶⁰ *** U.S. producer's questionnaire, response to question II-15.

sophisticated, computerized machines that require much greater technical expertise at both the operator and supervisory levels.⁶¹

INTERMEDIATE PRODUCTS

When the subject product is also an intermediate product and there is a domestic like-product issue concerning the downstream product, the Commission has employed a five-factor “semifinished/finished products” analysis.⁶² In these investigations, slitted (finished) certain LW thermal paper rolls are downstream products and certain LW thermal paper in jumbo rolls (unfinished) are the upstream or intermediate product. In the preliminary phase of these investigations, the Commission determined that jumbo rolls and slit rolls should be included in the same domestic like product, stating that “all jumbo rolls are converted, as end users can use only slit rolls . . . {and} while the converting process can add moderate value to the product, the process does not change the chemical characteristics of thermal paper . . . it is the coating process, not the converting process, that imparts to thermal paper its ability to display images . . . by contrast, the conversion process largely resizes the product . . .”⁶³ In the final phase of these investigations, market participants commented on the factors generally considered by the Commission in its semifinished product analysis as follows:⁶⁴

Whether the Upstream Product is Dedicated to the Production of the Downstream Product

Market participants agreed that certain LW thermal paper in jumbo roll form has no use but in the production of slitted certain LW thermal paper. *** reported that all jumbo rolls are dedicated to the downstream slitted product and that there exists no secondary jumbo roll market in the United States. All thirteen responding U.S. converters also stated that 100 percent of their purchased jumbo rolls are dedicated to the production of finished slitted products. All six responding U.S. importers stated that they believed 100 percent of imported jumbo rolls are dedicated to production of the downstream product.

Whether There are Separate Markets for the Upstream and Downstream Products

During the course of these investigations, petitioner has argued that because all jumbo rolls are converted, both the upstream and downstream products serve the same market, which is ultimately the end users such as retailers, banks, and gas stations. German respondents have argued that there is a clear dividing line between the market for certain LW thermal paper in jumbo roll form and the finished slitted product.⁶⁵ Ten of eleven reporting U.S. converters and all six reporting U.S. importers stated that they

⁶¹ *** U.S. producer’s questionnaire, response to question II-14 and German respondents’ postconference brief, p. 5.

⁶² The five factors that the Commission has considered in analyzing semifinished products include: (1) uses (is the upstream product dedicated to the production of the downstream product or does it have independent uses?); (2) markets (are there separate markets for the upstream and downstream products?); (3) characteristics and functions (are there differences in the physical characteristics and functions of the upstream and downstream products?); (4) value (are there differences in the production costs and/or sales values (transfer values or market prices as appropriate) of the upstream and downstream products?); and (5) transformation processes (what is the significance and extent of the processes used to transform the upstream product into the downstream product?).

⁶³ *Certain Lightweight Thermal Paper From China, Germany, and Korea, Inv. nos. 701-TA-451 and 731-TA-1126-1128 (Preliminary)*, USITC Publication 3964, November 2007, p. 7.

⁶⁴ See the earlier section in Part I entitled “Converting” for a discussion of the process of transforming jumbo rolls into slit rolls, which relates to the fifth factor in the semifinished product analysis.

⁶⁵ German respondents’ postconference brief, p. 13.

also perceived the market for jumbo rolls, which are sold to converters, and the market for slitted rolls, which are sold to distributors and end users, to be two separate markets.

Whether There are Differences in the Physical Characteristics and Functions of the Upstream and Downstream Products

During the course of these investigations, petitioner have argued that aside from slitting and packaging, there are no differences in physical characteristics between the jumbo and slitted rolls. It maintained that the chemical thermal coating imparts both products with its essential physical characteristics and this remains unchanged from jumbo form until finished slitted product.⁶⁶ All twelve reporting U.S. converters and all seven reporting U.S. importers stated that they believed that the only difference in the physical characteristics between the two products were the conversion activities conducted on the jumbo rolls by the converters which altered the size, added customer-requested printing, and/or added final packaging.

Value Added by U.S. Converters

Slitted certain LW thermal paper rolls are more costly to manufacture than merely the unfinished jumbo rolls, due to the additional operations required to produce them. The cost of these additional operations is reflected in the higher prices and higher unit values⁶⁷ of slitted product. The Commission requested information from U.S. converters on the value added of their U.S. converting operations. Data submitted in response to the questionnaire by 15 U.S. converters indicates that converting operations accounted for an average 19.7 percent (ranging from *** percent) of the cost to produce certain LW thermal paper excluding selling, general, and administrative costs. With the inclusion of selling, general, and administrative costs, U.S. converters reported that converting operations accounted for an average of 31.3 percent (ranging from *** percent) of the total cost to produce the product (*see Part VI, table VI-6*).

DOMESTIC LIKE PRODUCT ISSUES

During the course of these investigations, the petitioner has contended that the Commission should find one domestic like product⁶⁸ that is co-extensive with the scope of the investigations as identified by Commerce.⁶⁹ German respondents have not raised any domestic like product issues.⁷⁰ However, in the preliminary phase of these investigations, the Chinese respondent argued that in the event that the Commission conducted final phase investigations,⁷¹ it should define the domestic like product as

⁶⁶ Petitioner's postconference brief, pp. 3-4.

⁶⁷ In 2007, the average unit value of U.S. shipments of jumbo rolls to converters was *** while the average unit value of U.S. shipments of slitted rolls to distributors or end users was ***, or a premium of *** percent. Value added computed in this manner also reflects the profit margins of U.S. converters.

⁶⁸ The Commission's decision regarding the appropriate domestic products that are "like" the subject imported products is based on a number of factors including: (1) physical characteristics and uses; (2) common manufacturing facilities and production employees; (3) interchangeability; (4) customer and producer perceptions; (5) channels of distribution; and (6) price.

⁶⁹ Petitioner's postconference brief, p. 3; Petitioner's prehearing brief, pp. 6-8.

⁷⁰ Conference transcript, p. 221 (Silverman).

⁷¹ The Chinese respondent argued that the Commission had a sufficient record in the preliminary phase of these investigations to come to a negative determination, but desired to reserve the right to advocate for an expansion of the domestic like product in the final phase investigations. Conference transcript, p. 220 (Jeong).

all thermal paper by expanding the currently proposed definition to include thermal paper over 70 g/m².⁷² Chinese respondent has not pursued that argument in the final phase.⁷³

The Commission preliminarily determined that the domestic like product should be defined in the same manner as the scope defined by Commerce.⁷⁴ The Commission stated that “although LWTP and heavier weight thermal paper appear to be at least somewhat interchangeable in theory, the preliminary phase record contains little information that they are actually substituted to any significant degree in practice.”⁷⁵ The Commission also noted the distinct channels of distribution and prices between the two categories of product.⁷⁶

⁷² Chinese respondent’s postconference brief, p. 10; conference transcript, p. 220 (Jeong).

⁷³ Petitioner observed that no party requested that the Commission expand the domestic like product during the questionnaire comment phase of these investigations. Petitioner’s prehearing brief, 6.

⁷⁴ *Certain Lightweight Thermal Paper From China, Germany, and Korea, Inv. nos. 701-TA-451 and 731-TA-1126-1128 (Preliminary)*, USITC Publication 3964, November 2007, p. 10.

⁷⁵ *Ibid.*

⁷⁶ *Ibid.*

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

U.S. MARKET SEGMENTS/CHANNELS OF DISTRIBUTION

Certain LW thermal paper is sold in two forms: jumbo rolls and slit, or converted, rolls. The product is sold to be used mostly in POS printers for receipts in retail establishments, banking applications such as ATM's, credit card transactions, and self-service kiosks. *** of U.S. coaters' U.S. shipments of certain LW thermal paper jumbo rolls go to converters that slit the rolls into narrower rolls that are typically $3\frac{1}{8}$ " wide, to be used as receipts.¹ *** of U.S. imports of certain LW thermal paper imported from China go to distributors and converters acting as distributors.² *** of U.S. imports of certain LW thermal paper jumbo rolls from Germany go to converters. Converters and distributors sell to end users.

The Commission collected purchasers' questionnaires from both converters (which purchase jumbo rolls of certain LW thermal paper) and from end users (which purchaser slit rolls of certain LW thermal paper).³ Of 20 responding converters, *** reported that they purchase jumbo rolls from U.S. producers and jumbo rolls imported from Germany; *** reported that they purchase jumbo rolls from U.S. and German suppliers as well as slit rolls imported from China; and *** reported that they only purchase jumbo rolls from U.S. producers.⁴

Purchasers were asked how many suppliers they generally contact before making a purchase. Eight of 12 responding purchasers of jumbo rolls reported that they contact two to four suppliers, while two reported that they contact one supplier, and two reported that they contact four or more suppliers. Fifteen of 28 responding purchasers of slit rolls reported that they contact two to four suppliers, seven reported that they contact one supplier, and four reported that they contact five or more suppliers.

When firms were asked to list market areas in the United States where they sell certain LW thermal paper, the responses showed that the market areas tended to be nationwide. *** U.S. coaters and 17 of 23 responding U.S. converters reported that they sell nationally. The others listed specific geographic regions, including the Northeast, the Southeast, the Midwest, the Mid-Atlantic, the Southeast, the Southwest, the Rocky Mountains, the Northwest, and the West Coast. Among responding importers of certain LW thermal paper from China, 2 of 5 reported that they sold nationally. The others listed the Northeast, the Midwest, and the Southwest. *** responding importers of certain LW thermal paper from Germany reported that they sold nationally.

U.S. inland shipping distances for U.S.-processed certain LW thermal paper were compared with those for imports from China and Germany. For U.S. coaters, approximately *** percent of U.S. sales occur within 100 miles of their storage or production facility, approximately *** percent were within distances of 101 to 1,000 miles, and approximately *** percent were at distances of over 1,000 miles from their facilities. For imports from China, approximately *** percent of sales occurred within 100 miles of importers' storage facilities, *** percent were within 101 to 1,000 miles, and *** percent were

¹ Conference transcript, pp. 71-72 (Hatfield). Converters reported that the width of the slit rolls they produce can range anywhere from one to 12 inches, with $3\frac{1}{8}$ -inches being the most commonly reported size. ***.

² Conference transcript, p. 217 (Ferrin).

³ Purchaser ***'s submitted a Purchasers' Questionnaire, but reportedly does not purchase ***; therefore, its narrative responses *** were excluded. ***'s Purchasers' Questionnaire.

⁴ See table III-10.

over 1,000 miles. For imports from Germany, approximately *** percent were within 101 to 1,000 miles, and *** percent were over 1,000 miles.⁵

U.S. coater *** reported that about *** of its sales are from inventory and *** are produced to order, while U.S. coater *** reported that *** of its sales are from inventory. Lead times for delivery of certain LW thermal paper for U.S. coaters ranged from 1 to 2 days on sales from inventory and ranged from 3 to 8 weeks on sales produced to order. For converters, 16 of 23 responding firms reported that the majority of their sales are from inventory. Lead times for delivery of certain LW thermal paper for converters ranged from immediate delivery to 15 days (with a majority reporting lead times of 7 days or less) on sales from inventory and ranged from 2 days to 6 weeks on sales produced to order. For importers, 4 of 7 responding firms reported that the majority of their sales are from inventory, while 3 reported that the majority of their sales are produced to order. Lead times for delivery of certain LW thermal paper for importers ranged from immediate delivery to 7 days on sales from inventory and ranged from 3 weeks to 3.5 months on sales produced to order.

SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

Domestic Production

The supply response of certain LW thermal paper coaters and converters to changes in price depends on such factors as the level of excess capacity, the availability of alternate markets for U.S.-produced certain LW thermal paper, inventory levels, and the ability to shift to the manufacture of other products. The evidence indicates that the U.S. coaters' supply is likely to be slightly elastic, due primarily to the existence of export markets, production alternatives, and the existence of available unused capacity and some inventories. The evidence indicates that the U.S. converters' supply is likely to be slightly elastic, due primarily to the existence of production alternatives, the existence of available unused capacity, and some inventories.

Industry capacity

U.S. coaters' annual capacity utilization increased *** from *** percent in 2005 to *** percent in 2007. This level of capacity utilization indicates that U.S. coaters have unused capacity with which they could increase production of certain LW thermal paper in jumbo roll form in the event of a price change. U.S. coaters' capacity increased in August 2008 with Appleton's \$125 million expansion of its production capacity.⁶

U.S. converters' annual capacity utilization increased *** from *** percent in 2005 to *** percent in 2007. This level of capacity utilization indicates that U.S. converters have unused capacity with which they could increase production of certain LW thermal paper in slit roll form in the event of a price change.

⁵ The calculations for imports from Germany are based on staff calculations based on the locations of the importers' top ten customers by volume in 2007 because ***. ****'s Importers' Questionnaire, III-10c, III-27, and att. 1 and ****'s Importers' Questionnaire, III-10c and III-27.

⁶ <http://www.appletonideas.com/pdf/Thermal%20Expansion%20Dedication%20Event.pdf>, retrieved Sept. 12, 2008.

Alternative markets

Exports by U.S. coaters, as a share of total shipments, increased *** from *** percent in 2005 to *** percent in 2007. These data indicate that U.S. coaters have the ability to divert shipments to or from alternative markets in response to changes in the price of certain LW thermal paper in jumbo roll form.

Exports by U.S. converters, as a share of total shipments, remained *** at *** percent over the period of investigation. These data indicate that U.S. converters have little to no ability to divert shipments to or from alternative markets in response to changes in the price of certain LW thermal paper in slit roll form.

Inventory levels

The ratio of U.S. coaters' end-of-period inventories to total shipments increased from *** percent in 2005 to *** percent in 2006 before decreasing to *** percent in 2007. These data indicate that U.S. coaters have some ability to use inventories as a means of increasing shipments of certain LW thermal paper in jumbo roll form to the U.S. market.

The ratio of U.S. converters' end-of-period inventories to total shipments increased from *** percent in 2005 to *** percent in 2006 before decreasing to *** percent in 2007. These data indicate that U.S. converters have some ability to use inventories as a means of increasing shipments of certain LW thermal paper in slit roll form to the U.S. market.

Production alternatives

*** U.S. coaters reported using the actual machinery and equipment used to make certain LW thermal paper in jumbo roll form in the production of other products, including "other thermal paper" and thermal paper that is above a basis weight of 70 grams and outside the scope of these investigations.

Fourteen of 20 responding converters reported producing other products using the same manufacturing equipment and/or production employees that were used to produce certain LW thermal paper, including "other thermal paper" and other paper products outside the scope of these investigations.

Seasonality

Twenty of 42 responding purchasers reported that seasonality exists in this market, which generally follows the trend in retail sales, which trend upward in late summer leading up to back-to-school sales and peaking in the fourth quarter due to holiday shopping. *** purchaser noted that its contracts cover a *** period during which prices remain stable, thus eliminating seasonality in pricing.

Allegations of Supply Shortages

Twelve converters reported that they experienced availability problems with *** U.S. coaters over the period of investigation.⁷ *** of these firms reported that ***; *** firms cited supply problems with *** in periods in ***; ***; ***; ***; and *** reported instances of inconsistent supply *** in ***. In particular, converter *** reported that Appleton ***.⁸ *** reported that *** allocated *** certain LW thermal paper in *** and that ***. *** purchasers reported that they experienced supply problems from a nonsubject source, ***. Converter Sandt Products reported that it was unable to purchase 48 gram certain

⁷ Purchaser of jumbo rolls and converter, Register Tape, stated that U.S. coater Appleton put it on allocation "about ten years ago," which is prior to the period of investigation. Conference transcript, p. 154 (Endsley).

⁸ ***'s posthearing brief, exh. 1.

LW thermal paper from Appleton in August 2007 after having repeatedly expressed an interest in the product and importer *** reported that *** discontinued production of its 48 gram thermal paper from ***.⁹ Moreover, in the preliminary phase of these investigations, importers Koehler and Paper Resources reported that Appleton received a large order from a lottery company in late 2006 and diverted much of its production away from certain LW thermal paper to heavier thermal paper for lottery ticket applications and importer Mitsubishi reported that Appleton sought to purchase certain LW thermal paper from it in 2006 and 2007 to be sold under the Appleton brand.¹⁰ Additionally, converter *** reported that *** experienced a manufacturing disruption in ***.¹¹

U.S. coater Appleton reported that there is “no evidence about any shortages or allocations that would suggest that the increased imports were needed.”¹² U.S. coater Kanzaki reported that it did not put any customers on allocation.¹³ Appleton reported that there was a “spike” in demand throughout the industry due to a misperception in the market that demand would be greater than usual that affected many manufacturers in September through early December of 2006 during which it extended lead times to customers from its normal two days to a few weeks. Appleton further stated that it added new capacity and the situation was resolved by January 2007.¹⁴ *** reported that there was higher than usual demand in ***.

In response to Appleton’s description of this demand spike, one converter reported in the preliminary phase of these investigations that there was a normal seasonal trend upward at the end of 2006 in anticipation of the busy holiday retail season and another converter reported that the increased demand at the end of 2006 was most likely a combination of seasonal factors and an announced price increase.¹⁵ Another importer reported that there was a general perception in the market at the time that there was a shortage of certain LW thermal paper.¹⁶

No responding importers reported experiencing higher than usual demand since 2005. *** of 43 responding purchasers reported that they did not experience higher than usual demand since 2005. *** purchaser reported experiencing higher than usual demand, citing a period in ***.

Subject Imports

The responsiveness of supply of imports from China and Germany to changes in demand in the U.S. market is affected by such factors as capacity utilization rates, the availability of home markets and other export markets, and inventories. Based on available information, producers in China have the ability to respond to changes in demand with relatively large changes in the quantity of shipments of certain LW thermal paper to the U.S. market. The main contributing factors to this degree of responsiveness of supply in the case of China are its availability of unused capacity and alternative markets, including its home market sales. Producers in Germany have the ability to respond to changes in demand with moderate to large changes in the quantity of shipments of certain LW thermal paper to the

⁹ Conference transcript, p. 151 (Sandt). ***’s preliminary importer questionnaire response, section III-B-30.

¹⁰ Conference transcript, p. 203 (Greene, Burns) and pp. 163-164 (Jahnes).

¹¹ ***’s response to lost revenue allegations. *See* part V.

¹² Transcript, p. 469 (Dorn).

¹³ Transcript, p. 468 (Horlick).

¹⁴ Conference transcript, pp. 82-84 (Schonfeld). *** also notes that demand may appear to have decreased in the first half of 2007 as converters reduced their inventories from the spike at the end of 2006, but that demand actually increased continually over the period of investigation. Petitioner’s postconference brief, p. 14.

¹⁵ Conference transcript, pp. 204-205 (Granholm) and pp. 202-203 (Schwartz).

¹⁶ Conference transcript, p. 199 (Burns).

U.S. market, which is mostly attributable to their existence of export markets other than the United States and the existence of some inventories.¹⁷

Industry capacity

During the period of investigation, the capacity utilization rate for responding Chinese producers of certain LW thermal paper decreased from *** percent in 2005 to *** percent in 2007; it is projected to be *** percent in 2008. The capacity utilization rate for German producers of certain LW thermal paper decreased from *** percent in 2005 to *** percent in 2007; it is projected to be *** percent in 2008.

Alternative markets

Available data indicate that producers in China and Germany each have the ability to divert shipments to or from alternative markets in response to changes in the price of certain LW thermal paper. Shipments of certain LW thermal paper from China to the United States increased from *** in 2005 to *** percent of its total shipments in 2007; they are projected to be *** percent in 2008. The share of China's shipments to export markets other than the United States decreased from *** percent in 2005 to *** percent in 2007. Shipments of certain LW thermal paper from Germany to the United States decreased from *** percent of total shipments in 2005 to *** percent in 2007; they are projected to be *** percent in 2008. The share of Germany's shipments to export markets other than the United States increased from *** percent in 2005 to *** percent in 2007.

Inventory levels

Chinese producers' inventories, as a share of total shipments, decreased from *** percent in 2005 to *** percent in 2007 and are projected to be *** percent in 2008. German producers' inventories, as a share of total shipments, increased from *** percent in 2005 to *** percent in 2007 and are projected to be *** percent in 2008. These data indicate that foreign producers have some ability to use inventories as a means of increasing shipments of certain LW thermal paper to the U.S. market.

Nonsubject Imports

Based on data submitted in response to Commission questionnaires, U.S. imports of certain LW thermal paper from nonsubject sources accounted for *** percent of the quantity of total U.S. imports in 2007. The major nonsubject source of certain LW thermal paper is Korea.

U.S. Demand

Demand Characteristics

The evidence discussed below indicates that the demand for this product is likely to be relatively price inelastic. When asked how the overall demand for certain LW thermal paper has changed since January 2005, *** U.S. coaters, 19 of 23 responding U.S. converters, and 6 of 7 responding importers

¹⁷ In the prehearing report, staff characterized the supply responsiveness of imports from Germany as moderate, due mostly to their existence of export markets other than the United States and the existence of some inventories, combined with limited unused capacity. Domestic coaters reported that the responsiveness of supply for imports from Germany is high because German producers had limited excess capacity in the past was still followed by *** in imports from Germany. Domestic coaters posthearing brief, exh. 1, p. 3.

stated that the demand has increased. *** U.S. coaters project that the growth in demand will lessen in the future due to the recent financial crisis, projected recession, and ensuing drop in retail sales during the holiday season.¹⁸ The increase in demand was most frequently attributed to a technology shift away from POS printers of bond paper and carbonless paper to printers that use certain LW thermal paper, mostly because newer thermal printers are faster than older printers using different papers, are more cost efficient, and are quieter. ***.¹⁹ Some firms also cited the growth in retail business requiring ever increasing amounts of receipt paper.

Substitute Products

When asked whether there are substitutes for certain LW thermal paper, *** of the U.S. coaters cited alternatives; *** reported that heavier weight LW thermal paper is used very rarely as a substitute for certain LW thermal paper and that switching to different types of paper would require investment in different types of printers. Seven of 23 responding U.S. converters, 5 of 6 responding importers, and 9 of 47 purchasers cited one or more alternatives. Heavier-weight thermal paper (with a basis weight greater than 70 g/m²) that is outside the scope of these investigations was named most often; other possible substitutes named included bond paper and carbonless paper. Several firms noted that heavier-weight thermal paper has better archiving and image quality than certain LW thermal paper, and may appeal to more high-end, image-conscious end users.²⁰ Two converters reported that it is not economical to substitute heavier-weight thermal paper for certain LW thermal paper while another converter reported that consumers would have to purchase new printers if they used bond or 2-ply paper as a substitute. No responding firms reported that the price of substitutes can affect prices of certain LW thermal paper.

Product Range

*** U.S. coater reported significant changes in product ranges or marketing over the period of investigation. Fifteen of 23 responding converters reported that there have been significant changes, most of which cited the introduction of certain LW thermal paper with a basis weight of 48 grams. Other changes cited included the emergence of converted thermal paper rolls from China and the increasing standardization of roll sizes. Four of 6 responding importers reported that there have been significant changes in product ranges or marketing, with *** citing the introduction of 48 gram certain LW thermal paper. *** importer cited the standardization of roll sizes, while *** reported that customers have increasingly requested width measurements other than 3.125 inches. *** of these firms also reported that the market has changed from a regional one to a national one because distributors can now sell nationwide due to freight savings realized from using imports to supply distant regions. This importer also reported that converters have increasingly been selling directly to distributors' customers, thereby forcing distributors to look for alternative sources such as China.

Importer *** reported that it introduced 48 gram thermal paper in *** and it now constitutes about *** percent of its sales. It further reported that 48 gram thermal paper is popular with retailers because the rolls are longer, which requires less frequent changing of rolls and reduced freight costs, because reportedly *** percent more square feet of paper can be shipped with the same weight compared to 55 gram thermal paper.²¹ Producers in China reportedly do not produce 48 gram certain LW thermal paper.

¹⁸ Domestic coaters' posthearing brief, exh. 1, pp. 13-14.

¹⁹ Domestic coaters' posthearing brief, exh. 1, p. 25.

²⁰ Conference transcript, pp. 55-56 (Hatfield).

²¹ ***'s importer questionnaire response, at III-17b.

*** reportedly began selling 48 gram thermal paper in ***. It maintains that the POS market is still dominated by 55 gram thermal paper.²² Additionally, in the preliminary phase of these investigations, *** reported that converters were *** for many reasons that include ***. Moreover, *** reported that ***.²³ U.S. coater *** reported that 48 gram and 55 gram thermal paper are sold interchangeably on the market.²⁴

When asked if they always know the basis weight of the certain LW thermal paper they purchase, 24 of 26 purchasers of jumbo rolls responded “yes”, while 11 of 24 purchasers of slit rolls responded “yes”. Thirteen of 19 responding purchasers of jumbo rolls and 13 of 22 responding purchasers of slit rolls reported that they had shifted a significant portion of their purchases from 55 gram certain LW thermal paper to 48 gram paper, mostly stating that 48 gram paper offers increased square footage per roll, reduced freight costs, and more efficient production or less “trim loss” associated with waste left over after slitting jumbo rolls to desired widths. Twenty-eight of 47 purchasers reported that they purchase or have purchased both 48 gram paper and 55 gram paper, with most stating that they have added 48 gram paper to their product offerings due to its cost benefits over 55 gram paper. Additionally, four purchasers reported that the thicker 55 gram paper is required in some applications, noting that it is superior for pre-printed rolls or that some customers prefer its “feel,” while one other purchaser reported that the two grades are interchangeable. Four purchasers reported only purchasing 55 gram paper, with three citing customer requirements for 55 gram paper.

U.S. coater *** also reported that there is a difference between certain LW thermal paper of different sensitivity levels.²⁵ It reported that “higher sensitivity” thermal paper requires less heat from a thermal printer to create an image, thereby increasing the lifetime of the thermal printer. It also noted in the preliminary phase of these investigations that *** typically purchases higher sensitivity certain LW thermal paper because it requires more durable receipts as it scans them when customers return merchandise. Thirty-seven of 43 responding purchasers reported that a vast majority (85 percent or more) of their purchases in 2007 were “standard” sensitivity certain LW thermal paper.

SUBSTITUTABILITY ISSUES

The degree of substitutability between domestic products and subject and nonsubject imports and between subject and nonsubject imports is examined in this section.

Factors Affecting Purchasing Decisions

Available information indicates that a variety of factors are considered important in the purchasing decision for certain LW thermal paper. While quality and price have been mentioned as being important factors in the sale of the product, other factors such as reliability of availability, supply, and delivery are also important considerations. Purchasers were asked to list the top three factors that they consider when choosing a supplier of certain LW thermal paper. Table II-1 summarizes the responses, displayed by type of purchaser.

²² Conference transcript, p. 65 (Hatfield). See also the sales and shipment data of 55 gram certain LW thermal paper as presented in part III of this report.

²³ Petitioner’s postconference brief, p. 16.

²⁴ E-mail from ***, October 16, 2007.

²⁵ Staff telephone interview with ***, October 16, 2007.

Table II-1
Certain LW thermal paper: Ranking of factors used in purchasing decisions as reported by U.S. purchasers

Factor	Number of purchasers of jumbo rolls reporting		
	Number one factor	Number two factor	Number three factor
Price	9	3	5
Quality	7	11	3
Availability	3	4	5
Other ¹	5	6	11
Factor	Number of purchasers of slit rolls reporting		
	Number one factor	Number two factor	Number three factor
Price	8	5	7
Quality	7	5	4
Availability	3	5	1
Other ¹	4	6	9
¹ Other factors include three firms reporting “pre-arranged contracts” for number one factor; two firms reporting “roll width” or trim waste for number one factor; one firm reporting “traditional supply” for number one factor; one firm reporting “availability of 48 gram paper” for number one factor; one firm reporting “reliability of supply” for number one factor; two firms reporting “delivery” for number two factor; three firms reporting “reliability of supply” for number two factor; one firm reporting “48 gram paper” for number two factor; one firm reporting “service” for number two factor; one firm reporting “trim waste” for number two factor; one firm reporting “product range” for number two factor; one firm reporting “pre-arranged contracts” for number two factor; one firm reporting “capacity of supplier” for number two factor; one firm reporting “vendor soundness” for number two factor; one firm reporting “brand equity” as number two factor; eight firms reporting “delivery” for number three factor; three firms reporting “trim waste” for number three factor; two firms reporting “service” for number three factor; two firms reporting “traditional supplier” for number three factor; two firms reporting “dependability” for number three factor; one firm reporting “product range” for number three factor; one firm reporting “financial stability of supplier”; and one firm reporting “relationship” for number three factor.			
Source: Compiled from data submitted in response to Commission questionnaires.			

Price was named by nine purchasers of jumbo rolls and eight purchasers of slit rolls as the number one factor generally considered in deciding from whom to purchase certain LW thermal paper, while three other purchasers of jumbo rolls and five purchasers of slit rolls indicated that it was the number two factor, and five purchasers of jumbo rolls and seven purchasers of slit rolls responded it was the number three factor. As indicated in table II-2, 45 of 49 responding purchasers indicated that price was a “very important” factor in their purchasing decisions.

Table II-2
Certain LW thermal 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
Availability	45	4	0
Delivery terms	32	5	2
Delivery time	35	11	3
Discounts and rebates	29	15	5
Extension of credit	21	16	11
Price	45	4	0
Minimum qty requirements	9	26	14
Packaging	16	27	6
Product consistency	45	4	0
Quality meets industry standards	42	7	0
Quality exceeds industry standards	15	23	11
Product range	10	26	12
Reliability of supply	47	2	0
Technical support/service	11	33	5
U.S. transportation costs	19	18	10
Approval by printer manufacturers	12	15	20
Basis weight	19	24	6
Paper sensitivity	21	22	5
Paper brightness	15	31	3
Caliper	21	18	8
Desired width (of jumbo rolls)	23	6	3
Other ¹	1	1	0
¹ Other factor include one instance of "printability" (ability to print conditions and logos on pre-printed rolls) ranked as "very important", and one instance of "personal relationships" ranked as "somewhat important".			
Source: Compiled from data submitted in response to Commission questionnaires.			

Quality was named by 7 purchasers of jumbo rolls and 7 purchasers of slit rolls as the number one factor generally considered in deciding from whom to purchase certain LW thermal paper, while 11 other purchasers of jumbo rolls and five purchasers of slit rolls indicated that it was the number two factor and three purchasers of jumbo rolls and four purchasers of slit rolls responded it was the number three factor. Forty-five of 49 responding purchasers of jumbo and slit rolls combined indicated that product consistency was a "very important" factor in their purchasing decisions and 42 of 49 purchasers indicated that quality meeting industry standards was a "very important" factor.

Availability was named by three purchasers of jumbo rolls and three purchasers of slit rolls as the number one factor generally considered in deciding from whom to purchase certain LW thermal paper, while four other purchasers of jumbo rolls and five purchasers of slit rolls indicated that it was the number two factor and five purchasers of jumbo rolls and one purchaser of slit rolls responded it was the number three factor. Forty-five of 49 responding purchasers of jumbo and slit rolls combined indicated that availability was a “very important” factor in their purchasing decisions.

“Trim waste” (or desired width of jumbo rolls) was named by two purchasers as the number one factor generally considered in deciding from whom to purchase certain LW thermal paper, while one other purchaser indicated that it was the number two factor, and three responded it was the number three factor. Twenty-three of 32 responding purchasers indicated that “desired width” was a “very important” factor in their purchasing decisions.

Ten of 24 responding purchasers of jumbo rolls and 10 of 23 purchasers of slit rolls reported that they require their suppliers to become certified, while nine purchasers of jumbo rolls and 5 purchasers of slit rolls require their suppliers to be approved by thermal printer manufacturers on at least a portion of their purchases.

Certain LW thermal paper is certified by the four to five major thermal printer manufacturers, including IBM and Epson.²⁶ *** U.S. coaters and several responding converters reported that their certain LW thermal paper is certified by both IBM and Epson printers. Converted certain LW thermal paper rolls imported from China are reportedly not approved by these printers.²⁷ Seven purchasers of jumbo rolls reported that approval by printer manufacturers is very important (with one citing that it is especially important for high volume customers), 6 purchasers of jumbo rolls reported that they place little importance on approval or that the importance depends on customer requirements, and 7 purchasers of jumbo rolls reported that printer approval is not important. Two purchasers of slit rolls reported that printer approval is important while 2 other purchasers of slit rolls reported that it is preferred but not mandatory. Three purchasers reported that since 2005 one or more suppliers have failed in their attempts to qualify certain LW thermal paper, with two citing the failure of one producer in China due to poor quality and another citing the failure of converters *** and ***.

*** reported that IBM certification is primarily a concern for large end users and that smaller end users, and even some large end users, are less concerned about qualification.²⁸ Converter NCR reported that large retail chains such as WalMart, Kohl’s, and Target require printer certification while another converter reported that certification is also required by many smaller end users as well.²⁹ Converters NCR and Sandt reported that large retailers account for 60-70 percent of the U.S. certain LW thermal paper market.³⁰ Chinese respondents estimate that end users requiring certification account for 70-80 percent of the market.³¹

*** also reported that it did not immediately seek IBM qualification for its 48 gram thermal product, which it introduced in the United States in ***, partly because it produces all of its base paper and could assure customers that the base paper used in the production of its 48 gram product was of the same high quality as the base paper used in the production of its 55 gram product and because the 48

²⁶ Conference transcript, pp. 67, 70 (Hatfield).

²⁷ Conference transcript, p. 217 (Ferrin).

²⁸ ***’s posthearing brief, answers to Commissioners’ questions, p. 5.

²⁹ Transcript, p. 240 (Kyriss). Transcript, 260 (Swadish).

³⁰ Transcript, pp. 240 (Kyriss) and 259 (Kyriss, Sandt).

³¹ Chinese respondents’ post-hearing brief, answers to Commission questions, p. 3.

gram paper used the same coating as the 55 gram product which had previously been approved by IBM.³² Moreover, ***.³³

Comparison of Domestic Product and Subject Imports

In order to determine whether U.S.-processed certain LW thermal paper can generally be used in the same applications as imports from China and Germany, coaters, converters, and importers were asked whether the products can “always,” “frequently,” “sometimes,” or “never” be used interchangeably. The *** U.S. coaters that compared jumbo rolls from Germany and nonsubject countries with the product from the United States reported that they are always interchangeable, as shown in table II-3. The majority of U.S. converters reported that the U.S. product is always interchangeable with certain LW thermal paper from the subject countries in both jumbo roll and slit roll comparisons. A majority or a plurality of importers reported that U.S. product and product from the subject countries are sometimes interchangeable. A majority of responding purchasers reported that U.S. product and certain LW thermal paper from China and Germany are always interchangeable.

Two importers reported that jumbo rolls from Germany are always interchangeable with those from U.S. producers. Another importer reported that the quality of the certain LW thermal paper produced in China is inferior to the product produced in Germany. Two purchasers of jumbo rolls reported the limited availability of 48 gram thermal paper from sources other than Germany. One purchaser of slit rolls reported that the quality of certain LW thermal paper from China is questionable and that it should only be used in applications not requiring archival quality or durability.

Of 26 responding purchasers of jumbo rolls, 23 reported that they “always” know whether the paper they purchase is imported or produced domestically and 23 reported that they “always” know the manufacturer. Ten of 28 responding purchasers of slit rolls reported that they “never” know whether the certain LW thermal paper they purchase is imported or produced domestically, nine reported “always”, five responded “usually”, and four responded “sometimes”. Eight of 29 responding purchasers of slit rolls “never” know the manufacturer of the certain LW thermal paper they purchase, while eight reported “always”, seven reported “sometimes”, and six reported “usually”.

When asked if they or their customers ever specifically order certain LW thermal paper from one country over other possible sources of supply, 11 purchasers of jumbo rolls and 3 purchasers of slit rolls reported “yes”. Six purchasers of jumbo rolls reported that they buy from German suppliers, citing their availability of 48 gram thermal paper and its associated freight savings, superior quality, and reduced “trim waste”. Three purchasers of slit rolls and one purchaser of jumbo rolls reported that they buy from U.S. producers, citing preferences to support the U.S. economy and customer requests. Three purchasers of jumbo rolls reported purchasing from only U.S. and German suppliers due to quality.

Thirteen of 26 responding purchasers reported that jumbo rolls produced in the United States always meet minimum quality specifications; 21 of 31 responding purchasers reported that slit rolls produced by U.S. converters always meet minimum quality specifications; 16 of 23 responding purchasers reported that jumbo rolls produced in Germany always meet them; and 3 of 13 responding purchasers reported that slit rolls produced in China always meet minimum quality specifications.

³² Transcript, p. 292 (Greene).

³³ Ibid., pp. 6-7.

Table II-3

Certain LW thermal paper: Perceived degree of interchangeability of product produced in the United States and in other countries

Country comparison	U.S. coaters				U.S. converters				U.S. importers				U.S. purchasers			
	A	F	S	N	A	F	S	N	A	F	S	N	A	F	S	N
	Jumbo rolls															
U.S. vs. Germany	2	0	0	0	13	5	5	0	2	0	2	0	11	3	5	0
U.S. vs. Nonsubject	2	0	0	0	2	4	1	1	0	0	1	0	2	3	1	0
Germany vs. Nonsubject	2	0	0	0	5	2	1	0	0	0	1	0	3	2	1	0
	Slit rolls															
U.S. vs. China	1	1	0	0	7	3	2	0	1	0	3	1	9	4	3	0
U.S. vs. Nonsubject	1	1	0	0	2	2	0	1	0	0	1	1	1	2	0	0
China vs. Nonsubject	1	1	0	0	2	2	0	0	0	0	1	1	1	2	0	0
Note: "A" = Always, "F" = Frequently, "S" = Sometimes, and "N" = Never.																
Source: Compiled from data submitted in response to Commission questionnaires.																

As indicated in table II-4, the *** U.S. coaters that compared the United States product with product from China and Germany stated that differences other than price are sometimes or never significant. Three importers reported that differences other than price when comparing product from the United States with imports from China are “always” or “frequently” significant, while two importers reported that these differences are “sometimes” significant. In the case of comparing U.S. product with that of Germany, the majority of responding converters reported that differences other than price are “sometimes” or “never” significant.

Two converters reported that the slit rolls from China are not approved by the thermal printer manufacturers. One of these firms noted that some product from China can shorten print head life, although the product from China is packaged similarly to product from other sources and initially performs well. Two converters reported that the product range of Chinese suppliers is inferior to that of U.S. and German suppliers, with one noting that Chinese suppliers lack the transportation network that U.S. suppliers have. One converter reported that the quality of slit rolls from China is inferior to that of U.S. producers and would not use the product from China. Four converters reported that the quality of jumbo rolls from Germany is superior to the quality of jumbo rolls produced in the United States. Two of these converters specifically reported quality problems with certain LW thermal paper from ***, with one specifically citing higher incidences of “web breaks” and “excessive waste due to roll wind weaving” and inefficient running of ***’s 55 gram paper. However, this converter also reported that ***. Another converter reported that while it has experienced quality problems with certain LW thermal paper from both Appleton and Koehler, the quality of the Koehler product has historically been superior.

***, an importer of certain LW thermal paper from China, reported that the fact that certain LW thermal paper from China is not certified by thermal printer manufacturers limits its ability to sell imports from China to the larger U.S. retailers, noting that these retailers would risk losing the warranties on their printers if they bought uncertified certain LW thermal paper. This importer also reports that the inability of U.S. producers to meet demand and quality problems with U.S.-produced certain LW thermal paper drove converters to import suppliers. ***, an importer of product from Germany, reported that the

Table II-4

Certain LW thermal paper: Differences other than price between products from different sources¹

Country comparison	U.S. coaters				U.S. converters				U.S. importers			
	A	F	S	N	A	F	S	N	A	F	S	N
U.S. vs. China	0	0	2	0	3	2	3	2	2	1	2	0
U.S. vs. Germany	0	0	1	1	3	4	6	7	0	1	1	1
U.S. vs. Nonsubject	0	0	1	1	0	2	3	2	0	1	0	0
China vs. Germany	0	0	2	0	0	2	4	2	2	0	1	0
China vs. Nonsubject	0	0	2	0	0	1	2	1	1	0	0	0
Germany vs. Nonsubject	0	0	1	1	0	2	1	3	0	1	0	0

¹ Coaters, converters, and importers were asked if differences other than price between certain LW thermal paper produced in the United States and in other countries are a significant factor in their firms' sales of certain LW thermal paper.

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

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

quality of its paper is superior to the quality of U.S.-produced paper, citing better "runability" on converters' equipment, greater consistency, and ability to print a brighter and better image. It also notes that it offers a high-yield product, for which, at least until recently, there was no comparable U.S. product. This importer also reported that the poor quality of certain LW thermal paper from China is well known.

In the preliminary phase of these investigations, several converters reported quality problems with certain LW thermal paper supplied by Appleton. In particular, Rite-Made reported that it has had image quality problems with the Appleton product as well as slitting problems beginning in May 2005 that continued through the fall of 2006.³⁴ Appleton responded that the quality problems cited by Rite-Made were isolated and possibly are attributable to Rite-Made's equipment.³⁵ Nashua reported that the German product reportedly runs more efficiently on its equipment. Moreover, converters Nashua and *** expressed a problem with ***'s trim requirements (requiring the customer to purchase various sizes of rolls in order to reduce ***'s trim waste).³⁶ Purchaser comparisons with respect to "desired width of jumbo rolls" (as shown in table II-5) indicate that five of 18 responding converters reported that the U.S. product was inferior to the product from Germany. Two converters reported that they have not had trouble sourcing the optimal width jumbo rolls (53.5 inches) from U.S. coaters.³⁷

For some factors that almost all responding purchasers indicated were "very important" in their purchasing decisions, including reliability of supply and quality meets industry standards (see table II-2), purchaser comparisons as shown in table II-5 indicate that the domestic product is mostly comparable to the product imported from China and mostly comparable to the product imported from Germany. However, a plurality or a slight majority of purchasers reported that the U.S. product is inferior to the

³⁴ Conference transcript, p. 158 (Schwartz).

³⁵ Conference transcript, p. 247 (Dorn).

³⁶ Conference transcript, p. 146 (Granholm).

³⁷ Transcript, pp. 176 (Rapier) and 177 (Mosby).

Table II-5

Certain LW thermal paper: Comparisons between U.S.-produced and subject imported product as reported by U.S. purchasers

Factor	China			Germany		
	S	C	I	S	C	I
Availability	3	4	0	6	10	4
Delivery terms	2	5	0	3	17	0
Delivery time	4	3	0	13	6	1
Discounts offered	1	6	0	3	15	2
Extension of credit	2	4	1	2	15	0
Lower price ¹	2	2	3	2	8	10
Minimum quantity requirements	0	7	0	8	12	0
Packaging	2	4	1	0	20	0
Product consistency	1	6	0	0	9	11
Quality meets industry standards	2	5	0	0	14	6
Quality exceeds industry standards	2	5	0	0	14	6
Product range	4	3	0	11	8	2
Reliability of supply	2	5	0	4	13	3
Technical support/service	2	5	0	12	6	2
Lower U.S. transportation costs	1	4	1	1	11	3
Desired width (jumbo rolls)	(2)	(2)	(2)	0	13	5
Other ³	(2)	(2)	(2)	0	0	1

¹ A rating of superior means that the price is generally lower. For example, if a firm reports "U.S. superior," this means that it rates the U.S. price generally lower than the subject import price.

² Not applicable.

³ Other factor includes one instance of "interest in me as a customer" with a ranking of "inferior".

Note.--S=U.S. product is superior, C=U.S. product is comparable, I=U.S. product is inferior.

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

product from Germany with respect to "lower price" and "product consistency". A majority of purchasers reported that the U.S. product is superior to the product from Germany with respect to delivery time, product range, and technical support/service.

Other Country Comparisons

In addition to comparisons between the U.S. product and imports from the subject countries, comparisons between the United States and imports from nonsubject countries and between subject imports and nonsubject imports are also shown in tables II-3 and II-4. One converter reported that the quality of jumbo rolls from Korea is superior to those produced in the United States. Importer *** reported that certain LW thermal paper produced in Japan is more expensive, highly specialized, and is

typically used in medical applications requiring extremely long durability. One purchaser reported that jumbo rolls from Korea and Finland are “always” interchangeable with jumbo rolls produced in the United States and Germany.

ELASTICITY ESTIMATES

This section discusses the elasticity estimates.

U.S. Supply Elasticity³⁸

The domestic supply elasticity for certain LW thermal paper measures the sensitivity of the quantity supplied by U.S. producers to changes in the U.S. market price of certain LW thermal 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 production of other products, the existence of inventories, and the availability of alternate markets for U.S.-produced certain LW thermal paper. Analysis of these factors above indicates that the U.S. industry is likely to be able to moderately increase or decrease shipments to the U.S. market; an estimate in the range of 2 to 4 is suggested.

U.S. Demand Elasticity

The U.S. demand elasticity for certain LW thermal paper measures the sensitivity of the overall quantity demanded to a change in the U.S. market price of certain LW thermal paper. This estimate depends on factors discussed above such as the existence, availability, and commercial viability of substitute products. Based on the available information, the aggregate demand elasticity for certain LW thermal paper is likely to be in the range of -0.3 to -0.75.³⁹

Substitution Elasticity

The elasticity of substitution depends upon the extent of product differentiation between the domestic and imported products.⁴⁰ Product differentiation, in turn, depends upon such factors as quality and conditions of sale (availability, sales terms/discounts, etc.). Based on available information, the elasticity of substitution between U.S.-produced certain LW thermal paper and certain LW thermal paper from China and Germany is likely to be in the range of 3 to 5.

³⁸ A supply function is not defined in the case of a non-competitive market.

³⁹ Staff revised its estimates of aggregate demand elasticity since the pre-hearing report based on consideration of domestic coaters’ arguments regarding limited commercial viability of substitute products once a thermal printer has been purchased; namely, that thermal printers only work with thermal paper, require significant capital expenditures relative to the cost of thermal paper and are long-lived. Domestic coaters’ prehearing brief, exh. 1, p. 2.

⁴⁰ The substitution elasticity measures the responsiveness of the relative U.S. consumption levels of the subject imports and the domestic like products to changes in their relative prices. This reflects how easily purchasers switch from the U.S. product to the subject products (or vice versa) when prices change.

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

Information presented in this section of the report is based on (except as noted) the questionnaire responses of two firms which are believed to account for all U.S. production of coated jumbo rolls of certain LW thermal paper during the period of investigation and 20 U.S. converters, which are estimated to account for approximately 62.1 percent of U.S. conversion activities in 2007.¹

U.S. PRODUCERS

The Commission sent U.S. producers' questionnaires to two firms, Appleton and Kanzaki, identified in the petition as U.S. producers of coated jumbo rolls of certain LW thermal paper. Both firms submitted responses. In the preliminary phase of these investigations, petitioner contended that Appleton and Kanzaki are the only U.S. producers of the subject product.² German respondents, however, argued that firms that engage in conversion activities in the United States should also be included as members of the U.S. industry.³ The Commission preliminarily determined that U.S. converters do engage in sufficient production-related activities to be considered part of the U.S. industry.⁴ Therefore, the Commission sent producers' questionnaires to companies believed to be U.S. converters of certain LW thermal paper that were identified in the petition and by respondents as potential converters of the product.^{5 6 7} Twenty firms submitted responses containing usable data. Table III-1 presents the list of reporting U.S. coaters and converters with each company's U.S. production location, share of U.S. jumbo roll production or converting production in 2007, and position on the petition.

¹ Assuming that, in 2007, U.S. converters converted all of the domestic and imported jumbo rolls in the U.S. market, then the volume of jumbo rolls to be converted numbered *** short tons (U.S. commercial shipments of U.S. coaters plus U.S. imports of jumbo rolls from all sources). The Commission received U.S. producer's questionnaires from U.S. converters reporting a total of *** short tons of conversion production in 2007, or approximately 62.1 percent of estimated total U.S. conversion production.

² In the final phase of these investigations, petitioner stated that "although domestic coaters disagree with the Commission's determination . . . that converters engage in U.S. production . . . they will not reargue that issue . . ." Petitioner's prehearing brief, p. 1, n. 2. German respondents maintain that U.S. converters engage in sufficient production-related activities to be deemed U.S. producers of LW thermal paper. German respondents' prehearing brief, pp. 9-11; Koehler posthearing brief, pp. 1-3.

³ German respondent's postconference brief, pp. 2-7. Neither Appleton nor Kanzaki engage in conversion operations in the United States. ***. Appleton's postconference brief, exh. 1, p. 16.

⁴ *Certain Lightweight Thermal Paper From China, Germany, and Korea, Inv. nos. 701-TA-451 and 731-TA-1126-1128 (Preliminary)*, USITC Publication 3964, November 2007, p. 13.

⁵ The Commission sent all 204 U.S. firms on its mailing list the U.S. producer's, the U.S. importer's, and the U.S. purchaser's questionnaires.

⁶ Twenty-four firms reported that they had no commercial dealings with the subject product and therefore, did not convert, import, or purchase certain LW thermal paper. These firms included: ***.

⁷ Eleven firms reported that they did not convert but either imported or purchased certain LW thermal paper during the period of investigation. They included: ***.

Three U.S. converters submitted responses with incomplete or unusable data. These firms included: ***.

Table III-1

Certain LW thermal paper: U.S. coaters and converters, U.S. production locations, shares of U.S. production in 2007, and positions on the petition

Firm	Production locations	Share of reported production (percent)	Position on the petition	
			China	Germany
U.S. Coaters				
Appleton ¹	Appleton, WI	***	Petitioner	Petitioner
Kanzaki ²	Ware, MA	***	***	***
U.S. Converters				
Bluegrass	Brandenburg, KY	***	***	***
Colorkraft	Martinsville, IL	***	***	***
Fay Paper	Norwood, MA	***	***	***
FMW ³	Valencia, CA	***	***	***
Greenleaf	Phoenix, AZ	***	***	***
Integrity Printing	Clare, MI	***	***	***
Liberty Paper	Phoenix, AZ	***	***	***
Nakagawa ⁴	Hayward, CA	***	***	***
Nashua	Park Ridge, IL	***	***	***
National Checking	St. Paul, MN	***	***	***
NCR ⁵	Morristown, TN Viroqua, WI	***	***	***
Northeast Converters	Palm Beach, FL	***	***	***
Paper Solutions	Knoxville, TN	***	***	***
Paper Systems	Springboro, OH	***	***	***
PMCO	Cincinnati, OH	***	***	***
Rite-Made	Kansas City, KS	***	***	***
Sandt	Lancaster, PA	***	***	***
Specialty Roll	Meridian, MS	***	***	***
Superior Paper	Marshfield, WI	***	***	***
Tufco	Newton, NC	***	***	***
<p>¹ Appleton is wholly owned by the Paperweight Development Trust Corp., an employee stock ownership trust. ² ***. ³ ***. ⁴ ***. ⁵ NCR operates wholly owned subsidiaries in Canada, Chile, Dubai, France, New Zealand, and the United Kingdom that engage in the production of certain LW thermal paper.</p>				
Source: Compiled from data submitted in response to Commission questionnaires.				

U.S. CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION

U.S. Coaters

Data on U.S. coaters' capacity, production, and capacity utilization are presented in table III-2. Total U.S. capacity decreased from 2005 to 2007 by *** percent and increased by *** percent between January-June 2007 and January-June 2008. ***.⁸ ***. However, in January 2007, Appleton announced that it planned to install a new coating operation and other enhancements totaling \$125 million in capital investment at its West Carrollton, OH facility.⁹ The new coater will exclusively produce certain LW thermal paper. On August 6, 2008, Appleton announced the opening of the new coating operation, which it estimates will increase its capacity of the subject product by *** short tons annually, thereby increasing its capacity *** percent over its reported 2007 capacity.¹⁰ U.S. capacity volume accounted for only *** percent of apparent U.S. consumption of certain LW thermal paper in 2007.¹¹ Total U.S. production of certain LW thermal paper increased by *** percent from 2005 to 2007, and increased by an additional *** percent between January-June 2007 and January-June 2008.¹² Capacity utilization ranged from *** percent in interim 2007 to *** percent in 2006.^{13 14}

Table III-2
Certain LW thermal paper: U.S. coaters' capacity, production, and capacity utilization, 2005-07, January-June 2007, and January-June 2008

* * * * *

Both Appleton and Kanzaki reported producing other products using the same manufacturing equipment and/or production employees that were used to produce certain LW thermal paper. Table III-3 shows overall U.S. capacity for these producers as well as the other products for which they have allocated capacity.

⁸ ***.

⁹ Appleton reported that this expansion was funded by ***. Petitioner's prehearing brief, p. 5.

¹⁰ Appleton's U.S. producer questionnaire, p. 4 and exhs. 1-3 (Appleton documents drafted in the normal course of business regarding petitioner's planning of the expansion). Appleton's submitted business plans have been circulated to the Commission under separate cover. Koehler Germany also recently announced that it plans to build a coating facility and produce certain LW thermal paper in the United States with production expected to begin in 2010. Its submitted business plans also have been submitted under separate cover to the Commission.

¹¹ Taking into account the additional capacity that Appleton added in 2008, U.S. capacity would have accounted for *** percent of apparent U.S. consumption in 2007.

¹² Petitioner reported that in its production of certain LW thermal paper, it obtained ***. Appleton U.S. producer's questionnaire, response to question II-15. Kanzaki ***. Kanzaki U.S. producer questionnaire, response to question II-15.

¹³ Both Chinese and German respondents argue that ***. Chinese respondents' prehearing brief, p. 9; German respondents' prehearing brief, pp. 15-18, 38-39. Appleton's capacity data were revised and verified (see verification report, memo INV-FF-126, October 7, 2008, p. 4).

¹⁴ The January-June interim periods may show artificially low capacity utilization rates due to the seasonal nature of this industry, which mirrors the retail industry where demand peaks in the third and fourth quarters. In the preliminary phase of these investigations, German respondents argued that because of this seasonality, the Commission should place little value on reported low capacity utilization rates of the U.S. industry in these interim periods and should instead examine the relatively high annual capacity utilization rates. German respondents' postconference brief, exh. 10.

Table III-3

Thermal paper and other products: Overall capacity of U.S. coaters, and production by firms and products, 2007

* * * * *

U.S. Converters

Data on U.S. converters' capacity, production, and capacity utilization are presented in table III-4. Total U.S. capacity increased from 2005 to 2007 by *** percent and by *** percent between January-June 2007 and January-June 2008. Total U.S. conversion production of certain LW thermal paper increased by *** percent from 2005 to 2007, and increased by an additional *** percent between January-June 2007 and January-June 2008. Annual capacity utilization ranged from *** percent in interim 2007 to *** percent in 2006.¹⁵

Table III-4

Certain LW thermal paper: U.S. converters' capacity, production, and capacity utilization, 2005-07, January-June 2007, and January-June 2008

* * * * *

Fourteen of the 20 reporting U.S. converters reported producing other products using the same manufacturing equipment and/or production employees that were used to produce certain LW thermal paper. *** reported not producing other products. Table III-5 shows overall U.S. capacity for U.S. converters as well as the other products for which they have allocated capacity.

Table III-5

Thermal paper and other products: Overall capacity of U.S. converters, and production by firms and products, 2007

* * * * *

U.S. COATERS' AND CONVERTERS' U.S. SHIPMENTS AND EXPORT SHIPMENTS

U.S. Coaters

As detailed in table III-6, the volume of U.S. coaters' U.S. shipments of certain LW thermal paper (defined as jumbo rolls shipped to U.S. converters) increased by *** percent from 2005 to 2007, and increased by an additional *** percent between January-June 2007 and January-June 2008. The value of U.S. shipments decreased by *** percent, but increased *** percent during the interim periods. None of the U.S. producers reported internal consumption or transfers to related firms of certain LW thermal paper. *** reported export shipments to ***.

¹⁵ In the preliminary phase of these investigations, German respondents argued that U.S. converters intentionally build excess capacity in order to: (1) prepare for the seasonal fourth quarter demand increase, and (2) be prepared for large new orders to attract new customers while retaining current ones. German respondents' postconference brief, pp. 22-23 and exh. 13.

Table III-6

Certain LW thermal paper: U.S. coaters' shipments of jumbo rolls, by types, 2005-07, January-June 2007, and January-June 2008

* * * * *

U.S. Converters

As shown in table III-7, the volume of U.S. converters' U.S. shipments of certain LW thermal paper (defined as finished, already slitted rolls shipped to distributors or end users) increased by *** percent from 2005 to 2007 and *** percent between January-June 2007 and January-June 2008. The value of U.S. shipments increased by *** percent and *** percent, respectively, during the same time periods. None of the U.S. producers reported internal consumption or transfers to related firms of certain LW thermal paper. *** reported export shipments to ***.

Table III-7

Certain LW thermal paper: U.S. converters' shipments of slitted rolls, by types, 2005-07, January-June 2007, and January-June 2008

* * * * *

Certain LW thermal paper with a basis weight of 48 g/m² vs. 55 g/m²

During the course of these investigations, German respondents have argued that the increased volume of U.S. imports from Germany during the period of investigation resulted from its development of a superior product, which was not available from U.S. coaters during much of the period of investigation, and not LTFV pricing. Specifically, German respondents contended that their 48 g/m² product is superior to the common domestic 55 g/m² product by virtue of its thinner caliber: (1) jumbo rolls of 48 g/m² paper are approximately 15 percent lighter in weight which saves U.S. converters freight costs; (2) jumbo rolls of 48 g/m² paper are longer equating to fewer jumbo roll changes for U.S. converters; (3) similarly 48 g/m² paper produces longer finished rolls with the same diameter (thereby requiring the end user to change rolls less frequently and saving converters material costs by using less cores and packaging material); and (4) retailers save storage space using the smaller rolls.¹⁶

Appleton reported producing jumbo rolls with a basis weight of 48 g/m², commencing in 2004. Kanzaki does not produce a 48 g/m² product, but rather a lighter product that has an average basis weight of 53 g/m².¹⁷ Appleton discontinued its 48 g/m² product in 2006 due to poor sales and then recommenced production of a 48 g/m² product in 2007.¹⁸ Appleton reported that this product accounted for less than *** percent of its U.S. commercial shipments in 2007. Appleton contends that 48 g/m² paper and 55 g/m² paper are commercially substitutable and compete solely on the basis of price. It also contends that there

¹⁶ Koehler's postconference brief, p. 19; German respondents' prehearing brief, pp. 12-13.

¹⁷ Petitioner's prehearing brief, p. 16.

¹⁸ Conference transcript, pp. 108-109 (Hatfield); German respondents contend that Appleton discontinued its 48 g/m² product due to quality issues such as jamming in the POS printers. German respondents' prehearing brief, p. 19. German respondents also contend that Appleton's 48 g/m² product has not been as successful as its 48 g/m² product because: (1) Appleton's product did not receive IBM certification until July 2008; (2) Appleton, unlike Koehler and Mitsubishi, does not produce its own base paper and therefore is less likely to achieve product consistency; and (3) Appleton, unlike Koehler and Mitsubishi, is unwilling to exclusively supply 53.5 inch jumbo rolls, preferred by converters as this width minimizes trim loss. *Ibid.*, pp. 19, 23-24.

is no clear dividing line between the two products as the basis weight variances between the products are substantial.¹⁹

Thirteen of the 20 reporting U.S. converters reported converting jumbo rolls with a basis weight of 48 g/m². The largest reporting U.S. converter, ***, reported that *** percent of its 2007 U.S. commercial shipments consisted of 48 g/m² product. Table III-8 lists U.S. coaters and converters, whether they coat or convert 48 g/m² product, the date of commencement of coating or converting, 2007 U.S. shipments of 48 g/m² product, and the share of their 2007 U.S. shipments accounted for by 48 g/m² product. Table III-9 presents total U.S. shipments of 48 g/m² thermal paper and 55 g/m² thermal paper reported during the period of investigation. As shown in table III-9, U.S. commercial shipments of 48 g/m² jumbo rolls, reported by U.S. coaters, Appleton and Kanzaki, accounted for *** percent of the U.S. commercial shipments of 48 g/m² slitted product reported by U.S. converters in 2007.

Table III-8

Certain LW thermal paper: Date of the commencement of U.S. production of 48 g/m² paper and quantity and share of 2007 48 g/m² paper production, by firm

* * * * *

Table III-9

Certain LW thermal paper: U.S. shipments, by type, 2005-07, January-June 2007, and January-June 2008

* * * * *

U.S. PRODUCERS' IMPORTS AND PURCHASES OF IMPORTS

*** import or purchase U.S. imports of certain LW thermal paper during the period of investigation. Eighteen of the 20 U.S. converters, however, reported that they directly imported or purchased from U.S. importers the subject product from China or Germany during the period of investigation.²⁰ ***, reported purchasing certain LW thermal paper in jumbo form solely from U.S. coaters. Table III-10 presents converters' direct imports and purchases of certain LW thermal paper from China and Germany, their U.S. conversion production, and the ratio of their U.S. imports and purchases to their U.S. conversion production.

¹⁹ Petitioner's prehearing brief, pp. 15-21. German respondents claim that there is a clear dividing line between its 48 g/m² product and 55 g/m² product and that the weight variances in these two products "never come close to overlapping." Koehler's posthearing brief, "Answers to Commissioners' Questions," p. 10; Mitsubishi's posthearing brief, pp. 1-4.

²⁰ In the preliminary phase of these investigations, German respondents contended that although many of the U.S. converters purchase U.S. imports from Germany, the purchases are widely dispersed among converters; and therefore, none of the U.S. converters controls a significant portion of U.S. imports from Germany. Thus, they argued that none of the U.S. converters should be excluded from the U.S. industry as a related party. For example, Koehler stated that its largest U.S. purchaser, ***, accounted for *** percent of its 2006 sales. German respondents' postconference brief, exh. "Answers to staff questions," pp. 2-3. Mitsubishi's largest U.S. purchaser, ***, accounted for *** percent of Mitsubishi's 2006 sales. Mitsubishi's U.S. importer's questionnaire, p. 37.

Table III-10

Certain LW thermal paper: U.S. converters' subject imports and purchases of subject imports, 2005-07, January-June 2007, and January-June 2008

* * * * *

U.S. PRODUCERS' INVENTORIES

Data on end-of-period inventories of certain LW thermal paper for the period of investigation are presented in table III-11.

Table III-11

Certain LW thermal paper: U.S. coaters' and converters' end-of-period inventories, 2005-07, January-June 2007, and January-June 2008

* * * * *

U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY

Data provided by U.S. producers on the number of production and related workers ("PRWs") engaged in the coating of jumbo rolls of certain LW thermal paper and the conversion of the jumbo rolls into finished product, the total hours worked by such workers, and wages paid to such PRWs during the period for which data were collected in these investigations are presented in table III-12.

Table III-12

Certain LW thermal paper: Average number of production and related workers producing certain LW thermal paper, hours worked, wages paid to such employees, and hourly wages, productivity, and unit labor costs, 2005-07, January-June 2007, and January-June 2008

Item	Calendar year			January-June	
	2005	2006	2007	2007	2008
U.S. coaters					
PRWs (<i>number</i>)	***	***	***	***	***
Hours worked (<i>1,000</i>)	***	***	***	***	***
Wages paid (<i>\$1,000</i>)	***	***	***	***	***
Hourly wages	***	***	***	***	***
Productivity (<i>short tons per 1,000 hours</i>)	***	***	***	***	***
Unit labor costs (<i>per short ton</i>)	***	***	***	***	***
U.S. converters					
PRWs (<i>number</i>)	***	***	***	***	***
Hours worked (<i>1,000</i>)	***	***	***	***	***
Wages paid (<i>\$1,000</i>)	***	***	***	***	***
Hourly wages	***	***	***	***	***
Productivity (<i>short tons per 1,000 hours</i>)	***	***	***	***	***
Unit labor costs (<i>per short ton</i>)	***	***	***	***	***
U.S. coaters and converters					
PRWs (<i>number</i>)	942	959	949	961	945
Hours worked (<i>1,000</i>)	1,888	1,936	1,904	984	1,018
Wages paid (<i>\$1,000</i>)	38,455	40,841	40,192	19,555	20,581
Hourly wages	\$20.37	\$21.10	\$21.11	\$19.88	\$20.22
Productivity (<i>short tons per 1,000 hours</i>)	85.5	94.3	94.4	84.3	96.7
Unit labor costs (<i>per short ton</i>)	\$238.25	\$223.66	\$223.57	\$235.75	\$209.15
Source: Compiled from data submitted in response to Commission questionnaires.					

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

U.S. IMPORTERS

The Commission sent importer questionnaires to firms believed to be U.S. importers of certain LW thermal paper, as well as to all U.S. producers.¹ Questionnaire responses containing usable data were received from ten firms² and accounted for all U.S. imports of certain LW thermal paper from Germany and the majority of U.S. imports from China.

Koehler America and Mitsubishi accounted for 100 percent of U.S. imports of certain LW thermal paper from Germany during the period of investigation.³ Each company is the exclusive U.S. importer for its respective related producer in Germany. *** is by far the largest reporting U.S. importer of certain LW thermal paper from China during the period of investigation. *** reported importing smaller volumes of product from China commencing in ***.⁴ U.S. imports from nonsubject countries originated almost entirely from Korea. *** is the sole U.S. importer of certain LW thermal paper from Korea for its parent, ***. In the preliminary phase of these investigations, both petitioner and respondents stated that they were unaware of the existence of U.S. imports from other nonsubject countries during the period of investigation.⁵ Three firms reported *** of U.S. imports from *** during the period.

U.S. imports from Germany consist entirely of jumbo rolls of certain LW thermal paper while U.S. imports from China are entirely of the downstream slitted product.⁶

Table IV-1 lists all responding U.S. importers of certain LW thermal paper from China, Germany, and nonsubject countries, their U.S. locations, and their quantities of imports, by source, in 2007.

Table IV-1
Certain LW thermal paper: Reported U.S. imports, by importers and by sources of imports, 2007

* * * * *

¹ The Commission sent questionnaires to those firms identified in the petition, along with firms that, based on a review of data provided by the U.S. Customs and Border Protection (“Customs”), may have imported certain LW thermal paper since 2005. The Commission sent all 204 U.S. firms on its mailing list the U.S. producer’s, the U.S. importer’s, and the U.S. purchaser’s questionnaires.

² In addition to the ten usable responses (those U.S. importers are shown in table IV-1), the Commission received questionnaire responses from 24 firms that reported that they had no commercial dealings with the subject product and therefore, did not convert, import, or purchase certain LW thermal paper. A list of those firms is found on page III-2 n. 6.

An additional 13 firms reported that they did not import, but either converted or purchased certain LW thermal paper during the period of investigation. They included: ***.

The Commission also received U.S. importer questionnaire responses from four firms that after further inquiry were determined to be U.S. purchasers from U.S. importers rather than direct U.S. importers themselves. Therefore, their reported imports were not included in U.S. import data reported in this report. These firms include: ***. One firm, ***, provided the Commission with a questionnaire response that contained unusable data.

³ Conference transcript, p. 180 (Greene).

⁴ ***.

⁵ Conference transcript, p. 181 (Dorn, Silverman).

⁶ ***.

U.S. IMPORTS

Table IV-2 presents data for U.S. imports of certain LW thermal paper from China,⁷ Germany, and nonsubject countries. U.S. imports from China increased from *** short tons in 2005, the year imports from China first appeared in the U.S. market, to *** short tons in 2007, an increase of *** percent. During the interim periods, the volume of U.S. imports from China decreased from *** short tons to *** short tons, a decrease of *** percent. The volume of U.S. imports from Germany increased by *** percent from 2005 to 2007 and *** percent between January-June 2007 and January-June 2008. The volume of U.S. imports from nonsubject countries, the vast majority of which consisted of U.S. imports from Korea, increased by *** percent from 2005 to 2006, but decreased by *** percent from 2005 to 2007 and by *** percent between January-June 2007 and January-June 2008.

Table IV-2
Certain LW thermal paper: U.S. imports, by sources, 2005-07, January-June 2007, and January-June 2008

* * * * *

Certain LW thermal paper with a basis weight of 48 g/m² vs. 55 g/m²

During the course of these investigations, German respondents have argued that the increased volume of U.S. imports from Germany during the period of investigation resulted from its development of a superior product, which was not available from U.S. coaters during much of the period of investigation, and not LTFV pricing. Specifically, German respondents contended that their 48 g/m² product is superior to the common domestic 55 g/m² product by virtue of its thinner caliber and allows for the following advantages: (1) jumbo rolls of 48 g/m² paper are approximately 15 percent lighter in weight saving U.S. converters freight costs; (2) jumbo rolls of 48 g/m² paper are longer equating to fewer jumbo roll changes for U.S. converters; (3) similarly 48 g/m² paper produces longer finished rolls with the same diameter (thereby requiring the end user to change rolls less frequently and saving converters material costs by using less cores and packaging material); (4) retailers save storage space using the smaller rolls.⁸

Table IV-3 presents U.S. commercial shipments of imports of 48 g/m² product and 55 g/m² during the period of investigation. U.S. importers reported that during the period of investigation, all 48 g/m² jumbo rolls originated from Germany and a nominal amount of slitted 48 g/m² product originated from China. The volume of U.S. commercial shipments of 48 g/m² jumbo rolls from Germany increased by *** percent from 2005 to 2007 and *** percent from January-June 2007 to January-June 2008. U.S. importers also reported that substantial volumes of jumbo rolls of 55 g/m² product originated from Germany. However, from 2005 to 2007, the volume of U.S. commercial shipments of 55 g/m² jumbo

⁷ In table IV-2, U.S. imports from China are believed to be understated. The largest reporting Chinese producer, ***, stated that it accounted for *** percent of all exports from China to the United States in 2007 and that *** percent of its exports were imported by ***. *** accounted for *** percent of reported U.S. imports from China in 2007. Chinese respondents contend that reported U.S. imports from China are reliable and relatively complete as Handong accounted for the vast majority of exports to the United States during the period of investigation. Chinese respondents' prehearing brief, p. 5.

U.S. import data from Germany and the nonsubject country of Korea are believed to be complete. Koehler and Mitsubishi stated that together they accounted for 100 percent of U.S. imports from Germany. Both have submitted data to the Commission. The vast majority of U.S. imports from nonsubject countries are believed to have originated from Korea. *** reported that it accounted for all the U.S. imports from Korea during the period of investigation. It has submitted data to the Commission.

⁸ Koehler's postconference brief, p. 19; German respondents' prehearing brief, pp. 12-13.

rolls from Germany decreased by *** percent and by *** percent during the interim periods. The *** of U.S. imports from China consist of 55 g/m² slitted product. Jumbo rolls of 55 g/m² product from nonsubject countries originate from Korea.

Table IV-3

Certain LW thermal paper: U.S. shipments of imports, by type and source, 2005-07, January-June 2007, and January-June 2008

* * * * *

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; fungibility is also discussed earlier in *Part IV*.

During the course of these investigations, petitioner has argued that U.S. imports from China and Germany should be cumulated. With regard to geographical markets and presence in the market, in the preliminary phase of these investigations, the petitioner argued that imported certain LW thermal paper from all subject countries competes without regard to geographical location in the United States and that these imports have been simultaneously present in the U.S. market during the period of investigation.⁹

With regard to fungibility, petitioner contends that even if slit rolls from China and jumbo rolls from Germany are not physically fungible, they nonetheless compete in the same market, as U.S. converters must decide to “make or buy” as the price of slitted Chinese imports falls below their cost of production.¹⁰

Chinese respondents have argued that the markets for Chinese slit rolls and jumbo rolls are distinct and separate. They further contend that although U.S. converters have purchased Chinese slitted product, these purchases by a small number of U.S. converters were made to expand the geographical reach (to the Western United States) of these converters rather than a “make or buy” decision as put forth by petitioner.¹¹

German respondents have argued that U.S. imports from China should not be cumulated with imports from Germany.¹² German respondents have argued that U.S. imports from China were not present in the market in substantial volumes until 2006, and therefore, not simultaneously present in the market for a portion of the period of investigation. They also argued that U.S. imports from China and Germany are not fungible because as slitted rolls, Chinese product is not interchangeable with the jumbo rolls from Germany and is sold through different channels of distribution, i.e., the slitted rolls from China are sold to distributors and end users while the jumbo rolls from Germany are sold to U.S. converters.¹³

⁹ Petition, p. 14; petitioner’s postconference brief, pp. 23-25.

¹⁰ Petitioner’s prehearing brief, pp. 26-37.

¹¹ Chinese respondents’ prehearing brief, p. 2. German respondents also advance that U.S. converters “make and buy” and purchase slitted product from China to merely supplement their geographical distribution. Mitsubishi’s posthearing brief, p. 14.

¹² German respondent’s postconference brief, pp. 7-12.

¹³ Ibid; German respondents’ prehearing brief, p. 1 and exh. 1. German respondents argued further that slitted product from China may include printing and is generally not certified for use in IBM or Epson POS machines, thus further decreasing the interchangeability of the products. Chinese respondent also attested to its non-certification by

(continued...)

The Commission preliminarily determined that U.S. imports from China and Germany should not be cumulated and found that “because the subject imports from China are slit rolls that are not interchangeable with the jumbo rolls from Germany, we find that the subject imports are not fungible and that there is no reasonable overlap of competition between subject imports from China and subject imports from Germany. Subject imports from Germany require further processing for end use, while subject imports from China do not.”¹⁴

NEGLIGENCE

The Tariff Act of 1930 provides for the termination of an investigation if imports of the subject product from a country are less than 3 percent of total imports, or, if there is more than one such country, their combined share is less than or equal to 7 percent of total imports, during the most recent 12 months for which data are available preceding the filing of the petition.¹⁵ The share (in *percent*) of the total quantity of U.S. imports from China for the period of January to December 2006, the most recent 12-month period preceding the filing of the petition for which data are available, was *** percent, above the 3 percent negligibility threshold. The share (in *percent*) of the total quantity of U.S. imports from Germany for the period of January to December 2006 was *** percent, again well above the 3 percent negligibility threshold. No party disputes that the share of the total quantity of U.S. imports from China and Germany surpassed the requisite negligibility threshold during the period.

APPARENT U.S. CONSUMPTION AND MARKET SHARES

Data on apparent U.S. consumption of certain LW thermal paper are presented in table IV-4.¹⁶ The quantity of apparent U.S. consumption of certain LW thermal paper increased by *** percent from 2005 to 2007, and by *** percent between January-June 2007 and January-June 2008. The value of apparent U.S. consumption increased by *** percent from 2005 to 2007, and by *** percent between the interim periods.

Data on U.S. market shares for certain LW thermal paper are presented in table IV-5. From 2005 to 2007, U.S. producers lost *** percentage points of market share based on quantity and *** percentage points based on value. Between January-June 2007 and January-June 2008, U.S. producers gained *** percentage points of U.S. market share based on volume and *** percentage points based on value. U.S. imports from China gained *** percentage points of U.S. market share during 2005-07 based on quantity and *** percentage points based on value. Between the interim periods, U.S. imports from China lost *** percentage points of U.S. market share based on quantity and *** percentage points based on value. U.S. imports from Germany gained *** percentage points of U.S. market share during 2005-07 based on

¹³ (...continued)

IBM and Epson and to general quality issues with some product from China. Chinese respondent’s postconference brief, p. 9 and exh. 9.

¹⁴ *Certain Lightweight Thermal Paper From China, Germany, and Korea, Inv. nos. 701-TA-451 and 731-TA-1126-1128 (Preliminary)*, USITC Publication 3964, November 2007, p. 20. Commissioner Lane found that U.S. imports from China and Germany should be cumulated and stated that “the uses of the paper imported from China and Germany are the same . . . the physical characteristics of imports from China and Germany, other than the size of the rolls, are also the same. This evidence points to a reasonable overlap of competition . . .” Ibid. at 34 (Separate Views of Commissioner Charlotte R. Lane).

¹⁵ 19 U.S.C. § 1677(24)(A)(ii).

¹⁶ Tables IV-4 and IV-5 and appendix C, table C-3 compute U.S. consumption and market shares using U.S. coaters and converters’ combined U.S. shipments. Table C-1 computes U.S. consumption and market shares using only U.S. coaters’ shipments of jumbo rolls to U.S. converters. Appendix C, table C-2 computes U.S. consumption and market shares using only U.S. converters’ shipments to distributors and end users.

quantity and *** percentage points based on value. Between the interim periods, U.S. imports from Germany lost *** percentage points of U.S. market share based on quantity and gained *** percentage points based on value. U.S. imports from nonsubject countries lost *** percentage points of U.S. market share during 2005-07 based on quantity and *** percentage points based on value. Between the interim periods, U.S. imports from nonsubject countries lost *** percentage points of U.S. market share based on quantity and *** percentage points based on value.

Table IV-4
Certain LW thermal paper: U.S. shipments of domestic product, U.S. imports by sources, and apparent U.S. consumption, 2005-07, January-June 2007, and January-June 2008

Item	Calendar year			January-June	
	2005	2006	2007	2007	2008
Quantity (short tons)					
U.S. producers' U.S. shipments	144,751	158,845	162,075	71,789	85,333
U.S. imports from--					
China	***	***	***	***	***
Germany	***	***	***	***	***
Subtotal	***	***	***	***	***
All other countries	***	***	***	***	***
Total imports	70,882	85,460	93,712	45,419	47,688
Apparent U.S. consumption	215,633	244,305	255,787	117,208	133,021
Value (\$1,000)					
U.S. producers' U.S. shipments	310,868	338,781	338,704	165,617	185,839
U.S. imports from--					
China	***	***	***	***	***
Germany	***	***	***	***	***
Subtotal	***	***	***	***	***
All other countries	***	***	***	***	***
Total imports	116,812	143,348	151,518	74,721	82,622
Apparent U.S. consumption	427,680	482,129	490,222	240,338	268,461
Source: Compiled from data submitted in response to Commission questionnaires.					

Table IV-5
Certain LW thermal paper: Apparent U.S. consumption and market shares, 2005-07, January-June 2007, and January-June 2008

Item	Calendar year			January-June	
	2005	2006	2007	2007	2008
Quantity (short tons)					
Apparent U.S. consumption	215,633	244,305	255,787	117,208	133,021
Value (\$1,000)					
Apparent U.S. consumption	427,680	482,129	490,222	240,338	268,461
Share of quantity (percent)					
U.S. producers' U.S. shipments	***	***	***	***	***
U.S. imports from--					
China	***	***	***	***	***
Germany	***	***	***	***	***
Subtotal	***	***	***	***	***
All other countries	***	***	***	***	***
Total imports	***	***	***	***	***
Share of value (percent)					
U.S. producers' U.S. shipments	***	***	***	***	***
U.S. imports from--					
China	***	***	***	***	***
Germany	***	***	***	***	***
Subtotal	***	***	***	***	***
All other countries	***	***	***	***	***
Total imports	***	***	***	***	***
Note.--Because of rounding, figures may not add to totals shown.					
Source: Compiled from data submitted in response to Commission questionnaires.					

RATIO OF IMPORTS TO U.S. PRODUCTION

Data on the ratio of imports to U.S. production of jumbo rolls of certain LW thermal paper are presented in table IV-6.

Table IV-6
Certain LW thermal paper: U.S. production, U.S. imports, and ratios of imports to production, 2005-07, January-June 2007, and January-June 2008

* * * * * * *

PART V: PRICING AND RELATED INFORMATION

FACTORS AFFECTING PRICES

Raw Material Costs

The raw materials used to produce certain LW thermal paper includes the paper base stock, which reportedly accounts for *** percent of total raw material costs for U.S. coater ***. Other raw materials include the active top coat, accounting for *** percent of ***'s total raw materials costs for the product, and the base coat, which accounts for *** percent.¹ Further information on coaters' raw material costs over the period of investigation is provided in part VI.

Transportation Costs to the U.S. Market

Transportation costs for certain LW thermal paper shipped from China to the United States averaged 8.5 percent of the customs value during 2007 and transportation costs for certain LW thermal paper shipped from Germany to the United States averaged 7.2 percent of the customs value during 2007. These estimates are derived from official import data.²

U.S. Inland Transportation Costs

U.S. coaters and converters reported that they ship from their production facilities. For U.S. coaters, their reported transportation costs account for *** percent of their delivered sales prices. For U.S. converters, the reported costs ranged from 3 percent to 15 percent of the delivered price, with most converters reporting 4 to 5 percent.³ For importers of subject product from China, the costs ranged from 3 to 13 percent of the delivered price. For importers of subject product from Germany, U.S. inland transportation costs accounted for *** percent of their delivered prices.

Koehler also reported that it is less costly per unit to ship certain LW thermal paper of lower basis weights because the cost for shipping a truckload is generally fixed (as reported by both U.S. coater Kanzaki and Koehler) and more square feet of paper can be shipped with the same weight as heavier thermal paper.⁴ For example, the freight costs of shipping a given square footage of 48 gram thermal

¹ Petitioner's postconference brief, exh. 1, p. 10.

² The estimated cost was obtained by subtracting the customs value from the c.i.f. value of the imports for 2007 and then dividing by the customs value. This calculation used import data on HTS statistical annotations 4811.90.8040 and 4811.90.9090.

³ Converter *** did not report its approximate U.S. inland transportation costs; however, staff calculated that its reported delivered sales prices were up to *** percent higher than its reported sales prices on an f.o.b. basis. ***'s Producers' Questionnaire, IV-2.

⁴ Transcript, pp. 181-2 (Heffner). ***'s posthearing brief, answers to Commissioners' questions, p 7.

paper are reportedly *** to 15 percent less than the freight costs of shipping an equivalent square footage of 55 gram thermal paper.⁵ ***.⁶ ***.⁷ ***.⁸ ***.⁹

***, the *** responding importer of subject product from China, reported that the availability of subject imports has allowed converters and distributors to expand the regions to which they can affordably ship certain LW thermal paper. For example, a converter on the east coast can sell to customers on the west coast by importing the product from China directly to a port on the west coast, thereby reducing U.S. inland freight costs and delivery time.¹⁰

Exchange Rates

Nominal and real exchange rate data for China and Germany are presented on a quarterly basis in figure V-1.¹¹ While the nominal exchange rate for the Chinese yuan was pegged to the U.S. dollar during the first two quarters of 2005, the dollar depreciated by 19.0 percent relative to the yuan in nominal terms from the third quarter of 2005 to the second quarter of 2008. The nominal and real exchange rates of the U.S. dollar relative to the euro depreciated over the period, with the nominal value depreciating by 19.5 percent from the first quarter of 2005 to the second quarter of 2008 and the real value depreciating by 6.4 percent from the first quarter of 2005 to the first quarter of 2008.¹²

Figure V-1
Exchange rates: Indices of the nominal and real exchange rates of the Chinese and German currencies relative to the U.S. dollar, by quarters, January 2005-June 2008

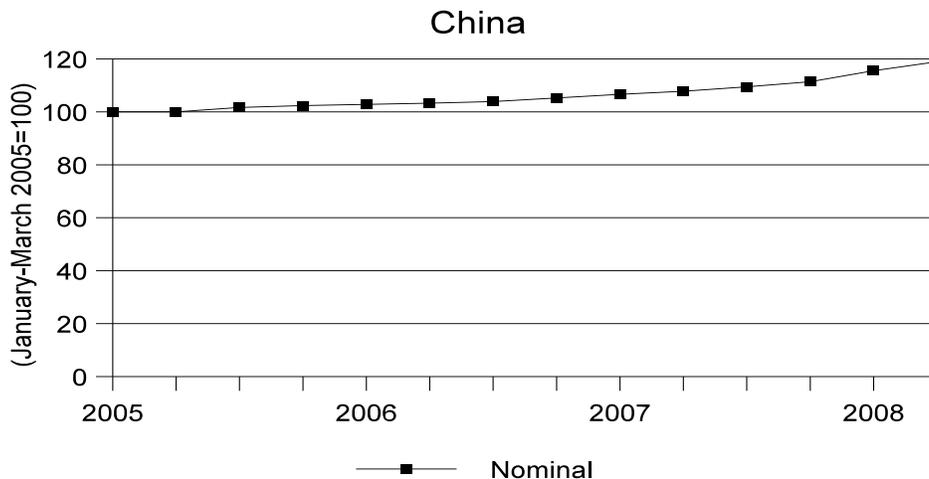


Figure continued on following page.

⁵ ***'s importer questionnaire response, section III-16. Conference transcript, pp. 227-228 (Greene). ***.

⁶ ***. ***'s posthearing brief, answers to Commissioners' questions, pp. 29-31.

⁷ ***.

⁸ ***.

⁹ ***.

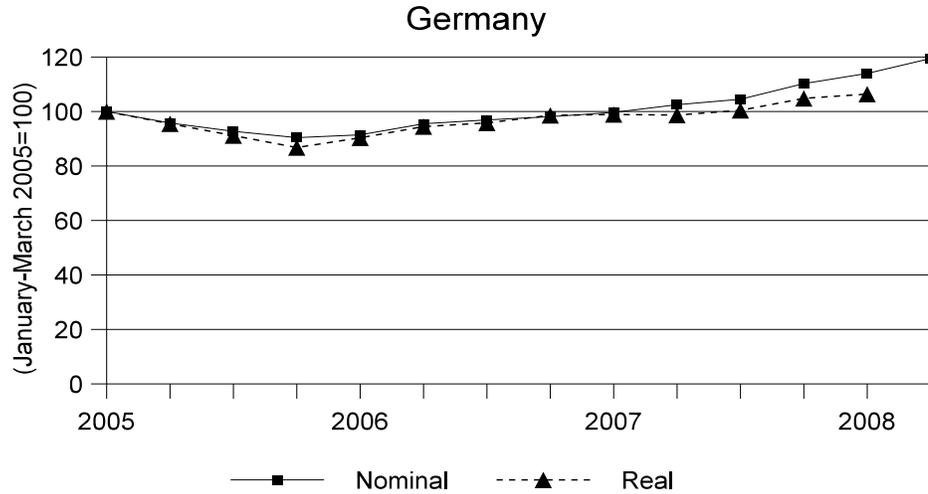
¹⁰ ***'s importer questionnaire response, section III-B-31. Chinese respondent's postconference brief, pp. 7-8.

¹¹ A real value is unavailable for China. 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.

¹² German producers Koehler and Mitsubishi reported that they purchase substantial quantities of their inputs on a U.S. dollar-denominated basis. Transcript, pp. 240 (Jahns) and 265 (Freuh).

Figure V-1--continued

Exchange rates: Indices of the nominal and real exchange rates of the Chinese and German currencies relative to the U.S. dollar, by quarters, January 2005-June 2008



Source: International Monetary Fund, International Financial Statistics, September 3, 2008.

PRICING PRACTICES

Pricing Methods

When U.S. coaters were asked how they determined the prices that they charge for certain LW thermal paper, *** reported the use of ***. Most responding converters reported the use of transaction-by-transaction negotiations, price lists, or prices that reflect market conditions. Most responding importers reported the use of transaction-by-transaction negotiations.¹³

A portion of sales of converted rolls of certain LW thermal paper are sold via reverse internet auctions.¹⁴ Domestic producers report that auctions often request bids with 48, 53, and 55 gram paper in standard lengths and that price is the determining factor in such auctions.¹⁵ Converter NCR reported that 90 percent of internet auctions state exactly what products are qualified and that alternatives, even when listed, are seldom used other than to drive down price.¹⁶

U.S. coaters reported that they quote prices of certain LW thermal paper on a delivered basis. Thirteen of 22 responding converters reported that they quoted prices on a delivered basis, while six reported that they quote on an f.o.b. basis, one reported that it quotes on both a delivered and on an f.o.b.

¹³ *** importers from China (***) reported the use of ***.

¹⁴ *** maintain that certain LW thermal paper is sold “in large volumes” in reverse internet auctions. ***. Converters Liberty Paper and Sandt reported that reverse internet auctions are becoming increasingly more common among larger retailers. Transcript, pp. 95 and 121 (Rapier) and 320 (Sandt). Koehler reports that such auctions predate the period of investigation by at least three years and are not a cause of injury. Converter *** reportedly participates in reverse internet auctions with *** retailers; ***, ***, ***, ***, ***.

¹⁵ Domestic coaters’ posthearing brief, exh. 1, pp. 2-3 and exh. 5.

¹⁶ Transcript, pp. 321-322 (Kyriss).

basis, and one firm reported that it quotes based on ***. Six of eight responding importers reported that they quote on a delivered basis, while the other two reported that they quote on an f.o.b. basis.

Two of 23 purchasers of jumbo rolls and 4 of 21 purchasers of slit rolls reported that the lowest price will “always” win a contract or sale. Twelve purchasers of jumbo rolls and 11 purchasers of slit rolls reported that the lowest price will “usually” win a contract or sale, 9 purchasers of jumbo rolls and 8 purchasers of slit rolls reported “sometimes,” and one purchaser of jumbo rolls and two purchasers of slit rolls reported “never.”

Sales Terms and Discounts

U.S. coaters, converters, and importers of certain LW thermal paper from China and Germany were asked what the share of their sales were that 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 2007. U.S. coater *** reported that *** of its sales are made on ***. U.S. coater *** reported that about *** of its sales are on a *** basis while *** is on a *** basis. Eleven of 20 responding converters reported that a majority of their sales are on a spot basis, while eight reported mostly short-term contracts, and the remaining firm reported that about half of its sales are on a short-term contract basis and half are on a spot basis. Five of eight responding importers reported that nearly all of their sales are on a spot basis, while three reported nearly all short-term contracts.

For U.S. coaters selling on a contract basis, long-term contracts are typically for periods of ***, and approximate quantities, but not price, are fixed during the contract period. These long-term contracts have a meet-or-release provision. In the case of converters, short-term contracts are typically for periods of two to 12 months, while long-term contracts are for periods of two to three years. Nine responding converters reported that price usually cannot be renegotiated during the contract period, while 4 others reported that price can be renegotiated, and three reported that price is fixed sometimes. Half of the responding converters reported that their contracts typically do not contain meet-or-release provisions, while the other half reported that they do contain them. In the case of importers, short-term contracts are typically for periods of three months to up to one year, while long-term contracts are for periods of two years. Most responding importers reported that price is usually fixed during the contract period. A majority of these importer contracts typically do not contain meet-or-release provisions.

One converter, Rite-Made, reported that the cost of certain LW thermal paper jumbo rolls is passed through to its customers.¹⁷ This pass-through may be limited if the converter uses fixed-price contracts.¹⁸

Discount policies on sales of certain LW thermal paper are typically based on volume. U.S. coater *** reported that it *** discounts, but that it *** and U.S. coater *** reported the use of ***. Fourteen of 20 responding converters reported the use of discounts, mostly citing volume rebates or discounts for early payment, while three reported that discounts may be negotiated based on customer needs, and three others reported that they do not use discounts. Four of eight responding importers reported the use of volume discounts and *** reported that it offers a *** percent rebate for early payments ***; one importer reported that discounts may be negotiated on a case-by-case basis, and two others reported that they do not use discounts.

¹⁷ Conference transcript, p. 160 (Schwartz).

¹⁸ Conference transcript, p. 232 (Schwartz).

PRICE DATA

The Commission requested U.S. coaters, converters, and importers of certain LW thermal paper to provide quarterly data for the total quantity and both f.o.b. and delivered sales values of selected products.¹⁹ Data were requested for the period January 2005-June 2008. The products for which pricing data were requested are as follows:

Product 1.--Thermal paper in jumbo rolls, with a target caliper of 2.2 to 2.5 mils (55.9 to 63.5 microns), with a target basis weight of greater than 50 g/m² and up to 60 g/m², not top-coated, white/non-colored paper, black image color, not printed on the non-thermal coated side, standard sensitivity.

Product 2.-- Thermal paper in jumbo rolls, with a target caliper of less than 2.2 (less than 55.9 microns), with a target basis weight of up to 50 g/m², not top-coated, white/non-colored paper, black image color, not printed on the non-thermal coated side, standard sensitivity.

Product 3.-- Thermal paper in jumbo rolls, with a target caliper of 2.2 to 2.5 mils (55.9 to 63.5 microns), with a target basis weight of greater than 50 g/m² and up to 60 g/m², not top-coated, white/non-colored paper, black image color, not printed on the non-thermal coated side, "high" sensitivity.

Product 4.-- Thermal paper in slit rolls, with a target caliper of 2.2 to 2.5 mils (55.9 to 63.5 microns), with a target basis weight of greater than 50 g/m² and up to 60 g/m², not top-coated, white/non-colored paper, black image color, standard sensitivity, measuring 3-1/8 (+/- 1/16) inch by 230 (+/- 10) feet, printed with one color on the non-thermal coated side.

Product 5.-- Thermal paper in slit rolls, with a target caliper of 2.2 to 2.5 mils (55.9 to 63.5 microns), with a target basis weight of greater than 50 g/m² and up to 60 g/m², not top-coated, white/non-colored paper, black image color, standard sensitivity, measuring 3-1/8 (+/- 1/16) inch by 230 (+/- 10) feet, without printing on the non-thermal coated side.

Product 6.-- Thermal paper in slit rolls, with a target caliper of 2.2 to 2.5 mils (55.9 to 63.5 microns), with a target basis weight of greater than 50 g/m² and up to 60 g/m², not top-coated, white/non-colored paper, black image color, standard sensitivity, measuring 3-1/8 (+/- 1/16) inch by 273 (+/- 10) feet, without printing on the non-thermal coated side.

Product 7.-- Thermal paper in slit rolls, with a target caliper of less than 2.2 (less than 55.9 microns), with a target basis weight of up to 50 g/m², not top-coated, white/non-colored paper, black image color, standard sensitivity, measuring 3-1/8 (+/- 1/16) inch by 230 (+/- 10) feet, without printing on the non-thermal coated side.

¹⁹ Pricing data presented here are on a delivered basis because ***. Moreover, petitioner states that, given the ***. Petitioner's postconference brief, p. 34. Further analysis of the pricing data for products 1-8 indicates that pricing comparisons based on f.o.b. sales values reported by the responding firms show ***. Sales prices reported on a f.o.b. basis are presented in app. D.

Staff also collected purchase prices of jumbo rolls on a delivered basis from converters and purchase prices of slit rolls on a delivered basis from end users. These prices are presented in app. E.

Product 8.-- Thermal paper in slit rolls, with a target caliper of less than 2.2 (less than 55.9 microns), with a target basis weight of up to 50 g/m², not top-coated, white/non-colored paper, black image color, standard sensitivity, measuring 3-1/8 (+/- 1/16) inch by 273 (+/- 10) feet, without printing on the non-thermal coated side.

The Commission received usable pricing data for sales of the requested products from *** U.S. coaters (***), 14 converters,²⁰ three importers of certain LW thermal paper from China,²¹ and *** importers (***) of product from Germany, although not all firms reported pricing for all products for all quarters.²² U.S. coaters and importers of product from Germany only supply jumbo rolls and therefore only provided pricing data for products 1-3. Converters and importers of product from China reported pricing data for the slit roll products, products 4-8. Pricing data reported by U.S. coaters accounted for approximately *** percent of U.S. coaters' U.S. shipments of certain LW thermal paper during January 2005-June 2008; the pricing data reported by converters accounted for approximately *** percent of converters' U.S. shipments; and pricing data reported by importers accounted for approximately *** percent of U.S. imports from China and *** percent of U.S. imports from Germany over the same period.²³

For sales reported by U.S. coaters, ***. For sales of products imported from Germany, ***. For sales reported by U.S. converters, ***. For sales of products imported from China, ***.

Price Trends

Thirty-four of 46 responding purchasers reported that the prices of certain LW thermal paper have increased since January 2005, mostly citing the rising costs of energy and raw materials, while five reported that prices have decreased, six reported that prices remained the same, and one reported that prices decreased through August 2007 and have since increased. One converter reported that the prices of jumbo rolls have increased while the prices of slit rolls have decreased since January 2005.

Weighted-average delivered prices reported by U.S. coaters, converters, and importers are presented in tables V-1 through V-8 and in figures V-2 through V-9 on a quarterly basis during January 2005-June 2008.²⁴

The weighted-average sales price of U.S.-produced product 1 increased overall by *** percent over the entire period, fluctuating and decreasing by *** percent from the first quarter of 2005 to the ***, when ***, before increasing by *** percent from the *** to the second quarter of 2008. The weighted-average sales price of product 1 imported from Germany followed the same general trend as the sales price of the U.S.-produced product, fluctuating and decreasing by *** percent from the first quarter of

²⁰ Converters produce slitted rolls using jumbo rolls from various countries of origin. Therefore, the pricing comparisons presented here involving products 4-8 compare products that were converted in the United States using a mixture of U.S. and German jumbo rolls with slit rolls that were produced in China. In the preliminary phase of these investigations, three converters reported that they ship converted rolls produced with jumbo rolls from various countries of origin together, at the same price. Conference transcript, pp. 22-23, (Schwartz, Granholm, and Sandt). The *** converters that provided pricing data here include: ***.

Pricing data reported by the following converters were unusable and are not included here: ***. ***.

²¹ Pricing data reported by importer of product from China, *** were unusable and are not included here.

²² Pricing data of sales of certain LW thermal paper from nonsubject countries Korea and Japan are included in app. F.

²³ These percentages are approximations, calculated by converting shipment data from short tons into m.s.f., based on certain LW thermal paper with a basis weight of 55 grams.

²⁴ ***.

2005 to ***, before increasing by *** from the third quarter of *** to the second quarter of 2008. The sales price of product 1 from Germany *** decreased overall by *** percent from the first quarter of 2005 to the second quarter of 2008.²⁵

The weighted-average sales price of U.S.-produced product 2 fluctuated over the entire period, *** increasing overall by *** percent from the first quarter of 2005 to the second quarter of 2008, with most of the increase occurring from ***.²⁶ The weighted-average sales price of product 2 imported from Germany fluctuated within a narrow range, increasing by *** percent over the entire period, with most of the increase occurring from ***.

The weighted-average sales price of U.S.-produced product 3 fluctuated within a narrow range over the entire period, decreasing overall by *** percent from the first quarter of 2005 to the second quarter of 2008.²⁷ The weighted-average sales price of product 3 imported from Germany fluctuated over the entire period, increasing by *** percent from the *** quarter of 2005 to the second quarter of 2008.²⁸

The weighted-average sales price of U.S.-converted product 4 fluctuated but generally decreased over the entire period, decreasing overall by *** percent from the first quarter of 2005 to the second quarter of 2008. There were *** reported sales of imports of product 4.

The weighted-average sales price of U.S.-converted product 5 remained relatively flat for the first portion of the period and then trended downward ***, decreasing overall by *** percent from the first quarter of 2005 to the second quarter of 2008, with most of the decrease occurring ***.²⁹ The weighted-average sales price of product 5 imported from China remained relatively flat, increasing *** overall by *** percent from the *** to the second quarter of 2008.

The weighted-average sales price of U.S.-converted product 6 fluctuated over the period, decreasing *** overall by *** percent from the first quarter of 2005 to the second quarter of 2008, with most of the decrease occurring *** before ***. The weighted-average sales price of product 6 imported from China fluctuated over the period, *** increasing overall by *** percent from the *** to the second quarter of 2008.

The weighted-average sales price of U.S.-converted product 7 generally decreased over the entire period, decreasing overall by *** percent from the first quarter of 2005 to the second quarter of 2008. The weighted-average sales price of product 7 imported from China decreased by *** percent from *** to the second quarter of 2008.

The weighted-average sales price of U.S.-converted product 8 generally decreased over the entire period, decreasing by *** percent from the first quarter of 2005 to the second quarter of 2008. The sales price of U.S.-converted product 8 increased ***. The weighted-average sales price of product 8 imported from China *** increased by *** percent from the *** to the second quarter of 2008.

²⁵ ***.

²⁶ U.S. producers' sales prices of product 2 peaked in the ***.

U.S. coater *** reported sales prices for product 2 of ***. The products, ***.

²⁷ U.S. coater ***. Thus, sales prices of U.S.-produced product 3 presented here ***.

²⁸ The sales price of product 3 imported from Germany in the *** is approximately *** percent higher than the average of the other quarters of reported pricing data for German imports of product 3. The sales price of product 3 imported from Germany decreased by *** percent from ***.

²⁹ Delivered sales values of U.S.-produced product 5 as reported by converter *** are estimated, based on applying its reported U.S.-inland transportation costs to its reported f.o.b. sales values. ***'s U.S. Producer Questionnaire response, at IV-10a.

Table V-1

Certain LW thermal paper: Weighted-average delivered prices and quantities of domestic and imported product 1 and margins of underselling/(overselling), by quarters, January 2005-June 2008

* * * * *

Table V-2

Certain LW thermal paper: Weighted-average delivered prices and quantities of domestic and imported product 2 and margins of underselling/(overselling), by quarters, January 2005-June 2008

* * * * *

Table V-3

Certain LW thermal paper: Weighted-average delivered prices and quantities of domestic and imported product 3 and margins of underselling/(overselling), by quarters, January 2005-June 2008

* * * * *

Table V-4

Certain LW thermal paper: Weighted-average delivered prices and quantities of domestic 4, by quarters, January 2005-June 2008

* * * * *

Table V-5

Certain LW thermal paper: Weighted-average delivered prices and quantities of domestic and imported product 5 and margins of underselling/(overselling), by quarters, January 2005-June 2008

* * * * *

Table V-6

Certain LW thermal paper: Weighted-average delivered prices and quantities of domestic and imported product 6 and margins of underselling/(overselling), by quarters, January 2005-June 2008

* * * * *

Table V-7

Certain LW thermal paper: Weighted-average delivered prices and quantities of domestic and imported product 7 and margins of underselling/(overselling), by quarters, January 2005-June 2008

* * * * *

Table V-8

Certain LW thermal paper: Weighted-average delivered prices and quantities of domestic and imported product 8 and margins of underselling/(overselling), by quarters, January 2005-June 2008

* * * * *

Figure V-2

Certain LW thermal paper: Weighted-average delivered prices and quantities of domestic and imported product 1, by quarters, January 2005-June 2008

* * * * *

Figure V-3
Certain LW thermal paper: Weighted-average delivered prices and quantities of domestic and imported product 2, by quarters, January 2005-June 2008

* * * * *

Figure V-4
Certain LW thermal paper: Weighted-average delivered prices and quantities of domestic and imported product 3, by quarters, January 2005-June 2008

* * * * *

Figure V-5
Certain LW thermal paper: Weighted-average delivered prices and quantities of domestic product 4, by quarters, January 2005-June 2008

* * * * *

Figure V-6
Certain LW thermal paper: Weighted-average delivered prices and quantities of domestic and imported product 5, by quarters, January 2005-June 2008

* * * * *

Figure V-7
Certain LW thermal paper: Weighted-average delivered prices and quantities of domestic and imported product 6, by quarters, January 2005-June 2008

* * * * *

Figure V-8
Certain LW thermal paper: Weighted-average delivered prices and quantities of domestic and imported product 7, by quarters, January 2005-June 2008

* * * * *

Figure V-9
Certain LW thermal paper: Weighted-average delivered prices and quantities of domestic and imported product 8, by quarters, January 2005-June 2008

* * * * *

Price Comparisons

Margins of underselling and overselling for the period are presented by product category in tables V-9 and V-10 below.

Table V-9
Certain LW thermal paper: Margins of underselling/(overselling) by product and by country, on quarterly sales, January 2005-June 2008

* * * * *

Table V-10

Certain LW thermal paper: Instances of underselling/overselling and the range and average of margins for products 1-8, January 2005-June 2008

* * * * *

LOST SALES AND LOST REVENUES

The Commission requested U.S. coaters and converters of certain LW thermal paper to report any instances of lost sales or revenues they experienced due to competition from imports of certain LW thermal paper from China and Germany, from January 2005 to June 2008. U.S. coaters provided *** lost sales allegations and *** lost revenues allegations involving certain LW thermal paper jumbo rolls imported from Germany. Converters provided *** lost sales allegations and *** lost revenues allegations involving converted certain LW thermal paper converted rolls imported from China.³⁰ The *** lost sales allegations totaled \$*** and the *** lost revenue allegations totaled \$***. Eight other converters reported that they had reduced prices or lost sales in the face of import competition, but did not provide specific allegations. Staff contacted the *** purchasers cited in the allegations; *** responded. *** out of the *** purchasers agreed with the allegations, confirming \$*** in lost sales and \$*** in lost revenues.³¹ The results are summarized in tables V-11 and V-12 and are discussed below.

Table V-11

Certain LW thermal paper: U.S. coaters' and converters' lost sales allegations

* * * * *

Table V-12

Certain LW thermal paper: U.S. coaters' and converters' lost revenue allegations

* * * * *

*** was named in *** lost revenue allegation valued at \$*** allegedly occurring in *** involving slit rolls of thermal paper imported from China. It agreed with the prices cited in the allegation, and while it could not completely confirm the country of origin of the competing offer, it reported that it was likely a subject country.

*** was named in *** lost revenue allegation valued at \$*** allegedly occurring in ***, involving slit rolls of thermal paper imported from China. It agreed with the allegation.

*** was named in *** lost sales allegations valued at \$*** allegedly occurring in *** and ***, respectively, and *** lost revenue allegations valued at \$*** allegedly occurring in *** and ***, involving thermal paper jumbo rolls imported from Germany. *** agreed with the lost sales allegations and *** of the lost revenue allegations and reported that it could not verify *** lost revenue allegation valued at \$***. ***³²

*** was named in a lost sales allegation involving *** allegedly occurring in *** and *** lost revenue allegation allegedly occurring in *** involving converted thermal paper from China. It disagreed with the allegations, stating that ***.

³⁰ Included in this total are *** lost revenue allegations associated with certain LW thermal paper from ***.

³¹ ***. ***.
***. ***.

³² ***.

*** was named in a lost sales allegation valued at \$*** allegedly occurring in ***. It disagreed with the allegation, stating that it has never purchased thermal paper at a price as low as the low price cited in the allegation. It did report, however, that it has switched its purchases from U.S. producers to Chinese suppliers, stating that price is an important factor for them and that the price it pays for thermal rolls has decreased since January 2004. Moreover, it stated that there have been availability problems with U.S. producers of thermal paper, including periods of allocation.

*** was named in two lost sales allegations valued at \$*** allegedly occurring *** involving thermal paper jumbo rolls imported from Germany. It agreed to one of the allegations, stating that it switched to a *** source only partly due to price, but also because it preferred the quality of the German product. It disagreed with the other allegation, stating that it never received the price quote specified from any supplier and that it has not purchased the cited product produced by U.S. producer *** in years. *** also reported that converted thermal paper rolls from China are its main source of competition.

*** was named in a lost sales allegation valued at \$*** allegedly occurring in *** involving thermal paper jumbo rolls imported from Germany. It disagreed with the allegation, stating that, to the best of its knowledge, its purchases of thermal paper are produced in the United States from various U.S. converters.

*** was named in one lost sales allegation valued at \$*** allegedly occurring in *** and *** lost revenue allegations valued at \$*** involving thermal paper jumbo rolls imported from Germany. It agreed with the allegations, stating that it needed to put price pressure on its supplier in order to compete with low-priced converted thermal rolls from China. It also reported that price was only a partial reason for the switch; it also reported that it ***.

*** was named in *** lost sales allegations valued at \$*** allegedly occurring in *** and *** lost revenues valued at \$*** allegedly occurring in *** involving converted thermal paper imported from China. It disagreed with the ***, stating that it switched suppliers based on availability and product quality, not for price. Moreover, in response to ***, it stated that its decision to change vendors was mostly affected its purchases of bond paper rather than thermal paper. It did state, however, that it changed vendors in order to save money and reduce delivery time.

*** was named in a lost revenue allegation valued at \$*** allegedly occurring in *** involving thermal paper jumbo rolls imported from Germany. It disagreed with the allegation, stating that it had received a price quote from U.S. producer *** which was lower than the current price quote from German supplier ***, *** then adjusted its price below ****'s price. *** reported that it purchased the U.S. product from *** at a *** percent premium, but experienced quality problems with the *** product. In particular, it experienced *** with the *** product and reported that ***. Moreover, *** reported that U.S. producer *** applied a surcharge of *** percent for ***. As a result of these problems, *** switched *** of its purchases from U.S. producer *** to German supplier *** and the remaining *** to U.S. producer ***, although the product from *** was a lower grade that caused problems in its manufacturing process. *** reported that it is willing to pay a premium for domestic product, even though it considers the quality of the *** superior, mostly due to the logistical problems with importing from ***, including longer lead times and irregular delivery.

*** was named in *** lost revenues allegation valued at \$*** allegedly occurring in *** involving slit rolls of thermal paper. It agreed with the allegation.

*** was named in *** lost revenue allegations valued at \$*** allegedly occurring *** involving thermal paper jumbo rolls imported from Germany. It agreed to *** allegations valued at \$***, stating that German supplier *** has set the market price for thermal paper for more than five years, causing U.S. producers to reduce prices.

*** was named in *** lost revenue allegations valued at \$*** allegedly occurring ***. It agreed with the allegations. It reported that imports were able to enter the U.S. market when U.S. producers faced capacity limitations over the period. Moreover, *** reported that it experienced quality problems with U.S. producer ***, which forced it to switch suppliers. *** also noted that Chinese converted thermal rolls were cheaper than U.S. product.

*** was named in *** lost sales allegations valued at \$*** allegedly occurring in *** involving thermal paper jumbo rolls imported from Germany. It disagreed with the allegations, stating it continued to purchase from U.S. producer *** during the time periods cited. It also reported that multiple factors enter into its purchasing decisions, including ***. It further reported that U.S. producers were, at times, ***.

*** was named in *** lost sales allegations valued at \$*** and *** lost revenue allegations valued at \$*** allegedly occurring throughout *** involving thermal paper jumbo rolls imported from Germany. It disagreed with the allegations, stating that its purchases from U.S. producer *** were not reduced during the cited time period.

*** was named in a lost sales allegation valued at \$*** allegedly occurring in *** involving converted thermal paper imported from China. It disagreed with the allegation, stating that it purchases from various sources that use jumbo rolls produced by U.S. producers and German supplier *** to arrive at the best price. It also reported that its suppliers have reduced their prices to be more competitive.

*** was named in *** lost revenue allegations valued at \$*** allegedly occurring in *** involving thermal paper jumbo rolls imported from Germany. It could neither confirm nor deny the allegations. However, it stated that U.S. producer *** experienced a manufacturing disruption in ***, which forced it to buy from German supplier ***. It also reported that U.S. producer *** refused to supply it with thermal paper from *** to *** and that in *** *** lost a major customer and began to seek new customers and reduced its price. *** then switched to ***.

*** was named in *** lost revenue allegations valued at \$*** allegedly occurring in ***, respectively, involving thermal paper jumbo rolls imported from Germany. It agreed with *** the allegations; it agreed with the price reduction cited in the *** allegation occurring in ***, but disagreed with the product type and brand of the product allegedly involved.

*** was named in *** lost sales allegations valued at \$*** allegedly occurring in *** and one lost revenue allegation valued at \$*** allegedly occurring in ***, respectively, involving thermal paper jumbo rolls imported from Germany. It disagreed with *** the lost sales allegations, stating that it switched suppliers from U.S. producer *** to U.S. producer *** as of ***. It also reported that ***. *** also reported that its main source of competition is from low-priced Chinese converted thermal paper rolls and that it is forced to ask its suppliers of jumbo rolls to lower their prices in order to better compete with the Chinese prices. It also stated that it has received reduced price quotes from both domestic and foreign sources and that it continues to purchase from both domestic and *** sources. It also noted that it has historically been willing to pay a higher price to U.S. producer *** because of ***'s service and ***. *** also reported that it experienced quality problems with U.S. producer ***'s product in *** which caused it to switch to other suppliers.

*** was named in a lost revenues allegation valued at \$*** allegedly occurring in *** involving thermal paper jumbo rolls imported from Germany. It disagreed with the allegation, stating it continued purchasing from U.S. producer *** in the transaction cited. It further reported that availability and quality issues force it to seek new suppliers and that U.S. suppliers have reduced prices in the face of competition from converted thermal rolls imported from China.

*** was named in a lost sales allegation valued at \$*** allegedly occurring in *** involving converted thermal paper imported from China. It agreed with the allegation, stating that it switched suppliers for one of its products to a Chinese supplier because of its lower price and lower freight costs.

*** was named in *** lost sales allegations, with *** involving thermal paper jumbo rolls imported from Germany valued at \$*** allegedly occurring ***, and *** involving converted thermal paper imported from China valued at \$*** allegedly occurring in ***. It disagreed with two allegations involving imports from Germany, while it stated that it could neither confirm nor deny the other allegations involving imports from Germany. It disagreed with the allegation involving imports from China, stating that it purchased U.S.-produced thermal paper for the transaction cited. *** was also named in *** lost revenue allegations valued at \$*** allegedly occurring in *** and ***, respectively, involving imports from Germany and China. It

disagreed with *** of the allegations involving imports from Germany, stating that it purchased U.S.-produced product for the transaction cited, while it agreed with the *** allegation involving imports from China and Germany. It further reported that price is just one factor it considers when purchasing. It also considers ***.

*** was named in a lost sales allegation valued at \$*** allegedly occurring in *** involving slit thermal paper imported from China. It disagreed with the allegation, stating that it only purchases thermal paper from ***.

*** was named in *** lost sales allegation valued at \$*** allegedly occurring in *** involving thermal paper from Germany. It reported that it could not respond to the allegation because it ***.

*** was named *** lost sales allegations valued at \$*** allegedly occurring in *** involving jumbo rolls of thermal paper imported from Germany. It reported that it has purchased certain LW thermal paper from ***.³³

*** was named in a lost revenue allegation valued at \$*** allegedly occurring in *** involving converted thermal paper from China. It agreed with the allegation, although it also noted that it did not know definitively whether the product it purchased was produced in China or not.

*** was named in *** lost sales allegations values at \$*** allegedly occurring in *** involving slit rolls of thermal paper. It agreed with the allegations.

*** was named in *** lost sales allegations valued at \$*** allegedly occurring throughout *** and *** lost revenues allegations valued at \$*** allegedly occurring in ***, respectively, involving thermal paper jumbo rolls imported from Germany. It disagreed with *** of the lost sales allegations and could neither confirm nor deny the *** allegations as it ***, but stated that the cited price quotes are ***. It also reported that U.S. producer *** did offer one of the price quotes listed ***, but that this price was *** percent below the average market price offered at the time by U.S. producer *** and by German suppliers. Furthermore, *** reported that the market price tended to decrease in the **. Moreover, *** reported that it switched suppliers *** since 2004 and price was the reason in one case. **. *** also reported that 48 gram thermal paper, which was only produced by German supplier Koehler prior to 2007, carries a lower price relative to 55 gram thermal paper and therefore, sales of 48 gram thermal paper reportedly had a price-depressing effect in 2007.

*** was named in a lost sales allegation valued at \$*** allegedly occurring in *** involving thermal paper jumbo rolls imported from Germany. It disagreed with the allegation, stating that it had no record of the transaction cited. *** was also named in a lost revenue allegation valued at \$*** allegedly occurring in **. It could neither confirm nor deny the allegation, but it stated that it only purchases *** thermal and **. More specifically, it reported that prior to the period of investigation, it purchased exclusively 55 gram merchandise from Appleton but that Appleton put it on allocation at the end of 2003 and would not meet its 2004 volume requirements. At that point, *** reportedly switched to purchasing 48 gram thermal paper from Koehler, but that it still purchases some 55 gram thermal paper from Appleton in times of critical need.³⁴

*** was named in *** lost sales allegations valued at \$*** allegedly occurring in *** and **, respectively, involving imports from Germany. *** was also named in *** lost revenue allegations valued at \$*** allegedly occurring in *** and **, respectively, involving imports from Germany. It disagreed with *** of the allegations, stating that it only purchases from *** for reasons including quality and availability, as well as price.

*** was named in *** lost revenues allegations valued at \$*** and *** lost sales allegation valued at \$*** involving thermal paper imported from Germany. It agreed with the lost revenues allegations stating that price was not the only reason that it switched suppliers; it also cited quality problems with product from U.S. producer **. It agreed with *** of the lost sales allegations and

³³ ***.

³⁴ ***.

disagreed with ***, stating that the sale was lost mostly due to poor delivery performances. It further reported that *** was unable to unwilling to supply it with a consistent supply of paper on more than one occasion and failed to delivery in a timely manner.

*** was named in a lost revenue allegation valued at \$***, but no specific quantities were cited. It disagreed with the allegation, stating that, to its knowledge, all of its purchases since *** have been produced in the United States.

*** was named in *** lost sales allegation valued at \$*** involving slit rolls of thermal paper imported from China. It agreed with the allegation.

***³⁵. ***³⁶. ***³⁷. ***³⁸.

***³⁹.

***⁴⁰. ***⁴¹.

***.

35 ***.

36 ***.

37 ***.

38 ***.

39 ***.

40 ***.

41 ***.

PART VI: FINANCIAL CONDITION OF U.S. PRODUCERS

INTRODUCTION

Two U.S. producers of jumbo rolls (Appleton and Kanzaki) and 15 U.S. converters provided usable financial data on their operations on certain LW thermal paper.¹ These data are believed to account for the large majority of U.S. production and conversion of certain LW thermal paper in 2007. No firms reported internal consumption, transfers to related firms, or toll production.

OPERATIONS ON CERTAIN LW THERMAL PAPER

Income-and-loss data for U.S. producers of jumbo rolls of certain LW thermal paper are presented in table VI-1, income-and-loss data for U.S. converters of certain LW thermal paper are presented in table VI-2, and income-and-loss data on the combined operations of U.S. producers of jumbo rolls and converters are presented in table VI-3. Selected company-specific financial data for U.S. producers of jumbo rolls are presented in table VI-4. The reported net sales quantities and values for U.S. producers of jumbo rolls increased from 2005 to 2006, then declined from 2006 to 2007 to a reported net sales quantity somewhat above the 2005 level and a reported net sales value somewhat below the 2005 level. In contrast, converters reported consistent increases in net sales quantity and value from 2005 to 2007. During the comparable interim periods, both U.S. producers of jumbo rolls and converters reported increases in net sales quantity and value. U.S. producers of jumbo rolls experienced operating losses in all of the five periods for which data were requested, with the absolute level of operating loss increasing sharply from 2006 to 2007 as well as during the comparable interim periods. In comparison, converters experienced positive (albeit low levels of) operating income during this time.²

For U.S. producers of jumbo rolls, per-unit net sales values declined by *** from 2005 to 2007, while combined per-unit cost of goods sold (“COGS”) and selling, general, and administrative (“SG&A”) expenses increased by *** during this time frame, which ***. During the comparable interim periods, per-unit net sales values increased by ***, while per-unit operating costs and expenses increased by ***, which also ***.³

For U.S. converters, per-unit net sales values declined by *** from 2005 to 2007, while combined per-unit COGS and SG&A expenses also declined by *** during this time frame, which resulted in a slight increase in the operating profit as operating costs and expenses declined by a larger amount than net sales values. During the comparable interim periods, per-unit net sales values declined by ***, while combined per-unit operating costs and expenses declined by ***, which resulted in a reduction in the operating profit as net sales values declined by a larger amount than operating costs and expenses.

¹ The firms (and their fiscal year ends if other than December 31) are: Appleton, Greenleaf, Integrity Printing (August 31), Kanzaki, Liberty Paper, NCR, Nakagawa (March 31), Nashua, National Checking (March 31), Northeast Converters, PMCO, Paper Solutions, Paper Systems (last Friday in March), Rite-Made, Sandt (June 30), Specialty Roll (September 30), and Tufco (September 30). Converters that did not provide any profitability data or did not provide profitability data for all requested time periods were excluded from the data set.

² Appleton stated that ***.

³ ***.

Table VI-1

Certain LW thermal paper: Results of operations of U.S. producers of jumbo rolls, 2005-07, January-June 2007, and January-June 2008

* * * * *

Table VI-2

Certain LW thermal paper: Results of operations of U.S. converters, 2005-07, January-June 2007, and January-June 2008

* * * * *

Table VI-3

Certain LW thermal paper: Results of combined operations of U.S. producers of jumbo rolls and U.S. converters, 2005-07, January-June 2007, and January-June 2008

Item	Fiscal year			January-June	
	2005	2006	2007	2007	2008
Value (\$1,000)					
Total net sales	327,066	357,300	355,924	162,477	188,774
Cost of goods sold	288,156	316,837	324,653	146,662	173,885
Gross profit or (loss)	38,910	40,463	31,271	15,815	14,889
SG&A expense	39,944	40,556	42,492	19,409	21,349
Operating income or (loss)	(1,034)	(93)	(11,221)	(3,594)	(6,460)
Other income or (expense), net	(6,054)	(5,976)	(5,967)	(2,885)	(2,442)
Net income or (loss)	(7,088)	(6,069)	(17,188)	(6,479)	(8,902)
Depreciation	7,047	7,850	7,796	3,818	3,919
Cash flow	(41)	1,781	(9,392)	(2,661)	(4,983)
Ratio to net sales (percent)					
Cost of goods sold ¹	88.1	88.7	91.2	90.3	92.1
Gross profit or (loss)	11.9	11.3	8.8	9.7	7.9
SG&A expenses	12.2	11.4	11.9	11.9	11.3
Operating income or (loss)	(0.3)	(0.03)	(3.2)	(2.2)	(3.4)
Net income or (loss)	(2.2)	(1.7)	(4.8)	(4.0)	(4.7)
Number of companies reporting					
Operating losses	3	4	3	3	7
Data	17	17	17	17	17

Note.— For U.S. producers of jumbo rolls and U.S. converters, revenue, COGS, and operating expenses were combined. Quantity data are not included because of the likelihood of double counting. Although the same underlying product could be reported more than once using this approach (e.g., jumbo roll sales from a U.S. producer to a converter may also be reported as sales of LW thermal paper by a converter), the effect is reflected in both revenue and COGS and therefore results in a fair presentation of the industry's operations.

¹Some converters did not break out COGS between raw materials, direct labor, and other factory costs; therefore, ratios for the components of COGS are not presented in this table.

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

Table VI-4

Certain LW thermal paper: Selected results of operations of U.S. producers of jumbo rolls, by firms, and U.S. converters, 2005-07, January-June 2007, and January-June 2008

* * * * *

For both U.S. producers of jumbo rolls and converters, raw material costs represented the largest component of overall COGS during the period of investigation, and increased as a percentage of sales (for both producers of jumbo rolls and converters) and on a per-unit basis (for producers of jumbo rolls) during this time frame.⁴ SG&A expenses for both producers of jumbo rolls and converters generally declined; however, such expenses represented an average 8.6 and 14.1 percent, respectively, of total operating costs and expenses during the period of investigation, and contributed substantially to the reported operating income or loss in all periods.

A variance analysis for the combined operations of U.S. producers of jumbo rolls and U.S. converters is presented in table VI-5. The information for this variance analysis is derived from table VI-3. The analysis shows that the increase in the operating loss from 2005 to 2007 is attributable to unfavorable variances for both prices and costs/expenses (i.e., prices declined while costs and expenses increased). During the comparable interim periods, an unfavorable price variance was the main factor behind the increase in the operating loss.⁵

VALUE ADDED

The value added by U.S. converters as a share of total processing costs is presented in table VI-6. The analysis shows two ratios: (A) a ratio of reported raw materials other than jumbo rolls (such as cores and cartons) and conversion costs (costs other than raw material costs, primarily labor and overhead) to reported total costs excluding SG&A expenses; and (B) a ratio of reported raw materials other than jumbo rolls and conversion costs to reported total costs including SG&A expenses.⁶

CAPITAL EXPENDITURES AND RESEARCH AND DEVELOPMENT EXPENSES

Capital expenditures and research and development (“R&D”) expenses are shown in table VI-7. Thirteen firms (including ***) reported capital expenditures and four firms (including ***) reported R&D expenses during the period for which data were requested. Among U.S. producers of jumbo rolls, *** accounted for the majority of reported capital expenditures in 2005 and 2006. In 2007 and interim 2008, reported capital expenditures primarily reflect ***. According to ***, its capital expenditures reflect ***. *** accounted for the majority of reported R&D expenses. According to ***, its R&D expenses reflect ***.

⁴ ***.

⁵ Although not presented, the results of the variance analysis on the operations of U.S. producers of jumbo rolls were quite similar for the 2005-07 period, but differed between the interim periods where an unfavorable net cost/expense variance *** a favorable price variance (i.e., increased costs and expenses outweighed an increase in price).

⁶ *** reporting U.S. converters indicated some foreign content (primarily jumbo rolls from Germany) as part of their raw material costs. In the aggregate, foreign content represented 51.8 percent of total production costs (excluding SG&A expenses) in 2007. A separate examination of 2007 domestic production costs (excluding foreign content and SG&A expenses) reveals the following: U.S.-produced jumbo rolls represented 59.1 percent of 2007 domestic production costs, U.S.-produced raw materials other than jumbo rolls represented 11.0 percent of such costs, and conversion costs represented 29.9 percent of such costs.

Table VI-5

Certain LW thermal paper: Variance analysis on the combined operations of U.S. producers of jumbo rolls and U.S. converters, 2005-07, January-June 2007 to January-June 2008

Item	Fiscal year			Jan.-June
	2005-07	2005-06	2006-07	2007-08
Value (\$1,000)				
Total net sales:				
Price variance	(6,864)	(1,325)	(5,524)	(2,444)
Volume variance	35,722	31,559	4,148	28,741
Total net sales variance	28,858	30,234	(1,376)	26,297
Cost of sales:				
Cost variance	(5,025)	(877)	(4,138)	(1,279)
Volume variance	(31,472)	(27,804)	(3,678)	(25,944)
Total cost variance	(36,497)	(28,681)	(7,816)	(27,223)
Gross profit variance	(7,639)	1,553	(9,192)	(926)
SG&A expenses:				
Expense variance	1,815	3,242	(1,465)	1,493
Volume variance	(4,363)	(3,854)	(471)	(3,433)
Total SG&A variance	(2,548)	(612)	(1,936)	(1,940)
Operating income variance	(10,187)	941	(11,128)	(2,866)
Summarized as:				
Price variance	(6,864)	(1,325)	(5,524)	(2,444)
Net cost/expense variance	(3,210)	2,366	(5,603)	214
Net volume variance	(113)	(100)	(1)	(636)

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

Table VI-6

Certain LW thermal paper: Value added by U.S. converters, by firms

* * * * *

Table VI-7

Certain LW thermal paper: Capital expenditures and research and development expenses of U.S. producers of jumbo rolls and U.S. converters, 2005-07, January-June 2007, and January-June 2008

Item	Fiscal year			January-June	
	2005	2006	2007	2007	2008
Value (\$1,000)					
Capital expenditures:					
U.S. producers of jumbo rolls	***	***	***	***	***
U.S. converters	***	***	***	***	***
Total	19,409	12,658	38,661	8,302	60,287
R&D expenses:					
U.S. producers of jumbo rolls	***	***	***	***	***
U.S. converters	***	***	***	***	***
Total	***	***	***	***	***

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

Among U.S. converters, *** accounted for the majority of reported capital expenditures, while *** accounted for all reported R&D expenses. According to ***, its capital expenditures reflect the purchase of ***, while its R&D expenses reflect ***. *** reported that its capital expenditures reflect the purchase of ***. *** reported that its capital expenditures reflect the purchase of and upgrades to ***, and *** reported that such expenditures primarily reflect the purchase of ***.

ASSETS AND RETURN ON INVESTMENT

Data on the U.S. producers' and U.S. converters' total assets and their return on investment ("ROI") are presented in table VI-8. For U.S. producers of jumbo rolls, the total assets utilized in the production, warehousing, and sale of certain LW thermal paper *** from 2005 to 2007, while converters reported increases in total assets during this time frame. The combined total assets of U.S. producers of jumbo rolls and converters increased from \$199 million in 2005 to \$215 million in 2007. The ROI for U.S. producers of jumbo rolls was ***, improving by *** percentage points in 2006 before declining by *** percentage points in 2007. ***, the ROI for U.S. converters was *** throughout the period of investigation. The ROI for the combined operations of U.S. producers of jumbo rolls and converters slightly improved from negative 0.5 percent in 2005 to negative 0.04 percent in 2006, then declined to negative 5.2 percent in 2007. In all cases, the trend in the ROI was similar to the trend in operating income.

Table VI-8
Certain LW thermal paper: U.S. producers' of jumbo rolls and U.S. converters' total assets and return on investment, fiscal years 2005-07

Item	Fiscal year		
	2005	2006	2007
Value (\$1,000)			
Value of total assets:			
U.S. producers of jumbo rolls	***	***	***
U.S. converters	***	***	***
Total	198,841	212,535	215,049
Operating income or (loss):			
U.S. producers of jumbo rolls	***	***	***
U.S. converters	***	***	***
Total	(1,034)	(93)	(11,221)
Ratio (percent)			
Return on investment:			
U.S. producers of jumbo rolls	***	***	***
U.S. converters	***	***	***
Combined average	(0.5)	(0.04)	(5.2)
Source: Compiled from data submitted in response to Commission questionnaires.			

CAPITAL AND INVESTMENT

The Commission requested U.S. producers of jumbo rolls and U.S. converters to describe any actual or potential negative effects of imports of certain LW thermal paper from China and/or Germany on their firms' growth, investment, ability to raise capital, development and production efforts, or the scale of capital investments. Their responses are shown in appendix H.

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 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),

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.”

(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.

THE INDUSTRY IN CHINA

The Commission requested data from 14 firms which were listed in the petition and believed to produce certain LW thermal paper in China during the period of investigation.³ The Commission received responses from two firms, Shanghai Hanhong Paper Co., Ltd. ("Hanhong"), which claimed to account for approximately *** percent of Chinese production of certain LW thermal paper and *** percent of exports to the United States,⁴ and ***, which claimed to account for *** percent of Chinese production and *** percent of exports to the United States.⁵

Hanhong reported that *** percent of its total sales in the most recent fiscal year were sales of certain LW thermal paper. It reported commencement of exports to the United States in 2006. In 2007, *** percent of Hanhong's total shipments of certain LW thermal paper were exported to the United States, *** percent of its shipments were to its home market, *** percent of its shipments were to the European Union, and *** percent of its shipments were to export markets such as ***. Hanhong's reported capacity increased by *** percent from 2005 to 2007, as the company ***, but is projected to remain steady in 2008 and 2009 from its reported 2007 level. Its production increased by *** percent

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 Petition, exh. I-2. Chinese respondents argue that only two producers in China, ***, are capable of producing LW thermal paper that meets quality standards required by U.S. customers. Chinese respondents' prehearing brief, p. 19. Appleton submitted tests that it conducted since *** many of the quality benchmarks it tested. Petitioner's posthearing brief, exh. 1, p. 31.

⁴ ***.

⁵ ***.

from 2005 to 2007, but is projected to decrease in 2008 and 2009 by *** percent.⁶ Hanhong reported that its *** U.S. importer of certain LW thermal paper during the period of investigation was ***.⁷

*** reported that *** percent of its total sales in the most recent fiscal year were sales of certain LW thermal paper. It reported commencement of exports to the United States in ***. In 2007, *** percent of *** total shipments of certain LW thermal paper were exported to the United States, *** percent of its shipments were to its home market, *** percent of its shipments were to the European Union, and *** percent of its shipments were to export markets such as ***. *** reported capacity increased by *** percent from 2005 to 2007, but is projected to remain steady in 2008 and 2009 from its reported 2007 level. Its production increased by *** percent from 2005 to 2007, and is projected to further increase in 2009 by an additional *** percent.⁸ *** reported that its U.S. importers of certain LW thermal paper during the period of investigation were ***.⁹

Table VII-1 presents data for reported production and shipments of certain LW thermal paper for China.

Table VII-1

Certain LW thermal paper: China's reported production capacity, production, shipments, and inventories, 2005-07, January-June 2007, January-June 2008, and projections for 2008 and 2009

* * * * *

THE INDUSTRY IN GERMANY

The Commission requested data from three firms which were listed in the petition and believed to produce certain LW thermal paper in Germany during the period of investigation.¹⁰ The Commission received responses from all three firms. The largest producer in Germany, Papierfabrik August Koehler AG ("Koehler Germany"), claimed to account for approximately *** percent of German production of certain LW thermal paper and together with German producer, Mitsubishi HiTec Paper GmbH ("Mitsubishi Germany"), accounted for all the exports to the United States during the period of investigation.^{11 12} The third producer in Germany, ***, reported that it did not export the subject product to the United States during the period of investigation and has no current plans to export to the United States in the future.¹³ Koehler Germany recently announced that it plans to build a new coating facility in the United States and produce certain LW thermal paper for the U.S. market with production expected to begin in 2010.¹⁴

⁶ ***.

⁷ ***. Chinese respondents' prehearing brief, p. 20.

⁸ ***.

⁹ ***.

¹⁰ Petition, exh. I-3.

¹¹ Mitsubishi Germany is ***.

¹² Both Koehler Germany and Mitsubishi Germany engage in jumbo roll coating operations.

¹³ *** did not provide the Commission with a completed foreign producer's questionnaire, but reported that it did produce certain LW thermal paper and had an average annual production capacity of *** short tons during the period of investigation.

¹⁴ Koehler press release, "Koehler plans thermal production in the United States," July 23, 2008. *See* Koehler Germany's foreign producer questionnaire, attachment 1. Koehler's business plans have been submitted under separate cover to the Commission. Petitioner submitted a 2008 Koehler press item which stated that Koehler intended to upgrade coating production in Germany. Petitioner's posthearing brief, exh. 19. Koehler stated that its

(continued...)

Koehler Germany reported that *** percent of its total sales in the most recent fiscal year were sales of certain LW thermal paper. In 2007, *** percent of Koehler Germany's total shipments of certain LW thermal paper were exported to the United States, *** percent of its shipments were to its home market, *** percent of its shipments were to other European Union member states, and *** percent of its shipments were to other export markets such as ***. Koehler Germany's reported capacity increased by *** percent from 2005 to 2007 and is projected to remain steady in 2008 and 2009. Its production increased by *** percent from 2005 to 2007, and is projected to further increase from 2007 to 2009 by an additional *** percent.¹⁵ Koehler Germany reported that its sole U.S. importer of certain LW thermal paper during the period of investigation was Koehler America.¹⁶

Mitsubishi Germany reported that *** percent of its total sales in the most recent fiscal year were sales of certain LW thermal paper. In 2007, *** percent of Mitsubishi Germany's total shipments of certain LW thermal paper were exported to the United States, *** percent of its shipments were to its home market, *** percent of its shipments were to other European Union member states, and *** percent of its shipments were to other export markets such as ***. Mitsubishi Germany's reported capacity increased by *** percent from 2005 to 2007 and is projected to increase further in 2008 by an additional *** percent.¹⁷ Its production increased by *** percent from 2005 to 2007, and is projected to further increase in 2008 by an additional *** percent.¹⁸ Mitsubishi Germany reported that its sole U.S. importer of certain LW thermal paper during the period of investigation was Mitsubishi International.¹⁹

Table VII-2 presents data for reported production and shipments of certain LW thermal paper for Germany.

**Table VII-2
Certain LW thermal paper: Germany's reported production capacity, production, shipments, and inventories, 2005-07, January-June 2007, January-June 2008, and projections for 2008 and 2009**

* * * * *

U.S. IMPORTERS' INVENTORIES

U.S. importers of subject merchandise from China reported *** inventories during the period of investigation.²⁰ U.S. importers from Germany reported *** inventories during the period. Many U.S. converters, however, which purchased U.S. imports of the subject product in jumbo roll form, did report inventories for the period of investigation (*see* table III-11).

¹⁴ (...continued)

subsequent decision to open a production facility in the United States supercedes its decision to upgrade coating machines in Germany (which it alleges would not have increased capacity). Koehler's posthearing brief, p. 13. Koehler stated that it ***. *Ibid.* at exh. 7.

¹⁵ Koehler Germany also reported production of ***.

¹⁶ Koehler Germany reported that its products were certified by IBM or Epson, the two largest manufacturers of POS machines.

¹⁷ ***.

¹⁸ Mitsubishi Germany also reported production of ***.

¹⁹ Mitsubishi Germany reported that its products were certified by IBM or Epson, the two largest manufacturers of POS machines.

²⁰ ***.

U.S. IMPORTERS' CURRENT ORDERS

The Commission requested U.S. importers to indicate whether they imported or arranged for the importation of certain LW thermal paper after June 30, 2008. *** of the ten reporting U.S. importers stated that they had imported or arranged for importation since June 30, 2008. Table VII-3 presents the U.S. importers which indicated that they had imported or arranged for the importation of the subject product from China and Germany and the quantity of those U.S. imports.

Table VII-3

Certain LW thermal paper: U.S. importers' orders of subject imports from China and Germany subsequent to June 30, 2008, by firm

* * * * *

ANTIDUMPING AND COUNTERVAILING DUTY ORDERS IN THIRD-COUNTRY MARKETS

The government of India has conducted three antidumping duty investigations on imports of thermal sensitive paper (a product with a definition broader than certain LW thermal paper). The first investigation, conducted in 2000, concerning imports from Japan, Germany, and the European Union, resulted in the imposition of antidumping duties that remained in place until 2004. The second (in 2002) and the third (in 2005) investigations concerned imports from China and Indonesia, Malaysia, and the UAE, respectively, and resulted in the imposition of duties.²¹ There is no indication that certain LW thermal paper from China, Germany, or Korea has been the subject of any import relief investigations in any other countries.

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:^{22 23}

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

²¹ Petitioner’s postconference brief, exh. 1, pp. 16-18.

²² *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. The U.S. Court of Appeals for the Federal Circuit recently purported to clarify the *Bratsk* decision in *Mittal Steel Point Lisas v. United States*, Ct. No. 2007-1552 (Fed. Cir. Sept. 18, 2008).

²³ 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*.

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.”

Parties supporting imposition of duties argued that *Bratsk* is inapplicable to these investigations because there exist virtually no U.S. imports of certain LW thermal paper from nonsubject countries.²⁴ They maintain that certain LW thermal paper is a commodity product.²⁵ In the preliminary phase of these investigations, German respondents concurred that there appeared little to warrant a *Bratsk* analysis as the volume of U.S. imports from nonsubject countries is virtually nonexistent.²⁶ Respondents have not addressed *Bratsk* in the final phase of these investigations.

Global Market

In 2005, there were approximately *** plants in the world that were engaged in coating thermal paper; those plants had a collective annual production capacity of *** short tons (*** metric tons). The capacity to coat thermal paper is ***.²⁷ Total global production of thermal paper reportedly amounted to *** short tons (*** metric tons) in 2005.

Germany

Germany has a well-developed pulp and paper industry. In 2006, there were 185 paper mills in Germany,²⁸ and its total production of paper and paperboard was 25.6 million short tons (23.2 million metric tons) in 2007, two percent higher than 2006.²⁹ It produced 4.1 million short tons (3.7 million metric tons) of uncoated printing and writing paper (the sort typically used as base paper for the manufacture of certain LW thermal paper) in 2007.³⁰ Germany has *** plants that coat thermal paper. In 2005, those plants had a reported production capacity of *** short tons (*** metric tons), *** percent of global capacity.³¹

²⁴ Petitioner’s postconference brief, p. 20. Petitioner’s prehearing brief, p. 28.

²⁵ Petitioner’s postconference brief, p. 16; Petitioner’s prehearing brief, p. 10; *see Certain Lightweight Thermal Paper From China, Germany, and Korea, Inv. nos. 701-TA-451 and 731-TA-1126-1128 (Preliminary)*, USITC Publication 3964, November 2007, p. 29 n. 190 (Vice Chairman Pearson and Commissioner Okun’s views on *Bratsk*).

²⁶ Koehler’s postconference brief, “Answers to staff questions,” p. 15.

²⁷ Petitioner’s postconference brief, exhibit 13, p. 2.

²⁸ 2006 PPI Annual Review found at <http://www.risiinfo.com/content-gateway/annualReview.html> and retrieved on October 24, 2007.

²⁹ 2007 PPI Annual Review found at <http://www.risiinfo.com/content-gateway/annualReview.html> and retrieved on September 2, 2008.

³⁰ 2007 PPI Annual Review found at <http://www.risiinfo.com/content-gateway/annualReview.html> and retrieved on September 2, 2008.

³¹ Petitioner’s postconference brief, exhibit 13, p. 18.

China

There are estimated to be approximately 3,500 paper mills in China although a great number are very small.³² In 2007, its total production of paper and paperboard was reported to be 81.0 million short tons (74 million metric tons), 13 percent higher than in 2006.³³ Massive investments are being made in the Chinese pulp and paper industry, and it is estimated that 90 percent of new capacity in the global paper industry is being built in China.³⁴ In 2007, China produced 14.8 million short tons (13.4 million metric tons) of uncoated printing and writing paper.³⁵ China has *** plants that coat thermal paper. In 2005, those plants had a reported production capacity of *** short tons (***) metric tons), *** percent of global capacity.³⁶

Korea

Korea has a well-developed pulp and paper industry. In 2006, there were 92 paper mills in Korea.³⁷ Korea's total production of paper and paperboard was 12.0 million short tons (10.9 million metric tons) in 2007, 2 percent higher than 2006.³⁸ In 2007, Korea produced 926,000 short tons (840,000 metric tons) of uncoated printing and writing paper.³⁹ Korea has *** plants that coat thermal paper. In 2005, those plants had a reported production capacity of *** short tons (***) metric tons), *** percent of global capacity.⁴⁰

³² 2006 PPI Annual Review found at <http://www.risiinfo.com/content-gateway/annualReview.html> and retrieved on October 24, 2007.

³³ 2007 PPI Annual Review found at <http://www.risiinfo.com/content-gateway/annualReview.html> and retrieved on September 2, 2008.

³⁴ Oinonen, Hannu and Nie Xiaorong, "China on a Hot Streak with Larger Scale, New Mills," *Tappi and Pima Solutions*, Vol. 87, no. 3, (March 2004), pp. 24-27.

³⁵ 2007 PPI Annual Review found at <http://www.risiinfo.com/content-gateway/annualReview.html> and retrieved on September 2, 2008.

³⁶ Petitioner's postconference brief, exhibit 13, p. 19.

³⁷ 2006 PPI Annual Review found at <http://www.risiinfo.com/content-gateway/annualReview.html> and retrieved on October 24, 2007.

³⁸ 2007 PPI Annual Review found at <http://www.risiinfo.com/content-gateway/annualReview.html> and retrieved on September 2, 2008.

³⁹ 2007 PPI Annual Review found at <http://www.risiinfo.com/content-gateway/annualReview.html> and retrieved on September 2, 2008.

⁴⁰ Petitioner's postconference brief, exhibit 13, p. 19.

APPENDIX A
***FEDERAL REGISTER* NOTICES**

**INTERNATIONAL TRADE
COMMISSION**

[Investigation Nos. 701-TA-451 and 731-TA-1126-1127 (Final)]

**Certain Lightweight Thermal Paper
From China and Germany**

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 No. 701-TA-451 (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-1126-1127 (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 imports from China and less-than-fair-value imports from China and Germany of certain lightweight thermal paper, provided for in subheadings 4811.90.80 and 4811.90.90 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

¹ For purposes of these investigations, the Department of Commerce has defined the subject merchandise as "thermal paper with a basis weight of 70 grams per square meter ("g/m²") (with a tolerance of ± 4.0 g/m²) or less; irrespective of dimensions; with or without a base coat on one or both sides; with thermal active coating(s) on one or both sides that is a mixture of the dye and the developer that react and form an image when heat is applied; with or without a top coat; and without an adhesive backing. Certain lightweight thermal paper is typically (but not exclusively) used in point-of-sale applications such as ATM receipts, credit card receipts, gas pump receipts, and retail store receipts. The merchandise subject to these investigations is provided for in the Harmonized Tariff Schedule of the United States ("HTSUS") under subheadings 4811.90.8040, 4811.90.9090, 3703.10.60, 4811.59.20, 4820.10.20, and 4823.40.00. Although HTSUS numbers are provided for convenience and customs purposes, the written description of the scope of these investigations is dispositive."

E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: May 13, 2008.

FOR FURTHER INFORMATION CONTACT:

Christopher Cassise (202-708-5408), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background.—The final phase of these investigations is being scheduled as a result of affirmative preliminary determinations by the Department of Commerce that 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 of certain lightweight thermal 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 September 19, 2007, by Appleton Papers, Inc., Appleton, WI.

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 September 15, 2008, 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 2, 2008, 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 September 19, 2008. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on September 23, 2008, 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 September 22, 2008. 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 9, 2008; 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 9, 2008. On October 23, 2008, 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 October 27, 2008, 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 11, 2008.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E8-13463 Filed 6-13-08; 8:45 am]

BILLING CODE 7020-02-P

from the People's Republic of China ("PRC"). For information on the estimated countervailing duty rates, please see the "Suspension of Liquidation" section, below.

DATES: *Effective Date:* October 2, 2008.

FOR FURTHER INFORMATION CONTACT:

David Layton, David Neubacher, or Scott Holland, 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, (202) 482-5823, or (202) 482-1279, respectively.

Petitioner

The Petitioner in this investigation is Appleton Papers, Inc. ("the Petitioner").

Period of Investigation

The period for which we are measuring subsidies, or period of investigation ("POI"), is January 1, 2006, through December 31, 2006.

Case History

The following events have occurred since the announcement of the preliminary determination on March 10, 2008. See *Lightweight Thermal Paper from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination*, 73 FR 13850 (March 14, 2007) ("Preliminary Determination").

The Department issued questionnaires to the Government of the People's Republic of China ("GOC"), Shanghai Hanhong Paper Co., Ltd. ("Hanhong"), Guangdong Guanhao High-Tech Co., Ltd. ("GG") and GG's affiliated input supplier Zhanjiang Guanlong Paper Industrial Co., Ltd ("ZG") regarding new subsidy allegations filed by the Petitioner on February 8 and February 14, 2008. We received responses to these questionnaires and to several supplemental questionnaires, and comments from the Petitioner regarding the responses.

The Petitioner and GG/ZG submitted additional factual information consistent within the deadline for the submission of factual information established by 19 CFR 351.301(b)(1).

In the *Preliminary Determination*, the Department stated that it would accept the claim of respondent Xiamen Anne Paper Co., Ltd. ("Xiamen Anne") that it made no shipments of subject merchandise during the POI, subject to

DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-921]

Lightweight Thermal 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 (the "Department") has determined that countervailable subsidies are being provided to producers and exporters of lightweight thermal paper ("LWTP")

verification.¹ On May 6, 2008, counsel for Xiamen Anne informed the Department that Xiamen Anne would not participate further in the investigation and canceled the scheduled on-site verification of its shipments. See Memorandum to File, "E-mail Correspondence with Respondent Xiamen Anne Paper Co. Ltd." (May 7, 2008) ("Xiamen Anne Memo"). On May 7, 2008, the Department informed Xiamen Anne that if it did not participate in the on-site verification, the Department might use facts otherwise available, in accordance with section 776 of the Tariff Act of 1930, as amended ("the Act") and 19 CFR 351.308. See further discussion in the "Use of Facts Otherwise Available" section below.

From June 18 through July 1, 2008, we conducted verification of the questionnaire responses submitted by the GOC, Hanhong, GG and ZG.

On September 2, 2008, we issued our post-preliminary determination regarding the new subsidy allegations and certain other programs discovered in the course of the investigation. See Memorandum to David M. Spooner, Assistant Secretary for Import Administration, entitled "Post-Preliminary Findings for New Subsidy Allegations," dated September 2, 2008, which is on file in the Central Records Unit ("CRU").

On September 2, 2008, the Department issued a preliminary determination that ZG was uncreditworthy for the years 2003 and 2004. See Memorandum from David Neubacher to Susan Kuhbach, Senior Director, Office 1, regarding "Preliminary Creditworthiness Determination for Zhanjiang Guanlong Paper Industrial Co., Ltd.," dated September 2, 2008, which is on file in the CRU.

We received case briefs from the GOC, GG/ZG and the Petitioner on September 10, 2008. The same parties submitted rebuttal briefs on September 15, 2008.

Scope of the Investigation

The merchandise subject to this investigation includes certain lightweight thermal paper, which is thermal paper with a basis weight of 70 grams per square meter ("g/m²") (with a tolerance of ± 4.0 g/m²) or less; irrespective of dimensions;² with or

without a base coat³ on one or both sides; with thermal active coating(s)⁴ on one or both sides that is a mixture of the dye and the developer that react and form an image when heat is applied; with or without a top coat;⁵ and without an adhesive backing. Certain lightweight thermal paper is typically (but not exclusively) used in point-of-sale applications such as ATM receipts, credit card receipts, gas pump receipts, and retail store receipts. The merchandise subject to this investigation may be classified in the Harmonized Tariff Schedule of the United States ("HTSUS") under subheadings 4811.90.8040, 4811.90.9090, 3703.10.60, 4811.59.20, 4820.10.20, and 4823.40.00.⁶ Although HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Scope Comments

The scope listed above has changed from the *Preliminary Determination*.

We set aside a period for interested parties to raise issues regarding product coverage. See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997). The Department encouraged all interested parties to submit such comments within 20 calendar days of signature of the *Initiation Notice*.⁷ We only received comments on the scope from the Petitioner. See the Petitioner's letter to the Department regarding, "Lightweight Thermal Paper from China, Germany, and Korea," dated November 19, 2007. Petitioner requested that the Department

³ A base coat, when applied, is typically made of clay and/or latex and like materials and is intended to cover the rough surface of the paper substrate and to provide insulating value.

⁴ A thermal active coating is typically made of sensitizer, dye, and co-reactant.

⁵ A top coat, when applied, is typically made of polyvinyl acetone, polyvinyl alcohol, and/or like materials and is intended to provide environmental protection, an improved surface for press printing, and/or wear protection for the thermal print head.

⁶ HTSUS subheading 4811.90.8000 was a classification used for LWTP until January 1, 2007. Effective that date, subheading 4811.90.8000 was replaced with 4811.90.8020 (for gift wrap, a non-subject product) and 4811.90.8040 (for "other" including LWTP). HTSUS subheading 4811.90.9000 was a classification for LWTP until July 1, 2005. Effective that date, subheading 4811.90.9000 was replaced with 4811.90.9010 (for tissue paper, a non-subject product) and 4811.90.9090 (for "other," including LWTP). Petitioner indicated that, from time to time, LWTP also may have been entered under HTSUS subheading 3703.90, HTSUS heading 4805, and perhaps other subheadings of the HTSUS, including HTSUS subheadings: 3703.10.60, 4811.59.20, 4820.10.20, and 4823.40.00.

⁷ See *Notice of Initiation of Countervailing Duty Investigation: Lightweight Thermal Paper from the People's Republic of China*, 72 FR 62209, 62210 (November 2, 2007) ("Initiation Notice").

include in LWTP's scope language the HTSUS subheadings 3703.10.60,⁸ 4811.59,⁹ 4820.10,¹⁰ and 4823.40,¹¹ because LWTP may enter the United States under one of these HTSUS subheadings. Specifically, the Petitioner contends that HTSUS subheading 3703.1060 should be included because LWTP is sensitive to heat radiation; LWTP with certain latex topcoats could enter as paper coated with plastic under HTSUS subheading 4811.59; HTSUS subheading 4820.10's description may encompass products converted from thermal paper; and HTSUS subheading 4823.40's description appears to encompass LWTP not elsewhere specified within the HTSUS.

On April 11, 2008, and April 16, 2008, the Department received a request from U.S. Customs and Border Protection ("CBP") to update the antidumping and countervailing duty ("AD/CVD") module for LWTP from the PRC. Specifically, CBP requested that the Department add HTSUS subheadings 3703.10.60, 4811.59.20, 4820.10.20, and 4823.40.00 to the AD/CVD module. See the Department's memorandum to the file entitled, "Request from Customs and Border Protection to update AD/CVD Module," dated April 17, 2008. Based on the requests from the Petitioner and CBP, we are modifying the scope of this investigation to include the additional HTSUS subheadings.

Injury Test

Because the PRC is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Tariff Act of 1930, as amended (the Act), section 701(a)(2) of the Act applies to this investigation. Accordingly, the International Trade Commission ("ITC") must determine whether imports of the subject merchandise from the PRC materially injure, or threaten material injury to a U.S. industry. On December 11, 2007, the ITC published its preliminary determination that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of allegedly

⁸ See ITC website located at <http://usitc.gov/> which describes 3703.1060 as "photographic paper, paperboard, and textiles, sensitized: other."

⁹ See *id.*, which describes HTSUS subheading 4859.10 as "other: In strips or rolls of a width exceeding 15 cm or in rectangular (including square) sheets with one side exceeding 36 cm and the other side exceeding 15 cm in the unfolded state."

¹⁰ See *id.*, which describes HTSUS subheading 4820.10 as "Registers, account books, notebooks, order books, receipt books, letter pads, memorandum pads, diaries and similar articles."

¹¹ See *id.*, which describes HTSUS subheading 4823.40 as "Rolls, sheets and dials, printed for self-recording apparatus."

¹ See *Preliminary Determination* at 73 FR 13850.

² LWTP is typically produced in jumbo rolls that are slit to the specifications of the converting equipment and then converted into finished slit rolls. Both jumbo rolls and converted rolls (as well as LWTP in any other forms, presentations, or dimensions) are covered by the scope of these investigations.

subsidized imports of LWTP from the People's Republic of China ("PRC") and Germany. See *Certain Lightweight Thermal Paper from China, Germany and Korea*, Investigation Nos. 701-TA-415 and 731-TA-1126-1128, 72 FR 70343 (Preliminary) (December 11, 2007).

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. See "Issues and Decision Memorandum for the Final Determination," from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, dated September 25, 2008 ("Decision Memorandum"). 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 Facts Otherwise Available and Adverse Inferences

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.

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.

In this investigation, Shenzhen Yuanming Industrial Development Co., Ltd. ("Shenzhen Yuanming"), MDCN Technology Co., Ltd. ("MDCN"), and Xiamen Anne did not provide the requested information that is necessary

to determine a CVD rate for this final determination. Specifically, MDCN did not respond to the Department's December 14, 2007, request for shipment data and never participated in the investigation. Shenzhen Yuanming responded to the Department's December 14, 2007, request for shipment data, but failed to respond to the Department's January 4, 2008, CVD questionnaire and ceased to participate further in the investigation after the December 26, 2007, submission of its shipment data. In the case of Xiamen Anne, on November 29, 2007 it notified the Department that it did not ship the subject merchandise to the United States during the POI. However, Xiamen Anne did not permit the Department to verify Xiamen Anne's claim of no shipments of subject merchandise, and since May 6, 2008, Xiamen Anne has not participated in the investigation. See Memorandum to File, "E-mail Correspondence with Respondent Xiamen Anne Paper Co. Ltd." (May 7, 2008). Thus, in reaching our final determination, pursuant to section 776(a)(2)(A) and (C) of the Act, we have based the countervailing duty rates of Shenzhen Yuanming, MDCN, and Xiamen Anne on facts otherwise available.

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, MDCN, Shenzhen Yuanming and Xiamen Anne withdrew from all participation in the investigation. MDCN failed to respond to any of the Department's questionnaires. Shenzhen Yuanming responded to the Department's December 14, 2008, request for shipment data, but thereafter ceased to participate in the investigation. Xiamen Anne notified the Department that it had no shipments of subject merchandise, but after tentatively scheduling an on-site verification, it decided to cancel the verification and stop its participation in the proceeding. Thus, MDCN, Shenzhen Yuanming, and Xiamen Anne failed to cooperate by not acting to the best of their abilities to comply with the Department's requests for information, and our final determination is based on total AFA. Accordingly, we find that an adverse inference is warranted to ensure that MDCN, Shenzhen Yuanming, and Xiamen Anne will not obtain a more favorable result than had they fully complied with our request for information.

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. 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 statutory purposes of the adverse facts available rule 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 Statement of Administrative Action ("SAA") accompanying the Uruguay Round Agreements Act, H. Doc. No. 316, 103d Cong., 2d Session (1994), 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).

Selection of the Adverse Facts Available Rate

Parties can find a full discussion of the selection of the AFA rate at Comment 1 in the *Decision Memorandum*, which is on file in the CRU.

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: GG, Hanhong, MDCN, Shenzhen Yuanming, and Xiamen Anne. Section 705(c)(5)(A)(i) of the Act states that for companies not investigated, we will determine an "all others" rate equal to the weighted average countervailing

subsidy rates established for exporters and producers individually investigated, excluding any zero and *de minimis* countervailable subsidy rates, and any rates determined entirely under section 776. As the rates for MDCN, Shenzhen Yuanming, and Xiamen Anne were calculated under section 776 of the Act, those rates were not reflected in the “all others” rate.

In accordance with sections 703(d) and 705(c)(5)(A) of the Act, for companies not investigated, we determined an “all others” rate by weighting the individual company subsidy rate of each of the companies investigated by each company’s exports of the subject merchandise to the United States. The “all others” rate does not include zero and *de minimis* rates or any rates based solely on the facts available. In this investigation, because we have only one rate that can be used to calculate the “all others” rate, GG’s rate, we have assigned that rate to all other non-investigated companies.

Exporter/manufacturer	Net subsidy rate
Guangdong Guanbao High-Tech Co., Ltd.	13.17
Shanghai Hanhong Paper Co., Ltd.	0.57 (<i>de minimis</i>)
Shenzhen Yuanming Industrial Development Co., Ltd.	137.25
MDCN Technology Co., Ltd.	123.65
Xiamen Anne Paper Co., Ltd.	123.65
All Others	13.17

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 LWTP from the PRC which were entered or withdrawn from warehouse, for consumption on or after March 14, 2008, the date of the publication of the *Preliminary Determination* in the **Federal Register**, except for entries from Hanhong, which had a *de minimis* rate.

In accordance with section 703(d) of the Act, we instructed CBP to discontinue the suspension of liquidation for countervailing duty purposes on all shipments of the subject merchandise entered, or withdrawn from the warehouse, for consumption on or after July 12, 2008, but to continue the suspension of liquidation of entries made from March 14, 2008 through July 11, 2008.

We will issue a countervailing duty order and reinstate the suspension of liquidation under section 706(a) of the Act if the 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: September 25, 2008.

Stephen J. Claeys,
Acting Assistant Secretary for Import Administration.

Appendix

List of Comments and Issues in the Decision Memorandum

- Comment 1: The Department’s Authority to Apply the Countervailing Duty Law to China.
- Comment 2: Cut-off Date for Recognition of Subsidies.
- Comment 3: Adverse Facts Available (“AFA”).
- Comment 4: Sales Denominator for GG and ZG.
- Comment 5: Government Policy Lending—Specificity.
- Comment 6: Government Policy Lending—Financial Contribution.

Comment 7: Government Policy Lending—Whether Particular Banks Are “Authorities”.

Comment 8: Chinese Interest Rates as the Benchmark.

Comment 9: Benchmark Rates.

Comment 10: Whether to Countervail Certain Loans Received from Shareholders.

Comment 11: Provision of Electricity for Less Than Adequate Remuneration.

Comment 12: Provision of Land for Less Than Adequate Remuneration.

Comment 13: Stamp Tax and Income Tax Exemption Under Non-Tradable Share Reform.

Comment 14: Whether ZG is Creditworthy.

Comment 15: Double Counting/Overlapping Remedies.

[FR Doc. E8–23271 Filed 10–1–08; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE**INTERNATIONAL TRADE
ADMINISTRATION**

(A-428-840)

**Lightweight Thermal Paper from
Germany: Notice of Final
Determination of Sales at Less Than
Fair Value**

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

SUMMARY: The Department of Commerce (the Department) has determined that imports of lightweight thermal paper (LWTP) from Germany are being, or are likely to be, sold in the United States at less than fair value (LFTV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The final estimated margins of sales at LTFV are listed below in the section entitled "Final Determination Margins."

EFFECTIVE DATE: October 2, 2008.

FOR FURTHER INFORMATION CONTACT: Cindy Robinson or George McMahon, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-3797 or (202) 482-1167, respectively.

SUPPLEMENTARY INFORMATION:**Case History**

On May 13, 2008, the Department published in the **Federal Register** its preliminary determination in the antidumping duty investigation of LWTP from Germany. See *Lightweight Thermal Paper from Germany: Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 73 FR 27498

(May 13, 2008) (*Preliminary Determination*).

In the *Preliminary Determination*, based on our examination of the petitioner's targeted dumping allegation filed on March 27, 2008, we conducted an analysis to determine whether targeted dumping occurred. We preliminarily determined that there is not a pattern of export prices (EPs) for comparable merchandise that differ significantly among customers, regions or by time period.¹

In the *Preliminary Determination*, the Department invited comments on the overall application of the targeted dumping test applied in this proceeding and on the *Preliminary Determination* as a whole.² We received comments within the case briefs submitted by the petitioner³ and the respondent, Papierfabrik August Koehler AG and Koehler America, Inc. (collectively, Koehler) on July 31, 2008. Koehler and Mitsubishi HiTec Paper Flensburg GmbH and Mitsubishi HiTec Paper Bielefeld GmbH (collectively, Mitsubishi HiTec Paper) and Mitsubishi International Corporation (MIC)⁴ submitted rebuttal comments on August 5, 2008.

We conducted sales and cost verifications of the questionnaire responses submitted by Koehler. See Memorandum to the File from George McMahon and Cindy Robinson, Case Analysts, through James Terpstra, Program Manager, Office 3, entitled "Verification of the Sales Response of Papierfabrik August Koehler AG and Koehler America, Inc. (collectively, Koehler) in the Antidumping Duty Investigation of Lightweight Thermal Paper (LWTP) from Germany," dated July 24, 2008 (Koehler Sales Verification Report); see also Memorandum to the File through Neal M. Halper, from Robert B. Greger, entitled "Verification of the Cost Response of Papierfabrik August Koehler AG in the Antidumping Investigation of Lightweight Thermal Paper from Germany," dated June 18, 2008 (Koehler Cost Verification Report). All verification reports are on file and available in the Central Records Unit (CRU), Room 1117, of the main Department of Commerce building.

¹ See *Preliminary Determination* at 27500.

² *Id.* at 27498, 27500, and 27503.

³ The petitioner in this investigation is Appleton Papers, Inc.

⁴ Mitsubishi HiTec Paper and MIC were also identified by the petitioner as potential respondents in the petition submitted in this investigation. However, the Department selected Koehler as the only mandatory respondent due to the Department's resource constraints. See "Respondent Selection Memorandum" dated December 4, 2007, for further details. Therefore, Mitsubishi HiTec Paper and MIC are not mandatory respondents in this investigation.

Based on the Department's findings at verification, as well as the minor corrections presented by Koehler at the start of its verifications, we requested during verification that respondent submit revised sales databases. As requested, Koehler submitted its revised sales databases at verification on June 26, 2008.

Period of Investigation

The POI is July 1, 2006, to June 30, 2007. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition.

Scope of the Investigation

The merchandise covered by this investigation includes certain lightweight thermal paper, which is thermal paper with a basis weight of 70 grams per square meter (g/m²) (with a tolerance of ± 4.0 g/m²) or less; irrespective of dimensions;⁵ with or without a base coat⁶ on one or both sides; with thermal active coating(s)⁷ on one or both sides that is a mixture of the dye and the developer that react and form an image when heat is applied; with or without a top coat;⁸ and without an adhesive backing. Certain lightweight thermal paper is typically (but not exclusively) used in point-of-sale applications such as ATM receipts, credit card receipts, gas pump receipts, and retail store receipts. The merchandise subject to this investigation may be classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 4811.90.8040 and 4811.90.9090.⁹ As discussed below, we added to the scope of the investigation the following HTSUS subheadings:

⁵ LWTP is typically produced in jumbo rolls that are slit to the specifications of the converting equipment and then converted into finished slit rolls. Both jumbo rolls and converted rolls (as well as LWTP in any other forms, presentations, or dimensions) are covered by the scope of this investigation.

⁶ A base coat, when applied, is typically made of clay and/or latex and like materials and is intended to cover the rough surface of the paper substrate and to provide insulating value.

⁷ A thermal active coating is typically made of sensitizer, dye, and co-reactant.

⁸ A top coat, when applied, is typically made of polyvinyl acetone, polyvinyl alcohol, and/or like materials and is intended to provide environmental protection, an improved surface for press printing, and/or wear protection for the thermal print head.

⁹ HTSUS subheading 4811.90.8000 was a classification used for LWTP until January 1, 2007. Effective that date, subheading 4811.90.8000 was replaced with 4811.90.8020 (for gift wrap, a non-subject product) and 4811.90.8040 (for \geq other, \geq including LWTP). HTSUS subheading 4811.90.9000 was a classification for LWTP until July 1, 2005. Effective that date, subheading 4811.90.9000 was replaced with 4811.90.9010 (for tissue paper, a non-subject product) and 4811.90.9090 (for \geq other, \geq including LWTP).

3703.10.60, 4811.59.20, 4820.10.20, and 4823.40.00. Although HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

Scope Comments

On November 19, 2007, the petitioner submitted scope comments in which it requested that the Department add the following additional HTSUS subheadings to the scope of the investigation: HTSUS subheading 3703.10.60, 4811.59, 4820.10, and 4823.40 based on the claim that subject merchandise may also enter under these HTSUS subheadings.

On April 11, 2008, and April 16, 2008, the Department received letters from the National Import Specialists at U.S. Customs and Border Protection (CBP) requesting that HTSUS subheadings 3703.10.60, 4811.59.20, 4820.10.20, and 4823.40.00 be added to the scope of the antidumping duty investigation of LWTP from Germany and simultaneous antidumping duty and countervailing duty investigations of LWTP from the People's Republic of China (PRC) on the basis that entries of subject merchandise could be classified therein. See Memorandum to the File from the Team to the File through James Terpstra, entitled "Request from Customs and Border Protection to update AD /CVD Module," dated April 17, 2008. Since the *Preliminary Determination*, no party to this proceeding has commented on this issue and we have found no additional information that would compel us to reverse our preliminary decision to add the aforementioned HTSUS subheadings to the scope of the investigation. Thus, for purposes of the final determination, we have added these additional subheadings to the scope of this investigation.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this antidumping investigation are addressed in the "Issues and Decision Memorandum for the Final Determination of the Antidumping Duty Investigation of Lightweight Thermal Paper from Germany" (Decision Memorandum) from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, dated September 25, 2008, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to

this notice as an appendix. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in the Decision Memorandum which is on file in the CRU. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at <http://ia.ita.doc.gov/frn/index.html>. The paper copy and electronic version of the Decision Memorandum are identical in content.

Targeted Dumping

In the *Preliminary Determination*, with respect to targeted dumping, we followed the methodology outlined in the post-preliminary targeted dumping analysis in the investigations of steel nails from the People's Republic of China and the United Arab Emirates. See Memorandum to David M. Spooner, Assistant Secretary for Import Administration, from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, RE: Antidumping Duty Investigation of Certain Steel Nails from the People's Republic of China (PRC) and the United Arab Emirates (UAE), Subject: Post-Preliminary Determinations on Targeted Dumping, dated April 21, 2008 (Nails Targeted Dumping Memorandum).¹⁰ Based on the targeted dumping test that we applied in the *Preliminary Determination*, we did not find a pattern of EPs for comparable merchandise that differ significantly among customers, regions or by time period.¹ As a result, we applied the average-to-average methodology to the EPs of all of Koehler's sales to the United States during the POI and calculated a margin of 6.49 percent for Koehler.¹²

In the *Preliminary Determination*, the Department applied the targeted dumping test based on the methodology outlined in the Nail Targeted Dumping Memorandum and found that all three allegations of targeted dumping (customer, region, and time period) failed the test. We have analyzed the case and rebuttal briefs¹³ with respect to targeted dumping issues submitted for the record in this investigation and considered the changes made to the targeted dumping test applied in the final determinations of *Nails* and *PRC Tires*.¹⁴ As a result of our analysis, we

utilized the *Nails* targeted dumping test from the *Preliminary Determination* and applied certain modifications from *Nails* and *PRC Tires* for purposes of the final determination.¹⁵

As in the *Preliminary Determination*, we did not find a pattern of EPs for comparable merchandise that differ significantly among customers, regions or by time period. For further discussion, see Comments 2 through 4 of the Decision Memorandum. See also: "Final Analysis Memorandum for Sales Koehler," dated September 25, 2008 (Final Sales Memorandum) and Memorandum to Neal M. Halper, Director, Office of Accounting, entitled "Cost of Production and Constructed Value Calculation Adjustments for the Final Determination Koehler," dated September 25, 2008 (Final Cost Memorandum).

Verification

As provided in section 782(i) of the Act, we verified the sales and cost information submitted by Koehler 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 Koehler. See "Koehler Sales Verification Report" and "Koehler Cost Verification Report."

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 calculation for Koehler. For a discussion of these changes, see the Final Sales Memorandum and Final Cost Memorandum.

Final Determination Margins

We determine that the following weighted-average dumping margin exists for the period July 1, 2006, to June 30, 2007:

Memorandum (Steel Nails from the UAE) at Comment 5; see also *Certain Steel Nails from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances*, 73 FR 33977 (June 16, 2008), and accompanying Issues and Decision Memorandum (Steel Nails from the PRC) at Comments 3, 5, and 9 (collectively, *Nails*); see also *Certain New Pneumatic Off-The-Road Tires from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances*, 73 FR 40480 (July 15, 2008), and accompanying Issues and Decision Memorandum (*PRC Tires*) at Comments 23, B and 23.G.

¹⁵ Id.

Manufacturer/Exporter	Weighted-Average Margin (percent)
Papierfabrik August Koehler AG and Koehler America, Inc.	6.50
All Others	6.50

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of subject merchandise from Germany, entered, or withdrawn from warehouse, for consumption on or after May 13, 2008, the date of publication of the *Preliminary Determination*. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average dumping margins, as indicated in the chart above. These suspension-of-liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our final determination. As our final determination is affirmative and in accordance with section 735(b)(2) of the Act, the ITC will determine, within 45 days, whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of the subject merchandise. If the ITC determines that 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 parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations

¹⁰ See *Preliminary Determination* at 27500.

¹¹ Id.

¹² Id. at 27503.

¹³ See the petitioner's case brief, dated July 31, 2008; see also Koehler and Mitsubishi HiTec Paper and MIC's rebuttal briefs, dated August 5, 2008.

¹⁴ See *Certain Steel Nails from the United Arab Emirates: Notice of Final Determination of Sales at Not Less Than Fair Value*, 73 FR 33985 (June 16, 2008), and accompanying Issues and Decision

and the terms of an APO is a sanctionable violation.

This determination is issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: September 25, 2008.

Stephen J. Claeys,

Acting Assistant Secretary for Import Administration.

Appendix -- Issues in Decision Memorandum

I. GENERAL ISSUES

Comment 1: Ministerial Error Correction

II. TARGETED DUMPING ISSUES

Comment 2: Whether the Department's Targeted Dumping Test is Flawed and Should be Replaced with the "preponderance at two percent test" (P/2 Test)

Comment 3: Whether the Department Should Apply any Margins Calculated for Koehler Pursuant to its Targeted Dumping Test to Mitsubishi HiTec Paper and the Non-Selected Respondents

Comment 4: Whether Margins Should be Calculated Without Applying Offsets for Non-Dumped Sales

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FOR FURTHER INFORMATION CONTACT:

Frances Veith or Demitrios Kalogeropoulos, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-4295 or (202) 482-2623, respectively.

Final Determination

We determine that LWTP from the PRC is being, or is likely to be, sold in the United States at LTFV as provided in section 735 of the Tariff Act of 1930, as amended (“the Act”). The estimated margins of sales at LTFV are shown in the “Final Determination Margins” section of this notice.

SUPPLEMENTARY INFORMATION:**Case History**

The Department published its preliminary determination of sales at LTFV on May 13, 2008. *See Lightweight Thermal Paper From the People’s Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 73 FR 27504 (May 13, 2008) (“*Preliminary Determination*”). Additionally, the Department postponed the deadline for the final determination by 60 days to September 25, 2008. *See Preliminary Determination*, at 27504. On May 28, 2008, Appleton Papers, Inc. (“petitioner”) submitted comments regarding Guanhao’s eligibility for a separate rate. From June 2 through 13, 2008, the Department conducted verifications of Hanhong International Limited, Shanghai Hanhong Paper Co., Ltd., and Hong Kong Hanhong Ltd. (collectively (“Hanhong”)) and Guangdong Guan hao High-Tech Co., Ltd. (“Guanhao”) and released its verification reports for both companies on July 16, 2008. *See* the “Verification” section below for additional information. On June 12, 2008, petitioner filed a timely request for a public hearing. On June 23, 2008, petitioner and Guan hao submitted surrogate value information for the record. On July 2, 2008, the Department placed its updated wage rate calculations on the record. On July 24, 2008, case briefs were filed by both petitioner and Hanhong. On July 29, 2008, Hanhong and Guan hao each filed rebuttal briefs. On August 14, 2008, petitioner withdrew its request for a hearing.

Targeted Dumping

On May 5, 2008, petitioner filed an allegation of targeted dumping with respect to patterns of Hanhong’s

constructed export prices (“CEPs”) for comparable merchandise that differ significantly among purchases and periods of time. Petitioner limited its targeted dumping allegation to patterns of prices found in Hanhong’s CEP sales. In our *Preliminary Determination*, we found that Hanhong was not affiliated with its U.S. customer, and based our margin analysis on Hanhong’s export price (“EP”) sales. As a result, petitioner’s targeted dumping allegation was inapplicable to our margin calculations. Since the *Preliminary Determination*, no interested party has provided any argument or information on the record concerning petitioner’s targeted dumping allegation. In our final determination, we have continued to find Hanhong unaffiliated with its U.S. customer, and consequently, based our margin calculations on Hanhong’s EP sales. As a result, petitioner’s allegation of targeted dumping is not applicable to our margin analysis. Therefore, we did not address it in this final determination.

Period of Investigation

The period of investigation (“POI”) is January 1, 2007, through June 30, 2007. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the petition, which was September 2007. *See* 19 CFR 351.204(b)(1).

Verification

As provided in section 782(i) of the Act, we verified the information submitted by Hanhong and Guan hao for use in our final determination. *See* the Department’s verification reports on the record of this investigation in the Central Records Unit (“CRU”), Room 1117 of the main Department building, with respect to these entities. 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.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the “Investigation of Lightweight Thermal Paper from the People’s Republic of China: Issues and Decision Memorandum,” dated concurrently with this notice and hereby adopted by this notice (“Issues and Decision Memorandum”). A list of the issues which parties raised and to which we respond in the Issues and Decision Memorandum is attached to this notice as Appendix I. The Issues and Decision

DEPARTMENT OF COMMERCE**International Trade Administration**

[A-570-920]

Lightweight Thermal Paper From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value

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

EFFECTIVE DATE: October 2, 2008.

SUMMARY: On May 13, 2008, the Department of Commerce (the “Department”) published its preliminary determination of sales at less than fair value (“LTFV”) in the antidumping investigation of lightweight thermal paper (“LWTP”) from the People’s Republic of China (“PRC”). The period of investigation (“POI”) is January 1, 2007, to June 30, 2007. 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.

Memorandum is a public document on file in the CRU and accessible on the Web at ia.ita.doc.gov/frn. The paper copy and electronic version of the memorandum are identical in content.

Changes Since the Preliminary Determination

- *Financial statements*—In the *Preliminary Determination*, we calculated financial ratios based on two Indian producers' financial statements (*i.e.*, Parag Copigraph Pvt. Ltd. ("Parag") and Alpha Carbonless Paper Ltd. for the fiscal year ending March 31, 2006. For the final determination, we have determined to use only Parag's financial statement for the fiscal year ending March 31, 2007. See Comment 2.

- *Financial ratios*—For the final determination, we made certain changes to the financial ratio calculations from the *Preliminary Determination*. We excluded the line items for freight and cartage-outward, and freight and cartage-export from the Selling, General, and Administrative expenses ("SG&A") ratio calculation obtained from Parag's financial statement. Additionally, we included Parag's line items for miscellaneous income, other income, and interest revenue (because all of Parag's interest revenue was on current assets) as an offset to the SG&A ratio calculation and we have continued to include export expense in our calculation of the surrogate financial ratio for SG&A. See Comment 3.

- *Base paper surrogate value*—For the *Preliminary Determination*, we calculated Guanhao's surrogate value for base paper using WTA import statistics. For the final determination, we have continued to calculate Guanhao's surrogate value using WTA import statistics; however, we have excluded imports into India from the United States. See Comment 9.

- *Guanhao minor corrections*—We made the following minor corrections to Guanhao's sales data: (1) We changed the reported gross weight for two observations; and (2) we changed the reported payment date for six observations. See Memorandum entitled, "Verification of the Sales and Factors Responses of Guangdong Guanhao High Tech Co., Ltd. in the Antidumping Investigation of Lightweight Thermal Paper from the People's Republic of China," dated July 16, 2008.

- *Hanhong minor corrections*—We made the following minor corrections to Hanhong's sales and factors-of-production ("FOP") data: (1) We changed the reported destination for one observation; (2) we changed the reported per-unit gross weight for

certain observations; and (3) we changed the reported capped distance for certain FOPs. See Memorandum entitled, "Verification of the Sales and Factors Responses of Hanhong International Limited, Shanghai Hanhong Paper Co., Ltd., Hong Kong Hanhong Co., Ltd. in the Antidumping Investigation of Lightweight Thermal Paper from the People's Republic of China," dated July 16, 2008.

Scope of Investigation

The merchandise covered by this investigation includes certain lightweight thermal paper, which is thermal paper with a basis weight of 70 grams per square meter (g/m²) (with a tolerance of ±4.0 g/m²) or less; irrespective of dimensions;¹ with or without a base coat² on one or both sides; with thermal active coating(s)³ on one or both sides that is a mixture of the dye and the developer that react and form an image when heat is applied; with or without a top coat;⁴ and without an adhesive backing. Certain lightweight thermal paper is typically (but not exclusively) used in point-of-sale applications such as ATM receipts, credit card receipts, gas pump receipts, and retail store receipts. The merchandise subject to this investigation may be classified in the Harmonized Tariff Schedule of the United States ("HTSUS") under subheadings 4811.90.8040, 4811.90.9090, 3703.10.60, 4811.59.20, 4820.10.20, and 4823.40.00.⁵ Although HTSUS subheadings are provided for

¹ LWTP is typically produced in jumbo rolls that are slit to the specifications of the converting equipment and then converted into finished slit rolls. Both jumbo and converted rolls (as well as LWTP in any other form, presentation, or dimension) are covered by the scope of these investigations.

² A base coat, when applied, is typically made of clay and/or latex and like materials and is intended to cover the rough surface of the paper substrate and to provide insulating value.

³ A thermal active coating is typically made of sensitizer, dye, and co-reactant.

⁴ A top coat, when applied, is typically made of polyvinyl acetone, polyvinyl alcohol, and/or like materials and is intended to provide environmental protection, an improved surface for press printing, and/or wear protection for the thermal print head.

⁵ HTSUS subheading 4811.90.8000 was a classification used for LWTP until January 1, 2007. Effective that date, subheading 4811.90.8000 was replaced with 4811.90.8020 (for gift wrap, a nonsubject product) and 4811.90.8040 (for "other" including LWTP). HTSUS subheading 4811.90.9000 was a classification for LWTP until July 1, 2005. Effective that date, subheading 4811.90.9000 was replaced with 4811.90.9010 (for tissue paper, a nonsubject product) and 4811.90.9090 (for "other," including LWTP). Petitioner indicated that, from time to time, LWTP also may have been entered under HTSUS subheading 3703.90, HTSUS heading 4805, and perhaps other subheadings of the HTSUS, including HTSUS subheadings: 3703.10.60, 4811.59.20, 4820.10.20, and 4823.40.00.

convenience and customs purposes, the written description of the scope of this investigation is dispositive.

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 level of economic development comparable to that of the PRC; and (3) we have reliable data from India that we can use to value the FOPs. See *Preliminary Determination*. For the final determination, we received and reviewed comments from interested parties; however, we made no changes to our findings with respect to the selection of India as 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 19 CFR 351.107(d).

In the *Preliminary Determination*, we found that Hanhong and Guanhao demonstrated their eligibility for separate-rate status. For the final determination, we continue to find that the evidence placed on the record of this investigation by Hanhong and Guanhao 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. See Comment 7.

Facts Available and the PRC-wide Entity

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: (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, 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, subject to section 782(e) of the Act, the Department may disregard all or part of the original and subsequent responses, as appropriate. 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.

In the *Preliminary Determination*, we determined that two companies, Xiamen Anne Paper Co., Ltd. ("Anne Paper") and Yalong Paper Product (Kunshan) Co., Ltd. ("Yalong"), which did not respond to any of the Department's requests for information, did not cooperate to the best of their ability.⁶ As a result, we determined that they failed to demonstrate that they operate free of government control and that they are entitled to a separate rate.⁷ Thus, we considered Anne Paper and Yalong to be part of the PRC-wide entity. Because the PRC-wide entity, including Anne Paper and Yalong, did not provide any information, we determined that sections 782(d) and (e) of the Act are not relevant to our analysis. Therefore, in the *Preliminary Determination*, we determined that there were exports of the merchandise subject to this investigation from PRC exporters/producers that did not respond to the Department's shipment questionnaire. Because the PRC-wide entity did not cooperate to the best of its ability in responding to our requests for information, we determined that use of facts available pursuant to section 776(a)(2)(A) and (B) of the Act was

warranted for the PRC-wide entity, which includes Anne Paper and Yalong.⁸

Section 776(b) of the Act provides that if an interested party fails to cooperate by not acting to the best of its ability to comply with requests for information, the Department may employ adverse inferences.⁹ We found that, because the PRC-wide entity did not respond to our request for information, it failed to cooperate to the best of its ability. Therefore, in the *Preliminary Determination*, the Department determined that, in selecting from among the facts available, an adverse inference is appropriate. There have been no changes to the information on the record concerning the PRC-wide entity which includes Anne Paper and Yalong. Therefore, we have made no changes in our analysis for the final determination. Consequently, we determine that the use of adverse facts available ("AFA") for the PRC-wide entity, which includes Anne Paper and Yalong, is warranted for the final determination.

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) provide that the Department may 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. In selecting a rate for AFA, the Department selects a rate that is sufficiently adverse "as to effectuate the purpose of the facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner."¹⁰ It is also the Department's practice to select a rate that ensures "that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully."¹¹

Generally, the Department finds selecting the highest rate in any segment of the proceeding as AFA to be

⁸ See, e.g., *Final Determination of Sales at Less Than Fair Value: Certain Artist Canvas from the People's Republic of China*, 71 FR 16116 (March 30, 2006) ("Artist Canvas").

⁹ See, e.g., *Artist Canvas*, 71 FR 16116, 16118 (March 30, 2006). See also, Statement of Administrative Action accompanying the URAA, H.R. Rep. No. 103-316 ("SAA") at 870.

¹⁰ 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).

¹¹ See *Brake Rotors From the People's Republic of China: Final Results and Partial Rescission of the Seventh Administrative Review; Final Results of the Eleventh New Shipper Review*, 70 FR 69937, 69939 (November 18, 2005); see also, SAA at 870.

appropriate.¹² It is the Department's practice to select, as AFA, the higher of the (a) highest margin alleged in the petition, or (b) the highest calculated rate of any respondent in the investigation.¹³ In the instant investigation, as AFA, we have assigned to the PRC-wide entity, including Anne Paper and Yalong, the highest rate on the record of this proceeding, which in this case is the calculated margin for Hanhong. The Department determines that this information is the most appropriate from the available sources to effectuate the purposes of AFA.

Corroboration

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 as facts available, it must, to the extent practicable, corroborate that information from independent sources reasonably at its disposal. Secondary information is described as "information derived from the petition that gave rise to the investigation or review, the final determination concerning merchandise subject to this investigation, or any previous review under section 751 concerning the merchandise subject to this investigation."¹⁴ To "corroborate" means simply that the Department will satisfy itself that the secondary information to be used has probative value.¹⁵ Independent sources used to corroborate may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation.¹⁶ To corroborate secondary information, the Department will, to the extent practicable, examine

¹² See, e.g., *Certain Cased Pencils from the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review and Intent to Rescind in Part*, 70 FR 76755, 76761 (December 28, 2005) *Unchanged in Certain Cased Pencils from the People's Republic of China; Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 71 FR 38366, (July 6, 2006), and accompanying *Issues and Decision Memorandum* at Comment 10.

¹³ See *Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Quality Steel Products from the People's Republic of China*, 65 FR 34660 (May 21, 2000), and accompanying *Issues and Decision Memorandum* at "Facts Available."

¹⁴ See *Final Determination of Sales at Less Than Fair Value: Sodium Hexametaphosphate From the People's Republic of China*, 73 FR 6479, 6481 (February 4, 2008); see also, SAA at 870.

¹⁵ See *id.*

¹⁶ See *id.*

⁶ See *Preliminary Determination* at 73 FR 27508.

⁷ See *Preliminary Determination* at 73 FR 27508.

the reliability and relevance of the information used.¹⁷

As we did not rely upon secondary information, no corroboration was required under section 776(c) of the Act; rather we used a rate calculated for a respondent in this investigation as the AFA rate for this investigation. ¹⁸ See the "Final Determination" section of this notice below.

The PRC-wide rate applies to all entries of the merchandise under investigation except for entries from respondents, Hanhong and Guanhao as they have demonstrated eligibility for a separate rate. These companies and their corresponding antidumping duty cash deposit rates are listed below in the "Final Determination" section of this

notice. Accordingly, we find that the rate of xx.xx percent is corroborated within the meaning of section 776(c) of the Act.

Combination Rates

In the *Initiation Notice*, the Department stated that it would calculate combination rates for certain respondents that are eligible for a separate rate in this investigation.¹⁹ This practice is described in the *Separate Rate Policy Bulletin*.²⁰

Adjustment for Export Subsidies

Consistent with our practice, where the product under investigation is also subject to a concurrent countervailing duty investigation, we instruct U.S. Customs and Border Protection ("CBP")

to require a cash deposit or posting of a bond equal to the amount by which the normal value exceeds the EP, less the amount of the countervailing duty determined to constitute an export subsidy. Accordingly, for cash deposit purposes for Guanhao, we will subtract from the antidumping applicable cash deposit rate that portion of the rate attributable to the export subsidies found in the affirmative countervailing duty determination (*i.e.*, 0.13 percent). After the adjustment for the export subsidies, the resulting cash deposit rate will be 19.64 for Guanhao.

Final Determination

The weighted-average dumping margin percentages are as follows:

Exporter/producer combination	Percent margin
Exporter: Shanghai Hanhong Paper Co., Ltd, also known as, Hanhong International Limited	115.29
Producer: Shanghai Hanhong Paper Co., Ltd.	
Exporter: Guangdong Guanhao High-Tech Co., Ltd	19.77
Producer: Guangdong Guanhao High-Tech Co., Ltd.	
PRC-Wide Entity*	115.29

* Includes Anne Paper and Yalong.

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing CBP to continue to suspend liquidation of all imports of subject merchandise entered or withdrawn from warehouse, for consumption on or after the following dates: (1) For Guanhao and Hanhong, on or after May 13, 2008, the date of publication of the *Preliminary Determination in the Federal Register*, (2) for the PRC-wide entity, on or after May 13, 2008, 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, within 45 days the ITC will determine whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of the subject merchandise. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse,

for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding APO

This notice also serves as a reminder to the parties subject to administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination and notice are issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: September 25, 2008.

Stephen J. Claeys,
Acting Assistant Secretary for Import Administration.

Appendix I—List of Issues

I. GENERAL ISSUES
Comment 1: Surrogate Country

People's Republic of China, 73 FR 6479 (February 4, 2008).

¹⁹ See *Initiation Notice*, 72 FR at 62435.

²⁰ See Memorandum entitled "Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations Involving Non-Market Economy Countries" dated April 5, 2005, available at <http://ia.ita.doc.gov/policy/index.html>.

¹⁷ See *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996), unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and*

Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part, 62 FR 11825 (March 13, 1997).

¹⁸ See *Final Determination of Sales at Less Than Fair Value: Sodium Hexametaphosphate From the*

Comment 2: Financial Statements

Comment 3: Financial Ratios

Comment 4: New NME Wage Rate

Comment 5: Zeroing

Comment 6: Exchange Rates

II. ISSUES SPECIFIC TO GUANHAO

Comment 7: Separate Rate Eligibility

Comment 8: Vertical Integration

Comment 9: Base Paper Surrogate Value

III. ISSUES SPECIFIC TO HANHONG

Comment 10: Coated Jumbo Rolls

Surrogate Value

Comment 11: Invoice Date

[FR Doc. E8-23284 Filed 10-1-08; 8:45 am]

BILLING CODE 3510-DS-P

APPENDIX B
HEARING WITNESSES

CALENDAR OF PUBLIC HEARING

Those listed below appeared as witnesses at the United States International Trade Commission's hearing:

Subject: Certain Lightweight Thermal Paper from China and Germany
Inv. Nos.: 701-TA-451 and 731-TA-1126-1127 (Final)
Date and Time: October 2, 2008 - 9:30 a.m.

Sessions were held in connection with these investigations in the Main Hearing Room (room 101), 500 E Street, S.W., Washington, D.C.

SENATE APPEARANCE:

The Honorable Herb Kohl, United States Senator, United States Senate, State of Wisconsin

The Honorable Sherrod Brown, United States Senator, United States Senate, State of Ohio

STATE GOVERNMENT APPEARANCE:

The Honorable Ted Strickland, Governor, State of Ohio

The Honorable Jim Doyle, Governor, State of Wisconsin

CONGRESSIONAL APPEARANCES:

The Honorable Thomas E. Petri, U.S. Congressman, U.S. House of Representatives, 6th District, State of Wisconsin

The Honorable Michael R. Turner, U.S. Congressman, U.S. House of Representatives, 3rd District, State of Ohio

The Honorable Steven L. Kagen, M.D., U.S. Congressman, U.S. House of Representatives, 8th District, State of Wisconsin

OPENING REMARKS:

Petitioner (**Joseph W. Dorn**, King & Spalding LLP)
Respondents (**William Silverman**, Hunton & Williams LLP
and **Rosa S. Jeong**, Greenberg Traurig LLP)

**In Support of the Imposition of
Antidumping and Countervailing Duties:**

King & Spalding LLP
Washington, D.C.
on behalf of

Appleton Papers Inc. (“Appleton”)

Mark Richards, Chairman of the Board, President, and
Chief Executive Officer, Appleton

Walter Schonfeld, President, Technical Papers Division, Appleton

Karen Hatfield, Executive Director, Thermal Marketing, Appleton

Mike Friese, Director of Technology, Technical Papers Research and
Technology, Appleton

Steve Blasczyk, Operations Manager, Appleton

Mike Rapier, President, Liberty Paper Products

Jon Geenen, Vice President, International, USW

Jimmy Allen, Master Journeyman Mechanic, Appleton; *and* President,
USW Local 266

Gregg Mosby, Sr., President, Moor Products d/b/a Greenleaf Paper Converting

Charles P. Klass, President, Klass Associates, Inc.

Seth Kaplan, Consultant, The Brattle Group

Joseph W. Dorn)
Gilbert B. Kaplan) – OF COUNSEL
Stephen J. Narkin)

**In Support of the Imposition of
Antidumping and Countervailing Duties (continued):**

WilmerHale
Washington, D.C.
on behalf of

Kanzaki Specialty Paper, Inc. (“Kanzaki”)

Stephen P. Hefner, President, Kanzaki

David Gonsalves, Vice President, Sale and Marketing, Kanzaki

Gary N. Horlick)
) – OF COUNSEL
Raman Santra)

**In Opposition to the Imposition of
Antidumping and Countervailing Duties:**

Hunton & Williams LLP
Washington, D.C.
on behalf of

Papierfabrik August Koehler AG
Koehler America, Inc.

Doug Endsley, President, Register Tapes Unlimited, Inc.

Willy Frueh, Director, Thermal Paper Division, Papierfabrik August Koehler AG

Richard M. Greene, Chief Operating Officer, Koehler America, Inc.

Richard Jansen, President, Paper Solutions

Roger Sandt, CEO, Sandt Products, Inc.

Ed Swadish, President, Discount Papers

Bruce Malashavich, President, Economic Consulting Services, LLC

**In Opposition to the Imposition of
Antidumping and Countervailing Duties (continued):**

James Dougan, Economic Consultant, Economic Consulting Services, LLC

William Silverman)
Richard Ferrin) – OF COUNSEL
James Simoes)

Steptoe & Johnson LLP
Washington, D.C.
on behalf of

Mitsubishi HiTec Paper Flensburg GmbH
Mitsubishi HiTec Paper Bielefeld GmbH
(collectively “Mitsubishi HiTec Paper”)
Mitsubishi International Corporation (“MIC”)

Falk Jahns, Area Sales Manager, Mitsubishi HiTec Paper Flensburg GmbH

Theodore Rice, Manager, Paper and Packaging Department, MIC

Eric C. Emerson)
) – OF COUNSEL
Jamie B. Beaber)

Greenberg Traurig LLP
Washington, D.C.
on behalf of

Shanghai Hanhong Paper Co., Ltd. (“Hanhong”)
Paper Resources, LLC (“Paper Resources”)

Xue Qiang, General Manager, Hanhong

Jun (Frank) Zhang, Interpreter for Mr. Xue

Christopher K. Burns, Managing Director, Paper Resources

**In Opposition to the Imposition of
Antidumping and Countervailing Duties (continued):**

Todd Kyriss, Director, Global Sourcing, Calphalon; *and* Former Director,
Global Procurement, NCR Corp.

John Reilly, Economist, Nathan Associates

Rosa S. Jeong)
) – OF COUNSEL
Jeffrey S. Neeley)

CLOSING REMARKS:

Petitioner (**Joseph W. Dorn**, King & Spalding LLP)
Respondents (**William Silverman**, Hunton & Williams LLP and
Rosa S. Jeong, Greenberg Traurig LLP)

APPENDIX C
SUMMARY DATA

Table C-1

Thermal paper: Summary data concerning the U.S. coaters' market, 2005 07, January June 2007, and January June 2008

* * * * *

Table C-2

Thermal paper: Summary data concerning the U.S. converters' market, 2005 07, January June 2007, and January June 2008

* * * * *

Table C-3

Certain LW thermal paper: Summary data concerning the U.S. coaters' and U.S. converters' market, 2005-07, January-June 2007, and January-June 2008

(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			
	2005	2006	2007	January-June		2005-07	2005-06	2006-07	Jan.-June 2007-08
				2007	2008				
U.S. consumption quantity:									
Amount	215,633	244,305	255,787	117,208	133,021	18.6	13.3	4.7	13.5
Producers' share (1)	***	***	***	***	***	***	***	***	***
Importers' share (1):									
China	***	***	***	***	***	***	***	***	***
Germany	***	***	***	***	***	***	***	***	***
Subtotal	***	***	***	***	***	***	***	***	***
All other sources	***	***	***	***	***	***	***	***	***
Total imports	***	***	***	***	***	***	***	***	***
U.S. consumption value:									
Amount	427,680	482,129	490,222	240,338	268,461	14.6	12.7	1.7	11.7
Producers' share (1)	***	***	***	***	***	***	***	***	***
Importers' share (1):									
China	***	***	***	***	***	***	***	***	***
Germany	***	***	***	***	***	***	***	***	***
Subtotal	***	***	***	***	***	***	***	***	***
All other sources	***	***	***	***	***	***	***	***	***
Total imports	***	***	***	***	***	***	***	***	***
U.S. imports from:									
China:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Germany:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Subtotal:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
All other sources:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
All sources:									
Quantity	70,882	85,460	93,712	45,419	47,688	32.2	20.6	9.7	5.0
Value	116,812	143,348	151,518	74,721	82,622	29.7	22.7	5.7	10.6
Unit value	\$1,648	\$1,677	\$1,617	\$1,645	\$1,733	-1.9	1.8	-3.6	5.3
Ending inventory quantity	***	***	***	***	***	***	***	***	***

Table continued on next page.

Table C-3--Continued

Certain LW thermal paper: Summary data concerning the U.S. coaters' and U.S. converters' market, 2005-07, January-June 2007, and January-June 2008

(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			
	2005	2006	2007	January-June		2005-07	2005-06	2006-07	Jan.-June 2007-08
				2007	2008				
U.S. coaters' and converters':									
Capacity	271,889	286,234	306,169	145,423	158,638	12.6	5.3	7.0	9.1
Production quantity	161,405	182,607	179,771	82,950	98,405	11.4	13.1	-1.6	18.6
Capacity utilization (1)	59.4	63.8	58.7	57.0	62.0	-0.6	4.4	-5.1	5.0
U.S. shipments:									
Quantity	144,751	158,845	162,075	71,789	85,333	12.0	9.7	2.0	18.9
Value	310,868	338,781	338,704	165,617	185,839	9.0	9.0	-0.0	12.2
Unit value	\$2,148	\$2,133	\$2,090	\$2,307	\$2,178	-2.7	-0.7	-2.0	-5.6
Export shipments:									
Quantity	17,937	20,013	20,387	9,178	9,340	13.7	11.6	1.9	1.8
Value	28,921	31,675	33,028	14,682	15,866	14.2	9.5	4.3	8.1
Unit value	\$1,612	\$1,583	\$1,620	\$1,600	\$1,699	0.5	-1.8	2.4	6.2
Ending inventory quantity	8,644	12,823	9,739	14,273	12,715	12.7	48.3	-24.1	-10.9
Inventories/total shipments (1)	5.3	7.2	5.3	8.8	6.7	0.0	1.9	-1.8	-2.1
Production workers	942	959	949	961	945	0.8	1.8	-1.0	-1.6
Hours worked (1,000s)	1,888	1,936	1,904	984	1,018	0.9	2.5	-1.6	3.5
Wages paid (\$1,000s)	38,455	40,841	40,192	19,555	20,581	4.5	6.2	-1.6	5.2
Hourly wages	\$20.37	\$21.10	\$21.11	\$19.88	\$20.22	3.6	3.6	0.1	1.7
Productivity (tons/1,000 hours)	85.5	94.3	94.4	84.3	96.7	10.4	10.3	0.1	14.6
Unit labor costs	\$238.25	\$223.66	\$223.57	\$235.75	\$209.15	-6.2	-6.1	-0.0	-11.3
Net sales:									
Quantity	157,343	172,525	174,528	77,502	91,212	10.9	9.6	1.2	17.7
Value	327,066	357,300	355,924	162,477	188,774	8.8	9.2	-0.4	16.2
Unit value	\$2,079	\$2,071	\$2,039	\$2,096	\$2,070	-1.9	-0.4	-1.5	-1.3
Cost of goods sold (COGS)	288,156	316,837	324,653	146,662	173,885	12.7	10.0	2.5	18.6
Gross profit or (loss)	38,910	40,463	31,271	15,815	14,889	-19.6	4.0	-22.7	-5.9
SG&A expenses	39,944	40,556	42,492	19,409	21,349	6.4	1.5	4.8	10.0
Operating income or (loss)	(1,034)	(93)	(11,221)	(3,594)	(6,460)	-985.2	91.0	-11965.6	-79.7
Capital expenditures	19,409	12,658	38,661	8,302	60,287	99.2	-34.8	205.4	626.2
Unit COGS	\$1,831	\$1,836	\$1,860	\$1,892	\$1,906	1.6	0.3	1.3	0.7
Unit SG&A expenses	\$254	\$235	\$243	\$250	\$234	-4.1	-7.4	3.6	-6.5
Unit operating income or (loss)	(\$7)	(\$1)	(\$64)	(\$46)	(\$71)	-878.3	91.8	-11827.1	-52.7
COGS/sales (1)	88.1	88.7	91.2	90.3	92.1	3.1	0.6	2.5	1.8
Operating income or (loss)/ sales (1)	(0.3)	(0.0)	(3.2)	(2.2)	(3.4)	-2.8	0.3	-3.1	-1.2

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

(2) 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

PRICING DATA REPORTED ON AN F.O.B. BASIS

Table D-1
Certain LW thermal paper: Weighted-average f.o.b. prices and quantities of domestic and imported product 1 and margins of underselling/(overselling), by quarters, January 2005-June 2008

* * * * *

Table D-2
Certain LW thermal paper: Weighted-average f.o.b. prices and quantities of domestic and imported product 2 and margins of underselling/(overselling), by quarters, January 2005-June 2008

* * * * *

Table D-3
Certain LW thermal paper: Weighted-average f.o.b. prices and quantities of domestic and imported product 3 and margins of underselling/(overselling), by quarters, January 2005-June 2008

* * * * *

Table D-4
Certain LW thermal paper: Weighted-average f.o.b. prices and quantities of domestic 4, by quarters, January 2005-June 2008

* * * * *

Table D-5
Certain LW thermal paper: Weighted-average f.o.b. prices and quantities of domestic and imported product 5 and margins of underselling/(overselling), by quarters, January 2005-June 2008

* * * * *

Table D-6
Certain LW thermal paper: Weighted-average f.o.b. prices and quantities of domestic and imported product 6 and margins of underselling/(overselling), by quarters, January 2005-June 2008

* * * * *

Table D-7
Certain LW thermal paper: Weighted-average f.o.b. prices and quantities of domestic and imported product 7 and margins of underselling/(overselling), by quarters, January 2005-June 2008

* * * * *

Table D-8
Certain LW thermal paper: Weighted-average f.o.b. prices and quantities of domestic and imported product 8 and margins of underselling/(overselling), by quarters, January 2005-June 2008

* * * * *

APPENDIX E

**DELIVERED PURCHASE PRICES OF PRODUCTS 1-8 REPORTED BY
U.S. PURCHASERS**

Table E-1

Certain LW thermal paper: Weighted-average delivered purchase prices and quantities of domestic and imported product 1, by quarters, January 2005-June 2008

* * * * *

Table E-2

Certain LW thermal paper: Weighted-average delivered purchase prices and quantities of domestic and imported product 2, by quarters, January 2005-June 2008

* * * * *

Table E-3

Certain LW thermal paper: Weighted-average delivered purchase prices and quantities of domestic and imported product 3, by quarters, January 2005-June 2008

* * * * *

Table E-4

Certain LW thermal paper: Weighted-average delivered purchase prices and quantities of domestic and imported 4, by quarters, January 2005-June 2008

* * * * *

Table E-5

Certain LW thermal paper: Weighted-average delivered purchase prices and quantities of domestic and imported product 5, by quarters, January 2005-June 2008

* * * * *

Table E-6

Certain LW thermal paper: Weighted-average delivered purchase prices and quantities of domestic and imported product 6, by quarters, January 2005-June 2008

* * * * *

Table E-7

Certain LW thermal paper: Weighted-average delivered prices and quantities of domestic and imported product 7, by quarters, January 2005-June 2008

* * * * *

Table E-8

Certain LW thermal paper: Weighted-average delivered purchase prices and quantities of domestic and imported product 8, by quarters, January 2005-June 2008

* * * * *

APPENDIX F

**WEIGHTED-AVERAGE SALES PRICES OF IMPORTS FROM
NONSUBJECT COUNTRIES**

Table F-1

Certain LW thermal paper: Weighted-average f.o.b. prices and quantities of domestic and nonsubject imported product 1 and margins of underselling/(overselling), by quarters, January 2005-June 2008

* * * * *

Table F-2

Certain LW thermal paper: Weighted-average f.o.b. prices and quantities of domestic and nonsubject imported product 2 and margins of underselling/(overselling), by quarters, January 2005-June 2008

* * * * *

APPENDIX G

ALTERNATIVE PRICING COMPARISONS OF PRODUCTS 1 AND 2

Table G-1

Certain LW thermal paper: Weighted-average delivered prices and quantities of domestic and imported products 1 and 2 combined and margins of underselling/(overselling), by quarters, January 2005-June 2008

* * * * *

Table G-2

Certain LW thermal paper: Weighted-average f.o.b. prices and quantities of domestic and imported products 1 and 2 combined and margins of underselling/(overselling), by quarters, January 2005-June 2008

* * * * *

Table G-3

Certain LW thermal paper: Weighted-average delivered prices and quantities of domestic product 1 and imported product 2 and margins of underselling/(overselling), by quarters, January 2005-June 2008

* * * * *

Table G-4

Certain LW thermal paper: Weighted-average f.o.b. prices and quantities of domestic product 1 and imported product 2 and margins of underselling/(overselling), by quarters, January 2005-June 2008

* * * * *

APPENDIX H

**ALLEGED EFFECTS OF SUBJECT IMPORTS ON U.S. PRODUCERS'
EXISTING DEVELOPMENT AND PRODUCTION EFFORTS,
GROWTH, INVESTMENT, AND ABILITY TO RAISE CAPITAL**

The Commission requested U.S. producers to describe any actual or potential negative effects since January 1, 2005, on their return on investment, growth, investment, ability to raise capital, existing development and production efforts, or the scale of capital investments as a result of imports of certain LW thermal paper from China and Germany. Their responses are as follows:

Actual Negative Effects

* * * * *

Anticipated Negative Effects

* * * * *